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11

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**UNITED STATES BANKRUPTCY COURT**

13

**CENTRAL DISTRICT OF CALIFORNIA**

14

**SANTA ANA DIVISION**

15

16	In re	)	Case No. 8:08-bk-13150-RK
17	JAMES C. GIANULIAS, and CAMEO HOMES, a California corporation,	)	[Substantively Consolidated With: Case No. 8:08-bk-13151-RK]
18	Reorganized Debtors.	)	Chapter 11
19		)	<b>DEBTORS' NOTICE OF ELECTION</b>
20		)	<b>UNDER FOURTH AMENDED PLAN OF</b>
21		)	<b>REORGANIZATION (DATED MAY 27,</b>
22		)	<b>2010), AS MODIFIED, RELATING TO</b>
23		)	<b>CLASS 1H – SECURED CLAIM OF</b>
		)	<b>FASCHING HAUS EAST CONDO</b>
		)	<b>ASSOCIATION</b>
		)	[No Hearing Required]

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**PLEASE TAKE NOTICE** that James C. Gianulias and Cameo Homes, a California corporation, the reorganized debtors herein hereby elect, pursuant to the terms of their confirmed Fourth Amended Plan of Reorganization (Dated May 27, 2010), as Modified, the treatment of the Class 1H (Other Secured Claims) of Fasching Haus East Condo Association set forth in paragraph

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1 2 (i) of the "Stipulation Resolving Motion for Relief from Stay filed by Fasching Haus East  
2 Condominium Association, Inc.", a true and correct copy of which is attached hereto as Exhibit  
3 "1" and incorporated herein by this reference.

4 Dated: September 8, 2010.

IRELL & MANELLA LLP

5  
6 By:     *Kerri A. Lyman*      
Alan J. Friedman  
7 Kerri A. Lyman  
IRELL & MANELLA LLP

8  
9 Attorneys for Reorganized Debtors

10 -and-

11 William N. Lobel  
12 Mike D. Neue  
THE LOBEL FIRM, LLP

13 Attorneys for Reorganized Debtors  
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13 Attorneys for Debtors and  
Debtors-in-Possession

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15 **UNITED STATES BANKRUPTCY COURT**  
16 **CENTRAL DISTRICT OF CALIFORNIA**  
17 **SANTA ANA DIVISION**

18 In re  
19 JAMES C. GIANULIAS,  
20 Debtor and Debtor-in-Possession.

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

21 \_\_\_\_\_  
22 CAMEO HOMES, a California corporation,  
23 Debtor and Debtor-in-Possession.

) **STIPULATION RESOLVING MOTION**  
) **FOR RELIEF FROM STAY FILED BY**  
) **FASCHING HAUS EAST CONDOMINIUM**  
) **ASSOCIATION, INC.**

) **HEARING DATE:**  
) **Date:** December 1, 2009  
) **Time:** 10:30 a.m.  
) **Place:** Courtroom 5D

1 **TO THE HONORABLE ROBERT N. KWAN, UNITED STATES**

2 **BANKRUPTCY JUDGE:**

3 James Gianulias, one of the substantively consolidated debtors herein (the  
4 “Debtor”), and Fasching Haus East Condominium Association (“Fasching Haus”) hereby  
5 enter into this stipulation (the “Stipulation”), based upon the following:

6 **RECITALS**

7 A. An involuntary bankruptcy case was commenced against the Debtor on June  
8 6, 2008. On July 2, 2008, the Court entered its “Order on Debtor’s Election to Convert  
9 Chapter 7 Case to a Case Under Chapter 11 of the Bankruptcy Code” converting the case  
10 to a proceeding under chapter 11 of the Bankruptcy Code.

11 B. On October 26, 2009, Fasching Haus filed a Motion for Relief from the  
12 Automatic Stay (the “Motion”) with respect to the Debtor’s real property located at 747 S.  
13 Galena Street, #340, Aspen, Colorado (the “Property”).

