

**CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 1**

**NRS 207.420(1)**

The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense charged in Count 1, the State of Nevada will seek forfeiture of property, namely \$886,800.00, pursuant to NRS 207.420(1), which provides for the forfeiture of real or personal property derived from, realized through, or used or intended for use in the course of an unlawful act that constitutes a violation of NRS 207.400.

In the event that any of the above-described forfeitable property:

- (a) Cannot be located;
- (b) Has been sold to a purchaser in good faith for value;
- (c) Has been placed beyond the jurisdiction of the court;
- (d) Has been substantially diminished in value by the conduct of the defendant;
- (e) Has been commingled with other property which cannot be divided without difficulty or undue injury to innocent persons; or
- (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek forfeiture of other property of the defendants, including but not limited to real property located at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is unreachable.

**CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 2**

**NRS 179.1219(1)**

The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense charged in Count 2, the State of Nevada will seek forfeiture of property, namely \$70,000, pursuant to NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized through, or used or intended for use in the course of an unlawful act that constitutes a technological crime under NRS 205A.030.

In the event that any of the above-described forfeitable property:

- (a) Cannot be located;
- (b) Has been sold to a purchaser in good faith for value;

Electronically Filed  
Sep 10 2019 07:34 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

- 1 (c) Has been placed beyond the jurisdiction of the court;
- 2 (d) Has been substantially diminished in value by the conduct of the defendant;
- 3 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 4 injury to innocent persons; or
- 5 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 6 forfeiture of other property of the defendants, including but not limited to real property located at
- 7 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 8 unreachable.

9 **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 3**  
10 **NRS 179.1219(1)**

11 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense

12 charged in Count 3, the State of Nevada will seek forfeiture of property, namely \$75,000, pursuant to

13 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized

14 through, or used or intended for use in the course of an unlawful act that constitutes a technological

15 crime under NRS 205A.030.

16 In the event that any of the above-described forfeitable property:

- 17 (a) Cannot be located;
- 18 (b) Has been sold to a purchaser in good faith for value;
- 19 (c) Has been placed beyond the jurisdiction of the court;
- 20 (d) Has been substantially diminished in value by the conduct of the defendant;
- 21 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 22 injury to innocent persons; or
- 23 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 24 forfeiture of other property of the defendants, including but not limited to real property located
- 25 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 26 unreachable.

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1                                    **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 4**  
2                                    **NRS 179.1219(1)**

3            The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
4 charged in Count 4, the State of Nevada will seek forfeiture of property, namely \$37,000, pursuant to  
5 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
6 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
7 crime under NRS 205A.030.

8            In the event that any of the above-described forfeitable property:

- 9            (a) Cannot be located;  
10           (b) Has been sold to a purchaser in good faith for value;  
11           (c) Has been placed beyond the jurisdiction of the court;  
12           (d) Has been substantially diminished in value by the conduct of the defendant;  
13           (e) Has been commingled with other property which cannot be divided without difficulty or undue  
14           injury to innocent persons; or  
15           (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek  
16           forfeiture of other property of the defendants, including but not limited to real property located  
17           at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is  
18           unreachable.

19                                    **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 5**  
20                                    **NRS 179.1219(1)**

21           The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
22 charged in Count 5, the State of Nevada will seek forfeiture of property, namely \$57,500, pursuant to  
23 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
24 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
25 crime under NRS 205A.030.

26           In the event that any of the above-described forfeitable property:

- 27           (a) Cannot be located;  
28           (b) Has been sold to a purchaser in good faith for value;

- 1 (c) Has been placed beyond the jurisdiction of the court;
- 2 (d) Has been substantially diminished in value by the conduct of the defendant;
- 3 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 4 injury to innocent persons; or
- 5 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 6 forfeiture of other property of the defendants, including but not limited to real property located
- 7 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 8 unreachable.

9 **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 6**  
10 **NRS 179.1219(1)**

11 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense

12 charged in Count 6, the State of Nevada will seek forfeiture of property, namely \$98,000, pursuant to

13 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized

14 through, or used or intended for use in the course of an unlawful act that constitutes a technological

15 crime under NRS 205A.030.

16 In the event that any of the above-described forfeitable property:

- 17 (a) Cannot be located;
- 18 (b) Has been sold to a purchaser in good faith for value;
- 19 (c) Has been placed beyond the jurisdiction of the court;
- 20 (d) Has been substantially diminished in value by the conduct of the defendant;
- 21 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 22 injury to innocent persons; or
- 23 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 24 forfeiture of other property of the defendants, including but not limited to real property located
- 25 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 26 unreachable.

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1                                   **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 7**

2                                   **NRS 179.1219(1)**

3           The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
4 charged in Count 7, the State of Nevada will seek forfeiture of property, namely \$90,300, pursuant to  
5 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
6 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
7 crime under NRS 205A.030.

8           In the event that any of the above-described forfeitable property:

- 9           (a) Cannot be located;  
10           (b) Has been sold to a purchaser in good faith for value;  
11           (c) Has been placed beyond the jurisdiction of the court;  
12           (d) Has been substantially diminished in value by the conduct of the defendant;  
13           (e) Has been commingled with other property which cannot be divided without difficulty or undue  
14           injury to innocent persons; or  
15           (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek  
16           forfeiture of other property of the defendants, including but not limited to real property located  
17           at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is  
18           unreachable.

19                                   **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 8**

20                                   **NRS 179.1219(1)**

21           The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
22 charged in Count 8, the State of Nevada will seek forfeiture of property, namely \$85,000, pursuant to  
23 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
24 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
25 crime under NRS 205A.030.

26           In the event that any of the above-described forfeitable property:

- 27           (a) Cannot be located;  
28

- 1 (b) Has been sold to a purchaser in good faith for value;
- 2 (c) Has been placed beyond the jurisdiction of the court;
- 3 (d) Has been substantially diminished in value by the conduct of the defendant;
- 4 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 5 injury to innocent persons; or
- 6 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 7 forfeiture of other property of the defendants, including but not limited to real property located
- 8 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 9 unreachable.

10 **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 9**

11 **NRS 179.1219(1)**

12 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense

13 charged in Count 9, the State of Nevada will seek forfeiture of property, namely \$50,000, pursuant to

14 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized

15 through, or used or intended for use in the course of an unlawful act that constitutes a technological

16 crime under NRS 205A.030.

17 In the event that any of the above-described forfeitable property:

- 18 (a) Cannot be located;
- 19 (b) Has been sold to a purchaser in good faith for value;
- 20 (c) Has been placed beyond the jurisdiction of the court;
- 21 (d) Has been substantially diminished in value by the conduct of the defendant;
- 22 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 23 injury to innocent persons; or
- 24 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 25 forfeiture of other property of the defendants, including but not limited to real property located at
- 26 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 27 unreachable.
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**CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 10**

**NRS 179.1219(1)**

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2 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
3 charged in Count 10, the State of Nevada will seek forfeiture of property, namely \$90,000, pursuant to  
4 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
5 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
6 crime under NRS 205A.030.

7 In the event that any of the above-described forfeitable property:

- 8 (a) Cannot be located;  
9 (b) Has been sold to a purchaser in good faith for value;  
10 (c) Has been placed beyond the jurisdiction of the court;  
11 (d) Has been substantially diminished in value by the conduct of the defendant;  
12 (e) Has been commingled with other property which cannot be divided without difficulty or undue  
13 injury to innocent persons; or  
14 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek  
15 forfeiture of other property of the defendants, including but not limited to real property located  
16 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is  
17 unreachable.

18 **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 11**

19 **NRS 179.1219(1)**

20 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
21 charged in Count 11, the State of Nevada will seek forfeiture of property, namely \$115,000, pursuant to  
22 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
23 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
24 crime under NRS 205A.030.

25 In the event that any of the above-described forfeitable property:

- 26 (a) Cannot be located;  
27 (b) Has been sold to a purchaser in good faith for value;  
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- 1 (c) Has been placed beyond the jurisdiction of the court;
- 2 (d) Has been substantially diminished in value by the conduct of the defendant;
- 3 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 4 injury to innocent persons; or
- 5 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 6 forfeiture of other property of the defendants, including but not limited to real property located
- 7 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 8 unreachable.

9 **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 12**

10 **NRS 179.1219(1)**

11 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense

12 charged in Count 12, the State of Nevada will seek forfeiture of property, namely \$25,000, pursuant to

13 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized

14 through, or used or intended for use in the course of an unlawful act that constitutes a technological

15 crime under NRS 205A.030.

16 In the event that any of the above-described forfeitable property:

- 17 (a) Cannot be located;
- 18 (b) Has been sold to a purchaser in good faith for value;
- 19 (c) Has been placed beyond the jurisdiction of the court;
- 20 (d) Has been substantially diminished in value by the conduct of the defendant;
- 21 (e) Has been commingled with other property which cannot be divided without difficulty or undue
- 22 injury to innocent persons; or
- 23 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek
- 24 forfeiture of other property of the defendants, including but not limited to real property located
- 25 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is
- 26 unreachable.

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1 **CRIMINAL FORFEITURE ALLEGATION AS TO COUNT 13**

2 **NRS 179.1219(1)**

3 The State of Nevada hereby gives notice to the defendants that, upon their conviction of the offense  
4 charged in Count 13, the State of Nevada will seek forfeiture of property, namely \$53,500, pursuant to  
5 NRS 179.1219(1), which provides for the forfeiture of real or personal property derived from, realized  
6 through, or used or intended for use in the course of an unlawful act that constitutes a technological  
7 crime under NRS 205A.030.

8 In the event that any of the above-described forfeitable property:

9 (a) Cannot be located;

10 (b) Has been sold to a purchaser in good faith for value;

11 (c) Has been placed beyond the jurisdiction of the court;

12 (d) Has been substantially diminished in value by the conduct of the defendant;

13 (e) Has been commingled with other property which cannot be divided without difficulty or undue  
14 injury to innocent persons; or

15 (f) Is otherwise unreachable without undue injury to other persons, the State of Nevada will seek  
16 forfeiture of other property of the defendants, including but not limited to real property located  
17 at 1024 Santa Helena Avenue, Henderson, Nevada, up to the value of the property that is  
18 unreachable.

19 All of which is contrary to the form, force and effect of the statutes in such cases made and  
20 provided, and against the peace and dignity of the state of Nevada.

21 The Complainant requests a Summons be issued at this time pursuant to NRS 171.106.

22 DATED this 20<sup>th</sup> day of December, 2016.

23 SUBMITTED BY

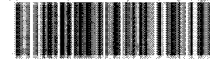
24 ADAM PAUL LAXALT  
25 Attorney General

26 By: Michael C. Kovac  
27 Michael C. Kovac (Bar. No. 11177)  
28 Senior Deputy Attorney General  
Attorneys for the State of Nevada

Justice Court, Las Vegas Township  
Clark County, Nevada

Court Minutes

Department: 07



L007620138

**16F19220B State of Nevada vs. LEAL, JACK**

Lead Atty: Jason G. Weiner

**2/7/2017 8:00:00 AM Negotiations (No bail posted)**

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney Kallas, Chelsea Weiner, Jason G.

**Judge:** Bennett-Haron, Karen P.

**Court Reporter:** O'Neill, Jennifer

**Court Clerk:** Meccia, Cherie

**PROCEEDINGS**

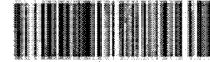
**Hearings:** 3/7/2017 8:00:00 AM: Negotiations Added

**Events:** **Motion to Continue - Defense**  
*for negotiations - Motion granted*  
**Continued For Negotiations**

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 07

**Court Minutes**



L007730414

**16F19220B State of Nevada vs. LEAL, JACK**

Lead Atty: Jason G. Weiner

**3/7/2017 8:00:00 AM Negotiations (No bail posted)**

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney LoGrippto, Frank Weiner, Jason G.

**Judge:** Bennett-Haron, Karen P.

**Court Reporter:** O'Neill, Jennifer

**Court Clerk:** Meccia, Cherie

**PROCEEDINGS**

**Hearings:** 4/4/2017 8:00:00 AM: Negotiations Added

**Events:** Continued by Stipulation of Counsel

**Stipulation**

*filed in open court*

**Continued For Negotiations**

**Notify**

Review Date: 3/8/2017

*Attorney General/clm via email*

AB + C Defs.  
Requesting 2 weeks  
Lead AG in hospital

702-671-0606  
Kristi

1 JASON G. WEINER, ESQ.  
Nevada Bar Number 7555  
2 WEINER LAW GROUP, LLC.  
2820 W. Charleston Blvd., Suite D35  
3 Las Vegas, Nevada 89102  
Tel. No. (702) 202-0500  
4 Fax No. (702) 202-4999  
Attorney for Defendant  
5 JESSICA GARCIA

FILED IN OPEN  
COURT ON  
MAR 07 2017  
C. Mecca  
Court Clerk

6 JUSTICE COURT, LAS VEGAS TOWNSHIP  
7 \*\*\*  
8 COUNTY OF CLARK, STATE OF NEVADA

9 THE STATE OF NEVADA,	CASE NO. 16F19220C
10 Plaintiff,	
11 vs.	DEPT. 7
12 JESSICA GARCIA,	
13 Defendant.	

WEINER LAW GROUP, LLC  
2820 W. Charleston Blvd #D35  
Las Vegas, Nevada 89102  
Tel: (702) 202-0500 Fax: (702) 202-4999

14 STIPULATION AND ORDER TO CONTINUE

15 Plaintiff, by and through its attorney, Deputy Attorney General, MICHAEL C. KOVAC  
16 ESQ., and Defendant JESSICA GARCIA, by and through her attorney, JASON G. WEINER,  
17 ESQ., of the law firm of WEINER LAW GROUP, LLC., hereby stipulate that the negotiations  
18 hearing in the above entitled case, currently scheduled for March 7, 2017, at 08:00 a.m., be  
19 vacated and continued to a date most convenient to the calendar of this Honorable Court,  
20 considering that counsel for the Plaintiff will be temporarily unavailable during that period of  
21 time. DATED this \_\_\_\_ day of March, 2017.

22 WEINER LAW GROUP, LLC.  
23  
24  
25  
26 JASON G. WEINER, ESQ.  
Nevada State Bar No. 7555  
27 2820 W. Charleston Blvd., Suite D35  
Las Vegas, Nevada 89102  
Attorney for the Defendant  
28 JESSICA GARCIA

OFFICE OF THE DISTRICT ATTORNEY  
  
Chelsea Kalkas for  
MICHAEL C. KOVAK, ESQ.  
Deputy Attorney General  
Nevada State Bar No. 11177  
555 E. Washington Ave., #3900  
Las Vegas, Nevada 89101  
Attorney for the Plaintiff





1 STATE OF NEVADA vs. JESSICA GARCIA Case No. 16F19220C

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**ORDER**

Upon the foregoing Stipulation of Counsel, both counsel being under the obligation not to continue the proceedings for the purpose of delay, IT IS THEREFORE ORDERED that the sentencing in the above matter previously scheduled on March 7, 2017 at 08:00 a.m., is vacated and re-scheduled to April 4, 2017 at 8:00 a.m./p.m.

Dated this 7th day of March, 2017.

*Karen Bennett Haron*

DISTRICT COURT JUDGE

*Justice*

WEINER LAW GROUP, LLC  
2820 W. Charleston Blvd. #05  
Las Vegas, Nevada 89102  
Tel (702) 202-6500 Fax (702) 202-8819

**HP LaserJet 400 MFP M425dn**

**Fax Activity Log**

Mar-6-2017 12:50PM

Date	Time	Type	Identification	Duration	Pages	Result
1/18/2017	9:47:51AM	Receive	7023690247	0:42	2	OK
1/18/2017	1:37:54PM	Receive		0:50	6	OK
1/19/2017	12:21:53PM	Send	7028281543	0:44	2	OK
1/19/2017	1:36:03PM	Receive	0000000000	0:57	2	OK
1/19/2017	11:31:57PM	Receive	17024468357	0:38	1	OK
1/20/2017	9:12:21AM	Receive		0:20	1	OK
1/20/2017	2:56:00PM	Receive		0:32	2	OK
1/23/2017	8:55:55AM	Receive		0:41	4	OK
1/23/2017	8:57:10AM	Receive	(866) 219-1263	0:46	1	OK
1/23/2017	5:41:45PM	Receive	17028520984	15:29	6	Comm Error 232
1/23/2017	5:59:36PM	Receive	17028520984	1:18	2	OK
1/24/2017	1:19:19PM	Send	7028281543	0:47	2	OK
1/24/2017	1:55:58PM	Receive	7028281543	0:56	2	OK
1/24/2017	4:33:49PM	Receive		2:34	5	OK
1/26/2017	11:48:28AM	Receive		1:25	4	OK
1/30/2017	7:03:29AM	Receive	7024728854	0:30	1	OK
1/30/2017	12:03:56PM	Receive		0:39	3	OK
2/ 1/2017	10:00:54AM	Receive	702 492 2178	1:27	4	OK
2/ 2/2017	1:36:36PM	Send	7024552294,702455627	0:46	2	OK
2/10/2017	1:10:47PM	Receive		2:52	1	OK
2/14/2017	1:11:23PM	Receive		0:48	1	OK
2/14/2017	2:39:24PM	Receive	702 565 5246	1:16	2	OK
2/14/2017	9:30:32PM	Receive		0:24	1	Comm Error 283
2/14/2017	9:36:02PM	Receive		3:14	5	OK
2/15/2017	11:45:57AM	Receive	7023849961	0:43	7	OK
2/16/2017	9:52:04AM	Receive		0:48	1	OK
2/16/2017	10:24:51AM	Receive		0:30	1	OK
2/16/2017	4:47:36PM	Receive	17024428301	1:55	4	OK
2/17/2017	12:23:54PM	Receive		1:09	2	OK
2/23/2017	3:15:08PM	Receive		9:11	8	OK
2/24/2017	10:06:38AM	Send	7023617607	1:14	1	OK
2/27/2017	9:41:04AM	Receive		1:58	3	OK
2/27/2017	10:22:30AM	Receive	1 702 382 1836	0:28	1	OK
2/28/2017	11:57:34AM	Receive		0:19	1	OK
2/28/2017	6:10:35PM	Receive	7024468363	0:56	2	OK
3/ 1/2017	10:33:18AM	Receive		0:32	1	OK
3/ 2/2017	9:12:08AM	Receive	917-534-6271	0:24	1	OK
3/ 2/2017	9:18:11AM	Receive	917-534-6271	0:18	1	OK
3/ 2/2017	4:45:50PM	Receive		0:25	2	OK
3/ 6/2017	12:50:14PM	Receive	7024860660	0:31	2	OK

**Justice Court, Las Vegas Township  
Clark County, Nevada**

Department: 07

**Court Minutes**



L007828103

**16F19220B State of Nevada vs. LEAL, JACK**

Lead Atty: Jason G. Weiner

**4/4/2017 8:00:00 AM Negotiations (No bail posted)**

Result: Matter Heard

**PARTIES PRESENT:** State Of Nevada Attorney Kovac, Michael  
Weiner, Jason G.

**Judge:** Bennett-Haron, Karen P.

**Court Reporter:** O'Neill, Jennifer

**Court Clerk:** Meccia, Cherie

**PROCEEDINGS**

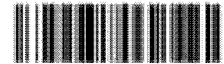
**Hearings:** 4/11/2017 8:00:00 AM: Status Check Added

**Events:** **Motion to Continue - Defense**  
*to file a corrected Waiver - motion granted*

Justice Court, Las Vegas Township  
Clark County, Nevada

Department: 07

Court Minutes



L007854931

16F19220B State of Nevada vs. LEAL, JACK

Lead Atty: Jason G. Weiner

4/11/2017 8:00:00 AM Status Check (No bail posted)

Result: Bound Over

PARTIES PRESENT: State Of Nevada Attorney Kovac, Michael Weiner, Jason G.

Judge: Bennett-Haron, Karen P.

Court Reporter: Ott, Shawn

Court Clerk: Meccia, Cherie

PROCEEDINGS

Events: Waiver

*of Unconditional Bindover filed in open court*

**Unconditional Bind Over to District Court**

Review Date: 4/12/2017

*Defendant unconditionally waives right to Preliminary Hearing. Defendant Bound Over to District Court as Charged. Defendant to Appear in the Lower Level Arraignment Courtroom A.*

**Case Closed - Bound Over**

**District Court Appearance Date Set**

*Apr 20 2017 10:00AM: No bail posted*

Plea/Disp: 001: Racketeering [53190]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

002: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

003: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

004: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

005: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

006: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

007: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

008: Theft, \$3500+ [55991]

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

Las Vegas Justice Court: Department 07

LVJC\_RW\_Criminal\_MinuteOrderByEv APPELLANT'S APPENDIX

691670153:33 PM

**Justice Court, Las Vegas Township  
Clark County, Nevada**

**009: Theft, \$3500+ [55991]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**010: Theft, \$3500+ [55991]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**011: Theft, \$3500+ [55991]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**012: Theft, \$3500+ [55991]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**013: Theft, \$3500+ [55991]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

**014: Fraud/deceit in course of enterprise/occup [55110]**

Disposition: Waiver of Preliminary Hearing - Bound Over to District Court

---

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

\*\*\*\*\*

FILED

2016 NOV 29 P 3:30

THE STATE OF NEVADA,  
Plaintiff  
  
VS  
  
JACK LEAL  
Defendant

CASE NO: 16F19220B  
DEPT NO: JC Department 7

JUSTICE COURT  
CLARK COUNTY, NEVADA  
JSM

SUMMONS

THE STATE OF NEVADA TO:  
JACK LEAL  
1421 North Jones Boulevard, #116  
Las Vegas, NV 89108

YOU ARE HEREBY SUMMONED TO APPEAR before me at the Las Vegas Township Justice Court, 200 E Lewis Ave, Las Vegas, Nevada on the following date and time:

**27th day of December, 2016 at 7:30 AM in RJC Courtroom 8A**  
(Verify the courtroom location by viewing the courthouse monitors upon arrival)

Your appearance is required to answer the charge(s) of:

COUNT:	CC:	NRS:	CHARGE:
001	0030051191	207.400	Racketeering [53190]
002	0030051191	205.0835.4	Theft, \$3500+ [55991]
003	0030051191	205.0835.4	Theft, \$3500+ [55991]
004	0030051191	205.0835.4	Theft, \$3500+ [55991]
005	0030051191	205.0835.4	Theft, \$3500+ [55991]
006	0030051191	205.0835.4	Theft, \$3500+ [55991]
007	0030051191	205.0835.4	Theft, \$3500+ [55991]
008	0030051191	205.0835.4	Theft, \$3500+ [55991]
009	0030051191	205.0835.4	Theft, \$3500+ [55991]
010	0030051191	205.0835.4	Theft, \$3500+ [55991]
011	0030051191	205.0835.4	Theft, \$3500+ [55991]
012	0030051191	205.0835.4	Theft, \$3500+ [55991]
013	0030051191	205.0835.4	Theft, \$3500+ [55991]
014	0030051191	205.377	Fraud/deceit in course of enterprise/occup [55110]

16F19220B  
SM1  
Summons Issued  
7330516

Summons JC7



APPELLANT'S APPENDIX

Revised on December 10, 2012

71 of 153

CC: Attorney

Dated this 29th day of November, 2016



---

KAREN BENNETT-HARON  
JUSTICE OF THE PEACE

**CERTIFICATE OF MAILING**

I hereby certify that service of the SUMMONS was made this 29th day of November, 2016 by depositing a copy in the U.S. Mail, postage prepaid, to the above referenced address.

BY 

FILED

2016 NOV 29 P 3 3

ADAM PAUL LAXALT  
Attorney General  
LAS VEGAS, NEVADA



WESLEY K. DUNCAN  
First Assistant Attorney General

NICHOLAS A. TRUTANICH  
First Assistant Attorney General

STATE OF NEVADA  
OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900  
Las Vegas, Nevada 89101

November 23, 2016

**REQUEST FOR SUMMONS AND  
FILE-STAMPED COPIES**

Clerk of the Court  
Las Vegas Justice Court  
200 Lewis Avenue  
Las Vegas, Nevada 89155

**Re: State of Nevada v. Parcelnomics, Jack Leal, Jessica Garcia**  
**Case No. 16F19220A/B/C**

Dear Clerk:

This is to request that Summonses be issued in the above-referenced matter addressed to:

**Jessica Garcia, Resident Agent**  
**Parcelnomics**  
3157 N. Rainbow Blvd. #248  
Las Vegas, NV 89108

**Jessica Garcia**  
**c/o Michael D. Pariente, Esq.**  
3960 Howard Hughes Parkway, Suite  
615  
Las Vegas, NV 89169

**Jack Leal**  
**c/o Michael D. Pariente, Esq.**  
3960 Howard Hughes Parkway, Suite  
615  
Las Vegas, NV 89169

**Jack Leal**  
1421 North Jones Boulevard, #116  
Las Vegas, NV 89108

**Jessica Garcia**  
2915 N. Jones Blvd.  
Las Vegas, NV 89108

Please forward the Summons and certificate of service to Marsha Landreth, Legal Secretary II, at [mlandreth@ag.nv.gov](mailto:mlandreth@ag.nv.gov) and Julie Fox-McCullough, Supervising Legal Secretary, at [jfox@ag.nv.gov](mailto:jfox@ag.nv.gov).

In addition, please file-stamp the attached copies of the Complaint and return to the Office of the Attorney General along with a copy of this cover sheet.

16F19220A  
RSUMM  
Request for Summons  
7330668



Telephone: 702-486-3420 • Fax: 702-486-3768 • Web: [ag.nv.gov](http://ag.nv.gov) • E-mail: [ag@ag.nv.gov](mailto:ag@ag.nv.gov)  
Twitter: @NevadaAG • Facebook: /NVAAttorneyGeneral • YouTube: /NevadaAG



Clerk, LV Justice Court  
Page 2  
November 23, 2016

Please contact me at (702) 486-3305 if you have any questions or need any additional information.

Sincerely,



Marsha Landreth  
Legal Secretary II

JUSTICE COURT, LAS VEGAS TOWNSHIP  
CLARK COUNTY, NEVADA

\*\*\*\*\*

FILED

THE STATE OF NEVADA,  
Plaintiff

VS

JACK LEAL

Defendant

CASE NO: 16F192208

DEPT NO: JC Department 7

SUMMONS

2016 NOV 29 P 3 30

JUSTICE COURT  
LAS VEGAS, NEVADA, <sup>31A</sup>

DEPUTY

THE STATE OF NEVADA TO:  
JACK LEAL  
1421 North Jones Boulevard, #116  
Las Vegas, NV 89108

**RETURNED SUMMONS**

YOU ARE HEREBY SUMMONED TO APPEAR before me at the Las Vegas Township Justice Court, 200 E Lewis Ave, Las Vegas, Nevada on the following date and time:

**27th day of December, 2016 at 7:30 AM in RJC Courtroom 8A**  
(Verify the courtroom location by viewing the courthouse monitors upon arrival)

Your appearance is required to answer the charge(s) of:

COUNT:	CC:	NRS:	CHARGE:
001	0030051191	207.400	Racketeering [53190]
002	0030051191	205.0835.4	Theft, \$3500+ [55991]
003	0030051191	205.0835.4	Theft, \$3500+ [55991]
004	0030051191	205.0835.4	Theft, \$3500+ [55991]
005	0030051191	205.0835.4	Theft, \$3500+ [55991]
006	0030051191	205.0835.4	Theft, \$3500+ [55991]
007	0030051191	205.0835.4	Theft, \$3500+ [55991]
008	0030051191	205.0835.4	Theft, \$3500+ [55991]
009	0030051191	205.0835.4	Theft, \$3500+ [55991]
010	0030051191	205.0835.4	Theft, \$3500+ [55991]
011	0030051191	205.0835.4	Theft, \$3500+ [55991]
012	0030051191	205.0835.4	Theft, \$3500+ [55991]
013	0030051191	205.0835.4	Theft, \$3500+ [55991]
014	0030051191	205.377	Fraud/deceit in course of enterprise/occup [55110]

16F192208  
SUMR  
Summons Returned  
7393188

Summons JC7




APPELLANT'S APPENDIX

Revised on December 10, 2012

75 of 153

CC: Attorney

Dated this 29th day of November, 2016



---

KAREN BENNETT-HARON  
JUSTICE OF THE PEACE

**CERTIFICATE OF MAILING**

I hereby certify that service of the SUMMONS was made this 29th day of November, 2016 by depositing a copy in the U.S. Mail, postage prepaid, to the above referenced address.

BY: \_\_\_\_\_





# Las Vegas Justice Court

Regional Justice Center  
200 Lewis Avenue 2nd Fl. P.O. Box 552511 Las Vegas NV 89155-2511  
(702) 671-3116 Fax (702) 671-3183  
<http://www.lasvegasjusticecourt.us/>

FILED

DEC 19 10 28 AM '16

JUSTICE AND  
CLERK  
LAS VEGAS, NEVADA  
AMC

## NOTICE OF CONFIRMATION OF COUNSEL

### ATTENTION JC CRIMINAL DIVISION:

This notice shall serve as Confirmation of Counsel on the case listed below

### CASE INFORMATION:

JUSTICE COURT CASE NUMBER: <b>16F19220B</b>		DEFENDANT'S ID NUMBER	
DEFENDANT'S FIRST NAME <b>JACK</b>	MIDDLE INITIAL:	LAST NAME <b>LEAL</b>	

### ATTORNEY OF RECORD INFORMATION:

NAME OF ATTORNEY: <b>JASON G. WEINER, ESQ.</b>		BAR NUMBER: <b>7555</b>
ADDRESS: <b>2820 W. CHARLESTON BLVD., SUITE 35, LAS VEGAS, NEVADA 89102</b>		
PHONE NUMBER: <b>7022020500</b>	E-MAIL ADDRESS: <b>JWEINER@WEINERLAWNEVADA.COM</b>	

This Notice of Confirmation may be submitted to the court via E-mail sent to the address below:

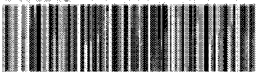
**E-Mail: [lvicounselconfirmation@clarkcountynv.gov](mailto:lvicounselconfirmation@clarkcountynv.gov)**

### Alternative methods:

**Fax To: (702) 671-3183**

**Mail To: Attn: Counsel Confirmation  
Las Vegas Justice Court  
200 Lewis Avenue, 2<sup>nd</sup> Floor  
P.O. Box 552511  
Las Vegas, NV 89155-2511**

16F19220B  
ACOM  
Notice of Confirmation of Counsel  
2411613



APPELLANT'S APPENDIX

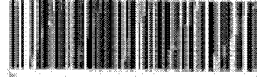
78 of 153

LAS VEGAS JUSTICE COURT  
FILED IN OPEN COURT

APR 11 2017  
BY C. Mercurio  
CLERK

1 JASON G. WEINER, ESQ.  
2 Nevada Bar. No. 7555  
3 WEINER LAW GROUP.  
4 2820 W. Charleston Blvd; Ste 35  
5 Las Vegas, Nevada, 89102  
6 Telephone: (702) 202-0500  
7 Attorneys for Defendant

16F19220B  
WAIV  
Waiver  
7884828



8 JUSTICE COURT, LAS VEGAS TOWNSHIP  
9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,

11 Plaintiff,

12 vs.

