


UNITED STATES BANKRUPTCY COURT Northern District of Texas (Dallas Division)		PROOF OF CLAIM
Name of Debtor: <u>Columbus CAMPUS LLC</u>		Case Number: <u>09-37019</u>
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): <u>APCO INDUSTRIES INC.</u>		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim. Court Claim Number: _____ (If known) Filed on: _____
Name and address where notices should be sent: <u>MARK S. MILLER</u> <u>ATTORNEY FOR APCO INDUSTRIES INC.</u> <u>PO BOX 21533</u> Telephone number: <u>UPPER ARLINGTON OHIO 43221</u> <u>614-222-4299</u>		
RECEIVED DEC 04 2009 BMC GROUP		
Name and address where payment should be sent (if different from above): Telephone number: _____		<input checked="" type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
1. Amount of Claim as of Date Case Filed: \$ <u>21,434.52 plus 18% interest from July 17, 2009 and court costs of \$225.</u> If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		
2. Basis for Claim: <u>labor and materials for construction.</u> (See instruction #2 on reverse side.)		5. Amount of Claim Entitled to Priority under 11 U.S.C. §507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim. <input type="checkbox"/> Domestic support obligations under 11 U.S.C. §507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier – 11 U.S.C. §507 (a)(4). <input type="checkbox"/> Contributions to an employee benefit plan – 11 U.S.C. §507 (a)(5). <input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use – 11 U.S.C. §507 (a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units – 11 U.S.C. §507 (a)(8). <input type="checkbox"/> Other – Specify applicable paragraph of 11 U.S.C. §507 (a)(____). Amount entitled to priority: \$ _____ <small>*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>
3. Last four digits of any number by which creditor identifies debtor: _____ 3a. Debtor may have scheduled account as: <u>BRAUN Construction Group.</u> (See instruction #3a on reverse side.)		
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input checked="" type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ <u>UNKNOWN</u> Annual Interest Rate <u>18</u> % Amount of arrearage and other charges as of time case filed included in secured claim, if any: \$ _____ Basis for perfection: <u>Mechanic liens</u> Amount of Secured Claim: \$ <u>20,914.52</u> Amount Unsecured: \$ <u>4520</u>		
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See instruction 7 and definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		
Date: <u>12-1-09</u>	Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. <u>Mark S Miller Attorney for APCO Industries Inc.</u>	
Penalty for presenting fraudulent claim: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571.		FOR COURT USE ONLY Erickson Ret. Comm. LLC  00100

Statement

Apco Industries Inc. was a supplier of labor and materials to property owned by Columbus Campus LLC pursuant to a contract with Braun Construction Group Inc. Braun Construction Group Inc. may have filed a proof of claim which includes this claim. A copy of the complaint with Exhibits that Apco Industries Inc. filed against Braun Construction Group Inc. and the debtor pre petition and the affidavits for mechanic liens are attached.

There are three mechanic liens. There is one for \$2011.52 for labor and materials supplied to the Community Building, and \$18903 for labor and materials supplied to the Residential Building. The third mechanic lien is a lien for the two liens combined. The total mechanic lien claim is \$20,914.52.

The proof of claim is for \$21,434.52 plus court costs and interest at the rate of 18% per annum from July 17, 2009. The reason for the difference between this number and the amount set forth in the mechanic liens is interest and court costs. Braun Construction Group Inc. has refused to pay Apco Industries Inc. claiming it has a "pay if paid" contract and that because the debtor did not pay it , there was no requirement to pay Apco Industries Inc.

The debtor has not confirmed or denied that it has not paid Braun Construction Group for pay applications which included request for payment for labor and materials provided by Apco Industries Inc.

If there are any questions please contact attorney Mark S. Miller PO Box 21533 Upper Arlington, Ohio 43221 telephone number 614-222-4299.

MARK S. MILLER ATTORNEY AT LAW
115 West Main Street Suite 210
Columbus, Ohio 43215
Telephone: 614-222-4299
Facsimile: 614-568-7414
Email:msmillerlaw@sbcglobal.net

June 22, 2009

Columbus Campus, LLC
701 Maiden Choice Lane
Catonsville MD. 21228

Garrett Power
Erickson Retirement Communities
4472 Leap Road
Hilliard, Ohio 43018

Certified mail

Re: Apco Industries Inc. mechanic liens for Hickory Chase Retirement Community Hilliard,
Ohio.

Dear Sir:

Enclosed are affidavits of mechanics liens that have been filed on behalf of my client Apco
Industries Inc. on property owned by Columbus, Campus LLC. Please call with any questions.

Sincerely,



Mark S. Miller

Enclosure

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

GARNETT POWER
ERICKSON RETIREMENT
4472 LEAP ROAD
HILLIARD OHIO 43026

2. Article Number
(Transfer from service)

7009 0820 0002 2231 0556

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY
A. Signature

[Signature] ☐ Agent ☒ Addressee

B. Received by (Printed Name)

GARNETT POWER

C. Date of Delivery

8/23/09

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

COLUMBUS CAMPUS LLC
701 MAIDEN CHOICE LANE
CATONSVILLE MD. 21228

2. Article Number
(Transfer from s)

7009 0820 0002 2231 0549

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY
A. Signature

[Signature] ☐ Agent ☒ Addressee

B. Received by (Printed Name)

Marlene Will

C. Date of Delivery

6/24/09

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

**Affidavit For Mechanics Lien
Sec. 1311.06 ORC**

200906190089327
Pg. 6 \$60.00 T20090034289
06/19/2009 3:54PM ML MARK S MILL
Robert G. Montgomery
Franklin County Recorder

**State of Ohio
County of Franklin, ss:**

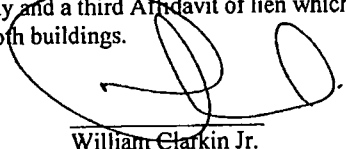
The undersigned, William Clarkin Jr., being first duly cautioned and sworn, says that he is the President and duly authorized agent of Apco Industries, Inc., the lien claimant herein, whose address is 777 Michigan Avenue Columbus, Ohio, and said Apco Industries, Inc. provided certain labor and materials for the construction of and in furtherance of improvements located on or removed to the land hereinafter described, in pursuance of a certain written contract with Braun Construction Group, Inc. whose address is 39395 W 12 Mile Road Suite 100 Farmington Hills Michigan 48331. The first of said labor and materials was furnished on January 29, 2009. The last of the labor and materials was furnished on May 7, 2009, and there is justly and truly due Apco Industries, Inc. therefore, over and above all legal set-offs, the sum of eighteen thousand nine hundred three dollars (\$18,903) for which Apco Industries, Inc. claims a lien upon the land and improvements thereon, of which Columbus, Campus, LLC, a Maryland limited liability company is the owner of the property of which Hickory Chase Inc., a Maryland nonstick corporation may have or claim to have an interest in all or part of the property and improvements discussed herein as a lessee of said property. Said property and improvements are more particularly described as follows: which premises is described as follows:

(See Exhibits A and B, attached hereto and made a part hereof by reference.)

Property commonly known as: Hickory Chase Retirement Community, located off of Leap Road in Hilliard, Ohio and is the same project that is identified in the Notice of Commencement recorded in Instrument No. 200803100036138 on March 10, 2008 and subsequently amended by Instrument No. 200809160139391 recorded on September 16, 2008 both in the Official Records in the office of the Franklin County Recorder, Franklin County, Ohio, but which do not describe all of the property included in said project. The property involved includes two parcels of land which are identified by the Franklin County Auditor, Parcel Number 050-010752-00 which is not described in either the original Notice of Commencement or the amendment thereto, containing 8.528 acres more or less and Parcel Number 050-10749-00 containing 77.019 acres more or less which is included in the original Notice of Commencement and is referred to as being unchanged in the amendment. All records to parcel numbers are to the records of the Franklin County Auditor, Franklin County, Ohio. -

Scribner's Note: The Hickory Chase Retirement Community Project has one Notice of Commencement for the entire project, which has been amended to reflect a change in the original contractor. Separate contracts have been issued by Braun Construction Group Inc. to Apco Industries, Inc. for the two buildings that have been started. This Affidavit of lien includes all of the materials provided by the lien claimant to Residential Building 1.1 identified on the plans as RB1.1 and located at 4510 Hickory Chase Way, Hilliard, Ohio 43026. It is not intended to be

a duplicate, but is being filed in order to avoid argument over whether the lien claimant should have filed one or two separate liens since materials were also provided by this lien claimant to 4500 Hickory Chase Way Hilliard, Ohio 43026 Community Building 1.0 which is identified on the plans as CB1.0. This Affidavit of lien is one of three Affidavits filed by this lien claimant. This Affidavit of lien which covers 4510 Hickory Chase Way Hilliard, Ohio, a second Affidavit of lien which covers 4500 Hickory Chase Way and a third Affidavit of lien which is a combined lien which covers the material provided to both buildings.



William Clarkin Jr.
Agent for
Apco Industries Inc.

Sworn to before me and subscribed in my presence by the said William Clarkin Jr. this 19th day of June 2009.



Molly E. Wilcox
Notary Public

Molly E. Wilcox
Notary Public, State of Ohio
My Commission Expires 07-19-2012

This instrument prepared by Mark S. Miller Attorney at Law.
115 West Main Street Suite 210 Columbus, Ohio 43215.

EXHIBIT A

77.019 ACRES

Situate in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military Survey Nos. 3000 and 4854, being part of the 40.924 and all of the 0.742 acre tracts conveyed to Columbus Campus LLC by deed of record in Instrument Number _____, and part of the 45.957 acre tract conveyed to Columbus Campus LLC by deed of record in Instrument Number _____, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

Beginning, for reference, at Franklin County Geodetic Survey Monument Number 0005 RESET found at the centerline intersection of Davidson Road (variable width) and Leap Road (variable width);

Thence South $23^{\circ} 37' 07''$ East, a distance of 1243.56 feet, with the centerline of said Leap Road, to a point;

Thence North $66^{\circ} 22' 53''$ East, a distance of 50.00 feet, across the right-of-way of said Leap Road and entering said 45.957 acre tract, to an iron pin set, the TRUE POINT OF BEGINNING;

Thence across said 45.957 acre tract, the following courses and distances:

North $68^{\circ} 44' 53''$ East, a distance of 556.74 feet, to an iron pin set at a point of curvature;

With said curve to the left, having a central angle of $09^{\circ} 08' 20''$, a radius of 1099.00 feet, an arc length of 175.29 feet, and a chord which bears North $60^{\circ} 37' 51''$ East, a chord distance of 175.11 feet, to an iron pin set;

North $23^{\circ} 37' 07''$ West, a distance of 384.33 feet, to an iron pin set in the line common to said 45.957 acre tract and the remainder of the original Tract Three conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414;

Thence North $84^{\circ} 08' 15''$ East, a distance of 1139.80 feet, with the northerly line of said 45.957 and 0.742 acre tracts and with the southerly lines of the remainder of said Tract Three, the southerly line of the remainder of the original Tract Two conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414 and a southerly line of the remainder of the original Tract 1 conveyed to Ansmil Limited Partnership by of record in Official Record 32225 G17, to an iron pin set;

Thence South $05^{\circ} 55' 17''$ East, a distance of 353.64 feet, with the line common to said 0.742 acre tract and the remainder of said original Tract 1, to an iron pin set at a point of curvature;

Thence with said curve to the left, having a central angle of $17^{\circ} 44' 53''$, a radius of 1332.49 feet, an arc length of 412.75 feet, and a chord which bears South $14^{\circ} 47' 43''$ East, a chord distance of 411.10 feet, with an easterly line of said 0.742 and 45.957 acre tracts and a westerly line of the remainders of said original Tract 1 and original Tract Two, to an iron pin at a point of tangency;