14 C. Among other things, the Motion asserted that Fasching Haus holds a secured  
15 claim (the “Secured Claim”) on the Property in the amount of \$142,908.84 as of August  
16 31, 2009, which continues to accrue interest at the rate of 12% per annum.

17 D. On November 9, 2009, the Debtor filed his “First Amended Plan of  
18 Reorganization (Dated November 9, 2009)” (the “Plan”).

19 E. On November 20, 2009, the Debtor filed an “Amended Motion for Order: (1)  
20 Approving Disclosure Statement; (2) Approving Notice Procedures; (3) Establishing Cure  
21 Procedures; (4) Establishing Confirmation Procedures and Deadlines; and (5) Establishing  
22 Certain Bar Dates” (the “Disclosure Statement Motion”). The Disclosure Statement  
23 Motion requests that the Court schedule a hearing to confirm the Plan (subject to the  
24 Court’s calendar) in early March 2010.

25 F. Following discussions about a possible consensual resolution of the Motion,  
26 the Debtor agreed to clarify how the Debtor intends to treat Fasching Haus’ Secured Claim  
27 under the Plan. At the hearing on the Motion on December 1, 2009, counsel for the Debtor  
28 informed the Court of the proposed Plan treatment of the Secured Claim, and the parties

1 under the Plan. At the hearing on the Motion on December 1, 2009, counsel for the Debtor  
2 informed the Court of the proposed Plan treatment of the Secured Claim, and the parties  
3 informed the Court that they would submit this Stipulation which embodies the agreed  
4 treatment of the Secured Claim. Counsel for Fasching Haus agreed that the Motion should  
5 be taken off calendar due to stipulated resolution of the matter.

6 **STIPULATION**

7 WHEREFORE, it is stipulated and agreed as follows:

8 The Secured Claim shall receive the following treatment under the Debtor's Plan:

9 1. The Secured Claim shall be deemed to be a "Secured Claim" (as defined in  
10 the Plan) and shall be deemed to be included in a separate unimpaired class under the Plan.

11 2. At the election of the Debtor (made prior to the Effective Date), Fasching  
12 Haus shall receive one of the following treatments: (i) the Allowed Secured Claim shall be  
13 paid in full in cash as soon as practicable, though no more than thirty (30) days, after the  
14 Effective Date of the Plan; or (ii) the legal, equitable and contractual rights of Fasching  
15 Haus shall remain unaltered, and Fasching Haus shall be allowed to proceed to enforce its  
16 rights under applicable state law commencing on the Effective Date.

17  
18 Dated: December 16, 2009

19  
20 By James Gianulias  
21 Debtor and Debtor in Possession

22  
23 Dated: December \_\_, 2009

Fasching Haus East Condominium Association

24  
25 By Tom Schoonover  
26 Secretary/Treasurer for Fasching Haus East  
27 Condominium Association  
28

1 under the Plan. At the hearing on the Motion on December 1, 2009, counsel for the Debtor  
2 informed the Court of the proposed Plan treatment of the Secured Claim, and the parties  
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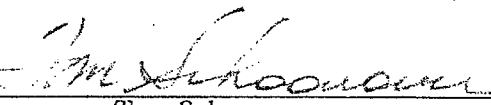
11 2. At the election of the Debtor (made prior to the Effective Date), Fasching  
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15 Haus shall remain unaltered, and Fasching Haus shall be allowed to proceed to enforce its  
16 rights under applicable state law commencing on the Effective Date.

17  
18 Dated: December \_\_, 2009

19  
20 By \_\_\_\_\_  
James Gianulias  
Debtor and Debtor in Possession

21  
22 Dated: December 17, 2009

Fasching Haus East Condominium Association

23  
24 By   
25 Tom Schoonover  
26 Secretary/Treasurer for Fasching Haus East  
27 Condominium Association  
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1 **APPROVED AS TO FORM:**

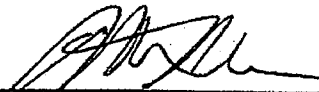
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3 Dated: December 18, 2009

