

1 Robert L. Brace, SBN 122240  
 Peter L. Candy, SBN 149976  
 2 **HOLLISTER & BRACE**  
 P.O. Box 630  
 3 Santa Barbara, CA 93102  
 Telephone: (805) 963-6711  
 4 Facsimile: (805) 965-0329  
 Email: rlbrace@hbsb.com  
 5 Email: pcandy@hbsb.com  
 6 *Attorneys for Defendant, Counter-Claimants*  
 7 *and Cross-Claimants, Samuel W. Henka, and*  
*the Class*

Andrew B. Downs, SBN 111435  
 Peter Roldan, SBN 22067  
**BULLIVANT HOUSER BAILEY PC**  
 601 California Street  
 Suite 1800  
 San Francisco, CA 94108-2823  
 Telephone: (415) 352-2700  
 Facsimile: (415) 352-2701  
 Email: andy.downs@bullivant.com  
 Email: peter.roldan@bullivant.com  
*Attorneys for Plaintiff and Counter-Defendant*  
*United States Fire Insurance Company*

8 Patric J. Kelly, SBN 71461  
 Edward C. McDonald, SBN 118672  
 9 **ADLESON HESS & KELLY, APC**  
 577 Salmar Avenue, Second Floor  
 Campbell, CA 95008  
 Telephone: (405) 341-0234  
 10 Facsimile: (408) 341-0250  
 Email: pjkelly@ahk-law.com  
 11 E-mail: emcdonald@ahk-law.com  
 12 *Attorneys for Cross-Defendants, LPH, LLC,*  
 13 *Lincoln Park Clybourn 1900, LLC, and 1135*  
 14 *West Armitage, LLC*



2/22/2010

15 **UNITED STATES DISTRICT COURT**  
 16 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN JOSE DIVISION**

18 UNITED STATES FIRE INSURANCE  
 COMPANY, a corporation,  
 19  
 Plaintiff,  
 20 vs.  
 21 VESTA STRATEGIES, LLC, a limited liability  
 company; SAMUEL W. HENKA, an individual,  
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 Defendants.  
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 24 SAMUEL W. HENKA, et al,  
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 Counter-Claimants,  
 26 vs.  
 27 UNITED STATES FIRE INSURANCE  
 COMPANY, a corporation.  
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 Counter-Defendants.

Case No.: C0902388 JW PVT

**STIPULATION RE EXTENSION  
 OF TIME TO PROVIDE RULE 26  
 INITIAL DISCLOSURES**

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SAMUEL W. HENKA, et al.,  
  
Cross-Claimants,  
  
vs.  
  
VESTA STRATEGIES, LLC, a limited liability  
company, et al.,  
  
Cross-Defendants.

Pursuant to Fed. R. Civ. P. 26(a)(1)(C), it is hereby stipulated by and among the parties who have appeared and filed answers to date, through counsel identified above, that the dates previously agreed upon by the parties for providing Initial Disclosures (January 22, 2010 and February 11, 2010)<sup>1</sup> shall be extended to a new date of February 26, 2010. This extension is needed because the Receiver appointed to act on behalf of defendants Vesta Strategies, LLC and Excalibur 1031 Group, LLC only recently gained access to the business records of these entities,<sup>2</sup> and the parties require additional time to review and assimilate the records made available to the Receiver for purposes of determining how the information affects their respective cases, i.e. the witnesses, documents, damages and insurance they intend to provide in their Initial Disclosures.

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<sup>1</sup> The parties agreed on an Initial Disclosure deadline of January 22, 2010 for all parties who answered before December 14, 2009, and a deadline of 60 days after answering for all parties who answered after October 30, 2009. As such, Initial Disclosures from the Henka Parties and United States Fire Insurance Company are due on January 22, 2010, and Initial Disclosures from LPH, LLC, Lincoln Park Clybourn 1900, LLC and 1135 West Armitage, LLC are due on February 11, 2010.

<sup>2</sup> In August 2008, the business records of Vesta Strategies, LLC and Excalibur 1031 Group, LLC were seized pursuant to search warrant by the Santa Clara County District Attorneys Office. These records are currently being held by the FBI, San Jose division, as evidence in the related criminal action pending against defendants John Terzakis and Robert Estupinian, the owners of Vesta and Excalibur (Case No. CR 09-01212 JF, United States District Court for the Northern District of California). The FBI made these records available to the Receiver as recently as Tuesday January 19, 2010. This was three days prior to the parties' Initial Disclosure deadline of January 22, 2010.

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**HOLLISTER & BRACE**

Dated: January 22, 2010

By /s/ Peter L. Candy  
Peter L. Candy, Esq., SBN. 149976  
*Attorneys for Defendant, Counter-Claimants and  
Cross-Claimants, SAMUEL W. HENKA, and the  
Class*

**BULLIVANT HOUSER BAILEY PC**

Dated: January 22, 2010

By /s/ Andrew B. Downs (via e-mail auth. PLC)  
Andrew B. Downs, SBN 111435  
*Attorneys for Plaintiff and Counter-Defendant  
United States Fire Insurance Company*

**ADLESON, HESS & KELLY, APC**

Dated: January 22, 2010

By /s/ Patrick J. Kelly (via e-mail auth. PLC)  
Patric J. Kelly, Esq., SBN 71461  
*Attorneys for Cross-Defendants LPH, LLC,  
Lincoln Park Clybourn 1900, LLC, and 1135  
West Armitage, LLC*