

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

1 fraudulent actions or omissions. The proposed Amended Answer, Counterclaim and Third
2 Party Complaint is essential as it will afford the parties an opportunity for complete relief on
3 this matter, will avoid a second suit against Tassinari and American Vantage Brownstone, LLC
4 on these very issues, and will avoid the potential for conflicting determinations in this and any
5 subsequent suit. Therefore, Amendment should be permitted at this time as such amendments
6 are freely given by Nevada Courts in the absence of prejudice.

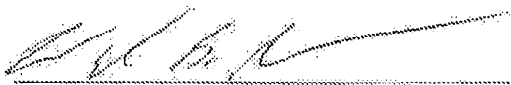
7 **III.**

8 **CONCLUSION**

9 Based upon the foregoing, Sunridge and Mendenhall respectfully request an order from
10 this Honorable Court granting this Motion for Leave allowing them to file and serve the
11 Amended Answer, Counterclaim and Third-Party Complaint, a copy of which is attached hereto
12 as Exhibit 6. This Motion is brought timely and in good faith and does not unduly prejudice
13 any of the parties herein.

14 Dated this 18th day of July 2014.

15 **HOWARD & HOWARD ATTORNEYS PLLC**

16
17 
18 _____
19 Gwen Rutar Mullins, Esq.
20 Nevada Bar No. 3146
21 Wade B. Gochnour, Esq.
22 Nevada Bar No. 6314
23 3800 Howard Hughes Pkwy., Ste. 1000
24 Las Vegas, Nevada 89169-5914
25 *Attorneys for Defendants Robert Mendenhall and*
26 *Sunridge Corporation*
27
28

#2631693.v6

EXHIBIT 1

EXHIBIT 1

AMERICAN VANTAGE BROWNSTONE, LLC A SUBSIDIARY OF AMERICAN VANTAGE COMPANIES

Phone: (702) 227-9800 -- Fax: (702) 227-8925

P.O. Box 81920, Las Vegas, NV 89180

**CARSON VALLEY CASINO PROJECT
TERM SHEET**Transaction:

This term sheet shall serve as an outline of the basic business terms and conditions upon which Brownstone GoldTown, LLC ("Brownstone GoldTown"), a subsidiary of American Vantage Brownstone, LLC ("AVBS"), Robert L. Mendenhall, Ph.D. or an entity wholly-owned by Mr. Mendenhall ("Mendenhall"), and other potential equity investor(s) (the "Other Investor(s)"), will acquire membership interests in the Nevada limited liability company, Brownstone GoldTown CV, LLC (the "Company"), for the primary purpose of constructing, owning and operating a hotel casino to be located in Carson Valley, Douglas County, Nevada (the "Project").

Project Description:

GoldTown Hotel and Casino Resort, to be constructed on 46 acres, with approximately 300 hotel rooms and suites, 72,000+ square feet of casino space, three full service restaurants, 8,000 square feet of convention space and multiple retail outlets. The project site is located within a few miles of Carson City and Lake Tahoe, Nevada and forty-five minutes from Reno, Nevada.

The Project also includes the exclusive option to purchase an adjoining 300-acre, 7,000 yard, par 72, championship golf course ("Sawridge Golf Club") with pro shop. The option to purchase Sawridge Golf Club expires on January 11, 2008.

Ownership of the
Company:

The Project membership interests (the "Membership Interests") will be allocated based on the following:

- * For contribution of the 46-acre project site, valued at \$15,000,000.00, Mendenhall will receive a 29.0% Membership Interest. The acreage will be contributed in full on or before the option expiration date of December 31, 2007 or as mutually agreed between Brownstone GoldTown and Mendenhall.

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MEN00670

Brownstone GoldTown, LLC
 Carson Valley Casino Project
 Term Sheet
 Page Two

- * It is expected that the Other Investor(s) will contribute \$7,000,000.00 U.S. dollars for a 12.6% Membership Interest.
- * Brownstone GoldTown will contribute \$1,500,000.00 U.S. dollars for a 2.7% Membership Interest.
- * The option to purchase Sandridge Golf Club provides that, at the discretion of Brownstone GoldTown:
 - o The total Purchase Price of \$2,500,000.00 U.S. dollars; or,
 - o A Purchase Price of \$1,000,000.00 U.S. plus assumption of the golf cart loan, in an amount not to exceed \$150,000.00, and an equity percentage share of the Company in the same manner and terms as the other equity investors of the Company. The equity percentage share is currently equal to a 2.7% Membership Interest.

If Brownstone GoldTown elects to purchase the Sandridge Golf Course for the total Purchase Price of \$2,500,000.00, the related 2.7% Membership Interest will be allocated on a pro rata basis to Mandenhall, the Other Investor(s) and Brownstone GoldTown.

- * The above contributions are collectively defined as the "Project Contributions."
- * Brownstone GoldTown will retain the remaining Membership Interest at its founding.

The total Membership Interests may be impacted if there is an increase in the current investment banking equity requirement of \$25,000,000.00.

Allocation of Casino
 And Retail Business
 Cash Flows:

The Operating Agreement will provide for quarterly distribution, if and when available, of the Company's Casino cash flow, after payment of operating expenses (including a development fee of 3.0% of the total development costs and an annual management fee of \$1,000,000.00), senior debt covenants and any required reserves, in the following manner:

- * Fifty-percent (50%) to the pro rata repayment of the Project Contributions until, together with the distributions from the Retail Business cash flow (see below), the full value of the Project Contributions is repaid. Distributions from the Company's Casino

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Brownstone GoldTown, LLC
Canyon Valley Casino Project
Term Sheet
Page Three

cash flow will first satisfy the pro rata repayment of the Project Contributions, with repayment interest terms based on the higher of 90-Day LIBOR (London Interbank Offered Rate) at the date of the contribution or an annual rate of 6%.

- * Remaining 50% to be allocated based upon the percentage of Membership Interests held by each member in the Company.

The Operating Agreement will also provide for monthly distributions of the Company's Retail Business cash flow, if and when available, after payment of operating expenses (including development and management fees), senior debt covenants and any required reserves, in the following manner:

- * Seventy-percent (70%) to the pro rata repayment of the Project Contributions will, together with the distributions from the Company's Casino cash flow (as discussed above), the full value of the Project Contributions is repaid. Distributions from the Company's Retail Business cash flow will first satisfy the pro rata repayment of the Project Contributions, with repayment interest terms based on the higher of 90-Day LIBOR (London Interbank Offered Rate) at the date of the contribution or an annual rate of 6%.
- * Remaining 30% to be allocated based upon the percentage of Membership Interests held by each member in the Company.

The Operating Agreement shall provide that, upon the repayment of the full value of the Remaining Membership Interests, the Company's Casino and Retail Business cash flows will be distributed according to the percentage of Membership Interests held by each member in the Company.

Refinancing

In the event a refinancing of the Project is approved by the Company, after payment of the senior debt, any excess capital realized from the refinancing shall be applied, collectively determined on a pro rata basis from capital contributions, in the following manner to: (i) the Other Investors(s), Mendocino, Brownstone GoldTown, and as applicable, the Sanridge Golf Club seller, to the extent that the Project Contributions have not been repaid from the distributions of Casino cash flow and Retail Business cash flow; and (ii) distributed according to the percentage of Membership Interests held by each member in the Company.

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Brownstone Gold Town, LLC
Carson Valley Casino Project
Term Sheet
Page Four

Licensing

The Project owners will be required to satisfactorily obtain a Nevada gaming license. Costs associated with obtaining a Nevada gaming license for a director, employee or consultant directly associated with the development or management of the Project are the only licensing costs that will be borne by the Project.

Exclusivity:

Non-exclusive arrangement.

Termination of Agreement

The Term Sheet may be terminated if not executed by the parties on or before _____.

* * * *

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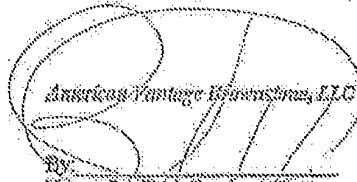
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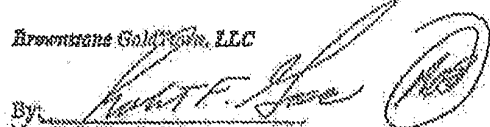
Brownstone GoldTown, LLC
Carson Valley Casino Project
Term Sheet
Page Five

IN WITNESS WHEREOF, the parties have agreed upon the above terms and conditions of this Term Sheet. This Term Sheet consent may be executed by one or more of the signers hereto in any number of separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Execution of this Term Sheet and delivery thereof by facsimile or email transmission shall be sufficient for all purposes and shall be binding upon any party who so executes.

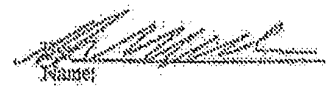
Dated: 12/11 2007


American Venture Brownstone, LLC
By: _____
Name: Robert F. Gross
Title: Chairman

Brownstone GoldTown, LLC


By: _____
Name: Robert F. Gross
Title: Chief Executive Officer

Robert L. Mendenhall, Ph.D. or Other


Name: _____
Title: _____
Company Name: _____

Other Investor(s):


By: _____
Name: _____
Title: _____

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EXHIBIT 2

EXHIBIT 2

1 *****THIS UNEDITED ROUGH DRAFT OF THE PROCEEDINGS IS NOT
2 CERTIFIED. THE ROUGH DRAFT TRANSCRIPT MAY NOT BE CITED OR
3 USED IN ANY WAY OR AT ANY TIME TO REBUT OR CONTRADICT THE
4 CERTIFIED TRANSCRIPTION OF THE PROCEEDINGS. THERE WILL BE
5 DISCREPANCIES IN THIS FORM AND THE FINAL FORM, BECAUSE THIS
6 DRAFT HAS NOT BEEN EDITED, PROOFREAD, CORRECTED, FINALIZED,
7 INDEXED, BOUND OR CERTIFIED. THERE WILL ALSO BE A
8 DISCREPANCY IN PAGE NUMBERS APPEARING ON THE UNEDITED ROUGH
9 DRAFT AND THE EDITED, PROOFREAD, CORRECTED AND CERTIFIED
10 FINAL.
11
12

13 VIDEOGRAPHER: Good morning. We are now on the
14 record at 9: 11 a.m.. On July 14, 2014 This is the video
15 recorded deposition of Ronald Tassinari. My name is Mark
16 states, here with our court reporter Barbara Justl. We are
17 here from the firm Veritext legal solution goes at the
18 request of counsel for the defendant. This deposition is
19 being held at 3800 Howard Hughes Parkway, Suite 1000, Las
20 Vegas, Nevada, 89169. The caption of this case is Brownstone
21 Goldtown LLC versus Robert Mendenhall, case number
22 A-11-65322-C. Please note that audio and video recording
23 will take place unless all parties agree to go off record.
24 Micro fence are sensitive and may pick up whispers, private
25 conversations and cellular interference. I am not authorized

1

1 Q. That you guys -- the Brownstone entities are
2 claiming that there was a breach of, correct?
3 A. Correct.
4 Q. And if you could have you turn back to page 5,
5 please, the fifth page of the exhibit, the signature page.
6 And there's a signature for American Vantage
7 Brownstone LLC.
8 A. Yes.
9 Q. Is that your signature?
10 A. Yes.
11 Q. Are you familiar with Mr. Gross's signature?
12 A. Looks like his.
13 Q. And was Mr. Gross the chief executive officer of
14 Brownstone Goldtown LLC?
15 A. He was.
16 Q. I'm sorry, in December of 2007?
17 A. Yes.
18 Q. And then there's the other investor. Can you tell
19 me whose signature that is?
20 A. Looks like mine.
21 Q. Looks like yours. Why would you have been the other
22 investor in this agreement?
23 A. You know, I don't remember, but that is definitely
24 my signature.
25 Q. Well, were you committing to put \$7 million into

1 this project as of December 4, 2007?

2 A. I did not make a commitment to put \$7 million into
3 this project on December 4, 2007.

4 Q. Can you please tell me why you signed on behalf of
5 other investors?

6 A. I can't tell you today. I don't remember.

7 Q. Did you think signing on behalf of other investors
8 had any legal consequences to you?

9 A. Never really thought about it.

10 Q. So you didn't think signing as an other investor in
11 an agreement that you're claiming is a binding contract would
12 have any legal ramifications to you?

13 MR. MARQUIS: Object to the form of the question.

14 THE WITNESS: Correct.

15 BY MR. GOCHNOUR:

16 Q. Looking now, Mr. Tassinari, again we've been through
17 this question so you probably are expecting it. What is it
18 about this term sheet that you believe creates a binding
19 contract?

20 A. You know, this term sheet, you know, wasn't
21 something that, you know, just on December 4 we got in a room
22 and decided to put together. We'd been working with
23 Mr. Mendenhall for awhile on this and we had talked about the
24 project. He liked it, wanted to do it, agreed to do it, and
25 signed the document that says it's legally binding intending

EXHIBIT 3

EXHIBIT 3

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4

5
6 BROWNSTONE GOLD TOWN, LLC, a
7 Nevada limited liability company,
8 BROWNSTONE GOLD TOWN CV, LLC, a
9 Nevada limited liability company,
10 Plaintiffs,
11 vs.
12 ROBERT L. MENDENHALL, an
13 individual, SUNRIDGE CORPORATION,
14 A Nevada corporation, and DOES 1
15 through 10, inclusive,
16 Defendants.
17
18 Case No. A-11-653822-C

19 VIDEOTAPED DEPOSITION OF ANNA M. MORRISON
20 Las Vegas, Nevada
21 Thursday, July 3, 2014
22 Volume I
23
24

25 Reported by:
BARBARA R. JUSTL
CSR No. 878
Job No. 1884749

PAGES 1 - 240

21 A There was a binding agreement that was reached in
22 approximately the end of 2007 that was signed between
23 Mendenhall, Brownstone and a Canadian investor.
24 Q Do you recall the title of that agreement?
25 A I'd have to see the document to get the specific

25

1 title.

2 Q Were you involved at all in the negotiations of
3 that agreement?

4 A I was not involved in the negotiation.

5 Q And without looking at the document, do you have
6 any understanding -- you believe it was a binding
7 agreement, correct?

8 A I do believe that. I understand that.

9 Q Why do you -- as you sit here today, what makes
10 you believe that it was a binding agreement?

11 A I would have seen the document at the time. I
12 read the document, and it clearly states so in the
13 document.

14 Q Do you recall any terms that weren't contained in
15 the agreement that needed to be still worked out in order
16 to allow the relationship that set forth to go forward?

17 A Not that I'm aware of.

18 Q Okay.

19 A Or remember.

20 Q And in all fairness, I'm just doing a little
21 memory test on you here.

23 A Correct.

24 Q And Mr. Mendenhall's signature line has a
25 signature on it?

27

1 A Correct.

2 Q And then it says "Other investor." Do you know
3 who that other investor is?

4 A It's hard to read, isn't it. I don't know.

5 Q Do you know who any other potential investors were
6 about December 4th of 2007?

7 A At that time, we were talking with a Canadian
8 group.

9 Q Do you have any -- was there a particular -- was
10 it a group? Was it an individual?

11 A They had a contact person. His name was Robert
12 Sim.

13 Q Now, I know it's been a long time since you've
14 probably seen this, but what language in this agreement
15 makes you believe that this is a binding agreement?

16 A If you look at the signature page --

17 Q Sure.

18 A -- on the paragraph at the top of the page, the
19 last sentence, "shall be binding upon any party who so
20 executes."

21 Q Let me ask you, during your time at American
22 Vantage and/or in dealing with Brownstone, was this a
23 typical contract form that you entered into in order to

1 being in charge or leading the Canadian investor group.

2 Richard Coglon I don't remember. I feel like I
3 should know that name, but I just don't remember
4 specifically who he is. I'm sure I'll remember it about
5 2 o'clock this morning.

6 Q And during 2007, do you know, were there term
7 sheets being provided to other investors, potential
8 investors in the Gold Town project?

9 A '07. I would have to actually see the documents
10 to be able to tell you for sure, but I would have thought
11 that at least discussions. I don't know if -- I don't
12 remember if they got to the level of a term sheet.

13 Q Now, the Canadian investors, were they the other
14 investors that signed the term sheet that's Exhibit 1?

15 A As I mentioned, I don't recognize that signature
16 that's there.

17 Q Okay.

18 A So I can't assert that that's definitely who it
19 was or who signed it.

20 Q But you don't have any recollection of discussions
21 about who the other investor was?

22 A The other investor that there were discussions
23 with was the Canadian group.

24 Q I'm sorry, could I have you look back at
25 Exhibit 1?

1 A Oh, 1?

2 Q Yes.

3 A Uh-huh.

4 Q Second page, top item says, "It is expected the
5 Other Investors will contribute \$7 million U.S. for a
6 12.6 percent Membership Interest."

7 Does that refresh your recollection as to whether
8 the other investor was the Canadian group you're talking
9 about?

10 A Yes.

11 Q It does refresh your recollection?

12 A I do believe the other investor was the Canadian
13 group.

14 Q Okay.

15 A I just don't know who the signer was.

16 Q Okay. And is it your belief that -- the term
17 sheet was binding on all the parties that signed it,
18 right?

19 A Correct.

20 Q Including Mr. Mendenhall?

21 A Yes.

22 Q Including Brownstone?

23 A Yes.

24 Q And American Vantage?

25 A Yes.

1 Q And the other investor?

2 A Correct. I do want to clarify, American Vantage
3 Companies did not sign this term sheet, American Vantage
4 Brownstone did --

5 Q Okay.

6 A -- which was a subsidiary, wholly owned.

7 Q Not the same thing?

8 A Not the same thing, just to clarify.

9 Q No, I appreciate that. Thank you.

10 Other than the Canadian group and Mr. Mendenhall,
11 do you recall any other potential investors that
12 Mr. Gross or Mr. Tassinari were talking to in 2007 about
13 the Gold Town project?

14 A You'd have to address that question to them.

15 Q I'm just asking, you don't recall any?

16 A No.

17 Q Now the Canadian group, did they end up investing
18 in Gold Town?

19 A How so.

20 Q Did they invest any money in Gold Town?

21 A They -- we entered into -- yes, the answer is
22 yes.

23 Q What did they invest into the Gold Town group --
24 into the Gold Town project, excuse me?

25 A There were three promissory notes.

EXHIBIT 4

EXHIBIT 4

1 *****THIS UNEDITED ROUGH DRAFT OF THE PROCEEDINGS IS NOT
2 CERTIFIED. THE ROUGH DRAFT TRANSCRIPT MAY NOT BE CITED OR
3 USED IN ANY WAY OR AT ANY TIME TO REBUT OR CONTRADICT THE
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9 DRAFT AND THE EDITED, PROOFREAD, CORRECTED AND CERTIFIED
10 FINAL.

11

12 MR. MARQUIS: Marquis.

13 MR. GOCHNOUR: Gochmour

14 VIDEOGRAPHER: Good morning, we are on the record at
15 9: 18 a.m. on July 11, 2014. This is the video recorded
16 deposition of Robert F. Gross. My name is Kenneth Laursen,
17 here with our court reporter Barbara Justl. We are here from
18 Veritext legal solutions at the request of Wade V. Gochmour,
19 Esq., at the firm of Howard and Howard, Counsel for the
20 defendant. This deposition is being held at the offices of
21 Howard and Howard, 3800 Howard Hughes Parkway, Suite 1000,
22 Las Vegas, Nevada, 89169. The caption of this case is
23 Brownstone Gold town LLC et al versus Robert L. Mendenhall et
24 al. This is case number A. dash 116 538 22 dash C. in
25 District Court, Clark County, Nevada. Please note that audio

1

f

1 A. Correct.

2 Q. And you're on the signature page still, correct?

3 A. Yes.

4 Q. Who is the other investor who signed this?

5 A. I can't see the signature here. The investor -- I

6 believe that is American Vantage or signed by American

7 Vantage.

8 Q. You're still on the signature page, correct?

9 A. Uh-huh, yes, correct.

10 Q. The top signature is American Vantage Brownstone

11 LLC?

12 A. Uh-huh.

13 Q. Yes?

14 A. Yes.

15 Q. And you think that the bottom one that says other

16 investor, parentheses, S., is also American Vantage?

