## **FILED**

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KING COUNTY 1 SUPERIOR COURT CLERK E-FILED 2 CASE NUMBER: 10-2-37317-9 SEA 3 4 5 6 7 SUPERIOR COURT FOR THE STATE OF WASHINGTON FOR KING COUNTY 8 SHANNON CALVIN O'NEIL, BY AND THROUGH) No. 10-2-37317-9SEA 9 HIS GUARDIAN AD LITEM, JON GILLIS; TYLER) HOMES CORPORATION, )ANSWER AND COUNTERCLAIM 10 )OF **DEFENDANTS** Plaintiffs,)SCHNABEL; CHERIE SCHNABEL; 11 )STERLING GRAY INVESTMENTS, VS. )LLC 12 **DENNIS** SCHNABEL; **CHERIE** SCHNABEL;) **STERLING** GRAY INVESTMENTS, LLC:) 13 COMMONWEALTH LAND TITLE COMPANY OF) PUGET SOUND, LLC; FOUNDATION BANK;) 14 BANNER BANK; COLUMBIA BANK; COLUMBIA) BANKING SYSTEM, INC., 15 Defendants.) 16 17 COMES NOW defendants Dennis Schnabel; Cherie Schnabel; Sterling Gray Investments, 18 LLC (collectively "Defendants"), and answer Plaintiffs' complaint as follows: 19 I. JURISDICTION AND VENUE 20 1. In answer to Paragraph 1, Defendants are without sufficient information to form a belief as 21 to the truth of the all allegations contained therein, and therefore deny the same. 22 23

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- 2. In answer to Paragraph 2, Defendants are without sufficient information to form a belief as 2 to the truth of all of the allegations contained therein, and therefore deny the same. Admit. 3 3. 4. Admit. 4
  - 5. In answer to Paragraph 5, Defendants are without sufficient information to form a belief as to the truth of the all of allegations contained therein and therefore deny the same.
  - 6. In answer to Paragraph 6, Defendants are without sufficient information to form a belief as to the truth of all of the allegations contained therein, and therefore deny the same.
  - 7. In answer to Paragraph 7, Defendants are without sufficient information to form a belief as to the truth of all of the allegations contained therein, and therefore deny the same.
  - 8. In answer to Paragraph 8, Defendants are without sufficient information to form a belief as to the truth of all of the allegations contained therein, and therefore deny the same.
  - 9. In answer to Paragraph 9, the allegations are asserted legal conclusions which do not require an answer by Defendants and are therefore denied.

## II. **BACKGROUND FACTS**

- 10. In answer to Paragraph 10, Defendants deny the allegations contained therein. 16
- 17 11. In answer to Paragraph 11, Defendants deny the allegations contained therein.
- 18 12. In answer to Paragraph 12, Defendants admit that they executed the Escrow Holdback 19 Agreement attached to Plaintiff's complaint as Exhibit A and state that the document speaks for 20 itself. With the exception of the above, any remaining allegations in Paragraph 12 are denied.
  - 13. In answer to Paragraph 13, Defendants admit that the document speaks for itself. With the exception of the above, any remaining allegations in Paragraph 13 are denied.

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1	14. Admit.		
2	III. CLAIMS		
3	15. In answer to Paragraph 15, Defendants deny the allegations contained therein.		
4	16. In answer to Paragraph 16, Defendants deny the allegations contained therein.		
5	17. In answer to Paragraph 17, Defendants deny the allegations contained therein.		
6	contained therein.		
7	By way of further answer, Defendants assert the following affirmative defenses:		
8	AFFIRMATIVE DEFENSES		
9	1. Plaintiff's have failed to state a claim upon which relief can be granted.		
10	2. Plaintiff's alleged claims are barred by the doctrines of waiver, laches and/or estoppel.		
11	3. Plaintiff's alleged claims are barred by applicable statutes of limitation.		
12	4. Any damages or harm suffered by Plaintiff was caused in whole or in part by his own		
13	conduct.		
14	5. Defendants reserves the right to add additional affirmative defenses as they determine to		
15	be appropriate at any time in the future.		
16	COUNTERCLAIM		
17	By way of counterclaims against Plaintiffs Shannon Calvin O'Neal by and through his		
18	guardian ad litem Jon Gillis and Tyler Homes Corporation (hereinafter referred to		
19	collectively as "Plaintiffs") Defendant Sterling assert the following:		
20	1. By virtue of a series of loan transactions, Defendants have loaned Plaintiffs significant		
21	amounts of money in amounts to be proven at trial. These claims either have already or will be		
22	assigned to defendants Foundation Bank and Banner Bank.		
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1	2.	On information and belief defendant Shannon Calvin O'Neil is not in the military service
2	of the	United States of America.
3		REQUEST FOR RELIEF
4	V	WHEREFORE, Defendants request the following relief:
5	A.	A judgment dismissing with prejudice all claims of Plaintiffs against Defendants for
6	damages.	
7	В.	A judgment declaring the amount and priority of the named parties in and to the
8	Holdback	Funds subject to the Escrow Holdback Agreement in the amounts to be proven at trial
9	and	
10	C.	A judgment for Defendants attorney's fees and costs in accordance with applicable
11	law.	
12	D.	A judgment declaring such other and further relief as may be just and equitable in the
13	premises.	
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15		DATED this December 9, 2010.
16		Attorneys for Defendants Dennis Schnabel; Cherie Schnabel;
17		and Sterling Gray Investments, LLC /s/ Thomas S. Linde
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