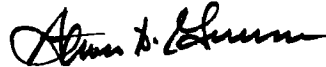


EXHIBIT O

EXHIBIT O



CLERK OF THE COURT

**Marquis Aurbach Coffing**

Terry A. Coffing, Esq.  
Nevada Bar No. 4949  
Micah S. Echols, Esq.  
Nevada Bar No. 8437  
Tye S. Hanseen, Esq.  
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10001 Park Run Drive  
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thanseen@maclaw.com

*Attorneys for Defendant Michael J. Mona, Jr.*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada limited  
liability company; WORLD DEVELOPMENT,  
INC., a California corporation; BRUCE MAIZE,  
and individual; MICHAEL J. MONA, JR., an  
individual; DOES I through 100, inclusive,

Defendants.

Case No.: A-12-670352-F  
Dept. No.: XV

**OPPOSITION TO MOTION ON AN  
ORDER SHORTENING TIME  
FOR BOND PENDING APPEAL**

Hearing Date: September 17, 2015  
Hearing Time: 9:00 a.m.

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 Defendant Michael J. Mona, Jr. ("Mike"), by and through the law firm of Marquis  
2 Aurbach Coffing, hereby submits his opposition to Far West's motion on an order shortening  
3 time for bond pending appeal. This opposition is made and based on the attached memorandum  
4 of points and authorities, the pleadings and papers on file herein, and any oral argument allowed  
5 by the Court at the hearing on this matter

6 Dated this 16th day of September, 2015.

7  
8 MARQUIS AURBACH COFFING

9 By /s/ Micah S. Echols

10 Terry A. Coffing, Esq.  
11 Nevada Bar No. 4949  
12 Micah S. Echols, Esq.  
13 Nevada Bar No. 8437  
14 Tye S. Hanseen, Esq.  
15 Nevada Bar No. 10365  
16 10001 Park Run Drive  
17 Las Vegas, Nevada 89145  
18 *Attorneys for Defendant*  
19 *Michael J. Mona, Jr.*

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I. INTRODUCTION**

22 After this Court sanctioned Mike and his now ex-wife, Rhonda Mona ("Rhonda"), in July  
23 2015, the Monas petitioned the Supreme Court for extraordinary relief from the sanctions order.  
24 After reviewing the Monas' writ petition and the extensive stay briefing, the Supreme Court has  
25 now exercised its discretion to order briefing on the Monas' writ petition.<sup>1</sup> Additionally, the  
26 Supreme Court weighed the four NRAP 8(c) factors and ordered a stay of "all proceedings in  
27 Eighth Judicial District Court Case No. A-12-670352-F, pending further order of this court."<sup>2</sup>  
28 The stay of all District Court proceedings demonstrates that: (1) the object of the Monas' writ  
petition would be defeated absent the Supreme Court's stay of all District Court proceedings;

<sup>1</sup> The Supreme Court's August 31, 2015 order is attached as **Exhibit A**.

<sup>2</sup> *Id.* at pg. 1.

1 (2) the Monas would suffer irreparable and serious injury absent the Supreme Court's stay of all  
2 District Court proceedings; (3) Far West will not suffer irreparable or serious injury with the  
3 Supreme Court's stay of all District Court proceedings; and (4) the Monas are likely to prevail on  
4 the merits of their writ petition. *See* NRAP 8(c).

5 During the course of the Supreme Court stay briefing, Far West asked the Supreme Court  
6 to require the Monas to post a 'significant' supersedeas bond.<sup>3</sup> Far West also asked the Supreme  
7 Court to prevent the Monas from 'transferring, disposing of or encumbering any non-exempt  
8 property while this [matter] remains pending.'<sup>4</sup> The Supreme Court denied both of Far West's  
9 requests because the Supreme Court wanted this Court to first consider these requests subject to  
10 review by the Supreme Court.<sup>5</sup> This Court now has limited jurisdiction to determine "the proper  
11 amount of *any* supersedeas bond . . . ."<sup>6</sup>

12 In its shortened time motion, Far West now asks this Court to order a supersedeas bond  
13 of \$24,172,076.16 to be posted within only three days. Notably, Far West has abandoned its  
14 request to prevent the Monas from 'transferring, disposing of or encumbering any non-exempt  
15 property while this [matter] remains pending.'<sup>7</sup> Specifically, Far West does not make any claim  
16 to Rhonda's separate bank accounts. This Court previously considered this request and, like the  
17 Supreme Court, denied the request because "[t]he Court understands, however, that people need  
18 money to live."<sup>8</sup> So, the threshold issue before the Court is whether a bond should be posted for  
19 all District Court proceedings to remain stayed. But, Rhonda's separate bank accounts and  
20 property remain stayed pending further order of the Supreme Court.

21  
22  
23 <sup>3</sup> *See* **Exhibit A**, pg. 2.

24 <sup>4</sup> *Id.*

25 <sup>5</sup> *Id.*

26 <sup>6</sup> *Id.* (emphasis added).

27 <sup>7</sup> *Id.*

28 <sup>8</sup> Excerpts from the July 9, 2015 hearing transcript are attached as **Exhibit B**. *See* **Exhibit B**, pg. 45.



1 The Court should not require a supersedeas bond to stay this case because Far West has  
2 initiated at least three *other* cases in the Eighth Judicial District Court to pursue the Monas'  
3 assets. Far West's other cases provide an avenue to avoid the Supreme Court's stay of all  
4 execution proceedings. In light of these other proceedings, Far West's request for a bond in this  
5 case for the full amount of the judgment is disingenuous because Far West still intends to  
6 execute in these other matters. Thus, the Court should refuse to provide Far West with what  
7 amounts to double security.

8 Far West's motion argues that the Monas are supposedly not entitled to alternate security.  
9 However, Far West avoids the Supreme Court authority that allows the requirement of a  
10 supersedeas bond to be waived altogether. *See Nelson v. Heer*, 121 Nev. 832, 836, 122 P.3d  
11 1252, 1254 (2005). As an alternative, the Court should weigh the *Nelson* factors and conclude  
12 that no supersedeas bond is required.

13 Finally, the Court should preserve the status quo pending the resolution of the Supreme  
14 Court original proceeding. *See Nelson*, 121 Nev. at 835, 122 P.3d at 1254. At a minimum, the  
15 Court should honor the Supreme Court's stay as it relates to Rhonda. Although Far West  
16 previously asked for Rhonda's accounts to be turned, this Court denied that request, and the  
17 Supreme Court also denied the same request. Therefore, this issue of Rhonda's separate property  
18 is now the law of the case for stay purposes and should not be disturbed.

19  
20 **II. LEGAL ARGUMENT**

21 **A. SINCE FAR WEST WILL NOT STAY EXECUTION IN ALL ITS  
22 LAWSUITS, NO SUPERSEDEAS BOND SHOULD BE REQUIRED.**

23 Far West's motion requesting a bond from this Court is disingenuous because it fails to  
24 disclose that Far West is pursuing the Monas in at least three *other* cases in the Eighth Judicial  
25 District Court. The purpose of a supersedeas bond is to stay execution during the pendency of an  
26 appellate proceeding. *See* NRCP 62. However, Far West proposes the requirement of a full  
27 supersedeas bond in this case while continuing to pursue the Monas in the three other cases  
28 based upon the *same foreign judgment*:

1 (1) In *Far West Industries v. Cannavest Corp.*, Case No. A695786, Department 21  
2 (filed on February 7, 2014), Mike is a named defendant.<sup>9</sup> The requested relief against Mike is  
3 for “the establishment of a constructive trust in favor of Far West in an amount sufficient to  
4 satisfy its judgment against MONA.”<sup>10</sup>

5 (2) In *Far West Industries v. Mona*, Case No. A724490, Department 32 (filed on  
6 September 11, 2015), both Mike and Rhonda are named defendants.<sup>11</sup> Far West seeks relief  
7 against the Monas for “a declaration by the Court that the aforementioned transactions are  
8 fraudulent transfers and that Plaintiff [Far West] may execute upon and apply those assets, based  
9 upon the fraudulent transfers and/or the community property nature of the assets, towards the  
10 satisfaction of the Judgment.”<sup>12</sup>

11 (3) In *Mona v. Mona*, Case No. D517425, Department B, the Monas completed their  
12 divorce in July 2015. On September 4, 2015, Far West has now sought to intervene into the  
13 closed divorce case to have the District Court adjudicate Far West’s intervenor complaint.<sup>13</sup> The  
14 entire purpose of the intervenor complaint is to enforce Far West’s *same foreign judgment*  
15 against the Monas.

16 Since Far West does not intend to halt *all* of its litigation against the Monas, based upon  
17 the same foreign judgment, Far West is not entitled to any supersedeas bond. “[T]he effect of a  
18 supersedeas [bond] . . . is to suspend proceedings and preserve the status quo pending the  
19 determination of the appeal.” *Jenkins v. Hampshire Gardens Dev. Corp.*, 8 F.R.D. 330, 332  
20 (D.D.C. 1935). Since a supersedeas bond in the instant case would not serve to entirely halt the  
21 execution proceedings of Far West’s judgment, the Court should order that no supersedeas bond

22  
23 <sup>9</sup> A copy of Far West’s third amended complaint in Case No. A695786, filed on July 15, 2014, is attached  
as **Exhibit C**.

24 <sup>10</sup> *Id.* at pg. 9.

25 <sup>11</sup> A copy of Far West’s complaint in Case No. A724490, filed on September 11, 2015, is attached as  
26 **Exhibit D**.

27 <sup>12</sup> *Id.* at pg. 12.

28 <sup>13</sup> Far West’s motion to intervene and accompanying intervenor complaint is attached as **Exhibit E**.

1 is required. Tellingly, Far West filed its second and third lawsuits against the Monas in an  
2 attempt to subvert the Supreme Court's August 31, 2015 stay order. This arrangement would  
3 allow the Supreme Court to consider the Monas' pending writ petition without changing the  
4 status quo, while allowing Far West to undertake its execution efforts in the other three cases.  
5 Conceptually, no supersedeas bond should be ordered since Far West is continuing its execution  
6 efforts on these other fronts, and a bond would result in double security. Therefore, without  
7 interfering with the Supreme Court's stay of all District Court proceedings in the instant case, the  
8 Court should order that no supersedeas bond is required.

9 **B. THE COURT SHOULD, ALTERNATIVELY, WEIGH THE *NELSON V.***  
10 ***HEER* FACTORS AND CONCLUDE THAT NO SUPERSEDEAS BOND IS**  
**REQUIRED.**

11 Far West recites the five *Nelson* factors in its motion but only offers them for the notion  
12 that alternate security should not be permitted. However, the Supreme Court outlined the same  
13 factors for the purpose of "determining when a full supersedeas bond may be waived . . . ."  
14 *Nelson*, 121 Nev. at 836, 122 P.3d at 1254. Two relevant examples are mentioned in *Nelson*  
15 when a full supersedeas bond is not required: First, when "the judgment debtor's financial  
16 condition is such that the posting of a full bond would impose an undue financial burden."  
17 *Poplar Grove, Etc. v. Bache Halsey Stuart, Inc.*, 600 F.2d 1189, 1191 (5th Cir. 1979). Second,  
18 when "a full bond would impose an undue financial burden and the debtor's financial dealings  
19 can be restrained to provide alternate security." *Id.* As the Court is aware, the Monas simply do  
20 not have the requested \$24,172,076.16 to post a supersedeas bond, much less within three days.  
21 Far West's request for such a supersedeas bond asks for an impossibility that simply cannot be  
22 met. Therefore, the Court should consider the noted exceptions for the posting of a supersedeas  
23 bond, as outlined in *Nelson*, and waive the supersedeas bond requirement.

24 **C. AT A MINIMUM, THIS COURT SHOULD LEAVE RHONDA'S**  
25 **SEPARATE BANK ACCOUNT INTACT.**

26 Far West previously asked this Court to turn over Rhonda's separate bank accounts. This  
27 Court refused the request because the Court understood that "people need money to live."<sup>14</sup>

28 <sup>14</sup> See Exhibit B.

1 When presented with Far West's identical argument, the Supreme Court similarly denied Far  
2 West's request.<sup>15</sup> Far West has now abandoned this argument by failing to raise it in the motion.  
3 Thus, for purposes of a stay, the Supreme Court's order is now the law of the case, and the Court  
4 should not disturb the stay on Rhonda's separate bank account. *See Bd. of Gallery of History,*  
5 *Inc v. Datecs Corp.*, 116 Nev. 286, 289, 994, P.2d 1149, 1150 (2000).

6 **III. CONCLUSION**

7 The Court should deny Far West's motion for a bond pending appeal because the entire  
8 purpose of a supersedeas bond is to maintain the status quo. Yet, Far West has intentionally  
9 subverted the Supreme Court's stay order by continuing execution proceedings against the  
10 Monas in three other lawsuits (two filed after the Supreme Court's stay order). The posting of a  
11 supersedeas bond in this case would not have the effect of staying execution proceedings.  
12 Therefore, the Court should simply deny Far West's request, while honoring the Supreme  
13 Court's stay order, and allow Far West to pursue its other litigation.

14 Alternatively, the Court should formally waive the supersedeas bond requirements by  
15 considering the factors outlined in *Nelson*. At a minimum, the Court should leave Rhonda's  
16 separate bank accounts intact according to the Supreme Court's stay order.

17 Dated this 16th day of September, 2015.

18 MARQUIS AURBACH COFFING

19  
20 By /s/ Micah S. Echols

21 Terry A. Coffing, Esq.  
22 Nevada Bar No. 4949  
23 Micah S. Echols, Esq.  
24 Nevada Bar No. 8437  
25 Tye S. Hanseen, Esq.  
26 Nevada Bar No. 10365  
27 10001 Park Run Drive  
28 Las Vegas, Nevada 89145  
*Attorneys for Defendant*  
*Michael J. Mona, Jr.*

15 See Exhibit A, pg. 2.

**CERTIFICATE OF SERVICE**

I hereby certify that the **OPPOSITION TO MOTION ON AN ORDER SHORTENING TIME FOR BOND PENDING APPEAL** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 16th day of September, 2015. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>16</sup>

<b>Holley Driggs Walch Fine Wray Puzey &amp; Thompson</b>		
<b>Contact</b>		<b>Email</b>
Andrea M. Gandara		<a href="mailto:agandara@nevadafirm.com">agandara@nevadafirm.com</a>
Norma		<a href="mailto:nnoseley@nevadafirm.com">nnoseley@nevadafirm.com</a>
Tilla Nealon		<a href="mailto:tnealon@nevadafirm.com">tnealon@nevadafirm.com</a>
Tom Edwards		<a href="mailto:tedwards@nevadafirm.com">tedwards@nevadafirm.com</a>
<b>Lee, Hernandez, Landrum &amp; Garofalo</b>		
<b>Contact</b>		<b>Email</b>
Aurora M. Maskall, Esq.		<a href="mailto:amaskall@lee-lawfirm.com">amaskall@lee-lawfirm.com</a>
Dara or Colleen		<a href="mailto:lee-lawfirm@live.com">lee-lawfirm@live.com</a>
David S. Lee		<a href="mailto:dlee@lee-lawfirm.com">dlee@lee-lawfirm.com</a>

/s/ Cally Hatfield  
Cally Hatfield, an employee of  
Marquis Aurbach Coffing

<sup>16</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

**EXHIBITS ATTACHED TO**  
**DEFENDANT'S OPPOSITION TO MOTION ON AN ORDER SHORTENING TIME**  
**FOR BOND PENDING APPEAL**

<b>Exhibit</b>	<b>Description</b>
A.	Supreme Court's August 31, 2015 Order
B.	Excerpts From the July, 9, 2015 Hearing Transcript
C.	Far West's Third Amended Complaint in Case No. A695786
D.	Far West's Complaint in Case No. A724490
E.	Far West's Motion to Intervene and Intervenor Complaint

# Exhibit A

IN THE SUPREME COURT OF THE STATE OF NEVADA

RHONDA HELENE MONA; AND  
MICHAEL J. MONA, JR.,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JOSEPH HARDY, JR., DISTRICT  
JUDGE,

Respondents,

and

FAR WEST INDUSTRIES,  
Real Party in Interest.

No. 68434

**FILED**

AUG 31 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

*ORDER*

This original petition for a writ of mandamus or prohibition challenges a district court order that, in part, directs funds in certain bank accounts to be applied to a domesticated foreign judgment. We previously entered a temporary stay, pending receipt and consideration of additional documents regarding the stay. Having reviewed the motion for stay, the opposition thereto, and the reply,<sup>1</sup> we conclude that a stay is warranted, pending our further consideration of this writ proceeding. NRAP 8(c); *Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 6 P.3d 982 (2000). Accordingly, we stay all proceedings in Eighth Judicial District Court Case No. A-12-670352-F, pending further order of this court.

---

<sup>1</sup>We grant petitioners' motion to exceed the page limit for the reply in support of the stay motion and direct the clerk to file the reply received on August 24, 2015.



In its opposition to petitioners' stay motion, real party in interest requests that petitioners be required to post a "significant" bond as a condition of any stay. It does not appear that the district court has yet considered the proper amount of any supersedeas bond, NRAP 8(a)(1)(B), and we have routinely recognized that the district court is better suited for making supersedeas bond determinations. *See Nelson v. Heer*, 121 Nev. 832, 836, 122 P.2d 1252, 1254 (2005). Accordingly, we deny without prejudice real party in interest's request to require a bond and determine the amount of such a bond.

Additionally, real party in interest has filed a motion to prevent petitioners from "transferring, disposing of or encumbering any non-exempt property while this [matter] remains pending."<sup>2</sup> Having considered the motion and petitioners' opposition,<sup>3</sup> we deny the motion. We note that a bond would be an appropriate method to protect real party in interest's ability to eventually execute on their judgment and, as explained above, the district court is the proper forum to seek a bond.

Finally, having considered the petition and reviewed the documents submitted with it, it appears that an answer to the petition will assist this court in resolving the matter. Therefore, real party in

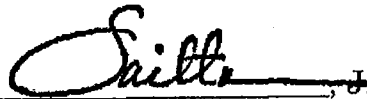
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<sup>2</sup>Real party in interest titled its motion as an "emergency" and requested relief within four days of its filing. However, real party in interest failed to identify a specific event or action that required relief in less than 14 days, other than its apparent desire to have the motion resolved as soon as possible. This does not constitute an emergency under our rules.

<sup>3</sup>We grant petitioners' motion to exceed the page limit for an opposition to a motion and direct the clerk to file the opposition received on August 25, 2015.

interest, on behalf of respondents, shall have 30 days from the date of this order within which to file an answer, including authorities, against issuance of the requested writ. Petitioner shall have 15 days from service of the answer to file and serve any reply.

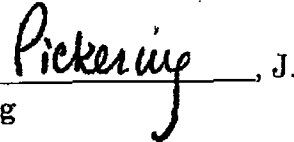
It is so ORDERED.

 J.

Saitta

 J.

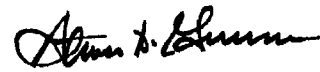
Gibbons

 J.

Pickering

cc: Hon. Joseph Hardy, Jr., District Judge  
Marquis Aurbach Coffing  
Lemons, Grundy & Eisenberg  
Holley, Driggs, Walch, Fine Wray Puzey & Thompson/Las Vegas  
Eighth District Court Clerk

# Exhibit B



CLERK OF THE COURT

TRAN

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

FAR WEST INDUSTRIES,	.	CASE NO. A-670352
	.	
Plaintiff,	.	DEPT. NO. XV
	.	
vs.	.	<b>TRANSCRIPT OF</b>
	.	<b>PROCEEDINGS</b>
RIO VISTA NEVADA, LLC, et al..	.	
	.	
Defendants.	.	
	.	
. . . . .		
<u>And all related claims.</u>		

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE

**SHOW CAUSE HEARING: WHY ACCOUNTS OF RHONDA MONA SHOULD NOT BE  
SUBJECT TO EXECUTION AND WHY THE COURT SHOULD NOT FIND MONAS  
IN CONTEMPT**

THURSDAY, JULY 9, 2015

APPEARANCES:

FOR THE PLAINTIFF: F. THOMAS EDWARDS, ESQ.  
ANDREA GANDARA, ESQ.

FOR THE DEFENDANTS: TERRY A. COFFING, ESQ.

ALSO PRESENT:

FOR RHONDA MONA: ANDREW KYNASTON, ESQ.  
ED KAINEN, ESQ.

COURT RECORDER:

MATTHEW YARBROUGH  
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC  
Englewood, CO 80110  
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

1 to preserve the status quo. And if we unfreeze these assets,  
2 they may not be there tomorrow. That's not preserving status  
3 quo. They've told you over and over again, Mr. Mona makes  
4 \$300,000 a year. If that's not enough money to retain  
5 counsel, I don't know what is.

6 THE COURT: They have 7 days from today to produce  
7 the records. That would include the bank account records.  
8 Presumably, if transfers are made that are dubious in nature,  
9 if I were her, I'd be hesitant to make.

10 The Court understands, however, that people need  
11 money to live. And so the Court is going to grant the request  
12 for stay for 7 days from today, limited again, to Mrs. Mona  
13 and those three bank accounts. In all other regards, however,  
14 the order is not stayed.

15 MR. EDWARDS: Your Honor, I know you told me I only  
16 get one more chance, but could we at least put a dollar cap on  
17 it, what she can expend over these seven days?

18 THE COURT: No.

19 MR. EDWARDS: Okay. Thank you.

20 THE COURT: Thank you.

21 MR. COFFING: Thank you, Your Honor.

22 (Proceeding was concluded at 11:26 a.m.)

23 \* \* \* \* \*

24

25

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

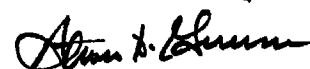
AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

Verbatim Digital Reporting, LLC  
Englewood, CO 80110  
(303) 798-0890

Julie Ford 7-10-15  
JULIE FORD TRANSCRIBER DATE

# Exhibit C



CLERK OF THE COURT

1 ACOM  
2 DAVID S. LEE, ESQ.  
3 Nevada Bar No. 6033  
4 JOHN R. HAWLEY, ESQ.  
5 Nevada Bar No. 1545  
6 LEE, HERNANDEZ, LANDRUM  
7 & GAROFALO  
8 7575 Vegas Drive, Suite 150  
9 Las Vegas, Nevada 89128  
10 (702) 880-9750  
11 Fax; (702) 314-1210  
12 [dlee@lee-lawfirm.com](mailto:dlee@lee-lawfirm.com)  
13 [jhawley@leelawfirm.com](mailto:jhawley@leelawfirm.com)

14 Attorneys for Plaintiff

15 DISTRICT COURT  
16 CLARK COUNTY, NEVADA

17 FAR WEST INDUSTRIES, a California  
18 corporation.

19 Plaintiff,

20 vs.

21 CANNAVEST CORP., a foreign corporation;  
22 ROEN VENTURES, LLC a Nevada limited  
23 liability company; MAI DUN, LLC, a  
24 Nevada limited liability company; MERCIA  
25 HOLDINGS, LLC, a Nevada limited liability  
26 company; MICHAEL J. MONA, JR.,  
27 individually, and as an officer and a director  
28 of CANNAVEST CORP., a foreign  
corporation, and a manager of ROEN  
VENTURES, LLC a Nevada limited liability  
company; BART MACKAY, individually,  
and as a director of CANNAVEST CORP., a  
foreign corporation, and as a manager and  
member of ROEN VENTURES, LLC a  
Nevada limited liability company; MAI  
DUN, LLC, a Nevada limited liability  
company; and MERCIA HOLDINGS, LLC, a  
Nevada limited liability company; DOES I  
through 25 inclusive, and ROE corporation 3  
through 25, inclusive,

Defendants.

CASE NO.: A-14-695786-C

DEPT: XXI

THIRD AMENDED COMPLAINT

ARBITRATION EXEMPTION:  
DISPUTE IN EXCESS OF \$50,000.00

LEE, HERNANDEZ, LANDRUM & GAROFALO  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750



LEE, HERNANDEZ, LANDRUM & GAROFALO  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89123  
(702) 880-9750

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**THIRD AMENDED COMPLAINT**

Plaintiff, FAR WEST INDUSTRIES (FAR WEST), by and through its attorneys, LEE, HERNANDEZ, LANDRUM & GAROFALO, alleges and complains against Defendants, CANNAVEST CORP., ROEN VENTURES, LLC, MICHAEL J. MONA JR., and BART MACKAY and certain DOES Defendants as follows:

**PARTIES**

1. Plaintiff Far West Industries (FAR WEST) is and at all times relevant hereto was a California corporation doing business in California.

2. Defendant Michael J. Mona Jr. (MONA) is and at all times relevant hereto was a resident of Clark County, Nevada, and is an officer and a director of CANNAVEST, and a manager of ROEN.

3. Defendant Bart Mackay (MACKAY) is and at all times relevant hereto was a resident of Clark County, Nevada, and is a shareholder and director of CANNAVEST, and a manager and member of ROEN.

4. Defendant CannaVest Corp. (CANNAVEST) is and at all times relevant hereto was a foreign corporation that is authorized to do business in Nevada and which does business in Clark County, Nevada.

5. Defendant Roen Ventures, LLC, (ROEN) is and at all times relevant hereto was a Nevada limited liability company doing business in Clark County, Nevada. ROEN was formed by MONA and a third party, Michael Llamas.

6. Defendant Mai Dun, LLC (MAI DUN) is and at all times relevant hereto was a Nevada limited liability company doing business in Clark County, Nevada.

7. Defendant Mercia Holdings, LLC (MERCIA) is and at all times relevant hereto was a Nevada limited liability company doing business in Clark County, Nevada

8. Upon information and belief, both MAI DUN and MERCIA are wholly owned by MACKAY, and is used as investment vehicles by MACKAY.

9. MAI DUN and MERCIA are hereby substituted in as a party defendant in the place and stead of ROE corporations 1 & 2, respectively.

10. The true names and capacities, whether individual, corporate, associate or otherwise, of defendants DOES 1 through 25, inclusive, and ROE corporations 3 through 25, inclusive, are unknown to Plaintiff, who therefore sues such defendants as such fictitious names. Plaintiff is informed and believes and thereon alleges that each of the individual defendants designated herein as DOE 1 through 25, inclusive, and/or ROE corporations 3 through 25, inclusive, participated in the efforts described in this complaint to conceal assets, waste assets subject to execution, and defraud creditors such as FAR WEST. Plaintiff will seek leave to amend this Complaint to insert the true names and capacities of the fictitiously designated defendants herein as soon as those identities can be ascertained.

11. FAR WEST repeats and realleges the allegations contained in Paragraphs 1 through 10, inclusive, as though fully set forth herein.

12. On March 24, 2008, FAR WEST sued MONA and others for damages resulting from fraud arising out of a land transaction in California. That case was styled "FAR WEST INDUSTRIES, a California corporation, vs. RIO VISTA NEVADA, LLC, a Nevada limited liability company; WORLD DEVELOPMENT, INC., a California corporation; BRUCE MAIZE, an individual; MICHAEL J. MONA, JR., an individual"; and was filed in the Superior Court of the State of California, county of Riverside, case number RIC495966 (the California Action).

13. On February 23, 2012, a judgment was entered in the California Action in favor of FAR WEST and against MONA, and others, in the principal sum \$17,777,562.18.

14. On October 18, 2012, the judgment in the California Action was domesticated properly in Nevada, and enforcement proceedings commenced including, but not limited to an examination of MONA as judgment debtor, and garnishments of various accounts belonging to MONA.

15. In the judgment debtor exam, MONA testified, among other things, that in 2013, he received \$6 million from a brokerage account. MONA loaned an unspecified amount exceeding

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1 \$2 million of that money to ROEN, which was then loaned by ROEN to CANNAVEST. (the  
2 loans are collectively referred to herein as "the Transaction").

3 16. On or about July 25, 2013, MONA, on behalf of CANNAVEST, executed an  
4 amendment to CANNAVEST'S loan agreement which provided, *inter alia*, that advances under  
5 the ROEN-CANNAVEST note could be increased to \$6 million and that the note could be  
6 converted, at ROEN'S option, to stock in CANNAVEST at a discounted price from the stock's  
7 fair market value (the "Conversion Price") as determined by CANNAVEST'S Board of Directors.

8 17. Upon information and belief, at the time of the July 25, 2013, amendment to the loan  
9 agreement, CANNAVEST stock was trading at between Twelve Dollars (\$12.00) and Thirteen  
10 Dollars (\$13.00) per share.

11 18. On or about October 29, 2013, the Conversion Price of the CANNAVEST shares was  
12 set at sixty cents (\$0.60) per share.

13 19. Upon information and belief, on the date that the Conversion Price was set (October  
14 29, 2013), CANNAVEST stock was trading at between Twelve Dollars (\$12.00) and Thirteen  
15 Dollars (\$13.00) per share.

16 20. Upon information and belief, the Conversion Price represented a discount of over  
17 95% from the fair market value of CANNAVEST stock, as determined by its trading price on that  
18 date.

19 21. Upon information and belief, on the date that the Conversion Price was set (October  
20 29, 2013), CANNAVEST stock was trading at approximately \$12 per share, and 10 million shares  
21 of that stock would have been worth approximately \$120 million (hereinafter the "Conversion  
22 Value").

23 22. MONA has also testified that following the Transaction, MACKAY offered MONA  
24 \$500,000 to purchase the note or notes that MONA made to ROEN, and to buy out MONA's  
25 interest in ROEN including MONA'S interest in the notes from ROEN to CANNAVEST, as  
26 described above.

27  
28

1 23. MONA testified that he agreed, and on or about November 25, 2013, (the Sale Date)  
2 for the sum of \$500,000 MONA sold ROEN'S debt to him, along with MONA'S interest in  
3 ROEN to MACKAY, making MACKAY and Michael Llamas the owners of ROEN.

4 24. Upon information and belief, the reasonable value of CANNAVEST stock on the Sale  
5 Date was between Twelve Dollars (\$12.00) and Thirteen Dollars (\$13.00) per share.

6 25. On the Sale Date, both MONA, and MACKAY, individually and as the sole owner  
7 of MAI DUN and MERCIA knew or should have known that the Conversion Value of the  
8 CANNAVEST stock securing the note, based on its trading price, exceeded \$100 million.

9 26. Upon information and belief, by virtue of MONA'S position as a manager of ROEN  
10 and an officer and director of CANNAVEST, MONA did retain, and continues to retain, at least  
11 *de facto* control of all the monies that were loaned to ROEN and CANNAVEST pursuant to the  
12 Transaction and/or the stock obtained by ROEN after the loan was converted.

13 27. The monies that were the subject of the Transaction constituted an asset as defined in  
14 NRS 112.150(2).

15 28. At the time of the Transaction described above, ROEN and CANNAVEST, were  
16 insiders of MONA, as that term is defined in NRS 112.150(7)(a)(4).

17 29. Upon information and belief, MONA remains a manager of ROEN, despite his  
18 alleged lack of an ownership interest in ROEN.

19 30. MONA also testified that there is another \$22 million judgment pending against him  
20 that arose out of a deficiency proceeding that followed a trustee's sale of certain real property.

21 31. Upon information and belief, MACKAY has represented to MONA, and others, that  
22 he personally is a member of ROEN.

23 32. MONA testified that it was MACKAY who paid him the \$500,000 for his interest in  
24 ROEN.

25 33. On or about January 22, 2014 (the "Conversion Date"), ROEN through its manager,  
26 MACKAY, opted to convert CANNAVEST'S \$6 million debt to stock in CANNAVEST at the  
27 Conversion Price. Thus MACKAY, through ROEN, MAI DUN and MERCIA received 10  
28 million shares of CANNAVEST stock. (hereinafter "the Conversion").

1 34. On information and belief, on the Conversion Date, CANNAVEST stock was trading  
2 between Sixty-Two Dollars (\$62.00) per share and Seventy Dollars (\$70.00) per share.

3 35. Upon information and belief, MACKAY, through ROEN, MAI DUN and MERCIA  
4 received stock valued at approximately \$620 million on the Conversion Date, to settle  
5 CANNAVEST'S \$6 million debt.

6 36. Upon information and belief, MACKAY, owns well in excess of 50% of the stock in  
7 CANNAVEST, by virtue of his interest in ROEN, and his sole ownership of MAI DUN and  
8 MERCIA.

9 **FIRST CAUSE OF ACTION**

10 37. FAR WEST repeats and realleges the allegations contained in Paragraphs 1 through  
11 36, inclusive, as though fully set forth herein.

12 38. Upon information and belief, MONA, MACKAY, ROEN, MAI DUN, MERCIA, and  
13 CANNAVEST have a history of engaging in financial transactions with each other.

14 39. In their dealings with MONA, as an officer and as a manager and director,  
15 CANNAVEST and ROEN knew or should have known that MONA was insolvent, or in danger  
16 of becoming insolvent.

17 40. Upon information and belief, MACKAY knew or should have known that MONA, an  
18 officer and/or co-director in CANNAVEST and ROEN was insolvent or in danger of becoming  
19 insolvent.

20 41. The Transactions described above was between and among insiders.

21 42. On the Sale Date, both MONA, and MACKAY, individually and as the sole owner of  
22 MAI DUN and MERCIA, knew or should have known that the Conversion Value of the  
23 CANNAVEST stock securing the note exceeded \$100 million.

24 43. MONA did not receive equivalent value for the monies that he allegedly loaned to  
25 ROEN, and which was allegedly then loaned to CANNAVEST.

26 44. The \$500,000 that MONA received for his interest in ROEN shocks the conscience  
27 when viewed in light of the Conversion Value of the Note on the Sale Date.

28 45. The series of transactions described above were intended to prejudice FAR WEST by

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1 concealing and wasting assets that would have otherwise been available to satisfy the judgment  
2 that FAR WEST has against MONA.

3 46. The sale of MONA'S interest in ROEN and the notes as described above is a  
4 fraudulent transfer within the meaning of NRS112.140 *et seq.*

5 47. The loan conversion described above between MONA, ROEN, and CANNAVEST  
6 must be set aside, and the funds therefrom must be held in a constructive trust for the benefit of  
7 FAR WEST.

8 48. It has been necessary for FAR WEST to hire an attorney to prosecute this action, and  
9 FAR WEST is therefore entitled to an award of attorney's fees.

## 10 SECOND CAUSE OF ACTION

11 49. FAR WEST repeats and realleges the allegations contained in Paragraphs 1 through  
12 48, inclusive, as though fully set forth herein.

13 50. Upon information and belief, both MAI DUN and MERCIA are wholly owned  
14 influenced, and governed by MACKAY, who is the only person authorized to act on behalf of  
15 either of them in any capacity.

16 51. Upon information and belief, both MAI DUN and MERCIA are members of ROEN.

17 52. There exists a unity of interest between MACKAY and MAI DUN and MERCIA that  
18 both entities are indistinguishable from MACKAY.

19 53. Upon information and belief, MACKAY has used MAI DUN and MERCIA to  
20 conceal his interest in CANNAVEST, a company in which he controls over half of the stock  
21 through MAI DUN and MERCIA.

22 54. Upon information and belief, MACKAY'S total interest in CANNAVEST is  
23 valued at over \$ 1 billion.

24 55. Upon information and belief, a substantial portion of MACKAY'S interest in  
25 CANNAVEST was obtained through the Transaction, described above.

26 56. Upon information and belief, and based on the series of transactions described above  
27 MONA uses his position as a manager of ROEN and an officer and director of CANNAVEST to  
28 disguise the fact that he uses the assets of ROEN and CANNAVEST as his own.

1           57. Upon information and belief, and based on the transaction described above  
2 MACKAY uses his positions as: (a) the sole owner of ROEN members and CANNAVEST  
3 shareholders MAI DUN and MERCIA; (b) manager of ROEN; and (c) director of  
4 CANNAVEST to disguise the fact that he uses the assets of ROEN and CANNAVEST as his  
5 own.

6           58. CANNAVEST and ROEN are influenced and governed by MACKAY to an undue  
7 Extent, as evidenced by the structuring of the series of transactions described above, which  
8 resulted in MCKAY, individually, and through his sole ownership of MAI DUN and MERCIA,  
9 obtaining approximately \$620 million worth of CANNAVEST stock to satisfy a \$6 million loan.

10           59. Upon information and belief, there is such a unity of interest and ownership of  
11 CANNAVEST and ROEN that they are inseparable from the interest and/or ownership of MONA  
12 in those entities.

13           60. Upon information and belief, there is such a unity of interest and ownership of  
14 CANNAVEST, ROEN, MAI DUN and are inseparable from the interest and/or ownership of  
15 MACKAY in those entities.

16           61. Adherence to the corporate fictions of CANNAVEST, ROEN, MAI DUN, and  
17 MERCIA being separate entities will sanction a massive fraud as described above, by shielding  
18 assets from FAR WEST that would otherwise be subject to legitimate collection efforts.

19           62. FAR WEST is entitled to a finding that CANNAVEST, ROEN MAI DUN and  
20 MERCIA are the alter egos of MONA and/or MACKAY.

21           63. It has been necessary for FAR WEST to hire an attorney to prosecute this action, and  
22 FAR WEST is therefore entitled to an award of attorney's fees.

### 23                           THIRD CAUSE OF ACTION

24           64. FAR WEST repeats and realleges the allegations contained in Paragraphs 1 through  
25 63 inclusive, as though fully set forth herein.

26           65. The transactions set forth above were the result of a conspiracy between MONA and  
27 MACKAY to use entities that they control to conceal assets that are otherwise subject to lawful  
28 execution efforts.

66. The disparity in value between the Conversion Value of the CANNAVEST stock on the Sale Date, and the amount received by MONA shocks the conscience and is evidence of the false and fraudulent nature of that transaction, which was designed to prejudice third parties, like FAR WEST, from pursuing MONA.

67. FAR WEST is entitled to an award of punitive damages against the defendants, and each of them for the malicious, oppressive and fraudulent conduct set forth above.

68. It has been necessary for FAR WEST to hire an attorney to prosecute this action, and FAR WEST is therefore entitled to an award of attorney's fees.

69. FAR WEST repeats and realleges the allegations contained in Paragraphs 1 through 68 inclusive, as though fully set forth herein.

12 70. Upon information and belief, a confidential relationship existed between MONA and  
13 MACKAY at the time of the series of transactions set forth above.

71. That the disparity between the Sale Price and the Conversion Value set forth above resulted in unjust enrichment to ROEN, and to MACKAY, through his sole ownership and control of MAI DUN and MERCIA, at the expense of legitimate creditors such as FAR WEST.

17 72. Equity requires that a constructive trust in favor of FAR WEST must be established on  
18 the profits made by ROEN and MACKAY, through his sole ownership and control of MAI DUN  
19 and MERCIA, to the extent sufficient to satisfy the judgment that FAR WEST has against  
20 MONA.

73. It has been necessary for FAR WEST to hire an attorney to prosecute this action, and FAR WEST is therefore entitled to an award of attorney's fees.

**WHEREFORE, FAR WEST INDUSTRIES** prays for judgment as follows:

1. For compensatory damages in an amount exceeding \$10,000;
2. For disgorgement by defendants of the \$6 million that was allegedly loaned to defendants CANNAVEST AND ROEN;
3. For the establishment of a constructive trust in favor of Far West in an amount sufficient to satisfy its judgment against MONA;



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- 1 4. For punitive damages in excess of \$10,000;
- 2 5. For attorneys' fees and costs according to proof;
- 3
- 4 6. For such other and further relief as the Court may deem appropriate.
- 5 DATED this 18<sup>th</sup> day of July, 2014.

LEE, HERNANDEZ, LANDRUM  
& GAROFALO

By: 

DAVID R. LEE, ESQ.

Nevada Bar No. 6033

JOHN R. HAWLEY, ESQ.

Nevada Bar No. 1545

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Las Vegas, Nevada 89128

Attorneys for FAR WEST INDUSTRIES

CERTIFICATE OF MAILING

Far West Industries vs. Cannavest Corp., Roen Ventures, LLC, Michael J. Mona, Jr. and

Bart Mackay

I HEREBY CERTIFY that on the 15<sup>th</sup> day of July, 2014, I hereby certify that I served a copy of the above and foregoing, Third Amended Complaint, via U.S. mail, in a sealed envelope, postage prepaid to the following counsel:

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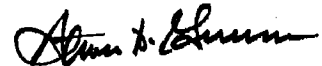
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# Exhibit D



CLERK OF THE COURT

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14 *Attorneys for Plaintiff Far West Industries*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 FAR WEST INDUSTRIES, a California  
18 corporation,

19 Plaintiff,

20 v.

21 MICHAEL J. MONA, JR., an individual;  
22 RHONDA HELENE MONA, an individual;  
23 MICHAEL MONA III, an individual;  
24 LUNDENE ENTERPRISES, LLC, a Nevada  
25 limited liability corporation, DOES 1 through 10  
26 and ROE CORPORATIONS 1 through 10,  
27 inclusive,

28 Defendants.

Case No.: A-15-724490-C

Dept. No.: XXXII

**COMPLAINT**

ARBITRATION EXEMPTION CLAIMED:  
Declaratory Relief Requested

20 FAR WEST INDUSTRIES (the "Plaintiff" or "Far West"), a California corporation, by  
21 and through its attorneys, F. THOMAS EDWARDS, ESQ. and ANDREA M. GANDARA,  
22 ESQ., of the law firm of HOLLEY DRIGGS WALCH FINE WRAY PUZEY & THOMPSON,  
23 complain of Defendants as follows:

24 **PARTIES**

25 1. Plaintiff Far West Industries is, and at all times relevant herein was, a California  
26 corporation.

27 ...

28

1           2. Plaintiff is informed and believes and thereupon alleges that Defendant  
2 MICHAEL J. MONA, JR. ("Mr. Mona"), is, and at all relevant times has been, an individual  
3 residing in Clark County, Nevada, the husband of Defendant RHONDA HELENE MONA, and  
4 the father of Defendant MICHAEL MONA III.

5           3. Plaintiff is informed and believes and thereupon alleges that Defendant RHONDA  
6 HELENE MONA ("Mrs. Mona"), is, and at all relevant times has been, an individual residing  
7 in Clark County, Nevada, the wife of Mr. Mona, and the mother of Defendant MICHAEL  
8 MONA III.

9           4. Plaintiff is informed and believes and thereupon alleges that Defendant  
10 MICHAEL MONA III ("Michael III"), is, and at all relevant times has been, an individual  
11 residing in San Diego County, California, the son of Mr. Mona, the son of Mrs. Mona, and the  
12 sole member and manager of Defendant LUNDENE ENTERPRISES, LLC.

13           5. Plaintiff is informed and believes and thereupon alleges that Defendant  
14 LUNDENE ENTERPRISES, LLC ("Lundene"), is, and at all relevant times has been, a Nevada  
15 limited liability company with its principal place of business in Clark County, Nevada, and  
16 owned and managed by its sole member Michael III.

17           6. The true names and capacities, whether individual, corporate, associate, or  
18 otherwise of Defendants herein designated as Does I through 10 and Roe Corporations 1  
19 through 10, inclusive, are not known to Plaintiff at this time and are therefore named as  
20 fictitious defendants. Plaintiff will seek to amend this Complaint to allege the true names and  
21 capacities of Does I through 10 and Roe Corporations 1 through 10 when and as ascertained.

22           **GENERAL ALLEGATIONS APPLICABLE TO ALL CLAIMS FOR RELIEF**

23           7. Plaintiff repeats and realleges the preceding allegations and by this reference  
24 incorporates the same as though fully set forth herein.

25           **FAR WEST'S JUDGMENT AGAINST MR. MONA AND THE MONA FAMILY TRUST**

26           8. On February 23, 2012, the Superior Court of the State of California, County of  
27 Riverside, Riverside Court (the "California Court"), entered Findings of Fact and Conclusions  
28

1 of Law in the case of Far West Industries v. Rio Vista Nevada, LLC, et. al., Case No.  
2 RIC495966 (the "California Action").

3 9. Among other things, the Findings of Fact and Conclusions of Law states that Mr.  
4 Mona, among others, intentionally misrepresented material facts and concealed other material  
5 facts from Plaintiff on behalf of Rio Vista Nevada, LLC, with intent to defraud Plaintiff and that  
6 Plaintiff justifiably relied on those misrepresentations and omissions, which caused Plaintiff  
7 damages.

8 10. The Findings of Fact and Conclusions also stated that Mr. Mona was the alter ego  
9 of the Mona Family Trust, dated February 21, 2002 (the "Mona Family Trust"), such that he  
10 and the Mona Family Trust are both liable for any and all damages awarded against Rio Vista  
11 Nevada, LLC.

12 11. On April 27, 2012, the California Court entered Judgment in the amount of  
13 \$17,777,562.18, plus costs of \$25,562.56 and attorney fees of \$327,548.84, in favor of Plaintiff  
14 and against the following parties, jointly and severally: Mr. Mona, Mr. Mona as Trustee of the  
15 Mona Family Trust, Rio Vista Nevada, LLC, and World Development, Inc. (the "Judgment").

16 12. On October 18, 2012, Plaintiff domesticated the Judgment in Nevada by filing an  
17 Application of Foreign Judgment with this Court, initiating the case entitled Far West Industries  
18 v. Rio Vista Nevada, et. al., Case No. A-12-670352-F (the "Judgment Collection Action").

19 **MR. MONA FRAUDULENTLY TRANSFERS HIS INTERESTS IN ROEN VENTURES, LLC**

20 13. On November 25, 2013, Mr. Mona sat for an initial judgment debtor examination  
21 in the Judgment Collection Action during which he admitted that just days prior he sold his 50%  
22 interest in an entity called Roen Ventures, LLC ("Roen") and a \$2.6 million promissory note  
23 owed to him by Roen Ventures, LLC (the "Roen Note") for \$500,000.

24 14. Mr. Mona's sale of his interest in Roen and the Roen Note is the subject of a  
25 separate fraudulent transfer action entitled Far West Industries v. Cannavest Corp., et. al., Case  
26 No. A-14-695786-F (the "Fraudulent Transfer Action").

27 ...

28 ...

1     **MR. MONA FRAUDULENTLY TRANSFERS MRS. MONA MORE THAN \$500,000**

2           15.   Mr. Mona testified at a judgment debtor examination on June 30, 2015 that he  
3     transferred the \$500,000 he received from selling his interest in Roen and the Roen Note to Mrs.  
4     Mona.

5           16.   Upon information and belief, Mr. Mona did not receive any consideration for the  
6     \$500,000 transfer to Mrs. Mona.

7     **MR. MONA FRAUDULENTLY TRANSFERS MRS. MONA MORE THAN \$3.4 MILLION**

8           17.   On May 13, 2015, Plaintiff obtained orders in the Judgment Collection Action  
9     scheduling judgment examinations of Mr. Mona and Mrs. Mona. The orders required Mr. Mona  
10    and Mrs. Mona to produce documentation prior to the examinations.

11          18.   One of the documents Mr. Mona and Mrs. Mona produced was a Post-Marital  
12    Property Settlement Agreement (the "Agreement"), executed on or about September 13, 2013.

13          19.   In the Agreement, Mr. Mona and Mrs. Mona explain that they have sold their  
14    community property shares of Medical Marijuana, Inc., for \$6,813,202.20.

15          20.   The Agreement then purports to divide the proceeds equally between themselves  
16    as their separate property, with each receiving \$3,406,601.10.

17          21.   Upon information and belief, Mr. Mona did not receive any consideration for the  
18    \$3,406,601.10 transfer to Mrs. Mona.

19          22.   Mr. Mona failed to produce the Agreement pursuant to prior orders scheduling his  
20    judgment debtor examination and requiring production of documents.

21          23.   Mr. Mona also failed to disclose the Agreement during his testimony at the prior  
22    judgment debtor examination on November 25, 2013.

23          24.   Mrs. Mona testified at a judgment debtor examination on June 26, 2015 that she  
24    gave Michael III \$900,000 from money she received under the Agreement.

25          25.   Upon information and belief, Mrs. Mona transferred the \$900,000 to Michael III  
26    without any consideration.

27    ...

28    ...

1           26. Upon information and belief, on or about March 7, 2014, Michael III purchased  
2 certain real property located at 877 Island Avenue #701, San Diego, California 92101,  
3 APN:535-114-04-11 (the "San Diego Property") with the \$900,000 from Mrs. Mona.

4           27. Upon information and belief, on or about November 5, 2014, Michael III  
5 transferred the San Diego Property to his company, Lundene, without any consideration.

6           **MR. MONA FRAUDULENTLY TRANSFERS MRS. MONA \$90,000 TO PURCHASE A JAGUAR**

7           28. Upon information and belief, on or about February 14, 2014, Mr. Mona and Mrs.  
8 Mona, acting as co-trustees of the Mona Family Trust, sold stocks held in an investment  
9 account with Employers Holdings, Inc. for approximately \$100,000.

10          29. Mr. Mona testified at a judgment debtor examination on June 30, 2015 that he and  
11 Mrs. Mona received \$90,000 from the sale of stocks held in the Employers Holdings, Inc.  
12 investment account and that he gave the money to Mrs. Mona to buy a car.

13          30. Upon information, Mr. Mona did not receive any consideration for the transfer of  
14 the \$90,000 to Mrs. Mona.

15          31. Upon information and belief, Mrs. Mona used the \$90,000 to purchase herself a  
16 white two-door convertible Jaguar (the "Jaguar") in 2014.

17           **MR. MONA FRAUDULENTLY TRANSFERS MICHAEL III A RANGE ROVER**

18          32. Mr. Mona testified at a judgment debtor examination on June 30, 2015 that he  
19 purchased a Range Rover vehicle (the "Range Rover") either two or three years prior and that  
20 he gave the Range Rover to his son (Michael III) a year prior.

