

**IN THE SUPREME COURT OF
THE STATE OF NEVADA**

Ernest A. Becker, IV, INDIVIDUALLY,
ERNEST A. BECKER, IV and KATHLEEN
BECKER AS TRUSTEES OF THE ERNEST A.
BECKER IV and KATHLEEN C. BECKER
FAMILY TRUST; EB FAMILY HOLDINGS,
LLC; KIMBERLY RIGGS; SALLIE BECKER;
BRIAN BECKER; and WILLIAM A.
LEONARD, TRUSTEE,

Appellants,

vs.

ERNEST A. BECKER, V,

Respondent.

SUPREME COURT NO. 65335

Electronically Filed
Oct 14 2014 04:14 p.m.
On Certification from United
States Bankruptcy Court for the
District of Nevada
Tracie K. Lindeman
Clerk of Supreme Court

Case No. BK-S-13-14932-BTB

JOINT APPENDIX

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IV, individually, Ernest A. Becker, IV and
Kathleen Becker as Trustees of the Ernest
A. Becker and Kathleen C. Becker Trust;
EB Family Holdings, LLC; Kimberly
Riggs; Sallie Becker and Brian Becker*

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Document	Date Filed	Bates Number
Amended Schedule B	July 24, 2013	JA000001 – JA000007
Amended Schedule C	Aug. 14, 2013	JA000018 – JA000019
Amended Statement of Financial Affairs	July 24, 2013	JA000008 – JA000017
Claims Register	as of Oct. 3, 2014	JA000096 – JA000102
Debtor's Response to Objection to Claimed Exemptions and to Trustee's Joinder to Objection to Claims Exemptions	Dec. 4, 2013	JA000035 – JA000041
Notice of Hearing on Objection to Claimed Exemptions	Oct. 31, 2013	JA000029 – JA000031
Objection to Claimed Exemptions	Oct. 31, 2013	JA000020 – JA000028
Order Accepting Certified Question	Aug. 4, 2014	JA000061 – JA000062
Order Certifying Question of Law to the Nevada Supreme Court	Mar. 21, 2014	JA000054 – JA000060
Reply in Support of Objection to Claimed Exemptions	Dec. 11, 2013	JA000042 – JA000051
Transcript of Hearing on Objection to Claimed Exemptions held on February 19, 2014 at 2:00 P.M.	Sep. 15, 2014	JA000063 – JA000095
Trustee's Joinder to Objection to Claimed Exemptions	Nov. 01, 2013	JA000032 – JA000034
Trustee's Joinder to Reply in Support of Objection to Claimed Exemptions	Dec. 11, 2013	JA000052 – JA000053

CERTIFICATE OF SERVICE

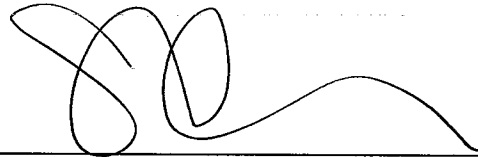
I certify that on the 14th day of October, 2014, I served a copy of this JOINT APPENDIX by mailing it by first class mail with sufficient postage prepaid to the following address(es):

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Sheena Clow
*An Employee of Schwartzer & McPherson
Law Firm*

B6B (Official Form 6B) (12/07)

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE B - PERSONAL PROPERTY - AMENDED

Except as directed below, list all personal property of the debtor of whatever kind. If the debtor has no property in one or more of the categories, place an "x" in the appropriate position in the column labeled "None." If additional space is needed in any category, attach a separate sheet properly identified with the case name, case number, and the number of the category. If the debtor is married, state whether husband, wife, both, or the marital community own the property by placing an "H," "W," "J," or "C" in the column labeled "Husband, Wife, Joint, or Community." If the debtor is an individual or a joint petition is filed, state the amount of any exemptions claimed only in Schedule C - Property Claimed as Exempt.

Do not list interests in executory contracts and unexpired leases on this schedule. List them in Schedule G - Executory Contracts and Unexpired Leases.

If the property is being held for the debtor by someone else, state that person's name and address under "Description and Location of Property." If the property is being held for a minor child, simply state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. §112 and Fed. R. Bankr. P. 1007(m).

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
1. Cash on hand	X			
2. Checking, savings or other financial accounts, certificates of deposit, or shares in banks, savings and loan, thrift, building and loan, and homestead associations, or credit unions, brokerage houses, or cooperatives.		Wells Fargo #1605 E & C Family Trust	-	250.07
		Wells Fargo #9307 Ernest A Becker V Separate Property Trust	-	563.02
		Nevada State Bank Checking #4140	-	22.68
		Wells Fargo #1605 E & C Family Trust	-	0.00
		Wells Fargo #2031 E&C Family Trust 6/5/13 negative balance (-1453.88)	-	0.00
3. Security deposits with public utilities, telephone companies, landlords, and others.	X			
4. Household goods and furnishings, including audio, video, and computer equipment.		Household Goods, Electronics, Home Decor	-	8,900.00
5. Books, pictures and other art objects, antiques, stamp, coin, record, tape, compact disc, and other collections or collectibles.	X			
6. Wearing apparel.		Clothing	-	1,200.00
7. Furs and jewelry.		Wedding Ring, Watch, Cufflinks	-	1,100.00
8. Firearms and sports, photographic, and other hobby equipment.		Glock 22	-	525.00
Sub-Total > (Total of this page)				12,560.77

5 continuation sheets attached to the Schedule of Personal Property

B6B (Official Form 6B) (12/07) - Cont.

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE B - PERSONAL PROPERTY - AMENDED
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
9. Interests in insurance policies. Name insurance company of each policy and itemize surrender or refund value of each.		Ohio National Life Assurance Corp Policy #7039038 Term Policy	-	0.00
10. Annuities. Itemize and name each issuer.	X			
11. Interests in an education IRA as defined in 26 U.S.C. § 530(b)(1) or under a qualified State tuition plan as defined in 26 U.S.C. § 529(b)(1). Give particulars. (File separately the record(s) of any such interest(s). 11 U.S.C. § 521(c).)	X			
12. Interests in IRA, ERISA, Keogh, or other pension or profit sharing plans. Give particulars.		Wells Fargo IRA #6429	-	39,340.19
13. Stock and interests in incorporated and unincorporated businesses. Itemize.		Ensworth Corporation Stock Debtor receives monthly dividend of \$2,000.00 and has a right to quarterly dividends which are undetermined in amount and not being paid as of the date of filing.	-	1,362,000.00
		Eagle Rock Gaming, Inc.	-	219,000.00
		E-5 Coaching, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Hopeful Group, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Desert Investmentments, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Creative Investments, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		

Sub-Total > **1,620,340.19**
(Total of this page)

Sheet 1 of 5 continuation sheets attached
to the Schedule of Personal Property

B6B (Official Form 6B) (12/07) - Cont.

In re Ernest August Becker, VCase No. 13-14932Debtor**SCHEDULE B - PERSONAL PROPERTY - AMENDED**
(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Silverstone Properties, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Castle Rock Properties, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Centennial Investing, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		BEKS Group LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Growing Investments LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Sandstone Investments, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Hopeful Kids, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Ann Tenaya Plaza, LLC	-	0.00
		Debtor is not personally a member; filing with SOS listing Debtor as member is erroneous		
		Brimstone, LLC	-	14,000.00
14. Interests in partnerships or joint ventures. Itemize.	X			
15. Government and corporate bonds and other negotiable and nonnegotiable instruments.	X			
16. Accounts receivable.	X			
Sub-Total > (Total of this page)				14,000.00

Sheet 2 of 5 continuation sheets attached
to the Schedule of Personal Property

B6B (Official Form 6B) (12/07) - Cont.

In re Ernest August Becker, VCase No. 13-14932Debtor**SCHEDULE B - PERSONAL PROPERTY - AMENDED**

(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
17. Alimony, maintenance, support, and property settlements to which the debtor is or may be entitled. Give particulars.	X			
18. Other liquidated debts owed to debtor including tax refunds. Give particulars.	X			
19. Equitable or future interests, life estates, and rights or powers exercisable for the benefit of the debtor other than those listed in Schedule A - Real Property.	X			
20. Contingent and noncontingent interests in estate of a decedent, death benefit plan, life insurance policy, or trust.	X			
21. Other contingent and unliquidated claims of every nature, including tax refunds, counterclaims of the debtor, and rights to setoff claims. Give estimated value of each.		Claim against Ernest A. Becker IV for unpaid dividends related to stock held in Ensworth Apartments, Inc.	-	Unknown
22. Patents, copyrights, and other intellectual property. Give particulars.	X			
23. Licenses, franchises, and other general intangibles. Give particulars.	X			
24. Customer lists or other compilations containing personally identifiable information (as defined in 11 U.S.C. § 101(41A)) provided to the debtor by individuals in connection with obtaining a product or service from the debtor primarily for personal, family, or household purposes.	X			
25. Automobiles, trucks, trailers, and other vehicles and accessories.		2007 Chevy Suburban 69,000 miles	-	18,325.00
26. Boats, motors, and accessories.	X			
27. Aircraft and accessories.	X			

Sub-Total > **18,325.00**
(Total of this page)

Sheet 3 of 5 continuation sheets attached
to the Schedule of Personal Property

B6B (Official Form 6B) (12/07) - Cont.

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE B - PERSONAL PROPERTY - AMENDED

(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
28. Office equipment, furnishings, and supplies.	X			
29. Machinery, fixtures, equipment, and supplies used in business.	X			
30. Inventory.	X			
31. Animals.	X			
32. Crops - growing or harvested. Give particulars.	X			
33. Farming equipment and implements.	X			
34. Farm supplies, chemicals, and feed.	X			
35. Other personal property of any kind not already listed. Itemize.		EABV Separate Property Trust dated 5/18/95	-	Unknown
		Trust liabilities exceed assets		
		E & C Family Trust	-	Unknown
		Becker Nevada Trust Debtor is 1 of 4 beneficiaries; Debtor is not settlor, grantor, trustor or trustee	-	Unknown
		The EAB V Legacy Trust	-	Unknown
		Debtor is beneficiary & trustee		
		The Ernest August Becker V 2000 Irrevocable Trust	-	Unknown
		Debtor is beneficiary; Debtor is not settlor, grantor, trustor or trustee		
		Ernest A. Becker V Gaming Trust	-	Unknown
		Holds No Property		
		The Beks Insurance Trust Debtor is 1 of 4 beneficiaries; Debtor is 1 of 4 Trustees Debtor is not settlor, grantor, trustor	-	Unknown
		Becker Family Trust #1	-	Unknown
		Debtor is beneficiary		

Sub-Total > 0.00
(Total of this page)

Sheet 4 of 5 continuation sheets attached
to the Schedule of Personal Property

B6B (Official Form 6B) (12/07) - Cont.

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE B - PERSONAL PROPERTY - AMENDED

(Continuation Sheet)

Type of Property	N O N E	Description and Location of Property	Husband, Wife, Joint, or Community	Current Value of Debtor's Interest in Property, without Deducting any Secured Claim or Exemption
		Becker Family Trust #2	-	Unknown
		Debtor is beneficiary		
		Claims against Ernest A Becker IV, Brian T. Becker, Kimberly Becker-Riggs and Sally E. Becker for breach of fiduciary duty	-	1,000,000.00

Sub-Total > 1,000,000.00
 (Total of this page)
 Total > 2,665,225.96

(Report also on Summary of Schedules)

Sheet 5 of 5 continuation sheets attached
 to the Schedule of Personal Property

B6 Declaration (Official Form 6 - Declaration), (12/07)

**United States Bankruptcy Court
District of Nevada**

In re Ernest August Becker, V

Debtor(s)

Case No. 13-14932

Chapter 7

DECLARATION CONCERNING DEBTOR'S SCHEDULES - AMENDED

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the foregoing summary and schedules, consisting of 65 sheets, and that they are true and correct to the best of my knowledge, information, and belief.

Date July 24, 2013

Signature /s/ Ernest August Becker, V

Ernest August Becker, V

Debtor

Penalty for making a false statement or concealing property: Fine of up to \$500,000 or imprisonment for up to 5 years or both.
18 U.S.C. §§ 152 and 3571.

B7 (Official Form 7) (04/13)

**United States Bankruptcy Court
District of Nevada**

In re **Ernest August Becker, V**

Debtor(s)

Case No. **13-14932**Chapter **7**

STATEMENT OF FINANCIAL AFFAIRS - AMENDED

This statement is to be completed by every debtor. Spouses filing a joint petition may file a single statement on which the information for both spouses is combined. If the case is filed under chapter 12 or chapter 13, a married debtor must furnish information for both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed. An individual debtor engaged in business as a sole proprietor, partner, family farmer, or self-employed professional, should provide the information requested on this statement concerning all such activities as well as the individual's personal affairs. To indicate payments, transfers and the like to minor children, state the child's initials and the name and address of the child's parent or guardian, such as "A.B., a minor child, by John Doe, guardian." Do not disclose the child's name. See, 11 U.S.C. § 112; Fed. R. Bankr. P. 1007(m).

Questions 1 - 18 are to be completed by all debtors. Debtors that are or have been in business, as defined below, also must complete Questions 19 - 25. **If the answer to an applicable question is "None," mark the box labeled "None."** If additional space is needed for the answer to any question, use and attach a separate sheet properly identified with the case name, case number (if known), and the number of the question.

DEFINITIONS

"In business." A debtor is "in business" for the purpose of this form if the debtor is a corporation or partnership. An individual debtor is "in business" for the purpose of this form if the debtor is or has been, within six years immediately preceding the filing of this bankruptcy case, any of the following: an officer, director, managing executive, or owner of 5 percent or more of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership; a sole proprietor or self-employed full-time or part-time. An individual debtor also may be "in business" for the purpose of this form if the debtor engages in a trade, business, or other activity, other than as an employee, to supplement income from the debtor's primary employment.

"Insider." The term "insider" includes but is not limited to: relatives of the debtor; general partners of the debtor and their relatives; corporations of which the debtor is an officer, director, or person in control; officers, directors, and any persons in control of a corporate debtor and their relatives; affiliates of the debtor and insiders of such affiliates; and any managing agent of the debtor. 11 U.S.C. § 101(2), (31).

1. Income from employment or operation of business

None

☐

State the gross amount of income the debtor has received from employment, trade, or profession, or from operation of the debtor's business, including part-time activities either as an employee or in independent trade or business, from the beginning of this calendar year to the date this case was commenced. State also the gross amounts received during the **two years** immediately preceding this calendar year. (A debtor that maintains, or has maintained, financial records on the basis of a fiscal rather than a calendar year may report fiscal year income. Identify the beginning and ending dates of the debtor's fiscal year.) If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income of both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT
\$48,049.00

SOURCE
2012: Debtor Business Income

2. Income other than from employment or operation of business

None

☐

State the amount of income received by the debtor other than from employment, trade, profession, or operation of the debtor's business during the **two years** immediately preceding the commencement of this case. Give particulars. If a joint petition is filed, state income for each spouse separately. (Married debtors filing under chapter 12 or chapter 13 must state income for each spouse whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

AMOUNT
\$24,000.00
\$1,756.00
\$18,330.00

SOURCE
2012: Debtor Interest / Dividends
2012: Debtor Interest / Dividends
2011: Debtor Capital Gain

B7 (Official Form 7) (04/13)

AMOUNT	SOURCE
\$2,725.00	2011: Debtor Interest / Dividends
\$76.00	2011: Debtor Interest / Dividends

3. Payments to creditorsNone ☒ *Complete a. or b., as appropriate, and c.*

a. *Individual or joint debtor(s) with primarily consumer debts:* List all payments on loans, installment purchases of goods or services, and other debts to any creditor made within **90 days** immediately preceding the commencement of this case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$600. Indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS	AMOUNT PAID	AMOUNT STILL OWING
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None ☐ b. *Debtor whose debts are not primarily consumer debts:* List each payment or other transfer to any creditor made within **90 days** immediately preceding the commencement of the case unless the aggregate value of all property that constitutes or is affected by such transfer is less than \$6,225*. If the debtor is an individual, indicate with an asterisk (*) any payments that were made to a creditor on account of a domestic support obligation or as part of an alternative repayment schedule under a plan by an approved nonprofit budgeting and credit counseling agency. (Married debtors filing under chapter 12 or chapter 13 must include payments and other transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATES OF PAYMENTS/ TRANSFERS	AMOUNT PAID OR VALUE OF TRANSFERS	AMOUNT STILL OWING
Bank of America	March 2013 (\$1674.00) April 2013 (\$1674.00) May 2013 (\$1674.00)	\$5,022.00	\$239,121.00

None ☒ c. *All debtors:* List all payments made within **one year** immediately preceding the commencement of this case to or for the benefit of creditors who are or were insiders. (Married debtors filing under chapter 12 or chapter 13 must include payments by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR AND RELATIONSHIP TO DEBTOR	DATE OF PAYMENT	AMOUNT PAID	AMOUNT STILL OWING
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4. Suits and administrative proceedings, executions, garnishments and attachments

None ☐ a. List all suits and administrative proceedings to which the debtor is or was a party within **one year** immediately preceding the filing of this bankruptcy case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

CAPTION OF SUIT AND CASE NUMBER	NATURE OF PROCEEDING	COURT OR AGENCY AND LOCATION	STATUS OR DISPOSITION
Bank of Las Vegas v. Ernest A. Becker aka Ernest A. Becker V A-12-663068-C	Breach of Contract	Nevada District Court	Default Judgment
City National Bank v Ernest A Becker V, an individual; Brian Tomothy Becker, as Trustee of the Ernest August Becker V 2000 Irrevocable Trust dated June 30, 2001 A-11-652429	Breach of Contract	Nevada District Court	Default Judgment

* Amount subject to adjustment on 4/01/16, and every three years thereafter with respect to cases commenced on or after the date of adjustment.