13 JACK LEAL,

14 Defendant.

Case No. 16F19220B

Dept. No. 7

15 UNCONDITIONAL WAIVER OF PRELIMINARY HEARING

16 I, JACK LEAL, knowingly and voluntarily enter an unconditional waiver of my Preliminary  
17 Hearing in the above-entitled case.

18 I, JACK LEAL, enter this unconditional waiver as this matter has been negotiated. I have  
19 agreed to plead Guilty to one (1) count of Multiple Transactions involving Fraud, a category B  
20 Felony, in violation of NRS 205.377. The State has agreed to recommend a sentence of probation,  
21 not exceed five (5) years, with an underlying 36-90 months imprisonment. Additionally full  
22 restitution, in the amount of \$757,420.00 must be made to the named victims jointly and severally  
23 with co-defendant Garcia.

24 I understand that I may either follow through with any negotiations or I may choose to reject  
25 said offers and proceed to trial, but I will not return to Justice Court for a Preliminary Hearing  
26 under any circumstances.  
27  
28

WEINER LAW GROUP, LLC  
2820 W. Charleston Blvd. #35  
Las Vegas, Nevada 89102  
Tel: (702) 202-0500 Fax: (702) 202-4999

WEINER LAW GROUP, LLC  
2820 W. Charleston Blvd., #335  
Las Vegas, Nevada 89102  
Tel: (702) 202-0500 Fax: (702) 202-4899

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I, JACK LEAL, further understand that I am waiving my rights as follows:


1. Preliminary Hearing before the Court;
2. Right to cross examine witnesses;
3. Right to compulsory service of process to subpoena witnesses on my behalf;
4. Right to testify or not testify on my behalf at a Preliminary Hearing;
5. That I have been offered no awards, immunities or promises, other than in the plea

bargain, and acknowledge that no one is in a position to forecast the sentence to be imposed by the District Court.

I, JACK LEAL, understand that the maximum penalty which may be imposed by this Court is that I may be imprisoned in the Nevada Department of Corrections for a period of not less than one year and not more than twenty years; I further understand that I am eligible for probation should the Court so approve.

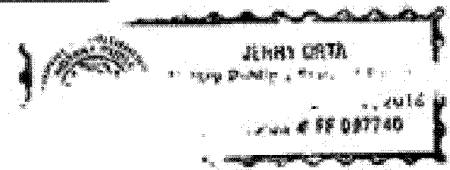
I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4-10-2017  
(Date)

  
JESSICA GARCIA  
Jack Leal

ACKNOWLEDGMENT

Florida  
STATE OF NEVADA }  
COUNTY OF ~~CLARK~~ } ss.  
Orange

  
JERRY ORTA  
Notary Public - State of Florida  
My Comm. Expires Mar 2, 2018  
Commission # FF 097740

On the 10 day of April, 2017, personally appeared before me, a Notary Public in and for the said County and State, Defendant, who acknowledged to me that the foregoing Unconditional Waiver of Preliminary Hearing was executed freely and voluntarily and for the uses and purposes therein stated.

  
JERRY ORTA  
Notary Public - State of Florida  
My Comm. Expires Mar 2, 2018  
  
Notary Public

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RECEIPT OF COPY

RECEIPT OF COPY of the above and foregoing Unconditional Waiver of Preliminary Hearing is hereby acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

Office of the Clark County District Attorney

By: \_\_\_\_\_

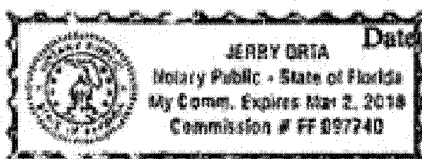
WEINER LAW GROUP, LLC  
2620 W. Charleston Blvd., #315  
Las Vegas, Nevada 89102  
Tel: (702) 202-0500 Fax: (702) 302-4990



**CONFLICT-OF-INTEREST WAIVER**

I, Jack Leal, am a defendant in the case of *State of Nevada v. Jack Leal, Case Number 16F19220B*. I acknowledge that attorney Jason G. Weiner, Esq. of the Weiner Law Group, LLC, will be representing both myself and my co-defendant in the above-stated case. I understand that this dual-representation may result in a conflict-of-interest wherein my attorney will be precluded from taking certain actions, including actions that would be beneficial to my individual case, because he is obligated to protect both my interests and the interests of my co-defendant simultaneously. This possibility has been fully and completely explained to me by my attorney who has additionally provided a copy of NRPC 1.7 (attached) which delineates his responsibilities.


In spite of the known risk, I hereby knowingly, intelligently, and voluntarily consent to dual representation wherein attorney Jason G. Weiner, Esq. of the Weiner Law Group will represent both me and my co-defendant in the above-stated case and I do hereby waive any right to later file an appeal or claim ineffective assistance of counsel based on a conflict-of-interest arising out of this dual representation.



Dated this 10<sup>th</sup> day of April, 2017

  
SIGNATURE

SUBSCRIBED AND SWORN TO  
before me this 10 day of April, 2017.

  
NOTARY PUBLIC

**Rule 1.7. Conflict of Interest: Current Clients.**

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) The representation of one client will be directly adverse to another client; or

(2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) The representation is not prohibited by law;

(3) The representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) Each affected client gives informed consent, confirmed in writing.

  
Initial

April 20, 2017 10:00 AM Initial Arraignment

HEARD BY: Henry, Jennifer COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

**PARTIES**

PRESENT: Kovac, Michael C. Attorney for the State  
Leal, Jack Defendant  
State of Nevada Plaintiff  
Weiner, Jason G. Attorney for the Defendant

**JOURNAL ENTRIES**

- At the request of counsel, COURT ORDERED, matter CONTINUED.

NIC

4/24/17 10:00 AM ARRAIGNMENT CONTINUED (LLA)

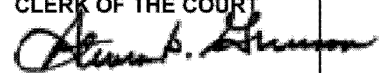
PRINT DATE: 05/01/2017

Page 1 of 1

Minutes Date: April 20, 2017

**APPELLANT'S APPENDIX**

**84 of 153**



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DISTRICT COURT

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CLARK COUNTY, NEVADA

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8

THE STATE OF NEVADA,

)

CASE NO. C-17-322664-2

9

Plaintiff,

)

DEPT. XVII

10

vs.

)

(ARRAIGNMENT HELD IN DEPT. LLA)

11

JACK LEAL,

)

12

)

13

Defendant.

)

14

)

15

BEFORE THE HONORABLE JENNIFER L. HENRY, HEARING MASTER

16

THURSDAY, APRIL 20, 2017

17

**RECORDER'S TRANSCRIPT OF HEARING RE:  
INITIAL ARRAIGNMENT**

18

19

APPEARANCES:

20

For the State:

MICHAEL KOVAC, ESQ.,

Senior Deputy Attorney General

21

22

For the Defendant:

JASON WEINER, ESQ.,

Attorney at Law

23

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RECORDED BY: KIARA SCHMIDT, COURT RECORDER

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THURSDAY, APRIL 20, 2017

\* \* \* \* \*

P R O C E E D I N G S

THE CLERK: Page 14, Jack Leal, C322664-2. Page 15, Jessica Garcia, C322664-3.

THE COURT: Okay. And can I get the --

MR. KOVAC: Good morning. Michael Kovac for the Attorney General's office.

THE COURT: Thank you.

MR. WEINER: And we're just going to ask to continue this to Monday either -- probably the afternoon calendar would probably be simpler.

THE COURT: Okay. And are you representing both co-defendants?

MR. WEINER: Yes, your Honor. Conflict waivers were filed in Justice Court at the waiver --

THE COURT: Okay. So you did waive conflicts and he's okay representing both of you?

THE DEFENDANT: Yes.

THE COURT: Okay. And, counsel, any objection to a Monday continuance?

MR. KOVAC: No, that's fine, your Honor.

THE COURT: You said you wanted a one o'clock setting?

1 MR. WEINER: Yeah, probably just to make sure I'm  
2 not caught up in District Court upstairs.

3 THE COURT: Okay. One o'clock setting is fine.

4 THE CLERK: That'll be --

5 THE COURT: I'm sorry. And are you okay coming  
6 back at one o'clock?

7 MR. KOVAC: Yeah, that's fine.

8 THE COURT: Okay.

9 THE CLERK: April 24<sup>th</sup>, one o'clock.


10 MR. WEINER: Thank you, your Honor.

11 THE COURT: Thank you.

12 (Whereupon, the proceedings concluded.)

13 \* \* \* \* \*

14 ATTEST: I do hereby certify that I have truly and correctly  
15 transcribed the audio/video proceedings in the above-  
entitled case to the best of my ability.

16  
17   
18 Kiara Schmidt, Court Recorder/Transcriber

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1 **GPA**  
2 **ADAM PAUL LAXALT**  
3 **Attorney General**  
4 **Michael C. Kovac Bar No. 11177**  
5 **Senior Deputy Attorney General**  
6 **Chelsea Kallas Bar No. 13902**  
7 **Deputy Attorney General**  
8 **Office of the Attorney General**  
9 **555 E. Washington Ave., Ste. 3900**  
10 **Las Vegas, Nevada 89101-1068**  
11 **P: (702) 486-3420**  
12 **F: (702) 486-2377**  
13 **mkovac@ag.nv.gov**  
14 **Attorneys for the State of Nevada**

**FILED IN OPEN COURT**  
**STEVEN D. GRIERSON**  
**CLERK OF THE COURT**

**APR 24 2017**

BY: Kristen Brown  
**KRISTEN BROWN, DEPUTY**

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

11 **STATE OF NEVADA,**  
12 **Plaintiff,**

13 **v.**

14 **JACK LEAL,**  
15 **Defendant.**

Case No.: C-17-322664-2  
Dept. No.: 17

**GUILTY PLEA AGREEMENT**

18 I hereby agree to plead guilty to: **MULTIPLE TRANSACTIONS INVOLVING FRAUD OR**  
19 **DECEIT IN THE COURSE OF AN ENTERPRISE OR OCCUPATION**, a **CATEGORY B** Felony, in  
20 violation of **NRS 205.377**, as more fully alleged in the charging document attached hereto as **Exhibit "1."**

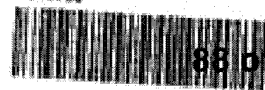
21 My decision to plead guilty is based upon the plea agreement in this case which is as follows:

22 1. I, **JACK LEAL**, will enter a plea of **GUILTY** to **MULTIPLE TRANSACTIONS**  
23 **INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE OR OCCUPATION**, in  
24 violation of **NRS 205.377**, as alleged in **Count One** of the **Criminal Information** attached hereto as **Exhibit**  
25 **"1"**;

26 2. I, **JACK LEAL**, will pay restitution to the named and unnamed victims in the total amount  
27 of seven hundred fifty-seven thousand four hundred twenty dollars (\$757,420) as follows:

28 i. \$70,000 to LoryLee Plancarte;

C-17-322664-2  
GPA  
Guilty Plea Agreement  
4843783



88 of 153

**APPELLANT'S APPENDIX**

15

- 1           ii.   \$75,000 to Edelyn Rudin;
- 2           iii.   \$37,500 to Chatty Becker;
- 3           iv.   \$57,500 to Irené Segura;
- 4           v.    \$98,620 to Lih-Ling Yang;
- 5           vi.    \$90,300 to Lina Palafox;
- 6           vii.   \$85,000 to Adilson Gibellato;
- 7           viii.   \$50,000 to Juan Eloy Ramirez;
- 8           ix.    \$115,000 to Catherine Wyngarden;
- 9           x.    \$25,000 to Shahram Bozorgnia; and
- 10          xi.    \$53,500 to Tat Lam.

11           3.    Should any of the named victims have previously recovered any of their losses, they shall  
12 not be entitled to restitution covering any such sum; instead, the portion of the restitution covering said  
13 sum shall instead be forfeited to the State of Nevada, Office of the Attorney General;

14           4.    I, JACK LEAL, shall pay the restitution in full at or before the time I am sentenced in the  
15 present case;

16           5.    I, JACK LEAL, and my co-conspirator, JESSICA GARCIA, are jointly and severally  
17 responsible for said restitution;

18           6.    Should I, JACK LEAL, pay restitution in full at or before the time I am sentenced in the  
19 present case, the State will not oppose the imposition of a term of probation not to exceed a term of five  
20 years, with a suspended 36- to-90 month term of imprisonment;

21           7.    Should I, JACK LEAL, fail to pay restitution in full at or before the time I am sentenced in  
22 the present case, the State will retain the right to argue for the imposition of a term of imprisonment;

23           8.    I, JACK LEAL, agree that the \$157,105.17 seized in relation to the present case shall be  
24 forfeited to the State of Nevada, Office of the Attorney General, with said money to be applied to my  
25 restitution requirements;

26           9.    I, JACK LEAL, will execute and file in the Clark County Recorder's Office a lien  
27 agreement and lien in favor of the State of Nevada, Office of the Attorney General, in the amount of  
28 \$600,314.83 against the home located at 1024 Santa Helena Avenue, Henderson, Nevada 89002, assessor



1 parcel number 179-33-710-056, legally described as MISSION HILLS EST AMD PLAT BOOK 17 PAGE  
2 12 LOT 223 & LOT 223A, with the proceeds of the sale of said home to be applied to my restitution  
3 requirements;

4 10. I, JACK LEAL, will pay all fees and costs imposed by the Court;

5 11. I, JACK LEAL, will submit to any and all terms and conditions imposed by the Division of  
6 Parole and Probation, if granted probation;

7 12. I understand that, pursuant to NRS 176.015(3), victims so desiring will be allowed to make  
8 impact statements; and

9 13. I understand and agree that, if I fail to interview with the Department of Parole and  
10 Probation, fail to appear at any subsequent hearings in this case, or an independent judge or magistrate, by  
11 affidavit review or other satisfactory proof, confirms probable cause against me for new criminal charges,  
12 including reckless driving or DUI, but excluding minor traffic violations, that the State will have the  
13 unqualified right to argue for any legal sentence and term of confinement allowable for the crime(s) to  
14 which I am pleading guilty, including the use of any prior convictions I may have to increase my sentence  
15 as a habitual criminal to five (5) to twenty (20) years, life without the possibility of parole, life with the  
16 possibility of parole after ten (10) years, or a definite twenty-five (25) year term with the possibility of  
17 parole after ten (10) years. Otherwise, I am entitled to receive the benefits of these negotiations as stated  
18 in the plea agreement.

19 **CONSEQUENCES OF THE PLEA**

20 I understand that by pleading guilty I admit the facts that support all the elements of the offense(s)  
21 to which I now plead as set forth in Exhibit "1."

22 I understand that as a consequence of my plea of guilty the Court must sentence me to  
23 imprisonment in the Nevada Department of Corrections for a minimum term of not less than one year and  
24 a maximum term of not more than 20 years. The minimum term of imprisonment may not exceed forty  
25 percent (40%) of the maximum term of imprisonment. I understand that I may also be fined up to \$10,000.  
26 I understand the law requires me to pay an Administrative Assessment Fee.

27 I understand that, if appropriate, I will be ordered to make restitution to the victim(s) of the  
28 offense(s) to which I am pleading guilty and to the victim(s) of any related offense(s) being dismissed or

1 not prosecuted pursuant to this agreement. I will also be ordered to reimburse the State of Nevada for any  
2 expenses related to my extradition, if any.

3 I understand that I am eligible for probation for the offense(s) to which I am pleading guilty. I  
4 further understand that, except as otherwise provided by statute, the question of whether I receive  
5 probation is in the discretion of the sentencing judge.

6 I also understand that I must submit to blood and/or saliva tests under the direction of the Division  
7 of Parole and Probation to determine genetic markers and/or secretor status.

8 I understand that if more than one sentence of imprisonment is imposed and I am eligible to serve  
9 the sentences concurrently, the sentencing judge has the discretion to order the sentences served  
10 concurrently or consecutively.

11 I understand that information regarding charges not filed, dismissed charges, or charges to be  
12 dismissed pursuant to this agreement may be considered by the judge at sentencing.

13 I have not been promised or guaranteed any particular sentence by anyone. I know that my  
14 sentence is to be determined by the Court within the limits prescribed by statute. I understand that if my  
15 attorney or the State of Nevada or both recommend any specific punishment to the Court, the Court is not  
16 obligated to accept the recommendation.

17 I understand the Division of Parole and Probation will prepare a report for the sentencing judge  
18 prior to sentencing. This report will include matters relevant to the issue of sentencing, including my  
19 criminal history. This report may contain hearsay information regarding my background and criminal  
20 history. My attorney and I will each have the opportunity to comment on the information contained in the  
21 report at the time of sentencing. Unless the Attorney General has specifically agreed otherwise, the  
22 Attorney General may also comment on this report.

23 I understand if the offense to which I am pleading guilty was committed while I was incarcerated  
24 on another charge or while I was on probation or parole that I am not eligible for credit for time served  
25 toward the instant offense(s).

26 I understand that if I am not a United States citizen, this criminal conviction will likely result in  
27 serious negative immigration consequences including but not limited to: removal from the United States  
28 through deportation; an inability to reenter the United States; the inability to gain United States citizenship

1 or legal residency; an inability to renew and/or retain any legal residency status; and/or an indeterminate  
2 term of confinement, with the United States Federal Government based on my conviction and immigration  
3 status. Regardless of what I have been told by an attorney, no one can promise me that this conviction will  
4 not result in negative immigration consequences and/or impact my ability to become a United States  
5 citizen and/or legal resident.

6 **WAIVER OF RIGHTS**

7 By entering my plea of guilty, I understand that I am waiving and forever giving up the following  
8 rights and privileges:

9 1. The constitutional privilege against self-incrimination, including the right to refuse to  
10 testify at trial, in which event the prosecution would not be allowed to comment to the jury about my  
11 refusal to testify.

12 2. The constitutional right to a speedy and public trial by an impartial jury, free of excessive  
13 pretrial publicity prejudicial to the defense, at which trial I would be entitled to the assistance of an  
14 attorney, either appointed or retained. At trial the State would bear the burden of proving beyond a  
15 reasonable doubt each element of the offense charged.

16 3. The constitutional right to confront and cross-examine any witnesses who would testify  
17 against me.

18 4. The constitutional right to subpoena witnesses to testify on my behalf.

19 5. The constitutional right to testify in my own defense.

20 6. The right to appeal the conviction, with the assistance of an attorney, either appointed or  
21 retained, unless the appeal is based upon reasonable constitutional, jurisdictional or other grounds that  
22 challenge the legality of the proceedings and except as otherwise provided in subsection 3 of NRS  
23 174.035.

24 **VOLUNTARINESS OF PLEA**

25 I have discussed the elements of all the original charges against me with my attorney and I  
26 understand the nature of the charges against me.

27 I understand the State would have to prove each element of the charges against me at trial.

28 I have discussed with my attorney any possible defenses, defense strategies and circumstances

1 which might be in my favor.

2 All of the foregoing elements, consequences, rights, and waiver of rights have been thoroughly  
3 explained to me by my attorney.

4 I believe that pleading guilty and accepting this plea bargain is in my best interest, and that a trial  
5 would be contrary to my best interest.

6 I am signing this agreement voluntarily, after consultation with my attorney, and I am not acting  
7 under duress or coercion or by virtue of any promises of leniency, except for those set forth in this  
8 agreement.

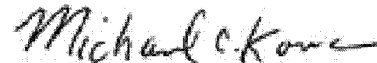
9 I am not now under the influence of any intoxicating liquor, a controlled substance or other drug  
10 which would in any manner impair my ability to comprehend or understand this agreement or the  
11 proceedings surrounding my entry of this plea.

12 My attorney has answered all my questions regarding this guilty plea agreement and its  
13 consequences to my satisfaction and I am satisfied with the services provided by my attorney.

14 DATED this 24<sup>th</sup> day of April, 2017

15  
16  
17   
JACK LEAL, Defendant

18 AGREED TO BY:

19   
20 Michael C. Kovac  
Senior Deputy Attorney General  
21  
22  
23  
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28

**CERTIFICATE OF DEFENSE COUNSEL**

1  
2 I, the undersigned, as the attorney for JACK LEAL named herein and as an officer of the court  
3 hereby certify that:

4 1. I have fully explained to JACK LEAL the allegations contained in the charges to which  
5 guilty pleas are being entered.

6 2. I have advised JACK LEAL of the penalties for each charge and the restitution that JACK  
7 LEAL may be ordered to pay.

8 3. I have inquired of JACK LEAL facts concerning JACK LEAL's immigration status and  
9 explained to JACK LEAL that if JACK LEAL is not a United States citizen any criminal conviction will  
10 most likely result in serious negative immigration consequences including but not limited to:

- 11 a. The removal from the United States through deportation;
- 12 b. An inability to reenter the United States;
- 13 c. The inability to gain United States citizenship or legal residency;
- 14 d. An inability to renew and/or retain any legal residency status; and/or
- 15 e. An indeterminate term of confinement with the United States Federal Government  
16 based on his/her conviction and immigration status.

17 Moreover, I have explained that regardless of what JACK LEAL may have been told by any  
18 attorney, no one can promise JACK LEAL that this conviction will not result in negative immigration  
19 consequences and/or impact JACK LEAL's ability to become a United States citizen and/or legal resident.

20 4. All pleas of guilty offered by JACK LEAL pursuant to this agreement are consistent with  
21 all the facts known to me, and are made with my advice to JACK LEAL and are in the best interest of

22 JACK LEAL:

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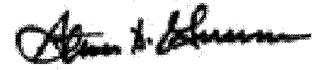
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5. To the best of my knowledge and belief JACK LEAL:
- a. Is competent and understands the charges and the consequences of pleading guilty as provided in this agreement.
  - b. Executed this agreement and will enter all guilty pleas pursuant hereto voluntarily.
  - c. Was not under the influence of intoxicating liquor, a controlled substances or other drug at the time of the execution of this agreement.

DATED this 27<sup>th</sup> day of April, 2017

  
JASON G. WEINER  
Attorney for JACK LEAL

# EXHIBIT 1

  
CLERK OF THE COURT

1 INFM  
ADAM PAUL LAXALT  
2 Attorney General  
Michael C. Kovac (Bar No. 11177)  
3 Senior Deputy Attorney General  
Chelsea Kallas Bar No. 13902  
4 Deputy Attorney General  
Office of the Attorney General  
5 555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101-1068  
6 P: (702) 486-3420  
F: (702) 486-2377  
7 mkovac@ag.nv.gov  
Attorneys for the State of Nevada

8  
9 **DISTRICT COURT**  
10 **CLARK COUNTY, NEVADA**

11  
12 STATE OF NEVADA,

13 Plaintiff,

14 v.

15 JACK LEAL, and JESSICA GARCIA

16 Defendant(s).

Case No.: C-17-322664-2

Dept. No.: 17

17  
18 **INFORMATION**

19 ADAM PAUL LAXALT, Attorney General for the State of Nevada, in the name and by the  
20 authority of the State of Nevada, informs the Court: JACK LEAL and JESSICA GARCIA have  
21 committed the crimes(s) of one (1) count of MULTIPLE TRANSACTIONS INVOLVING FRAUD OR  
22 DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION, a category "B" felony in  
23 violation of NRS 205.377.

24 All of the acts alleged herein have been committed or completed on or between about March 1,  
25 2015 and March 31, 2016, by the above-named Defendant(s), within the County of Clark, State of Nevada,  
26 in the following manner:

27 ///

28 ///



1 **COUNT 1**  
2 **MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN COURSE OF**  
3 **ENTERPRISE OR OCCUPATION**  
4 **Category "B" Felony - NRS 205.377**

5 The Defendant(s), JACK LEAL and JESSICA GARCIA, in the County of Clark, State of  
6 Nevada, did, in the course of an enterprise or occupation, knowingly and with the intent to defraud,  
7 engaged in an act, practice or course of business or employed a device, scheme or artifice which operated  
8 or would have operated as a fraud or deceit upon a person by means of a false representation or omission  
9 of a material fact that: (a) the person knew to be false or omitted; (b) the person intended another to rely  
10 on; and (c) resulted in a loss to any person who relied on the false representation or omission, in at least  
11 two transactions that had the same or similar pattern, intents, results, accomplices, victims or methods of  
12 commission, or were otherwise interrelated by distinguishing characteristics and were not isolated  
13 incidents within 4 years and in which the aggregate loss or intended loss was more than \$650, to wit:

14 On or about March 1, 2015 through March 31, 2016, in and through the course of a real estate  
15 enterprise known as PARCELNOMICS, LLC (d/b/a INVESTMENT DEALS), Defendants knowingly and  
16 with the intent to defraud, obtained thousands of dollars from LoryLee Plancarte, Edelyn Rubin, Chatty  
17 Becker, Irene Segura, Lih-Ling Yang, Lina Palafox, Juan Eloy Ramirez, Catherine Wyngarden, Shahram  
18 Bozorgnia, Tat Lam, and Adilson Gibellato by means of knowingly and falsely representing to said  
19 individuals that the titles to properties being sold to them by the defendants were not encumbered by liens  
20 or other security interests, intending that said individuals rely on said misrepresentations, and resulting in a  
21 loss of more than \$650.00.

22 All of which constitutes the crime of MULTIPLE TRANSACTIONS INVOLVING FRAUD OR  
23 DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION, a category "B" felony in  
24 violation of NRS 205.377.

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///

1 All of which is contrary to the form, force and effect of the statutes in such cases made and provided,  
2 and against the peace and dignity of the state of Nevada.

3 DATED this 18<sup>th</sup> day of April, 2017.

4 SUBMITTED BY

5 ADAM PAUL LAXALT  
6 Attorney General

7  
8 By: /s/ MICHAEL C. KOVAC  
9 Michael C. Kovac (Bar No. 11177)  
10 Senior Deputy Attorney General  
11 *Attorneys for the State of Nevada*  
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### CONFLICT-OF-INTEREST WAIVER

I, Jack Leal, am a defendant in the case of *State of Nevada v. Jack Leal*. I acknowledge that attorney Jason. G. Weiner, Esq. of the Weiner Law Group, LLC, will be representing both myself and my co-defendant in the above-stated case. I understand that this dual-representation may result in a conflict-of-interest wherein my attorney will be precluded from taking certain actions, including actions that would be beneficial to my individual case, because he is obligated to protect both my interests and the interests of my co-defendant simultaneously. This possibility has been fully and completely explained to me by my attorney who has additionally provided a copy of NRPC 1.7 (attached) which delineates his responsibilities.

Jason. G. Weiner, Esq. , has advised me of my right to consult with independent counsel to review the potential conflict of interest posed by dual representation and the consequences of waiving the right to conflict free representation. If I choose not to seek advice of independent counsel then I expressly waive my right to do so.

I hereby waive my right to withdraw my guilty plea or to a mistrial as a result of Jason. G. Weiner, Esq.'s potential or actual conflict of interest depriving me of my right to effective assistance of counsel arising from the dual representation.

I understand that joint representation presents a number of risks including: the possibility of inconsistent pleas; factually inconsistent alibis; conflicts in testimony; difference in degree of involvement in the crime; tactical admission of evidence; the calling, cross-examination. And impeachment of witnesses; strategy in final argument; and the possibility of guilt by association.

I understand that this waiver of conflict is binding throughout trial, on appeal, and in habeas proceedings.

In spite of the known risk, I hereby knowingly, intelligently, and voluntarily consent to dual representation wherein attorney Jason G. Weiner, Esq. of the Weiner Law Group will represent both me and my co-defendant in the above-stated case.

Dated this 20<sup>th</sup> day of April, 2017

  
\_\_\_\_\_  
JACK LEAL

**Rule 1.7. Conflict of Interest: Current Clients**

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) The representation of one client will be directly adverse to another client; or

(2) There is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) The representation is not prohibited by law;

(3) The representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) Each affected client gives informed consent, confirmed in writing.

  
Initial



1 Craig A. Mueller, Esq.  
Nevada Bar No. 4703  
2 Lester M. Paredes III, Esq.  
Nevada Bar No. 11236  
3 **MUELLER HINDS & ASSOCIATES, CHTD.**  
4 600 S. Eighth St.  
Las Vegas, NV 89101  
5 (702) 940-1234  
6 *Attorneys for JACK LEAL*

7 **EIGHTH JUDICIAL DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 STATE OF NEVADA, )  
 )  
10 Plaintiff, )  
 )  
11 -vs- )  
 )  
12 JACK LEAL, )  
 )  
13 Defendant. )  
14 )

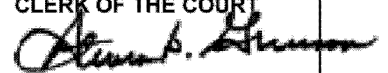
CASE NO.: C-17-322664-2  
DEPT NO: XVII

15 **APPLICATION FOR BAIL PENDING APPEAL**

16 **Exhibit A**

17 **Appendix Part 3**

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

) CASE NO. C-17-322664-2

9

Plaintiff,

) DEPT. XVII

10

vs.

) (ARRAIGNMENT HELD IN DEPT. LLA)

11

JACK LEAL,

12

13

Defendant.

14

BEFORE THE HONORABLE JENNIFER L. HENRY, HEARING MASTER

15

MONDAY, APRIL 24, 2017

16

**RECORDER'S TRANSCRIPT OF HEARING RE:  
ARRAIGNMENT CONTINUED**

17

18

APPEARANCES:

19

20

For the State:

MICHAEL KOVAC, ESQ.,  
Senior Deputy Attorney General

21

22

For the Defendant:

JASON WEINER, ESQ.,  
Attorney at Law

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RECORDED BY: KIARA SCHMIDT, COURT RECORDER

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MONDAY, APRIL 24, 2017

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P R O C E E D I N G S

THE CLERK: Jack Leal, C322664-2.

THE COURT: All right. And, counsels, can I get both of your appearances for the record?

MR. WEINER: Your Honor, Jason Weiner, Bar No. 7555, on behalf of Jack Leal.

MR. KOVAC: Good afternoon. Michael Kovac, Bar No. 11177, for the State of Nevada.

THE COURT: Thank you.

Sir, you're going to be pleading guilty to multiple transactions involving fraud or deceit in the course of an enterprise or occupation, that would be a category B felony.

You agree to pay restitution to the named and unnamed victims in the total amount of \$757,420 as follows:

That would be \$70,000 to LoryLee Plancarte; \$75,000 to Edelyn Rubin; \$37,500 to Chatty Becker; \$57,500 to Irene Segura; \$98,620 to Lih-Ling Yang; \$90,300 to Lina Palafox; \$85,000 to Adilson Gibellato; \$50,000 to Juan Eloy Ramirez; \$115,000 to Catherine Wyngardner -- Wyngarden. Sorry, Catherine Wyngarden; \$25,000 to Shahram Bozorgnia; and \$53,500 to Tat Lam.

Should the named victims have previously recovered



1 any of their losses, they should not be entitled to  
2 restitution covering any such sum, instead, the portion of  
3 the restitution covering said sum shall be forfeited to the  
4 State of Nevada, Office of the Attorney General.

5           You agree to pay restitution in full on or before  
6 the time that you're sentenced in this case, that you and  
7 your co-conspirator, Jessica Garcia, are jointly and  
8 severally responsible for the restitution, that should you  
9 pay restitution in full at or before the time you're  
10 sentenced in the present case the State will not oppose the  
11 imposition of a term of probation not to exceed five years  
12 with a suspended 36 to 90 months term of imprisonment.

