



NOTES FOR MEETING...

EXAMPLE OF 1 CONTRACTOR THAT I KNOW OF...
 AMERICAN DREAM HOMES/STACEY DITTER: LIED ON
 INDEMNITY TITLE FORM, ON THE PHONE, AND IN MY OFFICE...
 15+ SUBS THAT I KNOW OF...\$80,000.00

▪ SOVEREIGN HOMES, 10+ SUBS...\$250,000.00	WPI # 70 000
▪ MTN VISTA, 5+ SUBS...\$75,000.00	" 22 000
▪ JENNIFER HOMES, 20+ SUBS...\$750,000.00	180 000
▪ TURNING LEAF, 5+ SUBS...\$130,000.00	15 000
▪ TRICON, 5+ SUBS...\$50,000.00	8 000
▪ LUTZ CONSTRUCTION, 2 SUBS...\$6000.00	9 000
▪ MASTER BUILDERS, 2 SUBS...\$8000.00	3 000
▪ INFINITY, 10 SUBS...\$45,000.00	8 500
▪ WARKENTIN, 5 SUBS...\$85,000.00	3 000
▪ FLINT, 10+ SUBS...\$150,000.00	3 500
	<u>\$322,000⁰⁰</u>

TOTAL: \$1,549,000.00

POINTS TO MAKE:

- HOMEOWNERS PAY TO FINISH HOUSES
- BUILDERS TAKE \$\$ AND LIFE GOES ON
- DITTER OWNS AND FLIES A \$500,000.00 PLANE
- BOUNCED CHECKS MEAN NOTHING-NO PROSECUTION
- SMALL GUYS=SMALLER AMOUNTS...WALK AWAY (CANNOT AFFORD LEGAL FEES TO FIGHT)
- SALAZAR, JUHL, STRODMAN, DUNLAP, DITTER, SOVEREIGN, WESTOFF, TRICON, CONINE, FLINT, MASTER BUILDERS, INFINITY, TO NAME A FEW.
- MILLIONS OF INNOCENT PEOPLE AFFECTED

wPI = West Point Interiors

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Testimony : Subcommittee @ State Capitol

2/11/09

West Point Interviews

Costs to Subs:

Bounced checks: DA will not prosecute. This results in WPI's \$3000.00 loss in lawyer fees to fight \$12,000.00 in bad checks. None are collected.

WPI: Cost of initial investment of goods, supplies, materials & labor to do the job...(not to mention any possible profit or overhead payment lost.)

Cost of Lawyers: Pay for liens, bankruptcies, deeds of trust, ***
court actions, promissory notes, personal * \$18,000.00
guarantees, etc. ***

Education from lawyers: We pay to be educated so we can try to fight to collect on our own without the help of lawyers.

Cost to self or lawyers: to get judgements that usually can't be collected without spending more money. (\$30,000.00 in judgement – can not collect.)

Time wasted trying to collect the “uncollectible “when we should be spending time doing daily business and serving our clients.

EXAMPLE of big problem of what contractors do to subcontractors:

- Subcontractor (at least WPI) has to pay or have personal guarantees of payment upon or before taking possession of products for the contractors' jobs. Then add the cost of labor to the final sale. WPI has done the work but still has no money collected because the **construction loan has now run out or the contractor has spent the money elsewhere**. Now the contractor can not pay until starting a new construction loan (**which is illegal, I think**).

If no new loan is attainable, then the contractor walks, leaving the subcontractor without payment. (Remember, the subcontractor's

(4)

product and labor are a done deal at this point. He has paid for the product and the labor.) The contractor goes on his merry way, disappears, or declares bankruptcy ---with all the money gone!!! Or the contractor moves on to another unsuspecting vendor who is unaware of the contractor's payment history. The subcontractor now has no recourse except to spend **more money** to pursue the money owed him, already being out the cost of product and labor.



Do Senator example - 20000 - 10000 down payment
This is like WPI doing a remodel for a customer, collecting lots of money up front, and then later telling the customer that WPI has used up all the deposit money elsewhere and has **NO MONEY** to start the job and **NO MONEY** for a refund to the customer.

- WPI has the cost of goods (materials, labor, & taxes) all paid out but no money coming in.
- Customer has paid out deposit money (same as WPI for goods) but has no money coming in.
- **WPI gets prosecuted for fraud criminally.**
- **Contractor walks away or goes bankrupt civilly.**

Possible Fixes:

EVERYONE IN CONSTRUCTION MUST BE HELD TO THE SAME LEGAL STANDARD OF PERFORMANCE & ACCOUNTABILITY.

