

JODI JERICH Executive Director

PATRICIA L. BARFIELD Director Corporations Division

COMMISSIONERS BOBSTUMP - Chaiman GARY PIERCE BRENDA BURNS BOB BURNS SUSAN BITTER SMITH



ARIZONA CORPORATION COMMISSION

Date 10/21/2013

PYRAMID ENTERTAINMENT LLC 1128 W ELNA RAE TEMPE, AZ 85281

Dear Sir or Madam:

Enclosed is a copy of the following document(s) that were served upon the Arizona Corporation Commission on 10/21/2013 as agent for **PYRAMID ENTERTAINMENT LLC** :

Case caption: CALVARY SPV I, LLC v. DAVID S. CELAYA, Case number: CC2012214429RC Court: MARICOPA COUNTY, KYRENE JUSTICE COURT

- Summons
- Complaint
- Subpoena
- Subpoena Duces Tecum
- Default Judgment
- Judgment
- Writ of Garnishment
- Motion For Summary Judgment
- Motion for
- Other ANSWER OF GARNISHEE

Sincerely, Lynda B<sup>1</sup> Griffin

Custodian of Records

Initials PTG File number L1353536-1

<u>COMMISSIONERS</u> BOB STUMP - Chairman GARY PIERCE BRENDA BURNS BOB BURNS SUSAN BITTER SMITH



JODI JERICH Executive Director

PATRICIA L. BARFIELD Director Corporations Division

ARIZONA CORPORATION COMMISSION

# CERTIFICATION OF SERVICE ACCEPTED AND OF MAILING

Date: 10/22/2013

I, Peter Graham am an employee of the Arizona Corporation Commission ("ACC").

I hereby certify that on the 21<sup>ST</sup> day of OCTOBER, 2013, I accepted on behalf of the ACC service of the following documents upon the ACC as agent for **PYRAMID ENTERTAINMENT** LLC.

Case caption: CALVARY SPV I, LLC V. DAVID S CELAYA,

Case number: CC2012214429RC

Court:

MARICOPA COUNTY, KYRENE JUSTICE COURT

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Summons

Default Judgment

Judgment

- Complaint
  - Subpoena

- Writ of Garnishment
- Subpoena Duces Tecum
- Motion for Summary Judgment
- Motion for
- Other ANSWER OF GARNISHEE

I declare and certify under penalty of perjury that the foregoing is true and correct.

Executed on this/date /10/23/201/3 (Signature)

COMMISSIONERS BOBSTUMP - Chaiman GARY PIERCE BRENDA BURNS BOB BURNS SUSAN BITTER SMITH



JODI JERICH Executive Director

PATRICIA L. BARFIELD Director Corporations Division

## ARIZONA CORPORATION COMMISSION

I, PETER GRAHAM, am an employee of the Arizona Corporation Commission ("ACC").

I hereby certify that on the 22ND day of OCTOBER, 2013, I placed a copy of the above listed documents in the United States Mail, postage prepaid, addressed to

#### PYRAMID ENTERTAINMENT LLC

at its last known place of business as follows:

1128 W ELNA RAE TEMPE, AZ 85281

OR

I hereby certify that I was unable to mail the above listed documents to

because that entity is not a registered corporation or limited liability company in the State of Arizona, and the Arizona Corporation Commission has no record of its known place of business.

I declare and certify under penalty of perjury that the foregoing is true and correct.

Executed on this date: 10/23/2013 (Signature

# **EWING & EWING ATTORNEYS, P.C.**

#### **A Professional Corporation**

NELSON EWING, II \*

s= -- - - --

TELEPHONE: 800.861.5308 FACSIMILE: 800.861.3811

4050 EAST COTTON CENTER BLVD, SUITE 18 PHOENIX, AZ 85040

\*MEMBER OF AZ BAR

Pyramid Entertainment, LLC c/o David Celaya 1128 W Elna Rae St. Tempe, AZ 85281

RE: Cavalry SPV I, LLC VS

DAVID S CELAYA

File No.: 17288636

Attention Payroll / HR Department,

You have been served with a garnishment package for the above referenced Judgment Debtor(s). For identification purposes, the social security number(s) for the Judgment Debtor(s) is/are as follows:

DAVID S CELAYA 1356

Within ten (10) days from the service of this Writ of Garnishment, you must complete the Answer of Garnishee form and send this office a copy, as well as file the original with the Court. If you prefer, you may send the original to this office, at the address above, and we will take care of filing it with the Court. In addition, this garnishment constitutes a lien against the non-exempt earnings of the Judgment Debtor. Thus, you must immediately begin to withhold all non-exempt earnings of the Judgment Debtor pursuant to the Non-Exempt Earnings Statement which is included in this garnishment packet.

If you have any questions or need additional identification verification, please call my office at the above number.

Sincerely,

Ewing & Ewing Attorneys, P.C.

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Ewing & Ewing Attorneys, P.C. 4050 East Cotton Center Boulevard Suite 18 Phoenix, AZ 85040 Telephone (800) 861-5308 • Facsimile (800) 861-3811

Nelson Ewing, II #014418 Attorney for Plaintiff

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# IN THE KYRENE JUSTICE COURT 201 E. CHICAGO ST., STE 104 , CHANDLER, AZ 85225 IN AND FOR THE COUNTY OF MARICOPA

Cavalry SPV I, LLC	)
Plaintiff/Judgment Creditor, v.	) ) NO. CC2012-214429
DAVID S CELAYA	) ) WRIT OF
Defendant(s)/Judgment Debtor(s)	) GARNISHMENT AND ) SUMMONS
Pyramid Entertainment, LLC	) (Earnings-Continuing ) Lien)
Garnishee	)
	)
	)

THE STATE OF ARIZONA TO THE SHERIFF, CONSTABLE OR ANY OTHER OFFICER OF MARICOPA COUNTY, WHO IS AUTHORIZED BY LAW TO SERVE PROCESS:

JUDGMENT CREDITOR HAS A CLAIM OF \$1,655.26, which includes interest, attorney's fees, costs and other relief in this action against the following Judgment Debtor(s):

DAVID S CELAYA 1128 W ELNA RAE ST

TEMPE, AZ 85281-5351

THEREFORE, you are commanded to summon to appear before this Court the Garnishee whose name and address appear below and who is believed to be within your county.

