



MELICK, PORTER & SHEA, LLP
COUNSELLORS AT LAW

Alexandra R. Power
(617) 502-9622
FAX: (617) 502-9722
apower@melicklaw.com

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RICHARD J. SHEA
ROBERT P. POWERS
JOHN F. ROONEY, III *(CT, DC & NH)
WILLIAM D. CHAPMAN
MICHAEL J. MAZURCZAK *(NY & WI)
ROBERT T. TREAT
WILLIAM L. KEVILLE, JR.
ANDRE A. SANSOUCY
ROBERT R. HAMEL, JR.
JENNIFER B. HARDY
DONNA M. MARCIN
VINCENT P. DUNN *(NH)
JOHN J. REARDON
MAUREEN E. LANE *(NH)
ADAM M. GUTTIN *(RI)
T. DOS URBANSKI *(RI)
MEGAN E. KURES
JESSICA M. FARRELLY *(FL)
MATTHEW GRYGORCEWICZ
DEBRA I. LERNER *(DC & TX)
ALEXANDRA POWER
ERIN J.M. ALARCON *(NH)
J. PAUL VANCE, JR. (CT ONLY)
NICOLE L. COOK *(NH)
RAYMOND H. TOMLINSON, JR.
JOHN A. CALETRI *(RI)
CINDY PEAN
SHANNON M. MCQUEENEY *(NY)
PATRICK D. BANFIELD *(RI & CT)
SEEMA A. LYNCH
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W. PRESCOTT GOLDING, JR. *(ME)
KATHRYN M. AUGER
ROBERT S. LUDLUM *(NY & CT)
DOUGLAS F. HARTMAN
LISA WICHTER *(NY)
MICHAEL G. WINTERS
JONATHAN M. WHITE
LEONARD D. ZAMANSKY *(NH)

VIA HAND DELIVERY

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street
Suite 100
Boston, MA 02114-2023

Re: *In the Matter of: NRT New England LLC and Coldwell Banker Real Estate Services, LLC.,*
Docket No. TSCA-01-2008-0107

OF COUNSEL
THOMAS W. PORTER, JR.

Dear Ms. Santiago:

Enclosed with regard to the above captioned matter, please find the following:

1. RESPONDENTS' ANSWER TO COMPLAINT

If you have any questions please feel free to contact me. Thank you for your anticipated courtesy and cooperation.

Very truly yours,

Alexandra R. Power

Richard J. Shea
Alexandra R. Power

*ALSO ADMITTED

28 STATE STREET
BOSTON, MA 02109
(617) 523-6200
FAX (617) 523-8130

4 COURT STREET, SUITE 222,
PLYMOUTH, MA 02360
(508) 746-2282
FAX: (877) MPS-1322

49 WEYBOSSET STREET
PROVIDENCE, RI 02903
(401) 941-0909
FAX (401) 941-6269

65 BANK STREET
WATERBURY, CT 06702
(203) 596-0500
FAX (203) 596-0040

MELICKLAW.COM

ARP/lk
Enclosure
cc: William D. Chin, Esq. (via hand delivery)

FIRST DEFENSE

I. STATEMENT OF AUTHORITY

1. Paragraph 1 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 1 consists of legal argument and conclusions of law that require no answer. To the extent that Paragraph 1 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs.

II. NATURE OF THE ACTION

2. Paragraph 2 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 2 consists of legal argument and conclusions of law that require no answer. To the extent that Paragraph 2 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs.

III. STATUTORY AND REGULATORY BACKGROUND

3. Paragraph 3 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 3 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 3 alleges facts, they are denied.

4. Paragraph 4 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 4 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 4 alleges facts, they are denied.

5. Paragraph 5 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 5 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 5 alleges facts, they are denied.

6. Paragraph 6 (a) – (e) purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 6 (a) – (e) consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 6 (a) – (e) alleges fact, they are denied.

7. Paragraph 7 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 7 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 7 alleges facts, they are denied.

8. Paragraph 8 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 8 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 8 alleges facts, they are denied.

9. Paragraph 9 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 9 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 9 alleges facts, they are denied.

10. Paragraph 10 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 10 consists of legal argument and conclusions of law that require no answer. To the extent that Paragraph 10 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

IV. GENERAL ALLEGATIONS

11. NRT NE denies the allegations as phrased in Paragraph 11 of the Complaint. NRT NE states that NRT New England Incorporated d/b/a Coldwell Banker Residential Brokerage, at all relevant times hereto: (1) was a corporation established under the laws of the State of Delaware with a place of business located at Reservoir Place, 1601 Trapelo Road, Waltham, Massachusetts; and (2) did business in Massachusetts, New Hampshire, Rhode Island, Maine and Connecticut.

