

1 NIALL P. McCARTHY (SBN 160175)  
 nmccarthy@cpmlegal.com  
 2 ANNE MARIE MURPHY (SBN 202540)  
 amurphy@cpmlegal.com  
 3 JUSTIN T. BERGER (SBN 250346)  
 jberger@cpmlegal.com  
 4 **COTCHETT, PITRE & McCARTHY, LLP**  
 5 840 Malcolm Road  
 Burlingame, California 94010  
 6 Telephone: (650) 697-6000  
 7 Facsimile: (650) 697-0577

8 ELIZABETH S. LETCHER (SBN 172986)  
 eletcher@heraca.org  
 9 NOAH ZINNER (SBN 247581)  
 nzinner@heraca.org  
 10 GINA DI GIUSTO  
 gdigiusto@heraca.org (SBN 293252)  
 11 **HOUSING AND ECONOMIC RIGHTS ADVOCATES**  
 12 1814 Franklin Street, Suite 1040  
 Oakland, California 94612  
 13 Telephone: (510) 271-8443  
 14 Facsimile: (510) 280-2548

15 *Attorneys for Plaintiff Gena Hanson, Individually*  
 16 *and on Behalf of All Others Similarly Situated*

17 **IN THE UNITED STATES DISTRICT COURT**  
 18 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

19 **GENA HANSON**, individually and on behalf of )  
 20 all others similarly situated, )

21 Plaintiff, )

22 vs. )

23 **JQD, LLC, d/b/a PRO SOLUTIONS**, a )  
 24 California corporation; )

25 Defendant. )

Case No: 13-05377 RS

**FIRST AMENDED CLASS ACTION  
 COMPLAINT FOR:**

1. Fair Debt Collection Practices Act,  
15 U.S.C. § 1692, *et seq.*
2. California Business & Professions Code  
§ 17200

**DEMAND FOR JURY TRIAL**

**TABLE OF CONTENTS**

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

**I. INTRODUCTION** ..... 1

**II. JURISDICTION AND VENUE** ..... 3

**III. PARTIES** ..... 3

**IV. FACTUAL ALLEGATIONS** ..... 3

    A. The California Legislature Established Protections for Homeowner Association Members Specifically to Prevent the Type of Abuses Perpetrated by Defendant..... 3

    B. Defendant’s Business Practices ..... 5

        1. Defendant’s “No Cost” Business Model..... 6

        2. Defendant’s Other Abusive Collection Practices ..... 7

    C. Plaintiff’s Experience..... 8

**V. CLASS ACTION ALLEGATIONS** ..... 11

**VI. CAUSES OF ACTION** ..... 13

**FIRST CAUSE OF ACTION**  
 FEDERAL FAIR DEBT COLLECTION PRACTICES ACT (“FDCPA”)  
 15 U.S.C. § 1692, *et seq.*..... 13

    A. Defendant’s Practice Under Its “No Cost” Business Model..... 14

    B. Defendant’s Other Abusive Collection Practices ..... 14

        1. Attempting to Collect Late Fees Greater than 10% or \$10..... 14

        2. Attempting to Collect Greater than 12% Interest..... 15

        3. Threatening Foreclosure Where Delinquent Assessments Are Less Than \$1,800..... 15

        4. Failing to Accept Partial Payments..... 16

        5. Failing to Apply Payments First to Delinquent Assessments..... 16

///

1           **SECOND CAUSE OF ACTION**  
2           VIOLATION OF BUS. & PROF. CODE § 17200, *et seq.* ..... 17  
3       **VII. PRAYER FOR RELIEF**..... 18  
4       **DEMAND FOR JURY TRIAL**..... 20  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 Plaintiff GENA HANSON, individually, and on behalf of a proposed class of all others similarly  
2 situated, and demanding a jury trial, brings this action against defendants JQD, LLC d/b/a PRO  
3 SOLUTIONS (individually and collectively, “Defendant”), and alleges, on information and belief (except  
4 as to those allegations relating to plaintiff herself, which are asserted on personal knowledge), as follows:

5 **I. INTRODUCTION**

6 1. This is a consumer class action challenging the illegal and grossly unfair business practices  
7 of defendant debt collector JQD, LLC d/b/a Pro Solutions (“Pro Solutions”). Plaintiff brings this action  
8 on her own behalf and that of all similarly situated individuals targeted by Pro Solutions’ abusive debt  
9 collection practices.

10 2. Pro Solutions’ collection scheme is essentially parasitic: It takes over the delinquent  
11 accounts of individual members from their homeowner associations (“HOAs”) and then extorts  
12 unconscionable fees from the delinquent homeowners – fees that the homeowners do not owe.

13 3. Pro Solutions gains control of homeowner accounts by offering HOAs collection services  
14 at no cost to the HOA, with the caveat that the HOA must stop communicating with the homeowner and  
15 cede control and oversight over the account to Pro Solutions.

16 4. Once Pro Solutions takes over an account, it gouges the homeowner by piling on unlawful  
17 fees often exceeding the amount of the delinquency and by refusing to allow homeowners to pay their  
18 actual HOA debt without first paying Pro Solutions’ fees. Pro Solutions then bullies homeowners into  
19 submission by leaving them with the unconscionable options of either paying fees not owed or facing  
20 foreclosure. Thus, through these practices, Pro Solutions puts financially vulnerable homeowners in a  
21 spiral of debt from which they cannot escape.

22 5. Plaintiff Gena Hanson’s experience provides a prime example of Pro Solutions’ egregious  
23 practices. In early 2013, Ms. Hanson fell three (3) months behind on her HOA assessments while  
24 undergoing radiation and chemotherapy treatment for cancer. Upon returning home from three months in  
25 the hospital, Ms. Hanson was greeted by a “Notice of Intent to Lien” letter from Pro Solutions. The letter  
26 claimed that Ms. Hanson owed \$1,996.74, even though she had missed only three assessments of \$255  
27 each.

1           6.       Ms. Hanson promptly attempted to pay the actual amounts of the delinquent assessments,  
2 but Pro Solutions rejected those payments and returned them to her. Pro Solutions then threatened her  
3 with foreclosure, coerced her into an unconscionable “repayment plan” and applied her payments to its  
4 own fees rather than her actual HOA debt.

5           7.       As Ms. Hanson attempted to get a straight answer from her HOA and Pro Solutions, Pro  
6 Solutions’ fictional charges and fees continued to pile up. On October 11, 2013, Pro Solutions took the  
7 first step in foreclosing on Ms. Hanson, recording a lien on her home in the amount of \$3,988.99. This  
8 amount included \$1,078 for Pro Solutions’ “fees,” in addition to a substantial overcharge for both interest  
9 and late fees.

10          8.       It is a basic principle that a creditor, and therefore its agent, cannot take action against a  
11 debtor without legal basis – whether under contract or statute – for doing so. Pro Solutions’ collection  
12 practices ignore this basic rule. Pro Solutions operates without a contractual or statutory justification for  
13 the collection fees it demands from consumers such as Ms. Hanson. Pro Solutions also threatens and  
14 takes legal action against consumers without the contractual or statutory right to do so.

