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OFFICES OF



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ATTORNEYS FOR PLAINTIFFS  
EVERARDO AND MIRNA MIRAMONTES

CONFORMED COPY  
ORIGINAL FILED  
Superior Court of California  
County of Los Angeles

SEP 03 2015

Sherri R. Carter, Executive Officer/Clerk  
By Cristina Grijalva, Deputy

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**  
**LOS ANGELES SUPERIOR COURT**

PAVONE & FONNER, LLP

EVERARDO MIRAMONTES;  
MIRNA MIRAMONTES,

PLAINTIFFS,

v.

WELLS FARGO BANK, N.A.;  
WELLS FARGO & COMPANY;  
WELLS FARGO HOME  
MORTGAGE;  
AMERICA'S SERVICING  
COMPANY;  
CAL-WESTERN  
RECONVEYANCE  
CORPORATION;  
HSBC BANK USA NA;  
HSBC BANK USA, NATIONAL  
ASSOCIATION, AS TRUSTEE  
FOR THE HOLDERS OF  
NOMURA HOME EQUITY  
LOAN, INC., HOME EQUITY  
LOAN TRUST, SERIES 2007 1;  
JEM & TLC  
INVESTMENTS LLC;  
ROBERT CADMAN;  
BRENT LIPPINCOT;  
and Does 1-20,

DEFENDANTS.

D-37

**THIRD AMENDED  
COMPLAINT FOR:**

CASE NO.: BC579177

- |   |                         |
|---|-------------------------|
| I. BREACH OF CONTRACT                                     | X. WRONGFUL FORECLOSURE |
| II. WRONGFUL FORECLOSURE                                  | XI. BREACH OF CONTRACT  |
| III. PROMISSORY ESTOPPEL                                  | XII. NEGLIGENCE         |
| IV. VIOLATION OF ROSENTHAL ACT                            | XIII. CONSPIRACY        |
| V. BREACH OF CONTRACT                                     |                         |
| VI. WRONGFUL FORECLOSURE                                  |                         |
| VII. PROMISSORY ESTOPPEL                                  |                         |
| VIII. VIOLATION OF ROSENTHAL ACT                          |                         |
| IX. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING | DEMAND FOR JURY         |

BY FAX

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| <b>III. PROMISSORY ESTOPPEL</b>                                  | <b>XII. NEGLIGENCE</b>         |
| <b>IV. VIOLATION OF ROSENTHAL ACT</b>                            | <b>XIII. CONSPIRACY</b>        |
| <b>V. BREACH OF CONTRACT</b>                                     |                                |
| <b>VI. WRONGFUL FORECLOSURE</b>                                  |                                |
| <b>VII. PROMISSORY ESTOPPEL</b>                                  |                                |
| <b>VIII. VIOLATION OF ROSENTHAL ACT</b>                          |                                |
| <b>IX. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING</b> | <b>DEMAND FOR JURY</b>         |

## INTRODUCTION

1  
2           1.     This is not your average wrongful foreclosure case. This case involves a  
3 couple that was building a custom home and had about \$1M in equity, and had it stolen  
4 in a rigged foreclosure sale. As Plaintiffs Everardo and Mirna Miramontes neared  
5 completion of a brand new, modern dream home on a desirable lot near Century City,  
6 the Miramontes couple set aside over \$100,000 in reserve mortgage payments at the  
7 lender's request in expecting that this was the last step of a protracted loan modification  
8 process. Wells multitudinously assured them, both orally and in writing, that although  
9 they were in arrears, they had completed its special forbearance plan and this meant that  
10 they were out of danger of foreclosure. The lender contemporaneously swore it was not  
11 in the business of stealing homes and had represented to them in writing that it would  
12 not advance foreclosure proceedings while the modification decision was being made.  
13 But that's exactly what Wells did.

14           2.     On April 12, 2012, the lender violated oral and written promises not to  
15 foreclose by conducting the sale *just three days* after its surprise decision to not modify  
16 the loan on any terms.

17           3.     Though Wells disclaimed any obligation under the parties' special  
18 forbearance plan agreement to modify the loan even after completion of the SFP  
19 payments, it *did* promise to halt all foreclosure activity while the plan was in effect and  
20 as long as the borrowers were in compliance. Instead of dismissing the existing  
21 foreclosure, Wells filed a notice of sale while the SFP was in effect and then sold the  
22 property immediately after the modification was denied, even though the SFP required  
23 it to start over after termination.

24           4.     The 3-day interval was particularly damaging to the Miramontes couple,  
25 who could have either saved their home or gotten a higher price for it if the couple had  
26 the extra 110 days that a new foreclosure window would have afforded them, even  
27 though Wells ultimately had the right to foreclose.  
28



1 57104. Its listed agent in California is Corporation Service Company, located at 2710  
2 Gateway Oaks Drive, Suite 150, Sacramento CA 95833.

3 11. Defendant Cal-Western Reconveyance Corporation (hereinafter “Cal-  
4 Western”) is an entity of unknown organizational structure during the events in  
5 question, located at P.O. Box 22004, 525 East Main Street, El Cajon, California 92022,  
6 and possibly incorporated in California on October 10, 2013 under Secretary of State  
7 Corporation Number C3610002. Cal-Western is a title company specializing in  
8 foreclosures, which conducts business in Los Angeles County, California.

9 12. Defendant America’s Servicing Company (“ASC”) is reportedly a division  
10 of Wells Fargo Home Mortgage, a loan and foreclosure servicing entity for Wells and  
11 has used at least four different business addresses:

- 12 (a) P.O. Box 9039, Temecula, California 92589-9039;
- 13 (b) 1200 West 7th Street, Suite L2-200, Los Angeles, CA 90017;
- 14 (c) c/o 525 East Main Street, El Cajon, California 92020; and
- 15 (d) P.O. Box 10388, Des Moines, Iowa 50306-0388.

16 13. Defendant HSBC Bank USA NA is an entity of unknown organizational  
17 form.

18 14. Defendant HSBC Bank USA, National Association, as trustee for the  
19 holders of Nomura Home Equity Loan, Inc., Home Equity Loan Trust, Series 2007 1 is  
20 an entity of unknown organizational form.

21 15. Defendant Robert Cadman is an individual and the trustee at the March 13,  
22 2012 and April 12, 2012 foreclosure sale. His whereabouts are presently unknown to  
23 Plaintiffs.

24 16. Defendant JEM & TLC Investments LLC (“JEM”) is a California  
25 corporation located at 1460 West 9th Street, Ste. 201, Upland, California 91786.

26 17. Defendant Brent Lippincott is the principal of JEM & TLC Investments  
27 LLC.



1           23. Plaintiffs decided to put all income towards continuing construction of the  
2 two-story home.

3           24. They operated under the belief that once construction was finalized, the  
4 property value would be higher and they would be able to refinance the loans or at least  
5 cash out the equity.

6           25. On or about February 1, of 2008, ASC was notified of construction on the  
7 property.

8           26. ASC agreed to reinstate the account by accepting a payment of \$40,824.76  
9 to cover arrears.

10          27. On or about February 28, 2008, Plaintiffs made the \$40,824.76 payment  
11 and the account was reinstated.

12          28. Subsequently, Plaintiffs continued to make their monthly mortgage  
13 payments until August 2008, negatively impacted as they were then by personal  
14 hardship issues as well as the general economic decline.

15          29. Wells recorded the operative Notice of Default on December 12, 2008, a  
16 copy of which is attached hereto as **Exhibit D**.

17          30. Plaintiffs struggled with the sinking economy but continued construction  
18 for the sake of improving the value of the property and further securing its value. They  
19 communicated with ASC as to the development of the construction and a possible  
20 forbearance of the loan until construction was finalized.

21          31. On January 14, 2009, Defendant Cal-Western substituted in as the trustee  
22 for the purpose of conducting the foreclosure sale, a copy of which is attached hereto as  
23 **Exhibit F**.

24          32. ASC was aware that construction was ongoing at the property and that  
25 once construction was finalized, it would increase the property's value, which would  
26 expand Plaintiffs' options to make the transaction profitable for all involved.

27          33. On or about August 12, 2010, after two years of negotiating potential loan  
28 forbearances with ASC, Plaintiffs were formally granted it.

1           34. Plaintiffs were to make four payments: August 17, 2010 for \$6,695.01, and  
2 three subsequent payments of \$11,147.84 due on September 12, October 12 and  
3 November 12, 2010.

4           35. Plaintiffs made the first and second payments but were unable to make the  
5 subsequent payments due to the large amounts involved.

6           36. Plaintiffs renewed negotiations to seek a lower monthly payment, one that  
7 they could manage.

8           37. On or about January 27, 2011, ASC agreed to a written “Special  
9 Forbearance Plan,” (SFP) a true and correct copy attached hereto as **Exhibit C**.

10          38. The SFP made the following representations within its offer:

- 11           (a) that its offer was “in an effort to help you remain in your home.”  
12           (b) that “any outstanding payments and fees will be reviewed for a loan  
13 modification.”  
14           (c) “if [you, the borrower are] approved for a loan modification, based  
15 on investor guidelines, this will satisfy the remaining past due  
16 amounts on your loan and we will send you a loan modification  
17 agreement.”  
18           (d) “if your loan is in foreclosure, we will instruct our foreclosure  
19 counsel to suspend proceedings once the initial installment has been  
20 received, and to continue to suspend the action as long as you keep  
21 to the terms of the agreement.”  
22           (e) “Upon full reinstatement, we will instruct our foreclosure  
23 proceedings and report to the credit bureaus accordingly.” [This  
24 statement appears to be written in error, as it makes no grammatical  
25 sense. Based on other similar SFP’s, the language was apparently  
26 intended to convey that upon full reinstatement, the lender would  
27 instruct its foreclosure counsel to dismiss foreclosure proceedings  
28 and report to the bureaus accordingly.]



1 (f) “Any outstanding payments and fees will be reviewed for a loan  
2 modification, based on investor guidelines, this will satisfy the  
3 remaining past due payments on your loan and we will send you a  
4 loan modification agreement.”

5 (g) “If the Agreement is terminated, the lender may institute foreclosure  
6 proceedings according to the terms of the Note and Security  
7 Instrument.”

8 39. The SFP did not state how or when the decision for the loan modification  
9 would be conveyed, whether in writing or orally or otherwise.

10 40. Pursuant to the terms of the SFP, Plaintiffs were to make four payments: a  
11 first payment of \$14,020 on February 3, 2011, and three subsequent monthly payments  
12 of \$9,513.25 due on March 3, April 3, and May 3, 2011. These were all higher amounts  
13 than the \$8,909 monthly payments due under the terms of their mortgage at the time.

14 41. Plaintiffs made all of these payments.

15 42. As of June 5, 2011 Plaintiffs were current under the Special Forbearance  
16 Plan and otherwise in compliance with the lender’s informational requests related to it,  
17 and thereafter until the property was sold on April 12, 2012.

18 43. After Plaintiffs made all four payments under the SFP, ASC notified the  
19 borrowers to continue to make interest-only payments in the amount of \$6,695 until  
20 they received a new modified payment plan that would include principal, interest, taxes,  
21 and insurance.

22 44. Plaintiffs continued to make the \$6,695 payments through August 5, 2011  
23 as instructed.

24 45. On August 21, 2011, Plaintiffs received an ASC letter indicating a new  
25 modified payment for October 2011 in the amount of \$8,909.64 , as reflected in a  
26 writing issued by the lender.

27 46. Plaintiffs inquired of ASC about this new payment amount but were told to  
28 continue making the \$6,695 instead.

1           47. Plaintiffs made their payment in the lower sum on or about September 5,  
2 2011, with the lender's consent.

3           48. On October 3, 2011, Plaintiffs called ASC to request an electronic payment  
4 set up. ASC declined.

5           49. Plaintiffs were told that their payment structure was going to change again  
6 and that Plaintiffs should therefore wait before tendering a payment for October.

7           50. On October 6, 2011, Plaintiffs called ASC and were told to wait four to six  
8 weeks before making another payment, as ASC was in the process of preparing new  
9 payment instructions for them which would include principal, interest, insurance and  
10 taxes.

11           51. ASC explicitly assured Plaintiffs that the lender had no intention of selling  
12 the property in foreclosure.

13           52. On October 7, 2011, Plaintiffs called ASC, and were told by Defendants'  
14 loan modification representative Barbara Pasquale that she needed their personal and  
15 business bank statements, personal financial statements, business profit and loss  
16 statements, a form 4506T signed and dated, and an appraisal of the property.

17           53. Plaintiffs reminded Ms. Pasquale that they were awaiting the new modified  
18 mortgage payment as previously instructed by ASC.

19           54. Plaintiffs submitted the requested information to ASC with the exception  
20 of the appraisal.

21           55. On October 17, 2011, Pasquale requested additional information, and on  
22 October 19, 2011, she inquired about the nature of Plaintiffs' income and sought more  
23 information about Plaintiffs' business.

24           56. Plaintiffs were again told to wait until the review was complete before  
25 making any further payments. She gave Plaintiffs a time frame of four to six weeks.

26           57. Plaintiffs submitted the information requested along with a formal property  
27 appraisal.  
28

1           58. On January 6, 2012, Ms. Pasquale requested still more information from  
 2 Plaintiffs, including a hardship letter, updated personal and business bank statements,  
 3 and other financial statements.

4           59. Plaintiffs honored the request.

5           60. On February 3, 2012, Pasquale requested updated information again and  
 6 again Plaintiffs timely submitted the information.

7           61. On February 21, 2012, Everardo Miramontes wrote to Ms. Pasquale  
 8 memorializing the fact that ASC had instructed the couple not to make their regular  
 9 monthly mortgage payments until notified.

10           62. On March 6, 2012, Ms. Pasquale confirmed to Plaintiffs that everything  
 11 was fine, that ASC was working on modifying Plaintiffs' loan, and that ASC only  
 12 needed updated tax returns for Plaintiffs and their business.

13           63. On March 13, 2012, ASC requested more information, and Plaintiffs  
 14 submitted the information.

15           64. Ms. Pasquale on March 21, 2012 requested additional information that was  
 16 again submitted by Plaintiffs.

17           65. From February 2011 through the end of March 2012, although they were in  
 18 arrears on the property, the lender was adequately secured. Plaintiffs understandably  
 19 believed they were in sufficiently good standing with the lender to avoid foreclosure:  
 20 they had made all payments under the Special Forbearance Plan and they were  
 21 withholding the regular monthly payments at the lender's direction pending the  
 22 expected modification. Plaintiffs went back and forth with ASC on the phone, with  
 23 ASC numerously assuring Plaintiffs that ASC was not in the business of taking people's  
 24 homes. ASC and its agents repeatedly assured Plaintiffs that if there was a foreclosure  
 25 sale date mentioned on some paperwork, the date would be promptly moved since ASC  
 26 knew Plaintiffs did not want to lose their home and construction investment.

27           66. In the period from June, 2011 through the end of March, 2012:  
 28

- 1 (a) ASC informed Miramontes that they were no longer in foreclosure,
- 2 over 15 times;
- 3 (b) ASC informed Miramontes that there was nothing to worry about,
- 4 20-25 times;
- 5 (c) ASC informed Miramontes that they would not lose their home,
- 6 about 30 times;
- 7 (d) ASC informed Miramontes that the bank was not in the business of
- 8 taking people’s homes, over 25 times;
- 9 (e) Miramontes was informed that the bank wanted to work with them,
- 10 at least 12 times and;
- 11 (f) Miramontes was told that there would be no more sale dates, over
- 12 five times.

13 67. The reason Everardo Miramontes made so many inquires along these lines,  
 14 and obtained so many assurances from ASC in response as documented above, was  
 15 because foreclosure of the Kinnard property not only would mean an extraordinary loss  
 16 of equity for him and his wife, and the end of the couple’s dream to own this home, but  
 17 it risked the loss of Everardo’s father’s residential condo as well, which had been  
 18 pledged as security for the Kinnard construction loan.

19 68. On April 9, 2012, the banking entities suddenly reversed their position  
 20 after months and months of assurances to the borrowers, and sold the home at  
 21 foreclosure just 3 days later, on April 12, 2012.

22 69. Plaintiffs were told on April 9, 2012 that the ‘investor’ who owned their  
 23 loan, and that ASC represented (a reference to Defendant HSBC), had changed its mind  
 24 and decided that Plaintiffs could not afford the subject property even on a modified  
 25 mortgage.

26 70. ASC claimed that it had tried numerous times to help persuade the lender  
 27 otherwise, that ASC had exhausted all avenues for helping Plaintiffs get a modified  
 28 mortgage loan, and that there was nothing more ASC could do – including notably to

1 delay the sale long enough for Miramontes to sell it at market value, pay off all the liens  
 2 and at least allow the couple to recoup some of their equity.

3 71. ASC then claimed it had never told Plaintiffs not to send their monthly  
 4 mortgage payments, a blatant untruth.

5 72. Plaintiffs questioned how ASC could take such an about-face position  
 6 from their prior, explicit instructions, and they reminded Barbara Pasquale that all their  
 7 payments had been put aside in reserve in their bank account, liquid and ready for  
 8 immediate payment.

9 73. Plaintiffs had participated and completed the SFP and set aside over  
 10 \$100,000 in reliance on the fact that ASC had instructed them not to make payments  
 11 thereafter, while ASC recalculated their payment terms pursuant to the loan  
 12 modification.

13 74. Plaintiffs understood that they would probably need to catch their  
 14 payments up once ASC finally completed the loan modification process and they had  
 15 set aside funds to do so.

16 75. Apart from the multitudinous assurances, the instruction to not pay the  
 17 mortgage payments is significant because it strongly implied that there was a reason  
 18 behind such an unusual request, namely, that the loan was in fact being restructured  
 19 pursuant to the loan modification program in the Special Forbearance Plan. In  
 20 retrospect, that peculiar instruction not to make any further payments, coupled with  
 21 ASC's decision not to accept the payments aggregated in Plaintiffs' bank account,  
 22 betrays Defendants' true purpose all along: they did not want Plaintiffs to make good  
 23 on their home loan; they wanted to take the Kinnard property out from under Plaintiffs  
 24 but only after Plaintiffs had improved the property with completed new construction,  
 25 thereby yielding an easy seven-figure sale.

26 **The Foreclosure Sale**

27 76. On April 12, 2012, Wells/ASC sold Plaintiffs' home at a trustee sale for  
 28 the sum of \$1,308,174.

1           77. The value at the time of sale was approximately \$2,400,000 according to  
2 comparable sales in the area.

3           78. At the sale, two bidders appeared.

4           79. One was familiar to the Plaintiffs.

5           80. He was there to bid on the property.

6           81. The other was a representative of Defendant JEM.

7           82. The first bidder was falsely told by the trustee that the property was not for  
8 sale that day, that the sale was being postponed and that a written notice to this effect  
9 would be circulated. The trustee told the first bidder this several times.

