### STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF MORTGAGE LENDING

Before the Commissioner of the Division of Mortgage Lending

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6	In the Matter of:	)	
7	KRKABOB INCORPORATED	)	Order No. <u>2018-001</u>
8	D/B/A ARGUS LENDING, Mortgage Broker License No. 4140,	)	Case No. 2018-001
9	NMLS ID No. 233989,	)	
10	and	)	
11	KENNETH PITTMAN,	)	
12	President and Sole Owner, Mortgage Agent License No. 58781,	)	
13	NMLS ID No. 233927,	)	
14	Respondents.	ĺ	
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#### FINAL ORDER TO IMPOSE ADMINISTRATIVE FINE AND ASSESS INVESTIGATIVE COSTS

This 17th Issued and Entered,
day of Open , 2018,
By Cathy Sheehy,
Commissioner

WHEREAS, the Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending ("the Commissioner") is statutorily charged with the responsibility and authority to administer and enforce Chapter 645B of the Nevada Revised Statutes, NRS 645B.010 et seq. ("NRS 645B" or "the Statute"), and Chapter 645B of the Nevada Administrative Code, NAC 645B.001 et seq. ("NAC 645B" or "the Regulation") (collectively, "the Act"), governing the licensing and conduct of mortgage brokers and mortgage agents in the State of Nevada; and,

WHEREAS, on or about March 12, 2018, the Commissioner issued to KRKABOB INCORPORATED D/B/A ARGUS LENDING ("KRKABOB ARGUS") and KENNETH PITTMAN

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("PITTMAN") (collectively, "RESPONDENTS") at a Pleasant Hill, California address on Buskirk Avenue, and a Capitola, California post-office box address, NOTICE OF INTENT TO ISSUE AND ENTER FINAL ORDER IMPOSING ADMINISTRATIVE FINE AND REQUIRING PAYMENT OF INVESTIGATIVE COSTS AND NOTICE OF OPPORTUNITY FOR HEARING ("the Notice") attached hereto as Exhibit 1 and incorporated herein by this reference; and,

WHEREAS, on or about March 12, 2018, the Notice was served on RESPONDENTS by certified mail receipt requested (Article No. 7012 2920 002 1507 9191, to the Buskirk Avenue, Pleasant Hill address, and Article No. 7012 2920 002 1507 9184 to the Capitola address) and First-Class U.S. Mail; and,

WHEREAS, on March 19, 2018, a signature confirming receipt of delivery of the Notice at the Buskirk Avenue, Pleasant Hill address was made; and,

WHEREAS, the Notice advised RESPONDENTS that RESPONDENTS were entitled to an administrative hearing in this matter if RESPONDENTS filed a written request for a hearing within 20 calendar days of receipt of the Order; and,

WHEREAS, RESPONDENTS failed to file a written request for a hearing within calendar 20 calendar days of receipt of the Notice, as required by Chapter 645B of the Regulation, specifically NAC 645B.750.

NOW, THEREFORE, based upon the factual findings set forth above and the files and records of the Division of Mortgage Lending, IT IS HEREBY ORDERED THAT:

- The findings of fact and conclusions of law set forth in the Notice shall be and hereby are 1. found to be true and correct.
- 2. A FINAL ORDER TO IMPOSE ADMINISTRATIVE FINE AND ASSESS INVESTIGATIVE COSTS shall be and hereby is issued and entered against RESPONDENTS. FORTHWITH, RESPONDENTS shall:
  - Pay to the Division an ADMINISTRATIVE FINE in the amount of \$5,000.00 as set forth in the Notice; and
  - b. Pay to the Division the Division's INVESTIGATIVE COSTS in the amount of \$2,190.00 as set forth in the Notice.

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- 3. This Final Order shall be and is effective on the date as issued and entered, as shown in the caption hereof.
- 4. This Final Order shall remain in effect and fully enforceable until terminated, modified, or set aside, in writing, by the Commissioner.
- 5. The Commissioner specifically retains jurisdiction of the matter(s) contained herein to issue such further order or orders as the Commissioner may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.