12. CBRES denies the allegations as phrased in Paragraph 12 of the Complaint. CBRES states that Coldwell Banker Real Estate Services, Inc. d/b/a Coldwell Banker Residential Brokerage, at all relevant times hereto: (1) was a corporation established under the laws of the State of New Jersey with a place of business located at 51-53 Kenosia Avenue, Danbury, Connecticut; and (2) did business in Connecticut and New York.

13. Paragraph 13 purports to characterize documents that speak for themselves and requires no response. Further, Paragraph 13 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 13 alleges facts, they are denied.

14. Paragraph 14 consists of legal argument and conclusions of law that require no answer; however, to the extent that facts are alleged, CBRES states that various Seller(s) and/or Lessor(s) enlisted the services of CBRES as a Listing Agent for the properties referenced in Paragraphs 15-16 of the Complaint. With respect to the remaining allegations, CBRES is presently without knowledge or information sufficient to form a belief as to the truth of the allegations and call upon the Complainant to prove the same.

15. Paragraph 15 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 15 consists of legal argument and conclusions of law that require no answer; however, to the extent that facts are alleged, CBRES states that various Seller(s) enlisted the services of CBRES as a Listing Agent for the properties referenced in Paragraph 15 of the Complaint.

16. Paragraph 16 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 16 consists of legal argument and conclusions of law that require no answer; however, to the extent facts are alleged, CBRES states that various Seller(s) and/or Lessor(s) enlisted the services of CBRES as a Listing Agent for the properties referenced in Paragraph 16 of the Complaint.

17. Paragraph 17 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 17 consists of legal argument and conclusions of law that require no answer; however, to the extent facts are alleged, NRT NE states that various Seller(s) and/or

Lessor(s) enlisted the services of NRT NE as a Listing Agent for the properties referenced in Paragraph 18-22 of the Complaint. With respect to the remaining allegations, NRT NE is presently without knowledge or information sufficient to form a belief as to the truth of the allegations and call upon the Complainant to prove the same

18. Paragraph 18 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 18 consists of legal argument and conclusions of law that requires no answer; however, to the extent facts are alleged, NRT NE states that the Seller enlisted the services of NRT NE as a Listing Agent for the property referenced in Paragraph 18 of the Complaint.

19. Paragraph 19 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 19 consists of legal argument and conclusions of law that requires no answer; however, to the extent facts are alleged, NRT NE states that various Seller(s) and/or Lessor(s) enlisted the services of NRT NE as a Listing Agent for the properties referenced in Paragraph 19 of the Complaint.

20. Paragraph 20 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 20 consists of legal argument and conclusions of law that requires no answer; however, to the extent facts are alleged, NRT NE states that various Seller(s) enlisted the services of NRT NE as a Listing Agent for the properties referenced in Paragraph 20 of the Complaint.

21. Paragraph 21 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 21 consists of legal argument and conclusions of law that requires no answer; however, to the extent facts are alleged, NRT NE states that various Seller(s) enlisted the services of NRT NE as a Listing Agent for the properties referenced in Paragraph 21 of the Complaint.

22. Paragraph 22 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 22 consists of legal argument and conclusions of law that requires no answer; however, to the extent facts are alleged, NRT NE states that the Seller(s) enlisted the services of NRT NE as a Listing Agent for the property referenced in Paragraph 22 of the Complaint.

23. Paragraph 23 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 23 consists of legal argument and conclusions of law that requires no answer; however, to the extent facts are alleged, the Respondents are presently without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 23 and call upon the Complainant to prove the same.

24. Paragraph 24 purports to characterize a document that speaks for itself and requires no answer; however, to the extent facts are alleged, the Respondents state that EPA Region 1 visited the Lincoln Office in 2004.

25. Paragraph 25 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 25 consists of legal argument and conclusions of law that require no response; however, to the extent facts are alleged, the Respondents admit receipt of a Subpoena from EPA Region 1 in November of 2005.

26. Paragraph 26 purports to characterize a document that speaks for itself and requires no answer. To the extent facts are alleged, NRT NE admits that it responded to the referenced Subpoena in February of 2006.

27. Paragraph 27 purports to characterize documents that speak for themselves and requires no answer; however, to the extent facts are alleged, NRT NE denies the allegations as phrased. NRT NE further states that counsel for NRT NE provided additional information to EPA's Region 1 by correspondence dated March 23, 2007.

28. Paragraph 28 purports to characterize a document that speaks for itself and requires no answer; however, to the extent facts are alleged, NRT NE denies the allegations as phrased in Paragraph 28 of the complaint.

29. Paragraph 29 purports to characterize documents that speak for themselves and requires no answer; however, to the extent facts are alleged, NRT NE denies the allegations as phrased. NRT NE further states that counsel for NRT NE provided additional information to EPA's Region 1 by correspondence dated May 18, 2007.