If you contract work then you must have adequate arrangements made to pay for it!!

JC - Example

Examples:

- If you get gas, drive away & don't pay --you get arrested!
- If you take merchandise and don't pay (shoplift) --you get arrested!
- If you fill your shopping cart at the grocery store and leave without paying ---you get arrested!
- If you go out to dinner and leave without paying--you get arrested!
- If you go to a car dealership to try out a car, take the car and don't come back--- you get arrested!

*JC Example
Landmark ownership Example*

But if a contractor leaves and doesn't pay the subcontractor, they walk away, disappear, or declare bankruptcy and START OVER!!

BANKS AND LENDING INSTITUTIONS:

Banks and Lending Institutions should be held accountable for money loaned to contractors for construction. They must have a means to track the contractor's checks that assures loan money for a specific project is **being used to pay the subcontractors on that project.** (Jennifer Homes example: WPI billed for carpet work in a new home that we completed for the contractor. WPI received a check from this contractor. **The check bounced. Upon meeting with our bankers regarding the status of this contractor and the bounced check, the bank's documentation regarding this pay out referenced an address of a vacant lot, not the address of the job we had completed.** (Possible 2 party checks.) **Upon further research, the bank found that they had issued payment for the same labor & materials on this same identical house 6 months previously BUT TO A DIFFERENT VENDOR IN DENVER.** The bank had not checked this out thoroughly when payments were issued. **The contractor falsified information as to where these funds were actually going. Once again, WPI is left holding the bag.**

Building permits list all subcontractors that work on, or are to be paid from funds to build that house. The title company must check to be sure that all are paid or all will be paid.

Liens placed by subs on property at the time of doing work just as the City of Greeley does on water taps,guarantee accountability which guarantees payment. (California, Utah, & Arizona presently do in some fashion.)

Title Company needs to have an indemnity agreement with the contractors that actually **MEANS** something **LEGALLY** (criminal NOT civil). Possible 10% funds in escrow until all subs have been paid. **Non-payments, when all concerned have the same accountability, need to be criminal NOT civil.** (Just like other forms of fraud: theft, con-artistry, etc.)

Everyone in the construction business needs to play by the same rules regarding standards & accountability.

TIMOTHY M DAY
CONSTRUCTION ACCOUNT
1011 COACHMAN LANE
FORT COLLINS, CO 80524

82-697/1070
3782006849

1019

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AM
NSF ~~NOT~~ *NSF* DATE *MAR 26 2008*

PAY TO WEST POINT INTERIORS *7305.98*
THE ORDER OF *Seven Thousand Three Hundred Five* *100*
NEW WEST BANK
6506 W. 18TH STREET ROAD, GREELEY, CO 80634
3454 W. 26th Street • Greeley, CO 80634
970-378-1800

MEMO
⑆107006 8⑆ 3782006⑆ 9⑆ 1019 ⑆0000730598⑆

⑆107006⑆8⑆7⑆

⑆0000730598⑆

Vernon Gehring - V. Purdie

By endorsement hereon, the payee acknowledges receipt of the amount of this check in full payment and satisfaction of all debts or obligations between the payor and payee. If a certification or endorsement is required by the payee, the payee must be signed by an officer or cashier of the payee in full view of the payor and the payor must sign the check in full view of the payee.

25061 117405

0808 10506

Advantage-Loveland, CO
P8877369558 1 >107006878
Advantage-Loveland, CO
P887898840800
19701

DEPOSIT ONLY
RAT PROPERTIES, INC.
WEST POINT INTERIORS
120120

PAY TO THE ORDER OF
ADVANTAGE BANK
GREELEY, CO 80634-2046
10700607 +

1020-0019-9
1121 0008 06 01 02 03
107006878
142136507

To date has cost me 850^{00} to do it
Light & not interested - meaningless
to him

American Dream Homes, LLC
3506 Holman Ct.
Greeley, CO 80631
970-356-5697

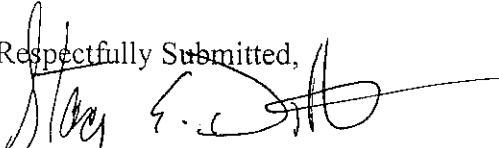
REC'D MAR 21 2008

March 19, 2008

To whom it may concern,

This is the last thing we wanted to be sending everyone, but we have no choice. As of February 29, 2008 American Dream Homes, LLC has closed its doors. Between a bookkeeper embezzling money, subs charging more than their bids, and the economy we are forced to close our doors. The company has no remaining assets. Stacy, being an officer for the LLC, is no longer part of the company and is actively seeking work outside the construction industry.