IT IS SO ORDERED.

DIVISION OF MORTGAGE LENDING

By: \_\_\_\_\_\_CATHY SHEEHY, / COMMISSIONER

## Exhibit 1

### STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF MORTGAGE LENDING

Before the Commissioner of the Division of Mortgage Lending

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6	In the Matter of:	)	
7	KRKABOB INCORPORATED	)	Case No. 2018-001
8	D/B/A ARGUS LENDING, Mortgage Broker License No. 4140,	)	
9	NMLS ID No. 233989,	)	
10	and	)	
11	KENNETH PITTMAN,	)	
12	President and Sole Owner, Mortgage Agent License No. 58781,	)	
13	NMLS ID No. 233927,	)	
14	Respondents.	)	
15		/	

# NOTICE OF INTENT TO ISSUE AND ENTER FINAL ORDER IMPOSING ADMINISTRATIVE FINE AND REQUIRING PAYMENT OF INVESTIGATIVE COSTS AND NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING

The Commissioner of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending (the "Commissioner") is statutorily charged with the responsibility and authority to administer and enforce Chapters 645B of the Nevada Revised Statutes, NRS 645B.010 et. seq. ("NRS 645B" or "the Statute") and the Nevada Administrative Code, NAC 645B.001 et seq. ("NAC 645B" or "the Regulation") (collectively, "the Act"), governing the licensing and conduct of mortgage brokers and mortgage agents in the State of Nevada; and,

The Commissioner is further granted general supervisory power and control and administrative enforcement authority over all mortgage brokers and mortgage agents doing business in the State of Nevada pursuant to the Act; and,

Pursuant to that statutory authority and responsibility vested in the Commissioner, and in accordance with provisions of NRS 645B and other applicable law, Notice is hereby provided to KRKABOB INCORPORATED D/B/A ARGUS LENDING ("KRKABOB ARGUS") and KENNETH PITTMAN ("PITTMAN") (collectively, "RESPONDENTS"), to give RESPONDENTS notice of facts or conduct which, if true, will result in the issuance of a final order against RESPONDENTS imposing an administrative fine in the amount of \$5,000.00, and requiring payment of investigative costs in the amount of \$2,190.00. Notice is further provided to inform RESPONDENTS that prior to the issuance and entry of such order, RESPONDENTS are entitled to an administrative hearing. If RESPONDENTS desire to avail themselves of the right to an administrative hearing, RESPONDENTS must timely file a written request for an administrative hearing in accordance with the instructions set forth in Section III of this Notice.

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#### **FACTUAL ALLEGATIONS**

- 1. KRKABOB INCORPORATED is an active Nevada foreign corporation organized under the laws of California (NV Entity No. E0537892014-3). KRKABOB ARGUS made application for and was granted a Nevada mortgage broker license by the Commissioner on or about December 11, 2014 (License No. 4140, NMLS ID No. 233989) and authorized to operate a branch office located at One East Liberty Street, Suite 600, Office 32, Reno, Nevada, 89501 (NMLS COMPANY ID No. 1196475). The company's main office is situated at 3478 Buskirk Avenue, Suite 262, Pleasant Hill, California, 94523.
  - 2. PITTMAN is the president and sole owner of KRKABOB ARGUS.
- 3. PITTMAN made application for and was granted a Nevada mortgage agent license by the Commissioner on or about May 18, 2017 (License No. 58781, NMLS ID No. 233927).
- 4. At all times relevant to this matter, KRKABOB ARGUS held a mortgage broker license under the Statute, and is therefore, subject to the jurisdiction of the Commissioner.
- 5. Since approximately May 18, 2017, PITTMAN has held a mortgage agent license under the Statute and is therefore, subject to the jurisdiction of the Commissioner.
- 6. As a condition of holding a Nevada mortgage broker license, the mortgage broker is required to designate a natural person, who meets the requirements set forth in NAC 645B.055(2), to serve

as the licensee's qualified employee at each licensed office location in Nevada. Upon approval of the designated qualified employee by the Commissioner, that qualified employee may act on behalf of the mortgage broker. In the event that the designated employee no longer meets the requirements to serve as the qualified employee, the mortgage broker is required by NAC 645B.055(3) to designate a new qualified employee within 30 days (or a date thereafter as agreed to by the Commissioner).

