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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

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1 STEVEN A. SCHUMAN, SBN. 142834  
2 KEVIN S. DICKER, SBN. 179315  
3 LEONARD, DICKER & SCHREIBER  
4 Limited Liability Partnership  
5 9430 Olympic Boulevard, Suite 400  
6 Beverly Hills, California 90212-4519  
7 (310) 551-1987

8 Attorneys for Plaintiff  
9 Hospitality Construction & Development, Inc.

10  
11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **FOR THE COUNTY OF RIVERSIDE**  
13

14 HOSPITALITY CONSTRUCTION &  
15 DEVELOPMENT, INC., a Florida  
16 corporation dba HRB GENERAL  
17 CONTRACTORS,  
18  
19 Plaintiff,  
20  
21 vs.  
22  
23 GOLDEN ERA PRODUCTIONS; BUILDING  
24 MANAGEMENT SERVICES, a California  
25 corporation; BUILDING MANAGEMENT  
26 SERVICES GOLDEN ERA  
27 PRODUCTIONS; CHURCH OF  
28 SCIENTOLOGY INTERNATIONAL, a  
California corporation, and DOES 1  
THROUGH 10, inclusive,  
Defendants,

) CASE NO.: RIC 392 393  
)  
) Hon. Michael B. Donner – Dept. 4  
)  
) **SEPARATE STATEMENT OF**  
) **UNDISPUTED MATERIAL FACTS IN**  
) **SUPPORT OF PLAINTIFF'S OPPOSITION**  
) **TO DEFENDANTS' MOTION FOR**  
) **SUMMARY ADJUDICATION OF THIRD**  
) **CAUSE OF ACTION FOR FRAUD AND**  
) **PUNITIVE DAMAGES; DECLARATION OF**  
) **KEVIN S DICKER AND EXHIBITS**  
) **THERE TO**  
)  
) Date: July 15, 2008  
) Time: 8:30 a.m.  
) Dept.: "4"  
)  
) Case Filed: April 25, 2003  
) Trial Date: August 18, 2008

23 Plaintiff, Hospitality Construction & Development, Inc. dba HRB General  
24 Contractors ("HRB") submits this separate statement of undisputed material facts,  
25 together with references to supporting evidence, in support of its Opposition to  
26 Defendants' Motion for Summary Adjudication of HRB's third cause of action for fraud.

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**Undisputed Issue**

**Supporting Evidence**

1. In the summer of 2002, defendants began soliciting bids to complete the build out of the interiors of four of its dormitory buildings. Peck/Jones Construction Corporation bid was \$9,677,259.
  
2. There were further negotiations concerning this project with Peck/Jones and its bid was increased from \$9,677,259 to \$12,170,332. This is reflected in a subsequent bid proposal submitted to GEP dated August 16, 2002 from William S. Driver, the Executive Vice President of Peck/Jones.

1. Undisputed.
  
2. Disputed. The job was awarded to HRB on August 14, 2002. In addition to being the Executive Vice President of Peck/Jones, William S. Driver was also a management consultant for HRB at the same time. The work Mr. Driver performed on the Project, including the August 16, 2002 bid, was performed on behalf of HRB, not Peck/Jones. Deposition of William S. Driver, at 16:10-19, attached as Exhibit "2" to Dicker Declaration; Declaration of Guillermo Montero, ¶13, attached as Exhibit "1" to Dicker Declaration.

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**Undisputed Issue**

**Supporting Evidence**

- 3. On September 5, 2002, another bid proposal was submitted, this time from the plaintiff, HRB, in another increased amount of \$12,521,328.
  
- 4. Mr. Montero is the sole owner and president of HRB and the representative and person most testify as to the facts of HRB's complaint.
  
- 5. At the time the August 6, 2002 and August 16, 2002 Peck/Jones bids were made, Mr. Montero had a desk at Peck/Jones and was also working at HRB per an agreement with Peck/Jones. At that time,

- 3. Disputed. The September 5, 2002 bid proposal does not increase the amount of the estimates included in the August 16, 2002 bid proposal. At Defendants' request, it merely includes the unchanged estimate on the laundry building in the overall amount on the Project. Declaration of Guillermo Montero, ¶5, attached as Exhibit "1" to Dicker Declaration; Exhibit "4"
  
- 4. Undisputed.
  
