

AMENDED HOLLAND & HART LLP
David K. Broadbent, #0442
Matthew T. Wirthlin, #8291
Romaine C. Marshall, #9654
J. Andrew Sjoblom, #10860
Doyle S. Byers, #11440
Cory A. Talbot, #11477
222 S. Main Street, Suite 2200
Salt Lake City, UT 84101
Telephone: 801-799-5800
Fax: 801-713-6259

Attorneys for John A. Beckstead as Receiver

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

<p>SECURITIES AND EXCHANGE COMMISSION,</p> <p>Plaintiff,</p> <p>vs.</p> <p>MANAGEMENT SOLUTIONS, INC., a Texas Corporation; WENDELL A. JACOBSON; ALLEN R. JACOBSON,</p> <p>Defendants.</p>	<p>ANSWER TO AMENDED COMPLAINT IN INTERVENTION OF BLACK CLIFFS INVESTMENTS, LLC, MJ5 INVESTMENTS, LLC, MATTHEW A. NIELSON AND JILL R. NIELSON</p> <p>Civil Action No. 2:11-cv-01165</p> <p>Judge Bruce S. Jenkins</p>
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John A. Beckstead (the “Receiver”), as Receiver for Management Solutions, Inc. and related entities and the assets of Wendell A. Jacobson and Allen R. Jacobson, hereby answers the Amended Complaint in Intervention of Black Cliffs (“Black Cliffs”) Investments, LLC, MJ5 Investments, LLC (“MJ5”), Matthew A. Nielson and Jill R. Nielson as follows:

PARTIES, JURISDICTION AND VENUE

1. The Receiver admits the allegations of paragraph 1.
2. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 2, and on that basis denies each and every allegation in paragraph 2.
3. The Receiver admits the allegations of paragraph 3.
4. The Receiver admits the allegations of paragraph 4.
5. The Receiver admits the allegations of paragraph 5.
6. The Receiver admits that Wendell Jacobson is a resident of Sanpete County, State of Utah. The Receiver denies that Allen Jacobson is a resident of Sanpete County, State of Utah.
7. The Receiver admits the allegations of paragraph 7.
8. The Receiver admits the allegations of paragraph 8.
9. The Receiver admits the allegations of paragraph 9.

STATEMENT OF FACTS

10. The Receiver admits the allegations of paragraph 10.
11. The Receiver admits the allegations of paragraph 11.
12. The Receiver admits that Mr. Nielson and Black Cliffs had transactions with the Jacobsons, MSI and related entities over a period of several years. The Receiver denies each and every remaining allegation in paragraph 12, including the characterization of Mr. Nielson's and Black Cliffs' business dealings with the Jacobsons and/or MSI. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 12 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that

intervention is “limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets” (the “Ponzi Motion”), and the Court’s Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention “to oppose the Receiver’s Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form (the “Claims Motion”).”

13. The Receiver denies that the allegations of paragraph 13 accurately or completely describe Mr. Nielson’s and Black Cliffs’ dealings with the Jacobsons, MSI and related entities, and on that basis denies each and every allegation of paragraph 13. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 13 are beyond the scope of the Court’s March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is “limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets,” and the Court’s Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention “to oppose the Receiver’s Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form.”

14. The Receiver denies that Ms. Nielson had no dealings with the Jacobsons, MSI, or related entities. The Receiver lacks knowledge and information sufficient to form a belief about the remainder of the allegations contained in paragraph 14, and on that basis denies each and every remaining allegation in paragraph 14.

A. Providence Village

15. The Receiver denies each and every allegation of paragraph 15.

16. The Receiver admits that Black Cliffs purchased a 49.5% interest in Janison Investments and that Janison Investments owns an interest in SA Townhomes, Ltd. Except as expressly admitted, the Receiver denies each and every remaining allegation in paragraph 16.

17. The Receiver admits that SA Townhomes, Ltd. owns Providence Estates. Except as expressly admitted, the Receiver lacks knowledge and information sufficient to form a belief about the remainder of the allegations contained in paragraph 17, and on that basis denies each and every remaining allegation in paragraph 17.

B. Buffalo Run

18. The Receiver admits that MJ5 purchased a tenant-in-common interest in Buffalo Run in Fayette County, Iowa. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the remaining allegations in paragraph 18, and on that basis denies each and every remaining allegation in paragraph 18.

19. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 19, and on that basis denies each and every allegation in paragraph 19.

