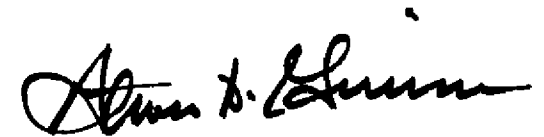


EXHIBIT 2

EXHIBIT 2



CLERK OF THE COURT

NEOJ
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
STEVEN G. SHEVORSKI, ESQ.
Nevada Bar No. 8256
AKERMAN LLP
1160 Town Center Drive, Suite 330
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Telephone: (702) 634-5000
Facsimile: (702) 380-8572
Email: ariel.stern@akerman.com
Email: steven.shevorski@akerman.com
Attorneys for Bank of America, N.A.

DISTRICT COURT
CLARK COUNTY, NEVADA

7510 PERLA DEL MAR AVE. TRUST,

Plaintiff,

v.

BANK OF AMERICA, N.A.; NORTH
AMERICAN TITLE COMPANY, a Nevada
corporation; MOUNTAINS EDGE MASTER
ASSOCIATION; and DOMINIC NOLAN,

Defendants.

Case No.: A-13-686277-C
Dept.: XXX

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an AMENDED ORDER GRANTING BANK OF AMERICA, N.A.'S MOTION TO DISMISS TO REFLECT COURT'S ORDER GRANTING 7510 PERLA DEL MAR AVE. TRUST'S REQUEST FOR N.R.C.P. 45(B) CERTIFICATION was entered in the above-captioned matter on March 3, 2014.

///

///

///

///

///

///

///

A copy of said Order is attached hereto.
DATED this 3rd day of March, 2014.

AKERMAN LLP

/s/ Steve Shevorski, Esq.
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
STEVEN G. SHEVORSKI, ESQ.
Nevada Bar No. 8256
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144

Attorneys for Bank of America, N.A.

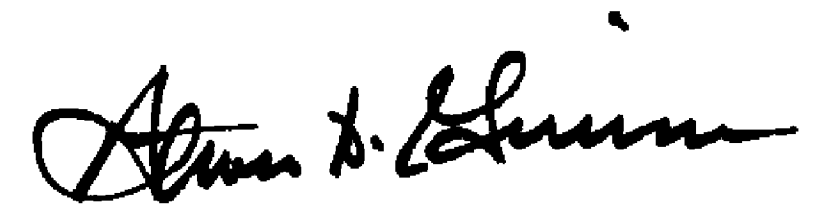
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 3rd day of March, 2014 and pursuant to NRCP 5(b), I served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, postage prepaid and addressed to:

Michael F. Bohn, Esq.
LAW OFFICES OF MICHAEL F. BOHN, LTD.
376 E. Warm Springs Road, Suite 125
Las Vegas, NV 89119
Attorney for Plaintiff

/s/ Eloisa Nuñez

An employee of AKERMAN LLP



CLERK OF THE COURT

1 **OGM**
2 ARIEL E. STERN, ESQ.
3 Nevada Bar No. 8276
4 STEVE SHEVORSKI, ESQ.
5 Nevada Bar No. 8256
6 AKERMAN LLP
7 1160 Town Center Drive, Suite 330
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10 Facsimile: (702) 380-8572
11 Email: ariel.stern@akerman.com
12 Email: steven.shevorski@akerman.com

13 *Attorneys for Defendant*
14 *Bank of America, N.A.*

15 **EIGHTH JUDICIAL DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 7510 PERLA DEL MAR AVE. TRUST,
18
19 Plaintiff,

20 v.

21 BANK OF AMERICA, N.A.; NORTH
22 AMERICAN TITLE COMPANY, a Nevada
23 corporation; MOUNTAINS EDGE MASTER
24 ASSOCIATION; and DOMINIC NOLAN,
25

26 Defendants.

Case No.: A-13-686277-C
Dept.: XXX

**AMENDED ORDER GRANTING BANK
OF AMERICA, N.A.'S MOTION TO
DISMISS TO REFLECT COURT'S
ORDER GRANTING 7510 PERLA DEL
MAR AVE. TRUST'S REQUEST FOR
N.R.C.P. 45(B) CERTIFICATION**

27 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.
28 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for
hearing on December 19, 2013. Steve Shevorski, Esq. of Akerman LLP appeared for Bank of
America. Michael F. Bohn, Esq., LTD appeared for plaintiff. The Court reviewed Bank of
America's motion, the exhibits attached thereto, all the papers and pleadings, the oral arguments of
counsel for Bank of America and counsel for Plaintiff, and good cause appearing,

IT IS HEREBY ORDERED Bank of America's motion is granted without prejudice and
plaintiff's counter motion to stay is denied.