15          9.       As detailed in this Amended Complaint, Pro Solutions actually engaged in six different  
16 collection activities against Plaintiffs that are prohibited to the principal HOA, and therefore prohibited to  
17 Pro Solutions as well. As described in detail *infra*, these prohibited practices were:

- 18           a.       Charging Plaintiffs for collection costs that were not incurred by the HOA under its
- 19                   unlawful “no-cost” business model;
- 20           b.       Charging Plaintiffs excessive late fees;
- 21           c.       Charging Plaintiffs excessive interest;
- 22           d.       Threatening foreclosure when there was no right to foreclose;
- 23           e.       Refusing partial payments from homeowners on their debt; and
- 24           f.       Applying payments to collection costs before fulfilling delinquent assessments.

25          10.       As a result of Defendant’s conduct as alleged herein, Defendant reaped significant profits,  
26 and Plaintiff and the Class have suffered actual damages. Plaintiff, for herself and on behalf of all  
27 similarly situated Californians, seeks damages from Pro Solutions and an end to its predatory collection  
28 practices.

1 **II. JURISDICTION AND VENUE**

2 11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337 based  
3 on Plaintiff's claims under the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692, *et seq.*

4 12. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1362 to hear and  
5 determine Plaintiff's state law claims because those claims are related to Plaintiff's federal law claims and  
6 arise out of a common nucleus of related facts. Plaintiff's state law claims are related to Plaintiff's federal  
7 law claims such that those claims form part of the same case or controversy under Article III of the United  
8 States Constitution.

9 13. Venue is proper in Federal District Court of Northern California pursuant to 28 U.S.C. §  
10 1391(b)(2). A substantial part of the events and conduct giving rise to the violations of law complained of  
11 herein occurred in or emanated from the Northern District of California. Plaintiff is domiciled in the  
12 Northern District of California, the wrongs complained of herein originated or emanated from the  
13 Northern District of California, and Defendant conducts business with consumers in the Northern District  
14 of California. In addition, upon information and belief, Defendant's principal place of business is in the  
15 Northern District of California.

16 **III. PARTIES**

17 14. Plaintiff Gena Hanson ("Plaintiff" or "Ms. Hanson") is and at all times mentioned herein  
18 was a resident of Alameda County, California.

19 15. Defendant JQD, LLC d/b/a Pro Solutions ("Pro Solutions") is a limited liability company  
20 believed to be organized under the laws of California with its principal place of business in Pittsburg,  
21 California. At all times mentioned herein, Defendant Pro Solutions engaged in debt collection activities  
22 throughout the State of California, including the Northern District of California.

23 **IV. FACTUAL ALLEGATIONS**

24 **A. The California Legislature Established Protections for Homeowner Association**  
25 **Members Specifically to Prevent the Type of Abuses Perpetrated by Defendant**

26 16. The Davis-Stirling Common Interest Development Act ("Davis-Stirling Act"), passed into  
27 law in 1985, establishes rules and regulations governing the operation of a common interest development  
28 ("CID") and the respective rights and duties of a homeowners' association ("HOA") and its members in

1 the governance of the CID. Cal. Civ. Code § 4000, *et seq.*

2 17. Davis-Stirling Act protections are particularly important because HOA debt is subject to  
3 foreclosure without a prerequisite judgment or any other form of judicial oversight or due process. The  
4 Davis-Stirling Act therefore “provides several protections to delinquent homeowners that may aid them in  
5 becoming current on their assessments, thus avoiding foreclosure.” *See* Sen. Com. on Judiciary, Analysis  
6 of Sen. Bill No. 561 (2011-2012 Reg. Sess.) Mar. 29, 2011, p.1-2. Indeed, the legislative history of the  
7 Davis-Stirling Act indicates the intent to protect owners’ equity in their homes when they fail to pay  
8 relatively small assessments to their common interest development associations. Sen. Com. on Judiciary,  
9 Analysis of Sen. Bill No. 137 (2005-2006 Reg. Sess.) Mar. 29, 2005, p. 1.

10 18. The following are six critical homeowner protections afforded under the Davis-Stirling  
11 Act that limit abusive charges to homeowners and aid their ability to repay their debt:

- 12 a. Exclusive of late fees and interest, an HOA can charge a homeowner for the  
13 reasonable costs of collection. However, these charges are specifically limited to  
14 recovery of “[r]easonable costs **incurred** in collecting the delinquent assessment,  
15 including reasonable attorney's fees.” Civil Code § 5650(b)(1) (emphasis added).  
16 *See also* Civil Code § 5600(b) (prohibiting an HOA from charging a fee in excess  
17 of the amount necessary to defray the cost to the HOA).
- 18 b. An HOA cannot charge a homeowner late fees “exceeding 10 percent of the  
19 delinquent assessment or ten dollars, whichever is greater...” Civil Code §  
20 5650(b)(2).
- 21 c. An HOA cannot charge more than 12 percent annual interest on delinquent  
22 assessments, fees and costs of collection, and attorneys’ fees. Civil Code §  
23 5650(b)(3).
- 24 d. An HOA cannot foreclose unless the homeowner owes more than \$1,800 in  
25 delinquent assessments—exclusive of penalties and fees—or is more than 12  
26 months delinquent. Civil Code § 5720.
- 27 e. An HOA must accept partial payments on delinquent balances from the  
28 homeowner. Civil Code §5655(a);

1 f. An HOA must first apply homeowner payments towards delinquent assessments  
2 before applying them to interest or collection expenses. “[O]nly after the  
3 assessments owed are *paid in full* shall the payments be applied to the fees and  
4 costs of collection, attorney’s fees, late charges, or interest.” Civil Code §5655(a)  
5 (emphasis added).

6 19. Together, these protections ensure that homeowners are not gouged by their HOAs for  
7 delinquency-related fees and that they aren’t subjected to the threat of foreclosure simply because they are  
8 unable to pay such unwarranted fees.

9 20. The protections relating to the order and application of payments ensure that homeowners  
10 are only vulnerable to foreclosure when they are substantially behind, either in dollar amounts or in time,  
11 on their substantive contributions to the homeowners’ association, in the form of HOA assessments. By  
12 requiring HOAs to apply payments first to assessment, the law ensures that homeowners face foreclosure  
13 only for failure to contribute to the HOA, and not simply for failure to pay collection costs.

14 21. The HOA’s relationship to a homeowner is based in contract—under the Covenants,  
15 Conditions and Restrictions (CC&Rs) that are incidental to the purchase of a home within a Common  
16 Interest Development (CID). The CC&Rs, among other things, obligate a homeowner to make certain  
17 monthly payments for the maintenance of the CID, and define the collection rights of the HOA in the  
18 event that a homeowner fails to make required payments. All California CC&Rs are necessarily limited  
19 by and incorporate the Davis-Stirling Act, under the fundamental legal principles that existing legal  
20 standards are implied by law into a contract, and that a contract that runs counter to the law is invalid.  
21 Thus, California HOA’s are bound to act in conformity with the Davis-Stirling Act under law and  
22 contract.

23 **B. Defendant’s Business Practices**

24 22. Pro Solutions is a company that contracts to collect delinquent assessments as an  
25 authorized agent on behalf of dozens of HOAs throughout the state of California.

26 23. Pro Solutions has no contractual privity with the HOA members it collects from and,  
27 therefore, has no independent legal basis to take action against HOA members. Rather, Defendant’s rights  
28 against homeowners are entirely derived from the principal—the HOA.



1           24. As an agent of the HOA, Pro Solutions' rights are coextensive with those of the HOA. Pro  
2 Solutions may conduct collection activities to the extent that the HOA may do so. Conversely, Pro  
3 Solutions may not engage in collection activities that the HOA cannot do itself.

