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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

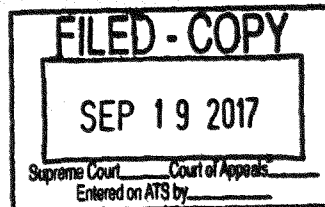
CLERK'S RECORD ON APPEAL

*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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44583

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**RESPONSE TO REQUEST FOR
PRODUCTION
NO. 24**

MICHAEL C. STEWART
Attorney at Law
513 North Fourth Avenue
Sandpoint, Idaho 83864
Phone (208) 263-5664

BILL OF SALE
and
WARRANTY AND INDEMNIFICATION

KNOW ALL PERSONS by these presents, that for value received, JV L.L.C., an Idaho limited liability company, (transferor) of P.O. Box B, Sandpoint, Idaho 83864, does hereby sell, transfer and convey unto V.P., INC., an Idaho corporation, (transferee) of 218 Cedar Street, Sandpoint, Idaho 83864, all right, title and interest in and to the following described property:

All tangible and intangible personal property in connection with that water system that provides water service to the Hidden Lakes Golf Course in Bonner County, Idaho, and to the adjacent subdivisions known as Hidden Lakes and the First and Second Additions to Hidden Lakes, according to the plat thereof, recorded in Bonner County, Idaho. Property transferred by this instrument shall include, but not necessarily be limited to the following:

1. All installations of wells, pipe, tanks, valves, and all other equipment used in conjunction with the system,
2. Assignment of Idaho PWS #1090195.
3. All existing contracts and agreements with the Users of the system.
4. This transfer and conveyance and shall also include all of transferor's right, title and interest in and to those easements relating to the operation of said water system including but not limited to those set forth on the plats of Hidden Lakes, and Hidden Lakes First and Second Additions, Bonner County, Idaho.
5. The transferor is entitled to collect all water hook up fees on existing platted lots and land owned by Sun Mountain, Inc. situated Northwesterly of Lower Pack River Road.
6. Transferee acknowledges its understanding of, and agrees to assume all terms and conditions of the existing

agreement with Blaine Stevens concerning the water well. Transferee is also aware that a second well be required when more than 25 users are hooked into the system.

The transferor warrants and represents to transferee that it has the power and authority to transfer to transferee the property described above, and that this transfer is free from liens or encumbrances.

The transferor warrants that the above property is in good working condition.

Transferees shall keep said water system in good working order in compliance with all laws and regulations, and that transferee shall indemnify and hold transferor harmless from any and all claims arising from transferee's negligent operation of the system subsequent to the date transferee takes possession.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands on this 20th day of October, 1995, at Sandpoint, Idaho.

JV L.L.C.

BY: Hidden Lakes Limited Partnership, Member

William A. Berry
By: WILLIAM A. BERRY, General Partner

James Berry
By: JAMES BERRY, General Partner

BY: Sun Mountain, Inc., Member

William A. Berry
By: William A. Berry, President

James Berry
By: James Berry, Secretary

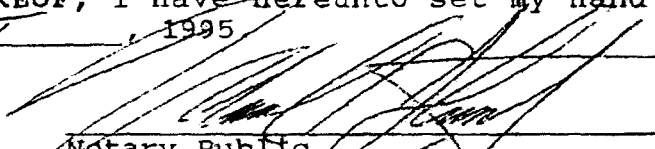
V.P., INC.

Barbara Huguenin
BY: BARBARA HUGUENIN, President

STATE OF IDAHO)
) ss.
County of Bonner)

On this day personally appeared before me, the undersigned Notary Public, WILLIAM A. BERRY and JAMES BERRY, known to me to be the general partners in the partnership of HIDDEN LAKES LIMITED PARTNERSHIP, an Idaho limited partnership, and the general partners who subscribed said partnership name to the foregoing instrument, and said limited partnership is known to me to be a member of JV L.C.C., an Idaho limited liability company, and said persons acknowledged to me that said limited partnership executed the same in said limited liability company name.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20 day of Oct, 1995

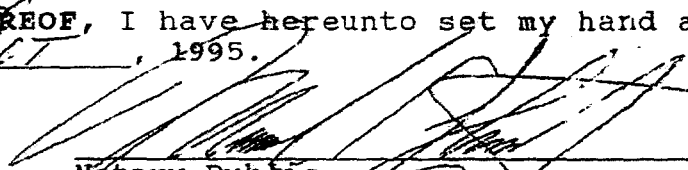


Notary Public
Residing at: SANDPOINT
Comm. Exp.: 1/5/2000

STATE OF IDAHO)
) ss.
County of Bonner)

On this day personally appeared before me, the undersigned Notary Public, WILLIAM A. BERRY and JAMES BERRY, known to me to be the President and Secretary, respectively, of Sun Mountain, Inc., an Idaho corporation, the corporation that executed the within instrument and acknowledged to me that such corporation executed the same, and corporation is known to me to be a member of JV L.C.C., an Idaho limited liability company, and said persons acknowledged to me that said corporation executed the same in said limited liability company name.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20 day of Oct, 1995.

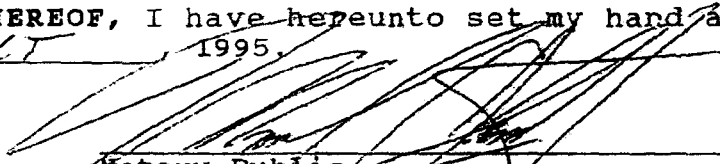


Notary Public
Residing at: SANDPOINT
Comm. Exp.: 1/5/2000

STATE OF IDAHO)
) ss.
County of Bonner)

On this day personally appeared before me, the undersigned Notary Public, BARBARA HUGUENIN, known to me to be the President of V.P., INC., an Idaho corporation, the corporation that executed the within instrument and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 20 day of OCT 1995.



Notary Public
Residing at: SAVONNI
Comm. Exp.: 7/8/2000

AGREEMENT TO RELEASE RIGHT OF FIRST REFUSAL UPON PAYMENT,
AGREEMENT FOR PAYMENT ON PROFIT SHARING AGREEMENT AND TO
RELEASE UPON PAYMENT,
AND
MODIFICATIONS TO PROMISSORY NOTE AND REAL ESTATE MORTGAGE

Parties:

- I. Property Owner:
V.P. Inc., an Idaho Corporation,
referred to as VP

- II. J.V. LLC, an Idaho Limited Liability Company,
referred to as JV, who is the:
 - 1. First Lien Mortgage holder,
 - 2. First Right of Refusal holder, and
 - 3. Profit Sharing holder.

III. Real Estate: Approximately 640 acres, referred to as Moose Mountain, for and in consideration of the terms and conditions herein set forth, the above parties agree, as follows:

- 1. JV sold Moose Mountain to VP.
- 2. The Real Estate referred to herein as Moose Mountain is legally described in a first lien purchase money Mortgage from VP, mortgagor, to JV, mortgagee, which is recorded October 24, 1995 as Instrument No. 474746 records of Bonner County, with a first lien against the Real Estate described in said Mortgage with a priority date of October 24, 1995.
- 3. Notwithstanding any provision of this Agreement, or any other agreement, the lien of JV's Mortgage and the increased amount of said Mortgage as hereinafter modified and provided for in this Agreement shall remain a first priority lien mortgage, with a priority of October 24, 1995.
- 4. The aforesaid Mortgage is security for payment from VP to JV on an existing purchase money Secured Promissory Note, dated October 20, 1995 in the original sum of \$2,264,500.00 from VP as maker payable to JV as payee and holder. The unpaid principal amount still due on said Unsecured Promissory Note as of the last payment is \$1,840,000.00.
- 5. When JV sold Moose Mountain to VP, JV retained and received a first priority Right of First Refusal to

Purchase Real Property, i.e. to purchase Moose Mountain, which was recorded October 24, 1995 as Instrument No. 474747, as a preemptive first right, records of Bonner County, Idaho and JV also retained and received a Profit Sharing Agreement to receive profit on Moose Mountain, recorded October 25, 1995 as Instrument No. 474750 records of Bonner County, Idaho.

6. JV agrees to sell and release its aforesaid Right of First Refusal and its Profit Sharing Agreement to VP in exchange for payment to JV from VP in the sum of \$1,000,000.00 (One Million Dollars & 00/100) on the terms and conditions set forth hereafter.

7. The \$1,000,000.00 shall be added to the unpaid balance on the purchase money Promissory Note and the Mortgage referred to herein above so that the unpaid principal shall increase effective upon signing this agreement from \$1,840,000.00 to \$2,840,000.00, with the terms of payment on said indebtedness and security to be paid as follows:

a) Commencing March 1, 2005, payments of \$12,000.00 per month shall be made through September 1, 2005, which is for 7 monthly payments at \$12,000.00 each, for a total of \$84,000.00. This would reduce the unpaid principal to (\$2,840,000.00 - \$84,000.00) to a sum of \$2,756,000.00. Upon payment of the aforesaid sums, the September 1, 2005 unpaid principal in the sum of \$2,756,000.00 shall commence bearing interest at ten percent (10%) per anum computed on the unpaid balance. The unpaid balance of \$2,756,000.00 together with the interest shall be paid in equal monthly payments of principal and interest over the next five (5) years, with the first payment being due October 1, 2005, which monthly payments would be (\$2,124.71 per \$100,000.00) in the monthly sum of (\$2,124.71 x 27.56) \$59,190.89, or more per month, with a maturity date of October 1, 2010. Prepayment may be made without penalty.

8. The increased amount of said Unsecured Promissory Note to \$2,756,000.00 shall continue to be secured by the first priority Mortgage, Instrument No. 474746, with a priority date of October 24, 1994.

9. Except as setforth above, all provisions of the Unsecured Promissory Note and said Mortgage shall remain in full force and affect, except the release provision of the Mortgage shall increase to \$4,500.00 per acre in additional payments of principal. In clarification, payments that

have been made or to be made on the Unsecured Promissory Note do not apply to the Releases.

10. VP has executed Real Property Purchase and Sale Agreement to MDG Nevada, Inc. ("MDGN") which includes the sale of the Moose Mountain real estate along with various other real property. The \$1,000,000.00 payable to JV for its Right of First Refusal and for its Profit Sharing Agreement is so that VP may sell to MDGN free and clear of these rights of JV. However, the \$1,000,000.00 is payable to JV and added to the Unsecured Promissory Note and Mortgage if either the VP sale to MDGN is closed or VP elects to pay the \$1,000,000.00 whether or not the sale to MDGN closes. Further, the commencement of VP paying JV the \$12,000.00 per month from March 1, 2005 is conditional upon MDGN's release and payment of \$250,000.00 earnest money to VP, which is to occur on or about February 10, 2005. In any event, any payments paid by VP to JV on the indebtedness to JV shall apply thereto.

11. At such time as the \$1,000,000.00 is irrevocable added to the Unsecured Promissory Note and the Mortgage, or said \$1,000,000.00 is paid in cash to JV for said purposes, then the releases and discharges of the JV's Right of First Refusal and of JV's Profit Sharing Agreement in the form of EXHIBIT D (Release of Right of First Refusal) and EXHIBIT E (Release of Profit Sharing) may be recorded by the Closing Agent (Escrow), Sandpoint Title Insurance Company, who shall hold them in executed form pursuant to this Agreement. These may ONLY be recorded by Sandpoint Title Insurance Company in exchange for payment of \$1,000,000.00 in cash to JV or in exchange for VP's written election to add \$1,000,000.00 to the Unsecured Promissory Note and the Mortgage and a Modification of Said Promissory Note is executed by VP and a Modification of said Mortgage is executed by VP and recorded by the Closing Agent (Escrow), Sandpoint Title Insurance Company, simultaneously with recording of said Releases.

12. Notwithstanding any other provisions of this Agreement, if MDGN closes its purchase from VP for the \$16,000,000.00 stated in the Contract, then at closing the entire \$1,000,000.00 for release of the Right of First Refusal and for the release of the Profit Sharing Agreement and the entire unpaid balance of the Secured Promissory Note shall be paid to JV in cash at closing by the Closing Agent (Escrow). If the amount MDGN pays at closing is less than \$16,000,000.00, then twenty percent (20%) of the amount MDGN pays at closing shall be paid to JV up to payment of the entire amounts owed JV; provided however, in

no event shall the sum VP pays to JV on said closing be less than \$1,000,000.00 paid toward the entire amount VP owes JV. At the same time as the \$1,000,000.00 is paid on the entire indebtedness due JV, then the remaining unpaid principal balance shall be re-amortized for VP to pay equal monthly payments, of principal and interest at ten percent (10%), on the then remaining balance for the then unpaid term until September 1, 2010.

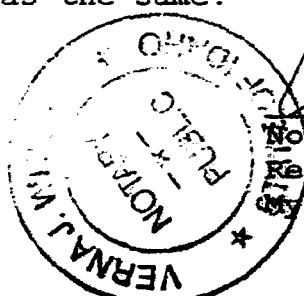
IN WITNESS HERETO,

Executed For: V.P. Inc., (VP) an Idaho Corporation

Richard A. Villelli
By: Richard A. Villelli, President
Date: February 7, 2005

STATE OF IDAHO)
 : ss.
COUNTY OF BONNER)

On this 7th day of Feb, 2005, before me the undersigned Notary Public, personally appeared, RICHARD A. VILLELLI, and proved to me on the basis of satisfactory evidence, to be the President of the corporation that executed the instrument or the person who executed the instrument on behalf of the corporation and acknowledged to me that such corporation executed as the same.



[Signature]
Notary Public-State of Idaho
Residing at: Sandpoint, ID
Commission Expires: 4/1/2010

Executed For: J.V. LLC, (JV) an Idaho Limited Liability Company
By: Hidden Lakes, Limited Partnership, member

William A. Berry
By: William A. Berry, General Partner
Date: 2-7-05

James W. Berry
By: James W. Berry, General Partner
Date: 2/7/05

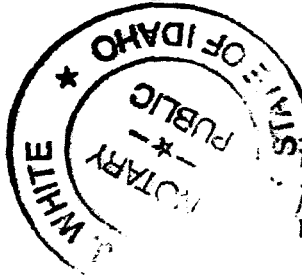
By: Sun Mountain, Inc., a corporation, member

William A. Berry
By: William A. Berry, President
Date: 2-7-05

James W. Berry
By: James W. Berry, Secretary
Date: 2/7/05

STATE OF IDAHO)
): ss.
COUNTY OF BONNER)

On this 7th day of Feb, 2005, before me, the undersigned Notary Public, personally appeared, WILLIAM A. BERRY and JAMES W. BERRY, known to me or proved to me on the basis of satisfactory evidence, to be the MANAGERS, PARTNERS, and OFFICERS who subscribed said J.V. LLC name to the foregoing instrument, and acknowledged to me that they executed the same in said name of J.V. LLC, by its members, the partnership & corporation.



William A. Berry
Notary Public-State of Idaho
Residing at: London, ID
My Commission Expires: 4/1/10

JV L.L.C.'S DOCUMENTS AND EXHIBITS

- A. R.E. Loan's Satisfaction of Mortgage recorded June 8, 2007, Instrument No. 730445
- B. Purchase Money Promissory Note and a Mortgage on Moose Mountain, recorded October 24, 1995, Instrument No. 474746
- C. Mortgage to RE Loans, recorded March 24, 2004, Instrument No. 646455
- D. Seller's Closing Statement
- E. Charles Reeves, Manager of POBD Deposition of August 19, 2013
- F. Third Amendment to Indebtedness and to Real Estate Security and Subordination Agreement recorded June 24, 2008, as Instrument No. 753907
- G. Borrower's Settlement Statement, dated July 31, 2008
- H. Borrower's Final Settlement Statement, dated July 31, 2008
- I. Tax Deed to Bonner County, recorded May 22, 2014, Instrument No. 859659
- J. Bonner County Tax Collector Cheryl Piehl & Valiant Redemption Communication
- K. Wire Operations Advice of Credit
- L. JV Notice of Redemption
- M. JV Redemption Deed, recorded July 7, 2014 as Instrument No. 861430
- N. Valiant Idaho Redemption Deed, recorded July 8, 2014 as Instrument No. 861460
- O. Buyer/Borrower Statement (POBD/NIR), dated June 13, 2008
- P. Bar-K 8-28-07 Spreadsheet
- Q. Satisfaction of Mortgage Security Agreement and Fixture Filing, recorded August 6, 2008 as Instrument No. 756408
- R. October 5, 2009 Letter to Adjusters International
- S. Photocopy of Greenspan Adjusters International, Inc. Check No. 1238
- T. Kathy Groenhout November 2, 2009 e-mail
- U. Kathy Groenhout October 27, 2009 e-mail

Susan P. Weeks, ISB No. 4255
JAMES, VERNON & WEEKS, PA
1626 Lincoln Way
Coeur d'Alene, Idaho 83814
Telephone: (208) 667-0683
Facsimile: (208) 664-1684
sweeks@jvwlaw.net

Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

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; et al.,

Defendants.

Case No. CV-2009-01810

DEFENDANT NORTH IDAHO RESORTS,
LLC'S ANSWERS TO
INTERROGATORIES [13-23] and
REQUEST FOR PRODUCTION [7-20]
PROPOUNDED BY VALIANT IDAHO,
LLC

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN

COMES NOW Defendant, North Idaho Resorts, LLC, by and through its attorney of record, Susan P. Weeks, of the Firm James, Vernon & Weeks, P.A. and hereby responds to Valiant Idaho, LLC's Interrogatories [13-23] and Requests for Production [7-20] as follows:

INTERROGATORIES AND REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO.7: Admit that the real property described in the RE Loans Legal Description Exhibit is real property encumbered by the RE Loans Mortgage, the Pensco Mortgage, the MF08 Mortgage and/or the Redemption Deed.

DEFENDANT NORTH IDAHO RESORTS, LLC'S ANSWERS TO INTERROGATORIES
[13-23] and REQUEST FOR PRODUCTION [7-20] PROPOUNDED BY VALIANT
IDAHO, LLC: 1

4154

EXHIBIT J

RESPONSE: Deny. Assuming the "redemption deed" references the deed from Bonner County to Valiant, upon information and belief, the redemption deed covered less property than the R.E. Loans mortgage as it is the understanding of Defendant that there were two redemption deeds issued by Bonner County. Regarding the Pensco Mortgage and the MF08 Mortgage, a previous affidavit of Barney Ng submitted in the MF 08 bankruptcy indicated that the legal descriptions did not encumber the same properties. Further, the answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter.

INTERROGATORY NO. 13: To the extent you denied Request for Admission ("Request") No. 7, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the RE Loans Mortgage;

b. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the Pensco Mortgage;

c. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the MF08 Mortgage;

d. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the Redemption Deed;

e. Identify any real property which you contend is encumbered by one or more of the Valiant Encumbrances but omitted from the RE Loans Legal Description Exhibit;

f. Identify any defect(s) that you believe exists in the legal description set forth on the RE Loans Legal Description Exhibit;

g. Identify, by legal description if possible, any real property that you identified in your answer to Interrogatory No. 13[a.-e.]; and

h. Identify all documents which you contend support your denial of Request No. 7 and your answer to Interrogatory No. 13[a.-f.].