17 A. To the best of my knowledge, yes. It looks like the

18 same signature. I can't read this copy that well but --

19 Q. Okay. Well, let me ask you, as of December 4th,

20 2007, what other investors did the Brownstone entities have

21 signed on for this project for the Goldtown casino project?

22 A. Other investors would be Bob Sim from Canada. Other

23 investors would be -- would be entities through Bob Sim

24 whether it's level ten or whatever entity he would come in

25 with who agreed to participate.

1 Q. Was there a separate term sheet or other document
2 signed between the Brownstone entities and Bob Sim or one of
3 his entities?

4 A. We had loan documents through level ten for
5 approximately a million dollars towards the project. We had
6 a term sheet for Bob Sim but right now I can't -- I just
7 don't remember. I'd have to look in my documents.

8 Q. Well, you looked in your documents to prepare as a
9 30(b)(6) representative today, correct?

10 A. Correct.

11 Q. And do you recall seeing a term sheet that was ever
12 signed by Bob Sim or one of his entities?

13 A. No.

14 Q. And can I have you turn to the second page of the
15 term sheet, please. Let me ask you, let me back up a second
16 first. With regard to that other investor signature, if you
17 don't recognize who that is, would there be somebody else who
18 would have more knowledge than you as to who that might be?

19 A. I don't know. I would have to get a better copy
20 than this and -- corporate maybe.

21 Q. When you say corporate, who would that be?

22 A. Mr. Tassinari or -- who was in the corporate
23 office.

24 Q. We're going to take just a second to adjust your
25 microphone so the videographer can hear what you're saying?

1 Q. And are you aware of any other signed term sheets
2 other than Exhibit 1?

3 A. No.

4 Q. And just so we're clear, when I say any other, I
5 mean between Brownstone entities and any other potential
6 investor, not just another one with Mr. Mendenhall or sun
7 ridge or anything like that, just are there any other signed
8 term sheets that you're aware of relating to the Goldtown
9 casino project?

10 A. As far as Brownstone entity that I was in charge of,
11 no.

12 Q. Is there a term sheet you're aware of that relates
13 to a non Brownstone entity that you're in charge of?

14 A. Not to my recollection.

15 Q. I just want to be sure because you seemed to make a
16 differentiation?

17 A. Well, there is a difference because I ran
18 Brownstone. I was not in corporate. So American Vantage, I
19 don't know.

20 Q. On page 2, the first bullet on the top of that
21 page --

22 A. Uh-huh.

23 Q. -- it says it is expected that the other investors
24 will contribute seven million U.S. dollars for a 12 point
25 6 percent membership interest. Does that help you recall who

1 the other investors were?

2 A. The other investor would be Bob Sim.

3 Q. Because Bob Sim was signed on to contribute
4 \$7 million to the Goldtown casino project?

5 A. Bob Sim committed seven million or more.

6 Q. And just so I'm clear, does that tell you that Bob
7 Sim is the other investor rather than American Vantage or
8 you're not sure?

9 A. I'm not sure on the signature.

10 Q. But you recall that Bob Sim had committed \$7 million
11 to the project?

12 A. Correct.

13 Q. What was that \$7 million to be used for?

14 A. As equity into the project.

15 Q. But it wasn't just going to [sit/is it] in a bank
16 account as equity, it was actually going to be used for
17 something, correct?

18 A. Correct. That was the portion of equity we needed
19 to move the project.

20 Q. What was that portion of the equity to move the
21 project going to be used for?

22 A. Development of the project.

23 Q. Like predevelopment, actual construction, what?

24 A. Construction. Predevelopment and construction. All
25 of the above.

1 Q. And as of December 4th, 2007, were there any
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EXHIBIT 5

EXHIBIT 5

HOWARD & HOWARD ATTORNEYS PLLC
3838 Howard Hughes Parkway
Wells Fargo Tower, Suite 1000
Las Vegas, Nevada 89169
(702) 257-1483

AFFIDAVIT OF ROBERT L. MENDENHALL

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I, ROBERT L. MENDENHALL, being first duly sworn, depose and state:

1. I am over 18 years of age, a resident of the State of Nevada, and competent to testify to the matters contained in this Affidavit, which are based upon my personal knowledge, except as to those matters that are based upon my information and belief. As to those matters, I believe them to be true.

2. This Affidavit is given in support of Defendants' Motion for Leave to Amend on Order Shortening Time ("Motion").

3. On either December 4 or December 5, 2007, a Term Sheet was executed by American Vantage Brownstone, LLC (not a party to this action), Brownstone Gold Town, LLC, "Other Investor(s)" and me.

4. A true, correct and authentic copy of the Term Sheet is attached as Exhibit 1 to the Motion and incorporated herein by this reference.

5. The Term Sheet provides in pertinent part:

This term sheet shall serve as an outline of the basic business terms and conditions upon which Brownstone GoldTown, LLC ("Brownstone GoldTown"), a subsidiary of American Vantage Brownstone, LLC ("AVB"), Robert L. Mendenhall, Ph.D. or an entity wholly-owned by Mr. Mendenhall ("Mendenhall"), and other potential equity investor(s) (the "Other Investors"), will acquire membership interests in the Nevada limited liability company, Brownstone GoldTown CV, LLC (the "Company") for the primary purpose of constructing, owning and operating a hotel casino to be located in Carson Valley, Douglas County, Nevada (the "Project").

6. The Term sheet further provides in relevant part:

The Project membership interests (the "Membership Interests") will be allocated based on the following:

///

1 * For contribution of the 46-acre project site, value at
2 \$15,000,000, Mendenhall will receive a 27% Membership
3 Interest. The acreage will be contributed in full on or
4 before the option expiration date of December 27, 2007 or
5 as mutually agreed between Brownstone GoldTown and
6 Mendenhall.

7 * It is expected that the Other Investor(s) will contribute
8 \$7,000,000.00 U.S. Dollars for a 12.6% Membership
9 Interest.

10 * Brownstone GoldTown will contribute \$1,500,000.00 U.S.
11 dollars for a 2.7% Membership Interest.

12 7. I was told by Ronald Tassinari and Robert Gross that they had a Canadian group
13 of equity investors that would be committing to contribute \$7,000,000.00 to acquire a 12.6%
14 Membership Interest in Brownstone GoldTown CV, LLC, and that the Canadian group would
15 also be signing the Term Sheet.

16 8. In reliance on these representations, I signed the Term Sheet, and returned the
17 Term Sheet to Mr. Tassinari and Mr. Gross on December 5, 2007.

18 9. That same day, December 5, 2007, a fully executed copy of the Term Sheet was
19 faxed back to me, with all of the signature lines completed.

20 10. I was never told that the Canadian group did not sign the Term Sheet.

21 11. I was never told that Ronald Tassinari signed the Term Sheet as the "Other
22 Investor(s)," rather than the third party Canadian group that I had been told would be the "Other
23 Investor(s)."

24 12. I was also never told that despite signing the Term Sheet as the "Other
25 Investor(s)" that Ronald Tassinari had no expectations or intent of contributing \$7,000,000.00.

26 13. It was my understanding that it was the Canadian group that had signed as the
27 "Other Investor(s)."

28 14. It has been my understanding and contention all along that the Term Sheet is not
 meant to be, nor was it ever a binding contract. It was my understanding that an amended
 Operating Agreement of Brownstone Gold Town, CV, LLC would still need to be negotiated

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1 and agreed to, and if and when that occurred, and should all parties agree and still wish to move
2 forward, the amended Operating Agreement would govern the rights of the Company and its
3 Members.

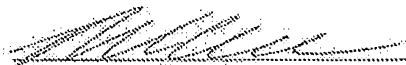
4 15. On the other hand, it is my understanding that Plaintiffs, including Mr. Tassinari,
5 now contend that the Term Sheet is a binding contract for my obligations requiring me to
6 contribute the real property, while it is non-binding and has no legal ramifications to the "Other
7 Investor(s)" or to the Plaintiffs.

8 16. Again, before I signed the Term Sheet, I was told that other third party investors
9 (a Canadian group) would be committing to contribute \$7,000,000.00 in exchange for a 12.6%
10 Membership Interest in Brownstone Gold Town CV, LLC, for the potential development of the
11 Gold Town Casino project. In signing the Term Sheet I relied on those representations and
12 would not have signed the Term Sheet had I known that those representations were false and
13 untrue and that there was no third party investor group who would be committing to contribute
14 \$7,000,000.00. I was misled to believe that the Canadian group had signed the Term Sheet and
15 would be committing to contribute the \$7,000,000 to this project.


16 17. Had I been aware of the true facts, i.e. that Mr. Tassinari was signing as the
17 "Other Investor(s)" with no intent or expectation of contributing \$7,000,000, I would not have
18 signed the Term Sheet.

19 Further your affiant sayeth naught.

20 DATED this 18 day of July 2014.

21
22 
23 ROBERT L. MENDENHALL

24 SUBSCRIBED AND SWORN TO
25 before me this 18th day of July 2014.

26 
27 NOTARY PUBLIC in and for
28 said County and State.

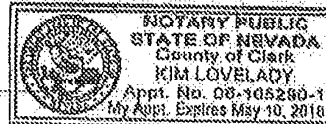


EXHIBIT 6

EXHIBIT 6

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1 AANS
2 GWEN RUTAR MULLINS, ESQ.
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12 wbg@h2law.com
13 *Attorneys for Defendants Robert L. Mendenhall*
14 *and Sunridge Corporation*

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

17 BROWNSTONE GOLD TOWN, LLC, a
18 Nevada limited liability company,
19 BROWNSTONE GOLD TOWN CV, LLC, a
20 Nevada limited liability company,

21 Plaintiffs,

22 vs.

23 ROBERT L. MENDENHALL, an individual,
24 SUNRIDGE CORPORATION, A Nevada
25 corporation, and DOES 1 through 10, inclusive,

26 Defendants.

27 ROBERT L. MENDENHALL, SUNRIDGE
28 CORPORATION, a Nevada corporation,

Counterclaimants,

v.

BROWNSTONE GOLD TOWN, LLC, a
Nevada limited liability company,
BROWNSTONE GOLD TOWN CV, LLC, a
Nevada limited liability company.

Counterdefendants.

Case No. A-11-653822-C
Dept. No. XXVIII

**DEFENDANTS' AMENDED ANSWER TO
COMPLAINT, COUNTERCLAIM AND
THIRD PARTY COMPLAINT**

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1 ROBERT L. MENDENHALL, SUNRIDGE
2 CORPORATION, a Nevada corporation,

3 Third Party Plaintiffs,

4 v.

5 RONALD TASSINARI, an individual,
6 AMERICAN VANTAGE BROWNSTONE,
7 LLC, a Nevada limited liability company,
8 DOES 1 through 5, inclusive and ROE
CORPORATIONS 1 through 5, inclusive,

9 Third Party Defendants.

10 **DEFENDANTS' AMENDED ANSWER TO COMPLAINT, COUNTERCLAIM AND**
11 **THIRD PARTY COMPLAINT**

12 Defendant ROBERT L. MENDENHALL ("Mendenhall") and Defendant SUNRIDGE
13 CORPORATION ("Sunridge") (jointly also referred to as "Defendants"), by and through their
14 counsel of record, Gwen Rutar Mullins, Esq. and Wade B. Gochmour, Esq., of the law firm of
15 Howard & Howard Attorneys PLLC, hereby file this Amended Answer and hereby respond and
16 allege as follows:

17 **FIRST CLAIM FOR RELIEF**

18 **(Breach of Contract)**

19 1. Answering Paragraphs 1, 2, 6, 10 and 11 of the Complaint, Mendenhall and
20 Sunridge do not have sufficient knowledge or information upon which to base a belief as to the
21 truth of the allegations contained therein, and upon said grounds, denies each and every
22 allegation contained therein.

23 2. Answering Paragraphs 3, 4 and 8 of the Complaint, Mendenhall and Sunridge
24 admit the allegations contained therein.

25 3. Answering Paragraph 5 of the Complaint, Mendenhall and Sunridge admit that
26 Mendenhall is an officer and director of Sunridge. With respect to the remaining allegations of
27 Paragraph 5 of the Complaint, Mendenhall and Sunridge deny each and every remaining
28 allegation not specifically admitted in Paragraph 5 of the Complaint.

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1 4. Answering Paragraph 9 of the Complaint, Mendenhall and Sunridge admit that
2 prior to 2005 Sunridge had developed a parcel adjacent to the Property as a residential
3 community, consisting of over 950 separate home sites. Mendenhall and Sunridge further admit
4 that prior to 2005 Sunridge had developed a parcel adjacent to the Property as a golf course.
5 With respect to the remaining allegations in Paragraph 9, Mendenhall and Sunridge do not have
6 sufficient knowledge or information upon which to base a belief as to the truth of the allegations
7 contained therein, and upon said grounds, deny them.

8 5. Answering Paragraphs 7, 12, 13, 14, 15, 16, 17 and 18 of the Complaint,
9 Mendenhall and Sunridge deny each and every allegation alleged therein.

10 **SECOND CLAIM FOR RELIEF**

11 **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

12 6. Answering Paragraph 19 of the Complaint, Mendenhall and Sunridge repeat and
13 reallege each and every allegation contained in paragraphs 1 through 5 of this Amended Answer
14 as though fully set forth herein.

15 7. Answering Paragraph 20 of the Complaint, Mendenhall and Sunridge do not
16 have sufficient knowledge or information upon which to base a belief as to the truth of the
17 allegations contained therein, and upon said grounds, denies each and every allegation
18 contained therein.

19 8. Answering Paragraphs 21, 22 and 23 of the Complaint, Mendenhall and
20 Sunridge deny each and every allegation contained therein.

21 **THIRD CLAIM FOR RELIEF**

22 **(Unjust Enrichment)**

23 9. Answering Paragraph 24 of the Complaint, Mendenhall and Sunridge repeat and
24 reallege each and every allegation contained in paragraphs 1 through 8 of this Amended Answer
25 as though fully set forth herein.

26 10. Answering Paragraphs 25, 26, 27 and 28 of the Complaint, Mendenhall and
27 Sunridge deny each and every allegation contained therein.

1 FOURTH CLAIM FOR RELIEF

2 (Declaratory Relief)

3 11. Answering Paragraph 29 of the Complaint, Mendenhall and Sunridge repeat and
4 reallege each and every allegation contained in paragraphs 1 through 10 of this Amended
5 Answer as though fully set forth herein.

6 12. Answering Paragraphs 30, 31 and 32 of Complaint, Mendenhall and Sunridge
7 deny each and every allegation contained therein.

8 AFFIRMATIVE DEFENSES

9 FIRST AFFIRMATIVE DEFENSE

10 The Complaint on file herein fails to state a claim upon which relief can be granted.

11 SECOND AFFIRMATIVE DEFENSE

12 The Complaint and each and every cause of action therein, are barred by the doctrine of
13 laches.

14 THIRD AFFIRMATIVE DEFENSE

15 Plaintiff's claims are barred by the doctrine of equitable estoppel.

16 FOURTH AFFIRMATIVE DEFENSE

17 All allegations of the Complaint, not specifically admitted, are hereby denied.

18 FIFTH AFFIRMATIVE DEFENSE

19 Any and all negligence or fault on the part of Plaintiffs would be active and primary, and
20 any negligence or fault of Mendenhall and Sunridge, if any, would be secondary and passive.

21 SIXTH AFFIRMATIVE DEFENSE

22 Any and all damages sustained by Plaintiffs are the result of negligence of Plaintiffs
23 and/or a third party over whom Mendenhall and Sunridge had no control.

24 SEVENTH AFFIRMATIVE DEFENSE

25 No contract exists between Plaintiffs and Mendenhall.

26 EIGHTH AFFIRMATIVE DEFENSE

27 No contract exists between Plaintiffs and Sunridge.

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NINTH AFFIRMATIVE DEFENSE

Plaintiffs had knowledge of and assumed the risk. The damages, if any, alleged by the Plaintiffs were caused by or arose out the risk which Plaintiffs had knowledge of and assumed.

TENTH AFFIRMATIVE DEFENSE

Whatever damages were allegedly sustained by Plaintiffs, were caused in whole or in part or were contributed to by reason of Plaintiffs' own conduct.

ELEVENTH AFFIRMATIVE DEFENSE

The claims, and each of them, are barred as a result of the failure of the Plaintiffs to timely make those claims against Mendenhall and/or Sunridge and allow Mendenhall and/or Sunridge to collect evidence sufficient to establish its nonliability.

TWELFTH AFFIRMATIVE DEFENSE

The claims of the Plaintiffs are barred as a result of an accord and satisfaction.

THIRTEENTH AFFIRMATIVE DEFENSE

The claims of the Plaintiffs have been waived as a result of the acts and conduct of the Plaintiffs.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiffs have failed to mitigate their damages, if any.

FIFTEENTH AFFIRMATIVE DEFENSE

Damages, if any, suffered by the Plaintiffs were avoidable by the Plaintiffs prior to, contemporaneously with and subsequent to all of the acts or omissions committed by Mendenhall and/or Sunridge.

SIXTEENTH AFFIRMATIVE DEFENSE

Damages, if any, suffered by the Plaintiffs were actually and proximately caused by the Plaintiffs' own actions.

SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiffs, with full knowledge of all the facts connected with or relating to the transaction alleged in the Complaint, ratified and confirmed, in all respects, the acts of Mendenhall and/or Sunridge.

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EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiff Brownstone Gold Town CV, LLC's charter is not in good standing with the Nevada Secretary of State and as such, no action on its behalf can be brought or maintained.

NINETEENTH AFFIRMATIVE DEFENSE

Plaintiff Brownstone Gold Town CV, LLC lacks standing to bring the claims asserted in the Complaint against Mendenhall and/or Sunridge.

TWENTIETH AFFIRMATIVE DEFENSE

Mendenhall and Sunridge have been required to retain the services of an attorney to defend against this Complaint and are, therefore, entitled to reasonable attorney's fees and costs incurred herein.

TWENTY-FIRST AFFIRMATIVE DEFENSE

The tortious claim for breach of implied covenant of good faith and fair dealing and any claim for punitive damages asserted therein are barred by the applicable statute of limitation.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to any damages as asserted in the Complaint because they come to court with unclean hands, having committed fraud, fraud in the inducement, fraud by omission and misrepresentation.

TWENTY-THIRD AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to a judgment against Defendants in that Defendants detrimentally relied on the promises and representations of Plaintiffs and, by promissory estoppels, are prohibited from judgment herein.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

No contract exists for failure of consideration and as there was no meeting of the minds.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

In order to induce Mendenhall to sign the Term Sheet, which Plaintiffs now claim constitutes a binding agreement, Plaintiffs, in conjunction with American Vantage Brownstone, LLC and Ronald Tassinari, stated and represented to Mendenhall that "Other Investor(s)" would invest \$7 million into Brownstone Gold Town CV, LLC, which statements and representations

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1 were false and fraudulent, and were known to Plaintiffs, American Vantage Brownstone, LLC
2 and Ronald Tassinari to be false and fraudulent when made. Mendenhall believed and relied
3 upon such statements and representations to be true and Mendenhall was induced thereby to
4 sign the Term Sheet. Mendenhall would not have signed the Term Sheet had he known the truth
5 with regard to such statements and representations.

6 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

7 Defendants are informed, believe, and thereon allege that if any contract, obligations or
8 amendments, as alleged by the Plaintiffs' Complaint on file herein, have been entered into, any
9 duty or performance of Defendants, and each of them, is excused by reason of failure of
10 consideration, waiver, breach of condition precedent, breach by the Plaintiffs and/or
11 impossibility of performance.

