

Exhibit “A”
to Petition for Removal

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1 **COMP**
2 GUS W. FLANGAS, ESQ.
3 Nevada Bar No. 004989
4 KIM D. PRICE, ESQ.
5 Nevada Bar No. 007873
6 **FLANGAS MCMILLAN LAW GROUP**
7 3275 South Jones Blvd., Suite 105
8 Las Vegas, Nevada 89146
9 Telephone: (702) 307-9500
10 Facsimile: (702) 382-9452
11 *Attorneys for Plaintiffs*

FILED

JAN 08 2010

Shirley L. Harrison
CLERK OF COURT

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 VEGAS DIAMOND PROPERTIES, LLC, a
11 Nevada Limited Liability Company; and
12 JOHNSON INVESTMENTS, LLC, a Nevada
13 Limited Liability Company,

14 **Plaintiffs,**

15 vs.

16 LA JOLLA BANK, FSB, a California;
17 ACTION FORECLOSURE SERVICES, INC.,
18 a California Corporation; and DOES I-X,
19 inclusive,

20 **Defendants.**

Case No.:
Dept No.:

A-10-607235-C
X

COMPLAINT
EXEMPT FROM ARBITRATION
[Seeks Injunctive Relief]

21 COME NOW the Plaintiffs, VEGAS DIAMOND PROPERTIES, LLC, and JOHNSON
22 INVESTMENTS, LLC, by and through its attorneys, GUS W. FLANGAS, ESQ. and KIM D.
23 PRICE, ESQ. of the FLANGAS MCMILLAN LAW GROUP, and for its causes of action, alleges
24 as follows:

25 **THE PARTIES**

26 1. The Plaintiff, VEGAS DIAMOND PROPERTIES, LLC (hereinafter referred to as
27 "Vegas Diamond"), is a Nevada limited liability company, with its principal place of business in
28 Clark County, Nevada. The main principals of Vegas Diamond are Danny Tarkanian and the
extended Tarkanian family.

2. The Plaintiff, JOHNSON INVESTMENTS, LLC, (hereinafter referred to as "Johnson

Investments") is a Nevada limited liability company, with its principal place of business in Clark County, Nevada. The main principal of Johnson Investments is Doug Johnson.

3. The Defendant, LA JOLLA BANK, FSB (hereinafter referred to as "La Jolla Bank"), is a California Bank, which made certain loans to Vegas Diamond and Johnson Investments secured by separate Deeds of Trust on both the Vegas Diamond Property and the Johnson Property.

4. The Defendant, ACTION FORECLOSURE SERVICES, INC. (hereinafter referred to as "Action Foreclosure"), is a California corporation with its principal place of business in San Diego, California. Action Foreclosure is the Trustee of the respective Deeds of Trust and is bringing the foreclosures on the respective properties on behalf La Jolla Bank.

THE SUBJECT PROPERTIES

5. Vegas Diamond is the owner of approximately 8.96 acres of real property located near Barbara Street and Las Vegas Boulevard in Las Vegas, Nevada (hereinafter referred to as the "Vegas Diamond Property").

6. The legal description for Vegas Diamond Property is as follows:

THAT PORTION OF THE SOUTHEAST QUARTER (SE 1/4) OF THE NORTHEAST QUARTER (NE 1/4) OF SECTION 5, TOWNSHIP 23 SOUTH, RANGE 61, EAST, M.D.B.&M., MORE PARTICULARLY DESCRIBED AS:

COMMENCING FROM THE CENTER OF QUARTER (1/4) OF SAID SECTION; THENCE EAST ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER (NE 1/4) ON A BEARING OF NORTH 88°53'27" EAST A DISTANCE OF 1259.82 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 00°44'21" EAST A DISTANCE OF 322.27 FEET; THENCE NORTH 87°50'52" EAST A DISTANCE OF 1145.20 FEET; THENCE SOUTH 00°36'45" WEST A DISTANCE OF 353.10 FEET; THENCE SOUTH 88°53'27" WEST A DISTANCE OF 1145.12 FEET TO THE TRUE POINT OF BEGINNING.