21          33. Upon information and belief, Mr. Mona, either individually or through his  
22 company, Mona Co. Development, LLC, purchased the Range Rover in 2012 or 2013.

23          34. Upon information and belief, Mr. Mona, either individually or through his  
24 company, Mona Co. Development, LLC, transferred the Range Rover to Michael III in 2014.

25          35. Upon information, Mr. Mona did not receive any consideration for the transfer of  
26 the Range Rover to Michael III.

27          ...

28          ...



1 **FIRST CAUSE OF ACTION**

2 **(Fraudulent Transfer of \$500,000 – Mr. Mona and Mrs. Mona)**

3 36. Plaintiff repeats and realleges the preceding allegations and by this reference  
4 incorporates the same as though fully set forth herein.

5 37. Mr. Mona transferred \$500,000 to Mrs. Mona.

6 38. Upon information and belief, Mr. Mona made the transfer with the actual intent to  
7 hinder, delay or defraud Far West.

8 39. Mrs. Mona is an insider to Mr. Mona.

9 40. Upon information, Mr. Mona retained possession or control of the property  
10 transferred after the transfer.

11 41. Upon information and belief, Mr. Mona concealed the transfer.

12 42. Before the transfer was made, Mr. Mona had been sued or threatened with suit.

13 43. Upon information and belief, the transfer was of substantially all Mr. Mona's  
14 assets.

15 44. Upon information and belief, Mr. Mona removed or concealed assets.

16 45. Upon information and belief, the value of the consideration received by Mr. Mona  
17 was not reasonably equivalent to the value of the assets transferred.

18 46. Upon information and belief, Mr. Mona was insolvent or became insolvent  
19 shortly after the transfer was made.

20 47. The transfer occurred shortly after a substantial debt was incurred.

21 48. Upon information and belief, Mr. Mona made the transfer without receiving a  
22 reasonably equivalent value in exchange for the transfer or obligation.

23 49. Upon information and belief, at the time of the transfer, Mr. Mona intended to  
24 incur, or believed or reasonably should have believed that he would incur, debts beyond his  
25 ability to pay as they became due.

26 50. Upon information and belief, Mr. Mona made the transfer without receiving  
27 reasonably equivalent value in exchange for the transfer and Mr. Mona was insolvent at the time  
28 of the transfer or became insolvent as a result of the transfer.

1           51. As a direct and proximate result of the conduct by Mr. Mona and Mrs. Mona,  
2 Plaintiff has been damaged in a substantial sum, in excess of \$10,000.

3           52. Plaintiff has, by reason of the foregoing, been required to obtain the services of an  
4 attorney and is entitled to recover its reasonable attorney fees and costs from Mr. Mona and  
5 Mrs. Mona.

6                                   **SECOND CAUSE OF ACTION**

7                                   **(Fraudulent Transfer of \$3,406,610.10 – All Defendants)**

8           53. Plaintiff repeats and realleges the preceding allegations and by this reference  
9 incorporates the same as though fully set forth herein.

10          54. Upon information and belief, Mr. Mona transferred \$3,406,601.10 to Mrs. Mona.

11          55. Upon information and belief, Mr. Mona made the transfer with the actual intent to  
12 hinder, delay or defraud Far West.

13          56. Mrs. Mona is an insider to Mr. Mona.

14          57. Upon information Mr. Mona retained possession or control of the property  
15 transferred after the transfer.

16          58. Upon information and belief, Mr. Mona concealed the transfer.

17          59. Before the transfer was made, Mr. Mona had been sued or threatened with suit.

18          60. Upon information and belief, the transfer was of substantially all Mr. Mona's  
19 assets.

20          61. Upon information and belief, Mr. Mona removed or concealed assets.

21          62. Upon information and belief, the value of the consideration received by Mr. Mona  
22 was not reasonably equivalent to the value of the assets transferred.

23          63. Upon information and belief, Mr. Mona was insolvent or became insolvent  
24 shortly after the transfer was made.

25          64. The transfer occurred shortly after a substantial debt was incurred.

26          65. Upon information and belief, Mr. Mona made the transfer without receiving a  
27 reasonably equivalent value in exchange for the transfer or obligation.

28          ...

1           66. Upon information and belief, at the time of the transfer, Mr. Mona was engaged  
2 or was about to engage in a business or a transaction for which his remaining assets were  
3 unreasonably small in relation to the business or transaction.

4           67. Upon information and belief, at the time of the transfer, Mr. Mona intended to  
5 incur, or believed or reasonably should have believed that he would incur, debts beyond his  
6 ability to pay as they became due.

7           68. Upon information and belief, Mr. Mona made the transfer without receiving  
8 reasonably equivalent value in exchange for the transfer and Mr. Mona was insolvent at the time  
9 of the transfer or became insolvent as a result of the transfer.

10          69. Upon information and belief, Mrs. Mona transferred \$900,000 of the  
11 \$3,406,601.10 from Mr. Mona transferred to Michael III without consideration.

12          70. Michael III is an insider of Mr. Mona.

13          71. Upon information and belief, Michael III purchased the San Diego Property with  
14 the \$900,000 Mrs. Mona transferred to him.

15          72. Upon information and belief, Michael III did not take the \$900,000 in good faith  
16 for value.

17          73. Upon information and belief, Michael III transferred the San Diego Property to  
18 Lundene.

19          74. Upon information and belief, Lundene did not take the San Diego Property in  
20 good faith for value.

21          75. As a direct and proximate result of the conduct by Defendants, Plaintiff has been  
22 damaged in a substantial sum, in excess of \$10,000.

23          76. Plaintiff has, by reason of the foregoing, been required to obtain the services of an  
24 attorney and is entitled to recover its reasonable attorney fees and costs from Defendants.

25                                   **THIRD CAUSE OF ACTION**

26                                   **(Fraudulent Transfer of \$90,000 – Mr. Mona and Mrs. Mona)**

27          77. Plaintiff repeats and realleges the preceding allegations and by this reference  
28 incorporates the same as though fully set forth herein.

- 1 78. Mr. Mona transferred \$90,000 to Mrs. Mona.
- 2 79. Mrs. Mona used the \$90,000 to purchase Mrs. Mona the Jaguar in 2014.
- 3 80. Upon information and belief, Mr. Mona and/or the Mona Family Trust made the
- 4 transfer with the actual intent to hinder, delay or defraud Far West.
- 5 81. Mrs. Mona is an insider to Mr. Mona and the Mona Family Trust.
- 6 82. Upon information and belief, Mr. Mona concealed the transfer.
- 7 83. Before the transfer was made, Mr. Mona had been sued or threatened with suit.
- 8 84. Upon information and belief, Mr. Mona removed or concealed assets.
- 9 85. Upon information and belief, the value of the consideration received by Mr. Mona
- 10 was not reasonably equivalent to the value of the assets transferred.
- 11 86. Upon information and belief, Mr. Mona was insolvent or became insolvent
- 12 shortly after the transfer was made.
- 13 87. The transfer occurred shortly after a substantial debt was incurred.
- 14 88. Upon information and belief, Mr. Mona made the transfer without receiving a
- 15 reasonably equivalent value in exchange for the transfer or obligation.
- 16 89. Upon information and belief, at the time of the transfer, Mr. Mona intended to
- 17 incur, or believed or reasonably should have believed that he would incur, debts beyond his
- 18 ability to pay as they became due.
- 19 90. Upon information and belief, Mr. Mona made the transfer without receiving
- 20 reasonably equivalent value in exchange for the transfer and Mr. Mona was insolvent at the time
- 21 of the transfer or became insolvent as a result of the transfer.
- 22 91. As a direct and proximate result of the conduct by Mr. Mona and Mrs. Mona,
- 23 Plaintiff has been damaged in a substantial sum, in excess of \$10,000.
- 24 92. Plaintiff has, by reason of the foregoing, been required to obtain the services of an
- 25 attorney and is entitled to recover its reasonable attorney fees and costs from Mr. Mona and
- 26 Mrs. Mona.
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1           107. Plaintiff has, by reason of the foregoing, been required to obtain the services of an  
2 attorney and is entitled to recover its reasonable attorney fees and costs from Mr. Mona and  
3 Michael III.

4                                   **FIFTH CAUSE OF ACTION**

5                                   **(Civil Conspiracy – All Defendants)**

6           108. Plaintiff repeats and realleges the preceding allegations and by this reference  
7 incorporates the same as though fully set forth herein.

8           109. Upon information and belief, the Defendants conspired and agreed with each  
9 other to commit the aforementioned transactions to hide, transfer, and/or accept the transferred  
10 properties with the intent of hindering, delaying, and/or defrauding the Plaintiff in its collection  
11 of the Judgment.

12           110. As a direct and proximate result of the conduct by Defendants, Plaintiff has been  
13 damaged in a substantial sum, in excess of \$10,000.

14           111. Plaintiff has, by reason of the foregoing, been required to obtain the services of an  
15 attorney and is entitled to recover its reasonable attorney fees and costs from Defendants.

16                                   **SIXTH CAUSE OF ACTION**

17                                   **(Declaratory Relief – All Defendants)**

18           112. Plaintiff repeats and realleges the preceding allegations and by this reference  
19 incorporates the same as though fully set forth herein.

20           113. An actual, justiciable controversy exists between Plaintiff and Defendants  
21 regarding the nature of the aforementioned transactions and assets, including whether Plaintiff  
22 may execute upon and apply those assets towards the satisfaction of the Judgment.

23           114. Plaintiff contends that the aforementioned transactions are fraudulent transfers  
24 and that Plaintiff may execute upon and apply those assets, based upon the fraudulent transfers  
25 and/or the community property nature of the assets, towards the satisfaction of the Judgment.

26           115. Notwithstanding the above, upon information and belief, Defendants contend that  
27 aforementioned transactions are not fraudulent transfers and that Plaintiff may not execute upon  
28 and apply those assets towards the satisfaction of the Judgment.

1 116. Plaintiff is entitled to a declaratory judgment and determination that the  
2 aforementioned transactions are fraudulent transfers and that Plaintiff may execute upon and  
3 apply those assets, based upon the fraudulent transfers and/or the community property nature of  
4 the assets, towards the satisfaction of the Judgment.

5 117. A judicial determination is necessary and appropriate at this time and under the  
6 circumstances so that Plaintiff may ascertain its rights in connection the aforementioned  
7 transactions and fraudulent transfers.

8 Plaintiff has, by reason of the foregoing, been required to obtain the services of an attorney and  
9 is entitled to recover its reasonable attorney fees and costs from Defendants.

10 **DEMAND**

11 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

12 1. For all damages allowed by law as to each of Plaintiff's Causes of Action;

13 2. For prejudgment and postjudgment interest, at the highest rate permitted by  
14 applicable law;

15 3. For a declaration by the Court that that the aforementioned transactions are  
16 fraudulent transfers and that Plaintiff may execute upon and apply those assets, based upon the  
17 fraudulent transfers and/or the community property nature of the assets, towards the satisfaction  
18 of the Judgment;

19 4. For an order avoiding the fraudulent transfers;

20 5. For an order of attachment and/or garnishment against the fraudulently transferred  
21 assets property and other property of the transferees;

22 6. For an injunction against further disposition by the Defendants of the fraudulently  
23 transferred assets and of other property;

24 7. For all costs and expenses, including reasonable attorney fees, incurred by  
25 Plaintiff in connection with the commencement and prosecution of this action; and

26 ...

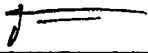
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1           8.     For such other and further relief as the Court deems just and proper.

2     Dated this 11<sup>th</sup> day of September, 2015.

3                                 **HOLLEY DRIGGS WALCH**  
4                                 **FINE WRAY PUZEY & THOMPSON**

5  
6                                   
7                                 F. THOMAS EDWARDS, ESQ.  
8                                 Nevada Bar No. 9549  
9                                 E-mail: tedwards@nevadafirm.com  
10                                ANDREA M. GANDARA, ESQ.  
11                                Nevada Bar No. 12580  
12                                E-mail: agandara@nevadafirm.com  
13                                400 South Fourth Street, Third Floor  
14                                Las Vegas, Nevada 89101  
15                                Telephone: 702/791-0308  
16                                Facsimile: 702/791-1912

17                                *Attorneys for Plaintiff Far West Industries*  
18  
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# Exhibit E

  
CLERK OF THE COURT

MOT  
LAW OFFICE OF DANIEL MARKS  
DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
CHRISTOPHER L. MARCHAND, ESQ.  
Nevada State Bar No. 11197  
610 South 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
(702) 386-0536; Fax (702) 386-6812  
Attorney for Defendant

DISTRICT COURT  
CLARK COUNTY, NEVADA

RHONDA HELENE MONA,  
Plaintiff,

Case No. 15-517425-D  
Dept. No. B

vs.

Date of Hearing: 10/ 8/ 15  
Time of Hearing: 9: 00am

MICHAEL JOSEPH MONA,  
Defendant,

vs.

FAR WEST INDUSTRIES, A  
CALIFORNIA CORPORATION

Intervenor.

**FAR WEST'S MOTION TO INTERVENE, FOR A FINDING AND ORDER THAT THE  
POST-MARITAL AGREEMENT IS VOID BASED ON THE PRINCIPLES OF RES  
JUDICATA AND ISSUE PRECLUSION, AND THAT THE PLAINTIFF AND DEFENDANT  
ARE JOINTLY LIABLE FOR THE JUDGMENT HELD BY INTERVENOR**

COMES NOW the proposed Intervenor Far West Industries, by and through its counsel, Daniel Marks, Esq., and hereby submits its Motion to Intervene, For a Finding and Order that the Post-Marital Property Settlement Agreement is void based on the principles of Res Judicata and Issue Preclusion, and

////

////

////

////

1 that the Plaintiff and Defendant are jointly liable for the judgment held by Intervenor. The grounds for  
2 Intervenor's Motion are set forth in the attached Memorandum of Points and Authorities.

3 DATED this 4 day of September, 2015.

4 LAW OFFICE OF DANIEL MARKS

5  
6 DANIEL MARKS, ESQ.  
Nevada Bar No. 002003  
7 CHRISTOPHER L. MARCHAND, ESQ.  
Nevada Bar No. 11197  
8 610 South 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
9 Attorney for Defendant

10 **NOTICE OF MOTION**

11 TO: RHONDA HELENE MONA, Plaintiff; and

12 TO: EDWARD L. KAINEN, ESQ., Counsel for Plaintiff, and .

13 TO: MICHAEL JOSEPH MONA, Defendant,

14 PLEASE TAKE NOTICE that the undersigned counsel will bring the above and foregoing Motion,  
15 on for hearing before this Court on the 8<sup>th</sup> day of October 2015, at the hour of  
16 9 o'clock a.m.

17 DATED this 4 day of September, 2015.

18 LAW OFFICE OF DANIEL MARKS

19  
20 DANIEL MARKS, ESQ.  
Nevada Bar No. 002003  
21 CHRISTOPHER L. MARCHAND, ESQ.  
Nevada Bar No. 11197  
22 610 South 9<sup>th</sup> Street  
23 Las Vegas, Nevada 89101  
24 Attorney for Defendant

25 **MEMORANDUM OF POINTS AND AUTHORITIES**

26 **I. FACTUAL BACKGROUND**

27 While this action is newly filed before this Court, the true start of legal proceedings in this matter  
28 began in March of 2008 when Proposed Intervenor Far West Industries (hereinafter "Far West") filed an

1 action in the state of California against Rio Vista Nevada, LLC, World Development Inc., and Michael  
2 Mona, Jr in case number RIC495966. That matter went to trial on September 23, 2011. The Court found  
3 that Defendant Michael Mona (hereinafter "Michael") mislead Far West into purchasing lots in an at the  
4 time yet developed master planned community. Specifically the Court found that Michael intentionally  
5 defrauded Far West, made a negligent misrepresentation to Far West, breached the Common Law Duty  
6 to Disclose, and committed Conspiracy to Commit Fraud. On March 5, 2012, the Court entered judgment  
7 against the defendants in that case, including Michael in his individual capacity and as Trustee of the Mona  
8 Family Trust. The judgment through the date of March 5, 2012 was for \$17,841,651.92. See Exhibit "1"  
9 attached hereto.

10 Far West domesticated the judgment in the State of Nevada. Accordingly, Far West conducted  
11 Judgment Debtor examinations against both Michael as well as Rhonda. Due to numerous  
12 misrepresentations during those judgment debtor examinations Far West was eventually required to file  
13 an Order to Show Cause as to why both of the Monas should not be held in contempt in the Eighth Judicial  
14 District Court case number A-12-670352-F. Judge Hardy in that case found that on April 27, 2012 Far  
15 West properly obtained a Judgment against Michael and the Mona Family Trust and that the parties  
16 executed a Post-Marital Property Settlement Agreement on or about September 13, 2013 which Michael  
17 failed to produce during his judgment debtor examination. See Exhibit "2" attached hereto. The Court also  
18 found that Michael "lied" and failed to disclose the transfer of nearly \$3.5 million to Rhonda during the  
19 judgment debtor examination. *Id.* The Court went on to find that the money purportedly transferred from  
20 Michael to Rhonda was community property as it was acquired during their marriage and that the judgment  
21 against Michael was a community debt. *Id.* The Court concluded that the Post-Marital Property Settlement  
22 Agreement was a fraudulent transfer intended to hinder, delay and defraud Far West in its efforts to execute  
23 upon the judgment and the \$6,813,202.20 that remains of community property. *Id.* It appears that the  
24 Monas are now attempting to take another bite at the apple by filing the present action in yet another  
25 attempt to hinder Far West.

26 ///

27 ///

28 ///

1 **II. LEGAL ARGUMENT**

2 **A. FAR WEST SHOULD BE PERMITTED TO INTERVENE UNDER NEVADA**  
3 **RULE OF CIVIL PROCEDURE 24(a) and (b)**

4 NRS 12.130 allows, before the trial commences, "any person . . . who has an interest in the matter  
5 in litigation, in the success of either of the parties, or an interest against both" to intervene in an action  
6 under the Nevada Rules of Civil Procedure. *See, e.g., Danberg Holdings Nevada, LLC, v. Douglas*  
7 *County and Its Board of County Commissioners*, 115 Nev. 129, 978 P.2d 311 (1999). For the Reasons  
8 set forth in the Statement of Facts, Far West has an interest in the matter and in the success of either of the  
9 Parties or has an interest against both. Specifically, without the Intervention of Far West it is suspected  
10 that the Monas were yet again going to take steps to hinder Far West's collection efforts by getting this  
11 Court to divide community property assets according to the already determined to be fraudulent Post-  
12 Marital Property Settlement Agreement.

13 The Nevada Rules of Civil Procedure permit Far West to intervene in this action either as an  
14 intervention of right or as permissive intervention. According to Nevada Rule of Civil Procedure 24:

- 15 (a) Intervention of Right. Upon timely application anyone shall be  
16 permitted to intervene in an action: (1) when a statute confers an  
17 unconditional right to intervene; or (2) when the applicant claims an  
18 interest relating to the property or transaction which is the subject of  
19 the action and the applicant is so situated that the disposition of the  
20 action may as a practical matter impair or impede the applicant's  
21 ability to protect that interest, unless the applicant's interest is  
22 adequately represented by existing parties.
- 23 (b) Permissive Intervention. Upon timely application anyone may be  
24 permitted to intervene in an action: (1) when a statute confers a  
25 conditional right to intervene; or (2) when an applicant's claim or  
26 defense and the main action have a question of law or fact in  
27 common. In exercising its discretion the court shall consider whether  
28 the intervention will unduly delay or prejudice the adjudication of the  
rights of the original parties.
- (c) Procedure. A person desiring to intervene shall serve a motion to  
intervene upon the parties as provided in Rule 5. The motion shall  
state the grounds therefor and shall be accompanied by a pleading  
setting forth the claim or defense for which intervention is sought.  
The same procedure shall be followed when a statute gives a right to  
intervene.

1                   1.     FAR WEST SHOULD BE PERMITTED TO INTERVENE AS A MATTER OF  
2                             RIGHT UNDER NRCP 24(a)

3             Under NRCP 24(a)(2) an applicant must meet four requirements: (1) that it has a sufficient interest  
4 in the litigation's subject matter, (2) that it could suffer an impairment of its ability to protect that interest  
5 if it does not intervene, (3) that its interest is not adequately represented by existing parties, and (4) that  
6 its application is timely. American Home Assurance Co. v. Dist. Ct., 122 Nev. 1229, 147 P.3d 1120,  
7 1126 (2006).

8             Far West holds a judgment against the Monas of which they have repeatedly taken steps to hinder  
9 the collection. The Monas are attempting to have this Court divide community property which another  
10 Court has already determined is community property subject to collection by Far West the community  
11 property debt judgment holder. Far West therefore has an interest in this litigation.

12            Far West is so situated that the disposition of that community property in which it has an interest  
13 will impair or impede its ability to protect that interest. The Parties already attempted to enforce a Post-  
14 Marital Property Settlement Agreement to give Rhonda millions of dollars in order to protect it from Far  
15 West's judgment.

16            Far West's interest is not adequately protected by the existing parties are they are working in  
17 collusion to try to impede Far West.

18            Far West's application is timely as it is believed that Michael has not even answered at this time.

19                   2.     FAR WEST SHOULD BE PERMITTED TO INTERVENE AS A PARTY  
20                             UNDER THE PRINCIPLES OF PERMISSIVE INTERVENTION

21            Far West additionally requests that it be permitted to intervene under NRCP 24(b)(1). Under  
22 NRCP 24(b)(1) Far West has an interest in the Property at issue and its claim and the main action have  
23 a question of law and fact in common—the validity of the Post-Marital Settlement Agreement and the  
24 disposition of the parties' assets. Far West's intervention will not unduly delay or prejudice the  
25 adjudication of the rights of Rhonda or Michael.

26     ///

27     ///

28     ///

1           **B.     THE POST-MARITAL PROPERTY SETTLEMENT AGREEMENT SHOULD BE**  
2           **HELD TO BE VOID**

3           As has already been discussed *supra*, the Monas' purported transfer of millions of dollars of  
4 community property to the separate property of Rhonda through the Post-Marital Property Settlement  
5 Agreement was a fraudulent transfer intended to hinder the ability of Far West to collect its judgment. The  
6 monies transferred were community property money earned during the marriage NRS 123.220 and are  
7 subject to collection of a community property debt incurred during the marriage. Randono v. Turk, 86  
8 Nev. 123, 466 P. 218 (1970). The Parties are now attempting a sham divorce in order to hinder Far West,  
9 which should not be allowed by this Court.

10           **C.     RES JUDICATA REQUIRES THAT THIS COURT FIND THE POST-MARITAL**  
11           **PROPERTY SETTLEMENT AGREEMENT TO BE FRAUDULENT**

12           The matter of whether the Post-Marital Property Settlement Agreement was fraudulent has already  
13 been ruled on in case A-12-670352-F wherein the Court determined that the Mona's purported transfer is  
14 a fraudulent transfer, and the facts proving the fraudulent transfer are deemed established. See Exhibit "2".  
15 The Court further held that the parties are prohibited from claiming any money purportedly transferred  
16 pursuant to the Post-Nuptial Agreement and any money held in bank accounts by Rhonda are exempt from  
17 execution. *Id.*

18           Nevada recognizes the doctrines of Res Judicata and issue preclusion. As the Nevada Supreme  
19 Court has noted, "[g]enerally, the doctrine of res judicata precludes parties or those in privity with them  
20 from relitigating a cause of action or an issue which has been finally determined by a court of competent  
21 jurisdiction." University of Nevada v. Tarkanian, 110 Nev. 581, 598, 879 P.2d 1180, 1191 (1994) (citing  
22 Horvath v. Gladstone, 97 Nev. 594, 597, 637 P.2d 531, 533 (1981); Gilbert v. Warren, 95 Nev. 296,  
23 594 P.2d 696 (1979)). The Court went on to note that "[f]or res judicata to apply, three pertinent elements  
24 must be present: (1) the issue decided in the prior litigation must be identical to the issue presented in the  
25 current action; (2) the initial ruling must have been on the merits and have become final; and (3) the party  
26 against whom the judgment is asserted must have been a party or in privity with a party to the prior  
27 litigation." *Id.* (citing Horvath, 97 Nev. at 597, 637 P.2d at 531). However, Nevada law now recognizes  
28 Res Judicata and issue preclusion as two distinct doctrines and these three factors apply only to Res

Judicata. Five Star Capital Corp. v. Ruby, 124 Nev. 1048, 1051, 194 P.3d 709, 710 (2008) (citing Executive Mgmt. v. Ticor Title Ins. Co., 114 Nev. 823, 836, 963 P.2d 465, 473–74 (1998)). The factors to look to in determining whether the doctrine of Res Judicata applies are “(1) there has been a valid, final judgment in a previous action; (2) the subsequent action is based on the same claims or any part of them that were or could have been brought in the first action; and (3) the parties or their privies are the same in the instant lawsuit as they were in the previous lawsuit, or the defendant can demonstrate that he or she should have been included as a defendant in the earlier suit and the plaintiff fails to provide a “good reason” for not having done so.” Weddell v. Sharp, 131 Nev. Adv. Op. 28 (2015). The factors to look to in determining whether the doctrine of issue preclusion applies are: “(1) the issue decided in the prior litigation must be identical to the issue presented in the current action; (2) the initial ruling must have been on the merits and have become final; ... (3) the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation”; and (4) the issue was actually and necessarily litigated.” Five Star, 124 Nev. at 1055, 194 P.3d at 713.

The Doctrine of Res Judicata requires that this Court follow Judge Hardy’s determination that the Post-Marital Property Settlement Agreement was fraudulent and void, that the Judgment obtained by Far West is a community property debt, and that Rhonda is prohibited from claiming that the funds purportedly transferred to her in the Agreement are her separate property. The first element set forth in Tarkanian is met because there has been a valid final judgment in the District Court action. See Exhibit “2”. The Second element is likewise met because Rhonda and Michael are attempting to relitigate issues which the District Court has already ruled on. All of these three issues are identical to issues which would otherwise be presented in the present litigation. There are several telling paragraphs in Rhonda’s complaint which evidences that these exact issues which have already been decided are now being brought before this court:

“That the parties entered into a Post-Marital Property Settlement Agreement on or about the 13<sup>th</sup> day of September, 2013, which is valid and enforceable and should be adopted by the Court and incorporated into the final Decree of Divorce in this matter.” See ¶ 4 of Complaint.

“That there are community property and debts of the parties herein to be adjudicated by the Court.” See ¶ 6 of Complaint.

“That there is separate property of the Plaintiff, which should be confirmed as her sole and separate property.” See ¶ 7 of Complaint.



1 "That there are separate property debts of the Defendant, which should be  
2 confirmed as his sole and separate obligations." See ¶ 9 of Complaint.

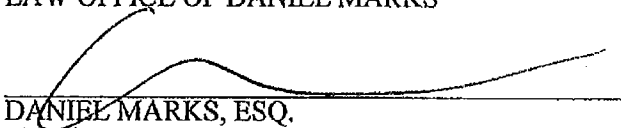
3 It should be noted that there is no mirror of ¶ 9 of the complaint which would confirm the separate property  
4 debts of Rhonda to her. The second element set forth in Tarkanian is likewise met as the District Court  
5 has heard the testimony of the parties on the merits and entered a final judgment. See Exhibit "2". The  
6 third and final element as modified in Weddle is also met as Michael was a party to the District Court  
7 litigation and Rhonda was at the time a trustee of the Mona Family Trust, and, subsequent to the action,  
8 took part in the fraudulent Post-Marital Property Settlement Agreement.

9 The elements of the doctrine of issue preclusion are likewise met. The first factor to look to under  
10 the Five Star analysis is whether the issue presented in this action is identical to an issue presented in a  
11 prior action. As discussed *supra*, Rhonda is bringing identical issues before this Court which judge Hardy  
12 has already ruled on. The second element is also met as Judge Hardy made a decision on the merits which  
13 is final. See Exhibit "2". The third element is met because Michael was a party to the District Court  
14 litigation and Rhonda was at the time a trustee of the Mona Family Trust, and, subsequent to the action,  
15 took part in the fraudulent Post-Marital Property Settlement Agreement. The final element is met because  
16 the issue was actually and fully litigated before the District Court which entered its final judgment. *Id.*

17 The matter regarding the fraudulent nature of the Post-Marital Property Settlement Agreement as  
18 well as Rhonda's ability to claim any of the funds allegedly transferred under the Agreement as her  
19 separate property has already reached a valid and final judgment. Res Judicata and issue preclusion  
20 therefore bar subsequent litigation of the matter in the present case.

21 DATED this 4 day of September, 2015.

22 LAW OFFICE OF DANIEL MARKS

23  
24   
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DISTRICT COURT  
FAMILY DIVISION  
CLARK COUNTY, NEVADA

**FAMILY COURT MOTION/OPPOSITION  
FEE INFORMATION SHEET (NRS 19.0312)**

~~XXXXXXXXXXXXXXXXXXXX~~

☐ Motion/Opp IS NOT subject to filing fee

Signature of Preparer

EXHIBIT "1"

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE  
MAR 06 2012

RCR  
MAR 07 2012  
R

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

FAR WEST INDUSTRIES, A CALIFORNIA ) Case No. RIC495966  
CORPORATION, PLAINTIFF V RIO VISTA NEVEDA, )  
LLC., A NEVADA LIMITED LIABILITY; WORLD ) JUDGE: Hon. Jacqueline Jackson  
DEVELOPMENT, INC., A CALIFORNIA CORPORATION; ) DEPT: J1  
BRUCE MAIZE, AN INDIVIDUAL; MICHAEL J. MONA, ) FINDINGS OF FACT AND  
JR., AN INDIVIDUAL, AND DOES 1 THROUGH 100, ) CONCLUSIONS OF LAW  
INCLUSIVE, DEFENDANTS )  
Action Filed: March 24, 2008  
Trial Date: September 23, 2011

On September 23, 2011, the above-referenced action came on for trial before the Honorable Jacqueline C. Jackson, Judge presiding. Plaintiff Far West Industries, a California corporation ("Far West") was represented by Robert L. Green & Hall, APC. Defaults were taken against Defendants Rio Vista Nevada, LLC, a Nevada limited liability company ("RVN") and World Development, Inc., a California corporation ("World Development") on October 7, 2010. Defendant Michael J. Mona, Jr. ("Mona"), both individually and as a Trustee of the Mona Family Trust dated February 21, 2002, was represented by Howard Golds and Jerry R. Dagrella of Best, Best and Krieger, LLP. After considering the trial testimony and evidence, the Court issued its Statement of Tentative Decision on November 30, 2011. Pursuant to Rule 3.1590(c)(3)

1 of the California Rules of Court, Far West was directed to prepare these Findings of Fact and  
2 Conclusions of Law. The court has edited them and this is the final version.

3 **I. Summary of Facts and Evidence**

4 **A. Mona Acquires the Project**

- 5 1. Michael Shustek ("Shustek") was for all times relevant herein the President of Vestin  
6 Mortgage, Inc. ("Vestin").
- 7 2. Vestin is a mortgage broker who lends money from Vestin-controlled Real Estate  
8 Investments Trusts ("REITs").
- 9 3. Vestin had loaned money to Lynn Burnett ("Burnett"), who in 2003 was developing a  
10 project which consisted of 1,362 lots in Cathedral City, California (the "Project").
- 11 4. 549 of those lots were being financed by Vestin (the balance by another lender), and  
12 Burnett had defaulted on his loan.
- 13 5. Shustek asked Mona to purchase from Burnett that portion of the Project financed by  
14 Vestin, and in doing so, agreed to loan Mona \$35 million of the REIT's money.
- 15 6. Shustek asked Mona to get involved even though Mona had no experience building a  
16 master planned residential community.
- 17 7. Of the Vestin \$35 million loan, \$19,268,568.32 was paid to purchase the Project; this  
18 was the amount needed to fully pay off Burnett's loan to Vestin.
- 19 8. \$9 million was to pay for the construction (the "Construction Loan") and \$3.6 million  
20 was reserved to pay interest on the loan (the "Interest Reserve").
- 21 9. Mona formed RVN, a Nevada, single-purpose LLC to take title to the Project.
- 22 10. The Mona Family Trust dated February 21, 2002 ("Mona Family Trust") owned  
23 100% of RVN.
- 24 11. Mona contributed no capital to RVN upon its formation. He formed that entity and  
25 took title in its name "to avoid liability". He had no intention of making any personal  
investment in the Project because it was "too risky".
12. Mona provided Vestin with a 12-month guaranty of the RVN loan (the "Guaranty")  
by another single-purpose, Nevada entity that was owned solely by Mona and also  
had no capital or assets, Emerald Suites Bonanza, LLC ("Emerald Suites").
13. For its part, Vestin (and not the REITs) was paid an initial fee of \$1.4 million from  
the RVN loan proceeds.

1  
2 **B. Mona Distributes Construction Loan Proceeds for Purposes Other than**  
3 **Construction**

4 14. Mona began issuing checks from the Construction Loan.

5 15. More particularly, on February 9, 2004, the first draw was made on the Construction  
6 Loan for \$2,448,481.82.

7 16. When that money was deposited into the RVN checking account three days later,  
8 there was only \$2,118,776.38 left.

9 17. Mona "couldn't remember" what happened to the remaining \$329,705.55.

10 18. Mona and his wife are the sole Trustees and Beneficiaries of the Mona Family Trust  
11 (a revocable trust). The Mona Family Trust was 100% owner of RVN at that time  
12 and Mona was the only signatory on the RVN account.

13 19. There was \$900,00 paid to RVN on February 5, 2004.

14 20. This check was deposited into the RVN account, but does not show up on the RVN  
15 Account Register.

16 21. Mona also paid \$702,000 from the Construction Loan to certain individuals and  
17 entities at the express direction of Shustek, even though those individuals and entities  
18 had never been affiliated with the Project, preformed no work on the Project, and  
19 Mona did not even know who they were.

20 22. Mona then paid \$1,283,700 to the Mona Family Trust, himself, and MonaCo  
21 Development Company (his Nevada construction company) from the Construction  
22 Loan at the direction of Shustek who had told Mona that Mona could take a \$1  
23 million fee for himself up front.

24 23. There was no provision in the RVN Operating Agreement for any of these payments.

25 24. The Court finds that Mona took the money for himself, the Mona Family Trust, and  
MonaCo Development from RVN shortly after he acquired the Project.

26 25. At the time that Mona took that money, and also immediately paid the \$1.4 million  
fee to Vestin and the \$702,000 to the Shustek-related individuals, RVN was insolvent.

27 **C. RVVA is Also Created at the Same Time**

28 26. Mona had only purchased 549 of the Project's 1,362 total lots.

1 27. Because it was all being developed at the same time, and Burnett was retaining the  
2 balance of the Project, he and Mona created Rio Vista Village Associates, LLC  
3 ("RVVA") to perform all of master plan community work which benefitted both parcels  
4 jointly (infrastructure improvements such as streets, utilities, a clubhouse, a park,  
5 landscaped detention basins, a water reservoir, a school, etc.).

6 28. Mona was the sole Manager of the RVN and one of the two Managers of the RVVA.

7 29. Mona retained his title and function as a Manager of RVN throughout the life of that  
8 entity, and for all times relevant, he was in charge of all finances for the RVN and the  
9 Project.

10 D. Mona Solicits World Development's Participation

11 30. Mona solicited World Development's involvement in the Project.

12 31. The Mona Family Trust sold 45% of RVN to World Development for \$45.

13 32. At that time, the Mona Family Trust also contributed \$55 in capital to RVN.

14 33. This \$100 from World Development and the Mona Family Trust was the only capital  
15 ever contributed to RVN at any time.

16 34. For all times relevant hereafter, World Development's CEO and the designated  
17 Manager of RVN was Bruce Maize ("Maize").

18 35. Mona remained Co-Manager of RVN with Maize.

19 E. The Project

20 36. Burnett defaulted on his other loan for the balance of the Project and filed  
21 bankruptcy.

22 37. His interest in RVVA was thereafter acquired by WHP Rio Vista, LLC, which was  
23 owned by Capstone Housing Partners, LLC ("Capstone").

24 38. By October of 2005, RVN had exhausted Interest Reserve.

25 39. Maize and Mona knew that the Project still required \$15 million in construction costs,  
with 40% (\$6,000,000) owned by RVN under the RVVA Operating Agreement.

40. That \$6,000,000 sum did not include interest payments on the \$35 million loan  
(which were as high as \$411,230.96 per month and which were no longer able to be paid  
from the Interest Reserve since it had already been exhausted),

1 41. In an Amended Operating Agreement for RVVA, RVN allowed Capstone to become  
2 a member of RVVA under certain conditions.

3 42. One such condition required Capstone to contribute just under \$1,500,000 to  
4 reimburse RVN for construction costs.

5 43. World Development learned about Mona's above-referenced million-dollar-plus  
6 payments from the Construction Loan to himself, his Family Trust and MonaCo  
7 Development and demanded that it also receive a distribution of "profits" to World  
8 Development in the amount of \$856,598.60, even though RVN had a negative net worth  
9 of \$3.8 million at the time and no revenue from inception.

10 H. January of 2006

11 44. In January of 2006, the Construction Loan was coming due with no funds to pay it  
12 off.

13 45. Mona and Vestin agreed to extend the Construction Loan for a short period of time  
14 (three months), at the cost of \$700,000 in loan extension fees.

15 46. That \$700,000 came from the Construction Loan proceeds and it was paid to Vestin,  
16 not the REITs.

17 47. Therefore as of January of 2006, Vestin had now collected an aggregate of  
18 \$2.1 million on loan fees from the Project (\$1.4 million initial fee plus the \$700,000  
19 extension).

20 48. The parties documented that extension in a January 3, 2006, Loan Extension  
21 Agreement (the "Amendment").

22 49. Mona was concerned the Project was in financial trouble in January of 2006.

23 50. At that time, conversations took place between Maize and Mona about a plan to "sell  
24 the asset, get the loan paid off, and move down the road."

25 51. That's also why at this time, RVN hired Park Place Partners to sell either the entire  
Project, or any parts of it they could.

I. Far West Expresses Interest in the Project

52. In approximately January of 2006, Far West was considering purchasing a portion of  
the Project.

53. One of the things requested by Far West was information about who was behind the  
RVN and guarantying its obligations.



1 54. Scott Lissoy ("Lissoy") of Far West knew of Maize and held Maize in high regard.

2 55. While that relationship gave Far West some measure of comfort regarding this  
3 Project, it still wanted to be sure that somebody had something financially at risk to make  
4 sure that they would deliver to Far West critical infrastructure and critical water meters  
after escrow closed.

5 56. Far West was purchasing 76 lots from RVN that were effectively an "island" in the  
6 middle of a large undeveloped residential community.

7 57. If the infrastructure surrounding that island was not completed, Far West would have  
8 no streets, water, electrical, cable, telephone, and the like to which it would connect.

9 58. It would also be in the midst of a master-planned community (clubhouse, swimming  
10 pools, community parks, common areas everywhere, etc.) that would not be completed.

11 59. Any hope of successfully building and selling homes would be gone, and therefore  
12 Far West wanted to insure that the infrastructure was going to be completed in a timely  
13 manner (by the agreed date of November 1, 2006).

14 60. Maize represented to Lissoy that RVN and RVVA could complete all infrastructures  
15 by November 1, 2006.

16 61. Far West therefore asked Maize to include specific Representation and Warranty in  
17 the Purchase Agreements, thereby obligating RVN to complete that entire infrastructure  
18 by November 1, 2006.

19 62. Far West also secured Representations and Warranties that confirmed what Maize  
20 was telling it on behalf of RVN; all necessary water meters would be available to Far  
21 West at the close of escrow and there was no claims either pending or threatened by any  
22 entity that might otherwise negatively impact the development of Far West's lots and/or  
23 the construction of the Project's infrastructure.

24 63. Finally, Far West asked Maize to confirm what he had told Lissoy; that the "Due  
25 Diligence Documents" given by Maize to Far West included everything that was material  
to the transaction.

64. Lissoy also asked Maize about who was financially behind RVN, and when Maize  
and Robert Pippen (World Development's and RVN attorney) represented to Lissoy and  
Ira Glasky of Far West that Mona was a man of substantial financial means who had  
personally guaranteed the Vestin loan, Lissoy asked for written proof.

65. The next day, Richard Van Buskirk (on behalf of Maize) asked for written proof of  
Mona's personal Guaranty.

1 66. Mona had in his possession an amendment to the Loan (the "Amendment"), a  
2 document that he had signed in January, 2006 as an individual.

3 67. Therefore in response to the initial request from Lissoy, Mona's Office Manager (on  
4 behalf of Mona and acting as his agent) provided Maize with the Amendment (and not  
5 the actual Guaranty), since it represented him to be the Guarantor personally by separate  
signature and it neither revealed that the Guaranty was from Emerald Suites nor that it  
had expired.

6 68. The Amendment was forwarded to Far West the next day in response to its inquiries  
7 regarding confirmation of Mona's personal Guaranty.

8 69. That proof of Guaranty was sent by Maize to Far West with a copy to Mona and  
9 containing a note stating that a "copy of the loan extension with the Guarantee is  
attached- Condition met" (referring to proof of Mona's personal Guaranty as a condition  
precedent to escrow closing).

10 **J. The Capstone Notice of Default**

11 70. RVN was in default on its capital contributions to RVVA, and on March 31, 2006,  
12 Capstone (through Bert) sent Mona a formal Default Notice, demanding that RVN cure  
its deficit in the RVVA account.

13 71. Capstone demanded that RVN contribute \$762,943 by April 14, 2006 and an  
14 additional \$968,953 in the coming months.

15 72. Mona told Bert that RVN was out of money and would not be paying anything further  
16 to RVVA.

17 73. Bert told Mona and Maize that Capstone would continue moving forward with only  
its portion of the Project so that its investment was not placed in jeopardy.

18 74. Bert refused to contribute towards any of the infrastructure that benefited the RVN  
19 property (including what was to be Far West's lots) unless and until RVN cured its  
breach.

20 75. Bert also told them that he was keeping all of the water meters allocated to the Project  
21 until RVN brought its account current.

22 76. Without a water meter, no developer could build and sell a home.

23 77. Therefore as of the Spring of 2006, RVN's portion of the Project had no realistic  
24 chance of completion.  
25

1                   K. May of 2006

2                   78. By May of 2006, Cathedral City (the "City") had become very concerned with the  
3                   Project's innumerable problems and lack of progress.

4                   79. By that time, the Project's infrastructure was far from complete (including a \$5  
5                   million off-site water reservoir, a recreation center and common area amenities).

6                   80. The City was threatening to shut down Phase II of the Project (which included the Far  
7                   West lots) altogether.

8                   81. Also at this time, the Vestin loan was again coming due and Mona negotiated another  
9                   short (three month) extension.

10                  82. These short extensions were costly in terms of large extension fees demanded and  
11                  subsequently paid to Vestin (and not the REITs) totaling \$1,700,000 along with interest  
12                  rate increases (rising from 8% to as high as 14.5%).

13                  83. At this point, Vestin had now taken over \$3 million in total fees from the loan  
14                  proceeds provided to Mona by the REITs (which at this point in time had funded all of  
15                  Mona's financial requirements in this Project).

16                  84. The Project was already \$1,913,636 over budget as of May 16, 2006, and RVN was  
17                  both out of cash and in default of its obligations to RVVA.

18                  85. Mona knew that this cost overrun was important and needed to be disclosed to Far  
19                  West.

20                  86. The same is true with respect to the Capstone Default Notice: Mona assumed that  
21                  Maize was telling Far West all of this during their negotiations.

22                  87. Maize told Far West nothing about the RVVA default or the cost overruns, nor did he  
23                  provide Far West with the default letters/notices.

24                  88. As of that point in time, Mona, World Development, and Vestin (and Vestin's related  
25                  parties) had taken \$7,521,254.65 (all but \$900,000 coming from the \$9 million  
26                  Construction Loan) that was not used by them for construction.

27                  89. Also as of that date, there was still \$6,936,454.82 that needed to be contributed to  
28                  RVVA by RVN.

29                  90. RVN therefore had a shortfall as of June 1, 2006, with no potential available source  
30                  of additional capital.

31                  91. Neither Maize nor Mona disclosed this shortfall to Far West at any time prior to Far  
32                  West executing the Purchase Agreements.

1  
2 92. Furthermore, neither Maize nor Mona ever told Far West that Mona, World  
Development, and Vestin had taken \$7,521,254.65 from the Project.

3 L. Mona and Maize Mislead Far West into Purchasing Lots by Concealing the  
4 Project's True State

5 93. Maize's negotiations with Far West were proceeding and he kept Mona informed.

6 94. Mona was responsible for all finances on behalf of RVN, and Maize told Lissoy that  
7 all decisions must therefore be made jointly with Mona.

8 95. Furthermore, the draft Purchase Agreements (as the transaction was negotiated  
between January and May of 2006) were sent to Mona for review and comment.

9 96. E-mail correspondence between Maize and Mona and addressing the Far West deal  
10 started with the first draft agreement in January of 2006 and ended with the "final deal  
11 points" on May 26, 2006 (five days before the Purchase Agreements with Far West were  
signed).

12 97. On June 1, 2006, Far West signed two Purchase Agreements for 76 lots in the Project.

13 98. The combined purchase price under the agreements was \$6,430,961.45. Escrow for  
14 72 of the lots closed on June 9, 2006, and escrow for the remaining 4 lots closed on  
August 31, 2006.

15 99. The Purchase Agreements contain, among others, the following Representations and  
16 Warranties which were deemed to be true as of the date of the Purchase Agreements were  
signed and restated as of the date escrow closed:

17 100. "To the actual knowledge of the Seller, there are no...[a]ctions or claims pending or  
18 threatened by any governmental or other party which could affect the Property"

19 101. "Seller warrants that none of RVVA's improvements outside or inside the Property  
20 boundary shall preclude, limit or delay Buyer from developing the Property (including  
obtaining building permits and/or certificates of occupancy...)"

21 102. "[A]ll improvements except the final lift of asphalt (surface or otherwise) on the  
22 streets surrounding the Property (Rio Largo Road, Rio Guadalupe Road and Rio Madera  
Road) will be complete by November 1, 2006

23 103. "Seller shall use diligent reasonable efforts to ensure that water meters are available  
24 to Buyer, pending payment by Buyer of required meter and facilities fees..."

1 104. "To Seller's actual knowledge, the Due Diligence Documents constitute all of the  
2 material documents relating to the Property in the Seller's possession as of the date of  
this Agreement..."

3 105. "Each of the representations and warranties set forth in this Section 3 and in Section  
4 6.2 is material to and is being relied upon by Buyer and the continuing truth thereof shall  
constitute a condition precedent to Buyer's obligations hereunder".

5 106. All of these Representations and Warranties were false on June 1, 2006, and both  
6 Maize and Mona knew they were false.

7 107. Maize and Mona knew that RVN was in default under RVVA Operations  
8 Agreement, and that the Project was facing imminent failure.

9 108. Moreover, RVN's default had resulted in a pending claim by Capstone (sent directly  
10 to Mona as RVN's Manager) which would preclude completion of the infrastructure,  
delivery of water meters, and Far West's ability to develop and sell homes upon its lots.

11 109. Neither Maize nor Mona informed Far West that Capstone had informed them that it  
12 would not contribute toward infrastructure construction benefiting the Far West lots or  
that Capstone was retaining all water meters for the entire Project.

13 110. The failure to disclose those facts constituted a material breach of the Representation  
14 and Warranty pertaining to RVVA's improvements not precluding, limiting, or delaying  
Far West in its development efforts.

15 111. Furthermore, RVN was not using diligent commercially reasonable efforts to insure  
16 that Far West obtained the required water meters, thereby materially breaching that  
Representation and Warranty.

17 112. RVN did not complete all improvements except the final lift of asphalt by  
18 November 1, 2006, which again constituted a material breach of the Purchase  
Agreements.

19 113. Finally, Maize and Mona did not provide Far West with all "material documents  
20 relating to the Property in Seller's possession as of the date of this Agreement" (June 1,  
21 2006).

22 114. At no time did Maize or Mona provide Far West with the following material  
23 documents: (1) the Capstone Default Notice; (2) correspondence from the City  
threatening to shut down the Project; (3) documentation showing that the Project was \$2  
24 million over budget; or (4) any documentation informing Far West that RVN was out of  
money and unable to meet its financial commitments to RVVA.

25 115. The Purchase Agreements contain a provision awarding Far West liquidated  
damages of \$1,200 per day for every day that RVN delays delivery of water meters.

1  
2 116. To this day, those meters have not been delivered by RVN, and the per diem  
damages calculated to the first day of trial are \$2,100,000.

3  
4 117. Immediately after the first close of escrow, Bert wrote a second Default Notice to  
Mona.

5  
6 118. Here again, Bert threatened RVN that it would "cease to have any powers, rights, or  
authorities" in connection with the management of RVVA and he confirmed that he told  
Maize and Mona all along: Capstone "retain(s) the exclusive right to the use if all the  
water meters acquired with such amounts funded solely by us".

7  
8 119. This was two months before Far West closed the second escrow (August 31).

9  
10 120. Neither Maize nor Mona provided Far West with the second Capstone Default  
Notice or informed Far West about its existence.

11  
12 121. Far West continued with the transaction and the second escrow closed.

13  
14 122. In good faith, Far West proceeded with its short-lived plans for development.

15  
16 123. The company spent another several million dollars in: (1) completing all of the in-  
tract infrastructure in preparation for connecting to the Project infrastructure, which RVN  
never completed; and (2) building three model homes and one production unit for sale.