B7 (Official Form 7) (04/13)

CAPTION OF SUIT
AND CASE NUMBER
**Default Judgement;
A-12-663068**

NATURE OF
PROCEEDING
Charging Order

COURT OR AGENCY
AND LOCATION
**District Court
Las Vegas Nevada**

STATUS OR
DISPOSITION
**Hearing date
6/7/13**

**Plaintiff is substitute for Bank of Las Vegas
lawsuit; Plaintiff purchased the debt from Bank
of Las Vegas; purchase price unknown**

- None ☒ b. Describe all property that has been attached, garnished or seized under any legal or equitable process within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON FOR WHOSE BENEFIT PROPERTY WAS SEIZED	DATE OF SEIZURE	DESCRIPTION AND VALUE OF PROPERTY
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5. Repossessions, foreclosures and returns

- None ☒ List all property that has been repossessed by a creditor, sold at a foreclosure sale, transferred through a deed in lieu of foreclosure or returned to the seller, within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR OR SELLER	DATE OF REPOSSESSION, FORECLOSURE SALE, TRANSFER OR RETURN	DESCRIPTION AND VALUE OF PROPERTY
---	--	--------------------------------------

6. Assignments and receiverships

- None ☒ a. Describe any assignment of property for the benefit of creditors made within **120 days** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include any assignment by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF ASSIGNEE	DATE OF ASSIGNMENT	TERMS OF ASSIGNMENT OR SETTLEMENT
------------------------------	-----------------------	-----------------------------------

- None ☒ b. List all property which has been in the hands of a custodian, receiver, or court-appointed official within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning property of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CUSTODIAN	NAME AND LOCATION OF COURT CASE TITLE & NUMBER	DATE OF ORDER	DESCRIPTION AND VALUE OF PROPERTY
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7. Gifts

- None ☐ List all gifts or charitable contributions made within **one year** immediately preceding the commencement of this case except ordinary and usual gifts to family members aggregating less than \$200 in value per individual family member and charitable contributions aggregating less than \$100 per recipient. (Married debtors filing under chapter 12 or chapter 13 must include gifts or contributions by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF PERSON OR ORGANIZATION	RELATIONSHIP TO DEBTOR, IF ANY	DATE OF GIFT	DESCRIPTION AND VALUE OF GIFT
Central Christian Church		2012	\$1554.00
SOS Christian Radio		2012	\$300.00

B7 (Official Form 7) (04/13)

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8. Losses

- None ☒ List all losses from fire, theft, other casualty or gambling within **one year** immediately preceding the commencement of this case or since the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include losses by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

DESCRIPTION AND VALUE OF PROPERTY	DESCRIPTION OF CIRCUMSTANCES AND, IF LOSS WAS COVERED IN WHOLE OR IN PART BY INSURANCE, GIVE PARTICULARS	DATE OF LOSS
--------------------------------------	--	--------------

9. Payments related to debt counseling or bankruptcy

- None ☐ List all payments made or property transferred by or on behalf of the debtor to any persons, including attorneys, for consultation concerning debt consolidation, relief under the bankruptcy law or preparation of the petition in bankruptcy within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS OF PAYEE	DATE OF PAYMENT, NAME OF PAYER IF OTHER THAN DEBTOR	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY
Access Counseling 633 West 5th Street Suite 26001 Los Angeles, CA 90071		25.00
The Law Office of Monica T. Centeno 720 South Fourth Street Suite 204 Las Vegas, NV 89101		

10. Other transfers

- None ☐ a. List all other property, other than property transferred in the ordinary course of the business or financial affairs of the debtor, transferred either absolutely or as security within **two years** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include transfers by either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF TRANSFEREE, RELATIONSHIP TO DEBTOR	DATE	DESCRIBE PROPERTY TRANSFERRED AND VALUE RECEIVED
Patrick Ferguson 7905 Ardent Point St Las Vegas, NV 89149 Friend	March 12, 2012	.357 Blackhawk Ruger \$350.00 22 Glock \$525.00
Erich Bretthouer II 605 North El Capitan West Las Vegas, NV 89149 Acquaintance	4/03/12	Moved from 5041 St. Anne's Drive LV NV 89149 Lot 17, Blk 12 Bryce Woodland Ests Unit 6-F Kane County Utah \$9,500.00
Brittani-Ann Becker 2004 Irrevocable Tst Daughter's Trust	3/15/2012	Property owned and sold out of The Ernest A. Becker V Separate Property Trust, established May 18, 1995 8.69565% Membership Interest in Growing Investments, LLC \$2,000.00
Kurt Y Tsuneyoshi None	6/29/12	12381 N Blagg Road Pahrump NV 89060 \$10,000 Property owned and sold out of The Ernest A. Becker V Separate Property Trust, established May 18, 1995

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5

- None ☐ b. List all property transferred by the debtor within **ten years** immediately preceding the commencement of this case to a self-settled trust or similar device of which the debtor is a beneficiary.

NAME OF TRUST OR OTHER DEVICE	DATE(S) OF TRANSFER(S)	AMOUNT OF MONEY OR DESCRIPTION AND VALUE OF PROPERTY OR DEBTOR'S INTEREST IN PROPERTY
Ernest A Becker V Gaming Trust		Creation date 11/19/04 \$0.00
E & C Family Trust	12/13/12	Created 10/10/12 2749 Grande Valley (No Equity)

11. Closed financial accounts

- None ☒ List all financial accounts and instruments held in the name of the debtor or for the benefit of the debtor which were closed, sold, or otherwise transferred within **one year** immediately preceding the commencement of this case. Include checking, savings, or other financial accounts, certificates of deposit, or other instruments; shares and share accounts held in banks, credit unions, pension funds, cooperatives, associations, brokerage houses and other financial institutions. (Married debtors filing under chapter 12 or chapter 13 must include information concerning accounts or instruments held by or for either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF INSTITUTION	TYPE OF ACCOUNT, LAST FOUR DIGITS OF ACCOUNT NUMBER, AND AMOUNT OF FINAL BALANCE	AMOUNT AND DATE OF SALE OR CLOSING
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12. Safe deposit boxes

- None ☒ List each safe deposit or other box or depository in which the debtor has or had securities, cash, or other valuables within **one year** immediately preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include boxes or depositories of either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF BANK OR OTHER DEPOSITORY	NAMES AND ADDRESSES OF THOSE WITH ACCESS TO BOX OR DEPOSITORY	DESCRIPTION OF CONTENTS	DATE OF TRANSFER OR SURRENDER, IF ANY
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13. Setoffs

- None ☐ List all setoffs made by any creditor, including a bank, against a debt or deposit of the debtor within **90 days** preceding the commencement of this case. (Married debtors filing under chapter 12 or chapter 13 must include information concerning either or both spouses whether or not a joint petition is filed, unless the spouses are separated and a joint petition is not filed.)

NAME AND ADDRESS OF CREDITOR	DATE OF SETOFF	AMOUNT OF SETOFF
Ernest A. Becker IV 920 Trophy Hills Las Vegas, NV 89134	2012	67,000
Ernest A. Baecker IV 920 Trophy Hills Las Vegas, NV 89134	2013	Unknown

14. Property held for another person

- None ☐ List all property owned by another person that the debtor holds or controls.

NAME AND ADDRESS OF OWNER	DESCRIPTION AND VALUE OF PROPERTY	LOCATION OF PROPERTY
Brittani-Ann Becker	Checking #7219 & Savings #0708 \$54.21 on 6/5/2013 #7219 \$48.00 on 6/5/13 #1708	Wells Fargo

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15. Prior address of debtor

- None ☒ If the debtor has moved within **three years** immediately preceding the commencement of this case, list all premises which the debtor occupied during that period and vacated prior to the commencement of this case. If a joint petition is filed, report also any separate address of either spouse.

ADDRESS	NAME USED	DATES OF OCCUPANCY
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16. Spouses and Former Spouses

- None ☐ If the debtor resides or resided in a community property state, commonwealth, or territory (including Alaska, Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico, Texas, Washington, or Wisconsin) within **eight years** immediately preceding the commencement of the case, identify the name of the debtor's spouse and of any former spouse who resides or resided with the debtor in the community property state.

NAME
Caren Becker
 Spouse
 Married October 2012
Barbara Becker
 Divorced January 2007

17. Environmental Information.

For the purpose of this question, the following definitions apply:

"Environmental Law" means any federal, state, or local statute or regulation regulating pollution, contamination, releases of hazardous or toxic substances, wastes or material into the air, land, soil, surface water, groundwater, or other medium, including, but not limited to, statutes or regulations regulating the cleanup of these substances, wastes, or material.

"Site" means any location, facility, or property as defined under any Environmental Law, whether or not presently or formerly owned or operated by the debtor, including, but not limited to, disposal sites.

"Hazardous Material" means anything defined as a hazardous waste, hazardous substance, toxic substance, hazardous material, pollutant, or contaminant or similar term under an Environmental Law

- None ☒ a. List the name and address of every site for which the debtor has received notice in writing by a governmental unit that it may be liable or potentially liable under or in violation of an Environmental Law. Indicate the governmental unit, the date of the notice, and, if known, the Environmental Law:

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None ☒ b. List the name and address of every site for which the debtor provided notice to a governmental unit of a release of Hazardous Material. Indicate the governmental unit to which the notice was sent and the date of the notice.

SITE NAME AND ADDRESS	NAME AND ADDRESS OF GOVERNMENTAL UNIT	DATE OF NOTICE	ENVIRONMENTAL LAW
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- None ☒ c. List all judicial or administrative proceedings, including settlements or orders, under any Environmental Law with respect to which the debtor is or was a party. Indicate the name and address of the governmental unit that is or was a party to the proceeding, and the docket number.

NAME AND ADDRESS OF GOVERNMENTAL UNIT	DOCKET NUMBER	STATUS OR DISPOSITION
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18. Nature, location and name of business

None



a. *If the debtor is an individual*, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was an officer, director, partner, or managing executive of a corporation, partner in a partnership, sole proprietor, or was self-employed in a trade, profession, or other activity either full- or part-time within six years immediately preceding the commencement of this case, or in which the debtor owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

If the debtor is a partnership, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities, within six years immediately preceding the commencement of this case.

If the debtor is a corporation, list the names, addresses, taxpayer identification numbers, nature of the businesses, and beginning and ending dates of all businesses in which the debtor was a partner or owned 5 percent or more of the voting or equity securities within six years immediately preceding the commencement of this case.

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Hopeful Group, LLC	20-4104737	50 S Jones Blvd STE 100 Las Vegas, NV 89107	Manages Hopeful Kids	9/9/2005 - Current
Becker V Development Inc	88-0282176	8090 S. Durango Drive #115 Las Vegas, NV 89113	General Contracting	1/1991 - Current
Eaglerock Gaming, Inc	01-0619370	8090 S Durango Ste 115 Las Vegas, NV 89113	Slot machine operations	2/20/2002-current
Desert Investments, LLC	88-0398581	8090 S. Durango Dr #115 Las Vegas, NV 89113	Real Estate Investments	7/7/1998 - Current
Creative Investments, L.L.C.	26-0035602	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	1/2/2002 - Current
Silverstone Properties, L.L.C.	80-0010293	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	1/7/2002 - Current
Castle Rock Properties, L.L.C.	75-3080351	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	7/16/2002 - Current
Mirror Image Investments, LLC	10-0313699	2749 Grande Valley Drive Las Vegas, NV 89139	Real Estate Investments	10/16/2003 - 10/6/2010
Home Works, LLC		50 S Jones Blvd STE 100 Las Vegas, NV 89107	Real Estate Investments	10/16/2003 - 11/27/2006
Fun House Investing, LLC		50 S Jones Blvd STE 100 Las Vegas, NV 89107	Real Estate Investments	10/21/2003 -11/27/2006
Sage Investing, L.L.C.	20-0696983	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	12/5/2003 - 8/19/2010
Zing Zing, L.L.C.	20-0695299	2749 Grande Valley Drive Las Vegas, NV 89135	Real Estate Investments	2/6/2004 - 11/12/2010
Centennial Investing, L.L.C.	20-1427230	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	7/16/2004 - Current
Groundhog Properties, L.L.C.	20-1577614	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	9/20/2004 - 10/27/2008
Beks Group, L.L.C.	20-1713764	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Property Managment	10/11/2004 - Current
Growing Investments, LLC	20-1949611	2753 Grande Valley Dr Las Vegas, NV 89135	Real Estate Investment	11/30/2004 - Current
From The Ground Up Investments, L.L.C.	20-2185073	2749 Grande Valley Drive Las Vegas, NV 89135	Real Estate Investment	12/30/2004 - 1/23/2009

B7 (Official Form 7) (04/13)

NAME	LAST FOUR DIGITS OF SOCIAL-SECURITY OR OTHER INDIVIDUAL TAXPAYER-I.D. NO. (ITIN)/ COMPLETE EIN	ADDRESS	NATURE OF BUSINESS	BEGINNING AND ENDING DATES
Ernest A. Becker Homes, Inc.		50 South Jones Suite#100 Las Vegas, NV 89107	General Contracting	2/6/1961 - 3/21/2000
Sandstone Investments, L.L.C.	20-3087600	2749 Grande Valley Drive Las Vegas, NV 89135	Real Estate Investment	7/5/2005 - Current
Hopeful Kids, LLC	20-4104681	50 S Jones Blvd STE100 Las Vegas, NV 89107	Book Sales	9/9/2005 - Current
Ann Tenaya Plaza, LLC	88-0351795	8090 S Durango Dr STE 115 Las Vegas, NV 89113	Real Estate Investments	1/24/1996 - Current
E-5 Coaching, LLC		2749 Grande Valley Dr Las Vegas, NV 89135	Life Coaching	8/7/09 - current
C & W Properties, LLC		8090 S. Durango Dr. #115 Las Vegas, NV 89113	Real Estate Investments	7/29/2009-current
Brimstone, LLC	7841	8090 S. Durango Dr. #115 Las Vegas, NV 89113	Bar with gaming operations	9/5/2003 - current

None ☒ b. Identify any business listed in response to subdivision a., above, that is "single asset real estate" as defined in 11 U.S.C. § 101.

NAME

ADDRESS

The following questions are to be completed by every debtor that is a corporation or partnership and by any individual debtor who is or has been, within six years immediately preceding the commencement of this case, any of the following: an officer, director, managing executive, or owner of more than 5 percent of the voting or equity securities of a corporation; a partner, other than a limited partner, of a partnership, a sole proprietor, or self-employed in a trade, profession, or other activity, either full- or part-time.

(An individual or joint debtor should complete this portion of the statement only if the debtor is or has been in business, as defined above, within six years immediately preceding the commencement of this case. A debtor who has not been in business within those six years should go directly to the signature page.)

19. Books, records and financial statements

None ☐ a. List all bookkeepers and accountants who within two years immediately preceding the filing of this bankruptcy case kept or supervised the keeping of books of account and records of the debtor.

NAME AND ADDRESS
Douglas Templeton
3235 S. Rainbow Blvd. #101
Las Vegas, NV 89146-6215

DATES SERVICES RENDERED
2000 - Current

None ☒ b. List all firms or individuals who within the two years immediately preceding the filing of this bankruptcy case have audited the books of account and records, or prepared a financial statement of the debtor.

NAME

ADDRESS

DATES SERVICES RENDERED

None ☒ c. List all firms or individuals who at the time of the commencement of this case were in possession of the books of account and records of the debtor. If any of the books of account and records are not available, explain.

NAME

ADDRESS

None ☒ d. List all financial institutions, creditors and other parties, including mercantile and trade agencies, to whom a financial statement was issued by the debtor within two years immediately preceding the commencement of this case.

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NAME AND ADDRESS

DATE ISSUED

20. Inventories

- None ☐ a. List the dates of the last two inventories taken of your property, the name of the person who supervised the taking of each inventory, and the dollar amount and basis of each inventory.

DATE OF INVENTORY

INVENTORY SUPERVISOR

DOLLAR AMOUNT OF INVENTORY
(Specify cost, market or other basis)

- None ☐ b. List the name and address of the person having possession of the records of each of the inventories reported in a., above.

DATE OF INVENTORY

NAME AND ADDRESSES OF CUSTODIAN OF INVENTORY
RECORDS**21. Current Partners, Officers, Directors and Shareholders**

- None ☐ a. If the debtor is a partnership, list the nature and percentage of partnership interest of each member of the partnership.

NAME AND ADDRESS

NATURE OF INTEREST

PERCENTAGE OF INTEREST

- None ☐ b. If the debtor is a corporation, list all officers and directors of the corporation, and each stockholder who directly or indirectly owns, controls, or holds 5 percent or more of the voting or equity securities of the corporation.

NAME AND ADDRESS

TITLE

NATURE AND PERCENTAGE
OF STOCK OWNERSHIP**22. Former partners, officers, directors and shareholders**

- None ☐ a. If the debtor is a partnership, list each member who withdrew from the partnership within **one year** immediately preceding the commencement of this case.

NAME

ADDRESS

DATE OF WITHDRAWAL

- None ☐ b. If the debtor is a corporation, list all officers, or directors whose relationship with the corporation terminated within **one year** immediately preceding the commencement of this case.

NAME AND ADDRESS

TITLE

DATE OF TERMINATION

23. Withdrawals from a partnership or distributions by a corporation

- None ☐ If the debtor is a partnership or corporation, list all withdrawals or distributions credited or given to an insider, including compensation in any form, bonuses, loans, stock redemptions, options exercised and any other perquisite during **one year** immediately preceding the commencement of this case.

NAME & ADDRESS
OF RECIPIENT,
RELATIONSHIP TO DEBTORDATE AND PURPOSE
OF WITHDRAWALAMOUNT OF MONEY
OR DESCRIPTION AND
VALUE OF PROPERTY**24. Tax Consolidation Group.**

- None ☐ If the debtor is a corporation, list the name and federal taxpayer identification number of the parent corporation of any consolidated group for tax purposes of which the debtor has been a member at any time within **six years** immediately preceding the commencement of the case.

NAME OF PARENT CORPORATION

TAXPAYER IDENTIFICATION NUMBER (EIN)

B7 (Official Form 7) (04/13)

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25. Pension Funds.

None ☐ If the debtor is not an individual, list the name and federal taxpayer-identification number of any pension fund to which the debtor, as an employer, has been responsible for contributing at any time within six years immediately preceding the commencement of the case.

NAME OF PENSION FUND

TAXPAYER IDENTIFICATION NUMBER (EIN)

DECLARATION UNDER PENALTY OF PERJURY BY INDIVIDUAL DEBTOR

I declare under penalty of perjury that I have read the answers contained in the foregoing statement of financial affairs and any attachments thereto and that they are true and correct.

Date July 24, 2013

Signature /s/ Ernest August Becker, V
Ernest August Becker, V
Debtor

Penalty for making a false statement: Fine of up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571

B6C (Official Form 6C) (4/13)

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT - AMENDEDDebtor claims the exemptions to which debtor is entitled under:
(Check one box)☐ 11 U.S.C. §522(b)(2)☒ 11 U.S.C. §522(b)(3)☐ Check if debtor claims a homestead exemption that exceeds
\$155,675. (Amount subject to adjustment on 4/1/16, and every three years thereafter
with respect to cases commenced on or after the date of adjustment.)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
Checking, Savings, or Other Financial Accounts, Certificates of Deposit			
Wells Fargo #1605 E & C Family Trust	Nev. Rev. Stat. § 21.090(1)(cc)	250.07	250.07
Wells Fargo #9307 Ernest A Becker V Separate Property Trust	Nev. Rev. Stat. § 21.090(1)(cc)	563.02	563.02
Nevada State Bank Checking #4140	Nev. Rev. Stat. § 21.090(1)(g)	17.01	22.68
Household Goods and Furnishings			
Household Goods, Electronics, Home Decor	Nev. Rev. Stat. § 21.090(1)(b)	8,900.00	8,900.00
Wearing Apparel			
Clothing	Nev. Rev. Stat. § 21.090(1)(b)	1,200.00	1,200.00
Furs and Jewelry			
Wedding Ring, Watch, Cufflinks	Nev. Rev. Stat. § 21.090(1)(a)	1,100.00	1,100.00
Firearms and Sports, Photographic and Other Hobby Equipment			
Glock 22	Nev. Rev. Stat. § 21.090(1)(i)	525.00	525.00
Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans			
Wells Fargo IRA #6429	Nev. Rev. Stat. § 21.090(1)(r)	39,340.19	39,340.19
Stock and Interests in Businesses			
Ensworth Corporation Stock	Nev. Rev. Stat. § 21.090(1)(bb)	1,362,000.00	5,448,000.00
Debtor receives monthly dividend of \$2,000.00 and has a right to quarterly dividends which are undetermined in amount and not being paid as of the date of filing.			
Eagle Rock Gaming, Inc.	Nev. Rev. Stat. § 21.090(1)(bb)	219,000.00	876,000.00
Automobiles, Trucks, Trailers, and Other Vehicles			
2007 Chevy Suburban 69,000 miles	Nev. Rev. Stat. § 21.090(1)(f)	11,325.00	18,325.00
Other Personal Property of Any Kind Not Already Listed			
E & C Family Trust	Nev. Rev. Stat. § 21.090(1)(cc)	Unknown	Unknown
Becker Nevada Trust Debtor is 1 of 4 beneficiaries; Debtor is not settlor, grantor, trustor or trustee Spendthrift Trust	Nev. Rev. Stat. § 21.080.2	0.00	Unknown
The EAB V Legacy Trust	Nev. Rev. Stat. § 21.090(1)(cc)	Unknown	Unknown
Debtor is beneficiary & trustee			

1 continuation sheets attached to Schedule of Property Claimed as Exempt

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U6C (Official Form 6C) (4/13) – Cont.

