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9 Counsel for Appellant JAMES KENLY STIRITZ

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF LAKE

12 COUNTY OF LAKE, a California  
13 county

14 Plaintiff,

15 vs.

16 WALTER A. NIESEN, WENDY FETZER,  
17 JAMES KENLY STIRITZ and  
18 Occupants of :  
19 7180 Bartlett Springs Road  
20 Lucerne, California 95458  
21 [APN 027-135-03]

22 Defendants.

Case No. NON/OTA 16-0187

Date: February 28, 2017

Time: 9:00 a.m.

Dept.: Board of Supervisors' Chambers  
255 N. Forbes Street  
Lakeport, CA 95453

**DECLARATION OF WENDY A.  
FETZER RE COUNTY OF LAKE  
NOTICE OF NUISANCE/ORDER TO  
ABATE 16-0187 AND INSPECTION  
WARRANT W010-16**

Appeal Filed: October 26, 2016

23 I, the undersigned WENDY ANNE FETZER declare as follows:

24 1. I am a record owner and lessor of that real property located in the County of  
25 Lake and commonly known as: 7180 Bartlett Springs Road, Lucerne, State of  
26 California [APN 027-135-030] (the "Premises"). I make the following declaration  
27 based on my own personal knowledge except as to those matters which I state  
28 herein based upon information and belief. As to those matters stated herein based  
upon information and belief, I believe them to be true. If required, I could and  
would competently testify under oath as to the truthfulness of the matters stated  
herein.

2. I am informed and believe that the Premises are currently the subject of the

1.  
**DECLARATION OF WENDY ANNE FETZER RE COUNTY OF LAKE NOTICE  
OF NUISANCE/ORDER TO ABATE NO. 16-0187**

Exhibit 1  
10/21

1 above captioned code enforcement action which was initiated by the County of  
2 Lake's Community Development Department ("CDD") on or about October 17,  
3 2016 (the "Action"). I am making this declaration in support of the Nuisance  
4 Abatement Hearing Request (the "Appeal") filed on October 26, 2016 in response  
5 to the County of Lake's Notice of Nuisance and Order to Abate (the "NON/OTA") by  
6 JAMES KENLY STIRITZ ("Mr. Stiritz") in his capacity as our agent and master-  
7 tenant with respect to the Premises.

8 3. In 2012, I became a record owner of the Premises pursuant to that Trustee's  
9 Deed Upon Sale ("Trustee's Deed") recorded in the Official Records of the Lake  
10 County Recorder's Office under Document No. 2012006896. [A true and correct  
11 copy of that Trustee's Deed is attached hereto as Exhibit "1".] My mailing address  
12 is stated on the Trustee's Deed as follows: 4530 Feliz Creek Road, Hopland, CA  
13 95449. My co-owner of the Premises is WALTER A. NIESEN (Mr. Niesen"). I am  
14 currently employed as a licensed real-estate broker and loan officer with the Ukiah  
15 office of Realty World-Selzer Realty located at: 551 S. Orchard Ave. Ukiah,  
16 California [toll-free: 1-800-736-3642].

17 5. I first became aware of this Action after the County of Lake issued its  
18 NON/OTA on October 26, 2016. [A true and correct copy of the subject NON/OTA  
19 is attached as Exhibit "2".] I am informed and believe that California law does  
20 require the County of Lake's code enforcement staff to obtain either a private  
21 property owner's voluntary consent for entry onto the property owner's real  
22 property for an inspection or, alternatively, a valid "Inspection Warrant" lawfully  
23 obtained in accordance with Code of Civil Procedure §§ 1822.50 to 1822.60 and  
24 those additional California case-law decisions which interpret how such Code  
25 Sections are to be interpreted and lawfully exercised.

26 6. At all times relevant to the County of Lake's Action I could have easily been  
27 reached by CDD staff either by first-class mail sent to my Hopland address, or by  
28 first-class mail sent to my office address in Ukiah, or by a simple telephone call



1 made to Realty-World/Selzer Realty. My contact information can also be easily  
2 located using the State of California Bureau of Real Estate's realtor license  
3 verification page found via the internet.