30. Paragraph 30 purports to characterize a document that speaks for itself and requires no answer; however, to the extent facts are alleged, the Respondents are presently without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 30 and call upon the Complainant to prove the same.

31. Paragraph 31 purports to characterize a document that speaks for itself and requires no answer; however, to the extent facts are alleged, the Respondents are presently without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 31 and call upon the Complainant to prove the same.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

V. VIOLATIONS

32. The Respondents are presently without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 32 and call upon the Complainant to prove the same.

COUNT 1 - FAILURE TO PROVIDE LEAD HAZARD INFORMATION PAMPHLET

33. The Respondents incorporate herein by reference their answers to paragraphs 1 through 32 and make them their answer to paragraph 33 of Count 1.

34. Paragraph 34 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 34 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 34 alleges facts, they are denied.

35. Paragraph 35 purports to characterize documents that speak for themselves and require no answer. Further, Paragraph 35 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 35 alleges facts, they are denied.

36. CBRES denies the allegations contained in Paragraph 36 of the Complaint.

37. NRT NE denies the allegations contained in Paragraph 37 of the Complaint.

38. Paragraph 38 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 38 alleges facts, they are denied.

39. Paragraph 39 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 39 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

COUNT 2 - FAILURE TO INCLUDE LEAD WARNING STATEMENT

40. The Respondents incorporate herein by reference their answers to paragraphs 1 through 39 and make them their answer to paragraph 40 of Count 2.

41. Paragraph 41 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 41 consists of legal argument and conclusions of law that requires no answer. To the extent Paragraph 41 alleges facts, they are denied.

42. Paragraph 42 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 42 consists of legal argument and conclusions of law that requires no answer. To the extent Paragraph 42 alleges facts, they are denied.

43. Paragraph 43 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 43 consists of legal argument and conclusions of law that requires no answer. To the extent Paragraph 43 alleges fact, they are denied.

44. CBRES denies the allegations contained in Paragraph 44 of the Complaint.

45. NRT NE denies the allegations contained in Paragraph 45 of the Complaint.

46. NRT NE denies the allegations contained in Paragraph 46 of the Complaint.

47. Paragraph 47 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 47 alleges facts, they are denied.

48. Paragraph 48 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 48 alleges facts, they are denied.

49. Paragraph 49 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 49 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

**COUNT 3 - FAILURE TO INCLUDE DISCLOSURE STATEMENT REGARDING
LEAD-BASED PAINT/HAZARDS**

50. The Respondents incorporate herein by reference their answers to paragraphs 1 through 49 and make them their answer to paragraph 50 of Count 3.

51. Paragraph 51 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 51 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 51 alleges facts, they are denied.

52. Paragraph 52 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 52 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 52 alleges facts, they are denied.

53. Paragraph 53 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 53 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 53 alleges facts, they are denied.

54. CBRES denies the allegations contained in Paragraph 54 of the Complaint.

55. CBRES denies the allegations contained in Paragraph 55 of the Complaint.

56. NRT NE denies the allegations contained in Paragraph 56 of the Complaint.

57. Paragraph 57 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 57 alleges facts, they are denied.

58. Paragraph 58 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 58 alleges facts, they are denied.

59. Paragraph 59 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 59 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

**COUNT 4 - FAILURE TO INCLUDE LIST OF OR DISCLOSURE STATEMENT
REGARDING REPORTS OF LEAD-BASED PAINT/HAZARDS**

60. The Respondents incorporate herein by reference their answers to paragraphs 1 through 59 and make them their answer to paragraph 60 of Count 4.

61. Paragraph 61 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 61 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 61 alleges facts, they are denied.

62. Paragraph 62 purports to characterize a document that speaks for itself and requires no answer. Further, Paragraph 62 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 62 alleges facts, they are denied.

63. Paragraph 63 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 63 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 63 alleges facts, they are denied.

64. CBRES denies the allegations contained in Paragraph 64 of the Complaint.

65. NRT NE denies the allegations contained in Paragraph 65 of the Complaint.

66. NRT NE denies the allegations contained in Paragraph 66 of the Complaint.

67. Paragraph 67 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 67 alleges facts, they are denied.

68. Paragraph 68 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 68 alleges facts, they are denied.

69. Paragraph 69 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 69 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

COUNT 5 - FAILURE TO INCLUDE ACKNOWLEDGMENT OF RECEIPT OF INFORMATION

70. The Respondents incorporate herein by reference their answers to paragraphs 1 through 69 and make them their answer to paragraph 70 of Count 5.

71. Paragraph 71 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 71 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 71 alleges facts, they are denied.

72. Paragraph 72 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 72 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 72 alleges facts, they are denied.

73. Paragraph 73 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 73 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 73 alleges facts, they are denied.

