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7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9
10 HIGHER GROUND, LLC, a Nevada limited
liability company; RRR HOMES, LLC, a
11 Nevada limited liability company; TRIPLE
BRAIDED CORD, LLC, a Nevada limited
12 liability company; EQUISOURCE, LLC, a
Nevada limited liability company;
13 EQUISOURCE HOLDINGS, LLC, a Nevada
limited liability company; APPLETON
14 PROPERTIES, LLC, a Nevada limited liability
company; CBRIS, LLC, a Nevada limited liability
15 company; MEGA, LLC, a Nevada
limited liability company; SOUTHERN
16 NEVADA ACQUISITIONS, LLC, a Nevada
limited liability company, on behalf of themselves
and as representatives of the class herein defined,

17
18 Plaintiffs,

19 v.

20 NEVADA ASSOCIATION SERVICES, INC,
a Nevada corporation; RMI MANAGEMENT,
21 INC., dba RED ROCK FINANCIAL SERVICES,
a Nevada corporation; HOMEOWNER
ASSOCIATION SERVICES, INC., a Nevada
22 corporation; ALESSI & KOENIG, a Nevada
limited liability company; HAMPTON &
23 HAMPTON, a professional corporation; ANGIUS
& TERRY COLLECTIONS, LLC, EUGENE
24 BURGER MANAGEMENT CORPORATION,
a foreign corporation, SILVER STATE TRUSTEE
25 SERVICES, LLC, a Nevada limited liability
company, and DOES I through X
26 and ROE ENTITIES I through X, inclusive

27 Defendants.
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Department No:

Case No:

COMPLAINT

ARBITRATION EXEMPT

Declaratory Relief

Class Action

1 The above Plaintiffs, by their attorney, Adams Law Group, Ltd., bring this civil action against
2 the above Defendants, and each of them, and complain and allege as follows:

3 1. Plaintiffs, HIGHER GROUND, LLC, a Nevada limited liability company; RRR
4 HOMES, LLC, a Nevada limited liability company; TRIPLE BRAIDED CORD, LLC, a Nevada
5 limited liability company; EQUISOURCE, LLC, a Nevada limited liability company; EQUISOURCE
6 HOLDINGS, LLC, a Nevada limited liability company; APPLETON PROPERTIES, LLC, a Nevada
7 limited liability company; CBRIS, LLC, a Nevada limited liability company; MEGA, LLC, a Nevada
8 limited liability company; SOUTHERN NEVADA ACQUISITIONS, LLC, a Nevada limited liability
9 company, on behalf of themselves and as representatives of the class herein defined, bring this action
10 on behalf of themselves and all other owners and former owners of real property located within
11 Nevada homeowners' associations ("Real Property") said Plaintiffs paying excess monies ("Excess
12 Lien Amounts") to Defendants and said Nevada homeowners' associations ("HOAs") in order to
13 satisfy HOAs' liens and other amounts ("HOA Liens") claimed by Defendants and the HOAs against
14 the Real Property of Plaintiffs, said Excess Lien Amounts and the collection thereof being in violation
15 of the Nevada Revised Statutes and of the common laws of the State of Nevada. Additionally, this
16 action is brought only on behalf of those owners of Real Property aforementioned who had obtained
17 title to said Real Property through a trustee's sale instituted by the first security interest holder of said
18 Real Property and which said first security interest had been recorded before the date on which the
19 assessments, penalties, fees, charges, late charges, fines and interest sought by the HOAs and
20 Defendants and comprising said liens, became delinquent.

21 2. This action is brought in accordance with Rule 23 of the Nevada Rules of Civil
22 Procedure. The class represented by the named Plaintiffs in this action is described in Paragraph 1 of
23 this Complaint. These persons and entities constitute a class that is so numerous that joinder is
24 impracticable. Since the named Defendants acted similarly in connection with one or more of the
25 Plaintiffs, there exist questions of law or fact which are common to all members of the class, and
26 which predominate over questions of law and fact which affect only individual members of the class.
27 The impact of the offenses committed by the Defendants is common to all Plaintiffs. Since the named
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1 Plaintiffs have interests in this action which are coincident with and not adverse to the class they
2 represent, and since the named Plaintiffs individually have a substantial financial interest in this action,
3 these named Plaintiffs will adequately protect the interests of the class they represent.