In re Ernest August Becker, VCase No. 13-14932Debtor**SCHEDULE C - PROPERTY CLAIMED AS EXEMPT - AMENDED**
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
The Ernest August Becker V 2000 Irrevocable Trust Debtor is beneficiary; Debtor is not settlor, grantor, trustor or trustee	Nev. Rev. Stat. § 21.080.2	Unknown	Unknown
The Beks Insurance Trust Debtor is 1 of 4 beneficiaries; Debtor is 1 of 4 Trustees Debtor is not settlor, grantor, trustor	Nev. Rev. Stat. § 21.080.2	0.00	Unknown
Becker Family Trust #1 Debtor is beneficiary	Nev. Rev. Stat. § 21.080.2	0.00	Unknown
Becker Family Trust #2 Debtor is beneficiary	Nev. Rev. Stat. § 21.080.2	0.00	Unknown

Sheet 1 of 1 continuation sheets attached to the Schedule of Property Claimed as Exempt

Total: 1,644,220.29 6,394,225.96

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Best Case Bankruptcy

JA000019

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A. Becker, IV and Kathleen C. Becker Family
Trust, EB Family Holdings, LLC, Kimberly
Riggs, Sallie Becker and Brian Becker

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:

ERNEST AUGUST BECKER, V,

Debtor.

Case No. 13-14932-LBR

Chapter 7

OBJECTION TO CLAIMED
EXEMPTIONS

Creditors and interested parties Ernest A. Becker, IV, individually, Ernest A. Becker, IV and Kathleen C. Becker, as Trustees of the Ernest A. Becker IV and Kathleen C. Becker Family Trust, EB Family Holdings, LLC, Kimberly Riggs, Sallie Becker and Brian Becker (collectively the "Objecting Parties"), by and through their respective counsel, and pursuant to Rule 4003(b) of the Federal Rules of Bankruptcy Procedure, hereby object to Debtor's claimed exemption in the stock of "Ensworth Corporation Stock" and in the stock of "Eagle Rock Gaming, Inc." as listed on the Debtor's Amended Schedule C. In support of this objection, the Objecting Parties state as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this Objection pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. § 1409. This is a core proceeding pursuant to 28 U.S.C. § 157(b).

BACKGROUND

2. Ernest August Becker, V (the “**Debtor**”) filed a voluntary Chapter 7 petition on June 5, 2013 (the “**Petition Date**”).

3. The first meeting of creditors under 11 U.S.C. § 341(a) was originally scheduled for July 5, 2013. The docket reflects [Docket No. 17] that the date for the first meeting of creditors was continued to July 10, 2013 through a 6/17/2013 Statement Adjourning Meeting of 341(a) Meeting of Creditors. The docket also reflects that the date for the date for the first meeting of creditors was subsequently further continued to July 24, 2013, then to August 21, 2013, and finally to October 2, 2013. [see Docket Nos. 23, 32 & 48]. The section 341(a) meeting of creditors concluded on October 2, 2013.

4. On his Schedule B filed in this case, the Debtor lists “Ensworth Corporation¹ Stock” with a value of \$1,362,000 (the “**Ensworth Stock**”).

5. On his Schedule B, the Debtor also lists a stock or other interest in “Eagle Rock Gaming, Inc.” with a value of \$219,000 (the “**Eagle Rock Gaming Stock**”).

6. On his Amended Schedule C filed in this case [Docket No. 46], the Debtor claims a \$1,362,000 exemption in the Ensworth Stock pursuant to Nev. Rev. Stat. § 21.090(1)(bb). A true and correct copy of the Debtor’s Amended Schedule C is attached hereto as **Exhibit 1**.

7. On his Amended Schedule C, the Debtor also claims a \$219,000 exemption in the Eagle Rock Gaming Stock pursuant to Nev. Rev. Stat. § 21.090(1)(bb).

OBJECTION

The Debtor appears to be claiming as exempt his entire interests² in the Ensworth Stock and in the Eagle Rock Gaming Stock pursuant to Nev. Rev. Stat. § 21.090(1)(bb). That statute provides:

¹ The Objecting Parties are informed and believe that the Debtor’s reference to “Ensworth Corporation Stock” on Schedule B and Amended Schedule C is intended to be the Debtor’s ownership of 25% of the stock in a corporation named “Ensworth Apts., Inc.”

² The Debtor’s claimed valuations of the stock in Amended Schedule C are inaccurate and misleading. The Debtor lists the value of his claimed objection in Ensworth Stock as \$1,362,000.00, and the “current value of property without exemption” as being four (4) times that, or \$5,448,000.00. Similarly, the Debtor lists the value of his claimed objection in stock of Eagle Rock Gaming, Inc. at \$219,000.00, and the “current value of property without exemption” as being four (4) times that, or \$876,000.00. The

1 (bb) Stock of a corporation described in subsection 2 of NRS 78.746 except as
2 set forth in that section.

3 Nev. Rev. Stat. § 21.090(1)(bb). Nev. Rev. Stat. § 78.746, the statute to which the exemption
4 statute invoked by the Debtor refers, provides in relevant part:

5 1. On application to a court of competent jurisdiction by any judgment creditor
6 of a stockholder, the court may charge the stockholder's stock with payment of
7 the unsatisfied amount of the judgment with interest. To the extent so charged,
8 the judgment creditor has only the rights of an assignee of the stockholder's
9 stock.

10 2. Subject to the provisions of NRS 78.747, this section:

11 (a) Provides the exclusive remedy by which a judgment creditor of a
12 stockholder or an assignee of a stockholder may satisfy a judgment out of
13 the stock of the judgment debtor. No other remedy, including, without
14 limitation, foreclosure on the stockholder's stock or a court order for
15 directions, accounts and inquiries that the debtor or stockholder might
16 have made, is available to the judgment creditor attempting to satisfy the
17 judgment out of the judgment debtor's interest in the corporation, and no
18 other remedy may be ordered by a court.

19 The Nevada statute providing for creditors to obtain charging orders against closely held
20 corporate stock held by a debtor does not allow exemption of the economic interest in the stock.
21 The Debtor's claimed exemptions are an overly broad attempt to protect the Debtor's entire
22 interests in the stock, rather than only the non-economic interest that the Nevada charging order
23 statute protects from creditors.

24 The Nevada Supreme Court recently addressed the application of and scope of protection
25 afforded by charging order statutes in *Weddell v. H2O, Inc.*, 271 P.3d 743 (Nev. 2012).
26 Analyzing Nevada's limited liability company charging order statute that is virtually identical to
27 the one applicable to stock in closely held corporations (*compare* N.R.S. § 86.401 *with* N.R.S.
28 78.746), the court recognized the ability of creditors to reach an LLC member's economic
interest in a limited liability company and receive profit and distributions, stating that after entry
of a charging order. "[T]he debtor member no longer has the right to future LLC distributions . .
. ." 271 P.3d at 750 (emphasis added). The court explained that creditors are entitled to profits

"value of claimed exemption" matches the total value of the respective stock interests listed by the Debtor
on his Schedule B. On information and believe, the inflated "current value of property" figures the
Debtor lists on Amended Schedule C are what the Debtor asserts are the values of all of the outstanding
stock of the respective corporations, not just the 25% of the stock owned by the Debtor.

1 and distributions, even though debtors retain the non-economic interest in the entity, that is,
2 whatever management rights they may have:

3 [T]he judgment creditor does not unequivocally step into the shoes of a limited-
4 liability member. [citation omitted] The limited access of a judgment creditor
5 includes "only the rights of an assignee of the member's interest." NRS 86.401(1)
6 (emphasis added). A judgment creditor, or assignee, is only entitled to the
judgment debtor's share of the profit and distributions, takes no interest in the
LLC's assets, and is not entitled to participate in the management or
administration of the business.

7 *Weddell*, 271 P.3d at 750 (emphasis added).

8 Debtor Ernest A. Becker, V's purported exemption of his entire stock interests in the
9 closely held corporations is improper. Like Nevada's limited liability charging order statute,
10 Nevada's charging order statute that applies to stock in closely held corporations does not permit
11 a debtor to exempt his or her entire interest from the reach of creditors. A debtor may only
12 exempt and retain his or her non-economic interest, i.e., the right of management or
13 administration, not the right to dividends or distributions. Judgment creditors, or, in this case,
14 the bankruptcy trustee, are entitled to reach and realize on the economic rights attributable to the
15 stock interests. *See Renteria v. Canepa*, 2013 WL 3155348, at *2 (D. Nev. 2013) (approving
16 charging order in favor of judgment creditor against judgment debtor's stock in closely held
17 corporation).

18 The Court should sustain the objection to the Debtor's claimed exemption of his stock in
19 "Ensworth Corporation" or Ensworth Apts. Inc., and in stock in Eagle Rock Gaming, Inc., and
20 allow the bankruptcy trustee to administer the economic interests in that stock, such as the right
21 to receive dividends, distributions, or the like on account of the stock, for the benefit of creditors
22 of the bankruptcy estate.

23 **WHEREFORE**, Ernest A. Becker, IV, individually, Ernest A. Becker, IV and Kathleen
24 C. Becker, as Trustees of the Ernest A. Becker IV and Kathleen C. Becker Family Trust, EB
25 Family Holdings, LLC, Kimberly Riggs, Sallie Becker and Brian Becker request entry of an
26 order:

27 A. Disallowing the Debtor's claimed exemption in the Ensworth Stock with respect
28 to the Debtor's economic interest in "Ensworth Corporation" or Ensworth Apts., Inc.;

1 B. Disallowing the Debtor's claimed exemption in the Eagle Rock Gaming Stock
2 with respect to the Debtor's economic interest in Eagle Rock Gaming, Inc.;

3 C. Permitting the Chapter 7 bankruptcy trustee of the Ernest A. Becker, V
4 bankruptcy estate to liquidate or otherwise administer the economic interests of the Debtor in
5 "Ensworth Corporation" or Ensworth Apts. Inc., and in Eagle Rock Gaming, Inc., related to the
6 Debtor's stock in those respective corporations; and

7 D. Granting such other and further relief as the Court deems just and equitable.
8

9 DATED this 31st day of October, 2013
10

11 /s/ Douglas J. Payne
12 Douglas J. Payne
13 FABIAN & CLENDENIN
14 Attorneys for Ernest A. Becker, IV,
individually, Ernest A. Becker, IV and
Kathleen C. Becker, as Trustees of the
Ernest A. Becker, IV and Kathleen C. Becker
Family Trust

15 DATED this 31st day of October, 2013
16

17 NITZ, WALTON & HEATON, LTD.

18 /s/ James H. Walton
19 JAMES H. WALTON, ESQ.
20 601 S. Tenth Street, Suite 201
21 Las Vegas, Nevada 89101
22 Attorneys for Ernest A. Becker, IV,
individually, Ernest A. Becker, IV and
Kathleen C. Becker, as Trustees of the
Ernest A. Becker, IV and Kathleen C. Becker
Family Trust, EB Family Holdings, LLC,
Kimberly Riggs, Sallie Becker and Brian
Becker
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of October, 2013, I caused the foregoing document to be filed electronically via the electronic filing system of the United States Bankruptcy Court for the District of Nevada, which caused a true and correct copy of the foregoing to thereafter be served electronically via the Bankruptcy Court's ECF noticing system upon those parties registered to receive service in this case. I hereby also certify that I have this day served the foregoing document upon the following parties in this proceeding set forth below by mailing a copy thereof, properly addressed by first class mail:

William Leonard, Trustee
6625 S. Valley View Blvd.
Bldg. B, Suite 224
Las Vegas, NV 89188

Jason Imes, Esq.
2850 S. Jones Blvd., Suite 1
Las Vegas, 89146

Monica T. Centano, Esq.
720 S. 4th Street
Las Vegas, NV 89101

Ernest August Becker, V
2749 Grande Valley Drive
Las Vegas, NV 89135

/s/ Maureen E. Marella
Maureen E. Marella - Employee of
NITZ, WALTON & HEATON, LTD.
601 S. 10th Street, Suite 201
Las Vegas, Nevada 89101
Telephone: (702) 474-4004

Exhibit "1"

B6C (Official Form 6C) (4/13)

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT - AMENDED

Debtor claims the exemptions to which debtor is entitled under:

(Check one box)

☐ 11 U.S.C. §522(b)(2)☒ 11 U.S.C. §522(b)(3)☐ Check if debtor claims a homestead exemption that exceeds

\$155,675. (Amount subject to adjustment in 4116, and every three years thereafter with respect to cases commenced on or after the date of adjustment.)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
<u>Checking, Savings, or Other Financial Accounts, Certificates of Deposit</u>			
Wells Fargo #1605 E & C Family Trust	Nev. Rev. Stat. § 21.090(1)(cc)	250.07	250.07
Wells Fargo #9307 Ernest A Becker V Separate Property Trust	Nev. Rev. Stat. § 21.090(1)(cc)	583.02	583.02
Nevada State Bank Checking #4140	Nev. Rev. Stat. § 21.090(1)(g)	17.01	22.68
<u>Household Goods and Furnishings</u>			
Household Goods, Electronics, Home Decor	Nev. Rev. Stat. § 21.090(1)(b)	8,900.00	8,900.00
<u>Wearing Apparel</u>			
Clothing	Nev. Rev. Stat. § 21.090(1)(b)	1,200.00	1,200.00
<u>Furs and Jewelry</u>			
Wedding Ring, Watch, Cufflinks	Nev. Rev. Stat. § 21.090(1)(a)	1,100.00	1,100.00
<u>Firearms and Sports, Photographic and Other Hobby Equipment</u>			
Glock 22	Nev. Rev. Stat. § 21.090(1)(l)	525.00	525.00
<u>Interests in IRA, ERISA, Keogh, or Other Pension or Profit Sharing Plans</u>			
Wells Fargo IRA #6429	Nev. Rev. Stat. § 21.090(1)(r)	39,340.19	39,340.19
<u>Stock and Interests in Businesses</u>			
Ensworth Corporation Stock	Nev. Rev. Stat. § 21.090(1)(bb)	1,362,000.00	5,448,000.00
Debtor receives monthly dividend of \$2,000.00 and has a right to quarterly dividends which are undetermined in amount and not being paid as of the date of filing.			
Eagle Rock Gaming, Inc.	Nev. Rev. Stat. § 21.090(1)(bb)	219,000.00	876,000.00
<u>Automobiles, Trucks, Trailers, and Other Vehicles</u>			
2007 Chevy Suburban 69,000 miles	Nev. Rev. Stat. § 21.090(1)(f)	11,325.00	18,325.00
<u>Other Personal Property of Any Kind Not Already Listed</u>			
E & C Family Trust	Nev. Rev. Stat. § 21.090(1)(cc)	Unknown	Unknown
Becker Nevada Trust Debtor is 1 of 4 beneficiaries; Debtor is not settlor, grantor, trustee or trustee Spendthrift Trust	Nev. Rev. Stat. § 21.080.2	0.00	Unknown
The EAB V Legacy Trust	Nev. Rev. Stat. § 21.090(1)(cc)	Unknown	Unknown
Debtor is beneficiary & trustee			

1 continuation sheets attached to Schedule of Property Claimed as Exempt

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JA000027

B6C (Official Form 6C) (4/13) - Cont.

In re Ernest August Becker, VCase No. 13-14932

Debtor

SCHEDULE C - PROPERTY CLAIMED AS EXEMPT - AMENDED
(Continuation Sheet)

Description of Property	Specify Law Providing Each Exemption	Value of Claimed Exemption	Current Value of Property Without Deducting Exemption
The Ernest August Becker V 2000 Irrevocable Trust Debtor is beneficiary; Debtor is not settlor, grantor, trustor or trustee	Nev. Rev. Stat. § 21.080.2	Unknown	Unknown
The Beks Insurance Trust Debtor is 1 of 4 beneficiaries; Debtor is 1 of 4 Trustees Debtor is not settlor, grantor, trustor	Nev. Rev. Stat. § 21.080.2	0.00	Unknown
Becker Family Trust #1 Debtor is beneficiary	Nev. Rev. Stat. § 21.080.2	0.00	Unknown
Becker Family Trust #2 Debtor is beneficiary	Nev. Rev. Stat. § 21.080.2	0.00	Unknown

Sheet 1 of 1 continuation sheets attached to the Schedule of Property Claimed as Exempt

Software Copyright (c) 1998-2013 - GCH INCORPORATED - www.bestcase.com

Total: 1,644,220.29 6,394,225.96

Best Case Bankruptcy

JA000028

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Kathleen C. Becker, as Trustees of the Ernest
A. Becker, IV and Kathleen C. Becker Family
Trust

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individually, Ernest A. Becker, IV and
Kathleen C. Becker, as Trustees of the Ernest
A. Becker, IV and Kathleen C. Becker Family
Trust, EB Family Holdings, LLC, Kimberly
Riggs, Sallie Becker and Brian Becker

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:

ERNEST AUGUST BECKER, V,

Debtor.

Case No. 13-14932-LBR

Chapter 7

NOTICE OF HEARING ON
OBJECTION TO CLAIMED
EXEMPTIONS

Date: December 18, 2013
Time: 11:00 a.m.
Location: Courtroom 1
Foley Federal Building
300 Las Vegas Blvd. South
Las Vegas, NV 89101
Judge: Hon. Linda B. Riegle

NOTICE IS HEREBY GIVEN that the Objection to Claimed Exemptions (the
"Objection to Exemptions") was filed on October 31, 2013. By the Objection to Exemptions,
Ernest A. Becker, IV, individually, Ernest A. Becker, IV and Kathleen C. Becker, as Trustees of
the Ernest A. Becker, IV and Kathleen C. Becker Family Trust, EB Family Holdings, LLC,
Kimberly Riggs, Sallie Becker and Brian Becker seek an Order disallowing debtor Ernest August
Becker, V's (the "Debtor") claimed exemption of stock in "Ensworth Corporation" or Ensworth

1 Apts., Inc., and in stock of Eagle Rock Gaming, Inc., to the extent the exemption would apply to
2 any economic interest of the Debtor in those corporations.

3 **NOTICE IS FURTHER GIVEN** that if you do not want the Court to grant the relief
4 sought in the Objection to Exemptions, or if you want the Court to consider your views on the
5 Objection to Exemptions, then you must file an opposition with the Court, and serve a copy on
6 the person sending you the Objection to Exemptions, **no later than 14 days** preceding the
7 hearing date for the Objection to Exemptions, unless an exception applies (*see* LR 9014(d)(3)).
8 The opposition must state your position, set forth all relevant facts and legal authority, and be
9 supported by affidavits or declarations that conform to LR 9014(c).

10 If you object to the relief requested, you *must* file a **WRITTEN** response to this
11 pleading with the court. You *must* also serve your written response on the person who
12 sent you this notice.

13 If you do not file a written response with the court, or if you do not serve your written
14 response on the person who sent you this notice, then:

- 15 • The Court may *refuse to allow you to speak* at the scheduled hearing; and
- 16 • The Court may *rule against you* without formally calling the matter at the
17 hearing.