FINDINGS

LEGAL CONCLUSIONS

No part of a statute should be rendered meaningless and its language "should not be read to produce absurd or unreasonable results." *Harris Assocs. v. Clark County Sch. Dist.*, 119 Nev. 638, 642, 81 P.3d 532, 534 (2003) (quoting *Glover v. Concerned Citizens for Fuji Park*, 118 Nev. 488,

492, 50 P.3d 546, 548 (2002), overruled in part on other grounds by *Garvin v. Dist. Ct.*, 118 Nev. 749, 765 n. 71, 59 P.3d 1180, 1190 n. 71 (2002)). Here, Plaintiff's interpretation, that an HOA foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can extinguish a senior deed of trust.

ORDER BASED UPON COURT'S FINDINGS AND CONCLUSIONS OF LAW

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Bank of America's motion to dismiss is **GRANTED** ~~with prejudice~~.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Plaintiff's countermotion to stay is **DENIED**.

THE COURT'S ORDER IS HEREBY AMENDED *NUNC PRO TUNC* to reflect that 7510 Perla Del Mar Ave. Trust's request that this action be certified to the Nevada Supreme Court pursuant to N.R.C.P. 54(b) is granted.

DATED this 28 day of February, 2014.

THE HONORABLE JERRY A. WEISE

DISTRICT COURT JUDGE

Submitted by:

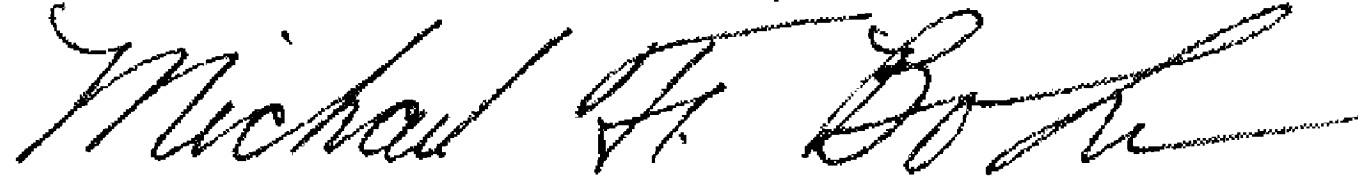
AKERMAN LLP

Ariel E. Stern, Esq., Nevada Bar No. 8276
Steve Shevovski, Esq., Nevada Bar No. 8256
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144

*Attorneys for Defendant
Bank of America, N.A.*

1 Approved as to form and content, all rights reserved

2 **MICHAEL F. BOHN, ESQ., LTD.**

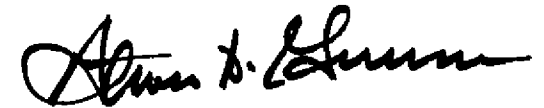
3 

4 Michael F. Bohn, Esq., Nevada Bar No. 1641
5 Law Offices of Michael F. Bohn, Esq., Ltd.
6 376 E. Warm Springs Road, Suite 125
Las Vegas, NV 89119

7 *Attorney for Plaintiff*

EXHIBIT 1

EXHIBIT 1



CLERK OF THE COURT

NEOJ
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
STEVEN G. SHEVORSKI, ESQ.
Nevada Bar No. 8256
AKERMAN LLP
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Email: steven.shevorski@akerman.com
Attorneys for Bank of America, N.A.

DISTRICT COURT
CLARK COUNTY, NEVADA

7510 PERLA DEL MAR AVE. TRUST,

Plaintiff,

v.

BANK OF AMERICA, N.A.; NORTH
AMERICAN TITLE COMPANY, a Nevada
corporation; MOUNTAINS EDGE MASTER
ASSOCIATION; and DOMINIC NOLAN,

Defendants.

Case No.: A-13-686277-C
Dept.: XXX

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an ORDER GRANTING BANK OF AMERICA, N.A.'S
MOTION TO DISMISS was entered in the above-captioned matter on February 19, 2014. A copy
of said Order is attached hereto.

DATED this 19th day of February, 2014.

AKERMAN LLP

/s/ Steve Shevorski, Esq.
ARIEL E. STERN, ESQ.
Nevada Bar No. 8276
STEVEN G. SHEVORSKI, ESQ.
Nevada Bar No. 8256
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144

Attorneys for Bank of America, N.A.