4           25. Despite the limits of its agency, Pro Solutions routinely demands costs that the HOA  
5 cannot demand and engages in collection practices that would be prohibited to the HOA. Specifically, as  
6 detailed in the following sections, Pro Solutions engaged in six different collection activities against  
7 Plaintiff and putative class members that are prohibited to the principal HOA by contract and law:

- 8           a. Pro Solutions charged Plaintiff for collection fees that were not costs incurred by  
9           the HOA under its "no-cost" business model;
- 10           b. Pro Solutions charged Plaintiff late fees that exceeded that which the HOA could  
11           statutorily demand;
- 12           c. Pro Solutions charged Plaintiff interest that exceeded that which the HOA could  
13           statutorily demand;
- 14           d. Pro Solutions threatened Plaintiff with foreclosure when the HOA had no right to  
15           foreclose;
- 16           e. Pro Solutions refused payments from Plaintiff that the HOA had no right to refuse;  
17           and
- 18           f. Pro Solutions applied Plaintiff's payments to its own fees first when the HOA had  
19           no right to apply payments towards any fees before fulfilling delinquent  
20           assessments.

21           **1. Defendant's "No Cost" Business Model**

22           26. On its website, Pro Solutions advertises "No Cost Non-Judicial Collections" to HOAs.  
23 Pro Solutions' agreements with HOAs provide that Pro Solutions will demand payment of its fees directly  
24 from delinquent homeowners rather than from the HOA.

25           27. The Pro Solutions agreements provide that an HOA will only be liable for Pro Solutions'  
26 fees if the HOA agrees to reduce or waive Pro Solutions' claims to its fees on a homeowner account. This  
27 means that the HOA effectively never pays Pro Solutions for collection costs.

28           28. Even though state law (Civil Code § 5900, *et seq.*) requires HOAs to meet and confer with

1 members regarding payment disputes, Pro Solutions' agreements with HOAs also prohibit the HOA from  
2 communicating with members regarding accounts referred to Pro Solutions for collections. Once an HOA  
3 has contracted with Pro Solutions, therefore, the HOA is effectively barred from engaging in dispute  
4 resolution with the homeowner

5 29. State law does not permit HOAs or their agents to charge homeowners for "costs" that the  
6 association never incurred and will never be obligated to pay. Under the "no-cost" business model the  
7 HOA does not actually pay Pro Solutions' collection fees, and therefore it cannot charge the homeowner  
8 for them. Moreover, because Pro Solutions has no independent contractual or statutory rights against the  
9 homeowner, it is not entitled to collect its "no cost" fees from the homeowner either.

10 30. Pro Solutions begins gouging homeowners under its "no cost" model immediately upon  
11 receiving an account from the HOA, when Pro Solutions contacts the homeowner with a demand that  
12 instantaneously adds hundreds of dollars of its own arbitrary collection fees – *e.g.* \$185 for "Vesting  
13 Costs" – to the previous account balance, even though these fees are never incurred by the HOA. Pro  
14 Solutions continues to charge for ambiguous and unlawful collection "costs" never incurred by HOA,  
15 throughout the collections process.

## 16 2. Defendant's Other Abusive Collection Practices

17 31. Pro Solutions exacerbates the damaging impact of its unlawful fees by subjecting  
18 homeowners to collection practices that are explicitly prohibited to its principal, the HOA. These  
19 practices cause homeowners to have artificially inflated balances for the purposes of the \$1,800  
20 foreclosure threshold, to stay in default longer, and to incur more late fees and interest penalties.

21 32. For example, Pro Solutions regularly charges homeowners late fees that exceed the  
22 amount of late fees that the HOA may charge (10% of the delinquent assessment for that month or \$10,  
23 whichever is greater).

24 33. Pro Solutions also regularly charges interest on delinquent accounts that exceeds the  
25 interest that the HOA may charge (12% annual interest).

26 34. Moreover, Pro Solutions threatens homeowners with foreclosure regardless of whether the  
27 homeowner owes more than \$1,800 in principal debt and even where homeowners have attempted to pay  
28 off their principal debt.

1           35.     Pro Solutions refuses to accept partial payments from delinquent homeowners without Pro  
2 Solutions' prior approval, even **charging homeowners a fee** if they attempt to do so.

3           36.     Pro Solutions then conditions its acceptance of partial payments by requiring homeowners  
4 to enter into payment plans such that payments will be applied to Pro Solutions' fees before the  
5 underlying HOA assessments.

6           37.     Thus, Pro Solutions' entire business model hinges on extracting un-owed fees and  
7 asserting rights that it does not have against homeowners like Plaintiff to bully them into cooperation.

8           **C. Plaintiff's Experience**

9           38.     Plaintiff Gena Hanson owns and lives in a condominium in Livermore, California and is a  
10 member of the Vineyard Terrace Homeowners' Association.

11           39.     Between January 2013 and March 2013, Ms. Hanson fell behind on her HOA assessments  
12 while undergoing radiation and chemotherapy treatment for cancer. At that time, Ms. Hanson's HOA  
13 assessments were approximately \$255 per month.

14           40.     Ms. Hanson completed her treatment and returned home the first week of April 2013. Just  
15 before returning home, Ms. Hanson attempted to catch up on the three months of HOA payments she had  
16 missed. Ms. Hanson first attempted to pay her past-due amount online, but she found herself locked out  
17 of her account. She then called her HOA and was told that her account had been assigned to Pro Solutions  
18 for collection.

19           41.     Upon her arrival home, Ms. Hanson found a March 19, 2013, "Notice of Intent to Lien"  
20 letter from Pro Solutions. A true and correct copy of this letter is attached as Exhibit A. This letter stated  
21 that Ms. Hanson had an outstanding account balance of \$1,996.74. Of this amount, \$977 was listed as  
22 "regular assessments," \$123.70 was for "late charges," and \$41.04 was for "interest." The remaining  
23 \$855.70 – nearly 43% of the total balance demanded in the letter – was for charges variously described in  
24 the letter as a "collection fee," "vesting costs," "mgmt. collection costs," and "other costs."

25           42.     On April 22, 2013, Pro Solutions mailed Ms. Hanson a "Notice to Offer Payment Plan"  
26 letter. A true and correct copy of this letter is attached as Exhibit B. This letter stated that her account  
27 balance had increased to \$2,296.74. More than half of this amount was Pro Solutions' fees. None of the  
28 collection fees incorporated into the account balance had been incurred by Ms. Hanson's HOA.

1           43.     On April 25, 2013, Ms. Hanson mailed two checks totaling \$848 to her HOA as payment  
2 for her delinquent assessments from January 2013 through March 2013.

3           44.     On May 8, 2013, Pro Solutions sent Ms. Hanson a letter stating that it had received her  
4 \$848 payment from her HOA, but was rejecting it entirely rather than apply it to her assessments because  
5 the payment did not cover the full amount demanded by Pro Solutions. A true and correct copy of this  
6 letter is attached as Exhibit C. Pro Solutions also told Ms. Hanson it had added an extra \$255 charge to  
7 her account for rejecting her payment.

8           45.     During this period, Ms. Hanson repeatedly asked to meet with her HOA to dispute the fees  
9 and make arrangements to bring her account current, but the HOA rebuffed her requests and told her to  
10 speak with Pro Solutions.