20. The Receiver admits the allegations of paragraph 20.

C. Intervenor's "Investments" and Other Dealings

21. The Receiver denies each and every allegation in paragraph 21, and affirmatively alleges that Black Cliffs made loans and other payments to MSI or related entities that may be considered "investments."

22. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 22, and on that basis denies each and every allegation in paragraph 22.

D. The Ponzi and Pooling Motion

23. The Receiver admits the allegations of paragraph 23.

24. The Receiver admits the allegations of paragraph 24.

25. The Receiver admits the allegations of paragraph 25.

26. The Receiver admits the allegations of paragraph 26.

27. The Receiver admits the allegations of paragraph 27.

28. The Receiver admits that the Court granted the Supplemental Motion to Intervene to allow MJ5 to intervene to the same scope and extent as Black Cliffs, Mr. Nielson and Ms. Nielson, and expanded the scope of intervention for these parties “to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form.”

E. The Claims Procedure Motion

29. The Receiver admits that he filed a Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form on November 4, 2013. Except as expressly admitted, the Receiver denies each and every remaining allegation in paragraph 29.

FIRST CAUSE OF ACTION

(Declaratory Relief)

30. The Receiver incorporates his responses to paragraphs 1 through 29 as if fully set forth herein.

31. The Receiver admits that there is an actual controversy between the Receiver, on one hand, and Mr. Nielson, Ms. Nielson MJ5 and Black Cliffs on the other hand. The Receiver denies that all of the controversies described in the First Cause of Action are appropriately raised in this matter because numerous of the allegations and requests for relief contained in the First Cause of Action are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the [Ponzi Motion]," and the Court's Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form." On that basis, while the Receiver admits that the controversy is within the jurisdiction of this Court, he denies that controversies beyond the existence of a Ponzi scheme and the Claims Motion are appropriately raised in this action as opposed to the ancillary action pending between the parties, *John A. Beckstead, Receiver v. Matthew A. Nielson, et al.*, Case No. 2:12-cv-01172.

32. The Receiver denies each and every allegation of paragraph 32. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 32 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

33. The Receiver admits that Black Cliffs purchased a 49.5% interest in Janison Investments and that Janison Investments owns an interest in SA Townhomes, Ltd. Except as expressly admitted, the Receiver denies each and every remaining allegation in paragraph 33. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 33 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

34. The Receiver admits that MJ5 purchased a tenant-in-common interest in the Buffalo Run property. Except as expressly admitted, the Receiver denies each and every remaining allegation in paragraph 34. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 34 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

35. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 35, and on that basis denies each and every allegation in paragraph 35. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 35 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

36. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 36, and on that basis denies each and every allegation in paragraph 36. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 36 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

37. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 37, and on that basis denies each and every allegation in

paragraph 37. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 37 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013(Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

38. The Receiver denies each and every allegation of paragraph 38. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 38 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets," and the Court's Order dated December 9, 2013(Dkt. No. 1477), which only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form."

39. The Receiver denies that Ms. Nielson had no dealings with the Jacobsons, MSI, or related entities. The Receiver lacks knowledge and information sufficient to form a belief about the remainder of the allegations contained in paragraph 39, and on that basis denies each and every remaining allegation in paragraph 39. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 39 are beyond the scope of the Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is "limited to

participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets,” and the Court’s Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention “to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form.”

40. The Receiver lacks knowledge and information sufficient to form a belief about the truth of the allegations in paragraph 40, and on that basis denies each and every allegation in paragraph 40. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 40 are beyond the scope of the Court’s March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is “limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets,” and the Court’s Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention “to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form.”

41. The Receiver denies that paragraph 41 accurately describes his allegation in his First Amended Complaint in the referenced ancillary action, and on that basis denies each and every allegation of paragraph 41.

42. Paragraph 42 describes the relief sought by the Amended Complaint in Intervention and does not require a response, and on that basis the Receiver denies each and every allegation of paragraph 42. Additionally, the Receiver affirmatively states that the allegations contained in paragraph 42 are beyond the scope of the Court’s March 5, 2013

Memorandum Opinion and Order (Dkt. No. 973), which ordered that intervention is “limited to participation in proceedings on the Motion for Findings Regarding the Existence and Start Date of a Ponzi Scheme and for Approval to Pool Claims and Assets,” and the Court’s Order dated December 9, 2013 (Dkt. No. 1477), which only permitted expansion of the intervention “to oppose the Receiver’s Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form.”

