



UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

DIVISION OF  
CORPORATION FINANCE

October 23, 2012

Thomas B. Montano  
D.R. Horton, Inc.  
tbsmontano@drhorton.com

Re: D.R. Horton, Inc.  
Incoming letter dated September 17, 2012

Dear Mr. Montano:

This is in response to your letter dated September 17, 2012 concerning the shareholder proposal submitted to D.R. Horton by Patrick Missud. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Ted Yu  
Senior Special Counsel

Enclosure

cc: Patrick Missud  
missudpat@yahoo.com

October 23, 2012

**Response of the Office of Chief Counsel  
Division of Corporation Finance**

Re: D.R. Horton, Inc.  
Incoming letter dated September 17, 2012

The proposal requests that D.R. Horton “audit its subsidiary DHI Mortgage for compliance with all federal and state laws, and that the Board confirms for the record that DHI Mortgage conforms to the requirements contained within its own corporate governance documents.”

There appears to be some basis for your view that D.R. Horton may exclude the proposal under rule 14a-8(i)(4). In this regard, we note that the proposal appears to relate to the redress of a personal claim or grievance against the company. Accordingly, we will not recommend enforcement action to the Commission if D.R. Horton omits the proposal from its proxy materials in reliance on rule 14a-8(i)(4).

Sincerely,

Ted Yu  
Senior Special Counsel

**DIVISION OF CORPORATION FINANCE  
INFORMAL PROCEDURES REGARDING SHAREHOLDER PROPOSALS**

The Division of Corporation Finance believes that its responsibility with respect to matters arising under Rule 14a-8 [17 CFR 240.14a-8], as with other matters under the proxy rules, is to aid those who must comply with the rule by offering informal advice and suggestions and to determine, initially, whether or not it may be appropriate in a particular matter to recommend enforcement action to the Commission. In connection with a shareholder proposal under Rule 14a-8, the Division's staff considers the information furnished to it by the Company in support of its intention to exclude the proposals from the Company's proxy materials, as well as any information furnished by the proponent or the proponent's representative.

Although Rule 14a-8(k) does not require any communications from shareholders to the Commission's staff, the staff will always consider information concerning alleged violations of the statutes administered by the Commission, including argument as to whether or not activities proposed to be taken would be violative of the statute or rule involved. The receipt by the staff of such information, however, should not be construed as changing the staff's informal procedures and proxy review into a formal or adversary procedure.

It is important to note that the staff's and Commission's no-action responses to Rule 14a-8(j) submissions reflect only informal views. The determinations reached in these no-action letters do not and cannot adjudicate the merits of a company's position with respect to the proposal. Only a court such as a U.S. District Court can decide whether a company is obligated to include shareholder proposals in its proxy materials. Accordingly a discretionary determination not to recommend or take Commission enforcement action, does not preclude a proponent, or any shareholder of a company, from pursuing any rights he or she may have against the company in court, should the management omit the proposal from the company's proxy material.



September 17, 2012

**VIA E-MAIL**

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: *D.R. Horton, Inc.*  
*Stockholder Proposal of Patrick Missud*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

This letter is to inform you that D.R. Horton, Inc. (the “Company”), intends to omit from its proxy statement and form of proxy for its 2013 Annual Meeting of Stockholders (collectively, the “2013 Proxy Materials”) a stockholder proposal (the “Proposal”) and statements in support thereof received from Patrick Missud (“Mr. Missud” or the “Proponent”).

Pursuant to Rule 14a-8(j), we have:

- filed this letter with the Securities and Exchange Commission (the “Commission”) no later than eighty (80) calendar days before the Company intends to file its definitive 2013 Proxy Materials with the Commission; and
- concurrently sent copies of this correspondence to the Proponent.

Rule 14a-8(k) and Staff Legal Bulletin No. 14D (Nov. 7, 2008) (“SLB 14D”) provide that stockholder proponents are required to send companies a copy of any correspondence that the proponents elect to submit to the Commission or the staff of the Division of Corporation Finance (the “Staff”). Accordingly, we are taking this opportunity to inform the Proponent that if the Proponent elects to submit additional correspondence to the Commission or the Staff with respect to this Proposal, a copy of that correspondence should be furnished concurrently to the undersigned on behalf of the Company pursuant to Rule 14a-8(k) and SLB 14D.

**THE PROPOSAL**

The Proposal requests that the Company “audit its subsidiary DHI Mortgage for compliance with all federal and state laws, and that the Board confirms for the record that DHI Mortgage conforms to the requirements contained within its own corporate governance documents.” The Proposal’s supporting statement refers to several complaints, lawsuits and websites containing allegations of misconduct by DHI Mortgage and other lenders, including allegations of fraud, antitrust violations and predatory lending. A copy of the Proposal, as well as related correspondence with the Proponent, is attached to this letter as Exhibit A.

## **BASIS FOR EXCLUSION**

We hereby respectfully request that the Staff concur in our view that the Proposal may be excluded from the 2013 Proxy Materials pursuant to Rule 14a-8(i)(4) because the Proposal relates to the redress of a personal claim or grievance against the Company. As we explain below, the Proponent has a long-standing personal grievance against the Company stemming from his experience purchasing a home from the Company. The Proponent has pursued his personal grievance against the Company for the past eight years through, among other things, state and federal lawsuits, a letter-writing and e-mail campaign, mass mailings and websites with names such as [www.drhortonsucks.info](http://www.drhortonsucks.info).

Beginning in 2008, the Proponent added the tactic of submitting stockholder proposals to his campaign, submitting for the Company's 2009 Annual Meeting of Stockholders a proposal similar to the present Proposal, and for the Company's 2010, 2011 and 2012 Annual Meetings of Stockholders proposals nearly identical to the present Proposal. The Company requested and was granted no-action relief with respect to the 2009, 2010 and 2011 proposals under Rule 14a-8(f) because the Proponent failed to timely provide the requisite proof of continuous stock ownership in response to the Company's proper request for that information. *See D.R. Horton, Inc.* (avail. Sept. 30, 2010); *D.R. Horton, Inc.* (avail. Nov. 16, 2009); *D.R. Horton, Inc.* (avail. Nov. 21, 2008). The Company requested and was granted no-action relief with respect to the 2012 proposal under Rule 14a-8(i)(4) because, as recognized in the Staff's response letter, "the proposal appears to relate to the redress of a personal claim or grievance against the company." *D.R. Horton, Inc.* (avail. Nov. 16, 2011).

The Company likewise requests no-action relief with respect to the Proponent's current Proposal, which, like the 2012 proposal, is properly excludable from the Company's proxy materials under Rule 14a-8(i)(4) because it relates to the redress of a personal claim or grievance against the Company. In addition, because it is clear that the Proponent intends to continue to submit similar proposals in furtherance of his personal grievances—the Proponent candidly stated in his August 4, 2011, cover letter accompanying the 2012 proposal (which letter he again attached to his submission of the current Proposal) that "My intent is to be a lifelong DHI shareholder and hold the requisite number of shares to entitle me to submit proposals . . . indefinitely . . ."—the Company further requests that the Staff state that such no-action relief shall apply to any future submissions to the Company of the same or a similar proposal by the Proponent.

## **ANALYSIS**

### **The Proposal May Be Excluded Under Rule 14a-8(i)(4) Because The Proposal Relates To The Redress Of A Personal Claim Or Grievance Against The Company.**

Rule 14a-8(i)(4) permits the exclusion of stockholder proposals that are (i) related to the redress of a personal claim or grievance against a company or any other person, or (ii) designed

to result in a benefit to a proponent or to further a personal interest of a proponent, which other stockholders at large do not share. The Commission has stated that Rule 14a-8(i)(4) is designed to “insure that the security holder proposal process [is] not abused by proponents attempting to achieve personal ends that are not necessarily in the common interest of the issuer’s shareholders generally.” Exchange Act Release No. 20091 (Aug. 16, 1983). Moreover, the Commission has noted that “[t]he cost and time involved in dealing with” a stockholder proposal involving a personal grievance or furthering a personal interest not shared by other stockholders is “a disservice to the interests of the issuer and its security holders at large.” Exchange Act Release No. 19135 (Oct. 14, 1982).

As explained below, the Proponent has abused the stockholder proposal process by submitting a stockholder proposal designed to pursue the Proponent’s own personal grievance. Thus, we believe that the Proposal is excludable under Rule 14a-8(i)(4) as it represents the latest in a series of actions that the Proponent has taken in his years-long crusade against the Company.

*A. Background*

Mr. Missud is a vexatious litigant<sup>1</sup> who uses state and federal courts, various administrative bodies, the internet and e-mail to force the Company and its subsidiary, DHI Mortgage Company Ltd. (“DHI Mortgage”), to incur time and costs to respond to his frivolous claims. Since 2004, Mr. Missud has waged this extensive campaign against the Company and certain of its officers, subsidiaries, agents and attorneys. Mr. Missud’s grievance dates back to November 2003, when Mr. Missud and his wife (Julie Missud) entered into a written agreement with the Company to purchase a new home in Nevada and elected to apply for “primary residence” financing with DHI Mortgage. In February 2004, the Company notified the Missuds that they had not completed or satisfied lender-required documentation in order to receive “primary residence” loan approval by DHI Mortgage.

The Missuds risked forfeiting their earnest money and deposit if loan approval was not obtained in a timely manner, which is a customary condition in home purchase contracts. A factor affecting the Missuds’ loan application was that it appeared that their home purchase would not qualify for “primary residence” financing from DHI Mortgage and that they would need to pursue “secondary residence” financing unless further information was provided to support their application. The Missuds, who resided in California at the time, and have

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<sup>1</sup> In a March 22, 2012 order, the U.S. District Court for the Northern District of California granted the Company’s motion to declare the Proponent a “vexatious litigant.” See Exhibit B at page 22. Similarly, in a September 4, 2012 order regarding a different case, the same court ordered the Proponent to show cause why he should not be declared a vexatious litigant in that case. See Exhibit C.

apparently resided in California since that time, did not satisfy DHI Mortgage's underwriting guidelines for "primary residence" financing. The Missuds thereafter advised the Company and DHI Mortgage that they would finance the home purchase through an outside lender not affiliated with Company or DHI Mortgage. The Missuds did not forfeit any of their earnest money or deposit. In March 2004, the Missuds closed escrow on the home with their chosen outside lender instead of DHI Mortgage.

Mr. Missud then launched his campaign against the Company. Apparently, the Missuds believed the Company intentionally sought to harm and defraud them in the home buying and financing process since DHI Mortgage asked them to provide lender-required information and documentation in support of their "primary residence" financing application prior to completing their DHI Mortgage loan. Among other things, Mr. Missud's ongoing campaign includes the actions listed below:

- Mr. Missud has stated in communications to the Company, its counsel and others (including government officials and media outlets) that he intends to harm the Company and its reputation because of the Company's alleged attempts to defraud him. A few examples include:
  - In a cover letter to the Commission dated August 17, 2011, which Mr. Missud also sent to various government officials, media outlets and others, Mr. Missud listed three reasons for which he believed inclusion of his 2012 proposal in the Company's 2012 proxy statement was required. In summary, the reasons listed by Mr. Missud included that (i) the Company had participated in ultra-vires acts, (ii) the Company or its mortgage company was participating in illegal financial activities, and (iii) overwhelming evidence had been gathered that proved that Company executives had corrupted officials and judges in several states. In the same cover letter, Mr. Missud claimed that the federal civil rights and corruption lawsuit filed by Mr. Missud would soon name the Company as an additional defendant. In an August 4, 2011 letter to the Company, Mr. Missud referenced adding the Company to a RICO lawsuit and naming Donald R. Horton, personally, to the lawsuit to satisfy the punitive damages aspect of Mr. Missud's threatened lawsuit. (Mr. Horton is the Company's Chairman of the Board.) *See Exhibit D.*
  - In an e-mail to the Company's outside legal counsel, government officials and media outlets, Mr. Missud stated in reference to legal proceedings against the Company relating to the alleged fraud, "I'm looking forward to [the Company's] financial evisceration." *See Exhibit E.*
  - In an e-mail to the Company's outside legal counsel, Mr. Missud stated that as a result of the alleged fraud: "I will eviscerate their company [referring to the

Company], deplete their vast bank accounts, destroy their reputations and hopefully cause as much psychological and physiological damage to them as they have to thousands of better Americans.” See Exhibit F.

- In another letter to the Company’s outside legal counsel relating to the alleged fraud, Mr. Missud wrote: “In our former matters you and all your Sesame Street friends made things very difficult and expensive for me in court. In response, my solution was to make my puny personal grievance 10,000 times more expensive for Elmo and Grover (Horton and Tomnitz).” Mr. Missud continued in the same letter: “As before, my reaction is to make things horrendously expensive for the brothers from Deliverance™ outside of court. It is now again time to sponsor as many class actions regarding construction defects, misrepresentations and fraud as possible . . . .” See Exhibit G. (Donald Tomnitz is the Company’s Vice Chairman, President and Chief Executive Officer.)
- In a letter from Mr. Missud dated August 8, 2009 and posted publicly to Mr. Missud’s website <http://drhortonsjudges.info>, Mr. Missud claimed that the Company and its mortgage company, along with various state and federal judges and officials and attorneys, were conspiring to commit RICO violations relating to the alleged fraud. In this letter, Mr. Missud stated that: “My intent is to ruin the reputations of the named individuals and corporations and to expose the various governmental entities responsible for DHI’s predatory lending . . . .” See Exhibit H.
- In a September 22, 2008 letter sent to various government officials, media outlets and others, Mr. Missud stated with respect to the alleged fraud: “Unless things are ‘made right,’ I will cause this [referring to the Company’s alleged fraudulent activities] to become a national scandal eclipsing Enron, MCI, Tyco, Ameriquest, Countrywide, Bear Stearns, Indymac, Lehman Bros, Merrill Lynch, Wachovia, WaMu, Fannie Mae and Freddie Mac (\$25B), AIG (\$85B), . . . Goldman Sachs/Morgan Stanley rescue . . . Mortgage Securities Bailout . . . +\$700B . . . .” See Exhibit I.
- In a letter to the office of the Chief Trial Counsel/Intake of the State Bar of California dated September 21, 2009, Mr. Missud expressed his frustration that the State Bar of California was not reacting to his satisfaction to his claims against the Company and its attorneys and various judges and officials involved in matters regarding his allegations. In this letter, Mr. Missud stated: “In 2008, I appealed to class action litigators to do what I and apparently everyone else could not do, namely touch the untouchable Donald Horton and his Third Reich.” He later stated in the same letter: “Now in 2009, I have run out of appeals and patience but have rather gone straight to the media to expose the official judicial

corruption. Instead of only crying wolf way back in 2004, I should have been screaming holocaust.” See Exhibit J.

- In an e-mail addressed to “State and Federal Agents” dated August 9, 2010 and sent to various government officials and attorneys, Mr. Missud continued to express his personal belief that the Company, state and federal judges and government officials are corrupt because they took actions he did not like regarding his allegations. In the e-mail, Mr. Missud stated: “Since its obvious that the criminal directors at DHI are to walk because of their political connections, I am now filing my papers first with the media. We are up to several corrupted commissioners in two states, several corrupted judiciaries in perhaps three states, several corrupted council people from at least 6 states, clear violations of both state and federal laws in 27 states, and very clear retaliation against a federal whistle blower from California. Americans will be protected from Donalds Horton and Tomnitz despite Nevada’s best efforts at concealment and suppression.” See Exhibit K.
- Mr. Missud has also exhibited his animus toward the Company in communications to other governmental entities:
  - In an April 4, 2012 e-mail addressed to “SEC agents” (and also forwarded to the Company) Mr. Missud stated his intent to revise the shareholder proposal that he submitted to the Company for the 2012 Annual Meeting of Stockholders “to reflect the fact that every single DHI shareholder is in the dark about DHI’s 27-state interstate racketeering made possible by the SEC (and which is furthered with judicial help).” The e-mail also referred to one of the Company’s new developments and stated, “Once the 38 homes [in the new development] are sold I will contact the new owners to see if they also got bait and switch financing, bait and switch materials, homes replete with construction defects, and/or illegal denied warranty. I’ve stock-piled hundreds of these daily notices.” See Exhibit L.
  - Mr. Missud recently submitted an affidavit to a U.S. District Court in connection with a lawsuit he brought against several courts and judges (he alleges, in part, that they had ignored the purported fraud against him and are corrupt). After serving a subpoena to John Stumpf, the Chief Executive Officer of Wells Fargo & Company, Mr. Missud submitted an affidavit to the court regarding the subpoena. In his affidavit, which is dated August 29, 2012 and which he forwarded to the Company, Mr. Missud stated that Mr. Stumpf’s testimony would be necessary to prove that Wells Fargo and the Company “together . . . originated thousands of predatory loans which caused the nation’s foreclosure crisis.” The affidavit then stated that if Mr. Stumpf pleads the Fifth Amendment, Mr. Missud will

alternatively ask him to confirm Mr. Missud's ownership of Company stock "which entitles Missud to SEC 14(a)-8 printing of his Proposal for Action in DHI's forthcoming Proxy Statement." See Exhibit M. (Mr. Missud's rationale was that Mr. Stumpf's testimony would serve as the required proof of ownership from a DTC participant regarding Mr. Missud's ownership of Company stock.)

Mr. Missud has filed numerous separate lawsuits against the Company, its subsidiaries and various Company officers and personnel related to his personal grievance against the Company. Although Mr. Missud is an attorney, he has demonstrated little regard for legal process and procedure in pursuing his personal claims and grievances against the Company, as demonstrated by the following recent court findings, many of which occurred after our September 23, 2011 no-action request regarding the Proponent's 2012 proposal:

- In *Patrick A. Missud, et al. v. D.R. Horton, Inc., et al.*, Case No. 07A551662, filed on November 13, 2007 in the District Court of Nevada, County of Clark, alleging the Company defrauded Mr. Missud and his wife by engaging in a scheme to illegally condition the sale of the home on the use of the Company's affiliated lender, the court ruled on July 20, 2010 that Mr. Missud was in contempt of court and that he was in violation of a stipulated protective order. The court also awarded the Company reasonable costs and attorney fees. See Exhibit N. In making its ruling, the court made the following findings of fact and conclusions of law:
  - "Patrick Missud admitted to sending threatening communications to witnesses and counsel in connection with this litigation."
  - "There are varying degrees of willfulness of the Plaintiffs [Mr. Missud and his wife, Julie Missud] ranging from knowing, willful and intentional conduct with an intent to prevent the Defendants' [D.R. Horton, Inc., et al.] being able to identify the true facts and interview witnesses and more simple intimidation. However, the multiple incidents of threats are so pervasive as to exacerbate the prejudice rather than if each instant were treated as an isolated incident."
  - "There is a public policy to prevent further abuses and deter litigants from threatening witnesses in an attempt to advance their claims."
  - "There is clear and convincing evidence that Plaintiff Patrick Missud is knowingly and intentionally in violation of this Stipulated Protective Order and that he is knowingly and intentionally in contempt of Court."
  - "As a result of the discovery abuse and the contempt, the Plaintiffs' Amended Complaint is stricken."

- In *Patrick A. Missud v. D.R. Horton, Inc., et al.*, Case No. A131566, appeal filed on July 1, 2011 in the California Court of Appeal, the court ruled against Mr. Missud on November 22, 2011 in his request to overturn a monetary judgment against him in a Nevada state court. See Exhibit O. (Mr. Missud’s initial complaint in the Nevada case alleged that the Company defrauded Mr. Missud in the purchase of his home, similar to the concerns raised in the Proposal.) The California Court of Appeals found on page 2 of its order, “Setting aside these procedural inadequacies, Missud’s briefs contain no comprehensible legal argument as to why the order he challenges should be reversed.”
- In *Patrick A. Missud and Julie Missud v. D.R. Horton, Inc. and DHI Mortgage Company, Ltd.*, Case No. 56502, appeal filed on July 26, 2010 in the Nevada Supreme Court, the court affirmed the dismissal of the Missuds’ action against the Company and DHI Mortgage on November 22, 2011. See Exhibit P. In this case, the Missuds alleged that the Company and DHI Mortgage had defrauded them in the purchase of their home, similar to the subject matter of the Proposal. The trial court’s dismissal was based on its determination that the Missuds had engaged in abusive litigation tactics and that they were in contempt of a district court protective order. In particular, the Missuds had, among other things, threatened the Company’s and DHI Mortgage’s employees. The Nevada Supreme Court concluded that the trial court “did not abuse its discretion in sanctioning appellants for litigation abuses or in finding them in contempt of court for violating the protective order.”
- On March 22, 2012, the Company was dismissed from another of Mr. Missud’s lawsuits, *Patrick A. Missud v. State of Nevada, et al.*, Case No. C-11-3567 EMC. See Exhibit B, *supra*. (Mr. Missud’s initial complaint for this case was filed in the U.S. District Court for the Northern District of California on July 20, 2011 and was amended to add the Company as a defendant on October 28, 2011.) The court noted on page 2 of its order, “Although [Mr. Missud] does not describe the particular transaction(s) that give rise to his complaint, it appears the root of his dissatisfaction with Horton [that gave rise to the lawsuit] originates from his dealings with Horton and DHI [Mortgage] in conjunction with his purchase of a home in Nevada.” (Mr. Missud’s complaints against the Company stemming from his home purchase, which gave rise to this case, are also the same general issues he addresses in the supporting statement of the Proposal.) The court found that Mr. Missud’s claims were vexatious and harassing.
  - Specifically, the court found, on page 16 of its order, that Mr. Missud’s “claims against Horton have lacked any credible factual basis and Plaintiff has refused to comply with the Court rules and procedures in making his claims.”

- The court further found, on page 19 of its order, that he is “motivated more by obtaining press for himself and imposing expense on Horton than by any legitimate claim for relief.”
- The court also found, on pages 20-21 of its order, that “Mr. Missud has demonstrated intent to continue frivolously litigating against Defendant Horton and others in spite of judicial rulings against him.”
- Finally, the court, on page 24 of its order, referred Mr. Missud’s actions to the “State Bar and the Standing Committee on Professional Conduct.”

Both the Company and DHI Mortgage have prevailed against Mr. Missud in his pursuit of his frivolous claims. *See, e.g., Patrick A. Missud, et al. v. D.R. Horton, Inc., et al.* in Exhibit N, *supra*. However, Mr. Missud has refused to pay a judgment against him in Nevada, resulting in the Company and DHI Mortgage seeking to domesticate the judgment in California, where the Missuds reside. In retaliation, Mr. Missud has filed in federal court complaints for public corruption, civil rights and RICO violations against the State of Nevada and numerous other entities, administrative bodies, officials and judges. *See, e.g., Exhibit Q*. While the Company and DHI Mortgage are not parties to these federal lawsuits, the complaints do refer to these entities, and Mr. Missud has threatened to include the Company at his discretion at a later time. *See Exhibit D, supra*, at pages 2 and 5.

Furthermore, like the cases against the Company that are discussed in the above bullet points, courts in Mr. Missud’s related lawsuits against other parties have recognized the frivolous and abusive nature of his litigation:

- In *Patrick Missud v. San Francisco Superior Court, et al.*, Case No. C 12-03117 WHA, filed in the U.S. District Court for the Northern District of California on June 18, 2012, Mr. Missud sued multiple courts, claiming, in part, that they had ignored the purported fraud against him and were corrupt. The court on September 4, 2012 cancelled an upcoming hearing and ordered Mr. Missud to show cause as to why he should not be found to be a vexatious litigant in that case. *See Exhibit C, supra*.
- In *Patrick Alexandre Missud, I v. San Francisco Superior Court; et al.*, Case No. 12-15371, appeal filed in the Ninth Circuit Court of Appeals on February 22, 2012, the court issued a decision as to one of Mr. Missud’s appeals in that case (the initial complaint of which referred to his grievance with D.R. Horton) on September 6, 2012. *See Exhibit R*. The decision summarily affirmed the district court’s judgment because the circuit court found that “the questions raised in this appeal are so insubstantial as not to require further argument.”

In addition to the knowing and willful contempt of court and other abuses by Mr. Missud in the above matters, Mr. Missud has admitted to violations of various California Rules of Professional Conduct in litigation matters involving himself and the Company. In a letter to the Office of the Chief Trial Counsel/Intake of the State Bar of California dated August 26, 2009, Mr. Missud demanded the State Bar of California investigate his own actions. *See Exhibit S*. In summary, Mr. Missud claimed he has committed the following violations in connection with his grievances and/or lawsuits against the Company:

- Threatened administrative charges to gain advantage in his civil dispute;
- Publicly made extra-judicial statements that he knew would have a substantial likelihood of materially prejudicing an adjudicative proceeding; and
- Directly and extra-judicially contacted federal judges without consent of any of the parties in the relevant cases.

In addition, in reference to his claims against the Company, Mr. Missud stated: “After having donated over \$100,000 and nearly three years of time pursuing consumer redress, I have now turned to leveraging corporations with threats of administrative discipline and widespread internet broadcasting to gain an advantage specifically for myself and generally for others.” *See Exhibit S, supra*.

The Company believes the courts’ findings enumerated above, the number of lawsuits filed or threatened to be filed by the Missuds against any party involved in his complaints (including state and federal judges and administrative officials) and Mr. Missud’s admissions in his letter to the State Bar of California further demonstrate that Mr. Missud will take highly unusual and egregious actions in pursuing his personal grievances against the Company. His actions of making pervasive threats against the Company, certain employees of the Company and the Company’s counsel demonstrate that the litigation is personal to him, as is the Proposal, because both the litigation claims and the Proposal involve the Company and its wholly-owned mortgage company, DHI Mortgage, and all of his claims and the Proposal derive from the same instance: his home purchase from the Company in 2004. We believe, based on the actions taken by Mr. Missud, that he is using the stockholder proposal process as another means to seek redress of his personal claims and grievances.

In addition to the cases discussed above, Mr. Missud has filed or participated in numerous state and federal lawsuits and court filings against the Company, its subsidiaries and various Company officers and personnel related to his personal claims and grievances against the Company. These lawsuits are described below. Each of the lawsuits described below (copies of

which are available upon request) was filed by Mr. Missud either in his own name<sup>2</sup> or in the names of him and his wife, with Mr. Missud representing himself or himself and his wife. Each of the suits described below was dismissed by the respective court:

- *Patrice A. Missud v. D.R. Horton, et al.*, Case No. 05-444247, filed on August 22, 2005 in the Superior Court of the State of California in and for the County of San Francisco alleging infliction of emotional distress as a result of DHI Mortgage's request to the Missuds to provide lender-required information in connection with their loan application, which Mr. Missud claimed had manifested in severe abdominal pain and the passing of kidney stones, and including DHI Mortgage and certain DHI Mortgage agents as co-defendants;
- *Patrice A. Missud v. D.R. Horton, et al.*, Case No. CGC 05-447499, filed on December 9, 2005 in the Superior Court of the State of California in and for the County of San Francisco alleging the same claims as his first lawsuit and including DHI Mortgage and certain DHI Mortgage agents as co-defendants;
- *Patrice A. Missud, et al. v. D.R. Horton, Inc., et al.*, Case No. CGC 06-457207, filed on October 23, 2006 in the Superior Court of the State of California in and for the County of San Francisco alleging the defendants defrauded Mr. Missud and his wife by engaging in a scheme to illegally condition the sale of the home on the use of the Company's affiliated lender and including DHI Mortgage, the Company's Chairman of the Board and Vice Chairman, President and Chief Executive Officer, and certain DHI Mortgage agents as co-defendants;
- *Patrice A. Missud, et al. v. D.R. Horton, Inc., et al.*, Case No. C07-2625 JL, filed on May 17, 2007 in the United States District Court for the Northern Division District of California alleging many of the same claims set forth in Mr. Missud's earlier suits as well as additional claims relating to supposed retaliation against him by the Company and including DHI Mortgage, the Company's Chairman of the Board and Vice Chairman, President and Chief Executive Officer, and certain DHI Mortgage agents as co-defendants; and
- *Patrice A. Missud, et al. v. D.R. Horton, Inc., et al.*, Case No. C10-0235 SI, filed on January 19, 2010 in the United States District Court for the Northern Division District

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<sup>2</sup> "Patrick Missud," "Patrick A. Missud" and "Patrice A. Missud" are the same person as stated by Mr. Missud in court testimony. See Exhibit T (excerpt from court transcript dated July 20, 2010 in Case No. A-551662 and an example where these names were used in the same case—Case No. CV07-02625-SBA).

of California alleging many of the same claims set forth in Mr. Missud's earlier suits as well as additional claims relating to supposed retaliation against him by the Company and including DHI Mortgage, the Company's Chairman of the Board and Vice Chairman, President and Chief Executive Officer, certain DHI Mortgage agents, Yahoo, Inc., the Governor of the State of Texas, the Texas Attorney General, and two federal judges and a federal magistrate as co-defendants. In this complaint Mr. Missud alleges that the defendants are in a RICO conspiracy against him and that Yahoo, Inc. de-listed his websites.

Mr. Missud has also engaged in an extensive letter-writing and e-mail campaign against the Company because of the alleged harm he experienced following DHI Mortgage's request to the Missuds to provide lender-required information in connection with their loan application. Since September 2011, Mr. Missud has written in excess of 850 e-mails to the Company, certain of its employees and/or its legal counsel, sometimes upwards of ten e-mails per day. Mr. Missud also has sent mass mailings to homeowners living in communities developed and built by the Company (or its affiliates and/or subsidiaries) regarding alleged wrongdoing by the Company and various related individuals. These mass mailings have solicited individuals to retain Mr. Missud to bring lawsuits against the Company and its affiliates.

In addition to his lawsuits and his letter-writing/e-mail campaign, Mr. Missud has created several websites denigrating the Company and the judges who heard some of the lawsuits he has filed, including [www.drhortonsjudges.info](http://www.drhortonsjudges.info), [www.drhortonfraud.com](http://www.drhortonfraud.com) and [www.drhortonsucks.info](http://www.drhortonsucks.info). See Exhibit U. The content on these websites further illustrates Mr. Missud's elaborate and ongoing campaign against the Company related to the alleged harm he experienced following DHI Mortgage's request to the Missuds to provide lender-required information in connection with their loan application.

#### *B. Discussion*

The Staff consistently has concurred that a stockholder proposal may be excluded pursuant to Rule 14a-8(i)(4) as involving the redress of a personal claim or grievance when the proposal is used as an alternative forum to press claims that a proponent has asserted in litigation against a company. A closely analogous situation was presented in *General Electric Co.* (avail. Feb. 2, 2005). There, the proponent (a former employee of NBC) filed a complaint with the Equal Employment Opportunity Commission ("EEOC") and a lawsuit in federal court alleging sexual harassment and discrimination on the basis of race and sex. The EEOC matter was concluded in the company's favor, and the lawsuit was dismissed. The proponent then submitted a stockholder proposal to General Electric asking the company's CEO to "reconcile the dichotomy between the diametrically opposed positions represented by his acquiescence in allegations of criminal conduct, and the personal certification requirements of Sarbanes-Oxley." In addition, the proponent and her attorney sent a number of letters to the company and made statements at the company's annual meetings referencing the litigation. The proponent also

operated a website on which she discussed her claims against the company. The Staff concurred that the proposal could be excluded from the company's proxy statement because it related to the redress of a personal claim or grievance or was designed to result in a benefit to the proponent or further a personal interest, which was not shared with the company's other stockholders at large. *See General Electric Co.* (avail. Jan. 12, 2007) (same); *General Electric Co.* (avail. Jan. 9, 2006) (same); *see also American Express Co.* (avail. Jan. 13, 2011) (proposal to amend the code of conduct to include mandatory penalties for non-compliance was excludable as a personal grievance when brought by a former employee who previously had sued the company for discrimination and defamation); *ConocoPhillips Co.* (avail. Mar. 7, 2008, *recon. denied* Mar. 25, 2008) (proposal that the board establish a committee to oversee an investigation of company involvement with state sponsors of terrorism was excludable as a personal grievance when brought by a stockholder who had unsuccessfully sued the company relating to a plane crash that killed his wife, an employee of the company, while on a business trip to the Middle East); *Schlumberger Ltd.* (avail. Aug. 27, 1999) (proposal that the company form "an impartial fact-finding committee" relating to the company's corporate merger and establish a "Statement of Fair Business Principles" was excludable as a personal grievance when brought by a stockholder who had unsuccessfully sued the company to recover a finder's fee that he alleged was due in connection with the merger); *Station Casinos, Inc.* (avail. Oct. 15, 1997) (proposal to maintain liability insurance excludable as a personal grievance when brought by the attorney of a guest at the company's casino who filed suit against the company to recover damages from an alleged theft that occurred at the casino); *International Business Machines Corp.* (avail. Jan. 31, 1995) (proposal to institute an arbitration mechanism to settle customer complaints excludable when brought by a customer who had an ongoing complaint against the company in connection with the purchase of a software product).

We believe that it is clear that the Proposal and supporting statement on its face relates to the redress of a personal claim against the Company. We also believe that, given the Proponent's history with the Company related to his lawsuits, the Proposal would be excludable as relating to redress of a personal claim or grievance even if the Proposal on its face involved a matter of general interest to all stockholders. Release No. 34-19135 (avail. Oct. 14, 1982) (stating that proposals phrased in broad terms that "might relate to matters which may be of general interest to all security holders" may be omitted from a registrant's proxy materials "if it is clear from the facts . . . that the proponent is using the proposal as a tactic designed to redress a personal grievance or further a personal interest"). For example, in *The Dow Chemical Co.* (avail. Mar. 5, 2003), a proposal was properly excluded where it requested that the board "establish a Review Committee to investigate the use and possible abuse of its carbon tetrachloride and carbon disulfide products as grain fumigants by grain workers" and issue a report on how to compensate those injured by the product. While the proposal on its face might have involved a matter of general interest, the Staff granted no-action relief because the proponent was pursuing a lawsuit against the company on the basis of an alleged injury purportedly tied to the grain fumigants. Similarly, in *MGM Mirage* (avail. Mar. 19, 2001), a proposal that would require the company to adopt a written policy regarding political

contributions and furnish a list of any of its political contributions was found to be excludable under Rule 14a-8(i)(4) when submitted by a proponent who had filed a number of lawsuits against the company based on its decisions to deny the proponent credit at the company's casino and, subsequently, to bar the proponent from the company's casinos. *See also Medical Information Technology, Inc.* (avail. Mar. 3, 2009) (proposal that the company comply with government regulations that require businesses to treat all stockholders the same was excludable as a personal grievance when brought by a former employee of the company who was involved with an ongoing lawsuit against the company regarding claims that the company had undervalued its stock); *State Street Corp.* (avail. Jan. 5, 2007) (proposal that the company separate the positions of chairman of the board and CEO and provide for an independent chairman was excludable as a personal grievance when brought by a former employee after being ejected from the company's previous annual meeting for disruptive conduct); *Sara Lee Corp.* (avail. Aug. 10, 2001) (permitting Sara Lee to omit a stockholder proposal regarding a policy for pre-approval of certain types of payments where the proponent had a personal interest in a subsidiary which the company had sold and where the proponent participated in litigation related to the subsidiary and directly adverse to Sara Lee).

Here, the Proponent submitted a stockholder proposal regarding the Company's alleged "fraudulent" activities relating to mortgage lending at DHI Mortgage where the Proponent made such allegations in connection with the Proponent's personal litigation against the Company and throughout his ongoing campaign against the Company, its subsidiaries and various Company officers and personnel. In addition to the court cases discussed above, many of which relate to the same subject matter as the Proposal, the Proponent's April 4, 2012 e-mail to "SEC agents," *see Exhibit L, supra*, refers to alleged "racketeering" by the Company and a plan to contact the purchasers in the Company's new development "to see if they also got bait and switch financing." Based on this e-mail's references to the Proponent's 2012 proposal and its discussion of the Proponent's plan to revise that proposal, this e-mail appears to be an explanation of the Proponent's motivations for submitting the current Proposal. Thus, it appears that the Proposal was submitted to address the Proponent's grievances against the Company, which stem out of his 2004 home purchase.

In addition, the Proponent's August 29, 2012 affidavit that is included as Exhibit M, *supra*, demonstrates that the Proposal is one of the Proponent's multiple avenues for pursuing the same objective, the objective of addressing the Proponent's grievances against the Company, which stem out of allegedly illegal and fraudulent lending practices. As outlined in the affidavit, the Proponent served a subpoena on John Stumpf, the CEO of Wells Fargo, in an attempt to elicit testimony proving that the Company engaged in predatory lending. The affidavit then states that if Mr. Stumpf declines to provide this testimony, the Proponent will simply turn to an alternate avenue, Rule 14a-8: he will ask Mr. Stumpf to confirm his ownership of Company stock so that his Proposal, which also alleges predatory lending, can be included in the Company's 2013 Proxy Materials.

As discussed above, the Proponent's lawsuits and letter-writing campaign against the Company have remained active since the time of the no-action request that we submitted last year on September 23, 2011. As in the no-action letter precedent discussed above, it is clear from the facts that the Proponent is using this Proposal as a tactic to seek redress for his personal grievances against the Company, and thus the Proposal is excludable under Rule 14a-8(i)(4).

*C. Request for Future No-Action Relief*

We also ask that the Staff further state that such no-action relief shall apply to any future submissions to the Company of the same or a similar proposal by the Proponent, and that this letter be deemed to satisfy the Company's future obligations under Rule 14a-8 with respect to the same or similar proposals submitted by the Proponent. The Staff has permitted companies to apply no-action responses to any future submissions of a same or similar proposal by a proponent where a proponent has a long-standing history of confrontation with a company, and that history is indicative of a personal claim or grievance within the meaning of Rule 14a-8(i)(4). *See, e.g.*, Staff Legal Bulletin No. 14 (July 13, 2001) ("SLB 14") ("In rare circumstances, we may grant forward-looking relief if a company satisfies its burden of demonstrating that the shareholder is abusing rule 14a-8 by continually submitting similar proposals that relate to a particular personal claim or grievance."); *see also General Electric Co.* (avail. Dec. 20, 2007); *General Electric Co.* (avail. Jan. 12, 2007) (discussed above); *Cabot Corporation* (avail. Nov. 4, 1994); *Texaco, Inc.* (avail. Feb. 15, 1994); *General Electric Co.* (avail. Jan. 25, 1994).

As noted above, the Proposal represents the fifth stockholder proposal that the Proponent has submitted to the Company and the latest in a series of actions that the Proponent has taken over the last seven years to pursue his claims against the Company. *See D.R. Horton, Inc.* (avail. Nov. 16, 2011) (concurring in the exclusion of the Proponent's proposal under Rule 14a-8(i)(4) where the proposal was nearly identical to the current Proposal); *D.R. Horton, Inc.* (avail. Sept. 30, 2010) (concurring in the exclusion of the Proponent's proposal under Rule 14a-8(f) where the proposal was nearly identical to the current Proposal); *D.R. Horton, Inc.* (avail. Nov. 16, 2009) (same); *D.R. Horton, Inc.* (avail. Nov. 21, 2008) (concurring in the exclusion of the Proponent's proposal under Rule 14a-8(f) where the proposal requested, among other things, that the Company adhere to all laws, codes and regulations and enforce Company policies regarding business conduct for employees, officers and directors). Thus, it is apparent that the Proponent continues to pursue his personal grievances with the Company. The Proposal involves a topic similar to those addressed in the proposals submitted by the Proponent for the Company's 2009, 2010, 2011 and 2012 Annual Meetings of Stockholders, for which the Company requested, and was granted, no-action relief. *See D.R. Horton, Inc.* (avail. Nov. 16, 2011); *D.R. Horton, Inc.* (avail. Sept. 30, 2010); *D.R. Horton, Inc.* (avail. Nov. 16, 2009); *D.R. Horton, Inc.* (avail. Nov. 21, 2008). Moreover, as also noted, the Proponent has made it clear that he intends to continue submitting stockholder proposals to the Company in the future in order to advance his position. Specifically, in the Proponent's cover letter accompanying the 2012 proposal (which the Proponent included with his submission of the

Proposal), the Proponent stated: “My intent is to be a lifelong DHI shareholder and hold the requisite number of shares to entitle me to submit proposals . . . indefinitely . . . .” See Exhibit A, *supra*.

The Staff has previously granted forward-looking no-action relief upon a company’s second grant of no-action relief under Rule 14a-8(i)(4). In *Exxon Mobil Corp.* (avail. Mar. 5, 2001), the proponent had a long-standing personal grievance against the company. The company argued that it could exclude the proponent’s proposal from the company’s 2001 proxy materials in reliance on Rule 14a-8(i)(4). The company also pointed out that it had received no-action relief under Rule 14a-8(i)(4) for the same proponent’s 2000 proposal and under “procedural grounds” for the proponent’s 1999 proposal. See *Exxon Mobil Corp.* (avail. Mar. 23, 2000); *Exxon Corp.* (avail. Dec. 21, 1998). The Staff granted the Company’s no-action request under Rule 14a-8(i)(4), and in view of the two prior grants—only one of which was pursuant to Rule 14a-8(i)(4)—the Staff also granted forward-looking no-action relief.

Similar to *Exxon Mobil*, the Company received no-action relief under Rule 14a-8(i)(4) for the Proponent’s proposal last year; the Staff’s granting of the request we make today will be the second grant under Rule 14a-8(i)(4) as to the Proponent’s proposals to the Company. Prior to receiving no-action relief under Rule 14a-8(i)(4) last year, the Company had received no-action relief under procedural grounds three times, more than the company in *Exxon Mobil* had received. Therefore, consistent with *Exxon Mobil*, forward-looking no-action relief is warranted.

In light of the no-action letter precedent, the fact that the Proponent submitted similar proposals for the last four years and the apparent intention of Proponent to continue his attempts to use the Company’s annual stockholders’ meetings to advance his grievances, the Company respectfully requests the concurrence of the Staff that it will not recommend enforcement action if the Company relies on Rule 14a-8(i)(4) to exclude from all future proxy materials all future proposals of the Proponent that are identical to or similar to the Proposal.

## CONCLUSION

Based upon the foregoing analysis, we respectfully request that the Staff concur that it will take no action if the Company excludes the Proposal from its 2013 Proxy Materials. We would be happy to provide you with any additional information and answer any questions that you may have regarding this subject.

If we can be of any further assistance in this matter, please do not hesitate to call me at (817) 390-8200 ext. 8131, or Elizabeth A. Ising of Gibson, Dunn & Crutcher LLP at (202) 955-8287.

Office of Chief Counsel  
Division of Corporation Finance  
September 17, 2012  
Page 17

Best regards,



Thomas B. Montano  
Vice President, Corporate and Securities Counsel  
D.R. Horton, Inc.

Enclosures

cc: Patrick Missud  
Elizabeth A. Ising, Gibson, Dunn & Crutcher LLP

**EXHIBIT A**

**From:** pat missud [mailto:missudpat@yahoo.com]

**Sent:** Tuesday, July 31, 2012 4:51 PM

**To:** Joel D. Odou; tbmontano@drhorton.com; Ising, Elizabeth A.; oig@sec.gov; sanfrancisco@sec.gov; dfw@sec.gov; annie.reding@usdoj.gov; bonny.wong@usdoj.gov

**Cc:** josh.levin@citi.com; dan.oppenheim@credit-suisse.com; michael.rehaut@jpmorgan.com; david-i.goldberg@ubs.com; nishu.sood@db.com; FISMA & OMB Memorandum M-07-16; \*stevenson@peoplemanagement.org; steve.east@csfb.com; mross@bgbinc.com; gs-investor-relations@gs.com; Buck.Horne@RaymondJames.com; ivy@zelmanassociates.com; bberning@fppartners.com; chris.hussey@gs.com; joshua.pollard@gs.com; arjun.sharma@citi.com; jacqueline.merrell@gs.com; jason.a.marcus@jpmorgan.com; cbrian@tradethetrend.com; rob.hansen@db.com; jesse.arocho-cruz@db.com; jonathan.s.ellis@baml.com; kenneth\_zener@keybanccm.com; jrahmani@kbw.com; rosteen@kbw.com; jay.chhatbar@baml.com; william.w.wong@jpmorgan.com; kisha.rosario@jpmorgan.com; inquiries@guggenheimpartners.com; jane.wong1@baml.com; karen.frenza@gs.com; william.alexis@credit-suisse.com; michael.dahl@credit-suisse.com; kim@zelmanassociates.com; christina.c.lo@jpmorgan.com; angela.pruitt@dowjones.com; nick.vonklock@dowjones.com; george.stahl@dowjones.com; cbrian@mysmartrend.com; pchu@fnno.com; adam.rudiger@wellsfargo.com; jack.micenko@sig.com; jhymowitz@philadelphiafinancial.com; steven.bachman@rbccm.com; robert.wetenhall@rbccm.com

**Subject:** Boo-Hoo and Re: Missud's Continued Plea for Attention

Good afternoon Joel and Wall Street-

**Re: Investor Relations and SEC Actions-**

Joel- As you know, I filed another SEC 14A8 Proposal for Action with DHI for publication in its forthcoming Annual Shareholder Report. Per SEC rules I have to contact DHI's SEC Compliance Officer and Investment/Legal Department. Just ask Ms. Ising of the venerable Gibson Dunn law firm in Washington D.C. She is copied above.

**Re: Automated/Corroborated electronic service-**

Joel- As for not accepting emails, I trust that you do not reject the automatic notifications regarding legally registered pleadings from the District and Circuit courts which forward links to pleadings exposing your Fortune-500/predatory lending client. As a reminder, you are the attorney of record for 11-cv-3567-EMC, 12-15658, A135531 and all the many related cases. All pleadings are cross referenced so that you get them multiple times by multiple means. You are federally served so don't lie about non-receipt which will call for

additional RICO charges.

### Re: Rules of Civil Procedure-

Joel- The ones from Nevada or California? -Well actually, the distinction is of no consequence since both states' **judge\$** fraudulently claim non-receipt of their courtesy copies either when registered or sent through federal wires/mail by: fax, email, usps, or served by sheriff's deputy/federal marshal. Its the **official\$** whose duties are to: follow law, be honest, and uphold the Constitution that need to follow basic procedure. I'm on the ball. In the meantime, the **judge\$** are still on that 200 ton diesel locomotive careening down the track at 80 mph towards the yard where five more are parked. What a mess!

Bring a broom,  
Patrick

P.S.- (1) The 14A8 is again attached; and (2) See the certified letter sent to the SEC on November 10, 2006 forecasting the \$4 Trillion mortgage meltdown that your client helped to create. (And yes I have all the receipts/downloads that it was accepted, sent, in transit, received at sorting facility, and delivered to the SEC.) Can you say Madoff?



### Wall Street-

DHI's financial demise is a certainty. My goal is to get \$core\$ of judges incarcerated for life. DHI is collateral damage. Donald who?

--- On Tue, 7/31/12, Joel D. Odou <[jodou@wshblaw.com](mailto:jodou@wshblaw.com)> wrote:

From: Joel D. Odou <[jodou@wshblaw.com](mailto:jodou@wshblaw.com)>  
Subject: Missud's Continued Plea for Attention  
To: "pat missud" <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)>  
Cc: "Julie Daniels Missud" <[jdm@missud.com](mailto:jdm@missud.com)> FLSMA & OMB Memorandum M-07-18 \*\*\*  
Date: Tuesday, July 31, 2012, 10:13 AM

Patrice, you know you are not supposed to contact my client directly, but then again you also know that we do not accept e-mail service. The reason being is that you abuse it and send irrelevant material several times a day that contain your circular logic how your failure to follow the Rules of Civil Procedure somehow proves that the world is out to get you.

Your continued conscious disregard of the Rules of Civil Procedure and the Rules of Professional Conduct continue to be astonishing, in addition to an abuse of process warranting further sanctions.

## Joel D. Odou

---

Partner | Wood, Smith, Henning & Berman LLP

7674 West Lake Mead Boulevard, Suite 150 | Las Vegas NV 89128

[jodou@wshblaw.com](mailto:jodou@wshblaw.com) | TEL 702.251.4101 |

FAX 702.251.5405 Cell 702.498-2134

I-Phone E-mail [joelodou@me.com](mailto:joelodou@me.com)

**WSH&B**

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**From:** pat missud [<mailto:missudpat@yahoo.com>]  
**Sent:** Monday, July 30, 2012 5:03 PM  
**To:** Joel D. Odou; [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com)  
**Subject:** Fw: Activity in Case 3:11-cv-03567-EMC Missud v. State of Nevada et al Declaration in Support

Joel-

Mr. Montano has quite the record of not receiving legal documents. Can you make sure that he gets the attached?

Thank very much,  
Patrick  
P.S.- you have also been served.