11           46.     On June 12, 2013, Ms. Hanson spoke with a Pro Solutions representative by telephone.  
12 During this call, the representative told Ms. Hanson that Pro Solutions **would foreclose on her home**  
13 unless Ms. Hanson paid the full amount Pro Solutions demanded. At that time, Ms. Hanson's assessments  
14 owed did not exceed \$1,800 and were not more than 12 months delinquent. The Pro Solutions  
15 representative told Ms. Hanson that if she wanted to avoid foreclosure, she could enter into a free 45-day  
16 payment plan or pay an additional sum for a longer repayment plan.

17           47.     Feeling as if she had no other options to avoid even more fees or foreclosure, Ms. Hanson  
18 verbally agreed to a 45-day payment plan. The representative told Ms. Hanson to pay Pro Solutions  
19 \$1,000 immediately with the remaining balance due on August 3, 2013.

20           48.     On June 15, 2013, Ms. Hanson mailed a \$1,000 check to Pro Solutions.

21           49.     On or around June 20, 2013, Pro Solutions sent Ms. Hanson a "Receipt of Payment" letter.  
22 A true and correct copy of this letter is attached as Exhibit D. The letter stated that Pro Solutions had  
23 applied Ms. Hanson's \$1,000 check to "delinquent assessments and attendant charges" and that a  
24 remaining \$2,592.06 balance would be due on August 3, 2013.

25           50.     According to Ms. Hanson's July 2013 Account Statement from Pro Solutions, only \$255  
26 of Ms. Hanson's \$1,000 payment was applied to Ms. Hanson's assessment debt. Pro Solutions kept the  
27 remaining \$745 of Ms. Hanson's payment for itself, even though Ms. Hanson still had assessments owed  
28 at that time. A true and correct copy of the July 2013 Account Statement is attached as Exhibit E

1           51. Ms. Hanson's July 2013 Account Statement also showed that Ms. Hanson was being  
2 overcharged by Pro Solutions for late fees and interest. For example, according to the July Account  
3 Statement, Ms. Hanson's "opening balance" in March 2013 was \$722. However, that month, Ms. Hanson  
4 was charged \$98.20 in late fees and \$32.84 in interest. These amounts exceeded the legal limit of 10%  
5 late fees and 12% annual interest that the HOA was entitled collect from Ms. Hanson.

6           52. After several formal requests from Ms. Hanson's counsel, the HOA finally "met and  
7 conferred" with Ms. Hanson by mail about her dispute of the collection fees Pro Solutions charged to her  
8 account.

9           53. Ms. Hanson's September 13, 2013, meet and confer letter to the HOA requested that the  
10 HOA waive the egregious fees claimed by Pro Solutions, and offered that she would repay the entire  
11 balance of her monthly assessments, along with the late fees and interest for the months of January,  
12 February and March 2013. The HOA refused Ms. Hanson's request in a letter from its counsel dated  
13 September 25, 2013. A true and correct copy of this letter is attached as Exhibit F. In the letter, the  
14 HOA's counsel said that "once an account is turned over to Pro Solutions, Pro Solutions handles all  
15 actions and discussions regarding payment plans and requests for information, and the Board cannot  
16 interfere with the collection process without the risk of incurring additional collection costs." The letter  
17 goes on to state that the HOA "cannot force Pro Solutions to waive [collection] charges under its contract  
18 with Pro Solutions, so there is nothing more the Board can do."

19           54. On October 11, 2013, Pro Solutions recorded a lien in the amount of \$3,988.99 against Ms.  
20 Hanson's home on behalf of her HOA. This amount included \$1,078 for Pro Solutions' collection fees, in  
21 addition to a substantial overcharge for both interest and late fees.

22           55. Plaintiff is informed, and on that basis believes, that Pro Solutions subjected other  
23 similarly situated homeowners in California to similar unlawful and unfair collections practices from  
24 November 18, 2009 to the present, including, but not limited to: demanding and collecting fees from  
25 homeowners that the HOA did not incur and that homeowners therefore did not owe; demanding and  
26 collecting excessive late charges and interest from homeowners; threatening foreclosure when  
27 homeowners owed less than \$1,800 in principal debt and were less than one year delinquent; and refusing  
28 to accept partial payments from homeowners unless those payments were first applied to its own fees.

1 **V. CLASS ACTION ALLEGATIONS**

2 56. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as  
3 though fully set forth herein.

4 57. Plaintiff brings this action on behalf of herself and all other similarly situated residents  
5 of California as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. The Class  
6 that Plaintiff seeks to represent is defined as follows:

7 All current or former California homeowners whose HOA accounts were  
8 transferred to Pro Solutions and where Pro Solutions either: (1) contacted the  
9 homeowner and stated a debt amount that included charges not incurred by the  
10 HOA; (2) contacted the homeowner and stated a debt amount that included late  
11 fees in excess of those authorized under California law; (3) contacted the  
12 homeowner and stated a debt amount that included interest in excess of the amount  
13 authorized under California law; (4) threatened or initiated non-judicial foreclosure  
14 on assessment debt below \$1,800, exclusive of fees; (5) refused payments from a  
15 homeowner; and/or (6) collected a payment from the homeowner and applied that  
16 payment to the costs of collection before delinquent assessments were paid in full.

13 Excluded from the Class are: Defendant, its officers, directors and employees, and any entity in which  
14 Pro Solutions has a controlling interest, the agents, affiliates, legal representatives, heirs, attorneys at  
15 law, attorneys in fact or assignees thereof.

16 58. Throughout discovery in this litigation, Plaintiff may find it appropriate and/or necessary  
17 to amend the definition of the Class. Plaintiff will formally define and designate a class definition when  
18 they seek to certify the Class alleged herein.

19 59. **Numerosity.** The members of the defined class are so numerous that individual joinder of  
20 all Class Members is impracticable. Plaintiff is informed and believes, and on that basis alleges, that there  
21 are hundreds of members in the Class, although the precise size of the Class has not yet been ascertained.  
22 Upon information and belief, the identities of Class Members are readily discernible using information  
23 contained in records in the possession or control of Defendant.

24 60. **Commonality.** Class-wide common questions of law and fact exist and predominate over  
25 questions affecting only individual Class members. Common questions include, but are not limited to:

- 26 a. Can Pro Solutions lawfully charge an HOA member who is delinquent on her  
27 assessments collection costs unrelated to costs actually incurred by the HOA?  
28

- 1           b. Did Pro Solutions charge homeowners for late fees that exceeds the late fees that  
2           the HOA may charge (10% of the delinquent assessment for that month or \$10,  
3           whichever is greater)?
- 4           c. Did Pro Solutions charge interest on delinquent accounts in an amount that exceeds  
5           the interest that the HOA may charge (12% annual interest)?
- 6           d. Did Pro Solutions threaten homeowners with foreclosure regardless of whether the  
7           homeowner owed more than \$1,800 in principal debt?
- 8           e. Did Pro Solutions refuse to accept partial payments from delinquent homeowners?
- 9           f. Did Pro Solutions apply payments to its own collection costs before homeowners  
10           delinquent assessment balances were satisfied?
- 11           g. Does Pro Solutions' practice of collecting and/or attempting to collect the  
12           foregoing amounts (including excessive interest, fees, charges and expenses  
13           incidental to the principal obligation) violate the FDCPA and/or constitute unfair  
14           and unlawful business practices?
- 15           h. Does Pro Solutions' practice of taking and/or threatening to take a non-judicial  
16           action to effect dispossession of property where it has no present right to  
17           possession and/or there is no present intention to take possession of the property  
18           violate the FDCPA and/or constitute unfair and unlawful business practices?

