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IN THE

**SUPREME COURT
OF THE
STATE OF IDAHO**

ISC #44583, 44584, 44585
Bonner #CV2009-1810

Valiant Idaho, LLC
Cross-Claimant/Respondent

vs.

**North Idaho Resorts
JV, LLC
VP Incorporated**
Cross-Defendants/Appellants

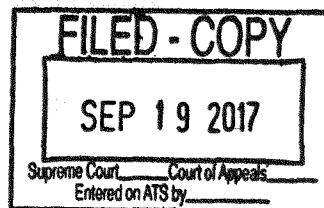
CLERK'S RECORD ON APPEAL

*Appealed from the District Court of the First Judicial District
of the State of Idaho, in and for the County of Bonner*

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STATE OF IDAHO
DISTRICT COURT
CLERK OF COURT

2013 JUN 26 A 11:00

CLERK OF COURT
CLERK OF COURT

Richard L. Stacey, ISB #6800
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Attorneys for R.E. Loans, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited liability
company; INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho
corporation; T-O ENGINEERS, INC.,
fka Toothman-Orton Engineering Company,

Case No. CV-2009-1810

MEMORANDUM IN SUPPORT OF R.E.
LOANS, LLC'S MOTION TO LIFT
AUTOMATIC STAY

[RE: MORTGAGE FUND '08 LLC]

ORIGINAL

an Idaho corporation; PUCCI CONSTRUCTION INC., an Idaho corporation; ACI NORTHWEST, INC., an Idaho corporation; LUMBERMENS, INC., dba Probuild, a Washington corporation; ROBERT PLASTER dba Cedar Etc; NORTH IDAHO RESPORTS, LLC, an Idaho limited liability company; R.C. WORST & COMPANY, INC., an Idaho corporation; DOES I through X,

Defendants.

**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

COMES NOW, Defendant/Cross-Defendant R.E. Loans, LLC ("R.E. Loans") by and through its attorneys of record, Meuleman Mollerup LLP, and files with this Court the following memorandum in support of its Motion to Lift Automatic Stay.

On September 12, 2011, Mortgage Fund '08 LLC filed bankruptcy in the United States Bankruptcy Court for the Northern District of California, Oakland Division ("Bankruptcy Court"), Case No. 11-49803-RLE-11 ("Mortgage Fund '08 Bankruptcy"). In light of the automatic stay caused by the Mortgage Fund '08 Bankruptcy, the Court entered a Stay Order on September 29, 2011.

R.E. Loans sought relief from the automatic stay issued in the Mortgage Fund '08 Bankruptcy (the "Bankruptcy Motion") to pursue the "Idaho Lien Litigation." The Idaho Lien Litigation specifically includes Case Number CV-2009-1810. See Affidavit of Richard L. Stacey in Support of R.E. Loans, LLC's Motion to Lift Automatic Stay ("Stacey Aff."), Exhibit B at p. 9. On May 23, 2013, an Order Granting Relief from Automatic Stay ("Order") was issued by the Bankruptcy Court permitting the Idaho Lien Litigation to proceed. Specifically, the Order granted R.E. Loans' Bankruptcy Motion solely for the purposes of allowing the parties:

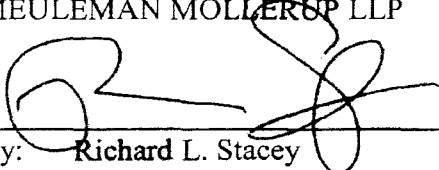
to pursue the Idaho Lien Litigation, and to enforce all state law remedies in connection therewith as against the real property located in Idaho, including but not limited to, foreclosure and any actions necessary to obtain title to and possession of the Property at issue in the Idaho Lien Litigation.

See Order attached as Exhibit A to the Stacey Aff., filed concurrently herewith.

The Idaho Lien Litigation specifically includes Case Number CV-2009-1810 in the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner. As the stay due to the Mortgage Fund '08 Bankruptcy has been lifted, there is no longer justification for a stay of this matter. Therefore, R.E. Loans respectfully requests that the Court's Stay Order regarding Mortgage Fund '08 be lifted. R.E. Loans further requests that the Court schedule a status conference so that this matter may proceed to resolution.

DATED this 24th day of June 2013.


MEULEMAN MOLLERUP LLP


By: Richard L. Stacey
Attorneys for R.E. Loans, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of June 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

<p>Ron Freund Genesis Golf Builders, Inc. P.O. Box 1271 McHenry, IL 60050 <i>Genesis Golf Builders, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary I. Amendola Amendola & Doty, PLLC 702 N. 4th Street Coeur d'Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Steven C. Wetzel Kenneth Huitt James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, ID 83814 Fax: 208-664-1684 <i>Counsel for VP Incorporated and North Idaho Resorts, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Bruce A. Anderson Elsacsser Jarzabek Anderson Elliott & MacDonald, Chtd. 1400 Northwood Center Ct., Ste. C Coeur d'Alene, Idaho 83814 Fax: 208-667-2150 <i>Counsel for Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Brent C. Featherston Featherston Law Firm, Chtd. 113 South Second Ave. Sandpoint, Idaho 83864 Fax: 208-263-0400 <i>Counsel for Pensco Trust Co. and Mortgage Fund '08</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary A. Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for J.V., LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Charles M. Dodson Dodson & Raeon 1424 Sherman, Ste. 300 Coeur d'Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>John Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for Pucci Construction, Inc. and ACI Northwest, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
	<p>Stanley J. Tharp Peter W. Ware David M. Swartley Eberle, Berlin, Kading, Turnbow & McKlveen, Chartered 1111 West Jefferson Street, Suite 530 P.O. Box 1368 Boise, ID 83701 Fax: 208-344-8542 <i>Counsel for Wells Fargo Foothill, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>



 Richard L. Stacey

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 JUN 26 A 11:00

DISTRICT COURT

Richard L. Stacey, ISB #6800
Chad Nicholson, ISB #7506
MEULEMAN MOLLERUP LLP
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Attorneys for R.E. Loans, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited liability
company; INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho
corporation; T-O ENGINEERS, INC.,
fka Toothman-Orton Engineering Company,

Case No. CV-2009-1810

**AFFIDAVIT OF RICHARD L. STACEY IN
SUPPORT OF R.E. LOANS, LLC'S
MOTION TO LIFT AUTOMATIC STAY**

[RE: MORTGAGE FUND '08 LLC]

ORIGINAL

an Idaho corporation; PUCCI
CONSTRUCTION INC., an Idaho
corporation; ACI NORTHWEST, INC.,
an Idaho corporation; LUMBERMENS, INC.,
dba Probuild, a Washington corporation;
ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

State of Idaho)
 S.S.
County of Ada)

RICHARD L. STACEY, being first duly sworn, deposes and states as follows:

1. I am an attorney of record for Defendant/Cross-Defendant R.E. Loans, LLC (“R.E. Loans”) in the above-entitled matter, and I make this affidavit based upon my own personal knowledge. If called as a witness, I could and would competently testify as to the truth of the matters set forth herein.

2. Attached hereto as Exhibit A is a true and correct copy of the *Order Granting Relief from the Automatic Stay* entered on May 23, 2013, in the United States Bankruptcy Court, Northern District of California, Oakland Division, Case No. 11-49803-RLE-11.

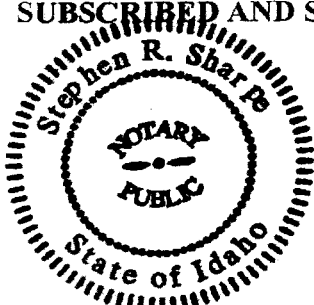
3. Attached hereto as Exhibit B is a true and correct copy of the *Motion for Relief from Stay to Pursue State Court Litigation and Foreclose on Real Property* filed by R.E. Loans on April 22, 2013, in the United States Bankruptcy Court, Northern District of California, Oakland Division, Case No. 11-49803-RLE-11.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

DATED this 24th day of June 2013.

Richard L. Stacey

SUBSCRIBED AND SWORN to before me this 24th day of June, 2013



Notary Public, State of Idaho

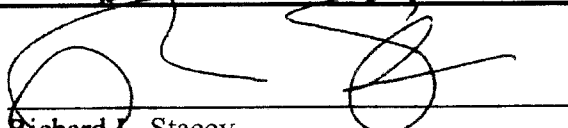
My Commission Expires: Feb. 8, 2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 24th day of June 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

<p>Ron Freund Genesis Golf Builders, Inc. P.O. Box 1271 McHenry, IL 60050 <i>Genesis Golf Builders, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary I. Amendola Amendola & Doty, PLLC 702 N. 4th Street Coeur d'Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Steven C. Wetzel Kenneth Huitt James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, ID 83814 Fax: 208-664-1684 <i>Counsel for VP Incorporated and North Idaho Resorts, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Bruce A. Anderson Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd. 1400 Northwood Center Ct., Ste. C Coeur d'Alene, Idaho 83814 Fax: 208-667-2150 <i>Counsel for Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Brent C. Featherston Featherston Law Firm, Chtd. 113 South Second Ave. Sandpoint, Idaho 83864 Fax: 208-263-0400 <i>Counsel for Pensco Trust Co. and Mortgage Fund '08</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary A. Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for J.V., LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>

<p>Charles M. Dodson Dodson & Racon 1424 Sherman, Ste. 300 Coeur d' Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input checked="" type="checkbox"/> <i>Mail</i> <input type="checkbox"/> <i>Fax</i> <input type="checkbox"/> <i>Overnight</i> <input type="checkbox"/> <i>Hand Delivery</i></p>	<p>John Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for Pucci Construction, Inc. and ACI Northwest, Inc.</i> <input checked="" type="checkbox"/> <i>Mail</i> <input type="checkbox"/> <i>Fax</i> <input type="checkbox"/> <i>Overnight</i> <input type="checkbox"/> <i>Hand Delivery</i></p>
	<p>Stanley J. Tharp Peter W. Ware David M. Swartley Eberle, Berlin, Kading, Turnbow & McKlveen, Chartered 1111 West Jefferson Street, Suite 530 P.O. Box 1368 Boise, ID 83701 Fax: 208-344-8542 <i>Counsel for Wells Fargo Foothill, LLC</i> <input checked="" type="checkbox"/> <i>Mail</i> <input type="checkbox"/> <i>Fax</i> <input type="checkbox"/> <i>Overnight</i> <input type="checkbox"/> <i>Hand Delivery</i></p>



 Richard L. Stacey

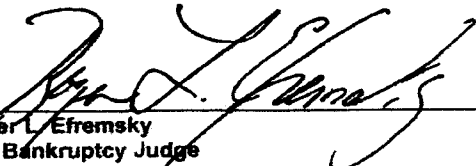
EXHIBIT A



1 JEFFREY C. KRAUSE (SBN: 94053)
 jkrause@gibsondunn.com
 2 GENEVIEVE G. WEINER (SBN: 254272)
 gweiner@gibsondunn.com
 3 PETER BACH-Y-RITA (SBN: 267442)
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 4 GIBSON, DUNN & CRUTCHER LLP
 333 South Grand Avenue
 5 Los Angeles, CA 90071-3197
 Telephone: 213.229.7000
 6 Facsimile: 213.229.7520

The following constitutes
 the order of the court. Signed May 23, 2013

7 Attorneys for R.E. Loans, LLC


 Roger L. Efremsky
 U.S. Bankruptcy Judge

8 UNITED STATES BANKRUPTCY COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 OAKLAND DIVISION

11 In re:
 12 MORTGAGE FUND '08 LLC,
 13 Debtor.

CASE NO. 11-49803-RLE-11

Chapter 11

**ORDER GRANTING RELIEF FROM THE
 AUTOMATIC STAY**

Hearing:

Date: May 22, 2013

Time: 2:00 p.m.

Place: Oakland Division, 1300 Clay Street,
 Oakland, CA, 94612, Courtroom 201

Judge: Judge Efremsky

21 The Motion for Relief from Automatic Stay (the "Motion") of R.E Loans, LLC (the
 22 "Movant") [Docket No. 373], came on for preliminary hearing on May 13, 2013, and for final
 23 hearing on May 22, 2013, before the Honorable Roger Efremsky. Appearances were made as noted
 24 on the record. The Court finds that notice of these matters was appropriate. The Motion seeks relief
 25 from all stays (collectively, the "Stays") arising directly or indirectly from the chapter 11 case of
 26 Mortgage Fund '08 LLC (the "Debtor") and the Debtor's and Official Unsecured Creditors
 27 Committee's confirmed plan [Docket No. 101], and any orders relating thereto, including, without
 28 limitation, the automatic stay of §362(a) and any stay arising from confirmation of the Debtor's and

1 Official Unsecured Creditors Committee's plan (the "Plan"), to allow the Idaho Lien Litigation (as
2 defined in the Motion) to proceed to judgment and to determine the validity and priority of various
3 liens asserted against certain real property located in Idaho, including, without limitation, the liens
4 asserted by the Movant and by the Mortgage Fund '08 LLC Liquidating Trust (the "Trust")
5 established under the Plan, and to allow each party to the Idaho Lien Litigation to enforce its
6 respective liens and interests against the subject real property (the "Property"). Upon review of the
7 evidence presented, and the arguments of counsel, and good cause appearing,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:

9 1. The Stays, including, without limitation, the automatic stay of §362(a) and any stay
10 arising from confirmation of the Plan, are terminated pursuant to, among other things, 11 U.S.C.
11 § 362(d)(1) and/or § 362(d)(2), to permit all parties to the Idaho Lien Litigation, including, without
12 limitation, the Movant, its agents, successors, and all persons and entities acting by, through, or on
13 behalf of the foregoing parties, and all other parties that have been or are named as a party in the
14 Idaho Lien Litigation, to pursue the Idaho Lien Litigation, and to enforce all state law remedies in
15 connection therewith as against the real property located in Idaho, including but not limited to,
16 foreclosure and any actions necessary to obtain title to and possession of the Property at issue in the
17 Idaho Lien Litigation.

18 2. This Order does not prejudice or impair any right of the holder of any perfected
19 security interest in the Property, or preclude any party to the Idaho Lien Litigation from raising any
20 issues relating to the priority or validity of liens on the Property or objections to any foreclosure sale
21 of the Property in any subsequent proceeding, including, without limitation, the Idaho Lien
22 Litigation; provided, however, that nothing in this Order authorizes any party to prosecute any claim,
23 defense or cause of action that constitutes an asset of the Trust or of the Movant.