13           If you fail to pay restitution in full at or before  
14 the time you are sentenced in the present case, the State  
15 will retain the right to argue for the imposition of a term  
16 of imprisonment.

17           You agree that the \$157,105.17 seized in relation  
18 to the present case shall be forfeited to the State of  
19 Nevada, Office of the Attorney General, and said money shall  
20 be applied to your restitution requirements, that you will  
21 execute and file in the Clark County Recorder's office a  
22 lien agreement and lien in favor of the State of Nevada,  
23 Office of the Attorney General, in the amount of \$600,314.83  
24 against the home located at 1024 Santa Helena Avenue,  
25 Henderson, Nevada, 89002, assessor's parcel number

1 179-33-710-065[sic].

2 MR. WEINER: 056, your Honor, 056.

3 THE COURT: Oh, I'm sorry, 056. That would be 179-  
4 33-710-056, legally described as Mission Hills EST AMD Plat  
5 Book 17 Page 12 Lot 223 & Lot 223A, with the proceeds of the  
6 sale of the home to be applied to any restitution  
7 requirements. You will pay all fees and costs imposed by  
8 the Court. You will submit to any of the terms and  
9 conditions of the Division of Parole and Probation if  
10 probation is granted, and that you understand that victims  
11 may make impact statements.

12 Is that correct, State?

13 MR. KOVAC: That's correct, your Honor.

14 THE COURT: Counsel, correct.

15 MR. WEINER: That is correct, your Honor.

16 THE COURT: I apologize. I was doing really well  
17 this morning.

18 Sir, is that your understanding of the agreement  
19 and negotiation?

20 THE DEFENDANT: Yes, it is.

21 THE COURT: So what is your true, full name?

22 THE DEFENDANT: Jack Leal.

23 THE COURT: And how old are you?

24 THE DEFENDANT: Thirty-two.

25 THE COURT: How far did you go in school?

1 THE DEFENDANT: Some college.

2 THE COURT: Okay. So do you read, write, and  
3 understand the English language?

4 THE DEFENDANT: Yes.

5 THE COURT: Are you currently taking any medication  
6 or do you have a medical condition that would cause you not  
7 to understand the terms of this guilty plea agreement or  
8 these proceedings today?

9 THE DEFENDANT: No.

10 THE COURT: Do you understand that you're being  
11 charged with multiple transactions involving fraud or deceit  
12 in the course of an enterprise or occupation, that would be  
13 a category B felony?

14 THE DEFENDANT: Yes.

15 THE COURT: And how do you plead to that, guilty or  
16 not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: Is anybody forcing you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Are you pleading guilty of your own  
21 free will?

22 THE DEFENDANT: Yes.

23 THE COURT: Do you understand as a consequence of  
24 pleading guilty this Court must sentence you to time in the  
25 Nevada Department of Corrections for a period of not less

1 than one year, not more than 20 years, fine you up to  
2 \$10,000 and have you pay an administrative assessment fee?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that this is a  
5 probationable offense?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that sentencing will  
8 be strictly up to the Court so nobody can promise you  
9 probation, leniency, or special treatment?

10 THE DEFENDANT: Yes.

11 THE COURT: Okay, sir. I do have the original  
12 guilty plea in front of me. Did you read it?

13 THE DEFENDANT: Yes.

14 THE COURT: And did you understand it?

15 THE DEFENDANT: Yes.

16 THE COURT: Was your attorney present with you to  
17 answer any questions you had on this guilty plea agreement?

18 THE DEFENDANT: Yes.

19 THE COURT: Were you satisfied with his services?

20 THE DEFENDANT: Yes.

21 THE COURT: Did you sign this agreement?

22 THE DEFENDANT: Yes.

23 THE COURT: I'm going to show you page six. Is  
24 this your signature?

25 THE DEFENDANT: Yes.

1 THE COURT: And did you sign this document freely  
2 and voluntarily?

3 THE DEFENDANT: Yes.

4 THE COURT: Do you understand that by pleading  
5 guilty you're giving up the constitutional rights that are  
6 listed in this agreement?

7 THE DEFENDANT: Yes.

8 THE COURT: Do you understand if you're not a U.S.  
9 citizen you could be deported based upon your guilty plea?

10 THE DEFENDANT: Yes.

11 THE COURT: Did you discuss your case and your  
12 rights with your attorney?

13 THE DEFENDANT: Yes.

14 THE COURT: And did you have any questions  
15 regarding those rights or this negotiation?

16 THE DEFENDANT: No.

17 THE COURT: Are you pleading guilty because on or  
18 between March the 1<sup>st</sup> of the year 2015 and March the 31<sup>st</sup> of  
19 the year 2016, in Clark County, Nevada, you and Jessica  
20 Garcia did, in the course of an enterprise or occupation,  
21 knowingly and with the intent to defraud, engage in an act,  
22 practice, or course of business, or employed a device,  
23 scheme, or artifice which operated or would have operated as  
24 a fraud or deceit upon a person by means of a false  
25 representation or omission of a material fact that, A, the

1 person knew to be false or omitted or, B, the person  
2 intended another to rely on and, C, resulted in a loss to  
3 any person who relied on the false representation or  
4 omission in at least two transactions that had the same or  
5 similar pattern, intents, results, accomplices, victims, or  
6 methods of commission, or were otherwise interrelated by  
7 distinguishing characteristics and were not isolated  
8 incidents within four years in which the aggregate loss or  
9 intended loss was more than \$650, that being, on or between  
10 March the 1<sup>st</sup> of 2015 and March the 31<sup>st</sup> of 2016 that in and  
11 through the course of a real estate enterprise known as  
12 Parcelnomics, LLC, doing business as Investment Deals, you  
13 knowingly and with the intent to defraud obtained thousands  
14 of dollars from LoryLee Plancarte, Edelyn Rubin, Chatty  
15 Becker, Irene Segura, Lih-Ling Yang, Lina Palafox, Juan  
16 Eloy Ramirez, Catherine Wyngardner -- Wyngarden, I'm sorry,  
17 Catherine Wyngarden, Shahram Bozorgnia, Tat Lam, and Adilson  
18 Gibellato, by means of knowingly and falsely representing to  
19 said individuals that the titles to properties being sold to  
20 them by you were not encumbered by liens or other security  
21 interests, intending that said individuals rely on the  
22 misrepresentations and resulting in a loss of more than  
23 \$650; is that true?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. This Court will accept your

1 plea as being freely and voluntarily entered today.

2           And, counsel, I do need you to approach and sign  
3 the certificate of counsel.

4           MR. WEINER: Yeah, that's what I was kind of  
5 leaning forward to see.

6           THE COURT: Sir, I am going to refer you to Parole  
7 and Probation for what's called a presentence investigation  
8 report. You do have 48 hours from now to report for that  
9 interview, and then you're ordered to come back for  
10 sentencing on the following date.

11           THE CLERK: August 15<sup>th</sup>, 8:30, Department 17.

12           THE COURT: And, for the record, I do have the  
13 conflict of interest waiver in front of me where Mr. Jack  
14 Leal is agreeing that Mr. Weiner can also represent the  
15 co-defendant, and that there's not a conflict of interest.  
16 Correct, sir?

17           THE DEFENDANT: Correct.

18           THE COURT: Yes. Thank you.

19           He gave me the conflict of waiver without a cover  
20 page. Can we just attach it to the GPA?

21           THE CLERK: That's what -- it should have been on  
22 both of them.

23           THE COURT: Okay.

24           MR. WEINER: And I'm sorry --

25           THE COURT: Here --

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MR. WEINER: What was the --

THE COURT: Here was his then.

MR. WEINER: In terms of the sentencing date, your Honor, I'm going to ask for the longest date we can get as part of the plea requires the house to be sold.

THE COURT: Yeah.

MR. WEINER: And if it's not sold there is a penalty to my clients in terms of the State having RTA.

THE COURT: I would agree.

THE CLERK: Okay. So now instead of the 15<sup>th</sup> you want the 17<sup>th</sup> because that's as far out as I can go.

MR. WEINER: Okay. And I'm sorry, what was that date, Madam Clerk?

THE CLERK: So it's going to be August 17<sup>th</sup>, 8:30, Department 17.

MR. WEINER: Thank you.

(Whereupon, the proceedings concluded.)

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case to the best of my ability.



\_\_\_\_\_  
Kiara Schmidt, Court Recorder/Transcriber



April 24, 2017 1:00 PM Arraignment Continued

HEARD BY: Henry, Jennifer COURTROOM: RJC Lower Level Arraignment

COURT CLERK: Kristen Brown

RECORDER: Kiara Schmidt

REPORTER:

**PARTIES**

PRESENT:	Kovac, Michael C.	Attorney for the State
	Leal, Jack	Defendant
	State of Nevada	Plaintiff
	Weiner, Jason G.	Attorney for the Defendant

**JOURNAL ENTRIES**

- NEGOTIATIONS are as contained in the Guilty Plea Agreement FILED IN OPEN COURT. DEFT. LEAL ARRAIGNED AND PLED GUILTY TO MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (F). Court ACCEPTED plea and ORDERED, matter referred to the Division of Parole and Probation (P & P) and set for SENTENCING. Court DIRECTED Deft. to report to P & P within 48 hours.

NIC

8/17/17 8:30 AM SENTENCING (DEPT. 17)

PRINT DATE: 05/03/2017

Page 1 of 1

Minutes Date: April 24, 2017

**APPELLANT'S APPENDIX**

**113 of 153**



1 NOTC  
2 ADAM PAUL LAXALT  
3 Attorney General  
4 Michael C. Kovac (Bar No. 11177)  
5 Senior Deputy Attorney General  
6 State of Nevada  
7 555 E. Washington Ave., Ste. 3900  
8 Las Vegas, NV 89101-1068  
9 P: (702) 486-5706  
10 F: (702) 486-0660  
11 MKovac@ag.nv.gov  
12 Attorneys for Plaintiff *State of Nevada*

8 EIGHTH JUDICIAL DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 THE STATE OF NEVADA,  
11 Plaintiff,  
12 vs.  
13 JACK LEAL and JESSICA GARCIA,  
14 Defendant.

Case No.: C-17-322664-2/3

Dept. No.: 17

15 **NOTICE OF INTENT TO PRESENT VICTIM IMPACT STATEMENTS**

16 The undersigned, ADAM PAUL LAXALT, Attorney General of the State of Nevada, by and  
17 through Senior Deputy Attorney General MICHAEL C. KOVAC, informs the Court, the Defendant,  
18 and counsel that the named victims in the above captioned matter, LoryLee Plancarte, Irene Segura, and  
19 Chatty Becker, will present a victim impact statement regarding this case in person or in writing at the  
20 time of sentencing.

21 DATED this 11th day of August, 2017.

22 Submitted by:  
23 ADAM PAUL LAXALT  
24 Attorney General

25 By: /s/ Michael C. Kovac  
26 MICHAEL C. KOVAC (Bar No. 11177)  
27 Senior Deputy Attorney General

Attorney General's Office  
555 E. Washington, Suite 3900  
Las Vegas, NV 89101



August 17, 2017 8:30 AM Sentencing

HEARD BY: Villani, Michael COURTROOM: RJC Courtroom 11A

COURT CLERK: Olivia Black

RECORDER: Cynthia Georgilas

**PARTIES**

**PRESENT:** Kovac, Michael C. Attorney for State  
Leal, Jack Defendant  
State of Nevada Plaintiff  
Weiner, Jason G. Attorney for Defendant

**JOURNAL ENTRIES**

- CONFERENCE AT BENCH. Court noted it had two conflict waivers signed by Mr. Leal and Ms. Garcia. Exhibits presented (see worksheet). DEFT LEAL ADJUDGED GUILTY of MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION (F). Arguments by counsel and statement by Defendant. Victim Speaker Irene Segura SWORN and TESTIFIED. Victim Speaker Luis Lafox SWORN and TESTIFIED. Victim Speaker Lori Plancarte SWORN and TESTIFIED. Pursuant to NRS 176.063, COURT ORDERED, in addition to the \$25.00 Administrative Assessment fee, a \$150.00 DNA analysis fee, including testing to determine genetic markers, \$3.00 DNA Collection fee and Restitution in the amount of \$757,420.00 payable to (\$70,000 LoryLee Plancarte, \$75,000 Edelyn Rudin, \$37,500 Chatty Becker, \$57,500 Irene Segura, \$98,620 Lih-Ling Yang, \$90,300 Lina Palafox, \$85,000 Adilson Gibellato, \$50,000 Juan Eloy Ramirez, \$115,000 Catherine Wyngarden, \$25,000 Shahram Bozorgnia, \$53,500 Tat Lam) Defendant SENTENCED to a MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS and a MINIMUM of SEVENTY-TWO (72) MONTHS in the Nevada Department of Corrections (NDC) with ZERO (0) DAYS credit for time served. BOND, if any, EXONERATED.

NDC

PRINT DATE: 09/25/2017

Page 1 of 2

Minutes Date: August 17, 2017

**APPELLANT'S APPENDIX**

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PRINT DATE: 09/25/2017

Page 2 of 2

Minutes Date: August 17, 2017

**APPELLANT'S APPENDIX**

**117 of 153**



1 **RTRAN**

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DISTRICT COURT  
CLARK COUNTY, NEVADA

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7 THE STATE OF NEVADA,

8

Plaintiff,

CASE NO.: C-17-322664-2  
C-17-322664-3

9

vs.

10

JACK LEAL, and JESSICA GARCIA

DEPT. XVII

11

Defendant.

**TRANSCRIPT OF PROCEEDINGS**

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13

14

BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE  
THURSDAY, AUGUST 17, 2017

15

16

**SENTENCING (BOTH)**

17

18

**APPEARANCES:**

19

For the State:

MICHAEL C. KOVAC, ESQ.  
Senior Deputy Attorney General

20

21

For the Defendant:

JASON G. WEINER, ESQ.

22

Victim Impact Speakers:

IRENE SEGURA  
LUIS PALAFOX  
LORYLEE PLANCARTE

23

24

25

RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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LAS VEGAS, NEVADA, THURSDAY, AUGUST 17, 2017

[Proceedings commenced at 9:08 a.m.]

MR. WEINER: And, Your Honor, I have one more with the MR. GILL: .

THE COURT: Sure.

MR. WEINER: It's Leal and Garcia, top of 8 -- well, Leal's is top of 8, Garcia's bottom.

THE COURT: All right, Jack Leal. Time set for sentencing, and Jessica Garcia. You have both of these; correct? Both of --

MR. WEINER: Correct, Your Honor. In the theme of the morning, can Mr. Kovac and I approach briefly?

THE COURT: All right.

[Bench conference not transcribed]

THE COURT: Now, we do have two conflict of interest waivers signed by Mr. Leal and Ms. Garcia. I'm going to -- for some reason we can't find them in the Court's file. I'll have my staff make copies of these and return the originals to Counsel.

So, we can go forward on Mr. Leal; is that correct?

MR. WEINER: Yes, Your Honor.

THE COURT: All right, he is hereby adjudged guilty of multiple transactions involving fraud or deceit in the course of an enterprise and occupation.

Argument by the State.

MR. KOVAC: And, Your Honor, we have three victim speakers here today, at least three victim speakers --

THE COURT: All right.

MR. KOVAC: -- here today.

1 THE COURT: They'll go last.

2 MR. KOVAC: Okay.

3 I'm going to be arguing that Mr. Leal obviously go to prison. He has two  
4 prior felonies so they are similar in nature; ones for forgery, ones for theft by  
5 deception and possession of a fraudulent ID. P&P's recommending 24 to 120  
6 months. I think that's going to be a little light. I'm recommending 60 to 180 months.  
7 The amount that was stolen in this case was pretty substantial. We're talking over  
8 three quarters of a million dollars. We have 11 named victims. Each of them lost at  
9 least five figures. You'll hear the impact on each of these victims pretty soon.

10 And basically, Mr. Leal went and bought properties at a bankruptcy  
11 foreclosure auction. He bought the properties at a bankruptcy foreclosure auction  
12 and when he did that -- there's basically two lists of properties. There's one list that  
13 says you take these properties subject to the existing mortgages and you get them  
14 for pennies on the dollar, maybe two or three thousand dollars. You have another  
15 list that makes it clear that there are no mortgages on these properties and they're  
16 more like the prices you would expect, you know, five, six figure properties. And Mr.  
17 Leal bought a bunch of properties on the smaller list for pennies on the dollar and  
18 then represented to these victims, or had his employees represent to the victims,  
19 that they were free and clear of any kind of liens or mortgages. And as a result,  
20 these -- I mean basically ruined the retirements of most of these victims.

21 Based on the financial impact of this case, and really no remorse by the  
22 Defendant, -- he's done little to nothing to make restitution in this case. He said that  
23 he was going to sell a house in order to pay this off. We had this arraignment back  
24 in April when I met with his attorney and the Defendant's downstairs in lower level  
25 arraignment. I said you need to get this property back in your name. You need to



1 sign a lien in this state's favor and get this sold. First time anything happens is now  
2 a week before sentencing. They did absolutely nothing for 4 months. And the house  
3 is on the market. It's valued about \$580,000.00. That's what the last recorder entry  
4 notes and they have it on the market for 1.2 million dollars. Now they dropped it to  
5 one million dollars. There's no real efforts to make restitution in this case.

6 THE COURT: All right, thank you.

7 Mr. Leal, do you have anything to say before I sentence you?

8 THE DEFENDANT: I do. There's been a lot of issues going on between  
9 myself and Jessica who is not here. She was actually in charge of the property sale.  
10 I've since jumped in. I have recorded a lien in the state's favor for over \$600,000.00  
11 which is the balance due. I accept responsibility for this but there's a lot of  
12 underlying things that are not addressed at the moment, I should say. My goal was  
13 to get restitution to everybody. The property, as per the Assessor's site today, is  
14 valued just over a million which is what it's listed at. There's an offer that should be  
15 in today. I've done all I could to remove myself from the house to get everybody  
16 restitution, put everybody else before myself at the moment. Jessica's not here. She  
17 -- like I said, she was the one who was dealing with this. We have a no contacting  
18 order. She cannot contact me. I've had no contact with her for the past 60 days. I  
19 have a copy of that. That's really where the delay in all of this came out. It wasn't us  
20 doing nothing. It was me assuming she was doing it but being unable to contact  
21 each other.

22 THE COURT: Whose name is on the title?

23 THE DEFENDANT: Mine as of --

24 MR. WEINER: [Indiscernible].

25 THE DEFENDANT: -- last week. I transferred it because she had gotten

1 nothing done to this point.

2 THE COURT: Well, how could you transfer it if it was her name?

3 THE DEFENDANT: It was in a trust. The trustee was able to sign it over to  
4 me. I recorded the deed on the 11<sup>th</sup>. The property's in my name. As soon as that  
5 came out I flew out here. I recorded a lien. I have a copy of the lien in the State's  
6 favor right now. The property is actively marketed. The restitution is the main  
7 concern in my eyes. I assumed Jessica had been getting that done. I -- we're not  
8 allowed to speak. She has an open domestic case and we have no contact. I  
9 assumed this was done by now. As soon as I found it wasn't, I flew out here. I've  
10 been trying to get this all done. The restitution -- I mean there should be no issue  
11 with it. I have a copy of the title policy I've got. No liens; the property's free and  
12 clear. We take whatever amount just to settle the restitution figure at this point.

13 MR. KOVAC: And, Your Honor, Defense counsel -- I have to speak up.  
14 Defense counsel sent me the title assessment just yesterday and it shows a bunch  
15 of liens on this property.

16 THE DEFENDANT: There's two Republic garbage -- Republic Waste  
17 [indiscernible] for \$256.00 each. I have a copy of it right here from Fidelity Title.

18 THE COURT: Anything else, sir?

19 THE DEFENDANT: To the victims, like I said, I mean I've been trying to do  
20 the restitution. I had no idea it wasn't taken care of or paid. Apparently, the conflict  
21 waiver was a mistake. As far as the situation that happened, we were under the  
22 assumption that -- we didn't explain it correctly, I guess, what we were selling. We  
23 did transfer title to them. We did sell them the properties. It wasn't as if we just took  
24 their money and ran and --

25 THE COURT: Where's the money, the \$750,000.00? Where is it?

1 THE DEFENDANT: It's tied up in this property which is what we're trying to  
2 liquidate.

3 THE COURT: You had 11 transactions. You used 11 transactions to buy the  
4 one property; correct?

5 THE DEFENDANT: Correct. We had money -- we didn't --

6 THE COURT: So the property -- you spent \$750,000.00 on a property that is  
7 either \$500,000.00 or 1.1 million?

8 THE DEFENDANT: \$585,000.00 is what we purchased it for at a foreclosure.  
9 The county assessed value as of today is just over a million. When we were selling  
10 the properties, like I said, we initially bought the properties. We had money tied up in  
11 them. We thought they were worth it. It wasn't as if we just took people's money  
12 and ran. It was a huge -- I guess we didn't explain exactly what they were getting it  
13 for -- their money. At this point, as I stated to my attorney, I'd be willing to even sign  
14 the property over to the State for the remaining balance. There's \$600,000.00 owed.  
15 They already seized \$157,000.00 I believe. I'd be willing to sign over the property for  
16 the 585 value and throw in the difference out of pocket to satisfy restitution at this  
17 point. I have no issue with that route.

18 THE COURT: Is there a paper trail showing these funds directly going to the  
19 purchase of the property, do you know, Counsel?

20 MR. KOVAC: I don't know. And that's the State's problem, we're not going to  
21 take over this house given --

22 THE COURT: Right.

23 MR. KOVAC: -- all the lies that were from the other properties that are subject  
24 to this case.

25 THE DEFENDANT: It was -- it was actually out of the Bank of America

1 account.

2 THE COURT: Well, we have these transactions going on for -- from 2015  
3 through 2016.

4 MR. WEINER: And, Your Honor, that is correct. They -- there were houses  
5 they did buy from the HOA where the mortgages were extinguished. I think there  
6 was some confusion on what was what. Some of them were initially charged in this  
7 case were dismissed out. They did figure this out on some of the houses involved  
8 here, and actually before the AG even got involved, paid a couple of people back  
9 their purchase price before even a criminal case was initiated by Nevada. So, it's not  
10 that, as he stated, they're not trying to run away. They're trying to fix this.

11 The -- well, as an initial matter, Your Honor, just to address what we  
12 discussed at the bench, the ongoing conflict waivers -- the dispute between them  
13 began after the change of plea but before sentencing. If you want to put on the  
14 record, I contacted the bar ethics hotline. They recommended that I withdraw based  
15 on what's going on here. I did. I will make that motion. I do understand that the  
16 Court's going to insist that we go forward today and that's certainly the Court's right  
17 to do but --

18 THE COURT: Well, is the conflict the fact that your client thought that  
19 Ms. Garcia was going to pay this off? Is that the conflict?

20 MR. WEINER: Well, no, it wasn't they were paying it off. They were supposed  
21 to be working together. Then they had a no contact order so they couldn't. So  
22 they're now basically pointing at each other saying this is -- she's saying this is his  
23 fault, he's saying that's her fault. That's an antagonistic defense. I mean I should not  
24 be --

25 THE COURT: Well, it's -- that relates -- it's not a defense to the case --

1 MR. WEINER: Well --

2 THE COURT: -- because if it says why the --

3 MR. WEINER: -- in terms of sentencing.

4 THE COURT: -- restitution wasn't paid and this is joint and several which  
5 means if one --

6 MR. WEINER: Correct.

7 THE COURT: -- doesn't pay the other owes the full amount. That's what --

8 MR. WEINER: Oh, and like I said, Your Honor, he's correct. We have a print  
9 out from the Clark County Assessor's website for the 2017 - 2018 year that values  
10 the property at \$1,032,044.00. The lien has been filed with the State in favor of the  
11 Attorney General's office. I've provided a copy of that to Mr. Kovac. His name is  
12 even on it to be informed once it's actually approved because the assessor kind of  
13 went cross eyed on my client when he went down there because liens are generally  
14 not filed against yourself. And so, they wanted to send it to their legal department  
15 and contact the AG's office which apparently hasn't happened yet, but we do have  
16 the paperwork showing that my client signed off on it. He is desperately trying to get  
17 this money out and he will do it any way, shape, or form he can to get it out of the  
18 residence. The fact that he started paying restitution before there was even a  
19 criminal case I think shows his intent to get these people paid back.

20 THE COURT: Was an offer on the property that he has now made back in  
21 March 2015 because that's when this whole house of cards started?

22 MR. WEINER: An offer -- he went and purchased this house -- when?

23 THE DEFENDANT: We bought this January '16.

24 MR. WEINER: They bought this January '16, the first --

25 THE COURT: Of --

1 MR. WEINER: We have a letter which I provided to Mr. Kovac showing -- from  
2 the real estate agent showing that it has been actively marketed. There are, as I  
3 said, we now basically have a bid in 30 --

4 THE COURT: No, when they purchased the property; --

5 MR. WEINER: Yes, Your Honor.

6 THE COURT: -- okay? Or when was the offer [indiscernible] originally  
7 purchase this property? I know there's a bid to sell it?

8 MR. WEINER: Right.

9 THE COURT: But when did they purchase it?

10 MR. WEINER: January of '16 is when --

11 THE COURT: 2016. Well, if they purchased it January '16, we have  
12 transactions of February 2016 and March 2016.

13 MR. WEINER: No, I think that's some of the funds that, as again, one  
14 hundred and fifty some odd thousands of dollars were already seized by the State  
15 out of a bank account.

16 THE COURT: No, but the point is they were obtaining funds from people  
17 allegedly to purchase this home and you're telling me they purchased it in January  
18 and they were still doing these bogus transactions in February of 2016.

19 MR. WEINER: Well, Your Honor, I don't think at that point -- and like again,  
20 some of the -- they were doing a lot of transactions only a few of which are the  
21 subject of this case. [Indiscernible] indicated the HOA cases the mortgages were  
22 extinguished. There were several home sales that involved those that there is no  
23 problem with that aren't a subject to this case. So, as I indicated, this is a company  
24 called Parcelnomics.

25 THE COURT: Your client's a real estate agent; right?

1 MR. WEINER: I don't think you're --

2 THE DEFENDANT: I'm not an agent. We just buy and sell. We bought -- we  
3 buy all kind of foreclosures, HOA's, bankruptcies.

4 THE COURT: You never went through a title company? You never met -- at  
5 the title company? It seems like you were meeting these people at the Clerk's office  
6 and you wanted them to hand you a cashier's check.

7 MR. WEINER: Some of it was by agents, 'cause again, they're kind of bi-  
8 coastal. They are also in Florida. That is why Ms. Garcia is not here today. She's  
9 there. She couldn't get on a plane. But they were doing this without essentially the  
10 benefit of being licensed. They were just doing individual home sale flipping kind of  
11 deals and they got themselves in trouble 'cause they didn't understand what they  
12 were doing.

13 THE COURT: How about the two prior fraud cases?

14 MR. WEINER: I do not believe those involved --

15 THE COURT: No, I want to know his past --

16 MR. WEINER: -- real --

17 THE COURT: -- record, what are those about?

18 MR. WEINER: I think those were how many years ago?

19 [Colloquy between Counsel and Defendant]

20 MR. WEINER: Yeah, I think it was just a theft. That's what I thought.

21 [Colloquy between Counsel and Defendant]

22 THE COURT: Well, one was forgery pled to a theft. One was theft by  
23 deception which sounds like what we have here and he pled to theft by deception  
24 and he got 20 --

25 MR. WEINER: Right, that's the one in 2007, Your Honor. They're actually

1 from the same case. That's why the dates are the same.

2 THE COURT: It was a different -- I mean, --

3 MR. WEINER: The 9/17 of 2007, the Court looked at the two convictions.

4 They're both from the same --

5 THE DEFENDANT: Incident.

6 MR. WEINER: -- incident.

7 THE COURT: State, do you know anything about the facts of those cases?

8 MR. KOVAC: I don't know the facts. I just see that there's two separate cases  
9 listed, one with one felony, one with two felonies.

10 THE COURT: Anything else, Counsel?

11 MR. WEINER: No, Your Honor. The only other thing I could say is I didn't get  
12 a notice of speakers, but Court's pleasure.

13 THE COURT: All right, let's hear from our speaker.

14 MR. KOVAC: Let's see, the first one, Irene Segura.

15 THE MARSHAL: Irene Segura.

16 **VICTIM IMPACT SPEAKER: IRENE SEGURA**

17 [having been called as a witness and first being duly sworn in testified as follows:]

18 THE CLERK: Please state and spell your name for the Court's record.

19 MS. SEGURA: My name is Irene Segura, that's S as in Sam, -E-G-U-R-A.

20 THE COURT: All right, ma'am, go ahead and tell me how this has impacted  
21 you. And can you give me a little bit of background on how this transaction took  
22 place.

23 MS. SEGURA: Okay, yes sir. Thank you -- first of all thank you very much for  
24 giving me this opportunity to give a statement.

25 It wasn't too long ago I was here at this criminal court building. I was



1 given the opportunity to make a statement during sentencing to three criminals who  
2 fatally shot my son in the back while running away from his attackers. Twelve years  
3 later, today, I am given the same opportunity to speak again at the sentencing of  
4 criminals. You may not be a murderer in the true sense of the word, however, in my  
5 eyes and in the eyes of my family --

6 THE COURT: Ma'am, please address the Court so we don't have any issues;  
7 okay?

8 MS. SEGURA: You are killers. You have killed the dream of a young man  
9 [indiscernible] by the murder of my son, his father. When my son was killed he left  
10 behind his toddler son fatherless. It was at this time when I promised my deceased  
11 son at his grave site that I would help fund my -- his son's college education when  
12 the time comes. I knew I had enough time to save for this promise. So in addition to  
13 saving for our golden years, I have set aside some extra money for my grandson's  
14 college education. My husband and I scrimped, saved and cut back on every  
15 possible expense we can think of. We cut back on dining out, taking vacations, and  
16 hung on to our 20 year old car until it gave up on us. We wanted to surprise our  
17 grandson with a check on his high school graduation. He graduated last June and  
18 there was no check to surprise him with because you guys have stolen his college  
19 fund by scamming us with two worthless properties. It was fraud, pure and simple.  
20 The last two years were both mentally and emotionally draining. My husband is 75  
21 and I am 64, both seniors whose means to a debt free and comfortable life in our  
22 remaining years you have killed by your brand of fraud. We are not in the business  
23 of buying and flipping properties. We were just looking at ways of adding extra  
24 money to our nest egg, to our modest nest egg which took more than half of our  
25 married life to save. Instead, we lost a nest egg, plus a few more. We had to

1 refinance the house we currently live in to pay for some of the most urgent medical  
2 bills not covered by Medicare like radiation and chemotherapy. In March of last year  
3 I was diagnosed with stage 2 uterine cancer. In all probability the heartache and  
4 stress of falling victim to your kind of fraud contributed to the cancer that I now have.  
5 It is a no brainer to conclude that being stress free and peace of mind will help beat  
6 this cancer. The sleepless nights have also cost my hypertension to worsen. But  
7 now I ask you how can I be stress free to beat this disease when I am up to my  
8 eyeballs in debt? While you guys were having the time of your life from proceeds of  
9 your fraud and scams, we, the victims, were left with a undeniable fact that we paid  
10 a high price for being trusting and naïve. I hope and pray that Karma, the law of the  
11 universe, will get back at you sooner than later and that Karma starts today in this  
12 court. May this Honorable Court sentence you with the highest possible punishment  
13 for your crimes, doubly so because you have victimized seniors like us who have  
14 worked all our lives to enjoy out twilight years in peace and comfort.

