

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

MAGNOLIA GROUP, LLC

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:13cv317LG-RW

O'DWYER REALTY, LLC, MARY BUNCH,  
AN INDIVIDUAL, LNG INVESTMENTS, LLC,  
LLOYD NICAUD, AN INDIVIDUAL, AND  
GERALD RIGBY, AN INDIVIDUAL

DEFENDANTS

PLAINTIFF MAGNOLIA GROUP, LLC'S ANSWER TO COUNTER-COMPLAINT

Comes now the Plaintiff, Magnolia Group, LLC, and in response to the Counter-Complaint as exhibited in the Defense and Answer of LNG Investments, LLC, Lloyd Nicaud and Gerald Rigby, and would respectfully state unto the Court the following, to-wit:

**I.**

The Plaintiff admits the allegations in paragraph I only to the extent William C. Washburn, as a member of Magnolia Group, LLC, signed a promissory note in the sum of \$11,946.96 on June 8, 2012. All remaining allegations of paragraph I in the Counter-Complaint are denied.

**II.**

The Plaintiff admits the allegations in paragraph II in the Counter-Complaint only to the extent that it admits it received a letter from John R. Santa-Cruz on or about

June 25, 2013. All remaining allegations of paragraph II in the Counter-Complaint are denied.

**III.**

The Plaintiff denies the allegations set forth in paragraph III of the Counter-Complaint.

**IV.**

The Plaintiff denies the allegations as set for in paragraph IV of the Counter-Complaint.

**V.**

The Plaintiff denies the allegations as set for in the last unnumbered paragraph of the Counter-Complaint.

**VI.**

The Plaintiff denies each and every allegation of the Counter-Complaint not specifically denied herein.

**VII.**

The allegations of the Complaint filed in this civil action filed on August 6, 2013 are incorporated by reference as if fully copied manually herein.

At all material times, the Defendant LNG Investments, LLC was a Mississippi limited liability company. The principal members are the Defendant Lloyd Nicaud and the Defendant Gerald Rigby. The managing partner of LNG Investments, LLC is the Macmillan Group, LLC. Attached as Exhibit "1" is a copy of the Certificate of

Formation issued by the Mississippi Secretary of State confirming The Macmillan Group, LLC is the manager of LNG Investments, LLC.

At all material times, the Defendant Lloyd Nicaud was a general partner and the registered agent of The Macmillan Group, LLC. At all material times the Defendant Mary Bunch was the manager of The Macmillan Group, LLC. The address of The Macmillan Group, LLC is 724 Dunbar Avenue, Bay St. Louis, MS 39520. This is the address of the Defendant Gerald Rigby. Attached as Exhibit "2" is a copy of the Certificate of Formation of The Macmillan Group, LLC issued by the Mississippi Secretary of State.

At all material times, the Defendant Mary Bunch was an agent and employee of the Defendant O'Dwyer Realty, LLC. The Defendant Mary Bunch was the real estate agent for the Plaintiff in regard to the sale of the Bay Tech property by the Plaintiff to the Defendant LNG Investments, LLC, Lloyd Nicaud, and Gerald Rigby. The Defendant O'Dwyer Realty, LLC demanded and obtained a broker's commission related to this sale. The Defendants O'Dwyer Realty, LLC, LNG Investments, LLC, Lloyd Nicaud, Gerald Rigby, and Mary Bunch never disclosed the relationship existing between Mary Bunch and the defendants LNG Investments, LLC, Lloyd Nicaud, and Gerald Rigby. This conflict of interest was never disclosed to the Plaintiff or its principal members by any of the defendants in this civil action.

The Plaintiff affirmatively states as a result of the acts and omissions of the Defendant LNG Investments, LLC, and the illegal and unethical conduct of its managing partner, and co-conspirator, the Defendant Mary Bunch, the Defendant LNG

Investments, LLC is equitably estopped from asserting any claim against the Plaintiff as referenced in the Counter-Complaint.

RESPECTFULLY SUBMITTED this the 28<sup>th</sup> day of August, 2013.

**MAGNOLIA GROUP, LLC, PLAINTIFF**

BY: OWEN, GALLOWAY & MYERS, P.L.L.C.

BY: /s/ BEN F. GALLOWAY, MSB #4390

**CERTIFICATE OF SERVICE**

I, Ben F. Galloway, of the law firm of Owen, Galloway & Myers, PLLC, counsel for Plaintiff, does hereby certify that I have this date electronically filed the above and foregoing pleading with the Clerk of the Court using the ECF system which sent notification of such filing to all counsel of record.

SO CERTIFIED THIS 28<sup>th</sup> day of August, 2013.