ANSWER: See response to Request for Admission No. 7.

REQUEST FOR ADMISSION NO. 8: Admit that the 186 lots/parcels separately described on the Lot/Parcel Legal Descriptions Exhibit comprise the same real property that is described in the RE Loans Legal Description Exhibit.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 14: To the extent you denied Request No. 8, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify all differences and discrepancies between the real property described in the Lot/Parcel Legal Descriptions Exhibit and the real property described in the RE Loans Legal Description Exhibit;

b. Identify any lot/parcel identified on the Lot/Parcel Legal Descriptions Exhibit that is not also included in the legal description in the RE Loans Legal Description Exhibit;

c. Identify any real property that is part of the legal description in the RE Loans Legal Description Exhibit but is not identified as all or a portion of a parcel in the Lot/Parcel Legal Descriptions Exhibit;

d. Identify, by legal description if possible, any real property that you identified in your answer to Interrogatory No. 14[b.-c.];

e. Identify any known parcel that is included within the legal description on the RE Loans Legal Description Exhibit but is not identified as a distinct parcel on the Lot/Parcel Legal Descriptions Exhibit;

f. Identify any parcel identified in Lot/Parcel Legal Descriptions Exhibit that is not included within the legal description in the RE Loans Legal Description Exhibit;

g. Identify any parcel identified on the Lot/Parcel Legal Descriptions Exhibit which you contend is described incorrectly on said Exhibit; and

h. Identify all documents which you contend support your denial of Request No. 8 and your answer to Interrogatory No. 14[a.-g.].

ANSWER: See response to request for admission No. 8.

REQUEST FOR ADMISSION NO. 9: Admit that all of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the RE Loans Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 15: To the extent you denied Request No. 9, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

- a. Identify each lot/parcel by its parcel number, as set forth on the Lot/Parcel Legal Descriptions Exhibit, which you contend is not encumbered by the RE Loans Mortgage; and
- b. Identify all documents which you contend support your denial of said Request and your answer to Interrogatory No. 15.

ANSWER: See response to request for admission No. 9.

REQUEST FOR ADMISSION NO. 10: Admit that all of the real property described on the RE Loans Legal Description Exhibit is encumbered by the RE Loans Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the

answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 16: To the extent you denied Request No. 10, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify any real property described on the RE Loans Legal Description Exhibit which you contend is not encumbered by the one or more of the parcels identified on the Lot/Parcel Legal Descriptions Exhibit;

b. Identify the legal description of all real property identified in your answer to Interrogatory No. 16[a.]; and

c. Identify all documents which you contend support your denial of Request No. 10 and your answer to Interrogatory No. 16.

ANSWER: See response to Request for Admission No. 10.

REQUEST FOR ADMISSION NO. 11: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are not encumbered by the Pensco Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has

requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

REQUEST FOR ADMISSION NO. 12: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the Pensco Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 17: Identify each parcel on the Lot/Parcel Legal Descriptions Exhibit that you acknowledge is encumbered by the Pensco Mortgage.

ANSWER: See response to Request for Admission No. 12.

REQUEST FOR ADMISSION NO. 13: Admit that the Pensco Mortgage encumbers all of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit, except for the following:

Parcel 1	Parcel 101
Parcel 14	Parcel 102
Parcel 15	Parcel 103
Parcel 16	Parcel 104
Parcel 32	Parcel 105
Parcel 33	Parcel 106
Parcel 37	Parcel 107
Parcel 38	Parcel 109
Parcel 39	Parcel 112
Parcel 40	Parcel 122
Parcel 59	Parcel 132
Parcel 62	Parcel 133
Parcel 67	Parcel 141

Parcel 82
Parcel 83
Parcel 84
Parcel 85
Parcel 91

Parcel 142
Parcel 143
Parcel 164
Parcel 168
Parcel 169
Parcel 170

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 18: To the extent you denied Request No. 13, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

- a. Identify each lot/parcel by its parcel number, as set forth on the Lot/Parcel Legal Descriptions Exhibit, which you contend is not encumbered by the Pensco Mortgage; and
- b. Identify all documents which you contend support your denial of Request No. 13 and your answer to Interrogatory No. 18.

ANSWER: See response to Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14: Admit that the Pensco Legal Description Exhibit identifies all real property encumbered by the Pensco Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable

Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 19: To the extent you denied Request No. 14, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify all real property that is encumbered by the Pensco Mortgage but not identified on the Pensco Legal Description Exhibit;

b. Identify all real property identified on the Pensco Legal Description Exhibit that is not encumbered by the Pensco Mortgage;

c. Identify the legal description of all real property identified in your answer to Interrogatory No. 19[a.-b.]; and

d. Identify all documents which you contend support your denial of Request No. 14 and your answer to Interrogatory No. 19.

ANSWER: See response to Request for Admission No. 15.

REQUEST FOR ADMISSION NO. 15: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are not encumbered by the MF08 Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable

Defendant to admit the matter. The mortgage is a metes and bounds description and the
DEFENDANT NORTH IDAHO RESORTS, LLC'S ANSWERS TO INTERROGATORIES
[13-23] and REQUEST FOR PRODUCTION [7-20] PROPOUNDED BY VALIANT
IDAHO, LLC: 9

answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

REQUEST FOR ADMISSION NO. 16: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the MF08 Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 20: Identify each parcel on the Lot/Parcel Legal Descriptions Exhibit that you acknowledge is encumbered by the MF08 Mortgage.

ANSWER: See response to Request for Admission No. 16.

REQUEST FOR ADMISSION NO. 17: Admit that the MF08 Mortgage encumbers all of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit, except for the following:

Parcel 1	Parcel 105
Parcel 14	Parcel 106
Parcel 15	Parcel 107
Parcel 16	Parcel 109
Parcel 59	Parcel 112
Parcel 62	Parcel 122
Parcel 67	Parcel 132
Parcel 82	Parcel 133
Parcel 83	Parcel 141
Parcel 84	Parcel 142

Parcel 85	Parcel 143
Parcel 91	Parcel 164
Parcel 101	Parcel 168
Parcel 102	Parcel 169
Parcel 103	Parcel 170
Parcel 104	

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 21: To the extent you denied Request No. 17, identify all facts and information upon which you base your denial of said Request(s), including, but not limited to, the following:

- a. Identify each lot/parcel by its parcel number, as set forth on the Lot/Parcel Legal Descriptions Exhibit, which you contend is not encumbered by the MF08 Mortgage; and
- b. Identify all documents which you contend support your denial of said Request and your answer to Interrogatory No. 21.

ANSWER: See response to Request for Admission No. 17.

REQUEST FOR ADMISSION NO. 18: Admit that the MF08 Legal Description Exhibit identifies all real property encumbered by the MF08 Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable

Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 22: To the extent you denied Request No. 18, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify all real property that is encumbered by the MF08 Mortgage but not identified on the MF08 Legal Description Exhibit;

b. Identify all real property identified on the MF08 Legal Description Exhibit that is not encumbered by the MF08 Mortgage;

c. Identify the legal description of all real property identified in your response to Interrogatory No. 22[a.-b.]; and

d. Identify all documents which you contend support your denial of Request No. 18 and your answer to Interrogatory No. 22.

ANSWER: See response to Request for Admission No. 18.

REQUEST FOR ADMISSION NO. 19: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are not encumbered by the Redemption Deed.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable

Defendant to admit the matter. The mortgage is a metes and bounds description and the

answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

REQUEST FOR ADMISSION NO. 20: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the Redemption Deed.

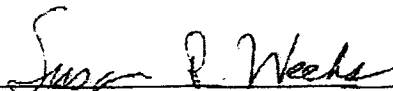
RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 23: Identify each parcel on the Lot/Parcel Legal Descriptions Exhibit that you acknowledge is encumbered by the Redemption Deed.

ANSWER: See response to Request for Admission No. 10.

DATED this 12th day of ~~September~~ ^{November}, 2015.

JAMES, VERNON & WEEKS, P.A.

By 
Susan P. Weeks

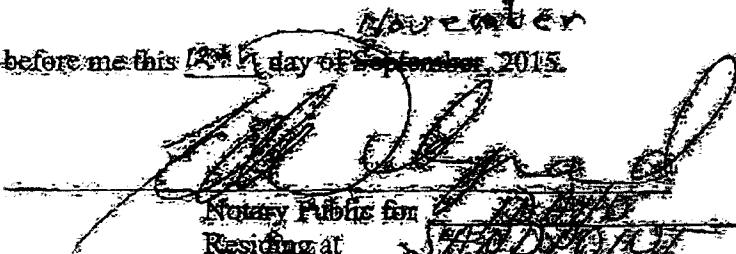
VERIFICATION

Richard Vilelli, being first duly sworn upon oath, deposes and says that I am familiar with the foregoing Defendant North Idaho Resorts, LLC's Answers to Valiant Films, LLC's First Set of Interrogatories and have personal knowledge of the matters set forth therein and believe the same to be true and correct upon my own personal knowledge and belief.


Richard Vilelli

SUBSCRIBED AND SWORN TO before me this 13th day of November, 2015.




Notary Public for _____
Residing at 5750 Duffin Ct
Commission Expires: 11/30/15

DEFENDANT NORTH IDAHO RESORTS, LLC'S ANSWERS TO INTERROGATORIES [13-20] and REQUEST FOR PRODUCTION [7-20] PROPOUNDED BY VALLANT IDAHO, LLC: 13

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 12th day of November, 2015:

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile: 208-263-8211

Gary A. Finney
FINNEY FINEY & FINNEY, PA
120 E Lake St., Ste. 317
Sandpoint, ID 83864

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile: 208-489-0110

Richard Stacey
Jeff Sykes
McConnell Wagner Sykes & Stacey, PLLC
755 West Front St., Ste. 200
Boise, ID 83702

Christine Clouse

Susan P. Weeks, ISB No. 4255
JAMES, VERNON & WEEKS, PA
1626 Lincoln Way
Coeur d'Alene, Idaho 83814
Telephone: (208) 667-0683
Facsimile: (208) 664-1684
sweeks@jvwlaw.net

Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

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; et al.,

Defendants.

Case No. CV-2009-01810

DEFENDANT VP INC.'S ANSWERS TO
INTERROGATORIES [13-23] and
REQUEST FOR PRODUCTION [7-20]
PROPOUNDED BY VALIANT IDAHO,
LLC

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN

COMES NOW Defendant, North Idaho Resorts, LLC, by and through its attorney of record, Susan P. Weeks, of the Firm James, Vernon & Weeks, P.A. and hereby responds to Valiant Idaho, LLC's Interrogatories [13-23] and Requests for Production [7-20] as follows:

INTERROGATORIES AND REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO.7: Admit that the real property described in the RE Loans Legal Description Exhibit is real property encumbered by the RE Loans Mortgage, the Pensco Mortgage, the MF08 Mortgage and/or the Redemption Deed.

EXHIBIT K

RESPONSE: Deny. Assuming the "redemption deed" references the deed from Bonner County to Valiant, upon information and belief, the redemption deed covered less property than the R.E. Loans mortgage as it is the understanding of Defendant that there were two redemption deeds issued by Bonner Count. Regarding the Pensco Mortgage and the MF08 Mortgage, a previous affidavit of Barney Ng submitted in the MF 08 bankruptcy indicated that the legal descriptions did not encumber the same properties. Further, the answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter.

INTERROGATORY NO. 13: To the extent you denied Request for Admission ("Request") No. 7, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the RE Loans Mortgage;

b. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the Pensco Mortgage;

c. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the MF08 Mortgage;

d. Identify any real property described within the RE Loans Legal Description Exhibit which you contend is not encumbered by the Redemption Deed;

e. Identify any real property which you contend is encumbered by one or more of the Valiant Encumbrances but omitted from the RE Loans Legal Description Exhibit;

f. Identify any defect(s) that you believe exists in the legal description set forth on the RE Loans Legal Description Exhibit;

g. Identify, by legal description if possible, any real property that you identified in your answer to Interrogatory No. 13[a.-e.]; and

h. Identify all documents which you contend support your denial of Request No. 7 and your answer to Interrogatory No. 13[a.-f.].

ANSWER: See response to Request for Admission No. 7.

REQUEST FOR ADMISSION NO. 8: Admit that the 186 lots/parcels separately described on the Lot/Parcel Legal Descriptions Exhibit comprise the same real property that is described in the RE Loans Legal Description Exhibit.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 14: To the extent you denied Request No. 8, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify all differences and discrepancies between the real property described in the Lot/Parcel Legal Descriptions Exhibit and the real property described in the RE Loans Legal Description Exhibit;

b. Identify any lot/parcel identified on the Lot/Parcel Legal Descriptions Exhibit that is not also included in the legal description in the RE Loans Legal Description Exhibit;

c. Identify any real property that is part of the legal description in the RE Loans Legal Description Exhibit but is not identified as all or a portion of a parcel in the Lot/Parcel Legal Descriptions Exhibit;

d. Identify, by legal description if possible, any real property that you identified in your answer to Interrogatory No. 14[b.-c.];

e. Identify any known parcel that is included within the legal description on the RE Loans Legal Description Exhibit but is not identified as a distinct parcel on the Lot/Parcel Legal Descriptions Exhibit;

f. Identify any parcel identified in Lot/Parcel Legal Descriptions Exhibit that is not included within the legal description in the RE Loans Legal Description Exhibit;

g. Identify any parcel identified on the Lot/Parcel Legal Descriptions Exhibit which you contend is described incorrectly on said Exhibit; and

h. Identify all documents which you contend support your denial of Request No. 8 and your answer to Interrogatory No. 14[a.-g.].

ANSWER: See response to request for admission No. 8.

REQUEST FOR ADMISSION NO. 9: Admit that all of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the RE Loans Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 15: To the extent you denied Request No. 9, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

- a. Identify each lot/parcel by its parcel number, as set forth on the Lot/Parcel Legal Descriptions Exhibit, which you contend is not encumbered by the RE Loans Mortgage; and
- b. Identify all documents which you contend support your denial of said Request and your answer to Interrogatory No. 15.

ANSWER: See response to request for admission No. 9.

REQUEST FOR ADMISSION NO. 10: Admit that all of the real property described on the RE Loans Legal Description Exhibit is encumbered by the RE Loans Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the

answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 16: To the extent you denied Request No. 10, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify any real property described on the RE Loans Legal Description Exhibit which you contend is not encumbered by the one or more of the parcels identified on the Lot/Parcel Legal Descriptions Exhibit;

b. Identify the legal description of all real property identified in your answer to Interrogatory No. 16[a.]; and

c. Identify all documents which you contend support your denial of Request No. 10 and your answer to Interrogatory No. 16.

ANSWER: See response to Request for Admission No. 10.

REQUEST FOR ADMISSION NO. 11: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are not encumbered by the Pensco Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has

requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

REQUEST FOR ADMISSION NO. 12: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the Pensco Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 17: Identify each parcel on the Lot/Parcel Legal Descriptions Exhibit that you acknowledge is encumbered by the Pensco Mortgage.

ANSWER: See response to Request for Admission No. 12.

REQUEST FOR ADMISSION NO. 13: Admit that the Pensco Mortgage encumbers all of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit, except for the following:

Parcel 1	Parcel 101
Parcel 14	Parcel 102
Parcel 15	Parcel 103
Parcel 16	Parcel 104
Parcel 32	Parcel 105
Parcel 33	Parcel 106
Parcel 37	Parcel 107
Parcel 38	Parcel 109
Parcel 39	Parcel 112
Parcel 40	Parcel 122
Parcel 59	Parcel 132
Parcel 62	Parcel 133
Parcel 67	Parcel 141

Parcel 82	Parcel 142
Parcel 83	Parcel 143
Parcel 84	Parcel 164
Parcel 85	Parcel 168
Parcel 91	Parcel 169
	Parcel 170

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 18: To the extent you denied Request No. 13, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

- a. Identify each lot/parcel by its parcel number, as set forth on the Lot/Parcel Legal Descriptions Exhibit, which you contend is not encumbered by the Pensco Mortgage; and
- b. Identify all documents which you contend support your denial of Request No. 13 and your answer to Interrogatory No. 18.

ANSWER: See response to Request for Admission No. 13.

REQUEST FOR ADMISSION NO. 14: Admit that the Pensco Legal Description Exhibit identifies all real property encumbered by the Pensco Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable

Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 19: To the extent you denied Request No. 14, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify all real property that is encumbered by the Pensco Mortgage but not identified on the Pensco Legal Description Exhibit;

b. Identify all real property identified on the Pensco Legal Description Exhibit that is not encumbered by the Pensco Mortgage;

c. Identify the legal description of all real property identified in your answer to Interrogatory No. 19[a.-b.]; and

d. Identify all documents which you contend support your denial of Request No. 14 and your answer to Interrogatory No. 19.

ANSWER: See response to Request for Admission No. 15.

REQUEST FOR ADMISSION NO. 15: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are not encumbered by the MF08 Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the

answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

REQUEST FOR ADMISSION NO. 16: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the MF08 Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 20: Identify each parcel on the Lot/Parcel Legal Descriptions Exhibit that you acknowledge is encumbered by the MF08 Mortgage.

ANSWER: See response to Request for Admission No. 16.

REQUEST FOR ADMISSION NO. 17: Admit that the MF08 Mortgage encumbers all of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit, except for the following:

Parcel 1	Parcel 105
Parcel 14	Parcel 106
Parcel 15	Parcel 107
Parcel 16	Parcel 109
Parcel 59	Parcel 112
Parcel 62	Parcel 122
Parcel 67	Parcel 132
Parcel 82	Parcel 133
Parcel 83	Parcel 141
Parcel 84	Parcel 142

Parcel 85
Parcel 91
Parcel 101
Parcel 102
Parcel 103
Parcel 104

Parcel 143
Parcel 164
Parcel 168
Parcel 169
Parcel 170

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 21: To the extent you denied Request No. 17, identify all facts and information upon which you base your denial of said Request(s), including, but not limited to, the following:

- a. Identify each lot/parcel by its parcel number, as set forth on the Lot/Parcel Legal Descriptions Exhibit, which you contend is not encumbered by the MF08 Mortgage; and
- b. Identify all documents which you contend support your denial of said Request and your answer to Interrogatory No. 21.

ANSWER: See response to Request for Admission No. 17.

REQUEST FOR ADMISSION NO. 18: Admit that the MF08 Legal Description Exhibit identifies all real property encumbered by the MF08 Mortgage.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable

Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 22: To the extent you denied Request No. 18, identify all facts and information upon which you base your denial of said Request, including, but not limited to, the following:

a. Identify all real property that is encumbered by the MF08 Mortgage but not identified on the MF08 Legal Description Exhibit;

b. Identify all real property identified on the MF08 Legal Description Exhibit that is not encumbered by the MF08 Mortgage;

c. Identify the legal description of all real property identified in your response to Interrogatory No. 22[a.-b.]; and

d. Identify all documents which you contend support your denial of Request No. 18 and your answer to Interrogatory No. 22.