24 3. This Order shall not prejudice or impair any right as to the holder of any perfected
25 security interest in the subject property, or the right to dispute priority of any lien in any subsequent
26 proceedings.
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4. The 14-day period specified in Fed.R.Bankr.P. 4001(a)(3) is waived.

Approved as to form:

/s/ Bennett G. Young
Bennett G. Young of
Jeffer Mangels Butler & Mitchell LLP
Two Embarcadero Center, 5th Floor
San Francisco, California 94111
Attorneys for Mortgage Fund '08 LLC Liquidating Trust

*** END OF ORDER ***

COURT SERVICE LIST

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Barney Ng
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EXHIBIT B

1 JEFFREY C. KRAUSE (SBN: 94053) jkrause@gibsondunn.com
2 GENEVIEVE G. WEINER (SBN: 254272) gweiner@gibsondunn.com
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9 Attorneys for R.E. Loans, LLC

10 UNITED STATES BANKRUPTCY COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13 In re:
14 MORTGAGE FUND '08 LLC,
15 Debtor.

CASE NO. 11-49803-RLE-11

Chapter 11

**MOTION FOR RELIEF FROM STAY TO
PURSUE STATE COURT LITIGATION
AND FORECLOSE ON REAL PROPERTY**

*[Declaration of W. Farley Dakan filed
concurrently herewith]*

Hearing:

Date: May 8, 2013

Time: 2:00 p.m.

Place: Oakland Division, 1300 Clay Street,
Oakland, CA, 94612 Courtroom 201

Judge: Judge Efremsky

16 I. INTRODUCTION

17 R.E. Loans, LLC, as reorganized ("R.E. Loans"), seeks relief from the automatic stay so that
18 the Idaho Lien Litigation, as defined below, can be resolved and R.E. Loans can foreclose on certain
19 real property. Because the liquidating *Joint Combined Chapter 11 Plan* (the "Plan") confirmed by
20 Mortgage Fund '08 LLC ("MF08") is not clear on whether the automatic stay was terminated with
21 regard to the Idaho Lien Litigation, R.E. Loans seeks an order from this Court expressly modifying
22

1 any existing stay to allow the Idaho Lien Litigation to proceed. R.E. Loans also seeks an order from
2 this Court modifying any stay, if applicable, so as to allow R.E. Loans, as first priority lienholder, to
3 foreclose on certain real property. Such an order is warranted under § 362(d)(1) because “cause”
4 exists and under § 362(d)(2) because the Liquidating Trust lacks equity in the property at issue in the
5 Idaho Lien Litigation and such property is not needed for an effective reorganization.

6 II. FACTUAL BACKGROUND

7 A. MF08’s Confirmed Plan and the Liquidating Trust

8 MF08 filed its chapter 11 case on September 12, 2011, commencing chapter 11 case, *In Re*
9 *Mortgage Fund '08 LLC*, Case No. 11-49803-RLE-11, in the United States Bankruptcy Court for the
10 Northern District of California. MF08 confirmed the Plan on February 3, 2012. The Plan became
11 effective as of February 20, 2012. The Plan provided for the transfer of all of MF08’s assets to a trust
12 (the “Liquidating Trust”). Susan L. Uecker of Uecker & Associates, Inc. (the “Trustee”) was
13 appointed the trustee of the Liquidating Trust.

14 The assets transferred to the Liquidating Trust included a note secured by junior liens on
15 certain real property located in Sandpoint, Idaho around and about Lake Pend Oreille. The two
16 portions of the project on which the Liquidating Trust holds a junior deed of trust are commonly
17 referred to as the “Golf Course Project” and the “Lakefront Property.” Since the Plan’s confirmation
18 over a year ago, the Trustee has not taken any action with respect to the Golf Course Project or the
19 Lakefront Property.

20 The Liquidating Trust’s deed of trust on each of these properties is subordinate to multiple
21 senior liens, including without limitation, R.E. Loans’ mortgage lien. A chart showing the relative
22 priority of the liens recorded by various lenders against the Golf Course Project and the Lakefront
23 Property is attached hereto as Exhibit “A.” The debts owing to several of the parties, including R.E.
24 Loans and MF08, are secured by liens on both the Golf Course Project and the Lakefront Property,
25 though the liens have different priorities with respect to each property. Where Exhibit “A” shows a
26 debt owing to the same creditor secured by both properties, it is the same debt and the debts are not
27 cumulative.

28

1 The total amount owing to the holders of the senior liens against each property exceeds the
2 fair market value of each asset. Therefore, the Liquidating Trust has no equity in either the Golf
3 Course Project or the Lakefront Property.

4 **1. The Lakefront Property**

5 On the Lakefront Property, R.E. Loans is subordinate to more than \$11,000,000 of secured
6 debt. The Liquidating Trust is even further subordinated to R.E. Loans. The Lakefront Property is
7 worth less than \$11,000,000. R.E. Loans, which is a debtor in its own chapter 11 case pending in the
8 United States Bankruptcy Court for the Northern District of Texas, Case No. 11-35865-BJH, has
9 already stipulated to relief from the automatic stay to allow a foreclosure by the first lien lender,
10 Pacific Capital Bank (and its successors in interest), on the Lakefront Property, because R.E. Loans
11 recognized that the Lakefront Property is worth far less than \$11 million.

12 **2. The Golf Course Project**

13 R.E. Loans holds a first lien on the Golf Course Project which secures a principal debt of
14 \$278,147. The aggregate balance owing to R.E. Loans, including fees, costs and interest, is
15 approximately \$502,248 as of February 23, 2013. There is also a second lien on the Golf Course
16 Project, which secures a principal debt of approximately \$2,700,000. The aggregate balance owing to
17 the second lien holder, including fees, costs and interest, is approximately \$4,000,000. The
18 Liquidating Trust's lien (which is third in priority) is subordinate to a total indebtedness of
19 approximately \$4,500,000. The net equity available after deducting the substantial costs involved
20 with making the Golf Course Project marketable, and paying the delinquent taxes of approximately
21 \$1,300,000, is approximately \$2,600,000. Therefore, the Liquidating Trust has no equity in the Golf
22 Course Project.

23 **B. The State Court Litigation**

24 There are currently pending in the District Court of the First Judicial District of the State of
25 Idaho, in and for the County of Bonner (the "Idaho State Court") several lawsuits in which parties are
26 asserting liens against the Golf Course Project and/or the Lakefront Property. A true and correct list
27 of the currently pending lawsuits relating to or asserting liens against the Golf Course Project and/or
28 the Lakefront Property is attached hereto as Exhibit "B." Because of the large number of parties

1 asserting liens, there may be additional lawsuits filed by additional lien claimants in the future. The
2 existing lawsuits and any such future lawsuits that assert liens against or interests in the Golf Course
3 Project and/or the Lakefront Property are referred to herein as the “Idaho Lien Litigation.”
4 R.E. Loans asks this Court to lift the bankruptcy stay with respect to each lawsuit comprising the
5 Idaho Lien Litigation. It appears that none of the parties asserting liens in the Idaho Lien Litigation
6 have filed proofs of claim in MF08’s chapter 11 case.

7 In addition to the Idaho Lien Litigation, there is a pending lawsuit in the Idaho State Court
8 arising from the development of the Golf Course Project or the Lakefront Property by ACI
9 Northwest, Inc., case No. 2010-02211 (the “ACI Litigation”). R.E. Loans does not seek to lift the
10 bankruptcy stay with respect to the ACI Litigation. The ACI Litigation is not included in the Idaho
11 Lien Litigation, because the plaintiff in the ACI Litigation asserts a money damage claim against
12 several parties, including MF08, but is not asserting a lien against the Golf Course Project or the
13 Lakefront Property. It appears to R.E. Loans that ACI Northwest, Inc. did not file a proof of claim in
14 MF08’s chapter 11 case and, therefore would not be entitled to share in the distributions from the
15 Liquidating Trust under the Plan, even if it obtained a judgment against MF08 in the ACI Litigation.

16 R.E. Loans, as first priority lienholder, intends to foreclose on the Golf Course Project.

17 III. ARGUMENT

18 A. Legal Standard

19 “When a debtor files a bankruptcy petition, an automatic stay immediately arises. . . . It is
20 designed to effect an immediate freeze of the status quo by precluding and nullifying postpetition
21 actions, judicial or nonjudicial, in nonbankruptcy fora against the debtor or affecting the property of
22 the estate.” *In re Chugach Forest Products, Inc.*, 23 F.3d 241, 243 (9th Cir. 1994). The Bankruptcy
23 Code provides that “the court shall grant relief from the stay . . . by terminating, annulling, modifying
24 or conditioning such stay” when certain circumstances exist. 11 U.S.C. § 362(d).

25 First, courts shall grant relief for “cause.” 11 U.S.C. § 362(d)(1). “Because there is no clear
26 definition of what constitutes ‘cause’, discretionary relief from the stay must be determined on a case
27 by case basis.” *In re Castlerock Properties*, 781 F.2d 159, 163 (9th Cir. 1986) (quoting *In re*
28 *MacDonald*, 755 F.2d 715, 717 (9th Cir. 1985)).

1 Second, “the court shall grant relief . . . with respect to a stay of an act against property under
2 subsection (a) of this section if (A) the debtor does not have an equity in such property; and (B) such
3 property is not necessary to an effective reorganization.” 11 U.S.C. § 362(d)(2).

4 **B. MF08’s Plan May Not Stay the Idaho Lien Litigation**

5 The term of the Plan is five years. Pursuant to Part 14 section (d) of the Plan, entitled
6 “Creditor Action Restrained,” “[t]he confirmed Plan is binding on every creditor whose claims are
7 provided for in this Plan, and a creditor may not take any action to enforce any pre-confirmation
8 obligation except as provided in this Plan.” The Plan may not prohibit continuation of the Idaho Lien
9 Litigation, because the Idaho Lien Litigation only seeks to determine the merits of liens against real
10 property on which MF08 also asserts a lien, and the plaintiffs in the Idaho Lien Litigation do not
11 assert claims against MF08. Because the applicability of the injunction in the Plan is unclear, R.E.
12 Loans is seeking relief from any applicable stay to allow the Idaho Lien Litigation to proceed out of
13 an abundance of caution. Additionally, R.E. Loans intends to pursue a foreclosure sale of the Golf
14 Course Project and seeks relief from any applicable stay to do so.

15 **C. R.E. Loan’s Motion Should be Granted**

16 **1. Cause Exists Under § 362(d)(1)**

17 Courts must determine whether “cause” exists on a case by case basis. “Among factors
18 appropriate to consider in determining whether relief from the automatic stay should be granted to
19 allow state court proceedings to continue are considerations of judicial economy and the expertise of
20 the state court . . . as well as prejudice to the parties and whether exclusively bankruptcy issues are
21 involved.” *Kronemyer v. Am. Contrs. Indem. Co. (In re Kronemyer)*, 405 B.R. 915, 921 (B.A.P. 9th
22 Cir. 2009) (internal citations omitted). Where the issues involved are predominantly state law issues,
23 and numerous, non-debtor parties are involved, relief from stay is appropriate. *See e.g., In re Tuscon*
24 *Estates, Inc.*, 912 F.2d 1162 (9th Cir. 1990) (holding that relief from stay should have been granted
25 where there was a class action with numerous non-debtor plaintiffs and the issues involved real
26 property and restrictive covenants under state law). R.E. Loans recognized in its own chapter 11 case
27 that it was more efficient to allow the Idaho Lien Litigation to proceed in the Idaho State Court.
28 R.E. Loans stipulated to modify the stay in R.E. Loans’ chapter 11 case to allow the Idaho Lien

1 Litigation to proceed.

2 There are approximately 30 parties to the Idaho Lien Litigation. The Idaho Lien Litigation
3 involves Idaho state law issues with respect to which the Idaho State Court has expertise; the issues
4 involved are not bankruptcy issues. The liens are asserted against real property in Idaho.
5 Furthermore, the interests of judicial economy will be served by resolving the disputes in a single
6 forum, with all parties present. Most of the parties involved in the Idaho Lien Litigation are not
7 involved in MF08's bankruptcy case and are not creditors of MF08. For these reasons, "cause" exists
8 under § 362(d)(1) and the Court should grant R.E. Loans' motion to allow the Idaho Lien Litigation
9 to proceed in state court.

10 **2. The Liquidating Trust Lacks Equity in its Junior Lien on the Golf Course**
11 **Project and the Lakefront Property and Such Properties Are Not Needed for**
12 **Reorganization**

13 Under § 362(d)(2), a court *shall* grant relief from stay where the debtor lacks equity in the
14 property and the property is not needed for an effective reorganization.

15 First, the Liquidating Trust lacks any equity in either the Golf Course Project or the Lakefront
16 Property. The Liquidating Trust's lien on the Lakefront Property is subordinate to more than
17 \$11,000,000 in debt. R.E. Loans – which has priority over the Liquidating Trust's lien – has already
18 determined that R.E. Loans has no equity in the Lakefront Property and has stipulated to relief from
19 stay in R.E. Loans' chapter 11 case to allow the first lien lender to foreclose. With respect to the Golf
20 Course Project, MF08's lien is third in priority and is subordinate to a total indebtedness of
21 approximately \$4,500,000. The estimated net realizable value of the Golf Course Project is only
22 \$2,600,000. There is, therefore, no equity in the Liquidating Trust's junior lien on the Golf Course
23 Project.

24 Second, MF08's Plan is a liquidation plan and the Lakefront Property and the Golf Course
25 Project are not needed for an "effective reorganization." MF08's Plan "provides for the creation of a
26 Liquidating Trust, to be administered by a Liquidating Trustee, to sell or otherwise dispose of assets
27 of the estate and distribute the net proceeds to creditors." Plan, Part I, p. 2, l. 13-16. The Lakefront
28 Property and the Golf Course Project are to be sold or otherwise disposed of in accordance with the

1 Plan and are not needed for MF08's reorganization.

2 Because MF08's Plan is a liquidation plan and the Liquidating Trust lacks any equity in the
3 Golf Course Project or the Lakefront Property, there is no value to be realized by the Liquidating
4 Trustee and relief from stay should be granted both to allow the Idaho Lien Litigation to proceed and
5 to allow R.E. Loans to foreclose on the Golf Course Project.