Thence South 23° 40' 10" East, a distance of 353.83 feet, with an easterly line of said 45.957 and 40.924 acre tracts, and with a westerly line of the remainders of said original Tract Two and original Parcel Two, Tract Two conveyed to Ansmil Limited Partnership by deed of record in Official Records 32225 G17 and 32225 I05, to an iron pin set;

Thence continuing with the line common to said 40.924 acre tract, the remainder of said original Parcel Two, Tract Two and the remainder of the original Parcel Two, Tract Three conveyed to Ansmil Limited Partnership by deed of record in Official Records 32225 G17 and 32225 I05, the following courses and distances:

South 01° 52' 05" East, a distance of 53.85 feet, to iron pin set;

South 23° 40' 10" East, a distance of 105.00 feet, to iron pin set;

South 45° 28' 15" East, a distance of 53.85 feet, to iron pin set;

South 23° 40' 10" East, a distance of 514.24 feet, to iron pin set at a point of curvature;

With said curve to the right, having a central angle of 08° 02' 24", a radius of 1390.00 feet, an arc length of 195.05 feet, and a chord which bears South 19° 38' 58" East, a chord distance of 194.89 feet, to iron pin set;

South 74° 22' 14" West, a distance of 20.00 feet, to an iron pin set;

With a curve to the right, having a central angle 01° 02' 00", a radius of 1370.00 feet, an arc length of 24.71 feet, and a chord which bears South 15° 06' 46" East, a chord distance of 24.71 feet, to an iron pin set;

South 76° 07' 35" West, a distance of 82.51 feet, to an iron pin set;

South 70° 47' 24" West, a distance of 286.15 feet, to an iron pin set;

South 68° 02' 13" West, a distance of 159.38 feet, to an iron pin set;

South 82° 20' 53" West, a distance of 300.01 feet, to an iron pin set;

South 76° 34' 35" West, a distance of 307.14 feet, to an iron pin set;

South 82° 47' 36" West, a distance of 138.56 feet, to an iron pin set;

North 79° 56' 50" West, a distance of 85.56 feet, to an iron pin set;

North 71° 18' 50" West, a distance of 150.01 feet, to an iron pin set;

North 65° 38' 53" West, a distance of 208.41 feet, to an iron pin set;

North 57° 48' 25" West, a distance of 129.32 feet, to an iron pin set;

North 59° 01' 48" West, a distance of 170.38 feet, to an iron pin set;

North 67° 18' 16" West, a distance of 57.59 feet, to an iron pin set;

North 80° 44' 53" West, a distance of 8.85 feet, to an iron pin set;

Thence across said 40.924 and 45.957 acre tracts, the following courses and distances:

North 02° 32' 02" East, a distance of 270.04 feet, to an iron pin set at a point of curvature;

With said curve to the left, having a central angle of 26° 09' 10", a radius of 600.00 feet, an arch length of 273.87 feet, and a chord which bears North 10° 32' 33" West, a chord distance of 271.50 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 682.05 feet, to the TRUE POINT OF BEGINNING, containing 77.019 acres, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

This description is based on existing record and field work performed in December, 2006.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FCGS 0005 RESET and FCGS 0006, having a bearing of North 23° 37' 07" West, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

EXHIBIT B
8.528 ACRES

Situated in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military Survey Number 4854, Virginia Military District, being part of the 45.957 acre tract conveyed to Columbus Campus LLC by deed of record in Instrument Number _____ (all references refer to the records of the Recorder's Office, Franklin County, Ohio), being more particularly described as follows:

Beginning, for reference, at Franklin Geodetic Survey Monument Number 0005 RESET found at the centerline intersection Leap Road (variable width) and Davidson Road (variable width);

thence South 23° 37' 07" East, a distance of 614.75 feet, with the centerline of said Leap Road, to a magnetic nail set at the common corner of said 45.957 acre tract and the remainder of the original Tract Three as conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414;

thence North 84° 08' 15" East, a distance of 52.50 feet, across the right-of-way of said Leap Road and with the line common to said 45.957 acre tract and the remainder of said original Tract Three, to an iron pin set, the TRUE POINT OF BEGINNING;

thence North 84° 08' 15" East, a distance of 767.02 feet, continuing with said common line, to an iron pin set;

thence across said 45.957 acre tract, the following courses and distances:

South 23° 37' 07" East, a distance of 384.33 feet, to an iron pin set on a curve;

With said curve, to the right, having a central angle of 09° 08' 20", a radius of 1099.00 feet, an arc length of 175.29 feet, and a chord bearing South 60° 37' 51" West, a chord distance of 175.11 feet, to an iron pin set at a point of tangency;

South 68° 44' 53" West, a distance of 556.74 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 612.80 feet, to the TRUE POINT OF BEGINNING, containing 8.528 acres, more or less;


Subject, however, to all legal rights-of-ways and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty(30) inches long with a plastic plug placed in the top bearing the initials EMIIT INC.

This description is based on existing record and field work performed in December, 2006.

Bearings are based on the Ohio State Plane Coordinate System (South Zone) as per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FCGS 0005 RESET and FCGS 0006, having a bearing of North 23° 37' 07" West, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

**Affidavit For Mechanics Lien
Sec. 1311.06 ORC**


200906190089330
Pg: 6 \$60.00 T20090634291
06/19/2009 3 56PM MLNARK S MILL
Robert G. Montgomery
Franklin County Recorder

**State of Ohio
County of Franklin, ss:**

The undersigned, William Clarkin Jr., being first duly cautioned and sworn, says that he is the President and duly authorized agent of Apco Industries, Inc., the lien claimant herein, whose address is 777 Michigan Avenue Columbus, Ohio, and said Apco Industries, Inc. provided certain labor and materials for the construction of and in furtherance of improvements located on or removed to the land hereinafter described, in pursuance of a certain written contract with Braun Construction Group, Inc. whose address is 39395 W 12 Mile Road Suite 100 Farmington Hills Michigan 48331. The first of said labor and materials was furnished on January 29, 2009. The last of the labor and materials was furnished on May 7, 2009, and there is justly and truly due Apco Industries, Inc. therefore, over and above all legal set-offs, the sum of twenty thousand nine hundred fourteen dollars and fifty two cents (\$20,914.52) for which Apco Industries, Inc. claims a lien upon the land and improvements thereon, of which Columbus, Campus, LLC, a Maryland limited liability company is the owner of the property of which Hickory Chase Inc., a Maryland nonstick corporation may have or claim to have an interest in all or part of the property and improvements discussed herein as a lessee of said property. Said property and improvements are more particularly described as follows: which premises is described as follows:

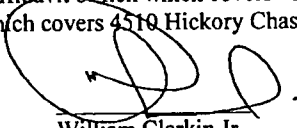
(See Exhibits A and B, attached hereto and made a part hereof by reference.)

Property commonly known as: Hickory Chase Retirement Community, located off of Leap Road in Hilliard, Ohio and is the same project that is identified in the Notice of Commencement recorded in Instrument No. 200803100036138 on March 10, 2008 and subsequently amended by Instrument No. 200809160139391 recorded on September 16, 2008 both in the Official Records in the office of the Franklin County Recorder, Franklin County, Ohio, but which do not describe all of the property included in said project. The property involved includes two parcels of land which are identified by the Franklin County Auditor, Parcel Number 050-010752-00 which is not described in either the original Notice of Commencement or the amendment thereto, containing 8.528 acres more or less and Parcel Number 050-10749-00 containing 77.019 acres more or less which is included in the original Notice of Commencement and is referred to as being unchanged in the amendment. All records to parcel numbers are to the records of the Franklin County Auditor, Franklin County, Ohio. -

Scribner's Note: The Hickory Chase Retirement Community Project has one Notice of Commencement for the entire project, which has been amended to reflect a change in the original contractor. Separate contracts have been issued by Braun Construction Group Inc. to Apco Industries, Inc. for the two buildings that have been started. This Affidavit of lien includes all of the materials provided by the lien claimant to both, Residential Building 1.1 identified on the plans as RB1.1 and located at 4510 Hickory Chase Way, Hilliard, Ohio 43026. and to Community Building 1.0 identified on the plans as CB 1.0 and located at 4500 Hickory Chase

Page 1 of 6

Way Hilliard, Ohio 43026. It is not intended to be a duplicate, but is being filed in order to avoid argument over whether the lien claimant should have filed one or two separate liens since materials were also provided by this lien claimant to both 4500 and 4510 Hickory Chase Way Hilliard, Ohio 43026 This Affidavit of lien is one of three Affidavits filed by this lien claimant. This Affidavit of lien which covers both 4510 Hickory Chase Way Hilliard, Ohio, and 4500 Hickory Chase Way Hilliard, Ohio a second Affidavit of lien which covers 4500 Hickory Chase Way and a third Affidavit of lien which is a which covers 4510 Hickory Chase Way.



William Clarkin Jr.
Agent for
Apco Industries, Inc.

Sworn to before me and subscribed in my presence by the said William Clarkin Jr. this
19th day of June 2009.



Molly E. Wilcox
Notary Public
Notary Public, State of Ohio
My Commission Expires 07-19-2012

This instrument prepared by Mark S. Miller Attorney at Law.
115 West Main Street Suite 210 Columbus, Ohio 43215

EXHIBIT A

77.019 ACRES

Situate in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military Survey Nos. 3000 and 4854, being part of the 40.924 and all of the 0.742 acre tracts conveyed to Columbus Campus LLC by deed of record in Instrument Number _____, and part of the 45.957 acre tract conveyed to Columbus Campus LLC by deed of record in Instrument Number _____, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

Beginning, for reference, at Franklin County Geodetic Survey Monument Number 0005 RESET found at the centerline intersection of Davidson Road (variable width) and Leap Road (variable width);

Thence South 23° 37' 07" East, a distance of 1243.56 feet, with the centerline of said Leap Road, to a point;

Thence North 66° 22' 53" East, a distance of 50.00 feet, across the right-of-way of said Leap Road and entering said 45.957 acre tract, to an iron pin set, the TRUE POINT OF BEGINNING;

Thence across said 45.957 acre tract, the following courses and distances:

North 68° 44' 53" East, a distance of 556.74 feet, to an iron pin set at a point of curvature;

With said curve to the left, having a central angle of 09° 08' 20", a radius of 1099.00 feet, an arc length of 175.29 feet, and a chord which bears North 60° 37' 51" East, a chord distance of 175.11 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 384.33 feet, to an iron pin set in the line common to said 45.957 acre tract and the remainder of the original Tract Three conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414;

Thence North 84° 08' 15" East, a distance of 1139.80 feet, with the northerly line of said 45.957 and 0.742 acre tracts and with the southerly lines of the remainder of said Tract Three, the southerly line of the remainder of the original Tract Two conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414 and a southerly line of the remainder of the original Tract 1 conveyed to Ansmil Limited Partnership by of record in Official Record 32225 G17, to an iron pin set;

Thence South 05° 55' 17" East, a distance of 353.64 feet, with the line common to said 0.742 acre tract and the remainder of said original Tract 1, to an iron pin set at a point of curvature;

Thence with said curve to the left, having a central angle of 17° 44' 53", a radius of 1332.49 feet, an arc length of 412.75 feet, and a chord which bears South 14° 47' 43" East, a chord distance of 411.10 feet, with an easterly line of said 0.742 and 45.957 acre tracts and a westerly line of the remainders of said original Tract 1 and original Tract Two, to an iron pin at a point of tangency;