15 Thank you, Your Honor.

16 THE COURT: Ma'am, I have a question for you. When you learned that there  
17 was a problem with the property, funding the properties, did you contact either Mr.  
18 Leal or Ms. Jackson [sic] and what was their response?

19 MS. SEGURA: No, but I left like hundreds of messages and nobody returned  
20 my call. They were no longer in that office. The phone number of the guy, I think one  
21 of their employees who I dealt with, never answered the phone and then until it was,  
22 you know, the -- its -- the service has been disconnected, so.

23 THE COURT: All right, thank you.

24 MS. SEGURA: I at least recoup some of our, you know, lost money. I have  
25 contacted -- I have engaged a lawyer.

1 THE COURT: All right, thank you, ma'am.

2 Do we have another speaker?

3 MS. SEGURA: Thank you, Your Honor.

4 MR. KOVAC: I have Juan Ramirez.

5 THE MARSHAL: Mr. Ramirez, Juan.

6 MR. KOVAC: Oh, it looks like he must have stepped out. I have Luis Palafox  
7 for Lena Palafox.

8 **VICTIM IMPACT SPEAKER: LUIS PALAFOX**

9 [having been called as a witness and first being duly sworn testified as follows:]

10 THE CLERK: Please state and spell your name for the record.

11 THE WITNESS: Okay, Luis Palafox, L-U-I-S, P-A-L-A-F-O-X.

12 THE COURT: Go ahead, sir.

13 MR. PALAFOX: Okay, Your Honor, well, the house was bought cheap. My  
14 wife purchased two houses from Mr. Leal and Jessica. And she's been in the  
15 country for about 6 years so she saw these properties listed on Zillow and -- but her  
16 -- she's -- she doesn't have like any idea that it was -- these houses had liens on  
17 them and they're -- they had foreclosure mortgages from the previous owners. So,  
18 what they told us when we met them, they told us that we can go through a process,  
19 a quiet title or something. And actually, the lawyer that we spoke to was the same  
20 lawyers that they were dealing with. So, when we met them they -- we let them  
21 know, okay, we went through your lawyer that you recommended us to clean the  
22 title -- the liens through this lawyer -- we went to the lawyer and it was the same  
23 lawyer they were using so the lawyer was kind of into the scam too. And the lawyer  
24 said there's no way you can do that. There's no way you can do a quiet title and  
25 clean the titles. You're gonna lose your properties. And I mean she -- it was a lot of

1 money so I mean she's in college and I mean we heard of all the other victims that  
2 went through all this process too. I mean we were hearing about seniors like this  
3 lady that just passed by right now that lost all their 401K accounts and they just  
4 cleaned my wife like out. So, the only thing I want is justice because I mean it's a lot  
5 of money. It's not two, three thousand dollars you know. She paid \$60,000.00 for  
6 one property and she's just had dreams you know to just have some properties and  
7 when their -- when her parents come from China she wanted to have a house for  
8 them. So, -- and that just went away. They're -- right now we're renting a property  
9 and we're not really owners and -- but it's just -- we want justice, justice and -- what  
10 their -- what they did is no good. What they did is -- they just can't take people's  
11 money. And I mean people that work hard for them, people that have no idea how  
12 the -- I mean how the process works and they just took everyone's money. I mean  
13 it's just -- hard working you know people that they hurt. And my wife, she was -- she  
14 wanted to come but she had a dentist appointment and -- doctor's appointment,  
15 sorry, and -- but we want justice. And she has a lawyer too that she's working on  
16 the case. It's just they can't do that to innocent people that you know they -- it's all  
17 their savings. They work hard every day. I mean honest work, honest people and  
18 they just scammed a lot of people.

19 THE COURT: Sir, when this matter fell through, did you or your wife try to  
20 contact them --

21 MR. PALAFOX: Yeah, same --

22 THE COURT: -- and what happened?

23 MR. PALAFOX: -- thing. We were -- they left voice messages. One case I  
24 think she did answer but she said -- I don't know, she spoke to my wife and she said  
25 something about if she'd sign the property back or something to her she would give

1 her the money but that never happened and -- I mean that was the last. We kept on  
2 calling and then the victims you know spoke to each other and told them what  
3 happened. I mean we were going to go like go up to the -- call the news or  
4 something so it can't happen to other people because I mean Zillow's a site you can  
5 trust. I mean we didn't know that now. Now we know we can't trust it but you  
6 wouldn't expect that from you know the website Zillow. That's -- and it just said call  
7 this agent and we met with another guy named Kevin and I went -- one  
8 circumstance we called him and he said, oh, yeah, I'm buying a Harley right now,  
9 you know, with the -- I'm pretty sure with the victims money. He's buying a Harley.  
10 And so we're like, okay, these guys are just you know spending money left and right  
11 and -- without having no remorse of the victims what they're going through. I like --  
12 she said, yeah, its, -- I mean hypertension. It's stress. I mean we're living check to  
13 check, so yeah, it's not easy. We just want justice.

14 THE COURT: Sir, you had mentioned that you met with an attorney that  
15 represented him?

16 MR. PALAFOX: No.

17 THE COURT: No?

18 MR. PALAFOX: She -- we got a lawyer. His name is Michael Lee.

19 THE COURT: Oh, I thought you said that you went to a lawyer's office, or  
20 was that the previous victim?

21 MR. PALAFOX: Oh, 'cause they said we -- to go to a process named quiet  
22 title. I'm pretty sure all the victims know this. They say, oh, yeah, go through quiet  
23 title and you can take off the trash liens and this and that. But we had no idea there  
24 was a mortgage in the property. We thought it was clear. You know I mean you don't  
25 expect that. You don't expect, okay, we're buying a house in cash, its -- everything's

1 okay with it. And my wife put in money. She put money in the properties. She put  
2 new tile. She put -- I mean appliances and she put -- I mean that was another  
3 \$5,000.00 extra on what they scammed her with.

4 THE COURT: All right, thank you, sir.

5 MR. PALAFOX: Thank you.

6 THE COURT: Do we have Mr. Ramirez back?

7 MR. KOVAC: Yeah, did Juan Ramirez come back? Is there a Lorylee  
8 Plancarte?

9 MS. PLANCARTE: I'm here.

10 MR. KOVAC: Okay; one more.

11 **VICTIM IMPACT SPEAKER: LORYLEE PLANCARTE**

12 [having been called as a witness and first being duly sworn in testified as follows:]

13 THE CLERK: Please state and spell your name for the Court's record.

14 THE WITNESS: Lorylee Plancarte, P-L-A-N-C-A-R-T-E.

15 THE COURT: Go ahead, ma'am.

16 MS. PLANCARTE: Thank you for this opportunity. I just wanted to say that I  
17 purchased a property from the two that are here today, Jack Leal. I don't even know  
18 exactly. I just knew their names after I dealt with two of their associates or who they  
19 had under the company Pacelnomics. I purchased -- I came down twice to Las  
20 Vegas to purchase. I was shown probably 11 different properties. The first time that I  
21 had come down to look, those properties had not been able to become available to  
22 me 'cause I was told they were sold so I came down two weeks later. And because I  
23 didn't want to miss out on the opportunity to buy a house, they had shown me one. It  
24 was a rehab. It didn't have all the toilets. It didn't have the sinks and everything on it.  
25 So, the price that I purchased it for I thought was decent 'cause I thought it was a flip

1 house. I was told it was free and clear, once the work was done on it that it would be  
2 great. I brought my entire family down, my children and myself, and my husband.  
3 Once we had run out of our money to do the rehab, we went in to do a refinance on  
4 the property. That's when we found out that the property had liens on it. We were  
5 given the notice on our door that we had to be out. We tried to contact them. We got  
6 nowhere with that. We have met with three separate lawyers on three separate  
7 occasions and also two other occasions we met with other victims who had  
8 purchased properties from them. We were trying to put together a lawsuit with --  
9 'cause we needed 10 or more so we had 10 or more and they were also waiting at  
10 the lawyers office to get more people together to file the suit, the civil claim. I was  
11 probably one of the first ones. I was told to go speak to the AG's office and file my  
12 name down and then I was told about all the other victims. There was different  
13 types. Mine was -- I was told that my property was free and clear from a bankruptcy  
14 sale. That's how it was attained. I know there was other victims that were HOA  
15 sales. I didn't pursue -- it was another \$15,000.00 to \$20,000.00 for us to go  
16 through a criminal case -- or not the criminal but the civil case, to go through the  
17 money and they said it could take you know years for that to happen for us. And at  
18 this point right now we had to try and make a life for ourselves again and purchase a  
19 new home and get ourselves settled somewhere else. We came down from Oregon  
20 today. We were also at one point told we could purchase a home from them in  
21 Florida which we didn't want to. We were also told that they were gonna give us  
22 restitution. One of the woman that had purchased two homes from them, she was  
23 settled with them. They gave her half of her money. They had paid \$70,000.00 for a  
24 property; they gave her \$35,000.00. I still am in contact with several of the victims.  
25 We still talk and I've seen where everything goes. It's you know stressful. It's time

1 consuming. It's frustrating. But the idea that it was you know -- we purchased our  
2 house in 2015 of August. We were not even in our house for a year. It's been a year  
3 today -- another year, so it's been two years that -- since we purchased our  
4 property. We still see no restitution. We've heard nothing. We did receive a call --  
5 our attorney called us and said, oh, right before the last court case they wanted to  
6 settle and give us restitution if we gave them the deed to the property and all these  
7 different things; nothing ever came of it. So, I mean I don't think -- I feel like I'm one  
8 in many which in some weird sense gives me a sense of you know like I wasn't the  
9 only fool that had this happen to them. But, I mean I don't want to see --

10 THE COURT: Ma'am, you're not a fool. You're a trusting person.  
11 Unfortunately, someone took advantage of you.

12 MS. PLANCARTE: Yeah, but I --

13 THE COURT: Did you have any communications with them when you found  
14 out that everything's fallen through?

15 MS. PLANCARTE: Nothing. Nothing. Even the office where I had met the  
16 person at, no one was there, no phone calls returned, no texts returned. Nothing. It  
17 was like it was all gone. No contact was ever made again.

18 THE COURT: Thank you, ma'am.

19 MS. PLANCARTE: Thank you.

20 MR. KOVAC: I think that's everyone. Is there anyone I missed for this case,  
21 any of the victims? I believe that's all, Your Honor.

22 THE COURT: Ramirez; did he ever return?

23 MR. KOVAC: I don't know what happened to him.

24 THE COURT: JR, can you check the hallway for Mr. Ramirez.

25 [Pause in proceedings]



1 THE MARSHAL: No, Your Honor.

2 THE COURT: All right, thank you.

3 We have 11 victims at least over a 12 month period of time and this is  
4 pure and simple a scam. It's almost worse than going into a fast food place or a  
5 convenience store, an armed robbery. This is more planned out than those types of  
6 crimes. This went over a whole year and you scammed these people. Is anyone  
7 here from P&P? Anyone? No? Is there?

8 THE PROBATION OFFICER: [Indiscernible], Your Honor.

9 THE COURT: I know you're not part of this but just you know I've often  
10 complained about the program that P&P has for sentencing and we have 11 victims,  
11 a quarter of a million dollars, over a year, and they recommend one year above  
12 minimums. I don't know what program you guys are using. It's broken.

13 THE PROBATION OFFICER: I'll let sentencing know.

14 THE COURT: I've had people, Public Defender client's where they steal a car  
15 for \$3,500.00 and they recommend more than 2 years.

16 MR. WEINER: And, Your Honor, I --

17 THE COURT: The Court's going to --

18 MR. WEINER: -- would just --

19 THE COURT: I'm sorry.

20 MR. WEINER: -- point out based on something the speaker said that they  
21 were paying people back before the State got involved and that's not the kind of  
22 people that scam and run, otherwise that's what they would have done. They paid  
23 back over -- before the State filed its case over I think \$140,000.00 or \$150,000.00  
24 to people once they figured out that there was a problem. That's not the actions of  
25 grifters or someone doing this as a straight out scam.

- 20 -

1 MR. KOVAC: And some of those people they grabbed the title back, gave  
2 back a portion of the money, then resold the title to somebody else. So, basically,  
3 they were double dipping basically.

4 MR. WEINER: And, again, this -- a lot of this was done, as I said, through  
5 agents. They never spoke to these people directly.

6 MR. KOVAC: That's not true. There's some through agents, there's plenty of  
7 those done directly.

8 THE COURT: All right, anything further, Counsel?

9 MR. WEINER: No, I was just addressing --

10 THE COURT: Okay.

11 MR. WEINER: -- what the speakers had to say.

12 THE COURT: I'm going to sentence the Defendant to confinement in the  
13 Nevada Department of Corrections for a maximum term of 180 months, a minimum  
14 term of 72 months. He's ordered to pay a \$25.00 administrative assessment fee; a  
15 \$3.00 DNA administrative assessment fee; \$150.00 DNA fee, submit to DNA testing.  
16 And he has zero days credit for time served.

17 Counsel, they're identifying restitution of \$757,420.00; are you disputing  
18 that amount or --

19 MR. WEINER: No, the amount was never in dispute, Your Honor, but in less  
20 than 30 days these people would be paid back in full. What I would ask the Court to  
21 maybe consider is to kind of reserving that judgment, having us come back when  
22 the house sells. Everybody would made paid -- everybody would be paid in full at  
23 that point and that may certainly impact the Court's sentencing on us.

24 THE COURT: No, they had time. They had time to do this. They ripped these  
25 people off. They took advantage of them. They stabbed them in the back and I'm not

1 standing for it.

2 MR. WEINER: But basically it also puts in a position, Your Honor, how can we  
3 complete the sale.

4 THE COURT: Well, they can -- either the State might be able to help them  
5 out or an attorney might be able to help them out and get this property sold.

6 And there's a no bail bench warrant for Ms. Garcia.

7 MR. KOVAC: Thank you, Your Honor.

8 THE COURT: And if she's here within a week she may get the similar  
9 sentence. If she's out and about and trying to avoid prosecution that's going to tell  
10 me she's not taking this serious and I'm going to max her out. I'm not mad --

11 MR. WEINER: Understood, Your Honor.

12 THE COURT: -- at you, Counsel. You did your job. You got 11 felonies down  
13 to 1 so I mean you should be commended because you did a good job for them but  
14 these people need to pay the price.

15 MR. KOVAC: Thank you, Your Honor.

16 [Colloquy between Court and clerk]

17 MR. WEINER: Your Honor, the State already has one hundred and fifty-seven  
18 if the Court wants to direct how it's to be dispersed.


19 [Colloquy between Court and clerk]

20 [Proceedings concluded at 9:49 a.m.]

21 \* \* \* \* \*

22 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
23 audio/video recording in the above-entitled case to the best of my ability.

24   
25 CYNTHIA GEORGILAS  
Court Recorder/Transcriber/DC XVII



1 JOCP  
2  
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4

5 DISTRICT COURT  
6 CLARK COUNTY, NEVADA  
7

8 THE STATE OF NEVADA,  
9

10 Plaintiff,

CASE NO. C-17-322664-2

11 -vs-

DEPT. NO. XVII

12 JACK LEAL  
13 #X0157754

14 Defendant.  
15

16  
17 JUDGMENT OF CONVICTION  
18 (PLEA OF GUILTY)  
19

20 The Defendant previously appeared before the Court with counsel and entered a  
21 plea of guilty to the crime of MULTIPLE TRANSACTIONS INVOLVING FRAUD  
22 OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION  
23 (Category B Felony) in violation of NRS 205.377; thereafter, on the 17<sup>th</sup> day of August,  
24 2017, the Defendant was present in court for sentencing with counsel JASON  
25 WEINER, ESQ., and good cause appearing.  
26  
27  
28

1 THE DEFENDANT IS HEREBY ADJUDGED guilty of said offense and, in  
2 addition to the \$25.00 Administrative Assessment Fee, \$757,420.00 Restitution,  
3 (\$70,000.00 payable to LoryLee Plancarte, \$75,000.00 payable to Edelyn Rudin,  
4 \$37,000.00 payable to Chatty Becker, \$57,500.00 payable to Irene Segura, \$98,620.00  
5 payable to Lih-Ling Yang, \$90,300.00 payable to Lina Palafox, \$85,000.00 payable to  
6 Adilson Gibellato, \$50,000.00 payable to Juan Eloy Ramirez, \$115,000.00 payable to  
7 Catherine Wyngarden, \$25,000.00 payable to Shahram Bozorgnia, \$53,500.00 payable  
8 to Tat Lam) and \$150.00 DNA Analysis Fee including testing to determine genetic  
9 markers plus \$3.00 DNA Collection Fee, the Defendant is sentenced as follows: a  
10 MAXIMUM of ONE HUNDRED EIGHTY (180) MONTHS with a MINIMUM parole  
11 eligibility of SEVENTY-TWO (72) MONTHS in the Nevada Department of  
12 Corrections (NDC); with ZERO (0) DAYS credit for time served.

13 DATED this 22 day of August, 2017

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22 MICHAEL VILLANI <sup>05</sup>  
23 DISTRICT COURT JUDGE  
24  
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26  
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28



1 ORDM

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 Nevada State of, Plaintiff(s)  
6 vs.  
7 \$6,616.04, Defendant(s)

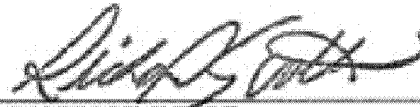
Case No.: A-16-744347-C  
Department 2

8 **ORDER FOR DISMISSAL**

9 It appears to the Court that more than 120 days have passed since the filing of the  
10 Complaint in this action and service of the Summons and Complaint have not been made  
11 on Defendant. Now, therefore, pursuant to NRCP 4(i), it is hereby

12 ORDERED that this action be, and it hereby is, dismissed.

13 DATED: 5th day of September, 2017.



16 DISTRICT JUDGE  
17 RICHARD F. SCOTTI

18 I hereby certify that on the date filed, I  
19 mailed or placed a copy of this Order in  
20 the Attorney's folder in the Clerk's  
21 Office to:

22 Michael C. Kovac  
23 Office of Attorney General  
24 555 E. Washington Ave.  
25 Las Vegas, NV 89101

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Debt(s)	<input type="checkbox"/> Judgment of Arbitration

26 */s/ Melody Howard*

27 Melody Howard, Judicial Assistant

28 NOTE: EDCR 2.90: Case may be reinstated within 30 days upon written request of a party or party's attorney.



1 NOASC  
2 CRAIG A. MUELLER, Esq.  
3 Nevada Bar No. 4703  
4 **MUELLER, HINDS & ASSOCIATES, CHTD.**  
5 600 South Eighth Street  
6 Las Vegas, NV 89101  
7 P: (702) 940-1234  
8 F: (702) 940-1235  
9 Attorney for Appellant  
10 JACK LEAL  
11

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

9 THE STATE OF NEVADA;  
10 Respondent-Plaintiff,  
11 vs.  
12 JACK LEAL;  
13 Appellant-Defendant.

} Case No.: C-17-322664-2  
} Dept. No: 17

} **NOTICE OF APPEAL**

14  
15 Notice is hereby given that JACK LEAL, defendant above named, hereby appeals to the  
16 Supreme Court of Nevada from the final judgment entered in this action on the 23<sup>rd</sup> day of August  
17 2017.

18 DATED this 14<sup>th</sup> day of September 2017.

19  
20 MUELLER, HINDS & ASSOCIATES, CHTD.

21 /s/ Craig Mueller  
22 CRAIG A. MUELLER, ESQ.  
23 Nevada Bar No. 4703  
24 MUELLER, HINDS & ASSOCIATES, CHTD.  
25 600 South Eighth Street  
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Attorney for Appellant

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**CERTIFICATE OF SERVICE**

Pursuant to NRAP 25(d), I hereby certify that on the 14<sup>th</sup> day of September 2017, I served a true and correct copy of the Notice of Appeal to the last known address set forth below:

Steve Wolfson, Esq.  
Clark County District Attorney  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, Nevada 89101

/s/ David Barragan  
Employee of  
MUELLER, HINDS & ASSOCIATES, CHTD.





1 MOT  
ADAM PAUL LAXALT  
2 Attorney General  
Michael C. Kovac (Bar No. 11177)  
3 Senior Deputy Attorney General  
State of Nevada  
4 Office of the Attorney General  
555 East Washington Ave., Ste. 3900  
5 Las Vegas, Nevada 89101  
6 P: (702) 486-5706  
F: (702) 486-0660  
mkovac@ag.nv.gov  
7 Attorneys for the State of Nevada

8  
9 DISTRICT COURT  
10 CLARK COUNTY, NEVADA

11 STATE OF NEVADA,

12 Plaintiff,

13 v.

14 \$6,616.04; \$150,489.13; and 1024 SANTA  
15 HELENA AVENUE, HENDERSON,  
16 NEVADA 89002, MORE PARTICULARLY  
17 DESCRIBED AS FOLLOWS: LOT 223 OF  
18 AMENDED MISSION HILLS ESTATES,  
19 AS SHOWN BY MAP THEREOF ON FILE  
20 IN BOOK 17 OF PLATS, PAGE 12 IN THE  
21 OFFICE OF THE COUNTY RECORDER  
OF CLARK COUNTY, NEVADA,  
TOGETHER WITH A PORTION OF  
VACATED ROAD KNOWN AS LOT 223-  
A AND APPURTENANCES THEREON;  
APN: 179-33-710-056,

22 Defendant(s).

Case No.: A-16-744347-C

Dept. No. II

[Exempt from arbitration under NRS 38.255 and  
NAR 3(A) as a declaratory action]

23  
24 **PLAINTIFF'S EX PARTE MOTION FOR ORDER REOPENING CASE AND**  
25 **STAYING PROCEEDINGS**

26 The STATE OF NEVADA (hereinafter "Plaintiff"), by and through Attorney General Adam  
27 Paul Laxalt and Senior Deputy Attorney General Michael C. Kovac, hereby submits this PLAINTIFF'S  
28 EX PARTE MOTION FOR ORDER REOPENING CASE AND STAYING PROCEEDINGS.

1 This motion is made and based upon the pleadings and papers on file, the following  
2 memorandum of points and authorities, and any oral argument the Court may allow.

3 DATED this 22<sup>nd</sup> day of September, 2017.

4 ADAM PAUL LAXALT  
Attorney General

5  
6 By: /s/ Michael C. Kovac  
MICHAEL C. KOVAC (Bar No. 11177)  
7 Senior Deputy Attorney General

8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9 On September 30, 2016, Plaintiff filed a Complaint for Forfeiture in the present matter. The  
10 basis for that action is criminal case that is currently pending in the Eighth Judicial District Court –  
11 *State v. Leal, et al.*, C-17-3222664-1/2.<sup>1</sup> That case was initiated in Las Vegas Justice Court on  
12 November 28, 2016 in case number 16F19220AB. By order filed on September 7, 2017, this Court  
13 dismissed the present Complaint for Forfeiture for lack of service.

14 NRS 179.1173(2) provides, in pertinent part: “At a proceeding for forfeiture, the court shall  
15 issue an order staying the proceeding that remains in effect while the criminal action which is the basis  
16 of the proceeding is pending trial.” Given the pending criminal matter noted above, Plaintiff is  
17 restrained from taking any action in the present forfeiture action.

18 For these reasons, the State respectfully requests that the Court issue an order reopening and  
19 staying the present proceedings, with said stay being effective as of November 28, 2016 – the date on  
20 which the relevant criminal proceedings were initiated.

21 Dated this 22<sup>nd</sup> day of September, 2017.

22 SUBMITTED BY:  
23 ADAM PAUL LAXALT  
Attorney General

24 /s/ Michael C. Kovac  
25 MICHAEL C. KOVAC (Bar No. 11177)  
26 Senior Deputy Attorney General

27  
28 <sup>1</sup> While a criminal Judgment of Conviction has been entered against defendant Jack Leal in that matter, the case against his  
codefendant, Jessica Garcia, has not yet been resolved.

1 **ORDR**

2 **ADAM PAUL LAXALT**  
3 Attorney General  
4 Michael C. Kovac (Bar No. 11177)  
5 Senior Deputy Attorney General  
6 State of Nevada  
7 Office of the Attorney General  
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12 mkovac@ag.nv.gov  
13 Attorneys for the State of Nevada

14 **DISTRICT COURT**  
15 **CLARK COUNTY, NEVADA**

16 THE STATE OF NEVADA,

17 Plaintiff,

18 vs.

19 \$6,616.04; \$150,489.13; and 1024 SANTA  
20 HELENA AVENUE, HENDERSON,  
21 NEVADA 89002, MORE PARTICULARLY  
22 DESCRIBED AS FOLLOWS: LOT 223 OF  
23 AMENDED MISSION HILLS ESTATES, AS  
24 SHOWN BY MAP THEREOF ON FILE IN  
25 BOOK 17 OF PLATS, PAGE 12 IN THE  
26 OFFICE OF THE COUNTY RECORDER OF  
27 CLARK COUNTY, NEVADA, TOGETHER  
28 WITH A PORTION OF VACATED ROAD  
KNOWN AS LOT 223-A AND  
APPURTENANCES THEREON; APN: 179-  
33-710-056,

Defendant(s).

Case No.: A-16-744347-C

Dept. No.: II

[Exempt from arbitration under NRS 38.255 and  
NAR 3(A) as a declaratory action]

**ORDER REOPENING CASE AND STAYING PROCEEDINGS**

Because the present matter is based upon pending criminal proceedings in the case of *State v. Leal, et al.*, C-17-3222664-1/2, pursuant to NRS 179.1173(2), this matter is hereby reopened, and the proceedings are hereby stayed, with said stay effective as of November 28, 2016.

DATED this 25<sup>th</sup> day of September, 2017.

By:   
District Court Judge



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**ORDR**  
ADAM PAUL LAXALT  
Attorney General  
Michael C. Kovac (Bar No. 11177)  
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State of Nevada  
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*Attorneys for the State of Nevada*

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,

Plaintiff,

vs.

\$6,616.04; \$150,489.13; and 1024 SANTA  
HELENA AVENUE, HENDERSON,  
NEVADA 89002, MORE PARTICULARLY  
DESCRIBED AS FOLLOWS: LOT 223 OF  
AMENDED MISSION HILLS ESTATES, AS  
SHOWN BY MAP THEREOF ON FILE IN  
BOOK 17 OF PLATS, PAGE 12 IN THE  
OFFICE OF THE COUNTY RECORDER OF  
CLARK COUNTY, NEVADA, TOGETHER  
WITH A PORTION OF VACATED ROAD  
KNOWN AS LOT 223-A AND  
APPURTENANCES THEREON; APN: 179-  
33-710-056,

Defendant(s).

Case No.: A-16-744347-C

Dept. No.: II

[Exempt from arbitration under NRS 38.255 and  
NAR 3(A) as a declaratory action]

ORDER REOPENING CASE AND STAYING PROCEEDINGS

Because the present matter is based upon pending criminal proceedings in the case of *State v. Leal, et al.*, C-17-3222664-1/2, pursuant to NRS 179.1173(2), this matter is hereby reopened, and the proceedings are hereby stayed, with said stay effective as of November 28, 2016.

DATED this 25<sup>th</sup> day of September, 2017.

By:

  
District Court Judge

**REGISTER OF ACTIONS**  
**CASE No. A-16-744347-C**

Nevada State of, Plaintiff(s) vs. \$6,616.04, Defendant(s)

S  
C  
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I  
P  
T

Case Type: **Other Civil Matters**  
 Date Filed: **09/30/2016**  
 Location: **Department 2**  
 Cross-Reference Case Number: **A744347**

**PARTY INFORMATION**

**Lead Attorneys**

**Defendant**     **\$6,616.04**

**Plaintiff**     **Nevada State of**

**Michael C. Kovac**  
*Retained*  
 702-486-3420(W)

**EVENTS & ORDERS OF THE COURT**

**DISPOSITIONS**

09/07/2017 **Order of Dismissal** (Judicial Officer: Scotti, Richard F.)  
 Debtors: 1024 Santa Helena Trust (Claimant), Jack Leal (Claimant), Jessica Garcia (Claimant), Parcelnomics LLC (Claimant)  
 Creditors: Nevada State of (Plaintiff)  
 Judgment: 09/07/2017, Docketed: 09/07/2017

**OTHER EVENTS AND HEARINGS**

09/30/2016 **Complaint**  
*Complaint for Forfeiture*  
 09/30/2016 **Lis Pendens**  
*Notice of Lis Pendens*  
 01/02/2017 **Case Reassigned to Department 18**  
*Case reassigned from Judge Elizabeth Gonzalez Dept 11*  
 06/05/2017 **Administrative Reassignment - Judicial Officer Change**  
*From Judge David Barker to Judge Mark B. Bailus*  
 08/21/2017 **Case Reassigned to Department 2**  
*Civil Case Reassignment to Judge Richard F. Scotti*  
 09/07/2017 **Order of Dismissal**  
*Order for Dismissal*  
 09/28/2017 **Ex Parte Motion**  
*Plaintiff's Ex Parte Motion for Order Reopening Case and Staying Proceedings*  
 10/10/2017 **Order**  
*Order Reopening Case and Staying Proceedings*  
 02/21/2018 **Status Check** (3:00 AM) (Judicial Officer Scotti, Richard F.)