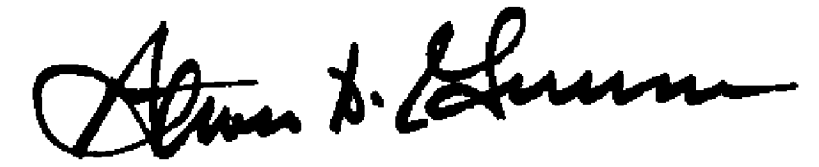
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of February, 2014 and pursuant to NRCP 5(b), I served and deposited for mailing in the U.S. Mail a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER**, postage prepaid and addressed to:

Michael F. Bohn, Esq.
LAW OFFICES OF MICHAEL F. BOHN, LTD.
376 E. Warm Springs Road, Suite 125
Las Vegas, NV 89119
Attorney for Plaintiff

/s/ Eloisa Nuñez

An employee of AKERMAN LLP



CLERK OF THE COURT

1 **OGM**
2 ARIEL E. STERN, ESQ.
3 Nevada Bar No. 8276
4 STEVE SHEVORSKI, ESQ.
5 Nevada Bar No. 8256
6 AKERMAN LLP
7 1160 Town Center Drive, Suite 330
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11 Email: ariel.stern@akerman.com
12 Email: steven.shevorski@akerman.com

13 *Attorneys for Defendant*
14 *Bank of America, N.A.*

15 **EIGHTH JUDICIAL DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 7510 PERLA DEL MAR AVE. TRUST,

18 Plaintiff,

19 v.

20 BANK OF AMERICA, N.A.; NORTH
21 AMERICAN TITLE COMPANY, a Nevada
22 corporation; MOUNTAINS EDGE MASTER
23 ASSOCIATION; and DOMINIC NOLAN,

24 Defendants.

Case No.: A-13-686277-C
Dept.: XXX

25 **ORDER GRANTING BANK OF**
26 **AMERICA, N.A.'S MOTION TO DISMISS**

27 Bank of America, N.A.'s (**Bank of America**) motion to dismiss 7510 Perla Del Mar Ave.
28 Trust's (**Plaintiff**) complaint with prejudice and Plaintiff's countermotion for stay came on for
hearing on December 19, 2013. Steve Shevorski, Esq. of Akerman LLP appeared for Bank of
America. Michael F. Bohn, Esq., LTD appeared for plaintiff. The Court reviewed Bank of
America's motion, the exhibits attached thereto, all the papers and pleadings, the oral arguments of
counsel for Bank of America and counsel for Plaintiff, and good cause appearing,

IT IS HEREBY ORDERED Bank of America's motion is granted and plaintiff's counter
motion to stay is denied.

FINDINGS

1. Dominic Nolan (**Nolan**) obtained title via grant, bargain, and sale deed, which was recorded on December 10, 2010. Nolan borrowed \$161,524.00 from KEA Mortgage, LLC. This loan was secured by a first position deed of trust, which was recorded on December 10, 2010.

2. The senior deed of trust was then assigned to Bank of America. The assignment was recorded on January 6, 2012.

3. Bank of America then assigned the senior deed of trust, together with the note, to Nationstar Mortgage, LLC. The assignment was recorded on July 10, 2013.

4. The Mandolin (**HOA**) issued an assessment lien, which was recorded on January 4, 2012.

5. HOA recorded a notice of default and election to sell on February 27, 2012.

6. HOA recorded its notice of trustee's sale on November 15, 2012.

7. HOA sold the property to plaintiff via a trustee's sale on February 1, 2013. HOA recorded the trustee's deed on February 7, 2013.

LEGAL CONCLUSIONS

When a statute is clear and unambiguous, this court gives effect to the plain and ordinary meaning of the words and does not resort to the rules of construction. *Seput v. Lacayo*, 122 Nev. 499, 502, 134 P.3d 733, 735 (2006), abrogated on other grounds by *Buzz Stew, LLC v. City of N. Las Vegas*, 124 Nev. 224, 228 n. 6, 181 P.3d 670, 672 n. 6 (2008). The plain language of NEV. REV. STAT. §116.3116(2)(b) gives senior recorded deeds of trust priority of assessment liens. NEV. REV. STAT. §116.3116(2)(c) merely sets forth an order of payment and allows the HOA to recover 9 months of assessments from the proceeds of the beneficiary's non-judicial foreclosure.

No part of a statute should be rendered meaningless and its language "should not be read to produce absurd or unreasonable results." *Harris Assocs. v. Clark County Sch. Dist.*, 119 Nev. 638, 642, 81 P.3d 532, 534 (2003) (quoting *Glover v. Concerned Citizens for Fuji Park*, 118 Nev. 488, 492, 50 P.3d 546, 548 (2002), overruled in part on other grounds by *Garvin v. Dist. Ct.*, 118 Nev. 749, 765 n. 71, 59 P.3d 1180, 1190 n. 71 (2002)). Here, SFR's interpretation, that an HOA

1 foreclosure can wipe out a senior deed of trust under NEV. REV. STAT. §116.3116(2)(c), renders the
2 Nevada's legislature's explicit grant of priority to senior deeds of trust under section 2(b) to be
3 completely nugatory. There is no section in Chapter 116 that states an HOA foreclosure can
4 extinguish a senior deed of trust.

