

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPP
KIRK B. LENHARD, ESQ., Nevada Bar No. 1437
klenhard@bhfs.com
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106
Telephone: 702.382.2101
Facsimile: 702.382.8135

JOHN C. HUESTON, ESQ., Cal. Bar No. 164921 (*Pro Hac Vice*)
jhueston@irell.com
GLENN K. VANZURA, ESQ., Cal. Bar No. 238057 (*Pro Hac Vice*)
gvanzura@irell.com
IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067
Telephone: 310.277.1010
Facsimile: 310.203.7199

Attorneys for Defendant Gary Trafford

**DISTRICT COURT
CLARK COUNTY, NEVADA**

STATE OF NEVADA,	Case No.: C-11-277573-1
Plaintiff.	
vs.	DATE: February 25, 2013
	TIME: 9:00 a.m.
GARY TRAFFORD	DEPT.: V
GERRI SHEPPARD	JUDGE: Hon. Carolyn Ellsworth
Defendants.	

**GARY TRAFFORD'S SUPPLEMENTAL BRIEF IN SUPPORT OF
(1) WRIT OF HABEAS CORPUS AND MOTION TO DISMISS, AND
(2) SHEPPARD'S MOTION TO DISMISS INDICTMENT
BASED UPON FORMER LEAD PROSECUTOR CONFLICT OF INTEREST**

1 **I. PRELIMINARY STATEMENT**

2 Defendant Gary Trafford submits this short supplemental brief to advise the Court that he
3 has uncovered new evidence that former Assistant Chief Deputy Attorney General John Kelleher
4 **knew** that he had a conflict of interest when he pursued this case in retaliation for his “personal
5 foreclosure crisis.” Specifically, Mr. Trafford now has proof that the Notice of Default (“NOD”)
6 for Kelleher’s personal residence – which showed on its face that it was recorded by
7 Mr. Trafford’s employer, LSI Title Agency Inc. (“LSI”) – **was posted on the front door of**
8 **Kelleher’s house** on September 7, 2011. *See* Feb. 20, 2013 Affidavit of Kirk B. Lenhard, Ex. A.
9 The next morning, Kelleher sent his investigators to threaten Tracy Lawrence with arrest if she
10 did not testify against Mr. Trafford. In addition, Mr. Trafford has obtained proof that the NOD
11 was sent to Kelleher by certified mail on September 14, 2011. *See id.*, Ex. B.

12 The Nevada Attorney General’s Office (“AG”) and Kelleher have told this Court –
13 including in Kelleher’s sworn affidavit – that Kelleher did not know until December 2011 that
14 Mr. Trafford’s employer processed Kelleher’s personal foreclosure documents, but the AG and
15 Kelleher conveniently failed to tell the Court about the personal service of the NOD on Kelleher
16 in September 2011. The documents evidencing this service are the most potent proof available
17 that Kelleher did, in fact, know that LSI was involved in his personal foreclosure **before** Kelleher
18 strong-armed Ms. Lawrence and **before** Kelleher presented this case to the grand jury in
19 November 2011. At the very least, this evidence shows that the AG and Kelleher have not been
20 forthcoming and omitted to advise this Court of material information, in violation of their duty of
21 good faith and candor. *See United States v. Associated Convalescent Enterprises, Inc.*, 766 F.2d
22 1342, 1346 (9th Cir. 1985) (“An attorney does not simply act as an advocate for his client; he is
23 also an officer of the court. As such, an attorney has a duty of good faith and candor in dealing
24 with the judiciary.”) At the very worst, the AG and Kelleher intentionally misled and submitted
25 false testimony to this Court.