THE LOBEL FIRM, LLP

4

5

By 

6

Mike D. Neue  
Attorneys for Debtors and  
Debtors-in-Possession

7

8 Dated: December \_\_, 2009

KLINEDINST PC

9

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By \_\_\_\_\_

11

Tim R. Pomeroy  
Attorneys for Fasching Haus East Condominium  
Association

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1 APPROVED AS TO FORM:

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3 Dated: December \_\_, 2009 THE LOBEL FIRM, LLP

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5

By \_\_\_\_\_  
Mike D. Neue  
Attorneys for Debtors and  
Debtors-in-Possession

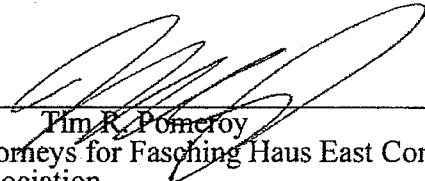
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7

8 Dated: December 16, 2009 KLINEDINST PC

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10

By  \_\_\_\_\_  
Tim R. Pomeroy  
Attorneys for Fasching Haus East Condominium  
Association

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In re: JAMES C. GIANULIAS,	Debtor(s).	CHAPTER 11
		CASE NUMBER 8:08-bk-13150-RK

### PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 840 Newport Center Drive, Suite 750, Newport Beach, CA 92660

The foregoing document described as **STIPULATION RESOLVING MOTION FOR RELIEF FROM STAY FILED BY FASCHING HAUS EAST CONDOMINIUM ASSOCIATION, INC.** 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 December 21, 2009, 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:

Service information continued on attached page

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

On December 21, 2009, 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.*

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 December 21, 2009, 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.*

Chambers of the Honorable Robert Kwan  
United States Bankruptcy Court  
411 West Fourth Street  
Santa Ana, CA 92701

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.

12/21/09  
Date

Cecilia Solórzano  
Type Name

/s/ Cecilia Solórzano  
Signature

In re: JAMES C. GIANULIAS,	Debtor(s).	CHAPTER 11 CASE NUMBER <u>8:08-bk-13150-RK</u>
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**TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")**

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This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

January 2009

F 9013-3.1

2995

Exhibit 1  
Page 10

In re: JAMES C. GIANULIAS,  Debtor(s).	CHAPTER 11  CASE NUMBER <u>8:08-bk-13150-RK</u>
--	---

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<b><u>Attorneys for Fasching Haus East Condominum Assn., Inc.</u></b> Houston M. Watson II, Esq. Tim R. Pomeroy, Esq. Klinedinst PC 501 W. Broadway, Ste. 600 San Diego, CA 92101	<b><u>Office of the United States Trustee</u></b> Attn: Michael Hauser 411 W. Fourth Street, Ste. 9041 Santa Ana, CA 92701-4593	<b><u>Debtor</u></b> James C. Gianulias/Cameo Homes 1105 Quail Street Newport Beach, CA 92660
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**PROOF OF SERVICE OF DOCUMENT**

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: 840 Newport Center Drive, Suite 400, Newport Beach, CA 92660-6324

The foregoing document described as **DEBTORS' NOTICE OF ELECTION UNDER FOURTH AMENDED PLAN OF REORGANIZATION (DATED MAY 27, 2010), AS MODIFIED, RELATING TO CLASS 1H – SECURED CLAIM OF FASCHING HAUS EAST CONDO ASSOCIATION** 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 September 8, 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:  
 Service information continued on attached page

**II. SERVED BY U.S. MAIL OR OVERNIGHT MAIL** (indicate method for each person or entity served): On September 8, 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.*  
 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 September 8, 2010, 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.*

**CAUSED TO BE SERVED VIA PERSONAL DELIVERY/MESSENGER**  
Chambers of Honorable Robert W. Kwan  
United States Bankruptcy Court  
411 W. Fourth Street  
Santa Ana, CA 92701

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.

9/8/10	Lori Gauthier	/s/ Lori Gauthier
Date	Type Name	Signature

1 **SERVED VIA NOTICE OF ELECTRONIC FILING ("NEF")**

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**SERVED VIA FIRST-CLASS MAIL**

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