We are very sorry for any hardship this will cause. We thank you all very much for your hard work and everything you did for the home owners.

Respectfully Submitted,

Stacy E. Ditter
American Dream Homes, LLC

Thomnity

[Handwritten mark]

AFFIDAVIT AND INDEMNITY

TO First American Title Insurance Company

This is written evidence to you that there are **no unpaid bills**, and to the extent there may be unpaid bills that the undersigned undertakes and agrees to cause the same to be paid such that there shall be **no mechanic's or materialmen's liens** affecting the property for materials or labor furnished for the construction and erection, repairs or improvements contracted by or on behalf of the undersigned on property located at:

and legally described as:

We further represent that there are **no public improvements** affecting the property prior to the date of closing that would give rise to a special property tax assessment against the property after the date of closing.

We further represent that there are **no pending proceedings or unsatisfied judgments of record**, in any Court, State or Federal, nor any tax liens filed or taxes assessed against us which may result in liens, and that if there are judgments, bankruptcies, probate proceedings, state or federal tax liens of record against parties with same or similar names, they are not against us.

We further represent that there are **no unrecorded contracts, leases, easements, or other agreements or interests** relating to said premises of which we have knowledge.

We further represent that we are in **sole possession of the real property** described herein other than lease hold estates reflected as recorded items under the subject commitment for title insurance.

We further represent that there are **no unpaid charges and assessments that could result in a lien** in favor of any association of homeowners which are provided for in any document referred to in Schedule B of Commitment referenced herein.

We further understand that any payoff figures shown on the settlement statement have been supplied to Security Title Guaranty Co. as settlement agent by the seller's/borrower's lender and are subject to confirmation upon tender of the payoff to the lender. If the payoff figures are inaccurate, we hereby agree to immediately pay any shortage(s) that may exist.

The undersigned affiant(s) know the matters herein stated are true and indemnifies First American Title Insurance Company and Security Title Guaranty Co. against loss, costs, damages and expenses of every kind incurred by it by reason of its reliance on the statements made herein.

This agreement is executed with and forms a part of the sale and/or financing of the above described premises, and is given in addition to the conveyance and/or financing of the premises in consideration for the conveyance and/or financing and forms a complete agreement by itself for any action thereon.

SELLER:

STATE OF COLORADO
COUNTY OF WELD

}ss:

The foregoing instrument was acknowledged, subscribed, and sworn to before me this day of, by.

(SEAL)

Notary Public
My Commission Expires:

Accepting Office: Security Title Guaranty Co.

Address: 1711 61st Avenue, Suite 100, Greeley, CO 80634

Filing Reference: S0263428-340-MK

OR _____

INDEMNITY AGREEMENT I
(Mechanics' Liens)

THIS INDEMNITY AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 2008 by field= (individually and collectively, the "Indemnitor") *in favor of* FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation and its agents and employees (collectively "First American").

RECITALS:

- A. Indemnitor is the owner of, and/or has, either directly or indirectly, an interest in, the Property or in a transaction involving the Property.
- B. Construction of certain improvements has or will commence on the Property.
- C. In connection with a contemplated transaction involving the Property, First American has been requested to issue one or more Title Policies in respect to the Property insuring against loss by reason of Mechanics' Liens.
- D. In connection with future transactions, First American may issue one or more Title Policies insuring against Mechanics Liens and if First American, in its sole discretion, elects to so issue a Title Policy for the Property, it will do so in material reliance on each of the covenants, agreements, representations and warranties of Indemnitor set forth in this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

AGREEMENT:

1. **DEFINITIONS.** As used herein, the following terms shall have the following meanings:

<u>TERM:</u>	<u>DEFINITION:</u>
Construction:	Any and all work, construction and/or placement or segregation of materials which may give rise to the right for liens to be filed against the Property under the applicable statutes and/or equitable laws of the State.
Construction Costs:	All costs, fees, expenses and/or obligations for labor, materials and/or services for or in connection with, the Construction.
Effective Date:	The date this Agreement becomes effective in accordance with Paragraph 3 below.
Mechanics' Liens:	All liens or rights to lien existing against the Property or which subsequently attach or are claimed against the Property due to Construction.
Policy Date:	The date of issuance of a Title Policy for the Property.
Property:	That certain real property as described on <u>Exhibit A</u> attached hereto and incorporated herein by reference.
State:	The state in which the Property is located.
Title Policy(ies):	Policy or policies of title insurance issued by First American with respect to the Property insuring against loss or damage due to Mechanics' Liens.

