

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
G. Thomas Cooper Jr., Circuit Court Judge
Case No. 2013-CP-40-7729
Appellate Case Tracking Number: 2017-002325

RECEIVED
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SC Court of Appeals

The Gates at Williams-Brice Condominium
Association and Katharine Swinson,
individually, and on behalf of all others
similarly situated,

Appellants,

v.

Quality Built, LLC and Coast To Coast
Engineering Services, Inc. D/B/A Criterium
Engineers,

Respondents.

**RECORD ON APPEAL
VOLUME III**

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Services, Inc. d/b/a Criterium Engineers*

**RECORD ON APPEAL
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Order (I) Authorizing the Sale of Substantially All of the Debtor's Assets Free and Clear of All Liens, Claims, Interests and Encumbrances, (II) Authorizing the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases in Connection Therewith and Related; (Entered 03/12/10); United States Bankruptcy Court (SDC); Case 09-12113-CL, Docket 148 986

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Certificate of Counsel

B1 (Official Form 1) (1/08)

United States Bankruptcy Court Southern District of California				Voluntary Petition	
Name of Debtor (if individual, enter Last, First, Middle): Qualitybuilt.com, a California corporation			Name of Joint Debtor (Spouse) (Last, First, Middle):		
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): None			All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):		
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): EIN: 33-0864693			Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all):		
Street Address of Debtor (No. and Street, City, and State) 15330 Ave of Science San Diego, CA			Street Address of Joint Debtor (No. and Street, City, and State)		
ZIPCODE 92128			ZIPCODE		
County of Residence or of the Principal Place of Business: San Diego			County of Residence or of the Principal Place of Business:		
Mailing Address of Debtor (if different from street address):			Mailing Address of Joint Debtor (if different from street address):		
ZIPCODE			ZIPCODE		
Location of Principal Assets of Business Debtor (if different from street address above):					ZIPCODE
Type of Debtor (Form of Organization) (Check one box) ☐ Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> ☒ Corporation (includes LLC and LLP) ☐ Partnership ☐ Other (If debtor is not one of the above entities, check this box and state type of entity below.) _____		Nature of Business (Check one box) ☐ Health Care Business ☐ Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) ☐ Railroad ☐ Stockbroker ☐ Commodity Broker ☐ Clearing Bank ☒ Other _____ Tax-Exempt Entity (Check box, if applicable) ☐ Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code)		Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) ☐ Chapter 7 ☐ Chapter 9 ☒ Chapter 11 ☐ Chapter 12 ☐ Chapter 13 ☐ Chapter 15 Petition for Recognition of a Foreign Main Proceeding ☐ Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box) ☐ Debts are primarily consumer debts, defined in 11 U.S.C. §101(8) as "incurred by an individual primarily for a personal, family, or household purpose." ☒ Debts are primarily business debts	
Filing Fee (Check one box) ☒ Full Filing Fee attached ☐ Filing Fee to be paid in installments (Applicable to individuals only) Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form No. 3A. ☐ Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.			Check one box: Chapter 11 Debtors ☐ Debtor is a small business as defined in 11 U.S.C. § 101(51D) ☒ Debtor is not a small business as defined in 11 U.S.C. § 101(51D) Check if: ☐ Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,190,000 Check all applicable boxes ☐ A plan is being filed with this petition. ☐ Acceptances of the plan were solicited prepetition from one or more classes, in accordance with 11 U.S.C. § 1126(b).		
Statistical/Administrative Information ☒ Debtor estimates that funds will be available for distribution to unsecured creditors. ☐ Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.					THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors ☐ 1-49 ☐ 50-99 ☒ 100-199 ☐ 200-999 ☐ 1000-5000 ☐ 5,001-10,000 ☐ 10,001-25,000 ☐ 25,001-50,000 ☐ 50,001-100,000 ☐ Over 100,000					
Estimated Assets ☐ \$0 to \$50,000 ☐ \$50,001 to \$100,000 ☐ \$100,001 to \$500,000 ☐ \$500,001 to \$1 million ☒ \$1,000,001 to \$10 million ☐ \$10,000,001 to \$50 million ☐ \$50,000,001 to \$100 million ☐ \$100,000,001 to \$500 million ☐ \$500,000,001 to \$1 billion ☐ More than \$1 billion					
Estimated Liabilities ☐ \$0 to \$50,000 ☐ \$50,001 to \$100,000 ☐ \$100,001 to \$500,000 ☐ \$500,001 to \$1 million ☒ \$1,000,001 to \$10 million ☐ \$10,000,001 to \$50 million ☐ \$50,000,001 to \$100 million ☐ \$100,000,001 to \$500 million ☐ \$500,000,001 to \$1 billion ☐ More than \$1 billion					

ROA_00754

Voluntary Petition <i>(This page must be completed and filed in every case)</i>		Name of Debtor(s): Qualitybuilt.com, a California corporation	
All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)			
Location Where Filed:	NONE	Case Number:	Date Filed:
Location Where Filed:	N.A.	Case Number:	Date Filed:
Pending Bankruptcy Case Filed by any Spouse, Partner or Affiliate of this Debtor (If more than one, attach additional sheet)			
Name of Debtor:	NONE	Case Number:	Date Filed:
District:		Relationship:	Judge:
Exhibit A (To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11) ☐ Exhibit A is attached and made a part of this petition.		Exhibit B (To be completed if debtor is an individual whose debts are primarily consumer debts) I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. § 342(b). ☒ _____ Signature of Attorney for Debtor(s) Date	
Exhibit C Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety? ☐ Yes, and Exhibit C is attached and made a part of this petition. ☒ No			
Exhibit D (To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.) ☐ Exhibit D completed and signed by the debtor is attached and made a part of this petition. If this is a joint petition: ☐ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.			
Information Regarding the Debtor - Venue (Check any applicable box) ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District. ☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District. ☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.			
Certification by a Debtor Who Resides as a Tenant of Residential Property (Check all applicable boxes) ☐ Landlord has a judgment for possession of debtor's residence. (If box checked, complete the following.) _____ (Name of landlord that obtained judgment) _____ (Address of landlord) ☐ Debtor claims that under applicable non bankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and ☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition. ☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(1)).			

B1 (Official Form 1) (1/08)

Page 3

Voluntary Petition*(This page must be completed and filed in every case)*

Name of Debtor(s):

Qualitybuilt.com, a California corporation

Signatures**Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.

[If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7. [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. § 342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X

Signature of Debtor

X

Signature of Joint Debtor

Telephone Number (If not represented by attorney)

Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐

I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by § 1515 of title 11 are attached.

☐

Pursuant to 11 U.S.C. § 1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X

(Signature of Foreign Representative)

(Printed Name of Foreign Representative)

(Date)

Signature of Attorney*

X

/s/ L. Scott Keehn

Signature of Attorney for Debtor(s)

L. SCOTT KEEHN 61691

Printed Name of Attorney for Debtor(s)

Keehn & Associates, APC

Firm Name

402 W. Broadway, Suite 1210

Address

San Diego, CA 92101

(619) 400-2200

Telephone Number

08/14/09

Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X

/s/ Elizabeth R. Michaelis

Signature of Authorized Individual

ELIZABETH R. MICHAELIS

Printed Name of Authorized Individual

Secretary

Title of Authorized Individual

08/14/09

Date

Signature of Non-Attorney Petition Preparer

I declare under penalty of perjury that: 1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110, 2) I prepared this document for compensation, and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. § 110(b), 110(h), and 342(b); and, 3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110 setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

Printed Name and title, if any, of Bankruptcy Petition Preparer

Social Security Number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

Address

X

Date

Signature of bankruptcy petition preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. § 110; 18 U.S.C. § 156.

CERTIFICATE OF SECRETARY

In accordance with and pursuant to the provisions of Section 314 of the California Corporations Code, I certify that I am the duly qualified and acting Secretary of **QUALITYBUILT.COM**, a duly organized and existing California corporation (the "Corporation"). The attached memorandum is a true copy of resolutions duly adopted by the Board of Directors of such Corporation by written action taken without a meeting in accordance with and pursuant to the provisions of Section 307(b) of the California Corporations Code.

Such resolutions are in conformity with the Articles of Incorporation and the Code of Regulations of the Corporation, have not been modified or revoked, and are now in full force and effect.

DATED: August 14, 2009

//s// Elizabeth R. Michaelis

ELIZABETH R. MICHAELIS, Secretary

117851/5456.01

ROA_00757

**MEMORANDUM OF DIRECTORS ACTION
TAKEN WITHOUT A MEETING BY THE UNANIMOUS CONSENT
OF THE DIRECTORS OF QUALITYBUILT.COM,
A CALIFORNIA CORPORATION**

The undersigned, being one of the Directors of Qualitybuilt.com, a California Corporation (the "Corporation"), in accordance with and pursuant to the provisions of § 307(b) of the California Corporations Code, does hereby unanimously adopt the following resolutions on behalf of the Corporation, effective August 14, 2009:

BE IT RESOLVED, that it is in the best interest of this Corporation, its creditors, shareholders, and other interested parties, that this Corporation file a voluntary petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the Southern District of California;

RESOLVED FURTHER, that either Stanly R. Luhr, as President, or Elizabeth R. Michaelis, as Secretary, acting alone is hereby authorized in the name of, and on behalf of this Corporation, to execute, verify, and file the petition, schedules, and statement of affairs required by the Bankruptcy Code, together with such other documents, pleadings and other papers as may be necessary or proper in connection with the voluntary petition under Chapter 11 of the Bankruptcy Code and proceedings commenced thereby, and to execute and deliver, or file such further documents, pleadings, and papers, and to take such other and further actions as he or she may deem to be necessary or desirable in connection therewith; and,

RESOLVED FURTHER, that the Corporation intends to request that the Court appoint the firm of Keehn & Associates, APC as the general bankruptcy counsel to represent the Corporation in the Chapter 11 proceeding authorized by the resolutions previously adopted at this meeting.

Dated: August 14, 2009

//s// Elizabeth R. Michaelis
ELIZABETH R. MICHAELIS
Secretary

117852/5456.01

ROA_00758

In re Qualitybuilt.com, a California corporation,
Debtor

Case No. _____

Chapter 11

List of Equity Security Holders

Holder of Security	Number Registered	Type of Interest
Luhr, Stanley R. 1091 Singing Ridge Road El Cajon, CA 92019	8,500.00	Shares of stock (50%)
Michaelis, Elizabeth R. 5672 Amaya Dr., #202 La Mesa, CA 91942	8,500.00	Shares of stock (50%)

UNITED STATES BANKRUPTCY COURT
Southern District of California

In re Qualitybuilt.com, a California corporation,
 Debtor

Case No. _____

Chapter 11

LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS

Following is the list of the debtor's creditors holding the 20 largest unsecured claims. The list is prepared in accordance with Fed. R. Bankr. P. 1007(d) for filing in this chapter 11 [or chapter 9] case. The list does not include (1) persons who come within the definition of "insider" set forth in 11 U.S.C. § 101, or (2) secured creditors unless the value of the collateral is such that the unsecured deficiency places the creditor among the holders of the 20 largest unsecured claims. If a minor child is one of the creditors holding the 20 largest unsecured claims, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

(1) <i>Name of creditor and complete mailing address including zip code</i>	(2) <i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	(3) <i>Nature of claim (trade debt, bank loan, government contract, etc.)</i>	(4) <i>Indicate if claim is contingent, unliquidated, disputed or subject to setoff</i>	(5) <i>Amount of claim [if secured also state value of security]</i>
California Deposition Reporters P.O. Box 108 Covina, CA 91723	Accts Receivable PO Box 108 Covina, CA 91723 (800) 242-1996	Trade Debt		8,678.83
Premium Financing Specialists P.O. Box 100384 Pasadena, CA 91189-0384	Accts Receivable PO Box 100384 Pasadena, CA 91189-0384 (800) 541-2384	Trade Debt		9,513.81
Blue Shield of CA P.O. Box 629014 El Dorado Hills, CA 95762-9014	Accts Receivable PO Box 629014 El Dorado Hills, CA 95762-9014 (916) 350-7328	Trade Debt		9,922.58

(1) <i>Name of creditor and complete mailing address including zip code</i>	(2) <i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	(3) <i>Nature of claim (trade debt, bank loan, government contract, etc.</i>	(4) <i>Indicate if claim is contingent, unliquidated, disputed or subject to setoff</i>	(5) <i>Amount of claim if secured also state value of security/</i>
Insight P.O. Box 78825 Phoenix, AZ 85062-8825	Accts Receivable PO Box 78825 Phoenix, AZ 85062-8825 (800) 934-4477	Trade Debt		11,405.37
American Express P.O. Box 3600001 Fort Lauderdale, FL 33336-0001	Accts Receivable P.O. Box 3600001 Fort Lauderdale, FL 33336-0001 (800) 528-2122	Trade Debt		12,000.00
Xerox Corporation PO Box 660501 Dallas, TX 75266-0501	Accts. Receivable PO Box 660501 Dallas, TX 75266-0501 (800) 822-2200	Trade Debt		12,380.30
AIG 22427 Network Place Chicago, IL 60673-1224	Accts Receivable 22427 Network Pl. Chicago, IL 60673-1224 (800) 645-2259	Trade Debt		12,764.00
Thorsnes Litigation Services 2550 Fifth Ave Ninth Fl San Diego, CA 92103	Erik Thorsnes 2550 Fifth Ave., 9th Fl. San Diego, CA 92103 (619) 233-2030	Attorneys Fees		15,183.50
Schwartz & Janzen, LLP 12100 Wilshire Blvd Ste 1125 Los Angeles, CA 90025-7117	Accts Receivable Schwartz & Janzen, LLP 12100 Wilshire Blvd Ste 1125 Los Angeles, CA 90025-7117 (310) 979-4090	Attorneys Fees		16,692.31
Science Building Partners, LLC & FAEC Holdings 382771, LLC, Tenants in Common 15330 Ave of Science San Diego, CA 92128	Stan Luhr & Elizabeth Michaelis 15330 Ave of Science San Diego, CA 92128 (800) 547-5125	Accrued Interest on Loan		19,661.54

(1) Name of creditor and complete mailing address including zip code	(2) Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted	(3) Nature of claim (trade debt, bank loan, government contract, etc.	(4) Indicate if claim is contingent, unliquidated, disputed or subject to setoff	(5) Amount of claim [if secured also state value of security]
Riverwalk Square Dev (Safari Drive) 4725 N. Scottsdale Road #110 Scottsdale, AZ 85251	Mike Trailor Riverwalk Square Dev 4725 N. Scottsdale Road #110 Scottsdale, AZ 85251 (480) 994-1160	Refund of Pre-payment		26,600.00
Rhule Construction 15330 Avenue of Science San Diego, CA 92128	Stan Luhr Rhule Construction 15330 Ave of Science San Diego, CA 92128 (800) 547-5125	Trade Debt	Setoff	27,716.58
LECG, LLC 2000 Powell St., Ste 600 Emeryville, CA 94608	Accts Receivable 2000 Powell St., Ste. 600 Emeryville, CA 94608 (510) 985-6700	Trade Debt		32,400.55
Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101	Cindy Freeland Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101 (619) 906-2400	Attorneys Fees		37,090.84
Mid-Pacific Testing 94-547 Uk'e St., Ste 200 Waipahu, HI 96797	John Merriman 94-547 Uk'e St., Ste 200 Waipahu, HI 96797 (808) 676-2720	Trade Debt		49,722.31
Thompson Law Group 2550 Fifth Ave., Ste 600 San Diego, CA 92103	Kris Thompson Thompson Law Group 2550 Fifth Ave., Ste 600 San Diego, CA 92103 (619) 233-9100	Attorneys Fees	Disputed	79,444.03
Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101	Cindy Freeland Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101 (619) 906-2400	Attorneys Fees		104,680.63

(1) <i>Name of creditor and complete mailing address including zip code</i>	(2) <i>Name, telephone number and complete mailing address, including zip code, of employee, agent, or department of creditor familiar with claim who may be contacted</i>	(3) <i>Nature of claim (trade debt, bank loan, government contract, etc.</i>	(4) <i>Indicate if claim is contingent, unliquidated, disputed or subject to setoff</i>	(5) <i>Amount of claim [if secured also state value of security]</i>
Science Building Partners, LLC / FAEC Holdings 382771, LLC 15330 Ave of Science San Diego, CA 92128	Stan Luhr & Elizabeth Michaelis 15330 Ave of Science San Diego, CA 92128 (800) 547-5125	Business Loan		308,272.48
Science Building Partners, LLC / FAEC Holdings 382771, LLC 15330 Ave of Science San Diego, CA 92128	Stan Luhr & Elizabeth Michaelis 15330 Ave of Science San Diego, CA 92128 (800) 547-5125	Rent - Commercial Lease		469,781.38
Criterium Engineers 22 Monument Square, Ste 600 Portland, ME 04101	Herbert A. Mooney Criterium Engineers 22 Monument Square, Ste 600 Portland, ME 04101 (800) 242-1969	Arbitration Award	Disputed	3,658,098.23

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF CORPORATION OR PARTNERSHIP

I, [the president or other officer or an authorized agent of the corporation] named as debtor in this case, declare under penalty of perjury that I have read the foregoing LIST OF CREDITORS HOLDING 20 LARGEST UNSECURED CLAIMS and that it is true and correct to the best of my information and belief.

Date 08/14/09

Signature /s/ Elizabeth R. Michaelis

ELIZABETH R. MICHAELIS,
Secretary

B6 Summary (Official Form 6 - Summary) (12/07)**United States Bankruptcy Court**

Southern District of California

In re Qualitybuilt.com, a California corporation

Debtor

Case No. _____

Chapter 11**SUMMARY OF SCHEDULES**

Indicate as to each schedule whether that schedule is attached and state the number of pages in each. Report the totals from Schedules A, B, D, E, F, I, and J in the boxes provided. Add the amounts from Schedules A and B to determine the total amount of the debtor's assets. Add the amounts of all claims from Schedules D, E, and F to determine the total amount of the debtor's liabilities. Individual debtors must also complete the "Statistical Summary of Certain Liabilities and Related Data" if they file a case under chapter 7, 11, or 13.

AMOUNTS SCHEDULED

NAME OF SCHEDULE	ATTACHED (YES/NO)	NO. OF SHEETS	ASSETS	LIABILITIES	OTHER
A - Real Property	YES	1	\$ 0.00		
B - Personal Property	YES	3	\$ 2,114,539.30		
C - Property Claimed as exempt	YES	1			
D - Creditors Holding Secured Claims	YES	2		\$ 323,569.88	
E - Creditors Holding Unsecured Priority Claims (Total of Claims on Schedule E)	YES	12		\$ 231,663.82	
F - Creditors Holding Unsecured Nonpriority Claims	YES	17		\$ 6,361,643.64	
G - Executory Contracts and Unexpired Leases	YES	3			
H - Codebtors	YES	1			
I - Current Income of Individual Debtor(s)	NO	0			\$ 0.00
J - Current Expenditures of Individual Debtors(s)	NO	0			\$ 0.00
TOTAL		40	\$ 2,114,539.30	\$ 6,916,877.34	

United States Bankruptcy Court

Southern District of California

In re Qualitybuilt.com, a California corporation
Debtor

Case No. _____

Chapter 11

STATISTICAL SUMMARY OF CERTAIN LIABILITIES AND RELATED DATA (28 U.S.C. § 159)

If you are an individual debtor whose debts are primarily consumer debts, as defined in § 101(8) of the Bankruptcy Code (11 U.S.C. § 101(8)), filing a case under chapter 7, 11 or 13, you must report all information requested below.

☒ Check this box if you are an individual debtor whose debts are NOT primarily consumer debts. You are not required to report any information here.

This information is for statistical purposes only under 28 U.S.C. § 159.

Summarize the following types of liabilities, as reported in the Schedules, and total them.

Type of Liability	Amount
Domestic Support Obligations (from Schedule E)	\$ N.A.
Taxes and Certain Other Debts Owed to Governmental Units (from Schedule E)	\$ N.A.
Claims for Death or Personal Injury While Debtor Was Intoxicated (from Schedule E) (whether disputed or undisputed)	\$ N.A.
Student Loan Obligations (from Schedule F)	\$ N.A.
Domestic Support, Separation Agreement, and Divorce Decree Obligations Not Reported on Schedule E	\$ N.A.
Obligations to Pension or Profit-Sharing, and Other Similar Obligations (from Schedule F)	\$ N.A.
TOTAL	\$ N.A.

State the Following:

Average Income (from Schedule I, Line 16)	\$ N.A.
Average Expenses (from Schedule J, Line 18)	\$ N.A.
Current Monthly Income (from Form 22A Line 12; OR, Form 22B Line 11; OR, Form 22C Line 20)	\$ N.A.

State the Following:

1. Total from Schedule D, "UNSECURED PORTION, IF ANY" column	\$ N.A.
2. Total from Schedule E, "AMOUNT ENTITLED TO PRIORITY" column.	\$ N.A.
3. Total from Schedule E, "AMOUNT NOT ENTITLED TO PRIORITY, IF ANY" column	\$ N.A.
4. Total from Schedule F	\$ N.A.
5. Total of non-priority unsecured debt (sum of 1, 3, and 4)	\$ N.A.

ROA_00765

In re Qualitybuilt.com, a California corporation
Debtor

Case No. _____
(If known)

SCHEDULE A - REAL PROPERTY

Except as directed below, list all real property in which the debtor has any legal, equitable, or future interest, including all property owned as a co-tenant, community property, or in which the debtor has a life estate. Include any property in which the debtor holds rights and powers exercisable for the debtor's own benefit. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor holds no interest in real property, write "None" under "Description and Location of Property."

Do not include interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If an entity claims to have a lien or hold a secured interest in any property, state the amount of the secured claim. See Schedule D. If no entity claims to hold a secured interest in the property, write "None" in the column labeled "Amount of Secured Claim."

If the debtor is an individual or if a joint petition is filed, state the amount of any exemption claimed in the property only in Schedule C – Property Claimed as Exempt.

DESCRIPTION AND LOCATION OF PROPERTY	NATURE OF DEBTOR'S INTEREST IN PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION	AMOUNT OF SECURED CLAIM
None				
Total			0.00	

(Report also on Summary of Schedules.)

In re Qualitybuilt.com, a California corporation

Case No. _____

Debtor

(If known)

SCHEDULE B - PERSONAL PROPERTY

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "X" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

TYPE OF PROPERTY	N O N E	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
1. Cash on hand.	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Checking Account (Account No. 2020021101) California Bank and Trust 1024 Graves Ave El Cajon, CA 92021		33,769.68
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.	X			
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.	X			
7. Furs and jewelry.	X			
8. Firearms and sports, photographic, and other hobby equipment.	X			
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.	X			
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.	X			
13. Stock and interests in incorporated and unincorporated businesses. Itemize.	X			

In re Qualitybuilt.com, a California corporation

Debtor

Case No. _____

(If known)

SCHEDULE B - PERSONAL PROPERTY

(Continuation Sheet)

TYPE OF PROPERTY	N O N E	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and non-negotiable instruments.	X			
16. Accounts receivable.		Accounts Receivable		1,418,335.40
17. Alimony, maintenance, support, and property settlement to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owing debtor including tax refunds. Give particulars.		Judgment against West Coast Property Consultants, Inc. ("WCPC"), in San Diego Superior Court Case No. GIC 855108. Amount is \$1,760,735.51. Debtor has discounted this amount by 20% to estimate its market value because WCPC is a Chapter 11 DIP in Case No. 09-07742-PB11 (S.D. Cal.).		408,588.41
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate or a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights of setoff claims. Give estimated value of each.	X			
22. Patents, copyrights, and other intellectual property. Give particulars.		Trademarks See Attachment B-22		16,000.00
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. §101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			

In re Qualitybuilt.com
United States Bankruptcy Court for the Southern District of California
Case No. _____

ATTACHMENT B-22

QUALITY BUILT TRADEMARKS

The following are Registered Trademarks:

FRAMER ID®
PERFECTING THE ART AND SCIENCE OF QUALITY IN HOME BUILDING®
QUALITY BUILT®
BUILDER I.D.®
QUALITYBUILT.COM®
Q® (design of a stylized letter Q in a rectangle)
QB BUILDER LINK®
QB CLOSURE LINK®
QB RAPID RESPONSE®
HOME ID®
QB LINK®
QB DAP®

The following are additional trademarks in use by Quality Built:

BUILDER RISK ASSESSMENT™
TECHNICAL PLAN REVIEW™
RESIDENT EXPERT PROGRAM™
PRODUCTLINK™
SAFETYLINK™
TRADELINK™
PERFECTING THE ART AND SCIENCE OF QUALITY IN CONSTRUCTION™

In re Qualitybuilt.com, a California corporation
Debtor

Case No. _____
(If known)

SCHEDULE B - PERSONAL PROPERTY
(Continuation Sheet)

TYPE OF PROPERTY	N O N E	DESCRIPTION AND LOCATION OF PROPERTY	HUSBAND, WIFE, JOINT OR COMMUNITY	CURRENT VALUE OF DEBTOR'S INTEREST IN PROPERTY, WITHOUT DEDUCTING ANY SECURED CLAIM OR EXEMPTION
25. Automobiles, trucks, trailers, and other vehicles and accessories.	X			
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			
28. Office equipment, furnishings, and supplies.		Desks, chairs, file cabinets, bookshelves, security cameras, fitness equipment, etc. 15330 Ave of Science San Diego, CA 92128		47,528.32
29. Machinery, fixtures, equipment, and supplies used in business.		Computers, Servers, and Development Computers for Testing 15330 Ave of Science San Diego, CA 92128		154,813.12
		Diagnostic Testing Equipment 15330 Ave of Science San Diego, CA 92128		35,504.37
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.	X			
0 continuation sheets attached Total				\$ 2,114,539.30

(Include amounts from any continuation sheets attached. Report total also on Summary of Schedules.)

ROA_00770

In re Qualitybuilt.com, a California corporation

Debtor

Case No. _____

(If known)

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT

Debtor claims the exemptions to which debtor is entitled under:
(Check one box)

☐ 11 U.S.C. § 522(b)(2)

☐ Check if debtor claims a homestead exemption that exceeds
\$136,875.

☐ 11 U.S.C. § 522(b)(3)

DESCRIPTION OF PROPERTY	SPECIFY LAW PROVIDING EACH EXEMPTION	VALUE OF CLAIMED EXEMPTION	CURRENT VALUE OF PROPERTY WITHOUT DEDUCTING EXEMPTION
Not Applicable.			

B6D (Official Form 6D) (12/07)In re Qualitybuilt.com, a California corporationCase No. _____
(If known)

Debtor

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

State the name, mailing address, including zip code and last four digits of any account number of all entities holding claims secured by property of the debtor as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. List creditors holding all types of secured interests such as judgment liens, garnishments, statutory liens, mortgages, deeds of trust, and other security interests.

List creditors in alphabetical order to the extent practicable. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m). If all secured creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Total the columns labeled "Amount of Claim Without Deducting Value of Collateral" and "Unsecured Portion, if Any" in the boxes labeled "Total(s)" on the last sheet of the completed schedule. Report the total from the column labeled "Amount of Claim Without Deducting Value of Collateral" also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report the total from the column labeled "Unsecured Portion, if Any" on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding secured claims to report on this Schedule D.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See Instructions Above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
ACCOUNT NO. 0190144-0001 California Bank & Trust 1024 Graves Ave. El Cajon, CA 92121		Incurred: 01/09/09 - 03/04/09 Lien: Line of Credit Security: Personal Guaranty by Stanley R. Luhr & Elizabeth R. Michaelis				250,000.00	0.00
		VALUE \$ 250,000.00					
ACCOUNT NO. 0194749400-001 Dolphin Capital 1720A Crete St. Moberly, MO 65270		Incurred: 11/04/04 Lien: Line of Credit Security: Personal Guaranty by Stanley R. Luhr & Elizabeth R. Michaelis				3,000.00	0.00
		VALUE \$ 18,200.00					
ACCOUNT NO. 0194749400-002 Dolphin Capital 1720A Crete St. Moberly, MO 65270		Incurred: 02/15/05 Lien: Line of Credit Security: Personal Guaranty by Stanley R. Luhr & Elizabeth R. Michaelis				3,500.00	0.00
		VALUE \$ 19,320.00					
Subtotal (Total of this page)						\$ 256,500.00	\$ 0.00
Total (Use only on last page)						\$	\$

1 continuation sheets attached

(Report also on Summary of Schedules) (If applicable, report also on Statistical Summary of Certain Liabilities and Related Data.)

ROA_00772

B6D (Official Form 6D) (12/07) – Cont.

In re Qualitybuilt.com, a California corporation,

Case No. _____

Debtor

(If known)

SCHEDULE D - CREDITORS HOLDING SECURED CLAIMS

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See Instructions Above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED, NATURE OF LIEN, AND DESCRIPTION AND VALUE OF PROPERTY SUBJECT TO LIEN	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM WITHOUT DEDUCTING VALUE OF COLLATERAL	UNSECURED PORTION, IF ANY
ACCOUNT NO. N/A Elizabeth R. Michaelis 5672 Amaya Dr. #202 La Mesa, CA 91942		Incurred: 08/11/09 Lien: UCC Financing Statement Security: Accounts and Property of Qualitybuilt.com VALUE \$ 40,000.00				40,000.00	0.00
ACCOUNT NO. 033-8036734-003 Leaf Funding PO Box 644006 Cincinnati, OH 45264-4006		Incurred: 11/07/06 Lien: UCC Financing Statement Security: Lease Assigned - Original Lease with Ford Financial Elizabeth R. Michaelis noted as Personal Guarantor VALUE \$ 60,680.00				6,168.52	0.00
ACCOUNT NO. 518634 Microsoft Financing (CIT Technology Fin. Svcs) 23896 Network Place Chicago, IL 60673		Incurred: 02/09/06 Lien: Financing for computer hardware and consulting services Security: Secured by Microsoft Licenses VALUE \$ 628,436.95				20,299.17	0.00
ACCOUNT NO. 527103 Microsoft Financing (CIT Technology Fin. Svcs) 23896 Network Place Chicago, IL 60673		Incurred: 05/17/06 Lien: Financing for computer hardware and consulting services Security: Secured by Microsoft Licenses VALUE \$ 6,168.61				602.19	0.00
ACCOUNT NO. VALUE \$							

Sheet no. 1 of 1 continuation sheets attached to
Schedule of Creditors Holding Secured Claims

Subtotal (s) >	\$ 67,069.88	\$ 0.00
(Total(s) of this page)		
Total(s)	\$ 323,569.88	\$ 0.00
(Use only on last page)		

(Report also on
Summary of Schedules) (If applicable, report
also on Statistical
Summary of Certain
Liabilities and Related
Data.)

ROA_00773

B6E (Official Form 6E) (12/07)In re Qualitybuilt.com, a California corporation
DebtorCase No. _____
(if known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**

A complete list of claims entitled to priority, listed separately by type of priority, is to be set forth on the sheets provided. Only holders of unsecured claims entitled to priority should be listed in this schedule. In the boxes provided on the attached sheets, state the name, mailing address, including zip code, and last four digits of the account number, if any, of all entities holding priority claims against the debtor or the property of the debtor, as of the date of the filing of the petition. Use a separate continuation sheet for each type of priority and label each with the type of priority.

The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed.R.Bankr.P. 1007(m).

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H-Codebtors. If a joint petition is filed, state whether husband, wife, both of them or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of claims listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all claims listed on this Schedule E in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules.

Report the total of amounts entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

Report the total of amounts not entitled to priority listed on each sheet in the box labeled "Subtotals" on each sheet. Report the total of all amounts not entitled to priority listed on this Schedule E in the box labeled "Totals" on the last sheet of the completed schedule. Individual debtors with primarily consumer debts report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured priority claims to report on this Schedule E.

TYPES OF PRIORITY CLAIMS (Check the appropriate box(es) below if claims in that category are listed on the attached sheets)

☐ **Domestic Support Obligations**

Claims for domestic support that are owed to or recoverable by a spouse, former spouse, or child of the debtor, or the parent, legal guardian, or responsible relative of such a child, or a governmental unit to whom such a domestic support claim has been assigned to the extent provided in 11 U.S.C. § 507(a)(1).

☐ **Extensions of credit in an involuntary case**

Claims arising in the ordinary course of the debtor's business or financial affairs after the commencement of the case but before the earlier of the appointment of a trustee or the order for relief. 11 U.S.C. § 507(a)(3).

☒ **Wages, salaries, and commissions**

Wages, salaries, and commissions, including vacation, severance, and sick leave pay owing to employees and commissions owing to qualifying independent sales representatives up to \$10,950* per person earned within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(4).

☐ **Contributions to employee benefit plans**

Money owed to employee benefit plans for services rendered within 180 days immediately preceding the filing of the original petition, or the cessation of business, whichever occurred first, to the extent provided in 11 U.S.C. § 507(a)(5).

ROA_00774

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation
Debtor

Case No. _____
(if known)

☐ **Certain farmers and fishermen**

Claims of certain farmers and fishermen, up to \$5,400* per farmer or fisherman, against the debtor, as provided in 11 U.S.C. § 507(a)(6).

☐ **Deposits by individuals**

Claims of individuals up to \$2,425* for deposits for the purchase, lease, or rental of property or services for personal, family, or household use, that were not delivered or provided. 11 U.S.C. § 507(a)(7).

☒ **Taxes and Certain Other Debts Owed to Governmental Units**

Taxes, customs duties, and penalties owing to federal, state, and local governmental units as set forth in 11 U.S.C. § 507(a)(8).

☐ **Commitments to Maintain the Capital of an Insured Depository Institution**

Claims based on commitments to the FDIC, RTC, Director of the Office of Thrift Supervision, Comptroller of the Currency, or Board of Governors of the Federal Reserve System, or their predecessors or successors, to maintain the capital of an insured depository institution. 11 U.S.C. § 507 (a)(9).

☐ **Claims for Death or Personal Injury While Debtor Was Intoxicated**

Claims for death or personal injury resulting from the operation of a motor vehicle or vessel while the debtor was intoxicated from using alcohol, a drug, or another substance. 11 U.S.C. § 507(a)(10).

* Amounts are subject to adjustment on April 1, 2010, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

10
_____ continuation sheets attached

ROA_00775

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**
(Continuation Sheet) Sec. 507(a)(4)**Type of Priority for Claims Listed on This Sheet**

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT UNLIQUIDATED DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				
Bates, Charles 8544 Alpine Avenue La Mesa, CA 91941				2,454.38	2,454.38	0.00
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				
Brown, Jeremy 1165 Fitzgerald Rd #d Simi Valle, CA 93065				1,201.20	1,201.20	0.00
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				
Cooks, David 294 Spring Creek Rd Boulder Creek, CA 95006				938.84	938.84	0.00
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				
Correa, Nancy 567 Trovita Court Escondido, CA 92027				2,526.70	2,526.70	0.00
Subtotal (Totals of this page)				\$ 7,121.12	\$ 7,121.12	\$ 0.00
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)				\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)				\$	\$	\$

Sheet no. 1 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

ROA_00776

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**
(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO. _____ Giamanco, Rick P.O. Box 5780 Dillon, CO 80435		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				183.12	183.12	0.00
ACCOUNT NO. _____ Gieske, Alan 17666 Azucar Way San Diego, CA 92127		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				1,455.62	1,455.62	0.00
ACCOUNT NO. _____ Gray-Luhr, Jane 1091 Singing Ridge Rd El Cajon, CA 92019		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				355.39	355.39	0.00
ACCOUNT NO. _____ Hill, Don 1681 Havenwood Drive Oceanside, CA 92056		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				1,081.88	1,081.88	0.00
Subtotal (Totals of this page)						\$ 3,076.01	\$ 3,076.01	\$ 0.00
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)						\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)						\$	\$	\$

Sheet no. 2 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**

(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT UNLIQUIDATED DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO. Hogge, Kelly 3368 Daley Center Dr San Diego, CA 92123		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off		480.48	480.48	0.00
ACCOUNT NO. Kern, Remi 1500 Lakewood Ave #169 Modesto, CA 95355		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off		337.26	337.26	0.00
ACCOUNT NO. Konechne, Ted 4657 Poppy Hills Dr Frisco, TX 75035		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off		648.27	648.27	0.00
ACCOUNT NO. LaDow, Ken 870 Diamond Street #202 San Diego, CA 92109		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off		2,021.25	2,021.25	0.00

Sheet no. 3 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority ClaimsSubtotal
(Totals of this page)

\$ 3,487.26 \$ 3,487.26 \$ 0.00

Total
(Use only on last page of the completed
Schedule E.) Report also on the Summary
of Schedules)

\$

Totals
(Use only on last page of the completed
Schedule E. If applicable, report also on
the Statistical Summary of Certain
Liabilities and Related Data.)

\$ \$ \$

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation

Debtor

Case No. _____

(If known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above..)	CODEBETOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off						
Lewis, Michael 27620 Susan Beth Way Saugus, CA 91350						277.50	277.50	0.00
ACCOUNT NO. 9738		Incurred: 12/2008 - 05/2009 Consideration: Deferred Compensation - Unpaid Salary						
Luhr, Stanley R. 1091 Singing Ridge Rd. El Cajon, CA 92019						95,538.42	10,950.00	84,588.42
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off						
Luhr, Stanley R. 1091 Singing Ridge Rd. El Cajon, CA 92019						6,737.50	6,737.50	0.00
ACCOUNT NO.		Consideration: Active Employee						
Luminais, Michael 202 School Street Geneva, IL 60134						Notice Only	Notice Only	Notice Only
Subtotal (Totals of this page)						\$ 102,553.42	\$ 17,965.00	\$ 84,588.42
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)						\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)						\$	\$	\$

Sheet no. 4 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**
(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBATOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO. McPherson, Patrick 4192 Mission Inn Ave Riverside, CA 92501		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off			1,093.09	1,093.09	0.00
ACCOUNT NO. 7440 Michaelis, Elizabeth R. 5672 Amaya Dr. #202 La Mesa, CA 91942		Incurred: 12/2008 - 05/2009 Consideration: Deferred Compensation - Unpaid Salary			91,980.42	10,950.00	81,030.42
ACCOUNT NO. Michaelis, Elizabeth R. 5672 Amaya Dr. #202 La Mesa, CA 91942		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off			6,737.50	6,737.50	0.00
ACCOUNT NO. Michaelis, Garth 11768 S. Oakmond Rd South Jordan, UT 84095		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off			3,850.00	3,850.00	0.00
Subtotal (Totals of this page)					\$ 103,661.01	\$ 22,630.59	\$ 81,030.42
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)					\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)					\$	\$	\$

Sheet no. 5 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

ROA_00780

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**
(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above..)	CODEBATOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO. Molz, Chris P.O. Box 423 Clements, CA 95227		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				858.31	858.31	0.00
ACCOUNT NO. Monroe, Janet 44700 Via Lucido Temecula, CA 92592		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				808.41	808.41	0.00
ACCOUNT NO. Mozgovaya, Nadya 7222 S. Blackhawk St #204 Englewood, CO 80112		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				1,637.95	1,637.95	0.00
ACCOUNT NO. Murphy, Sheila 7715 El Cajon Blvd #1 La Mesa, CA 91942		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				1,761.08	1,761.08	0.00
Subtotal (Totals of this page)						\$ 5,065.75	\$ 5,065.75	\$ 0.00
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)						\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)						\$	\$	\$

Sheet no. 6 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**
(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBATOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO. Myers, Trent 470 Chardonnay Court San Marcos, CA 92069		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				775.24	775.24	0.00
ACCOUNT NO. Payne, Krista 9107 Clearlake Way Lakeside, CA 92040		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				345.56	345.56	0.00
ACCOUNT NO. Reilly, Erin P.O. Box 501985 San Diego, CA 92150-1985		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				132.30	132.30	0.00
ACCOUNT NO. Reimer-Highfill, Sandra 25188 Poderio Dr Ramona, CA 92065		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				904.38	904.38	0.00
Subtotal (Totals of this page)						\$ 2,157.48	\$ 2,157.48	\$ 0.00
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)						\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)						\$	\$	\$

Sheet no. 7 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation

Debtor

Case No. _____

(If known)

SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS

(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBETOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off						
Reynolds, Robert 17611 Hada Drive San Diego, CA 92127						640.45	640.45	0.00
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off						
Schoenherr, Daryl 2045 Celeste Ave Clovis, CA 93611						1,279.36	1,279.36	0.00
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off						
Slocum, Andrew 823 Almond Rd San Marcos, CA 92078						241.54	241.54	0.00
ACCOUNT NO.		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off						
Smith, Clyde 13844 S. Belle Isis Herriman, UT 84096						1,061.06	1,061.06	0.00

Sheet no. 8 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority ClaimsSubtotal
(Totals of this page)

\$ 3,222.41 \$ 3,222.41 \$ 0.00

(Use only on last page of the completed
Schedule E.) Report also on the Summary
of Schedules)

Total

\$ \$ \$

(Use only on last page of the completed
Schedule E. If applicable, report also on
the Statistical Summary of Certain
Liabilities and Related Data.)

Totals

\$ \$ \$

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**

(Continuation Sheet) Sec. 507(a)(4)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above..)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO.								
Taylor, Charles 10237 No. Nine Iron Oro Valley, AZ 85737		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				308.75	308.75	0.00
ACCOUNT NO.								
Wypiszynski, Angela 14566 Silla St Poway, CA 92064		Incurred: 02/01/09 - 08/01/09 Consideration: Accrued Paid Time Off				1,010.61	1,010.61	0.00
ACCOUNT NO.								
ACCOUNT NO.								
Subtotal (Totals of this page)						\$ 1,319.36	\$ 1,319.36	\$ 0.00
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)						\$		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)						\$	\$	\$

Sheet no. 9 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority ClaimsSubtotal
(Totals of this page)

Total

(Use only on last page of the completed
Schedule E.) Report also on the Summary
of Schedules)

Totals

(Use only on last page of the completed
Schedule E. If applicable, report also on
the Statistical Summary of Certain
Liabilities and Related Data.)

ROA_00784

B6E (Official Form 6E) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE E - CREDITORS HOLDING UNSECURED PRIORITY CLAIMS**
(Continuation Sheet) Sec. 507(a)(8)

Type of Priority for Claims Listed on This Sheet

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBATOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM	CONTINGENT UNLIQUIDATED DISPUTED	AMOUNT OF CLAIM	AMOUNT ENTITLED TO PRIORITY	AMOUNT NOT ENTITLED TO PRIORITY, IF ANY
ACCOUNT NO.		Consideration: Taxes				
Franchise Tax Board P.O. Box 942857 Sacramento, CA 94257-0511				Notice Only	Notice Only	Notice Only
ACCOUNT NO.		Consideration: Taxes				
Internal Revenue Service 880 Front St. San Diego, CA 92101				Notice Only	Notice Only	Notice Only
ACCOUNT NO.		Consideration: Taxes				
San Diego County Tax Collector P.O. Box 129009 San Diego, CA 92112				Notice Only	Notice Only	Notice Only
ACCOUNT NO.		Consideration: Sales Tax				
State Board of Equalization 1350 Front St., Room 5047 San Diego, CA 92101-3698				Notice Only	Notice Only	Notice Only
Subtotal (Totals of this page)				\$ 0.00	\$	\$
Total (Use only on last page of the completed Schedule E.) Report also on the Summary of Schedules)				\$ 231,663.82		
Totals (Use only on last page of the completed Schedule E. If applicable, report also on the Statistical Summary of Certain Liabilities and Related Data.)				\$	\$ 66,044.98	\$165,618.84

Sheet no. 10 of 10 continuation sheets attached to Schedule of
Creditors Holding Priority Claims

B6F (Official Form 6F) (12/07)In re Qualitybuilt.com, a California corporation,

Debtor

Case No. _____

(If known)

SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS

State the name, mailing address, including zip code, and last four digits of any account number, of all entities holding unsecured claims without priority against the debtor or the property of the debtor, as of the date of filing of the petition. The complete account number of any account the debtor has with the creditor is useful to the trustee and the creditor and may be provided if the debtor chooses to do so. If a minor child is a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m). Do not include claims listed in Schedules D and E. If all creditors will not fit on this page, use the continuation sheet provided.

If any entity other than a spouse in a joint case may be jointly liable on a claim, place an "X" in the column labeled "Codebtor," include the entity on the appropriate schedule of creditors, and complete Schedule H - Codebtors. If a joint petition is filed, state whether husband, wife, both of them, or the marital community may be liable on each claim by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community."

If the claim is contingent, place an "X" in the column labeled "Contingent." If the claim is unliquidated, place an "X" in the column labeled "Unliquidated." If the claim is disputed, place an "X" in the column labeled "Disputed." (You may need to place an "X" in more than one of these three columns.)

Report the total of all claims listed on this schedule in the box labeled "Total" on the last sheet of the completed schedule. Report this total also on the Summary of Schedules and, if the debtor is an individual with primarily consumer debts, report this total also on the Statistical Summary of Certain Liabilities and Related Data.

☐ Check this box if debtor has no creditors holding unsecured claims to report on this Schedule F.

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF, SO STATE.	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 00070-E89163 ADP, Inc 5355 Orangethrope Ave La Palma, CA 90623		Incurred: 5/22/2009 - pres Consideration: Timeclock Software				401.62
ACCOUNT NO. 1300115736199 / 6188833 ADT Security P.O. Box 371956 Pittsburgh, PA 15250-7956		Incurred: 5/9/2009 - pres Consideration: Security Monitoring				545.12
ACCOUNT NO. 1022414900 AIG 22427 Network Place Chicago, IL 60673-1224		Incurred: 6/1/2009 - pres Consideration: Workers Comp Insurance				12,764.00
ACCOUNT NO. N/A All County Fire Equip Corp 3163 Adams Avenue San Diego, CA 92116		Incurred: 7/14/2009 - pres Consideration: Building Maintenance				470.81
16 continuation sheets attached						Subtotal > \$ 14,181.55
						Total > \$

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the Statistical Summary of Certain Liabilities and Related Data.)

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. N/A AMC 500 S. Marschall Rd, Ste 205 Shakopee, MN 55379		Incurred: 5/15/2009 - pres Consideration: Pre-employment drug screening				38.95
ACCOUNT NO. 73-155-Y-00167-07 01 American Arbitration Assoc. 6795 North Palm Ave., 2nd Fl. Fresno, CA 93704		Incurred: 2/23/2009 - pres Consideration: Legal Services				8,025.00
ACCOUNT NO. 3782-721779-31002 American Express P.O. Box 3600001 Fort Lauderdale, FL 33336-0001		Incurred: 6/28/2009 - pres Consideration: Credit Card Debt (Unsecured) Travel expenses & misc expenses				12,000.00
ACCOUNT NO. 0022424071 Arrowhead P.O. Box 856158 Louisville, KY 40285-6158		Incurred: 5/21/2009 - pres Consideration: Equipment Rental				159.76
ACCOUNT NO. 858-613-1179 AT&T Payment Center Sacramento, CA 95887-0001		Incurred: 5/25/2009 - pres Consideration: Telephone Services				115.64
Subtotal ►						\$ 20,339.35
Total ►						\$

Sheet no. 1 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00787

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 619-588-4911 AT&T Payment Center Sacramento, CA 95887-0001		Incurred: 5/26/2009 - pres Consideration: Telephone Services				53.62
ACCOUNT NO. 858-451-1022 AT&T Payment Center Sacramento, CA 95887-0001		Incurred: 6/16/2009 - pres Consideration: Telephone Services				346.82
ACCOUNT NO. 8309751864-00002 AT&T Advertising & Publishing P.O. Box 989046 West Sacramento, CA 95798-9046		Incurred: 4/25/2009 - pres Consideration: Yellow Pages Advertising				397.84
ACCOUNT NO. 876030443 AT&T Mobility P.O. Box 6463 Carol Stream, IL 60197-6463		Incurred: 3/19/2009 - pres Consideration: Cell Phone Service				799.93
ACCOUNT NO. 4334855 Blue Shield of CA P.O. Box 629014 El Dorado Hills, CA 95762-9014		Incurred: 7/1/2009 - pres Consideration: Health Insurance				9,922.58
Subtotal >						\$ 11,520.79
Total >						\$

Sheet no. 2 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00788

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. N/A Bruno Skorheim 9665 Chesapeake Dr #470 San Diego, CA 92123		Incurred: 6/1/2009 - pres Consideration: Tax Preparation Services				1,200.00
ACCOUNT NO. 11406 Business Commons at Southeast Commons Assoc P.O. Box 440020 Aurora, CO 80044-0020		Incurred: 5/1/2009 - pres Consideration: Association Fees				1,501.19
ACCOUNT NO. 73155 Y001-67 DEAR California Deposition Reporters P.O. Box 108 Covina, CA 91723		Incurred: 2/24/2009 - pres Consideration: Litigation Support Services				8,678.83
ACCOUNT NO. 8429-34359 Ceridian C3201 34th St South St. Petersburg, FL 33711		Incurred: 5/2/2009 - pres Consideration: COBRA Services				127.64
ACCOUNT NO. U16-17453-04-6 City of San Diego - Water Department Customer Services Section San Diego, CA 92187-00011		Incurred: 6/19/2009 - pres Consideration: Water Services				239.29
Subtotal >						\$ 11,746.95
Total >						\$

Sheet no. 3 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00789

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. N/A Criterium Engineers 22 Monument Square, Ste 600 Portland, ME 04101		Incurred: 07/31/05 - 03/07/07 Consideration: Independent Contractor			X	3,658,098.23
ACCOUNT NO. 5822-120172 Daniel Coker Horton & Bell 4400 Old Canton Rd., Ste 400 PO Box 1084 Jackson, MS 39215-1084		Incurred: 03/16/2009 - pres Consideration: Legal Services				2,443.30
ACCOUNT NO. GIC855108 Darla Kmety 220 West Broadway Dept. 47 San Diego, CA 92101		Incurred: 4/16/2009 - pres Consideration: Legal Services				7,214.27
ACCOUNT NO. BBR2371 Dollar Rent a Car Department 404 Tulsa, OK 74182		Incurred: 4/3/2009 - pres Consideration: Car Rental Services				1,000.00
ACCOUNT NO. N/A Douglas R. Anderson CPA 2550 Fifth Ave., Ste 637 San Diego, CA 92103		Incurred: 3/2/2009 - pres Consideration: Expert Witness				4,730.10
Subtotal >						\$ 3,673,485.90
Total >						\$

Sheet no. 4 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00790

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 16-AR 252066 Edco Disposal Corp 6670 Federal Blvd Lemon Grove, CA 91945		Incurred: 5/31/2009 - pres Consideration: Waste Management Services				402.07
ACCOUNT NO. 1314-9222-7 Fedex P.O. Box 7221 Pasadena, CA 91109-7321		Incurred: 5/22/2009 - pres Consideration: Delivery Services				1,400.00
ACCOUNT NO. 3701-7900-0 Fedex P.O. Box 7221 Pasadena, CA 91109-7321		Incurred: 6/5/2009 - pres Consideration: Delivery Services				600.00
ACCOUNT NO. Q59847 Genflex Roofing Systems 250 W. 96th Street, Ste. 150 Indianapolis, IN 46260		Incurred: 06/03/09 - pres Consideration: Repairs & Maint - Bldg				220.00
ACCOUNT NO. 77114001 Greco & Traficante P.O. Box 12670 San Diego, CA 92112		Incurred: 5/27/2009 - pres Consideration: Legal Services				1,590.80
Subtotal >						\$ 4,212.87
Total >						\$

Sheet no. 5 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00791

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 6035322541653260 Home Depot Credit Services P.O. Box 9121 Des Moines, IA 50368-9121		Incurred: 4/1/2009 - pres Consideration: Building Repair Supplies				1,766.84
ACCOUNT NO. 10273554 Insight P.O. Box 78825 Phoenix, AZ 85062-8825		Incurred: 3/26/2009 - pres Consideration: Computer Equipment				11,405.37
ACCOUNT NO. 83913 Iron Mountain P.O. Box 601002 Pasadena, CA 91189-1002		Incurred: 4/30/2009 - pres Consideration: Offsite Storage Facility for Backups				1,415.28
ACCOUNT NO. N/A JAM Fire Protection Inc 9082 Clairmont Mesa Blvd San Diego, CA 92123		Incurred: 7/2/2009 - pres Consideration: Building Maint Services				195.00
ACCOUNT NO. N/A James Edward Engineering 9475 Double R Blvd., Ste 3 Reno, NV 89521		Incurred: 01/31/08 - present Consideration: Independent Contractor				7,994.35
Subtotal >						\$ 22,776.84
Total >						\$

Sheet no. 6 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00792

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. N/A Jan Pro Cleaning Systems 3377 Carmel Mountain Rd, Ste 200 San Diego, CA 92121		Incurred: 4/1/2009 - pres Consideration: Janitorial Services				585.00
ACCOUNT NO. 000255685-0001 Kaiser Foundation Health Plan File 5915 Los Angeles, CA 90074-5915		Incurred: 7/1/2009 - pres Consideration: Health Insurance				6,990.00
ACCOUNT NO. 000255685-0000 Kaiser Foundation Health Plan File 5915 Los Angeles, CA 90074-5915		Incurred: 7/1/2009 - pres Consideration: Health Insurance				7,724.00
ACCOUNT NO. QBUILT/ROS Knobbe Martens Olson & Bear LLP 2040 Main St., Fourteenth Fl. Irvine, CA 92614		Incurred: 3/16/2009 - pres Consideration: Legal Services			X	217.80
ACCOUNT NO. N/A Law Office of Matt Sumrow 4695 MacArthur Court, Ste 310 Newport Beach, CA 92660		Incurred: 3/10/2009 - pres Consideration: Legal Services				2,585.00
Subtotal >						\$ 18,101.80
Total >						\$

Sheet no. 7 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00793

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. qltbt-22413 LECG, LLC 2000 Powell St., Ste 600 Emeryville, CA 94608		Incurred: 10/2/2008 - pres Consideration: Expert Witness				32,400.55
ACCOUNT NO. 0099312860 Lexis Nexis Matthew Bender P.O. Box 7247-0178 Philadelphia, PA 75035		Incurred: 7/10/2009 - present Consideration: Reference Material				19.58
ACCOUNT NO. N/A Luhr, Stanley R. 1091 Singing Ridge Road El Cajon, CA 92019		Incurred: 10/05/06 - present Consideration: Accrued Interest on Note				180,006.33
ACCOUNT NO. N/A Luhr, Stanley R. 1091 Singing Ridge Road El Cajon, CA 92019		Incurred: 10/05/06 Consideration: Business Loan				703,579.48
ACCOUNT NO. KM05736509 MetLife Dental P.O. Box 804466 Kansas City, MO 64180-4466		Incurred: 6/15/2009 - pres Consideration: Health Insurance				3,020.27
Subtotal >						\$ 919,026.21
Total >						\$

Sheet no. 8 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00794

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. N/A Michael Luminais 202 School Street Geneva, IL 60134		Incurred: 8/1/2009 - present Consideration: Mileage, travel related expenses				40.54
ACCOUNT NO. N/A Michaelis, Elizabeth R. 5672 Amaya Dr., #202 La Mesa, CA 91942		Incurred: 10/03/06 - present Consideration: Accrued Interest on Note				95,064.25
ACCOUNT NO. Michaelis, Elizabeth R. 5672 Amaya Dr., #202 La Mesa, CA 91942		Incurred: 10/03/06 Consideration: Business Loan				354,942.57
ACCOUNT NO. N/A Mid-Pacific Testing 94-547 Uk'e St., Ste 200 Waipahu, HI 96797		Incurred: 01/31/07 - present Consideration: Independent Contractor				49,722.31
ACCOUNT NO. N/A Niddrie Fish and Buchanan LLP 750 B Street, Ste 2640 San Diego, CA 92101		Incurred: 3/19/2009 - pres Consideration: Legal Services				7,290.00
Subtotal >						\$ 507,059.67
Total >						\$

Sheet no. 9 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00795

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 43730265 Office Depot P.O. Box 70025 Los Angeles, CA 90074-0025		Incurred: 4/2/2009 - pres Consideration: Office Supplies - Revolving Credit				407.51
ACCOUNT NO. 108789 Officia Imaging 7323 Engineer Road San Diego, CA 92111-1409		Incurred: 5/11/2009 - pres Consideration: Copier Maintenance				994.28
ACCOUNT NO. QUALITYBUILT Omni Controls 5309 Technology Drive Tampa, FL 33647		Incurred: 6/1/2009 - pres Consideration: Equipment Calibration				889.90
ACCOUNT NO. D-7205889 Orkin Exterminating 12710 Magnolia Ave Riverside, CA 92503-4620		Incurred: 3/26/2009 - pres Consideration: Extermination Services				704.00
ACCOUNT NO. SD2081 Pacific Rim Mechanical 7655 Convoy Court San Diego, CA 92111		Incurred: 4/30/2009 - pres Consideration: Building Maintenance				355.00
Subtotal >						\$ 3,350.69
Total >						\$

Sheet no. 10 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00796

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**
(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 2077-3003-86-6 Pitney Bowes P.O. Box 856390 Louisville, KY 40285-6390		Incurred: 6/11/2009 - pres Consideration: Software Update				342.57
ACCOUNT NO. 6644455 Pitney Bowes P.O. Box 856460 Louisville, KY 40285-6460		Incurred: 5/13/2009 - pres Consideration: Equipment Lease				2,021.79
ACCOUNT NO. CAL-134234 Premium Financing Specialists P.O. Box 100384 Pasadena, CA 91189-0384		Incurred: 8/4/2009 - pres Consideration: Business Insurance				6,353.72
ACCOUNT NO. CAL-131743 Premium Financing Specialists P.O. Box 100384 Pasadena, CA 91189-0384		Incurred: 7/30/2009 - pres Consideration: Business Insurance				9,513.81
ACCOUNT NO. 116261-000001-JDA Procopio, Cory, Hargreaves & Savitch LLC 530 B Street Suite 2100 San Diego, CA 92101-4469		Incurred: 6/1/2009 - pres Consideration: Legal Services				210.00
Subtotal >						\$ 18,441.89
Total >						\$

Sheet no. 11 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00797

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 4894001313 Recall Secure Destruction Services P.O. Box 841709 Dallas, TX 75284-1709		Incurred: 4/29/2009 - pres Consideration: Destruction Services				395.74
ACCOUNT NO. QB Rhule Construction 15330 Avenue of Science San Diego, CA 92128		Incurred: 2006 - present Consideration: Building Improvements				27,716.58
ACCOUNT NO. N/A Riverwalk Square Dev. (Safari Drive) 4725 N. Scottsdale Road #110 Scottsdale, AZ 85251		Incurred: 3/17/2009 - pres Consideration: Client Refund on prepayment of services				26,600.00
ACCOUNT NO. QB vs Olague et al Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101		Incurred: 1/14/2009 - pres Consideration: Legal Services				37,090.84
ACCOUNT NO. QB v. Criterium Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101		Incurred: 11/24/2008 - pres Consideration: Legal Services				104,680.63
Subtotal >						\$ 196,483.79
Total >						\$

Sheet no. 12 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00798

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. Employment Schor & Freeland 600 B Street, Ste 2200 San Diego, CA 92101		Incurred: 5/31/2009 - pres Consideration: Legal Services				826.28
ACCOUNT NO. EGR156351 Schwartz & Janzen, LLP 12100 Wilshire Blvd Ste 1125 Los Angeles, CA 90025-7117		Incurred: 4/1/2009 - pres Consideration: Legal Services				16,692.31
ACCOUNT NO. KCESD: 107-257 Schwartz & Janzen, LLP 12100 Wilshire Blvd Ste 1125 Los Angeles, CA 90025-7117		Incurred: 5/1/2009 - pres Consideration: Legal Services				97.50
ACCOUNT NO. N/A Science Building Partners, LLC & FAEC Holdings 382771, LLC, Tenants in Common 15330 Ave of Science San Diego, CA 92128		Incurred: 12/08/08 Consideration: Accrued Interest on Note				19,661.54
ACCOUNT NO. N/A Science Building Partners, LLC / FAEC Holdings 382771, LLC 15330 Ave of Science San Diego, CA 92128		Incurred: 4/1/2008 - pres Consideration: Rent - Commercial Lease				469,781.38
Subtotal >						\$ 507,059.01
Total >						\$

Sheet no. 13 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00799

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. N/A Science Building Partners, LLC / FAEC Holdings 382771, LLC 15330 Ave of Science San Diego, CA 92128		Incurred: 12/08/08 Consideration: Business Loan				308,272.48
ACCOUNT NO. 111123015027 Stanley Security Solutions Dept Ch 10651 Palatine, IL 60055		Incurred: 6/1/2009 - pres Consideration: Security Monitoring				492.35
ACCOUNT NO. 010-1000829391 State of NV - Business License Renew P.O. Box 52614 Phoenix, AZ 85072-2614		Incurred: 7/1/2009 - pres Consideration: Business License				200.00
ACCOUNT NO. N/A Theodore Konechne 4657 Poppy Hills Dr Frisco, TX 75035		Incurred: 8/1/2009 - pres Consideration: Mileage, travel related expenses				361.13
ACCOUNT NO. QB v WCPC Thompson Law Group 2550 Fifth Ave., Ste 600 San Diego, CA 92103		Incurred: 11/5/2008 - pres Consideration: Legal Services			X	79,444.03
Sheet no. <u>14</u> of <u>16</u> continuation sheets attached to Schedule of Creditors Holding Unsecured Nonpriority Claims						Subtotal > \$ 388,769.99
						Total > \$

(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00800

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 185002/80152 Thomson Compumark P.O. Box 71892 Chicago, IL 60694-1892		Incurred: 4/1/2009 - pres Consideration: Trademark Monitoring				2,955.00
ACCOUNT NO. 1003329394 Thomson West P.O. Box 6292 Carol Stream, IL 60197-6292		Incurred: 4/1/2009 - pres Consideration: Legal Research Tool				3,195.73
ACCOUNT NO. QB vs. WCPC Thorsnes Litigation Services 2550 Fifth Ave Ninth Fl San Diego, CA 92103		Incurred: 10/20/2008 - pres Consideration: Legal Services				15,183.50
ACCOUNT NO. C0227455000 Thrifty Car Rental Department 2241 Tulsa, OK 74182		Incurred: 4/24/2009 - pres Consideration: Car Rental Agency				1,220.29
ACCOUNT NO. 266467 TW Telecom P.O. Box 172567 Denver, CO 80217-2567		Incurred: 5/15/2009 - pres Consideration: Telephone & Internet Services				6,722.94
Subtotal ▶						\$ 29,277.46
Total ▶						\$

Sheet no. 15 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00801

B6F (Official Form 6F) (12/07) - Cont.

In re Qualitybuilt.com, a California corporation,
DebtorCase No. _____
(If known)**SCHEDULE F- CREDITORS HOLDING UNSECURED NONPRIORITY CLAIMS**

(Continuation Sheet)

CREDITOR'S NAME, MAILING ADDRESS INCLUDING ZIP CODE, AND ACCOUNT NUMBER (See instructions above.)	CODEBTOR HUSBAND, WIFE, JOINT OR COMMUNITY	DATE CLAIM WAS INCURRED AND CONSIDERATION FOR CLAIM. IF CLAIM IS SUBJECT TO SETOFF,	CONTINGENT	UNLIQUIDATED	DISPUTED	AMOUNT OF CLAIM
ACCOUNT NO. 570496122-00001 Verizon - CA PO Box 9622 Mission Hills, CA 91346-9622		Incurred: 5/4/2009 - pres Consideration: Cell Phone Service				2,544.23
ACCOUNT NO. N/A Village Lock & Key 12845 Poway Rd, #303, Poway, CA 92064		Incurred: 5/11/2009 - pres Consideration: Building Maintenance				214.81
ACCOUNT NO. 12 267182 0002 Vision Service Plan PO Box 45210 San Francisco, CA 94145-5210		Incurred: 5/21/2009 - pres Consideration: Health Insurance				519.54
ACCOUNT NO. N/A Western Plumbing & Piping Inc PO Box 1269 El Cajon, CA 92022-1269		Incurred: 4/29/2009 - pres Consideration: Building Maintenance				150.00
ACCOUNT NO. 708738240 Xerox Corporation PO Box 660501 Dallas, TX 75266-0501		Incurred: 4/11/2009 - pres Consideration: Equipment Lease				12,380.30
Subtotal >						\$ 15,808.88
Total >						\$ 6,361,643.64

Sheet no. 16 of 16 continuation sheets attached
to Schedule of Creditors Holding Unsecured
Nonpriority Claims(Use only on last page of the completed Schedule F.)
(Report also on Summary of Schedules and, if applicable, on the
Statistical Summary of Certain Liabilities and Related Data.)

ROA_00802

In re Qualitybuilt.com, a California corporation

Debtor

Case No.

(if known)

SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Describe all executory contracts of any nature and all unexpired leases of real or personal property. Include any timeshare interests. State nature of debtor's interest in contract, i.e., "Purchaser," "Agent," etc. State whether debtor is the lessor or lessee of a lease. Provide the names and complete mailing addresses of all other parties to each lease or contract described. If a minor child is a party to one of the leases or contracts, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

☐ Check this box if debtor has no executory contracts or unexpired leases.

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT.	DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT.
FAEC Holdings 382771, LLC & Science Building Partners, LLC 15330 Ave of Science San Diego, CA 92128	Ten year lease of non-residential real property commencing 08/01/06 through 07/31/16 Rent is \$115,000/month.
Pitney Bowes Global Financing Services PO Box 856460 Louisville, KY 40285-6460	Lease of two sets of mailing equipment.
Leaf Funding PO Box 644006 Cincinnati, OH 45264-4006	Lease of 20 toughbook computers
Xerox Capital Services, LLC PO Box 660501 Dallas, TX 75266-0501	Lease of two copy machines
Dolphin Capital 1720A Crete St. Moberly, MO 65270	Lease of two copy machines
Sonitrol / Stanley Security Systems Dept. Ch. 10651 Palatine, IL 60055	Five year lease of security monitoring equipment commencing 08/23/06.
Stanley R. Luhr & Elizabeth R. Michaelis 15330 Ave of Science San Diego, CA 92128	One year lease of corporate condo in Aurora, Colorado, expiring 12/31/09. Rent is \$1,500/month.

In re Qualitybuilt.com, a California corporation
 Debtor

Case No. _____
 (if known)

SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES
 (Continuation Page)

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT.	DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT.
Quality Built, LLC 700 Grayhawk Avenue Plantation, FL 33324	Asset Purchase Agreement
North Star Equity Solutions 1053 45 Commons Dr. #166-465 San Diego, CA 92127	Sublease
Product Development Systems PO Box 503281 San Diego, CA 92150	Sublease
Produx World, Inc 15330 Ave of Science San Diego, CA 92128	Sublease
Law Offices of Harvey Payne 15330 Ave of Science San Diego, CA 92128	Sublease
Bluewater Capital Mgmt 15330 Ave of Science San Diego, CA 92128	Sublease
Integrated Aqua Systems 15330 Ave of Science San Diego, CA 92128	Sublease
Regulatory Liaisons 112265 Timbergate Circle San Diego, CA 92128	Sublease

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In re Qualitybuilt.com, a California corporation
 Debtor

Case No. _____
 (if known)

SCHEDULE G - EXECUTORY CONTRACTS AND UNEXPIRED LEASES
 (Continuation Page)

NAME AND MAILING ADDRESS, INCLUDING ZIP CODE, OF OTHER PARTIES TO LEASE OR CONTRACT.	DESCRIPTION OF CONTRACT OR LEASE AND NATURE OF DEBTOR'S INTEREST. STATE WHETHER LEASE IS FOR NONRESIDENTIAL REAL PROPERTY. STATE CONTRACT NUMBER OF ANY GOVERNMENT CONTRACT.
Tasty Savings 15330 Ave of Science San Diego, CA 92128	Sublease

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In re Qualitybuilt.com, a California corporation

Debtor

Case No. _____

(if known)

SCHEDULE H - CODEBTORS

Provide the information requested concerning any person or entity, other than a spouse in a joint case, that is also liable on any debts listed by debtor in the schedules of creditors. Include all guarantors and co-signers. If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within the eight year period immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state, commonwealth, or territory. Include all names used by the nondebtor spouse during the eight years immediately preceding the commencement of this case. If a minor child is a codebtor or a creditor, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. Bankr. P. 1007(m).

☐ Check this box if debtor has no codebtors. ✓

NAME AND ADDRESS OF CODEBTOR	NAME AND ADDRESS OF CREDITOR
Stanley R. Luhr 1091 Singing Ridge Road El Cajon, CA 92019	California Bank & Trust 1024 Graves Ave. El Cajon, CA 92121
Elizabeth R. Michaelis 2224 Valley View Blvd. El Cajon, CA 92019	California Bank & Trust 1024 Graves Ave. El Cajon, CA 92121
Elizabeth R. Michaelis 2224 Valley View Blvd. El Cajon, CA 92019	Dolphin Capital 1720A Crete St. Moberly, MO 65270
Elizabeth R. Michaelis 2224 Valley View Blvd. El Cajon, CA 92019	Leaf Funding PO Box 644006 Cincinnati, OH 45264-4006

ROA_00806

Qualitybuilt.com, a California corporation

In re _____
Debtor

Case No. _____
(If known)

DECLARATION CONCERNING DEBTOR'S SCHEDULES

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of _____ sheets, and that they are true and correct to the best of my knowledge, information, and belief.

Date _____

Signature: _____
Debtor:

Date _____

Signature: _____
(Joint Debtor, if any)

[If joint case, both spouses must sign.]

DECLARATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h) and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110 setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required by that section.

Printed or Typed Name and Title, if any,
of Bankruptcy Petition Preparer

Social Security No.
(Required by 11 U.S.C. § 110.)

If the bankruptcy petition preparer is not an individual, state the name, title (if any), address, and social security number of the officer, principal, responsible person, or partner who signs this document.

Address

X _____
Signature of Bankruptcy Petition Preparer

_____ Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document, unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 11 U.S.C. § 110; 18 U.S.C. § 156.

DECLARATION UNDER PENALTY OF PERJURY ON BEHALF OF A CORPORATION OR PARTNERSHIP

I, the Secretary [the president or other officer or an authorized agent of the corporation or a member or an authorized agent of the partnership] of the Qualitybuilt.com, a California corporation [corporation or partnership] named as debtor in this case, declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 42 sheets (total shown on summary page plus 1), and that they are true and correct to the best of my knowledge, information, and belief.

Date 08/14/09

Signature: /s/ Elizabeth R. Michaelis

ELIZABETH R. MICHAELIS

[Print or type name of individual signing on behalf of debtor.]

[An individual signing on behalf of a partnership or corporation must indicate position or relationship to debtor.]

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both. 18 U.S.C. §§ 152 and 3571.

ROA_00807

UNITED STATES BANKRUPTCY COURT
Southern District of California

In Re Qualitybuilt.com, a California corporation

Case No. _____
(if known)

STATEMENT OF FINANCIAL AFFAIRS

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See 11 U.S.C. § 112 and Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. If the answer to an applicable question is "None," mark the box labeled "None." If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any owner of 5 percent or more of the voting or equity securities of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; any managing agent of the debtor. 11 U.S.C. § 101.

1. Income from employment or operation of business

None
☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

	AMOUNT	SOURCE
2009	2,286,564.00	Monthly Invoices / Accrual
2008	8,864,245.00	Monthly Invoices / Accrual
2007	8,098,561.00	Monthly Invoices / Accrual

ROA_00808

2. Income other than from employment or operation of business

None

☐

State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the two years immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT

SOURCE

See Attachment SOA-2

3. Payments to creditors

None

☒

Complete a. or b., as appropriate, and c.

a. Individual or joint debtor(s) with primarily consumer debts: List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within 90 days immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$600. Indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and creditor counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR

DATES OF
PAYMENTSAMOUNT
PAIDAMOUNT STILL
OWING

None

☐

b. Debtor whose debts are not primarily consumer debts: List each payment or other transfer to any creditor made within 90 days immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$5,475. If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments and other transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR
AND RELATIONSHIP TO DEBTORDATES OF
PAYMENTSAMOUNT
PAIDAMOUNT STILL
OWING

See Attachment SOA-3b

In re Qualitybuilt.com

United States Bankruptcy Court for the Southern District of California

Case No. _____

ATTACHMENT SOA-2

Income from Subleases	through 8/11/2009	Security Dep	Net Income
North Star Equity Solutions	5,249.25	1,200.00	4,049.25
Product Development Systems	1,545.32	357.50	1,187.82
Produx World	1,320.00	600.00	720.00
Law Offices of Harvey M. Payne	2,787.10	600.00	2,187.10
Bluewater Capital Management LLC	1,016.13	450.00	566.13
Integrated Aqua Systems	1,197.00	399.00	798.00
Regulatory Liaisons	1,378.00	390.00	988.00
Tasty Savings	2,237.55	1,042.00	1,195.55
	<u>16,730.35</u>	<u>5,038.50</u>	<u>11,691.85</u>

Income from Meeting Room Rentals			
Windermere Exclusive Properties	2,993.20		2,993.20
Send Out Cards	945.00		945.00
	<u>3,938.20</u>	<u>0.00</u>	<u>3,938.20</u>

Insurance Monies Received			
2/17/2009 Travelers - Flood Damage	\$ 40,708.29		\$ 40,708.29
12/13/2008 Travelers - Flood Damage	\$ 178,369.32		\$ 178,369.32
	<u>\$ 219,077.61</u>	<u>\$ -</u>	<u>\$ 219,077.61</u>

Total Income other than from empl or operation of business	<u>\$ 234,707.66</u>

*In re Qualitybuilt.com*United States Bankruptcy Court for the Southern District of California
Case No. _____**ATTACHMENT SOA-3b**

Vendor Name	Address	Check Dates	Amount Paid	Amount Still Owning as of 8/11/09	
AIG Insurance Company	22427 Network Place Chicago, IL 60673	5/20/2009	\$26,748.00		
Total AIG			\$26,748.00	44,601.00	
American Express	P.O. Box 360001 Fort Lauderdale, FL 33336	6/1/2009	\$14,721.31		
		7/1/2009	\$9,128.73		
		7/31/2009	\$5,325.03		
Total American Express			\$29,175.07	7,927.48	
Blue Shield of California	File 55331 Los Angeles, CA 90074-5331	7/30/2009	\$13,297.11		
Total Blue Sheild of California			\$13,297.11	\$9,922.58	
Department of Industrial Relations	PO Box 420603 San Francisco, CA 94142	5/20/2009	\$6,700.00		
Total Department of Industrial Relations			\$6,700.00	0.00	
Kaiser Permanente	File No 5915 Los Angeles, CA 90074	5/20/2009	\$10,541.00		
		8/6/2009	\$8,575.00		
Total Kaiser Permanente			\$19,116.00	14,714.00	
CIT Technology Financial Services, Inc (Microsoft Financing)	23896 Network Place Chicago, IL 60673	5/1/2009	\$19,332.54	20,901.36	secured
		5/20/2009	\$191.17		
Total CIT Technology Financial Services (Microsoft Financing)			\$19,523.71	\$20,901.36	
MidPacific Testing	94-547 Uke Street #200 Waipahu, HI 96797	5/8/2009	\$29,392.58		
		5/22/2009	\$12,073.54		
		6/5/2009	\$6,356.00		
		6/19/2009	\$19,701.98		
		7/3/2009	\$16,976.14		
		7/17/2009	\$12,230.13		
		7/31/2009	\$32,221.04		
Total Mid Pacific Testing			\$128,951.41	\$49,722.31	
Premium Financing Specialists	12424 Wilshire Blvd #1030 Los Angeles, CA 90025	5/20/2009	\$9,513.81		
		6/1/2009	\$6,014.28		
		6/3/2009	\$1,123.20		

In re Qualitybuilt.com

United States Bankruptcy Court for the Southern District of California

Case No. _____

ATTACHMENT SOA-3b

Vendor Name	Address	Check Dates	Amount Paid	Amount Still Owing as of 8/11/09	
		6/29/2009	\$9,538.81		
		7/2/2009	\$6,014.28		
		8/3/2009	\$9,513.81		
		8/3/2009	\$6,353.72		
Total Premium Financing Specialists			\$48,071.91	35,000.00	
Riverwalk Square Development LLC	4725 N. Scottsdale Rd Ste 110 Scottsdale, AZ 85251	5/12/2009	\$6,650.00		
		6/11/2009	\$6,650.00		
Total Riverwalk Square Development LLC			\$13,300.00	\$26,600.00	
SD County Treasurer - Tax Collector	PO Box 129009 San Diego, CA 92112	6/30/2009	\$10,179.83		
Total San Diego Count Treasurer - Tax Collector			\$10,179.83	0.00	
SDG & E	PO Box 25111 Santa Ana, CA 92799	5/11/2009	\$5,300.56		
		6/11/2009	\$3,300.60		
Total SDG & E			\$8,601.16	5,845.08	
Science Building Partners LLC & FAEC Holdings 382771, LLC	15330 Avenue of Science San Diego, CA 92128	5/8/2009	\$10,000.00		

None



c. *All debtors:* List all payments made within one year immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR
AND RELATIONSHIP TO DEBTOR

DATES OF
PAYMENTS

AMOUNT PAID

AMOUNT STILL
OWING

See Attachment SOA-3c

4. Suits and administrative proceedings, executions, garnishments and attachments

None



a. List all suits and administrative proceedings to which the debtor is or was a party within one year immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT
AND CASE NUMBER

NATURE OF PROCEEDING

COURT OR
AGENCY AND LOCATION

STATUS OR
DISPOSITION

QualityBuilt.com, Inc.
v. West Coast Property
Consultants, Inc.
Case No. D055231

Appeal of Jury Verdict in favor of
Qualitybuilt.com.

Court of Appeal, 4th
Appellate District, Division
1

Stayed

Thomas Clark & Alan
Thomas v.
QualityBuilt.com, Inc.
Case No.s D055311;
D054713

Appeal of case involving wrongful
employment termination

Court of Appeal, 4th
Appellate District, Division
1

Pending

Solutions Consulting
Group v.
QualityBuilt.com, Inc.;
QualityBuilt.com, Inc.
v. Solutions Consulting
Group
Case No. GIC871918

Declaratory Relief;
Cross-complaint for breach of
contract, breach of the covenant of
good faith and fair dealing,
professional negligence, negligent
misrepresentation and fraud in the
inducement/inception.

San Diego Superior Court

Stayed

QualityBuilt.com, Inc.
v. Coast to Coast
Engineering Services
Inc. dba Criterium
Engineers
Case No.
3:07-cv-00627-WQH-AJB

Appeal of Arbitration Award

U.S. District Court,
Southern District of
California, San Diego
Division

Pending

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Continental Casualty Company v. West Coast Property Consultants Inc.; QualityBuilt.com Inc. Case No. 3:09-cv-01031-W-CAB	Declaratory Relief	U.S. District Court, Southern District of California, San Diego Division	Pending
Westchester Surplus Lines Insurance v. Roy Anderson Corporation Case No. 1:08cv1434-HSO-JMR	Counterclaim for liability pursuant to quality assurance services provided to Roy Anderson.	U.S. District Court, for the Southern District of Mississippi, Southern Division	Pending
State Farm General Ins. v. Tessard Designs et al. Case No. 37-2008-00050383-CU-IC-NC	Liability pursuant to contract for quality assurance services for project in San Marcos, California.	San Diego Superior Court	Pending
San Diego Revitalization Corp. v. Martinez & Cutri Corp. Case No. GIC845232	Liability pursuant to contract for quality assurance services for project in San Diego, California.	San Diego Superior Court	Pending
Southshore Golf Villas Homeowners Assn v. Lake at Las Vegas Joint Venture Case No. A550021	Liability pursuant to contract for quality assurance services for project in Las Vegas, Nevada.	District Court, Clark County, Nevada	Pending
In re San Jose Brickyard Homeowners Assn Calderon Notice	Construction Defects	N/A	Pending
In re Molino Street Lofts Homeowners Assn Calderon Notice	Construction Defects	N/A	Pending
Pieropan v. QualityBuilt.com Case No. VNO 0558668	Workers Compensation Claim	Workers Compensation Appeal Board	Pending

In re Qualitybuilt.com

United States Bankruptcy Court for the Southern District of California

Case No. _____

ATTACHMENT SOA-3c

Payments made to Stanley R. Luhr and Elizabeth R. Michaelis for the rent of 14406 E. Evans Ave and 141 N. Granby Way #A Aurora, CO				
Date	Check #	Payable to	Check Amount	
10/1/2008	15269	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 5,000.00	
11/3/2008	15416	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 8,000.00	
11/26/2008	15544	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 7,000.00	
2/5/2009	15834	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 2,000.00	
3/3/2009	15929	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 5,000.00	
4/1/2009	16120	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 5,000.00	
4/30/2009	16219	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 4,100.00	
6/3/2009	16321	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 12,086.80	
6/8/2009	16325	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 1,000.00	
6/30/2009	16374	Stanley R. Luhr and Elizabeth R. Michaelis	\$ 5,000.00	
			\$ 54,186.80	
Payments made directly to Dovenmuehl Mortgage on behalf of Stanley R. Luhr & Elizabeth R. Michaelis for the mortgage pmt of 14406 E. Evans Ave Aurora, CO				
Date	Check #	Payable to	Check Amount	
8/1/2008	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
9/2/2008	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
10/2/2008	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
11/3/2008	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
12/1/2008	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
1/2/2009	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
2/2/2009	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
3/2/2009	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
4/1/2009	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
5/1/2009	Auto pay from bank account	Dovenmuehle Mortgage	\$ 6,844.86	
			\$ 68,448.60	
Total payments made to insiders or on behalf of insiders in the 1 yr preceding filing				\$ 122,635.40

- None ☒ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF
PERSON FOR WHOSE BENEFIT
PROPERTY WAS SEIZED

DATE OF
SEIZURE

DESCRIPTION AND
VALUE OF PROPERTY

5. Repossessions, foreclosures and returns

- None ☒ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS OF
CREDITOR OR SELLER

DATE OF REPOSESSION,
FORECLOSURE SALE,
TRANSFER OR RETURN

DESCRIPTION AND
VALUE OF PROPERTY

6. Assignments and Receiverships

- None ☐ a. Describe any assignment of property for the benefit of creditors made within 120 days immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS
OF ASSIGNEE

DATE OF ASSIGNMENT

TERMS OF
ASSIGNMENT
OR SETTLEMENT

West Coast Electronic Billing
2667 Camino Del Rio S., Ste
302
San Diego, CA 92108

05/13/09

Assignee receives 35% of any
amount collected and remits
the remaining 65% to debtor.
Assignment amount of
\$26,899.59.

West Coast Electronic Billing
2667 Camino Del Rio S., Ste
302
San Diego, CA 92108

08/06/09

Assignee receives 35% of any
amount collected and remits
the remaining 65% to debtor.
Assignment amount of
\$18,956.90.

- None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY

7. Gifts

- None ☒ List all gifts or charitable contributions made within one year immediately preceding the commencement of this case, except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT

8. Losses

- None ☒ List all losses from fire, theft, other casualty or gambling within one year immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES, AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS

9. Payments related to debt counseling or bankruptcy

- None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of a petition in bankruptcy within one year immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
L. Scott Keehn Keehn & Associates, APC 402 W. Broadway, Suite 1210 San Diego, CA 92101	08/11/09	\$12,371.35
L. Scott Keehn Keehn & Associates, APC 402 W. Broadway, Suite 1210 San Diego, CA 92101	08/11/09	\$10,000.00 (Chapter 11 Retainer)

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
L. Scott Keehn Keehn & Associates, APC 402 W. Broadway, Suite 1210 San Diego, CA 92101	08/14/09	\$1,039.00 (Chapter 11 Filing Fee)

See also Attachment SOA-9

10. Other transfers

None ☐ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within two years immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
Stanley R. Luhr 1091 Singing Ridge Road El Cajon, CA 92019 Relationship: President and 50% Shareholder	06/11/09	2006 Lexus LS430 \$25,000 cash received
Stanley R. Luhr 1091 Singing Ridge Road El Cajon, CA 92019 Relationship: President and 50% Shareholder	05/18/09	2006 Ford F350 Truck \$30,985 cash received

None ☐ b. List all property transferred by the debtor within ten years immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY
☒		

In re Qualitybuilt.com
United States Bankruptcy Court for the Southern District of California
Case No. _____

ATTACHMENT SOA-9

OTHER PAYMENTS TO KEEHN & ASSOCIATES, APC

In addition to the payments for consultations concerning debt consolidation and relief under the bankruptcy law, Keehn & Associates, APC provided other legal services related to general business and collection matters. The payments made by the Debtor for those services are summarized below:

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYOR IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
L. Scott Keehn Keehn & Associates, APC 402 W. Broadway, Suite 1210 San Diego, CA 92101	06/02/09	\$5,000.00
L. Scott Keehn Keehn & Associates, APC 402 W. Broadway, Suite 1210 San Diego, CA 92101	07/24/09	\$13,737.92

11. Closed financial accounts

None



List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within one year immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS
OF INSTITUTION

TYPE OF ACCOUNT, LAST FOUR
DIGITS OF ACCOUNT NUMBER,
AND AMOUNT OF FINAL BALANCE

AMOUNT AND
DATE OF SALE
OR CLOSING

12. Safe deposit boxes

None



List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within one year immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND
ADDRESS OF BANK
OR OTHER DEPOSITORY

NAMES AND ADDRESSES OF
THOSE WITH ACCESS TO BOX
OR DEPOSITORY

DESCRIPTION OF
CONTENTS

DATE OF
TRANSFER OR
SURRENDER, IF ANY

13. Setoffs

None



List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within 90 days preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR

DATE
OF
SETOFF

AMOUNT
OF
SETOFF

14. Property held for another person

None



List all property owned by another person that the debtor holds or controls.

NAME AND
ADDRESS OF OWNER

DESCRIPTION AND
VALUE OF PROPERTY

LOCATION OF PROPERTY

North Star Equity Solutions
1053 45 Commons Dr.
#166-465
San Diego, CA 92127

\$1,200.00 Security Deposit

15330 Ave of Science
San Diego, CA 92128

Law Offices of Harvey
Payne
15330 Ave of Science
San Diego, CA 92128

\$600.00 Security Deposit

15330 Ave of Science
San Diego, CA 92128

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
Regulatory Liaisons 112265 Timbergate Circle San Diego, CA 92128	\$390.00 Security Deposit	15330 Ave of Science San Diego, CA 92128
Produx World, Inc 15330 Ave of Science San Diego, CA 92128	\$600.00 Security Deposit	15330 Ave of Science San Diego, CA 92128
Integrated Aqua Systems 15330 Ave of Science San Diego, CA 92128	\$399.00 Security Deposit	15330 Ave of Science San Diego, CA 92128
Product Development Systems PO Box 503281 San Diego, CA 92150	\$357.50 Security Deposit	15330 Ave of Science San Diego, CA 92128
Bluewater Capital Mgmt 15330 Ave of Science San Diego, CA 92128	\$450.00 Security Deposit	15330 Ave of Science San Diego, CA 92128
Tasty Savings 15330 Ave of Science San Diego, CA 92128	\$1,042.00 Security Deposit	15330 Ave of Science San Diego, CA 92128

15. Prior address of debtor

None



If the debtor has moved within the three years immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS

NAME USED

DATES OF OCCUPANCY

16. Spouses and Former Spouses

None



If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within eight years immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME

17. Environmental Sites

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

None



- a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

- b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

None



SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW

- c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

None



NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION

18. Nature, location and name of business

None



- a. If the debtor is an individual, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partnership, sole proprietorship, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within the six years immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within the six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within the six years immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES

ROA_00822

b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

None



NAME

ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within the six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or otherwise self-employed.

(An individual or joint debtor should complete this portion of the statement only if the debtor is or has been in business, as defined above, within the six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, record and financial statements

None



a. List all bookkeepers and accountants who within the two years immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS

DATES SERVICES RENDERED

Sheila A. Murphy
7715 El Cajon Blvd, #1
La Mesa, CA 91941

01/03/05 - present

Jennifer R. Jaggard
545 Osage Street
Spring Valley, CA 91977

09/03/02 - 05/22/08

None



b. List all firms or individuals who within the two years immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

None ☒ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

None ☐ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued within the two years immediately preceding the commencement of this case by the debtor.

NAME AND ADDRESS

DATE
ISSUED

California Bank & Trust
1024 Graves Avenue
El Cajon, CA 92021

03/27/08

California Bank & Trust
1024 Graves Avenue
El Cajon, CA 92021

01/28/09

California Bank & Trust
1024 Graves Avenue
El Cajon, CA 92021

03/31/09

California Bank & Trust
1024 Graves Avenue
El Cajon, CA 92021

04/30/09

Compellent Credit
7808 Creekr Ridge Circle, Suite
250
Edna, MN 55439

12/22/08

Gary Elzweig
700 Grayhawk Ave.
Plantation, FL 33324

06/25/09

Xerox
c/o Grayson Lafrenz
Mr. Copy
5657 Copley Dr.
San Diego, CA 92111

07/09/08

HD Supply Plumbing
3881 D Old Winter Garden Rd,
Ste D
Orlando, FL 32805

04/15/09

20. Inventories

- None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY	INVENTORY SUPERVISOR	DOLLAR AMOUNT OF INVENTORY (Specify cost, market or other basis)
06/01/09	Sheila Murphy	\$0.00
06/30/06	Michael Huff	\$33,197.92

- None ☐ b. List the name and address of the person having possession of the records of each of the two inventories reported in a., above.

DATE OF INVENTORY	NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY RECORDS
06/01/09	Sheila Murphy Qualitybuilt.com 15330 Ave of Science San Diego, CA 92128
06/30/06	Sheila Murphy Qualitybuilt.com 15330 Ave of Science San Diego, CA 92128

21. Current Partners, Officers, Directors and Shareholders

- None ☒ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS	NATURE OF INTEREST	PERCENTAGE OF INTEREST

- None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS	TITLE	NATURE AND PERCENTAGE OF STOCK OWNERSHIP
Stanley R. Luhr 1091 Singing Ridge Road El Cajon, CA 92019	President	50%
Elizabeth R. Michaelis 5672 Amaya Dr., #202 La Mesa, CA 91942	Secretary	50%

22. Former partners, officers, directors and shareholders

- None ☒ a. If the debtor is a partnership, list each member who withdrew from the partnership within one year immediately preceding the commencement of this case.

NAME	ADDRESS	DATE OF WITHDRAWAL

- None ☐ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within one year immediately preceding the commencement of this case.

NAME AND ADDRESS	TITLE	DATE OF TERMINATION

Garth Michaelis 11768 S. Oakmond Rd. S. Jordan, UT 84095	Director	06/05/09

23. Withdrawals from a partnership or distribution by a corporation

- None ☒ If the debtor is a partnership or a corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during one year immediately preceding the commencement of this case.

NAME & ADDRESS OF RECIPIENT, RELATIONSHIP TO DEBTOR	DATE AND PURPOSE OF WITHDRAWAL	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY

24. Tax Consolidation Group

- None ☒ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION	TAXPAYER IDENTIFICATION NUMBER (EIN)

25. Pension Funds

- None ☐ If the debtor is not an individual, list the name and federal taxpayer identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within the six-year period immediately preceding the commencement of the case.

NAME OF PENSION FUND	TAXPAYER IDENTIFICATION NUMBER (EIN)

Luhr Inc. dba Pacific Property Consultants 401k	33-0864693

* * * * *

ROA_00826

[If completed on behalf of a partnership or corporation]

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct to the best of my knowledge, information and belief.

Date 08/14/09 Signature /s/ Elizabeth R. Michaelis
ELIZABETH R. MICHAELIS,
Secretary
Print Name and Title

[An individual signing on behalf of a partnership or corporation must indicate position or relationship to debtor.]

0 continuation sheets attached

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §152 and 3571

DECLARATION AND SIGNATURE OF NON-ATTORNEY BANKRUPTCY PETITION PREPARER (See 11 U.S.C. § 110)

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110 setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section.

Printed or Typed Name and Title, if any, of Bankruptcy Petition Preparer

Social Security No. (Required by 11 U.S.C. § 110(c).)

If the bankruptcy petition preparer is not an individual, state the name, title (if any), address, and social security number of the officer, principal, responsible person, or partner who signs this document.

Address

X
Signature of Bankruptcy Petition Preparer

Date

Names and Social Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional signed sheets conforming to the appropriate Official Form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both. 18 U.S.C. §156.

UNITED STATES BANKRUPTCY COURT
Southern District of California

In re Qualitybuilt.com, a California corporation,
Debtor

Case No. _____

Chapter 11

VERIFICATION OF LIST OF CREDITORS

I hereby certify under penalty of perjury that the attached List of Creditors which consists of 14 pages, is true,
correct and complete to the best of my knowledge.

Date 08/14/09

Signature /s/ Elizabeth R. Michaelis
ELIZABETH R. MICHAELIS,
Secretary

ADP, Inc
5355 Orangethrope Ave
La Palma, CA 90623

ADT Security
P.O. Box 371956
Pittsburgh, PA 15250-7956

AIG
22427 Network Place
Chicago, IL 60673-1224

All County Fire Equip Corp
3163 Adams Avenue
San Diego, CA 92116

AMC
500 S. Marschall Rd, Ste 205
Shakopee, MN 55379

American Arbitration Assoc.
6795 North Palm Ave., 2nd Fl.
Fresno, CA 93704

American Express
P.O. Box 3600001
Fort Lauderdale, FL 33336-0001

Arrowhead
P.O. Box 856158
Louisville, KY 40285-6158

AT&T
Payment Center
Sacramento, CA 95887-0001

AT&T
Payment Center
Sacramento, CA 95887-0001

AT&T
Payment Center
Sacramento, CA 95887-0001

AT&T Advertising & Publishing
P.O. Box 989046
West Sacramento, CA 95798-9046

AT&T Mobility
P.O. Box 6463
Carol Stream, IL 60197-6463

Bates, Charles
8544 Alpine Avenue
La Mesa, CA 91941

Blue Shield of CA
P.O. Box 629014
El Dorado Hills, CA 95762-9014

Bluewater Capital Mgmt
15330 Ave of Science
San Diego, CA 92128

Brown, Jeremy
1165 Fitzgerald Rd #d
Simi Valle, CA 93065

Bruno Skorheim
9665 Chesapeake Dr #470
San Diego, CA 92123

Business Commons
at Southeast Commons Assoc
P.O. Box 440020
Aurora, CO 80044-0020

California Bank & Trust
1024 Graves Ave.
El Cajon, CA 92121

California Deposition Reporters
P.O. Box 108
Covina, CA 91723

Ceridian
C3201 34th St. South
St. Petersburg, FL 33711

City of San Diego - Water Department
Customer Services Section
San Diego, CA 92187-00011

Cooks, David
294 Spring Creek Rd.
Boulder Creek, CA 95006

Correa, Nancy
567 Trovita Court
Escondido, CA 92027

Criterion Engineers
22 Monument Square, Ste 600
Portland, ME 04101

Daniel Coker Horton & Bell
4400 Old Canton Rd., Ste 400
PO Box 1084
Jackson, MS 39215-1084

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220 West Broadway
Dept. 47
San Diego, CA 92101

Dollar Rent a Car
Department 404
Tulsa, OK 74182

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Moberly, MO 65270

Dolphin Capital
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Moberly, MO 65270

Dolphin Capital
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Moberly, MO 65270

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6670 Federal Blvd
Lemon Grove, CA 91945

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El Cajon, CA 92019

Elizabeth R. Michaelis
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El Cajon, CA 92019

Elizabeth R. Michaelis
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El Cajon, CA 92019

Elizabeth R. Michaelis
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FAEC Holdings 382771, LLC &
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15330 Ave of Science
San Diego, CA 92128

Fedex
P.O. Box 7221
Pasadena, CA 91109-7321

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Pasadena, CA 91109-7321

Franchise Tax Board
P.O. Box 942857
Sacramento, CA 94257-0511

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250 W. 96th Street, Ste. 150
Indianapolis, IN 46260

Giamanco, Rick
P.O. Box 5780
Dillon, CO 80435

Gieske, Alan
17666 Azucar Way
San Diego, CA 92127

Gray-Luhr, Jane
1091 Singing Ridge Rd
El Cajon, CA 92019

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P.O. Box 12670
San Diego, CA 92112

Hill, Don
1681 Havenwood Drive
Oceanside, CA 92056

Hogge, Kelly
3368 Daley Center Dr
San Diego, CA 92123

Home Depot Credit Services
P.O. Box 9121
Des Moines, IA 50368-9121

Insight
P.O. Box 78825
Phoenix, AZ 85062-8825

Integrated Aqua Systems
15330 Ave of Science
San Diego, CA 92128

Internal Revenue Service
880 Front St.
San Diego, CA 92101

Iron Mountain
P.O. Box 601002
Pasadena, CA 91189-1002

JAM Fire Protection Inc
9082 Clairmont Mesa Blvd
San Diego, CA 92123

James Edward Engineering
9475 Double R Blvd., Ste 3
Reno, NV 89521

Jan Pro Cleaning Systems
3377 Carmel Mountain Rd, Ste 200
San Diego, CA 92121

Kaiser Foundation Health Plan
File 5915
Los Angeles, CA 90074-5915

Kaiser Foundation Health Plan
File 5915
Los Angeles, CA 90074-5915

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Modesto, CA 95355

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870 Diamond Street #202
San Diego, CA 92109

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Newport Beach, CA 92660

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Leaf Funding
PO Box 644006
Cincinnati, OH 45264-4006

LECG, LLC
2000 Powell St., Ste 600
Emeryville, CA 94608

Lewis, Michael
27620 Susan Beth Way
Saugus, CA 91350

Lexis Nexis Matthew Bender
P.O. Box 7247-0178
Philadelphia, PA 75035

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1091 Singing Ridge Rd.
El Cajon, CA 92019

Luhr, Stanley R.
1091 Singing Ridge Rd.
El Cajon, CA 92019

Luhr, Stanley R.
1091 Singing Ridge Road
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El Cajon, CA 92019

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202 School Street
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Michaelis, Elizabeth R.
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Michaelis, Elizabeth R.
5672 Amaya Dr., #202
La Mesa, CA 91942

Michaelis, Elizabeth R.
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La Mesa, CA 91942

Michaelis, Garth
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Microsoft Financing
(CIT Technology Fin. Svcs)
23896 Network Place
Chicago, IL 60673

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Chicago, IL 60673

Mid-Pacific Testing
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Waipahu, HI 96797

Molz, Chris
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Clements, CA 95227

Monroe, Janet
44700 Via Lucido
Temecula, CA 92592

Mozgovaya, Nadya
7222 S. Blackhawk St #204
Englewood, CO 80112

Murphy, Sheila
7715 El Cajon Blvd #1
La Mesa, CA 91942

Myers, Trent
470 Chardonnay Court
San Marcos, CA 92069

Niddrie Fish and Buchanan LLP
750 B Street, Ste 2640
San Diego, CA 92101

North Star Equity Solutions
1053 45 Commons Dr. #166-465
San Diego, CA 92127

Office Depot
P.O. Box 70025
Los Angeles, CA 90074-0025

Officia Imaging
7323 Engineer Road
San Diego, CA 92111-1409

Omni Controls
5309 Technology Drive
Tampa, FL 33647

Orkin Exterminating
12710 Magnolia Ave
Riverside, CA 92503-4620

Pacific Rim Mechanical
7655 Convoy Court
San Diego, CA 92111

Payne, Krista
9107 Clearlake Way
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Pitney Bowes
Global Financing Services
PO Box 856460
Louisville, KY 40285-6460

Pitney Bowes
P.O. Box 856390
Louisville, KY 40285-6390

Pitney Bowes
P.O. Box 856460
Louisville, KY 40285-6460

Premium Financing Specialists
P.O. Box 100384
Pasadena, CA 91189-0384

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P.O. Box 100384
Pasadena, CA 91189-0384

Procopio, Cory, Hargreaves & Savitch LLC
530 B Street Suite 2100
San Diego, CA 92101-4469

Product Development Systems
PO Box 503281
San Diego, CA 92150

Produx World, Inc
15330 Ave of Science
San Diego, CA 92128

Quality Built, LLC
700 Grayhawk Avenue
Plantation, FL 33324

Recall Secure Destruction Services
P.O. Box 841709
Dallas, TX 75284-1709

Regulatory Liaisons
112265 Timbergate Circle
San Diego, CA 92128

Reilly, Erin
P.O. Box 501985
San Diego, CA 92150-1985

Reimer-Highfill, Sandra
25188 Poderio Dr
Ramona, CA 92065

Reynolds, Robert
17611 Hada Drive
San Diego, CA 92127

Rhule Construction
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San Diego, CA 92128

Riverwalk Square Dev (Safari Drive)
4725 N. Scottsdale Road #110
Scottsdale, AZ 85251

San Diego County Tax Collector
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San Diego, CA 92112

Schoenherr, Daryl
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Clovis, CA 93611

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San Diego, CA 92101

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San Diego, CA 92101

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FAEC Holdings 382771, LLC,
Tenants in Common
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San Diego, CA 92128

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FAEC Holdings 382771, LLC
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San Diego, CA 92128

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FAEC Holdings 382771, LLC
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Slocum, Andrew
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San Marcos, CA 92078

Smith, Clyde
13844 S. Belle Isis
Herriman, UT 84096

Sonitrol / Stanley Security Systems
Dept. Ch. 10651
Palatine, IL 60055

Stanley R. Luhr
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El Cajon, CA 92019

Stanley R. Luhr & Elizabeth R. Michaelis
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San Diego, CA 92128

Stanley Security Solutions
Dept Ch 10651
Palatine, IL 60055

State Board of Equalization
1350 Front St., Room 5047
San Diego, CA 92101-3698

State of NV - Business License Renew
P.O. Box 52614
Phoenix, AZ 85072-2614

Tasty Savings
15330 Ave of Science
San Diego, CA 92128

Taylor, Charles
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Oro Valley, AZ 85737

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Thomson West
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Thorsnes Litigation Services
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Ninth Fl
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Thrifty Car Rental
Department 2241
Tulsa, OK 74182

TW Telecom
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Denver, CO 80217-2567

Verizon - CA
PO Box 9622
Mission Hills, CA 91346-9622

Village Lock & Key
12845 Poway Rd, #303
Poway, CA 92064

Vision Service Plan
PO Box 45210
San Francisco, CA 94145-5210

Western Plumbing & Piping Inc
PO Box 1269
El Cajon, CA 92022-1269

Wypiszynski, Angela
14566 Silla St
Poway, CA 92064

Xerox Capital Services, LLC
PO Box 660501
Dallas, TX 75266-0501

Xerox Corporation
PO Box 660501
Dallas, TX 75266-0501

1 L. Scott Keehn, SBN 61691
2 Leslie F. Keehn, SBN 199153
3 **KEEHN & ASSOCIATES, APC**
4 402 W. Broadway, Suite 1210
5 San Diego, California 92101
6 Telephone: (619) 400-2200

7 Attorneys for Debtor and Debtor-in-Possession
8 Qualitybuilt.com, a California corporation

9
10 **UNITED STATES BANKRUPTCY COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12 In Re:

13 **QUALITYBUILT.COM,**
14 a California corporation,

15 Debtor.

16 Case No. 09-12113-PB11

17 Chapter 11

18 **COMPENDIUM OF EXHIBITS IN**
19 **SUPPORT OF MOTION FOR ORDER**
20 **APPROVING SALE OF PROPERTY OF**
21 **THE ESTATE FREE AND CLEAR OF ALL**
22 **LIENS, CLAIMS AND ENCUMBRANCES,**
23 **SUBJECT TO OVERBID**

24 Date: March 1, 2010

25 Time: 10:30 a.m.

26 Dept.: 4

27 Judge: Hon. Peter W. Bowie

28 ///

///

///

///

///

///

///

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///

///

KEEHN & ASSOCIATES, APC
ATTORNEYS AT LAW
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE: (619) 400-2200
TELECOPIER: (619) 400-2201

EXHIBITS

EXHIBIT 1	Asset Purchase Agreement
EXHIBIT 2	Schedules to Asset Purchase Agreement

Date: January 29, 2010

KEEHN & ASSOCIATES, APC

By: //s/ L. Scott Keehn
L. Scott Keehn
Attorneys for Debtor and Debtor-in-
Possession **Qualitybuilt.com, a California**
corporation

KEEHN & ASSOCIATES, APC
402 WEST BROADWAY, SUITE 1210
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 400-2200
TELECOPIER (619) 400-2201

EXHIBIT 1

ROA_00845

EXECUTION VERSION

**AMENDED AND RESTATED
ASSET PURCHASE AGREEMENT**

by and among

QUALITYBUILT.COM,
as Seller

and

QUALITY BUILT, LLC
as Buyer

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**AMENDED AND RESTATED
ASSET PURCHASE AGREEMENT**

This Amended and Restated Asset Purchase Agreement (this "Agreement") is made as of January __, 2010 (the "Effective Date"), by and among QualityBuilt.com, a California corporation ("Seller"), Quality Built, LLC, a Delaware limited liability company ("Buyer"), Stan Luhr, an individual residing in California ("Mr. Luhr") and Elizabeth Michaelis, an individual residing in California ("Ms. Michaelis").

RECITALS

Whereas Seller commenced a case under chapter 11 of title 11 of the Bankruptcy Code on August 14, 2009, which is now pending in the Bankruptcy Court as Case No. 09-12113-PB11 (the "Bankruptcy Case").

Whereas, the parties hereto previously entered into that certain Asset Purchase Agreement, dated August 19, 2009 (the "Original Agreement") and the parties were unable to consummate the transactions contemplated under the Original Agreement upon the terms and conditions contained therein.

Whereas, the parties now desire to amend and restate in its entirety the Original Agreement on the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants hereinafter set forth, Buyer and Seller hereby agree as follows:

AGREEMENT

ARTICLE 1

PURCHASE AND SALE OF ASSETS

1.1 **Agreement to Sell and Purchase Assets.** Subject to the terms and conditions of this Agreement, and in reliance on the representations, warranties, Buyer's independent due diligence and covenants set forth in this Agreement, Seller agrees to sell, assign, transfer and convey to Buyer, and Buyer agrees to purchase and acquire from Seller at the Closing, free and clear of all mortgages, security interests, liens, leases, covenants, assessments, easements, options, rights of refusal, restrictions, reservations, defects in the title, encroachments, adverse claims and other encumbrances (collectively, and in each case including without limitation all "interests" as such term is used in section 363(f) of the Bankruptcy Code, "Liens"), all of Seller's and all of the Bankruptcy Estate's right, title, and interest in, to and under all of the assets, property, rights and claims of Seller and the Bankruptcy Estate, wherever located, real, personal or mixed, whether tangible or intangible, used in the Business as currently conducted by Seller (the "Business"), other than the Excluded Assets (each a "Purchased Asset" and collectively, the "Purchased Assets"), including without limitation all of Seller's and all of the Bankruptcy Estate's right, title and interest in, to and under the following:

(a) all Intellectual Property and other intangible assets, including, without limitation, all patents of any nature whether pending or issued and whether authored by the Company or any of the individuals parties hereto, Registered IP, the intellectual property rights and other intangible assets listed on Schedule 1.1(a), wherever held or registered, including all proprietary Software and all assignable licensed Software, and the right to sue and collect damages related thereto for past, present and future infringement of any of the foregoing (collectively, "Business Intellectual Property");

(b) all inventory and supplies at the time of the Closing as set forth on Schedule 1.1(b);

(c) all accounts receivable and rights to payment for services rendered that are current or 90 days or less overdue as of the Closing Date; which shall not be materially different from those summarized on Schedule 1.1(c) (the "Purchased AR")

(d) work in process and executory contracts listed on Schedule 1.1(d) (each an assumed contract, and collectively the "Assumed Contracts"); Buyer reserves the right to delete or add Assumed Contracts to Schedule 1.1(d) at any time on or before the 14th day prior to the 363 Hearing by filing and serving notice thereof to the Seller, United States Trustee, the 20 largest creditors, and any party in interest that requests special notice;

(e) all sales and marketing materials relating to the Purchased Assets;

(f) all billing information and customer lists relating to the Purchased Assets;

(g) all supplier information and supplier lists relating to the Purchased Assets;

(h) all books of account, ledgers, financial, accounting and Tax records and all general and personnel records, files, invoices, customers' and suppliers' lists, marketing lists, other distribution and mailing lists, price lists, reports, plans, advertising materials, sales and marketing materials, catalogues, billing records, sales and promotional literature, manuals, manufacturing, quality and engineering records and customer and supplier correspondence (the "Records") that pertain to the Purchased Assets;

(i) the IT Systems, including without limitation, the equipment listed on Schedule 1.1(e);

(j) Except for those assets described in paragraph 1.2 below, all litigation rights, causes of action, choses in action and rights of action of recovery and counterclaims and setoff and recoupment rights, whether known or unknown and including the proceeds thereof, including without limitation any and all claims, deposits, security deposits and other security, prepayments, prepaid assets, refunds, causes of action, rights of recovery, rights of setoff and rights of recoupment arising from or relating to the Purchased Assets, Intellectual Property, and/or the Purchased AR;

(k) to the extent not included in any of the foregoing, any and all insurance rights relating to the foregoing, but which do not relate to any of the Excluded Assets described in Section 1.2 below, including without limitation the benefit of all pre-paid premiums;

1.2 **Excluded Assets.** Notwithstanding anything to the contrary in this Agreement, the Purchased Assets shall not include any assets excluded by the terms of this Section 1.2 (the "**Excluded Assets**"), such Excluded Assets consisting in their entirety of Seller's and the Bankruptcy Estate's right, title and interest in, to and under the following:

(a) all rights in respect of a judgment in favor of Seller against West Coast Property Consultants, Inc.;

(b) any executory contracts or leases other than the Assumed Contracts (the "**Rejected Contracts**"); and

(c) all rights in respect to a judgment in favor of Seller against Thomas Clark and Alan Thomas; all accounts receivables and rights to payment for services rendered that are more than 90 days overdue as of the Closing Date;

(d) all cash and cash equivalents as of the Closing;

(e) all other assets listed or otherwise described on Schedule 1.2(g), which schedule Buyer shall have the right to update in its discretion at any time within five (5) business days prior to the first date set for the 363 Hearing by written notice to Seller and Seller shall provide such list to all persons and entities that have filed a "Request for Special Notice" in the Bankruptcy Case or have otherwise provided actual notice of their intention to become a qualified bidder at the 363 Hearing; and

(f) any property of the Bankruptcy estate, including, without limitation, litigation rights arising under or related to claims, and choses of action arising under Chapter 5 of the Bankruptcy Code ("Avoidance Action"), which is not specifically included in Section 1.1 above.

ARTICLE 2 LIABILITIES

2.1 **Assumed Liabilities.** Subject to the terms and conditions of this Agreement, at and as of the Closing, Buyer shall assume and agree to pay, perform, discharge and satisfy when due in accordance with their terms only the following liabilities and obligations of Seller and the Bankruptcy Estate all accounts payable of the Seller that arose from or are related to the Assumed Contracts set forth on Schedule 2.1, if and only to the extent such payable directly resulted in a Purchased AR which has been actually collected by Buyer (the "**Assumed Accounts Payable**").

2.2 **Excluded Liabilities.** Except to the extent expressly included in the Assumed Liabilities, and to the maximum extent permitted by law, Buyer shall not assume, and shall have no liability or obligation for any other liabilities of Seller or the Bankruptcy Estate, as a successor in interest or otherwise, including, without limitation, any liability arising out of, or related to, any:

(a) employee or consultant of Seller or the Bankruptcy Estate, including any liability with respect to any key employee retention plans, any liability with respect to or arising from any "employee benefit plan" (as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, as amended), any liability with respect to the Worker Adjustment and Retraining Notification (WARN) Act and any liability with respect to COBRA coverage for employees or consultants of Seller or the Bankruptcy Estate terminated prior to or as part of the consummation of the transactions set forth in this Agreement;

(b) any severance payable to any employee or consultant of Seller or the Bankruptcy Estate;

(c) any costs or expenses incurred in connection with, or related to, the administration of the Bankruptcy Case, including without limitation, any accrued professional fees and expenses of attorneys, accountants, financial advisors and other professional advisors related to the Bankruptcy Case;

(d) liabilities under any warranty, guaranty or other obligation or liability of Seller or the Bankruptcy Estate arising from or relating to any acts or transactions or services performed prior to the Closing Date;

(e) any liabilities or obligations with respect to any judgments, litigation or threatened litigation, claim, obligation, damages, costs and expenses relating to or arising out of or relating to any actions or omissions of, or services performed by, Seller or the Bankruptcy Estate or any use of any of the Purchased Assets prior to the Closing Date, whether arising under contract, tort, civil or criminal law or otherwise;

(f) liabilities for environmental claims, whether arising under contract or statute, including without limitation any and all laws relating to pollution or the environment, including the Comprehensive Environmental Recovery, Compensation, and Liability Act, as amended, 42 U.S.C. § 9601, et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 9601, et seq., the Clean Air Act, 42 U.S.C. § 7401, the Occupational Safety and Health Act, 29 U.S.C. § 600, et seq., and all other laws and regulations relating to emissions, discharges, releases, or threatened releases of pollutants, contaminants, chemicals, pesticides, or industrial, infectious, toxic or hazardous substances or wastes into the environment (including ambient air, surface water, groundwater, land surface or subsurface strata) or otherwise relating to the processing, generation, distribution, use, treatment, storage, disposal, transport, or handling of pollutants, contaminants, chemicals, or industrial, infectious, toxic, or hazardous substances or wastes (collectively, "Environmental Laws");

- (g) all obligations of Seller or the Bankruptcy Estate relating to taxes;
- (h) all liabilities in respect of all indebtedness of Seller or the Bankruptcy Estate;
- (i) any accounts payable of Seller or the Bankruptcy Estate other than the Assumed Accounts Payable;
- (j) liabilities and obligations under the Assumed Contracts accruing, arising out of, or to be performed prior to the effective date of the assignment to Buyer of the Assumed Contracts;
- (k) liabilities and obligations under any real or personal property leases of Seller; and
- (l) any liabilities arising under any and all Excluded Assets (collectively, the "Excluded Liabilities").

ARTICLE 3 PURCHASE PRICE AND CLOSING.

3.1 **Purchase Price.** If, at the conclusion of the auction authorized by the Sale Procedures Order, Buyer is declared the winning bidder for the Purchased Assets, then in consideration of the sale, transfer, conveyance and assignment of the Purchased Assets to Buyer, Buyer shall furnish to Seller for and on account of the Purchased Assets the Purchase Price as defined by this Section 3.1. The purchase price (the "Purchase Price") shall be comprised of the following components:

- (a) cash in the amount of \$300,000 (the "Cash Consideration"); and
- (b) the written assumption by Buyer of the Assumed Contracts authorized by the Sales Order.

3.2 **Closing.** The closing (the "Closing") of the sale and purchase of the Purchased Assets and the assumption of the Assumed Liabilities shall take place within thirty (30) days after the satisfaction or waiver of the conditions to closing set forth in Article 7 herein, by electronic PDF copies or at such other time as may be agreed upon by the parties hereto (the date on which the Closing occurs, the "Closing Date"). The parties agree to use all commercially reasonable efforts to ensure the satisfaction of the conditions set forth in Article 7 so as to enable the parties to effect the Closing on or prior to the later of March 10, 2010, or the 80th day following the execution of this Agreement.

3.3 **Taxes.**

- (a) Any sales, transfer, use or other taxes (collectively, "Transfer Taxes") imposed as a result of sale of the Purchased Assets shall be paid by Seller.

(b) Not later than three business days before the first date set for the 363 Hearing, Buyer shall provide Seller an allocation of the Purchase Price between and among the Purchased Assets and the Assumed Liabilities, which allocation shall be made in a manner required by section 1060 of the Internal Revenue Code of 1986, as amended, and the Treasury regulations promulgated thereunder, and Seller shall provide such allocation to all persons and entities that have filed a "Request for Special Notice" in the Bankruptcy Case, or have otherwise provided to Buyer actual notice of their intention to become a qualified bidder pursuant to the Sale Procedures Order. In addition, it is agreed that such allocation will be binding on Buyer, Seller and the Bankruptcy Estate for federal income tax purposes in connection with the transactions contemplated hereby, and will be consistently reflected by each such party on their respective federal income tax returns. Subject to the other provisions of this Section 3.3(b), the parties agree to prepare and timely file all applicable Internal Revenue Service forms, including Form 8594 (Asset Acquisition Statement), and other governmental forms, to cooperate with each other in the preparation of such forms and to furnish each other with a copy of such forms prepared in draft, within a reasonable period prior to the filing due date thereof.

3.4 **Right to Insurance Proceeds.** Without affecting the rights of Buyer under any other provision of this Agreement, in the event that from and after the date hereof any part of the Purchased Assets is damaged, lost or destroyed (whether by fire, theft, or other casualty event) prior to the Closing, and such damage, loss or destruction is covered by insurance policies in effect, then upon the Closing, Seller shall transfer to Buyer the proceeds (or the right to the proceeds) of any applicable insurance for Purchased Assets so damaged, lost or destroyed which shall be deemed to have been immediately assigned to Buyer simultaneously upon the event causing the damage, loss or destruction. Notwithstanding anything to the contrary herein, should any material portion of the Purchased Assets be damaged, lost or destroyed (whether by fire, theft or other casualty event) prior to the Closing, such that it shall, in the reasonable good faith judgment of Buyer, materially and detrimentally affect Buyer's ability to carry on the Business following the Closing, such loss shall be considered a material breach of this Agreement and Buyer shall be under no obligation to accept any such assignment of proceeds or to close the sale contemplated hereby.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES OF BUYER.

Buyer hereby represents and warrants to Seller as of the date hereof and as of the Closing that all the following statements are true, accurate and correct:

4.1 **Organization.** Buyer is a limited liability company, duly organized, validly existing, and in good standing under the laws of the State of Delaware.

4.2 **Power and Authority.** Buyer has all requisite power and authority to enter into and deliver this Agreement and all other documents that Buyer is required to execute and deliver hereunder and to perform its obligations hereunder, including closing the purchase and sale of the Purchased Assets, on or before the deadlines set forth herein. The signing, delivery and performance by Buyer of this Agreement, and the consummation of all the transactions contemplated hereby, have been duly and validly authorized by Buyer and any governing body

whose permission Buyer must obtain prior to entering into this Agreement or consummating the transactions contemplated hereby. Subject to Seller's representations and warranties in Article 5 herein, this Agreement has been duly and validly executed and delivered by Buyer and constitutes its valid and binding obligation, enforceable against Buyer in accordance with its terms, subject only to the laws relating to bankruptcy, insolvency and relief of debtors, and rules and laws governing specific performance, injunctions, relief and other equitable remedies.

4.3 **Authorization for this Agreement.** Subject only to approval of this Agreement by the Bankruptcy Court, Buyer is not aware of any other authorization, approval, consent of, or filing with any governmental body, department, bureau, agency, public board, authority or other third party, required for the consummation by Buyer of the transactions contemplated by this Agreement, which has not been obtained or made.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF SELLER

Except as set forth in the corresponding section of the disclosure schedule delivered by Seller to Buyer at the execution and delivery of this Agreement (the "Seller Disclosure Schedule") Seller represents and warrants to Buyer as of the date hereof and as of the Closing that all of the following statements are true, accurate and correct:

5.1 **Organization.** Seller is a corporation duly organized, validly existing and in good standing under the laws of the State of California.

5.2 **Power and Authority.** Subject only to approval of this Agreement by the Bankruptcy Court, Seller has full corporate power and authority to enter into and perform its obligations under this Agreement and has obtained all required shareholder approvals without the consent, approval or authorization of, or obligation to notify, any governmental body, department, bureau, agency, public board, authority or Person. Subject to Bankruptcy Court approval, Seller has or will have as of the Closing Date the full right, power, and authority to execute, deliver, and carry out the terms of this Agreement, and has obtained or will obtain prior to the Closing Date all documents and agreements necessary to give effect to the provisions of this Agreement and to consummate the transactions contemplated on the part of Seller hereby. Subject to Buyer's representations and warranties in Article 4 herein, this Agreement and all other agreements and documents executed in connection herewith by Seller, upon entry of the Sale Order which shall constitute a valid and binding obligation of Seller, enforceable in accordance with its terms.

5.3 **No Violation of Laws or Agreements; Consents.** Neither the execution and delivery by Seller of this Agreement, the consummation of the transactions contemplated hereby, nor the compliance with or fulfillment of the terms, conditions or provisions hereof by Seller, with or without the giving of notice or passage of time or both, directly or indirectly:

(a) violates any provision of the bylaws, certificate of incorporation and any shareholder or similar agreement of Seller or any other governing agreements of Seller; or

(b) conflicts with, breaches, constitutes a default or an event of default under any of the terms of, results in the termination, expiration or cancellation of, creates an obligation or adversely affects a right under, requires a notice under, imposes additional obligations or loss of rights under, accelerates the maturity or expiration date of any lease, license, indenture, mortgage, or any other contract relating to a Purchased Asset to which Seller is a party or by which its assets may be bound or affected, including any mortgages and or guarantees to which any individual(s) party to this Agreement has given or made.

5.4 **Finders.** No broker, finder or investment banker retained by or working on behalf of Seller or the Bankruptcy Estate is entitled to any fee or commission from Buyer for services rendered on behalf of Seller or the Bankruptcy Estate in connection with the transactions contemplated by this Agreement.

5.5 **Title.** Seller is the only record, legal or beneficial owner of and has, and/or at Closing will have and will transfer to Buyer, good, marketable, insurable, absolute and transferable title to all the Purchased Assets, free and clear of all Liens.

5.6 **Subsidiaries.** Seller has no direct or indirect equity interest in any other corporation, partnership, joint venture or other entity.

5.7 **Financial Statements.**

(a) (i) the unaudited consolidated balance sheet and income statement as of and for the years ended December 31, 2007 and 2008 for Seller; and (ii) the unaudited consolidated balance sheet and income statement as of and for the period ended May 30, 2009, for Seller (collectively, the "**Financial Statements**") have been previously provided to Buyer, and are available for review as attachments 15 and 16 to Docket Item 18 of the courts electronic file of this case.

(b) The Financial Statements (i) have been derived from the books and records of Seller, (ii) have been prepared in accordance with GAAP on a consistent basis for the indicated period, and (iii) present fairly in all respects the financial condition and results of operation of the entities specified in the Financial Statements at the dates and for the relevant periods indicated (except that the unaudited Financial Statements described above lack any notes thereto and subject to normal year-end adjustments).

5.8 **No Change.** Since May 30, 2009, through the date of this Agreement, there has not been:

(a) any material and adverse change in the financial condition of Seller except as disclosed herein, and papers filed in the Bankruptcy Case;

(b) any material damage to, or destruction, demolition, physical loss or alteration of, any Purchased Asset, whether or not covered by insurance;

(c) any sale, lease or other disposition of any assets of Seller other than for fair value, or any condemnation or expropriation or other taking of any assets used in the business by any governmental body;

(d) any write-offs, write-downs or write-ups of the value of any of the inventory or other assets of Seller outside the ordinary course of business;

(e) any mortgage or pledge of, or any factoring or similar transaction involving, any Purchased Asset;

(f) any creation or assumption of any material indebtedness, except for indebtedness incurred in the ordinary course of business consistent with past practice;

(g) any change in the accounting methods, principles or practices employed by Seller, except as may be required by GAAP;

(h) the making of or any change to a tax election, any material change to a method of tax accounting, a filing of amended tax returns or the settlement, compromise or consent to the entry of judgment with respect to any audit, litigation or similar proceeding relating to taxes; or

(i) any agreement or commitment to do any of the foregoing.

5.9 **Absence of Undisclosed Liabilities.** Neither Seller nor any of its subsidiaries has any liability (whether known or unknown, whether absolute or contingent, or otherwise), except for (a) liabilities set forth on the face of the Financial Statements or (b) liabilities that have arisen since January 1, 2009 other than in the ordinary course of business.

5.10 **Litigation.** There is no litigation, suit, action, arbitration, inquiry, investigation, tax disputes or proceeding pending or threatened, before any court, agency or other, governmental body against Seller (or any corporation or entity affiliated with Seller) which seeks to enjoin or prohibit or otherwise prevent the transactions contemplated hereby. Other than the items as disclosed on Schedule 5.10, no action, decree, injunction, judgment, order, ruling, assessment, writ, arbitration, suit, notice, or legal, administrative or other proceeding before any court or governmental body has been instituted by or against Seller or any of the Purchased Assets that has not been settled or resolved, or, has been threatened against or affects Seller or any of the Purchased Assets.

5.11 **Regulatory Compliance.** The use and operation of the Purchased Assets are in compliance in all respects with all applicable laws, there are no known violations of any such laws, and Seller has not received any written notice from any governmental entity alleging any existing non-compliance with any laws.

5.12 **Taxes.** Except as set forth on Schedule 5.12:

(a) Seller has filed all income, franchise, employment, payroll, sales, use and other tax returns required to be filed by Seller and has paid all taxes due and owing (whether or not shown on any filed tax return).

(b) There are no liens for taxes (other than taxes not yet due and payable) upon any of the assets of Seller.

(c) Seller has withheld and paid all taxes required to have been withheld and paid in connection with amounts paid or owing to any employee, independent contractor, creditor, stockholder or other third party.

(d) The unpaid taxes of Seller (i) did not, as of May 31, 2009, exceed the reserve for tax liability set forth on the face of the Financial Statements and (ii) will not exceed that reserve as adjusted for operations and transactions through the Closing Date in accordance with the past custom and practice of Seller in filing its tax returns.

5.13 **Real Property.** Seller does not own or lease any real property.

5.14 **Environmental Matters.**

(a) Seller has all permits required under Environmental Laws for it to conduct its business as presently conducted and to own and operate the Purchased Assets and related facilities as presently owned and operated (collectively, the "Environmental Permits"). All such Environmental Permits are in full force and effect, and Seller has not received any notice that any suspension or cancellation of any such Environmental Permits is pending or threatened. The Purchased Assets have complied with and are in compliance with all such Environmental Permits and with all Environmental Laws.

(b) Neither Seller nor any of its predecessor(s) or affiliate(s) have received any written or oral notice, report or other information regarding any actual or alleged violation of Environmental Laws, or any liabilities or potential liabilities, including any investigatory, remedial or corrective obligations, relating to the Purchased Assets.

(c) No part of the Purchased Assets is currently known to be contaminated by any hazardous substance in a manner that has given or would give rise to liabilities, including any liability for response costs, corrective action costs, personal injury, property damage, natural resources damages or attorney fees, or any investigatory, corrective or remedial obligations, pursuant to the Environmental Laws.

(d) Seller has made available to Buyer all environmental audits, reports and other environmental documents in its possession relating to the Purchased Assets.

5.15 **Tangible Personal Property.**

(a) Schedule 1.1(b) contains a complete list of all tools and specialized equipment used by Seller for the Business, whether on Seller's premises or held by affiliates or suppliers of Seller, and all such tools and specialized equipment shall be included in the Purchased Assets.

(b) All tangible personal property, including all tools and specialized equipment, included in the Purchased Assets is in good working order (functional wear and tear excepted).

5.16 **Assumed Contracts.**

(a) True and correct copies of each written Assumed Contract (and the descriptions of material terms of any oral Assumed Contracts) have been provided to Buyer.

(b) Each Assumed Contract (i) is a valid and binding obligation of Seller, (ii) to Seller's Knowledge, is a valid and binding obligation of each other party thereto.

(c) Seller is not in breach of any Assumed Contract or default thereunder.

(d) No other party to any Assumed Contract is in breach thereof or default thereunder.

(e) Other than Seller's insolvency, no event or circumstance has occurred that, with notice or lapse of time or both, would be reasonably likely to constitute a breach of an Assumed Contract or a default thereunder by Seller or any other party to such Assumed Contract.

5.17 Intellectual Property.

(a) Seller is the exclusive owner of all right, title and interest in and to the Business Intellectual Property and has a valid written agreement to use all Licensed IP. As set forth on Schedule 5.17(a), the Business Intellectual Property owned by Seller and the Intellectual Property licensed to Seller pursuant to Assumed Contracts constitutes all the Intellectual Property used in or necessary to the Business. Schedule 5.17(a) sets forth a list of all Registered IP, such list including the title, jurisdiction(s) in which each item of the foregoing was or is filed or registered. No Person has asserted, or threatened to assert to Seller any claims (i) contesting the right of Seller in any Business Intellectual Property or Licensed IP, or (ii) challenging the ownership, validity or enforceability of any Business Intellectual Property or Licensed IP.

(b) Schedule 5.17(b) lists (i) all licenses, sublicenses and other agreements to which Seller is a party and pursuant to which any third party is authorized to use, exercise or receive any benefit from the Business Intellectual Property, (ii) all agreements to which Seller is a party and pursuant to which Seller is authorized to use, exercise, or receive any benefit from any Licensed IP, and (iii) all such agreements that require Seller to license, assign or otherwise grant rights to additions, modifications or improvements to Licensed IP made by or for Seller to any third party.

(c) The operation of the Business does not infringe or misappropriate any Intellectual Property of any third party, violate any right to privacy or publicity of any third party or constitute unfair competition or trade practices under applicable laws. Seller has not received written notice from any third party that the operation of its business as currently conducted by Seller infringes or misappropriates the Intellectual Property of any third party, violates any right to privacy or publicity of any third party, or constitutes unfair competition or trade practices under applicable laws.

(d) Seller has not brought any actions or lawsuits alleging (i) infringement of any of the Business Intellectual Property or (ii) breach of any license, sublicense or other agreement authorizing another party to use any Business Intellectual Property, and, to Seller's Knowledge, there does not exist any fact which could reasonably form the basis of any such action or lawsuit.

(e) Seller has taken reasonable steps to protect and preserve the proprietary nature of the Business Intellectual Property.

5.18 **Adequacy of Assets.** Except as set forth on Schedule 5.18, Seller is the exclusive owner or has valid rights to all of the Purchased Assets, including without limitation Intellectual Property, that are used in or necessary for the operation of the Business.

5.19 **Customers and Sales.**

(a) Seller has supplied to Buyer a correct and current list of all its customers. Seller has not received notice from any significant customer that such customer intends to cease doing business with Seller or to substantially reduce its business with Seller.

(b) Seller's standard practice is to sell each product sold and to provide each service provided by Seller in conformity with all applicable contractual commitments, if any, and all express and implied warranties. Except as set forth in Schedule 5.19(b), since January 1, 2006, Seller has not given written notice to any customer of any defect or deficiency with respect to products designed, manufactured, assembled, repaired, maintained, delivered or installed or services rendered by Sellers or others nor has Seller received, during such period, any written notice from any governmental agency of any such defect or deficiency.

(c) Except as set forth on Schedule 5.19(c), from and after September 1, 2006, no third party has advised or threatened Seller that Seller or the Business has any liability arising out of any injury to individuals or property as a result of the ownership, possession or use of any product sold or service provided by Seller or the Business from September 1, 2006, through the Closing Date. Except as set forth on Schedule 5.19(c), the Seller has no records of any such claims having been asserted at any time prior to September 1, 2006.

5.21 **Insurance.**

(a) Schedule 5.20(a) sets forth a complete and accurate list of the policies of insurance currently maintained by, or for the benefit of, Seller (each an "Insurance Policy" and collectively, the "Insurance Policies") with respect to the products, properties, assets and operations of Seller (including, in either case, any policies of insurance maintained for purposes of providing benefits such as workers' compensation and employers' liability coverage). All such Insurance Policies are in full force and effect. All premiums due on such Insurance Policies have been paid, and no written notice of cancellation or termination or intent to cancel has been received by Seller with respect to any of such Insurance Policies. There is no existing default or event that, with the giving of

notice or lapse of time or both, would constitute a default under any Insurance Policy or entitle any insurer to terminate or cancel any Insurance Policy.

Schedule 5.20(b) sets forth a list of all pending claims and the claims history for Seller under the Insurance Policies for the past five years for which the relevant insurance carrier has, as of the date of this Agreement, reserved or paid \$1,000 or more in respect of such claim. There are no pending claims primarily related to the operation of the business of Seller under any of such insurance policies described in the immediately preceding sentence as to which coverage has been questioned, denied or disputed by the insurer or with respect of which the insurer has reserved its rights.

5.22 **Affiliate Transactions.** Except as set forth on Schedule 5.21, there are no agreements, commitments or other transactions between Seller, on the one hand, and any officer, director or stockholder (including Mr. Luhr and Ms. Michaelis) of Seller or any family member of any of the foregoing, on the other hand. Except as set forth on Schedule 5.21, there are no assets used in or necessary for the conduct of the Business which are owned or otherwise under the control of any officer, director, stockholder (including Mr. Luhr and Ms. Michaelis) of Seller or any family member of any of the foregoing.

ARTICLE 6 COVENANTS OF BUYER AND SELLER

6.1 **Bankruptcy Court Approval.**

(a) The approval of the Bankruptcy Court is required for the transactions contemplated by this Agreement to be enforceable. That approval shall be in substantially the form and substance set forth in Exhibit A, attached hereto and incorporated herein by this reference (the "Sale Order").

(b) The parties agree to use all commercially reasonable efforts to ensure the satisfaction of the conditions set forth in Article 7 so as to enable the parties to effect the Closing on or prior to the later of March 10, 2010, or the 80th day following the execution of this Agreement.

6.2 **Cooperation, Due Diligence, Schedules.** Between the date of this Agreement and the Closing, to the extent permitted by law, and the Buyer's execution of a confidentiality and non-disclosure agreement, Seller shall afford the authorized representatives and agents of Buyer (which shall be deemed to include its independent auditors and counsel) reasonable access to and the right to inspect the Purchased Assets and the books and records of Seller relating to the Purchased Assets and the Business, and will furnish Buyer with such additional financial and operating data and other information relating to the Purchased Assets and the Business as Buyer may from time to time reasonably request. Buyer, at Buyer's expense, shall have the right to make a reasonable number of copies of such books, records, financial and operating data and other information of Seller and shall have the right to reasonable access, for itself and its authorized representatives and agents, to the Business locations and Seller's directors, officers, employees, accountants, counsel and authorized representatives, as Buyer considers necessary or appropriate to familiarize itself with the business and operations of the Business, the Purchased

Assets or the Assumed Liabilities. Notwithstanding anything in this Agreement to the contrary, nothing in this Section 6.4, or elsewhere in this Agreement shall require any party to disclose any information that would, or reasonably may, compromise the viability of any attorney/client or attorney work product privilege.

6.3 **[Reserved].**

6.4 **Executory Contracts.**

(a) Subject to the terms and conditions of this Agreement, and in reliance on the representations, warranties and covenants set forth in this Agreement, Seller shall, pursuant to section 365 of the Bankruptcy Code, with the approval and pursuant to order of the Bankruptcy Court, assume and then sell, assign, transfer and convey to Buyer all Assumed Contracts, to the extent executory. Nothing herein shall constitute an admission that any Assumed Contract is an executory contract.

(b) Seller shall be solely and absolutely responsible for any and all monetary cures or other payments required under Bankruptcy Code section 365 to assume and assign the Assumed Contracts to Buyer and without recourse to Buyer or adjustment to the purchase consideration. If Seller is unable to obtain the consent of any party that is necessary to assign any executory contract that is an Assumed Contract notwithstanding the provisions of sections 363(f) and 365(f) of the Bankruptcy Code, then, subject to any right of Buyer hereunder, Seller shall cooperate with Buyer in any reasonable arrangement designed to provide to Buyer the benefits and obligations under any such executory contract, including enforcement of any and all rights of Seller against the other party or parties thereto arising out of the breach or cancellation by such other party or otherwise.

6.5 **Continuing Operations.** Between the date of this Agreement and the Closing, Seller shall operate its business in the ordinary course of business and, without limiting the foregoing, shall make prompt and timely payment of all utility bills.

6.6 **Transfer of Assets.** At or prior to the Closing, Seller shall cause any affiliate (including without limitation Mr. Luhr and Ms. Michaelis) that owns, or has valid rights to use, any of the assets that are used in or necessary for the operation of the Business, to transfer ownership to such assets, or the rights to use such assets, as applicable to Seller, including, without limitation, all Business Intellectual Property (whether issued or pending issue) and Licensed IP.

6.7 **Additionally Requested Documents; Post Closing Assistance.** At the reasonable request of Buyer at Closing and at any time or from time to time thereafter, Seller (or any successor chapter 7 or 11 trustee) shall cooperate with Buyer to put Buyer in actual possession and operating control of the Purchased Assets, execute and deliver such further instruments of sale, conveyance, transfer and assignment, including without limitation endorsement of checks and/or transfer of receipts received by Seller after the Closing, as Buyer may reasonably request in order to effectively sell, convey, transfer and assign the Purchased Assets to Buyer, to execute and deliver such further instruments and to take such other actions as Buyer may reasonably request to release Buyer from all obligation and liability with regard to

any obligation or liability retained by Seller and to execute and deliver such further instruments and to cooperate with Buyer as may be required or reasonably needed to enable Buyer to obtain all necessary regulatory certifications, approvals, consents and licenses, accreditations or permits; provided, however, that Seller shall be reimbursed for its reasonable costs and expenses incurred in assisting Buyer and providing such documents, instruments, endorsements or related information, which additional documents, instruments, endorsements or related information shall be prepared solely by and at the sole expense of Buyer. Should Seller (or any successor chapter 7 or 11 trustee) fail to fulfill or comply with its obligations under this Section 6.9, Buyer shall be permitted to bring a proceeding before the Bankruptcy Court to compel such compliance or to seek an order deeming such instruments duly executed. At the reasonable request of Seller at Closing and at any time, or from time to time thereafter, Buyer shall cooperate with Seller or any successor chapter 7 or 11 trustee to make available for inspection and copying, at Seller's or its trustee's expense, business records of Seller acquired by Buyer which Seller or any successor chapter 7 or 11 trustee may reasonably request. Seller's obligations under this Section 6.9 shall terminate upon the entry of a final decree closing the Bankruptcy Case. After entry of the final decree, Buyer may, at its expense, seek an order of the Bankruptcy Court deeming any documents to be executed and delivered that may be reasonably required to effectively convey, transfer and assign the Purchased Assets to Buyer, or for Buyer to obtain necessary regulatory certifications, approvals, consents and licenses, accreditations or permits, to which order Seller hereby consents

6.8 **Name Change.** Immediately following the Closing, Seller shall change its name from QualityBuilt.com, Inc. to a name or names which are not confusingly similar thereto, and after the Closing, Seller shall not use, directly or indirectly, the name "Quality Built" or any other name which is confusingly similar thereto. Seller shall execute any documentation necessary for Buyer or any of its Affiliates to use such name or any name similar thereto.

6.9 **Accounts Receivable/Collections.** After the Closing, Seller shall promptly deliver to Buyer any cash, checks or other property that it may receive after the Closing in respect of any accounts receivable. From and after the Closing, Seller shall permit, and hereby authorizes, Buyer to collect, in the name of Seller, all accounts receivable of Seller and to endorse with the name of Seller for deposit in Buyer's account any checks or drafts received in payment thereof. Buyer shall on a monthly basis deliver to Seller any accounts receivable relating to services rendered by Seller prior to the Closing which do not constitute Purchased AR.

ARTICLE 7 CONDITIONS TO CLOSING

7.1 **Conditions to Buyer's Obligation to Close.** The obligations of Buyer to effect the Closing hereunder shall be subject to the satisfaction and fulfillment of each of the following conditions, except as Buyer may expressly waive the same in writing:

(a) **Entry of Sale Order.** The Bankruptcy Court shall have approved and entered the Sale Order in substantially the form of Exhibit A with any changes that are reasonably acceptable to Buyer.

(b) Assumed Contracts. For all Assumed Contracts, either (i) the Sale Order shall authorize the assumption and assignment thereof to Buyer to the extent not prohibited by applicable bankruptcy law or (ii) Seller shall have obtained all necessary consents from the non-debtor parties thereto to permit the assumption and assignment thereof to Buyer.

(c) Accuracy of Representations and Warranties on Closing Date. The representations and warranties made by Seller in Article 5 shall be true and correct in all material respects, on and as of the date hereof and on and as of the Closing Date with the same force and effect as though such representations and warranties were made on and as of the Closing Date.

(d) Compliance. Seller shall have complied in all material respects, and shall have fully performed in all material respects, the terms, conditions, covenants and obligations of this Agreement imposed thereon to be performed or complied with by Seller at, or prior to, the Closing.

(e) No Injunction; Absence of Certain Litigation. No preliminary or permanent injunction issued by any court of competent jurisdiction restraining, prohibiting or staying the Sale Order or the transaction contemplated hereby shall be in effect. No court or any other governmental entity shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, or non-appealable judgment which prohibits the consummation of the Closing.

(f) No Reduction in Purchased Assets. No order shall have been entered in the Bankruptcy Case providing for the rejection of any contract or the sale of any asset that would be a Purchased Asset as of the date of this Agreement. Seller shall not have abandoned or otherwise relinquished its or the Bankruptcy Estate's interest in any asset that would be a Purchased Asset as of the date of this Agreement, other than assets disposed of or abandoned in the ordinary course of business consistent with past practice.

(g) Delivery of Assets. Seller shall have delivered and made available to Buyer the Purchased Assets hereunder in accordance with the terms of this Agreement.

(h) Material Adverse Effect. Since the date hereof, no events, circumstances or conditions shall have arisen that have had, or would reasonably be expected to have a Material Adverse Effect

(i) New Lease. Buyer and Seller shall have entered into the Lease substantially in the form attached hereto as Exhibit C.

(j) Employment and Non-Compete Agreements. Buyer and each of Mr. Luhr and Ms. Michaelis shall have entered into employment and non-compete agreements substantially in the form attached hereto as Exhibit D

7.2 Conditions to Seller's Obligation to Close. The obligations of Seller to effect the Closing hereunder shall be subject to the satisfaction and fulfillment of each of the following conditions, except as Seller may expressly waive the same in writing:

(a) Entry of Sale Order. The Bankruptcy Court shall have approved and entered the Sale Order in substantially the form of Exhibit A with any changes that are reasonably acceptable to Buyer.

(b) Accuracy of Representations and Warranties on Closing Date. The representations and warranties made by Buyer in Article 4 herein shall be true and correct in all material respects, on and as of the date hereof and on and as of the Closing Date with the same force and effect as though such representations and warranties were made on and as of the Closing Date.

(c) Compliance. Buyer shall have complied in all material respects with, and shall have fully performed in all material respects, the terms, conditions, covenants and obligations of this Agreement imposed thereon to be performed or complied with by Buyer at, or prior to, the Closing.

(d) No Injunction; Absence of Certain Litigation. No preliminary or permanent injunction issued by any court of competent jurisdiction restraining, prohibiting or staying the Sale Order or the transaction contemplated hereby shall be in effect. No court or any other governmental entity shall have enacted, issued, promulgated, enforced or entered any statute, rule, regulation, or non-appealable judgment which prohibits the consummation of the Closing.

ARTICLE 8 CLOSING DELIVERABLES

8.1 Buyer's Closing Deliverables. At the Closing, Buyer shall deliver to Seller a certificate of an officer of Buyer certifying that the conditions set forth in Sections 7.2(b) and 7.2(d) have been satisfied.

8.2 Seller's Closing Deliverables. At the Closing, Seller shall deliver or cause to be delivered to Buyer, at Seller's expense, the following in a form and substance reasonably satisfactory to Buyer:

(a) Documents Relating to Title. Seller shall execute, acknowledge, deliver and cause to be executed, acknowledged and delivered to Buyer such deeds, bills of sale, assignments and other instruments of conveyance reasonably requested by Buyer to vest in Buyer all of Seller's and the Bankruptcy Estate's right, title and interest in, to and under the Purchased Assets.

(b) Possession. Seller shall deliver full possession and control of the Purchased Assets, free and clear of all Liens of any kind whatsoever, pursuant to the Sale Order.

(c) Third-Party Consents. Any consents, approvals and authorizations of third parties that are necessary, including authorization by the Bankruptcy Court (in form reasonably acceptable to Buyer) for the execution, delivery and consummation of this Agreement.

(d) Closing Certificate. A certificate of an officer of Seller certifying that the conditions set forth in Sections 7.1(i) and 7.1(n) have been satisfied.

ARTICLE 9 INDEMNIFICATION

9.1 Survival. The representations and warranties of the parties in this Agreement and the right to assert a claim under this Article 9 with respect to any such representations and warranties shall expire following the Closing and neither Buyer nor Seller shall have any liability with respect to a breach of any of the representations and warranties of the parties in this Agreement following the Closing.

9.2 Seller's Agreement to Indemnify. If the Closing occurs, subject to the terms of this Article 9, from and after the Closing, Seller shall indemnify and hold harmless Buyer, its affiliates and the officers, directors and employees of any of them (each a "Buyer Indemnified Party" and collectively, the "Buyer Indemnified Parties") from and against all Losses suffered or incurred by the Buyer Indemnified Parties (the "Buyer Damages") as a result of or arising out of any of the following:

- (a) any breach by Seller of, or failure by Seller to perform, any covenant or agreement of Seller contained in this Agreement; or
- (b) the ownership or operation of the Purchased Assets or the Business prior to the Closing Date; or
- (c) the Excluded Assets or the Excluded Liabilities.

Buyer agrees that, from and after the Closing, the indemnification provided by Seller as set forth in this Article 9 is the exclusive remedy of the Buyer Indemnified Parties for a breach by Seller of any representation, warranty, covenant or agreement contained in this, except with respect to Buyer Damages arising from fraud, intentional misstatements or intentional misconduct of Seller.

9.3 Limitations on Sellers' Agreement to Indemnify. The obligations of Seller to indemnify and hold harmless the Buyer Indemnified Parties pursuant to this Article 9 are subject to the following limitations:

- (a) In calculating amounts payable to Buyer, the amount of any indemnified Buyer Damages shall be determined without duplication of any other Buyer Damages for which a claim by any Buyer Indemnified Party has been made.
- (b) Any written notice delivered by a Buyer Indemnified Party to Seller seeking indemnification pursuant to this Agreement with respect to Buyer Damages shall set forth, with as much specificity as is reasonably practicable, the basis of the claim for Buyer Damages, the sections of this Agreement which form the basis for the claim, copies of all material written materials relating to such claim and, to the extent reasonably practicable, a reasonable estimate of the amount of the Buyer Damages that have been or may be sustained by the Buyer Indemnified Party.

9.4 **Buyer's Agreement to Indemnify.** If the Closing occurs, subject to the terms of this Article 9, from and after the Closing, Buyer shall indemnify and hold harmless Seller, its affiliates and the officers, directors and employees of any of them (each a "Seller Indemnified Party" and collectively, the "Seller Indemnified Parties") from and against all Losses suffered or incurred by the Seller Indemnified Parties (collectively, the "Seller Damages") as a result of or arising out of any of the following:

- (a) any breach by Buyer of, or failure by Buyer to perform, any covenant or obligation of such Buyer contained in this Agreement; or
- (b) the Assumed Liabilities.

Seller agrees that, from and after the Closing, the indemnification provided by Buyer as set forth in this Article 9 is the exclusive remedy of the Seller Indemnified Parties for a breach by any Buyer of any representation, warranty, covenant or agreement contained in this Agreement, except with respect to Seller Damages arising from fraud, intentional misstatements or intentional misconduct of any Buyer or its Affiliates.

9.5 **Limitations on Buyer's Agreement to Indemnify.** The obligations of Buyer to indemnify and hold harmless the Seller Indemnified Parties pursuant to this Article 9 are subject to the following limitations:

- (a) In calculating amounts payable to Seller, the amount of any indemnified Seller Damages shall be determined without duplication of any other Seller Damages for which a claim by any Seller Indemnified Party has been made:
- (b) Any written notice delivered by a Seller Indemnified Party to Buyer seeking indemnification pursuant to this Agreement with respect to Seller Damages shall set forth, with as much specificity as is reasonably practicable, the basis of the claim for Seller Damages, the sections of this Agreement which form the basis for the claim, copies of all material written materials relating to such claim and, to the extent reasonably practicable, a reasonable estimate of the amount of the Seller Damages that have been or may be sustained by the Seller Indemnified Party.

9.6 [Reserved]

9.7 **Claims Based on Fraud or Intentional Misrepresentation.** Notwithstanding anything to the contrary contained in this Agreement, nothing shall be deemed to limit any party's rights to recover any or all Losses incurred or suffered by it relating to or arising out of or in connection with fraud or intentional misrepresentation.

ARTICLE 10 MISCELLANEOUS.

10.1 **Termination Prior to Closing.** Notwithstanding anything to the contrary herein, this Agreement and the transactions contemplated by this Agreement may be terminated at any time before the Closing as follows and in no other manner:

- (a) by mutual consent in writing by Buyer and Seller;
- (b) by Buyer, if Buyer is not in material breach of its obligations under this Agreement, at any time prior to the conclusion of 363 Hearing if at such time Buyer is dissatisfied with the results of its due diligence;
- (c) by Buyer, if Buyer is not in material breach of its obligations under this Agreement, at any time after eighty (80) days after the Effective Date, if the 363 Hearing shall not have been concluded by such date;
- (d) by Buyer, if Buyer is not in material breach of its obligations under this Agreement, at any time after sixty (60) days after the Effective Date, if the Sale Order shall not have been entered by such date; and
- (e) by Buyer, if Buyer is not in material breach of its obligations under this Agreement, at any time after sixty (60) days following the entry of the Sale Order, if the Closing shall not have occurred by such date.

Any termination of this Agreement pursuant to this Section 10.1 shall be without liability to the terminating party, subject to the right of any non-breaching party to pursue damages for any breach of this Agreement by the other party.

10.2 **[Reserved]**.

10.3 **Expenses.** Except as set forth in Section 3.3(a) relating to Transfer Taxes, each party shall pay all of its own expenses in connection with the negotiation, execution, and implementation of the transactions contemplated by this Agreement.

10.4 **Hiring of Seller Employees.** On or after the Closing, Buyer may, but shall not be obligated to, hire, in its sole discretion, certain of Seller's employees, provided that Buyer shall have no liability for termination, severance benefits, disability payments, workman's compensation benefits or any other payments on account of or relating to the employment or the termination thereof of any hired employees with respect to any period before the Closing, all of which liability shall be the responsibility solely of Seller.

10.5 **Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be personally delivered or sent by certified or registered United States mail, postage prepaid, or sent by nationally recognized overnight express courier and addressed as follows:

- (a) If to Seller:

QualityBuilt.com, Inc.
Attn: Beth Michaelis
15330 Avenue of Science
San Diego, CA 92120
Tel: 800-547-5125
Fax: 858-451-1022

With a copy to (which shall not constitute notice):

Keehn & Associates
Attn: Scott Keehn
402 West Broadway, Suite 1210
San Diego, CA 92101
Tel: (619) 400-2200
Fax: (619) 400-2201

If to Buyer:

Quality Built, LLC
Attn: Gary H Elzweig
700 Grayhawk Ave
Plantation, FL 33324
Tel: 954-916-8631
Fax: 954-916-8632

With a copy to (which shall not constitute notice):

Proskauer Rose LLP
Attn: Daniel J. Eisner, Esq.
1585 Broadway
New York, NY 10036-8299
Tel: (212) 969-3000
Fax: (212) 969-2900

(b) If to Mr. Luhr:

1091 Singing Ridge Rd
El Cajon, CA 92019
Tel: (619) 253-4624

(c) If to Ms. Michaelis:

141 Granby Way, Unit A

Aurora, CO 80011
Tel: (619) 253-4619

10.6 **Entire Agreement.** This Agreement, including all Exhibits and Schedules hereto (which are incorporated herein by reference) and any agreements to be executed and delivered in connection herewith, together constitute the entire agreement and understanding between the parties and there are no agreements or commitments with respect to the transactions contemplated herein except as set forth in this Agreement. This Agreement supersedes any prior offer, agreement or understanding between the parties with respect to the transactions contemplated hereby.

10.7 **Amendment; Waiver.** Any term or provision of this Agreement may be amended only by a writing signed by Seller and Buyer. The observance of any term or provision of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only by a writing signed by the party to be bound by such waiver. No waiver by a party of any breach of this Agreement will be deemed to constitute a waiver of any other breach or any succeeding breach.

10.8 **No Third-Party Beneficiaries.** Nothing expressed or implied in this Agreement is intended, or shall be construed, to confer upon or to give any person, firm or corporation, other than the parties hereto, any rights or remedies under or by reason of this Agreement.

10.9 **Execution in Counterparts.** For the convenience of the parties, this Agreement may be executed in one or more counterparts and in original or by facsimile, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10.10 **Governing Law.** This Agreement shall be governed by and construed in accordance with the internal laws of the State of California (excluding application of any choice of law doctrines that would make applicable the law of any other state or jurisdiction) and, where appropriate, applicable federal law. The Bankruptcy Court shall have exclusive jurisdiction to enforce and interpret the terms of this Agreement and resolve any disputes and claims with respect thereto.

10.11 **Severability.** If any provision of this Agreement is for any reason and to any extent deemed to be invalid or unenforceable, then such provision shall not be voided but rather shall be enforced to the maximum extent then permissible under then applicable law and so as to reasonably effect the intent of the parties hereto, and the remainder of this Agreement will remain in full force and effect.

10.12 **Attorneys' Fees.** Should any legal proceeding be brought to enforce or interpret any provision of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees to be fixed in amount by the Bankruptcy Court (including, without limitation, costs, expenses and fees on any appeal).

ARTICLE 11 DEFINITIONS

As used in this Agreement, the following terms have the meanings specified in this Article 11.

"**363 Hearing**" Means the hearing conducted by the Bankruptcy Court to authorize and approve the transactions contemplated by this Agreement.

"**Agreement**" has the meaning given that term in the introductory paragraph.

"**Assumed Contract**" and "**Assumed Contracts**" have the meanings given those terms in Section 1.1(d).

"**Assumed Accounts Payable**" has the meaning given that term in Section 2.1(iii).

"Bankruptcy Case" has the meaning given that term in the recitals.

"Bankruptcy Code" mean 11 U.S.C. 101 et seq., as amended.

"Bankruptcy Court" mean the United States Bankruptcy Court for the Southern District of California acting in the Bankruptcy Case.

"Bankruptcy Estate" means the estate, and defined by 11 U.S.C 541, created by the filing of the Bankruptcy Case.

"Business" has the meaning given that term in Section 1.1.

"Business Intellectual Property" has the meaning given that term in Section 1.1(a).

"Cash Consideration" has the meaning given that term in Section 3.1(a).

"Chapter 11" has the meaning given that term in Section 6.1.

"Closing Date" has the meaning given that term in Section 3.2.

"Effective Date" has the meaning given that term in the introductory paragraph.

"Environmental Laws" has the meaning given that term in Section 2.2(f).

"Excluded Assets" has the meaning given that term in Section 1.2.

"Excluded Liabilities" has the meaning given that term in Section 2.2(l).

"Final Order" means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, entered on the docket of the Bankruptcy Case, that has not been reversed, rescinded, stayed, modified or amended, that is in full force in effect, and with respect to which: (a) the time to appeal, seek review or rehearing, or petition for certiorari has expired and not timely filed appeal or petition for review, rehearing, remand or certiorari is pending; (b) any right to appeal, seek review or rehearing, or petition for certiorari has been waived in writing; or (c) any appeal taken or petition for certiorari filed has been resolved by the highest court to which the order or judgment was appealed or from which review, rehearing, or certiorari was sought.

"Financial Statements" has the meaning given that term in Section 5.7(a).

"Indemnification Cap" has the meaning given that term in Section 9.6(b).

"Insurance Policy" and "Insurance Policies" have the meanings given those terms in Section 5.20(a).

"Intellectual Property" means all worldwide intellectual property rights, including, without limitation, the following: (a) all patents and applications therefor, including continuations, divisionals, continuations-in-part, reexaminations or reissues of patent applications and patents issuing thereon; (b) all trademarks, service marks, trade names, service

names, brand names, trade dress rights, logos, Internet domain names and corporate names, together with the goodwill associated with any of the foregoing, and all applications, registrations and renewals thereof; (c) copyrights and registrations and applications therefor, works of authorship, content (including website content) and mask work rights; (d) Know-How; (e) technology; (f) registered domain names and applications for domain name registration; (g) any similar, corresponding or equivalent rights to any of the foregoing; and (h) documentation (written, electronic or otherwise) related to any of the foregoing.

"IT Systems" means the information technology equipment and associated Software used by or held for use by Seller in the conduct of its business as currently conducted, including, without limitation, Seller's telephone and computer network, database and data management systems, excluding any data that does not relate to the Purchased Assets.

"Know-How" means all technology, engineering, and other technical data, protocol, processes (including manufacturing processes), trade secrets, algorithms, formulas, schematics, technical drawings, ideas, know-how and any other information, experience or expertise related to the Business, whether or not confidential.

"Licensed IP" means all third-party Intellectual Property used in the operation of the Business.

"Liens" has the meaning given that term in Section 1.1.

"Losses" means all losses, liabilities, costs, claims, damages, penalties and expenses (including all reasonable attorneys' fees and expenses and costs of investigation, enforcement and litigation).

"Material Adverse Effect" means any event, circumstance, change, effect or development (any such item, an "Effect") that, individually or in the aggregate with any other Effect, is materially adverse to the business, financial condition or results of operations of Seller or to the ability of Seller to perform its obligations under this Agreement.

"Open Source" means any open source, public source or freeware Software that is licensed pursuant to any public or open source license, including any license that purports to require the distribution of or access to source code, or purports to require licensing of other Software combined with such Software, or purports to restrict one's ability to charge for distribution of such Software, including, without limitation, any GNU general public license or any GNU limited general public license.

"Person" means any individual, corporation, partnership, firm, joint venture, association, joint-stock company, limited liability company, limited liability partnership, labor union, trust, unincorporated organization, governmental body or other entity.

"Purchase Price" has the meaning given that term in Section 3.1.

"Purchased Asset" and "Purchased Assets" have the meanings given those terms in Section 1.1.

"Buyer" has the meaning given that term in the introductory paragraph.

"Buyer Damages" has the meaning given that term in Section 9.2.

"Buyer Indemnified Party" and "Buyer Indemnified Parties" have the meanings given those terms in Section 9.2.

"Records" has the meaning given that term in Section 1.1(n).

"Registered IP" means those United States and foreign: (a) patents and patent applications (including provisional applications); (b) registered trademarks, registered service marks, registered tradenames, applications to register trademarks, service marks or tradenames, intent-to-use applications, or other registrations or applications related to trademarks or service marks; (c) registered copyrights and applications for copyright registration; and (d) registered domain names and applications for domain name registrations, in each case Business Intellectual Property.

"Rejected Contracts" have the meaning given that term in Section 1.2(b).

"Sale Order" has the meaning given that term in Section 6.2(a).

"Seller" has the meaning given that term in the introductory paragraph.

"Seller Contract" and "Seller Contracts" have the meanings given those terms in Section 5.16(a).

"Seller Damages" has the meaning given that term in Section 9.4.

"Seller Disclosure Schedule" has the meaning given that term in Article 5.

"Seller Indemnified Party" and "Seller Indemnified Parties" have the meaning given those terms in Section 9.4.

"Seller's Knowledge" means the actual knowledge of Mr. Luhr, Ms. Michaelis and Nancy Correa after due inquiry.

"Software" means any and all (a) computer programs, including any and all software implementations of algorithms, models and methodologies, whether in source code or object code, (b) databases and compilations, including any and all data, collections of data, whether machine readable or otherwise, (c) descriptions, flow charts and other work product used to design, plan, organize and develop any of the foregoing, screens, user interfaces, report formats, firmware, development tools, templates, menus, buttons and icons, and (d) all documentation including user manuals and other training documentation related to any of the foregoing.

"Transfer Taxes" has the meaning given that term in Section 3.3(a).

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, Buyer and Seller executed and delivered this Amended and Restated Asset Purchase Agreement by their duly authorized representatives as of the Effective Date.

SELLER:

QUALITYBUILT.COM

By: Elizabeth R. Michaelis
Name: ELIZABETH R. Michaelis
Its: Secretary/Treasurer

Stan Luhr
STAN LUHR

Elizabeth R. Michaelis
ELIZABETH MICHAELIS

BUYER:

QUALITY BUILT, LLC

By: Gary H. Elzweig
Name: Gary H Elzweig
Its: Managing Member

EXHIBIT A

ROA_00876

CSD 1001A [11/15/04]
Name, Address, Telephone No. & I.D. No.
L. Scott Keehn (SBN 61691)
Leslie F. Keehn (SBN 199153)
KEEHN & ASSOCIATES, APC
402 W. Broadway, Suite 1210
San Diego, California 92101
(619) 400-2200
Attorneys for Debtor-in-Possession Qualitybuilt.com

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA
325 West "F" Street, San Diego, California 92101-6991

In Re

Qualitybuilt.com, a California corporation,

Debtor-in-Possession.

BANKRUPTCY NO. 09-12113-PB11

Date of Hearing:
Time of Hearing:
Name of Judge:

ORDER
(I) AUTHORIZING THE SALE OF SUBSTANTIALLY
ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL
LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (II) AUTHORIZING
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS AND UNEXPIRED LEASES IN CONNECTION THEREWITH
AND RELATED PROCEDURES AND (III) GRANTING RELATED RELIEF

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through _____ with exhibits, if any, for a total of _____ pages, is granted. Motion/Application Docket Entry No. _____

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DATED:

Judge, United States Bankruptcy Court

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

KEEHN & ASSOCIATES, APC
(Firm name)

By: //s// L. Scott Keehn
Attorney for ☒ Movant ☐ Respondent

This matter is coming before the Court on the motion, dated January __, 2010 (the "Sale Motion") (Docket No. []), filed by the above-captioned debtor and Debtor in possession (the "Debtor") for entry of an order (the "Sale Order"), pursuant to sections 105, 363 and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code", Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 2002-1, 6004-1, and 9006-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of California (i) authorizing and approving the entry into, performance under and terms and conditions of First Amended and Restated Asset Purchase Agreement, dated as of December 18, 2009 (collectively with all related agreements, documents or instruments and all exhibits, schedules and addenda to any of the foregoing, the "Purchase Agreement"), substantially in the form attached hereto as Exhibit A, between and among Quality Built, LLC ("Purchaser"), a Delaware limited liability company, and the Debtor, whereby the Debtor has agreed to sell, and the Purchaser has agreed to purchase the "Purchased Assets" (as such term is defined and described in Article 1 of the Purchase Agreement), which Purchased Assets include, without limitation, the Assumed Contracts (as defined in section 1.1 of the Purchase Agreement), all of the Debtor's tangible, intangible and operating assets related to the conduct of the Debtor's (the "Business"), that are defined and described in section 1.1 of the Purchase Agreement; (ii) authorizing and approving the sale by the Debtor of the Purchased Assets, free and clear of liens, claims (as such term is defined by section 101(5) of the Bankruptcy Code), liabilities encumbrances, rights, remedies, restrictions, and interests and encumbrances of any kind of nature whatsoever whether arising before or after the Petition Date, whether at law or in equity, all environmental claims, all change in control provisions, all rights to object or consent to the effectiveness of the transfer of the Purchased Assets to the Purchaser or to be excused from accepting performance by the Purchaser or performing for the benefit of the Purchaser under any Assumed Contract and all rights at law or in equity (collectively, "Claims") (other than certain liabilities that are expressly assumed or created by the Purchaser, as set forth in the Purchase Agreement (collectively, the "Assumed Liabilities")); (iii) authorizing the assumption and assignment to the Purchaser of the Assumed Contracts (collectively, the "Assumed Contracts"); the Court having conducted a hearing on the Sale Motion on [], 2010 (the "Sale Hearing") at which time all interested parties were offered an opportunity to be heard with respect to the Sale Motion and submit over-bids; the Court having reviewed and considered (i) the Sale Motion and the exhibits thereto, (ii) the Purchase Agreement attached hereto as Exhibit A, (iii) all of the pleadings, papers, declarations, and evidence submitted in support of or in opposition to the Sale Order, and (iv) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and it appearing that due notice of the Sale Motion [and the auction conducted at the Sale Hearing (the "Auction")] and the relief requested in the Sale Motion is in the best interests of the Debtor, its estate and creditors and other parties in interest; and upon the record of the Sale Hearing and this case; and after due deliberation thereon; and good and

sufficient cause appearing therefore;

IT IS HEREBY FOUND AND DETERMINED THAT:

THE DEBTOR AND ITS CASES

A. As of the Petition Date and for a period of approximately 60 days before the commencement of these chapter 11 cases, the Debtor worked to try to raise capital or implement a viable transaction that would allow the Debtor to continue operations. Those efforts continued through the execution of the Purchase Agreement on December 18, 2009. The Debtor presented credible evidence that, as of the filing of the Sale Motion, it had explored strategic alternatives for the Business over an extended period of time and had communicated with more than 54 parties about possible sales, mergers, combinations, and alternatives regarding debt or equity capital investments or financing and had prepared standalone business plans in the event that strategic alternatives did not materialize or were insufficient. The Sale Transaction is the result of the Debtor's diligent efforts and is reasonable under the circumstances.

JURISDICTION, FINAL ORDER AND STATUTORY PREDICATES

B. This Court has jurisdiction over the Sale Motion, the Sale Transaction and the Purchase Agreements pursuant to 28 U.S.C. §§ 157 (b)(1) and 1334(a), and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue of this case and the Sale Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. This Sale Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is not just reason for delay in the implementation of this Sale Order, and expressly directs entry of judgment as set forth herein.

D. The statutory predicates for the relief sought in the Sale Motion and granted in this Order include, without limitation, sections 105(a), 363(b), (f) and (m) and 365(a), (b) and (f) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006.

JUDICIAL NOTICE

E. Pursuant to the Federal Rule of Evidence 201(c), incorporated into these proceedings pursuant to Bankruptcy Rule 9017, the Court takes judicial notice of [_____].

SOUND BUSINESS PURPOSE

F. The Debtor seeks to convey the Purchased Assets, all of which are subject to Claims.

G. The Debtor is unable to continue financing its ongoing operations, and in the absence of the relief granted herein, will default on performance of the Assumed Contracts. Those defaults will produce additional claims against the Debtor and its estate. The amount of those claims is credibly projected to be between \$6 – \$7 Million.

The Debtor has not paid post-petition rent for its lease of its principal place of business located at 15330 Avenue of Science, San Diego, California 92120 (the "Real Property"), its landlords are in default on their obligations secured by Real Property. Non-judicial foreclosure proceedings were commenced against the Real Property on or about November 19, 2009. The debt secured by the Real Property is in excess of its appraised value, and the Debtor's landlords (which are two limited liability companies) each of which has a single member. The respective members are Stan Luhr and Elizabeth Michaelis (the Debtor's Shareholders), have no resources with which to cure the defaults on the debt secured by the Real Property, and expect to loose that property to foreclosure in March 2010.

H. The Debtor has demonstrated, and the Purchase Agreement reflects, both (1) good, sufficient and sound business purposed and justifications for immediate approval of the Purchase Agreement and the Sale Transaction, and (2) compelling circumstances for the approval of the Purchase Agreement and the Sale Transaction outside the ordinary course of the Debtor's business pursuant to Section 363(b) of the Bankruptcy Code prior to, and outside of, a plan of reorganization in that, among other things, the Debtor's estate will suffer immediate and irreparable harm due to its inability to continue operations to preserve the going concern value of the business. In light of the risk of deterioration in, and loss of the going concern value of the Purchased Assets pending the proposed Sale Transaction, time is of the essence in (a) consummating the Sale Transaction, (b) preserving the viability of the Debtor's businesses as going concerns and (c) minimizing the adverse economic consequences for the Debtor estate, and its creditors, that would be threatened by protracting the proceeding in this chapter 11 case.

I. The consummation of the Sale Transaction outside of a plan of reorganization pursuant to the Purchase Agreement neither impermissibly restructures the rights of the Debtor's creditor nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtor. The Sale Transaction does not constitute a sub rosa plan of reorganization.

J. Entry of an order approving the Purchase Agreement and all the provisions thereof is a necessary condition precedent to the Purchaser's consummation of the Sale Transaction, as set forth in the Purchase Agreement.

K. The Purchase Agreement was not entered into, and the Debtor, the Purchaser or the Purchasers present at the Sale Hearing or contemplated owners, have not entered into the Purchase Agreement or propose to consummate the Sale Transaction, for the purpose of hindering, delaying or defrauding the Debtor's present or future creditors. Neither the Debtor, the Purchaser nor the Purchasers present at the Sale Hearing or contemplated owners are entering into the Purchase Agreement, or proposing to consummate the Sale Transaction, fraudulently for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia or any other applicable jurisdiction with laws

substantially similar to the foregoing.

HIGHEST AND BEST OFFER

L. The Sale Motion established proposed bidding procedures (the "Bidding Procedures"). The Bidding Procedures provided a full, fair and reasonable opportunity for an entity to make an offer to purchase the Purchased Assets. [Additional findings related to Qualified Bids and Actions, if any.]

M. As demonstrated by the declarations [or testimony] and other evidence proffered or adduced at the Sale Hearing, (1) the Debtor has adequately marketed the Purchased Assets; (2) the consideration provided for in the Purchase Agreement constitutes the highest or otherwise best offer for the Purchased Assets and provides fair and reasonable consideration for the Purchased Assets; (3) the Sale Transaction is fair and reasonable in of respects; (4) the Sale Transaction will provide a greater recovery for and benefit to the Debtor's creditors than would be provided by any other practical available alternative; (5) no other party or group of parties has offered to purchase the Purchased Assets for greater economic value to the Debtor or its estate; (6) the consideration to be paid by the Purchaser under the Purchase Agreement exceeds the liquidation value of the Purchased Assets, net of the resulting breach of contract claims that are likely to follow, if the Purchased Assets are not sold to an entity that can perform Assumed Contracts, and the Assumed Liabilities; and (7) the consideration to be paid by the Purchaser under the Purchase Agreement constitutes reasonably equivalent value and fair consideration (as those terms may be defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the Bankruptcy Code and under the laws of the United States, any state, territory or possession thereof or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to the foregoing. The Debtor's determination that the Purchase Agreement constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtor's business judgment.

BEST INTEREST OF CREDITORS

N. Approval of the Purchase Agreement and the consummation of the Sale Transaction with the Purchaser at this time is in the best interest of the Debtor, its creditors, its estate, and other parties in interest.

DESCRIPTION OF THE PURCHASER AND THE PURCHASER'S GOOD FAITH

O. The Purchaser is a newly formed Delaware limited liability company [or identify successful over-bidders]. The Purchaser [or successful over-bidder] is not an "insider" of the Debtor, as that terms is defined by section 101(31) of the Bankruptcy Code.

P. The Purchase Agreement and each of the transactions contemplated therein were negotiated, proposed and entered into by the Debtor and the Purchaser in good faith, without collusion and from arm's-length bargaining positions. The

Purchaser has proceeded in good faith in all respects in connection with this proceeding, is a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. None of the Debtor, the Purchaser nor the Purchasers present at the Sale Hearing or contemplated owners have engaged in any conduct that would cause or permit the Purchase Agreement or any of the transactions contemplated thereby to be avoided; that would tend to hinder, delay or defraud creditors; or that impose costs and damages under section 363(n) of the Bankruptcy code.

NOTICE OF THE SALE MOTION, [THE AUCTION] AND THE CURE AMOUNTS

Q. As evidenced by the affidavits and certificates of service filed with the Court, in light of the wasting nature of the Debtor's going concern value and based upon the representations of counsel at the Sale Hearing, the Court finds that: (1) proper, timely, adequate and sufficient notice of the Sale Motion, the Bidding Procedures, the Auction, the Sale Hearing has been properly and adequately provided by the Debtor, (2) such notice, and the form and manner thereof, was good, sufficient, reasonable and appropriate under the exigent circumstances prevailing in this chapter 11 case and (3) no other or further notice of the Sale Motion, the Sale Transaction, the Bidding Procedures, the Auction, the Sale Hearing is or shall be required. In light of the need to grant the relief requested in the Sale Motion promptly to avoid any erosion in the going concern value of the Purchased Assets, a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities, including, but not limited to, the following:

- (i) counsel to any official committees formed in this chapter 11 case;
- (ii) all unsatisfied prepetition secured lenders;
- (iii) the Purchaser;
- (iv) parties who, in the past year, have expressed in writing to the Debtor an interest in acquiring the Purchased Assets;
- (v) nondebtor parties (the "Non-Debtor Counterparties") to the Assumed Contracts, and the Assumed Liabilities;
- (vi) all parties who are known or reasonably believed to have asserted a lien, encumbrance, claim or other interest in the Purchased Assets or who are reflected as secured parties in lien searches conducted by the Debtor;
- (vii) the Securities and Exchange commission;
- (viii) the Internal Revenue Service;
- (ix) all applicable state and local taxing authorities;

- (x) the Office of the United States Trustee for the Southern District of California;
- (xi) all parties that filed objections to the Sale Motion;
- (xii) all entities that have requested special notice in this chapter 11 case under Bankruptcy Rule 2002, or otherwise;
- (xiii) any other party identified on the creditor matrix in these cases.

R. With respect to executory contracts or unexpired leases that are designated by the Debtor or Purchaser as Assumed Contracts or Assumed Liabilities, all Non-Debtor Counterparties to such Assumed Contracts, and assumed with the opportunity to object to both the Cure Costs identified in any Assignment Notice delivered to any such Non-Debtor Counterparty and the assumption and assignment of the applicable Assumed Contract (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the Non-Debtor Counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code).

SECTION 363(F) REQUIREMENTS MET FOR FREE AND CLEAR SALE

S. The Debtor may sell the Purchased Assets free and clear of all Claims because, in each case where a Claim is not an Assumed Liability, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. [Additional findings to be conformed to evidence adduced at the Sale Hearing.] The assumption and assignment of each of the Assumed Contracts is also free and clear of all Claims.

T. The Debtor is the sole and lawful owner of the Purchased Assets and no other person has any ownership right title or interest therein.

U. Those holders of Claims who did object fall within one or more of the other subsections of section 363(f) and 365 of the Bankruptcy Code as either (1) the consideration received in exchange for the Purchased Assets is greater than the aggregate value of all liens on the Purchased Assets, (2) there is a bona fide dispute with respect to certain of the Claims asserted by the Debtor's prepetition secured lenders or (3) such holders could be compelled in a legal or equitable proceeding to accept a money satisfaction of their Claims. The transfer of the Purchased Assets to the Purchaser under the Purchase Agreement will be a legal, valid and effective transfer of all the legal, equitable and beneficial right, title and interest in and to the Purchased Assets free and clear of all Claims that are not Assumed Liabilities (including, specifically and without limitation, any professional liability claims, environmental liabilities, employee benefit plans and any successor liability claims). All holders of Claims are adequately protected - and the Sale Transaction thus satisfies section 363(e) of the Bankruptcy Code - by having their Claims, if any, attach to the proceeds of the Sale Transaction ultimately attributable to the property against which they

have a Claim, in the same order of priority and with the same validity, force and effect that such Claim holder had prior to the Sale Transaction, subject to any rights, claims and defenses to the Debtor or its estate, as applicable.

V. The Purchaser would not have entered into the Purchase Agreement and would not consummate the Sale Transaction, thus adversely affecting the Debtor, its estate, creditors, employees, and other parties in interest if the sale of the Purchased Assets was not free and clear of all Claims other than Assumed Contracts and Assumed Liabilities, or if the Purchaser would, or in the future could, be liable for any such Claims, including, without limitation and as applicable, certain liabilities (collectively, the "Excluded Liabilities") that expressly are not assumed by the Purchaser, as set forth in the Purchase Agreement. The Purchaser asserts that it will not consummate the Sale Transaction unless the Purchase Agreement specifically provides and this Court specifically orders that neither the Purchaser, its affiliates, its present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment setoff or otherwise, directly or indirectly, any Claim or Excluded Liability.

W. Without limiting the generality of the foregoing, the Purchase Agreement provides the Debtor with reasonably equivalent value and fair consideration (as those terms are defined in the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and the Bankruptcy Code), and was not entered into for the purpose or, nor does it have the effect of, hindering, delaying or defrauding creditors or any of the Debtor's under any applicable laws. Except for the Assumed Liabilities, the Sale Transaction shall not impose or result in the imposition of any liability or responsibility on Purchaser or its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), and the transfer of the Purchased Assets to the Purchaser does not and will not subject the Purchaser or its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), to any liability for any Claims, including, without limitation for any successor liability or any products liability for the sale of any vehicle by the Debtor or their predecessors or affiliates.

ASSUMPTION AND ASSIGNMENT OF THE ASSUMED CONTRACTS

X. The assumption and assignment of the Assumed Contracts are integral to the Purchase Agreement, are in the best interests of the Debtor and its estate, and represent the reasonable exercise of the Debtor's sound business judgment.

Y. With respect to each of the Assumed Contracts, the Debtor has met all requirements of section 365(b) of the Bankruptcy Code. Further, the Purchaser has provided all necessary adequate assurance of future performance under the Assumed Contracts in satisfaction of sections 365(b) and 365(f) of the Bankruptcy Code. Accordingly, the Assumed Contracts can be assumed by the Debtor and assigned to the Purchaser, as provided for in the Contract Procedures set for in the Bidding Procedures Order, the Sale Motion and the Purchase Agreement. The procedures set forth in the Sale Motion are fair,

appropriate and effective and, upon approval of the assumption and assignment for a particular Assumed Contract thereunder, the Debtor shall be forever released from any and all liability under the Assumed Contract.

VALIDITY OF THE TRANSFER

Z. As of the closing of the Sale Transaction (the "Closing"), the transfer of the Purchased Assets to the Purchaser will be a legal, valid and effective transfer of the Purchased Assets, and will vest the Purchaser with all right, title and interest of the Debtor in and to the Purchased Assets, free and clear of all Claims other than Assumed Liabilities.

AA. With the entry of this Order, the Debtor (1) has full corporate power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtor; (2) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Purchase Agreement; (3) has taken all actions necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the transactions contemplated thereby; and (4) upon entry of this Order, needs no consents or approvals, other than those expressly provided for in the Purchase Agreement, which may be waived by the Purchaser, to consummate such transactions.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

GENERAL PROVISIONS

1. The Sale Motion is granted in its entirety and entry into and performance under and in respect of the Purchase Agreement and the Sale Transaction is approved, as set forth in this Sale Order.

2. The findings of fact set forth above and conclusions of law stated herein shall constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be deemed, and to the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.

3. All objections, if any, to the Sale Motion or the relief requested therein that have not been withdrawn, waived or settled as announced to the Court at the Sale Hearing or any stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits with prejudice, except as expressly provided herein.

APPROVAL OF THE PURCHASE AGREEMENT

4. The Purchase Agreement, all transactions contemplated therein and all of the terms and conditions thereof are hereby approved.

5. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtor is authorized and directed to perform its obligations under and comply with the terms of the Purchase Agreement and consummate the Sale Transaction,

pursuant to and in accordance with the terms and conditions of the Purchase Agreement and this Sale Order.

6. The Debtor, as well as its officers, employees and agents, are authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, the Purchase Agreement, in substantially the same form as the Purchase Agreement attached hereto as Exhibit A, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and to take all further actions and execute such other documents as may be (a) reasonably requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to possession, the Purchased Assets, (b) necessary or appropriate to the performance of the obligations contemplated by the Purchase Agreement, and (c) as may be reasonably requested by Purchaser to implement the Purchase Agreement and consummate the Sale transaction in accordance with the terms thereof, all without further order of the Court.

7. This Sale Order and the Purchase Agreement shall be binding in all respects upon the Purchaser, the Debtor, any trustees appointed in the Debtor's cases (whether under chapter 11 or chapter 7 of the Bankruptcy Code), all creditors (whether known or unknown) of the Debtor, all interested parties and their successors and assigns including, but not limited to, any party asserting a Claim and any Non-Debtor Counterparty to the Assumed Contracts. Nothing contained in any chapter 11 plan confirmed in these bankruptcy cases or the order confirming any such chapter plan shall conflict with or derogate from provision of the Purchase Agreement or this Sale Order, and to the extent of any conflict or derogation between this Sale Order or the Purchase Agreement and such further plan or order, the terms of this Sale Order and the Purchase Agreement shall control to the extent of such conflict or derogation.

8. All amounts, if any, to be paid by the Debtor pursuant to the Purchase Agreement shall constitute administrative expenses pursuant to sections 503(b) and 507(a)(1) of the Bankruptcy Code and shall be due and payable if and when any Debtor's obligations arise under the Purchase Agreement without further order of the Court.

TRANSFER OF PURCHASED ASSETS FREE AND CLEAR

9. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Debtor are authorized and directed to transfer the Purchased Assets in accordance with the terms of the Purchase Agreement. The Purchased Assets shall be transferred to the Purchaser, and upon consummation of the Purchase Agreement, such transfer (a) shall be a valid, legal, binding and effective transfer; (b) shall vest the Purchaser with full right, title and interest of the Debtor in the Purchased Assets; and (c) shall be free and clear of all Claims except for Assumed Liabilities with all such Claims to attach to the net proceeds of the Sale Transaction ultimately attributable to the Purchased Assets against or in which such Claims are asserted, in the order of their priority, with the same validity, force and effect which they now have as against the Purchased Assets, subject to any rights, claims and defenses the Debtor or their estates, as applicable, may possess with respect thereto.

10. Except as otherwise provided in the Purchase Agreement, all persons and entities (and their respective successors and assigns) including, but not limited to, all debt security holder, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders customers, employees, trade creditors, litigation claimants and other creditors, holding Claims (whether legal or equitable, secured or unsecured, known or unknown, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated) except for Assumed Liabilities, arising under or out of, in connection with, or in any relating to, the Debtor, the Purchased Assets, the operation of the Business prior to Closing or the transfer of the Purchased Assets to the Purchaser, are hereby forever barred, estopped and permanently enjoined from asserting such Claims against the Purchaser, its successors or assigns, its property or the Purchased Assets. No such persons or entities shall assert against the Purchaser or their successors in interest any Claim arising from, related to or in connection with the ownership, sale or operation of any Assets prior to the Closing, except for Assumed Liabilities.

11. The Sale Order (a) shall be effective as a determination that, as of Closing (i) no Claims, other than Assumed Liabilities and Assumed Contracts relating to the Purchased Assets, will be assertable against the Purchaser, its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), (ii) have been unconditionally released, discharged and terminated, and (iii) the conveyances described herein have been effected; and (b) is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons and entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

12. All persons or entities in possession of some or all the Purchased Assets that have received notice of the Sale Motion at least 14 days prior to the last session of the Sale Hearing, are directed to surrender possession of such Purchased Assets to the Purchaser or its respective designees at the time of Closing of the Sale Transaction.

13. Following the Closing of the Sale Transaction, no holder of any Claim shall interfere with the Purchaser's title to or use and enjoyment of the Purchased Assets based on or related to any such Claim, or based on any actions the Debtor may take in their chapter 11 cases.

14. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtor to transfer the Purchased Assets to the Purchaser in accordance with the Purchase
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Agreement and this Sale Order.

15. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Purchased Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these chapter 11 cases or the consummation of the Sale Transaction contemplated by the Purchase Agreement.

ASSUMPTION AND ASSIGNMENT OF ASSUMED CONTRACTS

16. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy code, the Debtor's assumption and assignment or other transfer to the Purchaser and all of the Debtor's right, title and interest therein or thereunder of the Assumed Contracts is hereby approved, and all requirements of section 365 of the Bankruptcy Code are hereby deemed satisfied. For the avoidance of doubt, the Debtor shall be deemed to have assumed and assigned each of the Assumed Contracts as of the date of and effective only upon the Closing of the Sale Transaction and, absent such Closing, each of the Assumed Contracts shall neither be deemed assumed nor assigned and shall in all respects be subject to subsequent assumption or rejection by the Debtor under the Bankruptcy Code.

17. The Debtor is hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign, sell and otherwise transfer the Assumed Contracts and all of the Debtor's right, title or interest therein or thereunder to the Purchaser free and clear of all Claims, and to execute and deliver to the Purchaser such documents or other instruments as reasonably may be necessary to assign and transfer the Assumed Contracts to the Purchasers.

18. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the types described in sections 365(e)(I) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer. There shall be no assignment fees, penalties, increases or any other fees charged to the Purchaser or the Debtor as a result of the assumption or assignment of the Assumed Contracts. No Assumed Contract may be terminated, or the rights of any party modified in any respect, including pursuant to any "change of control" clause, by any other party thereto as a result of the transactions contemplated by the Purchase Agreement.

19. [RESERVED]

20. [RESERVED]

21. Each Non-Debtor Counterparty to an Assumed Contract hereby is forever barred, estopped and permanently enjoined from asserting against the Debtor or the Purchaser, their successors or assigns of the property of any of them, any default existing as of the date of the Sale Hearing if such default was not raised or asserted prior to or at the Sale Hearing.

22. The failure of the Debtor or the Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtor's and Purchaser's rights to enforce every term and condition of the Assumed Contracts.

23. Upon the Closing, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtor under the Assumed Contracts.

24. The assignments of each of the Assumed Contracts are made in good faith under sections 363(b) and (m) of the Bankruptcy Code.

ADDITIONAL PROVISIONS

25. The Purchaser has given substantial consideration under the Purchase Agreement for the benefit of the holders of Claims. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential claims of successor liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of any Claims of any kind whatsoever.

26. While the Debtor's bankruptcy case is pending, this Court shall retain jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the Purchase Agreement, all amendments thereto, any waivers and consents thereunder (and of each of the agreements executed in connection therewith in all respects), to adjudicate disputes related to this Sale Order or the Purchase Agreement and to enter any orders under sections 363 and/or 365 of the Bankruptcy Code with respect to the Assumed Contracts.

27. No bulk sales law, or similar law of any state or other jurisdiction, shall apply in any way to the transactions contemplated by the Purchase Agreement, the Sale Motion and this Sale Order.

28. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction (including the assumption and assignment of the Assumed Contracts), unless such authorization is duly stayed pending such appeal.

29. The consideration provided by the Purchaser of the Purchased Assets constitutes reasonably equivalent value and fair consideration (as those terms may be defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the Bankruptcy Code and under the laws of the United States, any state, territory or possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

30. The Sale Transaction may not be avoided under section 365(n) of the Bankruptcy Code.

31. The terms and provisions of the Purchase Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtor, its estate, its creditors, the Purchaser, the respective affiliates, successors and assigns of each, and any affected third parties including, but not limited to, all persons asserting claims in the Purchased Assets to be sold to the Purchaser pursuant to the Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s), examiner(s) or receiver(s) under any chapter of the Bankruptcy Code or any other law, and all such provision and terms shall likewise be binding on such trustee(s), examiner(s) or receiver(s) and shall not be subject to rejection or avoidance by the Debtor, its estate, its creditors, their shareholders or any trustee(s), examiner(s), or receiver(s).

32. The failure specifically to include any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement and its exhibits and ancillary documents be authorized and approved in their entirety.

33. The Purchase Agreement may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplemental does not materially change the terms of the Purchase Agreement.

34. As provided by Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedures, this Sale order shall not be stayed for 10 days after its entry and shall be effective immediately upon entry, and the Debtor and the Purchaser are authorized to close and the Sale Transaction immediately upon entry of this Sale Order. Any party objecting to this Sale Order must exercise due diligence in filing and appeal and pursuing a stay or risk its appeal being foreclosed as moot in the event Purchaser and Debtor elect to close prior to this Sale Order becoming a Final Order.

35. Buyer shall have no obligations under any liabilities of Seller or the Bankruptcy Estate other than the Assumed Liabilities, the Assumed Contracts, and its obligations under this Agreement.

36. This Court retains jurisdiction to interpret, implement and enforce the terms and provisions of this Order including to compel delivery of the Purchased Assets, to protect the Purchaser against any Claims and to enter any orders under sections 363 or 365 to transfer the Purchased Assets and Assumed Contracts to the Purchaser.

Dated: _____, 20__

UNITED STATES BANKRUPTCY JUDGE

[Approvals as to Form as Necessary]

EXHIBIT B

OFFICE LEASE AGREEMENT

This lease ("Lease") is entered into this _____ day of _____, by and between Elizabeth Michaelis and Stanley Luhr, as Joint Tenants ("Landlord") and Quality Built, LLC, a Delaware limited liability company ("Tenant").

(1) Authority.

(a) Landlord represents that Elizabeth Michaelis and Stanley Luhr are joint tenants of the Premises identified herein and that Landlord has authority to enter into this Lease.

(b) Tenant represents that it has authority to enter into this Lease and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment pursuant to this Lease.

(2) Premises.

(a) Landlord leases to Tenant and Tenant leases from Landlord upon terms and conditions set forth herein approximately 6,086 square feet of office space located on the first floor of an office building as shown in the diagram attached hereto as Exhibit "A", located at 14406 East Evans Ave., Aurora, CO 80014, commonly known as the East Evans Avenue building ("Building") and legally described as:

(Legal Description)

Lot 17, Block 1, Business Commons at Southeast Commons Subdivision Filing No. 1, Arapahoe County, Colorado.

Together with all easements appurtenant thereto as granted pursuant to the Declaration of Protective Covenants for Business Commons at Southeast Commons, recorded on December 10, 1982 in Book 3759 at Page 645 of the records of Arapahoe County, Colorado (the "Declarant");

And together with an undivided 9.846 interest in and to Tract A, Block 1, Business Commons at Southeast Commons Subdivision Filing No. 1, Arapahoe County, Colorado;

Subject, however, to all of the terms and conditions contained in the Declaration.

County of Arapahoe, State of Colorado

together with any improvements, rights-of-way, easements and any other rights, if any, appurtenant thereto (collectively "Premises"). Premises shall be delivered to Tenant on Lease Date in an "As-Is" condition, and Tenant shall take possession only after fulfilling all inspections and approving the condition of the property.

(3) Term of Lease.

(a) Term. The term of this Lease shall be for one year and shall begin _____ ("Commencement Date") and shall extend through _____, unless terminated sooner as provided herein ("Termination Date").

(b) Acknowledgment of Commencement Date. In the event the Commencement Date of this Lease is other than as set forth above, Landlord and Tenant shall execute a written acknowledgment of the Commencement Date which shall be attached to this Lease as Exhibit "C".

(c) Delay in Possession. Notwithstanding the Commencement Date, if for any reason Landlord cannot deliver possession of the Premises to Tenant on said date, Landlord shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder or extend the term hereof, but in such case, Tenant shall not be obligated to pay rent or perform any other obligation of Tenant under the terms of this Lease, except as may be otherwise provided in this Lease, until possession of the Premises is tendered to Tenant; provided, however, that if Landlord shall not have delivered possession of the Premises within sixty (60) days from the Commencement Date, Tenant may, at Tenant's option, by notice in writing to Landlord within ten (10) days thereafter, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder; provided further, however, that if such written notice of Tenant is not received by Landlord within said ten (10) day period, Tenant's right to cancel this Lease hereunder shall terminate and be of no further force or effect.

(d) Early Possession. If Tenant occupies the Premises prior to the Commencement Date, such occupancy shall be subject to all provisions of this Lease; such occupancy shall not advance the Termination Date; and Tenant shall pay rent for such period at the initial monthly rates, prorated, set forth below.

(4) Rental.

(a) Base Rent. Tenant agrees to pay to Landlord as Base Rent monthly the sum of \$8,333.00, payable in advance and without notice in equal installments on the first day of each month during said term at the following address: 14406 East Evans Ave., Aurora, CO 80014 (or at such other address as Landlord may designate in writing from time to time) without any set-off or deduction whatsoever. Said payments shall be in lawful money (except coins) of the United States, which shall be legal tender in payment of all debts and dues, public or private, at the time of payment. If the Commencement Date is on a day other than the first day of a calendar month, Tenant shall pay to Landlord the rental for the number of days that exist prior to the first day of the succeeding month, with a similar adjustment being made on the Termination Date if necessary. This lease is intended to be a gross lease and therefore, Tenant will have no expenses under this Lease except base rent.

(b) In addition to the Base Rent Tenant shall also pay to the Landlord the monthly Owners Association fees payable to the Business Commons at Southeast Commons Owners Association, which as of the Commencement Date are \$1,479.00 per month. In the event the Owners Association Fees are increased during the term of this Lease, such increase shall be paid by Tenant as additional rent in accordance with paragraph 7. Tenant shall not be responsible to pay to the Landlord the monthly Owners Association Fee.

(c) In addition to the Base Rent Tenant shall also be responsible for cost of commercial property insurance, the cost of which is estimated at \$4,926.00 per year based on the 2008 premium. In the event insurance premiums are increased for any reason during the term of this Lease, such increase shall be paid by Tenant. Tenant shall not be responsible for the cost of commercial property insurance.

(d) Base Rent shall not include all Tax Costs on the Premises occupied by the Tenant during the term of the Lease and any extensions thereof. "Tax Costs" shall mean any and all general and special real estate taxes and assessments and other similar charges on real property (both land and improvements) or other charges assessed, levied, imposed or being a lien upon the land or improvements and any and all personal property taxes or other similar charges on personal property owned by Landlord and used in connection with the operation of the Building.

(e) The Base Rent after adjustments are made as provided herein shall be subject to an increase of three percent (3%) annually coinciding with the one year anniversary of the Commencement Date provided the term is extended.

(5) ~~Security Deposit.~~ Concurrently with the execution of this Lease, Tenant shall deposit with Landlord and will keep on deposit at all times during the primary term of this Lease (and any extension thereof), the sum of \$0 ("Security Deposit") the receipt of which is hereby acknowledged, as security for the faithful performance of all the terms, conditions and covenants of this Lease. If, at any time during the primary term of this Lease (or any extension thereof), Tenant shall be in default in the performance of any of the provisions of this Lease, Landlord shall have the right but not the obligation to use the Security Deposit, or as much thereof as Landlord may deem necessary, to cure, correct or remedy any such default. Tenant, upon written notification thereof, shall pay to Landlord any and all such expenditure or expenditures so that Landlord will at all times have the full amount of the Security Deposit as security. The Security Deposit and application thereof shall not be considered as liquidated damages in the event of breach but only as an application toward actual damages. Within thirty (30) calendar days from the termination of this Lease in any manner, if Tenant is not in default, the Security Deposit or so much thereof as has not been lawfully expended by Landlord, shall be returned to Tenant, without interest. In the event of a sale of the Premises by Landlord and upon transfer of the Security Deposit to the new owner, Landlord shall be released by Tenant from all liability for the return of the Security Deposit. The provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a new owner.

(6) Use of Premises. Tenant shall have the right to use and occupy the Premises for general office purposes. Any other lawful use shall be permitted only with the prior written consent of Landlord, which consent shall not be unreasonably withheld. Throughout the primary term of this Lease (and any extension thereof), Tenant, at Tenant's sole cost and expense, covenants to promptly comply with all laws and ordinances and the orders, rules, regulations and requirements of all federal, state and municipal governments and appropriate departments, commissions, boards and officers thereof. Tenant accepts the Premises subject to all zoning ordinances and regulations pertaining to the Premises, without responsibility or warranty by Landlord, and further Tenant accepts the Premises subject to easements, rights-of-way, restrictive covenants and reservations of record.

(7) Building Operating Costs - Additional Rent.

(a) The parties acknowledge and agree that the Base Rent in paragraph 4 is net to Landlord and as such Tenant agrees to pay as additional rent all other ~~Building Operating Costs,~~ which shall include without limitation the following:

(i) Monthly Owners Association fees payable to the Business Commons at Southeast Commons Owners Association as provided in paragraph 4(b);

(ii) Insurance premiums as provided in paragraph 4(e); and

(iii) "Operating Costs", which shall mean any and all expenses incurred by Landlord in connection with the maintenance, operation, upkeep and repair of the Building including the equipment, adjacent walks, malls and landscaped areas, including but not limited to all salaries, wages, health and welfare benefits, payroll taxes, social security, and workers' compensation for employees of Landlord engaged in the operation, maintenance and repair of the Building; the costs of all charges for electricity, steam and water or other utilities furnished to the Building, including any taxes thereon; the costs of all charges for insurance of all kinds; the costs of building and cleaning supplies and materials and charges for telephone; the costs of all charges for cleaning, maintenance and service contracts and other services with independent contractors; salaries of building superintendents and assistants; management commissions and reasonable allowance for management services and overhead expenses, bookkeeping, accounting and legal expenses; and all other costs and expenses reasonably necessary in the operation and maintenance of a first class office building. Operating Costs shall specifically include a reasonable reserve for the repair, maintenance, operation and replacement of capital items such as amortization of capital improvements. At the present time, the amount being reserved by Landlord is \$ 0.

(b) The term "Lease Year" shall mean the period of twelve (12) months or more beginning with the Commencement Date and each successive period of twelve (12) months thereafter during the term, and the final period of twelve (12) months or less preceding the Expiration Date.

(c) ~~Calculation of Additional Rent.~~ At the end of each Lease Year, the monthly rental [as set forth in paragraph 4 hereof] being paid by Tenant immediately prior thereto (including all prior adjustments pursuant to this paragraph or pursuant to any other provision of this Lease) shall be adjusted for the subsequent Lease Year. Landlord shall, as soon as practicable after the end of each Lease Year, furnish to Tenant a written statement ("Statement") showing in reasonable detail the Building Operating Costs for the preceding Lease Year. The Statement shall indicate the difference, if any, between the estimated Building Operating Costs and the actual Building Operating Costs for the Lease Year immediately preceding and the estimated proportionate increase or decrease for the current Lease Year. On the monthly rental payment next following Tenant's receipt of the Statement, Tenant shall pay to Landlord the difference, if any, between the estimated Building Operating Costs for the current Lease Year as reflected in the Statement and the amounts previously paid by Tenant to Landlord during the current Lease Year. In the event Landlord's actual Building Operating Costs are less than the estimated Building Operating Costs for the Lease Year, Tenant shall be entitled to take as a credit the amount overpaid by Tenant to Landlord against the additional rental payment described above. Any such increase shall be paid as additional rent or any such decrease shall be paid as a credit in monthly installments for the subsequent Lease Year.

(d) Tenant shall also pay to Landlord, within 5 calendar days after the same shall be payable by Landlord and as additional rent for the Lease Year in which the same shall be so payable, an amount equal to 100 % of any assessment or installment thereof for public betterments or improvements which is not deductible from any condemnation award. Landlord shall take the benefit of the provisions of any statute or ordinance permitting any such assessment to be paid over a period of time, and Tenant shall be obligated only to pay the said percentage of the installments of any such assessments which may become due and payable during the primary term of this Lease (or any extension thereof).

(e) If the first or final Lease Year contains less than twelve (12) months, Tenant's obligation for the additional rent payable under this provision for such Lease Year shall survive the Termination Date and shall be adjusted accordingly.

(8) Insurance. During the primary term of this Lease (and any extension thereof), Tenant shall carry and maintain the following types of insurance in the amounts specified, at Tenant's sole cost and expense, and for the mutual benefit of Landlord and Tenant:

(a) All-Risk Insurance. In the name of Landlord, Tenant shall keep all improvements located on or appurtenant to the Premises insured against loss or damage by fire and such other perils as are now or hereafter included in a standard "All Risk" policy in common use for commercial structures, including vandalism and malicious mischief. The amount of the All-Risk insurance shall be equal to one hundred percent (100%) of the then actual replacement cost of the existing improvements, including the value of any leasehold improvements or betterments but excluding costs of replacing excavations and foundations but without deductions for depreciation. Landlord may, on each anniversary date of this Lease, request the carrier of the insurance (or the agent for the carrier) to determine the amount of insurance required by the provisions of this paragraph, and the resulting determination shall be conclusive between the parties. Upon Landlord's request, Tenant shall include the holder of any mortgage encumbering the Premises by virtue of a standard mortgagee's clause to the extent of the mortgage interest. In addition to the insurance set forth above, Tenant shall provide Rental Income Insurance (loss of rents insurance) in the name of Landlord in an amount sufficient to cover the full annual rent as well as all other payments which are the responsibility of Tenant under the terms and conditions of this Lease. Further, Tenant shall provide a separate policy covering boiler explosion, together with Rental Income Insurance resulting from a boiler explosion. In lieu of Tenant acquiring the insurance as set forth above, Landlord shall have the exclusive right to purchase the insurance required by the provisions of this paragraph in Landlord's name and to forward Tenant a bill for the premium of such insurance. Tenant shall pay said bill within ten (10) calendar days after receipt of the same.

(b) Liability Insurance. Tenant shall at all times keep in force a comprehensive general combined liability insurance policy providing protection of at least \$1,000,000 500,000 combined single limit (with no deductible) against claim and liability for personal injury, bodily injury, death and property damage arising from the use, ownership, maintenance, disuse or condition of the Premises, any improvements located on or appurtenant to the Premises, improvements or adjoining areas or ways. Landlord shall be named and protected under the terms and conditions of said policy as Landlord of the Premises.

(c) Workmen's Compensation. Tenant shall also purchase Workmen's Compensation Insurance in compliance with all state, federal and other governmental laws, rules and regulations.

(d) Personal Property. Tenant shall be responsible for insuring any and all personal property that may be owned by Tenant. Any insurance that may be purchased pursuant to this paragraph and any proceeds that may be payable as a result of a loss under any such insurance shall in no way reduce, alter, diminish or modify any provisions of this Lease and specifically the indemnity provisions hereof.

(e) Waiver of Subrogation. The parties agree that all insurance policies obtained pursuant to this Lease shall include a clause or endorsement which shall waive the right of subrogation on the part of the insurance carrier against both Landlord and Tenant. Landlord and Tenant hereby release the other from any and all liability or responsibility to the other or anyone claiming through or under them by way of subrogation.

(f) Miscellaneous. All insurance by virtue of this Lease shall be written with an insurance company licensed to do business within the State of Colorado and approved by Landlord (which approval shall not be unreasonably withheld), with such policies to be nonassessable. Tenant shall provide Landlord with a full and complete copy of the original insurance policies and a Certificate of Insurance (with proof of payment thereon), which shall provide that the insuring company shall give notice in writing to Landlord within thirty (30) calendar days prior to cancellation, termination or, in the event of a material change in such insurance, for any reason whatsoever. An endorsement shall provide that any proceeds (except liability insurance proceeds) of any loss shall be payable to Landlord and Tenant as their respective interests may appear, except that in the event Landlord purchases the All Risk insurance, then any loss shall be payable to Landlord. Such insurance policies shall name Landlord as an additionally insured to the policy.

(9) Assignment and Subletting. This Lease or any interest herein may not be assigned by Tenant, voluntarily or involuntarily, by operation of law or otherwise, and all or any part of the Premises shall not be subleased by Tenant without the prior written consent of Landlord, which consent shall not be unreasonably withheld. A merger, consolidation, sale of substantially all of the assets or sale of a substantial amount of the stock of Tenant or a transfer of a substantial partnership interest of Tenant, shall not constitute an assignment of this Lease for the purposes of this paragraph. Any consent to assignment or subletting given by Landlord shall not constitute a waiver of necessity for such consent to a subsequent assignment or subletting. Notwithstanding any assignment or sublease, Tenant shall remain fully liable under the terms and conditions of this Lease and shall not be released from performing any of the terms, covenants and conditions hereof. Any assignee or subtenant (in addition to Tenant) shall be personally responsible for all payments, conditions, covenants and agreements in this Lease. Any assignment or subletting in violation of this paragraph shall be null and void.

(10) Building Services.

(a) Utilities. Tenant shall be fully responsible for their share of payment of all building utilities, including telephone, internet, water, sewer, electricity and gas. Tenant shall, prior to taking possession of the property, contact all such utilities and be solely responsible for ensuring utilities are operational and billing is transferred to Tenant. Should for any reason such transfer not take place, Landlord shall charge Tenant the full price for all such utility costs until such time as all utilities are transferred.

(b) Building Components. Landlord shall only be responsible for maintenance and repairs to the roof, foundation and exterior structural components of the Building, provided that the need for any such repairs is not caused by the Tenant, its agents, employees, contractors or invitees, in which event Tenant shall reimburse Landlord for the cost and expense of making such repairs. Tenant shall be fully responsible for the care, maintenance and replacement of all other building components, including but not limited to HVAC, plumbing, electrical, interiors, windows, and communication systems, for the term of the Lease. Prior to the expiration or other termination of this Lease, should any building component be inoperative or non-functional in any manner, Tenant shall cause same to be repaired and/or replaced promptly before the Premises are returned to Landlord at Tenant's sole cost and expense. Tenant shall be responsible for all repairs of the Premises, such that the Premises are returned to the same condition as they existed upon execution of this Lease. Tenant is only responsible for damaged caused by Tenant ordinary wear and tear excepted.

(c) Nonliability. Landlord shall not be liable for, and Tenant shall not be entitled to any remedy, including but not limited to an abatement or reduction of rental or any self-help remedies, by reason of Landlord's failure to furnish any of the foregoing, nor shall such failure constitute an eviction, when such failure is caused by accident, breakage, repairs, strikes, lockouts or other labor disturbances or labor disputes of any character, riots, civil disturbance or by any other cause, similar or dissimilar, beyond the control of Landlord. Landlord shall not be liable under any circumstances for loss of or injury to property, however occurring, through or in connection with or incidental to failure to furnish any of the foregoing or any loss or damage caused to the Premises or Tenant's equipment caused by power outages, power surges or any other like event.

(11) Inspection of Premises. Tenant or any designee, at Tenant's sole cost and expense, shall have the right to inspect the physical conditions of the Premises, including but not limited to an inspection of the roof, walls, structural integrity, electrical, plumbing, HVAC or other mechanical systems of the Premises and a determination of the existence or nonexistence of asbestos, lead-based paint and urea formaldehyde insulation, PCB transformers, radon gas, hazardous or toxic substances, and/or underground storage tanks in or on the Premises. If Tenant is not satisfied with the results of said inspection and written notice thereof is received by Landlord more than five (5) calendar days prior to the Commencement Date then this Lease shall become null and void, the Security Deposit receipted for herein (if any) returned to Tenant, and all parties hereto relieved from any further obligation hereunder. If said notice is not received by Landlord on or before the date set forth above, this provision shall be waived and the Lease shall remain in full force and effect.

(12) Indemnity Provisions. Tenant and Landlord agree to exonerate, hold harmless, protect and indemnify each other from and against any and all losses, damages, claims, suits or actions, judgments and costs which may arise during the primary term of this Lease (or any extension thereof) for personal injury, loss of life or loss or damage to any property sustained in or about the Premises or the Building resulting from, or arising, directly or indirectly, out of the use or occupancy of the Premises; and from and against all costs, counsel fees, expenses and liabilities incurred in any such claims, the investigation thereof or the defense of any action or proceeding brought thereon; and from and against any judgments, orders, decrees or liens resulting from such matters and any fines levied by any authority for violation of any law, regulation or ordinance by virtue of the ownership and/or use of the Building and the Premises. Landlord shall not be liable for any loss or damage to persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water or rain which may leak from any part of the Premises or from the pipes, appliances or plumbing works therein or from the roof, street or subsurface or from any other places resulting from dampness or any other cause whatsoever, except personal injury caused by or due to the gross negligence of Landlord. Landlord shall not be liable for interference with the gas and/or electrical service, heating/air conditioning, or for any defect, latent or otherwise, in the Premises. Tenant shall give prompt notice to Landlord in case of fire or other casualty or accidents in the Premises. Tenant shall not permit any mechanic's or material men's liens to be filed against the Premises and hereby indemnifies and holds Landlord harmless from and against any liability, damage, expense or cost which may be incurred by Landlord in connection with any mechanic's or material men's liens which may be filed against the Premises as a result of the provisions of this Lease. This indemnity shall specifically include attorneys' fees and any costs incurred by Landlord to enforce this indemnity.

(13) Occupational Safety and Health Act. Tenant shall fully comply with all federal, state and local codes, statutes, laws and ordinances ("Law"). Tenant shall be responsible to make any and all repairs and alterations to the structural and nonstructural components of the Premises (subject to the terms and provisions of this Lease) to any appurtenances situated upon the Premises that may be required of the Landlord as a result of the Law in effect at the time of mutual execution of this Lease or which hereafter shall be enacted.

(14) ADA Compliance.

(a) Disclosure. Tenant hereby acknowledges that the Premises and Tenant may be subject to the Americans With Disabilities Act (the "ADA"), a Federal law. Among other requirements of the ADA that could apply to the Premises, Title III of the ADA requires owners and tenants of "public accommodations" to remove barriers to allow access by disabled persons and provide auxiliary aids and services for hearing, vision or speech impaired persons by certain dates. All costs incurred by Tenant or Landlord during the primary term of this Lease (and any extension thereof) to ensure Tenant's compliance with the ADA, including necessary alterations in or about the Premises or modifications to the access to the Building and the Premises, shall be at Landlord's sole cost and expense unless Tenant has agreed, in writing, to pay for a portion of said costs.

(b) Investigation. ~~Tenant further acknowledges that, prior to executing this Lease, Tenant may investigate the ADA and the regulations thereunder to determine if the ADA law and regulations would apply to Tenant and/or to the Premises in which Tenant is interested in occupying. Tenant shall be responsible, at Tenant's expense, for conducting its own independent investigation of all ADA issues prior to the Commencement Date of this Lease and during the primary term of this Lease (and any extension thereof).~~

(15) Hazardous Materials. Tenant shall not (either with or without negligence) cause the escape, disposal or release of any biologically or chemically active or other hazardous substances or materials ("Hazardous Materials"). Tenant shall not allow the storage or use of such Hazardous Materials in any manner not sanctioned by law or by the highest standards prevailing in the industry for the storage and use of Hazardous Materials, nor allow to be brought into the Premises any Hazardous Materials except to use in the ordinary course of Tenant's business, and then only after written notice is given to Landlord of the identity of such Hazardous Materials. Without limitation, Hazardous Materials shall include those described in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 USC Section 9601 et seq., the Resource Conservation and Recovery Act, as amended, 42 USC Section 6901 et seq., and applicable state or local laws and the regulations adopted under these acts. If any lender or governmental agency shall ever require testing to ascertain whether or not there has been any release of Hazardous Materials, then the reasonable cost of testing and resulting cleanup thereof shall be reimbursed by Tenant to Landlord upon demand as additional charges if such requirement applies to the Premises, provided that such testing proves that Tenant released such Hazardous Materials on the Premises. In addition, Tenant shall execute affidavits, representations and the like from time to time at Landlord's request concerning Tenant's best knowledge and belief regarding the presence of Hazardous Materials on the Premises. In all events, Tenant shall indemnify Landlord in the manner elsewhere provided in this Lease from any release of Hazardous Materials on the Premises occurring while Tenant is in possession or elsewhere if caused by Tenant or persons acting under Tenant.

(16) Alterations to Premises.

(a) Tenant's Obligations. Tenant shall keep the Premises in good condition and repair and the Premises shall not be altered, repaired or changed without the prior written consent of Landlord. Tenant shall keep the Premises and Building free and clear of any liens and shall indemnify, hold harmless and defend Landlord from any liens and encumbrances arising out of any work performed or materials furnished by or at the direction of Tenant. In the event any lien is filed, Tenant shall do all acts necessary to discharge any lien within ten (10) calendar days of filing, or if Tenant desires to contest any lien, then Tenant shall deposit with Landlord such security as Landlord shall demand to insure the payment of the lien claim.

(b) Alterations to Premises. Unless otherwise provided by written agreement, all alterations, improvements and changes that may be required shall be done either by or under the direction of Landlord but at the cost of Tenant. Landlord may, at Landlord's sole option, impose any reasonable conditions to such alterations consistent with Landlord's management of the Building.

(c) Workmen's Compensation Insurance. At all times when any change or alteration is in progress, Tenant shall maintain, at Tenant's sole cost and expense, Workmen's Compensation insurance in accordance with the law or laws now or hereafter enacted governing all persons employed in connection with the change or alteration and general liability insurance for the mutual benefit of Landlord and Tenant, expressly covering the additional hazards due to the change or alteration.

(17) Condemnation. In the event the Building, or any part thereof, shall be taken by any exercise of the right of eminent domain or by action of any public or other authority during the primary term of this Lease (or any extension thereof), this Lease shall terminate at the election of Landlord. If Landlord elects not to terminate this Lease, then the rental shall be proportionately adjusted. Landlord reserves all rights to damages thereafter accruing by reason of any exercise of the right of eminent domain, or by reason of anything lawfully done and in pursuance of any public or other authority; and by way of confirmation, Tenant grants to Landlord all of Tenant's rights to such damages and covenants to execute and deliver such further instruments of assignment thereof as Landlord may from time to time request. Nothing in this provision shall give Landlord any interest in or preclude Tenant from seeking, on Tenant's own account, any award attributable to the taking of personal property or trade fixtures belonging to Tenant, or for the interruption of Tenant's business.

(18) Damage/Casualty/Destruction of Premises.

(a) Partial Damage - Insured. In the event the Premises or the Building are damaged by any casualty which is covered under any policy of insurance carried by Landlord, Landlord shall restore such damage provided insurance proceeds are available to pay eighty percent (80%) or more of the cost of restoration and provided such restoration can be completed within sixty (60) calendar days after the commencement of work, in the opinion of a registered architect or engineer appointed by Landlord. In such event, this Lease shall continue in full force and effect.

(b) Partial Damage - Uninsured. In the event the Premises or the Building are damaged by a risk not covered by Landlord's insurance or the proceeds of available insurance are less than eighty percent (80%) of the cost of restoration, or if the restoration cannot be completed within sixty (60) calendar days after the commencement of work, in the opinion of a registered architect or engineer appointed by Landlord, Landlord shall have the option to either (i) repair or restore such damage, with this Lease continuing in full force and effect; or (ii) give written notice to Tenant at any time within thirty (30) calendar days after such damage terminating this Lease as of a date to be specified in such notice, which date shall be not less than thirty (30) calendar days nor more than sixty (60) calendar days after giving such notice. In the event Landlord gives such notice, this Lease shall terminate and all interest of Tenant in the Premises shall terminate on such date so specified in such notice and the rent, reduced by any proportionate reduction based upon the extent, if any, to which said damage interfered with the use and occupancy of Tenant, shall be paid to the date of such termination. Landlord agrees to refund to Tenant any rent paid in advance for any period of time subsequent to such termination date and the Security Deposit held by Landlord within thirty (30) calendar days of such date of termination.

(c) Abatement of Rent. Landlord shall have no obligation to abate the rent reserved hereunder if the Premises or Building shall be partially damaged (as described above) as the result of any act or failure to act of Tenant. Provided, however, in the event of a partial damage not caused by Tenant, the rent reserved hereunder shall be abated in the same proportion that the portion of the Premises rendered untenable bears to the entire Premises.

(d) Total Destruction. In the event the Premises are totally destroyed or the Premises cannot be restored as required herein under applicable laws and regulations, notwithstanding the availability of insurance proceeds, this Lease shall terminate effective as of the date of the destruction.

(e) Damage Near End of Lease Term. Notwithstanding anything to the contrary contained in this provision, Landlord and Tenant shall not have any obligation whatsoever to repair, reconstruct or restore the Premises if the damage resulting from casualty as described herein occurs during the last three hundred and sixty-five (365) calendar days of the primary term of this Lease (or any extension thereof).

(f) Tenant's Obligations. Tenant shall repair any damage or destruction by fire or other cause, or restore or replace any panelings, decorations, partitions, railings, floor coverings, office fixtures or any other improvements or property installed in the Premises by Tenant or at the direct or indirect expense of Tenant. Tenant shall restore or replace same with items or improvements of comparable value in the event of damage. Tenant shall have no claim against Landlord for any damage suffered by reason of any such damage, destruction, repair or restoration.

(19) Default Provisions. The occurrence of any one or more of the following events shall constitute a default and breach of this Lease by Tenant:

(a) Failure to Pay Rent. Tenant failing to pay the rental herein reserved or failing to make any other payments required to be made by Tenant when due, where such failure shall continue for a period of five (5) calendar days following written notice from Landlord to Tenant.

(b) Failure to Keep Covenants. Tenant failing to perform or keep any of the other terms, covenants and conditions herein contained for which Tenant is responsible, and such failure continuing and not being cured for a period of thirty (30) calendar days after written notice or if such default is a default which cannot be cured within a 30-calendar-day period, then Tenant's failing to commence to correct the same within said 30-calendar-day period and thereafter failing to prosecute the same to completion with reasonable diligence.

(c) Abandonment. Tenant abandoning the Premises.

(d) Bankruptcy. Tenant being adjudicated a bankrupt or insolvent or Tenant filing in any court a petition for bankruptcy or for reorganization or for the adoption of an arrangement under the Bankruptcy Act (as now or in the future amended) or the filing of an involuntary bankruptcy against Tenant [unless said involuntary bankruptcy is terminated within thirty (30) calendar days from the date of said filing], or Tenant filing in any court for the appointment of a receiver or trustee of all or a portion of Tenant's property or there being appointed a receiver or trustee for all or a portion of Tenant's property, unless said receiver or trustee is terminated within thirty (30) calendar days from the date of said appointment.

(e) Assignment for Benefit of Creditors. Tenant making any general assignment or general arrangement of Tenant's property for the benefit of Tenant's creditors.

(20) Remedies. In the event of an occurrence of default as set forth above, Landlord shall have the right to:

(a) Terminate Lease. Terminate this Lease and end the term hereof by giving to Tenant written notice of such termination, in which event Landlord shall be entitled to recover from Tenant at the time of such termination the present value of the excess, if any, of the amount of rent reserved in this Lease for the then balance of the term hereof over the then reasonable rental value of the Premises for the same period. The present value shall be determined by discounting all future excess rent amounts at a rate of eight percent (8%) per annum. It is understood and agreed that the "reasonable rental value" shall be the amount of rental which Landlord can obtain as rent for the remaining balance of the initial term or renewal term, whichever is applicable; or

(b) Sue Monthly for Rents. Without resuming possession of the Premises or terminating this Lease to sue monthly for and recover all rents, other required payments due under this Lease, and other sums including damages and legal fees at any time and from time to time accruing hereunder; or

(c) Repossess Premises. Upon written notice to all interested parties, reenter and take possession of the Premises or any part thereof and repossess the same as of Landlord's former estate and expel Tenant and those claiming through or under Tenant and remove the effects of either or both (forcibly, if necessary) without being deemed guilty in any manner of trespass and without prejudice to any remedies for rent delinquencies or preceding lease defaults, in which event Landlord may from time to time without terminating this Lease relet the Premises or any part thereof for such term or terms and at such rental or rentals and upon such other terms and conditions as Landlord may deem advisable, with the right to make alterations and repairs to the Premises, and such reentry or taking of possession of the Premises by Landlord shall not be construed as an election on Landlord's part to terminate this Lease unless a written notice of termination is given to Tenant or unless the termination thereof is decreed by a court of competent jurisdiction. In the event of Landlord's election to proceed under this provision, then such repossession shall not relieve Tenant of Tenant's obligation and liability under this Lease, all of which shall survive such repossession, and Tenant shall pay to Landlord as current liquidated damages the basic rental and additional rental and other sums hereinabove provided which would be payable hereunder if such repossession had not occurred, less the net proceeds (if any) of any reletting of the Premises after deducting all of Landlord's expenses in connection with such reletting, including but without limitation all repossession costs, brokerage commissions, legal expenses, attorneys' fees, expenses of employees, alteration costs, and expenses of preparation of such reletting. Tenant shall pay such current damages to Landlord on the days on which the basic rental would have been payable hereunder if possession had not been retaken, and Landlord shall be entitled to receive the same from Tenant on each such day.

(d) Personal Property. In the event of a default, the parties agree that Landlord may exercise any rights available to Landlord under Colorado law regarding any and all improvements, equipment and other personal property of Tenant situated in the Premises at the time of the default, including but not limited to the right to sell the personal property for the best price that can be obtained at a public or private sale and, from the proceeds of such sale pay all sums

due Landlord, plus reimburse Landlord for all costs and expenses, including reasonable attorneys' fees, arising out of the execution of the provisions of this paragraph. This remedy shall not limit any other remedy that may be available to Landlord under this Lease or in law or in equity.

(21) **Default by Landlord.** Landlord shall not be in default unless Landlord fails to perform obligations required of Landlord within a reasonable time, but in no event later than thirty (30) calendar days after written notice by Tenant to Landlord and to the holder of any first mortgage or deed of trust covering the Premises whose name and address shall have theretofore been furnished to Tenant in writing, specifying wherein Landlord has failed to perform such obligation; provided, however, that if the nature of Landlord's obligation is such that more than thirty (30) calendar days are required for performance, then Landlord shall not be in default if Landlord commences performance within such thirty (30) calendar day period and thereafter diligently prosecutes the same to completion.

(22) **Late Charges.** Tenant hereby acknowledges that late payment by Tenant to Landlord of rent, of additional rent, or other sums due hereunder will cause Landlord to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed on Landlord by the terms of any mortgage or trust deed covering the Premises. Accordingly, if any installment of rent, additional rent, or any other sums due from Tenant shall not be received by Landlord or Landlord's designee within ten (10) calendar days after such amount shall be due, then, without any requirement for notice to Tenant, Tenant shall pay to Landlord a late charge equal to five percent (5%) of such overdue amount. The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Landlord will incur by reason of late payment by Tenant. Acceptance of such late charge by Landlord shall in no event constitute a waiver of Tenant's default with respect to such overdue amount, nor prevent Landlord from exercising any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for three (3) consecutive installments of any of the aforesaid monetary obligations of Tenant, then the rent shall automatically become due and payable quarterly in advance, rather than monthly, notwithstanding paragraph 4 or any other provision of this Lease to the contrary.

(23) **Holdover.** Notwithstanding any rule or law to the contrary, in the event Tenant remains in possession of the Premises or any part thereof subsequent to the expiration of the term hereof and such holding over shall be with the consent of Landlord, such possession and occupancy shall conclusively be deemed to be a tenancy from month-to-month only, at a rental of 150% of the existing rate at the end of the term hereof and, further, such possession shall be subject to all of the other terms and conditions (except any option to renew or option to purchase) contained in this Lease.

(24) **Subordination and Estoppel Letter.** This Lease is subject and subordinate to all Mortgages which now or hereafter may affect the Premises, and Tenant shall execute and deliver upon demand of Landlord any and all instruments desired by Landlord subordinating this Lease in the manner required by Landlord to any new or existing Mortgage. Should Tenant fail to execute and deliver any such documents or instruments within ten (10) calendar days after receipt thereof, Tenant irrevocably constitutes and appoints Landlord as Tenant's special attorney-in-fact for the purpose solely of executing and delivering any such documents or instruments pursuant to this paragraph. Any holder of a Mortgage may rely upon the terms and conditions of this paragraph. Further, Tenant shall at any time and from time to time, upon not less than ten (10) calendar days' prior written notice from Landlord, execute, acknowledge and deliver to Landlord a statement in writing certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect) and the dates to which rental and other charges are paid in advance, if any, and acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord hereunder, or specifying such defaults, if any are claimed. Tenant shall attorn to any buyer at any foreclosure sale or to any grantee or transferee designated in any deed given in lieu of foreclosure. Any subordination agreement to be executed by Tenant shall provide that as long as Tenant is current and not in default, the holder of the Mortgage shall not disturb the tenancy of Tenant.

(25) **Relocation of Premises. Intentionally Omitted.**

(26) **Entry by Landlord.** Landlord reserves and shall at any and all times have the right to enter the Premises to inspect the same and perform any other service to be provided by Landlord to Tenant hereunder, to show the Premises to prospective purchasers or tenants, to post notices of nonresponsibility and "for lease" or "for sale" signs, and to alter, improve or repair the Premises and any portion of the Building without abatement of rent, and may for that purpose erect scaffolding and other necessary structures where reasonably required by the character of the work to be performed, always providing the entrance to the Premises shall not be blocked thereby, and further providing that the business of Tenant shall not be interfered with unreasonably (except for emergencies). Tenant hereby waives any claim for damages, for any injury or inconvenience to or interference with Tenant's business, any loss of occupancy or quiet enjoyment of the Premises, and any other loss occasioned thereby. For purposes of this provision, Landlord shall at all times have and retain a key with which to unlock all of the doors in, upon or about the Premises, excluding Tenant's vaults and safes, and Landlord shall have the right to use any and all means which Landlord may deem proper to open said doors in an emergency, in order to obtain entry to the Premises, and any entry to the Premises obtained by Landlord by any of said means or otherwise shall not under any circumstances be construed or deemed to be forcible or unlawful entry into or a detainer of the Premises or an eviction of Tenant from the Premises.

(27) **Surrender of Premises.** Upon the Termination Date of this Lease, Tenant shall peaceably and quietly leave and surrender the Premises in as good condition as existed on the Commencement Date, ordinary wear and tear excepted. Tenant shall surrender and deliver the Premises broom clean and free of Tenant's property. Provided Tenant is not in default, Tenant shall have the right to remove all of Tenant's fixtures, equipment, machinery and other personal property, provided that upon such removal the Premises are delivered in the same condition as existed at the time of the Commencement Date. Further, in the event Tenant does not remove any of Tenant's own fixtures, equipment or personal property or any additions or alterations made to the Premises during the primary term of this Lease (and any extension thereof), Landlord may require Tenant to remove any such improvements, alterations, fixtures and equipment and restore the Premises to the condition as existed on the Commencement Date or retain the same.

(28) **Notices.** All notices, demands and requests required to be given by either party to the other shall be in writing and shall either be hand delivered, facsimile transmitted, or sent by certified or registered mail, return receipt requested, postage prepaid, addressed to the parties at the addresses set forth below or at such other addresses as the parties may designate in writing delivered pursuant to this provision. Any notice when given as provided herein shall be deemed to have been delivered on the date personally served or faxed or two (2) calendar days subsequent to the date that said notice was deposited with the United States Postal Service.

Landlord: Elizabeth Michaelis and Stanley Luhr
14406 East Evans Avenue
Aurora, CO 80014

Tenant: Quality Built, LLC
14406 East Evans Ave
Aurora, CO 80014

Copy to: Gary H Elzweig
700 Grayhawk Ave
Plantation, FL 33324

(29) **Time of the Essence.** Time is of the essence hereof.

(30) **Quiet Enjoyment/Peaceful Possession.** Upon Tenant's paying the rental herein reserved and upon performing all of the terms and conditions of this Lease on Tenant's part to be performed, Tenant shall at all times during the primary term of this Lease (and any extension thereof) peacefully and quietly have, hold and enjoy the Premises.

(31) **Signs.** Tenant shall not place or permit to be placed in or upon the Premises or Building, where visible from outside the Premises or any part of the Building, any signs, notices, drapes, shutters, blinds or displays of any type without the prior written consent of Landlord. Landlord reserves the right, in Landlord's sole discretion, to place and locate on the roof, exterior of the Building, and in any area of the Building not leased to Tenant such signs, notices, displays and similar items as Landlord deems appropriate in the proper operation, lease and/or sale of the Building. Prior to the erection of any sign or display Tenant shall obtain a copy of the Owners' Association current sign ordinances and policies, and shall be in full compliance with all such regulations at all times. Landlord shall provide a copy of the current sign regulations to Tenant on or before the Commencement Date.

(32) **Miscellaneous.**

(a) **Choice of Law.** This Lease is entered into in the State of Colorado and shall be construed in accordance with the laws thereof and any dispute arising out of or in connection with this Lease shall be submitted to a court of proper jurisdiction in the County of Denver, State of Colorado.

(b) **Headings and Captions.** The headings and captions used in this Lease are for the convenience of reference only and shall not be used in the construction or interpretation of this Lease.

(c) **Inurement.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the parties hereto, their heirs, personal representatives, administrators, successors and assigns.

(d) **Construction of Terms.** Words of any gender used in this Lease shall be held to include any other gender, and words in the singular shall be held to include the plural, as the identity of Landlord or Tenant requires.

(e) **Entire Agreement.** This Lease together with any exhibits attached hereto constitute the entire agreement between Landlord and Tenant relative to the Premises and may be altered, amended or revoked only by an instrument in writing signed by both Landlord and Tenant. The parties agree that all prior or contemporaneous oral agreements between and among themselves and their agents or representatives relative to the leasing of the Premises are merged in or revoked by this Lease.

(f) **Rules and Regulations.** Landlord may adopt rules and regulations from time to time for the Building and may amend such rules and regulations, in Landlord's sole discretion, without prior notice to Tenant.

(33) **No Waiver.** No waiver by Landlord of any provisions hereof shall be deemed a waiver of any other provision hereof or of any subsequent breach by Tenant of the same or any other provision. Landlord's consent to or approval of any act shall not be deemed to render unnecessary the obtaining of Landlord's consent to or approval of any subsequent act by Tenant. The acceptance of rental hereunder by Landlord shall not be a waiver of any preceding breach by Tenant of any provision hereof, other than the failure of Tenant to pay the particular rental so accepted, regardless of Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

(34) **Attorneys' Fees.** In case suit shall be brought to enforce any provisions of this Lease, the prevailing party shall be awarded (in addition to the relief granted) all reasonable attorneys' fees and costs resulting from such litigation.

(35) **Interest on Past-Due Obligations.** Any amount due to Landlord not paid when due shall bear interest at the rate of one percent (1.0%) per month from the date due; provided, however, that any such payment of interest shall not excuse or correct any default by Tenant under this Lease.

(36) **Memorandum of Lease.** Either party, upon request from the other party, shall execute in recordable form a short form Memorandum of Lease, which Memorandum of Lease shall contain only the names of the parties, the Commencement Date and Termination Date of this Lease (and any options which may be granted hereunder), and the legal description of the Premises.

(37) **Legal and/or Other Counsel.** Tenant and Landlord acknowledge that they have been advised that this document has important legal consequences and that Tenant and Landlord have consulted or have had adequate opportunity to consult legal, tax or other counsel in connection with the execution of this Lease, zoning of the Premises, tax implications, and all other aspects relative to the transaction contemplated hereby.

(38) **Severability.** If any sentence, paragraph or section of this Lease is held to be illegal or invalid, this shall not affect in any manner those other portions of the Lease not illegal or invalid and this Lease shall continue in full force and effect as to those provisions.

(39) Facsimile Transmittals. The parties agree that a facsimile transmittal of this Lease shall be considered as an originally executed document and shall be binding upon the parties hereto. The parties further agree that the exact, originally executed Lease which was transmitted by facsimile shall be delivered to the appropriate party via U.S. Mail, messenger, or other acceptable delivery service within seven (7) calendar days from the date of said facsimile transmittal.

(40) Additional Provisions.

(a) Right of First Refusal to Purchase Premises. In the event of any offer acceptable to Landlord, or to Landlord's successor in interest, at any time or times during the original or extended term of this Lease, for the sale of the Premises, the Landlord, prior to acceptance thereof, shall give the Tenant, written notice thereof and Tenant shall have the right of first refusal for thirty (30) days after receipt of such notice within which to elect to purchase the Premises on the terms of said offer. If Tenant shall elect to purchase the Premises pursuant to the first refusal herein granted, it shall give notice of such election within such thirty (30) day period. Tenant's failure within that time to exercise its right of first refusal under this paragraph shall not affect this Lease and the continuance of Tenant's rights and obligations under this Lease.

(41) Counterparts. A copy of this document may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together shall be deemed to be a full and complete Lease between the parties.

IN WITNESS WHEREOF, the parties have executed this Lease Agreement the day and year first written above, and attest they have full legal authority to bind the parties to all terms and conditions herein.

Tenant: Quality Built, LLC

Landlord: Elizabeth Michaelis and Stanley Luhr as Joint Tenants

By _____
Gary Elzweig, Member

By _____
By _____

Date of Tenant's Signature: _____

Date of Landlord's Signature: _____

END OF LEASE

EXHIBIT C

ROA_00900

EXHIBIT C

EMPLOYMENT AGREEMENT

This employment agreement (this "Agreement"), dated _____, is between Quality Built, LLC, a Delaware limited liability company (the "Employer"), and [Stan Luhr] [Elizabeth Michaelis] (the "Employee").

In consideration of the Employee's employment with the Employer and other consideration, as set forth below in the mutual promises and conditions in this Agreement, it is agreed as follows:

1. **Effective Date.** This Agreement will become effective on the date this Agreement is signed by an authorized representative of the Employer. The Employee's start date for employment will be _____, 2010.
2. **At-Will Employment.** The parties agree that the Employee's employment with the Employer under this Agreement is "at will." This means that there is no specified period of employment, and that either the Employee or the Employer may terminate the Employee's employment with the Employer at any time, without notice, and with or without good cause. The at-will nature of this employment relationship may not be modified or altered in any way except by a written agreement that clearly and expressly specifies the intent to do so and is signed by the Employee and an authorized representative of the Employer. The granting of raises, bonuses, or changes to job titles or job descriptions will not in any way affect the characterization of the Employee's employment with the Employer as being "at will."
3. **Employee's Position.** The Employee will initially hold the position of [Stan Luhr: Chief Technical Officer/Principal] [Elizabeth Michaelis: Executive President] of the Employer. The Employer may change the position or job description of the Employee from time to time, in the sole discretion of the Employer.
4. **Compensation.** The Employee's initial annual base salary shall be [Stan Luhr: \$87,500] [Elizabeth Michaelis: \$87,500], payable in accordance with the Employer's customary payroll procedures. The Employee's base salary shall be prorated for any partial period during the term of the Employee's employment with the Employer (the "Employment Term").
5. **Equity Ownership.** As soon as reasonably practicable following the date hereof, the Employee shall be granted restricted common equity of the Employer ("Common Equity") representing 5.00% of the Common Equity outstanding on a fully diluted basis as of the date hereof (the "Common Grant"). The Common Grant shall not be subject to a vesting schedule but shall be subject to customary forfeiture and repurchase provisions and restrictive covenants. The Employee shall be entitled to preemptive rights to purchase his or her pro rata percentage of any future equity issuances of the Employer at the same price and terms as offered to other equityholders of the Employer. Notwithstanding the foregoing, the Common Equity shall be subject to the terms and conditions set forth in the Employer's limited liability company agreement, as it may be amended from time to time, and a common grant agreement to be entered into between the Employee and the Employer.
6. **Employee Benefits.** While the Employee is employed by the Employer, the Employee shall be entitled to participate in all other Employer benefit plans, policies and programs (subject to the terms and conditions thereof) generally made available to the Employer's employees when and as the Employee becomes eligible for them. The Employer reserves the right to modify, suspend or discontinue any and all of such benefit plans,

policies, and programs at any time without notice to or recourse by the Employee, so long as such action is taken generally with respect to other similarly situated employees.

7. **Severance.** Subject to the Employee's continued compliance with Sections 8, 9 and 10 hereof, if the Employee suffers a "Termination Without Cause" (as defined below), the Employee shall be entitled to receive an amount equal to (i) in the event the Termination Without Cause occurs within one (1) year of the date of this Agreement, the Employee's base salary as in effect at the time of the Termination Without Cause through to the first anniversary of the date of this Agreement, or (ii) in the event the Termination Without Cause occurs following one (1) year after the date of this Agreement, sixty (60) days of the Employee's base salary as in effect at the time of the Termination Without Cause (the "Severance Amount"), provided that the Employee delivers to the Employer a fully effective and irrevocable general release of claims (in a form reasonably acceptable to the Employer) within sixty (60) days following such Termination Without Cause (the "Release"). Subject to this Section 7 and Section 18, the Severance Amount shall be payable to the Employee in cash in substantially equal installments over a period of six (6) months (or two (2) months in the case of the Severance Amount being sixty (60) days of the Employee's base salary) commencing on the next regular pay day but in any event no later than the sixtieth (60th) day following such Termination Without Cause in accordance with the Employer's customary payroll procedures (the period commencing on the date of the Termination Without Cause and ending on the date the last Severance Amount installment payment is due hereunder, the "Severance Period"). For purposes of this Agreement, a "Termination Without Cause" shall mean the Employer's voluntary termination of the Employee's employment for any reason other than for "Cause" (as defined below) or as a result of the Employee's death or "Disability" (as defined below). For the avoidance of doubt, (i) a "Termination Without Cause" for purposes of this Agreement shall not include the Employee's voluntary resignation or retirement, or the Employee's termination of employment as a result of the Employee's death or Disability, and (ii) if the Employee's employment with the Employer terminates for any reason other than as a result of a Termination Without Cause, the Employer shall have no obligation to pay the Employee the Severance Amount hereunder. For purposes of this Agreement, "Cause" shall mean: (i) the Employee's refusal to follow lawful directions within the scope of the Employee's duties or the Employee's failure to perform the Employee's duties (other than by reason of physical or mental illness); (ii) the Employee's conviction of (or plea of *nolo contendere* or guilty to) a felony (other than a traffic violation); (iii) the Employee's commission of acts of dishonesty, misappropriation, gross neglect or fraud in connection with the Employee's position, duties or responsibilities hereunder; (iv) any breach by the Employee of any code of conduct, code of ethics or other written policy of the Employer; (v) any breach of fiduciary duty or responsibility by the Employee to the Employer; or (vii) any breach of the Employee's obligations under this Agreement. For purposes of this Agreement, "Disability" shall mean the Employee's physical or mental incapacity which prevents the Employee from performing the Employee's duties and responsibilities as determined by the Employer. If at any time during the Severance Period the Employer determines that the Employee has failed to comply with the Employee's obligations under Section 8, 9 or 10 hereof, the Employer's obligation to pay the Employee any further installments of the Severance Amount shall immediately cease. Except as provided in this Section 7, following termination of the Employee's employment with the Employer for any reason, the Employer shall have no further obligation to make any further payments or to provide any further benefits to the Employee (other than to pay the Employee any accrued but unpaid base salary through the date of termination and any other payments or benefits the Employee may be entitled to receive under the Employer's benefit plans, policies and programs in accordance with and subject to the terms of such benefit plans, policies and programs).

8. **No Conflict of Interest or Competition During Employment.** During the Employment Term, the Employee shall devote his or her full business time, energy, and ability

exclusively to the business and interests of the Employer, and shall not, without the Employer's prior written consent, render to others services of any kind for compensation, or engage in any other business activity that would materially interfere with the performance of the Employee's duties under this Agreement or create a conflict of interest for the Employee. **[Stan Luhr Only:** Nothing contained herein shall prevent the Employee from continuing to pursue his forensic business in existence as of the date of this Agreement, but only to the extent that such activities do not interfere with his duties to the Employer.] During the Employment Term and thereafter during the Severance Period, if any, plus for a period of one (1) year following the termination of the Employment Term, the Employee shall not, directly or indirectly, whether as partner, employee, creditor, shareholder, independent contractor, consultant, or otherwise, promote, participate, or engage in any activity or other business competitive with the Employer's business. During the Employment Term, the Employee agrees to promptly disclose to the Employer any business opportunity which is presented to the Employee and which is of a similar nature to the type of business the Employer is engaged or is considering engaging in at some point in the future.

9. **Non-Solicitation of Customers and Suppliers.** During the Severance Period, if any, plus for a period of one (1) year following the termination of the Employment Term, Employee agrees not to directly or indirectly, either alone or in concert with others, solicit, entice, or in any way divert any of the Employer's customers or suppliers to do business with any business entity in competition with the Employer.
10. **Non-Solicitation of Employees/Co-Workers.** During the Severance Period, if any, plus for a period of one (1) year following the termination of the Employment Term, the Employee agrees not to directly or indirectly, either alone or in concert with others, solicit or entice any other employee of the Employer to leave the Employer in order to work for anyone or any entity in competition with the Employer.
11. **Protection of Trade Secrets.** The Employee recognizes that the Employer is engaged in a continuous program of business development and operations and that information the Employee gains during the course of his or her employment has significant value to the Employer. The Employee understands that all information is to be held confidentially, and the Employee is responsible for taking steps to ensure information in the Employee's possession is protected from disclosure to those who are not employed by the Employer. The Employee also understands that certain items of confidential information are "trade secrets" as defined under California law (Civil Code section 3426.1 *et seq.*) and have significant economic value to the Employer. These trade secrets include, but are not limited to, the following categories of information: customer lists and specifications, ongoing business development projects and plans, software applications and modifications, forms, business models, marketing and sales strategies, strategies and initiatives regarding other affiliated entities, tracking and monitoring systems, databases containing contractor information, supplier lists, financial information about the Employer's company or affiliated companies, and other designs, processes, and techniques in use by the Employer. During the Employment Term and at all times after the Employment Term, the Employee agrees to keep such trade secrets in the strictest confidence and take all necessary measures to safeguard such trade secrets from disclosure, even after the Employment Term under this Agreement has ended. The Employee agrees not to disclose, use, or induce or assist anyone else to disclose, use, or misappropriate these trade secrets without the Employer's prior approval in writing, except as may be necessary in communications with other employees of the Employer during the Employment Term and within the course and scope of the Employee's employment with the Employer. The Employee agrees to promptly advise the Employer of any knowledge that he or she has of any unauthorized release or use of trade secret information.

12. **Returning Employer's Documents and Property Upon Termination.** Upon termination of the Employment Term, the Employee agrees to immediately deliver to the Employer all originals, copies, and reproductions of documents generated or possessed by the Employee in his or her capacity as an employee of the Employer, as well as all equipment, tools, cell phones, laptop computers, personal digital assistants, pagers, other physical property of the Employer, computer-related hardware, software, data, passwords or other electronically stored information.
13. **Employer's Ownership of Intellectual Property.** All processes, inventions, patents, copyrights, trademarks, and other intangible rights that may be conceived or developed by the Employee, either alone or with others, during the Employment Term, whether or not conceived or developed during the Employee's working hours, and with respect to which the equipment, supplies, facilities, or trade secret information of the Employer was used, or that relate at the time of conception or reduction to practice of the invention to the business of the Employer or to the Employer's actual or demonstrably anticipated research and development, or that result from any work performed by the Employee for the Employer, shall be the sole property of the Employer. **[Stan Luhr Only:** Notwithstanding the foregoing, Employee shall be permitted to develop inventions, patents and other intellectual property which are not competitive with any of the activities engaged in by the Employer during his normal course of business as a forensic consultant as permitted hereunder, to the extent his duties so require, and such development shall not be part of this Agreement.] The Employee shall disclose to the Employer all inventions conceived during the Employment Term, whether or not the property of the Employer under the terms of the preceding sentence, provided that such disclosure shall be received by the Employer in confidence. The Employee shall execute all documents, including patent applications and assignments, required by the Employer to establish the Employer's rights under this Section 13.
14. **[Stan Luhr Only: Patents.** Concurrent with the execution of this Agreement and for no additional consideration the Employee shall and does hereby assign to the Employer, and the Employee shall execute such further documents as requested by the Employer to evidence such assignment, all rights, title and interest to the following published patents: SYSTEMS AND METHODS FOR SELECTING AND PRIORITIZING CONSTRUCTION CHECKPOINTS (US Patent Application No. 10/900,734; Filed: July 28, 2004); BUILDER RISK ASSESSMENT SYSTEM (US Patent Application No. 10/802,129; Filed: March 16, 2004); and SYSTEMS AND METHODS FOR TRACKING COMPONENT-RELATED INFORMATION ASSOCIATED WITH BUILDINGS (US Patent Application No. 11/198,579; Filed: August 5, 2005) (collectively "Patents").]
15. **Employee's Promise that Employment Does not Breach any Other Agreement.** The Employee represents and warrants that his or her employment with the Employer does not and will not breach any agreement to keep in confidence proprietary information acquired by the Employee in confidence or in trust prior to the date hereof. The Employee has not brought and will not bring to the Employer, or use in employment, any proprietary material or trade secrets of a former employer (which term, for purposes of this Agreement, shall include persons, firms, corporations, and other entities for which the Employee has acted as an independent contractor or consultant) that are not generally available to the public, unless the Employee first obtains express written authorization from any such former employer for their possession and use.
16. **Injunctive Relief.** It is agreed that irreparable injury could occur from violation of terms of this Agreement. The parties to this Agreement shall be entitled, in addition to damages and other remedies provided by law, to an injunction or other equitable remedy in the event this Agreement is breached.

17. **No Waiver Unless in Writing.** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver by the Employer of any breach, failure, right, or remedy shall be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.
18. **Entire Agreement.** This Agreement contains the entire Agreement between the parties and supersedes all prior oral and written agreements, understandings, commitments, and practices between them, including all prior employment agreements, whether or not fully performed by the Employee before the date of this Agreement. No oral modifications, express or implied, may alter or vary the terms of this Agreement. This Agreement may only be amended by a writing signed by the Employee and an authorized representative of the Employer. Any representations contrary to this Agreement, express or implied, written or oral, are hereby disclaimed.
19. **Section 409A.** All provisions of this Agreement providing for the payment of "nonqualified deferred compensation" subject to Section 409A of the Internal Revenue Code of 1986, as amended (the "Code"), and the rules, guidance and regulations thereunder (collectively, "Section 409A") shall be interpreted to comply with Section 409A. Neither party individually or in combination may accelerate or defer any such deferred payment, except in compliance with this Agreement and Section 409A, and no amount shall be paid prior to the earliest date on which it is permitted to be paid under this Agreement and Section 409A. A termination of employment shall not be deemed to have occurred for purposes of any provision of this Agreement providing for the payment of any amounts or benefits upon or following a termination of employment that are subject to Section 409A unless such termination is also a "separation from service" within the meaning of Section 409A and, for purposes of any such provision of this Agreement, references to a "termination," "termination of employment" or like terms shall mean "separation from service." In the event that the Employee is deemed on the date of termination to be a "specified employee" within the meaning of that term under Section 409A, then with regard to any payment or the provision of any benefit that is "nonqualified deferred compensation" as defined under Section 409A payable on account of a "separation from service," payment shall be made no earlier than the earlier of (a) the first day after six (6) months following such termination of employment, or (b) the Employee's death. Any payments delayed by reason of the prior sentence shall be caught up and paid in a single lump sum on the date indicated by the previous sentence. Notwithstanding the foregoing, any installments of the Severance Amount that are exempt from coverage under Section 409A pursuant to the short-term deferral exception in Treas. Reg. §1.409A-1(b)(4) or the separation pay exception in Treas. Reg. §1.409A-1(b)(9)(iii) shall not be subject to such six (6)-month delay and shall be payable in accordance with Section 7. For purposes of Section 409A, the Employee's right to receive any installment payments pursuant to this Agreement shall be treated as a right to receive a series of separate and distinct payments. In no event whatsoever shall the Employer be liable for any additional tax, interest or penalty that may be imposed on the Employee as a result of Section 409A or any damages for failing to comply with Section 409A. Whenever a payment under this Agreement may be paid within a specified period, the actual date of payment within the specified period shall be within the Employer's sole discretion. Any amounts payable hereunder that satisfy the short-term deferral exception in Treas. Reg. §1.409A-1(b)(4) or the separation pay exception in Treas. Reg. §1.409A-1(b)(9)(iii) are intended not to be subject to Section 409A.
20. **Withholding.** The Employer may withhold from any and all amounts payable under this Agreement such federal, state and local taxes as may be required to be withheld pursuant to any applicable law or regulation.

21. **Choice of Law.** The formation, construction, and performance of this Agreement shall be construed in accordance with the laws of California and the forum for any legal action or proceeding shall be San Diego County.
22. **Severability.** If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances, it shall nevertheless remain in full force and effect in all other circumstances.
23. **Attorney's Fees.** In any action, proceeding or arbitration between the parties hereto arising out of this Agreement, or the performance thereof, the non-prevailing party shall pay all reasonable attorney's fees and costs of the prevailing party in addition to any other relief to which such party may be entitled.
24. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original but all of which together will constitute one and the same instruments.
25. **Section Headings.** The section headings used in this Agreement are included solely for convenience and shall not affect, or be used in connection with, the interpretation of this Agreement.

EMPLOYEE

EMPLOYER

[Stan Luhr] [Elizabeth Michaelis]

By:
Title:

Dated: _____

Dated: _____

EXHIBIT 2

ROA_00907

SCHEDULE 1.1 (a)
LIST OF INTELLECTUAL
PROPERTY BEING
PURCHASED AND SOLD

SCHEDULE 1.1(a)
List of Patents/Trademarks

Published/pending Patents:

**SYSTEMS AND METHODS FOR SELECTING AND PRIORITIZING
CONSTRUCTION CHECKPOINTS**

US Patent Application No. 10/900,734

Filed: July 28, 2004

Inventor: Stanley R. Luhr

BUILDER RISK ASSESSMENT SYSTEM

US Patent Application No. 10/802,129

Filed: March 16, 2004

Inventor: Stanley R. Luhr

**SYSTEMS AND METHODS FOR TRACKING COMPONENT-RELATED
INFORMATION ASSOCIATED WITH BUILDINGS**

US Patent Application No. 11/198,579

Filed: August 5, 2005

Inventor: Stanley R. Luhr

Registered Trademarks:

FRAMER ID®

PERFECTING THE ART AND SCIENCE OF QUALITY IN HOME
BUILDING®

QUALITY BUILT®

BUILDER I.D.®

QUALITYBUILT.COM®

Q® (design of a stylized letter Q in a rectangle)

QB BUILDER LINK®

QB CLOSURE LINK®

QB RAPID RESPONSE®

HOME ID®

QB LINK®

QB DAP®

The following are additional trademarks in use by Quality Built

BUILDER RISK ASSESSMENT™

TECHNICAL PLAN REVIEW™

RESIDENT EXPERT PROGRAM™

PRODUCTLINK™ *

SAFETYLINK™ *

TRADELINK™ *

PERFECTING THE ART AND SCIENCE OF QUALITY IN
CONSTRUCTION™ **

** Quality Built must file a statement and sample of these trademark as used in interstate commerce by November/December 2009 for them to be registered. No further extensions of filings are allowed.*

*** This trademark is likely to be registered shortly.*

SCHEDULE 1.1 (b)
LIST OF INVENTORY, TOOLS,
ETC. BEING PURCHASED
AND SOLD

QualityBuilt.com

Schedule 1.1(b) - Inventory and Supplies at time of Closing

	Qty	Current Value	Ext Amt
Complete Alnor EBT 721 Blower Door Kits Include Flowhood, duct blaster fan, Blower Door Kit and two digital gauges	6	1,500.00	9,000.00
Alnor EBT 721 Flowhoods	5	250.00	1,250.00
Alnor 6200 LoFlo Balometer	2	250.00	500.00
Duct Blaster Fan	1	100.00	100.00
			<u>10,850.00</u>

ROA_00912

**SCHEDULE 1.1 (c)
SUMMARY AGED ACCOUNTS
RECEIVABLE AS OF
JANUARY 11, 2010**

Schedule 1.1 (c)

Accounts Receivable summary¹ through January 11, 2010:

Current (0 to 30)	\$145,132.19
31 to 60 days	\$ 85,511.00
61 to 90 days	\$ 24,706.30

Total 0 to 90 days is \$255,349.49 minus \$72,471.42² which would have to be paid to subcontractors equals \$182,878.07 and that assumes that 100% of receivables will be collected.

The Debtor estimates that if we close at the end of January and 100% of January invoices transfer to the new company the projected aged receivables would be summarized as follows:

Current	\$175,000.
31 to 60	\$ 70,000
61 to 90	\$ 28,000

Projected total: \$273,000 minus subcontractor costs of \$81,900.00 equals \$191,100.00.

Quality Built LLC will be receiving less than \$200,000 worth of receivables in the current transaction.

¹ The voluminous but complete Accounts Receivable ledger is available to qualified bidders upon request and execution of a confidentiality/non-disclosure agreement.

² See summary on following page.

Qualitybuilt.com

Schedule 2.1 (a)

Accounts Payable for Subcontractors that are less than 90 days old

See attached agings for details

as of 01/11/2010

	<u>Current</u>	<u>31 - 60</u>	<u>61 - 90</u>	<u>Total</u>
James Edward Engineering	999.00	1,356.88	772.50	3,128.38
Mid Pacific Testing & Inspections	24,208.92	39,376.61	5,757.51	69,343.04
	<u>25,207.92</u>	<u>40,733.49</u>	<u>6,530.01</u>	<u>72,471.42</u>

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HISTORICAL AGED TRIAL BALANCE

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Quality Built
Payables Management

Ranges:
Vendor ID: JAM001 - JAM001
Class ID: First - Last
Payment Priority: First - Last
Vendor Name: First - Last

QAD-02-000003?:
Posting Date: First - Last
Document Number: First - Last

Print Option: DETAIL
Aged By: Document Date
Aging Date: 1/11/2010

Exclude: Zero Balance, No Activity, Fully Paid Documents, Unposted Applied Credit Documents, Multicurrency Info
Sorted By: Vendor ID
Due Date

* - Indicates an unposted credit document that has been applied.

Vendor ID: JAM001		Name: James Edward Engineering				Class ID: IC		QAD-02-000003?:				
Voucher/ Payment No.	Doc Number	Type	Doc Date	Due Date	Doc Amount	Disc Date	Disc Avail	Writeoff Amount	Current Period	31 - 60 Days	61 - 90 Days	91 and Over
0000029516 8045	21589-CanyonPinesPh	INV PMT	1/31/2008	2/15/2008	\$580.75							\$580.75 (\$411.36)
0000029214	21574-RoyalTroon	INV	1/31/2008	2/15/2008	\$73.60							\$73.60
0000029295	21575-Sendero	INV	1/31/2008	2/15/2008	\$92.00							\$92.00
0000030299	21589-CanyonPinesPh	INV	3/3/2008	3/18/2008	\$412.85							\$412.85
0000036563	24627-AutumnTrailsPh	INV	9/30/2008	10/15/2008	\$54.05							\$54.05
0000038528	25678-AutumnTrailsPh	INV	12/31/2008	1/15/2009	\$242.65							\$242.65
0000039811	28399-TOWNHOUSES	INV	2/28/2009	3/15/2009	\$360.00							\$360.00
0000039910	23982	INV	3/31/2009	4/15/2009	\$120.00							\$120.00
0000040189	26761-Mountaingate	INV	3/31/2009	4/15/2009	\$270.40							\$270.40
0000040314	26789-Saddlebrook@P	INV	3/31/2009	4/15/2009	\$372.00							\$372.00
0000040779	24599	INV	4/30/2009	5/15/2009	\$146.40							\$146.40
0000040631	PO26044-4/30/2009 4:	INV	4/30/2009	5/15/2009	\$615.00							\$615.00
0000041139	27299-RitzCarlton-Hig	INV	5/31/2009	6/15/2009	\$70.56							\$70.56
0000041109	27306-Saddlebrook@P	INV	5/31/2009	6/15/2009	\$390.00							\$390.00
0000041665	27667-Saddlebrook@P	INV	6/30/2009	7/15/2009	\$169.50							\$169.50
0000042447 8203	27970-MeridianatStone	INV PMT	8/31/2009	9/15/2009	\$504.00							\$504.00 (\$85.52)
0000042473 8248	28014-Woodrush@Riv	INV PMT	8/31/2009	9/15/2009	\$849.00							\$849.00 (\$66.00)
0000042918 8248	28107-Horizons@Stone	INV PMT	9/30/2009	10/15/2009	\$456.00							\$456.00 (\$77.56)
0000042821	28122-MeridianatStone	INV	9/30/2009	10/15/2009	\$270.00							\$270.00
0000043315	28270-Horizons@Stone	INV	10/31/2009	11/15/2009	\$127.50						\$127.50	
0000043397	28283-MeridianatStone	INV	10/31/2009	11/15/2009	\$198.00						\$198.00	
0000043382	28334-Woodrush@Riv	INV	10/31/2009	11/15/2009	\$447.00						\$447.00	
0000043630	28437-Horizons@Stone	INV	11/30/2009	12/15/2009	\$540.00					\$540.00		

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Case 09-12113-CL7 Filed 01/29/10 Entered 01/29/10 15:55:20 Doc 112-1 Pg 10
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Quality Built

0000043679	28456-MeridianatStone INV	11/30/2009 12/15/2009	\$361.50		\$361.50			
0000043615	28481-TalonPointe INV	11/30/2009 12/15/2009	\$186.88		\$186.88			
0000043685	28498-Woodrush@Riv INV	11/30/2009 12/15/2009	\$268.50		\$268.50			
0000043870	28559-Horizons@Stone INV	12/31/2009 1/15/2010	\$369.00		\$369.00			
0000043957	28573-MeridianatStone INV	12/31/2009 1/15/2010	\$406.50		\$406.50			
0000043862	28621-Woodrush@Riv INV	12/31/2009 1/15/2010	\$223.50		\$223.50			
Voucher(s): 29			Aged Totals:	Due \$8,536.70	\$999.00	\$1,356.88	\$772.50	\$5,408.32
Vendor Totals:			<u>Vendors</u> 1	<u>Due</u> \$8,536.70	<u>Current Period</u> \$999.00	<u>31 - 60 Days</u> \$1,356.88	<u>61 - 90 Days</u> \$772.50	<u>91 and Over</u> \$5,408.32

ROA_00917

HISTORICAL AGED TRIAL BALANCE

Quality Built
 Payables Management

Ranges:

Vendor ID: MID001 - MID001BK
 Class ID: First - Last
 Payment Priority: First - Last
 Vendor Name: First - Last

QAD-02-000003?:
 Posting Date: First - Last
 Document Number: First - Last

Print Option: DETAIL
 Aged By: Document Date
 Aging Date: 1/11/2010

Exclude: Zero Balance, No Activity, Fully Paid Documents, Unposted Applied Credit Documents, Multicurrency Info
 Sorted By: Vendor ID
 Due Date

* - Indicates an unposted credit document that has been applied.

Vendor ID: MID001		Name: Mid Pacific Testing and Inspections				Class ID: IC		QAD-02-000003?:				
Voucher/ Payment No.	Doc Number	Type	Doc Date	Due Date	Doc Amount	Disc Date	Disc Avail	Writeoff Amount	Current Period	31 - 60 Days	61 - 90 Days	91 and Over
0000043995	JAN10 EQ LEASE	CRM	12/23/2009		(\$1,560.00)				(\$1,560.00)			
0000013604	09413-MontaraCondom	INV	1/31/2007	1/31/2007	\$652.74							\$652.74
MIDP09112009		PMT										(\$0.01)
MIDP10262007		PMT										(\$318.47)
0000014358	10172-MontaraCondom	INV	2/28/2007	2/28/2007	\$702.42							\$702.42
0000016180	12018-MontaraCondom	INV	3/31/2007	3/31/2007	\$895.62							\$895.62
MIDP08312007		PMT										(\$690.25)
0000018143	13077-MontaraCondom	INV	4/30/2007	4/30/2007	\$121.44							\$121.44
0000019366	13783-MontaraCondom	INV	5/31/2007	5/31/2007	\$99.36							\$99.36
0000029692	20839-PointsWest	INV	1/31/2008	1/31/2008	\$328.35							\$328.35
0000031892		CRM										(\$54.73)
0000029618	20991-VolareatEagle's	INV	1/31/2008	1/31/2008	\$794.88							\$794.88
0000030527	21367-PointsWest	INV	3/3/2008	3/3/2008	\$235.95							\$235.95
0000031897		CRM										(\$36.32)
0000030417	21472-VolareatEagle's	INV	3/3/2008	3/3/2008	\$227.52							\$227.52
0000032660	22719-PointsWest	INV	4/30/2008	4/30/2008	\$690.00							\$690.00
0000035653	24413-NormandyPlace	INV	8/31/2008	8/31/2008	\$139.08							\$139.08
0000036538	24743-ManhattanBeach	INV	9/30/2008	9/30/2008	\$64.86							\$64.86
0000037257	25114-Kasteel	INV	10/31/2008	10/31/2008	\$519.84							\$519.84
MIDP02272009		PMT										(\$435.00)
0000038474	25796-CarringtonSquar	INV	12/31/2008	12/31/2008	\$1,108.14							\$1,108.14
0000040470	24389	INV	3/31/2009	3/31/2009	\$1,200.00							\$1,200.00
0000041363	25039	INV	6/11/2009	6/11/2009	\$1,656.00							\$1,656.00
MIDP11062009		PMT										(\$337.81)
0000043321	28239-AllureWaikikiCo	INV	10/31/2009	10/31/2009	\$5,757.51						\$5,757.51	
0000043500	25962	INV	11/30/2009	11/30/2009	\$1,080.00					\$1,080.00		
0000043505	25966	INV	11/30/2009	11/30/2009	\$5,600.00					\$5,600.00		
0000043602	28406-Akolea@Kehala	INV	11/30/2009	11/30/2009	\$864.00					\$864.00		
0000043675	28408-AllureWaikikiCo	INV	11/30/2009	11/30/2009	\$18,293.07					\$18,293.07		
0000043600	28441-Kanehili	INV	11/30/2009	11/30/2009	\$4,651.20					\$4,651.20		

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0000043663	28446-Kukui'ulaPlanta	INV	11/30/2009	11/30/2009	\$571.74	\$571.74
0000043597	28449-Latitudes	INV	11/30/2009	11/30/2009	\$175.20	\$175.20
0000043654	28458-NanalaatMehana	INV	11/30/2009	11/30/2009	\$3,880.80	\$3,880.80
0000043622	28459-NohonaatKapole	INV	11/30/2009	11/30/2009	\$4,260.60	\$4,260.60
0000043994	26232	INV	12/31/2009	12/31/2009	\$288.75	\$288.75
0000043915	28530-AllureWaikikiCo	INV	12/31/2009	12/31/2009	\$16,203.81	\$16,203.81
0000043888	28558-Ho'onanea-Laha	INV	12/31/2009	12/31/2009	\$1,234.80	\$1,234.80
0000043872	28563-Kanehili	INV	12/31/2009	12/31/2009	\$1,000.80	\$1,000.80
0000043868	28566-Kehalanili-Mod1	INV	12/31/2009	12/31/2009	\$2,199.36	\$2,199.36
0000043928	28603-SunsetRidge-Ph	INV	12/31/2009	12/31/2009	\$1,978.20	\$1,978.20
0000043952	28605-TheTides	INV	12/31/2009	12/31/2009	\$703.20	\$703.20
0000043996	28640-KAUAI LAGOON	INV	12/31/2009	12/31/2009	\$2,160.00	\$2,160.00

Voucher(s): 35			Due				
	Aged Totals:		\$76,906.65	\$24,208.92	\$39,376.61	\$5,757.51	\$7,563.61
		<u>Vendors</u>	<u>Due</u>	<u>Current Period</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 and Over</u>
	Vendor Totals:	1	\$76,906.65	\$24,208.92	\$39,376.61	\$5,757.51	\$7,563.61

ROA_00919

SCHEDULE 1.1 (d) ASSUMED CONTRACTS

Project Name	Create On	Builder Account	City	State	Service	Product Name	Quantity	Last Visit Date	% Complete
1095 Canyon Core & Shell	2/12/2008	1095 Canyon Blvd LTD	Boulder	CO	Quality Assurance	Garage	15	1/21/2010	100.00%
1400 N Vista	4/29/2007	1400 N Vista, LLC	Los Angeles	CA	Quality Assurance	Garage	2	12/31/2009	100.00%
1840 Washington	8/7/2008	1840 Washington Associates LLC	San Francisco	CA	Quality Assurance	Garage	2	NULL	0.00%
2395 Lombard Street	12/12/2008	2395 Lombard, LLC	San Francisco	CA	Quality Assurance	Multi Family Development - Level 4	12	12/11/2009	100.00%
346 Metropole	11/3/2009	346 Metropole, LLC	Huntington Beach	CA	Quality Assurance	Hourly Consulting	8	NULL	0.00%
Raven's Hill	7/23/2009	Adaven Homes	Las Vegas	NV	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
5th Street West	6/13/2008	AJT Development LLC	Scottsdale	AZ	Quality Assurance	Multi Family Development - Level 4	13	12/31/2009	49.90%
Allen Brigden Classics	12/8/2009	Allen-Brigden, LLC	Pasadena	CA	Quality Assurance	Multi Family Development - Level 4	6	1/5/2010	0.00%
Landmark Vail	6/13/2008	Alter Vail Ventures LLC	Skokie	IL	Quality Assurance	Garage	1	1/13/2010	100.00%
Elements Townhomes	9/30/2008	Alvarado SG, LLC	Albuquerque	NM	Quality Assurance	Multi Family Development - Level 4	72	11/20/2009	11.00%
Prospect Row Townhomes	11/12/2008	Amber Ridge, Inc.	Tracy	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
The Chanslor Place	5/19/2009	Americap Construction, Inc.	San Ramon	CA	Quality Assurance	Single-Family Development - Level 4	40	8/13/2009	2.55%
Kauai Lagoons Affordable Housing	4/15/2009	Armstrong Builders	Honolulu	HI	Quality Assurance	Multi Family Development - Level 4	31	12/11/2009	41.37%
Northgate Unit 12D, 12E & NG20	NULL	Bailey and Dutton	Reno	NV	NULL	Single-Family Development - Level 4	98	12/31/2009	46.66%
The Resort at Tanamera Condominiums	NULL	Barone Capital Fund VII, LLC	San Diego	CA	NULL	Condo Renovations/Conversions - Level 2 - Comprehensive	440	11/25/2008	5.48%
Oak Grove	12/12/2008	Barry Swenson Builder-San Jose	San Jose	CA	Quality Assurance	Multi Family Development - Level 4	17	1/15/2010	50.00%
The Highlands	NULL	Barstow Highlands Group, LLC	Newport Beach	CA	NULL	Single-Family Development - Level 4	56	9/14/2009	80.93%
Cassidy Ridge	12/20/2007	Behringer Harvard	Addison	TX	Quality Assurance	Garage	1	12/16/2009	65.00%
311 Gramercy Place	10/9/2007	beTEK Corporation	Irvine	CA	Quality Assurance	Garage	6	1/21/2010	100.00%
1029/1021/1019 Lakeshore Drive	10/14/2009	BOC - Nevada, Inc.	Capitola	CA	Quality Assurance	One Day Site Observation	8	1/15/2010	5.37%
Chanteclair Phase 5A	11/24/2009	Buie Communities LLC	San Diego	CA	Quality Assurance	Single-Family Development - Level 4	9	1/4/2010	26.53%
Chanteclair Phase 5B	11/24/2009	Buie Communities LLC	San Diego	CA	Quality Assurance	Single-Family Development - Level 4	9	1/11/2010	26.44%
Burton Way	5/13/2009	Burton Way Property, LLC	Beverly Hills	CA	Quality Assurance	Garage	2	11/13/2009	23.33%

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Encore	NULL	Cachet Homes	Scottsdale	AZ	NULL	Multi Family Development - Level 4	178	1/7/2010	83.75%
Fulton Ranch Town Homes	NULL	Cachet Homes	Scottsdale	AZ	NULL	Multi Family Development - Level 4	90	12/9/2009	62.15%
Verrado Replacements	NULL	Cachet Homes	Scottsdale	AZ	NULL	Single-Family Development - Level 4	63	12/31/2009	58.84%
Camellia	10/19/2009	Camellia NoHo, LP	Diamond Bar	CA	Quality Assurance	Field Consultant Hourly	8	10/21/2009	0.00%
Courtyards at Desert Park	NULL	Camelot Homes	Scottsdale	AZ	NULL	Single / Multi Family Development - Level 5	89	12/30/2009	59.34%
Villas at Desert Camp Ranch	NULL	Camelot Homes	Scottsdale	AZ	NULL	Single / Multi Family Development - Level 5	30	4/28/2009	58.62%
Beeler Street Properties	5/21/2009	Capital Pacific Builder Services, Inc. - Colorado	Lone Tree	CO	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Meadows II @ Briscoe	3/27/2009	Capital Pacific Builder Services, Inc. - Colorado	Lone Tree	CO	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Tallyn's Reach	3/27/2009	Capital Pacific Builder Services, Inc. - Colorado	Lone Tree	CO	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Nohona at Kapolei	12/7/2007	Castle & Cooke Homes Hawaii, Inc	Mililani	HI	Quality Assurance	Multi Family Development - Level 4	118	12/22/2009	80.84%
Vineyard Green Apartments	5/6/2009	Central Coast Residential Builders	Salinas	CA	Quality Assurance	Multi Family Development - Level 3	40	12/17/2009	100.00%
Roosevelt Collection	2/5/2008	Centrum Properties, Inc.	Chicago	IL	Quality Assurance	Garage	189	1/19/2010	100.00%
Champion Drywall	12/8/2009	Champion Drywall Inc. of Nevada	Norco	CA	Quality Assurance	Single-Family Development - Level 1	60	NULL	0.00%
Chavez Residence	7/27/2009	Charity Chavez	Poway	CA	Quality Assurance	Hourly Consulting	1	NULL	NULL
Chase Homes	5/7/2007	Chase Homes, LLC	Calabasas	CA	Quality Assurance	Single-Family Development - Level 4	12	1/14/2010	92.05%
Vermont	12/16/2009	City B Properties - Vermont, LLC	Lynwood	WA	Quality Assurance	Multi Family Development - Level 4	54	NULL	0.00%
Classics at Miramonte	9/21/2007	Classic Communities	Palo Alto	CA	Quality Assurance	Single-Family Development - Level 4	58	1/15/2010	89.57%
Classics at Sterling Park	11/24/2008	Classic Communities	Palo Alto	CA	Quality Assurance	Multi Family Development - Level 4	68	1/21/2010	99.49%
Trinity Park	10/23/2008	Classic Communities	Palo Alto	CA	Quality Assurance	Single-Family Development - Level 4	42	1/20/2010	91.14%
Rancho Cielo Subdivision	6/3/2009	Coachella Valley Housing Coalition	Indio	CA	Quality Assurance	One Day Site Observation	7	1/8/2010	4.32%
Valencia Subdivision	6/3/2009	Coachella Valley Housing Coalition	Indio	CA	Quality Assurance	One Day Site Observation	7	1/8/2010	13.66%
Laurel - Old Creek Ranch	3/27/2009	Cornerstone Communities - San Diego	San Diego.	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Palma - Rolling Hills Ranch	3/4/2009	Cornerstone Communities - San Diego	San Diego	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	0.00%

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Tract 17219	9/2/2008	Crestwood Corporation	Glendora	CA	Quality Assurance	Single-Family Development - Level 1	24	12/22/2009	62.71%
CT Glendale	1/13/2010	CT Glendale, LLC	San Marino	CA	Quality Assurance	Garage	1	NULL	0.00%
Stonehaven	6/11/2009	Cypress Stonehaven LLC	Irvine	CA	Quality Assurance	Single-Family Development - Level 4	28	1/15/2010	99.88%
Ho'onanea - Lahaina Lot 3	4/23/2007	D.R. Horton - Honolulu	Honolulu	HI	Quality Assurance	Multi Family Development - Level 4	100	12/30/2009	9.84%
Nanala at Mehana-Parcel 2	4/23/2007	D.R. Horton - Honolulu	Honolulu	HI	Quality Assurance	Multi Family Development - Level 4	100	12/22/2009	58.98%
Opukea at Lahaina	5/30/2007	D.R. Horton - Honolulu	Honolulu	HI	Quality Assurance	Multi Family Development - Level 4	114	12/30/2009	54.36%
Astante Villas	8/7/2008	D.R. Horton - NM Division	Albuquerque	NM	Quality Assurance	Multi Family Development - Level 4	120	1/22/2010	86.01%
Cave Creek Villas	3/13/2009	D.R. Horton - Tempe	Scottsdale	AZ	Quality Assurance	Hourly Consulting	50	NULL	0.00%
Desert Peak Duplexes	7/26/2007	D.R. Horton - Tempe	Scottsdale	AZ	Quality Assurance	Multi Family Development - Level 4	84	11/23/2009	66.74%
Tre Bellavia	3/13/2009	D.R. Horton - Tempe	Scottsdale	AZ	Quality Assurance	Hourly Consulting	85	NULL	0.00%
Palm Ranch 3	10/7/2008	Daley Enterprises, Inc.	Tulare	CA	Quality Assurance	QB Builder Link® Set up and Training	1	1/19/2010	10.09%
Salyer Estates 3	NULL	Daley Enterprises, Inc.	Tulare	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	26	1/20/2010	67.60%
Silva Estates 10	NULL	Daley Enterprises, Inc.	Tulare	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	74	1/20/2010	36.87%
Sunrise Estates 7	NULL	Daley Enterprises, Inc.	Tulare	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	63	1/20/2010	1.81%
St. Regis Resort-Deer Crest	NULL	Deer Crest Janna, LLC	San Gabriel	CA	NULL	Garage - Level 4	14	1/7/2010	98.50%
Oak Leaf Ranch	8/21/2006	Delco Builders & Developers	Pleasant Hill	CA	Quality Assurance	Single-Family Development - Level 4	45	12/7/2009	62.04%
Victoria Mews Project	6/26/2008	Dennis Allen Associates	Santa Barbara	CA	Quality Assurance	Single-Family Development - Level 4	4	7/28/2009	25.52%
607 - 609 N. Pacific	7/23/2009	Diversified Construction, Inc.	Carlsbad	CA	Quality Assurance	Single-Family Development - Level 4	4	11/2/2009	15.83%
Alicante Estates - Phase 3B	8/11/2009	Dividend Homes	Morgan Hill	CA	Quality Assurance	One Day Site Observation	2	11/24/2009	100.00%
La Terrasse	5/29/2007	Doheny Partners, LLC	Van Nuys	CA	Quality Assurance	Garage	13	1/7/2010	100.00%
Montage Resort at Deer Valley	10/15/2007	DV Luxury Resort LLC	Park City	UT	Quality Assurance	Mid-Rise, High-Rise Living - Level 4	81	12/30/2009	9.85%
River Oaks	4/12/2007	Edenbridge, Inc.	Los Altos	CA	Quality Assurance	Single-Family Development - Level 4	28	11/23/2009	67.80%
Ventana	NULL	Edenbridge, Inc.	Los Altos	CA	NULL	Single-Family Development - Level 4	47	12/17/2009	79.02%

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1049-51 Coast Blvd.	3/25/2009	Enertree, LLC	La Jolla	CA	Quality Assurance	Multi Family Development - Level 4	3	1/5/2010	42.78%
Crescent Heights	8/31/2007	ETCO Homes, Inc.	Beverly Hills	CA	Quality Assurance	Single-Family Development - Level 4	75	1/4/2010	26.71%
Allure Waikiki Condominiums	9/26/2008	Fifield Realty Group-Irvine	Irvine	CA	Quality Assurance	Garage	5	12/18/2009	89.42%
Haleakea	NULL	Gentry Homes, Ltd.	Honolulu	HI	NULL	Single-Family Development - Level 4	171	12/16/2009	74.95%
Kanehili	2/13/2009	Gentry Homes, Ltd.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 1	250	12/22/2009	50.09%
Latitudes	1/24/2008	Gentry Homes, Ltd.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 1	145	12/16/2009	54.85%
The Tides	2/13/2009	Gentry Homes, Ltd.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 1	105	12/21/2009	66.19%
Pineae Village-MFD	7/31/2007	Gold Medallion Homes	Taylorsville	UT	Quality Assurance	Multi Family Development - Level 4	178	1/13/2010	41.70%
Verdance	8/10/2007	Grandview Street Partners, Ltd.	Austin	TX	Quality Assurance	Multi Family Development - Level 4	16	12/21/2009	100.00%
Copper River Ranch	3/9/2007	Granville Homes	Fresno	CA	Quality Assurance	Core Quality Training	1	NULL	NULL
GH02 Tract 5205	NULL	Granville Homes	Fresno	CA	NULL	Single-Family Development - Level 1	134	12/29/2009	99.64%
GH03 Tract 5357	NULL	Granville Homes	Fresno	CA	NULL	Single-Family Development - Level 4	198	12/30/2009	17.05%
GH03 Tract 5357 - QBBL	7/24/2008	Granville Homes	Fresno	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
GH04 Tract 5477	5/31/2007	Granville Homes	Fresno	CA	Quality Assurance	Single-Family Development - Level 1	213	12/30/2009	31.84%
GP01 Tract 5268	4/29/2007	Granville Homes	Fresno	CA	Quality Assurance	Single-Family Development - Level 1	230	12/29/2009	40.91%
GP03 Tract 5450	3/15/2007	Granville Homes	Fresno	CA	Quality Assurance	Single-Family Development - Level 1	118	12/30/2009	60.61%
Hacienda Lofts	NULL	Hacienda Lofts, LLC	Los Angeles	CA	NULL	Garage - Level 4	2	12/18/2009	100.00%
Feeney Place	1/19/2010	Hallmark Communities, Inc.	Solana Beach	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	7	1/21/2010	32.14%
Ke Ali'i Villas	NULL	HBT of HI	Wailuku	HI	NULL	Multi Family Development - Level 4	144	3/9/2009	76.20%
Sunset Ridge - Phase 6	5/30/2007	HBT of HI	Wailuku	HI	Quality Assurance	Single-Family Development - Level 4	32	12/3/2009	70.42%
Ashton Hall	12/8/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	93	NULL	0.00%
Cobblestone Creek	12/8/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	26	1/21/2010	2.92%
Copperleaf	10/14/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	27	11/3/2009	4.56%

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Felty Farms	10/14/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	24	1/7/2010	17.90%
Gates at Johns Creek	12/8/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	31	1/20/2010	0.74%
Lakes at Sugarloaf	12/8/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	46	1/20/2010	1.65%
Mercury Landing II	10/14/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	32	12/9/2009	3.73%
Olde Union Preserve	12/8/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	33	1/19/2010	1.04%
Riverdale	10/14/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	23	1/20/2010	17.63%
Thorngate	12/8/2009	Hearthstone	Solana Beach	CA	Quality Assurance	Half Day Site Observation	11	1/22/2010	5.38%
Kehalani II - Mod 11	11/7/2006	Hearthstone - SD	Solana Beach	CA	Quality Assurance	Multi Family Development - Level 4	114	12/31/2009	90.29%
Daybreak	NULL	Holmes Homes	Sandy	UT	NULL	Multi Family Development - Level 4	64	1/21/2010	78.37%
Daybreak Carriage Homes Plat 7	10/3/2007	Holmes Homes	Sandy	UT	Quality Assurance	Multi Family Development - Level 4	30	7/13/2009	79.78%
Daybreak Lofts and Flats	3/13/2009	Holmes Homes	Sandy	UT	Quality Assurance	Multi Family Development - Level 4	84	1/18/2010	57.43%
Daybreak Mansions	7/17/2008	Holmes Homes	Sandy	UT	Quality Assurance	Multi Family Development - Level 4	33	9/29/2009	16.20%
Daybreak Townhomes - QA	9/11/2006	Holmes Homes	Sandy	UT	Quality Assurance	Multi Family Development - Level 4	45	NULL	NULL
Connerton	3/27/2009	Home Dynamics	Tamarac	FL	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Lakeshore Ranch	3/27/2009	Home Dynamics	Tamarac	FL	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
North Point	3/27/2009	Home Dynamics	Tamarac	FL	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Oviedo Forest	3/27/2009	Home Dynamics	Tamarac	FL	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Sawgrass Bay - Greater Lakes	3/27/2009	Home Dynamics	Tamarac	FL	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Mayberry Villas	9/21/2007	HomeCrafters, Ltd	Reno	NV	Quality Assurance	Multi Family Development - Level 4	24	12/31/2009	25.76%
Woodview Estates	NULL	Homestead Community Builders, Inc.	San Leandro	CA	NULL	Single / Multi Family Development - Level 5	20	9/23/2009	89.13%
Magnolia Courts at La Verne	7/17/2008	Hsientein La Verne Investment LLC	Arcadia	CA	Quality Assurance	Multi Family Development - Level 4	101	12/2/2009	100.00%
Copper River - Lot 36	12/16/2009	Image Homes, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	1	12/30/2009	65.83%

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Fig Garden Estates - Lot 12	1/12/2010	Image Homes, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	1	NULL	0.00%
Fig Garden Estates - Lot 54	12/16/2009	Image Homes, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - 4000-5000 sq ft	1	12/17/2009	0.00%
Fig Garden Estates - Lot 55	1/12/2010	Image Homes, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	1	NULL	0.00%
Image at Harlan Ranch - Lot 105	12/16/2009	Image Homes, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - 4000-5000 sq ft	1	12/17/2009	0.00%
Prestwick Place - #4	1/12/2010	Image Homes, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	1	NULL	0.00%
The Cottages	NULL	IRP Nevis Tustin, LLC	Arcadia	CA	NULL	Multi Family Development - Level 4	93	9/1/2009	100.00%
City Creek Condo Tower 5	1/20/2009	Jacobsen Construction Company, Inc	Salt Lake City	UT	Quality Assurance	Garage	4	1/19/2010	37.27%
La Tour Penthouse	2/16/2009	JD Group Construction Company, Inc	Los Angeles	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
371 San Luis	1/11/2010	Jeff Young Contracting, Inc	Buttonwillow	CA	Quality Assurance	Garage	1	NULL	0.00%
102 University Mixed Use	11/5/2008	Joseph Bellomo Architects, Inc.	Palo Alto	CA	Quality Assurance	Garage	1	1/21/2010	63.00%
Ke Kailani	NULL	Ke Kailani Development LLC	Honolulu	HI	NULL	Single / Multi Family Development - Level 5	20	10/14/2008	74.03%
Cribari Vale Reconstruction Project - The Villages	6/17/2009	Kent Construction	Gilroy	CA	Quality Assurance	Multi Family Development - Level 4	8	12/14/2009	85.89%
Kenyon Plastering	11/12/2009	Kenyon Plastering, Inc.	Phoenix	AZ	Quality Assurance	Single-Family Development - Level 4	90	11/24/2009	0.31%
KFA Residence	12/31/2007	KFA Ltd. c/o Stephen W. Erickson of Rogers, Sheffield & Campbell, LLP	Santa Barbara	CA	Quality Assurance	Garage	1	1/21/2010	100.00%
Kukui'ula Plantation Core	10/26/2007	Kukui'ula Development Company (Hawaii), LLC	Koloa, Kauai	HI	Quality Assurance	Additional Re-Submittal Level 1 TPR	1	12/11/2009	69.81%
Summit Crest	8/26/2009	Lake Forest Summit Crest LLC	Irvine	CA	Quality Assurance	Single-Family Development - Level 4	29	1/21/2010	2.70%
Canyon Pines - Phase 2 & 3	1/4/2010	Lakemont Homes - Reno	Reno	NV	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	7	1/8/2010	1.40%
Wild Stallion Estates	1/22/2010	Lakemont Homes - Reno	Reno	NV	Quality Assurance	Single-Family Development - Level 4	140	NULL	0.00%
Volare - Eagle Landing	6/10/2009	Landing Development, LLC	Milwaukie	OR	Quality Assurance	Multi Family Development - Level 4	85	1/20/2010	2.19%

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Las Palmas	9/2/2008	Landmark Development	Sunnyvale	CA	Quality Assurance	Garage	1	12/4/2009	95.58%
Benovia Vineyard Residence	11/24/2009	Ledcor Builders, Inc	NULL	NU LL	Quality Assurance	Half Day Site Observation	6	NULL	NULL
Legendary Hollywood	8/18/2009	Legendary Hollywood, LLC	Pasadena	CA	Quality Assurance	Field Consultant Hourly	20	11/23/2009	0.92%
Horizons @ Stonefield Unit 3	10/30/2006	Lennar - Barker-Coleman - Reno	Reno	NV	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	68	12/22/2009	90.42%
Centre Pointe	3/14/2008	Lennar Bay Area	San Ramon	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	79	1/13/2010	100.00%
Milano @ Monterosso	7/27/2006	Lennar Bay Area	San Ramon	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	32	1/13/2010	100.00%
Paloma at Windemere	3/27/2007	Lennar Bay Area	San Ramon	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	61	1/5/2010	100.00%
Stafford Place	3/9/2007	Lennar Bay Area	San Ramon	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	58	1/20/2010	100.00%
Centreplace at Edison	NULL	Lennar Central New Jersey	Freehold	NJ	NULL	Multi Family Development - Level 4	285	10/20/2009	100.00%
4724 Cathedral Outpost	1/13/2010	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	2	NULL	0.00%
5196 Blossom Hill Phase II	NULL	Lennar Fresno	Fresno	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	1	9/25/2007	99.37%
5248 Blossom Hill IV	1/13/2010	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	36	NULL	0.00%
5283 Blossom Hill Phase III	9/14/2007	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	78	12/14/2009	100.00%
5310 - Blossom Hill	NULL	Lennar Fresno	Fresno	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	2	1/9/2007	82.45%
5353 Orchard Estates II	9/14/2007	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	103	12/15/2009	94.50%
5427 Parkview at Carriage House	3/14/2008	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	174	1/12/2010	42.41%
5445 - Mariposa II	1/13/2010	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	52	1/14/2010	5.64%

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5517 Oxford Commons	1/13/2010	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	26	NULL	0.00%
5600 Heritage Park I	3/18/2008	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	82	1/18/2010	79.86%
5741 Chateau at Cathedral	1/31/2007	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	84	1/15/2010	94.73%
Autumnwood Ranch II	NULL	Lennar Fresno	Fresno	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	126	1/13/2010	70.32%
Cedar Grove III	4/30/2008	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	105	1/19/2010	63.54%
Parkview @ Oakwest 7	8/25/2008	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	58	1/19/2010	92.76%
Tract 843 Independence	10/20/2009	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	54	1/20/2010	14.49%
Traditions at Carriage House	11/7/2006	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	120	1/12/2010	100.00%
Traditions at the Vistas	1/14/2010	Lennar Fresno	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	86	NULL	0.00%
Meridian at Stonefield 3	6/6/2008	Lennar Reno	Reno	NV	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	61	1/14/2010	89.84%
Woodrush @ Riverpark	10/16/2006	Lennar Reno	Reno	NV	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	56	1/12/2010	92.11%
Anatolia@KavalaRanch V22 Cazadero	2/15/2007	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	106	1/14/2010	94.85%
KavalaRanch@Anatolia III V17 Andravida	2/15/2007	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	82	12/10/2009	90.61%
Verano@Anatolia III	2/15/2007	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	90	1/14/2010	81.41%
West Valley Village Unit 2-Shenandoah II at Blackstone	9/8/2008	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	64	1/7/2010	70.38%

Westpark Village 10B	4/30/2008	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	143	1/7/2010	34.97%
WestPark Village 22 (Sentiero)	7/16/2007	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	81	1/5/2010	85.77%
Westpark Village 8A&10A(Walkabout)	7/16/2007	Lennar Sacramento	Roseville	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	75	1/7/2010	98.47%
The Gates on Manhattan	5/30/2007	leTriomphe Property Group, LLC	Baton Rouge	LA	Quality Assurance	Condo Conversion Site Observations - Per Diem	27	1/5/2010	0.01%
Lindberg Homes	9/28/2006	Lindberg Homes, Inc.	Petaluma	CA	Quality Assurance	Single-Family Development - Level 4	40	11/16/2009	67.38%
Argyros Residence	4/23/2009	Mark A. Falcone General Building Contractor	Laguna Beach	CA	Quality Assurance	Single-Family Development - Level 4 - Over 10,000 sq ft	1	1/11/2010	100.00%
Kukui'ula Makai Cottages - Lot 15	12/22/2009	Maryl Construction, Inc.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 4	1	NULL	0.00%
Kukui'ula Makai Cottages - Lot 19	12/22/2009	Maryl Construction, Inc.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 4	1	NULL	0.00%
Kukui'ula Makai Cottages - Lot 50	12/22/2009	Maryl Construction, Inc.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 4	1	NULL	0.00%
Kukui'ula Makai Cottages - Lot 52	12/22/2009	Maryl Construction, Inc.	Honolulu	HI	Quality Assurance	Single-Family Development - Level 4	1	NULL	0.00%
Saybrook - Etcheverry	3/27/2009	McMillin Homes - Bakersfield	Bakersfield	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
2727 Kirby Tower	NULL	MDA Builders	Houston	TX	NULL	Garage - Level 4	25	1/15/2010	100.00%
South of Market Health Center	9/15/2009	Mercy Housing California	San Francisco	CA	Quality Assurance	Garage	2	12/22/2009	29.07%
Reflections on the Canal	5/7/2007	Mesa 256 Corp.	La Mesa	CA	Quality Assurance	Multi Family Development - Level 3	100	12/31/2009	64.37%
Hacienda Hills Del Oro Ph 7	NULL	Midland Pacific Building Corporation	Atascadero	CA	NULL	Single-Family Development - Level 2 - Under 4000 sq ft	39	1/14/2009	82.78%
Mission Meadows III	9/14/2006	Midland Pacific Building Corporation	Atascadero	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	41	12/7/2009	79.25%
Lawrence Street	9/8/2009	MM Group, LLC	San Diego	CA	Quality Assurance	Multi Family Development - Level 4	5	12/4/2009	54.00%
Orchard Park V	9/30/2009	Monterey Homes	Fresno	CA	Quality Assurance	Single-Family Development - Level 4	23	1/18/2010	16.25%
Beltre Residence and Casitas	4/30/2008	Mur-Sol Construction, Inc.	Arcadia	CA	Quality Assurance	Single-Family Development - Level 4 - Casitas	1	1/6/2010	100.00%
Hyde Street Modern	7/24/2009	Nibbi Brothers, Inc.	San Francisco	CA	Quality Assurance	Garage	1	12/11/2009	70.67%

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Northwood Place	12/8/2009	Okland Construction - Idaho	Ketchum	ID	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Pacific Station	10/29/2008	Pacific Station Property, LLC	San Diego	CA	Quality Assurance	Garage	1	12/16/2009	77.00%
Stratford Court	3/23/2009	Pacifica Stratford II, LLC	San Diego	CA	Quality Assurance	Multi Family Development - Level 4	6	1/5/2010	44.79%
Elkstone 21 Condominiums	6/11/2008	Pine Hill Consulting	Austin	TX	Quality Assurance	Garage	4	12/17/2009	71.10%
Messina Gardens	11/6/2006	Pinn Brothers Construction	San Jose	CA	Quality Assurance	Multi Family Development - Level 4	89	10/6/2008	58.97%
Cabot Avenue MFD	NULL	Platina, L.L.C.	Santa Clara	CA	NULL	Multi Family Development - Level 4	12	12/4/2009	100.00%
Alderwood Ridge	8/25/2009	Portage Homes, LLC	Bothell	WA	Quality Assurance	One Day Site Observation	10	1/15/2010	47.70%
The Grande South	8/31/2009	ProTec Building Services	San Diego	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
EMIA Harbor Housing	10/26/2009	Puffsky, LLC & Slatter Construction, Inc.	Santa Cruz	CA	Quality Assurance	Single-Family Development - Level 4	9	12/17/2009	3.29%
La Reserve Villas	3/9/2007	Pusch Ridge Properties, LLC	Pleasanton	CA	Quality Assurance	Single-Family Development - Level 4	49	1/26/2009	17.83%
1459 MacArthur Blvd.	9/29/2006	Raymond Zhang, Inc.	Daly City	CA	Quality Assurance	Field Consultant Hourly	20	12/3/2009	99.99%
Country Fair	NULL	Raymus Homes, Inc.	Manteca	CA	NULL	Single-Family Development - Level 4	70	1/21/2010	66.24%
Ironworks at the Triangle	NULL	Regis Contractors	Sacramento	CA	NULL	Single-Family Development - Level 4	187	1/12/2010	38.28%
Islands at Riverlake	9/14/2006	Regis Contractors	Sacramento	CA	Quality Assurance	Single-Family Development - Level 4	139	1/21/2010	42.51%
901 Townhomes	6/15/2007	Regis Homes of Northern California	San Mateo	CA	Quality Assurance	Build It Green™ - GreenPoint Rated	103	12/1/2009	78.59%
Cedarbrook	11/18/2008	Regis Homes of Northern California	San Mateo	CA	Quality Assurance	Single-Family Development - Level 4	27	1/22/2010	19.89%
Park Lane West	1/23/2007	Regis Homes of Northern California	San Mateo	CA	Quality Assurance	Garage	1	1/22/2010	84.00%
Woodshire	3/27/2009	Renar Fine Homes	Jensen Beach	FL	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Safari Drive	NULL	Riverwalk Square Development	Scottsdale	AZ	NULL	Garage - Level 4	40	1/7/2010	100.00%
Casa Grande	NULL	Robson Communities	Sun Lakes	AZ	NULL	Single-Family Development - Level 1	321	1/8/2010	67.80%
Pebble Creek	NULL	Robson Communities	Sun Lakes	AZ	NULL	Single-Family Development - Level 1	704	1/8/2010	93.29%
Preserves of Saddle Brooke	NULL	Robson Communities	Sun Lakes	AZ	NULL	Single-Family Development - Level 1	119	12/11/2009	73.33%
Quail Creek	NULL	Robson Communities	Sun Lakes	AZ	NULL	Single-Family Development - Level 1	886	1/6/2010	99.88%

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Robson Ranch	NULL	Robson Communities	Sun Lakes	AZ	NULL	Single-Family Development - Level 1	714	12/28/2009	86.62%
Saddle Brooke - SFD	NULL	Robson Communities	Sun Lakes	AZ	NULL	Single-Family Development - Level 1	658	1/6/2010	95.26%
SaddleBrooke Ranch at Falcon Valley	6/11/2008	Robson Communities	Sun Lakes	AZ	Quality Assurance	Single-Family Development - Level 1	46	1/6/2010	100.00%
Mountaingate	NULL	Ryder Homes of CA	Walnut Creek	CA	NULL	Single-Family Development - Level 1	250	5/5/2009	35.68%
Talon Pointe	NULL	Ryder Homes of CA	Walnut Creek	CA	NULL	Single-Family Development - Level 1	64	12/31/2009	79.74%
Montego	5/7/2008	SAM Oceanside 1, LLC	Sherman Oaks	CA	Quality Assurance	Multi Family Development - Level 4	11	1/20/2010	94.20%
Trilogy @ Encanterra	3/3/2009	Shea Homes - Arizona	Scottsdale	AZ	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Trilogy at Vineyards	5/19/2009	Shea Homes - California	Livermore	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Casa de la Playa	5/15/2007	Sienna Residential, LLC	Studio City	CA	Quality Assurance	Single-Family Development - Level 4	9	12/30/2009	66.67%
Blairwood Condominiums	8/31/2009	Sierra Holdings, LLC	Sacramento	CA	Quality Assurance	Hourly Consulting	8	9/2/2009	0.00%
Tamalpais Commons	11/14/2008	Skyline Miller House HP7, LLC	Mill Valley	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Villa Allegra	11/5/2009	South Sepulveda Receivership Estate	Los Angeles	CA	Quality Assurance	Garage	8	1/11/2010	93.67%
Spanish Inn Hotel & Villas	5/7/2008	Spanish Inn, Inc	Palm Springs	CA	Quality Assurance	Condo Conversion Site Observations - Per Unit	12	11/24/2009	78.82%
Los Corales Condominiums	4/30/2008	SPI Construction II LLC	Harlingen	TX	Quality Assurance	ASTM E1105 Window Assembly Spray Test (Modified)	2	12/18/2009	80.09%
Country Club Villas	NULL	St. Thomas Construction, Inc.	San Ramon	CA	NULL	Single-Family Development - Level 1	133	4/14/2008	100.00%
Kehalani II - Mod 5	11/26/2007	Stanford Carr Development	Honolulu	HI	Quality Assurance	Multi Family Development - Level 4	103	1/18/2010	23.04%
Stanford Avenue Homes	8/17/2009	Stanford University	Menlo Park	CA	Quality Assurance	Single-Family Development - Level 4	39	1/21/2010	15.01%
Terra Verde Condos	11/17/2008	Sterling Square LLC	Everett	WA	Quality Assurance	Condo Conversion Site Observations - Per Unit	73	1/6/2010	35.48%
Pebble Creek Homes	10/21/2009	Steve C. Hamilton Inc dba Hamilton Homes	Sparks	NV	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	135	12/21/2009	0.00%
Dakota West Townhomes	9/13/2006	Sundog Builders	Durango	CO	Quality Assurance	Multi Family Development - Level 4	35	1/12/2010	92.04%
Ritz Carlton - Highlands	12/14/2007	Swinerton Builders - San Francisco	San Francisco	CA	Quality Assurance	Mid-Rise, High-Rise Living - Level 4	23	10/27/2009	100.00%

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T.W. Lewis Communities	12/22/2009	T.W. Lewis	Tempe	AZ	Quality Assurance	One Day Site Observation	2	NULL	0.00%
The Landing	11/12/2009	The Landing at Hamilton, LLC	Novato	CA	Quality Assurance	Half Day Site Observation	3	NULL	0.00%
Almaden Walk - San Jose	3/15/2007	The Olson Company - No Cal	San Ramon	CA	Quality Assurance	Field Consultant Hourly	12	11/30/2009	100.00%
Garden Walk - Hayward	12/21/2006	The Olson Company - No Cal	San Ramon	CA	Quality Assurance	Multi Family Development - Level 4	56	1/22/2010	91.97%
Willow Walk - Compton	8/7/2006	The Olson Company - So Cal	Seal Beach	CA	Quality Assurance	Multi Family Development - Level 4	136	10/16/2009	68.01%
Village at Mountain View	NULL	Toll Brothers - Palm Desert	La Quinta	CA	NULL	Multi Family Development - Level 4	50	1/8/2010	100.00%
Milo Court	3/18/2008	Towne Realty of Hawaii, Inc.	Wailulu	HI	Quality Assurance	Multi Family Development - Level 4	94	12/30/2009	6.42%
Consulting Reserve Fund	8/26/2009	TriPacific Capital Advisors, LLC	San Diego	CA	Quality Assurance	Hourly Consulting	894	NULL	NULL
Four Seasons at Vail	9/8/2009	Vail Development 09 LLC	New York	NY	Quality Assurance	Mid-Rise, High-Rise Living - Level 4	11	11/25/2009	76.71%
Venetian Terrace	10/3/2006	Vitoil, Inc.	Glendale	CA	Quality Assurance	Multi Family Development - Level 4	86	1/20/2010	74.24%
Lakeside at Saratoga	8/21/2006	Wardley / WDF-AY, LLC	Newport Beach	CA	Quality Assurance	Single-Family Development - Level 1	300	9/4/2008	26.68%
Day Creek Highlands @ Rancho Etiwanda Estates	3/27/2009	Warmington Homes - California	Costa Mesa	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Northern Terrace - Cliff's Edge	3/27/2009	Warmington Homes - California	Costa Mesa	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Pine Valley	7/23/2009	Warmington Homes - California	Costa Mesa	CA	Quality Assurance	QB Builder Link® Set up and Training	1	NULL	NULL
Waterstone on Lake Travis	8/15/2007	Waterstone Development, LP	Dallas	TX	Quality Assurance	Multi Family Development - Level 4	71	12/23/2009	94.54%
52 at Harlan Ranch	9/24/2009	Wathen Castanos, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	52	1/11/2010	55.38%
Foxton Chase	1/30/2009	Wathen Castanos, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	40	1/11/2010	96.63%
Ivy Gate	1/30/2009	Wathen Castanos, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	46	1/15/2010	97.34%
Ivy Gate @ Harlan Ranch II, LP	12/14/2009	Wathen Castanos, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	25	1/14/2010	28.07%
Viscaya I	11/19/2009	Wathen Castanos, Inc.	Fresno	CA	Quality Assurance	Single-Family Development - Level 2 - Under 4000 sq ft	10	12/15/2009	81.92%

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Cobblestone	NULL	Watt Communities, LLC	Santa Monica	CA	NULL	Multi Family Development - Level 4	166	1/6/2010	61.10%
St. John's Wood	7/31/2007	Wellesley Manor Corporation	Los Angeles	CA	Quality Assurance	Garage	11	1/20/2010	100.00%
Willow Creek Condominiums	9/14/2007	Willow Creek LLC	Central Point	OR	Quality Assurance	Multi Family Development - Level 4	36	9/11/2009	11.11%
Adolfson & Peterson Construction	12/17/2008	Zurich Services Corporation	Elk River	MN	Quality Assurance	Hourly Consulting	24	NULL	NULL

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SCHEDULE 1.1 (i)

LIST OF I.T. SYSTEMS

QualityBuilt.com
1.1(j) – List of IT Equipment and Systems
As of 11/9/2009
(See backup schedules for details)

<u>Type</u>	<u>Value</u>
Desktop computers	\$ 2,195.66
Toughbooks	\$ 7,837.68
Laptop computers	\$ 4,160.00
Monitors	\$ 6,419.56
Phones	\$ 5,315.31
Printers	\$ 6,572.47
Cameras	\$15,600.00
Furniture/Office supplies	\$ 3,084.00
Server Hardware	\$53,050.00
SAN Hardware	\$43,000.00
Network and Phone Switches	\$46,950.00
UPS Backup Power	\$ 9,640.00
Total	\$203,824.68

SCHEDULE 1.2 (g)
NON-EXCLUSIVE LIST OF
EXCLUDED ASSETS

Schedule 1.2 Excluded Assets

Judgment from Quality Built versus Jesse Olague/West Coast Property Consultants

Judgment from Thomas/Clark versus Quality Built

SCHEDULE 2.1

ASSUMED LIABILITIES

Qualitybuilt.com

Schedule 2.1

Payables to Mid Pacific Testing and Inspections for services provided on projects with receivables less than 90 days old at the time of closing (purchased receivables) . . . subject to receipt of payment.

Payables to James Edward Engineers for services provided on projects with receivables less than 90 days old at the time of closing (purchased receivables) subject to receipt of payment.

Projected Assumed Indebtedness \$72,471.42

See attached agings for details
as of 01/11/2010

	Current	31 - 60	61 - 90	Total
James Edward Engineering	999.00	1,356.88	772.50	3,128.38
Mid Pacific Testing & Inspections	24,208.92	39,376.61	5,757.51	69,343.04
	<u>25,207.92</u>	<u>40,733.49</u>	<u>6,530.01</u>	<u>72,471.42</u>

To the extent not specifically described above, all accounts payable of the Seller that arose from or are related to the Assumed Contracts, if and only to the extent such payable directly resulted in a Purchased AR which has been actually collected by Buyer (the "Assumed Accounts Payable").

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User Date: 1/22/2010

HISTORICAL AGED TRIAL BALANCE
Quality Built
Payables Management

Page: 1
User ID: MurphyS

Ranges:

Vendor ID: JAM001 - JAM001
Class ID: First - Last
Payment Priority: First - Last
Vendor Name: First - Last

QAD-02-000003?:
Posting Date: First - Last
Document Number: First - Last

Print Option: DETAIL
Aged By: Document Date
Aging Date: 1/11/2010

Exclude: Zero Balance, No Activity, Fully Paid Documents, Unposted Applied Credit Documents, Multicurrency Info
Sorted By: Vendor ID
Due Date

* - Indicates an unposted credit document that has been applied.

Vendor ID:	JAM001	Name:	James Edward Engineering	Class ID:	IC	QAD-02-000003?:						
Voucher/ Payment No.	Doc Number	Type	Doc Date	Due Date	Doc Amount	Disc Date	Disc Avail	Writeoff Amount	Current Period	31 - 60 Days	61 - 90 Days	91 and Over
0000029516 8045	21569-CanyonPinesPh	INV	1/31/2008	2/15/2008	\$580.75							\$580.75
		PMT										(\$411.36)
0000029214	21574-RoyalTroon	INV	1/31/2008	2/15/2008	\$73.60							\$73.60
0000029295	21575-Sendero	INV	1/31/2008	2/15/2008	\$92.00							\$92.00
0000030299	21569-CanyonPinesPh	INV	3/3/2008	3/13/2008	\$412.85							\$412.85
0000036563	24627-AutumnTrailsPh	INV	9/30/2008	10/15/2008	\$54.05							\$54.05
0000038526	25678-AutumnTrailsPh	INV	12/31/2008	1/15/2009	\$242.65							\$242.65
0000039911	26399-TOWNHOUSES	INV	2/28/2009	3/15/2009	\$360.00							\$360.00
0000039910	23982	INV	3/31/2009	4/15/2009	\$120.00							\$120.00
0000040189	26751-Mountaingate	INV	3/31/2009	4/15/2009	\$270.40							\$270.40
0000040314	26789-Saddlebrook@P	INV	3/31/2009	4/15/2009	\$372.00							\$372.00
0000040779	24589	INV	4/30/2009	5/15/2009	\$146.40							\$146.40
0000040631	PO26044-4/30/2009 4:	INV	4/30/2009	5/15/2009	\$615.00							\$615.00
0000041139	27299-RitzCarlton-Hig	INV	5/31/2009	6/15/2009	\$70.56							\$70.56
0000041109	27306-Saddlebrook@P	INV	5/31/2009	6/15/2009	\$390.00							\$390.00
0000041685	27667-Saddlebrook@P	INV	6/30/2009	7/15/2009	\$169.50							\$169.50
0000042147 8203	27970-MeridianatStone	INV	8/31/2009	9/15/2009	\$504.00							\$504.00
		PMT										(\$85.52)
0000042473 8248	28014-Woodrush@Riv	INV	8/31/2009	9/15/2009	\$849.00							\$849.00
		PMT										(\$66.00)
0000042918 8248	28107-Horizons@Stone	INV	9/30/2009	10/15/2009	\$456.00							\$456.00
		PMT										(\$77.56)
0000042821	28122-MeridianatStone	INV	9/30/2009	10/15/2009	\$270.00							\$270.00
0000043315	28270-Horizons@Stone	INV	10/31/2009	11/15/2009	\$127.50						\$127.50	
0000043597	28233-MeridianatStone	INV	10/31/2009	11/15/2009	\$198.00						\$198.00	
0000043382	28334-Woodrush@Riv	INV	10/31/2009	11/15/2009	\$447.00						\$447.00	
0000043636	28437-Horizons@Stone	INV	11/30/2009	12/15/2009	\$540.00					\$540.00		

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HISTORICAL AGED TRIAL BALANCE

Quality Built

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 User ID: MurphyS

0000043579	28456-MeridianatStone INV	11/30/2009 12/15/2009	\$361.50			\$361.50			
0000043615	23481-TalonPointe INV	11/30/2009 12/15/2009	\$186.88			\$186.88			
0000043685	28498-Woodrush@Rivt INV	11/30/2009 12/15/2009	\$268.50			\$268.50			
0000043570	28559-Horizons@Stone INV	12/31/2009 1/15/2010	\$369.00		\$369.00				
0000043557	28573-MeridianatStone INV	12/31/2009 1/15/2010	\$406.50		\$406.50				
0000043562	28621-Woodrush@Rivt INV	12/31/2009 1/15/2010	\$223.50		\$223.50				
Voucher(s): 29			Aged Totals:	Due					
				\$8,536.70	\$999.00	\$1,356.88	\$772.50	\$5,408.32	
				<u>Vendors</u>	<u>Due</u>	<u>Current Period</u>	<u>31 - 60 Days</u>	<u>61 - 90 Days</u>	<u>91 and Over</u>
Vendor Totals:			1	\$8,536.70	\$999.00	\$1,356.88	\$772.50	\$5,408.32	

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User Date: 1/22/2010

HISTORICAL AGED TRIAL BALANCE
Quality Built
Payables Management

Page: 1
User ID: Murphys

Ranges:
Vendor ID: MID001 - MID001BK
Class ID: First - Last
Payment Priority: First - Last
Vendor Name: First - Last

QAD-02-000003?:
Posting Date: First - 1/11/2010
Document Number: First - Last

Print Option: DETAIL
Aged By: Document Date
Aging Date: 1/11/2010

Exclude: Zero Balance, No Activity, Fully Paid Documents, Unposted Applied Credit Documents, Multicurrency Info
Sorted By: Vendor ID
Due Date

* - Indicates an unposted credit document that has been applied.

Vendor ID: MID001		Name: Mid Pacific Testing and Inspections				Class ID: IC		QAD-02-000003?:				
Voucher/ Payment No.	Doc Number	Type	Doc Date	Due Date	Doc Amount	Disc Date	Disc Avail	Writeoff Amount	Current Period	31 - 60 Days	61 - 90 Days	91 and Over
0000043995	JAN10 EQ LEASE	CRM	12/23/2009		(\$1,560.00)				(\$1,560.00)			
0000013604	09413-MontaraCondom	INV	1/31/2007	1/31/2007	\$652.74							\$652.74
MIDP09112009		PMT										(\$0.01)
MIDP10262007		PMT										(\$318.47)
0000014356	10172-MontaraCondom	INV	2/28/2007	2/28/2007	\$702.42							\$702.42
0000016180	12018-MontaraCondom	INV	3/31/2007	3/31/2007	\$895.62							\$895.62
MIDP09312007		PMT										(\$690.25)
0000018143	13077-MontaraCondom	INV	4/30/2007	4/30/2007	\$121.44							\$121.44
0000019366	13783-MontaraCondom	INV	5/31/2007	5/31/2007	\$99.36							\$99.36
0000029692	20839-PointsWest	INV	1/31/2008	1/31/2008	\$328.35							\$328.35
0000031892		CRM										(\$54.73)
0000029818	20991-VolareatEagle's	INV	1/31/2008	1/31/2008	\$794.88							\$794.88
0000030527	21367-PointsWest	INV	3/3/2008	3/3/2008	\$235.95							\$235.95
0000031897		CRM										(\$36.32)
0000030417	21472-VolareatEagle's	INV	3/3/2008	3/3/2008	\$227.52							\$227.52
0000032660	22719-PointsWest	INV	4/30/2008	4/30/2008	\$690.00							\$690.00
0000035653	24413-NormandyPlace	INV	5/31/2008	5/31/2008	\$139.08							\$139.08
0000036538	24743-ManhattanBeach	INV	9/30/2008	9/30/2008	\$64.86							\$64.86
0000037257	25114-Kasteel	INV	10/31/2008	10/31/2008	\$519.84							\$519.84
MIDP02272009		PMT										(\$435.00)
0000038474	25796-CarringtonSquar	INV	12/31/2008	12/31/2008	\$1,108.14							\$1,108.14
0000040470	24389	INV	3/31/2009	3/31/2009	\$1,200.00							\$1,200.00
0000041363	25039	INV	6/11/2009	6/11/2009	\$1,656.00							\$1,656.00
MIDP11062009		PMT										(\$337.81)
0000043321	28239-AllureWaikikiCo	INV	10/31/2009	10/31/2009	\$5,757.51						\$5,757.51	
0000043500	25962	INV	11/30/2009	11/30/2009	\$1,060.00					\$1,060.00		
0000043595	25966	INV	11/30/2009	11/30/2009	\$5,600.00					\$5,600.00		
0000043602	28406-Akolea@Kohala	INV	11/30/2009	11/30/2009	\$864.00					\$864.00		
0000043675	28406-AllureWaikikiCo	INV	11/30/2009	11/30/2009	\$18,293.07					\$18,293.07		
0000043600	25441-Kanehili	INV	11/30/2009	11/30/2009	\$4,651.20					\$4,651.20		

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HISTORICAL AGED TRIAL BALANCE Quality Built

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0000043663	28446-Kukui'ulaPlanta INV	11/30/2009 11/30/2009	\$571.74			\$571.74			
0000043597	28449-Latitudes INV	11/30/2009 11/30/2009	\$175.20			\$175.20			
0000043654	28458-NanalaatMehant INV	11/30/2009 11/30/2009	\$3,880.80			\$3,880.80			
0000043622	28459-NohonaatKapole INV	11/30/2009 11/30/2009	\$4,266.60			\$4,266.60			
0000043994	28232 INV	12/31/2009 12/31/2009	\$268.75		\$268.75				
0000043915	28530-AllureWaikikiCo INV	12/31/2009 12/31/2009	\$16,203.81		\$16,203.81				
0000043888	28558-Ho'onanea-Laha INV	12/31/2009 12/31/2009	\$1,234.80		\$1,234.80				
0000043872	28563-Kanehili INV	12/31/2009 12/31/2009	\$1,000.80		\$1,000.80				
0000043868	28566-Kehalanili-Mod1 INV	12/31/2009 12/31/2009	\$2,199.36		\$2,199.36				
0000043928	28603-SunsetRidge-Ph INV	12/31/2009 12/31/2009	\$1,978.20		\$1,978.20				
0000043952	28605-TheTides INV	12/31/2009 12/31/2009	\$703.20		\$703.20				
0000043996	28640-KAUAI LAGOON INV	12/31/2009 12/31/2009	\$2,160.00		\$2,160.00				
Voucher(s): 35			Aged Totals:	Due					
				\$76,906.65	\$24,208.92	\$39,376.61	\$5,757.51	\$7,563.61	
			Vendor Totals:	Vendors	Due	Current Period	31 - 60 Days	61 - 90 Days	91 and Over
				1	\$76,906.65	\$24,208.92	\$39,376.61	\$5,757.51	\$7,563.61

ROA_00943

SCHEDULE 5.10 LITIGATION

ROA_00944

SCHEDULE 5.10

List of Litigation/Causes of Action/Counterclaims

QualityBuilt.com, Inc. v. West Coast Property Consultants, Inc. (Court of Appeal, 4th Appellate District, Division 1, Case No. D055231)

Quality Built sued Defendants for misappropriation of trade secrets, conversion, breach of contract, unfair competition, breach of confidence, and conspiracy. The Superior Court case was tried during the fall 2008 and Quality Built obtained a jury verdict in excess of \$1.7 million. Defendant WCPC filed a notice of appeal and also filed for Chapter 11 bankruptcy. Accordingly, the appeal was automatically stayed.

Thomas Clark & Alan Thomas v. QualityBuilt.com, Inc. (Court of Appeal, 4th Appellate District, Division 1, Case No.s D055311; D054713)

Two former employees filed a lawsuit against Quality Built for Wrongful Employment Termination – Breach of Public Policy, Negligent Infliction of Emotional Distress, Intentional Infliction of Emotional Distress and Unpaid Overtime Compensation. The case was dismissed in November 2008 and Quality Built was awarded attorney's fees in the amount of \$62,000. Plaintiffs have filed notices of appeal. Schor & Freeland represents QB and is being paid by insurance proceeds.

Solutions Consulting Group v. QualityBuilt.com, Inc.; QualityBuilt.com, Inc. v. Solutions Consulting Group (San Diego Superior Court, Case No. GIC871918)

Solutions Consulting Group ("SCG") sued Quality Built for declaratory relief; Quality Built counterclaimed against SCG for breach of contract, breach of the covenant of good faith and fair dealing, professional negligence, negligent misrepresentation and fraud in the inducement/inception. On the eve of trial in May 2008, SCG filed for Chapter 11 bankruptcy, which was recently converted to Chapter 7. The case was automatically stayed.

QualityBuilt.com, Inc. v. Coast to Coast Engineering Services Inc. dba Criterium Engineers (AAA Case No. 73 155 Y 00167 07 DEAR; U.S. District Court, Southern District of California, San Diego Division, Case No. 3:07-cv-00627-WQH-AJB)

Quality Built brought a claim before the American Arbitration Association against Coast to Coast Engineering Services Inc. ("Criterium") for claims related to Criterium's breach of a Master Services & Licensing Agreement between the parties. Criterium countersued Quality Built for breach of the same agreement. Arbitration occurred in January/February 2009. On May 26, 2009, the arbitrator awarded Criterium \$3.6 million in damages, attorney's fees and costs. On July 10, 2009, Criterium filed a petition in District Court to confirm the award. Quality Built had not answered the petition prior to the automatic stay.

Continental Casualty Company v. West Coast Property Consultants Inc.; QualityBuilt.com Inc. (U.S. District Court, Southern District of California, San Diego Division, Case No. 3:09-cv-01031-W-CAB)

Plaintiff insurance company sued its insured, WCPC, for declaratory relief, equitable indemnity and contribution and Quality Built for declaratory relief only. The plaintiff says that it has no obligation under its policy to indemnify WCPC or satisfy the judgment entered against it and seeks to recover amounts paid in defense of the action against WCPC. QB filed an answer and will be filing a cross-complaint under section 11580(b) of the Insurance Code in an effort to obtain proceeds from the policy to satisfy the WCPC judgment. Greco Traficante represents QB pursuant to a contingency fee agreement.

Westchester Surplus Lines Insurance v. Roy Anderson Corporation (U.S. District Court, for the Southern District of Mississippi, Southern Division, Case No. 1:08cv1434-HSO-JMR)

Westchester counterclaimed against Quality Built for all sums it may be found to be liable for by judgment or settlement in its case against Roy Anderson Corporation. Quality Built provided quality assurance services to the subject property in Mississippi pursuant to an agreement with Roy Anderson. This case may voluntarily be stayed pending a decision from the Mississippi Supreme Court that may affect the outcome of this case. Coverage counsel has been appointed to represent Quality Built in this action.

State Farm General Ins. v. Tessard Designs et al (San Diego Superior Court, Case No. 37-2008-00050383-CU-IC-NC)

Both QB and its predecessor Luhr Inc. dba Pacific Property Consultants were served with a summons in this matter and sued as cross defendants. The contract for QA services at the Sagewood project in San Marcos, CA was with Luhr Inc. This matter was tendered to and accepted for defense by Luhr Inc's carrier and Attorney Steven Schwartz was appointed as coverage counsel. Mr. Schwartz received an open ended extension to file an answer on behalf of both entities. Counsel expects this matter to be dismissed as against both entities.

San Diego Revitalization Corp. v. Martinez & Cutri Corp. (San Diego Superior Court, Case No. GIC845232)

QB's predecessor Luhr Inc. dba Pacific Property Consultants was brought into this case by the architect, Martinez & Cutri, and the general contractor, Sundt Construction. The contract for quality assurance services performed at this downtown San Diego project was with Luhr, Inc. This matter was tendered to and accepted for defense by Luhr Inc's carrier and Attorney Steven Schwartz was appointed as coverage counsel. Mr. Schwartz filed a demurrer but Luhr Inc. remains in this case, which is expected to settle this fall.

Southshore Golf Villas Homeowners Assn v. Lake at Las Vegas Joint Venture (District Court, Clark County, Nevada, Case No. A550021)

QB's predecessor Luhr Inc. dba Pacific Property Consultants was named in this matter by its client, Lake at Las Vegas Joint Venture. The contract for quality assurance services performed at this Las Vegas area project was with Luhr Inc. This matter was tendered to and accepted for defense by Luhr Inc's carrier and Attorney Thomas Dillard was appointed as coverage counsel.

The Defendant filed for bankruptcy protection but the stay was recently lifted to allow the parties to pursue insurance proceeds. Luhr Inc. has filed a Motion for Summary Judgment which is expected to be heard this fall.

In re San Jose Brickyard Homeowners Assn (Calderon Notice)

QB was served with a Calderon Notice pertaining to this project for which QB provided services for FF Development, LP dba Fairmark Development. The HOA is claiming various construction defects. QB has participated in telephone calls and put its carrier on notice of this potential claim.

In re Molino Street Lofts Homeowners Assn (Calderon Notice)

QB was served with a Calderon Notice pertaining to this project for which QB provided services for Molino Street Lofts, LLC. The HOA is claiming various construction defects. QB has put its carrier on notice of this potential claim.

Pieropan v. QualityBuilt.com (Workers Compensation Appeal Board, WCAB Case No.: VNO 0558668)

Employee filed a workers compensation claim for an injury alleged to be caused from carrying a Toughbook computer.

Centerra High Plains Village a/k/a Centerra Residential Community v. McStain Enterprises, Inc. (Notice of Claim pursuant to C.R.S. § 13-20-803.5)

QB's predecessor Luhr Inc. dba Pacific Property Consultants was served with a Notice of Claim and Tender of Defense & Indemnity relating to this project. The HOA is claiming various construction defects. There is some question as to the timeline and type of construction related to this claim and whether any action is barred by the statute of limitations.

SCHEDULE 5.17 REGISTERED I.P.

SCHEDULE 5.17(a)
List of Registered IP

Registered Domain Names:

QUALITYBUILT.COM
HOMEID.COM

Registered Trademarks:

FRAMER ID®
PERFECTING THE ART AND SCIENCE OF QUALITY IN HOME
BUILDING®
QUALITY BUILT®
BUILDER I.D.®
QUALITYBUILT.COM®
Q® (design of a stylized letter Q in a rectangle)
QB BUILDER LINK®
QB CLOSURE LINK®
QB RAPID RESPONSE®
HOME ID®
QB LINK®
QB DAP®
PERFECTING THE ART AND SCIENCE OF QUALITY IN
CONSTRUCTION®

The following are additional trademarks in use by Quality Built

BUILDER RISK ASSESSMENT™
TECHNICAL PLAN REVIEW™
RESIDENT EXPERT PROGRAM™
PRODUCTLINK™ *
SAFETYLINK™ *
TRADELINK™ *

Notes:

** Quality Built must file a statement and sample of these trademark as used in interstate commerce by November/December 2009 for them to be registered. No further extensions of filings are allowed.*

SCHEDULE 5.18
CO-OWNERS OF IP / HOSTILE
CLAIMS TO IP

NONE

SCHEDULE 5.19 (b)
NOTICE OF PRODUCT
DEFECTS

NONE

SCHEDULE 5.19 (c)
PRODUCT LIABILITY
CLAIMS

SCHEDULE 5.19(c)
List of Third Party claims/notices regarding potential liability¹

Name of Builder	Name of Project	City, State	Notice Received: 09/01/06 - 11/01/09
Lake Las Vegas Resort	Southshore Villas	Las Vegas, NV	QB's predecessor named (Luhr Inc.); MSJ filed and to be heard shortly; panel counsel appointed.
ETCO Homes, Inc.	Lakeview Terrace	Westminister, CA	
Trans West Housing	Talante	La Quinta, CA	
Centex Homes - Henderson	Fairway Lane Townhomes	Henderson, NV	
Oakwood Development	Rocking Horse	Chula Vista, CA	
Trans West Housing	City Heights Urban Village	San Diego, CA	
Westmark Homes	Amber Ridge	Las Vegas, NV	Luhr Inc. records subpoenaed.
Pacer Communities	Lakeside Bear Creek	Murrieta, CA	QB's predecessor named; Luhr Inc. dismissed
New West Properties	New West At Sunnymead Ranch	Morena Valley, CA	
The Olson Company - Seal Beach	Fountain Walk	Fountain Valley, CA	
Engle Homes-Colorado	Old Farm Estates	Thornton, CO	Notice per CO right to repair legislation.
Engle Homes-Colorado	McKay Landing - Lake Isle	Broomfield, CO	Notice per CO right to repair legislation.
Roy Anderson Corp.	Lost Key Golf & Beach Club -16	Pensacola, FL	Notice per FL right to repair legislation.
Residential Constructors, LLC	Metropolis Lofts & Flats	Las Vegas, NV	Notice per NV right to repair legislation.
Wespac Communities, Inc.	Residences on Main	Scottsdale, AZ	Arbitration re faulty windows; QB records subpoenaed.
CLB Partners	Park Laurel	San Diego, CA	

¹ This list is in addition to the list provided in Schedule 5.17(a). This list contains pre-litigation notices, subpoenas for business records related to construction defect claims, homeowner complaints, insurance claims for Quality Built and its predecessor, Luhr Inc. dba Pacific Property Consultants when the services at issue were performed pursuant to the Quality Built program.

Kirkland Central, L.P.	Kirkland Central Condominiums	Kirkland, WA	Insurance claim.
McStain Neighborhoods	High Plains Village Condos	Loveland, CO	Prelitigation Notice
Picerne	Regatta Point	Tempe, AZ	
CLB Partners	Seahaus	La Jolla, CA	Records subpoenaed.
Centennial, LLC	Blackhawk	Las Vegas, NV	Notice per NV right to repair legislation.
Roy Anderson Corp.	Ocean Club	Biloxi, MS	
Westmark Homes	Villagio	Las Vegas, NV	Records subpoenaed.
FF Development dba Fairmark	San Jose Brickyard	San Jose, CA	Calderon Notice
Opus West	Scottsdale Waterfront	Scottsdale, AZ	
McStain	High Plains Villages	Boulder, CO	
Picerne Communities	Regatta Point	Tempe, AZ	
3150 Geary Associates	3148 Geary Blvd		
558 Hillgreen	558 Hillgreen	Los Angeles, CA	
Adam Pasori	624 E. Orange Grove Condos	Burbank, CA	
Armstrong Builders	Kai Makani	Maui, HI	
Beazer Homes	The Point @ Moore's Inlet	Trenton, NJ	
Bison Builders	Post Falls Landing	Post Falls, ID	
Black Rock Development	Courtyard Home	Couder d'Alene, ID	
Blacksmith Homes/Castle Co.	Esperanza Estates		
Bristol Development	Velocity on the Gulch	Nashville, TN	
Cityview Turtle Creek 95, LP	Newton North/South Townhomes	Dallas, TX	
Colonial Properties	Southgate on Fairview	Charlotte, NC	
Frontier Homes/VRC Development	Blue Sky Condos	Erie, CO	
Ironbridge Homes	Ironbridge	Glenwood Springs, CO	
Jonathan Homes	Creekside Meadows	Livermore, CA	

MidAtlantic Builders	Meadow Creek	Upper Marlboro, MD	
Ministrelli Companies	Artisan Lot 31	Rancho Mirage, CA	
Okland Construction	Elkhorn Springs	Sun Valley, ID	
The Olson Company	Artisan Walk	Emeryville, CA	
The Olson Company	City Walk	Oakland, CA	
Pageantry Homes	Black Hawk	Las Vegas, NV	Notice per NV right to repair legislation.
Promontory Properties	Bella Vista at Promontory Pointe	Ventura, CA	
Rutter Development Company	High Ridge @ Burbank Hills	Burbank, CA	
Paulson, LLC	Wilmar Condominiums	Walnut Creek, CA	
1126 N. Euclid, LLC	Villa de Euclid	Anaheim, CA	
Commercial Lofts, LLC	Commercial Lofts	Las Vegas, NV	Subpoena for Business Records

SCHEDULE 5.19 (c)
PRODUCT LIABILITY
CLAIMS

SCHEDULE 5.19(c)
List of Third Party claims/notices regarding potential liability¹

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The Olson Company - Seal Beach	Fountain Walk	Fountain Valley, CA	
Engle Homes-Colorado	Old Farm Estates	Thornton, CO	Notice per CO right to repair legislation.
Engle Homes-Colorado	McKay Landing - Lake Isle	Broomfield, CO	Notice per CO right to repair legislation.
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3150 Geary Associates	3148 Geary Blvd		
558 Hillgreen	558 Hillgreen	Los Angeles, CA	
Adam Pasori	624 E. Orange Grove Condos	Burbank, CA	
Armstrong Builders	Kai Makani	Maui, HI	
Beazer Homes	The Point @ Moore's Inlet	Trenton, NJ	
Bison Builders	Post Falls Landing	Post Falls, ID	
Black Rock Development	Courtyard Home	Couer d'Alene, ID	
Blacksmith Homes/Castle Co.	Esperanza Estates		
Bristol Development	Velocity on the Gulch	Nashville, TN	
Cityview Turtle Creek 95, LP	Newton North/South Townhomes	Dallas, TX	
Colonial Properties	Southgate on Fairview	Charlotte, NC	
Frontier Homes/VRC Development	Blue Sky Condos	Erie, CO	
Ironbridge Homes	Ironbridge	Glenwood Springs, CO	
Jonathan Homes	Creekside Meadows	Livermore, CA	

MidAtlantic Builders	Meadow Creek	Upper Marlboro, MD	
Ministrelli Companies	Artisan Lot 31	Rancho Mirage, CA	
Okland Construction	Elkhorn Springs	Sun Valley, ID	
The Olson Company	Artisan Walk	Emeryville, CA	
The Olson Company	City Walk	Oakland, CA	
Pageantry Homes	Black Hawk	Las Vegas, NV	Notice per NV right to repair legislation.
Promontory Properties	Bella Vista at Promontory Pointe	Ventura, CA	
Rutter Development Company	High Ridge @ Burbank Hills	Burbank, CA	
Paulson, LLC	Wilmar Condominiums	Walnut Creek, CA	
1126 N. Euclid, LLC	Villa de Euclid	Anaheim, CA	
Commercial Lofts, LLC	Commercial Lofts	Las Vegas, NV	Subpoena for Business Records

SCHEDULE 5.20 (a)

INSURANCE



- ☒ ACE American Insurance Company
☐ Illinois Union Insurance Company
☐ Westchester Fire Insurance Company
☐ Westchester Surplus Lines Insurance Company

ACE Advantage®
Miscellaneous Professional
Liability Policy
Declarations

This Policy is issued by the stock insurance company listed above.

THIS POLICY IS A CLAIMS MADE AND REPORTED POLICY. EXCEPT AS OTHERWISE PROVIDED HEREIN, THIS POLICY COVERS ONLY CLAIMS FIRST MADE AGAINST THE INSURED AND REPORTED TO THE COMPANY DURING THE POLICY PERIOD. PLEASE READ THIS POLICY CAREFULLY.

THE LIMITS OF LIABILITY AVAILABLE TO PAY INSURED DAMAGES SHALL BE REDUCED BY AMOUNTS INCURRED FOR CLAIMS EXPENSES. FURTHER NOTE THAT AMOUNTS INCURRED FOR DAMAGES AND CLAIMS EXPENSES SHALL ALSO BE APPLIED AGAINST THE RETENTION AMOUNT.

TERMS THAT APPEAR IN BOLD FACE TYPE HAVE SPECIAL MEANING. PLEASE REFER TO SECTION II, DEFINITIONS.

Policy No. EON G23635628 001	
Item 1. Named Insured:	QualityBuilt.com
Principal Address:	15330 Avenue of Science San Diego, CA 92128
Item 2. Policy Period:	From 12:01 a.m. 12/01/2008 To 12:01 a.m. 12/01/2009 (Local time at the address shown in Item 1)
Item 3. Limit of Liability (including Claims Expenses)	\$2,000,000 Each Claim \$2,000,000 Aggregate Limit \$ 5,000.00 Disciplinary Proceeding Claims Expenses Aggregate Limit (in addition to the Each Claim and Aggregate Limits set forth above)
Item 4. Retention	\$25,000 Each Claim
Item 5. Premium	\$88,111
Item 6. Retroactive Date (if applicable):	11/01/2002
Item 7. Professional Services:	Solely in the performance of providing home inspection, quality assurance and risk management.

Item 8. Notice to **Company**:

A. Notice of **Claim** or **Wrongful Act**:

ACE USA Claims
P.O. Box 25159
Lehigh Valley, PA 18002-5159
Fax Number: 877-201-8787

B. All other notices:

Chief Underwriting Officer
ACE USA – Professional Risk
140 Broadway, 40th Floor
New York, New York 10005

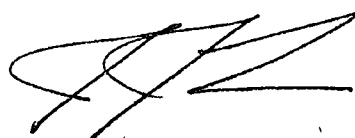
Item 9. Optional **Extended Reporting Period**:

Additional Premium: 100% of last annual policy premium
Additional Period: 12 Months

Item 10. Endorsements attached upon **Policy** effective date:

- ALL-20887 (10/06) – ACE Producer Compensation Notice
PF-17914 (02/05) - U.S. Treasury Department's Office of Foreign Assets
1. LD-5S23g (04/02) - Signature Endorsement
 2. ALL-21101 (11/06) - Trade or Economic Sanctions Endorsement
 3. PF-19681 (01/06) CA Amendatory Endorsement
 4. PF-19832a (11/06) Home Inspector Endorsement

IN WITNESS WHEREOF, the **Company** has caused this **Policy** to be countersigned by a duly authorized representative of the **Company**.



Authorized Agent

DATE: 12/19/2008

02/10/2009 08:36 AM

FIRST MERCURY INSURANCE COMPANY
(A STOCK COMPANY)

STATUTORY HOME OFFICE: ONE SOUTH WACKER DRIVE, SUITE 2740, CHICAGO, IL 60608
ADMINISTRATIVE OFFICE: 29621 NORTHWESTERN HWY., SOUTHFIELD, MI 48034

**GENERAL LIABILITY POLICY
DECLARATIONS**

Underwritten by First Mercury Emerald Insurance Services
California License No. 0G00727

POLICY NUMBER EPCA000190

RENEWAL OF: NEW

NAMED INSURED AND MAILING ADDRESS

Quality Built; (DBA) Quality Built.com, Inc.
15330 Avenue of Science
San Diego, CA 92128

BROKER NAME AND ADDRESS

Swett & Crawford - Los Angeles
515 S Figueroa St
Los Angeles, CA 90071

POLICY PERIOD From: 02/01/2009 To: 12/01/2009
AT 12:01 A.M. STANDARD TIME AT YOUR MAILING ADDRESS SHOWN ABOVE

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

LIMITS OF INSURANCE:

Each Occurrence Limit: \$1,000,000
Personal & Advertising Injury Limit: \$1,000,000
General Aggregate Limit: \$2,000,000
Products-Completed Operations Aggregate Limit: \$2,000,000
Damage To Premises Rented To You: \$50,000
Medical Payment Limit: \$5,000

Defense Costs are outside the limits of Liability

Liquor Liability Limit: Excluded
Liquor Liability Aggregate: Excluded

Employee Benefits Liability: Excluded

RETAINED LIMIT:

5,000 deductible

PREMIUM COMPUTATION:

Premium: \$16,607 Inspection Fee: \$250

Coverage for certified acts of terrorism has been rejected; exclusion attached.
(Per TRIA Disclosure Notice.)

☒

TOTAL POLICY PREMIUM: \$16,607

Retroactive Date (CG 00 02 Only): THIS INSURANCE DOES NOT APPLY TO "BODILY INJURY", "PROPERTY DAMAGE OR "PERSONAL AND ADVERTISING INJURY" WHICH OCCURS BEFORE THE RETROACTIVE, IF ANY SHOWN BELOW RETROACTIVE DATE:

ENDORSEMENTS ATTACHED TO THIS POLICY: See Schedule FME-END - Schedule of Forms and Endorsements

"This insurance is issued pursuant to the CA INS s 1760 through CA INS s 1780, and is placed in an insurer or insurers not holding Certificate of Authority from or regulated by the California Insurance Commissioner."

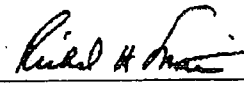
IMPORTANT! Please carefully examine your policy as it may contain significant coverage modifications or exclusions. If this policy is a renewal, it may not contain the same precise terms and conditions as the prior policy.

NOTICE: IN ORDER TO PRESERVE YOUR RIGHTS UNDER THIS POLICY ALL CLAIMS MUST BE REPORTED IMMEDIATELY TO:

First Mercury Emerald Insurance Services P.O. Box 5096 Southfield, MI 48086 Phone: 248-358-4010 Fax: 248-357-5036

THE INSURANCE COMPANY IN WHICH THIS COVERAGE IS PLACED IS AUTHORIZED TO TRANSACT BUSINESS IN THE STATE WHERE THE PROPERTY AND/OR ASSURED IS LOCATED BUT THE COMPANY IS NOT A LICENSED CARRIER IN THAT STATE. THIS POLICY AND THE PREMIUM THEREON MUST BE PROPERLY DECLARED AS A SURPLUS LINES RISK TO THE INSURANCE DEPARTMENT OF THE STATE. PROPER FILINGS MUST BE MADE AND SURPLUS LINES TAXES PAID BY A SURPLUS LINES BROKER IN THE STATES.

Countersigned/Date: 01/27/2009

By: 

THESE DECLARATIONS, TOGETHER WITH THE COMMON POLICY CONDITIONS AND COVERAGE FORM(S) AND ANY ENDORSEMENT(S), COMPLETE THE ABOVE NUMBERED POLICY.

FME-GL-DS-0001 (10/07)

ROA_00965

02/10/2009 08:36 AM

EXTENSION OF DECLARATIONS

Policy Number: EPCA000190

LOCATION OF PREMESIS

1 15330 Avenue of Science SAN DIEGO California 92128

<u>PREMIUM CLASSIFICATION</u>	<u>EXPOSURE AMOUNT PREMIUM BASIS</u>	<u>RATE</u>	<u>ADVANCE PREMIUM</u>
92663-Engineers or Architects-consulting-not engaged in actual construction	4,203,540.00	3.95 Subject to a minimum premium of \$16,607.00	\$16,607

02/10/2009 08:36 AM

Insured: Quality Built; (DBA) Quality Built.com, Inc.
Policy Number: EPCA000190

SCHEDULE OF FORMS AND ENDORSEMENTS

(other than applicable forms shown elsewhere in the policy)

Forms and Endorsements applying to and made part of this policy at the time of issuance:

CG 00 01 (12/07) - COMMERCIAL GENERAL LIABILITY COVERAGE FORM (OCCURRENCE)
CG 20 33 (07/04) - ADDITIONAL INSRD-AUTO. STATUS WHEN REQ IN CONST AGREE
CG 20 37 (07/04) - AI - OWNERS, LESSEES OR CONTRACTORS COMPLETED OPERATIONS
CG 21 47 (12/07) - EMPLOYMENT RELATED PRACTICES EXCLUSION
CG 21 49 (09/99) - TOTAL POLLUTION EXCLUSION ENDORSEMENT
CG 21 54 (01/96) - EXCL DESG OP COVERED BY CONSOLIDATED WRAP UPS
CG 21 75 (12/02) - EXCLUSION OF CERTIFIED ACTS OF TERRORISM AND OTHER ACTS
CG 21 96 (03/05) - SILICA OR SILICA RELATED DUST EXCLUSION
CG 22 43 (07/98) - EXCL - ENGINEERS, ARCHITECTS OR SURVEYORS PROFESSIONAL
CG 24 04 (10/93) - WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS
CG 31 67 (12/04) - EXCLUSION - EXTERIOR INSULATION AND FINISH SYSTEMS
CG 32 34 (01/05) - CALIFORNIA CHANGES
D 2 (01/99) - NOTICE TO CALIFORNIA INSURED
FME GL 0201 (10/07) - EXCLUSION - PUNITIVE OR EXEMPLARY DAMAGES
FME GL 0208 (07/96) - EXC ASBESTOS
FME GL 1001A (09/02) - EXC MOLD, FUNGI & BACTERIA
FME GL 3035 (04/08) - COMPOSITE RATE ENDORSEMENT
FME GL 3047 (05/08) - EXCL - ANY RESIDENTIAL CONSTRUCTION WORK
FME GL 3048 (05/08) - MINIMUM EARNED PREMIUM
FME GL 3049 (05/08) - POLICY DEDUCTIBLE ENDORSEMENT
FME GL 3056 (09/08) - CROSS SUITS ENDST
FME GL 3064 (10/08) - DESIGNATED CONST PROJECTS GEN AGG LIMIT
FME GL 3091 (09/08) - AMENDATORY ENDORSEMENT PRE-EXISTING DAMAGE EXCL
FME GL 5007 (11/02) - SUBSIDENCE EXCLUSION
FME GL 5018 (07/00) - LEAD EXC
FMIC CLAIM NOTIFICATION (12/2006)
FMIC LEGAL (10/2007) - SERVICE OF SUIT
IL 00 17 (11/98) - COMMON POLICY CONDITIONS
IL 00 21 (05/04) - NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT
IL 02 70 (09/07) - CALIFORNIA CHANGES-CANCELLATION AND NONRENEWAL
TRIA DISCLOSURE 2008

FORMS SCHEDULE

Named Insured: QUALITY BUILT

Policy Number: BE 021353390

Effective 12:01 AM: February 1, 2009

End't. No.	Form Name	Form Number/ Edition Date
	PRIME EXPRESS DEC	90268 (01/06)
	PRIME EXPRESS POLICY	90269 (02/06)
	POLICYHOLDER DISC - NOTICE OF TERRORISM INS COVG	96556 (01/08)
1	ACT OF TERRORISM SIR ENDORSEMENT	90270 (01/06)
2	ASSAULT AND OR BATTERY EXCLUSION ENDORSEMENT	90278 (01/06)
3	CALIFORNIA AMENDATORY ENDT	52133 (03/94)
4	COVERAGE TERRITORY ENDT.	89644 (07/05)
5	CRISISRESPONSE COVERAGE ENHANCEMENT ENDORSEMENT	95418 (08/07)
6	DUTIES IN THE EVENT OF AN OCCURRENCE, CLAIM OR SUI	90293 (01/06)
7	ECONOMIC OR TRADE SANCTIONS CONDITION AMEND. ENDT.	99496 (06/08)
8	EMPLOYERS LIABILITY STOP GAP EXCLUSION	91530 (08/06)
9	RESIDENTIAL CONSTRUCTION OPERATIONS EXCLUSION ENDT	90331 (01/06)
10	TOTAL POLLUTION EXCLUSION ENDORSEMENT	90349 (01/06)

CIFMSC
CI0226

ROA_00968



Prime ExpressSM
Commercial Excess Liability Policy With CrisisResponse[®]

DECLARATIONS

The company issuing this policy is indicated by an "X" in the box to the left of the company's name.

☐ AIU Insurance Company	☐ Granite State Insurance Company
☐ American Home Assurance Company	☐ Illinois National Insurance Company
☐ American International Pacific Insurance Company	☐ National Union Fire Insurance Company of Louisiana
☐ American International South Insurance Company	☒ National Union Fire Insurance Company of Pittsburgh, Pa.
☐ AIG Casualty Company	☐ New Hampshire Insurance Company
☐ Commerce & Industry Insurance Company	☐ The Insurance Company of the State of Pennsylvania

(each of the above being a capital stock company)

Executive Offices: 70 Pine Street, New York, NY 10270
Telephone No. 212-770-7000

POLICY NUMBER: BE 021353390

RENEWAL OF: NEW

ITEM 1. NAMED INSURED: QUALITY BUILT

MAILING ADDRESS: 15330 AVENUE OF SCIENCE
SAN DIEGO, CA 92128

ITEM 2. POLICY PERIOD: FROM: February 1, 2009 TO: December 1, 2009
(At 12:01 A.M., standard time, at the address of the Named Insured stated above.)

ITEM 3. LIMITS OF INSURANCE

The Limits of Insurance, subject to the terms of this policy, are:

A. \$4,000,000	Each Occurrence
B. \$4,000,000	General Aggregate (in accordance with Section IV. Limits of Insurance)
C. \$4,000,000	Products-Completed Operations Aggregate (in accordance with Section IV. Limits of Insurance)
D. \$250,000	CrisisResponse Sublimit of Insurance
E. \$50,000	Excess Casualty CrisisFund Limit of Insurance

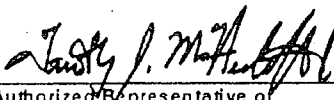
ITEM 4. SCHEDULED UNDERLYING INSURANCE - See Schedule of Underlying Insurance

ITEM 5. PREMIUM AND PREMIUM COMPUTATION

ESTIMATED TOTAL ANNUAL EXPOSURE	
RATES PER	FLAT
MINIMUM PREMIUM	\$6,600.00
ADVANCE PREMIUM	\$6,600.00

ITEM 6. THIS POLICY INCLUDES THESE ENDORSEMENTS AT INCEPTION DATE: SEE ATTACHED SCHEDULE

PRODUCER NAME: SWETT & CRAWFORD
ADDRESS: 515 S FIGUEROA ST
STE 600
LOS ANGELES, CA 90071-4177



Authorized Representative of
Countersignature (Where Applicable)

Date

Issue Date: 01/28/09

90268 (1/06)
AH1722

ROA_00969

SCHEDULE OF UNDERLYING INSURANCE

Issued to: QUALITY BUILT

Policy Number: BE 021353390

By: NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.

TYPE OF POLICY
OR COVERAGE

GENERAL LIABILITY
(PPA CAPPED AT 5MM)

INSURER, POLICY NO.
AND POLICY PERIOD

First Mercury Insurance Compan
01/01/09
01/01/10

LIMITS

\$1,000,000
EACH OCCURRENCE
\$2,000,000
GENERAL AGGREGATE
\$2,000,000
PROD / COMP OPS AGGREGATE
\$2,000,000
PER PROJECT

Defense Expenses are in addition to the limit

AUTO LIABILITY

Peerless Insurance Company

01/01/09
01/01/10

\$1,000,000
COMBINED SINGLE LIMIT

Defense Expenses are in addition to the limit


AUTHORIZED REPRESENTATIVE

UNDSCH (5/99)
AH0006

ROA_00970

**CALIFORNIA COMMERCIAL/FLEET
INSURANCE IDENTIFICATION CARD**

Company **National Fire & Marine Insurance Company**
Company Address: **3024 Harney St. Omaha, NE 68131**
NAIC No.: **20079**

Name of Policyholder: **QUALITY BUILT**
15330 AVENUE OF SCIENCE
Address of Policyholder: **SAN DIEGO, CA 92128**

Policy No.	Effective Date	Expiration Date
72APS018810	02/03/2009 4:11 PM	12/01/2009 12:01 AM
Vehicle Year	Make/Model	Vehicle Identification No.
2006	FORD F350 SD	1FTWW31P56EB45861

The policy meets the requirements of the California Vehicle Code Sections 16056 or 16500.5 and is a commercial or fleet policy.

M-4566a (11/1999)

VERY IMPORTANT - Please Read

In the event of accident, be sure to secure license number of the other vehicle, also full names and addresses of all other persons in the accident.

Also, write down full names and addresses of all witnesses. Report at once full details of accidents to your insurance company's Claims Department, 4016 Farnam Street, Omaha, Nebraska 68131.

Toll Free 1-800-356-5750

(This identification card should be kept in your vehicle.)

**CALIFORNIA COMMERCIAL/FLEET
INSURANCE IDENTIFICATION CARD**

Company **National Fire & Marine Insurance Company**
Company Address: **3024 Harney St. Omaha, NE 68131**
NAIC No.: **20079**

Name of Policyholder: **QUALITY BUILT**
15330 AVENUE OF SCIENCE
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M-4566a (11/1999)

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Also, write down full names and addresses of all witnesses. Report at once full details of accidents to your insurance company's Claims Department, 4016 Farnam Street, Omaha, Nebraska 68131.

Toll Free 1-800-356-5750

(This identification card should be kept in your vehicle.)

03/10/2009 01:31 PM



This Declaration Page is attached to and forms part of Certificate provisions
(Form SLC-3 COR)

Previous No.:
New

Authority Ref. No.:
B0702-BB009550X

Certificate No.:
NMB100-0324

1. Name and address of the Assured:

Quality Built

15330 Avenue of Science
San Diego, California 92128

2. Effective from 2/1/2009 to 12/1/2009

both days at 12:01 a.m. standard time.

3. Insurance is effective with certain

Percentage:

UNDERWRITERS AT LLOYD'S, LONDON.

100%

Commercial Property Coverage	\$	11,423.00
Commercial Inland Marine	\$	1,101.00
Terrorism Risk Insurance Act 2002 - Certified Acts Coverage	\$	.00
Surplus Lines Tax-CA	\$	165.96
Surplus Lines Tax-CO	\$	222.48
Stamping Fee-CA	\$	12.45
Policy Fee-CO	\$	125.00
Inspection Fee-CA	\$	200.00
Inspection Fee-CO	\$	100.00
Other	\$	

13,349.89

Total

5.

Forms attached hereto and special conditions:

Per Schedule of Forms and Endorsements CP2002

6. Service of Suit may be made upon:

Mendes and Mount
Citicorp Plaza
725 South Figueroa Street, Suite 1900
Los Angeles, California 90017 USA

7. In the event of a claim, please notify the following:

Engle Martin & Associates, Inc.
Phone: 888-239-7872
Fax: 866-607-1901
Electronic mail: claims@emcas.com

Dated March 9, 2009 / Dedeaux

SWETT & CRAWFORD GROUP

By

Rebecca Weddell

Correspondent

CP2000 12-3-2008

ROA_00972

03/10/2009 01:31 PM

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

Certificate No. NMB100-0324

Effective Date: 2/1/2009 12:01 A.M. Standard Time

DESCRIPTION OF PREMISES

PREM. NO.	BLDG. NO.	LOCATION, (ISLAND) CONSTRUCTION AND OCCUPANCY
1	1	15330 Avenue of Science, San Diego, California, Joisted Masonry, Office
2	1	9606 Aero Drive, Suite 1900, San Diego, California, Frame, Office
3	1	14406 E. Evans Ave., Aurora, Colorado, Masonry Non-Combustible, Office

CP2001 09/01/03

ROA_00973

03/10/2009 01:31 PM

COMMERCIAL PROPERTY COVERAGE PART DECLARATIONS

Certificate No. NMB100-0324

COVERAGES PROVIDED-Insurance at the described premises applies only for Coverages for which a limit of insurance is shown								
PREM NO.	BLDG. NO.	COVERAGE	DEDUCTIBLE	LIMIT OF INSURANCE	COINSURANCE	REPLACEMENT COST	COVERED CAUSES OF LOSS	RATES
1	1	Business Income w/ Extra Expense		1,000,000	100%		Special	.214
1	1	Business Personal Property	1,000	1,030,000	90%	X	Special	.214
2	1	Business Personal Property	1,000	50,000	90%	X	Special	.248
3	1	Building	1,000	4,013,750	90%	X	Special	.161
3	1	Business Income w/ Extra Expense		100,000	100%		Special	.161
3	1	Business Personal Property	1,000	206,000	90%	X	Special	.161

OPTIONAL COVERAGES-Applicable only when entries are made in the schedule below.					++APPLIES TO BUSINESS INCOME ONLY	
PREM NO.	BLDG. NO.	++MONTHLY LIMIT OF INDEMNITY (Fraction)	++MAXIMUM PERIOD OF INDEMNITY(X)		++EXTENDED PERIOD OF INDEMNITY (Days)	

FORMS AND ENDORSEMENTS PER SCHEDULE OF FORMS AND ENDORSEMENTS CP2002

*Entry optional if shown in Common Policy Declarations** Forms and Endorsements applicable to this Coverage Part omitted if shown elsewhere in this policy.

THESE DECLARATIONS AND THE COMMON POLICY DECLARATIONS, IF APPLICABLE, TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, ISSUED TO FORM A PART THEREOF, COMPLETE THE ABOVE NUMBERED POLICY.

CP2001 09/01/03

ROA_00974

ISSUED BY THE STOCK INSURANCE COMPANY HEREIN CALLED THE COMPANY
GRANITE STATE INSURANCE COMPANY
13102

AGENT NUMBER
0053782-00

POLICY NUMBER
WC 004-33-2285
013-52-0309-00

INCORPORATED UNDER THE LAWS OF PENNSYLVANIA
ITEM 1. NAMED INSURED: MAILING ADDRESS IDENTIFICATION NO.
QUALITY BUILT.COM, INC. (A CORP); QUALITY BUILT
(SEE WC990013 FOR COMPLETE NAME)
15330 AVE OF SCIENCE
SAN DIEGO, CA 92128-0000

 Member Companies of
American International Group
EXECUTIVE OFFICES:
70 PINE STREET, NEW YORK, N.Y. 10270

SEE EXTENSION OF ITEM 1. OF THE INFORMATION PAGE - WC990610
I.D# 76831 CA UI#:

PRODUCERS NAME AND ADDRESS

**WORKERS COMPENSATION AND EMPLOYERS
LIABILITY POLICY INFORMATION PAGE**

SWETT & CRAWFORD INC
109 S 7TH ST
STE 600
MINNEAPOLIS, MN 55402-7273

INSURED IS
CORPORATION

PREVIOUS POLICY NUMBER
NEW

OTHER WORKPLACES NOT SHOWN ABOVE: SEE EXTENSION OF ITEM 1. OF THE INFORMATION PAGE - WC990610

ITEM 2	POLICY PERIOD 12:01 A.M. standard time at the insured's mailing address FROM 03/01/09 to 03/01/10										
ITEM 3	A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here: CA B. Employers Liability Insurance: Part Two of the policy applies to the work in each state listed in Item 3.A. The limits of our liability under Part Two are: Bodily Injury by Accident \$ 1,000,000 each accident Bodily Injury by Disease \$ 1,000,000 policy limit Bodily Injury by Disease \$ 1,000,000 each employee C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here: NONE D. This policy includes these SEE EXTENSION OF ITEM 3.D. OF THE INFORMATION PAGE - WC990612										
ITEM 4	The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit.										
	<table border="1"><thead><tr><th>Classifications</th><th>Code Number</th><th>Estimated Total Remuneration ☒ Annual ☐ 3 Year</th><th>Rate Per \$100 OF Re-muneration</th><th>Estimated Premium ☒ Annual ☐ 3 Year</th></tr></thead><tbody><tr><td>SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754 TAXES/ASSESSMENTS/SURCHARGES</td><td></td><td></td><td></td><td>\$2,456</td></tr></tbody></table>	Classifications	Code Number	Estimated Total Remuneration ☒ Annual ☐ 3 Year	Rate Per \$100 OF Re-muneration	Estimated Premium ☒ Annual ☐ 3 Year	SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754 TAXES/ASSESSMENTS/SURCHARGES				\$2,456
Classifications	Code Number	Estimated Total Remuneration ☒ Annual ☐ 3 Year	Rate Per \$100 OF Re-muneration	Estimated Premium ☒ Annual ☐ 3 Year							
SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754 TAXES/ASSESSMENTS/SURCHARGES				\$2,456							

EXPENSE CONSTANT (EXCEPT WHERE APPLICABLE BY STATE)

\$230 CA

MINIMUM PREMIUM

\$750 CA

TOTAL ESTIMATED PREMIUM

\$58,765

If indicated below, interim adjustments of premium shall be made:

☐ Semi-Annually

☐ Quarterly

☐ Monthly

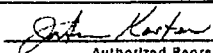
DEPOSIT PREMIUM

03/31/09 PHOENIX

52

Issue Date

Issuing Office


Authorized Representative

WC 00 00 01

39967 (Rev'd 04/08)

ROA_00975

EXTENSION OF ITEM 3.D. OF THE INFORMATION PAGE

Policy Number: WC 004-33-2285

Effective Date: 03/01/2009

TRSMPLNOT	FOREIGN TERRORISM POLHOLDR NOT-PREM DTMN
WC000406	PREMIUM DISCOUNT ENDORSEMENT
WC000421C	CATASTROPHE PREMIUM ENDORSEMENT
WC000422A	TRIPRA DISCLOSURE ENDORSEMENT
WC0FAC	NOTICE REG OFFICE OF FOREIGN ASSET CTRL
78052D	PRIVACY POLICY
55154WC	CALIFORNIA FRAUD ASSESSMENT
PN049906	CA - DUAL WAGE POLICYHOLDER NOTICE
WC040002A	CA-ADMINISTRATION REVOLVING FUND ASMNT
WC040303	CA OFFICERS&DIRECTORS COV/EXCLUSION ENDT
WC040317	CA EMPLOYEE INSURED BY GEN EMPLOYER EXCL
WC040360A	CA EMPLOYERS LIAB COV AMENDATORY ENDT
WC040361	CA BLANKET WAIVER
WC040402	CA MANDATORY RATE CHANGE ENDT
WC040407	CA PREMIUM ADJUSTMENT ENDT
WC040421	CA - OPTIONAL PREMIUM INCREASE ENDT
WC990017	CALIFORNIA CANCELLATION ENDORSEMENT
WC990407	CA POLICY AMENDATORY ENDT
WC990408B	CA NOTIF OF LOSS CONTROL SERVICES
WC990409	CA POLICYHOLDER NOTICE - CIGA SURCHARGE
WC990410	POLICYHOLDER NOTICE
WC990413A	POLICYHOLDER NOTICE
WC990013	FIRST NAMED INSURED ENDORSEMENT
WC990610	NAMED INSUREDS/ADDRESSES

ISSUED BY THE STOCK INSURANCE COMPANY HEREIN CALLED THE COMPANY
NEW HAMPSHIRE INSURANCE COMPANY
13080

AGENT NUMBER
0053782-00

POLICY NUMBER
WC 004-33-2284
013-52-0309-00

INCORPORATED UNDER THE LAWS OF PENNSYLVANIA
ITEM 1. NAMED INSURED: MAILING ADDRESS IDENTIFICATION NO.:

QUALITY BUILT.COM, INC.; QUALITY BUILT
15330 AVE OF SCIENCE
SAN DIEGO, CA 92128-0000

 Member Companies of
American International Group

EXECUTIVE OFFICES:
70 PINE STREET, NEW YORK, N.Y. 10270

SEE EXTENSION OF ITEM 1. OF THE INFORMATION PAGE - WC990610

I.D.#

PRODUCERS NAME AND ADDRESS

**WORKERS COMPENSATION AND EMPLOYERS
LIABILITY POLICY INFORMATION PAGE**

SWETT & CRAWFORD INC
109 S. 7TH ST
STE 600
MINNEAPOLIS, MN 55402-7273

INSURED IS
CORPORATION

PREVIOUS POLICY NUMBER
NEW

OTHER WORKPLACES NOT SHOWN ABOVE: SEE EXTENSION OF ITEM 1. OF THE INFORMATION PAGE - WC990610

ITEM 2	POLICY PERIOD 12:01 A.M. standard time at the Insured's mailing address FROM 03/01/09 TO 03/01/10													
ITEM 3	A. Workers Compensation Insurance: Part One of the policy applies to the Workers Compensation Law of the states listed here: AZ CO FL GA ID IL MD NV TX UT VA B. Employers Liability Insurance: Part Two of the policy applies to the work in each state listed in item 3.A. The limits of our liability under Part Two are: <table><tr><td>Bodily Injury by Accident</td><td>\$ 1,000,000</td><td>each accident</td></tr><tr><td>Bodily Injury by Disease</td><td>\$ 1,000,000</td><td>policy limit</td></tr><tr><td>Bodily Injury by Disease</td><td>\$ 1,000,000</td><td>each employee</td></tr></table> C. Other States Insurance: Part Three of the policy applies to the states, if any, listed here: AK AL AR CT DC DE HI IA IN KS KY LA MA ME MI MN MO MS MT NC NE NH NJ NM NY OK OR PA RI SC SD TN VT WI WV D. This policy includes these SEE EXTENSION OF ITEM 3.D. OF THE INFORMATION PAGE - WC990612				Bodily Injury by Accident	\$ 1,000,000	each accident	Bodily Injury by Disease	\$ 1,000,000	policy limit	Bodily Injury by Disease	\$ 1,000,000	each employee	
Bodily Injury by Accident	\$ 1,000,000	each accident												
Bodily Injury by Disease	\$ 1,000,000	policy limit												
Bodily Injury by Disease	\$ 1,000,000	each employee												
ITEM 4	The premium for this policy will be determined by our Manuals of Rules, Classifications, Rates and Rating Plans. All information required below is subject to verification and change by audit. <table><thead><tr><th>Classifications</th><th>Code Number</th><th>Estimated Total Remuneration ☒ Annual ☐ 3 Year</th><th>Rate Per \$100 OF Re-muneration</th><th>Estimated Premium ☒ Annual ☐ 3 Year</th></tr></thead><tbody><tr><td>SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754 TAXES/ASSESSMENTS/SURCHARGES</td><td></td><td></td><td></td><td>\$15</td></tr></tbody></table>				Classifications	Code Number	Estimated Total Remuneration ☒ Annual ☐ 3 Year	Rate Per \$100 OF Re-muneration	Estimated Premium ☒ Annual ☐ 3 Year	SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754 TAXES/ASSESSMENTS/SURCHARGES				\$15
Classifications	Code Number	Estimated Total Remuneration ☒ Annual ☐ 3 Year	Rate Per \$100 OF Re-muneration	Estimated Premium ☒ Annual ☐ 3 Year										
SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754 TAXES/ASSESSMENTS/SURCHARGES				\$15										

SEE EXTENSION OF ITEM 4. OF THE INFORMATION PAGE - WC7754
TAXES/ASSESSMENTS/SURCHARGES

EXPENSE CONSTANT (EXCEPT WHERE APPLICABLE BY STATE)	\$280 IL			
MINIMUM PREMIUM	\$1,000 IL	TOTAL ESTIMATED PREMIUM	\$9,572	

If indicated below, interim adjustments of premium shall be made:

☐ Semi-Annually ☐ Quarterly ☐ Monthly

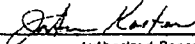
DEPOSIT PREMIUM

03/31/09 PHOENIX

52

Issue Date
39967 (Rev'd 04/08)

Issuing Office


Authorized Representative

WC 00 00 01

ROA_00977

EXTENSION OF ITEM 3.D. OF THE INFORMATION PAGE

Policy Number: WC 004-33-2284

Effective Date: 03/01/2009

94396	TX NOTICE
WC994203	TX LOSS PREVENTION SERVICE LETTER
WC7738	TX NOTICE OF ACCIDENT PREVENTION SERVICE
TRSMPLNOT	FOREIGN TERRORISM POLHOLDR NOT-PREM DTMN
WC000308	PARTNERS, OFFICERS, AND OTHERS EXCLUSION
WC000313	WAIVER OF OUR RIGHT TO RECOVER
WC000402	ANNIVERSARY RATING DATE ENDORSEMENT
WC000406	PREMIUM DISCOUNT ENDORSEMENT
WC000414	NOTIFICATION OF CHANGE IN OWNERSHIP ENDT
WC000421C	CATASTROPHE PREMIUM ENDORSEMENT
WC000422A	TRIPRA DISCLOSURE ENDORSEMENT
WC0FAC	NOTICE REG OFFICE OF FOREIGN ASSET CTRL
WC990006	CERTIFICATION OF DRUG FREE WORKPLACE
WC090606	FL EMPLOYMENT AND WAGE INFO RELEASE ENDT
78052D	PRIVACY POLICY
WC000419	PREMIUM DUE DATE ENDORSEMENT
WC020601	AZ CANCELLATION ENDORSEMENT
52134WC	CO AMENDATORY ENDORSEMENT
WC050402	CO CLASSIFICATION ENDT
WC050403	CO PREM CREDIT FOR CERT RISK MGMT PGMS
WC58510	CO NOTICE TO THE INSURED
WC990501A	CO PREM CREDIT FOR CERTIFIED RISK MANAGE
WC990502B	CO DISCL FRM -IMP NOTICE TO POLYHOLDERS
WC090303	FLORIDA EMPLOYERS LIABILITY COVERAGE END
WC090403A	FLORIDA - TRIPRA ENDORSEMENT
WC990903	FL CANCELLATION AND NONRENEWAL ENDT
WC990911	FLORIDA ADDENDUM TO THE DECLARATIONS
WC100601A	GA CANCELLATION NON RENEWAL AND CHANGE
WC991001	GA NOTICE OF ELECTION OR REJEC OF WC COV
WC991003D	GA OFFER OPTIONAL DED FOR CLAIMS BENEFIT
WC110402	ID ALCOHOL & DRUG FREE WORKPLACE
WC120601C	ILLINOIS AMENDATORY ENDORSEMENT
WC991202A	IL NOTICE TO POLICYHOLDER
WC991203	IL AMD: ENDT. FOR CONTRIBUTION LIABILITY
WC991206	IL POLHLD DR DISCLS IND COMM OPER FUND SUR
WC190601E	MD CANCELLATION AND NONRENEWAL ENDT.
WC270601C	NV CANCELLATION AND NON RENEWAL ENDT
WC420301F	TEXAS AMENDATORY ENDT.
WC420304A	TEXAS WAIVER OF OUR RIGHT TO RECOVER END
WC420403A	TX EXPERIENCE RATING ENDORSEMENT
WC420407	TX AUDIT PREMIUM AND RETRO PREMIUM ENDT.
WC430305	UTAH WAIVER OF SUBROGATION ENDORSEMENT
WC430602	UTAH CANCELLATION ENDORSEMENT
WC58977	UT FRAUD NOTICE
LWNINPH	VA NOTICE TO POLICYHOLDERS
WC450602	VA AMENDATORY ENDORSEMENT
WC990610	NAMED INSURED/ADDRESSES

1 GARRICK A. HOLLANDER -- State Bar No. 166316
ghollander@winthropcouchot.com

2 **WINTHROP COUCHOT**
3 **PROFESSIONAL CORPORATION**

4 660 Newport Center Drive, Fourth Floor

Newport Beach, CA 92660

5 Telephone: (949) 720-4100

6 Facsimile: (949) 720-4111

7
8 Attorneys for Quality Built, LLC,
9 Stalking Horse Bidder

10
11 **UNITED STATES BANKRUPTCY COURT**
12 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 In re

14 QUALITYBUILT.COM, a California
15 corporation,

16 Debtor and
17 Debtor-in-Possession.

Case No. 09-12113-PB11

Chapter 11 Proceeding

**DECLARATION OF GARY ELZWEIG IN
SUPPORT OF DEBTOR'S MOTION FOR
ORDER APPROVING SALE OF
PROPERTY OF THE ESTATE FREE AND
CLEAR OF LIENS, CLAIMS AND
ENCUMBRANCES, SUBJECT TO
OVERBID**

DATE: March 1, 2010

TIME: 10:30 a.m.

DEPT.: 4

JUDGE: The Honorable Peter W. Bowie

1 I, Gary Elzweig, hereby declare and state as follows:

2 1. I am the managing and currently sole member of Quality Built, LLC ("Quality"),
3 the proposed purchaser of substantially all assets of QualityBuilt.com ("Debtor").

4 2. This Declaration is made in support of the Debtor's Motion for Order Approving
5 Sale of Property of the Estate Free and Clear of Liens, Claims and Encumbrances, Subject to
6 Overbid ("Sale Motion").

7 3. I have personal knowledge of the facts set forth herein, and if called upon to testify,
8 could and would do so competently and truthfully.

9 4. In 1977, I obtained a Bachelors of Science degree in Civil Engineering and
10 Engineering Mechanics from Columbia University, School of Engineering and Applied Sciences.
11 I have extensive knowledge and expertise in the construction quality assurance industries, and
12 have significant success operating business in these and other industries.

13 a. I am a Registered Professional Engineer in Florida and Colorado, with
14 almost thirty years of experience in the fields of engineering, design and construction. I
15 have satisfied the requirements for registration by the Structural Engineering Certification
16 Board (SECB), and as a State of Florida Special Inspector, Standard Building Inspector
17 and Radon Measurement Specialist.

18 b. For the last twenty-five years, I have successfully managed, built, and
19 grown exponentially specialty engineering and other businesses, including those in the
20 construction quality assurance industries. In 2002, for example, I started Code
21 Administration, Plans Review & Inspection Services, Inc. ("CAPRI"), a structural
22 engineering, inspection, and construction materials testing firm. In three years, I grew
23 CAPRI to a company generating annual revenues of more than \$50 million with 16 offices
24 and more than 400 employees nationwide. In 2008, I sold CAPRI for a significant
25 purchase price commensurate with market valuations for companies of this size in this
26 industry.

27 c. I serve and have served as a member and chairman of numerous committees
28 and boards, including Broward County Board of Rules & Appeals, Governor's Building

1 Construction Permitting & Inspection Task Force, and Development Process Advisory
2 Committee, to name a few.

3 5. I am not nor have I ever served as a director, officer or employee of the Debtor. I
4 do not have nor have I ever held any interest in the Debtor or had any control over the Debtor. In
5 fact, except for CAPRI, which was merely a competitor of the Debtor's, neither I nor any member
6 of any company in which I hold an interest have or to my knowledge ever had any connection to
7 the Debtor, its officers, directors, or any other insiders of the Debtor.

8 6. Quality's proposed purchase of the Debtor's assets was negotiated with the
9 assistance of counsel (Proskauer Rose LLP for Quality; and Keehn & Associates for the Debtor)
10 in an arm's-length transaction, without the existence of any self-dealing, manipulation, collusive
11 bidding, fraud, or other improper behavior.

12 7. Quality was formed for the purpose of acquiring and operating the Debtor's
13 business. I purposely chose the name Quality Built, LLC because I wanted to maintain a seamless
14 transition in the transaction, and believed that the company's value and viability going forward
15 would benefit by keeping the names of the new owner similar to the prior owner. I have engaged
16 in numerous corporate sale and purchase transactions, and this is very common practice.

17 8. Quality will be capitalized initially with \$500,000, \$300,000 of which will come
18 from me personally, and the remaining \$200,000 from other high net worth individuals who have
19 committed to contribute the requisite funds for the initial capitalization to purchase the assets and
20 subsequently operate the business post-closing. The collective net worth of the eight investors in
21 Quality is in excess of \$100,000,000.00, and the collective liquid net worth is well in excess of the
22 initial capitalization required for this deal. Quality has already sent capital calls to its seven other
23 investors to consummate this transaction. While I am confident that the monies will be funded by
24 the investors, if, for some unforeseen and unlikely event that a member does not meet his capital
25 call obligation for the initial capitalization, I am prepared to personally contribute such funds
26 necessary to initially capitalize Quality to consummate the proposed transaction and operate the
27 business immediately following the closing. Based on my current financial position, I am fully
28 able to fund completely the full amount of the initial capitalization required.

1 9. None of the anticipated members investing cash into Quality have any interest in or
2 connection to the Debtor, its officers, directors, or any other insiders of the Debtor.

3 10. As an inducement to attract and retain Elizabeth Michaelis and Stan Luhr to serve
4 as President and Chief Technical Officer, respectively, of Quality, Quality has offered these
5 individuals grants of 5% of the common equity interests outstanding in Quality in restricted stock
6 subject to customary forfeiture and repurchase provisions and restrictive covenants. I will serve as
7 Chairman of Quality, and Brian Kramer, a very successful seasoned engineering executive
8 licensed as a Professional Engineer in the State of California with Master of Business
9 Administration, will serve as Chief Executive Officer of Quality. As members holding the
10 majority interest in quality (70%), Mr. Kramer and I will have control over Quality and its
11 operations.

12 11. Quality's proposed offer to the Debtor's existing officers is very common for a
13 purchase transaction of this type. In fact, the going concern value of a company is often driven, in
14 large part, by the company's existing management, and the retention of such management is often
15 a critical condition to the purchase. I believe that Ms. Michaelis and Mr. Luhr are critical to the
16 success of Quality's business going forward, and that the proposed structure is necessary to retain
17 such individuals. Accordingly, the proposed retention and related structure is a necessary
18 condition to Quality's willingness to proceed with this transaction.

19 12. The purchase price that Quality has agreed to pay for the Debtor's assets has
20 decreased from the offer Quality had originally made at the beginning of this case because the
21 value of the Debtor's business has correspondingly decreased since the beginning of the case.
22 Having purchased and sold many businesses over the last twenty five years, I am very familiar
23 with valuations of companies and the value drivers behind them. The value of a company is based
24 on the present value of discounted cash flows, applying a market discount rate. As a practical
25 matter, this concept translates to valuations being determined by the product of a company's
26 EBITDA or Gross Sales and a valuation multiple, which varies by industry and fluctuates based
27 on market and other conditions, including quality of EBITDA, decreasing trends, etc. In this case,
28 the Debtor's EBITDA is non-existent and the Gross Sales has decreased since Quality's original

1 offer. Moreover, valuation multiples for deals in all industries have also decreased in light of the
2 economy and the inflated multiples paid by buyers over the last several years. Based on the
3 circumstances of this case, the value of the Debtor's business has decreased, as reflected in
4 Quality's current purchase offer.

5 Quality will not be assuming any debt owing by the Debtor, but rather only assuming certain
6 contracts for the continuance of service contracts with existing customers of the Debtor. Based on
7 the management experience and expertise in the construction quality assurance industry of and
8 financial backing behind Quality, I am confident that Quality will be able to continue performing
9 under the executory contracts to be assumed and assigned as identified in the Sale Motion.

10 13. I have reviewed the objections to the Sale Motion, and based on the comments,
11 Quality is willing to revise its requested minimum overbid to \$30,000, so long as Quality is
12 entitled to receive a break-up fee of \$25,000 ("Break-up Fee") in the event Quality is not the
13 highest bidder. The Debtor previously agreed to pay a \$50,000 break-up fee to Quality. Quality
14 believes that the \$25,000 Break-up Fee is more than reasonable because it:

- 15 a. represents less than 25% of the more than \$100,000 of actual expenses
16 incurred by Quality in pursuing this deal, including negotiating and
17 documenting the asset purchase agreement, from which all bidders benefit;
- 18 b. represents half of what the Debtor, in its business judgment, had negotiated
19 and agreed to with Quality;
- 20 c. encouraged the making of Quality's initial "stalking horse" offer at a point
21 where there were no competing bidders;
- 22 d. may discourage a bidding strategy designed to hold back competitive bids
23 until late in the process;
- 24 e. aided the Debtor in negotiating an initial bid that may be the highest bid
25 received by the Debtor;

26 ///

1 f. has enhanced the bidding process by creating momentum towards the
2 consummation of a sale, which is otherwise likely not to occur and lead to a
3 liquidation.

4 I declare under penalty of perjury under the laws of the state of California and the United
5 States of America that the foregoing is true and correct to the best of my knowledge.

6 Executed this 19th day of February 2010, in Plantation, Florida.

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9 Gary Elzweig
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NOTE: When using this form to indicate service of a proposed order, **DO NOT** list any person or entity in Category I. Proposed orders do not generate an NEF because only orders that have been entered are placed on the CM/ECF docket.

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: 660 Newport Center Drive., 4th Fl., Newport Beach, CA 92660.

A true and correct copy of the foregoing document described as: DECLARATION OF GARY ELZWEIG IN SUPPORT OF DEBTOR'S MOTION FOR ORDER APPROVING SALE OF PROPERTY OF THE ESTATE FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES, SUBJECT TO OVERBID 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 February 19, 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:

- Michael D. Breslauer mbreslauer@swsslaw.com, wyones@swsslaw.com Counsel to Coast to Coast, Objecting Party
- Peter L. Duncan peterd@psdslaw.com, vickig@psdslaw.com
- Haeji Hong Haeji.Hong@usdoj.gov, USTP.Region15@usdoj.gov;shannon.m.vencill@usdoj.gov;tiffany.l.carroll@usdoj.gov
- Jay Hurst Jay.Hurst@oag.state.tx.us, sherri.simpson@oag.state.tx.us
- L. Scott Keehn scottk@keehnlaw.com, Debtor's Counsel
- scottk@keehnlaw.com;cynthial@keehnlaw.com;lisak@keehnlaw.com;lesliek@keehnlaw.com;taniab@keehnaw.com;MatthewW@keehnlaw.com
- Dean Rallis drallis@sulmeyerlaw.com, agonzalez@sulmeyerlaw.com
- Gerald N. Sims jerrys@psdslaw.com
- United States Trustee ustp.region15@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 February 19, 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.

US Trustee's Office – **Objecting Party**

Haeji Hong, Esq.
402 West Broadway, Suite 600
San Diego, CA 92101

☐ 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

_____, 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.

☐ 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.

February 19, 2010

Susan Connor

Date

Type Name

Signature

Name, Address, Telephone No. & I.D. No.

L. Scott Keehn (SBN 61691)

Leslie F. Keehn (SBN 199153)

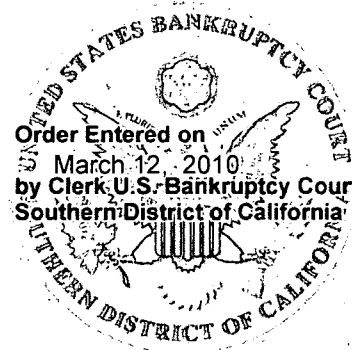
KEEHN & ASSOCIATES, APC

402 W. Broadway, Suite 1210

San Diego, California 92101

(619) 400-2200

Attorneys for Debtor-in-Possession Qualitybuilt.com



UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

Qualitybuilt.com, a California corporation,

Debtor-in-Possession.

LODGED

BANKRUPTCY NO. 09-12113-PB11

Date of Hearing: March 1, 2010

Time of Hearing: 10:30 a.m.

Name of Judge: Hon. Peter W. Bowie

ORDER

**(I) AUTHORIZING THE SALE OF SUBSTANTIALLY
ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL
LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (II) AUTHORIZING
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS AND UNEXPIRED LEASES IN CONNECTION THEREWITH
AND RELATED PROCEDURES AND (III) GRANTING RELATED RELIEF**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2) through 15 with exhibits, if any, for a total of 15 pages, is granted. Notice of Lodgment Docket Entry No. 140

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DATED: March 11, 2010

Signature by the attorney constitutes a certification under Fed. R. of Bankr. P. 9011 that the relief in the order is the relief granted by the court.

Submitted by:

KEEHN & ASSOCIATES, APC

(Firm name)

By: /s/ L. Scott Keehn

Attorney for ☒ Movant ☐ Respondent

Judge, United States Bankruptcy Court

ORDER AUTHORIZING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL, ETC.

CASE NO: 09-12113-PB11

CSD 1001A/119482

Signed by Judge Peter W. Bowie March 11, 2010

Agreement attached hereto as Exhibit A, (iii) all of the pleadings, papers, declarations, and evidence submitted in support of or in opposition to the Sale Order, and (iv) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and it appearing that due notice of the Sale Motion [and the auction conducted at the Sale Hearing (the "Auction")] and the relief requested in the Sale Motion is in the best interests of the Debtor, its estate and creditors and other parties in interest; and upon the record of the Sale Hearing and this case; and after due deliberation thereon; and good and sufficient cause appearing therefore;

IT IS HEREBY FOUND AND DETERMINED THAT:

THE DEBTOR AND ITS CASE

A. As of the Petition Date and for a period of approximately 60 days before the commencement of these chapter 11 cases, the Debtor worked to try to raise capital or implement a viable transaction that would allow the Debtor to continue operations. Those efforts continued through the execution of the Purchase Agreement on December 18, 2009. The Debtor presented credible evidence that, as of the filing of the Sale Motion, it had explored strategic alternatives for the Business over an extended period of time and had communicated with more than 54 parties about possible sales, mergers, combinations, and alternatives regarding debt or equity capital investments or financing and had prepared standalone business plans in the event that strategic alternatives did not materialize or were insufficient. The Sale Transaction is the result of the Debtor's diligent efforts and is reasonable under the circumstances.

JURISDICTION, FINAL ORDER AND STATUTORY PREDICATES

B. This Court has jurisdiction over the Sale Motion, the Sale Transaction and the Purchase Agreements pursuant to 28 U.S.C. §§ 157 (b)(1) and 1334(a), and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue of this case and the Sale Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. This Sale Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is not just reason for delay in the implementation of this Sale Order, and expressly directs entry of judgment as set forth herein.

D. The statutory predicates for the relief sought in the Sale Motion and granted in this Order include, without limitation, sections 105(a), 363(b), (f) and (m) and 365(a), (b) and (f) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006.

JUDICIAL NOTICE

E. Pursuant to the Federal Rule of Evidence 201(c), incorporated into these proceedings pursuant to Bankruptcy Rule 9017, the Court takes judicial notice of: Not Applicable.

SOUND BUSINESS PURPOSE

F. The Debtor seeks to convey the Purchased Assets, all of which are subject to Claims.

G. The Debtor is unable to continue financing its ongoing operations, and in the absence of the relief granted herein, will default on performance of the Assumed Contracts. Those defaults will produce additional claims against the Debtor and its estate. The amount of those claims is credibly projected to be between \$6 – \$7 Million.

The Debtor has not paid post-petition rent for its lease of its principal place of business located at 15330 Avenue of Science, San Diego, California 92120 (the "Real Property"), its landlords are in default on their obligations secured by Real Property. Non-judicial foreclosure proceedings were commenced against the Real Property on or about November 19, 2009. The debt secured by the Real Property is in excess of its appraised value, and the Debtor's landlords (which are two limited liability companies) each of which has a single member. The respective members are Stan Luhr and Elizabeth Michaelis (the Debtor's Shareholders), have no resources with which to cure the defaults on the debt secured by the Real Property, and expect to lose that property to foreclosure in March 2010.

H. The Debtor has demonstrated, and the Purchase Agreement reflects, both (1) good, sufficient and sound business purposes and justifications for immediate approval of the Purchase Agreement and the Sale Transaction, and (2) compelling circumstances for the approval of the Purchase Agreement and the Sale Transaction outside the ordinary course of the Debtor's business pursuant to Section 363(b) of the Bankruptcy Code prior to, and outside of, a plan of reorganization in that, among other things, the Debtor's estate will suffer immediate and irreparable harm due to its inability to continue operations to preserve the going concern value of the business. In light of the risk of deterioration in, and loss of the going concern value of the Purchased Assets pending the proposed Sale Transaction, time is of the essence in (a) consummating the Sale Transaction, (b) preserving the viability of the Debtor's businesses as going concerns and (c) minimizing the adverse economic consequences for the Debtor estate, and its creditors, that would be threatened by protracting the proceeding in this chapter 11 case.

I. The consummation of the Sale Transaction outside of a plan of reorganization pursuant to the Purchase Agreement neither impermissibly restructures the rights of the Debtor's creditor nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtor. The Sale Transaction does not constitute a sub rosa plan of reorganization.

J. Entry of an order approving the Purchase Agreement and all the provisions thereof is a necessary condition precedent to the Purchaser's consummation of the Sale Transaction, as set forth in the Purchase Agreement.

K. The Purchase Agreement was not entered into, and the Debtor, the Purchaser or the Purchasers present at the Sale Hearing or contemplated owners, have not entered into the Purchase Agreement or propose to consummate the Sale Transaction, for the purpose of hindering, delaying or defrauding the Debtor's present or future creditors. Neither the Debtor, CSD 1001A/119482

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Signed by Judge Peter W. Bowie March 11, 2010

the Purchaser nor the Purchasers present at the Sale Hearing or contemplated owners are entering into the Purchase Agreement, or proposing to consummate the Sale Transaction, fraudulently for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

L. The Debtor has exercised sound and proper business judgment in determining to sell the Purchased Assets.

HIGHEST AND BEST OFFER

M. The Sale Motion established proposed bidding procedures (the "Bidding Procedures"). The Bidding Procedures provided a full, fair and reasonable opportunity for an entity to make an offer to purchase the Purchased Assets. However, there were no qualified bidders at the Sale Hearing.

N. As demonstrated by the declarations and other evidence proffered or adduced at the Sale Hearing, (1) the Debtor has adequately marketed the Purchased Assets; (2) the consideration provided for in the Purchase Agreement constitutes the highest or otherwise best offer for the Purchased Assets and provides fair and reasonable consideration for the Purchased Assets; (3) the Sale Transaction is fair and reasonable in of respects; (4) the Sale Transaction will provide a greater recovery for and benefit to the Debtor's creditors than would be provided by any other practical available alternative; (5) no other party or group of parties has offered to purchase the Purchased Assets for greater economic value to the Debtor or its estate; (6) the consideration to be paid by the Purchaser under the Purchase Agreement exceeds the liquidation value of the Purchased Assets, net of the resulting breach of contract claims that are likely to follow, if the Purchased Assets are not sold to an entity that can perform Assumed Contracts, and the Assumed Liabilities; and (7) the consideration to be paid by the Purchaser under the Purchase Agreement constitutes reasonably equivalent value and fair consideration (as those terms may be defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the Bankruptcy Code and under the laws of the United States, any state, territory or possession thereof or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to the foregoing. The Debtor's determination that the Purchase Agreement constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtor's business judgment.

BEST INTEREST OF CREDITORS

O. Approval of the Purchase Agreement and the consummation of the Sale Transaction with the Purchaser at this time is in the best interest of the Debtor, its creditors, its estate, and other parties in interest.

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CSD 1001A/119482

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Signed by Judge Peter W. Bowie March 11, 2010

DESCRIPTION OF THE PURCHASER AND THE PURCHASER'S GOOD FAITH

P. The Purchaser is a newly formed Delaware limited liability company. Neither the Purchaser nor any of its members are "insiders" of the Debtor, as that term is defined by section 101(31) of the Bankruptcy Code.

Q. The Purchase Agreement and each of the transactions contemplated therein were negotiated, proposed and entered into by the Debtor and the Purchaser in good faith, without collusion or fraud and from arm's-length bargaining positions. The Purchaser has proceeded in good faith in all respects in connection with this proceeding, is a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. None of the Debtor, the Purchaser nor the Purchasers present at the Sale Hearing or contemplated owners have engaged in any conduct that would cause or permit the Purchase Agreement or any of the transactions contemplated thereby to be avoided; that would tend to hinder, delay or defraud creditors; or that impose costs and damages under section 363(n) of the Bankruptcy code.

NOTICE OF THE SALE MOTION, [THE AUCTION] AND THE CURE AMOUNTS

R. As evidenced by the affidavits and certificates of service filed with the Court, in light of the wasting nature of the Debtor's going concern value and based upon the representations of counsel at the Sale Hearing, the Court finds that: (1) proper, timely, adequate and sufficient notice of the Sale Motion, the Bidding Procedures, the Auction, the Sale Hearing has been properly and adequately provided by the Debtor, (2) such notice, and the form and manner thereof, was good, sufficient, reasonable and appropriate under the exigent circumstances prevailing in this chapter 11 case and (3) no other or further notice of the Sale Motion, the Sale Transaction, the Bidding Procedures, the Auction, the Sale Hearing is or shall be required. In light of the need to grant the relief requested in the Sale Motion promptly to avoid any erosion in the going concern value of the Purchased Assets, a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities, including, but not limited to, the following:

- (i) counsel to any official committees formed in this chapter 11 case;
- (ii) all unsatisfied prepetition secured lenders;
- (iii) the Purchaser;
- (iv) parties who, in the past year, have expressed in writing to the Debtor an interest in acquiring the Purchased Assets;
- (v) nondebtor parties (the "Non-Debtor Counterparties") to the Assumed Contracts, and the Assumed Liabilities;
- (vi) all parties who are known or reasonably believed to have asserted a lien, encumbrance, claim or other interest in the Purchased Assets or who are reflected as secured parties in lien searches conducted by the

Debtor;

- (vii) the Securities and Exchange commission;
- (viii) the Internal Revenue Service;
- (ix) all applicable state and local taxing authorities;
- (x) the Office of the United States Trustee for the Southern District of California;
- (xi) all parties that filed objections to the Sale Motion;
- (xii) all entities that have requested special notice in this chapter 11 case under Bankruptcy Rule 2002, or otherwise;
- (xiii) any other party identified on the creditor matrix in these cases.

S. With respect to executory contracts or unexpired leases that are designated by the Debtor or Purchaser as Assumed Contracts or Assumed Liabilities, all Non-Debtor Counterparties to such Assumed Contracts, and assumed with the opportunity to object to both the Cure Costs identified in any Assignment Notice delivered to any such Non-Debtor Counterparty and the assumption and assignment of the applicable Assumed Contract (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the Non-Debtor Counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code).

SECTION 363(F) REQUIREMENTS MET FOR FREE AND CLEAR SALE

T. The Debtor may sell the Purchased Assets free and clear of all Claims because, in each case where a Claim is not an Assumed Liability, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. The assumption and assignment of each of the Assumed Contracts is also free and clear of all Claims.

U. The Debtor is the sole and lawful owner of the Purchased Assets and no other person has any ownership right title or interest therein.

V. Those holders of Claims who did object fall within one or more of the other subsections of section 363(f) and 365 of the Bankruptcy Code as either (1) the consideration received in exchange for the Purchased Assets is greater than the aggregate value of all liens on the Purchased Assets, (2) there is a bona fide dispute with respect to certain of the Claims asserted by the Debtor's prepetition secured lenders or (3) such holders could be compelled in a legal or equitable proceeding to accept a money satisfaction of their Claims. The transfer of the Purchased Assets to the Purchaser under the Purchase Agreement will be a legal, valid and effective transfer of all the legal, equitable and beneficial right, title and interest in and to the Purchased Assets free and clear of all Claims that are not Assumed Liabilities (including, specifically and without limitation, any professional liability claims, environmental liabilities, employee benefit plans and any successor liability claims). All holders

of Claims are adequately protected - and the Sale Transaction thus satisfies section 363(e) of the Bankruptcy Code - by having their Claims, if any, attach to the proceeds of the Sale Transaction ultimately attributable to the property against which they have a Claim, in the same order of priority and with the same validity, force and effect that such Claim holder had prior to the Sale Transaction, subject to any rights, claims and defenses to the Debtor or its estate, as applicable.

W. The Purchaser would not have entered into the Purchase Agreement and would not consummate the Sale Transaction, thus adversely affecting the Debtor, its estate, creditors, employees, and other parties in interest if the sale of the Purchased Assets was not free and clear of all Claims other than Assumed Contracts and Assumed Liabilities, or if the Purchaser would, or in the future could, be liable for any such Claims, including, without limitation and as applicable, certain liabilities (collectively, the "Excluded Liabilities") that expressly are not assumed by the Purchaser, as set forth in the Purchase Agreement. The Purchaser asserts that it will not consummate the Sale Transaction unless the Purchase Agreement specifically provides and this Court specifically orders that neither the Purchaser, its affiliates, its present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment setoff or otherwise, directly or indirectly, any Claim or Excluded Liability.

X. Without limiting the generality of the foregoing, the Purchase Agreement provides the Debtor with reasonably equivalent value and fair consideration (as those terms are defined in the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and the Bankruptcy Code), and was not entered into for the purpose or, nor does it have the effect of, hindering, delaying or defrauding creditors or any of the Debtor's under any applicable laws. Except for the Assumed Liabilities, the Sale Transaction shall not impose or result in the imposition of any liability or responsibility on Purchaser or its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), and the transfer of the Purchased Assets to the Purchaser does not and will not subject the Purchaser or its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), to any liability for any Claims, including, without limitation for any successor liability or any products liability for the sale of any vehicle by the Debtor or their predecessors or affiliates.

ASSUMPTION AND ASSIGNMENT OF THE ASSUMED CONTRACTS

Y. The assumption and assignment of the Assumed Contracts are integral to the Purchase Agreement, are in the best interests of the Debtor and its estate, and represent the reasonable exercise of the Debtor's sound business judgment.

Z. With respect to each of the Assumed Contracts, the Debtor has met all requirements of section 365(b) of the Bankruptcy Code. Further, the Purchaser has provided all necessary adequate assurance of future performance under the Assumed Contracts in satisfaction of sections 365(b) and 365(f) of the Bankruptcy Code. Accordingly, the Assumed Contracts can be assumed by the Debtor and assigned to the Purchaser, as provided for in the Contract Procedures set for in the Bidding

Procedures Order, the Sale Motion and the Purchase Agreement. The procedures set forth in the Sale Motion are fair, appropriate and effective and, upon approval of the assumption and assignment for a particular Assumed Contract thereunder, the Debtor shall be forever released from any and all liability under the Assumed Contract.

VALIDITY OF THE TRANSFER

AA. As of the closing of the Sale Transaction (the "Closing"), the transfer of the Purchased Assets to the Purchaser will be a legal, valid and effective transfer of the Purchased Assets, and will vest the Purchaser with all right, title and interest of the Debtor in and to the Purchased Assets, free and clear of all Claims other than Assumed Liabilities.

BB. With the entry of this Order, the Debtor (1) has full corporate power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtor; (2) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Purchase Agreement; (3) has taken all actions necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the transactions contemplated thereby; and (4) upon entry of this Order, needs no consents or approvals, other than those expressly provided for in the Purchase Agreement, which may be waived by the Purchaser, to consummate such transactions.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

GENERAL PROVISIONS

1. The Sale Motion is granted in its entirety and entry into and performance under and in respect of the Purchase Agreement and the Sale Transaction is approved, as set forth in this Sale Order.
2. The findings of fact set forth above and conclusions of law stated herein shall constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be deemed, and to the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.
3. All objections, if any, to the Sale Motion or the relief requested therein that have not been withdrawn, waived or settled as announced to the Court at the Sale Hearing or any stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits with prejudice, except as expressly provided herein.

APPROVAL OF THE PURCHASE AGREEMENT

4. The Purchase Agreement, all transactions contemplated therein and all of the terms and conditions thereof are hereby approved.
5. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtor is authorized and directed to perform its obligations under and comply with the terms of the Purchase Agreement and consummate the Sale Transaction,

pursuant to and in accordance with the terms and conditions of the Purchase Agreement and this Sale Order.

6. The Debtor, as well as its officers, employees and agents, are authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, the Purchase Agreement, in substantially the same form as the Purchase Agreement attached hereto as Exhibit A, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and to take all further actions and execute such other documents as may be (a) reasonably requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to possession, the Purchased Assets, (b) necessary or appropriate to the performance of the obligations contemplated by the Purchase Agreement, and (c) as may be reasonably requested by Purchaser to implement the Purchase Agreement and consummate the Sale transaction in accordance with the terms thereof, all without further order of the Court.

7. This Sale Order and the Purchase Agreement shall be binding in all respects upon the Purchaser, the Debtor, any trustees appointed in the Debtor's cases (whether under chapter 11 or chapter 7 of the Bankruptcy Code), all creditors (whether known or unknown) of the Debtor, all interested parties and their successors and assigns including, but not limited to, any party asserting a Claim and any Non-Debtor Counterparty to the Assumed Contracts. Nothing contained in any chapter 11 plan confirmed in these bankruptcy cases or the order confirming any such chapter plan shall conflict with or derogate from provision of the Purchase Agreement or this Sale Order, and to the extent of any conflict or derogation between this Sale Order or the Purchase Agreement and such further plan or order, the terms of this Sale Order and the Purchase Agreement shall control to the extent of such conflict or derogation.

8. All amounts, if any, to be paid by the Debtor pursuant to the Purchase Agreement shall constitute administrative expenses pursuant to sections 503(b) and 507(a)(1) of the Bankruptcy Code and shall be due and payable if and when any Debtor's obligations arise under the Purchase Agreement without further order of the Court.

TRANSFER OF PURCHASED ASSETS FREE AND CLEAR

9. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Debtor are authorized and directed to transfer the Purchased Assets in accordance with the terms of the Purchase Agreement. The Purchased Assets shall be transferred to the Purchaser, and upon consummation of the Purchase Agreement, such transfer (a) shall be a valid, legal, binding and effective transfer; (b) shall vest the Purchaser with full right, title and interest of the Debtor in the Purchased Assets; and (c) shall be free and clear of all Claims except for Assumed Liabilities with all such Claims to attach to the net proceeds of the Sale Transaction ultimately attributable to the Purchased Assets against or in which such Claims are asserted, in the order of their priority, with the same validity, force and effect which they now have as against the Purchased Assets, subject to any rights, claims and defenses the Debtor or their estates, as applicable, may possess with respect thereto.

10. Except as otherwise provided in the Purchase Agreement, all persons and entities (and their respective successors and assigns) including, but not limited to, all debt security holder, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders customers, employees, trade creditors, litigation claimants and other creditors, holding Claims (whether legal or equitable, secured or unsecured, known or unknown, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated) except for Assumed Liabilities, arising under or out of, in connection with, or in any relating to, the Debtor, the Purchased Assets, the operation of the Business prior to Closing or the transfer of the Purchased Assets to the Purchaser, are hereby forever barred, estopped and permanently enjoined from asserting such Claims against the Purchaser, its successors or assigns, its property or the Purchased Assets. No such persons or entities shall assert against the Purchaser or their successors in interest any Claim arising from, related to or in connection with the ownership, sale or operation of any Assets prior to the Closing, except for Assumed Liabilities.

11. The Sale Order (a) shall be effective as a determination that, as of Closing (i) no Claims, other than Assumed Liabilities and Assumed Contracts relating to the Purchased Assets, will be assertable against the Purchaser, its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), (ii) have been unconditionally released, discharged and terminated, and (iii) the conveyances described herein have been effected; and (b) is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons and entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

12. All persons or entities in possession of some or all the Purchased Assets that have received notice of the Sale Motion at least 14 days prior to the last session of the Sale Hearing, are directed to surrender possession of such Purchased Assets to the Purchaser or its respective designees at the time of Closing of the Sale Transaction.

13. Following the Closing of the Sale Transaction, no holder of any Claim shall interfere with the Purchaser's title to or use and enjoyment of the Purchased Assets based on or related to any such Claim, or based on any actions the Debtor may take in their chapter 11 cases.

14. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtor to transfer the Purchased Assets to the Purchaser in accordance with the Purchase
ROA_00996

Agreement and this Sale Order.

15. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Purchased Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these chapter 11 cases or the consummation of the Sale Transaction contemplated by the Purchase Agreement.

ASSUMPTION AND ASSIGNMENT OF ASSUMED CONTRACTS

16. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy code, the Debtor's assumption and assignment or other transfer to the Purchaser and all of the Debtor's right, title and interest therein or thereunder of the Assumed Contracts is hereby approved, and all requirements of section 365 of the Bankruptcy Code are hereby deemed satisfied. For the avoidance of doubt, the Debtor shall be deemed to have assumed and assigned each of the Assumed Contracts as of the date of and effective only upon the Closing of the Sale Transaction and, absent such Closing, each of the Assumed Contracts shall neither be deemed assumed nor assigned and shall in all respects be subject to subsequent assumption or rejection by the Debtor under the Bankruptcy Code.

17. The Debtor is hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign, sell and otherwise transfer the Assumed Contracts and all of the Debtor's right, title or interest therein or thereunder to the Purchaser free and clear of all Claims, and to execute and deliver to the Purchaser such documents or other instruments as reasonably may be necessary to assign and transfer the Assumed Contracts to the Purchasers.

18. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the types described in sections 365(e)(I) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer. There shall be no assignment fees, penalties, increases or any other fees charged to the Purchaser or the Debtor as a result of the assumption or assignment of the Assumed Contracts. No Assumed Contract may be terminated, or the rights of any party modified in any respect, including pursuant to any "change of control" clause, by any other party thereto as a result of the transactions contemplated by the Purchase Agreement.

19. [RESERVED]

20. [RESERVED]

21. Each Non-Debtor Counterparty to an Assumed Contract hereby is forever barred, estopped and permanently enjoined from asserting against the Debtor or the Purchaser, their successors or assigns of the property of any of them, any default existing as of the date of the Sale Hearing if such default was not raised or asserted prior to or at the Sale Hearing.

22. The failure of the Debtor or the Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtor's and Purchaser's rights to enforce every term and condition of the Assumed Contracts.

23. Upon the Closing, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtor under the Assumed Contracts.

24. The assignments of each of the Assumed Contracts are made in good faith under sections 363(b) and (m) of the Bankruptcy Code.

ADDITIONAL PROVISIONS

25. The Purchaser has given substantial consideration under the Purchase Agreement for the benefit of the holders of Claims. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential claims of successor liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of any Claims of any kind whatsoever.

26. While the Debtor's bankruptcy case is pending, this Court shall retain jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the Purchase Agreement, all amendments thereto, any waivers and consents thereunder (and of each of the agreements executed in connection therewith in all respects), to adjudicate disputes related to this Sale Order or the Purchase Agreement and to enter any orders under sections 363 and/or 365 of the Bankruptcy Code with respect to the Assumed Contracts.

27. No bulk sales law, or similar law of any state or other jurisdiction, shall apply in any way to the transactions contemplated by the Purchase Agreement, the Sale Motion and this Sale Order.

28. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction (including the assumption and assignment of the Assumed Contracts), unless such authorization is duly stayed pending such appeal.

29. The consideration provided by the Purchaser of the Purchased Assets constitutes reasonably equivalent value and fair consideration (as those terms may be defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the Bankruptcy Code and under the laws of the United States, any state, territory or possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

30. The Sale Transaction may not be avoided under section 365(n) of the Bankruptcy Code.

31. The terms and provisions of the Purchase Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtor, its estate, its creditors, the Purchaser, the respective affiliates, successors and assigns of each, and any affected third parties including, but not limited to, all persons asserting claims in the Purchased Assets to be sold to the Purchaser pursuant to the Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s), examiner(s) or receiver(s) under any chapter of the Bankruptcy Code or any other law, and all such provision and terms shall likewise be binding on such trustee(s), examiner(s) or receiver(s) and shall not be subject to rejection or avoidance by the Debtor, its estate, its creditors, their shareholders or any trustee(s), examiner(s), or receiver(s).

32. The failure specifically to include any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement and its exhibits and ancillary documents be authorized and approved in their entirety.

33. The Purchase Agreement may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplemental does not materially change the terms of the Purchase Agreement.

34. As provided by Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedures, this Sale order shall not be stayed for 10 days after its entry and shall be effective immediately upon entry, and the Debtor and the Purchaser are authorized to close and the Sale Transaction immediately upon entry of this Sale Order. Any party objecting to this Sale Order must exercise due diligence in filing and appeal and pursuing a stay or risk its appeal being foreclosed as moot in the event Purchaser and Debtor elect to close prior to this Sale Order becoming a Final Order.

35. Buyer shall have no obligations under any liabilities of Seller or the Bankruptcy Estate other than the Assumed Liabilities, the Assumed Contracts, and its obligations under this Agreement.

36. The provisions of this Sale Order and any actions take pursuant hereto shall survive the entry of any order that may be entered confirming any plan of reorganization (or liquidation) for the Debtor, converting the Debtor's case from Chapter 11 to a case under Chapter 7 of the Bankruptcy Code, or dismissing this case.

///

37. This Court retains jurisdiction to interpret, implement and enforce the terms and provisions of this Order including to compel delivery of the Purchased Assets, to protect the Purchaser against any Claims and to enter any orders under sections 363 or 365 to transfer the Purchased Assets and Assumed Contracts to the Purchaser.

[Approvals as to Form as Necessary]

**WINTHROP COUCHOT
PROFESSIONAL CORPORATION**

By: //s// Garrick A. Hollander
Garrick A. Hollander, Esq.
Attorneys for Interested Party, Quality Built, LLC

KEEHN & ASSOCIATES, APC

By: //s// L. Scott Keehn
Attorneys for Debtor and Debtor -in-Possession,
Qualitybuilt.com

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Counsel for Movant Stanley R. Luhr

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF CALIFORNIA

In re
QUALITYBUILT.COM, a California
corporation,

Debtor-In-Possession.

CASE NO. 09-12113-PB11

RS NO. KTC-1

Chapter 11

STANLEY R. LUHR,
Movant,

**DECLARATION OF STANLEY R. LUHR
IN SUPPORT OF MOTION FOR ORDER
CONFIRMING THAT THE AUTOMATIC
STAY DOES NOT BAR PROSECUTION
OF CLAIMS AGAINST NON-DEBTOR
THIRD PARTIES**

V.

QUALITYBUILT.COM, a California corporation,

Respondent.

(No Hearing Scheduled)

1 I, Stanley R. Luhr, declare as follows:

2 1. I am the plaintiff in the litigation styled Stanley R. Luhr, et al. v. Elizabeth
3 Michaelis, et al., San Diego Superior Court Case No. 37-2011-00099502-CU-CO-CTL. I am
4 also the Chief Executive Officer of QualityBuilt.com. I have personal knowledge of the facts set
5 forth in this declaration and, if called and sworn as a witness, I would be competent to testify to
6 such facts.

7 2. I am well-known in the construction industry for risk evaluation, management,
8 and quality assurance. I am also a nationally recognized forensic construction expert. In 1994, I
9 began developing quality assurance programs to help builders produce better quality and lower
10 costs, which spawned a new industry of private inspection and documentation consultants. I
11 developed an innovative technology based on thousands of quality checkpoints, which steered
12 builders to improve their entire construction processes. Computer software coupled with field
13 consultants provided an independent watchdog for insurance providers and production builders,
14 who began mandating use of my system, called "Quality Built."

15 3. My processes have been the subject of hundreds of lectures and training sessions
16 sponsored by building trade associations, insurance companies, and product manufacturers.
17 More than 400,000 structures have been constructed using the Quality Built system. I have been
18 retained in over 4,000 litigation claims, have testified in more than 100 court trials, and have
19 provided deposition testimony on more than 500 occasions.

20 4. I hired Elizabeth Michaelis in 1993 to manage my forensic and construction
21 practices, which eventually led to her management of Quality Built day-to-day operations and her
22 position as office manager. She eventually earned a \$275,000 annual salary managing my
23 business activities. When I decided to form Qualitybuilt.com in 1999, I rewarded Elizabeth
24 Michaelis with a 50% shareholder interest in the company, while I retained the other 50%
25 shareholder interest. (QualityBuilt.com was at all times a Subchapter S corporation.) Elizabeth
26 Michaelis eventually became the president and Chief Financial Officer of QualityBuilt.com. In
27 2003, Elizabeth Michaelis' spouse, Garth Michaelis, was hired to provide programming services.
28 Garth Michaelis was a salaried employee, having no stock ownership in QualityBuilt.com.

1 **Pacific Property Consultants**

2 5. I also own Pacific Property Consultants, Inc. ("PPC"), which conducted forensic
3 activities distinct from the business of QualityBuilt.com. Elizabeth Michaelis managed PPC for
4 a salary, holding the title of CFO until she resigned in 2009.

5 **Real Properties**

6 6. Elizabeth Michaelis and I acquired real properties to aid in the expansion of
7 QualityBuilt.com. Among those properties was a 13,000 square foot professional office building
8 in Aurora Colorado (the "Aurora Property"), title to which Elizabeth Michaelis and I took as
9 joint tenants. QualityBuilt.com was supposed to make lease payments to Elizabeth Michaelis
10 and me in exchange for using the Aurora Property as a regional training facility and office.
11 Elizabeth Michaelis and I agreed each to bear 50% of the expenses associated with the Aurora
12 Property, and each to share 50% of the profits.

13 7. To accommodate QualityBuilt.com's rapid expansion, I also acquired an \$11
14 million facility in Rancho Bernardo (the "Rancho Bernardo Property"). I agreed to provide
15 Elizabeth Michaelis 50% of the net rental income associated with this facility in exchange for her
16 agreement to pay 70% of the mortgage obligations. Elizabeth Michaelis and I entered into a
17 tenancy in common agreement ("TIC Agreement") memorializing our arrangement.

18 **FAEC Holdings 382771, LLC and Science Building Partners, LLC**

19 8. Elizabeth Michaelis and I each formed our own limited liability company ("LLC")
20 to hold our respective interests in the Ranch Bernardo facility and to perform under the TIC
21 Agreement. My LLC was FAEC Holdings 382771, LLC ("FAEC"); Elizabeth Michaelis' LLC
22 was Science Building Partners, LLC ("SBP").

23 **Looting of My Share of QualityBuilt.com Value and Profits; My \$700,000 of Loans**

24 9. In May of 2011, I discovered that Elizabeth Michaelis and Garth Michaelis,
25 repeatedly and over a period of years, had looted my share of the value and profits of
26 QualityBuilt.com and, as a result of such looting, had hoodwinked me into loaning to the
27 company \$250,000 in late 2006 and another \$450,000 in early 2007. In particular, I discovered
28 that at least during 2005 through 2007, Elizabeth and Garth Michaelis took multiple cruises and

1 vacations,¹ purchased cruise ship and travel tickets for their parents and other relatives, and
 2 charged these expenses to their QualityBuilt.com American Express cards. Garth Michaelis
 3 charged to his company American Express card cruise ship tickets, airline travel, fast food,
 4 clothing, flowers, jewelry, groceries, and similar personal items that had no business purposes.
 5 (Mr. Michaelis' job duties did not even call for him to incur such charges as business expenses.)
 6 Elizabeth Michaelis also directed accounting staff to pay her personal Chase credit card, while
 7 nothing in the company records suggests she was using her personal credit card for business
 8 purposes (she had two company credit cards). There was even a charge for "Employee
 9 Recruitment and Training" and an associated e-mail from Sarah Michaelis (the Michaelises'
 10 daughter) transmitting her college tuition bill to the accounting department with a request for
 11 payment. The company paid \$7,681.07 for this patently improper personal expense. Elizabeth
 12 Michaelis also diverted my American Express card bonus points to accounts she controlled,
 13 taking more than one million bonus points from me in exchange for cash cards, and no
 14 accounting for such transactions has been provided. Most of the improperly charged personal
 15 expenses were falsely recorded in the company's accounting records as "business expenses," "
 16 marketing expenses," and "travel expenses."

17 10. A monthly breakdown of the improper charges discovered to date for 2005, 2006,
 18 and 2007 is attached as Exhibit 1. As set forth below, more than \$500,000 in personal charges
 19 were incurred by the Michaelises and paid for by QualityBuilt.com during 2005, 2006, and 2007,
 20 and there is no evidence that the company was ever reimbursed:

	2005	2006	2007
21 Elizabeth Michaelis AMEX	\$27,696.59	\$104,876.13	\$78,011.24
22 Garth Michaelis AMEX	\$8,476.45	\$119,429.55	\$103,311.23
23 Elizabeth Michaelis Chase Visa		<u>\$23,281.57</u>	<u>\$39,695.46</u>
24 TOTALS	\$36,173.04	\$247,587.25	\$221,017.93

25
26
27
28 ¹ Elizabeth and Garth Michaelis also did not log paid time off while on these vacations.

11. In 2005, QualityBuilt.com paid me "bonuses" totaling \$118,000.00, and it paid Elizabeth Michaelis "bonuses" totaling \$110,160.46. These payments represented excess profits distributed to the shareholders, as Elizabeth Michaelis and I had agreed that profits would be so distributed as and when the company was able to make distributions. In 2006 no bonuses were paid, nor were bonuses paid in 2007, although QualityBuilt.com maintained positive retained earnings throughout 2005, 2006, and 2007. In October of 2006 and January of 2007, because net income was not meeting expectations, I was forced to loan QualityBuilt.com the total sum of \$700,000. (Only \$160,000 has been repaid.) Had Elizabeth and Garth Michaelis not stolen at least \$36,173.04 in 2005 (with Sheila Murphy's help as described below), one half of that amount—or \$18,086.52—would have been distributed to me as a bonus in 2005. In addition, had Elizabeth and Garth Michaelis not stolen at least \$468,605.17 during 2006 and 2007 (with Sheila Murphy's help as described below), I would not have needed to loan (and would not have loaned) QualityBuilt.com most of the \$250,000 in late 2006 or any of the \$450,000 in January 2007. QualityBuilt.com's cash position at the end of 2007 (which was \$848,7070) demonstrates this fact. (Discovery is continuing, and these figures are likely to escalate when additional accounting records are discovered.)

12. Attached as Exhibit 2 are true and correct copies of excerpts from QualityBuilt.com's tax returns for years 2005, 2006, and 2007, which show the company's balance sheets for the company at year end.

Sheila Murphy

13. Sheila Murphy ("Murphy") originally was retained by QualityBuilt.com as an outside accounting consultant, but she eventually became controller. She also handled accounting for PPC and the Rancho Bernardo property held by FAEC and Science Partners, and she was supposed to make sure that the TIC Agreement (which called for certain division of expenses and net rents between myself and Elizabeth Michaelis with respect to the Rancho Bernardo Property) was followed. I believe Murphy conspired with Elizabeth Michaelis to deprive me of my proper share of rental income pursuant to the TIC Agreement. I also believe Murphy conspired with and assisted the Michaelises to implement their fraudulent scheme to loot

1 the profits and value of QualityBuilt.com. (Murphy received bonuses directed by Michaelis
2 during times when no other employees received bonuses, significant payroll increases that were
3 not commensurate with Murphy's performance, and at least one payroll advance in July of 2006
4 that never was repaid.)

5 **Claims Asserted Against Non-Debtor Third Parties**

6 14. On October 17, 2011, PPC, FAEC Holdings, and I commenced litigation against
7 Elizabeth Michaelis, Garth Michaelis, SBP, and Murphy in the San Diego Superior Court,
8 asserting the following claims:

9 • First Cause of Action: By FAEC and Luhr against SBP and Elizabeth Michaelis, for
10 breach of the TIC agreement. This claim does not directly involve QualityBuilt.com, nor does
11 QualityBuilt.com assert an interest in this claim.

12 • Second Cause of Action: By Luhr against Elizabeth Michaelis, for an accounting with
13 respect to net profits generated by the Aurora Property. This claim does not directly involve
14 QualityBuilt.com, nor does QualityBuilt.com assert an interest in this claim.

15 • Third Cause of Action: By Luhr against Elizabeth Michaelis, Garth Michaelis, and
16 Murphy, for breach of fiduciary duty for depriving Luhr of his share of profits generated by
17 QualityBuilt.com. QualityBuilt.com asserts that the claim belongs only to it such that it is a
18 violation of the automatic stay for Luhr to prosecute the claim.

19 • Fourth Cause of Action: PPC against Elizabeth Michaelis, for breach of fiduciary duty on
20 account of Elizabeth Michaelis' payment to herself of salary from PPC that was not owed to her.
21 This claim does not directly involve QualityBuilt.com, nor does QualityBuilt.com assert an
22 interest in this claim.

23 • Fifth Cause of Action: Luhr, PPC, and FAEC against Elizabeth Michaelis and Garth
24 Michaelis, for an accounting with respect to expenses and profits of QualityBuilt.com, the TIC
25 agreement, the Aurora property, and PPC. QualityBuilt.com asserts that the claim belongs only
26 to it such that it is a violation of the automatic stay for anyone but QualityBuilt.com to prosecute
27 the claim. (Presumably QualityBuilt.com's position relates only to the aspect of the accounting
28 claim directed to the expenses and profits of QualityBuilt.com, as QualityBuilt.com under no

1 circumstances would have any interest in the claim insofar as it relates to the expenses and
2 profits of the Aurora Property, PPC or the TIC Agreement.)

3 • Sixth Cause of Action: Luhr, PPC, and FAEC against Murphy, for aiding and abetting
4 breach of fiduciary duty, on account of Murphy's role in assisting the Michaelises to engage in
5 their wrongful activities. QualityBuilt.com asserts that the claim belongs only to it such that it is
6 a violation of the automatic stay for anyone but QualityBuilt.com to prosecute the claim
7 (Presumably QualityBuilt.com's position relates only to the aspect of the aiding and abetting
8 claim directed to Murphy's conduct in helping the Michaelises to loot QualityBuilt.com's profits,
9 as QualityBuilt.com under no circumstances would have any interest in the claim insofar as it
10 relates to Murphy's role in helping Elizabeth Michaelis to take more than her share under the TIC
11 Agreement, more than her proper salary from PPC, and more than her share of profits from the
12 Aurora Property.)

13 • Seventh Cause of Action: Luhr against Elizabeth Michaelis, for fraud relating to her role
14 in fraudulently inducing Luhr to enter into an employment arrangement with a new entity,
15 QualityBuilt, LLC, that resulted in damages to Luhr. This claim does not directly involve
16 QualityBuilt.com, nor does QualityBuilt.com assert an interest in this claim.

17
18 15. A true and correct copy of the Complaint we filed in San Diego Superior Court is
19 attached as Exhibit 3.

20 16. A true and correct copy of a letter from Scott Keehn (who is bankruptcy counsel
21 for QualityBuilt.com) dated November 4, 2011 is attached as Exhibit 4. In his letter, Mr. Keehn
22 asserts that prosecution of the Third, Fifth, and Sixth Causes of Action against the non-debtor
23 third parties violate the automatic stay. Mr. Keehn also states that he has engaged in settlement
24 discussions with Michaelis, but has never been given authorization from me to engage in any
25 such discussions. Further, Mr. Keehn has never informed me of the status of the pending

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1 Michaelis claim, despite me providing him with evidence in May, 2011. Mr. Keehn has not
2 brought any litigation actions against Elizabeth Michaelis, Garth Michaelis, or Murphy.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct. Dated this 18th day of January 2012.

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7 Stanley R. Luhr
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EXHIBIT 1

ROA_01009

AMEX CHARGES FOR BILLS Dec 2008 through Dec 09	The amounts in this column are personal charges on Beth's AMEX	None of Garth's charges are QB related	PERSONAL Chase Visa Charges paid by QB-Annual Total	AMEX Personal travel & activities: descriptions by month
	Beth	Garth (total monthly bill)		
December-05	27696.69	8476.45		Utah; Sea World; Alaska; Disneyland; Airfare for parents & daughter;
January-06	7592.47	10846.8		
February-06	6140.74	8409.08		
March-06	10322.76	8540.18		
April-06	8888.37	17408.18		
May-06	3728.93	8315.24		
June-06	7300.53	13862.35		
July-06	4162.68	16376.6		
August-06	11,850.78	7207.3		
September-06	9433.21	3765.38		Boston, Maine, Las Vegas, NV, Oakland, Ca
October-06	11127.06	7763.09		Tickets for family to SLC, UT.; United Kingdom
November-06	13063.68	4624.21		San Fran, CA,
December-06	12472.02	11311.34	23,281.67	
January-07	9046.51	9045.78		Tuition - SDSU; Travel for family members to Richmond VA & also from, Richmond VA to Nassau Bahamas for Beth, Garth, Sarah & boyfriend.
February-07	7968.26	17906.03		
March-07	1448.13	5983.71		
April-07	8629.95	2987.21		
May-07	14195.32	9016.32		
June-07	7423.58	5701.68		
July-07	4329.5	11701.32		
August-07	7705.84	5714.25		
September-07	1923.16	9402.84		San Fran, CA, Gulfport MS, Sacramento/Modesto, CA.
October-07	1138.21	5864.98		
November-07	13321.41	7725.45		Walt Disney World, FL; New York City; Utah
December-07	2881.6	12282.98	38895.48	Disneyland Anaheim; 780,000 rewards points redeemed for cash cards

EXHIBIT 2

Form 1120 (2005) **QUALITYBUILT, CORP.**

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Note: The corporation is not required to complete Schedules L, M-1, and M-2 if Question 13 on Schedule K is answered "Yes."

Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
Assets	(a)	(b)	(c)	(d)	
1 Cash					
2a Trade notes and accounts receivable	3,362,702.		5,573,659.		
b Less allowance for bad debts		3,362,702.		5,573,659.	
3 Inventories					
4 U.S. government obligations					
5 Tax-exempt securities					
6 Other current assets (att. sch.) STMT 9		3,254.		162,288.	
7 Loans to shareholders		35,000.		480,418.	
8 Mortgage and real estate loans					
9 Other investments (att. sch.)					
10a Buildings and other depreciable assets	539,887.		887,551.		
b Less accumulated depreciation	187,661.	352,226.	262,864.	624,687.	
11a Depletable assets					
b Less accumulated depletion					
12 Land (net of any amortization)					
13a Intangible assets (amortizable only)	27,486.		27,486.		
b Less accumulated amortization	7,474.	20,012.	7,474.	20,012.	
14 Other assets (att. sch.)					
15 Total assets		3,773,194.		6,861,064.	
Liabilities and Shareholders' Equity					
16 Accounts payable		904,237.		1,312,518.	
17 Mortgages, notes, bonds payable in less than 1 year					
18 Other current liabilities (att. sch.) STMT 10		271,095.		2,182,881.	
19 Loans from shareholders		60,954.			
20 Mortgages, notes, bonds payable in 1 year or more					
21 Other liabilities (att. sch.)					
22 Capital stock: a Preferred stock					
b Common stock	17,000.	17,000.	17,000.	17,000.	
23 Additional paid-in capital					
24 Retained earnings - Appropriated (attach schedule)					
25 Retained earnings - Unappropriated		2,519,908.		3,348,665.	
26 Adjustments to shareholders' equity (attach schedule)					
27 Less cost of treasury stock					
28 Total liabilities and shareholders' equity		3,773,194.		6,861,064.	

Schedule M-1 Reconciliation of Income (Loss) per Books With Income per Return (see instructions)	
1 Net income (loss) per books	828,757.
2 Federal income tax per books	2,551.
3 Excess of capital losses over capital gains	
4 Income subject to tax not recorded on books this year (itemize):	
5 Expenses recorded on books this year not deducted on this return (itemize):	
a Depreciation	\$ 26,393.
b Charitable contributions	\$ 36,141.
c Travel and entertainment	\$ 153.
STMT 11	62,687.
6 Add lines 1 through 5	893,995.
7 Income recorded on books this year not included on this return (itemize):	
Tax-exempt interest	\$ 1802676.
STMT 12	1,802,676.
8 Deductions on this return not charged against book income this year (itemize):	
a Depreciation	\$
b Charitable contributions	\$
9 Add lines 7 and 8	1,802,676.
10 Income (page 1, line 28) - line 6 less line 9	-908,681.

Schedule M-2 Analysis of Unappropriated Retained Earnings per Books (Line 25, Schedule L)	
1 Balance at beginning of year	2,519,908.
2 Net income (loss) per books	828,757.
3 Other increases (itemize):	
4 Add lines 1, 2, and 3	3,348,665.
5 Distributions:	
a Cash	
b Stock	
c Property	
6 Other decreases (itemize):	
7 Add lines 5 and 6	
8 Balance at end of year (line 4 less line 7)	3,348,665.

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Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
Assets		(a)	(b)	(c)	(d)
1 Cash					820,118.
2a Trade notes and accounts receivable		5,573,659.		6,838,393.	
b Less allowance for bad debts		()	5,573,659.	()	6,838,393.
3 Inventories					
4 U.S. government obligations					
5 Tax-exempt securities					
6 Other current assets (att. sch.)	STMT 9		162,288.		27,054.
7 Loans to shareholders			480,418.		229,169.
8 Mortgage and real estate loans					
9 Other investments (att. sch.)					
10a Buildings and other depreciable assets		887,551.		904,496.	
b Less accumulated depreciation		(262,864.)	624,687.	(448,968.)	455,528.
11a Depletable assets					
b Less accumulated depletion		()		()	
12 Land (net of any amortization)					
13a Intangible assets (amortizable only)		27,486.		24,015.	
b Less accumulated amortization		(7,474.)	20,012.	(20,013.)	4,002.
14 Other assets (att. sch.)	STMT 10				629,525.
15 Total assets			6,861,064.		9,003,789.
Liabilities and Shareholders' Equity					
16 Accounts payable			1,312,518.		2,832,555.
17 Mortgages, notes, bonds payable in less than 1 year					
18 Other current liabilities (att. sch.)	STMT 11		2,182,881.		1,102,011.
19 Loans from shareholders					1,137,454.
20 Mortgages, notes, bonds payable in 1 year or more					
21 Other liabilities (att. sch.)					
22 Capital stock: a Preferred stock					
b Common stock		17,000.	17,000.	17,000.	17,000.
23 Additional paid-in capital					
24 Retained earnings - Appropriated (attach schedule)					
25 Retained earnings - Unappropriated			3,348,665.		3,914,769.
26 Adjustments to shareholders' equity (attach schedule)					
27 Less cost of treasury stock			()		()
28 Total liabilities and shareholders' equity			6,861,064.		9,003,789.

Schedule M-1 Reconciliation of Income (Loss) per Books With Income per Return

Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more - see instructions

1 Net income (loss) per books	566,104.	7 Income recorded on books this year not included on this return (itemize):	
2 Federal income tax per books		Tax-exempt interest \$	
3 Excess of capital losses over capital gains		STMT 13	-255,303.
4 Income subject to tax not recorded on books this year (itemize):			-255,303.
5 Expenses recorded on books this year not deducted on this return (itemize):		8 Deductions on this return not charged against book income this year (itemize):	
a Depreciation \$		a Depreciation \$	
b Charitable contributions \$	16,870.	b Charitable contributions \$	
c Travel and entertainment \$	49,143.		
STMT 12	3,735.	9 Add lines 7 and 8	-255,303.
6 Add lines 1 through 5	635,852.	10 Income (page 1, line 28) - line 6 less line 9	891,155.

Schedule M-2 Analysis of Unappropriated Retained Earnings per Books (Line 25, Schedule L)

1 Balance at beginning of year	3,348,665.	5 Distributions:	
2 Net income (loss) per books	566,104.	a Cash	
3 Other increases (itemize):		b Stock	
		c Property	
		6 Other decreases (itemize):	
4 Add lines 1, 2, and 3	3,914,769.	7 Add lines 5 and 6	
		8 Balance at end of year (line 4 less line 7)	3,914,769.

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Schedule L Balance Sheets per Books		Beginning of tax year		End of tax year	
Assets		(a)	(b)	(c)	(d)
1	Cash		820,118.		848,707.
2 a	Trade notes and accounts receivable	6,838,393.		4,724,831.	
b	Less allowance for bad debts		6,838,393.		4,724,831.
3	Inventories				
4	U.S. Government obligations				
5	Tax-exempt securities				
6	Other current assets (att. stmt.)	STATEMENT 11	27,054.		205,249.
7	Loans to shareholders		229,169.		38,102.
8	Mortgage and real estate loans				
9	Other investments (att. stmt.)	STATEMENT 12	0.		22,592.
10 a	Buildings and other depreciable assets	904,496.		570,707.	
b	Less accumulated depreciation	448,968.	455,528.	458,299.	112,408.
11 a	Depletable assets				
b	Less accumulated depletion				
12	Land (net of any amortization)				
13 a	Intangible assets (amortizable only)	24,015.		24,015.	
b	Less accumulated amortization	20,013.	4,002.	20,013.	4,002.
14	Other assets (att. stmt.)	STATEMENT 13	629,525.		0.
15	Total assets		9,003,789.		5,955,891.
Liabilities and Shareholders' Equity					
16	Accounts payable		2,832,555.		2,735,126.
17	Mortgages, notes, bonds payable in less than 1 year				
18	Other current liabilities (att. stmt.)	STATEMENT 14	1,102,011.		538,829.
19	Loans from shareholders		1,137,454.		1,037,454.
20	Mortgages, notes, bonds payable in 1 year or more				
21	Other liabilities (att. stmt.)				
22	Capital stock		17,000.		17,000.
23	Additional paid-in capital				
24	Retained earnings	STATEMENT 17	3,914,769.		1,627,482.
25	Adjustments to shareholders' equity (att. stmt.)				
26	Less cost of treasury stock				
27	Total liabilities and shareholders' equity		9,003,789.		5,955,891.

Schedule M-1 Reconciliation of Income (Loss) per Books With Income (Loss) per Return

Note: Schedule M-3 required instead of Schedule M-1 if total assets are \$10 million or more - see instructions

1	Net income (loss) per books	-2,287,287.	5	Income recorded on books this year not included on Schedule K, lines 1 through 10 (itemize):	
2	Income included on Schedule K, lines 1, 2, 3a, 4, 5a, 6, 7, 8a, 9, and 10, not recorded on books this year (itemize):		a	Tax-exempt interest \$	
3	Expenses recorded on books this year not included on Schedule K, lines 1 through 12 and 14i (itemize):		6	Deductions included on Schedule K, lines 1 through 12 and 14i, not charged against book income this year (itemize):	
a	Depreciation \$		a	Depreciation \$	
b	Travel and entertainment \$ 24013.		STMT 16	-2,016,133.	-2,016,133.
STMT 15	1,068.	25,081.	7	Add lines 5 and 6	-2,016,133.
4	Add lines 1 through 3	-2,262,206.	8	Income (loss) (Schedule K, line 15; Line 4 less line 7)	-246,073.

Schedule M-2 Analysis of Accumulated Adjustments Account, Other Adjustments Account, and Shareholders' Undistributed Taxable Income Previously Taxed (see instructions)

	(a) Accumulated adjustments account	(b) Other adjustments account	(c) Shareholders' undistributed taxable income previously taxed
1	Balance at beginning of tax year		
2	Ordinary income from page 1, line 21		
3	Other additions		
4	Loss from page 1, line 21	237,996.	
5	Other reductions STATEMENT 10	32,090.	
6	Combine lines 1 through 5	-270,086.	
7	Distributions other than dividend distributions		
8	Balance at end of tax year. Subtract line 7 from line 6	-270,086.	

EXHIBIT 3

ROA_01015

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SAN DIEGO COUNTY, CA

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5 Attorneys for Plaintiff STANLEY R. LUHR,
FAEC HOLDINGS 382771, LLC, and
6 PACIFIC PROPERTY CONSULTANTS, INC.

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO**
10

11 STANLEY R. LUHR, an individual; FAEC
HOLDINGS 382771, LLC, a Delaware limited
12 liability company; and PACIFIC PROPERTY
CONSULTANTS, INC., a California
13 corporation,

14 Plaintiffs,

15 vs.

16 ELIZABETH MICHAELIS, an individual;
GARTH MICHAELIS, an individual;
17 SCIENCE BUILDING PARTNERS, LLC, a
California limited liability company; SHEILA
18 MURPHY, an individual; and DOES 1-50,
inclusive,
19

20 Defendants.
21
22
23
24
25
26
27
28

Case No. 37-2011-00099502-CU-CO-CTL

**COMPLAINT FOR DAMAGES FOR
BREACH OF CONTRACT, BREACH OF
FIDUCIARY DUTY, AIDING AND
ABETTING BREACH OF FIDUCIARY
DUTY, FOR AN ACCOUNTING AND
FRAUD**

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COMPLAINT FOR DAMAGES
ROA_01016

As and for their Complaint herein, Plaintiffs Stanley R. Luhr (occasionally "Luhr"), FAEC Holdings 382771, LLC ("FAEC") and Pacific Property Consultants, Inc. ("PPC") (occasionally, collectively "Plaintiffs") allege on information and belief as follows:

GENERAL ALLEGATIONS

1. This Court has jurisdiction over this case because the amounts of the claims herein alleged exceed the minimum jurisdiction limit of this Court. Venue is proper in this Court because (1) one or more of the defendants named herein resides in San Diego County, California, (2) the agreements alleged herein were entered into, and were to be performed, in San Diego County, California, and (3) the acts and omissions alleged herein were committed or made in San Diego County, California.

2. Plaintiff Stanley R. Luhr ("Luhr") is an individual residing in San Diego County, California.

3. Plaintiff FAEC Holdings 382771, LLC ("FAEC") is a Delaware limited liability company formed in 2006 and lawfully conducting business in San Diego County, California. FAEC is a single-member limited liability company owned by Luhr.

4. Plaintiff Pacific Property Consultants, Inc. ("PPC") is a California corporation in good standing, formed in 2006 and conducting business in San Diego County, California. Luhr is the 100% owner of PPC.

5. Plaintiff is informed and believes and thereon alleges that Defendant Elizabeth Michaelis resided in El Cajon, California at all times relevant and now resides in Florida.

6. Plaintiff is informed and believes and thereon alleges that Defendant Garth Michaelis resided at all times relevant in El Cajon, California and now resides in Florida. Garth and Elizabeth Michaelis, at all times relevant, have been husband and wife.

7. Plaintiff is informed and believes and thereon alleges that Defendant Sheila Murphy ("Murphy") at all times relevant resided in La Mesa, California and now resides in Florida.

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1 8. Defendant Science Building Partners, LLC ("SBP") is a California limited liability
2 company conducting business in San Diego County, California. It is believed to be 100% owned
3 and managed by Elizabeth Michaelis.

4 9. The true names or capacities, whether individual, corporate, associate or otherwise,
5 of Defendants DOES 1-50, inclusive, are unknown to Plaintiffs who therefore sue these
6 Defendants by their fictitious names. Each of said fictitiously named Defendants, whether acting
7 for itself or as its agents, corporations, associations, limited liability companies, or otherwise, is in
8 some way liable or responsible to Plaintiffs on the facts herein alleged and caused the injury or
9 damages proximately thereby as hereinafter alleged. Plaintiffs will seek leave of court to amend
10 their Complaint to show the true names and capacities of these Defendants when and if the same
11 are ascertained.

12 10. Plaintiffs are informed and believe and thereon allege that, at all times herein
13 alleged, each of the Defendants, including DOES 1-25, inclusive, was the agent, servant,
14 employee or authorized representative of each of the remaining Defendants, and was acting within
15 the course, scope and purpose of said agency, employment or service with the knowledge, consent,
16 and permission of the other Defendants. Each of the Defendant DOES herein 26-50 was the
17 conspirator with, aided and abetted the other defendants' conduct or acted in concert with the other
18 Defendants in causing the harm alleged herein.

19 **Quality Built**

20 11. Luhr is well-known in the construction industry for risk evaluation, management
21 and quality assurance. He is also a nationally recognized forensic construction expert. In 1994
22 Luhr began developing quality assurance programs to help builders produce better quality and
23 lower costs, which spawned a new industry of private inspection and documentation consultants.
24 At that time, with construction quality deteriorating and litigation claims skyrocketing, Luhr
25 developed an innovative technology based on thousands of quality checkpoints, backed by
26 building science and root-cause analysis, which steered builders to improve their entire
27 construction processes. The software coupled with independent field consultants provided an
28 independent watchdog for insurance providers and production builders who began mandating

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COMPLAINT FOR DAMAGES
ROA_01018

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1 implementation of Luhr's system, called "Quality Built." Soon builder insurers and others utilized
2 the systems and training to eliminate construction flaws within the process (rather than relying on
3 after-the-fact inspections), and by this strategy caught defective work as it was incurring rather
4 than as a repair punch list item, which saved builders time, money and drastically reduced
5 construction flaws, and litigation and insurance costs.

6 12. By 2003 Luhr's processes became the subject of hundreds of lectures and training
7 sessions sponsored by building trade associations, insurance companies and product manufacturers
8 touting the improved comfort, durability, safety and energy efficiency of a quality project. By
9 2010 more than 400,000 structures were completed using the Quality Built system, amassing 40
10 million quality data records and 12 million photos which documented good construction practices.
11 Luhr's efforts have also developed several products and services, and he has received 14
12 trademarks and 3 published U.S. patents related to this work.

13 13. Luhr's forensic consulting work has included some of the largest construction
14 defect claims in United States history. He has been retained in over 4,000 litigation claims,
15 testified in more than 100 court trials and has provided deposition testimony on more than 500
16 occasions.

17 14. In 1992, Luhr hired Elizabeth Michaelis because she allegedly had a background in
18 business. Luhr initially hired her to manage and improve his forensic and construction practices,
19 which eventually included the "Quality Built" day-to-day operations and business, as office
20 manager. Over the years through 2009, Elizabeth Michaelis' responsibilities steadily grew and she
21 enjoyed a \$275,000 annual salary managing Luhr's activities.

22 15. In 1999 Luhr formed QualityBuilt.com, at all relevant times a closely-held
23 Subchapter S California corporation which carried on the above business of "Quality Built."
24 However, Luhr's patents did not become part of the company at any time.

25 16. In 1999 with the formation of QualityBuilt.com, Elizabeth Michaelis was rewarded
26 with a 50% shareholding interest in that corporation and Luhr held the other 50% of the
27 corporation. Eventually, Elizabeth Michaelis became President and Chief Financial Officer.
28

1 17. In 2003, Garth Michaelis was hired to perform programming jobs for
2 QualityBuilt.com following Garth's retirement from government contracting for the military.
3 Gradually Garth Michaelis' role increased to serving as Director of Programming, and
4 QualityBuilt.com eventually had 12 programmers and computer professionals. Garth was a
5 salaried employee without stock ownership in QualityBuilt.com at all times relevant.

6 18. Luhr also owned 100% of a separate corporation, Luhr, Inc. dba Pacific Property
7 Consultants ("PPC"), which carried on his forensic activities. In 2006 the Luhr, Inc. entity
8 dissolved and Luhr formed Pacific Property Consultants, Inc., a California corporation, presently
9 owned 100% by Luhr, which has carried on similar forensic services distinct from the business of
10 Qualitybuilt.com. Elizabeth Michaelis also managed this corporation for a salary, holding the title
11 of CFO until she resigned in 2009. When Michaelis resigned, she unilaterally relinquished
12 company stock that was given to her as she claimed it had no value.

13 **Real Property Acquisitions**

14 19. Additionally, Luhr and Elizabeth Michaelis purchased real properties to aid in the
15 expansion of QualityBuilt.com, consisting of an executive condominium unit in Poway, California
16 and a 13,000 square foot professional office building located at 14406 Evans Avenue, Aurora,
17 Colorado (the "Aurora Property"). Title to the Aurora Property was taken as joint tenants between
18 Luhr and Elizabeth Michaelis. The Aurora, Colorado property served as the location for a
19 QualityBuilt.com regional training facility and office, and as such was supposed to make lease
20 payments to Luhr and Michaelis and the net profits after expenses related to the property. The
21 terms of their ownership required that each bear 50% of the cost of maintaining the Aurora
22 property, and in turn share 50% of the profits.

23 20. In 2006 Qualitybuilt.com continued to experience rapid growth, and a larger
24 facility was needed. Luhr sold the Poway office building and purchased an \$11 million Rancho
25 Bernardo facility located at 15330 Avenue of Science, San Diego, CA 92128. Elizabeth Michaelis
26 approached Luhr and asked him to provide her with partial ownership of the new facility. Luhr
27 agreed to provide Michaelis 50% of the net rental income if she accepted 70% of the mortgage
28 obligations on the property, which she agreed. In this regard, on July 25, 2006, a tenancy in

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1 common agreement was executed ("TIC Agreement"). A true and correct copy of the TIC is
2 attached hereto as Exhibit "A." Luhr and Michaelis each created their own LLC entities to
3 maintain ownership of the 75,000 square foot building under the TIC Agreement. Unbeknownst
4 to Luhr, Elizabeth Michaelis never deposited personal funds as a requirement of the purchase;
5 instead she took money from Qualitybuilt.com's accounts to satisfy her deposit obligations.

6 21. Together with bonuses, rental income and company salary the Michealises' annual
7 earnings exceeded \$500,000 in the 2006-2008 time period. Unfortunately, this did not satisfy their
8 thirst for money.

9 **Diversion Of Luhr's Net Profits In Qualitybuilt.Com**

10 22. Within three years last past, Elizabeth and Garth Michaelis have engaged in a plan
11 to divert the profits of QualityBuilt.com for personal gain, and directly from disbursements that
12 should have otherwise gone to Luhr as its 51% owner. As such, rather than receiving merely 50%
13 distributions as the owners of this Subchapter S corporation, the Michaelises did the following to
14 divert distributions that otherwise would have been distributed on a 50% basis to Luhr:

- 15 • The Michaelises took multiple cruises and vacations, on nearly a monthly basis,
16 charged to Elizabeth and Garth's QualityBuilt.com American Express card.
17 Michealises also purchased cruise ship and travel tickets for their parents and other
18 relatives.
- 19 • Garth and Elizabeth Michaelis did not log paid time off (PTO) while on these
20 numerous vacations.
- 21 • Garth Michaelis was issued a company card. Its charges reflect personal charges
22 for cruise ship tickets, airline travel, Wendy's Hamburgers, Pick Up Stix fast food,
23 clothing, flowers, jewelry, groceries, and many other personal items that had no
24 business purpose. The job duties of Garth Michaelis did not include expenditures
25 for travel, food, jewelry or any other marketing or business development purpose in
26 his capacity as a manager of software employees.
- 27 • At least \$600,000 in clearly personal charges of the Michaelises were run through
28 the company's books and falsely recorded in the company's accounting records as
"business expenses," "marketing expenses" and "travel expenses." There are no
records that these obviously personal expenses were ever reimbursed to
QualityBuilt.com, nor have any receipts been discovered within the company files
to further identify the purchases.
- Qualitybuilt.com records indicate a mysterious charge and email from Sarah
Michaelis, the eldest daughter, where she sent her college tuition bill directly to
Qualitybuilt.com's accounting department with instructions stating, "My mom said
if I sent an invoice in to you that you be (sic) able to pay it is an education seminar.
I wanted to know if this good (sic) for an invoice." The invoice was paid and

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1 charged the amount to "Employee Recruitment & Training" in the Qualitybuilt.com records.

2 • Records indicate that from 2006 through at least 2008, Michaelis directed
3 Qualitybuilt/cp, accounting staff to pay her personal Chase Credit card account,
4 totaling thousands of dollars. There are no records or receipts to indicate that
5 Michaelis, who possessed at least two active company charge cards, used her
6 personal credit card for legitimate business activities.

7 • Michaelis diverted Luhr's American Express card bonus points to accounts that she
8 controlled. She cashed in over one million American Express bonus points in
9 exchange for cash cards, which were never accounted for any business function.

10 23. Luhr did not discover the above actions until May 2011 when accounting records of
11 QualityBuilt.com were recovered from its Aurora, Colorado location which Elizabeth Michaelis
12 had caused them to be abandoned. Luhr is informed and believes that these records demonstrate
13 that the Defendants' embezzlement goes back in time to January 2006, if not earlier. Although
14 older company records were abandoned by Michaelis in September, 2010, it is believed that
15 Michealis rummaged through the files and removed specific incriminating documents, including
16 records for purchases from 2009 through 2010, pink slips of automobiles and other credit card
17 statements. Despite multiple requests and demands for Michaelis to return these documents, she
18 refuses to do so.

19 Murphy's Role

20 24. Sheila Murphy was initially retained as an outside consultant to assist
21 Qualitybuilt.com with accounting software, and eventually Murphy accepted a full-time position
22 with Qualitybuilt.com as its Controller. Murphy had a duty to maintain accurate and professional
23 accounting records in accordance with GAAP principles, and was rewarded by Elizabeth
24 Michaelis through favorable reviews and salary increases. In her capacity, Murphy also
25 supervised or personally provided accounting services for PPC.

26 25. The recently discovered records reflect that Murphy intentionally and deceitfully
27 hid and miscategorized hundreds of personal charges being made by Garth and Elizabeth
28 Michaelis, yet did nothing to alert Luhr. Such charges were recorded in the company books as
"office overhead," "marketing expense" and "travel expense" even though Murphy knew they
were in fact personal expenses of Elizabeth and Garth Michaelis.

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1 26. Murphy was responsible for accounting and rental income for the Luhr/Michaelis
2 properties. However, Murphy never followed the executed TIC Agreement and joint tenancy
3 arrangement, but instead she conspired with Elizabeth Michaelis to calculate mortgage allocations
4 at a much lower rate for Michaelis, providing her with substantial extra rental income and denying
5 Luhr of more than \$7,000 in monthly rental income.

6 27. In 2008 when Quality Built was experiencing cash flow problems, Murphy would
7 not pay the Qualitybuilt.com rent under the terms of the TIC. When a decision to temporarily
8 reduce Qualitybuilt.com rent to \$85,000 was made, to benefit Michaelis, Murphy did not properly
9 allocate the 70-30% obligations, denying Luhr of rental income. Murphy took these steps in
10 collusion with Michaelis to advantage her at Luhr's expense.

11 28. At the same time that an employee was terminated for embezzlement, Murphy
12 knew or should have known that Elizabeth Michaelis' and Garth Michaelis' company credit cards
13 contained the very same types of personal charges, on the very same statements as the
14 embezzlement by the employee, but at a significantly higher dollar amount, than the terminated
15 employee's statements; yet Murphy said nothing to Luhr during the embezzlement investigation.
16 Murphy did so to conceal the Michaelises' wrongful activities.

17 29. Plaintiffs are informed and believe that Murphy personally gained from her deceit
18 of Luhr, including unearned payroll advances, payroll increases, company gift card purchases and
19 bonus point cash cards.

20 30. On one occasion when Luhr requested that Michaelis terminate Murphy due to her
21 failure to present long overdue financial statements, Michaelis defended Murphy and claimed that
22 she was an indispensable employee due to the numerous problems with the accounting systems,
23 problems actually created by Murphy's own negligence. In reality, the two were conspiring to
24 divert Luhr's income from the business relationships with Michaelis, to Michaelis' advantage.

25 **Quality Built, LLC**

26 31. QualityBuilt.com filed Chapter 11 bankruptcy proceedings on or about August 19,
27 2009. It will not reorganize successfully and, but for processing receivables and payables, is out
28 of business.

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1 32. A new entity, Quality Built, LLC, was formed by investors to acquire assets of
2 QualityBuilt.com out of the bankruptcy. In this process, Elizabeth Michaelis conspired with
3 DOES 25-35 to take advantage of Luhr and then cut him out of the new business. The opportunity
4 was presented to Luhr that both Elizabeth Michaelis and Luhr would be hired as employees of
5 Quality Built, LLC and would be given 5% ownership as members in Quality Built, LLC.
6 However, Elizabeth Michaelis secretly conspired with DOES 25-35 to secure for herself a
7 preferred return through a Utah trust that was not disclosed to Luhr.

8 33. In furtherance of this scheme, Michaelis and DOES 25-35 tricked Luhr into
9 assigning his patent applications to Quality Built, LLC and causing him to execute an employment
10 agreement containing covenants not to compete, while having no intention to preserve his
11 employment or affiliation with the new business. Luhr, as the principal owner of
12 QualityBuilt.com, would not have approved of the sale of its assets to Quality Built, LLC if the
13 Defendants' true intentions were known.

14 34. Luhr is informed and believes and thereon alleges that Elizabeth Michaelis falsely
15 described Luhr's function and role in QualityBuilt.com while concealing her own improper actions
16 in managing the corporation and diverting distributions to herself such that the primary members
17 of Quality Built, LLC were tricked by Elizabeth Michaelis into bringing in Luhr only to obtain an
18 assignment of the patents and Luhr's experience and know-how, with no intention of actually
19 preserving his employment, while purporting to constrain him from carrying on any competing
20 business himself under a covenant not to compete.

21 35. On January 3, 2011, Luhr was terminated by Quality Built, LLC, which triggered a
22 buyout of his 5% membership interest in the limited liability company for a modest sum. Now
23 Luhr has no interest in the business and Quality Built, LLC and Elizabeth Michaelis and the
24 investors proceed forward together without him (Michaelis with a 5% interest plus her secret
25 preferred return), but with all of the goodwill, intellectual property, and know-how of former
26 QualityBuilt.com. On February 4, 2011, Quality Built, LLC's counsel wrote to Luhr contending
27 he was prohibited from competing with Quality Built, LLC, soliciting its customers, soliciting its
28 suppliers and soliciting its employees or service providers.

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36. Quality Built, LLC was awarded a multi-million dollar contract in Florida effective January 1, 2011, according to public records. Michaelis and other Quality Built, LLC officers announced the contract, estimated to be \$30 million per year, as early as September 2010 in company emails and other communications.

FIRST CAUSE OF ACTION
(Breach of TIC Agreement – Against SBP, Elizabeth Michaelis and DOES 1-15)

37. Plaintiffs refer to and incorporate by reference the allegations of paragraphs 1 through 21, inclusive, as though set forth in full.

38. Luhr (through FAEC) and Elizabeth Michaelis (through SBP) owned the Avenue of Science property described under the TIC Agreement, created to run the property outside of the business of QualityBuilt.com, and to share in the profits and losses as set forth in the TIC Agreement.

39. Elizabeth Michaelis controlled the accounting books and records related to the TIC Agreement including its rental income for lease of the property.

40. Luhr is informed and believes that rather than paying 70% of the mortgage payments of the property, Elizabeth Michaelis only paid 60% of those payments. As such, she manipulated the books and records relating to the property such that Luhr and FAEC, and not SBP or Elizabeth Michaelis, made up the difference.

41. As a proximate result of the foregoing, FAEC and Luhr have been damaged in an amount to be proven at trial but not less than \$230,000.

SECOND CAUSE OF ACTION
(Accounting of Aurora Property – Against Elizabeth Michaelis and DOES)

42. Plaintiff Luhr refers to and incorporates by reference the allegations of paragraphs 1 through 21, inclusive, as though set forth in full.

43. Under the terms of their joint tenancy in the Aurora property, each of Luhr and Elizabeth Michaelis was obligated to bear 50% of the expenses of maintaining the property and each entitled to receive 50% of the net profits derived from the property.

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1 44. As QualityBuilt.com ceased operating and the Aurora location was closed, Luhr
2 and Michaelis confronted significant liabilities to the lender on the Aurora Property. Luhr
3 succeeded in negotiating a refinance and lower interest rate with the lender, yet Michaelis refused
4 to pay her requisite share of the liabilities. In August 2010, Michaelis learned that QB LLC would
5 be moving its headquarters to Florida and vacating the building. Despite these facts, she withheld
6 this information from Luhr, and then lied about knowing it when Luhr was notified several weeks
7 later. In October and November 2010, Michaelis directed Murphy to stop payment on the QB
8 LLC rent check, and instead, drafted two separate rent checks and then refused to pay her requisite
9 share of the mortgage expenses, thus pocketing the rental income.

10 45. However, within two years last past, Luhr has incurred personal expenses on the
11 property that were incurred by the joint tenancy. As such, Luhr has overpaid, and is entitled to be
12 reimbursed by Elizabeth Michaelis, not less than \$44,114.58, according to proof at trial.

13 **THIRD CAUSE OF ACTION**
14 **(Breach of Fiduciary Duty - - Diversion of Luhr's QualityBuilt.com**
15 **Distributions - Against the Michaelises, Murphy and DOES 11-25)**

16 46. Plaintiff Luhr refers to and incorporates by reference the allegations of
17 paragraphs 1 through 30, inclusive, as though set forth in full.

18 47. At all times relevant during their association in QualityBuilt.com, Luhr was the
19 01% shareholder and Elizabeth Michaelis the 50% shareholder in this closely held, Subchapter S
20 corporation.

21 48. Further, Elizabeth Michaelis served as the Chief Financial Officer of the
22 corporation at relevant times and managed and controlled all of the accounting books and records
23 of the corporation and was a board member and was exclusively responsible for issuing
24 distributions to the two shareholders, Luhr and herself. As such, Elizabeth Michaelis owed
25 fiduciary duties to Luhr.

26 49. As Chief Financial Officer, Elizabeth Michaelis would from time to time notify
27 Luhr of cash availability in QualityBuilt.com such that distributions could be made to each on a
28 50% - 50% basis.

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1 50. However, Luhr recently discovered in May 2011, and did not reasonably discover
2 sooner, that Elizabeth Michaelis did not always notify him that funds were available, or the true
3 amount of funds that were actually available for distribution.

4 51. Instead, as set forth above, Elizabeth Michaelis siphoned off of Luhr's distributions
5 by steadily paying for her own and her husband's personal expenses that were not for a business
6 purpose of QualityBuilt.com. As such, Elizabeth Michaelis received excessive distributions out of
7 the business, 50% of which should have actually gone to Luhr. In so doing, Elizabeth Michaelis
8 diverted Qualitybuilt.com distributions that should have gone to Luhr.

9 52. Michaelis and/or Murphy occasionally informed Luhr that the company was short
10 of cash sufficient to meet its immediate needs, and as such required Luhr to make immediate cash
11 loans to the company during the very time that the Michaelises were siphoning cash from the
12 company. Elizabeth Michaelis and/or Murphy also directed or caused, without Luhr's knowledge,
13 funds to be transferred between Qualitybuilt.com and Luhr's other company, PPC. Such loans
14 were not properly recorded on the books, and proper paperwork including interest and repayment
15 conditions were not approved by the respective boards of directors or officers of the companies.
16 Murphy and the Michaelises acted without the consent or approval of Luhr.

17 53. Garth Michaelis, Sheila Murphy and DOES 11-25 acted in concert with and in a
18 conspiracy with Elizabeth Michaelis to divert the foregoing sums.

19 54. Luhr is informed and believes that he has proximately suffered damages from such
20 diversions of distributions that should have gone to him totaling in excess of \$600,000, according
21 to proof at trial.

22 55. Luhr is informed and believes and thereon alleges that said Defendants have been
23 guilty of oppression, fraud and malice in committing the acts and omissions alleged in this cause
24 of action. Luhr is further informed and believes and thereon alleges that Defendants committed
25 despicable acts with the intent to deprive him of his property and legal rights in conscious
26 disregard of his legal rights, subjecting him to cruel and unjust hardship. Luhr is therefore entitled
27 to punitive or exemplary damages from Defendants in an amount sufficient to deter and make an
28 example of their oppressive, fraudulent and malicious conduct, according to proof.

FOURTH CAUSE OF ACTION
(Breach of Fiduciary Duty -- PPC Against Elizabeth Michaelis and DOES 1-25)

56. Plaintiff PPC refers to and incorporates by reference the allegations of paragraphs 1 through 21, inclusive, as though set forth in full.

57. Within the last three years, Elizabeth Michaelis, employed by and compensated by PPC to function as its Chief Financial Officer, from time to time intentionally or recklessly allocated expenses of QualityBuilt.com, and her personal expenses, to PPC.

58. Elizabeth Michaelis did so in derogation of her duty of good faith and loyalty to PPC in order to line her pockets or to better the finances of QualityBuilt.com in which she had a 49% interest.

59. Further, on or about July 7, 2009, she inexplicably paid herself 120 hours of "paid time off" (totaling \$4,500) when her employment with PPC ended, even though she was not entitled to paid time off.

60. As such, PPC has been damaged not less than \$4,500, according to proof at trial.

FIFTH CAUSE OF ACTION
(Accounting of Distributions -- Against the Michaelises and DOES 1-25)

61. Plaintiffs refer to and incorporate by reference the allegations of paragraphs 1 through 30, inclusive, as though set forth in full.

62. By virtue of the foregoing, an unknown balance is due Luhr from the Michaelises and DOES 1-25. That balance cannot be determined without an accounting of the books of Qualitybuilt.com, those relating to the TIC, and those relating to the Aurora property, the means of which are in said Defendants' knowledge. As such, Luhr lacks an adequate remedy at law without such an accounting.

63. Luhr is therefore entitled to an accounting of all distributions and reimbursements of non-business related expenses charged to QualityBuilt.com, as between himself and the Michaelises and DOES 1-25, and an accounting of all diversions of net rental income that should have been distributed to Luhr under the Aurora joint tenancy.

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1 64. Plaintiff FAEC is entitled to an accounting of all net revenues and expenses related
2 to the TIC.

3 65. Plaintiff PPC is entitled to an accounting with respect to all expenses allocated to it
4 that were not PPC business expenses.

5 **SIXTH CAUSE OF ACTION**
6 **(Aiding and Abetting Breach of Fiduciary Duty – Against Murphy and DOES 1-25)**

7 66. Plaintiffs refer to and incorporate by reference the allegations of paragraphs 1
8 through 30, inclusive, as though set forth in full.

9 67. It is believed that Murphy gained economic benefits from her deceit of Luhr,
10 including unearned payroll advances, payroll increases, and company gift card purchases and
11 bonus point cash cards acquired by Michaelis given to Murphy.

12 68. As such, Murphy conspired with, acted in concert with, and aided and abetted the
13 aforesaid wrongful conduct of the remaining Defendants including breaches of the TIC
14 Agreement, fraudulent accounting with respect to the Aurora property and the profound diversion
15 of Luhr's distributions out of QualityBuilt.com.

16 69. As a proximate result of the foregoing conduct on the part of Murphy, she is jointly
17 and severally liable to Plaintiffs on the foregoing causes of action.

18 70. Luhr is informed and believes and thereon alleges that said Murphy has been guilty
19 of oppression, fraud and malice in committing the acts and omissions alleged in this cause of
20 action. Luhr is further informed and believes and thereon alleges that Murphy committed
21 despicable acts with the intent to deprive him of his property and legal rights in conscious
22 disregard of his legal rights, subjecting him to cruel and unjust hardship. Luhr is therefore entitled
23 to punitive or exemplary damages from Murphy in an amount sufficient to deter and make an
24 example of her oppressive, fraudulent and malicious conduct, according to proof.

25 **SEVENTH CAUSE OF ACTION**
26 **(Fraud Against Elizabeth Michaelis and DOES 26-50)**

27 71. Luhr refers to and incorporates by reference the allegations of paragraphs 1 through
28 18 and 31 through 36, inclusive, as though set forth in full.

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1 72. Unbeknownst to Luhr, the transactional documents related to Luhr's interests in
2 Quality Built, LLC were drafted by the investors' counsel such that if Luhr's employment
3 terminated, his interest in Quality Built, LLC would be immediately repurchased for a modest
4 amount. The investors and their counsel told Luhr that he did not need an attorney in the
5 transaction and Luhr had none. Further, their counsel told Luhr to sign the documents without its
6 schedules and exhibits or signatures from others.

7 73. Michaelis and said DOES 26-50 were aware of and had no intention of carrying out
8 the promise that Luhr would be retained at the time he was induced to sign the employment
9 agreement and assign his patents. Further, Luhr is now informed and believes that Elizabeth
10 Michaelis was secretly provided an additional preferred interest in Quality Built, LLC not
11 disclosed to Luhr or to the Bankruptcy Court at the time of purchase or when Luhr executed the
12 transactional documents.

13 74. After Luhr's termination, he began to review the various documents he was
14 required to sign, and discovered that he did not have any copies of the executed documents and
15 exhibits. Luhr communicated with Quality Built LLC's counsel, who provided Luhr electronic
16 copies on February 10, 2011. Contained within the documents was a description of all investors
17 who had contributed to the sale of Quality Built.com, including the name "REG Trust," which
18 received \$50,000 of preferred stock. Plaintiff is informed and believes that REG Trust, which
19 indicates the private residence of Elizabeth and Garth Michaelis as its legal mailing address, is
20 owned by the Michaelises.

21 75. Luhr reasonably relied on the representations that he would be hired and
22 maintained as an employee of Quality Built, LLC on an equal footing and basis as Elizabeth
23 Michaelis upon entering his employment agreement and assigning his patents to Quality Built,
24 LLC in return for the member's interest.

25 76. On January 3, 2011 Luhr's employment was involuntarily terminated, and his
26 member's interest thereafter automatically repurchased at a nominal sum. Meanwhile, Quality
27 Built, LLC has proceeded on without Luhr and has received assignment of the patents.

28

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1 77. As a proximate result of the foregoing fraudulent representations by Elizabeth
2 Michaelis and DOES 26-50, Luhr has been damaged according to proof at trial.
3 78. Luhr is informed and believes and thereon alleges that said Defendants have been
4 guilty of oppression, fraud and malice in committing the acts and omissions alleged in this cause
5 of action. Luhr is further informed and believes and thereon alleges that Defendants committed
6 despicable acts with the intent to deprive him of his property and legal rights in conscious
7 disregard of his legal rights, subjecting him to cruel and unjust hardship. Luhr is therefore entitled
8 to punitive or exemplary damages from Defendants in an amount sufficient to deter and make an
9 example of their oppressive, fraudulent and malicious conduct, according to proof.

10 WHEREFORE, Plaintiffs pray for relief against Defendants, and each of them, as follows:

- 11 1. For compensatory damages in an amount to be proven at trial;
- 12 2. For punitive or exemplary damages;
- 13 3. For accountings;
- 14 4. For attorneys' fees if and to the extent permitted by law;
- 15 5. For prejudgment and post-judgment interest on the foregoing sums;
- 16 6. For costs of suit; and
- 17 7. For such other and further relief as the Court deems just and proper.

18
19 DATED: October 17, 2011

KIRBY NOONAN LANCE & HOGE LLP

20
21 By: 

22 Charles T. Hoge
23 Attorneys for Plaintiffs STAN LUHR,
24 FAEC HOLDINGS 382771, LLC, and
25 PACIFIC PROPERTY CONSULTANTS, INC.
26
27
28

EXHIBIT A

ROA_01032

SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC

TENANTS IN COMMON AGREEMENT

(15330 Avenue of Science, San Diego, California)

THIS AGREEMENT IS MADE and entered as of the 25 day of July, 2006, by and between SCIENCE BUILDING PARTNERS, LLC, a California limited liability company located at 15330 Avenue of Science, San Diego, CA 92128, and FAEC HOLDINGS 382771, LLC, a Delaware limited liability company located at 520 N. Central Avenue, Ste. 500, Glendale, California 91203, each of which are referred to collectively as the "Investors".

WITNESSETH:

In consideration of the mutual covenants set forth herein, and intending to be legally bound and for other good and valuable consideration, the parties hereto hereby agree as follows:

Article I - The Investment

Section 1.1 SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC have entered into an arrangement as tenants-in-common (the "Investment") for the limited purposes and scope set forth herein. The Investors intend this Agreement to govern their Investment from the date of inception which shall be the date the Property (as set forth in section 1.3) is transferred into their names as tenants-in-common (the "Inception Date"). The business and affairs of the Investment shall be conducted solely under the name of the Investors as tenants-in-common.

Section 1.2 The rights and obligations of the Investors and the administration and termination of the Investment shall be governed by the laws of the State of California.

Section 1.3 The purpose of the Investment is to acquire as tenants-in-common, that real property located at 15330 Avenue of Science in the County of San Diego, State of California, as more particularly described on Exhibit A attached hereto upon which is located certain improvements including, but not limited to an office building (the "Property"), and to lease, maintain, mortgage, own and sell, and convey real and personal property, including the Property (the "Business").

Section 1.4 Except for the rights of the Investors as set forth herein, nothing in this Agreement shall be deemed to restrict in any way the freedom of either Investor to conduct any other business or activity whatsoever at any location.

Section 1.5 Except as otherwise expressly and specifically provided in this Agreement, no Investor shall have any authority to act for, or assume any obligations or responsibility on behalf of, any other Investor or the Investment. Nothing herein shall be construed to

Tenants In Common Agreement-
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC

create a general partnership between the parties or to authorize either party to act as general agent for the other party, or to permit either party to bid for or to undertake any other contract for the other party.

Section 1.6 The principal place of business of the Investment shall be at 15330 Avenue of Science, San Diego, CA 92128 c/o SCIENCE BUILDING PARTNERS, LLC. Copies of any mail or notices received at such address shall be forwarded to FAEC HOLDINGS 382771, LLC at the address provided for herein.

Article II - Management

Section 2.1 The overall management and control of the business and affairs of the Investment shall be vested in the Investors collectively. Except where expressly provided to the contrary, all decisions with respect to the management and control of the Investment must be approved by both of the Investors and shall be binding on the Investment and on both of the Investors. Upon agreement of the Investors, a manager may be hired and authorized to carry out the ordinary and usual day-to-day business and affairs of the Investment.

Section 2.2 Both Investors agree that they shall actively conduct, or cause to be conducted by others under their supervision, the ordinary and usual business and affairs of the Business in accordance with, and limited by, the terms of this Agreement, including the following:

(1) In a manner which protects and preserves the titles and interests of the Investors with respect to assets owned;

(2) They shall keep, or cause another to keep under their supervision, all books of account and other records required by the Investment in accordance with good accounting principles and procedures (which can include the tax basis method of accounting) applied in a consistent manner, keep statements, receipted bills and invoices, and all other records covering all collections, disbursements, and other data in connection with the Investment, the Business, and the Property. Either Investor, or any person designated in writing by either Investor, may at any reasonable time during regular business hours, and upon reasonable advance notice, review or audit such books, records, and accounts;

(3) To deliver to each Investor a balance sheet and a profit and loss (income) and cash flow statement together with information necessary for preparation of tax returns (state, federal, and local) as soon as reasonably practicable after the close of each calendar year, but in no event later than the date required by the Investment's lenders or Ninety (90) days after the end of the calendar year, whichever is the earlier;

(4) To retain or employ and coordinate the services of all independent contractors, accountants, attorneys, and other persons necessary or appropriate to carry out the Business.

(5) To the extent that funds of the Investment are available, pay all insurance premiums, debts, and other obligations;

(6) Maintain all funds of the Business in a bank account or accounts and, subject to the terms hereof, have the power to deposit and withdraw funds. However, no funds of the Business may be commingled with funds or accounts of any Investor;

(7) When permitted or required by this Agreement, make distributions periodically to the Investors in accordance with the provisions of this Agreement;

(8) Subject to the provisions of this Agreement, operate, maintain, repair, and otherwise manage the Property; and

(9) Generally maintain, manage, and operate Business and the Property in a reasonable manner.

Investor, FAEC HOLDINGS 382771, LLC has and/or will contract with Stanley R. Luhr to act on its behalf as the Property Manager and Construction Manager with complete authority to operate and manage its affairs arising out of or relating to the Property.

Section 2.3 Books of account shall be kept and maintained by a certified public accountant designated by the unanimous consent of the Investors. These records shall be open for inspection to the Investors at all times during regular business hours, upon reasonable advance notice. A periodic compilation of all relative books of account may be made by the accountant.

Section 2.4 If the Investors determine that the Business requires additional capital for reasonable repairs or operating expenses, both Investors shall make equal contributions to the Business. If either Investor is unwilling or unable to loan the required amount and the other Investor loans the Business the additional amount, interest shall be paid on this additional amount at the rate of the federal mid-term rate as determined pursuant to Internal Revenue Code Section 1274(d) and the regulations there under, plus Two percent (2%).

Section 2.5 In the event the Investors both consent to execute or enter into or to be bound by any lease, contract, or other agreement with any entity related to or affiliated with either Investor, the Investor and such other contracting party shall be deemed to be sole and independent unrelated entities for the purpose of any such lease, contract, or agreement and as to the performance, implementation, and enforcement of any such lease, contract, or agreement.

Section 2.6 The revenue of the Business shall be deposited into the bank account of the Venture or separately into each Investors account according to their percentage interest as the Investors may agree from time to time.

*Tenants In Common Agreement-
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC*

Section 2.7 The expenses of the Business shall include only those expenses that are direct costs for the operation, sale, or refinancing of the property and any incremental expenses that are incurred as a result of the operation, sale, or refinancing of the property. All expenses, direct or incremental, shall be mutually agreed to by both parties. Notwithstanding anything herein to the contrary, either Investor may make reasonable repairs, or take reasonable protective measures, of an emergency nature, without the consent of the other Investor, up to Two Thousand Five Hundred Dollars (\$2,500) in amount.

Article III - Accounting, Contributions,

Advances, Distributions, and Allocations

Section 3.1 Interests of Investors: The Investors agree that they each have one-half (50%) of an undivided interest in the Business and the Property and shall share equally in the profits or losses of the Business and in all distributions of assets of the Business, whether distributions of cash flow (as hereinafter defined) or capital or otherwise. However, should one Investor be required to make a loan pursuant to Section 2.4, such loan shall be repaid before any distributions are made to the Investors.

Section 3.2 Share of Income and Expenses, Assets, and Liabilities: The interests of the Investors in the operation of the Property and any other property and equipment acquired by the Business, and all monies which may be derived from the Business and the obligations and liabilities of each of the parties as between themselves in connection with these operations and with respect to liabilities and losses in connection with it, shall be equal. Provided however, Investors agree that SCIENCE BUILDING PARTNERS, LLC hereby agrees to pay seventy percent (70%) and FAEC HOLDINGS 382771, LLC agrees to pay thirty percent (30%) of that specific debt obligation to GE COMMERCIAL FINANCE BUSINESS PROPERTY CORPORATION (GECFBP) in the total amount of \$10,200,000.00 as set forth in those certain loan transaction documents including without limitation the Promissory Note and Commercial Deed of Trust dated contemporaneously with the Inception Date (the "Loan Documents").

Section 3.3 Auditing: Either Investor shall have the right, but no obligation, once in every Two (2) year period to appoint, at the expense of the Business, an independent certified public accountant for the purpose of auditing on behalf of the Business the financial results. This accountant shall be provided with access to all financial reports, receipts, canceled checks, accounting summaries, bank reports, and other documents relating to the Business and necessary to the preparation of reports of the Business.

Section 3.4 Income Tax Reporting: For accounting and federal, state, and local income tax purposes, all income, deductions, credits, gains, and losses of the Business shall be allocated equally between the Investors. Each Investor shall report its respective share of any items of income, expense, gain, or loss on his own tax return. The Investors intend not to be taxed as a partnership and shall therefore cause the accountant for the Business to take any steps necessary to accomplish such result.

Tenants In Common Agreement-
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC

Section 3.5 The Business shall distribute its available cash flow as and when the Investors shall mutually agree, subject to the requirements of Section 3.1 and 3.2. Investors agree that all payments under any mortgage or loans, including without limitation the Loan Documents shall have priority over distributions to Investors.

Section 3.6 Credit of Either Party: Neither party shall have the right to borrow money on behalf of the other party or to use the credit of the other party for any purpose, except as specifically agreed to in a writing executed by both the Investors.

Section 3.7 Bank Accounts: All drafts or checks issued in connection with the Business shall be signed by SCIENCE BUILDING PARTNERS, LLC and/or FAEC HOLDINGS 382771, LLC as the Investors agree from time to time and as evidenced by the signature authorization card with the respective bank.

Article IV - Term, Termination, Sale

Section 4.1 The Business commenced on the date set forth in Section 1.1 and shall continue until the Property is sold, or upon the Default of one of the Investors as provided in Section 4.2.

Section 4.2 Default occurs when an Investor is unable to pay its share of the costs of the Business and the other Investor is required to advance funds, as set forth in Section 2.4, for a period of more than Twelve (12) months. The Non-defaulting Investor shall have the option to acquire all of the Defaulting Investor's interests in the Business and Property for an amount equal to the Appraised Value of Defaulting Investor's interests, less the amount of principal advanced and interest due pursuant to Section 2.4.

Section 4.3 Should either Investor wish to sell his interest in the Business and Property, he shall sell to the other Investor at the Appraised value of such interest. Payment terms shall be Ten Percent (10%) of the Appraised Value payable on closing of such sale, with One Third (1/3) of the remaining principal balance on each of the next three yearly anniversary dates of such closing. Interest shall be payable annually on such date, at the rate of Ten Percent (10%). Nothing herein shall preclude a Purchasing Investor to prepay the entire Appraised Value together with any interest accrued to date without any further penalty.

Section 4.4 The Appraised Value of an Investor's interest shall be determined by the Investor wishing to sell, or required to sell pursuant to Section 4.2, (the "Selling Investor") selecting an independent appraiser at his sole expense to value the Property. If the other Investor (the "Purchasing Investor") does not accept such appraised value, it shall select an independent appraiser at its sole expense, to value the Property. If the two appraisers cannot agree on a value for the Building, they shall select a third independent appraiser, at the expense of the Business, and the appraisal of such appraiser shall control. The accountant for the Business shall determine the adjustments to make to such valuation to reflect other assets and liabilities of the Business and any amounts due to or from the Defaulting Investor (the "Appraised Value"). Each Investor shall have thirty

*Tenants In Common Agreement-
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC*

(30) days to complete their independent appraisals and in the event a third independent appraiser is necessary, thirty (30) days shall be allotted for such third party appraisal.

Section 4.5 No Investor, without the prior written consent of the other Investor, shall mortgage, pledge, sell, assign, hypothecate, or otherwise encumber, transfer, or permit to be transferred in any manner or by any means whatever, whether voluntarily or by operation of law, all or any part of its interest in the Property, except to Stanley R. Luhr or his related entity or the other Investor as provided in this Agreement.

Article V - Miscellaneous

Section 5.1 All notices, demands, or requests provided for or permitted to be given pursuant to this Agreement must be in writing, by depositing the same in the United States mail, addressed to the party, postpaid and registered or certified or via personal delivery or Express Mail, at the address set forth for each in the Preamble. Any party can change its address for purposes of notification by written notice to all interested parties ("Notice").

Section 5.2 This Agreement contains the entire agreement between the parties hereto relative to the formation, ownership, and operation of the Business and Property and any actions there under. No variations, modifications, or changes herein or hereof shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party.

Section 5.3 Subject to the restrictions on transfers and encumbrances set forth herein, this Agreement shall issue to the benefit of and be binding upon the undersigned Investors and their respective members, heirs, executors, legal representatives, successors, and assigns.

Section 5.4 Each party hereto constituting Investors hereby covenant and agree as follows:

(a) In the event Investors commences an action under the Federal Bankruptcy Code (the "Code"), or in the event any such action is commenced against Investors and the same is not dismissed within ninety (90) days after the date of its filing, then Investors agree that the limitations on recourse set forth in the Loan Documents shall be null, void and of no further force of effect and that Investor shall thereafter have full recourse liability for the payment and performance of all obligations of Investors under the Loan Documents;

(b) In the event that any Investor commences a case under the Code or is subject of an involuntary case that results in an order for relief under the Code, subject to court approval, and to the fullest extent permitted under applicable laws, GECFBP shall thereupon be entitled and each Investor irrevocably consents to relief from any stay imposed by Section 362 of the Code on or against the exercise of the rights and remedies otherwise available to GECFBP as provided in the Loan Documents and each Investor

hereby irrevocably waives its rights to object to such relief. In the event any Investor shall commence a case under the Code or is the subject of an involuntary case that results in an order for relief under the Code, to the fullest extent permitted under applicable laws, each Investor hereby agrees that no injunctive relief against GECFBP shall be sought under Section 105 or other provisions of the Code by any Investor or other person or entity claiming through any Investor, nor shall any extension be sought of the stay provided by Section 362 of the Code.

(c) Except for a transfer or assignment to Stanley R. Luhr as set forth in section 4.5 above and the Loan Documents, any and all rights to partition and any other purchase and transfer rights between and among the persons which comprise Investors, whether pursuant to their tenancy-in-common agreement or otherwise, are hereby waived until the obligations under the Loan Documents are paid in full.

Section 5.6 For so long as First American Exchange Company, LLC is the sole member of FAEC, SCIENCE BUILDING PARTNERS, LLC acknowledges and agrees that FAEC HOLDINGS 382771, LLC has executed this Agreement solely because FAEC HOLDINGS 382771, LLC is acting as an exchange accommodation titleholder in connection with Stanley R. Luhr's tax-deferred reverse exchange, and that upon the expiration of the exchange, which will occur within 180 days, title to the Property and FAEC HOLDINGS 382771, LLC shall be transferred or assigned to Stanley R. Luhr. Notwithstanding anything to the contrary in this Agreement, (1) the liability of FAEC HOLDINGS 382771, LLC under this Agreement shall be limited to its interest in the Property, and neither FAEC HOLDINGS 382771, LLC nor any members, employees or affiliates of FAEC HOLDINGS 382771, LLC shall have any personal liability hereunder, (2) SCIENCE BUILDING PARTNERS, LLC hereby waives any right to assert a claim against the sole member of FAEC HOLDINGS 382771, LLC, and (3) upon the transfer of the Property and FAEC HOLDINGS 382771, LLC to Stanley R. Luhr as set forth above and in the Loan Documents, First American Exchange Company LLC shall no longer be a member of FAEC HOLDINGS 382771, LLC and shall be released from all liability and obligations under this Agreement.

IN WITNESS WHEREOF, this Agreement is executed effective as of the date first set forth above.

INVESTORS:

SCIENCE BUILDING PARTNERS, LLC, a
California limited liability company

By: Elizabeth Michaelis
Elizabeth Michaelis, Sole Member & Manager

(Signatures continue on following page)

Tenants In Common Agreement
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC

FAEC HOLDINGS 382771, LLC, a
Delaware limited liability company

By: First American Exchange Company, LLC a
Delaware limited liability company, its Sole Member

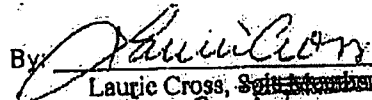
By: 
Laurie Cross, ~~Sole Member & Manager~~
Vice President

EXHIBIT A - Description of Property

Tenants In Common Agreement-
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC

EXHIBIT A

(15330 AVENUE OF SCIENCE, SAN DIEGO, CALIFORNIA)

Legal Description:

PARCEL 3 OF PARCEL MAP NO. 13090, IN THE CITY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED DECEMBER 29, 1983 AS FILE NO. 1983-474919 OF OFFICIAL RECORDS.

***Tenants In Common Agreement-
SCIENCE BUILDING PARTNERS, LLC and FAEC HOLDINGS 382771, LLC***

EXHIBIT 4

ROA_01042

KEEHN LAW GROUP



A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELORS AT LAW

750 B STREET, SUITE 1250 • SAN DIEGO, CALIFORNIA 92101 • (619) 400-2200 • FAX: (619) 400-2201 • WWW.KEEHNLAWGROUP.COM

November 4, 2011

-VIA EMAIL AND FIRST CLASS UNITED STATES POSTAL SERVICE-

Charles T. Hoge, Esq.
Kirby Noonan Lance & Hoge, LLP
350 Tenth Avenue, Suite 1300
San Diego, CA 92101-8700
Email: choge@knlh.com

RE: ***Luhr, et al. v. Michaelis, et al.***, Case No. 37-2011-00099502-CU-CO-CTL
Notice of Violation of Automatic Stay
Demand to Purge Contempt/Demand to Cease and Desist

Dear Mr. Hoge,

This Firm represents Qualitybuilt.com, Inc., a California corporation and Debtor-in-possession ("QBI") in the Chapter 11 reorganization proceedings now pending before the United States Bankruptcy Court for the Southern District of California identified as *In re Qualitybuilt.com, Inc.*, Case No. 09-12113-PB11 (the "Bankruptcy Case"). In that connection I have been provided with a copy of the "*Complaint for Damages for Breach of Contract, etc.*" (the "complaint") which you appear to have filed on October 17, 2011 in the above-referenced case (the "State Court Action"). In reviewing the Complaint it is apparent that the following causes of action included therein are in fact claims which constitute property of the QBI Bankruptcy estate:

- Third Cause of Action - Breach of Fiduciary Duty/Diversion of Profits [this Claim mirrors claims that the Debtor corporation will be bringing against Beth Michaelis if our current settlement discussions lead to impasse];
- Fifth Cause of Action - Accounting of Distributions [same as above]; and
- Sixth Cause of Action - Aiding and Abetting Breach of Fiduciary Duty [same as above].

Not only do your clients lack standing to bring claims that are Property of the QBI estate, but by purporting to pursue them you, your law firm and your clients have engaged in an act designed to "*exercise control over property of the estate*" in clear violation of the Automatic Stay provided in 11 U.S.C. § 362(a)(3). That act has also brought a complete halt

Charles T. Hoge, Esq.
November 4, 2011
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to settlement negotiations which were under way between our office and counsel for Ms. Michaelis, resulting in a detriment to the estate that we are not yet able to quantify.

The purpose of this letter is to provide you and your law firm with formal notice that your assertion of the Third, Fifth, and Sixth Causes of Action (the "QBI Estate Claims") in the Complaint constitutes a violation of the Automatic Stay, to further notify you that, among other things, any judgments or orders that you may obtain in connection with those claims will be completely null and void from the outset¹ and to formally present you with our demands for your immediate action to mitigate and limit the harm that you have already caused.

Demand is Hereby Made upon you and your law firm to immediately purge yourselves of the contempt embodied in your violation of the Automatic Stay by amending your complaint to exclude those the QBI Estate Claims currently embodied in your Third, Fifth, and Sixth Causes of Action.

Demand is Further Made, upon you and your law firm to immediately cease, desist and forever refrain from any further attempts to exercise dominion and control over the QBI Estate Claims, or any other property of its estate, or to interfere with or usurp those claims or any other property of the QBI estate.

Demand is Further Made, upon you and your law firm to provide the undersigned with a conformed copy of your Amended Complaint or other documents filed in the State Court Action showing your compliance with this demand within seven (7) days of your receipt of this letter.

If you fail to comply with these demands, our present intention is to vindicate and protect the estate's right to the QBI Estate Claims by immediately filing and prosecuting an Order to Show Cause re Contempt against you and your law firm in the Bankruptcy Court without any further prior notice to you.²

As part of the appropriate contempt sanctions, we will seek a monetary award jointly and severally against you and your law firm for any and all damages occasioned by your

¹ *Kalb v. Feuerstein* 308 U.S. 433 (1940); *In re Schwartz* 954 F.2d 569, 575(9th Cir. 1992) (actions taken in violation of the Automatic Stay are void and without effect); See also 40235 *Washington St. Corp. v. Lusardi*, 329 F.3d 1076, 1080 (9th Cir. 2003).

² *Walls v. Wells Fargo Bank* 276 F.3d 502 (9th Cir. 2002) (contempt is the exclusive remedy for Stay violations).

Charles T. Hoge, Esq.
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violation of the Automatic Stay.³ Our request for damages will include any attorneys fees that we incur from this day forward in connection with preserving the estate's rights in the claims that your complaint seeks to usurp or otherwise prosecuting the civil contempt proceeding.⁴

Notice is Hereby Given, that QBI fully reserves all rights it may have to recover any and all of the damages that QBI may suffer as a result of your violation of the Automatic Stay, even if you fully and promptly comply with the foregoing demands. Your immediate compliance may mitigate or limit those damages, but it will not relieve you or your law firm from liability to compensate QBI and its estate for any harm that it suffers as a result of your violation of the Automatic Stay.

Notice is Further Given, that our client has not yet had an opportunity to assess all elements of actual harm it may have suffered as a result of the above-referenced violation of the Automatic Stay. Our client expressly reserves, and will pursue, the appropriate action to recover whatever damages actually result from those violations in the event that it determines that it has been significantly harmed by this misconduct.

If you have any questions or comments pertaining to any of the foregoing, or any other aspect of this matter, we strongly encourage you to discuss them with counsel familiar with the Automatic Stay and the scope of remedies available for its violation to ensure that you do not underestimate the magnitude of the consequences which may follow from any continued interference with the litigation property rights of the QBI and its estate.

Very Truly Yours,

KEEHN LAW GROUP



L. Scott Keehn

cc: K. Todd Curry, Esq. (via Email only)
Garrick Hollander, Esq. (via Email only)

³ See *Computer Communications, Inc. v. Kodex Corp. (In re Computer Communications, Inc.)*, 824 F.2d 725, 731 (9th Cir. 1987) (the purpose of civil contempt is to compensate the opposing party for the injuries which arise from the contempt); See also *Crystal Palace Gambling Hall, Inc. v. Mark Twain, Indus., Inc. (In re Crystal Palace Gambling Hall, Inc.)*, 817 F.2d 1361, 1366 (9th Cir. 1987).

⁴ *Superior Propane v. Zartum (In re Zartum)*, 30 B.R. 543, 546 (9th Cir. BAP 1983) (actual damages are broadly construed to embrace consequential damages and include attorneys fees incurred in civil contempt proceedings); See also *Jane P. Malore* (punitive attorneys fees for abuse of the judicial system), 61 N.C.L. Rev. 613, 620-21 (1983).



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nigel@austinlawpllc.com

January 28, 2014

Via Email: office@lucy-law.com

Justin O'Toole Lucy, PA
415 Mill Street
Mount Pleasant, SC 29464
Attn: Justin O'Toole Lucy, Esq.

Re: The Gates at Williams-Brice Condominium Association, et al v. Quality Built, LLC
Case No. 2013-CP-40- 7729

Dear Mr. Lucy:

We are writing as counsel for Quality Built, LLC in reference to the Summons and Complaint in respect of the above matter.

The above referenced matter relates to a contract entered into by Qualitybuilt.com, a California corporation and debtor-in-possession. Pursuant to the attached Sales Order entered into on March 12, 2010 by the U.S. Bankruptcy Court for the Southern District of California, substantially all of the assets of Qualitybuilt.com were transferred to Quality Built, LLC free and clear of all Claims (except for specified Assumed Liabilities). All rights and claims under the above referenced contract with Qualitybuilt.com did not constitute an Assumed Liability under the above referenced Sales Order and, accordingly, Quality Built, LLC has no liability or obligation thereunder without any successor liability whatsoever to Qualitybuilt.com. For your convenience, service of complaints against Qualitybuilt.com should be made to Mr. Stan Luhr, 1939 Friendship Drive, Suite E, El Cajon, CA 92020.

We request that you promptly voluntarily dismiss with prejudice this matter against Quality Built, LLC. Please confirm to me at your earliest convenience that you will dismiss this Summons and Complaint and contact me with any questions.

Very truly yours,

Austin Law PLLC

By: Nigel S. Austin
Nigel S. Austin, Esq.

cc. Elizabeth Michaelis - Quality Built, LLC

CSD 1001C [11/15/04]

Name, Address, Telephone No. & I.D. No.

L. Scott Keehn (SBN 61691)

Leslie F. Keehn (SBN 199153)

KEEHN & ASSOCIATES, APC

402 W. Broadway, Suite 1210

San Diego, California 92101

(619) 400-2200

Attorneys for Debtor-in-Possession Qualitybuilt.com

**UNITED STATES BANKRUPTCY COURT**

SOUTHERN DISTRICT OF CALIFORNIA

325 West "F" Street, San Diego, California 92101-6991

In Re

LODGED

Qualitybuilt.com, a California corporation,

Debtor-in-Possession.

BANKRUPTCY NO. 09-12113-PB11

Date of Hearing: March 1, 2010

Time of Hearing: 10:30 a.m.

Name of Judge: Hon. Peter W. Bowie

ORDER

**(I) AUTHORIZING THE SALE OF SUBSTANTIALLY
ALL OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL
LIENS, CLAIMS, INTERESTS AND ENCUMBRANCES, (II) AUTHORIZING
THE ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY
CONTRACTS AND UNEXPIRED LEASES IN CONNECTION THEREWITH
AND RELATED PROCEDURES AND (III) GRANTING RELATED RELIEF**

IT IS ORDERED THAT the relief sought as set forth on the continuation pages attached and numbered two (2)

through 15 with exhibits, if any, for a total of 15 pages, is granted. Notice of Lodgment Docket Entry No. 140

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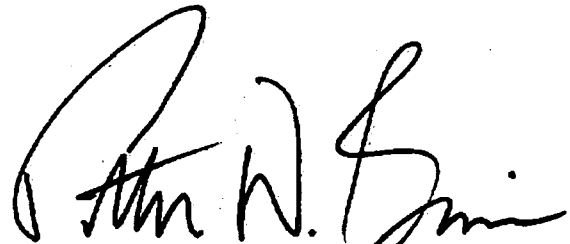
DATED: March 11, 2010

Signature by the attorney constitutes a certification under
Fed. R. of Bankr. P. 9011 that the relief in the order is the
relief granted by the court.

Submitted by:

KEEHN & ASSOCIATES, APC
(Firm name)

By: /s/ L. Scott KeehnAttorney for ☒ Movant ☐ Respondent



Judge, United States Bankruptcy Court

ORDER AUTHORIZING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL, ETC.

DEBTOR: Qualitybuilt.com

CASE NO: 09-12113-PB11

This matter is coming before the Court on the motion, dated January 29, 2010 (the "Sale Motion") (Docket No. [110]), in Department 4 of the above entitled court, the Honorable Peter W. Bowie, Judge presiding. Appearances were made by the Firm of Keehn & Associates, APC, by L. Scott Keehn, on behalf of the debtor, by the firm of Winthrop Couchot, by Garrick A. Hollander, Esq. On behalf of Quality Built, LLC, the Acting United States Trustee by Haeji Hong, Esq, one of her Trial Attorneys, the firm on Solomon Ward Seidenwurm & Smith by Michael D. Breslauer, Esq. On behalf of Coast to Coast Engineering, Inc. d/b/a Criterium Engineers. The Sale Motion had been filed by the above-captioned debtor and Debtor in possession (the "Debtor") for entry of an order (the "Sale Order"), pursuant to sections 105, 363 and 365 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, et seq. (the "Bankruptcy Code", Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rules 2002-1, 6004-1, and 9006-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the Southern District of California (i) authorizing and approving the entry into, performance under and terms and conditions of First Amended and Restated Asset Purchase Agreement, dated as of December 18, 2009 (collectively with all related agreements, documents or instruments and all exhibits, schedules and addenda to any of the foregoing, the "Purchase Agreement"), substantially in the form previously filed as attachment Number 1 (Exhibit Part 1); and Number 2 (Exhibit Part 2) of Docket Item 138 (Notice of Lodgment of Order), and is incorporated herein by this reference, between and among Quality Built, LLC ("Purchaser"), a Delaware limited liability company, and the Debtor, whereby the Debtor has agreed to sell, and the Purchaser has agreed to purchase the "Purchased Assets" (as such term is defined and described in Article 1 of the Purchase Agreement), which Purchased Assets include, without limitation, the Assumed Contracts (as defined in section 1.1 of the Purchase Agreement), all of the Debtor's tangible, intangible and operating assets related to the conduct of the Debtor's (the "Business"), that are defined and described in section 1.1 of the Purchase Agreement; (ii) authorizing and approving the sale by the Debtor of the Purchased Assets, free and clear of liens, claims (as such term is defined by section 101(5) of the Bankruptcy Code), liabilities encumbrances, rights, remedies, restrictions, and interests and encumbrances of any kind of nature whatsoever whether arising before or after the Petition Date, whether at law or in equity, all environmental claims, all change in control provisions, all rights to object or consent to the effectiveness of the transfer of the Purchased Assets to the Purchaser or to be excused from accepting performance by the Purchaser or performing for the benefit of the Purchaser under any Assumed Contract and all rights at law or in equity (collectively, "Claims") (other than certain liabilities that are expressly assumed or created by the Purchaser, as set forth in the Purchase Agreement (collectively, the "Assumed Liabilities")); (iii) authorizing the assumption and assignment to the Purchaser of the Assumed Contracts (collectively, the "Assumed Contracts"); the Court having conducted a hearing on the Sale Motion on March 1, 2010 (the "Sale Hearing") at which time all interested parties were offered an opportunity to be heard with respect to the Sale Motion and submit over-bids; the Court having reviewed and considered (i) the Sale Motion and the exhibits thereto, (ii) the Purchase

CSD 1001A/119482

ROA_01048

Signed by Judge Peter W. Bowie March 11, 2010

Agreement attached hereto as Exhibit A, (iii) all of the pleadings, papers, declarations, and evidence submitted in support of or in opposition to the Sale Order, and (iv) the arguments of counsel made, and the evidence proffered or adduced, at the Sale Hearing; and it appearing that due notice of the Sale Motion [and the auction conducted at the Sale Hearing (the "Auction")] and the relief requested in the Sale Motion is in the best interests of the Debtor, its estate and creditors and other parties in interest; and upon the record of the Sale Hearing and this case; and after due deliberation thereon; and good and sufficient cause appearing therefore;

IT IS HEREBY FOUND AND DETERMINED THAT:

THE DEBTOR AND ITS CASE

A. As of the Petition Date and for a period of approximately 60 days before the commencement of these chapter 11 cases, the Debtor worked to try to raise capital or implement a viable transaction that would allow the Debtor to continue operations. Those efforts continued through the execution of the Purchase Agreement on December 18, 2009. The Debtor presented credible evidence that, as of the filing of the Sale Motion, it had explored strategic alternatives for the Business over an extended period of time and had communicated with more than 54 parties about possible sales, mergers, combinations, and alternatives regarding debt or equity capital investments or financing and had prepared standalone business plans in the event that strategic alternatives did not materialize or were insufficient. The Sale Transaction is the result of the Debtor's diligent efforts and is reasonable under the circumstances.

JURISDICTION, FINAL ORDER AND STATUTORY PREDICATES

B. This Court has jurisdiction over the Sale Motion, the Sale Transaction and the Purchase Agreements pursuant to 28 U.S.C. §§ 157 (b)(1) and 1334(a), and this matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue of this case and the Sale Motion in this district is proper under 28 U.S.C. §§ 1408 and 1409.

C. This Sale Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a). Notwithstanding Bankruptcy Rules 6004(h) and 6006(d), the Court expressly finds that there is not just reason for delay in the implementation of this Sale Order, and expressly directs entry of judgment as set forth herein.

D. The statutory predicates for the relief sought in the Sale Motion and granted in this Order include, without limitation, sections 105(a), 363(b), (f) and (m) and 365(a), (b) and (f) of the Bankruptcy Code and Bankruptcy Rules 2002, 6004, 6006.

JUDICIAL NOTICE

E. Pursuant to the Federal Rule of Evidence 201(c), incorporated into these proceedings pursuant to Bankruptcy Rule 9017, the Court takes judicial notice of : Not Applicable.

SOUND BUSINESS PURPOSE

F. The Debtor seeks to convey the Purchased Assets, all of which are subject to Claims.

G. The Debtor is unable to continue financing its ongoing operations, and in the absence of the relief granted herein, will default on performance of the Assumed Contracts. Those defaults will produce additional claims against the Debtor and its estate. The amount of those claims is credibly projected to be between \$6 – \$7 Million.

The Debtor has not paid post-petition rent for its lease of its principal place of business located at 15330 Avenue of Science, San Diego, California 92120 (the "Real Property"), its landlords are in default on their obligations secured by Real Property. Non-judicial foreclosure proceedings were commenced against the Real Property on or about November 19, 2009. The debt secured by the Real Property is in excess of its appraised value, and the Debtor's landlords (which are two limited liability companies) each of which has a single member. The respective members are Stan Luhr and Elizabeth Michaelis (the Debtor's Shareholders), have no resources with which to cure the defaults on the debt secured by the Real Property, and expect to lose that property to foreclosure in March 2010.

H. The Debtor has demonstrated, and the Purchase Agreement reflects, both (1) good, sufficient and sound business purposes and justifications for immediate approval of the Purchase Agreement and the Sale Transaction, and (2) compelling circumstances for the approval of the Purchase Agreement and the Sale Transaction outside the ordinary course of the Debtor's business pursuant to Section 363(b) of the Bankruptcy Code prior to, and outside of, a plan of reorganization in that, among other things, the Debtor's estate will suffer immediate and irreparable harm due to its inability to continue operations to preserve the going concern value of the business. In light of the risk of deterioration in, and loss of the going concern value of the Purchased Assets pending the proposed Sale Transaction, time is of the essence in (a) consummating the Sale Transaction, (b) preserving the viability of the Debtor's businesses as going concerns and (c) minimizing the adverse economic consequences for the Debtor estate, and its creditors, that would be threatened by protracting the proceeding in this chapter 11 case.

I. The consummation of the Sale Transaction outside of a plan of reorganization pursuant to the Purchase Agreement neither impermissibly restructures the rights of the Debtor's creditor nor impermissibly dictates the terms of a liquidating plan of reorganization for the Debtor. The Sale Transaction does not constitute a sub rosa plan of reorganization.

J. Entry of an order approving the Purchase Agreement and all the provisions thereof is a necessary condition precedent to the Purchaser's consummation of the Sale Transaction, as set forth in the Purchase Agreement.

K. The Purchase Agreement was not entered into, and the Debtor, the Purchaser or the Purchasers present at the Sale Hearing or contemplated owners, have not entered into the Purchase Agreement or propose to consummate the Sale Transaction, for the purpose of hindering, delaying or defrauding the Debtor's present or future creditors. Neither the Debtor,

the Purchaser nor the Purchasers present at the Sale Hearing or contemplated owners are entering into the Purchase Agreement, or proposing to consummate the Sale Transaction, fraudulently for the purpose of statutory and common law fraudulent conveyance and fraudulent transfer claims whether under the Bankruptcy Code or under the laws of the United States, any state, territory, possession thereof, or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

L. The Debtor has exercised sound and proper business judgment in determining to sell the Purchased Assets.

HIGHEST AND BEST OFFER

M. The Sale Motion established proposed bidding procedures (the "Bidding Procedures"). The Bidding Procedures provided a full, fair and reasonable opportunity for an entity to make an offer to purchase the Purchased Assets. However, there were no qualified bidders at the Sale Hearing.

N. As demonstrated by the declarations and other evidence proffered or adduced at the Sale Hearing, (1) the Debtor has adequately marketed the Purchased Assets; (2) the consideration provided for in the Purchase Agreement constitutes the highest or otherwise best offer for the Purchased Assets and provides fair and reasonable consideration for the Purchased Assets; (3) the Sale Transaction is fair and reasonable in of respects; (4) the Sale Transaction will provide a greater recovery for and benefit to the Debtor's creditors than would be provided by any other practical available alternative; (5) no other party or group of parties has offered to purchase the Purchased Assets for greater economic value to the Debtor or its estate; (6) the consideration to be paid by the Purchaser under the Purchase Agreement exceeds the liquidation value of the Purchased Assets, net of the resulting breach of contract claims that are likely to follow, if the Purchased Assets are not sold to an entity that can perform Assumed Contracts, and the Assumed Liabilities; and (7) the consideration to be paid by the Purchaser under the Purchase Agreement constitutes reasonably equivalent value and fair consideration (as those terms may be defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the Bankruptcy Code and under the laws of the United States, any state, territory or possession thereof or the District of Columbia, or any other applicable jurisdiction with laws substantially similar to the foregoing. The Debtor's determination that the Purchase Agreement constitutes the highest and best offer for the Purchased Assets constitutes a valid and sound exercise of the Debtor's business judgment.

BEST INTEREST OF CREDITORS

O. Approval of the Purchase Agreement and the consummation of the Sale Transaction with the Purchaser at this time is in the best interest of the Debtor, its creditors, its estate, and other parties in interest.

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DESCRIPTION OF THE PURCHASER AND THE PURCHASER'S GOOD FAITH

P. The Purchaser is a newly formed Delaware limited liability company. Neither the Purchaser nor any of its members are "insiders" of the Debtor, as that term is defined by section 101(31) of the Bankruptcy Code.

Q. The Purchase Agreement and each of the transactions contemplated therein were negotiated, proposed and entered into by the Debtor and the Purchaser in good faith, without collusion or fraud and from arm's-length bargaining positions. The Purchaser has proceeded in good faith in all respects in connection with this proceeding, is a "good faith purchaser" within the meaning of section 363(m) of the Bankruptcy Code and, as such, is entitled to all the protections afforded thereby. None of the Debtor, the Purchaser nor the Purchasers present at the Sale Hearing or contemplated owners have engaged in any conduct that would cause or permit the Purchase Agreement or any of the transactions contemplated thereby to be avoided; that would tend to hinder, delay or defraud creditors; or that impose costs and damages under section 363(n) of the Bankruptcy code.

NOTICE OF THE SALE MOTION, [THE AUCTION] AND THE CURE AMOUNTS

R. As evidenced by the affidavits and certificates of service filed with the Court, in light of the wasting nature of the Debtor's going concern value and based upon the representations of counsel at the Sale Hearing, the Court finds that: (1) proper, timely, adequate and sufficient notice of the Sale Motion, the Bidding Procedures, the Auction, the Sale Hearing has been properly and adequately provided by the Debtor, (2) such notice, and the form and manner thereof, was good, sufficient, reasonable and appropriate under the exigent circumstances prevailing in this chapter 11 case and (3) no other or further notice of the Sale Motion, the Sale Transaction, the Bidding Procedures, the Auction, the Sale Hearing is or shall be required. In light of the need to grant the relief requested in the Sale Motion promptly to avoid any erosion in the going concern value of the Purchased Assets, a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein has been afforded to all interested persons and entities, including, but not limited to, the following:

- (i) counsel to any official committees formed in this chapter 11 case;
- (ii) all unsatisfied prepetition secured lenders;
- (iii) the Purchaser;
- (iv) parties who, in the past year, have expressed in writing to the Debtor an interest in acquiring the Purchased Assets;
- (v) nondebtor parties (the "Non-Debtor Counterparties") to the Assumed Contracts, and the Assumed Liabilities;
- (vi) all parties who are known or reasonably believed to have asserted a lien, encumbrance, claim or other interest in the Purchased Assets or who are reflected as secured parties in lien searches conducted by the

Debtor;

- (vii) the Securities and Exchange commission;
- (viii) the Internal Revenue Service;
- (ix) all applicable state and local taxing authorities;
- (x) the Office of the United States Trustee for the Southern District of California;
- (xi) all parties that filed objections to the Sale Motion;
- (xii) all entities that have requested special notice in this chapter 11 case under Bankruptcy Rule 2002, or otherwise;
- (xiii) any other party identified on the creditor matrix in these cases.

S. With respect to executory contracts or unexpired leases that are designated by the Debtor or Purchaser as Assumed Contracts or Assumed Liabilities, all Non-Debtor Counterparties to such Assumed Contracts, and assumed with the opportunity to object to both the Cure Costs identified in any Assignment Notice delivered to any such Non-Debtor Counterparty and the assumption and assignment of the applicable Assumed Contract (including objections related to the adequate assurance of future performance and objections based on whether applicable law excuses the Non-Debtor Counterparty from accepting performance by, or rendering performance to, the Purchaser for purposes of section 365(c)(1) of the Bankruptcy Code).

SECTION 363(F) REQUIREMENTS MET FOR FREE AND CLEAR SALE

T. The Debtor may sell the Purchased Assets free and clear of all Claims because, in each case where a Claim is not an Assumed Liability, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. The assumption and assignment of each of the Assumed Contracts is also free and clear of all Claims.

U. The Debtor is the sole and lawful owner of the Purchased Assets and no other person has any ownership right title or interest therein.

V. Those holders of Claims who did object fall within one or more of the other subsections of section 363(f) and 365 of the Bankruptcy Code as either (1) the consideration received in exchange for the Purchased Assets is greater than the aggregate value of all liens on the Purchased Assets, (2) there is a bona fide dispute with respect to certain of the Claims asserted by the Debtor's prepetition secured lenders or (3) such holders could be compelled in a legal or equitable proceeding to accept a money satisfaction of their Claims. The transfer of the Purchased Assets to the Purchaser under the Purchase Agreement will be a legal, valid and effective transfer of all the legal, equitable and beneficial right, title and interest in and to the Purchased Assets free and clear of all Claims that are not Assumed Liabilities (including, specifically and without limitation, any professional liability claims, environmental liabilities, employee benefit plans and any successor liability claims). All holders

of Claims are adequately protected - and the Sale Transaction thus satisfies section 363(e) of the Bankruptcy Code - by having their Claims, if any, attach to the proceeds of the Sale Transaction ultimately attributable to the property against which they have a Claim, in the same order of priority and with the same validity, force and effect that such Claim holder had prior to the Sale Transaction, subject to any rights, claims and defenses to the Debtor or its estate, as applicable.

W. The Purchaser would not have entered into the Purchase Agreement and would not consummate the Sale Transaction, thus adversely affecting the Debtor, its estate, creditors, employees, and other parties in interest if the sale of the Purchased Assets was not free and clear of all Claims other than Assumed Contracts and Assumed Liabilities, or if the Purchaser would, or in the future could, be liable for any such Claims, including, without limitation and as applicable, certain liabilities (collectively, the "Excluded Liabilities") that expressly are not assumed by the Purchaser, as set forth in the Purchase Agreement. The Purchaser asserts that it will not consummate the Sale Transaction unless the Purchase Agreement specifically provides and this Court specifically orders that neither the Purchaser, its affiliates, its present or contemplated members or shareholders, or the Purchased Assets will have any liability whatsoever with respect to, or be required to satisfy in any manner, whether at law or in equity, whether by payment setoff or otherwise, directly or indirectly, any Claim or Excluded Liability.

X. Without limiting the generality of the foregoing, the Purchase Agreement provides the Debtor with reasonably equivalent value and fair consideration (as those terms are defined in the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act and the Bankruptcy Code), and was not entered into for the purpose or, nor does it have the effect of, hindering, delaying or defrauding creditors or any of the Debtor's under any applicable laws. Except for the Assumed Liabilities, the Sale Transaction shall not impose or result in the imposition of any liability or responsibility on Purchaser or its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), and the transfer of the Purchased Assets to the Purchaser does not and will not subject the Purchaser or its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), to any liability for any Claims, including, without limitation for any successor liability or any products liability for the sale of any vehicle by the Debtor or their predecessors or affiliates.

ASSUMPTION AND ASSIGNMENT OF THE ASSUMED CONTRACTS

Y. The assumption and assignment of the Assumed Contracts are integral to the Purchase Agreement, are in the best interests of the Debtor and its estate, and represent the reasonable exercise of the Debtor's sound business judgment.

Z. With respect to each of the Assumed Contracts, the Debtor has met all requirements of section 365(b) of the Bankruptcy Code. Further, the Purchaser has provided all necessary adequate assurance of future performance under the Assumed Contracts in satisfaction of sections 365(b) and 365(f) of the Bankruptcy Code. Accordingly, the Assumed Contracts can be assumed by the Debtor and assigned to the Purchaser, as provided for in the Contract Procedures set for in the Bidding

Procedures Order, the Sale Motion and the Purchase Agreement. The procedures set forth in the Sale Motion are fair, appropriate and effective and, upon approval of the assumption and assignment for a particular Assumed Contract thereunder, the Debtor shall be forever released from any and all liability under the Assumed Contract.

VALIDITY OF THE TRANSFER

AA. As of the closing of the Sale Transaction (the "Closing"), the transfer of the Purchased Assets to the Purchaser will be a legal, valid and effective transfer of the Purchased Assets, and will vest the Purchaser with all right, title and interest of the Debtor in and to the Purchased Assets, free and clear of all Claims other than Assumed Liabilities.

BB. With the entry of this Order, the Debtor (1) has full corporate power and authority to execute the Purchase Agreement and all other documents contemplated thereby, and the Sale Transaction has been duly and validly authorized by all necessary corporate action of the Debtor; (2) has all of the corporate power and authority necessary to consummate the transactions contemplated by the Purchase Agreement; (3) has taken all actions necessary to authorize and approve the Purchase Agreement and the consummation by the Debtor of the transactions contemplated thereby; and (4) upon entry of this Order, needs no consents or approvals, other than those expressly provided for in the Purchase Agreement, which may be waived by the Purchaser, to consummate such transactions.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

GENERAL PROVISIONS

1. The Sale Motion is granted in its entirety and entry into and performance under and in respect of the Purchase Agreement and the Sale Transaction is approved, as set forth in this Sale Order.
2. The findings of fact set forth above and conclusions of law stated herein shall constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any finding of fact later shall be determined to be a conclusion of law, it shall be deemed, and to the extent any conclusion of law later shall be determined to be a finding of fact, it shall be so deemed.
3. All objections, if any, to the Sale Motion or the relief requested therein that have not been withdrawn, waived or settled as announced to the Court at the Sale Hearing or any stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits with prejudice, except as expressly provided herein.

APPROVAL OF THE PURCHASE AGREEMENT

4. The Purchase Agreement, all transactions contemplated therein and all of the terms and conditions thereof are hereby approved.
 5. Pursuant to sections 105, 363 and 365 of the Bankruptcy Code, the Debtor is authorized and directed to perform its obligations under and comply with the terms of the Purchase Agreement and consummate the Sale Transaction,
- CSD 1001A/119482 ROA_01055

Signed by Judge Peter W. Bowie March 11, 2010

pursuant to and in accordance with the terms and conditions of the Purchase Agreement and this Sale Order.

6. The Debtor, as well as its officers, employees and agents, are authorized and directed to execute and deliver, and empowered to perform under, consummate and implement, the Purchase Agreement, in substantially the same form as the Purchase Agreement attached hereto as Exhibit A, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Purchase Agreement and to take all further actions and execute such other documents as may be (a) reasonably requested by the Purchaser for the purpose of assigning, transferring, granting, conveying and conferring to the Purchaser, or reducing to possession, the Purchased Assets, (b) necessary or appropriate to the performance of the obligations contemplated by the Purchase Agreement, and (c) as may be reasonably requested by Purchaser to implement the Purchase Agreement and consummate the Sale transaction in accordance with the terms thereof, all without further order of the Court.

7. This Sale Order and the Purchase Agreement shall be binding in all respects upon the Purchaser, the Debtor, any trustees appointed in the Debtor's cases (whether under chapter 11 or chapter 7 of the Bankruptcy Code), all creditors (whether known or unknown) of the Debtor, all interested parties and their successors and assigns including, but not limited to, any party asserting a Claim and any Non-Debtor Counterparty to the Assumed Contracts. Nothing contained in any chapter 11 plan confirmed in these bankruptcy cases or the order confirming any such chapter plan shall conflict with or derogate from provision of the Purchase Agreement or this Sale Order, and to the extent of any conflict or derogation between this Sale Order or the Purchase Agreement and such further plan or order, the terms of this Sale Order and the Purchase Agreement shall control to the extent of such conflict or derogation.

8. All amounts, if any, to be paid by the Debtor pursuant to the Purchase Agreement shall constitute administrative expenses pursuant to sections 503(b) and 507(a)(1) of the Bankruptcy Code and shall be due and payable if and when any Debtor's obligations arise under the Purchase Agreement without further order of the Court.

TRANSFER OF PURCHASED ASSETS FREE AND CLEAR

9. Pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, the Debtor are authorized and directed to transfer the Purchased Assets in accordance with the terms of the Purchase Agreement. The Purchased Assets shall be transferred to the Purchaser, and upon consummation of the Purchase Agreement, such transfer (a) shall be a valid, legal, binding and effective transfer; (b) shall vest the Purchaser with full right, title and interest of the Debtor in the Purchased Assets; and (c) shall be free and clear of all Claims except for Assumed Liabilities with all such Claims to attach to the net proceeds of the Sale Transaction ultimately attributable to the Purchased Assets against or in which such Claims are asserted, in the order of their priority, with the same validity, force and effect which they now have as against the Purchased Assets, subject to any rights, claims and defenses the Debtor or their estates, as applicable, may possess with respect thereto.

ORDER AUTHORIZING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL, ETC.

DEBTOR: Qualitybuilt.com

CASE NO: 09-12113-PB11

10. Except as otherwise provided in the Purchase Agreement, all persons and entities (and their respective successors and assigns) including, but not limited to, all debt security holder, equity security holders, affiliates, governmental, tax and regulatory authorities, lenders customers, employees, trade creditors, litigation claimants and other creditors, holding Claims (whether legal or equitable, secured or unsecured, known or unknown, matured or unmatured, contingent or non-contingent, liquidated or unliquidated, senior or subordinated) except for Assumed Liabilities, arising under or out of, in connection with, or in any relating to, the Debtor, the Purchased Assets, the operation of the Business prior to Closing or the transfer of the Purchased Assets to the Purchaser, are hereby forever barred, estopped and permanently enjoined from asserting such Claims against the Purchaser, its successors or assigns, its property or the Purchased Assets. No such persons or entities shall assert against the Purchaser or their successors in interest any Claim arising from, related to or in connection with the ownership, sale or operation of any Assets prior to the Closing, except for Assumed Liabilities.

11. The Sale Order (a) shall be effective as a determination that, as of Closing (i) no Claims, other than Assumed Liabilities and Assumed Contracts relating to the Purchased Assets, will be assertable against the Purchaser, its affiliates, successors or assigns or any of their respective assets (including the Purchased Assets), (ii) have been unconditionally released, discharged and terminated, and (iii) the conveyances described herein have been effected; and (b) is and shall be binding upon and govern the acts of all entities, including, without limitation, all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, registrars of patents, trademarks or other intellectual property, administrative agencies, governmental departments, secretaries of state, federal and local officials and all other persons and entities who may be required by operation of law, the duties of their office or contract, to accept, file, register or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons and entities is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Purchase Agreement.

12. All persons or entities in possession of some or all the Purchased Assets that have received notice of the Sale Motion at least 14 days prior to the last session of the Sale Hearing, are directed to surrender possession of such Purchased Assets to the Purchaser or its respective designees at the time of Closing of the Sale Transaction.

13. Following the Closing of the Sale Transaction, no holder of any Claim shall interfere with the Purchaser's title to or use and enjoyment of the Purchased Assets based on or related to any such Claim, or based on any actions the Debtor may take in their chapter 11 cases.

14. All persons and entities are prohibited and enjoined from taking any action to adversely affect or interfere with the ability of the Debtor to transfer the Purchased Assets to the Purchaser in accordance with the Purchase
ROA_01057

Agreement and this Sale Order.

15. To the extent provided by section 525 of the Bankruptcy Code, no governmental unit may revoke or suspend any permit or license relating to the operation of the Purchased Assets sold, transferred or conveyed to the Purchaser on account of the filing or pendency of these chapter 11 cases or the consummation of the Sale Transaction contemplated by the Purchase Agreement.

ASSUMPTION AND ASSIGNMENT OF ASSUMED CONTRACTS

16. Pursuant to sections 105(a), 363 and 365 of the Bankruptcy code, the Debtor's assumption and assignment or other transfer to the Purchaser and all of the Debtor's right, title and interest therein or thereunder of the Assumed Contracts is hereby approved, and all requirements of section 365 of the Bankruptcy Code are hereby deemed satisfied. For the avoidance of doubt, the Debtor shall be deemed to have assumed and assigned each of the Assumed Contracts as of the date of and effective only upon the Closing of the Sale Transaction and, absent such Closing, each of the Assumed Contracts shall neither be deemed assumed nor assigned and shall in all respects be subject to subsequent assumption or rejection by the Debtor under the Bankruptcy Code.

17. The Debtor is hereby authorized in accordance with sections 105(a) and 365 of the Bankruptcy Code to assume and assign, sell and otherwise transfer the Assumed Contracts and all of the Debtor's right, title or interest therein or thereunder to the Purchaser free and clear of all Claims, and to execute and deliver to the Purchaser such documents or other instruments as reasonably may be necessary to assign and transfer the Assumed Contracts to the Purchasers.

18. The Assumed Contracts shall be transferred to, and remain in full force and effect for the benefit of, the Purchaser in accordance with their respective terms, notwithstanding any provision in any such Assumed Contract (including those of the types described in sections 365(e)(1) and (f) of the Bankruptcy Code) that prohibits, restricts or conditions such assignment or transfer. There shall be no assignment fees, penalties, increases or any other fees charged to the Purchaser or the Debtor as a result of the assumption or assignment of the Assumed Contracts. No Assumed Contract may be terminated, or the rights of any party modified in any respect, including pursuant to any "change of control" clause, by any other party thereto as a result of the transactions contemplated by the Purchase Agreement.

19. [RESERVED]

20. [RESERVED]

21. Each Non-Debtor Counterparty to an Assumed Contract hereby is forever barred, estopped and permanently enjoined from asserting against the Debtor or the Purchaser, their successors or assigns of the property of any of them, any default existing as of the date of the Sale Hearing if such default was not raised or asserted prior to or at the Sale Hearing.

22. The failure of the Debtor or the Purchaser to enforce at any time one or more terms or conditions of any Assumed Contract shall not be a waiver of such terms or conditions, or of the Debtor's and Purchaser's rights to enforce every term and condition of the Assumed Contracts.

23. Upon the Closing, the Purchaser shall be fully and irrevocably vested with all right, title and interest of the Debtor under the Assumed Contracts.

24. The assignments of each of the Assumed Contracts are made in good faith under sections 363(b) and (m) of the Bankruptcy Code.

ADDITIONAL PROVISIONS

25. The Purchaser has given substantial consideration under the Purchase Agreement for the benefit of the holders of Claims. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential claims of successor liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of any Claims of any kind whatsoever.

26. While the Debtor's bankruptcy case is pending, this Court shall retain jurisdiction to, among other things, interpret, enforce and implement the terms and provisions of this Sale Order and the Purchase Agreement, all amendments thereto, any waivers and consents thereunder (and of each of the agreements executed in connection therewith in all respects), to adjudicate disputes related to this Sale Order or the Purchase Agreement and to enter any orders under sections 363 and/or 365 of the Bankruptcy Code with respect to the Assumed Contracts.

27. No bulk sales law, or similar law of any state or other jurisdiction, shall apply in any way to the transactions contemplated by the Purchase Agreement, the Sale Motion and this Sale Order.

28. The transactions contemplated by the Purchase Agreement are undertaken by the Purchaser in good faith, as that term is used in section 363(m) of the Bankruptcy Code and, accordingly, the reversal or modification on appeal of the authorization provided herein to consummate the Sale Transaction shall not affect the validity of the Sale Transaction (including the assumption and assignment of the Assumed Contracts), unless such authorization is duly stayed pending such appeal.

29. The consideration provided by the Purchaser of the Purchased Assets constitutes reasonably equivalent value and fair consideration (as those terms may be defined in each of the Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act and section 548 of the Bankruptcy Code) under the Bankruptcy Code and under the laws of the United States, any state, territory or possession thereof or the District of Columbia or any other applicable jurisdiction with laws substantially similar to the foregoing.

30. The Sale Transaction may not be avoided under section 365(n) of the Bankruptcy Code.

31. The terms and provisions of the Purchase Agreement and this Sale Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtor, its estate, its creditors, the Purchaser, the respective affiliates, successors and assigns of each, and any affected third parties including, but not limited to, all persons asserting claims in the Purchased Assets to be sold to the Purchaser pursuant to the Purchase Agreement, notwithstanding any subsequent appointment of any trustee(s), examiner(s) or receiver(s) under any chapter of the Bankruptcy Code or any other law, and all such provision and terms shall likewise be binding on such trustee(s), examiner(s) or receiver(s) and shall not be subject to rejection or avoidance by the Debtor, its estate, its creditors, their shareholders or any trustee(s), examiner(s), or receiver(s).

32. The failure specifically to include any particular provision of the Purchase Agreement in this Sale Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Purchase Agreement and its exhibits and ancillary documents be authorized and approved in their entirety.

33. The Purchase Agreement may be modified, amended or supplemented by the parties thereto, in a writing signed by both parties, and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplemental does not materially change the terms of the Purchase Agreement.

34. As provided by Rules 6004(h) and 6006(d) of the Federal Rules of Bankruptcy Procedures, this Sale order shall not be stayed for 10 days after its entry and shall be effective immediately upon entry, and the Debtor and the Purchaser are authorized to close and the Sale Transaction immediately upon entry of this Sale Order. Any party objecting to this Sale Order must exercise due diligence in filing and appeal and pursuing a stay or risk its appeal being foreclosed as moot in the event Purchaser and Debtor elect to close prior to this Sale Order becoming a Final Order.

35. Buyer shall have no obligations under any liabilities of Seller or the Bankruptcy Estate other than the Assumed Liabilities, the Assumed Contracts, and its obligations under this Agreement.

36. The provisions of this Sale Order and any actions take pursuant hereto shall survive the entry of any order that may be entered confirming any plan of reorganization (or liquidation) for the Debtor, converting the Debtor's case from Chapter 11 to a case under Chapter 7 of the Bankruptcy Code, or dismissing this case.

///

CSD 1001C [11/15/04] (Page 15)

ORDER AUTHORIZING THE SALE OF THE DEBTOR'S ASSETS FREE AND CLEAR OF ALL, ETC.

DEBTOR: Qualitybuilt.com

CASE NO: 09-12113-PB11

37. This Court retains jurisdiction to interpret, implement and enforce the terms and provisions of this Order including to compel delivery of the Purchased Assets, to protect the Purchaser against any Claims and to enter any orders under sections 363 or 365 to transfer the Purchased Assets and Assumed Contracts to the Purchaser.

[Approvals as to Form as Necessary]

**WINTHROP COUCHOT
PROFESSIONAL CORPORATION**

By: //s// Garrick A. Hollander
Garrick A. Hollander, Esq.
Attorneys for Interested Party, Quality Built, LLC

KEEHN & ASSOCIATES, APC

By: //s// L. Scott Keehn
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Anna S. McCann
Lauren M. Milton
Taylor M. Morris
Sohayla M. Roudsari

May 8, 2017

VIA U.S. MAIL & EMAIL

The Honorable G. Thomas Cooper, Jr.
Circuit Court of South Carolina, Fifth Circuit
1121 Broad Street, Room 313
P.O. Box 1557
Camden, SC 29021

RE: The Gates at Williams-Brice Condominium Assoc., et al v. Quality Built, LLC, et al
Case No.: 2013-CP-40-7729

Dear Judge Cooper:

Counsel for Plaintiffs The Gates at Williams-Brice Condominium Association and Katharine Swinson wishes to make the Court aware of supplemental authority that is pertinent to Plaintiffs' Motion to Reconsider the April 10, 2017 Order that granted Defendant Quality Built, LLC's Motion for Declaratory Relief.

On April 25, 2017, the United States Supreme Court denied certiorari to address or alter the Second Circuit's holding in *General Motors LLC v. Celestine Elliott, et al.*, Nos. 2015-2844, 15-2847 (2d Cir. 2016), *cert. denied*, ___ U.S. ___ (U.S. Apr. 24, 2017) (No. 16-764), Appendix A. In doing so, the *GM* decision remains good law, and persuasive authority in the present matter.

The *GM* Court recognized two categories of claimants who were not precluded from bringing claims against successors who acquired the predecessor's assets in a bankruptcy free and clear sale, both of which bear on this matter. *Id.* at App-37-36. The first category mirrors the post-sale conduct proposition referenced by Plaintiffs from *Nationwide/Eagle I-III*.¹ The *GM* Court said:

[I]ndependent claims do not meet the Code's limitation on claims. By definition, independent claims are claims based on New GM's own post-closing wrongful conduct. Though the parties do not lay out the whole universe of possible independent claims, we can imagine that some claims involve misrepresentations by New GM as to the safety of Old GM cars. These sorts of claims are based on New GM's post-petition conduct, and are not claims that are based on a right to payment

¹ *Nationwide/Eagle I-III* was previously briefed at length by Plaintiffs both in opposition to Quality Built, LLC's original motion and in support of Plaintiffs' Motion to Reconsider. *Nationwide Mut. Ins. Co. v. Eagle Window & Door, Inc.*, 394 S.C. 54, 58-61, 714 S.E.2d 322, 324-326 (2011), *remanded to* No. 2007CP42296, 2014 WL 7664673, at *5-7 (S.C. Ct. Com. Pl. Apr. 29, 2014), *aff'd as modified*, No. 2014-001151 & 2016-UP-168, 2016 WL 1359188, at *1-4 (S.C. Ct. App. Apr. 6, 2016).

that arose before the filing of petition or that are based on pre-petition conduct. Thus, these claims are outside the scope of the Sale Order's "free and clear" provisions.

Id. at App-34-35. In the present case, as previously briefed by Plaintiffs, Quality Built, LLC's post-bankruptcy conduct exposed it to tort liability independent of the pre-petition acts of its predecessor, QualityBuilt.com's. As briefed extensively by Plaintiffs, this conduct included adoption of the predecessor's ongoing business, goodwill, decades of experience, etc.

The second category lends support to another *Nationwide/Eagle* proposition to which Plaintiffs cited: a pre-bankruptcy relationship must exist between the predecessor and the claimant before a bankruptcy sale order could preclude claimants' successor liability claims. *Id.* at App-35 (concluding sale order did not cover claims of Used Car Purchasers who had no prior relationship with predecessor, and successor could be liable to those Used Car Purchasers for defective automobiles manufactured by predecessor). Likewise, Plaintiffs had no pre-bankruptcy relationship with QualityBuilt.com. Indeed, Plaintiffs did not even know of QualityBuilt.com's existence or role in the construction of The Gates until after the bankruptcy.

Plaintiffs respectfully attach a copy of the Second Circuit's decision in *General Motors LLC v. Celestine Elliott, et al.* for the Court's consideration in conjunction with Plaintiffs' Motion to Reconsider. Plaintiffs believe the United States Supreme Court's recent implicit approval of the holdings in the Second Circuit decision, which mirrored the decision in *Nationwide/Eagle I-III* relied upon by Plaintiffs, is worthy of this Court's consideration with regards to Plaintiffs' Motion to Reconsider.

Sincerely,



Justin Lucey, Esq.

Enclosures (stated)

cc: Alan R. Belcher, Esq. (via email with attachment)
Kent Stair, Esq. (via email with attachment)

**Supreme Court of the United States
Office of the Clerk
Washington, DC 20543-0001**

Scott S. Harris
Clerk of the Court
(202) 479-3011

April 24, 2017

Clerk
United States Court of Appeals for the Second
Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, NY 10007

Re: General Motors LLC
v. Celestine Elliott, et al.
No. 16-764
(Your No. 15-2844, 15-2847)

Dear Clerk:

The Court today entered the following order in the above-entitled case:

The petition for a writ of certiorari is denied. Justice Gorsuch took no part in the consideration or decision of this petition.

Sincerely,



Scott S. Harris, Clerk

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Appendix A

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

Nos. 15-2844-bk(L), 15-2847-bk(XAP),
15-2848-bk(XAP)

IN RE MOTORS LIQUIDATION COMPANY,
Debtor.

CELESTINE ELLIOTT, LAWRENCE ELLIOTT,
BERENICE SUMMERVILLE,

*Creditors-Appellants-
Cross-Appellees,*

SESAY AND BLEDSOE PLAINTIFFS, IGNITION SWITCH
PLAINTIFFS, IGNITION SWITCH PRE-CLOSING ACCIDENT
PLAINTIFFS, DORIS POWLEDGE PHILLIPS,

*Appellants-Cross-
Appellees,*

GROMAN PLAINTIFFS,

Appellants,

v.

GENERAL MOTORS LLC,

*Appellee-Cross-
Appellant,*

WILMINGTON TRUST COMPANY,

*Trustee-Appellee-
Cross-Appellant,*

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PARTICIPATING UNITHOLDERS,

*Creditors-Appellees-
Cross-Appellants.*¹

On Appeal from the United States Bankruptcy Court
for the Southern District of New York

Argued: March 15, 2016

Decided: July 13, 2016

Before: STRAUB, CHIN, and CARNEY, *Circuit Judges.*

Appeal from a judgment of the United States Bankruptcy Court for the Southern District of New York (Gerber, *J.*), enforcing a “free and clear” provision of a sale order to enjoin claims against a debtor’s successor corporation and concluding under the equitable mootness doctrine that assets of the debtor’s unsecured creditors’ trust would be protected from late-filed claims. On appeal, plaintiffs challenge the bankruptcy court’s rulings that: (1) it had jurisdiction, (2) the sale order covered their claims, (3) enforcement of the sale order would not violate procedural due process, and (4) relief for any late-filed claims would be barred as equitably moot.

AFFIRMED, REVERSED, AND VACATED IN PART, AND
REMANDED.

¹ The Clerk of Court is respectfully directed to amend the official caption to conform to the above.

CHIN, *Circuit Judge*:

On June 1, 2009, General Motors Corporation ("Old GM"), the nation's largest manufacturer of automobiles and the creator of such iconic American brands as Chevrolet, Cadillac, and Jeep, filed for bankruptcy. During the financial crisis of 2007 and 2008, as access to credit tightened and consumer spending diminished, Old GM posted net losses of \$70 billion over the course of a year and a half. The U.S. Department of the Treasury ("Treasury") loaned billions of dollars from the Troubled Asset Relief Program ("TARP") to buy the company time to revamp its business model. When Old GM's private efforts failed, President Barack Obama announced to the nation a solution—"a quick, surgical bankruptcy."² Old GM petitioned for Chapter 11 bankruptcy protection, and only forty days later the new General Motors LLC ("New GM") emerged.

This case involves one of the consequences of the GM bankruptcy. Beginning in February 2014, New GM began recalling cars due to a defect in their ignition switches. The defect was potentially lethal: while in motion, a car's ignition could accidentally turn off, shutting down the engine, disabling power steering and braking, and deactivating the airbags.

Many of the cars in question were built years before the GM bankruptcy, but individuals claiming harm from the ignition switch defect faced a potential barrier created by the bankruptcy process. In bankruptcy, Old GM had used 11 U.S.C. § 363 of the

² *Remarks on the United States Automobile Industry*, 2009 Daily Comp. Pres. Doc. 2 (June 1, 2009).

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Bankruptcy Code (the "Code") to sell its assets to New GM "free and clear." In plain terms, where individuals might have had claims against Old GM, a "free and clear" provision in the bankruptcy court's sale order (the "Sale Order") barred those same claims from being brought against New GM as the successor corporation.

Various individuals nonetheless initiated class action lawsuits against New GM, asserting "successor liability" claims and seeking damages for losses and injuries arising from the ignition switch defect and other defects. New GM argued that, because of the "free and clear" provision, claims could only be brought against Old GM, and not New GM.

On April 15, 2015, the United States Bankruptcy Court for the Southern District of New York (Gerber, *J.*) agreed and enforced the Sale Order to enjoin many of these claims against New GM. Though the bankruptcy court also determined that these plaintiffs did not have notice of the Sale Order as required by the Due Process Clause of the Fifth Amendment, the bankruptcy court denied plaintiffs relief from the Sale Order on all but a subset of claims. Finally, the bankruptcy court invoked the doctrine of equitable mootness to bar relief for would-be claims against a trust established in bankruptcy court to pay out unsecured claims against Old GM ("GUC Trust").³

³ For ease of reference, in the context of this appeal, we also refer to Wilmington Trust Company (the administrator of GUC Trust) and the unitholders of GUC Trust collectively and singularly as "GUC Trust."

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The bankruptcy court entered judgment and certified the judgment for direct review by this Court.⁴ Four groups of plaintiffs appealed, as did New GM and GUC Trust. We affirm, reverse, and vacate in part the bankruptcy court's decision to enforce the Sale Order against plaintiffs and vacate as advisory its decision on equitable mootness.

BACKGROUND

I. Bailout

In the final two quarters of 2007, as the American economy suffered a significant downturn, Old GM posted net losses of approximately \$39 billion and \$722 million. General Motors Corp., *Annual Report (Form 10-K)* 245 (Mar. 5, 2009). In 2008, it posted quarterly net losses of approximately \$3.3 billion, \$15.5 billion, \$2.5 billion, and \$9.6 billion. *Id.* In a year and a half, Old GM had managed to hemorrhage over \$70 billion.

The possibility of Old GM's collapse alarmed many. Old GM employed roughly 240,000 workers and provided pensions to another 500,000 retirees. *Id.* at 19, 262. The company also purchased parts from over eleven thousand suppliers and marketed through roughly six thousand dealerships. A disorderly collapse of Old GM would have far-reaching consequences.

After Congress declined to bail out Old GM, President George W. Bush announced on December 19, 2008 that the executive branch would provide

⁴ See 28 U.S.C. § 158(d)(2) (providing jurisdiction for courts of appeals to hear appeals if the bankruptcy court certifies that certain conditions are met).

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emergency loans to help automakers “stave off bankruptcy while they develop plans for viability.”⁵ In Old GM’s case, TARP loaned \$13.4 billion on the condition that Old GM both submit a business plan for long-term viability to the President no later than February 17, 2009 and undergo any necessary revisions no later than March 31, 2009. If the President found the business plan unsatisfactory, the TARP funds would become due and payable in thirty days, rendering Old GM insolvent and effectively forcing it into bankruptcy.

On March 30, 2009, President Obama told the nation that Old GM’s business plan was not viable.⁶ At the same time, the President provided Old GM with another \$6 billion loan and sixty more days to revise its plan along certain parameters. President Obama also reassured the public:

But just in case there’s still nagging doubts, let me say it as plainly as I can: If you buy a car from Chrysler or General Motors, you will be able to get your car serviced and repaired, just like always. Your warranty will be safe. In fact, it will be safer than it’s ever been, because starting today, the United States Government will stand behind your warranty.⁷

⁵ *Remarks on the American Auto Industry*, 44 Weekly Comp. Pres. Doc. 1569 (Dec. 19, 2008).

⁶ *Remarks on the United States Automobile Industry, 2009* Daily Comp. Pres. Doc. 2 (Mar. 30, 2009) [hereinafter “March 30, 2009 Presidential Remarks”].

⁷ March 30, 2009 Presidential Remarks, *supra* note 6, at 3.

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As the President stood behind the reliability of GM cars, pledging another \$600 million to back all warranty coverage, bankruptcy remained a stark possibility.⁸

II. Bankruptcy

The federal aid did not succeed in averting bankruptcy. Old GM fared no better in the first quarter of 2009—posting on May 8, 2009 a \$5.9 billion net loss. General Motors Corp., *Quarterly Report (Form 10-Q)* 57 (May 8, 2009). But entering bankruptcy posed a unique set of problems: Old GM sought to restructure and become profitable again, not to shut down; yet if Old GM lingered in bankruptcy too long, the operating expenses would accumulate and consumer confidence in the GM brand could deteriorate, leaving Old GM no alternative but to liquidate and close once and for all. On June 1, 2009, with these risks in mind, Old GM petitioned for Chapter 11 bankruptcy protection in the United States Bankruptcy Court for the Southern District of New York.

A. Mechanics of the § 363 Sale

The same day, Old GM filed a motion to sell itself to New GM (also dubbed “Vehicle Acquisition Holdings LLC” or “NGMCO, Inc.”), complete with a

⁸ See Office of the Press Sec’y, White House, *Obama Administration’s New Warrantee Commitment Program* (Mar. 30, 2009); see also Office of the Press Sec’y, White House, *Obama Administration New Path to Viability for GM & Chrysler* (Mar. 30, 2009); Steven Rattner, *Overhaul: An Insider’s Account of the Obama Administration’s Emergency Rescue of the Auto Industry* 299 (2010).

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103-page draft sale agreement and 30-page proposed sale order.

Through this proposed sale, Old GM was attempting not a traditional Chapter 11 reorganization, but a transaction pursuant to 11 U.S.C. § 363—a less common way of effecting a bankruptcy. See, eg., *In re Lionel Corp.*, 722 F.2d 1063, 1066-70 (2d Cir. 1983) (explaining the history of § 363). The usual Chapter 11 reorganization follows set procedures: the company entering bankruptcy (the “debtor”) files a reorganization plan disclosing to creditors how they will be treated, asks those creditors to vote to accept the plan, and then emerges from bankruptcy with its liabilities restructured along certain parameters. See 11 U.S.C. §§ 1121-1129.⁹ This jostling can take years.¹⁰ In contrast, in a § 363 sale of substantially all assets, the debtor does not truly “reorganize.” Instead, it sells its primary assets to a successor corporation, which immediately takes over the business. See *Fla. Dep’t of Revenue v. Piccadilly Cafeterias, Inc.*, 554 U.S. 33, 37 n.2 (2008). As evidenced by the GM

⁹ See generally Evan F. Rosen, Note, *A New Approach to Section 363(f)(3)*, 109 Mich. L. Rev. 1529, 1538-39 (2011) (“However, unlike sales pursuant to the standard Chapter 11 plan confirmation process, 363(f) Sales occur without the benefit of the Chapter 11 Safeguards—the disclosure, notice, voting, and priority safeguards . . . to protect secured creditors.”).

¹⁰ See Jacob A. Kling, *Rethinking 363 Sales*, 17 Stan. J.L. Bus. & Fin. 258, 262 (2012) (“A plan of reorganization must be submitted to a vote of creditors and equity holders after furnishing them with a disclosure statement, a process that can take years.” (footnote omitted)).

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bankruptcy, a § 363 sale can close in a matter of weeks.

The proposed sale was, in effect, a complex transaction made possible by bankruptcy law. GM's sale would proceed in several parts. First, Old GM would become a "debtor-in-possession" under the Code. See 11 U.S.C. § 1101. Where a trustee might otherwise be appointed to assert outside control of the debtor, *id.* § 1104, a debtor-in-possession continues operating its business, *id.* §§ 1107, 1108. See *In re Smart World Techs., LLC*, 423 F.3d 166, 174 n.10 (2d Cir. 2005) ("In a chapter 11 case, . . . the debtor usually remains in control of the estate as the 'debtor in possession.'"). Still in control, Old GM could seek the bankruptcy court's permission to sell portions of its business. See 11 U.S.C. § 363(b)(1).

Second, there would be New GM, a company owned predominantly by Treasury (over sixty percent). As proposed, New GM would acquire from Old GM substantially all of its business—what one might commonly think of as the automaker "GM." But New GM would not take on all of Old GM's liabilities. The Code allows a § 363 sale "free and clear of any interest in such property." 11 U.S.C. § 363(f). The proposed sale order provided that New GM would acquire Old GM assets "free and clear of all liens, claims, encumbrances, and other interests of any kind or nature whatsoever, including rights or claims based on any successor or transferee liability." J. App. 276. Other than a few liabilities that New GM would assume as its own, this "free and clear" provision would act as a liability shield to prevent individuals with claims against Old GM from suing

New GM. Once the sale closed, the "bankruptcy" would be done: New GM could immediately begin operating the GM business, free of Old GM's debts.