The Judgment Creditor states as follows:

1. The Judgment Creditor has a Judgment against the above described Judgment Debtor(s) in the amount of \$1,655.26, as of date of issuance of this Writ of Garnishment.

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2. The rate of interest on this Judgment is accruing at the rate of 4.25% per annum. 'n The name and address of the Garnishee is: 3. Pyramid Entertainment, LLC c/o David Celaya 1128 W Elna Rae St. Tempe, AZ 85281 4. The names and last known mailing address(es) of the Judgment Debtor(s) are: DAVID S CELAYA 1128 W ELNA RAE ST TEMPE, AZ 85281-5351 5. The Judgment Creditor's name and address is: Cavalry SPV I, LLC c/o Ewing & Ewing Attorneys, P.C. 4050 E Cotton Center Blvd Suite 18 Phoenix, AZ 85040 And its attorney's name and address is: 6. Ewing & Ewing Attorneys, P.C. Nelson Ewing, II 4050 E Cotton Center Blvd Suite 18 Phoenix, AZ 85040 TO THE ABOVE NAMED GARNISHEE: GARNISHEE SHALL answer in writing, under oath, within ten (10) days after the service of the Writ of Garnishment upon him, all of the following questions: Whether the Judgment Debtor(s) was employed by the Garnishee on the 1. date the Writ was served. Whether the Garnishee anticipates owing earnings within sixty (60) days 2. after the date of service of the Writ. If the Garnishee is unable to determine the identity of the Judgment 3. Debtor(s) after making a good faith effort to do so, a statement of the effort made and the reason for such inability.

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The dates of the next two (2) paydays occurring after the date of service of 4. the Writ. The pay period of the Judgment Debtor(s), whether weekly, biweekly, 5. semi-monthly, monthly or another specific period. 6. The amount of the outstanding Judgment now due and owing as stated in the Writ. 7. Whether the Judgment Debtor(s) is subject to an existing wage assignment, garnishment or levy, and if so, the name, address, and telephone number of the Judgment Creditor. 8. The name, address and telephone number of the Garnishee. 9. The date and manner of delivery of a copy of the Answer to the Judgment Debtor(s) and Judgment Creditor. FROM AND AFTER SERVICE of the Writ of Garnishment, the Garnishee shall not pay to the Judgment Debtor(s) any earnings which are not exempt. IF IT APPEARS FROM THE ANSWER OF THE GARNISHEE that the Garnishee was indebted to the Judgment Debtor(s) for disposable earnings when the writ was served, the garnishment shall be continuing in nature as a lien against non-exempt wages, A.R.S. § 12-1598.05 AS TO DISPOSABLE EARNINGS, as defined in A.R.S. § 33-1131, a garnishment is continuing in nature, subject to the following conditions: 10. The garnishment constitutes a lien against non-exempt earnings. 11. The garnishment is the equivalent of a court ordered assignment, compelling the garnishee to remit the non-exempt earnings to the Plaintiff, as they are earned, A.R.S. § 12-1598.10 12. The garnishment shall survive until any of the following occurs: The underlying judgment is satisfied in full, is vacated or expires. a. The Judgment Debtor(s) leaves the Garnishee's employ for more b. than sixty (60) days. The Judgment Creditor releases the garnishment. C. The proceedings are stayed by a court of competent jurisdiction, d. including the United States Bankruptcy Court. The Judgment Debtor(s) has not earned any non-exempt earnings e. for at least sixty (60) days. f. The Court orders that the garnishment be quashed.

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- 13. Garnishment, levies and wage assignments which are not for the support of a person are inferior to wage assignments for the support of a person. Garnishments which are not for the support of a person and levies are inferior to garnishments for the support of a person.
- 14. If a Judgment Debtor(s) earnings become subject to more than one Writ of Garnishment, and because of the application of priorities, a Judgment Creditor recovers no non-exempt earnings for two (2) consecutive paydays, the lien on earnings of such Judgment Debtor(s) is invalid and of no force and effect, and the Garnishee shall notify the Judgment Creditor accordingly.

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This communication is from a debt collector.

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#### SUMMONS

In obedience to the attached and foregoing Writ of Garnishment, I DO HEREBY SUMMON AND REQUIRE YOU TO APPEAR and answer the foregoing Writ and in the manner prescribed by law within the times prescribed in said Writ. You are hereby notified that in case you fail to so answer, the Court may issue an order requiring you to appear in person before it to answer the Writ or to file and serve, at least five (5) days before the appearance date, a copy of the Answer on the party for which the Writ has been issued, or on its attorney if the party is represented by counsel. If you fail to appear or to file and serve the Answer as specified in the order, judgment by default may be rendered against you for the full amount of the relief demanded in the Complaint of the Plaintiff and not merely for the amount you may owe to the Defendant(s), and that such judgment may be so rendered in addition to any other matters which may be adjudged against you as prescribed by law.

SIGNED AND SEALED this date:

nston, IH Justice of the Peace Pro Tem

Deputy Clerk

Requests for reasonable accommodation for persons with disabilities must be made to the division assigned to the case by parties at least three (3) days in advance of a scheduled court proceeding.

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Ewing & Ewing Attorneys, P.C. 4050 East Cotton Center Boulevard Suite 18 Phoenix, AZ 85040 Telephone (800) 861-5308 • Facsimile (800) 861-3811

Nelson Ewing, II #014418 Attorney for Plaintiff

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# IN THE KYRENE JUSTICE COURT

## IN AND FOR THE COUNTY OF MARICOPA

Cavalry SPV I, LLC

Plaintiff,

DAVID S CELAYA

Defendant(s).

NO. CC2012-214429 DEFAULT JUDGMENT

Pursuant to Rule 55(b) and/or Rule 140, in the above-captioned action, Defendant(s) DAVID S CELAYA, was/were properly served with copies of Plaintiff's Summons and Complaint; said Defendant(s) failed to answer or otherwise appear, as provided by law, and Defendant(s) Default was entered herein after the expiration of the statutory time to answer. The Court having reviewed the Complaint, being duly advised in this matter, and determining that there is no just reason for delay of the entry of Judgment herein;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Plaintiff, have Judgment against Defendant(s) DAVID S CELAYA, in the principal sum of \$859.84 and accrued interest of \$619.89. Interest on the judgment principal shall accrue, as of the date judgment is entered, at the rate of  $\frac{1}{15}$ % per annum (ten percent or one percent plus the prime rate, whichever is lesser, as set forth in A.R.S. 44-1201(B)).

