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10  
11 Attorneys for Defendant and Counterclaimant  
Windermere Real Estate Services Company  
12

13 **UNITED STATES DISTRICT COURT**  
14 **CENTRAL DISTRICT OF CALIFORNIA**

15 BENNION & DEVILLE FINE  
HOMES, INC., a California  
16 corporation, BENNION & DEVILLE  
FINE HOMES SOCAL, INC., a  
17 California corporation, WINDERMERE  
SERVICES SOUTHERN  
18 CALIFORNIA, INC., a California  
corporation,

19 Plaintiffs,

20 v.

21 WINDERMERE REAL ESTATE  
22 SERVICES COMPANY, a Washington  
corporation; and DOES 1-10

23 Defendant.  
24  
25

26 **AND RELATED COUNTERCLAIMS**  
27  
28

Case No. 5:15-CV-01921 R (KKx)

*Hon. Manual L. Real*

**DECLARATION OF PAUL S.  
DRAYNA IN SUPPORT OF  
COUNTERCLAIMANT  
WINDERMERE REAL ESTATE  
SERVICES COMPANY'S  
APPLICATIONS FOR RIGHT TO  
ATTACH ORDERS AND ORDERS  
FOR ISSUANCE OF WRITS OF  
ATTACHMENT**

Date: December 19, 2016

Time: 10:00 a.m.

Courtroom: 8

Complaint Filed: September 17, 2015

1 I, Paul S. Drayna, declare as follows:

2 1. I am an attorney admitted to practice in all Washington state courts, as  
3 well as the United States District Court for the Western District of Washington. The  
4 statements in this declaration are based upon my personal knowledge, and if called  
5 as a witness, I could testify competently thereto.

6 2. I am General Counsel for Counterclaimant Windermere Real Estate  
7 Services Company ("WSC") in this action and I have served full-time in that  
8 position since 2007, after serving as part-time outside General Counsel since 2003.  
9 As General Counsel for WSC, I am responsible for overseeing all legal matters for  
10 WSC, including but not limited to contract negotiations and litigation. As a part of  
11 my duties, I have been involved in the negotiation of various contracts between  
12 WSC and the Counterdefendants, Robert L. Bennion, Joseph R. Deville, Bennion &  
13 Deville Fine Homes, Inc., and Bennion & Deville Fine Homes SoCal, Inc. I am the  
14 custodian of those and other of WSC's legal business records. I also have first-hand  
15 knowledge regarding the facts underlying the allegations in the Complaint in this  
16 action as well as the allegations in WSC's Counterclaim. I am also familiar with the  
17 contracts between the parties, which I maintain for WSC. All of the documents  
18 attached to this declaration are maintained by me as custodian of WSC's legal and  
19 related documents.

20 3. Counter Defendants Bennion & Deville Fine Homes, Inc. ("B&D Fines  
21 Homes") and Bennion & Deville Fine Homes SoCal, Inc. ("B&D Fine Homes  
22 SoCal") are former franchisees of WSC. Counter Defendants Robert L. Bennion  
23 ("Bennion") and Joseph R. Deville ("Deville") are principals of these former  
24 franchisees.

25 4. Attached hereto as Exhibit A is a true and correct copy of the August 1,  
26 2001 Windermere Real Estate License Agreement between WSC and B&D Fine  
27 Homes, Bennion, and Deville (the "Coachella Valley Agreement"). Pursuant to this  
28 agreement, B&D Fine Homes was required to pay WSC monthly license and

1 technology fees. By 2014, WSC had agreed to limit the license fee that B&D Fine  
2 Homes was required to pay under the Coachella Valley Agreement to \$5,000 per  
3 branch office per month and to limit its technology fee to \$25.00 per agent per  
4 month.

5 5. On March 27, 2015, B&D Fine Homes sent a letter through its attorney  
6 terminating this agreement. A true and correct copy of this letter is attached hereto  
7 as Exhibit B. The parties subsequently agreed that the effective date of B&D Fines  
8 Homes' termination of the Coachella Valley Agreement would be September 30,  
9 2015.

10 6. Attached hereto as Exhibit C are true and correct copies of seven  
11 Addenda to the Windermere Real Estate License Agreement: Permission for  
12 Addition of Branch Office between WSC, B&D Fines Homes, Bennion, and  
13 Deville. These are all addenda to the Coachella Valley Agreement.

14 7. Attached hereto as Exhibit D is a true and correct copy of the  
15 Agreement for Forgiveness of Franchise Fees – 2006 dated August 10, 2007,  
16 between WSC, Windermere Services Southern California ("WSSC"), B&D Fines  
17 Homes, Bennion, and Deville.

18 8. Attached hereto as Exhibit E is a true and correct copy of the  
19 Agreement for Deferral of Franchise Fees – 2007 dated August 30, 2007 between  
20 WSC, WSSC, B&D Fine Homes, Bennion, and Deville.

21 9. Attached hereto as Exhibit F is a true and correct copy of the March 29,  
22 2011 Franchise License Agreement between WSC, WSSC, B&D Fine Homes  
23 SoCal, Bennion, and Deville (the "SoCal Agreement"). Pursuant to this agreement,  
24 B&D Fine Homes SoCal was required to pay WSC monthly license and technology  
25 fees. By 2014, WSC had agreed to limit the license fee that B&D Fine Homes  
26 SoCal was required to pay under the SoCal Agreement to \$5,000 per branch office  
27 per month and to limit its technology fee to \$25.00 per agent per month.

28 ///

1           10. The SoCal Agreement was also terminated on March 27, 2015 by a  
2 letter from B&D Fines Homes SoCal's attorney, Exhibit G hereto. The parties  
3 subsequently agreed that the effective date of B&D Fines Homes SoCal's  
4 termination of the Coachella Valley Agreement would be September 30, 2015.

5           11. Attached hereto as Exhibit H is a true and correct copy of the  
6 December 18, 2012 Agreement Modifying Windermere Real Estate Franchise  
7 License Agreements between WSC and Counterdefendants Windermere Services  
8 Southern California, Inc., Bennion & Deville Fine Homes, Inc., and Bennion &  
9 Devine Fine Homes SoCal, Inc. (the "Modification Agreement").

10           12. Over the course of WSC's relationship with Bennion and Deville and  
11 their related entities, WSC's principals extended a number of personal loans to  
12 Bennion and Deville totaling over \$1 million. One of those loans had a balloon  
13 payment that was due on March 1, 2014. In 2014, Bennion and Deville asked to  
14 have the loan extended by three years, amortizing the balloon payment over 36  
15 monthly payments. I was involved in these negotiations. In the context of these  
16 negotiations, a number of other issues came up, including claims by Bennion and  
17 Deville that WSC had breached the Modification Agreement, that WSC had  
18 mismanaged funds for its charitable organization, the Windermere Foundation, and  
19 claims by WSC that B&D Fine Homes and B&D Fine Homes SoCal had improperly  
20 classified some of its offices as "satellites" as opposed to "branches" for which  
21 license fees would be due.

22           13. Attached hereto as Exhibit I is a true and correct copy of a March 3,  
23 2014 letter from WSC's principals, Geoff Wood, Jill Wood, and John "OB" Jacobi,  
24 to Bennion and Deville discussing the issues between the parties at that time. This  
25 letter was sent to address certain claims raised by Bennion and Deville in prior  
26 correspondence. I helped draft this letter.

27           14. Attached hereto as Exhibit J is a true and correct copy of a March 21,  
28 2014 letter I received from Bennion and Deville's attorney, Robert Sunderland, in



1 response to the March 3, 2014 letter attached hereto as Exhibit H. In his letter,  
2 Mr. Sunderland goes through WSC's March 3 letter point by point to the extent  
3 there was anything he perceived to be inaccurate in the March 3 letter.

4 15. After receiving Mr. Sunderland's March 21 letter, WSC had its  
5 representative Michael Teather reach out directly to Mr. Sunderland in order to  
6 negotiate a resolution of the parties' disputes. Attached hereto as Exhibit K is a true  
7 and correct copy of a June 3, 2014 email from me to Mr. Sunderland, which attaches  
8 a letter from Mr. Teather to Mr. Sunderland. I never received any notification that  
9 this email was not transmitted to Mr. Sunderland.

10 I declare under penalty of perjury under the laws of the United States of  
11 America that the forgoing is true and correct, executed this 21st day of November,  
12 2016, at Seattle, Washington.



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Paul S. Drayna

# EXHIBIT A

EXHIBIT A

WINDERMERE REAL ESTATE  
LICENSE AGREEMENT

THIS AGREEMENT is made and entered into as of August 1, 2001, between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate / Carchella Valley ("Licensee"), and Joseph R. Deville and Robert L. Bennion the principals of Licensee.

RECITALS:

A. WSC is the owner of (i) the trade name "Windermere Real Estate", "Windermere", the Windermere Real Estate and related and associated trademarks, service marks and logotypes (herein collectively referred to as the "Trademark"), (ii) the standards, methods, procedures, techniques, specifications and programs developed by WSC for the establishment, operation and promotion of independently owned real estate brokerage offices, as those standards, methods, procedures, techniques, specifications and programs may be added to, changed, modified, withdrawn or otherwise revised by WSC (herein collectively referred to as the "Windermere System"), and (iii) all goodwill connected with the Trademark and the Windermere System, and WSC has the exclusive right to use and license others to use the Trademark and the Windermere System.

B. WSC has been organized and staffed to provide services to Licensee and other licensees for their mutual benefit so as to enhance the effectiveness, efficiency and profitability of operations of Licensee and other licensees.

C. WSC expressly disclaims the making of any representation, warranty or guaranty, express or implied, with respect to the revenues, profits or success of the business venture contemplated by this Agreement. Licensee acknowledges that it has not received or relied upon any such representations, warranty or guaranty, and has not received or relied on any representations concerning the license by WSC or its officers, directors, employees or agents, that are contrary to the statements made in the Offering Circular provided by WSC or to the terms of this Agreement.

D. Licensee desires to obtain and benefit from the right to use the Trademark and the Windermere System and the services to be provided by WSC under the terms set forth in this Agreement.

IN CONSIDERATION OF THE MUTUAL COVENANTS contained herein and for other good and valuable consideration, the parties agree as set forth below.

1. **Provision of Services.** WSC will provide a variety of services to Licensee for the benefit of Licensee and other licensees, designed to complement the real estate brokerage business activities of Licensee and to enhance its profitability. Except where notified in advance that a specific charge will be assessed to Licensee, all services provided by WSC shall be without additional cost and shall be included in the fee provided for in Section 5.

2. **Grant of License.** Subject to the terms and conditions specified herein, WSC hereby grants to Licensee the revocable and non-exclusive right during the term of this Agreement to use the Trademark and Windermere System in the conduct of real estate brokerage and sales activities at the following address(s):

850 N Palm Canyon Dr.

Palm Springs, CA 92262

Licensee must receive the approval and permission of WSC to open any additional branch offices or to relocate any office. Licensee agrees that during the entire term of this Agreement, including the period of notice of expiration of the term, Licensee will in good faith actively and with Licensee's best efforts engage in the real estate brokerage business using the Trademark, and will not, either directly or indirectly, (i) engage in any other competing real estate brokerage activity in this state or (ii) sell all or any part of Licensee's real estate brokerage business or operating assets (including pending sales and listings) to a person or entity engaged in the real estate brokerage business.

3. **Ownership of Trademark.** WSC expressly reserves the sole and exclusive ownership of the name and any associated trademark, service mark, logotype or trade name using the words "Windermere Real Estate", "Windermere" or any form thereof or variation thereon (the "Trademark") and the Windermere System. Licensee agrees not to use such name or any combination of the words, with or without any other word or words, as part of its corporate name or for the purpose of advertising its business, except in accordance with this Agreement, and in accordance with all approved reasonable standards of usage issued from time to time in writing by WSC. Upon request by WSC, Licensee shall cooperate fully and in good faith assist WSC to the extent necessary in the procurement of any protection of or to protect any of WSC's rights in and to the Trademark and the Windermere System or any rights pertaining thereto.

4. **Protection of Trademark.** The parties recognize the importance of the protection and maintenance of the quality image and reputation associated with the name Windermere Real Estate. In furtherance of that objective, so long as this Agreement remains in full force and effect, WSC shall approve reasonable standards of operation and service of the Licensee, including the issuance of guidelines with respect to the form, content, image and style of advertising materials including signs and signage, and the standardized use of the Trademark. Licensee agrees to conform to such standards, methods, guidelines and procedures, and agrees to instruct and keep its sales force and employees fully informed of all such methods and procedures, as shall from time to time be promulgated by WSC. Licensee acknowledges that the Trademark and the business reputation and methods employed by WSC are of considerable value, and Licensee agrees to follow all reasonable directions and recommendations made by WSC, so that the operation of Licensee's business will in no way damage the reputation of WSC, or the Trademark. If, in the judgment of WSC, it becomes necessary or desirable to modify the Trademark, Licensee will comply with the modification and will bear its own expense in connection with the modification and conversion.

Licensee must notify WSC of any challenge to Licensee's use of the Trademark. If Licensee becomes subject to a restraint on its use of the Trademark in connection with its real estate brokerage business, WSC has the right and obligation and will defend the suit at its own expense. WSC has the right to take any action, in its discretion and consistent with good business judgment to prevent infringement of the Trademark or unfair competition against Windermere licensees. If Licensee is awarded monetary recovery in any legal proceeding, WSC reserves the right to obtain reimbursement of its expenses from Licensee out of any monetary recovery awarded to Licensee as a result of WSC's intervention.

5. **License Fees.** For the services provided by WSC and for the use of the Trademark and Windermere System, Licensee agrees to pay to WSC a non-refundable initial fee in the amount of \$15,000.00 in cash upon signing this Agreement. Thereafter, Licensee agrees to pay to WSC license fees in an amount equal to five percent (5%) of the gross revenues earned and received by Licensee during the term of this Agreement, or, alternatively, in an amount equal to \$200.00 multiplied by the number of sales agents licensed to Licensee at any time during the month, depending on the geographical location of the franchise office and at WSC's discretion. Such fees shall be paid by Licensee on a monthly basis within fifteen (15) days after the close of any calendar month, or at such other convenient intervals as may be mutually agreed to by the parties. License fees not paid within ten days of the date due will be subject to a late fee equal to ten percent (10%) of the delinquent amount. License fees more than twenty days late shall bear interest thereafter at the

lower of either the highest lawful rate or eighteen percent (18%) per annum. Licensee agrees to submit such reports regarding its gross commissions as WSC may reasonably request, including complete federal income tax returns, state tax returns or filings, complete annual financial statements submitted within 90 days of Licensee's year end, and periodic interim period statements of income and expense, all prepared in accordance with generally accepted accounting principles. WSC or its designated agents shall have the right to inspect and audit the books and records of Licensee at reasonable times and upon reasonable notice. In the event any audit should disclose that Licensee has underreported gross commissions by two percent (2%) or more, then Licensee shall promptly pay to WSC the fees, costs and expenses incurred in connection with the audit.

In the event of the expiration or termination of the term of this Agreement, WSC shall be entitled to receive the fee with respect to all listings and sales pending as of the date of termination. All such post-expiration or post-termination fees shall be due and payable at the time the commissions are received or receivable by Licensee. If after the expiration or termination date of this Agreement Licensee sells any part of its operating assets including, for instance, any part of Licensee's listings and sales agreements pending as of the date of expiration or termination, Licensee shall nevertheless continue to be obligated to make payment of all post expiration or termination fees with respect to pending listings and sales as though Licensee still owned them. After the expiration or termination date Licensee shall continue to submit reports and WSC shall continue to have the right to inspect the books and records of Licensee insofar as they pertain to activities and/or revenues in connection with listings, and sales pending as of the date of expiration or termination.

6. **Term and Expiration or Termination.** The term of this Agreement begins on its date and continues until it expires or is terminated as provided in this Section. The term of this Agreement expires when either Licensee or WSC give written notice to the other party, of expiration of the term and a period of six months has elapsed from the date of the notice of expiration. Such notice must be given at least six months prior to the expiration date specified in the notice. No cause shall be required for any party to give notice of expiration of the term, it being understood and agreed that the provisions of this paragraph are to provide for an agreed method of establishing an expiration date of the term of this Agreement; consequently, whether or not there is then a breach of this Agreement or other cause or motive for an expiration notice, is irrelevant.

WSC may terminate the term of this Agreement by written notice to Licensee, on account of a material default by Licensee. Licensee shall have 15 days after notice from WSC of the default, to cure any of the following defaults, which the



parties agree are material: non-payment of fees, failure to comply with guidelines regarding the proper use of the Trademark, or failure to maintain required insurance. Licensee shall have 30 days after such notice of the default, to cure any other material default.

WSC may terminate the term of this Agreement upon written notice to Licensee and without opportunity to cure, if:

(a) There is a material default by Licensee and Licensee has had two or more prior material defaults under this Agreement, even though Licensee cured those prior defaults;

(b) Licensee is adjudicated bankrupt or insolvent;

(c) Licensee makes an assignment for the benefit of creditors or similar disposition of the assets of Licensee's business;

(d) Licensee abandons Licensee's real estate brokerage business;

(e) Licensee assigns or attempts to transfer or assign the license without the written consent of WSC; or

(f) Licensee is convicted of or pleads guilty or no contest to a charge of violation of any law relating to the regulation of Licensee's real estate brokerage business.

The term of this Agreement shall continue until it expires or it is terminated as provided in this Section.

7. **Discontinuance Upon Termination.** In the event of termination of the term of this Agreement, Licensee shall (upon termination) discontinue all use of the Trademark, the name "Windermere Real Estate", or variations of the name, including the name "Windermere", and use of the Windermere System. Without limiting the generality of the foregoing Licensee and, if Licensee is incorporated or a limited liability company, Licensee's shareholder(s) and director(s) or member(s) and/or manager(s) covenant and agree to cause the Articles of Incorporation or Certificate of Formation of Licensee to be amended to change the name of the entity if it contains the word "Windermere".

