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 12 **UNITED STATES BANKRUPTCY COURT**
 13 **CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

14 In re
 15 JAMES C. GIANULIAS AND CAMEO
 16 HOMES, a California corporation,

) Case No. 8:08-bk-13150-RK
) [Substantively Consolidated With:
) Case No. 8:08-bk-13151-RK]
) Chapter 11

17 Debtors and Debtors-in-
 18 Possession.

) **DEBTORS' THIRD OMNIBUS MOTION**
) **FOR ORDER DISALLOWING CERTAIN**
) **CLAIMS ASSERTED AGAINST THE**
) **DEBTORS BASED ON THE DEBTORS'**
) **BOOKS AND RECORDS:**

-) (1) MAUI ELECTRIC COMPANY LTD.
) (Claim No. 3-2);
) (2) DAIMLER TRUST, SUCCESSOR TO
) DCFS TRUST (Claim No. 6-1);
) (3) DAVID EVANS AND ASSOCIATES,
) INC. (Claim No. 48-1);
) (4) TEMECULA VALLEY EROSION
) CONTROL, INC. (Claim No. 49-1);
) (5) DEPARTMENT OF TAXATION,
) STATE OF HAWAII (Claim No. 13-1);
) (6) STATE OF HAWAII, DEPARTMENT
) OF TAXATION (Claim No. 14-1);
) (7) ORANGE COUNTY TREASURER –
) TAX COLLECTOR (Claim No. 60-1);
) and
) (8) INTERNAL REVENUE SERVICE
) (Claim No. 5-1)

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1 and upon such other oral and documentary evidence as may be presented to the Court at or before
2 the time of the hearing on the Objections.

3 **WHEREFORE**, the Debtors request that the Court enter an Order (1) sustaining the
4 objection to the disputed claims listed on Exhibit "A"; (2) disallowing the Claims to the extent they
5 exceed the amounts listed on Exhibit "A" in the column labeled "Amount Owed According to
6 Books and Records-Allowed Unsecured Amount"; (3) allowing the Claims in the amounts set forth
7 in such column; and (4) granting such other and further relief as the court deems just and proper.

8 Dated: July 9, 2010

IRELL & MANELLA LLP

9
10 By: Kerri A Lyman
11 Alan J. Friedman
12 Kerri A. Lyman
13 IRELL & MANELLA LLP

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15 Attorneys for Debtors and
16 Debtors-in-Possessions

17 *-and-*

18 William N. Lobel
19 Mike D. Neue
20 THE LOBEL FIRM, LLP

21 Attorneys for Debtors and
22 Debtors-in-Possession
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **INTRODUCTION**

4 The holders of the claims identified in Exhibit "A" ("Claimants") have filed proofs of
5 claim (the "Claims") against the Debtors' bankruptcy estates. True and correct copies of the
6 Claims are attached hereto as Exhibits "1" through "8."¹

7 The Debtors have reconciled the claims identified in Exhibit "A" (the "Disputed Amount
8 Claims") against their books and records. The Claimants filing the Disputed Amount Claims have
9 asserted claims in an amount that was higher than the amount of liability reflected in the Debtors'
10 books and records, and no support for such additional amounts was provided in the Disputed
11 Amount Claims. The Debtors believe Exhibit "A" contains the appropriate amounts of liability
12 for each of the Disputed Amount Claims. Failure to reduce the amount of the Claims as set forth
13 on Exhibit "A" will result in the applicable claimants receiving more than they are entitled, to the
14 detriment of other creditors in these cases.

15 Accordingly, the Debtors hereby object to the Disputed Amount Claims and request entry
16 of an order reducing the value of the Disputed Amount Claims as set forth in Exhibit "A."

17 **II.**

18 **STATEMENT OF FACTS**

19 **A. Procedural Background**

20 Involuntary cases were commenced against the Debtors on June 6, 2008. On July 2, 2008,
21 the Court entered its "Order on Debtor's Election to Convert Chapter 7 Case to a Case Under
22 Chapter 11 of the Bankruptcy Code" converting the cases to proceedings under chapter 11 of the
23 Bankruptcy Code. On December 11, 2008, the Court entered an order substantively consolidating
24 Cameo's chapter 11 estate into Gianulias' chapter 11 estate.

25 Gianulias is an individual who resides with his family in Newport Beach, California.
26 Gianulias has been in the business of real estate development for approximately forty years.

27 _____
28 ¹ Each Claimant was served with a copy of its own proof of claim, but all other proofs of
claim were omitted from the service copies. Copies of proofs of claim may be obtained by
contacting counsel for the Debtors.