- 7. Effective at all times relevant to this matter, NRS 645B.055 provides as follows:
  - 1. Every person, other than a natural person, doing business as a mortgage broker in this State shall designate a natural person as a qualified employee who may, upon approval of the Commissioner, act on behalf of the mortgage broker.
  - 2. The Commissioner will approve the qualified employee designated pursuant to subsection 1 if the qualified employee is a natural person who:
    - (a) Is licensed in good standing as a mortgage agent;
  - (b) Is designated by a mortgage broker to act on behalf of the mortgage broker and to supervise the conduct of the business of the mortgage broker and the mortgage agents and other staff members employed by the mortgage broker at the licensed office location;
  - (c) Will be present at the licensed office location for which he or she is the qualified employee the majority of the time that the office is open to the public; and
  - (d) In the immediately preceding 5 years, has at least 2 years of verifiable experience in the business of lending money for real estate or mortgages.
  - 3. If the qualified employee designated pursuant to subsection 1 is not approved by the Commissioner pursuant to subsection 2 or ceases to be a qualified employee as defined in NAC 645B.008, the mortgage broker shall designate another qualified employee pursuant to subsection 1 not later than:
    - (a) Thirty calendar days after the date that:
  - (1) The Commissioner notifies the mortgage broker that the initial qualified employee designated pursuant to subsection 1 is not approved; or

- (2) The qualified employee ceases to be a qualified employee as defined in NAC 645B.008; or
- (b) A date after the date described in paragraph (a) if agreed to by the Commissioner.
- 4. As used in this section, "verifiable experience in the business of lending money for real estate or mortgages" has the meaning ascribed to it in NAC 645B.016.
- 8. On or about March 1, 2017, KRKABOB ARGUS' most recently approved qualified employee for its Nevada office was removed from sponsorship. However, despite subsequent and repeated notifications to RESPONDENTS through the Nationwide Mortgage Licensing System and Registry ("NMLS") and as made by Division staff concerning the company's obligation under the Regulation to make a substitute designation, RESPONDENTS did not designate the company's purported qualified employee to serve in its Nevada office until May 2, 2017, approximately 60 days later, and having failed to heed a series of further, repeated notifications regarding the failure of that designee to meet the prerequisites for a qualified employee as stated in NAC 645B.055(2), and despite having been granted numerous extensions to achieve compliance, RESPONDENTS did not notify the Division of their newest designated qualified employee until November 21, 2017, who at that time was not even a Nevada-licensed mortgage agent. It now being over 11 months following the sponsorship removal of their formerly approved qualified employee, RESPONDENTS' newly designated qualified employee having yet to satisfy all necessary conditions for Commissioner approval as a qualified employee, RESPONDENTS still lack a qualified employee to serve in their Nevada office.
  - 9. In particular, the Division's investigation concerning this matter revealed that:
- (a) On March 3, 2017, after KRKABOB ARGUS' approved, qualified employee in Nevada was removed from company sponsorship, the Division's licensing office notified RESPONDENTS that it must designate a new qualified employee within 30 days.
- (b) On April 14, 2017, reminding RESPONDENTS that the Division had already directed a letter to the company in March 2017 advising of the 30-day requirement, a NMLS notification to

RESPONDENTS mandated the company to submit a designation of qualified employee for its Nevada qualifying location within *10 days* of receipt of "the Final Request letter."