43. Paragraph 43 describes the relief sought by the Amended Complaint in Intervention and does not require a response, and on that basis the Receiver denies each and every allegation of paragraph 43.

44. The Receiver admits that the motions filed by him speak for themselves and not otherwise. Except as expressly admitted, the Receiver denies each and every remaining allegation in paragraph 44.

45. Paragraph 45 describes the relief sought by the Amended Complaint in Intervention and does not require a response, and on that basis the Receiver denies each and every allegation of paragraph 45.

46. Paragraph 46 describes the relief sought by the Amended Complaint in Intervention and does not require a response, and on that basis the Receiver denies each and every allegation of paragraph 46.

AFFIRMATIVE DEFENSES

First Affirmative Defense

(Failure to State a Claim)

The Amended Complaint in Intervention fails to state a claim upon which relief can be granted.

Second Affirmative Defense

(Prior Pending Action)

The allegations and requests for relief in the Amended Complaint in Intervention are already part of a prior-filed, pending action, *John A. Beckstead, Receiver v. Matthew A. Nielson, et al.*, Case No. 2:12-cv-01172. The Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973) ordered that intervention is "limited to participation in proceedings on the [Ponzi Motion]," and the Court's Order (Dkt. No. 1477) dated December 9, 2013, only permitted expansion of the intervention "to oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form." Therefore, all of the allegations and requests for relief relating to issues other than issues raised in the Ponzi motion are improperly raised in this action and are properly subject of the ancillary action described above.

Third Affirmative Defense

(Scope of Order Permitting Intervention)

The Court's March 5, 2013 Memorandum Opinion and Order (Dkt. No. 973) ordered that intervention is "limited to participation in proceedings on the [Ponzi Motion]," and the Court's Order (Dkt. No. 1477) dated December 9, 2013, only permitted expansion of the intervention "to

oppose the Receiver's Motion for Approval of Claims Procedures, Establishment of Claims Deadline, and Approval of Claim Form.” Therefore, all of the allegations and requests for relief relating to issues other than issues raised in the Ponzi motion are improperly raised in this action and are properly subject of the ancillary action described above.

PRAYER FOR RELIEF

WHEREFORE, the Receiver prays for relief as follows:

1. That Mr. Nielson, Ms. Nielson, MJ5 Investments and Black Cliffs take nothing by their Amended Complaint in Intervention;
2. For attorneys’ fees and costs as permitted by law; and
3. For such other and further relief as the Court deems just and proper.

Dated: December 30, 2013.

Respectfully submitted,

/s/ J. Andrew Sjoblom

HOLLAND & HART LLP
222 S. Main Street, Suite 2200
Salt Lake City, UT 84101
Telephone: 801-799-5960
Fax: 801-713-6259

Attorneys for John A. Beckstead as Receiver

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of December, 2013, I caused a true and correct copy of the foregoing to be served by CM/ECF upon the addressee(s) listed below:

Kim R. Wilson
Tammy B. Georgelas
SNOW CHRISTENSEN & MARTINEAU
10 Exchange Place, 11th Floor
P. O. Box 45000
Salt Lake City, UT 84145-5000
Telephone: (801) 521-9000
Facsimile: (801) 363-0400
krw@scmlaw.com
tbg@scmlaw.com
*Attorneys for Bank Midwest N.A., as
successor-by-merger with Hillcrest
Bank, N.A.*

Daniel J. Wadley
Thomas M. Melton
Alison J. Okinaka
Paul N. Feindt
SECURITIES & EXCHANGE COMMISSION
15 W. South Temple Street, Suite 1800
Salt Lake City, UT 84101
Telephone: (801) 524-5796
Facsimile: (801) 524-5262
wadleyd@sec.gov
meltont@sec.gov
okinakaa@sec.gov
feindtp@sec.gov
*Attorneys for Securities and Exchange
Commission*

Adelaide Maudsley
Brandon C. Pond
CHAPMAN AND CUTLER, LLP
201 S. Main Street, Suite 2000
Salt Lake City, UT 84111
Telephone: (801) 533-0066
maudsley@chapman.com
bcpond@chapman.com
Attorneys for Mutual of Omaha Bank

Gregory N. Hoole
HOOLE & KING L.C.
4276 Highland Drive
Salt Lake City, UT 84124
Telephone: (801) 272-7556
Facsimile: (801) 272-7557
gregh@hooleking.com
Attorneys for MSI Investor Group