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• IT IS FURTHER ORDERED granting Plaintiff judgment against Defendant(s) for Plaintiff's reasonable attorneys' fees in the sum of \$.00, through January 23, 2013, and for Plaintiff's costs of suit herein incurred and expended in the sum of \$141.00, through January 23, 2013.

IT IS FURTHER ORDERED that Plaintiff is contractually entitled to all reasonable costs and attorneys' fees incurred by Plaintiff after January 23, 2013, subject to review of the Court as to their reasonableness under the standards governing awards of attorneys' fees pursuant to contractual attorneys' fees clauses.

The Court, having found that there is no just reason for delay, expressly directs that this Judgment be entered at this time as a final Judgment.

ENTERED this \_ 2/12/13

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# INSTRUCTIONS TO GARNISHEE: **Pyramid Entertainment, LLC**

## GARNISHMENT OF EARNINGS

You have been served with two (2) copies of a Summons and Writ of Garnishment, a copy of the underlying Judgment, four (4) copies of an Answer form, two (2) copies of a Notice to Judgment Debtor, two (2) copies of a Request for Hearing form, two (2) copies of these Instructions, and four (4) copies of Non-exempt Earnings Statements.

The following definitions apply to the Writ of Garnishment and other documents served on you:

You are the "Garnishee".

"Judgment Creditor" means a party who has a money Judgment or an Order for Support of a person that is due and unpaid.

"Judgment Debtor" means a party against whom a money Judgment or Order for Support of a person has been awarded.

"Earnings" means compensation paid or payable for personal services, whether these payments are called wages, salary, commission, bonus or otherwise. Earnings include periodic payments pursuant to a pension or retirement program.

"Disposable Earnings" means that amount remaining from the gross earnings for a pay period after the deductions required by State and Federal law.

"Exempt Earnings" means those earnings or that portion of earnings which, pursuant to State or Federal law, is not subject to judicial process including garnishment.

"Non-exempt Earnings" means those earnings or that portion of earnings which is subject to judicial process including garnishment.

"Payday" means the fixed, regular day for payment of wages designated by an employer.

If the Judgment Debtor is employed by you, or you otherwise owe earnings to the Judgment Debtor, the Summons and Writ of Garnishment is a lien on the non-exempt earnings of the Judgment Debtor from the date of service of the Writ. You must start to withhold non-exempt earnings of the Judgment Debtor each payday as of that time although you are not liable to the Judgment Debtor for failing to withhold earning from a Judgment debtor if those earnings are paid to a Judgment Debtor on a payday falling within three days, not including weekends and holidays, after the date of the service of the Writ of Garnishment.

Within ten (10) days of being served with the Summons and Writ of Garnishment, you must file an Answer to the Garnishment with the Clerk of the Court (MARICOPA COUNTY KYRENE JUSTICE COURT) that issued the Garnishment. The Answer shall be in writing, signed by you, under oath. If there is more than one Judgment Debtor, you must answer as to each Judgment Debtor named in the Writ of Garnishment. The Answer may be filed without representation by an attorney. At the time of filing the Answer, you must hand deliver, serve, or mail by regular first class mail, a copy of the Answer to the Judgment Creditor or the Judgment Creditor's attorney if the Judgment Creditor is represented by an attorney. .

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At the same time, you must hand deliver, serve or mail by regular first class mail to the Judgment Debtor a copy of the Answer and a copy of the Notice to Judgment Debtor, and a Request for Hearing form. You shall state the time and manner of delivery to the Judgment Creditor and Judgment Debtor in the Answer. The Answer shall contain the information which is set forth in the Answer form provided you, and you may use that form. The case number and the names of both the Judgment Creditor and Judgment Debtor must be inserted in the appropriate spaces on the Answer. Use the case number and the names that appear on the Writ of Garnishment.

If it appears from the Answer you file that the Judgment Debtor was employed by you, or that you otherwise owed earnings to the Judgment Debtor when the Writ was served, or earnings would be owed within sixty (60) days thereafter and there is no timely written objection to the Writ or you Answer, on application by the Judgment Creditor, the Court will order that the non-exempt earnings withheld by you after service of the Writ be transferred to the Judgment Creditor who is entitled to such monies subject to the Judgment Debtor's right to objection and hearing. The Court will order that the garnishment is a continuing lien against the non-exempt earnings of the Judgment Debtor. The judgment Creditor will deliver a copy of this order of Continuing Lien to you. When you receive this order, you are to immediately send all of the earnings withheld since service of the Writ of Garnishment to the Judgment Creditor's Attorney (made payable to Ewing & Ewing Attorneys P.C.). Furthermore, you are to withhold and send to the Judgment Creditor's attorney the non-exempt earnings of the Judgment Debtor each succeeding payday until the occurrence of any of the following:

- 1. The underlying Judgment is satisfied in full or is vacated or expires.
- 2. The Judgment Debtor leaves your employ from more than sixty (60) days.
- 3. The Judgment Creditor releases the garnishment.
- 4. The Judgment Debtor has not earned any non-exempt earnings for at least sixty (60) days.
- 5. The proceedings are stayed by a Court of competent jurisdiction, including the United States Bankruptcy Court.
- 6. The Court orders that the garnishment be quashed.

If no objection is filed to your Answer to the Summons and Writ of Garnishment and the above mentioned Order of Continuing Lien is not entered within forty-five (45) days after the filing of your Answer, any earnings held by you shall be released to the Judgment Debtor and you will be discharged from any liability on the garnishment.

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You have been provided with four (4) copies of the Non-exempt Earning Statements. Beginning with the pay period during which the Writ was served, and while the Order of Continuing Lien remains in effect, for each pay period you must do the following:

- 1. Complete the Non-exempt Earnings statement.
- Hand deliver, serve or mail by regular first class mail the Non-exempt Earnings Statement to the Judgment Debtor with his exempt earnings for that pay period.
- 3. At the same time hand deliver, serve or mail by regular first class mail a copy of the Non-exempt Earrings Statement to the Judgment Creditor or his attorney.