12 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

13 Because the Complaint is couched in conclusory and vague terms, Mendenhall and
14 Sunridge cannot fully anticipate all affirmative defenses that may be applicable to this case.
15 Accordingly, Mendenhall and Sunridge reserve the right to assert additional affirmative
16 defenses.

17 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

18 Pursuant to NRCP 11, as amended, all possible Affirmative Defenses may not have been
19 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the
20 filing of Mendenhall and Sunridge's Amended Answer and, therefore, Mendenhall and Sunridge
21 reserve the right to amend the Amended Answer to allege additional Affirmative Defenses, if
22 subsequent investigation so warrants.

23 WHEREFORE, Mendenhall and Sunridge pray for judgment and relief as follows:

- 24 (1) That Plaintiffs take nothing by virtue of Plaintiffs' Complaint on file herein;
25 (2) For costs and expenses of litigation;
26 (3) For attorney's fees; and

27 ///

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(4) For such other and further relief as this Court deems necessary and proper,
DATED this ___ day of _____ 2014.

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*Attorneys for Robert L. Mendenhall and Sunridge
Corporation*

COUNTERCLAIM AND THIRD PARTY COMPLAINT

Counterclaimants/Third Party Plaintiffs, ROBERT L. MENDENHALL ("Mendenhall")
and SUNRIDGE CORPORATION, a Nevada corporation ("Sunridge") (also jointly referred to
as "Counterclaimants/Third Party Plaintiffs"), by and through their attorneys of record, Gwen
Rutar Mullins, Esq. and Wade B. Gochnour, Esq., of the law firm of Howard & Howard
Attorneys PLLC, hereby assert the following Counterclaim and Third Party Complaint:

FIRST CAUSE OF ACTION
(Fraud in the Inducement)

1. Mendenhall is, and was at all times relevant hereto, a resident of Clark County
Nevada.
2. Sunridge Corporation ("Sunridge") is, and was at all times relevant hereto, a
corporation duly organized under the laws of the State of Nevada and doing business in Clark
County, Nevada.
3. Upon information and belief, at all times relevant hereto, Counterdefendant
Brownstone Gold Town CV, LLC was duly organized under the laws of the State of Nevada,
and was doing business in Clark County, Nevada ("Brownstone GT CV").

1 4. Upon information and belief, at all times relevant hereto, Counterdefendant
2 Brownstone Gold Town, LLC was duly organized under the laws of the State of Nevada, and
3 was doing business in Clark County, Nevada ("Brownstone"). Brownstone GT CV and
4 Brownstone are jointly referred to as "Counterdefendants."

5 5. Upon information and belief, Third Party Defendant American Vantage
6 Brownstone, LLC ("AVB") is, and was at all times relevant hereto, a Nevada limited liability
7 company duly organized under the laws of the State of Nevada doing business in Clark County,
8 Nevada.

9 6. Upon information and belief, Third Party Defendant Ronald Tassinari
10 ("Tassinari") is, and at all times relevant hereto, was a resident of Clark County, Nevada. AVB
11 and Tassinari are jointly referred to as "Third Party Defendants."

12 7. Third Party Plaintiffs are ignorant of the true names and capacities of the Third
13 Party Defendants sued herein as DOES 1 through 5, inclusive, and ROE CORPORATIONS 1
14 through 5, inclusive, and therefore, sue these Third Party Defendants by such fictitious names.
15 Third Party Plaintiffs will amend the Third Party Complaint to allege the true names and
16 capacities when the same have been ascertained. Third Party Plaintiffs are informed and
17 believe, and thereupon allege, that each of such fictitiously-named Third Party Defendants is
18 responsible, in some manner for the claims alleged herein, including, but not limited to, actions
19 within the purpose and scope of agency, authority and/or employment.

20 8. In order to induce Mendenhall to sign the Term Sheet dated December 4, 2007,
21 Counterdefendants and Third Party Defendants made certain material representations to
22 Mendenhall (and to the extent that Sunridge is deemed to be a party to the Term Sheet despite
23 the fact that it did not sign the Term Sheet, then also to Sunridge), including, but not limited to,
24 that "Other Investor(s)" were committing to and would invest \$7 million in Brownstone GT CV.

25 9. Prior to providing the Term Sheet to Mendenhall, Counterdefendants, Tassinari,
26 individually, and in his role with Counterdefendants, and AVB, represented to Mendenhall that
27 there were other third party investors (namely a Canadian investor group) committed to
28 contributing \$7,000,000.00 toward the Gold Town Casino project.

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1 10. Tassinari, individually and in his role with Counterdefendants and AVB, further
2 represented that the third party Canadian investor group would be executing the Term Sheet as
3 "Other Investor(s)" for the \$7,000,000 commitment. When the Term Sheet was presented to
4 Mendenhall, it specifically had a signature block for "Other Investor(s)".

5 11. In reliance on these representations, Mendenhall signed and returned the Term
6 Sheet on December 5, 2007.

7 12. That same day, in furtherance of the fraud and inducement, a fully executed
8 Term Sheet was provided to Mendenhall, including a signature for the "Other Investor(s)."

9 13. Unbeknownst to Mendenhall, Tassinari, a principal of Counterdefendants and
10 AVB, signed the Term Sheet as "Other Investor(s)."

11 14. Mendenhall was never informed that Tassinari had signed the Term Sheet as
12 "Other Investor(s)." and that there were no third party investors executing the Term Sheet.
13 Mendenhall was never informed that the Canadian investor group had not signed the Term
14 Sheet.

15 15. The Term Sheet states that "It is expected that the Other Investor(s) will
16 contribute \$7,000,000.00 U.S. dollars for a 12.6% Membership Interest."

17 16. Mendenhall was never informed by Tassinari, Counterdefendants or AVB that
18 Tassinari, individually, and on behalf of Counterdefendants or AVB, did not have
19 \$7,000,000.00 to contribute to the project, and in fact had no expectation of making the
20 \$7,000,000.00 contribution to the project in exchange for the 12.6% Membership Interest.

21 17. Tassinari, individually and on behalf of Counterdefendants and AVB, intended
22 for Mendenhall to rely upon the misrepresentations and the omissions of material facts to induce
23 Mendenhall to execute the Term Sheet.

24 18. At the time of the representations or omissions, Tassinari, individually and on
25 behalf of Counterdefendants and AVB, knew, or should have known, that those representations
26 were false and that "Other Investor(s)", including, but not limited to, Tassinari who signed on
27 behalf of "Other Investor(s)", Counterdefendants or AVB, had no intention to invest
28 \$7,000,000.00 in Brownstone GT CV, or otherwise perform any "obligations" under the Term

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1 Sheet.

2 19. To induce Mendenhall to sign the Term Sheet, Tassinari, individually, and on
3 behalf of Counterdefendants and AVB, intentionally omitted disclosing these material facts to
4 Mendenhall.

5 20. As a result of those false representations and omissions, which caused and
6 induced Mendenhall to sign the Term Sheet that Counterdefendants now assert created a
7 contract and obligated Counterclaimants/Third Party Plaintiffs to transfer the real property too
8 Brownstone GT CV, Counterclaimants/Third Party Plaintiffs have been damaged in excess of
9 \$10,000.00.

10 21. Counterdefendants' and Third Party Defendants' actions were intentional and
11 malicious and evidence a wanton and reckless disregard of Counterclaimants/Third Party
12 Plaintiffs' rights and Counterclaimants/Third Party Plaintiffs are therefore entitled to exemplary
13 and/or punitive damages in excess of \$10,000.00.

14 22. It has been necessary for Counterclaimants/Third Party Plaintiffs to engage the
15 services of an attorney and Counterclaimants/Third Party Plaintiffs are entitled to reasonable
16 attorneys' fees and costs as damages.

17 SECOND CAUSE OF ACTION
18 (Fraud)

19 23. Counterclaimants and Third Party Plaintiffs repeat and reallege each and every
20 allegation contained in paragraphs 1 through 22 of the Counterclaim and Third Party Complaint
21 as though fully set forth herein.

22 24. Tassinari, individually, and on behalf of Counterdefendants and AVB, made
23 certain material representations to Mendenhall (and to the extent that Sunridge is deemed to be a
24 party to the Term Sheet despite the fact that it did not sign the Term Sheet, then also to
25 Sunridge), including, but not limited to, that the "Other Investor(s)" would invest \$7,000,000.00
26 in Brownstone GT CV, and by providing a Term Sheet purportedly executed by the "Other
27 Investor(s)."

28 25. Tassinari, individually, and on behalf of Counterdefendants and AVB,

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1 intentionally omitted disclosing to Mendenhall that the Canadian group investor had not signed
2 the Term Sheet, and that Tassinari instead, individually or on behalf of Counterdefendants or
3 AVB, executed the Term Sheet as the "Other Investor(s)" and that Tassinari, Counterdefendants
4 or AVB did not have \$7,000,000 to invest and in fact had no intention of investing \$7,000,000
5 into Brownstone Gold Town CV, LLC and acquire 12.6% Membership Interest in Brownstone
6 Gold Town, CV, LLC.

7 26. In reliance of those representations, Mendenhall signed the Term Sheet.

8 27. At the time the representations were made, Counterdefendants and Third Party
9 Defendants knew, or should have known, that those representations were false and that "Other
10 Investor(s)", including, but not limited to, Tassinari, who signed on behalf of "Other
11 Investor(s)" or AVB, had no intention to invest \$7,000,000.00 in Brownstone GT CV, or
12 otherwise perform any "obligations" under the Term Sheet.

13 28. Had Mendenhall known that the representations being made by
14 Counterdefendants and Third Party Defendants were false, Mendenhall would not have signed
15 the Term Sheet.

16 29. As a result of those false representations, Counterclaimants/Third Party Plaintiffs
17 have been damaged in excess of \$10,000.00.

18 30. Counterdefendants' and Third Party Defendants' actions were intentional and
19 malicious and evidence a wanton and reckless disregard of Counterclaimants/Third Party
20 Plaintiffs' rights, and Counterclaimants/Third Party Plaintiffs are therefore entitled to exemplary
21 and/or punitive damages in excess of \$10,000.00.

22 31. It has been necessary for Counterclaimants/Third Party Plaintiffs to engage the
23 services of an attorney and Counterclaimants/Third Party Plaintiffs are entitled to reasonable
24 attorneys' fees and costs as damages.

25 **THIRD CAUSE OF ACTION**

26 **(Negligent Misrepresentation – In Alternative)**

27 32. Counterclaimants and Third Party Plaintiffs repeat and reallege each and every
28 allegation contained in paragraphs 1 through 31 of the Counterclaim and Third Party Complaint

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1 as though fully set forth herein.

2 33. Counterdefendants and Third Party Defendants had a pecuniary interest in the
3 proposed development of the Gold Town Casino project.

4 34. Counterdefendants and Third Party Defendants failed to exercise reasonable care
5 in communicating that there were no "Other Investor(s)" who were committed to contributing
6 \$7,000,000.00 to the project, and that "Other Investor(s)" had signed the Term Sheet with the
7 expectation of contributing \$7,000,000.00 for a 12% Membership Interest.

8 35. Counterclaimants/Third Party Plaintiffs justifiably relied upon the verbal
9 representations of Tassinari, AVB and Counterdefendants.

10 36. As a result of Counterdefendants' and Third Party Defendants' negligent
11 misrepresentations, Mendenhall signed the Term Sheet that Counterdefendants now claim as a
12 binding contract on Counterclaimants/Third Party Plaintiffs.

13 37. As a direct and proximate result of Mendenhall's reliance upon
14 Counterdefendants' and Third Party Defendants' negligent misrepresentations,
15 Counterclaimants/Third Party Plaintiffs have been damaged in the sum in excess of \$10,000.00.

16 38. It has been necessary for Counterclaimants/Third Party Plaintiffs to engage the
17 services of an attorney and Counterclaimants/Third Party Plaintiffs are entitled to reasonable
18 attorneys' fees and costs as damages.

19 **FOURTH CAUSE OF ACTION**
20 **(Fraudulent Omission)**

21 39. Counterclaimants and Third Party Plaintiffs repeat and reallege each and every
22 allegation contained in paragraphs 1 through 38 of the Counterclaim and Third Party Complaint
23 as though fully set forth herein.

24 40. Counterdefendants and Third Party Defendants made representations that there
25 were other investors committed to contributing \$7,000,000.00 toward the Gold Town Casino
26 project.

27 41. After making such representations, Counterdefendants and Third Party
28 Defendants provided Mendenhall with a Term Sheet purportedly signed by "Other Investor(s)"

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1 ///

2 stating that the "Other Investor(s)" expected to make the \$7,000,000.00 in exchange for a 12.6%
3 Membership Interest.

4 42. Counterdefendants and Third Party Defendants knew that the interest of other
5 potential investors was important to Mendenhall's decision to continue looking at the Gold
6 Town Casino project.

7 43. Counterdefendants and Third Party Defendants failed to inform Mendenhall of
8 the material fact that the signature of the "Other Investor(s)" was actually Tassinari, and that at
9 the time he signed the Term Sheet, Tassinari, individually and on behalf of Counterdefendants
10 and AVB, did not expect or intend to contribute \$7,000,000.00 toward the Gold Town Casino
11 project.

12 44. Counterdefendants and Third Party Defendants also failed to inform Mendenhall
13 of the material fact that no other third party investor had signed the Term Sheet.

14 45. Counterdefendants and Third Party Defendants knew, or should have known that
15 their omissions of material facts would mislead Counterclaimants/Third Party Plaintiffs.

16 46. Mendenhall reasonably relied on the false, untrue, and/or misleading statements
17 and omissions made by Counterdefendants and Third Party Defendants in executing the Term
18 Sheet.

19 47. As a direct and proximate cause of the acts and omissions of Counterdefendants
20 and Third Party Defendants, Counterclaimants/Third Party Plaintiffs have been damaged in the
21 sum in excess of \$10,000.00.

22 48. Counterdefendants' and Third Party Defendants' actions were intentional and
23 malicious and evidence a wanton and reckless disregard of Counterclaimants/Third Party
24 Plaintiffs' rights, and Counterclaimants/Third Party Plaintiffs are therefore entitled to exemplary
25 and/or punitive damages in excess of \$10,000.00.

26 49. It has been necessary for Counterclaimants/Third Party Plaintiffs to engage the
27 services of an attorney and Counterclaimants/Third Party Plaintiffs are entitled to reasonable
28 attorneys' fees and costs as damages.

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2 WHEREFORE, Counterclaimants/Third Party Plaintiffs, and each of them, pray for
3 judgment against Counterdefendants and Third Party Defendants, and each of them, jointly and
4 severally, as follows:

- 5 1. For Compensatory damages in a sum in excess of \$10,000.00;
6 2. For Exemplary or punitive damages in the sum in excess of \$10,000.00;
7 3. For recovery of attorney's fees and costs incurred in this action; and
8 4. For such other and further relief as the Court may deem just and proper in the
9 premises.

10 DATED this ___ day of _____, 2014.

11
12 **HOWARD & HOWARD ATTORNEYS PLLC**

13
14 _____
15 GWEN RUTAR MULLINS, ESQ.

16 Nevada Bar No. 3146

17 WADE B. GOCHNOUR, ESQ.

18 Nevada Bar No. 6314

19 3800 Howard Hughes Pkwy, Ste. 1000

20 Las Vegas, Nevada 89169

21 *Attorneys for Counterclaimants Robert L. Mendenhall*
22 *and Sunridge Corporation*
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24
25
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(702) 257-1483

CERTIFICATE OF MAILING

I hereby certify that on ____ day of _____ 2014, I mailed a true and correct copy of the foregoing DEFENDANTS' AMENDED ANSWER TO COMPLAINT, COUNTERCLAIM AND THIRD PARTY COMPLAINT by placing it in the US Mail, postage prepaid, addressed to the following at the address indicated:

Harry Paul Marquis, Esq.
HARRY PAUL MARQUIS, CHTD.
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

Sean K. Claggett, Esq.
William T. Sykes, Esq.
CLAGGETT & SYKES LAW FIRM
8751 W. Charleston Blvd., Ste. 200
Las Vegas, Nevada 89117

Jennifer Morales, Esq.
THE MORALES LAW FIRM
8751 W. Charleston Blvd., Ste. 220
Las Vegas, Nevada 89117

An employee at Howard & Howard Attorneys PLLC

Exhibit D

CLAGGETT & SYKES LAW FIRM
8751 W. Charleston Boulevard, Suite 220
Las Vegas, Nevada 89117
702-655-2346 • Fax 702-655-3763

1 Harry Paul Marquis, Esquire
2 Nevada Bar No. 001252
3 HARRY PAUL MARQUIS, CHTD.
4 400 South Fourth Street, Third Floor
5 Las Vegas, Nevada 89101
6 Telephone (702) 382-6700
7 Email: harry@marquislaw.net

8 Sean K. Claggett, Esq.
9 Nevada Bar No. 008407
10 William T. Sykes, Esq.
11 Nevada Bar No. 009916
12 Matthew S. Granda, Esq.
13 Nevada Bar No. 012753
14 CLAGGETT & SYKES LAW FIRM
15 8751 W. Charleston Boulevard, Suite 220
16 Las Vegas, Nevada 89117
17 (702) 655-2346 – Telephone
18 (702) 655-3763 – Facsimile
19 sclaggett@claggettlaw.com
20 wsykes@claggettlaw.com
21 mgranda@claggettlaw.com
22 *Attorneys for Plaintiffs*
23 [Additional Counsel on Signature Page]

DISTRICT COURT

CLARK COUNTY, NEVADA

18 BROWNSTONE GOLD TOWN, LLC, a Nevada
19 limited liability company; BROWNSTONE
20 GOLD TOWN CV, LLC, a Nevada limited
21 liability company,

22 Plaintiffs,

23 v.

24 ROBERT MENDENHALL, an individual,
25 SUNRIDGE CORPORATION, A Nevada
26 corporation, and DOES 1 through 10, inclusive,

27 Defendants.

CASE NO: A-11-653822-C

DEPT. NO.: XXVIII

NOTICE OF PLAINTIFFS'
ACCEPTANCE OF OFFER OF
JUDGMENT

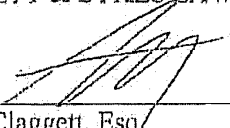
28 TO: ALL INTERESTED PARTIES AND THEIR COUNSEL OF RECORD

CLAGGETT & SYKES LAW FIRM
8751 W. Charleston Boulevard, Suite 220
Las Vegas, Nevada 89117
702-655-2346 • Fax 702-655-3763

1 PLEASE TAKE NOTICE that Plaintiffs, BROWNSTONE GOLD TOWN, LLC and
2 BROWNSTONE GOLD TOWN CV, LLC, by and through their counsel of record, HARRY PAUL
3 MARQUIS, CHTD.; CLAGGETT & SYKES LAW FIRM; and MORALES LAW FIRM, hereby
4 submit and file their Acceptance of Offer of Judgment from the Defendants, ROBERT
5 MENDENHALL and SUNRIDGE CORPORATION, (attached as Exhibit A), served on July 10,
6 2014, in the amount of One Million Two Hundred Thousand Dollars (\$1,200,000.00), which includes
7 all costs and legal fees.