18
19 **NOTICE IS FURTHER GIVEN** that the hearing on the Objection to Exemptions will
20 be held before a United States Bankruptcy Judge in the Foley Federal Building, 300 Las Vegas
21 Boulevard South, Third Floor, Bankruptcy Courtroom No. 1, Las Vegas, Nevada 89101 on
22 **December 18, 2013, at the hour of 11: 00 a.m.**

23 DATED this 31st day of October, 2013

24
25 /s/ Douglas J. Payne
26 Douglas J. Payne
27 FABIAN & CLENDENIN
28 Attorneys for Ernest A. Becker, IV,
individually, Ernest A. Becker, IV and
Kathleen C. Becker, as Trustees of the
Ernest A. Becker, IV and Kathleen C. Becker
Family Trust

1 DATED this 31st day of October, 2013

2 NITZ, WALTON & HEATON, LTD.

3 /s/ James H. Walton
4 JAMES H. WALTON, ESQ.
5 601 S. Tenth Street, Suite 201
6 Las Vegas, Nevada 89101
7 *Attorneys for Ernest A. Becker, IV,*
8 *individually, Ernest A. Becker, IV and*
9 *Kathleen C. Becker, as Trustees of the*
10 *Ernest A. Becker, IV and Kathleen C. Becker*
11 *Family Trust, EB Family Holdings, LLC,*
12 *Kimberly Riggs, Sallie Becker and Brian*
13 *Becker*

14 **CERTIFICATE OF SERVICE**

15 I hereby certify that on the 31st day of October, 2013, I caused the foregoing document to be
16 filed electronically via the electronic filing system of the United States Bankruptcy Court for the
17 District of Nevada, which caused a true and correct copy of the foregoing to thereafter be served
18 electronically via the Bankruptcy Court's ECF noticing system upon those parties registered to
19 receive service in this case. I hereby also certify that I have this day served the foregoing
20 document upon the following parties in this proceeding set forth below by mailing a copy
21 thereof, properly addressed by first class mail:

22 William Leonard, Trustee
23 6625 S. Valley View Blvd.
24 Bldg. B, Suite 224
25 Las Vegas, NV 89188

26 Jason Imes, Esq.
27 2850 S. Jones Blvd., Suite 1
28 Las Vegas, 89146

29 Monica T. Centano, Esq.
30 720 S. 4th Street
31 Las Vegas, NV 89101

32 Ernest August Becker, V
33 2749 Grande Valley Drive
34 Las Vegas, NV 89135

35 /s/ Maureen E. Marella
36 Maureen E. Marella - Employee of
37 NITZ, WALTON & HEATON, LTD.
38 601 S. 10th Street, Suite 201
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40 Telephone: (702) 474-4004

1 Lenard E. Schwartz, Esq.
2 Nevada Bar No. 0399
3 Jason A. Imes, Esq.
4 Nevada Bar No. 7030
5 Schwartz & McPherson Law Firm
6 2850 South Jones Blvd., Suite 1
7 Las Vegas NV 89146-5308
8 Telephone: (702) 228-7590
9 Facsimile: (702) 892-0122
10 E-Mail: bkfilings@s-mlaw.com

11 *Proposed Attorneys for William A. Leonard, Jr., Trustee*

12 **UNITED STATES BANKRUPTCY COURT**
13 **DISTRICT OF NEVADA**

14 In re:

15 ERNEST AUGUST BECKER, V,

16 Debtor.

Case No. BK-S-13-14932-lbr
Chapter 7

**TRUSTEE'S JOINDER TO
OBJECTION TO
CLAIMED EXEMPTIONS**

Hearing Date: December 18, 2013
Hearing Time: 11:00 a.m.

17 WILLIAM A. LEONARD, the Chapter 7 Trustee (the "Trustee"), by and through his
18 proposed counsel, Schwartz & McPherson Law Firm, hereby JOINS the *Objection to Claimed*
19 *Exemptions* [Dkt. #78] filed by creditors and interested parties Ernest A. Becker, VI, individually,
20 Ernest A. Becker, IV and Kathleen C. Becker, as Trustees of the Ernest A. Becker IV and
21 Kathleen C. Becker Family Trust, EB Family Holdings, LLC, Kimberly Riggs, Sallie Becker and
22 Brian Becker, for the reason set forth in their Objection to Debtor's claimed exemption of his
23 interest in the following two corporations in Amended Schedule C [Dkt. #46]:

- 24 a. Ensworth Corporation Stock (Pursuant to NRS §21.090(1)(bb))
25 b. Eagle Rock Gaming, Inc. (Pursuant to NRS §21.090(1)(bb))

26 ///

27 ///

28 ///

1 Based on Debtor's testimony at the 341 Meeting of Creditors and available documents, the
2 Trustee determined these claimed exemptions refer to Debtor's 25% interest in Ensworth Apts.,
3 Inc. ("Ensworth"), a Nevada corporation, and Debtor's 25% interest in Eagle Rock Gaming, Inc.
4 ("Eagle Rock"), a Nevada corporation (collectively the "Companies"). It appears both Companies
5 meet the definitions of closely-held corporations for exemption pursuant to NRS §21.090(1)(bb),
6 but this exemption is expressly limited to the related non-economic rights by the incorporated
7 provisions of NRS §78.746.

8 NRS §75.746, Nevada's charging order statute for corporations, provides that a judgment
9 creditor may obtain but is limited to a charging order against a stockholder's interest in a closely-
10 held corporation, and that the holder of a charging order against stock of a closely-held
11 corporation "has only the rights of an assignee of the stockholder's stock." NRS §78.746(1). The
12 statute defines "rights of an assignee" to mean:

13 **the rights to receive the share of the distributions or dividends**
14 **paid by the corporation to which the judgment debtor would**
15 **otherwise be entitled.** The term does not include the rights to
16 participate in the management of the business or affairs of the
17 corporation or to become a director of the corporation.

18 NRS §78.746(3) (emphasis added).

19 The Trustee does not object to exemption of Debtor's non-economic rights in these
20 Companies such that the Debtor may still participate in the business and affairs of the Companies
21 (including participation in management, powers of appointment and voting rights), but pursuant to
22 the charging order provisions of NRS §78.746, the Debtor is not entitled to exempt his economic
23 interest in these two Companies. See *Weddell v H2O, Inc.*, 271 P.3d 743, 750 (2012)(under
24 Nevada's analogous charging order statute for limited liability companies, NRS §86.401, creditor
25 takes no interest in the company assets, and is not entitled to participate in the management or
26 administration of the business, but is entitled to debtor's share of the profit and distributions).

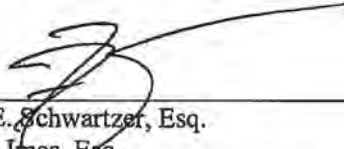
27 ///

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///

1 The Trustee believes it is appropriate for this Court to enter an Order clarifying that the
2 Debtor is only entitled to exempt his non-economic interest in the two Companies pursuant to
3 NRS §21.090(1)(bb), and that the Debtor's economic interests in the two Companies, including all
4 profits and distributions related to the Debtor's interest, are property of the estate pursuant to 11
5 U.S.C. §541 and the charging order provisions of NRS §78.746 and must be paid to the Trustee
6 for the benefit of the estate and creditors.

7 DATED: November 1, 2013

8
9
10 
11 Lenard E. Schwartz, Esq.
12 Jason A. Ines, Esq.
13 Schwartz & McPherson Law Firm
14 2850 South Jones Blvd., Suite 1
15 Las Vegas, NV 89146
16 Proposed Counsel for Trustee
17
18
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Attorneys for DEBTOR/Defendant
marksegal@lvcoxmail.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:)	
ERNEST AUGUST BECKER, V,	)	BK-S 13-14932 LBR
SS#:	)	Chapter 7
Debtor.	)	Date: December 18, 2013
	)	Time: 11:00 a.m.

**DEBTOR'S RESPONSE TO OBJECTION TO CLAIMED EXEMPTIONS
AND TO TRUSTEE'S JOINDER TO OBJECTION TO CLAIMED EXEMPTIONS**

Debtor, Ernest August Becker, V, by and through his counsel, Mark Segal, Esq., of Mark Segal, Chartered and Monica T. Centeno, Esq., of the Law Office of Monica T. Centeno, hereby respond to the Objection To Claimed Exemptions and the Trustee's Joinder to Objection To Claimed Exemptions on file in this matter, and in support of this response, states as follows:

LEGAL ARGUMENT

Debtor has claimed an exemption for the entire stock interest he has in Ensworth Corporation [sic "Ensworth Apts., Inc.") and Eagle Rock Gaming, Inc. Debtor submits neither the objecting creditors or the Chapter 7 trustee (hereinafter sometimes referred to collectively as "the Objectors") have either proven or effectively argued that stock does not qualify for full exemption.

Nevada Revised Statutes Section 21.090-1(bb) provides for an exemption from claims of judgment creditors for:

"Stock of a corporation **described** in subsection 2 of Section 78.746 except as set forth in that section." (Emphasis supplied.)

Therefore, first and foremost, the application of NRS 78.746 to the case at bar is only to the extent

1 78.746 - 2 “describes” the Debtor’s stock. NRS 78-746 - 1, which “may” allow a charging order
2 to be imposed on stock, does not apply.

3 Nevada Revised Statutes Section 78.746-2, in describing stock eligible for exemption,
4 provides in pertinent part:

5 “2. This Section:

6 (b) Does not deprive any stockholder
7 of the benefit of any exemption applicable
8 to the stockholder’s stock.

9 (c) Applies only to a corporation that:

10 (1) has fewer than 100 stockholders
11 of record at any time.

12 (2) Is not a publicly traded corporation
13 or a subsidiary of a publicly traded corporation,
14 either in whole or in part.

15 (3) Is not a professional corporation as
16 defined in NRS 89.020.

17 As far as Debtor knows, and neither the objecting creditors or the trustee have proven to the
18 contrary, the corporate stock for which Debtor seeks exemption is not in a corporation which (1)
19 has 100 or more shareholders, (b) is a publicly traded corporation or a subsidiary of one or (c) is a
20 professional corporation. And, because of an absence of any of those disqualifying characteristics
21 the Debtor is entitled to completely exempt his stock and all of the stockholder rights attributable to
22 ownership of such stock from creditor claims. Once the stock so qualifies, NRS 78.746 - 2(b)
23 provides it an exemption of which the Debtor cannot be deprived.

24 As this Court well knows, claims for exemptions are to be liberally and beneficially
25 construed in favor of the Debtor. See, e.g., In Re Wallerstadt, 930 F.2d 630 (8th Cir. 1991); In Re
26 Norris, 203 B.R. 463 (Bankr. D. NV 1996). Those exemptions exist to preserve a debtor’s property
27 for the benefit of the debtor and his family. In Re Norris, *Ibid*, at 465. The objecting parties must
28 provide a compelling reason for this Court to deny the exemptions claimed by the Debtor. Clearly
they have not done so. The case at bar is surely an example of when protection from creditors and
the trustee is needed.

The ability of a creditor or the chapter 7 trustee to object to a claim of exemption made by a

1 Debtor is governed by Federal Rules of Bankruptcy Procedure 4003(c). That rule requires a party
2 objecting to a claim of exemption to introduce proof as to why that claim should be denied.
3 Neither objecting party has met its burden of proof. Neither of the objecting parties have provided
4 any proof to the Court to show the Debtor's claimed exemption for his stock should be denied
5 because it does not fall within the definitional terms of NRS Section 788.746-2(c), as incorporated
6 by NRS Section 21.090-1(bb). Therefore, the objections, on their face, must fail. And, once an
7 objection is made the opportunity for discovery is over. Based on the foregoing, Debtor submits
8 the objections at bar must be overruled.

9 If the failure of the Objectors to meet their burden of proof is not sufficient to overrule their
10 objections, the Debtor submits their arguments for relief must also fail.

11 Both objecting parties completely ignore the definitional provisions of NRS 78.746-2(c),
12 the breadth of the language of NRS 78.746-2(b), and immediately jump to the provisions of NRS
13 78.746 - 1 for relief. Interestingly, the Objectors do not claim the stock is not exempt. They simply
14 argue they are in any event entitled under NRS 78.746-1 to the economic benefits of the stock, that
15 is, the right to receive any distributions that are made to the owners of the stock. They are wrong.

16 Debtor submits:

17 First, NRS 78.746-1 does not even come into play if a stock is first determined to be
18 exempt under NRS 21.090-1(bb) and 78.746-2(c), with the exemption being protected by NRS
19 78.746-2(b), as is true for Debtor's stock. NRS 21.090-1(bb) refers only to NRS 78.746-2; and

20 Second, even if NRS 78.746-1 was required to be considered, its application is not
21 mandatory. In discussing the remedy of a charging order, the statute clearly provides:

22 On application to a court of competent jurisdiction by
23 any judgment creditor of a stockholder, the court **may**
24 charge the stockholder's stock . . ."
(Emphasis supplied.)

25 Again, charging the stock is not mandatory. And, if it applies it can only apply, at best, to the stock
26 of a "stockholder" whose stock is not exempt. The Objectors have incorrectly assumed NRS
27 78.746-1 automatically applies and have failed, in the face of NRS 21.090-1(bb) and NRS 78.476-

1 2(c), to provide adequate reasons for this Court to find the charging order remedy shall be applied
2 in the case at bar to stock that is otherwise exempt and protected.

3 The Objectors have attempted to carve out an exception to the exemption provided by NRS
4 21.090-1(bb) and NRS 78.746-2(b) and (c) where none exists. The stock is either exempt or it is
5 not. If it is not exempt, then, and only then, "may" NRS 78.746-1 apply.

6 The trustee argues (see Trustee's Joinder To Objection To Claimed Exemptions, p.2, lines
7 4-7):

8 "It appears both Companies meet the definition of closely-held
9 corporations for exemption pursuant to NRS Section 21.090(1)(bb), but this
10 exemption is **expressly limited** to the related non-economic rights by the
11 incorporated provisions of NRS Section 78.746." (Emphasis supplied.)

12 Debtor submits a plain reading of NRS Section 78.746-2 (and 78.746-1, if necessary,) fails to
13 reveal any such **express** limitation. There is simply no language in the statute to that effect. In
14 fact, the statute provides to the contrary for stock satisfying the definitional requirements of NRS
15 78.746-2(c).

16 The objecting creditor similarly argues (see Objection To Claimed Exemptions, p. 3, lines
17 13-17):

18 "The Nevada statute providing for creditors to obtain charging orders
19 against closely held corporate stock held by a debtor does not allow exemption of
20 the economic interest in the stock. The Debtor's claimed exemptions are an overly
21 broad attempt to protect the Debtor's entire interests in the stock, rather than only
22 the non-economic interest that the Nevada charging order statute protects from
23 creditors."

24 Again, the statute does not provide that for which it is argued it does. Debtor submits there is no
25 allowable bifurcation of stockholder rights if the stock is exempt. If it is exempt, no part of that
26 exemption can be denied. This is not a case requiring statutory interpretation of an ambiguous
27 statute. The Court should not graft on to the NRS provisions involved language that does not now
28 appear there. The Nevada legislature knew what it was doing when it first enacted and
subsequently amended NRS 78.746-2(c) and its qualifying descriptors. When it amended those
terms it did not make NRS 78.746-1 mandatory in its application although it could have done so

1 nor did it delete the provision of 78.746-2(b) providing for complete exemption for stock that
2 otherwise satisfied the definitional requirement of NRS 78.746-2(c). If anything has been done to
3 modify NRS 78.746 since its initial adoption in 2007, it has been the acts of the Nevada legislature
4 to broaden the provisions allowing stock to qualify for exemption by increasing the number of
5 allowed stockholders (from more than one but fewer than 75 to now not more than ninety-nine).

6 The Court must give meaning to the provisions of NRS 78.746-2(b) and (c). Even if the
7 charging order remedy must be considered, some classification of stock must remain fully exempt.
8 If the Objectors are correct that would never be the case. If the Objectors are correct there would
9 be no need for NRS 21.090-1(bb) and 78.746-2(b) and (c) in the first place, for if they are correct
10 even if a stock satisfied the statutory descriptors it could still be subject to NRS 78.746-1. Of
11 course if it did not satisfy the descriptors the same result would occur. So, what would be the need
12 for NRS 78.746-2(c) at all?

13 The Objectors' positions cannot be correct. The Debtor's stock is exempt from creditor
14 claims pursuant to the Nevada Revised Statutes. This Court must give meaning to the language of
15 those statutes by overruling the objections made to Debtor's claim of exemption.

16 The objecting creditor cites Weddell v. H2O, Inc., 271 P. 3d 743 (Nev, 2012), in support of
17 its argument. Debtor submits that decision is inapposite to the case at bar because it was not a
18 bankruptcy case dealing with the nature of exempt assets for bankruptcy purposes and that decision
19 assumed the remedy of a charging order could in all events be an appropriate one in regard to any
20 limited liability companies. NRS Section 86.401 does not provide any qualifying descriptors that
21 either do or do not limit the application of its provisions to any particular limited liability company
22 - all limited liability companies "may" be subject to it. The same cannot be said of NRS Section
23 78.746-2. Any attempt to rely on Weddell to explain the scope of a charging order as applied to an
24 asset that could be exempt for bankruptcy purposes is misplaced.

25 Thus, although the potential exists to find the scope of the charging order remedy under
26 both NRS 78.746-1 and NRS 86.401 may be the same, as the objecting creditor argues (see
27
28

1 Objection To Claimed Exemptions, p.3, lines 18-25 and p.4, lines 1-7), it is not a given that NRS
2 78.746-1 applies to all corporate stock whereas NRS 86.401-1 certainly "may" apply to all limited
3 liability companies. regardless of the number of members or any other criteria. And that is what
4 distinguishes those statutes from each other, at least as far as their initial application of the charging
5 order remedy is relevant. A limited liability company membership interest is not exempt under
6 NRS 21.090-1 and, therefore, at a minimum, must run the gauntlet of NRS 86.401. The same
7 cannot be said for corporate stock interests and NRS 78.746.1. 1 /

8 The Weddell decision dealt with the application of Nevada's limited liability statute to the
9 interest in a limited liability company. There is no Nevada Revised Statute exemption for an
10 interest in limited liability companies. Therefore, the decision of Court in Weddell could not have
11 reflected what that Court could have thought had it been dealing with assets that could have been
12 exempt.

13 Finally, assuming the Objectors are correct as to the applicability of NRS Section 78.746-1,
14 that section expressly limits the relief to be granted to "the unsatisfied amount of the judgment [the
15 creditor holds against the Debtor/stockholder.] " Thus, any claim to "all profits and distributions
16 related to the Debtor's interest . . . [being] property of the estate" (see Trustee's Joinder To
17 Objection To Claimed Exemptions, p.3, lines 3-4; emphasis supplied), must be denied but, if
18 allowed at all, must be limited to the judgment amount held by the objecting creditors. Also to be
19 denied is the objecting creditor's request that the trustee be allowed "to liquidate . . . the economic
20 interests of the Debtor . . . " (See Objection To Claimed Exemptions, p. 5, line 4.) Again, only the
21 same dollar amount remedy would apply, to be satisfied only from distributions otherwise to be
22 made to the Debtor, not from a liquidation of assets.

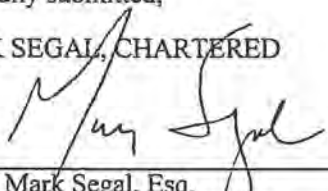
23
24 1 /The objecting creditor also cites Renteria v. Canepa, 2013 WL 3155348, at *2(D. Nev. 2013),
25 as a case allowing a charging Order to be applied to corporate stock. (See Objection To Claimed
26 Exemptions, p.4, lines 15-17.) This decision is clearly distinguishable from the case at bar as it was
27 not a bankruptcy case and did not involve any claim to exemption for stock pursuant to NRS
28 21.090-1(bb). In fact, the Court was careful to point out the owner of the stock was not himself in
bankruptcy.