ANSWER: See response to Request for Admission No. 18.

REQUEST FOR ADMISSION NO. 19: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are not encumbered by the Redemption Deed.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the

answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

REQUEST FOR ADMISSION NO. 20: Admit that some of the lots/parcels identified on the Lot/Parcel Legal Descriptions Exhibit are encumbered by the Redemption Deed.

RESPONSE: Deny. The answering party has made a reasonable inquiry concerning the information known or readily obtainable to it, and such information is insufficient to enable Defendant to admit the matter. The mortgage is a metes and bounds description and the answering party is not an Idaho licensed professional land surveyor. The answering party has requested discovery from Valiant identifying the source of the Lot/Parcel Legal Description Exhibit, but has no indication it was prepared by an Idaho licensed professional land surveyor.

INTERROGATORY NO. 23: Identify each parcel on the Lot/Parcel Legal Descriptions Exhibit that you acknowledge is encumbered by the Redemption Deed.

ANSWER: See response to Request for Admission No. 10.

DATED this 12th day of September, 2015.

JAMES, VERNON & WEEKS, P.A.

By Susan P. Weeks
Susan P. Weeks

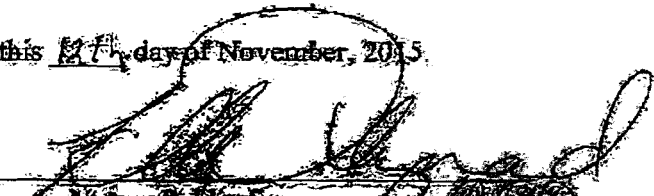
VERIFICATION

Richard Villafra, being first duly sworn, upon oath, deposes and says that I am familiar with the foregoing Defendant VP, Incorporated's Answers to Valiant Idaho, LLC's Interrogatories and Requests for Admission and have personal knowledge of the matters set forth therein and believe the same to be true and correct upon my own personal knowledge and belief.


Richard Villafra

SUBSCRIBED AND SWORN TO before me this 27th day of November, 2015.




Notary Public for
Residing at: 1000 1st St, Boise, ID 83702
Commission Expires: 11/20/15

CERTIFICATE OF SERVICE

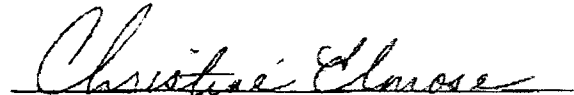
I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 12th day of November, 2015:

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile: 208-263-8211

Gary A. Finney
FINNEY FINEY & FINNEY, PA
120 E Lake St., Ste. 317
Sandpoint, ID 83864

U.S. Mail, Postage Prepaid
 Hand Delivered
 Overnight Mail
 Facsimile: 208-489-0110

Richard Stacey
Jeff Sykes
McConnell Wagner Sykes & Stacey, PLLC
755 West Front St., Ste. 200
Boise, ID 83702


Christae Elmore

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
827 East Park Boulevard, Suite 201
Boise, Idaho 83712
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@mwsslawyers.com
sykes@mwsslawyers.com

Attorneys For Valiant Idaho, 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; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**INTERROGATORIES PROPOUNDED BY
VALIANT IDAHO, LLC UPON
VP, INCORPORATED
[No. 24]**

Honorable Barbara A. Buchanan

**TO: Cross-Defendant VP, INCORPORATED and,
its attorneys of record, JAMES, VERNON & WEEKS, P.A.**

YOU WILL PLEASE TAKE NOTICE that Cross-Claimant Valiant Idaho, LLC, by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, hereby requires the above-named Cross-Defendant to answer the Interrogatories (“Interrogatories”) set forth herein.

Pursuant to Rule 33 of the Idaho Rules of Civil Procedure, you must fully and fairly answer all of the questions in this set of Interrogatories, under oath, within thirty (30) days from service hereof.

These Interrogatories under the law call not merely for your own present and personal knowledge, they also call for the knowledge, information and documents of your attorneys, investigators, agents and employees, and their agents and employees.

If any Interrogatory cannot be answered in full, you are to answer to the fullest extent possible, specify the reason for your inability to answer the remainder of the Interrogatory, and state whatever information and knowledge you have concerning the unanswered portion.

These Interrogatories are deemed continuing and your answers thereto are to be supplemented as additional information becomes available to you.

In addition to any instructions and defined terms set forth herein, the Definitions and/or Instructions contained in Valiant’s Interrogatories [Nos. 1-12] dated and served on or about January 26, 2015 and in Valiant’s Interrogatories [13-23] and Requests For Admission [7-20] dated and served October 9, 2015 are incorporated by this reference as though set forth in full.

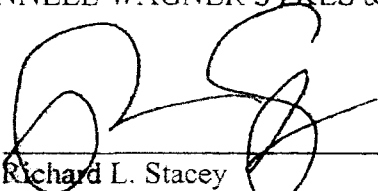
INTERROGATORIES

INTERROGATORY NO. 24: Identify all facts and information which support your claim that you possess an equitable servitude or easement superior in right, title and/or interest to the mortgage recorded March 15, 2007, as Instrument Nos. 724829 and 724834, Records of Bonner County, Idaho.

DATED this 26th day of October 2015.

McCONNELL WAGNER SYKES & STACEY ^{PLLC}

BY:


Richard L. Stacey
Attorneys For Valiant Idaho, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of October 2015, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@ejame.com
Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garyfinney@finneylaw.net

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
Chad M. Nicholson, ISB #7506
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Boise, Idaho 83712
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@mwsslawyers.com
sykes@mwsslawyers.com
nicholson@mwsslawyers.com

Attorneys For Valiant Idaho, 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; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**REQUESTS FOR PRODUCTION
OF DOCUMENTS PROPOUNDED
BY VALIANT IDAHO, LLC
UPON VP, INCORPORATED
[NOS. 11 - 31]**

Honorable Barbara A. Buchanan

REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED BY VALIANT IDAHO, LLC
UPON VP, INCORPORATED [Nos. 11 - 31] - Page 1
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EXHIBIT M

4189

TO: Cross-Defendant VP, INCORPORATED and, its attorneys of record, JAMES, VERNON & WEEKS, P.A.

YOU WILL PLEASE TAKE NOTICE that Cross-Claimant Valiant Idaho, LLC, by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, hereby requires the above-named Cross-Defendant to respond to the following Requests For Production of Documents (“Requests”).

Pursuant to Rule 34 of the Idaho Rules of Civil Procedure, you must fully and fairly comply with the Requests by producing the documents for inspection and/or copying within thirty (30) days of service hereof at the law offices of McConnell Wagner Sykes & Stacey PLLC, 827 East Park Boulevard, Suite 201, Boise, Idaho 83712, or at such other time and place as may be mutually agreed upon.

The Requests, under the law, call not merely for your own present and personal knowledge, they also call for the knowledge, information and documents of your attorneys, investigators, agents and employees, and their agents and employees.

If any Request cannot be answered in full, you are to respond to the fullest extent possible, specify the reason for your inability to respond to the remainder, and state whatever information and knowledge you have concerning the unanswered portion.

These Requests are deemed continuing and your response thereto is to be supplemented as additional information becomes available to you.

In addition to the instructions and defined terms set forth herein, the Definitions and/or Instructions contained in Valiant's Requests For Production of Documents [Nos. 1-10] dated and served on or about January 26, 2015 and in Valiant's Interrogatories [13-23] and Requests For Admission [7-20] dated and served October 9, 2015 are incorporated by this reference as though set forth in full.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 11: Produce all agreements entered into between Pend Oreille Bonner Development, LLC ("POBD") and Pend Oreille Bonner Development Holdings, Inc. ("POBD Holdings") on the one hand, and VP, Incorporated ("VP") and/or Richard Villelli on the other hand.

REQUEST NO. 12: Produce all agreements entered into between North Idaho Resorts, LLC ("NIR") on the one hand, and VP and/or Richard Villelli on the other hand.

REQUEST NO. 13: Produce all agreements entered into between JV, L.L.C. ("JV"), James Berry and William Berry on the one hand, and VP and/or Richard Villelli on the other hand.

REQUEST NO. 14: Produce all agreements entered into between VP and any other person and/or entity that are related to the Idaho Club Property in any way and/or related to the claims and disputes of any of the parties in this case.

REQUEST NO. 15: Produce all documents evidencing JV's purchase from VP of any real property comprising all or a portion of the Idaho Club development.

REQUEST NO. 16: Produce all documents evidencing VP's purchase from any person or entity of any real property, easements or any other interest in and to any real property comprising all or a portion of the Idaho Club development.

REQUEST NO. 17: Produce all documents evidencing payments made by or to VP pursuant to any agreement produced in response to Request Nos. 15 and 16.

REQUEST NO. 18: Produce all agreements pursuant to which VP sold any real property now comprising all or a portion of the Idaho Club development.

REQUEST NO. 19: Produce all documents securing the amounts owed to VP pursuant to the agreements produced in response to Request No. 18, regardless of whether secured by mortgages, deeds of trust or otherwise.

REQUEST NO. 20: Produce all documents evidencing payments received by VP for the sale of real property subject to the agreements produced in response to Request No. 18, including, but not limited to, ledgers, bank statements, loan transaction reports and any other documents.

REQUEST NO. 21: Produce all documents modifying or changing the terms of any agreement produced in response to Request Nos. 12, 13, 14, 15, 16, 17, 18, 19 and 20, including, but not limited to, mortgages, subordination agreements, mortgage modifications and deeds of trust.

REQUEST NO. 22: Produce all documents evidencing any agreements by and between VP and any other party establishing, obtaining or retaining domestic water rights, sewer rights and/or easements in and to any real property comprising all or a portion of the Idaho Club development.

REQUEST NO. 23: Produce all communications in any way related to VP's alleged equitable servitude and/or prescriptive easement against all or a portion of the Idaho Club development.

REQUEST NO. 24: Produce all communications between VP, Richard Villelli and counsel for the same on the one hand, and JV, James Berry, William Berry and/or counsel for the same on the other hand.

REQUEST NO. 25: Produce all communications between VP, Richard Villelli and counsel for the same on the one hand, and R.E. Loans, LLC, Pensco Trust Co., Mortgage Fund '08 LLC, Bar K, Inc. and/or counsel for the same on the other hand.

REQUEST NO. 26: Produce all communications or other documents in any way related to the claims and defenses of the parties in this case.

REQUEST NO. 27: Produce all communications between VP, Richard Villelli and/or counsel for any of the same on the one hand, and any owner of Idaho Club real property, including homeowners, lot owners and/or counsel for the same.

REQUEST NO. 28: Produce all communications between VP, Richard Villelli and/or counsel for the same on the one hand, and NIR and counsel for the same on the other hand.

REQUEST NO. 29: Produce all documents evidencing any agreement between VP and JV wherein VP obtained and/or retained any sanitary water rights and/or sewer rights and/or easements relating to the same.

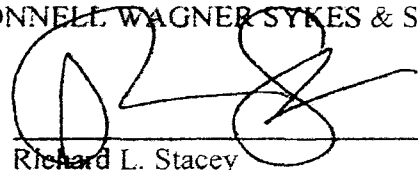
REQUEST NO. 30: Produce all documents evidencing VP's notification to third parties of its alleged easements in and to the sanitary water rights and sewer rights for the Idaho Club project.

REQUEST NO. 31: Produce all documents evidencing any payment VP received in exchange for its alleged sanitary water rights, sewer rights and/or easements.

DATED this 26th day of October 2015.

McCONNELL, WAGNER SYKES & STACEY ^{PLLC}

BY:



Richard L. Stacey
Attorneys For Valiant Idaho, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of October 2015, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail brucea@ejame.com
Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail garyfinney@finneylaw.net

<p>D. Toby McLaughlin, Esq. Berg & McLaughlin 414 Church Street, Suite 203 Sandpoint, Idaho 83864 Telephone: 208.263.4748 Facsimile: 208.263.7557 <i>Counsel For Idaho Club HOA/Panhandle Mngmnt</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>toby@sandpointlaw.com</u></p>
<p>Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d'Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i></p>	<p><input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> Facsimile <input type="checkbox"/> Overnight Mail <input type="checkbox"/> Electronic Mail <u>sweeks@jvwlaw.net</u></p>



Richard L. Stacey

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
Chad M. Nicholson, ISB #7506
McCONNELL WAGNER SYKES & STACEY ^{PLLC}
827 East Park Boulevard, Suite 201
Boise, Idaho 83712
Telephone: 208.489.0100
Facsimile: 208.489.0110
stacey@mwsslawyers.com
sykes@mwsslawyers.com
nicholson@mwsslawyers.com

Attorneys For Valiant Idaho, 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; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**REQUESTS FOR PRODUCTION
OF DOCUMENTS PROPOUNDED
BY VALIANT IDAHO, LLC
UPON NORTH IDAHO RESORTS, LLC
[NOS. 9 - 24]**

Honorable Barbara A. Buchanan

TO: Cross-Defendant NORTH IDAHO RESORTS, LLC and, its attorneys of record, JAMES, VERNON & WEEKS, P.A.

YOU WILL PLEASE TAKE NOTICE that Cross-Claimant Valiant Idaho, LLC, by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, hereby requires the above-named Cross-Defendant to respond to the following Requests For Production of Documents (“Requests”).

Pursuant to Rule 34 of the Idaho Rules of Civil Procedure, you must fully and fairly comply with the Requests by producing the documents for inspection and/or copying within thirty (30) days of service hereof at the law offices of McConnell Wagner Sykes & Stacey PLLC, 827 East Park Boulevard, Suite 201, Boise, Idaho 83712, or at such other time and place as may be mutually agreed upon.

The Requests, under the law, call not merely for your own present and personal knowledge, they also call for the knowledge, information and documents of your attorneys, investigators, agents and employees, and their agents and employees.

If any Request cannot be answered in full, you are to respond to the fullest extent possible, specify the reason for your inability to respond to the remainder, and state whatever information and knowledge you have concerning the unanswered portion.

These Requests are deemed continuing and your response thereto is to be supplemented as additional information becomes available to you.

In addition to any instructions and defined terms set forth herein, the Definitions and/or Instructions contained in Valiant's Requests For Production of Documents [Nos. 1-8] dated and served on or about January 26, 2015 and in Valiant's Interrogatories [13-23] and Requests For Admission [7-20] dated and served October 9, 2015 are incorporated by this reference as though set forth in full.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 9: Produce all agreements entered into between Pend Oreille Bonner Development, LLC ("POBD") and Pend Oreille Bonner Development Holdings, Inc. ("POBD Holdings") on the one hand, and North Idaho Resorts, LLC ("NIR") and/or Richard Vilelli on the other hand.

REQUEST NO. 10: Produce all agreements entered into between NIR and any other person and/or entity that are related to the Idaho Club Property in any way and/or related to the claims and disputes of any of the parties in this case.

REQUEST NO. 11: Produce all documents evidencing JV, L.L.C.'s ("JV") purchase of any real property comprising all or a portion of the Idaho Club development from NIR.

REQUEST NO. 12: Produce all documents evidencing NIR's purchase of any real property comprising all or a portion of the Idaho Club development from any other person or entity.

REQUEST NO. 13: Produce all documents evidencing payments made by or to NIR pursuant to any purchase and sale agreement produced in response to Request Nos. 11 and 12.

REQUEST NO. 14: Produce all agreements pursuant to which NIR sold any real property now comprising all or a portion of the Idaho Club development.

REQUEST NO. 15: Produce all documents securing the amounts owed to NIR pursuant to the agreements produced in response to Request No. 14, regardless of whether secured by mortgages, deeds of trust or otherwise.

REQUEST NO. 16: Produce all documents evidencing payments received by NIR for the sale of real property subject to the agreements produced in response to Request No. 14, including, but not limited to, ledgers, bank statements, loan transaction reports and any other documents.

REQUEST NO. 17: Produce all documents modifying or changing the terms of any agreement produced in response to Request Nos. 10, 11, 12, 14 and 15, including, but not limited to, mortgages, subordination agreements, mortgage modifications and deeds of trust.

REQUEST NO. 18: Produce all documents evidencing any agreements by and between NIR and VP, Incorporated (“VP”) and/or Richard Vilelli arising out of or related to the Idaho Club development.

REQUEST NO. 19: Produce all communications between NIR and/or its counsel on the one hand and VP and/or its counsel on the other hand.

REQUEST NO. 20: Produce all communications between NIR, Richard Vilelli and counsel for the same on the one hand, and JV, James Berry, William Berry and/or counsel for the same on the other hand.

REQUEST NO. 21: Produce all communications between NIR, Richard Vilelli and counsel for the same on the one hand, and R.E. Loans, LLC, Pensco Trust Co., Mortgage Fund '08 LLC, Bar K, Inc. and/or counsel for the same on the other hand.

REQUEST NO. 22: Produce all communications or other documents in any way related to the claims and defenses of the parties in this case.

REQUEST NO. 23: Produce all communications between NIR, Richard Vilelli and/or counsel for any of the same on the one hand, and any owner of Idaho Club real property, including homeowners, lot owners and/or counsel for the same.

REQUEST NO. 24: Produce all documents evidencing any agreement between VP and NIR wherein VP obtained and/or retained any sanitary water and/or sewer rights and/or easements relating to the same.

DATED this 26th day of October 2015.