2. **REPRESENTATIONS, WARRANTIES AND COVENANTS.** As of the Effective Date, Indemnitor shall be deemed to represent, warrant and covenant to First American as to the Property that (a) all sums due and owing for Construction on the Property have been paid or will be paid promptly and in full before the respective times for filing Mechanics' Liens affecting the Property; (b) Indemnitor has funds sufficient to pay all Construction Costs applicable to the Property; and (c) there are no Mechanics' Liens or potential Mechanics' Liens against the Property except as previously specified by Indemnitor in writing to First American. All representations, warranties and covenants contained herein are material to First American's decision to issue a Title Policy for the Property.

3. **EFFECTIVE DATE.** Delivery of this Agreement by Indemnitor to First American shall not be deemed acceptance of this Agreement by First American or a commitment to issue a Title Policy for the Property. First American has no duty to Indemnitor to accept this Agreement or, in the future, to agree to issue a Title Policy for the Property. Upon acceptance of this Agreement by First American as evidenced by the issuance of a Title Policy, this Agreement shall remain in effect as long as First American has any possible liability under any Title Policy issued at any time in reliance on this Agreement. First American may rely on this Agreement to issue a Title Policy at any time without notice to or further consent by Indemnitor.

**TCC CORPORATION
CONSTRUCTION COMPANY**

COPY

SUBCONTRACT AGREEMENT

DATE: 10/29/08 Contract Number: 0801-09660

GENERAL CONTRACTOR: TCC Corporation
2900 F Street
Greeley, Colorado 80631

AND SUBCONTRACTOR: West Point Interiors and
Les Frank
6001 W. 10th Street
Greeley, Colorado 80634

FOR PROJECT: Horizon Vue Dairy
AT ADDRESS: 32209 County Road 57
Gill, Colorado 80624

FOR OWNER: Horizon Vue Dairy
AT ADDRESS: 32209 County Road 57
Gill, Colorado 80624

SCOPE OF SUBCONTRACT WORK:

Subcontract for complete Konecto Prestige Tile floor system per Horizon Vue Dairy plans dated July 11, 2008 including but not limited to labor, materials, equipment, installation and all work associated with complete Konecto Tile floor system per current code for Horizon Vue Dairy project located at 32209 County Road 57, Gill, Colorado 80624.

All work shall be done in accordance with the Site Drawings by Drexel, Barrell & Co. dated July 11, 2008, Architectural and Structural Drawings by High Plains Engineering dated July, 11, 2008, Electrical Drawings by Moldenhauer Engineering dated May 14, 2008, and Plumbing Drawings by Western States Engineering dated July 22, 2008.

Scope of work includes but is not limited to the following: Supply and Install complete Konecto Prestige tile system in Conference Room and Office on the north side of the Milk Parlor. The tile system shall be Sunset (80010). Scope of work includes all labor, materials, equipment, supervision, product data, maintenance data, certificates, coordination, special warranties, incidentals, handling, freight, permits, subcontractors, tests, or any other item or action required to complete the work according to the plans, specifications, and manufacturers requirements.

Your attention is specifically called to the following items which are included in this subcontract, but not necessarily limited to: 1) This subcontract includes all coordination and labor to provide a complete system. 2) This subcontract includes all misc. materials required to complete this project. 3) All requirements as defined in the applicable specifications related to your work.

- (b) All pay requests must be submitted in an approved form on or before the 25th day of each month and will be paid within 30 days after the pay request is accepted and paid by the Owner, as more specifically described in Paragraph 2.3 below. Any pay request not received by the 25th of the month may be withheld for an additional 30 days.
- (c) The Contractor shall upon receipt from the Owner pay the Subcontractor 90% of such work, labor and materials, and shall retain the remaining 10% until the final completion and acceptance of all work covered by this agreement, and such percentage so retained shall not be considered moneys due and owing until the work under the Subcontract has been completed to the satisfaction of and the same accepted by the Owner and payment therefore has been made by Owner to Contractor.
- (d) Regardless of the terms of payment provided for herein the Contractor shall not be required to make any payments that would leave a balance due to Subcontractor insufficient to cover the retained percentage plus an amount sufficient to satisfy all obligations of the Subcontractor for labor, materials or equipment furnished or to be furnished by the Subcontractor hereunder necessary to complete the Subcontract Work.

2.2 Subcontractor agrees, subject to the provisions of this Subcontract, to accept the considerations and/or amounts set forth in the Subcontract Agreement as full compensation for its performance of this Subcontract, including but not limited to the performance of all work and the furnishing of all labor, supervision, engineering, equipment, supplies, materials, and any other item or thing necessary to the performance of the work, all loss or damage arising out of the nature of the work, for all risks of every description assumed by Subcontractor in connection with the Subcontract Work, and for well and faithfully completing the several parts of the work and the whole thereof, in the manner and at the time or times specified in this Subcontract or by the Contractor.

