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8 Attorneys for Defendants  
9 PROVIDENT FUNDING ASSOCIATES, L.P. and  
10 PROVIDENT FUNDING GROUP, INC.

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF SAN MATEO

13 DANIEL C. SILVA AND LARRY )  
14 MATTISON, )  
15 Plaintiffs, )  
16 v. )  
17 PROVIDENT FUNDING ASSOCIATES, )  
18 L.P.; PROVIDENT FUNDING GROUP, )  
19 INC.; and DOES 1 through 50, inclusive, )  
20 Defendants. )

Case No. C-443418  
CLASS ACTION  
ANSWER OF DEFENDANTS TO  
SECOND AMENDED COMPLAINT  
[Complaint Filed: November 30, 2004]

21 Defendants Provident Funding Associates, L.P. and Provident Funding Group, Inc.  
22 ("Defendants") hereby answer the unverified Second Amended Complaint as follows:

23 **GENERAL DENIAL**

24 1. Defendants generally deny each and every allegation of the unverified  
25 Second Amended Complaint.

26 **FIRST AFFIRMATIVE DEFENSE**

27 **(Failure to State Cause of Action)**

28 2. The Second Amended Complaint fails to state facts sufficient to constitute a  
cause of action against Defendants.



1 damages are therefore barred or should be reduced according to principles of comparative  
2 negligence.

3 **EIGHTH AFFIRMATIVE DEFENSE**

4 **(Negligence of Others)**

5 9. Defendants are informed and believe and, on that ground, allege that other  
6 parties failed to exercise ordinary care on their own behalf, which negligence was the  
7 proximate cause of some portion or all of the damages being claimed by Plaintiffs. Such  
8 damages are therefore barred or should be reduced according to principles of comparative  
9 negligence.

10 **NINTH AFFIRMATIVE DEFENSE**

11 **(Laches)**

12 10. Defendants are informed and believe and, on that ground, allege that  
13 Plaintiffs' claims are barred by laches.

14 **TENTH AFFIRMATIVE DEFENSE**

15 **(Unclean Hands)**

16 11. Defendants are informed and believe and, on that ground, allege that  
17 Plaintiffs are guilty of unclean hands.

18  
19 WHEREFORE, Defendants pray judgment as follows:

- 20 1. That Plaintiffs take nothing by the Second Amended Complaint;  
21 2. For costs of suit, including such attorney's fees as may be allowed by law;  
22 3. For such other, further, or different relief as the Court may deem proper.  
23

24 DATED: February 10, 2006

HOGAN & HARTSON L.L.P.

25 by   
26 NEIL R. O'HANLON

27 Attorneys for Defendants Provident Funding  
28 Associates, L.P. and Provident Funding Group,  
Inc.

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA )  
3 COUNTY OF LOS ANGELES ) ss.

4 I am employed in the County of Los Angeles, State of California. I am over the age  
5 of eighteen and not a party to the within action; my business address is: Hogan & Hartson  
L.L.P., 2049 Century Park East, Suite 700, Los Angeles, CA 90067.

6 On February 10, 2006, I caused the foregoing documents described as: ANSWER  
7 OF DEFENDANTS TO SECOND AMENDED COMPLAINT

8 to be served on the interested parties in this action by placing the original X a true copy  
thereof enclosed in sealed envelopes addressed as follows:

9 Allan Steyer  
10 Jeffrey H. Lowenthal  
11 Steyer Lowenthal Boodrookas  
12 Alvarez & Smith LLP  
13 One California Street, Third Floor  
14 San Francisco, CA 94111

Robert W. Biederman  
Stephen L. Hubbard  
David M. Grossman  
Hubbard & Biederman, LLP  
1717 Main Street, Suite 4700  
Dallas, TX 75201

13 Richard B. Podoll  
14 Robert A. Kitsmiller  
15 Podoll & Podoll, P.C.  
Terrace Tower II  
5619 DTC Parkway, Suite 1100  
Greenwood Village, CO 80111-3064

16  BY MAIL. I sealed said envelope and placed it for collection and mailing  
17 following ordinary business practices.

18  BY FACSIMILE. I caused such document to be delivered by facsimile to the  
offices of the addressee(s) following ordinary business practices.

19  BY FEDERAL EXPRESS. I caused such document to be delivered by overnight  
20 mail to the offices of the addressee(s) by placing it for collection by Federal Express  
21 following ordinary business practices by my firm, to wit, that packages will either be  
picked up from my firm by Federal Express and/or delivered by my firm to the Federal  
express office.

22  (State) I declare that the foregoing is true and correct. Executed on February 10,  
23 2006, at Los Angeles, California.

24  
25 Marjorie Sener  
26  
27  
28