5 **ORDER BASED UPON COURT'S FINDINGS AND CONCLUSIONS OF LAW**

6 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Bank of America's
7 motion to dismiss is **GRANTED**, ~~with prejudice~~.

8 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Plaintiff's
9 countermotion to stay is **DENIED**.

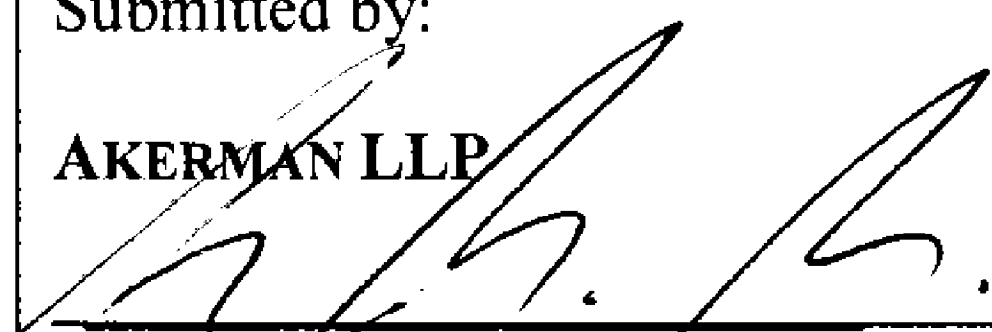
10 DATED this 18th day of February, 2014.

11 **THE HONORABLE JERRY A. WEISE**

12 
13 DISTRICT COURT JUDGE 

14 Submitted by:


15 **AKERMAN LLP**

16 
17 Ariel E. Stern, Esq., Nevada Bar No. 8276
18 Steve Shevorski, Esq., Nevada Bar No. 8256
1160 Town Center Drive, Suite 330
Las Vegas, Nevada 89144

19 *Attorneys for Defendant*
20 *Bank of America, N.A.*

21 Approved as to form and content, all rights reserved

22 **MICHAEL F. BOHN, ESQ., LTD.**

23 
24 Michael F. Bohn, Esq., Nevada Bar No. 1641
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26 Las Vegas, NV 89119

27 *Attorney for Plaintiff*

1 MICHAEL F. BOHN, ESQ.
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2 mbohn@bohnlawfirm.com
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Attorney for plaintiff

Electronically Filed
Apr 15 2014 09:47 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

8 SUPREME COURT OF NEVADA

9 7510 PERLA DEL MAR AVE TRUST,

CASE NO.: 65069

10 Appellant,

11 vs.

12 BANK OF AMERICA, N.A.

13 Respondent

14
15
16 **RESPONSE TO ORDER TO SHOW CAUSE**

17 Appellant 7510 Perla Del Mar Ave Trust, by and through it's attorney, Michael F. Bohn, Esq.,
18 responds to the order to show cause as follows.

19 **POINTS AND AUTHORITIES**

20 The order originally entered by the district court on February 19, 2014 did not contain any Rule
21 54(b) language. A copy of this order is attached as Exhibit 1.

22 Shortly thereafter, the court entered an amended order nunc pro tunc, which did include the Rule
23 54(b) language. The amended order specifically states:

24 THE COURT'S ORDER IS HEREBY AMENDED *NUNC PRO TUNC* to reflect that
25 7510 Perla Del Mar Ave. Trust's request that this action be certified to the Nevada
Supreme Court pursuant to N.R.C.P. 54(b) is granted.
A copy of the amended order is Exhibit 2.

26 It is respectfully submitted the language in the amended order is sufficient, and that this appeal

1 should not be dismissed.

2 DATED this 14th day of April 2014.

3 LAW OFFICES OF
4 MICHAEL F. BOHN, ESQ., LTD.

5 By: /Michael F. Bohn, Esq. /
6 MICHAEL F. BOHN, ESQ.
7 Kelly M. Perri, Esq.
8 376 E. Warm Springs Rd., Ste. 140
9 Las Vegas, Nevada 89119
10 Attorney for appellants

11 **CERTIFICATE OF SERVICE**

12 I HEREBY CERTIFY that on the 14th day of April 2014, I served a photocopy of
13 the foregoing **RESPONSE TO ORDER TO SHOW CAUSE** by placing the same in a sealed
14 envelope with first-class postage fully prepaid thereon and deposited in the United States mails
15 addressed as follows:

16 Ariel E. Stern, Esq.
17 Steven G. Shevorskil, Esq.
18 AKERMAN LLP
19 1160 Town Center Drive, Suite 330
20 Las Vegas, NV 89144

21 /s/ Esther Maciel-Thompson/
22 An Employee of the LAW OFFICES OF
23 MICHAEL F. BOHN, ESQ., LTD.
24
25
26
27
28