NOTE: THE ABOVE METES AND BOUNDS LEGAL DESCRIPTION PREVIOUSLY APPEARED IN THAT DEED RECORDED AUGUST 18, 1997 IN BOOK 970818 AS DOCUMENT NO 00593.

7. Johnson Investments is the owner of two separate parcels consisting of approximately 4.19 acres of real property located near Barbara Street and Las Vegas Boulevard in Las Vegas, Nevada (hereinafter referred to as "Parcel One") and approximately 2.50 acres of real property located near Barbara Street and Las Vegas Boulevard in Las Vegas, Nevada (hereinafter referred to as "Parcel Two" and referred to in conjunction with Parcel One as "the Johnson Properties").

8. The legal description for Parcel One is as follows:

1 THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHWEST QUARTER (NW 1/4) OF THE
2 NORTHEAST QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 5,
TOWNSHIP 23 SOUTH, RANGE 61 EAST, M.D.M., CLARK COUNTY, NEVADA

3 9. The legal description for Parcel Two is as follows:

4 THE NORTH HALF (NE 1/2) OF THE NORTHEAST QUARTER (NE 1/4) OF THE NORTHEAST
5 QUARTER (NE 1/4) OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION 5, TOWNSHIP 23
SOUTH, RANGE 61 EAST, M.D.B.&M., CLARK COUNTY, NEVADA

6 10. The Vegas Diamond Property and the Johnson Property are presently in foreclosure.

7 11. A Trustee's Sale is presently scheduled on both properties.

8 **GENERAL ALLEGATIONS**

9 12. Robert A. Dyson, Jr. (hereinafter referred to as "Mr. Dyson") worked primarily
10 through his real estate entities which were usually known as Dyson and Dyson.

11 13. Mr. Dyson had a large number of "retail" real estate businesses in Southern
12 California and a few in Las Vegas, Nevada, operating mostly under the Dyson & Dyson name.

13 14. Mr. Dyson's role in this case is one of concealment and fraud and his actions have
14 directly resulted in the Plaintiffs being on the brink of foreclosure.

15 15. Upon information and belief, Mr. Dyson cannot be sued in this matter at this time
16 because he filed for bankruptcy on or about October 31, 2009, and is still presently in bankruptcy.

17 16. Mr. Dyson and La Jolla Bank were intricately involved with one another to the
18 detriment of the Plaintiffs.

19 17. Mr. Dyson began his financial relationship with La Jolla Bank back around late 2001
20 when he first obtained a loan from La Jolla Bank to purchase real property on a project which
21 became known as Stone Creek Ranch.

22 18. On the Stone Creek Project, Mr. Dyson took a series of three loans in a relatively
23 short period of time with the last loan amounting to approximately \$11 million.

24 19. The first loan was for the acquisition of Stone Creek, the second loan was to take out
25 the first loan and to provide additional capital after the tentative map was completed and the third
26 loan was to take out the second loan and to provide additional capital after the final map was
27 completed.

28 20. The Stone Creek Project was eventually sold and La Jolla Bank was fully repaid.

1 21. Mr. Dyson subsequently took a number of other loans from La Jolla Bank.

2 22. At the time, Mr. Dyson was establishing his financial relationship with La Jolla
3 Bank, his landlord on several of his "retail" real estate businesses was the main owner of La Jolla
4 Bank.

5 23. One or more of Mr. Dyson's "retail" real estate businesses was eventually located
6 adjacent to a La Jolla Bank branch in Palm Desert.

7 24. At one point in time, La Jolla Bank was going to co-locate one of its loan offices with
8 one of Mr. Dyson's "retail" real estate businesses in Las Vegas.

9 25. In addition, Mr. Dyson was friends with Rick Hall, a major principal of La Jolla
10 Bank.

11 26. Mr. Dyson has testified to going to numerous dinners with, and to having drinks
12 with Mr. Hall on numerous occasions.

13 27. Mr. Dyson also testified that he attended numerous meetings and events at La Jolla
14 Bank on a weekly basis.

15 28. As part of his relationship with La Jolla Bank and Mr. Hall, Mr. Dyson also
16 recommended La Jolla Bank to many of his contacts.