--- On **Mon, 7/30/12**, [ECF-CAND@cant.uscourts.gov](mailto:ECF-CAND@cant.uscourts.gov) <[ECF-CAND@cant.uscourts.gov](mailto:ECF-CAND@cant.uscourts.gov)> wrote:

From: [ECF-CAND@cant.uscourts.gov](mailto:ECF-CAND@cant.uscourts.gov) <[ECF-CAND@cant.uscourts.gov](mailto:ECF-CAND@cant.uscourts.gov)>  
Subject: Activity in Case 3:11-cv-03567-EMC Missud v. State of Nevada et al Declaration in Support  
To: [efiling@cant.uscourts.gov](mailto:efiling@cant.uscourts.gov)  
Date: Monday, July 30, 2012, 4:49 PM

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**U.S. District Court**

**California Northern District**

### **Notice of Electronic Filing**

The following transaction was entered by Missud, Patrick on 7/30/2012 at 4:49 PM and filed on 7/30/2012

**Case Name:** Missud v. State of Nevada et al

**Case Number:** [3:11-cv-03567-EMC](#)

**Filer:** Patrick A. Missud

**WARNING: CASE CLOSED on 03/22/2012**

Document Number: [134](#)

**Docket Text:**

**Declaration of Patrick Missud in Support of [1] Complaint, [89] Judgment *Declaration Proving all the Allegations in the Complaint and Completely Debunking judge Chen's 'judgement'* filed by Patrick A. Missud. (Attachments: # (1) Exhibit Appellant's Opening Brief in A135531 Outlining Corporate Predation of Consumers in 27 States, # (2) Exhibit Appendix in Support of Opening Brief Referencing 180 Exhibits, # (3) Exhibit Part 1 of 4, # (4) Exhibit Part 2 of 4, # (5) Exhibit Part 3 of 4, # (6) Exhibit Part 4 of 4)(Related document(s)[1], [89]) (Missud, Patrick) (Filed on 7/30/2012)**

**3:11-cv-03567-EMC Notice has been electronically mailed to:**

Ann Marie Reding [annie.reding@usdoj.gov](mailto:annie.reding@usdoj.gov), [bonny.wong@usdoj.gov](mailto:bonny.wong@usdoj.gov)

Joel Eugene Odou [jodou@wshblaw.com](mailto:jodou@wshblaw.com), [rtodd@wshblaw.com](mailto:rtodd@wshblaw.com)

Patrick Alexandre Missud [missudpat@yahoo.com](mailto:missudpat@yahoo.com)

**3:11-cv-03567-EMC Please see [Local Rule 5-5](#); Notice has NOT been electronically mailed to:**

Amy L. Foscalina  
Wood, Smith, Henning & Berman  
1001 Galaxy Way, Suite 308  
Concord, CA 94520

Melissa Jo Roose  
Wood Smith Henning & Berman LLP  
1401 Willow Pass Road  
Suite 700  
Concord, CA 94520-7982

The following document(s) are associated with this transaction:

**Document description:**Main Document

**Original filename:**DIS\_3117\_7-30-12.pdf

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**Document description:**Exhibit Appellant's Opening Brief in A135531 Outlining Corporate Predation of Consumers in 27 States

**Original filename:**OpBrf\_7-30-12\_A135531.pdf

**Electronic document Stamp:**

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**Document description:**Exhibit Appendix in Support of Opening Brief Referencing 180 Exhibits

**Original filename:**AppIdx135531\_7-30-12.pdf

**Electronic document Stamp:**

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**Original filename:**Bates1-50.pdf

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**Document description:**Exhibit Part 2 of 4

**Original filename:**Bates51-98.pdf

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**Document description:**Exhibit Part 3 of 4

**Original filename:**Bates99-144.pdf

**Electronic document Stamp:**

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**Original filename:**Bates145-191.pdf

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9f3d643d3375f3bb2e8b8e038b9fbdbb0fb102a90f4ce39948b69f5ceb3]]

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
missudpat@yahoo.com

May 16, 2012

Att'n: Corporate Counsel, D.R. Horton Inc.  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102

Re: Proposal for Action [Proposal]  
Via: E-mail: [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [greener@sec.gov](mailto:greener@sec.gov),  
Wall Street, Syndicated Media  
Registered as docket #99 in 12-CV-161-DMR

---

Attention DHI Board of Directors, Corporate Counsel, and Federal Agents,

As a DHI stockholder, under SEC Rule 14a-8, I submit the following facts and Proposal for DHI's forthcoming 2013 shareholder meeting. Note that I have owned the sufficient number of shares for at least three years to submit this Proposal for publication in DHI's forthcoming Annual Report. Note that if the SEC does not compel DHI to publish, this will further prove the SEC's complicity in corporate racketeering. This DHI scandal has been 'gift wrapped and packaged' far better than Harry Markopoulos' expose of Bernie Madoff.

Mr. Montano- You will print the following 494 words in the forthcoming 10k:

#### PROPOSAL FOR ACTION

On July 1, 2009 the DOJ, HUD and SEC deferred prosecution against Beazer Homes which admitted to several fraudulent mortgage origination and accounting practices. BZH agreed to provide \$50 million in restitution for consumers in and around North Carolina. Some of Beazer's mortgage fraud included interest rate manipulation, inflating home base prices to cover incentives, and lack of due diligence when completing stated income loans.

There is absolute proof that DHI has engaged in even more egregious fraud but on a much larger nationwide scale. Under the Freedom of Information Act, hundreds of consumer complaints are available from the FTC and HUD regarding DHI's fraudulent nationwide mortgage origination in over 23 states. In Virginia's federal circuit, HUD submitted nearly 7700 administrative records showing that DHI and other builders violated RESPA laws [08-cv-01324]. In Georgia, the Yeatman class action alleges

similar RESPA violations specific to DHI, [07-cv-81]. At DHI Virginia's Rippon Landing development, the FBI discovered appraisal fraud to artificially boost home sales. The Southern California Wilson class action alleged extortive antitrust tying of DHI's mortgage services to home sales [08-cv-592]. Dozens of others have also claimed the same: Betsinger (NV A503121, A50510), Bevers (09-cv-2015), Dodson (A07-ca-230), Moreno (08-cv-845), Missud (07-2625-SBA). Scores of cases have been filed in state and federal courts all alleging similar DHI Mortgage fraud, deceptive trade, and antitrust violations. Publicly posted web sites also corroborate these findings with hundreds of consumer complaints dealing with DHI's fraudulent mortgage originations and illegal tying of DHI Mortgage's services to home sales, not to mention rampant construction defects.

The "consumeraffairs" website is already a top search result when merely searching for "D R Horton." Dozens of other consumer protections sites similarly and independently report the same recounts of fraudulent DHI mortgage origination. The last J D Power new home builder origination study rated DHI Mortgage with only 679 points out of 1000. The ranking was slightly better than Countrywide, one of DHI's "preferred lenders," and Ryland, two companies already found involved in rampant nationwide predatory lending and mortgage fraud.

Compounding these findings is that as early as June 2007, Chairman Horton and CEO Tomnitz each personally acknowledged receipt for summons and complaints for case 07-CV-2625-SBA, wherein their participation in predatory lending was exhaustively detailed [http://www.donaldtomnitzisacrook.info/Demand\\_on\\_Board.html](http://www.donaldtomnitzisacrook.info/Demand_on_Board.html) . CEO Tomnitz still materially misleads investors in claiming that DHI Mortgage "does an excellent job underwriting mortgages and the related risk associated with it..." [End 2d Qtr 2009 Earnings Conference Call]. However, the truth is that at that time, all four of DHIM's Arizona offices were found originating significantly defective loans which have already cost taxpayers \$2.5 million. All 20 of the audited loans were either in foreclosure or in serious financial distress requiring taxpayer bail-outs: <http://www.hud.gov/offices/oig/reports/files/ig1091009.pdf> and <http://www.liuna.org/Portals/0/docs/PressReleases/Report%20-%20Cruel%20Hope.pdf>

Resolved: That DHI audit its subsidiary DHI Mortgage for compliance with all federal and state laws, and that the Board confirms for the record that DHI Mortgage conforms to the requirements contained within its own corporate governance documents.

Cordially,

*Patrick Missud*

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Patrick Missud, shareholder.

Encl.: (1) Wells Trade Account evincing \$3,270 of DHI stock as of 4-30-12, and which was purchased 12-2-08; and (2) prior letters regarding Proposals for Action.

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)

August 17, 2011

Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit 18  
Fort Worth, TX 76102

Re: Missud Proposal for Action for consideration at DHI's 2012 Annual Shareholder Meeting; and inclusion within DHI's proxy statement.

Via: [oig@sec.gov](mailto:oig@sec.gov), [sanfrancisco@sec.gov](mailto:sanfrancisco@sec.gov), [dfw@sec.gov](mailto:dfw@sec.gov), [greener@sec.gov](mailto:greener@sec.gov),  
[tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [eising@gibsondunn.com](mailto:eising@gibsondunn.com),  
[james.strother@wellsfargo.com](mailto:james.strother@wellsfargo.com), [raymond.m.lynch@wellsfargo.com](mailto:raymond.m.lynch@wellsfargo.com)

Certified: FISMA & OMB Memorandum M-07-16 \*\*\*

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Good afternoon SEC agents Greene, Reedick, Maples, Kwon, Special Counsel Belliston, Chairwoman Shapiro, Ms. Ising and Messieurs Montano, Lynch and Strother,

As you all know, this year I again mailed my Proposal for Action to D R Horton's Montano for inclusion in DHI's forthcoming Annual Report, 10K, and proxy statement. The Proposal is reproduced below for convenience. The three reasons for inclusion of the Proposal are as follows.

A. Reasons for Compelling Publication

1. DHI has participated in ultra-vires acts. The Directors and shareholders need to vote to stop various illegal financial activities which are specifically damaging the Corporate 'Citizen's' reputation and bottom line, and shareholders' interests.
2. The second reason is that DHI's illegal financial activities are broadly impacting the US economy and its 308 million real flesh-and-blood citizens. Each non-performing predatory loan originated by DHI and fully owned subsidiary DHI Mortgage, must be 'bailed out' by American tax payers. This in turn lowers the expendable income that each real flesh-and-blood American family has to purchase new products such as D R Horton homes.
3. The third reason for inclusion is that overwhelming evidence has already been gathered which proves that DHI Executives have corrupted officials and judges in several states. Once this information is exposed, the Corporate 'Citizen's' reputation and bottom line will most certainly suffer very acute damage. Shareholders need reassurances from DHI's Board of Directors that they will lawfully conduct business per the Corporate Charter and Governance Documents.

## B. The SEC's Recently Stepped-Up Efforts

The SEC has recently taken aggressive enforcement actions regarding various subprime loan and Wall Street fraud: <http://www.sec.gov/spotlight/enf-actions-fc.shtml> DHI has coincidentally also been very heavily involved in exactly these types of crimes for at least 8 years, possibly even precipitating the mortgage melt-down.

Also according to the SEC's website, enforcement protocols have been improved post-Madoff: <http://www.sec.gov/spotlight/secpostmadoffreforms.htm> Prior to Madoff, it was reported that the SEC would get tips about white collar crimes, and not act until it was too late to prevent massive shareholder losses. Hopefully now, the SEC will be more proactive to regulate DHI's corporate activities which have and will continue to severely and negatively impact \$3.6 billion in issued stock.

## C. Identical Wall Street Requests

Even CtW CEO William Patterson shares the same exact concerns that I do in that DHI should refrain from issuing predatory loans and selling fraudulent mortgages: [http://www.ctwinvestmentgroup.com/fileadmin/group\\_files/CtW\\_Inv\\_Grp\\_to\\_DR\\_Horton\\_Board.pdf](http://www.ctwinvestmentgroup.com/fileadmin/group_files/CtW_Inv_Grp_to_DR_Horton_Board.pdf) Note that Patterson's request was made in 2007. Since then, the SEC has done nothing to redress either Patterson's or my identical concerns.

## D. Prior SEC No-Action Decisions

"No-action letters represent the staff's interpretations of the securities laws and, while persuasive, are not binding on the courts:"

[http://en.wikipedia.org/wiki/U.S.\\_Securities\\_and\\_Exchange\\_Commission](http://en.wikipedia.org/wiki/U.S._Securities_and_Exchange_Commission)

In 2008, 2009, and 2010, I submitted formal Proposals similar to Patterson's. In 2008&9 DHI was permitted to exclude my Proposals because I did not have sufficient share ownership for the SEC to compel publication. Last year, I had sufficient share ownership for the required time for the SEC to compel publication but for some reason, the SEC did not enforce Rule 14A8.

This year, I have sufficient share ownership for the required amount of time which requires that the SEC compels publication. If the SEC refuses to compel publication of my very reasonable Proposal, which merely seeks that DHI participate only in legal acts under its corporate charter, I will seek redress in the federal courts.

Along with the racketeering suit voluntarily withdrawn in 2010 and subject to re-filing [10-cv-235-SI], and the currently active civil rights & corruption suit which will soon name DHI as an additional Defendant [11-cv-3567-DMR], I will file an SEC action in the Ninth Circuit naming Chairwoman Shapiro. The federal securities complaint, supporting declaration, and exhibits will first be published with syndicated media, and then registered in court. The action will eclipse the Madoff scandal.

## E. Mr. Montano's Claimed Deficiencies

Montano's August 16, 2011 letter disingenuously claims that I haven't sufficient, continuous share ownership per 14A8(b). The accompanying Wells Fargo "brokerage Statement" is an official business record from Wells Fargo Advisors which is my "Broker" affiliated with Wells Fargo "Bank." Said Statement "verifies" that as of the "date of my current Proposal," the DHI shares were "continuously held for over one year."

Further, note that this letter was copied to Wells Fargo's legal department. Wells Fargo's Lynch and Strother have my authority to "verify" that I have sufficient, continuous share ownership per 14A8(b). You can contact them directly upon my behalf to further corroborate my entitlement to SEC compulsion of my ultra-reasonable lawful Proposal.

F. Conclusions

The draft of my securities complaint will be pro-actively readied within one week. If the SEC does not act to protect my interests, Mr. Patterson's interests, interests of the thousands of other DHI shareholders, 308 million Americans' interests, and uphold federal securities laws, the suit will be filed to showcase the favorable treatment that RICO operating corporations get from the supposed securities regulator. The SEC itself will be on trial.

Cordially,

*Patrick Missud*

---

Patrick Missud, shareholder.

Encl.

Cc: Wall Street, Media, Federal and State Regulators

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)

August 4, 2011

Att'n: Corporate Counsel, D.R. Horton Inc.  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102  
Certified RR\* FISMA & OMB Memorandum M-07-16 \*\*\*

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Mr. Montano,

This cover letter provides proof that I am a shareholder with sufficient share ownership for the required timeframe per SEC regulations. If you recall, the SEC did not compel printing last year because of your frivolous claims that I hadn't provided sufficient proof. Proof that I own over \$2000 of DHI stock for over three years is available at:  
<http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>

Rule 14a-8(b)(1)

Requisite number of shares- According to my Wells Fargo brokerage account, I own over \$2000 in DHI market value. The majority of the shares were purchased December 2, 2008. These shares must be held at least one year by the date I submit my proposal. I have submitted my proposal as of this date, and qualify for publication under 14a-8(b)(1).

Rule 14a-8(b)(2)

My intent is to be a lifelong DHI shareholder and hold the requisite number of shares to entitle me to submit proposals and protect shareholder interests indefinitely, inclusive of the 2012 Shareholders' meeting date.

Federal agents and DHI Board

Know that my Proposal merely requests that the DHI Board guarantee that DHI and its affiliates are neither participating in any ultra vires acts nor conducting business outside of state and federal laws. In light of the recent Ryland, KB, Hovnanian investigations, Beazer deferred prosecution, and the many other builders/affiliated lenders which have already been discovered illegally originating mortgages, the Missud Proposal is necessary to restore shareholders' confidence in DHI, and DHI Mortgage.

The Board's refusal to publicly commit to following state and federal laws will likely speak louder than if they ratify the Proposal on and for the record. There is already a very well established record of DHI Mortgage's criminal activities which are outlined

in the submitted Proposal and available on the web at [www.drhortonfraud.com](http://www.drhortonfraud.com), and <http://drhortonsjudges.com/> . These sites can be sponsored daily and achieve a minimum 2000 hits per day. Media and Wall Street will also receive notice of these documents and will be awaiting the SEC/DHI response. These entities will either ratify or ignore this simple Proposal which merely asks that DHI, DHI Mortgage and its officers not violate federal laws. Note that if these federal laws were violated by everyday non-millionaire individual American citizens, they would risk federal incarceration.

Lastly, either RICO 10-cv-235-SI already naming DHI will be revived, or public corruption suit 11-cv-3567-DMR will be amended to name DHI as the entity which has acted under color of law, and caused officials and public figures to defraud citizens in 29 market states. <http://drhortonsjudges.com/> Damages sought will equal DHI's capitalization at the time that the amended complaint is filed, plus punitive damages. Donald Horton will also be personally named to satisfy the punitive damages portion of the demand. Both of these lawsuits are already supported with over 5000 exhibits. These are the most significant federal lawsuits that DHI has ever had to "vigorously defend." The multi-billion dollar suits will have to be mentioned in the DHI Annual Report's litigation caption. A rough draft of the civil rights suit against Nevada is also available at the above listed supersite for all of America to consider. The amended complaint will soon be available.

Cordially,

/S/ Patrick Missud

---

Patrick Missud, shareholder.

Encl.

Cc: Wall Street, Media, Federal and State Regulators

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
missudpat@yahoo.com

August 4, 2011

Att'n: Corporate Counsel, D.R. Horton Inc.  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102

Re: Proposal for Action [Proposal]  
Via: E-mail: [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [dennis.barghaan@usdoj.gov](mailto:dennis.barghaan@usdoj.gov),  
[greener@sec.gov](mailto:greener@sec.gov), Wall Street, Select Media  
Certified RR\* FISMA & OMB Memorandum M-07-16 \*\*\*

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Attention DHI Board of Directors, Corporate Counsel, and Federal Agents,

As a DHI stockholder, under SEC Rule 14a-8, I submit the following facts and Proposal for DHI's forthcoming 2012 shareholder meeting. Note that I have owned the sufficient number of shares for at least two years to submit this Proposal for publication in DHI's forthcoming Annual Report. Note that if the SEC does not compel DHI to publish, this will make the Madoff debacle seem minor. This DHI scandal has been 'gift wrapped and packaged' far better than Harry Markopoulos' expose of Bernie Madoff.

Mr. Montano- You will print the following 490 words in the forthcoming 10k:

#### PROPOSAL FOR ACTION

On July 1, 2009 the DOJ, HUD and SEC deferred prosecution against Beazer Homes which admitted to several fraudulent mortgage origination and accounting practices. BZH agreed to provide \$50 million in restitution for consumers in and around North Carolina. Some of Beazer's mortgage fraud included interest rate manipulation, inflating home base prices to cover incentives, and lack of due diligence when completing stated income loans.

There is concrete evidence that DHI has engaged in even more egregious fraud but on a much larger nationwide scale. Under the Freedom of Information Act, hundreds of consumer complaints are available from the FTC and HUD regarding DHI's fraudulent nationwide mortgage origination in over 23 states. In Virginia's federal circuit, HUD submitted nearly 7700 administrative records showing that DHI and other builders violated RESPA laws [08-cv-01324]. In Georgia, the Yeatman class action alleges similar RESPA violations specific to DHI, [07-cv-81]. At DHI Virginia's Rippon

Landing development, the FBI discovered appraisal fraud to artificially boost home sales. The Southern California Wilson class action alleged extortive antitrust tying of DHI's mortgage services to home sales [08-cv-592]. Dozens of others have also claimed the same: Betsinger (NV A503121, A50510), Bevers (09-cv-2015), Dodson (A07-ca-230), Moreno (08-cv-845), Missud (07-2625-SBA). Scores of cases have been filed in state and federal courts all alleging similar DHI Mortgage fraud, deceptive trade, and antitrust violations. Publicly posted web sites also corroborate these findings with hundreds of consumer complaints dealing with DHI's fraudulent mortgage originations and illegal tying of DHI Mortgage's services to home sales, not to mention rampant construction defects.

The "consumeraffairs" website is already a top search result when merely searching for "D R Horton." Dozens of other consumer protections sites similarly and independently report the same recounts of fraudulent DHI mortgage origination. The last J D Power new home builder origination study rated DHI Mortgage with only 679 points out of 1000. The ranking was slightly better than Countrywide, one of DHI's "preferred lenders," and Ryland, two companies already found involved in rampant nationwide predatory lending and mortgage fraud.

Compounding these findings is that as early as June 2007, Chairman Horton and CEO Tomnitz each personally acknowledged receipt for summons and complaints, wherein their participation in predatory lending was exhaustively detailed [http://www.donaldtomnitzisacrook.info/Demand\\_on\\_Board.html](http://www.donaldtomnitzisacrook.info/Demand_on_Board.html) . CEO Tomnitz still materially misleads investors in claiming that DHI Mortgage "does an excellent job underwriting mortgages and the related risk associated with it..." [End 2d Qtr 2009 Earnings Conference Call]. However, the truth is that at that time, all four of DHIM's Arizona offices were found originating significantly defective loans which have already cost taxpayers \$2.5 million. All 20 of the audited loans were either in foreclosure or in serious financial distress requiring taxpayer bail-outs: <http://www.hud.gov/offices/oig/reports/files/ig1091009.pdf> and <http://www.liuna.org/Portals/0/docs/PressReleases/Report%20-%20Cruel%20Hope.pdf>

Resolved: That DHI audit its subsidiary DHI Mortgage for compliance with all federal and state laws, and that the Board confirms for the record that DHI Mortgage conforms to the requirements contained within its own corporate governance documents.

Cordially,

/S/ Patrick Missud

---

Patrick Missud, shareholder.

Encl.

**Patrick Missud**  
Attorney at Law  
91 San Juan Ave.  
San Francisco, CA, 94112  
415-584-7251 office/fax  
415-845-5540 cellular

October 10, 2006

Bob Greene  
SEC Complaint Center  
100 F Street NE  
Washington, D.C. 20549-0213

In Re: D R Horton and affiliates DHI Mortgage and DHI Title, ticker symbol DHI.  
Sent via: Electronic- greener@sec.gov

Dear Mr. Greene,

This letter is in follow up of our conversation the week of October 2, 2006.

The SEC filed suit against Board Officer Andrew Fastow alleging in part that he engaged in fraudulent schemes, undisclosed side deals, manufacturing of earnings through sham transactions, and other illegal acts.

Similarly, my complaint against D R Horton is that some Board members engaged in the fraudulent schemes of mortgage fraud and predatory lending, providing for financial benefit and kick backs from their fully owned subsidiary and affiliate DHI Mortgage, and earned illegally generated revenue from the mortgage lender.

D R Horton's corporate legal counsels received notifications, and acknowledged receipt of the notifications, in early 2004 and again by certified return receipt mail on March 31, 2005. FISMA & OMB Memorandum M-07-16 The specifics of the fraud were exhaustively detailed in the second March letter, but neither legal counsels in Nevada nor Texas nor the Board opted to act. The letter specified that an investigation should be undertaken and that responsible agents be fired. However, instead the very same fraudulent activities continued throughout 2004, 2005, and 2006 until the present. Investors have had a stake in perhaps \$700M in illegally generated revenue for these three years.

Misrepresentations and misleading statements made to the public are actionable. In D R Horton's documents available to investors under their 'investor relations' tab at their web site state the following:

*Annual Report to Shareholders*, page 9, under Customer Mortgage Financing;

“DHI Mortgage coordinates and expedites the entire sales transaction for both our homebuyers and homebuilding operations by ensuring that mortgage commitments are received and that closings take place in a timely and efficient manner.” All of the forwarded declarations state that outside lender mortgage commitments were either

hindered or not allowed as an option in contravention of federal laws and that closings were either accelerated or delayed to either force forfeiture or increase interest penalties.

At page 10, “Our mortgage company and title insurance agencies must also comply with various federal and state laws and regulations....These also include required compliance with consumer lending and other laws and regulations such as disclosure requirements, prohibitions against discrimination and real estate settlement procedures.” All of the declarations state that some form of predatory lending took place. Several individuals state that good faith estimates were either not generated or not included in their mortgage loan packages, nearly all defrauded declarants are foreigners or foreign language speaking, and at least half have minimally suffered \$5000 in inflated RESPA charges.

Paraphrasing the *Corporate Code of Business Conduct and Ethics*, page 5: “The Board has approved the code of ethics which provides that senior management will review and develop policies and procedures which meet or exceed the requirements of the laws and regulations, and develop controls to monitor compliance with critical policies and procedures.” Page 6: “the Board or Company will investigate alleged violations and may suspend employees, and may be required to report such violations to the appropriate authorities.” Page 9: “to the extent that we provide incentives for using our mortgage and title services, all such incentives shall comply fully with RESPA.” At least four transactions did not provide for promised incentives. Page 13: “Of particular importance is compliance with antitrust laws...Horton employees may not condition the sale of a particular item or service on an agreement to purchase another item or service...DHI Mortgage incentives must comply with RESPA.” Most declarants have described tying arrangements and RESPA violations. Page 17: “Obligations to report non-compliance- If you have reason to believe that someone has violated the guidelines set forth in this code of ethics, or has otherwise acted unethically or unlawfully, you must report such concerns to management....or the corporate legal department.”

D R Horton’s legal department was positively notified of a possible \$700M of fraudulently generated stockholder equity, and for nearly three known years has either not notified the Board, or more likely the Board has elected not to comply with stated company objectives and required governance compliance regulations.

Additional supporting documents are available upon request.

Cordially,

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Patrick Missud, Esq.



August 14, 2012

**VIA OVERNIGHT MAIL**

Patrick Missud  
91 San Juan Avenue  
San Francisco, CA 94112

Dear Mr. Missud:

I am writing on behalf of D.R. Horton, Inc. (the "Company"), which received on July 31, 2012, your stockholder proposal for consideration at the Company's 2013 Annual Meeting of Stockholders (the "Proposal"). I note that while the Proposal is dated May 16, 2012, the Company first became aware of the Proposal as a result of your July 31, 2012 email addressed to me and copying our outside counsel.

The Proposal contains certain procedural deficiencies, which Securities and Exchange Commission ("SEC") regulations require us to bring to your attention. Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that stockholder proponents must submit sufficient proof of their continuous ownership of at least \$2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the stockholder proposal was submitted. The Company's stock records do not indicate that you are the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof that you have satisfied Rule 14a-8's ownership requirements as of the date that the Proposal was submitted to the Company. Specifically, you submitted your April 2012 brokerage account statement purporting to establish your ownership of Company shares. However, as explained by Staff Legal Bulletin No. 14, "monthly, quarterly or other periodic investment statements [do not] demonstrate sufficiently continuous ownership of the securities" for purposes of Rule 14a-8(b).

To remedy this defect, you must submit sufficient proof of your ownership of the requisite number of Company shares as of the date that the Proposal was submitted to the Company. As explained in Rule 14a-8(b), sufficient proof must be in the form of:

- (1) a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted, you continuously held the requisite number of Company shares for at least one year; or
- (2) if you have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the requisite number of Company shares as of or before the date on

which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you continuously held the requisite number of Company shares for the one-year period.

If you intend to demonstrate ownership by submitting a written statement from the “record” holder of your shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers’ securities with, and hold those securities through, the Depository Trust Company (“DTC”), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether your broker or bank is a DTC participant by asking your broker or bank or by checking DTC’s participant list, which is available at <http://www.dtcc.com/downloads/membership/directories/dtc/alpha.pdf>. In these situations, stockholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- (1) If your broker or bank is a DTC participant, then you need to submit a written statement from your broker or bank verifying that, as of the date the Proposal was submitted, you continuously held the requisite number of Company shares for at least one year.
- (2) If your broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the shares are held verifying that, as of the date the Proposal was submitted, you continuously held the requisite number of Company shares for at least one year. You should be able to find out the identity of the DTC participant by asking your broker or bank. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through your account statements, because the clearing broker identified on your account statements will generally be a DTC participant. If the DTC participant that holds your shares is not able to confirm your individual holdings but is able to confirm the holdings of your broker or bank, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, as of the date the Proposal was submitted, the requisite number of Company shares were continuously held for at least one year: (i) one from your broker or bank confirming your ownership, and (ii) the other from the DTC participant confirming the broker or bank’s ownership.

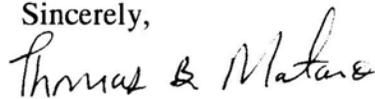
In addition, under Rule 14a-8(b), a stockholder must provide the company with a written statement that he or she intends to continue to hold the requisite number of shares through the date of the stockholders’ meeting at which the proposal will be voted on by the stockholders. In order to correct this procedural defect, you must submit a written statement that you intend to continue holding the requisite number of Company shares through the date of the Company’s 2013 Annual Meeting of Stockholders.

Finally, the cover letter accompanying the Proposal indicates that you submitted the Proposal for publication in the “forthcoming Annual Report” and the “forthcoming 10k.” Please confirm that you intend for the Proposal to be included in proxy statement for the Company’s 2013 Annual Meeting of Stockholders under Rule 14a-8.

The SEC’s rules require that your response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at D.R. Horton Tower, 301 Commerce Street, Suite 500, Fort Worth, TX 76102.

For your reference, I enclose a copy of Rule 14a-8 and Staff Legal Bulletin No. 14F.

Sincerely,

A handwritten signature in black ink that reads "Thomas B. Montano". The signature is written in a cursive, slightly slanted style.

Thomas B. Montano

Enclosures

**From:** pat missud [mailto:missudpat@yahoo.com]

**Sent:** Thursday, August 23, 2012 3:23 PM

**To:** ssmith@meyersnave.com; kdrake@meyersnave.com; kcolwell@meyersnave.com; dinness@meyersnave.com; bstrottman@meyersnave.com; mbonino@hayesscott.com; mpeard@hayesscott.com; cryan@hayesscott.com; acalderon@hayesscott.com; wagstaffe@kerrwagstaffe.com; tompkins@kerrwagstaffe.com; mvl@kerrwagstaffe.com; mackey@kerrwagstaffe.com; kfeinstein@sftc.org; myuen@sftc.org; Danielle.lee@calbar.ca.gov; erica.dennings@calbar.ca.gov; starr.babcock@calbar.ca.gov; Lawrence.yee@calbar.ca.gov; Rachel.grunberg@calbar.ca.gov; Adriana.burger@calbar.ca.gov; adonlan@sftc.org; bcompton@sftc.org; dlok@sftc.org; ACheng@sftc.org; adam@posardbroek.com; Dewey.Wheeler@McNamaraLaw.com; Tanner.Brink@McNamaraLaw.com; Christopher.Lustig@McNamaraLaw.com; trg@mmker.com; ehuguenin@greenhall.com; law@nivensmith.com; bfasuescu@sanmateocourt.org; scott@mckayleonglaw.com; maria\_schopp@yahoo.com; Ising, Elizabeth A.; tbmontano@drhorton.com; garris@wbsk.com; kider@wbsk.com; souders@wbsk.com; jodou@wshblaw.com; rtodd@wshblaw.com; mroose@wshblaw.com; cgilbertson@wshblaw.com; LMarquez@wendel.com; GMRoss@wendel.com; vhoy@allenmatkins.com; mmazza@allenmatkins.com; jpatterson@allenmatkins.com; cpernicka@allenmatkins.com; cdawson@rdlaw.com; james.strother@wellsfargo.com; raymond.m.lynych@wellsfargo.com; eric.mcluen2@wellsfargo.com; ecs@nvrelaw.com; joseph@josephmaylaw.com; oig@sec.gov; sanfrancisco@sec.gov; dfw@sec.gov; greener@sec.gov; annie.reding@usdoj.gov; bonny.wong@usdoj.gov; TommasinoJ@clarkcountycourts.us; Dept11LC@ClarkCountyCourts.us; KutinacD@clarkcountycourts.us; nvscclerk@nvcourts.nv.gov; itservicedesk@nvcourts.nv.gov; aginfo@ag.state.nv.us; ncjinfo@judicial.state.nv.us; judcom@govmail.state.nv.us; HawkinsJ@clarkcountycourts.us; GambleL@clarkcountycourts.us; davidc@nvbar.org; kimberlyf@nvbar.org; ecartwright@ag.nv.gov; NVFMP@nvcourts.nv.gov; legal@tuckerabin.com; j.kenoyer@tuckerabin.com; s.baxter@tuckerabin.com; n.siatka@tuckerabin.com; EPolisano@hbalaw.com; dstclair@hbalaw.com; tim@ncalegal.com; houman@ncalegal.com; TOdetto@MLPLAW.com; mzaccone@carr-mcclellan.com; wgutierrez@carr-mcclellan.com

**Subject:** Fw: Satisfaction of Federal Subpoena Re: Missud's Rule 14a-8 Sufficient Share Ownership

Some Madoff-II/Citizen\$-United; and

More.....

--- On Thu, 8/23/12, pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)> wrote:

From: pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)>  
Subject: Fw: Satisfaction of Federal Subpoena Re: Missud's Rule 14a-8 Sufficient Share Ownership  
To: [John.G.Stumpf@wellsfargo.com](mailto:John.G.Stumpf@wellsfargo.com), [mike.heid@wellsfargo.com](mailto:mike.heid@wellsfargo.com), [gerald.banwart@wellsfargo.com](mailto:gerald.banwart@wellsfargo.com),  
[mary.coffin@wellsfargo.com](mailto:mary.coffin@wellsfargo.com), [sharon.cecil@wellsfargo.com](mailto:sharon.cecil@wellsfargo.com), [todd.m.boothroyd@wellsfargo.com](mailto:todd.m.boothroyd@wellsfargo.com),  
[BoardCommunications@wellsfargo.com](mailto:BoardCommunications@wellsfargo.com), [Richard.D.Levy@wellsfargo.com](mailto:Richard.D.Levy@wellsfargo.com), [james.strother@wellsfargo.com](mailto:james.strother@wellsfargo.com),  
[raymond.m.lynch@wellsfargo.com](mailto:raymond.m.lynch@wellsfargo.com), [eric.mcluen2@wellsfargo.com](mailto:eric.mcluen2@wellsfargo.com)  
Cc: [foiapa@sec.gov](mailto:foiapa@sec.gov), [hallr@sec.gov](mailto:hallr@sec.gov), [LivorneseJ@SEC.GOV](mailto:LivorneseJ@SEC.GOV), [oig@sec.gov](mailto:oig@sec.gov), [sanfrancisco@sec.gov](mailto:sanfrancisco@sec.gov),  
[dfw@sec.gov](mailto:dfw@sec.gov), [greener@sec.gov](mailto:greener@sec.gov), [annie.reding@usdoj.gov](mailto:annie.reding@usdoj.gov), [bonny.wong@usdoj.gov](mailto:bonny.wong@usdoj.gov)  
Date: Thursday, August 23, 2012, 7:38 AM

**Dear John-**

I still haven't received my letter which only requires your two initials "J-S." If it's easier for you, simply reply to this email and affirm that I do in fact qualify for 14(a)-8 publishing (again) this year.

Thank\$ in advance (for tanking the economy),  
**Patrick**

**\$EC Agents-**

See how hard I'm trying to comply with new \$EC \$tuff Bulletin 14F?

<http://www.sec.gov/interps/legal/cfslb14f.htm>

It\$ ju\$t like pulling teeth (and as de\$igned).

\$ay "hi" to \$EC Chairwoman Mary \$chapiro for me,  
**Patrick**

--- On **Tue, 8/21/12**, **pat missud** <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)> wrote:

From: pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)>  
Subject: Satisfaction of Federal Subpoena Re: Missud's Rule 14a-8 Sufficient Share Ownership  
To: [John.G.Stumpf@wellsfargo.com](mailto:John.G.Stumpf@wellsfargo.com), [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [eising@gibsondunn.com](mailto:eising@gibsondunn.com)  
Cc: [mike.heid@wellsfargo.com](mailto:mike.heid@wellsfargo.com), [gerald.banwart@wellsfargo.com](mailto:gerald.banwart@wellsfargo.com), [mary.coffin@wellsfargo.com](mailto:mary.coffin@wellsfargo.com),  
[sharon.cecil@wellsfargo.com](mailto:sharon.cecil@wellsfargo.com), [todd.m.boothroyd@wellsfargo.com](mailto:todd.m.boothroyd@wellsfargo.com), [BoardCommunications@wellsfargo.com](mailto:BoardCommunications@wellsfargo.com),  
[Richard.D.Levy@wellsfargo.com](mailto:Richard.D.Levy@wellsfargo.com), [james.strother@wellsfargo.com](mailto:james.strother@wellsfargo.com), [raymond.m.lynch@wellsfargo.com](mailto:raymond.m.lynch@wellsfargo.com),  
[eric.mcluen2@wellsfargo.com](mailto:eric.mcluen2@wellsfargo.com), [jodou@wshblaw.com](mailto:jodou@wshblaw.com), [rtodd@wshblaw.com](mailto:rtodd@wshblaw.com), [mroose@wshblaw.com](mailto:mroose@wshblaw.com),  
[cgilbertson@wshblaw.com](mailto:cgilbertson@wshblaw.com), [LMarquez@wendel.com](mailto:LMarquez@wendel.com), [GMRoss@wendel.com](mailto:GMRoss@wendel.com), [vhoy@allenmatkins.com](mailto:vhoy@allenmatkins.com),  
[mmazza@allenmatkins.com](mailto:mmazza@allenmatkins.com), [jpatterson@allenmatkins.com](mailto:jpatterson@allenmatkins.com), [cpernicka@allenmatkins.com](mailto:cpernicka@allenmatkins.com),  
[cdawson@rdlaw.com](mailto:cdawson@rdlaw.com), [foiapa@sec.gov](mailto:foiapa@sec.gov), [hallr@sec.gov](mailto:hallr@sec.gov), [LivorneseJ@SEC.GOV](mailto:LivorneseJ@SEC.GOV), [oig@sec.gov](mailto:oig@sec.gov),  
[sanfrancisco@sec.gov](mailto:sanfrancisco@sec.gov), [dfw@sec.gov](mailto:dfw@sec.gov), [greener@sec.gov](mailto:greener@sec.gov), [annie.reding@usdoj.gov](mailto:annie.reding@usdoj.gov), [bonny.wong@usdoj.gov](mailto:bonny.wong@usdoj.gov)  
Date: Tuesday, August 21, 2012, 7:57 AM

Dear John-

Please find attached a simple Letter that only requires your initials at the signature line. Your financial partner Donald Horton and the \$EC require confirmation that I own sufficient DHI shares for at least one year to satisfy \$EC Rule 14(a)-8

et seq. for this year's publication. Last year the SEC found all sorts of reasons to exclude it from lawful printing.

You can sign the Letter or have one of your legal staff copied above take care of it. As authorized agents, their confirmation is just as good. You can either scan and email the signed Letter to the contacts provided above and below, or address it to the parties listed in the caption. The choice is yours. Bill me for the stamp\$.

Thanks very much in advance for your cooperation John,

Patrick A. Missud

--- On Thu, 11/17/11, shareholderproposals <[shareholderproposals@SEC.GOV](mailto:shareholderproposals@SEC.GOV)> wrote:

From: shareholderproposals <[shareholderproposals@SEC.GOV](mailto:shareholderproposals@SEC.GOV)>

Subject: Rule 14a-8 no-action response: D.R. Horton, Inc. / Patrick Missud

To: [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [missudpat@yahoo.com](mailto:missudpat@yahoo.com)

Cc: "shareholderproposals" <[shareholderproposals@SEC.GOV](mailto:shareholderproposals@SEC.GOV)>

Date: Thursday, November 17, 2011, 8:21 AM

Please see the attached Rule 14a-8 no-action response. If you have any questions or are unable to open the attachment, please call the Office of Chief Counsel in the SEC's Division of Corporation Finance at (202) 551-3520.

**Issued by the  
UNITED STATES DISTRICT COURT**

Northern

DISTRICT OF

California- San Francisco Division

PATRICK MISSUD

**SUBPOENA IN A CIVIL CASE**

V.

SAN FRANCISCO SUPERIOR COURT ET AL.

Case Number:<sup>1</sup> 12-cv-3117-WHA; 12-15658

*12-16602*

TO: JOHN STUMPF; CEO WELLS FARGO BANK AND/OR  
CORPORATE COUNSEL AND/OR CUSTODIAN OF  
RECORDS

- YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
---------------------	---------------

- YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

A WRITTEN STATEMENT OF SHARE OWNERSHIP AS DESCRIBED IN D R HORTON'S AUGUST 14, 2012 LETTER REGARDING THE MISSUD PROPOSAL FOR ACTION; COPY OF WHICH IS ATTACHED HERETO.

PLACE D R HORTON INC, 301 COMMERCE ST. #500, FT WORTH, TX, 76102; AND 91 SAN JUAN AVE SF, CA, 94112; AND BY EMAIL: MISSUDPAT@YAHOO.COM	DATE AND TIME 8/27/2012 12:00 pm
--	-------------------------------------

- YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
----------	---------------

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT) <i>Patrick Missud 18 USC 8513 FEDERAL INFORMANT &amp; TI</i>	DATE 8/16/2012
---	-------------------

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER  
PATRICK MISSUD, 91 SAN JUAN AVE, SF, CA, 94112; 415-845-5540

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

PROOF OF SERVICE

	DATE	PLACE
SERVED	8/16/2012	WELLS FARGO, 420 MONTGOMERY STREET, SF, CA, 94104
SERVED ON (PRINT NAME)		MANNER OF SERVICE
JOHN STUMPF		PERSONAL
SERVED BY (PRINT NAME)		TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on \_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE OF SERVER

\_\_\_\_\_  
ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.  
 (1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.  
 (2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.  
 (B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to producing any or all of the designated materials or inspection of the premises — or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.  
 (3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it  
 (i) fails to allow reasonable time for compliance;  
 (ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;  
 (iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or  
 (iv) subjects a person to undue burden.  
 (B) If a subpoena  
 (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
 (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or  
 (iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.  
 (d) DUTIES IN RESPONDING TO SUBPOENA.  
 (1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.  
 (B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.  
 (C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.  
 (D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.  
 (2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.  
 (B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.  
 (e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

18 USC §1962 (20 YEAR#)



August 14, 2012

**VIA OVERNIGHT MAIL**

Patrick Missud  
91 San Juan Avenue  
San Francisco, CA 94112

Dear Mr. Missud:

I am writing on behalf of D.R. Horton, Inc. (the "Company"), which received on July 31, 2012, your stockholder proposal for consideration at the Company's 2013 Annual Meeting of Stockholders (the "Proposal"). I note that while the Proposal is dated May 16, 2012, the Company first became aware of the Proposal as a result of your July 31, 2012 email addressed to me and copying our outside counsel.

The Proposal contains certain procedural deficiencies, which Securities and Exchange Commission ("SEC") regulations require us to bring to your attention. Rule 14a-8(b) under the Securities Exchange Act of 1934, as amended, provides that stockholder proponents must submit sufficient proof of their continuous ownership of at least \$2,000 in market value, or 1%, of a company's shares entitled to vote on the proposal for at least one year as of the date the stockholder proposal was submitted. The Company's stock records do not indicate that you are the record owner of sufficient shares to satisfy this requirement. In addition, to date we have not received proof that you have satisfied Rule 14a-8's ownership requirements as of the date that the Proposal was submitted to the Company. Specifically, you submitted your April 2012 brokerage account statement purporting to establish your ownership of Company shares. However, as explained by Staff Legal Bulletin No. 14, "monthly, quarterly or other periodic investment statements [do not] demonstrate sufficiently continuous ownership of the securities" for purposes of Rule 14a-8(b).

To remedy this defect, you must submit sufficient proof of your ownership of the requisite number of Company shares as of the date that the Proposal was submitted to the Company. As explained in Rule 14a-8(b), sufficient proof must be in the form of:

- (1) a written statement from the "record" holder of your shares (usually a broker or a bank) verifying that, as of the date the Proposal was submitted, you continuously held the requisite number of Company shares for at least one year; or
- (2) if you have filed with the SEC a Schedule 13D, Schedule 13G, Form 3, Form 4 or Form 5, or amendments to those documents or updated forms, reflecting your ownership of the requisite number of Company shares as of or before the date on

which the one-year eligibility period begins, a copy of the schedule and/or form, and any subsequent amendments reporting a change in the ownership level and a written statement that you continuously held the requisite number of Company shares for the one-year period.

If you intend to demonstrate ownership by submitting a written statement from the “record” holder of your shares as set forth in (1) above, please note that most large U.S. brokers and banks deposit their customers’ securities with, and hold those securities through, the Depository Trust Company (“DTC”), a registered clearing agency that acts as a securities depository (DTC is also known through the account name of Cede & Co.). Under SEC Staff Legal Bulletin No. 14F, only DTC participants are viewed as record holders of securities that are deposited at DTC. You can confirm whether your broker or bank is a DTC participant by asking your broker or bank or by checking DTC’s participant list, which is available at <http://www.dtcc.com/downloads/membership/directories/dtc/alpha.pdf>. In these situations, stockholders need to obtain proof of ownership from the DTC participant through which the securities are held, as follows:

- (1) If your broker or bank is a DTC participant, then you need to submit a written statement from your broker or bank verifying that, as of the date the Proposal was submitted, you continuously held the requisite number of Company shares for at least one year.
- (2) If your broker or bank is not a DTC participant, then you need to submit proof of ownership from the DTC participant through which the shares are held verifying that, as of the date the Proposal was submitted, you continuously held the requisite number of Company shares for at least one year. You should be able to find out the identity of the DTC participant by asking your broker or bank. If your broker is an introducing broker, you may also be able to learn the identity and telephone number of the DTC participant through your account statements, because the clearing broker identified on your account statements will generally be a DTC participant. If the DTC participant that holds your shares is not able to confirm your individual holdings but is able to confirm the holdings of your broker or bank, then you need to satisfy the proof of ownership requirements by obtaining and submitting two proof of ownership statements verifying that, as of the date the Proposal was submitted, the requisite number of Company shares were continuously held for at least one year: (i) one from your broker or bank confirming your ownership, and (ii) the other from the DTC participant confirming the broker or bank’s ownership.

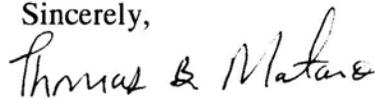
In addition, under Rule 14a-8(b), a stockholder must provide the company with a written statement that he or she intends to continue to hold the requisite number of shares through the date of the stockholders’ meeting at which the proposal will be voted on by the stockholders. In order to correct this procedural defect, you must submit a written statement that you intend to continue holding the requisite number of Company shares through the date of the Company’s 2013 Annual Meeting of Stockholders.

Finally, the cover letter accompanying the Proposal indicates that you submitted the Proposal for publication in the “forthcoming Annual Report” and the “forthcoming 10k.” Please confirm that you intend for the Proposal to be included in proxy statement for the Company’s 2013 Annual Meeting of Stockholders under Rule 14a-8.

The SEC’s rules require that your response to this letter be postmarked or transmitted electronically no later than 14 calendar days from the date you receive this letter. Please address any response to me at D.R. Horton Tower, 301 Commerce Street, Suite 500, Fort Worth, TX 76102.

For your reference, I enclose a copy of Rule 14a-8 and Staff Legal Bulletin No. 14F.

Sincerely,

A handwritten signature in black ink that reads "Thomas B. Montano". The signature is written in a cursive style with a large initial 'T' and 'M'.

Thomas B. Montano

Enclosures

**CEO JOHN STUMPF**  
Wells Fargo Bank  
420 Montgomery Street  
San Francisco CA 94104

August 21, 2012

CEO Donald Horton  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102  
c/o: [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com)

Securities and Exchange Commission  
Division of Corporate Finance  
100 F Street, NE  
Washington, DC 20549-4561  
c/o: Special Counsel Hayes, Belliston,  
[oig@sec.gov](mailto:oig@sec.gov), [LivorneseJ@SEC.GOV](mailto:LivorneseJ@SEC.GOV)

Re: Mr. Missud's Sufficient Share Ownership per SEC Staff Bulletin 14F  
Via: Email: Per the attached Service List

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Dear Donald:

Per the SEC's website, my Bank is a "DTC Participant."  
<http://www.dtcc.com/downloads/membership/directories/dtc/alpha.pdf> .

As you might already know, very recently- just last year on October 18, 2011 in fact, the SEC changed its rules to add another hurdle for shareholders who wish to provide proof of sufficient share ownership to allow them to have their 14(a)-8 Proposals for Action published in company proxy statements. The rule changes are codified in Staff Legal Bulletin No. 14F (CF): <http://www.sec.gov/interps/legal/cfslb14f.htm>.

As a DTC Participant and in observance of SEC Bulletin 14F; and satisfaction of the federal subpoena served on me for production of evidence, I hereby verify that Mr. Missud has owned the requisite minimum shareholder value of DHI stock for the minimum required time to entitle him to 14(a)-8 Proposal for Action publication in D. R. Horton Inc.'s forthcoming proxy statement.

If there are any other concerns or perceived deficiencies in my above admission which will also be registered in several Ninth District/Circuit of Northern California cases and appeals [12-cv-3117-WHA and Appeals 12-15658, 12-16602] please contact me immediately since time is of the essence and Mr. Missud needs to provide this proof to you, your company, and the SEC by August 28, 2012.

Thank you in advance,

---

John Stumpf  
[John.G.Stumpf@wellsfargo.com](mailto:John.G.Stumpf@wellsfargo.com)

Service List:

D. R. Horton: tbmontano@drhorton.com, jodou@wshblaw.com, rtodd@wshblaw.com, mroose@wshblaw.com, cgilbertson@wshblaw.com, LMarquez@wendel.com, GMRoss@wendel.com, vhoy@allenmatkins.com, mmazza@allenmatkins.com, jpatterson@allenmatkins.com, cpernicka@allenmatkins.com, cdawson@rdlaw.com,

Wells Fargo: John.G.Stumpf@wellsfargo.com, mike.heid@wellsfargo.com, jerald.banwart@wellsfargo.com, mary.coffin@wellsfargo.com, sharon.cecil@wellsfargo.com, todd.m.boothroyd@wellsfargo.com, BoardCommunications@wellsfargo.com, Richard.D.Levy@wellsfargo.com, james.strother@wellsfargo.com, raymond.m.lynch@wellsfargo.com, eric.mcluen2@wellsfargo.com,

\$EC: foiapa@sec.gov, hallr@sec.gov, LivorneseJ@SEC.GOV, oig@sec.gov, sanfrancisco@sec.gov, dfw@sec.gov, greener@sec.gov, annie.reding@usdoj.gov, bonny.wong@usdoj.gov,

Syndicated Media.