8 DATED this 24 day of July, 2014.

9
10 CLAGGETT & SYKES LAW FIRM

11 
12 Sean K. Claggett, Esq.
13 Nevada Bar No. 008407
14 William T. Sykes, Esq.
15 Nevada Bar No. 009916
16 Matthew S. Granda, Esq.
17 Nevada Bar No. 012753
18 8751 W. Charleston Blvd., Suite 220
19 Las Vegas, Nevada 89117
20 (702) 655-2346 – Telephone

21 Harry Paul Marquis, Esq.
22 HARRY PAUL MARQUIS, CHTD.
23 Nevada Bar No. 001252
24 400 South Fourth Street, Third Floor
25 Las Vegas, Nevada 89101
26 (702) 382-6700 – Telephone

27 Jennifer Morales, Esq.
28 MORALES LAW FIRM
Nevada Bar No. 008829
8751 W. Charleston Blvd., Ste. 220
Las Vegas, Nevada 89117
(702) 655-2346 – Telephone
Attorneys for the Plaintiffs

CLAGGETT & SYKES LAW FIRM
8751 W. Charleston Boulevard, Suite 220
Las Vegas, Nevada 89117
702-655-2346 • Fax 702-655-3763

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of July, 2014, I caused to be served a true and correct copy of the foregoing, NOTICE OF PLAINTIFFS' ACCEPTANCE OF OFFER OF JUDGMENT is served on the following person(s) by electronic service pursuant to Rule 9 of the N.E.F.C.R:

☒ By electronic service

Gwen Rutar Mullins, Esq.
(grm@h2law.com)
Wade B. Gochmour, Esq.
(wbg@h2law.com)
HOWARD & HOWARD ATTORNEYS PLLC
Attorneys for Defendants

CLAGGETT & SYKES LAW FIRM

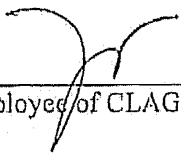

An Employee of CLAGGETT & SYKES LAW
FIRM

EXHIBIT A

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

1 OFFER

2 GWEN RUTAR MULLINS, ESQ.

3 Nevada Bar No. 3146

4 WADE B. GOCHNOUR, ESQ.

5 Nevada Bar No. 6314

6 Howard & Howard Attorneys PLLC

7 3800 Howard Hughes Pkwy., Suite 1000

8 Las Vegas, NV 89169

9 Telephone: (702) 257-1483

10 Facsimile: (702) 567-1568

11 E-mail: grm@h2law.com

12 wbg@h2law.com

13 *Attorneys for Defendants Robert L. Mendenhall*
14 *and Sunridge Corporation*

15 DISTRICT COURT
16 CLARK COUNTY, NEVADA

17 BROWNSTONE GOLD TOWN, LLC, a
18 Nevada limited liability company,
19 BROWNSTONE GOLD TOWN CV, LLC, a
20 Nevada limited liability company,

21 Plaintiffs,

22 vs.

23 ROBERT L. MENDENHALL, an individual,
24 SUNRIDGE CORPORATION, A Nevada
25 corporation, and DOES 1 through 10, inclusive,

26 Defendants.

Case No. A-11-653822-C
Dept. No. XXVIII

DEFENDANTS' OFFER OF JUDGMENT

27 Pursuant to Rule 68 of the Nevada Rules of Civil Procedure and NRS 17.115,
28 Defendants ROBERT L. MENDENHALL and SUNRIDGE CORPORATION hereby offer to
allow judgment to be entered in favor of Plaintiffs BROWNSTONE GOLD TOWN, LLC and
BROWNSTONE GOLD TOWN CV, LLC and against Defendants ROBERT L.
MENDENHALL and SUNRIDGE CORPORATION in the lump sum of ONE MILLION TWO
HUNDRED THOUSAND DOLLARS (\$1,200,000.00) in settlement of all claims between and
among ROBERT L. MENDENHALL, SUNRIDGE CORPORATION, BROWNSTONE GOLD
TOWN, LLC and BROWNSTONE GOLD TOWN CV, LLC or those asserted or that could

//2627970-v1

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

1 have been asserted on behalf of each of them against one another, inclusive of all accrued costs
2 and legal fees. It is intended that this Offer of Judgment be in the maximum amount of ONE
3 MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00). See *Fleisher v.*
4 *August*, 103 Nev. 242, 737 P.2d 518 (1987). This offer is made only as a compromise and to
5 "buy peace" between said parties; it is not intended to be, nor should it be, construed as an
6 admission of liability.

7 This offer is made in accordance with NRCP 68 and NRS 17.115 and is not to be
8 construed as an admission of either party.

9 Acceptance of this Offer of Judgment would fully discharge and release any and all
10 claims as alleged, or that could have been alleged, in this action by ROBERT L.
11 MENDENHALL, SUNRIDGE CORPORATION, BROWNSTONE GOLD TOWN, LLC, and
12 BROWNSTONE GOLD TOWN CV, LLC, including, but not limited to, those asserted in the
13 Complaint as well as any related or potential claims that could be asserted in this action against
14 one another. This offer will expire 10 days after the date of its service.

15 Dated this 10th day of July 2014.

16 HOWARD & HOWARD ATTORNEYS PLLC

17
18 
19 Gwen Rutar Mullins, Esq.

20 Nevada Bar No. 3146

21 Wade B. Gochnour, Esq.

22 Nevada Bar No. 6314

23 3800 Howard Hughes Pkwy., Ste. 1000

24 Las Vegas, Nevada 89169-5914

25 Attorneys for Defendants Robert L. Mendenhall
26 and Sunridge Corporation
27
28

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

RECEIPT OF COPY

RECEIPT OF COPY of DEFENDANTS' OFFER OF JUDGMENT is hereby
acknowledged this 10th day of July 2014.

Suzi Maya for Harry Marquis,
Harry Paul Marquis, Esq.
HARRY PAUL MARQUIS, CHTD.
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

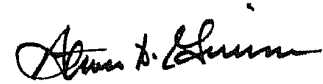
In association with:

Sean K. Claggett, Esq.
William T. Sykes, Esq.
CLAGGETT & SYKES LAW FIRM
8751 W. Charleston Blvd., Ste. 200
Las Vegas, Nevada 89117

In association with:

Jennifer Morales, Esq.
THE MORALES LAW FIRM
8751 W. Charleston Blvd., Ste. 220
Las Vegas, Nevada 89117

Exhibit E



CLERK OF THE COURT

1 **NEOJ**

2 **GWEN RUTAR MULLINS, ESQ.**

3 Nevada Bar No. 3146

4 **WADE B. GOCHNOUR, ESQ.**

5 Nevada Bar No. 6314

6 **Howard & Howard Attorneys PLLC**

7 3800 Howard Hughes Pkwy., Suite 1000

8 Las Vegas, NV 89169

9 Telephone: (702) 257-1483

10 Facsimile: (702) 567-1568

11 E-mail: grm@h2law.com

12 wbg@h2law.com

13 *Attorneys for Defendants Robert L. Mendenhall*

14 *and Sunridge Corporation*

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

12 **BROWNSTONE GOLD TOWN, LLC, a**

13 Nevada limited liability company,

14 **BROWNSTONE GOLD TOWN CV, LLC, a**

15 Nevada limited liability company,

16 Plaintiffs,

17 vs.

18 **ROBERT L. MENDENHALL, an individual,**

19 **SUNRIDGE CORPORATION, A Nevada**

20 corporation, and DOES 1 through 10, inclusive,

21 Defendants.

Case No. A-11-653822-C

Dept. No. XXVIII

**NOTICE OF ENTRY OF ORDER OF
DISMISSAL OF ACTION WITH
PREJUDICE**

22 PLEASE TAKE NOTICE that an Order of Dismissal of Action with Prejudice was
23 entered herein on the 2nd day of September 2014, a copy of which is attached hereto and
24 incorporated herein by this reference.

25 DATED this 3rd day of September 2014.

26 **HOWARD & HOWARD ATTORNEYS PLLC**

27 /s/ Gwen Rutar Mullins

28 **GWEN RUTAR MULLINS, ESQ., NV Bar 3146**

3800 Howard Hughes Pkwy., Ste. 1000

Las Vegas, NV 89169

Attorneys for Defendants Robert L. Mendenhall and

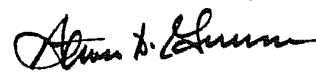
Sunridge Corporation

CERTIFICATE OF E-SERVICE

I do hereby certify that on the 3rd day of September 2014, I served a copy of the
NOTICE OF ENTRY OF ORDER OF DISMISSAL OF ACTION WITH PREJUDICE on
all parties listed in the Master Service List in accordance with the Electronic Filing Order
entered in this matter.

Sean Claggett, Esq. - sclaggett@claggettlaw.com
Harry Marquis, Esq. - harry@marquislaw.net; marquislaw@gmail.com
Jennifer Morales, Esq. - jmorales@jmoraleslawfirm.com

/s/ Kellie Piet
An employee of Howard & Howard Attorneys PLLC



CLERK OF THE COURT

1 **ORDER**

2 GWEN RUTAR MULLINS, ESQ.

3 Nevada Bar No. 3146

4 WADE B. GOCHNOUR, ESQ.

5 Nevada Bar No. 6314

6 **Howard & Howard Attorneys PLLC**

7 3800 Howard Hughes Pkwy., Suite 1000

8 Las Vegas, NV 89169

9 Telephone: (702) 257-1483

10 Facsimile: (702) 567-1568

11 E-mail: grm@h2law.com

12 wbg@h2law.com

13 *Attorneys for Defendants Robert L. Mendenhall*

14 *and Sunridge Corporation*

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

17 BROWNSTONE GOLD TOWN, LLC, a
18 Nevada limited liability company,
19 BROWNSTONE GOLD TOWN CV, LLC, a
20 Nevada limited liability company,

21 **Plaintiffs,**

22 **vs.**

23 ROBERT L. MENDENHALL, an individual,
24 SUNRIDGE CORPORATION, A Nevada
25 corporation, and DOES 1 through 10, inclusive,

26 **Defendants.**

Case No. A-11-653822-C
Dept. No. XXVIII

27 **ORDER OF DISMISSAL OF ACTION**
28 **WITH PREJUDICE**

Date of Hearing: August 19, 2014
Time of Hearing: 9:00 a.m.

29 WHEREAS, on July 10, 2014 Defendants served an Offer of Judgment upon Plaintiffs
30 BROWNSTONE GOLD TOWN, LLC and BROWNSTONE GOLD TOWN CV, LLC;

31 WHEREAS, on July 24, 2014, Plaintiffs BROWNSTONE GOLD TOWN, LLC and
32 BROWNSTONE GOLD TOWN CV, LLC accepted Defendants ROBERT L. MENDENHALL
33 and SUNRIDGE CORPORATION's Offer of Judgment;

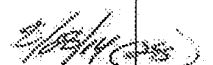
34 ///

35 ///

#2651373.v4

Page

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



1 WHEREAS, Defendants ROBERT L. MENDENHALL and SUNRIDGE
2 CORPORATION have tendered the sums due pursuant to the Offer of Judgment to Plaintiffs
3 BROWNSTONE GOLD TOWN, LLC and BROWNSTONE GOLD TOWN CV, LLC;

4 WHEREAS, pursuant to NRCP 68(d) and NRS 17.115(2)(a), Defendants ROBERT L.
5 MENDENHALL and SUNRIDGE CORPORATION are entitled to dismissal of the claims
6 asserted in this action;

7 WHEREAS, the hearing on Plaintiff's Motion to Clarify and Enforce Terms of
8 Defendants' Offer of Judgment was held on August 19, 2014 at 9:00 a.m.;

9 WHEREAS, the Court having considered the Motion, Defendants' Opposition and
10 Plaintiffs' Reply, and hearing the arguments of counsel; and

11 Based on the Court's findings and other good cause appearing,

12 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Plaintiff's Motion
13 to Clarify and Enforce Terms of Defendants' Offer of Judgment be and hereby is **DENIED**.

14 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that pursuant to NRCP
15 68(d) and NRS 17.115(2)(a), the above-captioned action **BE AND HEREBY IS DISMISSED**
16 **WITH PREJUDICE, FULLY DISCHARGED AND RELEASED**, with respect to any and
17 all claims as alleged, or that could have been alleged in this action by ROBERT L.
18 MENDENHALL, SUNRIDGE CORPORATION, BROWNSTONE GOLD TOWN, LLC and
19 BROWNSTONE GOLD TOWN CV, LLC, including, but not limited to, those asserted in the
20 Complaint as well as any related or potential claims that could be asserted in this action against
21 one another, with each party to bear their own attorneys' fees and costs.

22 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that this dismissal
23 shall be effective upon a wire transfer from either ROBERT L. MENDENHALL or
24 SUNRIDGE CORPORATION to counsel for BROWNSTONE GOLD TOWN, LLC and
25 BROWNSTONE GOLD TOWN CV, LLC, of the Offer of Judgment amount.

26 ///

27 ///

28 #2651373.v4

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

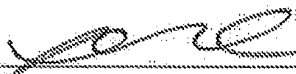
1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Calendar Call
2 set for August 28, 2014 and the Trial scheduled to commence on the Court's five-week stack on
3 September 8, 2014, be and hereby are vacated and taken off the Court's Calendar.

4 DATED this 29 day of August 2014.

5
6 
7 Honorable Judge Ronald J. Israel
8 DISTRICT COURT JUDGE
9

10 Respectfully submitted by:

11 **HOWARD & HOWARD ATTORNEYS PLLC**

12
13 
14 GWEN RUTAR MULLINS, ESQ.

15 Nevada Bar No. 3146

16 WADE B. GOCHNOUR, ESQ.


17 Nevada Bar No. 6314

18 3800 Howard Hughes Pkwy., Suite 1000

19 Las Vegas, NV 89169

20 Attorneys for Defendants Robert L. Mendenhall
21 and Sunridge Corporation

22 Approved as to Form and Content

23
24 
25 Harry Paul Marquis, Esq.

26 HARRY PAUL MARQUIS, CHTD.

27 400 South Fourth Street, Third Floor

28 Las Vegas, Nevada 89101

Attorneys for Plaintiffs

In association with:

Sean K. Claggett, Esq.

CLAGGETT & SYKES LAW FIRM

8751 W. Charleston Blvd., Ste. 200

Las Vegas, Nevada 89117

Jennifer Morales, Esq.

THE MORALES LAW FIRM

8751 W. Charleston Blvd., Ste. 220

Las Vegas, Nevada 89117

IN THE SUPREME COURT OF THE STATE OF NEVADA

ROBERT L. MENDENHALL, AN
INDIVIDUAL; AND SUNRIDGE
CORPORATION, A NEVADA
CORPORATION,

Appellants,

vs.

RONALD TASSINARI, AN
INDIVIDUAL; AND AMERICAN
VANTAGE BROWNSTONE, LLC, A
NEVADA LIMITED LIABILITY
COMPANY,

Respondents.

Case No.: 68053
Electronically Filed
Jun 07 2016 02:46 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

Appeal from the Eighth Judicial
District Court, the Honorable Rob
Bare Presiding

JOINT APPENDIX
(Volume 1, Bates Nos. 1–110)

Marquis Aurbach Coffing

Avece M. Higbee, Esq.
Nevada Bar No. 3739
Micah S. Echols, Esq.
Nevada Bar No. 8437
Adele V. Karoum, Esq.
Nevada Bar No. 11172
10001 Park Run Drive
Las Vegas, Nevada 89145
Telephone: (702) 382-0711
Facsimile: (702) 382-5816
ahigbee@maclaw.com
mechols@maclaw.com
akaroum@maclaw.com

Howard & Howard Attorneys PLLC

Gwen Rutar Mullins, Esq.
Nevada Bar No. 3146
Wade B. Gochnour, Esq.
Nevada Bar No. 6314
3800 Howard Hughes Parkway
Suite 1000
Las Vegas, Nevada 89169
Telephone: (702) 257-1483
Facsimile: (702) 567-1568
grm@h2law.com
wbg@h2law.com

Attorneys for Appellants, Robert L. Mendenhall and Sunridge Corporation

**INDEX TO JOINT APPENDIX
(Alphabetical)**

DOCUMENT DESCRIPTION		LOCATION
Complaint (filed 10/08/14)		Volume 1, Bates Nos. 1–10
Exhibits to Complaint		
Exhibit No.	Document Description	
1	Carson Valley Casino Term Sheet	Volume 1, Bates Nos. 11–16
	Initial Appearance Fee Disclosure	Volume 1, Bates Nos. 17–18
Defendants’ Motion to Dismiss (filed 01/23/15)		Volume 1, Bates Nos. 19–29
Exhibits to Defendants’ Motion to Dismiss		
Exhibit No.	Document Description	
A	Complaint in Case No. A653822 (filed 12/27/11)	Volume 1, Bates Nos. 30–36
B	Defendants’ Offer of Judgment in Case No. A653822 (dated 07/10/14)	Volume 1, Bates Nos. 37–40
C	Defendants’ Motion for Leave to Amend [Answer, Counterclaim and Third-Party Complaint] with Exhibits in Case No. A653822 (filed 07/22/14)	Volume 1, Bates Nos. 41–96
D	Notice of Plaintiffs’ Acceptance of Offer of Judgment in Case No. A653822 (dated 07/24/14)	Volume 1, Bates Nos. 97–104
E	Notice of Entry of Order of Dismissal of Action with Prejudice with Order in Case No. A653822 (filed 09/03/14)	Volume 1, Bates Nos. 105–110
Docket of District Court Case No. A708281		Volume 2, Bates Nos. 253–254
Minute Order Granting Motion to Dismiss (filed 03/30/15)		Volume 2, Bates No. 238
Minutes of March 17, 2015 Hearing on Motion to Dismiss		Volume 2, Bates No. 194

DOCUMENT DESCRIPTION		LOCATION
Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Defendants' Motion to Dismiss with Findings of Fact, Conclusions of Law and Order Granting Defendants' Motion to Dismiss (filed 05/08/15)		Volume 2, Bates Nos. 239–247
Plaintiffs' Case Appeal Statement (filed 05/19/15)		Volume 2, Bates Nos. 250–252
Plaintiffs' Notice of Appeal (filed 05/19/15)		Volume 2, Bates Nos. 248–249
Plaintiffs' Opposition to Defendants' Motion to Dismiss (filed 02/24/15)		Volume 2, Bates Nos. 111–126
Exhibits to Plaintiffs' Opposition to Defendants' Motion to Dismiss		
Exhibit No.	Document Description	
F	Mendenhall Affidavit (dated 02/24/15)	Volume 2, Bates Nos. 127–130
G	Gochmour Affidavit	Volume 2, Bates Nos. 131–167
Reply in Support of Defendants' Motion to Dismiss (filed 03/10/15)		Volume 2, Bates Nos. 168–180
Exhibits to Reply in Support of Defendants' Motion to Dismiss		
Exhibit No.	Document Description	
H	"Undisputed" Carson Valley Casino Project Term Sheet	Volume 2, Bates Nos. 181–186
I	"Deposition" Carson Valley Casino Project Term Sheet	Volume 2, Bates Nos. 187–193
Transcript of March 17, 2015 Hearing on Motion to Dismiss (filed 03/08/16)		Volume 2, Bates Nos. 195–237

**INDEX TO JOINT APPENDIX
(Chronological)**

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Plaintiffs’ Opposition to Defendants’ Motion to Dismiss (filed 02/24/15)		Volume 2, Bates Nos. 111–126
Exhibits to Plaintiffs’ Opposition to Defendants’ Motion to Dismiss		
Exhibit No.	Document Description	
F	Mendenhall Affidavit (dated 02/24/15)	Volume 2, Bates Nos. 127–130

DOCUMENT DESCRIPTION		LOCATION
Exhibits to Plaintiffs' Opposition to Defendants' Motion to Dismiss (cont.)		
Exhibit No.	Document Description	
G	Gochmour Affidavit	Volume 2, Bates Nos. 131–167
Reply in Support of Defendants' Motion to Dismiss (filed 03/10/15)		Volume 2, Bates Nos. 168–180
Exhibits to Reply in Support of Defendants' Motion to Dismiss		
Exhibit No.	Document Description	
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I	"Deposition" Carson Valley Casino Project Term Sheet	Volume 2, Bates Nos. 187–193
Minutes of March 17, 2015 Hearing on Motion to Dismiss		Volume 2, Bates No. 194
Transcript of March 17, 2015 Hearing on Motion to Dismiss (filed 03/08/16)		Volume 2, Bates Nos. 195–237
Minute Order Granting Motion to Dismiss (filed 03/30/15)		Volume 2, Bates No. 238
Notice of Entry of Findings of Fact, Conclusions of Law and Order Granting Defendants' Motion to Dismiss with Findings of Fact, Conclusions of Law and Order Granting Defendants' Motion to Dismiss (filed 05/08/15)		Volume 2, Bates Nos. 239–247
Plaintiffs' Notice of Appeal (filed 05/19/15)		Volume 2, Bates Nos. 248–249
Plaintiffs' Case Appeal Statement (filed 05/19/15)		Volume 2, Bates Nos. 250–252
Docket of District Court Case No. A708281		Volume 2, Bates Nos. 253–254

DISTRICT COURT CIVIL COVER SHEET

Clark

County, Nevada

A-14-708281-C

Case No.

