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**BEFORE THE ARIZONA CORPORATION CC**

Arizona Corporation Commission

**DOCKETED**

FEB - 6 2013

COMMISSIONERS

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

DOCKETED BY	NR
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In the matter of:

TRI-CORE COMPANIES, LLC, an Arizona limited liability company,

TRI-CORE MEXICO LAND DEVELOPMENT, LLC, an Arizona limited liability company,

TRI-CORE BUSINESS DEVELOPMENT, LLC, an Arizona limited liability company,

ERC COMPACTORS, LLC, an Arizona limited liability company,

ERC INVESTMENTS, LLC, an Arizona limited liability company,

C&D CONSTRUCTION SERVICES, INC., a Nevada corporation;

PANGAEA INVESTMENT GROUP, LLC, an Arizona limited liability company, d/b/a Arizona Investment Center,

JASON TODD MOGLER, an Arizona resident,

BRIAN N. BUCKLEY and CHERYL BARRETT BUCKLEY, husband and wife,

CASIMER POLANCHEK, an Arizona resident,

NICOLE KORDOSKY, an Arizona resident,

Respondents.

DOCKET NO. S-20867A-12-0459

DECISION NO. 73667

**ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION AND ORDER FOR ADMINISTRATIVE PENALTIES**

**RE: TRI-CORE MEXICO LAND DEVELOPMENT, LLC**

On November 8, 2012, the Securities Division ("Division") of the Arizona Corporation

Commission ("Commission") filed a Notice of Opportunity for Hearing regarding a Proposed

1 Order to Cease and Desist, For Restitution, For Administrative Penalties and Order for Other  
2 Affirmative Action (“Notice”) against TRI-CORE COMPANIES, LLC (“Tri-Core”), TRI-CORE  
3 MEXICO LAND DEVELOPMENT, LLC (“Tri-Core Mexico”), TRI-CORE BUSINESS  
4 DEVELOPMENT, LLC (“Tri-Core BD”), ERC COMPACTORS, LLC (“ERC Compactors”), ERC  
5 INVESTMENTS, LLC (“ERC Investments”), C&D CONSTRUCTION SERVICES, INC.  
6 (“C&D”), PANGAEA INVESTMENT GROUP, LLC (“Pangaea”) d/b/a Arizona Investment  
7 Center (collectively “AIC”), JASON TODD MOGLER (“Mogler”), BRIAN N. BUCKLEY  
8 (“Buckley”) and CHERYL BARRETT BUCKLEY (“Buckley Spouse”), CASIMER  
9 POLANCHEK (“Polanchek”), and NICOLE KORDOSKY (“Kordosky”).

10 On November 17, 2012, the Division served the Notice upon Tri-Core Mexico via certified  
11 mail to its registered agent for service of process, Alpha Legal Forms & More, pursuant to A.A.C.  
12 R14-4-303(E)(3). As of the date of this filing, no request for a hearing or Answer has been filed by  
13 Tri-Core Mexico.

14 **I.**

15 **FINDINGS OF FACT**

16 1. TRI-CORE MEXICO LAND DEVELOPMENT, LLC (“Tri-Core Mexico”), has  
17 been at all relevant times a limited liability company organized under the laws of the state of  
18 Arizona in May 2007. At all relevant times, Tri-Core Mexico’s business office was located at 8840  
19 E. Chaparral Rd., #150, Scottsdale, Arizona. Tri-Core Mexico has not been registered by the  
20 Commission as a securities salesman or dealer.

21 2. TRI-CORE BUSINESS DEVELOPMENT, LLC (“Tri-Core BD”), has been at all  
22 relevant times a limited liability company organized under the laws of the state of Arizona in January  
23 2006. At all relevant times, Tri-Core BD’s business office was located at 8840 E. Chaparral Rd.,  
24 #150, Scottsdale, Arizona. Tri-Core BD has not been registered by the Commission as a securities  
25 salesman or dealer.

1           3.       JASON TODD MOGLER (“Mogler”), has been at all relevant times a resident of  
2 the state of Arizona. At all relevant times, Mogler has been the manager of Tri-Core, Tri-Core BD,  
3 ERC Compactors, and ERC Investments. Mogler has not been registered by the Commission as a  
4 securities salesman or dealer.