Thence South 23° 40' 10" East, a distance of 353.83 feet, with an easterly line of said 45.957 and 40.924 acre tracts, and with a westerly line of the remainders of said original Tract Two and original Parcel Two, Tract Two conveyed to Ansmil Limited Partnership by deed of record in Official Records 32225 G17 and 32225 I05, to an iron pin set;

Thence continuing with the line common to said 40.924 acre tract, the remainder of said original Parcel Two, Tract Two and the remainder of the original Parcel Two, Tract Three conveyed to Ansmil Limited Partnership by deed of record in Official Records 32225 G17 and 32225 I05, the following courses and distances:

South 01° 52' 05" East, a distance of 53.85 feet, to iron pin set;

South 23° 40' 10" East, a distance of 105.00 feet, to iron pin set;

South 45° 28' 15" East, a distance of 53.85 feet, to iron pin set;

South 23° 40' 10" East, a distance of 514.24 feet, to iron pin set at a point of curvature;

With said curve to the right, having a central angle of 08° 02' 24", a radius of 1390.00 feet, an arc length of 195.05 feet, and a chord which bears South 19° 38' 58" East, a chord distance of 194.89 feet, to iron pin set;

South 74° 22' 14" West, a distance of 20.00 feet, to an iron pin set;

With a curve to the right, having a central angle 01° 02' 00", a radius of 1370.00 feet, an arc length of 24.71 feet, and a chord which bears South 15° 06' 46" East, a chord distance of 24.71 feet, to an iron pin set;

South 76° 07' 35" West, a distance of 82.51 feet, to an iron pin set;

South 70° 47' 24" West, a distance of 286.15 feet, to an iron pin set;

South 68° 02' 13" West, a distance of 159.38 feet, to an iron pin set;

South 82° 20' 53" West, a distance of 300.01 feet, to an iron pin set;

South 76° 34' 35" West, a distance of 307.14 feet, to an iron pin set;

South 82° 47' 36" West, a distance of 138.56 feet, to an iron pin set;

North 79° 56' 50" West, a distance of 85.56 feet, to an iron pin set;

North 71° 18' 50" West, a distance of 150.01 feet, to an iron pin set;

North 65° 38' 53" West, a distance of 208.41 feet, to an iron pin set;

North 57° 48' 25" West, a distance of 129.32 feet, to an iron pin set;

North 59° 01' 48" West, a distance of 170.38 feet, to an iron pin set;

North 67° 18' 16" West, a distance of 57.59 feet, to an iron pin set;

North 80° 44' 53" West, a distance of 8.85 feet, to an iron pin set;

Thence across said 40.924 and 45.957 acre tracts, the following courses and distances:

North 02° 32' 02" East, a distance of 270.04 feet, to an iron pin set at a point of curvature;

With said curve to the left, having a central angle of 26° 09' 10", a radius of 600.00 feet, an arch length of 273.87 feet, and a chord which bears North 10° 32' 33" West, a chord distance of 271.50 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 682.05 feet, to the TRUE POINT OF BEGINNING, containing 77.019 acres, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

This description is based on existing record and field work performed in December, 2006.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FCGS 0005 RESET and FCGS 0006, having a bearing of North 23° 37' 07" West, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

EXHIBIT B
8.528 ACRES

Situated in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military Survey Number 4854, Virginia Military District, being part of the 45.957 acre tract conveyed to Columbus Campus LLC by deed of record in Instrument Number _____ (all references refer to the records of the Recorder's Office, Franklin County, Ohio), being more particularly described as follows:

Beginning, for reference, at Franklin Geodetic Survey Monument Number 0005 RESET found at the centerline intersection Leap Road (variable width) and Davidson Road (variable width);

thence South 23° 37' 07" East, a distance of 614.75 feet, with the centerline of said Leap Road, to a magnetic nail set at the common corner of said 45.957 acre tract and the remainder of the original Tract Three as conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414;

thence North 84° 08' 15" East, a distance of 52.50 feet, across the right-of-way of said Leap Road and with the line common to said 45.957 acre tract and the remainder of said original Tract Three, to an iron pin set, the TRUE POINT OF BEGINNING;

thence North 84° 08' 15" East, a distance of 767.02 feet, continuing with said common line, to an iron pin set;

thence across said 45.957 acre tract, the following courses and distances:

South 23° 37' 07" East, a distance of 384.33 feet, to an iron pin set on a curve;

With said curve, to the right, having a central angle of 09° 08' 20", a radius of 1099.00 feet, an arc length of 175.29 feet, and a chord bearing South 60° 37' 51" West, a chord distance of 175.11 feet, to an iron pin set at a point of tangency;

South 68° 44' 53" West, a distance of 556.74 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 612.80 feet, to the TRUE POINT OF BEGINNING, containing 8.528 acres, more or less;


Subject, however, to all legal rights-of-ways and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty(30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

This description is based on existing record and field work performed in December, 2006.

Bearings are based on the Ohio State Plane Coordinate System (South Zone) as per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FCGS 0005 RESET and FCGS 0006, having a bearing of North 23° 37' 07" West, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

**Affidavit For Mechanics Lien
Sec. 1311.06 ORC**


200906190089329
Pg: 6 \$60.00 T20090034290
06/19/2009 3:55PM ML MARK S MILL
Robert G. Montgomery
Franklin County Recorder

**State of Ohio
County of Franklin, ss:**

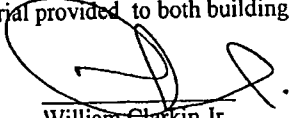
The undersigned, William Clarkin Jr., being first duly cautioned and sworn, says that he is the President and duly authorized agent of Apco Industries, Inc., the lien claimant herein, whose address is 777 Michigan Avenue Columbus, Ohio, and said Apco Industries, Inc. provided certain labor and materials for the construction of and in furtherance of improvements located on or removed to the land hereinafter described, in pursuance of a certain written contract with Braun Construction Group, Inc. whose address is 39395 W 12 Mile Road Suite 100 Farmington Hills Michigan 48331. The first of said labor and materials was furnished on February 2, 2009. The last of the labor and materials was furnished on April 29, 2009 and there is justly and truly due Apco Industries, Inc. therefore, over and above all legal set-offs, the sum of two thousand eleven dollars and fifty two cents (\$2,011.52) for which Apco Industries, Inc. claims a lien upon the land and improvements thereon, of which Columbus, Campus, LLC, a Maryland limited liability company is the owner of the property of which Hickory Chase Inc., a Maryland nonstick corporation may have or claim to have an interest in all or part of the property and improvements discussed herein as a lessee of said property. Said property and improvements are more particularly described as follows: which premises is described as follows:

(See Exhibits A and B, attached hereto and made a part hereof by reference.)

Property commonly known as: Hickory Chase Retirement Community, located off of Leap Road in Hilliard, Ohio and is the same project that is identified in the Notice of Commencement recorded in Instrument No. 200803100036138 on March 10, 2008 and subsequently amended by Instrument No. 200809160139391 recorded on September 16, 2008 both in the Official Records in the office of the Franklin County Recorder, Franklin County, Ohio, but which do not describe all of the property included in said project. The property involved includes two parcels of land which are identified by the Franklin County Auditor, Parcel Number 050-010752-00 which is not described in either the original Notice of Commencement or the amendment thereto, containing 8.528 acres more or less and Parcel Number 050-10749-00 containing 77.019 acres more or less which is included in the original Notice of Commencement and is referred to as being unchanged in the amendment. All records to parcel numbers are to the records of the Franklin County Auditor, Franklin County, Ohio. —

Scribner's Note: The Hickory Chase Retirement Community Project has one Notice of Commencement for the entire project, which has been amended to reflect a change in the original contractor. Separate contracts have been issued by Braun Construction Group Inc. to Apco Industries, Inc. for the two buildings that have been started. This Affidavit of lien includes all of the materials provided by the lien claimant to Community Building 1.0 which is identified on the plans as CB1.0 and located at 4500 Hickory Chase Way, Hilliard, Ohio 43026. It is not intended

to be a duplicate, but is being filed in order to avoid argument over whether the lien claimant should have filed one or two separate liens since materials were also provided by this lien claimant to 4510 Hickory Chase Way Hilliard, Ohio 43026 Residential Building 1.1 which is identified on the plans as RB 1.1. This Affidavit of lien is one of three Affidavits filed by this lien claimant. This Affidavit of lien which covers 4500 Hickory Chase Way Hilliard, Ohio, a second Affidavit of lien which covers 4510 Hickory Chase Way and a third Affidavit of lien which is a combined lien which covers the material provided to both buildings.


William Clarkin Jr.
Agent for
Apco Industries Inc.

Sworn to before me and subscribed in my presence by the said William Clarkin Jr. this 19th day
of June, 2009.


Molly E Wilcox
Notary Public, State of Ohio
My Commission Expires 07-18-2012

This instrument prepared by Mark S. Miller Attorney at Law.
115 West Main Street Suite 210 Columbus, Ohio 43215

EXHIBIT A

77.019 ACRES

Situate in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military Survey Nos. 3000 and 4854, being part of the 40.924 and all of the 0.742 acre tracts conveyed to Columbus Campus LLC by deed of record in Instrument Number _____, and part of the 45.957 acre tract conveyed to Columbus Campus LLC by deed of record in Instrument Number _____, (all references refer to the records of the Recorder's Office, Franklin County, Ohio) being more particularly described as follows:

Beginning, for reference, at Franklin County Geodetic Survey Monument Number 0005 RESET found at the centerline intersection of Davidson Road (variable width) and Leap Road (variable width);

Thence South $23^{\circ} 37' 07''$ East, a distance of 1243.56 feet, with the centerline of said Leap Road, to a point;

Thence North $66^{\circ} 22' 53''$ East, a distance of 50.00 feet, across the right-of-way of said Leap Road and entering said 45.957 acre tract, to an iron pin set, the TRUE POINT OF BEGINNING;

Thence across said 45.957 acre tract, the following courses and distances:

North $68^{\circ} 44' 53''$ East, a distance of 556.74 feet, to an iron pin set at a point of curvature;

With said curve to the left, having a central angle of $09^{\circ} 08' 20''$, a radius of 1099.00 feet, an arc length of 175.29 feet, and a chord which bears North $60^{\circ} 37' 51''$ East, a chord distance of 175.11 feet, to an iron pin set;

North $23^{\circ} 37' 07''$ West, a distance of 384.33 feet, to an iron pin set in the line common to said 45.957 acre tract and the remainder of the original Tract Three conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414;

Thence North $84^{\circ} 08' 15''$ East, a distance of 1139.80 feet, with the northerly line of said 45.957 and 0.742 acre tracts and with the southerly lines of the remainder of said Tract Three, the southerly line of the remainder of the original Tract Two conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414 and a southerly line of the remainder of the original Tract 1 conveyed to Ansmil Limited Partnership by of record in Official Record 32225 G17, to an iron pin set;

Thence South $05^{\circ} 55' 17''$ East, a distance of 353.64 feet, with the line common to said 0.742 acre tract and the remainder of said original Tract 1, to an iron pin set at a point of curvature;

Thence with said curve to the left, having a central angle of $17^{\circ} 44' 53''$, a radius of 1332.49 feet, an arc length of 412.75 feet, and a chord which bears South $14^{\circ} 47' 43''$ East, a chord distance of 411.10 feet, with an easterly line of said 0.742 and 45.957 acre tracts and a westerly line of the remainders of said original Tract 1 and original Tract Two, to an iron pin at a point of tangency;

