

## Risk Details

**Type:** COMPREHENSIVE LENDERS SINGLE INTEREST INSURANCE

**Form:** BCS1/2

**Assured:** W FINANCIAL GROUP LLC, AUTO ACE ENTERPRISES INC. DBA  
TEXAS AUTO PROS

**Address:**  
Corp: 616 FM 1960 West, Suite 528, Houston, Texas 77090, U.S.A.  
Lot: 301 S. First St., Garland, Texas 75040, U.S.A.

**Period:** From: 7<sup>th</sup> September 2006  
To: 7<sup>th</sup> September 2007  
Both days at 12.01am Local Standard Time

**Interest:** As per form

**Limit of Indemnity:** USD any one Vehicle  
USD in respect of Coverage D  
USD in Annual Aggregate

**Deductible:** USD 500 each and every Loss

**Territorial Limits:** United States of America

**Conditions:**

A. All Risks of Physical Damage Instalment Loan Insurance	Covered
B. Unintentional Non-Filing Insurance	Covered
C. Skip Insurance	Covered
D. Repossession Insurance	Covered

Waiver of Subrogation  
War & Civil War Exclusion NMA 464  
Radioactive Contamination Exclusion NMA 1191  
Electronic Date Recognition Exclusion NMA 2802  
War and Terrorism Exclusion NMA 2918  
30 days Notice of Cancellation - as per form  
Service of Suit Clause, LMA 5020 naming:  
Kevin Salter, Esq.,  
Bolan, Jahnsen, Salter & Sachs  
One Liberty Plaza, 23<sup>rd</sup> Floor  
New York, NY 10006

All Claims to be notified directly to:  
Mr Steve Travers  
Single Interest, Inc  
5049 Clinton Street Road  
Batavia, New York 14020  
U.S.A.

**LENDERS SINGLE INTEREST CERTIFICATE  
SCHEDULE**

<b>CERTIFICATE NO.</b> NL000530g	<b>PREVIOUS CERTIFICATE NO.</b> NL000530f
<b>Item 1. Certificate Holder:</b> W Financial Group Auto Ace Enterprises Inc. DBA Texas Auto Pros	<b>Named Assured &amp; Address:</b> W Financial Group Auto Ace Enterprises Inc. DBA Texas Auto Pros Corp. 616 FM 1960 West, Suite 528, Houston, Texas 77090, U.S.A. Lot 301 S. First St., Garland, Texas 75040, U.S.A.

The undernoted insurance is effective with Certain Underwriters At Lloyd's, London, England	<b>Percentage:</b> 100%
	<b>Contract No:</b> NB084690g002

**Item 2. Certificate Period From:** 11 September 2007 to 11 September 2008  
12.01 a.m. Standard Time at the Address of the Named Certificate Holder stated herein.

**Item 3 a) Limit of Liability & Rate of Premium Calculation:** The limit of Underwriters' liability shall be as stated below and in the certificate conditions.

Maximum Limit of Liability Any One Loan	Type of Loan	Premium Per Loan	Maximum Term of Eligible Loans
USD 5,000	AUTO	USD 99.00 plus 4.85% Surplus Lines Tax and Stamping Fee of 0.10%	18 MONTHS

<b>Item 3 b) Maximum Occurrence limit in respect of Coverage D:</b>	USD 5,000
<b>Item 3 c) Annual Aggregate limit of liability in respect of all coverage purchased under this certificate:</b>	USD 100,000

<b>Item 3 d) Deductible amount applicable each and every loss each and every loan</b>	USD 500
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**Item 4** The insurance afforded by the Underwriters is only with respect to the following coverages which are specifically indicated as "Covered" subject to all terms and conditions of this certificate having reference thereto.

A. All Risks Physical Damage Instalment Loan Insurance	COVERED
B. Unintentional Non-Filing Insurance	COVERED
C. Skip Insurance	COVERED
D. Repossession Insurance	COVERED

<b>Item 5 WORDING:</b>	ECS1/2
<b>ENDORSEMENT:</b>	NMA 1191 - Radioactive Contamination Exclusion Clause Physical Damage Direct NMA 2802 - Electronic Date Recognition Exclusion Waiver of Subrogation Endorsement NMA 2918 - War and Terrorism Exclusion Clause Financial Guarantee Exclusion Clause Lloyd's of London Warranty

<b>Item 6 (i) PREMIUM COMPUTATION - DEPOSIT PREMIUM:</b>	NIL
(ii) AUDIT PERIOD:	MONTHLY
(iii) MINIMUM MONTHLY PREMIUM	USD 700
(iv) ADDITIONAL PREMIUM TO REMOVE THE WAR AND TERRORISM EXCLUSIONS UNDER THE TRIA 2002 AS AMENDED	0.01% ON OUTSTANDING BALANCE

<b>Item 7 Service of Suit may be made upon:</b>	<b>Att:</b> Kevin Salter, Esq. Bolan, Jahnsen, Salter & Sachs One Liberty Plaza, 23 <sup>rd</sup> Floor New York, NY 10006.
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<b>Notice of Loss shall be given to:</b>	<b>Att:</b> Steve Travers Single Interest, Inc. P.O. Box 343 Batavia, New York 14021 - 0343	<b>Tel:</b> 585 345 1770 <b>Fax:</b> 585 345 6053
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**SUBJECT TO ALL TERMS AND CONDITIONS AS PER THE ATTACHED CERTIFICATE**

This document is evidence that insurance has been effected.

