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9 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**
10 **SAN DIEGO REGION**

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13 IN RE TENTATIVE CLEANUP AND
14 ABATEMENT ORDER NO. R9-2011-0001
(formerly No. R9-2010-0002)

**STAR & CRESCENT BOAT CO.'S
HEARING BRIEF**

Hearing Dates: November 9, 14, 15, and
16, 2011

17 In the Tentative Cleanup and Abatement Order (“TCAO”) dated September 15, 2010, the
18 California Regional Water Quality Control Board, San Diego Region (“Water Board”) named Star
19 & Crescent Boat Co., a California Corporation (“S&C Boat”) as a “discharger” in the San Diego
20 Bay Shipyard Sediment case. The Water Board bases its determination on its contention that S&C
21 Boat is a corporate successor-in-interest to the San Diego Marine Construction Company
22 (“SDMCC”), which is alleged to have contributed to pollution by way of discharges from its
23 shipyard facility between 1914 and 1972. The successor-in-interest theory is the Water Board’s
24 sole basis for conferring the “discharger” designation upon S&C Boat.

25 As detailed herein, S&C Boat does not meet the basic legal requirements that must be
26 established in order to assign successor-in-interest liability. SDMCC sold its interest in the
27 Shipyard Sediment Site four years before S&C Boat came into existence, and SDMCC (which was
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1 renamed Star & Crescent Investment Co. (“Investment Co.”)) continued to operate for more than a
2 decade after S&C Boat acquired SDMCC/Investment Co.’s harbor excursion assets.

3 S&C Boat was incorporated in 1976. Throughout its history, its only business has been to run
4 harbor excursions in the San Diego Bay. Its shore operations have always taken place north of the
5 San Diego–Coronado Bay Bridge (the “Bridge”). S&C Boat never leased or used the Shipyard
6 Sediment Site south of the Bridge. S&C Boat has no direct connection – nor has any direct
7 connection ever been alleged by the Water Board – to the contamination at the Shipyard Sediment
8 Site. S&C Boat is a distinct legal entity that, as a matter of law, is not liable for contamination
9 allegedly caused by SDMCC. The TCAO should be revised to remove reference to S&C Boat as a
10 responsible party and “discharger”.

11 **I. Factual Background**

12 **a. SDMCC Corporate History**

13 Oakley J. Hall was the sole shareholder of SDMCC until his death in 1967.¹ Captain Hall’s
14 SDMCC empire had three divisions: the Marine Division (operating the Shipyard Sediment Site),
15 the Boat Division (operating the harbor excursion business north of the Bridge), and the Investment
16 Division (which owned and operated other unrelated assets). (S&C Comments, Ex.1.) The Marine
17 Division represented 86.7% of SDMCC's revenue, repairing Navy and tuna boats. (S&C
18 Comments, Ex.1.) From 1915 until 1972, the Marine Division occupied the 19.2 acre shipyard site
19 located at the foot of Sampson Street in San Diego, south of the Bridge (the “Shipyard Sediment
20 Site”). Contamination at the Shipyard Sediment Site is the basis of this Water Board action.

21 SDMCC's second division, the Investment Division, owned assets such as a building in
22 downtown San Diego at 201 West Broadway, Lasco Truck Rental & Equipment Co., the Lake
23 Mead Ferry Service, Inc., and had several other real and personal assets. (S&C Comments, Exs.1,
24 11-14.) The Investment Division owned and operated various assets and businesses until its
25 dissolution in 1991. (S&C Comments, Ex. 15 (attached hereto for ease of reference).)

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28 ¹ United States Tax Court’s opinion in *Estate of Oakley J. Hall, Deceased, Southern California First National Bank, Executor v. Commissioner of Internal Revenue* (1975) (attached as Exhibit 1 to Star & Crescent Comments dated May 26, 2011 (“S&C Comments”)), p. 1.

1 SDMCC’s third division, the Boat Division, was commonly known as Star and Crescent
2 Boat Company. (S&C Comments, Ex.1.) This Star and Crescent Boat Company was not a
3 separately incorporated entity, but only operated as a division of SDMCC. As of 1972, it was clear
4 to the San Diego Unified Port District (“Port District”) that the Boat Division was operating as a
5 division of SDMCC, and not as a separate corporate entity. (Port District Staff Communication,
6 S&C Comments, Ex.7.) The Boat Division operated a commercial towing and harbor excursion
7 business and ran the Broadway gift shop from leased space along Harbor Drive between the
8 Broadway and B Street piers north of the Bridge. (S&C Comments, Ex.1.) The Boat Division of
9 SDMCC is not S&C Boat, the designated party herein.

10 **i. SDMCC’s Lease of the Shipyard Sediment Site**

11 SDMCC’s Marine Division leased the Shipyard Sediment Site from 1915 until 1972.
12 Campbell Industries purchased SDMCC’s interest in the Shipyard Sediment Site in 1972 for \$4.6
13 million. (S&C Comments, Ex.1.) In 1972 the Port District accepted SDMCC’s surrender of its
14 lease for the Shipyard Sediment Site. (Surrender of Port Lease, S&C Comments, Ex.8; Port
15 Ordinance Accepting Surrender, S&C Comments, Ex. 9.) Thereafter, Campbell Industries secured
16 a new lease for the Shipyard Sediment Site. Thus, after 1972, SDMCC had no leasehold interest in,
17 or any operations at, the Shipyard Sediment Site.

18 **ii. SDMCC Becomes Star & Crescent Investment Company**

19 After surrendering the Shipyard Sediment Site lease in 1972, SDMCC amended its Articles
20 of Incorporation, changing its name to Star & Crescent Investment Co. (“Investment Co.”). (Cert.
21 of Amd. of Articles of Incorp., S&C Comments, Ex.10.) After this name change, Investment Co.
22 continued to operate the Boat Division, which ran the harbor excursion business on the San Diego
23 Bay, and operated several other businesses, including Lake Mead Ferry Service, Inc. (incorporated
24 in 1968²), Las Vegas Baggage Service, and Lasco Truck Rental & Equipment Co.³

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26 ² Nevada Sec. of State records show incorporation of Lake Mead Ferry Service, Inc. in 1968 (attached as Exhibit 39).
27 ³ Investment Co.’s minutes of December 23, 1977 (S&C Comments, Exhibit 11, attached); Investment Co.’s resolutions
28 of July 7, 1978 (S&C Comments, Exhibit 12, attached); Investment Co.’s written consent of June 8, 1979 (S&C
Comments, Exhibit 13, attached); Investment Co.’s written consent of March 9, 1981 (S&C Comments, Exhibit 14,
attached); correspondence regarding Investment Co.’s insurance coverage for other businesses (attached as Exhibits 37
and 38.)

1 In 1976, four years *after* SDMCC sold the ship building business to Campbell Industries
2 and surrendered its lease for the Shipyard Sediment Site, Investment Co. transferred the assets of its
3 Boat Division (the harbor excursion business) to S&C Boat. After the sale of these harbor
4 excursion assets to S&C Boat in 1976, Investment Co. continued to operate its diverse group of
5 businesses, including the Lake Mead Ferry Service, Inc., the Las Vegas Baggage Service, and
6 Lasco Truck Rental & Equipment Co. (S&C Comments, Exs.11-14, attached.) The continued
7 operation of these other business assets by Investment Co. is evidenced by corporates minutes,
8 resolutions and insurance correspondence unearthed during discovery:

- 9 • December 30, 1977 Investment Co. minutes noting that Lasco Truck Rental
10 operations in Nevada had become the largest truck rental agency in Nevada;
11 discussion of the franchise renewal of, and acquisition of a building site and facilities
12 for, the Lake Mead Ferry Service operations; and a rate increase associated with the
13 Las Vegas Baggage Service (Exhibit 11).
- 14 • July 7, 1978 Investment Co. resolution which discuss the possible liquidation of the
15 Las Vegas Baggage Service, and securing land by lease or purchase to enable Lasco
16 Truck Rental & Equipment Co. to expand operations to Reno, Nevada (Exhibit 12).
- 17 • June 8, 1979 Investment Co. resolution discussing opening a furniture stripping
18 business in Las Vegas, Nevada; the sale of Las Vegas Baggage Service; and the
19 transfer of assets from Las Vegas Baggage Service to Lasco Truck Rental &
20 Equipment (Exhibit 13).
- 21 • March 9, 1981 Investment Co. resolution allowing the extension of the Lake Mead
22 Ferry Service contract with the Department of the Interior (Exhibit 14).
- 23 • 1977 to 1984 insurance correspondence relating to Star & Crescent Investment
24 Company, the Las Vegas Baggage Service, Lasco-Boss Truck Rental & Equipment,
25 Lake Mead Yacht Tours, a building located at 3500 West Naples Drive in Las
26 Vegas, Nevada, and Star Crescent of Nevada (Exhibit 37).
- 27 • March 10, 1977 letter from Johnson & Higgins to Investment Co. referring to
28 binding insurance coverage for Investment Co.'s "various locations." (Exhibit 38)

29 Over 15 years after selling the harbor excursion assets to S&C Boat, Investment Co.
30 discontinued its remaining operations and dissolved in 1991. (Election to Wind Up and Dissolve,
31 S&C Comments, Ex.15, attached.)

32 **b. S&C Boat Corporate History**

33 The formation and incorporation of S&C Boat in 1976 occurred four years *after* SDMCC
34 surrendered its Shipyard Sediment Site lease. Immediately following the filing of its Articles of
35 Incorporation, S&C Boat voted to issue 1,500 shares of stock. (S&C Boat Minutes, S&C
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1 Comments, Ex. 17, attached.) S&C Boat then voted to purchase specified assets and assume
2 specified liabilities of the harbor excursion business from Investment Co. (S&C Comments, Ex.17,
3 attached.) The purchase price for the harbor excursion business assets was 1,500 shares of S&C
4 Boat stock with a fair market value of \$718,825.53. (S&C Comments, Ex.17, attached.) The
5 transferred assets included leases for properties associated with the harbor excursion business, none
6 of which included the Shipyard Sediment Site. (S&C Comments, Ex.17, attached.)

7 Six harbor excursion boats were listed among the assets transferred to S&C Boat, as well as
8 four leases (all for property associated with the harbor excursion business and located north of the
9 Bridge (S&C Comments, Exs. 17-20)⁴), two floats, two vehicles, and the right to use the name “San
10 Diego Harbor Excursion.” (S&C Comments, Ex.17, attached.) Also listed were specific and
11 itemized liabilities: \$80,000 in notes payable, \$4,556.30 in charter deposits, and employee
12 advances and accrued vacation and holiday pay.

13 As only specified harbor excursion business assets and liabilities were purchased by S&C
14 Boat, none of the transferred assets or liabilities had any relation to the former operations at the
15 Shipyard Sediment Site or continuing or future operations of Investment Co. Importantly,
16 Investment Co. correspondence dated after the sale of the harbor excursion business reflects that
17 Investment Co. retained residual liabilities “connected with your ship building operations.”
18 (Johnson & Higgins March 10, 1977 letter, Exhibit 38, attached.) This letter confirms that
19 liabilities connected with SDMCC’s ship building operations were retained by Investment Co.

20 Almost immediately following the sale of the harbor excursion business, Investment Co.’s
21 1,500 shares of S&C Boat stock were transferred to Stephen P. Carlstrom, Judy Hall, and Janet
22 Miles, who each received 500 shares. (S&C Boat Shareholder Certificates, S&C Comments,
23 Ex.22.) Under the terms of the applicable stock sale agreement, these three individuals paid
24 \$765,400 to purchase this stock (S&C Boat Minutes, S&C Comments, Ex.23; S&C Boat
25 Shareholders’ Agmt., S&C Comments, Ex.24), and the payments were made from S&C Boat
26 dividends until paid in full in 1981. (S&C Boat Minutes, S&C Comments, Exs. 25-30.)

27 _____
28 ⁴ None of the transferred leases relate to the Shipyard Sediment Site, as SDMCC/Investment Co. had surrendered that
lease four years earlier. (S&C Comments, Exhibits 8 and 9.)