- (c) On May 2, 2017, approximately 8 days following expiration of the granted 10-day extension period, RESPONDENTS designated "RN" as their replacement qualified employee ("Replacement QE") for their Nevada office, via an uploaded form submitted to the Division through the NMLS.
- (d) On May 8, 2017, the Division's licensing office transmitted four separate NMLS notifications to RESPONDENTS concerning their failure to comply with the regulatory requirements of NAC 645B.055(2), which resulted in a *posted deficiency* in the NMLS. The Division notified RESPONDENTS that the company had not only failed to remove its former qualified-individual designation from its MU3-form, but the qualified-individual designation form uploaded in the NMLS for RN, was not the correct form, and thus asked that the proper form be submitted/uploaded. The notification advised that the updated form could be found via the NMLS Resource Center. The Division also instructed RESPONDENTS that RN must submit an application for a Nevada mortgage-agent license, and that further, RESPONDENTS must provide W2 forms and a resume as required proof of the candidate's having two years of [verifiable] experience within the past five years. Each notification stated that all requests made by the *Division must be addressed within 30 days*. Should RESPONDENTS have any questions concerning this deficiency, they were advised to contact the specifically-named staff member who had posted the deficiency, at her identified Division e-mail address.
- (e) On June 26, 2017, approximately 49 additional days having passed with no effort by RESPONDENTS to address the Division's concerns or comply with the Division's most recently made May 8, 2017 directives, the Licensing Office of the Division provided further NMLS notification and posted an *additional deficiency*, for the RESPONDENTS' "out of compliance" status in Nevada. The Division told RESPONDENTS that the company must either have RN apply for his Nevada mortgage-agent license, or designate a new qualifying employee who *meets all Nevada agent requirements*. The Division further notified RESPONDENTS that failure to provide all required documents to the Division by the end of the business day on *July 6*, 2017, may result in administrative action. Should

RESPONDENTS have any questions concerning this deficiency, they were advised to contact the specifically-named staff member who had posted the deficiency, at his identified Division e-mail address.

- (f) On July 13, 2017, and as re-sent to PITTMAN about two weeks later on July 26, 2017, when her initial e-mail to him remained unheeded, a Division compliance/audit investigator ("Investigator DK") emailed PITTMAN informing him that while the Division had received RESPONDENTS' request to designate RN as the Replacement QE for their Nevada office, the Division had *since sent* two notices to RESPONDENTS advising that RN must submit an application for a Nevada mortgage-agent license in order to be approved. Alternatively, as instructed by Investigator DK, RESPONDENTS must designate a new qualified employee.
- (g) On July 27, 2017, PITTMAN e-mailed Investigator DK to explain that he had been away on vacation since July 12, 2017. He explained that in order "to expeditiously resolve this issue," his e-mail response was copied to Joe Pennington, the company's described "Executive Manager," as well as "SS," the alleged president of the third-party licensing service RESPONDENTS allegedly employ to handle RESPONDENTS' licensing needs. PITTMAN asserted that RN was in the licensing process.
- (h) On July 28, 2017, SS emailed Investigator DK and PITTMAN (as copied to Mr. Pennington) to state he had "not been given a status yet on the NV LO Licensing" for RN.
- (i) On August 7, 2017, Investigator DK emailed SS (as copied to PITTMAN and Mr. Pennington) to advise that the company was *currently in violation of NAC 645B.055*. Investigator DK reiterated that despite several Division requests to the company attempting to resolve the issue, RN was not currently licensed as a mortgage agent in Nevada, and had *never applied for licensure as a mortgage agent in Nevada*. Again, she instructed the company to either have RN apply for his Nevada mortgage agent license with provision of his resume, or that RESPONDENTS designate a new qualified employee who *meets* all Nevada requirements for licensure as a mortgage agent. SS responded that he was aware of the issue and had advised PITTMAN concerning the urgency of the situation.
- (j) On August 8, 2017, a staff member in the Division's licensing office emailed SS reminding him that while RESPONDENTS were to have designated a new qualified employee within 30 days of the date their former qualified employee was removed by the company (the Division having learned of the removal on March 2, 2017), and despite having been granted multiple deadline extensions to

attain compliance, RESPONDENTS had yet to achieve satisfaction of the criteria necessary to obtain approval of a qualified employee. The Division staff member asked if the company could ensure the Division's receipt of RN's resume and application for licensure as a Nevada mortgage agent.