Sam M. Stricklin
Brian C. Mitchell
BRACEWELL & GIULIANI, LLP
1445 Ross Avenue, Suite 3800
Dallas, TX 75202
Telephone: (214) 758-1053
Facsimile: (214) 468-8353
Sam.stricklin@bglp.com
brian.mitchell@bglp.com
*Attorneys for Bank Midwest N.A., as
successor-by-merger with Hillcrest Bank,
N.A.*

John P. Kincade
Deanna E. Caldwell
James Richard White
WINSTEAD PC
500 Winstead Building
2728 N. Harwood Street
Dallas, TX 75201
Telephone: (214) 745-5400
Facsimile: (214) 745-5390
jkincade@winstead.com
dcaldwell@winstead.com
jrwhite@winstead.com
Attorneys for Mutual of Omaha Bank

George W. Pratt
Jessica P. Wilde
JONES WALDO HOLBROOK &
MCDONOUGH
170 S. Main Street, Suite 1500
Salt Lake City, UT 84101
Telephone: (801) 521-3200
gpratt@joneswaldo.com
jwilde@joneswaldo.com
Attorneys for Barlow Corporation

Edwin J. Tomko
Jason M. Ross
CURRAN TOMKO TARSKI LLP
2001 Bryan Tower, Suite 2000
Dallas, TX 75201
Telephone: (214) 270-1405
etomko@cttlegal.com
jross@cttlegal.com
*Attorneys for Brian Blain, Visionary
Management, First Branch, and Encinito
Properties*

Stephen E. Quesenberry
Christopher R. Infanger
DURHAM JONES & PINEGAR
RiverView Plaza, Suite 300
4844 North 300 West
Provo, UT 84604
Telephone: (801) 375-6600
Facsimile: (801) 375-3865
squesenberry@djplaw.com
cinfanger@djplaw.com
*Attorneys for Defendants, Wendell A. Jacobson
and Allen R. Jacobson; and attorneys for Boyd
Summerhays, LC, Gary C. Williamson;
Fountain Green, L.C., and Villa Cumorah, L.P.*

Kenneth L. Cannon, II
Steven J. McCardell
DURHAM JONES & PINEGAR
111 E. Broadway, Suite 900
Salt Lake City, UT 84111
Telephone: (801) 415-3000
kcannon@djplaw.com
smccardell@djplaw.com
Attorneys for Key Bank

John L. Young
Jeremy M. Hoffman
YOUNG HOFFMAN LLC
170 S. Main Street, Suite 1125
Salt Lake City, UT 84101-1605
Telephone: (801) 359-1900
jlyoung@yahlaw.com
jmhoffman@yahlaw.com
Attorneys for Arvest Bank

Amy F. Sorenson
Jared C. Fields
SNELL & WILMER L.L.P.
15 W. South Temple, Suite 1200
Salt Lake City, UT 84101
Telephone: (801) 257-1900
asorenson@swlaw.com
jfields@swlaw.com
Attorneys for Fannie Mae

Matthew N. Evans
Gregory S. Roberts
RAY QUINNEY & NEBEKER
36 S. State Street, Suite 1400
P. O. Box 45385
Salt Lake City, UT 84145-0385
Telephone: (801) 521-1500
mevans@rqn.com
groberts@rqn.com
Attorneys for Nevada State Bank

Matthew C. Barneck
Chad E. Funk
RICHARDS BRANDT MILLER NELSON
Wells Fargo Center, 15th Floor
299 S. Main Street
P. O. Box 2465
Salt Lake City, UT 84110-2465
matthew-barneck@rbmn.com
chad-funk@rbmn.com
*Attorneys for Naples Lending LLC, Black
Cliffs Investment, LLC, Matthew A.
Nielson, and Jill R. Nielson*

Douglas M. Durbano
Jacob D. Briggs
DURBANO LAW FIRM, P.C.
476 W. Heritage Park Blvd., Suite 200
Layton, UT 84041
Telephone: (801) 776-4111
office@durbanolawfirm.com
Attorneys for Barlow Corporation

Scott A. Shanes
Julie K. Biermacher
STRASBURGER & PRICE, LLP
2801 Network Blvd., Suite 600
Frisco, TX 75034
Telephone: (469) 287-3900
Facsimile: (469) 287-3999
scott.shanes@strasburger.com
julie.biermacher@strasburger.com
Attorneys for Branch Banking & Trust
Jason D. Boren
Matthew L. Moncur
BALLARD SPAHR LLP
One Utah Center, Suite 800
201 S. Main Street
Salt Lake City, UT 84111-2221
Telephone: (801) 531-3000
borenj@ballardspahr.com
moncurm@ballardspahr.com
Attorneys for Freddie Mac