1 In 1984, San Diego Harbor Excursion acquired all outstanding stock in S&C Boat, and in
2 1986 San Diego Harbor Excursion merged with S&C Boat. (Agmt. of Merger, S&C Comments,
3 Ex.32.) None of the current S&C Boat shareholders, Arthur E Engel, Herbert G. Engel and David
4 Engel, have any relationship with Investment Co., Stephen P. Carlstrom, Judy Hall, and/or Janet
5 Miles. (Deposition of George Palermo, pp. 67-68, 83-86, 110, S&C Comments, Ex.36.) Moreover,
6 the current shareholders of S&C Boat had no affiliation with either SDMCC, Investment Co., or
7 any of their officers, directors or shareholders. (Deposition of George Palermo, pp. 48, 67-68, 85-
8 86, 110, S&C Comments, Ex.36.)

9 From 1976 to the present, S&C Boat's operations have been limited to the operation of a
10 harbor excursion business, which does not operate at the Shipyard Sediment Site, but at different
11 locations along the San Diego Bay, all north of the Bridge.

12 **II. S&C Boat is Not the Legal Corporate Successor to SDMCC or Investment Co.**

13 The only issue before the Water Board is whether S&C Boat is the corporate successor-in-
14 interest to SDMCC. It is not. The corporate facts evidenced above show that S&C Boat is a
15 distinct legal entity that is not related to SDMCC in a manner sufficient to impose successor
16 liability as alleged by the Water Board.

17 The general rule governing successor liability provides that where a corporation purchases
18 the assets of another corporation, the acquiring corporation does **not** assume the selling
19 corporation's debts and liabilities. (*Ray v. Alad Corp.* (1977) 19 Cal.3d 22, 28.) California courts
20 have identified specific situations in which an entity may be held liable as a successor-in-interest
21 for another's debts and liabilities. Such successor liability will **only** attach where: (a) the purchaser
22 expressly or impliedly agrees to assume the other's debts and liabilities; (b) a transaction amounts to
23 a consolidation or merger of the two corporations; (c) the purchasing corporation is merely a
24 continuation of the selling corporation; or (d) the transaction is entered into fraudulently to escape
25 liability for debts. (*Ortiz v. South Bend Lathe* (1975) 46 Cal.App.3d 842, 846, disapproved on other
26 grounds in *Ray, supra*, 19 Cal.3d at 34; *Franklin v. USX Corp.*, (2001) 87 Cal.App.4th 615, 621.)

1 **a. S&C Boat Only Assumed Specific SDMCC/Investment Co. Liabilities.**

2 S&C Boat did not expressly or impliedly agree to assume *all* of the debts or liabilities of
3 Investment Co. To the contrary, the corporate minutes and all related documents clearly set forth
4 exactly which assets and which liabilities S&C Boat was purchasing. (S&C Comments, Ex.17,
5 attached.) The assets and liabilities purchased *only* relate to the harbor excursion business. None
6 of the assets nor any of the liabilities were related to either the shipbuilding business, the Shipyard
7 Sediment Site, or any other of Investment Co.’s continuing operations. (S&C Comments, Ex.17,
8 attached.)

9 The San Diego Region’s Cleanup Team (“CUT”) Response to Comments Report correctly
10 quotes the terms of the sale from Investment Co. to S&C Boat: all “right, title and interest of every
11 kind and description in and to its business and assets *pertaining to its harbor excursion business*” .
12 . . “but subject to all liabilities of said business as of March 31, 1976, *as relate to its harbor*
13 *excursion business.*” (S&C Comments, Ex.17, attached.) The Investment Co. offer is clear – the
14 assets and liabilities purchased are only those assets and liabilities *pertaining or relating to the*
15 *harbor excursion business.* The CUT’s assertion that there should have been a second document
16 that specified all of Investment Co.’s assets that S&C Boat was **not** purchasing is absurd. The
17 factual evidence clearly shows that Investment Co. continued to operate its own significant and
18 separate business interests (mostly in Nevada) after the sale of the harbor excursion business to
19 S&C Boat. To expect S&C Boat or Investment Co. to list all of Investment Co.’s assets that were
20 not included in the purchase is preposterous.

21 The CUT and other Designated Parties attempt to suggest that the words “all liabilities of
22 said business as of March 31, 1976, *as relate to its harbor excursion business,*” really mean
23 something much broader than is actually stated. The law does not support this interpretation. If
24 contractual language is clear and explicit, it governs. (*Bank of the West v. Superior Court* (1992) 2
25 Cal.4th 1254, 1264.) Language in a contract must be construed in the context of the document as a
26 whole. (*Id.* at 1265.) The phrase “all liabilities” cannot be pulled out of context, as attempted by
27 the CUT and other designated parties, but must be considered in the context of the full sentence and
28 the complete document. It is clear from the sentence that the liabilities and assets purchased were

1 only those “pertaining to its harbor excursion business.” Moreover, from the full document it is
2 clear that all the assets and liabilities listed (including Port District leases) only relate to the harbor
3 excursion business, and no other business, assets, or property belonging to Investment Co.

4 Next, the CUT and other Designated Parties allege that Investment Co. had no other
5 business operations, assets or liabilities. This statement is contrary to the evidence found in the
6 Investment Co. corporate minutes, resolutions, and insurance correspondence, all of which show
7 that Investment Co. continued to own and operate many other diverse assets, and continued to be
8 responsible for the debts and liabilities associated therewith, after selling the harbor excursion
9 assets to S&C Boat, and for many years thereafter. (S&C Comments, Exs.11-14 and 17, attached;
10 Exs. 37-38, attached.) For example, a March 10, 1977 letter from Johnson & Higgins to Investment
11 Co. references binding general liability coverage, “subject to a satisfactory physical inspection of
12 your various locations.” (Ex.38, attached.) The content of this letter alone shows that Investment
13 Co. operated businesses requiring insurance at “various locations.”

14 The Investment Co. corporate minutes and resolutions document the various other business
15 operations of Investment Co., which were historical and continuing operations. That these
16 Investment Co. operations continued from before 1976 is clear from the context of those corporate
17 documents which discussed *extending* leases, *expanding* operations, *renewing* franchises, and
18 *extending* contracts. (S&C Comments, Exs.11-14, attached.) These *extensions*, *expansions*, and
19 *renewals* from 1977 to 1981 were of ongoing business entities owned by Investment Co. prior to
20 the sale of its harbor excursion business to S&C Boat in 1976. Nevada Secretary of State records
21 show that Lake Mead Ferry Service, Inc. was incorporated in 1968. (Ex.39, attached.) There is no
22 evidence suggesting that Investment Co.’s only asset in 1976 was the harbor excursion business. In
23 fact, the evidence is to the contrary.

24 Most notably, the March 10, 1977 Johnson & Higgins letter, addressed to Investment Co.
25 and dated after the sale of the harbor excursion business to S&C Boat, states: “[a]t the February 1,
26 1977 attachment date, we had secured the agreement of the Aetna Insurance Company to bind
27 coverage for your general liability exposures **other than the residual products liability connected**
28 **with your ship building operations.**” (Ex.38, attached.) This letter evidences the fact that

1 Investment Co. not only continued to operate other businesses after the sale of the harbor excursion
2 business, but also, and more importantly, *expressly retained the residual liability connected with*
3 *the ship building business*, after the sale of the harbor excursion business to S&C Boat.

4 As a matter of law, successor-in-interest liability cannot be established under the first
5 situation identified in *Ortiz*, because S&C Boat only acquired Investment Co.’s harbor excursion
6 assets and liabilities and no others.

7 **b. There was No De Facto Merger of S&C Boat with SDMCC/Investment Co.**

8 The 1976 purchase of the harbor excursion assets and assumption of related liabilities by
9 S&C Boat did not amount to a consolidation or merger. As described in *Ray*, the “consolidation or
10 merger” theory “has been invoked where one corporation takes *all* of another's assets without
11 providing any consideration that could be made available to meet claims of the other's creditors or
12 where the consideration consists wholly of shares of the purchaser's stock which are promptly
13 distributed to the seller's shareholders *in conjunction with the seller's liquidation.*” (*Ray, supra*,
14 19 Cal.3d at pages 28-29, citations omitted, emphasis added.) Satisfaction of several elements is
15 necessary to establish such a “consolidation or merger”: (i) *all* of the Seller’s assets must be sold;
16 (ii) consideration must be inadequate, in that *no* consideration is made available to meet claims of
17 other creditors; (iii) consideration consists wholly of shares of the purchaser’s stock; (iv) those
18 share are immediately distributed to the seller’s shareholders; **and** (v) the seller must then be
19 liquidated. (*Id.* at 28.) Each of these five elements must be shown to establish a consolidation or
20 merger. These requisite elements have not been met.⁵

21 As noted above, S&C Boat did not acquire *all* of SDMCC/Investment Co.’s assets (S&C
22 Comments, Exs.11-14 and 17, attached) which is an essential element for successor liability under
23 this theory. The assets purchased by S&C Boat were specifically enumerated in the corporate
24 documents and were limited only to Investment Co.’s harbor excursion business. (S&C Comments,
25 Ex.17, attached.) Following the sale of the harbor excursion assets to S&C Boat, Investment Co.

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27 ⁵ The CUT and other Designated Parties rely on *Marks v. Minn. Mining & Mfg. Co.* (1986) 187 Cal.App.3d 1429. Their
28 reliance is misplaced. Many courts, including the Ninth Circuit have distinguished *Marks* finding that *Ray, supra*
provides the test to be used to determine whether a consolidation or merger has occurred. (*Schwartz v. Pillsbury, Inc.* (9th
Cir. 1992) 969 F.2d 840.)

1 continued to operate other businesses including, but not limited to, the Las Vegas Baggage Service,
2 Lasco Truck Rental, and Lake Mead Ferry Service, and was exploring other business opportunities.
3 (S&C Comments, Exs.11-14 and 17, attached; Exs. 37-39, attached.) None of the assets or
4 liabilities of these other business entities were sold to S&C Boat as part of the 1976 harbor
5 excursion transaction. (S&C Comments, Ex.17, attached.) Thus, S&C Boat did not acquire *all* of
6 Investment Co.’s assets when it purchased the harbor excursion business.

7 As discussed in detail in subsection (c) below, adequate consideration was paid for the
8 assets purchased by S&C Boat from Investment Co. While the original consideration that S&C
9 Boat used to purchase Investment Co.’s harbor excursion assets was its own stock, this stock was
10 **not** distributed to Investment Co.’s shareholders in conjunction with its liquidation, which is
11 another required element of successor liability under this theory. Instead, less than six months after
12 the purchase, Investment Co. sold its S&C Boat stock to Stephen P. Carlstrom, Judy Hall, and Janet
13 Miles, who paid \$765,400 for it. (S&C Comments, Exs.22-24.) These three individuals were **not**
14 shareholders of Investment Co.

15 Finally, this theory requires that the selling entity be liquidated following the sale. As
16 evident from the facts above, Investment Co. was not liquidated following the sale of the harbor
17 excursion assets to S&C Boat, but rather continued to function as a separate entity, operating other
18 businesses separate and apart from S&C Boat. It was not until 15 years after the sale of its Boat
19 Division to S&C Boat, that Investment Co. was dissolved. (S&C Comments, Exs.11-17, attached.)

20 The CUT response to comments recognizes correctly that Investment Co. did not liquidate;
21 however, the CUT contends that Investment Co. was “effectively out of business for over a year
22 and a half afterwards.” This assertion is incorrect, unsupported by any evidence, and contrary to the
23 evidence in the record. As noted in detail above, numerous documents, including Investment Co.
24 minutes, resolutions and insurance documents all provide evidence that Investment Co. had ongoing
25 business ventures prior to and after the sale of its harbor excursion business to S&C Boat. Where
26 the selling entity continues to exist, there is no merger or consolidation. (*Beatrice Co. v State Bd.*
27 *Of Equalization* (1993) 6 Cal.4th 767, 778.)
28

1 Thus, the facts of the transaction between S&C Boat and Investment Co. show that the
2 essential criteria for the “consolidation or merger” theory described in *Ray* are not met here. S&C
3 Boat is not a successor-in-interest liability under the second situation identified in *Ortiz*.