Thence South 23° 40' 10" East, a distance of 353.83 feet, with an easterly line of said 45.957 and 40.924 acre tracts, and with a westerly line of the remainders of said original Tract Two and original Parcel Two, Tract Two conveyed to Ansmil Limited Partnership by deed of record in Official Records 32225 G17 and 32225 105, to an iron pin set;

Thence continuing with the line common to said 40.924 acre tract, the remainder of said original Parcel Two, Tract Two and the remainder of the original Parcel Two, Tract Three conveyed to Ansmil Limited Partnership by deed of record in Official Records 32225 G17 and 32225 105, the following courses and distances:

South 01° 52' 05" East, a distance of 53.85 feet, to iron pin set;

South 23° 40' 10" East, a distance of 105.00 feet, to iron pin set;

South 45° 28' 15" East, a distance of 53.85 feet, to iron pin set;

South 23° 40' 10" East, a distance of 514.24 feet, to iron pin set at a point of curvature;

With said curve to the right, having a central angle of 08° 02' 24", a radius of 1390.00 feet, an arc length of 195.05 feet, and a chord which bears South 19° 38' 58" East, a chord distance of 194.89 feet, to iron pin set;

South 74° 22' 14" West, a distance of 20.00 feet, to an iron pin set;

With a curve to the right, having a central angle 01° 02' 00", a radius of 1370.00 feet, an arc length of 24.71 feet, and a chord which bears South 15° 06' 46" East, a chord distance of 24.71 feet, to an iron pin set;

South 76° 07' 35" West, a distance of 82.51 feet, to an iron pin set;

South 70° 47' 24" West, a distance of 286.15 feet, to an iron pin set;

South 68° 02' 13" West, a distance of 159.38 feet, to an iron pin set;

South 82° 20' 53" West, a distance of 300.01 feet, to an iron pin set;

South 76° 34' 35" West, a distance of 307.14 feet, to an iron pin set;

South 82° 47' 36" West, a distance of 138.56 feet, to an iron pin set;

North 79° 56' 50" West, a distance of 85.56 feet, to an iron pin set;

North 71° 18' 50" West, a distance of 150.01 feet, to an iron pin set;

North 65° 38' 53" West, a distance of 208.41 feet, to an iron pin set;

North 57° 48' 25" West, a distance of 129.32 feet, to an iron pin set;

North 59° 01' 48" West, a distance of 170.38 feet, to an iron pin set;

North 67° 18' 16" West, a distance of 57.59 feet, to an iron pin set;

North 80° 44' 53" West, a distance of 8.85 feet, to an iron pin set;

Thence across said 40.924 and 45.957 acre tracts, the following courses and distances:

North 02° 32' 02" East, a distance of 270.04 feet, to an iron pin set at a point of curvature;

With said curve to the left, having a central angle of 26° 09' 10", a radius of 600.00 feet, an arch length of 273.87 feet, and a chord which bears North 10° 32' 33" West, a chord distance of 271.50 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 682.05 feet, to the TRUE POINT OF BEGINNING, containing 77.019 acres, more or less.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

This description is based on existing record and field work performed in December, 2006.

Bearings are based on the Ohio State Plane Coordinate System, South Zone, as per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FCGS 0005 RESET and FCGS 0006, having a bearing of North 23° 37' 07" West, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

EXHIBIT B
8.528 ACRES

Situated in the State of Ohio, County of Franklin, City of Hilliard, lying in Virginia Military Survey Number 4854, Virginia Military District, being part of the 45.957 acre tract conveyed to Columbus Campus LLC by deed of record in Instrument Number _____ (all references refer to the records of the Recorder's Office, Franklin County, Ohio), being more particularly described as follows:

Beginning, for reference, at Franklin Geodetic Survey Monument Number 0005 RESET found at the centerline intersection Leap Road (variable width) and Davidson Road (variable width);

thence South 23° 37' 07" East, a distance of 614.75 feet, with the centerline of said Leap Road, to a magnetic nail set at the common corner of said 45.957 acre tract and the remainder of the original Tract Three as conveyed to Wolpert Enterprises, Limited by deed of record in Instrument Number 200204080088414;

thence North 84° 08' 15" East, a distance of 52.50 feet, across the right-of-way of said Leap Road and with the line common to said 45.957 acre tract and the remainder of said original Tract Three, to an iron pin set, the TRUE POINT OF BEGINNING;

thence North 84° 08' 15" East, a distance of 767.02 feet, continuing with said common line, to an iron pin set;

thence across said 45.957 acre tract, the following courses and distances:

South 23° 37' 07" East, a distance of 384.33 feet, to an iron pin set on a curve;

With said curve, to the right, having a central angle of 09° 08' 20", a radius of 1099.00 feet, an arc length of 175.29 feet, and a chord bearing South 60° 37' 51" West, a chord distance of 175.11 feet, to an iron pin set at a point of tangency;

South 68° 44' 53" West, a distance of 556.74 feet, to an iron pin set;

North 23° 37' 07" West, a distance of 612.80 feet, to the TRUE POINT OF BEGINNING, containing 8.528 acres, more or less;

Subject, however, to all legal rights-of-ways and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty(30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

This description is based on existing record and field work performed in December, 2006.

Bearings are based on the Ohio State Plane Coordinate System (South Zone) as per NAD83 (1986 Adjustment). Control for bearings was from coordinates of monuments FCGS 0005 RESET and FCGS 0006, having a bearing of North 23° 37' 07" West, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

20,137.92

\$16,304.47

IN THE FRANKLIN COUNTY COMMON PLEAS COURT

APCO INDUSTRIES, INC.
777 MICHIGAN AVENUE
COLUMBUS, OH. 43215

09 CV 06 9698

PLAINTIFF

Case No.
Judge

V.

BRAUN CONSTRUCTION GROUP INC.
39395 W. 12 MILE ROAD SUITE 100
FARMINGTON HILLS, MI. 48331

DEFENDANT

and

COLUMBUS CAMPUS LLC
701 MAIDEN CHOICE LANE
CATONSVILLE, MD. 21228

DEFENDANT

FILED
COMMON PLEAS COURT
FRANKLIN CO. OHIO
2009 JUN 29 AM 11:35
CLERK OF COURTS

COMPLAINT

COUNT ONE (BREACH OF CONTRACT BRAUN CONSTRUCTION GROUP INC.)

1. Plaintiff APCO Industries Inc. (APCO) is a supplier and installer of gutters, flashing and other related materials located in Columbus Ohio.
2. Defendant Braun Construction Group Inc. (Braun) is a general contractor located in Michigan that entered into a contract with Defendant Columbus Campus LLC (CCL) or its designee to construct buildings on property owned by CCL located off Leap Road in Hilliard, Franklin County, Ohio.
3. On July 8, 2008 APCO entered into two purchase order contracts with Braun. Copies of the July 8, 2008 purchase order contracts are attached as Exhibits "A" and "B". On September 25, 2008 APCO entered into a third purchase order contract with Braun. A copy of the September 25, 2008

purchase order contract is attached as Exhibit "C". The purchase order contracts attached hereto are incorporated herein by reference.

4. Defendant Braun entered into the purchase order contracts with Plaintiff APCO so that Defendant Braun could supply goods and services necessary for it to satisfy its contract with Defendant CCL.
5. According to the purchase order contracts, Plaintiff APCO agreed to supply labor and materials as are set forth in the estimates which are attached as Exhibits A-1, B-1, and C-1 and incorporated herein by reference.
6. Plaintiff APCO performed all of its obligations under the purchase order contracts and or was ready willing and able to perform them.
7. On May 12, 2009, the Defendant Braun advised the Plaintiff APCO by letter dated May 12, 2009 to suspend all work. A copy of the letter is attached as Exhibit "D" and incorporated herein by reference.
8. According to Defendant Braun, Plaintiff APCO was asked to suspend work because there was some problem with Defendant CCL's continued ability to fund the improvements to its property.
9. Plaintiff APCO received no notice that there was any rejection of the goods and services it provided under the purchase order contracts.
10. Plaintiff performed all conditions required of it under the purchase order contracts.
11. Plaintiff APCO made demand on Defendant Braun for payment due under the purchase order contracts but Defendant Braun refused to make payment claiming that it had not been paid by Defendant CCL.
12. Defendant Braun breached the purchase order contracts causing damage to the Plaintiff APCO in the amount of \$18,903 for breach of the purchase order contract attached as Exhibit A, \$2011.52 for breach of the purchase order contract marked as Exhibit B, and \$520 for breach of the purchase

order contract marked as Exhibit C for a total of \$21,434.52 plus costs and interest at the rate of 18 % per annum from July 17, 2009.

COUNT TWO (BALANCE DUE ON ACCOUNT BRAUN CONSTRUCTION GROUP, INC.)

13. Plaintiff APCO re-alleges each and every allegation as if fully rewritten herein.
14. Defendant Braun, owes the Plaintiff APCO \$21,434.52 plus costs and interest at the rate of 18% per annum July 17, 2009 according to the statement of account attached hereto as Exhibit E and incorporated herein by reference.

COUNT THREE (UNJUST ENRICHMENT COLUMBUS CAMPUS LLC)

15. Plaintiff APCO re-alleges each and every allegation as if fully rewritten herein.
16. Plaintiff APCO provided all materials and labor and or was ready willing and able to provide all the labor and materials that it was required to provide pursuant to the contracts with Defendant Braun.
17. Defendant Braun. Has refused to pay Plaintiff APCO claiming that it has not been fully paid by Defendant CCL for the materials and services supplied by the Plaintiff APCO .
18. Defendant CCL has been unjustly enriched at the expense of the Plaintiff APCO in that it has retained the benefit of materials provided but has refused to pay for them when there is no dispute related to them.
19. Defendant CCL owes the Plaintiff APCO the sum of \$21,434.52 plus costs and interest at the rate of 18% per annum July 17, 2009 under the doctrines of quasi contract, unjust enrichment, quantum valebant and/or quantum meruit.

WHEREFORE, the Plaintiff APCO demands judgment against the Defendants Braun and CCL jointly and severally for the sum of 21,434.52 plus costs and interest at the rate of 18% per annum July 17, 2009. Plaintiff demands such further relief as the Court deems appropriate.

Respectfully submitted,



Mark S. Miller (0019303)
Attorney for Plaintiff
115 West Main Street Suite 210
Columbus, Ohio 43215
Telephone: 614-222-4299
Facsimile: 614-568-7414
msmillerlaw@sbcglobal.net

This is a communication from a debt collector. This is an attempt to collect a debt. Any information obtained will be used for that purpose.



**BRAUN CONSTRUCTION
GROUP, INC.**

39395 W. 12 Mile Road, Suite 100
Farmington Hills, MI 48331
248-848-0567 phone
248-848-0567 fax

TO: APCO INDUSTRIES, INC.
777 MICHIGAN AVENUE
COLUMBUS, OH 43219

PHONE: 614-224-2345
FAX: 614-224-8165

Date:

SHIP TO:

P.O. # 28-002-022

PURCHASE ORDER

JOB NO. 28-002
PHASE NO. 07-400

JUNE 25, 2008

RESIDENTIAL BUILDING 1.1

Erickson Retirement Communities
4474 Leap Rd., Hilliard OH 43026
JOB # 28-002

REQ'D. BY	MATERIAL REQUIRED ON JOB	F.O.B.	TERMS
		JOBSITE	07-400
QTY.	DESCRIPTION	TOTAL	
	The terms and conditions of Braun Construction Group, Inc. subcontract agreement (a copy of which is available at BCG's main office for review) are hereby made a part of this purchase order agreement.		
	PER ATTACHED SCOPE AND QUOTATION DATED JUNE 5, 2008.		
	TOTAL	\$	19,533.00
	CONTACT, John York CELL: 586-703-1670 or Ken Maes CELL: 586-899-7641, Project Superintendents for confirmation of delivery dates. Jobsite Phone: 614-771-6474 Jobsite Fax: 614-771-7091 Email: jyork@brauncg.com Email: kmaes@brauncg.com		
	REFERENCE THIS PURCHASE ORDER NUMBER WHEN INVOICING FOR THIS WORK.		
	TOTAL AMOUNT INCLUDES TAX & DELIVERY	NOT TO EXCEED	
	TOTAL AMOUNT SHALL NOT EXCEED:	\$	19,533.00

Accepted By:

APCO INDUSTRIES, INC.