26 Given Kelleher’s irrefutable conflict of interest and his misconduct before the grand jury,
27 the indictment against Mr. Trafford should be dismissed with prejudice.
28

1 **II. BACKGROUND AND ARGUMENT**

2 To summarize for the Court, the relevant facts now known are these:

- 3 • On September 6, 2011, Mr. Trafford’s employer, LSI, recorded an NOD on Kelleher’s
4 personal residence. Feb. 20, 2013 Lenhard Aff., Ex. B at 5. LSI is identified on the
5 face of the NOD. *Id.*
- 6 • On September 7, 2011, at approximately 5:53 p.m., the NOD was posted on the front
7 door of Kelleher’s residence. *Id.*, Ex. A.
- 8 • The next morning, on September 8, 2011, Kelleher sent his investigators to the home
9 of Tracy Lawrence on “short notice.” Nov. 26, 2012 Lenhard Aff., Ex. E at 1. As
10 soon as he stepped in the door, investigator Grosz said that he was “under the gun”
11 and was “being pressed” by the AG’s office. *Id.* at 1. Grosz also threatened Ms.
12 Lawrence with arrest if she did not assist in the AG’s attempt to make a case against
13 Trafford, telling her: “We have a prosecutor who is pissed. He wanted us to hook you
14 up today. ... He wanted us to arrest you now.” *Id.* at 2. The AG’s investigators then
15 proceeded to “interview” Ms. Lawrence for information to use against Mr. Trafford.
16 *See generally id.*
- 17 • Later that day (September 8, 2011), the AG’s investigators escorted Ms. Lawrence to
18 Kelleher’s office, where he personally cut a deal for Ms. Lawrence to testify against
19 Mr. Trafford. Jan. 17, 2013 Vanzura Aff., Ex. A. Notably, while speaking to
20 Ms. Lawrence, Kelleher just happened to bring up LSI – the first time LSI had ever
21 been mentioned in the AG’s recorded discussions with a witness. *Id.* at ¶¶ 3-4, Ex. A
22 at 2.
- 23 • On September 14, 2011, a copy of Kelleher’s NOD was sent to him by certified mail.
24 Feb. 20, 2013 Lenhard Aff., Ex. B.
- 25 • Kelleher made the decision to prosecute Mr. Trafford in this case. AG’s Opp. to Mtn.
26 to Dismiss, Dec. 24, 2012, at 5. In November 2011, he made his presentation against
27 Mr. Trafford to the grand jury, including testimony from Ms. Lawrence. *E.g.*, Vol. 1,
28 at 5:13-16, 118:20-179:1.

- 1 • On March 30, 2012, Mr. Trafford’s counsel sent a letter to Kelleher, as the lead
2 prosecutor on this case, requesting that the AG honor its obligation to produce certain
3 discovery materials. Nov. 26, 2012 Lenhard Aff., Ex. A.
- 4 • Kelleher did not respond to the March 30 letter from Mr. Trafford’s counsel. Instead,
5 on April 16, 2012, Deputy Attorney General Robert Giunta responded and advised
6 that there had been a “re-alignment” in the AG’s office and that “Kelleher is no longer
7 handling this matter.” *Id.*, Ex. B. Mr. Giunta’s letter did not disclose that Kelleher
8 had been re-assigned due to his conflict of interest. *Id.*
- 9 • In October 2012, Mr. Trafford’s counsel discovered an online report in which Nevada
10 Attorney General Katherine Cortez Masto revealed that Kelleher had been removed
11 not because of a simple “re-alignment” – as the AG had informed Mr. Trafford’s
12 counsel – but instead due to a conflict of interest. *Id.* ¶ 4, Ex. C at 2. What’s more,
13 the report revealed that Kelleher’s conflict of interest was related to his “*personal*
14 *foreclosure crisis.*” *Id.*, Ex. C at 2 (“Cortez Masto ordered the move based on what
15 she called a conflict of interest surrounding Kelleher’s personal foreclosure crisis.”).
- 16 • After learning of the conflict of interest “surrounding Kelleher’s personal foreclosure
17 crisis,” a search of public records revealed the NOD that had been recorded on
18 Kelleher’s personal home in September 2011. *Id.*, Ex. D at 3.
- 19 • On November 13, 2012, Mr. Trafford’s counsel wrote to the AG, requesting
20 information about the “conflict of interest surrounding Kelleher’s personal foreclosure
21 crisis.” Dec. 10, 2012 Lenhard Aff., Ex. A. After receiving no response, on
22 November 21, 2012, Mr. Trafford’s counsel again wrote to the AG requesting
23 information and advising that Mr. Trafford would be raising the issue with the Court
24 in a forthcoming brief. *Id.*, Ex. C. The AG never responded to either of
25 Mr. Trafford’s counsel’s inquiries.
- 26 • On November 26, 2012, Mr. Trafford filed his Court-ordered supplemental brief, and
27 advised the Court of the information that had then been uncovered concerning
28 Kelleher’s conflict of interest. Second Supp. Brief ISO Trafford’s Writ and Mtn. to