4 **c. S&C Boat is Not a Continuation of SDMCC/Investment Co.**

5 Under *Ortiz*, the third situation in which an entity may be held liable for a predecessor’s
6 debts and liabilities is if an entity is a “mere continuation” of the original entity. A corporation
7 cannot escape its debts and liabilities by simply re-naming itself or shifting its assets. *McClellan v.*
8 *Northridge Park Townhome Owners Assn.* (2001) 89 Cal.App.4th 746, 754.

9 S&C Boat’s purchase of Investment Co.’s harbor excursion business was not merely a name
10 change or a shift of assets; instead Investment Co. continued in its existence, operating its other
11 businesses for years thereafter. Further, the S&C Boat shareholders were different from those of
12 Investment Co., and these shareholders paid adequate consideration to Investment Co. for their
13 S&C Boat stock. S&C Boat carried on only the harbor excursion business, acquiring no other
14 assets or liabilities of Investment Co., which remained viable and responsible for its own
15 operations, assets, debts and liabilities.

16 Courts have described the criteria for applying successor-in-interest liability under a mere
17 continuation theory, placing the burden on the party that asserts liability to show one or both of the
18 following factual elements: (1) no adequate consideration was given for the predecessor
19 corporation’s assets **and** made available for the claims of its unsecured creditors, and (2) one or
20 more persons were officers, directors, or stockholders of both corporations. (*Franklin, supra*, 87
21 Cal.App.4th at 626-627.) Cases in which these criteria have been used to impose
22 successor-in-interest liability involved **both** the payment of inadequate cash consideration and near
23 complete identity of ownership, management or directorship after the transfer. (*See, e.g., Ray,*
24 *supra*, 19 Cal.3d at 29; *Stanford Hotel Co. v. M. Schwind Co.* (1919) 180 Cal. 348 [inadequate
25 consideration and near identical ownership]; *Higgins v. California Petroleum & Asphalt Co.* (1898)
26 122 Cal. 373 [inadequate consideration and substantially same ownership]; *Economy Refining &*
27 *Service Co. v. Royal Nat. Bank of New York* (1971) 20 Cal.App.3d 434 [inadequate consideration
28 and substantially same ownership].

1 There is no evidence that consideration paid by S&C Boat to Investment Co. for the harbor
2 excursion assets was inadequate. “Inadequate consideration is an ‘essential ingredient’ to a finding
3 that one entity is a mere continuation of another.” (*Katzir’s Floor and Home Design, Inc. v. M-*
4 *MLS.com*, (9th Cir. 2004) 394 F.3d 1143, 1150-51; *Maloney v. American Pharmaceutical Co.*,
5 (1988) 207 Cal.App.3d 282, 287, quoting *Ortiz, supra*, 46 Cal.App.3d at 847.) “**The party**
6 **asserting the theory of successor liability bears the burden of establishing inadequate**
7 **consideration.**” (*Katzir’s* at 1151, citing *Maloney v. American Pharmaceutical Co.* (1988) 207
8 Cal.App.3d 282, 288 (emphasis added), citing Civ. Code §1615.) Moreover, where an acquisition
9 of assets occurs, there is a statutory presumption that adequate consideration was paid. (Civ. Code
10 §§ 1614; 1615)

11 The CUT response to comments contends that the consideration paid by S&C Boat was
12 inadequate, arguing that the stock had a par value of \$10 per share, and therefore the 1,500 shares of
13 stock paid to Investment Co. only had a value of \$15,000. The 1976 par value of S&C Boat’s stock
14 is irrelevant to its market value. Under California’s General Corporation Law, the par value for a
15 corporation’s stock is only relevant to a tax or fee imposed by another jurisdiction upon the
16 capitalization of a corporation, but does not reflect the actual value of the stock. (Cal. Corp. Code
17 §205; see also Witkin, 9 Summary of California Laws, Corporations §59 (10th Edition, 2008.) Any
18 contention that the par value reflected the actual share value or value of the corporate entity is
19 inconsistent with California law.

20 Adequate consideration was paid by S&C Boat for the harbor excursion assets. The value
21 of Investment Co.’s harbor excursion assets transferred to S&C Boat was \$805,332.13, which was
22 offset by \$86,506.30 in liabilities that S&C Boat assumed in the 1976 sale. (S&C Comments,
23 Ex.17, attached.) Six months later, Investment Co. sold the S&C Boat stock for \$765,400, and
24 pursuant to the terms of a Promissory Note, was completely repaid with interest over a five year
25 period. (S&C Comments, Exs.23-30.) Rather than paying inadequate consideration, the S&C Boat
26 shareholders paid consideration which exceeded the amount that the assets and liabilities were
27 worth at the time, demonstrating that sufficient consideration was paid.

28

1 Second, there was not complete identity of ownership, management, or directorship between
2 S&C Boat and Investment Co. The original directors of S&C Boat were Carole Lechleitner,
3 Monica Triplett, Kay Harpold, Gail Lary, Jacqueline Rhodes, and Dorine Schamens. (S&C
4 Comments, Ex.167, attached.) At the first meeting, these directors resigned and were replaced by
5 Stephen P. Carlstrom, Raleigh Miles, Judy Hall, Janet Miles, Kenneth Beiriger, and O.J. Hall, Jr.
6 (S&C Comments, Ex.17, attached.) O.J. Hall, Jr. served as president for less than six months, until
7 Investment Co. sold the S&C Boat stock to Stephen P. Carlstrom, Judy Hall, and Janet Miles.
8 (S&C Comments, Ex.23.) At that time, O.J. Hall, Jr. resigned from the S&C Boat board and Mr.
9 Carlstrom became president. (S&C Comments, Ex.23.)

10 There is no dispute that the first individual shareholders of S&C Boat were the children of
11 O.J. Hall, Jr. A familial relationship between the shareholders and director of two separate entities
12 does not make the two entities successors-in-interest. Instead, family businesses have long been a
13 driving force in our economy (e.g. Wal-Mart, Ford Motors, Anheuser-Busch) and are entitled to the
14 same corporate protections and safeguards as all others so long as corporate formalities are
15 followed. S&C Boat and Investment Co. business records and documents indicate that all corporate
16 formalities were followed. Neither the Water Board nor the CUT nor any other Designated Party
17 has contended that corporate formalities were not followed by S&C Boat or Investment Co.

18 There was admittedly some overlap of corporate directors between the two corporations at
19 the time of the sale of assets to S&C Boat: O.J. Hall, Jr. (who was president and on S&C Boat's
20 board for six months) was president of the Investment Co. and an Investment Co. director for many
21 years (S&C Comments, Exs.10 and 15, attached), and Kenneth Beiriger was an Investment Co.
22 director while serving as an S&C Boat director. (S&C Comments, Exs.11-14 and 17, attached; Ex.
23 31, attached.) Neither ever owned any S&C Boat shares. (S&C Comments, Ex.22.) Such
24 minimum level of overlap alone is not sufficient to impose liability here. "[W]hen the same
25 persons are officers or directors of the two corporations, liability is not imposed on the acquiring
26 corporation when recourse to the debtor corporation is available and the two corporations have
27 separate identities." (*Beatrice Co.*, *supra* 6 Cal.4th at 778.) "[I]t is not dispositive that some of the
28 same persons may serve as officers or directors of the two corporations. The relevant inquiries are

1 whether the two corporations have preserved their separate identities and whether recourse to the
2 debtor corporation is available.” (*CenterPoint Energy, Inc. v. Superior Court* (2007) 157
3 Cal.App.4th 1101, 1121 (citation omitted).)

4 S&C Boat and Investment Co. preserved their separate identities in many ways. Investment
5 Co. collected from S&C Boat’s shareholders regular payments pursuant to the terms of the
6 Promissory Note, plus occasional accelerated payments, until these shareholders had paid the
7 \$765,400 plus interest they agreed to pay to purchase the S&C Boat stock. (S&C Comments,
8 Exs.23-30.) During this same time frame, Investment Co. operated a variety of other businesses
9 which were completely unrelated to S&C Boat’s harbor excursion business. (S&C Comments,
10 Exs.11-14, attached.) Recourse to Investment Co. was available while it ran its own businesses
11 from 1976 until it dissolved in 1991. (S&C Comments, Exs.11-15, attached.)

12 The CUT response also incorrectly alleges that O.J. Hall, Jr. controlled both Investment Co.
13 and S&C Boat. The actions cited in the CUT response, which are alleged to show control by Mr.
14 Hall include reviewing financial and operating statements of S&C Boat, reviewing salaries and
15 bonuses for S&C Boat, and granting a loan to S&C Boat. Investment Co. did undertake these
16 activities, which were recommended by an outside CPA firm, until the Promissory Note was re-paid
17 in full in 1981. These actions do not demonstrate “control” of S&C Boat by Mr. Hall, but evidence
18 that Investment Co. exercised the rights granted to it under the terms of the Promissory Note and
19 Stock Purchase Agreement, in an effort to protect its security, as any lender would.

20 The crucial inquiries for this “continuation” prong are whether adequate consideration was
21 paid and whether the entities preserved their separate identities. Adequate consideration was paid
22 for Investment Co.’s harbor excursion assets, and S&C Boat and Investment Co. both maintained
23 their separate identities after the sale of assets. Successor-in-interest liability under the third
24 situation identified in *Ortiz* cannot be established.

25 **d. No Fraudulent Transfer Occurred.**

26 There is no evidence that S&C Boat purchased Investment Co.’s harbor excursion business
27 in order to allow Investment Co. to fraudulently escape any debts or liabilities. Quite to the
28 contrary, Investment Co. continued to operate its many and diverse other businesses following the

1 sale of the harbor excursion assets to S&C Boat, holding itself out as a separate entity. As a result,
2 successor-in-interest liability on S&C Boat cannot be established under the fourth situation
3 identified in *Ortiz*.

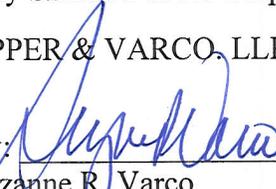
4 **III. Conclusion**

5 S&C Boat did not engage in any direct activity at, or related to, the Shipyard Sediment Site.
6 The only basis for the Water Board's assertion of liability against S&C Boat is based upon a flawed
7 corporate successor liability theory. S&C Boat did not assume *all* of SDMCC/Investment Co.'s
8 liabilities when it acquired the harbor excursion business four years after SDMCC/Investment Co.
9 gave up all leasehold interest in the Shipyard Sediment Site. The acquisition of the harbor
10 excursion business did not result in a mere continuation or de facto merger between S&C Boat and
11 SDMCC/Investment Co. because the two companies were owned and operated separately:
12 Investment Co. continued to own and operate several other businesses and real property until 1991,
13 while S&C Boat separately operated the harbor excursion business. S&C Boat acquired the harbor
14 excursion business for adequate consideration. Finally, there is no evidence that S&C Boat's
15 acquisition of the harbor excursion business was part of a fraudulent transfer. Thus, S&C Boat does
16 not have successor liability for SDMCC or Investment Co.

17 The TCAO must be amended to remove reference to S&C Boat as a responsible party or
18 "discharger." S&C Boat is a distinct corporate entity that does not bear legal responsibility for the
19 contamination allegedly caused or permitted by SDMCC at the Shipyard Sediment Site.

20 Dated: October 19, 2011

OPPER & VARCO, LLP

21 By: 

22 Suzanne R. Varco

23 Attorney for Designated Party, Star & Crescent Boat Co.

1 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD

2 SAN DIEGO REGION

3 IN THE MATTER OF:

4 TENTATIVE CLEANUP AND
5 ABATEMENT ORDER NO. R9-2011-0001
(formerly No. R9-2010-002)(SHIPYARD SEDIMENT SITE)

6
7 **PROOF OF SERVICE**

8 I am employed in the County of San Diego, State of California. I am over the age of 18
9 and not a party to the within action; my current business address is 225 Broadway, Suite 1900,
San Diego, California 92101.