NAME: *[Signature]*
DATE: 6/18/08

EXHIBIT A

Authorized By: *[Signature]*

Dick Conway,
PROJECT MANAGER

CHANGE ORDER



JOB NO.: 28-002
PHASE NO.: 07-400

PROJECT: HICKORY CHASE - RESIDENTIAL BUILDING 1.1
4510 HICKORY CHASE WAY
HILLIARD, OH 43026

CHANGE ORDER NO.: ONE

DATE: MARCH 30, 2009

CONTRACTOR: APCO INDUSTRIES, INC.
777 MICHIGAN AVE
COLUMBUS, OH 43219

CONTRACT FOR: GUTTERS/DOWNSPOUTS

CONTRACT DATE: JUNE 25, 2008

YOU ARE DIRECTED TO MAKE THE FOLLOWING CHANGES IN THIS CONTRACT:

Reduction for Chimney Flashing - not done.

DEDUCT (\$630.00)
(RTA)

TOTAL AMOUNT THIS CHANGE ORDER

DEDUCT (\$630.00)

Signature of the contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

THE ORIGINAL CONTRACT AMOUNT	\$19,533.00
NET CHANGE BY PREVIOUSLY AUTHORIZED CHANGE ORDERS	
THE CONTRACT SUM PRIOR TO THIS CHANGE ORDER WAS	\$19,533.00
The Contract Sum will be increased / Decreased / Unchanged by this change order in the amount of :	
	(\$630.00)
THE NEW CONTRACT SUM, INCLUDING THIS CHANGE ORDER, inclusive of all claims and costs of Subcontractors work, including, but not limited to, labor, materials, time extensions, overhead, inefficiencies, delay, and acceleration costs.	\$18,903.00

The Contract Time will be INCREASED/DECREASED/UNCHANGED by:

CONTRACTOR

BRAUN CONSTRUCTION GROUP, INC.
39395 W. 12 Mile Road Suite 100
Farmington Hills, MI 48334

DICK CONWAY, Project Manager

SUBCONTRACTOR

APCO INDUSTRIES, INC.
777 MICHIGAN AVE
COLUMBUS, OH 43219

(signature)

EXHIBIT A

EXHIBIT "D" SCOPE OF WORK

Subcontractor shall provide Gutters and Downspouts, complete per the plans and specifications prepared by Dorsky, Hodgson, Parrish Yue dated 03-18-08 Addendum #2, for building RB1.1 and CB1.0.

All work is to comply with and adhere to, without exclusion, Specification Sections: Bidding Requirements, Contract Forms and Conditions of Lump Sum Contract, Division 1 – General Requirements, Specification Section 07710 including, but not limited to:


1. All costs for hoisting, tools and equipment are included for work performed.
2. All costs for Taxes are included.
3. Cost of removal of and clean up of excess material is included.
4. Supplier is responsible for quantities as indicated in the contract documents.
5. Dimensions to be field verified.
6. All elbows, downspouts, and accessories are included.
7. Chimney caps are included.
8. Colors as chosen by Architect.
9. 6" K style gutter.
10. 3"X4" downspouts.
11. Touch up of gutters and downspouts prior to leaving.


General Requirements

1. Clean up, remove from site and legally dispose of all debris required or caused by this work daily.
2. Provide all hoisting and scaffolding required to perform this work.
3. Temporary power for 120V equipment will be provided by Braun Construction Group. All additional power requirements to be provided by this Subcontractor.
4. Attendance is required at weekly coordination meetings conducted by Braun Construction Group Project Superintendent.
5. Coordinate all operations (i.e. hoists, deliveries, overtime, utility shut offs, etc.) with BCG Project Superintendent.
6. Coordinate all work with that of other trades through the BCG Project Superintendent.
7. Perform all work in compliance with applicable codes and governmental regulations.
8. Provide all necessary resources (i.e. labor, materials, equipment, etc.) to maintain BCG schedule.

Safety Requirements

1. Submit M.S.D.S. sheets prior to start of all related work.
2. Conduct weekly "Toolbox Safety Meetings" and submit minutes to BCG's Project Superintendent.
3. **Hardhats are mandatory** for the duration of the project, at any location exposed to construction activities (non-complying employees will be asked to leave the site.)
4. Attendance at monthly safety meetings conducted by BCG's Project Superintendent is mandatory.
5. Two (2) copies of the Subcontractor's safety program shall be submitted to the Project Superintendent prior to start of work.

BCG INITIAL: 

SUBCONTRACTOR INITIAL: 



DATE: 06/05/2008

Telephone:

\$630.00		
\$2,227.00		N1-9133
\$16,676.00	CAMEO	N1-9131
\$19,533.00	\$0.00	\$0.00

TOTAL:

(Installed Pricing Unless Otherwise Noted).

Billing Terms: NET DUE IN 30 DAYS FROM DATE OF INVOICE

Bid based on field measurements made on

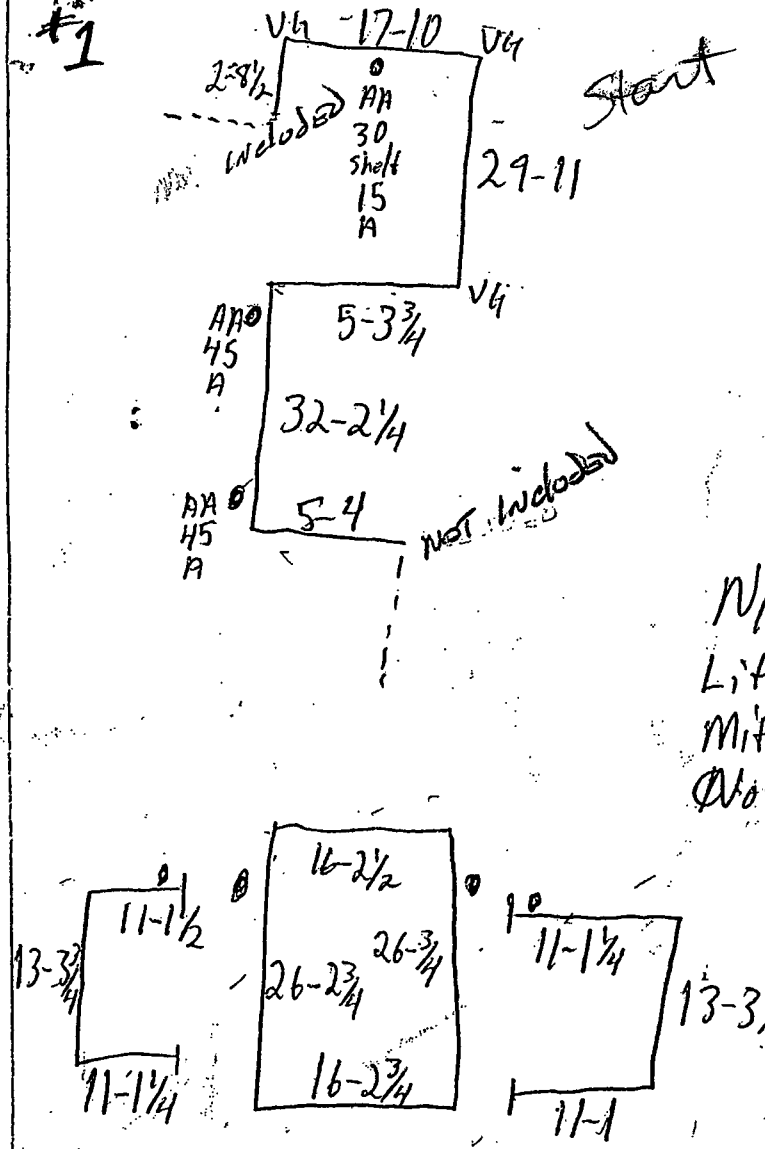
EXHIBIT A-1

Purchaser Print Name

ORDER DATE <u>7/10/08</u>	RELEASE DATE <u>7/10/08</u>	N/C SALES ASSOCIATE <u>Roy</u>	GU- <u>N1-9131</u>
<input type="checkbox"/> SIDING/SOFFIT	<input type="checkbox"/> WINDOWS/DOORS	<input type="checkbox"/> ROOF	<input type="checkbox"/> SCREENED PORCH
<input type="checkbox"/> HOLD FOR RELEASE		RESIDENTIAL <input checked="" type="checkbox"/> <u>GU</u>	
CUST. <u>BRAUN CONST.</u>	LOC. <u>HICKORY CHASE</u>		
ADD. <u>Need List!?</u>	<u>4510 HICKORY CHASE WAY</u>		
HOME PHONE <u>586-899</u>	WORK PHONE <u>771-6474</u>	<u>HILLIARD OH 43026</u>	
HOME IMP. <input type="checkbox"/>		SERVICE CALL <input type="checkbox"/>	
CHECK NO.		224-3186	
SIGNATURE <u>X</u>		DATE	

PRICE PER FOOT #18,903

HARD HATS REQUIRED



COLOR <u>CAMEL</u> (255)				
ITEM	UNIT	LABOR	LABOR TOTAL	TOTAL BILL FT.
6 GUTTER	250	1	260	
CUTTING WASTE	5			
4 DOWNSPOUT	135	1	135	140
ELBOWS	9	1	9	
WATER DIVERTER				
VALLEY GUARD	3	2	6	
MITRE	3	2	28	
ODD MITRE		5		
CONTOUR MITRE		10		
GUTTER GUARD		1		
MITRE				
LADDER				
TEAR OFF				
WEDGES/STRAPS				
ENDCAPS	2	2		
CAULKING	15			
ROUND DROPS	7			
OVAL DROPS				
DSP STRAPS	38			
ZIP SCREWS	192			
HIDDEN HANGERS	14			
2" SCREWS	19			
PAINT				
shelt	2		2	

H1 SALES ASSOCIATE <u>60.75 ÷ 1.2 = 6 + 244 = 250</u>	COMMISSION %
TRUCK NO.	TRUCK MILEAGE
GUTTER CREW	TIME IN
Dustin	TIME OUT
Danny	JOB TIME
Jon	DATE <u>3/19/09</u>
TOTAL LABOR FOOTAGE = <u>2090.8</u>	