4 3. The true names and capacities, whether individual, corporate, or otherwise, of
5 Defendants herein designated as DOES I through X and ROE ENTITIES I through X inclusive, are
6 unknown to the Plaintiffs at this time, who therefore sue said Defendants by such fictitious names.
7 Plaintiffs are informed and believe and thereupon allege that each of said Defendants is responsible
8 in some manner for the events and happenings alleged herein and proximately caused the injuries and
9 damages herein alleged. Plaintiffs will seek leave to amend this Complaint to allege their true names
10 and capacities as they are ascertained.

11 4. By maintaining this action as a class action, savings in time, effort, and expense will
12 be achieved by both the court and parties to this action. One of the advantages of maintaining this
13 action as a class action is that persons and entities who are members of the class, and who have claims
14 which might not otherwise warrant individual actions, will be provided with a method for the redress
15 of their claims. Additionally, the maintenance of this action as a class action will eliminate the
16 possibility of repetitious litigation which might result in the establishment of incompatible standards
17 of conduct for the Defendants. Thus, a class action is superior to other available methods for the fair
18 and efficient adjudication of this controversy.

19 5. At all times material hereto, Defendants were and now are entities organized and
20 existing under the laws of the State of Nevada and have their principal places of business and transact
21 business in the State of Nevada.

22 6. Defendants are Nevada law firms or collection agencies acting on behalf of, and as
23 agents for the HOAs in the collection of alleged debts claimed by the HOAs and Defendants against
24 the Real Property of Plaintiffs.

25 7. Nevada Revised Statutes §116.3116 governs liens against properties located within the
26 HOAs, such as the Real Property, and generally states as follows:

1 a. homeowners associations have a lien for any assessment or fine levied against
2 a unit within its association from the time the assessment or fine becomes due;

3 b. a homeowners' association's lien under Nevada Revised Statutes §116.3116 is
4 junior to the first security interest of a mortgage lender in those cases where the first security interest
5 holder's security instrument was recorded before the date on which the assessment or fine sought to
6 be enforced became delinquent, excepting, however, to the extent of the amount equal to the
7 assessments for common expenses based upon the period budget adopted by the association which
8 would have become due in the absence of acceleration during the 9 months (only 6 months of
9 assessments prior to October 1, 2009) immediately preceding institution of an action to enforce the lien
10 by the homeowners' association (the "Super Priority Lien Amount").

11 8. Thus, the HOA Liens became extinguished by the trustee's sale of the security interest
12 of the first mortgage lender except for the Super Priority Lien Amount.

13 9. All Plaintiffs obtained title to their respective Real Property through a trustee's sale
14 whereby a secured first lender foreclosed on the Real Property. The trustee's sale extinguished the
15 HOA Liens against said Real Property but for the Super Priority Lien Amount, if any, which is the only
16 amount of said liens which survived extinguishment pursuant to Nevada Revised Statutes §116.3116.

17 10. HOAs are homeowners' associations within the meaning of NRS 116 and are bound by
18 its provisions.

19 11. Defendants currently demand and collect, and have demanded and collected, and have
20 received monies relating to liens claimed by HOAs and Defendants against the Real Property of the
21 Plaintiffs in an amount greater than the Super Priority Lien Amount or the amounts permitted by the
22 laws of the State of Nevada, in violation of Nevada Revised Statutes and the common laws of the State
23 of Nevada.

24 12. Plaintiffs are, or have been "unit owners" within the definitions contained in NRS 116,
25 said units comprising the Real Property.

26 13. In violation of NRS 116, NRS 649 and the common laws of the State of Nevada,
27 Defendants currently demand and collect, and have demanded and collected, and have received monies
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1 from Plaintiffs in order to satisfy HOA Liens claimed by HOAs and Defendants, said monies
2 comprising the Excess Lien Amounts.

3 14. In their capacity as the collection agents for the HOAs, at all times material hereto, and
4 continuing up to and including the date of filing of this Complaint, Defendants, and each of them, have
5 knowingly, intentionally and unlawfully overcharged Plaintiffs to satisfy the HOAs' Liens.

6 15. As a result of said overcharging, the named Plaintiffs and all other persons on whose
7 behalf this suit has been brought, have suffered damage and injury in their property in an actual amount
8 which is as yet unknown to Plaintiffs, but which Plaintiffs believe is in excess of \$10,000.00.