# NEITHER THE ORIGINAL NOR A COPY OF THE NON-EXEMPT EARNINGS STATEMENT SHALL BE FILED WITH THE COURT UNLESS AN OBJECTION TO THE AMOUNT WITHHELD, IF ANY, IS TIMELY FILED BY A PARTY. NOR SHOULD YOU SEND ANY WITHHELD EARNINGS TO THE COURT.

The Judgment Creditor must deliver to you sufficient copies of the appropriate Non-Exempt Earnings Statement and Request of Hearing forms so that you are able to comply with these requirements unless the Judgment Creditor is advised that you will supply your own forms.

While a continuing lien is in effect you may deduct from the non-exempt earnings of the Judgment Debtor the amount of \$5.00 each payday as a fee for preparing and delivering the Non-exempt Earnings Statement.

If a party has an objection to the Summons and Writ of Garnishment, your Answer to the Summons and Writ of Garnishment, or a Non-exempt Earnings Statement, he may file a written objection and Request for Hearing form. A hearing must be requested no later than ten (10) days after receipt of the Answer or Non-exempt Earnings Statement objected to unless good cause for filing the requests later is shown. At the time of filing the Request for Hearing form, the party filing the objection shall mail by regular first class mail or hand deliver or serve a copy of the form to all parties to the Writ. A hearing will then be held within ten (10) days of the filing of an objection, the Court will enter an Order, and a copy of the Order will be delivered to you.

You may conclusively rely on and you are not liable to the Judgment debtor for acting in reliance on the validity and authenticity of a garnishment that is regular on its face. However, for non-compliance with your responsibilities set forth in these instructions, the garnishment laws provides as follows:

If you fail to answer the Summons and Writ of Garnishment within ten (10) days, the Judgment Creditor may petition the Court for the issuance of an Order requiring you to appear before the Court at a time and place specified in the Order to answer the Writ or to file and serve a copy of the Answer on the Judgment Creditor or on his attorney at least five (5) days before the appearance date. If you fail to appear or file and serve the Answer after the service of the Order requiring the appearance in person or Answer upon you, the Court may render judgment by default against you for the full amount of the Judgment Creditor and against you if the Writ was not answered within ten (10) days of service and a petition requiring you to appear or answer was filed.

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Furthermore, A.R.S §12-1598.13 provides for contempt proceedings as follow:

If a garnishee fails after written notice to deliver non-exempt earnings to the Judgment Creditor within thirty (30) days after the ending date of the pay period, or fails after written notice to deliver the Non-exempt Earnings Statement to the Judgment Debtor with the exempt earnings, the Judgment Debtor may petition the Court for relief. The Court shall, after notice, hold a hearing to determine whether such failure, if any, was willful or the result of gross negligence, If the Court determines that the failure was willful or the result of gross negligence, the Court shall find the garnishee in contempt and shall award the Judgment Debtor all of the following:

- 1. An amount to compensate for actual losses, if any, caused by the failure to comply.
- 2. Reasonable attorney's fees if the Judgment Debtor was represented by an attorney at such hearing.
- 3. Court costs.
- 4. The Court may award the Judgment Debtor an additional amount not to exceed \$400.00.

While an Order of Continuing Lien pursuant to § 12-1598.10 is in effect, if the garnishee failed to deliver to the Judgment Creditor the non-exempt earnings of the Judgment debtor, if any, and the copy of the Non-exempt Earnings Statement, within fourteen (14) days of the end of the pertinent pay period, and the Judgment Creditor thereafter delivers a written demand for the non-exempt earnings and statement, and the garnishee does not comply within fourteen (14) days of the receipt of the written demand, the Judgment Creditor may petition the Court for relief. The Court shall, after notice, hold a hearing to determine whether the failure to comply with the written demand within fourteen (14) days of receipt, if any, was willful or the result of gross negligence. If the Court determines that the failure was willful or the result of gross negligence, the Court shall find the garnishee in contempt and shall award the Judgment Creditor all of the following:

- 1. An amount to compensate for actual losses, if any, caused by the failure to comply
- 2. Reasonable attorney's fees if the Judgment Creditor was represented by an attorney at such hearing.
- 3. Court costs
- 4. The Court may award the Judgment Creditor an additional amount not to exceed \$400.00.

In the event you have already been served, or are hereafter served, with a Garnishment, Wage Assignment or Levy, A.R.S. § 12-1598.14 provides for priority as follows:

- A. Except as provided in subsections B and C, conflicting Wage Assignments, Garnishments and Levies rank according to priority in time of service.
- B. Garnishments, Levies and Wage Assignments which are not for the support of a person are inferior to Wage Assignments for the support of a person. Garnishments which are not for the support of a person and Levies are inferior to Garnishments for the support of a person.
- C. If a Judgment Debtor's earnings become subject to more than one Writ of Garnishment pursuant to this Article, and because of the application of the priorities set forth in subsections A and B, a Judgment Creditor recovers no non-exempt earnings for two (2) consecutive paydays, the lien on earnings of such Judgment Creditor is invalid and of no force and effect, and the garnishee shall notify the Judgment Creditor accordingly.

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# INSTRUCTIONS TO GARNISHEE: **Pyramid Entertainment, LLC**

GARNISHMENT OF EARNINGS

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You have been served with two (2) copies of a Summons and Writ of Garnishment, a copy of the underlying Judgment, four (4) copies of an Answer form, two (2) copies of a Notice to Judgment Debtor, two (2) copies of a Request for Hearing form, two (2) copies of these Instructions, and four (4) copies of Non-exempt Earnings Statements.

The following definitions apply to the Writ of Garnishment and other documents served on you:

You are the "Garnishee".

"Judgment Creditor" means a party who has a money Judgment or an Order for Support of a person that is due and unpaid.

"Judgment Debtor" means a party against whom a money Judgment or Order for Support of a person has been awarded.

"Earnings" means compensation paid or payable for personal services, whether these payments are called wages, salary, commission, bonus or otherwise. Earnings include periodic payments pursuant to a pension or retirement program.