1 Dismiss. Based on this information and the AG's other misconduct before the grand
2 jury, Mr. Trafford asked that the Court dismiss the indictment or, in the alternative,
3 order an evidentiary hearing to get to the bottom of Kelleher's conflict of interest. *Id.*
4 • On December 3, 2012, the AG responded by moving to strike Mr. Trafford's
5 supplemental brief. Mtn. to Strike Def. Trafford's Second Supp. Brief. In its motion
6 to strike, the AG called Kelleher's conflict of interest an "irrelevant issue,"
7 inexplicably claimed that it was Mr. Trafford's fault that the conflict had not been
8 raised earlier, and tried by its motion to persuade the Court that it should not even
9 consider or examine Kelleher's conflict. *Id.* at 2-3. On December 10, 2012,
10 Mr. Trafford opposed the motion to strike. Trafford's Opp. to Mtn. to Strike.
11 • On December 11, 2012, Defendant Gerri Sheppard filed a separate motion to dismiss
12 for prosecutorial misconduct, based on Kelleher's conflict of interest. Sheppard's
13 Mtn. to Dismiss Based Upon Former Lead Prosecutor Conflict of Interest. On
14 December 12, 2012, Mr. Trafford joined in that motion. Trafford's Joinder.
15 • On December 24, 2012, the AG filed an opposition to the motion to dismiss. AG's
16 Opp. to Mtn. to Dismiss, Dec. 24, 2012. In its Opposition, ***the AG claimed that***
17 ***"Kelleher was not aware of the Notice of Default filed by LSI until December of***
18 ***2011."*** *Id.* at 5 (emphasis added). The AG further argued that "[t]o allege that
19 Kelleher had a vendetta against LSI as early as September 2011, when Kelleher was
20 wholly unaware of LSI's involvement until December is ***unsupportable by the facts of***
21 ***the case."*** *Id.* (emphasis added).
22 • The AG supported its incredible claims with an affidavit sworn to under penalty of
23 perjury by Kelleher. In his sworn affidavit, Kelleher represented to this Court:

24 I did not learn that my residential loan had been transferred to Bank of
25 America or that it was being handled by LSI Title until the week after
26 Tracey Lawrence's death in December of 2011. Although Defendants
27 allege that they submitted a Notice of Default prior to that time, ***I never***
28 ***personally saw such notice until December 2011*** as I began gathering

1 documents for my upcoming mortgage mediation. It was at that time
2 that I first researched the trust history to find out how and when Bank of
3 America and particularly LSI Title became connected with my loan. ...
4 At no time during the investigation or presentation of the subject matter
5 case was I aware that LSI Title was in any way involved with my
6 personal mortgage loan.

7 Kelleher Aff. ¶¶ 23, 26 (emphasis added).

- 8 • Ms. Sheppard and Mr. Trafford filed their replies on January 2 and January 18, 2013,
9 respectively. Mr. Trafford also submitted an affidavit from Dean Nancy B. Rapoport
10 of UNLV’s Boyd School of Law, in which she pointed out that, if Kelleher *did* know
11 that LSI was involved in his personal foreclosure at the time he presented this case to
12 the grand jury, then Kelleher undoubtedly had a conflict of interest and his
13 “presentation to the grand jury to seek an indictment, and his prosecution of the case,
14 was inappropriate.” Affidavit of Nancy B. Rapoport, ¶ 18. Dean Rapoport also made
15 clear that, whether or not Kelleher actually knew that LSI processed his personal
16 foreclosure documents, “there was a significant risk that his personal interests would
17 cloud his duty as a prosecutor to administer justice” and, therefore, “Mr. Kelleher had
18 a conflict of interest.” *Id.* ¶¶ 22-24. In sum, Kelleher “should not have been involved
19 at the indictment stage or thereafter.” *Id.* ¶ 22.