DTC PARTICIPANT ACCOUNTS IN ALPHABETICAL SEQUENCE

Participant Account Name	No.	Participant Account Name	No.
Pershing LLC/SL Int'l	5196	Sumitomo Mitsui Trust Bank (U.S.A.) Limited	2779
Pierpont Securities LLC	0413	SunGuard Brokerage & Securities Services LLC	0442
Piper Jaffray & Co.	0311	SunGuard Brokerage & Securities Services/Stock Loan	7285
PNC Bank, National Association	2616	SunTrust Bank	2971
PNC Bank, N.A. /IPA	1515	Sun Trust Bank/Sun Trust Bank Dealer Bank	2262
PNC Bank N.A. /PNC Capital Markets LLC	2835	SunTrust Bank/STB Retail CD	2114
PNC Bank, N.A./Market Street Funding Securities	2801	SunTrust Bank/STES IPA	1594
PNC Bank, N.A./Pittsburgh	2834	SunTrust Bank/Safekeeping Custodian for STES	2717
PNC Bank, N.A./Super Philadelphia	2957	Sun Trust Robinson Humphrey, Inc.	2095
PNC Bank/PNC Municipal Strategy - BLK	2166	Sweney Cartwright & Co.	7027
PNC Equity Securities Corp.	2372	Synovus Bank	2578
PNC Bank, N.A./OTTA	2065	Synovus Bank/Synovus 2	2579
PNC Bank, N.A/HPRS	2937		
Portfolio Brokerage Services, Inc.	8052		
PrimeVest Financial Services, Inc.	0701		
PWMCO, LLC	0467		
		<b>T</b>	
		TD Ameritrade Clearing, Inc.	0188
		TD Ameritrade Clearing, Inc. /Securities Lending	5298
		TD Ameritrade Trust Company	5982
		Temper of the Times Advisor Services, Inc.	5175
		Texas Treasury Safekeeping Trust Company	2622
		Texas Treasury Safekeeping Trust Company/IPA	1584
		THEMUNICENTER, L.L.C.	0582
		The Tel-Aviv Stock Exchange Clearing House Ltd.	2015
		Timber Hill LLC	0549
		Timber Hill LLC/Conduit Securities Lending	7566
		Title Securities, Inc.	7081
		Track Data Securities Corp.	0459
		Tradebot Systems, Inc.	0083
		TradeStation Securities, Inc.	0271
		Tradition Asiel Securities Inc.	0370
		Trust Company of America	5981
		Trustmark National Bank	2852
		Tullett Prebon Financial Services LLC	0624
		<b>U</b>	
		U.S. Bank N.A.	2803
		U.S. Bank N.A. /CP	1510
		U.S. Bank N.A./Safekeeping West	2234
		U.S. Bank N.A./Third Party Lending	2837
		U.S. Bank N.A./Trust NY MTN	2897
		U.S. Bank N.A./U.S. Bank Municipal Securities Group	2781
		U.S. Bank N.A./ETF	2580
		UBS AG	0979
		UBS AG/AC PB Clients-No UBS Lien	2003
		UBS AG IPA Account	1540
		UBS AG Stamford Branch/As Custodian for UBS	
		AG London Branch	2507
		UBS Financial Services Inc.	0221
		UBS Financial Services Inc. /Government Securities	
		Account #2	5170
		UBS Limited	2789
		UBS Securities LLC	0642
		UBS Securities LLC/CMO	0652
		UBS Securities LLC/Securities Lending	5284
		UMB Bank, National Association	2450
		UMB Bank, Investment Division	2451
		UMB Bank, N.A./Enogex MTN/IPA	1523
		Union Bank & Trust Company	2067
		UNICREDIT Capital Markets, LLC	7580
		Union Bank, N.A.	2145
		Union Bank, N.A./Capital Markets	2851
		Union Bank, N.A./Corporate Trust/IPA	1500
		Union Bank, N.A./Global Custody	2076
		US Bancorp Investments, Inc.	0280
		USAA Investment Management Company	0367
		<b>V</b>	
		VANGUARD Marketing Corporation	0062
		Van Kampen Funds Inc.	0692*
		Vision Financial Markets LLC	0595
		Virtu Financial BD LLC	0063
		Virtu Financial BD LLC/West	0619
		<b>W</b>	
		Wachtel & Co., Inc.	0709
		Wedbush Securities Inc.	0103
		Wedbush Securities Stock Loan	5166
		Wells Fargo Advisors, LLC	7360
		Wells Fargo Bank, National Bank	2027
		Wells Fargo Bank, N.A. Issuing/Paying Agent	1538
		Wells Fargo Bank/Safekeeping Services	2112
		Wells Fargo Bank, N.A./SIG	2072
		Wells Fargo Bank, N.A./Lending	2040
		Wells Fargo Bank, N.A./SIG Wells Fargo Securities	
		Int'l Ltd	5199
		Wells Fargo Securities, LLC	0250
		Wells Fargo Securities, LLC/Securities Finance	2480
		Wells Fargo Securities, LLC/Wells Fargo Securities	
		Safekeeping	0025
		Webanco Bank, Inc.	2271
		WestLB Securities Inc.	5177
		WestLB Securities Agency Account	5160
		William Blair & Company, L.L.C.	0771

\* Denotes Participant prepared to accept Code 70 Deliveries, see note at end of section. 8/9/2012

Page 49 redacted for the following reason:

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\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

[Home](#) | [Previous Page](#)

U.S. Securities and Exchange Commission

**Division of Corporation Finance  
Securities and Exchange Commission****Shareholder Proposals****Staff Legal Bulletin No. 14F (CF)****Action:** Publication of CF Staff Legal Bulletin**Date:** October 18, 2011**Summary:** This staff legal bulletin provides information for companies and shareholders regarding Rule 14a-8 under the Securities Exchange Act of 1934.**Supplementary Information:** The statements in this bulletin represent the views of the Division of Corporation Finance (the "Division"). This bulletin is not a rule, regulation or statement of the Securities and Exchange Commission (the "Commission"). Further, the Commission has neither approved nor disapproved its content.**Contacts:** For further information, please contact the Division's Office of Chief Counsel by calling (202) 551-3500 or by submitting a web-based request form at [https://tts.sec.gov/cgi-bin/corp\\_fin\\_interpretive](https://tts.sec.gov/cgi-bin/corp_fin_interpretive).**A. The purpose of this bulletin**

This bulletin is part of a continuing effort by the Division to provide guidance on important issues arising under Exchange Act Rule 14a-8. Specifically, this bulletin contains information regarding:

- Brokers and banks that constitute "record" holders under Rule 14a-8 (b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8;
- Common errors shareholders can avoid when submitting proof of ownership to companies;
- The submission of revised proposals;
- Procedures for withdrawing no-action requests regarding proposals submitted by multiple proponents; and
- The Division's new process for transmitting Rule 14a-8 no-action responses by email.

You can find additional guidance regarding Rule 14a-8 in the following bulletins that are available on the Commission's website: [SLB No. 14](#), [SLB](#)

No. 14A, SLB No. 14B, SLB No. 14C, SLB No. 14D and SLB No. 14E.

**B. The types of brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8**

**1. Eligibility to submit a proposal under Rule 14a-8**

To be eligible to submit a shareholder proposal, a shareholder must have continuously held at least \$2,000 in market value, or 1%, of the company's securities entitled to be voted on the proposal at the shareholder meeting for at least one year as of the date the shareholder submits the proposal. The shareholder must also continue to hold the required amount of securities through the date of the meeting and must provide the company with a written statement of intent to do so.<sup>1</sup>

The steps that a shareholder must take to verify his or her eligibility to submit a proposal depend on how the shareholder owns the securities. There are two types of security holders in the U.S.: registered owners and beneficial owners.<sup>2</sup> Registered owners have a direct relationship with the issuer because their ownership of shares is listed on the records maintained by the issuer or its transfer agent. If a shareholder is a registered owner, the company can independently confirm that the shareholder's holdings satisfy Rule 14a-8(b)'s eligibility requirement.

The vast majority of investors in shares issued by U.S. companies, however, are beneficial owners, which means that they hold their securities in book-entry form through a securities intermediary, such as a broker or a bank. Beneficial owners are sometimes referred to as "street name" holders. Rule 14a-8(b)(2)(i) provides that a beneficial owner can provide proof of ownership to support his or her eligibility to submit a proposal by submitting a written statement "from the 'record' holder of [the] securities (usually a broker or bank)," verifying that, at the time the proposal was submitted, the shareholder held the required amount of securities continuously for at least one year.<sup>3</sup>

**2. The role of the Depository Trust Company**

Most large U.S. brokers and banks deposit their customers' securities with, and hold those securities through, the Depository Trust Company ("DTC"), a registered clearing agency acting as a securities depository. Such brokers and banks are often referred to as "participants" in DTC.<sup>4</sup> The names of these DTC participants, however, do not appear as the registered owners of the securities deposited with DTC on the list of shareholders maintained by the company or, more typically, by its transfer agent. Rather, DTC's nominee, Cede & Co., appears on the shareholder list as the sole registered owner of securities deposited with DTC by the DTC participants. A company can request from DTC a "securities position listing" as of a specified date, which identifies the DTC participants having a position in the company's securities and the number of securities held by each DTC participant on that date.<sup>5</sup>

**3. Brokers and banks that constitute "record" holders under Rule 14a-8(b)(2)(i) for purposes of verifying whether a beneficial owner is eligible to submit a proposal under Rule 14a-8**



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549-4561

November 16, 2011

Thomas B. Montano  
D.R. Horton, Inc.  
tbsmontano@drhorton.com

Re: D.R. Horton, Inc.  
Incoming letter dated September 23, 2011

Dear Mr. Montano:

This is in response to your letter dated September 23, 2011 concerning the shareholder proposal submitted to D.R. Horton by Patrick Missud. We also have received a letter from the proponent dated September 27, 2011. Copies of all of the correspondence on which this response is based will be made available on our website at <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8.shtml>. For your reference, a brief discussion of the Division's informal procedures regarding shareholder proposals is also available at the same website address.

Sincerely,

Jonathan A. Ingram  
Deputy Chief Counsel

Enclosure

cc: Patrick Missud  
missudpat@yahoo.com

November 16, 2011

**Response of the Office of Chief Counsel**  
**Division of Corporation Finance**

Re: D.R. Horton, Inc.  
Incoming letter dated September 23, 2011

The proposal requests that D.R. Horton “audit its subsidiary DHI Mortgage for compliance with **all** federal and state laws, and that the Board confirms **for the record** that DHI Mortgage conforms to the requirements contained within its own corporate governance documents.”

There appears to be some basis for your view that D.R. Horton may exclude the proposal under rule 14a-8(i)(4). In this regard, we note that the proposal appears to relate to the redress of a personal claim or grievance against the company. Accordingly, we will not recommend enforcement action to the Commission if D.R. Horton omits the proposal from its proxy materials in reliance on rule 14a-8(i)(4).

Sincerely,

William A. Hines  
Special Counsel

**EXHIBIT B**

CA-Federal  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PATRICK A. MISSUD,

No. C-11-3567 EMC

Plaintiff,

**ORDER ADOPTING MAGISTRATE  
JUDGE RYU'S REPORT AND  
RECOMMENDATION AS MODIFIED;  
GRANTING DEFENDANT'S MOTION  
TO DECLARE PLAINTIFF A  
VEXATIOUS LITIGANT; AND  
DISMISSING ACTION**

v.

STATE OF NEVADA, *et al.*,

Defendants.

(Docket Nos. 53, 59)

United States District Court  
For the Northern District of California

Plaintiff Patrick A. Missud, an attorney licensed in California<sup>1</sup> and representing himself, has filed suit against Defendant D.R. Horton, Inc. ("Horton") and numerous state and federal judicial defendants and public offices, including Special Magistrate Curtis Coltrane of Beaufort County, South Carolina; Court Clerk Steven Grierson and Judge Elizabeth Gonzales of the Clark County Courts of Nevada; Discovery Commissioner Bonnie Bulla of Nevada's Eighth Judicial District Court; Chief Justice Nancy M. Saiita and Justices Michael L. Douglas, James W. Hardesty, Kristina Pickering, Mark Gibbons, Michael Cherry, and Ron Parraguirre of the Supreme Court of Nevada; San Francisco Superior Court Judges Charlotte Woolard and Loretta Giorgi; Judge Sandra Armstrong of the U.S. District Court for the Northern District of California; Judge Roger Hunt of the U.S. District Court for the District of Nevada; Judge Roger Benitez of the U.S. District Court for the Southern District of California; the Nevada Supreme Court; the Eighth Judicial District Court of

<sup>1</sup> State Bar No. 219614.

1 County of Clark; the State of Nevada; Susan Eckhardt; David Sarnowski; the Nevada State Bar; and  
 2 Constance Akridge. Mr. Missud brings unspecified claims under 42 U.S.C. § 1983 for public  
 3 corruption and civil rights violations, on behalf of an unspecified class of purported victims. First  
 4 Amended Complaint (“FAC”), Docket No. 18, at 4.

5 In response to Defendant Horton’s motion to dismiss and orders to show cause issued by the  
 6 Court, Magistrate Judge Ryu has issued a Report and Recommendation (“R&R”), recommending  
 7 dismissal of Mr. Missud’s claims against all Defendants. Docket No. 53. In addition, Defendant  
 8 Horton has filed a motion to declare Plaintiff a vexatious litigant. Docket No. 59. Both matters are  
 9 pending before the Court.

#### 10 I. FACTUAL & PROCEDURAL BACKGROUND

11 In his FAC, Mr. Missud alleges broadly that Defendants, led by Defendant Horton, have  
 12 “conspired to buy the judiciary, this Country and its Constitution.” FAC at 3. Mr. Missud lays  
 13 much of the blame for the success of this purported conspiracy on the Supreme Court’s recent  
 14 decisions in *Citizens United v. FEC*, 130 S. Ct. 876 (2010), and *AT&T Mobility v. Concepcion*, 131  
 15 S.Ct. 1740 (2011), which he claims have “allowed corporate ‘citizens’ to buy America’s court[s] and  
 16 alternative dispute forum[s].” *Id.* at 2. He claims that those Defendants in the judiciary have acted  
 17 with bias against him in prior proceedings due to the influence of Horton and its subsidiaries,  
 18 including DHI Mortgage Company Ltd. (“DHI”).<sup>2</sup> *Id.* at 8, 10. Although he does not describe the  
 19 particular transaction(s) that give rise to his complaint, it appears the root of his dissatisfaction with  
 20 Horton originates from his dealings with Horton and DHI in conjunction with his purchase of a  
 21 home in Nevada. *See* 07-2625 SBA, Docket No. 38, at 1-3 (summarizing previous similar claims  
 22 against same defendants). Nearly all of his allegations herein stem from judicial decisions that have  
 23 disagreed with his positions, which he equates with *per se* evidence of those judges’ bias and  
 24 indebtedness to Horton. *See, e.g.*, FAC at 12. Although his allegations are broad and not entirely  
 25 clear, he asserts, *inter alia*, the following allegations of wrongdoing against specific Defendants:

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26  
 27 <sup>2</sup> Mr. Missud does not always distinguish between D.R. Horton, Defendant in this action,  
 28 and DHI Mortgage, which is not a defendant in the instant case but has previously been a defendant  
 in other cases brought by Mr. Missud.

- 1 • Nevada Division of Mortgage Lending (“NDML”) Commissioner Susan Eckhardt – Plaintiff
- 2 alleges that Commissioner Eckhardt wrongfully refused to investigate consumer complaints against
- 3 Horton. FAC at 5-6.
- 4 • South Carolina Special Magistrate Coltrane – Plaintiff alleges that Magistrate Coltrane
- 5 wrongfully issued an injunction against picketers protesting Horton’s sale of a golf course. FAC at
- 6 6-7.
- 7 • Nevada Discovery Commissioner Bulla – Plaintiff alleges that Commissioner Bulla
- 8 dishonestly claimed not to have received Mr. Missud’s document submissions to the court. FAC at
- 9 7.
- 10 • Nevada Judge Gonzales – Plaintiff alleges that Judge Gonzales wrongfully sealed court
- 11 records “regarding DHI’s interstate financial crimes,” blocked media from court proceedings, struck
- 12 Plaintiff’s case despite its merit (according to Mr. Missud), and failed to recuse herself despite
- 13 Plaintiff’s motion to disqualify her based on bias. FAC at 7-8.
- 14 • Clark County’s Eighth District Court & Court Executive Officer Grierson – Plaintiff alleges
- 15 that these Defendants failed to respond to subpoenas to produce video evidence of Judge Gonzales’s
- 16 bias. FAC at 9-10.
- 17 • Nevada Commission on Judicial Discipline and Executive Director Sarnowski – Plaintiff
- 18 alleges that these Defendants failed to investigate Plaintiff’s claims of judicial misconduct against
- 19 Judge Gonzales. FAC at 10.
- 20 • Nevada Supreme Court – Plaintiff alleges that the Court wrongfully requested that the
- 21 Nevada Attorney General investigate Plaintiff after receiving Plaintiff’s amicus brief in another
- 22 action, and denied his Emergency Motion to Compel production of the video and documents
- 23 regarding his accusations of bias against Judge Gonzales. FAC at 11, 12. The Court also reduced
- 24 the damages a jury awarded to another plaintiff (Betsinger) in another action against Horton. FAC
- 25 at 11. Mr. Missud summarily alleges that the Nevada Supreme Court is “the Country’s 8th most
- 26 beholden state supreme court to the special interests.” FAC at 12. The link Mr. Missud provides in
- 27 support of this statement is an article stating that the court ranks eighth in election fundraising. *Id.*
- 28 • San Francisco Superior Court Judges Woolard and Giorgi – Plaintiff alleges that Judge

1 Woolard confirmed an arbitration award against Mr. Missud's evidence of fraud in the arbitration  
2 proceedings. FAC at 14. Judge Giorgi then denied a motion for reconsideration of Judge Woolard's  
3 decision. *Id.* Judge Giorgi also denied a motion to vacate based on fraud an order in favor of  
4 Horton in San Francisco Superior Court case CPF-10-510876, and a later motion for  
5 reconsideration. FAC at 15. Mr. Missud states that her failure to consider his conclusive evidence  
6 renders her biased. *Id.* at 15-16.

7 • U.S. District Court Judge Armstrong – Plaintiff alleges that Judge Armstrong's rulings in 07-  
8 2625, another case by Plaintiff against Horton, dismissing his case for lack of personal jurisdiction  
9 and failing to consider certain evidence he submitted, were incorrect and evinced bias in favor of  
10 Horton. FAC at 17-18.

11 • U.S. District Court Judge Roger Benitez – Plaintiff alleges that Judge Benitez granted Horton  
12 and DHI's request for arbitration in a suit against them by five class action representatives in San  
13 Diego, 08-592-RBB, on the basis of bias. FAC at 19.

14 • U.S. District Court Judge Hunt – Plaintiff alleges that Judge Hunt wrongfully granted  
15 summary judgment in favor of Horton in a suit filed by a different plaintiff unrelated to Mr. Missud.  
16 FAC at 21-22.

17 Plaintiff asserts that Horton has essentially purchased cooperation from each of these  
18 Defendants. Mr. Missud also includes allegations of corruption among Texas officials, not named as  
19 Defendants in this complaint. *See* FAC at 22-25.<sup>3</sup> Plaintiff further alleges that California Superior  
20 Court Mediator/Arbitrator Michael Carbone – also not named in this action – dismissed Mr.  
21 Missud's arbitration case against Allstate Insurance on the basis of bias toward a repeat client. FAC  
22 at 13. Mr. Missud summarily connects this particular arbitration decision to allegations of arbitral  
23 fraud in other courts and in the media without any factual allegations as to how his particular case  
24 was improper. He requests disgorgement of profits, restitution, treble damages, injunctive relief, an  
25 order vacating prior judgments in other courts in favor of Horton, attorney's fees and costs, and  
26 prejudgment interest. FAC at 28.

27 \_\_\_\_\_  
28 <sup>3</sup> Mr. Missud also included claims against the SEC, SEC Chairwoman Mary Shapiro, and  
the United States, but those parties have now been severed from this case. *See* Docket No. 52.

1 On December 1, 2011, Defendant Horton filed a motion to dismiss Plaintiff's complaint  
 2 against it for lack of personal jurisdiction, or in the alternative, on the grounds of forum non  
 3 conveniens. Docket No. 37. On December 5, 2011, Judge Ryu issued an order to show cause why  
 4 the Court should not dismiss Judicial Defendants<sup>4</sup> on grounds of judicial immunity. Docket No. 41.  
 5 On December 22, 2011, Judge Ryu further ordered Plaintiff to show cause why the Court should not  
 6 dismiss Unserved Defendants<sup>5</sup> on the grounds of lack of service under Rule 4(m). Docket No. 49.  
 7 After reviewing the parties' submissions as to each of these issues, Judge Ryu issued an R&R  
 8 recommending: (1) that Defendant Horton's motion to dismiss for lack of personal jurisdiction be  
 9 granted; (2) that Plaintiff's complaint be dismissed with prejudice as to Judicial Defendants on the  
 10 basis of judicial immunity; and (3) that Plaintiff's complaint be dismissed without prejudice as to  
 11 Unserved Defendants on the basis of Plaintiff's failure to serve them within 120 days pursuant to  
 12 Rule 4(m).

13 Plaintiff objected to Judge Ryu's R&R and filed voluminous documents with this Court,  
 14 including several Requests for Judicial Notice. *See* Docket Nos. 58, 63, 69, 71, 73, 74, 79-81, 83-  
 15 86. He has also filed requests for the Court to issue subpoenas and order U.S. Marshals to effect  
 16 service on Defendants. *See* Docket Nos. 55, 65.

17 Defendant Horton filed a Reply in support of Judge Ryu's R&R, along with a motion to  
 18 declare Plaintiff a vexatious litigant, on January 25, 2012. Docket No. 59. Horton asserts that  
 19 Plaintiff has filed seven frivolous lawsuits against it in Nevada and California state and federal  
 20 courts since 2005, and that previous sanctions have not deterred Plaintiff from filing additional  
 21 frivolous suits and engaging in abusive and harassing litigation tactics. Horton requests a

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22  
 23 <sup>4</sup> Special Magistrate Curtis Coltrane of Beaufort County, South Carolina; Court Clerk  
 24 Steven Grierson and Judge Elizabeth Gonzales of the Clark County Courts of Nevada; Discovery  
 25 Commissioner Bonnie Bulla of Nevada's Eighth Judicial District Court; Chief Justice Nancy M.  
 26 Saiita and Justices Michael L. Douglas, James W. Hardesty, Kristina Pickering, Mark Gibbons,  
 27 Michael Cherry, and Ron Parraguirre of the Supreme Court of Nevada; San Francisco Superior  
 Court Judges Charlotte Woolard and Loretta Giorgi; Judge Saundra Armstrong of the U.S. District  
 Court for the Northern District of California; Judge Roger Hunt of the U.S. District Court for the  
 District of Nevada; Judge Roger Benitez of the U.S. District Court for the Southern District of  
 California; the Nevada Supreme Court; and the Eighth Judicial District Court of County of Clark.

28 <sup>5</sup> State of Nevada, Susan Eckhardt, David Sarnowski, the Nevada State Bar, and Constance  
 Akridge.

1 declaration that Mr. Missud is a vexatious litigant and an order requiring him to: (1) post Security of  
2 Costs in this action in the amount of \$50,000, absent which the complaint would be subject to  
3 dismissal with prejudice; (2) obtain pre-filing permission before filing any actions on his behalf or  
4 on behalf of his spouse, Julie Missud, if those complaints name as parties Horton, DHI, their  
5 affiliates, their employees, and their attorneys or other individuals associated with this action.  
6 Defendant requests that Plaintiff be ordered to provide a copy of any proposed complaint along with  
7 a letter requesting that the complaint be filed and copies of the Nevada State Court orders finding  
8 him in contempt and sanctioning him, proof of satisfaction of the Judgments of Sanctions against  
9 him, and a copy of this Court's order in this case; (3) post Security of Costs in any future action  
10 against the Parties in this matter, in an amount to be determined by this Court; and (4) pay sanctions  
11 in an amount determined by this Court and report said sanctions to the State Bar for any appropriate  
12 disciplinary review due to his violations of Local Rule 11-4. Defendant also suggests a possible  
13 order requiring Plaintiff to complete anger management and ethics continuing education. Finally,  
14 Defendant proposes that any violation of the pre-filing order would expose Plaintiff to a contempt  
15 hearing and injunctive relief consistent with the order, and that any action filed in violation of the  
16 order be subject to dismissal. *See* Docket No. 59 at 17-18. Plaintiff opposes Defendant's motion to  
17 declare him a Vexatious Litigant. Docket No. 62.

## 18 II. DISCUSSION

### 19 A. Judge Ryu's Report and Recommendation

20 Judge Ryu recommends dismissing Plaintiff Missud's complaint as against all Defendants  
21 on the basis of (1) lack of personal jurisdiction as against Defendant DR Horton; (2) judicial  
22 immunity as against the Judicial Defendants; and (3) failure to effect proper service of process as  
23 against Defendants State of Nevada, Susan Eckhardt, David Sarnowski, the Nevada State Bar, and  
24 Constance Akridge. R&R, Docket No. 53, at 1-2. The Court **ADOPTS** Judge Ryu's R&R as  
25 modified herein for the reasons set forth below.

#### 26 1. Personal Jurisdiction – Defendant Horton

27 The Court adopts Judge Ryu's R&R with respect to Defendant Horton in its entirety. Mr.  
28 Missud fails to provide any basis for challenging Magistrate Judge Ryu's conclusion that Horton has

1 no contacts with California that would give rise to personal jurisdiction. *See* R&R, Docket No. 53,  
 2 at 6-7 (concluding that filing a state court judgment in another state does not confer jurisdiction; that  
 3 the Court cannot treat Plaintiff's allegations as to DHI's contacts with California as relevant to  
 4 Horton's contacts because the two are "distinct legal entities" and DHI is a non-party; and that  
 5 Plaintiff has failed to produce evidence of Horton's contacts). Judge Ryu's conclusion is also in  
 6 accord with the numerous other state and federal courts in California in which Mr. Missud has  
 7 attempted to bring suit against Horton. Those courts have concluded that they lack personal  
 8 jurisdiction over Defendant Horton. *See, e.g., Missud v. D.R. Horton, et al.*, U.S. District Court for  
 9 the Northern District of California, C-07-2625 SBA, Defendant's RJN, Docket No. 61, Ex. 6  
 10 (dismissing the action for lack of personal jurisdiction and forum non conveniens); *Missud v. D.R.*  
 11 *Horton, et al.*, San Francisco Superior Court, CGC 05-447499, Defendant's RJN, Docket No. 61,  
 12 Ex. 2-4 (finding lack of personal jurisdiction with respect to Defendant Horton); *Missud v. D.R.*  
 13 *Horton, et al.*, San Francisco Superior Court, CGC 06-457207, Defendant's RJN, Docket No. 61,  
 14 Ex. 5 (dismissing action without prejudice for lack of personal jurisdiction).

15           2.       Judicial Immunity – Judicial Defendants

16           Judge Ryu recommends dismissing Plaintiff's complaint against the Judicial Defendants on  
 17 the basis of judicial immunity. R&R at 3 ("Judges and 'individuals necessary to the judicial  
 18 process' at the state and federal levels are 'generally immune from civil liability under [§] 1983.'")  
 19 (quoting *Olsen v. Idaho State Bd. of Med.*, 363 F.3d 916, 923 (9th Cir. 2004) (citations and quotation  
 20 marks omitted); *Meek v. Cnty. of Riverside*, 183 F.3d 962, 965 (9th Cir. 1999) (citing *Mireles v.*  
 21 *Waco*, 502 U.S. 9, 9-10 (1991))). As Judge Ryu concluded, Plaintiff provided no evidence to  
 22 support a conclusion that Judicial Defendants acted "in the clear absence of all jurisdiction" so as to  
 23 strip them of judicial immunity. *See Sadoski v. Mosley*, 435 F.3d 1076, 1079 (9th Cir. 2006)  
 24 (quoting *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978) (quotation marks omitted)). While  
 25 Plaintiff asserts that they acted without authority, he fails to explain how they have done so. *See*  
 26 Obj. at 3. In fact, Plaintiff's own allegations evince otherwise, as his complaint about Judicial  
 27 Defendants is not that they had no authority to act, but that they made the wrong decisions. *Id.* at 3-  
 28 4. Judge Hamilton has just so ruled in another case involving Plaintiff, filed against some of the

1 same Judicial Defendants as the instant case. *See Missud v. San Francisco Superior Court et al.*, 11-  
2 1856 PJH, Docket No. 54, at (granting motion to dismiss complaint against, *inter alia*, Judges  
3 Woolard and Giorgi, among other judicial defendants not named in this action, on the basis of  
4 judicial immunity). Some of the conduct alleged in this case against Judges Woolard and Giorgi –  
5 their confirmation of an arbitration award in favor of Allstate Insurance against Plaintiff – is also  
6 alleged in Plaintiff’s case before Judge Hamilton and covered by her ruling on judicial immunity.  
7 *Compare* 11-3567 EMC, FAC at 14, *with* 11-1856 PJH, Docket No. 19, at 6-8.

8 It is worth noting that, unlike federal judges who are absolutely immune from all suits, *see*  
9 *Mullis v. United States Bankruptcy Court*, 828 F.2d 1385, 1394 (9th Cir. 1987), state judges may, in  
10 very limited circumstances, be subject to suit under § 1983. *See* 42 U.S.C. § 1983 (as amended by  
11 Pub. L. 104-317, Title III, § 309(c), 110 Stat. 3853 (Oct. 19, 1996)) (“[I]n any action brought against  
12 a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief  
13 shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable.”);  
14 *Flanders v. Snyder Bromley*, No. 09-01623 CMA-KMT, 2010 WL 2650028, at \*7 (D. Colo., Jun.  
15 30, 2010) (“If these special circumstances do not exist in a § 1983 action, absolute judicial immunity  
16 bars claims for injunctive relief.”) (citing *Lawrence v. Kuenhold*, 271 F. App’x. 763, 766 n. 6 (10th  
17 Cir. 2008)); *Brandon E. ex rel. Listenbee v. Reynolds*, 201 F.3d 194, 197 (3d Cir. 2000) (same).  
18 Plaintiff has made no showing that those circumstances obtain here.

19 Even if state Judicial Defendants were not protected by judicial immunity, Plaintiff’s claims  
20 would still be barred for two reasons. First, Plaintiff’s claims are barred by the *Rooker-Feldman*  
21 doctrine because he seeks to overrule previous state court rulings against him. “[A] federal district  
22 court does not have subject matter jurisdiction to hear a direct appeal from the final judgment of a  
23 state court.” *Manufactured Home Communities, Inc. v. City of San Jose*, 420 F.3d 1022, 1029 (9th  
24 Cir. 2005). “As the Ninth Circuit has explained, *Rooker-Feldman* prohibits a federal district court  
25 from exercising jurisdiction over a suit that is a ‘de facto appeal from a state court judgment.’”  
26 *Khanna v. State Bar of California*, 505 F. Supp. 2d 633, 640-41 (N.D. Cal. 2007) (quoting  
27 *Kougasian v. TMSL, Inc.*, 359 F.3d 1136, 1139 (9th Cir. 2004)); *Cunningham v. Mahoney*, No. C 10-  
28 01182 JSW, 2010 WL 2560488, at \*3 (N.D. Cal. June 22, 2010). Here, Plaintiff is essentially

1 appealing various state court decisions rejecting his arguments and purported evidence of corruption  
2 on the part of Defendant Horton and the Judicial Defendants. Because Plaintiff complains “of a  
3 legal wrong allegedly committed by the state court and seeks relief from the judgment of that court,”  
4 this Court lacks jurisdiction to consider his claims. *Khanna*, 505 F. Supp. 2d at 641 (quoting *Noel v.*  
5 *Hall*, 341 F.3d 1148, 1163 (9th Cir. 2003)).

6 Second, to the extent that any of Plaintiff’s claims against Judicial Defendants would survive  
7 both judicial immunity and *Rooker-Feldman*, Plaintiff has wholly failed to state a claim as against  
8 any Judicial Defendant. Instead of facts, Plaintiff recounts in detail the Judicial Defendants’  
9 decisions against him and then concludes, *ipso facto*, that they are corrupt. Such allegations are  
10 entirely conclusory and therefore lacking in merit. *See Moss v. United States Secret Serv.*, 572 F.3d  
11 962, 969, 971 (9th Cir. 2009) (assigning no weight to conclusory allegations); *see also Bell Atlantic*  
12 *Corp. v. Twombly*, 550 U.S. 544 (2007); *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009). As Judge Ryu  
13 noted, Plaintiff’s FAC “does not set forth clear causes of action, but lambastes prior judicial  
14 decisions against Plaintiff, corporate influence in American politics, and pervasive corruption in the  
15 judiciaries and regulatory agencies of the United States, California, and Nevada.” R&R at 2 (citing  
16 FAC at 5-28). Although a pro se plaintiff would ordinarily be given some degree of leniency, in the  
17 instant case, Plaintiff is an attorney who has filed numerous similar claims. *See Missud v. San*  
18 *Francisco Sup. Ct.*, No. 11-1856 PJH (N.D. Cal. April 18, 2011); *Missud v. D.R. Horton, Inc.*, No.  
19 10-235-SI (N.D. Cal. Jan. 19, 2010); *Missud v. D.R. Horton, Inc.*, No. 07-2625-SBA (N.D. Cal. filed  
20 May 17, 2007); *Missud v. D.R. Horton, Inc.*, No. A551662 (Nev. Dist. Ct. filed Nov. 13, 2007);  
21 *Missud v. D.R. Horton, Inc.*, No. 06-457207 (Cal. Super. Ct. filed Oct. 23, 2006); *Missud v. D.R.*  
22 *Horton, Inc.*, No. 05-447499 (Cal. Super. Ct. filed Dec. 9, 2005); *Missud v. D.R. Horton, Inc.*, No.  
23 05-444247 (Cal. Super. Ct. filed Aug. 22, 2005). In each one, Plaintiff has flouted the requirements  
24 of Rule 11 and made sweeping, frivolous accusations without factual support. *See, e.g., Missud v.*  
25 *San Francisco Sup. Ct.*, No. 11-1856 PJH, Docket No. 54, at 2 (N.D. Cal. Feb. 13, 2012) (“[T]he  
26 details of plaintiff’s allegations are elusive; the complaint is loaded with vague, conclusory, and  
27 hyperbolic statements, as well as what appear to be nonsensical and far-flung facts. The court also  
28 notes that some of the allegations are quite reckless given plaintiff’s status as an officer of the very

1 court he is suing.”). Accordingly, dismissal with prejudice as against the Judicial Defendants is  
2 warranted.

3 3. Service of Process – Unserved Defendants

4 Judge Ryu recommends dismissing Plaintiff’s complaint as against the Unserved  
5 Defendants<sup>6</sup> without prejudice based on Plaintiff’s failure to serve them within 120 days as required  
6 by Federal Rule of Civil Procedure 4(m). The Court finds the report correct, well-reasoned, and  
7 thorough, and **ADOPTS** the R&R in full as to Unserved Defendants.

8 B. Plaintiff’s Requests for Judicial Notice

9 Plaintiff has filed sixteen requests for judicial notice in this action, totaling over 1,300 pages  
10 of documents. Plaintiff asks the Court to take judicial notice of documents that, *e.g.*, “provide proof  
11 of ALL the allegations in the [FAC].” Plaintiff’s Request for Judicial Notice (“RJN”), Docket No.  
12 58, at 2. While many of these documents (*i.e.*, filings and orders in other court proceedings) are  
13 judicially noticeable for certain purposes, such as to demonstrate the existence of other court  
14 proceedings, they are not judicially noticeable for Mr. Missud’s purpose, which is to demonstrate  
15 that his arguments and allegations against Defendants are true.<sup>7</sup> *See* Fed. R. Evid. 201. Other  
16 documents, such as articles about judicial fund-raising, are not judicially noticeable for any purpose,  
17 much less Plaintiff’s proffered purpose of demonstrating improper conduct on the part of any  
18 Defendant. *See, e.g.*, Docket No. 58 at Chapter 5. As with Mr. Missud’s other filings, he equates  
19 denial of any of his requests with corruption, such that the more he loses, the greater the proof of  
20 corruption he has purportedly unveiled. These documents are not judicially noticeable as any kind  
21 of substantive proof of his claims.

22 Accordingly, the Court **GRANTS** Plaintiff’s Request for Judicial Notice as to the official  
23 court documents from other proceedings, and **DENIES** the request as to all other documents. In  
24 addition, the Court emphasizes that the fact it takes judicial notice of court documents does not mean  
25

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26 <sup>6</sup> State of Nevada, Susan Eckhardt, David Sarnowski, the Nevada State Bar, and Constance  
27 Akridge.

28 <sup>7</sup> In addition, many of the documents contain Mr. Missud’s own annotations, which are  
argument and not judicially noticeable.

1 that it agrees with Plaintiff's characterization of the meaning of those documents.

2 C. Requests for Subpoenas and Marshal Service

3 Mr. Missud has filed a request for subpoenas due to what he describes as officials' disregard  
4 of his previous subpoenas. Specifically, he requests that the Court sign subpoenas demanding  
5 production of video evidence, rulings, and other documents from the Nevada District Court which  
6 Mr. Missud contends would demonstrate Judge Gonzales's bias. *See* Docket No. 55-2. Similarly, at  
7 Docket No. 73, Plaintiff requests judicial notice of the fact that the California Superior Court has  
8 acknowledged receipt of his subpoenas. However, the document to which Mr. Missud points is a  
9 letter from the Superior Court's attorney noting that a subpoena is unnecessary to obtain transcripts  
10 of proceedings. Instead, the letter provides contact information for the court reporters from whom  
11 Mr. Missud can request the transcripts he seeks. *See id.* Ex. 1.

12 Because the Court has already dismissed Plaintiff's claims against Judge Gonzales with  
13 prejudice as described above, the Court **DENIES** Plaintiff's request as moot.

14 Plaintiff also requests that this Court appoint federal Marshals to serve the Summons and  
15 complaint on state judges and officials. *See* Docket No. 55-1, 65. Plaintiff cites to Federal Rule of  
16 Civil Procedure 4(c)(3), which gives the Court discretion to order U.S. Marshals to effect service.  
17 However, most of the defendants on whom Plaintiff requests service are already covered by the  
18 Court's ruling above to dismiss the complaint with prejudice as against Judicial Defendants. Indeed,  
19 Plaintiff's request at Docket No. 65 requests service only on Judge Gonzales and Court CEO  
20 Grierson. Moreover, with respect to the Unserved Defendants, as Judge Ryu found, Plaintiff has  
21 failed to show any cause for why he has failed to properly serve Defendants prior to the Rule 4(m)  
22 deadline. Plaintiff's requests for service are well past the 120-day deadline imposed by Rule 4(m).  
23 Accordingly, the Court **DENIES** Plaintiff's requests to appoint U.S. Marshals to effect service on  
24 any Defendants.

25 D. Motion to Declare Plaintiff a Vexatious Litigant

26 Defendant Horton has filed a motion to declare Plaintiff a vexatious litigant and to impose a  
27 pre-filing order on him. "The All Writs Act, 28 U.S.C. § 1651(a), provides district courts with the  
28 inherent power to enter pre-filing orders against vexatious litigants. However, such pre-filing orders

1 are an extreme remedy that should rarely be used.” *Molski v. Evergreen Dynasty Corp.*, 500 F.3d  
 2 1047, 1057 (9th Cir. 2007) (internal citations omitted). A pre-filing review order is appropriate if  
 3 (1) the plaintiff is given adequate notice and an opportunity to oppose the order; (2) the Court  
 4 compiles an adequate record for review; (3) the Court makes substantive findings as to the frivolous  
 5 or harassing nature of the litigant’s actions; and (4) the order is narrowly tailored “to closely fit the  
 6 specific vice encountered.” *Id.* (quoting *De Long v. Hennessey*, 912 F.2d 1144, 1145-48 (9th Cir.  
 7 1990)); *see also Johns v. Town of Los Gatos*, 834 F. Supp. 1230, 1232 (N.D. Cal. 1993) (applying  
 8 *De Long*).

9 1. Notice

10 In the instant case, the Court finds that the notice requirement has been satisfied, as  
 11 Defendant Horton’s motion to declare Plaintiff a Vexatious Litigant provided him with notice, and  
 12 he has received an opportunity to be heard by filing his opposition to said motion and through the  
 13 hearing set for March 9, 2012. *See Molski*, 500 F.3d at 1057 (“Molski had fair notice of the  
 14 possibility that he might be declared a vexatious litigant . . . because the district court’s order was  
 15 prompted by a motion filed by the defendants and served on Molski’s counsel. Also, Molski had the  
 16 opportunity to oppose the motion, both in writing and at a hearing.”).

17 2. Adequate Record

18 The second requirement is that the Court compile an adequate record for review. “An  
 19 adequate record for review should include a listing of all the cases and motions that led the district  
 20 court to conclude that a vexatious litigant order was needed.” *Id.* (quoting *De Long*, 912 F.2d at  
 21 1147).

22 In the instant case, Mr. Missud has been involved in the following prior actions against  
 23 Defendant Horton, for which the record contains orders and filings supplied by the parties:

24 • *Missud v. D.R. Horton, et al.*, CGC 05-444247, San Francisco Superior Court. Defendant’s  
 25 RJN, Docket No. 61, Ex. 1. The court sustained a motion to quash service of summons and  
 26 complaint on grounds of forum non conveniens and dismissed the case without prejudice on  
 27 November 9, 2005.

28 • *Missud v. D.R. Horton, et al.*, CGC 05-447499, San Francisco Superior Court. Defendant’s

1 RJN, Docket No. 61, Ex. 2. The court sustained a motion to quash service of summons and  
2 complaint on grounds of lack of personal jurisdiction against Horton, sustained the motion on  
3 grounds of failure to effect proper service as to the remaining defendants (including DHI), and  
4 dismissed the case against Horton without prejudice on April 25, 2006. *Id.* The court quashed  
5 service of summons as against the remaining defendants again on September 13, 2006. Defendant's  
6 RJN, Docket No. 61, Ex. 3. Finally, the court dismissed the action without prejudice as against the  
7 remaining defendants based on lack of personal jurisdiction on January 11, 2007. Defendant's RJN,  
8 Docket No. 61, Ex. 4.

9 • *Missud v. D.R. Horton, et al.*, CGC 06-457207, San Francisco Superior Court. Defendant's  
10 RJN, Docket No. 61, Ex. 5. On February 15, 2007, the court dismissed the action without prejudice  
11 against all defendants for lack of personal jurisdiction and took defendants' motion to declare Mr.  
12 Missud a vexatious litigant off calendar in light of its dismissal. *Id.*

13 • *Missud v. D.R. Horton, et al.*, C 07-2625 SBA, United States District Court for the Northern  
14 District of California. Defendant's RJN, Docket No. 61, Ex. 6. On October 30, 2007, the court  
15 dismissed the action for lack of personal jurisdiction, forum non conveniens, and statute of  
16 limitations. The court also issued an order noting that Plaintiff had submitted numerous post-  
17 judgment documents to the court that failed to comply with the applicable Local Rules.

18 Defendant's RJN, Docket No. 61, Ex. 9. The court therefore ordered Plaintiff to comply with said  
19 rules, and authorized the Case Systems Administrator to "return all non-conforming papers to  
20 Plaintiff." *Id.*

21 • *Missud v. D.R. Horton, et al.*, No. A551662, Nevada District Court, Clark County.  
22 Defendant's RJN, Docket No. 61, Ex. 7. In this case, the court held Mr. Missud in contempt for  
23 knowingly and intentionally violating the terms of a stipulated protective order and for sending  
24 threatening communications to witnesses and counsel involved in the litigation. *Id.* at 2. The court  
25 granted defendants an award of attorney's fees and costs in conjunction with enforcing the  
26 protective order and the contempt proceedings, in the amount of over \$48,000. *Id.* at 5. The court  
27 justified its fee award in part on the basis that Mr. Missud "continuously and unrelentingly refused  
28 to comply with this Court's various Orders" and that he had engaged in "continuous improper

1 conduct,” which drove up the cost of litigation. *Id.* at 6-7. Excerpts of the transcript from the show  
2 cause proceedings before Judge Gonzales – in which Mr. Missud was instructed to show cause why  
3 he should not be sanctioned – as well as Judge Gonzales’s previous order finding Mr. Missud in  
4 contempt, are also in the record, Plaintiff’s Request for Judicial Notice (“RJN”), Docket No. 58,  
5 Chapter 4, as well as transcripts of previous proceedings in the matter before Commissioner Bulla,  
6 RJN, Docket No. 84, Ex. 3. On appeal, the Supreme Court denied Mr. Missud’s motion for a stay,  
7 motion for a moratorium on all nonjudicial foreclosures, and motion to compel discovery on June  
8 20, 2011, noting that Plaintiff had not sought a stay in the district court and that such relief was  
9 unwarranted nonetheless. *Missud v. D.R. Horton, et al.*, No. 56502, Nevada Supreme Court.  
10 Defendant’s RJN, Docket No. 61, Ex. 10. In addition, the court noted that “Mr. Missud’s filings in  
11 this matter have been voluminous and meritless thus far. We caution him that further abuse will  
12 result in the imposition of sanctions.” *Id.* The Supreme Court later affirmed the District Court’s  
13 order imposing sanctions, finding that Mr. and Mrs. Missud had failed to “raise any challenge on  
14 appeal as to the district court’s findings that appellants engaged in abusive litigation tactics by  
15 contacting and threatening [Horton’s] employees.” Plaintiff’s RJN, Docket No. 58, Chapter 5,  
16 November 22, 2011 Order at 2. The Court rejected Mr. Missud’s claims that the district court failed  
17 to consider his evidence, that the court violated his due process rights, and that the order was  
18 procured by fraud. *Id.* It later denied rehearing of Mr. Missud’s claims in response to his petition  
19 for rehearing en banc. Plaintiff’s RJN, Docket No. 74, February 24, 2012 Order.

20 • *Missud v. D.R. Horton, et al.*, No. 10-235 SI, United States District Court for the Northern  
21 District of California. Defendant’s RJN, Docket No. 61, Ex. 8. On April 2, 2010, Judge Illston  
22 dismissed Defendant Judges Armstrong, Benitez, Edenfield, and Redinger with prejudice on the  
23 grounds of absolute judicial immunity. The court dismissed Plaintiff’s remaining claims against  
24 other defendants without prejudice based on his voluntary dismissal.

25 • *Missud v. D.R. Horton, et al.*, No. CPF 10-510876, San Francisco Superior Court. *See*  
26 Defendant’s RJN, Docket No. 61, Ex. 12. Horton initiated this case to domesticate the Nevada State  
27 Court judgment to California. *See* Docket No. 59 at 14-15. The Superior Court, Judge Giorgi,  
28 denied Mr. Missud’s motion to vacate the Nevada judgment. *See* Plaintiff’s RJN, Docket No. 58,

1 Chapter 6 (partial transcript of January 19, 2011 proceedings); *see also id.* (transcript of June 30,  
 2 2011 proceedings regarding motion for reconsideration). In case no. No. A131566, the Court of  
 3 Appeal, First Appellate District, struck a “Declaration in Support of Already Registered Evidence”  
 4 which Plaintiff claimed listed “examples of ‘official and judicial corruption’ supported by citations  
 5 to specified internet addresses.” Defendant’s RJN, Docket No. 61, Ex. 12. The court struck the  
 6 declaration as unauthorized under the rules of court. *Id.* The court later affirmed the Superior  
 7 Court’s denial of Mr. Missud’s motion to vacate the Nevada state court judgment. Defendant’s  
 8 RJN, Docket No. 61, Ex. 12. The Court of Appeal noted numerous “procedural inadequacies” in  
 9 Plaintiff’s submissions to the Court. *Id.* at 2. Nonetheless, considering the appeal on the merits, the  
 10 Court found that “Missud’s briefs contain no comprehensible legal argument as to why the order he  
 11 challenges should be reversed.” *Id.* On further appeal in Case No. S1983532, the California  
 12 Supreme Court denied Mr. Missud’s request for judicial notice and petition for writ of mandate. *See*  
 13 Defendant’s RJN, Docket No. 61, Ex. 13; *see also* Plaintiff’s RJN, Docket No. 58, Chapter 10  
 14 (attaching petition for writ of mandate).

15 • *Missud v. D.R. Horton, et al.*, No. 11-3567 EMC, U.S. District Court for the Northern  
 16 District of California. In the instant case, Plaintiff again attempts to subject Horton to personal  
 17 jurisdiction in California, despite the fact that numerous courts have already rejected such claims  
 18 and despite the fact that he offers no evidence of Horton’s contacts with California that would be  
 19 sufficient to confer general or specific jurisdiction. In addition, as other courts have noted, Plaintiff  
 20 has continued to file voluminous and procedurally improper documents with this Court, including  
 21 successive requests for judicial notice discussed further below.

22 Accordingly, given the record compiled from Mr. Missud’s prior actions against Horton,  
 23 listed above, and the record on file in the case at bar, the Court concludes the record is adequate for  
 24 review. *Molski*, 500 F.3d at 1057.

25 3. Substantive Findings as to the Frivolous or Harassing Nature of Plaintiff’s Actions

26 Under the third prong, the Court must “look at both the number and content of the filings as  
 27 indicia of the frivolousness of the litigant’s claims.” *Molski*, 500 F.3d at 1059 (citations and  
 28 quotation marks omitted). “An injunction cannot issue merely upon a showing of litigiousness. The

1 plaintiff's claims must not only be numerous, but also be patently without merit." *Id.* (citations and  
2 quotation marks omitted). In the instant case, the Court finds that there is a sufficient basis to  
3 conclude that Mr. Missud's litigation against Defendant Horton and its affiliates, subsidiaries, and  
4 employees has been abusive and frivolous.

5 First, Plaintiff's claims against Horton have lacked any credible factual basis and Plaintiff  
6 has refused to comply with Court rules and procedures in making his claims. Defendant sums up the  
7 problem with Mr. Missud's tautological claims against Horton succinctly: "[H]e alleges that he lost  
8 his prior six cases against D.R. Horton because the courts were 'corrupt.' As proof, he points to the  
9 fact that he lost these six prior cases." Reply, Docket No. 70, at 6. Plaintiff's failure to comply with  
10 Rule 11 and Civil Rule 11-4 is all the more troubling given his status as a member of the California  
11 Bar. In the instant case, for example, besides his citation to § 1983 and general references to  
12 racketeering, he has failed to provide Horton with notice of any concrete claims he raises against it.  
13 Instead, his complaint is filled with summary accusations of corruption. *See, e.g.*, FAC at 4 (stating  
14 that Horton has "caused thousands of consumers' financial evisceration through illegal means and  
15 by corrupting public figures"); Objection to R&R, Docket No. 55, at 2 ("This has already become a  
16 landmark case. It already showcases absolute corruption of 23 judges made possible by the Citizen\$-  
17 United ruling which has paved a long, tortuous path for ordinary, real, flesh-and-blood, non-  
18 corporate, fleece-able, citizen-litigants."); *id.* at 5 (stating that in comparison the Defendants in this  
19 case, "Not even Hosni Mubarak financially raped Egypt quite so much."); *id.* at 12 ("Billion dollar  
20 DHI was not content with just the purchase of Nevada's di\$trict and \$upreme court\$. DHI also had  
21 to prove that it could buy California's."). These are just a small sampling of Plaintiff's unsupported  
22 accusations against Horton and other Defendants.