McCONNELL WAGNER SYKES & STACEY ^{PLLC}

BY:

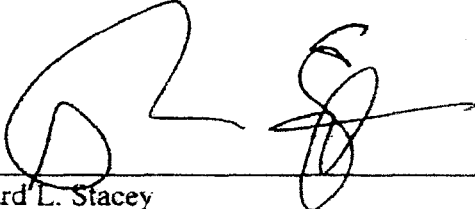


Richard L. Stacey
Attorneys For Valiant Idaho, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 26th day of October 2015, a true and correct copy of the foregoing document was served by the method indicated below upon the following party(ies):

Bruce A. Anderson, Esq. Elsaesser Jarzabek Anderson Elliott & MacDonald, Chtd 320 East Neider Avenue, Suite 102 Coeur d' Alene, Idaho 83815 Telephone: 208.667.2900 Facsimile: 208.667.2150 <i>Counsel For Jacobson, Lazar and Sage Holdings</i>	[<input checked="" type="checkbox"/>] U.S. Mail [<input type="checkbox"/>] Hand Delivered [<input checked="" type="checkbox"/>] Facsimile [<input type="checkbox"/>] Overnight Mail [<input type="checkbox"/>] Electronic Mail <u>brucea@ejame.com</u>
Gary A. Finney, Esq. Finney Finney & Finney, P.A. 120 East Lake Street, Suite 317 Sandpoint, Idaho 83864 Telephone: 208.263.7712 Facsimile: 208.263.8211 <i>Counsel For J.V., LLC</i>	[<input checked="" type="checkbox"/>] U.S. Mail [<input type="checkbox"/>] Hand Delivered [<input checked="" type="checkbox"/>] Facsimile [<input type="checkbox"/>] Overnight Mail [<input type="checkbox"/>] Electronic Mail <u>garyfinney@finneylaw.net</u>
D. Toby McLaughlin, Esq. Berg & McLaughlin 414 Church Street, Suite 203 Sandpoint, Idaho 83864 Telephone: 208.263.4748 Facsimile: 208.263.7557 <i>Counsel For Idaho Club HOA/Panhandle Mngmnt</i>	[<input checked="" type="checkbox"/>] U.S. Mail [<input type="checkbox"/>] Hand Delivered [<input checked="" type="checkbox"/>] Facsimile [<input type="checkbox"/>] Overnight Mail [<input type="checkbox"/>] Electronic Mail <u>toby@sandpointlaw.com</u>
Susan P. Weeks, Esq. James, Vernon & Weeks, PA 1626 Lincoln Way Coeur d' Alene, Idaho 83814 Telephone: 208.667.0683 Facsimile: 208.664.1684 <i>Counsel For VP Incorporated/North Idaho Resorts</i>	[<input checked="" type="checkbox"/>] U.S. Mail [<input type="checkbox"/>] Hand Delivered [<input checked="" type="checkbox"/>] Facsimile [<input type="checkbox"/>] Overnight Mail [<input type="checkbox"/>] Electronic Mail <u>sweeks@jvwlaw.net</u>



 Richard L. Stacey

Rick Stacey

From: Rick Stacey
Sent: Tuesday, December 01, 2015 4:14 PM
To: 'Finney Law'; 'Susan Weeks'
Subject: FW: Stip-PO

Gary/Susan. Please see the attached draft protective order and let me know if you have any proposed changes.

Susan. We faxed our discovery responses to your office yesterday afternoon. However, as yet, I have not received any responses or documents responsive to my discovery requests from your office. Please advise when I can expect your responses.

WE HAVE MOVED. SEE MY E-MAIL SIGNATURE FOR OUR NEW ADDRESS.

RICK L. STACEY
Attorney at Law
McCONNELL WAGNER SYKES + STACEY, PLLC
827 E. Park Blvd., Ste. 201
Boise, Idaho 83712
Office: 208.489.0100
Email: stacey@mwsslawyers.com
Website: mwsslawyers.com

**PLEASE NOTE THAT MY EMAIL ADDRESS CHANGED EFFECTIVE
OCTOBER 1, 2014.**

CONFIDENTIALITY NOTICE: This e-mail message from the law firm of McConnell Wagner Sykes + Stacey, PLLC is intended only for named recipients. It contains information that may be confidential, attorney client privileged, attorney work product, or otherwise exempt from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. Please notify us immediately at 208.489.0100 if you have received this message in error, and delete the message.

From: Pamela Lemieux
Sent: Tuesday, December 01, 2015 3:47 PM
To: Rick Stacey <stacey@mwsslawyers.com>
Subject: Stip-PO



Stip-Protective Order 151201.d... Stip-Protective Order 151201.p...

Pamela A. Lemieux
Legal Secretary
McConnell Wagner Sykes + Stacey PLLC
827 East Park Boulevard, Suite 201
Boise, Idaho 83712
T: 208.489.0100
F: 208.489.0110
E: lemieux@mwsslawyers.com
<http://www.mwsslawyers.com>

**PLEASE NOTE THAT OUR ADDRESS HAS
CHANGED EFFECTIVE JUNE 8, 2015**

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Rick Stacey

From: Rick Stacey
Sent: Wednesday, December 09, 2015 5:42 PM
To: sweeks@jvwlaw.net
Subject: VP Discovery Responses

Susan. Your client's discovery responses were due on November 27, 2015. Pursuant to our agreement, this deadline was extended until November 30, 2015. We still have not received these responses. Please let me know asap when you are going to serve them. Thanks.

WE HAVE MOVED. SEE MY E-MAIL SIGNATURE FOR OUR NEW ADDRESS.

RICK L. STACEY
Attorney at Law
McCONNELL WAGNER SYKES + STACEY, PLLC
827 E. Park Blvd., Ste. 201
Boise, Idaho 83712
Office: 208.489.0100
Email: stacey@mwsslawyers.com
Website: mwsslawyers.com

**PLEASE NOTE THAT MY EMAIL ADDRESS CHANGED EFFECTIVE
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GARY A. FINNEY
 FINNEY FINNEY & FINNEY, P.A.
 Attorneys at Law
 Old Power House Building
 120 East Lake Street, Suite 317
 Sandpoint, Idaho 83864
 Phone: (208) 263-7712
 Fax: (208) 263-8211
 ISB No. 1356

STATE OF IDAHO
 COUNTY OF BONNER
 FIRST JUDICIAL DISTRICT
 CLERK OF DISTRICT COURT
 SANDPOINT, IDAHO

 [Signature]

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.,)	Case No. CV-2009-1810
formerly known as National Golf)	
Builders, Inc., a Nevada)	JV L.L.C.'S AMENDED
corporation,)	EXHIBIT LIST AND
)	DOCUMENTS
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 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 liability)
company; R.C. WORST & COMPANY,)
INC., an Idaho corporation;)
DOES 1 through X,)

Defendants.)

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

GENESIS GOLF BUIDLERS, 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.)

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

VALIANT IDAHO, LLC, an Idaho)
limited liability company,)

	Third Party)
Plaintiff,)
)
v.)
)
PEND ORIELLE BONNER DEVELOPMENT)
HOLIDNGS, INC., a Nevada)
corporation; BAR K, INC., a)
California corporation;)
TIMBERLINE INVESTMENTS LLC, an)
Idaho limited liability)
company; AMY KORENGUT, a)
married woman; HLT REAL ESTATE,)
LLC, an Idaho limited liability)
company; INDEPENDENT MORTGAGE)
LTD. CO., an Idaho limited)
liability company; PANHANDLE)
MANAGEMENT INCORPORATED, an)
Idaho corporation; FREDERICK J.)
GRANT, an individual; CRISTINE)
GRANT, an individual; RUSS)
CAPITAL GROUP, LLC, an Arizona)
limited liability company;)
MOUNTAIN WEST BANK, a division)
of GLACIER BANK, a Montana)
corporation; FIRST AMERICAN)
TITLE COMPANY, a California)
corporation; NETTA SOURCE LLC,)
a Missouri limited liability)
company; MONTAHENO INVESTMENTS,)
LLC, a Nevada limited liability)
company; CHARLES W. REEVES and)
ANN B. REEVES, husband and)
wife; and C.E. KRAMER CRANE &)
CONTRACTING, INC., an Idaho)
corporation,)
)
	Third Party)
Defendants.)
<hr/>		
JV L.L.C., an Idaho limited)
liability company,)
)
	Defendant and)
Cross-Claimant against all of)

the Defendants and)
 Third Party Plaintiff,)
)
 v.)
)
 VALIANT IDAHO, LLC, an Idaho)
 limited liability company;)
 V.P., INC., an Idaho)
 corporation; RICHARD A.)
 VILLELLI, a married man; MARIE)
 VICTORIA VILLELLI, a married)
 woman; VILLELLI ENTERPRISES,)
 INC., a California corporation;)
 RICHARD A. VILLELLI, as TRUSTEE)
 OF THE RICHARD ANTHONY VILLELLI)
 AND MARIE VICTORIA VILLELLI)
 REVOCABLE TRUST; THE IDAHO CLUB)
 HOMEOWNERS ASSOCIATION, INC.,)
 an Idaho corporation; the)
 entity named in Attorney Toby)
 McLaughlin's Notice of Unpaid)
 Assessment as PANHANDLE)
 MANAGEMENT, INCORPORATED, an)
 Idaho corporation; and HOLMBERG)
 HOLDINGS, LLC, a California)
 limited liability company,)
)
 Third Party)
 Defendants.)

COMES NOW JV L.L.C., by and through counsel, GARY A.

FINNEY, Finney Finney & Finney, P.A., and submits as follows:

JV L.L.C.'S DOCUMENTS AND EXHIBITS


- A. Secured Promissory Note, October 20, 1995, original sum \$2,264,500.00 to JV, LLC from V.P., Richard Villelli, Villelli Enterprises, Villelli Trust (all as makers)
- B. Mortgage recorded October 24, 1995, Instrument No. 474746 (V.P. Inc, Mortgagor; JV, LLC, Mortgagee)
- C. Panhandle Escrow No. 2067429, Ledger of Payments & Unpaid Balance

- D. Third Amended and Restated Real Property Purchase and Sale Agreement, January 6, 2005, North Idaho Resorts/MDGM
- E. Third Amendment to Indebtedness and to Real Estate Security and Subordination Agreement as recorded June 24, 2008, Instrument No. 753907
- F. Deposition of Chuck Reeves on 08/19/13 in BC Case No. CV-2011-0135
- G. Findings of District Judge Griffin in BC Case No. CV-2011-0135
- H. Seller's Closing Statement HUD-1 of 06/14/2006
- I. Borrower's Closing Statement of 7/31/2008
- J. Borrower's Final Settlement Statement of 08/06/2008
- K. Notice of Redemption dated July 1, 2014, JV to BC Tax Collector
- L. Redemption Deed, dated July 2, 2014, recorded July 7, 2014 as Instrument No. 861430 & re-recorded August 22, 2014 as Instrument No. 863295
- M. Bonner County Treasurer's Map showing real estate redeemed JV, and remainder of land redeemed by Valiant
- N. Redemption Deed, dated July 7, 2014, recorded July 8, 2014 as Instrument No. 861460 & re-recorded August 22, 2014 as Instrument No. 863298
- O. Buyer/Borrower Statement (POBD/NIR), dated June 13, 2006
- P. Bar-K 8-28-07 Spreadsheet
- Q. Satisfaction of Mortgage Security Agreement and Fixture Filing, recorded August 6, 2008 as Instrument No. 756408
- R. October 5, 2009 Letter to Adjusters International
- S. Photocopy of Greenspan Adjusters International, Inc. Check No. 1238
- T. Kathy Groenhout November 2, 2009 e-mail
- U. Kathy Groenhout October 27, 2009 e-mail
- V. R.E. Loan's Satisfaction of Mortgage recorded June 8, 2007, Instrument No. 730445

* In addition to the foregoing, JV will use and introduce at trial Valiant's Exhibits 1 through 19 and Valiant's Exhibits A through J from Valiant's Motion for Summary Judgment of 1/16/2015 and as attached to the purporting Affidavit of Charles Reeves November 12, 2014 support therefore, all of which are file with the Court and all parties already have copies.

A copy of all of these Exhibits and Documents JV's A - N have previously been served on counsel for the parties and a copy delivered to the Court. The JV Exhibits O - V are now served upon the parties and a copy to the Court. The Court's EXHIBIT "COPIES" are being hand delivered to the Court and the originals will be brought to Trial.

DATED this 22nd day of December, 2015.



GARY A. FINNEY
Attorney for JV L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served as indicated, by first class mail, postage prepaid, or by hand delivery, this 22nd day of December, 2015, and was addressed as follows:

Richard Stacey/Jeff Sykes
MCCONNELL WAGNER SYKES & STACEY PLLC
827 East Park Boulevard, Suite 201
Boise, ID 83712
[Attorney for R.E. LOANS, LLC & VALIANT IDAHO LLC]

Susan Weeks
Steven C. Wetzel
JAMES, VERNON & WEEKS, P.A.
1626 Lincoln Way
Coeur d'Alene, ID 83814
[Attorney for NORTH IDAHO RESORTS, LLC, V.P. INC, & FOR
JV'S THIRD PARTY DEFENDANTS]

The Honorable Barbara Buchanan -
Bonner County Courthouse - Judge's Chambers
215 S. First Avenue
Sandpoint, ID 83864
VIA HAND DELIVERY

By: 

DEFENDANT JV, LLC'S AMENDED EXHIBIT LIST

CASE NO: CV-09-1810

PLAINTIFF'S COUNSEL:

DATE: December 22, 2015 DEFENDANT JV, LLC'S COUNSEL: Gary A. Finney

PLAINTIFFS: GENESIS GOLF BUILDERS, INC.

DEFENDANTS: PEND OREILLE BONNER DEVELOPMENT, LLC, et al.

S T A T E	P L A I N T I F F	D E F E N D A N T	DESCRIPTION	M A R K E D	O F F E R E D	R E J E C T E D	A D M I T T E D	A D M I T T E D B Y S T I P	U N D E R A D V I S E M E N T
		A	Secured Promissory Note, October 20, 1995, original sum \$2,264,500.00 to JV, LLC from V.P., Richard Vilelli, Vilelli Enterprises, Vilelli Trust (all as makers)						
		B	Mortgage recorded October 24, 1995, Instrument No. 474746 (V.P. Inc, Mortgagor; JV, LLC, Mortgagee)						
		C	Panhandle Escrow No. 2067429, Ledger of Payments & Unpaid Balance						
		D	Third Amended and Restated Real Property Purchase and Sale Agreement, January 6, 2005, North Idaho Resorts/MDGM						
		E	Third Amendment to Indebtedness and to Real Estate Security and Subordination Agreement as recorded June 24, 2008, Instrument No. 753907						
		F	Deposition of Chuck Reeves on 8/19/13 in BC Case No. CV-2011-0135						
		G	Findings of District Judge Griffin in BC Case No. CV-2011-0135						

	H	Seller's Closing Statement HUD-1 of 06/14/2006							
	I	Borrower's Closing Statement of 7/31/2008							
	J	Borrower's Final Settlement Statement of 08/06/2008							
	K	Notice of Redemption dated July 1, 2014, JV to BC Tax Collector							
	L	Redemption Deed, dated July 2, 2014, recorded July 7, 2014 as Instrument No. 861430 & re-recorded August 22, 2014 as Instrument No. 863295							
	M	Bonner County Treasurer's Map showing real estate redeemed JV, and remainder of land redeemed by Valiant							
	N	Redemption Deed, dated July 7, 2014, recorded July 8, 2014 as Instrument No. 861460 & re-recorded August 22, 2014 as Instrument No. 863298							
	O	Buyer/Borrower Statement (POBD/NIR), dated June 13, 2006							
	P	Bar-K 8-28-07 Spreadsheet							
	Q	Satisfaction of Mortgage Security Agreement and Fixture Filing, recorded August 6, 2008 as Instrument No. 756408							
	R	October 5, 2009 Letter to Adjusters International							
	S	Photocopy of Greenspan Adjusters International, Inc. Check No. 1238							
	T	Kathy Groenhout November 2, 2009 e-mail							
	U	Kathy Groenhout October 27, 2009 e-mail							
	V	R.E. Loan's Satisfaction of Mortgage recorded June 8, 2007, Instrument No. 730445							
	W								
	X								
	Y								
	Z								



Sandpoint Title Insurance, Inc.

BUYER/BORROWER STATEMENT
Estimated

Escrow Number: 41847-NA
Escrow Officer: Nancy Albanese

Title Order Number: 41847-NA
Date: 06/13/2006 - 8:55:54AM
Closing Date: 06/14/2006

Buyer/Borrower: Pend Oreille Bonner Development Holdings Inc.
Seller: North Idaho Resorts LLC

Property: Hidden Lakes Golf Course, 151 Clubhouse Way, Sandpoint, ID 83864

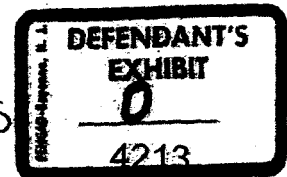
TOTAL CONSIDERATION		15,830,000.00
PRORATIONS/ADJUSTMENTS:		
Taxes @ 72,448.60 per 12 month(s) 1/01/2006 to 4/15/2006		20,642.89
Water assoc @ 1,108.00 per 1 month(s) 5/14/2006 to 7/01/2006	619.27	
Homeowner's Association Dues @ 5,600.00 per 12 month(s) 5/14/2006 to 12/31/2006	3,616.44	
Berry Note assumed by buyer		2,565,000.00
Note for REL loan differential		511,583.34
TITLE CHARGES		
Owner's Premium for 15,830,000.00: Sandpoint Title Insurance, Inc.	13,515.00	
Lender/Mortgagee Premium for 20,500,000.00: Sandpoint Title Insurance, Inc.	22,159.00	
3.1, 100, 116: Sandpoint Title Insurance, Inc.		
Mortgage Recording Fee: Sandpoint Title Insurance, Inc.		
Recording fees: Sandpoint Title Insurance, Inc.	500.00	
ESCROW CHARGES TO: Sandpoint Title Insurance, Inc.		
Escrow Fee	5,000.00	
Courier Fee		
LENDER CHARGES		
New to Bar-K Inc.		20,500,000.00
Hold For Construction: Bar-K Inc.	11,400,000.00	
Origination Fee: Bar-K Inc.	355,000.00	
Inspection Fee: Bar-K Inc.	6,500.00	
Attorney Fees: Bar-K Inc.	22,500.00	
LOAN PAYOFF: J.V. LLC		
Interest 4/15 To 5/1	38,311.68	
Total Loan Payoff	38,311.68	
BALANCE DUE TO ESCROW		4,100,495.16
TOTALS	27,697,721.39	27,697,721.39

Pend Oreille Bonner Development Holdings Inc.