10          83. When the first bidder then went for coffee, the trustee surreptitiously sold  
11 the property to JEM.

12          84. JEM recorded its purchase of Plaintiffs' property from Wells'/ASC's  
13 foreclosure trustee on May 2, 2012 for the price of \$1,308,174.

14          85. The first bidder thereafter filed 11 administrative complaints based on the  
15 foreclosure trustee's deceptive conduct, as reflected in a declaration attached hereto as  
16 **Exhibit H**, along with its internal **Exhibits A-K**.

17          86. JEM sold the property just seven months later, on December 3, 2012, for a  
18 price of \$2,175,000.

19          87. JEM thus turned a mammoth \$900K profit on the transaction after only  
20 seven months, thanks to the beautiful new construction Plaintiffs had completed on the  
21 property by the time Wells executed their lie-in-wait foreclosure.

22          88. In *Reyes v. Wells Fargo*, Northern District Case Number 3:10-cv-01667-  
23 JCS, other plaintiff-borrowers alleged that Wells Fargo's Special Forbearance Plans  
24 were fraudulent. They filed suit alleging breach of contract, breach of the covenant of  
25 good faith and fair dealing, rescission, FDCPA and UCL causes of action.

26          89. The theory of the *Reyes* plaintiffs' case with respect to the breach of  
27 contract cause of action was that Wells had committed to provide the borrowers with a  
28 "meaningful" opportunity to obtain a loan modification.

1           90. On a motion to dismiss, the court in *Reyes* concluded that Wells, based on  
2 the language in the Special Forbearance Agreement, had not actually committed to  
3 provide the borrowers with such an opportunity. Therefore, it dismissed the breach of  
4 contract claim.

5           91. The case was later settled, which included releases, while a motion for  
6 class certification was pending on two remaining causes of action relating to unlawful  
7 debt collection that were permitted to go forward. Plaintiff Mirna Miramontes opted  
8 out of that settlement. Everardo Miramontes may not have opted out, but if he did not,  
9 he still would have recovered his interest in the property had the lender respected  
10 Mirna's rights. He is also included as a plaintiff.

11           92. The Miramontes couple now brings a different claim from the *Reyes*  
12 breach of contract claim, one also based on the terms and conditions of the SFP, but not  
13 premised on the lender having committed to provide the borrower with a loan  
14 modification.

15           93. In this case, Plaintiffs allege that the lender could not continue foreclosure  
16 the existing foreclosure proceedings based on the previously-filed Notice of Default,  
17 without breaching the terms of the SFP.

18           94. It appears that four Notices of Default were filed in total against Plaintiffs'  
19 property, with the operative one on December 12, 2008. The right to continue  
20 foreclosure from that 2008 NoD ended after Plaintiffs' first payment under the SFP and  
21 while it was in effect, or was allowed only if the couple failed to make the SFP  
22 payments.

23           95. However, if the couple completed the payments, it remained in effect until  
24 the lender made a decision on the loan modification. Accordingly, the bank  
25 Defendants' foreclosure activity in this case was prohibited, a circumstance bolstered  
26 by numerous oral representations.

1           96. Assuming the lender elected ultimately to deny the loan modification, a  
2 new NoD and the traditional subsequent process was required in order to effectuate a  
3 valid foreclosure in compliance with the SFP, per the “institute” language in **Exhibit C**.

4           97. The decision by Wells to resume foreclosure proceedings based on the  
5 2008 NoD, rather than reinitiating them with a new NoD, breached the SFP language  
6 cited above and damaged Plaintiffs because there was only a very short interval  
7 between the time of the renewed proceedings and the actual sale, a 72-hour period that  
8 was far too short for the first bidder to perfect his qualification paperwork and then bid  
9 at the foreclosure sale.

10           98. The first bidder only learned of the sale of the Kinnard property on April  
11 11, 2012, just one day before it was scheduled to commence. If he had had more time  
12 and had had more notice, he would have been able to participate more fully in the  
13 foreclosure sale and bid up the property to the amount he was willing to pay, \$1.7M, as  
14 reflected by the detail in **Exhibit H**.

15           99. The property might also have been bid even higher than that, or sold  
16 privately in the intervening minimum 110-day interval, if a new NoD were filed as the  
17 SFP required, or perhaps more favorably dealt with in a deal with the first bidder given  
18 the 110-day window of additional breathing room, as the construction was complete and  
19 the appraisal was done indicating a value much higher than \$1.3 million. The property  
20 may have generated additional bidders at a sale that was conducted on more substantial  
21 notice and with a serious marketing effort.

22           100. As of October, 2011, the property appraised for \$2.2M. It was valued at  
23 about \$2.4M as of April, 2012.

24           101. In support of these valuation figures, within just nine months after it was  
25 sold at foreclosure in April, 2012 for \$1.3M, it was sold privately to another buyer for  
26 \$2.175M, almost \$900K more than it was sold for at foreclosure.



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**I.**  
**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**  
**(Against HSBC entities, Wells Fargo Entities**  
**and Cal-Western)**

102. Plaintiffs incorporate paragraphs 1-101 as if fully set forth into this cause of action. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of action.

103. This cause of action is based on breach of this language in the SFP: “If the Agreement is terminated, *the lender may institute foreclosure proceedings according to the terms of the Note and Security Instrument.*” (See **Exhibit C.**) The term “institute” required the lender to restart any foreclosure proceedings with a new Notice of Default, not continue with the one already in progress.

104. The SFP did not set up a timetable for its various events. It required four periodic payments. There was a commitment by Wells to “review” the situation for a possible loan modification after Plaintiffs made the four payments SFP.

105. As relevant here, the SFP states at page 3: “The lender, in its sole discretion and without further notice to you, may terminate this Agreement.”

106. The SFP also states, “[t]he indebtedness of the referenced loan is in default and in consideration of extending forbearance for a period of time,” without spelling out what that “period of time” was.

107. Although the SFP contemplated only four payments, its termination was not set at the end of the fourth payment, as that was simply the term of the borrower’s trial payment obligations.

108. The lender’s obligations to consider a loan modification necessarily attached at the end of the fourth payment, at which time it was obligated to review the borrower’s situation and make a loan modification decision.

1           109. Though the four payments had been made by June, 2011, the lender did not  
2 make the loan modification decision until or about April 9, 2012, when it informed  
3 Miramontes that the modification would not go forward on any terms and that the  
4 property was being sold in three days.

5           110. Because the SFP agreement was not actually terminated until on or about  
6 April 9, 2012, the above language relating to the consequences of termination (“[i]f the  
7 Agreement is terminated, the lender may institute foreclosure proceedings according to  
8 the terms of the Note and Security Instrument”) applies as follows: as of April 9, 2012,  
9 the lender was entitled to *institute* foreclosure proceedings under the terms of the Note  
10 and Security Instrument, as it did not terminate the SFP until April 9, 2012 when it  
11 notified Miramontes that it was not offering a loan modification.

12           111. To institute means to start or initiate. Under the plain language and  
13 meaning of the term, a lender may not “institute” a foreclosure proceeding by renewing  
14 one already in progress. Under the subject note and security instrument, foreclosure  
15 proceedings were instituted by the issuance of a Notice of Default, which results in a  
16 period of at least 110 days before a foreclosure sale can actually occur.

17           112. Defendants thus breached the SFP by continuing the existing foreclosure  
18 proceeding rather than by instituting a new one, as required by the plain language of the  
19 SFP and the other circumstances documented, including the earlier grammatical error in  
20 it as described in paragraph 38(e) above.

21           113. Wells issued a Notice of Sale on February 21, 2012, while the SFP was  
22 still in effect as the lender was still considering the loan modification pursuant to the  
23 SFP’s terms and had not otherwise terminated it.

24           114. This interpretation of the SFP is further evidenced by the many oral  
25 representations made to the borrowers as set forth above and incorporated herein, which  
26 reflected that Wells’ representatives considered and projected that the borrowers’  
27 compliance with the SFP removed them from the risk of foreclosure.  
28



1 Because it did not commit to a particular time to decide on the modification issue,  
2 Wells also did not create a particular end date for the SFP agreement.

3 120. As relevant here, the SFP also states at page 3: “The lender, in its sole  
4 discretion and without further notice to you, may terminate this Agreement.”

5 121. The SFP also states, “[t]he indebtedness of the referenced loan is in default  
6 and in consideration of extending forbearance for a period of time,” without spelling out  
7 what that period of time is.

8 122. Although the SFP contemplates four payments, its termination is not  
9 automatically set at the end of the fourth payment, as that is simply the length of the  
10 borrower’s trial payment obligations.

11 123. The lender’s obligations to consider loan modification are triggered after  
12 Plaintiffs made the fourth payment, at which time Wells was obligated to review the  
13 borrowers’ situation and make a decision, but on no specific timetable.

14 124. In this case, Wells did not make that decision until at or near April 9, 2012,  
15 when it informed Miramontes that the modification would not go forward on any terms  
16 and that the property was being sold in three days. Plaintiffs were compliant with the  
17 lender’s payment and information requests throughout this period. It was reasonable to  
18 expect that the stay on foreclosure activity would continue until the modification  
19 decision was made by Wells based upon the successful trial payment period and  
20 Plaintiffs’ submissions of financial information as requested by the lender.

21 125. Because the SFP agreement was not actually terminated until on or about  
22 April 9, 2012, the above language relating to the consequences of termination (“[i]f the  
23 Agreement is terminated, the lender may institute foreclosure proceedings according to  
24 the terms of the Note and Security Instrument”) applies: no earlier than April 9, 2012  
25 was the lender entitled to institute foreclosure proceedings as that is when Wells  
26 decided not to offer Plaintiffs a loan modification.

27 126. To institute means to start or initiate. The plain language of the SFP  
28 agreement therefore required the lender to “institute” foreclosure proceeding, not renew

1 ones begun before the SFP. Under the subject note and security instrument, foreclosure  
2 proceedings were instituted by the issuance of a Notice of Default, which results in a  
3 period of at least 110 days before a foreclosure sale can occur.

4 127. It was therefore illegal, fraudulent and wrongful for Wells to continue pre-  
5 existing foreclosure proceedings while the SFP was in effect by issuing a Notice of Sale  
6 on February 21, 2012, because it was still considering the loan modification pursuant to  
7 the SFP's terms and the agreement had not otherwise been terminated.

8 128. Essentially, Defendants promised they would not dual track the Plaintiffs  
9 while the loan modification was being considered, but that promise was untrue: they did  
10 not stop the existing foreclosure process, did not only proceed anew upon termination  
11 of the SFP, and most deleteriously, removed any chance the borrowers could recoup  
12 some or all of their equity by stinging them with a surprise foreclosure sale that  
13 occurred just three days after they declined to modify the loan.

14 129. Put another way, according to the language of the SFP agreement, Wells  
15 could have terminated in its discretion at a given time during the SFP or it could have  
16 terminated later. But in this case, it did not terminate until on or about April 9, 2012,  
17 and that termination only allowed it to *initiate* foreclosure proceedings anew thereafter,  
18 not continue with ones already in existence.

19 130. Wells' conduct was wrongful because it had no intention of honoring its  
20 promises under the SFP agreement. Apart from such broken promises, in the *Reyes*  
21 case, Wells took the position that the language in the SFP only obligated them not to  
22 conduct an actual sale. Wells claimed this language allowed them to continue recording  
23 the prerequisite notices. According to Wells, it "delivered on" the SFP contract by not  
24 conducting a sale during the "period of time" contemplated by its terms. But the  
25 "institute" language of the SFP plainly contradicts this position. It requires new default  
26 and foreclosure sale notices. The *Reyes* court rejected Wells' argument.

27 131. In this case, Wells has argued that Plaintiffs did not even cite language  
28 within the SFP in support of his arguments; it then claimed that other courts had

1 rejected these same claims based on the SFP. This is not true. As Wells presumably  
 2 took this or similarly positions across hundreds or thousands of its SFP loan contracts,  
 3 this is no small piece of disingenuity.

4 132. Defendants’ intention not to honor its promises is further evidenced by the  
 5 fact that, on information and belief, Wells made thousands of these promises and  
 6 routinely continued the foreclosure process despite them.

7 133. The many oral promises by Wells that compliance with the SFP meant  
 8 Plaintiffs were out of danger of foreclosure also reinforce the view that the lender’s  
 9 conduct was not just a simple breach, but a knowingly wrongful act amounting to a tort.

10 134. Plaintiff was damaged by this violation, as the short notice to the sale date  
 11 prevented an alternate bidder or bidders, from increasing the ultimate price at the  
 12 foreclosure sale and/or prevented the borrowers from taking steps to save their equity  
 13 by other means in the interim that Wells’ compliance with the promise would have  
 14 afforded.

15 135. Based on the aforementioned allegations, the foreclosure of the Kinnard  
 16 property was tortious, as it was illegal based on the SFP, fraudulent by virtue of the  
 17 many broken oral promises, and wrongful in general given the surprise nature of it.

18 **III.**  
 19 **THIRD CAUSE OF ACTION**  
 20 **PROMISSORY ESTOPPEL**  
 21 **(Against HSBC entities, Wells Fargo Entities**  
 22 **and Cal-Western)**

23 136. Plaintiffs incorporate paragraphs 1-135 as if fully set forth herein. Mention  
 24 of “Wells” shall refer to all parties listed as a defendant in this cause of action.

25 137. This cause of action is essentially based on the same SFP language as the  
 26 above breach of contract and foreclosure claims (CoA 1 and 2): “If the Agreement is  
 27 terminated, the lender may institute foreclosure proceedings according to the terms of  
 28 the Note and Security Instrument.” (See **Exhibit C.**)

1           138. The above promise was clear and unambiguous as it was in writing and  
2 used all common English words.

3           139. The Miramontes couple relied on Wells' promise by not taking any other  
4 precautionary action with respect to the property while the loan modification was  
5 pending, particularly since Mr. Miramontes had a well-documented willingness to take  
6 action attempting to save the property. For example, Miramontes may have been able  
7 to file a professionally-prepared Chapter 7 or Chapter 11 action to protect and save the  
8 equity in the Kinnard property from a needless loss.

9           140. It was reasonable and foreseeable that the borrowers would rely on Wells'  
10 SFP promise, which essentially meant they were removed from the pre-existing  
11 foreclosure proceeding when they made the four SFP payments successfully. They  
12 were entitled to rest from having to take drastic precautionary measures to protect the  
13 equity in the property (such as marketing it and selling it at its present fair market value  
14 or filing a bankruptcy action) while there was still a possibility that the lender would  
15 modify the loan and the borrowers could themselves keep it as their home.

16           141. Plaintiffs were damaged by their reliance in that they could not take any  
17 equity-saving measures in the three-day interval between notification of the adverse  
18 modification decision and the April 12, 2012 sale, which caused them a complete loss  
19 of their equity.

20           142. Although Plaintiffs believe there was consideration for the SFP, such that  
21 it is an enforceable contract in its own right, they make room for the possibility that the  
22 additional payments and the detailed financial disclosures tendered in support of the  
23 loan modification application may not be deemed enough additional or different  
24 consideration to merit contractual enforcement. If consideration fails, then this cause of  
25 action is brought in the alternative.  
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**IV.**  
**FOURTH CAUSE OF ACTION**  
**VIOLATION OF ROSENTHAL ACT**  
**(Against HSBC entities, Wells Fargo Entities**  
**and Cal-Western)**

143. Plaintiffs incorporate paragraphs 1-135 and 271-305, as if fully set forth herein. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of action.

144. This cause of action is primarily based on the same language in the SFP: “If the Agreement is terminated, the lender may institute foreclosure proceedings according to the terms of the Note and Security Instrument.”

145. Defendants were “debt collectors” engaging in debt collection practices under the Rosenthal Fair Debt Collection Practices Act.

146. Wells, acting as a loan servicer, regularly uses the instrumentalities of interstate commerce and the mails, the principal purpose of which is the collection of debts.

147. Wells regularly collects or attempts to collect debts asserted to be owed to HSBC and other lenders.

148. The *Reyes* case addresses similar facts to this case. The *Reyes* court allowed a Rosenthal claim to proceed. *Saldate*, cited by this Court in its demurrer order and supported by several other district court cases (*Izenberg*, *Gamboa* and *Swanson*) addresses different claims about different facts, namely irregularities in the chain of title negatively impacting the lender’s right to foreclose. Those cases are factually distinguishable from both the *Reyes* case and Plaintiffs’ claims herein. The Miramontes couple is not claiming that Wells had no right to foreclose; they are arguing that Wells made false promises in terms of how and when they would go about foreclosure under the SFP agreement. The FDCPA is intended to curtail objectionable acts occurring in the process of collecting funds from a debtor. While foreclosing on a trust deed is a



1 different path in that it is liquidating a security interest, Wells went beyond just  
 2 liquidating its security.

3 149. Foreclosure agents such as Wells rise to the level of debt collectors when  
 4 they go beyond ordinary foreclosure. Wells went beyond ordinary foreclosure as  
 5 follows: it substantially changed the relationship between the parties by entering the SFP  
 6 and removed the parties from a traditional foreclosure procedure: it promised to stay all  
 7 foreclosure activity in the interim; it solicited and obtained additional payments when no  
 8 further money was due; it solicited and obtained detailed financial information not  
 9 required under the note and deed; it spent ten months deciding and delaying whether to  
 10 grant Plaintiffs a loan modification. There is much evidence to support the idea that  
 11 Wells’ entire SFP program was a token ruse to give the impression of a good-faith loan  
 12 modification solution to many disenfranchised homeowners, when in reality this was a  
 13 public relations illusion underneath which existed a self-serving program of systematic  
 14 foreclosure. Here, Wells delayed the foreclosure until the borrowers completed the  
 15 construction to make its recovery on the loan that much easier; it collected additional  
 16 funds along the way; and it engaged in affirmative trickery in eliminating potential  
 17 bidders at the foreclosure sale. This is not the kind of “ordinary” foreclosure conduct  
 18 that insulates lenders from the label of debt collector under the Rosenthal Act. This is a  
 19 large-scale scheme to utilize the foreclosure laws to commit predatory and profitable  
 20 acts against borrowers, well beyond the normal foreclosure process under a standard  
 21 deed of trust.

22 150. The subject statement in the SFP was misleading under the Rosenthal Act.  
 23 Thus, this cause of action is not based on the foreclosure itself, but the violation of an  
 24 independent, contractual promise not to foreclose.

25 151. Although Wells claimed in *Reyes* that they intended these statements to  
 26 provide a borrower relief only from an actual foreclosure sale date, the language they  
 27 actually employed suggested that, unless they affirmatively terminated the SFP, they  
 28 would stop the pending foreclosure activity and only renew the foreclosure process by

1 issuing a new NoD, as that is the first step to “institute foreclosure proceedings.” In  
 2 addition, Wells made numerous oral promises assuring the borrowers the lender would  
 3 not foreclosure and that they, the borrowers, were out of danger in this regard.