4 7. With respect to this Action, the Premises, and the County of Lake's later  
5 execution of an inspection warrant for the Premises obtained on October 25, 2016,  
6 I can and hereby do truthfully declare that at no time before the County of Lake's  
7 October 26, 2016 entry onto the Premises was my consent to inspect the Premises  
8 ever sought by any member of the County of Lake's code enforcement staff. I  
9 hereby declare further that at no time before the County of Lake's October 26,  
10 2016 entry onto the Premises was my consent to inspect the Premises ever  
11 refused by me. Finally, I am personally not aware of any material facts or  
12 circumstances which existed at the Premises on or before October 25, 2016 that  
13 would reasonably justify the County of Lake's apparent failure to seek the property  
14 owners' voluntary consent to inspect the Premises.

15  
16 I declare under penalty of perjury under the laws of the State of California that  
17 the foregoing facts are true and correct, and that this declaration was executed this  
18 21<sup>st</sup> day of February, 2017 in Ukiah, California.

19  
20   
21 WENDY ANNE FETZER, Property Owner  
22  
23  
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Exhibit I  
3 of 11



RECORDING REQUESTED BY:  
Integrated Lender Services, a Delaware Corporation

WHEN RECORDED MAIL TO:  
Wendy Fetzer  
4530 Feliz Creek Road  
Hopland, CA 95449

Doc # 2012006896  
Page 1 of 3  
Date: 4/20/2012 09:29A  
Filed by: MAIL  
Filed & Recorded in Official Records  
of COUNTY OF LAKE  
DOUGLAS W. WACKER  
COUNTY RECORDER  
Fee: \$75.70

Forward Tax Statements to  
Same as above

SPACE ABOVE LINE FOR RECORDER'S USE

TS #: 2011-01814  
Loan #: 00605861

Order #: 1279606-05  
TRA No.: Not Shown

### TRUSTEE'S DEED UPON SALE

A.P.N.: 027-134-02, 027-135-01, 027-135-03, 027-135-04

Transfer Tax: \$0.00

✓ 62.59 62.70



The Grantee Herein was not the Foreclosing Beneficial  
The Amount of the Unpaid Debt was \$166,689.61  
The Amount Paid by the Grantee was \$56,901.00  
Said Property is in an unincorporated area known as Lucerne, County of Lake

Integrated Lender Services, a Delaware Corporation, as Trustee, (whereas so designated in the Deed of Trust hereunder more particularly described or as duly appointed Trustee) does hereby GRANT and CONVEY to

Walter A. Niesen, an unmarried man as to an undivided 75% interest and Wendy A. Fetzer, an unmarried woman as to an undivided 25% interest

(herein called Grantee) but without covenant or warranty, expressed or implied, all right title and interest conveyed to and now held by it as Trustee under the Deed of Trust in and to the property situated in the county of Lake County, State of California, described as follows:

See Attached Exhibit "A" Hereto and made a part Hereof

This conveyance is made in compliance with the terms and provisions of the Deed of Trust executed by JAMES KENLEY STIRITZ ALSO KNOWN AS KEN STIRITZ & KATIE STIRITZ HUSBAND AND WIFE AS JOINT TENANTS as Trustor, dated 8/25/2004 of the Official Records in the office of the Recorder of Lake County, California under the authority and powers vested in the Trustee designated in the Deed of Trust or as the duly appointed Trustee, default having occurred under the Deed of Trust pursuant to the Notice of Default and Election to Sell under the Deed of Trust recorded on 9/3/2004, instrument number 2004025047, of official records. Trustee having complied with all applicable statutory requirements of the State of California and performed all duties required by the Deed of Trust including sending a Notice of Default and Election to Sell within ten days after its recording and a Notice of Sale at least twenty days prior to the Sale Date by certified mail, postage pre-paid to each person entitled to notice in compliance with California Civil Code 2924b.

Exhibit 1a  
Exhibit I  
4811

## TRUSTEE'S DEED UPON SALE

TS #: 2011-01814  
Loan #: 00605861  
Order #: 1279606-05

All requirements per California Statutes regarding the mailing, personal delivery and publication of copies of Notice of Default and Election to Sell under Deed of Trust and Notice of Trustee's Sale, and the posting of copies of Notice of Trustee's Sale have been complied with. Trustee, in compliance with said Notice of Trustee's sale and in exercise of its powers under said Deed of Trust sold said real property at public auction on 3/13/2012. Grantee, being the highest bidder at said sale became the purchaser of said property for the amount bid, being \$56,901.00, in lawful money of the United States, in pro per, receipt thereof is hereby acknowledged in full/partial satisfaction of the debt secured by said Deed of Trust.

In witness thereof, Integrated Lender Services, a Delaware Corporation, as Trustee, has this day, caused its name to be hereunto affixed by its officer thereunto duly authorized by its corporation by-laws.