Date: 5<sup>th</sup> November 2007

Authorised Signatory

Authorised Signatory

**Exhibit E**

2



**Colonial FIRST Financial**

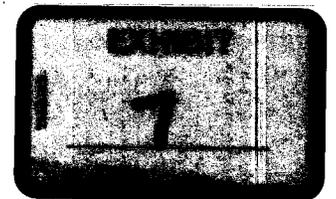
**6.10% apy** **FDIC INSURED**  
**12-MONTH CD**

**214-559-7130**

Colonial FIRST  
 4514 Cole Street, Suite 600, Dallas, TX 75208  
 Located in the Highland Park Place Building near  
 Knox Street & Central Expressway

Appointment Recommended

**ASK US ABOUT HIGHER YIELDING FIXED/INCOME ACCOUNTS**



**ColonialFIRST Financial**

**6.10%<sup>apy</sup> FDIC INSURED  
12-MONTH CD**

**214-559-7130**

 **Colonial FIRST**  
Financial Services

4514 Cole Street, Suite 600 Dallas, TX 75205  
*(Located in the Highland Park Place Building near  
Knox Street & Central Expressway)*

**Appointment Recommended.**

Yield and deposit amount subject to availability. Penalty for early withdrawal. Yield may include promotional incentive. FDIC insured to \$100,000 per institution. Restrictions may apply. \$50,000 minimum deposit.

**ASK US ABOUT HIGHER YIELDING FIXED/INCOME ACCOUNTS**

**You've Retired.  
Not Your Money.**

**6.05** % APY

FDIC INSURED  
12 Month CD



**Colonial  
FIRST**  
Financial Services

214-559-7130  
Appointment Recommended

4514 Cole Street, Suite 600 Dallas, TX 75205  
*(located in the Highland Park Place Building near Knox Street & Central Expressway)*

Yield and deposit amount subject to availability. Penalty for early withdrawal. Yield may include promotional incentive. FDIC insured to \$100,000 per institution. Restrictions may apply. \$25,000 minimum deposit.

**ASK US ABOUT HIGHER YIELDING FIXED/INCOME ACCOUNTS**

# ColonialFIRST Financial

**6.05** % apy **FDIC INSURED**  
**12-MONTH CD**

**214-559-7130**



4514 Cole Street, Suite 600 Dallas, TX 75205  
*(Located in the Highland Park Place Building near  
Knox Street & Central Expressway)*

**Appointment Recommended**

Yield and deposit amount subject to availability. Penalty for early withdrawal. Yield may include promotional incentive. FDIC insured to \$100,000 per institution. Restrictions may apply. \$50,000 minimum deposit.

**ASK US ABOUT HIGHER YIELDING FIXED/INCOME ACCOUNTS**

1802

# Colonial First Financial

# 5.89% apy

FDIC INSURED 12-MONTH CD



214-559-7130

4514 Cole Street, Suite 600  
Dallas, TX 75205

*(Located in the Highland Park Place Building  
near Knox Street & Central Expressway)*

Appointment Recommended

Yield and deposit amount subject to availability. Penalty for early withdrawal.  
Yield may include promotional incentive. FDIC insured to \$100,000 per institution.  
Restrictions may apply. \$50,000 minimum deposit.

**ASK US ABOUT HIGHER YIELDING FIXED/INCOME ACCOUNTS**

1832



NO. 2007-67491

SHAHED LATEEF, MISBA LATEEF,  
ZAHED LATEEF, AND LUBNA LATEEF

VS.

RUSSELL MACKERT,  
ADLEY WAHAB, AND  
HOUSTON INVESTMENT CENTERS, L.L.C.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

295 JUDICIAL DISTRICT

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, SHAHED LATEEF, MISBA LATEEF, ZAHED LATEEF, and LUBNA LATEEF, Plaintiffs, complaining of RUSSELL MACKERT, ADLEY WAHAB, and HOUSTON INVESTMENT CENTERS, L.L.C., Defendants, and for cause of action would show unto the Court the following:

**I.  
PARTIES**

1. Plaintiffs Shahed Lateef and Misba Lateef are individuals residing in Houston, Harris County, Texas. Plaintiffs Zahed Lateef and Lubna Lateef are individuals who presently reside in Bangalore, India.

2. Defendant RUSSELL MACKERT is an attorney licensed and practicing in Houston, Harris County, Texas, and may be served with process at his place of business located at 5555 West Loop South, Suite 300, Bellaire, Harris County, Texas, 77401.

3. Defendant ADLEY WAHAB is an individual and may be served with process at 3007 East Lake Falls Circle, Spring, Montgomery County, Texas, 77386.



4. Defendant HOUSTON INVESTMENT CENTERS, L.L.C. is a Texas limited liability company with its principal place of business located at 616 FM 1960 W., Suite 528, Houston, Harris County, Texas, and may be served with process by serving its registered agent Adley Wahab at that same address.

## II. VENUE

5. Plaintiff alleges that a portion or all of the various causes of action upon which this petition is based accrued in Houston, Harris County, Texas.

6. Venue is proper in Harris County, Texas, pursuant to Section 15.001, *et seq.* of the Texas Civil Practice & Remedies Code.

## III. BACKGROUND FACTS

7. Plaintiffs bring suit to recover damages suffered as a result of Defendants' conduct in connection with the sale of Plaintiffs' interest in National Power Company, Inc. (hereafter "NPC") to Defendant Adley Wahab (hereafter "WAHAB"). Russell Mackert (hereafter "MACKERT"), former general counsel, officer and director for NPC, as well as lawyer and long time friend of the Plaintiffs, breached his fiduciary duty and conspired with WAHAB to fraudulently cause Plaintiffs to transfer their interest in NPC, and for significantly less than fair value, as follows.

8. The Plaintiffs formed NPC on April 2, 2003, when its Articles of Incorporation were filed with the Texas Secretary of State by their lawyer, Russell Mackert. The company was formed in response to deregulation of the Texas electric energy industry by the State legislature. NPC became licensed as an aggregator for retail energy and operated as such until approximately December of 2004, when NPC began taking steps necessary to become a Retail Energy Provider

("REP"). NPC was certified as an REP by the Public Utility Commission of Texas in April 2005, and is licensed to sell electricity in every deregulated area throughout the State of Texas.

9. MACKERT had been Plaintiffs' lawyer for several years, representing Plaintiffs or their interests in many transactions. He served as general counsel, officer, and director for several corporations he formed at the Plaintiffs' request. Plaintiffs even provided MACKERT an office at their principal place of business located at 3 Riverway, Suite 1900, Houston, Texas, 77056. His responsibilities and duties included, but were not limited to, maintaining corporate formalities, insuring regulatory compliance, and handling litigation.