9 16. The named Plaintiffs, and all other persons on whose behalf this suit has been brought,
10 are entitled to treble damages in an amount which is not yet ascertained, but which Plaintiffs believe
11 is in excess of \$10,000.00.

12 17. The named Plaintiffs and the persons on whose behalf this suit is brought are entitled
13 to recover reasonable attorneys' fees for the services of their attorneys in this proceeding, together with
14 their costs of suit.

15 **First Cause of Action**

16 **Civil RICO**

17 18. The allegations of paragraphs 1 through 17 above are hereby re-alleged and
18 incorporated herein by this reference.

19 19. Defendants, and each of them, have demanded, received and retained monies from
20 Plaintiffs in order to satisfy the Excess Lien Amounts, said Excess Lien Amounts and the collection
21 thereof being in violation of the Nevada Revised Statutes and of the common laws of the State of
22 Nevada.

23 20. Defendants had no legal right to demand, collect and retain the Excess Lien Amounts
24 because, pursuant to Nevada Revised Statutes §116.3116, the Excess Liens Amounts were
25 extinguished by trustees' sales instituted by the first security interest holders through which Plaintiffs
26 obtained title to their Real Property, which left only the Super Priority Lien Amounts, if any, amenable
27 to collection by Defendants to satisfy the HOA Liens.

1 21. On each of the multiple occasions Defendants or their agents, and each of them,
2 demanded, received and retained monies from Plaintiffs in excess of the Super Priority Lien Amount
3 or other amounts allowed by the laws of the State of Nevada, Defendants having obtained the monies
4 of Plaintiffs under false pretenses.

5 22. On multiple occasions, Defendants or their agents, and each of them, through the
6 demanding and receiving the Excess Lien Amounts from Plaintiffs in violation of the Nevada Revised
7 Statutes and of the common laws of the State of Nevada, have wrongfully taken the property of
8 Plaintiffs under circumstances not amounting to robbery, and have obtained possession of money
9 valued at \$250 or more from Plaintiffs by means of false pretenses.

10 23. Each such of these multiple acts constitute crimes related to racketeering as defined in
11 Nevada Revised Statutes §207.360.

12 24. As above described, and at all material times related hereto, Defendants or their agents,
13 and each of them, have conducted "racketeering activity," meaning each has engaged in at least two
14 crimes related to racketeering as defined in Nevada Revised Statutes §207.360, said crimes related to
15 racketeering being

16 a. the demanding and receiving the Excess Lien Amounts, by falsely claiming such
17 amounts were properly due and owing by Plaintiffs when, in fact, they were not due, and

18 b. the wrongful taking of the monies of Plaintiffs under circumstances not amounting to
19 robbery.

20 25. All Defendants engaged in these crimes related to racketeering which have the same
21 or similar pattern, intents, results, accomplices, victims or methods of commission, or are otherwise
22 interrelated by distinguishing characteristics and are not isolated incidents.

23 26. Through the combination of individuals comprising each of Defendants' respective
24 officers, directors, members, managers, employees and agents, and each of the HOAs and management
25 companies of the HOAs, who, assisting in each of Defendants' acts as above described, have acted
26 together, pursuant to a common design and agreement to engage in racketeering activity, have,
27 therefore, structured a criminal syndicate as defined in Nevada Revised Statutes §207.370.
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1 27. Defendants, and each of them, have with criminal intent, received monies derived,
2 directly or indirectly, from racketeering activities as above described and used said monies to further
3 establish, operate and control their enterprise.

4 28. Defendants, and each of them, have through their actions above described, intentionally
5 organized, managed, directed, supervised and financed the criminal syndicate.

6 29. Defendants, and each of them, have knowingly incited or induced others, such as their
7 respective collection agencies and management companies to engage in intimidation to promote or
8 further the objectives of their criminal syndicate.

9 30. Acts of intimidation include, but are not limited to threats that unless the unlawful
10 Excess Lien Amounts are paid Plaintiffs, title to Plaintiffs' Real Property would remain clouded, thus,
11 precluding Plaintiffs from selling their Real Property to ready, willing and able buyers, such that
12 Plaintiffs' livelihood would be negatively impacted.

13 31. Defendants, and each of them, by directing and assisting HOAs and management
14 companies to demand the Excess Lien Amounts, furnished advice, assistance or direction in the
15 conduct, financing or management of the affairs of the criminal syndicate with the intent to promote
16 or further the criminal objectives of the syndicate.