- 5. Disputed to the extent the August 16, 2002 bid is characterized as a Peck/Jones bid. The job was awarded to HRB on August 14, 2002. Declaration of Guillermo

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**Undisputed Issue**

HRB had no offices in California, but worked out of Mr. Montero's home.

6. The September 5, 2002 bid also included a proposed contract from HRB.

7. In "HRB General Contractors Meeting Minutes No. 1", produced by plaintiff, as of September 17, 2002 HRB noted the following regarding the contract" "a. HRB inquired as to the status of GED [sic] signing the Contract submitted by HRB? GED [sic] responded it is still reviewing the document."

**Supporting Evidence**

Montero, ¶3, attached as Exhibit "1" to Dicker Declaration; Deposition of William S. Driver, 19:23-21:15, attached as Exhibit "2" to Dicker Declaration.

6. Undisputed. Exhibit "5"

7. Disputed to the extent the evidence is offered to prove that the parties had not entered into any agreement as of September 17, 2002. The parties entered into an oral agreement on August 14, 2002. Montero Declaration, ¶6, attached as Exhibit "1" to Dicker Declaration; Deposition of William S. Driver, 19:23-21:15, attached as Exhibit "2" to Dicker Declaration.

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**Undisputed Issue**

**Supporting Evidence**

8. After September 17, 2002, GEP proposed a construction contract to HRB indicating it wanted to work out sticking to the original \$9,677,259 bid by Peck/Jones.

8. Disputed. The construction contract proposed by Defendants "was completely contrary to what [HRB] had been told to proceed with earlier and very litigious and onerous." Deposition of William S. Driver, at 19:23-20:9, attached as Exhibit "2" to Dicker Declaration

9. On October 10, 2002, Richard Pierce, on behalf of HRB, sent a memo to the Church, "Subject: Things Church Work Forces can complete before HRB Starts."

9. Disputed as taken out of context to the extent the evidence is offered to prove that HRB had not performed any work on the Project as of October 10, 2002. To the contrary, HRB began work on the project in August, 2002, and had performed a substantial amount of work by October 10, 2002. Montero Declaration, ¶¶ 3, 4, 7, 8, 10. Also disputed to the extent it is submitted to prove that the parties had not entered into an agreement by October 10, 2002.

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**Undisputed Issue**

**Supporting Evidence**

The parties entered into an oral agreement on August 14, 2002. Montero Declaration ¶¶6; Deposition of William S. Driver 19:23 – 21:15, attached as Exhibit “2” to Dicker Declaration

10. On October 15, 2002, the GEP sent a letter to Bill Driver, the president of Peck/Jones and representative of HRB, stating: "Dear Bill, Thank you very much for meeting with us last week and your continued correspondence with Sarah in L.A. You are aware of the fact we're on a very tight budget on this project. In order to add these items to the existing contract and maintain the original bid price of \$9,677,259, we have researched ways to bring down costs to offset the additions we want."

10. Disputed. The quote from this evidence is taken out of context. At the time the letter was written, the parties already had an oral agreement. Montero Declaration, ¶¶ 3, 6; Deposition of William S. Driver, 135:7-12, attached as Exhibit “2” to Dicker Declaration. Moreover, Defendants’ October 15, 2002 letter, indicates that the “church is doing the roof, façade, and exterior site work.” By October 15, 2002, HRB had already expended considerable time, effort, and money to determine the most economical way to complete that work. Deposition of William S. Driver,

**Undisputed Issue**

**Supporting Evidence**

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130:25-133:10, attached as Exhibit "2" to Dicker Declaration, Exhibit "6".

11. On October 28, 2002, plaintiff, through its representative and owner, Guillermo Montero, sent an e-mail to William Driver acting on behalf of Peck/Jones and HRB stating with regard to sub-contractors, "Do not want any commitments to anybody until we have a signed contract."

11. Disputed to the extent the evidence is offered to prove the parties did not have an agreement as of October 28, 2002. Although the parties entered into an oral agreement on August 14, 2002, for his own peace of mind, Mr. Montero wanted to put the agreement in writing before entering into subcontracts. Montero Declaration ¶¶6; attached as Exhibit "1" to Dicker declaration.