17 29. Mr. Dyson's role in the subject matter of this lawsuit indirectly began in and around
18 late 2001 or early 2002 while he had been investing in various projects in California. One of
19 Dyson's developments, a project located in Anza, California (hereinafter referred to as the "Anza
20 Project"), is particularly germane to this action.

21 30. Mr. Dyson had purchased approximately 250 acres of raw land in Anza in late 2001
22 with funds he allegedly received from the sale of one of his "retail" real estate businesses in San
23 Diego, California.

24 31. Mr. Dyson was also able to obtain an option to purchase 2,800 more acres of real
25 property in Anza from an entity known as Agri-Empire (hereinafter referred to as "Agri-Empire"),
26 a potato farm company.

27 32. The option with Agri-Empire was transferred to an entity controlled by Mr. Dyson
28 called Songbird Entertainment, LLC (hereinafter referred to as "Songbird").

1 33. It was Mr. Dyson's plan to expand and develop the Anza Project.

2 34. Originally, Mr. Dyson went to La Jolla Bank to obtain a loan to further the Anza
3 Project, but La Jolla Bank told Mr. Dyson that before they would venture another loan on the Anza
4 Project, he needed to find an investor or equity partner to meet certain "so-c alled" equity
5 requirements.

6 35. To meet the equity requirements, Mr. Dyson began approaching Doug Johnson
7 (hereinafter referred to as "Mr. Johnson"), a principal for Johnson Investments.

8 36. Mr. Dyson had met Mr. Johnson in the late 1990s when Mr. Dyson had opened one
9 of his "retail" real estate businesses in Las Vegas under the name of Dyson and Dyson.

10 37. Mr. Johnson was one of the employees or agents of Dyson and Dyson.

11 38. At the time, Mr. Johnson, through his entity, Johnson Investments, was the owner of
12 the Johnson Properties.

13 39. Mr. Dyson became aware of Mr. Johnson's ownership of the Johnson Properties
14 through discussions with Mr. Johnson wherein Mr. Dyson discussed with Mr. Johnson his need for
15 money to develop the Anza Project.

16 40. Mr. Johnson eventually agreed to help Mr. Dyson obtain funds for the Anza Project
17 using the Johnson Property.

18 41. In or around the middle of 2005, Mr. Dyson arranged for Mr. Johnson to take a loan
19 from Community National Bank (hereinafter referred to as "Community Bank") in the amount of
20 approximately \$7.5 million secured by the Johnson Properties.

21 42. The loan from Community Bank was for two years with interest only payments at
22 7% interest with the full balance due at the end of the two year period.

23 43. From the Community Bank Loan, Mr. Johnson then gave the proceeds to Mr. Dyson
24 at 12% for the two year term with interest only payments and the full balance due at the end. There
25 was no security for the loan made by Mr. Johnson to Mr. Dyson.

26 44. Mr. Dyson was obligated to Mr. Johnson for the full amount of the loan Mr. Johnson
27 had from Community Bank.

28 45. Mr. Dyson took the proceeds and used some for engineering costs of the Anza Project

1 and some for purposes other than the Anza Project .

2 46. Mr. Dyson made the monthly interest payments to Mr. Johnson on the loan as
3 required throughout the two year period from which, in turn, Mr. Johnson made his interest payments
4 to Community Bank.

5 47. Upon information and belief, during the time Mr. Dyson received the loan proceeds
6 from Mr. Johnson, he was able to obtain loans from La Jolla Bank on the Anza Project and some
7 other adjacent parcels in Anza.

8 48. At the time and prior to the time, Mr. Dyson took the loan from Mr. Johnson, Mr.
9 Dyson was encountering severe resistance and trouble in proceeding with the Anza Project; there
10 were delays in the mapping process, people in the local community were fighting the project, local
11 politicians were siding with resistance stemming from local Native American Tribes, water rights
12 were at dispute, and the county political climate was one of slowing down development.

13 49. Because La Jolla Bank had ventured loans to Mr. Dyson on the Anza Project, La
14 Jolla Bank was fully aware of the issues adverse to the Anza Project and the ultimate delays.

15 50. Mr. Dyson had discussed the adverse issues and delays he was encountering with La
16 Jolla Bank.

17 51. At the end of the two year loan period from Mr. Johnson, Mr. Dyson was unable to
18 pay off the balance of the loan.