/s/ BEN F. GALLOWAY

Ben F. Galloway, MS Bar No. 4390  
Owen, Galloway & Myers, P.L.L.C.  
1414 25<sup>th</sup> Avenue (39501)  
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228-868-2821 (Telephone)  
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102280598  
OFFICE OF THE SECRETARY OF  
P O BOX 136, JACKSON, MS 39205  
(601)359-1633

Business ID: 970735  
Date Filed: 08/23/2010 08:00 AM  
C. Delbert Hosemann, Jr.  
Secretary of State

### Mississippi LLC Certificate of Formation

The undersigned hereby executes the following document and sets forth:  
(fields marked with an asterisks are required)

1. Name of the Limited Liability Company: (The name must include the words "Limited Liability Company" or the abbreviation "LLC" or "L.L.C.")

⇒ \* LNG Investments, LLC

2. The future effective date is  Business Email Address: \_\_\_\_\_  
(Complete if Applicable)

3. Federal Tax ID if available (Do not put Social Security Number in the box)  
⇒ 27-2521373

4. Name and Street Address of the Registered Agent and Registered Office is (must be in Mississippi)

⇒ \*Name Rebecca Necaise

⇒ \*Physical Address 5304 Lower Bay Road

⇒ P.O. Box

\*City Bay St. Louis MS 39520  
\* State \* Zip5 - Zip4

5. If the Limited Liability Company is to have a specific date of dissolution, the latest date upon which the Limited Liability Company is to dissolve is

⇒

6. Is full or partial management of the Limited Liability Company vested in a manager or managers? (Mark Appropriate box)

⇒ \*  Yes  No

7. Other matters the managers or members elect to include: (Attach additional pages if necessary)

⇒ Manager - The Macmillan Group LLC  
⇒



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P O BOX 136, JACKSON, MS 39205-0136  
(601)359-1633

### Certificate of Formation

8. Signatures: This certificate must be signed by at least one member, manager, or organizer. (If signed by "manager" box 6 on page one 1 should be marked "yes".) The name, title, and address of each signer should be included in the spaces indicated. This page may be duplicated for additional signatures.

\* Printed Name

Karen Jordan

\* Title

Organizer

\* By: Signature

*Karen Jordan*

(please keep writing within blocks)

Street and Mailing Address

⇒ \* Physical Address

413 Ballentine Street

⇒ \* P. O. Box

⇒ \* City

Bay St. Louis

MS

39520

State Zip5 - Zip4

Printed Name

Title

By: Signature

(please keep writing within blocks)

Street and Mailing Address

⇒ Physical Address

⇒ P. O. Box

⇒ City

State

Zip5 - Zip4

102068529

Business ID: 919619  
Date Filed: 09/24/2007 12:00 AM  
Eric Clark  
Secretary of State

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**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE**  
P.O. BOX 136, JACKSON, MS 39205-0136 (601) 359-1333  
**Certificate of Formation**



The undersigned, pursuant to Senate Bill No. 2395, Chapter 402, Laws of 1994, hereby executes the following document and sets forth:

**1. Name of the Limited Liability Company**

The Macmillan Group LLC

**2. The future effective date is (Complete if applicable)**

09/15/2006

**3. Federal Tax ID**

20-5543777

**4. Name and Street Address of the Registered Agent and Registered Office is**

Name

Lloyd Nicaud

Physical Address

724 Dunbar Ave

P.O. Box

City, State, ZIP ZIP4

Bay St Louis

MS

39520 -

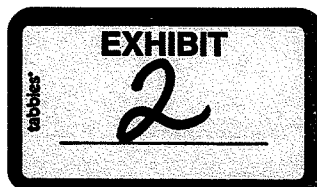
**5. If the Limited Liability Company is to have a specific date of dissolution, the latest date upon which the Limited Liability Company is to dissolve**

... or partial management of the Limited Liability Company vested in a manager or members? (Mark appropriate box)

Yes

No

**7. Other matters the managers or members elect to include**



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P.O. BOX 136, JACKSON, MS 39205-0136 (601) 359-1333  
Certificate of Formation



By: Signature

*Lloyd Nicaud*

(Please keep writing within blocks)

Printed Name **LLOYD NICAUD**

Title **GENERAL PARTNER**

Street and Mailing Address

Physical Address

724 Dunbar Ave

P.O. Box

City, State, ZIP5, ZIP4

Bay St. Louis

MS

39520 -

By: Signature

*Mary G. Bunch*

(Please keep writing within blocks)

Printed Name **MARY G. BUNCH**

Title **MANAGER**

Street and Mailing Address

Address

724 DUNBAR AVE

P.O. Box

City, State, ZIP5, ZIP4

BAY ST. LOUIS

MS

39520