17  
18 124. The Far West project was an island of completed construction in the middle of  
uncompleted streets, curbs, gutters, utilities, and the like.

19  
20 **M. Mona Unilaterally Conveys RVN's Only Asset and Takes the Remaining**  
21 **Funds for his and Maize's Personal Use**

22  
23 125. Sometime in September of 2006 and less than 30 days after the second Far West  
close of escrow but before the Vestin loan was due, Mona unilaterally decided to walk  
away from the Project and give what remained of it back to Vestin.

24  
25 126. Mona never informed Far West that RVN was transferring the remaining Property to  
the lender right after Far West closed escrow.

127. RVN also has \$125,000 in its account at El Paseo Bank, which was RVN's only  
bank account.

128. On or about November 13, 2006, Mona and Maize decided to take that money for  
themselves via checks to the Mona Family Trust and World Development, despite having  
received multiple letters from Far West alleging breach of the Purchase Agreements.

1 129. Far West had deposited \$32,846 into Escrow at the time of the original transaction,  
2 and that money was being held to pay for certain infrastructure improvements that RVN  
3 was going to perform.

4 130. Those improvements were never constructed.

5 N. Far West Suffers Damage

6 131. RVVA never completed the infrastructure and all of RVN's property interests were  
7 conveyed to Vestin by Mona.

8 132. Because the infrastructure was incomplete, no developers could move forward with  
9 the Project's remaining lots.

10 133. Far West was left with four fully-constructed and merchandized homes (3 models  
11 and one production home), with no way to complete the rest of the development and/or to  
12 sell anything.

13 134. Far West remained obligated to complete certain in-tract infrastructure, or risk a  
14 claim on Far West's performance bond with the City.

15 135. All totaled, Far West invested \$11,138,411.45 into this Project (which includes the  
16 per-diem delay damages under the Purchase Agreements).

17 136. With 10% pre-judgment interest through the first day of trial, the grand total is  
18 \$16,886,132.16.

19 137. Daily damages of \$5,259.75 from September 23, 2011 until entry of Judgment are  
20 comprised of the per diem penalty plus further pre-judgment interest on Far West's out-  
21 of-pocket expenses at 10%.

22 O. Alter Ego

23 138. Mona and the Mona Family Trust failed to adequately capitalize RVN.

24 139. Mona commingled funds belonging to RVN, the Mona Family Trust, MonáCo  
25 Development, and himself personally.

140. Mona diverted RVN's funds to other than RVN's uses.

141. Mona treated the assets of RVN as his own.

142. Mona used RVN as a mere shell, instrumentality, or conduit for his own personal  
gain.

1 143. Mona diverted assets from RVN to Vestin, himself, MonaCo Development, and  
2 World Development to the detriment of RVN's creditors

3 144. Maintaining legal separation between RVN, Mona, and the Mona Family Trust  
4 would sanction fraud and promote injustice.

5 145. All actions taken by Mona in this regard were both in his individual capacity and in  
6 his capacity as Trustee of the Mona Family Trust.

7 **II. Conclusions of Law**

8 **A. RVN Breached the Purchase Agreements**

- 9 1. RVN breached both Purchase Agreements with Far West and Far West suffered  
10 damages proximately caused thereby.
- 11 2. Those fixed and readily-ascertainable damages total \$11,138,411.45, exclusively of  
12 pre-judgment interest.
- 13 3. Pre-judgment interest calculated from the day each expense was incurred by Far West  
14 through the first day of trial total \$5,727,720.71, and Far West is entitled to that  
15 interest.
- 16 4. All Totaled, Far West suffered damages of \$16,886,132.16 as of September 23, 2011,  
17 that were proximately caused by RVN's breaches of the Purchase Agreements.

18 **B. Mona, RVN, and World Development Intentionally Defrauded Far West**

- 19 5. Both Maize and Mona intentionally misrepresented material facts and concealed other  
20 material facts from Far West as discussed above.
- 21 6. When Maize and Mona misrepresented and concealed those materials facts, they were  
22 doing so on behalf of RVN as Members and Managers.
- 23 7. Furthermore, Maize made those same material misrepresentations and omitted those  
24 material facts as the CEO and Shareholder of World Development.
- 25 8. Maize and Mona were under a duty to disclose those material facts that were  
concealed from Far West, and Far West was unaware of those facts or Maize's and  
Mona's concealment.
9. Maize and Mona acted with an intent to defraud Far West, Far West justifiably relied  
upon Maize's and Mona's affirmative misrepresentations and omissions, and Far West  
sustained damage



1 10. As a result of Mona's, RVN's, and World Development's intentional fraud, Far West  
2 sustained damages totaling \$16,886.132.16 as of September 23, 2011 (with pre-  
3 judgment interest included).

4 **C. Mona, RVN, and World Development are Liable for Negligent Misrepresentation**

5 11. Maize and Mona (on behalf of World Development and RVN) misrepresented material  
6 facts without a reasonable ground for believing them to be true and omitted certain  
7 material facts, with the intent to induce Far West's reliance on those facts  
8 misrepresented or omitted.

9 12. Far West was ignorant of the truth, and justifiably relied upon Maize and Mona's  
10 representations and omissions, thereby sustaining damage.

11 **D. Mona, RVN and World Development are liable for Breach of the Common Law  
12 Duty to Disclose**

13 13. As a seller of real property, Mona, RVN, and World Development had a duty to  
14 disclose to Far West all facts that materially affected the value of the property being  
15 sold.

16 14. Maize and Mona failed to disclose the numerous facts referenced above which  
17 materially affected the value of the property, and they knew that such facts were not  
18 known to, or within the reach of diligent attention and observation of Far West.

19 15. As a result, Far West sustained the damage referenced above.

20 **E. Mona, RVN and World Development are all Liable for Conspiracy to Commit  
21 Fraud**

22 16. Mona and Shustek agreed and conspired to defraud any potential purchasers of the  
23 Project (which ultimately included Far West) by structuring this entire transaction to  
24 appear to be a legitimate loan being made to a legitimate company (RVN) and  
25 guaranteed by another legitimate company (Emerald Suites).

17 17. The conspiratorial agreement between Mona and Shustek was for them to take  
18 millions of dollars for Vestin in the form of fees, to pay certain individuals and entities  
19 unrelated to the Project a total of \$702,000, and for Mona and the Mona Family Trust  
20 to personally reap an initial \$1 million profit.

21 18. Mona and Shustek also agreed that Mona would use what was left of the Construction  
22 Loan to move the Project along far enough to find some unsuspecting developer to  
23 purchase all or part of it from RVN.

24 19. At some point after the formation of that conspiracy, but no later than the Fall of 2005,  
25 Maize joined them as a co-conspirator.

1 20. In exchange for agreeing; (1) to continue moving the Project along and seeking  
2 unsuspecting developers to purchase it; and (2) to stay silent about the monies already  
3 paid from the Construction Loan to Mona and Vestin, World Development was paid  
4 \$858,598.60, which money was separate from any project management costs to which  
5 it was to be paid.

6 21. The many wrongful acts done furtherance of that conspiracy are more fully set forth in  
7 the Findings of Fact.

8 22. The Liability of Mona, RVN, and World Development is therefore joint and several as  
9 a result of their conspiratorial agreement.

10 **F. Maize Acted as Mona's Agent**

11 23. Maize was Mona's actual and ostensible agent when Mona directed him to submit to  
12 Far West the fraudulent Guaranty.

13 **II. MONA IS THE ALTER EGO OF RVN, AND TO THE EXTENT NECESSARY,**  
14 **OF THE MONA FAMILY TRUST**

15 27. California law governs any alter ego analysis.

16 28. The alter ego doctrine applies to Limited Liability Companies.

17 29. Under California law, the alter ego doctrine is a viable theory of recovery against a  
18 Trustee for actions taken in his or her representative capacity to benefit the Trust.

19 30. Accordingly, this finding of alter ego liability applies to Mona both in his individual  
20 capacity and in his capacity as the Trustee of the Mona Family Trust.

21 31. There is such a unity of interest and ownership that the separate personalities of  
22 RVN, the Mona Family Trust, and Mona no longer individually exist.

23 32. The acts of RVN are treated as those of the entity alone, an inequitable result will  
24 follow.

25 33. Mona, individually and in his capacity as Trustee of the Mona Family Trust, are the  
alter egos of RVN and therefore liable for any and all damages awarded against RVN.

34. To the extent necessary, Mona is the alter ego of the Mona Family Trust, and as a  
result, both he and the Mona Family Trust are both liable for any and all damages  
awarded herein against RVN.

1 III. FAR WEST IS ENTITLED TO THE INTERPLEAD FUNDS

2 35. Defendant Fidelity National Title Company filed a Cross-Complaint in Interpleader,  
3 thereby depositing \$32,846 with the Court pursuant to Section 386.1 of the California  
4 Code of Civil Procedure.

5 36. Far West is entitled to those funds, and the Clerk is hereby directed to pay those funds  
6 to Far West forthwith.

6 IV. JUDGMENT TO BE ISSUED

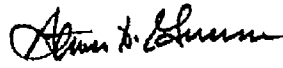
7 Judgment shall issue forthwith against Mona in his individual capacity and as Trustee of  
8 the Mona Family Trust, RVN, and World Development in the amount of \$16,886,132.16 plus  
9 daily additional damages of \$5,259.75 from September 23, 2011 until entry of Judgment, jointly  
10 and severally; this amount totals \$17,841,651.92 as of March 5, 2012. Furthermore, that  
11 judgment shall leave a blank for any award of any court costs and attorney's fees that will be the  
12 subject of Far West's post-Judgment motions. Finally, the Clerk is directed to release the  
13 \$32,846 interplead funds to Far West immediately.

14  
15  
16 Dated: March 5, 2012

  
17 Hon. Jacqueline C. Jackson,  
18 Judge Presiding  
19  
20  
21  
22  
23  
24  
25

EXHIBIT "2"

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CLERK OF THE COURT

**ORDER**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

v.

RIO VISTA NEVADA, LLC, a Nevada limited  
liability company; WORLD DEVELOPMENT,  
INC., a California corporation; BRUCE MAIZE,  
an individual; MICHAEL J. MONA, JR., an  
individual; DOBS 1 through 100, inclusive,

Defendants.

Case No.: A-12-670352-F  
Dept. No.: XV

Hearing Date: July 9, 2015  
Time of Hearing: 9:00 a.m.

**ORDER REGARDING ORDER TO SHOW CAUSE WHY  
ACCOUNTS OF RHONDA MONA SHOULD NOT BE SUBJECT TO  
EXECUTION AND WHY THE COURT SHOULD NOT FIND MONAS IN CONTEMPT**

The Court held a hearing regarding its Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt ("Order to Show Cause") on July 9, 2015, at 9:00 a.m. ("July 9 Hearing"). F. Thomas Edwards, Esq. and Andrea M. Gandara, Esq. of the law firm of Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson, appeared on behalf of Plaintiff Far West Industries ("Plaintiff" or "Far West"). Terry A. Coffing, Esq., of the law firm of Marquis Aurbach Coffing, appeared on behalf of Defendant Michael J. Mona, Jr. ("Mr. Mona") and Rhonda Helene Mona ("Mrs. Mona") (collectively referred to as the "Monas"). Edward L. Kainen, Esq., and Andrew L.

10594-01/1542544.doo

JUL 14 2015

1 Kynaston, Esq., of the law firm of Kainen Law Group, LLC, also appeared as divorce counsel  
2 for Mrs. Mona.

3 Prior to the July 9 Hearing, the Court reviewed all relevant pleadings and papers before  
4 it, including, but not limited to: (1) Plaintiff's Ex Parte Application For Order To Show Cause  
5 Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court  
6 Should Not Find The Monas In Contempt ("Application") and the attached Exhibits 1-4; (2) the  
7 Order to Show Cause and the notice of entry and receipt of copy associated therewith; (3) the  
8 Response to Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To  
9 Execution And Why The Court Should Not Find The Monas In Contempt ("Response") and the  
10 attached Exhibits A-C; (4) the Plaintiff's Reply in Support of Order To Show Cause Why  
11 Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should  
12 Not Find The Monas In Contempt ("Reply"); (4) the Supplement to Response to Order To Show  
13 Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The  
14 Court Should Not Find The Monas In Contempt ("Supplement"). The Court was presented the  
15 Declaration in Support of Request for Contempt of Plaintiff's counsel, F. Thomas Edwards, Esq.,  
16 at the July 9 Hearing, which it accepted without objection.

17 With no other appearances having been made, the Court having reviewed and examined  
18 the papers, pleadings and records on file in the above-entitled matter and heard the argument of  
19 counsel, and good cause appearing therefore, the Court enters the following findings facts and  
20 conclusions of law. To the extent any finding of fact should properly be designated a conclusion  
21 of law, it shall be deemed a conclusion of law. To the extent any conclusion of law should  
22 properly be designated a finding of fact, it shall be deemed a finding of fact.

23 The Court makes the following findings of facts and conclusions of law:

24 On April 27, 2012, Plaintiff obtained a Judgment entered against Mr. Mona and the Mona  
25 Family Trust Dated February 21, 2002 ("Mona Family Trust"). See Judgment, attached as Ex. 4  
26 to Application. Mr. Mona and Mrs. Mona were at all relevant times co-trustees of the Mona  
27 Family Trust, although after this Court ordered Mrs. Mona to appear for a judgment debtor  
28 examination, based upon her capacity as trustee of the Mona Family Trust, Mrs. Mona resigned

1 and/or was removed as a trustee.

2 On January 30, 2013, the Court entered its original order for the judgment debtor  
3 examination of Mr. Mona, setting forth certain documents that Mr. Mona was required to  
4 produce, including:

5 8. Documents reflecting all assets (real, personal or mixed),  
6 whether owned by you individually, in any partnership or  
7 corporation form or in joint tenancy or in tenancy in common for  
8 the past five (5) years.

9 11. A copy of all statements, and a copy of each check  
10 register for each account, for each and every financial  
11 institution (including but not limited to all banks, savings and  
12 loans, credit unions, and brokerage houses) where you have an  
13 account, where you have signature authority on an account, or in  
14 which you have held or now hold an interest from January 2005  
15 through to the present.

16 12. A copy of all bank statements, deposit slips, and canceled  
17 checks for all bank, money market accounts which you own or in  
18 which you owned any interest whatsoever, or on which you were  
19 authorized to draw checks, whether said documents were in your  
20 name alone, in the name of another person/entity, or in the  
21 name of another and yourself as joint tenants, for the period of  
22 three (3) years prior to the date hereof.

23 13. All savings account passbooks, bank statements and  
24 certificates of deposit for any and all accounts, in which you  
25 owned any interest whatsoever, or from which you were  
26 authorized to make withdrawals, whether said accounts were in  
27 your name alone, in the name of any other person, or in your name  
28 and another as joint tenants, for the period of five (5) years prior to  
the date hereof.

39. Copies of any and all contracts to which you are a party  
entered into within the last five (5) years.

See Ex. A to Order entered 1/30/13 ("January 2013 Order") (emphasis added).

The Court subsequently ordered Mr. Mona to make a complete production of documents  
by September 25, 2013. See Order entered 10/7/13 ("October 2013 Order"), 2:9-13.

On or about September 13, 2013, the Monas executed a Post-Marital Property Settlement  
Agreement, in which Mr. and Mrs. Mona explain that they have sold their community property  
shares of Medical Marijuana, Inc., for \$6,813,202.20. See Ex. 1 to the Application. The  
Agreement then purports to divide the proceeds equally between themselves as their separate  
property, with each receiving \$3,406,601.10. Id.

1 Although Mr. Mona produced approximately 33,000 documents in response to the  
2 January 2013 Order and the October 2013 Order, Mr. Mona did not produce the Post-Marital  
3 Settlement Agreement, in violation of both the January 2013 Order and the October 2013 Order.

4 At his judgment debtor examination on November 25, 2013, when Mr. Mona was asked  
5 what he did with the more than \$6 million in stock sale proceeds, Mr. Mona lied and failed to  
6 disclose the transfer of \$3,406,601.10 to Mrs. Mona. Specifically, at the judgment debtor  
7 examination on November 25, 2013, Mr. Mona testified as follows:

8 Q. When you got out of Alpine Securities, how much was the  
stock worth?

9 A. About \$0.12 a share.

10 Q. And translate that into an aggregate.

11 A. About \$6 million.

12 Q. Did you cash out?

13 A. Yes.

14 Q. What did you do with that \$6 million?

15 A. Paid bills.

16 Q. What bills?

17 A. Paid off some debts that I had.

18 Q. What bills?

19 A. Just personal bills. Gave 2.6 – loaned \$2.6 million to Roen  
20 Ventures.

21 See Transcript of 11/25/13 Judgment Debtor Examination of Mr. Mona, 9:8-21, attached as Ex. 2  
22 to the Application.

23 Mr. Mona's deceit and omission cannot be excused by a lack of memory because the  
24 purported transfer through the Post-Marital Settlement Agreement occurred only shortly before  
25 his examination. Likewise, Mr. Mona's deceit and omission cannot be blamed on his attorney,  
26 as Mr. Mona was in control of his testimony at the judgment debtor examination in 2013. At his  
27 more recent judgment debtor examination, Mr. Mona admitted that he should have produced the  
28 Post-Marital Settlement Agreement in 2013 and that he should have disclosed it during the



1 November 25, 2013 examination and, on this point, the Court agrees with Mr. Mona.

2 The Court finds that the money purportedly transferred through the Post-Marital  
3 Settlement Agreement was community property as it was acquired during the Monas' marriage.  
4 The Monas have been married for more than 30 years. All property acquired after the marriage  
5 by either husband or wife is community property, subject only to limited exceptions identified in  
6 NRS 123.220. All debts incurred during that time are community debts under Randono v. Turk,  
7 86 Nev. 123, 466 P.2d 218 (1970). See also Cirac v. Lander Cnty., 95 Nev. 723, 602 P.2d 1012;  
8 In re Bernardelli, 12 B.R. 123 (Bankr. D. Nev. 1981); Nelson v. United States, 53 F.3d 339, 1995  
9 WL 257884; F.T.C. v. Neiswonger, 580 F.3d 769 (8th Cir. 2009).

10 Plaintiff obtained the Judgment against Mr. Mona during the Monas' marriage, and it  
11 therefore is a community debt. That community debt can be collected against the entirety of the  
12 Monas' community property under Randono v. Turk, 86 Nev. 123, 466 P.2d 218 (1970) and  
13 Henry v. Rizzolo, 2012 WL 1376967 (Dist. Nev. April 19, 2012). See also Cirac v. Lander  
14 Cnty., 95 Nev. 723, 602 P.2d 1012; In re Bernardelli, 12 B.R. 123 (Bankr. D. Nev. 1981); Nelson  
15 v. United States, 53 F.3d 339, 1995 WL 257884; F.T.C. v. Neiswonger, 580 F.3d 769 (8th Cir.  
16 2009). The Court finds Norwest Fin. v. Lawyer, 849 P.2d 324 (Nev. 1993) and Hogevoll v.  
17 Hogevoll, 59 Cal.App.2d 188, 138 P.2d 693 (1943), which are cited in the Response,  
18 distinguishable as those cases involved determinations of lender intent and community debt with  
19 respect to loans made during marriage, as opposed to collection on a judgment for fraud  
20 committed by a spouse during marriage. Mrs. Mona's alleged lack of involvement in the  
21 underlying litigation that gave rise to Far West's Judgment is not relevant as to judgment  
22 collection. There is no evidence that the assets and debts at issue here were acquired by either of  
23 the Monas before marriage.

24 On May 13, 2015, the Court entered orders scheduling the judgment debtor examinations  
25 of Mr. and Mrs. Mona. The order set forth a list of documents that Mr. and Mrs. Mona were  
26 required to produce, including:

- 27 1. For the period beginning April 2012 through the present  
28 date, financial documents of Judgment Debtor, including, but  
not limited to, but not limited to, statements for checking,

1 savings or other financial accounts, securities brokerage  
2 accounts, certificates of deposit, shares in banks, savings and loan,  
3 thrift, building loan, credit unions, or brokerage houses or  
4 cooperative, and records of income, profits from companies, cash  
5 on hand, safe deposit boxes, deposits of money with any other  
6 institution or person, cash value of insurance policies, federal and  
7 state income tax refunds due or expected, any debt payable to or  
8 held by or for Judgment Debtor, checks, drafts, notes, bonds,  
9 interest bearing instruments, accounts receivable, liquidated and  
10 unliquidated claims of any nature, or any and all other assets.

11 23. For the period beginning April 2012 through the present  
12 date, Documents relating to monies, gifts, bequests, dispositions,  
13 or transfers paid or given to Judgment Debtor.

14 26. For the period beginning April 2012 through the present  
15 date, Documents relating to all tangible or intangible property or  
16 other assets sold, assigned, transferred, or conveyed by  
17 Judgment Debtor to any person or entity.

18 29. Documents evidencing any and all other intangible  
19 personal, tangible, and/or real property of Judgment Debtor not  
20 already identified in the items set forth above.

21 See Orders entered 5/13/15 ("May 2015 Orders").

22 In their response to the May 2015 Orders, the Monas did not produce certain bank  
23 records purportedly because the bank accounts are in the name of Mrs. Mona only, despite the  
24 fact that the accounts hold community property, in violation of the May 2015 Orders. Mrs.  
25 Mona made no efforts to produce any documents in response to the May 2015 Orders. Mr.  
26 Mona's failure to produce these bank records in response to the January 2013 Order and the  
27 October 2013 Order was also a violation of said orders.

28 According to Mrs. Mona's testimony during examination, she has three (3) different bank  
accounts in her name. The first account is a checking account at Bank of George, which contains  
approximate \$190,000.00 in purported earnings from design projects performed by Mrs. Mona  
during the marriage, such that the funds are community property. See Rough Transcript of  
06/26/15 Judgment Debtor Examination of Mrs. Mona, 26:6-14 and 27:19-29:19 attached as Ex.  
3 to the Application.

The second account is a money market account at the Bank of George, which contains  
approximately \$300,000.00 that is purportedly the only remaining money from the transfer to  
Mrs. Mona through the Post-Marital Settlement Agreement. Mrs. Mona testified that she

1 believes she only received approximately \$2 million based upon the Post-Marital Settlement  
2 Agreement, instead of the full \$3.4 million identified in the Post-Marital Settlement Agreement.  
3 See Rough Transcript of 06/26/15 Judgment Debtor Examination of Mrs. Mona, 21:18-23  
4 attached as Ex. 3 to the Application. These funds constitute community property because they  
5 were acquired during marriage. This remains true despite the Monas fraudulent transfer of the  
6 community property to Mrs. Mona, as explained in more detail below.

7 The third account is a checking account from Bank of Nevada, which is purportedly  
8 funded through the money market account at Bank of George, and thus also contains community  
9 property.

10 The Monas did not produce any records related to these three (3) accounts that contain  
11 community property in Mrs. Mona's name and so it is not possible to determine the account  
12 numbers and identifying information associated with these accounts.

13 While the Response mentions the Monas' divorce proceedings, the Response omitted key  
14 facts about the divorce, including that the divorce proceeding was only filed on July 2, 2015, and  
15 that the Monas testified at their respective judgment debtor examinations just a few days earlier  
16 that they had no plans to get divorced. The omission of these material facts in the Response  
17 reflects on the Monas' credibility.

18 The fact that Mrs. Mona filed for divorce after the Court issued its Order to Show Cause  
19 does not deprive the Court of its jurisdiction to rule on the Order to Show Cause. The Monas  
20 have cited to no authority that the filing of a divorce complaint imposes a stay of execution upon  
21 a judgment.

22 The Response to the Order to Show Cause complains about the timing of the briefing  
23 schedule and the hearing date. However, the Response failed to disclose that Plaintiff offered to  
24 both extend the briefing schedule and continue the hearing. At the hearing, the Court offered  
25 additional time to the Monas, but the Monas declined. Accordingly, the Court proceeded to issue  
26 its ruling.

27 The Monas have preempted the presiding judge as to any request for contempt in the  
28 Application, as they are entitled to do. The Court expressly makes no finding of contempt as to

1 Mr. and Mrs. Mona without prejudice to Plaintiff pursuing such a request before another judge.  
2 The Court only is considering whether sanctions should be issued pursuant to NRCP 37 as  
3 requested in the Application.

4 The Court finds that Mr. Mona violated the January 2013 Order and October 2013 Order  
5 by not producing the Post-Marital Settlement Agreement and the bank account records for Mrs.  
6 Mona's three (3) bank accounts that contained community property. The Court further finds that  
7 both Mr. and Mrs. Mona violated the May 2015 Orders by failing to produce bank records for  
8 Mrs. Mona's three (3) bank accounts that contained community property.

9 The Court concludes that Mr. Mona's failure to produce the Post-Marital Settlement  
10 Agreement as ordered and Mr. Mona and Mrs. Mona's failure to disclose Mrs. Mona's bank  
11 records for the three (3) accounts in Mrs. Mona's name were not substantially justified and  
12 constitute serious violations subject to sanctions under NRCP 37. Considering all available  
13 sanctions under NRCP 37 for such violations, the Court finds grounds to designate the Post-  
14 Marital Settlement Agreement a fraudulent transfer under NRS 112.180 on the merits based on  
15 the following badges of fraud associated with that transfer.

16 First, the transfer in the Post-Marital Settlement Agreement was to an insider, Mrs.  
17 Mona, as she is the wife of Mr. Mona, a judgment debtor, and was at all relevant times the  
18 Trustee of the Mona Family Trust, a judgment debtor.

19 Second, Mr. Mona appears to have retained possession and control over some portion of  
20 the funds that were purportedly transferred pursuant to the Post-Marital Settlement Agreement.

21 Third, Mr. Mona concealed the transaction by not producing the Post-Marital Settlement  
22 Agreement as required by the January 2013 Order and October 2013 Order and by not disclosing  
23 the transfer during his judgment debtor examination on November 25, 2013. Mr. Mona was not  
24 truthful when he was asked during the November 25, 2013 examination about what he did with  
25 the approximately \$6.8 million dollars.

26 Fourth, prior to effectuating the transfer through the Post-Marital Settlement Agreement,  
27 Far West sued and obtained the Judgment against Mr. Mona and the Mona Family Trust.

28 ///

1 Fifth, the Post-Marital Settlement Agreement, and the related transfers of the proceeds  
2 from the sale of the stock, transferred substantially all of Mr. Mona's assets as he was insolvent  
3 at the time of the transfers, or rendered Mr. Mona insolvent shortly after they were made.

4 Sixth, Mr. Mona concealed assets by failing to disclose the Post-Marital Settlement  
5 Agreement in 2013, by not disclosing the transfer during his judgment debtor examination on  
6 November 25, 2013, and by not producing the bank account records for the accounts in Mrs.  
7 Mona's name.

8 Seventh, at the time of the transfer through the Post-Marital Settlement Agreement, Mr.  
9 Mona was insolvent, or the transfer rendered Mr. Mona insolvent shortly after it was made.

10 These considerations are several of many factors in NRS 112.180(2), which provides a  
11 non-exhaustive list of considerations that support a determination that there was an actual intent  
12 to hinder, delay, or defraud a creditor. To find a fraudulent transfer, not every factor must be  
13 shown and the lack of one or more badges of fraud among many is not dispositive. The badges of  
14 fraud described above provide overwhelming evidence that the Post-Marital Settlement  
15 Agreement was a fraudulent transfer.

16 The Court therefore concludes that the Post-Marital Settlement Agreement is a fraudulent  
17 transfer intended to hinder, delay and defraud Plaintiff in its efforts to execute upon the  
18 Judgment and the \$6,813,202.20 remains community property that is subject to execution by Far  
19 West in satisfaction of its Judgment. The funds in Mrs. Mona's three (3) bank accounts shall be  
20 applied towards satisfaction of the Judgment pursuant to NRS 21.320. The Court finds the  
21 sanctions imposed herein to be appropriate in light of the very serious misconduct at issue,  
22 specifically the failure to disclose documents as ordered, which resulted in the dissipation of  
23 millions of dollars in assets, of which only a relatively small amount remains (\$300,000 in Mrs.  
24 Mona's Bank of George money market account) and concealment of significant community  
25 property (\$190,000.00 in Mrs. Mona's Bank of George checking account) which could have  
26 gone to satisfy Plaintiff's Judgment. The Court has also previously found that Mr. Mona is not  
27 taking this proceeding seriously. See Order entered 06/17/2015. The sanctions are meant to deter  
28 the Monas and future litigants from similar abuses.

1 This Court has authority pursuant to NRS 21.280 and, to the extent Mrs. Mona is  
2 considered a third party, pursuant to NRS 21.330, to order Mr. and Mrs. Mona to not dispose  
3 and/or transfer their assets as the Court has done in the past and does again in this Order.

4 Based on the foregoing, and good cause appearing:

5 **IT IS HEREBY ORDERED** that the relief requested in the Application is **GRANTED**  
6 **IN PART and DENIED IN PART;**

7 **IT IS HEREBY FURTHER ORDERED** that the Monas' purported transfer pursuant to  
8 the Post-Marital Property Settlement Agreement is a fraudulent transfer, and the facts proving  
9 the fraudulent transfer, including the badges of fraud outlined above, are deemed established;

10 **IT IS HEREBY FURTHER ORDERED** that the facts entitling Plaintiff to execute  
11 upon the bank accounts in the name of Mrs. Mona are deemed established;

12 **IT IS HEREBY FURTHER ORDERED** that the Monas are prohibited from claiming  
13 that any money purportedly transferred pursuant to the Post-Marital Property Settlement  
14 Agreement and any money in the bank accounts in the name of Mrs. Mona are exempt from  
15 execution;

16 **IT IS HEREBY FURTHER ORDERED** that the Monas produce any previously  
17 undisclosed bank records (including signature cards, bank statements, front and back of all  
18 checks, check books and registers, deposit slips or receipts, withdrawal slips or receipts, wire  
19 transfer confirmations or reports, etc.) for the past five (5) years, regardless of whose name is on  
20 the account, no later than July 20, 2015;

21 **IT IS HEREBY FURTHER ORDERED** that Plaintiff is awarded reasonable expenses,  
22 including, without limitation, attorney's fees and costs incurred as a result of the failure to  
23 comply with the Court's orders, with Plaintiff to submit a bill of fees and costs no later than July  
24 20, 2015; and

25 **IT IS HEREBY FURTHER ORDERED** that Mr. Mona, Mrs. Mona, and the Monas  
26 collectively are prohibited from effectuating any transfers or otherwise disposing of or  
27 encumbering any property not exempt from execution and until the money in the bank accounts  
28 in the name of Mrs. Mona are applied to Plaintiff's Judgment.

1        **IT IS HEREBY FURTHER ORDERED** that, upon the oral motion of counsel for the  
2 Monas, this Order is stayed until July 20, 2015, as to Mrs. Mona only, yet the Monas' obligation  
3 to produce bank records is not stayed in any respect.

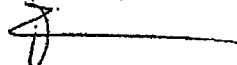
4        **IT IS SO ORDERED.**

5        Dated this 15<sup>th</sup> day of July, 2015.

6  
7          
8        DISTRICT COURT JUDGE  
9        MB

9        Submitted by:


10       **HOLLEY, DRIGGS, WALCH,**  
11       **FINE, WRAY, PUZEY & THOMPSON**

12         
13       **F. THOMAS EDWARDS, ESQ.**  
14       Nevada Bar No. 9549  
15       **ANDREA M. GANDARA, ESQ.**  
16       Nevada Bar No. 12580  
17       400 S. Fourth Street, Third Floor  
18       Las Vegas, NV 89101

19       *Attorneys for Plaintiff Far West Industries*

20       Approved as to Form and Content by:

21       **MARQUIS AURBACH COFFING**

22        7/14/15  
23       **TERRY A. COFFING, ESQ.**  
24       Nevada Bar No. 4949  
25       **MICAH S. ECHOLS, ESQ.**  
26       Nevada Bar No. 8437  
27       **TYE S. HANSEEN, ESQ.**  
28       Nevada Bar No. 10365  
10001 Park Run Drive  
Las Vegas, Nevada 89145

*Attorneys for Mr. and Mrs. Mona*

EXHIBIT "3"



1 COMP  
LAW OFFICE OF DANIEL MARKS  
2 DANIEL MARKS, ESQ.  
Nevada State Bar No. 002003  
3 CHRISTOPHER L. MARCHAND, ESQ.  
Nevada State Bar No. 11197  
4 610 South 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
5 (702) 386-0536; Fax (702) 386-6812  
Attorney for Defendant  
6

7 EIGHTH JUDICIAL DISTRICT COURT  
8 CLARK COUNTY, NEVADA  
9

10 RHONDA HELENE MONA,  
11 Plaintiff,

Case No.  
Dept. No.

15-517425-D  
B

12 vs.

13 MICHAEL JOSEPH MONA,  
14 Defendant,

15 vs.

16 FAR WEST INDUSTRIES, A  
CALIFORNIA CORPORATION

17 Intervenor.  
18 \_\_\_\_\_ /

19 COMPLAINT

20 COMES NOW the Intervenor FAR WEST INDUSTRIES, and as and for its complaint against  
21 Plaintiff RHONDA HELENE MONA, and Defendant MICHAEL JOSEPH MONA, and each of them,  
22 alleges as follows:

- 23 1. The Intervenor, FAR WEST INDUSTRIES (hereinafter "Far West") is and was at all  
24 relevant times herein, a California Corporation licensed and doing business in the State of  
25 California.  
26 2. The Plaintiff RHONDA HELENE MONA (hereinafter "Rhonda") is and at all times  
27 relevant hereto was, a resident of the State of Nevada, County of Clark.  
28 3. The Defendant MICHAEL JOSEPH MONA (hereinafter "Michael") is and at all times

relevant hereto was, a resident of the State of Nevada, County of Clark.

**GENERAL ALLEGATIONS**

4. Far West sued Michael and the Mona Family Trust in the State of California case number RIC495966.
5. That matter went to trial on September 23, 2011.
6. The California Court found that Michael mislead Far West into purchasing lots in an at the time yet developed master planned community.
7. The California Court found that Michael intentionally defrauded Far West, made a negligent misrepresentation to Far West, breached the Common Law Duty to Disclose, and committed Conspiracy to Commit Fraud.
8. On March 5, 2012, the California Court entered judgment against the defendants in that case, including Michael in his individual capacity and as Trustee of the Mona Family Trust.
9. The judgment through the date of March 5, 2012 was for \$17,841,651.92.
10. Far West domesticated the judgment in the State of Nevada.
11. Far West conducted Judgment Debtor examinations against both Michael as well as Rhonda.
12. Due to numerous misrepresentations during those judgment debtor examinations Far West was eventually required to file an Order to Show Cause as to why both of the Monas should not be held in contempt in the Eighth Judicial District Court case number A-12-670352-F.
13. Judge Hardy in that case found that on April 27, 2012 Far West properly obtained a Judgment against Michael and the Mona Family Trust and that the parties executed a Post-Marital Property Settlement Agreement on or about September 13, 2013 which Michael failed to produce during his judgment debtor examination.
14. The Court also found that Michael "lied" and failed to disclose the transfer of nearly \$3.5 million to Rhonda during the judgment debtor examination.
15. The Court went on to find that the money purportedly transferred from Michael to Rhonda was community property as it was acquired during their marriage and that the judgment against Michael was a community debt.

- 1       16.    The Court concluded that the Post-Marital Property Settlement Agreement was a fraudulent  
2           transfer intended to hinder, delay and defraud Far West in its efforts to execute upon the  
3           judgment and the \$6,813,202.20 that remains of community property.

4                               **FIRST CAUSE OF ACTION**

5                               (Declaratory Relief)

- 6       17.    The Intervenor incorporates herein by this reference as though fully set forth herein,  
7           Paragraphs 1-16 above.
- 8       18.    Intervenor is entitled to declaratory relief that the Post-Marital Property Settlement  
9           Agreement is void and fraudulent based upon the principles of Res Judicata and/or issue  
10          preclusion among other reasons.
- 11      19.    Intervenor is entitled to declaratory relief that Rhonda is prohibited from claiming that the  
12          money purportedly transferred pursuant to the Post-Marital Property Settlement Agreement  
13          is her separate property.
- 14      20.    Intervenor is entitled to declaratory relief that the funds money purportedly transferred  
15          pursuant to the Post-Marital Property Settlement Agreement are community property based  
16          upon the principles of Res Judicata and/or issue preclusion among other reasons.
- 17      21.    Intervenor is entitled to declaratory relief that the judgment obtained by Far West is a  
18          community property debt based upon the principles of Res Judicata and/or issue preclusion  
19          among other reasons.
- 20      22.    It has been necessary for Far West to retain the services of an attorney in order to prosecute  
21          this action, and it is entitled to its reasonable attorney's fees in connection therewith.

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**PRAYER FOR RELIEF**

WHEREFORE, Intervenor, Far West, prays for judgment as follows:

1. For Declaratory Relief;
2. For a reasonable sum as and for attorneys' fees;
3. For costs of suit incurred herein;
4. For such other and further relief as this Court deems just and proper.

DATED this 4 day of September, 2015.

LAW OFFICE OF DANIEL MARKS

---

DANIEL MARKS, ESQ.  
Nevada Bar No. 002003  
CHRISTOPHER L. MARCHAND, ESQ.  
Nevada Bar No. 11197  
610 South 9<sup>th</sup> Street  
Las Vegas, Nevada 89101  
Attorney for Defendant

**EXHIBIT N**

**EXHIBIT N**

2\_cannavest\_s8-ex0402.htm FORM OF STOCK OPTION GRANT NOTICE FOR USE WITH AMENDED & REVISED 2013 EQUITY INCENTIVE PLAN

**CANNAVEST CORP.**  
**STOCK OPTION GRANT NOTICE**  
**AMENDED AND RESTATED 2013 EQUITY INCENTIVE PLAN**

**FOR GOOD AND VALUABLE CONSIDERATION**, CannaVEST Corp. (the “**Company**”), hereby grants to the Optionee named below, a stock option (the “**Option**”) to purchase any part or all of the specified number of shares of its Common Stock (“**Option Shares**”), upon the terms and subject to the conditions set forth in this Stock Option Grant Notice (the “**Grant Notice**”), at the specified purchase price per share without commission or other charge. The Option is granted pursuant to the Company’s Amended and Restated 2013 Equity Incentive Plan (the “**Plan**”) and the Stock Option Agreement (the “**Option Agreement**”), promulgated under the Plan and in effect as of the date of this Grant Notice.

Optionee:

Date of Grant:

Vesting Commencement Date:

Number of Option Shares :

Exercise Price (Per Share):

Total Exercise Price:

Expiration Date:

Ten years after Date of Grant

**Type of Grant:**

☐ Incentive Stock Option<sup>1</sup>

☐ Nonstatutory Stock Option

### Exercise Schedule:

☐ Same as Vesting Schedule

☐ Early Exercise Permitted

**Vesting Schedule:** Except as otherwise provided in the Option Agreement, the number of Option Shares that are vested (disregarding any resulting fractional share) as of any date shall be determined as follows: (i) no Option Shares will be vested prior to the Vesting Commencement Date; (ii) twenty-five percent (25%) of the Option Shares will be vested upon the one (1) year anniversary of the Vesting Commencement Date, *provided, however*, that there has not been a Termination of Service as of such date; and (iii) the balance of the Option Shares will be vested in a series of thirty-six (36) successive equal monthly installments measured from the first anniversary of the Vesting Commencement Date, *provided, however*, that there has not been a Termination of Service as of each such date. In no event will the Option become exercisable for any additional Option Shares after a Termination of Service.

**Payment:**

By one or a combination of the following items (described in the Plan):

☒ By cash or check

☐ By net exercise, if the Company has established procedures for net exercise

**Additional Terms/Acknowledgements:** The undersigned Optionee acknowledges receipt of, and understands and agrees to, this Stock Option Grant Notice, the Option Agreement, and the Plan.

Further, by their signatures below, the Company and the Optionee agree that the Option is governed by this Grant Notice and by the provisions of the Plan and Option Agreement, both of which are attached to and made a part of this Grant Notice. Optionee acknowledges receipt of copies of the Plan and the Option Agreement, represents that the Optionee has read and is familiar with their provisions, and hereby accepts the Option subject to all of their terms and conditions. Optionee further acknowledges that, as of the Date of Grant, this Grant Notice, the Option Agreement and the Plan set forth the entire understanding between Optionee and the Company regarding the acquisition of stock in the Company and supersede all prior oral and written agreements on that subject, with the exception of options previously granted under the Plan.



If this is an Incentive Stock Option, it (plus other outstanding Incentive Stock Options) cannot be first *exercisable* for more than \$100,000 in value (measured by exercise price) in any calendar year. Any excess over \$100,000 is a Nonstatutory Option.



CANNAVEST CORP.

OPTIONEE: [NAME]

By: \_\_\_\_\_  
[Name, Title]

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachments:** (I) Option Agreement; (II) Amended and Restated 2013 Equity Incentive Plan; and (III) Notice of Exercise





**ATTACHMENT I**  
**OPTION AGREEMENT**



## STOCK OPTION AGREEMENT

### (INCENTIVE STOCK OPTION OR NONSTATUTORY STOCK OPTION)

#### CANNAVEST CORP. AMENDED AND RESTATED 2013 EQUITY INCENTIVE PLAN

Effective as of \_\_\_\_\_, 2014

Pursuant to the Stock Option Grant Notice ("**Grant Notice**") and this Option Agreement ("**Option Agreement**"), CannaVEST Corp., a Delaware corporation (the "**Company**") has granted to Optionee an option under its Amended and Restated 2013 Equity Incentive Plan (the "**Plan**"), to purchase the number of shares of the Company's Common Stock indicated in Optionee's Grant Notice, at the exercise price indicated in such Grant Notice. This Option Agreement is incorporated by reference into and made a part of the Grant Notice. Whenever capitalized terms are used in this Option Agreement, they shall have the meaning specified (i) in the Plan, (ii) in the relevant Grant Notice, or (iii) below, unless the context clearly indicates to the contrary.

The details of the Option granted to Optionee are as follows:

1. **Term of Option.** Subject to the maximum time limitations in Sections 5(b) and 6(a) of the Plan, the term of the Option shall be the period commencing on the Date of Grant and ending on the Expiration Date (as defined in the Grant Notice), unless terminated earlier as provided herein or in the Plan.

2. **Exercise Price.** The Exercise Price of the Option granted hereby shall be as provided in the Grant Notice.

3. **Exercise of Option.**

(a) The Grant Notice sets forth the rate at which the Option Shares shall become subject to purchase ("**vest**") by Optionee.

(b) In the event of a Change in Control of the Company, except as otherwise may be provided in the Plan or Grant Notice, the vesting of the Option shall not accelerate, and the Option shall terminate if not exercised (to the extent then vested and exercisable) at or prior to such Change in Control.

(c) Optionee shall exercise the Option, to the extent exercisable, in whole or in part, by sending written notice to the Company on a Notice of Exercise in the form attached to the Grant Notice of his or her intention to purchase Option Shares hereunder, together with a check in the amount of the full purchase price of the Option Shares to be purchased, or such other form of payment as permitted by the Grant Notice. Except as otherwise consented to by the Company, Optionee shall not exercise the Option at any one time with respect to less than five percent (5%) of the total Option Shares set forth in the Grant Notice unless Optionee exercises all of the Option then vested and exercisable.



(d) If the Option is an Incentive Stock Option, by Optionee's exercise of the Option, Optionee agrees that he or she will notify the Company in writing within fifteen (15) days after the date of any disposition of any of the shares of the Common Stock issued upon exercise of the Option that occurs within two (2) years after the date of the Date of Grant or within one (1) year after such shares of Common Stock are transferred upon exercise of the Option.

(e) Optionee agrees to complete and execute any additional documents which the Company reasonably requests that Optionee complete in order to comply with applicable federal, state and local securities laws, rules and regulations.

(f) Subject to the Company's compliance with all applicable laws, rules and regulations relating to the issuance of such Option Shares and Optionee's compliance with all the terms and conditions of the Grant Notice, this Option Agreement, and the Plan, the Company shall promptly deliver the Option Shares to Optionee.

(g) Except as otherwise provided herein or in the Plan, the Option may be exercised during the lifetime of Optionee only by Optionee.

(h) In the event that Optionee is an Employee eligible for overtime compensation under the Fair Labor Standards Act of 1938, as amended (*i.e.*, a "**Non-Exempt Employee**"), Optionee may not exercise his or her Option until the later of (i) the date that he or she shall have completed at least six (6) months of service to the Company measured from the Date of Grant specified in Optionee's Grant Notice, or (ii) the date set forth in the Grant Notice for when the Option is first exercisable.

**4. Exercise Prior to Vesting ("Early Exercise").** If expressly permitted by the Grant Notice and subject to the provisions of this Option Agreement, Optionee may, at any time that is both (i) prior to a Termination of Service; and (ii) prior to the Expiration Date, elect to exercise all or part of the Option, including the nonvested portion of the Option; *provided, however*, that:

(a) a partial exercise of the Option shall be deemed to cover first any vested Option Shares and then the earliest vesting installment(s) of unvested Option Shares;

(b) any Option Shares so purchased from installments which have not vested as of the date of exercise shall be subject to a purchase option in favor of the Company, pursuant to an Early Exercise Stock Purchase Agreement in form satisfactory to the Company;

(c) Optionee shall enter into the Early Exercise Stock Purchase Agreement with a vesting schedule that will result in the same vesting as if no early exercise had occurred; and

(d) as provided in the Plan, if the Option is an Incentive Stock Option, to the extent that the aggregate Fair Market Value (determined at the time of grant) of Common Stock with respect to which the Option plus all other Incentive Stock Options held by Optionee are exercisable for the first time during any calendar year (under all plans of the Company and its Affiliates) exceeds One Hundred Thousand Dollars (\$100,000), the Options or portions thereof that exceed such limit (according to the order in which they were granted) shall be treated as Nonstatutory Stock Options.



**5. Option Not Transferable.** The Option granted hereunder shall not be transferable in any manner other than as provided in Section 6(d) of the Plan. More particularly (but without limiting the foregoing), the Option may not be assigned, transferred (except as expressly provided in the Plan), pledged or hypothecated in any way, shall not be assignable by operation of law and shall not be subject to execution, attachment or similar process. Any attempted assignment, transfer, pledge, hypothecation or other disposition of the Option contrary to the provisions hereof, or the levy of any execution, attachment or similar process upon the Option, shall be null and void and without effect.

**6. Termination of Option.**

(a) To the extent not previously exercised, the Option shall terminate on the Expiration Date; *provided, however, that except as otherwise provided in this Section 6, the Option may not be exercised more than sixty (60) days after the Termination of Service of Optionee for any reason (other than for Cause, as defined below, or upon Optionee's death or Disability).* Within such sixty (60)-day period, except as may otherwise be specifically provided in this Option Agreement or any other agreement between Optionee and the Company which has been approved by the Board, Optionee may exercise the Option only to the extent the same was exercisable on the date of such termination and said right to exercise shall terminate at the end of such period.

(b) In the event of the Termination of Service of Optionee as a result of Optionee's Disability, the Option shall be exercisable for a period of six (6) months from the date of such termination, but in no event later than the Expiration Date and only to the extent that the Option was exercisable on the date of such termination.

(c) In the event of the Termination of Service of Optionee as a result of Optionee's death, the Option shall be exercisable by Optionee's estate (or by the person who acquires the right to exercise the Option by will or by the laws of descent and distribution) for a period of twelve (12) months from the date of such termination, but in no event later than the Expiration Date and only to the extent that Optionee was entitled to exercise the Option on the date of death.

(d) In the event of the Termination of Service of Optionee for Cause (as defined below), unless otherwise determined by the Board, (A) the Option shall expire as of the date of the first occurrence giving rise to such termination or upon the Expiration Date, whichever is earlier; (B) Optionee shall have no rights with respect to any unexercised portion of the Option; and (C) any Option Shares issued in respect of the exercise of the Option on or after the date of the first act and/or event constituting Cause shall have occurred shall be deemed to have been issued in respect of an expired option, and shall thereupon be deemed null and void *ab initio*, and Optionee shall have no claims to, or rights in, any such Option Shares. "Cause" means with respect to Optionee, the occurrence of any of the following events, as reasonably determined by the Board in each case: (i) Optionee's commission of any felony or any crime involving fraud, dishonesty or moral turpitude under the laws of the United States or any state thereof; (ii) Optionee's commission, or attempted commission, of, or participation in, a fraud or act of dishonesty against the Company or any Affiliate, or any of their respective employees, officers or directors; (iii) Optionee's intentional, material violation of any contract or agreement between the Optionee and the Company or any Affiliate or of any statutory duty owed to the Company or any Affiliate; (iv) Optionee's unauthorized use or disclosure of the Company's or an Affiliate's material confidential information or trade secrets; (v) Optionee's gross misconduct in connection with Optionee's service to the Company or an Affiliate; or (vi) Optionee's failure to promptly return all documents and other tangible items belonging to the Company or its Affiliates in the Participant's possession or control, including all complete or partial copies, recordings, abstracts, notes or reproductions of any kind made from or about such documents or information contained therein, upon a Termination of Service for any reason. "Cause" shall not require that a civil judgment or criminal conviction have been entered against, or guilty plea shall have been made by, Optionee regarding any of the matters referred to in clauses (i) through (vi). Accordingly, the Board shall be entitled to determine "Cause" based on the its good faith belief. If the Optionee is criminally charged with a felony or similar offense, that shall be a sufficient, but not a necessary, basis for such a belief. Unless otherwise specifically provided in the Grant Notice, the foregoing definition of "Cause" shall apply for all purposes relating to the Option, notwithstanding any employment or other agreement by and between Optionee and the Company or any Affiliate thereof that defines a termination on account of "Cause" (or a term having similar meaning).