4 152. Defendants thus violated the Rosenthal Act by using false, deceptive,  
 5 and/or misleading statements in connection with their collection of Plaintiffs’ Special  
 6 Forbearance Plan debt, as alleged herein. Cal. Civ. Code § 1788.17, incorporating 15  
 7 U.S.C.A. § 1692e.

8 **V.**  
 9 **FIFTH CAUSE OF ACTION**  
 10 **BREACH OF CONTRACT**  
 11 **(Against HSBC entities, Wells Fargo Entities**  
 12 **and Cal-Western)**

13 153. Plaintiffs incorporate paragraphs 1-101, as if fully set forth herein.  
 14 Mention of “Wells” shall refer to all parties listed as a defendant in this cause of action.

15 154. This cause of action is based on breach of the following language in the  
 16 SFP agreement: “if your loan is in foreclosure, we will instruct our foreclosure counsel  
 17 to suspend proceedings once the initial installment has been received, and *to continue to*  
 18 *suspend the action as long as you keep to the terms of the agreement.*” (See **Exhibit C**,  
 19 emphasis added.)

20 155. This breach of contract claim is different from the earlier one in that, even  
 21 if the term “institute” can be read to allow for continuation of the pre-existing  
 22 foreclosure proceedings, the SFP was still in effect through April 9, 2012. Miramontes  
 23 was still in compliance with its terms as of that date and the lender had promised to  
 24 suspend foreclosure proceedings throughout that duration.

25 156. Therefore, the foreclosure sale the lender conducted on April 12, 2012,  
 26 premised on a Notice of Sale that had been recorded on February 21, 2012, was a  
 27 violation of the above language, as its February, 2012 NoS was not consistent with a  
 28 suspension of foreclosure proceedings but in fact reflected the opposite – advancement  
 of those proceedings in contravention of this commitment.

1           157. As explained above, an exact date of termination of the SFP was not  
2 spelled out in the agreement itself, as it was a function of Wells' loan modification  
3 decision. Termination of the SFP thus coincided with Wells' decision not to grant  
4 Miramontes any form of loan modification, which occurred on or about April 9, 2012.  
5 Before that, Miramontes was in compliance with the SFP by virtue of the four SFP  
6 payments they made, the interest-only payments for several months after that at the  
7 lender's request, the suspension of payments thereafter also at the lender's request, and  
8 the provision of voluminous personal financial information as requested by the lender  
9 through late March 2012.

10           158. Because the SFP governed the parties' relationship from January 27, 2011  
11 through April 9, 2012, including as relevant here February 21, 2012, its commitment  
12 and obligation to suspend all foreclosure proceedings was in effect during that time.

13           159. Wells did not commit to suspend just the foreclosure sale; they explicitly  
14 committed to suspend all foreclosure "proceedings" while the borrowers were in  
15 compliance with the SFP. A notice of sale is part of a foreclosure proceeding; it  
16 contravened the language of the SFP to file it while the SFP was in effect.

17           160. Wells breached this contractual obligation when they elected to file the  
18 February 21, 2012 Notice of Sale.

19           161. The earliest they could file a new Notice of Sale was on April 10, 2012,  
20 after they terminated the SFP.

21           162. Any Notice of Sale required at least 15 days' notice before the actual sale  
22 itself could occur, under California law.

23           163. As 15 days would have been sufficient time for the first bidder to perfect  
24 his qualification paperwork, and/or make a deal with Miramontes to save the property  
25 in some other fashion or cash out the equity, Miramontes was damaged by the lender's  
26 breach of contract, as the filing of a new notice of sale would have precluded a sale as  
27 early as April 12, 2012.  
28



1           169. As explained above, the date of termination of the SFP was not spelled out  
2 with precision in the agreement itself.

3           170. In this situation, termination of the SFP coincided with Wells’ decision not  
4 to grant the Miramontes any form of loan modification on or about April 9, 2012.  
5 Before that, Miramontes were in compliance with it by virtue of the four SFP payments,  
6 the interest-only payments for several months after that, and the suspension of payments  
7 thereafter, all at the lender’s request. It had not been terminated earlier; a logical  
8 reading of its terms means it was in effect until a decision on the load modification was  
9 made, unless the lender affirmatively terminated earlier.

10           171. Because the SFP agreement governed the parties’ relationship from  
11 January 27, 2011 through April 9, 2012, including as relevant here February 21, 2012,  
12 its commitment and obligation to suspend all foreclosure proceedings was in effect.

13           172. Wells did not commit to suspend just the foreclosure sale; they committed  
14 to suspend all foreclosure “proceedings” while the borrowers were in compliance with  
15 the SFP. A notice of sale is part of a foreclosure proceeding; it contravened the  
16 language of the SFP for Wells to file it while the SFP was in effect.

17           173. Wells thus promised to suspend all foreclosure proceedings, making its  
18 continuation of the foreclosure proceedings, including by filing the NoS in February  
19 2012, illegal under the terms of the SFP, wrongful for the same reason, and fraudulent  
20 in that Wells misrepresented its promises and ignored its obligations under the SFP.

21           174. Wells promised the Miramontes couple that they would suspend all  
22 foreclosure proceedings while the SFP was in effect, and yet they illegally continued a  
23 pre-existing foreclosure proceeding by issuing a Notice of Sale on February 21, 2012,  
24 even though the lender was still considering the loan modification pursuant to the SFP’s  
25 terms and the agreement had not otherwise been terminated.

26           175. Wells violated their promise to suspend foreclosure proceedings when they  
27 elected to file the February 21, 2012 Notice of Sale.  
28

1           176. Essentially, Defendants promised they would not dual track the Plaintiffs  
2 while the loan modification was being considered, but they did not stop the existing  
3 foreclosure process, did not refrain from proceeding with a new notice of sale until after  
4 termination of the SFP, and most deleteriously, removed any chance the borrowers  
5 could recoup some or all of their equity by trapping them into a surprise foreclosure sale  
6 that occurred just three days after they declined a loan modification on any terms.

7           177. The lender could have terminated in its discretion at a given time during  
8 the SFP or it could have terminated after the payments were completed and a  
9 modification decision made. In this case, Wells did not actually terminate until it  
10 decided not to offer Plaintiffs a loan modification on or about April 9, 2012 and then,  
11 and only then, was it allowed to resume any form of foreclosure activity.

12           178. Wells did not intend to honor their promise made in the SFP, as evidenced  
13 by their violation of that promise in February, 2012 in filing the NoS.

14           179. Wells' intention not to honor its promise is further evidenced by the fact  
15 that, on information and belief, Wells made and broke thousands of these promises and  
16 routinely took foreclosure steps before the SFP's were terminated.

17           180. Wells' intentions are further evidenced by the *Reyes* case, where Wells  
18 foreclosed on the borrowers' property before the SFP's payment terms were completed  
19 and then collected payments after it. In *Reyes*, it continued with the pre-existing  
20 foreclosure process as if it had not made any promises at all, by continuing to accept  
21 payments under the SFP while advancing the foreclosure process, and in fact  
22 completing it, in the same period the borrowers continued to make payments and thus  
23 by definition before termination.

24           181. The many oral representations made by Wells that compliance with the  
25 SFP meant Plaintiffs were out of danger of foreclosure also reinforces the view that the  
26 lender could not continue foreclosure proceedings while the SFP was in effect and that  
27 its betrayal of these promises was wrongful.  
28



**VII.**  
**SEVENTH CAUSE OF ACTION**  
**PROMISSORY ESTOPPEL**  
**(Against HSBC entities, Wells Fargo Entities**  
**and Cal-Western)**

189. Plaintiffs incorporate paragraphs 1-119 and 184-206 as if fully set forth herein. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of action.

190. This cause of action is also based on this language: “if your loan is in foreclosure, we will instruct our foreclosure counsel to suspend proceedings once the initial installment has been received, and to continue to suspend the action as long as you keep to the terms of the agreement.”

191. The lender had no right to hold a foreclosure sale without refileing another notice of sale, once the loan modification had been declined.

192. Based on the referenced allegations, the foreclosure of the Kinnard property was illegal under the SFP contract, as Wells violated its promise to suspend foreclosure proceedings while the SFP was in effect.

193. Although Plaintiffs believe there was consideration for the SFP, such that it is an enforceable contract in its own right, they make room for the possibility that the additional payments and the detailed financial disclosures tendered in support of the loan modification application may not be deemed enough additional or different consideration to merit contractual enforcement. If consideration fails, then this cause of action is brought in the alternative.



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**VIII.**  
**EIGHTH CAUSE OF ACTION**  
**ROSENTHAL ACT**  
**(Against HSBC entities, Wells Fargo Entities**  
**and Cal-Western)**

194. Plaintiffs incorporate paragraphs 1-101, 145-150 and 166-188 as if fully set forth herein. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of action.

195. This cause of action is based on the same language as CoA’s 5-7 in the SFP: “if your loan is in foreclosure, we will instruct our foreclosure counsel to suspend proceedings once the initial installment has been received, and to continue to suspend the action as long as you keep to the terms of the agreement.” This statement was false and misleading under the Act.

196. The Miramontes couple relied on the agreement by not taking any other precautionary action with respect to the property while the modification was pending, particularly since Mr. Miramontes had a well-documented willingness to take action attempting to save the property and there were potential options available to protect the equity relating to possible deals with other parties interested in the property, as reflected by **Exhibit H**.

197. Plaintiffs were damaged by their reliance in that they were unable to take any equity-saving measures in the 3-day interval between notification of the adverse modification decision and the April 12, 2012 sale, which caused them a complete loss of their equity.

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**IX.**  
**NINTH CAUSE OF ACTION**  
**BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**  
**(Against HSBC entities, Wells Fargo Entities**  
**and Cal-Western)**

198. Plaintiffs incorporate paragraphs 1-101 and 271-305 as if fully set forth herein. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of action.

199. This cause of action is a conditional cause of action, alleged in the event that Wells takes the position that the SFP was an illusory and thus unenforceable contract. This would potentially negate the causes of action based on the SFP being a contractual document.

200. Defendants may argue that the SFP is illusory and unenforceable on the basis that it afforded them the unilateral and discretionary right to withdraw from the contract. However, if they take that position, then Plaintiffs assert this cause of action claiming that they violated the original contract’s (the deed and note, respectively) implied covenants of good faith and fair dealing by interposing an illusory and unenforceable SFP.

201. Plaintiffs were damaged by such action in complying with it, by relying on the lender’s promises within it to only foreclose under its terms and conditions.

202. A number of those terms set up expectations that any foreclosure would require either a new Notice of Default, or at least a new Notice of Sale, and this would give the borrowers enough time to protect their equity via several possible means.

203. Because the lender instead foreclosed on just 3 days’ notice, they sustained a total loss of their equity.

204. Similarly, if Defendants take the position that they unilaterally terminated the SFP agreement substantially earlier than April 9, 2012 but withheld notification to Miramontes of this fact until April 9, 2012, then Plaintiffs allege this cause of action.



1           210. After repeated attempts, Miramontes was able to get a postponement of the  
2 March 13, 2012 sale date.

3           211. When a postponement occurs, the notice requirements under section 2924g  
4 must be met. Based on section 2924g, subdivision (d), a notice of each postponement  
5 must be given by public declaration by the trustee at the time and place last appointed  
6 for sale with the new date and time provided.

7           212. On information and belief, the new date and time was not given by public  
8 declaration at the March 13, 2012 sale appearance.

9           213. In addition to the general public declaration, under section 2924,  
10 subdivision (a)(5), if the sale is to be postponed for a period of ten business days or  
11 more, which here it was, pursuant to Section 2924g, the lender must provide written  
12 notice to the borrower regarding the new sale date and time, within five business days  
13 following the postponement.

14           214. Here, written notice had to be circulated to the borrower by March 18,  
15 2012. No such written notice was provided to Plaintiffs.

16           215. Miramontes was told over the telephone after the March 13, 2012  
17 postponement that he was not going to receive a written notice about the new sale  
18 date.

19           216. Additionally, he was informed that they didn't need to notify him about the  
20 postponed date. (That was the law prior to 2011, but as of January 1, 2011, notice of a  
21 postponed sale was required to be in writing and circulated within five days of the  
22 continued date.)

23           217. On information and belief, this notice violation against the borrowers  
24 resulted in delayed notice to the first bidder, which caused the first bidder not to have  
25 timely secured a cashier's check to bid on the property. Thus, although he appeared, he  
26 did not have enough time in light of the notice violation to appear as a qualified bidder.  
27  
28

**Violation 2 – Trustee Misrepresentation**

218. The foreclosure trustee falsely told the first bidder that the sale was being continued to another date, and after that bidder left, the trustee then proceeded to permit the sale to go forward with only one other bidder present, who bought it for the amount of the debt, well under its appraised value, as reflected by the detail in Exhibit H.

219. Trustees are held to a standard of scrupulous integrity. Under this standard, if a trustee informs an interested party that the sale is being postponed, the sale must be postponed.

220. Consequently, the sale procedure was not conducted in a fair, competitive bidding environment and it was wrongful for this reason as well. It was required by law to be continued to another date, pursuant to the representation of the trustee.

**Damages Analysis**

221. Under either violation, the foreclosure sale was required to be delayed, and the existence of an alternate, interested buyer therefore precludes a finding that damages are speculative.

222. The law governing the requirement of a ready, able and willing buyer does not mean that this buyer must always be qualified to bid *at the illegal foreclosure sale in question*. A close reading of *FPCI* (1989) 207 Cal.App.3d 1018 and *South Bay* (1999) 72 Cal.App.4th 1111 reveal compliance with the greater principle that damages cannot be speculative, and in this context, if there is no reason to think that a correct foreclosure sale would result in a different outcome by evidence of an alternate buyer, damages are speculative. Yet, these cases do not foreclose a plaintiff from producing evidence that an interested buyer was available, and *but for the wrongful conduct*, would have been the kind of qualified, ready, willing and able buyer that establishes non-speculative damages.

223. It is clear that this alternate buyer, but for the illegal conduct, would have been qualified. If Wells had not committed the wrongful act of not providing timely notice to Plaintiffs – in other words, if the Miramontes had been given timely notice on

1 March 18, 2012, the alternate buyer would have learned of the sale earlier than April  
2 11, 2012. Under either scenario, he would have been qualified: “Although I was pre-  
3 approved by [the junior lender], I did not have a check on my person for purchase. This  
4 was because [that lender] learned of the property auction the evening of April 11, 2012  
5 and did not have time to get the check to me prior to the 9:00 AM PST, April 12, 2012  
6 auction.” Haywood’s declaration suggests that if he had gotten notice even one day  
7 earlier, he would have been a qualified bidder. (See **Exhibit H.**)

8 224. With respect to the theory of misrepresentation by the trustee, damages are  
9 analyzed by removing the wrongful act from the equation. The wrongful act under this  
10 theory is the trustee’s decision to go forward with the sale on April 12, 2012. It was  
11 wrongful because he had represented to a potential buyer that the sale date was being  
12 continued. If the wrongful act is removed – going forward with the April 12 sale – then  
13 the outcome is determined by looking at what would have happened without it – at a  
14 continued sale date. At a continued sale, the alternate bidder would have been  
15 qualified.

16 225. In this Court’s demurrer ruling, it observed that the alternate bidder did  
17 appear at the April 12, 2012 foreclosure sale. Therefore, it ruled in favor of Wells by  
18 concluding that any violation was not prejudicial. But that analysis fails to recognize  
19 that the alternate buyer was unprepared to bid, despite showing up, because he only  
20 received notice the night before the sale. Thus, in a real way, the delay in notification  
21 to the borrowers created a derivative situation where the alternate buyer did not timely  
22 receive word and was unable to have his foreclosure agent become a perfected bidder  
23 on short notice. In the alternative misrepresentation scenario, the sale would have been  
24 continued and the alternate bidder would have also been qualified at that time.

25 226. Thus, damages are not speculative given two realities in this case: that the  
26 notice provisions required earlier notice to the Miramontes to allow for word to spread  
27 of the April 12, 2012 foreclosure sale to other bidders, and also required the trustee to  
28

1 honor his representation to delay it, such that the alternate buyer would have been  
 2 qualified to bid had he had a few more days to perfect his qualification at a later sale.

3 **XI.**  
 4 **ELEVENTH CAUSE OF ACTION**  
 5 **BREACH OF CONTRACT**  
 6 **(Against HSBC entities, Wells Fargo Entities**  
 7 **and Cal-Western)**

8 227. Plaintiffs incorporate paragraphs 1-101 and 271-305, as if fully set forth  
 9 herein. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of  
 10 action.

11 228. The governing contract between Plaintiffs and Wells, the 2006 Deed of  
 12 Trust, states in paragraph 22, “After the time required by Applicable Law, Trustee,  
 13 without demand on Borrower, shall sell the Property at public auction to the highest  
 14 bidder at the time and place *and under the terms designated in the notice of sale* in one  
 15 or more parcels and in any order Trustee determines.... .” [Emphasis added]. Thus, by  
 16 the plain language of this provision, the terms of the Notice of Sale were incorporated  
 17 as part of the parties’ Deed of Trust contract.

18 229. The Notice of Sale at issue in this case, filed on or about February 21, 2012  
 19 and attached hereto as **Exhibit F**, states in pertinent part that “[y]ou are in default under  
 20 a deed of trust, dated September 15, 2006. Unless you take action to protect your  
 21 property, it may be sold at a public sale.” [Emphasis added.]

22 230. The phrase “unless you take action,” and particularly the meaning of the  
 23 term “take action,” is not specifically defined. It is neither restricted nor limited in  
 24 terms of its scope. Under this undefined term, and according to plain and common  
 25 usage, Plaintiffs took action to protect their property – before the NoS was filed, they  
 26 were in good standing with Wells’ Special Forbearance Plan agreement; they had made  
 27 the SFP payments as requested; they honored Wells’ additional request to withhold the  
 28

1 payments; and they had nearly completed a protracted due diligence journey to reach a  
 2 long-term loan modification and save their property.

3 231. The Deed of Trust at paragraph 22 may speak to the “action” necessary to  
 4 satisfy the “taking action” reference in the Notice of Sale, as it refers the issue to the  
 5 Notice of Default. (**Exhibit A**, ¶ 22.) The Notice of Default, a representative example  
 6 in this case included hereto as **Exhibit E**, contemplates the borrower “paying all of your  
 7 past due payments plus permitted costs and expenses within the time permitted by law  
 8 for reinstatement of your account.”

9 232. However, the Notice of Default also states: “you and your beneficiary or  
 10 mortgagee may mutually agree in writing prior to the time the notice of sale is posted  
 11 (which may not be earlier than the end of the three-month period stated above) to,  
 12 among other things, (1) provide additional time in which to cure the default by transfer  
 13 of the property or otherwise; or (2) *establish a schedule of payments in order to cure*  
 14 *your default*; or both (1) and (2).” (**Exhibit E**.)