20 The AG and Kelleher have had every opportunity to give Mr. Trafford and the Court the
21 complete facts and explanation concerning Kelleher’s conflict of interest. But they have not been
22 forthcoming. They refused to even respond to Mr. Trafford’s good faith attempt to obtain
23 information from the AG about circumstances AG Masto personally called a “conflict of interest
24 surrounding [Kelleher’s] personal foreclosure crisis.” They omitted to tell the Court about the
25 NOD posted on Kelleher’s house before he made his grand jury presentation. They omitted to tell
26 the Court about the NOD sent to Kelleher by certified mail before he made his grand jury
27 presentation. And they omitted any explanation for how it is that Kelleher supposedly and
28 conveniently did not “personally” see his own NOD until just after the grand jury returned its

1 indictment and Ms. Lawrence passed away – more than three months after the NOD was posted
2 on Kelleher’s front door and mailed to him.

3 Given the AG’s efforts to conceal and downplay Kelleher’s personal interest and
4 misconduct in this case, and given the facts now known to Mr. Trafford, there should be little
5 doubt that the AG and Kelleher pursued a case in which the lead prosecutor had a conflict of
6 interest, failed to disclose the conflict to the defendants or the Court, misled Mr. Trafford’s
7 counsel about the reason for Kelleher’s removal from this case, and submitted a false or
8 misleading affidavit to the Court. This misconduct threatens to seriously damage public
9 confidence in the integrity of the Nevada Attorney General’s Office. This misconduct also
10 warrants dismissal of the indictment or, at the very least, an evidentiary hearing concerning
11 Kelleher’s admitted conflict of interest.

12 **III. CONCLUSION**

13 As the United States Supreme Court held long ago, a prosecutor “is the representative not
14 of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially
15 is as compelling as its obligation to govern at all, and whose interest, therefore, in a criminal
16 prosecution is not that it shall win a case, but that justice shall be done.” *Berger v. United States*,
17 295 U.S. 78, 88, 55 S.Ct. 629 (1935) (emphasis added). The AG’s office and its prosecutors have
18 apparently forgotten their obligations to the people, to the Court, and to the proper pursuit of
19 justice. The lead prosecutor’s conflict of interest, and the attempts by him and the AG to avoid
20 answering for their unethical conduct, are among the most egregious examples of prosecutorial
21 misconduct found in any published case. As Mr. Trafford has urged since he discovered the lead

22 //

23 //

24 //

25

26

27

28

1 prosecutor's conflict of interest, the Court should send a strong message to the AG that such
2 abusive conduct will never be tolerated by courts in this state and, for all of the reasons
3 Mr. Trafford has submitted, his writ of habeas corpus and the motions to dismiss should be
4 granted with prejudice.

5 DATED this 20th day of February, 2013.

6 **BROWNSTEIN HYATT FARBER SCHRECK, LLP**

7
8 By: /s/ Kirk B. Lenhard

9 KIRK B. LENHARD, ESQ., NV Bar No. 1437
10 100 North City Parkway, Suite 1600
11 Las Vegas, Nevada 89106
12 Telephone: 702.382.2101
13 Facsimile: 702.382.8135

14 **IRELL & MANELLA LLP**

15 JOHN C. HUESTON, ESQ., CA Bar No. 164921 (*Pro*
16 *Hac Vice*)
17 GLENN K. VANZURA, ESQ., CA Bar No. 238057
18 (*Pro Hac Vice*)
19 1800 Avenue of the Stars, Suite 900
20 Los Angeles, California 90067
21 Telephone: 310.277.1010
22 Facsimile: 310.203.7199

23 *Attorneys for Defendant Gary Trafford*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of February, 2013, and pursuant to NRCP 5(b), I served a true and correct copy of the foregoing **GARY TRAFFORD'S SUPPLEMENTAL BRIEF IN SUPPORT OF (1) WRIT OF HABEAS CORPUS AND MOTION TO DISMISS, AND (2) SHEPPARD'S MOTION TO DISMISS INDICTMENT BASED UPON FORMER LEAD PROSECUTOR CONFLICT OF INTEREST**, to be served, via Hand-Delivery, in a sealed envelope, addressed to the following:

CATHERINE CORTEZ MASTO, ESQ.
Attorney General
ROBERT G. GIUNTA, ESQ.
Senior Deputy Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101-1068
Attorneys for Plaintiff, State of Nevada

LISA RASMUSSEN, ESQ.
LAW OFFICE OF LISA RASMUSSEN, P.C.
601 S. 10th Street
Las Vegas, Nevada 89101-7027
Attorneys for Defendant Geraldine Sheppard

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Attached as **Exhibit A** is a true and correct copy of an "Affidavit of Posting" dated September 7, 2011, concerning the notice of default for Mr. Kelleher's property.