10. On March 31, 2005, MACKERT filed an amendment to NPC's application to the state Public Utility Commission identifying, among other things, the officers and directors of NPC. According to the document prepared, certified and filed by MACKERT, the officers and directors of NPC as of March 31, 2005, were as follows.

Zahed Lateef	President/Director
Russell Mackert	Vice-President/Secretary/Treasurer/Director
Shahed Lateef	Director

According to documents filed with the Secretary of State's office, Plaintiffs Misba Lateef and Lubna Lateef were later added as directors as well.

11. NPC began building its customer base during the summer of 2006. NPC's operations and sales office was located at 10850 Richmond Ave., Suite 190, Houston, Texas, 77042. By the end of December 2006, NPC had over 20 employees and approximately 4000 customers.

12. As the company grew, so did its cash flow needs. NPC sought short term financing in order to address those needs. In approximately September of 2006, MACKERT began arranging

for short-term financing through WAHAB and his company, Defendant HOUSTON INVESTMENT CENTER, L.L.C. (hereafter "HIC"). However, instead of a promissory note or other type of business loan agreement, MACKERT drafted a "Factoring Agreement" between NPC and HIC, wherein NPC agreed to convey an interest in its accounts receivable in exchange for the loan. MACKERT advised Plaintiff Shahed Lateef (hereinafter "Lateef") to execute the Factoring Agreement on behalf of NPC, notwithstanding the fact that MACKERT was fully aware that NPC's accounts receivable were already pledged to secure its power purchases from another company. Relying upon the advice and counsel of MACKERT, his long-time friend, attorney, and the general counsel for NPC, Lateef executed the Factoring Agreement on behalf of the company and obtained the loan. The loan was paid back according to its terms.

13. NPC sought a second loan in December 2006. MACKERT approached WAHAB and HIC again, this time seeking \$250,000 in short term financing. MACKERT structured the loan similar to way he had the first loan, utilizing a Factoring Agreement which conveyed an interest in NPC's accounts receivable which were already pledged to secure power purchases from another company. The Factoring Agreement also included a personal guaranty by Shahed Lateef, Winfred Fields, and MACKERT, jointly and severally, guaranteeing prompt payment of the indebtedness, obligations and liabilities of any kind of NPC to HIC arising under the terms of the Factoring Agreement. Pursuant to the Agreement, NPC had five (5) months to pay \$273,750.00 in order to repurchase the receivables. Again, relying upon the advice and counsel of MACKERT, Lateef executed the Factoring Agreement on behalf of the company and obtained the loan. The loan funded on or about December 22, 2006.

14. Based upon information and belief, Plaintiffs allege that MACKERT and WAHAB began concocting a scheme to force Plaintiffs to sell their interest in NPC to WAHAB. The company was growing rapidly as was its value. MACKERT and WAHAB wanted to take control of the company. Additionally, Plaintiffs allege that, at some point, WAHAB obtained a commitment from two investors to purchase at least ½ of the outstanding shares in NPC for \$2,000,000. First, however, MACKERT and WAHAB had to cause 100% of the shares or share interest in NPC to be transferred to WAHAB. MACKERT and WAHAB concocted a scheme whereby NPC's conveyance of previously pledged accounts receivable would be used as a means of fraudulently inducing and forcing Plaintiffs to sell. Moreover, MACKERT would use his influence over the Plaintiffs as their attorney and long time friend, to advise Plaintiffs that they had no choice, and secure the deal for WAHAB, for which MACKERT would be handsomely rewarded.

15. On Thursday, January 25, 2007, at approximately 11:13 a.m., MACKERT notified Lateef by e-mail that he spoke with WAHAB and "got my ass chewed this morning." The e-mail did not indicate the substance of the conversation, only that WAHAB was going to contact MACKERT sometime after lunch with his intentions. Later that afternoon, MACKERT appeared in Lateef's office. He was panicked and informed Lateef that WAHAB was upset about the NPC accounts receivable being pledged to another company. He offered Lateef only two alternatives to resolve the problem: either pay back the \$250,000 before the close of business, or sell WAHAB the company. MACKERT emphasized that the failure to meet WAHAB's demands would result in a complaint and criminal charges being filed with the Harris County District Attorney. Knowing and anticipating that NPC and Lateef could not raise the \$250,000 on such short notice, MACKERT presented Lateef with a "Stock Purchase Agreement" for consideration.

16. Lateef was stunned by the sudden and apparent controversy. MACKERT advised Lateef that WAHAB would buy the company and that Plaintiffs had no choice but to sell. MACKERT began pleading with Lateef to take the deal. MACKERT told Lateef that he would lose his law license and they were going to jail if Lateef did not agree to sell. MACKERT reminded Lateef that he was his lawyer and friend, and that in his opinion they had no alternative. Lateef was hesitant and did not understand how or why he was suddenly being forced to sell the company. Lateef contacted WAHAB by phone to discuss and attempt to resolve the problem. WAHAB was belligerent and obnoxious, shouting obscenities and vulgarities at Lateef. Notwithstanding Mr. Lateef's effort to discuss the matter in a mature and professional manner, WAHAB would not engage in a constructive dialogue, but continued his barrage of profanity along with threats of criminal prosecution. WAHAB ended the telephone call abruptly and without resolution. MACKERT advised Lateef that he would call WAHAB to see what could be done in terms of WAHAB purchasing the company.

17. For the next two days MACKERT continued his effort of influencing Plaintiffs to sell NPC to WAHAB. He repeatedly reminded Plaintiffs of the impending threat of criminal prosecution. He effected his influence over Plaintiffs under the guise of providing legal advice as their lawyer and the general counsel for NPC. He negotiated the sale as if he were negotiating a settlement on the Plaintiffs' behalf when, in fact, he was engaged in self dealing with WAHAB. Ultimately, relying completely upon the legal advice and counseling of MACKERT, Plaintiffs took the deal. Plaintiffs succumbed to the advice of their lawyer and, on January 30, 2007, agreed to sell their interest in NPC to WAHAB for \$500,000.