- (k) On August 9, 2017, Mr. Pennington, now identified as the Executive Vice President of KRKABOB ARGUS, emailed Investigator DK to attribute the delay in achieving compliance to a death in RN's family, but knowing "the importance and urgency to have a licensed designated person," was "wrapping up a background check" concerning another person, "ZH," to whom RESPONDENTS planned to offer employment. In response, Investigator DK emailed Mr. Pennington on September 13, 2017, asking that he provide the Division with an update concerning RESPONDENTS' designation of a new qualified employee for their Nevada office. She noted that the NMLS did not reflect any changes.
- (1) On September 29, 2017, her most recent email to Mr. Pennington having failed to elicit any communicated response, Investigator DK wrote PITTMAN a letter attaching her latest directed email, citing the language of NAC 645B.055 and reminding him that despite the Division's numerous contacts of RESPONDENTS concerning the matter, RESPONDENTS, as of March 2, 2017, did not have an approved qualified employee. Advising that the Division would provide RESPONDENTS one last opportunity to cooperate and come into compliance with legal authority, Investigator DK stressed that failure to provide written response with the requested information to the Division on or before *October 9*, 2017, will subject the company to an administrative fine under NRS 645B.670. In the meantime, on October 4, 2017, the Division's licensing office, through the NMLS, requested RESPONDENTS to either upload or submit directly to the Division's office in Carson City, a designation of qualified-employee form for the qualified employee.
- (m) On October 6, 2017, Mr. Pennington emailed RESPONDENTS' reply to Investigator DK's September 29, 2017 correspondence. He claimed that the company had made an employment offer to ZH, whom he identified as RESPONDENTS' new qualified employee. Mr. Pennington promised that he could "assure if you can give us through October this will be resolved and completed." Mr. Pennington further advised that if ZH "doesn't come on board," the company had three other prospects. Investigator DK responded to Mr. Pennington later that afternoon, informing him that ZH was not a licensed Nevada mortgage agent and once again, was a person who would not meet the qualifications to be a qualified

employee for RESPONDENTS' Nevada office. She asked that the company advise as to how it will proceed in hiring a qualified employee that will meet the requirements. Mr. Pennington answered that the company had several applicants in the Reno and Las Vegas areas and promised to have, or was confident that they would have in place, a licensed qualified employee "on board this month." Explaining that the company did not have any more time for ZH to "make the transition," it was moving forward with other applicants.

- (n) On November 14, 2017, Investigator DK emailed Mr. Pennington asking for the status of the company's qualified employee for its Nevada office. One week later, on November 21, 2017, identifying only her first name, Mr. Pennington expressed that RESPONDENTS had just hired a qualified employee for their Reno location, whose start date was scheduled for December 1, 2017, and was "going through the boarding process." However, it was not until Mr. Pennington's answered Investigator DK's subsequent query for the full name of this proposed qualified employee, that the Division was made aware of her complete identity, "AJM," on November 21, 2017.
- (o) On or about December 9, 2017, as reflected in the NMLS, AJM submitted her application for licensure as a Nevada mortgage agent. Commissioner determination regarding AJM's licensure as a Nevada mortgage agent, a condition-precedent for approval as RESPONDENTS' qualified-employee, remains in a pending-deficient status.
- 10. Contrary to the requirements of NAC 645B.055(2), following sponsorship-removal of its formerly approved and employed qualified employee, KRKABOB ARGUS failed to timely designate for Commissioner approval, a new qualified employee that meets the requirements of the Regulation. As illustrated by the foregoing, despite the Division's exhaustive attempts to procure RESPONDENTS' compliance, RESPONDENTS failed to cooperate with the Division's efforts and continued to postpone designation of a candidate who could satisfy the criteria required of a qualified employee. Moreover, RESPONDENTS' actions have necessarily resulted in delay of the contingent licensing determination upon which Commissioner-approval of a designated qualified employee is based.
- 11. NRS 645B.670(1)(b) grants the Commissioner authority to impose an administrative fine or other discipline against a mortgage broker that violates the Act. NRS 645B.670(1)(b)(3) specifically provides that for each violation committed by a mortgage broker, the Commissioner may impose upon the

mortgage broker an administrative fine of not more than \$25,000.00, may suspend, revoke or place conditions upon the mortgage broker's license, or may do both, if the mortgage broker, whether or not acting as such, does not conduct his business in accordance with law or has violated any provision of the Act.