6 **IV. CONCLUSION**

7 Based on the foregoing arguments and authorities, R.E. Loans' Motion for Relief from Stay
8 should be granted to allow the Idaho Lien Litigation to proceed and to allow R.E. Loans to foreclose
9 on the Golf Course Project.

10 Dated: April 22, 2013

11 JEFFREY C. KRAUSE
12 GENEVIEVE G. WEINER
13 PETER BACH-Y-RITA
14 GIBSON, DUNN & CRUTCHER LLP

15 By: /s/ Peter Bach-y-Rita
Peter Bach-y-Rita

16 Attorneys for R.E. Loans, LLC

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Exhibit "A"
Lien Priority Matrix¹

Priority	Golf Course Project Creditor (Principal Balance Due)	Lakefront Property Creditor (Principal Balance Due)
1 st	R.E. Loans (\$278,147)	Pacific Capital (\$5,000,000)
2 nd	Pensco (\$2,700,000)	J.V. (\$2,565,000)
3 rd	MF08 (\$21,980,000)	Sage - (\$3,030,000)
4 th	JV (\$2,264,500)	R.E. Loans (\$278,147)
5 th	J.V. (\$2,565,000)	Pensco (\$2,700,000)
6 th	Sage (\$3,030,000)	MF08 (\$21,980,000)

¹ The balances in this chart reflect only principal. Because the owner has been in default for several years the aggregate balances now due to each secured creditor are much higher than the principal balances reflected in the foregoing chart, but R.E. Loans does not have current information on the balances due. Even before consideration of accrued interest and fees, the Liquidating Trust has no equity in its junior lien position.

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Exhibit "B"
Pending Lien Litigation

<u>Plaintiff</u>	<u>Court</u>	<u>Case Number</u>
Genesis Golf Builders	District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner	CV-2009-1810
Sage Holdings	District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner	CV-2010-2142
Pacific Capital Bank	District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner	CV-2011-0135
Idaho Club HOA	District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner	CV-2011-2284
State of Idaho, ITB	District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner	CV-2012-0008

101464575_7 (RE LOAN)

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[\\1547.201\PLD\CV-2009-1810\Default (Genesis) - Motion 130730.doc

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 AUG 12 PM 12 54

CLERK DISTRICT COURT

DEPUTY

Attorneys for R.E. Loans, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited
liability company; INTERSTATE
CONCRETE AND ASPHALT COMPANY,
an Idaho corporation; T-O ENGINEERS,
INC., fka Toothman-Orton Engineering
Company, an Idaho corporation; PUCCI
CONSTRUCTION INC., an Idaho

Case No. CV-2009-1810

**R.E. LOANS, LLC'S MOTION FOR
ENTRY OF DEFAULT**

[RE: GENESIS GOLF BUILDERS, INC.]

corporation; ACI NORTHWEST, INC.,
an Idaho corporation; LUMBERMENS, INC.,
dba Probuild, a Washington corporation;
ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

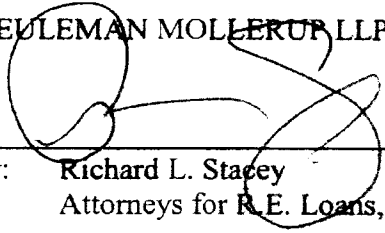
**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

COMES NOW Defendant/Cross-Defendant R.E. Loans, LLC (“R.E. Loans”), by and through its counsel of record, Meuleman Mollerup LLP, and moves this Court, pursuant to Rule 11(b)(3) of the Idaho Rules of Civil Procedure, to enter default against Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. (“Genesis”), that Genesis, after being served via certified mail with the Order Allowing Withdrawal of Counsel (the “Withdraw Order”) entered herein on December 30, 2011, has failed to appear or plead in response to the Withdraw Order within the statutory period as set forth in the Withdraw Order.

Said motion is further based upon the pleadings on file herein and the Affidavit in Support of Motion for Entry of Default filed contemporaneously herewith.

DATED this 8th day of August 2013.

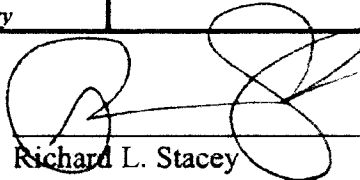
MEULEMAN MOLLERUP LLP

By: 
Richard L. Stacey
Attorneys for R.E. Loans, LLC

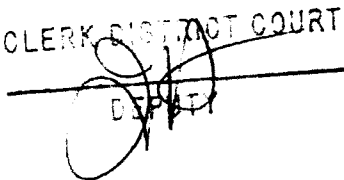
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of August 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

Charles M. Dodson Dodson & Raeon 1424 Sherman, Ste. 300 Coeur d' Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Gary I. Amendola Amendola & Doty, PLLC 702 N. 4 th Street Coeur d'Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
Steven C. Wetzel Kenneth Huitt James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, ID 83814 Fax: 208-664-1684 <i>Counsel for VP Incorporated and North Idaho Resorts, LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Bruce A. Anderson Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd. 1400 Northwood Center Ct., Ste. C Coeur d' Alene, Idaho 83814 Fax: 208-667-2150 <i>Counsel for Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
Brent C. Featherston Featherston Law Firm, Chtd. 113 South Second Ave. Sandpoint, Idaho 83864 Fax: 208-263-0400 <i>Counsel for Pensco Trust Co. and Mortgage Fund '08</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Gary A. Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for J.V., LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
Stanley J. Tharp Peter W. Ware David M. Swartley Eberle, Berlin, Kading, Turnbow & McKlveen, Chartered 1111 West Jefferson Street, Suite 530 P.O. Box 1368 Boise, ID 83701 Fax: 208-344-8542 <i>Counsel for Wells Fargo Foothill, LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	John Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for Pucci Construction, Inc. and ACI Northwest, Inc.</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
Courtesy Copy to: Ms. Jane Spencer Law Clerk to Judge Michael Griffin 320 W. Main Grangeville, Idaho 83530 <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	


 Richard L. Stacey

Richard L. Stacey, ISB #6800
Chad Nicholson, ISB #7506
MEULEMAN MOLLERUP LLP
755 W. Front Street, Suite 200
Boise, Idaho 83702
(208) 342-6066 Telephone
(208) 336-9712 Fax
stacey@lawidaho.com
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STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.
2013 AUG 12 PM 12 54
CLERK DISTRICT COURT


Attorneys for R.E. Loans, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited
liability company; INTERSTATE
CONCRETE AND ASPHALT COMPANY,
an Idaho corporation; T-O ENGINEERS,
INC., fka Toothman-Orton Engineering
Company, an Idaho corporation; PUCCI
CONSTRUCTION INC., an Idaho

Case No. CV-2009-1810

**AFFIDAVIT OF RICHARD L. STACEY IN
SUPPORT OF R.E. LOANS, LLC'S
MOTION FOR ENTRY OF DEFAULT**

[RE: GENESIS GOLF BUILDERS, INC.]

ORIGINAL

corporation; ACI NORTHWEST, INC.,
an Idaho corporation; LUMBERMENS, INC.,
dba Probuild, a Washington corporation;
ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

State of Idaho)
 S.S.
County of Ada)

RICHARD L. STACEY, being first duly sworn, deposes and says:

1. I am the attorney of record for Defendant/Cross-Defendant R.E. Loans, LLC (“R.E. Loans”) in the above-entitled matter, and I make this affidavit based upon my own personal knowledge and under Rule 55(a) of the Idaho Rules of Civil Procedure for the purpose of obtaining an entry of the default of Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. (“Genesis”). If called as a witness, I could and would competently testify as to the truth of the matters set forth herein.

2. Genesis is or was a Nevada corporation authorized to do business in the State of Idaho.

3. As Genesis is or was a corporation, an attestation as to military service, age, and the competency of an individual is not applicable hereto.

4. The address most likely to provide notice of said default and default judgment to Genesis is Ron Freund, Genesis Golf Builders, Inc., P.O. Box 1271, McHenry, IL 60050.

5. Genesis was duly and regularly served with the Court’s Order Allowing

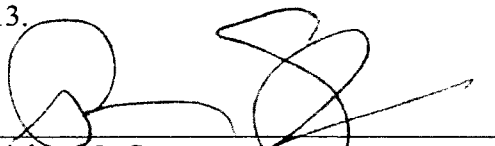
Withdrawal of Counsel (the "Withdraw Order") via certified mail on December 30, 2011, as appears from the Notice of Service filed herein by its former counsel and attached hereto as Exhibit A.

6. The time for Genesis to appear and plead in response to the Withdraw Order has expired and that Genesis has not pled further in any manner.

7. All causes of action alleged by Genesis against R.E. Loans in the Complaint filed in the above-entitled matter are, by Rule 41(b) of the Idaho Rules of Civil Procedure, dismissed with prejudice for Genesis's failure to appear and plead further.

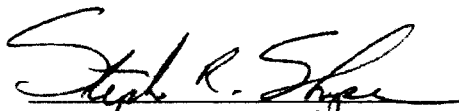
FURTHER YOUR AFFLIANT SAYETH NAUGHT.

DATED this 8th day of August 2013.


Richard L. Stacey

SUBSCRIBED AND SWORN to before me this 8th day of August 2013.

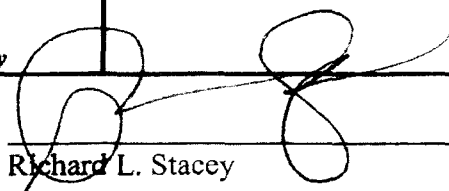



Notary Public, State of Idaho
My Commission Expires Feb. 8, 2019

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 8th day of August 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

<p>Charles M. Dodson Dodson & Racon 1424 Sherman, Ste. 300 Coeur d' Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary I. Amendola Amendola & Doty, PLLC 702 N. 4th Street Coeur d'Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Steven C. Wetzel Kenneth Huitt James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, ID 83814 Fax: 208-664-1684 <i>Counsel for VP Incorporated and North Idaho Resorts, LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Bruce A. Anderson Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd. 1400 Northwood Center Ct., Ste. C Coeur d' Alene, Idaho 83814 Fax: 208-667-2150 <i>Counsel for Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Brent C. Featherston Featherston Law Firm, Chtd. 113 South Second Ave. Sandpoint, Idaho 83864 Fax: 208-263-0400 <i>Counsel for Pensco Trust Co. and Mortgage Fund '08</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary A. Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for J.V., LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Stanley J. Tharp Peter W. Ware David M. Swartley Eberle, Berlin, Kading, Tumbow & McKlveen, Chartered 1111 West Jefferson Street, Suite 530 P.O. Box 1368 Boise, ID 83701 Fax: 208-344-8542 <i>Counsel for Wells Fargo Foothill, LLC</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>John Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for Pucci Construction, Inc. and ACI Northwest, Inc.</i> <input type="checkbox"/> Mail <input checked="" type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Courtesy Copy to: Ms. Jane Spencer Law Clerk to Judge Michael Griffin 320 W. Main Grangeville, Idaho 83530 <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	


Richard L. Stacey

Lynnette M. Davis, ISB No. 5263
 HAWLEY TROXELL ENNIS & HAWLEY LLP
 877 Main Street, Suite 1000
 P.O. Box 1617
 Boise, ID 83701-1617
 Telephone: 208.344.6000
 Facsimile: 208.954.5213
 Email: ldavis@hawleytroxell.com
 Attorneys for Plaintiff Genesis Golf Builders, Inc.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

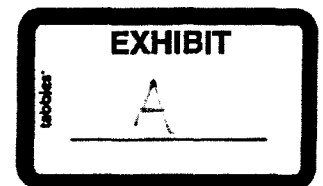
GENESIS GOLF BUILDERS, INC.,)
 formerly known as National Golf Builders,)
 Inc., a Nevada corporation,)
)
 Plaintiff,)

Case No. CV 2009-01810
 NOTICE OF SERVICE

vs.)

PEND OREILLE BONNER)
 DEVELOPMENT, LLC, a Nevada limited)
 liability company; R.E. LOANS, LLC, a)
 California limited liability company;)
 DAN S. JACOBSON, an individual;)
 SAGE HOLDINGS LLC, an Idaho limited)
 liability company; STEVEN G. LAZAR,)
 an individual; PENSCO TRUST CO.)
 CUSTODIAN FBO BARNEY NG;)
 MORTGAGE FUND '08 LLC, a Delaware)
 limited liability company;)
 VP, INCORPORATED, an Idaho)
 corporation; JV L.L.C., an Idaho limited)
 liability company; WELLS FARGO)
 FOOTHILL, LLC, a Delaware limited)
 liability company; INTERSTATE)
 CONCRETE AND ASPHALT COMPANY,)
 an Idaho corporation; T-O ENGINEERS,)
 INC., fka Toothman-Orton Engineering)
 Company, an Idaho corporation; PUCCI)
 CONSTRUCTION INC., an Idaho)
 corporation; ACI NORTHWEST, INC., an)

NOTICE OF SERVICE - 1



Idaho corporation; LUMBERMENS, INC.,)
 dba Probuild. a Washington corporation;)
 ROBERT PLASTER dba Cedar Etc.;)
 NORTH IDAHO RESORTS, LLC, an Idaho)
 limited liability company; R.C. WORST)
 & COMPANY, INC., an Idaho corporation;)
 DOES I through X,)
)
 Defendants.)

HAWLEY TROXELL ENNIS & HAWLEY hereby gives notice to the Court and all interested parties that on December 30, 2011, it served the Order Allowing Withdrawal of Counsel on Genesis Golf Builders, Inc., via certified mail to the last known address most likely to give notice to Plaintiff Genesis Golf Builders, Inc., as follows:

Attn: Ron Freund
 Genesis Golf Builders, Inc.
 P.O. Box 1271
 McHenry, IL 60050.

DATED THIS 30th day of December, 2011.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By Lynnette M. Davis
 Lynnette M. Davis, ISB No. 5263

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of December, 2011, I caused to be served a true copy of the foregoing NOTICE OF SERVICE by the method indicated below, and addressed to each of the following:

Chuck Reeves
c/o Pend Oreille Bonner Development, LLC
151 Clubhouse Way
Sandpoint, ID 83864
[Defendant]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy:

Richard W. Mollerup
Richard L. Stacey
Anna E. Eberlin
MEULEMAN MOLLERUP LLP
755 W. Front Street, Suite 200
Boise, ID 83702
[Attorneys for Defendant R.E. Loans, LLC]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy: 208.336.9712

Steven C. Wetzel
WETZEL, WETZEL & HOLT, PLLC
618 N. 4th, Suite 2
Coeur d'Alene, ID 83814-3021

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy: 208.664.6741

Gary A. Finney
FINNEY & FINNEY, P.A.
Old Power House Building
120 East Lake Street, Suite 317
Sandpoint, ID 83864-1366
[Attorneys for Defendant JV L.L.C.]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy: 208.263.8211

John A. Finney
FINNEY FINNEY & FINNEY, P.A.
Old Power House Building
120 East Lake Street, Suite 317
Sandpoint, ID 83864-1366
[Attorneys for Defendant Pucci Construction Inc.]

