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Attorneys for WELLS FARGO BANK, NA

10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION**

12 In re
13 JAMES C. GIANULIAS, Debtor(s).

Case No. 8:08-bk-13150-RK
Chapter 11

**STIPULATION RE: TREATMENT OF
WELLS FARGO BANK NA’S CLAIM
UNDER DEBTOR’S PROPOSED
CHAPTER 11 PLAN OF
REORGANIZATION**

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19 This Stipulation is entered into by and between Secured Creditor, Wells Fargo Bank, NA,
20 (“Creditor”), by and through its attorneys of record, and James C. Gianulias, (the “Debtor”), by
21 and through his attorneys of record.

22 The property which is the subject of this matter is commonly known as 747 South Galena
23 #340, Aspen Colorado 81611 (hereinafter the “Subject Property”), which is more fully described
24 as CONDOMINIUM UNIT 340, FASCHING HAUS EAST, A CONDOMINIUM,
25 ACCORDING TO THE MAP FILED JUNE 26, 1969, IN PLAT BOOK 4 AT PAGE 5-7 AND
26 ACCORDING TO THE CONDOMINIUM DECLARATION FOR FASCHING HAUS EAST
27 RECORDED JUNE 26, 1969, IN BOOK 241 AT PAGE 794 AND AMENDED BY
28

1 INSTRUMENT RECORDED MARCH 17, 1973, IN BOOK 297 AT PAGE 142, COUNTY OF
2 PITKIN, STATE OF COLORADO.

3 On or about February 5, 2003, the Debtor, for valuable consideration, made, executed and
4 delivered to Wells Fargo Home Mortgage, Inc. ("Lender") a Note in the principal sum of
5 \$350,000.00 (the "Note"). A true and correct copy of the Note is attached hereto as exhibit 1 and
6 incorporated herein by reference.

7
8 On or about February 5, 2003, the Debtor made, executed and delivered to Lender a Deed
9 of Trust (the "Deed of Trust") granting Lender a security interest in the Subject Property. The
10 Deed of Trust was recorded on February 19, 2003, in the Official Records of Pitkin County,
11 State of Colorado. A true and correct copy of the Deed of Trust is attached hereto as exhibit 2
12 and incorporated herein by reference.

13 On or about June 6, 2008, the Debtor filed a voluntary petition under Chapter 7 of the
14 United States Bankruptcy Code and was assigned Bankruptcy Case No. 8:08-bk-13150-RK. The
15 case was subsequently converted to a Chapter 11 on July 2, 2008.

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17 THE PARTIES HEREBY STIPULATE THAT CREDITOR'S CLAIM SHALL BE TREATED
18 AS PROVIDED FOR IN THE DEBTOR'S PLAN WITH THE FOLLOWING
19 MODIFICATIONS:

20 1. Creditor's claim shall be fully secured in the total amount due and owing under
21 the terms of the Note which includes all post-petition fees, expenses and charges assessed to the
22 Note including, but not limited, to escrow advances, attorneys' fees and costs and interest
(estimated at \$295,065.41 as of July 2, 2010, plus interest thereon through the Effective Date).

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2. Based on the foregoing, Creditor accepts the Debtor's Plan.

Dated: 7-2-2010


KERRI A. LYMAN
Attorney for the Debtor

Dated: 7/2/10

PITE DUNCAN, LLP


JOSEPH C. DELMOTTE
Attorneys for Wells Fargo Home Mortgage

PROOF OF SERVICE OF ORDER

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I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

4375 Jutland Drive, Suite 200
P.O. Box 17933
San Diego, CA 92177-0933

The foregoing document described STIPULATION RE: AVOIDANCE OF LIEN will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner indicated below:

I. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF") – Pursuant to controlling General Order(s) and Local Bankruptcy Rule(s) ("LBR"), the foregoing document will be served by the court via NEF and hyperlink to the document. On July 13, 2010 I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:
ustpreion16.sa.ecf@usdoj.gov

Service information continued on attached page

II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL(indicate method for each person or entity served):

On July 13, 2010 I served the following person(s) and/or entity(ies) at the last known address(es) in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States Mail, first class, postage prepaid, and/or with an overnight mail service addressed as follows. *Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.*

Honorable Robert N. Kwan
Ronald Reagan Federal Building
411 W. Fourth Street, Suite 5165
Santa Ana, CA 92701-4593

James C Gianulias
1105 Quail Street
Newport Beach, CA 92660

Alan J. Friedman, Esq.
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Steven G Polard
1620 26th St Ste 600 S Tower
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Joshua D Wayser
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Whitman L Holt
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Service information continued on attached page

III. SERVED BY PERSONAL DELIVERY, FACSIMILE TRANSMISSION OR EMAIL (indicate method for each person or entity served); Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on _____ I served the following person(s) and/or entity(ies) by personal delivery, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. *Listing the judge here constitutes a declaration that personal delivery on the judge will be completed no later than 24 hours after the document is filed.*

Service information continued on attached page

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

July 13, 2010

Michael W. Leewright

/s/ Michael W. Leewright

Date

Type Name

Signature