XXXII

(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
Robert L. Mendenhall	Ronald Tassinari
Sunridge Corporation	American Vantage Brownstone, LLC
Attorney (name/address/phone):	Attorney (name/address/phone):
Gwen Rutar Mullins, Esq. - (702) 257.1483	
Howard & Howard Attorneys PLLC	
3800 Howard Hughes Pkwy., Suite 1000	
Las Vegas, NV 89169	

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input checked="" type="checkbox"/> Other Tort Fraud, Misrepresentation
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract
	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant	Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

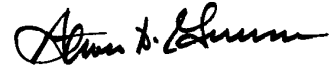
October 8, 2014

Date

/s/ Gwen Rutar Mullins

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

1 **COMP**

2 GWEN RUTAR MULLINS, ESQ.

3 Nevada Bar No. 3146

4 WADE B. GOCHNOUR, ESQ.

5 Nevada Bar No. 6314

6 **Howard & Howard Attorneys PLLC**

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12 wbg@h2law.com

13 *Attorneys for Plaintiffs Robert L. Mendenhall*
14 *and Sunridge Corporation*

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

17 ROBERT L. MENDENHALL, an individual,
18 SUNRIDGE CORPORATION, a Nevada
19 corporation,

20 Plaintiffs,

21 v.

22 RONALD TASSINARI, an individual,
23 AMERICAN VANTAGE BROWNSTONE,
24 LLC, a Nevada limited liability company,
25 DOES 1 through 5, inclusive and ROE
26 CORPORATIONS 1 through 5, inclusive,

27 Defendants.

Case No. A - 1 4 - 7 0 8 2 8 1 - C

Dept. No. X X X I I

COMPLAINT

28 Plaintiffs, ROBERT L. MENDENHALL ("Mendenhall") and SUNRIDGE
CORPORATION, a Nevada corporation ("Sunridge") (also jointly referred to as "Plaintiffs"),
by and through their attorneys of record, Gwen Rutar Mullins, Esq. and Wade B. Gochnour,
Esq., of the law firm of Howard & Howard Attorneys PLLC, hereby assert the following
Complaint against Defendants Ronald Tassinari ("Tassinari") and American Vantage
Brownstone, LLC ("AVB") (also jointly referred to as "Defendants"), and allege as follows:

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FIRST CAUSE OF ACTION
(Fraud in the Inducement)

1. Mendenhall is, and was at all times relevant hereto, a resident of Clark County Nevada.

2. Sunridge Corporation ("Sunridge") is, and was at all times relevant hereto, a corporation duly organized under the laws of the State of Nevada.

3. Upon information and belief, AVB is, and was at all times relevant hereto, a corporation duly organized under the laws of the State of Nevada doing business in Clark County, Nevada.

4. Upon information and belief, Tassinari is, and at all times relevant hereto, was a resident of Clark County, Nevada.

5. Plaintiffs are ignorant of the true names and capacities of the Defendants sued herein as DOES 1 through 5, inclusive, and ROE CORPORATIONS 1 through 5, inclusive, and therefore, sue these Defendants by such fictitious names. Plaintiffs will amend the Complaint to allege the true names and capacities when the same have been ascertained. Plaintiffs are informed and believe, and thereupon allege, that each of such fictitiously-named Defendants is responsible, in some manner for the claims alleged herein, including, but not limited to, actions within the purpose and scope of agency, authority and/or employment.

6. At all times relevant hereto, Sunridge has been the owner of approximately 46 acres of vacant land located at the southeast corner of U.S. Highway 395 and South Sunridge Drive, in Douglas County, State of Nevada (the "Property").

7. At all times relevant hereto, Mendenhall was the Chief Executive Officer of Sunridge.

8. Beginning in late 2006, Tassinari approached Mendenhall about the possibility of purchasing the Property for development into a hotel and casino project known as the "Gold Town Casino Project."

9. Ultimately, Sunridge provided AVB with an option to purchase the Property.

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10. In July 2007, Sunridge agreed to extend the Option to Purchase to AVB, allowing AVB to purchase the Property within 180 days from the date of such extension.

11. In November 2007, Mendenhall and Tassinari began discussing a potential investment by Plaintiffs in the proposed Gold Town Casino Project.

12. In November 2007, and up to December 4, 2007, Tassinari, on behalf of himself and AVB, represented to Plaintiffs that there was a third party investment group referred to as the "Canadian Investor Group" who was committed to investing \$7,000,000.00 toward the Gold Town Casino Project.

13. During this time, Tassinari sought to have Plaintiffs sign a Term Sheet relating to the potential investment in the Gold Town Casino Project through a possible membership interest in Brownstone Gold Town CV, LLC ("Gold Town CV").

14. In order to induce Plaintiffs to sign the Term Sheet, on or about December 4, 2007, Tassinari specifically represented to Plaintiffs that the Canadian Investor Group was committing to invest \$7,000,000.00 in the Gold Town Casino Project.

15. On or about December 4, 2007, Tassinari further represented that the Canadian Investor Group would execute the proposed Term Sheet as the "Other Investor."

16. On or about December 4, 2007, Tassinari and AVB, either directly or through their agents, provided Plaintiffs with the Carson Valley Casino Project Term Sheet ("Term Sheet").

17. Mirroring the representations of Tassinari and AVB, the Term Sheet included a provision that "It is expected that the Other Investor(s) will contribute \$7,000,000.00 U.S. dollars for a 12.6% Membership Interest."

18. The Term Sheet also included a separate signature line for "Other Investor(s)."

19. On December 4 and/or December 5, 2007, the Term Sheet was executed by Mendenhall, AVB, Brownstone Gold Town, LLC ("Brownstone GT") [Brownstone GT is not a party to this action] and "Other Investor(s)."

20. A true, correct and authentic copy of the Term Sheet is attached hereto as Exhibit 1 and incorporated herein by this reference.

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1 21. On December 5, 2007, a fully executed Term Sheet was provided to Plaintiffs,
2 including a signature for the "Other Investor(s)."

3 22. Even after the executed Term Sheet was returned to the Plaintiffs, Tassinari and
4 AVB continued to represent to Plaintiffs that the Canadian Investor Group was the "Other
5 Investor(s)," and were committed to investing \$7,000,000.00 to the Gold Town Casino Project.

6 23. The representations that a Canadian Investment Group would execute the Term
7 Sheet, and that the Canadian Investment Group had actually executed the Term Sheet, were
8 false.

9 24. Unbeknownst to Plaintiffs, Tassinari, a principal of AVB, signed the Term Sheet
10 on the "Other Investor(s)" signature block, as well as signing on behalf of AVB.

11 25. Plaintiffs were never informed that Tassinari had signed the Term Sheet as
12 "Other Investor(s)," and that there were no third party investors executing the Term Sheet.

13 26. Plaintiffs were never informed that the Canadian Investor Group had not signed
14 the Term Sheet.

15 27. At the time Tassinari signed the Term Sheet, both Tassinari and AVB knew that
16 the Canadian Investor Group had not committed \$7,000,000.00 to the Gold Town Casino
17 Project.

18 28. At the time Tassinari signed the Term Sheet, both Tassinari and AVB knew that
19 there were no "Other Investor(s)" that had committed to contribute \$7,000,000.00 to the Gold
20 Town Casino Project.

21 29. At the time Tassinari signed the Term Sheet as the "Other Investor(s)," both
22 Tassinari and AVB knew that Tassinari did not intend to commit \$7,000,000.00 to the Gold
23 Town Casino Project.

24 30. Plaintiffs were never informed by Tassinari or AVB that Tassinari, individually,
25 and on behalf of AVB, did not have \$7,000,000.00 to contribute to the Gold Town Casino
26 Project and, in fact, had no expectation of making the \$7,000,000.00 contribution to the Gold
27 Town Casino Project in exchange for a 12.6% Membership Interest.

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1 31. Tassinari, individually and on behalf of AVB, intended for Plaintiffs to rely upon
2 the misrepresentations and the omissions of material facts to induce Plaintiffs to execute the
3 Term Sheet.

4 32. At the time of the representations or omissions, Tassinari, individually and on
5 behalf of AVB, knew, or should have known, that those representations were false and that
6 “Other Investor(s)”, including, but not limited to, Tassinari who signed on behalf of “Other
7 Investor(s)”, or AVB, had no intention to invest \$7,000,000.00 in the Gold Town Casino
8 Project, or otherwise perform any “obligations” under the Term Sheet.

9 33. To induce Plaintiffs to sign the Term Sheet, Tassinari, individually and on behalf
10 of AVB, intentionally omitted disclosing these material facts to Plaintiffs.

11 34. Plaintiffs reasonably relied upon the representations made by Tassinari,
12 individually and on behalf of AVB, in agreeing to execute the Term Sheet.

13 35. As a result of the execution of the Term Sheet, Brownstone GT and Gold Town
14 CV brought a lawsuit asserting that the Term Sheet created a contract obligating Plaintiffs to
15 transfer the Property to Gold Town CV.

16 36. During discovery, and including up to the depositions of representatives of Gold
17 Town CV and Brownstone GT, Plaintiffs were still told that the “Other Investor(s)” signature
18 block had in fact been signed by someone, possibly an individual named “Bob Sim” or “Bob
19 Sims,” on behalf of the Canadian Investor Group.

20 37. On Monday, July 14, 2014, Tassinari was deposed, and for the first time,
21 admitted that he had signed the Term Sheet on behalf of both AVB and as the “Other
22 Investor(s).”

23 38. Tassinari also admitted that he “did not make a commitment to put \$7 million
24 into this project on December 4, 2007” and that he did not have any intention to invest \$7
25 million to the Gold Town Casino Project when he signed the Term Sheet as the “Other
26 Investor(s).”

27 39. As a direct and proximate result of the fraudulent inducement by Tassinari and
28 AVB, Plaintiffs have been damaged in excess of \$10,000.00.

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40. Defendants' actions were intentional and malicious and evidence a wanton and reckless disregard of Plaintiffs' rights, and Plaintiffs are therefore entitled to exemplary and/or punitive damages in excess of \$10,000.00.

41. It has been necessary for Plaintiffs to engage the services of an attorney and Plaintiffs are entitled to reasonable attorneys' fees and costs as damages.

SECOND CAUSE OF ACTION
(Fraud)

42. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 41 of the Complaint as though fully set forth herein.

43. Tassinari, individually and on behalf of AVB, made certain material representations to Plaintiffs, including, but not limited to, that a Canadian Investment Group would invest \$7,000,000.00 in the Gold Town Casino Project and/or in Brownstone GT CV, and by providing a Term Sheet purportedly executed by the Canadian Investment Group as "Other Investor(s)."

44. Tassinari, individually and on behalf of AVB, intentionally omitted disclosing to Plaintiffs that the Canadian Investment Group had not signed the Term Sheet; that Tassinari instead, individually or on behalf of AVB, executed the Term Sheet as the "Other Investor(s);" and that neither Tassinari nor AVB had \$7,000,000.00 to invest, and in fact had no intention of investing \$7,000,000.00 into the Gold Town Casino Project and/or Brownstone GT CV.

45. In reliance of the representations of Tassinari and AVB, Plaintiffs signed the Term Sheet which became the basis of the lawsuit by Brownstone GT and Gold Town CV, and resulted in damages to Plaintiffs.

46. At the time the representations were made, Defendants knew, or should have known, that those representations were false and that "Other Investor(s)", including, but not limited to, Tassinari, who signed on behalf of "Other Investor(s)" or AVB, had no intention to invest \$7,000,000.00 in the Gold Town Casino Project and/or Brownstone GT CV, or otherwise perform any "obligations" under the Term Sheet.

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#2690476-v5

1 47. Had Plaintiffs known that the representations being made by Defendants were
2 false, Plaintiffs would not have signed the Term Sheet.

3 48. As a result of those false representations, Plaintiffs have been damaged in excess
4 of \$10,000.00.

5 49. Defendants' actions were intentional and malicious and evidence a wanton and
6 reckless disregard of Plaintiffs' rights, and Plaintiffs are therefore entitled to exemplary and/or
7 punitive damages in excess of \$10,000.00.

8 50. It has been necessary for Plaintiffs to engage the services of an attorney and
9 Plaintiffs are entitled to reasonable attorneys' fees and costs as damages.

10 **THIRD CAUSE OF ACTION**
11 **(Negligent Misrepresentation – In Alternative)**

12 51. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1
13 through 50 of the Complaint as though fully set forth herein.

14 52. Defendants had a pecuniary interest in the proposed development of the Gold
15 Town Casino Project.

16 53. Defendants failed to exercise reasonable care in communicating that there were
17 "Other Investor(s)" who were committed to contributing \$7,000,000.00 to the Gold Town
18 Casino Project, and that the Canadian Investor Group had executed the Term Sheet as the
19 "Other Investor(s)," with the expectation of contributing \$7,000,000.00 for a 12.6%
20 Membership Interest.

21 54. Defendants also failed to exercise reasonable care when they failed to inform
22 Plaintiffs that the Canadian Investor Group had not executed the Term Sheet, and that Tassinari,
23 who had signed the Term Sheet as the "Other Investor(s)," had no intention of contributing
24 \$7,000,000.00 to the Gold Town Casino Project.

25 55. Plaintiffs justifiably relied upon the representations of Tassinari and AVB.

26 56. As a direct and proximate result of Plaintiffs' reliance upon Defendants'
27 negligent misrepresentations, Plaintiffs have been damaged in the sum in excess of \$10,000.00.

28 ///

#2690476-v5

1 57. It has been necessary for Plaintiffs to engage the services of an attorney and
2 Plaintiffs are entitled to reasonable attorneys' fees and costs as damages.

3 **FOURTH CAUSE OF ACTION**
4 **(Fraudulent Omission)**

5 58. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1
6 through 57 of the Complaint as though fully set forth herein.

7 59. Defendants made representations that there was a Canadian Investment Group
8 committed to contributing \$7,000,000.00 toward the Gold Town Casino Project.

9 60. After making such representations, Defendants provided Plaintiffs with a Term
10 Sheet purportedly signed by "Other Investor(s)," stating that the "Other Investor(s)" expected to
11 make the \$7,000,000.00 in exchange for a 12.6% Membership Interest.

12 61. Defendants also represented that the "Other Investor(s)" was in fact the Canadian
13 Investor Group.

14 62. Defendants knew that the interest of other potential investors was important to
15 Plaintiffs' decision to continue looking at the Gold Town Casino Project.

16 63. Defendants knew, or should have known, that the interest of other potential
17 investors was important to Plaintiffs' decision to sign the Term Sheet or otherwise committing
18 the Property for the Gold Town Casino Project.

19 64. Defendants failed to inform Plaintiffs of the material fact that the signature of the
20 "Other Investor(s)" was actually Tassinari, and that at the time he signed the Term Sheet,
21 Tassinari, individually and on behalf of AVB, did not expect or intend to contribute
22 \$7,000,000.00 toward the Gold Town Casino Project.

23 65. Defendants also failed to inform Plaintiffs of the material fact that no other third
24 party investor had signed the Term Sheet.

25 66. Defendants knew, or should have known, that their omissions of material facts
26 would mislead Plaintiffs.

27 67. Plaintiffs reasonably relied on the false, untrue and/or misleading statements and
28 omissions made by Defendants in executing the Term Sheet.

68. As a direct and proximate cause of the acts and omissions of Defendants, Plaintiffs have been damaged in the sum in excess of \$10,000.00.

69. Defendants' actions were intentional and malicious and evidence a wanton and reckless disregard of Plaintiffs' rights, and Plaintiffs are therefore entitled to exemplary and/or punitive damages in excess of \$10,000.00.

70. It has been necessary for Plaintiffs to engage the services of an attorney and Plaintiffs are entitled to reasonable attorneys' fees and costs as damages.

WHEREFORE, Plaintiffs, and each of them, pray for judgment against Defendants, and each of them, jointly and severally, as follows:

1. For Compensatory damages in a sum in excess of \$10,000.00;
2. For Punitive damages in the sum in excess of \$10,000.00;
3. For recovery of attorney's fees and costs incurred in this action;
4. For such other and further relief as the Court may deem just and proper in the premises.

DATED this 8th day of October 2014.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Gwen Rutar Mullins

GWEN RUTAR MULLINS, ESQ.

Nevada Bar No. 003146

WADE B. GOCHNOUR, ESQ.

Nevada Bar No. 006314

3800 Howard Hughes Pkwy, Ste. 1000

Las Vegas, Nevada 89169

*Attorneys for Plaintiffs Robert L. Mendenhall
and Sunridge Corporation*

EXHIBIT 1

EXHIBIT 1

AMERICAN VANTAGE BROWNSTONE, LLC A SUBSIDIARY OF AMERICAN VANTAGE COMPANIES

Phone: (702) 227-9800 - Fax: (702) 227-8525
P.O. Box 81930, Las Vegas, NV 89180

**CARSON VALLEY CASINO PROJECT
TERM SHEET**

Transaction:

This term sheet shall serve as an outline of the basic business terms and conditions upon which Brownstone GoldTown, LLC ("Brownstone GoldTown"), a subsidiary of American Vantage Brownstone, LLC ("AVE"), Robert L. Mendenhall, Ph.D. or an entity wholly-owned by Mr. Mendenhall ("Mendenhall"), and other potential equity investor(s) (the "Other Investor(s)"), will acquire membership interests in the Nevada limited liability company, Brownstone GoldTown CV, LLC (the "Company") for the primary purpose of constructing, owning and operating a hotel casino to be located in Carson Valley, Douglas County, Nevada (the "Project").

Project Description:

GoldTown Hotel and Casino Resort, to be constructed on 46 acres, with approximately 300 hotel rooms and suites, 93,000+ square feet of casino space, three full service restaurants, 8,000 square feet of convention space and multiple retail outlets. The project site is located within a few miles of Carson City and Lake Tahoe, Nevada and forty-five minutes from Reno, Nevada.

The Project also includes the exclusive option to purchase an adjoining 300-acre, 7,000 yard, par 72, championship golf course ("Sunridge Golf Club") with pro shop. The option to purchase Sunridge Golf Club expires on January 11, 2008.

Ownership of the
Company:

The Project membership interests (the "Membership Interests") will be allocated based on the following:

- For contribution of the 46-acre project site, valued at \$15,000,000.00, Mendenhall will receive a 27.0% Membership Interest. The acreage will be contributed in full on or before the option expiration date of December 27, 2007 or as mutually agreed between Brownstone GoldTown and Mendenhall.

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Brownstone GoldTown, LLC
Crescent Valley Casino Project
Term Sheet
Page Two

- It is expected that the Other Investor(s) will contribute \$7,000,000.00 U.S. dollars for a 12.6% Membership Interest.
- Brownstone GoldTown will contribute \$1,500,000.00 U.S. dollars for a 2.7% Membership Interest.
- The option to purchase Sunridge Golf Club provides that, at the discretion of Brownstone GoldTown:
 - The total Purchase Price of \$2,500,000.00 U.S. dollars; or,
 - A Purchase Price of \$1,000,000.00 U.S. plus assumption of the golf cart loan, in an amount not to exceed \$150,000.00, and an equity percentage share of the Company in the same manner and terms as the other equity investors of the Company. The equity percentage share is currently equal to a 2.7% Membership Interest.