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 E-mail
 Telecopy: 208.263.8211

Robert J. Fasnacht
 ROBERT J. FASNACHT, P.C.
 850 W. Ironwood Drive, Suite 101
 Coeur d'Alene, ID 83814
 [Attorneys for Interstate Concrete and Asphalt
 Company]

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 E-mail
 Telecopy: 208.664.4789

Charles M. Dodson
 DODSON & RAEON LAW OFFICES
 1424 Sherman Avenue, Suite 300
 Coeur d'Alene, ID 83814
 [Attorney for R.C. Worst & Company, Inc.]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy: 208.666.9211

Peter W. Ware
 EBERLE BERLIN
 1111 W. Jefferson Street, Suite 530
 P.O. Box 1368
 Boise, ID 83701
 [Attorneys for Defendants R.E. Loans, LLC and
 Mortgage Fund 08, LLC]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy 208.344.8542

Ford Elsaesser
 ELSAESSER JARZABEK ANDERSON MARKS
 & ELLIOTT, Chtd.
 102 S. Euclid, Suite 307
 P.O. Box 1049
 Sandpoint, ID 83864
 [Attorneys for Steven G. Lazar]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy 208.263.0759

Brent C. Featherston
 FEATTIERSTON LAW FIRM Chtd.
 113 S. Second Avenue
 Sandpoint, ID 83864
 [Attorney for Pensco Trust Co., Custodian FBO
 Barney Ng]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy 208.263.0400

Douglas S. Marfice
 RAMSDEN & LYONS, LLP
 700 Northwest Boulevard
 P O Box 1336
 Coeur d'Alene, ID 83816-1336
 [Attorneys for Defendant B-K Lighting, Inc.]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy 208.664.5884

Gary I. Amendola
AMENDOLA & DOTY, PLLC
702 N. 4th Street
Coeur d'Alene, ID 83814
[Attorneys for T-O Engineers]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail
 Telecopy 208.765.1046

John A. Finney
FINNEY FINNEY & FINNEY, P.A.
Old Power House Building
120 East Lake Street, Suite 317
Sandpoint, ID 83864
[Attorneys for Defendant ACI Northwest, Inc.]

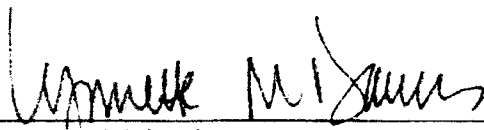
U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail: johnfinney@finneylaw.net
 Telecopy: 208.263.8211

Steven C. Wetzel
Kenneth Huitt
JAMES, VERNON & WEEKS, PA
1626 Lincoln Way
Coeur d'Alene, ID 83814
[Attorneys for Defendant North Idaho Resorts, LLC]

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 E-mail:
 Telecopy: 208.664.1684

Attn: Ron Freund
Genesis Golf Builders, Inc.
P.O. Box 1271
McHenry, IL 60050

U.S. Mail, Postage Prepaid
 Certified Mail
 Hand Delivered
 Overnight Mail
 E-mail:
 Telecopy



Lynnette M. Davis

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 AUG 12 PM 4 56

IN THE DISTRICT COURT OF THE ~~FIRST JUDICIAL DISTRICT~~
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited liability
company; INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho
corporation; T-O ENGINEERS, INC.,
fka Toothman-Orton Engineering Company,
an Idaho corporation; PUCCI
CONSTRUCTION INC., an Idaho
corporation; ACI NORTHWEST, INC.,
an Idaho corporation; LUMBERMENS, INC.,
dba Probuild, a Washington corporation;
ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

Case No. CV-2009-1810

**ORDER GRANTING R.E. LOANS, LLC'S
MOTION TO LIFT AUTOMATIC STAY**

[RE: MORTGAGE FUND '08 LLC]

ORDER GRANTING R.E. LOANS, LLC'S MOTION TO LIFT AUTOMATIC STAY

[RE: MORTGAGE FUND '08 LLC] - Page 1

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**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

Defendant/Cross-Defendant R.E. Loans, LLC's ("R.E. Loans") *Motion to Lift Automatic Stay [Re: Mortgage Fund '08 LLC]* came regularly for hearing before this Court on July 29, 2013, at 3:00 p.m. Richard Stacey of the law offices of Meuleman Mollerup LLP appeared on behalf of R.E. Loans; Melanie Baillie of the law offices of James, Vernon & Weeks, PA appeared on behalf of VP Incorporated and North Idaho Resorts, LLC; Brent Featherston of the law offices of Featherston Law Firm, Chtd. appeared on behalf of Pensco Trust Co. and Mortgage Fund '08 LLC; Gary Finney of the law offices of Finney Finney & Finney, P.A. appeared on behalf of JV, LLC; John Finney of the law offices of Finney Finney & Finney, P.A. appeared on behalf of Pucci Construction, Inc. and ACI Northwest, Inc.; Bruce Anderson of the law offices of Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd. appeared on behalf of Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC; Charles Dodson of the law offices of Dodson & Raeon appeared on behalf of RC Worst & Company; and Peter Ware of the law offices of Eberle, Berlin, Kading, Tumbow & McKlveen, Chartered appeared on behalf of Wells Fargo Foothill, LLC. No other appearances were made.

The Court having considered all of the affidavits and memorandum filed in support of and in opposition to the motion, and having heard and considered all oral arguments made in support of and in opposition thereto,

IT IS ORDERED AND THIS HEREBY ORDERS that R.E. Loans' Motion to Lift Automatic Stay shall be and is hereby GRANTED with respect to Mortgage Fund '08 LLC's bankruptcy.

DATED this 12 day of August 2013.


The Honorable Michael Griffin
District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 14 day of August 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

Charles M. Dodson Dodson & Raeon 1424 Sherman, Ste. 300 Coeur d' Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Gary I. Amendola Amendola & Doty, PLLC 702 N. 4 th Street Coeur d'Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
Steven C. Wetzel Kenneth Huitt James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, ID 83814 Fax: 208-664-1684 <i>Counsel for VP Incorporated and North Idaho Resorts, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Bruce A. Anderson Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd. 1400 Northwood Center Ct., Ste. C Coeur d' Alene, Idaho 83814 Fax: 208-667-2150 <i>Counsel for Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
Brent C. Featherston Featherston Law Firm, Chtd. 113 South Second Ave. Sandpoint, Idaho 83864 Fax: 208-263-0400 <i>Counsel for Pensco Trust Co. and Mortgage Fund '08</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Gary A. Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for J.V., LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery

<p>Stanley J. Tharp Peter W. Ware David M. Swartley Eberle, Berlin, Kading, Turnbow & McKlveen, Chartered 1111 West Jefferson Street, Suite 530 P.O. Box 1368 Boise, ID 83701 Fax: 208-344-8542 <i>Counsel for Wells Fargo Foothill, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>John Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for Pucci Construction, Inc. and ACI Northwest, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Richard L. Stacey Meuleman Mollerup LLP 755 W. Front St., Ste. 200 Boise, ID 83702 Fax: 208-336-9712 <i>Counsel for R.E. Loans, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	

CLERK OF THE COURT


Deputy Clerk

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 AUG 14 AM 10 29

CLERK DISTRICT COURT

DEPUTY

CHARLES M. DODSON
Attorney at Law
1424 Sherman Avenue, Suite 300
Coeur d'Alene ID 83814
(208) 664-1577
Facsimile (208) 666-9211
ISB #2134

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
FORMERLY KNOWN AS
NATIONAL GOLF BUILDERS, INC.,
a Nevada Corporation,

PLAINTIFF,

VS.

PEND OREILLE BONNER DEVELOPMENT,
LLC, A Nevada limited liability company;
R.E. LOANS, LLC, a California limited
liability company; DAN S. JACOBSON, an
individual; SAGE HOLDINGS LLC, and
Idaho limited liability company; STEVEN G.
LAZAR, an individual; PENSCO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a
Delaware limited liability company;
INTERSTATE CONCRETE AND

CASE NUMBER: CV-09-01810

R. C. WORST & COMPANY, INC'S,
MOTION FOR ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

1-R. C. WORST & COMPANY, INC'S, MOTION FOR ENTRY OF DEFAULT (RE: GENESIS
GOLF BUILDERS, INC.)

ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
INC., an Idaho corporation; LUMBERMENS,
INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X,

DEFENDANTS/CROSS DEFENDANTS.
(R.C. WORST COUNTER/CROSS PLAINTIFF)

ACI NORTHWEST, INC., an Idaho
corporation,

COUNTERCLAIMANT, CROSS-CLAIMANT,
AND THIRD PARTY PLAINTIFF,

vs.

PEND OREILLE BONNER DEVELOPMENT,
LLC, a Nevada limited liability company,

Counterclaim Defendant,

and

R.E. LOANS, LLC, a California limited
liability company; DAN S. JACOBSON, an
individual; SAGE HOLDINGS LLC, and
Idaho limited liability company; STEVEN G.
LAZAR, an individual; PENSICO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a

Delaware limited liability company;
INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
INC., an Idaho corporation; LUMBERMENS,
INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X, and
ACI NORTHWEST, INC., an Idaho
corporation

CROSS-CLAIM DEFENDANTS,

and

PANHANDLE STATE BANK, AN IDAHO
CORPORATION,

THIRD PARTY DEFENDANT.

COMES NOW, the Defendant, R. C. WORST, by and through its Attorney of Record, CHARLES M. DODSON, and moves this Court, pursuant to Rule 11(b)(3) of the Idaho Rules of Civil Procedure to enter default against the Plaintiff, GENESIS GOLF BUILDERS, INC., formerly known as NATIONAL GOLF BUILDERS, INC. (GENESIS), that GENESIS, after being served, via certified mail with an Order Allowing Withdrawal of Counsel entered in the above entitled matter on the 30th of December, 2011, has failed to appear or plead in response to the Order Authorizing Withdrawal within the statutory period as set forth within said Order Authorizing Withdrawal and moves for an entry of Order of Default as against the Plaintiff, GENESIS, as to R. C. WORST'S Counterclaims as against GENESIS as the same were filed with the court on April 22, 2011. This Motion is further based upon the pleadings on file herein, and the Affidavit of RICHARD L.

3-R. C. WORST & COMPANY, INC'S, MOTION FOR ENTRY OF DEFAULT (RE: GENESIS GOLF BUILDERS, INC.)

STACEY in support of RE: LOANS LLC's Motion for Entry of Default, which is incorporated by reference as if fully set forth herein.

DATED this 13th day of August, 2013.


CHARLES M. DODSON
ATTORNEY FOR R. C. WORST & COMPANY, INC.

I hereby certify that on the 13th day of August, 2013,
a true and correct copy of the foregoing was:
mailed, postage prepaid:

to:

RICHARD L. STACEY
CHAD NICHOLSON
MEULEMAN MOLLERUP, LLP
755 W. Front Street, Suite 200
Boise, Idaho 83702
Attorney for R. E. Loans

GARY A. FINNEY
and JOHN FINNEY
FINNEY, FINNEY and FINNEY, PA
Old Power House Building
120 East Lake Street, Suite 317
Sandpoint ID 83864
Attorney for Defendants JV, LLC and Pucci Construction, Inc.

BRENT C. FEATHERSTON
FEATHERSTON LAW FIRM, CHTD.
113 S. Second Avenue
Sandpoint ID 83864
Attorney for Defendant Pensco Trust Co. Custodian FBO Barney NG

BRUCE A. ANDERSON
ELSAESSER, JARZABEK ANDERSON MARKS
ELLIOT & MACDONALD, CHTD.
P.O. Box 1049
Sandpoint ID 83864
Attorneys for Defendants Dan S. Jacobson, Sage Holdings, LLC and Stephen G. Lazar


4-R. C. WORST & COMPANY, INC'S, MOTION FOR ENTRY OF DEFAULT (RE: GENESIS GOLF BUILDERS, INC.)

STEVEN C. WETZEL
KENNETH HUNT
JAMES, VERNON & WEEKS, PA
1626 Lincoln Way
Coeur d'Alene, Idaho 83814
Attorneys for VP, INCORPORATED and North Idaho Resorts, LLC

GARY L. AMENDOLA
AMENDOLA & DOTY, PLLC
702 N. 4th Street
Coeur d'Alene ID 83814
Attorney for T-O Engineers, Inc.

STANLEY J. THARP
PETER W. WARE
DAVID M. SWARTLEY
ERERLE, BERLIN, KADING, TURNBOW, & McKLVEEN
CHARTERED
1111 West Jefferson Street, Suite 530
P.O. Box 1368
Boise Idaho 82701

CHARLES M. DODSON
ATTORNEY AT LAW

STATE OF IDAHO
County of Bonner } ss
FILED Aug 15 2013
AT _____ O'CLOCK _____ M
CLERK, DISTRICT COURT
Deputy 

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited
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CONCRETE AND ASPHALT COMPANY,
an Idaho corporation; T-O ENGINEERS,
INC., fka Toothman-Orton Engineering
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CONSTRUCTION INC., an Idaho
corporation; ACI NORTHWEST, INC.,
an Idaho corporation; LUMBERMENS, INC.,
dba Probuild, a Washington corporation;
ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

Case No. CV-2009-1810

DEFAULT JUDGMENT

[RE: GENESIS GOLF BUILDERS, INC.]


**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

The above-entitled matter having come before the Court and it appearing from Defendant/Cross-Defendant R.E. Loans, LLC's ("R.E. Loans") Motion for Entry of Default [Re: Genesis Golf Builders, Inc.] on file herein and the pleadings and proceedings hereto that R.E. Loans is entitled to have and recover judgment against Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. ("Genesis");

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- 1) R.E. Loans is awarded a Judgment of Default against Genesis; and
- 2) All causes of action alleged by Genesis against R.E. Loans as set forth in Genesis's Complaint filed herein shall be and are hereby dismissed with prejudice.