Jeffrey E. Nelson
U.S. ATTORNEY'S OFFICE
185 S. State Street, Suite 300
Salt Lake City, UT 84111
Telephone: (801) 325-3250
jeff.nelson@usdoj.gov
*Attorneys for Department of Housing and
Urban Development*

J. Scott Brown
Steven C. Strong
PARSONS KINGHORN HARRIS
111 E. Broadway, 11th Floor
Salt Lake City, UT 84111
Telephone: (801) 363-4300
sb@pkhlawyers.com
scs@pkhlawyers.com
Attorneys for Central Bank

Steven W. Call
RAY QUINNEY & NEBEKER
36 S. State Street, Suite 1400
P. O. Box 45385
Salt Lake City, UT 84145-0385
Telephone: (801) 532-1500
scall@rqn.com
Attorneys for Americanwest Bank

Mark Wilson Williams
SHERMAN & HOWARD LLC
633 Seventeenth Street, Suite 3000
Denver, CO 80202
Telephone: (303) 299-8211
mwilliams@shermanhoward.com
Attorneys for JPMorgan Chase Bank

D. Zachary Wiseman
RAY QUINNEY & NEBEKER, P.C.
36 S. State Street, Suite 1400
P. O. Box 45385
Salt Lake City, UT 84145-0385
zwiseman@rqn.com
Attorneys for Platinum Protection LLC

M. Scott Barnard
Alan M. Hayes
Heather L. Peckham
AKIN GUMP STRAUSS HAUER &
FELD, LLP
1700 Pacific Avenue, Suite 4100
Dallas, TX 75201
sbarnard@akingump.com
ahayes@akingump.com
hpeckham@akingump.com
*Attorneys for Proposed Intervenors
CFCRE 2011-C1 Kengary Way, LLC,
CFCRE 2011-C2 Heatherbridge, LLC, and
CRCRE 2011-C1 Apartments 12900, LLC*

Philip D. Hixon
R. Charles Wilkin
Robert S. Glass
Robert P. Skeith
GLASS WILKIN PC
1515 S. Utica, Suite 250
Tulsa, OK 74014
Telephone: (918) 582-7100
phixon@glasswilkin.com
cwilkin@glasswilkin.com
rglass@glasswilkin.com
rskeith@glasswilkin.com
Attorneys for Arvest Bank

Steven T. Waterman (4164)
Dorsey & Whitney LLP
136 S. Main Street, Suite 1000
Salt Lake City, UT 84101-1685
Telephone: (801) 933-7360
Facsimile: (801) 933-7373
waterman.steven@dorsey.com
*U.S. Bank National Association, as
Successor Trustee for the Registered
Holders of Bear Stearns Commercial
Mortgage Securities Inc., Commercial
Mortgage Pass-Through Certificates,
Series 2004-PWR4 v. Receiver*

David R. Hague
Timothy K. Clark
Ashton J. Hyde
FABIAN & CLENDENIN
215 S. State Street, Suite 1200
Salt Lake City, UT 84111-2323
Telephone: (801) 323-2210
dhague@fabianlaw.com
tclark@fabianlaw.com
ahyde@fabianlaw.com
*Special Litigation Counsel for John A.
Beckstead*

Joseph Covey
Robert S. Clark
Royce B. Covington
PARR BROWN GEE & LOVELESS
185 S. State Street, Suite 800
Salt Lake City, UT 84111
Telephone: (801) 532-7840
jcovey@parrbrown.com
rclark@parrbrown.com
rcovington@parrbrown.com
*Attorneys for C. Eugene McDermott, Mary Ann
McDermott, Forest Hills Apartments, McKean
Enterprises, Eric Clark Welling, Mary Katherine
Welling, Pheasant Wood, and Nycom Apartments*

Heidi G. Goebel (10343)
Eric K. Jenkins (10783)
Joseph A. Gatton
CHRISTENSEN & JENSEN, P.C.
15 W. South Temple, Suite 800
Salt Lake City, UT 84101
Telephone: (801) 323-5000
Facsimile: (801) 355-3472
Heidi.goebel@chrisjen.com
Eric.jenkins@chrisjen.com
Joseph.Gatton@chrisjen.com
Attorneys for Branch Banking & Trust