19           61. **Typicality.** Plaintiff's claims are typical of the claims of the class. She was subjected to  
20 the same violations of state and federal law and seeks the same types of damages, penalties, and other  
21 relief on the same theories and legal grounds as the members of the class she seeks to represent.

22           62. **Adequacy of Representation.** Plaintiff is an adequate representative of the Class because  
23 (a) her interests do not conflict with the interests of the individual Class members she seeks to represent;  
24 (b) she has retained counsel who are competent and experienced in complex class action litigation; and (c)  
25 she intends to prosecute this action vigorously. Plaintiff and her counsel will fairly and adequately protect  
26 the interests of the Class.

27           63. **Superiority of Class Action.** A class action is superior to other available means for the  
28 fair and efficient adjudication of the claims of Plaintiff and the Class. Each Class Member has been

1 damaged and is entitled to recovery by reason of Defendant's unlawful and unfair practices set forth  
 2 above. Class action treatment will allow those similarly situated persons to litigate their claims in the  
 3 manner that is most efficient and economical for the parties and the judicial system.

4 64. This case is maintainable as a class action under Fed. R. Civ. P. 23 (b)(2) because  
 5 Defendant acted or refused to act on grounds that apply generally to the class, so that final injunctive or  
 6 declaratory relief is appropriate respecting the class as a whole.

7 65. Class certification is also appropriate under Fed. R. Civ. P. 23(b)(3) because question of  
 8 law and fact common to the proposed Class predominate over any question affecting only individual  
 9 members of the proposed Class, and because a class action is superior to other available methods for fair  
 10 and efficient adjudication of this litigation. Defendant's common and uniform practices subjected the  
 11 proposed Class to excessive and unauthorized fees and charges under ongoing threat of foreclosure and  
 12 lawsuits. Many Class Members' individual claims are too small to practically permit pursuit on an  
 13 individual basis, even though the Class Members' rights have been violated by Defendant's practices. In  
 14 addition, class treatment is superior because it will obviate the need for unduly duplicative litigation that  
 15 might result in inconsistent judgments against Defendant's practices.

16 66. The Class is ascertainable because its members can be determined from Defendant's  
 17 business records and/or the above definition of Class is sufficient to enable Class Members to identify  
 18 themselves as Class Members.

## 19 **VI. CAUSES OF ACTION**

### 20 **FIRST CAUSE OF ACTION**

#### 21 **FEDERAL FAIR DEBT COLLECTION PRACTICES ACT ("FDCPA")**

#### 22 **15 U.S.C. § 1692, et seq.**

23 67. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as  
 24 though fully set forth herein.

25 68. Defendant is a "debt collector" within the meaning of 15 U.S.C. § 1692a(6). Plaintiff is a  
 26 "consumer" within the meaning of 15 U.S.C. § 1692a(3). The monies allegedly owed by Plaintiff are  
 27 "debt" within the meaning of 15 U.S.C. § 1692a(5).

28 69. Defendant purports to collect accounts from Plaintiff as an agent on behalf of HOAs to



1 which Plaintiff belongs. Thus, Defendant's rights against Plaintiff are entirely derived from those of the  
 2 principal HOA. The rights of the HOA, in turn, are defined by the CC&Rs and limited by the Davis-  
 3 Stirling Act.

4 **A. Defendant's Practice Under Its "No Cost" Business Model**

5 70. California law limits any fees and costs of collection that an HOA charges a delinquent  
 6 homeowner to reasonable costs actually paid by the HOA. Civil Code §§ 5650(b)(1), 5600. State law  
 7 does not permit HOAs or their agents to charge homeowner members for "costs" that the association  
 8 never incurred and will never be obligated to pay. The HOA does not actually pay Pro Solutions'  
 9 collection fees itself, and therefore it cannot charge the member for them. Moreover, because Pro  
 10 Solutions has no independent contractual or statutory rights against the homeowner, it is not entitled to  
 11 collect its fees from the homeowner either. When Pro Solutions charged Plaintiff for collection costs that  
 12 the Plaintiff's HOA never incurred, it violated the following provisions of the FDCPA:

- 13 a. Falsely representing the nature, character and amount of the debt, in violation of §  
 14 1692e(2)(A);
- 15 b. Falsely representing the compensation which it could lawfully receive in violation  
 16 of § 1692e(2)(B);
- 17 c. Threatening to take an action that could not legally be taken or was not intended to  
 18 be taken in violation of § 1692e(5);
- 19 d. Using false representations or deceptive means to collect or attempt to collect a  
 20 debt in violation of § 1692e(10); and
- 21 e. Collecting amounts not expressly authorized by the agreement creating the debt  
 22 and/or not permitted by law in violation of § 1692f(1).

23 **B. Defendant's Other Abusive Collection Practices**

24 **1. Attempting to Collect Late Fees Greater than 10% or \$10**

25 71. California law (Civil Code § 5650(b)(2)) limits the late fees that an HOA may charge a  
 26 delinquent homeowner to either 10% of the delinquent assessment for that month or \$10, whichever is  
 27 greater. The HOA has no legal basis to claim late fees above the limits of Civil Code § 5650(b)(2). Yet,  
 28 Pro Solutions charged Plaintiff late fees on behalf of the HOA that exceeded that which the HOA had a

1 right to claim and, thus, violated the following provisions of the FDCPA:

- 2 a. Falsely representing the nature, character and amount of the debt, in violation of §
- 3 1692e(2)(A);
- 4 b. Using false representations or deceptive means to collect or attempt to collect a
- 5 debt in violation of § 1692e(10); and
- 6 c. Collecting amounts not expressly authorized by the agreement creating the debt
- 7 and/or not permitted by law in violation of § 1692f(1).

8 **2. Attempting to Collect Greater than 12% Interest**

9 72. California law (Civil Code § 5650(b)(3)) also limits interest that an HOA may charge a  
10 delinquent homeowner to 12% annual interest. The HOA has no legal basis to claim interest above the  
11 limits of Civil Code § 5650(b)(3). Pro Solutions charged Plaintiff interest exceeding that which the HOA  
12 had a right to claim and, thus, violated the following provisions of the FDCPA:

- 13 a. Falsely representing the nature, character and amount of the debt, in violation of §
- 14 1692e(2)(A);
- 15 b. Using false representations or deceptive means to collect or attempt to collect a
- 16 debt in violation of § 1692e(10); and
- 17 c. Collecting amounts not expressly authorized by the agreement creating the debt
- 18 and/or not permitted by law in violation of § 1692f(1).

