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8 **IN THE UNITED STATES BANKRUPTCY COURT**
9 **FOR THE DISTRICT OF ARIZONA**

10 IN RE:

11 MORTGAGES LTD.,

12 Debtor.

13
14 _____
15 JEFFREY C. STONE, INC., an Arizona
16 corporation, dba SUMMIT BUILDERS,

17 Plaintiff,

18 v.

19 CENTRAL AND MONROE, LLC, an
20 Arizona limited liability company; et al.

21 Defendants.

22 _____
23 AND RELATED COUNTER-CLAIMS AND
24 CROSS-CLAIMS.
25
26 _____

Chapter 11 Proceedings

Case No. 2:08-bk-07465-RJH

Adversary No. 2:09-ap-00424-RJH

**ANSWER OF MECHANICAL
SOLUTIONS, INCORPORATED TO
THE COUNTERCLAIM/CROSS-
CLAIM OF THE PASS THROUGH
INVESTORS AUTHORIZED BY
AGENT ML MANAGER, L.L.C.**

1 Defendant/Counterclaimant/Crossclaimant/Third-PartyPlaintiff/Counter-
2 defendant/Crossdefendant, Mechanical Solutions, Incorporated, an Arizona corporation
3 ("Mechanical Solutions"), by and through undersigned counsel, hereby files its Answer to the
4 Counterclaim and Crossclaim of Penny Hardaway Investments. L.L.C., Pueblo Sereno
5 Mobile Home Park, L.L.C., Michael Johnson Investments VI, L.L.C., WMS Fixed Income
6 Fund I, L.L.C., State Avenue Investments VI, L.L.C., LLJ Investments, L.L.C., Sun Valley
7 Arthritis Center, Ltd., Bighi & Associates, William L Hawkins Family, L.L.P., AJ Chandler
8 25 Acres, L.L.C., Lisa Kahn, as Custodian for Talia M. Kahn, Jerry S. Feigen, W. Scott
9 Schirmer as Trustee of the WSS 048 Trust dated September 17, 2004, Ronald L. Kohner,
10 Kuldip Verma, Tarun Vig, John A. Luginbill and Susan Gail Luginbill, Gerald Appell, Lizhu
11 Lu, Steve Gubin and Helen Gubin, James C. Schneck, Lonnie Joel Kreuger, Louis B.
12 Murphy, Robert G. Roden, Jay Schechtman, John Schroeder, Delery Guilory, Roger
13 Ashkenazi and Estate of Scott Cole (collectively the "ML Manager Parties") and admits,
14 denies and alleges as follows:
15
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17

- 18 1. Admits Paragraph 1.
- 19 2. Admits Paragraph 2.
- 20 3. Admits Paragraph 3.
- 21 4. Admits Paragraph 4.
- 22 5. Admits Paragraph 5.
- 23 6. Admits Paragraph 6.
- 24 7. Admits Paragraph 7.

- 1 8. Admits Paragraph 8.
- 2 9. Admits Paragraph 9.
- 3 10. Admits Paragraph 10.
- 4 11. Admits Paragraph 11.
- 5 12. Admits Paragraph 12.
- 6 13. Admits Paragraph 13.
- 7 14. Admits Paragraph 14.
- 8 15. Admits Paragraph 15.
- 9 16. Admits Paragraph 16.
- 10 17. Admits Paragraph 17.
- 11 18. Admits Paragraph 18.
- 12 19. Admits Paragraph 19.
- 13 20. Admits Paragraph 20.
- 14 21. Admits Paragraph 21.
- 15 22. Admits Paragraph 22.
- 16 23. Admits Paragraph 23.
- 17 24. Admits Paragraph 24.
- 18 25. Admits Paragraph 25.
- 19 26. Admits Paragraph 26.
- 20 27. Admits Paragraph 27.
- 21 28. Admits Paragraph 28.
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1 29. Admits Paragraph 29.

2 30. Admits Paragraph 30.

3 31. Admits Paragraph 31.

4 32. Admits Paragraph 32.

5 33. Admits Paragraph 33.

6 34. Admits Paragraph 34.

7 35. Admits Paragraph 35.

8 36. Admits Paragraph 36.

9 37. Admits Paragraph 37.

10 38. Admits Paragraph 38.

11 39. In response to Paragraph 39, Mechanical Solutions admits that assignments of
12 beneficial interest of the Deed of Trust securing the ML Loan have been recorded in the
13 Office of the Maricopa County Recorder in favor of the ML Manager Parties. Mechanical
14 Solutions is without sufficient knowledge or information to form a belief as to the truth or
15 falsity of the remaining allegations set forth in Paragraph 39 and, therefore, denies the same.
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17 40. Admit Paragraph 40.

18 41. Mechanical Solutions is without sufficient knowledge or information to form a
19 belief as to the truth or falsity of the allegations set forth in Paragraph 41 and, therefore,
20 denies the same.
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COUNT ONE
(Declaratory Judgment)

1. In response to Paragraph 1, Mechanical Solutions alleges the previous paragraphs of its Answer as if fully set forth herein.

2. Denies Paragraph 2.

3. Denies Paragraph 3.

4. Admits Paragraph 4.

5. Denies Paragraph 5.

6. Denies Paragraph 6.

GENERAL DENIAL, AFFIRMATIVE DEFENSES AND ATTORNEYS' FEES

7. Mechanical Solutions denies each and every allegation not specifically admitted herein.

8. ML Manager Parties fail to state a claim upon which relief can be granted.

9. ML Manager Parties' claim against Mechanical Solutions is barred by estoppel, failure of consideration, payment, release, waiver, failure of a condition precedent, unclean hands and/or any other matter constituting an avoidance or affirmative defense under Ariz.R.Civ.P. 8(c).

10. ML Manager Parties' interest in the subject property is subordinate and inferior to the mechanic's lien of Mechanical Solutions under the doctrine of equitable subordination.

11. Mechanical Solutions notes that discovery in this matter has not yet commenced, and therefore, it reserves the right to assert any affirmative defenses that may be

1 supported by the evidence, including, but not limited to accord and satisfaction, material
2 breach of contract, unconscionability, unclean hands and failure to mitigate damages.

3 12. Mechanical Solutions is entitled to its attorneys' fees against ML Manager
4 Parties pursuant to A.R.S. §§ 33-995(E) and 33-998(B).
5

6 **WHEREFORE**, having fully responded to the Counterclaim and Cross-Claim of ML
7 Manager Parties, Mechanical Solutions requests that the Counterclaim and Cross-Claim be
8 dismissed against it with prejudice, that ML Manager Parties take nothing thereby, and that
9 Mechanical Solutions be awarded its reasonable attorneys' fees incurred pursuant to A.R.S.
10 §§ 33-995(E) and 33-998(B) and its costs.
11

12
13 RESPECTFULLY SUBMITTED this 29th day of September, 2009.

14
15 THE LASSITER LAW FIRM, PLC

16
17 BY: /s/ SPS # 022041

18 Sean St. Clair

19 Attorneys for Mechanical Solutions
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1 Original of the foregoing e-filed on
2 this 29th day of September, 2009.

3
4 Copy of the foregoing mailed on
5 this 29th day of September, 2009.

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By: /s/ Kelly Labadie