12. On November 5, 2002, HRB representative Keith Chilcott, sent an e-mail concerning the ongoing contract negotiations to a sub-contractor: "Naturally we need your response ASAP because Guillermo is in final contract

12. Disputed. The quote is taken out of context. At the time Mr. Chilcott sent this e-mail, the parties had already entered into an oral agreement. Montero Declaration, ¶ 3, 5, 6, attached as Exhibit "1" to

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**Undisputed Issue**

**Supporting Evidence**

negotiations . . . [signed] Keith Chilcott, HRB General Contractors."

Dicker Declaration; Deposition of William S. Driver; 20:16-21:2, attached as Exhibit "2" to Dicker Declaration.

13. Through Mr. Montero, HRB admitted that HRB could not identify a single contractor that HRB "brought on board that was subsequently used on the [GEP] project."

13. Disputed. Montero Declaration, ¶ 9, attached as Exhibit "1" to Dicker Declaration; Declaration of Carl Ladda, attached as Exhibit "7" to Dicker Declaration; Exhibit "8".

14. The Church/GEP had no "secret intention" not to perform a contract with HRB.

14. Disputed. Montero Declaration, ¶ 9, attached as Exhibit "1" to Dicker Declaration; Declaration of Carl Ladda, attached as Exhibit "7" to Dicker Declaration, Exhibit "8".

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**Undisputed Issue**

**Supporting Evidence**

15. The Church/GEP did not utilize contractors on the construction project that had any knowing commitment or contract with HRB to work on the project.

15. Evidentiary Objection No. 1: Relevance.

DATED: July 1, 2008

STEVEN A. SCHUMAN  
KEVIN S. DICKER  
LEONARD, DICKER & SCHREIBER  
Limited Liability Partnership



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Kevin S. Dicker  
Attorneys for Hospitality Construction &  
Development

**DECLARATION OF KEVIN S. DICKER**

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I, Kevin S. Dicker, declare that:

1. I am an active member of the State Bar of California and an associate with the law firm of Leonard, Dicker & Schreiber, LLP, counsel of record for plaintiff Hospitality Construction & Development, Inc., dba HRB General Contractors ("HRB"). I have knowledge of the facts set forth in this declaration and if called to testify thereto I could and would do so competently.

2. This declaration is filed in support of HRB's opposition to Defendants' motion for summary adjudication as to the Third Cause of Action of Plaintiff's Complaint.

3. Attached hereto are true and correct copies of the following documents, which are authenticated in the attached Declaration of Guillermo Montero:

- Exhibit 1: Declaration of Guillermo Montero;
- Exhibit 2: Excerpts from deposition of William S. Driver, June 16, 2004;
- Exhibit 3: Peck/Jones Bid Form, August 6, 2002;
- Exhibit 4: Letter from HRB to Defendants, September 5, 2002;
- Exhibit 5: Construction Contract, September 5, 2002;
- Exhibit 6: HRB Invoices; October-December, 2002;
- Exhibit 7: Declaration of Carl Ladda;
- Exhibit 8: Excerpts from deposition of Guillermo Montero, October 12, 2007.

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**DECLARATION OF GUILLERMO MONTERO**

I, Guillermo Montero, declare that:

1. I am the sole owner and president of Plaintiff HRB General Contractors in this action. I make the following statements of my own personal knowledge, and if called upon as a witness, I could and would competently testify thereto.

2. In 2002, in addition to running HRB, I also maintained a desk at Peck/Jones Construction Corporation ("Peck/Jones"). In August, 2002, Peck/Jones was asked to bid a job for Defendants on a property located at 19629 Highway 79, Gillman Hot Springs, California (the "Property"). Initially, the project on the Property consisted of the build out of the interiors of four dormitories on the Property (the "Project").