Date: 3/13/2012

Integrated Lender Services, a Delaware Corporation

By:   
Loretta Echols, Assistant Vice President

STATE OF California  
COUNTY OF Orange

On MAR 20 2012 before me, S. Martinez, A Notary Public, Personally appeared, Loretta Echols, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

  
S. Martinez, A Notary Public

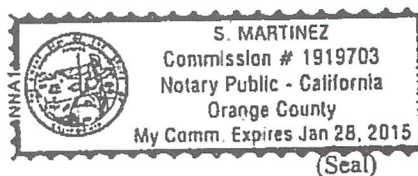


Exhibit 1b  
Exhibit I  
50811



TS #: 2011-01814  
Loan #: 00605861  
Order #: 1279606-05

"Exhibit A"

Real property in the unincorporated area of the County of Lake, State of California, described as follows:

TRACT ONE:

All lands lying within the exterior boundaries of that certain map entitled "LAKEVIEW PINES SUBDIVISION NO. 1", filed in the office of the County Recorder of said Lake County on July 30, 1932, in Book 5 of Town Maps at Page 99.

EXCEPTING THEREFROM Lots 3, 4, 5, 6, 29, 30, 31, 34, 35, 36, and Bartlett Springs Road as shown on said map.

ALSO EXCEPTING THEREFROM Lot "B" formerly known as Lots 7 through 28 and Lot 20A as shown on that certain map entitled "LAKEVIEW PINES SUBDIVISION NO. 1", filed in the office of the County Recorder of said Lake County on July 30, 1932, in Book 5 of Town Maps at Page 99, and as set forth in that certain instrument entitled Notice of Merger recorded March 5, 2004, Document No. 04-005543, Lake County Records.

AP #'s 027-131-01, 027-132-01, 027-133-01, 027-134-02, 027-135-01, 027-135-04

TRACT TWO:

Lot "B" formerly known as Lots 7 through 28 and Lot 20A as shown on that certain map entitled "LAKEVIEW PINES SUBDIVISION NO. 1", filed in the office of the County Recorder of said Lake County on July 30, 1932, in Book 5 of Town Maps at Page 99, and as set forth in that certain instrument entitled Notice of Merger recorded March 5, 2004, Document No. 04-005543, Lake County Records.

AP #027-135-03

Exhibit 1c  
Exhibit I  
6 of 11

# NOTICE OF NUISANCE AND ORDER TO ABATE

PURSUANT TO LAKE COUNTY CODE, CHAPTER 13, Sections 13-6 ET. SEQ.

A    CASE NUMBER:            16-0187  
      OWNER(S) NAME:       Walter A. Niesen and/or Wendy Fetzer  
      SITE ADDRESS:         7180 Bartlett springs Road, Lucerne CA  
      MAILING ADDRESS:      4530 Feliz Creek Road, Hopland CA 95449

ASSESSORS PARCEL NUMBER: 027-135-03

B    **CONDITION CAUSING NUISANCE:** The above referenced property was inspected by the Code Enforcement Officer and determined to have substandard structure(s) in violation of the State of California Health and Safety Code section 17920.3. This property also has construction without permits, unpermitted electrical, unpermitted plumbing, unpermitted "tent like" cabins/structures, occupied RV(s), open and outdoor storage of scrap metal, scrap wood, household items, and other miscellaneous debris, and operating a commercial operation/event without the proper permits resulting in violations of the Lake County Code.

Specifically, your property is in violation of the following Sections of the Lake County Codes; Lake County Zoning Ordinance: 21- 2.4(a) and 2.6(a); 21 -17; 21-41.12 and 21-68.4(a)8; Chapter 5-14 Lake County Building Regulations; Section 105.1 and 116 of the 2013 California Building Code. These conditions constitute a public nuisance in accordance with Chapter 13, Section 3.3(e) of the Lake County Code.

C    **ORDER IS GIVEN TO COMMENCE ABATEMENT OF SAID NUISANCE WITHIN 30 DAYS ( November 26, 2016 ) AND CORRECT THE NUISANCE CONDITIONS DESCRIBED ABOVE BY TAKING THE FOLLOWING ACTIONS:**

- 1)    IMMEDIATELY cease all event operations.
- 2)    IMMEDIATELY vacate all unpermitted "tent like" cabin and/or structures



Exhibit 26  
Exhibit I  
7 of 11



- 3) IMMEDIATELY disconnect all extension cords and unpermitted electrical
- 4) IMMEDIATELY discontinue usage of all fire pits, fire places and use of any other wood or alternate fuel type equipment.
- 5) Obtain a building permit within thirty (30) days of the date of this notice to either repair, rehabilitate, remove or demolish the above referenced dwelling/structure in compliance with the California Health and Safety Code section 17920.3 and the 2013 California Residential Code section 105.1.
- 6) Contact a County of Lake, Community Development Department Planner within thirty (30) days of the date of this notice and obtain any necessary use permits required for this property.