19 **3. Threatening Foreclosure Where Delinquent Assessments Are Less than**  
20 **\$1,800**

21 73. Under California law (Civil Code §5720(b)), an HOA may not collect a delinquent regular  
22 or special assessment through judicial or non-judicial foreclosure unless the assessments owed exceed  
23 \$1,800 or are more than 12 months delinquent. Pro Solutions told Plaintiff that it would foreclose on her  
24 home unless she paid the full amount Pro Solutions demanded. At the time Defendant threatened  
25 Plaintiff with foreclosure, Plaintiff's assessment balance had not exceeded the \$1,800 threshold and was  
26 not more than 12 months delinquent. Thus, Defendant threatened foreclosure when the HOA, and  
27 therefore the Defendant, had no right to foreclose. In doing so, Pro Solutions violated the following  
28 provisions of the FDCPA:

- 1 a. Threatening to take an action that could not legally be taken or was not intended to  
2 be taken in violation of § 1692e(5);
- 3 b. Using false representations or deceptive means to collect or attempt to collect a  
4 debt in violation of § 1692e(10); and
- 5 c. Taking and/or threatening to take a nonjudicial action to effect dispossession of  
6 property where it has no present right to possession and/or there is no present  
7 intention to take possession of the property in violation of § 1692f(6)(A) and (B).

8 **4. Failing to Accept Partial Payments**

9 74. California law (Civil Code § 5655(a)) states that **any** payments made by the homeowner  
10 **shall first be applied** towards delinquent HOA assessments. The HOA is, therefore, compelled to accept  
11 partial payments from homeowners and not just payments in full satisfaction of amounts owed. The HOA  
12 does not have a right to refuse payments in order to prolong the deficiency period and increase fees and  
13 costs to the homeowner. Pro Solutions, the HOA's agent, asserted that it had no obligation to accept a  
14 payment less than the full amount it demanded and refused to accept any payment from Plaintiff unless  
15 the payment was in full or Plaintiff had entered into a payment agreement on the full balance including its  
16 fees. Thus, Pro Solutions violated the following provisions of the FDCPA:

- 17 a. Using false representations or deceptive means to collect or attempt to collect a  
18 debt in violation of § 1692e(10).

19 **5. Failing to Apply Payments First to Delinquent Assessments**

20 75. California Civil Code § 5655(a) also states that "...only after the assessments owed are  
21 paid in full shall the payments be applied to the fees and costs of collection, attorney's fees, late charges,  
22 or interest." The HOA does not have the right to apply payments toward any other fee or cost of  
23 collection unless the assessments owed area already paid in full. Pro Solutions applied Plaintiff's  
24 payments towards its own fees and costs when Plaintiff's HOA account still had assessments owed. By  
25 diverting homeowner payments from the principal debt balance to its own claimed fees, Pro Solutions  
26 artificially raised the principal debt balance above the statutory minimum for foreclosure. Thus, Pro  
27 Solutions violated the following provisions of the FDCPA:

- 1 a. Using false representations or deceptive means to collect or attempt to collect a  
2 debt in violation of § 1692e(10).

3 76. As a result of Defendant's violations of the FDCPA, Plaintiff and other Class members  
4 have suffered damages.

5 77. Plaintiff therefore seeks relief as described below.

6 **SECOND CAUSE OF ACTION**

7 **VIOLATION OF BUS. & PROF. CODE § 17200, *et seq.***

8 78. Plaintiff incorporates by reference all of the preceding paragraphs of this Complaint as  
9 though fully set forth herein.

10 79. Defendant has engaged in, and continues to engage in, unlawful, unfair, and fraudulent  
11 business practices pursuant to Bus. & Prof. Code § 17200, *et seq.*

12 80. Defendant has engaged in unlawful business practices by violating the FDCPA (15 U.S.C.  
13 §§ 1692e, 1692f) as alleged above.

14 81. Defendant has engaged in fraudulent business practices by, among other conduct:

- 15 a. Falsely representing the nature, character and amount of the debt owed by Plaintiff;  
16 b. Falsely representing the compensation which it could lawfully receive; and  
17 c. Threatening to take an action that could not legally be taken or was not intended to  
18 be taken.

19 82. Defendant has engaged in, and continues to engage in, unfair business practices including,  
20 but not limited to:

- 21 a. Demanding fees from homeowners on behalf of HOAs that neither Defendant nor  
22 the HOA can legally charge;  
23 b. Requiring homeowners to pay its fees before permitting homeowners to pay down  
24 the actual amount of their debt;  
25 c. Refusing to accept payments from homeowners unless homeowners agree to waive  
26 important legal rights;  
27 d. Refusing to accept partial payments from homeowners unless homeowners agree  
28 to enter into a payment agreement for the full balance demanded;

- 1 e. Threatening homeowners with foreclosure and/or a civil lawsuit unless they agree
- 2 to pay all of Pro Solutions fees;
- 3 f. Foreclosing and suing homeowners based on unlawfully inflated debts; and
- 4 g. Entering into agreements with HOAs that are specifically intended to circumvent
- 5 statutory protections for members of HOAs.

6 83. Plaintiff and Class members have suffered an injury in fact and lost money and/or property  
7 as a result of Defendant's actions.

8 84. Defendant will continue its unlawful and unfair practices unless restrained and enjoined by  
9 this Court.

10 85. Plaintiff therefore seeks relief as described below.

11 **VII. PRAYER FOR RELIEF**

12 86. Plaintiff prays for relief for herself individually and all similarly situated Class members as  
13 follows:

- 14 a. That the Court determine that this action may be maintained as a class action
- 15 pursuant to Federal Rules of Civil Procedure, Rule 23 and appointing the named
- 16 Plaintiff as Class Representative and their counsel as Class Counsel;
- 17 b. That the Court enter a judgment declaring Pro Solutions' acts and practices
- 18 complained of herein to be unlawful and unfair;
- 19 c. That the Court award Plaintiff and the Plaintiff Class actual and statutory damages
- 20 in an amount according to proof for Pro Solutions' violations of the FDCPA;
- 21 d. That Pro Solutions be ordered to make restitution to Plaintiff and the Plaintiff Class
- 22 pursuant to California Business & Professions Code § 17203;
- 23 e. That the Court grant a preliminary and permanent order enjoining Pro Solutions
- 24 and its agents, employees, affiliates and/or subsidiaries, from collecting or
- 25 attempting to collect monies not authorized by law from Plaintiff and Plaintiff
- 26 Class, or from otherwise engaging in the unlawful and unfair acts and practices
- 27 alleged herein;
- 28 f. That the Court award Plaintiff the costs of this action, including the fees and costs

1 of experts, together with reasonable attorney's fees, cost and expenses under 15  
2 U.S.C. § 1692(k) or otherwise provided under law;

3 g. That the Court grant Plaintiff and the Plaintiff Class pre-judgment interest on all  
4 sums collected;

5 h. And such other and further relief as this Court may deem appropriate.

6 Dated: March 19, 2014

**COTCHETT, PITRE & McCARTHY, LLP**

7  
8 By: /s/ Justin T. Berger

NIALL P. McCARTHY  
ANNE MARIE MURPHY  
JUSTIN T. BERGER

9  
10  
11 Dated: March 19, 2014

**HOUSING AND ECONOMIC RIGHTS  
ADVOCATES**

12  
13 By: /s/ Elizabeth Letcher

ELIZABETH S. LETCHER  
NOAH ZINNER  
GINA DI GIUSTO

14  
15 *Attorneys for Plaintiff and the Proposed Class*  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**DEMAND FOR JURY TRIAL**

Please take notice that Plaintiff Gena Hanson demands a trial by jury in this action.