74. Paragraph 74 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 74 alleges facts, they are denied.

75. Paragraph 75 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 75 alleges facts, they are denied.

76. Paragraph 76 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 76 alleges facts, they are denied.

77. Paragraph 77 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 77 alleges facts, they are denied.

78. Paragraph 78 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 78 alleges facts, they are denied.

79. Paragraph 79 purports to characterize documents that speak for themselves and requires no answer. To the extent Paragraph 79 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

VI. PROPOSED PENALTY

80. Paragraph 80 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 80 consists of legal argument and conclusions of law which require no answer. To the extent Paragraph 80 alleges facts, they are denied.

81. Paragraph 81 (a) – (e) purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 81 (a) – (e) consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 81 (a) – (e) allege facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

VII. OPPORTUNITY TO REQUEST A HEARING AND FILE ANSWER

82. Paragraph 82 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 82 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 82 alleges facts, they are denied. The Respondents further request a Hearing on the alleged facts in the Complaint and/or the appropriateness of the proposed penalties.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs.

VIII. DEFAULT ORDER

83. Paragraph 83 purports to characterize documents that speak for themselves and requires no answer. Further, Paragraph 83 consists of legal argument and conclusions of law that require no answer. To the extent Paragraph 83 alleges facts, they are denied.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs.

IX. SETTLEMENT CONFERENCE

84. The Respondents state they have already conferred informally with Complainant and have participated in a Settlement Conference.

85. Paragraph 85 purports to characterize documents that speak for themselves and requires no answer. Further, the Respondents state they have already conferred informally with Complainant and have participated in a Settlement Conference.

WHEREFORE, the Respondents demand that the Complaint against them be dismissed and that Judgment enter for the Respondents, together with their costs. The Respondents request a Hearing on this matter.

SECOND DEFENSE

And further answering, the Respondents say that the acts complained of were not committed by a person and/or entity for whose conduct the Respondents were legally responsible.

THIRD DEFENSE

And further answering, the Respondents say that the cause of action is barred by reason of the Statute of Limitations.

FOURTH DEFENSE

And further answering, the Respondents say that the Complaint should be dismissed pursuant to Mass. R. Civ. P. 12(b)(5) for insufficient service of process.

FIFTH DEFENSE

And further answering, the Respondents say that the Complaint should be dismissed pursuant to Mass. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted.

SIXTH DEFENSE

And further answering, the Respondents say that the Complaint should be dismissed pursuant to Mass. R. Civ. P. 12(b)(6) for failure to state a claim upon which relief can be granted, insofar as the Complainant has failed to give notice of any claim as required by law, and the Respondents were thereby prejudiced, wherefore the Complainant is barred from recovery.

SEVENTH DEFENSE

And further answering, the Respondents say that to the extent that they had any obligations, such obligations have been fully, completely and properly performed in every respect.

EIGHTH DEFENSE

And further answering, the Respondents say that no notice of the alleged breaches was given as required by law, and the Respondents were thereby prejudiced.

NINTH DEFENSE

And further answering, the Respondents say that if the Complainant proves that the Respondents were involved in any of the transactions alleged in the Complainant's complaint, the Respondents acted in good faith at all times with respect to those transactions, and the Complainant is therefore barred from recovery.

TENTH DEFENSE

And further answering, the Respondents say that the Complaint should be dismissed pursuant to Mass. R. Civ. P. 12(b)(8), insofar as the respondent, Coldwell Banker Residential Brokerage, has been misnamed.

ELEVENTH DEFENSE

And further answering, the Complainant's claims to relief are barred under the doctrine of estoppel.

TWELFTH DEFENSE

And further answering, the Respondents' actions and conduct were lawful, justified and privileged.

Attorneys for Respondents,

**NRT NEW ENGLAND LLC d/b/a
COLDWELL BANKER REAL
ESTATE BROKERAGE AND
COLDWELL BANKER REAL
ESTATE SERVICES LLC D/B/A
COLDWELL BANKER REAL
ESTATE BROKERAGE**

By their attorneys,



Richard J. Shea, BBO: #456310

Alexandra R. Power, BBO: #646877

Melick, Porter & Shea, LLP

28 State Street, 22nd Floor

Boston, Massachusetts 02109

Telephone: (617) 523-6200

Facsimile: (617) 523-8130

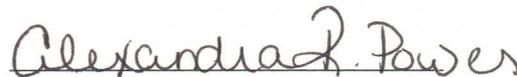
Dated: 1/26/09

CERTIFICATE OF SERVICE

I, Alexandra R. Power, hereby certify that on this day, I forwarded notice of the foregoing document(s) by mailing a copy thereof, postage prepaid to the following:

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
One Congress Street
Suite 100
Boston, MA 02114-2023

William Chin
Enforcement Counsel
U.S. EPA, Region I
One Congress Street
Suite 110
Boston, MA 02114-2023


Alexandra R. Power

Dated: 1/26/09