19 52. Mr. Dyson claims that he was unable to pay off the balance due to the problems and
20 delays he was encountering with the Anza Project; the problems on the Anza Project were still
21 prevalent at the time the loan from Mr. Johnson was due and not much had changed in the two years
22 since the inception of the loan.

23 53. Mr. Dyson claimed he could have paid back Mr. Johnson but it would have required
24 a massive reshuffling of his various assets and projects.

25 54. Mr. Dyson never informed Mr. Johnson of the problems with the Anza Project.

26 55. Instead of paying off Mr. Johnson, Mr. Dyson brought La Jolla Bank into the
27 transaction.

28 56. A new loan was structured by La Jolla Bank for Mr. Johnson where the loan from

1 Community Bank would be paid off and additional funds provided to Mr. Dyson.

2 57. Mr. Dyson provided documents and oral representations to Mr. Johnson painting a
3 very strong financial picture for the Anza Project and high likelihood of return on his investment.

4 58. Because Mr. Johnson had a minority interest in Vegas Diamond, he introduced Mr.
5 Dyson to Mr. Tarkanian.

6 59. Mr. Dyson met with Mr. Tarkanian and also provided him documents and made oral
7 representations painting a very strong financial picture for the Anza Project.

8 60. Mr. Dyson never discussed with either Mr. Johnson or Mr. Tarkanian the problems
9 he was encountering with the Anza Project.

10 61. After several meetings with Mr. Dyson, Mr. Johnson and Mr. Tarkanian agreed to
11 take loans from La Jolla Bank secured against the Johnson Properties and Vegas Diamond Property
12 and in turn, to loan the proceeds to Mr. Dyson.

13 62. Without ever meeting, discussing or negotiating with anyone affiliated with La Jolla
14 Bank, Johnson Investments received a \$10,933,125 loan secured by the Johnson Property and Vegas
15 Diamond received a \$14,568,750 loan secured by the Vegas Diamond Property from La Jolla Bank.

16 63. Mr. Johnson and his wife were required to personally guarantee on the Johnson
17 Investment Loan and Mr. Tarkanian, his wife, and his extended family were required to personally
18 guarantee on the Vegas Diamond loan.

19 64. Proceeds from the Johnson Investments loan were to pay off the outstanding loan to
20 Community Bank and certain closing costs, with the remainder going to Mr. Dyson to further work
21 on and to increase the value of the Anza Project.

22 65. Proceeds from the Vegas Diamond loan were to pay off an approximate \$2 million
23 encumbrance on the Vegas Diamond Property and certain closing costs, with the remainder going
24 to Mr. Dyson to further work on and to increase the value of the Anza Project.

25 66. To increase the value of the Anza Project, Mr. Dyson represented to Mr. Johnson and
26 Mr. Tarkanian that proceeds from the loans would be used to obtain more property under the option
27 from Agri-Empire through Songbird and by mapping the project.

28 67. Under the terms of the various loan documents, both Johnson Investments and Vegas

1 Diamond were to pay approximately 5% on the loan to La Jolla Bank. The term of the two loans
2 were for two years with interest only payments with the full balances due at the end of the two year
3 term.

4 68. Under the deal with Mr. Dyson, Mr. Dyson became obligated to Johnson Investments
5 and Vegas Diamond for the full amount of the loans and in addition, agreed to pay approximately
6 11% interest.

7 69. Mr. Dyson was required to make interest only payments to Johnson Investments and
8 Vegas Diamond over the same two year term with the full balances due at the end of the term.

9 70. There was an interest reserve built into the loan for the payments by Johnson
10 Investments and Vegas Diamond to La Jolla Bank and for the interest payments by Mr. Dyson to
11 Johnson Investments and Vegas Diamond.

12 71. These interest reserves were supposed to cover all 24 months of the terms of the
13 loans; however, it turned out to be only 18 months worth.

14 72. Because there was only 18 months worth of interest reserve, Mr. Dyson agreed with
15 Mr. Johnson and Mr. Tarkanian that he would cover the interest payments himself for the first 6
16 months of the term.

17 73. Commensurate with the Vegas Diamond and Johnson Investments transactions with
18 La Jolla Bank, Mr. Dyson was taking a \$7.5 million loan from La Jolla Bank secured with a first
19 deed of trust against the Anza Project.