Dated: March 19, 2014

**COTCHETT, PITRE & McCARTHY, LLP**

By: /s/ Justin T. Berger

NIAL P. McCARTHY  
ANNE MARIE MURPHY  
JUSTIN T. BERGER

Dated: March 19, 2014

**HOUSING AND ECONOMIC RIGHTS  
ADVOCATES**

By: /s/ Elizabeth Letcher

ELIZABETH S. LETCHER  
NOAH ZINNER  
GINA DI GIUSTO

*Attorneys for Plaintiff and the Proposed Class*

# **EXHIBIT A**





**HOA DELINQUENT ASSESSMENT COLLECTIONS**

P.O. Box 311, Pittsburg, CA 94565 | T 925.432.8884 | F 925.753.1509

March 19, 2013

**NOTICE OF INTENT TO LIEN**

**Re:** 60 Meritage Common Unit 106, Livermore, CA 94551

**Matter Number:** CID900 701475

**via certified and  
first class mail**

Ms. Gena Marie Hanson  
60 Meritage Common Unit 106  
Livermore, CA 94551

Dear Ms. Hanson:

This office has been retained by Vineyard Terrace to represent them in the collection of your delinquent account. This communication is an attempt to collect a debt and any information obtained will be used for that purpose.

**You are hereby formally notified that, under the prevailing federal law, if this account is disputed, you are to notify us within thirty (30) days, indicating the nature of the dispute. If you do not indicate a dispute within that time period we will assume the claim to be valid. If you indicate a dispute, we will provide you with evidence concerning the validity of the account.**

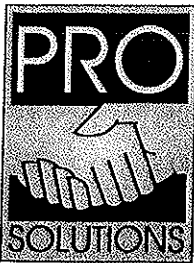
Our records indicate that the total due on your account through April 19, 2013 is \$1,996.74. The itemization of your balance is as follows:

Regular Assessment	\$977.00
Late Charges	\$123.70
Interest	\$41.04
Collection Fee	\$300.00
Vesting Costs	\$185.00
Mgmt. Collection Costs	\$275.00
Other Costs	\$95.00
<b>TOTAL</b>	<b>\$1,996.74</b>

Please forward a CASHIER'S CHECK OR MONEY ORDER to our office by the close of business on April 19, 2013. You may use Express Mail from the Post Office for overnight delivery. Neither the Association nor this office is required to accept a payment less than the full amount itemized above, unless you have entered into a payment agreement on the balance. Therefore, unauthorized partial payments will be returned to you with additional fees and costs assessed to your account.

It is necessary to contact this office to arrange for a payment plan on your delinquent balance. We encourage you to contact us now before this matter escalates. We are eager to arrange a payment plan that will fit your financial needs. You are entitled to request a meeting with the Board of Directors in executive session to discuss a payment plan if one cannot be agreed to with our office. We stand ready to answer any questions you have on your account and look forward to resolving this issue with you.

# **EXHIBIT B**



**HOA DELINQUENT ASSESSMENT COLLECTIONS**

P.O. Box 311, Pittsburg, CA 94565 | T 925.432.8884 | F 925.753.1509

April 22, 2013

**NOTICE TO OFFER PAYMENT PLAN**

**Re: 60 Meritage Common Unit 106, Livermore, CA 94551**

**Matter Number: CID900 701475**

Ms. Gena Marie Hanson  
60 Meritage Common Unit 106  
Livermore, CA 94551

Dear Ms. Hanson:

This office has been retained by Vineyard Terrace to represent it in the collection of your delinquent assessments. This communication is an attempt to collect a debt and any information obtained will be used for that purpose. We have previously sent correspondence that itemized your account balance. If you believe that the amount of the delinquency is not correct, we would be happy to review any records that you have to validate the debt.

**Although recent changes in collection laws do not allow foreclosure on your unit until the amount of your delinquent assessments, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, equals eighteen hundred dollars (\$1,800.00) or the assessments are more than 12 months delinquent, we believe that it will be in your best interest to contact us to work out a payment agreement rather than wait until the threshold amounts are reached.**

As of today, your balance is \$2,296.74.

The association can employ various collection methods, including foreclosure, if you continue to ignore this debt. Although this office does not report the delinquency to credit reporting agencies, the Lien is recorded in your county and you cannot refinance or sell your unit without satisfying the Lien. Also, once the threshold amounts are reached, the association has the right to authorize this office to begin foreclosure.

We have various payment options available to you. In fact, we have one, no-cost, verbal agreement that requires a deposit now, with the balance to be paid within 45 days. If that plan does not work with your budget, we have plans of various lengths of time that range from three (3) months to twelve (12) months or more. The additional fees for each written plan depend on the length of time necessary to pay the account in full. Along with your delinquency payment, you will send your regular monthly assessments to this office until your account is paid in full. All late fees and interest will stop accumulating while you stay current on your agreement.

This office is filled with caring, understanding and nonjudgmental professionals who very well may have experienced the same issues you are currently dealing with. Let us help you. Contact us today. We will work with you to resolve your account. Please do not allow this matter to escalate any further. Feel free to use our toll free number, 800-638-2437 and talk with any one of our staff members. We will expect a response by the close of business on May 23, 2013.

Very truly yours,

A handwritten signature in black ink that reads "Stefani M. Heffner". The signature is written in a cursive, flowing style.

By: Stefani M. Heffner

StefaniH@hoaprosolutions.com  
Association Agent

cc: The Helsing Group  
Collection File

# **EXHIBIT C**

**HOA DELINQUENT ASSESSMENT COLLECTIONS**

P.O. Box 311, Pittsburg, CA 94565 | T 925.432.8884 | F 925.753.1509

May 08, 2013

**ACKNOWLEDGEMENT AND RETURN OF PARTIAL PAYMENT**

Re: 60 Meritage Common Unit 106, Livermore, CA 94551  
Matter Number: CID900 701475

Ms. Gena Marie Hanson  
60 Meritage Common Unit 106  
Livermore, CA 94551

Dear Ms. Hanson:

This office has been retained by Vineyard Terrace to represent it in the collection of your delinquent assessments. This communication is an attempt to collect a debt and any information obtained will be used for that purpose.

Since your delinquent account has been turned over to this office for collection, the association is not obligated to accept partial payments that have not been approved by this office. Your payment in the amount of \$848.00 dated April 21, 2013 has been sent to our office for response.

The balance on your account, through May 23, 2013, is \$2,588.25. Since your payment does not pay your account in full, we are returning your payment. As a result of this letter, there is an additional \$225.00 being assessed to your account, which brings your balance to \$2,813.25.

If you cannot pay the entire amount at this time, please contact us. We will be glad to discuss payment options with you. We have a number of plans available for your consideration.

Your account must be either paid in full or we must receive your request for a payment plan by May 23, 2013. Failure to hear from you by that day will result in further collection actions, and increased collection costs to your account without additional notice to you.

**Until your account is paid in full, all payments MUST be sent to this office only. Any payments sent to any other address will be returned to you. Returned payments will subject your account to increased collection fees.**

We enclose a self-addressed envelope for your convenience.

Very truly yours,  
Pro Solutions



By: Vicki L. Rogers  
VickiR@hoaprosolutions.com  
Association Agent

cc: The Helsing Group  
Collection File

# **EXHIBIT D**



HOA DELINQUENT ASSESSMENT COLLECTIONS

P.O. Box 311, Pittsburg, CA 94565 | T 925.432.8884 | F 925.753.1509

## Receipt of Payment

June 20, 2013

Property Address: 60 Meritage Common

CID900 C219-77533-005-02

Matter no. 701475

Vineyard Terrace vs. Hanson

On June 20, 2013, we received Cashier Check no. 00023122019 for \$1,000.00 payable to Pro Solutions for a Deposit on a Verbal 45 Agreement. These payments have been applied to delinquent assessments and attendant charges.