5           4.       BRIAN BUCKLEY (“Buckley”), has been at all relevant times a married man and  
6 resident of the state of Arizona. Buckley has not been registered by the Commission as a securities  
7 salesman or dealer.

8           5.       From at least February 2007 until at least April 2008, Tri-Core BD, Mogler, and  
9 Buckley offered and sold promissory notes issued by Tri-Core Mexico in and from Arizona.

10          6.       At all relevant times, offerees were provided a private placement memorandum dated  
11 May 1, 2007 (“5/1/07 TCM PPM”). The 5/1/07 TCM PPM offered offerees promissory notes for  
12 \$5,000.00 per note, with a total offering of \$3,500,000.00. The 5/1/07 TCM PPM represented to  
13 offerees an 80% rate of return, compounded annually, with a maturity date for payment of both  
14 interest and principal 24 months from the date of commencement of each note (“Tri-Core Mexico  
15 Investment”).

16          7.       Investors were issued promissory notes containing the same terms with respect to  
17 interest and maturity date, and subscription agreements signed by Mogler as Principal of Tri-Core  
18 Mexico.

19          8.       The 5/1/07 TCM PPM stated that “use of the proceeds is to purchase a water front  
20 subdivision in San Luis Rio Colorado, Sonora, Mexico”. This investment is known as the Tri-Core  
21 Mexico “Lot 5” investment.

22          9.       In the 5/1/07 TCM PPM, Mogler is identified as a general partner of Tri-Core  
23 Mexico.

1           10.     The 5/1/07 TCM PPM states that “[a]ll decisions with respect to the management of  
2 the Company [Tri-Core Mexico] will be made exclusively by the Principal Managers of the LLC.  
3 Note Holders do not have the right or power to take part in the management of the Company.”

4           11.     The 5/1/07 TCM PPM states that the success of the company is dependent upon the  
5 services and expertise of existing management, including James L. Stevens (“Stevens”). The Tri-  
6 Core Mexico Investment investor materials do not disclose that Stevens had outstanding tax liens  
7 totaling at least approximately \$200,000.

8           12.     The 5/1/07 TCM PPM instructed investors to make their investment check payable  
9 to “Tri-Core Mexico Land Development, LLC” or “Tri-Core Business Development, LLC”, while  
10 the subscription agreement directed the checks be made payable to “Tri-Core Business  
11 Development, LLC”.

12           13.     The 5/1/07 TCM PPM states that “[t]he Notes being offered by [Tri-Core Mexico]  
13 in this Private Placement Offering are secured by the land Tri-Core Mexico Land Development,  
14 LLC purchases. Tri-Core Business Development will establish an administration account which  
15 will hold the deed to the property until all note holders will be paid in full.”

16           14.     The promissory notes issued to investors for the Tri-Core Mexico Investment stated  
17 that the note was “secured by future land purchase.”

18           15.     Investors were not provided a deed of trust or other mechanism to securitize their  
19 notes with any land in Mexico purchased by Tri-Core Mexico or Tri-Core BD.

20           16.     Investor funds in the Tri-Core Mexico Investment were not used to purchase land in  
21 Mexico.

22           17.     The 5/1/07 TCM PPM states that offering expenses would not exceed \$350,000 for  
23 the offering.

24           18.     An Independent Contractor Agreement was executed between Tri-Core Mexico and  
25 Tri-Core BD, with Stevens signing as managing member of Tri-Core Mexico, and Mogler signing  
26

1 as President of Tri-Core BD. The Independent Contractor Agreement between Tri-Core Mexico  
2 and Tri-Core BD required \$925,000 in compensation to Tri-Core BD from Tri-Core Mexico from  
3 the investment proceeds.

4 19. The Tri-Core Mexico Investment was offered at presentations given by Buckley to  
5 individuals with no pre-existing relationship with Tri-Core Mexico.

6 20. The 5/1/07 TCM PPM stated that the Tri-Core Mexico Investment may be sold by  
7 “registered brokers or dealers who are members of the NASD and who enter into a Participating  
8 Dealer Agreement with the Company”, “qualified Broker Dealers” or “Registered Investment  
9 Advisors”, and that those individuals could receive commissions “up to” 10% of the price of the  
10 notes sold.