(e) Notwithstanding the foregoing, the Option is subject to earlier termination upon a Change in Control, as provided in Section 3(b) above and in Section 11 of the Plan, or upon the dissolution of the Company. If the Option will terminate in connection with a Change in Control, the Company shall provide written notice to Optionee of a proposed transaction constituting a Change in Control, not less than ten (10) days prior to the anticipated effective date of the proposed transaction.

(f) Notwithstanding anything herein to the contrary, no portion of any Option which is not exercisable by Optionee upon the Termination of Service of such Optionee shall thereafter become exercisable, regardless of the reason for such termination, except as may otherwise be specifically provided in this Option Agreement or any other agreement between Optionee and the Company which has been approved by the Board.

**7. No Right to Continued Service.** The Option does not confer upon Optionee any right to continue as an Employee or Director of, or Consultant to, the Company or an Affiliate, nor does it limit in any way the right of the Company or an Affiliate to terminate Optionee's employment or other relationship with the Company or an Affiliate, at any time, with or without Cause.

**8. Notice of Tax Election.** If Optionee makes any tax election relating to the treatment of the Option Shares under the Internal Revenue Code of 1986, as amended, Optionee shall promptly notify the Company of such election.

**9. Acknowledgments of Optionee.** Optionee acknowledges and agrees that:

(a) Although the Company has made a good faith attempt to qualify the Option as an incentive stock option within the meaning of Sections 421, 422 and 424 of the Code (if the Grant Notice provides that the Option is an Incentive Stock Option), the Company does not warrant that the Option granted herein constitutes an "incentive stock option" within the meaning of such sections, or that the transfer of Option Shares will be treated for federal income tax purposes as specified in Section 421 of the Code.



(b) Optionee shall notify the Company in writing within fifteen (15) days of each disposition (including a sale, exchange, gift or a transfer of legal title) of the Option Shares made within two years after the issuance of such Option Shares.

(c) If the Grant Notice provides that the Option is an Incentive Stock Option, Optionee understands that if, among other things, he or she disposes of any Option Shares granted within two years of the granting of the Option to him or her or within one year of the issuance of such shares to him or her, then such Option Shares will not qualify for the beneficial treatment which Optionee might otherwise receive under Sections 421 and 422 of the Code.

(d) Optionee and his or her transferees shall have no rights as a shareholder with respect to any Option Shares until the date of the issuance of a stock certificate evidencing such Option Shares. No adjustment shall be made for dividends (ordinary or extraordinary, whether in cash, securities or other property) or distributions or other rights for which the record date is prior to the date such stock certificate is issued, except as provided in Section 10 of the Plan.

(e) Certificates representing Option Shares acquired pursuant to the exercise of Incentive Stock Options shall be imprinted with the following legend:

THE SHARES EVIDENCED BY THIS CERTIFICATE WERE ISSUED BY THE CORPORATION TO THE REGISTERED HOLDER UPON EXERCISE OF AN INCENTIVE STOCK OPTION AS DEFINED IN SECTION 422 OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED ("ISO"). IN ORDER TO OBTAIN THE PREFERENTIAL TAX TREATMENT AFFORDED TO ISOs, THE SHARES SHOULD NOT BE TRANSFERRED PRIOR TO THE LATER OF (A) TWO YEARS AFTER THE DATE OF GRANT OF SUCH ISO, OR (B) ONE YEAR AFTER THE DATE OF EXERCISE OF SUCH ISO. SHOULD THE REGISTERED HOLDER ELECT TO TRANSFER ANY OF THE SHARES PRIOR TO SUCH DATE AND FOREGO ISO TAX TREATMENT, THE TRANSFER AGENT FOR THE SHARES SHALL NOTIFY THE CORPORATION IMMEDIATELY. THE REGISTERED HOLDER SHALL HOLD ALL SHARES PURCHASED UNDER THE INCENTIVE STOCK OPTION IN THE REGISTERED HOLDER'S NAME (AND NOT IN THE NAME OF ANY NOMINEE) PRIOR TO THIS DATE OR UNTIL TRANSFERRED AS DESCRIBED ABOVE.



**10. Withholding Obligations.** Whenever Option Shares are to be issued under the Option Agreement, the Company shall have the right to require Optionee to remit to the Company an amount sufficient to satisfy federal, state and local withholding tax requirements prior to issuance and/or delivery of any certificate or certificates for such Option Shares.

**11. No Obligation to Notify.** The Company shall have no duty or obligation to Optionee to advise Optionee as to the time or manner of exercising the Option. Furthermore, except as specifically set forth herein or in the Plan, the Company shall have no duty or obligation to warn or otherwise advise Optionee of a pending termination or expiration of the Option or a possible period in which the Option may not be exercised. The Company has no duty or obligation to minimize the tax consequences of the Option granted to Optionee.

**12. Miscellaneous.**

(a) This Option Agreement shall bind and inure to the benefit of the parties' heirs, legal representatives, successors and permitted assigns.

(b) This Option Agreement, the Grant Notice and the Plan, constitute the entire agreement between the parties pertaining to the subject matter contained herein and they supersede all prior and contemporaneous agreements, representations and understandings of the parties. No supplement, modification or amendment of this Option Agreement shall be binding unless executed in writing by all of the parties. No waiver of any of the provisions of this Option Agreement shall be deemed or shall constitute a waiver of any other provisions, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver. In the event there exists any conflict or discrepancy between any of the terms in the Plan and this Option Agreement, the terms of the Plan shall be controlling. A copy of the Plan has been delivered to Optionee and also may be inspected by Optionee at the principal office of the Company.

(c) Should any portion of the Plan, the Grant Notice or this Option Agreement be declared invalid and unenforceable, then such portion shall be deemed to be severable from this Option Agreement and shall not affect the remainder hereof.

(d) All notices required or permitted hereunder shall be in writing and shall be deemed effectively given: (i) upon personal delivery to the party to be notified; (ii) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (iii) one (1) day after deposit with a nationally recognized overnight courier, specifying next day delivery, with written verification of receipt. All communications shall be sent to the Company at its principal executive office, and to Optionee at the address set forth in the Company's records, or at such other address as the Company or Optionee may designate by ten (10) days advance written notice to the other party hereto.

(e) This Option Agreement shall be construed according to the laws of the State of Delaware.



**ATTACHMENT II**

**AMENDED AND RESTATED 2013 EQUITY INCENTIVE PLAN**





ATTACHMENT III

NOTICE OF EXERCISE

CANNAVEST CORP.  
2688 South Rainbow Blvd.  
Suite B  
Las Vegas, Nevada 89146

Date of Exercise: \_\_\_\_\_

Ladies and Gentlemen:

This constitutes notice under my stock option that I elect to purchase the number of shares for the price set forth below.

Type of option (check one):	Incentive <input type="checkbox"/>	Nonstatutory <input type="checkbox"/>
Stock option dated:	_____	_____
Number of shares as to which option is exercised:	_____	_____
Certificates to be issued in name of:	_____	_____
Total exercise price:	\$ _____	\$ _____
Cash or check payment delivered herewith:	\$ _____	\$ _____

By this exercise, I agree (i) to provide such additional documents as you may require pursuant to the terms of the Amended and Restated 2013 Equity Incentive Plan, (ii) to provide for the payment by me to you (in the manner designated by you) of your withholding obligation, if any, relating to the exercise of this option, and (iii) if this exercise relates to an incentive stock option, to notify you in writing within fifteen (15) days after the date of any disposition of any of the shares of Common Stock (the "Shares") issued upon exercise of this option that occurs within two (2) years after the date of grant of this option or within one (1) year after such shares of Common Stock are issued upon exercise of this option.

I acknowledge that all certificates representing any of the Shares subject to the provisions of the Option shall have endorsed thereon appropriate legends reflecting restrictions pursuant to the Option Agreement, the Company's Certificate of Incorporation, Bylaws and/or applicable securities laws.

Very truly yours,

\_\_\_\_\_

# EXHIBIT M

# EXHIBIT M



&gt; CANV

## CANNAVEST CORP Stock Quote &amp; Summary Data

**CANV \$0.9799 \* 0.1399 16.65 %**

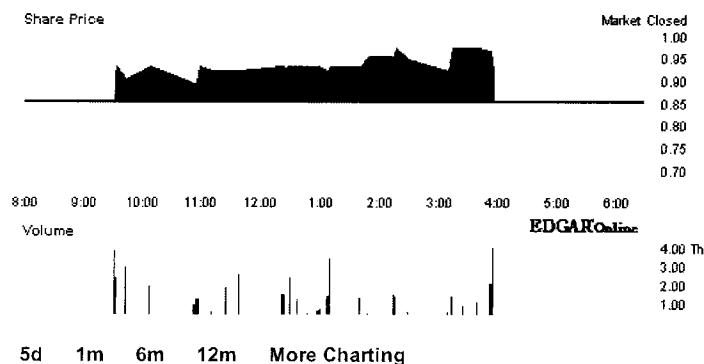
\*Delayed - data as of Oct. 28, 2015 - Find a broker to begin trading CANV now

[News](#) [Price Charts](#) [Trade History](#) [Annual Report](#) [Earnings Report Date](#)

Dynamic quotes: Turn Off

1 Year Target	
Today's High /Low	\$ 0.9799 / \$ 0.84
Share Volume	42,155
50 Day Avg. Daily Volume	N/A
Previous Close	0.840000
52 Week High/Low	N/A / N/A
Annualized dividend	N/A
Ex Dividend Date	N/A
Dividend Payment Date	N/A
Current Yield	0 %
Beta	0

## Intraday Chart



## Company Description (as filed with the SEC)

EXHIBIT L

EXHIBIT L



FORM 4

UNITED STATES SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

OMB APPROV	
OMB Number:	3235-26
Estimated average burden hours per response:	0.5



☐ Check this box if no longer subject to Section 16. Form 4 or Form 5 obligations may continue. See Instruction 1(o).

## STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934 or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person* <u>Mona Michael Joseph Jr</u>  (Last) (First) (Middle) 2688 SOUTH RAINBOW BOULEVARD, SUITE B  (Street) LAS VEGAS NV 89146  (City) (State) (Zip)	2. Issuer Name and Ticker or Trading Symbol <u>CannaVEST Corp. [ CANV ]</u>	5. Relationship of Reporting Person(s) to Issuer (Check all applicable)  <input checked="" type="checkbox"/> Director 10% Owner  <input checked="" type="checkbox"/> Officer (give title below) Other (specify below) President and CEO
	3. Date of Earliest Transaction (Month/Day/Year) 12/08/2014	
	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line)  <input checked="" type="checkbox"/> Form filed by One Reporting Person Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, if any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			

Table II - Derivative Securities Acquired, Disposed of, or Beneficially Owned  
(e.g., puts, calls, warrants, options, convertible securities)

1. Title of Derivative Security (Instr. 3)	2. Conversion or Exercise Price of Derivative Security	3. Transaction Date (Month/Day/Year)	3A. Deemed Execution Date, if any (Month/Day/Year)	4. Transaction Code (Instr. 8)		5. Number of Derivative Securities Acquired (A) or Disposed of (D) (Instr. 3, 4 and 5)		6. Date Exercisable and Expiration Date (Month/Day/Year)		7. Title and Amount of Securities Underlying Derivative Security (Instr. 3 and 4)		8. Price of Derivative Security (Instr. 5)	9. Number of derivative Securities Beneficially Owned Following Reported Transaction(s) (Instr. 4)	10. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	11. Nature of Indirect Beneficial Ownership (Instr. 4)
				Code	V	(A)	(D)	Date Exercisable	Expiration Date	Title	Amount or Number of Shares				
Employee Stock Option(right to buy)	\$2.64	12/08/2014		A		4,000,000		(1)	12/07/2024	Common Stock	4,000,000	\$0	4,000,000	D	

## Explanation of Responses:

1. The option is durational-based, and vests and becomes exercisable as follows: 67% of the shares subject to the option are vested as of the vesting commencement date with the remainder vesting in twelve (12) equal monthly installments measured from January 31, 2015. The vesting commencement date for the option is December 8, 2014.

/s/ Michael Mona, Jr. 12/17/2014

\*\* Signature of Reporting Person Date

Reminder: Report on a separate line for each class of securities beneficially owned directly or indirectly.

\* If the form is filed by more than one reporting person, see Instruction 4 (b)(v).

\*\* Intentional misstatements or omissions of facts constitute Federal Criminal Violations See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a).

Note: File three copies of this Form, one of which must be manually signed. If space is insufficient, see Instruction 6 for procedure.

Persons who respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB Number.

**EXHIBIT K**

**EXHIBIT K**

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*Anna D. Schuman*  
CLERK OF THE COURT

1 **DECD**  
Edward Kainen, Esq.  
2 Nevada Bar No. 5029  
Andrew L. Kynaston, Esq.  
3 Nevada Bar No. 8147  
KAINEN LAW GROUP, PLLC  
4 3303 Novat Street, Suite 200  
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5 PH: (702) 823-4900  
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6 Service@KainenLawGroup.com  
Attorneys for Plaintiff

8 DISTRICT COURT  
9 CLARK COUNTY, NEVADA

10 RHONDA HELENE MONA,

11 Plaintiff,

12 vs.

13 MICHAEL JOSEPH MONA,

14 Defendant.

CASE NO. D-15-517425-D  
DEPT NO. B

Date of Hearing: July 23, 2015  
Time of Hearing: 8:45 a.m.

15  
16 **DECREE OF DIVORCE**

17 The above-entitled cause having come on for hearing this 23rd day of July, 2015, before  
18 the above-entitled Court, Plaintiff, RHONDA HELENE MONA ("Wife"), present and represented by  
19 and through her attorneys, EDWARD KAINEN, ESQ., and ANDREW L. KYNASTON, ESQ., of the  
20 law firm of KAINEN LAW GROUP, PLLC; and Defendant, MICHAEL JOSEPH MONA ("Husband"),  
21 present and represented by and through his attorney, TERRY A. COFFING, ESQ., and TYE S.  
22 HANSEEN, ESQ., of the law firm of MARQUIS, AURBACH, COFFING; the Court having heard the  
23 evidence of witnesses sworn and examined in open Court, the cause having been submitted for decision  
24 and judgment, and the Court being fully advised, finds:

25 That the Court has jurisdiction in the premises, both as to the subject matter thereof as  
26 well as the parties thereto; that Wife has been domiciled in this State for more than six weeks preceding  
27 the commencement of this action, and that Wife is now domiciled in and is an actual, bona fide resident

28 of the State of Nevada. Therefore, the parties are entitled to an absolute Decree of Divorce on the grounds of  
☐ Other ☐ Non-Trial Disposition: ☐ Without Judicial Conf/Hrg  
☐ Dismissed ☐ Want of Prosecution ☐ With Judicial Conf/Hrg  
☐ Involuntary (Statutory) Dismissal ☐ With Judicial Conf/Hrg  
☐ Default Judgment ☐ By ADR  
☐ Transferred  
☐ Disposed After Trial Start ☐ Judgment Reached by Trial

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1 incompatibility as set forth in Wife's Complaint for Divorce.

2           The Court finds that there are no minor children of the parties, none adopted, and that  
3 Wife is not pregnant.

4           The Court further finds that the parties entered into a Post-Marital Property Settlement  
5 Agreement (hereinafter "Agreement") on or about the 13<sup>th</sup> day of September, 2013, which this Court  
6 determines has met the requirements of NRS 123.070, 123.080, and 123.130(1), which statutory  
7 provisions permit married parties to enter into written contracts with regard to their property during the  
8 marriage, including a right to transmute by such agreements community property to separate property,  
9 and separate property to community property. See, Verheyden v. Verheyden, 104 Nev. 342, 757 P.2d  
10 1328 (1988). Further, that in entering into the Agreement the parties provided full and fair disclosure,  
11 each had the opportunity to consult with counsel (and indeed engaged counsel to assist them), and the  
12 Agreement includes no provisions which would otherwise render the Agreement void or  
13 unconscionable. See, Cord v. Neuhoft, 94 Nev. 21, 573 P.2d 1170 (1978), and Dimick v. Dimick, 112  
14 Nev. 402, 915 P.2d 254 (1996). That upon equal division of community property Wife preserved the  
15 majority of her separate property designated to her under the Agreement, while Husband's portion has  
16 been dissipated by his spending and/or by his separate creditors or separate debts. This Court finds that  
17 such post marital agreements are permissible by law.

18           The Court further finds that Husband is presently subject to a significant outstanding  
19 judgment that was rendered against him personally, based upon a finding of fraud resulting from his  
20 personal conduct in another legal action (Case No. A-12-670352-F) to which Wife was not a party nor  
21 a named Defendant.

22           The Court further finds that said judgment and the liability associated therewith is the  
23 sole and separate debt of Husband; Wife and her separate property assets as established under the  
24 Agreement should not be subject to Husband's outstanding judgment. Husband shall indemnify,  
25 defend, and hold Wife harmless from his separate debts.

26 ...

27 ...

28 ...



1 The Court further finds that Husband has engaged in various personal acts, including but  
2 not limited to those actions which resulted in the judgment against him in Case No. A-12-670352-F, and  
3 actions substantially encumbering the marital residence without Wife's knowledge or consent, which  
4 acts constitute marital waste and therefor entitle Wife to be able to receive her community property  
5 share from assets that might otherwise be awarded to Husband in this divorce action, based upon the  
6 holdings in Lofgren v. Lofgren, 112 Nev. 1282, 926 P.2d 296 (1996), and Putterman v. Putterman, 113  
7 Nev. 606, 939 P.2d 1047 (1997).

8 THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the  
9 bonds of matrimony heretofore and now existing between Husband and Wife be, and the same are  
10 hereby wholly dissolved, and an absolute Decree of Divorce is hereby granted to Wife, and each of the  
11 parties hereto is hereby restored to the status of a single, unmarried person.

12 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that commencing August  
13 1, 2015, and continuing on the 1<sup>st</sup> day of each month thereafter, Husband shall be obligated to pay  
14 periodic alimony to Wife in the amount of \$10,000.00 per month. Said obligation to pay alimony shall  
15 continue until such time as Husband's death, Wife's death, or Wife's remarriage, which ever event  
16 occurs first. This obligation shall be paid via a direct wage assignment through Husband's employer.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, to the extent Wife suffers  
18 any loss to her sole and separate property resulting from or related to the outstanding fraud judgment  
19 against Husband, any other separate debts of Husband, or Husband's failure to fulfill his obligations  
20 herein, Wife shall be entitled to additional alimony sufficient to reimburse her for any such losses  
21 pursuant to the holding in Siragusa v. Siragusa, 108 Nev. 987, 843 P.2d 807 (1992).

22 IT IS FURTHER, ORDERED, ADJUDGE AND DECREED, based upon the findings  
23 set forth herein-above, that the parties' Post-Marital Property Settlement Agreement is valid and  
24 enforceable. Said Agreement is adopted by the Court and incorporated into this Decree and the assets  
25 set forth therein are confirmed to each party as his/her sole and separate property, subject only to the  
26 resolution of disputed third party claims in Case No. A-12-670352.

27 ...

28 ...

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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, concerning the parties'  
2 marital residence located at 2793 Red Arrow Dr., Las Vegas, Nevada 89135 (hereinafter "Red Arrow  
3 property") titled in The Mona Family Trust, which community asset has an estimated fair market value  
4 of \$2,200,000.00, and is encumbered by a first mortgage in the amount \$1,172,402.97 owed to Bank  
5 of America. Unbeknownst to Wife, Husband has further encumbered said residence by taking at least  
6 three additional notes/obligations totaling approximately \$2,142,400.51, which resulted in the loss of  
7 Wife's community property equity in said residence. Said actions by Husband constitute marital waste  
8 and entitles Wife to receive her equal share from assets that might otherwise be awarded to Husband.  
9 See, Lofgren v. Lofgren, 112 Nev. 1282, 926 P.2d 296 (1996), and Putterman v. Putterman, 113 Nev.  
10 606, 939 P.2d 1047 (1997). But for Husband's improper actions, said residence would have equity in  
11 the approximate amount of \$1,000,000.00, to which each party would have been entitled to one-half.  
12 Said residence and the entirety of the liabilities and encumbrances thereon is therefor the sole and  
13 separate obligation of Husband, and Wife's interest therein shall be offset by the award of other assets  
14 as set forth herein. Husband shall indemnify, defend and hold Wife harmless therefrom.

15 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the parties presently  
16 hold 4,000,000 stock options in CannaVest, the value of which is unknown and cannot be determined  
17 at this time, however, the parties acknowledge that the strike price for said options exceeds the current  
18 market price. As a result of Husband's acts constituting marital waste, including those with respect to  
19 the marital residence, Wife shall be awarded 3,000,000 shares of said stock options, and Husband shall  
20 be awarded 1,000,000 stock options.

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that from Wife's separate  
22 property funds, she loaned approximately \$787,760.88 to their son, Michael Mona, III, for the purchase  
23 of a home by their son. Accordingly, there is a \$787,760.88 receivable due to Wife from their son. Said  
24 receivable is confirmed to Wife as her sole and separate property.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties are entitled  
26 to any returns on their respective separate property investments in the entity called ROEN. To the extent  
27 any funds are recovered from said investments, they shall each be entitled to their separate property  
28 investments.

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1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Wife shall further  
2 have confirmed as her sole and separate property the following:

- 3 1) Any and all bank accounts in Wife's name alone, including but not limited to her  
4 separate property bank accounts at Bank of George and Bank of Nevada;
- 5 2) Wife's vehicle, 2014 Jaguar, free and clear of any encumbrances;
- 6 3) One-half of any tax refund received for the 2014 tax year;
- 7 4) The two family dogs, Rex and Lucky;
- 8 5) Wife's personal property, including her jewelry, clothing, and personalities; and
- 9 6) The furniture, furnishings, and firearms in her possession presently located in the Red  
10 Arrow property.

11 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Husband shall further  
12 have confirmed as his sole and separate property the following:

- 13 1) Any and all bank accounts in Husband's name alone;
- 14 2) Husband's vehicle, 2006 Mercedes SL, free and clear of any encumbrances;
- 15 3) One-half of any tax refund received for the 2014 tax year; and
- 16 4) Husband's personal property, including his clothing, jewelry and personalities;
- 17 5) Any and all assets and liabilities held through the entity known as MONACO.

18 IT IS FURTHER ORDERED, ADJUDGE AND DECREED that Husband shall be solely  
19 responsible for his separate debts, including but not limited to the fraud judgment against him arising  
20 out of the case of Far West Industries v. Rio Vista Nevada, LLC, et. al. (Case A-12-670352-F), and shall  
21 indemnify, defend, and hold Wife harmless therefrom.

22 IT IS FURTHER ORDERED, ADJUDGE AND DECREED that Husband shall be solely  
23 responsible for his separate debt to Mike Sifen, and shall indemnify, defend and hold Wife harmless  
24 therefrom.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall  
26 submit the information required in NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form  
27 to the Court and the Welfare Division of the Department of Human Resources within ten (10) days from  
28 the date this Decree is filed. Such information shall be maintained by the Clerk in a confidential manner

1 and not part of the public record. Each party shall update the information filed with the Court and the  
2 Welfare Division of the Department of Human Resources within ten (10) days should any of that  
3 information become inaccurate.

4 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each party shall bear  
5 his/her own attorney's fees and costs incurred in this matter.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the parties herein sign  
7 any and all documents necessary to effectuate the transfer of the property as set forth herein. Should  
8 either party fail to execute any such documents, the Clerk of the Court shall be authorized to execute  
9 such documents as necessary to effectuate the provisions of this Decree of Divorce.

10 DATED and DONE this 23<sup>rd</sup> day of July, 2015.

11  
12   
13 DISTRICT JUDGE

LINDA MARQUIS

Submitted by:

KAINEN LAW GROUP, PLLC

By: 

EDWARD KAINEN, ESQ.

Nevada Bar No. 5029

ANDREW L. KYNASTON, ESQ.

Nevada Bar No. 8147

3303 Novat Street, Suite 200

Las Vegas, Nevada 89129

Attorneys for Plaintiff

Approved as to Form and Content:

MARQUIS AUBACH COFFING

By: 

TERRY A. COFFING, ESQ.

Nevada Bar No. 4949

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**EXHIBIT J**

**EXHIBIT J**

22  
22  
1019

DOC# 2015-0410793



**RECORDING REQUESTED BY**

Terry A. Coffing, Esq.  
Marquis Aurbach Coffing, P.C.  
10001 Park Run Drive  
Las Vegas, NV 89145

Aug 04, 2015 08:29 AM

OFFICIAL RECORDS  
Ernest J. Dronenburg, Jr.,  
SAN DIEGO COUNTY RECORDER

FEES: \$51.00

PCOR: N/A

PAGES: 7

**AND WHEN RECORDED MAIL DOCUMENT TO:**

Terry A. Coffing, Esq.  
Marquis Aurbach Coffing, P.C.  
10001 Park Run Drive  
Las Vegas, NV 89145

Space Above This Line for Recorder's Use Only

A.P.N.: 535-114-0411

**DEED OF TRUST WITH ASSIGNMENT OF RENTS  
(LONG FORM)**

THIS DEED OF TRUST, made this July 28, 2015, between

TRUSTOR: **Lundene Enterprises LLC, a Nevada limited liability company**

whose address is **877 Island Avenue, Unit 701, San Diego, CA 92101**

TRUSTEE: **First American Title Insurance Company**

and BENEFICIARY: **Rhonda Mona**

whose address is **59 Promontory Ridge Drive, Las Vegas, NV 89135**

WITNESSETH: That Trustor grants to Trustee in trust, with power of sale, that property in the City of San Diego, County of San Diego, State of California, described as:

A CONDOMINIUM ("CONDOMINIUM") LOCATED ON THE REAL PROPERTY DESCRIBED AS LOT 1 OF SUBDIVISION MAP NO. 14325, FILED IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ON DECEMBER 28, 2001 ("PROPERTY"), COMPRISED OF:

**PARCEL 1:**

A SEPARATE INTEREST IN UNIT NO. 701, AS DESIGNATED ON THE CONDOMINIUM PLAN FOR PARKLOFT CONDOMINIUMS RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198684 AND AS AMENDED AUGUST 21, 2002 AS INSTRUMENT NO. 02-708932 BOTH IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("CONDOMINIUM PLAN").

**PARCEL 2:**

AN UNDIVIDED 1/120TH INTEREST IN THE UNDIVIDED INTEREST COMMON AREA AS DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARKLOFT CONDOMINIUM OWNERS ASSOCIATION RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198685, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("DECLARATION") AND ON THE CONDOMINIUM PLAN, WHICH WILL NOT BE OWNED BY THE PARKLOFT CONDOMINIUM OWNERS ASSOCIATION ("ASSOCIATION").

MJM

(Continued on Page 2)

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE, ENJOYMENT AND SUPPORT OVER THE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED BY THE ASSOCIATION.

EXCEPTING THEREFROM

ALL NUMBERED CONDOMINIUM UNITS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN OTHER THAN THE UNIT CONVEYED AS PARCEL 1 ABOVE.

THOSE PORTIONS OF THE EXCLUSIVE USE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH ARE SET ASIDE AND ALLOCATED FOR THE EXCLUSIVE USE OF OWNERS OF CONDOMINIUMS (AS DEFINED IN THE DECLARATION) OTHER THAN THE CONDOMINIUM CONVEYED HEREIN.

PARCEL 4:

THE EXCLUSIVE RIGHT TO USE THE FOLLOWING ELEMENTS OF THE COMMON AREA (DESIGNATED AS EXCLUSIVE USE COMMON AREA), AS SHOWN ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED THE ASSOCIATION.

together with rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits for the purpose of securing (1) payment of the sum of **\$787,760.88 U.S.**, with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, (2) the performance of each agreement of Trustor incorporated by reference or contained herein and (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

A. To protect the security of this Deed of Trust, Trustor agrees:

(Continued on Page 3)

MJM

- 1) To keep said property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
- 2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- 3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.
- 4) To pay, at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all cost, fees and expenses of this Trust

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may; make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

- 5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

- 1) That any award in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
- 2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require payment when due of all other sums so secured or to declare default for failure so to pay.
- 3) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without

(Continued on Page 4)



affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easements thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

- 4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto".
- 5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right; prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collecting of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- 6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of said having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply to proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

- 7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named

(Continued on Page 5)

herein or acting hereunder, which instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

- 8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.
- 9) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.
- 10) Trustor requests that copies of the notice of default and notice of sale be sent to Trustor's address as shown above.

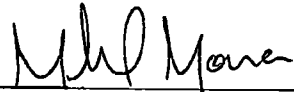
Beneficiary requests that copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust be sent to Beneficiary's address, as set forth on page one of this Deed of Trust, as provided by Section 2924(b) of the California Civil Code.

Dated:

SIGNED:

Lundene Enterprises LLC,  
a Nevada limited liability company

MICHAEL MONA III, Manager



(Continued on Page 6)

MTM

(Continued on Page 7)

MJM

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California )  
COUNTY OF San Diego )

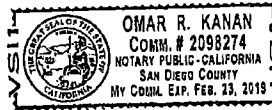
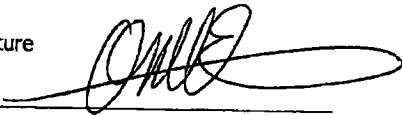
On 7/28/15, before me, Omar R. Kanan, Notary  
Public, personally appeared Michael J. Mena III

, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



*This area for official notarial seal*

(Continued on Page 8)

Page 7 of 8

MJM

# EXHIBIT I

# EXHIBIT I

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:  
Michael D. Sifen

AND WHEN RECORDED MAIL TO:  
Michael D. Sifen

500 CENTRAL DRIVE #106  
VA Beach  
VA 23434  
United States

DOC# 2015-0378073



Jul 17, 2015 02:11 PM  
OFFICIAL RECORDS  
Ernest J. Dronenburg, Jr.,  
SAN DIEGO COUNTY RECORDER  
FEES: \$36.00

PAGES: 7

THIS SPACE FOR RECORDER'S USE ONLY

### Deed of Trust

(Please fill in document title(s) on this line)

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION  
(Additional recording fee applies)

Filed for Record at Request of:

Michael D. Sifen  
c/o R. Edward Bourdon Jr., Attorney  
281 Independence Blvd.  
Pembroke One, Fifth Floor  
Virginia Beach, Virginia 23462

#### DEED OF TRUST

THIS DEED OF TRUST, made this 17 day of July, 2015, between LUNDENE ENTERPRISES LLC, a Nevada limited liability company, GRANTOR, and First American Title Company, a corporation, TRUSTEE, whose address is 7676 Hazard Center Dr. Suite 1100, San Diego, CA 92108, and MICHAEL D. SIFEN, BENEFICIARY.

WITNESSETH: Grantor hereby bargains, sells and conveys to Trustee in Trust, with power of sale, the following described real property situated in the County of San Diego, State of California, legally described as follows (hereafter the "Real Property"):

See Legal Description Attached as Exhibit "A" hereto and incorporated herein as if fully set forth.

APN: 535-114-04-11

TOGETHER with all right, title and interest of Grantor in all buildings and improvements now located or hereafter to be constructed thereon (collectively "Improvements");

TOGETHER with all right, title and interest of Grantor in the appurtenances, hereditaments, privileges, reversions, remainders, profits, easements, franchises and tenements thereof, including all timber, natural resources, minerals, oil, gas and other hydrocarbon substances thereon or therein, air rights, and any land lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Real Property and Improvements;

TOGETHER with all of Grantor's right, title and interest to all proceeds (including claims or demands thereto) from the conversion, voluntary or involuntary, of any of the Real Property and Improvements into cash or liquidated claims, including, without limitation proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments in lieu thereof made by any public body or decree by any court of competent jurisdiction for taking or for degradation of the value in any condemnation or eminent domain proceeding, and all causes of action and the proceeds thereof of all types for any damage or injury to the Real Property and Improvements or any part thereof, including, without limitation, causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, and all proceeds from the sale of the Real Property and/or Improvements.

TOGETHER with all right, title and interest of Grantor in and to (i) all leases, rental agreements and other contracts and agreements relating to use and possession (collectively "Leases") of any of the Real Property or Improvements, and (ii) the rents, issues, profits and proceeds therefrom together with all guarantees thereof and all deposits (to the full extent permitted by law) and other security therefore (collectively "Rents"). The Real Property, Improvements, Leases, Rents and all other right, title and interest of Grantor described above are hereafter collectively referred to as the "Property".

1. **Obligations Secured.** Grantor makes this Deed of Trust for the purpose of securing:

a. Payment of all indebtedness and other obligations evidenced by a promissory note in the principal amount of \$1,000,000 dated February 28, 2014, made by Michael J. Mona III, manager and sole member of Grantor, as principal and/or guarantor and Beneficiary as party thereto.

b. Payment and performance of all obligations of Grantor under this Deed of Trust, including payment of all sums expended or advanced by Beneficiary (or any one of them) hereunder and under the above-mentioned promissory note, together with interest thereon, in the preservation, enforcement and realization of the rights of Beneficiary hereunder or under any of the other obligations secured hereby including, but not limited to, attorney's fees, court costs, other litigation expenses, and foreclosure expenses.

c. Payment and performance of all future advances and other obligations that the then record owner of all or part of the Property may agree to pay or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when such obligation is evidenced by a writing which states that it is secured by this Deed of Trust.

d. All modifications, extensions and renewals (if any) of one or more of the obligations secured hereby, including without limitation (i) modifications of the required principal payment dates or interest payment dates, deferring or accelerating payment dates wholly or partly, and (ii) modifications, extensions or renewals at a different rate of interest, whether or not, in the case of a note or other contract, the modification, extension or renewal is evidenced by a new or additional promissory note or other contract.

The obligations secured by this Deed of Trust are herein collectively called the "Secured Obligations". All persons who may have or acquire an interest in the Property shall be deemed to have notice of, and shall be bound by, the terms of the Agreement, this Deed of Trust, and any other instruments or documents made or entered into in connection herewith (collectively "Documents") and each of the Secured Obligations.

## **2. Leases and Rents.**

a. Neither the assignment of the Leases and Rents set forth in this Deed of Trust nor any provision of the Agreement shall impose upon Beneficiary any duty to produce Rents from the Property or cause Beneficiary to be (a) a "mortgagee in possession" for any purpose, (b) responsible for performing any of the obligations of the lessor under any Lease or (c) responsible or liable for any waste by any lessees or any other parties, for any dangerous or defective condition of the Property, for any negligence in the management, upkeep, repair or control of the Property or for any other act or omission by any other person.

b. Grantor covenants and agrees that Grantor shall not (i) amend, modify or change any term, covenant or condition of any Lease in existence on the date of this Deed of Trust without the prior written consent of Beneficiary or (ii) enter into any Lease of the Property, or any interest therein, or any portion thereof, from and after the date of this Deed of Trust without the prior written consent of Beneficiary. Grantor agrees that commencing with an Event of Default, as hereinafter defined, each tenant of the Property, or any portion thereof, shall make such Rents payable to and pay such Rents to Beneficiary, or Beneficiary's agent, upon Beneficiary's written demand to each tenant therefor, without any liability on the part of such tenant to inquire further as to the existence of a Default by Grantor, provided, however, in the event of Grantor's cure of any such Default as herein provided, Grantor shall again be entitled to recover and collect such Rents as provided above prior to the event of Default.

c. Grantor shall (i) fulfill or perform each and every condition and covenant of each Lease to be fulfilled or performed by the lessor thereunder, (ii) give prompt notice to Beneficiary of any notice of default by the lessor or the lessee thereunder received by Grantor together with a complete copy of any such notice, and (iii) enforce, short of termination thereof, the performance or observance of each and every covenant and condition thereof by the lessee thereunder to be performed or observed.



d. Grantor shall furnish to Beneficiary, within thirty (30) days after a request by Beneficiary, a written statement containing the names of all lessees of the Property, the terms of their respective Leases, the spaces occupied and the rentals payable and received thereunder and a copy of each Lease.

3. **Further Covenants of Grantor.** To protect the security of this Deed of Trust, Grantor further covenants and agrees:

a. To keep the property in good condition and repair; to permit no waste thereof, to complete any building, structure or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.

b. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens or encumbrances impairing the security of this Deed of Trust except as otherwise expressly authorized in writing by the Beneficiary.

c. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first the Beneficiary and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

d. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by the Beneficiary to foreclose the Deed of Trust.

e. To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

f. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

4. **Additional Agreements of Parties.** It is mutually agreed that:

a. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligations secured hereby, shall be paid to Beneficiary to be applied to said obligation.

b. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive their rights to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

c. The Trustee shall reconvey all or any part of the Property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligations secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

d. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of the Beneficiary, Trustee shall sell the trust property, in accordance with the laws of the State of California, at public auction to the highest bidder. Any person except the Trustee may bid at the Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (b) to the obligations secured by this Deed of Trust; (c) the surplus, if any, shall be distributed to the persons entitled thereto.

e. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor has or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrances for value.

f. The power of sale conferred by this Deed of Trust and by the law of the State of California is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

g. In the event of the death, incapacity, disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

h. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns. The term Beneficiary shall mean the holders and owners of the note secured hereby, whether or not named as a Beneficiary herein.

"GRANTOR"

By:

Michael J. Mona III, Manager and Sole Member  
Lundene Enterprises, LLC

STATE OF CALIFORNIA       )  
  ) ss.  
COUNTY OF SAN DIEGO    )

On this 17<sup>th</sup> day of July, 2015, before me, the undersigned, a Notary Public in and for the State of California, duly commissioned and sworn, personally appeared Michael J. Mona III, to me known to be the Manager and duly authorized agent of Grantor and who acknowledged that he executed the foregoing instrument on behalf of Grantor for the uses and purposes therein mentioned.

Witness my hand and official seal hereto affixed the day and year first above written.

Rhoda E. Lelevier

Notary Public in and for the State of California

Page 4 of 4



Initials: MM

*Please see attached California Acknowledgment*

## EXHIBIT A

### LEGAL DESCRIPTION

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

A CONDOMINIUM ("CONDOMINIUM") LOCATED ON THE REAL PROPERTY DESCRIBED AS LOT 1 OF SUBDIVISION MAP NO. 14325, FILED IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ON DECEMBER 28, 2001 ("PROPERTY"), COMPRISED OF:

#### PARCEL 1:

A SEPARATE INTEREST IN UNIT NO. 701, AS DESIGNATED ON THE CONDOMINIUM PLAN FOR PARKLOFT CONDOMINIUMS RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198684 AND AS AMENDED AUGUST 21, 2002 AS INSTRUMENT NO. 02-708932 BOTH IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("CONDOMINIUM PLAN").

#### PARCEL 2:

AN UNDIVIDED 1/120TH INTEREST IN THE UNDIVIDED INTEREST COMMON AREA AS DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARKLOFT CONDOMINIUM OWNERS ASSOCIATION RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198685, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("DECLARATION") AND ON THE CONDOMINIUM PLAN, WHICH WILL NOT BE OWNED BY THE PARKLOFT CONDOMINIUM OWNERS ASSOCIATION ("ASSOCIATION").

#### PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE, ENJOYMENT AND SUPPORT OVER THE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED BY THE ASSOCIATION.

#### EXCEPTING THEREFROM

A. ALL NUMBERED CONDOMINIUM UNITS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN OTHER THAN THE UNIT CONVEYED AS PARCEL 1 ABOVE.

B. THOSE PORTIONS OF THE EXCLUSIVE USE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH ARE SET ASIDE AND ALLOCATED FOR THE EXCLUSIVE USE OF OWNERS OF CONDOMINIUMS (AS DEFINED IN THE DECLARATION) OTHER THAN THE CONDOMINIUM CONVEYED HEREIN.

#### PARCEL 4:

THE EXCLUSIVE RIGHT TO USE THE FOLLOWING ELEMENTS OF THE COMMON AREA (DESIGNATED AS EXCLUSIVE USE COMMON AREA), AS SHOWN ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED THE ASSOCIATION.

APN: 535-114-04-11

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

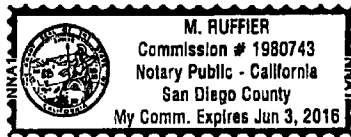
CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of San Diego )On July 17, 2015 before me, M. Ruffier, Notary Public  
Date Here Insert Name and Title of the Officerpersonally appeared Michael J. Mone III  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]  
Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

**Description of Attached Document**Title or Type of Document: Deed of Trust - AM 535-114-011 Document Date: July 17, 2015Number of Pages: 6 Signer(s) Other Than Named Above: \_\_\_\_\_**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney In Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_

☐ Corporate Officer — Title(s): \_\_\_\_\_☐ Partner — ☐ Limited ☐ General☐ Individual ☐ Attorney in Fact☐ Trustee ☐ Guardian or Conservator☐ Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

**EXHIBIT H**

**EXHIBIT H**

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DISTRICT COURT  
CLARK COUNTY, NEVADA

\* \* \* \* \*

FAR WEST INDUSTRIES, a  
California corporation,

Plaintiff,

vs.

Case No. A-12-670352-F  
Dept. No. XV

RIO VISTA NEVADA, LLC, a  
Nevada limited liability  
company; WORLD DEVELOPMENT,  
INC., a California  
corporation; BRUCE MAIZE, an  
individual; MICHAEL J. MONA,  
JR., an individual; DOES 1  
through 100, inclusive,

Defendants.

---

DEPOSITION OF  
RHONDA MONA  
Las Vegas, Nevada  
June 26, 2015  
10:31 a.m.

Reported by: Heidi K. Konsten, RPR, CCR  
Nevada CCR No. 845 - NCRA RPR No. 816435  
JOB NO. 252983

1 THE WITNESS: I gave it to a ticket

2 broker to buy tickets to resell them, and he

3 embezzled the money and went to jail, so ...

4 BY MR. EDWARDS:

5 Q Okay. So you never actually received

6 any tickets, weren't able to resell anything?

7 A He did, kept the money, and he went to

8 jail.

9 Q Understood.

10 What's his name?

11 A Jonathon Robiste.

12 Q Can you spell that?

13 A R-O-B-I-S-T-E.

14 Q Was he here in Las Vegas or elsewhere?

15 A He was in New York.

16 Q New York. Okay.

17 So you think you received about

18 \$2 million. So what happened with the other

19 \$1.5 million?

20 A I lent some to my son to buy his home.

21 Q Okay. How much did you lend to your

22 son?

23 A Close to 900, I think.

24 Q Okay. What's your son's name?

25 A Michael.

1 Q Michael Moná, III; right?

2 A Uh-huh.

3 Q And where is the home?

4 A In San Diego.

5 Q How old is your son?

6 A Twenty-nine.

7 Q Twenty-nine?

8 A Uh-huh.

9 Q Is there a loan agreement between you  
10 and your son, or was this just a handshake deal?

11 A I don't know. I don't know if there's  
12 paperwork on it or not. I really don't.

13 Q Okay. Has your son started paying you  
14 on that \$900,000 loan?

15 A Not yet, no.

16 Q Is it -- is it your expectation that he  
17 will start paying you at some point?

18 A I would assume so at some point, when  
19 he's in a better financial -- he's not yet.

20 Q Okay. Is it your intent that he will  
21 simply pay you back when he eventually sells the  
22 property?

23 A I -- I didn't get into it. I don't  
24 know.

25 Q Okay. Do you know the address of the



1 CERTIFICATE OF COURT REPORTER

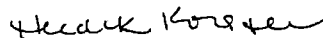
2 STATE OF NEVADA )  
3 COUNTY OF CLARK ) ss:

4 I, Heidi K. Konsten, Certified Court Reporter  
5 licensed by the State of Nevada, do hereby certify  
6 that I reported the deposition of RHONDA MONA,  
7 commencing on June 26, 2015, at 10:31 a.m.

8 Prior to being deposed, the witness was duly  
9 sworn by me to testify to the truth. I thereafter  
10 transcribed my said stenographic notes via  
11 computer-aided transcription into written form,  
12 and that the transcript is a complete, true and  
13 accurate transcription and that a request was made  
14 for a review of the transcript.

15 I further certify that I am not a relative,  
16 employee or independent contractor of counsel or  
17 any party involved in the proceeding, nor a person  
18 financially interested in the proceeding, nor do I  
19 have any other relationship that may reasonably  
20 cause my impartiality to be questioned.

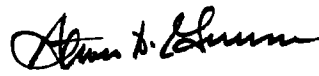
21 IN WITNESS WHEREOF, I have set my hand in my  
22 office in the County of Clark, State of Nevada,  
23 this July 7, 2015.

24 

25 Heidi K. Konsten, RPR, CCR No. 845

**EXHIBIT G**

**EXHIBIT G**



CLERK OF THE COURT

**ORDER**

F. THOMAS EDWARDS, ESQ.  
Nevada Bar No. 9549  
E-mail: tedwards@nevadafirm.com  
ANDREA M. GANDARA, ESQ.  
Nevada Bar No. 12580  
E-mail: agandara@nevadafirm.com  
HOLLEY DRIGGS WALCH  
FINE WRAY PUZEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
Telephone: 702/791-0308  
Facsimile: 702/791-1912

*Attorneys for Plaintiff Far West Industries*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

v.

RIO VISTA NEVADA, LLC, a Nevada limited  
liability company; WORLD DEVELOPMENT,  
INC., a California corporation; BRUCE MAIZE,  
an individual; MICHAEL J. MONA, JR., an  
individual; DOES 1 through 100, inclusive,

Defendants.

Case No.: A-12-670352-F  
Dept. No.: XV

Hearing Date: July 9, 2015  
Time of Hearing: 9:00 a.m.

**ORDER REGARDING ORDER TO SHOW CAUSE WHY  
ACCOUNTS OF RHONDA MONA SHOULD NOT BE SUBJECT TO  
EXECUTION AND WHY THE COURT SHOULD NOT FIND MONAS IN CONTEMPT**

The Court held a hearing regarding its Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should Not Find Monas In Contempt ("Order to Show Cause") on July 9, 2015, at 9:00 a.m. ("July 9 Hearing"). F. Thomas Edwards, Esq. and Andrea M. Gandara, Esq. of the law firm of Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson, appeared on behalf of Plaintiff Far West Industries ("Plaintiff" or "Far West"). Terry A. Coffing, Esq., of the law firm of Marquis Aurbach Coffing, appeared on behalf of Defendant Michael J. Mona, Jr. ("Mr. Mona") and Rhonda Helene Mona ("Mrs. Mona") (collectively referred to as the "Monas"). Edward L. Kainen, Esq., and Andrew L.

1 Kynaston, Esq., of the law firm of Kainen Law Group, LLC, also appeared as divorce counsel  
2 for Mrs. Mona.

3 Prior to the July 9 Hearing, the Court reviewed all relevant pleadings and papers before  
4 it, including, but not limited to: (1) Plaintiff's Ex Parte Application For Order To Show Cause  
5 Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court  
6 Should Not Find The Monas In Contempt ("Application") and the attached Exhibits 1-4; (2) the  
7 Order to Show Cause and the notice of entry and receipt of copy associated therewith; (3) the  
8 Response to Order To Show Cause Why Accounts Of Rhonda Mona Should Not Be Subject To  
9 Execution And Why The Court Should Not Find The Monas In Contempt ("Response") and the  
10 attached Exhibits A-C; (4) the Plaintiff's Reply in Support of Order To Show Cause Why  
11 Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The Court Should  
12 Not Find The Monas In Contempt ("Reply"); (4) the Supplement to Response to Order To Show  
13 Cause Why Accounts Of Rhonda Mona Should Not Be Subject To Execution And Why The  
14 Court Should Not Find The Monas In Contempt ("Supplement"). The Court was presented the  
15 Declaration in Support of Request for Contempt of Plaintiff's counsel, F. Thomas Edwards, Esq.,  
16 at the July 9 Hearing, which it accepted without objection.

17 With no other appearances having been made, the Court having reviewed and examined  
18 the papers, pleadings and records on file in the above-entitled matter and heard the argument of  
19 counsel, and good cause appearing therefore, the Court enters the following findings facts and  
20 conclusions of law. To the extent any finding of fact should properly be designated a conclusion  
21 of law, it shall be deemed a conclusion of law. To the extent any conclusion of law should  
22 properly be designated a finding of fact, it shall be deemed a finding of fact.

23 The Court makes the following findings of facts and conclusions of law:

24 On April 27, 2012, Plaintiff obtained a Judgment entered against Mr. Mona and the Mona  
25 Family Trust Dated February 21, 2002 ("Mona Family Trust"). See Judgment, attached as Ex. 4  
26 to Application. Mr. Mona and Mrs. Mona were at all relevant times co-trustees of the Mona  
27 Family Trust, although after this Court ordered Mrs. Mona to appear for a judgment debtor  
28 examination, based upon her capacity as trustee of the Mona Family Trust, Mrs. Mona resigned

1 and/or was removed as a trustee.

2 On January 30, 2013, the Court entered its original order for the judgment debtor  
3 examination of Mr. Mona, setting forth certain documents that Mr. Mona was required to  
4 produce, including:

5 8. Documents reflecting all assets (real, personal or mixed),  
6 whether owned by you individually, in any partnership or  
7 corporation form or in joint tenancy or in tenancy in common for  
8 the past five (5) years.

9 11. A copy of all statements, and a copy of each check  
10 register for each account, for each and every financial  
11 institution (including but not limited to all banks, savings and  
12 loans, credit unions, and brokerage houses) where you have an  
13 account, where you have signature authority on an account, or in  
14 which you have held or now hold an interest from January 2005  
15 through to the present.