3. On or about August 6, 2002, Peck/Jones submitted a bid to Defendants of \$9,677,259 [Exhibit "3" to Dicker Declaration]. On August 14, 2002, I, along with William S. Driver and Keith Chilcott of HRB, attended a meeting on the Property with several representatives of Defendants (including Sarah Blythe, Michael Gilchrist, Ken Hoden and Steve Rule). At that meeting, Defendants indicated that they would prefer HRB to be the contractor on the Project because HRB was a non-union company. With the consent of Peck/Jones, Defendants and HRB orally agreed that HRB would be the contractor on the Project and that HRB would complete the build out of the interiors of four dormitories for the same price included in Peck/Jones August 6, 2002 bid - \$9,677,259 (the "Agreement").

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EXH 1

1           4.     At Defendants' direction, on August 20, 2002, HRB began mobilizing at the  
2 Project job site, which included having a full-time superintendent at the job, moving into  
3 trailers, and transferring trailer rentals. Over the next several weeks, representatives from  
4 HRB participated in numerous jobsite meetings with Defendants' representatives,  
5 including Defendants' architects and engineers.

6  
7           5.     Prior to hiring HRB, Defendants had used and continued to use another  
8 contractor, Beers Skanska Construction Corp. ("Beers"). Beers performed extensive  
9 structural work at the Property. HRB entered into the Agreement at a price of \$9.6 million  
10 dollars having been instructed by Defendants that Beers and its subcontractors would  
11 complete a certain scope of structural items that were intentionally omitted from the scope  
12 of HRB's work. Around the same time, Defendants requested that HRB estimate  
13 additional work that was not part of the original bid. Specifically, Defendants requested  
14 that HRB bid work on the exterior façade and site development, as well as a laundry  
15 building. Accordingly, at Defendants' request, HRB provided Defendants with a  
16 confirming letter on September 5, 2002. As a result of the new items Defendants  
17 requested, the total bid amount was increased to \$12,521,328. A true and correct copy of  
18 HRB's September 5, 2002 letter to Defendants is attached as Exhibit "4" to Dicker  
19 Declaration.

20  
21           6.     Also on September 5, 2002, HRB sent Defendants a written agreement.  
22 HRB's proposed written agreement noted that many of the structural repairs made by  
23 Beers had not been completed properly (or at all). HRB confirmed that it would be willing  
24 to perform the additional structural work if Defendants chose to add it to the agreement.  
25 All of the structural repairs however were specifically excluded from the proposed written  
26 agreement, resulting in a proposed contract price of \$9,665,259. Although HRB already  
27 had an oral Agreement with Defendants to complete the Project for \$9,677,259, due to the  
28 modifications, and for my own comfort and state of mind, I wanted to memorialize HRB's

1 agreement with Defendant in writing before HRB entered into subcontracts for  
2 approximately \$9 million necessary to complete the project. A true and correct copy of  
3 the written agreement HRB sent to Defendants on or about September 5, 2002 is  
4 attached to the Dicker Declaration as Exhibit "5."

5  
6 7. For the next three and a half months, HRB was asked to help identify the  
7 extent of the structural work required and to obtain bids from subcontractors for  
8 completing that work. Although Defendants never signed HRB's proposed written  
9 agreement, it was at all times my understanding that HRB would be performing the work  
10 outlined in the written agreement for the agreed upon price of \$9,665,259. The only  
11 delays in continuing negotiations concerned the possibility of HRB performing the  
12 additional work that Defendants specifically requested be excluded from the agreement  
13 (the exterior façade development, site development and laundry room).

14  
15 8. The work HRB performed on the Project at Defendants' request between  
16 August 20, 2002 and December, 2002 included: (1) participating in numerous job site  
17 meetings with representatives of Defendants and architect engineers and other staff  
18 members; (2) reviewing and correcting Defendants' pre-existing architectural drawings;  
19 (3) staffing the Project with full-time managers and superintendents; (4) preparing  
20 estimates for the buildings including the façade and site work; (5) mobilizing the job site;  
21 (6) occupying trailers and delivering office equipment to the Project; (7) preparing  
22 surveys, including a survey of existing site conditions; (8) meeting with safety specialists  
23 and preparing a list of safety concerns; (9) preparing specifications and a price list for,  
24 among other things, acoustical walls, floors and ceilings; and (10) lining up and meeting  
25 subcontractors for work to be performed on the Project.