18. The Stock Purchase Agreement is dated January 30, 2007. The deal funded on January 31, 2007. Based upon information and belief, Plaintiffs allege that the Dallas investors closed their deal with WAHAB the same day. Based upon information and belief, Plaintiffs allege that WAHAB received approximately \$2,000,000 from the Dallas investors for a percentage of the company. Plaintiff's further allege that MACKERT received at least \$50,000 cash and stock in NPC in exchange for his effort.

19. MACKERT never returned to the office that he previously maintained with the Plaintiffs. Once the sale was completed, he abandoned Plaintiffs completely. On January 31, 2007, he wrote a letter of resignation to Shahed Lateef with respect to all matters he was handling on their behalf. Based upon information and belief, Plaintiffs allege that WAHAB and MACKERT continue to be officers, directors, and shareholders of NPC. It is believed that NPC has now grown to over 14,000 customers with annual gross revenue of over \$14,000,000.

#### **IV. CAUSES OF ACTION**

##### **A. BREACH OF FIDUCIARY DUTY**

20. Incorporating the allegations made herein above as if fully set forth herein, Plaintiffs allege that Plaintiffs and MACKERT had a fiduciary relationship. MACKERT was under a duty, created by law or contract, to act on or give advice for the benefit of Plaintiffs within the scope of his duties as their attorney and as the general counsel, officer, and director of NPC. Defendant breached his fiduciary duty to Plaintiffs and such breach resulted in an injury to Plaintiffs and a benefit to Defendant.

21. WAHAB and HIC knowingly induced MACKERT to breach the fiduciary duty he owed to Plaintiffs and/or participated in the breach. WAHAB and HIC, therefore, are liable as joint tortfeasors, and are jointly and severally liable for the damages suffered by Plaintiffs.

22. Generally, Defendants' breach of fiduciary duty includes, but is not necessarily limited to, the following:

- a. Breach of the duty of loyalty and utmost good faith;
- b. Breach of the duty of candor;
- c. Breach of the duty to refrain from self dealing;
- d. Breach of the duty to act with integrity of the strictest kind;
- e. Breach of the duty of fair and honest dealing;
- f. Breach of the duty of full disclosure;
- g. Breach of the duty to preserve client confidences;
- h. Breach of the duty to represent the client with undivided loyalty; and,
- i. Breach of the duty to act with absolute perfect candor, openness, honesty, and without any concealment or deception.

**B. FRAUD**

23. Incorporating the allegations contained herein above as if fully set forth hereinafter, Plaintiffs allege that Defendants withheld material facts and/or made material false representations to Plaintiffs that they knew to be false and with the intent that the Plaintiffs act on said representations and/or omissions. Plaintiffs relied on said false representations and/or omissions to their detriment, and have suffered injury as a result.

24. Further, each of the Defendants is vicariously liable for the fraudulent acts of the other. Each of the Defendants personally benefitted from the fraudulent transaction and had knowledge of the fraud committed.

25. Further, incorporating the allegations contained herein above as if set forth fully, hereafter, Plaintiffs allege that Defendants' fraudulent conduct includes fraud in the inducement. Defendants committed fraud with the expectation that Plaintiffs would enter into the binding stock purchase agreement based upon the material omissions of fact and/or material false representations.

26. Further, Defendants knew and acted with the intent that Plaintiffs rely on the special knowledge of their attorney, MACKERT, and follow his advice and counsel with respect to their rights and the law. Defendants used that special relationship and MACKERT's ability to influence Plaintiffs and their decision, in order to perpetrate a fraud on Plaintiffs and cause them to enter into the Stock Purchase Agreement.

### **C. FRAUD BY NONDISCLOSURE**

27. Incorporating the allegations contained herein above as if fully set forth hereinafter, Plaintiffs allege that MACKERT owed Plaintiffs a duty to disclose information. MACKERT concealed from or failed to disclose certain facts to Plaintiffs that he had a duty to disclose. The facts were material and MACKERT knew that Plaintiffs were ignorant of the facts and that Plaintiffs did not have an equal opportunity to discover the facts. MACKERT was deliberately silent when he had a duty to speak and, by failing to disclose the facts, MACKERT intended to induce Plaintiffs to enter into the Stock Purchase Agreement with WAHAB. Plaintiffs relied on MACKERT's nondisclosure and suffered injury as a result of acting without knowledge of the undisclosed facts.

28. Further, each of the Defendants is vicariously liable for the fraudulent acts of the other. Each of the Defendants personally benefitted from the fraudulent transaction and had knowledge of the fraud committed.

**D. STATUTORY FRAUD**

29. Incorporating the allegations contained herein above as if fully set forth hereinafter, Plaintiffs allege that Defendants conduct amounts to statutory fraud. This was a transaction involving the sale of stock in a corporation. During the transaction, Defendants made false representations of fact and/or benefitted by not disclosing that a third party's representation or promise was false. Defendants' false representations were made for the purpose of inducing Plaintiffs to enter into the Stock Purchase Agreement with WAHAB. Plaintiffs relied upon the false representations by entering into the Agreement and, thereby, have suffered injury and damages.

30. Further, each of the Defendants is vicariously liable for the fraudulent acts of the other. Each of the Defendants personally benefitted from the fraudulent transaction and had knowledge of the fraud committed.

**E. CONSPIRACY**

31. Incorporating the allegations contained herein above as if fully set forth hereinafter, Plaintiffs allege that Defendants conduct amounts to civil conspiracy. The Defendants in this case combined together to accomplish an unlawful purpose or a lawful purpose by unlawful means (i.e. fraud or breach of fiduciary duty): the Defendants conspired to cheat Plaintiffs out of their shares or share interest in NPC. The Defendants had a meeting of the minds on the object or course of action and one of its members, MACKERT, committed an unlawful, overt act to further the object or course of action. Plaintiffs have suffered injury as a proximate result of the wrongful act.

32. The Defendants are jointly and severally liable for all acts done by any one of them in furtherance of the conspiracy.