10 On October 19, 2011, I served the foregoing document(s) described as:

- 11 1. STAR & CRESCENT BOAT CO.'S HEARING BRIEF;
12 2. JOINDER OF STAR & CRESCENT BOAT CO. TO NASSCO MOTION *IN*
13 *LIMINE* TO PRECLUDE MENTION OF DESIGNATED PARTIES'
14 FINANCIAL CONDITION;
15 3. JOINDER OF STAR & CRESCENT BOAT CO. TO NASSCO MOTION *IN*
16 *LIMINE* TO EXCLUDE ALL REFERENCES TO CONFIDENTIAL
17 SETTLEMENT NEGOTIATIONS;
18 4. JOINDER OF STAR & CRESCENT BOAT CO. TO NASSCO MOTION *IN*
19 *LIMINE* TO EXCLUDE ANY UNCERTIFIED TRANSLATIONS;
20 5. JOINDER OF STAR & CRESCENT BOAT CO. TO NASSCO MOTION *IN*
21 *LIMINE* TO EXCLUDE UNSWORN VIDEO TESTIMONY; and,
22 6. JOINDER OF STAR & CRESCENT BOAT CO. TO NASSCO MOTION *IN*
23 *LIMINE* TO PRECLUDE UNTIMELY DESIGNATED EXPERTS.

24 on the interested parties in this action listed below in the following manner:

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Catherine Hagan, Esq.
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RWQCB

PROOF OF SERVICE

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U.S. NAVY

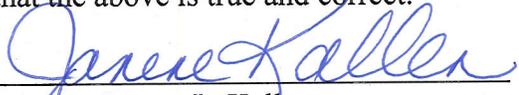
- BY REGULAR MAIL:** I deposited such envelope in the mail at San Diego, California. The envelope was mailed with postage thereon fully prepaid.
- I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one (1) day after date of deposit for mailing in affidavit.
- BY ELECTRONIC MAIL** The parties agreed that they would serve the papers on the date of filing via electronic mail. These papers were served by electronic mail on today's date.
- BY FACSIMILE TRANSMISSION (CRC, Rule 2003 & 2008(e))** The recipient's name and fax number that I used are as shown above. The facsimile machine that I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4), a transmission report was properly issued by the transmitting facsimile machine and is attached hereto.
- BY OVERNIGHT MAIL (to Hanson Bridgett LLP Only):** I deposited such document at the Overnight Express or Federal Express Drop Box located at 225 Broadway, San Diego, CA 92101. The envelope was deposited with delivery fees thereon fully prepaid.
- BY PERSONAL SERVICE:** I caused such envelope(s) to be delivered by hand to the above addressee(s).

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(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made.

Executed on **October 19, 2011**, at San Diego, California. I declare under penalty of perjury under the laws of the State of California, that the above is true and correct.



Janene L. Kallen

EXHIBIT 10

175009

FILED
In the office of the Secretary of State
of the State of California

JUL 20 1972

EDWARD S. BROWN Jr., Secretary of State

James E. Harris
Deputy

CERTIFICATE OF AMENDMENT OF ARTICLES OF INCORPORATION

O.J. HALL, JR. and G.E. HALL certify:

1. They are the President and the Secretary, respectively, of SAN DIEGO MARINE CONSTRUCTION CO., a California corporation.

2. The by-laws of said corporation authorize the directors to adopt resolutions amending the articles of incorporation by unanimous written consent without a meeting; heretofore, by unanimous written consent without a meeting, the directors adopted a resolution amending the articles of incorporation, as follows:

"RESOLVED that Article FIRST of the articles of incorporation of this corporation be amended to read as follows:

"The name of this corporation is STAR & CRESCENT INVESTMENT CO."

3. The shareholders have adopted said amendment by written consent. The wording of the amended article, as set forth in the shareholders' written consent, is the same as that set forth in the directors' resolution in Paragraph 2 above.

4. The number of shares represented by written consent is 55,364. The total number of shares entitled to vote on or consent to the amendment is 55,364.

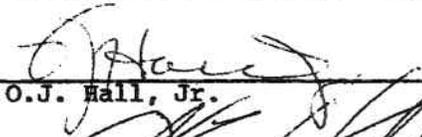
2

O.J. Hall, Jr.
O.J. Hall, Jr., President

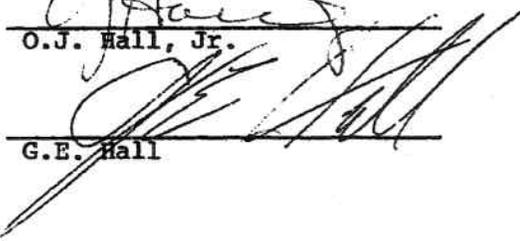
G.E. Hall
G.E. Hall, Secretary

Each of the undersigned declares under penalty of perjury that the matters set forth in the foregoing certificate are true and correct.

Executed at San Diego, California, on July 14, 1972.



O.J. Hall, Jr.



G.E. Hall

EXHIBIT 11

STAR AND CRESCENT INVESTMENT COMPANY

Annual Meeting of Stockholders

The annual meeting of the Company was held on December 23, 1977
~~at 1:00 P.M. in lieu of the annual meeting March 5, 1978. The Stockholders~~
voted to continue the present Board of Directors, O. J. Hall, Jr. and
K. N. Beiriger.

The Stockholders also voted to favorably accept the Ford, Hickman,
Gibbs & Massinger proposal of increasing salaries and bonuses, dated
December 12, 1977, for the Star & Crescent Boat Company. Said approval is
required under terms of the sell agreement between Star & Crescent Investment
Company and Star & Crescent Boat Company. Copy of CPA recommendations
attached to these Minutes.

The Stockholders were informed that Lascó Truck Rental operations
in Nevada has now become the largest truck rental agency in Nevada.

Preliminary talks have been held with Department of Interior on
franchise renewal of Lake Mead Ferry Service operations. This contract has
two years remaining.

In connection with baggage operations, a rate increase has been
filed with Nevada Public Service Commission, and an increase is hoped for
in the next 120 days.

Approval

site and facility

Company of

SEAL

~~two years remaining~~

In connection with baggage operations, a rate increase has been filed with Nevada Public Service Commission, and an increase is hoped for in the next 120 days.

Approval was given for Lake Mead Ferry Service to acquire building site and facilities for subsequent rental to Star and Crescent Investment Company of Nevada, Inc., Lasco operation.

Meeting adjourned 3:00 P.M.

Dated: December 30, 1977



SEAL

Leona Jackson
Leona Jackson
Secretary

APPROVED:

O. J. Hall, Jr.
O. J. Hall, Jr.

K. N. Beifiger
K. N. Beifiger

S&C000289

EXHIBIT 12

STAR AND CRESCENT INVESTMENT COMPANY

BOARD OF DIRECTORS MEETING

RESOLUTIONS ADOPTED BY UNANIMOUS
WRITTEN CONSENT OF DIRECTORS

We, O. J. Hall, Jr., Kenneth N. Beiriger and Leona Jackson, as members of the Board of Directors of Star and Crescent Investment Company, a California corporation, being all of the members of such Board as presently constituted, do by this written consent take the following actions and adopt the following Resolutions at this meeting of July 7, 1978 at 2:00 P.M.:

RESOLVED, that pursuant to the Stockholders Meeting of the Company on March 5, 1978 and the approval given therein to accept Ford, Hickman, Gibbs and Massinger proposal for increasing salaries and bonuses, dated December 12, 1977, for the Star & Crescent Boat Company, said approval being required under terms of the sell agreement between Star and Crescent Investment Company and Star & Crescent Boat Company, Phase II thereof is hereby approved wherein a 20% increase, effective July 1, 1978, is granted to Stephen P. Carlstrom, Judy E. Hall and Janet E. Miles, and such bonuses as supplemental by Ford, Hickman, Gibbs and Massinger in their updated letter of July 5, 1978, as attached hereto, be approved by the Board of Directors of Star & Crescent Investment Company.

RESOLVED, that the Company also enter into negotiations with interested parties to explore the possibility of liquidating the Las Vegas Baggage Service from the Star and Crescent Investment Company. If agreeable buyers are found, the President is authorized to make such decision.

RESOLVED, that the President be authorized to secure land by lease or purchase on combination thereof to enable Lasco Truck Rental & Equipment Co. to begin operations in Reno, Nevada, and to secure necessary additional equipment, etc. required for such an operation.

Meeting adjourned 3:00 P.M.

Leona Jackson

Leona Jackson
Secretary

APPROVED:

O. J. Hall, Jr.

O. J. Hall, Jr.

K. N. Beiriger

K. N. Beiriger

Leona Jackson

Leona Jackson

Dated: July 7, 1978

S&C000290

EXHIBIT 13

STAR AND CRESCENT INVESTMENT COMPANY

BOARD OF DIRECTORS MEETING

The Board of Directors by this written consent of June 8, 1979 reviewed operations and approved dividends and officer's salaries and bonus payments of Star & Crescent Boat Company, in accordance with selling terms of Star & Crescent Boat Company stock in 1976.

Directors attending were Leona Jackson, O. J. Hall, Jr. and K. N. Beiriger, being all of the Directors.

This action was taken under consent, executed pursuant to Section 307(c) of the Corporations Code of the State of California, which authorizes the taking of action by the Board of Directors by unanimous written consent without a meeting.

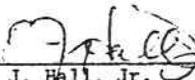
RESOLVED, that the schedule of dividends paid, bonuses and salaries to Sub-Chapter S stockholders and to officers of Star & Crescent Boat Company be approved as presented and audited by Ford, Hickman, Gibbs and Massinger, CPA's. The schedule is presented as an addendum to Star & Crescent Boat Company's Board of Directors meeting of June 8, 1979.

RESOLVED, that Star & Crescent Investment Company desires to open a business of furniture stripping in Las Vegas, Nevada and other cities, and that Walter Bull, O. J. Hall, Jr. or K. N. Beiriger be authorized to establish necessary bank credits, and to sign leases and equipment orders pursuant to such business. Further, that this operation will be a division of subsidiary Star and Crescent Investment Company of Nevada, Inc.

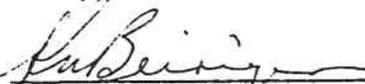
RESOLVED, that Star and Crescent Investment Company of Nevada, O. J. Hall, Jr., President, be authorized to dispose of Las Vegas Baggage Service in the amount of \$300,000, or approximately thereof, and as part of the negotiations to transfer some of the truck equipment to Lasco Truck Rental & Equipment division at a future date.



Leona Jackson, Secretary



O. J. Hall, Jr.



K. N. Beiriger

Dated: June 8, 1979

EXHIBIT 14

STAR AND CRESCENT INVESTMENT COMPANY

BOARD OF DIRECTORS MEETING

The Board of Directors by this written consent of March 9, 1981 reviewed operations and approved dividends and officer's salaries and bonus payments of Star & Crescent Boat Co. in accordance with selling terms of Star & Crescent Boat Co. stock in 1976.

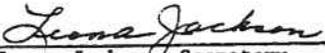
Directors attending were Leona Jackson, O. J. Hall, Jr. and K. N. Beiriger, being all of the Directors.

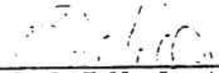
This action was taken under consent, executed pursuant to Section 307 (c) of the Corporation Code of the State of California, which authorizes the taking of action by the Board of Directors by unanimous written consent without a meeting

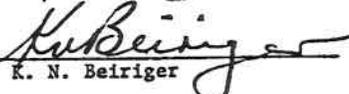
RESOLVED, that the schedule of dividends paid, bonuses and salaries to Sub-Chapter S Stockholders and to Officers of Star & Crescent Boat Company be approved as presented and audited by Ford, Hickman, Gibbs and Massinger, C.P.A.'s for the fiscal years ending March 31, 1980 and March 31, 1981. The March 31, 1981 approval is based on Ford, Hickman's letter and projections dated February 12, 1981.