2.3 Receipt of payment by the Contractor from the Owner for the Subcontract work is a condition precedent to payment by the Contractor to the Subcontractor. The Subcontractor hereby acknowledges that it relies on the credit of the Owner, not the Contractor, for payment of Subcontract work. It is an express condition precedent to payment by the Contractor to the Subcontractor that the Contractor receives payment from the Owner for the Subcontractor's work. The Contractor shall be under no obligation to pay the Subcontractor for any work done pursuant to this Subcontract until the Contractor has been paid therefor by the Owner, and then only to the extent of the payment received from the Owner. The Subcontractor expressly bears the risk of the Owner's nonpayment.

2.4 The Subcontractor shall reimburse the Contractor for any loss or damage, included but not restricted to any liquidated damages which may become due the Owner under the Prime Contract, and extra expense paid or incurred by the Contractor which is due to (a) Subcontractor's failure to deliver any and all materials and/or supply labor, furnish equipment or services, etc., as required herein, and/or (b) Subcontractor's failure to properly and timely perform any and all Subcontract Work, in keeping with the progress of the general construction work, and/or (c) to properly perform any term, covenant or condition contained in this Subcontract.

2.5 The Subcontractor shall furnish the Contractor with such partial releases and waivers of lien from his subcontractors, material men and creditors as the Contractor may request from time to time on labor and/or material and/or other claims, and final releases and waivers of lien at the time of final payment on this

do so, the Contractor may itself take whatever actions it deems necessary to expedite material deliveries or completion of work, and charge the resulting costs to the Subcontractor.

6.2 If the Subcontractor fails to adhere to the established schedules, or misses any milestone in any such schedule, or if the Subcontractor abandons the job or fails to have its workers on the site and productively employed for three (3) days or more, the Contractor may direct the Subcontractor to accelerate its work, by incurring overtime, double-shifting, expediting deliveries, or otherwise. The Subcontractor shall promptly comply with such a direction, at its own cost and without adjustment to its compensation, unless it is determined that the Subcontractor was entitled to a Change Order extending the time within which to complete the Subcontract Work. Further, if the Subcontractor's acceleration causes the Contractor to incur additional costs, the Subcontractor shall pay those costs, without reimbursement by the Contractor, unless it is determined that the Subcontractor is entitled to a Change Order extending its time. If the Subcontractor disagrees with an order to accelerate, it shall nevertheless comply, and may pursue a claim as provided in this Subcontract.

6.3 The Subcontractor shall be entitled to such extensions of time as the Contractor may receive from the Owner, to the extent that they are applicable to the Subcontract Work, and to no other extensions of time.

6.4 The Subcontractor will coordinate its work with the work of the Contractor and other subcontractors, so that no delays or interference will occur in the completion any part or all of the Project.

6.5 The Subcontractor shall make no claim for damages arising out of or relating to delays, disruptions, suspensions, accelerations, inefficiencies or impacts upon the work, apart from such damages as the Contractor may receive from the Owner on behalf of the Subcontractor.

6.6 If the Contract Documents provide for assessment against the Contractor of liquidated delay damages, or actual delay damages suffered by the Owner, the Subcontractor shall be liable to the Contractor for any portion of such damages that may be fairly attributed to the Subcontractor's delays.

7. CHANGES

7.1 The right is reserved by the Contractor to require changes in deviation from, additions to, and omissions from the Subcontract Work, and the Subcontract price shall be adjusted accordingly. Before proceeding with any change, deviation, addition, or omission, the Subcontractor shall first obtain written authorization from the Contractor on the Change Order Form attached hereto as Exhibit 2.

7.2 The Subcontractor shall have no dealings with the Owner or his authorized representatives in regard to changes, extras or omissions in connection with this work, but must deal only with the Contractor. No extra charges will be accepted from Subcontractor without prior written approval from Contractor's Project Manager, and a properly executed Change Order Form.

7.3 The Subcontractor agrees to make any claims for extension of time or for damages for delays or otherwise to the Contractor in the same manner as provided in the Prime Contract for like claims with the Contractor upon the Owner, and in such time as will enable the Contractor to present such claims to the Owner for payment or recognition. The Contractor will not be liable to Subcontractor on any claim not timely or properly presented, and allowed and approved by the Owner. No claim for extension of time or for damages for delays shall be allowed unless approved in writing by the Contractor.

8. TERMINATION