**F. AIDING & ABETTING**

33. Incorporating the allegations contained herein above as if fully set forth hereinafter, Plaintiffs allege that the conduct of Defendants WAHAB and HIC amounts to aiding and abetting, for which they may be held jointly liable. WAHAB and HIC gave assistance and encouragement to MACKERT with respect to his commission of a variety of torts against the Plaintiffs as outlined herein above. Such assistance and encouragement by WAHAB and HIC was a substantial factor in causing MACKERT to commit the torts and, therefore, WAHAB and HIC are considered tortfeasors and are responsible for the consequences of MACKERT's torts.

34. MACKERT conduct amounts to various torts including, but not limited to, breach of fiduciary duty and fraud, which are outlined above and incorporated herein. WAHAB and HIC knew that MACKERT's conduct would be in violation of the duty he owed to Plaintiffs, amounting to breach of fiduciary duty and fraud among other things. It was WAHAB and HIC's intent to assist MACKERT in committing these torts. WAHAB and HIC gave MACKERT assistance and encouragement which was a substantial factor in causing the tort(s). Therefore, WAHAB and HIC are jointly and severally liable for the acts and tortious conduct of MACKERT.

**VII.  
DAMAGES**

35. Further, incorporating the allegations contained herein above as if fully set forth hereinafter, Plaintiff is entitled to each of the following elements of damages:

- a. actual damages, direct and consequential;

- b. equitable relief;
- c. punitive damages;
- d. attorney's fees;
- e. expert fees and deposition costs;
- f. prejudgment interest;
- g. post-judgment interest; and
- h. costs of court.

36. Additionally, incorporating the allegations contained herein above as if fully set forth hereafter, the harm and/or damages suffered by Plaintiffs are the result of fraud and/or malice by the Defendant(s). Therefore, Plaintiffs are entitled to recover exemplary damages pursuant to §41.001, et seq., of the Texas Civil Practices and Remedies Code.

37. Further, incorporating the allegations contained herein above as if fully set forth hereafter, Plaintiffs allege that Defendant(s) conduct constitutes a felony pursuant to §32.46 of the Texas Penal Code (securing execution of document by deception). Therefore, pursuant to §41.008(c)(13) of the Texas Civil Practice and Remedies Code, Plaintiffs seek exemplary damages in excess of the statutory limitations imposed by said statute, and in an amount to be determined by a jury.

## VIII INTEREST

38. Plaintiffs are entitled to recover all prejudgment and post-judgment interest which has and will accrue in accordance with law. Therefore, Plaintiffs hereby seek recovery of all prejudgment and post-judgment interest at the maximum rate of interest allowed by law.

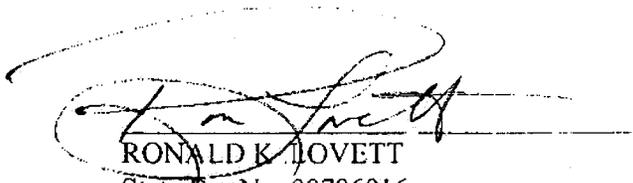
**IX  
DEMAND FOR JURY TRIAL**

39. Plaintiffs demand a jury trial in this matter.

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer and that upon final trial, Plaintiff have judgment against Defendants including actual damages, direct and consequential, equitable relief, punitive damages, attorney's fees, expert fees and deposition costs, prejudgment and post-judgment interest at the maximum rate allowed by law, costs of court, and such other and further relief to which Plaintiff may be justly entitled.

Respectfully submitted,

**RON LOVETT, P.C.**



RONALD K. LOVETT  
State Bar No. 00796016  
2603 Augusta, Suite 920  
Houston, Texas 77057  
(713) 532-0043  
(281) 605-5771 Facsimile

ATTORNEY FOR PLAINTIFFS



5. Defendant, National Power Company, hereinafter referred to as NPC, a Texas corporation and may be served with process by serving its attorney of record, Valerie J. Eissler, of McKinney & Cooper, L.L.P., Three Riverway, Suite 500, Houston, Texas 77056.

### **C. Facts**

#### **Plaintiffs D. & W. Fields**

6. On or about March 17, 2006, the Plaintiffs D. & W. Fields entered into a binding Participation Agreement with NPC, wherein it was agreed that NPC was to pay the Plaintiffs D. & W. Fields \$18,333.33, collectively, per month beginning March 15, 2006. See Attached **Exhibit A**, Participation Agreement. On May 9, 2007, Plaintiffs D. & W. Fields, were terminated from their positions from NPC. See **Exhibit B**, Termination Letter. Plaintiff D. Fields, however, was not paid the salary that she was contracted for in the Participation Agreements for the Months of April, May, June and July of 2006 and a portion of August of 2006 and May of 2007. Defendant W. Fields was not paid the money owed to him under the participation agreement for the months of April, May, June, July, August, September, October, November and December of 2006; January of 2005 and a portion of May 2007.

#### **Plaintiff Fast Track**

7. Fast Track entered into an exclusive independent sales agreement with NPC on June 1, 2006 to market the services of NPC through July 2016. See **Exhibit D**, Sales Representative Agreement. The agreement provided that the Defendant Fast Track would obtain customers for NPC (Fast Track obtained approximately the first 3,000.00

customers that received electrical services from NPC) and that NPC would then provide electricity to those customers. As per the terms of the Agreement Fast Track was to be paid .015 cents per kilowatt hour of electrical usage on the first day of each month and as is therefore owed \$62,886.57 through May 9, 2007. The contract also contained a provision that Fast Track was to continue being paid as long as the customers that it brought to NPC remained NPC customers. See **Exhibit E**, Letter from Executive Vice President of NPC, outlining the amount of money owed to Fast Track from NPC.

#### **D. Suit for Breach of Contract**

##### **Plaintiffs D. & W. Fields**

8. NPC breached the contract by failing to pay the money owed to Plaintiffs D. & W. Fields as per the terms of the contract. The Plaintiffs D. & W. Fields performed and were performing, as per the terms of the contract when their employment contract was terminated. Specifically, all of the goals set forth in the participation agreement (See Exhibit A) were reached by the Plaintiffs D. & W. Fields.