RESOLVED, that Star & Crescent Investment Company has no objection to Star & Crescent Boat Company dissolving Sub-Chapter S status as at April 1, 1981 for the fiscal year thereafter, and agrees to guarantee repayment of the Star & Crescent Boat Company loan of \$325,000 from the Bank of America. \$318,089.81 will be received by Star & Crescent Investment Co. and K. N. Beiriger is hereby authorized to sign such guarantees on behalf of Star & Crescent Investment Co. with Bank of America.

RESOLVED, that Lake Mead Ferry Service, a subsidiary Nevada Corporation, be permitted to investigate with the Department of Interior an extension to present contract if a new boat be purchased by Star & Crescent Investment Co. and subsequent bare boat charter to Lake Mead Ferry Service. Owen Goodwin is authorized to investigate this matter and O. J. Hall, Jr. to sign necessary loan papers and commitments if contract extension is satisfactory. Approximate range \$350,000 to \$450,000.


Leona Jackson, Secretary


O. J. Hall, Jr.


K. N. Beiriger

Dated: March 9, 1981

EXHIBIT 15

D405157

FILED *J*
In the office of the Secretary of State
of the State of California

DEC 23 1991

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March Fong Eu
MARCH FONG EU, Secretary of State

CERTIFICATE OF ELECTION TO WIND UP AND DISSOLVE

Oakley J. Hall, Jr. certifies that:

1. He is the president, secretary, and sole shareholder of STAR & CRESCENT INVESTMENT CO., a California corporation. Corporation Number D-0175009.
2. The corporation has elected to wind up and dissolve.
3. The election was made by the vote of 100 shares of the corporation and representing 100% of the voting power of the corporation.

I further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of my own knowledge.

Date: 12-5-91

Oakley J. Hall Jr

Oakley J. Hall, Jr.

D405158

FILED
In the office of the Secretary of State
of the State of California

DEC 23 1991

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March Fong Eu
MARCH FONG EU, Secretary of State

CERTIFICATE OF DISSOLUTION

Oakley J. Hall, Jr. certifies that:

1. He is the sole director now in office of STAR & CRESCENT INVESTMENT CO., a California corporation. Corporation Number D-0175009.
2. The corporation has been completely wound up.
3. The corporations known debts and liabilities have been actually paid.
4. The corporation's known assets have been distributed to the persons entitled thereto.
5. The corporation is dissolved.

I further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of my own knowledge.

Date: 12-5-91

Oakley J. Hall Jr
Oakley J. Hall, Jr.



STATE OF CALIFORNIA
FRANCHISE TAX BOARD
P.O. BOX 942857
SACRAMENTO, CA 94257-0541

TAX CLEARANCE CERTIFICATE

November 5, 1991

EXPIRATION DATE: February 14, 1992

GRICE LUND & TARKINGTON
144 WEST D ST
ENCINITAS CA 92024

ISSUED TO: STAR & CRESCENT INVESTMENT CO.
Corporate Number 0175009 SA1CI

This is to certify that all taxes imposed under the Bank and Corporation Tax Law on this corporation have been paid or are secured by bond deposit or other security.

A copy of this Tax Clearance Certificate has been sent to the Office of the Secretary of State. This original Tax Clearance Certificate may be retained in the files of the corporation.

By the Expiration Date noted above, this corporation must have filed the documents required by the Secretary of State to dissolve, withdraw or merge. Requests for the appropriate documents must be directed to: Office of the Secretary of State at 1230 J Street, Sacramento, CA 95814. The telephone number is (916) 445-0620.

NOTE: If the required documents are not filed with the Secretary of State prior to the Expiration Date noted above, the corporation will remain subject to the filing requirements of the Bank and Corporation Tax Law.

FRANCHISE TAX BOARD

By J. Snyder
Special Audit Unit
Corporation Audit Section
Telephone (916) 369-4124

EXHIBIT 16

767124

FILED
In the office of the Secretary of State
of the State of California

APR 7 1976

MARCH FONG EU, Secretary of State
By *Myrtle P. Blanton*
Deputy

ARTICLES OF INCORPORATION
OF
STAR & CRESCENT BOAT COMPANY

FIRST: The name of this corporation is STAR
& CRESCENT BOAT COMPANY.

SECOND: The purposes for which this corporation
is formed are:

- (a) To engage primarily in the specific
business of operating a harbor excursion business;
 - (b) To engage generally in the business of
buying, selling, manufacturing, using, leasing, and
otherwise dealing in boats, vessels, and maritime
products, and in goods, wares, merchandise, and real
and personal property of all kinds;
 - (c) To engage in any business related or
unrelated to those described in clauses (a) and (b) of
this Article SECOND, and from time to time authorized
or approved by the board of directors of this corporation;
 - (d) To act as a partner or joint venturer or
in any other legal capacity in any transaction;
 - (e) To guaranty the contracts of customers
and others;
 - (f) To do business anywhere in the world;
- and

Restriction of right
to amend articles
Yes No

5

(g) To have and exercise all rights and powers from time to time granted to a corporation by law.

The above-purpose clauses shall not be limited by reference to or inference from one another, but each such purpose clause shall be construed as a separate statement conferring independent purposes and powers upon this corporation.

This corporation may, though its by-laws, confer powers upon its directors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon them by statute, provided that such powers are not in conflict with any applicable statute of law.

THIRD: The county in the State of California where the principal office for the transaction of the business of the corporation is located is San Diego County.

FOURTH: (a) The number of directors of the corporation is six (6), which constitutes the authorized number of directors and until changed by amendment of these Articles of Incorporation, or by a by-law duly adopted by the shareholders.

(b) The names and addresses of the persons appointed as first directors are:

<u>Name</u>	<u>Addresses</u>
Carole Lechleitner	2436 E. 8th Street National City, California
Monica Triplett	7970 Rancho Fanita Drive Santee, California
Kay Harpold	3091 "A" Street San Diego, California
Gail Lary	4613 67th Street San Diego, California
Jacqueline Rhodes	3473 Merrimac Avenue San Diego, California
Dorine Schamens	10045 Sierra Bonita Spring Valley, California

(c) The board of directors may take any action without a meeting that may be required or permitted to be taken by the board at a meeting, if all of the members of the board individually or collectively consent in writing to the action.

FIFTH: This corporation is authorized to issue only one class of stock which shall be designated as common stock. The total number of shares of common stock the corporation is authorized to issue is 10,000 shares. The aggregate par value of said shares is \$100,000.00, and the par value of each share is \$10.00. No distinction shall

exist between the shares of the corporation or the holders thereof.

IN WITNESS WHEREOF, the undersigned and above-named incorporators and first directors of this corporation have executed these Articles of Incorporation on March 19, 1976.

Carole Lechleitner
Carole Lechleitner

Monica J. Triplett
Monica Triplett

Kay Harpold
Kay Harpold

Gail Lary
Gail Lary

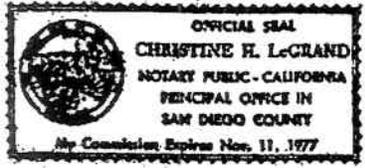
Jacqueline Rhodes
Jacqueline Rhodes

Dorine Schamens
Dorine Schamens

STATE OF CALIFORNIA)
)
COUNTY OF SAN DIEGO)

On March 19th, 1976, before me, the undersigned,
a notary public in and for said state, personally appeared
Carole Lechleitner, Monica Triplett, Kay Harpold, Gail Lary,
Jacqueline Rhodes, and Dorine Schamens, known to me to be
the persons whose names are subscribed to the foregoing
Articles of Incorporation and acknowledge that they have
executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed
my official seal the day and year in this certificate first
above written.



Christine H. LeGrand
CHRISTINE H. LeGRAND

EXHIBIT 17

MINUTES OF MEETING OF BOARD OF DIRECTORS
OF
STAR & CRESCENT BOAT COMPANY

A meeting of the board of directors of STAR & CRESCENT BOAT COMPANY, a California corporation, was held on the 9th day of April, 1976, at the hour of 9:00 A.M. of that day at 2201 California First Bank Building, San Diego, County of San Diego, State of California, pursuant to the following written consent:

We, the undersigned, being all of the directors of STAR & CRESCENT BOAT COMPANY, a California corporation, do hereby give our written consent to the holding of this meeting of the board of directors of said corporation, at the time and place above written, and we do hereby give our written consent to the transaction of all business which may come before said meeting.

Dated: April 9, 1976

Monica Triplett
Monica Triplett

Carole Lechleitner
Carole Lechleitner

Kay Harpold
Kay Harpold

Gail Lary
Gail Lary

Jacqueline Rhodes
Jacqueline Rhodes

Dorine Schamens
Dorine Schamens

All of the directors of this corporation were present.

On motion duly made, seconded and carried, Monica Triplett was elected as Temporary Chairman of the meeting and Kay Harpold was elected as Temporary Secretary thereof.

The Chairman presented and read a copy of the Articles of Incorporation of this corporation, and on motion duly made, seconded and carried, the same were unanimously approved and ordered incorporated in the records of this corporation.

The Secretary reported that the Articles of Incorporation of this corporation had been filed in the office of the Secretary of State of the State of California on the 7th day of April, 1976; that a certified copy of said Articles of Incorporation, certified by the Secretary of State under his hand and official seal, and bearing the endorsement of the date of filing in his office, will be filed in the office of the County Clerk of the County of San Diego, State of California, the county in which this corporation is to have its principal office.

Monica Triplett submitted her resignation as a director of this corporation effective immediately. Whereupon Stephen P. Carlstrom was duly nominated to be a director of this corporation and thereafter was unanimously elected by the remaining directors to be a director of this corporation for the ensuing year and until his successor is elected and qualifies.

Carole Lechleitner submitted her resignation as a director of this corporation effective immediately. Whereupon Raleigh Miles was duly nominated to be a director of this corporation and thereafter was unanimously elected by the remaining directors to be a director of this corporation for the ensuing year and until his successor is elected and qualifies.

Gail Lary submitted her resignation as a director of this corporation effective immediately. Whereupon Judy Hall was duly nominated to be a director of this corporation and thereafter was unanimously elected by the remaining directors to be a director of this corporation for the ensuing year and until her successor is elected and qualifies.

Kay Harpold submitted her resignation as a director of this corporation effective immediately. Whereupon Janet Miles was duly nominated to be a director of this corporation and thereafter was unanimously elected by the remaining directors to be a director of this corporation for the ensuing year and until her successor is elected and qualifies.

Jacqueline Rhodes submitted her resignation as a director of this corporation effective immediately. Whereupon Kenneth Beiriger was duly nominated to be a director of this corporation and thereafter was unanimously elected by the remaining directors to be a director of this corporation

for the ensuing year and until his successor is elected and qualifies.

Dorine Schamens submitted her resignation as a director of this corporation effective immediately. Whereupon O. J. Hall, Jr. was duly nominated to be a director of this corporation and thereafter was unanimously elected by the remaining directors to be a director of this corporation for the ensuing year and until his successor is elected and qualifies.

The board next proceeded to organize and the following persons were elected to the office opposite their names:

O. J. Hall, Jr.	President
Leona Jackson	Secretary
Stephen P. Carlstrom	Vice President
Kenneth Beiriger	Vice President/Treasurer

The Chairman announced that the first business of the meeting was the adoption of a code of by-laws for this corporation. A code of by-laws was thereupon presented and read by the Secretary. On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the code of by-laws as presented and read by the Secretary be,

and the same is hereby approved and adopted as and for the by-laws of this corporation.

On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the Secretary of this corporation be and is hereby authorized and directed to insert a copy of the code and by-laws in that certain book known as the Book of Minutes of STAR & CRESCENT BOAT COMPANY, and to see that a copy of said by-laws is kept at the principal office for the transaction of business of this corporation, in accordance with Section 502 of the California Corporations Code.

On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the Secretary of this corporation be and is hereby requested to certify the adoption of said By-Laws as the By-Laws of this corporation in that certain book known as the Book of Minutes of STAR & CRESCENT BOAT COMPANY.