8. **Non-Transferability - Right of First Refusal.** This license is not transferable without the written consent of WSC, which consent will not unreasonably be withheld. A change of at least fifty percent (50%) of the ownership of Licensee, if Licensee is a corporation, limited liability company, or a partnership, shall be considered a transfer or assignment for purposes of this provision. This license will terminate unless

transferred to an approved transferee within six months of the death or incapacity of an individual Licensee.

In the event of (i) any proposed transfer as described in the preceding paragraph or (ii) the receipt by Licensee at any time during the term of this Agreement of a bona fide offer which Licensee desires to accept from a third party to purchase all or any portion of Licensee's operating assets without the license, WSC or its assignee shall have a right of first refusal to acquire the interest or operating assets as described herein. Licensee shall deliver to WSC a written notice setting forth all of the terms of the proposed transfer of the license (including transfer of fifty percent or more of the ownership of Licensee) or a copy of the signed offer to purchase operating assets without the license, together with all available pertinent information regarding the proposed transferee or purchaser. WSC shall have seven days after receipt of the notice or copy of the offer to give written notice to Licensee of its intent to exercise the right of first refusal on the same terms as proposed or as contained in the offer, except that WSC may substitute cash of equivalent value for any non-cash term to acquire the interest or assets. Thereafter the parties shall proceed to close the transaction on the earlier of a date six months following WSC's notice of election to exercise the right of first refusal or, if a notice of expiration of the term has previously been given, on the expiration date. It is agreed that neither an exercise of the right of first refusal by WSC or its assignee, nor in the absence of such an exercise, the acceptance by Licensee of a bona fide offer of a third party to purchase operating assets without the license, shall in any way diminish the obligation of Licensee to actively engage in the real estate brokerage business during the full term of this Agreement, including any period of notice of expiration of the term. In the event that WSC declines to exercise its right of first refusal Licensee may proceed with the contemplated transaction on the terms stated in the written notice. If the terms are revised in any material manner WSC shall have a right of refusal with respect to the modified offer and Licensee will again comply with the provisions of this Section.

9. **Relationship of Parties.** Licensee is not and shall not hold itself out as a legal representative, employee, joint venturer, partner or agent of WSC for any purpose whatsoever. Licensee is an independent contractor and is in no way authorized to make any contract, agreement, warranty or representation on behalf of WSC or to create any obligation, express or implied, on behalf of WSC.

10. **Indemnification - Insurance.** Licensee agrees to indemnify WSC from and against any and all claims made against it based upon, arising out of, or in any way related to the operation of Licensee's business including, but not limited to, any intentional act, negligent act, error or omission by Licensee

or any of its agents, employees, licensees, or independent contractors, together with all attorney's fees, costs and other expenses reasonably incurred by or on behalf of WSC in the investigation of or defense against any such claim.

Licensee agrees to maintain and keep in force during the term of this Agreement, for the mutual benefit of WSC and the Licensee, all forms of necessary business insurance, with deductible provisions acceptable to WSC, including, but not limited to: Worker's Compensation insurance as required by law, comprehensive general liability insurance in the minimum amount of \$1,000,000, property damage insurance in the minimum amount of \$500,000; and professional liability errors and omissions insurance coverage in the minimum amount of \$250,000 per occurrence. The insurance policies shall name WSC as an additional insured. WSC reserves the right to increase from time to time the minimum required levels of insurance coverage.

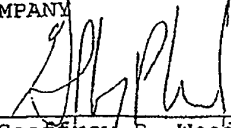
11. **Costs and Attorneys' Fees.** In the event that any suit or action is instituted for breach of, to enforce or to obtain a declaration of rights under this Agreement, including but not limited to suit for preliminary injunction, the substantially prevailing party shall be entitled to be reimbursed by the non-prevailing party for all costs, including reasonable attorneys' fees, incurred in connection with such suit or action, including any appeal therefrom.

12. **Integration and Amendments.** This Agreement contains the entire agreement between WSC on the one hand, and Licensee on the other, regarding the subject matter thereof, and supersedes all prior or contemporaneous oral or written representations or agreements, which are merged into and superseded by this Agreement. Any amendments or additions to this Agreement must be in writing and signed by WSC, Licensee and all other signatories to this Agreement.

WSC:

WINDERMERE REAL ESTATE SERVICES  
COMPANY

By

  
Geoffrey P. Wood  
President

Principal (Shareholder, Partner  
or Member) of Licensee

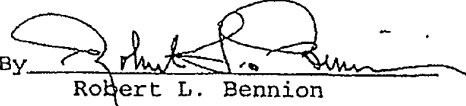
Principal (Shareholder, Partner  
or Member) of Licensee

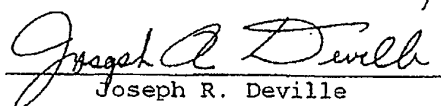
Principal (Shareholder, Partner  
or Member) of Licensee

LICENSEE:

\_\_\_\_\_

By

  
Robert L. Bennion

  
Joseph R. Deville

Principal (Shareholder, Partner  
or Member) of Licensee

Principal (Shareholder, Partner  
or Member) of Licensee

**AFFILIATE FEE SCHEDULE**

**Licensed Designation:** Windermere Real Estate/Coachella Valley  
**Name of Office:** Palm Springs-Coachella Valley  
**Office Opening Date:** August 1, 2001

The first month for which fees are due is August, 2001. Fees are to be reported and paid by the 15<sup>th</sup> of the month following the month in which they accrue, i.e. fees for January are due by February 15th.

- **Technology Fee:** \$10 per month per licensed agent and agent assistant
- **Windermere License Fee Transition Discount:** 90% of monthly Gross Commission Income for first two months, 75% the second two months, 50% the third two months, 25% for the seventh and eighth month
- **Administrative Fee:** \$25 per agent per month
- **Windermere Foundation Fee:** \$7.50 per transaction side for each closed transaction

*Please note: the Transition Discount applies to monthly license fee only and declines over an 8 month period.*

Your payments should be payable to Windermere Services Co. and sent with your accounting information to the following address:

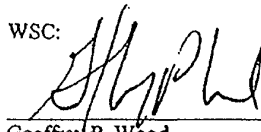
Windermere Services Co.  
5424 Sand Point Way NE  
Seattle, WA 98105  
(206/527-3801)

**LICENSEE:**



Partner  
Bennion & Deville Fine Homes, Inc.  
dba Windermere Real Estate/Coachella Valley

**WSC:**



Geoffrey P. Wood  
President  
Windermere Real Estate Services, Inc.

# EXHIBIT B



**GERARD P. DAVEY**  
A PROFESSIONAL LAW CORPORATION  
1301 DOVE STREET, SUITE 900  
NEWPORT BEACH, CALIFORNIA 92660  
(949) 475-9300/FAX: (949) 666-6060  
E-MAIL: [GDAVEY@DAVEYLAW.COM](mailto:GDAVEY@DAVEYLAW.COM)  
WEBSITE: [WWW.DAVEYLAW.COM](http://WWW.DAVEYLAW.COM)

March 27, 2015

Sent by E-Mail and by Express Mail

Paul S. Drayna, General Counsel  
Windermere Real Estate Services Company  
5424 Sand Point Way NE  
Seattle, Washington 98105-2941  
E-Mail: [pdrayna@windermere.com](mailto:pdrayna@windermere.com)  
Express Mail No.: EK 502711130 US

Charles Sirianni, Esq.  
Sirianni Youtz Spoonemore Hamburger  
999 Third Avenue, Suite 3650  
Seattle, Washington 98104-4038  
E-Mail: [csirianni@sylaw.com](mailto:csirianni@sylaw.com)  
Express Mail No.: EK 502705267 US

RE: Termination of Windermere Real Estate Franchise License Agreement, dated March 29, 2011 (San Diego and Orange Counties, California offices), as such Franchise License Agreement may have been amended, and all other related agreements, between Windermere Real Estate Services Company and Bennion & Deville Fine Homes SoCal, Inc.

Dear Messrs. Drayna and Sirianni:

As you have been advised, this firm represents Robert L. Bennion and Joseph R. Deville; Bennion & Deville Fine Homes, Inc.; Bennion & Deville Fine Homes SoCal, Inc. ("B&DSC"); and Windermere Services Southern California, Inc. (collectively, the "Clients"). All communications and legal notices pertaining to any matters involving the Clients should be directed solely to this office.

We understand that Mr. Drayna serves as in-house counsel for Windermere Real Estate Services Company ("WSC"), and Mr. Sirianni serves as outside counsel for WSC. Kindly advise us as to whom you wish to have future communications or notices delivered to WSC, its management or its affiliates involving any matters concerning my Clients.

---

CERTIFIED SPECIALIST IN FRANCHISE AND DISTRIBUTION LAW  
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

**GERARD P. DAVEY**  
A PROFESSIONAL LAW CORPORATION

Paul S. Drayna, General Counsel  
Windermere Real Estate Services Company  
Charles Sirianni, Esq.  
March 27, 2015  
Page 2

Unless you advise us to the contrary, we will presume that notices may be transmitted between or among the parties via e-mail without the concurrent delivery by regular mail or other physical delivery.

This letter serves as notice to WSC by B&DSC that B&DSC intends to terminate the Windermere Real Estate Franchise License Agreement with Bennion & Deville Fine Homes SoCal, Inc., dated March 29, 2011 (San Diego and Orange Counties, California offices), as such agreement may have been amended, and all other related agreements, between Windermere Real Estate Services Company and Bennion & Deville Fine Homes SoCal, Inc., effective as of September 30, 2015.

My Clients are concerned with, and object to, the ongoing pattern by WSC and its affiliates and principals of various practices that constitute breaches of contract and violations of franchise and other laws, as well as constituting interference with my Clients' business conducted under their Windermere Franchise Agreements and Area Representation Agreement. These breaches and wrongful activities include, without limitation, marketing franchises in my Clients' territory without consultation with my Clients; granting Windermere branch offices to third parties in markets served by my Clients' business; interfering with the relationship among my Clients and other Windermere franchisees; recruiting my Clients' sales associates and other employees to join WSC and other Windermere offices; soliciting my Clients' participation in offers and sales of franchises in violation of the franchise laws; offering and executing modifications of franchise agreements in violation of the California franchise laws; misappropriating and misusing the Windermere Foundation funds; and other breaches and violations.

My Clients' investigation into these matters is incipient and ongoing. My Clients reserve all rights to enforce the appropriate claims against WSC and its principals.

My Clients will regard any further disclosure to any third parties, including, without limitation, my Clients' agents or other Windermere franchisees with whom my Clients have business relationships, as to the details and status of my Clients' contractual relationship with WSC as a material breach and repudiation of each and all of my Clients' agreements with WSC, as well as intentional interference with my Clients' current and prospective business and contractual relationships.

---

CERTIFIED SPECIALIST IN FRANCHISE AND DISTRIBUTION LAW  
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

**GERARD P. DAVEY**  
A PROFESSIONAL LAW CORPORATION

Paul S. Drayna, General Counsel  
Windermere Real Estate Services Company  
Charles Sirianni, Esq.  
March 27, 2015  
Page 3

We trust that WSC will continue to abide by its agreements with my Clients.

Please be further advised that B&DSC, as well as my other Clients, reserves all rights. Nothing in this notice constitutes any restriction or limitation upon my Clients to assert claims against WSC and its management and affiliates, including, without limitation, the right to send additional notices, as appropriate, terminating or rescinding any agreements on any earlier date.

Please note that concurrent with the delivery of this notice, we are also delivering to you a corresponding notice of termination by Bennion & Deville Fine Homes, Inc. with respect to its Windermere License Agreement, dated August 1, 2001, regarding the operation of all of its Windermere franchised offices located in the Coachella Valley, California, effective as of September 30, 2015.

Thank you for your attention to this matter.

Yours truly,



Gerard P. Davey  
A Professional Law Corporation

cc: Robert L. Bennion  
Joseph R. Deville  
GPD/md

---

CERTIFIED SPECIALIST IN FRANCHISE AND DISTRIBUTION LAW  
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

# EXHIBIT C

**ORIGINAL**

**ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE**

THIS ADDENDUM is made and entered into as of August 9th, 2004 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

**RECITALS**

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs-Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office."

Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

**AGREEMENT**

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Palm Desert  
44-537 San Pablo Ave., #101  
Palm Desert, CA. 92260



ORIGINAL

ADDENDUM TO LICENSE AGREEMENT

Page 2 of 3

Palm Springs- Downtown  
123 N. Palm Canyon Dr.  
Palm Springs, CA 92262  
760/325-9091

Indian Wells  
74-996 Hwy 111  
Indian Wells, CA 92210  
760/674-3452

La Quinta  
47-250 Washington Street Ste. B  
La Quinta, CA 92253  
760/564-9685

Desert Hot Springs  
66337 Pierson Blvd.  
Desert Hot Springs, CA 92240  
760/329-3130

Rancho Mirage  
36101 Bob Hope Drive, Ste. F-2  
Rancho Mirage, CA 92270  
760/770-6801

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.

3. As of the date hereof, the individual principals of licensee are as follows:

NAME	PERCENTAGE INTEREST
Robert L. Bennion	50 %
Joseph R. Deville	50 %

This Addendum is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of the license agreement and personally liable for any breach by Licensee.



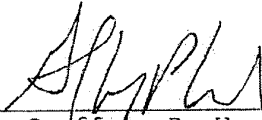
ORIGINAL

ADDENDUM TO LICENSE AGREEMENT  
Page 3 of 3

EXECUTION

**WSC:**

WINDERMERE REAL ESTATE SERVICES  
COMPANY

  
By Geoffrey P. Wood  
Its Chief Executive Officer

**LICENSEE:**

Bennion & Deville Fine Homes, Inc.

 (signature)  
By Joseph R. Deville  
Its President

**PRINCIPALS OF LICENSEE**

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.

  
Robert L. Bennion

  
Joseph R. Deville

**ORIGINAL**

**ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE**

THIS ADDENDUM is made and entered into as of November 4th, 2004 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

**RECITALS**

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs-Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office."

Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

**AGREEMENT**

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Indian Wells  
74-850 Highway 111  
Indian Wells, CA 92210

CA 2004

ADDENDUM TO LICENSE AGREEMENT

Page 2 of 3

Palm Desert  
44-530 San Pablo Ave., #101  
Palm Desert, CA. 92260

Palm Springs- Downtown  
123 N. Palm Canyon Dr.  
Palm Springs, CA 92262  
760/325-9091

Indian Wells (Commercial)  
74-996 Hwy 111  
Indian Wells, CA 92210  
760/674-3452

La Quinta  
47-250 Washington Street Ste. B  
La Quinta, CA 92253  
760/564-9685

Desert Hot Springs  
66337 Pierson Blvd.  
Desert Hot Springs, CA 92240  
760/329-3130

Rancho Mirage  
36101 Bob Hope Drive, Ste. F-2  
Rancho Mirage, CA 92270  
760/770-6801

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.

3. As of the date hereof, the individual principals of licensee are as follows:

NAME	PERCENTAGE INTEREST
Robert L. Bennion	50 %
Joseph R. Deville	50 %

This Addendum is conditioned upon its execution by all individual principals named above, in their personal capacities,

CA 2004

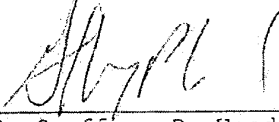
ADDENDUM TO LICENSE AGREEMENT  
Page 3 of 3

confirming their agreement to be personally bound by the terms of the license agreement and personally liable for any breach by Licensee.

EXECUTION


WSC:

WINDERMERE REAL ESTATE SERVICES  
COMPANY

  
By Geoffrey P. Wood  
Its Chief Executive Officer

LICENSEE:

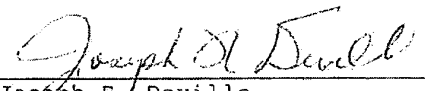
Bennion & Deville Fine Homes, Inc.

 (signature)  
By Joseph R. Deville  
Its President

PRINCIPALS OF LICENSEE

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.

  
Robert L. Bennion

  
Joseph R. Deville

**ORIGINAL**

**ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE**

THIS ADDENDUM is made and entered into as of April 1, 2005 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

**RECITALS**

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs-Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office."

Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

**AGREEMENT**

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Rancho Mirage at The Springs  
174 Yale Drive  
Rancho Mirage, CA 92270

ADDENDUM TO LICENSE AGREEMENT

Page 2 of 3

Indian Wells (Main)  
74-850 Highway 111  
Indian Wells, CA 92210

Palm Desert  
44-530 San Pablo Ave., #101  
Palm Desert, CA. 92260

Palm Springs- Downtown  
123 N. Palm Canyon Dr.  
Palm Springs, CA 92262  
760/325-9091

Indian Wells (Commercial)  
74-996 Hwy 111  
Indian Wells, CA 92210  
760/674-3452

La Quinta  
47-250 Washington Street Ste. B  
La Quinta, CA 92253  
760/564-9685

Desert Hot Springs  
66337 Pierson Blvd.  
Desert Hot Springs, CA 92240  
760/329-3130

Rancho Mirage  
36101 Bob Hope Drive, Ste. F-2  
Rancho Mirage, CA 92270  
760/770-6801

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.

3. As of the date hereof, the individual principals of licensee are as follows:

NAME	PERCENTAGE INTEREST
Robert L. Bennion	50 %
Joseph R. Deville	50 %



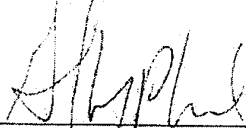
ADDENDUM TO LICENSE AGREEMENT  
Page 3 of 3

This Addendum is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of the license agreement and personally liable for any breach by Licensee.

EXECUTION

WSC:


WINDERMERE REAL ESTATE SERVICES  
COMPANY

  
\_\_\_\_\_  
By Geoffrey P. Wood  
Its Chief Executive Officer

Date 3/25/05

LICENSEE:

Bennion & Deville Fine Homes, Inc.