11 21. The Tri-Core Mexico Investment was sold by individuals and entities that did not  
12 meet these criteria.

13 22. The Tri-Core Mexico Investment was offered and sold to both Arizona residents and  
14 out of state residents, with investments totaling approximately \$1,300,000.

15 23. The Tri-Core Mexico Investment was offered and sold in or from Arizona to  
16 investors totaling approximately \$1,000,000.

17 24. At all relevant times, the Tri-Core Mexico Investment was not registered as a security  
18 by the Commission.

19 **II.**

20 **CONCLUSIONS OF LAW**

21 1. The Commission has jurisdiction over this matter pursuant to Article XV of the  
22 Arizona Constitution and the Securities Act.

23 2. Tri-Core Mexico offered or sold securities within or from Arizona, within the  
24 meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

1           3.       The securities referred to above were not registered pursuant to Articles 6 or 7 of the  
2 Securities Act.

3           4.       Tri-Core Mexico violated A.R.S. § 44-1841 by offering or selling securities that  
4 were neither registered nor exempt from registration.

5           5.       Tri-Core Mexico violated A.R.S. § 44-1842 by offering or selling securities while  
6 neither registered as a dealer or salesman nor exempt from registration.

7           6.       Tri-Core Mexico violated A.R.S. § 44-1991 by (a) employing a device, scheme, or  
8 artifice to defraud, (b) making untrue statements or misleading omissions of material facts, or (c)  
9 engaging in transactions, practices, or courses of business that operate or would operate as a fraud  
10 or deceit by the following:

- 11                   a.       Failing to use investor funds to purchase land in Mexico as referenced in the in the  
12                               Tri-Core Mexico Investment investor materials;
- 13                   b.       Failing to disclose that Stevens had outstanding tax liens totaling at least  
14                               approximately \$200,000;
- 15                   c.       Representing that the investor's investments would be secured by property in  
16                               Mexico, but failing to provide investors with a deed of trust or other mechanism to  
17                               securitize their notes;
- 18                   d.       Representing in the 7/1/07 TCM PPM that offering expenses would not exceed  
19                               \$350,000 for the offering, but failing to disclose that an Independent Contractor  
20                               Agreement between Tri-Core Mexico and Tri-Core BD required \$925,000 in  
21                               compensation to Tri-Core BD from Tri-Core Mexico from the investment  
22                               proceeds;
- 23                   e.       Representing in the 7/1/07 TCM PPM that the Tri-Core Mexico Investment may  
24                               be sold by "registered brokers or dealers who are members of the NASD and who  
25                               enter into a Participating Dealer Agreement with the Company", "qualified Broker  
26

1 Dealers” or “Registered Investment Advisors”, and that those individuals could  
2 receive commissions “up to” 10% of the price of the notes sold, when the Tri-Core  
3 Mexico Investment was sold by individuals and entities that did not meet these  
4 criteria.

5 7. Tri-Core Mexico’s conduct is grounds for a cease and desist order pursuant to  
6 A.R.S. § 44-2032.

7 8. Tri-Core Mexico’s conduct is grounds for an order of restitution pursuant to A.R.S.  
8 § 44-2032.

9 9. Tri-Core Mexico’s conduct is grounds for administrative penalties under A.R.S. §  
10 44-2036.

11 **III.**

12 **ORDER**

13 THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, the Commission  
14 finds that the following relief is appropriate, in the public interest, and necessary for the protection of  
15 investors:

16 IT IS ORDERED, pursuant to A.R.S. § 44-2032, that Tri-Core Mexico, and any of Tri-Core  
17 Mexico’s agents, employees, successors and assigns, permanently cease and desist from violating  
18 the Securities Act.

19 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2032 and 44-1962, that Tri-Core  
20 Mexico, and all Respondents against whom orders are entered awarding restitution for the Tri-Core  
21 Mexico Investment under Docket No. S-20867A-12-0459 shall, jointly and severally, pay  
22 restitution to the Commission in the principal amount of \$1,000,000, plus interest calculated  
23 pursuant to R14-4-308(C)(1) from the date of purchase until paid in full, subject to legal setoffs  
24 pursuant to A.A.C. R14-4-308, as shown on attached Exhibit A. Payment is due in full on the date  
25

1 of this Order. Payment shall be made to the "State of Arizona" to be placed in an interest-bearing  
2 account controlled by the Commission.