16 12. A copy of all bank statements, deposit slips, and canceled  
17 checks for all bank, money market accounts which you own or in  
18 which you owned any interest whatsoever, or on which you were  
19 authorized to draw checks, whether said documents were in your  
20 name alone, in the name of another person/entity, or in the  
21 name of another and yourself as joint tenants, for the period of  
22 three (3) years prior to the date hereof.

23 13. All savings account passbooks, bank statements and  
24 certificates of deposit for any and all accounts, in which you  
25 owned any interest whatsoever, or from which you were  
26 authorized to make withdrawals, whether said accounts were in  
27 your name alone, in the name of any other person, or in your name  
28 and another as joint tenants, for the period of five (5) years prior to  
the date hereof.

39. Copies of any and all contracts to which you are a party  
entered into within the last five (5) years.

See Ex. A to Order entered 1/30/13 ("January 2013 Order") (emphasis added).

The Court subsequently ordered Mr. Mona to make a complete production of documents  
by September 25, 2013. See Order entered 10/7/13 ("October 2013 Order"), 2:9-13.

On or about September 13, 2013, the Monas executed a Post-Marital Property Settlement  
Agreement, in which Mr. and Mrs. Mona explain that they have sold their community property  
shares of Medical Marijuana, Inc., for \$6,813,202.20. See Ex. 1 to the Application. The  
Agreement then purports to divide the proceeds equally between themselves as their separate  
property, with each receiving \$3,406,601.10. Id.

1 Although Mr. Mona produced approximately 33,000 documents in response to the  
2 January 2013 Order and the October 2013 Order, Mr. Mona did not produce the Post-Marital  
3 Settlement Agreement, in violation of both the January 2013 Order and the October 2013 Order.

4 At his judgment debtor examination on November 25, 2013, when Mr. Mona was asked  
5 what he did with the more than \$6 million in stock sale proceeds, Mr. Mona lied and failed to  
6 disclose the transfer of \$3,406,601.10 to Mrs. Mona. Specifically, at the judgment debtor  
7 examination on November 25, 2013, Mr. Mona testified as follows:

8 Q. When you got out of Alpine Securities, how much was the  
9 stock worth?

10 A. About \$0.12 a share.

11 Q. And translate that into an aggregate.

12 A. About \$6 million.

13 Q. Did you cash out?

14 A. Yes.

15 Q. What did you do with that \$6 million?

16 A. Paid bills.

17 Q. What bills?

18 A. Paid off some debts that I had.

19 Q. What bills?

20 A. Just personal bills. Gave 2.6 – loaned \$2.6 million to Roen  
Ventures.

21 See Transcript of 11/25/13 Judgment Debtor Examination of Mr. Mona, 9:8-21, attached as Ex. 2  
22 to the Application.

23 Mr. Mona's deceit and omission cannot be excused by a lack of memory because the  
24 purported transfer through the Post-Marital Settlement Agreement occurred only shortly before  
25 his examination. Likewise, Mr. Mona's deceit and omission cannot be blamed on his attorney,  
26 as Mr. Mona was in control of his testimony at the judgment debtor examination in 2013. At his  
27 more recent judgment debtor examination, Mr. Mona admitted that he should have produced the  
28 Post-Marital Settlement Agreement in 2013 and that he should have disclosed it during the

1 November 25, 2013 examination and, on this point, the Court agrees with Mr. Mona.

2 The Court finds that the money purportedly transferred through the Post-Marital  
3 Settlement Agreement was community property as it was acquired during the Monas' marriage.  
4 The Monas have been married for more than 30 years. All property acquired after the marriage  
5 by either husband or wife is community property, subject only to limited exceptions identified in  
6 NRS 123.220. All debts incurred during that time are community debts under Randono v. Turk,  
7 86 Nev. 123, 466 P.2d 218 (1970). See also Cirac v. Lander Cnty., 95 Nev. 723, 602 P.2d 1012;  
8 In re Bernardelli, 12 B.R. 123 (Bankr. D. Nev. 1981); Nelson v. United States, 53 F.3d 339, 1995  
9 WL 257884; F.T.C. v. Neiswonger, 580 F.3d 769 (8th Cir. 2009).

10 Plaintiff obtained the Judgment against Mr. Mona during the Monas' marriage, and it  
11 therefore is a community debt. That community debt can be collected against the entirety of the  
12 Monas' community property under Randono v. Turk, 86 Nev. 123, 466 P.2d 218 (1970) and  
13 Henry v. Rizzolo, 2012 WL 1376967 (Dist. Nev. April 19, 2012). See also Cirac v. Lander  
14 Cnty., 95 Nev. 723, 602 P.2d 1012; In re Bernardelli, 12 B.R. 123 (Bankr. D. Nev. 1981); Nelson  
15 v. United States, 53 F.3d 339, 1995 WL 257884; F.T.C. v. Neiswonger, 580 F.3d 769 (8th Cir.  
16 2009). The Court finds Norwest Fin. v. Lawver, 849 P.2d 324 (Nev. 1993) and Hogevoll v.  
17 Hogevoll, 59 Cal.App.2d 188, 138 P.2d 693 (1943), which are cited in the Response,  
18 distinguishable as those cases involved determinations of lender intent and community debt with  
19 respect to loans made during marriage, as opposed to collection on a judgment for fraud  
20 committed by a spouse during marriage. Mrs. Mona's alleged lack of involvement in the  
21 underlying litigation that gave rise to Far West's Judgment is not relevant as to judgment  
22 collection. There is no evidence that the assets and debts at issue here were acquired by either of  
23 the Monas before marriage.

24 On May 13, 2015, the Court entered orders scheduling the judgment debtor examinations  
25 of Mr. and Mrs. Mona. The order set forth a list of documents that Mr. and Mrs. Mona were  
26 required to produce, including:

- 27 1. For the period beginning April 2012 through the present  
28 date, financial documents of Judgment Debtor, including, but  
not limited to, but not limited to, statements for checking,

1 savings or other financial accounts, securities brokerage  
2 accounts, certificates of deposit, shares in banks, savings and loan,  
3 thrift, building loan, credit unions, or brokerage houses or  
4 cooperative, and records of income, profits from companies, cash  
5 on hand, safe deposit boxes, deposits of money with any other  
6 institution or person, cash value of insurance policies, federal and  
7 state income tax refunds due or expected, any debt payable to or  
8 held by or for Judgment Debtor, checks, drafts, notes, bonds,  
9 interest bearing instruments, accounts receivable, liquidated and  
10 unliquidated claims of any nature, or any and all other assets.

11 23. For the period beginning April 2012 through the present  
12 date, Documents relating to monies, gifts, bequests, dispositions,  
13 or transfers paid or given to Judgment Debtor.

14 26. For the period beginning April 2012 through the present  
15 date, Documents relating to all tangible or intangible property or  
16 other assets sold, assigned, transferred, or conveyed by  
17 Judgment Debtor to any person or entity.

18 29. Documents evidencing any and all other intangible  
19 personal, tangible, and/or real property of Judgment Debtor not  
20 already identified in the items set forth above.

21 See Orders entered 5/13/15 ("May 2015 Orders").

22 In their response to the May 2015 Orders, the Monas did not produce certain bank  
23 records purportedly because the bank accounts are in the name of Mrs. Mona only, despite the  
24 fact that the accounts hold community property, in violation of the May 2015 Orders. Mrs.  
25 Mona made no efforts to produce any documents in response to the May 2015 Orders. Mr.  
26 Mona's failure to produce these bank records in response to the January 2013 Order and the  
27 October 2013 Order was also a violation of said orders.

28 According to Mrs. Mona's testimony during examination, she has three (3) different bank  
29 accounts in her name. The first account is a checking account at Bank of George, which contains  
30 approximate \$190,000.00 in purported earnings from design projects performed by Mrs. Mona  
31 during the marriage, such that the funds are community property. See Rough Transcript of  
32 06/26/15 Judgment Debtor Examination of Mrs. Mona, 26:6-14 and 27:19-29:19 attached as Ex.  
33 3 to the Application.

34 The second account is a money market account at the Bank of George, which contains  
35 approximately \$300,000.00 that is purportedly the only remaining money from the transfer to  
36 Mrs. Mona through the Post-Marital Settlement Agreement. Mrs. Mona testified that she



1 believes she only received approximately \$2 million based upon the Post-Marital Settlement  
2 Agreement, instead of the full \$3.4 million identified in the Post-Marital Settlement Agreement.  
3 See Rough Transcript of 06/26/15 Judgment Debtor Examination of Mrs. Mona, 21:18-23  
4 attached as Ex. 3 to the Application. These funds constitute community property because they  
5 were acquired during marriage. This remains true despite the Monas fraudulent transfer of the  
6 community property to Mrs. Mona, as explained in more detail below.

7 The third account is a checking account from Bank of Nevada, which is purportedly  
8 funded through the money market account at Bank of George, and thus also contains community  
9 property.

10 The Monas did not produce any records related to these three (3) accounts that contain  
11 community property in Mrs. Mona's name and so it is not possible to determine the account  
12 numbers and identifying information associated with these accounts.

13 While the Response mentions the Monas' divorce proceedings, the Response omitted key  
14 facts about the divorce, including that the divorce proceeding was only filed on July 2, 2015, and  
15 that the Monas testified at their respective judgment debtor examinations just a few days earlier  
16 that they had no plans to get divorced. The omission of these material facts in the Response  
17 reflects on the Monas' credibility.

18 The fact that Mrs. Mona filed for divorce after the Court issued its Order to Show Cause  
19 does not deprive the Court of its jurisdiction to rule on the Order to Show Cause. The Monas  
20 have cited to no authority that the filing of a divorce complaint imposes a stay of execution upon  
21 a judgment.

22 The Response to the Order to Show Cause complains about the timing of the briefing  
23 schedule and the hearing date. However, the Response failed to disclose that Plaintiff offered to  
24 both extend the briefing schedule and continue the hearing. At the hearing, the Court offered  
25 additional time to the Monas, but the Monas declined. Accordingly, the Court proceeded to issue  
26 its ruling.

27 The Monas have preempted the presiding judge as to any request for contempt in the  
28 Application, as they are entitled to do. The Court expressly makes no finding of contempt as to

1 Mr. and Mrs. Mona without prejudice to Plaintiff pursuing such a request before another judge.  
2 The Court only is considering whether sanctions should be issued pursuant to NRCP 37 as  
3 requested in the Application.

4 The Court finds that Mr. Mona violated the January 2013 Order and October 2013 Order  
5 by not producing the Post-Marital Settlement Agreement and the bank account records for Mrs.  
6 Mona's three (3) bank accounts that contained community property. The Court further finds that  
7 both Mr. and Mrs. Mona violated the May 2015 Orders by failing to produce bank records for  
8 Mrs. Mona's three (3) bank accounts that contained community property.

9 The Court concludes that Mr. Mona's failure to produce the Post-Marital Settlement  
10 Agreement as ordered and Mr. Mona and Mrs. Mona's failure to disclose Mrs. Mona's bank  
11 records for the three (3) accounts in Mrs. Mona's name were not substantially justified and  
12 constitute serious violations subject to sanctions under NRCP 37. Considering all available  
13 sanctions under NRCP 37 for such violations, the Court finds grounds to designate the Post-  
14 Marital Settlement Agreement a fraudulent transfer under NRS 112.180 on the merits based on  
15 the following badges of fraud associated with that transfer.

16 First, the transfer in the Post-Marital Settlement Agreement was to an insider, Mrs.  
17 Mona, as she is the wife of Mr. Mona, a judgment debtor, and was at all relevant times the  
18 Trustee of the Mona Family Trust, a judgment debtor.

19 Second, Mr. Mona appears to have retained possession and control over some portion of  
20 the funds that were purportedly transferred pursuant to the Post-Marital Settlement Agreement.

21 Third, Mr. Mona concealed the transaction by not producing the Post-Marital Settlement  
22 Agreement as required by the January 2013 Order and October 2013 Order and by not disclosing  
23 the transfer during his judgment debtor examination on November 25, 2013. Mr. Mona was not  
24 truthful when he was asked during the November 25, 2013 examination about what he did with  
25 the approximately \$6.8 million dollars.

26 Fourth, prior to effectuating the transfer through the Post-Marital Settlement Agreement,  
27 Far West sued and obtained the Judgment against Mr. Mona and the Mona Family Trust.

28 ///

1 Fifth, the Post-Marital Settlement Agreement, and the related transfers of the proceeds  
2 from the sale of the stock, transferred substantially all of Mr. Mona's assets as he was insolvent  
3 at the time of the transfers, or rendered Mr. Mona insolvent shortly after they were made.

4 Sixth, Mr. Mona concealed assets by failing to disclose the Post-Marital Settlement  
5 Agreement in 2013, by not disclosing the transfer during his judgment debtor examination on  
6 November 25, 2013, and by not producing the bank account records for the accounts in Mrs.  
7 Mona's name.

8 Seventh, at the time of the transfer through the Post-Marital Settlement Agreement, Mr.  
9 Mona was insolvent, or the transfer rendered Mr. Mona insolvent shortly after it was made.

10 These considerations are several of many factors in NRS 112.180(2), which provides a  
11 non-exhaustive list of considerations that support a determination that there was an actual intent  
12 to hinder, delay, or defraud a creditor. To find a fraudulent transfer, not every factor must be  
13 shown and the lack of one or more badges of fraud among many is not dispositive. The badges of  
14 fraud described above provide overwhelming evidence that the Post-Marital Settlement  
15 Agreement was a fraudulent transfer.

16 The Court therefore concludes that the Post-Marital Settlement Agreement is a fraudulent  
17 transfer intended to hinder, delay and defraud Plaintiff in its efforts to execute upon the  
18 Judgment and the \$6,813,202.20 remains community property that is subject to execution by Far  
19 West in satisfaction of its Judgment. The funds in Mrs. Mona's three (3) bank accounts shall be  
20 applied towards satisfaction of the Judgment pursuant to NRS 21.320. The Court finds the  
21 sanctions imposed herein to be appropriate in light of the very serious misconduct at issue,  
22 specifically the failure to disclose documents as ordered, which resulted in the dissipation of  
23 millions of dollars in assets, of which only a relatively small amount remains (\$300,000 in Mrs.  
24 Mona's Bank of George money market account) and concealment of significant community  
25 property (\$190,000.00 in Mrs. Mona's Bank of George checking account) which could have  
26 gone to satisfy Plaintiff's Judgment. The Court has also previously found that Mr. Mona is not  
27 taking this proceeding seriously. See Order entered 06/17/2015. The sanctions are meant to deter  
28 the Monas and future litigants from similar abuses.

1 This Court has authority pursuant to NRS 21.280 and, to the extent Mrs. Mona is  
2 considered a third party, pursuant to NRS 21.330, to order Mr. and Mrs. Mona to not dispose  
3 and/or transfer their assets as the Court has done in the past and does again in this Order.

4 Based on the foregoing, and good cause appearing:

5 **IT IS HEREBY ORDERED** that the relief requested in the Application is **GRANTED**  
6 **IN PART and DENIED IN PART;**

7 **IT IS HEREBY FURTHER ORDERED** that the Monas' purported transfer pursuant to  
8 the Post-Marital Property Settlement Agreement is a fraudulent transfer, and the facts proving  
9 the fraudulent transfer, including the badges of fraud outlined above, are deemed established;

10 **IT IS HEREBY FURTHER ORDERED** that the facts entitling Plaintiff to execute  
11 upon the bank accounts in the name of Mrs. Mona are deemed established;

12 **IT IS HEREBY FURTHER ORDERED** that the Monas are prohibited from claiming  
13 that any money purportedly transferred pursuant to the Post-Marital Property Settlement  
14 Agreement and any money in the bank accounts in the name of Mrs. Mona are exempt from  
15 execution;

16 **IT IS HEREBY FURTHER ORDERED** that the Monas produce any previously  
17 undisclosed bank records (including signature cards, bank statements, front and back of all  
18 checks, check books and registers, deposit slips or receipts, withdrawal slips or receipts, wire  
19 transfer confirmations or reports, etc.) for the past five (5) years, regardless of whose name is on  
20 the account, no later than July 20, 2015;

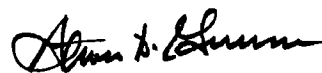
21 **IT IS HEREBY FURTHER ORDERED** that Plaintiff is awarded reasonable expenses,  
22 including, without limitation, attorney's fees and costs incurred as a result of the failure to  
23 comply with the Court's orders, with Plaintiff to submit a bill of fees and costs no later than July  
24 20, 2015; and

25 **IT IS HEREBY FURTHER ORDERED** that Mr. Mona, Mrs. Mona, and the Monas  
26 collectively are prohibited from effectuating any transfers or otherwise disposing of or  
27 encumbering any property not exempt from execution and until the money in the bank accounts  
28 in the name of Mrs. Mona are applied to Plaintiff's Judgment.

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EXHIBIT F

EXHIBIT F



CLERK OF THE COURT

1 ORDR  
2 JOHN W. MUIJE & ASSOCIATES  
3 JOHN W. MUIJE, ESQ.,  
4 Nevada Bar No. 2419  
5 1320 S. Casino Center Blvd.  
6 Las Vegas, Nevada 89104  
7 PH: 702-386-7002  
8 Fax No: 702-386-9135  
9 Email: Jmuije@muijelawoffice.com  
10 Attorneys for Judgment debtors Michael J. Mona Jr.,  
11 and Michael J. Mona Jr., as trustee of the  
12 Monad Family Trust Dated February 21, 2002

13 DISTRICT COURT

14 CLARK COUNTY, NEVADA

15 FAR WEST INDUSTRIES, a California  
16 corporation,

17 Plaintiff,

18 vs.

19 RJO VISTA NEVADA, LLC, Nevada  
20 limited liability company; WORLD  
21 DEVELOPMENT, INC., a California  
22 corporation; BRUCE MAIZE, and  
23 individual; MICHAEL J. MONA, JR., an  
24 individual; DOES I through III, and ROE  
25 CORPORATIONS I through III, inclusive,

26 Defendants.

Case No. : A-12-670352-F

Dept. No.: XXVI

HEARING DATE: SEPTEMBER 18, 2013

HEARING TIME: 9:00 A.M.

27 ORDER

28 This matter came on for hearing on a status check regarding the Court Ordered Examination  
of Judgment Debtors MICHAEL J. MONA, JR., and MICHEL J. MONA JR., as Trustee of the  
MONA FAMILY TRUST DATED FEBRUARY 21, 2002, Plaintiff represented by JOHN R.  
HAWLEY OF the law firm of LEE, HERNANDEZ, LANDRUM, GAROFALO & BLAKE, the

LAW OFFICES  
**JOHN W. MUIJE & ASSOCIATES**  
1320 S. CASINO CENTER BOULEVARD  
LAS VEGAS, NEVADA 89104  
Phone: (702) 386-7002 Fax: (702) 386-9135

1 appearing defendants represented by JOHN W. MUIJE, ESQ., of the law firm of JOHN W. MUIJE  
2 & ASSOCIATES, the Court and Counsel having engaged in discussion regarding the status of said  
3 defendants' compliance with the Court's Examination Order and good cause appearing,

4 **IT IS HEREBY ORDERED AND ADJUDGED AND DECREED** that Plaintiff shall  
5 return to the offices of counsel for said Defendants the eighteen boxes of documents produced by  
6 said Defendants in compliance with this Court's Order on or about September 5, 2013, no later than  
7 5:00 p.m. (PDT) on Wednesday, September 25, 2013.  
8

9 **IT IS HEREBY ORDERED AND ADJUDGED AND DECREED** that said Defendants  
10 shall complete their production, constituting approximately two additional boxes of documents as  
11 represented by said Defendant's counsel, to counsel for Plaintiff, no later than 5:00 p.m.(PDT) on  
12 Wednesday, September 25, 2013.

13 **IT IS HEREBY ORDERED AND ADJUDGED AND DECREED** that Plaintiff shall have  
14 one week from the delivery of those additional documents, i.e. thru and including 5:00 p.m.  
15 Wednesday October 2, 2013, to complete its review and inspection of said two additional boxes of  
16 documents, and return the same to the offices of said Defendants counsel.  
17

18 **IT IS HEREBY ORDERED AND ADJUDGED AND DECREED** that the Court also  
19 entertained discussion regarding the scope and reasonableness of a sworn debtor examination, and  
20 has concluded that said examination shall be conducted over two 8-hour working days, (with suitable  
21 and appropriate breaks during said days), on dates mutually agreeable to the parties and counsel, to  
22 occur subsequent to October 2, 2013, but no later than November 20, 2013.  
23  
24  
25  
26  
27  
28



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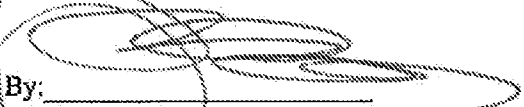
1 IT IS FURTHER ORDERED AND ADJUDGED AND DECREED that the court will

2 continue this matter for further status check to occur before the court on December 4, 2013 at the  
3 hour of 9:00 a.m., which status check may be unilaterally vacated by the parties to the extent that the  
4 document production and examination goes smoothly, and have been completed prior to that date.

5 Dated this 2nd day of October, 2013.


6  
7   
DISTRICT COURT JUDGE 

8 Respectfully submitted,  
9 JOHN W. MUIJE & ASSOCIATES

10   
11 By: \_\_\_\_\_  
12 JOHN W. MUIJE, ESQ.,  
13 Nevada Bar No: 2419  
14 1320 S. Casino Center Blvd.  
15 Las Vegas, NV 89104  
16 Telephone: 702-386-7002  
17 Facsimile: 702-386-9135  
18 Email: [jmuje@mujelawoffice.com](mailto:jmuje@mujelawoffice.com)  
19 Attorneys for Judgment debtors Michael J. Mona Jr.,  
20 and Michael J. Mona Jr., as trustee of the  
21 Monad Family Trust Dated February 21, 2002

22 APPROVED AS TO FORM AND CONTENT

23 LEE, HERNANDEZ, LANDRUM,  
24 GAROFALO & BLAKE

25 By:   
26 JOHN R. HAWLEY, ESQ.,  
27 Nevada Bar No; 001545  
28 7575 Vegas Drive #150  
Las Vegas, NV 89128  
Telephone: 702-880-8910  
Facsimile: 702-382-6675  
Email: [jhawley@lee-lawfirm.com](mailto:jhawley@lee-lawfirm.com)  
Attorneys for FAR WEST INDUSTRIES

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**EXHIBIT E**

**EXHIBIT E**

**POST-MARITAL PROPERTY SETTLEMENT AGREEMENT**

THIS POST-MARITAL PROPERTY SETTLEMENT AGREEMENT ("Agreement") is made and entered into on the 13 day of Sept 2013, by and between RHONDA HELENE MONA ("RHONDA"), a resident of the County of Clark, State of Nevada, and MICHAEL JOSEPH MONA ("MIKE"), a resident of the County of Clark, State of Nevada. MIKE and RHONDA sometimes will be collectively referred to in this Agreement as the "parties", and individually may be referred to as a "party."

**WITNESSETH:**

WHEREAS, the parties to this Agreement were married on October 17, 1982, in Las Vegas, Nevada, and ever since such date have been and now are married to each other;

WHEREAS, during the entirety of their 30 years of marriage, the parties have been, and currently are, residents of the State of Nevada;

WHEREAS, Nevada being a community property state, all the property acquired during the parties marriage has been acquired as community property;

WHEREAS, by way of this Agreement, and pursuant to Nevada law, the parties intend to equally divide between themselves that certain specific community property referenced below in this Agreement, and thereby making such property the sole and separate property of each party;

WHEREAS, on or about December 3, 2012, the parties acquired, as their community property, 30,000,000 shares of the corporate stock of Medical Marijuana, Inc, an Oregon corporation ("MMI");

WHEREAS, on or about January 15, 2013, the parties acquired, as their community property, and additional 7,337,500 shares of the MMI corporate stock;

WHEREAS, between the months of March through August 2013, the parties sold all of their 37,337,500 shares of the MMI corporate stock for \$6,813,202.20;

*RHM*  
RHM

*MMI*  
MMI

EXHIBIT NO. <u>1</u>
_____
Heidi Konsten, CCR 845

WHEREAS, it is the parties' intent to acknowledge, confirm, and document their equal division between themselves of the said \$6,813,202.20 they received from the sale of their MMI corporate stock, with RHONDA receiving \$3,406,601.10 of such monies as her sole and separate property, and MIKE receiving the remaining \$3,406,601.10 as his sole and separate property;

WHEREAS, the parties enter into this Agreement pursuant to the provisions of NRS 123.080, and the parties expressly acknowledge and understand that NRS 123.080 provides as follows:

1. A husband and wife cannot by any contract with each other alter their legal relations except as to property, and except that they may agree to an immediate separation and may make provision for the support of either of them and of their children during such separation.
2. The mutual consent of the parties is a sufficient consideration for such an agreement as is mentioned in subsection 1.
3. In the event that a suit for divorce is pending or immediately contemplated by one of the spouses against the other, the validity of such agreement shall not be affected by a provision therein that the agreement is made for the purpose of removing the subject matter thereof from the field of litigation, and that in the event of a divorce being granted to either party, the agreement shall become effective and not otherwise.
4. If a contract executed by a husband and wife, or a copy thereof, be introduced in evidence as an exhibit in any divorce action, and the court shall by decree or judgment ratify or adopt or approve the contract by reference thereto, the decree or judgment shall have the same force and effect and legal consequences as though the contract were copied into the decree, or attached thereto.

WHEREAS, the parties expressly acknowledge, understand, and agree that they specifically are entering into this Agreement pursuant to the provisions of NRS 123.080(1), which allow a husband and wife to enter into a contract, such as this Agreement, for the purpose of altering their legal relations with respect to their property, and with respect to each party's property rights; and the parties acknowledge and understand that their mutual consent to the terms of this Agreement, as evidenced by each party's signature endorsed at page 11 of this Agreement, is sufficient consideration for this Agreement to be a valid, legal, and enforceable agreement, legally binding upon each party;

  
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WHEREAS, it is the mutual wish and desire of the parties that a full and final adjustment and settlement of their property rights, and only their property rights, be had, settled, and determined at the present time by this Agreement with respect to the aforementioned \$6,813,202.20 they received from the sale of their MMI corporate stock;

WHEREAS, the parties further acknowledge and agree that this Agreement is not intended to alter their legal relations and obligations owed to each other as a married couple, other than as expressly set forth above with respect to their equal division of the \$6,813,202.20 they received from the sale of their MMI corporate stock, and this Agreement specifically and expressly is not intended to affect either party's legal obligation to support the other party as his or her spouse;

WHEREAS, MIKE and RHONDA wish to make clear their respective desires that each of them shall retain to himself or herself, as his or her respective sole and separate property, the \$3,406,601.10 he or she has received from their equal division of the \$6,813,202.20 they received from the sale of their MMI corporate stock;

WHEREAS, the \$3,406,601.10 received by RHONDA from the parties' sale of their MMI corporate stock is and shall forever be and remain RHONDA's sole and separate property, free from any and all claims of MIKE, and RHONDA shall continue to have the sole ownership, care, and control of her said \$3,406,601.10;

WHEREAS, the \$3,406,601.10 received by MIKE from the parties' sale of their MMI corporate stock is and shall forever be and remain MIKE's sole and separate property, free from any and all claims of RHONDA, and MIKE shall continue to have the sole ownership, care, and control of his said \$3,406,601.10;

  
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WHEREAS, by execution of this Agreement, each party expresses his or her intention not to claim any interest whatsoever in the said \$3,406,601.10 of separate property owned by the other party, or in any of the income, rents, issues, profits, or appreciation derived therefrom;

WHEREAS, the parties do not intend to immediately separate, and, in fact, the parties acknowledge that they remain happily married to each other and have no intent to separate or divorce at any time in the immediate or foreseeable future; notwithstanding, however, the parties do intend for this Agreement to be a valid, enforceable, and binding agreement to be ratified, adopted, and approved by any and all courts of competent jurisdiction should the parties ever separate or divorce;

NOW, THEREFORE, in consideration of the foregoing facts and the mutual agreements and covenants contained in this Agreement, it is covenanted, agreed and promised by each party hereto as follows:

I.

ACKNOWLEDGMENT OF RECITALS:  
ADDITIONAL CONSIDERATION

A. MIKE and RHONDA acknowledge, warrant, represent, and agree that the recitals set forth above on pages one through four of this Agreement, are true and correct, and the same are incorporated in this Section I as though the same are repeated in this Section in full.

B. As noted in the recitals set forth above in this Agreement, the parties acknowledge and agree that their mutual consent to the terms of this Agreement is sufficient consideration, and the only consideration necessary, for this Agreement to be a valid, legal, and enforceable agreement, legally binding upon each party.

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II.

DIVISION OF PROPERTY

A. RHONDA shall have confirmed to her, as her sole and separate property, free of any and all claims of MIKE, all right, title and interest, and the sole ownership in and to, the \$3,406,601.10 she received from the parties' sale of the parties' MMI corporate stock, as well as all additional property owned or acquired by RHONDA at any time with her said separate property, and all property described in this Agreement as being RHONDA's sole and separate property, including any of the income, rents, issues, profits, or appreciation derived therefrom.

B. MIKE shall have confirmed to him, as his sole and separate property, free of any and all claims by RHONDA, all right, title and interest, and the sole ownership in and to, the \$3,406,601.10 he received from the parties' sale of the parties' MMI corporate stock, as well as all additional property owned or acquired by MIKE at any time with his said separate property, and all property described in this Agreement as being MIKE's sole and separate property, including any of the income, rents, issues, profits, or appreciation derived therefrom.

III.

INTENT OF THE PARTIES AND STATUS OF PROPERTY

A. **Property Rights.** The parties intend, desire and agree that the aforementioned \$3,406,601.10 each party respectively received from the sale of the their MMI corporate stock shall be and forever remain each such party's respective sole and separate property, and all appreciation, increments, addition, improvements, income, and fruits therefrom also shall be and forever remain each such party's respective sole and separate property. The parties further intend that all such property forever remain each party's respective sole and separate property regardless of any interest either party might have acquired in such separate property of the other by reason of their continued marriage to each other, counsel, advice, energy, and efforts heretofore or hereafter, and regardless of the source of any monies invested in or contributed to any such property at any time during the parties' marriage or after the termination of the parties marriage, should the parties marriage ever

  
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be terminated by divorce or otherwise.

**B. No Transmutation of Separate Property.** The parties agree that at no time in the future shall there be any transmutation of any of their respective separate property interests into jointly owned or community property except by an express written agreement signed by both parties and executed with the same formality as this Agreement. Unless otherwise expressly provided in this Agreement, the following events shall, under no circumstance, be evidence of any intention by either party, or of an agreement between the parties, to transmute their separate property interests into jointly owned or community property:

1. The taking of title to property, whether real or personal, in joint tenancy or in any other joint or common form;
2. The designation of one party by the other as a beneficiary of his or her estate;
3. The commingling by one party of his or her separate funds or property with jointly owned funds or property, or with the separate funds or property of the other party;
4. The filing of a joint income tax return by the parties, whether it be for federal income tax purposes or for the purpose of any state income tax, and/or the payment of any such income taxes from jointly held funds, or the use of one party's separate property to pay the income taxes owed by the other party;
5. Any oral statements by either party;
6. Any written statement by either party other than an express written agreement of transmutation;
7. The payment from jointly held funds of any separate obligation, including, but not limited to, the payment of any mortgage/home loan, interest, or real property taxes on a separately owned residence or other real property; and
8. The joint occupation of a separately owned residence or any other such property.

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IV.

RIGHT TO DISPOSE OF PROPERTY BY WILL

Each of the parties shall have an immediate right to dispose of or bequeath by Will, living trust, or other estate planning vehicle, his or her respective interests in and to any and all separate property belonging to him or her from and after the date of this Agreement, and such right shall extend to all future acquisitions of separate property as well as to all separate property set over to either party under this Agreement.

V.

WAIVER OF INHERITANCE RIGHTS

Except as may be otherwise provided by Will, Codicil, or other such testamentary instrument voluntarily executed by either party, whether before or after the date of this Agreement, the parties each hereby waive any and all right to the separate estate of the other left at his or her death and forever quitclaim any and all right to share in the separate estate of the other by the laws of succession; and the parties hereby release one to the other all rights to inherit from the other any portion of the other party's separate estate.

VI.


MUTUAL RELEASE OF PROPERTY RIGHTS


It is hereby mutually understood and agreed by and between the parties hereto that this Agreement is deemed to be a final and conclusive agreement between the parties relative to their respective property rights set forth in this Agreement.

VII.

EXECUTION OF NECESSARY DOCUMENTS

A. MIKE and RHONDA agree to execute quitclaim deeds, stock transfers, and any and all other instruments that may be required in order to effectuate the transfer of any and all interest either may have in and to the separate property hereby conveyed to the other as specified in this Agreement, or as otherwise provided by the terms of this Agreement. Should either party fail to

  
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execute any such documents, this Agreement shall constitute a full and complete transfer of the interest of one to the other as provided in this Agreement, or to otherwise effectuate any provision of this Agreement. Upon failure of either party to execute and deliver any such deed, conveyance, title, certificate or other document or instrument to the other party, or as otherwise provided in this Agreement, this Agreement shall constitute and operate as such properly executed document, and the County Auditor and County Recorder and any and all other public and private officials are hereby authorized and directed to accept this Agreement or a properly certified copy thereof in lieu of the document regularly required for such conveyance or transfer.

B. MIKE and RHONDA each agree that should either party sell any of his or her separate property in which the other has no right, title, or interest by virtue of this Agreement, that such other party will and shall sign any deed, contract, or other instrument necessary to perfect title to any such property so conveyed.

#### VIII.


##### DISCLOSURE


Each party hereto acknowledges that he or she has read the foregoing Agreement, fully understands the contents of this Agreement, and accepts the same as fair, just and equitable. Each party further acknowledges that there has been no promise, agreement or understanding of either of the parties made to the other, except as expressly set forth in this Agreement, which has been relied upon by either as a matter of inducement to enter into this Agreement. Furthermore, each party hereto has had the opportunity to be independently advised by his or her attorney as to the legal effect of the terms and the execution of this Agreement.

#### IX.

##### EFFECT OF PARTIAL INVALIDITY

If any term, provision, promise, or condition of this Agreement is determined by a court of competent jurisdiction to be invalid, void, or unenforceable, in whole or in part, the remainder of this Agreement shall remain in full force and effect, and shall in no way be affected, impaired or

  
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invalidated.

X.

ENFORCEMENT OF AGREEMENT

A. If either party institutes any action or proceeding to enforce, or for the breach of any of the terms of this Agreement, or if either party contests the validity of this Agreement or challenges or claims that this Agreement is not enforceable, then the prevailing party shall be entitled to recover his or her attorneys' fees and costs from the other party. In any such action or proceeding, the prevailing party shall be entitled to recover all attorneys' fees and costs incurred by that party, regardless of whether the action or proceeding is prosecuted to judgment. This shall include attorneys' fees and costs incurred by a party defending a claim or suit necessitated by the other party's failure to indemnify as required in this Agreement.

B. In addition to the provisions of subparagraph A immediately above, each party to this Agreement shall be indemnified for and against all loss, damages, costs, and expenses incurred as a result of or arising from any demand, claim, or suit by or on behalf of the other party contesting or attempting to modify, change, set aside, nullify, or cancel this Agreement or any part or provision of this Agreement for any reason whatsoever. The indemnity provisions of this Agreement shall specifically apply to costs, expenses, and attorneys' fees incurred by a party successfully seeking enforcement of this Agreement or any provision of this Agreement.

XI.

NO PARTY DEEMED DRAFTER

The parties agree that neither party shall be deemed to be the drafter of this Agreement and, in the event this Agreement is ever construed by a court of law or equity, such court shall not construe this Agreement or any provision hereof against either party as the drafter of the Agreement. MIKE and RHONDA hereby acknowledge that both parties have contributed substantially and materially to the preparation of this Agreement.

  
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XII.

GOVERNING LAW

The laws of the State of Nevada shall govern the validity, construction, performance, and effect of this Agreement. This Agreement and the rights of the parties hereto shall be governed and interpreted in all respects by the law applied to contracts made wholly to be performed within the State of Nevada.

XIII.

CUMULATIVE EFFECT

The parties' rights and remedies hereunder shall be cumulative, and the exercise of one or more shall not preclude the exercise of any other(s).

XIV.

COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed an executed original, but all of which together shall be deemed one and the same document.

  
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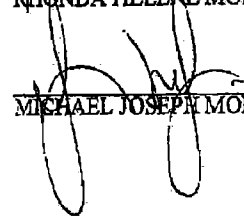
VERIFICATION


A. MIKE and RHONDA each agrees that he or she has read this Agreement in its entirety prior to his or her execution of this Agreement, and fully understands the same.


D. MIKE and RHONDA each further acknowledges and agrees that he or she fully understands that this Agreement is a full and final settlement of rights and obligations pertaining to the matters addressed in and resolved by this Agreement.

IN WITNESS WHEREOF, the parties hereto have herunto set their hands to this Agreement the year and date above written.

  
RHONDA HELENE MONA

  
MICHAEL JOSEPH MONA

  
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ACKNOWLEDGMENTS

STATE OF CALIFORNIA }  
COUNTY OF } ss.

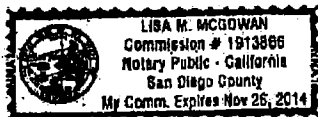
On this 13<sup>th</sup> day of September, 2013, personally appeared before me, a Notary Public in and for said County and State, RHONDA HELENE MONA, personally known (or proved) to me to be the person whose name is subscribed to the above instrument, and who acknowledged that she executed the instrument.



*Lisa M. McGowan*  
Notary Public

STATE OF CALIFORNIA }  
COUNTY OF } ss.

On this 13<sup>th</sup> day of September, 2013, personally appeared before me, a Notary Public in and for said County and State, MICHAEL JOSEPH MONA, personally known (or proved) to me to be the person whose name is subscribed to the above instrument, and who acknowledged that he executed the instrument.



*Lisa M. McGowan*  
Notary Public

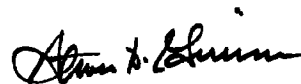
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**EXHIBIT D**

**EXHIBIT D**

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CLERK OF THE COURT

1 OAJD  
2 DAVID S. LEE, ESQ.  
3 Nevada Bar No. 6033  
4 John R. Hawley  
5 Nevada Bar No. 001545  
6 LEE, HERNANDEZ, LANDRUM,  
7 GAROFALO & BLAKE  
8 7575 Vegas Drive, Suite 150  
9 Las Vegas, Nevada 89128  
10 (702) 880-9750  
11 Fax; (702) 314-1210  
12 [dlee@lee-lawfirm.com](mailto:dlee@lee-lawfirm.com)  
13 [jhawley@lee-lawfirm.com](mailto:jhawley@lee-lawfirm.com)

Attorneys for Plaintiff

DISTRICT COURT  
CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada  
limited liability company; WORLD  
DEVELOPMENT, INC., a California  
corporation; BRUCE MAIZE, and individual;  
MICHAEL J. MONA, JR., an individual;  
DOES I through 100, inclusive,

Defendants.

CASE NO.: A-12-670352-F

DEPT: ~~26~~ 26

ORDER FOR APPEARANCE OF  
JUDGMENT DEBTORS

ORDER FOR APPEARANCE OF JUDGMENT DEBTORS

This matter, having come on regularly for hearing in Chambers before the Honorable Judge Kerry Earley, upon FAR WEST INDUSTRIES' ("FWI") Ex Parte Motion for Order Allowing Examination of Judgment Debtors ("Motion"). The Court having carefully examined the pleadings and papers on file in this matter, and with good cause appearing, hereby enters its Orders as follows:

LEE, HERNANDEZ, LANDRUM,  
GAROFALO & BLAKE  
7575 VEGAS DRIVE, SUITE 150  
LAS VEGAS, NV 89128  
(702) 880-9750



1           **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the Motion filed on  
2 behalf of FWI is hereby **GRANTED**.

3           **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that MICHAEL J.  
4 MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of the Mona Family Trust  
5 dated February 21, 2002, appear at Litigation Services, 3770 Howard Hughes Parkway, Suite 300  
6 Las Vegas, Nevada, on the 18<sup>th</sup> day of February, 2013, at the hour of 10:00 a.m., with regard to  
7 the Judgment entered against MICHAEL J. MONA, JR, individually, and MICHAEL J. MONA,  
8 JR., as Trustee of the Mona Family Trust dated February 21, 2002, in favor of FWI on January  
9 12, 2010, then and there to answer questions under oath concerning the assets of MICHAEL J.  
10 MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of the Mona Family Trust  
11 dated February 21, 2002.

12           **MICHAEL J. MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of**  
13 **the Mona Family Trust dated February 21, 2002, ARE COMMANDED TO BRING** copies  
14 of any and all documents outlined in Exhibit "A" attached hereto.

15           **MICHAEL J. MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of**  
16 **the Mona Family Trust FAILURE TO APPEAR AT THE TIME SET FORTH ABOVE**  
17 **COULD RESULT IN AN ORDER TO SHOW CAUSE TO BE ISSUED TO EXPLAIN ITS**  
18 **FAILURE TO APPEAR AND TO DISCLOSE ITS ASSETS.**


19           DATED this 29 day of January, 2013.

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22 \_\_\_\_\_  
DISTRICT COURT JUDGE

23 Respectfully submitted by:

24 LEE, HERNANDEZ, LANDRUM,  
25 GAROFALO & BLAKE, APC

26 By:

27   
28 \_\_\_\_\_  
JOHN B. HAWLEY, ESQ.  
Nevada Bar No. 001545  
7575 Vegas Drive, Suite 150  
Las Vegas, Nevada 89128

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## EXHIBIT "A"

EXHIBIT "A"

*Judgment Debtor Exam of MICHAEL J. MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of the Mona Family Trust dated February 21, 2002*

LIST OF DOCUMENTS AND THINGS TO BE PRODUCED BY

MICHAEL J. MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of the Mona Family Trust dated February 21, 2002, AT DEBTOR'S EXAMINATION. ("You" and "Your" refers herein to MICHAEL J. MONA, JR, individually, and MICHAEL J. MONA, JR., as Trustee of the Mona Family Trust dated February 21, 2002).

1. Any and all Federal Employer Identification Numbers, Sales Tax Numbers, State Tax Numbers and City Tax Numbers.
2. Copies of any and all documents establishing and/or governing the Mona Family Trust dated February 21, 2002, and any amendments thereto.
3. A copy of each document showing your monthly income for the last 6 months.
4. A copy of each of your federal income tax returns with all schedules and any quarterly estimates of income taxes from 2005 through to the present.
5. A copy of each of your state income tax returns with all schedules and any quarterly income taxes from 2005 through to the present.
6. All "1099" forms reflecting income received by you for the last five (5) years.
7. Records of any and all monies received by you whether in the nature of bonuses, reimbursement of expenses, wages or reimbursement of loans for the past five (5) years.
8. Documents reflecting all assets (real, personal or mixed), whether owned by you individually, in any partnership or corporation form or in joint tenancy or in tenancy in common for the past five (5) years.
9. A copy of all documents related to any real assets (land, buildings, and any other commercial or residential real estate) in which you have any interest, as well as any appraisals prepared on such assets. The requested documents specifically include but not limited to all Deeds, Deeds of Trust, Mortgage Applications, Closing Statements, coupon books, statements of account, credit reports, title

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- insurance policies, and all other information in any way reflecting your involvement with, your ownership of, or your transactions as regards real estate or other property owned by you.
10. A copy of any and all lease(s) which you have signed, including, but not limited to, residential, commercial, and automotive. These leases do not need to be owned by you but can be regarding real estate or other property not owned by you but for which regular monthly lease payments are made.
11. A copy of all statements, and a copy of each check register for each account, for each and every financial institution (including but not limited to all banks, savings and loans, credit unions, and brokerage houses) where you have an account, where you have signature authority on an account, or in which you have held or now hold an interest from January 2005 through to the present.
12. A copy of all bank statements, deposit slips, and canceled checks for all bank, money market accounts which you own or in which you owned any interest whatsoever, or on which you were authorized to draw checks, whether said documents were in your name alone, in the name of another person/entity, or in the name of another and yourself as joint tenants, for the period of three (3) years prior to the date hereof.
13. All savings account passbooks, bank statements and certificates of deposit for any and all accounts, in which you owned any interest whatsoever, or from which you were authorized to make withdrawals, whether said accounts were in your name alone, in the name of any other person, or in your name and another as joint tenants, for the period of five (5) years prior to the date hereof.
14. All records regarding safe deposit boxes and any certificates of stocks and bonds belonging to you or in which you have had any interest direct, indirect, contingent, beneficial, or otherwise, whatsoever either alone or jointly with any other person for five (5) years preceding the date of this Order.
15. All stocks, bonds, debentures or other securities, which you personally own or claim any interest to or had any interest in whether such interest was direct, indirect, contingent, beneficial, or otherwise, either alone or jointly with any other person for five (5) years preceding the date of this Order.
16. All life insurance policies naming you as beneficiary whether direct, indirect, contingent, beneficial, or otherwise, therein.
17. A copy of all certificates of title or any other documents evidencing your ownership with respect to any automobiles, motorcycles, trucks, RVs, ATVs, jet skis, boats, trailers, airplanes, or any other type of vehicle, which you now own, claim any interest in, or regularly derive.

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18. All evidence of any and all notes, contracts, negotiable instruments, receivable or accounts receivable whether due or not due belonging to you or in which you have or have had any interest whosoever either alone or jointly with any other person or persons for five (5) years preceding the date of this Order.
19. A list of real property owned by you and, if occupied by Tenants, please state the following:
  - a. Tenants' names;
  - b. Tenants' address;
  - c. amount of monthly rent.
20. Documents relating to evidence of each and every credit card in your name or jointly with another person/entity, together with copies of all statements submitted by said credit companies for the last five (5) years.
21. All fire, burglary, and extended coverage insurance policies now in force upon any real estate or personal property (including copies of insurance inventories) owned by you or in which you have or have had any interest whatsoever either alone or jointly with any other person(s)/entity(ies) for five (5) years preceding the date of this Order.
22. All titles, bills of sale, or contracts of sale upon personal property, including but not limited to, stocks, bonds, memberships, or partnership interests, automobiles, boats, airplanes, household goods, miscellaneous furniture and fixtures belonging to you or in which you have or have had any interest (direct or indirect, beneficial or otherwise), whatsoever either alone or jointly with any other person or persons for five (5) years preceding the date of this Order.
23. A complete inventory of all items of personal property owned by you, of any nature whatsoever, including automobiles, boats, airplanes, household fixtures, furnishings, and appliances, whether paid for or not. If the personal property is not in your possession and in the possession of another person, designate the name and address of the person having possession of the property.
24. Copies of all financial statements given by you, either individually or jointly with another person or as a corporation, to any third party at any point during the past five (5) years preceding the date of this Order.
25. A statement listing all of your debts and obligations.
26. All automobile or personal property casualty or collision or all risk insurance policies presently owned by you.
27. A copy of all records pertaining to the acquisition, transfer and sale of all securities, in which you have had an interest from at least five (5) years prior to the date hereof to the present.

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- 1 28. A copy of all evidence of mining claims, patents or development work owned by
- 2 you or in which you have or have had any interest whatsoever either along or
- 3 jointly with any other person or persons for at least five (5) years immediately
- 4 preceding the date of this Order.
- 5 29. A copy of all documents which evidence any trademark, trade name, copyright, or
- 6 patent in which you have or have had an interest.
- 7 30. A copy of all general ledgers, accounting journals, financial statements or other
- 8 financial records prepared or maintained as regards your finances during the last
- 9 five (5) years.
- 10 31. A copy of any/all lawsuits, judgments, etc., which you may be a party to.
- 11 32. A copy of all loan applications used for any purpose whatsoever in the last five (5)
- 12 years.
- 13 33. A copy of your current plan and your most recent plan statement or summary plan
- 14 description for any deferred compensation in which you are a participant.
- 15 34. A copy of any and all agreements, of whatever kind, for the use of a safe deposit
- 16 box, safe or vault or other place of safekeeping.
- 17 35. A copy of each and every life insurance or annuity policy in which you hold a
- 18 beneficial interest.
- 19 36. Copies of all your corporate records, including Minutes (for the past 5 years),
- 20 Stock Transfer Ledgers and other "corporation" records.
- 21 37. Copies of any partnership or joint venture agreements and all correspondence
- 22 related thereto.
- 23 38. Copies of all of your business licenses.
- 24 39. Copies of any and all contracts to which you are a party entered into within the last
- 25 five (5) years.
- 26 40. All records, which evidence charitable donations of \$100 or more up to personal
- 27 "gifts" with a value of more than \$100 made by you or on your behalf within the
- 28 last five (5) years.
41. Copies of any and all documents whereby you acquired or disposed of an interest
- in any business(es) within the last five (5) years.
42. Copies of any employment or consulting contracts to which you are a party.
43. Any notes owed to you.

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44. Copy of all accounts receivable documents, both current and for five (5) years prior to the date of this Order.
45. All of your general ledgers, accounting journals, financial statements or other financial records prepared or maintained during the last five (5) years.
46. A copy of each and every document evidencing each and every business in which you have, or had, an interest from 2005 through to the present.
47. A copy of each and every profit and loss statement for each business in which you have, or had, an interest from 2005 through to the present.
48. A copy of each financial statement or credit application prepared by you or on behalf of you and/or any business in which you have, or had, any interest, whether legal or equitable, in the past five (5) years.