COPY

By: _____
Chip L. Bowlby, President

By: Charles W. Reeves
Charles W. Reeves, President



JV'S

CV-2006-1810

Date		LOAN BALANCE	Advance	Draw Balance	
5/18/2006		20,500,000.00		19,475,000.00	
5/18/2006	advance	(8,100,000.00)	9,100,000.00	(9,100,000.00)	
11/9/2006	paydown		(278,587.50)		
	paydown		(722,712.50)		
	paydown		(708,582.50)		
	advance	(88,411.47)	88,411.47	(83,390.90)	
	paydown		(512,792.50)		
	paydown		(472,387.50)		
	paydown		(200,000.00)		
	advance	(478,176.97)	478,176.97	(454,268.12)	9,313,900.00 Loan draws incl refinance costs
	paydown		(204,000.00)		(3,713,900.00) Paydown old loan
	paydown		(153,000.00)		6,100,000.00
	paydown		(310,887.50)		
	paydown		(153,000.00)		
		(9,866,568.44)	10,833,411.56	9,836,740.98	
			888.79	(869.79)	
			(22,875.35)	22,875.35	
			(51,258.00)	51,258.00	
			(73,950.00)	73,950.00	
		10,686,100.00	6,100,000.00		
3/15/2007		21,200,000.00		21,200,000.00	
3/15/2007	Advance	(8,100,000.00)	8,100,000.00	(8,100,000.00)	(8,100,000.00)
	5%			(755,000.00)	(8,855,000.00)
3/15/2007	Paydown		(136,000.00)		
3/15/2007	Paydown		(100,000.00)		
3/16/2007	Advance	(1,828,095.48)	1,828,095.48	(1,544,790.71)	
4/8/2007	Paydown		(831,125.00)		
4/18/2007	Advance	(2,078,812.80)	2,078,812.80	(1,974,872.18)	
5/8/2007	Paydown Hopper		(240,875.00)		
5/7/2007	Paydown Feehan		(332,776.00)		
5/7/2007	Paydown Sullivan Homes		(178,800.00)		
5/10/2007	Paydown Gove		(308,825.00)		
5/18/2007	Paydown Washington		(455,175.00)		
5/18/2007	Paydown Sullivan Homes		(187,000.00)		
5/21/2007	Paydown Baile		(344,250.00)		
5/21/2007	Advance	(407,880.18)	407,880.18	(387,488.17)	
6/23/2007	Paydown Masdl		(286,575.00)		
	Paydown	(283,157.89)	283,157.89	(250,000.00)	
	Paydown				
5/31/1975	Paydown		(573,750.00)		
5/31/2007	Advance	(803,947.37)	803,947.37	(573,750.00)	
8/1/2007	Advance June 1 interest	(82,291.18)	82,291.18	(78,176.80)	
8/15/2007	Paydown Reeves		(115,000.00)		
8/15/2007	Advance	(121,052.63)	121,052.63	(115,000.00)	11,993,783.82 New Loan draws
		(710,526.32)	710,526.32	(675,000.00)	(3,891,280.00) New loan paydowns
		9,208,236.18	8,102,513.82	8,745,824.36	8,102,513.82
7/17/2007	Advance	(4,820,044.54)	4,820,044.54	(4,389,842.31)	
7/17/2007	Advance Interest 7-1-07	(82,021.01)	82,021.01	(77,819.95)	
7/20/2007	Paydown Hagen		(212,500.00)		
7/30/2007	Advance Draw 10	(4,335,053.24)	4,335,053.24	(4,118,300.58)	
8/9/2007	Advance Interest 8-1-07	(109,182.95)	109,182.95	(103,704.80)	
8/17/2007	Paydown Quill		(229,900.00)		
8/23/2007	Paydown Shea		(234,258.00)		
8/23/2007	Paydown Shea		(224,215.00)		
8/23/2007	Paydown Shea		(215,175.00)		
8/27/2007	Paydown Todd Sullivan (pers)		(140,250.00)		

59,354.44 15,992,905.58
(21,140,045.58)

58,968.71



JV's

CV-2009-18104214

FATCO
239217

756408

756408

**SATISFACTION OF MORTGAGE
SECURITY AGREEMENT AND FIXTURE FILING**

FILED BY
First American Title
2008 AUG -6 P 3:52
3⁰⁰
MARIE SCOTT
BONNER COUNTY RECORDER

CB DEPUTY

The undersigned, R.E. Loans, LLC., a California limited liability company, is the legal owner and holder of the Mortgage for the total sum of \$8,000,000.00, and all other indebtedness secured by Mortgage dated March 19, 2004, executed by Villelli Enterprises, Inc., a California Corporation, VP, Incorporated, and Idaho Corporation, and Pend Oreille Limited Partnership (aka in California as Pend Oreille, Ltd.), a California limited partnership, to R.E. Loans, LLC, a California limited liability company, recorded March 24, 2004, as Instrument No.: 646455, in the records of Bonner County, Idaho.

I hereby certify that all of the property described in said Mortgage, together with the debt thereby secured, is fully paid, satisfied and discharged.

Dated this 25th day of June, 2008.

R.E. Loans; LLC

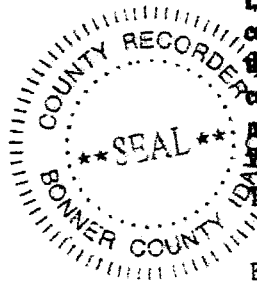
By: [Signature]

Title: [Signature]

STATE OF IDAHO

County of Bonner

I, Michael W. Roedale, County Recorder in and for the county and state aforesaid, do hereby certify that the foregoing instrument is a true and correct copy of the original thereof recorded in my office by instrument number 756408.
Witness my hand and seal,



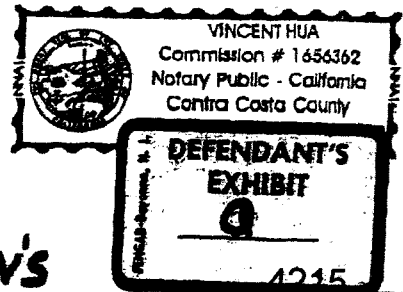
The 13 day of OCT, 2015.
BONNER COUNTY RECORDER

By: Cynthia Branner Deputy

STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA) ss

On this 23rd day of June, 2008, before me, a Notary Public, personally appeared Kelly NG, known or identified to me, to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same..

[Signature]
Notary Public of California
Residing at: 201 Lafayette Creek, Lafayette, CA
Commission Expires: May 2, 2010



110140

JV'S

Date: October 5, 2009

Adjusters International
305 E Pine St
Seattle, Washington 98122

Re: Fire Loss on: 12/22/2008
Insured Name: The Idaho Club Mgmt.
Loss Location: 151 Clubhouse Way, Sandpoint, ID 83864

Gentlemen:

This letter authorizes Adjusters International to deposit Safeco Insurance Companies Insurance Check No. 92258874, dated September 1, 2009, in the amount of \$1,205,908.81 into Drew Delaloye Lucurell Attorney at Law IOLTA Trust Account with The Commerce Bank of Washington.

When the check clears the account, Adjusters International is hereby authorized to issue the following checks, payable to:

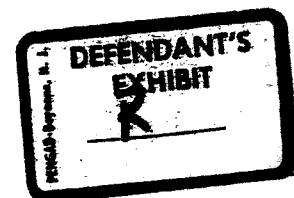
Adjusters International	\$57,280.67
Bar-K; Pensco Trust	\$1,000,000.00
The Idaho Club Mgmt.	<u>\$148,628.14</u>
Total:	<u>\$1,205,908.81</u> =====

With reference to this Trust Account deposit, the undersigned insured agrees to hold harmless Adjusters International, and Drew D. Lucurell, and its employees and agents, from any costs or liabilities which may arise from the insolvency, neglect, misconduct or default of The Commerce Bank of Washington.

Signed: _____ Date: _____
(Bar-K)

Signed: _____ Date: _____
(Pensco Trust)

Signed: *Blake W. Rame* Date: 10/5/09
(The Idaho Club Mgmt.)



JV's

CV-2009-4216D

See Exhibit 5

See Exhibit 5

1238

GREENSPAN ADJUSTERS INTERNATIONAL, INC.
CLIENT TRUST ACCOUNT
400 OYSTER POINT BLVD. STE. 519
SOUTH SAN FRANCISCO, CA 94080

DATE OCT. 26, 2009

90-7118-3211

PAY TO THE ORDER OF

BAR-K

\$1,000,000.00

ONLY ONE MILLION & 00/100

DOLLARS

citibank

COPY COPY COPY

CITIBANK N.A. BR. #382
400 OYSTER POINT BOULEVARD, SUITE 519
SOUTH SAN FRANCISCO, CA 94080

FOR BACKS SHIP IN THE #1-85708-81
TRUST ACCOUNT - GREENSPAN ADJUSTERS

⑈001238⑈ ⑈321171184⑈ 202192183⑈

DEPENDANT'S EXHIBIT
5

JV's

CV - 2009 - 1810 4217

See Exhibit 5

Page 1 of 1

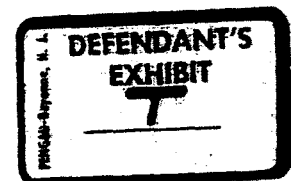
Kathy Groenhout

From: Kathy Groenhout
Sent: Monday, November 02, 2009 9:59 AM
To: 'Vincent Hua'
Cc: Chuck Reeves
Subject: FW: insurance money

Hi Vincent,
Please see the note below I sent last week . I do not believe I received the pay down schedule from you regarding our \$1,000,000 payment on the 27th of October. Would you please fax it again.
Thanks and have a great week.

Kathy Groenhout
The Idaho Club
208-255-4079 ph
208-255-4183 fax
kgroenhout@TheIdahoClub.com

JV'S



CV-2009-184218

From: Kathy Groenhout
Sent: Tuesday, October 27, 2009 8:40 AM
To: 'Vincent Hua'
Subject: insurance money

Hi Vincent,

You should be receiving insurance claim money of \$1,000,000 either today or tomorrow. Would you please send me our spreadsheet after it is posted so I know how you booked the payment? Chuck is anxious to have it booked today or tomorrow. Thanks so much and hope you are having a great week... We had snow yesterday.... I'm not ready for winter.....
Kathy

Kathy Groenhout
The Idaho Club
208-255-4079 ph
208-255-4183 fax
kgroenhout@TheIdahoClub.com

11/2/2009

JV's



CV-2009-1810 4219



Sandpoint Title Insurance, Inc.

Sandpoint Title Insurance, Inc.
120 South 3rd Avenue
Post Office Box 1757
Sandpoint ID 83866

CONFORM

SANDPOINT TITLE INSURANCE
FILED BY

300
JUN -8 P 4:09

BONNER COUNTY RECORDER
DEPUTY

Filed for Record at Request of:

Name: BAR-K
Address: 201 Lafayette Circle
City, State, Zip: Lafayette, Ca. 94549

730445

SPACE ABOVE THIS LINE FOR RECORDER'S USE

File #49214-NA

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS: That R.E. LOANS LLC, a California Limited Liability Company, the owner and holder of that certain mortgage bearing the date of June 19, 2006, executed by PENE ORBILLE BONNER DEVELOPMENT HOLDINGS INC., and recorded on JUNE 19, 2006, as Instrument No. 706471, records of Bonner County, Idaho, to secure payment of the sum of TWENTY MILLION FIVE HUNDRED THOUSAND Dollars (\$20,500,000.00) and interest, do hereby acknowledge said mortgage has been FULLY SATISFIED AND DISCHARGED, and does hereby authorize and direct the said County Auditor to enter full satisfaction hereon. IN WITNESS WHEREOF, I have hereunto set my hand(s) and seal(s) this 7th day of June, 2007.

R.E. LOANS LLC

BY: [Signature]

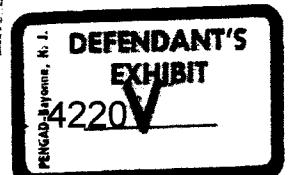
STATE OF CALIFORNIA)
COUNTY OF CONTRA COSTA)

On this 7th day of June 7 in the year 2007, before me, Vincent Hua, a Notary Public in and for said state, personally appeared BRUCE HORNWITZ known or identified to me to be the person that executed this instrument as the member of R.E. LOANS LLC or the person who executed the instrument on behalf of said company and acknowledged to me that said company executed the same.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this day and year first above written.



[Signature]
Notary Public for the State of
Residing at: Lafayette, CA
Commission Expires: MAY 2, 2010



Susan P. Weeks, ISB No. 4255
JAMES, VERNON & WEEKS, PA
1626 Lincoln Way
Coeur d'Alene, Idaho 83814
Telephone: (208) 667-0683
Facsimile: (208) 664-1684
sweeks@jvwlaw.net

STATE OF IDAHO
COUNTY OF BONNER
DISTRICT COURT
FIRST JUDICIAL DISTRICT
JH

Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

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; et al.,

Defendants.

Case No. CV-2009-01810

VP INC'S AND NORTH IDAHO
RESORTS, LLC'S RESPONSE TO
VALIANT'S MOTION IN LIMINE

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN

North Idaho Resorts, LLC ("NIR") and VP, Inc. ("VP") hereby files their response to Valiant Idaho, LLC's ("Valiant") Motion in Limine as follows.

North Idaho Resorts

Valiant filed a Motion in Limine against NIR. This Court previously issued summary judgment against NIR finding it had no vendor's lien based upon the ruling issued by Judge Griffin in *Union Bank v. Pend Oreille Bonner Development, et al.*, Bonner County Case No. CV

2011-0135. Based upon this ruling, NIR has no ability to participate in the upcoming trial and there would be no grounds for issuing a motion in limine against it.

VP, Inc.

A. The Motion was Untimely

Valiant's Motion in Limine is untimely. In its order issued September 3, 2015, this Court designated December 23, 2015, as the final date for hearing motions in limine. Thus, the motion in limine is untimely and should not be considered by the Court.

Valiant also failed to comply with I.R.C.P. 7(b)(3)(B) when it filed its motion in limine. This rule requires when a motion is supported by affidavits, the affidavits shall be served with the motion. Valiant's certificate of service indicated the motion, memorandum, and supporting affidavit were served by fax and sent by U.S. mail on December 15, 2015. The certificate is not accurate. Valiant faxed its motion, memorandum and the affidavit of Richard Stacey to the parties on December 15, 2015. However, the Stacey affidavit that was served on December 15, 2015, was incomplete. As reflected in the cover sheet of the fax transmission sheet, the affidavit was sent sans (without) the exhibits. The exhibits were mailed on December 15, 2015. Therefore, the supporting affidavit was not served 14 days before hearing as required by the rule and should be disregarded by the Court.¹

¹ VP is mindful of the Court's admonition at the last round of hearings not to file motions to strike accompanied by a motion to shorten time with respect to issues arising from opposing party motions. Therefore, a separate motion to strike, scheduled at a different time than the motion in limine, will be filed.

B. Valiant is required to prove its case at trial

Valiant has requested that the Court rule in limine that there is only one remaining issue for trial: whether the R.E. Loans loan and/or the Pensco loan were satisfied. Valiant claims all other issues have been resolved in summary judgment proceedings. This statement is inaccurate.

The Court has granted summary judgment against NIR, holding it had no interest to foreclose based upon the holding by Judge Griffin in another case. It has granted partial summary judgment upon the properties covered by each mortgage. It has granted judgment upon the other allegations contained in Valiant Idaho's cross-claim, counterclaim and third party complaint filed August 21, 2014. Valiant must prove its remaining claims at trial.

In its Counterclaim, Cross-claim and Third Party Complaint for Judicial Foreclosure, Valiant sought a declaration that the 2007 R.E. Loans mortgage was a valid and existing mortgage lien in the amount of \$708,000 plus additional accrued interest, unpaid loan fees and late fees; a declaration that the Pensco mortgage was a valid and existing mortgage lien in the amount of \$6,800,000 plus additional accrued interest, unpaid loan fees and late fees; a declaration that the MF08 Agreement was a valid existing mortgage in the sum of not less than \$4,000,000 plus additional accrued interest, unpaid loan fees and late fees until paid; that the redemption deed be declared a valid and existing lien in the amount of \$1,665,055; and each of Defendants be declared to hold inferior lien rights.

At trial, Valiant has the burden of proving the allegations of its complaints. It may not avoid such proof by claiming the Court has sifted through evidence on summary judgment proceedings and based on the information gleaned from the affidavit only has two issues remaining: if the R.E. Loans loan and the Pensco loan loans were satisfied. Valiant must prove its allegations pursuant to I.C. §§6-101. It must prove the debt, the mortgage, the amounts due

on the mortgages. It must still prove the loans, the amount owed on each loan, the redemption made, the party that redeemed validity and amount of the 2007 R.E. Loans mortgage, the validity and amount of Pensco Loan; the validity and amount of the MF08 loan, and the party that redeemed the tax deed and the amount to be added to that party's mortgage pursuant to I.C. § 6-101. Regarding the redemption, it must prove the elements of I.C. § 63-1007: (1) the issuance of a tax deed, redemption by a party in interest (or record owner); and the amount paid. Valiant may not avoid its burden of proof at trial by claiming that affidavits and evidence presented in support of a motion for summary judgment which was denied addressed these elements of its claim. It must come forward with evidence at trial.

C. Preclusion of Evidence at Trial

Valiant requests a ruling in limine limiting the introduction of evidence at trial to only such evidence as was provided in response to discovery. It would be inappropriate to issue such an overly broad order. Documents provided in discovery are responsive to the discovery requests received. If a party does not request certain documents in discovery, the opposing party is not prohibited from introducing such documents at trial. Preclusion of evidence requested and not provided in discovery is more appropriate.

D. VP's Expert should not be Precluded from Testifying

A. VP's Expert Witness Disclosure Complies with IRCP 26(b)(4)(A) and this Court's Order Setting Trial and Pretrial Order

Requirements for expert witness disclosure in Idaho are set forth in Idaho Rule of Civil Procedure 26(b)(4)(A). That rule lists six areas that must be disclosed with regard to an expert witness:

1. a complete statement of all opinions to be expressed and the basis and reasons therefore;
2. the data or other information considered by the witness in forming the opinions;
3. any exhibits to be used as a summary of or support for the opinions;
4. any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years;
5. the compensation to be paid for the testimony; and
6. a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.

I.R.C.P. 26(b)(4)(A)(1)(i).

Expert testimony is testimony based on “scientific, technical, or other specialized knowledge [that] will assist the trier of fact to understand the evidence or to determine a fact in issue.” IRE 702. “The function of the expert is to provide testimony on subjects that are beyond the common sense, experience and education of the average juror.” *State v. Tankovich*, 155 Idaho 221, 227, 307 P.3d 1247, 1253 (Ct. App. 2013) (emphasis added). An expert’s testimony is inadmissible if it merely “draws conclusions or opinions that the average juror is qualified to draw.” *Id.* (emphasis added). However, expert testimony is not inadmissible if it relates to subjects within the common sense, experience and education of the judge acting as trier of fact in a court trial.²

VP has provided Valiant with its Expert Witness Disclosure (November 27, 2015) and Supplemental Expert Witness Disclosure (December 4, 2015), collectively referred to as “VP’s Disclosure” unless otherwise specified. Valiant has not alleged any deficiencies in VP’s Disclosure with requirements 4, 5, or 6, but has alleged deficiencies in the first three requirements. VP will address each of the first three requirements for expert witness disclosure.

² Although possibly inadvertent, Valiant’s quotation and citation to the *Tankovich* case misrepresents the case law on this point. Valiant changes these quotations to include “trier of fact,” although the cited case law and supporting case law is specific to jury trials and jurors acting as triers of fact.

1. VP's Disclosure Provides a Complete Statement of Ms. Brule's Opinions and the Basis and Reasons for Her Opinions

VP's Disclosure contains its expert's opinions and the basis and reasons for her opinions as required by IRCP 26(b)(4)(A).³ Valiant argues that VP's Disclosure fails to provide a complete statement for each of Ms. Brule's opinions and the basis and reasoning for her opinions for various reasons. The sufficiency of VP's Disclosure with regard to each of the stated opinions follows.

a. Opinion One

In VP's Supplemental Expert Witness Disclosure it discloses Annette Brule's opinion that "Barney Ng had an affiliation with R.E. Loans, Bar-K, Inc. and his family had a relation with Mortgage Fund '08. Bar-K was the loan servicing agent for Mortgage Fund '08." *VP's Supplemental Disclosure*, 2 (December 4, 2015). Valiant argues that Ms. Brule's first opinion (hereinafter "Ng's Loan Affiliation") is "irrelevant assertions of fact, not expert witness opinions." *Memo. in Support of Valiant Motion in Limine*, 8. Despite claiming that this opinion is "irrelevant" and "not expert witness opinion" Valiant assures the Court that Mr. Ng has already provided declaration testimony on these matters and presumably "will provide similar testimony at trial." *Id.* In essence, Valiant argues that Ng's Loan Affiliation is irrelevant, but that Valiant, and Valiant alone, should be able to present this irrelevant evidence at trial.