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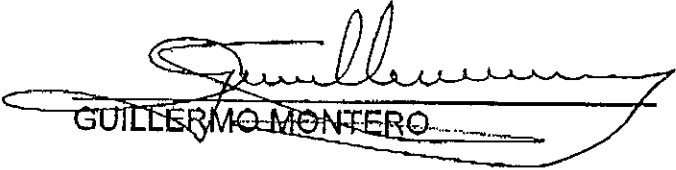
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1           9.     In late November, 2002, Defendants notified HRB that HRB had been  
2 terminated and that Defendants intended to complete the Project themselves.  
3 Subsequently, I spoke with multiple subcontractors I had lined up for the Project on behalf  
4 of HRB and learned that they had been contacted by Defendants to work directly for  
5 Defendants on the Project after HRB's termination. One such contractor was Carl Ladda  
6 of West CPM Mechanical Subcontractors. Based on my conversations with Mr. Ladda  
7 and other subcontractors, and, more importantly, as a result of Defendants' utter failure to  
8 ever attempt to pay HRB a dime, I believe it is reasonable to infer that Defendants never  
9 intended to perform, even at the time the parties entered into the Agreement.

10  
11           10.    HRB expended a considerable amount of time, energy and expense in  
12 reliance upon its Agreement with Defendants, as HRB proceeded in good faith, to work on  
13 the Project. As of the date, Defendants terminated HRB's services, HRB had billed  
14 Defendants over \$260,000 on the Project, none of which has been paid. True and correct  
15 copies of HRB's invoices for work performed are attached to the Dicker Declaration as  
16 Exhibit "6".

17  
18           I declare under penalty of perjury under the laws of the State of California that the  
19 foregoing is true and correct.

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21           Executed this 1st day of July, 2007 at Beverly Hills, California.

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25 GUILLERMO MONTERO

*Howell & Associates*  
DEPOSITION REPORTERS

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF RIVERSIDE

HOSPITALITY CONSTRUCTION & )  
DEVELOPMENT, INC., a Florida )  
corporation dba HRB GENERAL )  
CONTRACTORS, )

Plaintiffs, )

vs. )

CASE NO. RIC 392393 )

GOLDEN ERA PRODUCTIONS; BUILDING )  
MANAGEMENT SERVICES, a California )  
corporation; BUILDING MANAGEMENT )  
SERVICES GOLDEN ERA PRODUCTIONS; )  
CHURCH OF SCIENTOLOGY )  
INTERNATIONAL, A California )  
corporation, and DOES 1 through )  
10, inclusive, )

Defendants. )

DEPOSITION OF: WILLIAM DRIVER  
Taken By: JAMES J. MANNING, JR., ESQUIRE  
Commencing: 10:15 A.M. - 3:420 P.M.  
Location: 3880 Lemon Street, Fifth Floor  
Riverside, California 92502-1300  
Day, Date: Wednesday, June 16, 2004  
Reported by: NIKKI HOWELL, R.P.R., C.S.R. NO. 9426  
Pursuant to: Notice  
Original to: MARC E. ROHATINER, ESQUIRE  
VOLUME I

Pages 1 to 145

Howell & Associates  
5121 Marcella Avenue  
Cypress, California 90630  
(714) 484-1891

**ORIGINAL**

EXH-2

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APPEARANCES OF COUNSEL

FOR THE PLAINTIFFS AND CROSS-DEFENDANTS:

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(310) 478-8100  
BY: MARC E. ROHATINER, Esquire

FOR THE DEFENDANTS:

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A Professional Law Corporation  
3880 Lemon Street  
Fifth Floor  
Riverside, CA 92502-1300  
(909) 682-1771  
BY: JAMES J. MANNING, Esquire

ALSO PRESENT:

JEANNE GAVIGAN  
BRUCE WAGNER  
GUILLERMO MONTERO

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I-N-D-E-X

<u>DEPONENT:</u>	<u>PAGE</u>
William Driver	
Examination by Mr. Manning	4

EXHIBITS

(NONE)

INFORMATION REQUESTED

(NONE)

QUESTIONS NOT ANSWERED

(NONE)

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RIVERSIDE, CALIFORNIA; WEDNESDAY, JUNE 16, 2004

10:15 A.M.