23 Plaintiff's opposition, Docket No. 67, continues this tactic, as he merely restates his  
24 conclusory claims that Horton has "bought" numerous federal and state judges and public officials,  
25 with no factual allegations to support such a claim. *See, e.g.*, Opp. at 6 (alleging that DHI "bought"  
26 Commissioner Bulla and Judge Gonzales, with no support other than the fact that those officials  
27 ruled against Mr. Missud); Opp. at 7 (speculating that Horton has wired money to the Cayman  
28 Islands as payment to corrupt judges). He also seems to assume that one decision against Horton in

1 an unrelated case would be sufficient to constitute “proof” of his own claims. *See, e.g.*, Opp. at 7  
 2 (faulting Judge Armstrong for disregarding a verdict against Horton in a different case in Nevada  
 3 state court, in which Mr. Missud was not involved).

4 As another example, Mr. Missud filed a request for judicial notice in conjunction with his  
 5 opposition to Defendant’s motion to declare him a vexatious litigant. Docket No. 63. This RJN  
 6 attaches numerous documents – including purported sales numbers for DR Horton and its  
 7 subsidiaries, waivers of service of summons from prior cases, a National Labor Relations Board  
 8 order from an unrelated case, the stipulated protective order in the Nevada state court case,  
 9 transcripts of proceedings in prior cases, affidavits of service of subpoenas, and court orders in prior  
 10 cases – that are either unauthenticated, unrelated to the present action, and/or not judicially  
 11 noticeable for Mr. Missud’s supposed purpose of demonstrating corruption and conspiracy. These  
 12 documents merely provide further support to Horton’s claim that Mr. Missud’s tactics are abusive  
 13 and that he routinely violates the Local Rules<sup>8</sup> and Federal Rules of Civil Procedure.<sup>9</sup>

14 \_\_\_\_\_  
 15 <sup>8</sup> Local Rule 11-4, Standards of Professional Conduct, provides in relevant part:

16 (a) Duties and Responsibilities. Every member of the bar of this  
 17 Court and any attorney permitted to practice in this Court under Civil  
 18 L.R. 11 must:

- 19 (1) Be familiar and comply with the standards of  
 20 professional conduct required of members of the State  
 21 Bar of California;
- 22 (2) Comply with the Local Rules of this Court;
- 23 (3) Maintain respect due to courts of justice and  
 24 judicial officers;
- 25 (4) Practice with the honesty, care, and decorum  
 26 required for the fair and efficient administration of  
 27 justice; [and]
- 28 (5) Discharge his or her obligations to his or her  
 client and the Court.

<sup>9</sup> Rule 11 provides in pertinent part as follows:

(b) Representations to the Court. By presenting to the court a  
 pleading, written motion, or other paper—whether by signing, filing,  
 submitting, or later advocating it—an attorney or unrepresented party  
 certifies that to the best of the person’s knowledge, information, and



1 [and] were [therefore] vexatious”).

2 Second, Mr. Missud appears to be motivated more by obtaining press for himself and  
3 imposing expense on Horton than by any legitimate claim for relief. In addition to his own  
4 representations to this Court in his filings, *see* Objection to R&R, Docket No. 55, at 2 (“Prior to  
5 PACER registration this pleading was transmitted to over 500 syndicated media contacts in only  
6 minutes.”), Horton provides copies of Plaintiff’s prior communications indicating an intent to harass  
7 and increase expense for Horton. *See* Docket No. 59, Ex. A (fax from Mr. Missud to Horton counsel  
8 Odou stating that his goal was to make things “horrendously expensive” for them and that he would  
9 initiate as many class action lawsuits and investigations as possible, along with press notifications  
10 designed to embarrass Defendant). Plaintiff does not dispute the authenticity of this communication,  
11 nor its meaning. *See* Opposition, Docket No. 67, at 20 (“If these matters have become ‘horrendously  
12 expensive’ for DHI, then so be it.”). Defendant’s Reply attaches additional communications from  
13 Plaintiff to attorneys and large media lists, attempting to gain traction for his cases in the press. *See*  
14 Reply, Docket No. 70, Exs. A-C. Plaintiff’s apparent intent to harass Horton through litigation  
15 regardless of how many times Horton prevails, *see* Opp. at 10 (stating that prior sanctions have not  
16 deterred him), weighs in favor of designating him a vexatious litigant. *See* Rule 11(b)(1) (requiring  
17 party to certify that filings with the Court are “not being presented for any improper purpose, such as  
18 to harass, cause unnecessary delay, or needlessly increase the cost of litigation”); *Eng v. Marcus &*  
19 *Millichap Co.*, No. C 10-05050 CRB, 2011 WL 2175207, at \*2 (N.D. Cal. June 3, 2011)  
20 (considering fact that plaintiff filed suit the same day he had been declared a vexatious litigant in  
21 another court, and fact that plaintiff had sent threatening emails to defendants, as probative of his  
22 “improper purpose of harassing Defendants” and justification for declaring him a vexatious litigant).

23 Third, Plaintiff continues to attempt to sue Horton in California despite multiple court rulings  
24 that Horton is not subject to personal jurisdiction in California. Such conduct is harassing. *See*  
25 *Zaldivar v. City of Los Angeles*, 780 F.2d 823, 832 (9th Cir.1986) (“Without question, successive  
26 complaints based upon propositions of law previously rejected may constitute harassment under  
27 Rule 11.”); *McMahon v. Pier 39 Ltd. Partnership*, No. C03-00251 CRB, 2003 WL 22939233, at \*6,  
28 \*8 (N.D. Cal. Dec. 5, 2003) (finding plaintiff had violated Rule 11 through harassing conduct and

1 repeatedly filing claims based on the same basic issues, and using Rule 11 violations as support for  
2 declaring plaintiff a vexatious litigant).

3 Fourth, Plaintiff's successive complaints have alleged similar misconduct against Horton and  
4 other common defendants despite multiple court rulings against him. As noted above, all of Mr.  
5 Missud's actions involving Horton appear to relate, at bottom, to his dealings with Horton and DHI  
6 in 2003 and 2004 in conjunction with his purchase of a home in Nevada and his allegations that  
7 Horton and its affiliates committed fraud and tortuous misconduct against him at that time. *See* 07-  
8 2625 SBA, Docket No. 38, at 1-3 (summarizing three California state court claims – two of which  
9 alleged emotional distress claims and one of which alleged fraud and intentional misrepresentation  
10 claims – and 2007 federal claim before Judge Armstrong alleging similar claims against same  
11 defendants). Judge Armstrong ruled that not only did California courts lack personal jurisdiction  
12 over Horton and its affiliates, but also that Mr. Missud's claims were barred by the statute of  
13 limitations. *Id.* at 4-7, 8-10.

14 Rather than abandon his claims, however, Mr. Missud has simply ratcheted up his litigious  
15 conduct in the aftermath of Judge Armstrong's ruling, threatening her and other allegedly "corrupt"  
16 judges with lawsuits based on their adverse rulings. *See* 07-2625 SBA, Docket No. 45 (filing post-  
17 judgment letters accusing various judicial officers, including present Defendants Armstrong,  
18 Benitez, and Coltrane, of corruption and threatening legal action against them); *id.* Docket No. 55  
19 (post-judgment letter indicating his intent to file RICO claims against Horton for its apparent  
20 conspiracy with judges). Plaintiff's subsequent federal suits against Horton and various judicial  
21 defendants have continued the same allegations of conspiracy and corruption. *See* 10-235 SI,  
22 Docket No. 1 (alleging racketeering, corruption, whistle-blower retaliation, and various  
23 constitutional claims against Horton and affiliates, as well as present Defendants Coltrane, Eckhardt,  
24 Armstrong, and Benitez, among others). Although Judge Illston dismissed the federal judicial  
25 defendants with prejudice based on judicial immunity, *see id.* Docket No. 47, Mr. Missud  
26 nonetheless re-names Judges Armstrong and Benitez in the instant case. Indeed, Mr. Missud  
27 confirmed at oral argument that sanctions against him have not and will not deter him from  
28 continuing this course of conduct. Accordingly, Mr. Missud has demonstrated intent to continue

1 frivolously litigating against Defendant Horton and others in spite of judicial rulings against him.  
2 Absent a pre-filing order, there is every indication from the record that Mr. Missud will continue to  
3 harass Defendant Horton and its affiliates and employees.

4 Accordingly, the Court finds that Plaintiff's conduct against Horton has been both frivolous  
5 and harassing.

6 4. Narrowly Tailored Order

7 As to the fourth factor, Defendant Horton requests an order requiring the following:

8 (1) Post Security of Costs in this action in the amount of \$50,000, absent which the  
9 complaint would be subject to dismissal with prejudice;

10 (2) Obtain pre-filing permission before filing any actions on his behalf or on behalf of his  
11 spouse, Julie Missud, if those complaints name as parties Horton, DHI, their affiliates, their  
12 employees, and their attorneys or other individuals associated with this action. Defendant requests  
13 that Plaintiff be ordered to provide a copy of any proposed complaint along with a letter requesting  
14 that the complaint be filed and copies of the Nevada State Court orders finding him in contempt and  
15 sanctioning him, proof of satisfaction of the Judgments of Sanctions against him, and a copy of this  
16 Court's order in this case;

17 (3) Post Security of Costs in any future action against the Parties in this matter, in an  
18 amount to be determined by this Court; and

19 (4) Pay sanctions of at least \$1,000 in an amount determined by this Court and report  
20 said sanctions to the State Bar for any appropriate disciplinary review.

21 Defendant also suggests a possible order requiring Plaintiff to complete anger management  
22 and ethics continuing education. Finally, Defendant proposes that any violation of the pre-filing  
23 order would expose Plaintiff to a contempt hearing and injunctive relief consistent with the order,  
24 and that any action filed in violation of the order be subject to dismissal.

25 Although Defendant's requests are reasonable, they are more extreme than the orders the  
26 Ninth Circuit found to be appropriately tailored in *Molski*. In *Molski*, the district court imposed a  
27 pre-filing order that covered only "actions under Title III of the ADA in the Central District of  
28 California" and subjected such claims to a pre-filing review. *Molski*, 500 F.3d at 1061; *Cf. De Long*,

1 912 F.2d at 1148 (finding an order preventing the plaintiff from filing any suit in a particular district  
2 court overbroad). In the instant case, the Court finds that a narrow order requiring Plaintiff to obtain  
3 pre-filing review of any new action he files or causes to be filed against Defendant Horton or its  
4 affiliates/subsidiaries/employees in the Northern District of California is appropriate.

5 5. Attorney Sanctions

6 Finally, the Court notes that a pre-filing order is also an appropriate sanction for attorney  
7 misconduct. *See Molski*, 500 F.3d at 1062 (upholding a pre-filing order imposed against a law firm  
8 pursuant to the court's "inherent power to regulate abusive or bad-faith litigation"). Grounds for  
9 sanctioning attorneys are similar to the bases discussed above for the vexatious litigant standard,  
10 including findings that the attorney has "willful[ly] abuse[d] [] the judicial process," engaged in  
11 "bad faith conduct during litigation," "fil[ed] frivolous papers," or "violat[ed] [] ethics rules." *Id.* at  
12 1063 (citations omitted). An attorney, like a potential vexatious litigant, must be given notice and  
13 an opportunity to be heard before imposing sanctions, and the sanctions must be tailored to the  
14 misconduct. *Id.* For the reasons stated above, Missud's conduct qualifies for the Court's  
15 discretionary imposition of sanctions, including a pre-filing order. Thus, the Court's power to  
16 sanction attorney misconduct offers another independent grounds for its order.

17 Accordingly, Defendant's motion to declare Plaintiff a vexatious litigant is **GRANTED**.  
18 Plaintiff is adjudged a vexatious litigant and ordered to obtain leave of Court before filing or causing  
19 to be filed any new action in this District against D.R. Horton or any of its affiliates (including DHI  
20 Mortgage), subsidiaries, and/or employees.

21 **III. CONCLUSION**

22 For the foregoing reasons, the Court orders as follows:

- 23 (1) Magistrate Judge Ryu's R&R is **ADOPTED** as modified herein. Plaintiff's claims against  
24 Defendant Horton are dismissed for lack of personal jurisdiction. Plaintiff's claims against  
25 the Judicial Defendants<sup>10</sup> are dismissed with prejudice on the grounds of judicial immunity,  
26

---

27 <sup>10</sup> Special Magistrate Curtis Coltrane of Beaufort County, South Carolina; Court Clerk  
28 Steven Grierson and Judge Elizabeth Gonzales of the Clark County Courts of Nevada; Discovery  
Commissioner Bonnie Bulla of Nevada's Eighth Judicial District Court; Chief Justice Nancy M.  
Saiita and Justices Michael L. Douglas, James W. Hardesty, Kristina Pickering, Mark Gibbons,

1 the *Rooker-Feldman* doctrine, and failure to state a claim. Plaintiff's claims against the  
2 Unserved Defendants<sup>11</sup> are dismissed for failure to effect proper service under Rule 4(m).  
3 Judgment will be entered in favor of Defendants and against Plaintiff. The Clerk of the  
4 Court is instructed to close the file.

5 (2) Plaintiff's Requests for Judicial Notice are **GRANTED** as to official court documents from  
6 other proceedings, and **DENIED** as to all other documents he has submitted to this Court.

7 (3) Plaintiff's Requests for Subpoenas and U.S. Marshal Service are **DENIED**.

8 (4) Defendant Horton's motion to declare Plaintiff a vexatious litigant is **GRANTED**. The  
9 Clerk of this Court may not file or accept any further complaints filed by or on behalf of Mr.  
10 Missud (as a named Plaintiff) that name as defendants D.R. Horton or any of its affiliates  
11 (including DHI Mortgage), subsidiaries, and/or employees. If Mr. Missud wishes to file a  
12 complaint against any of these entities and/or individuals, he shall provide a copy of any  
13 such complaint, a letter requesting that the complaint be filed, and a copy of this Order to the  
14 Clerk of this Court. The Clerk shall then forward the complaint, letter, and copy of this  
15 Order to the Duty Judge for a determination whether the complaint should be accepted for  
16 filing. Any violation of this Order will expose Plaintiff to a contempt hearing and  
17 appropriate sanctions, and any action filed in violation of this Order will be subject to  
18 dismissal.

19 (5) Mr. Missud is forewarned that any future suit he files with the Court which does not comply  
20 with the good faith requirements of Fed. R. Civ. P. 11 will be subject to sanctions including  
21 monetary sanctions.

22 ///

23 ///

24 \_\_\_\_\_

25 Michael Cherry, and Ron Parraguire of the Supreme Court of Nevada; San Francisco Superior  
26 Court Judges Charlotte Woolard and Loretta Giorgi; Judge Sandra Armstrong of the U.S. District  
27 Court for the Northern District of California; Judge Roger Hunt of the U.S. District Court for the  
28 District of Nevada; Judge Roger Benitez of the U.S. District Court for the Southern District of  
California; the Nevada Supreme Court; and the Eighth Judicial District Court of County of Clark.

<sup>11</sup> State of Nevada, Susan Eckhardt, David Sarnowski, the Nevada State Bar, and Constance Akridge.

1 (6) Mr. Missud is referred to the State Bar and the Standing Committee on Professional Conduct  
2 pursuant to Civ. L.R. 11-6(a)(3)-(4) for any appropriate disciplinary action.

3 This Order disposes of Docket Nos. 37, 53, 59, 65.  
4

5 IT IS SO ORDERED.  
6

7 Dated: March 22, 2012

8   
9 EDWARD M. CHEN  
10 United States District Judge

11 **United States District Court**  
12 For the Northern District of California  
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**EXHIBIT C**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATRICK MISSUD,

No. C 12-03117 WHA

Plaintiff,

v.

**ORDER VACATING HEARING  
AND TO SHOW CAUSE**

SAN FRANCISCO SUPERIOR COURT,  
et al.,

Defendants.

Pursuant to Local Rule 7-6, the hearing scheduled for September 6, 2012, is **VACATED**. Plaintiff Patrick Missud is hereby **ORDERED TO SHOW CAUSE** why he should not be declared a vexatious litigant as to all judicial defendants, including judges, courts, and other judicial entities, by **NOON ON SEPTEMBER 20, 2012**.

**IT IS SO ORDERED.**

Dated: September 4, 2012.

  
\_\_\_\_\_  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE

**EXHIBIT D**

## Thomas B Montano

---

**From:** pat missud [missudpat@yahoo.com]  
**Sent:** Thursday, August 18, 2011 9:33 AM  
**To:** oig@sec.gov; sanfrancisco@sec.gov; dfw@sec.gov; greener@sec.gov; Thomas B Montano; eising@gibsondunn.com; james.strother@wellsfargo.com; raymond.m.lynch@wellsfargo.com; jodou@wshblaw.com; mroose@wshblaw.com; cgilbertson@wshblaw.com; Dewey.Wheeler@McNamaraLaw.com; myuen@sftc.org; itservicedesk@nvcourts.nv.gov; aginfo@ag.state.nv.us; ecartwright@ag.nv.gov  
**Cc:** josh.levin@citi.com; dan.oppenheim@credit-suisse.com; michael.rehaut@jpmorgan.com; david-i.goldberg@ubs.com; nishu.sood@db.com; megz\_mcgrath@hotmail.com; rstevenson@peoplemanagement.org; steve.east@csfb.com; mross@bgbinc.com; gs-investor-relations@gs.com; Buck.Horne@RaymondJames.com; ivy@zelmanassociates.com; bberning@fppartners.com; chris.hussey@gs.com; joshua.pollard@gs.com; arjun.sharma@citi.com; jacqueline.merrell@gs.com; jason.a.marcus@jpmorgan.com; cbrian@tradethetrend.com; rob.hansen@db.com; jesse.arocho-cruz@db.com; jonathan.s.ellis@baml.com; kenneth\_zener@keybanccm.com; jrahmani@kbw.com; jay.chhatbar@baml.com; william.w.wong@jpmorgan.com; kisha.rosario@jpmorgan.com; inquiries@guggenheimpartners.com; karen.frenza@gs.com; william.alexis@credit-suisse.com; michael.dahl@credit-suisse.com; kim@zelmanassociates.com; christina.c.lo@jpmorgan.com; angela.pruitt@dowjones.com; nick.vonklock@dowjones.com; cbrian@mysmartrend.com  
**Subject:** SEC 14A8 Missud Proposal For Action in DHI's forthcoming Proxy, 10k and Annual Report  
**Attachments:** PropForAct8-17-11.pdf; 14A8(b)NO(f)8-18-11.pdf

Good morning all-

The SEC will compel printing this year or be named as a Defendant.

Mr. Montano-

If there are any further perceived deficiencies, they will be brought to my attention. Your silence will be deemed an admission of my compliance with all provisions of 14A8.

Cordially,

Patrick

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)

August 17, 2011

Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit 18  
Fort Worth, TX 76102

Re: Missud Proposal for Action for consideration at DHI's 2012 Annual Shareholder Meeting; and inclusion within DHI's proxy statement.

Via: [oig@sec.gov](mailto:oig@sec.gov), [sanfrancisco@sec.gov](mailto:sanfrancisco@sec.gov), [dfw@sec.gov](mailto:dfw@sec.gov), [greener@sec.gov](mailto:greener@sec.gov),  
[tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [eising@gibsondunn.com](mailto:eising@gibsondunn.com),  
[james.strother@wellsfargo.com](mailto:james.strother@wellsfargo.com), [raymond.m.lynch@wellsfargo.com](mailto:raymond.m.lynch@wellsfargo.com)

Certified FISMA & OMB Memorandum M-07-16 \*\*\*

Good afternoon SEC agents Greene, Reedick, Maples, Kwon, Special Counsel Belliston, Chairwoman Shapiro, Ms. Ising and Messieurs Montano, Lynch and Strother,

As you all know, this year I again mailed my Proposal for Action to D R Horton's Montano for inclusion in DHI's forthcoming Annual Report, 10K, and proxy statement. The Proposal is reproduced below for convenience. The three reasons for inclusion of the Proposal are as follows.

A. Reasons for Compelling Publication

1. DHI has participated in ultra-vires acts. The Directors and shareholders need to vote to stop various illegal financial activities which are specifically damaging the Corporate 'Citizen's' reputation and bottom line, and shareholders' interests.
2. The second reason is that DHI's illegal financial activities are broadly impacting the US economy and its 308 million real flesh-and-blood citizens. Each non-performing predatory loan originated by DHI and fully owned subsidiary DHI Mortgage, must be 'bailed out' by American tax payers. This in turn lowers the expendable income that each real flesh-and-blood American family has to purchase new products such as D R Horton homes.
3. The third reason for inclusion is that overwhelming evidence has already been gathered which proves that DHI Executives have corrupted officials and judges in several states. Once this information is exposed, the Corporate 'Citizen's' reputation and bottom line will most certainly suffer very acute damage. Shareholders need reassurances from DHI's Board of Directors that they will lawfully conduct business per the Corporate Charter and Governance Documents.

#### B. The SEC's Recently Stepped-Up Efforts

The SEC has recently taken aggressive enforcement actions regarding various subprime loan and Wall Street fraud: <http://www.sec.gov/spotlight/enf-actions-fc.shtml> DHI has coincidentally also been very heavily involved in exactly these types of crimes for at least 8 years, possibly even precipitating the mortgage melt-down.

Also according to the SEC's website, enforcement protocols have been improved post-Madoff: <http://www.sec.gov/spotlight/secpostmadoffreforms.htm> Prior to Madoff, it was reported that the SEC would get tips about white collar crimes, and not act until it was too late to prevent massive shareholder losses. Hopefully now, the SEC will be more proactive to regulate DHI's corporate activities which have and will continue to severely and negatively impact \$3.6 billion in issued stock.

#### C. Identical Wall Street Requests

Even CtW CEO William Patterson shares the same exact concerns that I do in that DHI should refrain from issuing predatory loans and selling fraudulent mortgages: [http://www.ctwinvestmentgroup.com/fileadmin/group\\_files/CtW\\_Inv\\_Grp\\_to\\_DR\\_Horton\\_Board.pdf](http://www.ctwinvestmentgroup.com/fileadmin/group_files/CtW_Inv_Grp_to_DR_Horton_Board.pdf) Note that Patterson's request was made in 2007. Since then, the SEC has done nothing to redress either Patterson's or my identical concerns.

#### D. Prior SEC No-Action Decisions

"No-action letters represent the staff's interpretations of the securities laws and, while persuasive, are not binding on the courts:"

[http://en.wikipedia.org/wiki/U.S.\\_Securities\\_and\\_Exchange\\_Commission](http://en.wikipedia.org/wiki/U.S._Securities_and_Exchange_Commission)

In 2008, 2009, and 2010, I submitted formal Proposals similar to Patterson's. In 2008&9 DHI was permitted to exclude my Proposals because I did not have sufficient share ownership for the SEC to compel publication. Last year, I had sufficient share ownership for the required time for the SEC to compel publication but for some reason, the SEC did not enforce Rule 14A8.

This year, I have sufficient share ownership for the required amount of time which requires that the SEC compels publication. If the SEC refuses to compel publication of my very reasonable Proposal, which merely seeks that DHI participate only in legal acts under its corporate charter, I will seek redress in the federal courts.

Along with the racketeering suit voluntarily withdrawn in 2010 and subject to re-filing [10-cv-235-SI], and the currently active civil rights & corruption suit which will soon name DHI as an additional Defendant [11-cv-3567-DMR], I will file an SEC action in the Ninth Circuit naming Chairwoman Shapiro. The federal securities complaint, supporting declaration, and exhibits will first be published with syndicated media, and then registered in court. The action will eclipse the Madoff scandal.

#### E. Mr. Montano's Claimed Deficiencies

Montano's August 16, 2011 letter disingenuously claims that I haven't sufficient, continuous share ownership per 14A8(b). The accompanying Wells Fargo "brokerage Statement" is an official business record from Wells Fargo Advisors which is my "Broker" affiliated with Wells Fargo "Bank." Said Statement "verifies" that as of the "date of my current Proposal," the DHI shares were "continuously held for over one year."

Further, note that this letter was copied to Wells Fargo's legal department. Wells Fargo's Lynch and Strother have my authority to "verify" that I have sufficient, continuous share ownership per 14A8(b). You can contact them directly upon my behalf to further corroborate my entitlement to SEC compulsion of my ultra-reasonable lawful Proposal.

F. Conclusions

The draft of my securities complaint will be pro-actively readied within one week. If the SEC does not act to protect my interests, Mr. Patterson's interests, interests of the thousands of other DHI shareholders, 308 million Americans' interests, and uphold federal securities laws, the suit will be filed to showcase the favorable treatment that RICO operating corporations get from the supposed securities regulator. The SEC itself will be on trial.

Cordially,

*Patrick Missud*

---

Patrick Missud, shareholder.

Encl.

Cc: Wall Street, Media, Federal and State Regulators

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
missudpat@yahoo.com

August 4, 2011

Att'n: Corporate Counsel, D.R. Horton Inc.  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102

Re: Proposal for Action [Proposal]  
Via: E-mail: [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [dennis.barghaan@usdoj.gov](mailto:dennis.barghaan@usdoj.gov),  
[greener@sec.gov](mailto:greener@sec.gov), Wall Street, Select Media  
Certified **RR**FISMA & OMB Memorandum M-07-16 \*\*\*

---

Attention DHI Board of Directors, Corporate Counsel, and Federal Agents,

As a DHI stockholder, under SEC Rule 14a-8, I submit the following facts and Proposal for DHI's forthcoming 2012 shareholder meeting. Note that I have owned the sufficient number of shares for at least two years to submit this Proposal for publication in DHI's forthcoming Annual Report. Note that if the SEC does not compel DHI to publish, this will make the Madoff debacle seem minor. This DHI scandal has been 'gift wrapped and packaged' far better than Harry Markopoulos' expose of Bernie Madoff.

Mr. Montano- You will print the following 490 words in the forthcoming 10k:

PROPOSAL FOR ACTION

On July 1, 2009 the DOJ, HUD and SEC deferred prosecution against Beazer Homes which admitted to several fraudulent mortgage origination and accounting practices. BZH agreed to provide \$50 million in restitution for consumers in and around North Carolina. Some of Beazer's mortgage fraud included interest rate manipulation, inflating home base prices to cover incentives, and lack of due diligence when completing stated income loans.

There is concrete evidence that DHI has engaged in even more egregious fraud but on a much larger nationwide scale. Under the Freedom of Information Act, hundreds of consumer complaints are available from the FTC and HUD regarding DHI's fraudulent nationwide mortgage origination in over 23 states. In Virginia's federal circuit, HUD submitted nearly 7700 administrative records showing that DHI and other builders violated RESPA laws [08-cv-01324]. In Georgia, the Yeatman class action alleges similar RESPA violations specific to DHI, [07-cv-81]. At DHI Virginia's Rippon

in the submitted Proposal and available on the web at [www.drhortonfraud.com](http://www.drhortonfraud.com), and <http://drhortonsjudges.com/> . These sites can be sponsored daily and achieve a minimum 2000 hits per day. Media and Wall Street will also receive notice of these documents and will be awaiting the SEC/DHI response. These entities will either ratify or ignore this simple Proposal which merely asks that DHI, DHI Mortgage and its officers not violate federal laws. Note that if these federal laws were violated by everyday non-millionaire individual American citizens, they would risk federal incarceration.

Lastly, either RICO 10-cv-235-SI already naming DHI will be revived, or public corruption suit 11-cv-3567-DMR will be amended to name DHI as the entity which has acted under color of law, and caused officials and public figures to defraud citizens in 29 market states. <http://drhortonsjudges.com/> Damages sought will equal DHI's capitalization at the time that the amended complaint is filed, plus punitive damages. Donald Horton will also be personally named to satisfy the punitive damages portion of the demand. Both of these lawsuits are already supported with over 5000 exhibits. These are the most significant federal lawsuits that DHI has ever had to "vigorously defend." The multi-billion dollar suits will have to be mentioned in the DHI Annual Report's litigation caption. A rough draft of the civil rights suit against Nevada is also available at the above listed supersite for all of America to consider. The amended complaint will soon be available.

Cordially,

/S/ Patrick Missud

---

Patrick Missud, shareholder.

Encl.

Cc: Wall Street, Media, Federal and State Regulators

**EXHIBIT E**

---

**Subject:** FW: D R Horton i\$ on the rope\$. ....

**From:** pat missud [mailto:missudpat@yahoo.com]

**Sent:** Wednesday, September 21, 2011 2:28 PM

**To:** jodou@wshblaw.com; mroose@wshblaw.com; cgilbertson@wshblaw.com; LMarquez@wendel.com; GMRoss@wendel.com; Dewey.Wheeler@McNamaraLaw.com; Tanner.Brink@McNamaraLaw.com; Christopher.Lustig@McNamaraLaw.com; trg@mmker.com; ehuguenin@greenhall.com; law@nivensmith.com; Thomas B Montano; eising@gibsondunn.com; james.strother@wellsfargo.com; raymond.m.lynch@wellsfargo.com; eric.mcluen2@wellsfargo.com; Amy.anderson@calbar.ca.gov; Adriana.burger@calbar.ca.gov; myuen@sftc.org; adonlan@sftc.org; bcompton@sftc.org; itservicedesk@nvcourts.nv.gov; aginfo@ag.state.nv.us; ncdinfo@judicial.state.nv.us; judcom@govmail.state.nv.us; HawkinsJ@clarkcountycourts.us; TommasinoJ@clarkcountycourts.us; Dept11LC@ClarkCountyCourts.us; KutinacD@clarkcountycourts.us; GambleL@clarkcountycourts.us; ncjinfo@judicial.state.nv.us; davidc@nvbar.org; kimberlyf@nvbar.org; ecartwright@ag.nv.gov; Attorney.General@state.mn.us; mscodro@atg.state.il.us; ACheng@sftc.org; kdrake@meyersnave.com; dinness@meyersnave.com; bstrottman@meyersnave.com; scott@mckayleonglaw.com; bfasuescu@sanmateocourt.org

**Cc:** nick.timiraos@wsj.com; Robbie.Whelan@wsj.com; sboyer@hearst.com; Scott.Glover@latimes.com; Scott.Gold@latimes.com; sdean@click2houston.com; hsmith@reviewjournal.com; snishimura@star-telegram.com; asorci@sacbee.com; Scott.Reckard@latimes.com; sosdnews@uniontrib.com; estanton@bloomberg.net; Anne.Tergesen@wsj.com; stevebrown@dallasnews.com; tellis@dallasnews.com; thorner@sptimes.com; tom.petruno@latimes.com; tshaffer@attorneygeneral.gov; ryan.vlastelica@thomsonreuters.com; wargo@lasvegassun.com; trigaux@sptimes.com; mvansickler@sptimes.com; vacaville@thereporter.com; jwasserman@sacbee.com; ivy@zelmanassociates.com; bwillis@bloomberg.net; dawn.wotapka@dowjones.com; lmorgan@sptimes.com; amoss@nctimes.com; mslawny@seekingalpha.com; national@nytimes.com; peter\_coy@businessweek.com; president@nytimes.com; jim.puzzanghera@latimes.com; publisher@nytimes.com; readers@forbes.com; realestate@nytimes.com; ruth.simon@wsj.com; feedback@mysanantonio.com; ryan.vlastelica.reuters.com@reuters.net; carrick.mollenkamp@wsj.com; liz.rappaport@wsj.com; robin.sidel@wsj.com; Aaron.Lucchetti@wsj.com; contact-editorial@seekingalpha.com; jess.bravin@wsj.com; constance.mitchell-ford@wsj.com; peter.grant@wsj.com; angela.pruitt@dowjones.com; nick.vonklock@dowjones.com; Rick.Brooks@wsj.com; eamon2@bloomberg.net; william.rempel@latimes.com; mj.good@yahoo.com

**Subject:** Fw: D R Horton i\$ on the rope\$. ....

Joel-

\$\$\$Giorgi\$\$\$ reconfirmed entry of \$\$\$Don Horton'\$ \$i\$ter \$tate Judgment right?

[ More tomorrow. I'm looking forward to DHI'\$ financial evisceration.

Say Hi to Donald and his judge\$\$\$\$\$ for me.

Patrick

--- On Wed, 9/21/11, pat missud <missudpat@yahoo.com> wrote:

From: pat missud <missudpat@yahoo.com>

Subject: D R Horton i\$ on the rope\$. ....

To: josh.levin@citi.com, dan.oppenheim@credit-suisse.com, michael.rehaut@jpmorgan.com, david-i.goldberg@ubs.com, nishu.sood@db.com, \*\* FISMA & OMB Memorandum M-07-16 \*\*rstevenson@peoplemanagement.org, steve.east@csfb.com, mross@bgbinc.com, gs-investor-relations@gs.com, Buck.Horne@RaymondJames.com, ivy@zelmanassociates.com, bberning@fppartners.com, chris.hussey@gs.com, joshua.pollard@gs.com, arjun.sharma@citi.com, jacqueline.merrell@gs.com, jason.a.marcus@jpmorgan.com,

cbrian@tradethetrend.com, rob.hansen@db.com, jesse.arocho-cruz@db.com, jonathan.s.ellis@baml.com,  
kenneth\_zener@keybanccm.com, jrahmani@kbw.com, jay.chhatbar@baml.com,  
william.w.wong@jpmorgan.com, kisha.rosario@jpmorgan.com, inquiries@guggenheimpartners.com,  
karen.frenza@gs.com, william.alexis@credit-suisse.com, michael.dahl@credit-suisse.com,  
kim@zelmanassociates.com, christina.c.lo@jpmorgan.com, angela.pruitt@dowjones.com,  
nick.vonklock@dowjones.com, george.stahl@dowjones.com, cbrian@mymartrend.com  
Cc: "brian wargo" <wargo@lasvegassun.com>, 5newsdesk@kvvu.com, "ed vogal"  
<evogel@reviewjournal.com>, gramalho@kvbc.com, kbencze@ktnv.com, 8onyourside@klastv.com,  
hsmith@reviewjournal.com, producers@ktvn.com, desk@ktnv.com, apacker@reviewjournal.com,  
jedwards@reviewjournal.com, jgreene@kvbc.com, mlyton@klastv.com, adhopkins@reviewjournal.com,  
news@krnv.com, kelley@lasvegassun.com, rcomings@klastv.com, khoward@reviewjournal.com,  
mhiesiger@reviewjournal.com, kmovesian@ktnv.com, "v miller" <VMiller@lvbusinesspress.com>,  
newsdesk@klastv.com, cy@lasvegassun.com, Patrick.Coolican@lasvegassun.com,  
richard.serrano@lasvegassun.com, cgeer@reviewjournal.com, bhaynes@reviewjournal.com,  
mblasky@reviewjournal.com, fgear@reviewjournal.com, dkihara@reviewjournal.com,  
dmcmurdo@reviewjournal.com, fmccabe@reviewjournal.com, lmower@reviewjournal.com  
Date: Wednesday, September 21, 2011, 12:24 PM

..... and I'm dancing like a butterfly, and sting like a scorpion:

"The 9th U.S. Circuit Court of Appeals in San Francisco said a lower court erred in concluding the homeowners lacked standing to sue defendants, including Beazer Homes USA Inc, DR Horton Inc, Lennar Corp, PulteGroup Inc's Centex Homes and Ryland Group Inc."

<http://www.baltimoresun.com/business/sns-rt-us-homebuilders-rulingtre78k545-20110921,0,825442.story>

"Writing for a 9th Circuit panel, Judge Betty Fletcher said the plaintiffs may file an amended complaint to show a sufficient link between the defendants' actions and the resulting economic harm. She returned the case to a federal district court for further proceedings."

As chance would have it, I'm drafting that very document today. It will go out to the consumer attorneys, law enforcement, and 1500 media contacts.

Patrick

Patrick

**EXHIBIT F**

-----Original Message-----

From: pat missud [mailto:missudpat@yahoo.com]  
Sent: Monday, April 28, 2008 6:42 PM  
To: Leonard E. Marquez  
Subject: criminals and incarceration

Mr. Marquez,

Please tell your former clients that it only takes minutes these days to inflict substantial economic damage to their RICO operations.

Let my intent be very clear... The criminals will never enjoy the fruits of their illegal operations. I will eviscerate their company, deplete their vast bank accounts, destroy their reputations and hopefully cause as much psychological and physiological damage to them as they have to thousands of better Americans.

Sincerely,

Patrick Missud,

-Son of a mother who was shot at in Europe while Hitler's Panzers were cruising through France, and of a father whos relatives were slaughtered during the Tunisian revolution.

Taking on this \$8B corporation is nothing. You just need a little perspective.

This e-mail message is confidential, is intended only for the named recipient(s) above, and may contain information that is privileged, attorney work product or exempt from disclosure under applicable law. If you have received this message in error, or are not a named recipient(s), you are hereby notified that any dissemination, distribution or copying of this e-mail is strictly prohibited. If you have received this message in error, please immediately notify the sender by return e-mail and delete this e-mail message from your computer. Thank you.

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IRS Circular 230 Disclosure: As required by U.S. Treasury Regulations governing tax practice, you are hereby advised that any written tax advice contained herein was not written or intended to be used (and cannot be used) by any taxpayer for the purpose of avoiding penalties that may be imposed under the U.S. Internal Revenue Code.

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**EXHIBIT G**

Patrick Missud  
Attorney at Law  
91 San Juan Ave.  
San Francisco, CA, 94112  
415-384-7251 office/fax  
415-845-5540 cellular

April 15, 2008

Wood, Smith, Henning and Berman LLP  
c/o Joel D. Odou  
7670 West Lake Mead Blvd., Ste. 250  
Las Vegas, NV, 89128-6652

Re: A551662  
Via: Fax 702-253-6225

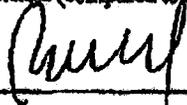
Dear Mr. Odou,

Its my great pleasure to again hear from you. In our former matters you and all your Sesame Street friends made things very difficult and expensive for me in court. In response, my solution was to make my puny personal grievance 10,000 times more expensive for Elmo and Grover (Horton and Tomnitz). In only a few short months after changing strategies, lets just say that I made things somewhat *difficult* for your *multi billion dollar clients* and their eight known attorneys working on that case. Have I mentioned that my legal team is *now even larger* than theirs? I literally can't even begin to tell you about the federal and state authorities chomping at the bit to get a piece of the action. All these guys make it look like a *sexun* or scene out of Cops™,.....bad boys, bad boys.....

We both know that your firm will challenge the validity of the services in A551662 and has already scheduled other silly delay tactics. I will either get local Nevada representation or pay for the bond out of my multi million dollar cut from CV 592. As before, my reaction is to make things horrendously expensive for the brothers from Deliverance™ outside of court. Its now again time to sponsor as many class actions regarding construction defects, misrepresentations and fraud as possible, and to inform wall street, the fed, state attorneys general, consumer groups, activists, the media.....of my progress. To make it time efficient for me to oppose your many motions, I might as well continue locally with another Nevada class action for fraud and deceptive trade practices for tying DHI Mortgage to sales of homes. The complaint is already 110% written and will parallel the San Diego filing. All I have to do is delete the Sherman antitrust claim and select five or ten representative plaintiffs from the hundred or so in my Nevada file. Well done, my second puny grievance has now increased at least 100 fold. That strategy of demanding a bond was quite the coup de gras.

All individual attorneys' contributions in furtherance of well documented D R Horton fraud and other crimes will ultimately be nationally exposed. Your firm will of course receive dishonorable mention and recall that you have already perjured yourself in statements to former Deputy Commissioner Eckhardt. I've lost count of the *hundreds* of victims within my nationwide database which support the rampant criminality at D R Horton, aka Baron II, and could make our affairs front page news. Despite all my media contacts however, I have muted myself in not having jettisoned this out from its bag. Tell the hicks in Texas I will stop once they are saugging with Skilling and Fastow.

Always inviting a challenge (compared to thermodynamics, this just isn't),



Patrick Missud, TDF

[www.drhortonsucks.info](http://www.drhortonsucks.info) and 14 interlinked sites visited by tens of thousands  
Encl.

Cc: Wall Street, Institutional Investors.

**EXHIBIT H**

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
missudpat@yahoo.com

August 8, 2009

Att'n: Defendants and Agencies

Re: Missud v. DHI et al, RICO and Conspiracy to commit RICO

Via: Certified, and e-mail: [dennis.barghaan@usdoj.gov](mailto:dennis.barghaan@usdoj.gov), [greener@sec.gov](mailto:greener@sec.gov)

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Attention Defendants, Agencies and Federal Agents,

This is notice of an imminent RICO and conspiracy to commit RICO suit naming:

RICO operating D R Horton Inc. [DHI] and DHI Mortgage;

Aiding and abetting federal judges Roger Benitez and Sandra Armstrong;

Former South Carolina Magistrate and DHI under the table employee Curtis Coltrane;

Former Nevada Deputy Commissioner and DHI under the table employee Susan Eckhardt;

Criminally enabling defense firms Wendell Rosen Black and Dean, Wood Smith Henning and Berman;

Felonious DHI in house counsel/board members Morice, Buchanan, Buschacher, Galland, Harbour; and

Non feasant State Bars of California, Nevada and Texas.

[  
Syndicated media will first receive copies of the complaint with supporting evidence long before the defendants' summons are served. The following are just the facts, supporting the case for judicial corruption, official corruption, and ethics violations by state Bar members and associations. A limited assortment of official government admissions/records and registered judicial decisions are enclosed or cited, or internet links to web accessible information are provided, or hard copy evidence enclosed with my certified March 18, 2009 letter which you have each positively received. This current letter will soon be posted to [www.drhortonsjudges.info](http://www.drhortonsjudges.info) for media's and Americans' ease of access. My intent is to ruin the reputations of the named individuals and corporations and to expose the various governmental entities responsible for DHI's predatory lending which has cost 300 million Americans trillions of dollars in bail outs while allowing the corporate elite to avoid 'justice.' The compassion that I will now show the named defendants will be similar to that shown by the DHI corporation and its officers towards its own consumers. Every defendant who has "dealt with the devil" will now become a victim of DHI's own corporate fraud and hopefully lose as much as the hundreds/thousands of preyed on, foreclosed and bankrupted DHI consumers found nationwide. Markopoulos exposed Madoff's ponzi scheme which injured only thousands of private investors and several large funds. I plan to expose the miscreants who have caused catastrophic worldwide economic losses.

#### Rampant Builder/Affiliated Lender RICO:

On July 1, 2009, 8<sup>th</sup> largest builder/affiliated lender Beazer Homes signed a deferred prosecution agreement, admitted to predatory lending/mortgage fraud, and agreed to \$50 Million in consumer restitution. The FBI, SEC and HUD agreed to settle in lieu of prosecuting "Beazer's participation in a scheme designed to increase its mortgage company's profits and sell homes, ... arranging larger loans that consumers could afford, ... fraudulently inflating home prices to offset (incentives)," generally inflating interest rates on the back end, and intentionally overstating consumer income to qualify for home purchases. <http://charlotte.fbi.gov/dojpressrel/2009/ce070109.htm> Scores of Beazer's consumers have been foreclosed on and bankrupted. Hundreds more have been financially ruined.

Ryland, KB and Hovnanian Homes and others have also similarly been found involved in antitrust and predatory lending.

[http://www.ctwinvestmentgroup.com/fileadmin/group\\_files/CtW\\_Inv\\_Grp\\_to\\_DR\\_Horton\\_Board.pdf](http://www.ctwinvestmentgroup.com/fileadmin/group_files/CtW_Inv_Grp_to_DR_Horton_Board.pdf)

D.R. Horton's [DHI] sales volume is FOUR times as great as Beazer's and qualifies for a minimum of \$200 Million in consumer restitution. Hundreds of official government documents and hundreds more consumer emails in my possession prove the losses with absolute certainty. Hundreds of DHI's consumers have been foreclosed on and bankrupted. Thousands more have been financially ruined. All indications however are that the DHI elite will skate and the white collar criminals will never have to answer for crimes that minorities and small fish regularly pay for....and 'justice' for all.

#### HUD's Request for my DHI Predatory Lending File:

On July 19, 2006, HUD Director Ivy Jackson personally requested my then small file regarding DHI's regional predatory lending occurring throughout California and Nevada. I was happy to oblige and quickly sent her the documents.

On November 19, 2006 AP syndicated real estate columnist Ken Harney then printed "Builder-lender partnerships draw HUD eye." Within that article he wrote "the statute police have begun intervening in complaints brought by individual consumers who say builders are unfairly forcing them to use their affiliated mortgage companies." The following paragraph then begins to detail the same identical stories that I had sent certified to HUD's Director Jackson. <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/11/19/REG7TMEK8A1.DTL>

#### Judicial Furtherance, Assistance and Enablement of DHI's RICO:

On June 8, 2009, the U.S. Supreme Court ruled that West Virginia's judge Benjamin should have disqualified himself from an appeal of a \$50 million jury verdict against Massey Energy Co because the coal mining company's CEO had been one of his major campaign donors. Benjamin's swing vote predictably favored Massey Energy which had contributed \$3M to his re-election. <http://www.reuters.com/article/domesticNews/idUSTRE5573RU20090608>

In June 2006, South Carolina's "Special Magistrate" Curtis Coltrane twice cited DHI's corporate special interests to trump a community's and couple's First Amendment Right to speech and assembly at Beaufort's traditional public forums. [06-CP-07-1658,2224 and [http://www.drhortonhomeofhorrors.info/South\\_Carolina.html](http://www.drhortonhomeofhorrors.info/South_Carolina.html)] However, another Magistrate not on DHI's payroll properly ruled against DHI when it tried to again eliminate the 222 year old right to speech and assembly in Richland County South Carolina. <http://www.wistv.com/Global/story.asp?s=6676111> Now in 2009, according to Southern Carolina's Beaufort bench, Special Magistrate Coltrane is no longer in their service nor even practicing law. Perhaps Coltrane's former DHI income is sufficient to support his lifestyle. His friend of a feather was similarly indicted recently on July 31, 2009, supporting her own lifestyle: <http://www.greenvilleonline.com/article/20090731/NEWS/907310329/0/NEWS01/Beaufort-court-clerk-resigns-after-embezzlement-charges>

In October 2007, Northern District of California Judge Sandra Armstrong quickly closed a DHI predatory lending case which precisely mirrors the smallish \$50 Million Beazer deferred prosecution case. She resoundingly refused the plaintiff's offer to bring dozens (now hundreds) of nationally defrauded consumer contacts to an oral hearing for which there would have been a public record. She ignored a Clark County court finding of fraud and deceptive trade practices by the same defendants, when she should have given that ruling full faith and credit. Judge Sandra Armstrong even dismissed an official police report generated in the ordinary course of business by an officer whose official duty was to accurately document the bombing of the plaintiff/whistleblower's truck at 10:00 PM on August 3, 2007. <http://drhortoncouldhavekilledme.com/index.html> Coincidentally, at 10:00 PM that very same evening, the plaintiff's already month long sponsored internet campaign had informed yet another 1000 people nationally of DHI's RICO. The plaintiff can now point to 200 million reasons why DHI would

want to silence him through fear and intimidation. Perhaps Armstrong can point to several hundred thousand reasons why she found for DHI. [4:07-02625-SBA]. Most recently on August 11, 2009, this court even entered document number 55 into PACER, misrepresenting that it was "filed" by the whistleblower's wife despite her non-involvement in these DHI RICO related matters, and to somehow taint her as a licensed attorney. The northern district's federal judiciary has now taken its own official retaliatory judicial action to prevent a federal informant from truthfully informing government and the public of DHI's nationwide crimes in contravention of CFR Title 18, Section 1513(e). <http://www.law.cornell.edu/uscode/18/uscode/18 USC sec 18 00001513-000.html> Another questionable directed verdict by Armstrong is her dismissal of big money tobacco companies in a suit which should have been the seventh in a row favoring consumers. By the time that she ruled in December 2003 to break the consumer win streak, it was common knowledge that tobacco companies manipulated nicotine levels and hooked kids into smoking. <http://stic.neu.edu/ma/3macomplaint.htm> and <http://www.tobacco.org/articles/lawsuit/conley/> Yet another very questionable ruling is when Armstrong recently refused to accept a settlement agreement which would have required nearly \$1.2M in fines and the shuttering of a biotech business. Rather than let those expensive conditions happen, Armstrong did not accept the settlement but instead required the prosecutors to strike a new deal with the wealthy entrepreneur. <http://www.law.com/jsp/article.jsp?id=1202423114944>

In March 2009, Bush Jr's hand picked corporate-favoring Judge Roger Benitez, who believes that an unregulated DHI has nothing but consumers' best interests in mind, compelled arbitration for five blatantly defrauded DHI predatory lending victims. The victims' communities were separated by nearly 500 miles, with their DHI originated mortgages issued by different branch offices. A DHI corporate insider from Texas, 1500 miles away, also confirmed that DHI Mortgage's policy in Texas, as well as in California, Nevada, Virginia, Florida, Oregon, Washington, Illinois, Colorado..... is to require consumers to use DHI's affiliated lender otherwise lose their thousands in deposits. On May 20, 2009, the consumer advocacy group Public Citizen printed "Home Court Advantage, How the Building Industry Uses Forced Arbitration to Evade Accountability" <http://www.fairarbitrationnow.org/uploads/HomeCourtAdvantage.pdf> In the very well researched 53 page document citing 340 sources, Public Citizen determined that arbitration is overwhelmingly effective for corporations which keep arbitrators in business by requiring consumers to capitulate to boilerplate and unconscionable mandatory arbitrations clauses. Indeed, this was the very same finding in document #24 which was timely submitted into evidence. The undeniable mathematical statistics from both these documents are that forced arbitration costs consumers even more money than they have already lost in the original fraud. I have a second and third DHI corporate insider /informant who also agree with the first that DHI illegally ties home sales to mortgage services. There were many ample grounds for invalidating the arbitrations clause. After all "arbitration agreements are favored and 'shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law OR IN EQUITY for the revocation of any contract.'" [3:08-CV-00592-BEN-RBB, Order to Compel Arbitration, page 4, lines 13-15]. Under contracts 101, fraud and non-mutuality rescinds contracts and clauses. Any contract in which fraud is contemplated is also an illegal unenforceable contract. DHI could not have contemplated that contractual fraud would have to be arbitrated under terms of the agreement. Benitez's decision to force arbitration on these already once defrauded consumers is either incompetent or corrupt.