  
\_\_\_\_\_  
By Joseph R. Deville  
Its President

Date 3-4-11-05

PRINCIPALS OF LICENSEE

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.

  
\_\_\_\_\_  
Robert L. Bennion

  
\_\_\_\_\_  
Joseph R. Deville

ORIGINAL

ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE

THIS ADDENDUM is made and entered into as of July 1, 2005 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

RECITALS

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs-Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office."

Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

AGREEMENT

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Rancho Mirage- The Club at Morningside  
1 Johnar Boulevard  
Rancho Mirage, CA 92270

ADDENDUM TO LICENSE AGREEMENT  
Page 2 of 3

Rancho Mirage at The Springs  
174 Yale Drive  
Rancho Mirage, CA 92270

Indian Wells (Main)  
74-850 Highway 111  
Indian Wells, CA 92210

Palm Desert  
44-530 San Pablo Ave., #101  
Palm Desert, CA. 92260

Palm Springs- Downtown  
123 N. Palm Canyon Dr.  
Palm Springs, CA 92262  
760/325-9091

Indian Wells (Commercial)  
74-996 Hwy 111  
Indian Wells, CA 92210  
760/674-3452

La Quinta  
47-250 Washington Street Ste. B  
La Quinta, CA 92253  
760/564-9685

Desert Hot Springs  
66337 Pierson Blvd.  
Desert Hot Springs, CA 92240  
760/329-3130

Rancho Mirage  
36101 Bob Hope Drive, Ste. F-2  
Rancho Mirage, CA 92270  
760/770-6801

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.
3. As of the date hereof, the individual principals of licensee are as follows:

ADDENDUM TO LICENSE AGREEMENT  
Page 3 of 3

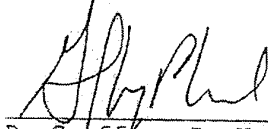
NAME	PERCENTAGE INTEREST
Robert L. Bennion	50 %
Joseph R. Deville	50 %

This Addendum is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of the license agreement and personally liable for any breach by Licensee.

EXECUTION

**WSC:**

WINDERMERE REAL ESTATE SERVICES  
COMPANY

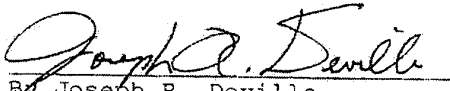


By Geoffrey P. Wood  
Its Chief Executive Officer

Date 8/29/05

**LICENSEE:**

Bennion & Deville Fine Homes, Inc.

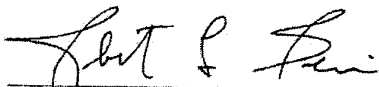


By Joseph R. Deville  
Its President

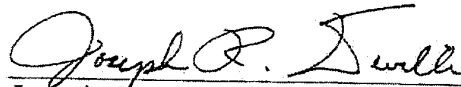
Date 6-29-05

**PRINCIPALS OF LICENSEE**

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.



Robert L. Bennion



Joseph R. Deville



**ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE**

THIS ADDENDUM is made and entered into as of December 9, 2005 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

**RECITALS**

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs- Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office." Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

**AGREEMENT**

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Palm Desert East  
76-300 Country Club Drive  
Palm Desert, CA 92211

Rancho Mirage- The Club at Morningside  
1 Johnar Boulevard  
Rancho Mirage, CA 92270

Rancho Mirage at The Springs  
174 Yale Drive  
Rancho Mirage, CA 92270

Indian Wells (Main)  
74-850 Highway 111  
Indian Wells, CA 92210

Palm Desert  
44-530 San Pablo Ave., #101  
Palm Desert, CA. 92260

Palm Springs- Downtown  
123 N. Palm Canyon Dr.  
Palm Springs, CA 92262  
760/325-9091

Indian Wells (Commercial)  
74-996 Hwy 111  
Indian Wells, CA 92210  
760/674-3452

La Quinta  
47-250 Washington Street Ste. B  
La Quinta, CA 92253  
760/564-9685

Desert Hot Springs  
66337 Pierson Blvd.  
Desert Hot Springs, CA 92240  
760/329-3130

Rancho Mirage  
36101 Bob Hope Drive, Ste. F-2  
Rancho Mirage, CA 92270  
760/770-6801

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.

3. As of the date hereof, the individual principals of licensee are as follows:

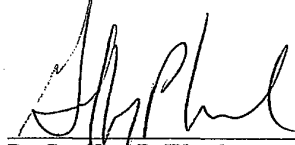
Name	Percent Interest
Robert L. Bennion	50%
Joseph R. Deville	50%

This Addendum is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of the license agreement and personally liable for any breach by Licensee.

EXECUTION

**WSC:**

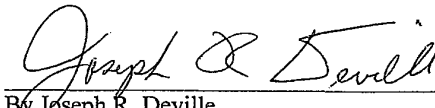
WINDERMERE REAL ESTATE SERVICES COMPANY



By Geoffrey P. Wood  
Its Chief Executive Officer

**LICENSEE:**



BENNION & DEVILLE FINE HOMES, INC.



By Joseph R. Deville  
Its President

**PRINCIPALS OF LICENSEE**

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.

  
Robert L. Bennion  
Joseph R. Deville





## AFFILIATE FEES SCHEDULE

<b>License Designation</b>	<b>Windermere Real Estate Coachella Valley</b>
<b>Date of Original License Agreement</b>	<b>August 1, 2001</b>
<b>Branch Name:</b>	<b>Palm Desert East</b>

**LICENSE FEES:** Licensee elects to pay ongoing license fees on the following basis (choose one):

- ☒ Five percent (5%) of the gross commissions earned and received by Licensee during the term of this Agreement; **OR**  
☐ Two hundred five dollars (\$205.00) multiplied by the maximum number of sales agents licensed to Licensee at any time during the month.

Does the Ramp Up discount apply? ☒ YES ☐ NO Area Rep Initials: \_\_\_\_\_

Month	Discount
1-2	90%
3-4	75%
5-6	50%
7-8	25%
9 and thereafter	0% (full fees due)

- **Technology Fee:** \$12.00 per month per licensed agent and agent assistant for basic service effective January 2005; additional fees apply for additional service, as set forth in the Uniform Franchise Offering Circular.
- **Administration Fee:** \$25.00 for each licensed sales associate per month.
- **Windermere Foundation Suggested Donation:** \$10.00 per transaction side for each closed transaction.

The first month for which fees are dues is December 2005. Fees are to be reported and paid by the 15<sup>th</sup> of the month following the month in which they accrue, i.e. fees for December are due by January 15<sup>th</sup>. Your payments should be payable to **Windermere Services Southern California, Inc.** and sent with your accounting information to the following address:

Windermere Services Southern California, Inc.  
 74-850 Highway 111  
 Indian Wells, CA 92210  
 (760) 327-3990

	INITIALS	DATE
Bob Bennion Owner Bennion and DeVille Fine Homes, Inc	<i>JB</i>	12-9-05
Bob DeVille, Area Rep Windermere Southern California	<i>BD</i>	12-9-05
Geoffrey P. Wood, CEO WSC	<i>GPW</i>	12-9-05

ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE

THIS ADDENDUM is made and entered into as of January 21, 2004 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

RECITALS

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs-Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office."

Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

ADDENDUM TO LICENSE AGREEMENT

Page 2 of 3

AGREEMENT

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Desert Hot Springs  
66337 Pierson Blvd.  
Desert Hot Springs, CA 92240  
760/329-3130

Rancho Mirage  
36101 Bob Hope Dr., F-2  
Rancho Mirage, CA 92270  
760/770-6801

La Quinta  
47-250 Washington St., Ste. B  
La Quinta, CA 92253  
760/564-9685

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.

3. As of the date hereof, the individual principals of licensee are as follows:

NAME	PERCENTAGE INTEREST
Robert L. Bennion	50%
Joseph R. Deville	50%

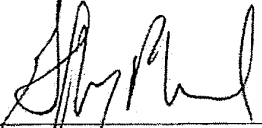
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ADDENDUM TO LICENSE AGREEMENT  
Page 3 of 3

EXECUTION


WSC:

WINDERMERE REAL ESTATE SERVICES  
COMPANY

  
By Geoffrey P. Wood  
Its Chief Executive Officer


LICENSEE:

Bennion & Deville Fine Homes, Inc.

 (signature)  
By Bob Deville (print name)  
Its PRES. (print title)

PRINCIPALS OF LICENSEE

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.

  
Robert L. Bennion

  
Joseph R. Deville

**ORIGINAL**

**ADDENDUM TO  
WINDERMERE REAL ESTATE LICENSE AGREEMENT  
PERMISSION FOR ADDITION OF BRANCH OFFICE**

THIS ADDENDUM is made and entered into as of January 21, 2004 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"), and Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"), and the individual principals of Licensee identified below.

**RECITALS**

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to operate a real estate office using the Windermere Trademark and the Windermere System at the following location(s):

Palm Springs-Coachella Valley  
850 N Palm Canyon Dr.  
Palm Springs, CA 92262  
760/327-3990

The agreement further provided that Licensee "must receive the approval and permission of WSC to open any additional branch offices or to relocate any office."

Licensee has requested permission to open a new branch office location. In consideration of the mutual promises and covenants set forth herein, WSC hereby grants permission for the opening of the new office on the terms and conditions set forth below.

ADDENDUM TO LICENSE AGREEMENT  
Page 2 of 3

AGREEMENT

1. Licensee's Original License agreement is hereby amended to allow Licensee to operate branch offices located at:

Indian Wells  
74996 Highway 111  
Indian Wells, CA 92210  
760/674-3452

2. All terms of the Original License agreement are hereby incorporated by reference, and shall apply to operation of the new branch.

3. As of the date hereof, the individual principals of licensee are as follows:

NAME	PERCENTAGE INTEREST
Robert L. Bennion	50 %
Joseph R. Deville	50 %

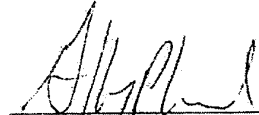
This Addendum is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of the license agreement and personally liable for any breach by Licensee.

ADDENDUM TO LICENSE AGREEMENT  
Page 3 of 3

EXECUTION

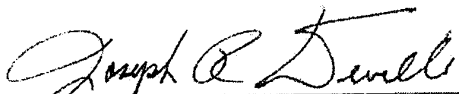
**WSC:**

WINDERMERE REAL ESTATE SERVICES  
COMPANY

  
By Geoffrey P. Wood  
Its Chief Executive Officer

**LICENSEE:**

Bennion & Deville Fine Homes, Inc.

 (signature)  
By Joseph R. Deville  
Its President

**PRINCIPALS OF LICENSEE**

The following individuals are Shareholders, Partners or Members of Licensee. By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and shall be personally responsible for performance of this Agreement by Licensee.

  
Robert L. Bennion

  
Joseph R. Deville



# EXHIBIT D

W

AGREEMENT FOR FORGIVENESS OF FRANCHISE FEES -2006

THIS AGREEMENT is made and entered into as of August 10, 2007 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"); WINDERMERE SERVICES SOUTHERN CALIFORNIA, INC. ("Area Representative"); Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"); and the individual principals of Licensee identified below.

RECITALS

The parties entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to engage in the real estate brokerage business using the Windermere Trademark and the Windermere System.

The Original License (and any subsequent amendments thereto) requires Licensee to pay ongoing franchise License Fees and certain other Additional Fees to WSC and/or Area Representative, as consideration for Licensee's use of the Windermere Trademark and the Windermere System.

Due to financial hardship, Licensee has requested deferral of License Fees for a period of time. WSC and Area Representative are willing to grant the requested deferral fees on certain terms. Therefore, in consideration of the mutual promises and covenants set forth herein, the parties now agree as follows.

AGREEMENT

1. Forgiveness of Franchise License Fees. WSC and Area Representative agree that Licensee's franchise license fees for the months of June 2006 through December 2006, inclusive, in the total amount of \$500,840.00 are hereby forgiven in full effective immediately, subject to the terms of Paragraph 2, below.
2. As material consideration for the forgiveness of fees set forth above, the parties agree that in the event that the Original License expires or terminates within five years after this Addendum has been executed, Licensee shall Pay WSC a proportional amount of \$250,420 (which represents WSC's one half share of the fees forgiven) based on a calculation of the amount of time remaining between the execution of this agreement and the end of the five years. As an example if the Original License expires or terminates with two years remaining in the five year term, the amount Licensee would owe WSC would be  $\$250,420 \times 2/5 = \$100,168$ . Any such amount owing will be paid in full within 30 days after the Original License terminates or expires, and no portion of such payment shall be owed by

FRANCHISE FEE  
FORGIVENESS AGREEMENT

1

Exhibit

22

WITNESS: Deville  
DATE: 07/26/16  
Shari Stelhorn  
CSR No. 2807

WSC 14

WSC to Area Representative.

3. As of the date hereof, the individual principals of Licensee are as follows:

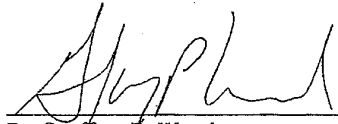
Name	Percent Interest
Robert L. Bennion	50%
Joseph R. Deville	50%

This Agreement is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of this Agreement and to be personally liable for any breach thereof by Licensee.

#### EXECUTION

WSC:

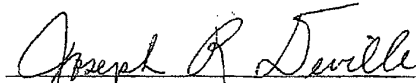
WINDERMERE REAL ESTATE SERVICES COMPANY



By Geoffrey P. Wood  
Its Chief Executive Officer

AREA REPRESENTATIVE

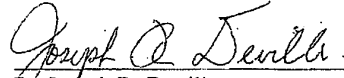
WINDERMERE SERVICES SOUTHERN CALIFORNIA, INC.



By Joseph R. Deville  
Its President

LICENSEE:


BENNION & DEVILLE FINE HOMES, INC.

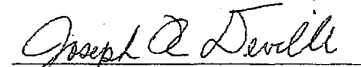
  
By Joseph R. Deville  
Its President

PERSONAL GUARANTY BY  
PRINCIPALS OF LICENSEE

The following individuals are Shareholders, Partners or Members of Licensee. Each has a financial interest in Licensee, has had the opportunity to read the Agreement to which this Personal Guaranty is attached, and acknowledges that he/she will personally benefit from the Agreement.

By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and hereby unconditionally personally guarantees performance of the Original License and this Agreement by Licensee.

  
Robert L. Bennion  
Date: 8-27-07

  
Joseph R. Deville  
Date: 8-27-07

# EXHIBIT E



#### AGREEMENT FOR DEFERRAL OF FRANCHISE FEES - 2007

THIS AGREEMENT is made and entered into as of August 30, 2007 by and between WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"); WINDERMERE SERVICES SOUTHERN CALIFORNIA, INC. ("Area Representative"); Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate/Coachella Valley ("Licensee"); and the individual principals of Licensee identified below.

#### RECITALS

WSC and Licensee entered into a Windermere Real Estate License Agreement dated August 1, 2001 (the "Original License"), which granted Licensee permission to engage in the real estate brokerage business using the Windermere Trademark and the Windermere System.

The Original License (and any subsequent amendments thereto) requires Licensee to pay ongoing franchise License Fees and certain other Additional Fees to WSC and/or Area Representative, as consideration for Licensee's use of the Windermere Trademark and the Windermere System.

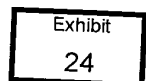
Due to financial hardship, Licensee has requested deferral of License Fees for a period of time. WSC and Area Representative are willing to grant the requested deferral fees on certain terms. Therefore, in consideration of the mutual promises and covenants set forth herein, the parties now agree as follows.

#### AGREEMENT

1. Deferral of Franchise License Fees; Interest to accrue. WSC and Area Representative agree that Licensee may defer payment of franchise fees for the months of January 2007 through December 2007, inclusive. This is a temporary deferral of payment only, not a forgiveness of the amounts due, meaning that these fees must be paid in full at a later date on the terms set forth below. Fees deferred shall accrue interest at the Prime Rate as announced by Wells Fargo Bank in Seattle, Washington from the date the fees were due (the 15<sup>th</sup> day of the following month) until fully repaid. For example, fees for January 2007 shall accrue interest beginning on their due date of February 15, 2007. Unpaid interest shall be compounded (added to principal) on the last day of each month. The interest rate shall be adjusted contemporaneously with each and every adjustment to the Prime Rate announced by Wells Fargo. Licensee shall resume paying its License Fees starting with January 2008 fees, which are due and shall be paid by February 15, 2008.

FRANCHISE FEE  
DEFERRAL AGREEMENT

1



WSC 15

WITNESS: Deville  
DATE: 07/26/16  
Shari Stelhorn  
CSR No. 2807

2. Repayment. The outstanding principal and accrued interest shall be amortized over 60 months, with monthly payments of principal and interest beginning on June 30, 2008, and continuing on the last day of each month thereafter. The full remaining balance of deferred fees and interest shall be due in full on or before May 31, 2013. Notwithstanding the foregoing, if the Original License expires or is terminated for any reason before the deferred fees have been fully repaid, then all principal and interest shall be due in full immediately upon the termination or expiration of the Original License. Any amounts not paid within ten days after the expiration or termination of the Original License shall thereafter accrue interest at twelve percent per annum, or the maximum legal rate, whichever is less, until fully paid.
3. Fee reports to be submitted and all other fees to remain current. During the period of License Fee deferral, Licensee shall continue to timely submit its Monthly Statistical Report (MSR) to Area Representative, and shall timely remit in full payment of all Additional Fees (including without limitation technology fees, marketing and/or administration fees, courier and publications fees, etc.) on a monthly basis, per the Original License and any subsequent addenda thereto. If Licensee fails to submit any report, or pay any Additional Fees when due, this Deferral Agreement shall immediately terminate, and all deferred fees and accrued interest shall become immediately due and payable, with penalties and interest as provided in the Original License, as amended.
4. Windermere Foundation. During the term of this Deferral Agreement, Licensee shall continue to collect and remit contributions to the Windermere Foundation on the same basis as prior to the effective date of this Agreement. If Licensee fails to timely remit Windermere Foundation contributions this Agreement shall terminate, and all deferred fees shall become immediately due and payable with penalties and interest, as provided in the Original License, as amended.
5. Costs Advanced. From time to time, WSC and/or Area Representative may advance certain costs on behalf of Licensee. These amounts are invoiced to Licensee monthly, and are referred to as "Owner Billings." Licensee must continue to timely pay all Owner Billings in full within 60 days after invoiced by WSC and/or Area Representative. If Licensee fails to pay any Owner Billings in full when due then this Agreement shall immediately terminate, and all deferred fees plus accrued interest shall become immediately due and owing with penalties and interest, as provided in the Original License as amended.