D YOU ARE HEREBY NOTIFIED THAT IF YOU WISH TO SHOW ANY CAUSE WHY SUCH CONDITION SHOULD NOT BE ABATED AS A PUBLIC NUISANCE BY THE ENFORCEMENT OFFICIAL, YOU MUST REQUEST A PUBLIC HEARING BEFORE THE LAKE COUNTY BOARD OF SUPERVISORS BY COMPLETING A NUISANCE ABATEMENT HEARING REQUEST FORM. SAID FORM IS AVAILABLE AT THE COMMUNITY DEVELOPMENT DEPARTMENT (LOCATED AT 255 N. FORBES STREET, LAKEPORT) AND MUST BE SUBMITTED ON OR BEFORE November 16, 2016. IF YOU FAIL TO REQUEST A NUISANCE ABATEMENT HEARING, ALL RIGHTS TO APPEAL ANY ACTION OF THE COUNTY TO ABATE THE NUISANCE WILL BE WAIVED.

E IF YOU FAIL TO CORRECT THE NUISANCE CONDITIONS BY THE DATE SPECIFIED IN SECTION C OF THIS NOTICE AND ORDER OR ANY SUBSEQUENT TIME EXTENSION GRANTED BY THE ENFORCEMENT OFFICIAL, AND/OR FAIL TO SUCCESSFULLY SHOW CAUSE WHY SUCH CONDITION SHOULD NOT BE ABATED AS SPECIFIED IN SECTION D OF THIS NOTICE, THE ENFORCEMENT OFFICIAL MAY RECORD THIS NOTICE AND ORDER AND MAY ABATE THE PUBLIC NUISANCE. THE COSTS OF SAID ABATEMENT WILL BE RECOVERED BY ONE OR MORE OF THE FOLLOWING MEANS:

- 1) A CHARGE AGAINST THE PREMISES WITH THOSE COSTS MADE A SPECIAL ASSESSMENT AGAINST THE PREMISES. SAID SPECIAL ASSESSMENT MAY BE COLLECTED AT THE SAME TIME AND IN THE SAME MANNER AS IS PROVIDED FOR THE COLLECTION OF ORDINARY COUNTY TAXES, AND SHALL BE SUBJECT TO THE SAME PENALTIES, INTEREST AND TO THE SAME PROCEDURES OF FORECLOSURE AND SALE IN THE CASE OF DELINQUENCY AS IS PROVIDED FOR ORDINARY COUNTY TAXES.
- 2) PAID THROUGH A CODE ENFORCEMENT DEBT REDUCTION AGREEMENT THAT HAS BEEN NEGOTIATED WITH THE LAKE COUNTY TREASURER - TAX COLLECTOR.
- 3) REFERRED TO A DEBT COLLECTION AGENCY LICENSED BY THE STATE OF CALIFORNIA IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTION 26220(a).

Michael Penhall #1025  
Michael Penhall, Code Enforcement Officer  
COMMUNITY DEVELOPMENT DEPARTMENT  
STATE OF CALIFORNIA  
COUNTY OF LAKE

DATED: October 26, 2016

Exhibit I  
26 of 27  
ibit



1 EWING & ASSOCIATES  
2 Andre M. Ross, Esq. (CSBN 176126)  
3 995 South Main Street  
4 P.O. Box 400  
5 Lakeport, CA 95453  
6 Tel: (707) 263-6400  
7 Fax: (707) 263-7047  
8 E-M: ross@lakeportlawyers.com

9 Counsel for Appellant JAMES KENLY STIRITZ

10 SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF LAKE

12 COUNTY OF LAKE, a California  
13 county

14 Plaintiff,

15 vs.

16 WALTER A. NIESEN, WENDY FETZER,  
17 JAMES KENLY STIRITZ and  
18 Occupants of :  
19 7180 Bartlett Springs Road  
20 Lucerne, California 95458  
21 [APN 027-135-03]

22 Defendants.

Case No. NON/OTA 16-0187

Date: February 28, 2017

Time: 9:00 a.m.