15 233. By virtue of the Special Forbearance Plan in January, 2011, which  
 16 modified the borrower’s payment schedule, the Miramontes and the lender did establish  
 17 a schedule of payments within the meaning of the language of the Notice of Default.

18 234. Thus, Plaintiffs did “take action to protect their property,” pursuant to the  
 19 express permissive language of the Notice of Sale, incorporated into paragraph 22 of  
 20 the Deed of Trust as an enforceable promise between the parties, and as the term is  
 21 understood by reference to the Deed of Trust and the Notice of Default.

22 235. Accordingly, the property could not be sold by virtue of the operation of  
 23 these provisions while the SFP was in effect.

24 236. Given that Plaintiffs had taken action to protect their property and  
 25 complied with the Notice of Sale, satisfaction of the language in the Notice of Sale  
 26 precluded Wells from foreclosing based on that filing, as that was effectively breach of  
 27 paragraph 22 of the Deed of Trust.  
 28



1           237. It is no defense for Wells to establish that Plaintiffs were behind on the  
2 original mortgage payments, and therefore did not perform under the Deed of Trust, for  
3 the contract anticipated the possibility of default and established contractual rights and  
4 options for both parties to enforce in the event that the loan was in default.

5           238. A borrower's noncompliance with the payment provisions of a loan  
6 contract does not render the balance of the contract a nullity, such that the lender can  
7 take any action it pleases; both parties are still governed by the contract terms that speak  
8 to their rights under a loan in default, and in this case, the parties had specific language  
9 in the contractual machinery to address such defaults and overcome them.

10           239. In other provisions of the Deed, such as paragraph 19, a reinstatement of  
11 the loan was dependent on full payment of all outstanding fees and charges. However,  
12 in paragraph 22, as long as Plaintiffs "took action" to protect the property, and in this  
13 context taking the action of complying with the SFP, they were in compliance with the  
14 contract.

15           240. Defendants could therefore not foreclose on the property unless they  
16 established that Plaintiffs were out of compliance with the January, 2011 SFP (or it was  
17 terminated by Wells), and at all times Plaintiffs complied with this, in particular, by  
18 eventually withholding the payments at Wells' specific request.

19           241. Because Wells reserved the right in the SFP to terminate it, and it did end  
20 it when it denied the loan modification on April 9, 2012, Wells was free to record a new  
21 Notice of Sale after April 9, 2012. But as the Notice of Sale in question was recorded  
22 during the period during which the SFP was in effect, its "taking action" language was  
23 satisfied. Therefore, Wells could not foreclose based on this NoS filing.

24           242. As Plaintiffs were in compliance with the Special Forbearance Plan as of  
25 the February 21, 2012 Notice of Sale, Plaintiffs were in compliance with paragraph 22  
26 of the Deed of Trust as of that time. The disclaimer language in the SFP "this  
27 Agreement shall not constitute a waiver of the lender's right to insist upon strict  
28 performance in the future" does not impact the legal analysis. The lender reserved the

1 right to strict performance “in the future.” After the SFP was terminated (aka “in the  
 2 future”), Wells could have issued a Notice of Sale stating that the borrower must “take  
 3 action” strictly in accordance with the Deed and Note by paying the outstanding  
 4 amounts due. No other form of “taking action” would be sufficient under the Deed and  
 5 Note. That is what this disclaimer permitted. It does not change the fact that the  
 6 February 21, 2012 Notice of Sale – which was clearly before termination of the SFP –  
 7 permitted a broad range of action, unrestricted by what might be required in a post-SFP  
 8 situation.

9 243. Wells therefore breached the Deed of Trust contract when they foreclosed  
 10 based on the February 21, 2012 Notice of Sale, and this caused Plaintiffs damage in the  
 11 loss of their property.

12 **XII.**  
 13 **TWELFTH CAUSE OF ACTION**  
 14 **NEGLIGENCE**  
 15 **(Against HSBC entities, Wells Fargo Entities**  
 16 **and Cal-Western)**

17 244. Plaintiffs incorporate paragraphs 1-101 and 271-305, as if fully set forth  
 18 herein. Mention of “Wells” shall refer to all parties listed as a defendant in this cause of  
 19 action.

20 245. Wells had a duty to Plaintiffs, as a lender who undertook to modify their  
 21 loan pursuant to the SFP.

22 246. Having undertaken a duty, Wells were required to perform its loan  
 23 modification analysis competently.

24 247. To perform the loan modification process competently and within the  
 25 standard of care for such exercises, Wells was obligated to complete the loan  
 26 modification process sufficiently in advance of any foreclosure sale date so as not to  
 27 prejudice the borrowers in the event the modification decision was adverse.  
 28

1           248. In this case, and as discussed above, Wells made numerous oral  
2 representations that the loan modification process would result in a modification; they  
3 informed the borrowers that they were out of foreclosure and not to worry; they  
4 instructed the borrowers to withhold their payments, an unusual action telegraphing that  
5 the issue was not whether to modify but what the terms would be; they informed the  
6 borrowers that they were not going to lose their property; they told Plaintiffs that Wells  
7 was not in the business of stealing people's homes; they told Plaintiffs that the lender  
8 wanted to work with them to modify the loan; and they told Plaintiffs that there would  
9 be no more foreclosure sale dates.

10           249. These representations, made in conjunction with the loan modification  
11 process through which Wells required an arduous and protracted production of personal  
12 financial information from the borrowers for the lender's evaluation, precluded Wells  
13 from conducting it so slowly and timed so incompetently, as to only render a decision  
14 three days before the April 12, 2012 foreclosure sale date.

15           250. Because the final decision was rendered so slowly as to bump against the  
16 date set for an unnoticed foreclosure sale, Wells' loan modification conduct fell below  
17 the standard of care for a reasonable lender.

18           251. Because it was timed for a decision that resulted in only three days' notice  
19 before the April 12, 2012 foreclosure sale, it was conducted negligently for this further  
20 reason.

21           252. Because the loan modification decision came immediately before the  
22 foreclosure sale, the borrowers were caught flatfooted and were unable to take steps to  
23 save the equity in their property.

24           253. Plaintiffs were damaged by the complete loss of their equity.  
25  
26  
27  
28

**XIII.**  
**THIRTEENTH CAUSE OF ACTION**  
**CONSPIRACY**

**(Against Defendants Lippincort and JEM)**

254. Plaintiffs incorporate paragraphs 1-101 and 271-305, as if fully set forth herein.

255. The Wells Fargo defendants committed wrongful foreclosure against the Miramontes couple by generally dual tracking them, as detailed above.

256. However, at the foreclosure sale itself, the Wells Fargo defendants committed a second wrong by not conducting a competitive auction with respect to the Kinnard property. They conspired – agreed – with Defendant JEM, and its principal Lippincort, to subvert the competitive bidding process by eliminating another buyer and effecting a foreclosure at a lower price than if the property had been sold in a fair auction with both or multiple buyers present.

257. On information and belief, Defendants JEM and Lippincort had knowledge of, and agreed to, the objective of the conspiracy to eliminate one of the buyers at the foreclosure sale, as there were private discussions with the foreclosure trustee and JEM as observed by a witness.

258. On information and belief, Defendants JEM and Lippincort had knowledge of and agreed to this course of action – the one-buyer foreclosure sale – that resulted in the complete loss of the Miramontes’ equity and a quick six-figure profit for JEM and Lippincort only nine months later.

259. The wrongful act of holding a non-competitive auction was committed pursuant to the agreement by JEM and Lippincort with the foreclosure trustee.

260. Because there was an unlawful agreement between the foreclosure trustee and the JEM buyer, JEM and Lippincort are additionally liable for the foreclosure trustee’s wrongful foreclosure auction, which resulted in wiping out the Miramontes couple’s equity.

## ATTORNEY'S FEES

1  
2           261. Attorney's fees are allowed by law, pursuant to a specific statute or as an  
3 agreement in a contract. Attorney's fees are allowed by statute under the Rosenthal  
4 Act, and are provided for in the Note and Deed of Trust, which the SFP incorporates  
5 and modifies.

6           262. In this case, the Deed attached as Exhibit A contains a fee-shifting clause  
7 in paragraph 22 for efforts relating to default and foreclosure by stating: "Lender shall  
8 be entitled to collect all expenses incurred in pursuing the remedies provided in this  
9 Section 22, including, but not limited to, reasonable attorney's fees and costs of title  
10 evidence."

11           263. Similarly, in paragraph 7(e) of the Promissory Note (Exhibit B), "If the  
12 Note Holder has required me to pay immediately in full as described above, the Note  
13 Holder will have the right to be paid back by me for all of its costs and expenses in  
14 enforcing this Note to the extent not prohibited by applicable law. Those expenses  
15 include, for example, reasonable attorneys' fees."

16           264. As a matter of state law, such unilateral fee shifting clauses are deemed to  
17 be reciprocal.

18           265. The SFP is by definition a modification, albeit in some cases a temporary  
19 one, to the Note and Deed. It explicitly references the Deed and Note stating that they  
20 are still in effect, "except as herein provided." (Exhibit C, p. 3, ¶ 4.)

21           266. Several California courts have recognized that a forbearance agreement  
22 modifies the underlying note and deed. (*Rijhwani v. Wells Fargo*, 2014 WL 890016,  
23 \*13, Civ. No. C 13-05881 LB (N.D.Cal. March 3, 2014); *Chanthavong v. Aurora*, 2011  
24 WL 6012353, \*7, Civ. No. 2:10-cv-2269-GEB-JFM, \*7 (E.D.Cal.Dec. 1, 2011)). In  
25 addition, there is a Wells Fargo case where the SFP expressly disclaims that it is a  
26 modification to the note and deed, but the Miramontes SFP did not contain that  
27 language. (*See Blades v. Wells Fargo*, 2012 WL 2885133, \*2, Civ. No. 2:11-CV-01389-  
28 KJD (D.Nev., July 12, 2012).)



1 cooperation is afforded to maximize the sale price, resulting in the borrowers' equity  
2 being wiped out.

3 274. This conduct was despicable and subjected the instant borrowers to cruel  
4 and unjust hardship in conscious disregard of their rights.

5 275. Defendants' conduct is permeated in this case with intentional  
6 misrepresentation, deceit of all sorts and kinds, concealment of material facts, and  
7 predatory behavior.

8 276. Wells' agents are accused of rigging a foreclosure sale – a serious charge –  
9 with a body of evidence supporting that claim. If the allegations of a conspiracy with  
10 the winning buyer at the foreclosure sale are validated, a conspiracy to eliminate a  
11 bidder from a nonjudicial foreclosure sale is grounds for punitive damages.

12 277. In addition, Wells utilizes lawyers against borrowers as mentioned in an  
13 industry report (authored by CRC, identified below): "It has been my unfortunate  
14 experience to witness Wells Fargo foreclose senior after senior. Wells refuses to work  
15 with seniors to try to keep them in their homes. If the senior hires an attorney to try and  
16 stop the foreclosure, Wells Fargo hires high priced law firms to try and crush the senior  
17 homeowner with unnecessary motions and discovery. The law firms hired by Wells  
18 rack up their fees by hundreds of thousands of dollars and then tack that amount onto  
19 the senior's loan. Wells targeted seniors to refinance their loans and pull out their equity  
20 and now they are targeting seniors to remove them from their homes. It has been my  
21 experience that senior homeowners fear Wells Fargo more than they fear cancer or liver  
22 failure. I guess you can treat cancer and liver failure but a Wells Fargo foreclosure is  
23 always terminal."

24 **April, 2011**

25 **Office of the Comptroller of the Currency**  
26 **Enforcement Action against Wells Fargo**

27 278. In April, 2011, the Office of the Comptroller of the Currency announced an  
28 enforcement action against major US banks including Wells Fargo. Entered as a

1 “Consent Order” on March 31, 2011 and signed by Wells’ CEO John Stumpf, Wells  
 2 “neither admitted nor denied” the following allegations, as relevant to this case:

- 3 (a) that it serviced 8,900,000 residential mortgages;
- 4 (b) that it failed to devote sufficient financial, staffing and managerial  
 5 resources to ensure proper administration of its foreclosure processes to  
 6 these 8.9M mortgages; and
- 7 (c) that it failed to devote to its foreclosure processes adequate  
 8 oversight, internal controls, policies, and procedures, compliance risk  
 9 management, internal audit, third party management, and training.

10 279. Wells essentially acknowledged that as a result, it engaged in unsafe and  
 11 unsound banking practices across these many mortgages.

12 **Reyes v. Wells Fargo Case**

13 280. *Reyes* dealt with about 9,000 borrowers who were offered the same or  
 14 similar “Special Forbearance Plans” as the agreement offered to Plaintiffs. The case was  
 15 settled after Wells’ pleading challenges did not eliminate Rosenthal and UCL claims.  
 16 The district court in *Reyes* concluded that the “statement [in the SFP] that foreclosure  
 17 counsel would be instructed to delay foreclosure proceedings as long as the recipients  
 18 made timely payments under the Agreement” was problematic enough for a trier-of-fact  
 19 to potentially find that Wells made false, deceptive or misleading statements to these  
 20 9,000 class members. This is one of the central allegations raised by Miramontes in this  
 21 case – that Wells promised to suspend foreclosure proceedings but did not actually  
 22 honor that promise and indeed had no such intent. Wells settled *Reyes* on this same  
 23 basis. This quantum of misconduct allows for an inference that it is, or was, Wells’  
 24 practice and/or policy to foreclose on borrowers in violation of its SFP agreements.

25 **March 2012**

26 **USA & 50 States v. Wells Fargo, et al.**

27 281. One month before the foreclosure sale in the Miramontes case, on March  
 28 12, 2012, the United States along with 50 states’ attorneys general sued the major US



1 banks including Wells Fargo, in District of Columbia Case No. 1:12-cv-00361-RMC.

2 The complaint alleged, as relevant here, that Wells was guilty of:

- 3 (a) failing to adequately train staff responsible for loan modification;
- 4 (b) allowing borrowers to stay in trial modification for excessive periods  
5 of time;
- 6 (c) wrongfully denying modification applications;
- 7 (d) providing false or misleading information to consumers while  
8 referring loans to foreclosure during the loan modification  
9 application process;
- 10 (e) providing false or misleading information to consumers while  
11 initiating foreclosures where the borrower was in good faith actively  
12 pursuing a loss mitigation alternative offered by Wells;
- 13 (f) providing false or misleading information to consumers while  
14 scheduling and conducting foreclosure sales during the loan  
15 application process and during trial loan modification periods;
- 16 (g) misrepresenting to borrowers that loss mitigation programs would  
17 provide relief from the initiation of foreclosure or further foreclosure  
18 efforts;
- 19 (h) failing to provide accurate and timely information to borrowers who  
20 are in need of, and eligible for, loss mitigation services, including  
21 loan modifications;
- 22 (i) miscalculating borrowers' eligibility for loan modification programs  
23 and improperly denying loan modification relief to eligible  
24 borrowers;
- 25 (j) misleading borrowers by representing that loan modification  
26 applications will be handled promptly when Wells regularly fails to  
27 act on loan modifications in a timely manner;
- 28

- (k) failing to properly process borrowers’ applications for loan modifications, including failing to account for documents submitted by borrowers and failing to respond to borrowers’ reasonable requests for information and assistance;
- (l) failing to assign adequate staff resources with sufficient training to handle the demand from distressed borrowers;
- (m) misleading borrowers by providing false or deceptive reasons for denial of loan modifications; and
- (n) inappropriately dual-tracking foreclosure and loan modification activities, and failing to communicate with borrowers with respect to foreclosure activities.

282. Wells settled that suit in a simultaneous Consent Judgment for \$1 billion in cash, along with about \$4.3 billion in other forms of loan relief, as well as promises formalized in court orders that it would treat Wells Fargo customers better during the loan modification process.

283. The Consent Judgment was signed by Michael Heid, Wells Fargo & Company and Wells Fargo Bank, N.A.’s Executive Vice President.

284. In the Consent Judgment, Wells was supposed to avoid dual tracking its borrowers, it was supposed to not proceed with foreclosure while a borrower was in compliance with a forbearance agreement, and it was obligated to give notice of continued foreclosure sale dates in writing to the borrower. Yet, despite having just been fined \$1B, it honored none of these commitments with respect to the Miramontes foreclosure that occurred the very next month.

**Wells Fargo Foreclosure “Fraud Manual**

285. In March, 2012, it became apparent that Wells Fargo, faced with deficiencies in the chain of title for underlying mortgage documentation, created a manual that allowed it to concoct those missing documents.



## Syzmoniak Litigation

290. In 2010, Lynn Syzmoniak sued Wells Fargo for fabricating mortgage documentation, commonly known as the “robo-signing” scandal.

291. Essentially, in order to comply with certain securitization procedures that require an assignment of the mortgage to a trust that acts as the securitization vehicle, an officer of a given lending entity, often using Wells Fargo as a servicer, was required to sign off on that assignment.

292. However, these assignments were often forgeries, signed off by persons that were not officers of the company lending the money. For example, in Georgia, a company named “Doc-X” prepared mortgage assignments for Wells, acting as either a lender or servicer. Doc-X’s employee, Linda Green, signed off as an officer (“vice-president”) of 18 different entities purporting to assign a given mortgage into the applicable trust. Green was not an officer of any of the 18 lending entities.

293. As such, Wells was essentially involved in a large scale forgery exercise in which the mortgage-backed securities that it prepared for sale to Wall Street investors were not legally backed by the actual mortgages.

### “Wells Fargo Mortgage Modification is a Scam” Website

294. Wells’ loan modification misconduct is documented by a 214-page website capture from [www.wellsfargomortgagemodscam.com](http://www.wellsfargomortgagemodscam.com) and consistently captioned by the phrase, “Wells Fargo Loan Modification is a Scam.” The website amounts to an encyclopedia of borrower mistreatment committed by Wells in relation to its foreclosure and loan modification practices from the past decade.

295. A sample of the allegations:

- (a) “Special Forbearance plans and Trial Modifications are just Wells Fargo’s stalling tactics, requiring loan mod. applicants to pay in money that generally isn’t applied to your mortgage ... [t]his is just a load of BS ... If you are offered a ‘special forbearance,’ that doesn’t get you any closer to a loan mod.”

