

1 **SMILEY WANG-EKVALL, LLP**
Kyra E. Andrassy, State Bar No. 207959
2 *kandrassy@swelawfirm.com*
Michael L. Simon, State Bar No. 300822
3 *msimon@swelawfirm.com*
Timothy W. Evanston, State Bar No. 319342
4 *tevanston@swelawfirm.com*
3200 Park Center Drive, Suite 250
5 Costa Mesa, California 92626
Telephone: 714-445-1000
6 Facsimile: 714-445-1002

7 Counsel for David Stapleton, Receiver

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10
11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 v.

14 SILICONSAGE BUILDERS, LLC aka
15 SILICON SAGE BUILDERS and
16 SANJEEV ACHARYA,

17 Defendants.

Case No. 3:20-cv-09247-SI

**NOTICE OF ERRATA TO MOTION AND
MOTION OF RECEIVER, DAVID
STAPLETON, FOR ORDER:**

**(1) APPROVING CONSTRUCTION
FUNDING AGREEMENT WITH ACRES
CAPITAL;**

**(2) AUTHORIZING EMPLOYMENT OF
SPECIAL REAL ESTATE COUNSEL;
AND**

**(3) APPROVING THE FORM OF THE
CONDOMINIUM PURCHASE
AGREEMENTS AND AUTHORIZING
THE SALE OF THOSE UNITS FREE
AND CLEAR OF LIENS**

Date: December 3, 2021
Time: 10:00 a.m.
Crtrm.: 1 – 17th Floor (hearing via Zoom)
Judge: Susan Illston

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

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1 TO THE HONORABLE SUSAN ILLSTON, SENIOR DISTRICT JUDGE, ALL
2 LIENHOLDERS OF OSGOOD, LLC, AND 1821 ALMADEN, LLC, AND PARTIES IN
3 INTEREST:

4 PLEASE TAKE NOTICE that in the pleadings filed on October 29, 2021, regarding
5 the Almaden and Osgood projects [docket numbers 211 and 213], both the motion and
6 the memorandum of points and authorities state that if the Receiver is unsuccessful in
7 recharacterizing the purchase agreements that he believes are better characterized as
8 disguised loans and the net economic impact of any loss is \$1 million or more, Acres'
9 obligation to forbear will terminate as to that project and it will have the right to foreclose.
10 This is incorrect. Although the parties had late discussions about whether to include a
11 dollar amount threshold that had to be reached before the obligation to forbear
12 terminated, the parties did not reach an agreement on that concept or a dollar amount
13 and it is not a part of the Construction Funding Agreement that was filed with the Court
14 and should not have been included in the moving papers. Counsel for the Receiver
15 apologizes for the error.

18 DATED: November 1, 2021

Respectfully submitted,

SMILEY WANG-EKVALL, LLP

21 By: /s/ Kyra E. Andrassy
22 KYRA E. ANDRASSY
23 Counsel for David Stapleton, Receiver

SMILEY WANG-EKVALL, LLP
3200 Park Center Drive, Suite 250
Costa Mesa, California 92626
Tel 714 445-1000 • Fax 714 445-1002

SERVICE LIST

BY COURT VIA NOTICE OF ELECTRONIC FILING ("NEF"):