1 Gianulias owns an interest in a number of single asset real estate entities that were formed to
2 purchase and develop real estate. Cameo, an entity that Gianulias formed in 1968, also owns an
3 interest in a number of single asset real estate ventures that were formed to purchase and develop
4 real estate. Cameo holds an interest in many of the same real estate entities in which Gianulias
5 holds an interest. Gianulias owns 100% of Cameo and therefore has an indirect interest in all of
6 Cameo's interests in the various real estate entities. The real estate entities owned in part by
7 Gianulias and Cameo include limited liability companies, general partnerships, and limited
8 partnerships (collectively, the "Companies"). Gianulias and Cameo established the Companies to
9 develop and operate various real estate assets, including, without limitation, condominiums,
10 residential developments, commercial and retail developments, mixed-use developments, and
11 multi-family apartment complexes.

12 On September 10, 2008, the Court entered an order establishing a deadline for creditors
13 and parties-in-interest to file their proofs of claim with the Court ("Claims Bar Date"). The Court
14 established the Claims Bar Date as sixty (60) days following the date upon which the Debtors
15 served a notice of the Claims Bar Date. The Debtors served a notice of the Claims Bar Date on
16 Creditors, Interest Holders, and other parties-in-interest by mail on September 12, 2008.
17 Accordingly, the Claims Bar Date for a particular creditor was November 11, 2008. Pursuant to
18 the Bar Date order, each creditor, subject to certain limited exceptions, holding a claim against the
19 Debtors were required to file a proof of claim on or before the Claims Bar Date.

20 **B. Jurisdiction and Venue**

21 The Court has jurisdiction over these Objections pursuant to 28 U.S.C. §§ 157 and 1334.
22 Venue in this district is proper under 28 U.S.C. §§ 1408 and 1409. These Objections are core
23 proceedings within the meaning of 28 U.S.C. § 157(b).

24 The statutory predicates for the relief requested herein are section 502(b) of the
25 Bankruptcy Code, Bankruptcy Rules 3003 and 3007 and Local Rule 3007-1.
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1 Ludell v. Anchor Const. Specialists, Inc. (In re Ludell), 223 F.3d 1035, 1039 (9th Cir. 2000)
2 (citations omitted; emphasis added).

3 **B. The Disputed Amount Claims Should Be Reduced or Disallowed to the Extent**
4 **they Exceed the Amount Owed According to the Debtors' Books and Records**

5 The Disputed Amount Claims identified in Exhibit "A" are objectionable and must be
6 reduced or disallowed to the extent they exceed the amount owed according to the Debtors' books
7 and records. Failure to disallow the Disputed Amount Claims would result in the Claimants
8 receiving an amount in excess of which they are entitled, to the detriment of other creditors in
9 these cases.

10 Accordingly, in accordance with Section 502 of the Bankruptcy Code, the Claims should
11 be reduced or disallowed to the extent they exceed the amounts listed on Exhibit "A" in the
12 column labeled "Amount Owed According to Books and Records-Allowed Unsecured Amount,"
13 as such excess amount is not supported by the Debtors' books and records (or the information
14 provided by the claimants in support of their proof of claims).

15 **C. Reservation of Rights**

16 This Third Omnibus Objection is limited to the grounds stated herein. Accordingly, it is
17 without prejudice to the right of the Debtors or any other party-in-interest to object to any of the
18 surviving claims affected hereby on any other ground whatsoever, and the Debtors expressly
19 reserve all further substantive and/or procedural objections they, or any other party-in-interest,
20 may have.

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IV.

CONCLUSION

Based upon the foregoing, the Debtors request that the Court enter an order reducing or disallowing the Claims to the extent they exceed the amounts listed on Exhibit "A" in the column labeled "Amount Owed According to Books and Records-Allowed Unsecured Amount," allowing the Claims in the amounts set forth in such column, and granting such further relief as this Court deems just and proper.

Dated: July 9, 2010

IRELL & MANELLA LLP

By: Kerri A. Lyman
Alan J. Friedman
Kerri A. Lyman
IRELL & MANELLA LLP

Attorneys for Debtors and
Debtors-in-Possessions

-and-

William N. Lobel
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DECLARATION OF JOHN MCFADDEN

I, John McFadden, declare:

1. I am the Corporate Controller of G Companies Management, LLC ("G Companies") and provide services to various entities in which James C. Gianulias ("Gianulias") has an interest, including Cameo Homes, a California corporation ("Cameo" and, collectively with Gianulias, the "Debtors"). In my position as Corporate Controller, I provide oversight of all accounting services and tax related matters for Gianulias, Cameo, G Companies and various related entities.

2. I have personal knowledge of the facts stated herein, except as to those facts stated upon information and belief, and as to those facts, I believe them to be true. If called as a witness to testify herein, I could and would testify competently to the following.