ORDER DATE 7/10/08 RELEASE DATE 7/10/08 H/C SALES ASSOCIATE Roy GU-NI-9131

☒ SIDING/SOFFIT ☐ WINDOWS/DOORS ☐ ROOF ☐ SCREENED PORCH ☐ HOLD FOR RELEASE RESIDENTIAL

CUST. BRAUN CONST. LOC. HICKORY CHASE

ADD. NEED LIST 4510 HICKORY CHASE WAY

HOME PHONE 586-8997 WORK PHONE 771-4474 DRK CONWAY HILLIARD ON 43026

ZONE 1 ☒ NEW CONST. ☐ MAT'L ONLY ☐ HOME IMP. ☐ SERVICE CALL **224-3186**

CHECK NO. 7641 CASH ☐ C.O.D. ☐ CHARGE ☒ CREDIT CARD ☐
SIGNATURE X DATE

PRICE PER FOOT BID #18,903

HARD HATS REQUIRED
#75
End

200ft D/S
8 A elbows
3 shelf elbows

Not done

Pulled off bb

10:30 - 4:30

COLOR <u>CAMEL</u>				
ITEM	UNIT	LABOR	LABOR TOTAL	TOTAL BILL FT.
<u>6</u> GUTTER		<u>1</u>		
CUTTING WASTE				
<u>4</u> DOWNSPOUT	<u>200</u>	<u>1</u>	<u>200</u>	
ELBOWS	<u>8</u>	<u>1</u>	<u>8</u>	
WATER DIVERTER				
VALLEY GUARD		<u>2</u>		
MITRE	I.S. O.S.	<u>2</u>		
ODD MITRE	I.S. O.S.	<u>5</u>		
CONTOUR MITRE	I.S. O.S.	<u>10</u>		
GUTTER GUARD		<u>1</u>		
MITRE				
LADDER				
TEAR OFF				
WEDGES/STRAPS				
ENDCAPS	R L			
CAULKING				
ROUND DROPS				
OVAL DROPS				
DSP STRAPS	<u>48</u>			
ZIP SCREWS	<u>60</u>			
HIDDEN HANGERS				
2" SCREWS	<u>24</u>			
PAINT				
<u>shelf</u>	<u>6</u>		<u>6</u>	

DISC ☐ % TAX ☐
TOTAL BILLING PRICE \$

GUTTER FOOTAGE	=
N.C. <u>264</u> <u>X 1.25</u>	= <u>267.00</u>
H.I. X %	=
ZONE X %	=
TEAR OFF	=
<input type="checkbox"/> MITRE X	=
<input type="checkbox"/> LADDER X	=
<input type="checkbox"/> SPECIAL INSTALL X	=

TOTAL LABOR FOOTAGE = 267.50

H/I SALES ASSOCIATE		COMMISSION %		
TRUCK NO.		TRUCK MILEAGE		
GUTTER CREW	TIME IN	TIME OUT	JOB TIME	DATE
<u>Dustin</u>				<u>5/7/09</u>
<u>Don</u>				
<u>Danny</u>				

**BRAUN CONSTRUCTION****GROUP, INC.****39395 W. 12 Mile Road, Suite 100****Farmington Hills, MI 48331****248-848-0567 phone****248-848-0567 fax**TO: **APCO INDUSTRIES, INC.****777 MICHIGAN AVENUE****COLUMBUS, OH 43219**

PHONE: 614-224-2345

FAX: 614-224-8165

Date:

SHIP TO:

P.O. # 28-001-023**PURCHASE ORDER**

JOB NO.

28-001

PHASE NO.

07-400

JUNE 25, 2008**COMMUNITY BUILDING 1.0****Erickson Retirement Communities****4500 Hickory Chase Way****JOB # 28-001**

REQ'D. BY	MATERIAL REQUIRED ON JOB	F.O.B. JOBSITE	TERMS
			07-400
QTY.	DESCRIPTION	TOTAL	
	The terms and conditions of Braun Construction Group, Inc's. subcontract agreement (a copy of which is available at BCG's main office for review) are hereby made a part of this purchase order agreement.		
	PER ATTACHED SCOPE AND QUOTATION DATED FEBUARY 15, 2008.		
	TOTAL	\$	7,814.00
	CONTACT, MICHAEL ZATROCH, PROJECT SUPERINTENDENT for confirmation of delivery dates. Jobsite Phone: 614-771-6474 Jobsite Fax: 614-771-7091 E-mail address is: mzatroch@brauncg.com		
	REFERENCE THIS PURCHASE ORDER NUMBER WHEN INVOICING FOR THIS WORK.		
		NOT TO EXCEED	
	TOTAL AMOUNT INCLUDES TAX & DELIVERY TOTAL AMOUNT SHALL NOT EXCEED:		\$7,814.00

Accepted By:

APCO INDUSTRIES, INC.

NAME:

DATE:

EXHIBIT B

Authorized By:

Dick Conway,**PROJECT MANAGER**

CHANGE ORDER



BCG JOB NO.: 28-001
PHASE NO.: 07-400

PROJECT: HICKORY CHASE - COMMUNITY BUILDING 1.0
4500 HICKORY CHASE WAY
HILLIARD, OH 43026

CHANGE ORDER NO.: ONE

DATE: MARCH 24, 2009

CONTRACTOR: APCO INDUSTRIES, INC
777 MICHIGAN AVE
COLUMBUS, OH 43219

CONTRACT FOR: GUTTERS/DOWNSPOUTS

CONTRACT DATE: JUNE 25, 2008

YOU ARE DIRECTED TO MAKE THE FOLLOWING CHANGES IN THIS CONTRACT:

1. Deduct flash (2) chimney's - not done by APCO.

DEDUCT (\$630.00)
(RTA)

TOTAL AMOUNT THIS CHANGE ORDER

DEDUCT (\$630.00)

Signature of the contractor indicates his agreement herewith, including any adjustment in the Contract Sum or Contract Time.

THE ORIGINAL CONTRACT AMOUNT	\$7,814.00
NET CHANGE BY PREVIOUSLY AUTHORIZED CHANGE ORDERS	\$0.00
THE CONTRACT SUM PRIOR TO THIS CHANGE ORDER WAS	\$7,814.00
The Contract Sum will be increased / Decreased / Unchanged by this change order in the amount of :	
	(\$630.00)
THE NEW CONTRACT SUM, INCLUDING THIS CHANGE ORDER, inclusive of all claims and costs of Subcontractors work, including, but not limited to, labor, materials, time extensions, overhead, inefficiencies, delay, and acceleration costs.	\$7,184.00 ✓

The Contract Time will be INCREASED/DECREASED/UNCHANGED by:

CONTRACTOR

BRAUN CONSTRUCTION GROUP, INC.

39395 W. 12 Mile Road Suite 100
Farmington Hills, MI 48331

DICK CONWAY, Project Manager

SUBCONTRACTOR

APCO INDUSTRIES, INC

777 MICHIGAN AVE
COLUMBUS, OH 43219

(signature)



Estimate / Contract

DATE: 02/15/2008

Customer: BRAUN CONSTRUCTION

Job Location: HICKORY CHASE

HILLIARD, OH. 43026

Telephone:

Model/Description: COMMUNITY BUILDING

Siding:
Shakes:
Brick Chimney Credit / Pre-Fab Chimney
Shutters:
J-Blocks: MID AMERICA (8.00EA.)
Louvers:
Gutter Line Soffit/Fascia:
Gable Soffit/Fascia:
Porch Beam:
Flash 2 Chimneys
Seamless Alum. **Gutter: 6", Spouting: 3"X4"
ELBOWS: Estimate includes 3 per downspout. NOTE*
Adapters: 2x3 (3.50ea.) 3x4 (5.00ea.) 4" PVC

TOTAL:

\$630.00		
\$7,184.00	CAMEO	
\$7,814.00	\$0.00	\$0.00

(Installed Pricing Unless Otherwise Noted)

Billing Terms: NET DUE IN 30 DAYS FROM DATE OF INVOICE

NOTES:

*Additional or fewer elbows will be added or subtracted from the bill based on actual installation at \$1.55 each for 3" or \$2.25 each for 4".

**Gutter over 70' will be split into two sections due to expansion/contraction.

NOTE: lift based on 3 weeks uninterrupted installation. Deduct lift amount if supplied by contactor.

Print bids shall be verified by field measurement before product will be ordered.
All bids based on current market conditions. Any changes in material, labor or otherwise may result in adjustment to this bid.

This bid is valid until..... 03/18/2008
Bid based on prints received..... 08/21/2007
Bid based on field measurements made on.....

APCO's Credit Disclosure Terms

The Purchaser(s) hereby agrees to the following credit conditions: All accounts not paid within Thirty (30) days of the invoice date are considered delinquent and are subject to a 1.5% monthly late charge fee (18% APR.) APCO reserves the right to refuse

EXHIBIT B-1

APCO Credit Manager's approval signature

Purchaser Signature

Date Signed

RORY FREY

APCO Sales Representative Signature

Purchaser Print Name

ORDER DATE <u>7/10/08</u>	RELEASE DATE <u>7/10/08</u>	N/C SALES ASSOCIATE <u>Rony</u>	GU-NI-9132 <u>X</u>
<input type="checkbox"/> SIEING/SOFFIT <input type="checkbox"/> WINDOWS/DOORS <input type="checkbox"/> ROOF <input type="checkbox"/> SCREENED PORCH <input type="checkbox"/> HOLD FOR RELEASE <u>Community Bldg</u>			
CUST. <u>BRAUN CONST.</u>		LOC. <u>HICKORY CREEK</u>	
ADD. <u>DICK CONWAY</u>		<u>4474 LEAP RD.</u>	
HOME PHONE <u>771-6474</u>		HILLIARD, OH <u>43026</u>	
WORK PHONE <u>771-6474</u>		ZONE <u>1</u> <input checked="" type="checkbox"/> NEW CONST. <input type="checkbox"/> MAT'L ONLY <input type="checkbox"/> HOME IMP. <input type="checkbox"/> SERVICE CALL <u>224-3186</u>	

CHECK NO.	CASH <input type="checkbox"/>	C.O.D. <input type="checkbox"/>	CHARGE <input checked="" type="checkbox"/>	CREDIT CARD <input type="checkbox"/>
SIGNATURE <u>X</u>				DATE

PRICE PER FOOT	BID <u>\$7.84</u>
----------------	-------------------

HARD HATS REQUIRED

START

N/C
Ladder
Mitre x 6
Not done

COLOR <u>CAMEL</u> <u>107</u>					
ITEM	UNIT	LABOR	LABOR TOTAL	TOTAL BILL FT.	
6 GUTTER	104	1	107		
CUTTING WASTE	3				
4 DOWNSPOUT		1	40		
ELBOWS	A B	1			
WATER DIVERTER					
VALLEY GUARD	12	2	4		
MITRE	12	2	10		
ODD MITRE	I.S. O.S.	5			
CONTOUR MITRE	I.S. O.S.	10			
GUTTER GUARD		1			
MITRE					
LADDER					
TEAR OFF					
WEDGES/STRAPS					
ENDCAPS	1				
CAULKING	6				
ROUND DROPS	3				
OVAL DROPS					
DSP STRAPS					
ZIP SCREWS	50				
HIDDEN HANGERS	60				
2" SCREWS					
PAINT					

DISC ☐ % TAX ☐

TOTAL BILLING PRICE \$

GUTTER FOOTAGE		=	
N.C.	107 X 1.25	=	133.75
H.I.	X %	=	
ZONE	X %	=	
TEAR OFF		=	
<input type="checkbox"/> MITRE	107 X 3	=	321
<input type="checkbox"/> LADDER	107 X .5	=	53.50
<input type="checkbox"/> SPECIAL INSTALL	X	=	