The Chairman announced that the selection of the place of the principal office of the corporation should be considered. On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the office of this corporation be and the same is hereby fixed at 570 Harbor Drive, San Diego, California, until changed by resolution of the board of directors.

The Secretary thereupon presented a seal of this corporation consisting of two concentric circles with the words "STAR & CRESCENT BOAT COMPANY" and the words and

figures "Incorporated April 7, 1976 California." On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the seal herewith presented, an impression of which is made below, be and the same is, hereby adopted as and for the seal of this corporation.



On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the President and the Treasurer of this corporation be and they are hereby authorized and directed to pay the expenses of the incorporation and organization of this corporation from the funds of the corporation.

The Secretary thereupon presented a draft for the certificate for shares of this corporation. On motion duly made, seconded and carried, the following resolution was unanimously adopted:

BE IT RESOLVED that the draft of the certificate for the shares of the corporation herewith presented be, and the same is, hereby approved and adopted.

On motion duly made, seconded and carried, the Secretary was instructed to insert a copy of the draft of the certificate for shares in the Book of Minutes of this

corporation immediately following the minutes of this meeting.

The Chairman reported that this corporation had received a written offer from STAR & CRESCENT INVESTMENT CO., a California corporation, offering:

to transfer to this corporation all of STAR & CRESCENT INVESTMENT CO.'s right title and interest of every kind and description in and to its business and assets pertaining to its harbor excursion business, as set forth in a schedule as of March 31, 1976 attached to said offer as Exhibit "A", with allowance for changes in the ordinary course of business to the date of transfer of said business and assets to this corporation, but subject to all liabilities of said business as of March 31, 1976 as relate to its harbor excursion business, all as set forth in said Exhibit "A", together with such additional liabilities that may have been incurred thereafter in the ordinary course of business to the close of business on the date of transfer, solely in exchange for:

(1) The assumption by this corporation of the debts and liabilities of said harbor excursion business as set forth in said Exhibit "A", but subject to changes occurring in the ordinary course of business between March 31, 1976 and the close of business on the date the transfer is effected, and

(2) Issuance by this corporation of not to exceed 1,500 shares of its capital stock, all of a par value of \$10.00 per share, to STAR & CRESCENT INVESTMENT CO., a California corporation.

On motion duly made, seconded and carried, it was directed that a copy of the offer from STAR & CRESCENT INVESTMENT CO., a California corporation, be incorporated as

part of the minutes of this meeting, and the Secretary was instructed to insert a copy of the offer in the book of minutes of this corporation immediately following the minutes of this meeting.

The Chairman then announced that this corporation should consider the adoption of a written plan for the sale and issuance of capital stock pursuant to the Securities Law of the State of California and Section 1244 of the Internal Revenue Code. Upon motion duly made, seconded and carried, the following resolutions were unanimously adopted:

WHEREAS the board of directors deems it advisable and in the best interests of this corporation to take steps to issue shares of its capital stock; and

WHEREAS this corporation is a domestic corporation and is authorized by its articles of incorporation to issue only one class of capital stock and this corporation has never at any time issued any shares of its authorized capital stock and no such shares are outstanding, and no portion of a prior offering of capital stock is outstanding; and

WHEREAS the board of directors deems it advisable to set forth a written plan for the issuance of capital stock in exchange for money or other property (other than stock or securities) and the issuance of the stock is to be pursuant to Section 25102(h) of the Corporations Code of the State of California, and in all events said issuance shall not be later than two years after the adoption of this written plan; and

WHEREAS this corporation has no assets, no liabilities, no equity capital; and

WHEREAS the board of directors deems the written offer of STAR & CRESCENT INVESTMENT CO., a California corporation, dated April 8, 1976, to be just and reasonable and deems it to be for the best interests of this corporation to accept the offer;

NOW, THEREFORE, BE IT RESOLVED that the president or the vice president and the secretary of this corporation be, and they hereby are, authorized and directed to sell and issue not to exceed 1,500 shares of the stock of this corporation, all of which shares have a par value of \$10.00 per share, to STAR & CRESCENT INVESTMENT CO., a California corporation, solely in exchange for (1) the business and assets described in said offer and (2) the assumption by this corporation of the debts and liabilities as set forth in said written offer, but subject to changes occurring in the ordinary course of business between that date and the close of business on the date when transfer is to be effected, at par, without commission of any kind.

RESOLVED that the board of directors hereby determines that the fair market value to this corporation of the consideration for which said 1,500 shares of stock of this corporation are to be issued is \$718,825.53.

RESOLVED that of the consideration to be received for such shares an amount equal to \$15,000.00 thereof shall be credited to stated capital and the remainder shall be credited to paid-in-surplus; and

RESOLVED that any officer of this corporation is hereby authorized and directed to file with the California Commissioner of Corporations a Notice of Issuance of Securities pursuant to Subdivision (h) of Section 25102 of the California Corporations Code.

RESOLVED that the officers of this corporation be, and they hereby are, authorized and directed to execute all documents and take all actions that they may deem necessary or advisable in order to carry out and perform the purposes of these resolutions.

There being no further business to come before the meeting, the meeting was adjourned.

Leona Jackson
Leona Jackson, Secretary

Kay Harpold
Kay Harpold, Temporary
Secretary

ATTEST:

O. J. Hall, Jr.
O. J. Hall, Jr., Chairman

Monica Triplett
Monica Triplett, Temporary
Chairman

STAR & CRESCENT BOAT COMPANY:

STAR & CRESCENT INVESTMENT CO., a California corporation, hereby offers to transfer to you all of STAR & CRESCENT INVESTMENT CO.'s right, title, and interest of every kind and description in and to its business and assets pertaining to its harbor excursion business, as set forth in a schedule as of March 31, 1976 attached hereto as Exhibit "A", with allowance for changes in the ordinary course of business to the date of transfer of said business and assets to this corporation, but subject to all liabilities of said business as of March 31, 1976 as relate to its harbor excursion business, all as set forth in said Exhibit "A", together with such additional liabilities that may have been incurred thereafter in the ordinary course of business to the close of business on the date of transfer, solely in exchange for:

- (1) The assumption by you of the debts and liabilities of said harbor excursion business as set forth in said Exhibit "A", but subject to changes occurring in the ordinary course of business between March 31, 1976 and the close of business on the date the transfer is effected, and
- (2) Issuance by you of not to exceed 1,500 shares

STAR & CRESCENT INVESTMENT CO.
HARBOR EXCURSION BUSINESS
March 31, 1976

ASSETS TRANSFERRED TO
STAR & CRESCENT BOAT COMPANY

M.V. Cabrillo	\$ 113,035.89
M.V. Marietta	107,542.09
M.V. Silvergate	3,562.61
M.V. Monterey	156,832.84
M.V. Point Loma	85,418.39
Glorietta	44,593.08
Float #1, Market Street	99,327.95
Float #2, Broadway	26,257.09
1974 Ford Pinto Stationwagon	1,599.42
1973 Ford Ranchero	1,333.36
Miscellaneous equipment	16,777.99
Broadway excursion facility	6,934.79
Leasehold improvements, Market Street	65,464.65
Broadway snack bar	1,650.80
Prepaid insurance (see attached schedule)	21,300.69
Account receivable from Joe Allen	2,643.53
Inventories:	
Gift shop	19,980.20
Galley	4,031.41
Prepaid property taxes	1,042.25

EXHIBIT A

S&C0051

Folders and brochures	6,508.10
United Water Taxi franchise	17,495.00
Goodwill	2,000.00
Interests in leases with San Diego Unified Port District:	
570 Harbor Drive, dated March 26, 1976	
570 Harbor Drive, dated August 21, 1973	
B Street Pier, dated March 26, 1976	
Broadway Pier, dated January 2, 1976 (see attached schedule)	
Right to use the name San Diego Harbor Excursion and the words "Star & Crescent" or name including those words, other than Star & Crescent Investment Co.	
Total Assets Transferred	<u>\$ 805,332.13</u>

LIABILITIES ASSUMED BY
STAR & CRESCENT BOAT COMPANY

Notes Payable:	
Charles Otterman	\$ 25,000.00
Thelma Elam	5,000.00
Security Pacific Bank	50,000.00
Employee advances	80.00
Charter deposits	4,556.30
Accrued vacation and holiday pay	<u>1,870.00</u>
Total Liabilities Assumed	<u>\$ 86,506.30</u>

SCHEDULE OF INSURANCE

<u>Name of Company</u>	<u>Policy #</u>	<u>Type of Insurance</u>	<u>Annual Premium</u>	<u>Expiration Date</u>
1. Old Republic Insurance Company	0M 2266	Hull and Machinery	\$ 14,014.00	9/3/76
2. Old Republic Insurance Company	0M 2267	Protection & Indemnity	12,888.00	9/30/76
3. Highlands Ins. Co. (80%) and Northwestern National (20%)	J&H-LA-090	Excess Marine	12,500.00	
4. The Insurance Company of the State of Pennsylvania	42722053	Excess Liability	6,000.00	10/1/75
() Pacific Indemnity Company	269702-A	Comprehensive Bond	1,641.00	Until Cancelled
6. Federal Insurance Company	20491952	Fire Insurance	1,222.00	4/20/76
7. Central National Insurance Company of Omaha	CNS93402	Comprehensive General Liability	3,472.00	11/1/75
8. Aetna Insurance Company	CG656032	Automobile Insurance	2,405.00	11/1/75
9.		Workman's Compensation		

SCHEDULE OF LEASES

	<u>Date of Lease</u>	<u>Termination Date</u>	<u>Base Rent</u>	<u>Property Covered</u>
1.	8/26/73	2/28/78	\$548/mo. (increased to \$698/mo. commencing 3/1/76)	Approximately 36,250 sq. ft. of tideland at or near foot of Market Street
2.	1/2/76	1/31/77	\$47,000/year (has percentage override)	Area and building located on the west side of Harbor Drive between Broadway Pier and B Street Pier
3.	3/26/76	5/31/76	Percentage of parking charges	Portion of B Street Pier
4.	3/26/76	5/31/77	\$288/mo.	Approximately 63,944 sq. ft. of tideland area on Harbor Drive near foot of Market Street

The undersigned hereby resigns as a director of
STAR & CRESCENT BOAT COMPANY effective immediately.

Dated: April 9, 1976

Monica Triplett
Monica Triplett

The undersigned hereby resigns as a director of
STAR & CRESCENT BOAT COMPANY effective immediately.

Dated: April 9, 1976

Carole Lechleitner
Carole Lechleitner

The undersigned hereby resigns as a director of
STAR & CRESCENT BOAT COMPANY effective immediately.

Dated: April 9, 1976

Gail Lary
Gail Lary

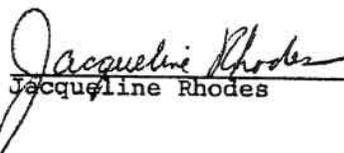
The undersigned hereby resigns as a director of
STAR & CRESCENT BOAT COMPANY effective immediately.

Dated: April 9, 1976

Kay Harpold
Kay Harpold

The undersigned hereby resigns as a director of
STAR & CRESCENT BOAT COMPANY effective immediately.

Dated: April 9, 1976


Jacqueline Rhodes

The undersigned hereby resigns as a director of
STAR & CRESCENT BOAT COMPANY effective immediately.

Dated: April 9, 1976


Dorine Schamens

EXHIBIT 37

4-16-79 GP/gg

AUDIT ADJUSTMENT ENDORSEMENT #4

CLASSIFICATION	AMOUNT	RATE	EARNED PREMIUM
PER 100 OF GROSS RECEIPTS	\$378,265	1.58	\$5,977.00
			TOTAL \$ 5,977.00

PERIOD OF ADJUSTMENT	INTERIM ADJUSTMENT	FINAL ADJUSTMENT
From 2-1-78	Previous Balance or Deposit _____ \$ _____	Previous Balance or Deposit _____ \$ 4,292.00
To 11-12-78	Total Earned this Period _____ \$ _____	Total Earned this Period _____ \$ 5,977.00
	Additional Premium _____ \$ _____	Minimum Premium _____ \$ 4,292.00
	Remaining Balance _____ \$ _____	Additional Premium _____ \$ 1,685.00
		Return Due Assured _____ \$ _____

Attached to and forming part of No. 183-140216

Issued to STAR CRESCENT OF NEVADA

Effective November 12, 1978

DATE SENT TO
HOME OFFICE
APR 17 1979

- INTERSTATE FIRE & CASUALTY COMPAI
- CHICAGO INSURANCE COMPANY

By _____

IMPORTANT, THIS PREMIUM IS DEVELOPED BY AUDIT IN ACCORDANCE WITH THE PROVISIONS OF THE POLICY. *Steve Reind*

IFC-CIC-4 (11/65) PRINTED 6/75

OFFICE COPY

FOR PREMIUMS FULLY PAID AND PAYABLE IMMEDIATELY
OFFICE (INITIALS) *MLC/19/88*

New York
Atlanta
Boston
Buffalo
Chicago
Denver
Detroit
Hartford
Honolulu
Houston
London
Los Angeles
Minneapolis
New Orleans
Philadelphia
Phoenix
Pittsburgh
Portland
Richmond
San Diego
San Francisco
Seattle
Tokyo
Wilmington

JOHNSON & HIGGINS

OF CALIFORNIA

Business Established New York 1845

INSURANCE BROKERS - AVERAGE ADJUSTERS
EMPLOYEE BENEFIT PLAN CONSULTANTS

Montreal
Quebec
Toronto
Vancouver
Winnipeg
Caracas
Maracaibo
Puerto La Cruz
Rio de Janeiro
São Paulo
Buenos Aires
Santiago
Lima
Bogota
Cali
Sydney
Melbourne
Brisbane
Adelaide
Perth
Auckland
Wellington
Milan
Rome
Singapore

CABLE ADDRESS "KERODEN"

February 7, 1979

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

Ms. Leona Jackson
Star & Crescent Investment Company
P. O. Box A2111
San Diego, CA 92112

RE: CENTENIAL INSURANCE COMPANY
POLICY NO. 291 69 32 07

Dear Leona:

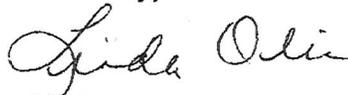
Enclosed are Endorsements No. 8 and No. 9 to the captioned policy. Endorsement No. 8 adds the location at 3500 West Naples Drive in Las Vegas as of September 27, 1978, to the property portion of the policy. It affords \$238,200 Replacement Cost coverage on the building and \$100,000 coverage on the equipment and stock. We have also requested this location be added to the liability portion of the policy and that endorsement will follow shortly. The additional premium for adding this location to the property section is \$347 as reflected on the enclosed invoice.

Also attached is Endorsement No. 9 effective November 1, 1978, adding the 1979 Ford pickup truck. The additional premium for this addition is \$229 and is included in the attached invoice.

We are also enclosing a copy of a Certificate of Insurance issued to the San Diego Unified Port District. The original of this certificate was forwarded to the Port District and this copy is for your files.

Please let us know if you have any questions regarding any of the enclosures.

Sincerely,



Linda Olic

LO:psj

Enclosures

New York
Atlanta
Boston
Charlotte
Chicago
Cleveland
Dallas
Denver
Detroit
Hartford
Honolulu
Houston
Los Angeles
Miami
Minneapolis
New Orleans
Philadelphia
Phoenix
Pittsburgh
Portland
Richmond
St. Louis
San Diego
San Francisco
Seattle
Wilmington
Tokyo
Singapore
Taipei

Montreal
Quebec
Toronto
Winnipeg
Vancouver
Calgary
Caracas
Maracaibo
Puerto La Cruz
Rio de Janeiro
São Paulo
Buenos Aires
Santiago
Lima
Bogota
Cali
Sydney
Melbourne
Brisbane
Adelaide
Perth
Auckland
Wellington
London
Milan
Paris
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Bermuda

JOHNSON & HIGGINS

OF CALIFORNIA

Established 1845

INSURANCE BROKERS - AVERAGE ADJUSTERS
ACTUARIES - EMPLOYEE BENEFIT PLAN CONSULTANTS

CABLE ADDRESS "KERODEN"

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

May 4, 1979

Mr. K. N. Beiriger
Vice President
Star & Crescent Investment Co.
P. O. Box A2111
San Diego, CA 92112

RE: PACKAGE POLICY CENTENNIAL POLICY NUMBER 291 693207

Dear Ken:

The above policy has an anniversary date of March 16, 1979. As previously discussed, we enclose the Underwriters' Endorsements charging premiums for the coming year. Also enclosed is our Invoice Number 5864-40 in the amount of \$8,712 which covers the premium for that period of time.

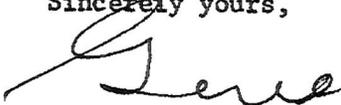
During the past year the policy was expanded to include the building which houses the operations of Lasco-Boss and Las Vegas Baggage Service.

The Underwriters have also picked up a minor charge for the office exposures of Lake Mead Yacht Tours out on Paradise Road.

Some further endorsements are being awaited.

Please let us know if you have any questions in this regard.

Sincerely yours,



Gene Jaque

GJ:cp
Enclosures

We probably should send a copy of this policy to Swenson sent via 1579B 5/15/79

New York
Atlanta
Boston
Charlotte
Chicago
Cleveland
Dallas
Denver
Detroit
Hartford
Honolulu
Houston
Los Angeles
Miami
Minneapolis
New Orleans
Philadelphia
Phoenix
Pittsburgh
Portland
Richmond
St. Louis
San Diego
San Francisco
Seattle
Wilmington
Tokyo
Singapore
Taipei

JOHNSON & HIGGINS

OF CALIFORNIA

Established 1845

INSURANCE BROKERS - AVERAGE ADJUSTERS
ACTUARIES - EMPLOYEE BENEFIT PLAN CONSULTANTS

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Toronto
Winnipeg
Vancouver
Calgary
Caracas
Maracaibo
Puerto La Cruz
Rio de Janeiro
Sao Paulo
Buenos Aires
Santiago
Lima
Bogota
Cali
Sydney
Melbourne
Brisbane
Adelaide
Perth
Auckland
Wellington
London
Milan
Paris
Rome
Bernuda

CABLE ADDRESS "KERODEN"

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

May 7, 1979

Mr. K. N. Beiriger, Vice President
Star & Crescent Investment Co.
P. O. Box A2111
San Diego, CA 92112

RE: UMBRELLA LIABILITY CENTRAL NATIONAL POLICY NO. CNU033474

Dear Ken:

Enclosed is the captioned policy which renews coverage for the period 3-16-79 to 3-16-80.

Two primary improvements have been made in the contract for the coming year. The premium has been reduced to \$2200 and the retained limit, which would apply in the event that the policy provides coverage not provided by underlying insurance, has been reduced from \$25,000 to \$10,000.

The Underwriters have attached a new Endorsement (No. 5) which puts the Personal Injury coverage on a following form basis. Because the underlying policy definition of Personal Injury does not specifically include Discrimination, Humiliation, and Mental Anguish, it could be argued that there would be no excess coverage in these areas. However, Humiliation and Mental Anguish could be part of a Bodily Injury loss under the primary policy. This policy would respond in excess of the primary limits in that event.

We are exploring with these Underwriters the costs of including the Las Vegas Baggage Service under this policy. As soon as those negotiations have been concluded, you will be contacted.

*send copy of policy to Swenson
for LMF*

JOHNSON & HIGGINS

Enclosed is our Invoice No. 5954-30 in the amount of \$2200. This covers the premium for the current year.

Please let us know if you have any questions in this regard.

Sincerely yours,


Gene Jaque

GJ:cp

Enclosures

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Denver
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Los Angeles
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Taipei

JOHNSON & HIGGINS

OF CALIFORNIA

Established 1845

INSURANCE BROKERS - AVERAGE ADJUSTERS
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CABLE ADDRESS "KERODEN"

June 20, 1979

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

Mr. K. N. Beiriger
Vice President
Star & Crescent Investment Company
P. O. Box A2111
San Diego, CA 92112

RE: UMBRELLA LIABILITY INSURANCE
CENTRAL NATIONAL POLICY NO. CNU03-34-74

Dear Ken:

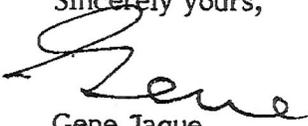
Enclosed is the underwriter's Endorsement No. 13 to the captioned policy which adds coverage previously excluded for Star & Crescent Investment Company of Nevada, Inc., dba: Las Vegas Baggage Service. We are also enclosing a Schedule of Underlying Insurance for the Baggage Service. We should also add to the Schedule of Underlying Insurance the Employers' Liability coverage which is on the Nevada State Fund policy. If you could give us the policy number, policy period, and the limit of liability shown on the policy for Coverage B, we will pass the information on to underwriters and have it scheduled.

Also enclosed is our Invoice No. 216-30 in the amount of \$1,960 which represents the premium due for the addition of the Baggage Service exposures to this policy. The premium is pro rata of \$2,300 instead of the \$2,350 originally quoted. Some premium modification could result from the renewal premiums obtained on the General Liability insurance for the Baggage Service for the period 1979 to 1980.

The underwriters will be issuing an endorsement to exclude exposures which are being provided by the National Union under its Airport Liability policy. As soon as that endorsement has been received, it will be forwarded for the completion of your records.

Please let us know if you have any questions in this regard.

Sincerely yours,


Gene Jaque

GJ:psj

Enclosures

*not sent
Rec'd 6/29/79*

New York
Atlanta
Boston
Charlotte
Chicago
Cleveland
Dallas
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Detroit
Hartford
Honolulu
Houston
Los Angeles
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CABLE ADDRESS "KERODEN"

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

June 20, 1979

Mr. K. N. Beiriger
Vice President
Star & Crescent Investment Company
P. O. Box A2111
San Diego, CA 92112

RE: PACKAGE POLICY
CENTENNIAL INSURANCE COMPANY
POLICY NO. 291 69 32 07

Dear Ken:

Enclosed is the underwriter's Endorsement No. 11 which names Lasco-Boss Truck Rental & Equipment as an Additional Insured with respect to personal property at your building 3500 West Naples Drive, Las Vegas, Nevada. It also includes as a Loss Payee the Nevada State Bank with respect to that location. Please attach the original endorsements to your file and let us know if you have any questions in this regard.

Sincerely,


Gene Jaque

GJ:psj

Enclosures

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CABLE ADDRESS "KERODEN"

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

July 5, 1979

Mr. K. N. Beriger
Vice President
Star & Crescent Investment Co.
P. O. Box A2111
San Diego, CA 92112

RE: LAS VEGAS BAGGAGE SERVICE
INTERSTATE FIRE & CASUALTY COMPANY
POLICY NO. 183-140216

Dear Ken:

Confirming our conversation, you should pay the prior broker the additional audit premium of \$1,685 for this policy.

Enclosed is a copy of the endorsement covering the transaction.

Please let us know if you have any questions in this regard.

Sincerely yours,


Gene Jaque

GJ:psj

Enclosures

OK
mail to
Swenson
LJB

7/9/79

DO NOT SMUDGE CODE STRIP WHEN DETACHING

OFFICE	P/C	CARD TYPE	LINE	TRAN. SAC-TION	STATE	TERM.	TAX TOWN	TAX COUNTY	FINAL REPORT	PROCESS CODE	COMM RATE	CLASS OR COVERAGE IDENTIFICATION								
41	C	02141			04	SEE					200	S	E	E						

LINE: MANUFACTURER'S OUTPUT - 131
 COMPREHENSIVE SAFEGUARD - 121
 SAFEGUARD - 141
 OTHER MULTIPLE LINES - 151

40 R/1		LARGEST LOCATION \$	
VER-LOC	PML %	GROSS LINE \$	RETENTION %
	WILLING TO LOSE \$	TREATY #	
	AUTHORIZED BY	DATE	TREATY #
FAC-REINS	COVER	COMPANY	CO. NO.
	DISCOUNT %	BRANCH	REINSURANCE POLICY NO.