6. As of the date hereof, the individual principals of Licensee are as follows:

Name	Percent Interest
Robert L. Bennion	50%
Joseph R. Deville	50%

This Agreement is conditioned upon its execution by all individual principals named above, in their personal capacities, confirming their agreement to be personally bound by the terms of this Agreement and to be personally liable for any breach thereof by Licensee.

EXECUTION

WSC:

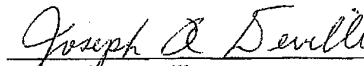
WINDERMERE REAL ESTATE SERVICES COMPANY



By Geoffrey P. Wood  
Its Chief Executive Officer

AREA REPRESENTATIVE

WINDERMERE SERVICES SOUTHERN CALIFORNIA, INC.



By Joseph R. Deville  
Its President

LICENSEE:

BENNION & DEVILLE FINE HOMES, INC.



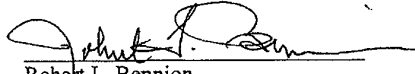
By Joseph R. Deville  
Its President

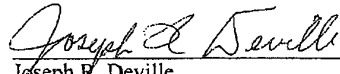
FRANCHISE FEE  
DEFERRAL AGREEMENT

PERSONAL GUARANTY BY  
PRINCIPALS OF LICENSEE

The following individuals are Shareholders, Partners or Members of Licensee. Each has a financial interest in Licensee, has had the opportunity to read the Franchise Fee Deferral Agreement to which this Personal Guaranty is attached, and acknowledges that he/she will personally benefit from the Agreement.

By signing below, each individual acknowledges that he or she is a party to this Agreement, is personally bound by its terms, and hereby unconditionally personally guarantees performance of the Original License and of this Agreement by Licensee, including the full repayment of all deferred fees with interest, on the terms set forth herein.

  
Robert L. Bennion  
Date: 9-7-07

  
Joseph R. Deville  
Date: 9-7-07

# EXHIBIT F



## FRANCHISE LICENSE AGREEMENT

1. Date of this Agreement:	March 29, 2011	
2. Licensee's Legal Name:	Bennion & Deville Fine Homes SoCal, Inc.	
3. Business Name as shown on Real Estate License:	Windermere Real Estate SoCal	
4. "Common Name" and Address of Main Office:	La Mesa 8080 La Mesa Blvd. Suite 204 La Mesa, CA 92270	
5. "Common Name" and Address of Branch Office(s):	Laguna Niguel 27611 La Paz Road, Suite D Laguna Niguel, CA 92677  Carmel Valley 12925 El Camino Real, Suite J27 San Diego, CA 92130  Solano Beach -- Lomas Santa Fe 124 Lomas Santa Fe, Suite 206 Solana Beach, CA 92075	
6. Principals of Licensee:	Name	% Owned
	Joseph R. Deville	50%
	Robert Bennion	50%
7. Projected Date that Licensee will commence doing business under the Windermere name:	March 30, 2011	

THIS AGREEMENT is made and entered into as of the date stated above by and among WINDERMERE REAL ESTATE SERVICES COMPANY, a Washington corporation ("WSC"); Windermere Services Southern California, Inc. ("Area Representative"); the Licensee identified above ("Licensee"); and the individual principals of Licensee identified above.

RECITALS:

- A. WSC is the owner of: (i) the trade names "Windermere" and "Windermere Real Estate", and the Windermere logo which appears at the top of the first page of this Agreement (herein collectively referred to as the "Trademark"); (ii) the standards, methods, procedures, techniques, specifications and programs developed by WSC for the establishment, operation and promotion of independently owned real estate brokerage offices, as those standards, methods, procedures, techniques, specifications and programs may be added to, changed, modified, withdrawn or otherwise revised by WSC (herein collectively referred to as the "Windermere System"); (iii) related and associated trademarks, service marks and logotypes other than the Trademark; and (iv) all goodwill connected with the Trademark and the Windermere System. WSC has the exclusive right to use and license others to use the Trademark and the Windermere System.
- B. WSC has granted to the Area Representative the right to offer licenses to use the Trademark in Southern California (the "Region") and to administer the Windermere System in the Region in accordance with this Agreement.
- C. Licensee desires to obtain and benefit from the right to use the Trademark and the Windermere System and the services to be provided by WSC and Area Representative under the terms set forth in this Agreement.

THEREFORE in consideration of the mutual covenants contained herein and for other good and valuable consideration, the parties agree as follows.

1. **Grant of License.** Subject to the terms and conditions specified herein, WSC hereby grants to Licensee the revocable and non-exclusive right during the term of this Agreement to use the Trademark and Windermere System only in the conduct of real estate brokerage services. Licensee agrees that during the entire term of this Agreement, including the period of notice of expiration of the term, Licensee will in good faith actively and with Licensee's best efforts engage in the real estate brokerage business using the Trademark. During the term of this Agreement neither Licensee, nor any of its Principals, will either directly or indirectly, (i) engage in any other competing real estate brokerage activity or (ii) sell all or any part of Licensee's real estate brokerage business or operating assets (including pending sales and listings) to a person or entity engaged in the real estate brokerage business.

2. **Locations; No Exclusive Territory.**

a. The license granted by this Agreement is limited to the location(s) shown on the first page of this Agreement, or otherwise approved in writing in advance by Area Representative and WSC in their sole discretion. If no initial location is specified on the first page of this Agreement at the time it is executed, WSC and Area Representative will approve or reject Licensee's initial proposed location within ten business days after receipt of written notice from Licensee requesting approval. If the parties are unable to agree on the location of Licensee's first office, then after three locations have been proposed and rejected Licensee may, at its request, be released from this Agreement and its initial franchise fee will be refunded in full.

Once Licensee's initial location(s) have been approved, Licensee may not relocate any office or open additional office locations except with the advance approval of WSC and Area Representative, which may be withheld in their sole discretion. Denial of any request to add or move an office shall not release Licensee from this Agreement.

b. Nothing in this Agreement shall be construed to confer or grant any exclusive territory, option, right of first refusal or other similar rights to acquire additional franchises or to any exclusive rights in any particular geographic area. WSC and Area Representative reserve the right to grant additional Windermere franchises within the Region at any time, in any location, including locations that may compete with Licensee's location(s) then in existence.

3. **Windermere System.** WSC shall provide guidance to Licensee with respect to the Windermere System. Such guidance shall, in WSC's discretion, be furnished in the form of written materials distributed physically or electronically, including through the Windermere Online Resource Center (WORC) intranet website, consultations by telephone or in person, or by other means of communication. WSC may, at Licensee's request, provide special assistance for which Licensee may be required to pay fees and/or expenses as WSC then charges. WSC may, in its sole discretion, develop, implement, modify and/or discontinue components of the Windermere System, including the addition of optional programs to enhance Licensee's business. WSC shall have the right, in its sole discretion, to condition Licensee's participation in any one or more of such programs upon Licensee being in compliance with this Agreement and any other agreements with WSC.

4. **Compliance with Laws; REALTOR® Association Membership Required.**

a. Licensee shall at all times fully comply with all applicable federal, state and local laws, regulations and ordinances which apply to the operations of Licensee's real estate brokerage business, including without limitation all applicable real estate licensing requirements for the state(s) in which Licensee's business operates. Failure to comply with any applicable laws or regulations shall constitute a material breach of this Agreement.

b. During the term of this Agreement Licensee and all of its individual brokers, managers and sales associates shall maintain membership in good standing with the National Association of REALTORS®, as well as any applicable state and/or local REALTOR® Associations for the geographic area(s) in which Licensee operates. Failure to maintain REALTOR® Association memberships as required shall constitute a material breach of this Agreement.

5. **Ownership of Trademark.** WSC expressly reserves the sole and exclusive ownership of the Windermere name and the Trademark, as well as the Windermere System and all other trademarks, service marks, logotypes or trade names (whether or not licensed hereunder) associated with the Windermere System. Licensee agrees not to use the Trademark, or any other marks associated with the Windermere System as part of its corporate name or for the purpose of advertising or operating its business, except in accordance with this Agreement, and in accordance with all approved reasonable standards of usage issued from time to time in writing by WSC. Upon request by WSC, Licensee shall cooperate fully and in good faith assist WSC to

the extent necessary in the procurement of any protection of or to protect any of WSC's rights in and to the Trademark and the Windermere System or any rights pertaining thereto.

**6. Protection of Trademark.**

a. The parties recognize the importance of the protection and maintenance of the quality image and reputation associated with the name Windermere Real Estate. In furtherance of that objective, so long as this Agreement remains in full force and effect, WSC and Area Representative may approve reasonable standards of operation and service of the Licensee, including the issuance of guidelines with respect to the form, content, image and style of advertising materials including signs and signage, the standardized use of the Trademark, and the use of Internet domain names which include or incorporate the Trademark. Licensee agrees to conform to such standards, methods, guidelines and procedures, and agrees to instruct and keep its sales force and employees fully informed of all such methods and procedures, as shall from time to time be promulgated by WSC or Area Representative. Licensee agrees to follow all reasonable directions by WSC or Area Representative concerning the operation of Licensee's business and Licensee's advertising and other use of the Trademark.

b. With respect to signs and business cards only, all vendors used by Licensee must be pre-approved by WSC or Area Representative. A list of previously approved vendors is available on request. If Licensee wishes to purchase signs or business cards from a vendor not on the list, Licensee should contact Area Representative to request approval for the new vendor. Approval of sign and business card vendors may be withheld in the sole discretion of WSC or Area Representative.

c. Licensee acknowledges that the Trademark and the business reputation and methods employed by WSC are of considerable value, and that the operation of Licensee's business – including Licensee's use of the Trademark – will affect the reputation of WSC and the Trademark. Accordingly, Licensee agrees that any act by Licensee or any of its principals which results in defaming, disparaging or tarnishing the Trademark or the business reputation of WSC or Area Representative shall constitute a material breach of this Agreement, and shall constitute good cause for termination of this Agreement.

d. If, in the judgment of WSC, it becomes necessary or desirable to modify the Trademark, Licensee will comply with the modification and will bear its own expense in connection with the modification and conversion.

e. Licensee must notify WSC or Area Representative of any challenge to Licensee's use of the Trademark. If Licensee is named as a party in any administrative or judicial proceeding alleging trademark infringement or unfair competition based on Licensee's use of the Trademark, or if Licensee becomes subject to a restraint on its use of the Trademark in connection with its real estate brokerage business, WSC will indemnify Licensee and defend any such proceeding at its own expense. WSC shall have the right to control any such litigation, including the selection of counsel, and shall have the sole right to make all decisions concerning the prosecution, defense or settlement of any litigation. WSC shall have the right to take any action, in its discretion and consistent with good business judgment to prevent infringement of

the Trademark or unfair competition against Windermere licensees. If Licensee is awarded monetary recovery in any legal proceeding arising from Licensee's use of the Trademark, WSC reserves the right to obtain reimbursement of its expenses from Licensee out of any monetary recovery awarded to Licensee as a result of WSC's intervention.

**7. Fees.**

a. **Initial Fee.** As consideration for the granting of the license set forth herein to Licensee for use of the Trademark and the Windermere System, Licensee agrees to pay Area Representative a non-refundable Initial Fee in the amount shown on the Fee Schedule attached hereto as Appendix 1. Unless otherwise indicated on Appendix 1, the Initial Fee is due in full upon the execution of this Agreement.

b. **Ongoing License Fees.** For the continuing use of the Trademark and the Windermere System, Licensee agrees to pay monthly Ongoing License Fees in an amount equal to five percent (5%) of the gross commissions earned and received by Licensee during the term of this Agreement, "capped" at the level stated on the attached fee schedule. The "cap" amount represents the gross commissions earned by each agent per accounting period. For example, a cap amount of \$75,000 means that Licensee will pay Ongoing License Fees on the first \$75,000 of gross commissions earned by each agent during each annual period. The accounting period for purposes of computing the fee cap may be either a calendar year (January 1 to December 31), or it may be an anniversary year (commencing each year on the anniversary of the agent's affiliation with Licensee, or some other anniversary date as specified in a written broker/sales associate contract). Licensee shall inform Area Representative of what accounting period it will be using for purposes of calculating capped fees. The fee "cap" is subject to cancellation or change by WSC at any time by written notice.

c. **Additional Fees.** In addition to the License Fees described above, Licensee also agrees to pay the Additional Fees as set forth on the Fees Schedule attached hereto as Appendix 1. Licensee agrees that the Additional Fees are subject to change at any time with six months written notice from WSC and that new fees may be added at any time with six months written notice.

d. **Fee Reports and Payments - When Due.** License Fees and Additional Fees shall be paid by Licensee on a monthly basis within five (5) days after the close of each calendar month. For example, fees accrued in January are due by February 5. Along with its monthly fee payments, Licensee shall submit a fee calculation report in the form and manner specified by WSC from time to time. Licensee will acquire, at Licensee's sole expense, any computer hardware and software required for submission of required reports to WSC, and shall upgrade such hardware and software as needed from time to time to comply with WSC reporting requirements. WSC publishes written policies and methods for fee reporting and payment – including the method for calculating the number of "agents" in each office for purposes of fees paid on a per agent basis. Licensee's fee reports and payments shall be in compliance with the then current policies and methods, which are subject to change from time to time by written notice from WSC. Licensee may not withhold payment of any License or Additional Fees, or any other amounts due to WSC or Area Representative on the grounds of the alleged non-



performance or breach of any obligations of WSC or Area Representative under this Agreement or any related agreement.

e. **Late Fees, Interest.** Any fees not paid by the tenth day of the month after they accrue will be subject to a late fee equal to ten percent (10%) of the delinquent amount, and the full amount of past due fees plus the late fee shall then bear interest at the lower of either the highest lawful rate or eighteen percent (18%) per annum. For example if Licensee owed \$5,000 for January, that amount would be due by February 5. If not paid by February 10, the amount of \$5,500 (fees due plus 10% late fee) would begin to accrue interest at the applicable rate from February 10 until paid in full. Payments on past due fees will be applied first to accrued and unpaid interest, and then to the principal (consisting of past due fees plus late fees, combined).

f. **Annual Reviews, Periodic Audits.**

1. For purposes of routine annual review, within six months after the close of each tax year Licensee shall submit to WSC a copy of Licensee's federal income tax return for that tax year, along with a balance sheet and income statement for the same tax period.
2. WSC may conduct periodic audits of Licensee at any time to confirm compliance with all terms of this Agreement. In connection with such audits, Licensee shall on demand provide WSC or its designated agents with all such reports regarding its gross commissions, income, transaction data, rosters of employees agents and assistants, and all other documents or information as WSC may reasonably request, including complete federal income tax returns, state tax returns or filings, financial statements (including balance sheets and profit and loss statements), all prepared in accordance with generally accepted accounting principles. In the event any audit should disclose that Licensee has underpaid any amounts owed under this Agreement by two percent (2%) or more, then Licensee shall promptly pay to WSC the fees, costs and expenses incurred in connection with the audit, along with the delinquent amounts owing, plus interest and penalties as provided herein.

g. **Fees due after Termination or Expiration.** In the event of the expiration or termination of the term of this Agreement, the Area Representative shall be entitled to receive Ongoing License Fees with respect to all listings and pending sales as of the date of expiration or termination. All such post-expiration or post-termination fees shall be due and payable at the time the commissions are received or receivable by Licensee. Licensee shall further pay all Additional Fees through the month in which the termination or expiration occurs as if it were a full month (for example, if termination or expiration occurs on June 10, Licensee shall nonetheless pay all fees calculated for the entire month of June on or before July 5, with no offset of pro-rata for the partial month). If after the expiration or termination date of this Agreement Licensee sells any part of its operating assets including, for instance, any part of Licensee's listings and sales agreements pending as of the date of expiration or termination, Licensee shall nevertheless continue to be obligated to make payment of all post expiration or termination fees with respect to listings and pending sales as though Licensee still owned them. After the expiration or termination date Licensee shall continue to submit reports and WSC

and/or Area Representative shall continue to have the right to inspect the books and records of Licensee insofar as they pertain to activities and/or revenues in connection with listings, and pending sales as of the date of expiration or termination.