1 Based on the foregoing, Debtor requests this Court to overrule the objections to exemption
2 or, if the objections are sustained, to limit any recovery to the amount of the unsatisfied judgement
3 the objecting creditors hold against Debtor, to be satisfied only from distributions otherwise to be
4 made by the corporations to the Debtor.

5 Respectfully submitted,

6 MARK SEGAL, CHARTERED

7
8 By


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Brian Becker*

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

IN RE:)	Case No. 13-14932-btb
)	
ERNEST AUGUST BECKER, V,)	
	)	Chapter 7
Debtor,)	
	)	Date: December 18, 2013
	)	Time: 11:00 a.m.
)	

**REPLY IN SUPPORT OF
OBJECTION TO CLAIMED EXEMPTIONS**

Creditor and interested parties Ernest A. Becker, IV, individually, Ernest A. Becker IV and Kathleen C. Becker, as Trustees of the Ernest A. Becker, IV and Kathleen C. Becker Family Trust, EB Family Holdings, LLC, Kimberly Riggs, Sallie Becker and Brian Becker, by and through counsel, submit the following Reply in support of their objection to the exemptions the Debtor claimed in the stock of "Ensworth Corporation Stock" and in the stock of "Eagle Rock Gaming, Inc." as listed on the Debtor's Amended Schedule C.

ARGUMENT

I. NEVADA STATUTES DO NOT EXEMPT THE DEBTOR'S ECONOMIC INTEREST IN THE STOCK.

The Debtor's argument that NRS 21.090(1)(bb) makes his entire interests in the stock of Ensworth Corporation (Ensworth Apts. Inc.) and Eagle Rock Gaming, Inc. exempt is fundamentally flawed. That statute exempts the following from execution by creditors:

(bb) Stock of a corporation described in **subsection 2** of NRS 78.746 except as set forth in that **section**¹.

NRS 21.090(1)(bb) (emphasis added). The Debtor asserts that "the Debtor is entitled to completely exempt his stock and all of the stockholder rights attributable to ownership of such stock from creditor claims" because, he argues, NRS 21.090(1)(bb) totally exempts the stock of those closely held corporations that are described in subsection 2 of NRS 78.746. *Debtor's Response to Objection to Claimed Exemptions and to Trustee's Joinder to Objection to Claimed Exemptions* [Docket No. 95] ("**Debtor's Response**"), at 2. The Debtor goes so far as to assert that "[o]nce the stock so qualifies [falls within the description of 78.746(2)], NRS 78.746-2(b) provides it an exemption of which the Debtor cannot be deprived." *Debtor's Response*, at 2 (emphasis added). The Debtor's mistaken interpretation completely ignores, however, the last six words of NRS 21.090(1)(bb): "except as set forth in that section." That language expressly carves out an exception from any exemption granted by NRS 21.090(1)(bb) for the remedies of creditors set forth in "that section" [NRS 78.746], namely, the right of creditors to reach the economic

¹ Note that the statute itself distinguishes between "sections" and "subsections". The reference to "that section" is a reference to all of section 746 of Chapter 78, not just subsection 2 of 78.746, as the Debtor would desire.

interests in stock in closely held corporations through the charging order provisions of NRS 78.746(1) and 78.746(2)(a).

It is a well-established principal of statutory construction that courts should avoid “statutory interpretation that renders language meaningless or superfluous.” *In re Steven Daniel P.*, 123 Nev. Adv. Op. 73, 309 P.3d 1041, 1043-44 (2013), *quoting George J. v. State (In re George J.)*, 128 Nev. Adv. Op. 32, 279 P.3d 187 (2012). *See also Tomlinson v. State*, 110 Nev. 757, 761, 878 P.2d 311, 313 (1994) (“statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant”). The Debtor’s interpretation of NRS 21.090(1)(bb) as granting a blanket exemption “of which the Debtor cannot be deprived” for stock in closely held corporations described in NRS 78.746(2) would render meaningless the exception language contained in NRS 21.090(1)(bb) (“except as set forth in that section [NRS 78.746]”). The remedy for creditors set forth in NRS 78.746(1) and 78.746(2)(a) is an express exception to the exemption of NRS 21.090(1)(bb).

Similarly, the statutory interpretation the Debtor urges—that NRS 78.746(1) has no application to stock in a closely held corporation described in NRS 78.746(2)—would make statutory subsections 78.746(1) and 78.746(2)(a) superfluous. NRS 78.746(2) reads in part:

2. Subject to the provisions of NRS 78.747, this section²:

(c) Applies only to a corporation that:

- (1) Has fewer than 100 stockholders of record at any time.
- (2) Is not a publicly traded corporation or a subsidiary of a publicly traded corporation, either in whole or in part.
- (3) Is not a professional corporation as defined in NRS 89.020.

² The words “this section” once again refer to all of section 746 of Chapter 78, and therefore do include 78.746(1). That is the only construction that makes any sense, since NRS 78.746(2)(a) by its context refers back to NRS 78.746(1) as the exclusive remedy for a judgment creditor. Debtor is simply wrong in stating that 78.746(1) is inapplicable.

1 NRS 78.746(2) (emphasis added). NRS 78.746 and all of its subsections, including
 2 78.746(1) and 78.746(2)(a), expressly apply to closely held corporations described in
 3 78.746(2)(c), and only to such closely held corporations. NRS 78.746(1) and NRS
 4 78.746(2)(a) must therefore apply to the stock of such closely held corporations if those
 5 portions of the statute are to have any meaning or application at all.

6 The ability of creditors to reach the non-economic interest in the stock is supported
 7 by Nevada case law interpreting Nevada's nearly identical limited liability company
 8 charging order provisions.³ The Debtor fails in his attempt to distinguish the charging
 9 order provision applicable to closely held corporations from the limited liability company
 10 charging order statute or the Nevada Supreme Court's analysis of charging orders in
 11 *Weddell v. H2O, Inc.*, 271 P.3d 743 (Nev. 2012) on the grounds that there is not a Nevada
 12 exemption statute for interests in Nevada LLCs. As discussed above, economic interests
 13 in stock in closely held corporations are not exempt under Nevada law. NRS
 14 21.090(1)(bb) does not exempt those stock interests, but instead contains an express
 15 exception for the remedy "set forth" in 78.746. Creditors may reach a debtor's economic
 16 interests in such stock.

17
 18 **II. THE NON-EXEMPT PROPERTY IS NOT LIMITED TO THE VALUE OF**
 19 **THIS CREDITOR'S CLAIM.**

20 The Debtor's argument that any objection to the exemption of the stock should be
 21 limited to the amount of this creditor's claim is misplaced. *See* Debtor's Response, at 6.
 22 The Debtor's bankruptcy schedules list over \$87.5 million dollars in general unsecured
 23 claims against him, and less than \$2 million dollars in assets. *See* Summary of Schedules
 24 & Schedule F, at Docket No. 11. The Trustee, who has joined in the objection to the

25 ³ A table comparing the corresponding provisions of NRS 78.746 (creditors' remedies against
 26 stock of closely held corporations) with NRS. 86.401 (creditors' remedies against LLC
 membership interests) is attached hereto as Exhibit "A."

1 Debtors exemptions, stands in the shoes of all creditors, and is entitled to administer
2 property for the benefit of all creditors. *See In re Foos*, 405 B.R. 604, 610-11 (Bankr.
3 N.D. Ohio 2009) (sustaining Chapter 7 trustee's objection to debtor's claimed exemption
4 in partnership under a similar statute that provided for judgment creditor to obtain a
5 charging order against partnership interest to satisfy judgment). The Debtor's Statement
6 of Financial Affairs lists multiple judgments against the Debtor, not just a judgment by
7 this creditor. *See* SOFA, ¶4 [Docket No. 11].

8 Further, as the Bankruptcy Appellate Panel of the Ninth Circuit observed when
9 analyzing virtually identical language of Nevada's LLLP and LLC charging order
10 statutes: "In a bankruptcy case, employing the powers granted by § 544(a)(1), Blixeth's
11 bankruptcy trustee could assert the same rights as his creditors to pursue his interests in
12 the LLC and LLP." *In re Blixeth*, 484 B.R. 360, 368 (9th Cir. BAP 2012). The Trustee in
13 this case may assert the same rights as creditors to pursue the Debtor's interests in the
14 closely held corporations. The Debtor is not entitled to shield the stock through an
15 exemption in bankruptcy. The Trustee is entitled to administer the stock to the extent
16 necessary to satisfy claims of all creditors.

17 CONCLUSION

18 The Court should sustain the objection to the Debtor's claimed exemption of his
19 stock in "Ensworth Corporation" or Ensworth Apts. Inc., and in stock in Eagle Rock
20 Gaming, Inc., and the Chapter 7 trustee's joinder in the objection. The Court should allow
21 the bankruptcy trustee to administer the economic interests in that stock, such as the right
22 to receive dividends, distributions, or the like on account of the stock, for the benefit of
23 creditors of the bankruptcy estate.
24
25
26

1 DATED this 10th day of December, 2013.

2
3 /s/ Douglas J. Payne

4 Douglas J. Payne
5 FABIAN & CLENDENIN
6 Attorneys for Ernest A. Becker, IV,
7 individually, Ernest A. Becker, IV and
Kathleen C. Becker, as Trustees of the
Ernest A. Becker, IV and Kathleen C.
Becker Family Trust

8 DATED this 10th day of December, 2013.

9
10 NITZ, WALTON & HEATON, LTD.

11 /s/ James H. Walton

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15 individually, Ernest A. Becker, IV and
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Ernest A. Becker, IV and Kathleen C.
Becker Family Trust, EB Family
Holdings, LLC, Kimberly Riggs, Sallie
Becker and Brian Becker

16
17 **CERTIFICATE OF SERVICE**

18
19 I hereby certify that on the 10th day of December, 2013, I caused the foregoing
20 document to be filed electronically via the electronic filing system of the United States
21 Bankruptcy Court for the District of Nevada, which caused a true and correct copy of the
22 foregoing to thereafter be served electronically via the Bankruptcy Court's ECF noticing
23 system upon those parties registered to receive service in this case. I hereby also certify
24 that I have this day served the foregoing document upon the following parties in this
25 proceeding set forth below by mailing a copy thereof, properly addressed by first class
26 mail:

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/s/ Maureen E. Marella
Maureen E. Marella - Employee of
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Las Vegas, Nevada 89101
Telephone: (702) 474-4004

EXHIBIT "A"

EXHIBIT A

Corresponding provisions of N.R.S. § 73.746 and N.R.S. § 86.401

N.R.S. § 73.746	N.R.S. 86.401
<p>1. On application to a court of competent jurisdiction by any judgment creditor of a stockholder, the court may charge the stockholder's stock with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the stockholder's stock.</p>	<p>1. On application to a court of competent jurisdiction by any judgment creditor of a member, the court may charge the member's interest with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the member's interest.</p>
<p>2. Subject to the provisions of NRS 78.747, this section:</p> <p>(a) Provides the exclusive remedy by which a judgment creditor of a stockholder or an assignee of a stockholder may satisfy a judgment out of the stock of the judgment debtor. No other remedy, including, without limitation, foreclosure on the stockholder's stock or a court order for directions, accounts and inquiries that the debtor or stockholder might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the corporation, and no other remedy may be ordered by a court.</p> <p>(b) Does not deprive any stockholder of the benefit of any exemption applicable to the stockholder's stock.</p> <p>(c) Applies only to a corporation that:</p> <p>(1) Has fewer than 100 stockholders of record at any time.</p> <p>(2) Is not a publicly traded corporation or a subsidiary of a publicly traded corporation, either in whole or in part.</p> <p>(3) Is not a professional corporation as defined in NRS 89.020.</p> <p>(d) Does not apply to any liability of a stockholder that exists as the result of an action</p>	<p>2. This section:</p> <p>(a) Provides the exclusive remedy by which a judgment creditor of a member or an assignee of a member may satisfy a judgment out of the member's interest of the judgment debtor, whether the limited-liability company has one member or more than one member. No other remedy, including, without limitation, foreclosure on the member's interest or a court order for directions, accounts and inquiries that the debtor or member might have made, is available to the judgment creditor attempting to satisfy the judgment out of the judgment debtor's interest in the limited-liability company, and no other remedy may be ordered by a court.</p> <p>(b) Does not deprive any member of the benefit of any exemption applicable to his or her interest.</p>

<p>filed before July 1, 2007.</p> <p>(e) Does not supersede any written agreement between a stockholder and a creditor if the written agreement does not conflict with the corporation's articles of incorporation, bylaws or any shareholder agreement to which the stockholder is a party.</p>	<p>(c) Does not supersede any written agreement between a member and a creditor if the written agreement does not conflict with the limited-liability company's articles of organization or operating agreement.</p>
<p>3. As used in this section, "rights of an assignee" means the rights to receive the share of the distributions or dividends paid by the corporation to which the judgment debtor would otherwise be entitled. The term does not include the rights to participate in the management of the business or affairs of the corporation or to become a director of the corporation.</p>	

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11 Attorneys for William A. Leonard, Jr., Trustee

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

10 In re:
11 ERNEST AUGUST BECKER, V,

12 Debtor.

Case No. BK-S-13-14932-BTB
Chapter 7

**TRUSTEE'S JOINDER TO REPLY
IN SUPPORT OF OBJECTION TO
CLAIMED EXEMPTIONS**

Hearing Date: December 18, 2013
Hearing Time: 11:00 a.m.

17 WILLIAM A. LEONARD, the Chapter 7 Trustee (the "Trustee"), by and through his
18 counsel, Schwartz & McPherson Law Firm, hereby joins in the objecting creditors' *Reply in*
19 *Support of Objection to Claimed Exemptions* [Dkt. #98].

20 For the reasons set forth in the Objecting Creditor's Reply [Dkt. #98], their Objection [Dkt.
21 #78] and the Trustee's Joinder [Dkt. #81], it is appropriate for this Court to enter an Order
22 clarifying that the Debtor is only entitled to exempt his non-economic interest in Ensworth Apts.,
23 Inc. (identified in Debtor's Schedule C as "Ensworth Corporation Stock"), and Eagle Rock
24 Gaming, Inc., pursuant to NRS §21.090(1)(bb), and that the Debtor's economic interests in the
25 stock of these two corporations, including all profits and distributions related to the Debtor's

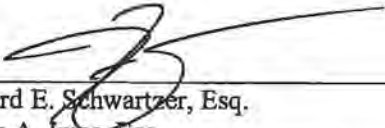
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1 interest, are property of the estate pursuant to 11 U.S.C. §541 and the provisions of NRS §78.746
2 and must be paid to the Trustee for the benefit of the estate and creditors.

3 DATED: December 11, 2013

4
5 
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11 Counsel for Trustee

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Bruce T. Beesley
Honorable Bruce T. Beesley
United States Bankruptcy Judge



Entered on Docket
March 21, 2014

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:	)	Case No.: BK-S-13-14932-BTB
ERNEST AUGUST BECKER, V,	)	Chapter 7
Debtor.)	
	)	Hearing Date: February 19, 2014
	)	Hearing Time: 2:00 p.m.

**ORDER CERTIFYING QUESTION OF LAW
TO THE NEVADA SUPREME COURT**

I. Question of Law Certified - Nev. R. App. P. 5(c)(1)

This court requires clarification as to whether a debtor may properly claim an exemption in his entire stock interest pursuant to Nev. Rev. Stat. § 21.090(1)(bb) and the incorporated provisions of Nev. Rev. Stat. § 78.746. The issue is before this court as a result of objections made by several creditors and interested parties, upon which the Chapter 7 Trustee joined, to Debtor's claimed exemptions for the entire interest in stock he holds in two closely held corporations on the basis that Debtor's exemption pursuant to NRS 21.090(1)(bb) is expressly limited to the non-economic rights by the incorporated provisions of NRS 78.746.

As shown below, this court requires clarification regarding the proper interpretation of the stock that is exempt under NRS 21.090(1)(bb) and the incorporated provisions of NRS 78.746 in order to resolve the particular dispute in the above-captioned case. This issue as to

1 whether a debtor is entitled to claim an exemption in his entire interest in stock that otherwise
2 meets the requirements of NRS 78.746(2)(c), or if the debtor's exemption is limited to his non-
3 economic rights, is determined by state law, and there is no controlling precedent in the
4 decisions of the Nevada Supreme Court. As clarification concerning the appropriate statutory
5 interpretation of the above referenced statutes is necessary to resolve the objections to debtor's
6 claimed exemptions presently at issue, this court believes that the standard for Rule 5
7 certifications set forth in Volvo Cars of North America, Inc. v. Ricci, 122 Nev. 746, 137 P.3d
8 1161 (Nev. 2006) has been met.

9 **II. Statement of Facts - Nev. R. App. P. 5(c)(2)**

10 On June 5, 2013, Ernest August Becker, V ("Debtor") filed a voluntary Chapter 7
11 petition. On his Personal Property Schedule "B," the Debtor lists "Ensworth Corporation Stock"
12 with a value of \$1,362,000 ("Ensworth Stock"), and also lists a stock or other interest in "Eagle
13 Rock Gaming, Inc." with a value of \$219,000 ("Eagle Rock Gaming Stock"). On his Amended
14 Schedule "C," the Debtor claims a \$1,362,000 exemption in the Ensworth Stock pursuant to
15 Nev. Rev. Stat. § 21.090(1)(bb). On his Amended Schedule C, the Debtor also claims a
16 \$219,000 exemption in the Eagle Rock Gaming Stock pursuant to Nev. Rev. Stat. §
17 21.090(1)(bb).

18 On October 31, 2013, creditors and interested parties Ernest A. Becker, IV, individually,
19 Ernest A. Becker, IV and Kathleen C. Becker, as Trustees of the Ernest A. Becker IV and
20 Kathleen C. Becker Family Trust, EB Family Holdings, LLC, Kimberly Riggs, Sallie Becker and
21 Brian Becker (collectively the "Objecting Parties") filed an Objection to Claimed Exemptions.
22 Objecting Parties dispute Debtor's claimed exemptions in both Ensworth Stock and Eagle Rock
23 Gaming Stock. On November 1, 2013, William A. Leonard, the Chapter 7 Trustee ("Trustee")
24 filed its Joinder to Objection to Claimed Exemptions.

25 Debtor has claimed an exemption for the entire stock interest he holds in Ensworth Stock
26 and Eagle Rock Gaming Stock. In challenging these claimed exemptions, the Objecting Parties

1 and the Trustee believe this court should determine that Debtor is only entitled to exempt his
2 non-economic interest, and that Debtor's economic interests, including all profits and
3 distributions related to Debtor's interests, are property of the estate which must be paid to the
4 Trustee for the benefit of the estate and creditors.

5 A hearing was held on February 19, 2014. For the reasons stated below, this court cannot
6 properly decide whether Debtor's claimed exemptions are supported under Nevada law without a
7 definitive ruling from the Nevada Supreme Court.

8 **III. Nature of Controversy - Nev. R. App. P. 5(c)(3)**

9 "When a debtor files a Chapter 7 bankruptcy petition, all of the debtor's assets become
10 property of the bankruptcy estate,¹ subject to the debtor's right to reclaim certain property as
11 'exempt.'²" Tyner v. Nicholson (In re Nicholson), 435 B.R. 622, 629-30 (B.A.P. 9th Cir. 2010)
12 (citation omitted). The Bankruptcy Code specifies the types of property debtors may exempt,
13 and 11 U.S.C. § 522(b) permits a debtor to choose the exemptions afforded by state law or the
14 federal exemptions listed in 11 U.S.C. § 522(d). Id. (citation omitted).