If Brownstone GoldTown elects to purchase the Sunridge Golf Course for the total Purchase Price of \$2,500,000.00, the related 2.7% Membership Interest will be allocated on a pro rata basis to Mendenhall, the Other Investor(s) and Brownstone GoldTown.

- The above contributions are collectively defined as the "Project Contributions."
- Brownstone GoldTown will retain the remaining Membership Interest as its founder.

The total Membership Interests may be impacted if there is an increase in the current investment banking equity requirement of \$25,000,000.00.

Allocation of Casino
And Retail Business
Cash Flows:

The Operating Agreement will provide for quarterly distribution, if and when available, of the Company's Casino cash flow, after payment of operating expenses (including a development fee of 3.0% of the total development costs and an annual management fee of \$1,000,000.00), senior debt covenants and any required reserves, in the following manner:

- Fifty-percent (50%) to the pro rata repayment of the Project Contributions until, together with the distributions from the Retail Business cash flow (see below), the full value of the Project Contributions is repaid. Distributions from the Company's Casino

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Brownstone GoldTown, LLC
Orson Valley Casino Project
Term Sheet
Page Three

cash flow will first satisfy the pro rata repayment of the Project Contributions, with repayment interest terms based on the higher of 90-Day LIBOR (London Interbank Offered Rate) at the date of the contribution or an annual rate of 6%.

- Remaining 50% to be allocated based upon the percentage of Membership Interests held by each member in the Company.

The Operating Agreement will also provide for monthly distributions of the Company's Retail Business cash flow, if and when available, after payment of operating expenses (including development and management fees), senior debt covenants and any required reserves, in the following manner:

- Seventy-percent (70%) to the pro rata repayment of the Project Contributions until, together with the distributions from the Company's Casino cash flow (as discussed above), the full value of the Project Contributions is repaid. Distributions from the Company's Retail Business cash flow will first satisfy the pro rata repayment of the Project Contributions, with repayment interest terms based on the higher of 90-Day LIBOR (London Interbank Offered Rate) at the date of the contribution or an annual rate of 6%.
- Remaining 30% to be allocated based upon the percentage of Membership Interests held by each member in the Company.

The Operating Agreement shall provide that, upon the repayment of the full value of the Remaining Membership Interests, the Company's Casino and Retail Business cash flows will be distributed according to the percentage of Membership Interests held by each member in the Company.

Refinancing

In the event a refinancing of the Project is approved by the Company, after payment of the senior debt, any excess capital realized from the refinancing shall be applied, collectively determined on a pro rata basis from capital contributions, in the following manner to: (i) the Other Investor(s), Mendenhall, Brownstone GoldTown, and as applicable, the Sunridge Golf Club seller, to the extent that the Project Contributions have not been repaid from the distributions of Casino cash flow and Retail Business cash flow; and (ii) distributed according to the percentage of Membership Interests held by each member in the Company.

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0014

Brownstone GoldTown, LLC
Carson Valley Casino Project
Term Sheet
Page Four

Licensing

The Project owners will be required to satisfactorily obtain a Nevada gaming license. Costs associated with obtaining a Nevada gaming license for a director, employee or consultant directly associated with the development or management of the Project are the only licensing costs that will be borne by the Project.

Exclusivity:

Non-exclusive arrangement.

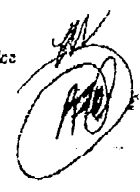
Termination Of
Agreement

The Term Sheet may be terminated if not executed by the parties on or before _____.

* * * *

CONFIDENTIAL

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Brownstone GoldTown, LLC
Carson Valley Casino Project
Term Sheet
Page Five

IN WITNESS WHEREOF, the parties have agreed upon the above terms and conditions of this Term Sheet. This Term Sheet consent may be executed by one or more of the signers hereto in any number of separate counterparts, and all such counterparts taken together shall be deemed to constitute one and the same instrument. Execution of this Term Sheet and delivery thereof by facsimile or email transmission shall be sufficient for all purposes and shall be binding upon any party who so executes.

Dated: 12/14 2007

American Vantage Brownstone, LLC

By: _____
Name: Ronald J. Tassinari
Title: Chairman

Brownstone GoldTown, LLC

By: Robert F. Gross
Name: Robert F. Gross
Title: Chief Executive Officer

Robert L. Mandanhall, Ph.D. or Other:

By: _____
Name:
Title:
Company Name:

Other Investor(s):

By: _____
Name:
Title:

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IAFD

Gwen Rutar Mullins, Esq.

Nevada Bar No. 3146

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wbg@h2law.com

*Attorneys for Plaintiffs Robert L. Mendenhall
and Sunridge Corporation*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

ROBERT L. MENDENHALL, an individual,
SUNRIDGE CORPORATION, a Nevada
corporation,

Plaintiffs,

v.

RONALD TASSINARI, an individual,
AMERICAN VANTAGE BROWNSTONE,
LLC, a Nevada limited liability company,
DOES 1 through 5, inclusive and ROE
CORPORATIONS 1 through 5, inclusive,

Defendants.

Case No.:

Dept. No.:

**INITIAL APPEARANCE FEE
DISCLOSURE (NRS) CHAPTER 19**

Pursuant to NRS Chapter 19, filing fees are submitted for parties appearing in the above
entitled action as indicated below:

Robert L. Mendenhall \$270.00

Sunridge Corporation \$ 30.00

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///

///

Howard & Howard, Attorneys PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

Total Remitted:

\$300.00

DATED this 8th day of October 2014.

HOWARD & HOWARD ATTORNEYS PLLC

/s/ Gwen Rutar Mullins

Gwen Rutar Mullins, Esq.

Nevada Bar No. 3146

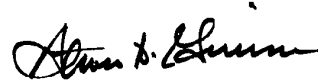
Wade B. Gochnour, Esq.

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Las Vegas, NV 89169

*Attorneys for Plaintiffs Robert L. Mendenhall
and Sunridge Corporation*



CLERK OF THE COURT

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5 2620 Regatta Drive, Suite 102

6 Las Vegas, Nevada 89128

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10 Nevada Bar No. 001252

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13 Las Vegas, Nevada, 89101

14 Telephone (702) 382-6700

15 Email: harry@marquislaw.net

16 *Attorneys for Defendants Ronald Tassinari*

17 *And American Vantage Brownstone, LLC*

18 **DISTRICT COURT**
19 **CLARK COUNTY, NEVADA**

20 ROBERT L. MENDENHALL, an individual,
21 SUNRIDGE CORPORATION, a Nevada
22 Corporation,

23 Plaintiffs,

24 v.

25 RONALD TASSINARI, an individual,
26 AMERICAN VANTAGE BROWNSTONE,
27 LLC, a Nevada limited liability company,
28 DOES 1 through 5, inclusive and ROE
CORPORATIONS 1 through 5, inclusive,

Defendants.

) Case no.: A-14-708281-C

) Dept. no.: XXXII

)

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**DEFENDANT'S
MOTION TO DISMISS**

Date of Hearing: 2 / 24 / 15

Time of Hearing: 9 : 00 a m

COMES NOW, Defendants by and through their counsel James J. Lee, Esq. and Harry Paul Marquis, Esq. and moves the Court to dismiss pursuant to NRCP 12(b)(6) and/or NRCP 56 on grounds that this action is barred by the *doctrine of claim preclusion*.

MOTION TO DISMISS - 1

1 Defendant's motion is made and based on the following points and authorities, all
2 pleadings and papers on file herein and any and all arguments the court may entertain upon
3 hearing.
4

5 **NOTICE OF MOTION**

6 TO: ROBERT L. MENDENHALL, an individual, Plaintiff herein;

7 TO: SUNRIDGE CORPORATION, a Nevada Corporation, Plaintiff herein;


8 TO: GWEN RUTAR MULLINS, ESQ., Attorney for Plaintiffs;

9 TO: WADE B. GOCHNOUR, ESQ., Attorney for Plaintiffs;
10

11 PLEASE TAKE NOTICE that the undersigned will bring DEFENDANT'S MOTION
12 TO DISMISS on for hearing before Department XXXII on the 24 day of February,
13 2015, at the hour of 9:00 am am/pm.

14 DATED this 28th day of January, 2015.

15 **HARRY PAUL MARQUIS, CHARTERED**

16
17 
18 HARRY PAUL MARQUIS, ESQ.

19 Nevada Bar no. 1252

20 400 South Fourth Street, Third Floor

21 Las Vegas, Nevada 89101

22 Tel. No.: (702) 382-6700

23 Fax No.: (702) 384-0715

24 Email: harry@marquislaw.net

25 ***Attorney for Defendants***

26 In Association with:

27 **JAMES J. LEE, ESQ.**

28 Nevada Bar No. 01909

Legal Offices of James J Lee

2620 Regatta Drive, Suite 102

Las Vegas, Nevada 89128

Telephone (702) 664-6545

Email: james@leelawonline.com

Attorney for Defendants

Introduction

Now, Mendenhall has singled out Ronald Tassinari (“Tassinari”) an officer and managing agent of American Vantage Brownstone LLC (AVB), the owner of the Brownstone Plaintiffs, as well as AVB itself, to assert claims grounded in the same transactions that gave rise to the First Case and which indeed he tried to assert in that case before it was settled and dismissed with prejudice.

As a matter of law, a dismissal with prejudice *is just that*, it permanently bars all claims that were brought, *or that could have been brought*, in the dismissed action. Since Mendenhall's claims in this case are based on the same core transactions which gave rise to the First Case and could *have been brought* in that case, and since Tassinari and AVB were and are *privies to* the Brownstone Plaintiffs in the First Case, this action is barred.

1 **Facts and Procedural Background**

2 At all relevant times, Tassinari was the Chief Executive Officer of AVB. At all relevant
3 times, AVB owned the majority interest in the Brownstone Plaintiffs.

4 Commencing in early 2006, Tassinari acting by and on behalf of Brownstone, and
5 Robert Mendenhall entered into negotiations toward the development of a Hotel/Casino on
6 certain real property owned by Plaintiff Sunridge Corporation (Sunridge) near Carson City,
7 Nevada. Sunridge is owned and controlled by the Mendenhall Family Trust.

8
9 In December 2007, Tassinari and Mendenhall finally reached an agreement with regard
10 to essential terms and executed a contract—the “term sheet”—outlining those terms. The
11 contract/Term Sheet sets forth that Mendenhall would transfer the property to the Brownstone
12 Plaintiffs in exchange for an interest in the Brownstone Plaintiffs while Brownstone Plaintiffs
13 would contribute initial development costs including, but not limited to, plans, specifications,
14 and land use entitlements. The Brownstone Plaintiffs expended time, energy, effort and over a
15 million dollars developing the property, increasing its value in the process. While that was
16 happening, Mendenhall repeatedly confirmed that he would transfer the property as agreed.
17 However, in April of 2008 he repudiated the agreement and stated that he did not wish to
18 participate in the project.
19
20

21 On December 12, 2011, the Brownstone Plaintiffs filed a complaint against Mendenhall
22 and Sunridge for breach of contract and unjust enrichment. (Exhibit A)

23
24 On July 10, 2014, Mendenhall served a 1.2 million dollar offer of judgment. (Exhibit B)

25 On July 21, 2014, Mendenhall filed a Motion for Leave to Amend to include a
26 counterclaim against Brownstone and a third-party complaint against Tassinari and AVB.
27
28

1 Notably, the proposed amendment contains virtually the same allegations as those set forth in
2 the current Complaint. (Exhibit C, Motion to Amend and proposed amendment).

3 Then, on July 24, 2014, Brownstone Plaintiffs served a Notice of Acceptance of the
4 Offer of Judgment. (Exhibit D)

5
6 Consequently, on August 29, 2014, the District Court entered an Order of Dismissal of
7 Action with Prejudice and subsequently vacated all proceedings. The Order states in pertinent
8 part:

9It is ORDERED, ADJUDGED AND DECREED that pursuant to NRCP
10 68(d) and NRS 17.115(2) (a), the above entitled action **BE AND IS HEREBY**
11 **DISMISSED WITH PREJUDICE, FULLY DISCHARGED AND**
12 **RELEASED**, with respect to any and all claims as alleged, or that could have
13 been alleged in this action by ROBERT L. MENDENHALL, SUNRIDGE
14 CORPORATION, BROWNSTONE GOLD TOWN, LLC and BROWNSTONE
15 GOLD TOWN CV, LLC, including but not limited to, those asserted in the
16 Complaint, as well as any related or potential claims that could be asserted in
17 this action against one another, with each party to bear their own attorney's
18 fees and costs." (*Emphasis Added*)
19
20

21 (Exhibit E)

22
23 On October 8, 2014, Mendenhall filed this action.

24 **Standard**

25 Defendants move pursuant Rule 12(b)(6) of the Nevada Rules of Civil Procedure to
26 dismiss the complaint as barred by the doctrine of *res judicata*. "*Res judicata* challenges may
27 properly be raised via a motion to dismiss for failure to state a claim under Rule 12(b)(6).
28

MOTION TO DISMISS - 5

1 “*Thompson v. County of Franklin*, 15 F.3d 245, 253 (2d Cir. 1994). When a defendant raises
2 res judicata as a defense and it is clear from the face of the complaint, and matters of which the
3 court may take judicial notice, that the plaintiff’s claims are barred as a matter of law,”
4 dismissal under Rule 12(b)(6) is appropriate. *Conopco, Inc. v. Roll Int’l*, 231 F.3d 82, 86 (2d
5 Cir. 2000).
6

7 8 ARGUMENT

9 1. This Case is Barred by the Doctrine of Claim Preclusion.

10 The doctrine of claim preclusion provides that a final judgment on the merits bars
11 further claims by parties or their privies based on the same cause of action or operative facts.
12 *Five Star Capital Corp v Ruby*, 124 Nev. 1048, 194 P3d 709, 713 (2008). The Nevada Supreme
13 Court has established a three-part test for determining whether claim preclusion applies: “(1)
14 The parties or their privies are the same; (2) the final judgment is valid; and (3) the subsequent
15 action is based on the same claims or any part of them that were or could have been in the first
16 case.” *Id* at 710.
17

18 As to the first factor, in this case the parties are not identical. But they were and are
19 privies to the Brownstone Plaintiffs in the First Case. Privity exists when a person is identified
20 and shares a commonality of interest with another. See *Headwaters Inc. v. U.S. Forest Serv.*,
21 399 F.3d 1047, 1054 (9th Cir.2005). The focus of the inquiry regarding privity is whether the
22 party in the later action was “sufficiently close” to the party in the first action so as to justify
23 applying preclusion principles. *Clemmer v Hartford Insurance Co.* 22 Cal .3d 865, 151 Cal
24 Rptr. 285, 587 P.2d 1098, 1102 (Cal.1978).
25
26

27 Here, Defendant American Vantage Brownstone LLC (AVB) is the owner of both
28 Brownstone Plaintiffs, Brownstone Gold Town, LLC, and Brownstone Gold Town CV, LLC. In
MOTION TO DISMISS - 6

1 fact the Term Sheet, attached as Exhibit 1 to the Complaint herein, specifically identifies
2 Brownstone Gold Town, LLC as a subsidiary of AVB as follows:

3 “This term sheet shall serve as an outline of the basic business terms and
4 conditions upon which Brownstone GoldTown, LLC (“Brownstone
5 GoldTown”), a subsidiary of American Vantage Brownstone, LLC (“AVB”),
6 Robert L. Mendenhall, Ph.D. or an entity wholly-owned by Mr. Mendenhall
7 (“Mendenhall”), and other potential equity investor(s) (the “Other Investor(s)),
8 will acquire membership interests in the Nevada limited liability company,
9 Brownstone GoldTown CV, LLC (the “Company”) for the primary purpose of
10 constructing, owning and operating a hotel casino to be located in Carson Valley,
11 Douglas County, Nevada (the “Project”).” (Emphasis Supplied)

12 Further, Defendant American Vantage Brownstone LLC (AVB) signed the Term Sheet
13 (see Exhibit 1 to the Complaint). The signature block for AVB is signed by Defendant Tassinari
14 as its chairman.

15 Defendants managed, lead, acted on behalf of and owned the Brownstone Plaintiffs and
16 therefore, for purposes of privity, their interests and motivations were and are perfectly aligned.
17 Indeed, it is difficult to conceive a way in which they were *not* privies to the Brownstone
18 Plaintiffs. After all, Tassinari signed the contract or Term Sheet in his capacity as chairman of
19 AVB and on behalf of AVB the owner of Brownstone Gold Town, LLC. See *Bloom v*
20 *Claimetrics Management*, 2011 U.S. Dist. Lexis. 75841 (Nev. 2011) (Since defendants in
21 second case were managing agents, members and owners of defendant limited liability company
22 in first case, they were privies for purposes of claim preclusion.)
23
24
25
26
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28

1 As to the second factor, there can be no question that the Order of Dismissal of Action
2 with Prejudice (the “Order of Dismissal”) filed in the First Case is valid. The Order of
3 Dismissal was submitted by and signed by counsel for Robert Mendenhall and Sunridge
4 Corporation, the Defendants in the First Case and the Plaintiffs in the instant case, the Order of
5 Dismissal was signed by District Court Judge Ronald J. Israel and filed in the First Case, and
6 the Order of Dismissal specifically provides in part that: “...the above entitled action **BE AND**
7 **IS HEREBY DISMISSED WITH PREJUDICE, FULLY DISCHARGED AND**
8 **RELEASED**, with respect to any and all claims as alleged, or that could have been alleged in
9 this action by ROBERT L. MENDENHALL, SUNRIDGE CORPORATION...” (Emphasis in
10 original).

11
12
13 Further, NRCP 41 resolves the question of whether a dismissal with prejudice arising
14 out of the acceptance of an offer of judgment pursuant to NRCP 68(d) and NRS 17.115(2)(a)
15 holds preclusive effect. NRCP 41(b) provides that “a dismissal under this subdivision and any
16 dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for
17 improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon
18 the merits” (Emphasis Supplied). A dismissal arising out of NRCP 68(d) and NRS 17.115(2)(a)
19 falls within the “any dismissal not provided for in this rule” language and operates as an
20 adjudication upon the merits. Of course since the Order of Dismissal is by its express terms
21 “with prejudice”, it expressly holds preclusive effect and operates as an adjudication upon the
22 merits.
23
24

25 Regarding the third factor: claim preclusion applies to prevent a second suit based on
26 *all grounds of recovery* that were or *could have been brought* in the first suit. *Five Star Capital*
27 *v Ruby* 108 Nev. 149. The Order of Dismissal by its express terms extends to claims which
28

1 could have been alleged by Plaintiffs herein in pertinent part as follows: "...the above entitled
2 action **BE AND IS HEREBY DISMISSED WITH PREJUDICE, FULLY DISCHARGED**
3 **AND RELEASED**, with respect to any and all claims as alleged, *or that could have been*
4 *alleged in this action by ROBERT L. MENDENHALL, SUNRIDGE CORPORATION,*
5 *BROWNSTONE GOLD TOWN, LLC and BROWNSTONE GOLD TOWN CV, LLC,*
6 *including but not limited to, those asserted in the Complaint, as well as any related or potential*
7 *claims that could be asserted in this action against one another,...*" Mendenhall's Motion to
8 Amend in the First Case seeking to assert the same claims now brought in the case at bar,
9 clearly demonstrates that the claims in this case could have been brought in the First Case.
10
11

12 Since all three requirements for claim preclusion are met, this action must be dismissed.

13 As the Nevada Supreme Court stated:

14 "Such a result supports the policy reasons behind claim preclusion. As
15 stated in Restatement (Second) of Judgments section 19, comment: "The
16 purposes of claim preclusion are "based largely on the ground that fairness to
17 the defendant, and sound judicial administration, require that at some point
18 litigation over the particular controversy come to an end" and that such
19 reasoning may apply "even though the substantive issues have not been tried,
20 especially if the plaintiff has failed to avail himself of opportunities to pursue
21 his remedies in the first proceeding. . . ." Consequently, the dismissal in the
22 first suit is properly considered a final judgment for claim preclusion purposes."
23
24

25 *Five Star Capital v Ruby, id.* at 149.