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VOLUME I

WILLIAM DRIVER,

the witness herein, after having been first  
duly sworn, was deposed and testified as  
follows:

EXAMINATION

BY MR. MANNING:

Q Would you please state your full name for the  
record.

A William Somers Driver, Junior.

Q How do you spell Somers?

A S-o-m-e-r-s.

Q Mr. Driver, by whom are you employed  
currently?

A Alder Resources.

Q And how do you spell that?

A A-l-d-e-r Resources.

Q And is that a licensed contractor?

A Yes.

1 caution you, however, if you do make any corrections of  
2 a substantive nature, the lawyers can comment on that,  
3 and it may adversely affect your credibility. Do you  
4 understand that?

5 A Yes.

6 Q And I'm sure you understand that you were  
7 sworn to tell the truth as you would be in a court of  
8 law. Do you understand that?

9 A Yes.

10 Q Okay. I think that's all of the admonitions  
11 that I have at this time. Let's get back to the fact  
12 that you are a PMK for plaintiff. And I'm using the  
13 word plaintiff to describe Hospitality Construction &  
14 Development, Inc., a Florida corporation, doing business  
15 as HRB General Contractors.

16 Can we agree that any work that you did on the  
17 Golden Era project was for them, even though your  
18 specific employer may have been Peck/Jones?

19 A Yes.

20 Q Okay. And since you're one of several persons  
21 most knowledgeable, I'm here to find out what you  
22 personally know. So if you don't know the answer to the  
23 question please feel free to answer "I don't know."  
24 Will you do that?

25 A Yes.

1 look at them.

2 Q Okay. Why don't you go ahead and do that.  
3 And maybe the second contract starts at HRB 51.

4 A Okay. That's what I was looking for.

5 MR. ROHATINER: His pending question is did you  
6 send two contracts to Mr. Rabkin?

7 THE WITNESS: Yes.

8 BY MR. MANNING:

9 Q And the first one is evidenced by HRB 2  
10 through 50; and the second one is evidenced by HRB 51  
11 through 124?

12 A Yes.

13 Q Do you know if there were any documents beyond  
14 124? And you might take a look at the other documents  
15 thereafter, specifically 125 through 128. My question  
16 is whether those last four are part of either of the  
17 contracts?

18 A No. These last four pages are not familiar to  
19 me.

20 Q Okay. So let's just ignore those for now and  
21 let's just deal with one through 124.

22 A Okay.

23 Q Now you sent two contracts to Mr. Rabkin.  
24 And, again, what was the purpose of you sending him two  
25 contracts?

1           A     We had an agreement with the owner before we  
2     had moved on-site and mobilized on the 20th of August  
3     2002. This first agreement was summarizing what we had  
4     been directed to proceed with, but also listing the  
5     additional work that they were going to entertain to  
6     have constructed by us. And then the second contract  
7     agreement came months later from Golden Era Productions,  
8     and it was completely contrary to what we had been told  
9     to proceed with earlier and very litigious and onerous.

10          Q     So what was the purpose of sending it to  
11     Mr. Rabkin?

12          A     He was our attorney and was to, you know, make  
13     heads or tails of it, to get his opinion on what was --  
14     you know, it was a distinct difference of what our  
15     agreement was.

16          Q     And is it your testimony, sir, that the  
17     document HRB 2 through 50 was the agreement between HRB  
18     and Golden Era?

19          A     Yes. For the -- yes. For the \$9,665,259.00  
20     on HRB 3, which is what we had been told we were awarded  
21     to proceed with. The other numbers on that page were  
22     the additional scope of work contract allowances that  
23     were being considered to be added to the work that we  
24     were directed to proceed with, like the building  
25     exterior facade, site development, laundry building, and

1 also just, you know, excluding future structural  
2 corrections, which came at a later point in time.

3 Q Now did you prepare this document?

4 A Yes.

5 Q I would like to look at page 2, HRB 2. At the  
6 bottom paragraph 2.1 it says on-site mobilization on  
7 Tuesday, August 20, 2002; what does that refer to?

8 A Well, once the owner had awarded us the work,  
9 they made arrangements for us to move onto their -- to  
10 the compound. To set up the existing trailers that they  
11 had out there, put in phones, et cetera. And then to --  
12 to proceed with the interior build out. And the rest of  
13 this sentence talks about -- plus they had asked in  
14 addition to what we were contracted to do, to assess  
15 building conditions regarding structural repairs.