DATED this 15 day of August 2013.


The Honorable Michael J. Griffin
District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th Sept day of ~~August~~ 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

Charles M. Dodson Dodson & Raeon 1424 Sherman, Ste. 300 Coeur d' Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Gary I. Amendola Amendola & Doty, PLLC 702 N. 4 th Street Coeur d'Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
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<p>Steven C. Wetzel Kenneth Huitt James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, ID 83814 Fax: 208-664-1684 <i>Counsel for VP Incorporated and North Idaho Resorts, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Bruce A. Anderson Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd. 1400 Northwood Center Ct., Ste. C Coeur d' Alene, Idaho 83814 Fax: 208-667-2150 <i>Counsel for Dan S. Jacobson, Steven G. Lazar, and Sage Holdings, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Brent C. Featherston Featherston Law Firm, Chtd. 113 South Second Ave. Sandpoint, Idaho 83864 Fax: 208-263-0400 <i>Counsel for Pensco Trust Co. and Mortgage Fund '08</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Gary A. Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for J.V., LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Stanley J. Tharp Peter W. Ware David M. Swartley Eberle, Berlin, Kading, Turnbow & McKlveen, Chartered 1111 West Jefferson Street, Suite 530 P.O. Box 1368 Boise, ID 83701 Fax: 208-344-8542 <i>Counsel for Wells Fargo Foothill, LLC</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>John Finney Finney Finney & Finney, P.A. 120 E. Lake Street, Ste 317 Sandpoint, Idaho 83864 Fax: 208-263-8211 <i>Counsel for Pucci Construction, Inc. and ACI Northwest, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>
<p>Richard L. Stacey Meuleman Mollerup LLP 755 W. Front St., Ste. 200 Boise, ID 83702 Fax: 208-336-9712 <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	<p>Ron Freund Genesis Golf Builders, Inc. P.O. Box 1271 McHenry, IL 60050 <i>Genesis Golf Builders, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>

CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk

STATE OF IDAHO
County of Bonner } 38
FILED Aug 15, 2012
AT _____ O'CLOCK _____ M
CLERK, DISTRICT COURT
Deputy

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
STEVEN G. LAZAR, an individual;
PENSCO TRUST CO. CUSTODIAN
FBO BARNEY NG; MORTGAGE FUND
'08 LLC, a Delaware limited liability
company; VP, INCORPORATED, an Idaho
corporation; JV, LLC, an Idaho limited
liability company; WELLS FARGO
FOOTHILL, LLC, a Delaware limited
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CONCRETE AND ASPHALT COMPANY,
an Idaho corporation; T-O ENGINEERS,
INC., fka Toothman-Orton Engineering
Company, an Idaho corporation; PUCCI
CONSTRUCTION INC., an Idaho
corporation; ACI NORTHWEST, INC.,
an Idaho corporation; LUMBERMENS, INC.,
dba Probuild, a Washington corporation;
ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

Case No. CV-2009-1810

ORDER FOR ENTRY OF DEFAULT

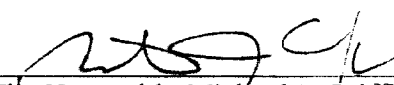
[RE: GENESIS GOLF BUILDERS, INC.]

**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

IN THIS ACTION, Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. ("Genesis"), having been regularly served with the Order Allowing Withdrawal of Counsel (the "Withdraw Order") by certified mail on December 30, 2011, such date being more than twenty (20) days before this date, and having failed to appoint another attorney or appear in person to state how it will prosecute without an attorney pursuant to the Withdraw Order and Rule 11(b)(3) of the Idaho Rules of Civil Procedure:

NOW, THEREFORE, IT IS ORDERED AND THIS DOES ORDER that the default of Genesis be entered herein.

DATED this 15th day of August 2013.


The Honorable Michael J. Griffin
District Court Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of ~~August~~ ^{Sept} 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

Charles M. Dodson Dodson & Raeon 1424 Sherman, Ste. 300 Coeur d' Alene, Idaho 83814 Fax: 208-666-9211 <i>Counsel for RC Worst & Company</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	Gary I. Amendola Amendola & Doty, PLLC 702 N. 4 th Street Coeur d' Alene, ID 83814 Fax: 208-765-1046 <i>Counsel for T-O Engineers, Inc.</i> <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery
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CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk

STATE OF IDAHO
County of Bonner } ss
FILED Aug 15, 2013
AT _____ O'CLOCK _____ M
CLERK, DISTRICT COURT

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; R.E. LOANS, LLC,
a California limited liability company;
DAN S. JACOBSON, an individual;
SAGE HOLDINGS, LLC,
an Idaho limited liability company;
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ROBERT PLASTER dba Cedar Etc;
NORTH IDAHO RESPORTS, LLC,
an Idaho limited liability company;
R.C. WORST & COMPANY, INC.,
an Idaho corporation; DOES I through X,

Defendants.

Case No. CV-2009-1810

CLERK'S ENTRY OF DEFAULT

[RE: GENESIS GOLF BUILDERS, INC.]

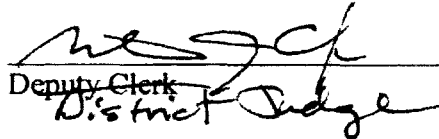
**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

In this action, Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. ("Genesis"), having been regularly served with the Court's Order Allowing Withdrawal of Counsel (the "Withdraw Order"), and having failed to otherwise appear and plead further as required by the Withdraw Order, and the time allowed by law for appointing another attorney having expired;

DEFAULT IS HEREBY ENTERED and filed according to law.

Witness my hand and seal of said Court this 17 day of August 2013.

CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk
District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of ~~August~~ Sept 2013, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

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CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 AUG 29 PM 2 58

CLERK DISTRICT COURT
DEPUTY

CHARLES M. DODSON
Attorney at Law
1424 Sherman Avenue, Suite 300
Coeur d'Alene ID 83814
(208) 664-1577
Facsimile (208) 666-9211
ISB #2134

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
FORMERLY KNOWN AS
NATIONAL GOLF BUILDERS, INC.,
a Nevada Corporation,

PLAINTIFF,

VS.

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LLC, A Nevada limited liability company;
R.E. LOANS, LLC, a California limited
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individual; SAGE HOLDINGS LLC, and
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INTERSTATE CONCRETE AND

CASE NUMBER: CV-09-01810

ORDER FOR ENTRY OF DEFAULT

(RE: GENESIS GOLF BUILDERS, INC.)

1-ORDER FOR ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

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R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X,

DEFENDANTS/CROSS DEFENDANTS.
(R.C. WORST COUNTER/CROSS PLAINTIFF)

ACI NORTHWEST, INC., an Idaho
corporation,

COUNTERCLAIMANT, CROSS-CLAIMANT,
AND THIRD PARTY PLAINTIFF,

vs.

PEND OREILLE BONNER DEVELOPMENT,
LLC, a Nevada limited liability company,

Counterclaim Defendant,

and

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LAZAR, an individual; PENSCO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a

2-ORDER FOR ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

Delaware limited liability company;
INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
INC., an Idaho corporation; LUMBERMENS,
INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X, and
ACI NORTHWEST, INC., an Idaho
corporation

CROSS-CLAIM DEFENDANTS,

and

PANHANDLE STATE BANK, AN IDAHO
CORPORATION,

THIRD PARTY DEFENDANT.

In this action, Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc., (GENESIS), having been regularly served with the Order Allowing Withdrawal of Counsel (the "Withdraw Order"), by certified mail on December, 30, 2011, such date being more than twenty (20) days before this date, and having failed to appoint another attorney or appear and in person to state how it will prosecute without an attorney pursuant to the Withdrawal Order and Rule 11(b)(3) of the Idaho Rules of Civil Procedure:

NOW, THEREFORE, IT IS ORDERED AND THIS DOES ORDER that the Default of Genesis as to R. C. WORST & COMPANY, INC.'S Counterclaim be entered herein.

DATED this 15th day of August, 2013.


THE HONORABLE MICHAEL J. GRIFFIN
DISTRICT COURT JUDGE

I hereby certify that on the 11th day of September, 2013,
a true and correct copy of the foregoing was:
transmitted via facsimile
to:

RICHARD L. STACEY
CHAD NICHOLSON
MEULEMAN MOLLERUP, LLP
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Attorney for R. E. Loans
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and JOHN FINNEY
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4-ORDER FOR ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

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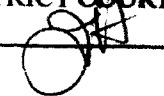
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DEPUTY CLERK

5-ORDER FOR ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

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Coeur d'Alene ID 83814
(208) 664-1577
Facsimile (208) 666-9211
ISB #2134

STATE OF IDAHO
County of Bonner } ss
FILED Filed 29 2013
AT 2:58 O'CLOCK P.M
CLERK, DISTRICT COURT
Deputy 

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
FORMERLY KNOWN AS
NATIONAL GOLF BUILDERS, INC.,
a Nevada Corporation,

PLAINTIFF,

VS.

PEND OREILLE BONNER DEVELOPMENT,
LLC, A Nevada limited liability company;
R.E. LOANS, LLC, a California limited
liability company; DAN S. JACOBSON, an
individual; SAGE HOLDINGS LLC, and
Idaho limited liability company; STEVEN G.
LAZAR, an individual; PENSCO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a
Delaware limited liability company;
INTERSTATE CONCRETE AND

CASE NUMBER: CV-09-01810

CLERK'S ENTRY OF DEFAULT

(RE: GENESIS GOLF BUILDERS, INC.)

1-CLERK'S ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
INC., an Idaho corporation; LUMBERMENS,
INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X,

DEFENDANTS/CROSS DEFENDANTS.
(R.C. WORST COUNTER/CROSS PLAINTIFF)

ACI NORTHWEST, INC., an Idaho
corporation,

COUNTERCLAIMANT, CROSS-CLAIMANT,
AND THIRD PARTY PLAINTIFF,

vs.

PEND OREILLE BONNER DEVELOPMENT,
LLC, a Nevada limited liability company,

Counterclaim Defendant,

and

R.E. LOANS, LLC, a California limited
liability company; DAN S. JACOBSON, an
individual; SAGE HOLDINGS LLC, and
Idaho limited liability company; STEVEN G.
LAZAR, an individual; PENSICO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a

2-CLERK'S ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

Delaware limited liability company;
INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
INC., an Idaho corporation; LUMBERMENS,
INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X, and
ACI NORTHWEST, INC., an Idaho
corporation

CROSS-CLAIM DEFENDANTS,

and

PANHANDLE STATE BANK, AN IDAHO
CORPORATION,

THIRD PARTY DEFENDANT.


In this action, Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc., (GENESIS), having been regularly served with the Court's Order Allowing Withdrawal of Counsel (the "Withdraw Order"), and having failed to otherwise appear and plead further as required by the Withdraw Order, and the time allowed by law for appointing another attorney having expired;

DEFAULT IS HEREBY ENTERED and filed according to law as against GENESES and in favor of R. C. WORST & COMPANY, INC..

Witness my hand and the seal of said Court this 15th day of August, 2013.

CLERK OF THE DISTRICT COURT

BY:


DEPUTY CLERK

District Judge

I hereby certify that on the 11th day of September, 2013,
a true and correct copy of the foregoing was:
transmitted via facsimile

to:

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P.O. Box 1049
Sandpoint ID 83864
Attorneys for Defendants Dan S. Jacobson, Sage Holdings, LLC and Stephen G. Lazar

4-CLERK'S ENTRY OF DEFAULT
(RE: GENESIS GOLF BUILDERS, INC.)

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Attorney for T-O Engineers, Inc.

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CHARLES M. DODSON
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Bonner County
Deputy Clerk

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 AUG 29 PM 2 58

CLERK DISTRICT COURT

DEPUTY

CHARLES M. DODSON
Attorney at Law
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(208) 664-1577
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ISB #2134

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
FORMERLY KNOWN AS
NATIONAL GOLF BUILDERS, INC.,
a Nevada Corporation,

PLAINTIFF,

VS.

PEND OREILLE BONNER DEVELOPMENT,
LLC, A Nevada limited liability company;
R.E. LOANS, LLC, a California limited
liability company; DAN S. JACOBSON, an
individual; SAGE HOLDINGS LLC, and
Idaho limited liability company; STEVEN G.
LAZAR, an individual; PENSCO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a
Delaware limited liability company;
INTERSTATE CONCRETE AND

CASE NUMBER: CV-09-01810

DEFAULT JUDGMENT

(RE: GENESIS GOLF BUILDERS, INC.)

1-DEFAULT JUDGMENT
(RE: GENESIS GOLF BUILDERS, INC.)

ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
INC., an Idaho corporation; LUMBERMENS,
INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X,

DEFENDANTS/CROSS DEFENDANTS.
(R.C. WORST COUNTER/CROSS PLAINTIFF)

ACI NORTHWEST, INC., an Idaho
corporation,

COUNTERCLAIMANT, CROSS-CLAIMANT,
AND THIRD PARTY PLAINTIFF,

vs.

PEND OREILLE BONNER DEVELOPMENT,
LLC, a Nevada limited liability company,

Counterclaim Defendant,

and

R.E. LOANS, LLC, a California limited
liability company; DAN S. JACOBSON, an
individual; SAGE HOLDINGS LLC, and
Idaho limited liability company; STEVEN G.
LAZAR, an individual; PENSICO TRUST CO.
CUSTODIAN FBO BARNEY NG;
MORTGAGE FUND '08 LLC, a
Delaware limited liability company;
VP, INCORPORATED, an Idaho corporation;
JV LLC, an Idaho limited liability company;
WELLS FARGO FOOTHILL, LLC, a

2-DEFAULT JUDGMENT
(RE: GENESIS GOLF BUILDERS, INC.)

Delaware limited liability company;
INTERSTATE CONCRETE AND
ASPHALT COMPANY, an Idaho corporation;
T-O ENGINEERS, INC., fka Toothman-
Orton Engineering, Company, and Idaho
corporation; PUCCI CONSTRUCTION INC.,
An Idaho Corporation; ACI NORTHWEST,
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INC., dba ProBuild, a Washington
corporation; ROBERT PLASTER dba
Cedar Etc; NORTH IDAHO RESORTS,
LLC an Idaho limited liability company;
R.C. WORST & COMPANY, INC., an
Idaho Corporation; DOES I through X, and
ACI NORTHWEST, INC., an Idaho
corporation

CROSS-CLAIM DEFENDANTS,

and

PANHANDLE STATE BANK, AN IDAHO
CORPORATION,

THIRD PARTY DEFENDANT.