15 In this case, Debtor is seeking to exempt the stock interest he holds in Ensworth Stock
16 and Eagle Rock Gaming Stock pursuant to NRS 21.090(1)(bb). In relevant part, the statute
17 provides:

18 1. The following property is exempt from execution, except as
19 otherwise specifically provided in this section or required by
federal law:

20 (bb) Stock of a corporation described in subsection 2 of
21 NRS 78.746 except as set forth in that section.

22 Nev. Rev. Stat. § 21.090(1)(bb). Subsection 2 of NRS 78.746, provides in its entirety:

23 2. Subject to the provisions of NRS 78.747, this section:

24
25 ¹ See 11 U.S.C. § 541

26 ² See 11 U.S.C. § 522(l)

1 (a) Provides the exclusive remedy by which a judgment
2 creditor of a stockholder or an assignee of a stockholder
3 may satisfy a judgment out of the stock of the judgment
4 debtor. No other remedy, including, without limitation,
5 foreclosure on the stockholder's stock or a court order for
6 directions, accounts and inquiries that the debtor or
7 stockholder might have made, is available to the judgment
8 creditor attempting to satisfy the judgment out of the
9 judgment debtor's interest in the corporation, and no other
10 remedy may be ordered by a court.

11 (b) Does not deprive any stockholder of the benefit of any
12 exemption applicable to the stockholder's stock.

13 (c) Applies only to a corporation that:

- 14 (1) Has fewer than 100 stockholders of record at
15 any time.
16 (2) Is not a publicly traded corporation or a
17 subsidiary of a publicly traded corporation, either in
18 whole or in part.
19 (3) Is not a professional corporation as defined in
20 NRS 89.020.

21 Nev. Rev. Stat. § 78.746(2).

22 It appears the Trustee concedes, and the Objecting Parties do not otherwise contend, that
23 the Ensworth Stock and the Eagle Rock Gaming Stock fit within the qualifications set forth in
24 NRS 78.746(2)(c). Therefore, the issue in this case is not whether the Debtor's above-referenced
25 stock is exempt, but rather the extent to which the stock is exempt.

26 The Debtor argues NRS 78.746(1)³ is not triggered if a stock is first determined to be
exempt under NRS 21.090(1)(bb) and NRS 78.746(2)(c), with the exemption being protected by
NRS 78.746(2)(b). The Debtor further argues that the stock is either exempt or it is not, and
NRS 78.746(1) is only applicable if the stock is found to be not exempt. Accordingly, the

³ On application to a court of competent jurisdiction by any judgment creditor of a
stockholder, the court may charge the stockholder's stock with payment of the unsatisfied
amount of the judgment with interest. To the extent so charged, the judgment creditor has only
the rights of an assignee of the stockholder's stock. Nev. Rev. Stat. § 78.746(1).

1 Debtor contends there is no allowable bifurcation of stockholder rights if the stock is exempt,
2 and if it is exempt, no part of that exemption can be denied.

3 Alternatively, the Objecting Parties and the Trustee insist the remedy for creditors set
4 forth in NRS 78.746(1) and NRS 78.746(2)(a) is an express exception to the exemption of NRS
5 21.090(1)(bb). They further assert that NRS 78.746 and all of its subsections, including
6 78.746(1) and 78.746(2)(a), expressly apply to closely held corporations described in 78.746(c),
7 and only to such closely held corporations. Therefore, NRS 78.746(1) and NRS 78.746(2)(a)
8 must apply to the stock of such closely held corporations if those portions of the statute are to
9 have any meaning or application at all.

10 In determining that both arguments present conceivable interpretations of the relevant
11 statutes, and after its own careful examination, this court remains perplexed; and now seeks
12 guidance from the Nevada Supreme Court. On one hand, the remedy provision of NRS 78.746
13 appears to grant this court discretion to issue a charging order against Debtor's stock wherein it
14 states "the court may charge the stockholder's stock . . . [t]o the extent so charged, the judgment
15 creditor has only the rights of an assignee⁴ of the stockholder's stock." Nev. Rev. Stat. §
16 78.746(1) (Emphasis added). However, subsection 2, rather contrarily, states that "[NRS
17 78.746] [d]oes not deprive any stockholder of the benefit of any exemption applicable to the
18 stockholder's stock." Nev. Rev. Stat. § 78.746(2)(b). How can the statute effectively grant the
19 court discretion in determining whether a certain portion of stock is exempt while
20 simultaneously precluding the court from depriving the stockholder of the benefit of any
21 exemption applicable to its stock?

22
23
24 ⁴ The statute defines "rights of an assignee" as "the rights to receive the share of the
25 distributions or dividends paid by the corporation to which the judgment debtor would otherwise
26 be entitled. The term does not include the rights to participate in the management of the business
or affairs of the corporation or to become a director of the corporation." Nev. Rev. Stat. §
78.746(3).

1 **IV. Designation of the Parties - Nev. R. App. P. 5(c)(4)**

2 Pursuant to Fed. R. Bankr. Proc. 4003(c), the objecting party has the burden of proof with
3 respect to an objection to a debtor's claimed exemptions. Therefore, the court will designate the
4 Objecting Parties and the Trustee as the appellant, and the Debtor as the respondent.

5 **V. Names and Addresses of Counsel - Nev. R. App. P. 5(c)(5)**

6 Counsel for Debtor:

7 Mark Segal, Esq.
720 S. Fourth St., #301
Las Vegas, NV 89101

8 Counsel for Trustee:

9 Lenard E. Schwartz, Esq.
Jason A. Imes, Esq.
10 Schwartz & McPherson Law Firm
2850 South Jones Blvd., Suite 1
11 Las Vegas, NV 89146

12 Counsel for Objecting Parties :

13 Douglas J. Payne, Esq.
Fabian & Clendenin, P.C.
215 South State Street, Suite 1200
14 Salt Lake City, UT 84111

15 James H. Walton, Esq.
Nitz Walton & Heaton, LTD.
16 601 South Tenth Street, Suite 201
Las Vegas, NV 89101

17 **VI. Order Regarding Certification**

18 Having complied with the provisions of Nev. R. App. P. 5(c),

19 **IT IS HEREBY ORDERED** that upon entry, the Clerk of Court shall forward this Order
20 to the Supreme Court of the State of Nevada, Capital Complex, 201 South Carson St., Carson
21 City, Nevada 89701, under the seal of the Clerk of this court; and

22 **IT IS FURTHER ORDERED** that upon receipt of the opinion of the Nevada Supreme
23 Court, this matter shall be transferred to the Bankruptcy Court for further proceedings consistent
24 with the opinion of the Nevada Supreme Court.
25
26

1 Notice by CM/ECF Electronic Noticing to:

2 MONICA T. CENTENO

3 JASON A. IMES

4 WILLIAM A. LEONARD

5 LENARD E. SCHWARTZER

6 MARK B SEGAL

7 SHLOMO S. SHERMAN

8 U.S. TRUSTEE - LV - 7

9 JAMES H. WALTON

10 Notice by Mail to:

11 DOUGLAS J. PAYNE
12 215 S. STATE STREET, SUITE 1200
13 SALT LAKE CIT, UT 84111-2323

14 SHORT LINE EXPRESS MARKET
15 7330 EASTGATE RD STE 120
16 HENDERSON, NV 89011

17 ###

RECEIVED
IN THE SUPREME COURT OF THE STATE OF NEVADA

AUG 4 2 13 PM '14
ERNEST A. BECKER, IV,
INDIVIDUALLY; ERNEST A. BECKER,
IV AND KATHLEEN BECKER, AS
TRUSTEES OF THE ERNEST A.
BECKER IV AND KATHLEEN C.
BECKER FAMILY TRUST; EB FAMILY
HOLDINGS, LLC; KIMBERLY RIGGS;
SALLIE BECKER; BRIAN BECKER;
AND WILLIAM A. LEONARD,
TRUSTEE,
Appellants,
vs.
ERNEST AUGUST BECKER, V,
Respondent.

No. 65335

FILED

JUL 31 2014

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY *R. Malone*
DEPUTY CLERK


ORDER ACCEPTING CERTIFIED QUESTION

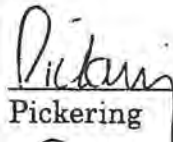
This is a certified question under NRAP 5 from the United States Bankruptcy Court for the District of Nevada, which asks "whether a debtor may properly claim an exemption in his entire stock interest pursuant to Nev. Rev. Stat. § 21.090(1)(bb) and the incorporated provisions of Nev. Rev. Stat. § 78.746." As no clearly controlling Nevada precedent exists with regard to this important legal question and the answer may determine part of the federal case, our consideration of this question is appropriate. *See* NRAP 5(a); *Volvo Cars of N. Am. v. Ricci*, 122 Nev. 746, 749-51, 137 P.3d 1161, 1163-64 (2006).

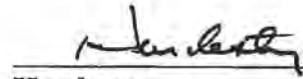
Accordingly, appellants shall have 45 days from the date of this order to file and serve an opening brief. Respondent shall have 30 days from the date when the opening brief is served to file and serve an answering brief. Appellants shall then have 20 days from the date when the answering brief is served to file and serve any reply brief. The parties'

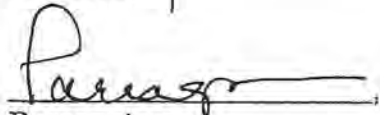
briefs shall comply with NRAP 28, 28.2, 31(c), and 32. See NRAP 5(g)(2). The parties are further directed to prepare and file a joint appendix containing certified copies of any relevant portion of the record. See NRAP 5(d); NRAP 30. The appendix shall be filed no later than the date when the opening brief is filed.

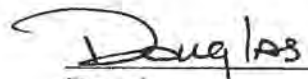
It is so ORDERED.

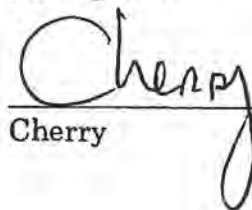

Gibbons, C.J.


Pickering, J.


Hardesty, J.


Parraguirre, J.


Douglas, J.


Cherry, J.


Saitta, J.

cc: Bruce T. Beesley, United States Bankruptcy Judge
Fabian & Clendenin, P.C. (Utah)
Nitz Walton & Heaton, Ltd.
Schwartz & McPherson Law Firm
Segal & McMahan
United States Bankruptcy Court for the District of Nevada ✓

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA (LAS VEGAS)

IN RE:

ERNEST AUGUST BECKER, V,

Debtor.

. Case No. 13-14932-BTB
. Chapter 7
. 300 Las Vegas Blvd. South
. Las Vegas, NV 89101
. Wednesday, February 19, 2014
. 2:02 p.m.
.

TRANSCRIPT OF HEARING ON OBJECTION TO CLAIMED EXEMPTIONS
WITH CERTIFICATE OF SERVICE FILED BY JAMES H. WALTON
ON BEHALF OF ERNEST A. BECKER, IV, INDIVIDUALLY,
ERNEST A. BECKER, IV AND KATHLEEN C. BECKER, AS TRUSTEES OF
ERNEST A. BECKER, IV AND KATHLEEN C. BECKER FAMILY TRUST,
EB FAMILY HOLDINGS, LLC, KIMBERLY RIGGS [78]
BEFORE THE HONORABLE BRUCE T. BEESLEY
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

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APPEARANCES CONTINUED.

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transcript produced by transcription service.

APPEARANCES CONTINUED:

For Ernest A. Becker, IV
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Ernest A. Becker, IV
and Kathleen C. Becker
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For the Trustee:

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(702) 228-7590

1 (Proceedings commence at 2:02 p.m.)

2 THE CLERK: Court is now in session.

3 THE COURT: Good afternoon. Please be seated. This
4 is the case of Ernest August Becker, Case Number 13-14932.
5 Appearances, please.

6 MR. SEGAL: Mark Segal for the debtor, Your Honor.

7 MS. CENTENO: Monica Centeno for the debtor, Your
8 Honor.

9 MR. PAYNE: Douglas Payne on behalf of Ernest A.
10 Becker, IV, individually, and Ernest A. Becker, IV and Kathleen
11 C. Becker as trustees of the Ernest A. Becker, IV and Kathleen
12 C. Becker Family Trust.

13 MR. WALTON: Good afternoon, Your Honor. James
14 Walton, also on behalf of Ernest Becker, IV, and his family
15 trust and other objecting creditors.

16 MR. IMES: Afternoon, Your Honor. James Imes,
17 counsel for the Trustee, William Leonard.

18 THE COURT: Okay. Go ahead.

19 MR. PAYNE: Your Honor, if it please the Court, Doug
20 Payne on behalf of objecting creditors as I indicated an
21 appearance for.

22 This is an objection to an exemption asserted by the
23 debtor with respect to stock interests in two closely held
24 corporations, Ensworth Apartments and Eagle Rock Gaming, Inc.
25 The debtor has asserted that his stock interest is entirely

1 exempt under Nevada Revised Statute Section 21.090(1)(bb), and
2 we submit that the objection to the exemption should be
3 abstained because Nevada statutes do not exempt a debtor's
4 entire economic interest in stock in a closely held corporation
5 from the reach of creditors or from a bankruptcy trustee.

6 THE COURT: And do you have any cases that say that?

7 MR. PAYNE: I do not have any cases that say that,
8 Your Honor.

9 THE COURT: Okay. Go ahead.

10 MR. PAYNE: I do have cases in analogous situations
11 that say that. The statute, 21.090(1)(bb), makes exempt stock
12 of a corporation described in Subsection (2) of N.R.S. 78.746
13 -- and this is important -- except as set forth in that
14 section.

15 THE COURT: Well, take a look for me if you would at
16 786 -- or 78.746(2)(b).

17 MR. PAYNE: Okay. Okay.

18 THE COURT: Why doesn't that apply?

19 MR. PAYNE: Because it does apply, Your Honor.

20 THE COURT: So it says, "Does not deprive any
21 stockholder of the benefit of any exemption applicable to the
22 stockholder's stock," correct?

23 MR. PAYNE: Correct.

24 THE COURT: And you're saying that the exemption does
25 not apply.

1 MR. PAYNE: No. Your Honor, I'm saying that the
2 exemption is granted, not in this section, but the exemption is
3 granted in 21.090(bb).

4 THE COURT: Right. I know that.

5 MR. PAYNE: And that says that -- the definition of
6 that exemption is stock of a corporation described in
7 Subsection (2) of 78.746, except as set forth in that section.

8 THE COURT: Yeah.

9 MR. PAYNE: So what I'm saying is that it's only
10 exempted except to the extend set forth in Section 78.746,
11 which includes Subsection (1) which allows for the -- provides
12 for a charging order.

13 THE COURT: Right. So why do they even have "does
14 not deprive any stockholder of the benefit of any exemption
15 applicable to the shareholder stock" in there? I mean, why
16 even have that?

17 MR. PAYNE: Well, if there's some other exemption,
18 other than 21.090, which clearly includes the entirety of 746,
19 then this statute here would not interfere with that, Your
20 Honor. But I think that the exemption under 21.090
21 incorporates all of the provisions of 78.746.

22 THE COURT: Well, I understand that, but one of the
23 provisions says "does not apply to any exemption." That would
24 be 78.746(2)(b).

25 MR. PAYNE: That's correct, but then the question

1 becomes what is the exemption. Where is the exemption granted?

2 And that -- for that you have to refer back to 21.090 which --

3 THE COURT: Which again refers you to 78, which
4 contains the provision.

5 MR. PAYNE: So I think we're getting circular
6 perhaps, Your Honor. But I think -- because I think had the
7 legislature intended for Subsection (1) of 78.746 not to
8 exclude certain stock from the exemption, it would have not
9 said in 21.090(bb) "except as set forth in that section." It
10 would have just ended at a period.

11 THE COURT: Do you have any legislative history that
12 says that?

13 MR. PAYNE: I don't, Your Honor, but I don't know
14 what the last six words of (bb) would mean if that's not the
15 case. They would be superfluous.

16 THE COURT: Well, I'm not trying to be difficult, but
17 I don't understand what the last seven words of (bb) mean, and
18 the last -- and 78.746(2)(b) mean. I mean, they appear to me
19 to be inconsistent.

20 MR. PAYNE: Well, I'm not sure that they're
21 inconsistent, Your Honor, because I -- again, I think that --
22 for an exemption I think that it's appropriate to look at the
23 language that grants the exemption, and that's 21.090. So I
24 think we look at that, and then there could potentially be some
25 other meaning for the language that Your Honor has pointed to

1 in 746(b)(2). There could be some other exemption that could
2 potentially apply.

3 THE COURT: But it doesn't limit it that way.

4 MR. PAYNE: This says "any exemption applicable to
5 the stock," so it could be a universe of exemptions. It
6 doesn't refer it back to 21.090.

7 THE COURT: Are you aware of any other exemptions
8 applicable to the stock?

9 MR. PAYNE: I'm not. I'm not, Your Honor.

10 THE COURT: Okay. Go ahead. It just seems to me
11 that the two statutes are inconsistent, one with the other.

12 MR. PAYNE: Your Honor, I think that as noted in the
13 briefing, and as the statute clearly provides, creditors are
14 entitled to a charging order against -- to assert a charging
15 order against stock in a closely held corporation under
16 Subsection (1) of 78.746. And I think if Subsection (b)(2)
17 made it entirely exempt, then I think that charging order
18 provision would be superfluous, Your Honor.

19 THE COURT: I think that may be correct.

20 MR. PAYNE: And the statute provides under charging
21 order that a creditor that obtains a charging order is entitled
22 to assert the rights of an assignee in the stockholder's stock
23 and is --

24 THE COURT: Which basically means you get a
25 distribution of profits if one is ever declared in the closely

1 held corporation.

2 MR. PAYNE: That's correct, distribution --
3 dividends, distributions, et cetera, the economic interests.
4 In the case of Weddell v. H2O, Inc., the Nevada Supreme Court
5 in 2012 interpreted a similar statute that governed charging
6 order against membership interests in limited liability
7 companies, and the Court --

8 THE COURT: But that's easy because limited liability
9 companies are not exempt.

10 MR. PAYNE: Right.

11 THE COURT: There's no exemption for them.

12 MR. PAYNE: Well, I guess the question is is it easy
13 or not because it's the same charging order statute, and I
14 think the parties --

15 THE COURT: Right. But there is no exemption for an
16 ownership interest in an LLC in the state of Nevada.

17 MR. PAYNE: But I think it's illustrative as to what
18 a creditor can reach, Your Honor. I think that the H2O case
19 provides that, and I think if the -- and I think interpreting
20 the statute with respect to a closely held corporation where
21 the entire section applies, I think the exemption must -- is
22 only granted to the extent that the entire section applies.
23 And therefore I think that Weddell decision is illustrative,
24 Your Honor.

25 THE COURT: Okay.

1 MR. PAYNE: Even though there is not an exemption
2 granted, I think it's illustrative because the exemption under
3 21.090 is except to the extent provided in the section which is
4 78.746, and that section is parallel to the section the Nevada
5 Supreme Court was interpreting in the Weddell v. H2O, Inc.
6 case, Your Honor.