- 1 (b) “What Wells Fargo (and the other big banks) really intend[] here is  
 2 just to make a few more dollars off these people who are already in  
 3 financial difficulty and then dump them into foreclosure when it’s  
 4 convenient for the bank to take the loss on their books.”
- 5 (c) “If you’re going to survive [Wells’] mortgage modification review  
 6 process, you’d better resign yourself to two things right off: you’re  
 7 going to be lied to and you’re going to have to do some (or a whole  
 8 lot of) research to expose those lies.”
- 9 (d) The website goes on with videos, anecdotal accounts, sworn  
 10 testimony, and other factual detail, including public statements by  
 11 leaders (as defined in Civil Code § 3294(b)), to support its charges.  
 12 This evidence supports inferences that Wells’ byzantine loan  
 13 modification process was designed to trip customers up, by  
 14 structural design at the highest levels. For example: “If the system  
 15 is set up so you talk to a different person every time you call in,  
 16 there is no way any one representative can know anything about  
 17 your review.” The website identifies specific persons and provides  
 18 detail of large-scale misconduct couched in contrarian, Orwellian  
 19 language. Plaintiff-borrowers armed with far less information have  
 20 been permitted to pursue punitive damages in comparable cases.  
 21 (*See, e.g., Shaterian v. Wells Fargo* (N.D.Cal.2011) 829 F.Supp.2d  
 22 873, 888-889.)

23 **Other Wells Policies and Practices**

24 296. Wells appears to have been systematically sending out SFP offers without  
 25 regard to whether the borrowers had any realistic chance of obtaining a loan  
 26 modification, also reflected in *Reyes*, which allowed them to collect additional  
 27 payments – by basically bleeding out the dreams of borrowers hoping to save their  
 28 homes.

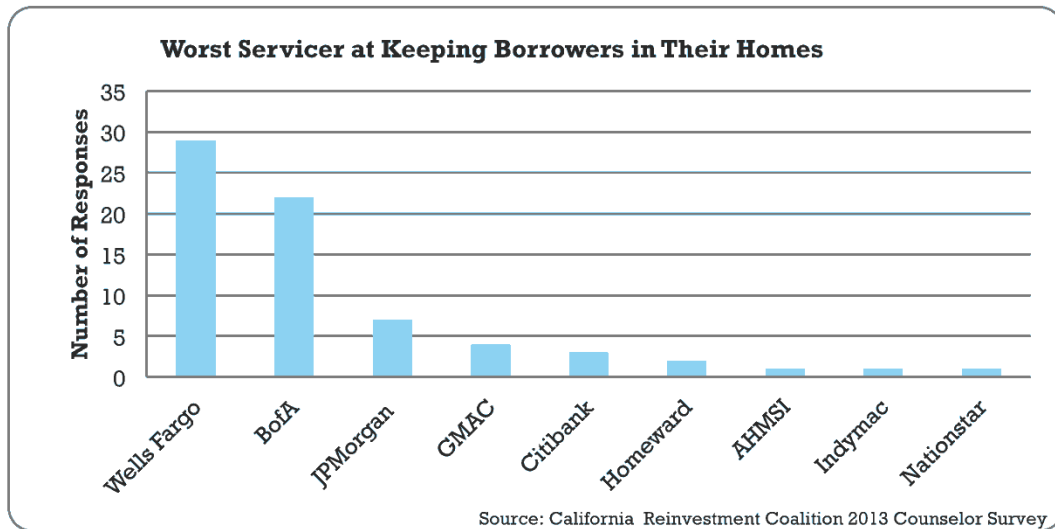
1           297. Wells is incentivised to require borrowers to submit multiple loan  
 2 modification applications, as on information and belief, they are compensated as a  
 3 servicer for each time this occurs.

4           298. After the USA case Consent Judgment, an advocacy group named the  
 5 California Reinvestment Coalition (CRC) published a study in April, 2013 reporting the  
 6 findings from a survey of 84 counselors and legal service advocates. Among its major  
 7 findings was that Wells Fargo still engaged in dual tracking. Even though it was by that  
 8 time outlawed in the state of California, Wells still failed to stop the foreclosure process  
 9 while borrowers were negotiating in good faith for a loan modification. Over 60% of  
 10 counselors reported that Wells still dual tracked “sometimes,” “often,” or “always.”

11           299. In addition, Wells Fargo performed the worst of all banks, with over a third  
 12 of all responding counselors saying Wells denied seemingly qualified borrowers  
 13 “always” or “almost always.”

14           300. Wells was also cited 30% of the time as not providing a satisfactory  
 15 explanation for denying a loan modification application.

16           301. In the same survey, Wells Fargo was also reported to be the single worst  
 17 servicer at keeping borrowers in their home:



18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27           302. In light of the magnitude of Wells’ misconduct in this arena, which caused  
 28 thousands upon thousands of people to be harmed, lied to, scammed, cheated and

1 destabilized, Wells Fargo's behavior can be described as systematically intended to  
2 cause serious injury to its borrowers.

3 303. The overall misconduct by all Defendants can also be characterized as  
4 despicable, and carried on by them with a willful and conscious disregard of borrower  
5 rights.

6 304. For these reasons, Plaintiffs seeks punitive damages to punish and deter  
7 these lending entities from committing such brazen, pervasive, massive, unforgivable,  
8 national harm to the citizens, homeowners, and good people of the United States.

9 **DEMAND FOR JURY**

10 305. Plaintiffs hereby demand trial by jury.

11 **PRAYER FOR RELIEF**

12 *Wherefore*, Plaintiffs seek damages for the following:

- 13 (i) compensatory damages according to proof at trial, including but not  
14 limited to economic and non-economic damages, such as the lost equity, investment,  
15 grief, hassle, and distress imposed on the Miramontes couple;
- 16 (ii) punitive damages permissible by law;
- 17 (iii) costs of suit;
- 18 (iv) interest;
- 19 (v) attorneys' fees; and
- 20 (vi) such other relief as the Court deems just and proper.

21  
22 Date: September 3, 2015

PAVONE & FONNER, LLP

23  
24 

Benjamin Pavone, Esq.  
Kimberley A. Fonner, Esq.  
Attorneys for Plaintiffs

# **EXHIBIT A**



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To be completed by Examiner OR Title Company in black ink.

Number of AIN's Shown

FIRST AMERICAN TITLE INSURANCE COMPANY

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✓

Recording Requested By:  
SILVER STATE FINANCIAL  
SERVICES, DBA SILVER STATE  
Return To:  
SILVER STATE FINANCIAL  
SERVICES, DBA SILVER STATE  
2485 Village View Drive, 3rd  
Floor, Henderson, NV 89074

Prepared By:

[Space Above This Line For Recording Data]

# DEED OF TRUST

MIN 100163122000878598

## 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 **September 15**, 2006 together with all Riders to this document.

(B) "Borrower" is **EVERARDO MIRAMONTES and MIRNA M MIRAMONTES husband and wife AS COMMUNITY PROPERTY.**

Borrower's address is **10598 KINNARD AVENUE LOS ANGELES, CA 90024**

. Borrower is the trustor under this Security Instrument.

(C) "Lender" is **Silver State Financial Services, Inc. D/B/A Silver State Mortgage.**

Lender is a **corporation** organized and existing under the laws of **Nevada**

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

Form 3005 1/01

VMP -6A(CA) (0207)

Page 1 of 15

Initials: *SM* *MW*

VMP MORTGAGE FORMS - (800)521-7291

09/27/06

3

Lender's address is 2485 Village View Dr., 3rd Floor, Henderson, NV 89074

(D) "Trustee" is FIRST AMERICAN TITLE INSURANCE 520 N. CENTRAL AVENUE, 8TH FLOOR, GLENDALE, CA 91203

(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 September 15, 2006. The Note states that Borrower owes Lender one million four thousand two hundred fifty and 00/100 Dollars (U.S. \$1,004,250.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than October 1, 2036

(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]:

- Adjustable Rate Rider
- Balloon Rider
- VA Rider
- Condominium Rider
- Planned Unit Development Rider
- Prepayment Rider
- Second Home Rider
- 1-4 Family Rider
- Other(s) [specify]

**INTEREST-ONLY ADDENDUM TO ARM RIDER**

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

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

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

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

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

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

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

09/27/06

06 2148186

4

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

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

**SEE EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF**

Parcel ID Number: **4326-028-013**  
**10598 KINNARD AVENUE**  
**LOS ANGELES**  
("Property Address"):

which currently has the address of  
[Street]  
[City], California **90024** [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 seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances

VMP -6A(CA) (0207)

Page 3 of 15

Initials: *EN* LN#: *MV*  
Form 3005 1/01

06 2148186

09/27/06

5

of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

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

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

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

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

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

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

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

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be

09/27/06

06 2148186

6

in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

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

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

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

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

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

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

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09/27/06

7

lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

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

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

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

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

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

Initials: SM LN#: NY

09/27/06

06 2148186

6

the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

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

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

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

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

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

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable

09/27/06

06 2148186



9

attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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

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

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

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

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

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

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

09/27/06

06 2148186

10

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

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

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

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

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

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

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

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

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

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender

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09/27/06

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11

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

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

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

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

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

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

09/27/06

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12

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

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

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

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

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

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

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA

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09/27/06

13

requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

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

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

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

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

Initials: *EM LN#*

09/27/06

06 2148186

14

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 may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale 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 a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee shall cause this notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the other 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. Lender may charge such person or persons a reasonable 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. If the fee charged does not exceed the fee set by Applicable Law, the fee is conclusively presumed to be reasonable.

24. Substitute Trustee. Lender, at its option, may from time to time appoint a successor trustee to any Trustee appointed hereunder by an instrument executed and acknowledged by Lender and recorded in the office of the Recorder of the county in which the Property is located. The instrument shall contain the name of the original Lender, Trustee and Borrower, the book and page where this Security Instrument is recorded and the name and address of the successor trustee. Without conveyance of the Property, the successor trustee shall succeed to all the title, powers and duties conferred upon the Trustee herein and by Applicable Law. This procedure for substitution of trustee shall govern to the exclusion of all other provisions for substitution.

25. Statement of Obligation Fee. Lender may collect a fee not to exceed the maximum amount permitted by Applicable Law for furnishing the statement of obligation as provided by Section 2943 of the Civil Code of California.

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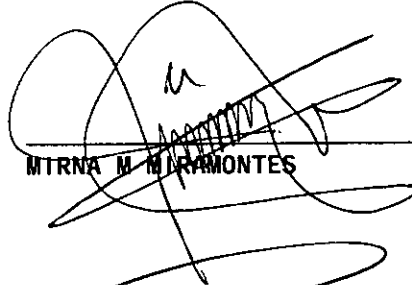
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15

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:

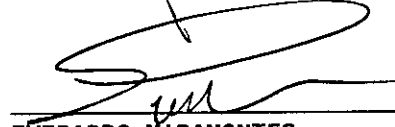
\_\_\_\_\_



MIRNA M. MIRAMONTES

(Seal)  
-Borrower

\_\_\_\_\_



EVERARDO MIRAMONTES

(Seal)  
-Borrower

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

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

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

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

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

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

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09/27/06

16

State of California  
County of LOS ANGELES

On Sept 19 2006

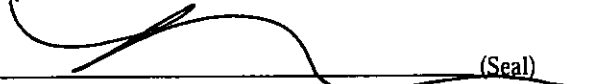
before me,

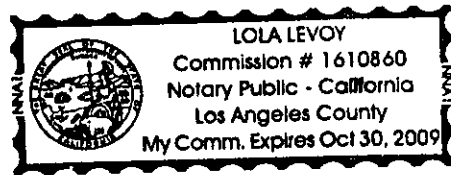
} ss. Lola Levoy, Notary Public  
personally appeared

MIRNA M MIRAMONTES, EVERARDO MIRAMONTES

(or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

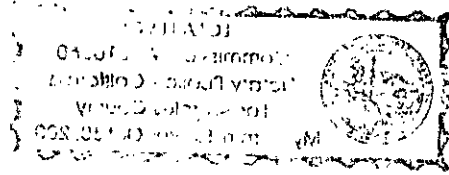
  
(Seal)



09/27/06

06 2148186





17

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Real property in the City of Los Angeles, County of Los Angeles, State of California, described as follows:

Lot 13 in Block 22 of Tract No. 4677, in the City of Los Angeles, as per map recorded in Book 92 Pages 24 to 31 inclusive of Maps, in the Office of the County Recorder of said County.

APN: 4326-028-013

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09/27/06

MIN: 100163122000878598

18

### INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE RIDER

Property Address: 10598 KINNARD AVENUE , LOS ANGELES, CA 90024

**THIS ADDENDUM** is made this 15th day of September 2006 , and is incorporated into and intended to form a part of the Adjustable Rate Rider (the "Rider") dated the same date as this Addendum executed by the undersigned and payable to Silver State Financial Services, Inc. D/B/A Silver State Mortgage. (The Lender).

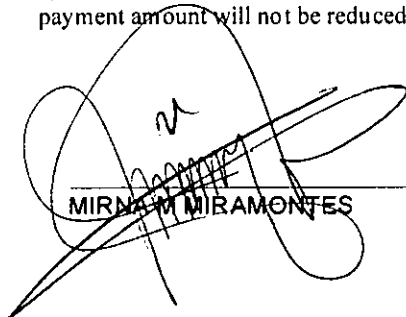
**THIS ADDENDUM** supersedes Section 4(C) of the Rider. None of the other provisions of the Rider are Changed by this Addendum.

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

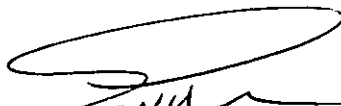
##### (C) Calculations of Changes

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

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



\_\_\_\_\_  
MIRIAM MIRAMONTES (Seal)  
-Borrower



\_\_\_\_\_  
EVERARDO MIRAMONTES (Seal)  
-Borrower

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

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

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

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

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MIN: 100163122000878598

19

**ADJUSTABLE RATE RIDER**  
(6-Month LIBOR Index - Rate Caps)  
(Assumable during Life of Loan) (45 Day Lookback)

THIS ADJUSTABLE RATE RIDER is made this **20th** day of **September, 2006**, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure the Borrower's Adjustable Rate Note (the "Note") to **Silver State Financial Services, Inc. D/B/A Silver State Mortgage.**

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

**10598 KINNARD AVENUE , LOS ANGELES, CA 90024**  
[Property Address]

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

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

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

The Note provides for an initial interest rate of **8.000 %**. The Note provides for changes in the interest rate and the monthly payments, as follows:

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

**(A) Change Dates**

The interest rate I will pay may change on the first day of **October, 2011**, and may change on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

MULTISTATE ADJUSTABLE RATE RIDER 6-Month LIBOR Index (Assumable during Life of Loan) (45 Day Lookback) - Single Family - Freddie Mac UNIFORM INSTRUMENT

VMP-194R (0406) Form 5122 5/04

Page 1 of 4

Initials: *SMW*

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

09/27/06

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20

**(B) The Index**

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

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

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding **two and one-quarter** percentage point(s) ( **2.250 %**) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

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

The interest rate I am required to pay at the first Change Date will not be greater than **13.000 %** or less than **3.000 %**. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **one** percentage point(s) ( **1.000 %**) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than **13.000 %**.

**(E) Effective Date of Changes**


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

**(F) Notice of Changes**

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

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Page 2 of 4

Form 5122 5/04

06 2148186

09/27/06

21

**B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER**  
Section 18 of the Security Instrument is amended to read as follows:

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

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

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

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

VAMP-194R (0406)

Page 3 of 4

LN#: \_\_\_\_\_  
Initials: SP NW  
Form 5122 5/04

06 2148186

09/27/06

22

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

*[Handwritten signature of Mirna Miramontes]*

MIRNA MIRAMONTES (Seal)  
-Borrower

*[Handwritten signature of Everardo Miramontes]*

EVERARDO MIRAMONTES (Seal)  
-Borrower

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

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

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

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

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

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

LN#:

 -194R (0406)

Page 4 of 4

Form 5122 5/04

09/27/06

06 2148186

# **EXHIBIT B**



# ADJUSTABLE RATE NOTE

(6-Month LIBOR Index - Rate Caps)  
(Assumable during Life of Loan) (45 Day Lookback)

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

September 15, 2006  
[Date]

BEVERLY HILLS  
[City]

CALIFORNIA  
[State]

10598 KINNARD AVENUE , LOS ANGELES, CA 90024  
[Property Address]

### 1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 1,004,250.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Silver State Financial Services, Inc. D/B/A Silver State Mortgage.

I will make all payments under this Note in the form of cash, check or money order.

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

### 2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 8.000 %. The interest rate I will pay will change in accordance with Section 4 of this Note.

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

### 3. PAYMENTS

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

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

I will make my monthly payment on the first day of each month beginning on November 1, 2006

I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on October 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. Box 230220, Las Vegas, NV 89105

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

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

Each of my initial monthly payments will be in the amount of U.S. \$ 7,368.84. This amount may change.

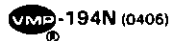
\* INTEREST ONLY NOTE ADDENDUM ATTACHED HERETO AND MADE A PART HEREOF.

#### (C) Monthly Payment Changes

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

MERS: 100163122000878598

MULTISTATE ADJUSTABLE RATE NOTE - 6-Month LIBOR Index (Assumable during Life of Loan) (45 Day Lookback) - Single Family - Freddie Mac UNIFORM INSTRUMENT



Form 5522 5/04

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

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

(A) Change Dates

The interest rate I will pay may change on the first day of **October, 2011**, and may change on that day every sixth month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

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

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

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding **two and one-quarter** percentage point(s) ( **2.250** %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

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

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than **13.000** % or less than **3.000** %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **one** percentage point(s) ( **1.000** %) from the rate of interest I have been paying for the preceding six months. My interest rate will never be greater than **13.000** %.

(E) Effective Date of Changes

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

(F) Notice of Changes

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

5. BORROWER'S RIGHT TO PREPAY

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

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

6. LOAN CHARGES

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

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

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

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

**(B) Default**

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

**(C) Notice of Default**

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

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

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

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

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

**8. GIVING OF NOTICES**

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

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

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

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

**10. WAIVERS**

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

**11. UNIFORM SECURED NOTE**

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

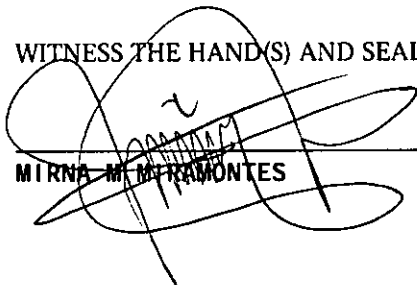
**Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales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

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

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

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

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

  
MIRNA M. MIRAMONTES

(Seal)  
-Borrower

  
EVERARDO MIRAMONTES

(Seal)  
-Borrower

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

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

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

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

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

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

[Sign Original Only]

## INTEREST-ONLY ADDENDUM TO ADJUSTABLE RATE PROMISSORY NOTE

Property Address: 10598 KINNARD AVENUE , LOS ANGELES, CA 90024

**THIS ADDENDUM** is made this 15th day of September 2006 , and is incorporated into and intended to form a part of the Adjustable Rate Note ("The Note") dated the same date as this Addendum executed by the undersigned and payable to Silver State Financial Services, Inc. D/B/A Silver State Mortgage. (The Lender).