"Disposable Earnings" means that amount remaining from the gross earnings for a pay period after the deductions required by State and Federal law.

"Exempt Earnings" means those earnings or that portion of earnings which, pursuant to State or Federal law, is not subject to judicial process including garnishment.

"Non-exempt Earnings" means those earnings or that portion of earnings which is subject to judicial process including garnishment.

"Payday" means the fixed, regular day for payment of wages designated by an employer.

If the Judgment Debtor is employed by you, or you otherwise owe earnings to the Judgment Debtor, the Summons and Writ of Garnishment is a lien on the non-exempt earnings of the Judgment Debtor from the date of service of the Writ. You must start to withhold non-exempt earnings of the Judgment Debtor each payday as of that time although you are not liable to the Judgment Debtor for failing to withhold earning from a Judgment debtor if those earnings are paid to a Judgment Debtor on a payday falling within three days, not including weekends and holidays, after the date of the service of the Writ of Garnishment.

Within ten (10) days of being served with the Summons and Writ of Garnishment, you must file an Answer to the Garnishment with the Clerk of the Court (MARICOPA COUNTY KYRENE JUSTICE COURT) that issued the Garnishment. The Answer shall be in writing, signed by you, under oath. If there is more than one Judgment Debtor, you must answer as to each Judgment Debtor named in the Writ of Garnishment. The Answer may be filed without representation by an attorney. At the time of filing the Answer, you must hand deliver, serve, or mail by regular first class mail, a copy of the Answer to the Judgment Creditor or the Judgment Creditor's attorney if the Judgment Creditor is represented by an attorney. بر الج الم

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At the same time, you must hand deliver, serve or mail by regular first class mail to the Judgment Debtor a copy of the Answer and a copy of the Notice to Judgment Debtor, and a Request for Hearing form. You'shall state the time and manner of delivery to the Judgment Creditor and Judgment Debtor in the Answer. The Answer shall contain the information which is set forth in the Answer form provided you, and you may use that form. The case number and the names of both the Judgment Creditor and Judgment Debtor must be inserted in the appropriate spaces on the Answer. Use the case number and the names that appear on the Writ of Garnishment.

If it appears from the Answer you file that the Judgment Debtor was employed by you, or that you otherwise owed earnings to the Judgment Debtor when the Writ was served, or earnings would be owed within sixty (60) days thereafter and there is no timely written objection to the Writ or you Answer, on application by the Judgment Creditor, the Court will order that the non-exempt earnings withheld by you after service of the Writ be transferred to the Judgment Creditor who is entitled to such monies subject to the Judgment Debtor's right to objection and hearing. The Court will order that the garnishment is a continuing lien against the non-exempt earnings of the Judgment Debtor. The judgment Creditor will deliver a copy of this order of Continuing Lien to you. When you receive this order, you are to immediately send all of the earnings withheld since service of the Writ of Garnishment to the Judgment Creditor's Attorney (made payable to Ewing & Ewing Attorneys P.C.). Furthermore, you are to withhold and send to the Judgment Creditor's attorney the non-exempt earnings of the Judgment Debtor each succeeding payday until the occurrence of any of the following:

- 1. The underlying Judgment is satisfied in full or is vacated or expires.
- 2. The Judgment Debtor leaves your employ from more than sixty (60) days.
- 3. The Judgment Creditor releases the garnishment.
- 4. The Judgment Debtor has not earned any non-exempt earnings for at least sixty (60) days.
- 5. The proceedings are stayed by a Court of competent jurisdiction, including the United States Bankruptcy Court.
- 6. The Court orders that the garnishment be quashed.

If no objection is filed to your Answer to the Summons and Writ of Garnishment and the above mentioned Order of Continuing Lien is not entered within forty-five (45) days after the filing of your Answer, any earnings held by you shall be released to the Judgment Debtor and you will be discharged from any liability on the garnishment.

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You have been provided with four (4) copies of the Non-exempt Earning Statements. Beginning with the pay period during which the Writ was served, and while the Order of Continuing Lien remains in effect, for each pay period you must do the following:

- 1. Complete the Non-exempt Earnings statement.
- 2. Hand deliver, serve or mail by regular first class mail the Non-exempt Earnings Statement to the Judgment Debtor with his exempt earnings for that pay period.
- 3. At the same time hand deliver, serve or mail by regular first class mail a copy of the Non-exempt Earrings Statement to the Judgment Creditor or his attorney.

# NEITHER THE ORIGINAL NOR A COPY OF THE NON-EXEMPT EARNINGS STATEMENT SHALL BE FILED WITH THE COURT UNLESS AN OBJECTION TO THE AMOUNT WITHHELD, IF ANY, IS TIMELY FILED BY A PARTY. NOR SHOULD YOU SEND ANY WITHHELD EARNINGS TO THE COURT.

The Judgment Creditor must deliver to you sufficient copies of the appropriate Non-Exempt Earnings Statement and Request of Hearing forms so that you are able to comply with these requirements unless the Judgment Creditor is advised that you will supply your own forms.

While a continuing lien is in effect you may deduct from the non-exempt earnings of the Judgment Debtor the amount of \$5.00 each payday as a fee for preparing and delivering the Non-exempt Earnings Statement.

If a party has an objection to the Summons and Writ of Garnishment, your Answer to the Summons and Writ of Garnishment, or a Non-exempt Earnings Statement, he may file a written objection and Request for Hearing form. A hearing must be requested no later than ten (10) days after receipt of the Answer or Non-exempt Earnings Statement objected to unless good cause for filing the requests later is shown. At the time of filing the Request for Hearing form, the party filing the objection shall mail by regular first class mail or hand deliver or serve a copy of the form to all parties to the Writ. A hearing will then be held within ten (10) days of the filing of an objection, the Court will enter an Order, and a copy of the Order will be delivered to you.

