

IN THE SUPREME COURT OF THE STATE OF NEVADA

CLUB VISTA FINANCIAL SERVICES,
L.L.C., a Nevada limited liability company,
THARALDSON MOTELS II, INC., a North
Dakota corporation; and GARY D.
THARALDSON,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT FOR THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF CLARK,
AND THE HONORABLE MARK R.
DENTON, DISTRICT JUDGE,

Respondents.

and

SCOTT FINANCIAL CORPORATION, A
North Dakota corporation; BRADLEY J.
SCOTT; BANK OF OKLAHOMA, N.A., a
national bank; GEMSTONE
DEVELOPMENT WEST, INC., a Nevada
corporation; ASPHALT PRODUCTS
CORPORATION, dba APCO
CONSTRUCTION, a Nevada Corporation

Real Parties in Interest.

Case No.: 57784

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Tracie K. Lindeman

**ERRATA TO PETITION FOR WRIT OF MANDAMUS, OR ALTERNATIVELY,
PETITION FOR WRIT OF PROHIBITION**

Marquis Aurbach Coffing
TERRY A. COFFING, ESQ.
Nevada Bar No. 4949
MICAH S. ECHOLS, ESQ.
Nevada Bar No. 8437
DAVID T. DUNCAN, ESQ.
Nevada Bar No. 9546
10001 Park Run Drive
Las Vegas, Nevada 89145

Lemons, Grundy & Eisenberg
ROBERT L. EISENBERG, ESQ.
Nevada Bar No. 950
6005 Plumas Street, Suite 300
Reno, Nevada 89519

Morrill & Aronson, P.L.C.
K. LAYNE MORRILL, ESQ.
Arizona Bar No. 4591 (Pro Hac Vice)
MARTIN A. ARONSON, ESQ.
Arizona Bar No. 9005 (Pro Hac Vice)
JOHN T. MOSHIER, ESQ.
Arizona Bar No. 7460 (Pro Hac Vice)
One E. Camelback Road, Suite 340
Phoenix, Arizona 85012

Cooksey, Toolen, Gage, Duffy & Woog
GRIFFITH H. HAYES, ESQ.
Nevada Bar No. 7374
MARTIN A. MUCKLEROY, ESQ.
Nevada Bar No. 9634
3930 Howard Hughes Parkway, Suite 200
Las Vegas, Nevada 89169

Attorneys for Petitioner

**ERRATA TO PETITION FOR WRIT OF MANDAMUS, OR ALTERNATIVELY,
PETITION FOR WRIT OF PROHIBITION**

Petitioners, Gary Tharaldson; Club Vista Financial Services LLC; and Tharaldson Motels II, Inc. (collectively "Plaintiffs"), hereby notify the Court and all interested parties of the following errata in their Petition for Writ of Mandamus, or Alternatively, Petition for Writ of Prohibition:

1. On page 17 of the Writ Petition, lines 1–3, Plaintiffs remove the following statement:

With regard to BOK's motion for summary judgment on Plaintiffs' third, seventh, and eleventh claims, the District Court found that genuine issues of material fact exist as to constructive fraud and breach of implied covenant of good faith and fair dealing.¹

The referenced District Court order found only that there were genuine issues of material fact for Plaintiffs' second and third claims for concealment and constructive fraud, as these claims relate to the Scott Financial Defendants, and not the *Bank of Oklahoma Defendants*.

2. On page 17 of the Writ Petition, lines 15–19, Plaintiffs made the following factual statements:

The District Court also reasoned that genuine issues exist as to what Defendants did in conjunction with the Scott Defendants that would bear upon aiding and abetting of fiduciary duties owed by the Scott Defendants to Club Vista.² The District Court also recognized that these relationships were created on trust.³

Plaintiffs clarify that the District Court did, in fact, find that make the following finding, with regard to Edelstein's motion for summary judgment:

¹ PA 4:754–757.

² PA 4:759–761.

³ PA 4:759–761.

1 There are also genuine issues regarding things that Defendant allegedly did
2 in conjunction with the Scott Defendants that would bear upon aiding and
3 abetting alleged breach of fiduciary duties owed by the latter to Club Vista
4 and aiding and abetting alleged misrepresentations and omissions. In this
5 regard, Defendant recognizes that he was told to work with Scott Financial,
6 . . . which would indicate that he knew that Club Vista was placing a level
7 of trust in Scott Financial. Therefore, the Motion is DENIED also as to the
8 Third and Fourth Claims for Relief as they relate to Club Vista.⁴

9 Plaintiffs mistakenly cited Petitioners' Appendix, Volume 4, pages 759–761. However,
10 the correct reference is Petitioners' Appendix, Volume 4, pages 814–816.

11 Dated this 24th day of February, 2011.

12 MARQUIS AURBACH COFFING

13 By /s/ Terry A. Coffing, Esq.

14 TERRY A. COFFING, ESQ.

15 Nevada Bar No. 4949

16 MICAH S. ECHOLS, ESQ.

17 Nevada Bar No. 8437

18 DAVID T. DUNCAN, ESQ.

19 Nevada Bar No. 9546

20 10001 Park Run Drive

21 Las Vegas, Nevada 89145

22 *Attorneys for Petitioners*

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25
26
⁴ PA 4:814.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **ERRATA TO PETITION FOR WRIT OF MANDAMUS, OR ALTERNATIVELY, PETITION FOR WRIT OF PROHIBITION** was filed electronically with the Nevada Supreme Court on the 24th day of February, 2011. Electronic Service of the foregoing documents shall be made in accordance with the Master Service List as follows:

Robert Eisenberg, Esq.
Gwen Mullins, Esq.
Matthew Carter, Esq.
J. Randall Jones, Esq.

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

The Honorable Mark R. Denton
Eighth Judicial District Court, Dept. 13
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155
Respondents

Griffith H. Hayes, Esq.
Martin A. Muckleroy, Esq.
Cooksey, Toolen, Gage, Duffy & Woog
3930 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
Attorneys for Petitioners

K. Layne Morrill, Esq.
Martin A. Aronson, Esq.
John T. Moshier, Esq.
Morrill & Aronson, P.L.C.
One E. Camelback Road, Suite 340
Phoenix, AZ 85012
Attorneys for Petitioners

Mark M. Jones, Esq.
Kemp, Jones & Coulthard, LLP
3800 Howard Hughes Parkway, Seventeenth Floor
Las Vegas, NV 89169
Attorneys for Scott Financial Corporation and Bradley L. Scott

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Von S. Heinz, Esq.
Ann Marie McLoughlin, Esq.
Lewis and Roca, LLP, Suite 600
3993 Howard Hughes Parkway
Las Vegas, NV 89169
Attorneys for Bank of Oklahoma

John D. Clayman, Esq.
Piper Turner, Esq.
Frederick Dorwart Lawyers
Old City Hall
124 East Fourth Street
Tulsa, OK 74103
Attorneys for Bank of Oklahoma

Robert L. Rosenthal, Esq.
Howard & Howard
3800 Howard Hughes Parkway, Suite 1400
Las Vegas, NV 89169
Attorneys for Defendant APCO

P. Kyle Smith, Esq.
Smith Law Office
10161 Park Run Drive
Las Vegas, NV 89145
Attorneys for Gemstone Development West, Inc.

/s/ Leah Dell
Leah Dell, an employee of
Marquis Aurbach Coffing