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

### 3. PAYMENTS

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

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

I will make my monthly payments on the first day of each month beginning on November 1, 2006 . I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before principal. If, on October 1, 2036 , I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my payments at P.O. Box 230220, Las Vegas, NV 89105 , or at a different place if required by the Note Holder.

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

Each of my initial monthly payments will be in the amount of U.S. \$ 6,695.00 . This payment amount is based on the original principal balance of the Note. This payment amount may change.

### 4. INTEREST RATE AND MONTHLY PAYMENT CHANGES

#### (C) Calculations of Changes

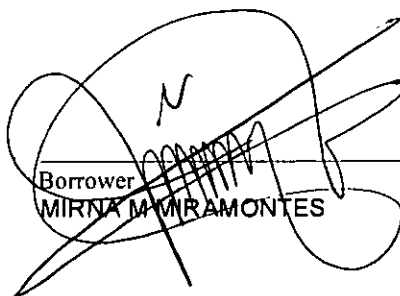
Before each Change Date, the Note Holder will calculate my new interest rate by adding two and one-quarter percentage point(s) ( 2.250 ) to the Current Index for such Change Date. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject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

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

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

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

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

  
Borrower \_\_\_\_\_ Date \_\_\_\_\_  
MIRNA MIRAMONTES 09/19/06

  
Borrower \_\_\_\_\_ Date \_\_\_\_\_  
EVERARDO MIRAMONTES 09/19/06

\_\_\_\_\_  
Borrower \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Borrower \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Borrower \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_  
Borrower \_\_\_\_\_ Date \_\_\_\_\_

**ALLONGE TO PROMISSORY NOTE**


**For purpose of further endorsement of the following described Note, This Allonge is Affixed and becomes a permanent part of said Note:**

**Loan Number:** \_\_\_\_\_  
**Original Loan Amount:** \$1,004,250.00  
**Originating Lender:** Silver State Financial Services, Inc.  
DBA Silver State Mortgage  
**Note Date:** September 15, 2006  
**Borrower's Name:** Mirna M. Miramontes  
**Co-Borrower's Name:** Everardo Miramontes  
**Property Address:** 10578 Kinnard Ave  
Los Angeles, CA 90024

**Pay to the order of:**

\_\_\_\_\_

**Without recourse, by Silver State Financial Services, Inc.  
DBA Silver State Mortgage**

  
\_\_\_\_\_  
**Steven Parker/ COO**

# **EXHIBIT C**



AMERICA'S SERVICING CO.  
RETURN MAIL OPERATIONS  
PO BOX 10388  
DES MOINES IA 50306-0388



01/27/11



1MB 01943/001943/003240 0008 3 AGNR11 LM004 106

MIRNA M MIRAMONTES  
EVERARDO MIRAMONTES  
C/O EVERARDO MIRAMONTES  
3811 GRAND VIEW BLVD  
LOS ANGELES, CA 90066-4405

**Account Information**

<b>Online:</b>	mortgageaccountonline.com
<b>Fax:</b>	(866) 359-7363
<b>Telephone:</b>	(800) 842-7654
<b>Correspondence:</b>	PO Box 10328 Des Moines, IA 50306
<b>Hours of Operation:</b>	Mon - Fri 8am-6pm In Your Time Zone
<b>Loan Number:</b>	1256036988
<b>Property Address:</b>	10598 Kinnard Ave Los Angeles CA 90024

**Subject: Payment Challenges**

**Property Address: 10598 Kinnard Ave  
Los Angeles CA 90024**

Dear Mirna M Miramontes, Everardo Miramontes & C/o Everardo Miramontes:

Thank you for contacting us about your mortgage payment challenges. In an effort to help you remain in your home, we're writing to offer you a Special Forbearance Plan ("Agreement"). This offer is based on our review of the financial information you provided and conversations we've held.

Currently, your loan is due for 27 installments, from 11/01/08 through 01/01/11. As agreed, you have promised to pay the amounts stated within the Agreement, the terms and conditions of which are outlined on page three. The agreement must be signed and returned with the first installment to:

America's Servicing Company  
1000 Blue Gentian Road  
Suite 300  
MAC X9999-01N  
Eagan MN 55121

This is not a waiver of the accrued or future payments that become due, but a trial period showing you can make regular monthly payments.

Upon successful completion of the Agreement, your loan will not be contractually current. Since the installments may be less than the total amount due, you may still have outstanding payments and fees. Any outstanding payments and fees will be reviewed for a loan modification. If approved for a loan modification, based on investor guidelines, this will satisfy the remaining past due payments on your loan and we will send you a loan modification agreement. An additional payment may be required.

Any installments received will be applied to the delinquent payments on the loan. During this



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LM004 106

001943/003240 AGNR11 S2-ET-M1-C001

**Account Information**

**Loan Number:** 1256036988  
**Property Address:** 10598 Kinnard Ave  
Los Angeles CA 90024

Agreement, installments are to be mailed to:  
America's Servicing Company  
1200 W 7<sup>th</sup> Street  
Suite L2-200  
Los Angeles CA 90017

If your loan is in foreclosure, we will instruct our foreclosure counsel to suspend foreclosure proceedings once the initial installment has been received, and to continue to suspend the action as long as you keep to the terms of the Agreement. Upon full reinstatement, we will instruct our foreclosure proceedings and report to the credit bureaus accordingly.

During this period, we are requesting that you maintain contact with our office in order to establish acceptable arrangements for bringing your loan current.

If you have questions or need further assistance, please contact us at the number listed in the account information section of this letter. We appreciate your prompt attention to this matter.

Sincerely,

**Borrower Counseling Services**  
**America's Servicing Company**

This communication is an attempt to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge of this debt in bankruptcy or are currently in a bankruptcy case, this notice is not intended as an attempt to collect a debt, and we have a security interest in the property and will only exercise our rights as against the property.

With respect to those loans secured by property located in the State of California, the state Rosenthal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or [www.ftc.gov](http://www.ftc.gov).



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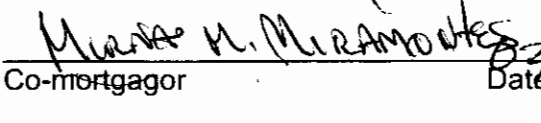
001943/003241 AGNR11 S2-ET-M1-C001

SPECIAL FORBEARANCE AGREEMENT - TERMS AND CONDITIONS

1. Currently your loan is due for 27 installments, from 11/01/08 through 01/01/11. The indebtedness of the referenced loan is in default and in consideration of extending forbearance for a period of time, it is necessary that you indicate your understanding and acceptance of the terms of the forbearance agreement by immediately signing and returning this agreement. Failure to sign and return this agreement.
2. This Agreement temporarily accepts reduced installments or maintains regular monthly payments as outlined in section 5 below. Upon successful completion of the Agreement, your loan will not be contractually current. Since the installments may be less than the total amount due you may still have outstanding payments and fees. Any outstanding payments and fees will be reviewed for a loan modification, based on investor guidelines, this will satisfy the remaining past due payments on your loan and we will send you a loan modification agreement. An additional payment may be required.
3. The lender is under no obligation to enter into any further agreement, and this Agreement shall not constitute a waiver of the lender's right to insist upon strict performance in the future.
4. All of the provisions of the Note and Security Instrument, except as herein provided, shall remain in full force and effect. Any breach of any provision of this Agreement or no-compliance with this Agreement, shall render the forbearance null and void. The lender, in its sole discretion and without further notice to you, may terminate this Agreement. If the Agreement is terminated, the lender may institute foreclosure proceedings according to the terms of the Note and Security Instrument. In the event of foreclosure, you may incur additional expenses of attorney's fees and foreclosure costs.
5. Each payment must be remitted according to the schedule below.  

01	02/03/11	14,000.00	02	03/03/11	9,513.25	03	04/03/11	9,513.25	04
	05/03/11	9,513.25							
6. There is no "grace period" allowance in this agreement. All installments must be received on or before the agreed due date and made strictly in accordance with section 5 above. If any installment is not received on or before the respective due date, the Agreement will be void and the total delinquency, including fees, will be due immediately.
7. The total amount indicated on each installment must be remitted. In the event the total amount due of each payment is not received, the Agreement will be rendered null and void.

By signing this Agreement, I hereby consent to being contacted concerning this loan at any cellular or mobile telephone number I may have. This includes text messages, at no cost to me, and telephone calls including the use of automated dialing systems to contact my cellular or mobile telephone.


02/03/2011

02/03/2011  
Mortgagor Date Co-mortgagor Date



012711LM0040001A

# **EXHIBIT D**

This page is part of your document - DO NOT DISCARD



20082192462



Pages:  
0004

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

12/12/08 AT 08:00AM

FEES :	16.00
TAXES :	0.00
OTHER :	0.00
PAID :	16.00

**TITLE(S) : NOTICE DEFAULT**



LEADSHEET



200812120250008



001137983

SEQ:  
08

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

Recording Requested By  
**ServiceLink**  
 Recording Requested By  
 When Recorded Mail To

Cal-Western Reconveyance Corp.  
 P.O. Box 22004  
 525 East Main Street  
 El Cajon CA 92022-9004

\*1183100-15\* \*NODXR\*  
 Trustee Sale No. 1183100-15

400014265

Space Above This Line For Recorder's Use

Loan No. XXXXXX6988 Ref: MIRAMONTES, MIRNA



## NOTICE OF DEFAULT

### IMPORTANT NOTICE

**IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION,** and you may have legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within the time permitted by law for reinstatement of your account, which is normally five business days prior to the date set for the sale of your property. No sale date may be set until three months from the date this notice of default may be recorded (which date of recordation appears on this notice). This amount is \$28,456.79 as of December 09, 2008, and will increase until your account becomes current. While your property is in foreclosure, you still must pay other obligations (such as insurance and taxes) required by your note and deed of trust or mortgage. If you fail to make future payments on the loan, pay taxes on the property, provide insurance on the property, or pay other obligations as required in the note and deed of trust or mortgage, the beneficiary or mortgagee may insist that you do so in order to reinstate your account in good standing. In addition, the beneficiary or mortgagee may require as a condition to reinstatement that you provide reliable written evidence that you paid all senior liens, property taxes, and hazard insurance premiums.

Upon your written request, the beneficiary or mortgagee will give you a written itemization of the entire amount you must pay. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay all amounts in default at the time payment is made. However, you and your beneficiary or mortgagee may mutually agree in writing prior to the time the notice of sale is posted (which may not be earlier than the end of the three-month period stated above) to, among other things, (1) provide additional time in which to cure the default by transfer of the property or otherwise; or (2) establish a schedule of payments in order to cure your default; or both (1) and (2).

Following the expiration of the time period referred to in the first paragraph of this notice, unless the obligation being foreclosed upon or a separate written agreement between you and your creditor permits a longer period, you have only the legal right to stop the sale of your property by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

**HSBC BANK USA, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE  
 HOLDERS OF NOMURA HOME EQUITY LOAN, INC., HOME EQUITY LOAN\*\*  
 C/O CAL-WESTERN RECONVEYANCE CORPORATION  
 525 EAST MAIN STREET  
 P.O. BOX 22004  
 EL CAJON 9004 CA 92022-9004  
 (619)590-9200**

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan.

Page 1 of 2

3

Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale, provided the sale is concluded prior to the conclusion of the foreclosure. Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.**

### NOTICE OF DEFAULT AND ELECTION TO SELL UNDER DEED OF TRUST

NOTICE IS HEREBY GIVEN:

CAL-WESTERN RECONVEYANCE CORPORATION is either the original trustee, the duly appointed substituted trustee, or acting as agent for the trustee or beneficiary under a deed of trust dated September 15, 2006 executed by

EVERARDO MIRAMONTES AND MIRNA M MIRAMONTES, HUSBAND AND WIFE  
as trustor, to secure certain obligations in favor of

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC AS NOMINEE FOR  
SILVER STATE FINANCIAL SERVICES, INC. D/B/A SILVER STATE\* as beneficiary

recorded as document 06 2148186 on September 27, 2006 in book XX page XX official records in the office of County Recorder of LOS ANGELES County, California, describing land therein as:

COMPLETELY DESCRIBED IN SAID DEED OF TRUST  
\*\*TRUST, SERIES 2007-1

\*MORTGAGE

said obligations including a promissory note for the principal sum of \$1,004,250.00 that a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of:

Failure to pay the monthly payment due September 1, 2008 of interest only and subsequent installments due thereafter; plus late charges; together with all subsequent sums advanced by beneficiary pursuant to the terms and conditions of said deed of trust.

That by reason thereof the present beneficiary under such Deed of Trust has deposited with said trustee such Deed of Trust and all documents evidencing obligations secured thereby and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

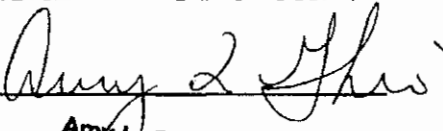
See attached SB1137 Declaration.

T.S. 1183100-15

Dated: December 09, 2008

CAL-WESTERN RECONVEYANCE CORPORATION

Signature By

  
Amy L. Grochowski

09/05/2008 rev.

Nodca.doc Page 2 of 2

4

**NOTICE OF DEFAULT DECLARATION**  
PURSUANT TO CALIFORNIA CIVIL CODE 2923.5

America's Servicing Company  
3476 Stateview Blvd  
Fort Mill, SC 29715

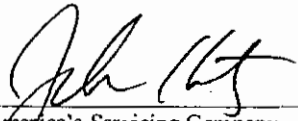
Borrower: MIRNA M MIRAMONTES  
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~  
Property Address: 3811 GRAND VIEW BLV  
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

The undersigned mortgagee, beneficiary, or their authorized agent (collectively, the "Beneficiary") represent and declares that the requirements of CA Civil Code 2923.5 have been met. This Declaration is required for any residential owner occupied property in which the loan was originated between January 1, 2003 and December 31, 2007. Non-owner occupied and vacant properties are exempt from the requirements of CA Civil Code 2923.5.

One of the below necessary requirements was met by the Beneficiary:

- \* The Beneficiary has made contact with the borrower pursuant to CA Civil Code 2923(a)(2). Contact with the borrower was made in person or by telephone to assess the borrower's financial situation and explore options for the borrower to avoid foreclosure.
- \* Due Diligence to contact the borrower was exercised pursuant to CA Civil Code 2923.5(g)(2) by the Beneficiary.
- \* The borrower has surrendered the property as evidenced by either a letter confirming the surrender or delivery of the keys to the property to the mortgagee, Trustee, beneficiary, or authorized agent pursuant to CA Civil Code 2923.5(h)(1).
- \* The borrower has contracted with an organization, person, or entity whose primary business is advising people who have decided to leave their homes on how to extend the foreclosure process and avoid their contractual obligations to mortgagees or beneficiaries pursuant to CA Civil Code 2923.5(h)(2).
- \* The borrower has filed for bankruptcy and the proceedings have not been finalized pursuant to CA Civil Code 2923.5(h)(3).

Dated: 12/03/2008

  
 \_\_\_\_\_  
 America's Servicing Company  
 \_\_\_\_\_  
 John Kennedy



# **EXHIBIT E**

This page is part of your document - DO NOT DISCARD



20090049028



Pages:  
0004

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

01/14/09 AT 08:00AM

FEES:	17.00
TAXES:	0.00
OTHER:	0.00
PAID:	17.00

TITLE(S) : SUBSTITUTION TRUSTEE



LEADSHEET



200901140120004



001175539

SEQ:  
01

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

RECORDED BY: Requested By  
ServiceLink



2

AND WHEN RECORDED MAIL TO:

CAL-WESTERN RECONVEYANCE CORPORATION  
525 EAST MAIN STREET  
P.O. BOX 22004  
EL CAJON CA 92022-9004



SPACE ABOVE THIS LINE FOR RECORDER'S USE \_\_\_\_\_

LOAN NO.: XXXXXX6988 T.S. NO.: 1183100-15

4700014265

**SUBSTITUTION OF TRUSTEE**

This Form Provided By Cal-Western Reconveyance Corporation

WHEREAS, EVERARDO MIRAMONTES AND MIRNA M MIRAMONTES, HUSBAND AND WIFE was the original Trustor,

FIRST AMERICAN TITLE

was the original Trustee,

and MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC AS NOMINEE FOR SILVER STATE FINANCIAL SERVICES, INC. D/B/A SILVER STATE\* was the original Beneficiary

under that certain Deed of Trust dated September 15, 2006 and recorded on September 27, 2006 as Instrument No. 06 2148186, in book XX, page XX of Official Records of LOS ANGELES County, California, and

WHEREAS, the undersigned is the present Beneficiary under said Deed of Trust, and WHEREAS, the undersigned desires to substitute a new Trustee under said Deed of Trust in the place and stead of present Trustee thereunder, in the manner in said Deed of Trust provided.

NOW, THEREFORE, the undersigned hereby substitutes

CAL-WESTERN RECONVEYANCE CORPORATION  
525 EAST MAIN STREET, P.O. BOX 22004  
EL CAJON CA 92022-9004

as Trustee under said Deed of Trust.

JA

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**SUBSTITUTION OF TRUSTEE**

LOAN NO:   6988  

TS NO:   1183100-15  

Whenever the context hereof so requires, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

Dated:   DEC 02 2008  

Mortgage Electronic Registration Systems, Inc. (MERS)

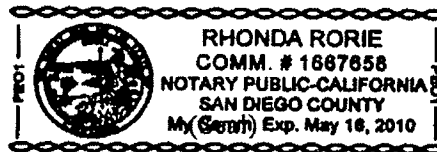
Wendy V. Perry  
Wendy V. Perry  
Assistant Secretary of MERS

STATE OF: **California**  
COUNTY OF: **San Diego**

On DEC 02 2008 before me, Rhonda Rorie, a Notary Public in and for said State, personally appeared Wendy V. Perry, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Rhonda Rorie





**CAL-WESTERN  
RECONVEYANCE  
CORPORATION**

4

LOAN NO. 6988

T.S NO. 1183100-15

**AFFIDAVIT OF MAILING SUBSTITUTION OF TRUSTEE  
PURSUANT TO CALIFORNIA CIVIL CODE §2934a**

STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

THE UNDERSIGNED BEING SWORN, SAY(S):

A COPY OF THE SUBSTITUTION OF TRUSTEE HAS BEEN MAILED, PRIOR TO OR CONCURRENTLY WITH THE RECORDING THEREOF, IN THE MANNER PROVIDED IN SECTION 2934a OF THE CIVIL CODE OF CALIFORNIA, TO ALL PERSONS TO WHOM A COPY OF THE NOTICE OF DEFAULT WOULD BE REQUIRED TO BE MAILED BY THE PROVISIONS OF SUCH SECTION.