26 ///

27 ///

28 MOTION TO DISMISS - 9


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CONCLUSION

The Defendants in this case were officers and managing agents and members of the Plaintiffs in the First Case, Brownstone Gold Town, LLC and Brownstone Gold Town CV, LLC. The Defendants herein were and are privies of the Brownstone Plaintiffs in the First Action. The Order of Dismissal of Action with Prejudice filed in the First Case is valid. The claims in this case could have been brought in the First Case. Therefore this action is barred and must be dismissed.

DATED this 23rd day of January, 2015.

HARRY PAUL MARQUIS, CHARTERED


HARRY PAUL MARQUIS, ESQ.

Nevada Bar no. 1252

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Attorney for Defendants

In Association with:

JAMES J. LEE, ESQ.

Nevada Bar No. 01909

Legal Offices of James J Lee

2620 Regatta Drive, Suite 102

Las Vegas, Nevada 89128

Telephone (702) 664-6545

Email: james@leelawonline.com

Attorney for Defendants

1 **CERTIFICATE OF SERVICE**

2 I certify that on the 23rd day of January, 2015, I served a true copy of the above and
3 foregoing *Defendant's Motion to Dismiss* herein electronically via the Court's ECF system upon
4 all parties listed on the electronic service list, as follows:
5

6 Gwen Rutar Mullins, Esq.
7 Wade B. Gochmour, Esq.
8 **HOWARD & HOWARD ATTORNEYS PLLC**
9 3800 Howard Hughes Parkway, Suite 1000
10 Las Vegas, Nevada 89169
11 Telephone: (702) 257-1483
12 Facsimile: (702) 567-1568
13 Email: grm@h2law.com
14 Email: wbg@h2law.com
15 *Attorneys for Defendants*

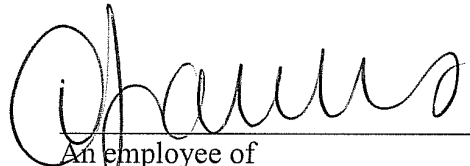
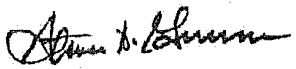
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An employee of
HARRY PAUL MARQUIS, CHTD

Exhibit A



CLERK OF THE COURT

1 **COMP**
2 **HARRY PAUL MARQUIS, CHTD.**
3 **HARRY PAUL MARQUIS, ESQUIRE**
4 Nevada Bar No. 001252
5 400 South Fourth Street, Third Floor
6 Las Vegas, Nevada 89101
7 Telephone (702) 382-6700
8 Email: harry@marquislaw.net
9 *Attorney for Plaintiffs*

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

12 BROWNSTONE GOLD TOWN, LLC.,
13 a Nevada limited liability company,
14 BROWNSTONE GOLD TOWN CV, LLC.,
15 a Nevada limited liability company,

16 Plaintiffs,

17 vs.

18 ROBERT L. MENDENHALL, an individual,
19 SUNRIDGE CORPORATION, a Nevada
20 corporation, and DOES 1 through 10,
21 inclusive,

22 Defendants.

A- 11- 653822- C

CASE NO.

XXVIII

DEPT. NO.

Exempt from Arbitration
Declaratory Relief

23 **COMPLAINT**

24 COME NOW, Plaintiffs BROWNSTONE GOLD TOWN, LLC., a Nevada limited liability
25 company, BROWNSTONE GOLD TOWN CV, LLC., a Nevada limited liability company, by and
26 through its attorney, HARRY PAUL MARQUIS, CHTD., for their Complaint hereby alleges as follows:

27 **FIRST CLAIM FOR RELIEF**

28 **(Breach of Contract)**

1. Plaintiff BROWNSTONE GOLD TOWN, LLC. (hereinafter "Brownstone ") is, and at all
times herein mentioned was a limited liability company organized and existing under and by virtue of
laws of the State of Nevada, doing business in the State of Nevada and with its principal place of
business in Las Vegas, Nevada. Brownstone is in the business of, among other things, developing and

1 operating hotel and gaming facilities.

2 2. Plaintiff BROWNSTONE GOLD TOWN CV, LLC. (hereinafter "Gold Town CV ") is, and
3 at all times herein mentioned was a limited liability company organized and existing under and by virtue
4 of laws of the State of Nevada, doing business in the State of Nevada and with its principal place of
5 business in Las Vegas, Nevada.

6 3. Defendant, ROBERT MENDENHALL (hereafter "Mendenhall") is, and at all times herein
7 mentioned was an individual, and a resident of the State of Nevada.

8 4. Defendant, SUNRIDGE CORPORATION (hereafter "Sunridge") is, and at all times herein
9 mentioned was corporation organized and existing under and by virtue of laws of the State of Nevada,
10 doing business in the State of Nevada and with its principal place of business in Las Vegas, Nevada.

11 5. Mendenhall is an officer and director of Sunridge. Plaintiffs are informed and believes that
12 Mendenhall is the sole shareholder of Sunridge.

13 6. The true names and capacities, whether individual, corporate, associate, or otherwise,
14 of Defendants DOES 1 through 10, inclusive, are unknown to Plaintiffs who therefore sue said
15 Defendants by such fictitious names. Plaintiffs are informed and believe and thereon allege that each
16 of the Defendants designated herein as a DOE is responsible in some manner for the events and
17 happenings herein referred to and thereby caused the damages to Plaintiffs as herein alleged. Plaintiffs
18 will ask leave of this Court to amend this Complaint and insert the true names and capacities of said
19 Defendant DOES when the same have been ascertained and join such Defendants in this action.

20 7. Plaintiffs are informed and believe, and thereon allege that at all times herein mentioned,
21 Defendants, and each of them, were the agents and/or employees of each other, and that in doing the
22 things herein alleged, said Defendants were acting within the course and scope of such agency and/or
23 employment.

24 8. Sunridge is, and at all times herein mentioned was, the owner of certain real property and
25 improvements consisting of approximately 46 acres of land located at the southeast corner of U.S.
26 Highway 395 and South Sunridge Drive, in the County of Douglas, in the State of Nevada, identified
27 as Assessor's Parcel Numbers 1420-18-801-002, -003, -004 and -005 (the "Property").
28

1 9. Plaintiffs are informed and believe that, prior to 2005, Sunridge, or its predecessor-in-
2 interest, had developed a parcel adjacent to the Property as residential community, consisting of over 950
3 separate home sites. Plaintiffs are further informed and believe that, prior to 2005, Sunridge, or its
4 predecessor-in-interest had developed a parcel adjacent to the Property as a golf course.

5 10. In or about 2005, Brownstone became interested in developing a hotel and casino property
6 in Nevada. At or around that time, Brownstone evaluated a number of sites for such a development,
7 including the Property. Brownstone decided that the Property was a candidate for a hotel and casino
8 project and began negotiating with Defendants to obtain the rights to develop and operate the Property.

9 11. The negotiations between Brownstone and Defendants continued for nearly two years.
10 During that time, specifically in June 2007, Brownstone formed Plaintiff Brownstone Gold Town CV,
11 LLC, to serve as the developer and operating entity for the hotel and casino to be developed on the
12 Property.

13 12. By December 2007, Brownstone and Defendants had finally reached an agreement with
14 respect to the Property. Specifically, on December 4, 2007, Brownstone and Defendant Mendenhall
15 entered into a written agreement (the "Contract") with respect to development of the Property as the
16 "GoldTown Hotel and Casino Resort", with over 300 hotel rooms and suites, over 90,000 square feet
17 of casino space, 8,000 square feet of convention space, as well as numerous retail outlets (the "Project").
18 Under the terms of the Contract, Mendenhall agreed to contribute the Property in exchange for a 27%
19 interest in Gold Town CV. A copy of the Contract is attached hereto as Exhibit "1".

20 13. In reliance upon the Contract, Plaintiffs have expended time, energy, expenses and
21 resources to obtain the plans, studies, approvals and land use entitlements necessary to develop the
22 Property as a hotel and casino site, thereby substantially improving the value of the Property. Moreover,
23 in reliance upon the Contract, Plaintiffs have expended time, energy, expenses and resources to obtain
24 additional investors and financing for the Project, all for the purpose of developing and operating the
25 Property.

26 14. From on or about December 4, 2007 through on or about April 7, 2008, Defendants
27 repeatedly confirmed, orally and in writing that they would perform their obligations under the Contract,
28

1 including but not limited to transferring the Property to Gold Town CV in exchange for a 27% interest
2 in Gold Town CV.

3 15. From on or about April 8, 2008, through the present, Mendenhall has materially
4 breached the Contract by failing and refusing, despite due demand, to transfer the Property to Gold Town
5 CV as required under the terms of the Contract.

6 16. Brownstone has performed all the terms, covenants and conditions on its part to be
7 performed under the terms of the Contract.

8 17. As a direct and proximate result of the breach of contract of Defendant Mendenhall, as
9 herein alleged, Brownstone has incurred damages in a sum in excess of TEN THOUSAND DOLLARS
10 (\$10,000.00).

11 18. Plaintiffs have been compelled to obtain the services of an attorney to prosecute this
12 action and are therefore entitled to reasonable attorneys fees and costs.
13

14
15 **SECOND CLAIM FOR RELIEF**

16 **(Breach of Implied Covenant of Good Faith and Fair Dealing)**

17
18 19. Plaintiffs, repeat and reallege Paragraphs 1 through 18 of the Complaint as though fully
19 set forth herein and incorporates the same by this reference.

20 20. The Contract contained an implied covenant of good faith and fair dealing.

21 21. From on or about April 8, 2008 and thereafter, Mendenhall contractually breached the
22 implied covenant of good faith and fair dealing contained within the Contract by doing the things herein
23 alleged including, but not limited to knowingly, intentionally and wilfully failing and refusing to transfer
24 the Property to Gold Town CV as required under the terms of the Contract.

25 22. As a direct and proximate result of the breach of the implied covenant of good faith and
26 fair dealing by Defendant Mendenhall as herein alleged, Brownstone has incurred damages in a sum in
27 excess of TEN THOUSAND DOLLARS (\$10,000.00).

28 23. In doing the things herein alleged, Defendant has acted with malice and with the intent

1 to injure and harm Brownstone, and Brownstone is thereby entitled to punitive damages in a sum in
2 excess of TEN THOUSAND DOLLARS (\$10,000.00).

3 **THIRD CLAIM FOR RELIEF**

4 **(Unjust Enrichment)**

5 24. Plaintiffs, repeat and re-allege Paragraphs 1 through 23 of the Complaint as though fully
6 set forth herein and incorporated the same by this reference.

7 25. From in or about December 2007, through in or about December 2010, Plaintiffs conferred
8 a benefit on Defendants Mendenhall and Sunridge, and each of them, by Plaintiffs expending significant
9 time, expense, energy and resources to obtain the plans, studies, approvals and land use entitlements
10 necessary to develop the Property as a hotel and casino site thereby substantially improving the value
11 of the Property.

12 26. Defendants Mendenhall and Sunridge, and each of them, appreciated, accepted and
13 retained the benefit conferred by Plaintiffs, and in fact cooperated and participated in the approval and
14 entitlement process regarding the Project to be developed on the Property.

15 27. The acceptance and retention by Defendants Mendenhall and Sunridge, and each of them,
16 of the benefit conferred by Plaintiffs without paying Plaintiff for such benefit would be inequitable under
17 the circumstances herein alleged.

18 28. As a direct and proximate result of the wrongful actions of Defendants Mendenhall and
19 Sunridge, and each of them, said Defendants have been unjustly enriched in an amount according to
20 proof, all to Plaintiffs' damage in a sum in excess of TEN THOUSAND DOLLARS (\$10,000.00).

21 **FOURTH CLAIM FOR RELIEF**

22 **(Declaratory Relief)**

23 29. Plaintiffs repeat and reallege Paragraphs 1 through 28 of the Complaint as though fully
24 set forth herein and incorporates the same by this reference.

25 30. A dispute has arisen and an actual controversy now exists between Plaintiffs and
26 Defendants Mendenhall and Sunridge, and each of them, as to their respective rights and liabilities
27
28

1 regarding the Contract and the Project and, therefore an actual controversy exists relative to the legal
2 duties and rights of the parties, which controversy Plaintiffs ask the Court to resolve.

3 31. A declaration of the parties respective rights, responsibilities and obligations with
4 regard to the Contract and the Project is essential to determine their equitable and appropriate obligations
5 in the underlying action.

6 32. Plaintiffs have no true and speedy adequate remedy at law, and instead must seek the
7 equitable relief from this Court.
8

9
10 WHEREFORE, Plaintiffs prays for judgment as follows:

- 11 1. For damages in a sum in excess of TEN THOUSAND DOLLARS (\$10,000.00);
- 12 2. For punitive damages in a sum in excess of TEN THOUSAND DOLLARS
13 (\$10,000.00);
- 14 3. For declaratory relief;
- 15 4. For reasonable attorney's fees and costs; and
- 16 7. For such other and further relief as the court may deem just and proper.

17
18 DATED this 27th day of December, 2011.

19 HARRY PAUL MARQUIS, CHTD.


20
21 
22 HARRY PAUL MARQUIS, ESQ.
23 Nevada Bar No. 001252
24 400 South Fourth Street, Third Floor
25 Las Vegas, Nevada 89101
26 Telephone (702) 382-6700
27 Attorney for Plaintiffs
28

Exhibit B

1 **OFFER**

2 GWEN RUTAR MULLINS, ESQ.

3 Nevada Bar No. 3146

4 WADE B. GOCHNOUR, ESQ.

5 Nevada Bar No. 6314

6 **Howard & Howard Attorneys PLLC**

7 3800 Howard Hughes Pkwy., Suite 1000

8 Las Vegas, NV 89169

9 Telephone: (702) 257-1483

10 Facsimile: (702) 567-1568

11 E-mail: grm@h2law.com

12 wbg@h2law.com

13 *Attorneys for Defendants Robert L. Mendenhall*
14 *and Sunridge Corporation*

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

17 BROWNSTONE GOLD TOWN, LLC, a
18 Nevada limited liability company,
19 BROWNSTONE GOLD TOWN CV, LLC, a
20 Nevada limited liability company,

21 Plaintiffs,

22 vs.

23 ROBERT L. MENDENHALL, an individual,
24 SUNRIDGE CORPORATION, A Nevada
25 corporation, and DOES 1 through 10, inclusive,

26 Defendants.

Case No. A-11-653822-C

Dept. No. XXVIII

DEFENDANTS' OFFER OF JUDGMENT

27 Pursuant to Rule 68 of the Nevada Rules of Civil Procedure and NRS 17.115,
28 Defendants ROBERT L. MENDENHALL and SUNRIDGE CORPORATION hereby offer to
allow judgment to be entered in favor of Plaintiffs BROWNSTONE GOLD TOWN, LLC and
BROWNSTONE GOLD TOWN CV, LLC and against Defendants ROBERT L.
MENDENHALL and SUNRIDGE CORPORATION in the lump sum of ONE MILLION TWO
HUNDRED THOUSAND DOLLARS (\$1,200,000.00) in settlement of all claims between and
among ROBERT L. MENDENHALL, SUNRIDGE CORPORATION, BROWNSTONE GOLD
TOWN, LLC and BROWNSTONE GOLD TOWN CV, LLC or those asserted or that could

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

1 have been asserted on behalf of each of them against one another, inclusive of all accrued costs
2 and legal fees. It is intended that this Offer of Judgment be in the maximum amount of ONE
3 MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000.00). *See Fleisher v.*
4 *August*, 103 Nev. 242, 737 P.2d 518 (1987). This offer is made only as a compromise and to
5 "buy peace" between said parties; it is not intended to be, nor should it be, construed as an
6 admission of liability.

7 This offer is made in accordance with NRCP 68 and NRS 17.115 and is not to be
8 construed as an admission of either party.

9 Acceptance of this Offer of Judgment would fully discharge and release any and all
10 claims as alleged, or that could have been alleged, in this action by ROBERT L.
11 MENDENHALL, SUNRIDGE CORPORATION, BROWNSTONE GOLD TOWN, LLC, and
12 BROWNSTONE GOLD TOWN CV, LLC, including, but not limited to, those asserted in the
13 Complaint as well as any related or potential claims that could be asserted in this action against
14 one another. This offer will expire 10 days after the date of its service.

15 Dated this 10th day of July 2014.

16 **HOWARD & HOWARD ATTORNEYS PLLC**

17
18 
19 Gwen Rutar Mullins, Esq.

20 Nevada Bar No. 3146

21 Wade B. Gochnour, Esq.

22 Nevada Bar No. 6314

23 3800 Howard Hughes Pkwy., Ste. 1000

24 Las Vegas, Nevada 89169-5914

25 *Attorneys for Defendants Robert L. Mendenhall*
26 *and Sunridge Corporation*
27
28

HOWARD & HOWARD ATTORNEYS PLLC
3800 Howard Hughes Pkwy., Suite 1000
Las Vegas, NV 89169
(702) 257-1483

RECEIPT OF COPY

RECEIPT OF COPY of DEFENDANTS' OFFER OF JUDGMENT is hereby
acknowledged this 10th day of July 2014.

Suzi Maya for Harry Marquis,
Harry Paul Marquis, Esq.

HARRY PAUL MARQUIS, CHTD.
400 South Fourth Street, Third Floor
Las Vegas, Nevada 89101

In association with:

Sean K. Claggett, Esq.
William T. Sykes, Esq.
CLAGGETT & SYKES LAW FIRM
8751 W. Charleston Blvd., Ste. 200
Las Vegas, Nevada 89117

In association with:

Jennifer Morales, Esq.
THE MORALES LAW FIRM
8751 W. Charleston Blvd., Ste. 220
Las Vegas, Nevada 89117

Exhibit C

ORIGINAL

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1 MAMA
2 GWEN RUTAR MULLINS, ESQ.
3 Nevada Bar No. 3146
4 WADE B. GOCHNOUR, ESQ.
5 Nevada Bar No. 6314
6 **Howard & Howard Attorneys PLLC**
7 3800 Howard Hughes Pkwy., Suite 1000
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11 E-mail: grm@h2law.com; wbg@h2law.com
12 *Attorneys for Defendants Robert Mendenhall*
13 *and Sunridge Corporation*

DISTRICT COURT
CLARK COUNTY, NEVADA

FILE WITH
MASTER CALENDAR

11 BROWNSTONE GOLD TOWN, LLC, a
12 Nevada limited liability company,
13 BROWNSTONE GOLD TOWN CV, LLC, a
14 Nevada limited liability company,

15 Plaintiffs,

16 vs.

17 ROBERT L. MENDENHALL, an individual,
18 SUNRIDGE CORPORATION, A Nevada
19 corporation, and DOES 1 through 10, inclusive,

20 Defendants.

Case No. A-11-653822-C
Dept. No. XXVIII

DEFENDANTS' MOTION FOR LEAVE
TO AMEND ON ORDER SHORTENING
TIME

Date:
Time:

21 Defendants, ROBERT L. MENDENHALL (hereinafter "Mendenhall") and SUNRIDGE
22 CORPORATION ("Sunridge") (jointly referred to as "Defendants"), by and through their
23 counsel of record, Gwen Rutar Mullins, Esq. and Wade B. Gochmour, Esq., of the law firm of
24 HOWARD & HOWARD ATTORNEYS PLLC, pursuant to NRCP Rule 15, hereby move this
25 Court for leave to file an Amended Answer, Counterclaim and Third-Party Complaint, a copy of
26 which is attached hereto as Exhibit 6 and incorporated herein by this reference.

27 ///

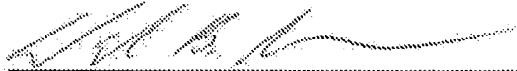
28 ///

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1 This Motion is made and based upon the papers and pleadings on file thus far in this
2 case, the Affidavit of Robert L. Mendenhall attached as Exhibit 5, the Points and Authorities
3 attached hereto and any oral argument the Court may wish to hear on this matter.