16 Q Okay. Let's break this down.

17 On-site mobilization on Tuesday, August 20;  
18 what was that specifically?

19 A That's the date later in time after we had  
20 been given the work that we were directed to move  
21 on-site.

22 Q Let me interrupt you. Please listen to the  
23 question.

24 What is on-site mobilization?

25 A That's taking a construction team and moving

1 Do you recognize the penmanship on HRB 382?

2 A No. These appear to be the same  
3 qualifications that we looked at earlier.

4 Q This is Exhibit C to the contract?

5 A Yeah. Can I see the second page.

6 Q (Indicating.)

7 A Yeah. Yes.

8 Q So it appears to be the same as HRB 43, 44,  
9 and 45, correct, except for the penmanship in the upper  
10 right-hand corner?

11 A Yes.

12 Q Do you recognize HRB 385?

13 A No.

14 Q Do you recognize HRB 386?

15 A No.

16 Q Do you recognize -- strike that.  
17 Do you recognize HRB 389?

18 A No.

19 Q Do you know whose penmanship that is?

20 A No.

21 Q Whose penmanship is on HRB 390; do you know?

22 A I don't know. That sheet talks about MC  
23 cable, which is something to consider the statement by  
24 engineering.

25 Q Do you recognize HRB 391 through 394?

1           A     I may have seen this before the date, though.  
2           It's mid-October, and this is on -- months after we had  
3           been directed to proceed with the build out.

4           Q     Did you ever send a response?

5           A     And it looks like the dialogue in here -- like  
6           the church is doing the roof facade and exterior site  
7           work. Originally we were contracted to do all of the  
8           interior build out.

9                     And just as an example, in mid-September --  
10           this is after we had been working on the project for  
11           some time -- we got a call from someone named Jan -- I  
12           think it was Jane Stand or Jane Wilkins. And her first  
13           comment to me -- we had always dealt with Sarah Blythe,  
14           Steve Rule, and Mike Gilchrist, Jane we didn't know from  
15           a -- she said well, you do understand we do all of our  
16           own construction. And I said excuse me. And she said  
17           well, we're going to do all of those buildings, not you.

18          Q     When was this?

19          A     I think it was around September 9th or  
20          something like that.

21                     And we were like -- I was really taken aside.  
22           And I called Sarah and said what's going on here, we  
23           have been on the job working. And then kind of leading  
24           back to this, what -- there was one of these guys --  
25           Steve Rule was an electrician by background, and Steve

1 Gilchrist was a mason by background, experience, and  
2 they had asked us if it made sense if there was certain  
3 things that they could do with their own forces. And  
4 Guillermo Montero had conveyed to them maybe, depending  
5 on what it is, as long as it doesn't interfere with our  
6 construction flow.

7 So, for instance, if they were doing the  
8 building exteriors, which were going to be added to the  
9 contract that we were already working on, whether -- you  
10 know, it wouldn't make sense that that be part HRB and  
11 part the owner, whether it be one entity or the other,  
12 but it would be added to the scope of work that we were  
13 performing.

14 But at one point this Jane suggested or said  
15 you guys just put up the drywall and we will do all of  
16 the rough, and then we will do all of the finishes.  
17 Well, the finishes is the easy part of the work. You  
18 know, we were already under contract to do the 9.7  
19 million.

20 And then what he's saying in this letter,  
21 which is -- I don't know why this was generated and at  
22 such a late point in time, but this letter is saying  
23 that they were going to do the roof facade and site  
24 work, after we did all of the hard work on figuring it  
25 out for them, as far as, you know, a strategy as far as

1 how they could do it the most economically.

2 And site work, for instance, they had, you  
3 know, real expensive light poles along the walkways.  
4 And we said well, you can go get this other light pole  
5 that's only 200 bucks versus 700 bucks as an example.  
6 So basically we just felt really used. We figured out  
7 solutions to all of the problems. And then we basically  
8 felt like we were buffaloed from the get go, from the  
9 whole start, from the bid process all of the way  
10 through.