3. I have general knowledge of the Debtors' books and records, and I am familiar with the Debtors' financial and operational affairs. As to the following facts, I know them to be true of my own knowledge, or I have gained such knowledge from the business records of the Debtors or one of their businesses which were made at or near the time of the acts, conditions or events to which they relate. Any such document or record was prepared in the ordinary course of business by a person who had personal knowledge of the event being recorded and had a business duty to accurately record such event.

4. I have read the *Debtors' Third Omnibus Motion for Order Disallowing Certain Claims Asserted Against The Debtors Based On The Debtors' Books And Records* (the "Third Omnibus Objection"),² and am familiar with the information contained therein and the exhibits attached hereto as Exhibits "1" through "8", which are true and complete copies of the proofs of claim on file with this Court. I submit this Declaration in support of the Third Omnibus Objection. I am authorized by the Debtors to submit this Declaration.

5. Gianulias is an individual who resides with his family in Newport Beach, California. Gianulias has been in the business of real estate development for approximately forty

² Capitalized terms not otherwise defined herein have the meaning set forth in the Third Omnibus Objection.

1 years. Gianulias owns an interest in a number of single asset real estate entities that were formed
2 to purchase and develop real estate. Cameo, an entity that Gianulias formed in 1968, also owns
3 an interest in a number of single asset real estate ventures that were formed to purchase and
4 develop real estate. Cameo holds an interest in many of the same real estate entities in which
5 Gianulias holds an interest. Gianulias owns 100% of Cameo and therefore has an indirect
6 interest in all of Cameo's interests in the various real estate entities. The real estate entities
7 owned in part by Gianulias and Cameo include limited liability companies, general partnerships,
8 and limited partnerships (collectively, the "Companies"). Gianulias and Cameo established the
9 Companies to develop and operate various real estate assets, including, without limitation,
10 condominiums, residential developments, commercial and retail developments, mixed-use
11 developments, and multi-family apartment complexes.

12 6. I am informed and believe that on September 10, 2008, the Court entered an order
13 establishing a deadline for creditors and parties-in-interest to file their proofs of claim with the
14 Court ("Claims Bar Date"). The Court established the Claims Bar Date as sixty (60) days
15 following the date upon which the Debtors served a notice of the Claims Bar Date. I am further
16 informed and believe that the Debtors served a notice of the Claims Bar Date on Creditors,
17 Interest Holders, and other parties-in-interest by mail on September 12, 2008. Accordingly, the
18 Claims Bar Date for a particular creditor was November 11, 2008. Pursuant to the Bar Date
19 order, each creditor, subject to certain limited exceptions, holding a claim against the Debtors
20 were required to file a proof of claim on or before the Claims Bar Date.

21 7. I, together with Debtors' counsel, have reviewed and reconciled the proofs of
22 claim filed against the Debtors' estates. The Disputed Amount Claims and attached information
23 and documentation were carefully reviewed and analyzed in good faith. These efforts have
24 resulted in the identification of the disputed claims, which claims are identified in Exhibit "A"
25 attached hereto and incorporated herein by this reference.

26 8. By the Objection, the Debtors seek an order reducing the amount of the Disputed
27 Amount Claims set forth in Exhibit "A" attached hereto to the amounts reflected in the Debtors'
28 books and records as set forth in Exhibit "A".

1 9. Based on my review of the Debtors' books and records, I have determined that the
2 Disputed Amount Claims listed in Exhibit "A" hereto exceed the amounts which the Debtors'
3 books and records indicate are owed to such Claimants. I have also examined the underlying
4 proofs of claim filed by the Claimants and do not find documentation supporting the amounts
5 asserted by the Claimants. The amounts which the Debtors' books and records reflect are owed
6 to the claimants are listed in Exhibit "A" in the column entitled "Amount Owed According to
7 Books and Record-Allowed Unsecured Amount."


8 10. The Debtors dispute the Disputed Amount Claims set forth in Exhibit "A" hereto
9 to the extent that they exceed the amount set forth in the "Amount Owed According to Books
10 and Records-Allowed Unsecured Amount" column, and requests that these Claims be reduced or
11 disallowed to the extent they exceed the amounts listed on Exhibit "A" in the column labeled
12 "Amount Owed According to Books and Records-Allowed Unsecured Amount." Such Claims
13 should be allowed as general unsecured claims in the amounts set forth in the column entitled
14 "Amount Owed According to Books and Records-Allowed Unsecured Amount."

15 11. I believe that failure to reduce the Disputed Amount Claims would result in the
16 Claimants receiving an amount for which it is not entitled, to the detriment of other creditors in
17 these cases.

18 12. I believe that granting the relief requested in the Third Omnibus Objection is in
19 the best interests of the Debtors' estates and their creditors.

20 I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing is true and correct.

22 Executed this 28th day of JUNE, 2010, at Newport Beach California.

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24 
25 _____
26 John McFadden
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