The above entitled matter having come before the Court and it appearing from Defendant/Counter Plaintiff, R. C. WORST & COMPANY, INC.'S Motion for Entry of Default (Re: Genesis Golf Builders, Inc.) on file herein and the pleadings and proceedings hereto that R. C. WORST & COMPANY, INC., is entitled to have and recover judgment against Plaintiff Genesis Golf Builders, Inc., formerly known as National Golf Builders, Inc. (Genesis);

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. R. C. WORST & COMPANY, INC., is awarded a Judgment of Default against Genesis;
and,

2. All causes of action alleged by Genesis against R. C. WORST & COMPANY, INC., as set forth in Genesis's Complaint filed herein shall be and are hereby dismissed with prejudice.

3-DEFAULT JUDGMENT
(RE: GENESIS GOLF BUILDERS, INC.)

DATED this 15th day of August, 2013.


THE HONORABLE MICHAEL J. GRIFFIN
DISTRICT COURT JUDGE

I hereby certify that on the 11th day of
September, 2013,
a true and correct copy of the foregoing was:
transmitted via facsimile

to:

RICHARD L. STACEY
CHAD NICHOLSON
MEULEMAN MOLLERUP, LLP
755 W. Front Street, Suite 200
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Attorney for R. E. Loans
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4-DEFAULT JUDGMENT
(RE: GENESIS GOLF BUILDERS, INC.)

STEVEN C. WETZEL
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DEPUTY CLERK

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2013 OCT 25 AM 11 56

CLERK OF DISTRICT COURT
FELIX

JAMES, VERNON & WEEKS, P.A.
1626 Lincoln Way
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Facsimile: (208) 664-1684
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Attorneys for Defendant NORTH IDAHO RESORTS, LLC.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly)
known as National Golf Builders, Inc., a)
Nevada corporation,)

Plaintiff,)

vs.)

PEND OREILLE BONNER)
DEVELOPMENT, LLC, a Nevada limited)
liability company; R.E. LOANS, LLC, a)
California limited liability company; DAN S.)
JACOBSON, an individual; SAGE)
HOLDINGS LLC, an Idaho limited liability)
company; STEVEN G. LAZAR, an individual;)
PENSCO TRUST CO. CUSTODIAN FBO)
BARNEY NG; MORTGAGE FUND '08)
LLC, a Delaware limited liability company;)
VP, INCORPORATED, an Idaho corporation;)
JV L.L.C., an Idaho limited liability company;)
WELLS FARGO FOOTHILL, LLC, a)
Delaware limited liability company;)
INTERSTATE CONCRETE AND ASPHALT)
COMPANY, an Idaho corporation; T-O)
ENGINEERS, INC., fka Toothman-Orton)
Engineering Company, an Idaho corporation;)
PUCCI CONSTRUCTION INC., an Idaho)
corporation; ACI NORTHWEST, INC., an)
Idaho corporation; LUMBERMENS, INC.,)
dba Probuild, a Washington corporation;)
ROBERT PLASTER dba Cedar Etc.; NORTH)
IDAHO RESORTS, LLC, an Idaho limited)

Case No. CV-2009-01810

NORTH IDAHO RESORTS, LLC'S
MOTION FOR ENTRY OF DEFAULT
[RE: GENESIS GOLF BUILDERS, INC.]

liability company; R.C. WORST &)
COMPANY, INC., an Idaho corporation;)
DOES I through X,)
Defendants.)

COMES NOW Defendant/Cross-Defendant North Idaho Resorts, LLC, by and through its counsel of record, Susan P. Weeks of James, Vernon, and Weeks, P.A., and moves this Court, pursuant to Rule 11(b)(3) of the Idaho Rules of Civil Procedure, to enter default against Plaintiff Genesis Golf Builders, Inc., formally known as National Golf Builder, Inc. ("Genesis"), that Genesis, after being served via certified mail with the Order Allowing Withdrawal of Counsel (the "Withdraw Order") entered herein on December 30, 2011, has failed to appear or plead in response to the Withdraw Order within the statutory period as set forth in the Withdraw Order.

Said motion is further based upon the pleadings on file herein and the Affidavit in Support of Motion for Entry of Default filed contemporaneously herewith.

DATED THIS 23rd day of October 2013.

JAMES, VERNON & WEEKS, PA

By: Susan P. Weeks
Susan P. Weeks

Attorney for Defendant NORTH IDAHO RESORTS, LLC.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 24th day of October 2013:

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Attorneys for B-K Lighting, Inc.

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*Attorneys for Dan S. Jacobson; Sage
Holdings, LLC; Steven G. Lazar*

✓

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Attorneys at Law
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Attorneys for R.C. Worst & Company, Inc.

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*Attorneys for T-O Engineers, an Idaho
corporation*

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*Attorney for Interstate Concrete & Asphalt
Company*

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*Attorney for Pensco Trust Co. Custodian
FBO Barney NG*

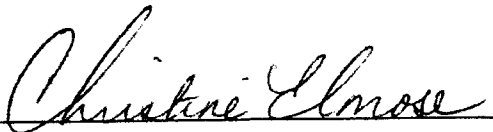
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Attorneys for R.E. Loans, LLC



STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT
2013 OCT 25 AM 11 56
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DEPUTY

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Attorneys for Defendant NORTH IDAHO RESORTS, LLC.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly)
known as National Golf Builders, Inc., a)
Nevada corporation,)
Plaintiff,)

Case No. CV-2009-01810

vs.)

AFFIDAVIT OF SUSAN P. WEEKS IN
SUPPORT OF NORTH IDAHO RESORTS,
LLC'S MOTION FOR ENTRY OF
DEFAULT
[RE: GENESIS GOLF BUILDERS, INC.]

PEND OREILLE BONNER)
DEVELOPMENT, LLC, a Nevada limited)
liability company; R.E. LOANS, LLC, a)
California limited liability company; DAN S.)
JACOBSON, an individual; SAGE)
HOLDINGS LLC, an Idaho limited liability)
company; STEVEN G. LAZAR, an individual;)
PENSCO TRUST CO. CUSTODIAN FBO)
BARNEY NG; MORTGAGE FUND '08)
LLC, a Delaware limited liability company;)
VP, INCORPORATED, an Idaho corporation;)
JV L.L.C., an Idaho limited liability company;)
WELLS FARGO FOOTHILL, LLC, a)
Delaware limited liability company;)
INTERSTATE CONCRETE AND ASPHALT)
COMPANY, an Idaho corporation; T-O)
ENGINEERS, INC., fka Toothman-Orton)
Engineering Company, an Idaho corporation;)
PUCCI CONSTRUCTION INC., an Idaho)
corporation; ACI NORTHWEST, INC., an)
Idaho corporation; LUMBERMENS, INC.,)
dba Probuild, a Washington corporation;)
ROBERT PLASTER dba Cedar Etc.; NORTH)

AFFIDAVIT OF SUSAN P. WEEKS IN SUPPORT OF NORTH IDAHO RESORTS, LLC'S
MOTION FOR ENTRY OF DEFAULT - 1

IDAHO RESORTS, LLC, an Idaho limited liability company; R.C. WORST & COMPANY, INC., an Idaho corporation; DOES I through X,
 Defendants.

State of Idaho)
) S.S.
 County of Kootenai)

Susan P. Weeks, Being first duly sworn, deposes and says:

1. I am the attorney of record for Defendant/Cross-Defendant North Idaho Resorts, LLC in the above-entitled matter, and I make this affidavit based upon my own personal knowledge and under Rule 55(a) of the Idaho Rules of Civil Procedure for the purpose of obtaining an entry of the default of Plaintiff Genesis Golf Builders, Inc., formally known as National Golf Builders, Inc. ("Genesis"). If called as a witness, I could and would competently testify as to the truth of the matters set forth herein.
2. Genesis is or was a Nevada corporation authorized to do business in the State of Idaho.
3. As Genesis is or was a corporation, an attestation as to military service, age, and the competency of an individual is not applicable hereto.
4. The address most likely to provide notice of said default and default judgment to Genesis is Ron Freund, Genesis Golf Builders, Inc., P.O. Box 1271, McHenry, IL 60050.

5. Genesis was duly and regularly served with the Court's Order Allowing Withdrawal of Counsel (the "Withdraw Order") via certified mail on December 30, 2011, as appears from the Notice of Service filed herein by its former counsel and attached hereto as Exhibit A.
6. The Time for Genesis to appear and plead in response to the Withdraw Order has expired and that Genesis has not pled further in any manner.
7. All causes of action alleged b Genesis against North Idaho Resorts, LLC in the Complaint filed in the above-entitled matter are, by Rule 41(b) of the Idaho Rules of Civil Procedure, dismissed with prejudice for Genesis's failure to appear and plead further.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

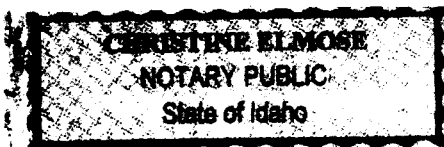
DATED THIS 23rd day of October 2013.

JAMES, VERNON & WEEKS, PA

By: Susan P. Weeks
Susan P. Weeks

Attorney for Defendant NORTH IDAHO RESORTS, LLC.

SUBSCRIBED AND SWORN to before me this 23rd day of October 2013.



Christine Elmore
Notary Public, State of Idaho
My Commission Expires 6/27/14

AFFIDAVIT OF SUSAN P. WEEKS IN SUPPORT OF NORTH IDAHO RESORTS, LLC'S
MOTION FOR ENTRY OF DEFAULT - 3

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 24th day of October 2013:

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ldavis@hawleytroxell.com

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*Attorneys for Dan S. Jacobson; Sage
Holdings, LLC; Steven G. Lazar*

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Attorneys for R.C. Worst & Company, Inc.

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*Attorneys for T-O Engineers, an Idaho
corporation*

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*Attorney for Interstate Concrete & Asphalt
Company*

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FBO Barney NG*

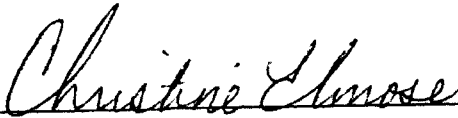
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Attorneys for R.E. Loans, LLC



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 Email: ldavis@hawleytroxell.com
 Attorneys for Plaintiff Genesis Golf Builders, Inc.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
 formerly known as National Golf Builders,
 Inc., a Nevada corporation,
 Plaintiff,

Case No. CV 2009-01810
 NOTICE OF SERVICE

vs.

PEND OREILLE BONNER
 DEVELOPMENT, LLC, a Nevada limited
 liability company; R.E. LOANS, LLC, a
 California limited liability company;
 DAN S. JACOBSON, an individual;
 SAGE HOLDINGS LLC, an Idaho limited
 liability company; STEVEN G. LAZAR,
 an individual; PENSCO TRUST CO.
 CUSTODIAN FBO BARNEY NG;
 MORTGAGE FUND '08 LLC, a Delaware
 limited liability company;
 VP, INCORPORATED, an Idaho
 corporation; JV L.L.C., an Idaho limited
 liability company; WELLS FARGO
 FOOTHILL, LLC, a Delaware limited
 liability company; INTERSTATE
 CONCRETE AND ASPHALT COMPANY,
 an Idaho corporation; T-O ENGINEERS,
 INC., fka Toothman-Orton Engineering
 Company, an Idaho corporation; PUCCI
 CONSTRUCTION INC., an Idaho
 corporation; ACI NORTHWEST, INC., an

NOTICE OF SERVICE - 1



44018.0001.3121045.2

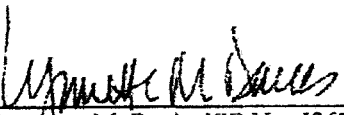
Idaho corporation; LUMBERMENS, INC.,)
 dba Probuild, a Washington corporation;)
 ROBERT PLASTER dba Cedar Etc.;)
 NORTH IDAHO RESORTS, LLC, an Idaho)
 limited liability company; R.C. WORST)
 & COMPANY, INC., an Idaho corporation;)
 DOES I through X,)
)
 Defendants.)

HAWLEY TROXELL ENNIS & HAWLEY hereby gives notice to the Court and all interested parties that on December 30, 2011, it served the Order Allowing Withdrawal of Counsel on Genesis Golf Builders, Inc., via certified mail to the last known address most likely to give notice to Plaintiff Genesis Golf Builders, Inc., as follows:

Attn: Ron Freund
 Genesis Golf Builders, Inc.
 P.O. Box 1271
 McHenry, IL 60050.

DATED THIS 30th day of December, 2011.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By 
 Lynnette M. Davis, ISB No. 5263

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of December, 2011, I caused to be served a true copy of the foregoing NOTICE OF SERVICE by the method indicated below, and addressed to each of the following:

Chuck Reeves
c/o Pend Oreille Bonner Development, LLC
151 Clubhouse Way
Sandpoint, ID 83864
[Defendant]

U.S. Mail, Postage Prepaid
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 E-mail
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Richard L. Stacey
Anna E. Eberlin
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[Attorneys for Defendant R.E. Loans, LLC]

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[Attorneys for Defendant Pucci Construction Inc.]

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12/30/2011 2:24:02 PM

Tina Hummel

208-954-5293

Page 7

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 [Attorneys for Interstate Concrete and Asphalt
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 Mortgage Fund 08, LLC]

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 Barney Ng]

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Tina Hummel

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Page 8

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[Attorneys for Defendant ACI Northwest, Inc.]

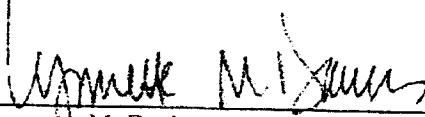
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Attn: Ron Freund
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P.O. Box 1271
McHenry, IL 60050

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 Certified Mail
 Hand Delivered
 Overnight Mail
 E-mail:
 Telecopy



Lynnette M. Davis

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DISTRICT
 2013 NOV 1 AM 11 48
 CLERK OF DISTRICT COURT



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 1626 Lincoln Way
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 Susan P. Weeks, ISB No. 4255
 sweeks@jvwlaw.net

Attorneys for Defendant NORTH IDAHO RESORTS, LLC.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly)
 known as National Golf Builders, Inc., a)
 Nevada corporation,)
 Plaintiff,)

Case No. CV-2009-01810

vs.