**8. Term, Expiration and Termination.**

a. The term of this Agreement begins on its date and continues until it expires or is terminated as provided in this Section. The term of this Agreement expires when either Licensee or WSC give written notice to the other party of expiration of the term. Such notice must be given no less than 180 days, and no more than 366 days, prior to the expiration date specified in the notice. No cause shall be required for any party to give notice of expiration of the term, it being understood and agreed that the provisions of this paragraph are to provide for an agreed method of establishing an expiration date of the term of this Agreement; consequently, whether or not there is then a breach of this Agreement or other cause or motive for an expiration notice, is irrelevant.

b. WSC may terminate this Agreement for cause if Licensee fails to cure any default under the terms of this Agreement following written notice of said default. Licensee shall have five (5) days after notice from WSC or Area Representative to pay any overdue franchise fees or other amounts owing; five (5) days after notice from WSC to correct any failure of Licensee to maintain required insurance; and thirty (30) days after notice of default to cure any other default.

c. Notwithstanding the foregoing, if during the term of this Agreement there occurs any of the following events, WSC may immediately give notice of termination without an opportunity to cure:

1. The franchisee or the business to which the franchise relates is declared bankrupt or judicially determined to be insolvent, or all or a substantial part of the assets thereof are assigned to or for the benefit of any creditor, or the franchisee admits his inability to pay his debts as they come due;
2. The franchisee abandons the franchise by failing to operate the business for five consecutive days during which the franchisee is required to operate the business under the terms of the franchise, or any shorter period after which it is not unreasonable under the facts and circumstances for the franchisor to conclude that the franchisee does not intend to continue to operate the franchise, unless such failure to operate is due to fire, flood, earthquake or other similar causes beyond the franchisee's control;
3. The franchisor and franchisee agree in writing to terminate the franchise;
4. The franchisee makes any material misrepresentations relating to the acquisition of the franchise business or the franchisee engages in conduct which reflects materially

5. The franchisee fails, for a period of 10 days after notification of noncompliance, to comply with any federal, state or local law or regulation applicable to the operation of the franchise;
6. The franchisee commits a material breach of this Agreement, after having previously committed and cured the same material breach two or more times;
7. The franchised business or business premises of the franchise are seized, taken over or foreclosed by a government official in the exercise of his duties, or seized, taken over, or foreclosed by a creditor, lienholder or lessor, provided that a final judgment against the franchisee remains unsatisfied for 30 days (unless a supersedeas or other appeal bond has been filed); or a levy of execution has been made upon the license granted by the franchise agreement or upon any property used in the franchised business, and it is not discharged within five days of such levy;
8. The franchisee, or any of its principals, is convicted of a felony or any other criminal misconduct which is relevant to the operation of the franchise;
9. The franchisee fails to pay any franchise fees or other amounts due to the franchisor or its affiliate within five days after receiving written notice that such fees are overdue;
10. The franchisor makes a reasonable determination that continued operation of the franchise by the franchisee will result in an imminent danger to public health or safety; or
11. Licensee assigns or attempts to assign this Agreement without the written consent of WSC.

9. **Discontinuance Upon Termination.** In the event of the expiration or termination of the term of this Agreement for any reason, Licensee shall immediately discontinue all use of the Trademark, the name "Windermere," all variations of the name, and the Windermere System. Without limiting the generality of the foregoing, if Licensee is a corporation, limited liability company or other entity, Licensee's principals covenant and agree to cause the entity's formation documents to be amended to change the name of the entity if it contains the word "Windermere." Following expiration or termination, Licensee shall also transfer, or cause to be transferred to WSC any Internet domain names registered by, to, or on behalf of Licensee which include the word Windermere, or any variation thereof, or any other Trademark (whether or not registered) of WSC.

10. **Non-Transferability - Right of First Refusal.**

a. This license is not transferable without the written consent of WSC and Area Representative, which consent may be withheld in WSC's sole discretion. Any change in the ownership of Licensee, if Licensee is a corporation, limited liability company, or other entity, shall be considered a transfer or assignment for purposes of this provision. Failure to obtain the written consent of WSC to any transfer shall constitute a material default by Licensee, and shall be grounds for termination of this Agreement by WSC.

b. If Licensee is an individual sole proprietor, or an entity with only one principal owner, this license will terminate unless transferred to an approved transferee within six months of the death or incapacity of the principal owner.

c. In the event of (i) any proposed transfer or (ii) the receipt by Licensee at any time during the term of this Agreement of a bona fide offer which Licensee desires to accept from a third party to purchase all or any portion of Licensee's operating assets without the license, WSC or its assignee shall have a right of first refusal to acquire the interest or operating assets as described herein. Licensee shall deliver to WSC a written notice setting forth all of the terms of the proposed transfer of the license, or a copy of the signed offer to purchase operating assets without the license, together with all available pertinent information regarding the proposed transferee or purchaser. WSC shall have seven days after receipt of the notice or copy of the offer to give written notice to Licensee of its intent to exercise the right of first refusal on the same terms as proposed or as contained in the offer, except that WSC may substitute cash of equivalent value for any non-cash term to acquire the interest or assets. Thereafter the parties shall proceed to close the transaction on the earlier of a date six months following WSC's notice of election to exercise the right of first refusal or, if a notice of expiration of the term has previously been given, on the expiration date. It is agreed that neither an exercise of the right of first refusal by WSC or its assignee, nor in the absence of such an exercise, the acceptance by Licensee of a bona fide offer of a third party to purchase operating assets without the license, shall in any way diminish the obligation of Licensee to actively engage in the real estate brokerage business during the full term of this Agreement, including any period of notice of expiration of the term. In the event that WSC declines to exercise its right of first refusal Licensee may proceed with the contemplated transaction on the terms stated in the written notice. If the terms are revised in any material manner WSC shall have a right of refusal with respect to the modified offer and Licensee will again comply with the provisions of this Section.

**11. Relationship of Parties.** Licensee is not and shall not hold itself out as a legal representative, employee, joint venturer, partner or agent of WSC or Area Representative for any purpose whatsoever. Licensee is an independent contractor franchisee and is in no way authorized to make any contract, agreement, warranty or representation on behalf of WSC or Area Representative or to create any obligation, express or implied, on behalf of WSC or Area Representative.

**12. Indemnification - Insurance.**

a. Licensee agrees to indemnify WSC and Area Representative from and against any and all claims based upon, arising out of, or in any way related to the operation of Licensee's business including, but not limited to, any intentional act, negligent act, error or omission by

Licensee or any of its agents, employees, licensees, or independent contractors, together with all attorney's fees, costs and other expenses reasonably incurred by or on behalf of WSC and Area Representative in the investigation of or defense against any such claim. The provisions of this paragraph shall survive the expiration or termination of this Agreement. In the event that any claim is tendered to Licensee under the provisions of this section for indemnity, WSC and/or Area Representative shall have the right at its election to select its own defense counsel, and to control the litigation, including the right to make any decisions concerning the compromise or settlement of any claims.

b. Licensee agrees to maintain and keep in force during the term of this Agreement, for the mutual benefit of WSC, Area Representative and the Licensee, all forms of necessary business insurance, with limits of coverage and deductibles acceptable to WSC and Area Representative. Required insurance includes, but is not limited to: Worker's Compensation insurance as required by law; comprehensive general liability insurance; and professional liability errors and omissions insurance. The insurance policies shall name WSC and Area Representative as an additional insured, and shall be provided with certificates of required insurance on demand. The coverage limits and deductible requirements shall be established by WSC and Area Representative and communicated to Licensee in the form of a policy memo, which is subject to change from time to time with written notice. Upon being notified of a change in required insurance, Licensee agrees to modify their coverage at their next policy renewal to bring their policies into compliance with the revised requirements.


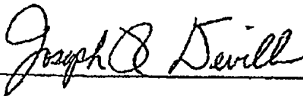
**13. Governing Law, Costs and Attorneys' Fees.** Notwithstanding any principals concerning conflict of laws, this Agreement shall be governed by the laws of the state in which Licensee's primary business location (as shown on the first page of this Agreement, or as subsequently modified by mutual agreement). Unless agreed otherwise venue for any disputes arising from this Agreement shall be in state or federal courts having jurisdiction over that location. In the event that any suit or action is instituted for breach of, to enforce or to obtain a declaration of rights under this Agreement, including but not limited to suit for preliminary injunction, the substantially prevailing party shall be entitled to be reimbursed by the non-prevailing party for all costs, including reasonable attorneys' fees, incurred in connection with such suit or action, including any appeals.

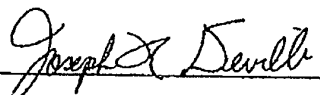
**14. Integration and Amendments.** This Agreement contains the entire agreement between WSC on the one hand, and Licensee on the other, regarding the subject matter thereof, and supersedes all prior or contemporaneous oral or written representations or agreements, which are merged into and superseded by this Agreement. Any amendments or additions to this Agreement must be in writing and signed by WSC, Licensee and all other signatories to this Agreement.

**15. Disclaimer of Representations and Warranties.** WSC and Area Representative expressly disclaim the making of any representation, warranty or guaranty, express or implied, with respect to the revenues, profits or success of the business venture contemplated by this Agreement. Licensee acknowledges that it has not received or relied upon any such representations, warranty or guaranty, and has not received or relied on any representations concerning the license by WSC or Area Representative or its officers, directors, employees or agents, that are contrary to the

statements made in the Franchise Disclosure Document provided to License, or to the terms of this Agreement.

EXECUTION

WSC	LICENSEE
 (sign)	 (sign)
By Geoffrey P. Wood	By: Joseph R. Deville
Its Chief Executive Officer	Its: President
Date: 4-5-2011	Date: 3-29-2011

AREA REPRESENTATIVE
 (sign)
By Joseph R. Deville
Its President
Date: 3-29-2011

**APPENDIX 2  
PERSONAL GUARANTY**

Date of License Agreement	March 29, 2011
Licensor Name	Bennion & Deville Fine Homes SoCal, Inc.

This "Guaranty" must be signed by all Principals of Licensee identified in the Windermere Real Estate Franchise License Agreement to which this Appendix is attached. Each Principal shall be deemed a "Guarantor" jointly and severally.

**RECITALS**

Each Guarantor has a financial or other interest in Licensee, will benefit from the granting of the Franchise License Agreement by WSC and Area Representative to Licensee, is familiar with and understands the terms and conditions of the License Agreement, and is satisfied with and approves the same in all respects without condition or reservation. As a material inducement to WSC and Area Representative to grant the License, the Guarantors have agreed unconditionally to guarantee the full and punctual payment and performance of the "Guaranteed Obligations" (defined below).

**AGREEMENT:**

**FOR GOOD AND VALUABLE CONSIDERATION**, the receipt and sufficiency of which are acknowledged, and to induce WSC and Area Representative to grant the License to Licensee, each Guarantor covenants and agrees:

1. **GUARANTEED OBLIGATIONS.** As used in this Guaranty, the term "Guaranteed Obligations" is defined in its broadest and most comprehensive sense to mean all primary, secondary, direct, indirect, fixed and contingent, debts, duties, agreements, undertakings, obligations, covenants and conditions now or at any time in the future to be paid or performed by Licensee in connection with or relating to the Windermere Franchise License Agreement, or any financial accommodations which WSC and Area Representative may from time-to-time extend or provide to or for the benefit of Licensee in connection with the License including, without limitation, all of Licensee's obligations to pay all fees, charges, sums, costs, reimbursements and expenses which at any time may be owing under or in connection with the License, any business or financial accommodation made or provided in connection with the License, as any or all of them may from time to time be modified, amended, extended, renewed or restated.

2. **GUARANTY.** Each Guarantor unconditionally, absolutely and irrevocably guarantees to and for the benefit of WSC and Area Representative the full, prompt and complete payment and performance by Licensee of the Guaranteed Obligations. If any of the Guaranteed Obligations are not paid or performed by Licensee as and when such payment or performance is due or required, then on demand from WSC and Area Representative, the Guarantors will pay or perform the same.



3. **INDEPENDENT OBLIGATION.** This Guaranty is an independent obligation of each Guarantor, separate and distinct from the Guaranteed Obligations. A separate action may be brought or prosecuted against Guarantor, whether or not any such action is brought or prosecuted against Licensee or any other Guarantor or other party, or whether Licensee or any other Guarantor or any other party is joined in any such action or actions. This Guaranty is an absolute guarantee of payment and performance, and not a guarantee of collection. The obligations of Guarantor under this Guaranty are direct and primary, regardless of the validity or enforceability of any instrument or agreement giving rise to any of the Guaranteed Obligations. Guarantor shall continue to be liable under this Guaranty even if all or part of the Guaranteed Obligations become uncollectible by operation of law or otherwise.

4. **APPLICATION OF PAYMENTS.** WSC and Area Representative may apply any payments received from any source against any portion of the Guaranteed Obligations in such order and priority as WSC and Area Representative may deem appropriate. No payment received by WSC or Area Representative from any source other than a direct payment made by a Guarantor pursuant to a written demand by WSC and Area Representative shall be credited against that Guarantor's obligations under this Guaranty.

5. **COSTS AND EXPENSES.** Whether or not suit is brought, Guarantor shall pay on demand all costs and expenses, including attorneys' fees and allocated costs of in-house counsel, incurred by or on behalf of WSC and Area Representative in connection with the enforcement or collection from Guarantor of all or any of the Guaranteed Obligations, or in connection with the enforcement, interpretation or defense of this Guaranty. Without limitation, these expenses, costs and fees include those incurred at trial, on appeal, and with respect to any bankruptcy, receivership or arbitration proceedings.

6. **REPRESENTATIONS AND WARRANTIES.** Guarantor represents and warrants to WSC and Area Representative that Guarantor is a principal of Licensee or otherwise financially interested in Licensee, and (a) is adequately informed of the financial condition of Licensee, and Licensee's operations and properties, (b) is familiar with and will stay informed regarding the terms and conditions of the License Agreement and the other Guaranteed Obligations, and of Licensee's resources and plans for payment and performance of the Guaranteed Obligations, (c) has not relied on any financial or other information provided by WSC, if any, about Licensee, Licensee's operations and activities, properties or prospects, and (d) does not expect WSC and Area Representative to provide and waives any duty on the part of WSC and Area Representative to provide any such information in the future including, without limitation, adverse information about the Licensee or its activities. Guarantor acknowledges that WSC and Area Representative is under no obligation to grant the License to Licensee without this Guaranty and would not do so without this Guaranty.

7. **MISCELLANEOUS.**

(a) If there is more than one Guarantor under this Guaranty, then the obligations of all such Guarantors shall be joint and several, and in such case the obligations of each Guarantor shall be independent of those of all other Guarantors and of the obligations of Licensee and any other persons or entities obligated in any manner for the payment or performance of the Guaranteed Obligations.



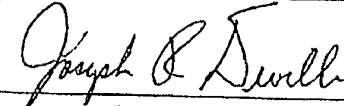
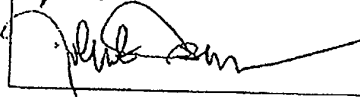
(b) The obligations and liabilities of Guarantor hereunder shall not be limited in any manner by any nonrecourse or other provisions in the instruments and agreements giving rise to the Guaranteed Obligations which may limit the liability or obligations of Licensee with respect to the Guaranteed Obligations.

(c) This agreement constitutes the entire agreement between WSC, Area Representative and Guarantor, and no course of dealings between the parties, no usage of trade, and no parole or extrinsic evidence of any nature shall be used to supplement or modify any terms, nor are there any conditions to the effectiveness of this Guaranty.

(e) If any provision of this Guaranty is invalid, illegal or unenforceable, such provision shall be considered severed from the rest of this Guaranty and the remaining provisions shall continue in full force and effect as if the invalid provision had not been included. This Guaranty may be changed, modified or supplemented only through a writing signed by both Guarantor and Lender.

I clearly understand that WSC and Area Representative do not have to pursue the Licensee or any other Guarantor or obligated party or foreclose or realize upon any security before demanding payment from me. I further understand that I will have to pay the amounts then due even if Licensee or any other Guarantor or obligated party does not make payment or is otherwise relieved of the obligation of making payment.

GUARANTORS:

Sign	Print Name and Home Address	Date
	Joseph R. Deville	3-29-11
	Robert Bennion	3-29-11



**Office Announcement**

Date: 4/17/14

RE: **Encinitas**

Opening Date	8/1/14
Licensed Name	Windermere Real Estate SoCal, Inc.
Office Common (Roster) Name	Encinitas
Company's Legal Name	Bennion & Deville Fine Homes SoCal, Inc.
Physical Address	258C N. El Camino Real, Encinitas, CA 92024
Mailing Address	
Email Address	
Phone Number	858-345-1377 (Carlsbad # for now)
Fax Number	
Number of Agents	25-30
Ownership(s) and % of ownership	Bob Bennion & Bob Deville 100%
Secretary	
Bookkeeper	
Internet Coordinator	
MLS and contact info	
Area Representative	Windermere Services Southern California
County	
Local Newspaper	
Additional Information	



**Office Announcement**

Date: 4/17/14

RE: **Little Italy**

Opening Date	5/15/14
Licensed Name	Windermere Real Estate SoCal, Inc.
Office Common (Roster) Name	Little Italy
Company's Legal Name	Bennion & Deville Fine Homes SoCal, Inc.
Physical Address	1742 ½ India St., San Diego, CA 92101
Mailing Address	
Email Address	
Phone Number	TBD
Fax Number	
Number of Agents	20
Ownership(s) and % of ownership	Bob Bennion & Bob Deville 100%
Secretary	
Bookkeeper	
Internet Coordinator	
MLS and contact info	
Area Representative	Windermere Services Southern California
County	
Local Newspaper	
Additional Information	



**Office Announcement**

Date: 2/20/14

RE: Solana Beach – Lomas Santa Fe branch

Closing Date	2/21/14
Licensed Name	Windermere Real Estate SoCal, Inc.
Office Common (Roster) Name	Solana Beach – Lomas Santa Fe
Company's Legal Name	Bennion & Deville Fine Homes SoCal, Inc.
Physical Address	124 Lomas Santa Fe Drive, Suite 206, Solana Beach, CA 92076
Mailing Address	
Email Address	<a href="mailto:solanabeach@windermeresocal.com">solanabeach@windermeresocal.com</a>
Phone Number	858-345-1377
Fax Number	858-345-1388
Number of Agents	
Ownership(s) and % of ownership	Bob Bennion & Bob Deville 100%
Secretary	
Bookkeeper	
Internet Coordinator	
MLS and contact info	
Area Representative	Windermere Services Southern California
County	
Local Newspaper	
Additional Information	Office closing 2/21/14 and agents moving to Carlsbad office.