17 32. Plaintiffs, and each of them, have been injured in their business or property by reason
18 of Defendants, and each of their violations of Nevada Revised Statutes §207.400 and have a cause of
19 action against Defendants for three times the actual damages sustained.

20 33. As a result of Defendants' actions as herein described, Plaintiffs have suffered damages
21 in excess of \$10,000.00.

22 34. As a result of Defendants' actions as herein described, Plaintiffs have been forced to
23 incur costs and fees in the prosecution of this action and have been required to hire an attorney and
24 incur attorney fees and costs to which Plaintiffs hereby make claim and to which Plaintiffs are entitled.

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Second Cause of Action

Negligence Per Se

35. The allegations of paragraphs 1 through 34 above are hereby re-alleged and incorporated herein by this reference.

36. Plaintiffs, having been the recipient of collection demands by Defendants and having owned the Real Property located within the HOAs, belong to a class of persons that Nevada Revised Statutes §649 and Nevada Revised Statutes §116, particularly Nevada Revised Statutes §649.375 and Nevada Revised Statutes §116.3116 was intended to protect.

37. Defendants, and each of them have violated Nevada Revised Statutes by their actions as above described, and by using devices, subterfuge, pretense and deceptive means or representations to collect a debt, interest, charges, fees and expenses.

38. Each such violation by Defendants caused Plaintiffs to pay more money to the Defendants and HOAs than required by the Nevada Revised Statutes, said overpayment comprising Plaintiffs' injuries.

39. The Super Priority Lien Amount limit which is outlined in Nevada Revised Statutes §116.3116 and the prohibited practices as outlined in Nevada Revised Statutes §649.375 are intended to protect the very Excess Lien Amount injuries incurred by Plaintiffs.

40. As a result of Defendants' actions as above described, Plaintiffs have suffered damages in excess of \$10,000.00.

41. As a result of Defendants' actions as herein described, Plaintiffs have been forced to incur costs and fees in the prosecution of this action and have been required to hire an attorney and incur attorney fees and costs to which Plaintiffs hereby make claim and to which Plaintiffs are entitled.

Third Cause of Action

Slander of Title

42. The allegations of paragraphs 1 through 41 above are hereby re-alleged and incorporated herein by this reference.

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1 43. Pursuant to Nevada Revised Statutes §116.3116, the HOAs, whom Defendants
2 represent, had a lien against Plaintiffs' Real Property for any assessments, penalties, fees, charges, late
3 charges, fines and interest permitted under Nevada Revised Statutes §116 to the extent of the Super
4 Priority Lien Amount, if any.

5 44. However, Defendants intentionally caused to publicly recorded or transmitted to 3rd
6 parties false liens and to make false claims and demands to Plaintiffs and to third parties, such as
7 escrow companies, for amounts in excess of the amounts allowed by law concerning the Real Property
8 of Plaintiffs.

9 45. Defendants' have, thus, made false and malicious communications disparaging to
10 Plaintiffs' title in Plaintiffs' Real Property and have slandered Plaintiffs' title to such Real Property.

11 46. As a result of Defendants' actions as herein described, Plaintiffs have suffered special
12 damages in excess of \$10,000.00.

13 47. As a result of Defendants' actions as herein described, Plaintiffs have been forced to
14 incur costs and fees in the prosecution of this action and have been required to hire an attorney and
15 incur attorney fees and costs to which Plaintiffs hereby make claim and to which Plaintiffs are entitled.

16 **Fourth Cause of Action**

17 **Unjust Enrichment**

18 48. The allegations of paragraphs 1 through 47 above are hereby re-alleged and incorporated
19 herein by this reference.

20 49. Based upon the conduct of Defendants as above described, the Defendants have
21 received undeserved monetary benefits from the collection of the Excess Lien Amounts of other fees
22 and charges from Plaintiffs.

23 50. The Defendants have been, therefore, unjustly enriched at the expense of the Plaintiffs
24 giving rise to a legal and equitable duty to repay the Plaintiffs for all sums.

25 51. As a result of Defendants' actions as herein described, Plaintiffs have suffered special
26 damages in excess of \$10,000.00.