**FINANCIAL INFORMATION**

	<b>Plaintiff Nevada State of</b>		
	Total Financial Assessment		11.50
	Total Payments and Credits		11.50
	<b>Balance Due as of 01/22/2018</b>		<b>0.00</b>
10/11/2016	Transaction Assessment		11.50
10/11/2016	Payment (Window)	Receipt # 2016-98798-CCCLK     Jessica Garcia	(11.50)

**REGISTER OF ACTIONS**  
**CASE No. C-17-322664-2**

State of Nevada vs Jack Leal



Case Type: **Felony/Gross Misdemeanor**  
Date Filed: **04/11/2017**  
Location: **Department 17**  
Cross-Reference Case Number: **C322664**  
Defendant's Scope ID #: **X0157754**  
ITAG Booking Number: **0**  
ITAG Case ID: **0**  
Lower Court Case # Root: **16F19220**  
Lower Court Case Number: **16F19220B**  
Supreme Court No.: **74050**

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**RELATED CASE INFORMATION**

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**Related Cases**  
C-17-322664-3 (Multi-Defendant Case)

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**PARTY INFORMATION**

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<b>Defendant</b>	<b>Leal, Jack</b>	<b>Lead Attorneys</b> <b>Jason G. Weiner</b> <i>Retained</i> 702-202-0500(W)
<b>Plaintiff</b>	<b>State of Nevada</b>	<b>Adam Paul Laxalt</b> 702-486-3420(W)

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**CHARGE INFORMATION**

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<b>Charges: Leal, Jack</b>	<b>Statute</b>	<b>Level</b>	<b>Date</b>
1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION	205.377	Felony	03/01/2015

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**EVENTS & ORDERS OF THE COURT**

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**DISPOSITIONS**

04/24/2017	(Judicial Officer: Villani, Michael) 1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION Guilty
08/17/2017	(Judicial Officer: Villani, Michael) 1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION Guilty
08/17/2017	(Judicial Officer: Villani, Michael) 1. MULTIPLE TRANSACTIONS INVOLVING FRAUD OR DECEIT IN THE COURSE OF AN ENTERPRISE AND OCCUPATION Sentenced to Nevada Dept. of Corrections Term: Minimum:72 Months, Maximum:180 Months Credit for Time Served: 0 Day Other Fees Fee Totals: Administrative   \$25.00 Assessment Fee \$25                                     \$25.00 DNA Analysis Fee \$150                                 \$150.00 Genetic Marker   \$3.00 Analysis AA Fee \$3                                     \$3.00 Fee Totals \$   \$178.00

**OTHER EVENTS AND HEARINGS**

04/11/2017 **Criminal Bindover Packet Las Vegas Justice Court**  
04/11/2017 **Amended Criminal Bindover Packet Las Vegas Justice Court**  
04/18/2017 **Information**  
*Information*  
04/20/2017 **Initial Arraignment** (10:00 AM) (Judicial Officer Henry, Jennifer)  
Parties Present  
Minutes  
Result: Matter Continued  
04/24/2017 **Arraignment Continued** (1:00 PM) (Judicial Officer Henry, Jennifer)  
Parties Present

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**APPELLANT'S APPENDIX**

	<u>Minutes</u>	
	04/24/2017	Reset by Court to 04/24/2017
		Result: Plea Entered
04/24/2017		<b>Guilty Plea Agreement</b>
07/18/2017		<b>PSI</b>
08/11/2017		<b>Notice</b>
		<i>Notice of Intent of Present Victim Impact Statements</i>
08/17/2017		<b>Sentencing (8:30 AM)</b> (Judicial Officer Villani, Michael)
		<u>Parties Present</u>
		<u>Minutes</u>
		Result: Defendant Sentenced
08/23/2017		<b>Judgment of Conviction</b>
		<i>JUDGMENT OF CONVICTION (PLEA OF GUILTY)</i>
09/05/2017		<b>Criminal Order to Statistically Close Case</b>
		<i>Criminal Order to Statistically Close Case</i>
09/08/2017		<b>Order</b>
		<i>Order Allowing Notary Public</i>
09/14/2017		<b>Notice of Appeal (criminal)</b>
		<i>Notice of Appeal</i>
09/14/2017		<b>Certificate of Mailing</b>
		<i>CERTIFICATE OF MAILING</i>
10/03/2017		<b>Case Appeal Statement</b>
		<i>Case Appeal Statement</i>
10/11/2017		<b>Reporters Transcript</b>
		<i>Request for Transcript of Proceedings</i>
11/17/2017		<b>Recorders Transcript of Hearing</b>
		<i>Transcript of Proceedings Sentencing (Both) Heard on August 17, 2017</i>
11/20/2017		<b>Recorders Transcript of Hearing</b>
		<i>Recorders Transcript of Hearing Re: Initial Arraignment</i>
11/20/2017		<b>Recorders Transcript of Hearing</b>
		<i>Recorders Transcript of Hearing Re: Arraignment Continued</i>

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**FINANCIAL INFORMATION**

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	<b>Defendant Leal, Jack</b>	
	Total Financial Assessment	178.00
	Total Payments and Credits	0.00
	<b>Balance Due as of 01/22/2018</b>	<b>178.00</b>
09/22/2017	Transaction Assessment	178.00

REGISTER OF ACTIONS
CASE No. 16F19220B

State of Nevada vs. LEAL, JACK

§
§
§
§
§
§
§
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§
§

Case Type: Felony
Date Filed: 11/29/2016
Location: JC Department 7

RELATED CASE INFORMATION

Related Cases

- 16F19220A (Multi-Defendant Case)
16F19220C (Multi-Defendant Case)

PARTY INFORMATION

Defendant LEAL, JACK

Lead Attorneys
Jason G. Weiner
Retained
702-202-0500(W)

State of Nevada
State of Nevada

CHARGE INFORMATION

Charges: LEAL, JACK

Table with 4 columns: Charges, Statute, Level, Date. Contains 14 rows of charge information including Racketeering and Theft.

EVENTS & ORDERS OF THE COURT

DISPOSITIONS

- 04/11/2017 (Judicial Officer: Bennett-Haron, Karen P.)
1. Racketeering [53190] Waiver of Preliminary Hearing - Bound Over to District Court
2. Theft, \$3500+ [55991] Waiver of Preliminary Hearing - Bound Over to District Court
...
12. Theft, \$3500+ [55991] Waiver of Preliminary Hearing - Bound Over to District Court


APPELLANT'S APPENDIX



13. Theft, \$3500+ [55991]  
Waiver of Preliminary Hearing - Bound Over to District Court
14. Fraud/deceit in course of enterprise/occup [55110]  
Waiver of Preliminary Hearing - Bound Over to District Court

**OTHER EVENTS AND HEARINGS**

- 11/28/2016 **Multi-Defendant Case**
- 11/28/2016 **CTRACK Track Assignment JC07**
- 11/29/2016 **Criminal Complaint**
- 11/29/2016 **Summons Issued**
- 11/29/2016 **Request for Summons**
- 12/14/2016 **Summons Returned**  
*Not deliverable as addressed; Unable to forward.*
- 12/19/2016 **Notice of Confirmation of Counsel**
- 12/27/2016 **Initial Appearance (7:30 AM)** (Judicial Officers Pro Tempore, Judge, Hua, Jeannie)  
*No bail posted*  
Result: Matter Heard
- 12/27/2016 **Counsel Confirms as Attorney of Record**  
*J. Weiner, Esq*
- 12/27/2016 **Amended Criminal Complaint**  
*Filed in open court*
- 12/27/2016 **Initial Appearance Completed**  
*Defense Advised of Charges on Criminal Complaint, Waives Reading of Criminal Complaint*
- 12/27/2016 **Motion to Continue - Defense**  
*for negotiations - Motion granted*
- 12/27/2016 **Minute Order - Department 07**
- 02/07/2017 **Negotiations (8:00 AM)** (Judicial Officer Bennett-Haron, Karen P.)  
*No bail posted*  
Result: Matter Heard
- 02/07/2017 **Motion to Continue - Defense**  
*for negotiations - Motion granted*
- 02/07/2017 **Continued For Negotiations**
- 02/07/2017 **Minute Order - Department 07**
- 03/07/2017 **Negotiations (8:00 AM)** (Judicial Officer Bennett-Haron, Karen P.)  
*No bail posted*  
Result: Matter Heard
- 03/07/2017 **Continued by Stipulation of Counsel**
- 03/07/2017 **Stipulation**  
*filed in open court*
- 03/07/2017 **Continued For Negotiations**
- 03/07/2017 **Notify**  
*Attorney General/clm via email*
- 03/07/2017 **Minute Order - Department 07**
- 04/04/2017 **Negotiations (8:00 AM)** (Judicial Officer Bennett-Haron, Karen P.)  
*No bail posted*  
Result: Matter Heard
- 04/04/2017 **Motion to Continue - Defense**  
*to file a corrected Waiver - motion granted*
- 04/04/2017 **Minute Order - Department 07**
- 04/11/2017 **Status Check (8:00 AM)** (Judicial Officer Bennett-Haron, Karen P.)  
*No bail posted*  
Result: Bound Over
- 04/11/2017 **Waiver**  
*of Unconditional Bindover filed in open court*
- 04/11/2017 **Unconditional Bind Over to District Court**  
*Defendant unconditionally waives right to Preliminary Hearing. Defendant Bound Over to District Court as Charged. Defendant to Appear in the Lower Level Arraignment Courtroom A.*
- 04/11/2017 **Case Closed - Bound Over**
- 04/11/2017 **District Court Appearance Date Set**  
*Apr 20 2017 10:00AM: No bail posted*
- 04/11/2017 **Minute Order - Department 07**
- 04/11/2017 **Certificate, Bindover and Order to Appear**
- 04/11/2017 **Amended Certificate, Bind Over and Order to Appear**



1 **OPPM**  
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7 *Attorneys for the State of Nevada*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA,  
11 Plaintiff,  
12 vs.  
13 JACK LEAL,  
14 Defendant.

Case No.: C-17-322664-2  
Dept. No.: XVII

Hearing Date: April 26, 2018  
Hearing Time: 8:30 AM

15  
16 **STATE'S OPPOSITION TO DEFENDANT'S MOTION FOR BAIL PENDING APPEAL**

17 ADAM PAUL LAXALT, Attorney General for the State of Nevada, through Chief Deputy  
18 Attorney General, Michael C. Kovac, hereby submits the State's Opposition to Defendant's Motion for  
19 Bail Pending Appeal. This opposition is made and based upon the pleadings on file, the following  
20 memorandum of points and authorities, and any oral arguments the Court may allow.

21 Dated this 23<sup>rd</sup> day of April, 2018.

22 SUBMITTED BY:  
23 ADAM PAUL LAXALT  
24 Attorney General

25 By: /s/ Michael C. Kovac  
26 MICHAEL C. KOVAC (Bar No. 11177)  
27 Chief Deputy Attorney General  
28

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 FACTS AND RELEVANT PROCEDURAL HISTORY

3 On September 30, 2016, the State filed in the Eighth Judicial District Court a complaint for  
4 forfeiture against, *inter alia*, property located at 1024 Santa Helena Avenue, Henderson, NV 89002 (case  
5 number A-16-744347-C). Appellant’s Appendix (“AA”), at 2-10. The request for forfeiture was based  
6 on the fact that the home constituted the proceeds – or replacement of the proceeds – of fraudulent real  
7 estate transactions. Id.

8 On November 29, 2016, the State initiated the present, related criminal proceedings by filing a  
9 criminal complaint in the Las Vegas Township Justice Court (case number 16F19220ABC). Id., at 15-  
10 38. The complaint for forfeiture and the criminal complaint were both based on the same fraudulent real  
11 estate transactions. Id. Thus, under NRS 179.1173(2), the forfeiture proceedings were automatically  
12 stayed. On April 11, 2017, the criminal case was bound over to District Court. Id., at 14, 69-72, 79-80.

13 On April 24, 2017, Defendant JACK LEAL and his codefendant/estranged wife, JESSICA  
14 GARCIA, pled guilty to the charge of Multiple Transactions Involving Fraud or Deceit in the Course of  
15 an Enterprise or Occupation, a category B felony, in violation of NRS 205.377, a crime punishable by a  
16 term of imprisonment not to exceed 20 years. Id., at 103-12. The charges stem from LEAL and GARCIA  
17 selling various parcels of real estate to various victims on the false representation that said parcels were  
18 not subject to any security interests. Id., at 97-99. LEAL and GARCIA fleeced their victims of \$757,420.  
19 Id., at 88.

20 At that same time the plea was being entered, and while being represented by attorney Jason  
21 Weiner, LEAL and GARCIA expressly and effectively waived any potential conflict of interest Weiner  
22 may have in his representation of them both. Id., at 100-12.

23 The terms of the guilty plea agreement provided, *inter alia*, that:

24 6. Should I, JACK LEAL, pay restitution in full at or before the time I am sentenced in the  
25 present case, the State will not oppose the imposition of a term of probation not to exceed a term of five  
26 years, with a suspended 36- to-90 month term of imprisonment;

27 7. Should I, JACK LEAL, fail to pay restitution in full at or before the time I am sentenced  
28 in the present case, the State will retain the right to argue for the imposition of a term of imprisonment.

1 Id., at 89.

2 Immediately following the entry of plea, the undersigned Deputy met with Weiner, LEAL, and  
3 GARCIA in the hallway outside of the courtroom where the plea was entered. At that time, the  
4 undersigned Deputy stressed the importance of quickly doing what needed to be done in order to get the  
5 restitution paid prior to sentencing – with special attention being paid to the sale of a home owned by  
6 LEAL and GARCIA (through a trust) that would likely satisfy the restitution requirement (the same home  
7 that is the subject of the above-mentioned forfeiture proceedings). As part of the guilty plea agreements,  
8 LEAL and GARCIA agreed to “execute and file in the Clark County Recorder’s Office a lien agreement  
9 and lien in favor of the State of Nevada, Office of the Attorney General, in the amount of \$600,314.83  
10 against the home located at 1024 Santa Helena Avenue, Henderson, Nevada 89002, assessor parcel  
11 number 179-33-710-056, legally described as MISSION HILLS EST AMD PLAT BOOK 17 PAGE 12,  
12 LOT 223 & LOT 223A, with the proceeds of the sale of said home to be applied to my restitution  
13 requirements,” in order to provide the State with assurances that any proceeds from the sale would, in  
14 fact, be applied toward the restitution obligations of LEAL and GARCIA. Id., at 89-90.

15 Nearly four months passed, and the undersigned Deputy heard nothing from LEAL, GARCIA, or  
16 Weiner until approximately one week prior to sentencing, at which point Weiner requested a continuance  
17 of the sentencing hearing so that his clients could sell the home at 1024 Santa Helena Avenue and pay  
18 restitution with the proceeds. The State rejected the request, noting that LEAL and GARCIA failed to  
19 even execute the lien required under the terms of their GPAs, let alone make any legitimate effort to sell  
20 the home.

21 Weiner made vague statements about unidentified issues holding up the sale. The undersigned  
22 Deputy informed Weiner that he was well aware of the issues his clients were having, including the  
23 following:

- 24 1. LEAL had no intention of complying with the terms of the guilty plea agreement and made no  
25 legitimate effort to do so;
- 26 2. In March of 2017, GARCIA was arrested in Florida on felony heroin and misdemeanor battery  
27 charges (In July of 2017, GARCIA entered a nolo contendere plea to the heroin charge, and the  
28 adjudication was withheld);

1 3. In June of 2017, GARCIA entered a guilty plea for another misdemeanor battery charge in a  
2 separate Florida case; and

3 4. Soon after that, GARCIA, in yet another Florida case, was convicted on charges of battery and  
4 “contempt of court violate injunction protection domestic vio.”

5 On or about August 16, 2017 – *the day before the sentencing hearing* – Weiner informed the  
6 undersigned Deputy that LEAL had (finally) filed the lien required under the terms of the GPA. While  
7 there is no reason to doubt that Weiner sincerely believed that to be true, it was actually another of  
8 LEAL’s lies. In reality, according to a Deputy District Attorney representing the Recorder’s Office (who  
9 called the undersigned Deputy the day of, or day after, LEAL’s sentencing), the day prior to sentencing,  
10 LEAL attempted to file the lien; however, he did not have all of the necessary documentation, and an  
11 employee of the Recorder’s Office informed him that the lien filing was suspended. LEAL informed that  
12 same employee that he would not be correcting the filing because he was returning to Florida the  
13 following day.

14 On August 17, 2017, LEAL appeared for his sentencing hearing. At that hearing, LEAL proved  
15 himself to be a conman through and through. First, LEAL lied to this Court and stated that the property  
16 at 1024 Santa Helena Avenue was free of any liens (the exact type of misrepresentation that landed him  
17 in this mess in the first place). *Id.*, at 122. Second, LEAL lied to this Court and stated that he properly  
18 filed a lien against that property and in favor of the State, as required by the terms of the plea agreement.  
19 *Id.* As explained above, at the time LEAL made that false statement to this Court, he was well aware that  
20 his attempted filing (which took place one day prior to sentencing) was suspended.

21 Fortunately, this Court was not the latest victim of LEAL’s lies, as LEAL was sentenced to a 72-  
22 to 180-month term of imprisonment. *Id.*, at 138. A day after the sentencing, the Recorder’s Office  
23 accepted documentation from the undersigned Deputy and lifted the suspension on the lien required under  
24 the terms of LEAL’s GPA.<sup>1</sup>

25 ///

26 \_\_\_\_\_  
27 <sup>1</sup> Garcia failed to appear for sentencing. The Court issued a bench warrant for her arrest. Subsequently,  
28 Garcia was apprehended in Florida and transported to Clark County, Nevada. Her sentencing is presently  
scheduled for May 8, 2018.

1 Following his conviction, LEAL filed a frivolous appeal, arguing two issues:

2 (1) “The District Court erred by permitting the state to breach the plea agreement without holding  
3 an evidentiary hearing under *Gamble v. State*, 95 Nev. 904 (1979), etc., to determine blame  
4 for the breach.”

5 (2) “The District Court erred by denying Motion to Withdraw Counsel with an unwaivable  
6 conflict under *Clark v. State*, 108 Nev. 324 (1992).”

7 LEAL now moves for bail pending appeal. Motion.

8 ARGUMENT

9 “Bail may be allowed pending appeal or certiorari unless it appears that the appeal is frivolous or  
10 taken for delay.” NRS 178.488(1). When faced with a motion for bail pending appeal, the Court is to  
11 consider:

12 (1) “whether the appeal is frivolous or taken for delay”; and

13 (2) “whether the applicant’s release may pose a risk of flight or danger to the community.”

14 *Bergna v. State*, 120 Nev. 869, 877 (2004). The Nevada Supreme Court has explained that “[t]he nature  
15 and quality of the evidence adduced at trial and the circumstances of the offense are highly relevant  
16 considerations in evaluating these factors.” *Id.* Additionally, “evaluation of these concerns may  
17 encompass a wide range of information, including the applicant’s prior criminal record, attempted  
18 escapes from confinement, community associations, and employment status.” *Id.*

19 An applicant “who faces a substantial term of imprisonment will shoulder a heavy burden to  
20 demonstrate, not only that the appeal is not frivolous, nor taken for delay, but also that his or her release  
21 will not pose a risk of flight or danger to the community.” *Id.* Here, LEAL most certainly cannot satisfy  
22 that heavy burden.

23 *I. Factor no. 1 – whether the appeal is frivolous or taken for delay.*

24 LEAL’s appeal is clearly frivolous, as his two arguments are based on events that simply did not  
25 take place.

26 With respect to LEAL’s first issue on appeal, contrary to LEAL’s contentions otherwise, the State  
27 clearly did not breach the term of the plea agreement. Under the terms of the plea agreement, should  
28

1 LEAL fail to have restitution paid at the time of sentencing, the State would have the right to argue for  
2 imprisonment. That is exactly what happened.

3 LEAL comically argues: “To both require the sale of a property to pay restitution and at the same  
4 time require that a lien by placed on the same property is akin to requiring a defendant to appear at a  
5 sentencing hearing while blockading them in their home.” Motion at 9:11-9:14. First, the terms of the  
6 guilty plea agreement did not require the sale of the property at 1024 Santa Helena Avenue. Second,  
7 LEAL’s suggestion that the State’s lien on the property prevented its sale is utterly absurd. LEAL did not  
8 even attempt to record the lien until the day after sentencing. Moreover, as explained above, the lien  
9 filing was suspended until after LEAL’s sentencing. Further, if anyone knows how to sell an encumbered  
10 property, it is LEAL; that is exactly why he is in the mess he presently finds himself. Thus, there is clearly  
11 no merit to LEAL’s suggestion that the lien requirement made it impossible for LEAL to sell the property  
12 prior to the date of his sentencing.<sup>2</sup>

13 LEAL makes much of his supposed good faith efforts to pay restitution. Whether LEAL made  
14 any such good faith efforts is irrelevant. The terms of the guilty plea agreement require the payment of  
15 restitution, not good faith efforts to pay restitution. Through no fault of the State, LEAL failed to satisfy  
16 his restitution obligation. Thus, the State was free argue for a term of imprisonment.

17 LEAL’s second appellate argument – that the District Court erred in denying his trial court  
18 attorney’s motion to withdraw as counsel – is equally unavailing. LEAL specifically argues that an  
19 unwaivable conflict existed under NRCP 1.7(b)(3) because LEAL and GARCIA “had been required to  
20 pay restitution, but it was not paid due to [GARCIA’s] malfeasance and domestic violence restraining  
21 order against her.” Motion at 11:11-11:13. On appeal, the Nevada Supreme Court will be reviewing any  
22 such denial for an abuse of discretion. *Young v. State*, 120 Nev. 963, 968 (2004).

23 As a preliminary matter, it must be noted that LEAL’s trial attorney did not file a **written** motion  
24 to withdraw as trial counsel, as required under EDCR 7.40. Additionally, any motion made the day of  
25 sentencing would be barred under EDCR 7.40(c), which provides: “No application for withdrawal or

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26 <sup>2</sup> Even if LEAL had filed the lien in a timely manner, it certainly would have made no impact upon any  
27 sale of the property. The lien was in the amount of \$600,314.83. If the property is truly worth in excess  
28 of a million dollars as LEAL contends, there would be no reason for the lien to have any effect whatsoever  
on the buyer, as the lien would be paid off in its entirety when any such sale would be completed.

1 substitution may be granted if a delay of the trial or of the hearing of any other matter in the case would  
2 result.” Moreover, even if it is determined that trial counsel properly moved to withdraw, any such motion  
3 was properly denied on the merits.

4 The failure of LEAL and GARCIA to pay restitution did not create any conflict, let alone an  
5 unwaivable one. They were both responsible for payment of the restitution, regardless of whether they  
6 were willing and able to work together to get it paid. No amount of excuses would have relieved LEAL  
7 of that obligation. As explained above, the State did not prevent LEAL from repaying his victims. And  
8 it makes no difference whether GARCIA prevented him from doing so; even if we are to assume (for the  
9 sake of argument) that fact to be true, the terms of the guilty plea agreement do not provide LEAL with  
10 any relief on that basis.

11 LEAL’s trial attorney could have jumped up and down, yelling and screaming about how  
12 GARCIA supposedly wronged LEAL. It would have been all for naught, as any such claim affords LEAL  
13 no relief from his obligations.

14 Finally, even if a conflict existed, LEAL knowingly and effectively waived it in conformance  
15 with the requirements established in *Ryan v. Eighth Judicial Dist. Court ex rel. County of Clark*, 123  
16 Nev. 419 (2007).<sup>3</sup> AA, at 100-02. LEAL ignores the clearly applicable opinion of *Ryan* and instead relies  
17 upon *Clark v. State*, 108 Nev. 324 (1992) – a case that has absolutely nothing to do with dual  
18

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19 <sup>3</sup> In *Ryan*, the Nevada Supreme Court explained, in pertinent part:  
20

21 [W]hen a non-indigent criminal defendant’s choice of counsel results in dual or multiple  
22 representation of clients with potentially conflicting interests, the defendant may waive  
23 the right to conflict-free counsel. An attorney or firm attempting to engage in dual or  
24 multiple representation of two or more criminal defendants must advise the defendants of  
25 their right to seek independent counsel to advise them on the potential conflict of interest.  
26 If the defendants choose not to seek the advice of independent counsel, they must  
27 expressly waive their right to do so, or their waiver of conflict-free representation will be  
28 ineffective. When a defendant knowingly, intelligently, and voluntarily waives the right  
to conflict-free representation, the district court must accept the waiver. **Once the district  
court accepts the waiver, the defendant cannot subsequently seek a mistrial arising  
out of the conflict he waived and cannot subsequently claim that the conflict he  
waived resulted in ineffective assistance of counsel.**

123 Nev., at 430-31 (emphasis added). LEAL’s waiver satisfies these requirements. AA, at 100-02.



1 representation of codefendants – in support of his claim that this Court erred in denying his trial attorney’s  
2 supposed motion to withdraw.

3 *II. Factor no. 2 – whether the applicant’s release may pose a risk of flight or danger to the*  
4 *community.*

5 As noted above, in determining whether applicant’s release may pose a risk of flight or danger to  
6 the community, the Court may consider a number of factors, including:

- 7 (A) The circumstances of the offense;
- 8 (B) The applicant’s criminal history;
- 9 (C) The applicant’s community associations; and
- 10 (D) The applicant’s employment status.

11 Here, evaluation of these factors clearly supports the conclusion that LEAL’s release would pose a serious  
12 risk of both flight and danger to the community.

13 A. The circumstances of the offense.

14 In the present case, LEAL stole a total of \$757,420<sup>4</sup> from eleven victims. In his Motion, LEAL  
15 contends that he “essentially sold the properties as is and did not tell [the victims] that they were  
16 encumbered, as opposed to misrepresenting them as unencumbered.” Motion 4:14-4:15. That is a flat out  
17 lie. LEAL, knowing that these properties were encumbered, sold these properties while knowingly and  
18 intentionally – and in some cases personally – falsely telling the victims that these properties were free  
19 and clear of any security interests.

20 In doing so, LEAL left his victims’ finances and lives in ruins. He wrecked retirement plans. He  
21 wiped out a grandchild’s college savings. LEAL’s victims continue to suffer as a result of his greed.

22 Now, LEAL wants to reenter society and continue his life as if he did no wrong, all while his  
23 victims try to scrap their lives back together. The filing of his frivolous appeal does not undue all of the  
24 damage LEAL has caused while running his criminal enterprise.

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28 <sup>4</sup> In his motion, LEAL incorrectly contends that the restitution total is \$694,420.

1           B. The applicant's criminal history.

2           LEAL is a conman. In 2008, in Berwyn, Illinois, LEAL was convicted of felony Theft by  
3 Deception. A week later, in Lyons, Illinois, LEAL again was convicted of felony Theft by Deception. He  
4 finds himself back in the criminal justice system in the present matter as a result of his fraudulent conduct.  
5 In other words, LEAL is a habitually fraudulent felon within the meaning of the term set forth in NRS  
6 207.014. LEAL has two misdemeanor convictions out of Illinois for the crime of Resist Peace Officer  
7 (2003 and 2006). Given this history, there is no reason to believe that, if released from custody, LEAL  
8 would begin to abide by the law.

9           C. The applicant's community associations.

10           In his Motion, LEAL states: "If permitted by the Court, Applicant would testify that he moved to  
11 Clark County in 2013 and has lived here since." If he so testified, he would be committing perjury.  
12 According to his PSI, LEAL's address is in Apopka, Florida. Additionally, as explained above, after  
13 LEAL was informed that he would have to return to the Clark County Recorder's Office to lift the  
14 suspension on his lien filing, LEAL stated that he was returning to Florida the following day.

15           To the extent that LEAL has resided in Nevada, his community associations can only be described  
16 as deplorable. He ran his criminal enterprise in Nevada with his coconspirator/wife, GARCIA, who has  
17 an impressive rap sheet of her own. Also associated with LEAL's criminal enterprise was Jacory  
18 Williams, an upstanding individual who (at last check) has an active warrant issued out of California for  
19 charges stemming from him pimping out his underage niece. Williams was also previously convicted for  
20 making/passing a false check.

21           Aside from directing his criminal enterprise here in Nevada, LEAL's connections to Nevada  
22 appear to be tenuous, at best. In a phone call made from CCDC after LEAL was sentenced, LEAL directed  
23 an associate to retrieve a vehicle LEAL parked near the courthouse – along with \$25,000 cash LEAL left  
24 in the car. Combining that fact with the fact that LEAL had already expressed that he would be returning  
25 to Florida after his sentencing, it is clear that there is a high risk LEAL would flee Nevada if given the  
26 opportunity.

27           D. The applicant's employment status.

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Aside from running a criminal enterprise, it appears that LEAL has no ability and/or willingness to maintain gainful employment.

**CONCLUSION**

For the foregoing reasons, the State respectfully requests that the Court deny Defendant's Motion for Bail Pending Appeal.

Dated this 23<sup>rd</sup> day of April, 2018.

SUBMITTED BY:  
ADAM PAUL LAXALT  
Attorney General

By: /s/ Michael C. Kovac  
MICHAEL C. KOVAC (Bar No. 11177)  
Chief Deputy Attorney General

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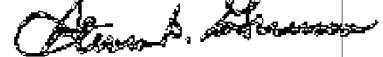
**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on April 23, 2018, I filed the foregoing document via this Court’s electronic filing system. Parties that are registered with this Court’s EFS will be served electronically. The following parties are not registered and therefore, a prepaid postage copy of this document has been placed in the U.S. mail.

Craig Muller, Esq.  
600 South Eighth Street  
Las Vegas, NV 89101  
*Attorney for Jack Leal*

/s/ A. Reber  
A. Reber, an employee of  
the office of the Nevada Attorney General

 ORIGINAL



1 ORDR  
2 ADAM PAUL LAXALT  
3 Attorney General  
4 Michael C. Kovac (Bar No. 11177)  
5 Chief Deputy Attorney General  
6 State of Nevada  
7 Office of the Attorney General  
8 555 E. Washington Ave., Ste. 3900  
9 Las Vegas, Nevada 89101-1068  
10 P: (702) 486-3420  
11 F: (702) 486-0660  
12 [mkovac@ag.nv.gov](mailto:mkovac@ag.nv.gov)  
13 *Attorneys for the State of Nevada*

DISTRICT COURT  
CLARK COUNTY, NEVADA

10 STATE OF NEVADA,  
11 Plaintiff,  
12 vs.  
13 JACK LEAL,  
14 Defendant.

Case No.: C-17-322664-2  
Dept. No.: XVII  
Hearing Date: April 26, 2018  
Hearing Time: 8:30 AM

TRANSPORT ORDER

17 TO: LT. DOUG GORDON, NEVADA DEPARTMENT OF CORRECTIONS  
18 JERRY HOWELL, Warden, SOUTHERN DESERT CORRECTIONAL CTR.

19 THE COURT HEREBY FINDS that the Defendant is presently in the custody of the Nevada  
20 Department of Corrections, located at SOUTHERN DESERT CORRECTIONAL CTR.


21 IT IS HEREBY ORDERED that the Warden of Southern Desert Correctional Ctr., or his  
22 designee, shall transport Defendant, JACK LEAL, #1183500, from Southern Desert Correctional Ctr. in  
23 Indian Springs, Nevada, to the Eighth Judicial District Court, Department 17 on the 26th day of

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RECEIVED BY  
JERRY HOWELL  
APR 25 2018

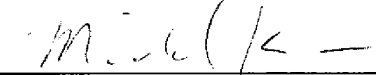
1 April, 2018, at 8:30 A.M. for a Hearing regarding the instant matter, and arrange for his *appearance on said*  
2 *date, and all subsequent dates, as relayed by Memorandum from the Office of the Attorney General.*

3 DATED this 24 day of April, 2018.

4  
5   
6 HONORABLE DISTRICT COURT JUDGE  
7 *For*

7 Respectfully submitted,

8 ADAM PAUL LAXALT  
9 Attorney General

10 By:   
11 MICHAEL C. KOVAC  
12 Nevada Bar No. 11177

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1 Craig A. Mueller, Esq.  
2 Nevada Bar No. 4703  
3 **MUELLER HINDS & ASSOCIATES, CHTD.**  
4 600 S. Eighth St.  
5 Las Vegas, NV 89101  
6 (702) 940-1234  
7 *Attorneys for JACK LEAL*

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA, )  
11 )  
12 Plaintiff, )  
13 )  
14 -vs- ) CASE NO.: C-17-322664-2  
15 ) DEPT NO: XVII  
16 JACK LEAL, )  
17 )  
18 Defendant. )  
19 \_\_\_\_\_ )

20 **NOTICE OF RESSCHEDULING OF HEARING**

21 Please be advised that the hearing re: Defendant's Motion for Bail Pending Appeal,  
22 hearing set before Honorable Michael Villani is currently off calendar.