- Kyra Elizabeth Andrassy
kandrassy@swelawfirm.com,jchung@swelawfirm.com,lgarrett@swelawfirm.com,gcruz@swelawfirm.com
- Leslie Aileen Baxter
lbaxter@blglegal.net
- Tamar M. Braz
brazt@sec.gov
- Susan Scott Davis
sdavis@coxcastle.com
- Detail Construction & Waterproofing, Inc.
sjs@dslaw.net
- David B. Draper
ddraper@terra-law.com
- Robert Paul Goe
rgoe@goeforlaw.com,kmurphy@goeforlaw.com
- Mitchell Bruce Greenberg
mgreenberg@abbeylaw.com,mmeroney@abbeylaw.com
- John Henry Hemann
jhemann@cooley.com,mnarvaez@cooley.com
- Douglas Dalton Hughmanick
dhughmanick@terra-law.com
- Monique Jewett-Brewster
mjb@hopkinscarley.com,eamaro@hopkinscarley.com
- Charles F. Johnisee
lbaxter@blglegal.net
- Edward Arthur Kraus
ekraus@svlg.com,keb@svlg.com,edn@svlg.com,amt@svlg.com
- Amy Jane Longo
longoa@sec.gov,simundacc@sec.gov,irwinma@sec.gov
- James Alan McDaniel
jmcdaniel@terralaw.com,dhawes@terralaw.com
- Hal Mark Mersel
mark.mersel@bclplaw.com,theresa.macaulay@bclplaw.com
- Dennis Francis Murphy
dennismurphy@jonesday.com
- Walker Samuel Newell
wnewell@cooley.com,efiling-notice@ecf.pacerpro.com,avera@cooley.com
- Randy Phillip Orlik
rorlik@coxcastle.com
- Brian Andrew Paino
bpaino@mcglinchey.com,irvineECF@mcglinchey.com
- Parkview Financial REIT LP
paul@parkviewfinancial.com
- Marie Gisele Quashnock
marie@aqalegal.com,rosa@aqalegal.com,legalassistant@aqalegal.com
- Meena Sathappan, TTE
mjb@hopkinscarley.com
- Joshua Louis Scheer
jscheer@scheerlawgroup.com,jscheer@ecf.courtdrive.com
- Brian G. Selden
bgselden@jonesday.com,mreyes@jonesday.com
- Michael Raymond Sew Hoy
sewhoym@sec.gov
- Steven Jude Sibley
sjs@dslaw.net

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Via United States Mail:

Sathappan Venkatachalam 5544 Perugia Circle San Jose, CA 95138	Sound-Crete Contractors, Inc. 135 E. Railroad Ave. Monrovia, CA 91016	Hefner, Stark & Marois, LLP Attn: Michael R. Williams, Esq. 2150 River Plaza Drive, Suite 450 Sacramento, CA 95833
SiliconSage Construction Inc. c/o Mail Center 9450 SW Gemini Dr. #7790 Beaverton, OR 97008-7105	DC Law, APC 2005 De La Cruz Blvd., Suite 215 Santa Clara, CA 95050	Crosby & Crosby, a Professional Law Corporation 1570 The Alameda, Suite 200 San Jose, CA 95126
Chin-Chai Low 20232 Blauer Dr. Saratoga, CA 95070	Abhinav Gupta Neha Gupta 1930 Village Center Circle, Suite 3-5669 Las Vegas, NV 89134	Bhushan Brijmohan Heda 15859 Mina Way Saratoga, CA 95070
Hassan Naboulsi 44 Winding Way San Carlos, CA 94070	Isha Dhesi 2209 Rockwell Dr. Davis, CA 95618	Kishore J. Thota 727 Overdell Dr. Sugarland, TX 77479
Marwan Naboulsi 44 Winding Way San Carlos, CA 94070	The Entrust Group Inc. FBO Neha Gupta 1930 Village Center Circle, Suite 3-5669 Las Vegas, NV 89134	Ravinder P. Singh 1586 Vireo Ave. Sunnyvale, CA 94087
Ravi Thota 7610 Balmoral Way San Ramon, CA 94582	S. Raghupathy 4038 Emerald Isle Lane San Jose, CA 95135	Anuradha Chirala 15354 Sycamore Drive Morgan Hill, CA 95037
Christopher Yoshio Sato Ami Jayendra Sato 91 Thornhurst Irvine, CA 92620	Girish Nagasandra 6642 Sierra Lane Dublin, CA 94568	Kadthala R Narendrnath 3686 Slopeview Dr. San Jose, CA 95148
Mahis Invesco LLC 902 Azure St. Sunnyvale, CA 94087	Pavan Nayak 3686 Slopeview Dr San Jose, CA 95148	Ravi Thota 7610 Balmoral Way San Ramon, CA 94582
Sathappan Family Living Trust dated October 19, 2016 5544 Perugia Circle San Jose, CA 95138	Shailendra Reddy 1623 Whitfield St. Sugarland, TX 77479	Suketu Patel 1611 Monroe Way Rocklin, CA 95765
Sushil Warriar 1831 Shaddy Terrace Fremont, CA 94539	Vachana Shigehalli 5366 Shattuck Ave. Fremont, CA 94555	Vishwas Sripad Hegde 3130 Aran Way Dublin, CA 94568
Xiaoping Chen 33762 Hearland Ct. Union City, CA 94587	Senior District Judge Susan Illston United States District Court Office of the Clerk 450 Golden Gate Ave, 16th Floor San Francisco, CA 94102	