11 Q Now Jane supposedly told you in early  
12 September that they do all of their own construction,  
13 correct?

14 A Yes.

15 Q Okay. Did you send --

16 A And she was working on some building across  
17 the street.

18 Q And did you send a letter out to anybody at  
19 Golden Era or Church of Scientology saying what's up?

20 A Well, I at least spoke to Guillermo Montero.  
21 And then I'm not a hundred percent sure, but I believe  
22 we called Sarah Blythe together and said what's going on  
23 because we had already been out there working for  
24 months.

25 Q But nobody followed up with anything in

1 the interiors of the work?

2 A We knew that because we had already proceeded  
3 at their direction back on August 20th.

4 Q The next sentence, the church is doing the  
5 roof, exterior side work.

6 A None of that is in the 9.7 million.

7 Q And then the next sentence, we obviously need  
8 to firm up our numbers so we can get the contract  
9 signed. What did that mean to you?

10 A I don't know. We felt like they were playing  
11 games because we already had a verbal agreement, were  
12 told to move on-site and start the work, which we did.

13 Q Well, you were looking to get a contract  
14 signed, correct?

15 A The contract signed that we followed up with  
16 and gave them shortly after we were directed to proceed  
17 back with this first one.

18 Q And on the bottom of page HRB 391 do you see  
19 the sentence that says, quote, "you are aware of the  
20 fact that we are on a very tight budget with this  
21 project," close quotes?

22 A Uh-huh.

23 Q Was it true they were on a very tight budget?

24 A Yes. But they -- but you can't squeeze blood  
25 out of a turnip. They kept adding things all of the

# PECK/JONES

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GOLDEN ERA PRODUCTIONS  
SOUTHSIDE BERTHING UNITS  
Gilman Hot Springs, California

### BID FORM

Date: August 6, 2002

Owner's Name: Church of Scientology

Architect's Name: Puchlik Design Associates Inc.

Project Name and Address: Golden Era Productions  
Southside Berthing Units  
Buildings 39, 40, 41 and 42  
19625 Gilman Hot Springs Road  
US Highway 79  
Gilman Hot Springs, California 92583

General Contractor: Peck/Jones Construction Corporation  
1601 Cloverfield Boulevard, Suite 400S  
Santa Monica, California 90404  
phone: 310/998-8700  
fax: 310/998-8703

Lump Sum Base Bid: \$ 9,677,259 *NINE MILLION SIX HUNDRED SEVENTY-SEVEN THOUSAND*  
*with TWO HUNDRED FIFTY-NINE DOLLARS*

Allowance for pigeon waste: \$12,000.00 included in Lump Sum Base Bid.

Credit to use Signature Carpet instead of Atlas: <\$72,000.00>

Credit to use steel bathtub instead of cast iron bathtub: <\$14,200.00>

Construction period: Start: 8/20/02 Completion: 3/17/03 See attached Construction Schedule.

Page 1

PLF/DEET

EXHIBIT \_\_\_\_\_

DATE 10-12-07

WITNESS Minko

KATHY SEIDENGLANZ, CSR 3331

1601 CLOVERFIELD BOULEVARD SANTA MONICA, CALIFORNIA 90404 TELEPHONE 310/998-8700 FAX 310/998-8703

EXH-3

# PECK/JONES

GOLDEN ERA PRODUCTIONS  
SOUTHSIDE BERTHING UNITS  
Gilman Hot Springs, California

## BID FORM

Acknowledgment of receipt of Bid Addenda:

Addendum No. 1: Yes  
Addendum No. 2: Yes  
Addendum No. 3: Yes

Insurance information:

See attached Certificate of Insurance.

Bonding information:

Bonding capacity: \$30-\$60 million  
Local agent: Lockton Insurance Brokers, Inc.  
Contact: Keith W. Newell - Vice President, Surety  
Phone: 213/689-0501

Additional information:

See attached Qualifications List.

We agree to hold the bid proposal open for ninety (90) days from the date stated above and agreement to enter into negotiations for a contract for construction and agree to execute a contract for construction upon award.

PECK/JONES CONSTRUCTION CORPORATION

*William S. Driver*

William S. Driver  
Executive Vice President

