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SUPREME COURT
STATE OF WASHINGTON

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BY RONALD R. GATES

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NO. 89265-2

IN THE SUPREME COURT OF
THE STATE OF WASHINGTON

COURT OF APPEALS, DIVISION II NO 43574-8-II
LEWIS COUNTY SUPERIOR COURT NO. 11-3-00226-0

RONALD LAVERNE GATES
Respondent

KYON CHA BRUNDAGE
Appellant.

APPELLANT'S REPLY TO PETITION
FOR DISCRETIONARY REVIEW

Kyon Brundage, Pro Se

511A Highway 603
Chehalis, WA 98532
(623) 680-6886

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Kyon Brundage, Appellant, Pro Se, replies to Respondent's Answer to Petition for Discretionary Review as follows:

The only issue on the table is whether Ms. Brudage should have been granted a two-week continuance so she could be represented by an attorney. If Ms. Brundage had had an attorney to represent her, she would not have lost \$487,000 worth of her separate property to Mr. Gates. See Appellant's Brief, page 16-19.

Introduction

Mr. Gates refers to his Motion to Dismiss and Motion on the Merits. Ms. Brundage refers the Court to her Answer to Motion on the Merits, her Motion to Modify Commissioner's Ruling, and Reply to Answer to Motion to Modify Commissioner's Ruling in their entirety.

Multiple Attorneys

Ms. Brundage addressed the reason she had three attorneys in her statement of the case of her Petition. Also see Appellant's Brief, page 2-4; Appellant's Reply Brief, page 7-10; Answer to Motion on the Merits, page 2, 9-10; Motion to Modify Commissioner's Ruling, page 2-3.

Alleged Delay Tactics

Any alleged delay tactics are only what Mr. Gates says they are because Ms. Brundage did not have an attorney to represent her at trial. See Appellant's Reply Brief, page 10, 15-16, 19; Answer to Motion on the Merits, page 8, 10; Motion to Modify Commissioner's Ruling, page 7, line 19 to page 12, line 11; Reply to Answer to Modify Commissioner's Ruling, page 7, line 23 to page 9, line 25, page 12, line 1-18.

Attorney's Fees

Ms. Brundage addressed the issue of attorney's fees on page 16 of her Petition. Also see Appellant's Reply Brief, page 23; Motion to Modify Commissioner's Ruling, page 12, line 12- page 14, line 7; Reply to Answer to Motion to Modify Commissioner's Ruling, page 10, line 1 to page 11, line 24.

Discovery

In her Issues Presented for Review, Ms. Brundage pointed out that the case had previously been continued by agreement of the parties because of an ongoing need for discovery.

On January 31, 2011 the trial date was continued by motion of the respondent and stipulated to by the parties, the court order stated that the continuance was:

Based upon the need for continuing discovery, and compliance with existing discovery requests, and the fact that only one judge is potentially available the week that trial is currently set (February 29, 2012) and a murder trial set to occur that week, the court finds good cause to strike the trial date on 2/29/12-3/1/12. (CP 51)

See Appellant's Reply Brief, page 1-3; Reply to Answer to Motion to Modify Commissioner's Ruling, page 1, line 24 to page 3, line 8.

Mr. Gates' Debts

Mr. Gates debts are irrelevant as to whether the trial court should have granted Ms. Brundage a two-week continuance so that she could be represented by an attorney during the trial.

Mr. Gates alleges that according to a credit report from March 2009, he had no delinquent accounts or late payments regarding his various assets. That is not true.

Ms. Brundage was appointed Power of Attorney January 10,

2010. Mr. Gates incurred all those debts between September 11, 2008 and February 17, 2009. Mr. Gates' credit card debts were 12 to 15 months in arrears before he had his stroke on December 15, 2009. See Exhibit 117 entered in Superior Court on May 10, 2012.

We went to RAM Financial Services on August 10, 2009 for Mr. Gates' debt settlement. That was for his credit cards and his home in Arizona. RFS did not help us at all. They told us to stop making payments on the Arizona home. That is why the Arizona home went into foreclosure.

Prior to Mr. Gates suffering from a stroke in 2009, his own financial activities suggest tendencies toward financial irresponsibility. When Mr. Gates retired in 2007, he had a fixed income of a little over \$4618.00 per month. He purchased a New Dodge 3500 Diesel in 2004 for \$50,000.00 with a high interest auto loan of 13.8%, which payments were \$996 per month (VOL 1, 39). He had hair transplants by Bosely MD that cost him

\$11,500.00. (VOL 1, 124, Exhibit 114) He also bought his youngest daughter a car for \$9,000.00 in cash out of a home equity line of credit.

Mr. Gates used the Port Angeles home as collateral in 2006 to get a \$161,000 home equity line of credit from Key Bank with the stipulation that he first pay off an existing home equity line of credit from Chase Bank for about \$40,000 and the Dodge Ram for \$50,000. 2 RP 41.

Mr. Gates claims that as of March 2009, he had no delinquent accounts or late payments. But that was testimony by Renell Hull, his daughter. Ms. Brundage had no attorney to refute that allegation.

Mr. Gates said that Ms. Brundage admitted that Mr. Gates had a clean credit record up until March 2009 at 2 RP 22, but there is nothing on page 22 indicating that.

Ms. Brundage's Fiduciary Duty

On page 4 of Mr. Gates' Response, he listed eight instances where Ms. Brundage allegedly breached her fiduciary duty to him after his stroke. However, they cited either direct examination of his daughters, Sharlynn Gates or Renell Hull. Without an attorney, Ms. Brundage had no way to refute any of their allegations.

Mr. Gates claims that due to Ms. Brundage's mismanagement, his net wealth went from \$214,000 to \$12,000. That was testimony by Mr. Gates' daughter, Renell Hull and in Ms. Bringolf's closing argument. Without an attorney, Ms. Brundage had no way to refute that.

The \$214,000 was in Mr. Gates checking account from Washington Mutual Savings Bank. Mr. Gates' checking account and his retirement account were totally separate.

Ms. Brundage never had access to Mr. Gates' Washington Mutual account. The only account of Mr. Gates that Ms. Brundage had access to was his MFS account. Ms. Brundage was appointed Power of Attorney on January 10, 2010. According to the statement from July 1, 2009 through September 30, 2009, the account had a balance of \$62,924.48. According to the statement from April 1,

2010 through June 30, 2010, the account had a balance of \$56,351.88. Her Power of Attorney was revoked on May 23, 2011. So Ms. Brundage never had access to the entire \$214,000.

In April 2011, Mr. Gates and Ms. Brundage wanted to buy a house in Avondale, Arizona. Ms. Brundage had MFS transfer \$30,000 to Mr. Gates' Bank of America account. The mortgage broker said that was not enough for the down payment. She said she needed approximately \$40,000 down. So Ms. Brundage had MFS transfer another \$10,000 to Mr. Gates' Bank of America account. Because Mr. Gates kept adding more amenities, the down payment went up to \$45,000. Ms. Brundage did not think MFS deposited the \$10,000 yet, so she asked them for an additional \$15,000 to add up to \$45,000. But they already processed the \$10,000, so that brought the total to \$55,000. That is the only money of Mr. Gates that Ms. Brundage spent. 2 RP 39. I have submitted the Washington Mutual checking statement, Exhibit A; MFS statement from April 2009 through June 2009, Exhibit B; MFS statement from July 2009 through September 2009, Exhibit C; MFS statement from April 2010 through June 2010. Exhibit D.

All allegations about whether Ms. Brundage breached her fiduciary duty have to be taken in light of the fact that Mr. Gates was represented by an attorney and Ms. Brundage had to represent

herself. So Ms. Brundage had no way to argue her case to the court, while Mr. Gates could say whatever he wanted. See Appellant's Brief, page 11-12; Appellant's Reply Brief, page 21; Answer to Motion on the Merits, page 12-13; Motion to Modify Commissioner's Ruling, page 6, line 13; Reply to Answer to Motion to Modify Commissioner's Ruling, page 3, line 9-21, page 8, line 10-20.

The Maricopa house in Arizona went into foreclosure after Mr. Gates tried to get a loan modification in January 2011. It was denied because Mr. Gates already had too much credit card debt. He borrowed against the Port Angeles home many times which ended up in a mortgage balance total of \$330,000.00. 2 RP 41.

Ms. Brundage has submitted a document describing the delinquent payments of the Port Angeles home from May 15, 2011 to April 20, 2012. Exhibit E.

Ms. Brundage's Exhibit 117 included a balance transfer of \$4400.00 from Bank of America to his American Express card on September 13, 2008; a balance transfer of \$8000.00 from his Discover Card to his Bank of America Card on February 17, 2009; balance transfer of \$14,754.85 from his Citi Card to his checking account at

Key Bank on June 25, 2009.

\$30,000 Loan

Mr. Gates claims that Ms. Brundage borrowed \$30,000 prior to the marriage and did not pay it back. Ms. Brundage submitted checks she paid Mr. Gates totaling \$18,868.28. Exhibit 103. 1 RP 129.

Ms. Brundage also testified that she gave Mr. Gates a \$10,000 offset on each of their joint 2005 and 2008 tax returns. 1 RP 126.

Checks From Mr. Gates' Account

The checks Ms. Brundage wrote to herself from Mr. Gates account were to pay for the refund to Mr. Gates' previous tenant in the Maricopa home when it went into foreclosure, moving expenses from Arizona to Washington, Mr. Gates dental bill in Mexico and motel, a trip Mr. Gates and Ms. Brundage took to

Hawaii in February 2011, \$300 for Mr. Gates to play with and \$300 for his sister. Exhibit 115.

Centralia House

Mr. Gates claims that it was Ms. Brundage's fault that the Centralia house was condemned. This is also a false statement as the property was deemed "uninhabitable" after Ms. Brundage's Power of Attorney was revoked on May 23, 2011. Mr. Gates evicted his tenant in August 2011. His tenant left the property in disrepair with unpaid utility bills. This was not Ms. Brundage's responsibility. The letter from the Building Department of the City of Centralia clearly states "We have not condemned this structure but posted it due to no electricity and water. As soon as the utilities is turned on the posting will be removed." I have submitted the letter from the Centralia Building Department, Exhibit F.

Transfer of Vehicle

The transfer of Petitioner's vehicle to Ms. Brundage's name was at Mr. Gates' request due to his fear that it would be repossessed

if it remained in his name. As soon as Mr. Gates requested separation, the car was transferred back to him. 2 RP 45-46.

Ms. Brundage's Witnesses

As Ms. Brundage pointed out in her Petition, page 4, she did not know how to call witnesses. She did not know how to question witnesses. She did not know how to make an opening argument. She did not know how to make an objection, nor did she know the rules of evidence. See Appellant's Brief, page 5-6; Appellant's Reply Brief, page 18.

Hearing on June 8, 2012

Mr. Gates submitted a statement from the court from a hearing on June 8, 2012. But that entire statement was from the same judge who preside over the trial of May 2012 to justify his refusal to grant Ms. Brundage a two-week continuance so she could be represented by an attorney.

It is worth noting that Judge Hunt stated Ms. Brundage "was clearly focused on exactly what she wanted and it was: I want everything that's mine and I also want everything that's his. He

doesn't get anything. I get it all."

What Ms. Brundage actually said was, "I request all the previous prior to marriage is free and clear should stay with me And of course, I want to keep all his property for him." In other words, she keeps her property and Mr. Gates keeps his property. Volume 2, Pg 79, Lines 1-23. Also see Appellant's Reply Brief, page 2; Appellant's Reply Brief, page 4; Reply to Answer to Motion to Modify Commissioner's Ruling, page 2, line 9, page 3, line 22, page 4, line 13 to page 5, line 6.

Chamberlin v. Chamberlin

Ms. Brundage stands by her analysis of Chamberlin v. Chamberlin. Also see Reply to Answer to Motion to Modify Commissioner's Ruling, page 6, line 7-24.

In Re V.R.R

Ms Brundage stands by her analysis of In re V.R.R. See Appellant's Brief, page 13-16.

Balandzich v. Demeroto

Ms. Brundage refers this Court to her analysis of Balandzich v. Demeroto in her Reply Brief, pages 4-10 and 24.

Matter of Marriage of Olivares

Ms. Brundage stands by her analysis of Matter of Marriage of Olivares. Also see Appellant's Reply Brief, page 22.

In re Estate of Borghi

Ms. Brundage stands by her analysis of Estate of Borghi. Also see Appellant's Reply Brief, page 22.

Ms. Brundage's Legal Expertise

Even though Ms. Brundage has lived in the United States for 50 years, that does not make her an expert in law.

Although Ms. Brundage has been a successful business woman, that cannot be compared with those skills of a trial lawyer. During Ms. Brundage's business career, she had lawyers and property managers to help her make important decisions.

Mr. Gates's Alleged Health

Mr. Gates' health is not germane as to whether Ms. Brundage should have been allowed a two-week continuance. Furthermore, there was never any documentation of Mr. Gates' health presented at trial. Since Ms. Brundage never had an attorney, Mr. Gates' health was whatever Mr. Gates's daughter, Sharlynn Gates, said it was. See Appellant's Brief, page 8-9, 21-24; Appellant's Reply Brief, page 7, 22; Reply to Answer to Motion to Modify Commissioner's Ruling, page 8, line 21 to page 9, line 6.

Alleged Fiscal Misconduct

Allegations of Ms. Brundage's fiscal misconduct are whatever Mr. Gates says they are because Ms. Brundage never had an attorney to represent her at trial. See Appellant's Brief, page 7; Appellant's Reply Brief, page 3.

In re Marriage of Muhammad

Ms. Brundage stands by her analysis of In re Marriage of

Muhammad. This case does have considerable merit. If the trial court had granted Ms. Brundage a mere two-week continuance so she could be represented by an attorney, we would not be here today.

Spreen v. Spreen

Ms. Brundage stands by her analysis of Spreen v. Spreen.

Kinney v. Cook

Ms. Brundage stands by her analysis of Kinney v. Cook. This is not a frivolous appeal.

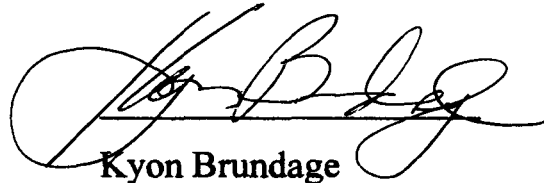
Mr. Gates refers this Court to his Motion to Dismiss and Motion on the Merits. Ms. Brundage refers this Court to her Answer to Motion on the Merits in its entirety. It explains why Ms. Brundage had three attorneys. It explains the disposition of various pieces of property. It explains the Lis Pendens on page 5. It explains the contempt on page 5. It explains why Ms. Brundage was no match up against an attorney at trial.

Conclusion

This Court should grant Ms. Brundage's Petition for Discretionary Review. There is no way Ms. Brundage or anyone else could adequately represent themselves in a two-day trial as complex as this one against an experienced attorney.

This is her last chance to preserve 30 years of hard work.

Respectfully submitted this 28th day of October, 2013.

A handwritten signature in black ink, appearing to read 'K. Brundage', written over a horizontal line.

Kyon Brundage

Appellant, Pro Se

Exhibit A

Your Platinum Checking Detail Information

RONALD L GATES Account Number: ~~488-XXXXXX~~
Washington Mutual Bank, FA

Your Account at a Glance

Beginning Balance	\$444.25
Checks Paid	-\$7,507.58
Other Withdrawals	-\$63,748.41
Deposits	+\$78,966.92
Ending Balance	\$8,155.18

Interest Earned	\$13.38
Annual Percentage Yield Earned	1.45%
YTD Interest Paid	\$13.58
YTD Interest Withheld	\$0.00

Platinum Relationship

Average Balance	\$213,205.11
<small>(the prior calendar month's average combined daily ending balance of the Platinum Checking and all linked deposit accounts + the prior calendar month's end of month balance of any other linked account)</small>	
End of Month Balance	\$214,967.23
<small>(Platinum Checking and all linked accounts -- prior calendar month's end of month balance)</small>	

Date	Description	Withdrawals (-)	Deposits (+)
02/19	Customer Deposit		\$4,000.00
02/25	CAPITAL ONE PHONE PYMT 805439860001750	\$74.00	
02/26	WF FINANCIAL INC CHECKPAYMT 3568	\$95.00	
02/27	US TREASURY 303 SOC SEC		\$1,036.00
02/27	PROTECTION SOURC SERVICES 30697	\$24.95	
03/03	Customer Deposit		\$1,297.54
03/03	Automatic Savings Plan Debit	\$5.00	
03/06	OLB TRANSFER FROM 049500006853802		\$2,000.00
03/07	WIRE TRANSFER DEPOSIT		\$70,000.00
03/07	FEE: INCOMING DOMESTIC WIRE	\$10.00	
03/10	Customer Deposit		\$600.00
03/10	WELLS FARGO CARD PHONE PYMT 1001	\$8,540.55	
03/10	DISCOVER PHONE PAY 601100937350077	\$8,668.36	
03/10	AMERICAN EXPRESS ELEC REMIT 080307052915154	\$15,297.40	
03/10	AMERICAN EXPRESS ELEC REMIT 080307057909665	\$12,062.83	
03/10	CITI-CLICK 2 PAY PAYMENT KJMFR95C@@L9CTP	\$7,659.68	
03/10	CAPITAL ONE PHONE PYMT 806739860049090	\$2,408.39	
03/11	NAPUS FCU EFUNDS TFR 000000002186800	\$5,597.89	
03/11	WELLS FARGO FINA ONLINE PMT 1016441136	\$1,042.16	
03/12	WELLS FARGO FINA ONLINE PMT 1016562158	\$1,366.53	
03/12	CITI-CLICK 2 PAY PAYMENT C.J5C9RF@LM3CTP	\$875.67	
03/13	Interest Payment		\$13.38
03/13	Service Charge	\$20.00	
03/13	Refund Service Charge		\$20.00

A

Exhibit B



Investment Summary

April 1, 2009 through June 30, 2009

Page 1 of 4

Fund-Account Number: ~~XXXXXXXXXX~~

For help with your investments, contact
Your Representative: P673

MERLE D MILLER 319 354 6506
Dealer #1
AMERITAS INVESTMENT CORP
C/O HAWKEYE BROKERAGE CENTER 319 330 2990
2010 KEOKUK ST
IOWA CITY IA 52240-4456



SH-9990-MFS2P-5
MFS HERITAGE TRUST CO TRUSTEE
IRA R/O RONALD L GATES
1704 MILWAUKEE DR
PORT ANGELES WA 98363-1106

mfs.com

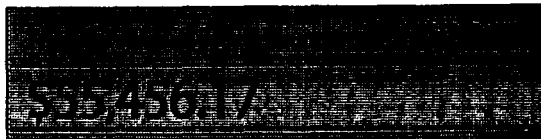
Online account access, fund information, investor education and mailing address information

24-hour-a-day automated information

Automated voice response service 1-800-MFS-TALK
(1-800-637-8255)

Personal Account Service

Personal Account Services 1-800-225-2606
IRA Account Services 1-800-637-1255
529 Plan Services 1-866-529-1637



Account at a Glance

	Quarter beginning 04/01/2009	Year beginning 01/01/2009
Beginning value	\$48,729.39	\$51,271.79
Change in value	+6,726.78	+4,184.38
Ending value 06/30/2009	\$55,456.17	\$55,456.17

Your MFS® portfolio performance

Year to date 8.16%

Your year-to-date personal MFS portfolio performance is calculated using a formula that reflects the results of your investment as well as your activity. Other formulas may yield different results. Past performance is no guarantee of future results. For additional details on this calculation, please visit mfs.com/talk.

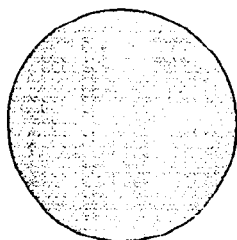
Please see Important Disclosures at the end of the Account Activity section for information about how the average annual total returns for each share class of each fund in your account and your account performance is calculated.

Shareholder News

Online copies of your quarterly statements
Now it's even easier to gain access to your quarterly MFS account information. Through MFS Access, you can view and print "eStatements," which are electronic copies of the quarterly statements you receive in the mail. Just log in to MFS Access on mfs.com.

Portfolio Allocation

Your financial goals, time horizon, risk tolerance and other personal factors will determine how to best allocate and diversify your assets among stock, bond, and money market securities. Diversification is the key for managing risk and reducing overall portfolio volatility. Asset allocation and diversification do not guarantee profit or protect against loss. For more information, call your investment professional.



0.00%	Domestic Growth Stock
0.00%	Domestic Conservative Stock
0.00%	Global/International
0.00%	High Grade Bond
0.00%	High Yield Bond
0.00%	Tax Free Bond
100.00%	Asset Allocation
0.00%	Money Market



UPSU - SH - 002500198 - 0009221 - 2CZ

Exhibit C



SH-1022-MFS2P-5
MFS HERITAGE TRUST CO TRUSTEE
IRA R/O RONALD L GATES
1704 MILWAUKEE DR
PORT ANGELES WA 98363-1106

Fund-Account Number: ~~XXXXXXXXXX~~

For help with your investments, contact

Your Representative: P673

MERLE D MILLER

Dealer:

AMERTAS INVESTMENT CORP

C/O HAWKEYE BROKERAGE CENTER

2010 KEOKUK ST

IOWA CITY IA 52240-4456



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Personal Account Service

Personal Account Services 1-800-225-2606

IRA Account Services 1-800-637-1255

529 Plan Services 1-866-529-1637

Account at a Glance

	Quarter beginning 07/01/2009	Year beginning 01/01/2009
Beginning value	\$55,456.17	\$51,271.79
Change in value	+7,468.31	+11,652.69
Ending value 09/30/2009	\$62,924.48	\$62,924.48

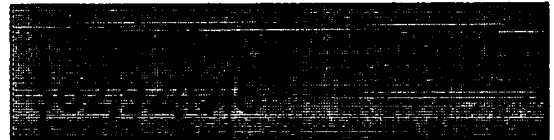
Your MFS® portfolio performance

Year to date 22.73%

Your year-to-date personal MFS portfolio performance is calculated using a formula that reflects the results of your investment as well as your activity. Other formulas may yield different results. Past performance is no guarantee of future results. For additional details on this calculation, please visit mfs.com/talk.

Please see Important Disclosures at the end of the Account Activity section for information about how the average annual total returns for each share class of each fund in your account and your account performance is calculated.

Jim Trezona
4/8/2010
60,131. —



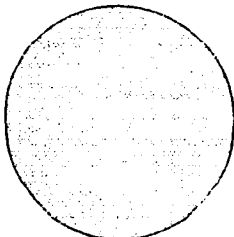
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0.00%	Domestic Growth Stock
0.00%	Domestic Conservative Stock
0.00%	Global/International
0.00%	High Grade Bond
0.00%	High Yield Bond
0.00%	Tax Free Bond
100.00%	Asset Allocation
0.00%	Money Market

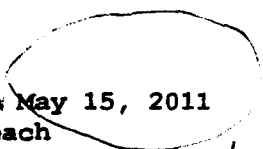
Exhibit D

Exhibit E

FAILURE TO PAY THE MONTHLY PAYMENT WHICH BECAME DUE ON 5/15/2011, AND ALL SUBSEQUENT MONTHLY PAYMENTS, PLUS LATE CHARGES AND OTHER COSTS AND FEES AS SET FORTH.

Failure to pay when due the following amounts which are now in arrears:

	Amount due as of April 20, 2012
<hr/>	
Delinquent Payments from May 15, 2011	
1 payments at \$ 408.16 each	\$ 408.16
1 payments at \$ 421.76 each	\$ 421.76
1 payments at \$ 438.15 each	\$ 438.15
1 payments at \$ 451.76 each	\$ 451.76
1 payments at \$ 451.77 each	\$ 451.77
1 payments at \$ 438.15 each	\$ 438.15
1 payments at \$ 451.76 each	\$ 451.76
1 payments at \$ 438.16 each	\$ 438.16
1 payments at \$ 309.84 each	\$ 309.84
1 payments at \$ 309.33 each	\$ 309.33
1 payments at \$ 289.05 each	\$ 289.05
1 payments at \$ 307.01 each	\$ 307.01
(05-15-11 through 04-20-12)	
Late Charges:	\$ 322.02
Beneficiary Advances:	\$ 90.00
Suspense Credit:	\$ 0.00
	<hr/>
TOTAL:	\$ 3,126.92



*Revoked
POA
5/23/11*

IV

The sum owing on the obligation secured by the Deed of Trust is: Principal \$160,708.51, together with interest as provided in the note or other instrument secured, and such other costs and fees, as are due under the note or other instrument secured, and as are provided by statute.

V

The above described real property will be sold to satisfy the expenses of sale and the obligation secured by the Deed of Trust as provided by statute. The sale will be made without warranty, express or implied regarding title, possession, or encumbrances on July 20, 2012. The default(s) referred to in paragraph III must be cured by July 9, 2012 (11 days before the sale date) to cause a discontinuance of the sale. The sale will be discontinued and terminated if at any time on or before July 9, 2012, (11 days before the sale date) the default(s) as set forth in paragraph III is/are cured and the Trustee's fees and costs are paid. The sale may be terminated at any time after July 9, 2012, (11 days before the sale date) and before the sale, by the Borrower, Grantor, any Guarantor or the holder of any recorded junior lien or encumbrance paying the entire principal and interest secured by the Deed of Trust, plus costs, fees, and advances, if any, made pursuant to the terms of the obligation and/or Deed of Trust, and curing all other defaults.

•
•
•

Exhibit F



(B)

Building Department, City of Centralia

118 W. Maple, PO Box 609

Centralia, WA 98531

18 June 2012

To whom it may Concern

RE: 318 S. Diamond

This building has been posted as uninhabitable. We have not condemned this structure but posted it due to no electricity or water. As soon as the utilities is turned on the posting will be removed.

If you have any questions, please contact this department at (360)330-7662

Sincerely,

LG Nelson

Building Official

City of Centralia

PO Box 609

Centralia, WA 98531-0609

lgnelson@cityofcentralia.com

(360)-330-7664 fax (360)330-7673