7 THE COURT: Okay.

8 MR. PAYNE: The debtor has argued that -- also argued
9 that if there is an exception to the exemption pursuant to the
10 charging order, that it's limited to the amount owed by this
11 particular creditor. And as we pointed out in our brief,
12 Section 544(a)(1) of the Bankruptcy Code gives a bankruptcy
13 trustee the rights and powers of a traditional lien creditor,
14 and also the rights and powers of a creditor that extends
15 credit to the debtor and obtains an execution against the
16 debtor that is returned unsatisfied at the time of the
17 commencement of the case, whether or not such creditor exists.
18 And therefore, Your Honor, 544(a)(1) gives the trustee the
19 rights and powers of a creditor that would be entitled to get
20 the charging order under 78.746.

21 THE COURT: And I don't disagree with that at all. I
22 mean, the trustee's and the creditor's powers are broad if, in
23 fact, they attach to this particular property. I mean,
24 certainly if I am -- certainly if you are correct, you can --
25 this can be avoided to the extent that a charging order can be

1 placed against this property. There is no question about that.
2 My question is I don't understand what appears to me to be
3 significantly inconsistent language between 78 and 21. I just
4 -- I don't see it.

5 MR. PAYNE: Okay. Well, Your Honor, I guess with
6 respect to the Court's concern, I would again just refer to
7 Subsection (1) of 78.746 and indicate that there is a rather
8 extensive provision compared to 78 -- compared to the 78 --

9 THE COURT: (2)(b)?

10 MR. PAYNE: -- (2)(b), yes.

11 THE COURT: So there's more weight given to something
12 if more words are used? Is that what you're telling me?

13 MR. PAYNE: Well, I don't know. I guess the Court
14 can decide. As I look at it, and I'm not sure I fully
15 understand the Court's interpretation of (2)(b), but it's not
16 like you had -- (1) would be entirely superfluous and
17 meaningless if, in fact, the scope of number (2) is as the
18 Court has indicated that it believes it may be.

19 And so I think that the better interpretation is to
20 look at the statute granting the exemption which is 21.090(bb)
21 that says "section," which includes the entire section, and I
22 think you have to read that in its entirety. And there could
23 potentially be some other exemption. In fact, the (2)(b) does
24 not refer back to the granting exemption, and there could
25 potentially be some other exemption to which it applied, but I

1 think (1) would be clearly unnecessary and rendered meaningless
2 if, in fact, (2) is read as broadly -- so broadly as to
3 disallow any exemption for stock in closely held corporation
4 because then, indeed, a creditor could not obtain a charging
5 order or any economic rights in stock of a closely held
6 corporation.

7 We cited in our brief, Your Honor, to a case in which
8 the District Court, I think the Santano case, an unpublished
9 decision, but we cited that in which a District Court granted a
10 charging order against an interest in a closely held
11 corporation, and we believe that is the appropriate
12 determination. We think that had the legislature intended to
13 grant a blanket exemption to interest in closely held
14 corporations, 21.090(1)(bb) would have ended without the final
15 six words. Would have said "stock of the corporation described
16 in Subsection (2) of N.R.S. 78.746," period. It would not have
17 had that "except as set forth in that section."

18 And furthermore, as I've indicated, the language in
19 Subsection (1) of 78.746 would be superfluous. So I think to
20 give meaning to the entirety of 21.090(1)(bb), the Court needs
21 to recognize that there are exceptions in Section 78.746. And
22 I think reading (2)(b), to grant a blanket exemption is
23 inconsistent with the statute that grants the exemption itself,
24 Your Honor, and therefore I think it's appropriate that the
25 Court not allow this debtor to exempt the entirety of his

1 interest in the closely held corporations but to only exempt
2 the non-economic portions of his interest in that stock. I
3 think that's consistent with the statutory scheme, and I think
4 it's consistent with the idea of public policy, as well, Your
5 Honor. Thank you.

6 THE COURT: Okay. Thank you. Counsel? Oops, sorry.
7 Go ahead.

8 MR. WALTON: Your Honor, James Walton on behalf of
9 the various creditors who are objecting parties.

10 I just wanted to address the issue Your Honor raised
11 about the -- whether there is a conflict between the statute,
12 the exemption statute and the charging order statute.

13 THE COURT: Okay. Go ahead.

14 MR. WALTON: And I wanted to point out to you, Your
15 Honor, a case which was cited in our reply brief from the
16 Bankruptcy Court in Ohio called the In Re Foos case. That was
17 a case that's very similar to the case we have here. It was a
18 case that involved a bankruptcy trustee that objected to the
19 debtor's claim that his entire interest in a partnership was
20 exempt.

21 Now, in that state, the State of Ohio in its
22 partnership statute, there was an exemption for partnership
23 interest, but it had similar language to what we have in the
24 Nevada exemption statute because it said except as otherwise
25 provided in the Ohio charging order statute for partnerships.

1 When you turn to that statute, it also had the
2 similar language that Your Honor referenced which says that
3 nothing in this chapter deprives a partner of any right under
4 exemption laws with respect to the partner's interest in the
5 partnership. So the main difference between the two cases is
6 that case involved a partnership interest whereas our case
7 involves an interest in corporate stock. However, the legal
8 principles are the same.

9 What the result of that case was is the Bankruptcy
10 Court there in the In re Foos case held that the interest --
11 only the economic interest was exempt and not the entire
12 ownership interest or not the -- I'm sorry, I misphrased that.
13 Only the non-economic interest was exempt and not the economic
14 interest.

15 And I would just suggest, Your Honor, that the
16 language that was troubling, or seemed troubling to the Court
17 in 78.746(2)(b), it only refers to an exemption applicable to
18 the stockholder's stock. To know whether it's applicable, you
19 have to go back to the exemption statute and see if it really
20 is. And the exemption statute says it's exempt except as set
21 forth in the charging order statute. And the charging order
22 statute clearly does not exempt economic interest, so --

23 THE COURT: I guess what I don't understand is why
24 have that Paragraph (2)(b) in there at all?

25 MR. WALTON: Well, because they're simply saying that

1 there may be an exemption. If there is, then it should apply.
2 But it doesn't say -- it does not deprive any stockholder of
3 any exemption in corporate stock. It doesn't say that. It
4 says any exemption applicable to the stockholder's stock. You
5 have to ask is it an applicable exemption or is it not
6 applicable, and it's only applicable if it applies to the non-
7 economic interests.

8 It's clearly not applicable if it applies to the
9 economic interests because the statute that gives the exemption
10 refers you back to the charging order statute to see whether
11 the exemption is applicable or not. So I don't think there is
12 a conflict between the statutes. I think Your Honor should
13 consider the In re Foos case. That is -- of course, it's not a
14 case from this jurisdiction, but it is a case that should carry
15 significant weight with the Court. Thank you.

16 THE COURT: Thank you very much. Anybody else?
17 Counsel?

18 MR. IMES: Thank you, Your Honor. Jason Imes,
19 counsel for the Trustee.

20 Not to belabor the discussion of (2)(b),
21 78.746(2)(b), but our reading of that has always been that
22 78.746 sets up a distinction. The charging order statute sets
23 up a distinction between the non-economic rights and the
24 economic rights relating to the stock. (2)(b) to me just
25 sounds like confirmation that nothing under the statute is

1 going to impair the debtor's right to continue receiving the
2 non-economic benefits, but I don't think it's inconsistent in
3 that it doesn't draw a distinction and will lump everything
4 together and say that under (2)(b), all of it comes in
5 together.

6 I think it just confirms what the entire section
7 states, that there are economic interests, non-economic
8 interests, trustee can get a charging order or judgment,
9 creditor can get a charging order against the economic
10 interests, but to the extent that the non-economic interests
11 are exempt, nothing in this section precludes that or prevents
12 the debtor from receiving those benefits. Thank you.

13 THE COURT: Thank you. Just one second.

14 MR. SEGAL: Good afternoon, Your Honor. Mark Segal
15 for the --

16 THE COURT: Just hang on for one second, please.

17 MR. SEGAL: I'm sorry, Your Honor.

18 (Pause in proceedings)

19 THE COURT: Does anybody have a copy of N.R.S.
20 78.747, the prior statute?

21 MR. PAYNE: 78.747, I do, Your Honor.

22 THE COURT: Could I see that?

23 MR. PAYNE: Yes.

24 MR. SEGAL: May I approach, Your Honor?

25 THE COURT: Yes, please. Thank you. Okay. Thank

1 you. Go ahead.

2 MR. SEGAL: Good afternoon, Your Honor. Mark Segal
3 for the debtors.

4 I think first and most importantly, if I am correctly
5 reading the movements in the trustee's brief, they have
6 conceded that the stock is exempt. Their position is that even
7 though it is exempt, they're entitled to the charging order
8 remedy. The debtor's position is that's wrong. If the stock
9 is exempt, it's exempt for all purposes, and as the Court has
10 pointed out and has questioned, Subpart (b) of Subsection (2)
11 of 746 clearly states that the section does not deprive any
12 stockholder of the benefit of any exemption applicable to the
13 stockholder's stock.

14 So if this stock is exempt, as the debtor submits it
15 is, if he were otherwise to be subject to the charging order,
16 which as the Court has pointed out and as the cases cited point
17 out, would then allow the creditor to get any distributions
18 otherwise to be made to him, he certainly would be denied part
19 of the benefit that would otherwise be allowed to him if the
20 stock was fully exempt.

21 So we disagree completely. We think the movements
22 have jumped ahead of the primary questions before the Court to
23 reach the question of the charging order remedy, its scope. I
24 think the cases that have been cited are instructive, at least
25 to tell us what a charging order means. I don't know that a

1 charging order would even be appropriate if the stock was non-
2 exempt, and I will address that in my presentation this
3 afternoon.

4 First, as the Court well knows, exemptions under the
5 statutes, exemptions from creditor claims and from remedies
6 available to creditors, are to be liberally construed so that
7 initially the movant's burden is great to be placed on them to
8 show the Court why the exemption which they conceded exists
9 should not be allowed to the debtors in full.

10 The debtors submit that the movants have not met
11 their burden of proof, nor have they shown a sufficient
12 statutory interpretation to enable the Court to rule that the
13 debtor's stock is not exempt from their claims and that the
14 movants may avail themselves of the charging order remedy.
15 Rule 4003 of the Federal Rules of Bankruptcy Procedure requires
16 that someone objecting to a claim of exemption provide proof to
17 the Court as to why that exemption should not be allowed. The
18 debtors submit that the movants have not done that. They've
19 provided no proof to the Court of any kind, first as to what
20 standards would apply to determine whether or not a charging
21 order would even be applicable in the case at bar.

22 They have failed to prove -- the proof necessary to
23 show what standards, whatever they would be, would have been
24 met. And once the objection to claims have been made,
25 discovery is over. So even if there were standards that the

1 Court would have to look at, even if there was proof that would
2 have to be provided to the Court in order to tell whether or
3 not to implement those standards, it is now too late for the
4 movants to approach that. So the debtor's first position is we
5 don't have to go beyond Rule 4003, Your Honor. The movants
6 have not met their burden of proof to even enable them to bring
7 the question before the Court.

8 I think most importantly, or at least one of the very
9 important things today, is the fact that the statute, in
10 dealing with the charging order, is not mandatory, Your Honor.
11 The statute does not say that the charging order shall be
12 available to the creditor, it says it may be available. So
13 obviously there is a standard of proof that must be satisfied
14 by a creditor before it would be entitled to get a charging
15 order, and the movants in this case have not provided the Court
16 with what the standards would be, assuming the remedy would be
17 available, or what facts would be necessary to determine that
18 those standards would have been met.

19 The lower court in the Weddell case, which is cited
20 by the movants, found that remedy was available, and I don't
21 disagree with the descriptions the court gave of what that
22 remedy would be if it was available. On appeal and in
23 reversing the lower court, the Nevada Supreme Court told us
24 what that remedy would be, but the court did not discuss what
25 standards had to be met and how you would go about in meeting

1 those standards in order to gain the relief.

2 In addition, and as the Court has recognized, most
3 importantly, Weddell dealt with a limited liability company and
4 clearly there is no exemption under Nevada law for limited
5 liability companies. And for that reason and that reason
6 alone, I believe Weddell is, at best, of limited help to the
7 Court, but only if the Court would reach the result that a
8 charging order remedy might be available to this creditor.

9 The Renteria v. Cannappa (phonetic) case that was
10 also cited by the movants didn't even discuss the scope of a
11 charging order. The court said it was only for it to determine
12 whether a charging order was available, was an available remedy
13 under Nevada law, and I would concede to the Court that under
14 NRS 86, under NRS 78, a charging order is an available remedy.
15 The court did not stay why it would be available. It was not a
16 bankruptcy case. The court was very careful to point out that
17 the stockholder was not a debtor in bankruptcy, and there was
18 no question before the court of whether or not the stock
19 involved was exempt for any purpose.

20 We submit that neither Weddell or Renteria could be
21 appropriate for today's discussion because neither case
22 involved an exemption for bankruptcy purposes, and therefore,
23 whatever the court's thinking was in those cases, it could not
24 have reflected the issue before the Court today, which is
25 whether or not the debtor's stock is exempt and if so, whether

1 it would still be subject to the charging order remedy.

2 Now, we know that NRS 21.090(1)(bb), that provides
3 the exemption from judgment creditor claims for certain type of
4 property. That's the statute that provides the exemption. 78,
5 NRS 78 does not provide the exemption. But it does not provide
6 a blanket exemption, as I believe counsel for the movant
7 stated. It is very clear that the exemption only applies to
8 the type of stock that is otherwise specified in Section 2(c)
9 of 78.

10 Your Honor raised the question about the language.
11 Counsel has raised the question about the language that we find
12 in 21.090(1)(b). The reference in 29.01(b) to 78.746 and the
13 incorporation of only those requirements that are contained in
14 (bb) is solely in order to define the type of stock that is
15 exempt. The phrase "except as set forth in that section," as
16 contained in 21.090(1)(bb) referencing 78.746(2) serves to
17 emphasize which stock is not subject to exemption. And it
18 expressly carves out an exception from exemption for creditors
19 of corporations with more than 99 stockholders.

20 So we have stock of a corporation that has more than
21 -- that has one stockholder, more than one stockholder, but not
22 more than 99 stockholders. It's not a professional
23 corporation. And it's not otherwise excepted from the
24 exemption provided by 21.090. That's the consistency of the
25 statutes. The legislature, if it wanted to, could have put

1 that language in 21.090(1)(bb) itself, but it left it in 78.746
2 to make sure that only the stock that was excepted by the
3 language in Subsection C would be stock that remained exempt
4 from creditor claims.

5 I would concede to the Court that if this corporation
6 had more than 100 shareholders, we would not -- excuse me, more
7 than 99 shareholders, we wouldn't be here today. If it was a
8 professional corporation, we wouldn't be here today. If it was
9 a public corporation, we wouldn't be here today. But we're
10 here today because the stock owned by the debtor is clearly
11 within the exceptions provided by Subsec 78 and exempted by NRS
12 21.090(1)(bb).

13 The Court also pointed out Subsection B. The
14 subsection states that the application of 78.746, the entire
15 section, does not deprive any stockholder of the benefit of any
16 exemption applicable to the stockholder stock, and therefore it
17 excludes from the terms and the scope of 78.746(1) corporate
18 stock of the type that's under review today. It would not
19 exclude stock if there were more than 99 shareholders. It
20 would not exclude stock of a professional corporation. It
21 would not exclude stock of a public corporation, but it does
22 exclude the stock that's owned by the debtors.

23 The debtors submit that so long as the stock is
24 exempt, as it is and it has been conceded to be, the charging
25 order remedy simply is not available. Now, that's not correct.

1 If the stock of a corporation that does otherwise meet the
2 requirements of 21-090(1)(bb) and 746(2), in other words, it
3 has fewer than 100 shareholders, it's not professional, et
4 cetera, but if it's still subject to the charging order, then
5 no stock, whether the stock meets the requirements of the
6 78.746(2) or otherwise, would ever be excluded from the reach
7 of the charging order and that just doesn't make any sense.
8 There would be no need for the language in B, as the Court
9 pointed out, if no stock, regardless of the circumstances,
10 would ever not be exempt from the availability of the charging
11 order.

12 The debtor submits that a statutory interpretation
13 that would find the charging order remedy applies to corporate
14 stock otherwise falling within the exclusionary language of
15 78.746(2) and under the protection of 78.746(2)(b) should not
16 be correct. There has to be stock, stock owned by this debtor,
17 that is exempt and is not subject to the charging order remedy
18 at all.

19 I would point out to the Court that over the past few
20 years the Nevada legislature has had many opportunities to
21 revisit 78.746(2), but rather than limit its scope, it has
22 acted to expand the type of stock that would be exempt from
23 creditor claims by increasing the number of stockholders a
24 corporation could have and still have it remain exempt from
25 creditor claims. Initially in 2007 a corporation qualified for

1 exemption if it had more than one shareholder, but less than
2 75. Now a corporation qualifies if it has fewer than one
3 stockholder and, more importantly, even a single stockholder
4 corporation can qualify for exemption. Our legislature changed
5 the law. When the law was first enacted, a single stockholder
6 corporation could not qualify; now that exemption has been
7 broadened. Clearly, the exemption provided by 21.090 through
8 78.746 is one that is to be broadly available.

9 If the Nevada Revised Statutes were meant to exempt
10 all stock or no stock at all, the legislature could have said
11 that, but it didn't. It limited the exemption to stock that's
12 described in 78.746(2)(c) and the Court can only give meaning
13 to that statute if it provides that the debtors' stock which
14 does fall within those terms, and which is protected by
15 Subsection B, is not subject to the charging order remedy.

16 Why is the definition of the stock qualifying for
17 exemption found in 78.746(2)(c) and not in 21.090(1)(bb)
18 itself? Well, it's to make sure that the charging order remedy
19 in 78.746(1) applies only to stock that 78.746(2)(b) and (c) do
20 not exclude and do not protect from the scope of 746(1). And
21 those statutes, those subsections protect stock of a
22 corporation that has 99 or fewer shareholders, is not a
23 professional corporation, and is not a publicly-held
24 corporation.

25 The issue at bar is really simple: does or doesn't

1 the charging order remedy of 78.746(1) apply to a corporation
2 with fewer than 100 stockholders, which is not a professional
3 corporation, or otherwise included with the exclusionary terms
4 of 78.746(2)(c). It doesn't, plain and simple. The stock is
5 exempt. The debtors' interpretation of the statute does not
6 make 746(1) and 2 superfluous as the movant claims it does. In
7 fact, it makes sense of the statutes. It simply limits the
8 application of Subsection 1 to stock that's included within the
9 scope of the charging order remedy because the stock does not
10 fall within the exclusionary provisions of Subsection 2 as
11 applied by 21.090(1)(bb) and is not protected by 78.746(b).

12 The movant's position is made clear when it states
13 21.090(1)(bb) does not exempt the economic interest in stock in
14 closely-held corporations but contains an express exemption for
15 the remedy set forth in 78.746(1). If the charging order
16 remedy will always be available to creditors of all closely-
17 held corporations, there would be no need for the statutory
18 delineation contained in 746(2)(c) and incorporated into
19 21.090(1)(bb). And there would be no need for the protection
20 provided by 78.746(2)(b), which protects the exemptions that
21 apply to this stock. The interpretation of the statute cannot
22 be correct if the charging order would apply to the stock of
23 the debtor if stock is an interest in a corporation with fewer
24 than 100 shareholders and is totally exempt from creditor
25 claims.

1 Counsel pointed out or tried to point out the
2 similarity between the charging order provisions in NRS 78 and
3 NRS 86. What I would point out to the Court is even though
4 both statutes refer to a charging order, NRS 86 does not have
5 any exclusionary language similar or identical to the
6 exclusionary language found in 78.746(2)(c), nor does it
7 contain the provision to protect exemptions. And the Court
8 also knows there's a difference between limited liability
9 companies, corporations, and partnerships.