9. The breach was material because NPC did not substantially perform their material obligation to pay Plaintiffs D. & W. Fields as required under the contract. The contract required NPC to pay D. Fields and W. Fields collectively an annual salary of \$220,000.00 per year.

10. Plaintiff's injury was a natural, probable, and foreseeable consequence of the NPC's breach of contract.

##### **Plaintiff Fast Track**

NPC breached the contract by failing to pay the money owed to Fast Track as per the terms of the contract between NPC and Fast Track. Fast Track performed and was performing, as per the terms of the contract when their services were terminated. Specifically, the first customers (approximately 3,000.00) were obtained exclusively by Fast Track.

11. The breach was material and involved a extreme degree of risk because NPC did not substantially perform their material obligation to pay Fast Track as required under the contract.

12. Fast Track has been injured as it has not been able to pay the Sales Representatives in its employ because of NPC failure to pay Fast Track. Fast Track's inability to pay its employees was a natural, probable, and foreseeable consequence of the NPC's breach of contract. NPC knew that from the inception of contract between NPC and Fast Track, that Fast Track was the sole source of customers for NPC. However, NPC failed to compensate Fast Track for the customers that NPC profited from and placed Fast Track in a position of being sued by its Sales Representatives.

#### **G. Count 2 - Suit for Quantum Meruit**

##### **Plaintiffs D. & W. Fields**

13. In the alternative to other counts, Plaintiff pleads for recovery under the doctrine of quantum meruit. Plaintiff D. & W. Fields at the time of their dismissal, as per the terms of their contract, were performing valuable services for NPC from the time that they entered into their contractual agreement with NPC. NPC accepted the services that Plaintiffs D. & W. Fields performed and partially paid Plaintiffs D. & W. Fields as per

the terms of their agreement. Based on Plaintiffs D. & W. Field's contract with NPC and the services rendered by Plaintiff D. & W. Fields, NPC should have reasonably expected that Plaintiffs D. & W. Fields should have been paid as per terms of their agreement.

**Plaintiff Fast Track**

14. In the alternative to other counts, Fast Track pleads for recovery under the doctrine of quantum meruit. Fast Track, from the date of their contract with NPC, through the time that NPC terminated the contract between the parties, was obtaining customers for NPC. NPC accepted the customers brought to them by Fast Track, billed the customers brought to them by Fast Track and received money from the customers brought to them by Fast Track. Fast Track was NPC's initial, sole source of customers. Consequently, NPC should have reasonably expected that Fast Track should have been paid for their services as per terms of the written agreement between Fast Track and NPC.

**H. Count 3 - Suit for Promissory Estoppel**

**Plaintiffs D. & W. Fields**

15. In the alternative to other counts, Plaintiffs D. & W. Fields also pleading for recovery under the doctrine of promissory estoppel. Under the terms of the participation agreement, NPC promised to pay Plaintiffs D. & W Fields per the terms of the agreement. Plaintiffs D. & W. Fields relied on that promise and performed their services as per terms of the agreement. Because Plaintiffs D. & W. Fields have not been paid according to the terms of the agreement, Plaintiffs D & W. Fields have been caused to suffer financially.

16. In the alternative to other counts, Fast Track is also pleading for recovery under the doctrine of promissory estoppel. Under the terms of the contract between Fast Track

and NPC, NPC promised to pay Fast Track .015 cents per kilowatt hour of electrical usage, on each customer that Fast Track brought to NPC, on the first day of each month. Fast Track relied on that promise, signed a non-compete, exclusive contract valid until 2016 and performed the services required of them as per terms of the contract. Because Fast Track has not been paid as per the contract, Fast track has suffered financially. Because NPC has not paid Fast Track, Fast track has been threatened with a lawsuit by its former Sales Representative and vendors for breach of contract because Fast Track has not paid its Sales Representatives or vendors. Consequently, Fast Track may be forced into bankruptcy.

### **I. Damages**

#### **Plaintiffs D. & W. Fields**

17. NPC's breach of the contract caused the Plaintiffs D. & W. Fields' to suffer General Damages:

18. NPC's breach of the contract caused the Plaintiffs D. & W. Fields' the following Special Damages:

- a. Expectancy damages
- b. Reliance damages; and
- c. Restitution damages

19. Plaintiffs D. & W. Fields' seek un-liquidated damages in an amount that is within the jurisdictional limits of the court.

#### **Plaintiff Fast Track**

19. NPC's breach of the contract caused Fast Track to suffer General Damages:

20. NPC's breach of the contract caused Fast Track the following Special Damages:

- a. Expectancy damages
- b. Reliance damages
- c. Restitution damages
- d. Benefit of the Bargain
- e. Out-of Pocket
- f. Lost Profits
- g. Loss of good will
- h. Exemplary damages

21. Plaintiffs D. & W. Fields' seek un-liquidated damages in an amount that is within the jurisdictional limits of the court.

#### **K. Attorney Fees**

##### **Plaintiffs D. & W. Fields**

23. Plaintiffs D. & W. Fields are entitled to recover reasonable and necessary attorney fees under Texas Civil Practice & Remedies Code chapter 38 because this is a suit on written contract, which is listed in Section 38.001(8). Plaintiffs D. & W. Fields retained counsel, who presented Plaintiff's D. & W. Fields claim(s) to NPC's attorney. NPC did not tender the amount owed within 30 days of the date the claim was presented.

##### **Plaintiff Fast Track**

24. Plaintiff Fast Track is entitled to recover reasonable and necessary attorney fees under the provisions of the written contract as set out in paragraph {number}. By that agreement, Plaintiff Fast Track is entitled to attorney fees if it is the prevailing party in this suit.