**EXHIBIT C**

**EXHIBIT C**



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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

APR 27 2012

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE, RIVERSIDE COURT**

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada limited  
liability company; WORLD DEVELOPMENT,  
INC., a California corporation; BRUCE MAIZE,  
an individual; MICHAEL J. MONA, JR., an  
individual; and DOES 1 through 100, inclusive,

Defendants.

Case No. RIC495966

JUDGE: Hon. Jacqueline Jackson

~~[PROPOSED] JUDGMENT NUNC PRO  
TUNC~~

Action Filed: March 24, 2008

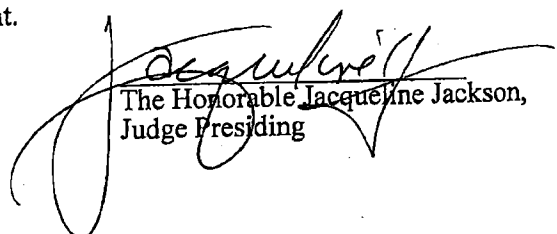
Trial Date: September 23, 2011

On February 23, 2012, the Honorable Jacqueline Jackson entered Finding of Fact and Conclusion of Law in the above-referenced matter. Based upon those Findings and Conclusion, Judgment is hereby entered in favor of Plaintiff Far West Industries, a California corporation and against the following Defendants, jointly and severally: (1) Michael J. Mona, Jr.; (2) Michael J. Mona, Jr., as Trustee of the Mona Family Trust dated February 21, 2002; (3) Rio Vista Nevada, LLC, a Nevada limited liability company; and (4) World Development, Inc., a California corporation in the amount of \$17,777,562.18. Recoverable court costs of \$25,562.56 and attorney's fees of \$327,548.84 are also awarded to Far West Industries, jointly and severally against all Defendants. The Clerk is hereby directed to enter those amounts on this Judgment following Far West Industries' post-Judgment petition for them. Finally, the Clerk is hereby

~~[PROPOSED] JUDGMENT NUNC PRO TUNC~~

1 directed to release the \$32,846 that was interplead by Defendant Fidelity National Title Company  
2 to Far West Industries upon entry of this Judgment.

3 Dated: 4/27/12

  
The Honorable Jacqueline Jackson,  
Judge Presiding

GREEN & HALL  
ATTORNEYS AT LAW  
A WEST GROUP COMPANY

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~~[PROPOSED] JUDGMENT NUNC PRO TUNC~~

**GREEN & HALL**  
ATTORNEYS AT LAW  
A PROFESSIONAL CORPORATION

(Signature)

SERVICE LIST

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Howard Golds, Esq. Jerry R. Dagrella, Esq. Best, Best & Krieger, LLP 3750 University Avenue Riverside, California 92502-1028 <a href="mailto:howard.golds@bbklaw.com">howard.golds@bbklaw.com</a> <a href="mailto:jerry.dagrella@bbklaw.com">jerry.dagrella@bbklaw.com</a> (951) 686-1450 (951) 686-3083 Attorney for Michael J. Mona, Jr.	Empire West Development, Inc. 42575 Melanie Place, Suite S Palm Desert, CA 92211 (760) 568-2850; Fax: (760) 568-2855 <a href="mailto:maize@empirewestdev.com">maize@empirewestdev.com</a> In Pro Per
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FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

FAR WEST INDUSTRIES, A CALIFORNIA ) Case No. RJC495966  
CORPORATION, PLAINTIFF V RIO VISTA NEVEDA, )  
LLC., A NEVADA LIMITED LIABILITY; WORLD ) JUDGE: Hon. Jacqueline Jackson  
DEVELOPMENT, INC., A CALIFORNIA CORPORATION; ) DEPT: J1  
BRUCE MAIZE, AN INDIVIDUAL; MICHAEL J. MONA, ) FINDINGS OF FACT AND  
JR., AN INDIVIDUAL, AND DOES 1 THROUGH 100, ) CONCLUSIONS OF LAW  
INCLUSIVE, DEFENDANTS )  
Action Filed: March 24, 2008  
Trial Date: September 23, 2011

On September 23, 2011, the above-referenced action came on for trial before the Honorable Jacqueline C. Jackson, Judge presiding. Plaintiff Far West Industries, a California corporation ("Far West") was represented by Robert L. Green & Hall, APC. Defaults were taken against Defendants Rio Vista Nevada, LLC, a Nevada limited liability company ("RVN") and World Development, Inc., a California corporation ("World Development") on October 7, 2010. Defendant Michael J. Mona, Jr. ("Mona"), both individually and as a Trustee of the Mona Family Trust dated February 21, 2002, was represented by Howard Golds and Jerry R. Dagrella of Best, Best and Krieger, LLP. After considering the trial testimony and evidence, the Court issued its Statement of Tentative Decision on November 30, 2011. Pursuant to Rule 3.1590(c)(3)

1 of the California Rules of Court, Far West was directed to prepare these Findings of Fact and  
2 Conclusions of Law. The court has edited them and this is the final version.

3 **I. Summary of Facts and Evidence**

4 **A. Mona Acquires the Project**

- 5 1. Michael Shustek ("Shustek") was for all times relevant herein the President of Vestin  
6 Mortgage, Inc. ("Vestin").
- 7 2. Vestin is a mortgage broker who lends money from Vestin-controlled Real Estate  
8 Investments Trusts ("REITs").
- 9 3. Vestin had loaned money to Lynn Burnett ("Burnett"), who in 2003 was developing a  
10 project which consisted of 1,362 lots in Cathedral City, California (the "Project").
- 11 4. 549 of those lots were being financed by Vestin (the balance by another lender), and  
12 Burnett had defaulted on his loan.
- 13 5. Shustek asked Mona to purchase from Burnett that portion of the Project financed by  
14 Vestin, and in doing so, agreed to loan Mona \$35 million of the REIT's money.
- 15 6. Shustek asked Mona to get involved even though Mona had no experience building a  
16 master planned residential community.
- 17 7. Of the Vestin \$35 million loan, \$19,268,568.32 was paid to purchase the Project; this  
18 was the amount needed to fully pay off Burnett's loan to Vestin.
- 19 8. \$9 million was to pay for the construction (the "Construction Loan") and \$3.6 million  
20 was reserved to pay interest on the loan (the "Interest Reserve").
- 21 9. Mona formed RVN, a Nevada, single-purpose LLC to take title to the Project.
- 22 10. The Mona Family Trust dated February 21, 2002 ("Mona Family Trust") owned  
23 100% of RVN.
- 24 11. Mona contributed no capital to RVN upon its formation. He formed that entity and  
25 took title in its name "to avoid liability". He had no intention of making any personal  
investment in the Project because it was "too risky".
12. Mona provided Vestin with a 12-month guaranty of the RVN loan (the "Guaranty")  
by another single-purpose, Nevada entity that was owned solely by Mona and also  
had no capital or assets, Emerald Suites Bonanza, LLC ("Emerald Suites").
13. For its part, Vestin (and not the REITs) was paid an initial fee of \$1.4 million from  
the RVN loan proceeds.

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**B. Mona Distributes Construction Loan Proceeds for Purposes Other than Construction**

14. Mona began issuing checks from the Construction Loan.
15. More particularly, on February 9, 2004, the first draw was made on the Construction Loan for \$2,448,481.82.
16. When that money was deposited into the RVN checking account three days later, there was only \$2,118,776.38 left.
17. Mona "couldn't remember" what happened to the remaining \$329,705.55.
18. Mona and his wife are the sole Trustees and Beneficiaries of the Mona Family Trust (a revocable trust). The Mona Family Trust was 100% owner of RVN at that time and Mona was the only signatory on the RVN account.
19. There was \$900,00 paid to RVN on February 5, 2004.
20. This check was deposited into the RVN account, but does not show up on the RVN Account Register.
21. Mona also paid \$702,000 from the Construction Loan to certain individuals and entities at the express direction of Shustek, even though those individuals and entities had never been affiliated with the Project, preformed no work on the Project, and Mona did not even know who they were.
22. Mona then paid \$1,283,700 to the Mona Family Trust, himself, and MonaCo Development Company (his Nevada construction company) from the Construction Loan at the direction of Shustek who had told Mona that Mona could take a \$1 million fee for himself up front.
23. There was no provision in the RVN Operating Agreement for any of these payments.
24. The Court finds that Mona took the money for himself, the Mona Family Trust, and MonaCo Development from RVN shortly after he acquired the Project.
25. At the time that Mona took that money, and also immediately paid the \$1.4 million fee to Vestin and the \$702,000 to the Shustek-related individuals, RVN was insolvent.

**C. RVVA is Also Created at the Same Time**

26. Mona had only purchased 549 of the Project's 1,362 total lots.

1 27. Because it was all being developed at the same time, and Burnett was retaining the  
2 balance of the Project, he and Mona created Rio Vista Village Associates, LLC  
3 ("RVVA") to perform all of master plan community work which benefitted both parcels  
4 jointly (infrastructure improvements such as streets, utilities, a clubhouse, a park,  
5 landscaped detention basins, a water reservoir, a school, etc.).

6 28. Mona was the sole Manager of the RVN and one of the two Managers of the RVVA.

7 29. Mona retained his title and function as a Manager of RVN throughout the life of that  
8 entity, and for all times relevant, he was in charge of all finances for the RVN and the  
9 Project.

10 **D. Mona Solicits World Development's Participation**

11 30. Mona solicited World Development's involvement in the Project.

12 31. The Mona Family Trust sold 45% of RVN to World Development for \$45.

13 32. At that time, the Mona Family Trust also contributed \$55 in capital to RVN.

14 33. This \$100 from World Development and the Mona Family Trust was the only capital  
15 ever contributed to RVN at any time.

16 34. For all times relevant hereafter, World Development's CEO and the designated  
17 Manager of RVN was Bruce Maize ("Maize").

18 35. Mona remained Co-Manager of RVN with Maize.

19 **E. The Project**

20 36. Burnett defaulted on his other loan for the balance of the Project and filed  
21 bankruptcy.

22 37. His interest in RVVA was thereafter acquired by WHP Rio Vista, LLC, which was  
23 owned by Capstone Housing Partners, LLC ("Capstone").

24 38. By October of 2005, RVN had exhausted Interest Reserve.

25 39. Maize and Mona knew that the Project still required \$15 million in construction costs,  
with 40% (\$6,000,000) owned by RVN under the RVVA Operating Agreement.

40. That \$6,000,000 sum did not include interest payments on the \$35 million loan  
(which were as high as \$411,230.96 per month and which were no longer able to be paid  
from the Interest Reserve since it had already been exhausted).



1 41. In an Amended Operating Agreement for RVVA, RVN allowed Capstone to become  
2 a member of RVVA under certain conditions.

3 42. One such condition required Capstone to contribute just under \$1,500,000 to  
4 reimburse RVN for construction costs.

5 43. World Development learned about Mona's above-referenced million-dollar-plus  
6 payments from the Construction Loan to himself, his Family Trust and MonaCo  
7 Development and demanded that it also receive a distribution of "profits" to World  
8 Development in the amount of \$856,598.60, even though RVN had a negative net worth  
9 of \$3.8 million at the time and no revenue from inception.

10 **H. January of 2006**

11 44. In January of 2006, the Construction Loan was coming due with no funds to pay it  
12 off.

13 45. Mona and Vestin agreed to extend the Construction Loan for a short period of time  
14 (three months), at the cost of \$700,000 in loan extension fees.

15 46. That \$700,000 came from the Construction Loan proceeds and it was paid to Vestin,  
16 not the REITs.

17 47. Therefore as of January of 2006, Vestin had now collected an aggregate of  
18 \$2.1million on loan fees from the Project (\$1.4 million initial fee plus the \$700,000  
19 extension).

20 48. The parties documented that extension in a January 3, 2006, Loan Extension  
21 Agreement (the "Amendment").

22 49. Mona was concerned the Project was in financial trouble in January of 2006.

23 50. At that time, conversations took place between Maize and Mona about a plan to "sell  
24 the asset, get the loan paid off, and move down the road."

25 51. That's also why at this time, RVN hired Park Place Partners to sell either the entire  
Project, or any parts of it they could.

**I. Far West Expresses Interest in the Project**

52. In approximately January of 2006, Far West was considering purchasing a portion of  
the Project.

53. One of the things requested by Far West was information about who was behind the  
RVN and guarantying its obligations.

1 54. Scott Lissoy ("Lissoy") of Far West knew of Maize and held Maize in high regard.

2 55. While that relationship gave Far West some measure of comfort regarding this  
3 Project, it still wanted to be sure that somebody had something financially at risk to make  
4 sure that they would deliver to Far West critical infrastructure and critical water meters  
after escrow closed.

5 56. Far West was purchasing 76 lots from RVN that were effectively an "island" in the  
6 middle of a large undeveloped residential community.

7 57. If the infrastructure surrounding that island was not completed, Far West would have  
8 no streets, water, electrical, cable, telephone, and the like to which it would connect.

9 58. It would also be in the midst of a master-planned community (clubhouse, swimming  
10 pools, community parks, common areas everywhere, etc.) that would not be completed.

11 59. Any hope of successfully building and selling homes would be gone, and therefore  
12 Far West wanted to insure that the infrastructure was going to be completed in a timely  
13 manner (by the agreed date of November 1, 2006).

14 60. Maize represented to Lissoy that RVN and RVVA could complete all infrastructures  
15 by November 1, 2006.

16 61. Far West therefore asked Maize to include specific Representation and Warranty in  
17 the Purchase Agreements, thereby obligating RVN to complete that entire infrastructure  
18 by November 1, 2006.

19 62. Far West also secured Representations and Warranties that confirmed what Maize  
20 was telling it on behalf of RVN; all necessary water meters would be available to Far  
21 West at the close of escrow and there was no claims either pending or threatened by any  
22 entity that might otherwise negatively impact the development of Far West's lots and/or  
23 the construction of the Project's infrastructure.

24 63. Finally, Far West asked Maize to confirm what he had told Lissoy; that the "Due  
25 Diligence Documents" given by Maize to Far West included everything that was material  
to the transaction.

64. Lissoy also asked Maize about who was financially behind RVN, and when Maize  
and Robert Pippen (World Development's and RVN attorney) represented to Lissoy and  
Ira Glasky of Far West that Mona was a man of substantial financial means who had  
personally guaranteed the Vestin loan, Lissoy asked for written proof.

65. The next day, Richard Van Buskirk (on behalf of Maize) asked for written proof of  
Mona's personal Guaranty.

1 66. Mona had in his possession an amendment to the Loan (the "Amendment"), a  
2 document that he had signed in January, 2006 as an individual.

3 67. Therefore in response to the initial request from Lissoy, Mona's Office Manager (on  
4 behalf of Mona and acting as his agent) provided Maize with the Amendment (and not  
5 the actual Guaranty), since it represented him to be the Guarantor personally by separate  
signature and it neither revealed that the Guaranty was from Emerald Suites nor that it  
had expired.

6 68. The Amendment was forwarded to Far West the next day in response to its inquiries  
7 regarding confirmation of Mona's personal Guaranty.

8 69. That proof of Guaranty was sent by Maize to Far West with a copy to Mona and  
9 containing a note stating that a "copy of the loan extension with the Guarantee is  
attached- Condition met" (referring to proof of Mona's personal Guaranty as a condition  
precedent to escrow closing).

10 **J. The Capstone Notice of Default**

11 70. RVN was in default on its capital contributions to RVVA, and on March 31, 2006,  
12 Capstone (through Bert) sent Mona a formal Default Notice, demanding that RVN cure  
13 its deficit in the RVVA account.

14 71. Capstone demanded that RVN contribute \$762,943 by April 14, 2006 and an  
15 additional \$968,953 in the coming months.

16 72. Mona told Bert that RVN was out of money and would not be paying anything further  
17 to RVVA.

18 73. Bert told Mona and Maize that Capstone would continue moving forward with only  
19 its portion of the Project so that its investment was not placed in jeopardy.

20 74. Bert refused to contribute towards any of the infrastructure that benefited the RVN  
21 property (including what was to be Far West's lots) unless and until RVN cured its  
22 breach.

23 75. Bert also told them that he was keeping all of the water meters allocated to the Project  
24 until RVN brought its account current.

25 76. Without a water meter, no developer could build and sell a home.

77. Therefore as of the Spring of 2006, RVN's portion of the Project had no realistic  
chance of completion.

1           **K. May of 2006**

2           78. By May of 2006, Cathedral City (the "City") had become very concerned with the  
3           Project's innumerable problems and lack of progress.

4           79. By that time, the Project's infrastructure was far from complete (including a \$5  
5           million off-site water reservoir, a recreation center and common area amenities).

6           80. The City was threatening to shut down Phase II of the Project (which included the Far  
7           West lots) altogether.

8           81. Also at this time, the Vestin loan was again coming due and Mona negotiated another  
9           short (three month) extension.

10          82. These short extensions were costly in terms of large extension fees demanded and  
11          subsequently paid to Vestin (and not the REITs) totaling \$1,700,000 along with interest  
12          rate increases (rising from 8% to as high as 14.5%).

13          83. At this point, Vestin had now taken over \$3 million in total fees from the loan  
14          proceeds provided to Mona by the REITs (which at this point in time had funded all of  
15          Mona's financial requirements in this Project).

16          84. The Project was already \$1,913,636 over budget as of May 16, 2006, and RVN was  
17          both out of cash and in default of its obligations to RVVA.

18          85. Mona knew that this cost overrun was important and needed to be disclosed to Far  
19          West.

20          86. The same is true with respect to the Capstone Default Notice: Mona assumed that  
21          Maize was telling Far West all of this during their negotiations.

22          87. Maize told Far West nothing about the RVVA default or the cost overruns, nor did he  
23          provide Far West with the default letters/notices.

24          88. As of that point in time, Mona, World Development, and Vestin (and Vestin's related  
25          parties) had taken \$7,521,254.65 (all but \$900,000 coming from the \$9 million  
26          Construction Loan) that was not used by them for construction.

27          89. Also as of that date, there was still \$6,936,454.82 that needed to be contributed to  
28          RVVA by RVN.

29          90. RVN therefore had a shortfall as of June 1, 2006, with no potential available source  
30          of additional capital.

31          91. Neither Maize nor Mona disclosed this shortfall to Far West at any time prior to Far  
32          West executing the Purchase Agreements.

1  
2 92. Furthermore, neither Maize nor Mona ever told Far West that Mona, World  
Development, and Vestin had taken \$7,521,254.65 from the Project.

3 **L. Mona and Maize Mislead Far West into Purchasing Lots by Concealing the**  
4 **Project's True State**

5 93. Maize's negotiations with Far West were proceeding and he kept Mona informed.

6 94. Mona was responsible for all finances on behalf of RVN, and Maize told Lissoy that  
7 all decisions must therefore be made jointly with Mona.

8 95. Furthermore, the draft Purchase Agreements (as the transaction was negotiated  
between January and May of 2006) were sent to Mona for review and comment.

9 96. E-mail correspondence between Maize and Mona and addressing the Far West deal  
10 started with the first draft agreement in January of 2006 and ended with the "final deal  
11 points" on May 26, 2006 (five days before the Purchase Agreements with Far West were  
signed).

12 97. On June 1, 2006, Far West signed two Purchase Agreements for 76 lots in the Project.

13 98. The combined purchase price under the agreements was \$6,430,961.45. Escrow for  
14 72 of the lots closed on June 9, 2006, and escrow for the remaining 4 lots closed on  
August 31, 2006.

15 99. The Purchase Agreements contain, among others, the following Representations and  
16 Warranties which were deemed to be true as of the date of the Purchase Agreements were  
signed and restated as of the date escrow closed:

17 100. "To the actual knowledge of the Seller, there are no...[a]ctions or claims pending or  
18 threatened by any governmental or other party which could affect the Property"

19 101. "Seller warrants that none of RVVA's improvements outside or inside the Property  
20 boundary shall preclude, limit or delay Buyer from developing the Property (including  
obtaining building permits and/or certificates of occupancy...)"

21 102. "[A]ll improvements except the final lift of asphalt (surface or otherwise) on the  
22 streets surrounding the Property (Rio Largo Road, Rio Guadalupe Road and Rio Madera  
Road) will be complete by November 1, 2006

23 103. "Seller shall use diligent reasonable efforts to ensure that water meters are available  
24 to Buyer, pending payment by Buyer of required meter and facilities fees..."

1 104."To Seller's actual knowledge, the Due Diligence Documents constitute all of the  
2 material documents relating to the Property in the Seller's possession as of the date of  
this Agreement..."

3 105."Each of the representations and warranties set forth in this Section 3 and in Section  
4 6.2 is material to and is being relied upon by Buyer and the continuing truth thereof shall  
constitute a condition precedent to Buyer's obligations hereunder".

5 106.All of these Representations and Warranties were false on June 1, 2006, and both  
6 Maize and Mona knew they were false.

7 107. Maize and Mona knew that RVN was in default under RVVA Operations  
8 Agreement, and that the Project was facing imminent failure.

9 108. Moreover, RVN's default had resulted in a pending claim by Capstone (sent directly  
10 to Mona as RVN's Manager) which would preclude completion of the infrastructure,  
delivery of water meters, and Far West's ability to develop and sell homes upon its lots.

11 109. Neither Maize nor Mona informed Far West that Capstone had informed them that it  
12 would not contribute toward infrastructure construction benefiting the Far West lots or  
that Capstone was retaining all water meters for the entire Project.

13 110. The failure to disclose those facts constituted a material breach of the Representation  
14 and Warranty pertaining to RVVA's improvements not precluding, limiting, or delaying  
Far West in its development efforts.

15 111. Furthermore, RVN was not using diligent commercially reasonable efforts to insure  
16 that Far West obtained the required water meters, thereby materially breaching that  
Representation and Warranty.

17 112. RVN did not complete all improvements except the final lift of asphalt by  
18 November 1, 2006, which again constituted a material breach of the Purchase  
Agreements.

19 113. Finally, Maize and Mona did not provide Far West with all "material documents  
20 relating to the Property in Seller's possession as of the date of this Agreement" (June 1,  
2006).

21 114. At no time did Maize or Mona provide Far West with the following material  
22 documents: (1) the Capstone Default Notice; (2) correspondence from the City  
23 threatening to shut down the Project; (3) documentation showing that the Project was \$2  
24 million over budget; or (4) any documentation informing Far West that RVN was out of  
money and unable to meet its financial commitments to RVVA.

25 115. The Purchase Agreements contain a provision awarding Far West liquidated  
damages of \$1,200 per day for every day that RVN delays delivery of water meters.

1  
2 116. To this day, those meters have not been delivered by RVN, and the per diem  
damages calculated to the first day of trial are \$2,100,000.

3 117. Immediately after the first close of escrow, Bert wrote a second Default Notice to  
4 Mona.

5 118. Here again, Bert threatened RVN that it would "cease to have any powers, rights, or  
6 authorities" in connection with the management of RVVA and he confirmed that he told  
Maize and Mona all along: Capstone "retain(s) the exclusive right to the use if all the  
7 water meters acquired with such amounts funded solely by us".

8 119. This was two months before Far West closed the second escrow (August 31).

9 120. Neither Maize nor Mona provided Far West with the second Capstone Default  
Notice or informed Far West about its existence.

10 121. Far West continued with the transaction and the second escrow closed.

11 122. In good faith, Far West proceeded with its short-lived plans for development.

12 123. The company spent another several million dollars in: (1) completing all of the in-  
13 tract infrastructure in preparation for connecting to the Project infrastructure, which RVN  
never completed; and (2) building three model homes and one production unit for sale.

14 124. The Far West project was an island of completed construction in the middle of  
15 uncompleted streets, curbs, gutters, utilities, and the like.

16 **M. Mona Unilaterally Conveys RVN's Only Asset and Takes the Remaining**  
17 **Funds for his and Maize's Personal Use**

18 125. Sometime in September of 2006 and less than 30 days after the second Far West  
19 close of escrow but before the Vestin loan was due, Mona unilaterally decided to walk  
away from the Project and give what remained of it back to Vestin.

20 126. Mona never informed Far West that RVN was transferring the remaining Property to  
21 the lender right after Far West closed escrow.

22 127. RVN also has \$125,000 in its account at El Paseo Bank, which was RVN's only  
bank account.

23 128. On or about November 13, 2006, Mona and Maize decided to take that money for  
24 themselves via checks to the Mona Family Trust and World Development, despite having  
received multiple letters from Far West alleging breach of the Purchase Agreements.  
25

1 129. Far West had deposited \$32,846 into Escrow at the time of the original transaction,  
2 and that money was being held to pay for certain infrastructure improvements that RVN  
3 was going to perform.

4 130. Those improvements were never constructed.

5 **N. Far West Suffers Damage**

6 131. RVVA never completed the infrastructure and all of RVN's property interests were  
7 conveyed to Vestin by Mona.

8 132. Because the infrastructure was incomplete, no developers could move forward with  
9 the Project's remaining lots.

10 133. Far West was left with four fully-constructed and merchandized homes (3 models  
11 and one production home), with no way to complete the rest of the development and/or to  
12 sell anything.

13 134. Far West remained obligated to complete certain in-tract infrastructure, or risk a  
14 claim on Far West's performance bond with the City.

15 135. All totaled, Far West invested \$11,138,411.45 into this Project (which includes the  
16 per-diem delay damages under the Purchase Agreements).

17 136. With 10% pre-judgment interest through the first day of trial, the grand total is  
18 \$16,886,132.16.

19 137. Daily damages of \$5,259.75 from September 23, 2011 until entry of Judgment are  
20 comprised of the per diem penalty plus further pre-judgment interest on Far West's out-  
21 of-pocket expenses at 10%.

22 **O. Alter Ego**

23 138. Mona and the Mona Family Trust failed to adequately capitalize RVN.

24 139. Mona commingled funds belonging to RVN, the Mona Family Trust, MonaCo  
25 Development, and himself personally.

140. Mona diverted RVN's funds to other than RVN's uses.

141. Mona treated the assets of RVN as his own.

142. Mona used RVN as a mere shell, instrumentality, or conduit for his own personal  
gain.



1 143. Mona diverted assets from RVN to Vestin, himself, MonaCo Development, and  
2 World Development to the detriment of RVN's creditors

3 144. Maintaining legal separation between RVN, Mona, and the Mona Family Trust  
4 would sanction fraud and promote injustice.

5 145. All actions taken by Mona in this regard were both in his individual capacity and in  
6 his capacity as Trustee of the Mona Family Trust.

## 7 **II. Conclusions of Law**

### 8 **A. RVN Breached the Purchase Agreements**

- 9 1. RVN breached both Purchase Agreements with Far West and Far West suffered  
10 damages proximately caused thereby.
- 11 2. Those fixed and readily-ascertainable damages total \$11,138,411.45, exclusively of  
12 pre-judgment interest.
- 13 3. Pre-judgment interest calculated from the day each expense was incurred by Far West  
14 through the first day of trial total \$5,727,720.71, and Far West is entitled to that  
15 interest.
- 16 4. All Totaled, Far West suffered damages of \$16,886,132.16 as of September 23, 2011,  
17 that were proximately caused by RVN's breaches of the Purchase Agreements.

### 18 **B. Mona, RVN, and World Development Intentionally Defrauded Far West**

- 19 5. Both Maize and Mona intentionally misrepresented material facts and concealed other  
20 material facts from Far West as discussed above.
- 21 6. When Maize and Mona misrepresented and concealed those materials facts, they were  
22 doing so on behalf of RVN as Members and Managers.
- 23 7. Furthermore, Maize made those same material misrepresentations and omitted those  
24 material facts as the CEO and Shareholder of World Development.
- 25 8. Maize and Mona were under a duty to disclose those material facts that were  
concealed from Far West, and Far West was unaware of those facts or Maize's and  
Mona's concealment.
9. Maize and Mona acted with an intent to defraud Far West, Far West justifiably relied  
upon Maize's and Mona's affirmative misrepresentations and omissions, and Far West  
sustained damage

1 10. As a result of Mona's, RVN's, and World Development's intentional fraud, Far West  
2 sustained damages totaling \$16,886.132.16 as of September 23, 2011 (with pre-  
3 judgment interest included).

4 **C. Mona, RVN, and World Development are Liable for Negligent Misrepresentation**

5 11. Maize and Mona (on behalf of World Development and RVN) misrepresented material  
6 facts without a reasonable ground for believing them to be true and omitted certain  
7 material facts, with the intent to induce Far West's reliance on those facts  
8 misrepresented or omitted.

9 12. Far West was ignorant of the truth, and justifiably relied upon Maize and Mona's  
10 representations and omissions, thereby sustaining damage.

11 **D. Mona, RVN and World Development are liable for Breach of the Common Law**  
12 **Duty to Disclose**

13 13. As a seller of real property, Mona, RVN, and World Development had a duty to  
14 disclose to Far West all facts that materially affected the value of the property being  
15 sold.

16 14. Maize and Mona failed to disclose the numerous facts referenced above which  
17 materially affected the value of the property, and they knew that such facts were not  
18 known to, or within the reach of diligent attention and observation of Far West.

19 15. As a result, Far West sustained the damage referenced above.

20 **E. Mona, RVN and World Development are all Liable for Conspiracy to Commit**  
21 **Fraud**

22 16. Mona and Shustek agreed and conspired to defraud any potential purchasers of the  
23 Project (which ultimately included Far West) by structuring this entire transaction to  
24 appear to be a legitimate loan being made to a legitimate company (RVN) and  
25 guaranteed by another legitimate company (Emerald Suites).

17 17. The conspiratorial agreement between Mona and Shustek was for them to take  
18 millions of dollars for Vestin in the form of fees, to pay certain individuals and entities  
19 unrelated to the Project a total of \$702,000, and for Mona and the Mona Family Trust  
20 to personally reap an initial \$1 million profit.

21 18. Mona and Shustek also agreed that Mona would use what was left of the Construction  
22 Loan to move the Project along far enough to find some unsuspecting developer to  
23 purchase all or part of it from RVN.

24 19. At some point after the formation of that conspiracy, but no later than the Fall of 2005,  
25 Maize joined them as a co-conspirator.

1 20. In exchange for agreeing; (1) to continue moving the Project along and seeking  
2 unsuspecting developers to purchase it; and (2) to stay silent about the monies already  
3 paid from the Construction Loan to Mona and Vestin, World Development was paid  
4 \$858,598.60, which money was separate from any project management costs to which  
5 it was to be paid.

6 21. The many wrongful acts done furtherance of that conspiracy are more fully set forth in  
7 the Findings of Fact.

8 22. The Liability of Mona, RVN, and World Development is therefore joint and several as  
9 a result of their conspiratorial agreement.

10 **F. Maize Acted as Mona's Agent**

11 23. Maize was Mona's actual and ostensible agent when Mona directed him to submit to  
12 Far West the fraudulent Guaranty.

13 **II. MONA IS THE ALTER EGO OF RVN, AND TO THE EXTENT NECESSARY,**  
14 **OF THE MONA FAMILY TRUST**

15 27. California law governs any alter ego analysis.

16 28. The alter ego doctrine applies to Limited Liability Companies.

17 29. Under California law, the alter ego doctrine is a viable theory of recovery against a  
18 Trustee for actions taken in his or her representative capacity to benefit the Trust.

19 30. Accordingly, this finding of alter ego liability applies to Mona both in his individual  
20 capacity and in his capacity as the Trustee of the Mona Family Trust.

21 31. There is such a unity of interest and ownership that the separate personalities of  
22 RVN, the Mona Family Trust, and Mona no longer individually exist.

23 32. The acts of RVN are treated as those of the entity alone, an inequitable result will  
24 follow.

25 33. Mona, individually and in his capacity as Trustee of the Mona Family Trust, are the  
alter egos of RVN and therefore liable for any and all damages awarded against RVN.

34. To the extent necessary, Mona is the alter ego of the Mona Family Trust, and as a  
result, both he and the Mona Family Trust are both liable for any and all damages  
awarded herein against RVN.

1 **III. FAR WEST IS ENTITLED TO THE INTERPLEAD FUNDS**

2 35. Defendant Fidelity National Title Company filed a Cross-Complaint in Interpleader,  
3 thereby depositing \$32,846 with the Court pursuant to Section 386.1 of the California  
Code of Civil Procedure.

4 36. Far West is entitled to those funds, and the Clerk is hereby directed to pay those funds  
5 to Far West forthwith.

6 **IV. JUDGMENT TO BE ISSUED**

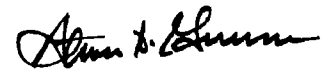
7 Judgment shall issue forthwith against Mona in his individual capacity and as Trustee of  
8 the Mona Family Trust, RVN, and World Development in the amount of \$16,886,132.16 plus  
9 daily additional damages of \$5,259.75 from September 23, 2011 until entry of Judgment, jointly  
10 and severally; this amount totals \$17,841,651.92 as of March 5, 2012. Furthermore, that  
11 judgment shall leave a blank for any award of any court costs and attorney's fees that will be the  
12 subject of Far West's post-Judgment motions. Finally, the Clerk is directed to release the  
13 \$32,846 interplead funds to Far West immediately.

14  
15  
16 Dated: March 5, 2012

  
17 Hon. Jacqueline C. Jackson,  
18 Judge Presiding  
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**EXHIBIT B**

**EXHIBIT B**

  
CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

FAR WEST INDUSTRIES,	)	CASE NUMBER: A-12-670352
	)	
Plaintiff,	)	
	)	DEPT. NUMBER: XV
vs.	)	
	)	
RIO VISTA NEVADA, LLC, MONA	)	<b>Transcript of Proceedings</b>
FAMILY TRUST, MICHAEL J. MONA,	)	
JR., WORLD DEVELOPMENT, INC.,	)	
BRUCE MAIZE, et al.,	)	
	)	
Defendants.	)	

BEFORE THE HONORABLE JOE HARDY, DISTRICT COURT JUDGE  
**PLAINTIFF'S MOTION ON ORDER SHORTENING TIME FOR BOND  
PENDING APPEAL**

THURSDAY, SEPTEMBER 17, 2015

APPEARANCES:

For the Plaintiff: F. THOMAS EDWARDS, ESQ.  
ANDREA GANDARA, ESQ.

For the Defendants: TERRY A. COFFING, ESQ.

RECORDED BY: MATTHEW YARBROUGH, DISTRICT COURT  
TRANSCRIBED BY: KRISTEN LUNKWITZ

Proceedings recorded by audio-visual recording, transcript  
produced by transcription service.

1 they're coming.

2           Second of all, I think the issue -- well, let me  
3 be clear on one thing. The Monas don't have \$24,000,000.  
4 They don't have \$2,000,000. There's no bond that they  
5 could post that would in any way satisfy what they're  
6 asking for here. So, --

7           THE COURT: So that statement begs a question:  
8 Are statements or arguments of counsel evidence?

9           MR. COFFING: Well I'm making the representation -  
10 - if they've got some evidence that there's \$24,000,000  
11 sitting out there, I'd like to see it, but it's not  
12 evidence, Your Honor, but I'm here, again, on --

13           THE COURT: Okay.

14           MR. COFFING: -- an Order Shortening Time having  
15 spent, you know, the day prior to this being filed in the  
16 settlement conference that counsel just referenced.

17           THE COURT: Do you want me to continue this  
18 hearing?

19           MR. COFFING: You're putting me in the same boat  
20 I'm in last time, Your Honor. You're going to make orders  
21 based upon arguments, but if the Court would like an  
22 affidavit from Mike Mona and Rhonda Mona that -- to the  
23 extent that they don't have \$24,000,000 to post a bond,  
24 I'll provide that.

25           THE COURT: So let's -- I'll ask the question

1 again because I kind of ran into this last time and I  
2 noticed that it was used in the writ process. Do you want  
3 me to continue this hearing?

4 MR. COFFING: No, Your Honor. I don't.

5 THE COURT: Okay.

6 MR. COFFING: But I think you need -- I think I'd  
7 ask the Court to acknowledge the difficult situation it  
8 puts me in. It puts me in procedurally and posturally for  
9 my client and to recognize it for what it is, a tactic.

10 But, second of all, I want to talk first -- a  
11 little bit about this Divorce Decree. I would urge you to  
12 read it because it doesn't transfer all debt to Mr. Mona  
13 and all assets. It doesn't. And it's specifically subject  
14 to your orders in this case. If you look at page 3 of 6,  
15 line 25.

16 THE COURT: Hold on. Bear with me.

17 MR. COFFING: Lines 24 actually.

18 THE COURT: Okay. Page 3, the paragraph starting  
19 on line 22?

20 MR. COFFING: Yes. Starting on line 22.

21 [Pause in proceedings]

22 THE COURT: Doesn't the first sentence contradict  
23 my order?

24 MR. COFFING: I don't believe it does, Your  
25 Honor, in the sense that subject to:



1 against Apple, it's clear they're able to pay that and why  
2 waste the cost of a bond. That's not the case here by any  
3 means.

4           Five, whether defendant is in such a precarious  
5 financial situation that the requirement to post a bond  
6 would place other creditors or the defendant in an insecure  
7 position. The defendants have not offered really any  
8 evidence or cogent arguments as to what other creditors  
9 they may be facing.

10           Additionally, I certainly appreciate the  
11 statements of counsel in terms of separating, if you will,  
12 the judgment debtor defendants versus Mrs. Mona. So, as to  
13 the judgment debtor defendants, that's why I'm ordering if  
14 they want my Order stayed, the full amount as requested is  
15 the \$24,172,076.16.

16           In terms of Mrs. Mona, applying the *Nelson* factors  
17 to her, I think -- you know, first, as to all of them,  
18 actually, please include this in the Order, you know, as  
19 stated in the *Nelson* case. The purpose of security for a  
20 stay pending appeal is to protect the judgment creditor's  
21 ability to collect the judgment if it is affirmed by  
22 preserving the status quo and preventing prejudice to the  
23 creditor arising from the stay. However, supersedeas bond  
24 should not be the judgment debtor's sole remedy,  
25 particularly where other appropriate reliable alternatives

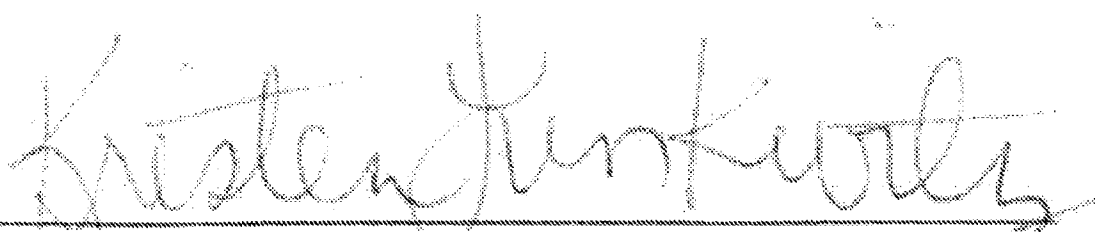
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**CERTIFICATION**

I certify that the foregoing is a correct transcript from the audio-visual recording of the proceedings in the above-entitled matter.

**AFFIRMATION**

I affirm that this transcript does not contain the social security or tax identification number of any person or entity.

A handwritten signature in cursive script, reading "Kristen Lunkwitz", is written over a horizontal line.

KRISTEN LUNKWITZ  
INDEPENDENT TRANSCRIBER

EXHIBIT A

EXHIBIT A

  
CLERK OF THE COURT

**MBAP**  
F. THOMAS EDWARDS, ESQ.  
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HOLLEY DRIGGS WALCH  
FINE WRAY PUZEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
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Facsimile: 702/791-1912

*Attorneys for Plaintiff Far West Industries*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

v.

RIO VISTA NEVADA, LLC, a Nevada limited  
liability company; WORLD DEVELOPMENT,  
INC., a California corporation; BRUCE MAIZE,  
an individual; MICHAEL J. MONA, JR., an  
individual; DOES 1 through 100, inclusive,

Defendants.

Case No.: A-12-670352-F  
Dept. No.: XV

**MOTION ON AN ORDER SHORTENING TIME FOR BOND PENDING APPEAL**

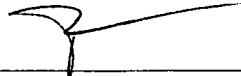
Plaintiff FAR WEST INDUSTRIES ("Plaintiff" or alternatively, the "Judgment Creditor"), by and through its attorneys, F. THOMAS EDWARDS, ESQ. and ANDREA M. GANDARA, ESQ. of the law firm of HOLLEY DRIGGS WALCH FINE WRAY PUZEY & THOMPSON, hereby respectfully requests that this Court set a bond pending appeal on an order shortening time.

The Nevada Supreme Court stayed this action and deferred to this Court to set a bond pending appeal. See Nevada Supreme Court Order entered August 31, 2015, attached hereto as **Exhibit 1**. In fact, the Nevada Supreme Court has stated "that a bond would be an appropriate method to protect [Plaintiff's] ability to eventually execute on their judgment and, as explained

1 above, the district court is the proper forum to seek a bond.” Id. Accordingly, the only  
2 remaining question is the amount of the bond. In Nevada, the bond “should usually be set in an  
3 amount that will permit full satisfaction of the judgment.” Nelson v. Heer, 121 Nev. 832, 834,  
4 122 P.3d 1252, 1253 (2005), as modified (Jan. 25, 2006). For these reasons, Plaintiff requests  
5 that the Court require the Monas to post a bond for the full amount of the judgment,  
6 \$24,172,076.16.

7 Dated this 1st day of September, 2015.

8 **HOLLEY DRIGGS WALCH**  
9 **FINE WRAY PUZEY & THOMPSON**

10   
11 F. THOMAS EDWARDS, ESQ.  
12 Nevada Bar No. 9549  
13 ANDREA M. GANDARA, ESQ.  
14 Nevada Bar No. 12580  
15 400 South Fourth Street, Third Floor  
16 Las Vegas, Nevada 89101

17 *Attorneys for Plaintiff Far West Industries*

18 **DECLARATION OF F. THOMAS EDWARDS, ESQ.**

19 I, F. Thomas Edwards, being first duly sworn under all penalties of perjury, do hereby  
20 depose and state:

21 1. I make this Declaration in support of the MOTION ON AN ORDER  
22 SHORTENING TIME FOR BOND PENDING APPEAL.

23 2. I am a shareholder with the law firm of Holley Driggs Walch Fine Wray Puzey &  
24 Thompson, counsel for Plaintiff/Judgment Creditor Far West Industries.

25 3. On August 31, 2015, the Nevada Supreme Court entered an order staying this  
26 case, but deferring to this Court to determine the appropriate amount of a bond.

27 4. Without a bond in place, Plaintiff is at significant risk of prejudice in that the  
28 more time that passes, the less likely Plaintiff will be able to satisfy its judgment.

1           5.       Therefore, Plaintiff requests that this Court set this motion for hearing on  
2 shortened time to minimize the prejudice to Plaintiff.

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

4           Dated this 1<sup>st</sup> day of September, 2015.

5  
6   
7  
8 F. THOMAS EDWARDS, ESQ.

9  
10                               **ORDER SHORTENING TIME**

11           Upon good cause shown, please take notice that the hearing before the above-entitled  
12 Court on MOTION ON AN ORDER SHORTENING TIME FOR BOND PENDING APPEAL  
13 will be heard on shortened time on September 17, 2015 at 9:00 a.m.

14           Dated this 8<sup>th</sup> day of September, 2015.

15           *OST must be hand-delivered to Defendants' counsel on*  
16           *or before September 10, 2015.*  
17           *CP Handy*  
18           DISTRICT COURT JUDGE

19                               **MEMORANDUM OF POINTS AND AUTHORITIES**

20                               **BACKGROUND**

21           In April 2012, Plaintiff obtained a Judgment of more than \$18,000,000.00 against  
22 Defendant Michael J. Mona, Jr. ("Mr. Mona"), and the Mona Family Trust Dated February 21,  
23 2002 ("Mona Family Trust"), for fraud, among other claims. See Judgment and Findings of Fact  
24 and Conclusions of Law ("Judgment"), attached hereto as **Exhibit 2**. Mr. Mona did not limit his  
25 fraud and deceit to the underlying action, but has persisted with this conduct during Far West's  
26 attempts to execute upon the Judgment, and Mr. Mona's wife, Rhonda Helene Mona ("Mrs.  
27 Mona") has become involved in Mr. Mona's fraudulent and deceitful conduct. The Monas'  
28 waged a campaign spanning two years in an effort to avoid satisfying the Judgment. The Monas'  
efforts to avoid the Judgment include transfers between spouses, transfers to their children,  
transfers to related entities, and now a sham divorce.

1 On July 15, 2015, based upon this information, the Court properly sanctioned the Monas,  
2 finding that they violated court orders, lied under oath and made gross omissions in their  
3 briefing. See Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should  
4 Not Be Subject to Execution and Why the Court Should Not Find Monas in Contempt (“Sanction  
5 Order”), entered July 15, 2015. The Monas have appealed the Sanction Order and requested an  
6 emergency stay of this *entire* proceeding, as opposed to just a stay of the Sanction Order. The  
7 Nevada Supreme Court granted the Monas requested stay, but deferred to this Court to address  
8 the amount of the bond. See Ex. 1.

9 It is important to note that the Mona family’s attempt to fraudulently shield their assets  
10 from Plaintiff continues to this day. For example, at the June 26, 2015 judgment debtor  
11 examination of Mrs. Mona, she testified that from the money she received as part of Post-Marital  
12 Property Settlement Agreement (that this Court properly found was a fraudulent transfer), she  
13 purportedly lent approximately \$900,000.00 to her son to purchase a condo in San Diego. See  
14 Judgment Debtor Examination Transcript of Rhonda Mona, dated June 26, 2015, 26:16-23.  
15 However, Mrs. Mona has not received any payments on the loan and the supposed repayment  
16 terms have never apparently been negotiated because she “didn’t get into it.” Id. at 27:9-24.  
17 Thus, the \$900,000.00 “loan” to her son has all the earmarks of yet another fraudulent transfer.

18 At the time of the judgment debtor examination, there were no encumbrances recorded  
19 against the San Diego condo. However, just days after the judgment debtor examination on July  
20 17, 2015, a Deed of Trust from Michael Sifen (a family friend) in the amount of \$1,000,000.00  
21 was recorded against the San Diego condo. See \$1,000,000.00 Deed of Trust, attached hereto as  
22 **Exhibit 3.**<sup>1</sup> Then, on August 4, 2015, a Deed of Trust from Mrs. Mona in the amount of  
23 \$787,760.88 was recoded against the San Diego condo. See \$787,760.88 Deed of Trust, attached  
24 hereto as **Exhibit 4.** Thus, although the San Diego condo was owned free and clear during the  
25 judgment debtor examination, approximately a month later it had encumbrances recorded against  
26 it totaling over \$1.7MM.

27  
28 <sup>1</sup> After purchasing the San Diego condo, the Monas’ son transferred it into the name of Lundene  
Enterprises, LLC, of which the son is the sole member and manager.

1 Notably, Plaintiff only knows about this transaction because it involves publicly recorded  
2 documents. This transaction is merely emblematic of the lengths the Monas will go to  
3 fraudulently shield their assets from Plaintiff and why a bond is required to protect Plaintiff  
4 pending the appeal. There is no way to know what other steps the Monas have taken, or will  
5 take, to fraudulently hide and dispose of other assets while the appeal remains pending. Despite  
6 being found liable for fraud by the California court, and despite being found to have lied and  
7 engaged in fraudulent transfers by this Court, the Monas will not stop their fraudulent conduct.  
8 Therefore, the Monas must be required to post a bond that will fully satisfy Plaintiff's judgment.

9 I.

10 **THE MONAS MUST POST A BOND IN THE FULL AMOUNT OF THE JUDGMENT**

11 The Nevada Supreme Court granted Monas' emergency request to stay this *entire*  
12 proceeding, as opposed to just a stay of the Sanction Order, and deferred to this Court to address  
13 the amount of the bond. See Ex. 1. In fact, the Nevada Supreme Court has stated "that a bond  
14 would be an appropriate method to protect [Plaintiff's] ability to eventually execute on their  
15 judgment and, as explained above, the district court is the proper forum to seek a bond." Id.  
16 Accordingly, the only remaining question is the amount of the bond. In Nevada, the bond  
17 "should usually be set in an amount that will permit full satisfaction of the judgment." Nelson v.  
18 Heer, 121 Nev. 832, 834, 122 P.3d 1252, 1253 (2005), as modified (Jan. 25, 2006) (quoting  
19 McCulloch v. Jeakins, 99 Nev. 122, 123, 659 P.2d 302, 303 (1983)).

20 On April 27, 2012, the California court entered a judgment against Mr. Mona and the  
21 Mona Family Trust in the amount of \$18,130,673.58 (judgment of \$17,777.562.18, plus costs of  
22 \$25,562.56 and fees of \$327,548.84). See Ex. 2. Interest on the judgment accrues at 10% per  
23 annum from the entry of the judgment, which equals \$4,967.31 in daily interest. See Cal. Code  
24 of Civ. Proc. 685.010; 685.020. Through September 1, 2015, 1,222 days have passed since entry  
25 of the judgment, such that interest of \$6,070,050.17 has accrued on the Judgment. The Judgment  
26 has been partially satisfied through wage garnishments totaling \$28,647.59. Therefore, the  
27 balance of the Judgment is currently \$24,172,076.16 (judgment of \$18,130,673.58, plus interest  
28 of \$6,070,050.17, less \$28,647.59 collected) and interest continues to accrue at \$4,967.31 per



1 day. Therefore, Plaintiff respectfully requests that the Monas be required to post a bond of no  
2 less than \$24,172,076.16, which is the "amount that will permit full satisfaction of the  
3 judgment." Nelson, 121 Nev. at 834, 122 P.3d at 1253.<sup>2</sup>

## 4 II.

### 5 **THE MONAS ARE NOT ENTITLED TO AN ALTERNATIVE BOND**

6 In Nelson, the Nevada Supreme Court identified the following five factors to consider in  
7 determining when an alternative bond is appropriate:

8 (1) the complexity of the collection process; (2) the amount of time  
9 required to obtain a judgment after it is affirmed on appeal; (3) the  
10 degree of confidence that the district court has in the availability of  
11 funds to pay the judgment; (4) whether the defendant's ability to  
12 pay the judgment is so plain that the cost of a bond would be a  
waste of money; and (5) whether the defendant is in such a  
precarious financial situation that the requirement to post a bond  
would place other creditors of the defendant in an insecure  
position.