23 PLEASE TAKE NOTICE that the above referenced hearing is being rescheduled to the  
24 **5** day of **JUNE**, 2018 **8:30** a.m./p.m.

25 DATED: May 23, 2018

Respectfully Submitted By:  
MUELLER HINDS & ASSOCIATES

/s/ Craig A. Mueller  
Craig A. Mueller, Esq.  
NV Bar No. 4703  
Attorney for Defendant

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 23rd day of May, 2018 I served a true and correct copy of the foregoing NOTICE OF RESETTIGN OF HEARING, upon each of the parties by electronic service through Odyseey/Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant to N.E.F.C.R.9; and by depositing a copy of the same in a sealed envelope in the United States mail, Postage Pre-Paid, addressed as follows:

Attorney General's Office  
Adam P, Laxalt, Esq.  
Michael C. Kovac, Esq.  
555 E. Washington Blvd., Suite 3900  
Las Vegas, NV 89101  
[winzetfilings@ag.nv.gov](mailto:winzetfilings@ag.nv.gov)

/s/ Giselle D. Villa  
An Employee of Mueller Hinds & Associates





1 Craig A. Mueller, Esq.  
2 Nevada Bar No. 4703  
3 **MUELLER HINDS & ASSOCIATES, CHTD.**  
4 600 S. Eighth St.  
5 Las Vegas, NV 89101  
6 (702) 940-1234  
7 Attorneys for JACK LEAL

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 STATE OF NEVADA, )  
11 )  
12 Plaintiff, )  
13 ) CASE NO.: C-17-322664-2  
14 -vs- )  
15 ) DEPT NO: XVII  
16 JACK LEAL, )  
17 )  
18 Defendant. )  
19 \_\_\_\_\_ )

20 **NOTICE OF RESSCHEDULING OF HEARING**

21 Please be advised that the hearing re: Defendant's Motion for Bail Pending Appeal,  
22 hearing set before Honorable Michael Villani is currently off calendar.

23 PLEASE TAKE NOTICE that the above referenced hearing is being rescheduled to the  
24 **26 JUNE 8:30A**  
25 day of \_\_\_\_\_, 2018 \_\_\_\_\_ a.m./p.m.

DATED: June 11, 2018

Respectfully Submitted By:  
MUELLER HINDS & ASSOCIATES

/s/ Craig A. Mueller  
Craig A. Mueller, Esq.  
NV Bar No. 4703  
Attorney for Defendant

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 11 day of June 2018 I served a true and correct copy of the foregoing NOTICE OF RESETTIGN OF HEARING, upon each of the parties by electronic service through Odyseey/Wiznet, the Eighth Judicial District Court's e-filing/e-service system, pursuant to N.E.F.C.R.9; and by depositing a copy of the same in a sealed envelope in the United States mail, Postage Pre-Paid, addressed as follows:

Attorney General's Office  
Adam P, Laxalt, Esq.  
Michael C. Kovac, Esq.  
555 E. Washington Blvd., Suite 3900  
Las Vegas, NV 89101  
[winzetfilings@ag.nv.gov](mailto:winzetfilings@ag.nv.gov)

/s/ Giselle D. Villa  
An Employee of Mueller Hinds & Associates



1 RTRAN

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DISTRICT COURT  
CLARK COUNTY, NEVADA

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THE STATE OF NEVADA,

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Plaintiff,

CASE: C-17-322664-2

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vs.

DEPT. XVII

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JACK LEAL,

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Defendant.

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BEFORE THE HONORABLE MICHAEL P. VILLANI, DISTRICT COURT JUDGE  
TUESDAY, JUNE 26, 2018

15

16

**RECORDER'S TRANSCRIPT OF HEARING:  
DEFENDANT'S MOTION RE: RESCHEDULING OF HEARING**

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19

APPEARANCES:

20

For the State:

MICHAEL C. KOVAC, ESQ.  
Senior Deputy Attorney General

21

22

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For the Defendant:

CRAIG MUELLER, ESQ.

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RECORDED BY: CYNTHIA GEORGILAS, COURT RECORDER

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Las Vegas, Nevada, Tuesday, June 26, 2018

[Hearing begins at 8:30 a.m.]

THE COURT: All right, State versus Jack Leal.

Just one moment, please, my law clerk is coming in.

MR. MUELLER: Your Honor, may we trail this for a few moments?

THE COURT: Sure.

MR. MUELLER: Counsel and I were actually just making –

THE COURT: Sure.

MR. MUELLER: -- having a discussion. Thank you.

[Matter trailed at 8:30 a.m.]

[Matter recalled at 8:42 a.m.]

THE MARSHAL: Recalling 1 top.

THE COURT: All right; the Leal matter.

MR. MUELLER: Good morning, Your Honor, Craig Mueller on behalf of Mr. Leal. I would like to have the record reflect me showing as attorney of record. This is on for a motion of bail pending appeal.

THE COURT: Okay. Go ahead.

MR. MUELLER: Thank you, Your Honor.

I spoke with Mr. Leal and as this is not the run of the mill state court criminal case but I believe I'm comfortable with the record, I believe a meritorious appeal is potentially available to Mr. Leal pursuant to the Nevada Revised Statutes that allow for it, specifically – I just had it here – 178.08 – 488. I'm going to ask for a \$100,000.00 cash bail to be held and the cash eventually be applied to the restitution that is owed.

1 Mr. Leal is not a threat to the community, not a flight risk, and there is  
2 another piece of property apparently that can be – or is in the process of  
3 being liquidated to pay the restitution.

4 As I was reviewing this, and I look at this as a judge, -- I've  
5 been doing this a number of years now -- I've reviewed the record and  
6 looked at everything and I kind of – the two things that struck out to me,  
7 Judge, I was very uncomfortable when I read this record about this  
8 conflict between the two parties. I – occasionally the lower courts will  
9 waive conflict between the parties when the matter's simply going to be  
10 negotiated, where there came a time at sentencing when the parties are  
11 actually in fisticuffs and have cross restraining orders between them and  
12 there is a -- charges pending as a result of their interactions with each  
13 other, I believe at that point the fate – the conflict can – becomes fatal  
14 and the representation, the joint representation can simply not proceed.

15 The second issue that struck me as very unusual -- and I'll  
16 defer to my colleague, I don't want to step on his toes if I've  
17 misunderstood what's transpired, but it would appear that the  
18 contemplated negotiations included liquidating a property for which there  
19 was a considerable amount of equity and then using that equity to pay  
20 off the restitution as a condition of probation. For whatever reason, there  
21 apparently was a lien or some other administrative mechanism put on  
22 that property that prevented its timely sale. I don't know if it was  
23 intentional. I don't know the exact details. Obviously getting – coming in  
24 to representation late I'm tentative, not because I haven't read  
25 everything and I'm not prepared, I just want to make sure that I don't

1 misstate the record here coming into it a little later.

2           Having said that, I believe either of those issues, particularly –  
3 potentially are meritorious. I'm asking for a cash bail, not a bond, and  
4 that that's real money that can go to restitution of the parties if Mr. Leal  
5 does not prevail on appeal.

6           THE COURT: Thank you.

7           State.

8           MR. KOVAC: Good morning; Michael Kovac, the Attorney  
9 General's Office. So, I'm sure Your Honor is familiar with this case. It's  
10 dragged on for a while now. This is the fourth defense attorney we've  
11 dealt with in this case.

12           Mr. Leal and Ms. Garcia are estranged. At the time this case  
13 was being negotiated they were still estranged even at that – estranged  
14 even at that time. They were represented by Mr. Weiner at the lower  
15 proceedings where this case was negotiated.

16           When we were at the lower level arraignment, I said make  
17 sure – I was out in the halls. Mr. Weiner, Mr. Leal, and Ms. Garcia were  
18 all out in the hall. I said it's important that this restitution gets paid off  
19 before sentencing. If it gets paid off before sentencing I have no problem  
20 – I'm not opposing probation. If it doesn't, for whatever reason, I'm going  
21 to make an argument for prison time. So, everybody was aware of that. I  
22 said part of this deal contemplated that you put a lien on the house  
23 where there's equity. That house was owned by Mr. Leal and Ms. Garcia  
24 but it was in the name of a trust. So, I said you have to hurry up and get  
25 that trust – that property into your name rather than the trust name so

1 that you can sign the lien to us. The lien doesn't have any effect on the  
2 sale of the property because the sale – the property was worth enough  
3 that the lien would be satisfied once it was sold. They did nothing for the  
4 nearly 4 months that passed between the arraignment and the  
5 sentencing.

6           Just a few days before the sentencing Mr. Weiner called me  
7 and asked me if they could have a continuance to get more time and I  
8 said absolutely not because they've done absolutely nothing to get this  
9 property moving along. Finally at that point, when they knew that they  
10 weren't getting any more chances, all of a sudden, bam, the house goes  
11 from the trust name to Mr. Leal's name. I said, okay, now you need to  
12 get the lien in the place of the Attorney General's Office. Mr. Leal said  
13 that that was done. He came into court the day of sentencing and told  
14 you that it was done. That was a flat out lie. He tried to do it the day  
15 before sentencing finally and they told him – the recorder's office told  
16 him that lien was suspended because he didn't have the proper  
17 paperwork. He said, oh well, I'm going back to Florida the next day. I'm  
18 not going to fix it. Nevertheless, he had no problem lying to your face  
19 during sentencing.

20           Now, we get here and we have the appeal. Well, there was a  
21 conflict between Mr. Leal and Ms. Garcia that couldn't be resolved. But  
22 there is case law directly on point, that Ryan case that I cited in here. It  
23 says exactly what needs to be done in order to have a valid waiver of  
24 any conflict. I made sure that the language in the waiver that was filed in  
25 district court and it was attached to the GPA track the language in the

1 Ryan case. The Ryan case says that once a district court accepts the  
2 wavier, the Defendant cannot subsequently seek a mistrial arising out of  
3 conflict he waived. He cannot subsequently claim that the conflict waiver  
4 resulted in ineffective assistance of counsel. That would be equally as  
5 effective for a Guilty Plea Agreement as it would be for a trial.

6 As far as the other issue, whether the State prevented the  
7 Defendant from being able to satisfy his restitution obligation, that's just  
8 flat out false. I've done everything I can to get this stuff moving along. It's  
9 been – the Defendant – he's a con man. This is his third conviction for  
10 fraud. He thought he could talk his way out of it. He finally got caught.  
11 That's why we're here today.

12 MR. MUELLER: In rejoinder, Your Honor, my colleague's very  
13 eloquent, but in rejoinder I'd make three points. Number one, I'm offering  
14 cash bail. There's no con. Its cash or he doesn't get anywhere so that's  
15 easy. If he doesn't get [indiscernible] cash, then it doesn't go.

16 And number two, conflicts cannot be waived when they are in  
17 fact fatal. And I took Rob Bare's course and I actually still have his notes  
18 from when I went over on conflicts. When the parties are in open warfare  
19 between each other and where their positions or the relationship has  
20 degraded, you cannot continue to represent both. You can't. It's a fatal  
21 conflict. Now, all conflicts can be waived up to a point until they become  
22 fatal. At a certain point, no – the conflict can simply not be waived.

23 Now, I – you and I go out and we do a [indiscernible] skip and  
24 we both go to agree to hire a couple – a guy to represent us, gets petty  
25 larceny and 30 days in jail and it turns out later you want to testify



1 against me. That conflict goes from being waivable to being non-  
2 waivable. That becomes a fatal conflict because there's now actual open  
3 hostility between the parties. Now, in this instance, that is a meritorious  
4 argument; I believe the Supreme Court is going to see to it.

5           And third, it would appear that there was at least some  
6 substantial compliance or at least some meaningful effort to substantially  
7 comply with the restitution request. Now, if the two parties are at odds  
8 with each other over ownership of property that needs to be liquidated  
9 for restitution, very clearly there's a conflict that can't be waived at that  
10 point as well. And I would also just point out in rejoinder, you know  
11 some of us grow up with educated and alert and responsible parents  
12 who are sophisticated in the ways of the world and some people have to  
13 make their own way in the world. It's easy to lose sight of the fact that  
14 Mr. Leal is 34, was actually about 30, involved in some very detailed and  
15 sophisticated real estate transactions, that I approaching 60 would not  
16 be comfortable with. Now, the reality is is how much of this was a young  
17 man in bluster and how much of this was crime. For whatever – by what  
18 other mechanisms, it would appear that he and his then ex-girlfriend had  
19 some real success at some point with real estate and there's still  
20 apparently enough equity to make the restitution here if mechanisms are  
21 in place to have it.

22           For those foregoing reasons, I'd ask – I'm not asking for a  
23 bond. I'm not asking for anything other than a cool hard \$100,000.00  
24 cash bail.

25           THE COURT: When I reviewed this matter, the – we do have

1 a conflict of wavier and I understand the argument that there's an issue  
2 down the road. The issue at the time of sentencing was whether or not  
3 the Defendant had paid the restitution and the negotiations were joint  
4 and several. The negotiations were for him to sign the lien in the  
5 Attorney General's Office. He had 4 months from the entry of the plea to  
6 the time of sentencing and he only attempted apparently the day before  
7 and was unsuccessful, but in any event it would not have been  
8 accomplished the day of the sentencing. He did not pay one dime  
9 towards restitution. And so that's why I didn't find – there wasn't a  
10 conflict with that situation whether he paid it or not. It's a very simple  
11 question. It's reality. He did not pay it. The State retained the right to  
12 argue. And furthermore, it was not a conditional plea that the Court give  
13 either Defendant probation. I looked at 11 victims in the amount of  
14 \$757,000.00, that they were victims of the fraudulent conduct of the two  
15 Defendants. And for those reasons, I gave him the sentence that I did.

16 And so, I'm going to – he is – he's got a record of fraud in the  
17 past, two other cases. These are fraudulent transactions going over, I  
18 believe, a two year period of time. He is a danger to the community  
19 because other unsuspecting individuals could be victims to his  
20 fraudulent conduct. And so, for those reasons I am denying his motion  
21 for bail pending appeal.

22 MR. KOVAC: Thank you, Your Honor.

23 MR. MUELLER: Your Honor, and respectfully, Judge, I  
24 understand the Court's ruling and decision, but the standard here is for  
25 the – and right out of the statute, is "...unless it appears that the appeal

1 is frivolous or taken for delay.”

2 THE COURT: Well, I just set forth the basis where I feel that  
3 there was no – there wasn’t an appealable – an issue of conflict that  
4 would arise to a meritorious appeal. And also, in any event, there was no  
5 conflict as to whether or not he paid his restitution or not. It was never  
6 paid. It has nothing to do with the attorney. He didn’t pay it. The attorney  
7 wasn’t supposed to pay. The attorney didn’t have money in a trust  
8 account to pay this. The Defendant didn’t pay it, just very simple.

9 MR. MUELLER: Thank you, Your Honor.

10 THE COURT: Thank you.

11 MR. KOVAC: Thank you.

12 [Hearing concludes at 8:53 a.m.]

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21 ATTEST: I do hereby certify that I have truly and correctly transcribed the  
22 audio/video proceedings in the above-entitled case to the best of my ability.

23

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25

  
CYNTHIA GEORGILAS  
Court Recorder/Transcriber  
District Court Dept. XVII



1 **DAO**  
ADAM PAUL LAXALT  
2 Attorney General  
Michael C. Kovac, Bar No. 11177  
3 Chief Deputy Attorney General  
Raya M. Swift, Bar No. 11108  
4 Senior Deputy Attorney General  
Office of the Attorney General  
5 555 E. Washington Ave., Ste. 3900  
Las Vegas, Nevada 89101-1068  
6 P: (702) 486-3420  
F: (702) 486-0660  
7 mkovac@ag.nv.gov  
Attorneys for the State of Nevada  
8

9  
10 **DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

11 STATE OF NEVADA,  
12 Plaintiff,  
13 vs.  
14 JACK LEAL,  
15 Defendant.

Case No. C-17-322664-2  
Dept. No. XVII

16  
17 **DECISION AND ORDER**

18 THIS CAUSE came before the Honorable Michael P. Villani on June 26, 2018, for review of  
19 Defendant Jack Leal's Application for Bail Pending Appeal (Motion) filed April 16, 2018 where he  
20 requested bail pending his appeal to the Nevada Court of Appeals pursuant to NRS 178.488. Plaintiff  
21 filed an opposition on April 23, 2018. Based on the oral argument and pleadings filed in this case, the  
22 Court hereby DENIES Defendant's Motion for the reasons set forth below.

23 THE COURT FINDS that Defendant Jack Leal (Defendant) entered into negotiations with the  
24 State wherein he agreed to plead guilty to one count of Multiple Transactions Involving Fraud or Deceit  
25 in Course of Enterprise or Occupation, a category B felony, a crime punishable by a term of imprisonment  
26 not to exceed twenty (20) years. Defendant also agreed to be jointly and severally liable with the co-  
27 defendant, Jessica Garcia (co-defendant), for paying in full restitution totaling \$757,420 to the eleven  
28 (1) victims at or before the time of his sentencing. Defendant further agreed to execute a lien in the

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DEPT 17 ON  
AUG 30 2018

1 name of the Nevada Attorney's General's Office against the property located at 1024 Santa Helena  
2 Avenue, Henderson, NV 89002. In the event that Defendant did not pay the restitution in full at or before  
3 the time of his sentencing, the State retained the right to argue for a term of imprisonment. The parties  
4 memorialized these negotiations in the Guilty Plea Agreement (GPA).

5 THE COURT FURTHER FINDS that Defendant and the co-defendant executed two conflict-of-  
6 interest waivers prior to his entry of plea and sentencing.

7 THE COURT FURTHER FINDS that Defendant had four (4) months between his entry of plea  
8 and sentencing to pay full restitution and execute a lien in the name of the Nevada Attorney's General's  
9 Office against the property located at 1024 Santa Helena Avenue, Henderson, NV 89002.

10 THE COURT FURTHER FINDS that at the time of sentencing, Defendant had not paid any  
11 restitution to the eleven (11) victims.

12 THE COURT FURTHER FINDS that Defendant did nothing until the day before his sentencing  
13 in regards to executing a lien in the name of the Nevada Attorney's General's Office against the property  
14 located at 1024 Santa Helena Avenue, Henderson, NV 89002.

15 THE COURT FURTHER FINDS that Defendant has a criminal history of fraudulent transactions  
16 in two (2) others cases in Illinois prior to instant case in Nevada.

17 WHEREFORE THE COURT CONCLUDES that NRS 178.488 allows for bail pending appeal  
18 or certioraris. NEV. REV. STAT. 178.488. However, "there is no constitutional right to bail following  
19 conviction and pending appeal." *Bergna v. State*, 120 Nev. 869, 872, 102 P.3d 549, 551 (2004). Under  
20 NRS 178.488, bail is not permitted if the appeal is frivolous. *See also Bergna*, 120 Nev. at 877, 102 P.3d  
21 at 554. Bail should also be denied when defendant poses a flight risk or danger to the community. *See*  
22 *Lane v. State*, 98 Nev. 458, 652 P.2d 1174 (1982); *Bergna*, 120 Nev. at 874, 102 P.3d at 552.

23 WHEREFORE THE COURT FURTHER CONCLUDES that Defendant has failed to  
24 demonstrate that his appeal is meritorious to warrant bail. The issue at the time of sentencing was whether  
25 Defendant had paid the restitution in full. Even though Defendant's counsel argued a non-waivable  
26 conflict-of-interest existed due to Defendant and the co-defendant's failure to pay the restitution in full  
27 at or before Defendant's sentencing, this argument overlooked the glaring fact that Defendant agreed to  
28 be jointly and severally liable with the co-defendant for paying the restitution in full in the GPA.

Furthermore, the Court did not give a conditional plea that either Defendant receive probation.

1 Defendant's counsel had nothing to do with Defendant's failure to pay full restitution at or before his  
2 sentencing. As a result, a non-waivable conflict-of interest did not exist to arise to a meritorious appeal  
3 because Defendant agreed to be liable for the full restitution despite any failure by the co-defendant to  
4 pay the restitution. Due to Defendant's failure to pay any restitution, the State argued for a term of  
5 imprisonment as permitted and agreed to in the GPA. Thus, Defendant's appeal is frivolous.

6 WHEREFORE THE COURT FURTHER CONCLUDES that Defendant has failed to show he  
7 does not pose a danger to the community to warrant bail. Defendant's prior criminal history involved  
8 fraudulent transactions in two (2) other cases prior to the instant case. In the instant case, Defendant  
9 defrauded eleven (11) victims of \$757,420 that he failed to pay in restitution. Thus, Defendant is a danger  
10 to the community because other unsuspecting individuals could be victims to his fraudulent conduct.

11 THEREFORE, IT IS HEREBY ORDERED that Defendant's Application for Bail Pending  
12 Appeal is DENIED.

13 IT IS SO ORDERED this 5 day of Sept, 2018.



The Honorable Michael P. Villani  
District Court Judge

JM

17 Submitted by:

18 ADAM PAUL LAXALT  
19 Attorney General



21 MICHAEL C. KOVAC (Bar No. 11177)  
22 Chief Deputy Attorney General

PP  
DA  
AOR

1 Jack Leal # 1183500  
2 Petitioner/In Propria Persona  
3 Post Office Box 208, SDCC  
4 Indian Springs, Nevada 89070

FILED  
NOV 29 2018  
*Ann L. Blinn*  
CLERK OF COURT

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
6 THE STATE OF NEVADA IN AND FOR THE  
7 COUNTY OF CLARK

8 STATE OF NEVADA  
9 Plaintiff,  
10 vs.  
11 JACK Leal  
12 Defendant,

Case No. C-17-322664-2  
Dept. No. 17  
Docket \_\_\_\_\_

13  
14 MOTION TO WITHDRAW COUNSEL

15 Date of Hearing: 1-3-2019

16 Time of Hearing: 8:30 AM

17 "ORAL ARGUMENT REQUESTED, Yes \_\_\_ No X"

18 COMES NOW, Defendant, JACK Leal, proceeding in proper  
19 person, moves this Honorable Court for an ORDER Granting him permission to withdraw his  
20 present counsel of record in the proceeding action, namely,


21 Jason G. Weiner (Trial Counsel)

22 This Motion is made and based on all papers and pleadings on file with the Clerk of the Court  
23 which are hereby incorporated by this reference, the Points and Authorities herein, and attached  
24 Affidavit of Defendant.

25 DATED: this 21<sup>st</sup> day of November, 20 18.

26 BY: *[Signature]*  
27 JACK Leal # 1183500  
28 Defendant/In Propria Personam

CLERK OF THE COURT  
NOV 29 2018  
RECEIVED

C-17-322664-2  
MOT  
Motion  
4789711  


1 **POINTS AND AUTHORITIES**

2 The Nevada Revised Statute 7.055(1), which deals with the duty of a discharged attorney, states:

3 "An attorney who has been discharged by his client shall, upon demand and payment of the fee due from  
4 the client , immediately deliver to the client all papers, documents, pleadings and items of tangible property  
5 which belong to or were prepared for that client."

6  
7  
8 N.R.S. 7.055(2) gives this Court the power to Order the Attorney(s) of record to produce and  
9 deliver to the defendant in his/her possession, which states:

10 "A client who, after demand therefore and payment of the fee due from him, does not receive from his  
11 discharged attorney all papers, documents, pleadings and items of tangible personal property may, by  
12 a motion filed after at least 5 days' notice to the attorney, obtain an order for the production of his papers,  
13 Documents, pleadings and other property."

14 In numerous cases throughout this great land, the courts have held attorneys to a high degree of  
15 professional responsibility and integrity. This carried from the time of hiring to and through the  
16 attorney's termination of employment.

17 Supreme Court Rule 173 states quite clear that a withdrawn attorney owes his former client a  
18 prompt accounting of all his client's . . . property in his possession." This is echoed in Canon 2 of  
19 the Code of Professional Responsibility of the American Bar Association, which states in pertinent  
20 part EC 2-32: "A lawyer should protect the welfare of his client by . . . delivering to the client all  
21 papers and property to which the client is entitled." Again in Disciplinary Rule 2-110(A)(2) of the  
22 ABA, this is brought out that a withdrawn attorney must deliver to the client all papers an comply with  
23 applicable laws on the subject.

24 In the cases of In Re Yount, 93 Ariz. 322, 380 P.2d 780 (1963) and State v. Alvey, 215 Kan. 460,  
25 524 P.2d 747 (1974), both of which dealt with a factual situation involving a withdrawn attorney  
26 refusing to deliver to a former client his documents after being requested to do so by the client. The  
27 court in Yount, supra, ordered the attorney disbarred while in Alvey, supra, the court had the attorney  
28 censored.




1 While not the intention of the Defendant in this case to have the attorney disbarred, these cases do  
2 show a pattern in the court in considering the refusal to deliver to a former client all his documents  
3 and property after being requested to do so, a serious infraction of the law and of professional ethics.  
4 See, In Re Sullivan, 212 Kan. 233, 510 P.2d 1199 (1973).

5 In summary, this court has jurisdiction through NRS 7.055 to Order the attorney(s) to produce and  
6 deliver to the Defendant all documents and personal property in his/their possession belonging to him  
7 or prepared for him. The Defendant has fulfilled his obligations in trying to obtain the papers. The  
8 attorney(s) is in discord with Cannon 2 of the Code of Professional responsibility and the Nevada  
9 Supreme Court Rules 173, 176 and 203.

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DATED: this 21<sup>st</sup> day of November, 20 18.

BY:   
Jack Leal #183500  
Defendant/In Propria Personam

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**CERTIFICATE OF SERVICE BY MAILING**

I, Jack Leal, hereby certify, pursuant to NRCP 5(b), that on this 21<sup>st</sup> day of NOVEMBER, 2018, I mailed a true and correct copy of the foregoing, "NOTICE OF Motion, and Motion to Withdraw Trial Counsel" by placing document in a sealed pre-postage paid envelope and deposited said envelope in the United State Mail addressed to the following:

Wainer Law Group LLC  
3820 W. Charleston Blvd.  
SUITE 35  
Las Vegas, Nevada  
89102

CC:FILE

DATED: this 21<sup>st</sup> day of November, 2018.

Jack Leal # 118,3500  
Movant /In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
IN FORMA PAUPERIS:

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding NOTICE OF

MOTION and Motion to Withdraw Counsel (TRIAL)  
(Title of Document)

filed in District Court Case number C-17-322664-2

Does not contain the social security number of any person.

-OR-

Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

B. For the administration of a public program or for an application  
for a federal or state grant.

[Signature]  
Signature

11-21-2018  
Date

Jack Lee #1183500  
Print Name

Novant  
Title

JACK LEAL  
N.D.C. NO. 1183500  
5000  
P.O. BOX 208  
INDIAN SPRINGS, NV.  
89020

Hasler  
11/07/2018  
FIRST-CLASS MAIL  
POSTAGE \$001.42

ZIP 89101  
011E12650516



EIGHTH JUDICIAL DISTRICT COURT  
REGIONAL JUSTICE CENTER  
CLERK OF THE COURTS  
200 LEWIS AVENUE, 3RD FLOOR  
LAS VEGAS, Nevada  
89155-1160

11/12/18



County Clerk  
County Center  
NOV 27 2008  
Outgoing Mail

"LEGAL MAIL"

1 Jack Leal, 1183500  
Petitioner/In Propria Persona  
2 Post Office Box 208, SDCC  
Indian Springs, Nevada 89070  
3  
4

5 IN THE EIGHTH JUDICIAL DISTRICT COURT OF  
6 THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF CLARK

7 STATE OF NEVADA  
8 Plaintiff,  
9 vs.  
10 Jack Leal  
11 Defendant,

Case No. C-17-322664-2  
Dept. No. 17  
Docket \_\_\_\_\_

13 ORDER

14 Upon reading the motion of defendant, Jack Leal, requesting  
15 withdrawal of counsel, Jason G Weiner, Esq.,  
16 , and Good Cause Appearing,

17 **IT IS HEREBY ORDERED** that defendant's Motion for Withdrawal of Counsel is  
18 GRANTED.

19 **IT IS HEREBY FURTHER ORDERED** that Counsel deliver to defendant at his address,  
20 all documents, papers, pleadings, discovery and any other tangible property in the above-entitled  
21 case.

22  
23 DATED and DONE this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

24  
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26 \_\_\_\_\_  
DISTRICT COURT JUDGE

C-17-322664-2  
LSF  
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CLERK OF THE COURT

RECEIVED  
NOV 29 2018

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACK LEAL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

Supreme Court No. 74050  
District Court Case No. C322664

FILED

DEC 29 2018

CLERK'S CERTIFICATE

*Elizabeth A. Brown*  
CLERK OF COURT

STATE OF NEVADA, ss.

I, Elizabeth A. Brown, the duly appointed and qualified Clerk of the Supreme Court of the State of Nevada, do hereby certify that the following is a full, true and correct copy of the Judgment in this matter.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"ORDER the judgment of conviction AFFIRMED."

Judgment, as quoted above, entered this 2nd day of October, 2018.

JUDGMENT

The court being fully advised in the premises and the law, it is now ordered, adjudged and decreed, as follows:

"Review denied."

Judgment, as quoted above, entered this 28th day of November, 2018.

IN WITNESS WHEREOF, I have subscribed my name and affixed the seal of the Supreme Court at my Office in Carson City, Nevada this December 24, 2018.

Elizabeth A. Brown, Supreme Court Clerk

By: Rory Wunsch  
Deputy Clerk

C-17-322664-2  
CCJA  
NV Supreme Court Clerks Certificate/Judgn  
4806641



IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACK LEAL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74050

**FILED**

SEP 11 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**ORDER OF AFFIRMANCE**

Jack Leal appeals from a judgment of conviction, entered pursuant to a guilty plea, of multiple transactions involving fraud or deceit in the course of an enterprise or occupation. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

First, Leal argues the district court erred by failing to hold an evidentiary hearing or failing to inquire into the nature or materiality of his breach of the plea agreement. We disagree.

The parties agreed in the guilty plea agreement that if Leal paid full restitution to the victims in this case by the sentencing date, the State would not oppose probation. If Leal failed to pay the full restitution amount by the sentencing date, the State could argue for imprisonment. Leal failed to pay the full restitution amount by the sentencing date. Here it was apparent the defendant was to blame for the breach of the plea agreement; therefore, no evidentiary hearing was necessary to determine who was to blame. *Villalpando v. State*, 107 Nev. 465, 467-68, 814 P.2d 78, 80 (1991). Accordingly, the district court did not err by failing to hold an evidentiary hearing or otherwise inquire into the nature or materiality of the breach of the plea agreement.




Second, Leal argues the district court abused its discretion by denying his motion to withdraw counsel due to a conflict of interest. Leal claims it was a conflict of interest for his counsel to represent both him and his codefendant in this case. Specifically, he claims his counsel should have been able to withdraw at sentencing, after making an oral motion, because he and his codefendant had conflicting defenses as to why they did not pay the restitution in full.