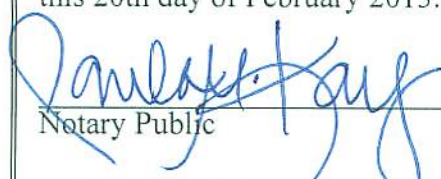
3. Attached as **Exhibit B** is a true and correct copy of an "Affidavit of Mailing" dated September 14, 2011, concerning the notice of default for Mr. Kelleher's property.

4. I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

DATED this 20th day of February, 2013.


KIRK B. LENHARD

Subscribed and Sworn to Before Me
this 20th day of February 2013.


Notary Public



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Affidavit of Kirk B. Lenhard in Support of Gary Trafford's Supplemental Brief is respectfully submitted by:

BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: /s/ Kirk B. Lenhard

KIRK B. LENHARD, ESQ., NV Bar #1437
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106
Telephone: 702.382.2101
Facsimile: 702.382.8135

IRELL & MANELLA LLP

JOHN C. HUESTON, ESQ., CA Bar #164921 (*Pro Hac Vice*)
GLENN K. VANZURA, ESQ., CA Bar #238057 (*Pro Hac Vice*)
1800 Avenue of the Stars, Suite 900
Los Angeles, California 90067
Telephone: 310.277.1010
Facsimile: 310.203.7199

Attorneys for Defendant Gary Trafford

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 20th day of February, 2013, and pursuant to NRCPC 5(b), I served a true and correct copy of the foregoing **AFFIDAVIT OF KIRK B. LENHARD IN SUPPORT OF GARY TRAFFORD'S SUPPLEMENTAL BRIEF**, to be served, via Hand-Delivery, in a sealed envelope, addressed to the following:

CATHERINE CORTEZ MASTO, ESQ.
Attorney General
ROBERT G. GIUNTA, ESQ.
Senior Deputy Attorney General
555 E. Washington Ave., Suite 3900
Las Vegas, Nevada 89101-1068
Attorneys for Plaintiff, State of Nevada

LISA RASMUSSEN, ESQ.
LAW OFFICE OF LISA RASMUSSEN, P.C.
601 S. 10th Street
Las Vegas, Nevada 89101-7027
Attorneys for Defendant Geraldine Sheppard

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP

EXHIBIT A

LPS-Agency Sales & Posting
Order # ASAP4084609
TS # NV11416987EV

AFFIDAVIT OF POSTING

State of Nevada)
County of Clark)

I, Jason Heft, state:

That at all times herein I have been a citizen of the United States, over 18 years of age, and am not a party to, or interested in, the proceeding in which this affidavit is made.

On 9/7/2011 at approximately 5:53 PM, I personally posted a copy of the Notice of Default on the property in the manner prescribed pursuant to NRS 107.087, in a conspicuous place on the property, upon information and belief, not later than 3 business days after the Notice of Default and Election to Sell was recorded, which is located at:

1147 Kingston Hills Court
Henderson NV 89015

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Dated 9/7/2011

Vegas Legal Support Services, Inc.



Jason Heft, 3037671
930 S. 4th Street, Suite 200
Las Vegas, NV 89101
(702) 382-2747
Nevada Licenses 988 & 988A

NLN ID# 358796 83
COUNTY OF SERVICE: CLARK
SERVER: Jason Heft



Photos taken by: Jason Heft County: CLARK 36
Photo Date: 9/7/2011 Time: 5:53 PM NLN ID# 358796 Page 1 of 1
Primary Borrower: John P. Kelleher and Lori A Kelleher
Property Address: 1147 Kingston Hills Court , Henderson NV 89015

Vegas Legal Support Services, Inc.
930 S. 4th Street, Suite 200
Las Vegas, NV 89101
(702) 382-2747 Lic. 988 & 988A