**L. Conditions Precedent- Plaintiffs D. & W. Fields and Plaintiff Fast Track**

25. All conditions precedent have been performed or have occurred.

**F. Prayer - Plaintiffs D. & W. Fields and Plaintiff Fast Track**

26. For these reasons, Plaintiffs asks that Defendant be cited to appear and answer and the court declare a Declaratory Judgment in favor of the Plaintiffs, allowing W. Fields and Fast Track to retain the funds in their possession and to a determination that the salary and monies owed under the participation and the Sales Representative Agreement be paid to the Plaintiff's. In addition, plaintiff asks for the following damages:

- a. Actual damages.
- b. Exemplary damages
- b. Prejudgment and post judgment interest.
- c. Attorney fees.
- d. Costs of suit.
- e. All other relief, in law and in equity, to which plaintiff may be entitled.

Respectively Submitted,

RODNEY E. MOTON  
Attorney & Counselor at Law  
1776 Yorktown Street, Suite #325  
Houston, Texas 77056  
(713) 592-9220 Telephone  
(713) 583-9225 Facsimile

/s/ Rodney E. Moton

Rodney E. Moton  
State Bar 24001432  
Attorney for the Plaintiffs





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May 19, 2008

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From: Adam Jay

Phone #: (480) 724-2023

Fax # (480) 724-5108

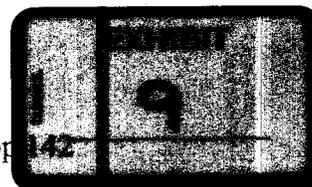
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Apr 142

Date: May 19, 2008

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Page 2 of 2

Reference: 2000176651699:2000176657699:2000176581699

06803 11-24  
Office A/J # 121001

CASHIER'S CHECK 0680301994

Operator I.D. num:1002 num:0457

PAY TO THE ORDER OF \*\*\*LUBNA LATEEF, MISBA LATEEF\*\*\*  
\*\*\*SHAHED LATEEF, ZAHED LATEEF\*\*\*

January 29, 2007

\*\*\*One million seven hundred one thousand two hundred fifty dollars and no cents\*\*\* \*\*\$1,701,250.00\*\*

VOID IF OVER US \$ 1,701,250.00

WELLS FARGO BANK, N.A.  
1500 POST OAK BLVD  
HOUSTON, TX 77058  
FOR INQUIRIES CALL (480) 394-3122

*Maria H. Rosa*  
AUTHORIZED SIGNATURE

*Jamuna*  
AUTHORIZED SIGNATURE

⑆0680301994⑆ ⑆121000248⑆4861 505717⑆

ENDORSE HERE:

CREDITED TO THE ACCOUNT OF  
WITHIN NAMED PAYEE  
LACK OF ENDORSEMENT GUARANTEED  
WELLS FARGO BANK, N.A.  
AU 0878

150928506

150928506

R/T Number 10700543  
Sequence Number 5760837917  
Account Number 4861505717

Processing Date 20070129  
Amount 1701250.00  
Check Number 680301994

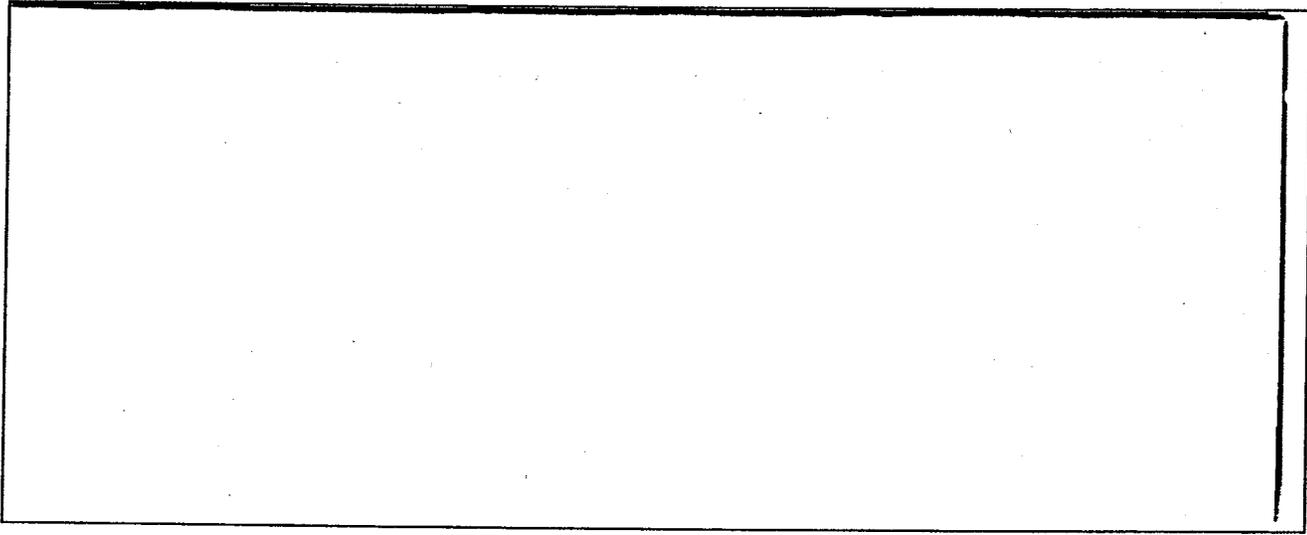
Date: October 5, 2007

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Page 1 of 1

Reference: 1000149636253:1000149643253:1000149608252

06803 Office AU #	11-24 1210(B)	<b>CASHIER'S CHECK</b>	0680301994
Purchaser: Purchaser Account: Operator I.D.:	W FINANCIAL GROUP LLC 3725317113 nwbr1902      nwbr6457		<b>Credit Copy</b>
PAY TO THE ORDER OF	***LUBNA LATEEF, MISBA LATEEF *** ***SHAHED LATEEF, ZAHED LATEEF***		January 29, 2007
	***One million seven hundred one thousand two hundred fifty dollars and no cents***		<b>**\$1,701,250.00**</b>
	<b>PROCESS SAME DAY AS ISSUED</b>		
WELLS FARGO BANK, N.A. 1300 POST OAK BLVD HOUSTON, TX 77056 FOR INQUIRIES CALL (480) 364-3122	02 06803 0590064 01/29/2007 2:23:53PM		VOID IF OVER US \$ 1,701,250.00 <b>NON-NEGOTIABLE</b>
*0680301994# ⑆518200392⑆4861 505717#			