This 45 Verbal expires on 08-03-13 last paying is due in full for \$2592.06 on 08-03-13.

Yours truly,

A handwritten signature in black ink, appearing to read "Vicki L Rogers", is written over a horizontal line.

Vicki L Rogers

Accounting Dept.

# **EXHIBIT E**





**HOA DELINQUENT ASSESSMENT COLLECTIONS**

PO BOX 117, Livermore, CA 94551 | T 925.433.8100 | F 925.733.1397

**CID900-701475**  
**Vineyard Terrace vs. Hanson**  
**Property address:**  
**60 Meritage Common Unit 106**  
**Livermore, CA 94551**  
**Page 1 of 2**

Date	Description	Charges						Payments				Balance		
		Hoa				Mgmt	Acctng	Pro	Hoa	Mgmt	Acctng		Pro	
		Dues	Lates	Int	Other									
03/18/13	Opening Balance	\$722.00												\$722.00
03/19/13	Interest			\$32.84										\$754.84
03/19/13	OTHER: Not Specified				\$95.00									\$849.84
03/19/13	Late Charges		\$98.20											\$948.04
03/19/13	Intent to Lien						\$175.00	\$585.00						\$1,708.04
03/30/13	Interest			\$8.20										\$1,716.24
04/01/13	Regular Assessment	\$255.00												\$1,971.24
04/16/13	Late Fee		\$25.50											\$1,996.74
04/22/13	Offer Payment Plan							\$300.00						\$2,296.74
04/30/13	Interest			\$11.01										\$2,307.75
05/01/13	Regular Assessment	\$255.00												\$2,562.75
05/08/13	ACK Letter							\$225.00						\$2,787.75
05/16/13	Late Fee		\$25.50											\$2,813.25
05/30/13	Interest			\$13.81										\$2,827.06
06/01/13	Regular Assessment	\$255.00												\$3,082.06
06/16/13	Late Fee		\$25.50											\$3,107.56
06/20/13	Payment: Check 0002322019: \$1,000.00								\$255.00			\$745.00		\$2,107.56
06/24/13	Write-Off: Intent to Lien							(\$225.00)						\$1,882.56
07/01/13	Regular Assessment	\$255.00												\$2,137.56
	<b>TOTAL</b>	\$1,742.00	\$174.70	\$65.86	\$95.00		\$175.00	\$885.00	\$255.00			\$745.00		



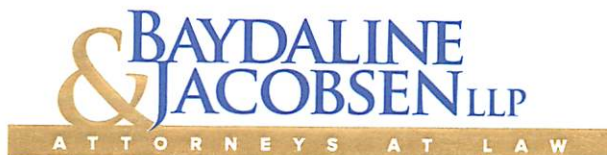
## HOA DELINQUENT ASSESSMENT COLLECTIONS

P.O. Box 311, Rye Beach, WI 54983 | T 920.422.8264 | F 920.730.1497

	Outstanding Balance:	Write-off:	Adjusted Balance:
<b>HOA</b>			
Assessments:	\$1,487.00	\$0.00	\$1,487.00
Lates:	\$174.70	\$0.00	\$174.70
Interest:	\$65.86	\$0.00	\$65.86
Other:	\$95.00	\$0.00	\$95.00
Total:	\$1,822.56	\$0.00	\$1,822.56
<b>MGMT:</b>			
Total:	\$0.00	\$0.00	\$0.00
<b>ACCTNG:</b>			
ITL	\$175.00	\$0.00	\$175.00
Total:	\$175.00	\$0.00	\$175.00
<b>PRO:</b>			
	\$140.00	\$0.00	\$140.00
Grand Total:	\$2,137.56	\$0.00	\$2,137.56

Prepared by: Jenna Guziak  
Dated: 7/11/2013

# **EXHIBIT F**



895 UNIVERSITY AVENUE • SACRAMENTO, CA 95825  
TEL 916.669.3500 • FAX 916.669.3501

JOHN D. HANSEN  
jhansen@bayjaclaw.com

September 25, 2013

Noan Zinner  
Housing and Economic Rights Advocates  
P.O. Box 29435  
Oakland, CA 94604

**Re: *Response to Request to Meet and Confer re Gena Hanson  
Vineyard Terrace Homeowners Association***

Dear Mr. Zinner:

As you are now aware, our firm represents the Vineyard Terrace Homeowners Association (the "Association"). The Association's Board of Directors requested that we respond to your letter dated September 13, 2013 regarding Gena Hanson's delinquent assessments. As we discussed, this letter is in response to your client's request to meet and confer with the Board of Directors regarding her delinquency, and this letter hereby satisfies the Association's requirement to meet and confer with your client. This letter is not in lieu of alternative dispute resolution, and the Association reserves all rights it has under the Civil Code to alternative dispute resolution for all disputes with your client.

Based upon your email dated September 24, 2013, it appears Pro Solutions has responded to all of your requests and your concerns regarding your client's delinquency. Pro Solutions is the collection agent for the Association and is authorized and instructed to act on the Association's behalf with respect to delinquent accounts, such as your client's. Our firm does not represent Pro Solutions and we are only involved in this matter because of your communications with the Association. Once an account is turned over to Pro Solutions, Pro Solutions handles all actions and discussions regarding payment plans and requests for information, and the Board cannot interfere with the collection process without the risk of incurring additional collection costs that would be passed onto the delinquent owner. Accordingly, Pro Solutions is the entity that further communications should be made through. The Board was required to meet and confer with your client under the Civil Code, which is why

Noah Zinner

September 25, 2013

Page 2

---

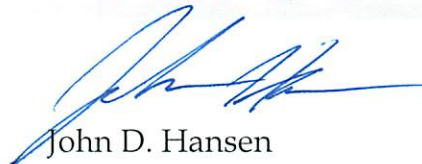
the Board became involved in these discussions, and this communication satisfies that requirement pursuant to our agreement. The Board will not agree to waive any collection costs in this matter because doing so would require the other members of the Association to pay for collection costs incurred because of your client's delinquency. It would be unfair and unreasonable for your client's neighbors to pay for charges related to her failure to pay her assessments, regardless of the reason why. The Association also cannot force Pro Solutions to waive those charges under its contract with Pro Solutions, so there is nothing more the Board can do.

You may communicate with Pro Solutions directly since it is the Association's collection agent and is instructed and authorized to handle these matters. Further, if your client intends to request a meeting with the Board, which would be above and beyond the obligation for the Board to meet and confer based upon this letter satisfying that requirement, attorneys may not attend such a meeting. (See the Law Revision Commission Comments (2004 Addition) to Civil Code Section 1363.810, which states: "Article 5 (commencing with Section 1363.810) is intended to provide a simple and efficient *intra-association* dispute resolution procedure at *no cost to the parties*." (Emphasis added). The involvement of attorneys requires both parties to incur considerable costs.

We appreciate your attention to this matter and look forward to reviewing the revised version of the Agreement reflecting the revisions set forth in this letter.

Very truly yours,

**BAYDALINE & JACOBSEN LLP**



John D. Hansen

CC: Board of Directors