Dated: ~~JAN 0 8 2008~~

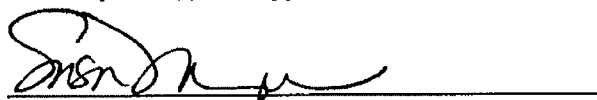
  
Sarah Arnold

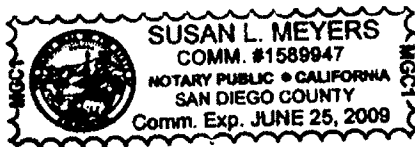
State of California

County of San Diego

JAN 0 8 2008

Subscribed and sworn to (or affirmed) before me on \_\_\_\_\_, by Sarah Arnold, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

  
\_\_\_\_\_



# **EXHIBIT F**

This page is part of your document - DO NOT DISCARD



20120270931



Pages:  
0003

Recorded/Filed in Official Records  
Recorder's Office, Los Angeles County,  
California

02/21/12 AT 08:00AM

FEES:	21.00
TAXES:	0.00
OTHER:	0.00
PAID:	21.00



LEADSHEET



201202210180007

00005395115



003809175

SEQ:  
15

DAR - Title Company (Hard Copy)



THIS FORM IS NOT TO BE DUPLICATED

E400076

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ServiceLink

RECORDING REQUESTED BY  
And When Recorded Mail To:

CAL-WESTERN RECONVEYANCE  
CORPORATION  
525 EAST MAIN STREET  
P.O. BOX 22004  
EL CAJON CA 92022-9004



APN. 4326-028-013  
Trustee Sale No. 1183100-15

Space Above This Line For Recorder's Use

400014265

**NOTICE OF TRUSTEE'S SALE**

REF: MIRAMONTES, MIRNA  
Property Address: 10598 KINNARD AVENUE, LOS ANGELES CA 90024

TRA:000067  
UNVER

**IMPORTANT NOTICE TO PROPERTY OWNER:**

YOU ARE IN DEFAULT UNDER A DEED OF TRUST, DATED September 15, 2006. UNLESS YOU TAKE ACTION TO PROTECT YOUR PROPERTY, IT MAY BE SOLD AT A PUBLIC SALE. IF YOU NEED AN EXPLANATION OF THE NATURE OF THE PROCEEDING AGAINST YOU, YOU SHOULD CONTACT A LAWYER

On March 13, 2012, at 9:00am, CAL-WESTERN RECONVEYANCE CORPORATION, as duly appointed trustee under and pursuant to Deed of Trust recorded September 27, 2006, as Inst. No. 06 2148186, in book XX, page XX, of Official Records in the office of the County Recorder of LOS ANGELES County, State of CALIFORNIA executed by:

**EVERARDO MIRAMONTES AND MIRNA M MIRAMONTES, HUSBAND AND WIFE**

WILL SELL AT PUBLIC AUCTION TO HIGHEST BIDDER FOR CASH, CASHIER'S CHECK DRAWN ON A STATE OR NATIONAL BANK, A CHECK DRAWN BY A STATE OR FEDERAL CREDIT UNION, OR A CHECK DRAWN BY A STATE OR FEDERAL SAVINGS AND LOAN ASSOCIATION, SAVINGS ASSOCIATION, OR SAVINGS BANK SPECIFIED IN SECTION 5102 OF THE FINANCIAL CODE AND AUTHORIZED TO DO BUSINESS IN THIS STATE:

**BEHIND THE FOUNTAIN LOCATED IN CIVIC CENTER PLAZA, 400 CIVIC CENTER PLAZA POMONA CALIFORNIA**

all right, title and interest conveyed to and now held by it under said Deed of Trust in the property situated in said County and State described as:

**COMPLETELY DESCRIBED IN SAID DEED OF TRUST**

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**NOTICE OF TRUSTEE'S SALE**

Trustee Sales No. 1183100-15

The street address and other common designation, if any, of the real property described above is purported to be:

**10598 KINNARD AVENUE  
LOS ANGELES CA 90024**

The undersigned Trustee disclaims any liability for any incorrectness of the street address and other common designation, if any, shown herein.

Said sale will be held, but without covenant or warranty, express or implied, regarding title, possession, condition, or encumbrances, including fees, charges and expenses of the Trustee and of the trusts created by said Deed of Trust, to pay the remaining principal sums of the note(s) secured by said Deed of Trust. The total amount of the unpaid balance of the obligation secured by the property to be sold and reasonable estimated costs, expenses and advances at the time of the initial publication of the Notice of Sale is: **\$1,398,590.34.**

**If the Trustee is unable to convey title for any reason, the successful bidder's sole and exclusive remedy shall be the return of monies paid to the Trustee, and the successful bidder shall have no further recourse.**

The beneficiary under said Deed of Trust heretofore executed and delivered to the undersigned a written Declaration of Default and Demand for Sale, and a written Notice of Default and Election to Sell. The undersigned caused said Notice of Default and Election to Sell to be recorded in the county where the real property is located.

**FOR SALES INFORMATION: Mon - Fri 9:00am to 4:00pm (619)590-1221  
CAL-WESTERN RECONVEYANCE CORPORATION  
525 EAST MAIN STREET  
P.O. BOX 22004  
EL CAJON CA 92022-9004**

Dated: February 15, 2012

CAL-WESTERN RECONVEYANCE CORPORATION

By: Vangie Ortega ServiceLink, as agent  
Authorized Signature

**VANGIE ORTEGA**

# **EXHIBIT G**

0000056127



Wells Fargo Home Mortgage  
MAC X7801-03K  
3476 Stateview Boulevard  
Fort Mill, SC 29715

June 01, 2010

Loan Number 708-0074890138  
Due Date: 07-01-09

Anthony Kilaita  
Khanna Kilaita  
525 Bella Calais WA  
San Jose CA 95138

We have good news about the above referenced loan. Our goal is simple. We want to ensure that you have every opportunity to retain your home. Based on our telephone conversation and the financial information you provided, we would like to offer you a Special Forbearance Agreement ("Agreement").

Currently, your loan is due for 11 installments, from July 01, 2009 through June 01, 2010. As agreed, you have promised to pay the amounts stated within the Agreement, the terms and conditions of which are outlined on page two. The Agreement must be signed and returned with the first installment. This is not a waiver of the accrued or future payments that become due, but a trial period showing you can make regular monthly payments. Please note investor approval is still pending.

Upon successful completion of the Agreement, your loan will not be contractually current. Since the installments may be less than the total amount due, you may still have outstanding payments and fees. Any outstanding payments and fees will be reviewed for a loan modification. If approved for a loan modification, based on investor guidelines, this will satisfy the remaining past due payments on your loan and we will send you a loan modification agreement. An additional contribution may be required.

Any installments received will be applied to the delinquent payments on the loan. During this Agreement, installments are to be mailed to:

Wells Fargo Home Mortgage  
3480 Stateview Blvd, MAC X7802-03H  
Fort Mill, SC 29715

If your loan is in foreclosure, we will instruct our foreclosure counsel to suspend foreclosure proceedings once the initial installment has been received, and to continue to suspend the action as long as you keep to the terms of the Agreement. Upon full reinstatement, we will instruct our foreclosure counsel to dismiss foreclosure proceedings and report to the credit bureaus accordingly.

**EXHIBIT** C

0000056127

During this period, we are requesting that you maintain contact with our office in order to establish acceptable arrangements for bringing your loan current. If you need additional assistance, please call us at (800) 416-1472, Monday through Thursday, 8 AM to 11 PM; Friday, 8 AM to 10 PM; or Saturday, 9 AM to 3 PM, Eastern Time.

Sincerely,  
Borrower Counseling Services

LM008 013 OJZ

Wells Fargo Bank, N A is required by the Fair Debt Collection Practices Act to inform you that if your loan is currently delinquent or in default, as your loan servicer, we will be attempting to collect a debt and any information obtained will be used for that purpose. However, if you have received a discharge, and the loan was not reaffirmed in the bankruptcy case, Wells Fargo Bank, N A will only exercise our right against the property and are not attempting any act to collect the discharge debt from you personally.

**SPECIAL FORBEARANCE AGREEMENT - TERMS AND CONDITIONS**

1. Currently, your loan is due for 11 installments, from July 01, 2009 through June 01, 2010. The indebtedness of the referenced loan is in default and in consideration of extending forbearance for a period of time, it is necessary that you indicate your understanding and acceptance of the terms of the forbearance agreement by immediately signing and returning this agreement.
2. Payments must be made strictly in accordance with the enclosed payment schedule and forbearance agreement conditions. This plan is an agreement to temporarily accept reduced payments or maintain regular monthly payments during the plan specified below. Upon successful completion of the outlined payments, your loan will be reviewed for a Loan Modification. Based on investor approval, this may satisfy the remaining past due amount on your loan.
3. The lender is under no obligation to enter into any further agreement, and this forbearance shall not constitute a waiver of the lender's right to insist upon strict performance in the future.
4. All of the provisions of the note and security instrument, except as herein provided, shall remain in full force and effect. Any breach of any provision of this agreement or non-compliance with this agreement, shall render the forbearance null and void, and at the option of the lender without further notice to you may terminate this agreement. The lender, at its option, may institute foreclosure proceedings according to the terms of the note and security instrument without regard to this agreement. In the event of foreclosure, you may incur additional expenses of attorney's fees and foreclosure costs.
5. Each payment must be remitted according to the schedule below.

PLAN	DATE	AMT	PLAN	DATE	AMT
01	07/01/10	2,500.00	02	08/01/10	2,500.00
03	09/01/10	2,500.00	04	10/01/10	55,607.96
6. There is no "grace period" allowance in this agreement. All payments must be received on or before the agreed due date. If any payment is not received on or before the due date, the agreement will be void and the total delinquency, including fees, will be due immediately.
7. The total amount indicated on each payment of the payment schedule must be remitted. In the event the total amount due of each payment is not received, this agreement will be rendered null and void.

By signing this Agreement I hereby consent to being contacted concerning this loan at any cellular or mobile telephone number I may have. This

includes text messages, at no cost to me, and telephone calls including the use of automated dialing systems to contact my cellular or mobile

WELLS FARGO	HOME MORTGAGE	Date
10/26/2007		9/13/08

Wells Fargo Home Mortgage  
 MAC #2801-03K  
 3476 Stateway Boulevard  
 Fort Mill, SC 29715

Co-mortgagor	Date
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56127

# **EXHIBIT H**

OFFICES OF

**PAVONE & FONNER**

A LAW PARTNERSHIP

BENJAMIN PAVONE, ESQ.  
STATE BAR NUMBER 181826  
7676 HAZARD CENTER DRIVE, 5TH FLOOR  
SAN DIEGO, CALIFORNIA 92108  
TELEPHONE: 619 224 8885  
FACSIMILE: 619 224 8886  
EMAIL: bpavone@cox.net

ATTORNEYS FOR PLAINTIFFS  
EVERARDO AND MIRNA MIRAMONTES

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**LOS ANGELES SUPERIOR COURT**

EVERARDO MIRAMONTES;  
  
PLAINTIFFS,  
  
v.

**CASE NO.:** 14-K-05048

**DECLARATION OF  
ROBERT HAYWOOD**

WELLS FARGO & COMPANY;  
WELLS FARGO BANK, N.A.;  
WELLS FARGO HOME MORTGAGE;  
AMERICAN SERVICING COMPANY;  
CAL-WESTERN RECONVEYANCE  
CORPORATION;  
HSBC BANK USA NA;  
JEM & TLC INVESTMENTS LLC;  
BRENT LIPPINCOTT;  
and Does 1-20,

DEFENDANTS.

I, Robert Haywood, if called to testify, could and would testify competently to the following:

1. I currently live and work in Los Angeles, California, and I was a resident of Los Angeles, California in 2012 as well.

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2. My line of business is Consumer Package Goods Marketing.

3. On April 12, 2012, I attended a foreclosure trustee’s sale at 400 Civic Center Plaza, Pomona, California behind the fountain located in Civic Center Plaza. I was there to purchase the residential property located at 10598 Kinnard Avenue, Los Angeles, California, TSN 1183100-15; APN 4326-028-013 (“Kinnard Property”).

4. In order to participate as a bidder at the trustee’s sale of the Kinnard Property on April 12, 2012, I had been pre-qualified to \$1,700,000 for the Kinnard Property as reflected by a verbal agreement from the second lienholder Ray Tom. Although I was pre-approved by Ray Tom, I did not have a check on my person for purchase. This was because Ray Tom learned of the property auction the evening of April 11, 2012 and did not have time to get the check to me prior to the 9:00 AM PST, April 12, 2012 auction. If the property sold, I was going to make immediate contact with the buyer and initiate negotiations to purchase the property as is.

5. The trustee’s sale of the Kinnard Property was conducted by Cal-Western Reconveyance Corporation and Reliable Posting & Publishing.

6. I arrived at the trustee’s sale location prior to any of the auction personnel on the morning of April 12, 2012.

7. At 9:00 a.m., the scheduled time for the trustee’s sale, there was no information communicated about the Kinnard Property by the auction personnel. I therefore approached Robert Cadman, one of the auction staff members, to ask about the status of the Kinnard Property.

8. Mr. Cadman then represented to me that he did not have any information regarding the sale of the Kinnard Property.

9. I showed him the paperwork I had brought with me containing information about the Kinnard Property and its sale by the trustee at that time and place. The information I showed Mr. Cadman also included a pending lawsuit brought by a junior recorded lienholder of the Kinnard Property, Case No. BC455989, filed in California Superior Court for Los Angeles County.



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10. After receiving this information from me, Mr. Cadman told me he was going to call his office immediately to check on the status of the Kinnard Property trustee’s sale. I was present and overheard his side of this conversation. I also observed Mr. Cadman making notes during this phone call.

11. Upon completing his call, Mr. Cadman informed me that the trustee’s sale of the Kinnard Property was being “postponed” and would not occur that day, April 12, 2012, as scheduled. I asked him to state again and confirm that the trustee’s sale of the Kinnard Property was being postponed and he did so. I pressed Mr. Cadman further for confirmation by asking if the trustee’s sale would occur later in the day on April 12, 2012, and he said it would not. He said that the sale was postponed and would be scheduled for another day to be determined.

12. With these repeated assurances from Mr. Cadman that the trustee’s sale of the Kinnard Property would not take place as scheduled on April 12, 2012, I left the sale location and walked back to my car parked at the Civic Center Plaza. It was 9:31 a.m. when I got back to my car.

13. At no time during my discussion with Mr. Cadman or any other auction personnel at the sale locaiton on the morning of April 12, 2012 did Mr. Cadman or anyone else tell me that the sale was “momentarily on hold” and would or could proceed later that same day.

14. Later in the afternoon of April 12, 2012, I contacted Ashley Keithlee and Carla Rambeau of Reliable Posting & Publishing to ask about the new trustee’s sale date for the Kinnard Property. They informed me that the Kinnard Property had been sold in a trustee’s sale earlier that morning at the Civic Center Plaza location at 10:08 a.m. for one cent over the opening price.

15. As the above facts clearly demonstrate, I was given false and misleading information by the trustee’s sale auction personnel, in particular Mr. Robert Cadman, which caused me to believe the Kinnard Property would not be offered for sale on April 12, 2012. That false information, given to me repeatedly as I asked for confirmation several times, in turn caused me to leave the sale location. As a direct result of Mr. Cadman’s deception, I was

1 prevented from bidding on the Kinnard Property, which I was fully prepared and qualified to do  
 2 up to the amount of \$1,700,000 as described above.

3 16. I was both upset and surprised when I learned that the trustee’s sale of the  
 4 Kinnard Property had occurred in this fraudulent and unfair manner, so much so that on April  
 5 16, 2012, I wrote and sent eleven (11) letters to different executive staff members of the  
 6 business entities involved with the trustee’s sale, namely Cal-Western Reconveyance  
 7 Corporation, its parent company Prommis Solutions, Reliable Posting & Publishing, and  
 8 Bankruptcy West. True and correct copies of these letters are attached hereto as Exhibits B  
 9 through L, and as individually authenticated below.

10 17. My letters to these executives described the entire sequence of my experience at  
 11 the Kinnard Property trustee’s sale on the morning of April 12, 2012 as I have described above,  
 12 and expressed my genuine shock and outrage at having been so blatantly lied to by the trustee’s  
 13 sale auction personnel who were representatives of their respective companies.

14 18. My letters also pointed out that the auction personnel deprived the beneficiaries  
 15 under any deeds of trust related to the Kinnard Property, including the Kinnard Property’s  
 16 foreclosed owner and the junior lienholders, from realizing any excess proceeds from the  
 17 trustee’s sale to recoup their losses. The personnel’s conduct was therefore directly contrary to  
 18 their duties to obtain the best price possible for all concerned.

19 19. Finally, my letters asked the executives to investigate the trustee’s sale of the  
 20 Kinnard Property immediately and take action to remedy the situation, including rescinding the  
 21 fraudulent sale.

22 20. I received only one response to my eleven (11) letters. It was from Michelle  
 23 Mierzwa, Corporate Counsel, Cal-Western Reconveyance Corporation dated May 1, 2012 see  
 24 attached.

25 21. Attached hereto as Exhibit B is a true and correct copy of a letter dated April 16,  
 26 2012 from me to Charles Piper, Chief Executive Officer & President of Prommis Solutions, the  
 27 parent company of Cal-Western Reconveyance Corporation.  
 28

1           22.     Attached hereto as Exhibit C is a true and correct copy of a letter dated April 16,  
 2 2012 from me to Chris Padilla, Vice President of West Coast Ancillary Services of Reliable  
 3 Posting and Publishing.

4           23.     Attached hereto as Exhibit D is a true and correct copy of a letter dated April 16,  
 5 2012 from me to Daniel Weinblatt, Chief Financial Officer of Prommis Solutions.

6           24.     Attached hereto as Exhibit E is a true and correct copy of a letter dated April 16,  
 7 2012 from me to Dick Volentine, General Counsel of Prommis Solutions.

8           25.     Attached hereto as Exhibit F is a true and correct copy of a letter dated April 16,  
 9 2012 from me to Ed Hill, Senior Vice President of Trustee Services of Cal-Western  
 10 Reconveyance Corporation.

11          26.     Attached hereto as Exhibit G is a true and correct copy of a letter dated April 16,  
 12 2012 from me to Margaret Padilla, President, Cal-Western Reconveyance Corporation.

13          27.     Attached hereto as Exhibit H is a true and correct copy of a letter dated April 16,  
 14 2012 from me to Marie Reinicke, Chief Administrative Officer of Cal-Western Reconveyance  
 15 Corporation.

16          28.     Attached hereto as Exhibit I is a true and correct copy of a letter dated April 16,  
 17 2012 from me to Michelle Ansley, Senior Vice President, Shares Services, of Prommis  
 18 Solutions.

19          29.     Attached hereto as Exhibit J is a true and correct copy of a letter dated April 16,  
 20 2012 from me to Monica Mora, Vice President of Bankruptcy West.

21          30.     Attached hereto as Exhibit K is a true and correct copy of a letter dated April 16,  
 22 2012 from me to Suzanne Eaton, Chief Marketing Officer of Cal-Western Reconveyance  
 23 Corporation.