20 74. This loan from La Jolla Bank to Mr. Dyson was unknown to Johnson Investments
21 and Vegas Diamond.

22 75. At the time, there was believed to be around 435 acres comprising the Anza Project.
23 The value of the 435 acres of the Anza Project was approximately \$15 million.

24 76. As security for the loans made by Johnson Investments and Vegas Diamond to Mr.
25 Dyson, Johnson Investments and Vegas Diamond received a second on the Anza Project.

26 77. Unbeknownst to Mr. Johnson and Mr. Tarkanian, money from the loans made by La
27 Jolla Bank to Johnson Investments and Vegas Diamond was used to pay off other loans Mr. Dyson
28 had with La Jolla Bank.

1 78. Additionally, approximately \$5.24 million was paid from the closing to Songbird; it
2 is unknown what Songbird did with the money.

3 79. Other funds went into an alleged "mapping account" and to Mr. Dyson's accountant,
4 Ben Wiggins.

5 80. As it turned out, the Anza Project which was only worth around \$15 million, was
6 securing loans in the amount of \$32.5 million-the loan from La Jolla Bank to Mr. Dyson secured by
7 a first on the Anza Project and the loans made by to La Jolla Bank to Johnson Investments and Vegas
8 Diamond secured by a second on the Anza Project.

9 81. The entire loan structure was dependent upon Mr. Dyson's ability to repay Johnson
10 Investments and Vegas Diamond on their loans to Mr. Dyson and upon his ability to repay La Jolla
11 Bank on the loan he received from it.

12 82. At the time that the various loans were being made, the same problems were still
13 present and Mr. Dyson was still encountering severe resistance and trouble with the Anza Project
14 that were present back prior to 2005.

15 83. Although nothing had changed by 2007, Mr. Dyson was still obtaining funds for the
16 Anza Project with the help of La Jolla Bank.

17 84. Because of the close connection between Mr. Dyson and La Jolla Bank, La Jolla
18 Bank was well aware of the perilous web created by Mr. Dyson in which it aided Mr. Dyson.

19 85. Less than one month after the loans from La Jolla Bank to Johnson Investments
20 and Vegas Diamond closed, Mr. Dyson defaulted on the first interest payment.

21 86. Mr. Dyson claimed that his realty business was doing poorly and he did not have the
22 funds.

23 87. Subsequently, six months after the loan was funded, Mr. Dyson received water
24 approval to map the Anza Project; however, two weeks later, Mr. Dyson advised Johnson
25 Investments and Vegas Diamond that he was not going to map the project because he had run out
26 of money.

27 88. There were many irregularities with the loans from La Jolla Bank to Johnson
28 Investments and Vegas Diamond; all communications, documents preparation, signatures and other

1 activities were done exclusively with Mr. Dyson and his accountant, Ben Wiggins.

2 89. Neither Mr. Johnson nor Mr. Tarkanian were ever in any communication or other
3 contact with La Jolla Bank; Mr. Dyson and Wiggins negotiated the terms of the loan from La Jolla
4 Bank to Johnson Investment and Vegas Diamond, provided and assisted in the preparation of the
5 loan applications, arranged for the appraisal, and took each loan document to the home of the
6 individual borrowers.

7 90. La Jolla Bank is subject to an "Order to Cease and Desist" issued before the Office
8 of Thrift Supervision ("OTS"), United States of America. The effective date of the Order is
9 September 9, 2009.

10 91. The Order stemmed from a "Stipulation and Consent to Issuance of Order to Cease
11 and Desist," effective date September 9, 2009.

12 92. In the Stipulation, the OTS found that La Jolla Bank has engaged in unsafe and
13 unsound banking practices which have resulted in inadequate asset quality, earnings, liquidity
14 planning, and capital levels at the Association [La Jolla Bank].

15 93. The Vegas Diamond Property and the Johnson Property are presently subject to a
16 Trustee's Sale.

17 **FIRST CAUSE OF ACTION**
18 (Fraudulent Concealment against La Jolla Bank)

19 94. The Plaintiffs repeat and reallege each and every allegation contained in Paragraphs
20 1 through 93 above and incorporate them as though fully set forth herein.