³ Disingenuously Valiant argues "VP's Expert Disclosure failed to provide any opinion to which Ms. Brule would testify," but then states "[t]he Supp. Disclosure purports to address this deficiency by providing four (4) 'opinions' to which Ms. Brule will testify." *Memo. in Support of Valiant Motion in Limine*, 7-8. Valiant has requested VP's supplemental disclosure and reference to any deficiencies in the original disclosure that were addressed by the supplemental disclosure are simply unnecessary and a distraction to the Court.

Idaho Rule of Evidence 702 allows an expert to testify regarding scientific, technical, or other specialized knowledge that “will assist the trier of fact to understand the evidence or determine a fact in issue.” As allowed by IRE 702, Ms. Brule’s expert opinion regarding Ng’s Loan Affiliations “will assist the trier of fact understand the evidence” that will be presented at trial. This case involves numerous complex loan transactions with voluminous loan documents and an understanding of the structure and interrelationship between these loans and affiliated parties is essential to the Court understanding the evidence that will be presented. Ms. Brule’s opinion regarding Ng’s Loan Affiliation is based on her consideration and analysis of the data and information disclosed in the supplemental disclosure. That disclosure lists all loan documents related to the two R.E. Loans loans, the Pensco Trust loan, the MF '08 loan, and various other identified documents. As an expert in these types of loans Ms. Brule certainly is able to opine regarding Ng’s Loan Affiliation based on the loan documents and other relied upon data and information that has been disclosed.

Valiant’s argument that Ms. Brule’s opinion is incomplete is absolutely bizarre. Valiant has not provided this Court with any reason for this Court to determine that Ms. Brule’s opinion is “incomplete” except to mention areas not addressed by her opinion. Perhaps Valiant makes this assertion based upon the standard set forth in the Federal Rules of Civil Procedure (FRCP) since it cites to the *Dunkin Donuts* case from the United States District Court for the District of New Jersey, which holds that expert witness disclosure must essentially contain all of the direct examination of the expert witness so that the disclosure contains every fact, question, and statement that will be produced at trial. *Dunkin Donuts, Inc. v. Patel*, 174 F.Supp.2d 202, 211 (D.N.J. 2001). However, Valiant fails to explain how FRCP 26 controls expert witness disclosure in Idaho. The Federal Rules require expert reports, while the Idaho Rules do not.

IRCP 26 is not the same as FRCP 26, therefore, the requirements of the federal rule have no application in this case.

Valiant may believe that Ms. Brule's opinion is insufficient to establish the factual or legal assertion for which it is offered in support, but that does not mean that her opinion is "incomplete." Valiant requires Ms. Brule's opinion to include "how or why this affiliation or relation tends to demonstrate that it is more or less probable that the Notes are or are not satisfied." *Memo. in Support of Valiant Motion in Limine*, 9. These are certainly areas of cross-examination to which Valiant may question VP's expert. However, not including these areas in her disclosure does not make her opinion incomplete. VP's Disclosure has set forth a complete statement of her first opinion and the basis and reasons for that opinion.

b. Opinion Two

Ms. Brule's second opinion is that "the all-inclusive trust deed, sometimes called a wrap mortgage, used by Mortgage Fund '08 was not typical because there was no subsequent purchaser who was buying the real property from the developer, and no reason to wrap the loans." *VP's Supplemental Disclosure*, 2. This is a complete statement of Ms. Brule's opinion. Valiant cannot simply mention areas not addressed in the opinion and then claim that the opinion is incomplete (see discussion above).

The basis and reasons for the second opinion include an explanation of what a typical wrap mortgage is. Additionally, as disclosed, this opinion is based on Ms. Brule's consideration and analysis of the data and information disclosed in the supplemental disclosure, including the relevant loan documents and other identified documents. As discussed above, Ms. Brule's expert opinion regarding the all-inclusive trust deed used by Mortgage Fund '08 will assist the trier of fact understand the evidence and/or determine a fact in issue that will be presented at trial. This

case involves numerous complex loan transactions with voluminous loan documents and an understanding of the structure of the trust deed/wrap mortgage is essential to the Court understanding the evidence that will be presented and ultimately determining whether the loans have been paid. VP's Disclosure with regard to the second opinion has satisfied the requirement that it contain a complete statement of the opinion and the basis and reasons therefore.

c. Third Opinion

Ms. Brule's third opinion is that the wrap loan would have violated the terms of Loan No. P0099 because P0099 had an acceleration clause prohibiting further financing of the property before full payment on the loan. *VP's Supplemental Disclosure, 2*. The Supplemental Expert Disclosure had a complete statement of Ms. Brule's opinion. This opinion regarding the terms of Loan P0099 will assist the trier of fact understand the evidence and/or determine a fact in issue that will be presented at trial. Evidence that wrap mortgage used by Mortgage Fund '08 violated Loan P0099 is absolutely relevant to whether the loans had been paid. This opinion is based on Ms. Brule's consideration and analysis of the data and information disclosed in the supplemental disclosure, including the relevant loan documents and other identified documents. The reasoning for the opinion is succinctly set forth as the opinion itself: a wrap mortgage violates Loan P0099 because P0099 requires that the loan be paid before the property is further financed. VP's Disclosure with regard to the third opinion has satisfied the requirement that it contain a complete statement of the opinion and the basis and reasons therefore.

d. Opinion 4

Ms. Brule's fourth opinion is that the loan closing statement for the Mortgage Fund '08 loan closing indicates compliance with the requirement that Loan No. P0099 be paid in full. *VP's Supplemental Disclosure, 2*. This is a complete statement of Ms. Brule's opinion. As included

in the Supplemental Disclosure, this opinion is derived by Ms. Brule's consideration and analysis of the data and information disclosed in the supplemental disclosure, including the relevant loan documents and other identified documents. Apparently because Valiant does not agree with Ms. Brule's opinion it argues that Ms. Brule's opinion is not an "opinion." However, as contemplated by IRE 702, Ms. Brule's expert opinion with regard to the loan closing statement for the Mortgage Fund '08 loan closing "will assist the trier of fact to understand the evidence or determine a fact in issue." Thus, it is certainly expert testimony. VP's Disclosure with regard to the fourth opinion has satisfied the requirement that it contain a complete statement of the opinion and the basis and reasons therefore.

2. VP's Disclosure Provides the Data or Other Information Considered by the Expert in Forming Opinions

VP's Supplemental Disclosure contained the following disclosure of data and other information contained by the witness in forming the opinion:

[A]ll loan documents related to two R.E. Loans loan numbers P0094 and P0099, the Pensco Trust loan, the MF '08 loan, including the promissory notes, mortgages, escrow instructions, the R.E. Loans bankruptcy file; the MF '08 bankruptcy file; records of Pend Oreille Bonner Development, deposition transcripts of witnesses, all documents produced in discovery by any party, and all affidavits filed in the matter.

VP's Supplemental Disclosure, 3. Valiant has not identified any requirement that expert witnesses can only consider some limited amount of data and information in forming their opinions. Valiant has also not identified any prohibition on an expert considering all relevant and pertinent data and information in forming their opinions. Valiant wants this Court to conclude that consideration of all relevant documents by an expert is evidence that the expert "has not, or cannot, identify the data and information utilized in forming her opinions." *Memo. in Support of Valiant Motion in Limine, 12.* Valiant is not prejudiced by the numerous documents and

information in this case any more than VP is prejudiced. That is just the nature of this complex case. VP has complied with IRCP 26 and disclosed the data or other information considered by the witness in forming her opinions.

3. VP's Expert is Not Required to Use Exhibits as a Summary of or Support for Her Opinions

Expert witness disclosure requires disclosure of "any exhibits to be used as a summary of or support for the opinions." IRCP 26(b)(4)(A)(1)(i). VP disclosed that such exhibits could be "[a]ny and all documents produced in discovery, with expert disclosures and any and all deposition transcripts may be used by said expert as a summary of or in support for her opinions." *VP's Supplemental Disclosure*, 3. Valiant contends that because VP has not specified exactly what exhibits, if any, Ms. Brule will use as a summary of or support for her opinions she should not be allowed to use any exhibits. *Memo. in Support of Valiant Motion in Limine*, 14. Valiant does not provide this Court with any rule or case law that would support that action.

DATED this 22nd day of December, 2015.

JAMES, VERNON & WEEKS, P.A.

By Susan P. Weeks
Susan P. Weeks

CERTIFICATE OF SERVICE

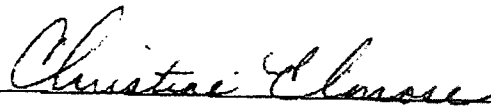
I hereby certify that a true and correct copy of the foregoing was served on the following persons in the manner indicated this 22nd day of December, 2015:

U.S. Mail, Postage Prepaid
 Hand Delivered
 Facsimile: 208-263-8211

Gary A. Finney
FINNEY FINEY & FINNEY, PA
120 E Lake St., Ste. 317
Sandpoint, ID 83864

U.S. Mail, Postage Prepaid
 Hand Delivered
 Facsimile: 208-489-0110

Richard Stacey
Jeff Sykes
McConnell Wagner Sykes & Stacey, PLLC
827 E. Park Blvd., Ste. 201
Boise, ID 83712



GARY A. FINNEY
 FINNEY FINNEY & FINNEY, P.A.
 Attorneys at Law
 Old Power House Building
 120 East Lake Street, Suite 317
 Sandpoint, Idaho 83864
 Phone: (208) 263-7712
 Fax: (208) 263-8211
 ISB No. 1356

STANDARD
 COURT REPORTERS
 2009-10-27

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.,)	Case No. CV-2009-1810
formerly known as National Golf)	
Builders, Inc., a Nevada)	JV L.L.C.'S OBJECTION TO
corporation,)	VALIANT'S MOTION IN LIMINE
)	
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 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 liability company; R.C. WORST & COMPANY, INC., an Idaho corporation; DOES 1 through X,

Defendants.

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

GENESIS GOLF BUIDLERS, 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.

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

VALIANT IDAHO, LLC, an Idaho limited liability company,

Third Party

Plaintiff,

v.

PEND ORIELLE BONNER DEVELOPMENT)
HOLIDNGS, INC., a Nevada)
corporation; BAR K, INC., a)
California corporation;)
TIMBERLINE INVESTMENTS LLC, an)
Idaho limited liability company;)
AMY KORENGUT, a married woman;)
HLT REAL ESTATE, LLC, an Idaho)
limited liability company;)
INDEPENDENT MORTGAGE LTD. CO., an)
Idaho limited liability company;)
PANHANDLE MANAGEMENT)
INCORPORATED, an Idaho)
corporation; FREDERICK J. GRANT,)
an individual; CRISTINE GRANT, an)
individual; RUSS CAPITAL GROUP,)
LLC, an Arizona limited liability)
company; MOUNTAIN WEST BANK, a)
division of GLACIER BANK, a)
Montana corporation; FIRST)
AMERICAN TITLE COMPANY, a)
California corporation; NETTA)
SOURCE LLC, a Missouri limited)
liability company; MONTAHEHO)
INVESTMENTS, LLC, a Nevada)
limited liability company;)
CHARLES W. REEVES and ANN B.)
REEVES, husband and wife; and)
C.E. KRAMER CRANE & CONTRACTING,)
INC., an Idaho corporation,)

Third Party)
Defendants.)

JV L.L.C., an Idaho limited)
liability company,)
Defendant and Cross-)
Claimant against all of the)
Defendants and Third)
Party Plaintiff,)

v.)
VALIANT IDAHO, LLC, an Idaho)
limited liability company; V.P.,)

INC., an Idaho corporation;)
 RICHARD A. VILLELLI, a married)
 man; MARIE VICTORIA VILLELLI, a)
 married woman; VILLELLI)
 ENTERPRISES, INC., a California)
 corporation; RICHARD A. VILLELLI,)
 as TRUSTEE OF THE RICHARD ANTHONY)
 VILLELLI AND MARIE VICTORIA)
 VILLELLI REVOCABLE TRUST; THE)
 IDAHO CLUB HOMEOWNERS)
 ASSOCIATION, INC., an Idaho)
 corporation; the entity named in)
 Attorney Toby McLaughlin's Notice)
 of Unpaid Assessment as PANHANDLE)
 MANAGEMENT, INCORPORATED, an)
 Idaho corporation; and HOLMBERG)
 HOLDINGS, LLC, a California)
 limited liability company,)
)
 Third Party)
Defendants.)

COMES NOW, Defendant JV L.L.C., (hereinafter JV), by and
 through its attorney, GARY A. FINNEY of Finney Finney & Finney,
 P.A., and files this Objection to Valiant's Motion in Limine and
 moves the Court to DENY such Motion.

I. Valiant's Motion in Limine is called on for hearing on
 December 29, 2015. Valiant's Motion is untimely and should be
 denied. The Court's pretrial orders include that motions in
 limine be filed and heard by (before) December 24, 2015.
 Valiant's hearing on December 29, 2015 is untimely and should be
 denied. Additionally, a written motion is required to be filed
 and served no later than fourteen (14) days before the time of
 hearing. (IRCP 7(b)(3)(A). Valiant's Notice of Hearing and its

Motion purport to have been served by mail sent out December 15, 2015. IRCP 6(e)(1) requires three (3) days to be added to any hearing, or motion served by mail. The effect of IRCP 6(e)(1) is stated in *Jarmau v. Hale*, 112 Idaho 270 at 271, 73 P.2d 813 at 814 (Ct. App. 1986) is that a party served by mail has an extra three (3) days in which to respond.

II. The Courts prior rulings of facts and conclusions of law are only "interlocutory", i.e. temporary until a final judgment.

Valiant seeks a ruling on its Motion in Limine that certain "inadmissible evidence" cannot be referred to or offered at trial because "irrelevant, inadmissible, and prejudicial" evidence should not be injected into a trial. The Court cannot rule on such a motion until the Court first determines the admissibility of evidence offered at the trial. (*Nield v. Pocotello Health Services*, 156 Idaho 82 at 914, 2014).

Valiant's II. ARGUMENT is that JV should be precluded from presenting evidence related to any issue other than the payment of 2007 RE Loan's Note (Loan No. P0099) or the Pensco note (Loan No. P0106). This Motion is too general to rule upon, nor is it applicable until the evidence is offered at trial and ruled upon.

III. All previous Orders of the Court have been interlocutory and are subject to change and reconsideration on

both previously and newly submitted evidence. IRCP 11(a)(2)(B) states that interlocutory orders may be reconsidered at any time, by no later than 14 days after the final judgment. In this action, there is no final judgment yet filed. Since the previous rulings of the Court are merely interlocutory, i.e. "temporary", the Court may reconsider new evidence at any time. The word "in limine" according to Black's Law Dictionary, Fifth, Special Deluxe Addition is "at the very beginning; preliminary. The full "Motion in Limine" is defined in Black's as being made before or at a jury trial for a protective order against prejudicial matters which are prejudicial, irrelevant, or inadmissible. (Black's Fifth Addition). The instant action is a Court trial and until the evidence is offered and ruled on as to admissibility, there is nothing for the Court to now rule upon.

"The Court must consider new evidence bearing on the correctness of a summary judgment order if the motion to reconsider is filed within fourteen days after a final judgment issues."

Kepler-Fleenor v. Fremont Cnty.,
152 Idaho 207, 210, 268 P.3d 1159, 1162 (2012)

Found in Agrisource, Inc. v. Johnson,
156 Idaho 903, 912, 332 P.3d 815, 824 (2014)

IV. Valiant's Claim that VP/NIR has no statutory Vendor's Lien is in error.

Valiant's Motion in Limine as against VP/NIR claim that

VP/NIR has no vendor's lien based on a ruling by Judge Griffin in *Union Bank v. POBD*, Case No. CV-2011-0135. A more accurate read of Judge Griffin's decision, entitled FINDINGS is in the record as Exhibit 14 in Valiant's Motion For Summary Judgment. Those FINDINGS, page 3, third paragraph, 1st sentence, states

"POBD assumed the loan to JV, LLC (original loan on Moose Mountain), a loan to R.R. Loans, ..."

Next, in the FINDINGS, page 3, 6th line down, states:

"POBD has not paid the debt they assumed to JV, LLC"

The action of the Bank vs. POBD, et al. is on appeal to the Idaho Supreme Court.

Judge Griffin, page 3 of Findings, set forth Idaho Code §45-801 that provides of a Vendor's Lien, for so much of the purchase price as remains unpaid, and that Idaho Code §45-802 provides the lien of vendor's are valid against everyone claiming under the debtor, except a purchaser or encumbrancer in good faith and for value.

Applying Judge Griffin's actual findings and actual statement of law is:

FINDINGS

1. V.P./NIR sold real estate ("Moose Mountain") to POBD.
2. As part of the purchase price, POBD assumed VP/NIR's mortgage debt owed to JV.

3. POBD has not paid the debt the assumed to JV.


LAW

- A. One who sells real estate has a Vendor's Lien for the price as remaining unpaid. (I.C. §45-801)
- B. The lien of the Vendor is valid against everyone claiming under the debtor, except an encumbrance in good faith and for value. (I.C. §45-803)
- C. Good faith means lack of actual or constructive notice. (*Benz v. Evans*, 152 Idaho 215 (2012)).

In the Bank foreclosure action, Judge Griffin's action Case No. CV-2011-0135, was an action by the encumbrancer, Union Bank. In the instant action by Valiant in the place of RE Loans, MF08/PENSCO TRUST, the record fact is that all three of those entitles are encumbrancers of Moose Mountain all had actual knowledge of the prior 1995 Mortgage to VP as being unpaid, as those entitles had title insurance disclosing JV's Mortgage and all of those entitles had title insurance disclosing JV's Mortgage and all of those entitles sought subrogation agreements from JV. RE Loans and Ng entities were parties in the Union Bank case and they are bound by res judicata and collateral estoppel.

WHEREFORE, the Court is requested to deny Valiant's Motion.

DATED this 13th day of December, 2015.



GARY A. FINNEY
Attorney for JV L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was delivered via facsimile or as otherwise indicated, this 23rd day of December, 2015, and was addressed as follows:

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MCCONNELL WAGNER SYKES & STACEY PLLC
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[Attorney for NORTH IDAHO RESORTS, LLC, V.P. INC, & FOR JV'S
THIRD PARTY DEFENDANTS

By: 

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

DEC 29 2015 11:00 AM
[Handwritten signature]

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Attorneys For Valiant Idaho. 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; *et al.*,

Defendants.