You may conclusively rely on and you are not liable to the Judgment debtor for acting in reliance on the validity and authenticity of a garnishment that is regular on its face. However, for non-compliance with your responsibilities set forth in these instructions, the garnishment laws provides as follows:

If you fail to answer the Summons and Writ of Garnishment within ten (10) days, the Judgment Creditor may petition the Court for the issuance of an Order requiring you to appear before the Court at a time and place specified in the Order to answer the Writ or to file and serve a copy of the Answer on the Judgment Creditor or on his attorney at least five (5) days before the appearance date. If you fail to appear or file and serve the Answer after the service of the Order requiring the appearance in person or Answer upon you, the Court may render judgment by default against you for the full amount of the Judgment Creditor and against you if the Writ was not answered within ten (10) days of service and a petition requiring you to appear or answer was filed.

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Furthermore, A.R.S §12-1598.13 provides for contempt proceedings as follow:

If a garnishee fails after written notice to deliver non-exempt earnings to the Judgment Creditor within thirty (30) days after the ending date of the pay period, or fails after written notice to deliver the Non-exempt Earnings Statement to the Judgment Debtor with the exempt earnings, the Judgment Debtor may petition the Court for relief. The Court shall, after notice, hold a hearing to determine whether such failure, if any, was willful or the result of gross negligence, If the Court determines that the failure was willful or the result of gross negligence, the Court shall find the garnishee in contempt and shall award the Judgment Debtor all of the following:

- 1. An amount to compensate for actual losses, if any, caused by the failure to comply.
- 2. Reasonable attorney's fees if the Judgment Debtor was represented by an attorney at such hearing.
- 3. Court costs.
- 4. The Court may award the Judgment Debtor an additional amount not to exceed \$400.00.

While an Order of Continuing Lien pursuant to § 12-1598.10 is in effect, if the garnishee failed to deliver to the Judgment Creditor the non-exempt earnings of the Judgment debtor, if any, and the copy of the Non-exempt Earnings Statement, within fourteen (14) days of the end of the pertinent pay period, and the Judgment Creditor thereafter delivers a written demand for the non-exempt earnings and statement, and the garnishee does not comply within fourteen (14) days of the receipt of the written demand, the Judgment Creditor may petition the Court for relief. The Court shall, after notice, hold a hearing to determine whether the failure to comply with the written demand within fourteen (14) days of receipt, if any, was willful or the result of gross negligence. If the Court determines that the failure was willful or the result of gross negligence, the Court shall find the garnishee in contempt and shall award the Judgment Creditor all of the following:

- 1. An amount to compensate for actual losses, if any, caused by the failure to comply
- 2. Reasonable attorney's fees if the Judgment Creditor was represented by an attorney at such hearing.
- 3. Court costs
- 4. The Court may award the Judgment Creditor an additional amount not to exceed \$400.00.

In the event you have already been served, or are hereafter served, with a Garnishment, Wage Assignment or Levy, A.R.S. § 12-1598.14 provides for priority as follows:

- A. Except as provided in subsections B and C, conflicting Wage Assignments, Garnishments and Levies rank according to priority in time of service.
- B. Garnishments, Levies and Wage Assignments which are not for the support of a person are inferior to Wage Assignments for the support of a person. Garnishments which are not for the support of a person and Levies are inferior to Garnishments for the support of a person.
- C. If a Judgment Debtor's earnings become subject to more than one Writ of Garnishment pursuant to this Article, and because of the application of the priorities set forth in subsections A and B, a Judgment Creditor recovers no non-exempt earnings for two (2) consecutive paydays, the lien on earnings of such Judgment Creditor is invalid and of no force and effect, and the garnishee shall notify the Judgment Creditor accordingly.

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1	Ewing & Ewing Attorneys, P.C.							
2	4050 East Cotton Center Boulevard Suite 18							
3	Phoenix, AZ 85040 Telephone (800) 861-5308 • Facsimile (800) 861-3811							
4	Nelson Ewing, II #014418 Attorney for Plaintiff							
5	IN THE KVRENE I	II ISTICE COURT						
6	IN THE KYRENE JUSTICE COURT							
7	IN AND FOR THE COUNTY OF MARICOPA							
8	Cavalry SPV I, LLC	)						
9	Plaintiff/Judgment Creditor,	) NO. CC2012-214429						
10	v. DAVID S CELAYA	) ANSWER OF GARNISHEE ) (Earnings-Continuing Lien)						
11	Defendent(a) (Indement Debter(a)							
12	Defendant(s)/Judgment Debtor(s) Pyramid Entertainment, LLC							
13	Garnishee	)						
14		)						
15		_						
16 17	1. I am the above named Garnishee or am aut on its behalf, regarding the Writ of Garnishment so date:	thorized by the Garnishee to make this Affidavit erved on Garnishee on this						
18	2. Was the Judgment Debtor employed by the	e Garnishee on the date the Writ was served?						
19	Yes							
20								
21	3. Does the Garnishee anticipate owing earning days after the date of service of the Writ?	ngs to the Judgment Debtor within sixty (60)						
22	Yes	No						
23								
24	good faith effort to do so, the following is a	identity of the Judgment Debtor after making a a statement of the Garnishee's effort made and						
25	the reasons for that inability:							
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5.	State the dates of the Judgment Debtor's next two (2) paydays occurring after the date of service of the Writ:			
5a	5b			
6.	Is the Judgment Debtor employed by the Garnishee currently?			
	Yes No			
6a.	If yes, the Judgment Debtor is paid: Daily Semi-Monthly Weekly Monthly Bi-weekly Other			
7.	What is the amount of the outstanding Judgment now due and owing as stated in the Writ?			
	Judgment Balance:			
8.	Is the Judgment Debtor subject to an existing Wage Assignment, Garnishment or Levy?			
	YesNo			
	If yes, give name, address and telephone number of the Judgment Creditor:			
9.	Did the Garnishee answer "yes" to either question #2 or #6?			
Heari	If yes, copies of this Answer and copies of the Notice to Judgment Debtor, Request for ing and Non-exempt Earning Statement were delivered to the Judgment Debtor on:			
	By: hand delivery;			
reach	regular first class mail to the address determined to be the best calculated t the Judgment Debtor in a timely manner;			
	service pursuant to the Rules of Civil Procedure applicable to a Summons.			
10. to the	Copies of the Answer and Non-exempt Earnings Statement were delivered on			
4050	ng & Ewing Attorneys, P.C. E. Cotton Center Blvd.			
Suite Phoe	nix, AZ 85040			
	By: hand delivery;			
reach	regular first class mail to the address determined to be the best calculated to the Judgment Creditor's attorney in a timely manner;			
	service pursuant to the Rules of Civil Procedure applicable to a Summons.			