3 IT IS FURTHER ORDERED that the restitution ordered hereinabove shall bear interest at  
4 the rate of the lesser of ten percent per annum or at a rate per annum that is equal to one per cent  
5 plus the prime rate as published by the board of governors of the federal reserve system in  
6 statistical release H.15 or any publication that may supersede it on the date that the judgment is  
7 entered.

8 The Commission shall disburse the funds on a pro-rata basis to investors shown on the  
9 records of the Commission for the Tri-Core Mexico Investment. Any restitution funds that the  
10 Commission cannot disburse because an investor refuses to accept such payment, or any restitution  
11 funds that cannot be disbursed to an investor because the investor is deceased and the Commission  
12 cannot reasonably identify and locate the deceased investor's spouse or natural children surviving at  
13 the time of the distribution, shall be disbursed on a pro-rata basis to the remaining investors shown  
14 on the records of the Commission. Any funds that the Commission determines it is unable to or  
15 cannot feasibly disburse shall be transferred to the general fund of the state of Arizona.

16 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that Tri-Core Mexico shall pay  
17 an administrative penalty in the amount of \$75,000.00. Payment is due in full on the date of this  
18 Order. Payment shall be made to the "State of Arizona." Any amount outstanding shall accrue  
19 interest as allowed by law.

20 IT IS FURTHER ORDERED that the penalty ordered hereinabove shall bear interest at the  
21 rate of the lesser of ten percent per annum or at a rate per annum that is equal to one per cent plus  
22 the prime rate as published by the board of governors of the federal reserve system in statistical  
23 release H.15 or any publication that may supersede it on the date that the judgment is entered.

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1 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be  
2 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments  
3 shall be applied to the penalty obligation.

4 IT IS FURTHER ORDERED, that if Tri-Core Mexico fails to comply with this Order, the  
5 Commission may bring further legal proceedings against Tri-Core Mexico, including application to  
6 the superior court for an order of contempt.

7 IT IS FURTHER ORDERED, that pursuant to A.R.S. § 44-1974, upon application the  
8 Commission may grant a rehearing of this Order. The application must be received by the  
9 Commission at its offices within twenty calendar days after entry of this Order. Unless otherwise  
10 ordered, filing an application for rehearing does not stay this Order. If the Commission does not  
11 grant a rehearing within twenty calendar days after filing the application, the application is  
12 considered to be denied. No additional notice will be given of such denial.

13 IT IS FURTHER ORDERED, that no finding of fact or conclusion of law contained in this  
14 Order shall be deemed binding against any Respondent under this Docket Number who is not  
15 subject to this Order.

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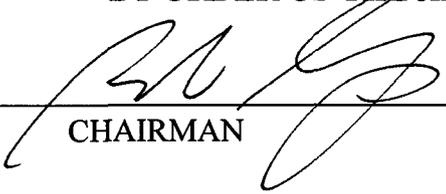
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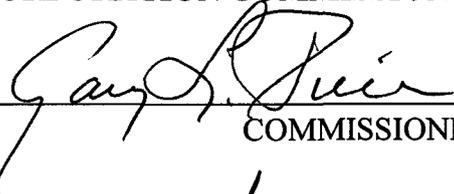
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IT IS FURTHER ORDERED that this Order shall become effective immediately.

**BY ORDER OF THE ARIZONA CORPORATION COMMISSION**

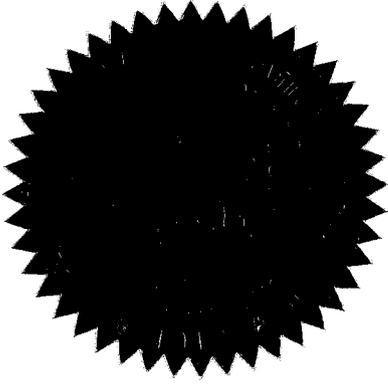
  
CHAIRMAN

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER

  
COMMISSIONER



IN WITNESS WHEREOF, I, JODI JERICH, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 6<sup>th</sup> day of February, 2013.

  
JODI JERICH  
EXECUTIVE DIRECTOR

\_\_\_\_\_  
DISSENT

\_\_\_\_\_  
DISSENT

This document is available in alternative formats by contacting Shaylin A. Bernal, ADA Coordinator, voice phone number 602-542-3931, e-mail [sabernal@azcc.gov](mailto:sabernal@azcc.gov).  
(sll)

## EXHIBIT A

<u>Investor</u>	<u>Investment Date</u>	<u>Original Investment Amount</u>	<u>Money Returned</u>	<u>Restitution owed at order date</u>
A-1	1/3/08	5,000.00		5,000.00
A-2	1/11/08	5,000.00		5,000.00
B-1	11/15/07	5,000.00		5,000.00
B-2	3/18/08	5,000.00		5,000.00
C	1/3/2008	5,000.00		5,000.00
D	12/5/2007	10,000.00		10,000.00
E	12/11/2007	100,000.00		100,000.00
F-1	12/29/2008	15,000.00		15,000.00
G	2/29/2008	10,000.00		10,000.00
H	4/29/2008	30,000.00		30,000.00
I	2/15/2008	20,000.00		20,000.00
J	4/22/2008	15,000.00		15,000.00
K	11/23/2007	10,000.00		10,000.00
L	11/23/2007	10,000.00		10,000.00
M	11/28/2007	100,000.00		100,000.00
N	4/17/2008	5,000.00		5,000.00
O	4/17/2008	5,000.00		5,000.00
P	1/24/2008	5,000.00		5,000.00
Q	11/9/2007	15,000.00		15,000.00
R	1/18/2008	25,000.00		25,000.00
S	2/12/2008	10,000.00		10,000.00
T	11/20/2007	20,000.00		20,000.00
U	1/25/2008	10,000.00		10,000.00
V	4/24/2008	10,000.00		10,000.00
W	1/18/2008	10,000.00		10,000.00
X	2/11/2008	10,000.00		10,000.00
Y	11/24/2007	5,000.00		5,000.00
Z	5/18/2007	30,000.00		30,000.00
AA-1	2/8/2008	10,000.00		10,000.00
AA-2	2/21/2008	5,000.00		5,000.00
BB	10/15/2007	5,000.00		5,000.00
CC	11/7/2007	10,000.00		10,000.00
DD	11/7/2007	10,000.00		10,000.00
EE	12/4/2007	10,000.00		10,000.00
FF	9/20/2007	10,000.00		10,000.00

1	GG	1/17/2008	20,000.00		20,000.00
	HH	1/17/2008	5,000.00		5,000.00
2	II	10/10/2007	50,000.00		50,000.00
	JJ	1/31/2008	5,000.00		5,000.00
3	KK	9/12/2007	5,000.00		5,000.00
	LL	2/7/2008	5,000.00		5,000.00
4	MM	12/27/2007	5,000.00		5,000.00
	NN	2/26/2007	75,000.00		75,000.00
5	OO	10/11/2007	30,000.00		30,000.00
	PP	2/5/2008	10,000.00		10,000.00
6	QQ	2/5/2008	60,000.00		60,000.00
	RR	2/15/2008	125,000.00		125,000.00
7	SS	12/5/2007	25,000.00		25,000.00
	TT	1/3/2008	5,000.00		5,000.00
8			1,000,000.00		1,000,000.00
9				Total Restitution owed at Order Date:	1,000,000.00
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1 SERVICE LIST FOR: TRI-CORE COMPANIES, LLC, ET AL

2 Dale B. Rycraft Jr., Esq.  
3 THE RYCRAFT LAW FIRM, PLLC  
4 2929 N. Power Rd., Suite 101  
5 Mesa, Arizona 85215  
6 *Attorney for C&D Construction*

7 Brian & Cheryl Buckley  
8 4259 E. Bruce Ct.  
9 Gilbert, Arizona 85234  
10 *Respondents*

11 Bobby Thrasher, Jr.  
12 530 E. McDowell Rd., Ste 107-495  
13 Phoenix, Arizona 85004  
14 *Attorney for Mogler, Tri-Core Companies, Tri-Core Business Dev.,  
15 ERC Compactors, ERC Investments*

16 Tri-Core Mexico Land Development, LLC  
17 c/o ALPHA LEGAL FORMS & MORE  
18 POST OFFICE BOX 12488  
19 Tucson, Arizona 85732  
20 *Respondent*

21 Nicole Kordosky  
22 8880 E Chaparral Rd., Ste 270  
23 Scottsdale, Arizona, 85250  
24 AND  
25 7308 E. Taylor St.,  
26 Scottsdale, Arizona 85257  
*Respondent*

Pangaea Investment Group, LLC  
c/o ALPHA LEGAL FORMS & MORE  
POST OFFICE BOX 12488  
Tucson, Arizona 85732  
*Respondent*

Casimer Polanchek  
826 E Gila Lane  
Chandler, Arizona 85225  
*Respondent*

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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

BOB STUMP, Chairman  
GARY PIERCE  
BRENDA BURNS  
BOB BURNS  
SUSAN BITTER SMITH

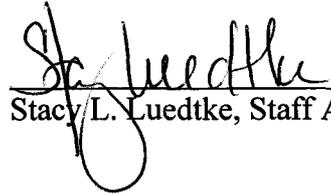
In the matter of:

TRI-CORE COMPANIES, LLC, an Arizona  
limited liability company,  
TRI-CORE MEXICO LAND  
DEVELOPMENT, LLC, an Arizona limited  
liability company,  
TRI-CORE BUSINESS DEVELOPMENT,  
LLC, an Arizona limited liability company,  
ERC COMPACTORS, LLC, an Arizona  
limited liability company,  
ERC INVESTMENTS, LLC, an Arizona  
limited liability company,  
C&D CONSTRUCTION SERVICES, INC.,  
a Nevada corporation;  
PANGAEA INVESTMENT GROUP, LLC,  
an Arizona limited liability company, d/b/a  
Arizona Investment Center,  
JASON TODD MOGLER, an Arizona  
resident,  
BRIAN N. BUCKLEY and CHERYL  
BARRETT BUCKLEY, husband and wife,  
CASIMER POLANCHEK, an Arizona  
resident,  
NICOLE KORDOSKY, an Arizona resident,  
Respondents.

DOCKET NO. S-20867A-12-0459

**NOTICE OF FILING OF PROPOSED OPEN  
MEETING AGENDA ITEM**

1 Pursuant to A.A.C. R14-4-303, you are hereby notified that the attached: Order to Cease  
2 and Desist, Order For Restitution And Order For Administrative Penalties Re: Tri-Core Mexico  
3 Land Development, LLC was filed with the Arizona Corporation Commission's Docket Control.

4 Dated: 1/16/13 By:   
5 Stacy L. Luedtke, Staff Attorney  
6

7  
8 I hereby certify that I have this day served the foregoing document on all parties of record in this  
9 proceeding by mailing a copy thereof, properly addressed with first class postage prepaid to:

10 Dale B. Rycraft Jr., Esq.  
11 THE RYCRAFT LAW FIRM, PLLC  
12 2929 N. Power Rd., Suite 101  
13 Mesa, Arizona 85215  
14 *Attorney for C&D Construction*

15 Brian & Cheryl Buckley  
16 4259 E. Bruce Ct.  
17 Gilbert, Arizona 85234  
18 *Respondents*

19 Bobby Thrasher, Jr.  
20 530 E. McDowell Rd., Ste 107-495  
21 Phoenix, Arizona 85004  
22 *Attorney for Mogler, Tri-Core Companies, Tri-Core Business Dev.,*  
23 *ERC Compactors, ERC Investments*

24 Tri-Core Mexico Land Development, LLC  
25 c/o ALPHA LEGAL FORMS & MORE  
26 POST OFFICE BOX 12488  
Tucson, Arizona 85732  
*Respondent*

Nicole Kordosky  
8880 E Chaparral Rd., Ste 270  
Scottsdale, Arizona, 85250  
AND  
7308 E. Taylor St.,  
Scottsdale, Arizona 85257  
*Respondent*

1 Pangaea Investment Group, LLC  
2 c/o ALPHA LEGAL FORMS & MORE  
3 POST OFFICE BOX 12488  
4 Tucson, Arizona 85732  
5 *Respondent*

6 Casimer Polanchek  
7 826 E Gila Lane  
8 Chandler, Arizona 85225  
9 *Respondent*

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Dated: 1/16/13

By:   
Emie R. Bridges, Executive Assistant