Leal failed to demonstrate the district court abused its discretion by denying his motion to withdraw counsel. First, it does not appear Leal made an appropriate motion to withdraw based on the local rules. See EDCR 7.40(b). Second, Leal waived any current or potential conflicts of interest by signing two different waivers regarding actual and potential conflicts of interest. See RPC 1.7(b); see also *Ryan v. Eighth Judicial Dist. Court*, 123 Nev. 419, 430, 168 P.3d 703, 710 (2007). Finally, Leal failed to demonstrate there was a conflict of interest because the fact his codefendant did not also pay the restitution was not a defense to his breach of the guilty plea agreement. See RPC 1.7(b)(3). Leal and his codefendant were jointly and severally liable for the restitution and the restitution was required to be paid in full by the sentencing hearing.

Having reviewed the claims raised on appeal, we  
ORDER the judgment of conviction AFFIRMED.<sup>1</sup>

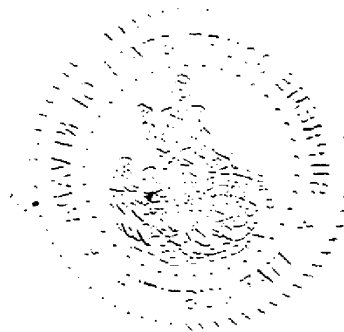
  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

<sup>1</sup>In light of this order, we deny Leal's motion for bail pending appeal.

cc: Hon. Michael Villani, District Judge  
Mueller Hinds & Associates  
Attorney General/Carson City  
Attorney General/Las Vegas  
Clark County District Attorney  
Eighth District Court Clerk



**CERTIFIED COPY**

This document is a full, true and correct copy of the original on file and of record in my office.

DATE: DECEMBER 24, 2018  
Supreme Court Clerk, State of Nevada

By [Signature] Deputy

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACK LEAL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74050

**FILED**

NOV 28 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**ORDER DENYING PETITION FOR REVIEW**

Review denied. NRAP 40B.

It is so ORDERED.<sup>1</sup>

Douglas, C.J.  
Douglas

Cherry, J.  
Cherry

Pickering, J.  
Pickering

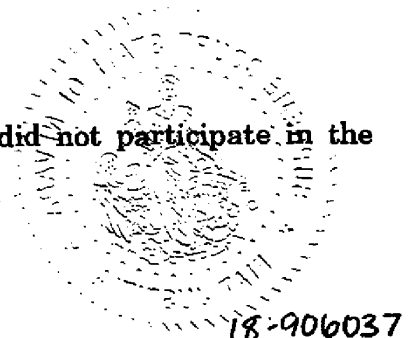
Hardesty, J.  
Hardesty

Parraguirre, J.  
Parraguirre

Stiglich, J.  
Stiglich

cc: Hon. Michael Villani, District Judge  
Mueller Hinds & Associates  
Attorney General/Carson City  
Attorney General/Las Vegas  
Clark County District Attorney  
Eighth District Court Clerk

<sup>1</sup>The Honorable Mark Gibbons, Justice, did not participate in the decision of this matter.



**CERTIFIED COPY**  
This document is a full, true and correct copy of  
the original on file and of record in my office.  
DATE: December 24, 2018  
Supreme Court Clerk, State of Nevada  
By [Signature] Deputy

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

JACK LEAL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

**Supreme Court No. 74050**  
District Court Case No. C322664

**REMITTITUR**

TO: Steven D. Grierson, Eighth District Court Clerk

Pursuant to the rules of this court, enclosed are the following:

Certified copy of Judgment and Opinion/Order.  
Receipt for Remittitur.

DATE: December 24, 2018

Elizabeth A. Brown, Clerk of Court

By: Rory Wunsch  
Deputy Clerk

cc (without enclosures):

Hon. Michael Villani, District Judge  
Mueller Hinds & Associates  
Clark County District Attorney  
Attorney General/Las Vegas

**RECEIPT FOR REMITTITUR**

Received of Elizabeth A. Brown, Clerk of the Supreme Court of the State of Nevada, the  
REMITTITUR issued in the above-entitled cause, on DEC 29 2018.

HEATHER UNGERMANN   
Deputy District Court Clerk

RECEIVED  
APPEALS

DEC 28 2018

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18-910115

CLERK OF THE COURT

Feb 28 2019  
a. 8:30 AM

FILED

FEB 04 2019

CLERK OF COURT

Jack Leal ID NO. 1183500

SOUTHERN DESERT CORRECTIONAL CTN.  
20825 COLD CREEK RD.  
P.O. BOX 208  
INDIAN SPRINGS, NV 89070

In the Eighth Judicial District Court of  
The State of Nevada in and for the  
County of Clark

Jack Leal

v.

Nevada Department of Corrections

CASE NO.: C-17-322664-2

DEPT. NO.: XVII

DOCKET:

Motion and order to order Nevada Department of Corrections/Property room  
to release CD containing criminal discovery to Defendant for review

COMES NOW, Defendant, Jack Leal, herein above respectfully  
moves this Honorable Court for an Order to order the Nevada Department of Corrections/  
Property room to release CD containing criminal discovery for Defendant to review

This Motion is made and based upon the accompanying Memorandum of Points and  
Authorities,

DATED: this 28 day of January, 2019

BY:

Jack Leal

# 1183500

Defendant In Proper Personam

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FEB 04 2019

CLERK OF THE COURT

Page 1

C-17-322664-2  
MOT  
Motion  
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ADDITIONAL FACTS OF THE CASE:

1 My motion to withdraw counsel, filed on November 29 2018, was  
2 granted on January 3 2019 and my trial counsel, Jason Weiner subsequently  
3 mailed me my "file". Part of this documentation is apparently a computer  
4 CD containing my "discovery breakdown" as shown by the attached  
5 supporting documentation. I do not recall ever seeing any of this  
6 information prior to now and respectfully request that the court grant  
7 this order so that the CD may be released to me to be reviewed  
8 to discover any information which may be useful in any post conviction  
9 proceedings regarding this criminal case. Without being able to view  
10 the actual contents/documents contained on said CD, and without having  
11 previously received such information, it would limit and restrict my ability  
12 to make any informed decisions moving forward with any future filings.



**CERTIFICATE OF SERVICE BY MAILING**

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I, Jack Leal, hereby certify, pursuant to NRCP 5(b), that on this 28  
day of January, 2019, I mailed a true and correct copy of the foregoing, "Motion and order  
to order Nevada Department of Corrections Property Room to release CD containing discovery"  
by placing document in a sealed pre-postage paid envelope and deposited said envelope in the <sup>for Defendant to review</sup>  
United State Mail addressed to the following:

Steve Wolfson, Esq.  
Clark County District Attorney  
Regional Justice Center  
200 Lewis Ave.  
Las Vegas, Nevada 89101

\_\_\_\_\_  
\_\_\_\_\_  
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CC:FILE

DATED: this 28 day of January, 2019.

  
Jack Leal # 1183500  
/In Propria Personam  
Post Office Box 208, S.D.C.C.  
Indian Springs, Nevada 89018  
**IN FORMA PAUPERIS:**

AFFIRMATION  
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding Motion and order

to order Nevada Department of Corrections Property room to release CD containing criminal discovery  
(Title of Document) to defendant for review

filed in District Court Case number C-17-322664-2

Does not contain the social security number of any person.

-OR-

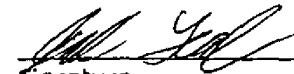
Contains the social security number of a person as required by:

A. A specific state or federal law, to wit:

\_\_\_\_\_  
(State specific law)

-or-

B. For the administration of a public program or for an application  
for a federal or state grant.

  
Signature

1-28-19  
Date

Jack Leal  
Print Name

Defendant  
Title

	7159 IRON OAK AVENUE / 5988 LAMOTTE AVENUE / 6422 RUBYLYN AVENUE
BATE STAMPS 220-284	AG REPORT OF INFORMATION RE: JEFF GUTIC RE: 7159 IRON OAK AVENUE W/ SUPPORTING DOCUMENTS + TEXT MESSAGES
BATE STAMP 285	AG REPORT OF INFORMATION RE: HK PROPERTIES OWNER KYLE C. MELKONIAN
BATE STAMPS 286-294	EMAILS FROM ARNIE ANQUILLANO TO AG TODD GROOSZ
BATE STAMPS 295-297	EMAILS FROM DAVID ROSENBERG TO DANIEL HANSEN –
BATE STAMPS 298-310	RESIDENTIAL PURCHASE AGREEMENT RE: 8109 JO MARCY DRIVE – BANKRUPTCY TRUSTEE QUITCLAIM DEED + DECLARATION OF VALUE – LYDIA ANN KIMBLE
BATE STAMPS 311-324	RESIDENTIAL PURCHASE AGREEMENT RE: 2051 DONNA STREET – BANKRUPTCY QUITCLAIM DEED – DECLARATION OF VALUE – ENRIQUE MARQUEZ-FLORES
BATE STAMPS 325-326	EMAIL FROM DAVID ROSENBERG TO AG TODD GROOSZ
BATE STAMPS 327-330	BLAST EMAIL TO MULTIPLE PPL FROM MATTHEW KANE ASSISTANT TO DAVID ROSENBERG
BATE STAMP 331	EMAIL FROM JACK LEAL TO DAVID ROSENBERG
BATE STAMPS 332-373	EMAIL FROM DAVID ROSENBERG TO AG TODD GROOSZ RE: 2051 DONNA STREET / 6213 LAWTON AVENUE + SUPPORTING DOCUMENTS – RESIDENTIAL PURCHASE/SALE AGREEMENT – QUITCLAIM DEED – DECLARATION OF VALUE – GUELSY LEMUS
BATE STAMPS 374-377	GRANT BARGAIN SALE DEED 2005 AQUARIUS DR. (PALAFOX)
BATE STAMP 378	GRANT BARGAIN SALE DEED 2051 (2057) NATURE PARK DR.
BATE STAMPS 379-380	GRANT BARGAIN SALE DEED 4018 COTTON SEED COURT
BATE STAMP 381	DECLARATION OF VALUE 2051(2057) NATURE PARK DRIVE
BATE STAMPS 382-385	ATTY. PHILIP GOLDSTEIN RE: STEVEN MULLINS BANKRUPTCY
BATE STAMPS 386-388	GRANT BARGAIN SALE DEED RE: 4824 MORNING FALLS AVE (IRENE + JULIAN SEGURA)
BATE STAMPS 389-391	GRANT BARGAIN SALE DEED RE: 6213 LAWTON AVE (PALAFOX)
BATE STAMPS 392-395	GRANT BARGAIN SALE DEED 6360 KATELLA AVENUE (GOLDBERRY GROUP)
BATE STAMPS 396-398	GRANT BARGAIN SALE DEED RE: 8109 JO MARCY DR (PLANCARTE)
BATE STAMPS 399-406	GRANT BARGAIN SALE DEED RE: 9816 EAGLE ROCK CT (PROFIT SOURCE INC)
BATE STAMPS 407-409	GRANT BARGAIN SALE DEED RE: GUTIC (INVESTMENT DEALS) RE: 7159 IRON OAK AVENUE
BATE STAMP 410	BRIGHT SERVICES TIMELINE
BATE STAMPS 411-412	QUITCLAIM DEED RE: 4701 WANDERING WAY – FLORIDA
BATE STAMPS 413-414	CORRECTIVE GENERAL WARRANTY DEED – TAMPA, FL 2508 N. 14 <sup>TH</sup> ST. / 2132 NASSAU ST. / 4701 WANDERING WAY / 8719 COBBLESTONE DR. / 1221 12 <sup>TH</sup> AVE. / 4810 CENTER BROOK CT.
BATE STAMPS 415-423	NV STATUTORY POWER OF ATTORNEY – JESSICA GARCIA – AGENT MATTHEW ZIELKE
BATE STAMPS 424-434	SPECIAL WARRANTY DEED 4701 WANDERING WAY
BATE STAMPS 435-443	NEIGHBORHOOD WATCH REPORT: 6360 KATELLA AVENUE
BATE STAMPS 444-452	NEIGHBORHOOD WATCH REPORT: 8628 CATALONIA DRIVE

### GARCIA/LEAL DISCOVERY BREAKDOWN

BATE STAMPS 1-7	AG INTERVIEW W/ VICTIMS PLANCARTE RE: 8109 JO MARCY DRIVE + SUPPORTING DOCUMENTS
BATE STAMPS 8-21	AG INTERVIEW W/ VICTIMS RUBIN RE: 4018 COTTON SEED COURT + SUPPORTING DOCUMENTS
BATE STAMP 22	RECORDING COVER PAGE – REQUESTED BY NEVADA HOME FLIPPERS – GRANT BARGAIN SALE DEED RE: 2051(2057) NATURE PARK DRIVE
BATE STAMPS 23-24	GRANT BARGAIN SALE DEED RE: 4018 COTTON SEED COURT
BATE STAMP 25	DECLARATION OF VALUE RE: 2051(2057) NATURE PARK DRIVE
BATE STAMPS 26-27	VICTIM RUBINS BANK OF AMERICA WITHDRAWAL IMAGE AND \$75000 CASHIERS CHECK
BATE STAMPS 28-163	AG INTERVIEW W/ VICTIM LIHH-LING YANG (ROSE) RE: 6360 KATELLA AVE/2051 DONNA STREET – EMAILS – SUPPORTING DOCUMENTS
BATE STAMPS 164-175	AG INTERVIEW W/ VICTIM PALAFOX RE: 2005 AQUARIUS DRIVE + SUPPORTING DOCUMENTS
BATE STAMPS 176-186	AG REPORT OF INFORMATION W/ VICTIM JUAN ELOY RAMIREZ RE: 8628 CATALONIA DRIVE + POLICE REPORT
BATE STAMPS 187-188	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ VICTIM CHATTY BECKER RE: 9816 EAGLE ROCK COURT
BATE STAMPS 189-191	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ VICTIM PATRICK SOMMA RE: 6176 TWILIGHT COVE COURT
BATE STAMPS 192-199	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ VICTIMS IRENE + JULIAN SEGURA RE: 1905 GRAND PRAIRIE AVENUE INCLUDING SNAPSHOTS OF TEXT MESSAGES
BATE STAMPS 200-202	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ VICTIMS ROGER + KEVIN SOLIS RE: 5932 HIGH STEED STREET #102
BATE STAMPS 203-204	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ PARTY TO PARCELNOMIC INTERACTION RE: JOY SIEGRIST'S PURCHASE
BATE STAMPS 205-208	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ VICTIM LINDA EDWARDS + FRIEND JENNIFER MARINO RE: 2700 S. LAS VEGAS BLVD. #1301 (ALLURE) + TEXT MESSAGES
BATE STAMPS 209-211	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ WANDA CORRY RE: 2309 CARRIER DOVE WAY
BATE STAMPS 212-214	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ JANET MARLAR RE: 758 PEREGRINE FALCON ST.
BATE STAMPS 215-219	DEPT. OF TREASURY CRIMINAL INVESTIGATION MEMO OF INTERVIEW W/ QUYNHI + JOSEPH NGUYEN + SON HENRY NGUYEN RE: 4348 TARÁ AVENUE #1 / 9325 W. DESERT INN ROAD # 249 / 6868 SKY POINTE DRIVE #1124 / 10361 MORNING SORROW STREET / 1830 N. BUFFALO DRIVE #2113 / 9323 STOCK STREET /

BATE STAMPS 453-464	NEIGHBORHOOD WATCH REPORT: 4348 3C TARA AVE
BATE STAMPS 465-485	NEIGHBORHOOD WATCH REPORT: 2730 SANDY LANE
BATE STAMPS 486-506	NEIGHBORHOOD WATCH REPORT: 2005 AQUARIUS DRIVE
BATE STAMPS 507-524	NEIGHBORHOOD WATCH REPORT: 9102 CEDAR DOOR AVENUE
BATE STAMPS 525-542	NEIGHBORHOOD WATCH REPORT: 6176 TWILIGHT COVE CIRCLE
BATE STAMPS 543-554	NEIGHBORHOOD WATCH REPORT: 2022 ROYAL CARRIBEAN AVENUE
BATE STAMPS 555-566	NEIGHBORHOOD WATCH REPORT: 2915 N. JONES BLVD.
BATE STAMPS 567-578	NEIGHBORHOOD WATCH REPORT: 1080 GURNEYS EAGLE AVE
BATE STAMPS 579-588	GRANT BARGAIN SALE DEED – JACK LEAL MULTIPLE PROPERTIES
BATE STAMPS 589-618	QUITCLAIM DEED – ROSENBERG HK PROPERTIES – DECLARATIONS OF VALUE – GRANT BARGAIN SALE DEED
BATE STAMP 619	MUSKEGON COUNTY REGISTER OF DEEDS
BATE STAMPS 620-628	GOOGLE MAP IMAGES
BATE STAMPS 629-631	AG REQUEST FOR NOTICE OF LIS PENDENS
BATE STAMPS 632-648	GOOGLE MAP IMAGES
BATE STAMPS 649-2577	JACK LEAL – BANK ACCOUNT LISTING / ADDRESS LISTING
BATE STAMPS 2578-2764	GRAND JURY SDT FIDELITY TITLE AGENCY
BATE STAMP 2765	REPUBLIC SERVICES
BATE STAMP 2766	CITY OF HENDERSON
BATE STAMPS 2767-2769	TREASURER – PROPERTY ACCOUNT INQUIRY
BATE STAMPS 2770-2778	SERVICE LINK – TITLE AGENCY
BATE STAMPS 2779-2804	HK PROPERTIES – RESIDENTIAL PURCHASE AGREEMENT
BATE STAMPS 2805-2809	BANK OF AMERICA DOCUMENTS
BATE STAMPS 2810-3998	AG SDT AT&T
BATE STAMPS 3999-4010	UNITED STATES POSTAL INSPECTION SERVICE – ROBERT BRIDGEMAN POSTAL INSPECTOR
BATE STAMPS 4011-4019	SECRETARY OF STATE – CERTIFIED COPY

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Regional Justice Center  
Clerk of the Courts  
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Las Vegas, NV  
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UNAUTHORIZED MAIL NOTIFICATION

TO: leal

NDOC # 1183020

FROM: MAILROOM OFFICER \_\_\_\_\_

FINAL DATE FOR DISPOSITION  
OF UNAUTHORIZED MAIL: \_\_\_\_\_

RECEIVED: \_\_\_\_\_

Weiner Law Group, LLC. (CD) (DATE)

You have ten (10) working days from this date to inform the Mailroom Officer, in writing, of what you want done with this mail. Your choices are:

- \_\_\_\_\_ 1. Ship or mail out at your expense;
- \_\_\_\_\_ 2. Have the unauthorized mail disposed of according to NDOC procedures;  
or,
- \_\_\_\_\_ 3. Appeal the decision through the inmate grievance process.

If the Mailroom Officer does not receive the above information within ten (10) days, this mail will be destroyed.

**THIS IS THE ONLY NOTICE YOU WILL RECEIVE**

[Signature]  
(MAILROOM OFFICER SIGNATURE)

Jan 17, 2019  
(DATE)

- White: Inmate
- Yellow: Mailroom
- Pink: Attach to Unauthorized Mail



THE GERSTEN LAW FIRM PLLC  
9680 W Tropicana Avenue # 120  
Las Vegas, NV 89147  
Tel (702) 857-8777 | Fax (702) 857-8767

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**WRIT**  
JOSEPH Z. GERSTEN, ESQ.  
Nevada Bar No.: 13876  
The Gersten Law Firm PLLC  
9680 W Tropicana Avenue # 120  
Las Vegas, NV 89147  
Telephone (702) 857-8777  
joe@thegerstenlawfirm.com  
*Attorney for Defendant*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

JACK LEAL,  
  
Petitioner,  
  
vs.  
  
JERRY HOWELL, Warden, Southern  
Desert Correctional Center  
  
Respondent.

Case No.: C-17-322664-2  
Dept. No.: XVII

**Evidentiary Hearing Requested  
(Not a Death Penalty Case)**

**PETITION FOR WRIT OF HABEAS CORPUS  
(POST-CONVICTION)**

**COMES NOW**, the Petitioner, **JACK LEAL**, by and through his attorney,  
**JOSEPH Z. GERSTEN, ESQ.**, of **THE GERSTEN LAW FIRM PLLC**, and  
hereby submits this **PETITION FOR WRIT OF HABEAS CORPUS (POST-  
CONVICTION)**. This Writ is made and based upon the pleadings attached  
hereto, the papers and pleadings on file herein, together with arguments of  
counsel adduced at the time of hearing on this matter.

///  
  
///  
  
///

1 DATED this 21<sup>st</sup> day of March 2019.

2 By Joseph Z. Gersten  
3 JOSEPH Z. GERSTEN, ESQ.  
4 Nevada Bar No.: 13876  
5 9680 W Tropicana Avenue # 120  
6 Las Vegas, NV 89147  
7 Telephone (702) 857-8777  
8 joe@thegerstenlawfirm.com  
9 Attorney for Petitioner

- 10 1. Name of institution and county in which you are presently imprisoned or  
11 where and how you are presently restrained of your liberty: **Southern Desert**  
12 **Correctional Center, Clark County, Nevada**
- 13 2. Name and location of court which entered the judgment of conviction under  
14 attack: **Eighth District Judicial Court, Department XVII**
- 15 3. Date of judgment of conviction: **08/23/2017**
- 16 4. Case number: **C-17-322664-2**
- 17 5. (a) Length of sentence: **72 – 180 Months**  
18 (b) If sentence is death, state any date upon which execution is scheduled:  
19 **N/A**
- 20 6. Are you presently serving a sentence for a conviction other than the  
21 conviction under attack in this motion? Yes ..... No **X**  
22 If “yes,” list crime, case number and sentence being served at this time: **N/A**
- 23 7. Nature of offense involved in conviction being challenged: **Multiple**  
24 **Transactions Involving Fraud or Deceit in the Course of an Enterprise**  
25 **and Occupation**
- 26 8. What was your plea? (check one)  
27 (a) Not guilty  
28 (b) Guilty **X**  
(c) Guilty but mentally ill  
(d) Nolo contendere
9. If you entered a plea of guilty or guilty but mentally ill to one count of an indictment or information, and a plea of not guilty to another count of an indictment or information, or if a plea of guilty or guilty but mentally ill was negotiated, give details: **N/A**

- 1 10. If you were found guilty or guilty but mentally ill after a plea of not guilty,  
2 was the finding made by: (check one) **N/A**  
3 (a) Jury  
4 (b) Judge without a jury
- 4 11. Did you testify at the trial? Yes ..... No ..... **N/A**
- 5 12. Did you appeal from the judgment of conviction? Yes **X** No .....
- 6 13. If you did appeal, answer the following:  
7 (a) Name of court: **Nevada Supreme Court/Nevada Appeals Court**  
8 (b) Case number or citation: **74050; 74050-COA**  
9 (c) Result: **Affirmance**  
10 (d) Date of result: **09/11/18**  
(Attach copy of order or decision, if available.)
- 11 14. If you did not appeal, explain briefly why you did not: **N/A**
- 12 15. Other than a direct appeal from the judgment of conviction and sentence,  
13 have you previously filed any petitions, applications or motions with respect to  
14 this judgment in any court, state or federal? Yes ..... No **X**
- 15 16. If your answer to No. 15 was “yes,” give the following information:  
16 (a) (1) Name of court:  
17 (2) Nature of proceeding:  
18 (3) Grounds raised:  
19 (4) Did you receive an evidentiary hearing on your petition,  
20 application or motion? Yes ..... No .....
- 21 (b) As to any second petition, application or motion, give the same  
22 information:  
23 (1) Name of court:  
24 (2) Nature of proceeding:  
25 (3) Grounds raised:  
26 (4) Did you receive an evidentiary hearing on your petition,  
27 application or motion? Yes ..... No .....
- 28 (5) Result:  
(6) Date of result:  
(7) If known, citations of any written opinion or date of orders  
entered pursuant to such result:

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(c) As to any third or subsequent additional applications or motions, give the same information as above, list them on a separate sheet and attach.

(d) Did you appeal to the highest state or federal court having jurisdiction, the result or action taken on any petition, application or motion?

(1) First petition, application or motion? Yes ..... No .....

Citation or date of decision:

(2) Second petition, application or motion? Yes ..... No .....

Citation or date of decision:

(3) Third or subsequent petitions, applications or motions?  
Yes ..... No .....

Citation or date of decision:

(e) If you did not appeal from the adverse action on any petition, application or motion, explain briefly why you did not. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

17. Has any ground being raised in this petition been previously presented to this or any other court by way of petition for habeas corpus, motion, application or any other postconviction proceeding? If so, identify: **N/A**

(a) Which of the grounds is the same:

(b) The proceedings in which these grounds were raised:

(c) Briefly explain why you are again raising these grounds. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.)

18. If any of the grounds listed in Nos. 23(a), (b), (c) and (d), or listed on any additional pages you have attached, were not previously presented in any other court, state or federal, list briefly what grounds were not so presented, and give your reasons for not presenting them. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) **N/A**

19. Are you filing this petition more than 1 year following the filing of the judgment of conviction or the filing of a decision on direct appeal? If so, state briefly the reasons for the delay. (You must relate specific facts in response to this question. Your response may be included on paper which is 8 1/2 by 11 inches attached to the petition. Your response may not exceed five handwritten or typewritten pages in length.) **No**

20. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack? Yes ..... No **X**

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If yes, state what court and the case number:

21. Give the name of each attorney who represented you in the proceeding resulting in your conviction and on direct appeal:

**Michael Pariente, Esq.**  
**3960 Howard Hughes Pkwy, #615**  
**Las Vegas, NV 89169**

**Lester M. Paredes, Esq./Craig Mueller, Esq.**  
**600 S Eighth Street**  
**Las Vegas, NV 89101**

**Jason Weiner, Esq**  
**2820 W Charleston Blvd # 35**  
**Las Vegas, NV 89102**

22. Do you have any future sentences to serve after you complete the sentence imposed by the judgment under attack? Yes ..... No **X**  
If yes, specify where and when it is to be served, if you know:

23. State concisely every ground on which you claim that you are being held unlawfully. Summarize briefly the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same.  
**EACH CLAIM IS PRESENTED BELOW.**

**INTRODUCTION**

Mr. Jack Leal pled guilty to a single count of Multiple Transactions Involving Fraud or Deceit in the Course of an Enterprise and Occupation, a category "B" felony in alleged violation of NRS 205.377. During the course of negotiations, Mr. Leal's counsel was representing both Mr. Leal and the co-defendant, Jessica Garcia, in the absence of any conflict waiver by defense counsel. This resulted in an ineffective assistance of counsel situation based on un-waivable conflicts, and coercion, on the part of defense counsel. As well, the

1 charging document used, was defective in that it did not identify with specificity,  
2 as required by the NRS, the acts purported to be committed by Mr. Leal.

3 As Mr. Leal was not effectively represented by counsel and was not  
4 apprised of the acts he was charged with, his conviction is unconstitutional and  
5 must be vacated. Mr. Leal requests an evidentiary hearing.  
6

7  
8 **A. MR. LEAL'S CONVICTION AND SENTENCE ARE INVALID UNDER**  
9 **THE 6TH AND 14TH FEDERAL CONSTITUTIONAL AMENDMENT**  
10 **GUARANTEES OF DUE PROCESS AND EQUAL PROTECTION AND**  
11 **UNDER THE LAW OF ARTICLE 1 OF THE NEVADA CONSTITUTION**  
12 **BECAUSE THE ORIGINAL INFORMATION FAILED TO PUT THE**  
13 **PETITIONER ON NOTICE OF THE CHARGES.**

14 Mr. Leal's conviction and sentence are invalid under the 6th and 14th  
15 federal constitutional amendment guarantees of due process and equal  
16 protection and under the law of Article 1 of the Nevada constitution because the  
17 original indictment failed to put the petitioner on notice of the charges. NRS  
18 173.075, provides, in part: "The indictment or information ... must be a plain,  
19 concise and definite written statement of the essential facts constituting the  
20 offense charged." NRS 173.075. An information, standing alone, must contain:  
21 (1) each and every element of the crime charged and (2) the facts showing how  
22 the defendant allegedly committed each element of the crime charged. State v.  
23 Hancock, 114 Nev. 161 (1998); see also United States v. Hooker, 841 F.2d 1225,  
24 1230 (4th Cir.1988).  
25

26 As stated by the Nevada Supreme Court:

27 Considering the language of Fed.R.Crim.P. 7(c), from which NRS  
28 173.075 is derived, the United States Supreme Court has also held an

1 indictment is deficient unless it “sufficiently apprises the defendant of  
2 what he must be prepared to meet.” Russell v. United States, 369 U.S.  
749, 763, 82 S.Ct. 1038, 1047, 8 L.Ed.2d 240 (1962).

3 ....

4 Whether at common law or under statute, the accusation must include  
5 a characterization of the crime and such description of the particular  
6 act alleged to have been committed by the accused as will enable him  
7 properly to defend against the accusation, and the description of the  
8 offense must be sufficiently full and complete to accord to the accused  
9 his constitutional right to due process of law. 4 R. Anderson, Wharton's  
Criminal Law and Procedure, § 1760, at 553 (1957). Simpson v.  
District Court, 88 Nev. 654, 659–660, 503 P.2d 1225, 1229–30 (1972).

10 State v. Hancock, 114 Nev. 161 (1998).

11 The information lists a single indefinite charge, apparently referring to  
12 both defendants. As was the case in Hancock, a review of the information does  
13 not set forth a definite statement of the essential facts which constitute the  
14 defendants' crimes. Id. A review of the language of the information shows that  
15 the information lumps Leal and Garcia together, making it “very difficult to  
16 decipher who is alleged to have done what.” State v. Hancock, 114 Nev. 161  
17 (1998).

18  
19  
20 Moreover, the count is defective. Count I alleges a “racketeering  
21 conspiracy” and cites NRS 205.377. However, NRS 205.377, requires two or  
22 more transactions. While the allegations in the information mention several  
23 alleged victims, there is no allegation of multiple transactions. See NRS  
24 205.377; see also State v. Hancock, 114 Nev. 161 (1998). Again, this Court  
25 should conclude that Count I is not clear, definite, and concise as it does not  
26 clearly specify which portion of NRS 205.377 the respondent conspired to violate.  
27  
28

1 As well, it does not specify which respondent made which false or untrue  
2 statements or material omissions to which victims. Id.

3  
4 **B. MR. LEAL'S CONVICTION AND SENTENCE ARE INVALID UNDER  
5 THE 6TH AND 14TH FEDERAL CONSTITUTIONAL AMENDMENT  
6 GUARANTEES OF DUE PROCESS AND EQUAL PROTECTION AND  
7 UNDER THE LAW OF ARTICLE 1 OF THE NEVADA CONSTITUTION  
8 BECAUSE PRIOR COUNSEL'S PERFORMANCE FELL BELOW AN  
9 OBJECTIVE STANDARD OF REASONABLENESS AS IS MANDATED  
10 BY STRICKLAND, 466 U.S. 668, 104 S. CT. 2052 (1984).**

11 Mr. Leal's conviction and sentence are invalid under the 6th and 14th  
12 federal constitutional amendment guarantees of Due Process and Equal  
13 Protection and under the law of Article 1 of the Nevada Constitution because  
14 prior counsel's performance fell below an objective standard of reasonableness as  
15 is mandated by Strickland, 466 U.S. 668, 104 S. Ct. 2052 (1984). The Sixth  
16 Amendment of the U.S. Constitution guarantees the accused "the Assistance of  
17 Counsel for his defense." "That a person who happens to be a lawyer is present  
18 at trial alongside the accused, however, is not enough to satisfy the  
19 constitutional command." Strickland v. Washington, 466 U.S. 668, 685, 104 S.  
20 Ct. 2052, 2063 (1984). "[T]he right to counsel is the right to the effective  
21 assistance of counsel." McMann v. Richardson, 397 U.S. 759, 771, 90 S. Ct.  
22 1441, n. 14 (1970).