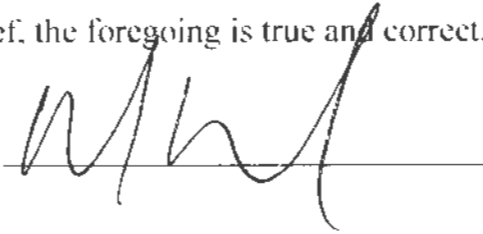
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31. Attached hereto as Exhibit K is a true and correct copy of a letter dated April 16, 2012 from me to Tina Jones, Vice President, Bankruptcy and Foreclosure East Operations, of Prommis Solutions.

32. Attached hereto as Exhibit L is a true and correct copy of a letter dated May 1, 2012 from Michelle Mierzwa, Corporate Counsel, Cal-Western Reconveyance Corporation to me.

I hereby declare under penalty of perjury under the laws of the State of California that to the best of my knowledge, information and belief, the foregoing is true and correct.

Date: August 15, 2014



Robert Haywood

# **EXHIBIT A**



**CAL-WESTERN  
RECONVEYANCE  
CORPORATION**

A Prommis Solutions Company

May 1, 2012

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035

Re: Borrowers: Everardo Miramontes and Mirna M. Miramontes  
T.S. No.: 1183100-15  
Property Address: 10598 Kinnard Avenue, Los Angeles, CA 90024

Dear Mr. Haywood:

I write to you on behalf of Cal-Western Reconveyance Corporation ("CWR") regarding identical letters individually addressed to Ed Hill, Margaret Padilla, Marie Reinicke, Suzanne Eaton, and Charles Piper, dated April 16, 2012 (collectively "Correspondence"). Your Correspondence was sent with respect to the above-referenced trustee sale number and property address ("Property"), which are no longer subject to non-judicial foreclosure proceedings. As you are already aware, a trustee's sale occurred on April 12, 2012 ("Sale"), and title to the property was transferred to the successful third party purchaser. Please direct any future inquiries regarding this trustee sale number and Property to me as counsel for CWR.

With respect to your Correspondence, you have requested that an investigation be made as to the events that transpired during the Sale. You allege that you were given false and misleading information by Robert Cadman when he told you that the sale was being postponed and rescheduled for another day after you presented him with copies of court documents relating to Case No. BC455989, thereby preventing you to bid on the Property.

After an investigation of the incidents relating to the Sale, CWR confirmed with Robert Cadman that he did not advise you that the Sale would be postponed. The accuracy of this statement was further affirmed by Doug Beckstrom, the auctioneer who conducted the Sale. A probe of the events that took place on the day of the Sale revealed that Robert Cadman advised you that the Sale was momentarily put "on hold" after he spoke with a sales agent from CWR regarding the court documents you presented to him. The Sale was put "on hold" because there was a need to verify whether the court documents you had submitted warranted a postponement of the Sale. However, despite this information, you decided to leave the sales site. In fact, after you had left the sales site, several persons inquired as to the status of the Sale and they were all informed that the Sale was put on hold pending further instructions from CWR. In the interim, the sales of other properties were continuously held from 9:00 AM to 10:00 AM. At



**CAL-WESTERN  
RECONVEYANCE  
CORPORATION**

A Prommis Solutions Company

approximately 10:05 A.M., the Property was cleared for sale and Doug Beckstrom cried the Sale at around 10:08 A.M. At that time, fifteen people were present and only one bidder qualified for the Sale.

In view of the foregoing, there appears to be no irregularity as to the Sale. Therefore, CWR lacks the independent ability to accommodate your request to rescind the same for the allegations set forth in your Correspondence.

If you have any additional questions regarding this matter as it relates to CWR, you can contact me at the number below.

Very truly yours,

Michelle Mierzwa  
Corporate Counsel  
Cal-Western Reconveyance Corporation

# **EXHIBIT B**



April 16, 2012

Charles Piper  
Chief Executive Officer & President  
Prommis Solutions  
400 Northridge Road, Suite 700  
Atlanta, GA 30350

Dear Charles Piper,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

As the above facts clearly demonstrate, I was given false and misleading information by your representative, Robert Cadman, which was obviously designed to deceive me and to prevent me from bidding on the subject property. Allowing the purported sale of the property to stand will cast more

than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

When I discovered that I had been tricked and misled concerning the sale of the property, I was appalled. I am unable to comprehend how someone who is empowered with the duty of conducting a fair and impartial public auction could blatantly lie to me; not to mention the fact that such conduct potentially deprived the beneficiaries under any sold out junior lienholders from realizing any excess proceeds from the trustee's sale.

In summary, based on the events / facts presented above, it is with great conviction that I request you and your organization immediately investigate the suspected fraudulent sale of 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013 and take immediate action to remedy the situation, including, but not limited to, the rescinding of the purported sale.

I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT C**

April 16, 2012

Chris Padilla  
Vice President of West Coast Ancillary Services  
Reliable Posting and Sales  
9444 Farnham St, Suite 200  
San Diego, CA 92123  
Phone - 858.375.5882  
Fax: 619-590-1496  
Email - christopher.padilla@prommis.com

Dear Chris Padilla,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

As the above facts clearly demonstrate, I was given false and misleading information by your representative, Robert Cadman, which was obviously designed to deceive me and to prevent me from bidding on the subject property. Allowing the purported sale of the property to stand will cast more than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

When I discovered that I had been tricked and misled concerning the sale of the property, I was appalled. I am unable to comprehend how someone who is empowered with the duty of conducting a fair and impartial public auction could blatantly lie to me; not to mention the fact that such conduct potentially deprived the beneficiaries under any sold out junior lienholders from realizing any excess proceeds from the trustee's sale.

In summary, based on the events / facts presented above, it is with great conviction that I request you and your organization immediately investigate the suspected fraudulent sale of 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013 and take immediate action to remedy the situation, including, but not limited to, the rescinding of the purported sale.

I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT D**

April 16, 2012

Daniel Weinblatt  
Chief Financial Officer  
Prommis Solutions  
400 Northridge Road, Suite 700  
Atlanta, GA 30350

Dear Daniel Weinblatt,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

As the above facts clearly demonstrate, I was given false and misleading information by your representative, Robert Cadman, which was obviously designed to deceive me and to prevent me from bidding on the subject property. Allowing the purported sale of the property to stand will cast more

than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

When I discovered that I had been tricked and misled concerning the sale of the property, I was appalled. I am unable to comprehend how someone who is empowered with the duty of conducting a fair and impartial public auction could blatantly lie to me; not to mention the fact that such conduct potentially deprived the beneficiaries under any sold out junior lienholders from realizing any excess proceeds from the trustee's sale.

In summary, based on the events / facts presented above, it is with great conviction that I request you and your organization immediately investigate the suspected fraudulent sale of 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013 and take immediate action to remedy the situation, including, but not limited to, the rescinding of the purported sale.

I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)



# **EXHIBIT E**

April 16, 2012

Dick Volentine  
General Counsel  
Prommis Solutions  
400 Northridge Road, Suite 700  
Atlanta, GA 30350

Dear Dick Volentine,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

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I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT F**

April 16, 2012

Ed Hill  
Senior Vice President - Trustee Services  
Cal-Western Reconveyance Corporation  
525 East Main Street  
El Cajon, CA 92020  
Office: 619-569-1322  
Fax: 281-380-3615  
ed.hill@cwrc.com

Dear Ed Hill,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

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I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT G**

April 16, 2012

Margaret Padilla  
President  
Cal-Western Reconveyance Corporation  
525 East Main Street  
El Cajon, CA 92020

Dear Margaret Padilla,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

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than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

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I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT H**

April 16, 2012

Marie Reinicke  
Chief Administrative Officer  
Cal-Western Reconveyance Corporation  
525 East Main Street  
El Cajon, CA 92020

Dear Marie Reinicke,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

As the above facts clearly demonstrate, I was given false and misleading information by your representative, Robert Cadman, which was obviously designed to deceive me and to prevent me from bidding on the subject property. Allowing the purported sale of the property to stand will cast more

than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

When I discovered that I had been tricked and misled concerning the sale of the property, I was appalled. I am unable to comprehend how someone who is empowered with the duty of conducting a fair and impartial public auction could blatantly lie to me; not to mention the fact that such conduct potentially deprived the beneficiaries under any sold out junior lienholders from realizing any excess proceeds from the trustee's sale.

In summary, based on the events / facts presented above, it is with great conviction that I request you and your organization immediately investigate the suspected fraudulent sale of 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013 and take immediate action to remedy the situation, including, but not limited to, the rescinding of the purported sale.

I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT I**

April 16, 2012

Michelle Ansley  
Senior Vice President Shared Services  
Prommis Solutions  
400 Northridge Road, Suite 700  
Atlanta, GA 30350

Dear Michelle Ansley,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

As the above facts clearly demonstrate, I was given false and misleading information by your representative, Robert Cadman, which was obviously designed to deceive me and to prevent me from bidding on the subject property. Allowing the purported sale of the property to stand will cast more

than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

When I discovered that I had been tricked and misled concerning the sale of the property, I was appalled. I am unable to comprehend how someone who is empowered with the duty of conducting a fair and impartial public auction could blatantly lie to me; not to mention the fact that such conduct potentially deprived the beneficiaries under any sold out junior lienholders from realizing any excess proceeds from the trustee's sale.

In summary, based on the events / facts presented above, it is with great conviction that I request you and your organization immediately investigate the suspected fraudulent sale of 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013 and take immediate action to remedy the situation, including, but not limited to, the rescinding of the purported sale.

I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT J**



April 16, 2012

Monica Mora  
Vice President Bankruptcy West  
4375 Jutland Drive, Suite 200  
San Diego, CA 92117  
Telephone: (858) 750-7600  
Facsimile: (619) 590-1385

Dear Monica Mora,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

Once Robert Cadman was presented with the Superior Court information, he advised me that he was going to immediately call the office to check on the status of the sale concerning the property. I was present and overheard his conversation as he identified the property as 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. He also gave the information regarding the Superior Court Case Number, BC 455989, and the filing date. I observed Robert Cadman making notes on a sheet of paper which referenced the 10598 Kinnard property. He also attached the information I provided to him concerning Case No. BC 455989. After the telephone conversation was completed, he told me that the sale of the subject property was being postponed and would not occur on April 12, 2012. I asked him again to confirm that the sale was postponed and he did. I pressed further, asking if he was certain that the sale would not occur later in the day. At that time he assured me that the sale was, in-fact, postponed and the sale would be rescheduled for another day. I then left the location and returned to my car parked at the Civic Center Plaza and placed a call from my cell at 9:31 am to communicate the 10598 Kinnard sale postponement. It was later the afternoon of April 12, 2012, when I attempted to determine the new sale date that I was informed by Ashley Keithlee and Carla Rambeau of Reliable Posting and Publishing that the property was sold at 10:08 AM, April 12, 2012, for 1 cent over the opening price. I will swear, under oath, in a court of law to these facts as previously outlined.

As the above facts clearly demonstrate, I was given false and misleading information by your representative, Robert Cadman, which was obviously designed to deceive me and to prevent me from

bidding on the subject property. Allowing the purported sale of the property to stand will cast more than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

When I discovered that I had been tricked and misled concerning the sale of the property, I was appalled. I am unable to comprehend how someone who is empowered with the duty of conducting a fair and impartial public auction could blatantly lie to me; not to mention the fact that such conduct potentially deprived the beneficiaries under any sold out junior lienholders from realizing any excess proceeds from the trustee's sale.

In summary, based on the events / facts presented above, it is with great conviction that I request you and your organization immediately investigate the suspected fraudulent sale of 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013 and take immediate action to remedy the situation, including, but not limited to, the rescinding of the purported sale.

I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT K**

April 16, 2012

Suzanne Eaton  
Chief Marketing Officer  
Cal-Western Reconveyance Corporation  
525 East Main Street  
El Cajon, CA 92020

Dear Suzanne Eaton,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

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than a concerning light on you and your organization especially given the recent visibility of improprieties at foreclosure auctions in California.

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I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)

# **EXHIBIT L**

April 16, 2012

Tina Jones  
Vice President Bankruptcy and Foreclosure East Operations  
Prommis Solutions  
400 Northridge Road, Suite 700  
Atlanta, GA 30350

Dear Tina Jones,

This correspondence requests your immediate attention to investigate an irregularity which occurred in respect to a sale conducted on April 12, 2012.

On April 12, 2012, I attended a trustee sale at 400 Civic Center Plaza, Pomona, CA behind the fountain located in Civic Center Plaza. I was there to purchase the property located at 10598 Kinnard Avenue, Los Angeles, CA; TSN 1183100-15; APN 4326-028-013. The sale was being conducted by Cal-Western Reconveyance and Reliable Posting & Publishing. I arrived well in advance of the auction personnel. At the scheduled time of the sale, 9:00 a.m., there was no information communicated on the subject property by the auction personnel. I approached Robert Cadman to inquire on the status. At that time he represented to me that he did not have any information regarding the sale. I presented Robert Cadman with all of the information I had on my person regarding the subject property including information regarding a pending lawsuit, Case No. BC 455989, filed in the Superior Court of the State of California.

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I anxiously await confirmation of your action this week upon your investigation of the facts set forth in this letter. Thank you in advance for your immediate attention to this matter.

Best regards,

Robert Haywood  
1400 Ambassador Street, #204  
Los Angeles, CA 90035  
(510) 610-3483 (cell)  
[rhaywood@alumni.princeton.edu](mailto:rhaywood@alumni.princeton.edu)



# **EXHIBIT I**

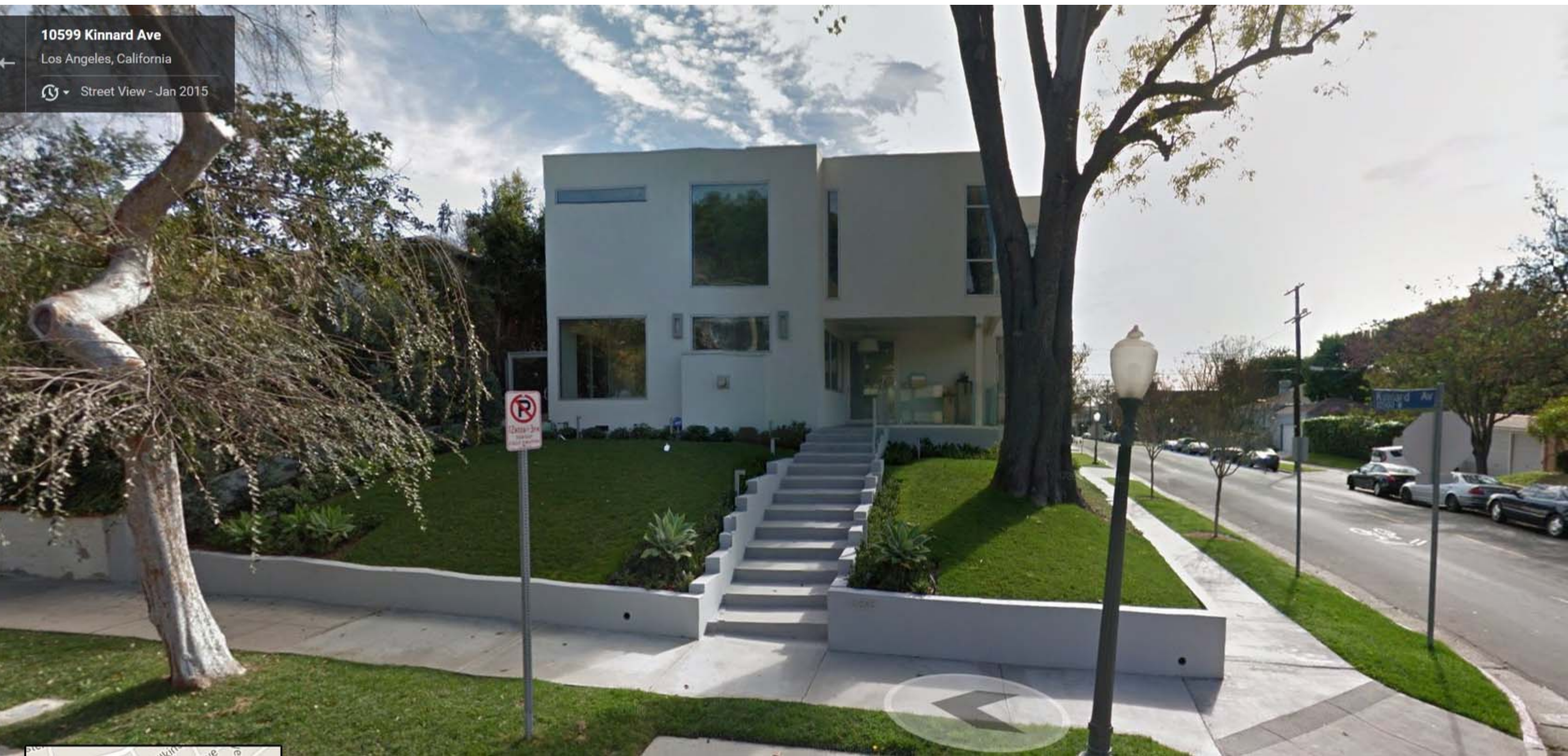




10599 Kinnard Ave

Los Angeles, California

Street View - Jan 2015



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OFFICES OF  
**PAVONE & FONNER**  
A LAW PARTNERSHIP

7676 HAZARD CENTER DRIVE, 5TH FLOOR  
SAN DIEGO, CALIFORNIA 92108  
TELEPHONE: 619 224 8885  
FACSIMILE: 619 224 8886  
EMAIL: bpavone@cox.net

ATTORNEYS FOR PLAINTIFFS  
EVERARDO AND MIRNA MIRAMONTES

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**  
**LOS ANGELES SUPERIOR COURT**

EVERARDO MIRAMONTES, et al.  
  
PLAINTIFFS,  
  
v.  
  
WELLS FARGO BANK, N.A., et al.  
  
DEFENDANTS.

**CASE NO.: BC579177**

**PROOF OF SERVICE**

I, Benjamin Pavone, declare as follows:

I am a resident of the San Diego County. I am over the age of eighteen years and not a party to the within entitled action. My business address is 7676 Hazard Center Dr., 5th Floor, San Diego, California 92108.

On September 2, 2015, I arranged for service of the following:

- \* Miramontes Third Amended Complaint with Exhibits A-I

1 Mr. David A. Berkley, Esq.  
2 Severson & Werson, APC  
3 19100 Von Karman Avenue, Ste. 700  
4 Irvine, California 92612

5 These documents were sent by first class mail and electronic service.

6 I declare under the laws of the State of California in the County of San Diego  
7 under penalty of perjury on this 2nd day of September, 2015 that the foregoing is true and  
8 correct.

9   
10 \_\_\_\_\_