James D. Gilson (5472)
Zachary T. Shields (6031)
Marc L. Turman (11967)
CALLISTER NEBEKER &
McCULLOUGH
Zions Bank Building, Suite 900
10 E. South Temple
Salt Lake City, UT 84133
Telephone: (801) 530-7300
Facsimile: (801) 364-9127
jgilson@cnmlaw.com
zachshields@cnmlaw.com
mturman@cnmlaw.com
Attorneys for the Warner Entities

Heather Deans Foley, Esq.
(admitted pro hac vice)
VENABLE LLP
750 E. Pratt Street, Suite 900
Baltimore, MD 21202
Telephone: (410) 244-7400
Facsimile: (410) 244-7742
hdfoley@venable.com
*Attorneys for Intervenor Plaintiff US. Bank
National Association, as Trustee for the
Registered Holders of CD 2007-CD4
Commercial Mortgage Trust, Commercial
Mortgage Pass-Through Certificates,
Series CD 2007-CD4, acting by and
through its Special Servicer CWCapital
Asset Management LLC*

Lon A. Jenkins
Nathan D. Thomas
JONES WALDO HOLBROOK &
MCDONOUGH
170 S. Main Street, Suite 1500
Salt Lake City, UT 84101
Telephone: (801) 521-3200
lajenkins@joneswaldo.com
nthomas@joneswaldo.com
*Attorneys for CW Capital Asset Management,
and Intervenor Plaintiff, U.S. Bank National
Association, as Trustee for the Registered
Holders of CD 2007-CD4 Commercial
Mortgage Trust, Commercial Mortgage Pass-
Through Certificates, Series CD 2007-CD4,
acting by and through its Special Servicer
CWCapital Asset Management LLC*

Daniel J. McDonald
dan@mcdonaldfielding.com
Kyle C. Fielding
kyle@mcdonaldfielding.com
MCDONALD FIELDING, PLLC
The Mill at Dry Creek
175 W. Canyon Crest Rd., #205
Alpine, UT 84004
Telephone (801) 610-0010
*Attorneys for Holbrook Farms, LC; Scott and
Michelle Beeville, LLC;
and Holbrook J3, LLC*

N. George Daines (0803)
Micah L. Daines (12485)
DAINES & JENKINS, LLP
108 N. Main, Suite 200
Logan, UT 84321
Telephone: (435) 753-4000
Facsimile: (435) 753-4002
george@dainesjenkins.com
micah@dainesjenkins.com
Attorneys for Cache Valley Bank

Mark R. Gaylord
Matthew L. Moncur
BALLARD SPAHR LLP
One Utah Center, Suite 800
201 S. Main Street
Salt Lake City, UT 84111-2221
Telephone: (801) 531-3000
gaylord@ballardspahr.com
moncurm@ballardspahr.com
Attorneys for U.S. Bank National Association as Trustee, as successor in interest to Bank of America, National Assoc., as successor by merger to LaSalle Bank National Assoc. for the registered holders of LB-UBS Commercial Mortgage Trust 2005-C7 Commercial Mortgage Pass-Through Cert, Series 2005-C7

and

Attorneys for U.S. Bank National Association, as Successor Trustee for the registered holders of Bear Stearns Commercial Mortgage Securities Inc., Commercial Mortgage Pass-Through Certificates, Series 2004-PWR4

Mark F. James (5295)
HATCH, JAMES & DODGE, P.C.
10 W. Broadway, Suite 400
Salt Lake City, UT 84101
Telephone: (801) 363-6363
Facsimile: (801) 363-6666
mjames@hjdllaw.com
Attorneys for Proposed Intervenors CFCRE 2011-C1 Kengary Way, LLC, CFCRE 2011-C2 Heatherbridge Lane, LLC, and CRCRE 2011-C1 Apartments 12900, LLC

Daniel M. Benjamin
BALLARD SPAHR LLP
655 W. Broadway, Suite 1600
San Diego, CA 92101
Telephone: (619) 696-9200
benjamind@balladrspahr.com
munyona@ballardspahr.com
Attorneys for U.S. Bank National Association as Trustee, as successor in interest to Bank of America, National Assoc., as successor by merger to LaSalle Bank National Assoc. for the registered holders of LB-UBS Commercial Mortgage Trust 2005-C7, Commercial Mortgage Pass-Through Cert. Series 2005-C7

and by first-class mail, postage prepaid, to:

Greg B. Bailey
P. O. Box 298
Fountain Green, UT 84632
Telephone: (435) 262-7683
Pro Se

/s/ J. Andrew Sjoblom