12. KRKABOB ARGUS' continued failure to timely designate for Commissioner approval, a new qualified employee that meets the requirements set forth in NAC 645B.055(2), is a violation of NAC 645B.055(3) which subjects RESPONDENTS to an administrative fine under NRS 645B.670(1)(b)(3) and payment of investigative costs pursuant to NRS 622.400.

II.

### NOTICE OF INTENT TO ISSUE AND ENTER FINAL ORDER IMPOSING ADMINISTRATIVE FINE AND REQUIRING PAYMENT OF INVESTIGATIVE COSTS

Based upon the factual allegations set forth in Section I, above, RESPONDENTS are hereby given notice that it is the intent of the Commissioner to issue and enter an order against RESPONDENTS, imposing an administrative fine in the amount of \$5,000.00, and requiring payment of investigative costs in the amount of \$2,190.00. Prior to the issuance and entry of such order, RESPONDENTS are entitled to an opportunity for administrative hearing to contest this matter if RESPONDENTS timely make written application for such hearing in accordance with the instructions set forth in Section III below.

III.

#### NOTICE OF OPPORTUNITY FOR AN ADMINISTRATIVE HEARING

This Notice is provided to RESPONDENTS pursuant to NRS 645B.750, which provides as follows:

1. If the Commissioner enters an order taking any disciplinary action against a person or denying a person's application for a license, the Commissioner shall cause a written notice of the order to be served personally or sent by certified mail or telegram to the person.

- 2. Unless a hearing has already been conducted concerning the matter, the person, upon application, is entitled to a hearing. If the person does not make such an application within 20 days after the date of the initial order, the Commissioner shall enter a final order concerning the matter.
- 3. A person may appeal a final order of the Commissioner in accordance with the provisions of chapter 233B of NRS that apply to a contested case. [Emphasis added.]

If RESPONDENTS wish to exercise their right to an opportunity for an administrative hearing, within 20 calendar days after the date of this Notice, RESPONDENTS must file a verified petition with the Commissioner to request a hearing. The verified petition requesting a hearing must be delivered to:

Division of Mortgage Lending Attn. Susan Slack 3300 W. Sahara Ave., Suite 285 Las Vegas, Nevada 89102

If RESPONDENTS fail to timely file a verified petition to request a hearing, RESPONDENTS' rights to a hearing under NRS 645B.750 will be deemed waived and relinquished and a final order will be issued and entered in this matter. In addition to the verified petition to request a hearing, RESPONDENTS may file a written answer to this Notice of Intent to Issue and Enter Final Order Imposing Administrative Fine and Requiring Payment of Investigative Costs.

**DIVISION OF MORTGAGE LENDING** 

By:	
CATHY SHEEHY, COMMISSIONER	
Dated: 3/12/18	

### STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF MORTGAGE LENDING

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Before the Commissioner of the Division of Mortgage Lending

In the Matter of:

KRKABOB INCORPORATED
D/B/A ARGUS LENDING,
Mortgage Broker License No. 4140,
NMLS ID No. 233989,
and

KENNETH PITTMAN,
President and Sole Owner,
Mortgage Agent License No. 58781,
NMLS ID No. 233927,

Respondents.

Case No. 2018-001

#### REQUEST FOR INFORMAL CONFERENCE OR HEARING

I, \_\_\_\_\_\_ hereby request an informal conference or contested case hearing, as applicable, in the above-captioned matter.

#### CONTACT INFORMATION

(Provide contact information and check as applicable)

Home Phone:

Mobile Phone:

Mobile Phone:

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5		COUNSEL CONTACT INFORMATION			
7	Name of Counsel:	Si Si			
8	Address:				
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10	Office Phone:	E-mail Address:			
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13	I am not represented by counsel and direct all documents and correspondence regarding this matter to be sent to me at the address represented above.				
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