23  
24 Under Strickland v. Washington, 466 U.S. at 687, a conviction must be  
25 reversed due to ineffective counsel if first, "counsel's performance was deficient,"  
26 and second, "the deficient performance prejudiced the defense." The deficient  
27  
28



1 performance prejudiced the defense if “there is a reasonable probability that, but  
2 for counsel’s unprofessional errors, the result of the proceeding would have been  
3 different. A reasonable probability is a probability sufficient to undermine  
4 confidence in the outcome.” Strickland, 466 U.S. at 698. “The ultimate focus of  
5 the inquiry must be on the fundamental fairness of the proceeding. . . .” Id. at  
6 696. Nevada adopts the Strickland standards for the effective assistance of  
7 counsel. See Hurd v. State, 114 Nev. 182, 188, 953 P.2d 270, 274 (1998).

8  
9  
10 In this case, Mr. Leal’s counsel made a series of errors which fell below  
11 minimum standards of representation, undermined confidence in the trial  
12 outcome, and deprived Mr. Greenlee of fundamentally fair proceedings.

13  
14 **1. PETITIONER’S CRIMINAL COUNSEL’S ASSISTANCE WAS INEFFECTIVE,  
15 BECAUSE PRIOR COUNSEL’S PERFORMANCE FELL BELOW AN OBJECTIVE  
16 STANDARD OF REASONABLENESS AS IS MANDATED BY STRICKLAND, BY  
17 FAILING TO OBTAIN A CONFLICT WAIVER.**

18  
19 Petitioner’s Criminal Counsel’s assistance was ineffective, because prior  
20 counsel’s performance fell below an objective standard of reasonableness as is  
21 mandated by Strickland, by failing to obtain a conflict waiver. Strickland v.  
22 Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984). A waiver of conflict-free  
23 representation entails the waiver of certain important rights at trial, on appeal,  
24 and in post-conviction proceedings, including waiver of the right to seek a  
25 mistrial based on any conflicts arising from the dual representation. Ryan v.  
26 Eighth Jud. Dis. Court, 123 Nev. 419 (2007). Consequently, attorneys are  
27 required to advise criminal defendants of their right to consult with independent  
28 counsel to advise them on the potential conflict of interest and the consequences

1 of waiving the right to conflict-free representation. Id. The attorney must advise  
2 the clients to seek the advice of independent counsel before the attorney engages  
3 in the dual representation. Id. If the clients choose not to seek the advice of  
4 independent counsel, the clients must expressly waive the right to do so before  
5 agreeing to any waiver of conflict-free representation. Id. If the attorney fails to  
6 advise criminal defendants of their right to seek the advice of independent  
7 counsel, the clients' waivers of conflict-free representation are ineffective unless  
8 and until the attorney advises the clients to seek the advice of independent  
9 counsel and the clients do so or expressly waive the right to do so. Id.

12  
13 In the case at bar, Mr. Leal was never advised of his right to consult with  
14 independent counsel nor advised on the potential conflict of interest and the  
15 consequences of waiving the right to conflict-free representation. Repeatedly,  
16 Criminal Counsel charged ahead representing Garcia, with little or no regard to  
17 Mr. Leal. This can be seen with clarity in the disparity of punishments  
18 negotiated, i.e., a gross misdemeanor for the co-defendant and a felony for Mr.  
19 Leal.

22 Thus, Petitioner's Criminal Counsel's assistance was ineffective, for  
23 failing to obtain a conflict waiver, and delivering the Petitioner up to the State,  
24 while protecting the co-defendant.

26  
27 ///

28

1           **2. PETITIONER’S CRIMINAL COUNSEL’S ASSISTANCE WAS INEFFECTIVE,**  
2           **BECAUSE PRIOR COUNSEL’S PERFORMANCE FELL BELOW AN OBJECTIVE**  
3           **STANDARD OF REASONABLENESS AS IS MANDATED BY STRICKLAND, BY**  
4           **COERCING PETITIONER INTO ENTERING A PLEA.**

5           Petitioner’s Criminal Counsel’s assistance was ineffective, because prior  
6           counsel’s performance fell below an objective standard of reasonableness as is  
7           mandated by Strickland, by coercing Petitioner into entering a plea. 466 U.S.  
8           668, 104 S. Ct. 2052 (1984). Petitioner’s Criminal Counsel, in league with  
9           Petitioner’s co-defendant, coerced Petitioner into pleading guilty. Undue  
10          coercion occurs when “a defendant is induced by promises or threats which  
11          deprive the plea of the nature of a voluntary act.” Doe v. Woodford, 508 F.3d 563,  
12          570 (9th Cir.2007). And this is exactly what happened in the case at bar. It was  
13          well known throughout this case, that the co-defendant, who was represented by  
14          the same attorney that represented Petitioner, without a viable conflict waiver  
15          in-place, visited domestic violence upon the Petitioner. Thus, we have a  
16          situation where counsel knows his client is literally beating his other client, and  
17          yet continues to represent both. All the while without any type of waiver.  
18          Clearly, clearly this is in violation of Strickland. Strickland v. Washington, 466  
19          U.S. 668, 104 S. Ct. 2052 (1984). Petitioner was coerced by his own attorney into  
20          accepting a faulty plea agreement.  
21

22           Thus, Petitioner’s Criminal Counsel’s assistance was ineffective, for  
23           coercing Petitioner, while protecting the co-defendant.  
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Las Vegas, NV 89147  
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**WHEREFORE**, Petitioner prays that this Court grant Petitioner relief to which Petitioner may be entitled in this proceeding.

DATED this 21<sup>st</sup> day of March 2019.

By Joseph Z. Gersten  
JOSEPH Z. GERSTEN, ESQ.  
Nevada Bar No.: 13876  
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Telephone (702) 857-8777  
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*Attorney for Petitioner*

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VERIFICATION

Pursuant to N.R.S. 34.730(1) I, Joseph Gersten, Esq. swear under penalty of perjury that the pleading is true except as to those matters stated on information and belief and as to such matters, counsel believes them to be true.

I am counsel for Jack Leal and have his personal authorization to commence this action.

DATED this 21<sup>st</sup> day of March 2019.

By *Joseph Z. Gersten*  
JOSEPH Z. GERSTEN, ESQ.  
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**CERTIFICATE OF SERVICE BY MAIL**

I, Joseph Gersten, Esq., hereby certify, pursuant to N.R.C.P. 5(b), that on this 21<sup>st</sup> day of the month of March of the year 2019, I mailed a true and correct copy of the foregoing **PETITION FOR WRIT OF HABEAS CORPUS** addressed to:

**JERRY HOWELL**  
Warden, Southern Desert Correctional Center  
20825 Cold Creek Road  
PO Box 208  
Indian Springs, NV 89070-0208

**STEVEN WOLFSON**  
Clark County District Attorney  
200 Lewis Ave  
Las Vegas, NV 89101

**AARON FORD**  
Nevada Attorney General  
100 North Carson Street  
Carson City, Nevada 89701

By Joseph Z. Gersten  
An Employee of the Gersten Law Firm PLLC

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

JACK LEAL,  
Appellant,  
vs.  
THE STATE OF NEVADA,  
Respondent.

No. 74050

**FILED**

SEP 11 2018

ELIZABETH A. BROWN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER OF AFFIRMANCE*

Jack Leal appeals from a judgment of conviction, entered pursuant to a guilty plea, of multiple transactions involving fraud or deceit in the course of an enterprise or occupation. Eighth Judicial District Court, Clark County; Michael Villani, Judge.

First, Leal argues the district court erred by failing to hold an evidentiary hearing or failing to inquire into the nature or materiality of his breach of the plea agreement. We disagree.

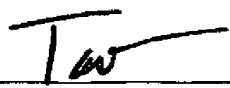
The parties agreed in the guilty plea agreement that if Leal paid full restitution to the victims in this case by the sentencing date, the State would not oppose probation. If Leal failed to pay the full restitution amount by the sentencing date, the State could argue for imprisonment. Leal failed to pay the full restitution amount by the sentencing date. Here it was apparent the defendant was to blame for the breach of the plea agreement; therefore, no evidentiary hearing was necessary to determine who was to blame. *Villalpando v. State*, 107 Nev. 465, 467-68, 814 P.2d 78, 80 (1991). Accordingly, the district court did not err by failing to hold an evidentiary hearing or otherwise inquire into the nature or materiality of the breach of the plea agreement.

Second, Leal argues the district court abused its discretion by denying his motion to withdraw counsel due to a conflict of interest. Leal claims it was a conflict of interest for his counsel to represent both him and his codefendant in this case. Specifically, he claims his counsel should have been able to withdraw at sentencing, after making an oral motion, because he and his codefendant had conflicting defenses as to why they did not pay the restitution in full.

Leal failed to demonstrate the district court abused its discretion by denying his motion to withdraw counsel. First, it does not appear Leal made an appropriate motion to withdraw based on the local rules. See EDCR 7.40(b). Second, Leal waived any current or potential conflicts of interest by signing two different waivers regarding actual and potential conflicts of interest. See RPC 1.7(b); see also *Ryan v. Eighth Judicial Dist. Court*, 123 Nev. 419, 430, 168 P.3d 703, 710 (2007). Finally, Leal failed to demonstrate there was a conflict of interest because the fact his codefendant did not also pay the restitution was not a defense to his breach of the guilty plea agreement. See RPC 1.7(b)(3). Leal and his codefendant were jointly and severally liable for the restitution and the restitution was required to be paid in full by the sentencing hearing.

Having reviewed the claims raised on appeal, we  
ORDER the judgment of conviction AFFIRMED.<sup>1</sup>

  
\_\_\_\_\_, C.J.  
Silver

  
\_\_\_\_\_, J.  
Tao

  
\_\_\_\_\_, J.  
Gibbons

<sup>1</sup>In light of this order, we deny Leal's motion for bail pending appeal.

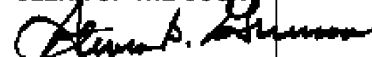


cc: Hon. Michael Villani, District Judge  
Mueller Hinds & Associates  
Attorney General/Carson City  
Attorney General/Las Vegas  
Clark County District Attorney  
Eighth District Court Clerk

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**DISTRICT COURT  
CLARK COUNTY, NEVADA  
\*\*\*\***

Electronically Filed  
3/26/2019 5:18 PM  
Steven D. Grierson  
CLERK OF THE COURT



State of Nevada  
vs  
Jack Leal

Case No.: C-17-322664-2  
Department 17

**NOTICE OF HEARING**

Please be advised that the above-entitled matter has been scheduled for Petition for Writ of Habeas Corpus (Post Conviction), to be heard in Department 17, at the Regional Justice Center, 200 Lewis Ave, Las Vegas, Nevada 89101, on the 7th day of May, 2019, at the hour of 8:30 AM.

STEVEN D. GRIERSON, CEO/Clerk of the Court

By: /s/ Lauren Terralavoro  
Deputy Clerk of the Court

**CERTIFICATE OF SERVICE**

I hereby certify that this 21st day of March, 2019, a copy of this Notice of Hearing was electronically served to all registered parties in the Eighth Judicial District Court Electronic Filing Program and/or placed in the attorney's folder maintained by the Clerk of the Court and/or mailed, postage prepaid, by United States mail to the proper parties as follows:

By: /s/ Lauren Terralavoro  
Deputy Clerk of the Court



1 **RSPN**  
AARON D. FORD  
2 Attorney General  
MICHAEL J. BONGARD (Bar No. 007997)  
3 Senior Deputy Attorney General  
State of Nevada  
4 Office of the Attorney General  
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[MBongard@ag.nv.gov](mailto:MBongard@ag.nv.gov)  
7 Attorneys for Respondents

8 **DISTRICT COURT**  
9 **CLARK COUNTY NEVADA**

10 JACK LEAL, ) Case No.: C-17-322664-2  
11 ) Petitioner, ) Department 17  
12 ) vs. )  
13 ) JERRY HOWELL, WARDEN, SOUTHERN )  
14 ) DESERT CORRECTIONAL CENTER, )  
15 ) Respondents. )

16 **ANSWER TO POST-CONVICTION PETITION FOR WRIT OF**  
17 **HABEAS CORPUS**

18 Respondents, by and through counsel, Aaron D. Ford, Attorney General of The State of Nevada,  
19 and Michael J. Bongard, Senior Deputy Attorney General, hereby submit their answer to Petitioner Jack  
20 Leal's (Leal) Petition for Writ of Habeas Corpus (Post-conviction).

21 Respondents base this answer upon the pleadings, the legal authorities, and the pleadings on file  
22 in this case.

23 **PROCEDURAL HISTORY**

24 **I. Justice Court Proceedings, Las Vegas Township Justice Court<sup>1</sup>**

25 On November 29, 2016, the State filed a criminal complaint charging Leal with one count of  
26 Racketeering, 12 counts of Theft in the Amount of \$3500 or More, Fraud or Deceit in the Course of

27 <sup>1</sup> Respondents believe that all documents with the exception of the appellate briefing, are in the  
28 district court record. Respondents attach as exhibits the appellate briefing and the documents central to  
resolution of the claim in the petition.

1 Enterprise or Occupation, and one count of Multiple Transactions Involving Fraud or Deceit in the  
2 Course of an Enterprise and Occupation. The State filed an amended complaint on December 27, 2016,  
3 containing the same charges.

4 On April 11, 2017, Leal unconditionally waived his preliminary hearing, which included a  
5 conflict of interest waiver.

6 **II. District Court Proceedings, Eighth Judicial District Court**

7 On April 18, 2017, the State filed a criminal information charging Leal with one count of  
8 Multiple Transactions Involving Fraud or Deceit in the Course of an Enterprise and Occupation. On  
9 April 20, 2017, the parties continued the matter until April 24, 2017.

10 On April 24, 2017, the parties filed a guilty plea agreement in open court and appeared for entry  
11 of plea. Leal executed a second conflict of interest waiver. Leal pled guilty to the charge in the  
12 information and agreed to jointly and severally pay restitution in the amount of \$757,420.

13 The parties appeared for sentencing on August 17, 2017. The Court sentenced Leal to a  
14 maximum term of one hundred eighty (180) months in the Nevada Department of Corrections, with a  
15 minimum term of seventy-two (72) months. The clerk filed the judgment of conviction on August 23,  
16 2017.

17 Leal filed a notice of appeal on September 14, 2017.

18 **III. Direct Appeal Proceedings, Nevada Court of Appeals**

19 Leal filed his opening brief on February 1, 2018. (Exhibit 1). On appeal, Leal raised the  
20 following claims:

- 21 A. Did the District Court err by failing to hold an evidentiary hearing  
22 or inquire into the nature and materiality of the alleged breach of  
23 the guilty plea agreement?  
24 B. Did the District Court err by denying Appellant's motion to  
25 withdraw counsel due to an unwaiveable concurrent conflict of  
26 interest?

26 *Id.* at 1.

27 The State filed the answer brief on March 20, 2018. (Exhibit 2). Leal filed the reply brief on  
28 April 20, 2018. (Exhibit 3).

1 On September 11, 2018, the Nevada Court of Appeals Affirmed Leal’s conviction.  
2 Leal filed a petition for review by the Nevada Supreme Court on October 2, 2018. (Exhibit 4).  
3 The Nevada Supreme Court denied rehearing on November 28, 2018. (Exhibit 5).  
4 Remittitur issued December 24, 2018.

5 **IV. State Habeas Corpus Proceedings, Eighth Judicial District Court**

6 On March 21, 2019, Leal filed his post-conviction state habeas corpus petition. In his petition,  
7 Leal raises the following claims:

- 8 A. Mr. Leal’s conviction and sentence are invalid under the 6<sup>th</sup> and  
9 14<sup>th</sup> Federal Constitutional Amendment guarantees of Due  
10 Process and Equal Protection, and under the law of Article 1 of  
11 the Nevada Constitution because the original information failed to  
12 put the petitioner on notice of the charges;
- 11 B. Mr. Leal’s conviction and sentence are invalid under the 6<sup>th</sup> and  
12 14<sup>th</sup> Federal Constitutional Amendment guarantees of Due  
13 Process and Equal Protection, and under the law of Article 1 of  
14 the Nevada Constitution because prior counsel’s performance fell  
15 below an objective standard of reasonableness as is mandated by  
16 *Strickland [v. Washington]*, 466 U.S. 668 (1984).
- 17 1.) Petitioner’s criminal counsel’s assistance was ineffective,  
18 because prior counsel’s performance fell below an  
19 objective standard of reasonableness as is mandated by  
20 *Strickland*, by failing to obtain a conflict waiver;
- 21 2.) Petitioner’s criminal counsel’s assistance was ineffective,  
22 because prior counsel’s performance fell below an  
23 objective standard of reasonableness as is mandated by  
24 *Strickland*, by coercing petitioner into entering a plea.

20 PWHC.

21 The matter is currently set for a hearing before the Court on May 7, 2019. Respondents submit  
22 their reply to the petition.

23 **ARGUMENT AND LAW**

24 **I. Applicable Law**

25 Nevada law governs state habeas corpus proceedings. *McConnell v. State*, 212 P.3d 307, 309  
26 (Nev. 2009).

27 By statute, habeas corpus proceedings permit a person to challenge that his conviction or  
28 sentence violate the Constitution of the United States or the Constitution or laws of Nevada. NRS

1 34.724(1). To the extent they do not conflict with habeas corpus statutes, the Nevada Rules of Civil  
2 Procedure apply to habeas corpus proceedings. NRS 34.780. Appointment of counsel in habeas corpus  
3 proceedings lies with the discretion of the court. NRS 34.750. A court determines the propriety and  
4 necessity of discovery or an evidentiary hearing. NRS 34.770.

5 A court may dismiss a petition if the petition is untimely, contains claims that could have been  
6 litigated in previous proceedings, or if the petitioner unduly delays in filing a petition. NRS 34.800,  
7 NRS 34.810, NRS 34.726

8 **II. Leal's First Claim is Subject to Dismissal Pursuant to NRS 34.810**

9 **A. Leal's First Claim**

10 In his first claim, Leal alleges "the original indictment failed to put the petitioner on notice of  
11 the charges." PWHC at 6.

12 Pursuant to NRS 34.810(1)(a), the claim is not properly before the Court.

13 **B. NRS 34.810**

14 Leal's substantive claim is not properly before the Court. The relevant statute reads:

15 1. The court shall dismiss a petition if the court determines that:

16 (a) The petitioner's conviction was upon a plea of guilty or guilty but  
17 mentally ill and the petition is not based upon an allegation that the plea  
18 was involuntarily or unknowingly entered or that the plea was entered  
without effective assistance of counsel.

19 ...

20 → unless the court finds both cause for the failure to present the grounds  
and actual prejudice to the petitioner.

21  
22 NRS 34.810(1)(a) and (b).

23 **C. Leal's Claim(A) is Subject to Dismissal**

24 Leal's first claim challenging the indictment addresses a count (racketeering) to which Leal  
25 never pled. The amended petition failed to address how the language in the racketeering count affects  
26 his conviction and sentence. Additionally, Leal's first claim fails to allege he entered an unknowing or  
27 involuntary plea, or that Leal entered his plea without the effective assistance of counsel.

28 ///

1 This Court must apply NRS 34.810(1) to Leal's first claim. The Nevada Supreme Court  
2 previously held, "Application of the statutory procedural default rules to post-conviction habeas  
3 petitions is mandatory." *State v. Eighth Judicial Dist. Court ex rel. County of Clark (Riker)*, 121 Nev.  
4 225, 231, 112 P.3d 1070, 1074 (2005), citing *State v. Haberstroh*, 119 Nev. 173, 180, 69 P.3d 676, 681  
5 (2003).

6 Respondents request the Court find Leal's first claim procedurally defaulted and dismiss the  
7 claim.

### 8 **III. Leal's *Strickland* Claims are Meritless**

#### 9 **A. *Strickland v. Washington***

10 When reviewing a claim of ineffective assistance of counsel, the Nevada Supreme Court has  
11 held:

12 A claim that counsel provided constitutionally inadequate representation  
13 is subject to the two-part test established by the Supreme Court in  
14 *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052, 80 L.Ed.2d 674  
15 (1984). To prevail on a claim of ineffective assistance of trial or appellate  
16 counsel, a defendant must demonstrate (1) that counsel's performance  
17 was deficient and (2) that counsel's deficient performance prejudiced the  
18 defense. *Id.* at 687. A court need not consider both prongs of the  
19 *Strickland* test if a defendant makes an insufficient showing on either  
20 prong. *Id.* at 697. "A claim of ineffective assistance of counsel presents a  
21 mixed question of law and fact, subject to independent review." *Evans v.*  
22 *State*, 117 Nev. 609, 622, 28 P.3d 498, 508 (2001).

19 *McConnell v. State*, 212 P.3d 307, 313 (Nev. 2009).

20 In *Strickland*, the Court wrote, "The benchmark for judging any claim of ineffectiveness must  
21 be whether counsel's conduct so undermined the proper functioning of the adversarial process that the  
22 trial cannot be relied on as having produced a just result." 466 U.S. at 686.

23 Discussing the deficient conduct prong of *Strickland*, the Court stated, "This requires showing  
24 that counsel made errors so serious that counsel was not functioning as the 'counsel' guaranteed the  
25 defendant by the Sixth Amendment." *Id.* at 687. Prejudice is demonstrating that the results of the  
26 proceedings are not reliable. *Id.* "[D]efects in assistance that have no probable effect upon the trial's  
27 outcome do not establish a constitutional violation." *Mickens v. Taylor*, 535 U.S. 162, 166 (2002).

28 The defendant bears the burden of demonstrating both deficient conduct and prejudice. *Id.*

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**B. Leal’s First *Strickland* Claim is Meritless**

**1.) The first claim**

Leal’s first *Strickland* claim B(1) alleges, “Petitioner’s Criminal Counsel’s assistance was ineffective, because prior counsel’s performance fell below an objective standard or reasonableness as is mandated by *Strickland*, by failing to obtain a conflict waiver.” PWHC at 9.

**2.) The record**

The record at the change of plea hearing reflects that Leal executed a waiver of conflict in the district court, which included the acknowledgment of the “right to consult with independent counsel review the potential conflict of interest posed by dual representation and the consequences of waiving the right to conflict free representation.” (Exhibit 6). The waiver reflects that Leal executed the waiver on April 20, 2017, prior to the entry of plea. *Id.* Leal previously executed a waiver of conflict in the justice court. (Exhibit 7).

**3.) The relevant law**

A defendant possesses a right to representation that is free from conflicts of interest. *Wood v. Georgia*, 450 U.S. 261, 271 (1981). There is an automatic reversal “only where defense counsel is forced to represent [a] codefendant over his timely objection, unless the trial court has determined that there is no conflict.” *Mickens v. Taylor*, 535 U.S. at 168, citing *Holloway v. Arkansas*, 435 U.S. 475, 488 (1978).

Where no party objects to the multiple representation, and where the interests of the defendants appear aligned, a defendant must demonstrate “a conflict of interest actually affected the adequacy of his representation.” *Mickens*, at 168, citing *Cuyler v. Sullivan*, 446 U.S. 335, 348-49 (1980).

The Nevada Supreme Court notes, “[T]he right to retain one’s own counsel may clash with the right to conflict-free representation, and the presumption in favor of the right to retain the counsel of one’s choice.” *Ryan v. Eighth Judicial Dist. Court ex rel. County of Clark*, 123 Nev. 419, 426, 168 P.3d 703, 708 (2007). Noting the fact defendants can waive conflicts, the Nevada Supreme Court discussed the requirements of a knowing waiver. The Court stated, “If the attorney fails to advise criminal defendants of their right to see the advice of independent counsel, the clients’ waivers of conflict free representation are ineffective unless and until the attorney advises the clients to seek the advice of



1 independent counsel and the clients do so or expressly waive the right to do so.” *Id.* at 430, 168 P.3d at  
2 711.

3 **4.) Leal failed to establish a *Strickland* violation**

4 The record in this case reflects that Leal executed a waiver of conflict that included advice to  
5 review the potential conflict with independent counsel. (Exhibit 6). Leal executed this waiver prior to  
6 the entry of his plea. *Id.* The waiver of conflict included waiver of the right to withdraw his guilty plea  
7 as a result of potential or actual conflict of interest. *Id.* The waiver also included an acknowledgment of  
8 the risks, including “the possibility of inconsistent pleas.” *Id.*

9 Based upon the record in this case, Leal executed a waiver in justice court. In district court, Leal  
10 executed a second waiver of conflict before the entry of his plea. The district court waiver included a  
11 recognition that inconsistent pleas may result, and that inconsistent pleas are not a valid basis for  
12 withdrawal of his plea. Leal’s waiver also reflected an acknowledgment of the right to review the  
13 waiver with independent counsel. Finally, Leal’s petition fails to allege facts supporting a claim that an  
14 actual conflict of interest existed at the time of plea or at sentencing.

15 If Leal’s waiver of justice court was deficient, the district court waiver cured any defect under  
16 *Ryan*.

17 Respondents request the Court find that Leal’s claim B(1) failed to demonstrate a *Strickland*  
18 violation based upon an actual conflict of interest, or that counsel was deficient for failing to obtain a  
19 conflict waiver. Finally, Leal failed to demonstrate prejudice under *Strickland* by demonstrating that the  
20 outcome of the proceedings would have changed had trial counsel handled the conflict differently, or if  
21 Leal retained separate counsel.

22 **C. Leal’s Second *Strickland* Claim is Meritless**

23 In his second *Strickland* claim, B(2), Leal alleges that trial counsel coerced him into pleading  
24 guilty. PWHC at 11. In support of the claim, Leal alleges:

25 It was well known throughout this case, that the co-defendant, who was  
26 represented by the same attorney that represented Petitioner, without a  
27 viable conflict waiver in-place, visited domestic violence upon the  
28 Petitioner. Thus, we have a situation where counsel knows his client is  
literally beating his other client, and yet continues to represent both. All  
the while without any type of waiver. Clearly, clearly this is in violation  
of *Strickland*. *Strickland v. Washington*, 466 U.S. 668, 104 S.Ct. 2052

1 (1984). Petitioner was coerced by his own attorney into accepting a faulty  
2 plea agreement.

3 PWHC at 11.

4 Leal's second claim fails to evidence a *Strickland* violation that his attorney coerced him into  
5 pleading guilty. Leal's petition presents no facts that trial counsel knew of the alleged domestic  
6 violence. Leal's petition presents no evidence that his counsel knew that Leal's partner inflicted  
7 domestic violence upon Leal in order to force Leal to plead guilty. There is no evidence the cause of the  
8 domestic violence was to force Leal to enter a plea. Finally, there is no evidence that Leal's counsel  
9 either directed or condoned the domestic violence at issue. Claims unsupported by facts or the record do  
10 not warrant relief or an evidentiary hearing. *Hargrove v. State*, 100 Nev. 498, 502-03, 686 P.2d 222,  
11 225 (1984).

12 Conversely, the plea agreement in this case reflected Leal received no promises of a particular  
13 plea. Leal also acknowledged that the plea was in his best interest, and that he voluntarily signed the  
14 agreement, that he was not under duress or coercion, or promised anything not in the agreement.  
15 (Exhibit 8). Leal also stated during the plea canvass that he pled guilty of his own free will and no one  
16 forced him to plead guilty. (Exhibit 9 at 5). Finally, Leal acknowledged that he read and understood the  
17 plea agreement, that counsel was present to answer any questions, and that he was satisfied with the  
18 services of his attorney. *Id.* at 6.

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**CONCLUSION**

The relevant Nevada authority compels dismissal of Claim A of Leal’s state habeas corpus petition. The record in this case fails to support a *Strickland* violation based upon Claim B(1) or Claim B(2). Respondents request the Court deny Leal’s state habeas petition.

RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of April, 2019.

AARON D. FORD  
Attorney General

By: /s/ Michael J. Bongard  
MICHAEL J. BONGARD  
Senior Deputy Attorney General  
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mbongard@ag.nv.gov  
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**AFFIRMATION**  
**Pursuant to NRS 239B.030**

The undersigned does hereby affirm that this pleading filed in the Eighth Judicial District Court does not contain the social security number of any person.

DATED: April 23, 2019.

AARON D. FORD  
Attorney General

By: /s/ Michael J. Bongard  
MICHAEL J. BONGARD)  
Senior Deputy Attorney General  
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**CERTIFICATE OF SERVICE**

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on April 23, 2019, I filed the foregoing document via this Court’s electronic filing system. Parties that are registered with this Court’s EFS will be served electronically.

Joseph Z. Gersten, Esq.  
The Gersten Law Firm PLLC  
9680 W Tropicana Avenue #120  
Las Vegas, NV 89147

/s/ D. Simon  
D. Simon, an Employee of  
the office of the Nevada Attorney General

# EXHIBIT 1

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## APPELLANT'S OPENING BRIEF

IN THE SUPREME COURT OF THE STATE OF NEVADA

JACK LEAL,

Appellant,

vs.

STATE OF NEVADA,

Respondent.

S. CT. CASE NO.: 74050  
DIST. CT. CASE NO.: C332664  
Electronically Filed  
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Elizabeth A. Brown  
Clerk of Supreme Court

**APPELLANT'S OPENING BRIEF**

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**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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JACK LEAL,

Appellant,

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STATE OF NEVADA,

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S. CT. CASE NO.:74050

DIST. CT. CASE NO.: C322664

**NRAP 26.1(a) DISCLOSURE**

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

**Attorney of record for Appellant:** Lester M. Paredes III, Esq.

**Corporation:** No publicly held company associated with this corporation

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**Law Firm(s) appearing in District Court:** Mueller Hinds & Associates, Chtd.

Dated this 1st day of February, 2018,

By:

/s/ Lester M. Paredes III, Esq. \_\_\_\_\_

Lester M. Paredes III, Esq.

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Attorney for Appellant

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this Appellant's Fast Track Statement complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5), has been prepared in a proportionately spaced typeface using Times New Roman in font size 14, and the body of the brief contains 4,162 words.

I further certify that I have read this Appellant's Opening Brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the Nevada Rules of Appellate Procedure. Dated this 1st day of February, 2018.

By:

/s/ Lester M. Paredes III, Esq.  
Lester M. Paredes III, Esq.  
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Attorney for Appellant

**CERTIFICATE OF SERVICE**

I hereby certify that service of the foregoing **APPELLANT'S OPENING BRIEF** was made this 1st of February, 2018, upon the appropriate parties hereto by electronic filing using the ECF system which will send a notice of electronic filing to the following and/or by facsimile transmission to:

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**PLEADING  
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IN NEXT  
VOLUME**