Case No. CV-09-1810

REPLY MEMORANDUM IN SUPPORT
OF VALIANT IDAHO, LLC'S
MOTION *IN LIMINE* RE:
NORTH IDAHO RESORTS, LLC
AND VP, INC.

Honorable Barbara A. Buchanan

Hearing:
December 29, 2015 – 11:00 a.m. PST

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.

REPLY MEMORANDUM IN SUPPORT OF
VALIANT IDAHO, LLC'S MOTION *IN LIMINE* RE:
NORTH IDAHO RESORTS, LLC AND VP, INC. - Page 1

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COMES NOW, Valiant Idaho, LLC ("Valiant"), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and, submits this Reply Memorandum in Support of Valiant Idaho, LLC's Motion *in Limine* ["Motion"] Re: North Idaho Resorts, LLC and VP, Inc.

I. REPLY ARGUMENT¹

A. *Valiant's Motion Was Timely Filed.*

Paragraph 8 of the Court's September 3, 2015 Order Setting Trial and Pretrial Order ("Scheduling Order") states that "ALL OTHER MOTIONS [motions other than dispositive motions], including any Motion in Limine, shall be filed and heard by the Court no later than 30 days before trial." (Emphasis in original.) Per the Court's Amended Notice of Trial issued on October 21, 2015, trial begins on January 28, 2016. December 29, 2015 is 30 days prior to January 28, 2016. Valiant's Motion is timely.

Regarding service of exhibits to the Declaration of Richard L. Stacey ("Stacey Dec."), Valiant acknowledges that the exhibits were not faxed to VP, Incorporated ("VP") on December 15, 2015. However, each exhibit is a document that is within the possession of VP. Furthermore, the Stacey Dec. and exhibits were emailed to VP's counsel on December 15, 2015. *Ex. 1 to the Declaration of Chad M. Nicholson in Support of Valiant Idaho, LLC's Motions in Limine* ("Nicholson Dec.") filed concurrently herewith. As such, the Stacey Dec. should be deemed as timely served. VP was not prejudiced in any way by any technical defect in service.

¹ North Idaho Resorts, LLC ("NIR") has acknowledged that in light of the Court's previous rulings, "NIR has no ability to participate in the upcoming trial[.]" *VP Inc.'s and North Idaho Resort, LLC's Response to Valiant's Motion in Limine* ("NIR/VP Response") at p. 2, filed on December 22, 2015. Given this concession, Valiant will not provide further briefing with respect to NIR.

B. The Sole Issue Remaining For Trial is Whether the 2007 RE Loans Note and Pensco Note Have Been Satisfied.

VP claims that Valiant must prove the validity of the 2007 RE Loans, Pensco and Mortgage Fund '08 mortgages and loans, the debt owed under each mortgage and loan, and that Valiant properly redeemed each. This claim is without merit since the Court determined that "~~the~~ *only issue remaining* for the court trial is whether the 2007 RE Loans Note (Loan No. P0099) and the Pensco Note (Loan No. P0106) have been satisfied." *Memorandum Decision and Order Re: Motions Heard on October 23, 2015* ("Oct. 23 Order") at p. 18 (emphasis added).

"The purpose of summary judgment is to avoid useless trials." *Bandelin v. Pietsch*, 98 Idaho 337, 340 (1977). See also *Berg v. Fairman*, 107 Idaho 441, 444 (1984); *McHugh v. Reid*, 156 Idaho 299, 306 (Ct. App. 2014). Partial summary judgments resolve undisputed issues and leave for trial only issues to which genuine issues of material fact exist. *Viani v. Aetna Ins. Co.*, 95 Idaho 22, 26 (1972) overruled on other grounds by *Sloviaczek v. Estate of Puckett*, 98 Idaho 371, 375 (1977). See also *Glacier Gen. Assurance Co. v. Hisaw*, 103 Idaho 605, 607 (1982).

A review of the Court's decisions demonstrate that the only issue remaining for trial is satisfaction of the 2007 RE Loans Note and the Pensco Note. By order dated April 14, 2015, the Court granted Valiant's motion for partial summary judgment holding that Valiant's interests, by virtue of the RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage are prior in right, title and in interest to any interest held by VP and NIR. The Court further held that the amounts Valiant paid to redeem the Idaho Club are part of the RE Loans contract and entitled to its mortgage priority.

The Court reaffirmed its holdings regarding priority in its order dated July 21, 2015 and granted Valiant's motion for summary judgment as to the real property that is subject to

Valiant's Mortgages. As of the entry of this order, no further issues remained for trial and Valiant was entitled to a judgment in this matter.

On August 5, 2015, the Court entered a final Judgment in favor of Valiant. This Judgment was recorded by Valiant on this same date.

VP filed a motion to reconsider the Judgment. Pursuant thereto, the Court vacated the Judgment based on its September 4, 2015 finding that genuine issues of material fact existed on two discreet issues: "as to whether the 2007 R.E. Loans Note (Loan No. P0099) and Pensco Note (Loan No. P0106 have been satisfied[)]" and "as to the legal description" of real property subject to the Valiant Mortgages. *September 4, 2015 Order* at 2, 3-4. Per the Court's order, there were no triable issues of fact existing with respect to any other issues.

On September 24, 2015, Valiant filed a motion for summary judgment with respect to the two remaining triable issues. On October 30, 2015, the Court again found that "VP's Quitclaim Deeds, as a matter of law, are junior to Valiant's Mortgages, and do not create a genuine issue of material fact." *October 30, 2015 Order* at 13. The Court granted Valiant's third motion for summary judgment in part and denied it in part holding "that genuine issues of material fact exist as to whether the 2007 RE Loans Note (Loan No. P0099) and the Pensco Note (Loan No. P0106) have been satisfied[)]" but that "there is no genuine issue of material fact as to the real property subject to the 2007 RE Loans Note/Mortgage, the Pensco Note/Mortgage, and the MF08 Note/Mortgage." *Id.* at 15. The Court concluded the October 30, 2015 order by stating "The *only issue remaining* for the court trial is whether the 2007 RE Loans Note (Loan No. P0099) and the Pensco Note (Loan No. P0106) have been satisfied." *Id.* at 13 (emphasis added). All other issues have been resolved on summary judgment.

As the Court pointed out in its July 21, 2015 and October 30, 2015 Orders, VP must provide documentation that RE Loans and Pensco were paid to prevail at trial. VP cannot provide such evidence to the Court. Moreover, VP has long been aware of this fact. On or about October 8, 2015, First American Title Company ("FATCO") provided MF08 loan closing documents in response to VP's subpoena. This documentation conclusively demonstrates that neither the 2007 RE Loans Note nor the Pensco Note were satisfied at closing. *Nicholson Dec. Ex. 2*. Recognizing that the FATCO documents were fatal to its case, VP willfully withheld the FATCO documents from Valiant until the morning of the October 23, 2015 summary judgment hearing – thereby precluding Valiant from introducing such evidence at summary judgment.

Now, with the clear understanding that it cannot prevail, VP seeks to further waste the Court's time, to continue to delay resolution of this case, and to cause Valiant to incur unnecessary expenses relitigating issues that the Court has resolved. VP has lost on all issues but one. Instead of respecting the Court's order and trying the sole remaining issue in this case, VP seeks to relitigate every issue that was already decided on summary judgment. This cannot be permitted. It is patently unfair and in violation of Idaho Rule of Civil Procedure 1(a) to require Valiant to prepare for and litigate issues at trial which have been resolved by the Court.

C. VP Should Be Precluded From Introducing Evidence Not Provided in Discovery.

VP claims that it should be allowed to introduce evidence not produced in discovery. VP's argument is meritless.

Idaho Rule of Civil Procedure ("Rule" or "Rules") 26 is "designed to promote candor and fairness in the pre-trial discovery process." *Westby v. Schaefer*, 157 Idaho 616, 623 (2014) quoting *Radmer v. Ford Motor Co.*, 120 Idaho 86, 89 (1991). As such, the "discovery rules are not intended to encourage or reward those whose conduct is inconsistent with that purpose."

Westhy, 157 Idaho at 623 quoting *Edmunds v. Kraner*, 142 Idaho 867, 873 (2006) Idaho's discovery rules "require a defendant's answer to be responsive, full, complete and unequivocal." *Lester v. Salvino*, 141 Idaho 937, 940 (Ct. App. 2006) citing 8A CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE § 2177 (2d ed. 1994). "The principal purpose of interrogatories is to afford parties information in the possession of the other party regarding the issues in suit to enable the propounding party to prepare for trial and to reduce the possibility of surprise in the trial." *Lester*, 141 Idaho at 940 citing *Smith v. Big Lost River Irr. Dist.*, 83 Idaho 374, 383 (1961).

In addition to the purpose of the discovery rules, counsel has the duty to provide full and complete discovery responses. By signing a "pleading, motion or *other paper*," counsel certifies that to the best of her knowledge, information and belief after reasonable inquiry, the other paper, *i.e.*, discovery responses, are "not interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the costs of litigation." *Lester*, 141 Idaho at 940 citing I.R.C.P. 11(a)(1). Thus, "Rule 11 imposes an affirmative duty upon parties to engage in pretrial discovery in a responsible manner that is consistent with the spirit and purposes of the discovery rules." *Lester*, 141 Idaho at 940 citing 8 WRIGHT, MILLER & MARCUS, FEDERAL PRACTICE AND PROCEDURE: § 2052 at 626 (ed. 1994).

Valiant requested identification and/or production of (a) all persons with knowledge pertaining to this litigation (Interrogatory No. 2), (b) each person VP intended to call as a witness (Interrogatory No. 3), (c) each document VP intended to introduce at trial (Interrogatory No. 4 and Request For Production No. 1), (d) VP's experts (Interrogatories 5 and 6 and Request For Production Nos. 2 and 3), (e) admissions against interest made by Valiant and/or its agents

REPLY MEMORANDUM IN SUPPORT OF
VALIANT IDAHO, LLC'S MOTION *IN LIMINE* RE:
NORTH IDAHO RESORTS, LLC AND VP, INC. - Page 6

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(Interrogatory No. 8), (f) "all facts in support of" VP's contention that its interest is prior in any right, title or interest to Valiant" (Interrogatory No. 9 and Request For Production Nos. 6-9), all documents supporting VP's answers to interrogatories (Request For Production No. 4), and all documents "pertaining in any way to the facts, circumstances or issues involved in this litigation[]" (Request For Production No. 10). Stacey Dec., Exs. C-D. In short, Valiant has requested all information and/or documents that VP intends to introduce at trial. If VP did not produce responsive information, either because VP unilaterally determined the information would not be relevant or because VP intended to "sandbag" and play hide the ball, VP cannot be permitted to introduce such evidence at trial.

D. VP's Retained Expert Witness, Annette Brule, Should Be Excluded.

VP asserts that the "opinions" to be offered by Annette Brule ("Brule") are relevant but fails to explain *how* Brule's opinions are relevant. Likewise, Valiant asserts that its expert disclosure contains a complete statement of Brule's opinions. These claims are without merit.²

Regarding Brule's first opinion, VP claims that because this case involves complex loan transactions, "an understanding of the structure and interrelationship between these loans and affiliated parties is essential to the Court understanding the evidence that will be presented." *NIR/VP Response* at 7. However, VP's Response, like its expert disclosure, fails to explain how Barney Ng's affiliation with R.E. Loans and Bar-K, and Mr. Ng's family having a relation to MF08 has any impact on whether the 2007 RE Loans Note or the Pensco Note were satisfied. The expert

² VP criticizes Valiant's citation to federal case law construing Federal Rule of Civil Procedure 26. This criticism is misplaced since Idaho courts look to federal law where the rules are similar. *Westby*, 157 Idaho at 622-623, 338 P.3d at 1226-1227. While not identical, Rule 26 is similar to Federal Rule of Civil Procedure 26. Even if VP's criticism were warranted, VP has not challenged the accuracy and applicability of Idaho case law relied upon by Valiant.

disclosure states only that Brule will testify to the existence of a relationship. This curt disclosure begs the question of "So what?" To be relevant, and to be a complete statement of her opinion, VP and Brule must explain her opinion as to how the alleged relationship(s) make the satisfaction of the 2007 RE Loans Note and Pensco Note more or less probable. VP does not provide such an explanation, instead it continues to "hide the ball" as to what Brule's testimony will be and how it is relevant.

VP contends that Brule's second opinion is relevant because "an understanding of the structure of the trust deed/wrap mortgage is essential to the Court understanding the evidence that will be presented and ultimately determining whether the loans have been paid." *NIR/VP Response* at 9. This statement fails to demonstrate how the MF08 loan's status as a typical or atypical wrap mortgage is relevant. Again, this disclosure does not in any way explain Brule's opinion as to how the structure of the wrap mortgages is relevant to whether or not the 2007 RE Loans Note or Pensco Note were satisfied.

Additionally, VP's response demonstrates the incompleteness of its expert disclosure. VP's supplemental disclosure provides that Brule will opine that that MF08 loan was not a typical loan. Now VP contends that Brule will explain the structure of the trust deed/wrap mortgage. Neither VP's disclosure nor its response includes a complete statement of why Brule believes the MF08 loan was atypical or her opinion as to MF08's loan structure. Regardless, neither opinion makes it more or less likely that RE Loans or Pensco was paid off. The fact that VP is now asserting that Brule will testify to something different than what was set forth in its expert disclosure demonstrates the incompleteness of its disclosure.

Brule's third opinion is that the MF08 loan violated the terms of the 2007 RE Loans Note. Without explanation, VP asserts that this opinion is "absolutely relevant." If the relevance is so absolute, why has VP not explained the relevance to the Court? Contrary to VP's unsupported assertion, the alleged violation of the 2007 RE Loans Note is irrelevant because it does not demonstrate that either the 2007 RE Loans Note or Pensco Note was or was not satisfied. Nor has VP provided a complete statement of this opinion. Providing a cursory statement that loan terms were violated does not comply with Rule 26. To comply with Rule 26, the disclosure must set forth how and why the terms of the 2007 RE Loans Note were violated.

Regarding Brule's fourth opinion, VP fails to explain how the proffered opinion is anything other than a factual determination. Nor does VP explain how its disclosure sets forth how Brule reached this opinion. Rule 26 requires a complete statement of an expert's opinion, not a cursory statement as to what an expert's opinion will be. VP's disclosure is insufficient.

Finally, VP misrepresents its own disclosure regarding the information considered by Brule. VP's response asserts that Brule in fact considered:

... all loan documents related to two R.E. Loans loan number P0094 and P0099, the Pensco Trust loan, the MF '08 loan, including the promissory notes, mortgages, escrow instructions, the R.E. Loans bankruptcy file, the MF '08 bankruptcy file, records of Pend Oreille Bonner Development, deposition transcripts of witnesses, all documents produced in discovery by any party, and all affidavits filed in the matter[.]

VP conveniently ignores the fact that its disclosure stated that "[s]aid expert *may consider*" the above mentioned documents. (Emphasis added.) Again, the continuing evolution of VP's expert disclosure demonstrates the inadequacies of its disclosure. More to the point, advising an opposing party that an expert *may* consider any document produced in discovery does not comply

with Rule 26. Furthermore, VP ignores the fact that it has represented that Brule *may* consider all documentation filed in two bankruptcy cases – information that has not been disclosed or identified in discovery.

Based on the foregoing, it is clear that VP's expert disclosures failed to comply with Rule 26. Moreover, even if the disclosure was compliant, the opinions sought to be expressed are irrelevant. Therefore, VP should be precluded from calling Brule as a witness.


II. CONCLUSION

For the reasons set forth above, Valiant respectfully requests that its Motion *in Limine* Re: North Idaho Resorts, LLC and VP, Inc. be **GRANTED**.

DATED this 29th day of December 2015.

McCONNELL WAGNER SYKES & STACEY^{PLLC}

BY:



Chad M. Nicholson
Attorneys For Valiant Idaho, LLC

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

DEC 28 10 34 AM

CLERK DISTRICT COURT

REPLY

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**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; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**REPLY MEMORANDUM IN SUPPORT
OF VALIANT IDAHO, LLC'S
MOTION *IN LIMINE* RE: JV, L.L.C.**

Honorable Barbara A. Buchanan

Hearing:

December 29, 2015 – 11:00 a.m. PDST

REPLY MEMORANDUM IN SUPPORT OF
VALIANT IDAHO, LLC'S MOTION *IN LIMINE*
RE: JV, L.L.C. - Page 1
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COMES NOW, Valiant Idaho, LLC ("Valiant"), by and through its attorneys of record, McConnell Wagner Sykes & Stacey PLLC, and, submits this Reply Memorandum in Support of Valiant Idaho, LLC's Motion *in Limine* ["Motion"] Re: JV, L.L.C. ["JV"].

I. REPLY ARGUMENT

A. Valiant's Motion Was Timely Filed; JV's Opposition Was Not.

Paragraph 8 of the Court's September 3, 2015 Order Setting Trial and Pretrial Order ("Scheduling Order") states that "**ALL OTHER MOTIONS** [motions other than dispositive motions], including any Motion in Limine, shall be filed and heard by the Court no later than 30 days before trial. (Emphasis in original.) Per the Court's Amended Notice of Trial issued on October 21, 2015, trial begins on January 28, 2016. December 29, 2015 is 30 days prior to January 28, 2016. Valiant's Motion is timely.

JV's opposition to the Motion was due seven (7) days prior to the December 29, 2015 hearing. The opposition was not filed or served until December 23, 2015 – just six days before the hearing. JV's opposition is untimely.

B. The Sole Issue Remaining For Trial is Whether the 2007 RE Loans Note and Pensco Note Have Been Satisfied.

JV asserts that because the Court's prior orders are interlocutory in nature, those orders are of no effect and permit JV to introduce evidence regarding issues which the Court has already resolved. This argument is without merit as it would render summary judgment proceedings meaningless. JV also argues that Valiant's Motion to limit evidence to that which is relevant to the single triable issue identified by the Court is too general to be ruled upon. This argument is also meritless.

“The purpose of summary judgment is to avoid useless trials.” *Bandelin v. Pietsch*, 98 Idaho 337, 340, 563, P.2d 295, 398 (1977). See also *Berg v. Fairman*, 107 Idaho 441, 444, 690 P.2d 896, 899 (1984); *McHugh v. Reid*, 156 Idaho 299, 306, 324 P.3d 998, 1005 (Ct. App. 2014). Partial summary judgments resolve undisputed issues and leave for trial only issues to which genuine issues of material fact exist. *Viani v. Aetna Ins. Co.*, 95 Idaho 22, 26, 501 P.2d 706, 709 (1972) overruled on other grounds by *Sloviaczek v. Estate of Puckett*, 98 Idaho 371, 375, 565 P.2d 564, 568 (1977). See also *Glacier Gen. Assurance Co. v. Hisaw*, 103 Idaho 605, 607, 651 P.2d 539, 541 (1982).