ORDER FOR ENTRY OF DEFAULT
 [RE: GENESIS GOLF BUILDERS, INC.]

PEND OREILLE BONNER)
 DEVELOPMENT, LLC, a Nevada limited)
 liability company; R.E. LOANS, LLC, a)
 California limited liability company; DAN S.)
 JACOBSON, an individual; SAGE)
 HOLDINGS LLC, an Idaho limited liability)
 company; STEVEN G. LAZAR, an individual;)
 PENSCO TRUST CO. CUSTODIAN FBO)
 BARNEY NG; MORTGAGE FUND '08)
 LLC, a Delaware limited liability company;)
 VP, INCORPORATED, an Idaho corporation;)
 JV L.L.C., an Idaho limited liability company;)
 WELLS FARGO FOOTHILL, LLC, a)
 Delaware limited liability company;)
 INTERSTATE CONCRETE AND ASPHALT)
 COMPANY, an Idaho corporation; T-O)
 ENGINEERS, INC., fka Toothman-Orton)
 Engineering Company, an Idaho corporation;)
 PUCCI CONSTRUCTION INC., an Idaho)
 corporation; ACI NORTHWEST, INC., an)
 Idaho corporation; LUMBERMENS, INC.,)
 dba Probuild, a Washington corporation;)
 ROBERT PLASTER dba Cedar Etc.; NORTH)
 IDAHO RESORTS, LLC, an Idaho limited)

ORDER FOR ENTRY OF DEFAULT - 1

liability company; R.C. WORST &
 COMPANY, INC., an Idaho corporation;
 DOES I through X,
 Defendants.

)
)
)
)

IN THIS ACTION, Plaintiff Genesis Golf Builders, Inc. formally known as National Golf Builders, Inc. ("Genesis"), having been regularly served with the Order Allowing Withdrawal of Counsel (the "Withdraw Order") by certified mail on December 30, 2011, such date being more than twenty (20) days before this date, and having failed to appoint another attorney or appear in person to state how it will prosecute without an attorney pursuant to the Withdraw Order and Rule 11(b)(3) of the Idaho Rules of Civil Procedure:

NOW, THEREFORE, IT IS ORDERED AND THIS DOES ORDER that the default of Genesis be entered herein.

DATED THIS 15th day of ^{November} ~~October~~ 2013.

By: 
 The Honorable Michael J. Griffin
 District Court Judge

ORDER FOR ENTRY OF DEFAULT - 2

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 19th day of ~~October~~ Jan 2013:

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ORDER FOR ENTRY OF DEFAULT - 3

Received Time Oct. 30. 2013 12:03PM No. 2755

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 Holdings, LLC; Steven G. Lazar*

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ORDER FOR ENTRY OF DEFAULT - 4

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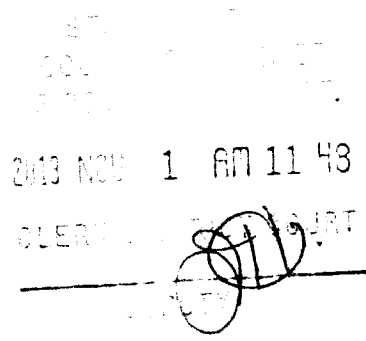
Attorneys for R.E. Loans, LLC

CLERK OF THE DISTRICT COURT


Deputy Clerk

ORDER FOR ENTRY OF DEFAULT - 5

Received Time Oct. 30. 2013 12:03PM No. 2755

2013 NOV 1 AM 11 43
 CLERK OF DISTRICT COURT


JAMES, VERNON & WEEKS, P.A.
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 Facsimile: (208) 664-1684
 Susan P. Weeks, ISB No. 4255
 sweeks@jvwlaw.net

Attorneys for Defendant NORTH IDAHO RESORTS, LLC.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
 OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly)
 known as National Golf Builders, Inc., a)
 Nevada corporation,

Plaintiff,

vs.

PEND OREILLE BONNER)
 DEVELOPMENT, LLC, a Nevada limited)
 liability company; R.E. LOANS, LLC, a)
 California limited liability company; DAN S.)
 JACOBSON, an individual; SAGE)
 HOLDINGS LLC, an Idaho limited liability)
 company; STEVEN G. LAZAR, an individual;)
 PENSCO TRUST CO. CUSTODIAN FBO)
 BARNEY NG; MORTGAGE FUND '08)
 LLC, a Delaware limited liability company;)
 VP, INCORPORATED, an Idaho corporation;)
 JV L.L.C., an Idaho limited liability company;)
 WELLS FARGO FOOTHILL, LLC, a)
 Delaware limited liability company;)
 INTERSTATE CONCRETE AND ASPHALT)
 COMPANY, an Idaho corporation; T-O)
 ENGINEERS, INC., fka Toothman-Orton)
 Engineering Company, an Idaho corporation;)
 PUCCI CONSTRUCTION INC., an Idaho)
 corporation; ACI NORTHWEST, INC., an)
 Idaho corporation; LUMBERMENS, INC.,)
 dba Probuild, a Washington corporation;)
 ROBERT PLASTER dba Cedar Etc.; NORTH)
 IDAHO RESORTS, LLC, an Idaho limited)

Case No. CV-2009-01810

DEFAULT JUDGMENT

[RE: GENESIS GOLF BUILDERS, INC.]

DEFAULT JUDGMENT - 1

liability company; R.C. WORST & COMPANY, INC., an Idaho corporation;
 DOES I through X,
 Defendants.)
)
)
)

The above-entitled matter having come before the Court and it appearing from Defendant/Cross-Defendant North Idaho Resorts, LLC's Motion for Entry of Default [Re: Genesis Golf Builders, Inc.] on file herein and the pleadings and proceedings hereto that North Idaho Resorts, LLC is entitled to have and recover judgment against Plaintiff Genesis Golf Builders, Inc., formally known as National Golf Builders, Inc. ("Genesis");

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

- 1) North Idaho Resorts, LLC is awarded a Judgment of Default against Genesis; and
- 2) All causes of action alleged by Genesis against North Idaho Resorts, LLC as set

forth in Genesis's Complaint filed herein shall be and are hereby dismissed with prejudice.

Dated this ^{Wavank} 1st day of ~~October~~ 2013.

By: 
 The Honorable Michael J. Griffin
 District Court Judge

DEFAULT JUDGMENT - 2

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 19th day of ~~October~~ November 2013:

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Attorneys for Plaintiff Genesis Golf Builders, Inc.

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Attorneys for JV L.L.C., Pucci Constsruction, Inc. and ACI Northwest, Inc.

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Attorneys for Pend Oreille Bonner Development, LLC; Pend Oreille Bonner Development Holdings, Inc.; Montaheno Investments, LLC; Toyon Investments, LLC

DEFAULT JUDGMENT - 3


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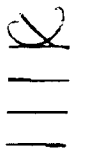
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DEFAULT JUDGMENT - 4

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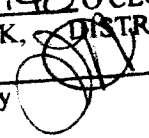
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CLERK OF THE DISTRICT COURT


Deputy Clerk

DEFAULT JUDGMENT - 5

STATE OF IDAHO
County of Bonner
FILED Am 1 2013 ss
AT 11:48 O'CLOCK AM
CLERK, DISTRICT COURT
Deputy 

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Attorneys for Defendant NORTH IDAHO RESORTS, LLC.

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC., formerly)
known as National Golf Builders, Inc., a)
Nevada corporation,)

Plaintiff,)

vs.)

PEND OREILLE BONNER)
DEVELOPMENT, LLC, a Nevada limited)
liability company; R.E. LOANS, LLC, a)
California limited liability company; DAN S.)
JACOBSON, an individual; SAGE)
HOLDINGS LLC, an Idaho limited liability)
company; STEVEN G. LAZAR, an individual;)
PENSCO TRUST CO. CUSTODIAN FBO)
BARNEY NG; MORTGAGE FUND '08)
LLC, a Delaware limited liability company;)
VP, INCORPORATED, an Idaho corporation;)
JV L.L.C., an Idaho limited liability company;)
WELLS FARGO FOOTHILL, LLC, a)
Delaware limited liability company;)
INTERSTATE CONCRETE AND ASPHALT)
COMPANY, an Idaho corporation; T-O)
ENGINEERS, INC., fka Toothman-Orton)
Engineering Company, an Idaho corporation;)
PUCCI CONSTRUCTION INC., an Idaho)
corporation; ACI NORTHWEST, INC., an)
Idaho corporation; LUMBERMENS, INC.,)
dba Probuild, a Washington corporation;)
ROBERT PLASTER dba Cedar Etc.; NORTH)
IDAHO RESORTS, LLC, an Idaho limited)

Case No. CV-2009-01810

CLERK'S ENTRY OF DEFAULT

[RE: GENESIS GOLF BUILDERS, INC.]

CLERK'S ENTRY OF DEFAULT - 1


liability company; R.C. WORST &)
COMPANY, INC., an Idaho corporation;)
DOES I through X,)
Defendants.)

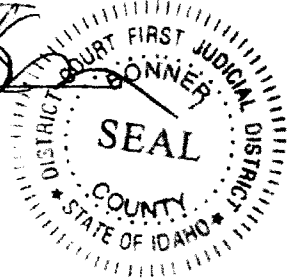
IN THIS ACTION, Plaintiff Genesis Golf Builders, Inc. formally known as National Golf Builders, Inc. ("Genesis"), having been regularly served with the Order Allowing Withdrawal of Counsel (the "Withdraw Order"), and having failed to otherwise appear and plead further as required by the Withdraw Order, and the time allowed by law for appointing another attorney having expired;

DEFAULT IS HEREBY ENTERED and filed according to law.

Witness my hand and seal of said Court this 1st day of ~~October~~ 2013.

CLERK OF THE DISTRICT COURT

By: 
Deputy Clerk



The seal is circular with a double-line border. The text inside the seal reads: "DISTRICT COURT FIRST JUDICIAL DISTRICT" around the top inner edge, "BLAINE COUNTY" around the bottom inner edge, and "STATE OF IDAHO" at the very bottom. In the center of the seal, the word "SEAL" is printed in a bold, sans-serif font.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this ____ day of October 2013:

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STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2014 APR 29 AM 10 05

CLERK DISTRICT COURT
DEPUTY

Attorneys for R.E. Loans, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; et al.,

Defendants.

Case No. CV-2009-1810

**R.E. LOANS, LLC'S MOTION FOR
SUMMARY JUDGMENT AGAINST
CROSS-CLAIMANT ACI NORTHWEST,
INC.**

The Honorable Michael Griffin

**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

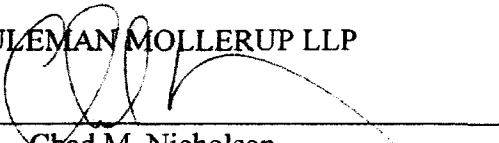
COMES NOW, Defendant/Cross-Defendant R.E. Loans, LLC ("R.E. Loans"), by and through its attorneys of record, Meuleman Mollerup LLP, and moves the Court, pursuant to Rule 56(a) of the Idaho Rules of Civil Procedure, for an order granting summary judgment against Defendant/Cross-Claimant ACI Northwest, Inc. on the grounds and for the reasons that the

pleadings together with all affidavits and declarations show that there is no genuine issue of material fact precluding judgment as a matter of law.

This motion is made and based upon papers and pleadings on file herein, the memoranda, affidavits, and declarations filed in support hereof, and all other and further evidence and arguments presented at the hearing of this matter.

DATED this 25th day of April 2014.

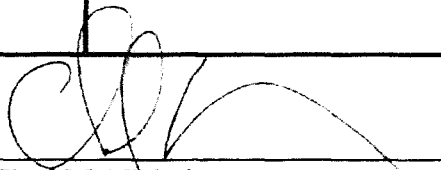
MEULEMAN MOLLERUP LLP


By: Chad M. Nicholson
Attorneys for R.E. Loans, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of April 2014, a true and correct copy of foregoing document was served by the method indicated below to the following parties:

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<p>Courtesy Copy to: Ms. Jane Spencer Law Clerk to Judge Michael Griffin 320 W. Main Grangeville, Idaho 83530 <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery</p>	



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STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DIST.

2011 APR 29 AM 10 05

CLERK DISTRICT COURT

DEPUTY

Attorneys for R.E. Loans, LLC

IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNER

GENESIS GOLF BUILDERS, INC.,
formerly known as National Golf Builders,
Inc., a Nevada corporation,

Plaintiff,

v.

PEND OREILLE BONNER
DEVELOPMENT, LLC, a Nevada Limited
liability company; et al.,

Defendants.

Case No. CV-2009-1810

**R.E. LOANS, LLC'S MEMORANDUM IN
SUPPORT OF ITS MOTION FOR
SUMMARY JUDGMENT AGAINST
CROSS-CLAIMANT ACI NORTHWEST,
INC.**

The Honorable Michael Griffin

**AND RELATED COUNTERCLAIMS,
CROSS-CLAIMS, AND THIRD-PARTY
COMPLAINTS**

COMES NOW, Defendant/Cross-Defendant R.E. Loans, LLC ("R.E. Loans") and hereby submits this Memorandum in Support of R.E. Loans, LLC's Motion for Summary Judgment Against Cross-Claimant ACI Northwest, Inc. ("ACI").

//

I. INTRODUCTION

ACI has asserted a cross-claim against R.E. Loans alleging that ACI's interest in certain real property, by virtue of a mechanics/materialman's lien ("mechanics lien"), is senior and superior to R.E. Loans interest in the same real property which arises by virtue of R.E. Loans' mortgages. ACI makes this claim despite its release of both its statutory and inchoate rights to lien for work performed on or prior to January 31, 2008.

R.E. Loans now moves the Court for an entry of summary judgment establishing that (1) R.E. Loans' interest is senior and superior to that of ACI and (2) R.E. Loans is entitled to foreclose its mortgages for the sum of \$708,231.31.

II. UNDISPUTED FACTS

1. On June 14, 2006, Pend Oreille Bonner Development, LLC ("POBD") executed a Mortgage, Assignment of Rents, Security Agreement, and Fixture Filing in favor of R.E. Loans ("June 2006 Mortgage"). *Affidavit of Charles Reeves in Support of R.E. Loans, LLC's Motion for Summary Judgment* ("Reeves Affid.") at ¶ 4 and Exhibit B thereto, filed concurrently herewith. The June 2006 Mortgage was recorded on June 19, 2006. *Id.* The June 2006 Mortgage was secured by certain real property identified in the June 2006 Mortgage (the "Property"). *Id.*

2. The Property securing the June 2006 Mortgage is all real property comprising the Idaho Club Golf Course and real estate development location on and around Lake Pend Oreille.