4 Dated this 18th day of July 2014.

5 **HOWARD & HOWARD ATTORNEYS PLLC**

6 

7 Gwen Rutar Mullins, Esq.

8 Nevada Bar No. 3146

9 Wade B. Gochmour, Esq.

10 Nevada Bar No. 6314

3800 Howard Hughes Pkwy., Ste. 1000

Las Vegas, Nevada 89169-5914

Attorneys for Defendants Robert Mendenhall and
Sunridge Corporation

13 **ORDER SHORTENING TIME**

14 Based upon the Affidavit of Wade B. Gochmour, Esq. in support of Defendants'
15 Application for an Order Shortening Time, and good cause appearing therefore,

16 IT IS HEREBY ORDERED THAT the time for hearing on Defendants' Motion for
17 Leave to Amend on Order Shortening Time is hereby shortened to the 7th day of
18 August 2014, at the hour of 9:00 a.m. in Department 28 of the above
19 entitled Court.

20 DATED this 18th day of July 2014.

21 21

22 
DISTRICT COURT JUDGE

23
24 **AFFIDAVIT OF WADE B. GOCHMOUR, ESQ.**
25 **IN SUPPORT OF EX PARTE APPLICATION FOR ORDER SHORTENING TIME**

26 I, Wade B. Gochmour, Esq., under penalty of perjury, states as follows:

27 1. I am an attorney licensed to practice law in the State of Nevada and I am one of
28 the counsel of record for Defendants Sunridge Corporation and Robert L. Mendenhall.

1 2. I make this affidavit in support of Defendants' Motion for Leave to Amend on
2 Order Shortening Time.

3 3. After working with Plaintiffs' counsel to obtain deposition dates, we were
4 provided with the date of July 14, 2014 for the deposition of one of the principal witnesses for
5 Plaintiffs, Ronald Tassinari.

6 4. On Monday of this week, July 14, 2014, the deposition of Mr. Tassinari was
7 conducted.

8 5. During Mr. Tassinari's deposition, Mr. Tassinari testified that he had signed the
9 Term Sheet that is the basis of this action, signing on behalf of the "Other Investor(s)" and on
10 behalf of American Vantage Brownstone, LLC. *See* the Carson Valley Casino Project Term
11 Sheet, attached as Exhibit 1. *See* also the excerpts from the rough transcript of the Deposition
12 of Ronald Tassinari, pg. 30, lns. 18-25, pg. 31, lns. 1-14, attached as Exhibit 2.

13 6. Prior to Mr. Tassinari's deposition, Defendants were unaware that Mr. Tassinari
14 had signed the Term Sheet as the "Other Investor(s)." In fact, during the depositions of
15 Plaintiffs' other primary witnesses, Anna Morrison, whose deposition was held July 3, 2014,
16 and Robert Gross, whose deposition was held July 11, 2014, both had testified that the "Other
17 Investor(s)" was a Canadian group that intended to invest \$7,000,000 into the project. *See*
18 excerpts from the rough draft transcript of the Deposition of Anna Morrison, p. 25, lns. 21-23,
19 pg. 27, lns. 2-12, attached as Exhibit 3, and the excerpts from the rough transcript of the
20 Deposition of Robert Gross, pg. 31, lns. 22-25, pg. 32, lns. 11-12, pg. 33, lns. 23-25, pg. 34, lns.
21 1-9, attached as Exhibit 4.

22 7. Once Mr. Tassinari testified that he had signed the allegedly binding Term Sheet
23 on behalf of the "Other Investor(s)", Mr. Tassinari was asked if he expected to contribute
24 \$7,000,000 to the deal as stated in the Term Sheet. Mr. Tassinari testified that he did not expect
25 to contribute \$7,000,000 as stated in the Term Sheet. *See* excerpts from the rough transcript of
26 the Deposition of Ronald Tassinari, pg. 30, lns. 18-25, pg. 31, lns. 1-14, attached as Exhibit 2.

27 8. Mendenhall was presented with the Term Sheet which included a signature line
28 for the "Other Investor(s)" and asked to sign it. On the same day that Mendenhall signed and

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1 returned the Term Sheet, Plaintiffs faxed back a fully executed copy to Mendenhall. The faxed
2 Term Sheet included all of the signatures, including the signature of the "Other Investor(s)."
3 See Affidavit of Robert L. Mendenhall, pg. 2, Ins.16-17, Exhibit 5. Mr. Mendenhall was never
4 told that Mr. Tassinari had signed the Term Sheet on behalf of the "Other Investor(s)," and Mr.
5 Mendenhall was never told that Mr. Tassinari did not have, and did not expect to invest the
6 additional \$7,000,000 as set forth in the Term Sheet. See Affidavit of Robert L. Mendenhall, pg.
7 2, Ins.18-23, Exhibit 5.

8 9. Prior to Mr. Tassinari's deposition, Defendants were not aware of the fraudulent
9 actions and omissions that were perpetrated against them. As a result, no affirmative claims
10 were asserted against the Plaintiffs, Tassinari and/or American Vantage Brownstone, LLC at the
11 time that Defendants filed their Answer to the Complaint on February 15, 2012.

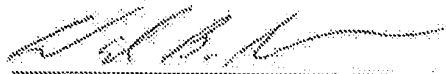
12 10. Discovery on this matter closes on July 18, 2014, and this matter is set for trial
13 on a jury trial stack commencing on September 8, 2014.

14 11. Given the immediacy of the close of discovery and the upcoming trial date, good
15 cause exists to justify shortening of time on the hearing on this Motion.

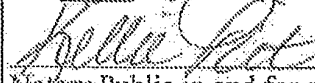
16 12. This Application is made in good faith and is not made to delay a trial or hearing
17 of any other matter in this case.

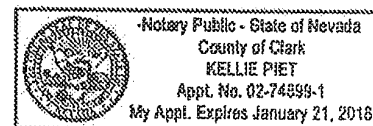
18 13. Accordingly, a request is hereby made for this Court to shorten time on the
19 Motion and schedule the Motion at the earliest date available to the Court.

20 14. The Court is set to hear another motion in this matter on August 7, 2014, and
21 Defendants would request that hearing of this motion be shortened to be heard on that date as
22 well.

23 
24 WADE B. GOCHMOUR, ESQ.

25 SUBSCRIBED and SWORN to before me
26 this 19 day of July 2014.

27 
28 Notary Public in and for said County and State



MEMORANDUM OF POINTS AND AUTHORITIES

I.

FACTUAL AND PROCEDURAL BACKGROUND

This action arises out of the Carson Valley Casino Project Term Sheet (the "Term Sheet"), dated December 4, 2007. Despite the lack of several material terms, Plaintiffs are asserting that the Term Sheet constitutes a fully binding contract. The Term Sheet was signed by Ronald Tassinari on behalf of American Vantage Brownstone, LLC, who was the 100% owner/member of Brownstone Gold Town, LLC. The Term Sheet was also signed by Robert Gross on behalf of Brownstone Gold Town, LLC. Mr. Mendenhall signed on behalf of himself. Finally, what was just discovered on Monday, July 14, 2014, was that Ronald Tassinari ("Tassinari") also signed the Term Sheet on behalf of "Other Investor(s)."

As noted above, Plaintiffs have insisted that the Term Sheet is a binding agreement. Despite the contrary language in the Term Sheet and the lack of many material terms, the Plaintiffs assert that that the Term Sheet shall be binding upon any party who so executes. This includes the Other Investor(s). See Morrison Deposition, p.63, lns.16-25, pg. 64, lns. 1-2, Exhibit 3.

During Mr. Tassinari's deposition, Mr. Tassinari testified that he signed on behalf of the "Other Investor(s)." See Tassinari Deposition, p. 30, lns. 18-24, Exhibit 2. Mr. Tassinari was then shown the portion of the Term Sheet that stated, "It is expected that the Other Investor(s) will contribute \$7,000,000.00 U.S. dollars for a 12.6% Membership Interest." See Exhibit 1, page 2. Mr. Tassinari was then asked if he expected to contribute \$7,000,000.00 to the project as stated in the Term Sheet, to which Mr. Tassinari answered "I did not make a commitment to put \$7 million into this project on December 4, 2007." See Tassinari Deposition, p.31, ln. 2-3, Exhibit 2. When asked "So you didn't think signing as an other investor in an agreement that you're claiming is a binding contract would have any legal ramifications to you?" Mr. Tassinari answered "Correct." See Tassinari Deposition, p.31, lns. 10-14, Exhibit 2.

1 In signing the Term Sheet, Mr. Mendenhall relied upon the representation that there
2 were other equity investors who would be committing to contribute \$7,000,000 to the project,
3 and that the "Other Investor(s)" would also be part of any final deal that may have been reached
4 relative to the parties becoming members of Brownstone Gold Town CV, LLC. See Affidavit
5 of Robert L. Mendenhall, pg. 3, Ins.8-18, Exhibit 5. Had Mendenhall been aware of the fact
6 that Mr. Tassinari was signing on behalf of the "Other Investor(s)" with no intent or expectation
7 of contributing \$7,000,000 to the final deal, and had Mendenhall been aware that the
8 represented third party other investor Canadian group would not be signing the Term Sheet,
9 Mendenhall would not have signed the Term Sheet. *Id.* As a result of the fraud, omissions and
10 inducements of Plaintiffs, American Vantage and Mr. Tassinari, Mr. Mendenhall and Sunridge
11 have suffered damages for which they are now entitled to seek in this action.

12 II.

13 ARGUMENT

14 A. Standard For Allowing Amendment Of Pleadings.

15 NRCP 15(a) provides for amendment of pleadings when justice so requires and also
16 provides that when claims or defenses asserted in the amended pleadings arise out of the
17 conduct, transactions or occurrences set forth in the original pleading, the amendment shall
18 relate back to the original pleading:

19 NRCP 15. Amended and supplemental pleadings

20 (a) *Amendments.* . . . Otherwise a party may amend his
21 pleading only by leave of court or by written consent of the
22 adverse party; and leave shall be freely given when justice so
23 requires. . . .

24 (c) *Relation back of amendments.* Whenever the claim
25 or defense asserted in the amended pleading arose out of the
26 conduct, transaction, or occurrence set forth or attempted to be set
forth in the original pleading, the amendment relates back to the
date of the original pleading.

27 It is a well-settled principle of law that granting leave to amend a complaint is
28 discretionary with the trial court. *Stephens v. Southern Nev. Music Company, Inc.*, 507 P.2d

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1 138, 139, 89 Nev. 104 (1973)(Rule 15(a) of the Nevada Rules of Civil Procedure clearly
2 provides that leave to amend shall be freely given when justice so requires.) It is also true that
3 leave to amend should be permitted when no prejudice will result and when justice so requires.
4 *Fisher v. Executive Fund Life Ins. Co.*, 504 P.2d 700, 702, 88 Nev. 704 (1972) (citing *Servatius*
5 *v. United Resort Hotels, Inc.*, 455 P.2d 621, 85 Nev. 371 (1969)); *Good v. Second Judicial*
6 *District Ct.*, 279 P.2d 467, 71 Nev. 38 (1995). "[J]ustice contemplates that claims and
7 counterclaims arising out of the same transaction shall be litigated in one action." *Moll v. Nev.*
8 *Young Am. Homes, Inc.*, 93 Nev. 68, 69, 560 P.2d 152, 153 (1977). The Court has discretion to
9 grant or deny a motion to amend, but in the absence of any apparent or declared reason, such as
10 undue notice, bad faith or dilatory motive on the part of the movant, the leave to amend should
11 be freely given. *Cohen v. Mirage Resorts, Inc.*, 119 Nev. 1, 62 P. 3d. 720 (2003); *Stephens v.*
12 *Southern Nev. Music Co.*, 89 Nev. 104, 507 P.2d 138 (1973). A new plaintiff or defendant may
13 be added to an existing action. WRIGHT & MILLER, *Federal Practice and Procedure: Civil*
14 §1501; *Atlantis Plastics Corporation v. Sammons*, 558 A.2d 1062 (Del. 1988); *Lunn v.*
15 *American Maintenance Corp.*, 96 Nev. 787, 618 P.2d 343; *Hernandez v. City of Reno*, 97 Nev.
16 429, 634 P.2d 668 1981).

17 Although the granting or denial of an opportunity to amend is within the discretion of
18 the trial court, the outright refusal to grant leave without any justifying reason appearing for
19 denial is not an exercise of discretion, it is merely abuse of discretion and inconsistent with the
20 spirit of the Nevada Rules of Civil Procedure. See, *Adamson v. Bowker*, 85 Nev. 115, 121 450
21 P.2d 796, 800 (1969)(quoting *Forman v. Davis*, 371 U.S. 178 (1962)).

22 More specifically, the Nevada Supreme Court in *Adamson, supra*, held:

23 If the underlying facts or circumstances relied upon by a plaintiff may be a
24 proper subject of relief, he ought to be afforded an opportunity to test his
25 claim on the merits. In the absence of any apparent or declared reason —
26 such as undue delay, bad faith or dilatory motive on the part of the movant,
27 repeated failure to cure deficiencies by amendments previously allowed,
28 undue prejudice to the opposing party by virtue of allowance of the
amendment, futility of amendment, etc. — the leave sought should, as the
rules require, be "freely given." Of course, the grant or denial of an
opportunity to amend is within the discretion of the District Court, but

outright refusal to grant the leave without any justifying reason appearing for the denial is not an exercise of discretion; it is merely abuse of that discretion and inconsistent with the spirit of the . . . rules.

Id., see also, *Burnett v. C.B.A. Sec Sent, Inc.*, 107 Nev. 787, 820 P.2d 750 (1991); *Granite Const. Co. v. Rhyne*, 17 Nev. 651, 817 P.2d 711 (1991); *Connell v. Carl's Air Conditioning*, 97 Nev. 436, 634 P.2d 673 (1981); *Stephens v Southern Nev. Music Co. Hut*, 89 Nev. 104, 507 P.2d 138 (1973).

In this case, Defendants are requesting leave to assert claims that have been hidden, and were only revealed during discovery. The claims arise out of the same set of facts set forth in the Complaint. The amendment is appropriate in light of the fact that the relevant discovery was just recently completed, other discovery is still pending, and the claims will not cause surprise or prejudice to the Plaintiffs or the proposed Third Party Defendants. This case is 2 ½ years old (which includes the 6 months the action was stayed). Not all of the depositions have been completed, nor are they expected to be completed by July 18, 2014. In fact, the parties have agreed to additional depositions in the month August. This amendment is requested in good faith and not for dilatory motive or delay. Rather this Motion requests leave to amend the Defendants' Answer to add additional affirmative defenses against Plaintiffs, as well as to assert a counterclaim and third party complaint for fraud, fraudulent omission, negligent misrepresentation and fraud in the inducement against the Plaintiffs and the proposed Third Party Defendants, American Vantage Brownstone, LLC and Mr. Tassinari, in light of the testimony elicited during deposition of Ronald Tassinari. The Motion for Leave to Amend should therefore be granted and Defendants be allowed to file the proposed Amended Answer, Counterclaim and Third-Party Complaint, a copy of which is attached hereto as Exhibit 6.

B. Justice Requires That Leave Be Granted; There Is No Delay, Dilatory Motive, Bad Faith, Or Undue Prejudice To Any Party.

The virtually unfettered nature of a court's ability to grant leave to amend has been reinforced by innumerable judicial pronouncements in the federal and state courts alike. WRIGHT & MILLER, *Federal Practice and Procedure* § 1484 (2d Ed. 1990). For example, in *Weiler v. Ross*, 1 80 Nev. 380, 382, 395 P.2d 323, 323 (1964), the Nevada Supreme Court

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1 stated that "leave to amend should be freely given when justice requires," and finding that the
2 interests of justice compelled amendment, the Court reversed the trial court's denial of the
3 motion to amend.

4 The federal courts have taken the same approach as the Nevada Supreme Court in freely
5 granting leaving to amend a pleading. In *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183 (9th
6 Cir. 1987), the United States Court of Appeals for the Ninth Circuit emphasized the extreme
7 liberality of favoring amendments, stating:

8 This [C]ourt has noted on several occasions ... that the Supreme
9 Court has instructed the lower federal courts to heed carefully the
10 command of Rule 15(a), FED. R. CIV. P., by freely granting leave
to amend when justice so requires.

11 *Id.* at 186 (citing *Gabrielson v. Montgomery Ward & Co.*, 785 F.2d 762, 765 (9th Cir.
12 1986))(internal quotations omitted).

13 Furthermore, the court declared, "Rule 15's policy of favoring amendments to pleadings
14 should be applied with 'extreme liberality.'" *United States v. Webb*, 655 F.2d 977, 979 (9th Cir.
15 1981) (citing *Rosenberg Bros. & Co. v. Arnold*, 283 F.2d 406 (9th Cir. 1960)(*per curiam*)).
16 Even the United States Supreme Court has espoused the liberality of granting leave to amend:

17 If the underlying facts or circumstances relied upon by a plaintiff
18 may be a proper subject of relief, he ought to be afforded an
19 opportunity to test his claim on the merits. In the absence of any
20 apparent or declared reason...the leave sought should, as the rules
require, be 'freely given.'

21 *Foman v. Davis*, 371 U.S. 178, 182 (1962).

22 In view of the newly discovered evidence, leave to amend Defendants' Answer to assert
23 additional affirmative defenses as well as a Counterclaim against Plaintiffs, along with a Third
24 Party Complaint against Mr. Tassinari and American Vantage Brownstone, LLC should be
25 granted. Defendants should be able to assert claims that arise out of the same transaction as the
26 claims that have been asserted against them by the Plaintiffs. At the time that Defendants filed
27 their Answer, Defendants, unlike the Plaintiffs, and Tassinari and American Vantage
28 Brownstone, LLC, were not aware that Tassinari had signed the Term Sheet as the "Other

Investor(s)" and that as the "Other Investor(s)," Mr. Tassinari, individually, or on behalf of Plaintiff or American Vantage Brownstone, LLC, had no expectation to invest \$7,000,000 as set out in the Term Sheet. Defendants were not aware of the fraud or fraudulent omission that were committed against them, and were not in the position to assert these fraud based counterclaims claims against Plaintiffs, and the Third Party Complaint against Tassinari and American Vantage Brownstone, LLC. In fact, Defendants were not aware of these facts until July 14, 2014, when, during the deposition of Tassinari, testimony was elicited and evidence came to light of the fraud that was committed against Defendants. Defendants wish to assert these claims and defenses in this action. These claims and defenses could be deemed to be a compulsory counterclaim against Plaintiffs and should be adjudicated at the same time as Plaintiffs claims against Defendants.

Not only is this amendment made in good faith and not for dilatory motive, but no prejudice will result to the Plaintiffs, or the proposed Third Party Defendants, Tassinari and American Vantage Brownstone LLC, in granting the Motion as they were always aware of these facts, and obviously hoped they would not come to light. On the other hand, Defendants will be greatly prejudiced if they are not allowed to assert affirmative defenses based on this newly discovered evidence and otherwise pursue these claims that came to light on July 14, 2014, while taking Tassinari's deposition.

The proposed Amended Answer, Counterclaim and Third-Party Complaint is attached hereto and incorporated herein as Exhibit 6. Since the claims that Defendants are seeking to assert involve the same set of operative facts as those set forth in Plaintiffs' Complaint, and since Plaintiffs, and the proposed Third Party Defendants, Tassinari and American Vantage Brownstone LLC, were fully aware of these facts all along, no prejudice will result to them. Also, this litigation will not assume any new character by reason of the allegations as set forth in the proposed Amended Answer, Counterclaim and Third Party Complaint. However, the proposed Amended Answer, Counterclaim and Third Party Complaint is essential to Defendants to seek full and total relief from the damages that have been asserted against them, as well as for damages that they have suffered as a result of Plaintiffs' and proposed Third Party Defendants'

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