LPS-Agency Sales & Posting Order # ASAP4084609 TS#NV11416987EV

EXHIBIT B

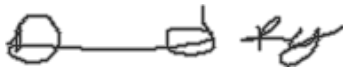
AFFIDAVIT OF MAILING

Date: **9/14/2011**
T.S. No.: **NV-11-416987-EV**
Loan No.: **2000539984**
Mailing: **Ten Day**

STATE OF California }
COUNTY OF San Diego }

The declarant, whose signature appears below, states that (s)he is over the age of eighteen (18) years; is employed in San Diego County that his/her business address is at 2141 5th Avenue San Diego CA 92101, It is further declared that (s)he is readily familiar with business practices relative to the mailing of documents and that on **9/14/2011**, a copy of the Notice of Default, of which the attached is a true and correct copy, was mailed in the ordinary course of business. The copy of the Notice of Default was placed in a sealed envelope and addressed to the person(s)/entity(ies) set forth below. Said mailing was sent by certified or registered mail and first class, with postage prepaid and then delivered to the United States Postal Service for delivery.

I declare under penalty of perjury that the foregoing is true and correct.



Affiant David Fry

Nevada State Health Division
4150 Technology Way
Carson City, NV 89706
First Class and Cert. No. 71039628594188390988

LORI A. KELLEHER
1147 KINGSTON HILLS COURT
HENDERSON, NV 89015
First Class and Cert. No. 71039628594188391039

AMBER RIDGE COMMUNITY ASSOCIATION
C/O KEN TASTAD
2920 S RAINBOW BLVD STE 140
LAS VEGAS, NV 89146
First Class and Cert. No. 71039628594188391114

JOHN KELLEHER
1147 KINGSTON HILLS COURT
HENDERSON, NV 89015
First Class and Cert. No. 71039628594188391206

LORI KELLEHER
1147 KINGSTON HILLS COURT
HENDERSON, NV 89015
First Class and Cert. No. 71039628594188391282

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
P.O. BOX 2026
FLINT, MI 48501-2026
Electronic notice pursuant to agreement

JOHN P. KELLEHER
1147 KINGSTON HILLS COURT
HENDERSON, NV 89015
First Class and Cert. No. 71039628594188391381

REALTY MORTGAGE CORPORATION
215 KATHERINE DRIVE
FLOWOOD, MS 39232
First Class and Cert. No. 71039628594188391435

REALTY MORTGAGE CORPORATION
C/O MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
P.O. BOX 2026
FLINT, MI 48501-2026
First Class and Cert. No. 71039628594188391510

REALTY MORTGAGE CORPORATION
7830 W. SAHARA AVENUE
LAS VEGAS, NV 89117
First Class and Cert. No. 71039628594188391572

Security Interest Contact Information
(Pursuant to NRS 116, Section 1)

TS No. NV-11-416987-EV

Loan Servicer: Saxon Mortgage Services, Inc.

Address: 4700 Mercantile Drive

Fort Worth, TX, 76137

Telephone No: 800-594-8422

this page intentionally left blank

Inst #: 201109060000933

Fees: \$216.00

N/C Fee: \$0.00

09/06/2011 10:41:20 AM

Receipt #: 903354

Requestor:

LSI TITLE AGENCY INC.

Recorded By: SUO Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

APN No.(s): 179-31-812-033
Recording requested by:

When recorded mail to:
Quality Loan Service Corp.
2141 5th Avenue
San Diego, CA 92101
619-645-7711

TS No.: NV-11-416987-EV
Order No.: 110008947-NV-LPI
1147 KINGSTON HILLS COURT, HENDERSON, NV 89015

Space above this line for recorders use only

It is hereby affirmed that this document submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030).

Notice of Breach and Default and of Election to Cause Sale of Real Property under Deed of Trust.