3. On October 12, 2006 ACI entered into a Contract for Infrastructure Construction with POBD ("Original Contract"). Exhibit "A" to the *Declaration of Chad M. Nicholson in Support of R.E. Loans, LLC's Motion for Summary Judgment Against Cross-Claimant ACI Northwest, Inc.* ("Nicholson Decl."), filed concurrently herewith. The Original Contract was

revised on November 21, 2006. *Id.* ACI and POBD further revised their contract on May 17, 2007. *Id.*

4. ACI allegedly commenced work on the Property on December 27, 2006. Exhibit “B” to the *Nicholson Decl.* Work ended on January 31, 2008. *Id.*

5. On March 6, 2007, POBD executed a second Mortgage, Assignment of Rents, Security Agreement, and Fixture Filing in favor of R.E. Loans (“March 2007 Mortgage”). *Reeves Affid.* at ¶ 6 and Exhibit D thereto. The March 2007 Mortgage was recorded on March 15, 2007. *Id.* The March 2007 Mortgage was also secured by the Property. *Id.*

6. On April 25, 2008, ACI recorded a Claim of Lien for the work performed between December 27, 2006 and January 31, 2008 (“First Lien Claim”). Exhibit “B” to the *Nicholson Decl.* The real property liened by ACI pursuant to the First Lien Claim is subject to both the June 2006 Mortgage and the March 2007 Mortgage.

7. ACI then recorded, on August 6, 2008, a Satisfaction and Release of Lien (“Satisfaction and Release”). Exhibit “C” to the *Nicholson Decl.* The Satisfaction and Release provided that the First Lien Claim “ha[d] been fully paid and satisfied.” *Id.*

8. After acknowledging that its First Lien Claim had been fully paid and satisfied, ACI allegedly began performing new work on the Project. *Answer, Counterclaims, Cross-Claims and Third Party Complaint of Defendant ACI Northwest, Inc.* at 12-14, ¶¶ 1-12 (“*Cross-Claim*”), filed on August 9, 2010.

9. On February 9, 2010, ACI recorded a second Claim of Lien which asserted that ACI had commenced work on December 27, 2006 and ended on November 12, 2009 (“*Second Lien Claim*”). Exhibit “D” to the *Nicholson Decl.* ACI asserted that its mechanic lien under the Second Lien Claim attached to more real property than its First Lien Claim. *Compare Exhibits*

“B” and “D” to the *Nicholson Decl.* The real property liened by ACI pursuant to the Second Lien Claim is subject to the June 2006 Mortgage and the March 2007 Mortgage.

10. ACI never attempted to foreclose its First Lien Claim. On August 9, 2010, ACI initiated proceedings to foreclose its Second Lien Claim. *Cross-Claim* at 12-14.

11. R.E. Loans lent money to POBD pursuant to the June 2006 Mortgage and March 2007 Mortgage. *See generally Reeves Affid.* POBD last made a payment to R.E. Loans on November 23, 2009 which left a balance of \$278,147.65. *Reeves Affid.* at ¶ 7 and *Affidavit of Farley Dakan in Support of R.E. Loans, LLC's Motions for Summary Judgment (“Dakan Affid.”)* at ¶¶ 7-8 and Exhibits A and B thereto, filed concurrently herewith. R.E. Loans is owed a total of \$708,231.31 (unpaid principal, interest, late charges and attorneys’ fees). *Dakan Affid.* at ¶ 11 and Exhibit D thereto.

III. STANDARD OF REVIEW

A motion for summary judgment “shall be rendered forthwith if the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law.” I.R.C.P. 56(c). *See also Heath v. Idaho State Tax Commission*, 134 Idaho 407, 408, 3 P.3d 532, 533 (Ct. App. 2000). In a motion for summary judgment, the non-moving party’s case must be anchored in something more than speculation, and a mere scintilla of evidence is not enough to create a genuine issue of fact. *Pena v. Minidoka County*, 133 Idaho 222, 225, 984 P.2d 710, 713 (1999) citing *R.G. Nelson, A.I.A. v. Steer*, 118 Idaho 409, 410, 797 P.2d 117, 118 (1990); *West v. Sonke*, 132 Idaho 133, 137-138, 968 P.2d 228, 232-233 (1998) quoting *Zimmerman v. Volkswagen of Am., Inc.*, 128 Idaho 851, 854, 920 P.2d 67, 70 (1996).

The moving party is entitled to judgment when the non-moving party fails to make a sufficient showing as to the essential elements to which that party will bear the burden of proof

at trial. *Smith v. Meridian Joint School District No. 2*, 128 Idaho 714, 719, 918 P.2d 583, 588 (1996); *Dekker v. Magic Valley Regional Medical Center*, 115 Idaho 332, 333, 766 P.2d 1213, 1214 (1988). The non-moving party “must respond to the summary judgment motion with specific facts showing there is a genuine issue for trial.” *Tuttle v. Sudenga Indus., Inc.*, 125 Idaho 145, 150, 868 P.2d 473, 478 (1994) (citations omitted). The trial court is to consider only that material contained in affidavits and depositions which is based on personal knowledge and which would be admissible at trial. *Harris v. State, Dep’t of Health & Welfare*, 123 Idaho 295, 298, 847 P.2d 1156, 1159 (1992) (citations omitted).

IV. ARGUMENT

R.E. Loans holds mortgages. ACI asserts a mechanics lien. As such, priority between R.E. Loans and ACI is determined by reference to Idaho Code § 45-506. *Credit Suisse AG v. Teufel Nursery, Inc.*, 2014 WL 1053324 *9 (Idaho 2014).

A. R.E. Loans has priority by way of the June 2006 Mortgage, recorded June 19, 2006.

It is axiomatic that a mortgage recorded prior to the time a mechanic’s lien attaches has priority over such mechanic’s lien. *Finlayson v. Waller*, 64 Idaho 618, 134 P.2d 1069, 1071-72 (1943). As a general rule, a mechanic’s lien attaches when the lien claimant begins work on site, either by commencing construction or delivering materials. *Pacific States Sav., Loan & Building Co. v. Dubois*, 11 Idaho 319, 83 P. 513 (1905); *Ultrawall, Inc. v. Washington Mut. Bank, FSB*, 135 Idaho 832, 25 P.3d 855 (2001).

R.E. Loans’ June 2006 Mortgage was recorded on June 19, 2006. Exhibit B to the *Reeves Affid.* ACI admits that that it did not begin work until after June 19, 2006. *Cross-claim* at pp. 12-14 and Exhibits B and D to the *Nicholson Decl.* R.E. Loans’ June 2006 Mortgage has priority over ACI’s Second Lien Claim since the June 2006 Mortgage was recorded prior to the

attachment of the Second Lien Claim. R.E. Loans is thus entitled to summary judgment establishing that its interest under the June 2006 Mortgage is senior and superior to that of ACI.

B. R.E. Loans has priority by way of the March 2007 Mortgage, recorded March 15, 2007.

The June 2006 Mortgage notwithstanding, R.E. Loans' interest is senior and superior to ACI's Second Lien Claim based upon the March 2007 Mortgage. ACI's Satisfaction and Release extinguished ACI's inchoate and statutory lien rights to work performed on or before January 31, 2008. As such, the priority of ACI's Second Lien Claim cannot be based on any work performed on or before January 31, 2008. Since the March 2007 Mortgage was recorded prior to work performed on or after February 1, 2008, R.E. Loans' interest under the March 2007 Mortgage is senior and superior to that of ACI.

This case presents the Court with an issue that has not been addressed by Idaho Courts: the effect of a full release and satisfaction on the priority date of a mechanic's lien where work is performed before and after the full release and satisfaction is executed and recorded. The courts of California have addressed this issue. It has been long held by Idaho courts that because Idaho's mechanic's lien statutes were extensively copied from and based on the mechanic's lien law of California, case law from California on mechanic's lien issues is persuasive authority. *Evco Sound & Electronics, Inc. v. Seaboard Sur. Co.*, 148 Idaho 357, 366, 223 P.3d 740, 749 (2009); *Pacific States Sav., Loan & Building, Co. v. Dubois*, 11 Idaho 319, 83 P.513 (1905); *Brown v. Hawkins*, 66 Idaho 351, 358, 158 P.2d 840, 843 (1945).

In *Santa Clara Land Title Co. v. Nowack & Associates, Inc.*, the California Court of Appeals addressed a strikingly similar set of facts. 226 Cal.App.3d 1558 (1991). In that case, the principal issue was whether execution of a release of a claim of lien extinguished the underlying/inchoate right to a lien thereby precluding subsequent claims of lien based upon the same work or materials. The lien claimant, Nowack and Associates, Inc. ("Nowack")

commenced work on the property in 1979, recorded a lien in 1980 and was then paid in full in 1981. *Id.* at 1561-1562. In September, 1983 Nowack agreed to continue its services. *Id.* at 1562. After the owner failed to pay, Nowack recorded a second mechanics' lien on December 5, 1983 ("Dec. '83 Lien"). *Id.* The owner then executed a promissory note for the then outstanding amount due and Nowack continued work. *Id.*

In 1984 World Savings and Loan Association ("World Savings") made a construction loan to the property owner which was secured with a deed of trust on the property. *Id.* At the time this deed of trust was recorded, the owner paid off the promissory note to Nowack and Nowack executed a "Release of Lien". *Id.* The Release of Lien stated "[t]hat certain mechanics' notice and claim of lien recorded December 5, 1983 ... is hereby fully satisfied, released, and discharged." *Id.* (ellipsis in original). Nowack continued working and recorded a third mechanics' lien on October 3, 1985 ("Oct. '85 Lien"). *Id.* at 1563. Thereafter, Nowack filed an action to foreclose the Oct. '85 Lien and obtained in June, 1988 a judgment to foreclose. *Id.* In the meantime, the property owner/borrower defaulted on the World Savings loan and World Savings obtained a trustee's deed. *Id.* World Savings conveyed the property to Santa Clara Land Title Company ("Santa Clara"). *Id.* In a quiet title action commenced by Santa Clara, Nowack claimed that the Oct. '85 Lien had *not* been foreclosed by the World Savings foreclosure sale because the priority date of the Oct. '85 Lien related back to 1979. *Id.* at 1563 & 1566.

In rejecting Nowack's argument, the *Santa Clara* court first noted the general rule that mechanics' liens relate back to the date the first work commences. *Id.* at 1567. However, the court recognized that Nowack's Release of Lien stated the Dec. '83 Lien was "fully satisfied, released and discharged[.]" *Id.* at 1566. The court then held that "nothing in the statutory scheme or case law prevented the release executed by Nowack from effectively extinguishing

both its ... [Dec. '83 Lien] ... *and the inchoate constitutional mechanics' lien right upon which such claim [of lien] was based[.]*" *Id.* at 1569 (emphasis added). As such, World Saving's deed of trust had priority over Nowack's Oct. '85 Lien and that lien was foreclosed in the World Savings sale. *Id.*

In this case, the Satisfaction and Release recorded on April 25, 2008 by ACI expressly and unequivocally states that ACI's First Lien Claim had "been fully paid and satisfied." Like the release examined by the *Santa Clara* court, the Satisfaction and Release "gives no hint that it was *not* intended to release the underlying inchoate lien right." *Id.* at 1566 (emphasis added). The express and unambiguous language of the Satisfaction and Release extinguished not only ACI's First Lien Claim, it also extinguished ACI's inchoate lien right on which the First Lien Claim was based. Thus, ACI no longer has any claim of, or inchoate right to, a lien for work performed prior to or on January 31, 2008. As no claim of, or inchoate right to, a lien exists for work on or before January 31, 2008, the earliest date ACI's Second Lien Claim could relate back to is February 1, 2008.¹ A lien's priority simply cannot tack on to work for which no inchoate lien right exists.

R.E. Loans March 2007 Mortgage was recorded on March 15, 2007 – prior to the earliest possible date (February 1, 2008) on which ACI could have developed an inchoate lien right against the Property. Therefore, pursuant to Idaho Code § 45-506, R.E. Loans' March 2007 Mortgage is senior and superior to that of ACI.

C. R.E. Loans is entitled to foreclose its liens against the Property for sum of \$708,231.31.

It is undisputed that POBD failed to repay to R.E. Loans principal in the amount of \$278,147.65. *Reeves Affid.* at ¶ 7 and *Dakan Affid.* at ¶ 10. Likewise, it is undisputed that

¹ R.E. Loans is not conceding that ACI performed work as early as February 1, 2008. R.E. Loans merely recognizes that February 1, 2008 is this earliest possible date ACI's mechanics' lien could attach given the First Lien Claim and the Satisfaction and Release.


interest in the amount of \$322,335.34 accrued between December 1, 2009 and September 1, 2013, late charges of \$15,019.97 have accrued, and that R.E. Loans has incurred attorneys' fees of \$92,728.35. *Dakan Affid.* at ¶ 11. POBD is not entitled to any credits or offsets. Thus, R.E. Loans is entitled to foreclose its mortgages against the Property for the sum of \$708,231.31.

V. CONCLUSION

Based upon the foregoing, R.E. Loans, LLC respectfully requests that the Court enter summary judgment establishing that R.E. Loans, LLC interest (via both the June 2006 Mortgage and the March 2007 Mortgage) in the subject property has priority over any interest claimed by ACI Northwest, Inc. and that R.E. Loans, LLC is entitled to foreclose its mortgages against the Property for the sum of \$708,231.31.

DATED this 25th day of April 2014.

MELLEMAN MOLLERUP LLP

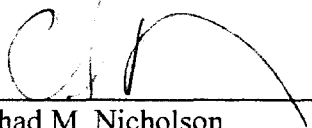


By: Chad M. Nicholson
Attorneys for R.E. Loans, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of April 2014, a true and correct copy of the foregoing document was served by the method indicated below to the following parties:

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Courtesy Copy to: Ms. Jane Spencer Law Clerk to Judge Michael Griffin 320 W. Main Grangeville, Idaho 83530 <input checked="" type="checkbox"/> Mail <input type="checkbox"/> Fax <input type="checkbox"/> Overnight <input type="checkbox"/> Hand Delivery	



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