21 95. Because of special circumstances, La Jolla had a duty to disclose to the Plaintiffs.

22 96. La Jolla Bank had a long time relationship with Mr. Dyson and he had received a
23 large number of loans from La Jolla Bank over time. As a result of this long relationship, La Jolla
24 Bank knew that Mr. Dyson was encountering severe resistance and trouble in proceeding with the
25 Anza Project, yet the Plaintiffs were never provided this information prior to accepting the loans.

26 97. La Jolla Bank, through Mr. Dyson, structured new loans with the Plaintiffs secured
27 by very valuable real property owned by the Plaintiffs in Las Vegas, Nevada; in return for a second
28 position in the Anza Project based on information provided to the Plaintiffs that the Anza Project

1 was worth approximately \$15 million.

2 98. While the loans were in process, neither La Jolla Bank nor Mr. Dyson told the
3 Plaintiffs that Mr. Dyson was taking a \$7.5 million loan from La Jolla Bank secured with a first deed
4 of trust against the Anza Project.

5 99. Neither La Jolla Bank nor Mr. Dyson informed the Plaintiffs that money from the
6 loans made by La Jolla Bank to the Plaintiffs was used to pay off other loans Mr. Dyson had with
7 La Jolla Bank.

8 100. Unbeknownst to the Plaintiffs, approximately \$5.24 million was paid from the
9 closing of the loans to Songbird.

10 101. Mr. Dyson and La Jolla Bank knew that the Anza Project was only worth around \$15
11 million, yet it was securing loans in the amount of \$32.5 million - a fact they did not provide to the
12 Plaintiffs during their considerations whether to take out the loans.

13 102. At the time that the various loans were being made, the same problems were still
14 present with the Anza Project as were present back prior to 2005; nothing had changed since prior
15 to 2005, yet Mr. Dyson was still obtaining funds for the Anza Project with the help of La Jolla Bank,
16 and they did not provide the Plaintiffs with this information during their considerations whether to
17 take out the loans.

18 103. Under these special circumstances, La Jolla Bank was imparted with a duty to
19 disclose various material facts including but not limited to that it had a relationship with Mr. Dyson;
20 monies from the loan transactions with the Plaintiffs were being used to repay other loans La Jolla
21 Bank had made to Mr. Dyson; there were problems with the Anza Project affecting its viability and
22 financial stability; or that the entire transaction was dependent on Mr. Dyson's ability to repay the
23 loans given the shaky financial condition Mr. Dyson created through La Jolla Bank - all facts
24 unknown and undisclosed to the Plaintiffs.

25 104. La Jolla Bank and Mr. Dyson had exclusive knowledge of these material facts that
26 were not known to the Plaintiffs.

27 105. La Jolla Bank and Mr. Dyson actively concealed these material facts from the
28 Plaintiffs at the time they were contemplating going forward with the loans.

1 106. As a direct and proximate result of La Jolla Bank's and Mr. Dyson's active
2 and fraudulent concealment of these material facts from the Plaintiffs, Plaintiffs have been damaged
3 in an amount in excess of \$10,000.00, in an amount to be proven at the time of trial of this matter.

4 107. La Jolla Bank is guilty of oppression, fraud or malice, express or implied; therefore,
5 the Plaintiff is entitled to recover damages for the sake of example and by way of punishing La Jolla
6 Bank in an amount in excess of \$10,000.

7 108. It has become necessary for the Plaintiffs to engage the services of an attorney to
8 commence this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs as
9 damages.

10 **SECOND CAUSE OF ACTION**
11 (Negligence against La Jolla Bank)

12 109. The Plaintiffs repeat and reallege each and every allegation contained in Paragraphs
13 1 through 108 above and incorporate them as though fully set forth herein.

14 110. La Jolla Bank owed a duty of care to the Plaintiffs.

15 111. La Jolla Bank negligently failed to disclose certain material facts which included that
16 it had a relationship with Mr. Dyson, monies from the loan transactions with the Plaintiffs were
17 being used to repay other loans La Jolla Bank had made to Mr. Dyson, there were problems with the
18 Anza Project affecting its viability and financial stability, and the entire transaction was dependent
19 on Mr. Dyson's ability to repay the loans given the shaky financial web Mr. Dyson created through
20 La Jolla Bank.