10 The debtor's ability to exempt and retain his non-
11 economic interest in the stock due to the effect of a charging
12 order only comes into play if the stock is not exempt. If it's
13 exempt in the first place, the debtor prevails. The debtor
14 submits there's no allowable bifurcation of stockholder rights
15 if the stock is exempt. If it's exempt, 78.746(2)(b) provides
16 no part of the exemption can be denied. It says 78.746 does
17 not deprive any stockholder of the benefit of any exemption
18 applicable to the stockholder's stock, yet deprivation could
19 most certainly occur if the objectors are correct, if they're
20 entitled to get a charging order against the distributions the
21 debtors would otherwise receive from their stock interests.

22 21.090 describes property which is exempt from
23 execution. It does not determine which creditor remedies are
24 available. If property is not exempt, the exclusive remedy
25 provided in 78.746(1) is not, as the movant says, an exception

1 from any exemption granted by 21.090. If it was an exception
2 to exemption, then 21.090 would certainly speak to that.

3 The argument made by the movants, at least in their
4 written submissions, completely ignores the argument I've made
5 regarding Subsection B. There is no response at all made to
6 this point that I raised in my response regarding the
7 application of B. Movant did answer the Court's questions
8 today, but I would point out that that really is the heart of
9 our case. The only way the debtor's exemptions can be
10 protected is if this stock, which clearly falls within the
11 exclusionary language of the statute, is protected.

12 Finally, Your Honor, if the charging order remedy is
13 available to the movant, even if the debtor's stock is
14 otherwise and concededly exempt, the debtor will be deprived of
15 the benefit of any exemption applicable to that stock.
16 78.746(2)(b) says that cannot happen and therefore we submit
17 the movants' position is not correct. Thank you.

18 THE COURT: Thank you.

19 Rebuttal?

20 MR. SEGAL: Excuse me, Your Honor.

21 THE COURT: Certainly.

22 MR. SEGAL: Do I get three rebuttals?

23 THE COURT: No. You have to keep them very short, if
24 you do.

25 MR. SEGAL: Thank you, Your Honor.

1 MR. PAYNE: Your Honor, with all due respect, the
2 objectors did -- do not concede and have not conceded that the
3 interest of the debtor in this stock is entirely exempt. We do
4 concede that there is some exemption, that the non-economic
5 portion is exempt.

6 I think that the debtor's counsel's interpretation of
7 78.746 is simply incorrect. Subsection 2: "Subject to the
8 provisions of NRS 78.747, this section" -- and then if you go
9 down to C -- "applies only to a corporation that" -- and there
10 it has the size of the corporation, not a professional
11 corporation, et cetera. So it's incorrect to assume, as
12 debtor's counsel has, to argument that 746 exempts -- applies
13 to all closely-held corporations. The section, 78.746, applies
14 only to those particular types of closely-held corporations
15 that fall within the description of Subsection C.

16 THE COURT: Which would be most of them.

17 MR. PAYNE: Pardon?

18 THE COURT: Which would be most closely-held
19 corporations.

20 MR. PAYNE: Most closely-held corporations, yes, but
21 not professional corporations, et cetera. Okay?

22 And therefore, I think that the provision in
23 21.090(1)(bb) I think is appropriate, except as set forth in
24 that section. And I think Subsection 1 of 78.746 clearly is an
25 exception to an exemption because it specifically allows a

1 judgment creditor to go after the economic interest in the
2 stock by seeking a charging order. So that is an exception.

3 Furthermore, it's also not correct, as debtor's
4 counsel indicated, with respect to 86.401 applicable to limited
5 liability companies. 86.401(2)(b) has the same provision that
6 78.746(b) has. This section does not deprive any member of the
7 benefit of any exemption applicable to his or her interest, and
8 there's sort of a blanket statement. And even though, as Your
9 Honor has pointed out, there is no express exemption for LLC
10 interests in Nevada, there's this corresponding provision in
11 the LLC Act that talks about that same type of exemption, so I
12 think it's -- it appears that it's designed to not limit
13 whatever exemptions may be there, do not think it's appropriate
14 to interpret that as applying to somehow limiting the exemption
15 that's expressly set forth in 21.090(1)(bb) that says except as
16 set forth in 746.

17 There are a number of types of conceivable exemptions
18 that may apply potentially. 21.090(k), for example, provides
19 that any money, benefits, privileges, or immunities accruing in
20 any matter growing out of any life insurance policy, it's
21 conceivable that someone could have received stock in a
22 closely-held corporation somehow through life insurance.

23 Subsection X of 21.090, restitution for a criminal
24 act. If someone received stock in a closely-held corporation
25 as restitution, it may be unlikely, but it's certainly

1 conceivable.

2 (B)(2) would indicate if there's some basis for an
3 exemption, it's not going to be overruled, but I don't think it
4 should be interpreted to read out the exception that expressly
5 allows a judgment creditor to get a charging order and in that
6 manner execute on interest in a closely-held corporation, Your
7 Honor.

8 Counsel has talked about the burden of proof. We --
9 there's no dispute here that the stock is in a small closely-
10 held corporation that's within the description of the type of a
11 corporation described in 78.746(2)(c). There's no dispute as
12 to that. And as far as the burden of proof and what standard,
13 et cetera, this is a legal argument, Your Honor. I don't
14 believe there are any facts in dispute.

15 Counsel has also indicated that we have not come
16 forward with standards necessary for a charging order. The
17 statute does not contain the standards necessary for a charging
18 order. The Weddell v. H2O, Inc. case does not refer to or even
19 imply that there are standards necessary for a charging order
20 other than those set forth in the statute. There's no
21 indication that the word "may" in 78.746(1) allows a court
22 discretion. It's basically if there is stock to that effect
23 and a creditor seeks a charging order, it appears the creditor
24 is entitled to that charging order.

25 THE COURT: Well, I think they'd have to establish

1 that they were a judgment creditor and they would have to
2 establish that the person had stock.

3 MR. PAYNE: Certainly. Certainly. Certainly.

4 THE COURT: I think -- I mean, there certainly are
5 some standards.

6 MR. PAYNE: Yeah, but other than those set forth in
7 the statute, Your Honor, I don't think that there are any --
8 that there's any sort of other standards that would have to be
9 established, Your Honor.

10 We've -- I would submit that this stock is not
11 entirely exempt. The economic interest can be -- could be
12 reached -- have been reached by a judgment creditor outside of
13 bankruptcy. Now the debtor's in bankruptcy, it can --

14 THE COURT: No, it would be equally exempt outside of
15 bankruptcy too.

16 MR. SEGAL: Right.

17 MR. PAYNE: To the extent it's exempt.

18 THE COURT: I mean, they're state exemptions.

19 MR. PAYNE: Exactly. To the extent that -- yes, it
20 would not be -- it would be exempt only -- the economic
21 interest would not be exempt --

22 THE COURT: Okay.

23 MR. PAYNE: -- is our position, Your Honor, outside
24 of bankruptcy or in bankruptcy. And I think that the debtor's
25 argument ignores the fact that 21.090(1)(bb) talks about except

1 as stated in that section. I think that he's trying to kind of
2 conflate the sections and subsections, and furthermore, as I've
3 indicated, Paragraph 2 of 78.746 states that this section only
4 applies to this type of closely-held corporations that are
5 limited there. And -- but -- so -- for -- and again, I would
6 submit that under 21.090(bb), the last clause of that, except
7 as set forth in that section, to give that meaning, I think
8 that Subsection 1 of 78.746 has to be read as applying to any
9 closely-held corporation that falls within the section which
10 are those described in Subsection C and that would be the stock
11 of the debtor and these two closely-held corporations we're
12 talking about here today for which the debtors assert an
13 exemption and the debtor's exemption to those goes beyond
14 what's authorized by the statute. He's only entitled to exempt
15 the non-economic interests.

16 THE COURT: Okay. Thank you.

17 Well, here's what I'm going to do. I think there is
18 a clear conflict between 21.090(bb) and NRS 78.746 and which
19 references 78.747. I think probably what happened is when the
20 legislature enacted this, nobody paid any attention to the fact
21 that B appears to conflict with the other provisions of this
22 section and I think that's -- my belief is reinforced by the
23 fact that some other states have adopted similar things. I
24 suspect that there was some kind of model code that was looked
25 at and incorporated this, rather than some real discussion

1 about what the effect of (2)(b) was as opposed to NRS 21.090.

2 What I'm going to do is I'm going to certify this to
3 the Supreme Court under Nevada Rule of Appellate Procedure 5.
4 It's Nevada law, it's really their duty to interpret this.
5 I'll be anxious to see what they decide to do with this because
6 it will make my job easier next time I get one of these.

7 (Laughter)

8 THE COURT: But thank you all for your good and
9 spirited argument, I really just don't know the answer. We'll
10 be in recess.

11 MR. SEGAL: Thank you, Your Honor.

12 MR. PAYNE: Thank you, Your Honor.

13 UNIDENTIFIED: Thank you.

14 THE CLERK: Thank you, Your Honor.

15 All rise.

16 (Concluded at 2:52 p.m.)

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C E R T I F I C A T I O N

I, ILENE WATSON, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.



ILENE WATSON, AAERT NO. 447

DATE: September 15, 2014

ACCESS TRANSCRIPTS, LLC

I, LISA LUCIANO, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter, and to the best of my ability.



LISA LUCIANO, AAERT NO. 327

DATE: September 15, 2014

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District of Nevada Claims Register

13-14932-btb ERNEST AUGUST BECKER, V

Judge: BRUCE T. BEESLEY

Chapter: 7

Office: Las Vegas

Last Date to file claims: 11/19/2013

Trustee: WILLIAM A. LEONARD

Last Date to file (Govt):

Creditor: (8586250) CITY NATIONAL BANK C/O KOLESAR & LEATHAM 400 S. RAMPART BLVD., STE. 400 LAS VEGAS, NV 89145		Claim No: 1 Original Filed Date: 10/10/2013 Original Entered Date: 10/10/2013	Status: Filed by: CR Entered by: SHLOMO S. SHERMAN Modified:					
Amount	claimed:	\$240765.70						
Secured	claimed:	\$240765.70						
History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 10%;"></td> <td style="width: 10%;">1-1</td> <td style="width: 10%;">10/10/2013</td> <td style="width: 60%;">Claim #1 filed by CITY NATIONAL BANK, Amount claimed: \$240765.70 (SHERMAN, SHLOMO)</td> </tr> </table>				Details		1-1	10/10/2013	Claim #1 filed by CITY NATIONAL BANK, Amount claimed: \$240765.70 (SHERMAN, SHLOMO)
Details		1-1	10/10/2013	Claim #1 filed by CITY NATIONAL BANK, Amount claimed: \$240765.70 (SHERMAN, SHLOMO)				
Description: (1-1) Default Judgement re promissory note, personal guaranty								
Remarks: (1-1) Recorded Lien Judgment								

Creditor: (8805012) Ernest A. Becker, IV		Claim No: 2 Original Filed Date: 11/13/2013 Original Entered Date: 11/13/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:					
Amount	claimed:	\$172211.23						
History: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 10%;">Details</td> <td style="width: 10%;"></td> <td style="width: 10%;">2-1</td> <td style="width: 10%;">11/13/2013</td> <td style="width: 60%;">Claim #2 filed by Ernest A. Becker, IV, Amount claimed: \$172211.23 (WALTON, JAMES)</td> </tr> </table>				Details		2-1	11/13/2013	Claim #2 filed by Ernest A. Becker, IV, Amount claimed: \$172211.23 (WALTON, JAMES)
Details		2-1	11/13/2013	Claim #2 filed by Ernest A. Becker, IV, Amount claimed: \$172211.23 (WALTON, JAMES)				
Description: (2-1) Default Judgment re: Money Loaned to Debtor								
Remarks:								

Creditor: (8805014) EB Family Holdings, LLC		Claim No: 3 Original Filed Date: 11/13/2013 Original Entered Date: 11/13/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$476433.43	
History:			

10/3/2014

LIVE ECF

<u>Details</u>	<u>3-1</u>	11/13/2013	Claim #3 filed by EB Family Holdings, LLC, Amount claimed: \$476433.43 (WALTON, JAMES)
Description: (3-1) Money Loaned to Debtor			
Remarks:			

Creditor: (8814564) Melissa L. Longero, Trustee of Becker-Nevada Trust	Claim No: 4 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:	
Amount claimed: \$1881048.80			
History:			
<u>Details</u>	<u>4-1</u>	11/19/2013	Claim #4 filed by Melissa L. Longero, Trustee of Becker-Nevada Trust, Amount claimed: \$1881048.80 (WALTON, JAMES)
Description: (4-1) Contingent claim for contribution & reimbursement on coguarantees			
Remarks:			

Creditor: (8568128) SE Becker Limited Partnership 8090 S. Durango Dr. #115 Las Vegas, NV 89113	Claim No: 5 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:	
Amount claimed: \$669629.43			
History:			
<u>Details</u>	<u>5-1</u>	11/19/2013	Claim #5 filed by SE Becker Limited Partnership, Amount claimed: \$669629.43 (WALTON, JAMES)
Description: (5-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8814664) Sallie E. Becker, Trustee of the Sallie E. Becker	Claim No: 6 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:	
Amount claimed: \$4107287.29			
History:			
<u>Details</u>	<u>6-1</u>	11/19/2013	Claim #6 filed by Sallie E. Becker, Trustee of the Sallie E. Becker, Amount claimed: \$4107287.29 (WALTON, JAMES)
Description: (6-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8568064) KB Riggs Limited Partnership 8090 S. Durango Dr. #115 Las Vegas, NV 89113		Claim No: 7 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$669629.43	
History:			
Details		7-1	11/19/2013 Claim #7 filed by KB Riggs Limited Partnership, Amount claimed: \$669629.43 (WALTON, JAMES)
Description: (7-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8814673) Brian T. Becker, Trustee of The Briat T. Becker Se		Claim No: 8 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013 Last Amendment Filed: 11/20/2013 Last Amendment Entered: 11/20/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$4017287.29	
History:			
Details		8-1	11/19/2013 Claim #8 filed by Brian T. Becker, Trustee of The Briat T. Becker Se, Amount claimed: \$4017287.29 (WALTON, JAMES)
Details		8-2	11/20/2013 Amended Claim #8 filed by Brian T. Becker, Trustee of The Briat T. Becker Se, Amount claimed: \$4017287.29 (WALTON, JAMES)
Description: (8-1) Contingent claim for contribution & reimbursement coguarantees (8-2) Contingent claim for contribution & reimbursement on coguarantees			
Remarks: (8-2) Amended Proof of Claim			

Creditor: (8814680) Kathleen C. Becker		Claim No: 9 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$6475306.77	
History:			
Details		9-1	11/19/2013 Claim #9 filed by Kathleen C. Becker, Amount claimed: \$6475306.77 (WALTON, JAMES)
Description: (9-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8567987) BT Becker Limited Partnership 8090 S. Durango Dr. #115 Las Vegas, NV 89113		Claim No: 10 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount claimed: \$669629.43			
History:			
Details	10-1	11/19/2013	Claim #10 filed by BT Becker Limited Partnership, Amount claimed: \$669629.43 (WALTON, JAMES)
Description:			
Remarks:			

Creditor: (8814758) Kimberly Becker Riggs, Trustee of the Kimberly Bec		Claim No: 11 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013 Last Amendment Filed: 11/20/2013 Last Amendment Entered: 11/20/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount claimed: \$3152439.97			
History:			
Details	11-1	11/19/2013	Claim #11 filed by Kimberly Becker Riggs, Trustee of the Kimberly Bec, Amount claimed: \$3152439.97 (WALTON, JAMES)
Details	11-2	11/20/2013	Amended Claim #11 filed by Kimberly Becker Riggs, Trustee of the Kimberly Bec, Amount claimed: \$3152439.97 (WALTON, JAMES)
Description: (11-1) Contingent claim for contribution & reimbursement coguarantees (11-2) Contingent claim for contribution & reimbursement on coguarantees			
Remarks: (11-2) Amended Proof of Claim			

Creditor: (8814841) EA Becker IV & KC Becker, Trustees of the EAB & KC		Claim No: 12 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount claimed: \$5405055.54			
History:			
Details	12-1	11/19/2013	Claim #12 filed by EA Becker IV & KC Becker, Trustees of the EAB & KC, Amount claimed: \$5405055.54 (WALTON, JAMES)
Description: (12-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8814908) Sallie E. Becker		Claim No: 13 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$15724861.92	
History:			
Details		13-1	11/19/2013 Claim #13 filed by Sallie E. Becker, Amount claimed: \$15724861.92 (WALTON, JAMES)
Description: (13-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8815032) Brian T. Becker		Claim No: 14 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$15908815.22	
History:			
Details		14-1	11/19/2013 Claim #14 filed by Brian T. Becker, Amount claimed: \$15908815.22 (WALTON, JAMES)
Description: (14-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8815059) Kimberly Becker Riggs		Claim No: 15 Original Filed Date: 11/19/2013 Original Entered Date: 11/19/2013	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount	claimed:	\$12960960.96	
History:			
Details		15-1	11/19/2013 Claim #15 filed by Kimberly Becker Riggs, Amount claimed: \$12960960.96 (WALTON, JAMES)
Description: (15-1) Contingent claim for contribution & reimbursement coguarantees			
Remarks:			

Creditor: (8805012) Ernest A. Becker, IV		Claim No: 16 Original Filed Date: 11/19/2013 Original Entered	Status: Filed by: CR Entered by: JAMES H. WALTON Modified:
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Date: 11/19/2013	
Amount claimed:	\$8046984.84
History:	
Details	16-1 11/19/2013 Claim #16 filed by Ernest A. Becker, IV, Amount claimed: \$8046984.84 (WALTON, JAMES)
Description: (16-1) Contingent claim for contribution & reimbursement coguarantees	
Remarks:	

Creditor: (8814758) Kimberly Becker Riggs, Trustee of the Kimberly Bec	Claim No: 17 Original Filed Date: 11/20/2013 Original Entered Date: 11/20/2013	Status: Withdrawn 88 Filed by: CR Entered by: JAMES H. WALTON Modified:
Amount claimed:	\$3152439.97	
History:		
Details	17-1 11/20/2013 Claim #17 filed by Kimberly Becker Riggs, Trustee of the Kimberly Bec, Amount claimed: \$3152439.97 (WALTON, JAMES)	
	88 11/20/2013 Withdrawal of Claim: 17 (Attachments: # 1 Exhibit)(WALTON, JAMES) Status: Withdrawn	
Description: (17-1) Contingent claim for contribution & reimbursement on coguarantees		
Remarks: (17-1) Amended Proof of Claim		

Claims Register Summary

Case Name: ERNEST AUGUST BECKER, V

Case Number: 13-14932-btb

Chapter: 7

Date Filed: 06/05/2013

Total Number Of Claims: 17

Total Amount Claimed*	\$83730787.22
Total Amount Allowed*	

*Includes general unsecured claims

The values are reflective of the data entered. Always refer to claim documents for actual amounts.

	Claimed	Allowed
Secured	\$240765.70	
Priority		

10/3/2014

LIVE ECF

Administrative

PACER Service Center			
Transaction Receipt			
10/03/2014 15:35:52			
PACER Login:	sml126:2637522:0	Client Code:	/ / becker
Description:	Claims Register	Search Criteria:	13-14932-btb Filed or Entered From: 6/5/2013 Filed or Entered To: 10/3/2014
Billable Pages:	2	Cost:	0.20