13 Nelson, 121 Nev. at 836, 122 P.3d at 1254 (citing Dillon v. City of Chicago, 866 F.2d 902 (7th  
14 Cir. 1988)). The purpose of these factors is to analyze whether an alternative amount or form of  
15 security is adequate to protect the judgment creditor's ability to collect upon the judgment. Id. at  
16 835-36. To the extent they are applicable, these factors do not weigh in favor allowing a reduced  
17 or alternative bond.

#### 18 (1) **The collection process is very complex.**

19 This Court has had a front row seat to see how complex the Monas have made the  
20 collection efforts. The Monas' efforts to avoid the Judgment include transfers between spouses,  
21 transfers to their children, transfers to related entities, and now a sham divorce. The Monas have  
22 even concealed bank records and lied under oath to further complicate the collection process.  
23 Despite substantial efforts to collect upon the Judgment dating back to October of 2012, Plaintiff  
24 has only been able to collect \$28,647.59, about one tenth (1/10) of a percent of the total  
25 Judgment. The Monas have done, and continue to do, everything in their power to complicate  
26 the collection process in this matter. Therefore, this factor weighs strongly against an alternative

27 <sup>2</sup> A larger bond amount is justified to include the daily interest that will accrue (\$4,967.31 per  
28 day) while the appeal is pending.

1 bond.

2 (2) As the Judgment has already been entered, the amount of time required to  
3 obtain a judgment after it is affirmed on appeal is not applicable.

4 As the Judgment has been pending since April of 2012, there is no time required to obtain  
5 a judgment after the appeal. Therefore, this factor is not applicable.

6 (3) The Court should have no confidence in the availability of funds to pay the  
7 Judgment.

8 The mere fact that Plaintiff has only been able to collect \$28,647.59, about one tenth  
9 (1/10) of a percent of the total Judgment, evidences that the Court should have no confidence in  
10 the availability of funds to pay the judgment. In fact, the judgment debtor examinations have  
11 revealed that to the extent the Monas come into possession of any significant funds (e.g., the  
12 \$6.8MM for the sale of Medical Marijuana, Inc. divided in the Post-Martial Property Settlement  
13 Agreement), the Monas act quickly to transfer the funds away. Therefore, this factor weighs  
14 strongly against an alternative bond.

15 (4) The Monas' ability to pay the judgment is highly questionable, such that a  
16 bond is required to protect Plaintiff.

17 Much like the preceding factor, the mere fact that Plaintiff has only been able to collect  
18 \$28,647.59, about one tenth (1/10) of a percent of the total Judgment, evidences that the Monas'  
19 ability to pay the Judgment is highly questionable. It is exactly these types of situations in which  
20 a bond is required to protect a plaintiff's ability to collect upon the judgment. Therefore, this  
21 factor weighs strongly against an alternative bond.

22 (5) While the Monas are in a precarious financial situation, due in large part to  
23 the Judgment, they put themselves in this position and should not be relieved of their  
24 obligation to post a full bond based upon their own misconduct.

25 The Monas are very likely in a precarious financial situation. However, they are in that  
26 precarious financial situation because Mr. Mona's fraud and the resulting Judgment. Likewise,  
27 Mrs. Mona is likely in a precarious financial situation because of her concealment of bank  
28 records in violation of this Court's Order. The Monas' misconduct should not be a basis to

1 relieve the Monas of their obligation to post a full bond.

2 The Nevada Supreme Court borrowed these factors from the Seventh Circuit decision of  
3 Dillon v. City of Chicago, 866 F.2d 902 (7th Cir. 1988). In articulating this final factor, the  
4 Dillion court cited to Olympia Equip. Leasing Co. v. W. Union Tel. Co., 786 F.2d 794 (7th Cir.  
5 1986). In Olympia, the district judge considered the appropriate bond to support the stay  
6 pending appeal of a \$36MM judgment against Western Union. The district judge allowed an  
7 alternative bond to be posted, consisting of a pledge of \$10MM in cash, \$10MM in accounts  
8 receivables, and a security interest in physical assets, which Western Union represented to be  
9 worth about \$70MM. Id. at 795-96. Thus, the alternative bond actually secured the judgment  
10 creditor for significantly more than the judgment amount. On appeal, and considering these  
11 factors, the Seventh Circuit approved the alternative bond with the *additional* requirement that  
12 prevented any cash transfers to Western Union's parent company. Id. at 799. The Olympia case  
13 illustrates that even if an alternative bond is justified, the security should still be sufficient to  
14 protect plaintiff's ability to collect upon the judgment.

15 Plaintiff is unaware of any alternative bond that can adequately protect its ability to  
16 collect upon the judgment. Even if this single factor favors an alternative bond, it is substantially  
17 outweighed by the preceding factors. Therefore, no alternative bond is appropriate in this case.

#### 18 CONCLUSION

19 For these reasons, Plaintiff respectfully requests that the Monas be required to post a  
20 bond within three (3) days of no less than \$24,172,076.16, which is the "amount that will permit  
21 full satisfaction of the judgment." Nelson, 121 Nev. at 834, 122 P.3d at 1253.

22 Dated this 1<sup>st</sup> day of September, 2015.

23 **HOLLEY DRIGGS WALCH**  
24 **FINE WRAY PUZEY & THOMPSON**

25 F. THOMAS EDWARDS, ESQ.  
26 Nevada Bar No. 9549  
27 ANDREA M. GANDARA, ESQ.  
28 Nevada Bar No. 12580  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Plaintiff Far West Industries*

**CERTIFICATE OF ELECTRONIC FILING/SERVICE**

I am an employee of Holley, Driggs, Walch, Fine, Wray, Puzey & Thompson. On the 9<sup>th</sup> day of September, 2015, I filed with this Court and electronically served in accordance with Administrative Order 14.2, to all interested parties, through this Court's Wiznet/Odyssey E-File & Serve, a true copy of the foregoing MOTION ON AN ORDER SHORTENING TIME FOR BOND PENDING APPEAL, in the above matter, addressed as follows:

Terry Coffing, Esq.  
Tye Hanseen, Esq.  
MARQUIS AURBACH COFFING  
1001 Park Run Drive  
Las Vegas, NV 89145  
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[mechols@maclaw.com](mailto:mechols@maclaw.com)  
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F. Thomas Edwards, Esq.  
Andrea M. Gandara, Esq.  
HOLLEY, DRIGGS, WALCH, PUZEY &  
THOMPSON  
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[tnealon@nevadafirm.com](mailto:tnealon@nevadafirm.com)

In addition, copies of the MOTION ON AN ORDER SHORTENING TIME FOR BOND PENDING APPEAL were served by RECEIPT OF COPY (executed receipts attached hereto) on the following:

Terry Coffing, Esq.  
Tye Hanseen, Esq.  
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Las Vegas, NV 89145

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Tilla D. Nealon, an employee of  
Holley Driggs Walch Fine Wray Puzey &  
Thompson

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11 Las Vegas, Nevada 89101

12 Telephone: 702/791-0308

13 Facsimile: 702/791-1912

14 *Attorneys for Plaintiff Far West Industries*

15 **DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 FAR WEST INDUSTRIES, a California  
18 corporation,

19 Plaintiff,

20 v.

21 RIO VISTA NEVADA, LLC, a Nevada limited  
22 liability company; WORLD DEVELOPMENT,  
23 INC., a California corporation; BRUCE MAIZE,  
24 an individual, MICHAEL J. MONA, JR., an  
25 individual; DOES 1 through 100, inclusive,

26 Defendants.

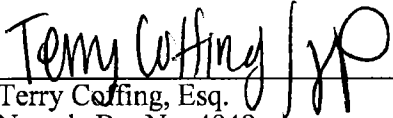
Case No: A-12-670352-F

Dept. No.: XV

**RECEIPT OF COPY**

27 RECEIPT OF COPY of the attached: MOTION ON AN ORDER SHORTENING TIME  
28 FOR BOND PENDING APPEAL is hereby acknowledged this 9th day of September, 2015.

MARQUIS AURBACH COFFING

29 

30 Terry Coffing, Esq.  
31 Nevada Bar No. 4949  
32 1001 Park Run Drive  
33 Las Vegas, Nevada 89145

34 *On Behalf of Michael J. Mona  
35 and Rhonda Mona*

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14 *Attorneys for Plaintiff Far West Industries*

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

17 FAR WEST INDUSTRIES, a California  
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19 Plaintiff,

20 v.

21 RIO VISTA NEVADA, LLC, a Nevada limited  
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23 INC., a California corporation; BRUCE MAIZE,  
24 an individual, MICHAEL J. MONA, JR., an  
25 individual; DOES 1 through 100, inclusive,

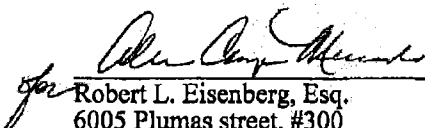
26 Defendants.

Case No: A-12-670352-F  
Dept. No.: XV

**RECEIPT OF COPY**

27 RECEIPT OF COPY of the attached: MOTION ON AN ORDER SHORTENING TIME  
28 FOR BOND PENDING APPEAL is hereby acknowledged this 9th day of September, 2015.

LEMONS, GRUNDY & EISENBERG

for   
Robert L. Eisenberg, Esq.  
6005 Plumas street, #300  
Reno, Nevada 89519

On Behalf of Rhonda Mona

# EXHIBIT 1

# EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

RHONDA HELENE MONA; AND  
MICHAEL J. MONA, JR.,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA,  
IN AND FOR THE COUNTY OF  
CLARK; AND THE HONORABLE  
JOSEPH HARDY, JR., DISTRICT  
JUDGE,

Respondents,

and

FAR WEST INDUSTRIES,  
Real Party in Interest.

No. 68434

**FILED**

AUG 31 2015

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**ORDER**

This original petition for a writ of mandamus or prohibition challenges a district court order that, in part, directs funds in certain bank accounts to be applied to a domesticated foreign judgment. We previously entered a temporary stay, pending receipt and consideration of additional documents regarding the stay. Having reviewed the motion for stay, the opposition thereto, and the reply,<sup>1</sup> we conclude that a stay is warranted, pending our further consideration of this writ proceeding. NRAP 8(c); *Fritz Hansen A/S v. Eighth Judicial Dist. Court*, 116 Nev. 650, 6 P.3d 982 (2000). Accordingly, we stay all proceedings in Eighth Judicial District Court Case No. A-12-670352-F, pending further order of this court.

<sup>1</sup>We grant petitioners' motion to exceed the page limit for the reply in support of the stay motion and direct the clerk to file the reply received on August 24, 2015.



In its opposition to petitioners' stay motion, real party in interest requests that petitioners be required to post a "significant" bond as a condition of any stay. It does not appear that the district court has yet considered the proper amount of any supersedeas bond, NRAP 8(a)(1)(B), and we have routinely recognized that the district court is better suited for making supersedeas bond determinations. *See Nelson v. Heer*, 121 Nev. 832, 836, 122 P.2d 1252, 1254 (2005). Accordingly, we deny without prejudice real party in interest's request to require a bond and determine the amount of such a bond.

Additionally, real party in interest has filed a motion to prevent petitioners from "transferring, disposing of or encumbering any non-exempt property while this [matter] remains pending."<sup>2</sup> Having considered the motion and petitioners' opposition,<sup>3</sup> we deny the motion. We note that a bond would be an appropriate method to protect real party in interest's ability to eventually execute on their judgment and, as explained above, the district court is the proper forum to seek a bond.

Finally, having considered the petition and reviewed the documents submitted with it, it appears that an answer to the petition will assist this court in resolving the matter. Therefore, real party in

---

<sup>2</sup>Real party in interest titled its motion as an "emergency" and requested relief within four days of its filing. However, real party in interest failed to identify a specific event or action that required relief in less than 14 days, other than its apparent desire to have the motion resolved as soon as possible. This does not constitute an emergency under our rules.

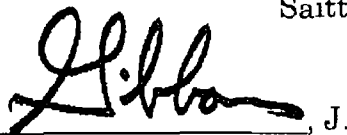
<sup>3</sup>We grant petitioners' motion to exceed the page limit for an opposition to a motion and direct the clerk to file the opposition received on August 25, 2015.

interest, on behalf of respondents, shall have 30 days from the date of this order within which to file an answer, including authorities, against issuance of the requested writ. Petitioner shall have 15 days from service of the answer to file and serve any reply.

It is so ORDERED.



Saitta



Gibbons



Pickering

cc: Hon. Joseph Hardy, Jr., District Judge  
Marquis Aurbach Coffing  
Lemons, Grundy & Eisenberg  
Holley, Driggs, Walch, Fine Wray Puzey & Thompson/Las Vegas  
Eighth District Court Clerk

## EXHIBIT 2

EXHIBIT2

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE

APR 27 2012

MJV

APR 30 2012

PM

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF RIVERSIDE, RIVERSIDE COURT

FAR WEST INDUSTRIES, a California  
corporation,

Plaintiff,

vs.

RIO VISTA NEVADA, LLC, a Nevada limited  
liability company; WORLD DEVELOPMENT,  
INC., a California corporation; BRUCE MAIZE,  
an individual; MICHAEL J. MONA, JR., an  
individual; and DOES 1 through 100, inclusive,

Defendants.

Case No. RIC495966

JUDGE: Hon. Jacqueline Jackson

~~[PROPOSED] JUDGMENT NUNC PRO TUNC~~

Action Filed: March 24, 2008

Trial Date: September 23, 2011

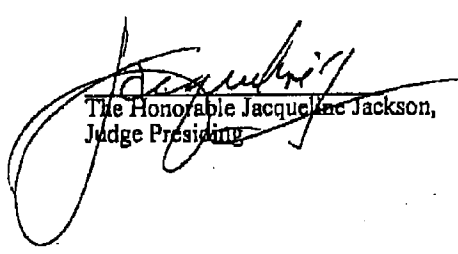
GREEN & HALL  
ATTORNEYS AT LAW  
1000 P STREET, SUITE 100  
RIVERSIDE, CALIFORNIA 92501  
(951) 514-1100

On February 23, 2012, the Honorable Jacqueline Jackson entered Finding of Fact and Conclusion of Law in the above-referenced matter. Based upon those Findings and Conclusion, Judgment is hereby entered in favor of Plaintiff Far West Industries, a California corporation and against the following Defendants, jointly and severally: (1) Michael J. Mona, Jr.; (2) Michael J. Mona, Jr., as Trustee of the Mona Family Trust dated February 21, 2002; (3) Rio Vista Nevada, LLC, a Nevada limited liability company; and (4) World Development, Inc., a California corporation in the amount of \$17,777,562.18. Recoverable court costs of \$25,562.56 and attorney's fees of \$327,548.84 are also awarded to Far West Industries, jointly and severally against all Defendants. The Clerk is hereby directed to enter those amounts on this Judgment following Far West Industries' post-Judgment petition for them. Finally, the Clerk is hereby

~~[PROPOSED] JUDGMENT NUNC PRO TUNC~~

1 directed to release the \$32,846 that was interplead by Defendant Fidelity National Title Company  
2 to Far West Industries upon entry of this Judgment.

3 Dated: 4/27/12

  
The Honorable Jacqueline Jackson,  
Judge Presiding

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FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF RIVERSIDE  
MAR 06 2012

RDA  
MAR 07 2012  
RE

SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

FAR WEST INDUSTRIES, A CALIFORNIA	)	Case No. RIC495966
CORPORATION, PLAINTIFF V RIO VISTA NEVEDA,	)	
LLC., A NEVADA LIMITED LIABILITY; WORLD	)	JUDGE: Hon. Jacqueline Jackson
DEVELOPMENT, INC., A CALIFORNIA CORPORATION;	)	DEPT: J1
BRUCE MAIZE, AN INDIVIDUAL; MICHAEL J. MONA,	)	FINDINGS OF FACT AND
JR., AN INDIVIDUAL, AND DOES 1 THROUGH 100,	)	CONCLUSIONS OF LAW
INCLUSIVE, DEFENDANTS	)	
	)	Action Filed: March 24, 2008
	)	Trial Date: September 23, 2011

On September 23, 2011, the above-referenced action came on for trial before the Honorable Jacqueline C. Jackson, Judge presiding. Plaintiff Far West Industries, a California corporation ("Far West") was represented by Robert L. Green & Hall, APC. Defaults were taken against Defendants Rio Vista Nevada, LLC, a Nevada limited liability company ("RVN") and World Development, Inc., a California corporation ("World Development") on October 7, 2010. Defendant Michael J. Mona, Jr. ("Mona"), both individually and as a Trustee of the Mona Family Trust dated February 21, 2002, was represented by Howard Golds and Jerry R. Dagrella of Best, Best and Krieger, LLP. After considering the trial testimony and evidence, the Court issued its Statement of Tentative Decision on November 30, 2011. Pursuant to Rule 3.1590(c)(3)

1 of the California Rules of Court, Far West was directed to prepare these Findings of Fact and  
2 Conclusions of Law. The court has edited them and this is the final version.

3 **I. Summary of Facts and Evidence**

4 **A. Mona Acquires the Project**

- 5 1. Michael Shustek ("Shustek") was for all times relevant herein the President of Vestin  
6 Mortgage, Inc. ("Vestin").
- 7 2. Vestin is a mortgage broker who lends money from Vestin-controlled Real Estate  
8 Investments Trusts ("REITs").
- 9 3. Vestin had loaned money to Lynn Burnett ("Burnett"), who in 2003 was developing a  
10 project which consisted of 1,362 lots in Cathedral City, California (the "Project").
- 11 4. 549 of those lots were being financed by Vestin (the balance by another lender), and  
12 Burnett had defaulted on his loan.
- 13 5. Shustek asked Mona to purchase from Burnett that portion of the Project financed by  
14 Vestin, and in doing so, agreed to loan Mona \$35 million of the REIT's money.
- 15 6. Shustek asked Mona to get involved even though Mona had no experience building a  
16 master planned residential community.
- 17 7. Of the Vestin \$35 million loan, \$19,268,568.32 was paid to purchase the Project; this  
18 was the amount needed to fully pay off Burnett's loan to Vestin.
- 19 8. \$9 million was to pay for the construction (the "Construction Loan") and \$3.6 million  
20 was reserved to pay interest on the loan (the "Interest Reserve").
- 21 9. Mona formed RVN, a Nevada, single-purpose LLC to take title to the Project.
- 22 10. The Mona Family Trust dated February 21, 2002 ("Mona Family Trust") owned  
23 100% of RVN.
- 24 11. Mona contributed no capital to RVN upon its formation. He formed that entity and  
25 took title in its name "to avoid liability". He had no intention of making any personal  
investment in the Project because it was "too risky".
12. Mona provided Vestin with a 12-month guaranty of the RVN loan (the "Guaranty")  
by another single-purpose, Nevada entity that was owned solely by Mona and also  
had no capital or assets, Emerald Suites Bonanza, LLC ("Emerald Suites").
13. For its part, Vestin (and not the REITs) was paid an initial fee of \$1.4 million from  
the RVN loan proceeds.

1  
2 **B. Mona Distributes Construction Loan Proceeds for Purposes Other than**  
3 **Construction**

- 4 14. Mona began issuing checks from the Construction Loan.
- 5 15. More particularly, on February 9, 2004, the first draw was made on the Construction  
6 Loan for \$2,448,481.82.
- 7 16. When that money was deposited into the RVN checking account three days later,  
8 there was only \$2,118,776.38 left.
- 9 17. Mona "couldn't remember" what happened to the remaining \$329,705.55.
- 10 18. Mona and his wife are the sole Trustees and Beneficiaries of the Mona Family Trust  
11 (a revocable trust). The Mona Family Trust was 100% owner of RVN at that time  
12 and Mona was the only signatory on the RVN account.
- 13 19. There was \$900,00 paid to RVN on February 5, 2004.
- 14 20. This check was deposited into the RVN account, but does not show up on the RVN  
15 Account Register.
- 16 21. Mona also paid \$702,000 from the Construction Loan to certain individuals and  
17 entities at the express direction of Shustek, even though those individuals and entities  
18 had never been affiliated with the Project, preformed no work on the Project, and  
19 Mona did not even know who they were.
- 20 22. Mona then paid \$1,283,700 to the Mona Family Trust, himself, and MonaCo  
21 Development Company (his Nevada construction company) from the Construction  
22 Loan at the direction of Shustek who had told Mona that Mona could take a \$1  
23 million fee for himself up front.
- 24 23. There was no provision in the RVN Operating Agreement for any of these payments.
- 25 24. The Court finds that Mona took the money for himself, the Mona Family Trust, and  
MonaCo Development from RVN shortly after he acquired the Project.
- 25 25. At the time that Mona took that money, and also immediately paid the \$1.4 million  
fee to Vestin and the \$702,000 to the Shustek-related individuals, RVN was insolvent.

26 **C. RVVA is Also Created at the Same Time**

- 27 26. Mona had only purchased 549 of the Project's 1,362 total lots.



1 27. Because it was all being developed at the same time, and Burnett was retaining the  
2 balance of the Project, he and Mona created Rio Vista Village Associates, LLC  
3 ("RVVA") to perform all of master plan community work which benefitted both parcels  
4 jointly (infrastructure improvements such as streets, utilities, a clubhouse, a park,  
5 landscaped detention basins, a water reservoir, a school, etc.).

6 28. Mona was the sole Manager of the RVN and one of the two Managers of the RVVA.

7 29. Mona retained his title and function as a Manager of RVN throughout the life of that  
8 entity, and for all times relevant, he was in charge of all finances for the RVN and the  
9 Project.

10 **D. Mona Solicits World Development's Participation**

11 30. Mona solicited World Development's involvement in the Project.

12 31. The Mona Family Trust sold 45% of RVN to World Development for \$45.

13 32. At that time, the Mona Family Trust also contributed \$55 in capital to RVN.

14 33. This \$100 from World Development and the Mona Family Trust was the only capital  
15 ever contributed to RVN at any time.

16 34. For all times relevant hereafter, World Development's CEO and the designated  
17 Manager of RVN was Bruce Maize ("Maize").

18 35. Mona remained Co-Manager of RVN with Maize.

19 **E. The Project**

20 36. Burnett defaulted on his other loan for the balance of the Project and filed  
21 bankruptcy.

22 37. His interest in RVVA was thereafter acquired by WHP Rio Vista, LLC, which was  
23 owned by Capstone Housing Partners, LLC ("Capstone").

24 38. By October of 2005, RVN had exhausted Interest Reserve.

25 39. Maize and Mona knew that the Project still required \$15 million in construction costs,  
with 40% (\$6,000,000) owned by RVN under the RVVA Operating Agreement.

40. That \$6,000,000 sum did not include interest payments on the \$35 million loan  
(which were as high as \$411,230.96 per month and which were no longer able to be paid  
from the Interest Reserve since it had already been exhausted).

1 41. In an Amended Operating Agreement for RVVA, RVN allowed Capstone to become  
2 a member of RVVA under certain conditions.

3 42. One such condition required Capstone to contribute just under \$1,500,000 to  
4 reimburse RVN for construction costs.

5 43. World Development learned about Mona's above-referenced million-dollar-plus  
6 payments from the Construction Loan to himself, his Family Trust and MonaCo  
7 Development and demanded that it also receive a distribution of "profits" to World  
8 Development in the amount of \$856,598.60, even though RVN had a negative net worth  
9 of \$3.8 million at the time and no revenue from inception.

10 **H. January of 2006**

11 44. In January of 2006, the Construction Loan was coming due with no funds to pay it  
12 off.

13 45. Mona and Vestin agreed to extend the Construction Loan for a short period of time  
14 (three months), at the cost of \$700,000 in loan extension fees.

15 46. That \$700,000 came from the Construction Loan proceeds and it was paid to Vestin,  
16 not the REITs.

17 47. Therefore as of January of 2006, Vestin had now collected an aggregate of  
18 \$2.1 million on loan fees from the Project (\$1.4 million initial fee plus the \$700,000  
19 extension).

20 48. The parties documented that extension in a January 3, 2006, Loan Extension  
21 Agreement (the "Amendment").

22 49. Mona was concerned the Project was in financial trouble in January of 2006.

23 50. At that time, conversations took place between Maize and Mona about a plan to "sell  
24 the asset, get the loan paid off, and move down the road."

25 51. That's also why at this time, RVN hired Park Place Partners to sell either the entire  
Project, or any parts of it they could.

**I. Far West Expresses Interest in the Project**

52. In approximately January of 2006, Far West was considering purchasing a portion of  
the Project.

53. One of the things requested by Far West was information about who was behind the  
RVN and guarantying its obligations.

1 54. Scott Lissoy ("Lissoy") of Far West knew of Maize and held Maize in high regard.

2 55. While that relationship gave Far West some measure of comfort regarding this  
3 Project, it still wanted to be sure that somebody had something financially at risk to make  
4 sure that they would deliver to Far West critical infrastructure and critical water meters  
after escrow closed.

5 56. Far West was purchasing 76 lots from RVN that were effectively an "island" in the  
6 middle of a large undeveloped residential community.

7 57. If the infrastructure surrounding that island was not completed, Far West would have  
no streets, water, electrical, cable, telephone, and the like to which it would connect.

8 58. It would also be in the midst of a master-planned community (clubhouse, swimming  
9 pools, community parks, common areas everywhere, etc.) that would not be completed.

10 59. Any hope of successfully building and selling homes would be gone, and therefore  
11 Far West wanted to insure that the infrastructure was going to be completed in a timely  
manner (by the agreed date of November 1, 2006).

12 60. Maize represented to Lissoy that RVN and RVVA could complete all infrastructures  
13 by November 1, 2006.

14 61. Far West therefore asked Maize to include specific Representation and Warranty in  
the Purchase Agreements, thereby obligating RVN to complete that entire infrastructure  
15 by November 1, 2006.

16 62. Far West also secured Representations and Warranties that confirmed what Maize  
was telling it on behalf of RVN; all necessary water meters would be available to Far  
17 West at the close of escrow and there was no claims either pending or threatened by any  
entity that might otherwise negatively impact the development of Far West's lots and/or  
18 the construction of the Project's infrastructure.

19 63. Finally, Far West asked Maize to confirm what he had told Lissoy; that the "Due  
20 Diligence Documents" given by Maize to Far West included everything that was material  
to the transaction.

21 64. Lissoy also asked Maize about who was financially behind RVN, and when Maize  
22 and Robert Pippen (World Development's and RVN attorney) represented to Lissoy and  
Ira Glasky of Far West that Mona was a man of substantial financial means who had  
23 personally guaranteed the Vestin loan, Lissoy asked for written proof.

24 65. The next day, Richard Van Buskirk (on behalf of Maize) asked for written proof of  
25 Mona's personal Guaranty.

1 66. Mona had in his possession an amendment to the Loan (the "Amendment"), a  
2 document that he had signed in January, 2006 as an individual.

3 67. Therefore in response to the initial request from Lissoy, Mona's Office Manager (on  
4 behalf of Mona and acting as his agent) provided Maize with the Amendment (and not  
5 the actual Guaranty), since it represented him to be the Guarantor personally by separate  
signature and it neither revealed that the Guaranty was from Emerald Suites nor that it  
had expired.

6 68. The Amendment was forwarded to Far West the next day in response to its inquiries  
7 regarding confirmation of Mona's personal Guaranty.

8 69. That proof of Guaranty was sent by Maize to Far West with a copy to Mona and  
9 containing a note stating that a "copy of the loan extension with the Guarantee is  
10 attached- Condition met" (referring to proof of Mona's personal Guaranty as a condition  
precedent to escrow closing).

11 **J. The Capstone Notice of Default**

12 70. RVN was in default on its capital contributions to RVVA, and on March 31, 2006,  
13 Capstone (through Bert) sent Mona a formal Default Notice, demanding that RVN cure  
its deficit in the RVVA account.

14 71. Capstone demanded that RVN contribute \$762,943 by April 14, 2006 and an  
15 additional \$968,953 in the coming months.

16 72. Mona told Bert that RVN was out of money and would not be paying anything further  
17 to RVVA.

18 73. Bert told Mona and Maize that Capstone would continue moving forward with only  
19 its portion of the Project so that its investment was not placed in jeopardy.

20 74. Bert refused to contribute towards any of the infrastructure that benefited the RVN  
21 property (including what was to be Far West's lots) unless and until RVN cured its  
breach.

22 75. Bert also told them that he was keeping all of the water meters allocated to the Project  
23 until RVN brought its account current.

24 76. Without a water meter, no developer could build and sell a home.

25 77. Therefore as of the Spring of 2006, RVN's portion of the Project had no realistic  
chance of completion.

1           K. May of 2006

2           78. By May of 2006, Cathedral City (the "City") had become very concerned with the  
3           Project's innumerable problems and lack of progress.

4           79. By that time, the Project's infrastructure was far from complete (including a \$5  
5           million off-site water reservoir, a recreation center and common area amenities).

6           80. The City was threatening to shut down Phase II of the Project (which included the Far  
7           West lots) altogether.

8           81. Also at this time, the Vestin loan was again coming due and Mona negotiated another  
9           short (three month) extension.

10          82. These short extensions were costly in terms of large extension fees demanded and  
11          subsequently paid to Vestin (and not the REITs) totaling \$1,700,000 along with interest  
12          rate increases (rising from 8% to as high as 14.5%).

13          83. At this point, Vestin had now taken over \$3 million in total fees from the loan  
14          proceeds provided to Mona by the REITs (which at this point in time had funded all of  
15          Mona's financial requirements in this Project).

16          84. The Project was already \$1,913,636 over budget as of May 16, 2006, and RVN was  
17          both out of cash and in default of its obligations to RVVA.

18          85. Mona knew that this cost overrun was important and needed to be disclosed to Far  
19          West.

20          86. The same is true with respect to the Capstone Default Notice: Mona assumed that  
21          Maize was telling Far West all of this during their negotiations.

22          87. Maize told Far West nothing about the RVVA default or the cost overruns, nor did he  
23          provide Far West with the default letters/notices.

24          88. As of that point in time, Mona, World Development, and Vestin (and Vestin's related  
25          parties) had taken \$7,521,254.65 (all but \$900,000 coming from the \$9 million  
26          Construction Loan) that was not used by them for construction.

27          89. Also as of that date, there was still \$6,936,454.82 that needed to be contributed to  
28          RVVA by RVN.

29          90. RVN therefore had a shortfall as of June 1, 2006, with no potential available source  
30          of additional capital.

31          91. Neither Maize nor Mona disclosed this shortfall to Far West at any time prior to Far  
32          West executing the Purchase Agreements.

1  
2 92. Furthermore, neither Maize nor Mona ever told Far West that Mona, World  
Development, and Vestin had taken \$7,521,254.65 from the Project.

3 **L. Mona and Maize Mislead Far West into Purchasing Lots by Concealing the**  
4 **Project's True State**

5 93. Maize's negotiations with Far West were proceeding and he kept Mona informed.

6 94. Mona was responsible for all finances on behalf of RVN, and Maize told Lissoy that  
7 all decisions must therefore be made jointly with Mona.

8 95. Furthermore, the draft Purchase Agreements (as the transaction was negotiated  
between January and May of 2006) were sent to Mona for review and comment.

9 96. E-mail correspondence between Maize and Mona and addressing the Far West deal  
10 started with the first draft agreement in January of 2006 and ended with the "final deal  
11 points" on May 26, 2006 (five days before the Purchase Agreements with Far West were  
signed).

12 97. On June 1, 2006, Far West signed two Purchase Agreements for 76 lots in the Project.

13 98. The combined purchase price under the agreements was \$6,430,961.45. Escrow for  
14 72 of the lots closed on June 9, 2006, and escrow for the remaining 4 lots closed on  
August 31, 2006.

15 99. The Purchase Agreements contain, among others, the following Representations and  
16 Warranties which were deemed to be true as of the date of the Purchase Agreements were  
signed and restated as of the date escrow closed:

17 100. "To the actual knowledge of the Seller, there are no...[a]ctions or claims pending or  
18 threatened by any governmental or other party which could affect the Property"

19 101. "Seller warrants that none of RVVA's improvements outside or inside the Property  
20 boundary shall preclude, limit or delay Buyer from developing the Property (including  
obtaining building permits and/or certificates of occupancy...)"

21 102. "[A]ll improvements except the final lift of asphalt (surface or otherwise) on the  
22 streets surrounding the Property (Rio Largo Road, Rio Guadalupe Road and Rio Madera  
Road) will be complete by November 1, 2006

23 103. "Seller shall use diligent reasonable efforts to ensure that water meters are available  
24 to Buyer, pending payment by Buyer of required meter and facilities fees..."

1 104. "To Seller's actual knowledge, the Due Diligence Documents constitute all of the  
2 material documents relating to the Property in the Seller's possession as of the date of  
this Agreement..."

3 105. "Each of the representations and warranties set forth in this Section 3 and in Section  
4 6.2 is material to and is being relied upon by Buyer and the continuing truth thereof shall  
constitute a condition precedent to Buyer's obligations hereunder".

5 106. All of these Representations and Warranties were false on June 1, 2006, and both  
6 Maize and Mona knew they were false.

7 107. Maize and Mona knew that RVN was in default under RVVA Operations  
8 Agreement, and that the Project was facing imminent failure.

9 108. Moreover, RVN's default had resulted in a pending claim by Capstone (sent directly  
10 to Mona as RVN's Manager) which would preclude completion of the infrastructure,  
delivery of water meters, and Far West's ability to develop and sell homes upon its lots.

11 109. Neither Maize nor Mona informed Far West that Capstone had informed them that it  
12 would not contribute toward infrastructure construction benefiting the Far West lots or  
that Capstone was retaining all water meters for the entire Project.

13 110. The failure to disclose those facts constituted a material breach of the Representation  
14 and Warranty pertaining to RVVA's improvements not precluding, limiting, or delaying  
Far West in its development efforts.

15 111. Furthermore, RVN was not using diligent commercially reasonable efforts to insure  
16 that Far West obtained the required water meters, thereby materially breaching that  
Representation and Warranty.

17 112. RVN did not complete all improvements except the final lift of asphalt by  
18 November 1, 2006, which again constituted a material breach of the Purchase  
Agreements.

19 113. Finally, Maize and Mona did not provide Far West with all "material documents  
20 relating to the Property in Seller's possession as of the date of this Agreement" (June 1,  
21 2006).

22 114. At no time did Maize or Mona provide Far West with the following material  
23 documents: (1) the Capstone Default Notice; (2) correspondence from the City  
threatening to shut down the Project; (3) documentation showing that the Project was \$2  
24 million over budget; or (4) any documentation informing Far West that RVN was out of  
money and unable to meet its financial commitments to RVVA.

25 115. The Purchase Agreements contain a provision awarding Far West liquidated  
damages of \$1,200 per day for every day that RVN delays delivery of water meters.

1 116. To this day, those meters have not been delivered by RVN, and the per diem  
2 damages calculated to the first day of trial are \$2,100,000.

3 117. Immediately after the first close of escrow, Bert wrote a second Default Notice to  
4 Mona.

5 118. Here again, Bert threatened RVN that it would "cease to have any powers, rights, or  
6 authorities" in connection with the management of RVVA and he confirmed that he told  
7 Maize and Mona all along: Capstone "retain(s) the exclusive right to the use if all the  
8 water meters acquired with such amounts funded solely by us".

9 119. This was two months before Far West closed the second escrow (August 31).

10 120. Neither Maize nor Mona provided Far West with the second Capstone Default  
11 Notice or informed Far West about its existence.

12 121. Far West continued with the transaction and the second escrow closed.

13 122. In good faith, Far West proceeded with its short-lived plans for development.

14 123. The company spent another several million dollars in: (1) completing all of the in-  
15 tract infrastructure in preparation for connecting to the Project infrastructure, which RVN  
16 never completed; and (2) building three model homes and one production unit for sale.

17 124. The Far West project was an island of completed construction in the middle of  
18 uncompleted streets, curbs, gutters, utilities, and the like.

19 **M. Mona Unilaterally Conveys RVN's Only Asset and Takes the Remaining**  
20 **Funds for his and Maize's Personal Use**

21 125. Sometime in September of 2006 and less than 30 days after the second Far West  
22 close of escrow but before the Vestin loan was due, Mona unilaterally decided to walk  
23 away from the Project and give what remained of it back to Vestin.

24 126. Mona never informed Far West that RVN was transferring the remaining Property to  
25 the lender right after Far West closed escrow.

127. RVN also has \$125,000 in its account at El Paseo Bank, which was RVN's only  
bank account.

128. On or about November 13, 2006, Mona and Maize decided to take that money for  
themselves via checks to the Mona Family Trust and World Development, despite having  
received multiple letters from Far West alleging breach of the Purchase Agreements.



1 129. Far West had deposited \$32,846 into Escrow at the time of the original transaction,  
2 and that money was being held to pay for certain infrastructure improvements that RVN  
3 was going to perform.

4 130. Those improvements were never constructed.

5 **N. Far West Suffers Damage**

6 131. RVVA never completed the infrastructure and all of RVN's property interests were  
7 conveyed to Vestin by Mona.

8 132. Because the infrastructure was incomplete, no developers could move forward with  
9 the Project's remaining lots.

10 133. Far West was left with four fully-constructed and merchandized homes (3 models  
11 and one production home), with no way to complete the rest of the development and/or to  
12 sell anything.

13 134. Far West remained obligated to complete certain in-tract infrastructure, or risk a  
14 claim on Far West's performance bond with the City.

15 135. All totaled, Far West invested \$11,138,411.45 into this Project (which includes the  
16 per-diem delay damages under the Purchase Agreements).

17 136. With 10% pre-judgment interest through the first day of trial, the grand total is  
18 \$16,886,132.16.

19 137. Daily damages of \$5,259.75 from September 23, 2011 until entry of Judgment are  
20 comprised of the per diem penalty plus further pre-judgment interest on Far West's out-  
21 of-pocket expenses at 10%.

22 **O. Alter Ego**

23 138. Mona and the Mona Family Trust failed to adequately capitalize RVN.

24 139. Mona commingled funds belonging to RVN, the Mona Family Trust, MonaCo  
25 Development, and himself personally.

140. Mona diverted RVN's funds to other than RVN's uses.

141. Mona treated the assets of RVN as his own.

142. Mona used RVN as a mere shell, instrumentality, or conduit for his own personal  
gain.

1 143. Mona diverted assets from RVN to Vestin, himself, MonaCo Development, and  
2 World Development to the detriment of RVN's creditors

3 144. Maintaining legal separation between RVN, Mona, and the Mona Family Trust  
4 would sanction fraud and promote injustice.

5 145. All actions taken by Mona in this regard were both in his individual capacity and in  
6 his capacity as Trustee of the Mona Family Trust.

7 **II. Conclusions of Law**

8 **A. RVN Breached the Purchase Agreements**

- 9 1. RVN breached both Purchase Agreements with Far West and Far West suffered  
10 damages proximately caused thereby.
- 11 2. Those fixed and readily-ascertainable damages total \$11,138,411.45, exclusively of  
12 pre-judgment interest.
- 13 3. Pre-judgment interest calculated from the day each expense was incurred by Far West  
14 through the first day of trial total \$5,727,720.71, and Far West is entitled to that  
15 interest.
- 16 4. All Totaled, Far West suffered damages of \$16,886,132.16 as of September 23, 2011,  
17 that were proximately caused by RVN's breaches of the Purchase Agreements.

18 **B. Mona, RVN, and World Development Intentionally Defrauded Far West**

- 19 5. Both Maize and Mona intentionally misrepresented material facts and concealed other  
20 material facts from Far West as discussed above.
- 21 6. When Maize and Mona misrepresented and concealed those materials facts, they were  
22 doing so on behalf of RVN as Members and Managers.
- 23 7. Furthermore, Maize made those same material misrepresentations and omitted those  
24 material facts as the CEO and Shareholder of World Development.
- 25 8. Maize and Mona were under a duty to disclose those material facts that were  
concealed from Far West, and Far West was unaware of those facts or Maize's and  
Mona's concealment.
9. Maize and Mona acted with an intent to defraud Far West, Far West justifiably relied  
upon Maize's and Mona's affirmative misrepresentations and omissions, and Far West  
sustained damage

1 10. As a result of Mona's, RVN's, and World Development's intentional fraud, Far West  
2 sustained damages totaling \$16,886.132.16 as of September 23, 2011 (with pre-  
3 judgment interest included).

4 **C. Mona, RVN, and World Development are Liable for Negligent Misrepresentation**

5 11. Maize and Mona (on behalf of World Development and RVN) misrepresented material  
6 facts without a reasonable ground for believing them to be true and omitted certain  
7 material facts, with the intent to induce Far West's reliance on those facts  
8 misrepresented or omitted.

9 12. Far West was ignorant of the truth, and justifiably relied upon Maize and Mona's  
10 representations and omissions, thereby sustaining damage.

11 **D. Mona, RVN and World Development are liable for Breach of the Common Law**  
12 **Duty to Disclose**

13 13. As a seller of real property, Mona, RVN, and World Development had a duty to  
14 disclose to Far West all facts that materially affected the value of the property being  
15 sold.

16 14. Maize and Mona failed to disclose the numerous facts referenced above which  
17 materially affected the value of the property, and they knew that such facts were not  
18 known to, or within the reach of diligent attention and observation of Far West.

19 15. As a result, Far West sustained the damage referenced above.

20 **E. Mona, RVN and World Development are all Liable for Conspiracy to Commit**  
21 **Fraud**

22 16. Mona and Shustek agreed and conspired to defraud any potential purchasers of the  
23 Project (which ultimately included Far West) by structuring this entire transaction to  
24 appear to be a legitimate loan being made to a legitimate company (RVN) and  
25 guaranteed by another legitimate company (Emerald Suites).

17 17. The conspiratorial agreement between Mona and Shustek was for them to take  
18 millions of dollars for Vestin in the form of fees, to pay certain individuals and entities  
19 unrelated to the Project a total of \$702,000, and for Mona and the Mona Family Trust  
20 to personally reap an initial \$1 million profit.

21 18. Mona and Shustek also agreed that Mona would use what was left of the Construction  
22 Loan to move the Project along far enough to find some unsuspecting developer to  
23 purchase all or part of it from RVN.

24 19. At some point after the formation of that conspiracy, but no later than the Fall of 2005,  
25 Maize joined them as a co-conspirator.

1 20. In exchange for agreeing; (1) to continue moving the Project along and seeking  
2 unsuspecting developers to purchase it; and (2) to stay silent about the monies already  
3 paid from the Construction Loan to Mona and Vestin, World Development was paid  
4 \$858,598.60, which money was separate from any project management costs to which  
5 it was to be paid.

6 21. The many wrongful acts done furtherance of that conspiracy are more fully set forth in  
7 the Findings of Fact.

8 22. The Liability of Mona, RVN, and World Development is therefore joint and several as  
9 a result of their conspiratorial agreement.

10 **F. Maize Acted as Mona's Agent**

11 23. Maize was Mona's actual and ostensible agent when Mona directed him to submit to  
12 Far West the fraudulent Guaranty.

13 **II. MONA IS THE ALTER EGO OF RVN, AND TO THE EXTENT NECESSARY,**  
14 **OF THE MONA FAMILY TRUST**

15 27. California law governs any alter ego analysis.

16 28. The alter ego doctrine applies to Limited Liability Companies.

17 29. Under California law, the alter ego doctrine is a viable theory of recovery against a  
18 Trustee for actions taken in his or her representative capacity to benefit the Trust.

19 30. Accordingly, this finding of alter ego liability applies to Mona both in his individual  
20 capacity and in his capacity as the Trustee of the Mona Family Trust.

21 31. There is such a unity of interest and ownership that the separate personalities of  
22 RVN, the Mona Family Trust, and Mona no longer individually exist.

23 32. The acts of RVN are treated as those of the entity alone, an inequitable result will  
24 follow.

25 33. Mona, individually and in his capacity as Trustee of the Mona Family Trust, are the  
alter egos of RVN and therefore liable for any and all damages awarded against RVN.

34. To the extent necessary, Mona is the alter ego of the Mona Family Trust, and as a  
result, both he and the Mona Family Trust are both liable for any and all damages  
awarded herein against RVN.

1 **III. FAR WEST IS ENTITLED TO THE INTERPLEAD FUNDS**

2 35. Defendant Fidelity National Title Company filed a Cross-Complaint in Interpleader,  
3 thereby depositing \$32,846 with the Court pursuant to Section 386.1 of the California  
4 Code of Civil Procedure.

5 36. Far West is entitled to those funds, and the Clerk is hereby directed to pay those funds  
6 to Far West forthwith.

7 **IV. JUDGMENT TO BE ISSUED**

8 Judgment shall issue forthwith against Mona in his individual capacity and as Trustee of  
9 the Mona Family Trust, RVN, and World Development in the amount of \$16,886,132.16 plus  
10 daily additional damages of \$5,259.75 from September 23, 2011 until entry of Judgment, jointly  
11 and severally; this amount totals \$17,841,651.92 as of March 5, 2012. Furthermore, that  
12 judgment shall leave a blank for any award of any court costs and attorney's fees that will be the  
13 subject of Far West's post-Judgment motions. Finally, the Clerk is directed to release the  
14 \$32,846 interplead funds to Far West immediately.

15  
16 Dated: March 5, 2012

17   
18 Hon. Jacqueline C. Jackson,  
19 Judge Presiding  
20  
21  
22  
23  
24  
25

# EXHIBIT 3

# EXHIBIT 3

PLEASE COMPLETE THIS INFORMATION.

RECORDING REQUESTED BY:

Michael D. Sifen

AND WHEN RECORDED MAIL TO:

Michael D. Sifen

500 CENTRAL DRIVE #106

VA Beach

VA 23434

United States

DOC# 2015-0378073



Jul 17, 2015 02:11 PM

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Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

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PAGES: 7

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### Deed of Trust

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THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION

(Additional recording fee applies)

Filed for Record at Request of:

Michael D. Sifen  
c/o R. Edward Bourdon Jr., Attorney  
281 Independence Blvd.  
Pembroke One, Fifth Floor  
Virginia Beach, Virginia 23462

### DEED OF TRUST

THIS DEED OF TRUST, made this 17 day of July, 2015, between LUNDENE ENTERPRISES LLC, a Nevada limited liability company, GRANTOR, and First American Title Company, a corporation, TRUSTEE, whose address is 7676 Hazard Center Dr. Suite 1100, San Diego, CA 92108, and MICHAEL D. SIFEN, BENEFICIARY.

WITNESSETH: Grantor hereby bargains, sells and conveys to Trustee in Trust, with power of sale, the following described real property situated in the County of San Diego, State of California, legally described as follows (hereafter the "Real Property"):

See Legal Description Attached as Exhibit "A" hereto and incorporated herein as if fully set forth.

APN: 535-114-04-11

TOGETHER with all right, title and interest of Grantor in all buildings and improvements now located or hereafter to be constructed thereon (collectively "Improvements");

TOGETHER with all right, title and interest of Grantor in the appurtenances, hereditaments, privileges, reversions, remainders, profits, easements, franchises and tenements thereof, including all timber, natural resources, minerals, oil, gas and other hydrocarbon substances thereon or therein, air rights, and any land lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Real Property and Improvements;

TOGETHER with all of Grantor's right, title and interest to all proceeds (including claims or demands thereto) from the conversion, voluntary or involuntary, of any of the Real Property and Improvements into cash or liquidated claims, including, without limitation proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments in lieu thereof made by any public body or decree by any court of competent jurisdiction for taking or for degradation of the value in any condemnation or eminent domain proceeding, and all causes of action and the proceeds thereof of all types for any damage or injury to the Real Property and Improvements or any part thereof, including, without limitation, causes of action arising in tort or contract and causes of action for fraud or concealment of a material fact, and all proceeds from the sale of the Real Property and/or Improvements.

TOGETHER with all right, title and interest of Grantor in and to (i) all leases, rental agreements and other contracts and agreements relating to use and possession (collectively "Leases") of any of the Real Property or Improvements, and (ii) the rents, issues, profits and proceeds therefrom together with all guarantees thereof and all deposits (to the full extent permitted by law) and other security therefore (collectively "Rents"). The Real Property, Improvements, Leases, Rents and all other right, title and interest of Grantor described above are hereafter collectively referred to as the "Property".

1. **Obligations Secured.** Grantor makes this Deed of Trust for the purpose of securing:



a. Payment of all indebtedness and other obligations evidenced by a promissory note in the principal amount of \$1,000,000 dated February 28, 2014, made by Michael J. Mona III, manager and sole member of Grantor, as principal and/or guarantor and Beneficiary as party thereto.

b. Payment and performance of all obligations of Grantor under this Deed of Trust, including payment of all sums expended or advanced by Beneficiary (or any one of them) hereunder and under the above-mentioned promissory note, together with interest thereon, in the preservation, enforcement and realization of the rights of Beneficiary hereunder or under any of the other obligations secured hereby including, but not limited to, attorney's fees, court costs, other litigation expenses, and foreclosure expenses.

c. Payment and performance of all future advances and other obligations that the then record owner of all or part of the Property may agree to pay or perform (whether as principal, surety or guarantor) for the benefit of Beneficiary, when such obligation is evidenced by a writing which states that it is secured by this Deed of Trust.

d. All modifications, extensions and renewals (if any) of one or more of the obligations secured hereby, including without limitation (i) modifications of the required principal payment dates or interest payment dates, deferring or accelerating payment dates wholly or partly, and (ii) modifications, extensions or renewals at a different rate of interest, whether or not, in the case of a note or other contract, the modification, extension or renewal is evidenced by a new or additional promissory note or other contract.