21 112. As a direct and proximate result of La Jolla Bank's negligence, the Plaintiffs have
22 incurred damages in an amount in excess of \$10,000. The exact amount of the damages are to be
23 determined at Trial of this matter.

24 113. It has become necessary for the Plaintiffs to engage the services of an attorney to
25 commence this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs as
26 damages.

27 **THIRD CAUSE OF ACTION**
28 (Civil Conspiracy against La Jolla Bank)

114. The Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 113 above and incorporate them as though fully set forth herein.

115. La Jolla Bank conspired with Mr. Dyson to wrongfully encumber the Plaintiffs' real properties and to shore up La Jolla Bank's somewhat shaky financial posture.

116. To accomplish its unlawful objective, La Jolla Bank failed to disclose that it had a relationship with Mr. Dyson, monies from the loan transactions with the Plaintiffs were being used to repay other loans La Jolla Bank had made to Mr. Dyson, there were problems with the Anza Project affecting its viability and financial stability, and the entire transaction was dependent on Mr. Dyson's ability to repay the loans given the shaky financial web Mr. Dyson created through La Jolla Bank.

117. La Jolla Bank's actions in combination with Mr. Dyson were intended to accomplish some unlawful objective for the purpose of harming the Plaintiffs.

118. As a direct and proximate result of La Jolla Bank's actions, the Plaintiffs have incurred damages in an amount in excess of \$10,000. The exact amount of the damages are to be determined at Trial of this matter.

119. La Jolla Bank is guilty of oppression, fraud or malice, express or implied; therefore, the Plaintiff is entitled to recover damages for the sake of example and by way of punishing La Jolla Bank in an amount in excess of \$10,000.

120. It has become necessary for the Plaintiffs to engage the services of an attorney to commence this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs as damages.

FOURTH CAUSE OF ACTION

(Breach of the Covenant of Good Faith and Fair Dealing against La Jolla Bank)

121. The Plaintiffs repeat and reallege each and every allegation contained in Paragraphs 1 through 120 above and incorporate them as though fully set forth herein.

122. Implied in the loan transactions, was a covenant of good faith and fair dealing. This means that each Party impliedly agreed not to do anything to destroy or injure the right of the other Party to receive the benefits of the respective Agreements.

1 commence this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs as
2 damages.

3 **SIXTH CAUSE OF ACTION**
4 (Preliminary Injunction against all Defendants)

5 132. The Plaintiffs repeat and reallege each and every allegation contained in Paragraphs
6 1 through 131 above and incorporates them as though fully set forth herein.

7 132. The Plaintiffs are entitled to an order granting a preliminary injunction against the
8 Defendants immediately restraining the Defendants from proceeding on any Trustee's Sale of the
9 Plaintiffs' real properties.

10 133. The Plaintiffs will suffer irreparable injury, loss and damages should such an Order
11 not issue.

12 134. It has become necessary for the Plaintiffs to engage the services of an attorney to
13 commence this action and Plaintiff is, therefore, entitled to reasonable attorney's fees and costs as
14 damages.

15 **WHEREFORE**, the Plaintiffs pray for judgment as follows:

- 16 1. For damages in an amount in excess of \$10,000;
- 17 2. For punitive damages in an amount in excess of \$10,000;
- 18 3. For an order granting a preliminary injunction against the Defendants immediately
19 restraining the Defendants from proceeding on any Trustee's Sale of the Plaintiffs' real properties.
- 20 4. For reasonable attorney's fees and costs of suit; and

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1 5. For such other and further relief as the Court may deem just and proper in the premises.

2 DATED this 8th day of January, 2010.

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5 GUS W. FLANGAS, ESQ.
6 Nevada Bar No. 004989
7 KIM D. PRICE, ESQ.
8 Nevada Bar No. 007873
9 3275 South Jones Blvd., Suite 105
10 FLANGAS MCMILLAN LAW GROUP
11 Las Vegas, Nevada 89146
12 Telephone: (702) 307-9500
13 Fax: (702) 382-9452
14 *Attorneys for Plaintiffs*
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