TOTAL LABOR FOOTAGE = 508.25

H/I SALES ASSOCIATE 38 ÷ 12 = 3 + 10 = 104 COMMISSION %

TRUCK NO.	TRUCK MILEAGE			
GUTTER CREW	TIME IN	TIME OUT	JOB TIME	DATE
Dustin				2/2/09
Don				

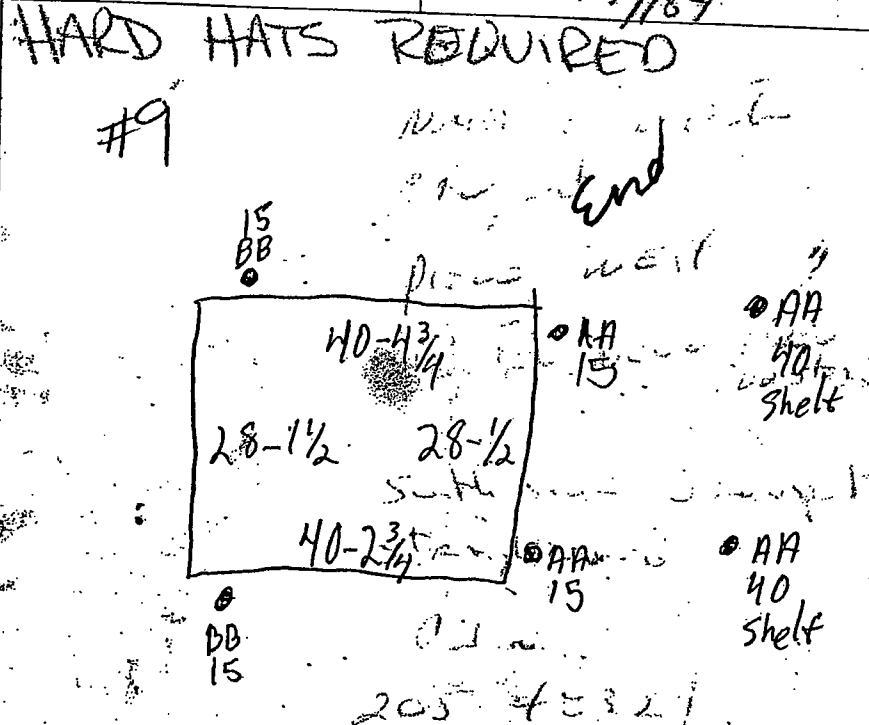
11/10/08
 RELEASE DATE 7/10/08
 N/C SALES ASSOCIATE Roy
 GU-NI-9132 X
 GUTTERS by

CUST. BRAUN CONST.
 ADD.
 LOC. HICKORY CHASE
 4474 LEAP RD.
 HILLIARD, OH 43026
 HOME PHONE
 WORK PHONE 771-6474
 DICK CONWAY
 ZONE 1

CHECK NO.
 CASH ☐ C.O.D. ☐ CHARGE ☒ CREDIT CARD ☐
 SIGNATURE X
 DATE

☒ NEW CONST. ☐ MAT'L ONLY
☐ HOME IMP. ☐ SERVICE CALL
 224-3186

PRICE PER FOOT
 BID \$7.184



N/C
 Lift 5"
 Mitre x 6
 Not done
 1 hr Clocktime

1 HREACH X 3 = 3
 Hours Per Hr = 42 x 270
 Benefits
 124 5334
 3 gup 1 HREACH

ITEM	UNIT	LABOR	LABOR TOTAL	TOTAL BILL FT.
6 GUTTER	137	1	140	
CUTTING WASTE	3			
4 DOWNSPOUT	140	1	140	
ELBOWS	8, 4	1	12	
WATER DIVERTER				
VALLEY GUARD		2		
MITRE	I.S. 0.4	2	8	
ODD MITRE	I.S. 0.5	5		
CONTOUR MITRE	I.S. 0.5	10		
GUTTER GUARD		1		
MITRE				
LADDER				
TEAR OFF				
WEDGES/STRAPS				
ENDCAPS	R L			
CAULKING	4			
ROUND DROPS	4			
OVAL DROPS				
DSP STRAPS	44			
ZIP SCREWS	130			
HIDDEN HANGERS	24			
2" SCREWS	28			
PAINT				
shelf	4		4	

H/S SALES ASSOCIATE 9.5 ÷ 12 = 1 + 136 = 137
 TRUCK NO.
 TRUCK MILEAGE
 GUTTER CREW
 TIME IN
 TIME OUT
 JOB TIME
 DATE 4/29/09
 Dustin
 Jim
 Danny

DISC ☐ % TAX ☐
 TOTAL BILLING PRICE \$
 GUTTER FOOTAGE =
 N.C. 304 X 1.25 = 380
 H.I. X % =
 ZONE X % =
 TEAR OFF =
☐ MITRE 140 X 3 = 420
☐ LADDER 140 X .5 = 70
☐ SPECIAL INSTALL X =
 TOTAL LABOR

EXHIBIT "D"

SCOPE OF WORK

Subcontractor shall provide Gutters and Downspouts, complete per the plans and specifications prepared by Dorsky, Hodgson, Parrish Yue dated 03-18-08 Addendum #2, for building RB1.1 and CB1.0.

All work is to comply with and adhere to, without exclusion, Specification Sections: Bidding Requirements, Contract Forms and Conditions of Lump Sum Contract, Division 1 – General Requirements, Specification Section 07710 including, but not limited to:

1. All costs for hoisting, tools and equipment are included for work performed.
2. All costs for Taxes are included.
3. Cost of removal of and clean up of excess material is included.
4. Supplier is responsible for quantities as indicated in the contract documents.
5. Dimensions to be field verified.
6. All elbows, downspouts, and accessories are included.
7. Chimney caps are included.
8. Colors as chosen by Architect.
9. 6" K style gutter.
10. 3"X4" downspouts.
11. Touch up of gutters and downspouts prior to leaving.

General Requirements

1. Clean up, remove from site and legally dispose of all debris required or caused by this work daily.
2. Provide all hoisting and scaffolding required to perform this work.
3. Temporary power for 120V equipment will be provided by Braun Construction Group. All additional power requirements to be provided by this Subcontractor.
4. Attendance is required at weekly coordination meetings conducted by Braun Construction Group Project Superintendent.
5. Coordinate all operations (i.e. hoists, deliveries, overtime, utility shut offs, etc.) with BCG Project Superintendent.
6. Coordinate all work with that of other trades through the BCG Project Superintendent.
7. Perform all work in compliance with applicable codes and governmental regulations.
8. Provide all necessary resources (i.e. labor, materials, equipment, etc.) to maintain BCG schedule.

Safety Requirements

1. Submit M.S.D.S. sheets prior to start of all related work.
2. Conduct weekly "Toolbox Safety Meetings" and submit minutes to BCG's Project Superintendent.
3. **Hardhats are mandatory** for the duration of the project, at any location exposed to construction activities (non-complying employees will be asked to leave the site.)
4. Attendance at monthly safety meetings conducted by BCG's Project Superintendent is mandatory.
5. Two (2) copies of the Subcontractor's safety program shall be submitted to the Project Superintendent prior to start of work.

BCG INITIAL: 

SUBCONTRACTOR INITIAL: 

**BRAUN CONSTRUCTION****GROUP, INC.**

39395 W. 12 Mile Road, Suite 100

Farmington Hills, MI 48331

248-848-0567 phone

248-848-0567 fax

TO: APCO

777 MICHIGAN AVE

COLUMBUS, OH 43219

PHONE: 614-224-2345

FAX: 614-224-8165

Date:

SEPTEMBER 23, 2008

SHIP TO:

GATE HOUSE

Erickson Retirement Communities

4480 Hickory Chase Way, Hilliard OH 43026

JOB # 28-107

REQ'D. BY	MATERIAL REQUIRED ON JOB	F.O.B.	TERMS
DC	9/24/2008	JOBSITE	07-311
QTY.	DESCRIPTION		TOTAL
	The terms and conditions of Braun Construction Group, Inc. subcontract agreement (a copy of which is available at BCG's main office for review) are hereby made a part of this purchase order agreement.		
	Furnish and install per the attached scope of work for Hickory Chase Gate House		
		TOTAL	\$ 520.00
	CONTACT, Colin Thalgott, Project Superintendent for confirmation of delivery DATES, CELL: 614-205-4832 Email: cthalgott@brauncg.com		
	REFERENCE THIS PURCHASE ORDER NUMBER WHEN INVOICING FOR THIS WORK.		
			NOT TO EXCEED
	TOTAL AMOUNT INCLUDES TAX & DELIVERY TOTAL AMOUNT SHALL NOT EXCEED:		\$ 520.00

Accepted By:

APCO

Authorized By:

Dick Conway,
PROJECT MANAGER

NAME:

DATE:

EXHIBIT C



Estimate / Contract

DATE: 06/05/2008

Customer: ~~J. J. OLSON~~ *Brown Const.*

Job Location: *HICKORY CHASE*
HILLIARD, OH. 43026

Telephone: _____

Model/Description: *GATEHOUSE*

<i>Bid custom \$520 - NO COMMISSION</i>			
Siding:			
Shakes:			
Brick Chimney Credit / Pre-Fab Chimney			
Shutters:			
J-Blocks: MID AMERICA (8.00EA.)			
Louvers:			
Fascia: ALSCO ALUMINUM			
Wrap Trim: ALSCO ALUMINUM			
Porch Beam:			
Seamless Alum. **Gutter: 6", Spouting: 3"X4"			
ELBOWS: Estimate includes 3 per downspout. NOTE*			
Adapters: 2x3 (3.50ea.) 3x4 (5.00ea.) 4" PVC			
TOTAL:		\$544.00	520 \$0.00 \$0.00

(Installed Pricing Unless Otherwise Noted)

Billing Terms: NET DUE IN 30 DAYS FROM DATE OF INVOICE

NOTES:

*Additional or fewer elbows will be added or subtracted from the bill based on actual installation at \$1.55 each for 3" or \$2.25 each for 4".

**Gutter over 70' will be split into two sections due to expansion/contraction.

NOTE: lift based on uninterrupted installation. Deduct lift amount if supplied by contractor.

Print bids shall be verified by field measurement before product will be ordered.
All bids based on current market conditions. Any changes in material, labor or otherwise may result in adjustment to this bid.

This bid is valid until..... 07/05/2008

Bid based on prints received..... 08/21/2007

Bid based on field measurements made on.....

APCO's Credit Disclosure Terms

The Purchaser(s) hereby agrees to the following credit conditions: All accounts not paid within Thirty (30) days and are subject to a 1.5% monthly late charge fee (18% APR.) APCO reserves the right to refuse

EXHIBIT *(-1)*

APCO Credit Manager's approval signature

RORY FREY

APCO Sales Representative Signature

Purchaser Signature

Purchaser Print Name

Shutter 10
Gutter 352
Crew 4
32 168
Total 520



BRAUN CONSTRUCTION GROUP

May 12, 2009

Mr. Rory Frey
APCO INDUSTRIES, INC.
777 Michigan Ave.
Columbus, OH 43219

RE: **Subcontract Agreement with Braun Construction Group**
GATE HOUSE
Hickory Chase
Hilliard, Ohio

Dear Mr. Frey:

In accordance with Article XXI of your subcontract agreement with Braun Construction Group and Article 13.4 of the Contractor's Contract for Construction and General conditions Article 14.3, you are hereby directed to suspend the work in whole except for specific work items which you will complete to such a point as designated by Braun Construction Group/Erickson Retirement Communities. Further, you are directed to not enter into any new subcontracts or purchase orders relating to this project.

The completion date as outlined in your subcontract agreement with Braun Construction Group will be revised when work is resumed.

As soon as possible, you are requested to provide (1) your non-binding estimate of costs incurred to date; (2) the estimated cost of the suspension; and (3) your recommendations for maintaining and protecting the work in place during the suspension. Please forward all information to Dick Conway at the Hilliard Office.

Please feel free to contact me directly with any questions.