R/T Number 10700543  
 Sequence Number 5760828127  
 Account Number 4861505717

Processing Date 20070129  
 Amount 1701250.00  
 Check Number 680301994

Date: July 19, 2007

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Page 23 of

Reference: 1000136133739:1000136140739:1000136125738

**Withdrawal:**

(Check One)  Checking  Savings  Money Market Access

Checking, Savings, Money Market Access account number  
\*3725317113

Open Date 09/06 4017  
Avg. Bal 899 K

Exp. Date 11/11  
Deposit Only  
Token  
Memo

Please print Name: W Financial Group  
Please print Street Address, City, State, Zip Code: 666 FM 1960 west suite 528

I authorize the withdrawal and acknowledge receipt of the amount indicated below.  
Please sign in teller's presence  
x Lubna Lateef

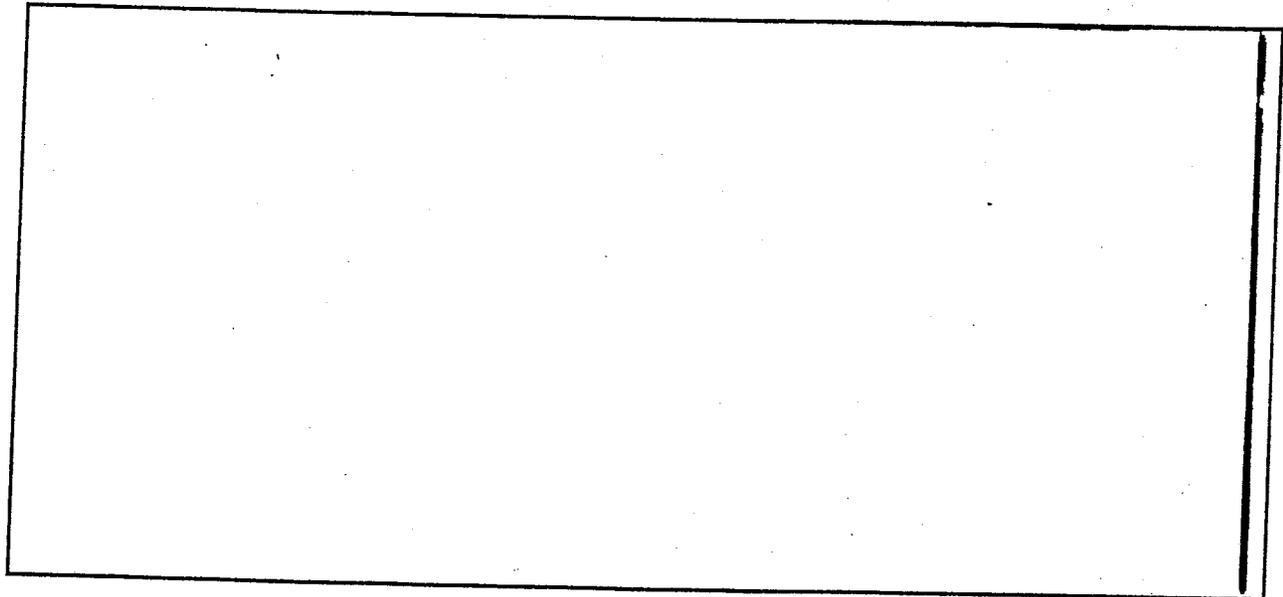
one million seven hundred <sup>one</sup> thousand two hundred and fifty - \$1,701,250.00  
Dollars

payable to: lubna lateef  
Misba lateef  
shahed lateef  
zahed lateef

Bank Use Only (When BVT is Not Available)  
Customer ID: Exp. date:  
Token Verified (✓)  Approval:

1LR060 12/04 WFD118

⑈4017⑈ ⑆500000694⑆



R/T Number 11190065  
Sequence Number 005760828128  
Account Number 3725317113

Processing Date 20070129  
Amount 1701250.0  
Check Number 4017

03166 W Financial  
001249

\*\*\*\*\*  
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 Database Last Updated: 05-30-2008  
 Update Frequency: DAILY  
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**COMPANY INFORMATION**

Name: CA HOUSTON INVESTMENT CENTER, LLC  
 Address: 3007 E LAKE FALLS CIR  
 SPRING, TX 77386  
 USA

**FILING INFORMATION**

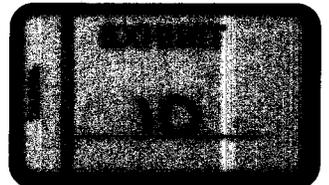
Filing Number: 800548472  
 Filing Date: 09/22/2005  
 State of Incorporation: TEXAS  
 Duration: PERPETUAL  
 Status: IN EXISTENCE  
 Business Type: DOMESTIC LIMITED LIABILITY COMPANY (LLC)  
 State Tax ID: 32018239767  
 Where Filed: SECRETARY OF STATE  
 1019 BRAZOS ST  
 AUSTIN, TX 78701

**REGISTERED AGENT INFORMATION**

Name: ADLEY WAHAB  
 Address: 3007 EAST LAKE FALLS CIRCLE  
 SPRING, TX 77386  
 USA

**NAME INFORMATION**

Legal Name: CA HOUSTON INVESTMENT CENTER, LLC



TX800548472

Page 2

Status: IN USE  
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**PRINCIPAL INFORMATION**

Name: ADLEY WAHAB  
Title: DIRECTOR, PRESIDENT

**AMENDMENT INFORMATION**

Amendments: 02/29/2008 PUBLIC INFORMATION REPORT (PIR); DOCUMENT  
NUMBER - 205931140001  
12/31/2006 PUBLIC INFORMATION REPORT (PIR); DOCUMENT  
NUMBER - 211622170015  
09/22/2005 ARTICLES OF ORGANIZATION; DOCUMENT NUMBER -  
104008680002

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