**Office Change Announcement Request**

☒ New office  
 ☐ New branch  
 ☐ Address change  
☐ Ownership change  
 ☐ Other

Company's Legal Name	Bennion & Deville Fine Homes SoCal, Inc.
Licensed Name (as shown on real estate license)	Windermere Real Estate SoCal
Office Common (Roster) Name	Carlsbad
Opening/Effective Date	6/27/11
Physical Address	300 Carlsbad Village Drive, Suite 217, Carlsbad, CA 92008
Mailing Address	71-691 Highway 111, Rancho Mirage, CA 92270
Email Address	carlsbad@windermereocal.com
Telephone Number	760-893-8040
Fax Number	760-893-8041
Number of Agents	8
Owner(s) and percentages of ownership	Bob Bennion 50%, Bob Deville 50%
Manager/Broker	Brent Consedine, bconsedine@windermereocal.com
Secretary	
Bookkeeper	
Internet Coordinator	Kirk Gregor
MLS	NSDCAR
Area Representative	Windermere Services Southern California
County	San Diego
Local Newspaper	San Diego Union-Tribune
Additional Information	
Submitted by and contact information	Paige Tyley, ptyley@windermereocal.com, 760-409-4327

Please email or fax to Melinda Lamp at [mwlamp@windermere.com](mailto:mwlamp@windermere.com) or (206) 526-7629.



Office Change Announcement Request

- ☐ New office ☐ New branch ☒ Address change  
☐ Ownership change ☐ Other

Company's Legal Name	Bennion & Deville Fine Homes SoCal, Inc.
Licensed Name (as shown on real estate license)	Windermere Real Estate SoCal
Office Common (Roster) Name	La Mesa
Opening/Effective Date	5/18/2011
Physical Address	8131 Allison Avenue, La Mesa, CA 91942
Mailing Address	71-691 Highway 111, Rancho Mirage, CA 92270
Email Address	
Telephone Number	619-741-8588 (same as before)
Fax Number	619-741-8599 (same as before)
Number of Agents	
Owner(s) and percentages of ownership	100
Manager/Broker	Jan Farley
Secretary	
Bookkeeper	
Internet Coordinator	
MLS	
Area Representative	
County	
Local Newspaper	
Additional Information	
Submitted by and contact information	

Please email or fax to Melinda Lamp at [mwlamp@windermere.com](mailto:mwlamp@windermere.com) or (206) 526-7629.

# EXHIBIT G

**GERARD P. DAVEY**  
A PROFESSIONAL LAW CORPORATION  
1301 DOVE STREET, SUITE 900  
NEWPORT BEACH, CALIFORNIA 92660  
(949) 475-9300/FAX: (949) 666-6060  
E-MAIL: [GDAVEY@DAVEYLAW.COM](mailto:GDAVEY@DAVEYLAW.COM)  
WEBSITE: [WWW.DAVEYLAW.COM](http://WWW.DAVEYLAW.COM)

March 27, 2015

Sent by E-Mail and by Express Mail

Paul S. Drayna, General Counsel  
Windermere Real Estate Services Company  
5424 Sand Point Way NE  
Seattle, Washington 98105-2941  
E-Mail: [pdrayna@windermere.com](mailto:pdrayna@windermere.com)  
Express Mail No.: EK 502711130 US

Charles Sirianni, Esq.  
Sirianni Youtz Spoonemore Hamburger  
999 Third Avenue, Suite 3650  
Seattle, Washington 98104-4038  
E-Mail: [csirianni@sylaw.com](mailto:csirianni@sylaw.com)  
Express Mail No.: EK 502705267 US

RE: Termination of Windermere Real Estate License Agreement, dated August 1, 2001 (Coachella Valley, California offices), as such License Agreement may have been amended, and all other related agreements, between Windermere Real Estate Services Company and Bennion & Deville Fine Homes, Inc.

Dear Messrs. Drayna and Sirianni:

As you have been advised, this firm represents Robert L. Bennion and Joseph R. Deville; Bennion & Deville Fine Homes, Inc. ("B&D"); Bennion & Deville Fine Homes SoCal, Inc.; and Windermere Services Southern California, Inc. (collectively, the "Clients"). All communications and legal notices pertaining to any matters involving the Clients should be directed solely to this office.

We understand that Mr. Drayna serves as in-house counsel for Windermere Real Estate Services Company ("WSC"), and Mr. Sirianni serves as outside counsel for WSC. Kindly advise us as to whom you wish to have future communications or notices delivered to WSC, its management or its affiliates involving any matters concerning my Clients.

Unless you advise us to the contrary, we will presume that notices may be transmitted between or among the parties via e-mail without the concurrent delivery by regular mail or other physical delivery.

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**CERTIFIED SPECIALIST IN FRANCHISE AND DISTRIBUTION LAW**  
**STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION**

WSC 1728



**GERARD P. DAVEY**  
A PROFESSIONAL LAW CORPORATION

Paul S. Drayna, General Counsel  
Windermere Real Estate Services Company  
Charles Sirianni, Esq.  
March 27, 2015  
Page 2

This letter serves as notice to WSC by B&D that B&D intends to terminate the Windermere Real Estate License Agreement with Bennion & Deville Fine Homes, Inc., dated August 1, 2001 (Coachella Valley, California offices), as such agreement may have been amended, and all other related agreements, between Windermere Real Estate Services Company and Bennion & Deville Fine Homes, Inc., effective as of September 30, 2015.

My Clients are concerned with, and object to, the ongoing pattern by WSC and its affiliates and principals of various practices that constitute breaches of contract and violations of franchise and other laws, as well as constituting interference with my Clients' business conducted under their Windermere Franchise Agreements and Area Representation Agreement. These breaches and wrongful activities include, without limitation, marketing franchises in my Clients' territory without consultation with my Clients; granting Windermere branch offices to third parties in markets served by my Clients' business; interfering with the relationship among my Clients and other Windermere franchisees; recruiting my Clients' sales associates and other employees to join WSC and other Windermere offices; soliciting my Clients' participation in offers and sales of franchises in violation of the franchise laws; offering and executing modifications of franchise agreements in violation of the California franchise laws; misappropriating and misusing the Windermere Foundation funds; and other breaches and violations.

My Clients' investigation into these matters is incipient and ongoing. My Clients reserve all rights to enforce the appropriate claims against WSC and its principals.

My Clients will regard any further disclosure to any third parties, including, without limitation, my Clients' agents or other Windermere franchisees with whom my Clients have business relationships, as to the details and status of my Clients' contractual relationship with WSC as a material breach and repudiation of each and all of my Clients' agreements with WSC, as well as intentional interference with my Clients' current and prospective business and contractual relationships.

We trust that WSC will continue to abide by its agreements with my Clients.

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**CERTIFIED SPECIALIST IN FRANCHISE AND DISTRIBUTION LAW**  
**STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION**

**GERARD P. DAVEY**  
A PROFESSIONAL LAW CORPORATION


Paul S. Drayna, General Counsel  
Windermere Real Estate Services Company  
Charles Sirianni, Esq.  
March 27, 2015  
Page 3

Please be further advised that B&D, as well as my other Clients, reserves all rights. Nothing in this notice constitutes any restriction or limitation upon my Clients to assert claims against WSC and its management and affiliates, including, without limitation, the right to send additional notices, as appropriate, terminating or rescinding any agreements on any earlier date.

Please note that concurrent with the delivery of this notice, we are also delivering to you a corresponding notice of termination by Bennion & Deville Fine Homes SoCal, Inc. with respect to its Windermere Franchise License Agreement, dated March 29, 2011, regarding the operation of all of its Windermere franchised offices located in the coastal areas of San Diego and Orange Counties, California, effective as of September 30, 2015.

Thank you for your attention to this matter.

Yours truly,



Gerard P. Davey  
A Professional Law Corporation

cc: Robert L. Bennion  
Joseph R. Deville  
GPD/md

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CERTIFIED SPECIALIST IN FRANCHISE AND DISTRIBUTION LAW  
STATE BAR OF CALIFORNIA BOARD OF LEGAL SPECIALIZATION

# EXHIBIT H

**AGREEMENT MODIFYING WINDERMERE REAL ESTATE FRANCHISE  
LICENSE AGREEMENTS**

This "Agreement" is entered into as of December 18, 2012 by and among Windermere Real Estate Services Company, a Washington Corporation (referred to herein as "WSC"); Windermere Services Southern California, Inc., a California corporation ("Area Representative"); Bennion & Deville Fine Homes, Inc., a California corporation dba Windermere Real Estate Coachella Valley and/or Windermere Real Estate SoCal, and Bennion & Deville Fine Homes SoCal Inc., dba Windermere Real Estate SoCal (collectively referred to herein as "B&D"). The above-named persons and/or entities are sometimes collectively referred to as "the Parties".

**Recitals**

WSC entered into a Windermere Real Estate License Agreement with Bennion & Deville Fine Homes, Inc. dated August 1, 2001. Area Representative was not a party to that original license agreement, but was subsequently added as a party by subsequent addenda thereto.

WSC and Area Representative entered into a Windermere Real Estate Franchise License Agreement with Bennion & Deville Fine Homes SoCal, Inc., dated March 29, 2011.

These agreements, as previously amended, are hereby collectively referred to as the "License Agreements." The Parties hereto desire to modify certain terms and conditions of the License Agreements.

Wherein an individual named Gary Kruger previously filed a lawsuit in Washington State Superior Court bearing case number 05-2-34433-4 SEA naming Windermere Real Estate Northeast, Inc., George Rudiger, Joan Whittaker and Windermere Real Estate Services Company alleging misrepresentation and/or other causes of action.

Wherein subsequent to the dismissal of the aforementioned lawsuit, Mr. Kruger and/or associates of Mr. Kruger have continuously engaged in an anti-marketing campaign against Windermere Real Estate Services Company and its franchisees including the utilization of web-based information and various website postings targeting Windermere (see [www.windermerewatch.com](http://www.windermerewatch.com) and [www.windermerewatch2.com](http://www.windermerewatch2.com)).

Wherein B&D believe that Windermere Watch has resulted in significant lost revenue to B&D.

Wherein the Parties contend that Mr. Kruger and/or others' actions through the Windermere Watch websites violate State (California & Washington) and/or federal laws.

Wherein through this Agreement, the Parties further intend to modify the terms and conditions of the License Agreements, as well as that certain Promissory Note dated

**Agreement to Modify Windermere Real Estate License Agreements**

December 31, 2008 in the original principal sum of \$465,308.37, executed by Bennion & Deville Fine Homes, Inc. as Maker.

NOW, THEREFORE, for and in consideration of the promises and terms set forth herein, the undersigned Parties agree as follows:

**TERMS & CONDITIONS**

1. **Incorporation of Recitals.** The above recitals are incorporated herein by reference.

2. **Benefit of Counsel.** The Parties acknowledge that they have had the opportunity to and have in fact obtained the advice of legal counsel prior to entering into this Agreement. Each of the Parties hereto executes this Agreement with full knowledge of its significance and with the express intention of affecting its legal consequences.

3. **Consideration.** In consideration for the full and timely performance of each of the terms and conditions of this Agreement in the manner prescribed herein, the Parties agree to the following:

A. **Windermere Watch:** WSC agrees that it shall make commercially reasonable efforts to actively pursue counter-marketing, and other methods seeking to curtail the anti-marketing activities undertaken by Gary Kruger, his Associates, Windermere Watch and/or the agents of the foregoing persons. Such efforts may include litigation, at WSC's discretion. WSC shall pay all attorney's fees, costs, and other third party fees and costs associated with addressing Windermere Watch as contemplated herein. WSC shall seek input, suggestion and confer with B&D prior to taking action(s) regarding Gary Kruger and Windermere Watch. WSC covenants that it shall indemnify B&D and its directors, officers, owners and shareholders in any demand, action, proceeding, mediation, arbitration, lawsuit and/or Complaint of any nature whatsoever asserted by Gary Kruger, his Associates, Windermere Watch and/or the agents of the foregoing persons. Said indemnity includes the payment of Attorney's Fees and other costs/fees necessary to defend B&D, and its directors, officers, owners and shareholders and/or the payment of any judgment, settlement and/or award against the foregoing Parties. The indemnity shall not apply however to any claims arising from actions by B&D, or any of its shareholders, officers, directors or agents, which were not authorized in advance by WSC. B&D acknowledges that WSC has not and cannot guarantee any particular outcome of the efforts contemplated herein. The failure of WSC to eliminate windmerewatch.com shall not constitute a breach of this Agreement, so long as WSC has made commercially reasonable efforts to curtail the impact of the activities of Kruger and/or windmerewatch.

B. **Waiver of Unpaid Franchise & Technology Fees:** WSC and Area Representative hereby agree to waive and forgive Past Due Franchise Fees, and Technology Fees owing under the License Agreements in the sum total of

**Agreement to Modify Windermere Real Estate License Agreements**

\$1,151,060. A detailed breakdown of the amounts forgiven is attached as Exhibit A, and the amounts waived are summarized as follows:

(i) **Promissory Note:** Waiver and forgiveness of the complete unpaid balance remaining from original note dated December 31, 2008 including all past due fees and accrued interest with a present balance left of \$399,960.00.

(ii) **Franchise & Technology Fees for Bennion & Deville Fine Homes SoCal Inc., dba Windermere Real Estate SoCal:** Waiver and forgiveness of all Past Due Franchise and Technology Fees as well as all related charges for late fees and/or interest through March 31, 2012 in the amount of \$191,025.00 including any accrued late fees, interest and/or claims for recapture of previously discounted fees.

(iii) **Franchise & Technology Fees for Bennion & Deville Fine Homes, Inc., dba Windermere Real Estate Coachella Valley:** Waiver and forgiveness of all Past Due Franchise and Technology Fees as well as all related charges for late fees and/or interest through March 31, 2012 in the amount of \$560,075.00 including any accrued late fees, interest and/or claims for recapture of previously discounted fees.

**C. Ramp up and Payment of Fees for April 2012 through present.**

In addition, WSC and Area Representative agree to grant B&D a temporary reduction in Ongoing Franchise License Fees for a period of eight months. The "ramp up" reduction shall be applied retroactively as follows:

Months	Discount
April and May 2012	90%
June and July 2012	75%
August and September 2012	50%
October and November 2012	25%

Effective with fees for December 2012 (due in January 2013), Ongoing Franchise Fees shall revert to the full amount with no discount. WSC and Area Representative acknowledge that B&D has already paid fees for April through July 2012, inclusive, with the discounts applied. In consideration of the accommodations granted herein, B&D agrees to pay all fees for August through November 2012 to WSC and/or Area Representative no later than December 31, 2012. A detailed breakdown of the amounts owing through October is attached hereto as Exhibit A, but B&D acknowledge this does not include fees for November 2012 which have not yet been reported.

**D. Limitation & Cap Regarding Future Technology Fees:**

Bennion & Deville Fines Homes, Inc., dba Windermere Real Estate Southern

**Agreement to Modify Windermere Real Estate License Agreements**

California and/or Windermere Real Estate Coachella Valley and Bennion & Deville SoCal Inc., dba Windermere Real Estate SoCal collectively shall be required to pay no more than a total \$25,000 per month of Technology Fees for a period of five years from the date of execution of this Agreement by all Parties. Said fees are to be calculated on the basis of \$25.00 per Agent.

**E. Five Year Term From B&D:** In exchange for consideration contained within Sections 3, B-C inclusive, and subject to Section 3, E herein, B&D covenant to remain as Windermere Real Estate franchisees for five years from the date of execution of this Agreement by all Parties. This term shall automatically expire in the event WSC becomes insolvent, files bankruptcy, fails to maintain proper licensing as required by State and/or Federal Regulations (provided that expiration of WSC's license(s) to sell new franchises in California shall not be considered such a failure for purposes of this Agreement), sells more than 50% of its interest in WSC or assigns the day-to-day administration and/or management of WSC's activity to any other entity without approval of B&D and/or if it is adjudicated that WSC has committed a material, uncured breach of this Agreement.

**F. Liquidated Damages Clause:** In the event B&D terminates its franchise with WSC prior to the expiration of five years from the date of execution of this Agreement by all Parties, the waiver and forgiveness as set forth within Sections 3, B (i)-(iii) shall be pro-rated against the total elapsed years from said date (including any increment thereof) on a straight line basis with no additional interest and/or other accrued fees.

**G. Personal Guarantee.** WSC and Area Representative agree that neither Robert L. Bennion nor Joseph R. Deville shall be personally liable for any of the amounts forgiven and/or waived pursuant to Sections 3, B (i)-(iii) above. All prior personal guarantees of said amounts are hereby released. The personal guarantees set forth in the License Agreements, and prior addenda thereto, shall continue to apply to amounts that become due and owing under the License Agreements on or after April 1, 2012.

**4. Warranty of Non-Reliance.** Each Party hereto represents and warrants that they have selected and retained their own experts and consultants to inspect, analyze and advise them regarding the nature, extent and cause of the alleged problems which are the subject of the this Agreement. Each Party further represents and warrants that they are not relying upon any representation, opinion, conclusion, recommendation or estimate expressed by or provided by any other Party and/or any other Party's experts or consultants.

**5. Warranty of Non-Assignment.** Each Party hereto represents and warrants that it has not sold, transferred, conveyed, assigned or hypothecated any of the rights, claims, or causes of action for the payments contemplated within Section 3, B (i)-(iii) herein.



**Agreement to Modify Windermere Real Estate License Agreements**

6. **No Admission of Liability.** The Parties acknowledge that the execution of this Agreement restructures previous obligations as to and between the Parties but said Agreement shall at no time and in any manner to be considered as an admission of liability or responsibility on the part of any Party.

7. **Attorney's Fees.** Notwithstanding the term contained within Section 3, A herein pertaining to the payment of attorney's fees and costs regarding Gary Kruger and Windermere Watch, the Parties hereto acknowledge and agree that each of them are to bear their own costs, expenses and attorney's fees arising out of or connected with the negotiation, drafting and execution of this Agreement, except that, in the event any action is brought by any Party hereto to enforce this Agreement the prevailing Party shall be entitled to reasonable attorney's fees and costs in addition to all other relief to which the Party or those Parties may be entitled.