Effective 3-16-80, this endorsement forms a part of Policy No. 291-69-32-07
 (At the time stated in the policy)

issued to STAR & CRESCENT INVESTMENT CO., ET AL
 by CENTENNIAL INS. Insurance Company.

ENDORSEMENT #1

(The information provided for above is required to be completed only when this endorsement is issued for attachment to the policy subsequent to its effective date.)

IN CONSIDERATION OF AN ADDITIONAL PREMIUM OF \$9,595. IT IS AGREED THAT THE PREMIUM FOR THE POLICY PERIOD OF 3-16-80 TO 3-16-81 IS DUE AND PAYABLE AS FOLLOWS:

	<u>PREMIUM</u>
ITEM A NON ADJUSTABLE SECTION I	3,306.
ITEM B ADJUSTABLE SECTION II COMPREHENSIVE GENERAL LIABILITY (PER MF73C)	2,148.
AUTOMOBILE LIABILITY AND AUTOMOBILE PHYSICAL DAMAGE (PER MF190)	4,141.

IT IS FURTHER AGREED THAT THE FOLLOWING FORMS ARE DELETED: MF127, MF39A, MF165 AND REPLACED BY THE FOLLOWING: MF154, MF176 ADDITIONAL FORMS ATTACHED HEREWITH: MF73C, Q5221, MF190, MF190-1, A970

4-29-80 KN/RM JOHNSON & HIGGINS (SAN DIEGO)

John J. Mackinnon
 President

Isabell Rogers
 Authorized Representative

16

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CABLE ADDRESS "KERODEN"

(213) 552-8700

January 19, 1982

ONE CENTURY PLAZA
2029 CENTURY PARK EAST
LOS ANGELES, CA. 90067

Star & Crescent
c/o Johnson & Higgins of California
110 West A Street, Suite 1170
San Diego, California 92101

Re: Water Quality Insurance Syndicate
Seepage and Pollution Coverage
Comprehensive Environmental Response
Compensation Liability Act of 1980

Gentlemen:

On December 11, 1980, President Carter signed into law the Comprehensive Environmental Response Compensation and Liability Act of 1980. This legislation imposes liability on vessel owners and operators for cost of removal, remedial action, and response, as well as for damages for injury to or loss of natural resources, resulting from spills of hazardous substances.

Except when the spill of a hazardous substance is the result of a willful misconduct or willful negligence within his privity and knowledge, and under certain other circumstances, the liability of the owner or operator of a vessel is limited as follows:

- a. For any vessel carrying hazardous substances as cargo to \$300 per gross ton or \$5,000,000, whichever is greater; or
- b. For any other vessel, to \$300 per gross ton, or \$500,000, whichever is greater.

*Bud -
I'm inclined
to forget
insurance on
this - your
thoughts?*

Page 2
January 18, 1982
Star & Crescent

At the present time we have not placed this coverage on your behalf. We point out that should you own or operate a vessel from which a hazardous substance spills you may be found liable for damages in accordance with the Comprehensive Environmental Response Compensation and Liability Act of 1980.

The Water Quality Insurance Syndicate offers coverage for the liability imposed by this act. Below is an outline of their rating structure for this coverage:

1) Vessels carrying hazardous substances as cargo: \$.20 per gross ton, minimum \$100.

2) Tugs and tugboats:

Under 100 GRT	\$20.00
100 to 385 GRT	\$50.00
Over 385 GRT	\$.13 per GRT

3) Other self-propelled vessels without hazardous substances of any kind on board:

Under 100 GRT	\$10.00
100 to 385 GRT	\$38.50
Over 385 GRT	\$.10 per GRT

4) Non self-propelled vessels without hazardous substances of any kind on board:

Under 100 GRT	\$1.00
100 to 385 GRT	\$1.25
Over 500 GRT	\$.005 per GRT

*Put on
Bennett
notified
by
Raleigh
1/26/82*

Should you have any questions with regard to the acquisition of or the coverage provided by Water Quality Insurance Syndicate, please contact us as we would be pleased to assist you.

Very truly yours,

JOHNSON & HIGGINS OF CALIFORNIA

Leslie H. Bennett (Signature)

Leslie H. Bennett
Vice President

LHB/pw

EXHIBIT 38

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Detroit
Hartford
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San Francisco
Seattle
Tokyo
Wilmington

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CABLE ADDRESS "KERODEN"

SUITE 1170, BANK OF CALIFORNIA PLAZA
110 WEST A STREET, SAN DIEGO, CA 92101
TEL. (714) 231-1000

March 10, 1977

Mr. K. N. Beiriger, Vice President
Star & Crescent Investment Company
P. O. Box A2111
San Diego, California 92112

Re: Comprehensive General
Liability Insurance

Dear Ken:

As you know, the underwriters for Central National provided coverage in this area from October 1, 1976 to February 1, 1977. At that time they proposed a renewal of their policy which provided limits of \$500,000 per occurrence and in the aggregate where applicable, subject to a deductible of \$100,000.

At the February 1, 1977 attachment date, we had secured the agreement of the Aetna Insurance Company to bind coverage for your general liability exposures other than the residual products liability connected with your ship building operations with a limit of \$100,000, subject to a satisfactory physical inspection of your various locations.

As I indicated in a telephone conversation, the Aetna Insurance Company has concluded its inspection and, on the basis of that inspection, does not believe it is in a position to continue providing your coverages. The reason for that is that the premiums they can develop under their normal underwriting techniques are inadequate for your exposure as they see them. They had agreed to continue providing coverage for a reasonable period of time while we sought other alternatives for this layer of coverage.

.....2/

Mr. K. N. Beiriger, Vice President

March 10, 1977

Page 2

We have secured two proposals for providing this first layer of coverage. A comparative chart of the features of the two programs, including required premium levels, is enclosed as an exhibit to this letter.

We look forward to discussing these alternatives with you at our meeting.

At that time, you may decide which of the alternatives is more to your interest, so that we can get it in place and remove the Aetna Insurance Company from your risk.

Sincerely yours,


Gene Jaque

GJ:lh
encls

EXHIBIT 39

LAKE MEAD FERRY SERVICE, INC.**Business Entity Information**

Status:	Active	File Date:	4/17/1968
Type:	Domestic Corporation	Entity Number:	C743-1968
Qualifying State:	NV	List of Officers Due:	4/30/2012
Managed By:		Expiration Date:	
NV Business ID:	NV19681000886	Business License Exp:	4/30/2012

Additional Information

Central Index Key:	
--------------------	--

Registered Agent Information

Name:	THORNDAL ARMSTRONG DELK BALKENBUSH	Address 1:	1100 E BRIDGER
Address 2:	& EISINGER PC	City:	LAS VEGAS
State:	NV	Zip Code:	89101
Phone:		Fax:	
Mailing Address 1:	PO DRAWER 2070	Mailing Address 2:	
Mailing City:	LAS VEGAS	Mailing State:	NV
Mailing Zip Code:	89101		
Agent Type:	Noncommercial Registered Agent		

Financial Information

No Par Share Count:	0	Capital Amount:	\$ 20,000.00
Par Share Count:	200,000.00	Par Share Value:	\$ 0.10

Officers Include Inactive Officers

Secretary - MARGARET A FAIR			
Address 1:	P.O. BOX 62410	Address 2:	
City:	BOULDER CITY	State:	NV
Zip Code:	89006	Country:	USA
Status:	Active	Email:	
President - ROD FAIR			
Address 1:	P.O. BOX 62465	Address 2:	
City:	BOULDER CITY	State:	NV
Zip Code:	89006	Country:	
Status:	Active	Email:	
Director - ROD FAIR			
Address 1:	P.O. BOX 62465	Address 2:	
City:	BOULDER CITY	State:	NV
Zip Code:	89006	Country:	
Status:	Active	Email:	
Treasurer - DONALD L KIMBALL			
Address 1:	299 MOTTSVILLE LANE	Address 2:	
City:	GARDNERVILLE	State:	NV
Zip Code:	89410	Country:	

Status: Active

Email:

Actions\Amendments

Action Type:	Articles of Incorporation	
Document Number:	C743-1968-001	# of Pages: 0
File Date:	4/17/1968	Effective Date:
(No notes for this action)		
Action Type:	Amendment	
Document Number:	C743-1968-003	# of Pages: 1
File Date:	8/19/1969	Effective Date:
CERT. OF AMEND. ART. IV. TO \$200,000.00 ART. V. ADD ARTICLE IX.		
Action Type:	Amendment	
Document Number:	C743-1968-004	# of Pages: 1
File Date:	1/08/1970	Effective Date:
CERT OF AMENDMENT-ART IV-NO CHANGE IN CAPITAL STOCK-DELETE ART. IX.		
Action Type:	Registered Agent Address Change	
Document Number:	C743-1968-005	# of Pages: 1
File Date:	1/18/1974	Effective Date:
PATRICK C CLARY 325 S THIRD ST LAS VEGAS NV		
Action Type:	Registered Agent Change	
Document Number:	C743-1968-006	# of Pages: 1
File Date:	7/01/1977	Effective Date:
PATRICK C CLARY SUITE 301 233 S FOURTH ST LAS VEGAS NV		
Action Type:	Registered Agent Change	
Document Number:	C743-1968-007	# of Pages: 1
File Date:	1/28/1983	Effective Date:
THOMAS A. FOLEY SUITE 401 770 E. SAHARA LAS VEGAS NV 89104		
Action Type:	Registered Agent Change	
Document Number:	C743-1968-008	# of Pages: 1
File Date:	4/06/1990	Effective Date:
MICHAEL A. FOLEY 770 E. SAHARA AVE LAS VEGAS NV 89100 F B		
Action Type:	Annual List	
Document Number:	C743-1968-016	# of Pages: 2
File Date:	4/04/1998	Effective Date:
(No notes for this action)		
Action Type:	Annual List	
Document Number:	C743-1968-013	# of Pages: 1
File Date:	5/03/1999	Effective Date:
(No notes for this action)		
Action Type:	Annual List	
Document Number:	C743-1968-014	# of Pages: 1
File Date:	3/14/2000	Effective Date:
(No notes for this action)		
Action Type:	Registered Agent Change	
Document Number:	C743-1968-009	# of Pages: 1
File Date:	9/15/2000	Effective Date:
SCARPELLO & ALLING, LTD. #2000 GXH 276 KINGSBURY GRADE,#2000 STATELINE NV 89449 GXH		

SCARPELLO & ALLING, LTD. GXH			
P.O. BOX 3390 STATELINE NV 89449 GXH			
Action Type:	Annual List		
Document Number:	C743-1968-015	# of Pages:	1
File Date:	4/20/2001	Effective Date:	
(No notes for this action)			
Action Type:	Registered Agent Change		
Document Number:	C743-1968-010	# of Pages:	1
File Date:	4/09/2002	Effective Date:	
SCARPELLO & ALLING LTD. SUITE 300			
600 EAST WILLIAM STREET CARSON CITY NV 89701 DMM			
Action Type:	Annual List		
Document Number:	C743-1968-012	# of Pages:	1
File Date:	4/16/2002	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C743-1968-011	# of Pages:	1
File Date:	4/08/2003	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	C743-1968-002	# of Pages:	1
File Date:	4/23/2004	Effective Date:	
List of Officers for 2004 to 2005			
Action Type:	Annual List		
Document Number:	20050181833-11	# of Pages:	1
File Date:	5/13/2005	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20060252699-01	# of Pages:	1
File Date:	4/20/2006	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20070243302-53	# of Pages:	1
File Date:	4/06/2007	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20080257823-67	# of Pages:	1
File Date:	4/15/2008	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20090231243-26	# of Pages:	1
File Date:	3/10/2009	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20100174293-39	# of Pages:	1
File Date:	3/21/2010	Effective Date:	
(No notes for this action)			
Action Type:	Annual List		
Document Number:	20110279695-32	# of Pages:	1
File Date:	4/14/2011	Effective Date:	
(No notes for this action)			