#### Federal Cover up of 5 years notice of DHI's RICO :

I can prove a HUD cover up in three different ways. Said cover up is to suppress the information which HUD should have acted on five years ago to prevent our currently growing \$3,000,000,000,000 bail out caused by rampant mortgage fraud and predatory lending.

1. On December 31, 2008 the FTC found 205 pages of responsive records to my FTC FOIA request #2009-00355, which sought predatory lending complaints against DHI and DHI Mortgage. One of the 190 pages that the FTC released even contained one of my complaints copied to and then only forwarded by the DOJ. In fact, the FTC recorded about 9 of my complaints and updates that I had sent by certified mail. My predatory lending complaints were among 44 others from 16 other states. All of the FTC's records which I sent were received as carbon copies of letters sent *directly* to HUD. Ironically, HUD has not been able to find *any* of my or any others' complaints in its own archives. HUD though is the primary regulatory

authority to receive, TILA, RESPA and mortgage fraud complaints not only from myself, but from at least 16 other DHI market states.

2. On February 6, 2009 HUD's Office of the Inspector General sent a letter in reply to my HUD FOIA request which sought information regarding predatory lending by DHI, this country's single largest builder/affiliated lender. Their research indicated that there were "no responsive records" to problematic DHI and DHI Mortgage transactions. However, three weeks later on February 27, 2009, HUD miraculously managed to find nearly 7700 administrative records proving builder/affiliated lender fraud against consumers in case 08-CV-01324-AJT-TCB. Then on April 30, 2009, after my second FOIA request again seeking this exact type of information, or a copy of the 7700 administrative records, HUD reiterated the position that it had no responsive records.

3. On March 12, 2007 at 03:24:10 PM clerk 03 accepted and scanned both bar coded certified packages 7006 2150 0001 1108 5058 and 5065 into a computer at the Onondaga Post office. Both 5 ounce packages containing 30 double sided pages of proof of DHI's predatory lending were addressed to HUD and the FTC in Washington DC 20580. The computer generated receipt #0567830036-0096 is also logged into the computer as Bill #1000402285364. This paper receipt was printed seconds after all this computer information was instantly registered within the USPS database. Inexplicably, when one tries to track the packages on usps.com, there is now "no record" of 60 pages of tips to HUD/FTC which could have pre-empted our economic crisis directly linked to predatory lending and mortgage fraud.

4. To this day, my HUD FOIA request remains unfulfilled despite new FOIA guidelines which claim to provide more transparency in obtaining just such government records. I have yet to receive a single document from HUD, the federal agency commissioned to prevent predatory lending and to archive just such records.

#### State Agent Furtherance and Enablement of DHI RICO:

On June 1, 2006, Nevada's Deputy Commissioner for Mortgage Lending Susan Eckhardt finally replied to my third subpoena demanding a written explanation as to why she did not investigate DHI Mortgage despite my having forwarded 20 separate instances of predatory lending to her office. By Nevada state law she was to have provided her answer, without the necessity of any subpoenas, and within 90 days submission of my complaint. Within her 9 month delinquent answer she essentially stated that although she issued five licenses to DHI Mortgage, her office could not regulate the company. Twenty six days later, Nevada's Attorney General informed me that they were searching for her replacement and if I could send them my file. Today, Las Vegas is the foreclosure capitol of the world, with 1 in 68 homes already foreclosed or in the process of foreclosure. Susan Eckhardt is responsible for millions in losses and the bankruptcy of thousands in her own city. I believe she left town and sought employment elsewhere.

<http://www.drhortonfraud.com/>

In East Hempfield Pennsylvania building code official passed rampant, notorious, non code compliant construction defects in favor of DHI. When third party inspectors were asked to review DHI's construction, the massive defects were easily spotted and the County's code official rapidly terminated.

[http://www.donaldhortonisacrook.info/Pennsylvania\\_S.html](http://www.donaldhortonisacrook.info/Pennsylvania_S.html)

#### Other rampant DHI RICO:

The FBI found Beazer type appraisal fraud in DHI's Virginia's Rippon Landing.

<http://www.washingtonpost.com/wp-dyn/content/article/2007/12/17/AR2007121701993.html> DHI's

fraudulent appraisals also extended to Florida. <http://www.publicintegrity.org/articles/entry/1265/> DHI's fraudulent appraisals also extended to Nevada where consumers have stated that the base price of their homes would increase if outside financing was secured. One example being that a home would cost an additional \$53,000 if the purchaser/mortgage agent brokered his own loan. A second example being that the base price was so inflated that outside lenders would not finance and the buyer had to close with the much more expensive DHI Mortgage by default. Other (English as a second language) Nevadans have also had their homes reappraised only to find that they had been swindled at the time of their purchase. About half of that community is now bankrupted.

DHI transfer tax evasion was discovered in Pennsylvania's Village Grande development. DHI of course had the home buyers pay for their upgrades. Those same upgrades however were conveniently omitted

from transfer taxes when it came time for DHI to pay the state tax.

<http://www.donaldtomnitzisacrook.com/>

DHI mischaracterizes its work force to *evade payroll taxes* in New Jersey.

[http://www.nj.com/news/index.ssf/2008/03/carpenters\\_union\\_sues\\_builder.html](http://www.nj.com/news/index.ssf/2008/03/carpenters_union_sues_builder.html) DHI did the same in Punta Gorda Florida. [http://jacksonville.com/tu-online/stories/021704/met\\_14837472.shtml](http://jacksonville.com/tu-online/stories/021704/met_14837472.shtml)

DHI forged special inspections records for structural components in Yuba County California.

<http://www.appeal-democrat.com/news/brown-49525-homes-county.html>

Arson is suspected in DHI's money losing Paramount condominium project in San Diego and another in Vacaville California.

<http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/01-19-2007/0004509366&EDATE=>

DHI misrepresentation in all 27 market states concerning land misrepresentation, warranty and construction defects.

<http://www.complaintsboard.com/complaints/d-r-horton-c219874.html#c393078>;

[http://www.consumeraffairs.com/housing/dr\\_horton.html](http://www.consumeraffairs.com/housing/dr_horton.html); and starting on page 35 at

<http://ftp.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>

#### SEC violations:

The SEC has logged complaint HO1042390 in its archives concerning DHI's accelerated closing and threatened deposit forfeiture on an incomplete home to qualify for that quarter's earnings. The house was ready for move in 3 months later in the next quarter. Apparently, that consumer's neighbor also suffered the same fate. Likely scores or hundreds of others had to pre pay for homes they could not live in because Tomnitz' email directives to DHI agents were to meet sales goals every quarter, at all costs, by whatever means to increase stock valuation and outperform peers'.

[http://www.donaldtomnitzisacrook.info/Tomnitz\\_Emails.html](http://www.donaldtomnitzisacrook.info/Tomnitz_Emails.html)

During the recent 2009 2d Qtr earnings conference call, CEO Donald Tomnitz made material misrepresentations to shareholders in claiming that DHI Mortgage "does an excellent job underwriting mortgages and the related risk associated with it..." This despite an overwhelming mountain of proof that he has personal knowledge to the contrary which brings us to DHI's predatory lending....

Rampant DHI predatory lending/mortgage fraud in 17 states according to the FTC's own files, 20 states according to my even more extensive files, and all 27 of DHI's market states by simply surfing the web: "d r Horton predatory lending" or "d r Horton mortgage fraud."

[http://www.drhortonhomesstink.info/FTC\\_Records.html](http://www.drhortonhomesstink.info/FTC_Records.html)

My own very extensively documented case for which DHI has already produced documents and admissions has yielded blatant DHI lies. DHI had my loan positively and internally approved yet sent me a fraudulent federally certified letter claiming that I had breached their contract of adhesion by "not fulfilling DHI Mortgage's requirements" or becoming "fully approved." The reason for their fraudulent predatory letter informing me that they would retain my deposits and cancel my contract was because I instead 'chose' to finance with Wells Fargo. The greedy DHI board of directors who crafted their antitrust corporate policy leaving consumers no choice in lenders, would not "earn" a mortgage origination commission from me nor be able to resell my loan for their corporation's bottom line. In FACT, Las Vegas DHI Mortgage agent Michael Mason first claimed in two successive letters that I was "approved," then only "preliminarily approved," then "not approved" in a fraudulent statement to DHI's under the table employee and former Nevada Deputy Commissioner, then finally "approved" in California court documents to evade jurisdiction which would have come by way of lying to the California court. Clark County Nevada case #A551662, San Francisco Superior #05-447499, and <http://www.drhortonconfidential.com/id2.html>

In Betsinger, four other Las Vegas DHI agents have already been civilly liable for fraud. [#A503121]. The four criminally acting DHI agents are in addition to the agents involved in my case and several more who

are also pervasively found throughout the 190 pages of FTC responsive records. It would seem that all the Las Vegas DHI Mortgage agents were following the same nationwide predatory lending scheme originating from DHI's Fort Worth boardroom just as declared by DHI corporate insiders.

The retaliation that DHI has taken against me as a federal informant in nationally exposing their vast predatory lending and mortgage fraud has occurred four documented times, the last by car bomb. [<http://drhortoncouldhavekilledme.com/index.html>]. My information and scanned certified letters are posted in 16 web sites on the web which have by now been seen by over a million Americans. <http://ftp.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>, <http://www.drhortonconfidential.com/>

#### DHI defense attorney perjury:

In California, Wendel Rosen Black and Dean attorneys perjured themselves twice to the San Francisco Superior Court, the first time by falsely claiming to have contacted me for an ex parte hearing.

<http://www.drhortonconfidential.com/id2.html>

In Nevada, Wood Smith Henning and Berman attorneys have perjured themselves three times denying the receipt of certified mail, making false statements to the former DHI corrupted Deputy Commissioner Eckhardt, and in mis-stating a court ordered form of order.

<http://www.drhortonconfidential.com/id3.html>

In Texas, 5 DHI board members who also happen to be attorneys have been repeatedly notified of discovery of their boardroom originated predatory lending yet have done nothing to stop it.

<http://www.drhortonconfidential.com/id5.html>

DHI in house counsel's exhibit G in case 08-CV-01324 boldly claims to have "high customer mortgage origination satisfaction." DHI even offers a single letter by a happy customer as proof. The truth though is that DHI ranks slightly better than predatory lenders Ryland and Countrywide. That information was compiled by independent third party JD Power and Associates and posted to the web.

<http://www.idpower.com/corporate/news/releases/pressrelease.aspx?ID=2007166#2007166e> (Note that the hyperlink to the hard data no longer works, although there are calls to it which pervasively exist throughout the web. This information is being suppressed so instead, a hard copy record was printed before all the damning data disappeared and was sent in support of my March 19, 2009 letter.) Rather than a single letter in support of DHI's "satisfactory mortgage origination," I offer 44 from the FTC records, and hundreds more from my own archives, all of which claiming that DHI is a predatory lender in at least 20 of DHI's 27 market states.

#### State Bar Non feausance:

The California bar has been repeatedly notified of California attorneys taking part in DHI's RICO furthering nationwide mortgage fraud, yet has taken no action.

The Nevada bar has been repeatedly notified of Nevada attorney mis-conduct which has enabled DHI's nationwide mortgage fraud, but has taken no action.

The Texas Bar's non feausance starts on page 23 of <http://ftp.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf> Several certified letters were posted to all these organizations.

To date the TX state bar has taken no action against five DHI general counsels and board members who have orchestrated the nationwide predatory lending which has contributed to the world's financial melt down.

#### Conclusions:

Every single system and organization meant to protect consumers from DHI's predatory lending has completely failed them. This has in part resulted in the current \$3 Trillion recession/depression. DHI is the largest builder/affiliated lender which has the highest captive capture percentage whereby its in house affiliated lender DHI Mortgage finances DHI home sales at the astounding 95% rate. [DHI's 10K]. This is the highest among all the builders, however, DHI Mortgage's origination satisfaction is among the lowest of all the builders and just slightly better than Countrywide and Ryland, two mortgage originators already having been found to write predatory loans. Hundreds of nationwide consumers have filed complaints regarding DHI's predatory loans with various organizations including the FTC for years. FTC records show that at least 44 consumers from at least 17 states have claimed that DHI Mortgage originates predatory loans. Federal and state courts have been deluged with predatory lending complaints against

DHI and DHI Mortgage for years. DHI and DHI Mortgage agents Ward, Callihan, Martinez, Mason, Schankin, Collins, Frasure, Knobloch, Yow, Trembly, Branecki, Rivera, Brockway, Pena, Costello, Zenner, Toelle, Howe, Casner, George, Williams, Buckler, Stowell, Grether, Toth, Wolf, Buckingham, Romo, Smith, Teamer, Raddon, Hovander, Belding, Lackman, Rhoades, Leona, Bradshaw, Adoni, Christiano, Boslooper, Kelly, Seifrid, Evans, Medeiros, McVay, Nguyen, Koski, Greenberg..... from Nevada, California, Virginia, Arizona, Oregon, Maryland, Texas, Georgia, Colorado, Washington, New Mexico, Illinois.....have each been implicated, some found civilly liable, and others reprimanded for predatory lending. Federal and state agencies are currently covering up their lack of enforcement of consumer protections laws because their liability to the general public is overwhelming. A corrupt Nevada Commissioner has made Las Vegas the foreclosure capitol of the world having decimated property values in that area for every single property owner. Judicial and official corruption in South Carolina's Beaufort and Bluffton Counties is rampant. The federal and state judiciaries have furthered and enabled DHI in fleecing consumers and now American tax payers of their hundreds of millions of TARP funds by time and again favoring DHI's corporate interests over consumers'. DHI's defense attorneys who have taken ethical oaths to not further crimes have nevertheless taken an active role in assisting DHI's RICO. State bars which are supposed to police attorneys have been proven impotent or reluctant to stop the attorneys' criminal acts.

The intent of the forthcoming RICO filing is to provide a permanent record of defendants' roles in assisting the DHI criminal enterprise. Even CEO Tomnitz stated in the second quarter conference call that DHI has "originated billions in loans over the past ten years." Those predatory loans could have been stopped by HUD five years ago, by Commissioner Eckhardt three years ago, by judge Armstrong two years ago, and by judge Benitez this year. Another reason to file this imminent RICO suit is to trigger defamation claims by the individuals or disbarment proceedings by the defendant organizations. Once these have been initiated, I can blindly reach into my file cabinet, withdraw several hundred recounts of DHI's predatory lending, prove every single allegation with certainty and achieve the public exposure that I now require. Know that DHI sued the Scripps Broadcasting Corporation in 1999 for far less negative exposure than I have already brought them, yet DHI doesn't attempt to sue me for fear of additional exposure. [99-CV-196]. DHI filed a SLAPP suit against consumers in Safe Homes Nevada but lost to an honest judge applying the First Amendment. [http://www.reviewjournal.com/lvrj\\_home/2003/May-29-Thu-2003/business/21422432.html](http://www.reviewjournal.com/lvrj_home/2003/May-29-Thu-2003/business/21422432.html) DHI twice filed injunctions preventing speech in South Carolina and was only successful because judge Coltrane was on their payroll. The next honest South Carolina judge properly refused DHI injunctive relief and allowed sacrosanct inalienable speech and peaceful assembly to continue as it has for 222 years.

To the federal judges receiving this transmission: As an attorney I am supposed to respect court rulings. I have completely disrespected yours, linked your decisions to corruption or incompetence, already contacted media, and should be disciplined with contempt of court. Not taking this step would be seen as a tacit admission or an adoption of the allegations by silence.

To the state bars receiving this transmission: As an attorney I am supposed to follow ethical codes of conduct. I have in many instances not followed those canons. You should each initiate an investigation into my actions. Not taking this step would be seen as a tacit admission or an adoption of the allegations by silence.

To the federal agents receiving this transmission: In the Beazer deferred prosecution, the DOJ states that indicting the principles at Beazer is not a consideration because it employs 15,000 individuals and would have a detrimental effect on unemployment. This is not the case since the builders generally hire sub contractors and have few corporate employees. DHI's Donald Tomnitz is on record during the Q2 2009 conference call claiming that his company, the largest of residential builders, employed only 2,900 people. There would be a negligible, if any, net loss in jobs if DHI were to completely fold. DHI's market share would be easily absorbed by over 15 of its competitors which would be happy to see it go, employ some of its less criminal agents, and hire DHI's leveraged and undercut/over-worked sub contractors. However, a bankrupted DHI would injure the interests of thousands of its victims created through predatory lending, warranty misrepresentation, land sale misrepresentation, construction defect..... so instead I suggest the following. In 2006, Chairman Donald Horton ranked as the 606<sup>th</sup> richest man in the world and should

restore consumer losses from his own pocket. I understand that the entire DHI board was also very well compensated and even received bonuses for defrauding thousands over the course of years. One such director was even Francine Neff, the former U.S. Treasury Secretary hired to peddle political influence on Capitol Hill and meet with Franklin Raines of Fannie Mae infamy.

<http://sec.edgar-online.com/horton-d-r-inc-de/def-14a-proxy-statement-definitive/2005/12/14/Section3.aspx>

[http://seattletimes.nwsource.com/html/business/technology/2004358433\\_webraines18.html](http://seattletimes.nwsource.com/html/business/technology/2004358433_webraines18.html)

Very well established mail fraud and racketeering laws should provide federal agencies with the jurisdiction to take such actions. Since profits from illegal undertakings should be disgorged, I recommend starting with the felons (and former high ranking federal officials) in Fort Worth.

Just the facts, just sue me,

/S/ Patrick Missud

Patrick Missud, Esq. CA #219614

P.S.: 1. Can I have my HUD FOIA request now?

2. The usps positively "accepted" the following in the few seconds after they were scanned into the usps database:

Holder MA & OMB Memorandum M-07-16  
Armstrong -8696; Benitez -8702; Cal Bar -8719.

**In numerous states throughout the Country, local, state and even federal officials have time and again supported D R Horton to the detriment of consumers ..... and perhaps even received a benefit for themselves. See the official documents within. Contact me as below:**

Patrick Missud  
91 San Juan Avenue  
San Francisco, CA, 94112  
415-845-5540  
FAX 415-584-7251  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)

**EXHIBIT I**

Patrick Missad  
Attorney at Law  
91 San Juan Ave.  
San Francisco, CA, 94112  
415-584-7251 office  
415-845-5540 cell

September 22, 2008

Texas Attorney General Greg Abbott  
P O Box 12548  
Austin, TX, 78711-2548

Re: **Texas Penal Code § 31.03. THEFT.**

Via: **Certified Mail** MA & OMB Memorandum M-07-**Mail, Email, World Wide Web**

Attention Attorney General Abbott,

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

The following Texas statute applies as Equally [as in Federal Equal Protections Act] to both Texas' inner city Black, Latino and otherwise minority community, and the white collar Caucasian elite such as Donalds Tomnitz and Horton. Please know that the media will of course receive a copy of (allegations in) this letter, and *official documented court and government proof, facts and evidence*. The aforementioned criminals will not walk away as has the now infamous Angelo Mozillo of Capitol Hill testifying, (formerly) Countrywide fame.

**§ 31.03. THEFT**

(a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

(b) Appropriation of property is unlawful if: (1) it is without the owner's effective consent;

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(e) Except as provided by Subsection (f), an offense under this section is:

(4) a state jail felony if: (A) the value of the property stolen is \$1,500 or more but less than \$20,000;

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; or

(3) the owner of the property appropriated was at the time of the offense an elderly individual.

**Definitions:**

(3) Consent is not effective if: (A) induced by deception or coercion;

(5) "Property" means: (C) a document, including money, that represents or embodies anything of value.

**LEGAL ANALYSIS:**

**(a) Unlawful Appropriation:**

In countless federal districts and states throughout the nation, consumers have *filed court complaints* that DHI has unlawfully appropriated money through deceptive trade practices, fraud, or theft by: repeatedly increasing 'good faith estimates' and closing costs; offering bait and switch interest rates; reneging on 'incentives' including cash discounts or upgrades; misrepresenting taxes, HOA and other yearly dues; inflating appraisals; requiring use of more expensive affiliate DHI Mortgage; promising illusory warranty; substituting materials of lesser quality; misrepresenting the status of transferred or adjoining land and amenities; ..... Several consumers have even already received favorable judgments in these very same regards. A long and varied list of these cases is included as exhibit 1. [Ex. 1].

Internationally *on the web*, and through state building divisions and BBB's, hundreds of consumers have posted similar complaints regarding all of the above. Within my own database, I have dozens/hundreds of similar stories. A very few of these exhibits are included in a condensed version as exhibit 2. Note that the list was compiled as long as a year ago. Many, many more victim statements are available upon your simple request. [Ex. 2].

**(b) Appropriation by ineffective consent:**

In federal districts and states throughout the nation, consumers have *filed declarations* stating that their consent to purchase DHI's homes, upgrades and mortgage products was involuntary and *induced by deception or coercion*. As soon as DHI cashes 'forfeitable' deposits, terms once favorable to the consumer are suddenly changed to benefit DHI instead. Please revisit exhibits 2 and new exhibit 3. [Ex. 3].

**(c)(1) Similar previous participation as evidence of intent:**

Starting February 2004, DHI's Board received certified notice of their attempted theft in my own personal case. Shortly thereafter, I sent DHI evidence of *20 additional consumer-victims* who had actually been defrauded. In September 2005, DHI's chief litigation counsel David Morice submitted a declaration in support of DHI's reply in California case 05-444247 wherein the specifics of the nationwide theft were detailed. Shortly thereafter and for over one year, *dozens more instances of nationwide crime* were brought to DHI's attention. Once again, DHI's chief litigation department acknowledged certified receipt of the dozens of additional fraud. In federal case 07-2625 JL, DHI's CEO Tomnitz and Chairman Horton were each named defendants and received their very own copies of the complaint wherein specifics of their *personal participation* of the nationwide theft was again laid out. DHI was reminded that additional future theft of unwitting consumers would be discovered. *Dozens more instances* of nationwide theft have since been brought to DHI's attention, some as recently as last month. [Ex. 4].

**(c)(2) (Un)corroborated testimony of an (accomplice):**

Many insiders have chosen not to conspire with DHI's Board to avoid becoming accomplices. They have *corroborated* that DHI policy is, and was, to require a minimum profit on DHI Mortgage services which are bundled with home purchases. After consumers sign purchase contracts, home prices increase or decrease depending on whether DHI Mortgage is used. After consumers sign contracts, locked interest rates and incentives increase and decrease

respectively. After consumers sign contracts, origination fees increase and material specs diminish. After consumers sign contracts, ..... DHI gets greedy. Those other *DHI agents who have become the Board's accomplices* have been very prolific and have even corroborated this (allegation). These accomplices have likely defrauded thousands of consumers from Ca, Nv, Fl, Va, Ill, Co, Tx, ..... [Ex. 1,2,3, new 5, many others are available].

**(e)(4) Value of the property stolen:**

In virtually every offense, the value of money stolen or appropriated without effective consent exceeds \$1500. Indeed, specifically for predatory lending victims, the last minute inflated closing costs are usually by themselves *in excess of this minimum felony threshold*. For warranty victims, the value of bonafide but unwarranted repairs nearly always exceeds this amount. For victims of land misrepresentation, damages are in the tens of thousands. For victims of..... The multiple counts of felony theft are anticipated to be in the thousands. [Ex. 1,2,3,5].

**(f)(2) Heightened punishment if contractual relationship with government:**

Mortgage loans are *regulated by HUD, insured by the FHA* and monitored through other various federal and Texas entities. Rules regarding interest rate offers, or their fraudulent manipulation, are regulated by the federal banking committee. The Equal Opportunities Committee ensures that minorities are not discriminated against for said mortgage applications, and the ECOA was enacted to prevent disparate issuance of credit for this group. Just last year, DHI originated 96% of the 41,000 HUD, FHA, FBC, ECOA backed, insured and regulated mortgages, many of which under fraudulent terms, targeting minorities for disparate treatment, and absolutely known about with particularity by both Tomnitz and Horton. [Ex. 2 and new 6].

**(f)(3) Heightened punishment if offense on an elderly individual:**

Back in 2004, Sugarland Tx, fixed income senior Dorina Corrente was promised a 'good faith' 4.018% fixed interest DHI Mortgage originated loan. DHI called her a week before closing to sign the 9% loan they had crafted. Dorina has since had to beg her outside bank to extend the 6% adjustable rate loan which was quickly cobbled together in desperation after DHI's bait and switch. Dorina will even testify under oath in this very regard at the TRCC sunset commission's hearing on September 23, 2008. *For over two years, Tomnitz and Horton were repeatedly notified of this and other similar senior abuses*. I was very clear in warning them through Nevada counsel that if any other seniors were found to have been similarly defrauded, that the "squeal" scene from "Deliverance" would ensue.....; then came the discovery of defrauded fixed income retirees Wilson and Maren. Thankfully, no one took me literally. [Ex. 3 and new 7].

**CONCLUSION:**

In conclusion, I leave you with a riddle: It migrates south for the winter; waddles when walking; floats in water; "quacks" to its brethren when flying in 'V' formations; tastes great when either smothered in orange-currant glaze, or made crispy and served along side scallions in a Peking plum sauce. What is it?

Unless things are 'made right,' I will cause this to become a national scandal eclipsing Enron, MCI, Tyco, Ameriquest, Countrywide, Bear Stearns, Indymac, Lehman Bros, Merrill Lynch, Wachovia, WaMu, Fannie Mae and Freddy Mac (\$25B), AIG(\$85B), ...Goldman Sachs/Morgan Stanley rescues...Mortgage Securities Bailout...+\$700B..... because every single federal entity (and Texas) in a position to act, has had sufficient evidence to act for years to prevent this egregious white collar criminal activity directly responsible for the (near) collapse of international economies.

On behalf of the thousands/millions of Americans deserving of Equal Protections -and not the very, very few white collar DHI millionaires inclusive of Donald Tomnitz and \$1.4B Donald Horton who have to date been above Texas law, Federal law and OUR Constitution,

/s/ Patrick Missud

Encl.

Cc: State Attorneys General; mass media; Wall Street;

U.S. Department of Justice  
C/o Director Robert Mueller  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Federal Trade Commission, Room 240-H  
Consumer Response Center, c/o Donald S. Clark  
Washington, DC, 20580  
FTC Ref. No. 9548361  
#-1093

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*  
Ivy M. Jackson, Director KESPA  
US Dept. of HUD  
Washington, DC, 20410-8000  
# -1109

SEC Complaint Center, c/o Bob Greene  
100 F Street NE  
Washington, D.C. 20549-0213  
# -1116

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

U.S. Department of Justice  
C/o Michael Mukasey  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001  
# -1123

Office of Chief Counsel  
Division of Corporation Finance, SEC  
100 F Street, NE  
Washington, DC, 20549  
# -1130

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Nevada Attorney General Masto  
Grant Sawyer Bldg.  
555 E. Washington Ave Suite 3900  
Las Vegas, Nevada 89101  
# -1147

FBI Field Office, San Francisco  
450 Golden Gate Avenue, 13<sup>th</sup> Flr.  
San Francisco, CA, 94102-9523  
# -1154

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Obama for America  
P.O. Box 8102  
Chicago, IL 60680  
# -1161

John McCain 2008  
P.O. Box 16118  
Arlington, VA 22215  
# -1178

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Gieson, Dunn, Crutcher  
c/o Elizabeth Ising  
Fax: 202-530-9631, 10:00 AM PST

-All other unlimited outlets until justice is finally Equally distributed under the laws.

NOTE: Att'n Federal Agencies: To avoid the resubmission of identical exhibits sent over the course of years, all the above supporting exhibits can be requested either from Attorney General Abbott, or again from my office upon request.

**EXHIBIT J**

**PATRICK MISSUD**  
Engineer/Contractor/Businessman  
Consultant/Unfortunate Attorney  
91 San Juan Ave.  
SF, CA. 94112  
845-5540 Cell

September 21, 2009

Office of the Chief Trial Counsel/Intake  
State Bar of California, c/o Adriana Burger  
1149 South Hill Street  
Los Angeles, CA, 90015-2299

Via: Certified MA & OMB Memorandum M-07-16 \*\*\*

Attention State Bar Agents,

This letter is to memorialize my September 17<sup>th</sup> afternoon conversation with state Bar agent Burger who refused to reduce anything to writing or follow up on my certified complaint #

\*\*\* FISMA & OMB Memorandum M-07-16 received at 9:29 AM on August 28, 2009. Our conversation dealt with the following themes.

**I. State Bar's Non-feasance and Enablement of the Mortgage Meltdown:**

Way back in November 2005, I submitted a complaint with overwhelming evidence to prove court misrepresentations by attorney/co-conspirators from megafirm Wendel Rosen Black and Dean. Marquez, Ross and the Wendel firm were defending predatory lender/fraudulent mortgage originator D R Horton [DHI]. Rather than investigate the attorneys and firm, the Bar passed the buck and required that I myself reach into my pocket, punch the clock and police the co-conspirators in San Francisco's County Court. Since the judge did not want to weigh in on a pissing match, the unethical attorneys and their consumer-crushing corporate defense firm went on and on and on to further DHI's criminal RICO as is very extensively documented within numerous corroborating sources and detailed federal records. To recap the complaint: the attorneys learned of my absence from California, avoided contact with me by cell phone (the number was listed throughout the documents that they themselves submitted in support of their motion) and then scheduled an ex parte hearing just a few hours before my return to conceal evidence of their client's nationwide predatory lending/mortgage fraud/TARP requiring \$3,000,000,000,000 wall street bail out funding paid by 300,000,000 tax paying Americans. Ms. Burger claimed that because I did not get what I wanted then, that I was "bullying" the state Bar now. Exhibits 1.

**ii. Bullying:**

Ms. Burger had the audacity to claim that I, merely one of thousands of individual Bar members, was "bullying" the infinitely more powerful California Bar, the entity which regulates my license, is incorporated, burgeons with attorneys, has in house Chief Counsel, and is capitalized to the hilt. I draw the Bar's attention to exhibits 2 wherein Burger will find real world examples of "bullying:" Melendez/Jenkins who were admonished by \$8B DHI's defense counsel that they "don't have to go in there." "There" was the Beaufort County court house where Magistrate Curtis Coltrane, and DHI's covert employee, would soon rule against their inalienable First Amendment rights. Oh, by the way the Beaufort Bench stated that he is no longer practicing law and thanked me for my corroporation [Spelling Correct]. How about Corrente who has required

that a dozen Texas state agencies intervene on her behalf because \$8B DHI repeatedly promises and then reneges on warranted repairs. She is one of hundreds in my database all of whom confirm *last week's* J D Power's survey that statistically finds for a second year in a row that DHI has the lowest customer warranty satisfaction and greatest number of minor and major construction defects. If the Bar isn't too busy non-feasing, passing the buck, or otherwise sleeping, please visit: <http://www.jdpower.com/Homes> for confirmation that \$8B DHI drags its feet and leaves consumers to make repairs on their own dimes. How about \$8B DHI extorting the Aranov's into consummating increasingly onerous real estate "deals." The base price of Yevginy's home shot up suddenly at closing, just like the interest rate on Eleanora's doubled her monthly mortgage payments. Surprise! Compare this to the English-deficient Yoons and Songs who also put substantial deposits on their \$8B DHI built homes, and then had them "forfeited" because they didn't capitulate to DHI's increasing financially crushing terms. Olga Dodson was told by \$8B DHI that if she didn't sign on the dotted line, that they would steal her \$82,000 and then foreclose on her house to make up the difference. I could add over another hundred stories from my personal archives, append at least 500 emails, or pull out 190 pages of FTC records, but will instead describe how \$8B DHI tried to illegally compel me into their antitrust tying of mortgage services to my home's purchase. After being FULLY approved, the pricks sent a letter stating that because I had "not completed lender requirements" they would "forfeit my deposits." I then immediately flew to Vegas, high on Vicodine prescribed for kidney pain, to MAKE them sell me my home funded by MY chosen lender. *Those* recounts are about fucking bullying. You want more, then just ask.

### III. Harassment:

Ms. Burger claims that my Bar letters sent to her attention amounts to "harassment." Little 'ole \$8B DHI also claimed the same "harassment" in Clark County fraud case #A551662 wherein they produced over 1000 pages of NOTICE which I had sent them regarding \$8B DHI's discovered nationwide predatory lending and other RICO. \$8B DHI's defense counsel again claimed the same "harassment" in California's Southern District of San Diego antitrust case #08-cv-00592 wherein they requested judicial notice of another 1000 documents including "correspondence from plaintiff's counsel, Patrice/Patrick Missud." Those mother fuckers had years long NOTICE of \$8B DHI's nationwide predatory lending and other RICO, conveniently forgot their ethics, assisted \$8B DHI in fleecing thousands of already defrauded DHI consumers a second time, and guaranteed the rip-off of thousands more well into the future. \$8B DHI yet again claimed the same "harassment" in California's Northern District of San Francisco case #07-cv-02625 over two years ago and long before the first \$700M in TARP funds were disbursed from 300,000,000 taxpayers' pockets. Remember that TARP was specifically created in part to pay for \$8B DHI's mortgage fraud/predatory lending which has led to colossal nationwide foreclosures where it "sold" (extorted buyers) the most homes, namely Stockton, Merced, Sacramento, San Diego, Las Vegas..... By the way, the California and Illinois Attorneys General, as well as HUD, the FTC, DOJ, SEC and select media each also received NOTICE, or 800 page files, some USPS certified, containing oodles of contact information for defrauded \$8B DHI consumers found nationwide.

### IV. Regulation:

Ms. Burger claimed that because the files were closed, the Bar could not regulate the licensed malfeasing attorneys. I recall that a certain Nevada Deputy Commissioner came to the same finding regarding DHI's malfeasing agents. Susan Eckhardt was replaced within 26 days of her ridiculous statement. She was the third such State Commissioner found to be on private interests' payrolls. Perhaps she should be shackled and sent to Leavenworth. Exhibit 3.

### V. Appeal:

Ms. Burger told me that my current recourse was to "appeal the Bar's no action decision to the California Supreme Court." Firstly, the SOL puts me sol. Even if I had the opportunity however, the legal System is far too expensive and slow to produce any useful results. In 2004, I brought my and others' DHI consumer fraud information to federal and Nevada authorities to "appeal" for their help. Bush's federal agents were told not to investigate, and by then some Nevada officials were already in the pocket of the 606<sup>th</sup> richest man on the planet, Donald Horton. In 2005, I appealed to California's Superior Court which allowed for dismissal of \$8B DHI's back breaking foreclosure prompting, family bankrupting nationwide RICO for only procedural reasons. I appealed for help in 2006 to 26 other state regulators and again to the fed to stem \$\$\$DHI's\$\$\$\$ white collar criminal grand theft and fraud taking place across state lines and through mail and wire, but nothing was done. In 2007, over one full year prior to the Bear-Stearns/Lehman /Fannie/Freddie financial disasters, I appealed to the northern circuit which had every document required to put a stop to the world's current financial crisis caused directly by the same type of predatory lending that \$8B DHI is renowned for, but for Some reaSon judge ArmStrong ruled in \$8B DHI'S favor. In 2008, I appealed to class action litigators to do what I and apparently everyone else could not do, namely touch the untouchable Donald Horton and his Third Reich. Judge Benitez Saw it DHI'S way yet again despite overwhelming interstate corroboration of fraud. Now in 2009, I have run out of appeals and patience but have rather gone straight to the media to expose the official and judicial corruption. Instead of only crying wolf way back in 2004, I should have been screaming holocaust. Exhibit 4.

#### VI. Conclusion:

Thank you for the further opportunity to prepare exhibits which will be filed in support of my RICO suit naming the Bar, and several officials and judges. Keep in mind that the enclosures are a mere fraction of the documents I possess and have amassed through 18 sites which feature at least 1000 documents available on the world wide web. Since the Special intereSts are too powerful, well connected and enabled by the \$maller fiSh, I absolutely have to expose them (you) instead.

With the greatest sincerity and "To Preserve and Improve our Justice System." [read your fucking Bar cards]

Patrick Missud; ME, CE, GC, JD, last and very least attorney  
Encl.

Cc: Media through the fair reporting exception following RICO suit filing.

Armstrong #...-8795

Benitez #...-8801

**EXHIBIT K**

**From:** pat missud [mailto:missudpat@yahoo.com]

**Sent:** Monday, August 09, 2010 2:35 PM

**To:** dennis.barghaan@usdoj.gov; greener@sec.gov; Melanie.Proctor@usdoj.gov

**Cc:** Joel D. Odou; Patricia J. Peterson; Nadin J. Cutter; itservicedesk@nvcourts.nv.gov

**Subject:** Nevada's proven furtherance of DHI's RICO

Good afternoon all,

State and Federal Agents-

Since its obvious that the criminal directors at DHI are to walk because of their political connections, I am now filing my papers first with the media. We are up to several corrupted commissioners in two states, several corrupted judiciaries in perhaps three states, several corrupted council people from at least 6 states, clear violations of both state and federal laws in 27 states, and very clear retaliation against a federal whistle blower from California. Americans will be protected from Donalds Horton and Tomnitz despite Nevada's best efforts at concealment and suppression.

Also, HUD has not replied to my renewed FOIA request, and the SEC has not yet updated me on compelling DHI to print this year. I trust that those will be in the mail this week?

Mr. Odou and Clerks in Department 11-

Your courtesy copies are attached without the voluminous exhibits. Those can be found on the web or in wiznet. The media has already received their copies. I am awaiting DHI's final fees and costs award for inclusion in Missud v Nevada; Eighth Judicial District Court of Clark County et al.

Very, Very Sincerely,  
Patrick Missud

"To Preserve and Improve Our Justice System in Order to Assure a Free and Just Society Under Law" -Not just for the rich who have destroyed millions world wide.

cc: Media

**EXHIBIT L**

**From:** pat missud [mailto:missudpat@yahoo.com]

**Sent:** Wednesday, April 04, 2012 11:17 AM

**To:** ssmith@meyersnave.com; kdrake@meyersnave.com; dinness@meyersnave.com; bstrottman@meyersnave.com; cryan@hayesscott.com; acalderon@hayesscott.com; wagstaffe@kerrwagstaffe.com; tompkins@kerrwagstaffe.com; mackey@kerrwagstaffe.com; kfeinstein@sftc.org; myuen@sftc.org; Amy.anderson@calbar.ca.gov; Adriana.burger@calbar.ca.gov; adonlan@sftc.org; bcompton@sftc.org; dlok@sftc.org; ACheng@sftc.org; adam@posardbroek.com; Dewey.Wheeler@McNamaraLaw.com; Tanner.Brink@McNamaraLaw.com; Christopher.Lustig@McNamaraLaw.com; trg@mmker.com; ehuguenin@greenhall.com; law@nivensmith.com; bfasuescu@sanmateocourt.org; scott@mckayleonglaw.com; Ising, Elizabeth; tbmontano@drhorton.com; garris@wbsk.com; kider@wbsk.com; souders@wbsk.com; jodou@wshblaw.com; rtodd@wshblaw.com; mroose@wshblaw.com; cgilbertson@wshblaw.com; LMarquez@wendel.com; GMRoss@wendel.com; vhoy@allenmatkins.com; mmazza@allenmatkins.com; jpatterson@allenmatkins.com; cpernicka@allenmatkins.com; cdawson@rdlaw.com; james.strother@wellsfargo.com; raymond.m.lynch@wellsfargo.com; eric.mcluen2@wellsfargo.com; ecs@nvrelaw.com; joseph@josephmaylaw.com; oig@sec.gov; sanfrancisco@sec.gov; dfw@sec.gov; greener@sec.gov; TommasinoJ@clarkcountycourts.us; Dept11LC@ClarkCountyCourts.us; KutinacD@clarkcountycourts.us; nvscclerk@nvcourts.nv.gov; itservicedesk@nvcourts.nv.gov; aginfo@ag.state.nv.us; ncjinfo@judicial.state.nv.us; judcom@govmail.state.nv.us; HawkinsJ@clarkcountycourts.us; GambleL@clarkcountycourts.us; davidc@nvbar.org; kimberlyf@nvbar.org; ecartwright@ag.nv.gov; NVFMP@nvcourts.nv.gov; annie.reding@usdoj.gov; bonny.wong@usdoj.gov

**Subject:** Fw: Missud 2012 SEC 14a8 Proposal for Action Re:DHI (and RICO)

FYI

--- On Wed, 4/4/12, pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)> wrote:

From: pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)>

Subject: Fw: Missud 2012 SEC 14a8 Proposal for Action Re:DHI (and RICO)

To: [josh.levin@citi.com](mailto:josh.levin@citi.com), [dan.oppenheim@credit-suisse.com](mailto:dan.oppenheim@credit-suisse.com), [michael.rehaut@jpmorgan.com](mailto:michael.rehaut@jpmorgan.com), [david-i.goldberg@ubs.com](mailto:david-i.goldberg@ubs.com), [nishu.sood@db.com](mailto:nishu.sood@db.com)\*\*, FISMA & OMB Memorandum M-07-16 \*\*\*; [rstevenson@peoplemanagement.org](mailto:rstevenson@peoplemanagement.org), [steve.east@csfb.com](mailto:steve.east@csfb.com), [mross@bgbinc.com](mailto:mross@bgbinc.com), [gs-investor-relations@gs.com](mailto:gs-investor-relations@gs.com), [Buck.Horne@RaymondJames.com](mailto:Buck.Horne@RaymondJames.com), [ivy@zelmanassociates.com](mailto:ivy@zelmanassociates.com), [bberning@fppartners.com](mailto:bberning@fppartners.com), [chris.hussey@gs.com](mailto:chris.hussey@gs.com), [joshua.pollard@gs.com](mailto:joshua.pollard@gs.com), [arjun.sharma@citi.com](mailto:arjun.sharma@citi.com), [jacqueline.merrell@gs.com](mailto:jacqueline.merrell@gs.com), [jason.a.marcus@jpmorgan.com](mailto:jason.a.marcus@jpmorgan.com),

[cbrian@tradethetrend.com](mailto:cbrian@tradethetrend.com), [rob.hansen@db.com](mailto:rob.hansen@db.com), [jesse.arocho-cruz@db.com](mailto:jesse.arocho-cruz@db.com), [jonathan.s.ellis@baml.com](mailto:jonathan.s.ellis@baml.com), [kenneth\\_zener@keybanccm.com](mailto:kenneth_zener@keybanccm.com), [jrahmani@kbw.com](mailto:jrahmani@kbw.com), [rosteen@kbw.com](mailto:rosteen@kbw.com), [jay.chhatbar@baml.com](mailto:jay.chhatbar@baml.com), [william.w.wong@jpmorgan.com](mailto:william.w.wong@jpmorgan.com), [kisha.rosario@jpmorgan.com](mailto:kisha.rosario@jpmorgan.com), [inquiries@guggenheimpartners.com](mailto:inquiries@guggenheimpartners.com), [jane.wong1@baml.com](mailto:jane.wong1@baml.com), [karen.frenza@gs.com](mailto:karen.frenza@gs.com), [william.alexis@credit-suisse.com](mailto:william.alexis@credit-suisse.com), [michael.dahl@credit-suisse.com](mailto:michael.dahl@credit-suisse.com), [kim@zelmanassociates.com](mailto:kim@zelmanassociates.com), [christina.c.lo@jpmorgan.com](mailto:christina.c.lo@jpmorgan.com), [angela.pruitt@dowjones.com](mailto:angela.pruitt@dowjones.com), [nick.vonklock@dowjones.com](mailto:nick.vonklock@dowjones.com), [george.stahl@dowjones.com](mailto:george.stahl@dowjones.com), [cbrian@mymartrend.com](mailto:cbrian@mymartrend.com), [pchu@fnno.com](mailto:pchu@fnno.com), [adam.rudiger@wellsfargo.com](mailto:adam.rudiger@wellsfargo.com), [jack.micenko@sig.com](mailto:jack.micenko@sig.com), [jhymowitz@philadelphiafinancial.com](mailto:jhymowitz@philadelphiafinancial.com), [steven.bachman@rbccm.com](mailto:steven.bachman@rbccm.com), [robert.wetenhall@rbccm.com](mailto:robert.wetenhall@rbccm.com)

Date: Wednesday, April 4, 2012, 8:16 AM

Collateral Damage...

--- On Wed, 4/4/12, pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)> wrote:

From: pat missud <[missudpat@yahoo.com](mailto:missudpat@yahoo.com)>

Subject: Missud 2012 SEC 14a8 Proposal for Action Re:DHI (and RICO)

To: [foiapa@sec.gov](mailto:foiapa@sec.gov), [hallr@sec.gov](mailto:hallr@sec.gov), [LivorneseJ@SEC.GOV](mailto:LivorneseJ@SEC.GOV), [oig@sec.gov](mailto:oig@sec.gov), [sanfrancisco@sec.gov](mailto:sanfrancisco@sec.gov), [dfw@sec.gov](mailto:dfw@sec.gov), [greener@sec.gov](mailto:greener@sec.gov), [annie.reding@usdoj.gov](mailto:annie.reding@usdoj.gov), [bonny.wong@usdoj.gov](mailto:bonny.wong@usdoj.gov)

Cc: [dan.fitzpatrick@wsj.com](mailto:dan.fitzpatrick@wsj.com), [hilzenrathd@washpost.com](mailto:hilzenrathd@washpost.com), [nick.timiraos@wsj.com](mailto:nick.timiraos@wsj.com), [Robbie.Whelan@wsj.com](mailto:Robbie.Whelan@wsj.com), [sboyer@hearst.com](mailto:sboyer@hearst.com), [Scott.Glover@latimes.com](mailto:Scott.Glover@latimes.com), [Scott.Gold@latimes.com](mailto:Scott.Gold@latimes.com), [sdean@click2houston.com](mailto:sdean@click2houston.com), [hsmith@reviewjournal.com](mailto:hsmith@reviewjournal.com), [snishimura@star-telegram.com](mailto:snishimura@star-telegram.com), [asorci@sacbee.com](mailto:asorci@sacbee.com), [Scott.Reckard@latimes.com](mailto:Scott.Reckard@latimes.com), [sosdnews@uniontrib.com](mailto:sosdnews@uniontrib.com), [estanton@bloomberg.net](mailto:estanton@bloomberg.net), [Anne.Tergesen@wsj.com](mailto:Anne.Tergesen@wsj.com), [stevebrown@dallasnews.com](mailto:stevebrown@dallasnews.com), [tellis@dallasnews.com](mailto:tellis@dallasnews.com), [thorner@sptimes.com](mailto:thorner@sptimes.com), [tom.petruno@latimes.com](mailto:tom.petruno@latimes.com), [tshaffer@attorneygeneral.gov](mailto:tshaffer@attorneygeneral.gov), [ryan.vlastelica@thomsonreuters.com](mailto:ryan.vlastelica@thomsonreuters.com), [wargo@lasvegassun.com](mailto:wargo@lasvegassun.com), [trigaux@sptimes.com](mailto:trigaux@sptimes.com), [mvansickler@sptimes.com](mailto:mvansickler@sptimes.com), [vacaville@thereporter.com](mailto:vacaville@thereporter.com), [ivy@zelmanassociates.com](mailto:ivy@zelmanassociates.com), [bwillis@bloomberg.net](mailto:bwillis@bloomberg.net), [dawn.wotapka@dowjones.com](mailto:dawn.wotapka@dowjones.com), [lmorgan@sptimes.com](mailto:lmorgan@sptimes.com), [amos@nctimes.com](mailto:amos@nctimes.com), [sangeetha@seekingalpha.com](mailto:sangeetha@seekingalpha.com), [national@nytimes.com](mailto:national@nytimes.com), [peter\\_coy@businessweek.com](mailto:peter_coy@businessweek.com), [president@nytimes.com](mailto:president@nytimes.com), [jim.puzzanghera@latimes.com](mailto:jim.puzzanghera@latimes.com), [publisher@nytimes.com](mailto:publisher@nytimes.com), [readers@forbes.com](mailto:readers@forbes.com), [realestate@nytimes.com](mailto:realestate@nytimes.com), [ruth.simon@wsj.com](mailto:ruth.simon@wsj.com), [feedback@mysanantonio.com](mailto:feedback@mysanantonio.com), [francesco.guerrera@wsj.com](mailto:francesco.guerrera@wsj.com), [kris.maher@wsj.com](mailto:kris.maher@wsj.com), [ryan.vlastelica.reuters.com@reuters.net](mailto:ryan.vlastelica.reuters.com@reuters.net), [\\*\\*\\*FISMA & OMB Memorandum M-07-16 \\*\\*\\*tiz.rappaport@wsj.com](mailto:***FISMA & OMB Memorandum M-07-16 ***tiz.rappaport@wsj.com), [robin.sidel@wsj.com](mailto:robin.sidel@wsj.com), [Aaron.Lucchetti@wsj.com](mailto:Aaron.Lucchetti@wsj.com), [contact-editorial@seekingalpha.com](mailto:contact-editorial@seekingalpha.com), [jess.bravin@wsj.com](mailto:jess.bravin@wsj.com), [constance.mitchell-ford@wsj.com](mailto:constance.mitchell-ford@wsj.com), [peter.grant@wsj.com](mailto:peter.grant@wsj.com), [angela.pruitt@dowjones.com](mailto:angela.pruitt@dowjones.com), [nick.vonklock@dowjones.com](mailto:nick.vonklock@dowjones.com), [Rick.Brooks@wsj.com](mailto:Rick.Brooks@wsj.com), [eamon2@bloomberg.net](mailto:eamon2@bloomberg.net), [william.rempel@latimes.com](mailto:william.rempel@latimes.com), [michael.siconolfi@wsj.com](mailto:michael.siconolfi@wsj.com)

Date: Wednesday, April 4, 2012, 8:15 AM

Good morning SEC agents-

1. Find attached last year's copy of my 14a8;
2. Per your official records posted to the web I have owned sufficient securities for over three years;
3. Per your last refusal to compel publication also published to the web, my cases which the SEC claimed was my motivation to protect DHI shareholders have been 'statistically closed;'
4. Per the official federal court docket, my severed case against the SEC (and not DHI) however is still unresolved;
5. Once federal judge Ryu orders that the SEC be released/absolved from Madoff-2 (actually Madoff-10, as in ten times worse), I will edit the 2012 14a8 to reflect the fact that every single DHI shareholder is in the dark about DHI's 27-state interstate racketeering made possible by the SEC (and which is furthered with judicial help).