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1 52. As a result of Defendants' actions as herein described, Plaintiffs have been forced to
2 incur costs and fees in the prosecution of this action and have been required to hire an attorney and
3 incur attorney fees and costs to which Plaintiffs hereby make claim and to which Plaintiffs are entitled.

4 **Fifth Cause of Action**

5 **Declaratory Relief**

6 53. The allegations of paragraphs 1 through 52 above are hereby re-alleged and incorporated
7 herein by this reference.

8 54. Nevada has adopted the Uniform Declaratory Judgments Act (the "Act").

9 55. The Act permits persons whose rights, status or other legal relations affected by a
10 statute or municipal ordinance to have determined by a court of competent jurisdiction any question
11 of construction or validity arising under the statute or ordinance and obtain a declaration of rights,
12 status or other legal relations thereunder.

13 56. Plaintiffs seek a declaration from this Honorable Court that declares that the HOAs, as
14 statutory homeowners' associations under Nevada Revised Statutes §116, have a super priority lien for
15 any assessments or fines levied against the Real Property of Plaintiffs, to the extent of the amount
16 equal to the assessments for common expenses based upon the period budget adopted by the
17 association which would have become due in the absence of acceleration during the 9 months (only
18 6 months of assessments prior to October 1, 2009) immediately preceding institution of an action to
19 enforce the lien by the homeowners' association.

20 57. Plaintiffs seek a declaration from this Honorable Court that Defendants, through their
21 collection efforts, have demanded and received from Plaintiffs monies in order to satisfy HOA Liens
22 which exceed the Super Priority Lien Amount contained in Nevada Revised Statutes §116.3116, and,
23 therefore, the Excess Lien Amounts and other fees and charges have been unlawfully demanded and
24 collected and must be returned with interest.

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Sixth Cause of Action

Intentional Misrepresentation

58. The allegations of paragraphs 1 through 57 above are hereby re-alleged and incorporated herein by this reference.

59. Without legal right and on multiple occasions Defendants made written and oral demands for the Excess Lien Amounts to Plaintiffs or their agents.

60. However, contrary to the said demands, Plaintiffs had no legal obligation to pay the Excess Lien Amounts and Defendants had no legal right to so demand.

61. Said demands constitute false representations because Defendants claimed the Excess Lien Amounts were due, when in fact they were not due.

62. Defendants, when making such false representations and demands, knew or believed that said representations and demands were false, or had an insufficient basis of information for making the false representations and demands.

63. Defendants, through such false representations and demands, intended to induce Plaintiffs to pay the Excess Lien Amounts to Defendants.

64. Plaintiffs justifiably relied upon Defendants' false representations and demands.

65. As a result of Defendants' actions as above described, Plaintiffs have suffered damages in excess of \$10,000.00.

66. As a result of Defendants' actions as herein described, Plaintiffs have been forced to incur costs and fees in the prosecution of this action and have been required to hire an attorney and incur attorney fees and costs to which Plaintiffs hereby make claim and to which Plaintiffs are entitled.

Seventh Cause of Action

Conversion

67. The allegations of paragraphs 1 through 66 above are hereby re-alleged and incorporated herein by this reference.

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69. As a result of Defendants' actions as above described, Plaintiffs have suffered damages in excess of \$10,000.00.

70. As a result of Defendants' actions as herein described, Plaintiffs have been forced to incur costs and fees in the prosecution of this action and have been required to hire an attorney and incur attorney fees and costs to which Plaintiffs hereby make claim and to which Plaintiffs are entitled.

Eighth Cause of Action

Injunctive Relief

71. The allegations of paragraphs 1 through 70 above are hereby re-alleged and incorporated herein by this reference.

72. Plaintiffs seeks injunctive relief against Defendants to enjoin them from making further demands for Excessive Lien Amounts or other monies relating to the Real Property of Plaintiffs in violation of Nevada Revised Statutes §116.3116 and Nevada Revised Statutes §649.375.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, expressly reserving their right to amend this pleading at the time of, or prior to trial, prays for judgment against Defendants as follows:

1. For general damages in excess of \$10,000.00;
2. For declaratory relief as set forth herein;
3. For injunctive relief as set forth herein;
4. For reasonable attorneys' fees and costs of suit of litigation thereof as damages and under applicable statutes and/or as special damages in excess of \$10,000.00;
5. For pre and post judgement interest at the statutory rate as may be applicable;
6. For punitive and trebled damages;