NOTICE IS HEREBY GIVEN: That **Quality Loan Service Corp.** is either the original trustee, the duly appointed substituted trustee, or acting as agent for the trustee or beneficiary under a Deed of Trust dated 4/3/2006, executed by JOHN P. KELLEHER AND LORI A. KELLEHER , HUSBAND AND WIFE AS JOINT TENANTS, as Trustor, to secure certain obligations in favor of **MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., AS NOMINEE FOR REALTY MORTGAGE CORPORATION A MISSISSIPPI CORPORATION**, as beneficiary, recorded 4/10/2006, as Instrument No. **20060410-0002829**, in Book xxx, Page xxx, of Official Records in the Office of the Recorder of **CLARK** County, Nevada securing, among other obligations including 1 NOTE(S) FOR THE ORIGINAL sum of \$494,300.00, that the beneficial interest under such Deed of Trust and the obligations secured thereby are presently held by the beneficiary; that a breach of, and default in, the obligations for which such Deed of Trust is security has occurred in that payment has not been made of:

The installments of principal and interest which became due on 10/1/2010, and all subsequent installments of principal and interest through the date of this Notice, plus amounts that are due for late charges, delinquent property taxes, insurance premiums, advances made on senior liens, taxes and/or insurance, trustee's fees, and any attorney fees and court costs arising from or associated with the beneficiaries efforts to protect and preserve its security, all of which must be paid as a condition of reinstatement, including all sums that shall accrue through reinstatement or pay-off. This amount is no less than \$36,969.74 as of 9/2/2011 and will increase until your account becomes current. Nothing in this notice shall be construed as a waiver of any fees owing to the Beneficiary under the Deed of Trust pursuant to the terms of the loan documents.

That by reason thereof the present Beneficiary under such deed of Trust has executed and delivered a written Declaration of Default and Demand for Sale and has declared and does hereby declare all sums secured thereby immediately due and payable and has elected and does hereby elect to cause the trust property to be sold to satisfy the obligations secured thereby.

this page intentionally left blank

TS No.: NV-11-416987-EV
Notice of Default

NOTICE

You may have the right to cure the default hereon and reinstate the one obligation secured by such Deed of Trust above described. Section NRS 107.080 permits certain defaults to be cured upon the Payment of the amounts required by that statutory section without requiring payment of that portion of principal and interest which would not be due had no default occurred. As to owner occupied property, where reinstatement is possible, the time to reinstate may be extended to 5 days before the date of sale pursuant to NRS 107.080. The Trustor may have the right to bring a court action to assert the nonexistence of a default or any other defense of Trustor to acceleration and Sale.

To determine if reinstatement is possible and the amount, if any, to cure the default, or to receive any information relating to the status of the property please contact:

**Bank of America, National Association, as Trustee for Morgan Stanley Mortgage Loan
Trust 2006-16AX
C/O Quality Loan Service Corp.
2141 5th Avenue
San Diego, CA 92101
619-645-7711**

**To reach a Loss Mitigation Representative who is authorized to negotiate a Loan Modification,
please contact:**

**Saxon Mortgage Services, Inc.
Contact: Erandeni Garcia
Department: Loss Mitigation Department
Phone: 817-852-2467
Toll Free: 888-325-3502**

You may wish to consult a credit-counseling agency to assist you. The Department of Housing and Urban Development (HUD) can provide you with the name and address of the local HUD approved counseling agency by calling their toll-free hotline at (800) 569-4287 or you can go to The Department of Housing and Urban Development (HUD) web site at <http://portal.hud.gov/portal/page/portal/HUD/localoffices>.

If you have any questions, you should contact a lawyer or the governmental agency which may have insured your loan. Notwithstanding the fact that your property is in foreclosure, you may offer your property for sale provided the sale is concluded prior to the conclusion of the foreclosure.

Notice of Default

Dated: **SEP 02 2011**

Quality Loan Service Corp., as trustee



By: Elizabeth McNally, Assistant Secretary

State of: **California)**

) ss.

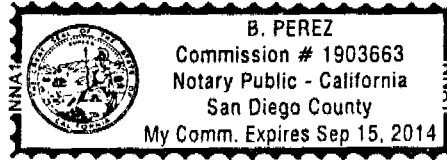
County Of: **San Diego)**

On 9/2/11 before me, **B. Perez** a notary public, personally appeared **Elizabeth McNally**, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of **California** that the foregoing paragraph is true and correct.

WITNESS my hand and official seal. (Seal)


Signature: **B. Perez**



THIS OFFICE IS ATTEMPTING TO COLLECT A DEBT AND ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.

As required by law, you are hereby notified that a negative credit report reflecting on your credit record may be submitted to a credit report agency if you fail to fulfill the terms of your credit obligations.