On October 30, 2015, the Court unequivocally held that “[t]he *only issue remaining* for the court trial is whether the 2007 RE Loans Note (Loan No. P0099) and the Pensco Note (Loan No. P0106) have been satisfied.” *Id.* at 18 (emphasis added). Valiant’s Motion seeks to limit the evidence presented at trial to this single issue, *i.e.*, evidence that tends to prove or disprove that the 2007 RE Loans Note and the Pensco Note have been satisfied. This is a discrete issue that has been identified by the Court as the sole issue remaining for trial.

JV has lost on all issues but one. Instead of respecting the Court’s order and trying the sole issue that this Court has determined remains, JV seeks to relitigate every issue in this case. This cannot be permitted. It is patently unfair and in violation of Rule 1(a) of the Idaho Rules of Civil Procedure to require Valiant to prepare for and litigate issues which have already been resolved by the Court.

C. *JV Should Be Precluded From Introducing Evidence Not Provided in Discovery.*

JV does not oppose Valiant’s Motion precluding it from introducing evidence not produced in discovery. As such, Valiant’s Motion should be granted.

D. JV Should Be Precluded From Introducing Expert Witness Testimony.

JV does not oppose Valiant's Motion precluding it from introducing expert witness testimony. As such, Valiant's Motion should be granted.

E. JV Does Not Have Standing to Assert Claims on Behalf of North Idaho Resorts, LLC ("NIR").

JV's opposition includes a rambling discussion regarding the Court's determination that NIR has no vendor's lien and the Court's reliance on Judge Griffin's decision in *Union Bank v. Pend Oreille Bonner Development, et al.*, Case No. CV-2011-0135. This incoherent discussion is not responsive to Valiant's Motion and is inexplicable given that NIR itself has conceded that it cannot participate in the trial of this matter. To the extent that this discussion is a motion for reconsideration, such a "motion" should be denied as not properly served or noticed.

To the extent this Court concludes that JV somehow does have standing to assert claims regarding the validity and priority of NIR's purported vendor's lien, these issues have already been decided on summary judgment. This Court had already granted Valiant's motions for summary judgment holding that its interests to the Idaho Club real property, by virtue of the RE Loans Mortgage, the Pensco Mortgage and the MF08 Mortgage, are prior in right, title and interest to any interest held by NIR. As such, JV should be prohibited from submitting evidence in support of NIR's claims.


II. CONCLUSION

For the reasons set forth above, Valiant respectfully requests that its Motion *in Limine* Re: JV, L.L.C. be **GRANTED**.

DATED this 29th day of December 2015.

McCONNELL WAGNER SYKES & STACEY ^{PLLC}

BY:



Chad M. Nicholson
Attorneys For Valiant Idaho, LLC

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

CHAD M. NICHOLSON
[Signature]

Richard L. Stacey, ISB #6800
Jeff R. Sykes, ISB #5058
Chad M. Nicholson, ISB #7506
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Attorneys For Valiant Idaho, 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; *et al.*,

Defendants.

**AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN.**

Case No. CV-09-1810

**DECLARATION OF
CHAD M. NICHOLSON
IN SUPPORT OF
VALIANT IDAHO, LLC'S
REPLY MEMORANDA RE:
MOTIONS *IN LIMINE***

Honorable Barbara A. Buchanan

Hearing:

December 29, 2015 – 11:00 a.m. PST

Pursuant to Rule 7(d) of the Idaho Rules of Civil Procedure and Idaho Code § 9-1406, **Chad M. Nicholson** declares as follows:

1. I am an attorney at law duly licensed to practice before this Court, and all Courts in the State of Idaho. I am an associate of the law firm of McConnell Wagner Sykes & Stacey PLLC ("MWSS"), attorneys for Valiant Idaho, LLC ("Valiant"). I make this Declaration in support of Valiant Idaho, LLC's Reply Memorandum in Support of Motion *in Limine* Re: North Idaho Resorts, LLC and VP, Inc. ["NIR/VP"], and Reply Memorandum in Support of Motion *in Limine* Re: JV, L.L.C. ["JV"].

2. Attached hereto as Exhibit 1 are true and correct copies of three separate emails sent December 15, 2015 to counsel for both NIR/VP and JV, to which are attached the Exhibits to the Declaration of Richard L. Stacey in Support of [Valiant's] Motions *in Limine*. The emails were sent in the ordinary course of MWSS's business and the initial email explains that, due to the voluminous nature of the Exhibits, we were attaching them electronically versus sending approximately 140 pages *via* facsimile.

3. Attached hereto as Exhibit 2 is a copy of a document entitled File Balance Sheet and identified as FATCO000684-FATCO000685. This document was produced by First American Title Company pursuant to a subpoena *duces tecum* served in or about September 2015 by NIR/VP.

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**DECLARATION OF CHAD M. NICHOLSON IN SUPPORT
OF VALIANT IDAHO, LLC'S REPLY MEMORANDA**

RE: MOTIONS *IN LIMINE* - Page 2

151547.2015PLD\CV-2009-1810\MIL-CMN Reply Dec 151228.docx

I HEREBY CERTIFY AND DECLARE, under penalty of perjury pursuant to the laws of the State of Idaho, that the foregoing is true and correct.

DATED this 28th day of December 2015.



CHAD M. NICHOLSON

Pamela Lemieux

From: Pamela Lemieux
Sent: Tuesday, December 15, 2015 2:45 PM
To: Susan Weeks; garyfinney@finneylaw.net
Cc: bkramer@bjkpc.com; Rick Stacey; Chad Nicholson
Subject: Valiant's Motions in Limine

Shortly you will be receiving facsimiles concerning Valiant's Motions In Limine Re NIR/VP and Re JV. Because the Exhibits to the Declaration of Mr. Stacey are approximately 140 pages, we will not be faxing those to you; however, I have attached the Exhibits to this and the emails to follow. In addition, you will receive via Federal Express tomorrow full sets of the pleadings faxed and exhibits emailed. Please contact me with questions. Thank you, Pamela



Ex D.pdf



Ex A.pdf



Ex B.pdf



Ex C.pdf

Pamela A. Lemieux
Legal Secretary
McConnell Wagner Sykes + Stacey PLLC
827 East Park Boulevard, Suite 201
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**PLEASE NOTE THAT OUR ADDRESS HAS
CHANGED EFFECTIVE JUNE 8, 2015**

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Pamela Lemieux

From: Pamela Lemieux
Sent: Tuesday, December 15, 2015 2:46 PM
To: Susan Weeks; garyfinney@finneylaw.net
Cc: brucea@ejame.com; Rick Stacey; Chad Nicholson
Subject: Valiant - Email 2



Ex H.pdf



Ex E.pdf



Ex F.pdf



Ex G.pdf

Pamela A. Lemieux
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Pamela Lemieux

From: Pamela Lemieux
Sent: Tuesday, December 15, 2015 2:48 PM
To: Susan Weeks; garyfinney@finneylaw.net
Cc: brucea@ejame.com; Rick Stacey; Chad Nicholson
Subject: Valiant - Email 3 - FINAL



EX N.pdf



Ex I.pdf



Ex J.pdf



Ex K.pdf



EX L.pdf



EX M.pdf

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File Balance Sheet

File: JEFFERY - Additional Group	Printed: 06/24/2015 10:24:21 PM
City: St. Louis	
File No.: 200212-S	Settlement Date: 07/01/2008
Owner: Cindy L. Jones / onf	Reinvestment Date: 08/06/2008
For Account: First Choice Home Development LLC	
Property: 1001 S. Brentwood, ST. LOUIS	

Amount To Be Paid	\$2,495,000.00
Less Time Withdrawals	-\$2,495,000.00
Less Funds Held In Escrow	-\$0.00
File Balance	\$0.00
Plus Projected Loan Funding	\$0.00
Plus Borrower's Funds Due	\$0.00
Projected File Balance	\$0.00

Deposits To Date	\$2,495,000.00
Less Withdrawals: Issued	-\$2,495,000.00
Current Bank Balance	\$0.00
Less Withdrawals: Funding	-\$0.00
Less Funds Held In Escrow	-\$0.00
File Balance	\$0.00

Lender Name	Loan Amount	Net Charge	Net Fees	Projected Loan Funding	Refunded
Washington Mutual	\$2,495,000.00	-\$2,495,000.00	\$0.00	\$2,495,000.00	Yes
First Choice Home Development LLC	\$0.00	-\$0.00	\$0.00	\$0.00	Yes

Disbursement	Other	Total Amount	Net Adjustment	Net Disbursements
Settlement	\$2,495,000.00	\$2,495,000.00	\$0.00	\$2,495,000.00

Account	Amount	Account	Amount	Account	Amount
1001	\$0.00	1002	\$0.00	1003	\$0.00

Page 1 of 1



STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

DEC 29 2015

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, et al.,**

Defendants.

CASE NO. CV-2009-0001810

**ORDER RE: VALIANT IDAHO
LLC'S MOTIONS *IN LIMINE***

THIS MATTER came before the Court on December 29, 2015, for a hearing on Valiant Idaho, LLC's Motions *In Limine*, filed on December 15, 2015. Valiant Idaho, LLC ("Valiant") is represented by Chad M. Nicholson, of McCONNELL WAGNER SYKES & STACEY, PLLC. JV, LLC ("JV") is represented by Gary A. Finney, of FINNEY FINNEY & FINNEY, P.A. North Idaho Resorts, LLC ("NIR") and VP, Incorporated ("VP") are represented by Susan P. Weeks, of JAMES, VERNON & WEEKS, P.A.

The Court, after considering each side's arguments and pleadings, announced its decision on the record in open court. For the reasons stated on the record, Valiant's motions *in limine* are granted in part and denied in part as follows:

1. Valiant's motion for an order precluding defendants NIR, VP and JV from presenting

evidence at trial relating to any issue other than whether the 2007 RE Loans Note and/or the Pensco Note have been satisfied is granted.¹

2. Valiant's motion for an order precluding defendants NIR, VP and JV from presenting any evidence that was not produced in discovery is denied. The Court will rule on the admissibility of documents at trial.
3. Valiant's motion for an order precluding defendants NIR and JV from presenting any expert witness testimony at trial is granted.
4. Valiant's motion for an order precluding defendant VP's expert, Annette Brule, from testifying at trial is denied.

DATED this 29 day of December, 2015.



Barbara Buchanan
District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 29 day of December, 2015. to:

Bruce A. Anderson
ELSAESSER JARZABEK ANDERSON ELLIOTT & MACDONALD, CHTD.
320 East Neider Avenue, Suite 102
Coeur d' Alene, Idaho 83815
Facsimile: 208.667.2150
(Attorneys for Jacobson, Lazar and Sage Holdings)

Gary A. Finney
FINNEY FINNEY & FINNEY, PA
120 East Lake Street, Suite 317
Sandpoint, Idaho 83864

¹ I. This ruling does not preclude the defendants from introducing evidence of payments made in partial satisfaction of the outstanding mortgages and not credited thereto, if any.

Facsimile: 208.263.8211
(Attorneys for For J.V., LLC)

Susan P. Weeks
JAMES, VERNON & WEEKS, PA
1626 Lincoln Way
Coeur d'Alene, Idaho 83814
Facsimile: 208.664.1684
(Attorneys for VP, Incorporated/North Idaho Resorts, LLC)

Richard L. Stacey
Jeff R. Sykes
Chad Nicholson
McCONNELL WAGNER SYKES
& STACEY, PLLC.
827 East Park Boulevard, Suite 201
Boise, ID 83712
Fax# (208) 489-0110
(Attorney for R.E. Loans, LLC; and Valiant Idaho, LLC)


Deputy Clerk

Susan P. Weeks, ISB No. 4255
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1626 Lincoln Way
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Telephone: (208) 667-0683
Facsimile: (208) 664-1684
sweeks@jvwlaw.net

STATE OF IDAHO
CLERK OF DISTRICT COURT
DISTRICT OF BONNER
COEUR D'ALENE
SEP 10 2009

Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

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; et al.,

Defendants.

Case No. CV-2009-01810

VP INC'S AMENDED SUPPLEMENTAL
EXPERT WITNESS DISCLOSURE

AND RELATED COUNTER, CROSS
AND THIRD PARTY ACTIONS
PREVIOUSLY FILED HEREIN

COMES NOW VP, Inc. ("VP") by and through its attorneys of record, James, Vernon & Weeks, P.A., and pursuant to the request of Valiant, supplements its retained expert witness disclosure as follows:

3. Annette Brule, Mortgage Consultant, 1102 W. Mulberry Lane, Coeur d'Alene, ID,

VP, INC.'S AMENDED SECOND SUPPLEMENTAL EXPERT WITNESS
DISCLOSURE: 1

B. The data and other information considered by the witness in forming the opinions:

Said expert may consider: all loan documents related to two R.E. Loans loan numbers P0094 and P0099, the Pensco Trust loan, the MF '08 loan, including the promissory notes, mortgages, escrow instructions, the R.E. Loans bankruptcy file; the MF '08 bankruptcy file; records of Pend Oreille Bonner Development, deposition transcripts of witnesses, all documents produced in discovery by any party, and all affidavits filed in the matter.

C. Any exhibits to be used as a summary of or in support for the opinions.

Any and all documents produced in discovery, with expert disclosures and any and all deposition transcripts may be used by said expert as a summary of or in support for her opinions.

D. Any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years.

Ms. Brulee is currently a mortgage consultant and has served in that capacity to several mortgage companies over the past five years. Ms. Brule carries an Idaho Mortgage Origination License with the state of Idaho and the National Mortgage Licensing System. Ms. Brule worked in the real estate industry from 1976 to 1989, where she was a licensed residential/commercial realtor and a residential real broker. In 1989 through 1992, Ms. Bruelee became an Idaho licensed mortgage broker, and served as a real estate associate broker and office manager for a mortgage brokerage. From 1992 to the present, Ms. Brule served as a loan originator. Additionally, Ms. Brule was a branch manager of a mortgage company from 1996 to 2000. From 2001 to 2004, she served as a Vice President and branch manager of a mortgage company.

Ms. Brule now serves as a mortgage consultant and has done so for the previous five years. Ms. Brule has no publications.

E. The compensation to be paid for the testimony.

Ms. Brule will bill for reasonable and ordinary cost of time to interview the plaintiffs, review records and/or to testify at a rate of \$100.00 per hour.

F. A listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years:

None.

DATED this 8th day of January, 2015.

JAMES, VERNON & WEEKS, P.A.

By Susan P. Weeks
Susan P. Weeks

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 8th day of January, 2015:

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 Hand Delivered
 Facsimile: 208-263-8211

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FINNEY FINEY & FINNEY, PA
120 E Lake St., Ste. 317
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 electronic mail:
lemieux@mwsslawyers.com

Richard Stacey
Jeff Sykes
McCormell Wagner Sykes & Stacey, PLLC
827 E. Park Blvd., Ste. 201
Boise, ID 83712

Christine Clouse

STATE OF IDAHO
COUNTY OF BONNER
FIRST JUDICIAL DISTRICT

2016 JAN 11 AM 10:34

CLERK DISTRICT COURT

DEPUTY

Susan P. Weeks, ISB No. 4255
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1626 Lincoln Way
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Telephone: (208) 667-0683
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Attorneys for Defendants North Idaho Resorts, LLC and VP, Incorporated

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

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3. Annette Brule, Mortgage Consultant, 1102 W. Mulberry Lane, Coeur d'Alene, ID,

VP, INC.'S AMENDED SECOND SUPPLEMENTAL EXPERT WITNESS
DISCLOSURE: 1

A. A statement of opinions to be expressed and the basis and reasons therefore.

Ms. Brulee is expected to testify to the following opinions:

1. Barney Ng had an affiliation with R.E. Loans, Bar-K, Inc. and his family had a relation with Mortgage Fund '08. Bar-K was the loan servicing agent for Mortgage Fund '08.
2. The all-inclusive trust deed, sometimes called a wrap mortgage, used by Mortgage Fund '08 was not typical because there was no subsequent purchaser who was buying the real property from the developer, and no reason to wrap the loans. An all inclusive deed of trust wraps an original loan together with a second mortgage that is carried by the seller to a new buyer. Under an All Inclusive Trust Deed, the buyer makes one large payment. The recipient of the payment, usually either the seller or a servicer that the seller designates, splits the payment up. Part of it goes to the lender on the original mortgage, and the rest goes back to the seller as the payment on the seller's second mortgage. A wrap around mortgage is typically a financing mechanism to allow a seller upon sale of the real property to a subsequent buyer to secure a subsequent deed of trust and shift the burden of paying the first deed of trust owed by the seller to the subsequent buyer.
3. The R. E. Loans loan documents for Loan No. P0099 had a consent clause which prohibited other financing on the property without payment of Loan No. P0099, so a wrap loan would have violated the terms of Loan No. P0099 without written consent.
4. The loan closing statement for the Mortgage Fund '08 loan closing indicates compliance with the requirement that Loan No. P0099 be paid in full.

B. The data and other information considered by the witness in forming the opinions:

Said expert may consider: all loan documents related to two R.E. Loans loan numbers P0094 and P0099, the Pensco Trust loan, the MF '08 loan, including the promissory notes, mortgages, escrow instructions, the R.E. Loans bankruptcy file; the MF '08 bankruptcy file; records of Pend Oreille Bonner Development, deposition transcripts of witnesses, all documents produced in discovery by any party, and all affidavits filed in the matter.

C. Any exhibits to be used as a summary of or in support for the opinions.

Any and all documents produced in discovery, with expert disclosures and any and all deposition transcripts may be used by said expert as a summary of or in support for her opinions.

D. Any qualifications of the witness, including a list of all publications authored by the witness within the preceding ten years.

Ms. Brulee is currently a mortgage consultant and has served in that capacity to several mortgage companies over the past five years. Ms. Brule carries an Idaho Mortgage Origination License with the state of Idaho and the National Mortgage Licensing System. Ms. Brule worked in the real estate industry from 1976 to 1989, where she was a licensed residential/commercial realtor and a residential real broker. In 1989 through 1992, Ms. Brulee became an Idaho licensed mortgage broker, and served as a real estate associate broker and office manager for a mortgage brokerage. From 1992 to the present, Ms. Brule served as a loan originator. Additionally, Ms. Brule was a branch manager of a mortgage company from 1996 to 2000. From 2001 to 2004, she served as a Vice President and branch manager of a mortgage company.

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Ms. Brule will bill for reasonable and ordinary cost of time to interview the plaintiffs, review records and/or to testify at a rate of \$100.00 per hour.

F. A listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years:

None.

DATED this 11th day of January, 2015.

JAMES, VERNON & WEEKS, P.A.

By Susan P. Weeks
Susan P. Weeks

CERTIFICATE OF SERVICE

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U.S. Mail, Postage Prepaid
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 Facsimile: 208-263-8211

Gary A. Finney
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Richard Stacey
Jeff Sykes
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Christine Clouse