8. **Construction of Agreement.** This Agreement shall be construed in accordance with its fair meaning, the captions being for the convenience of the Parties only and not intended to describe or define the provision in the portions of the Agreement to which they pertain. Each Party has agreed to the use of the particular language of the provisions of this Agreement, and any question of doubtful interpretation shall not be resolved by any rule of interpretation providing for interpretation against the Party who causes an uncertainty to exist or against the draftsman. The Parties further agree that Civil Code Section 1654, or any similar common law or equitable principle, is not applicable to this Agreement. Therefore, the terms of this Agreement have been freely negotiated by the Parties and this Agreement shall not be construed against any other Party or drafter. Nothing in this Agreement shall affect in any way those certain Loan Agreements, Promissory Notes and related documents between Robert L Bennion and Joseph R. Deville as Borrowers, and CARMED, LLC or Washington Loan Company, Inc. as Lenders.

9. **Governing Law.** This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced, and governed under the laws of the State of California. By signing this Agreement, the Parties select Riverside County Superior Court – Main in Riverside, California, and/or U.S. District Court located in Los Angeles, California as the proper and sole venue for any action filed to enforce, construe, or interpret this and/or any previous agreement(s) between the Parties.

10. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the Parties and each of their respective heirs, executors, administrators, trustors, trustees, beneficiaries, predecessors, successors, assigns, partners, affiliates and related entities, officers, directors, principals, agents, servants, employees, representatives, and all persons, firms, associates and/or corporations connected with them including without limitation their insurers, sureties, and attorneys.

11. **Severability.** If any provision, or any part thereof, of this Agreement shall for any reason be held to be invalid, unenforceable or contrary to public policy or any law, then the remainder of this Agreement shall not be affected thereby.



**Agreement to Modify Windermere Real Estate License Agreements**

12. **Effective Date.** The Parties hereto deem this Agreement to be signed as of the latest day, month and year on which a Party executes this Agreement.

13. **Notices.** Communications between the parties to this agreement must be in writing and must be delivered personally, sent by first class mail, by facsimile, or by Federal Express to the following addresses:

**If to WSC:**

Geoffrey P. Wood, CEO  
Windermere Real Estate Services Company  
5424 Sand Point Way NE  
Tel: (206) 527-3801  
Fax: (206) 526-7629  
E-Mail: gwood@windermere.com

**If to B&D:**

Joseph R. Deville, President  
Bennion & Deville Fine Homes, Inc.  
71691 Highway 111  
Rancho Mirage, CA 92270  
Tel: (760) 770-6801  
Fax: (760) 770-6951  
E-Mail: bdeville@windermereocal.com

A party may change the listed address by written notice to the others. Communications are effective when actually received.

14. **Counterparts.** This Agreement may be executed in several counterparts and all so executed shall constitute one agreement, which shall be binding upon all parties hereto, notwithstanding that all Parties' signatures do not appear on the same page. If an original signature is affixed by a Party to a counterpart of this Agreement, and a facsimile and/or electronic file (such as a "pdf" or "tif" file as attached to an e-mail) of such originally executed counterpart signature is thereafter telecopied or e-mailed to a Party or Parties' attorneys of record, the telecopied facsimile or e-mail shall be afforded the same validity as the originally executed counterpart, and may be relied upon by all Parties for any and all purposes relating to the Agreement.

15. **Confidentiality.** The terms of the Agreement include information of a proprietary and/or confidential nature. The Parties expressly understand and agree that it shall constitute a breach of the Agreement to disclose the terms of the same except to the Parties' attorneys and/or accountants or as may be required under a Court Order, subpoena and/or pursuant to an action to enforce the terms of the Agreement.

16. **Entire Agreement.** The Parties hereto have entered into this Agreement after extensive review and discussion. The Parties have incorporated the sum and substance of all such discussions and representations leading up to this Agreement within this document. As such, this Agreement constitutes the entire agreement to modify any previous obligations between the Parties hereto and as such, there are no other representations, agreements or promises, either written or oral, either as an inducement to

**Agreement to Modify Windermere Real Estate License Agreements**

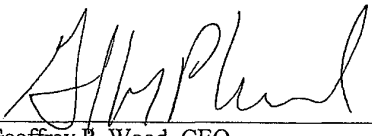
enter into this Agreement or as to its meaning or effect, which are not contained herein. It is the Parties' intent that any ambiguity or conflicting term between this Agreement and any other document or other agreement between the Parties shall be construed such that the terms within this Agreement supersede, control and take priority over any such conflicting term.

17. **Warranty of Authority.** Each individual executing this document on behalf of any Party represents that he/she has been authorized by said Party to execute this document, and does so execute this document on behalf of said Party.

18. **Amendment.** This Agreement may only be modified if the modification is in writing and is signed by the Party against whom enforcement is sought.

**Party Signatures:**

Dated: Dec. 21, 2012

  
\_\_\_\_\_  
Geoffrey P. Wood, CEO  
Windermere Real Estate Services Company

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
Joseph R. Deville, President  
Bennion & Deville Fines Homes, Inc., dba  
Windermere Real Estate Coachella Valley and/or  
Windermere Real Estate SoCal; and Bennion &  
Deville Fine Homes SoCal Inc., dba Windermere  
Real Estate SoCal

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
Robert L. Bennion, Officer  
Bennion & Deville Fines Homes, Inc., dba  
Windermere Real Estate Coachella Valley and/or  
Windermere Real Estate SoCal; and Bennion &  
Deville Fine Homes SoCal Inc., dba Windermere  
Real Estate SoCal

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
Joseph R. Deville, President  
Windermere Services Southern California, Inc.

Agreement to Modify Windermere Real Estate License Agreements

**Approved for Form:**

Dated: Dec-21, 2012



Paul S. Drayna, WSBA#26636  
General Counsel for Windermere Real Estate  
Services Company

Dated: \_\_\_\_\_, 2012

Robert J. Sunderland, Esq.  
Sunderland | McCutchan, LLP  
Counsel for Bennion & Deville Fines Homes, Inc.,  
dba Windermere Real Estate Coachella Valley  
and/or Windermere Real Estate SoCal; and Bennion  
& Deville Fine Homes SoCal Inc., dba Windermere  
Real Estate SoCal

## Agreement to Modify Windermere Real Estate License Agreements

## EXHIBIT A TO AGREEMENT MODIFYING FRANCHISE AGREEMENTS

## AMOUNTS TO BE WAIVED (Through 3/31/12)

Source	WSC	WSSC	Total
Promissory Note dated 12/31/08	\$399,960	\$0	\$399,960
CV Ongoing Franchise Fees	\$202,500	\$202,500	\$405,000
CV Technology Fees	\$155,075	\$0	\$155,075
CV TOTAL	\$357,575	\$202,500	\$560,075
SoCal Ongoing Franchise Fees	\$85,000	\$85,000	\$170,000
SoCal Technology Fees	\$21,025	\$0	\$21,025
SOCAL TOTAL	\$106,025	\$85,000	\$191,025
TOTAL FEES TO BE WAIVED	\$863,560	\$287,500	\$1,151,060

## AMOUNTS TO BE PAID BY 12/31/12\*

CV Ongoing Franchise Fees	\$39,375	\$39,375	\$78,750
CV Technology Fees	\$53,775	\$0	\$53,775
CV TOTAL	\$93,150	\$39,375	\$132,525
SoCal Ongoing Franchise Fees	\$17,500	\$17,500	\$35,000
SoCal Technology Fees	\$13,550	\$0	\$13,550
SOCAL TOTAL	\$31,050	\$17,500	\$48,550
TOTAL DUE BY 12/31	\$124,200	\$56,875	\$181,075

\* These figures do not include fees for November 2012, which have not yet been reported, but which are also due in full no later than 12/31/12.

Agreement to Modify Windermere Real Estate License Agreements

enter into this Agreement or as to its meaning or effect, which are not contained herein. It is the Parties' intent that any ambiguity or conflicting term between this Agreement and any other document or other agreement between the Parties shall be construed such that the terms within this Agreement supersede, control and take priority over any such conflicting term.

17. **Warranty of Authority.** Each individual executing this document on behalf of any Party represents that he/she has been authorized by said Party to execute this document, and does so execute this document on behalf of said Party.

18. **Amendment.** This Agreement may only be modified if the modification is in writing and is signed by the Party against whom enforcement is sought.

Party Signatures:

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
Geoffrey P. Wood, CEO  
Windermere Real Estate Services Company

Dated: 12-20, 2012

\_\_\_\_\_  
Joseph R. Deville, President  
Bennion & Deville Fines Homes, Inc., dba  
Windermere Real Estate Coachella Valley and/or  
Windermere Real Estate SoCal; and Bennion &  
Deville Fine Homes SoCal Inc., dba Windermere  
Real Estate SoCal

Dated: 12-20, 2012

\_\_\_\_\_  
Robert L. Bennion, Officer  
Bennion & Deville Fines Homes, Inc., dba  
Windermere Real Estate Coachella Valley and/or  
Windermere Real Estate SoCal; and Bennion &  
Deville Fine Homes SoCal Inc., dba Windermere  
Real Estate SoCal

Dated: 12-20, 2012

\_\_\_\_\_  
Joseph R. Deville, President  
Windermere Services Southern California, Inc.

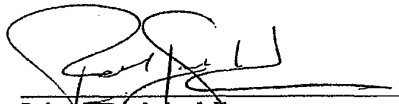
Agreement to Modify Windermere Real Estate License Agreements

**Approved for Form:**

Dated: \_\_\_\_\_, 2012

\_\_\_\_\_  
Paul S. Drayna, WSBA#26636  
General Counsel for Windermere Real Estate  
Services Company

Dated: 21 December, 2012

  
\_\_\_\_\_  
Robert J. Sunderland, Esq.  
Sunderland | McCutchan, LLP  
Counsel for Bennion & Deville Fines Homes, Inc.,  
dba Windermere Real Estate Coachella Valley  
and/or Windermere Real Estate SoCal; and Bennion  
& Deville Fine Homes SoCal Inc., dba Windermere  
Real Estate SoCal

# EXHIBIT I



March 3, 2014

Bob Deville and Bob Bennion  
Windermere Services Southern California  
71-619 Highway 111  
Rancho Mirage, CA 92270

Dear Bob and Bob:

This letter is in response to your recent correspondence, including your letter dated February 20, 2014 (the "February Letter"). We agree that a review of your future as the Southern California Area Representative is appropriate. There are other issues to be resolved, as well. We will make ourselves available any time to meet in person to discuss these issues.

#### Windermere Watch

In December of 2012, you executed an "Agreement" to remain a franchise of Windermere Real Estate Services Co. ("WSC") for five years. In exchange, we agreed to write off what you acknowledged was more than one million dollars in past due fees. We also agreed to make "reasonable" efforts to counter the impact of Windermere Watch, a hostile web site run by Gary Kruger.

On February 11, 2013, we had a conference call with you, our respective attorneys, and Tim Pestotnik. During that call, we unanimously agreed that: (a) legal action will not prevent Mr. Kruger's activities, and (b) legal action could exacerbate the problem by aggravating Mr. Kruger and possibly attracting media attention (which he has thus far failed to do). Additionally, we discussed the possibility of contacting Mr. Kruger to negotiate a cash settlement, but Bob Deville opposed any cash payment to Mr. Kruger. However, you both urged us to find a way to eliminate Mr. Kruger's site from the first page of Google search results. Accordingly, we engaged a search engine optimization ("SEO") expert to prepare a report outlining potential courses of action. The SEO expert identified options for degrading Kruger's search rankings. The SEO expert advised, however, that because you maintain and manage your own internet domain, most of the work necessary to remove Windermere Watch from the first page of search results must be handled by you.

Shortly thereafter, York Baur, CEO of Windermere Solutions, and our SEO expert arranged a conference call with your SEO expert. The SEO experts agreed that: (a) your SEO expert is doing everything that can be done to minimize Windermere Watch's exposure in search



Bob Deville and Bob Bennion  
March 3, 2014  
Page 2

results; and (b) there is nothing that WSC can do to its domain or within its infrastructure to increase the effectiveness of your expert's activities.

You have also expressed frustration about the postcards that Mr. Kruger has been mailing to sellers who list their homes for sale with Windermere agents. These postcards urge sellers to visit [www.windermerewatch.com](http://www.windermerewatch.com), and to "cancel or don't renew your listing with Windermere." We have explored whether these postcards could be the basis for a claim of tortious interference with contract. We understand that this claim is weak at best, and any attempt to bring it could backfire as discussed above. We have therefore elected not to pursue this issue.

Your assertion that we have not taken action with regard to Windermere Watch is incorrect. We consulted with you, explored a variety of possible courses of action, and followed through on the plan that you approved. We have fulfilled our obligations under the Agreement.

#### **Windermere Foundation**

Your Southern California offices stopped remitting donations to the Windermere Foundation (the "Foundation") in 2011. John Jacobi contacted you in an attempt to rectify this issue. He explained to you that the Foundation is a core component of the Windermere culture. You admitted to Mr. Jacobi that you were not remitting donations to the Foundation, but were donating them to organizations which you believe better aid the communities in which your offices are located. To accommodate you, John offered to make an exception to the Foundation's narrow focus by allowing you to donate to your preferred charitable organizations through the Foundation. Despite this offer, you failed to resume remitting donations to the Foundation.

Last summer, Mark Oster, head of our accounting department, had a conversation with Patrick Robinson, your Director of Services, who confirmed that you were continuing to collect donations and remit them to the charities of your choice rather than to the Foundation. Mr. Robinson also confirmed that you were continuing to use the name "Windermere Foundation" in connection with those activities.

In August 2013 Paul Drayna contacted your attorney, Robert Sunderland, to discuss our concerns with your continuing use of the name "Windermere Foundation." Mr. Sunderland agreed that your use of the name could present legal concerns both for WSC and for you. He asked Paul to follow up directly with Bob Deville. Paul did so, but never received confirmation that you have ceased using the name of the Foundation.

If you are continuing to use the name "Windermere Foundation," your actions could very well be viewed as misleading. Additionally, such activity may expose you, the donors and WSC to action by the IRS.

Bob Deville and Bob Bennion  
March 3, 2014  
Page 3

### **Reporting of Branches and Satellites**

The franchise license agreements for both of your companies state that you may not open or relocate any branch without the advance written permission of WSC. Your Area Representation Agreement obligates you to assist WSC in enforcing the terms of its franchise agreements in your area.

In August 2007 we modified the license agreement for your Coachella Valley offices to offer a new flat fee structure of \$5,000 per branch, subject to a five-branch minimum (the "Modification"). In the Modification, you agreed that:

- The new fee structure applies to all offices, except for three satellite locations.
- WSC may reclassify satellites as full branches at any time.
- Any new offices added shall be considered full branches unless otherwise agreed in writing.
- Satellites are only exempt from the flat monthly fee; they must still submit monthly reports and pay all per-agent fees, including tech fees.

After executing the Modification, you opened a new company in San Diego. We extended the flat fee arrangement to that entity, as well. Additionally, you added a number of new offices with the knowledge and permission of WSC. We agreed that some of those offices would be exempt from the monthly flat fee as satellites, but you were still required, as agreed in 2007, to submit MSRs and pay the per-agent fees, including technology fees for each such office.

A review of [www.socal.com](http://www.socal.com) and the California BRE site indicates you are operating a large number of offices that have not been approved by WSC. Some of these offices are "branches" subject to the \$5,000 monthly flat fee.

Specifically, you opened six offices in Coachella Valley without the approval of WSC: Indian Wells – CC on Site, Palm Desert – Commercial, Palm Springs Midtown, Redlands, Desert Shores Resort, and Lake Arrowhead. Palm Springs Midtown has a roster of 26 agents and should be classified as a branch office. You have never reported or paid fees for Palm Springs Midtown. Additionally, Old Town La Quinta was originally authorized as a satellite, but now maintains a roster of 19 agents. It should be reclassified a branch office. Finally, the unlicensed offices in Coachella Valley house approximately 80 agents for whom you have not been reporting or paying per-agent fees.

Similarly, there are seven locations in San Diego that are not approved by WSC: Carlsbad, Alpine, Beverly Hills, Dana Point, La Mesa Village, Laguna Beach, and San Diego Hill Crest. You have not reported or paid fees for La Mesa Village (31 agents) or Hill Crest (25 agents). Those locations should be classified as branches, and are subject to the monthly flat fee.

Bob Deville and Bob Bennion  
March 3, 2014  
Page 4

As in Coachella Valley, your unapproved offices in San Diego house approximately 80 agents for whom you have not been reporting or paying per-agent fees.

**Balloon Payment on 2009 Loan**

In January 2009 you executed a Promissory Note and related loan documents for a loan in the original principal amount of \$501,000, from CARMED, LLC, as an emergency cash infusion for your Coachella Valley company. The loan was later transferred to JFF, LLC. The note provides that the full remaining balance of principal, interest and all other amounts was due in full no later than March 1, 2014. That payment has not been received, and the note is therefore now past due. The balance due as of today is approximately \$343,000.

**Payments for 2011 Loan**

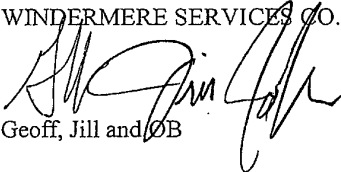
In February 2011 you borrowed another \$500,000 from CARMED, LLC to fund the startup of your new operation in the San Diego area. This loan was also transferred to JFF, LLC. The note provides that payments are due on the 1<sup>st</sup> of each month, and late if not received by the 5<sup>th</sup>. Your payment for February 2014 was just received today. Your payment for March 2014 will be late if not received by the 5<sup>th</sup> of this month. In addition, please remember that your monthly payment amount increases as of March 2014 to \$13,838 per month. The note permits us to charge a late fee of \$250 on payments received after the 5<sup>th</sup> of the month.