Third, Old GM would remain. The proposed sale would leave Old GM with some assets, including \$1.175 billion in cash, interests in the Saturn brand, and certain real and personal property. Old GM would also receive consideration from New GM, including a promise to repay Treasury and Canadian government loans used to finance the business through bankruptcy and a ten-percent equity stake in New GM. Old GM would retain, however, the bulk of its old liabilities.

Fourth, Old GM would liquidate. Though liquidation is not formally part of a § 363 sale, the sale would result in two GM companies. Old GM would disband: it would rename itself "Motors Liquidation Company" and arrange a plan for liquidation that addressed how its remaining liabilities would be paid. See 11 U.S.C. § 1129(a)(11). Thus, while New GM would quickly emerge from bankruptcy to operate the GM business, Old GM would remain in bankruptcy and undergo a traditional, length liquidation process.

B. Sale Order

One day after Old GM filed its motion, on June 2, 2009, the bankruptcy court ordered Old GM to provide notice of the proposed sale order. Old GM was required to send direct mail notice of its proposed sale order to numerous interested parties, including "all parties who are known to have asserted any lien, claim, encumbrance, or interest in or on [the to-be-sold assets]," and to post publication notice of

the same in major publications, including the *Wall Street Journal* and *New York Times*. J. App. 385-86. The sale notice specified that interested parties would have until June 19, 2009 to submit to the bankruptcy court responses and objections to the proposed sale order.

The bankruptcy court proceeded to hear over 850 objections to the proposed sale order over the course of three days, between June 30 and July 2, 2009. On July 5, 2009, after addressing and dismissing the objections, the bankruptcy court approved the § 363 sale. *In re General Motors Corp.* ("GM"), 407 B.R. 463 (Bankr. S.D.N.Y. 2009) (Gerber, J.). Among those objections were arguments against the imposition of a "free and clear" provision to bar claims against New GM as the successor to Old GM made by consumer organizations, state attorneys general, and accident victims.

Next, the bankruptcy court issued the Sale Order, which entered into effect the final sale agreement between Old GM and New GM (the "Sale Agreement"). In the Sale Agreement, New GM assumed fifteen categories of liabilities. As relevant here, New GM agreed to assume liability for accidents *after* the closing date for the § 363 sale and to make repairs pursuant to express warranties issued in connection with the sale of GM cars—two liability provisions present in the initial draft sale agreement. The Sale Agreement also provided a new provision—resulting from negotiations among state attorneys general, the GM parties, and Treasury during the course of the sale hearing—that New GM

would assume liability for any Lemon Law claims.¹¹ With these exceptions, New GM would be “free and clear” of any and all liabilities of Old GM.

On July 10, 2009, the § 363 sale officially closed, and New GM began operating the automaker business. As a matter of public perception, the GM bankruptcy was over—the company had exited bankruptcy in forty days.¹²

C. Liquidation of Old GM

Meanwhile, Old GM remained in bankruptcy. Over the next several years, the bankruptcy court managed the process of satisfying liabilities that remained with Old GM (*i.e.*, not taken on by New GM).

The bankruptcy court set November 30, 2009 as the “bar date” for any individual or entity to file a proof of claim—that is, assert a claim as to Old GM’s remaining assets. Old GM filed its first Chapter 11 liquidation plan on August 31, 2010, and amended it on December 8, 2010 and again on March 29, 2011.

¹¹ The Sale Agreement defined “Lemon Laws” as “state statute[s] requiring a vehicle manufacturer to provide a consumer remedy when such manufacturer is unable to conform a vehicle to the express written warranty after a reasonable number of attempts, as defined in the applicable statute.” J. App. 1676.

¹² See, *e.g.*, Bill Vlasic, *G.M. Vow to Slim Includes Top Ranks*, N.Y. Times (July 10, 2009) (“General Motors . . . emerged from bankruptcy on Friday . . .”); John D. Stoll & Neil King Jr., *GM Set to Exit Bankruptcy*, Wall Street Journal (July 10, 2009) (“The new General Motors Co. is poised to exit Chapter 11 protection as soon as Friday morning, and to emerge as a leaner, more focused company after only 40 days in bankruptcy court.”).

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The proposed plan provided how claims against Old GM would be paid: secured claims, other priority claims, and environmental claims made by the government would be paid in full; unsecured claims (claims without an assurance of payment such as in the form of a lien on property) would not.

Instead, under the plan, Old GM would establish GUC Trust, which would be administered by the Wilmington Trust Company. Once GUC Trust (and other like trusts) was established, Old GM would dissolve.

GUC Trust would hold certain Old GM assets—including New GM stock and stock warrants that could be used to purchase shares at fixed prices, along with other financial instruments. Creditors with unsecured claims against Old GM would receive these New GM securities and “units” of GUC Trust (the value of which would be pegged to the residual value of GUC Trust) on a pro rata basis in satisfaction of their claims. The Sale Agreement also imposed an “accordion feature” to ensure that GUC Trust would remain adequately funded in the event that the amount of unsecured claims grew too large. The accordion feature provided that if “the Bankruptcy Court makes a finding that the estimated aggregate allowed general unsecured claims against [Old GM’s] estates exceed \$35 [billion], then [New GM] will . . . issue 10,000,000 additional shares of Common Stock . . . to [Old GM].” J. App. 1699.

On March 29, 2011, the bankruptcy court confirmed this liquidation plan. GUC Trust made quarterly distributions of its assets thereafter. The

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initial distribution released more than seventy-five percent of the New GM securities.

On February 8, 2012, the bankruptcy court ordered that no further claims against Old GM and payable by GUC Trust would be allowed unless the claim amended a prior claim, was filed with GUC Trust's consent, or was deemed timely filed by the bankruptcy court. As of March 31, 2014, GUC Trust had distributed roughly ninety percent of its New GM securities and nearly 32 million units of GUC Trust; the expected value of unsecured claims against Old GM totaled roughly \$32 billion, not enough to trigger the accordion feature and involve New GM in the bankruptcy. The GM bankruptcy that began five years earlier appeared to be approaching its end.

III. Ignition Switch Defect

On February 7, 2014, New GM first informed the National Highway Traffic Safety Administration ("NHTSA") that it would be recalling, among other vehicles, the 2005 Chevrolet Cobalt. A defect in the ignition switch could prevent airbags from deploying.

A later congressional staff report, which followed four days of testimony by New GM CEO Mary Barra before committees of the House of Representatives and Senate, described what could happen by referring to an actual tragic accident caused by the defect:¹³ In October 2006, three teenagers were riding

¹³ Staff of H. Comm. on Energy & Commerce, 113th Cong., *Report on the GM Ignition Switch Recall: Review of NHTSA 1* (Sept. 16, 2014); *Examining Accountability and Corporate Culture in Wake of the GM Recalls: Hearing Before the Subcomm. on Consumer Prot., Prod. Safety, & Ins. of the S. Comm. on Commerce, Sci., & Transp.*, 113th Cong. (2014); *The*

in a 2005 Chevrolet Cobalt when the driver lost control and the car careened off the side of the road. The vehicle flew into a telephone utility box and several trees. The airbags did not deploy, and two of the teenagers died.

From February until October 2014, New GM would issue over 60 recalls, with the number of affected vehicles in the United States alone surpassing 25 million. New GM hired attorney Anton Valukas of the law firm Jenner & Block to investigate; he did so and prepared an extensive report (the "Valukas Report").¹⁴

In 1997, Old GM sold three out of ten cars on the road in North America. See General Motors Corp., *Annual Report (Form 10-K)* 60 (Mar. 20, 1998). Engineers began developing a new ignition switch that could be used in multiple vehicles across the GM brand, first by setting technical specifications for the switch and then by testing prototypes against those specifications.

GM Ignition Switch Recall: Investigation Update: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Energy & Commerce, 113th Cong. (2014); Examining the GM Recall and NHTSA's Defect Investigation Process: Hearing Before the Subcomm. on Consumer Prot., Prod. Safety, & Ins. of the S. Comm. on Commerce, Sci., & Transp., 113th Cong. (2014) [hereinafter "April 2, 2014 Senate Hearing"]; The GM Ignition Switch Recall: Why Did It Take So Long?: Hearing Before the Subcomm. on Oversight & Investigations of the H. Comm. on Energy & Commerce, 113th Cong. (2014).

¹⁴ Plaintiffs and New GM each extensively cite and quote to the Valukas Report as an account of the underlying facts regarding the ignition switch defect, and we do as well.

Throughout testing, which lasted until 2002, prototypes consistently failed to meet technical specifications. In particular, a low amount of torque could cause the ignition switch to switch to “accessory” or “off.”¹⁵ A low torque threshold on an ignition switch would mean that little force—perhaps even the bump of a stray knee—would be needed to rotate the key in the switch from the “on” position to the “accessory” or “off” position.

Near the end of testing, an engineer commented on the ignition switch’s lingering problems in an email: he was “tired of the switch from hell.” J. App. 9696. Three months later, in May 2002, the ignition switch was approved for production, despite never having passed testing.

In the fall of 2002, Old GM began producing vehicles with the faulty ignition switch. Almost immediately, customers complained of moving stalls, sometimes at highway speeds—instances where the engine and power steering and braking cut off while the car was in motion, leaving drivers to manually maneuver the vehicle, that is, without assistance of the car’s power steering and braking systems.

Despite customer complaints, and grumblings in the press, Old GM classified the moving stall as a “non-safety issue.” *Id.* at 9711. As Valukas put it, “on a scale of 1 (most severe) to 4 (least severe) . . . the problem could have been designated a severity level 1 safety problem, [but] it was not.” *Id.* Instead, the

¹⁵ Torque is a measure of twisting force—it is generated, for example, when one twists off the cap of a soda bottle or tightens a bolt with a wrench.

moving stall was assigned a severity level of 3. Old GM personnel considered the problem to be a matter of customer satisfaction, not safety. These personnel apparently also did not then fully realize that when a car shuts off, so does its airbags. But as early as August 2001, at least some Old GM engineers understood that turning off the ignition switch could prevent airbags from deploying.

Complaints about the ignition switch continued. Between 2004 and 2005, NHTSA began asking questions about engine stalls. In 2005, several media outlets also reported on the stalls. *See, e.g.,* Jeff Sabatini, *Making a Case for Keyless Ignitions*, N.Y. Times (June 19, 2005). Senior attorneys studied the stalls, but considered the risk to be "remote[]." J. App. 9734. At the same time, Old GM's product investigations unit recreated the ignition switch's issues by using only a heavy keychain to generate torque. Finally, in December 2005, Old GM issued a bulletin to dealers, but not to customers, warning them that "low ignition key cylinder torque" could cause cars to turn off. *Id.* at 9740. The bulletin did not mention that, as a result, cars could stall on the road.

Then came reports of fatalities. In late 2005 through 2006, news of deaths from airbag non-deployments in crashes where airbags should have deployed reached the desks of Old GM's legal team. Around April 2006, Old GM engineers decided on a design change of the ignition switch to increase the torque. Old GM engineers did so quietly, without changing the ignition switch's part number, a change

that would have signaled that improvements or adjustments had been made.

In February 2007, a Wisconsin state trooper's report made its way into the files of Old GM's legal department: "The two front seat airbags did not deploy. It appears that the ignition switch had somehow been turned from the run position to accessory prior to the collision with the trees." *Id.* at 9764. NHTSA similarly brought to Old GM's attention reported airbag non-deployments. See Transportation Research Center, Indiana University, *On-Site Air Bag Non-Deployment Investigation 7* (Apr. 25, 2007, rev. Mar. 31, 2008). As more incidents with its cars piled up, Old GM finally drafted an updated bulletin to dealers warning them of possible "stalls," but never sent it out.

Old GM internally continued to investigate. By May 2009, staff had figured out that non-deployment of airbags in these crashes was attributable to a sudden loss of power. They believed that one of the two "most likely explanation[s] for the power mode signal change was . . . a problem with the Ignition Switch." J. App. 9783. By June 2009, Old GM engineers had implemented a change to the ignition key, hoping to fix the problem once and for all. One engineer lamented that "[t]his issue has been around since man first lumbered out of [the] sea and stood on two feet." *Id.* at 9781.

Later, the Valukas Report commented on the general attitude at Old GM. For eleven years, "GM heard over and over from various quarters—including customers, dealers, the press, and their own employees—that the car's ignition switch led to

moving stalls, group after group and committee after committee within GM that reviewed the issue failed to take action or acted too slowly. Although everyone had responsibility to fix the problem, nobody took responsibility." J. App. 9650.

The Valukas Report recounted aspects of GM's corporate culture. With the "GM salute," employees would attend action meetings and literally cross their arms and point fingers at others to shirk responsibility. With the "GM nod," employees would (again) literally nod in agreement to endorse a proposed plan, understanding that they and others had no intention of following through. Finally, the Report described how GM employees, instead of taking action, would claim the need to keep searching for the "root cause" of the moving stalls and airbag non-deployments. This "search for root cause became a basis for doing nothing to resolve the problem for years." *Id.* at 9906.

Indeed, New GM would not begin recalling cars for ignition switch defects until February 2014. Soon after New GM's initial recall, individuals filed dozens of class actions lawsuits, claiming that the ignition switch defect caused personal injuries and economic losses, both before and after the § 363 sale closed.¹⁶ New GM sought to enforce the Sale Order, invoking the liability shield to hold New GM "free and clear" of various claims. This meant that when it came to Old GM cars New GM would pay for post-closing personal

¹⁶ Those class actions are consolidated before a district judge in the United States District Court for the Southern District of New York. See *In re General Motors LLC Ignition Switch Litigation*, No. 14-MD-2543 (S.D.N.Y.) (Furman, J.).

injuries, make repairs, and follow Lemon Laws, but nothing else. The amount of purportedly barred liabilities was substantial—an estimated \$7 to \$10 billion in economic losses, not to mention damages from pre-closing accidents.

IV. Proceedings Below

On April 21, 2014, Steven Groman and others (the “Groman Plaintiffs”) initiated an adversary proceeding against New GM in the bankruptcy court below, asserting economic losses arising from the ignition switch defect. The same day, New GM moved to enforce the Sale Order to enjoin those claims, as well as claims in other ignition switch actions then being pursued against New GM.

Other plaintiffs allegedly affected by the Sale Order included classes of individuals who had suffered pre-closing injuries arising from the ignition switch defect (“Pre-Closing Accident Plaintiffs”), economic losses arising from the ignition switch defect in Old GM cars (“Ignition Switch Plaintiffs”), and damages arising from defects other than the ignition switch in Old GM cars (“Non-Ignition Switch Plaintiffs”).¹⁷ Included within the Ignition Switch Plaintiffs were individuals who had purchased Old GM cars secondhand after the § 363 sale closed (“Used Car Purchasers”).

On appeal, several orders are before us. First, the Non-Ignition Switch Plaintiffs filed a motion,

¹⁷ On August 1, 2014, New GM filed motions to enforce the Sale Order against the Pre-Closing Accident Plaintiffs and Non-Ignition Switch Plaintiffs, who entered the bankruptcy proceedings later.

asserting, among other things, that the bankruptcy court lacked jurisdiction to enforce the Sale Order. On August 6, 2014, the bankruptcy court denied that motion. *In re Motors Liquidation Co. ("MLC I")*, 514 B.R. 377 (Bankr. S.D.N.Y. 2014) (Gerber, J.).

Second, after receiving further briefing and hearing oral argument on the motion to enforce, on April 15, 2015 the bankruptcy court decided to enforce the Sale Order in part and dismiss any would-be claims against GUC Trust because relief would be equitably moot. *In re Motors Liquidation Co. ("MLC II")*, 529 B.R. 510 (Bankr. S.D.N.Y. 2015) (Gerber, J.). The bankruptcy court first determined plaintiffs lacked notice consistent with procedural due process. *Id.* at 540-60. In particular, the bankruptcy court found that the ignition switch claims were known to or reasonably ascertainable by Old GM prior to the sale, and thus plaintiffs were entitled to actual notice, as opposed to the mere publication notice that they received. *Id.* at 556-60. The bankruptcy court found, however, that with one exception plaintiffs had not been "prejudiced" by this lack of notice—the exception being claims stemming from New GM's own wrongful conduct in concealing defects (so-called "independent claims"). *Id.* at 560-74. In other words, the bankruptcy court held that New GM could not be sued—in bankruptcy court or elsewhere—for ignition switch claims that otherwise could have been brought against Old GM, unless those claims arose from New GM's own wrongful conduct. *Id.* at 574-83.

In the same decision, the bankruptcy court addressed arguments by GUC Trust that it should

not be held as a source for relief either. Applying the factors set out in *In re Chateaugay Corp.* ("*Chateaugay III*"), 10 F.3d 944 (2d Cir. 1993), the bankruptcy court concluded that relief for any late claims against GUC Trust was equitably moot, as the plan had long been substantially consummated. *MLC II*, 529 B.R. at 583-92. Finally, the bankruptcy court outlined the standard for any future fraud on the court claims. *Id.* at 592-97. With these issues resolved, the bankruptcy court certified its decision for appeal to this Court pursuant to 28 U.S.C. § 158. *Id.* at 597-98.

Third, the bankruptcy court issued another decision after the parties disagreed on the form of judgment and other ancillary issues. On May 27, 2015, the bankruptcy court clarified that the Non-Ignition Switch Plaintiffs would be bound by the judgment against the other plaintiffs, but would have seventeen days following entry of judgment to object. *In re Motors Liquidation Co.* ("*MLC III*"), 531 B.R. 354 (Bankr. S.D.N.Y. 2015) (Gerber, J.). The bankruptcy court left open the question of whether Old GM knew of other defects.

On June 1, 2015, the bankruptcy court entered judgment against all plaintiffs and issued an order certifying the judgment for direct appeal. Following briefing by the Non-Ignition Switch Plaintiffs, on July 22, 2015, the bankruptcy court rejected their objections to the judgment.

New GM, GUC Trust, and the four groups of plaintiffs described above—the Groman Plaintiffs, Ignition Switch Plaintiffs, Non-Ignition Switch

Plaintiffs, and Pre-Closing Accident Plaintiffs—
appealed.¹⁸ We turn to these appeals.

DISCUSSION

The Code permits a debtor to sell substantially all of its assets to a successor corporation through a § 363 sale, outside of the normal reorganization process. Here, no party seeks to undo the sale of Old GM's assets to New GM, as executed through the Sale Order.¹⁹ Instead, plaintiffs challenge the extent to which the bankruptcy court may absolve New GM, as a successor corporation, of Old GM's liabilities. See generally 3 *Collier on Bankruptcy* ¶ 363.02[2] (Alan N. Resnick & Harry J. Sommer eds., 16th ed. 2013) [hereinafter "*Collier on Bankruptcy*"] (noting that "use of a section 363 sale probably reached its zenith" with the GM bankruptcy). In particular, they dispute whether New GM may use the Sale Order's "free and clear" provision to shield itself from claims primarily arising out of the ignition switch defect and other defects.

¹⁸ On appeal, the Non-Ignition Switch Plaintiffs are joined by certain ignition switch and pre-closing accident plaintiffs and call themselves the "*Elliot, Sesay, and Bledsoe* Plaintiffs." That group also represents two other appellants captioned above: Berenice Summerville and Doris Powledge Phillips. For ease of reference, in the context of this appeal, we will continue to call the group the "Non-Ignition Switch Plaintiffs."

¹⁹ Indeed, the bankruptcy court's opinion in *GM*, 407 B.R. 463, which approved the § 363 sale, has been reviewed on appeal has three times: a stay pending appeal was denied in *In re General Motors Corp.*, No. M 47(LAK), 2009 WL 2033079 (S.D.N.Y. July 9, 2009), and the opinion was affirmed in *In re Motors Liquidation Co.*, 428 B.R. 43 (S.D.N.Y. 2010), and in *In re Motors Liquidation Co.*, 430 B.R. 65 (S.D.N.Y. 2010).

The decisions below generate four issues on appeal: (1) the bankruptcy court's jurisdiction to enforce the Sale Order, (2) the scope of the power to sell assets "free and clear" of all interests, (3) the procedural due process requirements with respect to notice of such a sale, and (4) the bankruptcy court's ruling that would-be claims against GUC Trust are equitably moot.

I. Jurisdiction

We first address the bankruptcy court's subject matter jurisdiction. New GM argued below that successor liability claims against it should be enjoined, and the bankruptcy court concluded as a threshold matter that it had jurisdiction to enforce the Sale Order. *See MLC I*, 514 B.R. at 380-83. The Non-Ignition Switch Plaintiffs challenge jurisdiction: (1) as a whole to enjoin claims against New GM, (2) with respect to independent claims, which stem from New GM's own wrongful conduct, and (3) to issue a successive injunction. We review *de novo* rulings as to the bankruptcy court's jurisdiction. *See In re Petrie Retail, Inc.*, 304 F.3d 223, 228 (2d Cir. 2002).

First, as to jurisdiction broadly, "[t]he jurisdiction of the bankruptcy courts, like that of other federal courts, is grounded in, and limited by, statute." *Celotex Corp. v. Edwards*, 514 U.S. 300, 307 (1995); *see* 28 U.S.C. § 1334. Bankruptcy courts may exercise jurisdiction, through referral from the district court, over three broad categories of proceedings: those "arising under title 11" of the Code, those "arising in . . . a case under title 11," and those "related to a case under title 11." 28 U.S.C. § 157(a). Proceedings "arising under title 11, or

arising in a case under title 11,” are deemed “core proceedings.” *Stern v. Marshall*, 564 U.S. 462, 476 (2011) (quoting 28 U.S.C. § 157(b)). In those proceedings, bankruptcy courts retain comprehensive power to resolve claims and enter orders or judgments. See *In re Millenium Seacarriers, Inc.*, 419 F.3d 83, 96 (2d Cir. 2005).

“[T]he meaning of the statutory language ‘arising in’ may not be entirely clear.” *Baker v. Simpson*, 613 F.3d 346, 351 (2d Cir. 2010). At a minimum, a bankruptcy court’s “arising in” jurisdiction includes claims that “are not based on any right expressly created by [T]itle 11, but nevertheless, would have no existence outside of the bankruptcy.” *Id.* (quoting *In re Wood*, 825 F.2d 90, 97 (5th Cir. 1987)).

A bankruptcy court’s decision to interpret and enforce a prior sale order falls under this formulation of “arising in” jurisdiction. An order consummating a debtor’s sale of property would not exist but for the Code, see 11 U.S.C. § 363(b), and the Code charges the bankruptcy court with carrying out its orders, see *id.* § 105(a) (providing that bankruptcy court “may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title”). Hence, a bankruptcy court “plainly ha[s] jurisdiction to interpret and enforce its own prior orders.” *Travelers Indem. Co. v. Bailey*, 557 U.S. 137, 151 (2009); see *Millenium Seacarriers*, 419 F.3d at 96 (“A bankruptcy court retains post-confirmation jurisdiction to interpret and enforce its own orders, particularly when disputes arise over a bankruptcy plan of reorganization.” (quoting *Petrie Retail*, 304 F.3d at 230)). That is what happened here. The

bankruptcy court first interpreted the "free and clear" provision that barred successor liability claims—a provision that was integral to resolving Old GM's bankruptcy—and then determined whether to enforce that provision.

Second, the Non-Ignition Switch Plaintiffs specify that the bankruptcy court lacked jurisdiction over independent claims. Even though the bankruptcy court ultimately did not enjoin independent claims, we address this argument because it implicates subject matter jurisdiction. In any event, the argument is misguided. The Sale Order, on its face, does not bar independent claims against New GM; instead, it broadly transfers assets to New GM "free and clear of liens, claims, encumbrances, and other interests . . . , including rights or claims . . . based on any successor or transferee liability." J. App. 1621. By making the argument that the bankruptcy court could not enjoin independent claims through the Sale Order, the Non-Ignition Switch Plaintiffs already assume that the bankruptcy court indeed has jurisdiction to interpret the Sale Order to determine whether it covers independent claims and to hear a motion to enforce in the first place.

Third, the Non-Ignition Switch Plaintiffs argue that the bankruptcy court lacked power to issue a so-called successive injunction. In certain parts of the Sale Order, the bankruptcy court had included language that successor liability claims would be "forever prohibited and enjoined." J. App. 1649. But New GM was not seeking an injunction to stop plaintiffs from violating that prior injunction; New

GM wanted the bankruptcy court to confirm that the Sale Order covered *these* plaintiffs. In other words, New GM “did not seek a new injunction but, rather, ‘[sought] to enforce an injunction already in place.’” *In re Kalikow*, 602 F.3d 82, 93 (2d Cir. 2010) (quoting *In re Texaco Inc.*, 182 B.R. 937, 945 (Bankr. S.D.N.Y. 1995)). In such situations, bankruptcy courts have jurisdiction to decide a “motion s[ee]king enforcement of a pre-existing injunction issued as part of the bankruptcy court’s sale order.” *Petrie Retail*, 304 F.3d at 230.

Accordingly, we agree that the bankruptcy court had jurisdiction to interpret and enforce the Sale Order. See *MLC I*, 514 B.R. at 380-83.

II. Scope of “Free and Clear” Provision

We turn to the scope of the Sale Order. The Sale Order transferred assets from Old GM to New GM “free and clear of liens, claims, encumbrances, and other interests . . . , including rights or claims . . . based on any successor or transferee liability.” J. App. 1621. The bankruptcy court did not explicitly address what claims were covered by the Sale Order.²⁰

We address the scope of the Sale Order because it implicates our procedural due process analysis that follows. If the Sale Order covers certain claims, then

²⁰ The bankruptcy court mentioned, however, that claims based on New GM’s “independently wrongful, and otherwise actionable, conduct” could not be categorized as claims that could be assumed by New GM or retained by Old GM via the Sale Order. *MLC II*, 529 B.R. at 583. But the bankruptcy court did not explicitly address whether it still considered those claims to be covered by the Sale Order.

we would have to consider whether plaintiffs' due process rights are violated by applying the "free and clear" clause to those claims. If the Sale Order did not cover certain claims, however, then those claims could not be enjoined by enforcing the Sale Order and due process concerns would not be implicated. We interpret the Sale Order *de novo* to determine what claims are barred. See *In re Duplan Corp.*, 212 F.3d 144, 151 (2d Cir. 2000); see also *Petrie Retail*, 304 F.3d at 229 (noting instance where enforcement first required interpretation of prior order).

A. Applicable Law

The Code allows the trustee or debtor-in-possession to "use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). A sale pursuant to § 363(b) may be made "free and clear of any interest in such property" if any condition on a list of conditions is met. *Id.* § 363(f). "Yet the Code does not define the concept of 'interest,' of which the property may be sold free and clear," 3 *Collier on Bankruptcy* ¶ 363.06[1], not does it express the extent to which "claims" fall within the ambit of "interests."

New GM asserts that *In re Chrysler LLC*, 576 F.3d 108, 126 (2d Cir. 2009), resolved that successor liability claims are interests. New GM Br. 75.²¹ But *Chrysler* was vacated by the Supreme Court after it became moot during the certiorari process and remanded with instructions to dismiss the appeal as

²¹ New GM also cites a non-precedential summary order on this issue. See *Douglas v. Stamco*, 363 F. App'x 100 (2d Cir. 2010).

moot. See *Ind. State Police Pension Tr. v. Chrysler LLC*, 558 U.S. 1087 (2009). The Supreme Court vacated *Chrysler* pursuant to *United States v. Munsingwear, Inc.*, 340 U.S. 36, 41 (1950), which “prevent[s] a judgment, unreviewable because of mootness, from spawning any legal consequences.” See *Russman v. Bd. of Educ. of Enlarged City Sch. Dist.*, 260 F.3d 114, 121-22 n.2 (2d Cir. 2001) (“[V]acatur eliminates an appellate precedent that would otherwise control decision on a contested question throughout the circuit.”). We had not addressed the issue before *Chrysler*, and now that case is no longer controlling precedent.²² See 576 F.3d at 124 (“We have never addressed the scope of the language ‘any interest in such property,’ and the statute does not define the term.”).

Rather than formulating a single precise definition for “any interest in such property,” courts have continued to address the phrase “on a case-by-case basis.” *In re PBBPC, Inc.*, 484 B.R. 860, 867 (B.A.P. 1st Cir. 2013). At minimum, the language in § 363(f) permits the sale of property free and clear of *in rem* interests in the property, such as liens that attach to the property. See *In re Trans World Airlines, Inc.*, 322 F.3d 283, 288 (3d Cir. 2003). But courts have permitted a “broader definition that encompasses other obligations that may flow from ownership of the property.” 3 *Collier on Bankruptcy* ¶ 363.06[1]. Sister courts have held that

²² When the bankruptcy court determined that successor liability claims could constitute interests, *Chrysler* had not yet been vacated. See *GM*, 407 B.R. at 505 (“*Chrysler* is not distinguishable in any legally cognizable respect.”).

§ 363(f) may be used to bar a variety of successor liability claims that relate to ownership of property: an “interest” might encompass Coal Act obligations otherwise placed upon a successor purchasing coal assets, *In re Leckie Smokeless Coal Co.*, 99 F.3d 573, 581-82 (4th Cir. 1996), travel vouchers issued to settle an airline’s discrimination claims in a sale of airline assets, *Trans World Airlines*, 322 F.3d at 288-90, or a license for future use of intellectual property when that property is sold, *FutureSource LLC v. Reuters Ltd.*, 312 F.3d 281, 285 (7th Cir. 2002). See generally *Precision Indus., Inc. v. Qualitech Steel SBQ, LLC*, 327 F.3d 537, 545 (7th Cir. 2003) (“[T]he term ‘interest’ is a broad term no doubt selected by Congress to avoid ‘rigid and technical definitions drawn from other areas of the law.’” (quoting *Russello v. United States*, 464 U.S. 16, 21 (1983))). In these instances, courts require “a relationship between the[] right to demand . . . payments from the debtors and the use to which the debtors had put their assets.” *Trans World Airlines*, 322 F.3d at 289.

We agree that successor liability claims can be “interests” when they flow from a debtor’s ownership of transferred assets. See 3 *Collier in Bankruptcy* ¶¶ 363.06[1], [7]; *Trans World Airlines*, 322 F.3d at 289. But successor liability claims must also still qualify as “claims” under Chapter 11. Though § 363(f) does not expressly invoke the Chapter 11 definition of “claims,” see 11 U.S.C. § 101(5), it makes sense to “harmonize” Chapter 11 reorganizations and § 363 sales “to the extent permitted by the statutory language.” *Chrysler*, 576 F.3d at 125; see *Lionel*, 722 F.2d at 1071 (“[S]ome play for the operation of both

§ 363(b) and Chapter 11 must be allowed for.”²³ Here, the bankruptcy court’s power to bar “claims” in a quick § 363 sale is plainly no broader than its power in a traditional Chapter 11 reorganization. Compare 11 U.S.C. § 363(f) (“free and clear of any interest in such property”), with § 1141(c) (“free and clear of all claims and interests”). We thus consider what claims may be barred under Chapter 11 generally.

Section 101(5) defines “claim” as any “right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured.” 11 U.S.C. § 101(5). A claim is (1) a right to payment (2) that arose before the filing of the petition. See *Pension Ben. Guar. Corp. v. Oneida Ltd.*, 562 F.3d 154, 157 (2d Cir. 2009). If the right to payment is contingent on future events, the claim must instead “result from pre-petition conduct fairly giving rise to that contingent claim.” *In re Chateaugay Corp.* (“*Chateaugay I*”), 944 F.2d 997, 1005 (2d Cir. 1991) (internal quotation marks omitted).

This Court has not decided, however, “the difficult case of pre-petition conduct that has not yet resulted in detectable injury, much less the extreme

²³ Although *Chrysler* was vacated on grounds of mootness, it still “constitute[s] persuasive authority.” *Anderson v. Rochester-Genesee Reg’l Transp. Auth.*, 337 F.3d 201, 208 n.5 (2d Cir. 2003). Both our Circuit and the Third Circuit have continued to cite *Chrysler* favorably. See *In re N. New Eng. Tel. Operations LLC*, 795 F.3d 343, 346, (2d Cir. 2015); *In re Jevic Holding Corp.*, 787 F.3d 173, 188-89 (3d Cir. 2015).

case of pre-petition conduct that has not yet resulted in any tortious consequence to a victim." *Id.* at 1004. *Chateaugay I* considered a hypothetical bankrupt bridge building company, which could predict that out of the 10,000 bridges it built, one would one day fail, causing deaths and other injuries. *Id.* at 1003. If that bridge did fail, the individuals might have tort claims resulting from pre-petition conduct, namely the building of the bridge.

Recognizing these claims would engender "enormous practical and perhaps constitutional problems." *Id.* Thus, "claim" cannot be extended to include . . . claimants whom the record indicates were completely unknown and unidentified at the time [the debtor] filed its petition and whose rights depended entirely on the fortuity of future occurrences." *Lemelle v. Universal Mfg. Corp.*, 18 F.3d 1268, 1277 (5th Cir. 1994); see *In re Chateaugay Corp. ("Chateaugay IV")*, 53 F.3d 478, 497 (2d Cir. 1995) (stating that, in "common sense," "claim" is "not infinite"). To avoid any practical and constitutional problems, courts require some minimum "contact," *Chateaugay I*, 944 F.2d at 1003-04, or "relationship," *Chateaugay IV*, 53 F.3d at 497, that makes identifiable the individual with whom the claim does or would rest.

To summarize, a bankruptcy court may approve a § 363 sale "free and clear" of successor liability claims if those claims flow from the debtor's ownership of the sold assets. Such a claim must arise from a (1) right to payment (2) that arose before the filing of the petition or resulted from pre-petition conduct fairly giving rise to the claim. Further, there

must be some contact or relationship between the debtor and the claimant such that the claimant is identifiable.

B. Application

We apply these principles to: (1) pre-closing accident claims, (2) economic loss claims arising from the ignition switch defect or other defects, (3) independent claims relating only to New GM's conduct, and (4) Used Car Purchasers' claims. The bankruptcy court assumed that the Sale Order's broad language suggested that all of these claims fell within the scope of the "free and clear" provision. We hold, however, that the first two sets of claims are covered by the Sale Order but that the latter two sets of claims are not.

First, the pre-closing accident claims clearly fall within the scope of the Sale Order. Those claims directly relate to the ownership of the GM automaker's business—Old GM built cars with ignition switch defects. And those plaintiffs' claims are properly thought of as tort claims that arose before the filing of the petition; indeed, the claims arise from accidents that occurred pre-closing involving Old GM cars.²⁴

Second, the economic loss claims arising from the ignition switch defect or other defects present a

²⁴ To the extent that Pre-Closing Accident Plaintiffs assert claims arising after the petition but before the § 363 sale closing, no party on appeal suggests that we treat claims in this timeframe differently. In any event, those claims are contingent on the accident occurring and "result from pre-petition conduct fairly giving rise to [a] contingent claim." *Chateaugay I*, 944 F.2d at 1005 (internal quotation marks omitted).

closer call. Like the claims of Pre-Closing Accident Plaintiffs, these claims flow from the operation of Old GM's automaker business. These individuals also, by virtue of owning Old GM cars, had come into contact with the debtor prior to the bankruptcy petition. Yet the ignition switch defect (and other defects) were only revealed some five years later.

GUC Trust thus asserts that there was no right to payment prior to the petition. We disagree. The economic losses claimed by these individuals were "contingent" claims. 11 U.S.C. § 101(5). That is, the ignition switch defect was there, but was not yet so patent that an individual could, as a practical matter, bring a case in court. The contingency standing in the way was Old GM telling plaintiffs that the ignition switch defect existed. In other words, Old GM's creation of the ignition switch defect fairly gave rise to these claims, even if the claimants did not yet know. *See Chateaugay I*, 944 F.2d at 1005.

Third, however, the independent claims do not meet the Code's limitation on claims. By definition, independent claims are claims based on New GM's own post-closing wrongful conduct. Though the parties do not lay out the whole universe of possible independent claims, we can imagine that some claims involve misrepresentations by New GM as to the safety of Old GM cars. These sorts of claims are based on New GM's *post*-petition conduct, and are not claims that are based on a right to payment that arose before the filing of petition or that are based on pre-petition conduct. Thus, these claims are outside

the scope of the Sale Order's "free and clear" provision.

Fourth, the Sale Order likewise does not cover the Used Car Purchasers' claims. The Used Car Purchasers were individuals who purchased Old GM cars *after* the closing, without knowledge of the defect or possible claim against New GM. They had no relation with Old GM prior to bankruptcy. Indeed, as of the bankruptcy petition there were an unknown number of unknown individuals who would one day purchase Old GM vehicles secondhand. There could have been no contact or relationship—actual or presumed—between Old GM and these specific plaintiffs, who otherwise had no awareness of the ignition switch defect or putative claims against New GM. We cannot, consistent with bankruptcy law, read the Sale Order to cover their claims. See *Chateaugay I*, 944 F.2d at 1003-04 (calling such a reading "absurd").

New GM argues that "modifying" the Sale Order would "knock the props out of the foundation on which the [Sale Order] was based" or otherwise be unlawful. New GM Br. 77 (internal quotation marks omitted). But we do not *modify* the Sale Order. Instead, we merely interpret the Sale Order in accordance with bankruptcy law. Indeed, by filing a motion to enforce, New GM in effect asked for the courts to interpret the Sale Order. See *Petrie Retail*, 304 F.3d at 229.

In sum, the "free and clear" provision covers pre-closing accident claims and economic loss claims based on the ignition switch and other defects. It does not cover independent claims or Used Car

Purchasers' claims. Accordingly, we affirm the bankruptcy court's decision not to enjoin independent claims, *see MLC II*, 529 B.R. at 568-70, and reverse its decision to enjoin the Used Car Purchasers' claims, *see id.* at 570-72.

III. Procedural Due Process

The Sale Order covers the pre-closing accident claims and economic loss claims based on the ignition switch and other defects. The Sale Order, if enforced, would thus bar those claims. Plaintiffs contend on appeal that enforcing the Sale Order would violate procedural due process. We address two issues: (1) what notice plaintiffs were entitled to as a matter of procedural due process, and (2) if they were provided inadequate notice, whether the bankruptcy court erred in denying relief on the basis that most plaintiffs were not "prejudiced."

We review factual findings for clear error and legal conclusions, including interpretations of the Constitution, *de novo*. *In re Barnet*, 737 F.3d 238, 246 (2d Cir. 2013). Our clear error standard is a deferential one, and if the bankruptcy court's "Account of the evidence is plausible in light of the record viewed in its entirety, the court of appeals may not reverse it even though convinced that had it been sitting as the trier of fact, it would have weighed the evidence differently." *Amadeo v. Zant*, 486 U.S. 214, 223 (1988) (quoting *Anderson v. Bessemer City*, 470 U.S. 564, 573-74 (1985)).

A. Notice

The bankruptcy court first concluded that plaintiffs were not provided notice as required by procedural due process. *See MLC II*, 529 B.R. at 555-

60. The bankruptcy court held that because Old GM knew or with reasonable diligence should have known of the ignition switch claims, plaintiffs were entitled to actual or direct mail notice, but received only publication notice. *See id.* at 557-60. The parties dispute the extent of Old GM's knowledge of the ignition switch problem.

1. Applicable Law

The Due Process Clause provides, "No person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. Certain procedural protections attach when "deprivations trigger due process." *Connecticut v. Doe*, 501 U.S. 1, 12 (1991). Generally, legal claims are sufficient to constitute property such that a deprivation would trigger due process scrutiny. *See N.Y. State Nat'l Org. for Women v. Pataki*, 261 F.3d 156, 169-70 (2d Cir. 2001).

Once due process is triggered, the question becomes what process is due. *Morrissey v. Brewer*, 408 U.S. 471, 481 (1972). "An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). Courts ask "whether the state acted reasonably in selecting means likely to inform persons affected, not whether each property owner actually received notice." *Weigner v. City of New York*, 852 F.2d 646, 649 (2d Cir. 1988). Notice is adequate if "[t]he means

employed [are] such as one desirous of actually informing the absentee might reasonably adopt to accomplish it." *Mullane*, 339 U.S. at 315.

This requirement also applies to bankruptcy proceedings. See *Martin v. Wilks*, 490 U.S. 755, 762 n.2 (1989), *superseded by statute on other grounds*, Civil Rights Act of 1991, Pub.L. No. 102-166, 105 Stat. 1071. Indeed, a fundamental purpose of bankruptcy is to discharge, restructure, or impair claims against the debtor in an orderly fashion. See *Lines v. Frederick*, 400 U.S. 18, 19 (1970). "The general rule that emerges... is that notice by publication is not enough with respect to a person whose name and address are known or very easily ascertainable and whose legally protected interests are directly affected by the proceedings in question." *Schroeder v. City of New York*, 371 U.S. 208, 212-13 (1962); accord *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 800 (1983). In other words, adequacy of notice "turns on what the debtor... knew about the claim or, with reasonable diligence, should have known." *DPWN Holdings (USA), Inc. v. United Air Lines, Inc.*, 747 F.3d 145, 150 (2d Cir. 2014) (citing *Chemetron Corp. v. Jones*, 72 F.3d 341, 345-46 (3d Cir. 1995)). If the debtor knew or reasonably should have known about the claims, then due process entitles potential claimants to actual notice of the bankruptcy proceedings, but if the claims were unknown, publication notice suffices. *Chemetron*, 72 F.3d at 345-46.

If a debtor reveals in bankruptcy the claims against it and provides potential claimants notice consistent with due process of law, then the Code

affords vast protections. Both § 1141(c) and § 363(f) permit "free and clear" provisions that act as liability shield. These provisions provide enormous incentives for a struggling company to be forthright. But if a debtor does not reveal claims that it is aware of, then bankruptcy law cannot protect it. Courts must "limit[] the opportunity for a completely unencumbered new beginning to the 'honest but unfortunate debtor.'" *Grogan v. Garner*, 498 U.S. 279, 286-87 (1991) (quoting *Local Loan Co. v. Hunt*, 292 U.S. 234, 244 (1934)).

2. Application

The parties do not dispute that plaintiffs received only publication notice. The question is whether they were entitled to more. The bankruptcy court found that because Old GM knew or reasonably should have known about the ignition switch defect prior to bankruptcy, it should have provided direct mail notice to vehicle owners. We find no clear error in this factual finding.

As background, federal law requires that automakers keep records of the first owners of their vehicles. 49 U.S.C. § 30117(b)(1) ("A manufacturer of a motor vehicle . . . shall cause to be maintained a record of the name and address of the first purchaser of each vehicle . . ."). This provision facilitates recalls and other consequences of the consumer-automaker relationship. Thus, to the extent that Old GM knew of defects in its cars, it would also necessarily know the identity of a significant number of affected owners.

The facts paint a picture that Old GM did nothing, even as it knew that the ignition switch

defect impacted consumers. From its development in 1997, the ignition switch never passed Old GM's own technical specifications. Old GM knew that the switch was defective, but it approved the switch for millions of cars anyway.

Once the ignition switch was installed, Old GM almost immediately received various complaints. News outlets reported about the faulty ignition switch. NHTSA approached Old GM about moving stalls and airbag non-deployments. A police report, which Old GM's legal team possessed, linked these breakdowns to a faulty ignition switch. Old GM even considered warning dealers (but not consumers) about moving stalls. By May 2009, at the latest, Old GM personnel had essentially concluded that the ignition switch, moving stalls, and airbag non-deployments were related. Considering the airbag issues, they believed that one of the two "most likely explanation[s] for the power mode signal change was . . . a problem with the Ignition Switch." J. App. 9783.

A bankruptcy court could reasonably read from this record that Old GM knew about the ignition switch defect. Old GM knew that the defect caused stalls and had linked the airbag non-deployments to the defect by May 2009.

Even assuming the bankruptcy court erred in concluding that Old GM *knew*, Old GM—if reasonably diligent—surely *should have known* about the defect. Old GM engineers should have followed up when they learned their ignition switch did not initially pass certain technical specifications. Old GM lawyers should have followed up when they heard

disturbing reports about airbag non-deployments or moving stalls. Old GM product safety teams should have followed up when they were able to recreate the ignition switch defect with ease after being approached by NHTSA. If any of these leads had been diligently pursued in the seven years between 2002 and 2009, Old GM likely would have learned that the ignition switch defect posed a hazard for vehicle owners.

Such “reckless disregard of the facts [is] sufficient to satisfy the requirement of knowledge.” *McGinty v. State*, 193 F.3d 64, 70 (2d Cir. 1999). In the face of all the reports and complaints of faulty ignition switches, moving stalls, airbag non-deployments, and, indeed, serious accidents, and in light of the conclusions of its own personnel, Old GM had an obligation to take steps to “acquire full or exact knowledge of the nature and extent” of the defect. *United States v. Macias*, 786 F.3d 1060, 1062 (7th Cir. 2015). Under these circumstances, Old GM had a duty to identify the cause of the problem and fix it. Instead, the Valukas Report recounts a corporate culture that sought to pin responsibility on others and a Sisyphean search for the “root cause.”

Further, even if the precise linkage between the ignition switch defect and moving stalls and airbag non-deployments was unclear, Old GM had enough knowledge. At minimum, Old GM knew about moving stalls and airbag non-deployments in certain models, and should have revealed those facts in bankruptcy. Those defects would still be the basis of “claims,” even if the root cause (the ignition switch) was not clear.

New GM argues in response that because plaintiffs' claims were "contingent," those individuals were "unknown" creditors as a matter of law. But contingent claims are still claims, 11 U.S.C. § 101(5), and claimants are entitled to adequate notice if the debtor knows of the claims. Moreover, as discussed above, the only contingency was Old GM telling owners about the ignition switch defect—a contingency wholly in Old GM's control and without bearing as to *Old GM's* own knowledge. New GM essentially asks that we reward debtors who conceal claims against potential creditors. We decline to do so. *See Grogan*, 498 U.S. at 286-87.

Finally, we address a theme in this case that the GM bankruptcy was extraordinary because a quick § 363 sale was required to preserve the value of the company and to save it from liquidation. *See New GM Br. 34* ("Time was of the essence, and costs were a significant factor."). Forty days was indeed quick for bankruptcy and previously unthinkable for one of this scale. While the desire to move through bankruptcy as expeditiously as possible was laudable, Old GM's precarious situation and the need for speed did not obviate basic constitutional principles. Due process applies even in a company's moment of crisis. *Cf. Home Building & Loan Ass'n v. Blaisdell*, 290 U.S. 398, 425 (1934) ("The Constitution was adopted in a period of grave emergency.").

We find no clear error in the bankruptcy court's finding that Old GM knew or should have known with reasonable diligence about the defect. *See MLC II*, 529 B.R. at 556-60. Individuals with claims arising out of the ignition switch defect were entitled

to notice by direct mail or some equivalent, as required by procedural due process.

B. "Prejudice"

After concluding that Old GM did not provide adequate notice, the bankruptcy court nonetheless enforced the Sale Order. *See id.* at 565-73. The bankruptcy court held that "prejudice" is an "essential element" of procedural due process and that plaintiffs were not prejudiced—except as to independent claims—because the bankruptcy court would have approved the Sale Order even if plaintiffs were provided adequate notice. *Id.* at 565. The parties dispute whether "prejudice" is required and, if it is, whether there is prejudice here.

1. Applicable Law

The bankruptcy court held that "prejudice" is a requirement of the Due Process Clause and that even if inadequate notice deprived an individual of property without a meaningful opportunity to be heard, there is no prejudice if in hindsight the outcome would have been the same with adequate notice. *Id.* Some courts have indeed held that "a party who claims to be aggrieved by a violation of procedural due process must show prejudice." *Perry v. Blum*, 629 F.3d 1, 17 (1st Cir. 2010). Other courts have held otherwise that "a due process violation cannot constitute harmless error." *In re New Concept Hous., Inc.*, 951 F.2d 932, 937 n.7 (8th Cir. 1991); *see Fuentes v. Shevin*, 407 U.S. 67, 87 (1972) ("The right to be heard does not depend upon an advance showing that one will surely prevail at the

hearing.”)²⁵ Courts have concluded that a “free and clear” clause was unenforceable because of lack of notice and a hearing in accordance with procedural due process, without exploring prejudice. See *In re Savage Indus.*, 43 F.3d 714, 721-22 (1st Cir. 1994); cf. *Nolasco v. Holder*, 637 F.3d 159, 164 (2d Cir. 2011) (“There may well be instances in which . . . failure to comply with [a procedural rule] results in a lack of

²⁵ See, e.g., *McNabb v. Comm’r Ala. Dep’t of Corr.*, 727 F.3d 1334, 1347 (11th Cir. 2013) (“Our cases have long held that certain procedural due process violations, such as the flat-out denial of the right to be heard on a material issue, can never be harmless.”); *Kim v. Hurston*, 182 F.3d 113, 119 (2d Cir. 1999) (commenting that even though the “minimal hearing that procedural due process requires would have done [the plaintiff] little good since she could not have realistically contested the changed reason,” that “[n]evertheless, the procedural due process requirement[s] . . . must be observed”); *Lane Hollow Coal Co. v. Dir., Office of Workers’ Compensation Programs*, 137 F.3d 799, 806 (4th Cir. 1998) (“[A] just result is not enough.”); *In re Boomgarden*, 780 F.2d 657, 661 (7th Cir. 1985) (“In bankruptcy proceedings, both debtors and creditors have a constitutional right to be heard on their claims, and the denial of that right to them is the denial of due process which is never harmless error.” (internal quotation marks omitted)); *In re George W. Myers Co.*, 412 F.2d 785, 786 (3d Cir. 1969) (holding that “alleged bankrupt was denied procedural due process by the . . . refusal of its offer to present evidence at the close of the evidence” and that such denial could not be “harmless error”); *Republic Nat’l Bank of Dallas v. Crippen*, 224 F.2d 565, 566 (5th Cir. 1955) (“The right to be heard on their claims was a constitutional right and the denial of that right to them was the denial of due process which is never harmless error.”); *Phila. Co. v. SEC*, 175 F.2d 808, 820 (D.C. Cir. 1948) (“Denial of a procedural right guaranteed by the Constitution—in this instance denial of the type of hearing guaranteed . . . by the due process clause—is never ‘harmless error.’”), *vacated as moot*, 337 U.S. 901 (1949).

notice or the denial of a meaningful opportunity to be heard such that . . . due process rights are violated.”).

The § 363 sale context presents unique challenges for due process analysis. As seen here—with over 850 objections filed—objections may often be duplicative. See *GM*, 407 B.R. at 500 (finding successor liability “most debatable” of issues); cf. *Mullane*, 339 U.S. at 319 (“[N]otice reasonably certain to reach most of those interested in objecting is likely to safeguard the interests of all; since any objections sustained would inure to the benefit of all.”). Many of the objections, especially those made against a “free and clear” provision, are not likely to be grounded in any legal right to change the terms of the sale, but rather will be grounded in a particular factual context. Section 363 sales are, in essence, private transactions. On one side, the debtor-in-possession “has ample administrative flexibility in the conduct of sales,” 3 *Collier on Bankruptcy* ¶ 363.02[2], and on the other side, the purchaser need not take on liabilities unless it wishes to do so, see *id.* ¶ 363.06[7]. A bankruptcy court reviews a proposed § 363 sale’s terms only for some minimal “good business reason.” *Lionel*, 722 F.2d at 1071; see also 3 *Collier on Bankruptcy* ¶ 363.02[1][e] (“One of the major policy decisions in drafting the Code was to separate the court from the day-to-day administrative activities in bankruptcy cases . . .”). Many sale objections will thus sound in business reasons to change the

proposed sale order, and not by reference to some legal requirement that the order *must* be changed.²⁶

Assuming plaintiffs must demonstrate prejudice, the relevant inquiry is whether courts can be confident in the reliability of prior proceedings when there has been a procedural defect. *See Lane Hollow Coal Co. v. Dir., Office of Workers' Compensation Programs*, 137 F.3d 799, 808 (4th Cir. 1998) (considering “fairness of the trial and its reliability as an accurate indicator of guilt”); *see also Rose v. Clark*, 478 U.S. 570, 577-78 (1986) (asking whether adjudication in the criminal context without procedural protections can “reliably serve its function as a vehicle for determination of” a case). In considering reliability, “[t]he entire record must be considered and the probable effect of the error determined in the light of all the evidence.” 11 Charles Alan Wright, Arthur R. Miller, et al., *Federal Practice & Procedure* § 2883 (3d ed. 2016) [hereinafter “Wright & Miller”]; *see Matusick v. Erie Cty. Water Auth.*, 757 F.3d 31, 50-51 (2d Cir. 2014). “[I]f [the court] cannot say, with fair assurance, after

²⁶ *See* A. Joseph Warburton, *Understanding the Bankruptcies of Chrysler and General Motors: A Primer*, 60 Syracuse L. Rev. 531, 531 (2010) (“Certain creditors, who saw their investments in the companies sharply reduced, vigorously objected to the role of the government in the bankruptcy process. Some charged that in protecting the interests of taxpayers, the Treasury Department negotiated aggressively with creditors but, in protecting the interests of organized labor, it offered the United Autoworkers union special treatment.”); *see also GM*, 407 B.R. at 496 (“The objectors’ real problem is with the decisions of the Purchaser, not with the Debtor, nor with any violation of the Code or caselaw.”).

pondering all that happened without stripping the erroneous action from the whole, that the judgment was not substantially swayed by the error," then it must find a procedural due process violation. *Kotteakos v. United States*, 328 U.S. 750, 765 (1946).

2. Application

We need not decide whether prejudice is an element when there is inadequate notice of a proposed § 363 sale, for even assuming plaintiffs must demonstrate prejudice, they have done so here. After examining the record as a whole, we cannot say with fair assurance that the outcome of the § 363 sale proceedings would have been the same had Old GM disclosed the ignition switch defect and these plaintiffs voiced their objections to the "free and clear" provision. Because we cannot say with any confidence that no accommodation would have been made for them in the Sale Order, we reverse.

At the outset, it is difficult to evaluate in hindsight what the objections would have been had plaintiffs participated in the § 363 sale. Perhaps they would have tried to identify some legal defect in the Sale Order, asked that economic losses or pre-closing accidents arising from the ignition switch defect be exempted from the "free and clear" provision, or requested greater priority in any GUC Trust distribution. But this uncertainty about the content of plaintiffs' objections is the natural result of the lack of any meaningful opportunity to be heard in the § 363 sale proceedings. *Cf. Lane Hollow*, 137 F.3d at 808 ("If there has been no fair day in court, the reliability of the result is irrelevant, because a fair day in court is how we assure the reliability of

results.”). This lack of certainty in turn influences our degree of confidence in the outcome.

The bankruptcy court instead concluded that it would have reached the same decision—that it would have entered the Sale Order on the same terms—even if plaintiffs had been given an opportunity to be heard. The bankruptcy court concluded that these plaintiffs “offer no legally based arguments as to why they would have, or even *could* have, succeeded on the successor liability legal argument when all of the other objectors failed.” *MLC II*, 529 B.R. at 567; see *GM*, 407 B.R. at 499-506 (considering objections). The bankruptcy court found that other arguments were too “speculative.” *MLC II*, 529 B.R. at 567-68, 573.

We disagree. The bankruptcy court failed to recognize that the terms of this § 363 sale were not within its exclusive control. Instead, the GM sale was a negotiated deal with input from multiple parties—Old GM, New GM, Treasury, and other stakeholders. The Sale Order and Sale Agreement reflect this polycentric approach: it includes some fifteen sets of liabilities that New GM voluntarily, and without legal compulsion, took on as its own.

The process of how New GM voluntarily assumed liabilities is most apparent with its assumption of Lemon Law claims.²⁷ Following the proposed sale order, numerous state attorneys general objected that the proposed sale would bar claims based on state Lemon Laws. But their objections were not

²⁷ New GM informs the Court that a similar process occurred with respect to New GM accepting responsibility for post-closing accidents.

particularly *legal* in character—that is, no state attorney general focused on how a liability shield that barred Lemon Law claims would be illegal. Citing no law, the objection was that New GM *should* assume these liabilities “[i]n light of the relationship between [Old GM] and [New GM] . . . , as well as the statements by the United States government promising that all warranty obligations would be honored.” Bankr. ECF No. 2043, at 39; *accord* Bankr. ECF No. 2076, at 10. In other words, because President Obama had promised to back warranties, the state attorneys general argued that that Lemon Laws should be honored as well.

Following these objections, “Lemon Law claims were added as an assumed liability during the course of the 363 Sale hearing after negotiation with the [state attorneys general].” *MLC II*, 529 B.R. at 534 n.36. The state attorneys general had made a practical, business-minded argument, which brought Old GM, New GM, and Treasury to the negotiating table. At the sale hearing, counsel to the National Association of Attorneys General commented that the state attorneys general “have worked very hard since the beginning of the case with debtors’ counsel initially, with Treasury counsel, almost everybody in this room at some point or another.” J. App. 2084. The result of these negotiations was an understanding that “lemon laws were covered under the notion of warranty claims” and inclusion in the Sale Agreement of language reflecting this agreement. *Id.* at 2086.

Opportunities to negotiate are difficult if not impossible to recreate. We do not know what would

have happened in 2009 if counsel representing plaintiffs with billions of dollars in claims had sat across the table from Old GM, New GM, and Treasury. Our lack of confidence, however, is not imputed on plaintiffs denied notice but instead bolsters a conclusion that enforcing the Sale Order would violate procedural due process. Indeed, for the following reasons, while we cannot say with any certainty that the outcome would have been different, we can say that the business circumstances at the time were such that plaintiffs could have had some negotiating leverage, and the opportunity to participate in the proceedings would have been meaningful.

First, it is well documented that one of the primary impetuses behind a quick § 363 sale was to “restore consumer confidence.” *GM*, 407 B.R. at 480. “The problem is that if the 363 Transaction got off track . . . , the U.S. Government would see that there was no means of early exit for GM; . . . customer confidence would plummet; and . . . the U.S. Treasury would have to keep funding GM.” *Id.* at 492. If consumer confidence dissipated, neither Treasury loans nor a § 363 sale could save GM: nobody would buy a GM car.

These concerns were reflected in President Obama’s \$600 million guarantee of GM and Chrysler warranties. The business of cars is unique, dependent largely on the goodwill of consumers. Cars are owned for years and form the cornerstones of quintessentially American activities: dropping off and picking up children from school, drive-ins and drive-thrus, family vacations and road trips. “[T]he

road and the automobile” are, in American history, “sanctuaries, hidden from the intrusive gaze of the state, [where] individuals live freely.” Sarah Seo, *The New Public*, 125 Yale L.J. 1616, 1620 (2016). The safety and reliability of a car are central to these activities. As the head of President Obama’s auto task force put it, in relation to Chrysler’s bankruptcy: “what consumer would buy another Chrysler if the company didn’t honor its warranties?” Rattner, *supra* note 8, at 181. In other words, plaintiffs could have tried to convince the bankruptcy parties that it made good business sense to spend substantial sums to preserve customer goodwill in the GM brand and, in turn, GM’s business value.

Second, New GM was not a truly private corporation. Instead, the President and Treasury oversaw its affairs during the bailout and Treasury owned a majority stake following the bankruptcy. While private shareholders expect their investments to be profitable, the government does not necessarily share the same profit motive. Treasury injected hundreds of billions of dollars into the economy during the financial crisis, not on the expectation that it would make a reasonable rate of return but on the understanding that millions of Americans would be affected if the economy were to collapse. If the ignition switch defect were revealed in the course of bankruptcy, plaintiffs could have petitioned the government, as the majority owner of New GM, to consider how millions of faultless individuals with defective Old GM cars could be affected. Indeed, during the later congressional hearings, Representatives and Senators questioned New GM’s CEO on her invocation of the liability shield when

the government guided the process. *See supra* note 13. Senator Richard Blumenthal, for instance, indicated that he would have objected in bankruptcy had he known, because he “opposed it at the time, as Attorney General for the state of Connecticut, not [foreseeing] that the material adverse fact being concealed was as gigantic as this one.” April 2, 2014 Senate Hearing, *supra* note 13, at 22-23 (statement of Sen. Richard Blumenthal, Member, S. Subcomm. on Consumer Prot., Prod. Safety & Ins.).

Third, we must price in the real cost of disrupting the bankruptcy process. From the middle of 2007 through the first quarter of 2009, Old GM’s average net loss exceeded \$10 billion per quarter; a day’s worth of delay would cost over \$125 million, a week almost a billion dollars. We do not know whether the proceedings would have been delayed, but some delay was certainly possible. For instance, Congress called the GM CEO to testify over the course of four days.²⁸ Old GM likewise conducted a thorough internal investigation on the ignition switch defect, and the Valukas Report took more than two-and-a-half months to prepare. It seems unlikely that a bankruptcy court would have casually approved a “free and clear” provision while these investigations into the ignition switch defect’s precise nature were still ongoing.

Finally, there is the detriment of added litigation—had the class actions been filed in the midst of bankruptcy, the mere administration of

²⁸ *See* Rattner, *supra* note 8, at 304 (“The auto rescue succeeded in no small part because we did not have to deal with Congress.”).

those cases could have taken considerable resources. Had the government also brought criminal charges—such as the charges now suspended by a deferred prosecution agreement with the U.S. Attorney's Office for the Southern District of New York in which New GM forfeited \$900 million—managing how to juggle bankruptcy with a criminal prosecution could have taken even longer. *United States v. \$900,000,000 in U.S. Currency*, No. 15 Civ. 7342 (S.D.N.Y.), ECF No. 1; see 11 U.S.C. § 362(b)(1) (exempting from usual automatic stay criminal actions against debtor). The reasonable conclusion is that, with the likelihood and price of disruption to the bankruptcy proceedings being so high, plaintiffs at least had a basis for making business-minded arguments for why they should receive some accommodation in or carve-out from the Sale Order.

Under these circumstances, we cannot be confident that the Sale Order would have been negotiated and approved exactly as it was if Old GM had revealed the ignition switch defect in bankruptcy. The facts here were peculiar and are no doubt colored by the inadequate notice and plaintiffs' lack of *any* meaningful opportunity to be heard. See *Kotteakos*, 328 U.S. at 765 (directing courts to consider “all that happened without stripping the erroneous action from the whole”). Given the bankruptcy court's focus on consumer confidence, the involvement of Treasury, the financial stakes at the time, and all the business circumstances, there was a reasonable possibility that plaintiffs could have negotiated some relief from the Sale Order.

We address two further concerns. First, the bankruptcy court stated that it "would not have let GM go into the liquidation that would have resulted if [it] denied approval of the 363 Sale." *MLC II*, 529 B.R. at 567; see J. App. 1623. In other words, the bankruptcy court suggested that it would have approved the § 363 sale anyway, because the alternative was liquidation—and liquidation would have been catastrophic. While we agree that liquidation would have been catastrophic, we are confident that Old GM, New GM, Treasury, and the bankruptcy court itself would have endeavored to address the ignition switch claims in the Sale Order if doing so was good for the GM business. The choice was not just between the Sale Order as issued and liquidation; accommodations could have been made.

Second, many of the peculiar facts discussed apply with less force to the Non-Ignition Switch Plaintiffs, who assert claims arising from other defects. The bankruptcy court entered judgment against the Non-Ignition Switch Plaintiffs based on its opinion determining the rights of the other plaintiffs, but left as an open question whether Old GM knew of the Non-Ignition Switch Plaintiffs' claims based in other defects. See *MLC III*, 531 B.R. at 360. Without factual findings relevant to determining knowledge, we have no basis for deciding whether notice was adequate let alone whether enforcement of the Sale Order would violate procedural due process as to these claims.

To conclude, we reverse the bankruptcy court's decision insofar as it enforced the Sale Order to

enjoin claims relating to the ignition switch defect.²⁹ See *MLC II*, 529 B.R. at 566-73. Because enforcing the Sale Order would violate procedural due process in these circumstances, the bankruptcy court erred in granting New GM's motion to enforce and these plaintiffs thus cannot be "bound by the terms of the [Sale] Order[]." *In re Johns-Manville Corp.*, 600 F.3d 135, 158 (2d Cir. 2010). As to claims based in non-ignition switch defects, we vacate the bankruptcy court's decision to enjoin those claims, see *MLC III*, 531 B.R. at 360, and remand for further proceedings consistent with this opinion.

IV. Equitable Mootness

Finally, we address the bankruptcy court's decision that relief for any would-be claims against GUC Trust was equitably moot. *MLC II*, 529 B.R. at 583-92. We ordinarily review "dismissal on grounds of equitable mootness for abuse of discretion, under which we examine conclusions of law de novo and findings of fact for clear error." *In re BGI, Inc.*, 772 F.3d 102, 107 (2d Cir. 2014) (citation omitted). There were, however, no claims asserted against Old GM or GUC Trust in bankruptcy court or in the multi-district litigation. Under these circumstances, we exercise our "independent obligation" to ensure that the case "satisfies the 'case-or-controversy' requirement of Article III, Section 2 of the Constitution." *United States v. Williams*, 475 F.3d 468, 478-9 (2d Cir. 2007).

²⁹ In reversing, we express no views on the Groman Plaintiffs' request for discovery to prove a procedural due process violation or fraud on the court.

A. Applicable Law

The doctrine of equitable mootness allows appellate courts to dismiss bankruptcy appeals “when, during the pendency of an appeal, events occur” such that “even though effective relief could conceivably be fashioned, implementation of that relief would be inequitable.” *In re Chateaugay Corp.* (“*Chateaugay II*”), 988 F.2d 322, 325 (2d Cir. 1993). “[A] bankruptcy appeal is presumed equitably moot when the debtor’s reorganization plan has been substantially consummated.” *In re BGI*, 772 F.3d at 108. To obtain relief in these circumstances, a claimant must satisfy the so-called “*Chateaugay* factors.” *See Chateaugay III*, 10 F.3d at 952-53.

The equitable mootness doctrine has enigmatic origins, and the range of proceedings in which it applies is not well settled. *See In re Continental Airlines*, 91 F.3d 553, 567 (3d Cir. 1996) (*en banc*) (Alito, J., dissenting) (labeling it a “curious doctrine”). Our Circuit has acknowledged that the doctrine draws on “equitable considerations as well as the constitutional requirement that there be a case or controversy.” *Chateaugay III*, 10 F.3d at 952. Other courts have focused instead on the doctrine’s statutory underpinnings and role in “fill[ing] the interstices of the Code.” *In re UNR Indus., Inc.*, 20 F.3d 766, 769 (7th Cir. 1994) (explaining also difference between “*inability* to alter the outcome (real mootness) and *unwillingness* to alter the outcome (‘equitable mootness’)”). Indeed, several provisions of the Code prohibit modification of bankruptcy orders unless those orders are stayed pending appeal. *See, e.g.*, 11 U.S.C. §§ 363(m), 364(e).

However broad the doctrine of equitable mootness, Article III requires a case or controversy before relief may be equitably mooted.³⁰ “[E]quitable mootness bears only upon the proper *remedy*, and does not raise a threshold question of our power to rule.” *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136, 144 (2d Cir. 2005) (emphasis added).

“The oldest and most consistent thread in the federal law of justiciability is that federal courts will not give advisory opinions.” 13 Wright & Miller § 3529.1. A controversy that is “appropriate for judicial determination . . . must be definite and concrete, touching the legal relations of parties

³⁰ We do not resolve whether it is appropriate for a bankruptcy court—as opposed to an appellate court—to apply equitable mootness, which appears to be a recent phenomenon. *E.g.*, *In re Innovative Clinical Sols., Ltd.*, 302 B.R. 136, 141 (Bankr. D. Del. 2003) (citing *In re Circle K Corp.*, 171 B.R. 666, 669 (Bankr. D. Ariz. 1994), which nominally applied constitutional mootness); *see also* Alan M. Ahart, *The Limited Scope of Implied Powers of a Bankruptcy Judge: A Statutory Court of Bankruptcy, Not A Court of Equity*, 79 Am. Bankr. L.J. 1, 32-33 (2005) (“Since a bankruptcy court is not a court of equity, a bankruptcy judge ought not resort to non-statutory equitable principles, defenses, doctrines or remedies to excuse compliance with or to override provision(s) of the Bankruptcy Code or rules, or nonbankruptcy federal law.” (footnotes omitted)). Indeed, this Circuit’s equitable mootness cases have all involved an appellate body applying the doctrine in the first instance. *See, e.g.*, *BGI*, 772 F.3d 102; *In re Charter Commc’ns, Inc.*, 691 F.3d 476 (2d Cir. 2012); *In re Metromedia Fiber Network, Inc.*, 416 F.3d 136 (2d Cir. 2005); *In re Burger Boys, Inc.*, 94 F.3d 755 (2d Cir. 1996); *In re Chateaugay Corp.*, 94 F.3d 772 (2d Cir. 1996); *In re Best Prods. Co.*, 68 F.3d 26 (2d Cir. 1995); *Chateaugay III*, 10 F.3d 944; *Chateaugay II*, 988 F.2d 322.

having adverse legal interests.” *Aetna Life Ins. Co. v. Haworth*, 300 U.S. 227, 240-41 (1937); see *Flast v. Cohen*, 392 U.S. 83, 95 (1968) (“limit[ing] the business of federal courts to questions presented in an adversary context and in a form historically viewed as capable of resolution through the judicial process”). “[F]ederal courts are without power to decide questions that cannot affect the rights of *litigants in the case before them*.” *North Carolina v. Rice*, 404 U.S. 244, 246 (1971) (emphasis added). That is, courts may not give “an opinion advising what the law would be upon a hypothetical state of facts,” *Aetna Life Ins.*, 300 U.S. at 241, for instance, where a party did not “seek the adjudication of any adverse legal interests,” *S. Jackson & Son, Inc. v. Coffee, Sugar & Cocoa Exch. Inc.*, 24 F.3d 427, 432 (2d Cir. 1994).

These limitations apply to bankruptcy courts. See *Wellness Int’l Network, Ltd. v. Sharif*, 135 S. Ct. 1932, 1945 (2015) (“Bankruptcy courts hear matters solely on a district court’s reference [and] possess no free-floating authority to decide claims traditionally heard by Article III courts.”). In bankruptcy, moreover, the adjudication of claims may be subject to other preparatory steps. Bankruptcy courts will generally set a “bar date” that fixes the time to file a proof of claim against the bankruptcy estate. See Fed. R. Bankr. P. 3002(c)(3). If the bar date has passed, then the initial step for an individual seeking relief against the estate would be to seek permission to file a late proof of claim: only after permission is granted can that individual claim that she is entitled to relief. See Fed. R. Bankr. P. 9006(b)(1); see also *Pioneer Inv. Servs. Co. v. Brunswick Assocs. Ltd.*, 507

U.S. 380, 394-95 (1993) (setting forth standard for “excusable neglect” for late claims under Rule 9006(b)(1)).

B. Application

Here, the bankruptcy court held that any relief from GUC Trust would be equitably moot. But plaintiffs never sought relief from GUC Trust. The bankruptcy court’s ruling on equitable mootness was therefore advisory.

Neither GUC Trust nor Old GM are parties to the multi-district litigation now ongoing in district court. Only one defendant is named: New GM. Likewise, as GUC Trust confirmed at oral argument, plaintiffs have not filed any proofs of claim with GUC Trust, nor have they even asked the bankruptcy court for permission to file late proofs of claim or to lift the bar date, as would be required before relief could be granted.³¹

Instead, it appears from the record that GUC Trust became involved at *New GM’s* behest. New GM noted “well there is a GUC Trust” and suggested that because of the Sale Order’s bar on successor liability, any claims remained with Old GM and thus GUC

³¹ The bankruptcy court lifted the bar date for independent claims as a remedy. *See MLC II*, 529 B.R. at 583. We note, however, that neither the Groman Plaintiffs nor Ignition Switch Plaintiffs requested this as relief. The Ignition Switch Plaintiffs only mentioned in a footnote in their opposition to the motion to enforce that Old GM failed to provide notice of the bar date. The Pre-Closing Accident Plaintiffs stated on behalf of all plaintiffs that “Plaintiffs are not asserting a due process challenge to a bar date order or a discharge injunction issued in favor of a debtor.” Bankr. ECF No. 13021, at 48 n.26.

Trust. J. App. 11038. But New GM has not sought to implead and bring cross-claims against GUC Trust in the multi-district litigation under Federal Rule of Civil Procedure 14 or to do the same in the Groman Plaintiffs' adversary proceeding in bankruptcy under Federal Rule of Bankruptcy Procedure 7014.

Moreover, GUC Trust has protested its involvement in the case. At a May 2, 2014 hearing, GUC Trust notified the bankruptcy court that it was "frankly [a] stranger[] to these proceedings." *Id.* at 11093. This was, according to GUC Trust's uncontested representation, because:

No claimants, none of the plaintiffs, no claimants or potential claimants had raised this as a possibility. No one has filed a motion to lift the bar date. The only person that has raised it has been New GM, based upon, you know, some statements of fact in some pleadings. But the only person that has actually moved forward with it is New GM, and frankly, you know, it's our view that this is essentially a way to deflect liability away, and you know, the attention away from New GM and put it on a third party.

Id. at 11090. At a July 2, 2014 hearing, GUC Trust continued to push that litigation of the equitable mootness issue was premature, and dependent on whether the Sale Order could be enforced. *Id.* at 8485.³²

³² The bankruptcy court seemingly agreed momentarily, commenting at the hearing that they could proceed "without now addressing and while maintaining reservations of rights

Nonetheless, the bankruptcy court asked the parties (including GUC Trust) to brief initially whether claims against New GM were really claims against Old GM's bankruptcy estate or GUC Trust. As the bankruptcy court stated: "we're going to consider as [a] threshold issue[] . . . the *possibility* that the claims now being asserted *may be* claims against Old GM or the GUC Trust." J. App. 11103 (emphases added). Following a later hearing, the bankruptcy court added an issue of whether claims, if any, against GUC Trust should be "disallowed/dismissed on grounds of equitable mootness." *Id.* at 5780.

GUC Trust was thus not a "litigant[]" in the case before [the bankruptcy court]," *Rice*, 404 U.S. at 246, who "s[ought] the adjudication of any adverse legal interests," *S. Jackson & Son, Inc.*, 24 F.3d at 432. GUC Trust sought *not* to be involved, but the bankruptcy court ordered otherwise. In doing so, the bankruptcy court was concerned with a "hypothetical" scenario, *see Aetna Life Ins.*, 300 U.S. at 241—the "possibility" that there "may be" late-filed claims against GUC Trust, J. App. 11103. The bankruptcy court's decision on equitable mootness that followed essentially advised on this hypothetical controversy.

We acknowledge that the parties have expended considerable time arguing about equitable mootness. We are likewise cognizant that plaintiffs at one point sent a letter to GUC Trust suggesting that it should

with respect to issues such as . . . equitable [moot]ness." *Id.* at 8491.

freeze its distributions pending the bankruptcy proceedings. See *MLC II*, 529 B.R. at 537-38. But plaintiffs did not pursue any claims. Ultimately, it is the *parties*, and not the court, that must create the controversy. See *Dep't of Envtl. Prot. & Energy v. Heldor Indus., Inc.*, 989 F.2d 702, 707 (3d Cir. 1993) (rendering advisory "an answer to a question not asked" by the parties).

We thus conclude that the bankruptcy court's decision on equitable mootness was advisory and vacate that decision. See *MLC II*, 529 B.R. at 583-92.

CONCLUSION

For the reasons set forth above, with respect to the bankruptcy court's decisions below, we:

(1) AFFIRM the decision not to enforce the Sale Order as to the independent claims;

(2) REVERSE the decision to enforce the Sale Order as to the Used Car Purchasers' claims and claims relating to the ignition switch defect, including pre-closing accident claims and economic loss claims;

(3) VACATE the decision to enforce the Sale Order as to claims relating to other defects; and

(4) VACATE the decision on equitable mootness as advisory.

We REMAND the case for further proceedings consistent with this opinion.

A True Copy

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

[handwritten: signature]

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
G. Thomas Cooper Jr., Circuit Court Judge
Case No. 2013-CP-40-7729
Appellate Case Tracking Number: 2017-002325

The Gates at Williams-Brice
Condominium Association
and Katharine Swinson,
individually, and on behalf of
all others similarly situated,

Appellants,

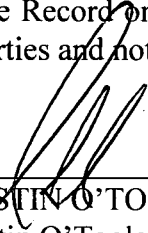
v.

Quality Built, LLC and Coast
To Coast Engineering
Services, Inc. D/B/A
Criterium Engineers,

Respondents.

CERTIFICATE OF COUNSEL

The undersigned certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



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