Dept.: Board of Supervisors' Chambers  
255 N. Forbes Street  
Lakeport, CA 95453

**DECLARATION OF WALTER A.  
NIESEN RE COUNTY OF LAKE  
NOTICE OF NUISANCE/ORDER TO  
ABATE 16-0187 AND INSPECTION  
WARRANT W010-16**

Appeal Filed: October 26, 2016

23 I, the undersigned WALTER A. NIESEN declare as follows:

24 1. I am a record owner and lessor of that real property located in the County of  
25 Lake and commonly known as: 7180 Bartlett Springs Road, Lucerne, State of  
26 California [APN 027-135-030] (the "Premises"). I make the following declaration  
27 based on my own personal knowledge except as to those matters which I state  
28 herein based upon information and belief. As to those matters stated herein based  
upon information and belief, I believe them to be true. If required, I could and  
would competently testify under oath as to the truthfulness of the matters stated  
herein.

2. I am informed and believe that the Premises are currently the subject of the

1 above captioned code enforcement action which was initiated by the County of  
2 Lake's Community Development Department ("CDD") on or about October 17,  
3 2016 (the "Action"). I am making this declaration in support of the Nuisance  
4 Abatement Hearing Request (the "Appeal") filed on October 26, 2016 in response  
5 to the County of Lake's Notice of Nuisance and Order to Abate (the "NON/OTA") by  
6 JAMES KENLY STIRITZ ("Mr. Stiritz") in his capacity as the our agent and master-  
7 tenant with respect to the Premises.

8 3. In 2012, I became a record owner of the Premises pursuant to that Trustee's  
9 Deed Upon Sale ("Trustee's Deed") recorded in the Official Records of the Lake  
10 County Recorder's Office under Document No. 2012006896. My co-owner of the  
11 Premises is WENDY A. FETZER (Ms. Fetzer"). Ms. Fetzer's mailing address is  
12 stated on the Trustee's Deed as follows: 4530 Feliz Creek Road, Hopland, CA  
13 95449. Ms. Fetzer is my authorized agent with respect to the Premises and I rely  
14 on her to keep me fully informed regarding any pertinent legal and/or factual  
15 matters concerning the Premises.

16 4. I first became aware of this Action after the County of Lake issued its  
17 NON/OTA on October 26, 2016. I am informed and believe that California law  
18 does require the County of Lake's code enforcement staff to obtain either a private  
19 property owner's voluntary consent for entry onto the property owner's real  
20 property for an inspection or, alternatively, to lawfully obtain a valid "Inspection  
21 Warrant" for the subject property in accordance with Code of Civil Procedure  
22 §§ 1822.50 to 1822.60 and those California case-law decisions which interpret  
23 how such Code Sections are to be interpreted and lawfully exercised.

24 5. At all times relevant to this Action I could have easily been reached by CDD  
25 staff either by first-class mail sent to Ms. Fetzer's Hopland address as is reflected  
26 on the Trustee's Deed. I have been provided, for reference purposes, with a true  
27 and correct copy of the County of Lake's inspection warrant issued on October 25,  
28 2016. I have also been provided, for reference purposes, with a true and correct



1 copy of the County of Lake's Affidavit in Support of Inspection Warrant signed by  
2 Code Enforcement Officer Michael Penhall on October 25, 2016.

3 6. With respect to this Action, the Premises, and the County of Lake's execution  
4 of an inspection warrant obtained by CDD on October 25, 2016, I can and hereby  
5 do truthfully declare that at no time before the County of Lake's October 26, 2016  
6 entry onto the Premises was my personal consent to inspect the Premises ever  
7 sought by any member of the County of Lake's code enforcement staff. I hereby  
8 declare further that at no time before the County of Lake's October 26, 2016 entry  
9 onto the Premises was my personal consent to inspect the Premises ever refused  
10 by me. Finally, I am personally unaware of any material facts or circumstances  
11 which existed at the Premises on or before October 25, 2016 that would  
12 reasonably justify the County of Lake's apparent failure to seek the property  
13 owners' voluntary consent to inspect before obtaining a inspection warrant.  
14

15 I declare under penalty of perjury under the laws of the State of California that  
16 the foregoing facts are true and correct, and that this declaration was executed this  
17 21 day of February, 2017 in Ukiah, California.  
18

19   
20 WALTER A. NIESEN, Property Owner  
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Exhibit I  
11811