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11. Garnishee's name, address and telephone number is (you, the employer, are the garnishee):

12. I have read the foregoing document and know of my own knowledge that the facts stated therein are true and correct:

WHEREFORE, Garnishee prays that Garnishee be discharged on this Answer and the Court award Garnishee reasonable compensation in the amount of \$\_\_\_\_\_.

STATE OF ARIZONA ) ) ss. COUNTY OF \_\_\_\_\_ )

. . .

Signature of Garnishee or Authorized Agent

SUBSCRIBED AND SWORN TO before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_

### NOTARY PUBLIC

My commission expires:

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Ewing & Ewing Attorneys, P.C. 4050 East Cotton Center Boulevard Suite 18 Phoenix, AZ 85040 Telephone (800) 861-5308 • Facsimile (800) 861-3811

Nelson Ewing, II #014418 Attorney for Plaintiff

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#### IN THE KYRENE JUSTICE COURT

### IN AND FOR THE COUNTY OF MARICOPA

Cavalry SPV I, LLC

Plaintiff/Judgment Creditor,

DAVID S CELAYA

V.

Defendant(s)/Judgment Debtor(s) Pyramid Entertainment, LLC Garnishee NO. CC2012-214429

SECOND NOTICE TO JUDGMENT DEBTOR OF GARNISHMENT

#### NOTICE TO JUDGMENT DEBTOR

This is your second notice that a writ of garnishment has been issued in this case. The writ is a court order requiring the garnishee to withhold a certain amount from your earning and to continue to withhold a portion of your earnings until the judgment is satisfied or the writ is quashed.

The law provides that a certain amount of each paycheck or other periodic earnings is exempt from collection by a writ of garnishment. In some cases of very low income no amount can be garnisheed except for an order for support of a person. On each payday, you will get a statement showing how much can be taken out, which is set by federal and state law. This will continue until the judgment is paid in full or the court orders the garnishee to stop.

If you believe that too much of your earnings have been withheld from your paycheck, or that no amount should have been withheld, you may request a hearing before the court. Among the reasons for requesting a hearing are:

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1. Judgment creditor does not have a valid judgment against you or the judgment has been paid in full.

- 2. Garnishee's answer is incorrect.
- Your earnings are already subject to a wit of garnishment or are subject to a court ordered assignment for payment of support.
- 4. Judgment creditor's debt is subject to an effective agreement for debt scheduling between you and a qualified debt counseling organization.

To request a hearing, deliver the request for hearing form to the clerk of this court. You must mail or deliver a copy of the request for hearing to garnishee and to judgment creditor or his attorney at the addresses on the wit of garnishment.

If you do not deliver the request for hearing form to this court within 10 days after the date you receive this notice and the answer of garnishee, your request for hearing will be denied, unless good cause for delay is shown. You must check a box or state your reasons for disputing the claim in the space provided on the form.

If you request a hearing, it will be conducted no later than 10 days after your request is received by the court. The court will send you notice of the date, time and place.

The nonexempt portion of your earnings will continue to be withheld by garnishee and delivered to judgment creditor until the judgment is paid in full, or the garnishment is ordered to stop. Whether or not you request a hearing at this time, if you believe too much money is withheld from your earnings pursuant to this garnishment at sometime in the future, you will have the same opportunity to request a hearing at that time.

## WARNING: IF YOU WANT A HEARING NOW, YOU MUST FILE A HEARING REQUEST WITHIN 10 DAYS FROM THE DATE YOU RECEIVED THIS NOTICE.

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Ewing & Ewing Attorneys, P.C. 4050 East Cotton Center Boulevard Suite 18 Phoenix, AZ 85040 Telephone (800) 861-5308 • Facsimile (800) 861-3811

Nelson Ewing, II #014418 Attorney for Plaintiff

#### IN THE KYRENE JUSTICE COURT

#### IN AND FOR THE COUNTY OF MARICOPA

Cavalry SPV I, LLC

Plaintiff/Judgment Creditor,

v. DAVID S CELAYA

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Defendant(s)/Judgment Debtor(s) Pyramid Entertainment, LLC Garnishee

#### NO. CC2012-214429

2<sup>nd</sup> REQUEST FOR HEARING ON GARNISHMENT OF EARNINGS

#### I REQUEST A HEARING BECAUSE:

If you believe that the amount of your non-exempt earnings has been incorrectly calculated for this pay period or that no amount should have been withheld because the Garnishment or underlying Judgment is invalid, satisfied or superseded, you may request a hearing within ten (10) days after receiving the attached Non-exempt Earnings Statement by completing this request for Hearing and delivering it to the Court. Deliver a copy of your Request for Hearings to the Judgment Creditor and the Garnishee.

- 1. \_\_\_\_\_ The Judgment Creditor does not have a valid Judgment against me.
- 2. \_\_\_\_\_ The Judgment has been paid in full.
- 3. \_\_\_\_\_ The debt of the Judgment Creditor is subject to an effective agreement for debt scheduling between me and a qualified consumer credit counseling service.
- 4. \_\_\_\_\_ My earnings are already subject to a Writ of Garnishment or court order for payment of support.

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7	The Non-exempt Earnings Statement is incorrectly filled out.						
7.	On my normal payday I received no earnings (paycheck).						
8.	My employer has not delivered to me the Notice to Judgment Debtor, answer of Garnishee (Employer) and Request for hearing forms within ten (10) days.						
9.	A copy of the Non-exempt Earnings Statements did not accompany my paycheck.						
10.	Other:						
Nam	e of Judgment Debtor (Print)	Signature of Judgment Debtor					
Date		Mailing Address					
		City, State, Zip Code					
		Telephone Number					
Nam	e of Judgment Debtor (Print)	Signature of Judgment Debtor					
Date		Mailing Address					
		City, State, Zip Code					
		Telephone Number					

WARNING: YOU WAIVE YOUR RIGHT TO A HEARING ON THE MONIES WITHHELD IN THIS PAY PERIOD UNLESS YOU FILE THIS REQUEST FOR HEARING WITHIN TEN (10) DAYS AFTER RECEIVING THE GARNISHEE'S ANSWER OR SHOW GOOD CAUSE FOR FILING THE REQUEST LATE. ه . اف الم