Also see the below link. Once the 38 homes are sold I will contact the new owners to see if they also got bait and switch financing, bait and switch materials, homes replete with construction defects, and/or illegal denied warranty. I've stock-piled hundreds of these daily notices.

My proven stats are that at least 40% of the consumers will claim one or more criminal act by DHI.

XOXOXO,  
Patrick

--- On Tue, 4/3/12, Google Alerts <[googlealerts-noreply@google.com](mailto:googlealerts-noreply@google.com)> wrote:

From: Google Alerts <[googlealerts-noreply@google.com](mailto:googlealerts-noreply@google.com)>

Subject: Google Alert - d r horton

To: [missudpat@yahoo.com](mailto:missudpat@yahoo.com)

Date: Tuesday, April 3, 2012, 11:48 AM

News

1 new result for **d r horton**

[D.R. Horton Completes Move-in Ready Homes in Fiddler's Creek Amador village](#)

Virtual-Strategy Magazine

The final touches are being done to the first five residences in the village of Amador, an enclave of 38 classical Mediterranean style single-family homes in Fiddler's Creek, being offered by **DR Horton**. A distinctive neighborhood, the village of Amador ...

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[Manage](#) your alerts.

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
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415-584-7251 Office  
415-845-5540 Cell  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)

August 17, 2011

Securities and Exchange Commission  
Burnett Plaza, Suite 1900  
801 Cherry Street, Unit 18  
Fort Worth, TX 76102

Re: Missud Proposal for Action for consideration at DHI's 2012 Annual Shareholder Meeting; and inclusion within DHI's proxy statement.

Via: [oig@sec.gov](mailto:oig@sec.gov), [sanfrancisco@sec.gov](mailto:sanfrancisco@sec.gov), [dfw@sec.gov](mailto:dfw@sec.gov), [greener@sec.gov](mailto:greener@sec.gov),  
[tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [eising@gibsondunn.com](mailto:eising@gibsondunn.com),  
[james.strother@wellsfargo.com](mailto:james.strother@wellsfargo.com), [raymond.m.lynch@wellsfargo.com](mailto:raymond.m.lynch@wellsfargo.com)

Certified: FISMA & OMB Memorandum M-07-16 \*\*\*

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Good afternoon SEC agents Greene, Reedick, Maples, Kwon, Special Counsel Belliston, Chairwoman Shapiro, Ms. Ising and Messieurs Montano, Lynch and Strother,

As you all know, this year I again mailed my Proposal for Action to D R Horton's Montano for inclusion in DHI's forthcoming Annual Report, 10K, and proxy statement. The Proposal is reproduced below for convenience. The three reasons for inclusion of the Proposal are as follows.

A. Reasons for Compelling Publication

1. DHI has participated in ultra-vires acts. The Directors and shareholders need to vote to stop various illegal financial activities which are specifically damaging the Corporate 'Citizen's' reputation and bottom line, and shareholders' interests.
2. The second reason is that DHI's illegal financial activities are broadly impacting the US economy and its 308 million real flesh-and-blood citizens. Each non-performing predatory loan originated by DHI and fully owned subsidiary DHI Mortgage, must be 'bailed out' by American tax payers. This in turn lowers the expendable income that each real flesh-and-blood American family has to purchase new products such as D R Horton homes.
3. The third reason for inclusion is that overwhelming evidence has already been gathered which proves that DHI Executives have corrupted officials and judges in several states. Once this information is exposed, the Corporate 'Citizen's' reputation and bottom line will most certainly suffer very acute damage. Shareholders need reassurances from DHI's Board of Directors that they will lawfully conduct business per the Corporate Charter and Governance Documents.

## B. The SEC's Recently Stepped-Up Efforts

The SEC has recently taken aggressive enforcement actions regarding various subprime loan and Wall Street fraud: <http://www.sec.gov/spotlight/enf-actions-fc.shtml> DHI has coincidentally also been very heavily involved in exactly these types of crimes for at least 8 years, possibly even precipitating the mortgage melt-down.

Also according to the SEC's website, enforcement protocols have been improved post-Madoff: <http://www.sec.gov/spotlight/secpostmadoffreforms.htm> Prior to Madoff, it was reported that the SEC would get tips about white collar crimes, and not act until it was too late to prevent massive shareholder losses. Hopefully now, the SEC will be more proactive to regulate DHI's corporate activities which have and will continue to severely and negatively impact \$3.6 billion in issued stock.

## C. Identical Wall Street Requests

Even CtW CEO William Patterson shares the same exact concerns that I do in that DHI should refrain from issuing predatory loans and selling fraudulent mortgages: [http://www.ctwinvestmentgroup.com/fileadmin/group\\_files/CtW\\_Inv\\_Grp\\_to\\_DR\\_Horton\\_Board.pdf](http://www.ctwinvestmentgroup.com/fileadmin/group_files/CtW_Inv_Grp_to_DR_Horton_Board.pdf) Note that Patterson's request was made in 2007. Since then, the SEC has done nothing to redress either Patterson's or my identical concerns.

## D. Prior SEC No-Action Decisions

"No-action letters represent the staff's interpretations of the securities laws and, while persuasive, are not binding on the courts:"

[http://en.wikipedia.org/wiki/U.S.\\_Securities\\_and\\_Exchange\\_Commission](http://en.wikipedia.org/wiki/U.S._Securities_and_Exchange_Commission)

In 2008, 2009, and 2010, I submitted formal Proposals similar to Patterson's. In 2008&9 DHI was permitted to exclude my Proposals because I did not have sufficient share ownership for the SEC to compel publication. Last year, I had sufficient share ownership for the required time for the SEC to compel publication but for some reason, the SEC did not enforce Rule 14A8.

This year, I have sufficient share ownership for the required amount of time which requires that the SEC compels publication. If the SEC refuses to compel publication of my very reasonable Proposal, which merely seeks that DHI participate only in legal acts under its corporate charter, I will seek redress in the federal courts.

Along with the racketeering suit voluntarily withdrawn in 2010 and subject to re-filing [10-cv-235-SI], and the currently active civil rights & corruption suit which will soon name DHI as an additional Defendant [11-cv-3567-DMR], I will file an SEC action in the Ninth Circuit naming Chairwoman Shapiro. The federal securities complaint, supporting declaration, and exhibits will first be published with syndicated media, and then registered in court. The action will eclipse the Madoff scandal.

## E. Mr. Montano's Claimed Deficiencies

Montano's August 16, 2011 letter disingenuously claims that I haven't sufficient, continuous share ownership per 14A8(b). The accompanying Wells Fargo "brokerage Statement" is an official business record from Wells Fargo Advisors which is my "Broker" affiliated with Wells Fargo "Bank." Said Statement "verifies" that as of the "date of my current Proposal," the DHI shares were "continuously held for over one year."

Further, note that this letter was copied to Wells Fargo's legal department. Wells Fargo's Lynch and Strother have my authority to "verify" that I have sufficient, continuous share ownership per 14A8(b). You can contact them directly upon my behalf to further corroborate my entitlement to SEC compulsion of my ultra-reasonable lawful Proposal.

F. Conclusions

The draft of my securities complaint will be pro-actively readied within one week. If the SEC does not act to protect my interests, Mr. Patterson's interests, interests of the thousands of other DHI shareholders, 308 million Americans' interests, and uphold federal securities laws, the suit will be filed to showcase the favorable treatment that RICO operating corporations get from the supposed securities regulator. The SEC itself will be on trial.

Cordially,

*Patrick Missud*

---

Patrick Missud, shareholder.

Encl.

Cc: Wall Street, Media, Federal and State Regulators

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)

August 4, 2011

Att'n: Corporate Counsel, D.R. Horton Inc.  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102  
Certified RR\* FISMA & OMB Memorandum M-07-16 \*\*\*

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Mr. Montano,

This cover letter provides proof that I am a shareholder with sufficient share ownership for the required timeframe per SEC regulations. If you recall, the SEC did not compel printing last year because of your frivolous claims that I hadn't provided sufficient proof. Proof that I own over \$2000 of DHI stock for over three years is available at:  
<http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>

Rule 14a-8(b)(1)

Requisite number of shares- According to my Wells Fargo brokerage account, I own over \$2000 in DHI market value. The majority of the shares were purchased December 2, 2008. These shares must be held at least one year by the date I submit my proposal. I have submitted my proposal as of this date, and qualify for publication under 14a-8(b)(1).

Rule 14a-8(b)(2)

My intent is to be a lifelong DHI shareholder and hold the requisite number of shares to entitle me to submit proposals and protect shareholder interests indefinitely, inclusive of the 2012 Shareholders' meeting date.

Federal agents and DHI Board

Know that my Proposal merely requests that the DHI Board guarantee that DHI and its affiliates are neither participating in any ultra vires acts nor conducting business outside of state and federal laws. In light of the recent Ryland, KB, Hovnanian investigations, Beazer deferred prosecution, and the many other builders/affiliated lenders which have already been discovered illegally originating mortgages, the Missud Proposal is necessary to restore shareholders' confidence in DHI, and DHI Mortgage.

The Board's refusal to publicly commit to following state and federal laws will likely speak louder than if they ratify the Proposal on and for the record. There is already a very well established record of DHI Mortgage's criminal activities which are outlined

in the submitted Proposal and available on the web at [www.drhortonfraud.com](http://www.drhortonfraud.com), and <http://drhortonsjudges.com/> . These sites can be sponsored daily and achieve a minimum 2000 hits per day. Media and Wall Street will also receive notice of these documents and will be awaiting the SEC/DHI response. These entities will either ratify or ignore this simple Proposal which merely asks that DHI, DHI Mortgage and its officers not violate federal laws. Note that if these federal laws were violated by everyday non-millionaire individual American citizens, they would risk federal incarceration.

Lastly, either RICO 10-cv-235-SI already naming DHI will be revived, or public corruption suit 11-cv-3567-DMR will be amended to name DHI as the entity which has acted under color of law, and caused officials and public figures to defraud citizens in 29 market states. <http://drhortonsjudges.com/> Damages sought will equal DHI's capitalization at the time that the amended complaint is filed, plus punitive damages. Donald Horton will also be personally named to satisfy the punitive damages portion of the demand. Both of these lawsuits are already supported with over 5000 exhibits. These are the most significant federal lawsuits that DHI has ever had to "vigorously defend." The multi-billion dollar suits will have to be mentioned in the DHI Annual Report's litigation caption. A rough draft of the civil rights suit against Nevada is also available at the above listed supersite for all of America to consider. The amended complaint will soon be available.

Cordially,

/S/ Patrick Missud

---

Patrick Missud, shareholder.

Encl.

Cc: Wall Street, Media, Federal and State Regulators

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
missudpat@yahoo.com

August 4, 2011

Att'n: Corporate Counsel, D.R. Horton Inc.  
301 Commerce Street Suite 500  
Fort Worth, TX, 76102

Re: Proposal for Action [Proposal]  
Via: E-mail: [tbmontano@drhorton.com](mailto:tbmontano@drhorton.com), [dennis.barghaan@usdoj.gov](mailto:dennis.barghaan@usdoj.gov),  
[greener@sec.gov](mailto:greener@sec.gov), Wall Street, Select Media  
Certified RR\* FISMA & OMB Memorandum M-07-16 \*\*\*

---

Attention DHI Board of Directors, Corporate Counsel, and Federal Agents,

As a DHI stockholder, under SEC Rule 14a-8, I submit the following facts and Proposal for DHI's forthcoming 2012 shareholder meeting. Note that I have owned the sufficient number of shares for at least two years to submit this Proposal for publication in DHI's forthcoming Annual Report. Note that if the SEC does not compel DHI to publish, this will make the Madoff debacle seem minor. This DHI scandal has been 'gift wrapped and packaged' far better than Harry Markopoulos' expose of Bernie Madoff.

Mr. Montano- You will print the following 490 words in the forthcoming 10k:

#### PROPOSAL FOR ACTION

On July 1, 2009 the DOJ, HUD and SEC deferred prosecution against Beazer Homes which admitted to several fraudulent mortgage origination and accounting practices. BZH agreed to provide \$50 million in restitution for consumers in and around North Carolina. Some of Beazer's mortgage fraud included interest rate manipulation, inflating home base prices to cover incentives, and lack of due diligence when completing stated income loans.

There is concrete evidence that DHI has engaged in even more egregious fraud but on a much larger nationwide scale. Under the Freedom of Information Act, hundreds of consumer complaints are available from the FTC and HUD regarding DHI's fraudulent nationwide mortgage origination in over 23 states. In Virginia's federal circuit, HUD submitted nearly 7700 administrative records showing that DHI and other builders violated RESPA laws [08-cv-01324]. In Georgia, the Yeatman class action alleges similar RESPA violations specific to DHI, [07-cv-81]. At DHI Virginia's Rippon

Landing development, the FBI discovered appraisal fraud to artificially boost home sales. The Southern California Wilson class action alleged extortive antitrust tying of DHI's mortgage services to home sales [08-cv-592]. Dozens of others have also claimed the same: Betsinger (NV A503121, A50510), Bevers (09-cv-2015), Dodson (A07-ca-230), Moreno (08-cv-845), Missud (07-2625-SBA). Scores of cases have been filed in state and federal courts all alleging similar DHI Mortgage fraud, deceptive trade, and antitrust violations. Publicly posted web sites also corroborate these findings with hundreds of consumer complaints dealing with DHI's fraudulent mortgage originations and illegal tying of DHI Mortgage's services to home sales, not to mention rampant construction defects.

The "consumeraffairs" website is already a top search result when merely searching for "D R Horton." Dozens of other consumer protections sites similarly and independently report the same recounts of fraudulent DHI mortgage origination. The last J D Power new home builder origination study rated DHI Mortgage with only 679 points out of 1000. The ranking was slightly better than Countrywide, one of DHI's "preferred lenders," and Ryland, two companies already found involved in rampant nationwide predatory lending and mortgage fraud.

Compounding these findings is that as early as June 2007, Chairman Horton and CEO Tomnitz each personally acknowledged receipt for summons and complaints, wherein their participation in predatory lending was exhaustively detailed [http://www.donaldtomnitzisacrook.info/Demand\\_on\\_Board.html](http://www.donaldtomnitzisacrook.info/Demand_on_Board.html) . CEO Tomnitz still materially misleads investors in claiming that DHI Mortgage "does an excellent job underwriting mortgages and the related risk associated with it..." [End 2d Qtr 2009 Earnings Conference Call]. However, the truth is that at that time, all four of DHIM's Arizona offices were found originating significantly defective loans which have already cost taxpayers \$2.5 million. All 20 of the audited loans were either in foreclosure or in serious financial distress requiring taxpayer bail-outs: <http://www.hud.gov/offices/oig/reports/files/ig1091009.pdf> and <http://www.liuna.org/Portals/0/docs/PressReleases/Report%20-%20Cruel%20Hope.pdf>

Resolved: That DHI audit its subsidiary DHI Mortgage for compliance with all federal and state laws, and that the Board confirms for the record that DHI Mortgage conforms to the requirements contained within its own corporate governance documents.

Cordially,

/S/ Patrick Missud

---

Patrick Missud, shareholder.

Encl.

**EXHIBIT M**

1 PATRICK MISSUD #219614  
2 91 San Juan Ave.  
3 San Francisco, CA, 94112  
4 Attorney and Plaintiff  
5 missudpat@yahoo.com  
6  
7  
8

9 UNITED STATES DISTRICT COURT  
10 SAN FRANCISCO DIVISION  
11 UNLIMITED CIVIL JURISDICTION  
12 CLASS ACTION  
13 **DEMAND FOR JURY TRIAL**

14 PATRICK A. MISSUD,

12-CV-3117-WHA

15 vs.

**AFFIDAVIT OF SERVICE OF:  
SUBPOENA FOR TESTIMONY ON  
WELLS FARGO BANK CEO JOHN  
STUMPF; AND COURTESY COPIES OF  
DOCKET PLEADINGS ON JUDGE  
ALSUP**

16 SAN FRANCISCO SUPERIOR COURT;  
17 JUDGES PATRICK MAHONEY, ANDREW  
18 CHENG, HAROLD KAHN; CALIFORNIA  
19 FIRST DISTRICT COURT OF APPEAL;  
20 JUSTICES WILLIAM MCGUINESS,  
MARTIN JENKINS, STUART POLLAK;  
STATE BAR OF CALIFORNIA;  
COMMISSION ON JUDICIAL  
PERFORMANCE; DOES 1-200. Defendants.

Date: September 6, 2012  
Time: 8:00AM  
Dept: 19<sup>th</sup> Floor, Courtroom #8  
Judge: William Alsup

21  
22  
23 i. I'm an 18 USC §1513 federal informant and California CCP §1021.5 private attorney  
24 general who already caught dozens of corrupt judge\$ lying in official records.

25 ii. Only true and correct copies of exhibits are attached hereto.

26 1. Exhibit 1 displays USPS records proving the service of: 4¼ pounds of confirmed-mail  
27 documents to this Ninth District Court; two metered letters to Washington DC's \$EC; and one  
28 certified letter to Wells Fargo's [WF] CEO John Stumpf at his corporate headquarters.

1 2. Exhibits 2 begin with the subpoena served on Stumpf requesting his testimony for the  
2 upcoming September 6, 2012 hearing. His testimony is required to prove that WF was indeed D.  
3 R. Horton Inc's [DHI] preferred lender, as the Fortune-500 company has repeatedly admitted  
4 during public shareholder conference calls; and that together they originated thousands of  
5 predatory loans which caused the nation's foreclosure crisis. If Stumpf pleads the 5<sup>th</sup> regarding  
6 his collusion with DHI, then he'll be alternatively asked to confirm that Missud does indeed own  
7 over \$4000 of DHI stock for over 3 years which entitles Missud to SEC 14(a)-8 printing of his  
8 Proposal for Action in DHI's forthcoming Proxy Statement. That's innocuous enough! Missud  
9 only wants to be a good American and abide by all of the SEC's Rules. One such Rule happens  
10 to be that Missud procure from "DTC Participant" Wells Fargo, the holder of Missud's shares, a  
11 super-simple confirmation regarding his DHI stock ownership.

12 The third document in the group is the SEC's confirmation that it received Missud's  
13 August 28, 2012 8:06AM email which attached federal pleadings for case 12-cv-3117-WHA.  
14 Therein are additional copies of Stumpf's subpoena. The SEC knows what Missud is up to.

15 The remainder of the documents are a partial download of emails sent to 500+/- media  
16 contacts who can easily verify Stumpf's and the SEC's receipt of the documents. The notices  
17 should also get both investigated for causing 313 million Americans' \$4 Trillion in loss.

18 3. Exhibits 3 are a very abridged compilation of official court documents. In each, judges  
19 are caught treasonously lying about non-receipt of documents because that's what corrupt judges  
20 do for the Citizen-United corporation. Bulla feigned non-receipt of docs served five different  
21 ways; Gonzalez claimed non-receipt of a Motion to Tax even served on her by Nevada's  
22 Supreme Court; Cheng lied about pleadings he thrice received- twice by email once by tracked  
23 USPS; and Kahn is the last schmuck who didn't fathom that the other 200 contacts could debunk  
24 his childish lie.

25 4. Judges are pretty stupid so it's very easy to catch them in lies and criminal acts.

26 //

27 Pri\$on for the traitor\$,

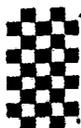
*Patrick Missud*

8-29-12

28 Patrick Missud;  
USC Title 18 §1513 Federal Informant;

Dated

**EXHIBIT N**



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CLERK OF THE COURT

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ORDR

DISTRICT COURT

CLARK COUNTY, NEVADA

PATRICK A. MISSUD and JULIE )  
MISSUD, husband and wife )

Plaintiffs, )

vs. )

D. R. HORTON, INC.; DHI MORTGAGE )  
COMPANY LTD. LP; and ROE )  
CORPORATIONS I THROUGH X, )

Defendants, )

Case No. 07 A 551662

Dept. No. XI

DECISION AND ORDER

The Court conducted an evidentiary hearing<sup>1</sup> on July 20, 2010 regarding Defendant's Motion Requesting that the Court Issue an Order to Show Cause as to Why the Plaintiffs Should Not be Held in Contempt of Court for Violating the Court's April 19, 2010 Stipulated Protective Order and Request for Evidentiary and Monetary Sanctions filed on April 29, 2010 and Defendants Motion for Terminating Sanctions and Costs and Fees for Plaintiffs' Continued Discovery Abuses.<sup>2</sup> Plaintiffs' Personal Treats Against Defense Counsel and for Plaintiffs' Retaliation for the Defendants' Attempt to Engage in Discovery filed on January 29, 2010.<sup>3</sup>

<sup>1</sup> The Court heard this matter following a initial determination by the Discovery Commissioner. See Discovery Commissioner's Report and Recommendations, dated July 13, 2010.

<sup>2</sup> Other than the Stipulated Protective Order, no prior orders were issued as a result of discovery violations.

<sup>3</sup> The Court declines to address the issues related to unauthorized practice of law.

1 Plaintiff PATRICK MISSUD<sup>4</sup> appearing in proper person; Defendants were represented by Joel  
 2 D. Odou, Esq. of the law firm of Wood, Smith, Henning & Berman. The Court having  
 3 considered the briefing, arguments, and the evidence presented and the testimony of witnesses  
 4 the Court makes the following findings of fact and conclusions of law:  
 5

6 1. Plaintiff PATRICK MISSUD admitted to sending threatening communications to  
 7 witnesses and counsel in connection with this litigation.

8 2. Defendant's counsel represented that former employees have refused to cooperate as a  
 9 result of Plaintiff PATRICK MISSUD's conduct.

10 3. The irreplaceable loss of witness testimony was not due to the conduct of the  
 11 Defendants.

12 4. The Defendants are entitled to defend these claims by presenting evidence that the  
 13 Plaintiffs' allegations are incorrect; and/or, to present an alternate explanation for the claims.  
 14

15 5. The Defendants have argued that they are hindered and prejudiced in investigating this  
 16 case.  
 17

18 6. The Defendants are prejudiced in their ability to defend and present evidence regarding  
 19 this case.

20 7. Nevada has long recognized that under the law of agency, the actions of an agent in  
 21 destroying or spoliating evidence are imputed to the principal for the purposes of sanctions. See  
 22 Fire Insurance Exchange v. Zenith Radio Corp., 103 Nev. 648 (1987) (investigator); Stubli v.  
 23 Big D International Trucks, 107 Nev. 309 (1991) (investigator/expert and counsel); and, Basy-  
 24 Davis v. Davis, 122 Nev. 442 (2006) (franchisor).  
 25  
 26  
 27  
 28

Patrick Missud is an attorney licensed to practice in California, Bar No. 219614.

1 8. Plaintiff PATRICK MISSUD acted as an agent on behalf of Plaintiff JULIE MISSUD<sup>s</sup>  
2 for purposes of this action.

3 9. In evaluating the seriousness of the prejudice as a result of the threats, the Court has  
4 evaluated the factors enunciated in Young v. Ribiero, 106 Nev. 88 (1990) and concludes:  
5

- 6 a. There are varying degrees of willfulness of the Plaintiffs ranging from  
7 knowing, willful and intentional conduct with an intent to prevent the  
8 Defendants' being able to identify the true facts and interview witnesses and  
9 more simple intimidation. However, the multiple incidents of threats are so  
10 pervasive as to exacerbate the prejudice rather than if each instance were  
11 treated as an isolated incident.
- 12 b. As a result of this conduct, relevant evidence, i.e. witness testimony, has  
13 been irreparably lost.
- 14 c. Given the numerous instances of threats, the prejudice to the Defendants in  
15 preparing their defense and the intentional nature of Plaintiff PATRICK  
16 MISSUD's conduct (taken in conjunction with the intentional violation of the  
17 Stipulated Protective Order, *infra*), a sanction less severe than dismissal of  
18 Plaintiffs' claims is not sufficient to protect the rights of the Defendants.
- 19 d. A fair adjudication on the merits cannot be achieved given the numerous  
20 instances of threats to witnesses and prevents the Defendants in preparing a  
21 defense in this action.
- 22 e. Given the numerous instances of threats, the prejudice to the Defendants in  
23 preparing their defense and the repeated nature of Plaintiffs and Plaintiffs'  
24  
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---

Plaintiff JULIE MISSUD did not participate in the hearing, but her husband Plaintiff PATRICK MISSUD indicated that his wife was unavailable due to a serious medical condition. None of the affirmative conduct which is a part of this Court's findings was actually performed by Plaintiff JULIE MISSUD.

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agents conduct over a several month period, a sanction less severe than dismissal of Plaintiffs claims is not sufficient to protect the rights of the Defendants.

f. Plaintiff PATRICK MISSUD has willfully disregarded the judicial process by his actions.

g. Given the involvement of Plaintiff PATRICK MISSUD, sanctions do not unfairly penalize the remaining Plaintiff for the conduct of her agent.

[ h. There is a public policy to prevent further abuses and deter litigants from threatening witnesses in an attempt to advance their claims.

10. Plaintiff PATRICK MISSUD, became aware that the Court entered the Stipulated Protective Order on April 30, 2010. Plaintiff PATRICK MISSUD had an unsigned copy of the Court's Stipulated Protective Order prior to its entry.

11. The Stipulated Protective Order spells out the details of compliance in clear, specific and unambiguous terms and Plaintiff PATRICK MISSUD readily knew the obligations the Stipulated Protective Order imposed upon him. Plaintiff PATRICK MISSUD's prior counsel negotiated the Stipulated Protective Order before it was signed by the Court.

12. Plaintiff PATRICK MISSUD had the ability to comply with the Stipulated Protective Order.

13. Plaintiff PATRICK MISSUD has made no effort whatsoever to comply with the terms of Stipulated Protective Order.

14. Plaintiff PATRICK MISSUD has demonstrated a complete and knowing disregard for his obligations under the Stipulated Protective Order.

15. Plaintiff PATRICK MISSUD has not proven any legally cognizable defense to the contempt of the Stipulated Protective Order.

1 16. There is clear and convincing evidence that Plaintiff PATRICK MISSUD  
2 reposted his websites in violation of the Stipulated Protective Order upon learning of its entry in  
3 direct violation of the Stipulated Protective Order.

4  
5 17. There is clear and convincing evidence that Plaintiff PATRICK MISSUD is  
6 knowingly and intentionally in violation of this Stipulated Protective Order and that he is  
7 knowingly and intentionally in contempt of Court.

8 18. The Stipulated Protective Order included a provision at paragraph 4.g. that any  
9 violation of the Order may result in the striking of the pleadings.

10 19. A judgment of contempt should be issued against Plaintiff PATRICK MISSUD.

11 20. If any of the foregoing findings of fact may be deemed conclusions of law.

12  
13 **CONCLUSIONS OF LAW**

14 1. As a result of those communications, Defendants' counsel represented witnesses  
15 have been unwilling to participate in discovery.

16 2. Defendants have established that there has been substantial prejudice as a result  
17 of the threats to witnesses.

18 3. The Stipulated Protective Order is clear and unambiguous.

19 4. It is possible for Plaintiff PATRICK MISSUD to comply with the Stipulated  
20 Protective Order.

21 5. Plaintiff PATRICK MISSUD has the ability to comply with the Stipulated  
22 Protective Order.

23 6. Defendants have demonstrated by clear and convincing evidence that Plaintiff  
24 PATRICK MISSUD has knowingly and willfully violated and refused to comply with the  
25 Stipulated Protective Order.

26 7. As a result of the discovery abuse and the contempt, the Plaintiffs' Amended  
27 Complaint is stricken.  
28

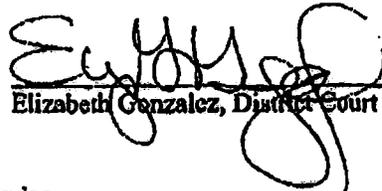
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8. Defendants should recover their reasonable costs and attorneys' fees incurred in pursuing these proceedings to enforce the Stipulated Protective Order and to find Plaintiff PATRICK MISSUD in contempt of Court. Defendants shall file their application for costs and attorneys' fees within 30 days of entry of this Order.

[ 9. Accordingly Plaintiffs action against the Defendants is dismissed. ]

10. If any of the foregoing conclusions of law may be deemed findings of fact.

Dated this 20<sup>th</sup> day of July, 2010.

  
Elizabeth Gonzalez, District Court Judge

Certificate of Service

I hereby certify that on the date filed, I served by fax ~~or~~ by placing a copy of this Decision and Order in the attorney's folder in the Clerk's Office as follows:

Joel Odou, Esq. (Wood, Smith, et al)  
Fax: 253-6225

Patrick and Julie Missud  
Fax: 415-584-7251

  
Dan Kutinae

**EXHIBIT O**

COPY

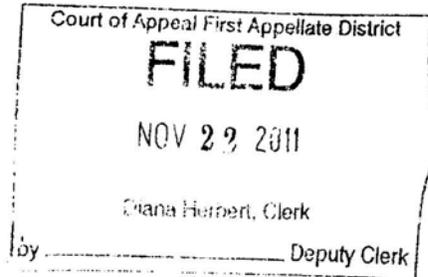
**NOT TO BE PUBLISHED IN OFFICIAL REPORTS**

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE



PATRICK A. MISSUD,  
Plaintiff and Appellant,

v.

D.R. HORTON, INC., et al.,  
Defendants and Respondents.

A131566

(City & County of San Francisco  
Super. Ct. No. CPF10510876)

Appellant Patrick A. Missud states in his opening brief that he challenges the denial of his motion under Code of Civil Procedure section 1710.10 et seq. to vacate a Nevada state court monetary judgment and order holding him in contempt of court. He argues that the “sister state Nevada ruling was fraudulently procured; and that denial of the appellant’s January 19, 2011 motion to vacate before Judge Giorgi was improper as well as fraudulent; and that the subsequent June 30, 2011 motion for reconsideration of the January 19, 2011 motion to vacate before Judge Giorgi was improper as well as fraudulent.”

On March 15, 2011, Missud filed a notice of appeal specifying he appeals from a trial court order filed on February 2, 2011. Attached to the notice of appeal is the order, which states, “After consideration of the pleadings, supporting papers and arguments from counsel: It is hereby ordered that Plaintiffs’ Motion to Vacate Sister State Judgment Per CCP Section 1710.10 et seq. is denied as Plaintiffs failed to provide a legally sufficient basis to vacate the Nevada Judgment pursuant to CCP 1710.10 et seq.”

On August 4, 2011, this court issued an order noting that “On August 1, 2011, this court received appellant Patrick A. Missud’s opening brief along with a bound volume entitled ‘Appellant’s Index, Declaration, and Request for Judicial Notice.’ Although not labeled as such, the bound volume is presumably appellant’s appendix pursuant to rule 8.124 of the California Rules of Court. On August 2, 2011, the court received a CD purportedly containing ‘5000 docs for opening brief.’ [¶] Appellant’s opening brief and appendix do not comply with various content and formatting requirements contained in the California Rules of Court.” The order identifies the various rules with which the opening brief and appendix fail to comply, but continues: “Nevertheless, the court in its discretion shall permit the noncomplying opening brief and appendix to be filed.”

These inadequacies, including the failure to cite to the record (Cal. Rules of Court, rule 8.204 (c)(1)) and the failure to include in the appendix “[a]ny item . . . that is necessary for proper consideration of the issues . . .,” were also brought to Missud’s attention by respondents in their brief.

Missud then filed a declaration with his reply brief, attaching several documents. The documents were not submitted in accordance with California Rules of Court, rules 8.120 through 8.163. Moreover, the declaration that accompanies these documents does not reference or authenticate the documents in any way.<sup>1</sup>

Setting aside these procedural inadequacies, Missud’s briefs contain no comprehensible legal argument as to why the order he challenges should be reversed. Missud quotes two provisions of the Code of Civil Procedure (Code Civ. Proc., §§ 1710.40, 663) in the “Table of Authorities” at the outset of his brief, but otherwise cites to no authority, fails to explain the connection between those statutes and the ruling he challenges, and provides no explanation of why he believes the trial court order was in error. Although it is clear he feels he has been grievously wronged, and he alludes to

---

<sup>1</sup> Missud also filed a document entitled “Ex Parte Application for Additional Time and ADA Accommodations” in response to which the court rearranged its oral argument calendar to accommodate Missud. We have also given consideration to the declaration filed in a federal district court action that is attached to Missud’s application.

numerous other actions brought in various courts, he offers this court no basis for action. (See *Troensegaard v. Silvercrest Industries, Inc.* (1985) 175 Cal.App.3d 218, 228 [error waived because no argument, citation to authorities, or reference to record].)

**DISPOSITION**

The judgment is affirmed. (See *In re Marriage of Wilcox*(2004) 124 Cal.App.4th 492, 498.)

---

Pollak, J.

We concur:

---

McGuinness, P. J.

---

Jenkins, J.



**Court of Appeal First Appellate District**

Date: 11/17/2011  
Start: 9:11:20 AM  
End: 9:32:15 AM



**A131566**

**Patrick A. Missud et al. v. D.R. Horton Inc. et al.**

Division Three  
Oral Argument

**EXHIBIT P**

IN THE SUPREME COURT OF THE STATE OF NEVADA

PATRICK A. MISSUD AND JULIE  
MISSUD, HUSBAND AND WIFE,  
Appellants,  
vs.  
D.R. HORTON, INC. AND DHI  
MORTGAGE COMPANY, LTD.,  
Respondents.

No. 56502

FILED

NOV 22 2011

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY Angela  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is a proper person appeal from a district court order striking appellants' complaint and dismissing a real property and tort action. Eighth Judicial District Court, Clark County; Elizabeth Goff Gonzalez, Judge.

The district court determined that appellants should be sanctioned for abusive litigation tactics and that appellants were in contempt of a district court protective order. Based on these conclusions, the district court struck appellants' complaint and dismissed the case. Appellants now appeal from the district court order.

We review both a district court's sanction for abusive litigation tactics and a district court's contempt ruling for an abuse of discretion. Matter of Water Rights of Humboldt River, 118 Nev. 901, 907, 59 P.3d 1226, 1229-30 (2002); Young v. Johnny Ribeiro Building, 106 Nev. 88, 92,

787 P.2d 777, 779 (1990). We have held that the authority to dismiss a case for “abusive litigation practices” is within the court’s “inherent equitable powers.” Young, 106 Nev. at 92, 787 P.2d at 779.

Appellants do not raise any challenge on appeal as to the district court’s findings that appellants engaged in abusive litigation tactics by contacting and threatening respondents’ employees, which resulted in those employees refusing to testify. Thus, we affirm the district court’s findings as to these facts. We also reject appellants’ arguments that the record was not considered by the district court, that insufficient evidence existed to support the findings of the district court or the sanctions imposed, or that their due process rights were violated, as the district court held an evidentiary hearing, considered the evidence presented, and properly addressed the necessary factors outlined in Young. Id. at 93-94, 787 P.2d at 780. We further conclude that appellants’ failed to adequately raise in district court their arguments that the protective order was a violation of their first amendment rights and that it was vague and overbroad; thus, they have waived these arguments on appeal. Appellants’ argument that they had insufficient time to comply with the protective order lacks merit, as appellant Patrick Missud admitted during the evidentiary hearing to intentionally violating the protective order. Finally, we reject appellants’ contentions that the order was procured by respondents’ fraud or misrepresentations or that a violation of SCR 3 occurred and prevented the sanctions issued in this matter.

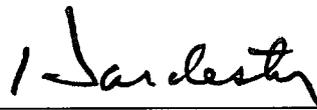
Based on the above discussion, we conclude that the district court did not abuse its discretion in sanctioning appellants for litigation

abuses or in finding them in contempt of court for violating the protective order. As a result, we

ORDER the judgment of the district court AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Saitta

  
\_\_\_\_\_, J.  
Douglas

  
\_\_\_\_\_, J.  
Hardesty

cc: Hon. Elizabeth Goff Gonzalez, District Judge  
Patrick A. Missud  
Julie Missud  
Wood, Smith, Henning & Berman, LLP  
Eighth District Court Clerk

---

<sup>1</sup>We deny appellants' request to correct the appellate record and the motion to impose a moratorium on foreclosures in Nevada. We do not address appellants other filings, as we determine that they do not seek any relief from this court but were provided for notice only.

**EXHIBIT Q**

FILED  
JUL 20 P 2:36  
RICHARD W. HICKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

M⑤  
JP

1 PATRICK A. MISSUD  
2 91 San Juan Ave.  
3 San Francisco, CA, 94112  
4 Attorney and Plaintiff  
5 CA#219614

6  
7  
8 UNITED STATES DISTRICT COURT  
9 SAN FRANCISCO DIVISION  
10 UNLIMITED CIVIL JURISDICTION  
11 CLASS ACTION  
12 DEMAND FOR JURY TRIAL

DMR

13 PATRICK A. MISSUD,

Case No.: 11 3567  
Dept.

14 vs.

COMPLAINT FOR TITLE 42 §1983  
PUBLIC CORRUPTION AND CIVIL  
RIGHTS VIOLATIONS

15 STATE OF NEVADA; EIGHTH JUDICIAL  
16 DISTRICT COURT COUNTY OF CLARK,  
17 CLARK COUNTY COURT CEO STEVEN  
18 GRIERSON, JUDGE ELIZABETH  
19 GONZALEZ, COMMISSIONER BONNIE  
20 BULLA; DIVISION OF MORTGAGE  
21 LENDING DEPUTY COMMISSIONER  
22 SUSAN ECKHARDT; CLARK COUNTY  
23 SHERIFF, SHERIFF DOUGLAS  
24 GILLESPIE; COMMISSION ON JUDICIAL  
25 DISCIPLINE, CJD DIRECTOR DAVID  
26 SARNOWSKI; NEVADA STATE BAR,  
27 NEVADA STATE BAR PRESIDENT  
28 CONSTANCE AKRIDGE; NEVADA  
SUPREME COURT, NEVADA SUPREME  
COURT JUSTICES PICKERING, GIBBONS,  
HARDESTY, PARRAGUIRRE, DOUGLAS,  
CHERRY, SAITTA; SOUTH CAROLINA  
SPECIAL MAGISTRATE CURTIS  
COLTRANE; SAN FRANCISCO SUPERIOR  
COURT, JUDGE LORETTA GIORGI; DOES  
1-200. Defendants.

Date:  
Time:  
Dept:  
Judge:

1 I. INTRODUCTION

2  
3 Rulings such as in Citizens United and AT&T vs. Concepcion have allowed corporate  
4 'citizens' to buy America's court\$. Finding corrupt judge\$ is now ju\$ as easy as finding water  
5 in the ocean. Note that the hypertext-enabled links embedded within the following text are  
6 available only to those individuals receiving electronic copies of this document in our digital age.  
7 Said links incorporate by reference thousands of web-based exhibits which include official court  
8 and government records, statistics, regulatory findings, and reliable news articles which  
9 corroborate each and every below-stated allegation.

10 Probably the only good aspect of the con\$ervative majority'\$ Citizens United decision is  
11 that it does indeed broadly allow for unfettered 1<sup>st</sup> Amendment Speech by *both* multi-billion  
12 dollar corporation\$, .... *and* the rest of the lowly 308 million Americans with access to the world  
13 wide web's information super-highway. The truth is always available 24/7 via social media, and  
14 other 21<sup>st</sup> century electronic means.

15 Most of the supporting documents for this compliant have already or will be gathered and  
16 concurrently filed with a forthcoming first amended complaint. Ninety percent of the official  
17 records proving these Defendants' interstate crimes and judicial official/corruption have already  
18 been submitted in other courts and jurisdictions. This debacle is unfolding daily, and even on the  
19 date that this complaint was filed. A declaration supported with over 1000 documents will likely  
20 be filed in early August 2011. In the meantime, supporting documents can be obtained from the  
21 following related cases: Clark County Nevada A551662 and A503121; Nevada Supreme Court  
22 Appeals A56502 and A50510; San Francisco Superior Court CPF-10-510876; California First  
23 District Court of Appeal A131566; Ninth Circuit, Northern District of California 07-cv-2625-  
24 SBA, and 10-cv-235-SI; and the following publicly accessible websites:

25 <http://www.drhortonfraud.com/>, <http://drhortonsjudges.com/>,  
26 <http://www.drhortonsjudges.info/>, and others interlinked. This federal suit will again  
27 concretely prove that these uber-wealthy Defendants have conspired under the color of law to  
28 buy the judiciary, this Country and its Constitution.

1 **II. POINTS AND AUTHORITIES**

2 **U.S.C. Title 42 §1983 Civil Action for Deprivation of Rights**

3 "Every person who, under color of any statute, ordinance, regulation, custom, or usage,  
4 of any State or Territory or the District of Columbia, subjects, or causes to be subjected,  
5 any citizen of the United States or other person within the jurisdiction thereof to the  
6 deprivation of any rights, privileges, or immunities secured by the Constitution and  
7 laws, shall be liable to the party injured in an action at law, suit in equity, or other  
8 proper proceeding for redress, except that in any action brought against a judicial officer  
for an act or omission taken in such officer's judicial capacity, injunctive relief shall not  
be granted unless a declaratory decree was violated or declaratory relief was  
unavailable."

9 **III. STATEMENT OF FACTS**

10 The following discussion will describe the blatant Constitutional violations committed by  
11 each agency, official and judge. Specific cases and orders will be cited for purposes of further  
12 reader research so as to not leave any room for speculation. Ironically, exposure of the many  
13 corrupt judge\$ began outside of court, with the discovery of the very corrupt Deputy  
14 Commissioner for Nevada'\$ Division of Mortgage Lending.

15 **A. Tip of the Iceberg**

16 NDML Commissioner Susan Eckhardt, Las Vegas NV, 14<sup>th</sup>'s Due Process Violations

17 In 2005, twenty verified and acknowledged consumer statements were forwarded to  
18 Nevada's mortgage-fraud and predatory-lending regulator, Deputy Commissioner Eckhardt.  
19 Each and every official complaint submitted under the penalty of perjury averred that the Fortune  
20 500 D R Horton Corporation [DHI] was illegally bundling predatory loans to home sales. For  
21 six consecutive years, DHI was Southern Nevada's most powerful and lucrative residential  
22 builder. Each and every consumer's sworn complaint alleged with particularity that DHI had  
23 extorted onerous home sales which were contingent on the purchase of in-house originated  
24 predatory loans. We now know that those transactions are at the root of our infamous mortgage-  
25 meltdown and nationwide economic crisis. Per Nevada's own codified law, Eckhardt should  
26 have quickly provided a written status report of the submitted complaints. However, service of  
27 four subpoenas was actually required to compel Eckhardt's reply which ultimately stated that the  
28 Mortgage Division which she managed did not have jurisdiction to regulate the regulatory  
licenses that she had already issued to DHI?!? Within 26 days of that ridiculous statement, \$he

1 was fired. <http://www.drhortonfraud.com/id2.html> and  
2 <http://www.drhortonfraud.com/sitebuildercontent/sitebuilderfiles/ndmlcorruption.pdf>

3  
4 **B. East of the Sierras District Court Corruption**

5 **1. Magistrate Curtis Coltrane, South Carolina, 1<sup>st</sup> Amendment Speech Violations**

6 In June and September 2006, Coltrane twice agreed with \$3.6 billion DHI that two  
7 groups' speech rights should be preliminarily enjoined. The first group was picketing at  
8 traditional public forums and warning other consumers that DHI had misrepresented the status of  
9 an adjoining golf course in order to sell their 'golf course' community. DHI had not informed  
10 the vocal buyers that the golf course had actually been sold for development. The second group  
11 was picketing at traditional public forums and warning consumers that DHI had built a defects-  
12 riddled home with termite-infested wood. In both cases, Coltrane forbade that South Carolina's  
13 flesh and blood citizens assemble at public sidewalks to make any disparaging comments about  
14 DHI's nefarious schemes. The injunction extended to any and all public places in and around  
15 DHI's developments.

16 In the very first week of Constitutional Law, every law student learns that preliminary  
17 injunctions on speech are nearly impossible. In order for Master in Equity Coltrane to censor the  
18 content of a citizen's message he must find a significant *government* interest such as an  
19 unauthorized broadcast of military secrets putting lives at risk, or speech that is likely to incite  
20 violent riots. In Beaufort County cases 2006-cp-07-1658 and -2224, Coltrane twice cited DHI's  
21 profits and reputation as the significant government interests justifying the muzzle that he  
22 ordered strapped onto the vocal defrauded Americans. Coltrane no longer practice\$ law.

23 <http://www.drhortonfraud.com/sitebuildercontent/sitebuilderfiles/coltrane5.pdf>

24 **2. Discovery Commissioner Bonnie Bulla, Las Vegas NV, 14<sup>th</sup>'s Due Process Violation**

25 On June 2, 2010, a discovery hearing was held before Commissioner Bulla in Nevada's  
26 Eighth Judicial District Court. Prior to that hearing, the Plaintiff electronically registered, e-  
27 mailed, faxed, and confirm-mailed his documents directly to the Court. In his papers, the  
28 Plaintiff stated he was submitting on the pleadings which were supported by overwhelming  
official evidence. The Court thusly believed that the Plaintiff would not personally attend the  
hearing. However, since said pleadings and evidence had inexplicably not been registered in the

1 official court records by late May, the Plaintiff flew from California to Nevada to personally  
2 serve the documents, and provide testimony. Despite having received the Plaintiff's pleadings  
3 by the four above means, and even as a reproduced exhibit attached to DHI's very own  
4 pleadings, Bulla first claimed not to have received any of the Plaintiff's documents, and then  
5 recanted to state that she got only portions. If Bulla's statements weren't actually in the official  
6 Court records, this story would sound like a fairy tale.

7 <http://www.drhortonfraud.com/sitebuildercontent/sitebuilderfiles/courtcvrup.pdf>

8 3. Judge Elizabeth Gonzalez, Las Vegas NV, Violations of the Rights to Petition Government to  
9 Redress Grievances, Privileges and Immunities, and the 14<sup>th</sup>'s Due Process

10 Two days after the June 2, 2010 discovery hearing, Presiding Judge Gonzalez who  
11 oversees Clark County's entire Civil Division decided to seal Court records regarding DHI's  
12 interstate financial crimes. She made her quick, secretive, "in chambers" decision based on  
13 Bulla's recommendations to ignore the Plaintiff's overwhelming evidence.

14 Then on July 13, 2010, at 9:07AM, Gonzalez ordered the media locked out of her  
15 normally open courtroom. Minutes later, she admitted evidence into the record and heard  
16 detailed argument concerning the Plaintiff's Special Motion to Dismiss DHI's SLAPP pleadings  
17 which were specifically filed to suppress the whistle-blowing which had already publicly  
18 exposed DHI's interstate financial crimes. That half-hour hearing educated Gonzalez about all  
19 of DHI's assorted interstate racketeering. According to page 19 of the official court transcript, at  
20 9:40AM everyone was then reminded to return the following week for the next hearing.

21 The July 20, 2010 hearing started at 10:41AM. Gonzalez immediately stated for the  
22 record that she had already ruled on the July 13, 2010 matter. However, nowhere in the record is  
23 that order registered. Thereafter for approximately five hours, the Plaintiff testified that DHI was  
24 a racketeering organization as corroborated by official FTC and HUD records, a reliable news  
25 article detailing an FBI investigation, 400 email consumer statements, 20 verified consumer  
26 complaints submitted to Nevada's Attorney General, the already decided Betsinger decisions in  
27 A503121 and appeal 50510, dozens of declarations filed in full faith and credit sister-states and  
28 federal cases throughout the nation, 80 defrauded Nevadans, corroborating third party websites  
and consumer protections groups, ..... Despite the 1500 records admitted into evidence that  
directly proved the \$3,600,000,000 corporation's interstate racketeering, judge Gonzalez ordered

1 that the Plaintiff's case be stricken, and that he should also have to pay DHI's costs and fees for  
2 having had to commandeer Nevada's expensive courts to violate the Constitution and twist  
3 justice.

4 <http://www.drhortonfraud.com/sitebuildercontent/sitebuilderfiles/finordr7-22-10.pdf>

5  
6 **4. Clark County Court and Grierson's Assistance in the Cover Up**

7 As the duly elected Clark County Court CEO, Steven Grierson has several duties and  
8 guidelines described at: <http://www.clarkcountycourts.us/general-information.html>. Therein,  
9 his "court is a forum for lawful dispute resolution insuring a balance of branch powers and  
10 constitutional protections." Grierson breached this duty in an effort to conceal the Clark  
11 County Court's fraud. Grierson received three valid, official, California court-issued subpoenas  
12 for the production of a July 20, 2010 Video which graphically proves Gonzalez' bias towards the  
13 billion-dollar builder. Grierson has yet to honor the three subpoenas and produce the lawfully  
14 compelled evidence. Proof of receipt of the three subpoenas is now registered in multiple courts  
15 and multiple jurisdictions including:

16 A551662 <http://wiznet.wiznet.com/clarknv/pages/login.jsp>,

17 A56502 <http://www.nevadajudiciary.us/index.php/supremecourt>,

18 CPF-10-510876 <http://sfsuperiorcourt.org/index.aspx?page=467>, and

19 A131566 <http://www.courts.ca.gov/ldca.htm> .

20 By comparison, another nearly-identical, valid, official, California court-issued subpoena  
21 for the production of evidence was honored by Nevada's Eckhardt by June 1, 2006, confirmation  
22 of which was even corroborated by Nevada's Attorney General. Grierson now falsely claims  
23 that the three subsequent, valid, official, California court-issued subpoenas already served on the  
24 Eighth Judicial District Court are insufficient to compel production of the July 20, 2010 video  
25 which records judge Gonzalez' clear bias towards the billion-dollar D R Horton corporation.