Very truly yours,

BRAUN CONSTRUCTION GROUP

Steven L. Braun
President

EXHIBIT D



APCO Industries, Inc. STATEMENT

777 Michigan Avenue
Columbus, Ohio 43215-1177

614 / 224-2345
Fax 614 / 224-8165
apco.com

Customer: BRAUN CONSTRUCTION GROUP INC.
4474 LEAP RD
HILLIARD OHIO
43026

Customer No.: 0026210

Date: 6/18/09

PHONE #1:

PHONE #2:

Page: 1

Invoice Number	Date	Current	31 - 45 Days	46 - 60 Days	61 - 90 Days	Age	Late Fees Charged	Balance
NI-9132	6/17/09	2,011.52				1		2,011.52
NI-9131	6/17/09	16,676.00				1		16,676.00
NI-9133	6/17/09	2,227.00				1		2,227.00
NI-9254	6/17/09	168.00				1		168.00
NI-9255	6/17/09	352.00				1		352.00

If payment has been sent prior to the receipt of this notice, please disregard.

Thank you

ACCOUNT PAST DUE

Please call 614-224-2345 if there are any discrepancies, otherwise please remit

PAST DUE AMOUNT:

\$ _____ By _____ 06/25/09

EXHIBIT **A E**

ACCOUNT BALANCE

21,434.52

All accounts not paid within 30 days of the invoice date are considered delinquent and are subject to a 1.5% monthly late fee (18% APR).

Central Ohio's leading wholesaler and installer of exterior building products.

SIDING

2

No. 2865

WINDOWS

DOORS

ROOF

APCO INDUSTRIES

Jun. 18, 2009 10:43AM

RES



INVOICE - FINAL

NI-9133 /

SIDING • GUTTERS • WINDOWS • DOORS • ROOFING • PATIO COVERS • SUNROOMS

APCO COMMERCIAL INSTALLATION CO.

Corporate Office:
777 Michigan Avenue
Columbus, Ohio 43215-1177

Bill To:

BRAUN CONSTRUCTION GROUP INC.
4474 LEAO RD
HILLIARD OH
43026

Shipped To:

HICKORY CHASE
RESIDENTIAL BUILDING LIFT
4474 LEAP RD
HILLIARD OH
43026

614 / 224-2345
Fax 614 / 224-8165

apco.com

Printed on 6/17/2009

Page: 1

Customer P.O.#: PO-28-002-022

Shipped On 4/16/2009 from 777 MICHIGAN AVE WAREHOUSE

Ship Via:

Customer No.: 0026210 / 01

Ordered On 7/22/2008 by

Line No.	Product Description	Quantity Ordered	Quantity Shipped	Unit Amount	Extended Amount
	LIFT ONLY				
	BOOM LIFT CHARGES			2,227.00	2,227.00
	60' BOOM LIFT				

APCO Representative:

RORY FREY

Full Payment Due On 7/17/2009

Invoice Total-----> 2,227.00

Make Checks Payable To APCO Industries, Inc.

Finance charge of 1-1/2% per month assessed if not paid on or before 7/17/2009

A 3% convenience fee will be added to all invoices paid by credit card. If the invoice is paid within 15 days of the invoice date, this fee will be waived.

"We are committed to earning your recommendation."



INVOICE - FINAL

NI-9131 /

SIDING • GUTTERS • WINDOWS • DOORS • ROOFING • PATIO COVERS • SUNROOMS

APCO COMMERCIAL INSTALLATION CO.

Corporate Office:
777 Michigan Avenue
Columbus, Ohio 43215-1177

Bill To:

BRAUN CONSTRUCTION GROUP INC.
4474 LEAP RD
HILLIARD OH
43026

Shipped To:

HICKORY CHASE
RESIDENTIAL BUILDING
4474 HICKORY CHASE WAY
HILLIARD OH
43026

614 / 224-2345
Fax 614 / 224-8165

apco.com

Customer P.O.#: 28-002-022

Shipped On 4/06/2009 from 777 MICHIGAN AVE WAREHOUSE

Ship Via: SEE NOTES

Customer No.: 0026210 / 01

Ordered On 7/22/2008 by

Printed on 6/17/2009

Page: 1

Line No.	Product Description	Quantity Ordered	Quantity Shipped	Unit Amount	Extended Amount
03/19/09	THOMPSON/RUSSELL/SPURLOCK				
03/20/09	RUSSELL/SPURLOCK				
03/23/09	THOMPSON/RUSSELL/SPURLOCK				
03/24/09	THOMPSON/RUSSELL/SPURLOCK				
03/27/09	THOMPSON/RUSSELL/SPURLOCK				
03/31/09	THOMPSON/RUSSELL/SPURLOCK				
04/01/09	THOMPSON/RUSSELL/SPURLOCK				
04/02/09	THOMPSON/RUSSELL/SPURLOCK				
04/09/09	THOMPSON/RUSSELL/SPURLOCK				
04/21/09	THOMPSON/RUSSELL/SPURLOCK				
04/22/09	THOMPSON/RUSSELL/SPURLOCK				
04/23/09	THOMPSON/SPURLOCK				
04/29/09	THOMPSON/SPURLOCK/RUSSELL				
05/04/09	THOMPSON/SPURLOCK/RUSSELL				
05/07/09	THOMPSON/SPURLOCK/RUSSELL				

FURNISH AND INSTALL:

6" GUTTER

4" DOWNSPOUTS

COLOR: CAMEO

FLASH 2 CHIMNEYS WILL BE BILLED SEPERATE

LIFT:BOOM LIFT TO BE BILLED SEPERATE

16,676.00 16,676.00

APCO Representative:

RORY FREY

Full Payment Due On 7/17/2009

Invoice Total-----> 16,676.00

Make Checks Payable To APCO Industries, Inc.

Finance charge of 1-1/2% per month assessed if not paid on or before 7/17/2009

A 3% convenience fee will be added to all invoices paid by credit card. If the invoice is paid within 15 days of the invoice date, this fee will be waived.

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INVOICE - FINAL

NI-9132 /

SIDING • GUTTERS • WINDOWS • DOORS • ROOFING • PATIO COVERS • SUNROOMS

APCO COMMERCIAL INSTALLATION CO.

Corporate Office:
777 Michigan Avenue
Columbus, Ohio 43215-1177

Bill To:
BRAUN CONSTRUCTION GROUP INC.
4474 LEAP RD
HILLIARD OH
43026

Shipped To:
HICKORY CHASE
COMMUNITY BUILDING
4474 LEAP RD
HILLIARD OH
43026

614 / 224-2345
Fax 614 / 224-8165

apco.com

Printed on 6/17/2009

Page: 1

Customer P.O.#: PO-28-001-023

Shipped On 2/20/2009 from 777 MICHIGAN AVE WAREHOUSE

Ship Via:

Customer No.: 0026210 / 01

Ordered On 7/22/2008 by

Line No.	Product Description	Quantity Ordered	Quantity Shipped	Unit Amount	Extended Amount
02/02/09	THOMPSON/SPURLOCK				
02/03/09	THOMPSON/SPURLOCK/RUSSELL				
02/04/09	THOMPSON/SPURLOCK/RUSSELL				
02/06/09	"				
02/13/09	"				
02/24/09	THOMPSON/SPURLOCK				
02/24/09	THOMPSON/SPURLOCK/RUSSELL				
04/29/09	THOMPSON/SPURLOCK/RUSSELL				
FURNISH AND INSTALL:					
6" GUTTER					7,184.00
4" DOWNSPOUT					
COLOR: CAMEO					
FLASH 2 CHIMNEYS TO BE BILLED SEPERATE					
CHECK 2452					
Invoice Subtotal----->					7,184.00
Sales Tax----->					.00
Total----->					7,184.00
					5,172.48
Total Payment Received---					5,172.48

APCO Representative:

Full Payment Due On 7/17/2009

RORY FREY

Invoice Total-----> 2,011.52

Make Checks Payable To APCO Industries, Inc.

Finance charge of 1-1/2% per month assessed if not paid on or before 7/17/2009

A 3% convenience fee will be added to all invoices paid by credit card. If the invoice is paid within 15 days of the invoice date, this fee will be waived.

"We are committed to earning your recommendation."



INVOICE - FINAL

NI-9254 /

SIDING • GUTTERS • WINDOWS • DOORS • ROOFING • PATIO COVERS • SUNROOMS

APCO COMMERCIAL INSTALLATION CO.

Corporate Office:
777 Michigan Avenue
Columbus, Ohio 43215-1177

Bill To:

BRAUN CONSTRUCTION GROUP INC.
4474 LEAP RD
HILLIARD OH
43026

Shipped To:

HICKORY CHASE
GATEHOUSE
4480 HICKORY CHASE WAY
HILLIARD OH
43026

614 / 224-2345
Fax 614 / 224-8165

apco.com

Printed on 6/17/2009

Customer P.O.#: 28-107-005

Customer No.: 0026210 / 01

Page: 1

Shipped On 10/02/2008 from 777 MICHIGAN AVE WAREHOUSE

Ordered On 10/02/2008 by

Ship Via:

Line No.	Product Description	Quantity Ordered	Quantity Shipped	Unit Amount	Extended Amount
	FURNISH AND INSTALL: FASCIA: ALSCO ALUMINUM WRAP TRIM: ALSCO ALUMINUM COLOR: CAMEO **GUTTER TO BE BILLED SEPERATE**			168.00	168.00

APCO Representative:

RORY FREY

Full Payment Due On 7/17/2009

Invoice Total-----> 168.00

Make Checks Payable To APCO Industries, Inc.

Finance charge of 1-1/2% per month assessed if not paid on or before 7/17/2009

A 3% convenience fee will be added to all invoices paid by credit card. If the invoice is paid within 15 days of the invoice date, this fee will be waived.

"We are committed to earning your recommendation."



INVOICE - FINAL

NI-9255 /

SIDING • GUTTERS • WINDOWS • DOORS • ROOFING • PATIO COVERS • SUNROOMS

APCO COMMERCIAL INSTALLATION CO.

Corporate Office:
777 Michigan Avenue
Columbus, Ohio 43215-1177

Bill To:

BRAUN CONSTRUCTION GROUP INC.
4474 LEAP RD
HILLIARD OH
43026

Shipped To:

HICKORY CHASE
GATEHOUSE
4480 HICKORY CHASE WAY
HILLIARD OH
43026

614 / 224-2345
Fax 614 / 224-8165

apco.com

Customer P.O.#: 28-107-005

Shipped On 10/02/2008 from 777 MICHIGAN AVE WAREHOUSE

Ship Via:

Customer No.: 0026210 / 01

Ordered On 10/02/2008 by

Printed on 6/17/2009

Page: 1

Line No.	Product Description	Quantity Ordered	Quantity Shipped	Unit Amount	Extended Amount
	FURNISH AND INSTALL:				
	6" GUTTER			352.00	352.00
	4" DOWNSPOUT				
	COLOR: CAMEO				

APCO Representative:

Full Payment Due On 7/17/2009

RORY FREY

Invoice Total----->

352.00

Make Checks Payable To APCO Industries, Inc.

Finance charge of 1-1/2% per month assessed if not paid on or before 7/17/2009

A 3% convenience fee will be added to all invoices paid by credit card. If the invoice is paid within 15 days of the invoice date, this fee will be waived.

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MARK S. MILLER ATTORNEY AT LAW
PO BOX 21533
Upper Arlington, Ohio 43221
Telephone: 614-222-4299
Facsimile: 614-568-7414

BMC Group Inc.
Attn: Erickson Retirement
Communities LLC
PO Box 3020
Chanhassen MN 55317-3020

December 1, 2009

Re: Apco Industries Inc. v. Columbus Campus LLC
Case no. 09-37019

Dear Administrator:

Enclosed is a proof of claim with supporting documents I would like you to file. I have enclosed a self addressed stamped envelope to return the stamped proof of claim. It is not necessary that you return the exhibits.

Very truly yours,



Mark S. Miller

Enclosure