The obligations secured by this Deed of Trust are herein collectively called the "Secured Obligations". All persons who may have or acquire an interest in the Property shall be deemed to have notice of, and shall be bound by, the terms of the Agreement, this Deed of Trust, and any other instruments or documents made or entered into in connection herewith (collectively "Documents") and each of the Secured Obligations.

## **2. Leases and Rents.**

a. Neither the assignment of the Leases and Rents set forth in this Deed of Trust nor any provision of the Agreement shall impose upon Beneficiary any duty to produce Rents from the Property or cause Beneficiary to be (a) a "mortgagee in possession" for any purpose, (b) responsible for performing any of the obligations of the lessor under any Lease or (c) responsible or liable for any waste by any lessees or any other parties, for any dangerous or defective condition of the Property, for any negligence in the management, upkeep, repair or control of the Property or for any other act or omission by any other person.

b. Grantor covenants and agrees that Grantor shall not (i) amend, modify or change any term, covenant or condition of any Lease in existence on the date of this Deed of Trust without the prior written consent of Beneficiary or (ii) enter into any Lease of the Property, or any interest therein, or any portion thereof, from and after the date of this Deed of Trust without the prior written consent of Beneficiary. Grantor agrees that commencing with an Event of Default, as hereinafter defined, each tenant of the Property, or any portion thereof, shall make such Rents payable to and pay such Rents to Beneficiary, or Beneficiary's agent, upon Beneficiary's written demand to each tenant therefor, without any liability on the part of such tenant to inquire further as to the existence of a Default by Grantor, provided, however, in the event of Grantor's cure of any such Default as herein provided, Grantor shall again be entitled to recover and collect such Rents as provided above prior to the event of Default.

c. Grantor shall (i) fulfill or perform each and every condition and covenant of each Lease to be fulfilled or performed by the lessor thereunder, (ii) give prompt notice to Beneficiary of any notice of default by the lessor or the lessee thereunder received by Grantor together with a complete copy of any such notice, and (iii) enforce, short of termination thereof, the performance or observance of each and every covenant and condition thereof by the lessee thereunder to be performed or observed.

d. Grantor shall furnish to Beneficiary, within thirty (30) days after a request by Beneficiary, a written statement containing the names of all lessees of the Property, the terms of their respective Leases, the spaces occupied and the rentals payable and received thereunder and a copy of each Lease.

3. **Further Covenants of Grantor.** To protect the security of this Deed of Trust, Grantor further covenants and agrees:

a. To keep the property in good condition and repair; to permit no waste thereof; to complete any building, structure or improvement being built or about to be built thereon; to restore promptly any building, structure or improvement thereon which may be damaged or destroyed; and to comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property.

b. To pay before delinquent all lawful taxes and assessments upon the property; to keep the property free and clear of all other charges, liens or encumbrances impairing the security of this Deed of Trust except as otherwise expressly authorized in writing by the Beneficiary.

c.. To keep all buildings now or hereafter erected on the property described herein continuously insured against loss by fire or other hazards in an amount not less than the total debt secured by this Deed of Trust. All policies shall be held by the Beneficiary, and be in such companies as the Beneficiary may approve and have loss payable first the Beneficiary and then to the Grantor. The amount collected under any insurance policy may be applied upon any indebtedness hereby secured in such order as the Beneficiary shall determine. Such application by the Beneficiary shall not cause discontinuance of any proceedings to foreclose this Deed of Trust. In the event of foreclosure, all rights of the Grantor in insurance policies then in force shall pass to the purchaser at the foreclosure sale.

d. To defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Beneficiary or Trustee, and to pay all costs and expenses, including cost of title search and attorney's fees in a reasonable amount, in any such action or proceeding, and in any suit brought by the Beneficiary to foreclose the Deed of Trust.

e. To pay all costs, fees and expenses in connection with this Deed of Trust, including the expenses of the Trustee incurred in enforcing the obligation secured hereby and Trustee's and attorney's fees actually incurred, as provided by statute.

f. Should Grantor fail to pay when due any taxes, assessments, insurance premiums, liens, encumbrances or other charges against the property hereinabove described, Beneficiary may pay the same, and the amount so paid, with interest at the rate set forth in the note secured hereby, shall be added to and become a part of the debt secured in this Deed of Trust.

4. **Additional Agreements of Parties.** It is mutually agreed that:

a. In the event any portion of the Property is taken or damaged in an eminent domain proceeding, the entire amount of the award or such portion as may be necessary to fully satisfy the obligations secured hereby, shall be paid to Beneficiary to be applied to said obligation.

b. By accepting payment of any sum secured hereby after its due date, Beneficiary does not waive their rights to require prompt payment when due of all other sums so secured or to declare default for failure to so pay.

c. The Trustee shall reconvey all or any part of the Property covered by this Deed of Trust to the person entitled thereto, on written request of the Grantor and the Beneficiary, or upon satisfaction of the obligations secured and written request for reconveyance made by the Beneficiary or the person entitled thereto.

d. Upon default by Grantor in the payment of any indebtedness secured hereby or in the performance of any agreement contained herein, all sums secured hereby shall immediately become due and payable at the option of the Beneficiary. In such event and upon written request of the Beneficiary, Trustee shall sell the trust property, in accordance with the laws of the State of California, at public auction to the highest bidder. Any person except the Trustee may bid at the Trustee's sale. Trustee shall apply the proceeds of the sale as follows: (a) to the expense of the sale, including a reasonable Trustee's fee and attorney's fee; (b) to the obligations secured by this Deed of Trust; (c) the surplus, if any, shall be distributed to the persons entitled thereto.

e. Trustee shall deliver to the purchaser at the sale its deed, without warranty, which shall convey to the purchaser the interest in the property which Grantor has or had the power to convey at the time of his execution of this Deed of Trust, and such as he may have acquired thereafter. Trustee's deed shall recite the facts showing that the sale was conducted in compliance with all the requirements of law and of this Deed of Trust, which recital shall be prima facie evidence of such compliance and conclusive evidence thereof in favor of bona fide purchaser and encumbrances for value.

f. The power of sale conferred by this Deed of Trust and by the law of the State of California is not an exclusive remedy; Beneficiary may cause this Deed of Trust to be foreclosed as a mortgage.

g. In the event of the death, incapacity, disability or resignation of Trustee, Beneficiary may appoint in writing a successor trustee, and upon the recording of such appointment in the mortgage records of the county in which this Deed of Trust is recorded, the successor trustee shall be vested with all powers of the original trustee. The Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Grantor, Trustee or Beneficiary shall be a party unless such action or proceeding is brought by the Trustee.

h. This Deed of Trust applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their heirs, devisees, legatees, administrators, executors and assigns. The term Beneficiary shall mean the holders and owners of the note secured hereby, whether or not named as a Beneficiary herein.

"GRANTOR"

By:

Michael J. Mona III, Manager and Sole Member  
Lundene Enterprises, LLC

STATE OF CALIFORNIA )

) ss.

COUNTY OF SAN DIEGO )

On this 17<sup>th</sup> day of July, 2015, before me, the undersigned, a Notary Public in and for the State of California, duly commissioned and sworn, personally appeared Michael J. Mona III, to me known to be the Manager and duly authorized agent of Grantor and who acknowledged that he executed the foregoing instrument on behalf of Grantor for the uses and purposes therein mentioned.

Witness my hand and official seal hereto affixed the day and year first above written.

Rhoda E. Lelevier

Notary Public in and for the State of California

Page 4 of 4



Initials:

MM

Please see attached California Acknowledgment

**EXHIBIT A**

**LEGAL DESCRIPTION**

Real property in the City of San Diego, County of San Diego, State of California, described as follows:

A CONDOMINIUM ("CONDOMINIUM") LOCATED ON THE REAL PROPERTY DESCRIBED AS LOT 1 OF SUBDIVISION MAP NO. 14325, FILED IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ON DECEMBER 28, 2001 ("PROPERTY"), COMPRISED OF:

**PARCEL 1:**

A SEPARATE INTEREST IN UNIT NO. 701, AS DESIGNATED ON THE CONDOMINIUM PLAN FOR PARKLOFT CONDOMINIUMS RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198684 AND AS AMENDED AUGUST 21, 2002 AS INSTRUMENT NO. 02-708932 BOTH IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("CONDOMINIUM PLAN").

**PARCEL 2:**

AN UNDIVIDED 1/120TH INTEREST IN THE UNDIVIDED INTEREST COMMON AREA AS DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARKLOFT CONDOMINIUM OWNERS ASSOCIATION RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198685, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("DECLARATION") AND ON THE CONDOMINIUM PLAN, WHICH WILL NOT BE OWNED BY THE PARKLOFT CONDOMINIUM OWNERS ASSOCIATION ("ASSOCIATION").

**PARCEL 3:**

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE, ENJOYMENT AND SUPPORT OVER THE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED BY THE ASSOCIATION.

**EXCEPTING THEREFROM**

A. ALL NUMBERED CONDOMINIUM UNITS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN OTHER THAN THE UNIT CONVEYED AS PARCEL 1 ABOVE.

B. THOSE PORTIONS OF THE EXCLUSIVE USE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH ARE SET ASIDE AND ALLOCATED FOR THE EXCLUSIVE USE OF OWNERS OF CONDOMINIUMS (AS DEFINED IN THE DECLARATION) OTHER THAN THE CONDOMINIUM CONVEYED HEREIN.

**PARCEL 4:**

THE EXCLUSIVE RIGHT TO USE THE FOLLOWING ELEMENTS OF THE COMMON AREA (DESIGNATED AS EXCLUSIVE USE COMMON AREA), AS SHOWN ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED THE ASSOCIATION.

APN: 535-114-04-11

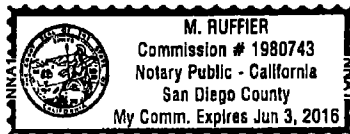
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

**CIVIL CODE § 1189**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
 County of San Diego )  
 On July 17, 2015 before me, M. Ruffier, Notary Public  
Date Here Insert Name and Title of the Officer  
 personally appeared Michael J. Mona III  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature [Signature]  
Signature of Notary Public

*Place Notary Seal Above*

**OPTIONAL**

*Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.*

**Description of Attached Document**

Title or Type of Document: Deed of Trust: AM 535-114-01-11 Document Date: July 17, 2015  
 Number of Pages: 6 Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer is Representing: \_\_\_\_\_

Signer's Name: \_\_\_\_\_  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
☐ Individual ☐ Attorney in Fact  
☐ Trustee ☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_  
 Signer is Representing: \_\_\_\_\_

# EXHIBIT 4

# EXHIBIT 4

28  
2015

DOC# 2015-0410793



**RECORDING REQUESTED BY**

Terry A. Coffing, Esq.  
Marquis Aurbach Coffing, P.C.  
10001 Park Run Drive  
Las Vegas, NV 89145

Aug 04, 2015 08:29 AM

OFFICIAL RECORDS

Ernest J. Dronenburg, Jr.,

SAN DIEGO COUNTY RECORDER

FEES: \$51.00

PCOR: N/A

PAGES: 7

**AND WHEN RECORDED MAIL DOCUMENT TO:**

Terry A. Coffing, Esq.  
Marquis Aurbach Coffing, P.C.  
10001 Park Run Drive  
Las Vegas, NV 89145

Space Above This Line for Recorder's Use Only

A.P.N.: 535-114-0411

**DEED OF TRUST WITH ASSIGNMENT OF RENTS  
(LONG FORM)**

THIS DEED OF TRUST, made this 28, 2015, between

TRUSTOR: **Lundene Enterprises LLC, a Nevada limited liability company**

whose address is **877 Island Avenue, Unit 701, San Diego, CA 92101**

TRUSTEE: **First American Title Insurance Company**

and BENEFICIARY: **Rhonda Mona**

whose address is **59 Promontory Ridge Drive, Las Vegas, NV 89135**

WITNESSETH: That Trustor grants to Trustee in trust, with power of sale, that property in the City of San Diego, County of San Diego, State of California, described as:

A CONDOMINIUM ("CONDOMINIUM") LOCATED ON THE REAL PROPERTY DESCRIBED AS LOT 1 OF SUBDIVISION MAP NO. 14325, FILED IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ON DECEMBER 28, 2001 ("PROPERTY"), COMPRISED OF:

**PARCEL 1:**

A SEPARATE INTEREST IN UNIT NO. 701, AS DESIGNATED ON THE CONDOMINIUM PLAN FOR PARKLOFT CONDOMINIUMS RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198684 AND AS AMENDED AUGUST 21, 2002 AS INSTRUMENT NO. 02-708932 BOTH IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("CONDOMINIUM PLAN").

**PARCEL 2:**

AN UNDIVIDED 1/120TH INTEREST IN THE UNDIVIDED INTEREST COMMON AREA AS DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR PARKLOFT CONDOMINIUM OWNERS ASSOCIATION RECORDED ON MARCH 8, 2002 AS INSTRUMENT NO. 02-198685, IN THE OFFICIAL RECORDS OF SAN DIEGO COUNTY, CALIFORNIA ("DECLARATION") AND ON THE CONDOMINIUM PLAN, WHICH WILL NOT BE OWNED BY THE PARKLOFT CONDOMINIUM OWNERS ASSOCIATION ("ASSOCIATION").

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(Continued on Page 2)

PARCEL 3:

A NON-EXCLUSIVE EASEMENT FOR INGRESS, EGRESS, USE, ENJOYMENT AND SUPPORT OVER THE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED BY THE ASSOCIATION.

EXCEPTING THEREFROM

ALL NUMBERED CONDOMINIUM UNITS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN OTHER THAN THE UNIT CONVEYED AS PARCEL 1 ABOVE.

THOSE PORTIONS OF THE EXCLUSIVE USE COMMON AREA, AS DESCRIBED IN THE DECLARATION AND ON THE CONDOMINIUM PLAN, WHICH ARE SET ASIDE AND ALLOCATED FOR THE EXCLUSIVE USE OF OWNERS OF CONDOMINIUMS (AS DEFINED IN THE DECLARATION) OTHER THAN THE CONDOMINIUM CONVEYED HEREIN.

PARCEL 4:

THE EXCLUSIVE RIGHT TO USE THE FOLLOWING ELEMENTS OF THE COMMON AREA (DESIGNATED AS EXCLUSIVE USE COMMON AREA), AS SHOWN ON THE CONDOMINIUM PLAN, WHICH WILL BE OWNED THE ASSOCIATION.

together with rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues and profits for the purpose of securing (1) payment of the sum of **\$787,760.88 U.S.**, with interest thereon according to the terms of a promissory note or notes of even date herewith made by Trustor, payable to order of Beneficiary, and extensions or renewals thereof, (2) the performance of each agreement of Trustor incorporated by reference or contained herein and (3) payment of additional sums and interest thereon which may hereafter be loaned to Trustor, or his successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust.

A. To protect the security of this Deed of Trust, Trustor agrees:

(Continued on Page 3)

MJM



- 1) To keep said property in good condition and repair, not to remove or demolish any building thereon; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefore, to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon, not to commit or permit waste thereof; not to commit, suffer or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.
- 2) To provide, maintain and deliver to Beneficiary fire insurance satisfactory to and with loss payable to Beneficiary. The amount collected under any fire or other insurance policy may be applied by Beneficiary upon indebtedness secured hereby and in such order as Beneficiary may determine, or at option of Beneficiary the entire amount so collected or any part thereof may be released to Trustor. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- 3) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any such action or proceeding in which Beneficiary or Trustee may appear, and in any suit brought by Beneficiary to foreclose this Deed.
- 4) To pay, at least ten days before delinquency all taxes and assessments affecting said property, including assessments on appurtenant water stock; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all cost, fees and expenses of this Trust

Should Trustor fail to make any payment or to do any act as herein provided, then Beneficiary or Trustee, but without obligation so to do and without notice to or demand upon Trustor and without releasing Trustor from any obligation hereof, may; make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, Beneficiary or Trustee being authorized to enter upon said property for such purposes; appear in and defend any action purporting to affect the security hereof or the rights or powers of Beneficiary or Trustee; pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his reasonable fees.

- 5) To pay immediately and without demand all sums so expended by Beneficiary or Trustee, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby any amount demanded by the Beneficiary not to exceed the maximum allowed by law at the time when said statement is demanded.

B. It is mutually agreed:

- 1) That any award in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to Beneficiary who may apply or release such moneys received by him in the same manner and with the same effect as above provided for disposition of proceeds of fire or other insurance.
- 2) That by accepting payment of any sum secured hereby after its due date, Beneficiary does not waive his right either to require payment when due of all other sums so secured or to declare default for failure so to pay.
- 3) That at any time or from time to time, without liability therefore and without notice, upon written request of Beneficiary and presentation of this Deed and said note for endorsement, and without

(Continued on Page 4)

affecting the personal liability of any person for payment of the indebtedness secured hereby, Trustee may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easements thereon, or join in any extension agreement or any agreement subordinating the lien or charge hereof.

- 4) That upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed and said note to Trustee for cancellation and retention or other disposition as Trustee in its sole discretion may choose and upon payment of its fees, Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto".
- 5) That as additional security, Trustor hereby gives to and confers upon Beneficiary the right, power and authority, during the continuance of these Trusts, to collect the rents, issues and profits of said property, reserving unto Trustor the right; prior to any default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, Beneficiary may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in his own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as Beneficiary may determine. The entering upon and taking possession of said property, the collecting of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.
- 6) That upon default by Trustor in payment of any indebtedness secured hereby or in performance of any agreement hereunder, Beneficiary may declare all sums secured hereby immediately due and payable by delivery to Trustee of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice shall cause to be filed for record. Beneficiary also shall deposit with Trustee this Deed, said note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of said having been given as then required by law, Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. Trustee may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. Trustee shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Trustor, Trustee, or Beneficiary as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of trustee and of this Trust, including costs of evidence of title in connection with sale, Trustee shall apply to proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

- 7) Beneficiary, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any Trustee named

(Continued on Page 5)

herein or acting hereunder, which Instrument, executed by the Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said Instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

- 8) That this Deed applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. The term Beneficiary shall mean the owner and holder, including pledgees, of the note secured hereby, whether or not named as Beneficiary herein. In this Deed, whenever the context so requires the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.
- 9) That Trustee accepts this Trust when this Deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or of any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party unless brought by Trustee.
- 10) Trustor requests that copies of the notice of default and notice of sale be sent to Trustor's address as shown above.

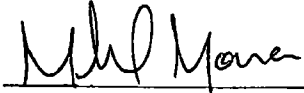
Beneficiary requests that copies of notices of foreclosure from the holder of any lien which has priority over this Deed of Trust be sent to Beneficiary's address, as set forth on page one of this Deed of Trust, as provided by Section 2924(b) of the California Civil Code.

Dated:

SIGNED:

Lundene Enterprises LLC,  
a Nevada limited liability company

MICHAEL MONA III, Manager



(Continued on Page 6)

MJM

(Continued on Page 7)

MJM

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF California ) ss  
COUNTY OF San Diego )

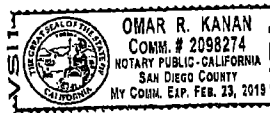
On 7/28/15 before me, Omar R. Kanan, Notary  
Public, personally appeared Michael J. Mona III

, who proved to me on the basis of satisfactory evidence to be the person~~s~~ whose name~~s~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity~~(ies)~~, and that by his/~~her/their~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



*This area for official notarial seal*

(Continued on Page 8)

Page 7 of 8

MJM

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

RHONDA HELENE MONA and  
MICHAEL J. MONA, JR.,

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT  
COURT FOR THE STATE OF  
NEVADA, IN AND FOR THE COUNTY  
OF CLARK, AND THE HONORABLE  
JOE HARDY, DISTRICT JUDGE

Respondents,

and

FAR WEST INDUSTRIES,

Real Party in Interest.

**Supreme Court Case No.: 68434**

Electronically Filed  
Nov 06 2015 10:44 a.m.  
District Court Case No. A-12-670352-E  
Tracie K. Lindeman  
Clerk of Supreme Court

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**OPPOSITION TO PETITIONERS' EMERGENCY MOTION FOR RELIEF  
UNDER NRAP 27(e) AND SUPPLEMENT TO EMERGENCY MOTION  
FOR RELIEF UNDER NRAP 27(e)**

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F. THOMAS EDWARDS, ESQ.  
Nevada Bar No. 9549  
RACHEL E. DONN, ESQ.  
Nevada Bar No. 10568  
HOLLEY DRIGGS WALCH  
FINE WRAY PUZEY & THOMPSON  
400 South Fourth Street, Third Floor  
Las Vegas, Nevada 89101  
*Attorneys for Real Party in Interest  
Far West Industries*

Real Party in Interest, FAR WEST INDUSTRIES (“Far West”), by and through its undersigned attorneys, hereby opposes Petitioners’ Emergency Motion for Relief Under NRAP 27(e) (“Second Emergency Motion”) and Supplement to Emergency Motion for Relief Under NRAP 27(e) (“Supplement”). This Opposition is based on the pleadings and papers, the following points and authorities and any argument the Court may allow regarding this matter.

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **INTRODUCTION**

Upon instruction from this Court, Far West successfully moved the Eighth Judicial District Court (“District Court”) for an order requiring Michael J. Mona, Jr. (“Mr. Mona”) and Rhonda Helene Mona (“Ms. Mona”) (collectively, the “Monas”) to post a supersedeas bond in exchange for a stay pending resolution of the Monas’ Petition for Writ of Mandamus or Prohibition (“Writ”). See Order Regarding Motion on an Order Shortening Time for Bond Pending Appeal (“Bond Order”), attached to Supplement as **Exhibit 1**. After careful consideration of Nevada law and the facts before it, the District Court issued its Bond Order requiring Mr. Mona to post a \$24,172,076.16 bond and Ms. Mona to post a \$490,000 bond. See Bond Order, Ex. 1 to Supplement, at 7:611. The District Court’s decision included an analysis under the case cited by this Court, Nelson v. Heer, 121 Nev. 832, 122 P.2d 1252 (2005). Id. at 3-7. The Bond Order serves the

purpose of NRC 62(d): to protect Far West's ability to collect if the Monas are unsuccessful with their Writ by preserving the status quo and preventing prejudice to Far West arising from the stay pending appeal. See Nelson, 121 Nev. at 835-36, 122 P.3d at 1254.

At the hearing on Far West's Motion on an Order Shortening Time for Bond Pending Appeal ("Bond Motion"), attached hereto as **Exhibit A**, the Monas failed to present any evidence of their financial ability to post a bond or any evidence regarding the existence of creditors that would be prejudiced by their having to post a bond. See Bond Order, Ex. 1 to Supplement, at 5:19-21; see also Transcript from Hearing on Bond Motion, dated September 17, 2015 ("Bond Hearing Transcript"), at 11:2-12:5; 28:4-9, attached hereto as **Exhibit B**. The Monas did not request that the District Court consider alternative security nor did they present any evidence of alternative security. The alternative security the Monas are now proposing for the first time is essentially worthless because the Monas have repeatedly asserted that their residence located at 2793 Red Arrow Drive, Las Vegas, Nevada 89135 ("Red Arrow Property") has no equity, leaving no value for Far West to execute against, and any execution against Ms. Mona's stock options ("Stock Options") from CannaVEST Corp. ("Cannavest")<sup>1</sup> could be null and void

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<sup>1</sup> In the Supplement, the Monas inaccurately, and without evidentiary support, state that "Far West accepted stock options directly from Cannavest" in a separate action for fraudulent transfer. See Supplement at 1. In reality, Far West agreed to



according to the terms of the employee stock option plan, which would render any collection efforts by Far West against those options an exercise in futility.

Allowing the Monas to continue to enjoy a stay pending appeal without posting a bond or by posting their proposed alternative security would contravene the purpose of NRCP 62(d). Accordingly, the Second Emergency Motion should be denied in its entirety.

### **I. SUMMARY OF RELEVANT FACTS**

In April 2012, Far West obtained a Judgment of more than \$18,000,000 against Mr. Mona and the Mona Family Trust Dated February 21, 2002 (“Mona Family Trust”), for fraud, among other claims. See Judgment and Findings of Fact and Conclusions of Law (“Judgment”), attached hereto as **Exhibit C**.

Once Far West domesticated its Judgment in Nevada and obtained an order for examination of Mr. Mona (see Order for Appearance of Judgment Debtors, dated January 30, 2013 (“First Examination Order”), attached hereto as **Exhibit D**), the Monas immediately began dissipating their assets. The Monas began liquidating approximately \$6.8 million worth of shares in a company called Medical Marijuana, Inc. See Post-Marital Property Settlement Agreement (“Property Agreement”) at 1, attached hereto as **Exhibit E**. Sitting on \$6.8 million

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(continued)  
accept actual stock in Cannavest and another company, not stock options.

with Mr. Mona's judgment debtor examination looming, the Monas devised a plan to turn themselves from millionaires to paupers in just a few weeks.

First, the Monas executed a Property Agreement on September 13, 2013, just 12 days prior to the September 25, 2013 deadline to complete the production of documents. See Property Agreement, Ex. E, and Order, dated October 7, 2013 ("Second Examination Order"), attached hereto as **Exhibit F**. The Property Agreement purports to divide the \$6,813,202.20 proceeds equally between the Monas as their separate property, with each receiving approximately \$3,406,601.10. See Property Agreement, Ex. E, at 1-2. Second, Mr. Mona transferred his \$3.4 million to his entities in the form of loans and other contributions.<sup>2</sup> In sum, Mr. Mona disposed of \$6.8 million dollars within two months of the scheduled judgment debtor examination.

At his November 25, 2013 judgment debtor examination, when asked what he did with the \$6.8 million in stock sale proceeds, Mr. Mona perjured himself, refusing to disclose the \$3.4 million transfer to his wife. See Order Regarding Order to Show Cause Why Accounts of Rhonda Mona Should Not Be Subject to

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<sup>2</sup> On November 14, 2013, just eleven days before the judgment debtor examination scheduled for November 25, 2013, Mr. Mona sold a note in the amount of \$2.6 million from Roen Ventures, LLC ("Roen") along with his 50% membership interest in Roen, (which held hundreds of millions of dollars in assets in the form of a note convertible to \$215,500,000 in stock) to Mai Dun, LLC for a mere \$500,000. Thus, Mr. Mona converted millions of dollars in assets into a few hundred thousand dollars of cash just so he could avoid satisfying Far West's Judgment.

Execution and Why the Court Should Not Find Monas in Contempt (“Sanction Order”), entered July 15, 2015, at 4:4-6, attached hereto as **Exhibit G**. Notably, Mr. Mona also failed to produce the Property Agreement, despite the District Court’s orders requiring him to produce all of his financial records and contracts to which he was a party. Id. at 4:1-3; see generally First Examination Order, Ex. D and Second Examination Order, Ex. F.

During the judgment debtor examination of Ms. Mona, Far West learned that Ms. Mona gave her son, Michael Mona III, approximately \$900,000 to purchase a condo in San Diego from the approximately \$3.4 million she received through the Property Agreement. See Judgment Debtor Examination Transcript of Rhonda Mona, dated June 26, 2015 (“Ms. Mona’s Transcript”), at 26:16-23, attached hereto as **Exhibit H**. Although the Monas have attempted to characterize the \$900,000 transfer as a “loan,” Ms. Mona: (i) never produced any written agreements documenting this “loan”; (ii) never received any payments from her son on this “loan”; and the supposed repayment terms for the “loan” were never negotiated because Ms. Mona “didn’t get into it.” Id. at 27:9-24. Coincidentally, just days after Far West’s counsel examined Ms. Mona about the \$900,000 transaction with her son, two liens totaling nearly \$1.8 million (over twice the price actually paid for the condo<sup>3</sup>) were recorded against the San Diego condo.

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<sup>3</sup> Upon information and belief, the San Diego condo was purchased for

Specifically, a Mona family friend, Michael Sifen, recorded a first Deed of Trust against the San Diego condo in the amount of \$1,000,000, on July 17, 2015, attached hereto as **Exhibit I**. Ms. Mona recorded a second Deed of Trust<sup>4</sup> against the San Diego condo in the amount of \$787,760.88, on July 28, 2015, attached hereto as **Exhibit J**.

On July 15, 2015, the District Court properly ordered sanctions against the Monas finding that they violated court orders, lied under oath and deliberately made gross omissions in their briefing. See Sanction Order, Ex. G, at 4:4-5:1, 6:14-19, 7:13-17.

The Monas appealed the Sanction Order and requested an emergency stay of Far West's entire judgment collection proceeding, as opposed to just a stay of the Sanction Order even though the Writ only raised issues connected to collection against Ms. Mona. See Emergency Motion for Relief Under NRAP 27(e) ("First Emergency Motion"). This Court granted the Monas requested stay but deferred to the District Court to address the amount of the bond. See Order, filed on August 31, 2015 ("Stay Order"). The Stay Order states:

It does not appear that the district court has yet considered the proper amount of any supersedeas bond, NRAP 8(a)(1)(B), and we have routinely recognized that the district court is better suited for making

\_\_\_\_ (continued)  
approximately \$840,000 in cash.

<sup>4</sup> Ms. Mona's deed of trust against the San Diego condo is essentially worthless because it is in second position. Upon a possible foreclosure of the San Diego condo, Ms. Mona would only be paid on her second deed of trust after the Sifen first deed of trust is paid off from the proceeds of the foreclosure sale.

supersedeas bond determinations. See Nelson v. Heer, 121 Nev. 832, 836, 122 P.2d 1252, 1254 (2005). Accordingly, we deny without prejudice real party in interest's request to require a bond and determine the amount of such a bond.

Additionally, real party in interest has filed a motion to prevent petitioners from "transferring, disposing of or encumbering any non-exempt property while this [matter] remains pending." Having considered the motion and petitioners' opposition, we deny the motion. We note that a bond would be an appropriate method to protect real party in interest's ability to eventually execute on their judgment and, as explained above, the district court is the proper forum to seek a bond.

See Stay Order at 2 (footnotes omitted).

On July 23, 2015, while the Writ was pending, the Monas made quick work of obtaining a Decree of Divorce ("Divorce Decree") from the Family Division of the Eighth Judicial District Court ("Family Court"). See Divorce Decree, attached hereto as **Exhibit K**. A review of the Divorce Decree makes the Monas' motivations in pursuing their divorce apparent: obtaining an opinion from a different district court that purports to undo the Sanctions Order, which is the subject of the Writ before this Court without giving Far West an opportunity to be heard. The Divorce Decree states that the Property Agreement is "adopted by the Court and incorporated into this Decree and the assets set forth therein are confirmed to each party as his/her own sole and separate property, subject only to the resolution of disputed third party claims in Case No. A-12-670352." See Divorce Decree, Ex. K, at 3:24-26. The Divorce Decree awards Mr. Mona the Red

Arrow Property, and the Family Court determined the Red Arrow Property was encumbered by approximately \$3.31 million in debt compared to its purported estimated value of \$2.2 million. Id. at 4:1-14. Under the Divorce Decree, Mr. Mona must pay Ms. Mona \$10,000 per month in alimony. Id. at 3:12-16. The Divorce Decree also divides four (4) million stock options from Mr. Mona's employer, Cannavest, with Ms. Mona receiving three (3) million stock options and Mr. Mona receiving the remaining one (1) million stock options. Id. at 4:15-20.<sup>5</sup> However, according to Cannavest's filings with the United States Securities and Exchange Commission ("SEC"), the stock options Cannavest awards to employees are restricted from transfer and execution:

[The stock option] may not be assigned, transferred (except as expressly provided in the Plan), pledged or hypothecated in any way, shall not be assignable by operation of law and shall not be subject to execution, attachment or similar process. Any attempted assignment, transfer, pledge, hypothecation or other disposition of the Option contrary to the provisions hereof, or the levy of any execution, attachment or similar process upon the Option, shall be null and void and without effect.

See Stock Option Grant Notice Amended and Restated 2013 Equity Incentive Plan ("Stock Option Plan") at 6, Sec. 5, attached hereto as **Exhibit N**.

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<sup>5</sup> See Statement of Changes in Beneficial Ownership, dated December 17, 2014 ("Stock Award"), attached hereto as **Exhibit L** (Cannavest awarding Mr. Mona employee stock option of four (4) million common stock at \$2.64 per share). As Cannavest is currently trading at approximately 98 cents per share, with a strike price of \$2.64 per share, the Stock Options are currently worthless. Compare Stock Award, Ex. L, with Stock Quote & Summary Data for Cannavest, dated October 28, 2015 ("Cannavest Stock Quote"), attached hereto as **Exhibit M**.

## II. LEGAL ANALYSIS

### A. This Court Should not Address the Issues That the Monas Failed to Raise During the District Court Bond Hearing.

This Court should not address the issues that the Monas failed to raise during the District Court's hearing on the supersedeas bonds.

The issue of the amount of the supersedeas bonds was fully briefed and heard by the District Court. See Bond Motion, Ex. A, Opposition to Motion on an Order Shortening Time for Bond Pending Appeal ("Opposition to Bond Motion"), attached hereto as **Exhibit O**, and Bond Hearing Transcript, Ex. B. Not once in such a proceeding did the Monas address the issue of alternative security in lieu of supersedeas bonds. Id. Instead, the Monas simply took the position that they should not be required to provide any bond. Id. The Monas never raised in the alternative, or any capacity, as to whether or not they should be able to provide alternative security. The Supplement is the first time the Monas ever suggested that a purported interest in the Red Arrow Property or Stock Options could be used as alternative security. By failing to raise these issues in the District Court, the Monas deprived the District Court of making factual findings as to the legitimacy of such claims. As further addressed herein, a factual inquiry into the above-referenced proposed alternative security would indicate that neither the Red Arrow Property nor the Stock Options provide any sort of legitimate security which can serve as a basis for replacing the supersedeas bonds as ordered by the District Court.

This Court has expressly held that "this court is not a fact-finding tribunal; that function is best performed by the district court." Zugel by Zugel v. Miller, 99 Nev. 100, 101, 659 P.2d 296, 297 (1983). The Nevada Supreme Court will "not resolve matters of fact for the first time on appeal." Liu v. Christopher Holmes, LLC, 130 Nev. Adv. Op. 17, 321 P.2d 875, 881 (2014) (citation omitted). Since

the Monas failed to raise these issues in the District Court they are deemed waived for purposes of the appeal. It is well-established that the “failure to raise an argument in the district court proceedings precludes a party from presenting the argument on appeal.” Mason v. Cuisenaire, 122 Nev. 43, 48, 123 P.3d 446, 449 (2006). The failure to raise these issues with the lower court is deemed to be a waiver of these issues at the Nevada Supreme Court. Cervantes v. Health Plan of Nev., 127 Nev. Adv. Rep. 70, 263 P.3d 261, 263 n.2 (2011). This Court has recognized the inequity of considering new issues which were not “mere refinements of points already in play,” but were “potentially game-changing issues” for the first time on appeal. Schuck v. Signature Flight Support, 126 Nev. Adv. Rep. 42, 245 P.3d 542, 545 (2010).

The Monas elected not to raise the issue of alternative security at the District Court. Consequently, the District Court did not address the factual allegations regarding alternative security which the Monas make for the first time in their Supplement. Now the Monas seek the proverbial second bite at the apple, since the Monas were unsuccessful in avoiding a bond, they now seek to have this Court address alternative security in lieu of a bond for the first time. Such a determination at this juncture is not supported by law and as further addressed herein is not supported by the facts.

**B. This Court Should Deny the Second Emergency Motion Pursuant to NRAP 8.**

**a. The Court Should Deny the Emergency Motion Because the Monas Failed to First Motion the District Court.**

NRAP 8 requires that a “party **must**...move first in the district court for ...a stay.” NRAP 8(a)(emphasis added). While counsel for the Monas indicated to Far West’s counsel that they intended to file a motion for emergency relief pursuant to



NRAP 27(e), they did not request a stay from the District Court. Additionally NRAP 8(a)(2) requires the Second Emergency Motion show that first moving in the District Court would be impracticable or that the District Court had already denied their request. The Second Emergency Motion fails to make either of these assertions, and it is respectfully submitted, that is because neither assertion is true.

**b. An Analysis of the NRAP 8(c) Factors Requires that this Court Deny the Emergency Motion.**

**i. The Object of the Writ Petition Will Not be Defeated if a Stay of the Bond Order is Denied.**

Requiring the Monas to post a bond pending appeal does not defeat the object of their Writ. Instead the Bond Order faithfully serves the purposes of NRCP 62(d): preservation of the status quo by requiring the funds be held by a third party, prevention of prejudice to Far West while the Monas pursue their unmeritorious appeal, and protection of Far West's ability to collect against the Monas when Far West prevails. Nelson v. Heer, 121 Nev. 832, 835, 122 P.3d 1252, 1254 (2006).

As the District Court recognized, preservation of the status quo is mandatory given the Monas' obvious propensity to quickly dissipate assets when judgment creditors such as Far West are pursuing valid collections. See Bond Order, Ex. 1 to Supplement, at 5:1-6, 6:1-8. The Monas provide no valid explanation as to how the bonds in any way prevent them from pursuing their Writ. While the Monas

insinuate that Ms. Mona will have no funds if she is required to post a bond, the Divorce Decree states that Mr. Mona must pay Ms. Mona \$10,000 per month in spousal support, alleviating any concerns about her not being able to sustain herself pending resolution of the appeal. See Divorce Decree, Ex. K, at 3:12-16.

**ii. The Monas Will Not Suffer Irreparable or Serious Harm if the Injunction is Denied.**

The Monas cannot plausibly argue that having to post a bond would subject them to irreparable or even serious harm. If the stay expires then Far West would be entitled to pursue collection of money and other property through the legal processes available to other judgment creditors, processes that provide procedural safeguards for debtors. While the Monas protest Far West's motions to compel application of particular assets towards satisfaction of the Judgment (which were only pursued when a stay was no longer in place)<sup>6</sup>, it is difficult to imagine how much more due process Mr. Mona should be afforded beyond a noticed hearing with an opportunity to respond. Regarding Ms. Mona, the Bond Order does not leave her without funds to live. She is paid \$10,000 per month in alimony from Mr. Mona. See Divorce Decree, Ex. K, at 3:12-16.

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<sup>6</sup> In the Second Motion to Compel Application of Particular Assets Towards Satisfaction of Judgment ("Second Motion to Compel"), cover page attached to Second Emergency Motion as **Exhibit 7**, Far West sought only application of assets that were awarded to Mr. Mona as his separate property in the Divorce Decree and only after expiration of the period for Mr. Mona to post a bond.

**iii. Far West Will Suffer Serious Injury if the Stay is Granted.**

In the nearly four years that Far West has been attempting to collect on the Judgment, Mr. Mona's conduct has made the collection process unnecessarily "complex, convoluted, time-consuming, and resource-consuming in terms of attorneys' fees and costs" by making multiple transfers to his family and related entities, lying under oath, and "do[ing] everything in his power to complicate the collection process." See Bond Order, Ex. 1 to Supplement, at 5:11-8. Ms. Mona has also hindered the collections by failing to produce bank records as detailed in the District Court's prior order. See Sanction Order, Ex. G, at 8:6-8. Ms. Mona admitted to further fraudulently transferring funds to her son without any documentation or payments. See Ms. Mona's Transcript, Ex. H, at 26:16-23. It was not error for the District Court to consider the transfer Ms. Mona made to her son because that information came from her testimony in the proceeding before the District Court, not unsubstantiated allegations. This information is directly relevant to the complexity of the collection process, which is a factor this Court directed the District Court to consider under Nelson. See Bond Order, Ex. 1 to Supplement, at 6:1-6. Further, the terms of the Divorce Decree subsequently awarded Ms. Mona the same property that the District Court found was fraudulently transferred to her. See Ms. Mona's Transcript, Ex. H, at 26:16-23, 27:9-24 and Bond Order, Ex. 1 to Supplement, at 6:1-8. Because Far West will

suffer serious injury if the Monas are not required to post a bond, the Second Emergency Motion should be denied.

**iv. The Monas Are Not Likely to Prevail on Reversal of the Bond Order**

**1. The District Court carefully weighed the necessary factors to be considered for a supersedeas bond**

As this Court stated, “the district court is better suited for making supersedeas bond determinations[.]” See Stay Order at 2. Here, the District Court has much more “familiarity with the facts and circumstances of th[is] particular case. Additionally, [it] is better positioned to resolve any factual disputes concerning the adequacy of any proposed security . . . .” Nelson, 121 Nev. at 1256, 122 P.3d at 836. Accordingly, the Bond Order should only be vacated if it was an abuse of discretion. See Pac. Reinsurance Mgmt. Corp. v. Ohio Reinsurance Corp., 935 F.2d 1019, 1027 (9th Cir. 1991); Raby v. M/V Pine Forest, 918 F.2d 80, 81 (9th Cir. 1990).

The factors to be considered in determining whether a supersedeas bond may be waived and/or may be substituted with alternative security are:

(1) the complexity of the collection process; (2) the amount of time required to obtain a judgment after it is affirmed on appeal; (3) the degree of confidence that the district court has in the availability of funds to pay the judgment; (4) whether the defendant's ability to pay the judgment is so plain that the cost of a bond would be a waste of money; and (5) whether the defendant is in such a precarious financial situation that the requirement to post a bond would place other creditors of the defendant in an insecure position.

Nelson, 121 Nev. at 1256, 122 P.3d at 836 (footnote omitted).

**a. The Monas Have Made Collections Extraordinarily Complex.**

As set forth above, the Monas have continually hindered Far West's efforts to collect on its Judgment by engaging in complex transfers, lying about assets, and withholding information in contravention of court orders. See Bond Order, Ex. 1 to Supplement, at 5:11-8, 8:6-8. In light of the complexity the Monas have added to the collections process, the supersedeas bonds required by the Bond Order are warranted in exchange for a stay pending appeal.

**b. The Longer the Monas Have to Dissipate Assets, the More Time Will be Needed to Obtain Judgment.**

The Monas' past conduct, including their sale of \$6.8 million worth of shares immediately after Far West began pursuing collection and their divorce that attempts to cover up their wrongdoing, makes clear that they will make it more time consuming for Far West to obtain judgment if they are protected by a stay without having to post a bond. See Property Agreement, Ex. E and Divorce Decree, Ex. K. The District Court found this factor, to the extent applicable, favored posting of a full bond for Mr. Mona and neutral as to Ms. Mona. See Bond Order, Ex. 1 to Supplement, at 5:10-12, 6:9-10

...

**c. The Monas provided no evidence regarding funds available to pay a judgment.**

There is a complete lack of evidence regarding funds the Monas have available to pay a judgment. See Bond Hearing Transcript, Ex. B, at 11:2-13. The District Court had no confidence as to Mr. Mona and Ms. Mona's ability to pay if they do not prevail on their Writ. See Bond Order, Ex. 1 to Supplement, at 5:13-18, 6:11-15. This conclusion was based on the representations of counsel for the Monas that the Monas do not have money to post even 1/10<sup>th</sup> of the Judgment, that Ms. Mona's assets are limited to those awarded in the Divorce Decree, and that Ms. Mona has been unemployed for several years. Id. at 5:15-17, 6:12-14. Because the Monas have not provided any evidence as to their available funds to pay if they lose on appeal, their request to stay the Bond Order should be denied.

**d. The Monas' ability to pay the Judgment is not so plain that the cost of a bond would be a waste of money.**

The Monas' failure to present any evidence to support why a supersedeas bond would be superfluous further weighs against the Second Emergency Motion. The District Court's lack of confidence in the Monas' ability to satisfy their obligations if unsuccessful on appeal favors Far West's request for bonds from the Monas. See Bond Order, Ex. 1 to Supplement, at 5:13-18, 6:11-15. The fact that the Monas' state they cannot afford a bond demonstrates the unlikelihood of their ability to pay the entire Judgment.

**e. The Monas presented no evidence demonstrating that Mr. Mona is in such a precarious financial situation that other creditors would be placed in an insecure position.**

The Monas presented no evidence of risk to creditors warranting a reduced bond for Mr. Mona. See Bond Order, Ex. 1 to Supplement, at 5:19-21. Regarding Ms. Mona, her financial situation was not precarious enough to eliminate the need for her to post a bond. Id. at 6:16-18. This factor does not favor elimination of the supersedeas bonds ordered by the District Court.

**v. The Proposed Alternative Security Is Inappropriate and Unreliable.**

A supersedeas bond should only be replaced by alternative security if it is appropriate and reliable given the unique facts and circumstances of the particular case. See Nelson, 121 Nev. at 835, 836, 122 P.3d at 1254.

Here, the Red Arrow Property and Stock Options provide no security to protect Far West's ability to collect if the Bond Order is affirmed. While the Monas tout the Red Arrow Property's value as being approximately \$2.2 million, the Divorce Decree states that it is encumbered by approximately \$3.3 million dollars of debt, not even taking into account the \$550,000.00 homestead exemption under NRS 115.010. See Divorce Decree, Ex. K, at 4:1-14. This renders the Monas' proposal to pledge the Red Arrow Property as collateral a meaningless gesture that should be rejected. The Stock Options are of even less value than the

Red Arrow Property because the Stock Option Plan purports to prohibit any transfers and makes any execution against the Stock Options “null and void.” See Stock Option Plan, Ex. N, at at 6, Sec. 5. In addition, the purchase price for the Stock Options is set at \$2.64 while Cannavest shares are currently trading for approximately \$0.98. Compare Stock Award, Ex. L, with Cannavest Stock Quote, Ex. M. This means that Ms. Mona would have to purchase the shares at two and half times their value to exercise the Stock Options, which clearly renders the Stock Options worthless at this time. Moreover, even if Far West was able to obtain stocks, because they were issued to Mr. Mona, who is an insider to Cannavest, there is a restriction period for trading those shares, see 17 CFR 230.144, and there is no assurance as to any market interest in the Cannavest shares which are not traded on a centralized exchange and are what is commonly referred to as Over-The-Counter (“OTC”) stocks.

The cases from other jurisdictions cited by the Monas are entirely distinguishable from their facts on the issue of alternative security. For example, in Pennsylvania, federal case of C. Albert Sauter Co. v. Richard S. Sauter Co., the defendants filed uncontradicted financial statements reflecting insufficient assets to pay the judgment against them and inability to obtain a bond. 368 F. Supp. 501, 520-21 (E.D. Pa. 1973). The court still required them to put up stocks (not stock options), cash, and their business income in order to stay execution. Id. The



defendants also were required to maintain the value of their assets, prohibited from paying debts other than those approved by the court, and required to report their monthly profits and losses to the plaintiff. Id. at 521. Unlike the defendants in Sauter, here, the Monas, have provided no financial statements or any other evidence to demonstrate why an alternative bond is appropriate. Instead they have offered an “underwater” residence with no equity and stock options that apparently cannot be executed against and do not offer to any restrictions on their transfers of other assets or supervision of their financial situation.

Miami Int’l Realty Co. v. Paynter is also distinguishable because there the defendant submitted an affidavit regarding his inability to post a full bond beyond the \$500,000 available from his insurance, which was placed in escrow to secure the \$2.1 million judgment against him, and he was prohibited from transferring any of his assets except for necessary living and business expenses. 807 F.2d 871, 874 (10th Cir. 1986).

Finally, the case of Olympia Equip. Leasing Co. v. W. Union Tel. Co. is inapposite to the Monas’ facts because there the defendant offered alternative security consisting of a pledge of \$10 million in cash, \$10 million in accounts receivables, and a security interest in the defendant’s physical assets represented to be worth about \$70 million, compared to a judgment of \$36 million. 786 F.2d 794, 796 (7th Cir. 1986).

In sum, the proposed alternative security offered by the Monas does nothing to protect Far West, maintain the status quo, or prevent prejudice to Far West's collection on the Judgment. Nelson v. Heer, 121 Nev. 832, 122 P.3d 1252 (2006). The Monas have not pledged assets having any value nor provided for meaningful restrictions on their disposition of property. In fact, the Monas clearly omitted any mention of the encumbrances on the Red Arrow Property and the transfer and execution restrictions on the Stock Options in their briefing. Therefore, this Court should affirm the District Court's Bond Order and lift its stay of the same.

### **III. CONCLUSION**

For the above-stated reasons, it is respectfully submitted that this Court should deny the Second Emergency Motion along with such other and further relief this Court deems just and proper.

Dated this 3<sup>rd</sup> day of November, 2015.

**HOLLEY DRIGGS WALCH  
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**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that, on the 3rd\_ day of November, 2015, served via this court's electronic filing and service program and I deposited for mailing in the U.S. Mail (as indicated below) a true and correct copy of the foregoing OPPOSITION TO PETITIONERS' SECOND EMERGENCY MOTION FOR RELIEF UNDER NRAP 27(e) AND SUPPLEMENT TO EMERGENCY MOTION FOR RELIEF UNDER NRAP 27(e), postage prepaid and addressed to:

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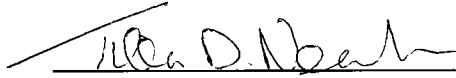
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Via U.S. Mail and Electronic Service

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U.S. Mail Only

A handwritten signature in black ink, appearing to read "Holley Driggs Walch", is written over a horizontal line.

An employee of Holley Driggs Walch  
Fine Walch Puzey & Thompson