26 Grierson has instead raised roadblocks to stall this investigation. His action is yet another  
27 delay tactic by his 'court of law' which is supposed to 'seek the truth,' preserve state and federal  
28 laws, and protect 2.64 Million Nevadans. One would think that his Court has a great interest in  
knowing whether the Presiding Judge for its entire Civil Division is corrupt. Rather than waive

1 any perceived service defects or procedural minutia and produce the video, Grierson has opted to  
2 withhold the video which would immediately settle matters in *five* state and federal jurisdictions  
3 hosting these sordid affair\$.

4 Note that the A/V video recording is the original document which is the most reliable  
5 source of information contained therein. The transcript which this Plaintiff already possesses is  
6 merely a reproduction of the original digital data compilation. The written transcript however  
7 does not adequately transcribe Gonzalez' visual facial expressions. The A/V digital recording  
8 will thusly be compelled under the best evidence/original document rule per FRE 1001-8.

9  
10 FRE Rule 1002: Requirement of Original: "To prove the content of a writing, recording, or  
11 photograph, the original writing, recording, or photograph is required, except as otherwise  
12 provided in these rules or by Act of Congress."

13 FRE Rule 1003: Admissibility of Duplicates: "A duplicate is admissible to the same extent as an  
14 original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the  
15 circumstances it would be unfair to admit the duplicate in lieu of the original."

16 5. Clark County Sheriff and Gillespie's Assistance in the Cover Up

17 Clark County's Sheriff Gillespie has duties outlined at:

18 [http://www.clarkcountynv.gov/depts/sheriff\\_civil/Pages/About.aspx](http://www.clarkcountynv.gov/depts/sheriff_civil/Pages/About.aspx) .

19 Therein, "In Clark County, the Sheriff has the statutory duty of **providing service of process in**  
20 **civil and criminal cases.**"

21 On July 8, 2011, Sheriff Gillespie received two civil subpoenas for service on Gonzalez  
22 and Grierson. Every direction for proper service was found at the Clark County Sheriff's own  
23 website links:

24 [http://www.clarkcountynv.gov/Depts/sheriff\\_civil/Pages/subpoenas.aspx](http://www.clarkcountynv.gov/Depts/sheriff_civil/Pages/subpoenas.aspx),

25 <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>

26 [http://www.clarkcountynv.gov/Depts/sheriff\\_civil/PublishingImages/sheriff\\_fees.gif](http://www.clarkcountynv.gov/Depts/sheriff_civil/PublishingImages/sheriff_fees.gif)

27 [http://www.clarkcountynv.gov/Depts/sheriff\\_civil/Documents/service\\_instructions.pdf](http://www.clarkcountynv.gov/Depts/sheriff_civil/Documents/service_instructions.pdf)

28 [http://www.clarkcountynv.gov/Depts/sheriff\\_civil/Pages/out-of-state.aspx](http://www.clarkcountynv.gov/Depts/sheriff_civil/Pages/out-of-state.aspx)

1 A proper \$100 postal money order was issued to Clark County's Sheriff for service of  
2 process of the two civil subpoenas which are to be served just 236 feet down the block. Gillespie  
3 was informed that Gonzalez' Bailiff John first starts out at the Sheriff's office and then walks  
4 down the block to the courthouse to provide her courtroom security. John can easily bring both  
5 subpoenas to Gonzalez' courtroom on any given day, without having to make any special trips.  
6 Unbelievably, Gillespie now claims that insufficient funds were received to serve the two  
7 subpoenas in the courthouse which is just a stone's throw away. Gillespie has claimed that \$100  
8 will not cover the \$30.13 bill that has been calculated from the Sheriff's very own fee schedule  
9 available online.

10  
11 6. Commission on Judicial Discipline and Sarnowski's Assistance in the Cover Up

12 Executive Director David Sarnowski has duties to fulfill for Nevada's Commission on  
13 Judicial Discipline. Said duties are found at <http://judicial.state.nv.us/purposenjdc3new.htm>  
14 Therein, "the Commission is to investigate allegations of judicial misconduct in office,  
15 violations of the Code of Judicial Conduct, or disability of judges."

16 Sarnowski was notified of Gonzalez' judicial misconduct dozens of times by email, and  
17 certified mail. This Plaintiff has detailed that she has not registered rulings like her supposed  
18 July 13, 2010 order denying Missud's NRS 41.660 Special Motion to Dismiss. According to  
19 testimony by former Nevada District Judge Stewart Bell, even disliked attorneys are owed  
20 Constitutional due process. Judge Bell has stated for the record that judicial orders which do not  
21 appear in the official record "is very disturbing." <http://www.lvrj.com/news/26371444.html> .

22 This Plaintiff has also explained that the July 20, 2010 video will show Gonzalez' facial  
23 expressions expressing clear disdain for Missud who, unlike the D R Horton corporation, does  
24 not contribute mightily to her re-election campaigns.  
25 <http://articles.latimes.com/print/2006/jun/10/nation/na-vegas10>. Sarnowski and the CJD has  
26 yet to act on any of Missud's notices and concrete proof regarding Gonzalez' judicial corruption.  
27  
28

1 **C. Nevada Supreme Court Corruption**

2 Nevada Supreme Court Justices have many times either requested that state action be  
3 taken on their behalf, or directly retaliated against this whistle-blower/Plaintiff to benefit DHI.

4  
5 **1. En Banc, Concerted, Nevada Supreme Court Action by Justices Douglas, Hardesty, Pickering,**  
6 **Saitta, Gibbons, Cherry, Parraguirre; Violations of the Rights to Petition Government to Redress**  
7 **Grievances, Privileges and Immunities, 14<sup>th</sup>s Due Process**

8 On January 19, 2010, this whistle-blower/Plaintiff sent notice and an amicus brief to  
9 Nevada's Supreme Court that DHI's predatory lending, mortgage fraud, and other public  
10 financial hazards were flourishing throughout Nevada. The whistle-blower's notice came  
11 complete with reference to the overwhelming evidence already filed in federal court.  
12 Coincidentally, and about this same time, the Court had already heard oral argument and  
13 docketed Betsinger case A503121 for a decision in appeal 50510. It just so happens that the  
14 whistle-blower's Nevada case A551662, (and appeal 56502), and federal suit (10-cv-235-SI)  
15 were nearly identical to Betsinger's and that of approximately 80 other Nevadans' from Reno to  
16 Las Vegas. The whistle-blower forwarded said evidence because he thought it relevant for the  
17 Betsinger appeal. However, rather than take judicial notice of the 1500 exhibits already  
18 registered in the Ninth Circuit, the Court instead requested that Nevada authority take state  
19 action to investigate the whistle-blower. That state action was an appearance by Nevada  
20 regulators at a court hearing which acutely interfered with the out-of-state whistle blower's case.  
21 The whistle-blower/informant's local counsel then withdrew from the case within weeks.  
22 <http://www.drhortonfraud.com/sitebuildercontent/sitebuilderfiles/nottonevada.pdf>

23 **2. En Banc, Concerted, Nevada Supreme Court Action by Justices Douglas, Hardesty, Pickering,**  
24 **Saitta, Gibbons, Cherry, Parraguirre; Equal Protections Violations**

25 Betsinger's appeal 50510 was decided on May 27, 2010. Despite a neutral jury's  
26 decision awarding Betsinger substantial damages for DHI's "despicable conduct," the Court  
27 entirely struck, or reduced the damage awards by 80%. Recall that the Court had been apprised  
28 that the Betsinger fraud was also perpetrated on approximately 80 other Nevadans, and hundreds  
of other consumers across state lines.

1 Well, it just so happens that Nevada's Supreme Court is the Country's 8<sup>th</sup> most beholden  
2 state supreme court to the special interests. It also just so happens that Nevada's most powerful  
3 and lucrative residential builder is the Fortune-500, \$3.6 billion-capitalized D. R. Horton  
4 Corporation. <http://www.drhortonfraud.com/id15.html> and  
5 [http://www.lvrj.com/news/nevada-ranks-8th-in-supreme-court-election-fundraising-  
6 100747864.html](http://www.lvrj.com/news/nevada-ranks-8th-in-supreme-court-election-fundraising-100747864.html)

7  
8 3. Three Member Panel, Nevada Supreme Court Action by Justices Pickering, Gibbons, Cherry,  
9 Violations of the Rights to Petition Government to Redress Grievances, Privileges and  
10 Immunities, 14<sup>th</sup>s Due Process

11 On June 9, 2011, the whistle-blower/Plaintiff filed an Emergency Motion which is  
12 docketed as 11-17107 with the Nevada Supreme Court. Therein, he requested that Nevada's  
13 high court compel production of three pieces of key evidence from the Clark County District  
14 Court and judge Gonzalez. Nevada Supreme Court intervention was required because the district  
15 court and judge Gonzalez had each already refused to honor several informal requests, and two  
16 California subpoenas for the production of said evidence. The whistle-blower explained that  
17 viewing the eye-opening video, unregistered 7-13-10 order, and answers to the 17 reasons to  
18 disqualify Gonzalez, were all necessary *prior* to issuing any further decisions for appeal 56502.  
19 The very issue currently under appeal in 56502 is that the Clark County District Court and judge  
20 Gonzalez are biased towards the Fortune-500, \$3.6 billion-capitalized, uber-powerful, super-  
21 lucrative, campaign-donating D. R. Horton Corporation. Despite the fact that all three  
22 evidentiary items are very, very *easily* compelled by the state's highest court (and would  
23 absolutely prove district court and judge corruption), the Nevada Supreme Court preemptively  
24 issued its order denying the Motion to Compel *prior* to considering any of the key evidence.

25 This is the quintessential "see, hear and speak no evil" \$scenario.

26 <http://caseinfo.nvsupremecourt.us/public/caseSearch.do> and enter <56502>

27 **D. California District Court Corruption**

28 Two cases currently pending in the San Francisco Superior Court have already identified  
three corrupt quasi-judicial and judicial officers. The first case concerns a mandatory arbitration,  
and the second regards entry of Gonzalez' sister-state order in California.

1 1. San Francisco Superior "Court Approved" Mediator/Arbitrator/Quasi-Judicial Officer Michael  
2 Carbone: Violations of 14<sup>th</sup>'s Due Process, FAA-RICO

3 By April 30, 2010, thirteen days of testimony were recorded for CGC-07-464022. This  
4 case was compelled into ADR by the San Francisco Superior Court per a binding arbitration  
5 clause. After transcript review, it was discovered that Court "approved" arbitrator Michael  
6 Carbone based his fraudulent award in 63 different lies. Carbone's decision completely  
7 dismissed all of the claimants' hard evidence, but relied exclusively on the repeat-business  
8 Allstate Insurance's unsupported speculative claims. The Fortune-500 Insurer was defending not  
9 only the respondent in this arbitration, but an additional 200 cases at ADR Services Inc., the  
10 private, for-profit arbitration company that routinely receives referral business from San  
11 Francisco's Superior Court.

12 The corrupt arbitral results in ADRS-08-4394-MC precisely mirror the rampant arbitral  
13 fraud proven to exist throughout this nation by Public Citizen, and even as discovered by  
14 Minnesota's Attorney General Swanson in her state. Public Citizen has published several  
15 scathing reports finding arbitral corruption, citing over 340 sources of data which includes  
16 insiders' information. Public Citizen's empirical findings are that such secretive mandatory  
17 arbitrations are fraught with fraud and seldom, if ever, favor consumers:

18 [http://sfcourtfraud.com/Superior\\_Court\\_464022.html](http://sfcourtfraud.com/Superior_Court_464022.html) and

19 <http://www.citizen.org/publications/publicationredirect.cfm?ID=7705>. Swanson discovered  
20 direct conflicts of interest between arbitrators, arbitral firms and the law firms which owned  
21 interest in the lucrative ADR firms:

22 <http://www.ag.state.mn.us/PDF/PressReleases/SignedFiledComplaintArbitrationCompany.pdf>.

23 2. San Francisco Superior Court Judge Charlotte Woolard: Violations of 14<sup>th</sup>'s Due Process,  
24 Equal Protections, Right to Petition Grievances, FAA-RICO

25 Real party-in-interest, Allstate Insurance then motioned to have Court "approved"  
26 Carbone's fraudulent award confirmed. The Court's Department 302 was the department which  
27 compelled the case into ADR in the first place. The claimants opposed Allstate's Motion for  
28 Confirmation with a 20 page brief detailing the 63 lies upon which the award was based. Per the  
29 FAA, fraudulent arbitral awards can be vacated for precisely this reason, and with proof of far

1 fewer than 63 lies. After admitting to carefully reading the briefs and listening to oral argument  
2 which pinpointed transcript inconsistencies and inapposite physical evidence, San Francisco  
3 judge Charlotte Woolard still decided to confirm the arbitrator's transparent fraud. Adding insult  
4 to injury, Woolard then even violated first-year, first-week civil procedure, and saddled a non-  
5 party with all the arbitral costs and fee\$. [http://sfcourtfraud.com/Federal\\_FAA-](http://sfcourtfraud.com/Federal_FAA-RICO_Suit.html)  
6 [RICO\\_Suit.html](http://sfcourtfraud.com/Federal_FAA-RICO_Suit.html)

7 Please also note that approximately 75% of the 'neutral' arbitrators working at the  
8 private, wildly-lucrative, for-profit ADR firms which receive regular referrals from the San  
9 Francisco Superior Court, also happen to be retired San Francisco Superior Court judges who  
10 charge more than \$400/hr for their 'neutral' services. These Minnesota-like conflicts of interest  
11 are mind-blowing. <http://www.adrservices.org/neutrals/norcal-neutrals.php>

12 3. San Francisco Superior Court Judge Loretta Giorgi: Violations of 14<sup>th</sup>'s Due Process, Equal  
13 Protections, Right to Petition Grievances

14 On November 16, 2010, DHI motioned to have Nevada's fraudulent sister state ruling  
15 entered in San Francisco Superior Court case CPF-10-510876. As it just so happens, that case  
16 was also docketed for decision in Department 302. The whistle blower/Plaintiff immediately  
17 opposed DHI's motion by filing pleadings which were supported by 1000 documents  
18 overwhelmingly proving DHI's interstate financial crimes, and that Gonzalez' ruling was clearly  
19 and blatantly corrupt.

20 On January 19, 2011, Judge Giorgi admitted to reading all the evidence and listened to  
21 very detailed oral argument, but nevertheless denied the whistle-blower's motion to vacate based  
22 in fraud. The \$3.6 billion corporation had won yet again by suppressing the overwhelming  
23 evidence which included official FTC and HUD records proving DHI's interstate financial  
24 evisceration of American consumers.

25 By March 23, 2011, the whistle-blower had filed another motion to stay entry of  
26 Gonzalez' fraudulent order per two very specific California civil codes. Although Department  
27 302 is usually presided over by Giorgi, for this motion it was judge Alvarado that heard oral  
28 argument. Rather than consider CCP 916 and 1021, he instead ordered the whistle-blower to  
post an undertaking per surprise code section CCP 1710 which was not properly before the  
Court. The whistle-blower reminded Alvarado that he had not been given the chance to present

1 codified authority and precedent case law, all of which clearly hold that cost and fee awards do  
2 not require any undertakings. Posting an undertaking in this case would mean that the always-  
3 favored \$3.6 billion DHI criminal racketeering enterprise could much more easily collect on its  
4 corrupt Nevada judgment. Executing judgment would then result in DHI's continued or  
5 accelerated efforts at defrauding the nation's public. The San Francisco Superior Court would  
6 then have enabled the Fortune-500, ultra-capitalized corporation's interstate racketeering.

7 By June 30, 2011, the whistle-blower knew with certainty that San Francisco's  
8 Department 302 was just as corrupt as Nevada's Eighth Judicial District. The whistle-blower  
9 therefore set Giorgi up for failure. He stated for the record that if she did not properly reconsider  
10 her earlier January 19, 2011 order by considering the 2000 aggregate exhibits proving DHI's  
11 interstate racketeering, and their abundantly obvious official and judicial corruption, that he  
12 would then have to file this U.S.C. Title 42, §1983 civil rights action in federal court. Giorgi not  
13 only ignored the prior proof submitted on January 19, 2011 a second time, but also ignored the  
14 new evidence that Nevada's Court and judge Gonzalez ignored two properly served California  
15 subpoenas for the production of evidence *for that very hearing*. Based on Giorgi's complete  
16 dismissal of law and willful disregard of evidence, the whistle-blower has now had to file this  
17 federal suit on July 20, 2011, the one year anniversary of the railroad hearing argued before  
18 Gonzalez in her La\$ Vega\$ court room. Now it is through federal process that the whistle-  
19 blower will compel production of his required evidence, namely the video.

20 <http://webaccess.sftc.org/scripts/magic94/Mgrqispi94.dll?APPNAME=IJS&PRGNAME=ca>  
21 [senumberprompt22](http://webaccess.sftc.org/scripts/magic94/Mgrqispi94.dll?APPNAME=IJS&PRGNAME=ca) and enter <510876>

22 4. The San Francisco Superior Court will Prove its Own Corruption on July 21, 2011

23 Ironically, please note that another motion for reconsideration, of another of the San  
24 Francisco Court's fraudulent confirmations is set for the day after this federal filing. One day  
25 after the judicial corruption action names the San Francisco Superior Court and judges Carbone,  
26 Woolard and Giorgi, San Francisco's Court will either again corruptly support the fraudulent  
27 Carbone- Woolard confirmation in 464022, or vacate and confirm that it was a fraud to begin  
28 with. Questions will be raised as to why the hard evidence was ignored then and/or now.

<http://webaccess.sftc.org/scripts/magic94/Mgrqispi94.dll?APPNAME=IJS&PRGNAME=ca>  
[senumberprompt22](http://webaccess.sftc.org/scripts/magic94/Mgrqispi94.dll?APPNAME=IJS&PRGNAME=ca) and enter <464022>

1 **E. Federal Ninth Circuit Court Corruption**

2 This section will be limited to violations by only two Federal Circuit Judges. Three  
3 additional judges are featured at: <http://www.drhortonsjudges.info/>. Paragraph 3 infra will  
4 explain how Super-Pac money has bought this nation's courts.

5 1. Judge Saundra Armstrong, Oakland Division; Violations of Equal Protections, Due Process,  
6 Federal Rules of Evidence

7 On May 17, 2007, this whistle-blower filed a federal suit in the Northern District of  
8 California. C-07-2625-JL was then removed to the Oakland Division per Fortune-500 DHI's  
9 motion. Judge Saundra Brown Armstrong was thereafter assigned and the case was re-  
designated as C-07-2625-SBA.

10 <http://dockets.justia.com/docket/california/candce/4:2007cv02625/195703/>

11 Armstrong has a checkered past. For instance, in July 2008, she took unusually suspect  
12 measures when she wouldn't accept a plea deal struck by the government and a wealthy  
13 entrepreneur. She actually stepped in and essentially insinuated that the millionaire-entrepreneur  
14 had been railroaded by the feds, and that he should instead proceed to trial. The entire legal  
15 community called her actions highly unusual.

16 <http://www.law.com/jsp/article.jsp?id=1202423114944&slreturn=1&hbxlogin=1>

17 In case 07-2625, the whistle-blower filed over one hundred exhibits in support of his  
18 opposition of DHI's July 30, 2007 Motion to Dismiss [document #6]. The whistle-blower, who  
19 had discovered DHI's interstate antitrust, predatory lending, mortgage fraud, bank fraud, mail  
20 fraud, wire fraud, racketeering, Title 18, §1513 retaliation, ..... [more federal crimes], and over  
21 a dozen state law violations, filed three damning declarations complete with official records; and  
22 then also requested oral argument stating that he would bring in all the original documents to  
prove their authenticity:

23 a. Document 21 filed on August 21, 2007 was a sworn declaration which included about  
24 200 consumer statements that DHI was committing nationwide racketeering. Also within the  
25 documents were three statements submitted under the penalty of perjury: that 10 DHI insiders  
26 had information to corroborate DHI's interstate crimes; that 12 mortgage and real estate  
27 professionals averred that DHI practiced criminal lending and fraudulently mis-represented real  
28 estate sales; and that the whistle blower's truck had been recently ... *bombed*... which might just

1 indicate that the then \$8,000,000,000.00 (that is in billions) had lost \$\$\$\$\$ to lose if Armstrong  
2 ruled in favor of the whistle-blower.

3 b. Document 31 (filed September 5, 2007, and entered five days later), was another  
4 whistle-blower declaration which attached an official hearsay-excepted police report generated in  
5 the ordinary course of business, shortly after occurrence of the event described therein, by an  
6 official whose duty is to report accurately.... [official government record exception, FRE Rule  
7 803(8)]. SFPD Officer Curry stated within his official Police Incident Report #070793172 that  
8 the victim-whistle-blower had "heard a large explosive." In the next paragraph Curry  
9 corroborates the victim's statement by claiming that he too "saw the damage to Missud's vehicle  
10 and took 4 photos of the vehicle," which were then filed as evidence of the Title 18, §1513  
11 retaliatory event.

12 Document 36 (filed October 22, 2007, entered two days later) was a Request for Judicial  
13 Notice of an already docket-registered, authentic, court-endorsed Nevada sister-state ruling. Said  
14 ruling held that DHI was liable for deceptive business practices in a nearly identical case [Clark  
15 County Nevada, *Betsinger* #05-A-503121]. Sister state rulings are deemed hearsay-excepted,  
16 absolutely reliable per FRE 803(8), 901(1,4), and afforded enormous weight per the Full Faith  
17 and Credit Clause of the U.S. Constitution.

18 On October 30, 2007, Armstrong filed documents 38 and 39 which included three  
19 rulings: (1) Document 21 did not contain sufficient information to demonstrate the minimum  
20 contacts required to exercise jurisdiction over the \$8 billion corporation; (2) The official police  
21 report was "not considered;" and (3) Her decision was completely silent about the Full Faith and  
22 Credit *Betsinger* decision which corroborated the whistle-blower's allegations to a Tee. Her  
23 Final Judgment stated verbatim: "In accordance with the Court's Order on the defendants'  
24 Motion to Dismiss, judgment is granted in favor of the defendants on the claims brought by  
25 plaintiffs. All matters calendared in this action are VACATED. The Clerk shall close the file  
26 and terminate any pending matters." Further, oral argument was quickly cancelled since "the  
27 Court finds this matter appropriate for resolution without a hearing." Thereafter, the uber-  
28 capitalized, Fortune-500, predatory-lenders were allowed to continue financially ravaging the  
nation, worsen the looming mortgage melt-down, and push this nation's economy off the cliff.

Notice that if Armstrong had found in favor of the whistle-blower, then DHI might have  
had to disgorge over ONE BILLION in illegal racketeering profits. Note that just 1% of ONE

1 BILLION DOLLARS is \$10 million. Ten million dollars invested in a judge to produce a  
2 favorable ruling that offends federal rules of evidence, due process, equal protections and the  
3 Constitution's Full Faith and Credit clause would produce a \$990,000,000 return on  
4 'investment.'

5 Just for fun, also note that the Massey Energy Corporation invested just \$3 million in  
6 judge Benjamin for his very favorable ruling which saved that uber-capitalized corporation  
7 \$47,000,000 in their appeal.

8 [http://abcnews.go.com/Blotter/west-virginia-mine-disaster-massey-energy-ceo-](http://abcnews.go.com/Blotter/west-virginia-mine-disaster-massey-energy-ceo-don/story?id=10311477)  
9 [don/story?id=10311477](http://abcnews.go.com/Blotter/west-virginia-mine-disaster-massey-energy-ceo-don/story?id=10311477)

10 Proportionally then, if Massey spent just 3/50=6% to save \$47 million, then DHI is likely  
11 spending 6% of each billion it hopes to save from disgorgement. [6% of just One Billion equals  
12 *sixty-million-dollar\$*].

13 2. Judge Roger Benitez, San Diego Division: Violations of Equal Protections, Due Process,  
14 Right to Petition Grievances

15 On March 28, 2008, five class action representatives filed suit against DHI for of all  
16 things- deceptive trade practices, predatory lending, and antitrust violations [08-cv-592-RBB].  
17 Each of the five plaintiffs averred that they were fraudulently induced into DHI's contracts  
18 which contained various clauses. One such clause was that DHI would not compel the use of its  
19 much more expensive in-house loan originator since that would violate antitrust and RESPA  
20 laws. A second clause was that since consumers had 'voluntarily' signed their contracts, they  
21 waived all rights to civil suits before neutral juries of their common-sense peers, and 'agreed' to  
22 mandatory super-secret arbitration.

23 <http://dockets.justia.com/docket/california/casdce/3:2008cv00592/267063/>

24 The consumer-victims' attorneys filed a well pled opposition to DHI's motion to compel  
25 arbitration [Docket #10], but their cited precedents were all ignored by conservative judge Roger  
26 Benitez who on March 6, 2009 granted the billion dollar corporation's request for secretive, non-  
27 public arbitration. In docket #26, Benitez claimed that he could find no substantive  
28 unconscionability because the \$8 BILLION builder's adhesive arbitration clause was  
'voluntarily' agreed to, the arbitration agreement was 'fundamentally fair,' and all statutory  
rights for the parties had been 'preserved.'

1 Please revisit the above discussion in Section D, parts 1 and 2. Therein you will find  
2 actual, factual analysis regarding the 'voluntariness' of adhesive arbitration clauses which  
3 corrupt/self-interested courts compel consumers into; the 'fundamental fairness' of the super-  
4 secret, non-public arbitrations tried by arbitrators who base their fraudulent awards in 63 lies;  
5 and the statutory rights of non-parties who are nevertheless saddled with all costs and fees  
6 without ever having had the right to present any argument at the railroad arbitrations hosted at  
7 the wildly-lucrative, private, for-profit, repeat-business-favoring, arbitral mills.

8 Just for fun, also note that just recently, a Pennsylvania judge was criminally convicted  
9 for padding his own pockets in return for compelling parties to wildly-lucrative, private, for-  
10 profit, repeat-business-favoring, youth detention mills:

11 [http://abcnews.go.com/US/mark-ciavarella-pa-juvenile-court-judge-convicted-  
alleged/story?id=12965182](http://abcnews.go.com/US/mark-ciavarella-pa-juvenile-court-judge-convicted-alleged/story?id=12965182)

12 But I digress, back to case 592.... By April 12, 2010, DHI's five consumer- victims, who  
13 were litigating at their 'voluntary, fair and just' arbitration, simply had enough and just wanted to  
14 drop their case as long as Fortune-500 DHI would not pursue them for having tried to invoke the  
15 Constitution which has guaranteed basic rights for 225 years. However, their attorneys did at  
16 least reserve the right to re-file the class action contingent on *AT&T v. Concepcion*, a docketed  
17 future Supreme Court decision.

18 AT&T was decided on April 27, 2011. Therein the conservative majority's decision was  
19 that corporations which have the foresight to incorporate contractual 'voluntary' arbitration  
20 clauses, and which nevertheless intentionally set out to defraud consumers, have the absolute  
21 right to commit grand theft, extortion, antitrust, predatory lending, RESPA fraud, mortgage  
22 fraud, bank fraud, deceptive trade, bait and switch, appraisal fraud, OSHA violations,  
23 employment crimes, wire fraud, mail fraud, evade taxes, misrepresent land, lie to the SEC and  
24 shareholders, create shell corporations to evade responsibility for all of the above, corrupt  
25 officials and judicial officers alike, and generally violate every provision of this Country's  
26 foundation and its Constitution. The moral of the AT&T ruling is that defrauded living flesh-  
27 and-blood American 'citizens' now compelled into 'voluntary' arbitration, can not sue as a class  
28 to right these wrongs committed by fake brick-and-mortar corporate 'CITIZENS.'

[http://blogs.wsj.com/law/2011/04/27/after-att-ruling-should-we-say-goodbye-to-consumer-  
class-actions/](http://blogs.wsj.com/law/2011/04/27/after-att-ruling-should-we-say-goodbye-to-consumer-class-actions/) and <http://www.supremecourt.gov/opinions/10pdf/09-893.pdf>

1 Needless to say, the Wilson class action will never see the light of day.

2  
3 3. Texas' Super-Pac money which even prior to the conservative Supreme Court's Citizens  
4 United Decision already bought Texas' Legislative, Judicial and Executive Branches

5 *a. Texas' Legislature*

6 Countless investigations prove that Texas' legislature is bought by special interests. The  
7 same math, uniform accounting standards, and statistics used by the IRS, and state and federal  
8 governments alike, prove that Texas' beholden lawmakers are working for campaign-donating  
9 corporations when drafting bills or passing laws. Texas' building lobby which includes DHI,  
10 donates directly to lawmakers and more often than not gets laws enacted which strip consumers  
11 of most if not all state and federal Constitutional rights.

12 [http://info.tpj.org/Lobby\\_Watch/pdf/HOABobPerry,june2011.pdf](http://info.tpj.org/Lobby_Watch/pdf/HOABobPerry,june2011.pdf)

13 *b. Texas' Judiciary*

14 Countless investigations prove that Texas' judiciary is bought by the special interests.  
15 There are so many Texas judges that have been indicted or are currently under investigation that  
16 'justice' can not be done here to detail all of the assorted racketeering. The readers are  
17 encouraged to surf the web for hours' worth of disgust:

18 [http://article.wn.com/view/2011/04/29/Exlawmaker\\_pleads\\_guilty\\_in\\_Texas\\_corruption\\_ca](http://article.wn.com/view/2011/04/29/Exlawmaker_pleads_guilty_in_Texas_corruption_case/)  
19 [se/ and](http://article.wn.com/view/2011/04/01/ExTexas_judge_changes_plea_admits_to_bribery/htt)

20 [http://article.wn.com/view/2011/04/01/ExTexas\\_judge\\_changes\\_plea\\_admits\\_to\\_bribery/htt](http://article.wn.com/view/2011/04/01/ExTexas_judge_changes_plea_admits_to_bribery/htt)  
21 [p://article.wn.com/view/2011/04/15/Feds\\_South\\_Texas\\_judge\\_ran\\_court\\_to\\_enrich\\_self/](http://article.wn.com/view/2011/04/15/Feds_South_Texas_judge_ran_court_to_enrich_self/)

22 and <http://www.google.com/search?client=firefox-a&rls=org.mozilla%3Aen->

23 [US%3Aofficial&channel=s&hl=en&source=hp&biw=1024&bih=580&q=texas+judge+buil](http://www.google.com/search?client=firefox-a&rls=org.mozilla%3Aen-)  
24 [der+bribery&btnG=Google+Search#sclient=psy&hl=en&client=firefox-](http://www.google.com/search?client=firefox-a&rls=org.mozilla%3Aen-)

25 [a&hs=OzT&rls=org.mozilla:en-](http://www.google.com/search?client=firefox-a&rls=org.mozilla%3Aen-)

26 [US%3Aofficial&channel=s&source=hp&q=texas+judge+corruption&aq=f&aqi=&aql=&o](http://www.google.com/search?client=firefox-a&rls=org.mozilla%3Aen-)  
27 [q=&pbx=1&bav=on.2,or.r\\_gc.r\\_pw.&fp=fce33a84b0764b22&biw=1024&bih=580](http://www.google.com/search?client=firefox-a&rls=org.mozilla%3Aen-)

28 *c. Texas' Executives*

Countless investigations have proven that Texas' executives are bought at every level by  
the special interests. Lets get started in the state's largest city.

*i. Dallas City Hall Corruption*

1 Builder/developer kick-backs ensnared Dallas' mayor just last year:

2 <http://www.fbi.gov/dallas/press-releases/2010/dl061510.htm> and

3 [http://www.justice.gov/usao/txn/PressRel11/slovacek\\_spencer\\_DCC\\_sen\\_pr.html](http://www.justice.gov/usao/txn/PressRel11/slovacek_spencer_DCC_sen_pr.html) and

4 <http://www.prnewswire.com/news-releases/federal-jury-returns-guilty-verdicts-in-dallas-city-hall-corruption-case-63560822.html>

5  
6 *ii. Corruption of Attorney General Greg Abbott*

7 Texas' Attorney General has taken over \$1.4 million from home builders like DHI to get  
8 re-elected, ..... and to provide additional favor\$ in return:

9 <http://www.chron.com/dispatch/story.mpl/metropolitan/5802868.html>

10 Consumer groups throughout Texas have determined that Abbott remains silent or runs  
11 interference in disputes between consumers and his corporate benefactors.

12 [http://lubbockonline.com/stories/050406/sta\\_050406076.shtml](http://lubbockonline.com/stories/050406/sta_050406076.shtml)

13 This likely explains Abbott's complete non-feasance regarding this federal whistle-  
14 blower's notification that DHI is practicing interstate racketeering under his nose, from within  
15 the safety of Texas' borders, and with Abbott's help. Please see page 22 at the following link, to  
16 find the letter to Texas Attorney General Greg Abbott entitled "Texas Penal Code §31.03 Theft."  
17 Therein are details of DHI's predation of Texas consumers. Abbott has ignored at least 4 similar  
18 certified demands that he prevent billion-dollar, campaign-contributing, DHI's criminal activities  
19 which are flourishing throughout this nation's second most populace state.

20 <http://www.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>

21 *iii. Corruption of Governor Rick Perry (A now a\$piring Presidential Candidate)*

22 In one report, Texas Governor Rick Perry took \$400,000 from Perry Homes for his 2006  
23 election campaign. <http://www.washingtonpost.com/wp->

24 [dyn/content/article/2007/03/16/AR2007031601987.html?nav=rss\\_politics](http://www.washingtonpost.com/wp-dyn/content/article/2007/03/16/AR2007031601987.html?nav=rss_politics)

25 In another report, Perry may have taken an additional \$1.5 million from Perry Homes.  
26 However, this depends on whether the money was laundered through Perry's campaign's coffers  
27 in the same way that Tom Delay was indicted for.

28 <http://www.chron.com/dispatch/story.mpl/metropolitan/4478851.html> and

<http://www.chron.com/dispatch/story.mpl/metropolitan/7387242.html>.

In yet another report, Perry accepted \$3.4 million from developers and builders for his  
2010 re-election. For that election cycle, he was beholden to all the special interests to the tune

1 of \$39,000,000.00. That's a lot of political 'favor\$.'

2 <http://www.followthemoney.org/database/StateGlance/candidate.phtml?c=116443>

3 Perhaps then, it's no wonder that Governor Perry colluded with builder Bob Perry, and  
4 Bob Perry's lawyer, to conjure up the Texas Residential Construction Committee [TRCC], a  
5 consumer anti-protections/predation agency.

6 <http://www.npr.org/templates/story/story.php?storyId=102367683>

7 The TRCC has been called a builder-protection agency because it favors the corporate  
8 special interests which 'donate' millions to both Abbott and Perry for extra-Special treatment.  
9 Equal protections for consumers under Texas law is but a pipe dream. Homeowners are  
10 effectively stripped of their rights 94% of the time when petitioning the Perry-Perry/Texas-  
11 Builders'-Association/TRCC for 'help.' Consumers must first waste thousands of dollars  
12 fighting an unwinnable battle with the corporate-favoring TRCC, and are simultaneously  
13 prevented from litigating before a neutral jury of their common-sense peers for warranty or  
14 otherwise shoddy construction.

15 All of these Constitutional violations are thanks to DHI and friends' corporate ownership  
16 of an aspiring Presidential candidate who will sell thi\$ Country off as a common traitor would to  
17 the like\$ of the Koch Brother\$, and Donald Horton. Rick Perry will do and say anything to buy  
18 the Presidency to make sure that his friend\$, the \$pecial IntereSt\$, dictate to 308 million better  
19 Americans what they will each spend on fuel, electricity, food, drugs, healthcare, homes,  
20 mortgage rates, bank and credit card fees, and virtually any other expense so long as he and the  
21 oligarchs have their pockets full like did Mohamar Khadaffi, Hosni Mubarak, Kim Jeong Il, and  
22 Iraq's late Sadam Hussein.

23 [http://www.huffingtonpost.com/2011/07/01/white-house-texas-disaster-  
24 relief\\_n\\_888923.html](http://www.huffingtonpost.com/2011/07/01/white-house-texas-disaster-relief_n_888923.html)

25 (At this point, does anyone get the impression that the author of this amicus brief feels as if he  
26 has to massively expose and utterly destroy 15 (or more....) judicial careers; and send 15 corrupt  
27 judges off to federal prison to set an example for the rest of the corrupted judicial community?)

28 To continue.....

1 **F. Supreme Court Justices John Roberts, Antonin Scalia, Samuel Alito, Anthony Kennedy,**  
2 **Clarence Thomas; Violations of Equal Protections, Privileges and Immunities, Right to**  
3 **Petition Government to Redress Grievances, Due Process, Voting Rights**

4  
5 The Supreme Court's conservative majority has recently made some rather interesting  
6 decisions. The five conservative justices have officially stated for the record that corporations  
7 need to be the loudest voice to buy election\$ and the Constitution, self regulate, and prey on 308  
8 million flesh-and-blood Americans as they (all) \$ee fit.

9 **1. Corporate ownership of Country and Constitution**

10 The whistle-blower/Plaintiff referenced throughout this complaint is named Missud.  
11 Missud's Country and Constitution have been stolen. Missud's truck was bombed as if he lived  
12 in Pakistan. Missud was then threatened with a bomb-like briefcase placed in a second truck as  
13 if it were parked in Ramallah. The Texas-based, special corporate-interest known as DHI wants  
14 Missud to shut up in order to keep the billions in illegal revenue that it has already stolen from  
15 tens of thousands of flesh-and-blood Americans. DHI's CEO Tomnitz wants to donate just a  
16 fraction of its billions of racketeering profits to Texas Governor Rick Perry's 2012 Presidential  
17 campaign so that they can then all continue selling fraudulent and predatory loans to consumers  
18 to send America's economy off the cliff. Donald Horton wants to continue paying off his  
19 favorite judge\$ \$o that they will continue looking the other way while incendiary devices are  
20 placed on and around Missud's property, thousands more families are ruined by his enterprise's  
21 criminal activities, and the Constitution is torn into little pieces. The Supreme Court's  
22 conservative majority ha\$ made all of thi\$ po\$\$ible.

23 **2. Corporate ownership of Judge\$**

24 Don Blankenship bought 'judge' Benjamin for only \$3 million. Benjamin then saved  
25 Blankenship \$47 million by looking the other way. On April 5, 2010, Blankenship and busines\$\$  
26 partner Benjamin murdered 29 miners. The hills of West Virginia now share a special bond with  
27 China's Guangxi Zhuang Province which three days ago on July 2, 2011 saw the death of three  
28 of its own miners. China was once renowned for its official corruption. These days however,  
China's official corruption seems just a tenth as horrendous as America's judicial corruption.  
How much is a human life worth you ask? If you talk to Blanken\$hip or Benjamin, each miner  
is worth \$103,448.27.

1 <http://abcnews.go.com/Blotter/west-virginia-mine-disaster-massey-energy-ceo->  
2 [don/story?id=10311477](http://www.nytimes.com/2011/05/20/us/20mine.html) and <http://www.nytimes.com/2011/05/20/us/20mine.html> and  
3 <http://online.wsj.com/article/SB10001424052702304450604576415683464733192.html> and  
4 [http://connect.in.com/the-illustrated-weekly-of-india/news/three-dead-in-china-mine-](http://connect.in.com/the-illustrated-weekly-of-india/news/three-dead-in-china-mine-collapse-539762-ef4b54fc13de87c504ab6b225712ac7b0dd47c63.html)  
5 [collapse-539762-ef4b54fc13de87c504ab6b225712ac7b0dd47c63.html](http://connect.in.com/the-illustrated-weekly-of-india/news/three-dead-in-china-mine-collapse-539762-ef4b54fc13de87c504ab6b225712ac7b0dd47c63.html) and  
6 <http://www.nytimes.com/2008/09/04/world/asia/04iht-china.2.15898203.html> The Supreme  
7 Court's conservative majority make\$ all of thi\$ and more a reality.

### 8 3. Corporate Ownership of Regulator\$

9 On April 20, 2010, the Deep Water Horizon claimed 11 lives. That drilling rig failed in  
10 six different ways. Big OIL had taken over the Minerals Management Service which was  
11 supposed to safely (self) regulate the industry. However, those foxes had no intentions of  
12 protecting their many disposable hens which exist only for their service and at their whim. After  
13 all, miners are only worth \$103,448.27 whether on land or at sea.

14 <http://www.nytimes.com/2010/12/26/us/26spill.html> and  
15 <http://www.cbsnews.com/stories/2010/05/27/politics/main6523948.shtml> The Supreme  
16 Court's conservative majority ha\$ done it\$ be\$t to in\$ure indentured \$ervitude to the oligarch\$,  
17 and guarantee a return to the dark age\$ for many future generation\$.

### 18 CONCLUSIONS

19 The forthcoming first amended complaint's claims of judicial corruption and fraud will  
20 be pled with such particularity, and supported with such overwhelming proof, that it will survive  
21 any summary judgment motion. The assigned judge will have to issue written rulings, since one-  
22 liners dismissing cases without logic or a detailed ruling will not be tolerated. The judicial  
23 decisions will be monitored by thousands of media correspondents, watchdog agencies, and  
24 millions of *real* American CITIZENS. Any further judicial attempts, at any level, to further  
25 DHI'\$, or any other corporation'\$ criminal interstate activities will be made shockingly obvious.  
26 That and all future judge\$ will be set up for failure and 20 years' federal incarceration. Three  
27 hundred and eight million Americans will decide whether this judge is allowed the privilege of  
28 judicial immunity when he or she ignores these Defendants' crimes against this Country, its  
Constitution and its people.

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Per the power and true transparency of the First Amendment,



---

Patrick Missud

Dated July 20, 2011

**EXHIBIT R**

FILED

UNITED STATES COURT OF APPEALS

SEP 06 2012

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

PATRICK ALEXANDRE MISSUD, I,

No. 12-15371

Plaintiff - Appellant,

D.C. No. 4:11-cv-01856-PJH  
Northern District of California,  
Oakland

v.

SAN FRANCISCO SUPERIOR COURT;  
et al.,

ORDER

Defendants - Appellees.

Before: REINHARDT, WARDLAW, and BEA, Circuit Judges.

We have reviewed the record and appellant's opposition to appellees' motions for summary affirmance and we find that the questions raised in this appeal are so insubstantial as not to require further argument. *See United States v. Hooton*, 693 F.2d 857, 858 (9th Cir. 1982) (per curiam) (stating standard); *Cleavinger v. Saxner*, 474 U.S. 193, 200 (1985) (absolute immunity extends to judges and certain others who perform functions closely associated with the judicial process); *Wasyf, Inc. v. First Boston Corp.*, 813 F.2d 1579, 1582 (9th Cir. 1987) (arbitrators are immune from civil liability for acts arising out of their arbitral functions and duties); *Greater Los Angeles Council on Deafness, Inc. v.*

*Zolin*, 812 F.2d 1103, 1110 (9th Cir. 1987) (suit against the Superior Court is a suit against the State and is barred by the Eleventh Amendment); *United States v. City of Hayward*, 36 F.3d 832, 838 (9th Cir. 1994) (noting that courts have held that a sponsoring board or organization will not be liable for an arbitrator's decisions).

Accordingly, we grant appellees' motion to summarily affirm the district court's judgment.

The pending motion is denied as moot.

**AFFIRMED.**

**EXHIBIT S**

**RECEIVED**

**AUG 27 2009**

**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND**

Patrick Missud  
Attorney at Law  
91 San Juan Ave  
San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell

**FILED**

**AUG 27 2009**

**RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND**

August 26, 2009

Office of the Chief Trial Counsel/Intake  
State Bar of California  
1149 South Hill Street  
Los Angeles, CA, 90015-2299

Re: California Attorney Complaint

Via: Certified FISMA & OMB Memorandum M-07-16 \*\*\*

Dear Agent,

Please find enclosed a formal complaint form. This cover letter also serves as attachment to item #7.

Discovery of court sanctioned widespread fraud creating devastating consumer losses has me questioning my own actions and wondering whether I am fit to be a Bar member. I therefore demand a formal investigation into my actions.

Complaint Item #7:

Per Rule 1-100, the Rules of Professional Conduct are to "protect the public and to promote respect and confidence in the legal profession." I have on numerous occasions broadcasted my disdain for, and lack of confidence in, the legal profession. A few of my certified letters FISMA & OMB Memorandum M-07-16 \*\*\* and FISMA & OMB Memorandum M-07-16 \*\*\* dated March 19, 2009 and August 8, 2009 have been sent and received by the Bar and federal judges as proof. Several letters have also already been registered in PACER under case #07-CV-02625 SBA.

\*\*\* FISMA & OMB Memorandum

I have violated Rule 2-400 by practicing discriminatory conduct in my law practice. If a middle class client, or one who speaks English as a second language, comes to me for legal advice, I without hesitation inform them that they stand little chance of prevailing regardless of the merits of their case. However, if a wealthy white client comes through the doors, I am more than happy to oblige with their legal endeavors regardless of the criminal nature of any actions that they may have been involved in.

I have violated Rule 3-210 by advising clients to violate law. For instance, if a client who is a mortgage broker inquires whether he should forfeit a borrower's escrow deposits for failure to close a deal on the broker's terms, I resoundingly recommend that he do so.

Similarly, if a large building contractor wishes to fraudulently void a warranty without good cause for any and all construction defects, I whole heartedly recommend that that is the course which should be followed.

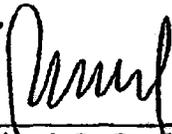
I have violated Rule 5-100 by threatening administrative charges to gain an advantage in my civil dispute. After having donated over \$100,000 and nearly three years of time pursuing consumer redress, I have now turned to leveraging corporations with threats of administrative discipline and widespread internet broadcasting to gain an advantage specifically for myself and generally for others. A prior related complaint inquiry is 06-26033.

I have violated Rule 5-120 by publicly making extra judicial statements that I know have a substantial likelihood of materially prejudicing an adjudicative proceeding. In advance of several federal rulings, I have contacted syndicated media to apprise them of the issues yet to be decided. I have interfered with 08-cv-01324 Trenga decision as well as the 08-CV-00592 Benitez decision. I have gone so far as to create a web site to which I regularly refer syndicated media: [http://www.drhortonsjudges.info/Home\\_Page.html](http://www.drhortonsjudges.info/Home_Page.html)

I have violated Rule 5-300 by directly and extra judicially contacting federal judges Trenga, Benitez, Edinfield and Reidinger without consent of any of the parties in those cases. All of these judges received certified letters as proof of contact.

In closing, I anxiously await your written decision on these matters in a timely manner. Under the penalty of perjury under the laws of the State of California, I swear that the above are true statements.

Sincerely,



Patrick Missud, CA Bar #219614

Further violations of 1-100, 5-120, 5-300 follow:

Cc: Clerk of the Court for Judge Armstrong  
1301 Clay Street, Suite 400 S  
Oakland, CA 94612-5212

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

Clerk of the Court for Judge Benitez  
U.S. Courthouse  
880 Front St # 4290  
San Diego, CA 92101

\*\*\* FISMA & OMB Memorandum M-07-16 \*\*\*

**THE STATE BAR OF CALIFORNIA  
CALIFORNIA ATTORNEY COMPLAINT FORM**

*Read Instructions before filling in this form.*

Date August 26, 2009

(1) Your name and address Patrick Missud, 91 San Juan Ave. San Francisco, CA, 94112

(2) Telephone number: Home 415-845-5540 Work 415-845-5540

(3) The name, address and telephone number of the attorney(s) you are complaining about. (See note below.)

Patrick Missud, 91 San Juan Ave. San Francisco, CA, 94112, 415-584-7251

(4) Have you or a member of your family complained about this attorney(s) previously?  
Yes  No  If Yes, please state to whom the previous complaint was made, its approximate date and disposition.

(5) Did you employ the attorney? Answer Yes or No and, if "Yes," give the approximate date you employed the attorney(s) and the amount, if any, paid to the attorney(s).

No

(6) If your answer to #5 above is "No," what is your connection with the attorney(s)? Explain briefly.

Self

DRH001189

(7) Include with this form (on a separate piece of paper) a statement of what the attorney(s) did or did not do which is the basis of your complaint. Please state the facts as you understand them. Do not include opinions or arguments. If you employed the attorney(s), state what you employed the attorney(s) to do. Sign and date each separate piece of paper. Additional information may be requested. (Attach copies of pertinent documents such as a copy of the fee agreement, cancelled checks or receipts and relevant correspondence.)

(8) If your complaint is about a lawsuit, answer the following, if known:

a. Name of court (For example, Superior or Municipal Court, and name of the county)  
San Francisco Superior, Northern District of California

b. Title of the suit (For example, Smith v. Jones).  
Patrick Missud v. D R Horton

c. Case number of the suit CGC 05-447499 07-CV-2625-SBA

d. Approximate date the suit was filed January 2005, May 2007

e. If you are not a party to this suit, what is your connection with it? Explain briefly.

(9) Size of law firm complained about:

1 Attorney  2 - 10 Attorneys  11 + Attorneys   
Government Attorney  Unknown

**NOTE: If you are complaining about more than one attorney, include the information requested in items #3 through #8. Use separate sheets if necessary.**

Signature 

Mail to:  
Office of the Chief Trial Counsel/Intake  
The State Bar of California  
1149 South Hill Street  
Los Angeles, California 90015-2299

DRH001190

**VERIFIED MAIL**



Patrick Misaud  
91 San Juan Ave.  
San Francisco, CA, 94112

7009 0080 0001 6752 6757



U.S. POSTAGE  
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Clerk of the Court for Judge Armstrong  
1301 Clay Street, Suite 400 S  
Oakland, CA 94612-5212

94612+5212



**EXHIBIT T**

# TRANSCRIPT

July 20, 2010

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

[ PATRICK MISSUD, et al. ]	.	
Plaintiffs	.	[ CASE NO. A-551662 ]
vs.	.	
D R HORTON, INC., et al.	.	DEPT. NO. XI
Defendants	.	<b>Transcript of</b>
.....	.	<b>Proceedings</b>

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

**SHOW CAUSE HEARING**

TUESDAY, JULY 20, 2010

APPEARANCES:

FOR THE PLAINTIFFS: PATRICK A. MISSUD, PRO PER

FOR THE DEFENDANTS: JOEL D. ODOU, ESQ.  
NADIN J. CUTTER, ESQ.

COURT RECORDER:	TRANSCRIPTION BY:
JILL HAWKINS	FLORENCE HOYT
District Court	Las Vegas, Nevada 89146

Proceedings recorded by audio-visual recording, transcript produced by transcription service.

1 THE COURT: First witness.

2 MR. ODOU: Your Honor, defendants call Patrice  
3 Missud.

4 THE COURT: Mr. Missud, if you would come forward to  
5 the witness stand. Since you'll be doing a narrative for your  
6 cross, you may bring anything you need to assist you in doing  
7 your cross-examination. You don't want to take your notes or  
8 your books, sir?

9 MR. MISSUD: I am going to take my notes, I'm going  
10 to bring the binder. I'll have to come back for those  
11 documents.

12 MR. ODOU: Is it Your Honor's preference that Mr.  
13 Missud goes first and then I'll cross him?

14 THE COURT: No. It's preference you do your direct  
15 examination of him first.

16 MR. ODOU: Thank you, Your Honor.

17 THE COURT: You're going to help him find his place  
18 in the book to start with.

19 PATRICK MISSUD, DEFENDANTS' WITNESS, SWORN

20 THE CLERK: Please be seated.

21 THE MARSHAL: And if everybody could turn off their  
22 cell phones from the lunch hour, please.

23 [ THE CLERK: Please state your name for the record. ]

24 [ THE WITNESS: Patrick A. Missud, given name Patrice ]

[ 25 Missud. ]

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATRICE A. MISSUD and JULIE MISSUD,  
Plaintiffs,

No. C 07-2625 SBA

ORDER

v.

D.R. HORTON INC., et al.,  
Defendants.

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United States District Court  
For the Northern District of California

Over the past several weeks, Plaintiff Patrice Missud has submitted numerous papers to this Court which do not conform to the local rules governing the form and manner of papers. Plaintiff's submissions, for example, are double-sided, do not state a case number, and do not include a chamber's copy. Moreover, the Plaintiff's case was terminated on October 30, 2007. The Case Systems Administrator has communicated this failure to comply with this Court's Local Rules to Plaintiff on several occasions. Nevertheless, Plaintiff continues to submit papers and represents he will continue to do so.

Good cause appearing, the Plaintiff is ORDERED to comply with local rules of the Northern District of California when submitting documents to this Court, and if Plaintiff fails to comply, the Case Systems Administrator is authorized to return all non-conforming papers to Plaintiff.

IT IS SO ORDERED.

Dated: 5/21/09

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

1  
2 UNITED STATES DISTRICT COURT  
3 FOR THE  
4 NORTHERN DISTRICT OF CALIFORNIA  
5

6  
7 MISSUD et al, ]  
8 Plaintiff,

[ Case Number: CV07-02625 SBA ]  
[ CERTIFICATE OF SERVICE ]

9 v.

10 D.R.HORTON INC. et al,  
11 Defendant.

12  
13 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
Court, Northern District of California.

14 That on May 22, 2009, I SERVED a true and correct copy(ies) of the attached, by placing said  
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing  
16 said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
receptacle located in the Clerk's office.

17  
18  
19 Patrick Alexandre Missud ]  
20 91 San Juan Ave.  
San Francisco, CA 94112

21 Dated: May 22, 2009

22 Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk  
23  
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United States District Court  
For the Northern District of California

**EXHIBIT U**

# D. R. HORTON INC. AND ASSOCIATES

Your Subtitle text

- HOME PAGE
- FEDERAL OFFICIALS
- STATE OFFICIALS
- LOCAL OFFICIALS
- CONTACT US

## Home Page

At D R Horton, in order to sell defective homes with predatory in-house originated loans, a little outside help is needed. Building officials need to be bought, state officials put on the payroll, and sympathetic judges enlisted. What consumers don't know will hurt them.

You can't make this stuff up. For verification, you should all visit the official electronic federal court docketing system known as PACER to read the official court documents. Get an account and then type in the case numbers listed in the 'Federal Officials' tab within this site to get access to all the following and within information. This is truly an American tragedy.

A sister site where more information is available, including official FTC records, without having to access PACER is at: <http://www.drhortonhomesstink.info/>

The August 8, 2009 letter immediately below links to dozens of outside third party corroborating sources which overwhelmingly prove DHI's rampant unchecked nationwide RICO.



Patrick Missud  
Attorney at Law  
91 San Juan Ave

Available at <http://www.drhortonsjudges.info/>.

San Francisco, CA, 94112  
415-584-7251 Office  
415-845-5540 Cell  
missudpat@yahoo.com

August 8, 2009

Att'n: Defendants and Agencies

Re: Missud v. DHI et al, RICO and Conspiracy to commit RICO  
Via: Certified, and e-mail: [dennis.barchaan@usdoj.gov](mailto:dennis.barchaan@usdoj.gov), [greener@sec.gov](mailto:greener@sec.gov)

Attention Defendants, Agencies and Federal Agents,

This is notice of an imminent RICO and conspiracy to commit RICO suit naming:

RICO operating D R Horton Inc. [DHI] and DHI Mortgage;  
Aiding and abetting federal judges Roger Benitez and Sandra Armstrong;  
Former South Carolina Magistrate and DHI under the table employee Curtis Coltrane;  
Former Nevada Deputy Commissioner and DHI under the table employee Susan Eckhardt;  
Criminally enabling defense firms Wendell Rosen Black and Dean, Wood Smith Henning and Berman;  
Felony DHI in house counsel/board members Morice, Buchanan, Buschacher, Galland, Harbour; and  
Non feasant State Bars of California, Nevada and Texas.

Syndicated media will first receive copies of the complaint with supporting evidence long before the defendants' summons are served. The following are just the facts, supporting the case for judicial corruption, official corruption, and ethics violations by state Bar members and associations. A limited assortment of official government admissions/records and registered judicial decisions are enclosed or cited, or internet links to web accessible information are provided, or hard copy evidence enclosed with my certified March 18, 2009 letter which you have each positively received. This current letter will soon be posted to [www.drhortonsjudges.info](http://www.drhortonsjudges.info) for media's and Americans' ease of access. My intent is to ruin the reputations of the named individuals and corporations and to expose the various governmental entities responsible for DHI's predatory lending which has cost 300 million Americans trillions of dollars in bail outs while allowing the corporate elite to avoid "justice." The compassion that I will now show the named defendants will be similar to that shown by the DHI corporation and its officers towards its own consumers. Every defendant who has "dealt with the devil" will now become a victim of DHI's own corporate fraud and hopefully lose as much as the hundreds/thousands of preyed on, foreclosed and bankrupted DHI consumers found nationwide. Markopoulos exposed Madoff's ponzi scheme which injured only thousands of private investors and several large funds. I plan to expose the miscreants who have caused catastrophic worldwide economic losses.

Rampant Builder/Affiliated Lender RICO:

On July 1, 2009, 8<sup>th</sup> largest builder/affiliated lender Beazer Homes signed a deferred prosecution agreement, admitted to predatory lending/mortgage fraud, and agreed to \$50 Million in consumer restitution. The FBI, SEC and HUD agreed to settle in lieu of prosecuting "Beazer's participation in a scheme designed to increase its mortgage company's profits and sell homes, ... arranging larger loans that consumers could afford, ... fraudulently inflating home prices to offset (incentives)," generally inflating interest rates on the back end, and intentionally overstating consumer income to qualify for home purchases. <http://charlotte.fbi.gov/dolpressrel/2009/ce070109.htm> Scores of Beazer's consumers have been foreclosed on and bankrupted. Hundreds more have been financially ruined.

Ryland, KB and Hovnanian Homes and others have also similarly been found involved in antitrust and predatory lending.

[http://www.ctwinvestmentgroup.com/fileadmin/group\\_files/CtW\\_Inv\\_Grp\\_to\\_DR\\_Horton\\_Board.pdf](http://www.ctwinvestmentgroup.com/fileadmin/group_files/CtW_Inv_Grp_to_DR_Horton_Board.pdf)

D.R. Horton's [DHI] sales volume is FOUR times as great as Beazer's and qualifies for a minimum of \$200 Million in consumer restitution. Hundreds of official government documents and hundreds more consumer emails in my

Available at <http://www.drhortonsjudges.info/>.

possession prove the losses with absolute certainty. Hundreds of DHI's consumers have been foreclosed on and bankrupted. Thousands more have been financially ruined. All indications however are that the DHI elite will skate and the white collar criminals will never have to answer for crimes that minorities and small fish regularly pay for...and 'justice' for all.

HUD's Request for my DHI Predatory Lending File:

On July 19, 2006, HUD Director Ivy Jackson personally requested my then small file regarding DHI's regional predatory lending occurring throughout California and Nevada. I was happy to oblige and quickly sent her the documents.

On November 19, 2006 AP syndicated real estate columnist Ken Harney then printed "Builder-lender partnerships draw HUD eye." Within that article he wrote "the statute police have begun intervening in complaints brought by individual consumers who say builders are unfairly forcing them to use their affiliated mortgage companies." The following paragraph then begins to detail the same identical stories that I had sent certified to HUD's Director Jackson. <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2006/11/19/REG7TMEK8A1.DTL>

Judicial Furtherance, Assistance and Enablement of DHI's RICO:

On June 8, 2009, the U.S. Supreme Court ruled that West Virginia's judge Benjamin should have disqualified himself from an appeal of a \$50 million jury verdict against Massey Energy Co because the coal mining company's CEO had been one of his major campaign donors. Benjamin's swing vote predictably favored Massey Energy which had contributed \$3M to his re-election.

<http://www.reuters.com/article/domesticNews/idUSTRE5573RU20090608>

In June 2006, South Carolina's "Special Magistrate" Curtis Coltrane twice cited DHI's corporate special interests to trump a community's and couple's First Amendment Right to speech and assembly at Beaufort's traditional public forums. [06-CP-07-1658,2224 and [http://www.drhortonhomeofhorrors.info/South\\_Carolina.html](http://www.drhortonhomeofhorrors.info/South_Carolina.html)]. However, another Magistrate not on DHI's payroll properly ruled against DHI when it tried to again eliminate the 222 year old right to speech and assembly in Richland County South Carolina.

<http://www.wistv.com/Global/story.asp?s=6676111>. Now in 2009, according to Southern Carolina's Beaufort bench, Special Magistrate Coltrane is no longer in their service nor even practicing law. Perhaps Coltrane's former DHI income is sufficient to support his lifestyle. His friend of a feather was similarly indicted recently on July 31, 2009, supporting her own lifestyle:

<http://www.greenvilleonline.com/article/20090731/NEWS/907310329/0/NEWS01/Beaufort-court-clerk-resigns-after-embezzlement-charges>

In October 2007, Northern District of California Judge Sandra Armstrong quickly closed a DHI predatory lending case which precisely mirrors the smallish \$50 Million Beazer deferred prosecution case. She resoundingly refused the plaintiff's offer to bring dozens (now hundreds) of nationally defrauded consumer contacts to an oral hearing for which there would have been a public record. She ignored a Clark County court finding of fraud and deceptive trade practices by the same defendants, when she should have given that ruling full faith and credit. Judge Sandra Armstrong even dismissed an official police report generated in the ordinary course of business by an officer whose official duty was to accurately document the bombing of the plaintiff/whistleblower's truck at 10:00 PM on August 3, 2007. <http://drhortoncouldhavekilledme.com/index.html> Coincidentally, at 10:00 PM that very same evening, the plaintiff's already month long sponsored internet campaign had informed yet another 1000 people nationally of DHI's RICO. The plaintiff can now point to 200 million reasons why DHI would want to silence him through fear and intimidation. Perhaps Armstrong can point to several hundred thousand reasons why she found for DHI. [4:07-02625-SBA]. Most recently on August 11, 2009, this court even entered document number 55 into PACER, misrepresenting that it was "filed" by the whistleblower's wife despite her non-involvement in these DHI RICO related matters, and to somehow taint her as a licensed attorney. The northern district's federal judiciary has now taken its own official retaliatory judicial action to prevent a federal informant from truthfully informing government and the public of DHI's nationwide crimes in contravention of CFR Title 18, Section 1513(e). [http://www.law.cornell.edu/uscode/18/uscode\\_18\\_00001513\\_000.html](http://www.law.cornell.edu/uscode/18/uscode_18_00001513_000.html) Another questionable directed verdict by Armstrong is her dismissal of big money tobacco companies in a suit which should have been the seventh in a

row favoring consumers. By the time that she ruled in December 2003 to break the consumer win streak, it was common knowledge that tobacco companies manipulated nicotine levels and hooked kids into smoking. [http://stic.neu.edu/ma/\\$macomplaint.htm](http://stic.neu.edu/ma/$macomplaint.htm) and <http://www.tobacco.org/articles/lawsuit/conley/> Yet another very questionable ruling is when ArmStrong recently refused to accept a settlement agreement which would have required nearly \$1.2M in fines and the shuttering of a biotech business. Rather than let those expensive conditions happen, ArmStrong did not accept the settlement but instead required the prosecutors to strike a new deal with the wealthy entrepreneur. <http://www.law.com/isp/article.isp?id=1202423114944>

In March 2009, Bush Jr's hand picked corporate-favoring Judge Roger Benitez, who believes that an unregulated DHI has nothing but consumers' best interests in mind, compelled arbitration for five blatantly defrauded DHI predatory lending victims. The victims' communities were separated by nearly 500 miles, with their DHI originated mortgages issued by different branch offices. A DHI corporate insider from Texas, 1500 miles away, also confirmed that DHI Mortgage's policy in Texas, as well as in California, Nevada, Virginia, Florida, Oregon, Washington, Illinois, Colorado,..... is to require consumers to use DHI's affiliated lender otherwise lose their thousands in deposits. On May 20, 2009, the consumer advocacy group Public Citizen printed "Home Court Advantage, How the Building Industry Uses Forced Arbitration to Evade Accountability" <http://www.fairarbitrationnow.org/uploads/HomeCourtAdvantage.pdf> In the very well researched 53 page document citing 340 sources, Public Citizen determined that arbitration is overwhelmingly effective for corporations which keep arbitrators in business by requiring consumers to capitulate to boilerplate and unconscionable mandatory arbitrations clauses. Indeed, this was the very same finding in document #24 which was timely submitted into evidence. The undeniable mathematical statistics from both these documents are that forced arbitration costs consumers even more money than they have already lost in the original fraud. I have a second and third DHI corporate insider /informant who also agree with the first that DHI illegally ties home sales to mortgage services. There were many ample grounds for invalidating the arbitrations clause. After all: "arbitration agreements are favored and shall be valid, irrevocable, and enforceable, save upon such grounds as exist at law OR IN EQUITY for the revocation of any contract." [3:08-CV-00592-BEN-RBB, Order to Compel Arbitration, page 4, lines 13-15]. Under contracts 101, fraud and non-mutuality rescinds contracts and clauses. Any contract in which fraud is contemplated is also an illegal unenforceable contract. DHI could not have contemplated that contractual fraud would have to be arbitrated under terms of the agreement. Benitez's decision to force arbitration on these already once defrauded consumers is either incompetent or corrupt.

#### Federal Cover up of 5 years notice of DHI's RICO:

I can prove a HUD cover up in three different ways. Said cover up is to suppress the information which HUD should have acted on five years ago to prevent our currently growing \$3,000,000,000,000 bail out caused by rampant mortgage fraud and predatory lending.

1. On December 31, 2008 the FTC found 205 pages of responsive records to my FTC FOIA request #2009-00355, which sought predatory lending complaints against DHI and DHI Mortgage. One of the 190 pages that the FTC released even contained one of my complaints copied to and then only forwarded by the DOJ. In fact, the FTC recorded about 9 of my complaints and updates that I had sent by certified mail. My predatory lending complaints were among 44 others from 16 other states. All of the FTC's records which I sent were received as carbon copies of letters sent *directly* to HUD. Ironically, HUD has not been able to find *any* of my or any others' complaints in its own archives. HUD though is the primary regulatory authority to receive, TILA, RESPA and mortgage fraud complaints not only from myself, but from at least 16 other DHI market states.
2. On February 6, 2009 HUD's Office of the Inspector General sent a letter in reply to my HUD FOIA request which sought information regarding predatory lending by DHI, this country's single largest builder/affiliated lender. Their research indicated that there were "no responsive records" to problematic DHI and DHI Mortgage transactions. However, three weeks later on February 27, 2009, HUD miraculously managed to find nearly 7700 administrative records proving builder/affiliated lender fraud against consumers in case 08-CV-01324-AJT-TCB. Then on April 30, 2009, after my second FOIA request again seeking this exact type of information, or a copy of the 7700 administrative records, HUD reiterated the position that it had no responsive records.
3. On March 12, 2007 at 03:24:10 PM clerk 03 accepted and scanned both bar coded certified packages 7006 2150 0001 1108 5058 and 5065 into a computer at the Onondaga Post office. Both 5 ounce packages containing 30 double sided pages of proof of DHI's predatory lending were addressed to HUD and the FTC in Washington DC 20580. The computer generated receipt #0567830036-0096 is also logged into the computer as Bill #1000402285364. This paper receipt was printed seconds after all this computer information was instantly

registered within the USPS database. Inexplicably, when one tries to track the packages on usps.com, there is now "no record" of 60 pages of tips to HUD/FTC which could have pre-empted our economic crisis directly linked to predatory lending and mortgage fraud.

4. To this day, my HUD FOIA request remains unfulfilled despite new FOIA guidelines which claim to provide more transparency in obtaining just such government records. I have yet to receive a single document from HUD, the federal agency commissioned to prevent predatory lending and to archive just such records.

#### State Agent Furtherance and Enablement of DHI RICO:

On June 1, 2006, Nevada's Deputy Commissioner for Mortgage Lending Susan Eckhardt finally replied to my third subpoena demanding a written explanation as to why she did not investigate DHI Mortgage despite my having forwarded 20 separate instances of predatory lending to her office. By Nevada state law she was to have provided her answer, without the necessity of any subpoenas, and within 90 days submission of my complaint. Within her 9 month delinquent answer she essentially stated that although she issued five licenses to DHI Mortgage, her office could not regulate the company. Twenty six days later, Nevada's Attorney General informed me that they were searching for her replacement and if I could send them my file. Today, Las Vegas is the foreclosure capitol of the world, with 1 in 68 homes already foreclosed or in the process of foreclosure. Susan Eckhardt is responsible for millions in losses and the bankruptcy of thousands in her own city. I believe she left town and sought employment elsewhere. <http://www.drhortonfraud.com/>

In East Hempfield Pennsylvania building code official passed rampant, notorious, non code compliant construction defects in favor of DHI. When third party inspectors were asked to review DHI's construction, the massive defects were easily spotted and the County's code official rapidly terminated.

[http://www.donaldhortonisacrook.info/Pennsylvania\\_S.html](http://www.donaldhortonisacrook.info/Pennsylvania_S.html)

#### Other rampant DHI RICO:

The FBI found Beazer type appraisal fraud in DHI's Virginia's Rippon Landing.

<http://www.washingtonpost.com/wp-dyn/content/article/2007/12/17/AR2007121701993.html> DHI's fraudulent appraisals also extended to Florida. <http://www.publicintegrity.org/articles/entry/1265/> DHI's fraudulent appraisals also extended to Nevada where consumers have stated that the base price of their homes would increase if outside financing was secured. One example being that a home would cost an additional \$53,000 if the purchaser/mortgage agent brokered his own loan. A second example being that the base price was so inflated that outside lenders would not finance and the buyer had to close with the much more expensive DHI Mortgage by default. Other (English as a second language) Nevadans have also had their homes reappraised only to find that they had been swindled at the time of their purchase. About half of that community is now bankrupted.

DHI transfer tax evasion was discovered in Pennsylvania's Village Grande development. DHI of course had the home buyers pay for their upgrades. Those same upgrades however were conveniently omitted from transfer taxes when it came time for DHI to pay the state tax. <http://www.donaldtomnitzisacrook.com/>

DHI mischaracterizes its work force to evade payroll taxes in New Jersey.

[http://www.nj.com/news/index.ssf/2008/03/carpenters\\_union\\_sues\\_builder.html](http://www.nj.com/news/index.ssf/2008/03/carpenters_union_sues_builder.html) DHI did the same in Punta Gorda Florida. [http://jacksonville.com/tu-online/stories/021704/met\\_14837472.shtml](http://jacksonville.com/tu-online/stories/021704/met_14837472.shtml)

DHI forged special inspections records for structural components in Yuba County California.

<http://www.appeal-democrat.com/news/brown-49525-homes-county.html>

Arson is suspected in DHI's money losing Paramount condominium project in San Diego and another in Vacaville California.

<http://www.prnewswire.com/cgi-bin/stories.pl?ACCT=104&STORY=/www/story/01-19-2007/0004509366&EDATE=>

DHI misrepresentation in all 27 market states concerning land misrepresentation, warranty and construction defects.

<http://www.complaintsboard.com/complaints/d-r-horton-c219874.html#c393078>;

[http://www.consumeraffairs.com/housing/dr\\_horton.html](http://www.consumeraffairs.com/housing/dr_horton.html); and starting on page 35 at

<http://ftp.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>

**SEC violations:**

The SEC has logged complaint HO1042390 in its archives concerning DHI's accelerated closing and threatened deposit forfeiture on an incomplete home to qualify for that quarter's earnings. The house was ready for move in 3 months later in the next quarter. Apparently, that consumer's neighbor also suffered the same fate. Likely scores or hundreds of others had to pre-pay for homes they could not live in because Tomnitz' email directives to DHI agents were to meet sales goals every quarter, at all costs, by whatever means to increase stock valuation and outperform peers'. [http://www.donaldtomnitzisacrook.info/Tomnitz\\_Emails.html](http://www.donaldtomnitzisacrook.info/Tomnitz_Emails.html)

During the recent 2009 2d Qtr earnings conference call, CEO Donald Tomnitz made material misrepresentations to shareholders in claiming that DHI Mortgage "does an excellent job underwriting mortgages and the related risk associated with it..." This despite an overwhelming mountain of proof that he has personal knowledge to the contrary which brings us to DHI's predatory lending....

**Rampant DHI predatory lending/mortgage fraud in 17 states according to the FTC's own files, 20 states according to my even more extensive files, and all 27 of DHI's market states by simply surfing the web: "d r Horton predatory lending" or "d r Horton mortgage fraud."** [http://www.drhortonhomesstink.info/FTC\\_Records.html](http://www.drhortonhomesstink.info/FTC_Records.html)

My own very extensively documented case for which DHI has already produced documents and admissions has yielded blatant DHI lies. DHI had my loan positively and internally approved yet sent me a fraudulent federally certified letter claiming that I had breached their contract of adhesion by "not fulfilling DHI Mortgage's requirements" or becoming "fully approved." The reason for their fraudulent predatory letter informing me that they would retain my deposits and cancel my contract was because I instead 'chose' to finance with Wells Fargo. The greedy DHI board of directors who crafted their antitrust corporate policy leaving consumers no choice in lenders, would not "earn" a mortgage origination commission from me nor be able to resell my loan for their corporation's bottom line. In FACT, Las Vegas DHI Mortgage agent Michael Mason first claimed in two successive letters that I was "approved," then only "preliminarily approved," then "not approved" in a fraudulent statement to DHI's under the table employee and former Nevada Deputy Commissioner, then finally "approved" in California court documents to evade jurisdiction which would have come by way of lying to the California court. Clark County Nevada case #A551662, San Francisco Superior #05-447499, and <http://www.drhortonconfidential.com/id2.html>

In Betsinger, four other Las Vegas DHI agents have already been civilly liable for fraud. [#A503121]. The four criminally acting DHI agents are in addition to the agents involved in my case and several more who are also pervasively found throughout the 190 pages of FTC responsive records. It would seem that all the Las Vegas DHI Mortgage agents were following the same nationwide predatory lending scheme originating from DHI's Fort Worth boardroom just as declared by DHI corporate insiders.

The retaliation that DHI has taken against me as a federal informant in nationally exposing their vast predatory lending and mortgage fraud has occurred four documented times, the last by car bomb. [<http://drhortoncouldevekilldme.com/index.html>]. My information and scanned certified letters are posted in 16 web sites on the web which have by now been seen by over a million Americans. <http://ftp.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf> <http://www.drhortonconfidential.com/>

**DHI defense attorney perjury:**

In California, Wendel Rosen Black and Dean attorneys perjured themselves twice to the San Francisco Superior Court, the first time by falsely claiming to have contacted me for an ex parte hearing. <http://www.drhortonconfidential.com/id2.html>

In Nevada, Wood Smith Henning and Berman attorneys have perjured themselves three times denying the receipt of certified mail, making false statements to the former DHI corrupted Deputy Commissioner Eckhardt, and in misstating a court ordered form of order. <http://www.drhortonconfidential.com/id3.html>

In Texas, 5 DHI board members who also happen to be attorneys have been repeatedly notified of discovery of their boardroom originated predatory lending yet have done nothing to stop it. <http://www.drhortonconfidential.com/id5.html>

DHI in house counsel's exhibit G in case 08-CV-01324 boldly claims to have "high customer mortgage origination satisfaction." DHI even offers a single letter by a happy customer as proof. The truth though is that DHI ranks slightly better than predatory lenders Ryland and Countrywide. That information was compiled by independent

third party JD Power and Associates and posted to the web.  
<http://www.jdpower.com/corporate/news/releases/pressrelease.aspx?ID=2007166#2007166e> (Note that the hyperlink to the hard data no longer works, although there are calls to it which pervasively exist throughout the web. This information is being suppressed so instead, a hard copy record was printed before all the damning data disappeared and was sent in support of my March 19, 2009 letter.) Rather than a single letter in support of DHI's "satisfactory mortgage origination," I offer 44 from the FTC records, and hundreds more from my own archives, all of which claiming that DHI is a predatory lender in at least 20 of DHI's 27 market states.

#### State Bar Non feaasnce:

The California bar has been repeatedly notified of California attorneys taking part in DHI's RICO furthering nationwide mortgage fraud, yet has taken no action.

The Nevada bar has been repeatedly notified of Nevada attorney mis-conduct which has enabled DHI's nationwide mortgage fraud, but has taken no action.

The Texas Bar's non feaasnce starts on page 23 of <http://ftp.sec.gov/divisions/corpfin/cf-noaction/14a-8/2008/patrickmissud112108-14a8.pdf>. Several certified letters were posted to all these organizations. To date the TX state bar has taken no action against five DHI general counsels and board members who have orchestrated the nationwide predatory lending which has contributed to the world's financial melt down.

#### Conclusions:

Every single system and organization meant to protect consumers from DHI's predatory lending has completely failed them. This has in part resulted in the current \$3 Trillion recession/depression. DHI is the largest builder/affiliated lender which has the highest captive capture percentage whereby its in house affiliated lender DHI Mortgage finances DHI home sales at the astounding 95% rate. [DHI's 10K]. This is the highest among all the builders, however, DHI Mortgage's origination satisfaction is among the lowest of all the builders and just slightly better than Countrywide and Ryland; two mortgage originators already having been found to write predatory loans. Hundreds of nationwide consumers have filed complaints regarding DHI's predatory loans with various organizations including the FTC for years. FTC records show that at least 44 consumers from at least 17 states have claimed that DHI Mortgage originates predatory loans. Federal and state courts have been deluged with predatory lending complaints against DHI and DHI Mortgage for years. DHI and DHI Mortgage agents Ward, Callihan, Martinez, Mason, Schankin, Collins, Frasure, Knobloch, Yow, Tremby, Branecki, Rivera, Brockway, Pena, Costello, Zenner, Toelle, Howe, Casner, George, Williams, Buckler, Stowell, Grether, Toth, Wolf, Buckingham, Romo, Smith, Teamer, Raddon, Hovander, Belding, Lackman, Rhoades, Leona, Bradshaw, Adoni, Christiano, Boslooper, Kelly, Seifrid, Evans, Medeiros, McVay, Nguyen, Koski, Greenberg..... from Nevada, California, Virginia, Arizona, Oregon, Maryland, Texas, Georgia, Colorado, Washington, New Mexico, Illinois..... have each been implicated, some found civilly liable, and others reprimanded for predatory lending. Federal and state agencies are currently covering up their lack of enforcement of consumer protections laws because their liability to the general public is overwhelming. A corrupt Nevada Commissioner has made Las Vegas the foreclosure capitol of the world having decimated property values in that area for every single property owner. Judicial and official corruption in South Carolina's Beaufort and Bluffton Counties is rampant. The federal and state judiciaries have furthered and enabled DHI in fleecing consumers and now American tax payers of their hundreds of millions of TARP funds by time and again favoring DHI's corporate interests over consumers'. DHI's defense attorneys who have taken ethical oaths to not further crimes have nevertheless taken an active role in assisting DHI's RICO. State bars which are supposed to police attorneys have been proven impotent or reluctant to stop the attorneys' criminal acts.

The intent of the forthcoming RICO filing is to provide a permanent record of defendants' roles in assisting the DHI criminal enterprise. Even CEO Tomnitz stated in the second quarter conference call that DHI has "originated billions in loans over the past ten years." Those predatory loans could have been stopped by HUD five years ago, by Commissioner Eckhardt three years ago, by judge Armstrong two years ago, and by judge Benitez this year. Another reason to file this imminent RICO suit is to trigger defamation claims by the individuals or disbarment proceedings by the defendant organizations. Once these have been initiated, I can blindly reach into my file cabinet, withdraw several hundred recounts of DHI's predatory lending, prove every single allegation with certainty and achieve the public exposure that I now require. Know that DHI sued the Scripps Broadcasting Corporation in 1999 for far less negative exposure than I have already brought them, yet DHI doesn't attempt to sue me for fear of additional exposure. [99-CV-196]. DHI filed a SLAPP suit against consumers in Safe Homes Nevada but lost to an honest judge applying the First Amendment. [http://www.reviewjournal.com/tyri\\_home/2003/May-29-Thu](http://www.reviewjournal.com/tyri_home/2003/May-29-Thu)

2003/business/21422432.html DHI twice filed injunctions preventing speech in South Carolina and was only successful because judge Coltrane was on their payroll. The next honest South Carolina judge properly refused DHI injunctive relief and allowed sacrosanct inalienable speech and peaceful assembly to continue as it has for 222 years.

To the federal judges receiving this transmission: As an attorney I am supposed to respect court rulings. I have completely disrespected yours, linked your decisions to corruption or incompetence, already contacted media, and should be disciplined with contempt of court. Not taking this step would be seen as a tacit admission or an adoption of the allegations by silence.

To the state bars receiving this transmission: As an attorney I am supposed to follow ethical codes of conduct. I have in many instances not followed those canons. You should each initiate an investigation into my actions. Not taking this step would be seen as a tacit admission or an adoption of the allegations by silence.

To the federal agents receiving this transmission: In the Beazer deferred prosecution, the DOJ states that indicting the principles at Beazer is not a consideration because it employs 15,000 individuals and would have a detrimental effect on unemployment. This is not the case since the builders generally hire sub-contractors and have few corporate employees. DHI's Donald Tomnitz is on record during the Q2 2009 conference call claiming that his company, the largest of residential builders, employed only 2,900 people. There would be a negligible, if any, net loss in jobs if DHI were to completely fold. DHI's market share would be easily absorbed by over 15 of its competitors which would be happy to see it go, employ some of its less criminal agents, and hire DHI's leveraged and undercut/over-worked sub-contractors. However, a bankrupted DHI would injure the interests of thousands of its victims created through predatory lending, warranty misrepresentation, land sale misrepresentation, construction defect..... so instead I suggest the following. In 2006, Chairman Donald Horton ranked as the 606<sup>th</sup> richest man in the world and should restore consumer losses from his own pocket. I understand that the entire DHI board was also very well compensated and even received bonuses for defrauding thousands over the course of years. One such director was even Francine Neff, the former U.S. Treasury Secretary hired to peddle political influence on Capitol Hill and meet with Franklin Raines of Fannie Mae infamy.

<http://sec.edgar-online.com/horton-d-r-inc-de/def-14a-proxy-statement-definitive/2005/12/14/Section3.aspx>  
[http://seattletimes.nwsource.com/html/business/technology/2004358433\\_webraines18.html](http://seattletimes.nwsource.com/html/business/technology/2004358433_webraines18.html)

Very well established mail fraud and racketeering laws should provide federal agencies with the jurisdiction to take such actions. Since profits from illegal undertakings should be disgorged, I recommend starting with the felons (and former high ranking federal officials) in Fort Worth.

Just the facts, just sue me,

/S/ Patrick Missud

Patrick Missud, Esq. CA #219614

P.S.: 1. Can I have my HUD FOIA request now?  
2. The usps positively "accepted" the following in the few seconds after they were scanned into the usps database:

Holder MA & OMB Memorandum M-07-16 \*\*\*  
Armstrong -8696; Benitez -8702; Cal Bar -8719.

**In numerous states throughout the Country, local, state and even federal officials have time and again supported D R Horton to the detriment of consumers .... and perhaps even received a benefit for themselves. See the official documents within. Contact me as below:**

Patrick Missud  
91 San Juan Avenue  
San Francisco, CA, 94112  
415-845-5540  
FAX 415-584-7251  
[missudpat@yahoo.com](mailto:missudpat@yahoo.com)



Domain Name Registration

Available at <http://www.drhortonsjudges.info/>.

# D R HORTON RACKETEERING AND PREDATORY LENDING

On August 4, 2010, D R Horton acknowledged that it had produced information for 128,000 loans in response to two FTC civil investigative demands. The demands served on DHI Mortgage were based on consumer complaints concerning violations of the Federal Trade Commission Act, Truth in Lending Act, Fair Credit Reporting Act, Consumer Credit Protections Act, Equal Credit Opportunity Act among others:

D R Horton vs. Federal Trade Commission

The FTC is demanding production of documents on behalf of the public's interests. The questions raised include DHI's: not allowing consumers to use realtors or other professionals when purchasing homes or negotiating financing; communications with English deficient consumers; policies regarding employee compensation for referring consumers to DHI Mortgage; financial structure regarding yield spread premiums; high number of legal and regulatory actions; targeting of particular racial and ethnic groups; policies regarding meeting specific sales goals; procedures for informing consumers of charges related to loan originations; etc.

FTC's Demands

The FTC's findings are that D R Horton's objections to the investigation are without basis. The FTC is currently investigating to determine whether D R Horton has "engaged in deceptive or unfair acts or practices in or affecting commerce in the advertisement, marketing, sale or servicing of loans"..... and also to determine whether "Commission action to obtain monetary relief, including consumer redress, disgorgement, or civil penalties, would be in the public interest."

FTC Findings

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## D R Horton Predatory Lending

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Example of Typical D R Horton  
Fraud

FTC COMPLAINT RECORDS

HUD RECORDS

SILENCE OF THE LAMBS

Nevada Supreme Court

Nevada's Massive Cover Up

Judicial Corruption

Other Nationwide Lawsuits

\$1.4 Billion civil suit against  
Nevada

Nevada's 3rd Dirty Commissioner

State Investigations

State & Fed Investigations

## Home Engineering - Keeping Builders in Check

## Home

Where Quality Counts and Honesty Matters

**Predatory Lending** I CAN'T BE MORE EMPHATIC.....IF YOU BUY FROM D R HORTON YOU WILL LIKELY BE DEFRAUDED. D R Horton is a RICO operating company, developers, DHI included. <http://edition.cnn.com/2008/US/01/29/fbi.mortgage.fraud/> A major investment group, CtW has even demanded accountability already discovered and officially documented are predatory lending, antitrust, tampering with a federal informant, mail fraud and tax evasion. Official

**Deceptive Business**

**Construction Defects** On January 30, 2008, it was demanded that CEO Tomnitz and Chairman Horton step down at the January 31, 2008 shareholder meeting. Each of these mortgage fraud case which detailed their nationwide fraud, 07-2625 JL. [http://donaldtomnitzisacrook.info/Demand\\_on\\_Board.html](http://donaldtomnitzisacrook.info/Demand_on_Board.html) Since this official who have contacted me from Nevada, Illinois, Oklahoma, Virginia and California. Additional information, even including arson, has been compiled ar

**Warranty Fraud**

Class actions are now being formed nationwide in the areas of mortgage fraud/predatory lending, construction defect/lack of warranty, and SEC deri

There is a standing \$5000 reward for additional insider information leading to the criminal conviction of D R Horton officers and executives. Contact

'THE MENU' of 14 below listed web sites, descriptions and hyperlinks are for real and not exaggerated. Everything is supported with scanned docum documents and will exceed 500/300 respectively with new information yet to be uploaded:

## 'THE MENU:'



If I were to download all of the dissatisfaction to this web site, it would crash. There may not be enough memory on the web to list it all. For at least a

[http://www.hadd.com/process\\_datasearch.php](http://www.hadd.com/process_datasearch.php)[http://www.hobb.org/index.php?option=com\\_content&task=blogcategory&id=64&Itemid=295](http://www.hobb.org/index.php?option=com_content&task=blogcategory&id=64&Itemid=295)<http://www.builder.html><http://www.ripoffreport.com/reports/0/140/RipOff0140840.htm><http://www.topix.com/forum/business/construction/TKBU84Q5601DBJO59#> conspiracy to defraud extending to upper management throughout the regions of Nevada and Northern California, D R Horton's once "hottest marke including Nevada, Pennsylvania, Texas, Virginia and Florida (A dozen scans)<http://www.drhortonfraud.com>, D R Horton correspondence with and co by three legal teams in attempted cover up of predatory lending (50 scanned official documents) <http://www.drhortoncouldhavekilledme.com>, eight d <http://www.drhortonsucks.info>, 4-500 consumer testimonials regarding mortgage fraud, defects and warranty misrepresentations as recently as Octc <http://www.donaldtomnitzisacrook.com>, massive tax evasion in Pennsylvania, and coercion of the whistle blowers (A dozen scans) <http://www.donal> fraud has been rampant at the company for years (A dozen scans, over three dozen certified mail labels)<http://www.drhortonhomelemon.com>, predat development dozens of intended scans) <http://www.drhortonhomelemon.info>, quality and warranty misrepresentations and double talk (Half dozen s; developments near carcinogenic EMF and chemicals thereby risking consumers' health (half dozen scans)<http://www.drhortonhomeofhorror.info>, c ruin and intimidate (half dozen scans)<http://www.drhortonhomesstink.com>, D R Horton practice of shafting its own employees, who then turn and be <http://www.drhortonhomesstink.info>, land misrepresentations and major construction defects nationwide (Still under development dozens of intende

The very short list of recently filed cases across the nation is as follows:

Nevada State Court Case 05-A-503121-C, Fraud and deceptive business practices; California State Case RIC369796, Fraud and deceptive business practices; Federal Court Case 07-cv-61030-WJZ, Fraud, Truth in Lending violation; Georgia, Federal Court Case 07-cv-00081-bae-grs, RESPA violation; Virginia, Federal

**CtW INVESTMENT GROUP CALLS ON D R HORTON TO ADDRESS COMPLIANCE FAILURES:** Institutional investor CtW, with \$1.4T in securities has c manage their currently in house predatory mortgage lending arm, DHI Mortgage. [http://www.ctwinvestmentgroup.com/fileadmin/group\\_files/CtW\\_investment\\_community\\_is\\_realizing\\_that\\_the\\_cat\\_is\\_out\\_of\\_the\\_bag](http://www.ctwinvestmentgroup.com/fileadmin/group_files/CtW_investment_community_is_realizing_that_the_cat_is_out_of_the_bag). We are now in a free for all for shareholder derivative suits and putative class action:

Regarding Predatory Lending: D R Horton has admitted to a 96% captive capture rate of writing mortgages for its home building operations where 70% is already violated RESPA by tying its mortgage lending operations to home sales. In Nevada, case # 05 A 503121C on August 31, 2007, the jury in Steven Betsinger v. D entities had committed deceptive trade practices. The jury further found that DHI Mortgage and Daniel Callahan had committed fraud. In the Northern District of same deceptive trade practices and bait and switch tactics regarding DHI mortgage services. The 200 consumer declarations within are gathered from at least

Where land misrepresentations are concerned, In South Carolina, state case # 06 CP 071658, residents of a D R Horton community have been silenced by the operation until 2010 by D R Horton. After purchase, the golf course was essentially rezoned and the construction of 250 homes was begun. In an internal email case # 369796 residents had not been told that the adjoining open hills would be developed within months of their purchase and that other adjoining land was us housing. In Nevada, the Sunridge Heights and Manor communities were guaranteed by D R Horton that the 'wash' behind their homes would not be developed, rezoned, and hundreds of additional units are under construction. Contact Congressman [JonPorter@mail.house.gov](mailto:JonPorter@mail.house.gov). He has been apprised of this fraud fr their quiet private streets by D R Horton which then subsequently used them to service the next larger neighboring communities.

Where Federal Title 18, threatening and tampering with informants are concerned, a retirement community in Pennsylvania has been threatened into near silence Texas, vocal retirees Fogal and Corrente have been threatened into near silence for recounting their stories which are available by searching their names at [www.wv](http://www.wv) state whereby the TRCC, a regulatory commission meant to protect consumers from fraudulent builders, has had seats appointed to builder friendly officials with for the state's labor board was targeted in a murder conspiracy when he started gathering too much information regarding a Federal probe into tax evasion by th [online.stories/021704/met\\_14837472.shtml](http://online.stories/021704/met_14837472.shtml) In California the author of this site has experienced 8 distinct and proven retaliatory actions by D R Horton, the last i

Attention Attorneys General: If you need inside information I have contacts for over a dozen defectors. They have the inside on how D R Horton deceptively do division by manipulating locked interest rates, inflating closing costs, not crediting incentives and discounts and the like..... Even more insiders regarding corner Horton's bottom line and shareholder expectations.

**THE 400 D R HORTON CONSUMER TESTIMONIALS CONTAINED WITHIN ARE FOR REAL.... 100 MORE HAVE BEEN GATHE INFORMATION ARE DAUNTING SO READ THE BOLD HIGHLIGHTS.** The reason that I have not been sued is that D R Hor further revealed. Horton has however taken other actions.....

When you search for 'd r horton,' on the first two pages you will find sources such as consumeraffairs, topix, citydata...which corroborate this site. Link to those ; sources will recount stories of depleted savings, college funds, 401k's; sleeplessness, stress and anxiety; toxic mold and electrical fires; ruined careers and family criminals complete with their very own damning internal emails are displayed at [www.drhortoncouldhavekilledme.com](http://www.drhortoncouldhavekilledme.com). Business Week has printed four articles mortgage melt down frauds are listed on the next 'page,' under the predatory lending tab.

**RACKETEERING: An organized conspiracy to commit or attempt the crime of coercion. COERCION: Compelli**

**more acts, 3.constituting a pattern, 4.of 'racketeering' activity, 5.directly participates in, 6.an 'enterprise,' 7.the MIND AS YOU READ THE WITHIN...400!!!... VERY SIMILAR CONSUMER TESTIMONIALS -THIS IS NO JOKE.**

Attention shareholders: **RESPONSE TO THIS SITE HAS BEEN INCREDIBLE. THE MOST CONSERVATIVE ESTIMATES PUTS THE VALUE OF PREVENTI CONSUMERS!** This site will remain in operation until all board room originated criminal activities cease and consumers are meaningfully protected.

**DHI has been trading in a sideways pattern for the past three months. The stock is falling today after Jim Cramer put out a fairly negative quote on th seriously questioning whether or not the company would be able to "make it".** Technical indicators for DHI are bearish and steady, while **S&P** gives t

#### Homebuilder 101

Homebuilders? Yeah, that's right, it's been a while since you've thought about these guys since the hedge funds and banks have taken over the headlines. But t [floridabuilder](#) shares his thoughts about what cash flow means to the major homebuilders. Though he thinks that KB Home and NVR may be on solid footing, he at serious liquidity issues.

Its sad but true, the crimes committed by "America's Builder" haven't been seen since ENRON. D R Horton's own documents make the case, some of wh Lending, Antitrust and even Coercion by the nation's largest builder D R Horton and wholly owned affiliate DHI Mortgage! **Within these pages you will find 40 seal to organization of class actions.** Verification of the testimonials by 4 business week articles include the following:

**D.R. Horton sued for lending practices, By Matt Slagle**

[www.businessweek.com/ap/financialnews/D8QTNRJ01.htm](http://www.businessweek.com/ap/financialnews/D8QTNRJ01.htm)

D.R. Horton Inc., one of the nation's largest homebuilders, is being sued by a one-time customer who says he was forced to i filing. The lawsuit charges the homebuilder with **violating the Real Estate Settlement Procedures Act**, according to a filing with the Southern District of Georgia, [and May 2007 complaint, filed in U.S. District Court, Northern District of California], says **the homebuil discounts and incentives.....yada, yada, yada.....click the above link for the complete story, or read the hundreds of testimonials** :

**DRHortonsucks.info** is one of five interlinked sites designed to provide a **central clearinghouse of information** which is available to and monitored by law e respective enforcement agencies such as divisions of banking, antitrust, lending and consumer protections; the 535 members in **both houses of Congress**; W Private and class action attorneys filing suits on behalf of defrauded consumers; **Syndicated national print and broadcast media.**

As before, if the following pages crash from too much data input, additional but less updated information can be viewed at [drhortonconfidential.com](http://drhortonconfidential.com). At 'confid **DO NOTHING** which has instead required private citizens to protect American immigrants, retirees and the underprivileged -who by the way and coincidentally, I **Private has finally acknowledged the predatory lending rampant across the nation which has been perfected with near scientific precision by D R I**

Receipt of notification of the fraud by many of the above entities is absolutely verified by certified U.S. government mail and can be viewed at [www.d](http://www.d) and including Donald Horton and Donald Tomnitz to enforce D R Horton's rights and to prevent further nationwide fraud is also verified by USPS rec these documents at [www.drhortonfraud.com](http://www.drhortonfraud.com)

**Please send your comments to my email account at [missudpat@yahoo.com](mailto:missudpat@yahoo.com) to add to the over 500 consumers already found capability at this site is still under development. Please post your blog at an affiliate's site and browse while there:[www.New](http://www.New)**

Please keep your comments to truthful recounts of your experiences. **YOU ARE PROTECTED** by the following Federal Laws:

Title 18, U.S. Code, Section 1512, Tampering with an informant, sub part c: "Whoever intentionally harasses another person and thereby hinders, pre States, the commission or possible commission of a Federal offense...or attempts to do so, shall be fined not more than \$25,000.00 or imprisoned nc

Title 18, U.S. Code, Section 1513, Retaliating against an informant, sub part e: "Whoever knowingly, with the intent to retaliate, takes any action harm commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both."Please feel transgressions and schemes that you may have been a victim of.

An example of D R Horton Compassion:

Family has not heard from D. R. Horton: "Jackie Mull, Sarah Anne Walker's younger sister, said Tuesday that it's been more than a week since her si Horton, Sarah's employer, has tried to contact or return any phone calls to her immediate family. 'They have not offered any condolences to any of [S have not called her brother and they have not called me.' .....The Mulls were making funeral arrangements at the time and wanted to know if they wot the company told her they would not be paying those commissions. 'They told us Sarah was no longer an employee of D.R. Horton, and we are not p should have paid for it (the funeral) and be darn glad to do that.' 'I feel like they should have stepped up immediately covering costs and do what the: cost?"... [The answer is: Its not about decency, at Horton its about the bottom line.] <http://newhomebuildersnewsblog.com/>

Additional exposees in Business Week articles:

[http://www.businessweek.com/magazine/content/07\\_33/b4046601.htm](http://www.businessweek.com/magazine/content/07_33/b4046601.htm)

[http://www.businessweek.com/magazine/content/07\\_33/b4046605.htm](http://www.businessweek.com/magazine/content/07_33/b4046605.htm)

[http://images.businessweek.com/ss/07/08/0802\\_gripe/index\\_01.htm](http://images.businessweek.com/ss/07/08/0802_gripe/index_01.htm)

[http://www.businessweek.com/magazine/content/07\\_33/b4046608.htm](http://www.businessweek.com/magazine/content/07_33/b4046608.htm)

The named defendants, Donald Tomnitz and Donald Horton have opted not to answer substantive questions regarding the myriad fra have guaranteed that this site prominently remains in operation to prevent future consumer fraud, which in turn severely injures the D notified by fax of recent ongoing predatory lending schemes received from consumers visiting this site. The frauds are detailed and v recounted stories. **IF YOU ARE A VICTIM, CONTACT ME AND YOUR STATE'S ATTORNEY GENERAL.**

**Why can't I been sued for libel/defamation? -Because the truth hurts:**

Section 45a of the California Civil Code provides protection for a privileged publication or broadcast made in any: (b) (2) judicial proce proceeding; (e) (2) By a fair and true report if the publication of the matter complained of was for the public benefit.

Because of the value of public comment on newsworthy events, the First Amendment requires that in order to establish defamation, 'c malice. Actual malice generally refers to statements made with knowledge of their falsity or in reckless disregard for whether they wer

CEO DONALD TOMNITZ AND THE DR HORTON BOARD ARE CROOKS AND HAVE KNOWN ABOUT THE FEDERAL PREDATORY LENDING FOR YEARS

Please visit the links below for further details. **This 5th of five web sites is still under development. Email me and send your c** [missudpat@yahoo.com](mailto:missudpat@yahoo.com) in your mail server window.

[drhortonfraud.com](http://drhortonfraud.com)

[homeengineering.com](http://homeengineering.com)  
[hortoninjuries](http://hortoninjuries)  
[drhortonconfidential.com](http://drhortonconfidential.com)  
[HADD](#)  
[HOBB](#)