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EZ Messenger 2502 N. BLACK CANYON HIGHWAY PHOENIX, AZ 85009 602.258.8081 Fax#: 602.258.8864

In The KYRENE JUSTICE COURT State of ARIZONA, County of MARICOPA

Affidavit of Attempted Service

Case No.: CC2012214429RC

CAVALRY SPV I, LLC Vs. DAVID S. CELAYA

Judge:

STATE OF ARIZONA MARICOPA COUNTY

The Affiant, being sworn, states; That I am a private process server registered in MARICOPA COUNTY and an officer of the court. On 09/17/2013 I received (2) WRIT OF GARNISHMENT OF EARNINGS AND SUMMONS: STIPULATED JUDGMENT; (2) INSTRUCTIONS TO GARNISHEE; (4) ANSWER OF GARNISHEE; (2) SECOND NOTICE TO JUDGMENT DEBTOR OF GARNISHMENT; (2) SECOND REQUEST FOR HEARING ON GARNISHMENT OF EARNINGS; (4) NON-EXEMPT EARNINGS STATEMENT; (4) REQUEST FOR HEARING HEARING from EWING & EWING, P.C. (ARIZONA) and by Nelson Ewing II. In each instance I personally attempted to serve a copy of each document listed above upon PYRAMID ENTERTAINMENT, LLC, by service upon its Statuory Agent, DAVID CELAYA. The following are my attempts to deliver said documents:

Date	Time	Results
09/19/2013 Thursday	7:40 AM	1128 W. ELNA RAE STREET , Tempe, AZ 85281 THERE WAS NO ANSWER AT THE PROPERTY. THERE WAS A VEHICLE PRESENT WITH THE PLATE NUMBER 534VNL.
09/21/2013 Saturday	1:29 PM	1128 W. ELNA RAE STREET , Tempe, AZ 85281 THERE WAS NO ANSWER AT THE PROPERTY. THE SAME VEHICLE WAS PRESENT WITH THE PLATE NUMBER 534VNL.
09/23/2013 Monday	7:55 PM	1128 W. ELNA RAE STREET , Tempe, AZ 85281 THERE WAS NO ANSWER AT THE PROPERTY. THERE WAS A DIFFERENT VEHICLE PRESENT WITH THE PLATE NUMBER 4NP379. THERE WAS ALSO A LIGHT ON IN THE WINDOW NEXT TO THE FRONT DOOR.
09/24/2013 Tuesday	7:50 AM	1128 W. ELNA RAE STREET, Tempe, AZ 85281 THERE WAS NO ANSWER AT THE PROPERTY. THE SAME TRUCK FROM LAST NIGHT WAS PRESENT WITH THE PLATE NUMBER 4NP379. THERE WAS ALSO NO ANSWR AT 1134.
09/25/2013 Wednesday	12:33 PM	1128 W. ELNA RAE STREET , Tempe, AZ 85281 THERE WAS NO ANSWER AT THE PROPERTY.THERE WAS A VEHICLE IN THE DRIVE WITH THE PLATE NUMBER 534VNL.
09/25/2013 Wednesday	5:18 PM	1128 W. ELNA RAE STREET, Tempe, AZ 85281 PROBLEM. SUMMARY REPORT- SERVICE WAS ATTEMPTED AT THE ADDRESS PROVIDED THERE WAS NO CONTACT MADE ON ANY ATTEMPT. THERE WERE LIGHTS ON ON THE NIGHT ATTEMPT. THERE WAS A ROTATION OF 2 CARS AS DETAILED IN THE PREVIOUS ATTEMPTS. THE PLATE NUMBERS ARE (4NP379) (534-VML). THERE WAS NO ANSWER AT THE NEIGHBOR AT 1134. THIS IS THE ONLY ADDRESS LISTED ON THE CORPORATION COMMISSION FOR SERVICE. THE EZ DATABASE SHOWS NO MATCHES. THE 411.COM SHOWS A POSSIBLE NUMBER OF 480-967-6513. THE COLES DOES NOT HAVE A LISTING. THE COUNTY ASSESSOR SHOWS JANET AND PAUL POTTS. WE MAY NEED TO SERVE THE CORPORATION COMMISSION.

Military Status: NA Marriage Status: NA SERVICE <sup>\$ 52.00</sup>

# **TOTAL:** \$ 52.00

Client Ref: 17288636 Client: EWING & EWING, P.C. (ARIZONA)

CLIENT COPY

<u>/S/ JIM ORTMAN</u> JIM ORTMAN Sworn to before me 10/18/2013

Affiant

<u>/S/ JENNIFER GOMEZ</u> JENNIFER GOMEZ Commission expires:05/31/2014

User Id: PGRAHAM Invoice No.: 4323687 ATTN: (CASH CUSTOMER)	RE0 1300	RATIONS DIV CORDS SECTI West Washi Arizona 8	ION Ington 35007-29:	29 Check Batch: Invoice Date: Date Received: Customer No.:	
Quantity Description					Amount
1 SERVICE OF PR L-1353536-1 PY		ERTAINMENT	LLC		\$25.00
			Total	Documents: \$	25.00
PAYME	CHECK NT	0175			\$25.00
			B	alance Due: \$	0.00

#### Corporate Maintenance

State of Arizona Public Access System 10/21/2013 2:15 PM File Number: L-1353536-1 Corp. Name: PYRAMID ENTERTAINMENT LLC Second Address Domestic Address % DAVID CELAYA 1128 W ELNA RAE TEMPE, AZ 85281 Domicile: ARIZONA Agent: DAVID CELAYA Status: APPOINTED 03/22/2007 County: MARICOPA Corporation Type: DOMESTIC L.L.C. Mailing Address: Life Period: PERPETUAL 1128 W ELNA RAE Incorporation Date: 03/22/2007 Approval Date: 03/26/2007 TEMPE, AZ 85281 Last A/R Received: / Agent Last Updated: 03/26/2007 Date A/R Entered: Next Report Due: Business Type:

RECORD(S) SUCCESSFULLY UPDATED. (A066)

ERNA (Morr