**Conclusion**

We would like to address these and other issues amicably. We remain open to your input and suggestions and look forward to meeting with you. Please contact us to schedule a meeting at your earliest convenience.

Sincerely,

WINDERMERE SERVICES CO.



Geoff, Jill and JB

# EXHIBIT J

## SUNDERLAND | MCCUTCHAN, LLP

SAN DIEGO

11770 BERNARDO PLAZA COURT, SUITE 310  
SAN DIEGO, CALIFORNIA 92128  
PHONE: (858) 675-7800  
FAX: (858) 675-7807

SANTA ROSA

*Via First Class Certified Mail (Ret. Recpt. Req.) Art # 70092820000139871021*

March 21, 2014

Paul S. Drayna, Esq., General Counsel  
Windermere Services Co.  
5424 Sand Point Way NE  
Seattle, WA 98105

Dear Paul,

Messrs. Bennion and Deville are in receipt of your, Jeff, Jill and OB's March 3, 2014 letter on behalf of Windermere Services Co. ("WSC") responding to their February 20, 2014 letter. The following responds to each of the issues raised within your aforementioned letter. In as much as your letter raises issues as to Bennion & Deville Fine Homes, Inc. ("BDFH") and Windermere Services Southern California, Inc. ("WSSC") the following will respond to each of your various points rather than providing separate responses for the respective entities.

### **WINDERMERE WATCH**

The following addresses your Windermere Watch comments point-by-point:

**Necessity of Our Actions:** WSC's correspondence confirms that Seattle has been aware of our various Search Engine Optimization ("SEO") efforts over the past year and agrees these have been necessary. Review of these issues with WSC's SEO expert and personnel will further clarify where our staff has provided assistance, cooperation and instruction in the past year.

**Request for Payment:** To the extent WSC agrees these efforts are necessary, we are at a loss as to why you have provided no specific response to our request for reimbursement. Please note our January 10, 2014 letter requesting reimbursement in the sum of \$64,113. Respectfully, we are asking for a third time that you specifically respond to this request.

At no time has WSC intimated that BDFH operation of our domain therefore requires BDFH or WSSC to absorb Windermere Watch expenses. To the contrary, review of the Section 3(A) of the Addendum to Windermere Real Estate License Agreement dated December 18, 2012 and executed by WSC on December 21, 2013 confirms WSC's obligation to pay all attorney's fees, costs, and other costs associated with addressing Windermere Watch.

Exhibit

56

WITNESS: Deville  
DATE: 07/27/16  
Shari Stelhorn  
CSR No. 2807

WSC 1824

Paul S. Drayna, Esq., General Counsel  
March 21, 2014  
Page 2 of 6

**Brand Failure Concerns:** The assertion that WSC can do no more to combat the issue is flawed in three aspects. First, WSC can and should employ more extensive counter-marketing, SEO and other efforts. Second, if WSC still claims nothing more can be done, it ignores the essential, ongoing efforts that we have needed to maintain and preserve the brand name.

Our efforts continue to preserve and promote the integrity of the Windermere name for your benefit as well as the benefit of all Windermere Franchise holders. Lastly, if WSC's position is that nothing further can be done, WSC is implicitly acknowledging its inability to protect the brand name.

**York Bauer & Your SEO Expert's Position:** WSC's letter shares the following erroneous statements:

- (1) *"The SEO Experts agreed that: (a) your expert is doing everything that can be done to minimize Windermere Watch's exposure in search results; and (b) there is nothing WSC can do to its domain or within its infrastructure to increase the effectiveness of your expert's activities."*

While BDFH and WSSC agree that we are doing everything that can be done in Southern California, we wholeheartedly disagree with the notion that WSC is doing all that can be done to address the issue. The fact that we maintain our own domain is no surprise nor is it unusual. The impact to our domain is due to an ongoing, unwavering and increasingly aggressive campaign deriving from the "Windermere" name.

- (2) *"The SEO expert advised, however, that because you maintain and manage your own internet domain, most of the work necessary to remove Windermere Watch from the first page of search results must be handled by you."*

This is incorrect and respectfully seems to underscore a fundamental lack of appreciation of the issue at hand. The fact is that "Windermere" is WSC's name and the attack sieged upon us uses the "Windermere" name in part. Better SEO efforts on your end have a trickle-down effect to the other users of the "Windermere" name. Furthermore, Windermere Watch actions are linked to Owner and/or Agent rosters that have nothing to do with BDFH's separate domain. This has been and remains a failure of WSC to appreciate what is needed and is demonstrative of the Franchisor's failure to protect the brand name.

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**Postcard Issue:** Your letter also states, in part: *"We have therefore elected not to pursue this issue."*

Addressing the postcard issue involves more than merely considering suing Mr. Kruger. Have you considered postal law violations? The ultimate decision to do nothing whatsoever regarding the postcards was made by WSC. BDFH and WSSC have not and do not agree that refraining from any effort whatsoever is an appropriate answer to this increasingly problematic issue. Ignoring Mr. Kruger altogether has never been suggested by us.

BDFH and WSSC have remained open and desirous of discussing these issues. We have consistently shared the issues with no response from you. BDFH and WSSC's staff has been responsive to WSC's personnel at any time that any inquiry has been raised regarding the Windermere Watch. This includes SEO/IT personnel and response from the undersigned.

**Contact With Mr. Kruger:** WSC's statements regarding the February 11, 2013 conference call are incomplete and lacking complete, relevant facts. The discussion involved consideration of someone contacting Mr. Kruger, exploring his demand and potential resolution. BDFH and WSSC suggested using a neutral, third party who was not involved with WSC to engage in conversation. Adamant concern was voiced that an attorney affiliated with WSC should not contact Mr. Kruger. Despite this and without BDFH or WSSC's consent, WSC sent attorney Mike Teether to explore the issues.

**Franchisor's Obligations:** It is a well-established technical protocol that the holder of a domain, such as "Windermere.com" is best placed to and in fact should undertake the primary responsibility to aggressively undertake SEO efforts. WSC's own technical personnel have previously agreed with the foregoing in meetings regarding this issue. Nonetheless, based upon Seattle's inability to do so, we have battled the Windermere Watch aggressively on our end with full-time efforts.

Respectfully, one conference call with counsel and minimal efforts since that time in no manner constitutes fulfillment of the general obligations owed by WSC to a franchisee nor does it satisfy the additional requirement imposed through the Addendum to Windermere Real Estate License Agreement. While these issues directly impact BDFH, they also relate to WSSC for the reasons raised within WSSC's February 24, 2014 letter to WSC.

**Windermere Watch Activity Within the Seattle Marketplace:** Windermere Watch activity has increasingly frustrated Bob Bennion's professional endeavors as an Associate in the Seattle area. You may recall recently the incredible, disconcerting discovery that a simple on-line search for Windermere office locations in the Seattle area directed viewers to the Windermere Watch website. Your own SEO experts were not even aware of this issue until our personnel alerted them. This issue relates to a fundamental concern of Bob Bennion as an Associate licensee working for you in Seattle. This also impacts BDFH as our prospective clientele extends to your geographic area.

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**WINDERMERE FOUNDATION**

To the extent the Windermere Foundation is a core component of the Windermere culture, it is important to consider that any culture needs to embrace the members of its community. We have previously shared that WSC has not embraced the charities embraced by our local Agents. An Agent in Riverside County has no connection with someone in Washington State. We have also expressed concerns about fundraising activities and the administration of the Foundation.

If the core philosophy is to have real estate professionals embrace the needs of the public and to give back, we are doing so. If WSC feels there is benefit to the Windermere brand for doing so, we continue to generously donate to various charitable causes, though we do not directly use the Windermere name in our fundraising, per your request.

Your concern with reference to the Windermere Foundation was swiftly addressed in August of 2013 when Paul Drayna contacted the undersigned. At that time, Paul shared the following: (a) While WSC promotes and desires usage of the Foundation, BDFH is not required to contribute to the Foundation; and (b) For a series of reasons BDFH is not permitted to make mention of Foundation name in conjunction with fundraising efforts.

In sum, BDFH is free to engage in any charitable fundraising it desires. The only issue is the usage of the name. In response to this, BDFH ceased any mention of the Foundation name in all fundraising efforts. All monies collected for charitable purposes have been performed under a separate name and duly organized charitable entity that makes no mention and has no connection with the Foundation. Specifically, advertising whether in print, phone system, web-based or other forms makes no mention of the Foundation.

If WSC's position is that we and our Agents are required as a Franchisee to contribute to the Windermere Foundation, please clarify the basis of such requirement. We will caution you that this also relates to the Windermere Watch as it attacks the Foundation. In relation thereto, we are unaware that WSC has ever released any formal statement addressing the negative claims regarding the Windermere Foundation. The failure to release any response to this allegation is something that can quickly further erode the perceived integrity of the name brand.

WSC's letter also provides a conditional statement regarding the potential misleading nature and/or adverse IRS implications associated with usage of the Foundation name by BDFH. The foregoing confirms the lack of necessary, further concern regarding this issue. WSC's own due diligence with minimal on-line inquiry can reconfirm this. Ultimately, more consistent interaction and/or a simple question from WSC in past six months would have obviated the need for such a statement and perhaps is demonstrative of the lack of the Franchisor's interaction with its Franchisee or WSSC.



Paul S. Drayna, Esq., General Counsel  
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#### **REPORTING OF BRANCHES & SATELLITES**

While BDFH has discussed this at length in the past, the following reiterates the same. The Bureau of Real Estate requires the identification of Satellite Offices under their guidelines for Agent home offices. Many of these offices are leased by the Agent under their name for their usage and are reflected on our website for marketing purposes. These Satellite Offices also satisfy the requirements of various banks which require a local address for the assignment of contracts.

While a roster may list Agents reflecting strategic marketing efforts, the fact is there is not enough physical space within these locations to house the Agents. This relates more to marketing perception than actual occupation.

Other offices noted within your letter are On-Site Offices with no more than three Agents working from approximately 500 square feet of space. On-Site offices such as these have always been permitted by WSC without additional requirements.

All Agents are reported and technology fees are paid through our designated offices. WSC has not been deprived of agent fees based upon any locations, as these agents work through the approved office locations, operating under the supervision and guidance of our designated Broker-Managers.

#### **BALLOON PAYMENT OF 2009 LOAN**

WSC's failure to respond to previous, material concerns places it in default. These issues have been consistently shared throughout the past twelve months and in large part relate to the Windermere Watch. To date, WSC's only response has been to say that there is nothing more it can do. No response has ever been provided in terms of the fundamental brand failure, request for payment and/or technical support. This is a definite failure that has brought us to this point.

#### **PAYMENTS FOR 2011 LOAN**

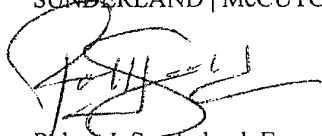
WSC is well advised to consider that our efforts in Southern California have maintained Windermere's brand identity. When Windermere was no longer perceived as competitive for the former owners in the region, we opened offices preserving the name. The failure to do so would have created a vacuum effect, diluting the perceived strength and establishment within California. This has promoted the value of the Windermere name as much for WSC as anyone and has been in large part at our expense. The competing market factors, structure and blight caused by the Windermere Watch continue to make it harder for Windermere to remain competitive and attractive. It is intended that the 2009 Loan and 2011 Loan obligations will be appropriately addressed in due course.

Paul S. Drayna, Esq., General Counsel  
March 21, 2014  
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**CONCLUSION**

Messrs. Bennion and Deville request that discussions regarding these issue flow through this office. To the extent I may facilitate a productive and timely dialogue, I remain at the parties' disposal. To promote this, WSC is encouraged to respond to BDFH and WSSC's outstanding requests in writing so we may all appreciate where we stand prior to any forthcoming discussion.

Respectfully,  
SUNDERLAND | McCUTCHAN, LLP

A handwritten signature in black ink, appearing to read 'RJS', is written over the typed name of Robert J. Sunderland.

Robert J. Sunderland, Esq.  
RJS/jaj

# EXHIBIT K

**Paul Drayna**

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**From:** Paul Drayna  
**Sent:** Tuesday, June 03, 2014 12:14  
**To:** Robert Sunderland (rsunderland@sunmclaw.com)  
**Cc:** Mike Teather  
**Subject:** Amendment to promissory note  
**Attachments:** 20140603115916374.pdf; K053014 amend prom note.pdf

Robert:

Mike Teather asked me to send you the amendment to the 2009 promissory note, along with the attached cover letter from Mike. If you have any questions of course don't hesitate to call.

---

Paul S. Drayna, General Counsel  
Windermere Services Co.  
5424 Sand Point Way NE  
Seattle, WA 98105  
206.527.3801  
[pdrayna@windermere.com](mailto:pdrayna@windermere.com)

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June 3, 2014

Mr. Robert J. Sunderland  
Sunderland | McCutchan, LLP  
11770 Bernardo Plaza Court, Suite 250  
San Diego, CA 92128

Re: WSC / Bennion & Deville

Dear Robert:

I am writing to summarize the status of our recent discussions. I have appreciated the professional and cordial tone of our dialogue so far, in particular our meeting in person with Mr. Deville last week. I believe that all current issues have been resolved, and that a foundation has been set for better communications going forward. In the interest of avoiding misunderstandings I thought it would be helpful to summarize where I believe we stand.

1. Balloon Payment on 2009 Loan

In January 2009 your clients executed a Promissory Note and related loan documents for a loan in the original principal amount of \$501,000, from CARMED, LLC, as an emergency cash infusion for their Coachella Valley company. The loan was later transferred to JFF, LLC. The note provided that the full remaining balance of principal, interest and all other amounts was due in full no later than March 1, 2014. Your clients have requested a 36-month extension of this loan, fully amortizing the remaining balance over that period. Enclosed with this letter is a document to formally amend the note accordingly. Please have your clients sign and return this document as soon as possible.

2. Windermere Watch

In a series of communications starting in January this year both you and your clients asserted that you believed WSC had breached the terms of the agreement made in December 2012, in which WSC agreed to make commercially reasonable efforts to address the ongoing activities of Gary Kruger and his Windermere Watch web site. Your clients demanded reimbursement for sums they had spent on SEO totaling \$64,113. As a result of our discussions WSC agreed that your clients could deduct that amount as a credit from the past due franchise fees owing to WSC. Your clients ended up taking a total credit of \$85,280, which included other expenses not previously discussed. WSC agreed to this.

It is my understanding that WSC's agreement to the loan extension and the \$85,280 fee credit resolves all current issues, and that as of the date of this letter WSC is not in breach of any

Mr. Robert J. Sunderland  
June 3, 2014  
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obligations – contractual or otherwise – owed to your clients. Barring any material change in Mr. Kruger's activities, we have agreed that there is nothing further that WSC can or should be doing with regard to Windermere Watch at this time, and that your clients will bear the expense of any ongoing SEO efforts on their part without taking further credits or offsets from amounts they owe to WSC. We agreed that ongoing SEO expenses will be more than offset by the substantial discounts in both franchise and technology fees granted to your clients.

3. Reporting of Branches and Satellites

There were a number of offices opened in both San Diego and Coachella Valley without the prior written consent of WSC. WSC questioned whether some of these locations should be treated as full branches, and pay the monthly flat franchise fee. After our discussion last week we agreed that all locations your clients are currently reporting as satellites are indeed satellites at this time – although it is anticipated one location in San Diego will become a full branch in the near future. Thank you again for helping us to clarify this issue. WSC will send an addendum to the franchise agreements updating the list of branches and satellites for both of your clients' companies. Going forward to avoid further miscommunications in this area, we would ask that additional locations be approved in advance by WSC, as required by the franchise agreements. We would also like to list all of your clients' offices on [www.windermere.com](http://www.windermere.com). We think this is good for both them, and for us.

If this letter does not accurately summarize the status of the issues above, or if you believe there are any material issues I've omitted, please let me know. Otherwise I will look forward to continuing our discussions concerning Windermere's future in Southern California, and Mr. Deville's succession planning. Again, my sincere thanks to both you and Mr. Deville for the positive dialogue so far.

Sincerely,

WINDERMERE SERVICES CO.



Michael J. Teather  
Senior Vice President – Client Services

**AMENDMENT TO PROMISSORY NOTE**

**\$330,739.35**

**Seattle, WA**

**May 23, 2014**

This is an amendment to that certain Promissory Note (the "Note") dated January 13, 2009 between Robert L. Bennion and Joseph R. Deville, two single persons, jointly and severally ("Borrower"), and CARMED, LLC, a Washington limited liability company ("Lender"), in the original principal sum of five hundred one thousand dollars and zero cents (\$501,000.00).

**RECITALS**

- A. CARMED, LLC assigned the Note to JFF, LLC, a Washington limited liability company in September 2013, and since that time JFF has been and remains the Lender. Hereafter all references to "Lender" shall mean JFF, LLC, its successors and assigns.
- B. The Note provided that it was due in full no later than March 1, 2014. Borrowers have requested an extension to the Note, which Lender has agreed to grant.

Now therefore it is agreed as follows:

- 1. The last payment made by Borrowers was received on May 23, 2014. Borrowers acknowledge and agree that the remaining principal balance as of that date is \$330,739.35. Said amount shall be amortized with interest from May 23, 2014 over thirty-six (36) months. Borrower shall make monthly payments of ten thousand, two hundred, twenty-seven dollars and eighty-five cents (\$10,227.85) commencing on June 30, 2014 and continuing on the last day of each calendar month thereafter. The full remaining principal balance of this Note, together with all accrued and unpaid interest thereon, and any and all other sums due under this Note or the other Loan Documents, shall be due and payable in full on or before May 31, 2017.
- 2. Except as expressly modified herein, all terms of the Note and other Loan Documents (including without limitation the Security Agreement and Assignment Agreements dated January 13, 2009) remain unchanged, and remain in full force and effect.

BORROWER	BORROWER	LENDER
Joseph R. Deville	Robert L. Bennion	JFF, LLC By Geoffrey P. Wood Its Manager
Date:	Date:	Date: