

CODE: DISC

ANDREW N. WOLF (#4424)
JEREMY L. KRENEK (#13361)
Incline Law Group, LLP
264 Village Blvd., Suite 104
Incline Village, Nevada 89451
(775) 831-3666

Attorneys for Defendants DAVID MARRINER and
MARRINER REAL ESTATE, LLC

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT. NO. B7

**DEFENDANTS DAVID MARRINER AND MARRINER REAL ESTATE, LLC'S
INITIAL DISCLOSURES PER NRCP 16.1**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that defendants DAVID MARRINER and MARRINER
REAL ESTATE, LLC, hereby make the following initial disclosures per Rule 16.1, Nevada

1 Rules of Civil Procedure.

2 I.

3 LIST OF PERSONS PER NRCP 16.1(a)(1)(A)

4 (“(A) The name and, if known, the address and telephone number of each individual likely
5 to have information discoverable under Rule 26(b), including for impeachment or rebuttal,
6 identifying the subjects of the information.”)

- 7 1. **DAVID MARRINER**, c/o his undersigned counsel, has knowledge of the information
8 received by, communications made by, and information regarding the actions, denials
9 and defenses of DAVID MARRINER and MARRINER REAL ESTATE, LLC, and
10 other parties herein.
- 11 2. **ROBERT RADOVAN**, c/o his counsel, has knowledge of the information received
12 by, communications made by, and information regarding the actions, denials and
13 defenses of ROBERT RADOVAN and CRISWELL RADOVAN, LLC, and other
14 parties herein.
- 15 3. **WILLIAM CRISWELL**, c/o his counsel, has knowledge of the information received
16 by, communications made by, and information regarding the actions, denials and
17 defenses of WILLIAM CRISWELL and CRISWELL RADOVAN, LLC, and other
18 parties herein.
- 19 4. **PETER DORDICK**, c/o counsel for CRISWELL RADOVAN, LLC, is or was an
20 employee or officer of CRISWELL RADOVAN, LLC, and had communications with
21 Plaintiff.
- 22 5. **HEATHER HILL**, c/o counsel for CRISWELL RADOVAN, LLC, is or was an
23 employee or officer of CRISWELL RADOVAN, LLC, and had communications with
24 Plaintiff.
- 25 6. **POWELL, COLEMAN and ARNOLD, LLP**, and its partners, associates and
26 employees, c/o its counsel, have knowledge of the information received by,
27 communications made by, and information regarding the actions, denials and defenses
28 of POWELL, COLEMAN and ARNOLD, LLP, and other parties herein.
7. **GEORGE STUART YOUNT**, plaintiff, c/o his counsel, has knowledge of the
matters alleged in his complaint herein, and in the denials and defenses thereto.
8. **GERI YOUNT**, c/o plaintiff's counsel, may have knowledge of matters alleged in
Plaintiff's complaint herein, and in the denials and defenses thereto.
9. **LES BUSICK**, member of the executive committee, may have knowledge of matters
alleged in Plaintiff's complaint herein, and in the denials and defenses thereto.

10. **BRANDON CHANEY**, member of the executive committee, may have knowledge of matters alleged in Plaintiff's complaint herein, and in the denials and defenses thereto.
11. **TROY GILLESPIE**, member of the executive committee until November 2015, may have knowledge of matters alleged in Plaintiff's complaint herein, and in the denials and defenses thereto.
12. **PAUL JAMESON**, member of the executive committee who succeeded Troy Gillespie in November 2015, may have knowledge of matters alleged in Plaintiff's complaint herein, and in the denials and defenses thereto.
13. **OTHER INDIVIDUALS** identified in correspondence sent to and from plaintiff George Stuart Yount, produced herewith, who are investors, members, executive committee members, officers, agents and representatives of Cal-Neva Lodge, LLC, and/or Criswell-Radovan, LLC, and their respective affiliates, agents and representatives.

II.

LIST OF DOCUMENTS, DATA AND THINGS PURSUANT TO NRCP 16.1(a)(1)(B).

("(B) A copy of, or a description by category and location of, all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and which are discoverable under Rule 26(b).")

1. PDF copies of records initially produced by defendants DAVID MARRINER and MARRINER REAL ESTATE, LLC, sequentially numbered **DM000001** – **DM000419**, inclusive, stored on CD ROM diskette served herewith.
2. Other paper and electronic records (which may be redundant) regarding the Cal-Neva project, as follows:
 - a. Mac Book Pro computer with AOL and GMAIL account files.
 - b. iPhone 6 with text and voice mail.
 - c. One notebook with various construction updates and notes.
 - d. Several files/folders with project information.

III.

COMPUTATION OF DAMAGES PURSUANT TO NRCP 16.1(a)(1)(C).

("(C) A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary matter,

1 not privileged or protected from disclosure, on which such computation is based, including
2 materials bearing on the nature and extent of injuries suffered.”)

3 **Not Applicable.**

4 **IV.**

5 **INSURANCE AGREEMENTS PURSUANT TO NRCP 16.1(a)(1)(D).**

6 (“(D) For inspection and copying as under Rule 34 any insurance agreement under which
7 any person carrying on an insurance business may be liable to satisfy part or all of a judgment
8 which may be entered in the action or to indemnify or reimburse for payments made to satisfy the
9 judgment and any disclaimer or limitation of coverage or reservation of rights under any such
10 insurance agreement.”)

11 **None exist.**

12
13 Defendants reserve the right to periodically supplement this disclosure as allowed by law,
14 and as additional information is obtained.

15 **AFFIRMATION**

16 The undersigned hereby affirms that the foregoing document does not contain the social
17 security number of any person.

18 Dated: August 4, 2016.

INCLINE LAW GROUP, LLP

19
20 By: 

21 ANDREW N. WOLF (#4424)
22 Attorneys for Defendants DAVID MARRINER
23 and MARRINER REAL ESTATE, LLC
24
25
26
27
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am a partner of Incline Law Group, LLP, and that on this day, I caused to be served, a true and correct copy of:

DEFENDANTS DAVID MARRINER and MARRINER REAL ESTATE, LLC'S INITIAL DISCLOSURES PER NRCP 16.1

and

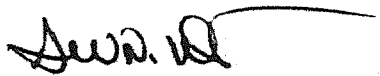
Documents sequentially numbered DM000001 to DM000419, inclusive, stored on a CD ROM diskette served herewith

UPON:

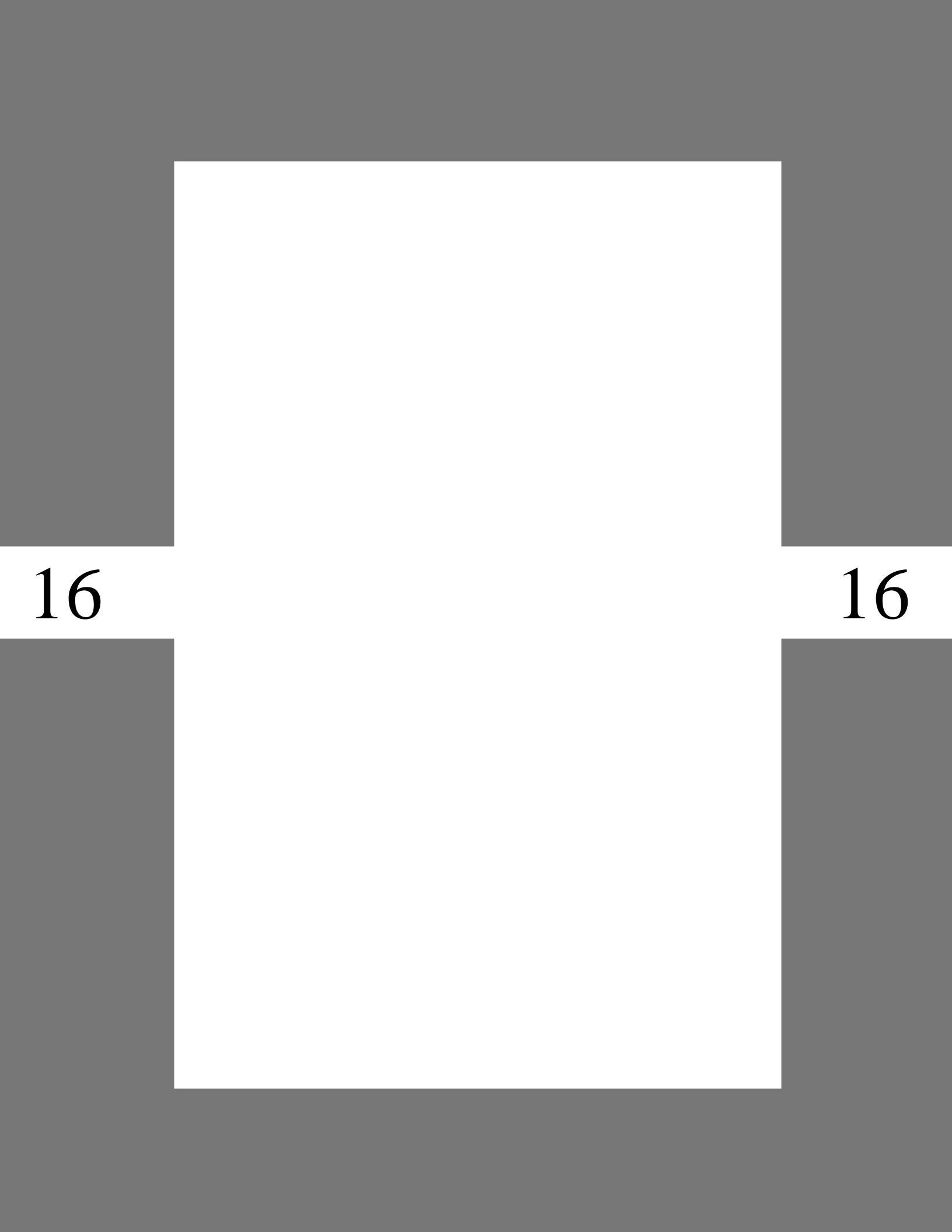
Richard G. Campbell, Jr. DOWNEY BRAND LLC 100 West Liberty, Suite 900 Reno, NV 89501 Telephone: 775-329-5900 Facsimile: 775-997-7417	Attorney for Plaintiff George Stuart Yount, Individually and in his capacity as Owner of George Stuart Yount IRA
Martin A. Little JOLLEY URGAL WOODBURY & LITTLE 3800 Howard Hughes Parkway, 16 th Floor Las Vegas, NV 86169 Telephone: 702-699-7500 Facsimile: 702-699-7555	Attorney for Defendants Criswell Radovan, LLC, CR CAL NEVA LLC, Robert Radovan, William Criswell, Cal Neva Lodge, LLC, Powell, Coleman and ARNOLD, LLP

VIA: USPS first-class mail with first-class postage prepaid, to the attorney's address listed above.

Date: August 4, 2016.



Andrew N. Wolf



16

16

CODE: 1830

ANDREW N. WOLF (#4424)
JEREMY L. KRENEK (#13361)
Incline Law Group, LLP
264 Village Blvd., Suite 104
Incline Village, Nevada 89451
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Attorneys for Defendants DAVID MARRINER and
MARRINER REAL ESTATE, LLC

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

**DEFENDANTS DAVID MARRINER and MARRINER REAL
ESTATE, LLC'S JOINDER IN PLAINTIFF'S CASE CONFERENCE REPORT**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendants DAVID MARRINER and MARRINER REAL
ESTATE, LLC (collectively "Marriner") hereby join in Plaintiff's Case Conference Report filed

1 August 8, 2016 ("JCCR"). This joinder is made with the following clarifications, additions and
2 objections:

3 1. The early case conference commenced July 7, 2016, and continued on July 14, 2016.

4 2. David Poitras, bankruptcy counsel for Defendant Cal Neva Lodge, LLC, also
5 participated in the early case conference on July 14, 2016.

6 3. Close of discovery: March 15, 2017 (as set forth in Plaintiff's JCCR).

7 4. The calendar date, not later than 90 days before the close of discovery (i.e., March 15,
8 2017), beyond which the parties are precluded from filing motions to amend the pleadings or to
9 add parties unless by court order: must be December 15, 2016, or earlier, not April 15, 2017, as
10 indicated by Plaintiff.

11 5. The last date by which dispositive motions must be filed: Marriner proposes April 12,
12 2016, instead of April 15, 2016, which is a Saturday).

13 6. The last date by which dispositive motions must be fully briefed and submitted to the
14 court for decision: May 12, 2016, per WDCR 12.

15 7. Mandatory pretrial conference: October 11, 2016 (as set forth in Plaintiff's JCCR).

16 8. Pretrial conference: May 31, 2017 (as set forth in Plaintiff's JCCR).

17 9. Trial: June 12, 2017: five day non-jury trial (two of which days are half-days).

18 Plaintiff's JCCR has a typographic error indicting the trial date is June 17, 2017.

19 10. Marriner reserves all objections with respect to information exchanged pursuant to
20 NRCP 16.1, including objections to the authenticity or genuineness of any documents.

21 **Affirmation:** The undersigned hereby affirms that the foregoing document does not
22 contain the social security number of any person.

23 Dated: August 22, 2016.

INCLINE LAW GROUP, LLP

By: 

ANDREW N. WOLF (#4424)

Attorneys for Defendants DAVID MARRINER
and MARRINER REAL ESTATE, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Incline Law Group, LLP, and that on this day, I caused to be served, a true and correct copy of:

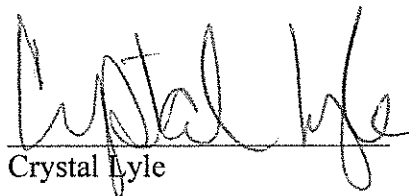
**DEFENDANTS DAVID MARRINER and MARRINER REAL
ESTATE, LLC'S JOINDER IN PLAINTIFF'S CASE CONFERENCE REPORT**

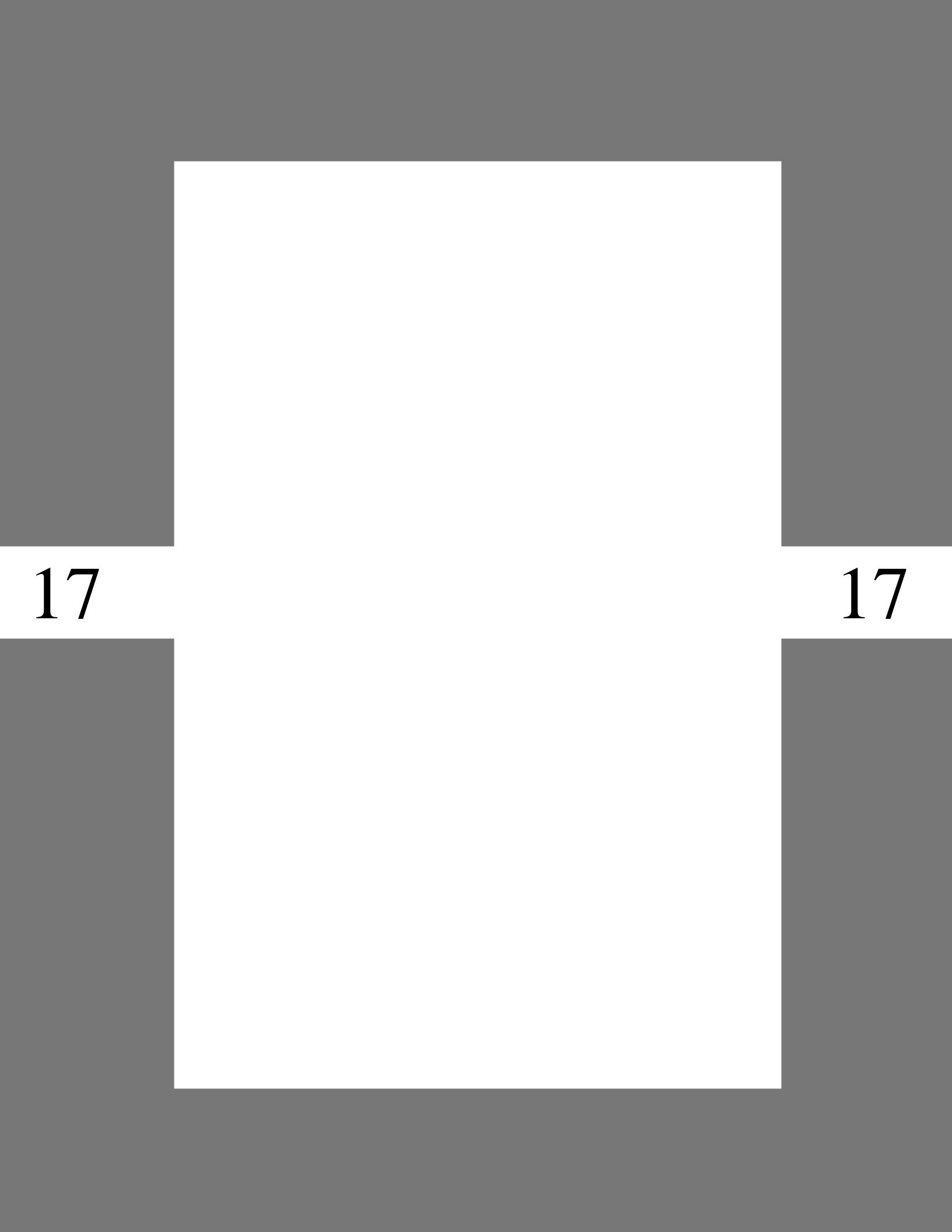
UPON:

Richard G. Campbell, Jr. DOWNEY BRAND LLC 100 West Liberty, Suite 900 Reno, NV 89501 Telephone: 775-329-5900 Facsimile: 775-997-7417	Attorney for Plaintiff George Stuart Yount, Individually and in his capacity as Owner of George Stuart Yount IRA
Martin A. Little JOLLEY URGAL WOODBURY & LITTLE 3800 Howard Hughes Parkway, 16 th Floor Las Vegas, NV 86169 Telephone: 702-699-7500 Facsimile: 702-699-7555	Attorney for Defendants Criswell Radovan, LLC, CR CAL NEVA LLC, Robert Radovan, William Criswell, Cal Neva Lodge, LLC, Powell, Coleman and ARNOLD, LLP

VIA: Washoe County Eflex e-filing system: A true and correct copy of the foregoing document(s) was (were) electronically served via the court's electronic filing system to the above named attorneys associated with this case. If the any of the above named attorneys (and all of their listed co-counsel within the same firm) are not registered with the court's e-filing system, then a true and correct paper copy of the above-named document(s) was(were) served on the attorney via U.S.P.S. first class mail with first-class postage prepaid, to the attorney's address listed above, on this date.

Date: August 22, 2016.


Crystal Lyle



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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE

8 GEORGE STUART YOUNT,
9 Individually and in his Capacity as
10 Owner of GEORGE YOUNT IRA,

Case No.: CV16-00767

Dept. No.: 7

11 Plaintiff,

12 vs.

13 CRISWELL RADOVAN, LLC, a
14 Nevada limited liability company; CR
15 CAL NEVA, LLC, a Nevada limited
16 liability company; ROBERT
17 RADOVAN; WILLIMA CRISWELL;
18 CAL NEVA LODGE, LLC, a Nevada
19 limited liability company; POWELL,
20 COLEMAN and ARNOLD, LLP;
21 DAVID MARRINER; MARRINER
22 REAL ESTATE, LLC, a Nevada
23 limited liability company; and DOES
24 1-10,

25 Defendant.
26 _____/

27 ORDER

28 Before this Court is Defendants DAVID MARRINER and MARRINER REAL
ESTATE, LLC's (hereinafter "Defendants") *Motion to Dismiss, or in the alternative,*
for a More Definite Statement, filed June 28, 2016 pursuant to NRCP 12(b)(5), NRCP
12(e), and NRCP 9(b). Plaintiff GEORGE STUART YOUNT (hereinafter "Plaintiff")
filed *Plaintiff's Opposition to Defendants David Marriner and Marriner Real Estate,*
LLC's Motion to Dismiss, or in the alternative, for a More Definite Statement. On
August 3, 2016, Defendants filed *Defendants David Marriner and Marriner Real*

1 *Estate, LLC's Reply Memorandum of Points and Authorities RE Marriner's Motion*
2 *to Dismiss, or in the alternative, for a More Definite Statement.* Defendants
3 submitted this matter to the Court for decision on August 3, 2016.

4 Summary

5 The facts alleged in the Complaint are as follows:

6 This matter arises from an agreement between Plaintiff and Defendant CAL
7 NEVA LODGE, LLC, regarding the Plaintiff's purchase of a "Founders Unit" for
8 purposes of investing in the redevelopment of the Cal Neva Lodge, located in Crystal
9 Bay, Lake Tahoe. On February 18, 2014, Plaintiff met with Defendant MARRINER
10 to discuss the proposed plans of Defendants RADOVAN and CRISWELL to acquire,
11 remodel, and reopen the Cal Neva Lodge. Defendant MARRINER represented to
12 Plaintiff that he was acting as an agent and broker of Defendants RADOVAN and
13 CRISWELL and the related legal entities operated therewith. During the next
14 several months, Defendant MARRINER provided Plaintiff information concerning
15 the Cal Neva Lodge redevelopment project ("the Project"), including: marketing and
16 promotional materials, tours of the Cal Neva Lodge, and representations about
17 Defendants RADADOVAN and CRISWELL's previous project development history.

18 On July 25, 2015, Defendant RADOVAN sent Plaintiff an email that included
19 documents and other information regarding the financial information about the
20 Project with the intent to solicit Plaintiff in purchasing a "Founders Unit" in
21 Defendant CAL NEVA LODGE, LLC. Defendant CAL NEVA LODGE, LLC, is the
22 primary development vehicle for the Project. Plaintiff was later provided the
23 "Subscription Booklet" that included: Subscription Instructions, a member signature
24 page, a certificate of non-foreign status, investor to escrow and wire transfer
25 information, and an IRS form W-9. Plaintiff was told that there was still \$1,500,000
26 of Founders Units available for purchase out of the initial \$20,000,000 authorized
27 under the Subscription Agreement. Thereafter, Plaintiff purchased \$1,000,000 in
28 Founders Units as offered by Defendants.

1 During a meeting of members and investors held on December 12, 2015,
2 Plaintiff was informed of several issues that he asserts were not disclosed to him prior
3 to his purchase of the Founders Units. Specifically, Plaintiff was informed that the
4 Project was over-budget and that the Cal Neva Lodge would not be opening as was
5 originally scheduled. In addition, Plaintiff received a Capitalization Table for Cal
6 Neva Lodge, LLC, reflecting his \$1,000,000 purchase of Founders Units was not
7 within CAL NEVA LODGE, LLC but rather within Defendant CR CAL NEVA, LLC.
8 Plaintiff asserts that this did not comport to the terms of the Subscription Agreement
9 and thus he requested the Capitalization Table be corrected per the terms of the
10 Subscription Agreement.

11 Based on the foregoing events, Plaintiff alleges that Defendants failure to
12 disclose that the Project was over-budget and that the Cal Neva Lodge would not be
13 opening as scheduled amounted to fraudulent misrepresentations, and that the
14 Subscription Agreement was erroneously executed. Further, Plaintiff alleges
15 Defendants failed to disclose the financial condition of CAL NEVA LODGE, LLC. On
16 April 4, 2016, Plaintiff brought suit on multiple claims including: Breach of Contract,
17 Breach of Duty, Fraud, Negligence, Conversion, Punitive Damages, and Fraud under
18 NRS 90.570. On June 28, 2016, Defendants MARRINER and MARRINER REAL
19 ESTATE, LLC moved this court to dismiss Plaintiff's action pursuant to NRCP
20 12(b)(5), specifically the claims based on the alleged fraud.

21 **Legal Standard**

22 A motion to dismiss made under NRCP 12(b)(5) is subject to a rigorous
23 standard with "all alleged facts in the complaint presumed true and all inferences
24 drawn in favor of the complainant." *Torres v. Nev. Direct Ins. Co.*, 131 Nev. Adv. Op.
25 54, 353 P.3d 1203, 1210 (2015). A court should only dismiss a complaint if appears
26 beyond a doubt that a plaintiff would not be able to prove a set of facts, that if true,
27 would entitled the plaintiff to relief. *Id.* at 228. Dismissal should be lightly employed
28 being that policy favors deciding a case on their merits. *State, Dep't of Motor Vehicles*

1 & *Pub. Safety v. Moss*, 106 Nev. 866, 868, 802 P.2d 627, 628 (1990). In addition, if it
2 is possible that a complaint can be amended so as to state a claim for relief, leave to
3 amend is the preferred remedy, rather than dismissal. *Cohen v. Mirage Resorts, Inc.*,
4 119 Nev. 1, 22, 62 P.3d 720, 734 (2003). Leave to amend should be freely given when
5 justice so requires. NRCP 15(a). Under NRCP 12(e), a party may move for a more
6 definite statement if a pleading is so vague or ambiguous that a party cannot
7 reasonably be frame a responsive pleading. The motion must point out the defects
8 that are lacking and what details are desired. NRCP 12(e).

9 When a complaint raises allegations of fraud or mistake, the plaintiff is subject
10 to the pleading requirements of NRCP 9(b). Under FRCP 9(b), a party alleging fraud
11 must state the circumstances constituting fraud with particularity, including the
12 "time, place, and specific content of the false representations as well as the identities
13 of the parties to the misrepresentations."¹ *Swartz v. KPMG LLP*, 476 F.3d 756, 764
14 (9th Cir. 2007). The complaint shall be specific enough to give the defendants notice
15 of the particular actions that constituted misconduct so they can competently defend
16 against the charge. *Id.* at 764. This requires the plaintiff to differentiate the
17 allegations constituting fraud when there is more than one defendant, instead of
18 "lump[ing] multiple defendants together." *Id.* at 765. At a minimum, the plaintiff
19 must identify the party's role in the alleged fraudulent scheme. *Moore v. Kayport*
20 *Package Express, Inc.*, 885 F.2d 531, 541 (9th Cir.1989). In evaluating a motion to
21 dismiss under FRCP 9(b), the equivalent to NRCP 9(b), the court is to treat it as the
22 "functional equivalent of a motion to dismiss under Rule 12(b)(6) [NRCP 12(b)(5)] for
23 failure to state a claim" *Vess v. Ciba-Geigy Corp. USA*, 317 F.3d 1097, 1107 (9th Cir.
24 2003).

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27 _____
28 ¹ "Federal cases interpreting the Federal Rules of Civil Procedure are strong persuasive authority, because the Nevada Rules of Civil Procedure are based in large part upon their federal counterparts." *Rock Bay, LLC v. Dist. Ct.*, 129 Nev. Adv. Op. 21, 298 P.3d 441, 445 (2013)

1 Analysis

2 Defendants argue that that Plaintiff's *Complaint* fails to comport to the
3 requirements set forth in NRCP 9(b) in regard to their allegations of fraud.
4 Specifically, Defendants argue that Plaintiff's Third, Sixth, and Seventh Causes of
5 Action, which are based on the allegations of fraud, do not identify with particularity
6 Defendants' participation in the fraudulent scheme. Plaintiff's Third and Seventh
7 Causes of Action are based on common law fraud and fraud under NRS 90.570,
8 respectively. Plaintiff's Sixth Cause of Action is for punitive damages as a result of
9 the alleged fraudulent misrepresentations.

10 As stated above, the complaint must state with some particularity the role of
11 each party in the alleged fraudulent scheme and not lump together the actions of the
12 whole to constitute an action against an individual. Here, Plaintiff identifies in the
13 *Complaint* Defendants MARRINER and MARRINER REAL ESTATE, LLC as the
14 acting agent and broker on behalf of Defendant RADOVAN and CRISWELL, making
15 material representations regarding the Project. (Complaint, ¶ 12). The *Complaint*
16 indicated the representations were in connection with the development of the Cal
17 Neva Lodge and Defendants RADOVAN and CRISWELL prior real estate
18 development history. *Id.* However, the *Complaint* fails to identify what
19 representations were made with respect to the fraud allegations. Specifically, there
20 is no mention to what degree Defendant make representations regarding the opening
21 date of the Cal Neva Lodge or the financial conditions of Defendant CAL NEVA
22 LODGE, LLC.

23 Plaintiff bases his Third and Seventh Cause of Actions on the premise that
24 Defendants made fraudulent representations, however, the *Complaint* fails to
25 identify which party made the statements pertinent to Plaintiff's claims. Under the
26 Nevada Rules of Civil Procedure, a party pursuing a claim is afforded the benefit of
27 the liberal pleadings requirements set in place. *Hay v. Hay*, 100 Nev. 196, 678 P.2d
28 672, (1984). Courts in Nevada are to "liberally construe pleadings to place into issue

1 matters which are fairly noticed to the adverse party." *Id.* at 198. However, the
2 Supreme Court of Nevada requires allegations of fraud to be held to a higher pleading
3 standard and be plead with particularity. Here, the Court finds that Plaintiff's
4 *Complaint* fails to reach the higher pleading standard set forth under NRCP 9(b). The
5 *Complaint* raises only general allegations against the whole, and does not identify
6 what party made the fraudulent misrepresentations. However, it is because public
7 policy prefers the case be decided on the merits that the Court is not inclined
8 entertain dismissal.

9 Accordingly, Defendant's *Motion to Dismiss* is DENIED, and Defendant's
10 *Motion for a More Definite Statement* is GRANTED.

11 IT IS SO ORDERED.

12 DATED this 13 day of September, 2016.

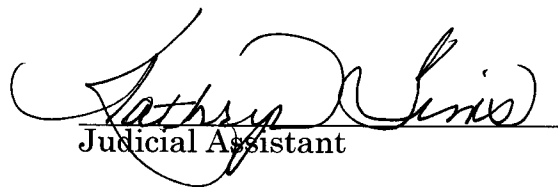
13
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16 PATRICK FLANAGAN
17 District Judge
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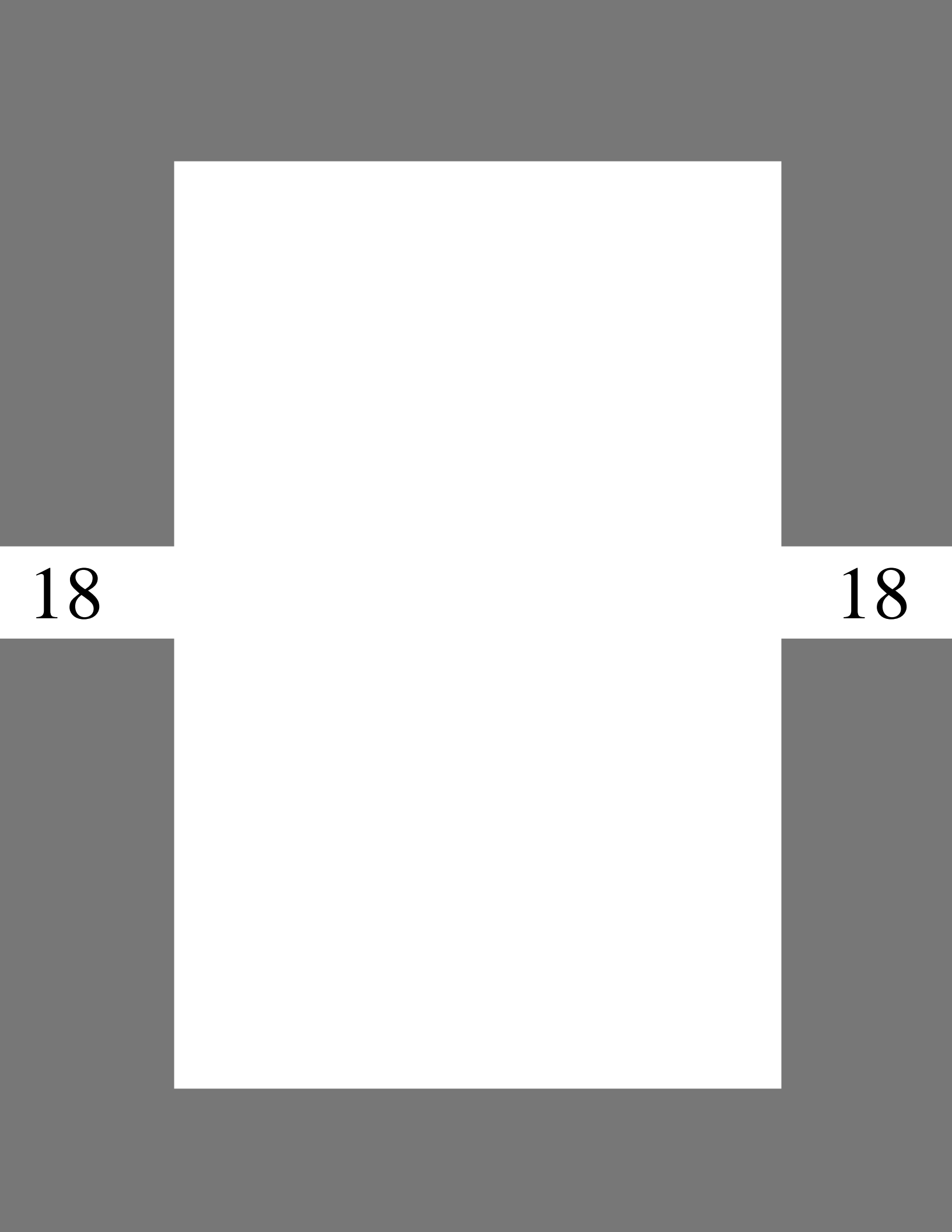
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 13 day of September, 2016, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Andrew N. Wolf, Esq., Attorney for Defendants David Marriner and Marriner Real Estate, LLC;

Richard G. Campbell, Jr., Esq., attorney for Plaintiff George Stuart Yount; Martin A. Little, Esq., attorney for Defendants Criswell Radovan, LLC; CR Cal Neva, LLC; Robert Radovan; William Criswell; Cal Neva Lodge, LLC; Powell, Coleman, and Arnold, LLP.


Judicial Assistant



18

18

1 **CODE 2540**

2 ANDREW N. WOLF (#4424)
3 JEREMY L. KRENEK (#13361)
4 Incline Law Group, LLP
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(775) 831-3666

5 Attorneys for Defendants DAVID MARRINER and
6 MARRINER REAL ESTATE, LLC

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18 Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
19 LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
20 liability company; and DOES 1-10,

21 Defendants.
22

CASE NO. CV16-00767

DEPT NO. B7

23 **NOTICE OF ENTRY OF ORDER**

24 **PLEASE TAKE NOTICE** that on **September 13, 2016**, the court entered its *ORDER RE*
25 *DEFENDANTS DAVID MARRINER AND MARRINER REAL ESTATE, LLC'S MOTION TO*
26 *DISMISS, OR IN THE ALTERNATIVE, FOR A MORE DEFINITE STATEMENT ("Order")*. A
27 copy of the Order was served on all parties by the court's electronic filing system on September
28 13, 2016.

1
2 **Affirmation:** The undersigned hereby affirms that the foregoing document does not
3 contain the social security number of any person.

4 Dated: September 14, 2016.

5 INCLINE LAW GROUP, LLP

6 By: 

7 ANDREW N. WOLF

8 Nevada State Bar No. 4424

9 264 Village Blvd., Suite 104

10 Incline Village, Nevada 89451

11 anwolf@inclinelaw.com

12 (775) 831-3666

13 Attorneys for Defendants DAVID MARRINER and MARRINER REAL
14 ESTATE, LLC

CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that I am an employee of Incline Law Group, LLP, and that on this day, I caused to be served, a true and correct copy of:

NOTICE OF ENTRY OF ORDER

UPON:

Richard G. Campbell, Jr.
DOWNEY BRAND LLC
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

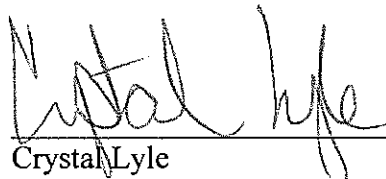
Attorney for Plaintiff George
Stuart Yount, Individually and in
his capacity as Owner of George
Stuart Yount IRA

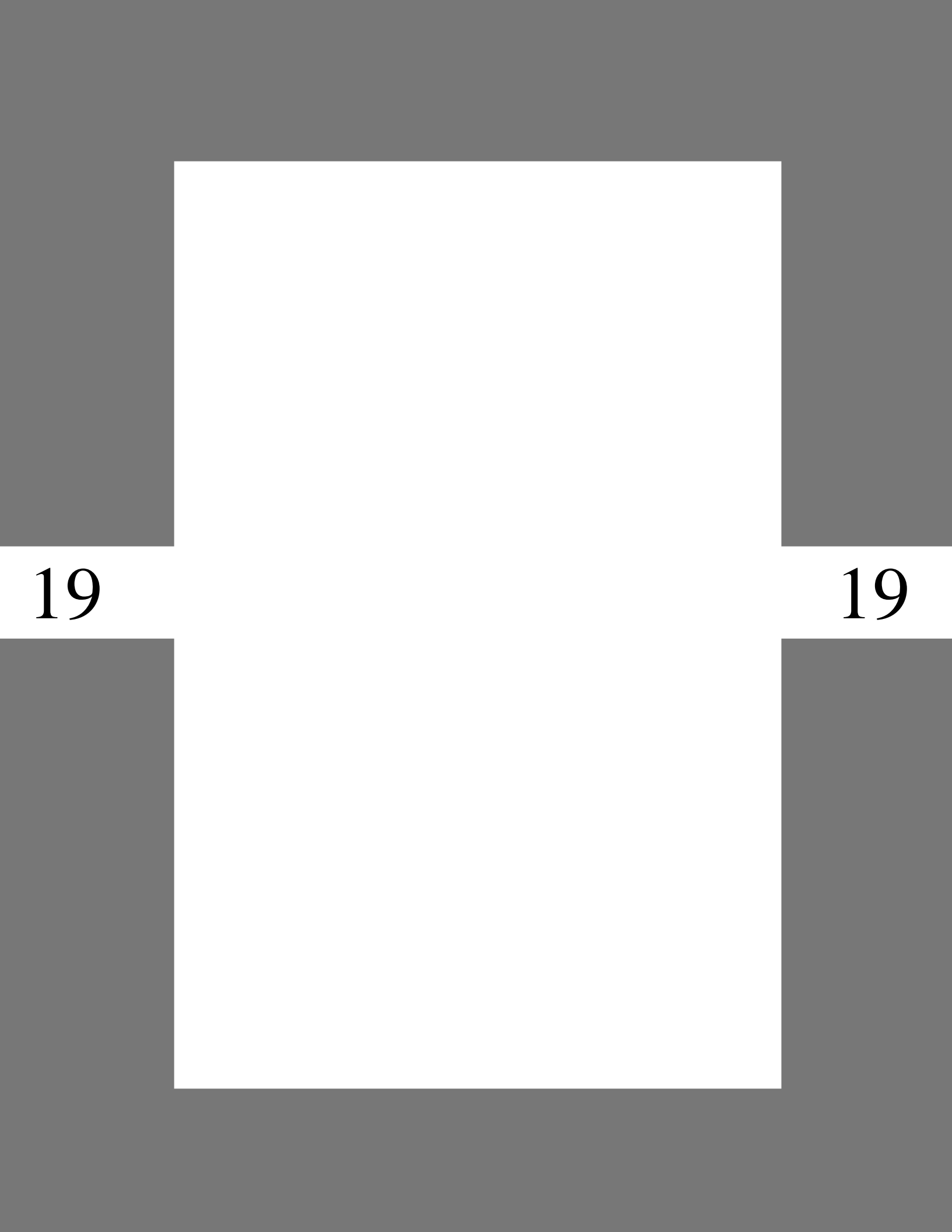
Martin A. Little
JOLLEY URGAL WOODBURY & LITTLE
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, NV 89169
Telephone: 702-699-7500
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Attorney for Defendants Criswell
Radovan, LLC, CR CAL NEVA
LLC, Robert Radovan, William
Criswell, Cal Neva Lodge, LLC,
Powell, Coleman and ARNOLD,
LLP

VIA: Washoe County Eflex e-filing system.

Date: September 17, 2016.


Crystal Lyle



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CODE 1090
DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; NEW CAL-NEVA
LODGE, LLC, a Nevada limited liability
company; and DOES 1-10,

Defendants.

SECOND AMENDED COMPLAINT
(Exemption from Arbitration Requested)

PLAINTIFF GEORGE STUART YOUNT, individually and in his capacity as owner of
the GEORGE STUART YOUNT IRA (hereinafter "Plaintiff"), for their Complaint against
Defendants CRISWELL RADOVAN, LLC, a Nevada limited liability company; CR CAL

1 NEVA, LLC, a Nevada limited liability company; ROBERT RADOVAN; WILLIAM
2 CRISWELL; CAL NEVA LODGE, LLC, a Nevada limited liability company; POWELL,
3 COLEMAN and ARNOLD LLP; DAVID MARRINER; MARRINER REAL ESTATE, LLC, a
4 Nevada limited liability company; and, NEW CAL-NEVA LODGE, LLC, a Nevada limited
5 liability company (hereinafter "Defendants") and DOES 1 through 10, inclusive, allege as
6 follows:

7 **PARTIES**

8 1. Plaintiff George Stuart Yount is an individual who resides in Crystal Bay, Nevada.

9 2. The George Stuart Yount IRA is an IRA owned by George Stuart Yount, for which
10 Premiere Trust, Inc., serves as custodian.

11 3. Defendant Criswell Radovan, LLC ("Criswell Radovan") is a Nevada limited
12 liability company whose managers are Sharon Criswell, William Criswell and Robert Radovan,
13 and upon information and belief is the owner of CR Cal Neva, LLC.

14 4. Defendant CR Cal Neva, LLC ("CR") is a Nevada limited liability company
15 whose managing member is William Criswell, and upon information and belief is owned by
16 William Criswell, Robert Radovan and/or Criswell Radovan.

17 5. Defendant Robert Radovan ("Radovan") is an individual residing, upon
18 information and belief, in Napa, California, and doing business in Nevada both individually and
19 through various entities, including Defendants.

20 6. Defendant William Criswell ("Criswell") is an individual residing, upon
21 information and belief, in Napa, California, and doing business in Nevada both individually and
22 through various entities, including Defendants.

23 7. Defendant Cal Neva Lodge, LLC ("CNL") is a Nevada limited liability company
24 whose manager is Robert Radovan.

25 8. Powell, Coleman and Arnold LLP ("Powell Coleman") is a law firm located in
26 Dallas, Texas, who has and continues to represent CR and CNL as to the financing and
27 development of the Cal Neva Lodge located in Nevada and California (as referred herein, the
28 "Cal Neva Lodge", or "Project").

1 9. Defendant David Marriner ("Marriner") is an individual residing in Incline
2 Village, Nevada, and acting as an agent and/or broker for CNL, CR, Criswell Radovan, LLC, and
3 the Cal Neva Lodge, who was being paid a percentage of any money from investors he brought to
4 the project.

5 10. Marriner Real Estate, LLC ("Marriner Real Estate") is a Nevada limited liability
6 company whose manager is David Marriner, and upon information and belief is solely owned by
7 David Marriner which has acted as an agent and/or broker for CNL, CR, Criswell Radovan, LLC,
8 and Cal Neva Lodge.

9 11. Defendant New Cal-Neva Lodge, LLC ("NCNL") is a Nevada limited liability
10 company whose managing member is Cal Neva Lodge, LLC.

11 12. Plaintiff is ignorant of the true names and capacities of the DOES named herein as
12 DOES 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names.
13 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.
14 Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously named DOE
15 Defendants was, and continues to be, responsible in some manner for the acts or omissions herein
16 alleged.

17 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

18 13. On or about February 18, 2014, David Marriner, acting individually and as
19 Marriner Real Estate, collectively hereafter "Marriner," met with Plaintiff and told him about the
20 new owners and developers of the Cal Neva Lodge, primarily Radovan and Criswell and their
21 related entities, including Defendants, who were looking for investors to help fund a newly
22 formed Nevada LLC that would acquire, remodel and reopen the Cal Neva Lodge. Marriner
23 acted as and represented that he was the agent and broker for the new owner and their myriad
24 legal entities. Thereafter, for a period of several months, Marriner acting individually and as the
25 owner of Marriner Real Estate, kept in contact with Plaintiff and made numerous representations
26 about the Project, the development of the Cal Neva Lodge and Radovan and Criswell's successful
27 development history. Specifically, Marriner told Yount that Criswell and Radovan had a
28 successful track record in developing high end hotel/resort properties. Marriner also provided

1 marketing and promotional materials related to the Project, and tours of the Cal Neva Lodge, all
2 intended to induce Plaintiff to become an investor in the Project and Cal Neva Lodge.

3 14. On or about July 22, 2015, Marriner represented to Yount that the project was on
4 schedule, and would open in December 2015, and sent to Yount via e-mail with an attached
5 construction progress report that did not disclose that the project was substantially over budget,
6 was in need of a cash infusion and that the General Contractor, Penta, had not been paid, facts
7 which Marriner was aware of.

8 15. During July, August, September and October 2015, prior to October 12 when
9 Younts sent \$1,000,000 to the escrow holder for shares in the offering under the Private
10 Placement Memo, Marriner knew that the general contractor and subcontractors on the job were
11 not being paid, but did not disclose this to Yount.

12 16. Prior to Yount's investment, Marriner knew that the developers had requested
13 \$1,000,000 from another investor, Les Busick, to meet the immediate needs of the project to keep
14 Penta from leaving the job. This was not disclosed to Yount.

15 17. On July 14, 2015, Marriner sent Yount an investor list that should \$1,500,000
16 available under the \$20,000,000 Private Placement Memo. Marriner knew that prior to Yount's
17 investment in October 2015 that the \$20,000,000 cap on funds that could be raised under the
18 Private Placement Memo had been fully met yet failed to inform Yount of this fact, and that
19 Yount could no longer be included in the investor group under the Private Placement Memo.

20 18. On or about July 25, 2015, Radovan sent an email to Plaintiff providing numerous
21 documents and other information related to the Project and development of the Cal Neva Lodge,
22 including financial information showing that the project was on budget and on time, with the
23 intent to induce the Plaintiff into purchasing a "Founders Unit" in CNL for \$1,000,000, as CNL
24 was serving as the primary development vehicle for the Project.

25 19. Plaintiff was later provided a "Subscription Booklet" that included Subscription
26 Instructions, a member signature page, a certificate of nonforeign status, investor instruction to
27 escrow and wire transfer information and an IRS form W-9. Plaintiff was also informed that by
28 both Marriner and Radovan there was still \$1,500,000 of Founders Units available for purchase of

1 the \$20,000,000 of Founders Units authorized under the Subscription Agreement and related
2 offering materials. Plaintiff reviewed the Subscription Booklet, and based on the information
3 contained therein and the representations made by Radovan, Criswell, Marriner, and their
4 respective agents and entities, including Defendants, decided to purchase a Founders Unit in the
5 amount of \$1,000,000. Plaintiff elected to utilize funds held by the George Stuart Yount IRA of
6 Plaintiff for the purchase of such Founders Unit.

7 20. On or about October 12, 2015, Plaintiff, as owner of the George Stuart Yount IRA,
8 and Deborah Erdman as Trust Officer for Premier Trust Inc., as the custodian of the George
9 Stuart Yount IRA, signed and delivered the Subscription Agreement. On October 13, 2015,
10 Criswell, as president of CR signed the Acceptance of Subscription as manager of CNL. On
11 October 15, 2015, Premier Trust Inc. on behalf of the George Stuart Yount IRA, wired the
12 amount of \$1,000,000 to the trust account of Powell Coleman, the designated escrow holder for
13 subscription funds under the Subscription Agreement. Pursuant to the Subscription Agreement
14 the \$1,000,000 was to be deposited into the account of CNL.

15 21. On or about December 12, 2015, a meeting of members and investors in the
16 Project was held at the Fairwinds Lodge near the Cal Neva Lodge. At that meeting, for the first
17 time, Plaintiff was informed of several issues that Marriner and/or the developers had not
18 disclosed or were incorrectly represented to him prior to his investment, primarily that the Project
19 was substantially over budget, Penta had not been paid, and the Cal Neva Lodge was not going to
20 open as scheduled.

21 22. The revelations at the December 12, 2015 meeting caused great concern to the
22 Plaintiff and the members and investors. Additionally, at that time, the bank statements of CNL
23 did not reflect that the \$1,000,000 had been deposited into any CNL account.

24 23. On or about January 22, 2016, Plaintiff received a Capitalization Table for CNL
25 indicating that his \$1,000,000 investment was not in CNL, but was within the \$2,000,000 equity
26 investment of CR in CNL. Plaintiff immediately responded that was in error and that his intent
27 all along, and the terms of the Subscription Agreement, provided for his purchase of a Founders
28 Unit under the Subscription Agreement as was evidenced by the fully executed Subscription

1 Agreement delivered by Plaintiff to CNL. Plaintiff had never entered into any verbal or written
2 agreement to buy any portion of the CR's Founder's Units in CNL. Plaintiff then requested that
3 the Capitalization Table be corrected to reflect that he was a holder of a \$1,000,000 Founders
4 Unit in CNL, as provided by the Subscription Agreement.

5 24. Based on these series of events, Plaintiff then started inquiring into the
6 whereabouts of his \$1,000,000.

7 25. On or about February 2, 2016, Plaintiff received an email from Bruce Coleman, a
8 partner of Powell Coleman, with attached documents, apparently drafted by Powell Coleman,
9 consisting of an Assignment of Interest in Limited Liability Company (backdated to October 13,
10 2015), Resolution of Members of CNL approving such assignment, and a Purchase Agreement
11 for CR to repurchase from Plaintiff the one-half of CR's equity position in CNL, which was
12 asserted by Powell Coleman to have been transferred to Plaintiff for \$1,000,000, which
13 agreement also classified Plaintiff's \$1,000,000 as a loan from Plaintiff to CR. Basically these
14 assignment documents set forth that the Subscription Agreement had been erroneously executed
15 and that the parties actually intended for the Plaintiff to purchase an interest in CR's Founder
16 Units in CNL, which was neither the intent nor agreement of the parties. Plaintiff responded to
17 Mr. Coleman expressly representing that it was never his intent, nor the agreement of the parties,
18 to purchase any portion of CR's interest in CNL, and that the only agreement and intent was to
19 purchase a Founders Unit in CNL in accordance with the Subscription Agreement, as evidenced
20 by his signed Subscription Agreement.

21 26. On or about March 16, 2016, Plaintiff sent an email to Mr. Coleman inquiring as
22 to the whereabouts of his \$1,000,000. After a series of emails between Plaintiff and Mr.
23 Coleman, Mr. Coleman disclosed that the \$1,000,000 had been transferred to CR on October 14,
24 2015, because "I was told by CR that it had sold 50% of its \$2m interest in Cal Neva Lodge, LLC
25 to you for \$1m and that the payment would be transferred through my trust account. At the time
26 of this transaction Cal Neva Lodge had already sold all of the shares it was authorized to sell
27 under the terms of its Operating Agreement, so I had no reason to question the sale of a portion of
28 CR's interest to you." As of March 16, 2016, Mr. Coleman, upon Plaintiff's information and

1 belief, had in his possession the executed Subscription Agreement of October 13, 2015 with
 2 attached escrow instructions. Those escrow instructions directed that Powell Coleman was the
 3 escrow holder and specifically set forth that the \$1,000,000 from Plaintiff be retained in the
 4 escrow account until such time as certain conditions were met, at which time the funds were to be
 5 deposited into CNL. Plaintiff then asked Mr. Coleman for any documentation demonstrating that
 6 CR had sold 50% of its interest to him and authorizing that the payment would be transferred
 7 through his trust account. No such documentation was ever provided by Mr. Coleman.

8 27. Plaintiff has made repeated demands on Criswell and Radovan and their respective
 9 entities, including Defendants, for repayment of his \$1,000,000 and has yet to be repaid.

10 **FIRST CAUSE OF ACTION**

11 **(Breach of Contract against CR Cal Neva LLC; Cal Neva Lodge, LLC; Criswell
 12 Radovan, LLC; and New Cal-Neva Lodge, LLC)**

13 28. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the
 14 allegations in paragraphs 1 through 27 above.

15 29. The Subscription Agreement Plaintiff signed on October 13, 2015, which was
 16 countersigned by Criswell on October 14, 2015, was a binding contract which required the
 17 Plaintiff's \$1,000,000 to be held in escrow and then either deposited into the account of CNL if
 18 certain conditions were met, and if not, returned to the Plaintiff. If, as represented by counsel for
 19 CNL, the authorized capital of CNL, the terms of the offering, or the operating agreement for
 20 CNL prohibited the purchase by the Plaintiff, then the \$1,000,000 should have been returned to
 21 the Plaintiff as directed in the Subscription Agreement. The \$1,000,000 was not returned to
 22 Plaintiff; it was instead deposited into an account of CR without any authorization by Plaintiff or
 23 any agreement for such a transfer. The actions by CR and its agents and/or attorneys constituted
 24 a breach of the Subscription Agreement causing damage to the Plaintiff in an amount in excess
 25 \$1,000,000.

26 **SECOND CAUSE OF ACTION**

27 **(Breach of Duty Against Defendant Powell Coleman and Arnold LLP)**

28 30. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the
 allegations in paragraphs 1 through 29 above.

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1 not receive distributions or other payments related to the Project until after the preferred returns
2 and equity investments were paid or returned to the investors; and, that there was \$1,500,000 left
3 under the offering authorized and contemplated by the Subscription Agreement and related
4 offering documents for purchase of a Founders Unit by Plaintiff.

5 36. On or about February 18, 2014, David Marriner, acting individually and as
6 Marriner Real Estate, collectively hereafter "Marriner," met with Plaintiff and told him about the
7 new owners and developers of the Cal Neva Lodge, primarily Radovan and Criswell and their
8 related entities, including Defendants, who were looking for investors to help fund a newly
9 formed Nevada LLC that would acquire, remodel and reopen the Cal Neva Lodge. Marriner
10 acted as and represented that he was the agent and broker for the new owner and their myriad
11 legal entities. Thereafter, for a period of several months, Marriner acting individually and as the
12 owner of Marriner Real Estate, kept in contact with Plaintiff and made numerous representations
13 about the Project, the development of the Cal Neva Lodge and Radovan and Criswell's successful
14 development history. Specifically, Marriner told Yount that Criswell and Radovan had a
15 successful track record in developing high end hotel/resort properties. Marriner also provided
16 marketing and promotional materials related to the Project, and tours of the Cal Neva Lodge, all
17 intended to induce Plaintiff to become an investor in the Project and Cal Neva Lodge.

18 37. Prior to Plaintiff signing the Subscription Agreement, there was also a material
19 omission by Defendants, Robert Radovan, CR Cal Neva, LLC, Criswell Radovan, LLC, and Cal
20 Neva Lodge, LLC, and Defendants failed to disclose, that CNL's liabilities exceeded its assets,
21 and that Project was in fact in need of capital because the general contractor and numerous sub-
22 contractors had not been paid. Plaintiff was not aware of the inaccuracy of the representations by
23 Defendants, or the material omissions by Defendants, and was never informed prior to his
24 investment that the Project was in serious financial trouble, that the offering contemplated by the
25 Subscription Agreement and related offering documents was fully subscribed, and that the
26 offering limit of \$20,000,000 had already been met when he signed the Agreement.

27 38. On or about July 22, 2015, Marriner represented to Yount that the project was on
28 schedule, and would open in December 2015, and sent to Yount via e-mail with an attached

1 construction progress report that did not disclose that the project was substantially over budget,
2 was in need of a cash infusion and that the General Contractor, Penta, had not been paid, facts
3 which Marriner was aware of.

4 39. During July, August, September and October 2015, prior to October 12 when
5 Younts sent \$1,000,000 to the escrow holder for shares in the offering under the Private
6 Placement Memo, Marriner knew that the general contractor and subcontractors on the job were
7 not being paid, but did not disclose this to Yount.

8 40. Prior to Yount's investment, Marriner knew that the developers had requested
9 \$1,000,000 from another investor, Les Busick, to meet the immediate needs of the project to keep
10 Penta from leaving the job. This was not disclosed to Yount.

11 41. On July 14, 2015, Marriner sent Yount an investor list that should \$1,500,000
12 available under the \$20,000,000 Private Placement Memo. Marriner knew that prior to Yount's
13 investment in October 2015 that the \$20,000,000 cap on funds that could be raised under the
14 Private Placement Memo had been fully met yet failed to inform Yount of this fact, and that
15 Yount could no longer be included in the investor group under the Private Placement Memo.

16 42. Plaintiff justifiably relied on the representations by Defendants and would not have
17 made the investment had he known the true status and details of the Project or CNL. Plaintiff
18 suffered damages from Defendants' fraud in excess of \$1,000,000.

19 **FOURTH CAUSE OF ACTION**
20 **(Negligence Against Defendant Powell, Coleman and Young LLP)**

21 43. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the
22 allegations in paragraphs 1 through 42 above.

23 44. Defendant Powell Coleman had a duty as attorneys serving as escrow holder of
24 Plaintiff's \$1,000,000 to insure that distribution of that amount was done in accordance with the
25 Subscription Agreement and Plaintiff's authorized and intended use for such funds. Powell
26 Coleman's transfer of those funds to its client, CR, without any express written authorization
27 from Plaintiff, was the proximate cause of Plaintiff's damages that are in excess of \$1,000,000.

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FIFTH CAUSE OF ACTION

**(Conversion against CR Cal Neva, LLC; William Criswell; Robert Radovan;
Criswell Radovan, LLC; and New Cal-Neva Lodge, LLC)**

45. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 44 above.

46. Defendants wrongfully exercised dominion over Plaintiff's \$1,000,000 when it instructed their attorneys, Powell Coleman, to transfer Plaintiff's \$1,000,000 out of Powell Coleman's trust account and into the possession of Defendants. Plaintiff had never authorized such transfer, nor executed any documents allowing such transfer, and such act to direct the transfer of funds was in derogation of Plaintiff's ownership of such funds. Such Conversion caused Plaintiff damages in excess of \$1,000,000.

SIXTH CAUSE OF ACTION

(Punitive Damages against all Defendants)

47. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 46 above.

48. Defendants Criswell Radovan, CR, Criswell, Radovan, Marriner and Marriner Real Estate's actions were fraudulent and in conscious disregard of Plaintiff's rights with the express malicious intent of causing harm to Plaintiff, and as such Plaintiff should be entitled to punitive damages.

49. Defendant Powell Coleman was specifically engaged in the business of administering escrows in Nevada and acting as an escrow agent for a Nevada business transaction, involving a Nevada property and holding money for residents of Nevada, without having procured a Nevada license to act as an escrow agent. As such Nevada Revised Statute 645A.222(2) authorizes an action for an award of punitive damages.

SEVENTH CAUSE OF ACTION

**(Claim for Fraud under NRS 90.570 in the Offer, Sale and Purchase of a Security against
Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan,
LLC; Cal Neva Lodge, LLC; David Marriner; and Marriner Real Estate, LLC)**

50. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 49 above.

1 51. Defendants, Robert Radovan, CR Cal Neva, LLC, Criswell Radovan, LLC, Cal
2 Neva Lodge, LLC, David Marriner, and Marriner Real Estate, LLC knowingly made fraudulent
3 misrepresentations and/or material omissions of fact to Plaintiff intended to induce Plaintiff into
4 contributing \$1,000,000 to obtain a Founders Unit in CNL. Such fraudulent misrepresentations
5 include, but are not limited to, that the Cal Neva Lodge would open on or near the end of 2015;
6 that the Project was only slightly over budget; that a refinancing of the \$6,000,000 mezzanine
7 financing with a \$15,000,000 loan was in place or imminent; that the developers had a successful
8 track record of developing similar projects; that the developers would not receive distributions or
9 other payments related to the Project until after the preferred returns and equity investments were
10 paid or returned to the investors; and, that there was \$1,500,000 left under the Subscription
11 Agreement and related offering documents for purchase of a Founders Unit by Plaintiff.

12 52. On or about February 18, 2014, David Marriner, acting individually and as
13 Marriner Real Estate, collectively hereafter "Marriner," met with Plaintiff and told him about the
14 new owners and developers of the Cal Neva Lodge, primarily Radovan and Criswell and their
15 related entities, including Defendants, who were looking for investors to help fund a newly
16 formed Nevada LLC that would acquire, remodel and reopen the Cal Neva Lodge. Marriner
17 acted as and represented that he was the agent and broker for the new owner and their myriad
18 legal entities. Thereafter, for a period of several months, Marriner acting individually and as the
19 owner of Marriner Real Estate, kept in contact with Plaintiff and made numerous representations
20 about the Project, the development of the Cal Neva Lodge and Radovan and Criswell's successful
21 development history. Specifically, Marriner told Yount that Criswell and Radovan had a
22 successful track record in developing high end hotel/resort properties. Marriner also provided
23 marketing and promotional materials related to the Project, and tours of the Cal Neva Lodge, all
24 intended to induce Plaintiff to become an investor in the Project and Cal Neva Lodge.

25 53. Prior to Plaintiff signing the Subscription Agreement, there was also a material
26 omission by Defendants, William Criswell, Robert Radovan, CR Cal Neva, LLC, Criswell
27 Radovan, LLC, Cal Neva Lodge, LLC, and who failed to disclose, that CNL's liabilities exceeded
28 its assets, and that Project was in fact in need of capital because the general contractor and

1 numerous sub-contractors had not been paid. Plaintiff was not aware of the inaccuracy of the
2 representations by Defendants, or the material omissions by Defendants, and was never informed
3 prior to his investment that the Project was in serious financial trouble, that the offering
4 contemplated by the Subscription Agreement and related offering documents was fully
5 subscribed, and that the offering limit of \$20,000,000 had already been met when he signed the
6 Agreement.

7 54. On or about July 22, 2015, Marriner represented to Yount that the project was on
8 schedule, and would open in December 2015, and sent to Yount via e-mail with an attached
9 construction progress report that did not disclose that the project was substantially over budget,
10 was in need of a cash infusion and that the General Contractor, Penta, had not been paid, facts
11 which Marriner was aware of.

12 55. During July, August, September and October 2015, prior to October 12 when
13 Younts sent \$1,000,000 to the escrow holder for shares in the offering under the Private
14 Placement Memo, Marriner knew that the general contractor and subcontractors on the job were
15 not being paid, but did not disclose this to Yount.

16 56. Prior to Yount's investment, Marriner knew that the developers had requested
17 \$1,000,000 from another investor, Les Busick, to meet the immediate needs of the project to keep
18 Penta from leaving the job. This was not disclosed to Yount.

19 57. On July 14, 2015, Marriner sent Yount an investor list that should \$1,500,000
20 available under the \$20,000,000 Private Placement Memo. Marriner knew that prior to Yount's
21 investment in October 2015 that the \$20,000,000 cap on funds that could be raised under the
22 Private Placement Memo had been fully met yet failed to inform Yount of this fact, and that
23 Yount could no longer be included in the investor group under the Private Placement Memo.
24 Plaintiff justifiably relied on the representations by Defendants, Robert Radovan, CR Cal Neva,
25 LLC, Criswell Radovan, LLC, Cal Neva Lodge, LLC, David Marriner, and Marriner Real Estate,
26 LLC and would not have made the investment had he known the true status and details of the
27 Project or CNL. Plaintiff suffered damages from Defendants' fraud in excess of \$1,000,000.

28 ///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For damages against Defendants in excess of \$1,000,000;
2. For punitive damages provided for by law;
3. For interest on the judgment as provided by law;
4. An award of attorneys' fees as provided for by law and under NRS 645A.222 and NRS 90.660(3);
5. Costs of the suit herein incurred; and,
6. For other such relief as the Court may deem just and proper.

DATED: September 27, 2016.

DOWNEY BRAND LLP

By: 

RICHARD G. CAMPBELL, JR.
Attorney for Plaintiff

DOWNEY BRAND LLP

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VERIFICATION

STATE OF Nevada
 COUNTY OF Washoe ss.


I, GEORGE STUART YOUNT, declare:

I am the Plaintiff in the above-entitled action.

I have read the foregoing SECOND AMENDED COMPLAINT on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

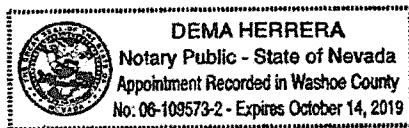
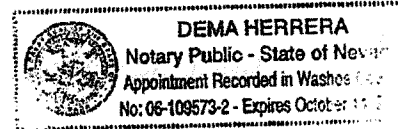
DATED this 27th day of September, 2016.


 GEORGE STUART YOUNT

Subscribed and sworn to before me,
 this 27 day of September, 2016.


 NOTARY PUBLIC

Commission Expires: Oct 14, 2019



DOWNEY BRAND LLP

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SECOND JUDICIAL DISTRICT COURT**COUNTY OF WASHOE, STATE OF NEVADA****AFFIRMATION****Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document, filed in this case:
SECOND AMENDED COMPLAINT;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

 (State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: September 27, 2016.

DOWNEY BRAND LLP

By: Danielle L. Blecker

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 100 West Liberty, Suite 900, Reno, Nevada 89501. On September 21, 2016, I served the following document(s):

SECOND AMENDED COMPLAINT

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth below.
- ☐ **BY EMAIL:** by causing the document(s) to be electronically served.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by Reno Carson Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY E-MAIL/ELECTRONIC FILING SYSTEM:** by causing the document(s) to be electronically served via the court's electronic filing system to the following attorneys associated with this case.

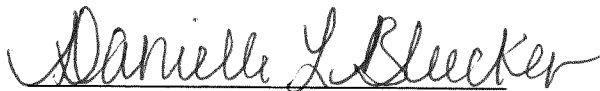
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Incline Village, NV 89451

Ali P. Hamidi
Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, CA 94104-1513

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on September 21, 2016, at Reno, Nevada.



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EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	LENGTH
1	Subscription Agreement	14 pages

Exhibit 1

000183

000183

Exhibit 1

SUBSCRIPTION BOOKLET

(for Founding Members)

CAL NEVA LODGE, LLC

SUBSCRIPTION INSTRUCTIONS

EACH POTENTIAL INVESTOR WHO WISHES TO SUBSCRIBE FOR FOUNDERS UNITS MUST COMPLETE, EXECUTE AND RETURN TO THE COMPANY THE FOLLOWING DOCUMENTS CONTAINED IN THIS SUBSCRIPTION BOOKLET (AS APPLICABLE):

- (1) A Subscription Agreement;
- (2) A Member Signature Page and Power of Attorney;
- (3) A Certificate of Nonforeign Status (for Members who are individuals);
- (4) A Certificate of Nonforeign Status (for Members who are entities);
- (5) Investor's Instructions to Escrow and Wire Transfer Information; and
- (6) IRS Form W-9.

ALSO, IF APPLICABLE, PLEASE DELIVER THE FOLLOWING:

IF THE POTENTIAL INVESTOR IS A TRUST, INCLUDE A COPY OF THE TRUST AGREEMENT.

IF THE POTENTIAL INVESTOR IS A PARTNERSHIP, INCLUDE A COPY OF THE SIGNED PARTNERSHIP AGREEMENT, AND A COMPLETED SUBSCRIPTION AGREEMENT FOR EACH PARTNER.

IF THE POTENTIAL INVESTOR IS A CORPORATION, INCLUDE A COPY OF THE BOARD RESOLUTION DESIGNATING THE CORPORATE OFFICER AUTHORIZED TO SIGN ON BEHALF OF THE CORPORATION AND AUTHORIZING THE INVESTMENT AND THE CORPORATION'S MOST RECENT FINANCIAL STATEMENTS.

IF POTENTIAL INVESTOR IS A LIMITED LIABILITY COMPANY, INCLUDE A COPY OF THE SIGNED OPERATING AGREEMENT AND THE ARTICLES OF ORGANIZATION OR CERTIFICATE OF FORMATION, AS FILED, AND A COMPLETED SUBSCRIPTION AGREEMENT FOR EACH MEMBER AND EACH MANAGER.

SUBSCRIPTION AGREEMENT

TO: CAL NEVA LODGE, LLC,
a Nevada limited liability company
c/o CR Cal Neva, LLC
1336-D Oak Street
St. Helena, California 94574

Potential Investor:

The undersigned (the "Purchaser"), by completing and executing this Subscription Agreement and the Member Signature Page and Power of Attorney, hereby tenders this subscription and applies for the purchase of the number of Founders Units (the "Founders Units") of CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company"), set forth below the Purchaser's signature hereto, at a price of \$1,000,000 per Founders Unit (the "Purchase Price"). The Purchaser hereby acknowledges receipt of a copy of the Company's Confidential Private Placement Memorandum, dated _____ (the "Memorandum").


The Purchaser (or, if the Purchaser is signing in a fiduciary capacity, the person or persons for whom the fiduciary is signing) hereby represents and warrants to the Company that:

(a) The Purchaser is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act"). The specific category or categories of "accredited investor" applicable to the Purchaser are as follows:

A. AND B. ARE APPLICABLE TO INDIVIDUALS (Please INITIAL applicable blanks):

- A. _____ The Purchaser is a natural person and has a net worth, either alone or with the Purchaser's spouse, of more than \$1,000,000 (*excluding* the value of Purchaser's primary residence).
- B. _____ The Purchaser is a natural person and had income in excess of \$200,000 (\$300,000 including income of spouse) during each of the previous two years and expects to have income in excess of such amounts during the current year.

C. THROUGH F. ARE APPLICABLE TO NON-INDIVIDUALS (Please INITIAL applicable blanks):

- C. _____ The Purchaser is a trust with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the Founders Units, and the purchase is directed by a person meeting the criteria described in Subsection (g) below.
- D.  The Purchaser is an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 that either (i) has its investment decisions made by a plan fiduciary, as defined by Section 3(21) of such Act, which is a bank, savings and loan association, insurance company or a registered investment adviser, or (ii) has total assets in excess of \$5,000,000 or, if a self-directed plan, the investment decisions are made solely by persons who are accredited investors as described herein.
- E. _____ The Purchaser is an entity (*excluding* a trust UNLESS it is a revocable grantor trust) in which all of the equity owners are accredited investors within categories A and B above.

F. — The Purchaser is a corporation, or a partnership, not formed for the specific purpose of acquiring the Founders Units, with total assets in excess of \$5,000,000.

(b) The Purchaser understands that the Company has not registered the Founders Units under the Securities Act, or qualified the Founders Units under the applicable securities laws of any state, in reliance on exemptions from registration and qualification, and the Purchaser understands that such exemptions depend in large part on the Purchaser's investment intent at the time the Purchaser acquires the Founders Units;

(c) The Founders Units subscribed for herein will be acquired for the Purchaser's own account, for investment and not for resale or distribution to any person, corporation, or other entity, and the Purchaser has no intention of distributing or reselling the Founders Units;

(d) The Purchaser acknowledges that any disposition of the Founders Units is subject to restrictions imposed by federal and state law and that the certificates representing the Founders Units will bear a restrictive legend. The Purchaser also recognizes that the Founders Units cannot be disposed of by the Purchaser, absent registration and qualification, or an available exemption from registration and qualification, and that no undertaking has been made with regard to registering or qualifying the Founders Units in the future. The Purchaser understands that the availability of an exemption in the future will depend in part on circumstances outside the Purchaser's control and that the Purchaser may be required to hold the Founders Units for a substantial period. The Purchaser recognizes that no public market exists with respect to the Founders Units and no representation has been made to the Purchaser that such a public market will exist at a future date. The Purchaser understands that no state securities administrator or commissioner has made any finding or determination relating to the fairness for investment of the Founders Units and that no such administrator or commissioner has or will recommend or endorse the Founders Units;

(e) The Purchaser has not seen or received any advertisement or general solicitation with respect to the sale of the Founders Units;

(f) The Purchaser believes, by reason of the Purchaser's business or financial experience, that the Purchaser is capable of evaluating the merits and risks of this investment and of protecting the Purchaser's interest in connection with this investment;

(g) The Purchaser acknowledges that prior to acquiring the Founders Units, the Purchaser has been provided with financial and other written information about the Company and the terms and conditions of the offering. The Purchaser has been given the opportunity by the Company to obtain such information and ask such questions concerning the Company, the Founders Units and the Purchaser's investment as the Purchaser felt necessary, and to the extent the Purchaser took such opportunity, the Purchaser received satisfactory information and answers. If the Purchaser requested any additional information which the Company possessed or could acquire without unreasonable effort or expense which was necessary to verify the accuracy of the financial and other written information furnished to the Purchaser by the Company, such additional information was provided to the Purchaser and was satisfactory. In reaching the conclusion to acquire the Founders Units, the Purchaser has carefully evaluated the Purchaser's financial resources and investment position and the risks associated with this investment, and the Purchaser acknowledges that the Purchaser is able to bear the economic risks of this investment. The Purchaser further acknowledges that the Purchaser's financial condition is such that the Purchaser is not under any present necessity or constraint to dispose of the Founders Units to satisfy any existing or contemplated debt or undertaking;

(h) The Purchaser hereby accepts full and sole responsibility for all state and federal tax consequences which may result from the Purchaser's acquisition of the Founders Units;

(i) The Purchaser, if subject to the Employee Retirement Income Security Act of 1974 ("ERISA"), has taken into consideration the diversification requirements of ERISA prior to making an investment in the Founders Units;

(j) The Purchaser, if executing this Subscription Agreement and the Member Signature Page and Power of Attorney in a representative or fiduciary capacity, has full power and authority to execute and deliver this Subscription Agreement, the Operating Agreement and the Member Signature Page and Power of Attorney on behalf of the subscribing individual, partnership, trust, estate, corporation, or other entity for whom the Purchaser is executing such

documents, and such individual, partnership, trust, estate, corporation, or other entity has full right and power to perform pursuant to such documents and to become a member in the Company pursuant to the Operating Agreement;

(k) The Purchaser has thoroughly read the Memorandum and all documents attached thereto, and understands the contents of such documents. The Purchaser is familiar with the Company's business objectives and financial arrangements in connection therewith and believes the Founders Units that the Purchaser is purchasing are the kind of securities that the Purchaser wishes to hold for investment and that the nature and purchase price of the Founders Units are consistent with the Purchaser's investment program. No representations or warranties have been made to the Purchaser regarding this investment contrary to those contained in the Memorandum and attached documents, and the Purchaser agrees to inform the Company if the Purchaser learns that any statements made to the Purchaser in connection with the Purchaser's investment in the Company are untrue. The information set forth herein is true and correct;

(l) The Purchaser acknowledges and agrees that the Purchaser is not entitled to cancel, terminate or revoke this Subscription Agreement or any of the Purchaser's agreements hereunder and that this Subscription Agreement and any other agreements made hereby shall survive Purchaser's death or disability; and

(m) The Purchaser has such knowledge and experience in financial and business matters and in investments to be capable of evaluating the merits and risks of the investment in the Founders Units.

In addition, the Purchaser:

- (1) Understands that the Founders Units being acquired will be governed by the Operating Agreement;
- (2) Understands that the Company shall have the right to accept or reject this subscription in whole or in part in its sole and absolute discretion;
- (3) Understands that no public market for the Founders Units exists, or is likely to develop, and that it may not be possible to liquidate this investment readily, if at all, in the case of an emergency or for any other reason;
- (4) Understands that the Founders Units are subject to transfer restrictions as set forth in the Operating Agreement;
- (5) Acknowledges that to extent desired the Purchaser has consulted with the Purchaser's financial, business and tax advisers before executing this Subscription Agreement;
- (6) Acknowledges and agrees that a breach by the Purchaser of any of the Purchaser's representations made herein which results in a loss by the Company of the exemptions from registration and qualification requirements under applicable federal and state securities laws will cause the Purchaser to be liable to the Company for all damages and losses caused thereby;
- (7) If the consideration to be delivered is cash, Purchaser agrees to deliver the Purchase Price via bank wire transfer to the Company (or directly to the designated third-party escrow for the benefit of the Company, as applicable), see wire transfer instructions attached hereto, no later than three days after delivery of email notice by the Company to the Purchaser (the "Funding Notice") and acknowledges that the Purchaser's failure to timely deliver the Purchase Price will materially and adversely affect the Offering, the other investors and the Company and that the Purchaser will be responsible for all damages and losses that result from the Purchaser's failure to timely deliver the Purchase Price; and
- (8) Acknowledges and agrees that any funds delivered by the Purchaser to a designated third-party escrow for the benefit of the Company will be delivered to the Company (not Purchaser) upon either the termination or successful closing of the Offering, and that such funds will be returned to Purchaser by the Company only if the Company at the time of termination has not accepted subscriptions of at least \$14,000,000 (the "Offering Minimum").

This Subscription Agreement and all rights hereunder, shall be governed by, and interpreted in accordance with, the laws of the State of Nevada.

[Signature Page Follows]

IN WITNESS WHEREOF, the Purchaser has duly executed and delivered this Subscription Agreement effective as of the date set forth below.

Date: 10-12, 2015

[CORPORATION/TRUST]

"PURCHASER"

Premier Trust, Inc. Custodian FBO

George Stuart Young, IRA

By: Deb Erdmann

Title: DEBORAH ERDMANN
VP / TRUST OFFICER

By: _____

Title: _____

Address: Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

EMAIL ADDRESS: KKlein@PremierTrust.com

Taxpayer ID No.: 1761

Subscription Amount: \$ 1,000,000.00

Number of Founders Units (\$1,000,000 Each): _____

I hereby confirm that the trust named above is a revocable grantor trust in which each of the grantors is an individually accredited investor as described in Sections (a) A. or B. of this Subscription Agreement.

By: _____

Title: _____

ACCEPTANCE OF SUBSCRIPTION

THE FOREGOING SUBSCRIPTION IS HEREBY ACCEPTED FOR 1 FOUNDERS UNITS.

DATED: Oct 13, 2015

CAL NEVA LODGE, LLC

By: CR CAL NEVA, LLC, a Nevada limited liability
company, Manager

By: 

Title: President

Form W-9
(Rev. August 2013)
Department of the Treasury
Internal Revenue Service

**Request for Taxpayer
Identification Number and Certification**

Give Form to the requester. Do not send to the IRS.

Name (as shown on your income tax return)
Premier Trust, Inc. Custodian FBO George Stuart Young, IRA

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____
☒ Other (see instructions) ▶ _____

Exemptions (see instructions):
 Exempt payee code (if any) _____
 Exemption from FATCA reporting code (if any) _____

Address (number, street, and apt. or suite no.)
**Premier Trust, Inc.
 4465 S. Jones Boulevard
 Las Vegas, NV 89103**

City, state, and ZIP code

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

--	--	--	--	--	--	--	--	--	--

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below), and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ *[Signature]* Date ▶ *10/12/15*

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on irs.gov/w9 for information about Form W-9, at www.irs.gov/w9. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

MEMBER SIGNATURE PAGE AND POWER OF ATTORNEY

CAL NEVA LODGE, LLC,
a Nevada limited liability company

The undersigned, desiring to become a Member of CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company") hereby agrees to all of the terms and conditions of the Amended and Restated Operating Agreement of the Company (the "Operating Agreement") referred to, described in, and attached as an Exhibit to, the Company's Confidential Private Placement Memorandum dated 10-12-15 (the "Memorandum"), and agrees to be bound thereby. Any capitalized term contained herein that is not defined herein shall have the meaning set forth in the Operating Agreement.

The undersigned further grants to the Manager of the Company (the "Manager"), a special Power of Attorney irrevocably making, constituting and appointing the Manager as the undersigned's attorney-in-fact with full power of substitution with power and authority to act in the undersigned's name and on the undersigned's behalf, to execute, acknowledge and swear to in the execution, acknowledgment, and filing of documents which shall include, by way of illustration but not of limitation, the following:

- (a) The Operating Agreement of the Company, any amendments to the foregoing which, under the laws of the State of California or the laws of any other state, are required to be executed or filed or which the Company deems to be advisable to execute or file;
- (b) Any other instrument or document which may be required to be filed by the Company under the laws of any state or by any governmental agency;
- (c) Any instrument or document which may be required to effect the continuation of the Company, the admission of an additional or substituted Members, or the dissolution and termination of the Company (provided the continuation, admission or dissolution and termination are in accordance with the terms of the Operating Agreement) or to reflect any reduction in the amount of capital contributions of the Members; and
- (d) Any other documents deemed by the Manager to be necessary for the business of the Company.

The Power of Attorney granted hereby is a special Power of Attorney coupled with an interest, is irrevocable, shall survive the death or incapacity of the undersigned and is limited to the matters set forth herein. This special Power of Attorney may be exercised by the Manager, acting for the undersigned by a facsimile signature of the Manager; this Power of Attorney shall survive an assignment by the undersigned of all or any portion of the undersigned's Founders Units, but only until the assignee of the Founders Units is recognized as the owner of the Founders Units as set forth in the Operating Agreement.

[Signature Page Follows]

THIS SUBSCRIPTION IS FOR 1 FOUNDERS UNITS (\$1,000,000.00 EACH).

TOTAL INVESTMENT AMOUNT: \$ 1,000,000.00

Executed on 10-12, 2015, at Las Vegas, Nevada

Signature of Subscriber

Signature of Subscriber

Social Security Nos.: 1761

Driver's License Nos. _____

Email Address: K Klein @ Premier Trust. Co

Home Address: Premier Trust, Inc.
City: 4465 S. Jones Boulevard State: _____
Zip: Las Vegas, NV 89103

Home Phone: () _____

Business Address: Premier Trust, Inc.
City: 4465 S. Jones Boulevard State: _____
Zip: Las Vegas, NV 89103

Business Phone: (702) 507-0750

REGISTRATION:

PLEASE PRINT YOUR NAME(S) EXACTLY AS YOUR FOUNDERS UNITS ARE TO BE REGISTERED:

TITLE REGISTRATION PREFERENCE

CHECK ONE

- A. ☐ Individual Ownership
B. ☐ Joint Tenants with Right of Survivorship (ALL MUST SIGN)
C. ☐ Trust (Date Trust Established _____)
D. ☐ Partnership
E. ☐ Community Property
F. ☐ Tenants in Common (ALL MUST SIGN)
G. ☐ Corporation
H. ☐ Limited Liability Company
I. ☒ Other Retirement Plan I, RA

CERTIFICATE OF NONFOREIGN STATUS

Members That Are Entities

Section 1446 of the Internal Revenue Code provides that a limited liability company taxed as a partnership must pay a withholding tax to the Internal Revenue Service with respect to a member's allocable share of such limited liability company's effectively connected taxable income, if the member is a foreign person. To inform CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company") that the provisions of Section 1446 do not apply, the undersigned hereby certifies on behalf of Premier Trust, Inc. Custodian FBC (name of entity) (the "Member") the following: George Stuart Young, III

1. The Member is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. The Member's U.S. employer identification number is: 1761; and

3. The Member's principal office address is: Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

The Member hereby agrees to notify the Company within 60 days if the Member becomes a foreign person and agrees to execute a new Certificate of Nonforeign Status from time to time as required by the Company. The Member understands that this certification may be disclosed to the Internal Revenue Service by the Company and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of the Member.

Dated: 10-12, 2015

(Please print name of Member)

By: Deb Erdmann

Title: DEBORAH ERDMANN
VP / TRUST OFFICER

(Please print name and title of person signing this Certificate)

INVESTOR'S INSTRUCTION TO ESCROW AND WIRE TRANSFER INFORMATION

I hereby instruct Powell Coleman & Arnold LLP ("Escrow Holder") to accept the sum of \$ 1,200,000.00. This sum is my investment in Cal Neva Lodge, LLC (the "Company"). I direct that this sum be placed in an escrow (the "Escrow") and retained by Escrow Holder until such time as either subscriptions for 14 Units are accepted and deposited into the Escrow representing a total sum of \$14,000,000 or the subscription period sooner expires by its terms under the Subscription Agreement, now scheduled for expiration on April 30, 2014 (unless extended for up to 90 days by the Company) (the "Termination Date"). Escrow Holder's wire transfer information is set forth below.

In the event that the total amount held in the Escrow reaches \$14,000,000, I further instruct Escrow Holder to disburse my funds deposited into the Escrow to the Company or its designated representative or agent. I acknowledge having read the Subscription Agreement and Confidential Private Placement Memorandum copies of which I received from the Company.

If, before the Termination Date, the amount deposited into the Escrow has not reached \$14,000,000, I direct Escrow Holder to return my investment of \$ 1,200,000.00 by check directly to me at the following address:

Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

By my signature below I agree that Escrow Holder has no duty to me other than to disburse the funds contained in the Escrow as instructed when one or the other of the above described events occurs. I further advise Escrow Holder that I have given the Manager of the Company a power of attorney to act for me in all matters related to the Escrow with the exception of modifying or canceling all Escrow Instructions, which modification or cancellation must be in a writing signed by all of the Investors unless all of the monies deposited into the Escrow are returned to the respective investor in connection with such modification or cancellation.

Premier Trust, Inc. Custodian FBO

Date: 10-12, 2015

Deb Erdmann
Investor Signature
SSN: 1741 DEBORAH ERDMANN
Telephone No.: 702 507 0710 VP / TRUST OFFICER

Investor Signature _____
SSN: _____
Telephone No.: _____

Escrow Holder's Wire Transfer Information:

BBVA Compass Bank
8080 N. Central Expressway
Dallas, Texas 75206

Powell Coleman & Arnold LLP
IOLTA Account No.: 3816
ABA No.: 7445

000197

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
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9 GEORGE STUART YOUNT, et al.,

Case No.: CV16-00767

10 Plaintiffs,

Dept. No.: B7

11 vs.
12

13 CRISWELL RADOVAN, LLC, et al.,

14 Defendants.
15 _____/

16 **SCHEDULING ORDER**
17

18 Nature of Action: Breach of Contract; Breach of Duty; Fraud, Negligence;
19 Conversion; and Punitive Damages.

20 Date of Filing Joint Case Conference Report(s): Plaintiffs – August 8, 2016

21 Time Required for Trial: (5) days; Jury Demand Filed: No

22 Richard Campbell, Jr., Esq. for George Yount;

23 Martin Little, Esq. for Criswell Radovan, LLC, Robert Radovan, William

24 Criswell, and Powell, Coleman and Arnold LLP; and

25 Andrew Wolf, Esq. for David Marriner and Marriner Real Estate, LLC

26 Counsel representing all parties have been heard and after consideration by
27 the Court,
28 ///

1 IT IS HEREBY ORDERED:

2 1. Complete all discovery by March 15, 2017 (pursuant to Plaintiff's Case
3 Conference Report).

4 2. File motions to amend pleadings or add parties on or before April 15,
5 2017 (pursuant to Plaintiff's Case Conference Report).

6 3. Make initial expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or
7 before December 15, 2016 (pursuant to Plaintiff's Case Conference Report).

8 4. Make rebuttal expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or
9 before January 15, 2017 (pursuant to Plaintiff's Case Conference Report).

10 a. Written reports of experts waived: Yes _____ No _____

11 5. Dispositive motions filed by April 12, 2017 and submitted on or before
12 May 12, 2017 (30 days prior to trial pursuant to Pretrial Order).

13 6. Motions in Limine to be submitted on or before May 27, 2017 (15 days
14 prior to trial pursuant to Pretrial Order).

15 In the absence of extraordinary circumstances and except as otherwise
16 provided in subdivision (2), all required pretrial disclosures pursuant to NRCP
17 16.1(a)(2) shall be made at least 90 days before the discovery cutoff date. Unless
18 otherwise directed by the Court, all pretrial disclosures pursuant to NRCP
19 16.1(a)(3) must be made at least thirty (30) days before trial.

20 Motions for extensions of discovery shall be made to the Discovery
21 Commissioner prior to the expiration of the discovery deadline above. Any
22 modification of discovery deadlines **must** be in writing, signed by the parties or their
23 attorneys (or authorized representatives) and the Discovery Commissioner. **A**
24 **continuance of the trial date does not modify, alter, change or continue the**
25 **discovery schedule unless specifically agreed to by the parties, in writing, and**
26 **ordered by the Court.**

27 Unless other ordered, all discovery disputes (except disputes presented at a
28 pretrial conference or at trial) must be first heard by the Discovery Commissioner.

1 If this matter is a bench trial, findings of fact are to be submitted, not filed, to
2 the Court with the trial statement, but not in lieu of the trial statement.

3 DATED this 11 day of October, 2016.

4
5 Patrick F. Tanagan
6 DISTRICT JUDGE
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CERTIFICATE OF SERVICE


Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 11 day of October, 2016, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Richard Campbell, Jr., Esq. for George Yount;

Martin Little, Esq. for Criswell Radovan, LLC, Robert Radovan, William Criswell, and Powell, Coleman and Arnold LLP; and

Andrew Wolf, Esq. for David Marriner and Marriner Real Estate, LLC

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:


Judicial Assistant

21

21

1 **CODE: 1137**

2 ANDREW N. WOLF (#4424)
3 JEREMY L. KRENEK (#13361)
4 Incline Law Group, LLP
264 Village Blvd., Suite 104
Incline Village, Nevada 89451
(775) 831-3666

5 Attorneys for Defendants DAVID MARRINER and
6 MARRINER REAL ESTATE, LLC

7
8 IN THE SECOND JUDICIAL DISTRICT COURT OF
9 THE STATE OF NEVADA IN AND FOR THE
10 COUNTY OF WASHOE

11 GEORGE STUART YOUNT, Individually
12 and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

13 Plaintiff,

14 v.

15 CRISWELL RADOVAN, LLC, a Nevada
16 limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
17 ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
18 Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
19 LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
20 liability company; and DOES 1-10,

21 Defendants.

22
23 **DEFENDANTS DAVID MARRINER's and MARRINER REAL**
24 **ESTATE, LLC's ANSWER TO SECOND AMENDED COMPLAINT AND CROSS-**
25 **CLAIM FOR INDEMNITY, CONTRIBUTION AND DECLARATORY RELIEF RE**
APPORTIONMENT OF FAULT

26 COMES NOW, Defendants DAVID MARRINER and MARRINER REAL ESTATE,
27 LLC (hereafter collectively "MARRINER" or "Defendants") and hereby answer the *SECOND*
28 *AMENDED COMPLAINT* filed by Plaintiff GEORGE STUART YOUNT, individually and in his

1 capacity as owner of the GEORGE STUART YOUNT IRA (hereafter "Plaintiff"), on September
2 27, 2016 (hereinafter, the "Complaint"). The paragraph numbers below correspond to the
3 paragraph numbers of the Complaint.

4 PARTIES

5 1. Admit.

6 2. Defendants are without knowledge or information sufficient to form a belief as to
7 the truth of such allegations, and Defendants accordingly deny such allegations.

8 3. Admit the allegations regarding the place of organization of Criswell Radovan,
9 LLC, and the identity of its currently listed managers. Defendants are without knowledge or
10 information sufficient to form a belief as to the truth of the remaining allegations, and Defendants
11 accordingly deny such allegations.

12 4. Admit the allegations regarding the place of organization of CR Cal Neva, LLC.
13 Defendants are without knowledge or information sufficient to form a belief as to the truth of the
14 remaining allegations, and Defendants accordingly deny such allegations.

15 5. Admit.

16 6. Admit.

17 7. Admit.

18 8. Defendants are without knowledge or information sufficient to form a belief as to
19 the truth of such allegations, and Defendants accordingly deny such allegations.

20 9. Admit that Marriner Real Estate, LLC, was engaged as a consultant for Cal Neva
21 Lodge, LLC ("CNL"), per a written Real Estate Consulting Agreement dated February 13, 2014,
22 and that David Marriner is the sole member and manager of Marriner Real Estate, LLC. Deny
23 that Marriner was engaged as an agent of CR, Criswell-Radovan, LLC, or any defendant than
24 CNL.

25 10. Admit that Marriner Real Estate, LLC, was engaged as a consultant for Cal Neva
26 Lodge, LLC ("CNL"), per a written Real Estate Consulting Agreement dated February 13, 2014,
27 mentioned above.

28 11. Admit.

1 12. Defendants are without knowledge or information sufficient to form a belief as to
2 the truth of such allegations, and Defendants accordingly deny such allegations.

3 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

4 13. Paragraph 13 contains numerous allegations, which for sake of clarity are broken
5 out into the following subparagraphs, a, b, c, et seq.

- 6 a. At all times relevant to this lawsuit, Marriner was acting solely in his
7 capacity as manager of and on behalf of Marriner Real Estate, LLC,
8 pursuant to the consulting agreement with CNL mentioned above.
- 9 b. Marriner believes he first discussed the subject project with Plaintiff on or
10 about February 18, 2014.
- 11 c. Admit that Marriner initially informed Plaintiff about the new owners and
12 developers of the Cal Neva Lodge, primarily Radovan and Criswell and
13 their related entities, who were looking for investors to help fund a
14 newly formed Nevada LLC that would acquire, remodel and reopen the
15 Cal Neva Lodge.
- 16 d. Plaintiff initially expressed little or no interest in investing in the project.
- 17 e. In June and July, 2015, Plaintiff expressed interest in visiting and
18 ultimately investing in the project, at which time, Marriner provided
19 Plaintiff a copy of the private placement memorandum and other
20 documents related to the project and the investment generated by CNL
21 and/or Criswell-Radovan, and put Plaintiff in touch with Criswell-
22 Radovan.
- 23 f. Thereafter, Plaintiff obtained substantially all further information regarding
24 the Cal Neva Lodge project directly from Criswell-Radovan and other
25 agents of CNL, and relied solely upon Criswell-Radovan, CNL and
26 Plaintiff's own investigation in making his investment. Marriner is
27 informed and believes, and thereon alleges, that Plaintiff did not rely on
28 material information generated by Marriner in making his investment.

- 1 g. Marriner denies that he acted as an agent for, or held himself out as an
2 agent of any entity other than CNL.
- 3 h. Admit that Marriner provided a tour of the project to Plaintiff.
- 4 i. Admit that Marriner provided Plaintiff information generated by CNL and
5 Criswell-Radovan regarding the project.
- 6 j. Admit that Marriner informed Plaintiff that Criswell-Radovan were
7 involved in other large-scale, high-end hotel projects, and believed this was
8 true.
- 9 k. Marriner denies the remainder of this paragraph.

10 14. Admit that in July, 2015, Marriner believed that the project was on schedule and
11 that the project was expecting to open in December 2015. Admit that in July, 2015, Marriner sent
12 Plaintiff a construction progress report generated by CNL and/or Criswell-Radovan. During the
13 time period of July 22 – July 29, 2015, Plaintiff believed and stated that the project was
14 substantially over budget and communicated extensively via telephone and email with Robert
15 Radovan regarding the status of the project and in regard to the numerous questions Plaintiff had
16 posed regarding the project and the proposed investment in the project (including the numerous
17 questions contained in Plaintiff's various emails dated from July 16 to July 26, 2015). From
18 August 3, 2015, and thereafter until his investment funded in October, 2015, Plaintiff advised
19 Marriner that Plaintiff would obtain all further information pertinent to his investment directly
20 from Robert Radovan, CNL, Criswell-Radovan and others, that Plaintiff was relying upon the
21 investigation and analysis of his own accountants, and that Plaintiff would not be seeking
22 information from Marriner, and that Plaintiff was handling the transaction directly with Criswell-
23 Radovan. Marriner denies the remaining allegations.¹

23 ¹ On August 3, 2015, in response to an email from Marriner asking if Plaintiff had any more questions, Plaintiff sent
24 Marriner an email which states, "I've been dealing directly with Robert, thanks. He will be taking questions from my
25 CPA [Ken Tratner] early this week. More soon." On August 8, 2015, Plaintiff sent Robert Radovan an email
26 (copied to Marriner) which states, "I believe the ball is in your court to respond to Ken's questions & requests for
27 further information, Robert???" Subsequent correspondence in this time period indicates that Plaintiff and his CPA
28 relied on information generated by Robert Radovan, Criswell-Radovan, and/or CNL, that Plaintiff worked directly
with Robert Radovan, Criswell-Radovan, and/or CNL to execute and fund his investment. Plaintiff's execution and
funding of his investment was thereafter delayed for approximately two months until October, 2015. On October 10,
2015, before Plaintiff executed his investment subscription documents on October 12, 2016, or funded the investment
on October 14, 2015, Plaintiff was advised that the opening of the Cal-Neva Lodge would be delayed until the Spring
or early Summer of 2016.

1 15. Denied.

2 16. Marriner is without knowledge or information sufficient to form a belief as to the
3 truth of these allegations, and accordingly denies such allegations. However, Marriner admits
4 that due to a delay in Plaintiff's ability to fund his investment, and uncertainty over whether
5 Plaintiff would actually invest in the project, CNL obtained additional funding from Mr. Busick.
6 At that time, Plaintiff was working directly with Criswell-Radovan, their attorneys, and Plaintiff's
7 IRA sponsor/trustee to execute and fund his investment. Marriner did not conceal or suppress
8 any material information.

9 17. Marriner is without knowledge or information sufficient to form a belief as to the
10 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
11 conceal or suppress any material information. See answers to paragraphs 13-16, above.

12 18. Marriner is without knowledge or information sufficient to form a belief as to the
13 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
14 conceal or suppress any material information. See answers to paragraphs 13-16, above.

15 19. Marriner is without knowledge or information sufficient to form a belief as to the
16 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
17 conceal or suppress any material information. See answers to paragraphs 13-16, above.

18 20. Marriner is without knowledge or information sufficient to form a belief as to the
19 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
20 conceal or suppress any material information. See answers to paragraphs 13-16, above.

21 21. Admit the meeting took place on December 12, 2015, as alleged, deny the
22 remaining allegations. Marriner did not misrepresent, conceal or suppress any material
23 information. See answers to paragraphs 13-16, above.

24 22. Marriner is without knowledge or information sufficient to form a belief as to the
25 truth of these allegations, and accordingly denies such allegations.

26 23. Marriner is without knowledge or information sufficient to form a belief as to the
27 truth of these allegations, and accordingly denies such allegations.

28 24. Marriner is without knowledge or information sufficient to form a belief as to the
truth of these allegations, and accordingly denies such allegations.

1 25. Marriner is without knowledge or information sufficient to form a belief as to the
2 truth of these allegations, and accordingly denies such allegations.

3 26. Marriner is without knowledge or information sufficient to form a belief as to the
4 truth of these allegations, and accordingly denies such allegations.

5 27. Marriner is without knowledge or information sufficient to form a belief as to the
6 truth of these allegations, and accordingly denies such allegations.

7
8 **FIRST CLAIM FOR RELIEF**
9 **(BREACH OF CONTRACT AGAINST CR CAL NEVA LLC; CAL-NEVA LODGE, LLC;**
10 **CRISWELL RADOVAN, LLC; and NEW CAL-NEVA LODGE, LLC)**

11 Response to Paragraphs 28-29: This Claim for relief is not asserted against Marriner who
12 therefore does not respond to these allegations.

13 **SECOND CLAIM FOR RELIEF**
14 **(BREACH OF DUTY AGAINST DEFENDANT POWELL COLEMAN**
15 **AND ARNOLD LLP)**

16 Response to Paragraphs 30-33: This Claim for relief is not asserted against Marriner who
17 therefore does not respond to these allegations.

18 **THIRD CLAIM FOR RELIEF**
19 **(FRAUD AGAINST DEFENDANTS WILLIAM CRISWELL, ROBERT RADOVAN;**
20 **CR CAL NEVA, LLC; CRISWELL RADOVAN, LLC; CAL NEVA LODGE, LLC;**
21 **DAVID MARRINER; MARRINER REAL ESTATE, LLC; AND NEW**
22 **CAL-NEVA LODGE, LLC)**

23 34. See responses to Paragraphs 1-33, above.

24 35. Marriner is without knowledge or information sufficient to form a belief as to the
25 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
26 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
27 above.

28 36. Marriner is without knowledge or information sufficient to form a belief as to the
truth of these allegations, and accordingly denies such allegations. However, Marriner did not
misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
above.

1 37. Marriner is without knowledge or information sufficient to form a belief as to the
2 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
3 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
4 above.

5 38. Marriner is without knowledge or information sufficient to form a belief as to the
6 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
7 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
8 above.

9 39. Marriner is without knowledge or information sufficient to form a belief as to the
10 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
11 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
12 above.

13 40. Marriner is without knowledge or information sufficient to form a belief as to the
14 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
15 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
16 above.

17 41. Marriner is without knowledge or information sufficient to form a belief as to the
18 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
19 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
20 above.

21 42. Marriner is without knowledge or information sufficient to form a belief as to the
22 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
23 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
24 above.

25 **FOURTH CLAIM FOR RELIEF**
(NEGLIGENCE AGAINST DEFENDANT POWELL, COLEMAN AND YOUNG, LLP)

26 43. Response to Paragraphs 43-44: This Claim for relief is not asserted against
27 Marriner who therefore does not respond to these allegations.
28

FIFTH CLAIM FOR RELIEF
(CONVERSION AGAINST CR CAL NEVA, LLC; WILLIAM CRISWELL; ROBERT RADOVAN; CRISWELL RADOVAN, LLC; AND NEW CAL-NEVA LODGE, LLC)

Response to Paragraphs 45-46: This Claim for relief is not asserted against Marriner who therefore does not respond to these allegations.

SIXTH CLAIM FOR RELIEF
(PUNITIVE DAMAGES AGAINST ALL DEFENDANTS)

47. See response to Paragraphs 1-46, above.

48. Denied.

49. Defendants are without knowledge or information sufficient to form a belief as to the truth of such allegations, and Defendants accordingly deny such allegations.

SEVENTH CAUSE OF ACTION
(CLAIM FOR FRAUD UNDER NRS 90.570 IN THE OFFER, SALE AND PURCHASE OF A SECURITY AGAINST DEFENDANTS WILLIAM CRISWELL, ROBERT RADOVAN; CR CAL NEVA, LLC; CRISWELL RADOVAN, LLC; CAL NEVA LODGE, LLC; DAVID MARRINER; AND MARRINER REAL ESTATE, LLC)

50. See response to Paragraphs 1-49, above.

51. Marriner is without knowledge or information sufficient to form a belief as to the truth of these allegations, and accordingly denies such allegations. However, Marriner did not misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16, above.

52. Marriner is without knowledge or information sufficient to form a belief as to the truth of these allegations, and accordingly denies such allegations. However, Marriner did not misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16, above.

53. Marriner is without knowledge or information sufficient to form a belief as to the truth of these allegations, and accordingly denies such allegations. However, Marriner did not misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16, above.

1 54. Marriner is without knowledge or information sufficient to form a belief as to the
2 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
3 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
4 above.

5 55. Marriner is without knowledge or information sufficient to form a belief as to the
6 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
7 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
8 above.

9 56. Marriner is without knowledge or information sufficient to form a belief as to the
10 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
11 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
12 above.

13 57. Marriner is without knowledge or information sufficient to form a belief as to the
14 truth of these allegations, and accordingly denies such allegations. However, Marriner did not
15 misrepresent, conceal or suppress any material information. See answers to paragraphs 13-16,
16 above.

17 AFFIRMATIVE DEFENSES

18 1) **First Affirmative Defense.** One or more claims for relief asserted in Plaintiff's
19 action fails to state a claim for relief against Marriner.

20 2) **Second Affirmative Defense.** Plaintiff's action is barred by Plaintiff's reliance
21 upon his own independent investigation.

22 3) **Third Affirmative Defense.** Plaintiff's action is barred by Plaintiff's reliance
23 upon the actions, advice and communications of others.

24 4) **Fourth Affirmative Defense.** Plaintiff's action is barred by Marriner's good faith
25 reliance upon actions and information provided by others.

26 5) **Fifth Affirmative Defense.** Plaintiff's action is barred by the terms and conditions
27 of the documents evidencing Plaintiff's investment, including the Private Placement
28 Memorandum and related documents and information received therewith which were accepted

1 and approved by Plaintiff, and which together comprise Plaintiff's consent, waiver, release and/or
2 assumption of risk.

3 6) **Sixth Affirmative Defense.** Plaintiff's damages, if any, and his claims against
4 Marriner, if ultimately proven, were caused by the lack of due care, acts, errors, omissions, and
5 communications of others.

6 7) **Seventh Affirmative Defense.** Plaintiff's damages, if any, and his claims against
7 Marriner, if ultimately proven, were caused by Plaintiff's own lack of due care.

8 Defendants DAVID MARRINER and MARRINER REAL ESTATE, LLC reserve the
9 right to assert other affirmative defenses not currently known to exist, which are discovered after
10 the filing of this answer. No waiver is intended or implied.

11 **PRAYER**

12 Wherefore, Defendants pray for a judgment as follows:

- 13 1) that Plaintiff take nothing by this action;
14 2) for costs, expert witness fees and attorney's fees as may be allowed by law.
15 3) for such other relief that the court deems to be fair, just and equitable.

16 **Affirmation:** The undersigned hereby affirms that the foregoing document does not
17 contain the social security number of any person.

18 Dated: October 24, 2016.

19 INCLINE LAW GROUP, LLP

20 By: 

21 ANDREW N. WOLF (#4424)

22 Attorneys for Defendants DAVID MARRINER
23 and MARRINER REAL ESTATE, LLC
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1 DAVID MARRINER; MARRINER REAL
2 ESTATE, LLC, a Nevada limited liability
company,

3 Cross-claimant,

4 v.

5 CRISWELL RADOVAN, LLC, a Nevada
6 limited liability company; ROBERT
7 RADOVAN; WILLIAM CRISWELL;
POWELL, COLEMAN and ARNOLD LLP,

8 Cross-claim defendants.
9

10 **CROSS-CLAIM FOR INDEMNITY, CONTRIBUTION AND DECLARATORY RELIEF**
11 **RE APPORTIONMENT OF FAULT AGAINST DEFENDANTS / CROSS-CLAIM**
12 **DEFENDANTS CRISWELL RADOVAN, LLC, a Nevada limited liability company;**
13 **ROBERT RADOVAN; WILLIAM CRISWELL; and POWELL, COLEMAN and**
ARNOLD LLP

14 COMES NOW, Defendants DAVID MARRINER and MARRINER REAL ESTATE,
15 LLC (hereafter collectively "MARRINER" or "Defendants") and for a cross-claim against
16 defendants CRISWELL RADOVAN, LLC, a Nevada limited liability company; ROBERT
17 RADOVAN; WILLIAM CRISWELL; and POWELL, COLEMAN and ARNOLD LLP, hereby
18 allege and plead as follows.

19 **FIRST CLAIM FOR RELIEF**
(EQUITABLE INDEMNITY AGAINST ALL CROSS-CLAIM DEFENDANTS)

20 1. Defendants DAVID MARRINER and MARRINER REAL ESTATE, LLC
21 (hereafter collectively "MARRINER") are named as co-defendants in the above-entitled action
22 with defendants CRISWELL RADOVAN, LLC, a Nevada limited liability company; ROBERT
23 RADOVAN; WILLIAM CRISWELL; POWELL, COLEMAN and ARNOLD LLP.

24 2. MARRINER denies all claims and liability alleged in the *SECOND AMENDED*
25 *COMPLAINT* filed by Plaintiff GEORGE STUART YOUNT, individually and in his capacity as
26 owner of the GEORGE STUART YOUNT IRA (hereafter "Plaintiff"), on September 27, 2016
27 (hereinafter, the "Complaint"). The Complaint alleges damages arising as a result of a transaction
28 described in the Complaint. Said Complaint, for purposes of its allegations only, is incorporated

1 by reference herein as though fully set forth at length. MARRINER denies all claims and liability
2 alleged in the Complaint.

3 3. MARRINER is informed and believes and thereon alleges that based on the
4 matters alleged in Plaintiff's COMPLAINT, MARRINER and each of the cross-claim defendants
5 acted in various capacities as agent for the defendant CAL NEVA LODGE, LLC, a Nevada
6 limited liability company, in conjunction with the alleged transaction which is the subject of
7 Plaintiff's lawsuit.

8 4. MARRINER is incurring and has incurred attorney's fees, court costs, and other
9 costs in connection with defending said Complaint, the exact amount of which is unknown at this
10 time. When the same has been ascertained, MARRINER will seek leave of court to amend this
11 Cross-claim to set forth the true nature and amount of said costs and expenses.

12 5. If MARRINER is held liable and responsible to Plaintiff for damages as alleged in
13 the Complaint, it will be solely due to the alleged conduct of Cross-claim defendants, and each of
14 them, as herein alleged, in regard to which MARRINER's fault, if any, is only passive. Therefore,
15 MARRINER is entitled to be fully indemnified by said Cross-claim defendants, and each of them
16 should such liability arise.

17 6. MARRINER is entitled to equitable indemnification by said Cross-claim
18 defendants, and each of them for any sum or sums for which he may be adjudicated liable to
19 Plaintiff, with costs of defense, costs of suit, and reasonable attorney's fees incurred therefrom.
20 Such indemnification should be complete if Marriner is found to be without fault or if his liability
21 as compared to the liability of others is only passive.

22 WHEREFORE, MARRINER prays for judgment as set forth below.

23 **SECOND CLAIM FOR RELIEF**
24 **(CONTRIBUTION AGAINST ALL CROSS-CLAIM DEFENDANTS)**

25 7. MARRINER refers to Paragraphs 1 through 6, above, and incorporates the same
26 herein by reference as though fully set forth here at length.

27 8. MARRINER contends that he is in no way legally responsible for the events
28 giving rise to the Plaintiff's causes of action, or legally responsible in any other manner for the
damages allegedly sustained by the Plaintiff. However, if as a result of the matters alleged in

1 Plaintiff's Complaint, MARRINER is held liable for all or any part of the claim asserted against
2 him by the Plaintiff, Cross-claim defendants, and each of them, to the extent that their fault was a
3 proximate cause of Plaintiff's damages and/or losses, are responsible for said damages and/or
4 losses in proportion to each Cross-claim defendants' comparative negligence or other legal fault
5 and MARRINER is entitled to contribution based on such proportionate liability.

6 9. By reason of the foregoing, MARRINER is entitled to contribution in proportion
7 to fault from Cross-claim defendants, and each of them, for all liability, costs, fees, expenses,
8 settlements and judgments paid by and incurred by MARRINER in connection with this
9 litigation.

10 WHEREFORE, MARRINER prays for judgment as set forth below.

11 **THIRD CLAIM FOR RELIEF**
12 **(DECLARATORY RELIEF RE APPORTIONMENT OF FAULT AGAINST ALL**
13 **CROSS-CLAIM DEFENDANTS)**

14 10. MARRINER refers to Paragraphs 1 through 9, above, and incorporates the same
15 herein as though set forth here in full.

16 11. An actual controversy has arisen between MARRINER and Cross-claim
17 defendants, and each of them, with respect to the rights, obligations and duties of the parties: (a)
18 MARRINER contends that he is without fault, responsibility or blame for any of the damages
19 which the Plaintiff may have suffered, and that if any such damages are proven by Plaintiff, it
20 would be the result of acts or omissions of the Cross-claim defendants and not the MARRINER.
21 MARRINER therefore contends that he is entitled to indemnity and/or contribution from Cross-
22 claim defendants, and each of them. (b) MARRINER is informed and believes and thereon
23 alleges that the Cross-claim defendants, and each of them contend to the contrary.

24 WHEREFORE, MARRINER prays for judgment as follows:

25 1) For a declaration of MARRINER's rights and duties vis-à-vis the Cross-claim
26 defendants.

27 2) For an order of the court declaring and determining the percentage of fault, if any,
28 as between MARRINER and the various Cross-claim defendants, for damages and losses

1 allegedly caused to Plaintiff, and determining which of such liabilities, if any, are joint and/or
2 several and the amount or amounts thereof.

3 3) For an order that MARRINER is entitled to be fully (or partially) indemnified by
4 Cross-claim defendants, and each of them, for any and all liability, payment, settlement and/or
5 judgment incurred by MARRINER as a result of this action.

6 4) For a judgment requiring contribution in favor of MARRINER against Cross-
7 claim defendants, and each of them, based upon the relative percentage of fault of each party.


8 5) For attorney's fees, court costs, investigative costs and other expenses incurred in
9 the defense of the complaint according to proof; and

10 6) For such other and further relief as the court may deem just and proper.

11 **Affirmation:** The undersigned hereby affirms that the foregoing document does not
12 contain the social security number of any person.

13 Dated: October 24, 2016.

14 INCLINE LAW GROUP, LLP

15 By: 
16 ANDREW N. WOLF (#4424)
17 Attorneys for Defendants DAVID MARRINER
18 and MARRINER REAL ESTATE, LLC
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Incline Law Group, LLP, and that on this day, I caused to be served, a true and correct copy of:

DEFENDANTS DAVID MARRINER's and MARRINER REAL ESTATE, LLC's ANSWER TO SECOND AMENDED COMPLAINT AND CROSS-CLAIM FOR INDEMNITY, CONTRIBUTION AND DECLARATORY RELIEF RE APPORTIONMENT OF FAULT

UPON:

Richard G. Campbell, Jr. DOWNEY BRAND LLC 100 West Liberty, Suite 900 Reno, NV 89501 Telephone: 775-329-5900 Facsimile: 775-997-7417	Attorney for Plaintiff George Stuart Yount, Individually and in his capacity as Owner of George Stuart Yount IRA
Martin A. Little JOLLEY URGAL WOODBURY & LITTLE 3800 Howard Hughes Parkway, 16 th Floor Las Vegas, NV 86169 Telephone: 702-699-7500 Facsimile: 702-699-7555	Attorney for Defendants Criswell Radovan, LLC, CR CAL NEVA LLC, Robert Radovan, William Criswell, Cal Neva Lodge, LLC, Powell, Coleman and ARNOLD, LLP

VIA: Washoe County Eflex e-filing system: A true and correct copy of the foregoing document(s) was (were) electronically served via the court's electronic filing system to the above named attorneys associated with this case. If the any of the above named attorneys (and all of their listed co-counsel within the same firm) are not registered with the court's e-filing system, then a true and correct paper copy of the above-named document(s) was(were) served on the attorney via U.S.P.S. first class mail with first-class postage prepaid, to the attorney's address listed above, on this date.

Date: October 27, 2016.


Crystal Lyle

22

22

DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT. NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; NEW CAL-NEVA
LODGE, LLC, a Nevada limited liability
company; and DOES 1-10,

Defendants.

ORDER AMENDING SCHEDULING ORDER

Based upon the *Stipulation to Amend Scheduling Order* filed by the parties herein, and for
good cause appearing,

IT IS HEREBY ORDERED that the previous Scheduling Order filed herein on October
11, 2016, be, and hereby is amended as follows:

1. Complete all discovery by May 31, 2017.
2. File motions to amend pleadings or add parties on or before June 30, 2017.
3. Make initial expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or before March 2, 2017.
4. Make rebuttal expert disclosures pursuant to N.R.C.P. 16.1(a)(2) on or before April 3, 2017.
 - a. Written Reports of experts are not waived.
5. Dispositive motions filed by June 28, 2017 and submitted on or before July 28, 2017 (30 days prior to trial pursuant to Pretrial Order).
6. Motions in Limine to be submitted on or before August 11, 2017 (15 days prior to trial pursuant to Pretrial Order).

The other provisions of the Scheduling Order shall remain as entered on October 11, 2016.

DATED this 20 day of December, 2016.

Patrick Flanagan
DISTRICT JUDGE

23

23

CODE 2200

THE LAW OFFICE OF RICHARD G.
CAMPBELL, JR. INC.
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Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; NEW CAL-NEVA
LODGE, LLC, a Nevada limited liability
company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT. NO. B7

MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiff GEORGE STUART YOUNT ("Mr. Yount"), by and through his undersigned
counsel, The Law Office of Richard G. Campbell, Jr. Inc., hereby files his *Motion for Partial
Summary Judgment*.

///

1 I. INTRODUCTION

2 On April 4, 2016 Plaintiff, George Stuart Yount, filed his complaint related to an investment
3 he made into the Cal Neva Lodge LLC alleging numerous causes of actions against multiple
4 Defendants. Through depositions of the Defendants, as well as documents produced through
5 discovery, it is clear that as to the Second Cause of Action for Breach of Duty against Powell
6 Coleman and Arnold, the Fourth Cause of Action for Negligence against Powell Coleman and
7 Arnold, and the Fifth Cause of Action for Conversion against CR Cal Neva LLC, William Criswell,
8 Robert Radovan and Criswell Radovan LLC, that there are no questions of material facts as to the
9 basis for those legal claims and as such summary judgment should be entered in favor of Plaintiff
10 on those three causes of actions.

11 II. BACKGROUND

12 Mr. Yount is an individual that lives in Crystal Bay, Nevada. In February of 2014 Mr.
13 Yount was approached by David Marriner ("Mr. Marriner"), a realtor from Incline Village, who
14 was acting as an agent for the developers of the Cal Neva Lodge located at Crystal Bay, Nevada,
15 about making an investment into the refurbishing of the property. William Criswell ("Mr.
16 Criswell") and Robert Radovan ("Mr. Radovan") are two developers from Napa County, California
17 who in 2013 purchased the Cal Neva Lodge in an effort to refurbish and upgrade the property. In
18 order to raise capital for the project Mr. Criswell and Mr. Radovan assembled a private placement
19 offering seeking to raise \$20,000,000. The units available under the Private Placement
20 Memorandum ("PPM") were set at \$1,000,000 each, which would give an investor under the PPM
21 3.5 percent ownership in the Cal Neva Lodge. Mr. Criswell and Mr. Radovan formed several
22 Nevada LLC's to act as the vehicles to redevelop the Cal Neva Lodge - Criswell Radovan, LLC
23 ("Criswell Radovan") is a Nevada Limited Liability Company whose managers are Sharon
24 Criswell, William Criswell and Robert Radovan. CR Cal Neva, LLC ("CR") is a Nevada Limited
25 Liability Company whose managers are Mr. Criswell and Mr. Radovan. CR is the legal entity that
26 was the manager for Cal Neva Lodge LLC which was the LLC that Mr. Criswell and Mr. Radovan
27 formed to hold title to the Cal Neva Lodge.

28 In 2014 when Mr. Yount was approached about investing in the project he was not

1 interested. However, he kept in touch with Mr. Marriner sporadically about the project and in June
2 of 2015 Mr. Marriner apprised Mr. Yount that there was still available \$1.5 million of the \$20
3 million to be raised under the PPM. Mr. Yount was, at that time, interested in the investment and
4 started receiving information on the project in order to investigate the status of the project as well
5 as the finances associated with the redevelopment costs. Both Mr. Marriner and Mr. Radovan
6 began conversing with Mr. Yount and providing him with documents and information about the
7 project. In July of 2014 Mr. Yount received the legal documents underlying the PPM which
8 included the Private Placement Memorandum, a Confidential Offering Memorandum and an
9 Amended and Restated Operating Agreement. The Operating Agreement was the document that
10 controlled the relationship of the Members of the Cal Neva Lodge LLC. (See Exhibit 1, Amended
11 and Restated Operating Agreement). Mr. Yount was repeatedly told that the project would be
12 substantially complete by December of 2015 and that the project was only \$5 to \$6 million over
13 budget because of construction and regulatory issues that had necessitated change orders to the
14 construction contract with Penta, the general contractor.

15 Based on the documents provided to him as well as representations made by Mr. Radovan
16 and Mr. Marriner, Mr. Yount decided to make a \$1 million investment under the PPM. He decided
17 to fund the investment through his IRA so it took some time to accomplish the paperwork to
18 reallocate those funds in the IRA to the Cal Neva Lodge LLC. Unbeknownst to Mr. Yount, by late
19 July and into August the project was approximately \$9 million over budget. Also, under the loan
20 with Hall CA-NV LLC ("Hall"), the primary lender on the project, Hall would soon stop funding
21 the project soon because under the loan terms the loan was out of balance which meant that the
22 debt to equity ratio established under the loan documents was too high. If that happened Penta
23 would not get paid and would cease work on the project. To put the loan in balance a payment of
24 \$1.4 million had to be put into the equity of Cal Neva Lodge for Hall to continue funding the loan.
25 (See Exhibit 2, Deposition Testimony of Robert Radovan at pp 28).

26 Since Mr. Yount's funds had not been collected by mid-September 2015, and in that the
27 Hall loan was out of balance, Mr. Radovan started negotiations with Mr. Les Busick ("Mr.
28 Busick"), who already had invested \$1 million under the PPM, for him to invest another \$1.5

1 million under the PPM, which would then close out the \$20 million that could legally be raised
2 under the offering documents. Mr. Busick made that investment sometime in late September.
3 Neither Mr. Marriner nor Mr. Radovan, or anyone from the various Criswell Radovan companies,
4 ever told Mr. Yount about Mr. Busick's investment and that the \$20 million cap on the PPM had
5 been met. Instead, Criswell Radovan pushed forward with Mr. Yount investing his \$1 million
6 under the PPM, sending him the Subscription Agreement and documents required under the PPM
7 to become an investor. (See Exhibit 3, Email from Heather Hill). Mr. Yount filled out the
8 Subscription Agreement and had his trust company handling his IRA wire transfer \$1 million to
9 the Powell Coleman law firm in Texas, which under the Subscription Agreement was the Escrow
10 Agent collecting the PPM funds. (See Exhibit 4, Investors Instructions to Escrow). On October
11 13, 2015 Mr. Radovan, on behalf of CR, signed off on the Acceptance of Subscription under the
12 PPM. (See Exhibit 2 at pp 73; and Exhibit 5, signature page for Acceptance of Subscription).

13 All the while knowing that no more money could be raised under the PPM after Mr. Busick
14 made his investment, Mr. Radovan devised a scheme to keep Mr. Yount's money and divert it from
15 the Cal Neva Lodge LLC to Mr. Radovan and Mr. Criswell. Mr. Radovan and Mr. Criswell,
16 through their role as developers, had given CR \$2 million of the \$20 million under the PPM. (See
17 Exhibit 1, Schedule 4.2). In order to keep Mr. Yount's \$1 million, since the PPM was now fully
18 subscribed, Mr. Radovan and Mr. Criswell unilaterally decided to "sell" one of their CR \$1 million
19 shares in the Cal Neva Lodge to Mr. Yount, without ever telling him that was the deal. (See Exhibit
20 6, Email from Yount to Marriner; and, Exhibit 2, Radovan Deposition at pp 74).

21 The Operating Agreement that governed the relationship among the investors in the Cal
22 Neva Lodge LLC required that "no member may sell, transfer, assign or otherwise dispose of or
23 mortgage, hypothecate or otherwise encumber or per or suffer any encumbrance of all of any part
24 of its interest unless approved in writing by members holding at least 67% of the percentage interest
25 in the company..." (See Exhibit 1, Amended and Restated Operating Agreement at Section 12.2).
26 Mr. Criswell and Mr. Radovan knew of this restriction. In fact, anticipating Mr. Yount's deposit
27 of \$1 million into the Powell Coleman Trust Account, a series of emails ensued between Criswell
28 and Radovan's office and Bruce Coleman, legal counsel to Criswell and Radovan, CR and the Cal

1 Neva Lodge LLC, and a partner in the Powell Coleman law firm. On October 2, 2016, Ms. Heather
2 Hill, a Criswell Radovan employee, sent an email to Mr. Coleman stating that CR had identified an
3 investor “who will take the place of one of CR’s \$2m investment” and asked Mr. Coleman “we
4 assume there is some sort of swap agreement CR will need to sign to paper this transaction above
5 and beyond the typical documentation...let us know what procedurally what we need to do”. (See
6 Exhibit 7, October 2, 2015 Email). Mr. Coleman responded to Ms. Hill’s email stating the \$1
7 million investment had not been received and wrote “I want to make you aware of the requirements
8 in the Operating Agreement. Section 12.2 provides that no member may sell all or any part of its
9 interest unless approved in writing by Members holding at least 67% of the percentage interests in
10 the Company...you need to follow the proper procedures so that we will have written evidence that
11 the required percentage of Members have approved the deal.” (See Exhibit 8, October 6, 2015
12 Email). Mr. Coleman later followed up in an email to Ms. Hill attaching a proposed Assignment
13 of Interest to be used for the investment by Mr. Yount based on what Mr. Coleman claims was a
14 message that Criswell and Radovan had the necessary approvals from the Members of Cal Neva
15 Lodge LLC. (See Exhibit 9, October 16, 2015 Email).

16 Of course, neither CR or Criswell and Radovan had obtained any approval of the requisite
17 percentage of members and had not even called for a vote of the membership, nor did they ever tell
18 Mr. Yount that they were seeking approval of the members as to complete a sale of their interest to
19 him. Mr. Yount assumed all along that his \$1 million went from the Powell Coleman Trust Account
20 to Cal Neva Lodge LLC as capital for the company. Instead, Mr. Coleman immediately wire
21 transferred the money out of his trust account and sent it to Criswell and Radovan, because, in his
22 words, they asked him to. (See Exhibit 10, Deposition Testimony of Bruce Coleman pp 36; Exhibit
23 11, Email from Coleman to Yount; and, Exhibit 12, Outgoing Wire Transfer from Powell Coleman
24 to Criswell Radovan LLC). Mr. Coleman transferred this money to his clients without ever
25 receiving the very documentation that he said was required to consummate a transfer of a Member
26 share to Mr. Yount.

27 In late January 2016, Mr. Yount was receiving documents from the developers as to the
28 financial issues swirling around the viability of the company. One of the documents he received

1 was a capital table which showed Mr. Yount having received one of CR's share and CR's \$2 million
2 reduced to \$1 million. Mr. Yount immediately disputed that he had ever agreed to such a deal and
3 demanded that his \$1 million be sent back to him. (See Exhibit 6). Mr. Criswell told him that was
4 not possible because he and Criswell Radovan had already spent the \$1 million and stated that it
5 was none of Mr. Yount's business to know where his \$1 million was spent. (See Exhibit 13,
6 Criswell Deposition Transcript pp 81-84). Mr. Criswell and Mr. Radovan, in concert with Bruce
7 Coleman, then attempted to paper the transaction and sent Mr. Yount documents with effective
8 dates of October 13, 2015 to make it look like he had agreed to buy one of the CR shares. The
9 Assignment of Interest Document went so far as to make the incredulous claim that Mr. Yount
10 erroneously signed the Subscription Agreement and that the parties really intended for Mr. Yount
11 to buy a CR share. (Exhibit 14, Email and attached Agreements). One of those documents was the
12 approval of the transfer for the members of the LLC - the very document that Mr. Coleman said
13 was required before Criswell Radovan could sell of its shares to Mr. Yount. Mr. Yount refused to
14 sign such documents. The Cal Neva members never approved the transaction, and despite repeated
15 demands Criswell or Radovan, nor anyone of their myriad companies, has paid Mr. Yount back his
16 \$1 million.

17 III. STATEMENT OF UNDISPUTED FACTS

18 1. Mr. Yount signed the Subscription Agreement required under the PPM to make an
19 investment into the Cal Neva Lodge, and Robert Radovan signed the Acceptance of Subscription.
20 (Exhibit 4 executed Subscription Agreement and Exhibit 5 Signed Acceptance of Subscription).

21 2. Powell Coleman and Arnold was the Escrow Agent to receive funds under the
22 Subscription Agreement and received a wire transfer from Mr. Yount's Trust Company handling
23 his IRA for \$1 million into his client trust account. (Exhibit 4 and Exhibit 10 pp 26-27).

24 3. The Escrow Instructions attached to the Subscription Agreement were the only
25 written Escrow Instructions provided to Mr. Coleman and he did not receive any other written
26 documents authorizing him to release Mr. Yount's \$1 million to Criswell and Radovan. (Exhibit 4
27 and Exhibit 10 at pp 34 and 36).

28 4. Mr. Coleman transferred Mr. Yount's \$1 million to Criswell and Radovan because

1 his clients told him to do so. (Exhibit 10 at pp 36 and Exhibit 12).

2 5. Mr. Radovan never told Mr. Yount that he was purchasing one of the Criswell
3 Radovan shares in the Cal Neva instead of purchasing a share under the remaining \$1.5 million of
4 the PPM. (Exhibit 2 at pp 74, Exhibit 6).

5 6. The Operating Agreement governing the Members of the Cal Neva Lodge LLC
6 required that before a Member could sell a share there had to be a vote with written confirmation
7 that 67 % the other members approved the Transfer. (Exhibit 1).

8 7. Mr. Coleman knew that the Operating Agreement required a vote with written
9 approval from the other members before they could transfer their share to Mr. Yount and told his
10 clients Criswell and Radovan of this requirement, yet without receiving a copy of such written
11 approval of the other members, transferred Mr. Yount's \$1 million to Criswell Radovan. (Exhibit
12 8).

13 8. Mr. Radovan, Mr. Criswell and Mr. Coleman attempted to paper the sale of a
14 Criswell Radovan share to Mr. Yount by sending him the documents evidencing such sale and
15 backdating the member approval to October 13, 2015, claiming that Mr. Yount erroneously
16 executed a Subscription Agreement, but Mr. Yount refused to sign such documents and there has
17 never been a vote of the Members of the Cal Neva Lodge LLC approving the transfer of the Criswell
18 Radovan share to Mr. Yount. (Exhibit 14 and Exhibit 2 at pp 84).

19 IV. ARGUMENT

20 A. Standard for Summary Judgment

21 Summary judgment is only appropriate if the pleadings, depositions, answers to
22 interrogatories, and admissions, and affidavits, if any, that are properly before the court demonstrate
23 that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter
24 of law. NRCP 56(c); *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (2005); *Sustainable*
25 *Growth Initiative Committee v. Jumpers, LLC*, 128 P.3d 452, 458 (2006), citing *Bulbman, Inc. v.*
26 *Nevada Bell*, 108 Nev. 105, 110, 825 P.2d 588, 591 (1992).

27 The party moving for summary judgment bears the initial burden of production to show the
28 absence of a genuine issue of material fact. *Cuzze v. University and Community College System of*

1 Nevada, 123 Nev. 598, 172 P.3d 131 (2007). If the moving party will bear the burden of persuasion
2 on the challenged claim at trial, that party must present evidence that would entitle it to a judgment
3 as a matter of law in the absence of contrary evidence. *Cuzze, supra*, at 602.

4 When considering a motion for summary judgment, district courts must review the record
5 in the light most favorable to the party against whom the summary judgment is sought. *Dennison*
6 *v. Allen Group Leasing Corp.*, 110 Nev. 181, 874 P.2d 288 (1994). The factual allegations,
7 evidence, and all reasonable inferences in favor of the nonmoving party must be presumed to be
8 correct. *NGA #2 Ltd. Liability Co. v. Rains*, 113 Nev. 1151, 946 P.2d 163 (1997).

9 B. Conversion

10 Under Nevada law the elements for the claim of conversion are;

11 1. Distinct and intentional act of dominion by one which is wrongfully exerted over
12 the property of another;

13 2. An act committed in denial of, or inconsistent with the rightful owner's use and
14 enjoyment of the property;

15 3. An act committed in derogation, exclusion, or defiance of the owner's rights or title
16 to the property; and,

17 4. Causation and damages.

18 *M.C. Multi-Family Development, L.L.C. v. Crestdale Associates, Ltd.*, 124 Nev. 901, 193
19 P.3d 536, (2008).

20 In the instant case, Defendants CR Cal Neva, Criswell Radovan LLC and Mr. Criswell and
21 Radovan, intentionally took Mr. Yount's \$1 million and converted it to their own use. Mr. Yount
22 never agreed to purchase one of the CR shares and Defendants have not produced one scintilla of
23 evidence that Mr. Yount agreed to such a purchase. Mr. Radovan acknowledged that he did not
24 even tell Mr. Yount that he was selling him a CR share instead of purchasing a share under the
25 PPM. (See Exhibit 2, Radovan Deposition at pp 74). Even assuming arguendo that Mr. Yount and
26 Mr. Radovan had agreed to having Criswell Radovan sell one of its \$1 million shares to Mr. Yount,
27 without the Member consent as required under the Operating Agreement, that transaction could not
28 be consummated. Taking Mr. Yount's money and converting to their own use without paying Mr.

1 Yount back, without question fulfills the factual elements necessary to substantiate a claim for
2 conversion. There are simply no material issues of fact as to whether the shareholder ever approved
3 the transfer and whether Mr. Yount's money has been returned to him, and as such summary
4 judgment on this cause of action should be granted by the Court.

5 C. Breach of Duty Against Powell Coleman and Arnold

6 Powell Coleman and Arnold was the designated Escrow Agent to collect funds under the
7 PPM. Mr. Yount was directed to wire transfer those funds to the Powell Coleman trust account,
8 fully expecting that the money would then be transferred to the bank account of Cal Neva Lodge
9 LLC. As an escrow holder and as the attorney for the Cal Neva Lodge LLC, Powell Coleman had
10 a fiduciary duty to Mr. Yount to properly hold his money in escrow and then release it properly
11 with specific directions on how to handle the money.¹

12 A fiduciary relationship exists when one has the right to expect trust and confidence in the
13 integrity and fidelity of another. *Powers v. United Services Automobile Association*, 114 Nev. 690,
14 979 P.2d 1286 (1999). In *Robertson v. ADJ Partnership, Ltd*, 204 S.W. 3d 484 (Tex 2006) the
15 court held that an attorney acting as an escrow agent had a fiduciary duty both as the attorney and
16 as an escrow. As stated above, Powell Coleman was the designated Escrow Agent for the PPM
17 and Mr. Yount's funds were deposited into their client trust account. Texas Disciplinary Rules of
18 Professional Conduct 1.14 (b) requires that funds in a trust account shall promptly be delivered to
19 a client or third party that the client or third party is "entitled to receive" (Emphasis added.) Nevada
20 Rule of Professional Conduct 1.15 (d) has an identical requirement that funds should only be
21 released to a firm's clients that they are entitled to receive. Even assuming Mr. Yount had agreed
22 to buy a CR share, until the Members of the Cal Neva Lodge approved the transfer and sale of the
23 share to Mr. Yount, Radovan and Criswell were not entitled to receive those funds. In addition,
24 since Powell Coleman was the designated escrow holder for the PPM, Mr. Coleman had a duty to
25 insure that Mr. Yount's money that was deposited into his trust account was not part of the PPM
26 and in fact was deposited under a different agreement.

27 _____
28 ¹ Despite the NRS Chapter 645A that it is unlawful to engage in the business of acting as an escrow agent in Nevada without a license, Powell Coleman never obtained such license. (See Exhibit 10, Coleman Deposition at pp 29).

1 Mr. Coleman has also acknowledged that he was acting as the attorney for the Cal Neva
2 Lodge LLC which meant he was also representing its Members (See Exhibit 10, Deposition
3 Testimony of Bruce Coleman, pp 43). Under either scenario of Mr. Yount purchasing under the
4 PPM or purchasing a Criswell Radovan share of the PPM, Mr. Yount would have been a member
5 of the LLC and thus owed a fiduciary duty from Powell Coleman. There is no question that Powell
6 Coleman breached that duty. Mr. Coleman had given specific instructions to his client Criswell
7 and Radovan that they needed a vote of the members of the LLC before the transaction could be
8 consummated. Releasing Mr. Yount's money to Criswell and Radovan without written proof that
9 the members had voted to approve the transfer was a monumental breach of Mr. Coleman's duty
10 both as an Escrow Agent and as counsel for Cal Neva Lodge LLC and its members.

11 D. Negligence Against Powell Coleman and Arnold

12 In addition to the clear breach of duty by Powell Coleman, Mr. Coleman's actions in
13 releasing Mr. Yount's money to his client, Criswell Radovan, constituted negligence. The elements
14 of a cause of action for negligence are

- 15 1. Defendant owed a duty to Plaintiff;
- 16 2. Defendant breached that duty;
- 17 3. The breach was the legal cause of Plaintiff's injuries; and,
- 18 4. Plaintiff suffered damages.

19 *Scialabba v. Brandise Construction Company*, 112 Nev. 965, 921 P.2d 928 (1996).

20 As set forth above, Powell Coleman had a duty to Plaintiff as an escrow holder for Mr.
21 Yount's \$1 million and as the attorney for Cal Neva Lodge LLC. Powell Coleman breached that
22 duty when they released Mr. Yount's \$1 million without specific authorization to do so in that Mr.
23 Coleman knew that a sale of a Criswell Radovan share to a third party first required a vote of the
24 members of the Cal Neva Lodge LLC and yet he released Mr. Yount's money to his clients Criswell
25 and Radovan without any proof in writing that there was such a vote approving the transfer. As
26 such Mr. Yount was damaged in that he has not been given his money back. There are no genuine
27 issues of material fact related to this claim, Mr. Coleman clearly knew that a member vote and

28 ///

1 approval was necessary for a transfer of a member share and released the money without any proof
2 of such approval being obtained.

3 V. CONCLUSION

4 Criswell and Radovan will argue that Mr. Yount got what he paid for, a share in the Cal
5 Neva Lodge LLC, and that it does not matter whether he got it through the PPM or through a
6 purchase of one of their shares. That is not correct and is a red herring to shift the focus on their
7 actions. Mr. Yount agreed to invest \$1 million into a private placement for the Cal Neva Lodge
8 LLC so that the funds would go into capital necessary to develop the property, not into the pockets
9 of Mr. Criswell and Mr. Radovan. All communications to him by either the principals of Criswell
10 and Radovan or its agents were that he was investing as part of the PPM that had \$1.5 million
11 available to be spent as spelled out in the Private Placement documents. He was never told that
12 Mr. Busick's investment of \$1.5 million closed out the PPM or even that Mr. Busick invested at all
13 in September of 2015 immediately preceding his investment. He was never told by Mr. Radovan
14 or anyone else from the developer's side that instead he was going to purchase an existing CR share
15 in the Cal Neva Lodge LLC. He was never told where his funds were spent, because in Mr.
16 Criswell's words it was none of his business. Instead, Mr. Radovan and Mr. Criswell, knowing full
17 well that Mr. Yount could no longer invest under the PPM, created a ruse that Mr. Yount was
18 buying one of their shares and converted the \$1 million to their own use with full knowledge that
19 even under their scheme they could not legally sell and transfer their share without Cal Neva Lodge
20 LLC member approval. Once their ruse was discovered they attempted to cover their wrongdoing
21 by sending Mr. Yount backdated documents indicating that he really intended to buy one of their
22 shares. When they refused to return Mr. Yount's money, under these false pretenses and the
23 fundamental failure to abide by the terms of the Operating Agreement, they converted Mr. Yount's
24 money and as such Summary Judgment should be entered in favor of Mr. Yount on his cause of
25 action for Conversion.

26 Powell Coleman should also have summary judgment entered against them on Mr. Yount's
27 claim of Breach of Duty and Negligence. The Powell Coleman law firm had a fundamental duty
28 to Mr. Yount, both as an escrow holder, and as the attorneys for the Cal Neva Lodge LLC, to insure

1 that Mr. Yount's \$1 million was properly and legally handled. They failed miserably in that duty.
2 Instead of relying on the word of their client and ignoring their own advice to insure that the other
3 members of the Cal Neva Lodge in writing approve the transfer of a share to Mr. Yount, Mr.
4 Coleman could have easily fulfilled his duty by either demanding written proof of the member vote
5 or asking Mr. Yount if in fact that he had agreed to purchase one of the CR shares. It is incredulous
6 that he did not.

7 DATED: June 27, 2017.

THE LAW OFFICE OF RICHARD G.
CAMPBELL, JR. INC.

9 By: /s/ Richard G. Campbell, Jr.
10 RICHARD G. CAMPBELL, JR.
11 Attorney for Plaintiff
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SECOND JUDICIAL DISTRICT COURT**COUNTY OF WASHOE, STATE OF NEVADA****AFFIRMATION****Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document, filed in this case: **MOTION FOR PARTIAL SUMMARY JUDGMENT**;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

(State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: June 27, 2017.

THE LAW OFFICE OF RICHARD G.
CAMPBELL, JR. INC.

By: /s/ Richard G. Campbell, Jr.

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is The Law Office of Richard G. Campbell, Jr. Inc., 200 S. Virginia Street, 8th Floor, Reno, NV 89501. On June 27, 2017, I served the following document(s):

MOTION FOR PARTIAL SUMMARY JUDGMENT

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth below.
- ☐ **BY EMAIL:** by causing the document(s) to be electronically served.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by **Reno Carson Messenger Service** of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY E-MAIL/ELECTRONIC FILING SYSTEM:** by causing the document(s) to be electronically served via the court's electronic filing system to the following attorneys associated with this case.

Martin A. Little
Jolley Urga Woodbury & Little
3800 Howard Hughes Parkway, 16h Floor
Las Vegas, Nevada 89169

Andrew N. Wolf
Incline Law Group, LLC
264 Village Blvd, Suite 104
Incline Village, NV 89451

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on June 27, 2017, at Reno, Nevada.

/s/ Danielle Bleecker

EXHIBIT LIST

1	Amended and Restated Operating Agreement	65 Pages
2	Deposition Testimony of Robert Radovan	7 Pages
3	Email from Heather Hill	2 Pages
4	Investors Instructions to Escrow	15 Pages
5	Signature page for Acceptance of Subscription	2 Pages
6	Email from Yount to Marriner	7 Pages
7	October 2, 2015 Email	2 Pages
8	October 6, 2015 Email	2 Pages
9	October 16, 2015 Email	2 Pages
10	Deposition Testimony of Bruce Coleman	15 Pages
11	Email from Coleman to Yount	6 Pages
12	Outgoing Wire Transfer from Powell Coleman to Criswell Radovan LLC	3 Pages
13	Deposition Testimony of William Criswell	7 Pages
14	Email and attached Agreements	7 Pages

FILED
Electronically
CV16-00767
2017-06-27 03:33:56 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6169488 : tbritton

EXHIBIT 1

000234

CAL NEVA LODGE, LLC
AMENDED AND RESTATED
OPERATING AGREEMENT

Dated: May 1, 2014

000235

CAL NEVA LODGE, LLC

AMENDED AND RESTATED OPERATING AGREEMENT

This Amended and Restated Operating Agreement (this "Agreement") is made and entered into as of the 1st day of May, 2014 (the "Effective Date"), by and among the parties on the signature pages of this Agreement. Such parties and their respective permitted assignees are herein sometimes referred to individually as a "Member" and collectively as the "Members". All references to the Members will also include their successors and assigns pursuant to Article 12.

BACKGROUND FACTS:

A. On March 13, 2013, CR Cal Neva, LLC, a Nevada limited liability company ("CR"), formed a limited liability company named Cal Neva Lodge, LLC (the "Company") by filing certain Articles of Organization with the Secretary of State of the State of Nevada pursuant to the limited liability company laws of the State of Nevada and entering into an Operating Agreement for the Company.

B. The Members desire to amend and restate the existing Operating Agreement of the Company and admit new Members on the terms set forth herein.

C. Each Member represents that it has sufficient right and authority, without violating or breaching any provisions of law or contract, to execute this Agreement and is not acting on behalf of any undisclosed or partially disclosed principal by such action.

NOW, THEREFORE, in consideration of agreements and obligations set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Members hereby agree as follows:

ARTICLE 1 DEFINITIONS

As used in this Agreement and the attached Exhibits, the following capitalized terms have the meanings stated below and include the plural as well as the singular number.

1.1 "Accountants" means the independent certified public accountants selected by the Company.

1.2 "Act" means the limited liability company law of the State of Nevada, and all amendments to the Act.

1.3 "Act of Insolvency" will be deemed to have occurred if (a) a Member files in any court, in accordance with any statute of the United States or of any state, a petition in bankruptcy or insolvency, or files for the appointment of a receiver or trustee of all or a portion of the Member's property, or makes an assignment for the benefit of creditors or admits in writing its/his/her inability to pay its/his/her debts generally as they become due; or (b) there is filed

against a Member in any court in accordance with any statute of the United States or of any state, a petition in bankruptcy or insolvency, or for reorganization, or for appointment of a receiver or a trustee of all or a portion of the Member's property, and any order or decree is not vacated, or such appointment is not revoked or terminated and such receiver or trustee discharged, within ninety (90) days after entry or appointment, as the case may be.

1.4 **"Additional Capital Contribution"** means, with respect to the Members, any amounts the Members mutually agree to contribute to the Company as capital contributions pursuant to Section 4.4.

1.5 **"Additional Member"** means any person or entity who acquires an Interest in the Company after the date hereof.

1.6 **"Adjusted Capital Account"** means, with respect to any Member as of the end of any fiscal year, such Member's Capital Account reduced by those anticipated allocations, adjustments and distributions described in Section 1.704-1(b)(2)(ii)(d)(4)-(6) of the Treasury Regulations and increased by an amount that such Member would be obligated to restore pursuant to this Agreement or would be deemed obligated to restore pursuant to the penultimate sentences of Sections 1.704-2(g)(1) and 1.704-2(i)(5) of the Treasury Regulations.

1.7 **"Affiliate"** means, with respect to any Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such Person, (ii) any Person owning or controlling ten percent (10%) or more of the outstanding voting securities of such Person, (iii) any officer, director or general partner of such Person, or (iv) any Person who is an officer, director, general partner, trustee or holder of ten percent (10%) or more of the voting securities of any Person described in clauses (i) through (iii) of this sentence.

1.8 **"Agreement"** means this Amended and Restated Operating Agreement as originally executed and as subsequently amended or supplemented in accordance with the terms herein.

1.9 **"Allocation Regulations"** means Section 1.704-1 and 1.704-2 of the Treasury Regulations as such regulations may be amended and in effect from time to time (whether Temporary or Final form) and any corresponding provisions of succeeding Treasury Regulations.

1.10 **"Articles"** means the Articles of Organization of the Company as properly adopted and amended from time to time by the Members and filed with the Secretary of State of the State of Nevada.

1.11 **"Business Day"** means any day that the national banks in Reno, Nevada, are open for business.

1.12 **"Capital Account"** means, with respect to any Member, the Capital Account maintained for such Person in accordance with the following provisions:

1.12.1 To each Member's Capital Account there will be credited such Member's Capital Contributions and Additional Capital Contributions (if any), such Member's distributive

share of Profits and the amount of Company liabilities that are assumed by such Member or that are secured by any Company Assets distributed to such Member.

1.12.2 To each Member's Capital Account there will be debited the amount of cash and the Gross Asset Value of any Company Assets distributed to such Member pursuant to any provision of this Agreement, such Member's distributive share of Losses and the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed by such Member to the Company.

In the event any Interest in the Company is transferred in accordance with the terms of this Agreement, the transferee will succeed to the Capital Account of the transferor to the extent it relates to the transferred Interest.

In the event the Gross Asset Values of Company Assets are adjusted pursuant to subsection 1.25.2 hereof, the Capital Accounts of all Members will be adjusted simultaneously to reflect the aggregate net adjustment as if the Company recognized gain or loss equal to the amount of such aggregate net adjustment.

The foregoing provisions and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with the Allocation Regulations and will be interpreted and applied in a manner consistent with such Allocation Regulations. In the event the Manager determines that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with the Allocation Regulations, the Manager may make such modification, provided that it is not likely to have a material effect on the amounts distributable to any Member pursuant to Section 13.4 hereof upon the dissolution of the Company. The Manager will adjust the amounts debited or credited to Capital Accounts with respect to any property contributed to the Company by or distributed to a Member and any liabilities that are secured by such contributed or distributed property or that are assumed by the Company or the Member, in the event the Manager determines such adjustments are necessary or appropriate pursuant to the Allocation Regulations. The Manager also will make any appropriate modifications in the event unanticipated events might otherwise cause this Agreement not to comply with Allocation Regulations.

1.13 **"Capital Contribution"** means the total amount of cash or other property contributed to the Company by a Member as capital in accordance with this Agreement; such term includes the Capital Contributions described in Sections 4.2, 4.3 and 4.4. The total amount of Capital Contributions made by the Preferred Members is sometimes referred to herein as the "Preferred Equity."

1.14 **"Code"** means the Internal Revenue Code of 1986, as it may be amended, or any subsequent federal law concerning income tax that is enacted in substitution for, or that corresponds with, such Code.

1.15 **"Company"** means Cal Neva Lodge, LLC.

1.16 **"Company Assets"** means any and all property contributed to or acquired by the Company in accordance with this Agreement, including but not limited to the Property or an interest in Seller, and both tangible and intangible property.

1.17 **"Company Minimum Gain"** has the meaning set forth in Section 1.704-2(d) of the Treasury Regulations for Partnership minimum gain.

1.18 **"Construction Contract"** means the contract with the Contractor to construct the Project on the Property, as approved by the Executive Committee.

1.19 **"Construction Lender"** means the lender who makes a construction loan/mini-permanent loan for construction of the Project.

1.20 **"Construction Loan"** means the construction loan/mini-permanent loan made by the Construction Lender to construct the Project on terms approved by the Executive Committee.

1.21 **"Contractor"** means the general contractor reasonably approved by the Executive Committee engaged by the Company for construction of the Project.

1.22 **"Depreciation"** means, for each fiscal year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation will be an amount which bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, if the federal income tax depreciation, amortization, or other cost recovery deduction for such year is zero, Depreciation will be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the Manager.

1.23 **"Fiscal Year"** or **"Year"** means a calendar year (or portion thereof) ending on December 31 of such year.

1.24 **"Governmental Authorities"** means any federal, state, county, municipal or other governmental department or entity, or any authority, commission, board, bureau, court or agency having jurisdiction over the Company Assets, or any portion thereof, and whose approval is necessary for the development of the Property.

1.25 **"Gross Asset Value"** means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

1.25.1 The initial Gross Asset Value of any asset contributed by a Member to the Company will be the gross fair market value of such asset, as determined by the contributing Member and the Manager;

1.25.2 The Gross Asset Values of all Company assets will be adjusted to equal their respective gross fair market values, as determined by the Manager, as of the following times: (i) the acquisition of an additional interest in the Company by any new or existing Member in exchange for more than a "de minimis" Capital Contribution; (ii) the distribution by the Company to a Member of more than a "de minimis" amount of Company Assets other than money as consideration for an interest in the Company; and (iii) the liquidation of the Company

within the meaning of the Allocation Regulations; provided, however, that adjustments pursuant to clauses (i) and (ii) above will be made only if the Manager reasonably determine that such adjustments are necessary and appropriate to reflect the relative economic interests of the Members in the Company; and

1.25.3 If the Gross Asset Value of an asset has been determined or adjusted pursuant to subsection 1.25.1 or 1.25.2, such Gross Asset Value will thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

1.26 **"Initial Capital Contributions"** shall have the meaning given in Section 4.2 hereof.

1.27 **"Interest"** shall mean a member's entire ownership interest in the Company, including without limitation, its right to distributions of Net Cash from Operations and Net Cash from Sales or Refinancings.

1.28 **"Lender"** means the Construction Lender, and any third party lender(s) subsequently refinancing such indebtedness.

1.29 **"Manager"** means the one (1) Person, who need not be a Member, to whom all or part of the management duties of the Company's business is delegated as provided in Article 9. The initial Manager shall be CR.

1.30 **"Member"** means each of the parties who has executed this Agreement and each of the parties who may hereafter become Additional or Substitute Members as provided in the Articles and in this Agreement.

1.31 **"Member Minimum Gain"** means an amount with respect to each Member Nonrecourse Debt, equal to the Company Minimum Gain that would result if such Member Nonrecourse Debt was treated as Nonrecourse Liability, determined in accordance with Section 1.704-2(g)(3) of the Treasury Regulations.

1.32 **"Member Nonrecourse Debt"** has the meaning set forth in Section 1.704-2(b)(4) of the Treasury Regulations for partner nonrecourse debt.

1.33 **"Member Nonrecourse Deductions"** has the meaning set forth in Section 1.7042(i)(2) of the Treasury Regulations for partner nonrecourse deductions. The amount of Member Nonrecourse Deductions with respect to a Member Nonrecourse Debt for a Fiscal Year of the Company equals the excess, if any, of the net increase, if any, in the amount of Member Minimum Gain attributable to such Member Nonrecourse Debt during such Fiscal Year over the aggregate amount of any distributions during such Fiscal Year to the Member that bears the economic risk of loss for such Member Nonrecourse Debt to the extent such distributions are from the proceeds of such Member Nonrecourse Debt and are allocable to an increase in Member Minimum Gain attributable to such Member Nonrecourse Debt determined in accordance with Section 1.704-2(i)(2) of the Treasury Regulations.

1.34 **"Net Cash From Operations"** means the gross cash proceeds from the Company operations less the portion thereof used to pay or establish reserves for all Company expenses in an amount set forth in the Operating Budget, reserves for property taxes and insurance, interest and principal payments on third party indebtedness, Lender required reserves (including interest and operating expenses), capital improvements, replacements, contingencies, working capital, and other cash requirements, all as set out in the Operating Budget or the Project Budget or as may otherwise be determined by the Manager. "Net Cash From Operations" will not be reduced by depreciation, amortization, cost recovery deductions or similar allowances.

1.35 **"Net Cash From Sales or Financings"** means the net cash proceeds from all sales and other dispositions (other than sales and dispositions of personal property in the ordinary course of business), and all financings of the Property after the repayment of third party indebtedness required in connection with such sale, disposition or financing, less any portion thereof used to pay established reserves for Company obligations and expenses in an amount to be determined by the Manager, but, which shall include reserves for property taxes and insurance, interest and principal payments on third party indebtedness, Lender required reserves for property taxes and insurance, interest and principal payments on third party indebtedness, Lender required reserves (including interest and operating expenses), capital improvements, replacements, contingencies, working capital, and other cash requirements, all as set out in the Operating Budget or Project Budget. "Net Cash From Sales or Financings" will include all principal and interest payments with respect to any note or other obligation received by the Company in connection with sales and other dispositions (other than in the ordinary course of business) of the Property.

1.36 **"Nonrecourse Deductions"** has the meaning set forth in Section 1.704-2(b)(1) of the Treasury Regulations. The amount of Nonrecourse Deductions for a Fiscal Year equals the net increase, if any, in the amount of Company Minimum Gain during that Fiscal Year, determined according to the provisions of Section 1.704-2(b)(1) of the Treasury Regulations.

1.37 **"Nonrecourse Liability"** has the meaning set forth in Section 1.704-2(b)(3) of the Treasury Regulations.

1.38 **"Operating Budget"** means the annual operating budget for the Property prepared by the Manager and reasonably approved by the Executive Committee. The Operating Budget for each fiscal year shall be prepared by the Manager and submitted to the Executive Committee for approval no later than November 1 of the preceding fiscal year. In the event that the Executive Committee fails to timely approve an Operating Budget for any given year, the Operating Budget for the preceding year shall remain in effect until the new Operating Budget is approved.

1.39 **"Percentage Interest"** means the percentage of the Company owned by each Member as set forth in Schedule 4.1 attached hereto. The Manager shall cause Schedule 4.1 to be amended and updated to reflect the aggregate Percentage Interests of the Members whenever there are transfers of Interests, Capital Contributions or other events that cause the Percentage Interests to Change.

1.40 **"Person"** means a natural person, corporation, trust, partnership, joint venture, association or other business or other legal entity.

1.41 **"Preferred Members"** means those Members labeled as such on Schedule 4.1 attached hereto.

1.42 **"Preferred Return"** means a simple annual return on the amount invested by the Preferred Members at the rate of ten percent (10%) per annum from the date the Company receives such investment from a Preferred Member. The Preferred Return shall be cumulative and non-compounded and shall be paid quarterly as available out of Net Cash from Operations and Net Cash from Sales or Financings.

1.43 **"Profits" and "Losses"** means, for each Fiscal Year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) will be included in taxable income or loss), with the following adjustments:

1.43.1 any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this Section 1.43 will be added to such taxable income or loss;

1.43.2 any expenditures of the Company described in Code Section 705(a)(2)(B) or treated as Code Section 705 (a)(2)(B) expenditures pursuant to Section 1.704-1 (b)(2)(iv)(i) of the Treasury Regulations, and not otherwise taken into account in computing Profits or Losses pursuant to this subsection 1.44 will be subtracted from such taxable income or loss;

1.43.3 any gain or loss resulting from any disposition of Company assets with respect to which gain or loss is recognized for federal income tax purposes will be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

1.43.4 in lieu of the depreciation, amortization and other cost recovery deductions taken in computing such taxable income or loss, there will be taken into account Depreciation for such Fiscal Year or other period, computed in accordance with Section 1.22; and

1.43.5 any items of income, gain, loss or deduction specifically allocated pursuant to Sections 5.2 and 5.3 will not be taken into account in determining Profits or Losses.

1.44 **"Project"** has the meaning set forth in Section 3.1.

1.45 **"Project Budget"** means the budget to be prepared by the Manager and approved by the Executive Committee for the development and construction of the Project. Such budget shall be developed in collaboration with the design and construction team selected to work on the Project.

1.46 **"Property"** means the Cal Neva Resort & Spa located at 2 Stateline Road, Crystal Bay, Nevada 89402, together with any and all land and improvements owned in connection therewith.

1.47 **"Seller"** means Canpartners Realty Holding Company IV Cal-Neva LLC.

1.48 **"Sponsor Member"** means CR.

1.49 **"Substitute Member"** means any transferee of a Member's Interest who is admitted as a Member in the Company pursuant to Article 12.

1.50 **"Treasury Regulations"** means the Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

ARTICLE 2 ORGANIZATION AND TERM

2.1 **Formation.** The Members formed the Company under and pursuant to the provisions of the Act by filing the Articles on March 13, 2013. The rights and liabilities of the Members will be as provided under the Act, the Articles and this Agreement. The fact that the Articles are on file in the office of the Secretary of State, State of Nevada, will constitute notice that the Company is a limited liability company.

In order to maintain the Company as a limited liability company under the laws of the State of Nevada, the Company will from time to time take appropriate action, including the preparation and filing of such amendments to the Articles and such other fictitious name certificates, documents, instruments and publications as may be required by law, including, without limitation, action to reflect:

2.1.1 a change in the Company name;

2.1.2 a correction of false or erroneous statements in the Articles or the desire of the Members to make a change in any statement therein in order that it will accurately represent the agreement among the Members; or

2.1.3 a change in the time for dissolution of the Company as stated in the Articles and in this Agreement.

2.2 **Name.** The business and affairs of the Company will be conducted solely under the name of "Cal Neva Lodge, LLC". The Company will execute and file all assumed or fictitious name certificates required to be filed in the applicable public records of the county in which the Property is located or in any other county in which the Company is doing business.

2.3 **Term.** The term of the Company commenced on March 13, 2013, and will continue in full force and effect until the earliest of the following:

2.3.1 December 31, 2063;

2.3.2 dissolution of the Company approved as a Major Decision pursuant to Section 8.3.2; or

2.3.3. entry of a decree of judicial dissolution.

2.4 **Registered Agent and Office.** The Company's registered agent and office in Nevada will be Capitol Corporate Services, Inc., 202 S. Minnesota Street, Carson City, Nevada 89703. At any time, the Company may designate another registered agent and/or office.

2.5 **Principal Place of Business.** The principal place of business of the Company will be 2 Stateline Road, Crystal Bay, Nevada 89703. At any time, the Company may establish additional offices. The following items will at all times be maintained at the Company's principal office:

2.5.1 a current list of the full name and last known business, residence or mailing address of each Member and each Manager, both past and present;

2.5.2 a copy of the Articles and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any amendment has been executed;

2.5.3 copies of the Company's federal, state and local income tax returns and reports, if any, for the three most recent years;

2.5.4 copies of this Agreement with all amendments and copies of any writings permitted or required under the Act regarding the obligation of a Member to perform any enforceable promise to contribute cash or property or to perform services as consideration for such Member's Capital Contribution;

2.5.5 minutes of every annual and special meeting and any meeting ordered pursuant to Section 10.4;

2.5.6 unless contained in this Agreement, a statement prepared and certified as accurate by the Manager of the Company which describes:

(a) the amount of cash and a description and statement of the agreed value of the other property or services contributed by each Member and which each Member has agreed to contribute in the future;

(b) the times at which or events on the happening of which any additional contributions agreed to be made by each Member are to be made;

(c) if agreed upon, the time at which or the events on the happening of which a Member may terminate his membership in the Company and the amount of, or the method of determining, the distribution to which he may be entitled respecting his membership interests and the terms and conditions of the termination and distribution;

(d) any right of a Member to receive distributions which include a return of all or any part of a Member's contribution;

2.5.7 any written consents obtained from Members pursuant to the Act regarding action taken by Members without a meeting.

Such records are subject to inspection and copying at the reasonable request and at the expense of any Member during ordinary business hours.

2.6 **Other Instruments.** Each Member hereby agrees to execute and deliver to the Company within five (5) days after receipt of a written request therefor, such other and further documents and instruments, statements of interest and holdings, designations, powers of attorney and other instruments and to take such other action as the Company deems necessary, useful or appropriate to comply with any laws, rules or regulations as may be necessary to enable the Company to fulfill its responsibilities under this Agreement.

ARTICLE 3 PURPOSES AND POWERS OF THE COMPANY

3.1 **Purposes.** The overall business, purpose and scope of the Company is to acquire all membership interests of Seller in New Cal-Neva Lodge, LLC, a Nevada limited liability company ("New Cal Neva"). The Company shall purchase the interest of Seller in New Cal Neva with a portion of the Capital Contributions to be raised by the Company. New Cal Neva owns the Property, and it intends to rehabilitate and redevelop the Cal Neva Resort & Spa (the "Project"), and thereafter hold, mortgage, manage, maintain, lease, sell and otherwise use the Project for the production of income and profit. The Company shall serve as the managing member of New Cal Neva.

3.2 **Authority of Company.** In furtherance of its purpose, but consistent with and subject to the provisions of this Agreement and all applicable laws, the Company is empowered and authorized to do any and all acts and things incidental to, or necessary, appropriate, proper, advisable, or convenient for, the furtherance and accomplishment of the purposes described in Section 3.1 and for the protection and benefit of the Company, including, without limitation:

3.2.1 acquiring fee and leasehold estates in real and personal property and the rights therein or appurtenant thereto, necessary, appropriate or incidental to the ownership, management and maintenance of the Property, including real property adjacent to the Property;

3.2.2 entering into, performing and carrying out contracts and agreements of any kind, and entering into any kind of activity, in connection with, or incidental to, the accomplishment of the purposes of the Company;

3.2.3 securing approvals, permits and consents necessary, appropriate or incidental to the accomplishment of the purposes of the Company, including operating a casino on the Property;

3.2.4 developing and constructing improvements to the Property and dedicating or otherwise conveying portions of the Company Assets as may further the purposes of the Company;

3.2.5 borrowing money and issuing evidences of indebtedness in furtherance of the Company business and securing any Company indebtedness by mortgage, pledge, security interest or other lien, and otherwise financing or refinancing (defined for purposes of this Agreement to include recast, modified, extended or increased) the Project;

3.2.6 leasing, mortgaging, selling or otherwise disposing of all or any part of the Property for cash, stock, other securities or other property, or any combination thereof;

3.2.7 entering into partnerships, ventures and other business arrangements, and contributing all or any portion of the Company Assets as consideration for same;

3.2.8 to sue and be sued, complain and defend, and participate in administrative or other proceedings, in its name;

3.2.9 to appoint agents of the Company, and define their duties and fix their compensation, if any;

3.2.10 to indemnify a Member or Manager or former Member or Manager, and to make any other indemnification that is authorized by the Articles or by this Agreement in accordance with the Act;

3.2.11 at the end of the term hereof as provided in Section 2.3, to cease its activities and surrender its certificate of organization;

3.2.12 to have and exercise all powers necessary or convenient to effect any or all of the purposes for which the Company is organized;

3.2.13 to become a member of a general partnership, limited partnership, joint venture or similar association or any other limited liability company; and

3.2.14 doing and performing all other acts and things which may be necessary, appropriate or incidental to the carrying out of the business and purposes of the Company.

3.3 Certain Transactions. The Company is expressly permitted in the normal course of its business to enter into transactions with any or all Members or with any Affiliate of any or all Members provided that the Member seeking such a related party transaction receives the prior written approval of the price and other terms of such transaction by all members of the Executive Committee who are not involved in the proposed transaction. Any executory contracts between the Company and Affiliates must be approved by the unanimous vote of the Executive Committee. All Members hereby acknowledge their approval of the Development Services Agreement described in Section 7.4 herein.

3.4 Adjacent Property. No Member and no Affiliate of any Member may acquire real property adjacent to the Property unless the Company has been offered the opportunity to acquire such Property and has elected in writing not to do so.

3.5 Future Phases. The Members agree that the current definition of the "Project" herein refers to the initial phase involving the repair and rehabilitation of the existing main hotel

building, tower and several ancillary buildings, including the spa, terrace units and chalet units. It is anticipated that the Company may wish to convert the cabin units on the Property into condo hotel units as part of phase two work ("Phase Two"), if the necessary entitlements for such work can be obtained. If Phase Two is pursued by the Company, the existing Members shall have the right of first offer to provide the necessary equity for Phase Two in the same proportions as the Capital Contributions made by each Member for the phase one work on the Property. Any equity requested of the Members for Phase Two would not be considered to be requested pursuant to a capital call in accordance with Section 4.4. If the Members do not wish to make equity contributions required for Phase Two, they agree to cooperate in the search to find new sources of equity required for such work, as well as new lender financing. Any Capital Contributions that the existing Members elect to make for Phase Two, if any, shall be treated the same as the existing Capital Contributions pursuant to Section 6.2 herein. If it is necessary to bring in new Members to make such Capital Contributions for Phase Two, such admission of new Members shall be in accordance with an amendment to this Agreement approved as a Major Decision pursuant to Section 8.3.12. Development Fees shall be payable to Developer with respect to Phase Two in accordance with Section 7.4 hereof and the Development Services Agreement referenced therein.

ARTICLE 4 MEMBERS, DUTIES, CAPITAL CONTRIBUTIONS AND LOANS

4.1 Members; Obligation to Update. All Members of the Company, past and present, their last known business, residence or mailing address, and their Percentage Interests in the Company will be listed on the attached Schedule 4.1. The Manager will be required to update Schedule 4.1 from time to time as necessary to accurately reflect the information therein.

4.2 Initial Capital Contributions. The Initial Capital Contributions of the Members are set forth on the attached Schedule 4.2, and the Company acknowledges receipt of such Initial Capital Contributions for the purposes set forth on such Schedule.

4.3 Future Targeted Capital Contributions. The Company has raised \$8,500,000.00 in Initial Capital Contributions as of the date hereof. The Company desires to raise a total of \$20,000,000.00 from current Members and Additional Members, meaning that it will attempt to raise \$11,500,000.00 over and above the Initial Capital Contributions (such amount being referred to as the "Future Targeted Capital Contributions"). The Company shall attempt to raise the Future Targeted Capital Contributions by the date specified in the Private Placement Memorandum for the Company dated March 11, 2014, as it may be amended from time to time (the "Future Funding Deadline"). Notwithstanding the foregoing, the minimum amount of Capital Contributions to be raised shall be \$8,500,000.00, and the Company shall begin accepting Future Targeted Capital Contributions at such time as total Capital Contributions to the Company would be \$8,500,000.00 or more. The Executive Committee further reserves the right to accept mezzanine debt in the approximate amount of \$6,000,000.00 plus interest (the "Mezzanine Loan") from a lender (the "Mezzanine Lender") in addition to the Future Targeted Capital Contributions. The terms of any such Mezzanine Loan must be approved by at least four of the five members of the Executive Committee. The Executive Committee may at its discretion elect to raise an amount equal to the Mezzanine Loan through Capital Contributions from Additional Members in lieu of obtaining the Mezzanine Loan. Each new investor who provides any portion of the Future Targeted Capital Contributions shall become a Preferred

Member of the Company upon making such Capital Contributions, and each such new Member shall execute an amendment to this Agreement to reflect its Interest in this Company. At such time, the Manager shall revise and update Schedules 4.1 and 4.2 to reflect all Interests in the Company. The Executive Committee may extend the Future Funding Deadline in its sole discretion. The proposed uses of the Capital Contributions raised by the Company pursuant to Sections 4.2 and 4.3 are set forth in Schedule 4.3 attached hereto and made a part hereof, and the Members hereby approve such uses.

4.4 Additional Capital Contributions. Subject to Section 8.3.5 below, at such time or times as the Manager reasonably determines that capital contributions in addition to the Initial Capital Contributions and the Future Targeted Capital Contributions are necessary or desirable in order to fulfill the contemplated objectives of the Company, the Manager shall notify the Members, which notice shall set forth the aggregate amount of the requested contributions, and the Members may, but shall not be obligated to, deposit such amount with the Company within the time period specified in such notice, which shall be based on the reasonably anticipated timing of the capital requirement, in proportion to their respective Capital Account balances. Each such contribution shall be treated the same as any other Capital Contribution to the Company. No Member shall be required to make any Additional Capital Contributions, but if any Member elects not to make its full share of such Additional Capital Contributions, the other Members shall have the option to make the Additional Capital Contribution that such non-funding Member was entitled to make, in proportion to their respective Capital Account balances.

4.5 Liability of Member. Upon the payment by a Member of the Capital Contributions required of it hereunder, such Member will have no further liability or responsibility to the Company or any creditor except to the extent specifically set forth herein.

4.6 Duties and Obligations of the Members with Respect to Equity and Loans. The following will be the general rights, duties and obligations applicable to the Members with respect to equity and loans for the Company:

4.6.1 CR will use its diligent efforts to obtain the Construction Loan.

4.6.2 Any and all documents relating to the Construction Loan and to be executed by the Company will be subject to the prior approval of the Executive Committee.

4.7 Withdrawals and Interest. No Member will have the right to:

4.7.1 withdraw his/its Capital Contribution;

4.7.2 receive any return or interest on any portion of his/its Capital Contribution except as otherwise provided herein; or

4.7.3 withdraw from the Company except by transfer of his/its Interest to another party in accordance with Article 13, by resignation in accordance with Section 8.7, or upon the dissolution of the Company.

4.8 Return. No Member will be entitled to the return of all or any part of its Capital Contribution unless and until there remains Company Assets after:

4.8.1 all current liabilities of the Company (except liabilities to Members on account of their Capital Contributions) have been paid;

4.8.2 all amounts due to Members in respect of their share of profits and other gains have been paid; and

4.8.3 the Company has been dissolved without reformation in accordance with Article 13 and Articles of Dissolution have been filed with the Nevada Secretary of State.

For purposes of Section 4.8.1, permanent financing on the Property shall not be deemed a "current liability" of the Company, and the return of all or part of a Member's Capital Contributions pursuant to other provisions of this Agreement may be made prior to full repayment of the permanent financing, as long as such permanent financing is not in default.

ARTICLE 5 ALLOCATIONS OF PROFITS AND LOSSES

5.1 Profits and Losses. Profits and Losses for any Fiscal Year will be allocated among the Members so that the Capital Account of each Member, increased by his/its share of Company Minimum Gain and his/its share of Member Minimum Gain is, as nearly as possible, positive in an amount equal to the cash that the Company would distribute to such Member, or negative in an amount equal to the cash that such Member would contribute to the Company, as the case may be, if (i) the Company liquidated by selling all of its assets for their respective Gross Asset Values, (ii) the proceeds of such sales, and any other cash of the Company, were used to satisfy the Company's debts in accordance with, and to the extent required by, their terms and in the order of priority prescribed by the applicable laws governing creditors' rights, and (iii) either (A) the Company distributed any remaining cash to the Members pursuant to Section 6.2 hereof or (B) the Members contributed to the Company cash in the amount of any remaining Recourse Liabilities of the Company; provided, however, that no Losses will be allocated to any Member for any Fiscal Year to the extent that such Losses would create or increase a deficit in such Member's Adjusted Capital Account.

5.2 Special Gross Allocation. If, after giving effect to the allocations set forth in Section 5.3 hereof, an allocation of Profits or Losses pursuant to Section 5.1 (determined as though no items were allocable pursuant to this Section 5.2) for any Fiscal Year would leave the Capital Account(s), increased by the share(s) of Company Minimum Gain and share(s) of Member Minimum Gain, of any Member(s) short of (less than) the aggregate amount that would be distributed to such Member(s) under the hypothetical circumstances described in Section 5.1 while leaving the Capital Account(s), increased by the share(s) of Company Minimum Gain and share(s) of Member Minimum Gain, of any other Member(s) above (more than) the aggregate amount that would be distributed to such other Member(s) under such circumstances, then items of income or gain will be allocated to the former Member(s), and items of loss or expense will be allocated to the latter Member(s), until either (i) Profits or Losses (determined pursuant to Section 1.43, without regard to the items of income, gain, expense or loss allocated pursuant to this Section 5.2) can be allocated so as to cause each Member's Capital Account, increased by

such Member's share of Company Minimum Gain and share of Member Minimum Gain to equal the amount that would be distributed to such Member under the hypothetical circumstances described in Section 5.1 or (ii) there are no more items to allocate.

5.3 Special Allocations. The following special allocations will be made in the following order:

5.3.1 Items of gross income and gain will be allocated to each Member in an amount and manner sufficient to eliminate, as quickly as possible, any deficit in such Member's Adjusted Capital Account to the extent that such deficit is created or increased by any unexpected adjustments, allocations or distributions described in Section 1.704-1(b)(2)(ii)(d)(4)-(6) of the Treasury Regulations. This subsection 5.3.1 and the proviso of Section 5.1 are intended to comply with the "alternative test for economic effect" provisions of Section 1.704-1(b)(2)(ii)(d) of the Treasury Regulations and will be interpreted consistently therewith;

5.3.2 If, for a Fiscal Year, there is a net decrease in Member Minimum Gain, then each Member will be allocated items of gross income or gain equal to such Member's share of such net decrease, determined under Section 1.704-2(i) of the Treasury Regulations. However, in accordance with Section 1.704-2(i)(4) of the Treasury Regulations, the preceding sentence will not apply to the extent that the net decrease in Member Minimum Gain results from (i) a capital contribution from such Member which is used to repay a liability of the Company or (ii) a refinancing or lapse of a guarantee of, or any other change in, a liability of the Company that causes such liability to become partially or wholly a Nonrecourse Liability. This subsection 5.3.2 is intended to comply with the minimum gain chargeback requirement of Section 1.704-2(i)(4) of the Treasury Regulations and will be interpreted consistently therewith;

5.3.3 If, for a Fiscal Year, there is a net decrease in Company Minimum Gain, then each Member will be allocated items of income and gain equal to such Member's share of such net decrease, determined in accordance with Sections 1.704-2(f) and 1.704-2(g) of the Treasury Regulations. However, in accordance with Section 1.704-2(f)(2) of the Treasury Regulations, the preceding sentence will not apply to the extent that the net decrease in Company Minimum Gain results from (i) a Capital Contribution from such Member which is used to pay a liability of the Company or (ii) a refinancing or guarantee of, or any other change in, a liability of the Company that causes such liability to become partially or wholly a Member Nonrecourse Liability for which such Member bears the economic risk of loss. This subsection 5.3.3 is intended to comply with the minimum gain chargeback requirement of Section 1.704-2(f) of the Treasury Regulations and will be interpreted consistently therewith;

5.3.4 Nonrecourse Deductions for any Fiscal Year will be allocated among the Members pro rata, in accordance with their Percentage Interests;

5.3.5 Member Nonrecourse Deductions for any Fiscal Year will be allocated to the Members who bear the economic risk of loss with respect to the Member Nonrecourse Liability to which such Member Nonrecourse Deductions are attributable in accordance with Section 1.704-2(i)(1) of the Treasury Regulations;

5.3.6 The proviso at the end of Section 5.1, and the allocations set forth in this Section 5.3, other than subsection 5.3.7 (the "Regulatory Allocations") are intended to comply

Case No. 74275

In the Supreme Court of Nevada

GEORGE STUART YOUNT, individually and in his capacity as owner of George Yount IRA,

Appellant,

vs.

CRISWELL RADOVAN, LLC, a Nevada limited liability company; CR CAL NEVA, LLC, a Nevada limited liability company; ROBERT RADOVAN; WILLIAM CRISWELL; CAL NEVA LODGE, LLC, a Nevada limited liability company; POWELL, COLEMAN AND ARNOLD, LLP; DAVID MARRINER; MARRINER REAL ESTATE, LLC, a Nevada limited liability company; and DOES 1-10.,

Respondent.

Electronically Filed
Mar 05 2019 08:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Second Judicial District Court, Washoe County, Nevada

The Honorable N. PATRICK FLANAGAN, District Judge

The Honorable JEROME POLAHA

The Honorable EGAN WALKER

District Court Case No. CV16-00767

APPELLANT'S APPENDIX

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DANIEL F. POLSENBERG (SBN 2376)

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ADRIENNE BRANTLEY-LOMELI (SBN 14,486)

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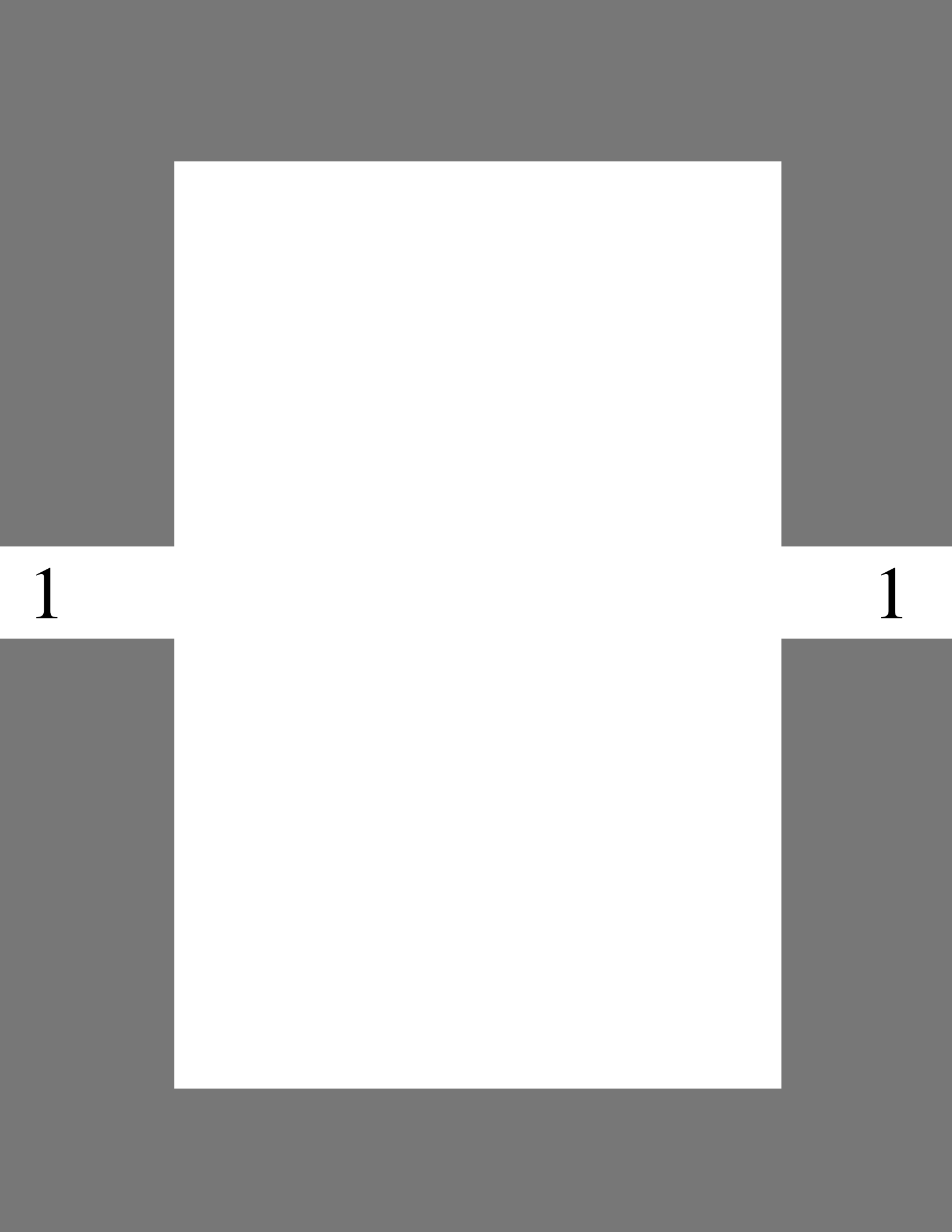
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JACQUELINE AUST
CLERK OF THE COURT
BY: *[Signature]*

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100 West Liberty, Suite 900
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Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

CASE NO.

CV16 00787

DEPT NO.

B7

COMPLAINT

(Exemption from Arbitration Requested)

PLAINTIFF GEORGE STUART YOUNT, individually and in his capacity as owner of
the GEORGE STUART YOUNT IRA (hereinafter "Plaintiff"), for their Complaint against
Defendants CRISWELL RADOVAN, LLC, a Nevada limited liability company; CR CAL
NEVA, LLC, a Nevada limited liability company; ROBERT RADOVAN; WILLIAM

CV16-00787
GEORGE S. YOUNT
District Court
Washoe County
DC-09900075675-013
ETAL VS CRI 14 Pages
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DOWNEY BRAND LLP

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1 CRISWELL; CAL NEVA LODGE, LLC, a Nevada limited liability company; POWELL,
2 COLEMAN and ARNOLD LLP; DAVID MARRINER; MARRINER REAL ESTATE, LLC, a
3 Nevada limited liability company (hereinafter "Defendants") and DOES 1 through 10, inclusive,
4 allege as follows:

5 **PARTIES**

6 1. Plaintiff George Stuart Yount is an individual who resides in Crystal Bay, Nevada.

7 2. The George Stuart Yount IRA is an IRA owned by George Stuart Yount, for which
8 Premiere Trust, Inc., serves as custodian.

9 3. Defendant Criswell Radovan, LLC ("Criswell Radovan") is a Nevada limited
10 liability company whose managers are Sharon Criswell, William Criswell and Robert Radovan,
11 and upon information and belief is the owner of CR Cal Neva, LLC.

12 4. Defendant CR Cal Neva, LLC ("CR") is a Nevada limited liability company
13 whose managing member is William Criswell, and upon information and belief is owned by
14 William Criswell, Robert Radovan and/or Criswell Radovan.

15 5. Defendant Robert Radovan ("Radovan") is an individual residing, upon
16 information and belief, in Napa, California, and doing business in Nevada both individually and
17 through various entities, including Defendants.

18 6. Defendant William Criswell ("Criswell") is an individual residing, upon
19 information and belief, in Napa, California, and doing business in Nevada both individually and
20 through various entities, including Defendants.

21 7. Defendant Cal Neva Lodge, LLC ("CNL") is a Nevada limited liability company
22 whose manager is Robert Radovan.

23 8. Powell, Coleman and Arnold LLP ("Powell Coleman") is a law firm located in
24 Dallas, Texas, who has and continues to represent CR and CNL as to the financing and
25 development of the Cal Neva Lodge located in Nevada and California (as referred herein, the
26 "Cal Neva Lodge", or "Project").

27 9. Defendant David Marriner ("Marriner") is an individual residing in Incline
28 Village, Nevada, and acting as an agent and/or broker for CNL, CR, Criswell Radovan, LLC, and

1 the Cal Neva Lodge.

2 10. Marriner Real Estate, LLC ("Marriner Real Estate") is a Nevada limited liability
3 company whose manager is David Marriner, and upon information and belief is solely owned by
4 David Marriner which has acted as an agent and/or broker for CNL, CR, Criswell Radovan, LLC,
5 and Cal Neva Lodge.

6 11. Plaintiff is ignorant of the true names and capacities of the DOES named herein as
7 DOES 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names.
8 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.
9 Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously named DOE
10 Defendants was, and continues to be, responsible in some manner for the acts or omissions herein
11 alleged.

12 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

13 12. On or about February 18, 2014, Marriner met with Plaintiff and told him about the
14 new owners and developers of the Cal Neva Lodge, primarily Radovan and Criswell and their
15 related entities, including Defendants, who were looking for investors to help fund a newly
16 formed Nevada LLC that would acquire, remodel and reopen the Cal Neva Lodge. Marriner
17 acted as and represented that he was the agent and broker for the new owner and their myriad
18 legal entities. Thereafter, for a period of several months, Marriner acting individually and as the
19 owner of Marriner Real Estate, kept in contact with Plaintiff and made numerous representations
20 about the Project, the development of the Cal Neva Lodge and Radovan and Criswell's successful
21 development history. Marriner also provided marketing and promotional materials related to the
22 Project, and tours of the Cal Neva Lodge, all intended to induce Plaintiff to become an investor in
23 the Project and Cal Neva Lodge.

24 13. On or about July 25, 2015, Radovan sent an email to Plaintiff providing numerous
25 documents and other information related to the Project and development of the Cal Neva Lodge,
26 including financial information, with the intent to induce the Plaintiff into purchasing a "Founders
27 Unit" in CNL for \$1,000,000, as CNL was serving as the primary development vehicle for the
28 Project.

1 14. Plaintiff was later provided a "Subscription Booklet" that included Subscription
2 Instructions, a member signature page, a certificate of nonforeign status, investor instruction to
3 escrow and wire transfer information and an IRS form W-9. Plaintiff was also informed that
4 there was still \$1,500,000 of Founders Units available for purchase of the \$20,000,000 of
5 Founders Units authorized under the Subscription Agreement and related offering materials.
6 Plaintiff reviewed the Subscription Booklet, and based on the information contained therein and
7 the representations made by Radovan, Criswell, Marriner, and their respective agents and entities,
8 including Defendants, decided to purchase a Founders Unit in the amount of \$1,000,000.
9 Plaintiff elected to utilize funds held by the George Stuart Yount IRA of Plaintiff for the purchase
10 of such Founders Unit.

11 15. On or about October 12, 2015, Plaintiff, as owner of the George Stuart Yount IRA,
12 and Deborah Erdman as Trust Officer for Premier Trust Inc., as the custodian of the George
13 Stuart Yount IRA, signed and delivered the Subscription Agreement. On October 13, 2015,
14 Criswell, as president of CR signed the Acceptance of Subscription as manager of CNL. On
15 October 15, 2015, Premier Trust Inc. on behalf of the George Stuart Yount IRA, wired the
16 amount of \$1,000,000 to the trust account of Powell Coleman, the designated escrow holder for
17 subscription funds under the Subscription Agreement. Pursuant to the Subscription Agreement
18 the \$1,000,000 was to be deposited into the account of CNL.

19 16. On or about December 12, 2015, a meeting of members and investors in the
20 Project was held at the Fairwinds Lodge near the Cal Neva Lodge. At that meeting, for the first
21 time, Plaintiff was informed of several issues that were not disclosed or were incorrectly
22 represented to him prior to his investment, primarily that the Project was substantially over
23 budget and the Cal Neva Lodge was not going to open as scheduled.

24 17. The revelations at the December 12, 2015 meeting caused great concern to the
25 Plaintiff and the members and investors. Additionally, at that time, the bank statements of CNL
26 did not reflect that the \$1,000,000 had been deposited into any CNL account.

27 18. On or about January 22, 2016, Plaintiff received a Capitalization Table for CNL
28 indicating that his \$1,000,000 investment was not in CNL, but was within the \$2,000,000 equity

1 investment of CR in CNL. Plaintiff immediately responded that was in error and that his intent
2 all along, and the terms of the Subscription Agreement, provided for his purchase of a Founders
3 Unit under the Subscription Agreement as was evidenced by the fully executed Subscription
4 Agreement delivered by Plaintiff to CNL. Plaintiff had never entered into any verbal or written
5 agreement to buy any portion of the CR's Founder's Units in CNL. Plaintiff then requested that
6 the Capitalization Table be corrected to reflect that he was a holder of a \$1,000,000 Founders
7 Unit in CNL, as provided by the Subscription Agreement.

8 19. Based on these series of events, Plaintiff then started inquiring into the
9 whereabouts of his \$1,000,000.

10 20. On or about February 2, 2016, Plaintiff received an email from Bruce Coleman, a
11 partner of Powell Coleman, with attached documents, apparently drafted by Powell Coleman,
12 consisting of an Assignment of Interest in Limited Liability Company (backdated to October 13,
13 2015), Resolution of Members of CNL approving such assignment, and a Purchase Agreement
14 for CR to repurchase from Plaintiff the one-half of CR's equity position in CNL, which was
15 asserted by Powell Coleman to have been transferred to Plaintiff for \$1,000,000, which
16 agreement also classified Plaintiff's \$1,000,000 as a loan from Plaintiff to CR. Basically these
17 assignment documents set forth that the Subscription Agreement had been erroneously executed
18 and that the parties actually intended for the Plaintiff to purchase an interest in CR's Founder
19 Units in CNL, which was neither the intent nor agreement of the parties. Plaintiff responded to
20 Mr. Coleman expressly representing that it was never his intent, nor the agreement of the parties,
21 to purchase any portion of CR's interest in CNL, and that the only agreement and intent was to
22 purchase a Founders Unit in CNL in accordance with the Subscription Agreement, as evidenced
23 by his signed Subscription Agreement.

24 21. On or about March 16, 2016, Plaintiff sent an email to Mr. Coleman inquiring as
25 to the whereabouts of his \$1,000,000. After a series of emails between Plaintiff and Mr.
26 Coleman, Mr. Coleman disclosed that the \$1,000,000 had been transferred to CR on October 14,
27 2015, because "I was told by CR that it had sold 50% of its \$2m interest in Cal Neva Lodge, LLC
28 to you for \$1m and that the payment would be transferred through my trust account. At the time

1 of this transaction Cal Neva Lodge had already sold all of the shares it was authorized to sell
2 under the terms of its Operating Agreement, so I had no reason to question the sale of a portion of
3 CR's interest to you." As of March 16, 2016, Mr. Coleman, upon Plaintiff's information and
4 belief, had in his possession the executed Subscription Agreement of October 13, 2015 with
5 attached escrow instructions. Those escrow instructions directed that Powell Coleman was the
6 escrow holder and specifically set forth that the \$1,000,000 from Plaintiff be retained in the
7 escrow account until such time as certain conditions were met, at which time the funds were to be
8 deposited into CNL. Plaintiff then asked Mr. Coleman for any documentation demonstrating that
9 CR had sold 50% of its interest to him and authorizing that the payment would be transferred
10 through his trust account. No such documentation was ever provided by Mr. Coleman.

11 22. Plaintiff has made repeated demands on Criswell and Radovan and their respective
12 entities, including Defendants, for repayment of his \$1,000,000 and has yet to be repaid.

13 **FIRST CAUSE OF ACTION**

14 **(Breach of Contract against CR Cal Neva LLC, Cal Neva Lodge, LLC and Criswell
Radovan, LLC)**

15 23. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the
16 allegations in paragraphs 1 through 22 above.

17 24. The Subscription Agreement Plaintiff signed on October 13, 2015, which was
18 countersigned by Criswell on October 14, 2015, was a binding contract which required the
19 Plaintiff's \$1,000,000 to be held in escrow and then either deposited into the account of CNL if
20 certain conditions were met, and if not, returned to the Plaintiff. If, as represented by counsel for
21 CNL, the authorized capital of CNL, the terms of the offering, or the operating agreement for
22 CNL prohibited the purchase by the Plaintiff, then the \$1,000,000 should have been returned to
23 the Plaintiff as directed in the Subscription Agreement. The \$1,000,000 was not returned to
24 Plaintiff; it was instead deposited into an account of CR without any authorization by Plaintiff or
25 any agreement for such a transfer. The actions by CR and its agents and/or attorneys constituted
26 a breach of the Subscription Agreement causing damage to the Plaintiff in an amount in excess
27 \$1,000,000.

28 //

SECOND CAUSE OF ACTION

(Breach of Duty Against Defendant Powell Coleman and Arnold LLP)

25. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 24 above.

26. Powell Coleman is the designated escrow holder for investor purchases under the Subscription Agreement for shares of CNL. As such, Powell Coleman had a duty, fiduciary, statutory or otherwise, (1) to comply with all provisions of the Subscription Agreement and the Investor's Instructions to Escrow and Wire Transfer Information, a copy of which is attached to this Complaint and incorporated herein as **Exhibit 1**, and (2) to insure that Plaintiff's \$1,000,000 was only released from escrow upon specific instructions from the Plaintiff.

27. On or about October 14, 2015, Powell Coleman received a wire transfer for \$1,000,000 into their trust account from Premier Trust Inc., on behalf of and as custodian of the George Stuart Yount IRA.

28. On October 15, 2015, Powell Coleman negligently distributed and transferred Plaintiff's \$1,000,000 to CR without Plaintiff's consent and without any documentation evidencing that the \$1,000,000 was for a purchase agreement between CR and Plaintiff and that payment was to go through the Powell Coleman Trust Account. Such transfer of Plaintiff's \$1,000,000 was a breach of the duty that Powell Coleman, as an escrow holder, had to Plaintiff. Such breach of duty has caused Plaintiff damages in excess of \$1,000,000.

THIRD CAUSE OF ACTION

(Fraud Against Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David Marriner; and Marriner Real Estate, LLC)

29. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 28 above.

30. Defendants knowingly made fraudulent misrepresentations or material omissions of fact to Plaintiff intended to induce Plaintiff into contributing \$1,000,000 to obtain a Founders Unit in CNL. Such fraudulent misrepresentations include, but are not limited to, that the Cal Neva Lodge would open on or near the end of 2015; that the Project was only slightly over

1 budget; that a refinancing of the \$6,000,000 mezzanine financing with a \$15,000,000 loan was in
2 place or imminent; that the developers had a successful track record of developing similar
3 projects; that the developers would not receive distributions or other payments related to the
4 Project until after the preferred returns and equity investments were paid or returned to the
5 investors; and, that there was \$1,500,000 left under the offering authorized and contemplated by
6 the Subscription Agreement and related offering documents for purchase of a Founders Unit by
7 Plaintiff.

8 31. Prior to Plaintiff signing the Subscription Agreement, there was also a material
9 omission by Defendants, and Defendants failed to disclose, that CNL's liabilities exceeded its
10 assets, and that Project was in fact in need of capital because the general contractor and numerous
11 sub-contractors had not been paid. Plaintiff was not aware of the inaccuracy of the
12 representations by Defendants, or the material omissions by Defendants, and was never informed
13 prior to his investment that the Project was in serious financial trouble, that the offering
14 contemplated by the Subscription Agreement and related offering documents was fully
15 subscribed, and that the offering limit of \$20,000,000 had already been met when he signed the
16 Agreement.

17 32. Plaintiff justifiably relied on the representations by Defendants and would not have
18 made the investment had he known the true status and details of the Project or CNL. Plaintiff
19 suffered damages from Defendants' fraud in excess of \$1,000,000.

20 **FOURTH CAUSE OF ACTION**

21 **(Negligence Against Defendant Powell, Coleman and Young LLP)**

22 33. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the
23 allegations in paragraphs 1 through 32 above.

24 34. Defendant Powell Coleman had a duty as attorneys serving as escrow holder of
25 Plaintiff's \$1,000,000 to insure that distribution of that amount was done in accordance with the
26 Subscription Agreement and Plaintiff's authorized and intended use for such funds. Powell
27 Coleman's transfer of those funds to its client, CR, without any express written authorization
28 from Plaintiff, was the proximate cause of Plaintiff's damages that are in excess of \$1,000,000.

FIFTH CAUSE OF ACTION**(Conversion against CR Cal Neva, LLC, William Criswell, Robert Radovan and Criswell Radovan, LLC)**

35. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 34 above.

36. Defendants wrongfully exercised dominion over Plaintiff's \$1,000,000 when it instructed their attorneys, Powell Coleman, to transfer Plaintiff's \$1,000,000 out of Powell Coleman's trust account and into the possession of Defendants. Plaintiff had never authorized such transfer, nor executed any documents allowing such transfer, and such act to direct the transfer of funds was in derogation of Plaintiff's ownership of such funds. Such Conversion caused Plaintiff damages in excess of \$1,000,000.

SIXTH CAUSE OF ACTION**(Punitive Damages against all Defendants)**

37. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 36 above.

38. Defendants Criswell Radovan, CR, Criswell, Radovan, Marriner and Marriner Real Estate's actions were fraudulent and in conscious disregard of Plaintiff's rights with the express malicious intent of causing harm to Plaintiff, and as such Plaintiff should be entitled to punitive damages.

39. Defendant Powell Coleman was specifically engaged in the business of administering escrows in Nevada and acting as an escrow agent for a Nevada business transaction, involving a Nevada property and holding money for residents of Nevada, without having procured a Nevada license to act as an escrow agent. As such Nevada Revised Statute 645A.222(2) authorizes an action for an award of punitive damages.

SEVENTH CAUSE OF ACTION**(Claim for Fraud under NRS 90.570 in the Offer, Sale and Purchase of a Security against Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David Marriner; and Marriner Real Estate, LLC)**

40. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 39 above.

1 41. Defendants knowingly made fraudulent misrepresentations and/or material
2 omissions of fact to Plaintiff intended to induce Plaintiff into contributing \$1,000,000 to obtain a
3 Founders Unit in CNL. Such fraudulent misrepresentations include, but are not limited to, that
4 the Cal Neva Lodge would open on or near the end of 2015; that the Project was only slightly
5 over budget; that a refinancing of the \$6,000,000 mezzanine financing with a \$15,000,000 loan
6 was in place or imminent; that the developers had a successful track record of developing similar
7 projects; that the developers would not receive distributions or other payments related to the
8 Project until after the preferred returns and equity investments were paid or returned to the
9 investors; and, that there was \$1,500,000 left under the Subscription Agreement and related
10 offering documents for purchase of a Founders Unit by Plaintiff.

11 42. Prior to Plaintiff signing the Subscription Agreement, there was also a material
12 omission by Defendants, and Defendants failed to disclose, that CNL's liabilities exceeded its
13 assets, and that Project was in fact in need of capital because the general contractor and numerous
14 sub-contractors had not been paid. Plaintiff was not aware of the inaccuracy of the
15 representations by Defendants, or the material omissions by Defendants, and was never informed
16 prior to his investment that the Project was in serious financial trouble, that the offering
17 contemplated by the Subscription Agreement and related offering documents was fully
18 subscribed, and that the offering limit of \$20,000,000 had already been met when he signed the
19 Agreement.

20 Plaintiff justifiably relied on the representations by Defendants and would not have made
21 the investment had he known the true status and details of the Project or CNL. Plaintiff suffered
22 damages from Defendants' fraud in excess of \$1,000,000.

23 //

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For damages against Defendants in excess of \$1,000,000;
2. For punitive damages provided for by law;
3. For interest on the judgment as provided by law;
4. An award of attorneys' fees as provided for by law and under NRS 645A.222 and NRS 90.660(3);
5. Costs of the suit herein incurred; and,
6. For other such relief as the Court may deem just and proper.

DATED: April 1, 2016.

DOWNEY BRAND LLP

By: 

RICHARD G. CAMPBELL, JR.
Attorney for Plaintiff

DOWNEY BRAND LLP

000011

1 **VERIFICATION**

2 STATE OF NEVADA)
) ss.
 3 COUNTY OF WASHOE)

4 I, GEORGE STUART YOUNT, declare:

5 I am the Plaintiff in the above-entitled action.

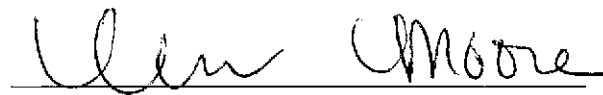
6 I have read the foregoing COMPLAINT on file herein and know the contents thereof.
 7 The same is true of my own knowledge, except as to those matters which are therein stated on
 8 information and belief, and, as to those matters, I believe them to be true.

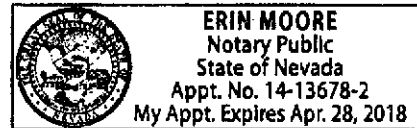
9 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
 10 is true and correct.

11 DATED this 1 day of April, 2016.


 GEORGE STUART YOUNT

12
 13
 14 Subscribed and sworn to before me,
 15 this 1st day of April, 2016.

16 
 17 NOTARY PUBLIC
 18 Commission Expires: 4/28/18



DOWNNEY BRAND LLP

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, filed in this case:
COMPLAINT;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

 (State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: April 7, 2016.

DOWNEY BRAND LLP

By: 

DOWNEY BRAND LLP

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EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	LENGTH
1	Subscription Agreement	14 pages

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DOWNEY BRAND LLP

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Exhibit 1

SV16-00767 DC-09900075675-014
GEORGE S. YOUNT ETAL VS CRI 15 Pages
District Court 04/04/2016 02:39 PM
Washoe County \$1422
1000015

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Exhibit 1

SUBSCRIPTION BOOKLET

(for Founding Members)

000016

CAL NEVA LODGE, LLC

SUBSCRIPTION INSTRUCTIONS

EACH POTENTIAL INVESTOR WHO WISHES TO SUBSCRIBE FOR FOUNDERS UNITS MUST COMPLETE, EXECUTE AND RETURN TO THE COMPANY THE FOLLOWING DOCUMENTS CONTAINED IN THIS SUBSCRIPTION BOOKLET (AS APPLICABLE):

- (1) A Subscription Agreement;
- (2) A Member Signature Page and Power of Attorney;
- (3) A Certificate of Nonforeign Status (for Members who are individuals);
- (4) A Certificate of Nonforeign Status (for Members who are entities);
- (5) Investor's Instructions to Escrow and Wire Transfer Information; and
- (6) IRS Form W-9.

ALSO, IF APPLICABLE, PLEASE DELIVER THE FOLLOWING:

IF THE POTENTIAL INVESTOR IS A TRUST, INCLUDE A COPY OF THE TRUST AGREEMENT.

IF THE POTENTIAL INVESTOR IS A PARTNERSHIP, INCLUDE A COPY OF THE SIGNED PARTNERSHIP AGREEMENT, AND A COMPLETED SUBSCRIPTION AGREEMENT FOR EACH PARTNER.

IF THE POTENTIAL INVESTOR IS A CORPORATION, INCLUDE A COPY OF THE BOARD RESOLUTION DESIGNATING THE CORPORATE OFFICER AUTHORIZED TO SIGN ON BEHALF OF THE CORPORATION AND AUTHORIZING THE INVESTMENT AND THE CORPORATION'S MOST RECENT FINANCIAL STATEMENTS.

IF POTENTIAL INVESTOR IS A LIMITED LIABILITY COMPANY, INCLUDE A COPY OF THE SIGNED OPERATING AGREEMENT AND THE ARTICLES OF ORGANIZATION OR CERTIFICATE OF FORMATION, AS FILED, AND A COMPLETED SUBSCRIPTION AGREEMENT FOR EACH MEMBER AND EACH MANAGER.

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SUBSCRIPTION AGREEMENT

TO: **CAL NEVA LODGE, LLC,**
 a Nevada limited liability company
 c/o CR Cal Neva, LLC
 1336-D Oak Street
 St. Helena, California 94574

Potential Investor:

The undersigned (the "Purchaser"), by completing and executing this Subscription Agreement and the Member Signature Page and Power of Attorney, hereby tenders this subscription and applies for the purchase of the number of Founders Units (the "Founders Units") of CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company"), set forth below the Purchaser's signature hereto, at a price of \$1,000,000 per Founders Unit (the "Purchase Price"). The Purchaser hereby acknowledges receipt of a copy of the Company's Confidential Private Placement Memorandum, dated _____ (the "Memorandum").


The Purchaser (or, if the Purchaser is signing in a fiduciary capacity, the person or persons for whom the fiduciary is signing) hereby represents and warrants to the Company that:

(a) The Purchaser is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act"). The specific category or categories of "accredited investor" applicable to the Purchaser are as follows:

A. AND B. ARE APPLICABLE TO INDIVIDUALS (Please INITIAL applicable blanks):

- A. _____ The Purchaser is a natural person and has a net worth, either alone or with the Purchaser's spouse, of more than \$1,000,000 (*excluding* the value of Purchaser's primary residence).
- B. _____ The Purchaser is a natural person and had income in excess of \$200,000 (\$300,000 including income of spouse) during each of the previous two years and expects to have income in excess of such amounts during the current year.

C. THROUGH F. ARE APPLICABLE TO NON-INDIVIDUALS (Please INITIAL applicable blanks):

- C. _____ The Purchaser is a trust with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the Founders Units, and the purchase is directed by a person meeting the criteria described in Subsection (g) below.
- D.  The Purchaser is an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 that either (i) has its investment decisions made by a plan fiduciary, as defined by Section 3(21) of such Act, which is a bank, savings and loan association, insurance company or a registered investment adviser, or (ii) has total assets in excess of \$5,000,000 or, if a self-directed plan, the investment decisions are made solely by persons who are accredited investors as described herein.
- E. _____ The Purchaser is an entity (*excluding* a trust UNLESS it is a revocable grantor trust) in which all of the equity owners are accredited investors within categories A and B above.

F. _____ The Purchaser is a corporation, or a partnership, not formed for the specific purpose of acquiring the Founders Units, with total assets in excess of \$5,000,000.

(b) The Purchaser understands that the Company has not registered the Founders Units under the Securities Act, or qualified the Founders Units under the applicable securities laws of any state, in reliance on exemptions from registration and qualification, and the Purchaser understands that such exemptions depend in large part on the Purchaser's investment intent at the time the Purchaser acquires the Founders Units;

(c) The Founders Units subscribed for herein will be acquired for the Purchaser's own account, for investment and not for resale or distribution to any person, corporation, or other entity, and the Purchaser has no intention of distributing or reselling the Founders Units;

(d) The Purchaser acknowledges that any disposition of the Founders Units is subject to restrictions imposed by federal and state law and that the certificates representing the Founders Units will bear a restrictive legend. The Purchaser also recognizes that the Founders Units cannot be disposed of by the Purchaser, absent registration and qualification, or an available exemption from registration and qualification, and that no undertaking has been made with regard to registering or qualifying the Founders Units in the future. The Purchaser understands that the availability of an exemption in the future will depend in part on circumstances outside the Purchaser's control and that the Purchaser may be required to hold the Founders Units for a substantial period. The Purchaser recognizes that no public market exists with respect to the Founders Units and no representation has been made to the Purchaser that such a public market will exist at a future date. The Purchaser understands that no state securities administrator or commissioner has made any finding or determination relating to the fairness for investment of the Founders Units and that no such administrator or commissioner has or will recommend or endorse the Founders Units;

(e) The Purchaser has not seen or received any advertisement or general solicitation with respect to the sale of the Founders Units;

(f) The Purchaser believes, by reason of the Purchaser's business or financial experience, that the Purchaser is capable of evaluating the merits and risks of this investment and of protecting the Purchaser's interest in connection with this investment;

(g) The Purchaser acknowledges that prior to acquiring the Founders Units, the Purchaser has been provided with financial and other written information about the Company and the terms and conditions of the offering. The Purchaser has been given the opportunity by the Company to obtain such information and ask such questions concerning the Company, the Founders Units and the Purchaser's investment as the Purchaser felt necessary, and to the extent the Purchaser took such opportunity, the Purchaser received satisfactory information and answers. If the Purchaser requested any additional information which the Company possessed or could acquire without unreasonable effort or expense which was necessary to verify the accuracy of the financial and other written information furnished to the Purchaser by the Company, such additional information was provided to the Purchaser and was satisfactory. In reaching the conclusion to acquire the Founders Units, the Purchaser has carefully evaluated the Purchaser's financial resources and investment position and the risks associated with this investment, and the Purchaser acknowledges that the Purchaser is able to bear the economic risks of this investment. The Purchaser further acknowledges that the Purchaser's financial condition is such that the Purchaser is not under any present necessity or constraint to dispose of the Founders Units to satisfy any existing or contemplated debt or undertaking;

(h) The Purchaser hereby accepts full and sole responsibility for all state and federal tax consequences which may result from the Purchaser's acquisition of the Founders Units;

(i) The Purchaser, if subject to the Employee Retirement Income Security Act of 1974 ("ERISA"), has taken into consideration the diversification requirements of ERISA prior to making an investment in the Founders Units;

(j) The Purchaser, if executing this Subscription Agreement and the Member Signature Page and Power of Attorney in a representative or fiduciary capacity, has full power and authority to execute and deliver this Subscription Agreement, the Operating Agreement and the Member Signature Page and Power of Attorney on behalf of the subscribing individual, partnership, trust, estate, corporation, or other entity for whom the Purchaser is executing such

documents, and such individual, partnership, trust, estate, corporation, or other entity has full right and power to perform pursuant to such documents and to become a member in the Company pursuant to the Operating Agreement;

(k) The Purchaser has thoroughly read the Memorandum and all documents attached thereto, and understands the contents of such documents. The Purchaser is familiar with the Company's business objectives and financial arrangements in connection therewith and believes the Founders Units that the Purchaser is purchasing are the kind of securities that the Purchaser wishes to hold for investment and that the nature and purchase price of the Founders Units are consistent with the Purchaser's investment program. No representations or warranties have been made to the Purchaser regarding this investment contrary to those contained in the Memorandum and attached documents, and the Purchaser agrees to inform the Company if the Purchaser learns that any statements made to the Purchaser in connection with the Purchaser's investment in the Company are untrue. The information set forth herein is true and correct;

(l) The Purchaser acknowledges and agrees that the Purchaser is not entitled to cancel, terminate or revoke this Subscription Agreement or any of the Purchaser's agreements hereunder and that this Subscription Agreement and any other agreements made hereby shall survive Purchaser's death or disability; and

(m) The Purchaser has such knowledge and experience in financial and business matters and in investments to be capable of evaluating the merits and risks of the investment in the Founders Units.

In addition, the Purchaser:

- (1) Understands that the Founders Units being acquired will be governed by the Operating Agreement;
- (2) Understands that the Company shall have the right to accept or reject this subscription in whole or in part in its sole and absolute discretion;
- (3) Understands that no public market for the Founders Units exists, or is likely to develop, and that it may not be possible to liquidate this investment readily, if at all, in the case of an emergency or for any other reason;
- (4) Understands that the Founders Units are subject to transfer restrictions as set forth in the Operating Agreement;
- (5) Acknowledges that to extent desired the Purchaser has consulted with the Purchaser's financial, business and tax advisers before executing this Subscription Agreement;
- (6) Acknowledges and agrees that a breach by the Purchaser of any of the Purchaser's representations made herein which results in a loss by the Company of the exemptions from registration and qualification requirements under applicable federal and state securities laws will cause the Purchaser to be liable to the Company for all damages and losses caused thereby;
- (7) If the consideration to be delivered is cash, Purchaser agrees to deliver the Purchase Price via bank wire transfer to the Company (or directly to the designated third-party escrow for the benefit of the Company, as applicable), see wire transfer instructions attached hereto, no later than three days after delivery of email notice by the Company to the Purchaser (the "Funding Notice") and acknowledges that the Purchaser's failure to timely deliver the Purchase Price will materially and adversely affect the Offering, the other investors and the Company and that the Purchaser will be responsible for all damages and losses that result from the Purchaser's failure to timely deliver the Purchase Price; and
- (8) Acknowledges and agrees that any funds delivered by the Purchaser to a designated third-party escrow for the benefit of the Company will be delivered to the Company (not Purchaser) upon either the termination or successful closing of the Offering, and that such funds will be returned to Purchaser by the Company only if the Company at the time of termination has not accepted subscriptions of at least \$14,000,000 (the "Offering Minimum").

This Subscription Agreement and all rights hereunder, shall be governed by, and interpreted in accordance with, the laws of the State of Nevada.

[Signature Page Follows]

IN WITNESS WHEREOF, the Purchaser has duly executed and delivered this Subscription Agreement effective as of the date set forth below.

Date: 10-12, 2015

[CORPORATION/TRUST]

"PURCHASER"
Premier Trust, Inc. Custodian FBO

George Stuart Young, IRA

By: Deb Erdmann

Title: DEBORAH ERDMANN
VP / TRUST OFFICER

By: _____

Title: _____

Address: Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

EMAIL ADDRESS: KKlein @ PremierTrust.com

Taxpayer ID No.: 1761

Subscription Amount: \$ 1,000,000.00

Number of Founders Units (\$1,000,000 Each): _____

I hereby confirm that the trust named above is a revocable grantor trust in which each of the grantors is an individually accredited investor as described in Sections (a) A. or B. of this Subscription Agreement.

By: _____

Title: _____

ACCEPTANCE OF SUBSCRIPTION

THE FOREGOING SUBSCRIPTION IS HEREBY ACCEPTED FOR 1 FOUNDERS UNITS.

DATED: Oct 13, 2015

CAL NEVA LODGE, LLC

By: CR CAL NEVA, LLC, a Nevada limited liability
company, Manager

By: 

Title: President

Form W-9
(Rev. August 2013)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Name (as shown on your income tax return)
Premier Trust, Inc. Custodian FBO George Stuart Young, IRA

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____
☒ Other (see instructions) ▶ _____

Exemptions (see instructions):
 Exempt payee code (if any) _____
 Exemption from FATCA reporting code (if any) _____

Address (number, street, and apt. or suite no.)
Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

City, state, and ZIP code

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

			-			-			
--	--	--	---	--	--	---	--	--	--

Employer identification number

								1	7
								6	1

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below), and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ Dub E. [Signature] Date ▶ 10/12/15

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on www.irs.gov/w9 for information about Form W-9, at www.irs.gov/w9. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

MEMBER SIGNATURE PAGE AND POWER OF ATTORNEY

CAL NEVA LODGE, LLC,
a Nevada limited liability company

The undersigned, desiring to become a Member of **CAL NEVA LODGE, LLC**, a Nevada limited liability company (the "Company") hereby agrees to all of the terms and conditions of the Amended and Restated Operating Agreement of the Company (the "Operating Agreement") referred to, described in, and attached as an Exhibit to, the Company's Confidential Private Placement Memorandum dated 10-12-15 (the "Memorandum"), and agrees to be bound thereby. Any capitalized term contained herein that is not defined herein shall have the meaning set forth in the Operating Agreement.

The undersigned further grants to the Manager of the Company (the "Manager"), a special Power of Attorney irrevocably making, constituting and appointing the Manager as the undersigned's attorney-in-fact with full power of substitution with power and authority to act in the undersigned's name and on the undersigned's behalf, to execute, acknowledge and swear to in the execution, acknowledgment, and filing of documents which shall include, by way of illustration but not of limitation, the following:

- (a) The Operating Agreement of the Company, any amendments to the foregoing which, under the laws of the State of California or the laws of any other state, are required to be executed or filed or which the Company deems to be advisable to execute or file;
- (b) Any other instrument or document which may be required to be filed by the Company under the laws of any state or by any governmental agency;
- (c) Any instrument or document which may be required to effect the continuation of the Company, the admission of an additional or substituted Members, or the dissolution and termination of the Company (provided the continuation, admission or dissolution and termination are in accordance with the terms of the Operating Agreement) or to reflect any reduction in the amount of capital contributions of the Members; and
- (d) Any other documents deemed by the Manager to be necessary for the business of the Company.

The Power of Attorney granted hereby is a special Power of Attorney coupled with an interest, is irrevocable, shall survive the death or incapacity of the undersigned and is limited to the matters set forth herein. This special Power of Attorney may be exercised by the Manager, acting for the undersigned by a facsimile signature of the Manager; this Power of Attorney shall survive an assignment by the undersigned of all or any portion of the undersigned's Founders Units, but only until the assignee of the Founders Units is recognized as the owner of the Founders Units as set forth in the Operating Agreement.

[Signature Page Follows]

THIS SUBSCRIPTION IS FOR 1 FOUNDERS UNITS (\$1,000,000.00 EACH).

TOTAL INVESTMENT AMOUNT: \$ 1,000,000.00

Executed on 10-12, 2015, at Las Vegas, Nevada

Signature of Subscriber

[Handwritten Signature]

Signature of Subscriber

Social Security Nos.: 1761

Driver's License Nos. _____

Email Address: KKlein@PremierTrust.com

Home Address: Premier Trust, Inc.
 City: 4465 S. Jones Boulevard State: _____
Las Vegas, NV 89103
 Zip: _____

Home Phone: () _____

Business Address: Premier Trust, Inc.
 City: 4465 S. Jones Boulevard State: _____
Las Vegas, NV 89103
 Zip: _____

Business Phone: (702) 507-0750

REGISTRATION:

PLEASE PRINT YOUR NAME(S) EXACTLY AS YOUR FOUNDERS UNITS ARE TO BE REGISTERED:

TITLE REGISTRATION PREFERENCE

CHECK ONE

- A. ☐ Individual Ownership
 B. ☐ Joint Tenants with Right of Survivorship (ALL MUST SIGN)
 C. ☐ Trust (Date Trust Established _____)
 D. ☐ Partnership
 E. ☐ Community Property
 F. ☐ Tenants in Common (ALL MUST SIGN)
 G. ☐ Corporation
 H. ☐ Limited Liability Company
 I. ☒ Other Retirement Plan I, et al

CERTIFICATE OF NONFOREIGN STATUS

Members That Are Entities

Section 1446 of the Internal Revenue Code provides that a limited liability company taxed as a partnership must pay a withholding tax to the Internal Revenue Service with respect to a member's allocable share of such limited liability company's effectively connected taxable income, if the member is a foreign person. To inform CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company") that the provisions of Section 1446 do not apply, the undersigned hereby certifies on behalf of Premier Trust, Inc. Custodian FBC (name of entity) (the "Member") the following: George Stuart Grant, III

1. The Member is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. The Member's U.S. employer identification number is: 1761; and

3. The Member's principal office address is: Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89108

The Member hereby agrees to notify the Company within 60 days of the date the Member becomes a foreign person and agrees to execute a new Certificate of Nonforeign Status from time to time as required by the Company. The Member understands that this certification may be disclosed to the Internal Revenue Service by the Company and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of the Member.

Dated: 10-12, 2015

(Please print name of Member)

By: Deb Erdmann

Title: DEBORAH ERDMANN
VP / TRUST OFFICER

(Please print name and title of person signing this Certificate)

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INVESTOR'S INSTRUCTION TO ESCROW AND WIRE TRANSFER INFORMATION

I hereby instruct Powell Coleman & Arnold LLP ("Escrow Holder") to accept the sum of \$ 1,200,000. This sum is my investment in Cal Neva Lodge, LLC (the "Company"). I direct that this sum be placed in an escrow (the "Escrow") and retained by Escrow Holder until such time as either subscriptions for 14 Units are accepted and deposited into the Escrow representing a total sum of \$14,000,000 or the subscription period sooner expires by its terms under the Subscription Agreement, now scheduled for expiration on April 30, 2014 (unless extended for up to 90 days by the Company) (the "Termination Date"). Escrow Holder's wire transfer information is set forth below.

In the event that the total amount held in the Escrow reaches \$14,000,000, I further instruct Escrow Holder to disburse my funds deposited into the Escrow to the Company or its designated representative or agent. I acknowledge having read the Subscription Agreement and Confidential Private Placement Memorandum copies of which I received from the Company.


If, before the Termination Date, the amount deposited into the Escrow has not reached \$14,000,000, I direct Escrow Holder to return my investment of \$ 1,200,000 by check directly to me at the following address:

Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

By my signature below I agree that Escrow Holder has no duty to me other than to disburse the funds contained in the Escrow as instructed when one or the other of the above described events occurs. I further advise Escrow Holder that I have given the Manager of the Company a power of attorney to act for me in all matters related to the Escrow with the exception of modifying or canceling all Escrow Instructions, which modification or cancellation must be in a writing signed by all of the Investors unless all of the monies deposited into the Escrow are returned to the respective investor in connection with such modification or cancellation.

Premier Trust, Inc. Custodian FBO

Date: 10-12, 2015


Investor Signature DEBORAH ERDMANN
SSN: 1741
Telephone No.: 702 507 0710
VP / TRUST OFFICER

Investor Signature _____
SSN: _____
Telephone No.: _____

Escrow Holder's Wire Transfer Information:

BBVA Compass Bank
8080 N. Central Expressway
Dallas, Texas 75206

Powell Coleman & Arnold LLP
IOLTA Account No.: 3816
ABA No.: 7445

**Corporate Resolution
of
Premier Trust, Inc.**

A Board of Directors Resolution executed on July 24, 2001 appointed and resolved the following named individual be empowered to sign documents on behalf of the Corporation:

Mark Dreschler

President, Secretary, Treasurer

AND, a Board of Directors Resolution executed on April 15, 2010, appointed and resolved the following named individual be empowered to sign documents on behalf of the Corporation:

Nancy Dirk

Assistant Treasurer

AND, a Board of Directors Resolution executed on April 15, 2010, appointed and resolved the following named individual be empowered to sign documents on behalf of the Corporation:

Stacy Libbey

Assistant Secretary

AND, a Board of Directors Resolution executed on April 1, 2015, appointed and resolved the following named individuals be empowered by this Corporate Resolution to sign documents as the Fiduciary, pursuant to the governing document, on behalf of the Corporation:



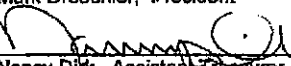
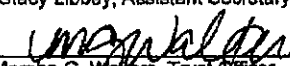

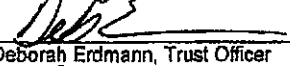

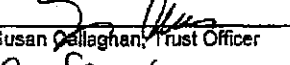
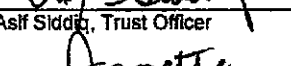
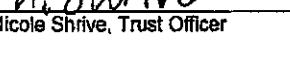
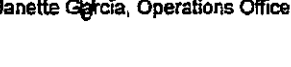
Kathleen M. Allinger	Trust Officer
Marsha G. Walters	Trust Officer
Deborah Erdmann	Trust Officer
Brian Simmons	Trust Officer
Susan Callaghan	Trust Officer
Asif Siddiq	Trust Officer
Nicole Shrive	Trust Officer
Janette Garcia	Operations Officer

I, Stacy Libbey, was duly appointed Assistant Secretary of Premier Trust Inc. on April 15, 2010. I do hereby certify that said Resolution dated April 1, 2015 is in force and effect at this time.

April 1, 2015
Date

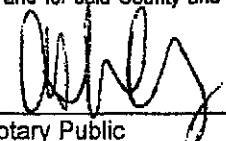

Stacy Libbey, Assistant Secretary

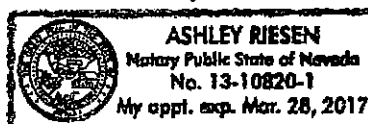
The following specimen signatures are provided for your reference:

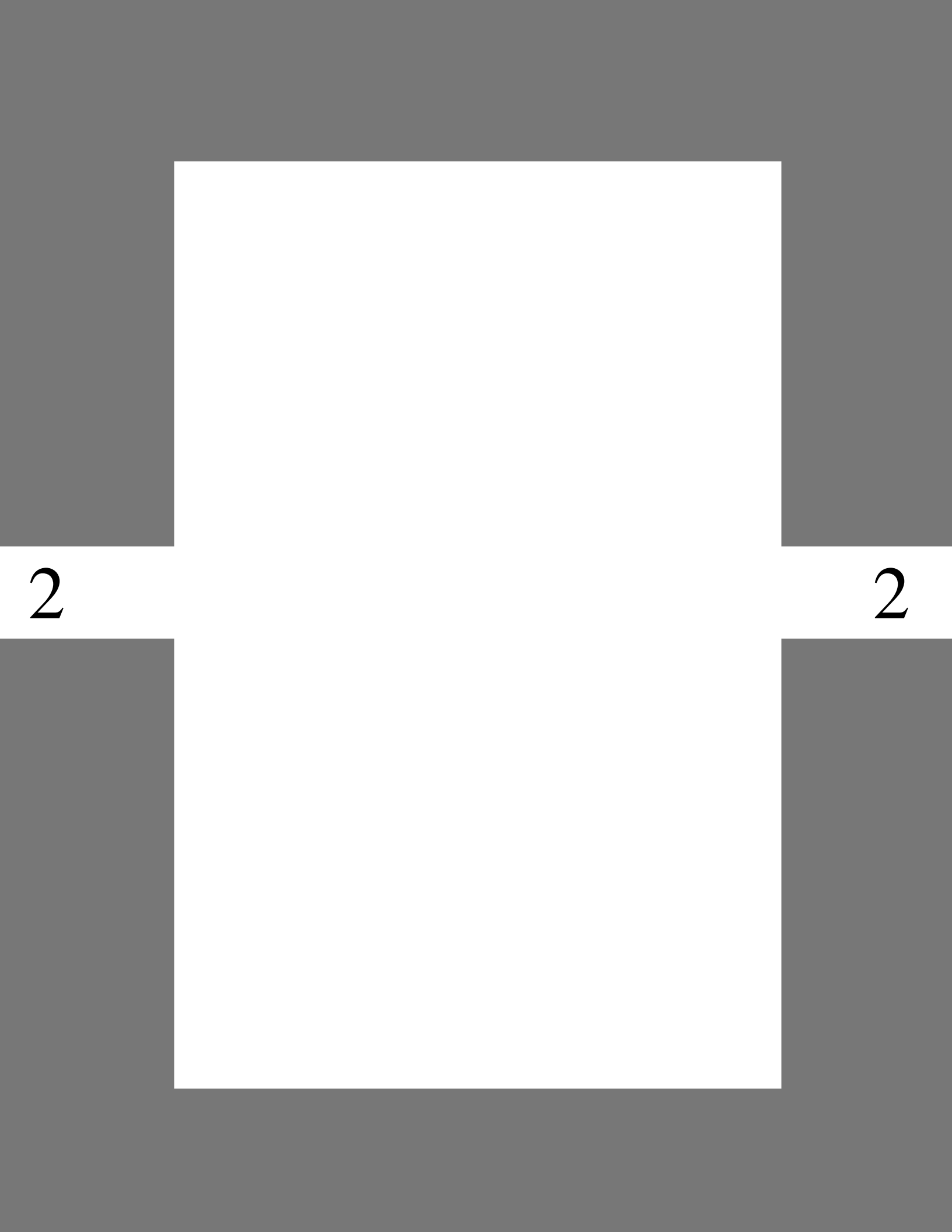
 Mark Dreschler, President	 Stacy Libbey, Assistant Secretary
 Nancy Dirk, Assistant Treasurer	 Marsha G. Walters, Trust Officer
 Kathleen M. Allinger, Trust Officer	 Deborah Erdmann, Trust Officer
 Brian Simmons, Trust Officer	 Susan Callaghan, Trust Officer
 Asif Siddiq, Trust Officer	 Nicole Shrive, Trust Officer
 Janette Garcia, Operations Officer	

STATE OF NEVADA } ss:
COUNTY OF CLARK }

On April 1, 2015, personally appeared before me, a Notary Public in and for said County and State, Stacy Libbey who acknowledged to me that she executed the foregoing instrument.


Notary Public





2

2

CODE 1075
DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

AFFIDAVIT OF RICHARD G. CAMPBELL
REGARDING SERVICE PURSUANT TO N.R.CP. 4(d)(1)

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

RICHARD G. CAMPBELL, being first duly sworn, states as follows:

1. I am an attorney duly licensed to practice before all courts in the state of Nevada

(Nevada State Bar No. 1832). I am an attorney with the law firm of Downey Brand LLP, attorneys for Plaintiff in the above-captioned action. I have personal knowledge of the matters stated below, and I could testify competently to them if called upon to do so.

2. This Affidavit is submitted pursuant Nevada Rule of Civil Procedure 4(d)(1) to support service via the Nevada Secretary of State on the officers, members, managers, or directors of Defendant POWELL, COLEMAN and ARNOLD LLP ("Powell Coleman"), who is not a resident of nor can be found within the State of Nevada.

3. The Complaint was filed and Summons issued in this matter on April 4, 2016.

4. Upon information and belief, after reviewing the online records of the Nevada Secretary of State for Defendant Powell Coleman, it is a foreign limited liability partnership doing business in Nevada that is not registered to do business in Nevada nor has it filed a form under rule 5.5A of the Nevada Rules of Professional Conduct as an attorney providing legal services to a Nevada client for a Nevada Business transaction. As a consequence, Powell Coleman has no resident agent or a Partner of the LLP in the State of Nevada upon whom service may be made.

5. Upon information and belief, service on the partners of Powell Coleman is not possible within the state because the respective partners reside outside of the state of Nevada.

6. In addition to and after service upon the Secretary of State and posting a copy of the process in the Office of the Court Clerk, I shall cause to be mailed a copy of the Summons and Complaint, by certified mail, to the last known address of Powell Coleman at the following address:

Powell, Coleman and Arnold LLP
Attn: Bruce R. Coleman
8080 North Central Expressway
Suite 1380
Dallas, Texas 75206

///

///

///


///

I do hereby swear under penalty of perjury that the assertions of this affidavit are true.

DATED this 5 day of April, 2016.


 RICHARD G. CAMPBELL

SUBSCRIBED and SWORN to before
 me this 5th day of April, 2016.


 Notary Public
 Commission Expires: 12/5/19



DOWNEY BRAND LLP

000032

SECOND JUDICIAL DISTRICT COURT**COUNTY OF WASHOE, STATE OF NEVADA****AFFIRMATION****Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document, filed in this case: **AFFIDAVIT OF RICHARD G. CAMPBELL REGARDING SERVICE PURSUANT TO N.R.CP. 4(d)(2);**

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

(State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: April 5, 2016.

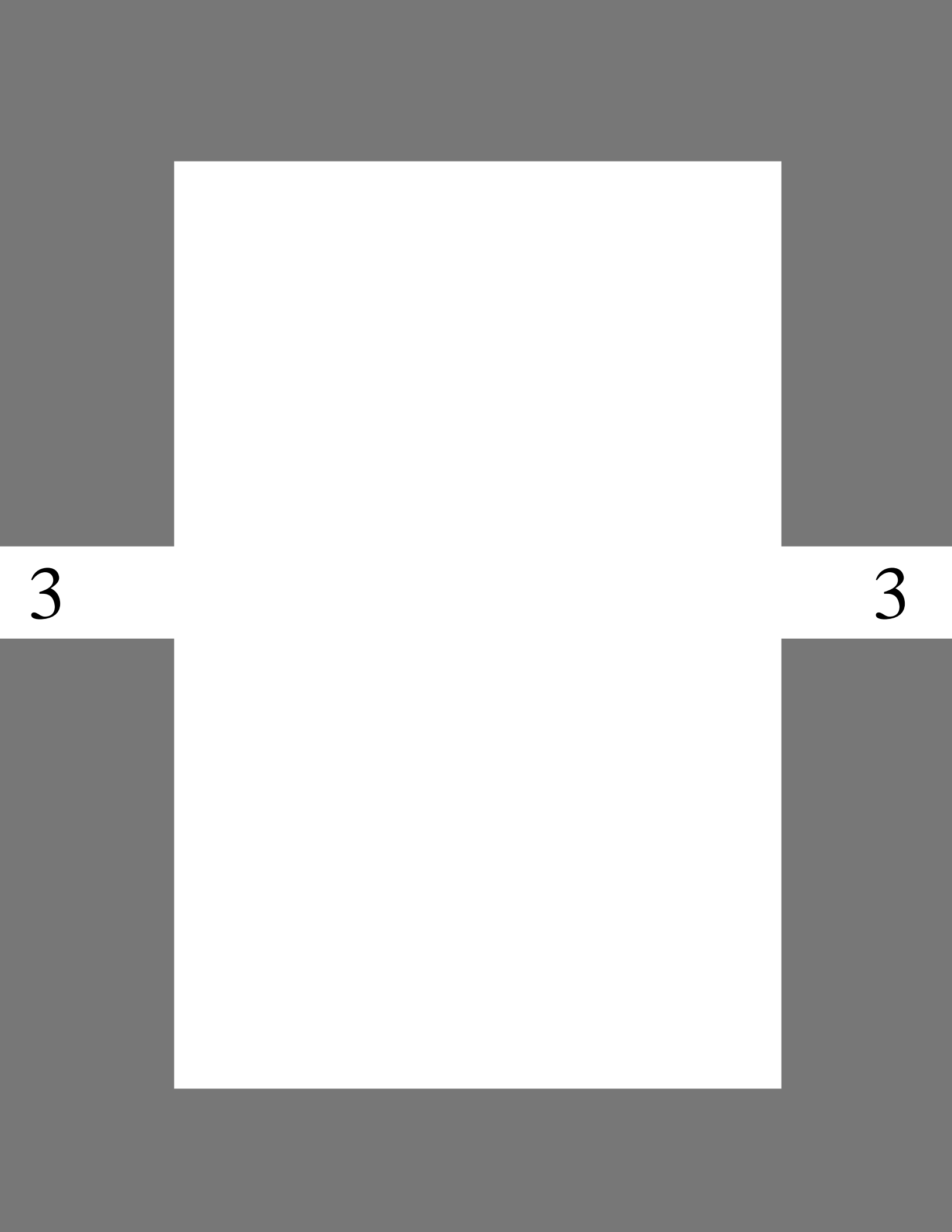
DOWNEY BRAND LLP

By: Danielle L Blecker

DOWNEY BRAND LLP

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ORIGINAL

FILED
Electronically
CV16-00767
2016-04-21 01:44:01 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5478406 : mcholino

CODE 4085

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO.

DEPT NO.

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

SUMMONS

**TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE
AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND, IN
WRITING, WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY
CAREFULLY**

A civil complaint has been filed by the plaintiff(s) against you for the relief as set forth in
that document (see complaint or petition). When service is by publication, add a brief statement
of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of the action is: _____

1. If you intend to defend this lawsuit, you must do the following within 20 days after
service of this summons, exclusive of the day of service:

a. File with the Clerk of this Court, whose address is shown below, a **formal written**

1 **answer** to the complaint, along with the appropriate filing fees, in accordance with
2 the rules of the Court; and

3 b. Serve a copy of your answer upon the attorney whose name and address is shown
4 below.

5 2. Unless you respond, a default will be entered upon application of the plaintiff(s),
6 and this Court may enter a judgment against you for the relief demanded in the complaint.

7 Dated this 4th day of April, 2016.

8
9 Issued on behalf of plaintiff(s):

10 DOWNEY BRAND LLP

11 By: 

12 RICHARD G. CAMPBELL, JR. (SBN 1832)
13 100 West Liberty Street, Suite 900
14 Reno, NV 89501
15 Telephone: (775) 329-5900
16 Facsimile: (775) 786-5443
17 Attorneys for Plaintiff

JACQUELINE BRYANT,
CLERK OF THE COURT

By: 

Deputy Clerk

SECOND JUDICIAL DISTRICT
75 Court Street
Reno, Nevada 89501

000035
DOWNEY BRAND LLP

000035

1 **DECLARATION OF PERSONAL SERVICE**

2

3 STATE OF Nevada))

4 COUNTY OF Washoe))

5

6 I, Jaxon Northon, declare:

7

8 1. That I am not a party to this action and that I am over 18 years of age.

9 2. That I personally served a copy of the following documents:

10 Summons and Complaint

11

12 upon NVRA Services Inc RA for Mariner Real Estate at the following address:

13 120 Hwy 50, ste. 1 Dayton NV 89403 on the 6th day of April, 2016 at 10:25am.

14

15 This document does not contain the social security number of any person.

16

17 I declare, under penalty of perjury under the law of the State of Nevada, that the foregoing is true and

18 correct.

19

20 State of Nevada, County of Washoe

21 Signed and sworn to before me on this

22 21st Day of April 2016

23 

Jaxon Northon

24 Bootleg Courier Process Service, lic. 1875c

25 545 E. 4th St., Reno, Nevada 89512

26 (775) 221-1366

27 

28



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ORIGINAL

FILED
Electronically
CV16-00767
2016-04-21 01:44:01 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5478406 : mcholino

1 **CODE 4085**

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3 IN THE SECOND JUDICIAL DISTRICT COURT OF

4 THE STATE OF NEVADA IN AND FOR THE

5 COUNTY OF WASHOE

6 GEORGE STUART YOUNT, Individually
7 and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. 16 00777

DEPT NO. B7

8 Plaintiff,

9 v.

10 CRISWELL RADOVAN, LLC, a Nevada
11 limited liability company; CR Cal Neva,
12 LLC, a Nevada limited liability company;
13 ROBERT RADOVAN; WILLIAM
14 CRISWELL; CAL NEVA LODGE, LLC, a
15 Nevada limited liability company;
16 POWELL, COLEMAN and ARNOLD
17 LLP; DAVID MARRINER; MARRINER
18 REAL ESTATE, LLC, a Nevada limited
19 liability company; and DOES 1-10,

20 Defendants.

21 **SUMMONS**

22 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE**
23 **AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND, IN**
24 **WRITING, WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY**
25 **CAREFULLY**

26 A civil complaint has been filed by the plaintiff(s) against you for the relief as set forth in
27 that document (see complaint or petition). When service is by publication, add a brief statement
28 of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of the action is: _____

1. If you intend to defend this lawsuit, you must do the following within 20 days after
service of this summons, exclusive of the day of service:

a. File with the Clerk of this Court, whose address is shown below, a **formal written**

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DOWNEY BRAND LLP

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answer to the complaint, along with the appropriate filing fees, in accordance with the rules of the Court; and

b. Serve a copy of your answer upon the attorney whose name and address is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s), and this Court may enter a judgment against you for the relief demanded in the complaint.

Dated this 4th day of April, 2016.

Issued on behalf of plaintiff(s):

DOWNEY BRAND LLP

By: 

RICHARD G. CAMPBELL, JR. (SBN 1832)
100 West Liberty Street, Suite 900
Reno, NV 89501
Telephone: (775) 329-5900
Facsimile: (775) 786-5443
Attorneys for Plaintiff

JACQUELINE BRYANT
CLERK OF THE COURT

By: 

Deputy Clerk

SECOND JUDICIAL DISTRICT
75 Court Street
Reno, Nevada 89501

DOWNEY BRAND LLP

000038

1 **DECLARATION OF PERSONAL SERVICE**

2

3 STATE OF Nevada))

4 COUNTY OF Washoe))

5

6 I, Jaxon Northon, declare:

7

8 1. That I am not a party to this action and that I am over 18 years of age.

9 2. That I personally served a copy of the following documents:

10 Summons and Complaint

11

12 upon Capitol Corporate Services RA for Cal Neva Lodge LLC at the following address:

13 202 S. Minnesota St. Carson City NV 89703 on the 6th day of April, 2016 at 2:15pm.

14

15 This document does not contain the social security number of any person.

16

17 I declare, under penalty of perjury under the law of the State of Nevada, that the foregoing is true and correct.

18

19

20 State of Nevada, County of Washoe

21 Signed and sworn to before me on this

22 21st Day of April 2016

Jaxon Northon

Jaxon Northon

Bootleg Courier Process Service, lic. 1875c

545 E. 4th St., Reno, Nevada 89512

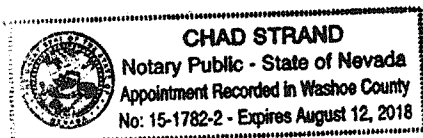
(775) 221-1366

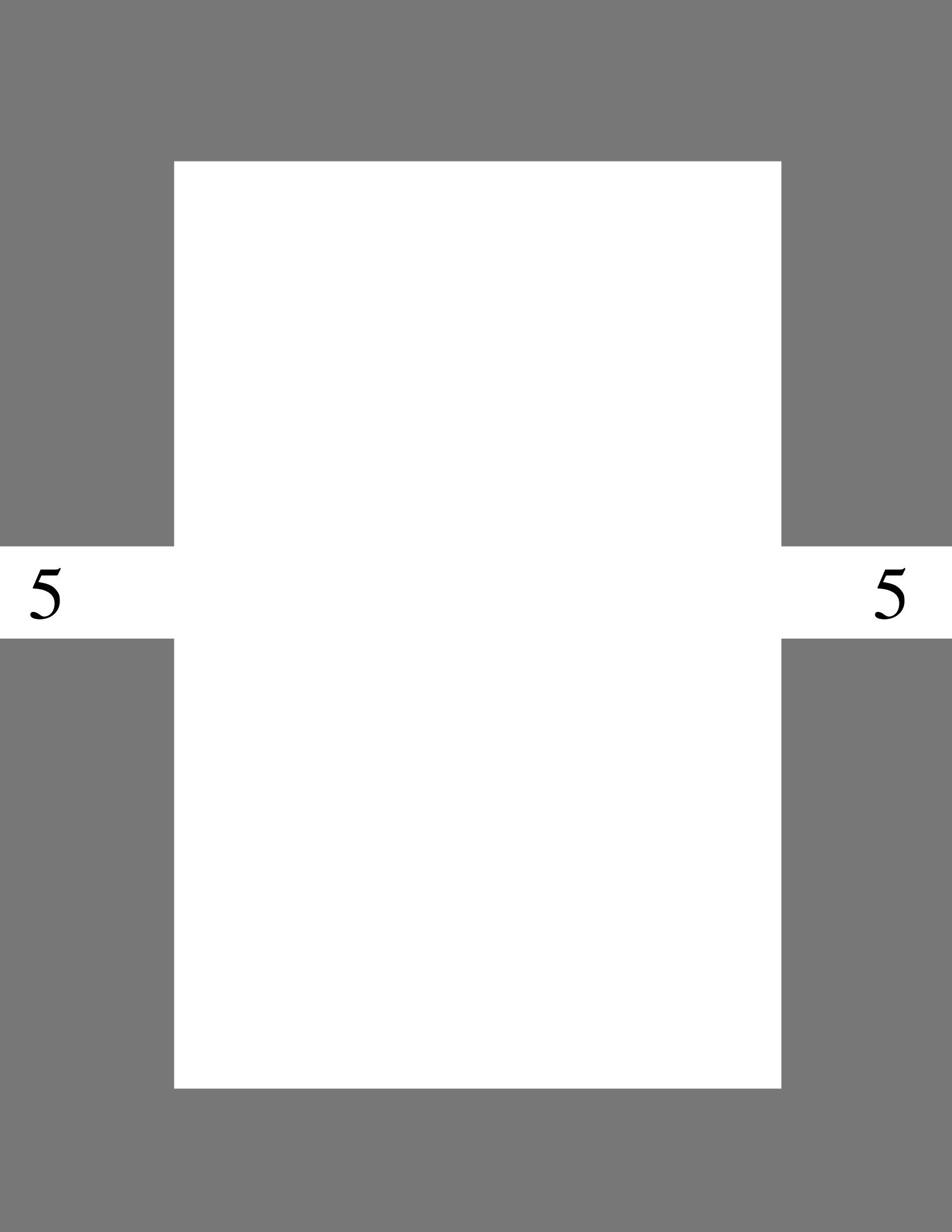
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2016-04-21 01:44:01 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5478406 : mcholino

1 **CODE 4085**

2

3 IN THE SECOND JUDICIAL DISTRICT COURT OF

4 THE STATE OF NEVADA IN AND FOR THE

5 COUNTY OF WASHOE

6 GEORGE STUART YOUNT, Individually
7 and in his Capacity as Owner of GEORGE
8 STUART YOUNT IRA,

CASE NO. 0016 00767

DEPT NO. B7

9 Plaintiff,

10 v.

11 CRISWELL RADOVAN, LLC, a Nevada
12 limited liability company; CR Cal Neva,
13 LLC, a Nevada limited liability company;
14 ROBERT RADOVAN; WILLIAM
15 CRISWELL; CAL NEVA LODGE, LLC, a
16 Nevada limited liability company;
17 POWELL, COLEMAN and ARNOLD
18 LLP; DAVID MARRINER; MARRINER
19 REAL ESTATE, LLC, a Nevada limited
20 liability company; and DOES 1-10,

21 Defendants.

22 **SUMMONS**

23 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE**
24 **AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND, IN**
25 **WRITING, WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY**
26 **CAREFULLY**

27 A civil complaint has been filed by the plaintiff(s) against you for the relief as set forth in
28 that document (see complaint or petition). When service is by publication, add a brief statement
of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).

The object of the action is: _____

1. If you intend to defend this lawsuit, you must do the following within 20 days after
service of this summons, exclusive of the day of service:

a. File with the Clerk of this Court, whose address is shown below, a **formal written**

DOWNEY BRAND LLP

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answer to the complaint, along with the appropriate filing fees, in accordance with the rules of the Court; and

b. Serve a copy of your answer upon the attorney whose name and address is shown below.

2. Unless you respond, a default will be entered upon application of the plaintiff(s), and this Court may enter a judgment against you for the relief demanded in the complaint.

Dated this 4th day of April, 2016.

Issued on behalf of plaintiff(s):

DOWNEY BRAND LLP

By: 

RICHARD G. CAMPBELL, JR. (SBN 1832)
100 West Liberty Street, Suite 900
Reno, NV 89501
Telephone: (775) 329-5900
Facsimile: (775) 786-5443
Attorneys for Plaintiff

JACQUELINE BRYANT,
CLERK OF THE COURT

By: 

Deputy Clerk

SECOND JUDICIAL DISTRICT
75 Court Street
Reno, Nevada 89501

DOWNEY BRAND LLP

000041

1 **DECLARATION OF PERSONAL SERVICE**

2

3 STATE OF Nevada))

4 COUNTY OF Washoe))

5

6 I, Jaxon Northon, declare:

7

8 1. That I am not a party to this action and that I am over 18 years of age.

9 2. That I personally served a copy of the following documents:

10 Summons and Complaint

11

12 upon Capitol Corporate Services RA for CR Cal Neva LLC at the following address:

13 202 S. Minnesota St. Carson City NV 89703 on the 6th day of April, 2016 at 2:15pm.

14

15 This document does not contain the social security number of any person.

16

17 I declare, under penalty of perjury under the law of the State of Nevada, that the foregoing is true and correct.

18

19

20 State of Nevada, County of Washoe

21 Signed and sworn to before me on this

22 21st Day of April 2016

23 Jaxon Northon

24 Jaxon Northon

25 Bootleg Courier Process Service, lic. 1875c

26 545 E. 4th St., Reno, Nevada 89512

(775) 221-1366



CHAD STRAND
Notary Public - State of Nevada
Appointment Recorded in Washoe County
No: 15-1782-2 - Expires August 12, 2018

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ORIGINAL

FILED
Electronically
CV16-00767
2016-04-21 01:44:01 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 5478406 : mcholicco

1 **CODE 4085**

2
3 IN THE SECOND JUDICIAL DISTRICT COURT OF
4 THE STATE OF NEVADA IN AND FOR THE
5 COUNTY OF WASHOE

6 GEORGE STUART YOUNT, Individually
7 and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO.

DEPT NO.

8 Plaintiff,

9 v.

10 CRISWELL RADOVAN, LLC, a Nevada
11 limited liability company; CR Cal Neva,
12 LLC, a Nevada limited liability company;
13 ROBERT RADOVAN; WILLIAM
14 CRISWELL; CAL NEVA LODGE, LLC, a
15 Nevada limited liability company;
16 POWELL, COLEMAN and ARNOLD
17 LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

18 **SUMMONS**

19 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE**
20 **AGAINST YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND, IN**
21 **WRITING, WITHIN 20 DAYS. READ THE INFORMATION BELOW VERY**
CAREFULLY

22 A civil complaint has been filed by the plaintiff(s) against you for the relief as set forth in
23 that document (see complaint or petition). When service is by publication, add a brief statement
24 of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).

25 The object of the action is: _____

26 1. If you intend to defend this lawsuit, you must do the following within 20 days after
27 service of this summons, exclusive of the day of service:

28 a. File with the Clerk of this Court, whose address is shown below, a **formal written**

DOWNNEY BRAND LLP

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1 **answer** to the complaint, along with the appropriate filing fees, in accordance with
 2 the rules of the Court; and

3 b. Serve a copy of your answer upon the attorney whose name and address is shown
 4 below.

5 2. Unless you respond, a default will be entered upon application of the plaintiff(s),
 6 and this Court may enter a judgment against you for the relief demanded in the complaint.

7 Dated this 4th day of April, 2016.

8
 9 Issued on behalf of plaintiff(s):

10 DOWNEY BRAND LLP

11 By: 

12 RICHARD G. CAMPBELL, JR. (SBN 1832)
 13 100 West Liberty Street, Suite 900
 14 Reno, NV 89501
 15 Telephone: (775) 329-5900
 16 Facsimile: (775) 786-5443
 17 Attorneys for Plaintiff

JACQUELINE BRYANT,
 CLERK OF THE COURT

By: 

Deputy Clerk

SECOND JUDICIAL DISTRICT
 75 Court Street
 Reno, Nevada 89501

DOWNEY BRAND LLP

000044

DECLARATION OF PERSONAL SERVICE

STATE OF Nevada))COUNTY OF Washoe))

I, Jaxon Northon, declare:

1. That I am not a party to this action and that I am over 18 years of age.

2. That I personally served a copy of the following documents:

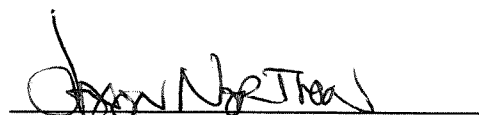
Summons and Complaintupon Capitol Corporate Services RA for Criswell Radovan LLC at the following address:202 S. Minnesota St. Carson City NV 89703 on the 6th day of April, 2016 at 2:15pm.

This document does not contain the social security number of any person.

I declare, under penalty of perjury under the law of the State of Nevada, that the foregoing is true and correct.

State of Nevada, County of Washoe

Signed and sworn to before me on this

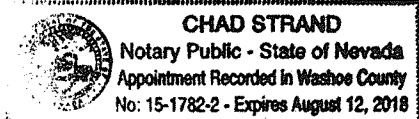
21st Day of April 2016

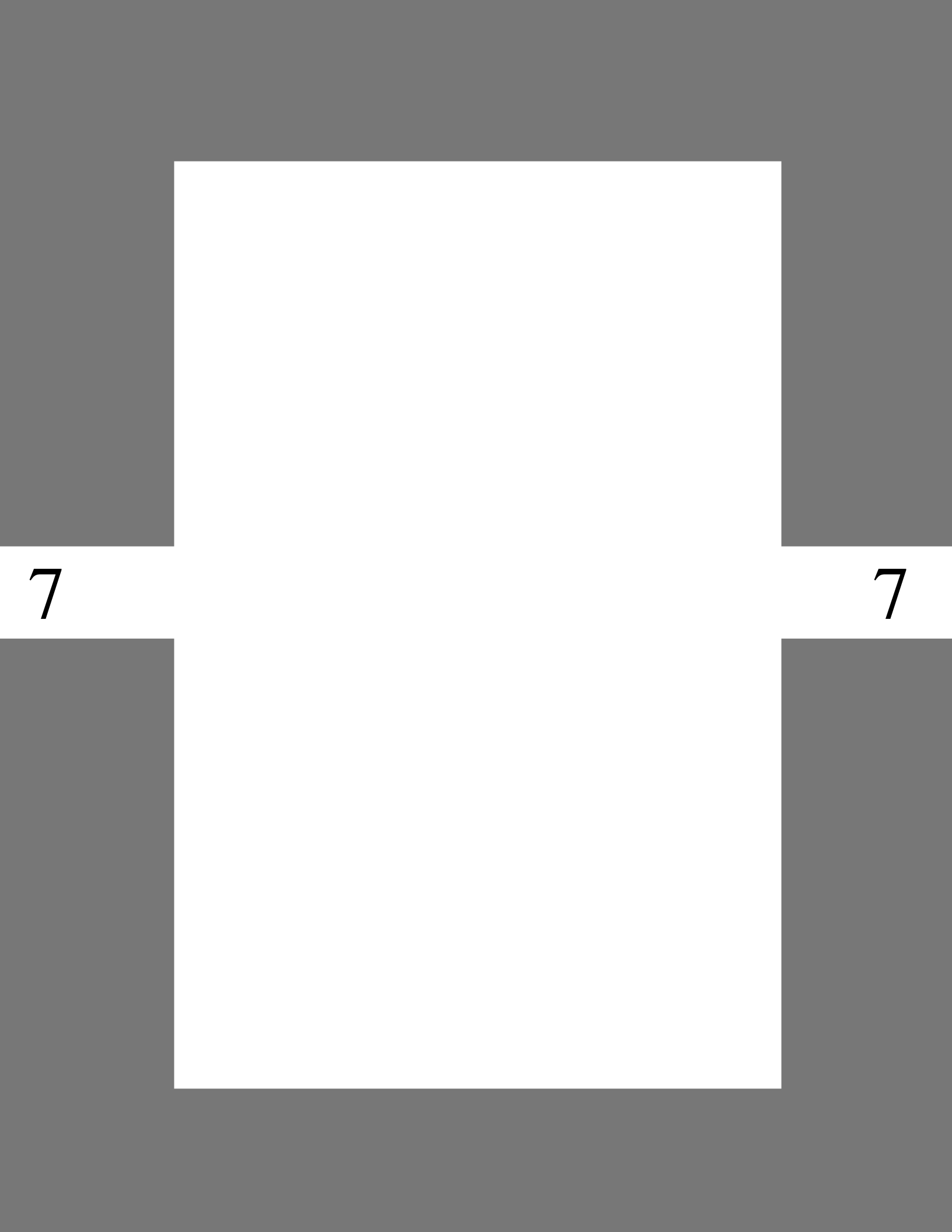
Jaxon Northon

Bootleg Courier Process Service, lic. 1875c

545 E. 4th St., Reno, Nevada 89512

(775) 221-1366





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DOWNEY BRAND LLP

CODE 1005

DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT NO. B7

ACCEPTANCE OF SERVICE

The undersigned, Ali P. Hamidi of Cox Castle Nicholson, with the authority of the
Defendants, ROBERT RADOVAN and WILLIAM CRISWELL hereby accepts service of the

///

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1442472.1

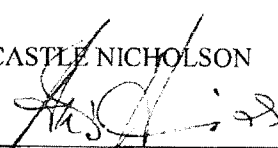
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ACCEPTANCE OF SERVICE

1 Summons and Complaint in the above-entitled matter on behalf of ROBERT RADOVAN and
2 WILLIAM CRISWELL.

3 DATED: April 20, 2016.

COX CASTLE NICHOLSON

4 By: 
5 Ali P. Hamidi, Esq.
6 50 California Street, Suite 3200
7 San Francisco, CA 94111

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DOWNEY BRAND LLP

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28**SECOND JUDICIAL DISTRICT COURT****COUNTY OF WASHOE, STATE OF NEVADA****AFFIRMATION****Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document, filed in this case:
ACCEPTANCE OF SERVICE;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

(State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

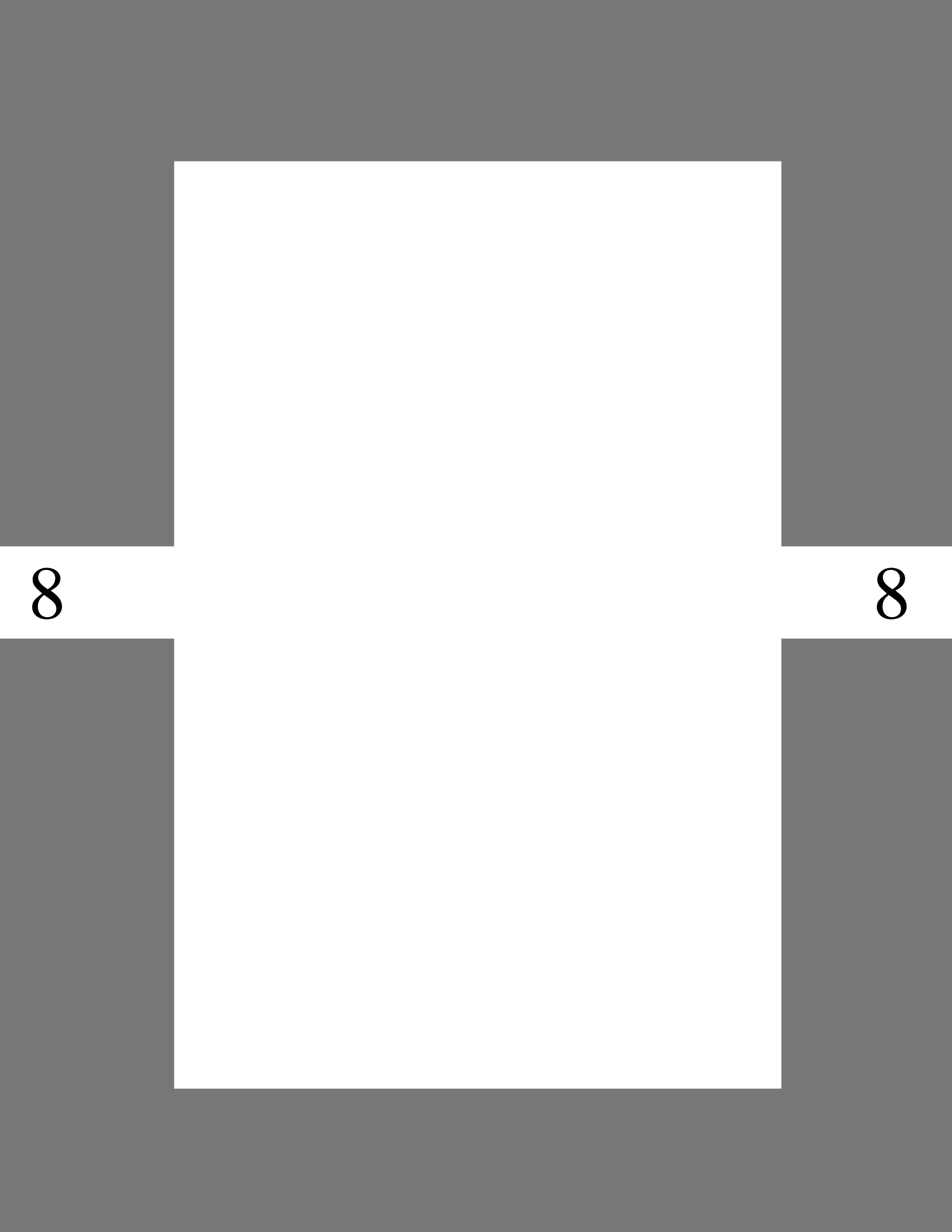
☐ For an application for a federal or state grant

Dated: April 21, 2016.

DOWNEY BRAND LLP

By: Danielle L. Blecker

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CODE 2610
DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

NOTICE OF SERVICE PURSUANT TO N.R.CP. 4(d)(1)

NOTICE IS HEREBY GIVEN that pursuant to Nevada Rule of Civil Procedure 4(d)(1)
Defendant POWELL, COLEMAN and ARNOLD LLP ("Powell Coleman") has been served with
the Summons, Complaint and Affidavit of Richard G. Campbell, as follows:

1. The undersigned caused a copy of the Summons, Complaint and Affidavit of
Richard G. Campbell to be posted in the Office of the Court Clerk of the above-entitled Court on

1 April 6, 2016. See the Declaration of Dane Haman attached hereto as Exhibit 1.

2 2. The undersigned caused a copy of the Summons, Complaint and Affidavit of
3 Richard G. Campbell to be personally delivered to the Nevada Secretary of State on April 7,
4 2016. See the Declaration of Tom Chapel attached hereto as Exhibit 2, and the Acceptance of
5 Service on April 7, 2016, from the Nevada Secretary of State attached hereto as Exhibit 3.

6 3. In addition to, and after posting a copy of the process in the Office of the Court
7 Clerk and service upon the Nevada Secretary of State, the undersigned caused to be mailed a
8 copy of the Summons, Complaint and Affidavit of Richard G. Campbell, by certified mail, to the
9 last known address of Powell Coleman's partner:

10 Powell, Coleman and Arnold LLP
11 Attn: Bruce R. Coleman
12 8080 North Central Expressway, Suite 1380
Dallas, TX 75206

13 See the Declaration of Danielle Bleecker attached hereto as Exhibit 4.

14 DATED: April 25, 2016.

Downey Brand LLP

By: 

RICHARD G. CAMPBELL, JR.
Attorney for Plaintiff

SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, filed in this case: **NOTICE OF SERVICE PURSUANT TO N.R.CP. 4(d)(1)**;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

 (State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: April 25, 2016.

DOWNEY BRAND LLP

By: Danielle Blecker

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DOWNEY BRAND LLP

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EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	LENGTH
1	Declaration of Dane Haman	2 pages
2	Declaration of Tom Chapel	2 pages
3	Acceptance of Service from Nevada Secretary of State	1 page
4	Declaration of Danielle Bleecker	3 pages

Exhibit 1

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Exhibit 1

CODE 1520

DOWNEY BRAND LLP

RICHARD G. CAMPBELL, JR. (Bar No. 1832)

100 West Liberty, Suite 900

Reno, NV 89501

Telephone: 775-329-5900

Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC,
a Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT NO. B7

DECLARATION OF DANE HAMAN

I, DANE HAMAN, declare:

1. That I am a resident of the State of Nevada, over 18 years of age, an employee of
Bootleg Courier Co., and not a party to this action.

2. That I posted a copy of the Summons, Complaint and Affidavit of Richard G.
Campbell at the Office of the Court Clerk of the above-entitled Court on April 6, 2016.

1 I declare under penalty of perjury under the laws of the State of Nevada, that the foregoing
2 is true and correct.

3 Executed this 22nd day of April, 2016.

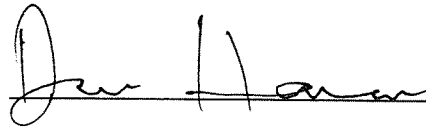
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Exhibit 2

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Exhibit 2

1 **CODE 1520**
 2 DOWNEY BRAND LLP
 3 RICHARD G. CAMPBELL, JR. (Bar No. 1832)
 4 100 West Liberty, Suite 900
 5 Reno, NV 89501
 6 Telephone: 775-329-5900
 7 Facsimile: 775-997-7417

8 Attorneys for Plaintiff

9
 10
 11 IN THE SECOND JUDICIAL DISTRICT COURT OF
 12 THE STATE OF NEVADA IN AND FOR THE
 13 COUNTY OF WASHOE

14 GEORGE STUART YOUNT, Individually
 15 and in his Capacity as Owner of GEORGE
 16 STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

17 Plaintiff,

18 v.

19 CRISWELL RADOVAN, LLC, a Nevada
 20 limited liability company; CR Cal Neva,
 21 LLC, a Nevada limited liability company;
 22 ROBERT RADOVAN; WILLIAM
 23 CRISWELL; CAL NEVA LODGE, LLC,
 24 a Nevada limited liability company;
 25 POWELL, COLEMAN and ARNOLD
 26 LLP; DAVID MARRINER; MARRINER
 27 REAL ESTATE, LLC, a Nevada limited
 28 liability company; and DOES 1-10,

Defendants.

DECLARATION OF TOM CHAPEL

I, TOM CHAPEL, declare:

1. That I am a resident of the State of Nevada, over 18 years of age, an employee of Bootleg Courier Co., and not a party to this action.

2. That I personally delivered a copy of the Summons, Complaint and Affidavit of Richard G. Campbell to the Nevada Secretary of State on April 7, 2016, which service was

1 accepted by S. Kraatz of that office.

2 I declare under penalty of perjury under the laws of the State of Nevada, that the foregoing
3 is true and correct.

4 Executed this 22ND day of April, 2016.

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Exhibit 3

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Exhibit 3

STATE OF NEVADA

BARBARA K. CEGAVSKE
Secretary of State

JEFFERY LANDERFELT
Deputy Secretary
for Commercial Recordings

OFFICE OF THE
SECRETARY OF STATE**Commercial Recordings Division**

202 N. Carson Street
Carson City, NV 89701-4201
Telephone (775) 684-5708
Fax (775) 684-7138

DOWNEY BRAND LLP
100 W LIBERTY ST STE 900
RENO, NV 89501-1958

Job: C20160407-1152
April 7, 2016

Special Handling Instructions:

Entity being served: POWELL, COLEMAN AND ARNOLD LLP

Case # CV16-00767

Authority(ies) cited: NRCP 4(d)(1)

Description: GEORGE STUART YOUNG vs CRISWELL RADOVAN, LLC, ET AL

Documents received: SUMMONS; COMPLAINT; & AFFIDAVIT OF RICHARD G. CAMPBELL
REGARDING SERVICE PURSUANT TO N.R.C.P. 4(d)(1)

Method received: MEYERS COUNTER

Date/Time received: 4/7/2016

Service of Process accepted by S. Kraatz

S. Kraatz

Charges

Description	Document Number	Filing Date/Time	Qty	Price	Amount
Service of Process Summons and complaints fee			1	\$10.00	\$10.00
Total					\$10.00

Payments

Type	Description	Amount
Check	Check #1447	\$10.00
Total		\$10.00

Credit Balance: \$0.00

Job Contents:

DOWNEY BRAND LLP
100 W LIBERTY ST STE 900
RENO, NV 89501-1958

Exhibit 4

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Exhibit 4

CODE 1520

DOWNEY BRAND LLP
 RICHARD G. CAMPBELL, JR. (Bar No. 1832)
 100 West Liberty, Suite 900
 Reno, NV 89501
 Telephone: 775-329-5900
 Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
 THE STATE OF NEVADA IN AND FOR THE
 COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
 and in his Capacity as Owner of GEORGE
 STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
 limited liability company; CR Cal Neva,
 LLC, a Nevada limited liability company;
 ROBERT RADOVAN; WILLIAM
 CRISWELL; CAL NEVA LODGE, LLC, a
 Nevada limited liability company;
 POWELL, COLEMAN and ARNOLD
 LLP; DAVID MARRINER; MARRINER
 REAL ESTATE, LLC, a Nevada limited
 liability company; and DOES 1-10,

Defendants.

DECLARATION OF DANIELLE BLEECKER

I, DANIELLE BLEECKER, declare:

1. That I am a resident of the State of Nevada, over 18 years of age and not a party to this action.

2. That I personally mailed a copy of the Summons, Complaint and Affidavit of Richard G. Campbell, by certified mail, to the following:

1 Powell, Coleman and Arnold LLP
2 Attn: Bruce R. Coleman
3 8080 North Central Expressway, Suite 1380
4 Dallas, TX 75206

5 3. That I am employed by Downey Brand LLP at whose direction the above service
6 was made.

7 I declare under penalty of perjury under the laws of the State of Nevada, that the foregoing
8 is true and correct.

9 Executed this 25th day of April, 2016.

10 
11 DANIELLE BLEECKER

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DOWNEY BRAND LLP

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U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT
 (Domestic Mail Only; No Insurance Coverage)

For delivery information visit our website at www.usps.com

OFFICIAL

Postage	\$ 2.30
Certified Fee	3.45
Return Receipt Fee (Endorsement Required)	2.80
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 8.55

neopost
 04/06/2016
US POSTAGE
 \$00.00

ZIP 89501
 041L10238095

Ser Powell, Coleman and Arnold LL
 Str Attn: Bruce R. Coleman
 or 8080 North Central Expressway, Ste 1380
 Cit Dallas, TX 75206

PS Form 3800, August 2006 See Reverse for Instructions

9

9

CODE §1131

Martin A. Little, Esq.
Nevada Bar No. 7067
E-mail: mal@juww.com
JOLLEY URG A WOODBURY & LITTLE
3800 Howard Hughes Parkway, 16th Floor
Las Vegas, Nevada 89169
Telephone: (702) 699-7500
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William Criswell, Cal Neva Lodge, LLC, Powell,
Coleman and Arnold LLP

**IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE**

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16 00767

Dept. No. B7

Plaintiff,
vs.

**ANSWER OF DEFENDANTS CRISWELL
RADOVAN, LLC, CR CAL NEVA LLC,
ROBERT RADOVAN, WILLIAM
CRISWELL, CAL NEVA LODGE, LLC,
POWELL, COLEMAN AND ARNOLD
LLP TO PLAINTIFF'S COMPLAINT**

CRISWELL RADOVAN, LLC, a Nevada
limited Liability company; CR CAL NEVA
LLC, a Nevada limited liability company;
ROBERT RADOVAN, WILLIAM
CRISWELL, CAL NEVA LODGE, LLC, a
Nevada limited liability company; POWELL,
COLEMAN AND ARNOLD LLP; DAVID
MARRINER; MARRINER REAL ESTATE,
LLC, a Nevada limited liability company; and
DOES 1 – 10,

Complaint Filed: April 4, 2016

Defendants.

Defendants Criswell Radovan, LLC, CR Cal Neva LLC, Robert Radovan, William
Criswell, Cal Neva Lodge, LLC, and Powell, Coleman and Arnold LLP ("Defendants"), on
behalf of themselves and no other party, hereby answer Plaintiff George Stuart Yount's
("Plaintiff") Complaint, as follows:

PARTIES

1. Defendants admit the allegation in paragraph 1.

2. Answering Paragraph 2, Defendants are without sufficient knowledge or information to form a belief as to the truth of that allegations and, on that basis, deny the allegation contained in this paragraph.

3. Answering Paragraph 3, the members (not managers) of Defendant Criswell Radovan, LLC are William T. Criswell, Trustee of Criswell Revocable Trust dated March 14, 2014; Sharon L. Criswell, Trustee of Criswell Revocable Trust dated March 14, 2014; and Robert Radovan. Criswell Radovan, LLC does not own CR Cal Neva, LLC.

4. Answering Paragraph 4, William T. Criswell is the managing member of CR Cal Neva, LLC. The owners (members) are the same three parties listed in paragraph 3 above, in addition to Brandyn Iverson.

5. Answering Paragraph 5, Defendant Robert Radovan is an individual who resides in Napa County, but not the City of Napa.

6. Answering Paragraph 6, Defendant William Criswell is an individual who resides in Murrieta, California.

7. Answering Paragraph 7, Defendant Cal Neva Lodge, LLC is a Nevada limited liability company which is managed by CR Cal Neva, LLC, not Robert Radovan.

8. Defendants admit the allegations in paragraph 8.

9. Answering Paragraph 9, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations and, on that basis, deny each and every allegation contained in the paragraph.

10. Answering Paragraph 10, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations and, on that basis, deny each and every allegation contained in the paragraph.

11. Answering Paragraph 11, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations and, on that basis, deny each and every allegation contained in the paragraph.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

12. Answering Paragraph 12, Defendants are without sufficient knowledge or information to form a belief as to the truth of these allegations and, on that basis, deny each and every allegation contained in the paragraph.

13. Defendants admit that on July 25, 2015, Radovan sent an email to Plaintiff. The remaining allegations in paragraph 13 are denied.

14. Answering Paragraph 14, Defendants admit the first and second sentence of that paragraph. Defendants are without sufficient knowledge or information to form a belief as to the truth of the remaining allegations and, on that basis, deny each and every remaining allegation contained in the paragraph.

15. Answering Paragraph 15, Defendants admit the first sentence of that paragraph. Defendants deny that Criswell signed the Acceptance of Subscription. Defendants admit that Premier Trust Inc. wired the money to the trust account of Powell Coleman. With respect to the last sentence in that paragraph, Defendants admit that the money was to be deposited in the account of CNL, but deny that the execution of the Subscription Agreement was the intent of the Defendants.

16. Answering Paragraph 16, Defendants admit the first sentence of that paragraph, but deny the remaining allegations.

17. Answering Paragraph 17, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in the first sentence of that paragraph, and, on that basis, deny those allegations. Defendants admit the second sentence of that paragraph.

18. Answering Paragraph 18, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in that paragraph, and, on that basis, deny each and every allegation contained in the paragraph.

19. Answering Paragraph 19, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations in that paragraph, and, on that basis, deny each and every allegation contained in the paragraph.

20. Answering Paragraph 20, Defendants admit the first and third sentence in that paragraph. Defendants deny the remaining allegations in that paragraph.

21. Answering Paragraph 21, Defendants deny that Mr. Coleman had the Subscription Agreement and the escrow instructions in October 2015. Defendants admit the remaining allegations in that paragraph.

22. Defendants admit the allegations in paragraph 22.

FIRST CAUSE OF ACTION

(Breach of Contract against CR Cal Neva, LLC, Cal Neva Lodge, LLC and Criswell Radovan, LLC)

23. Answering Paragraph 23, Defendants incorporate by reference their answers to Paragraphs 1 through 22 as if fully set forth here.

24. Answering Paragraph 24, Defendants deny the allegations in that paragraph.

SECOND CAUSE OF ACTION

(Breach of Duty Against Defendant Powell Coleman and Arnold, LLP)

25. Answering Paragraph 25, Defendants incorporate by reference their answers to Paragraphs 1 through 24 as if fully set forth here.

26. Answering Paragraph 26, Defendants deny the allegations in that paragraph.

27. Defendants admit the allegations in paragraph 27.

28. Answering Paragraph 28, Defendants deny the allegations in that paragraph.

THIRD CAUSE OF ACTION

(Fraud Against Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David Marriner; and Marriner Real Estate, LLC)

29. Answering Paragraph 29, Defendants incorporate by reference their answers to Paragraphs 1 through 28 as if fully set forth here.

30. Answering Paragraph 30, Defendants deny the allegations contained in this paragraph.

31. Answering Paragraph 31, Defendants deny the allegations contained in this paragraph.

32. Answering Paragraph 32, Defendants deny the allegations contained in this paragraph.

FOURTH CAUSE OF ACTION

(Negligence Against Defendant Powell, Coleman and Young, LLP)

33. Answering Paragraph 33, Defendants incorporate by reference their answers to Paragraphs 1 through 32 as if fully set forth here.

34. Answering Paragraph 34, Defendants deny the allegations contained in this paragraph.

FIFTH CAUSE OF ACTION

(Conversion Against CR Cal Neva, LLC, William Criswell, Robert Radovan and Criswell Radovan, LLC)

35. Answering Paragraph 35, Defendants incorporate by reference its answers to Paragraphs 1 through 34 as if fully set forth here.

36. Answering Paragraph 36, Defendants deny the allegations contained in this paragraph.

SIXTH CAUSE OF ACTION

(Punitive Damages Against all Defendants)

37. Answering Paragraph 37, Defendants incorporate by reference their answers to Paragraphs 1 through 36 as if fully set forth here.

38. Answering Paragraph 38, Defendants deny the allegations contained in this paragraph.

39. Answering Paragraph 39, Defendants deny the allegations contained in this paragraph.

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SEVENTH CAUSE OF ACTION

(Claim for Fraud under NRS 90.570 in the Offer, Sale and Purchase of a Security against Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David Marriner; and Marriner Real Estate, LLC)

40. Answering Paragraph 40, Defendants incorporates by reference its answers to Paragraphs 1 through 39 as if fully set forth here.

41. Answering Paragraph 41, Defendants deny the allegations contained in this paragraph.

42. Answering Paragraph 42, Defendants deny the allegations contained in this paragraph.

PRAYER FOR RELIEF

To the extent a response is required, Defendants deny the allegations under Plaintiff's Prayer for Relief. Defendants deny that Plaintiff has been injured in any way by its conduct and further deny that Plaintiff is entitled to any of the relief alleged in her prayer or elsewhere in the Complaint.

DEFENDANTS' AFFIRMATIVE OR OTHER DEFENSES

By pleading the following as Affirmative or other Defenses, Defendants does not concede that each of the matters covered by the numbered defenses is to be proven by Defendants, and Defendants reserves the position that Plaintiff retains the burden of proof on all matters necessary to state the causes of action asserted in the Complaint and to establish the alleged damages. Without prejudice to its denials and other statements of its pleadings, Defendants alleges the following defenses:

FIRST AFFIRMATIVE OR OTHER DEFENSE

(Failure to State a Claim)

The Complaint, and each purported cause of action contained therein, fails to state facts sufficient to constitute any cause of action and fails to state any claim upon which relief can be granted.

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SECOND AFFIRMATIVE DEFENSE

(Inaccurate Terms and Conditions)

Defendants allege that the Complaint omits and does not accurately set forth the terms and conditions of the documents referred to in the Complaint.

THIRD AFFIRMATIVE OR OTHER DEFENSE

(Laches)

The Complaint, and all purported causes of action contained therein, are barred under the doctrine of laches.

FOURTH AFFIRMATIVE OR OTHER DEFENSE

(Waiver)

The Complaint, and all purported causes of action contained therein, are barred because Plaintiff has waived the right, if any, to assert the claims in the Complaint.

FIFTH AFFIRMATIVE OR OTHER DEFENSE

(Estoppel)

The Complaint, and all purported causes of action contained therein, are barred because Plaintiff is estopped by his own actions and conduct from pursuing the claims in the Complaint.

SIXTH AFFIRMATIVE OR OTHER DEFENSE

(Comparative Negligence)

If Plaintiff sustained any loss, injury, damage or detriment as alleged in the Complaint, the loss, injury, damage or detriment was caused and contributed to by Plaintiff's own actions in that he did not use ordinary care on his own behalf and his own actions and omissions proximately caused and contributed to the loss, injury, damage and detriment alleged by Plaintiff, and Plaintiff's recovery from Defendants, if any, should be reduced in proportion to the percentage of Plaintiff's negligence or in proportion to his fault.

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1 **SEVENTH AFFIRMATIVE OR OTHER DEFENSE**

2 (Failure to Mitigate Damages)

3 Plaintiff has failed to take reasonable steps to mitigate, alter or otherwise reduce his
4 alleged damages, including attorneys' fees and costs, and any damages and/or fees and costs
5 awarded to Plaintiff should be reduced accordingly.

6 **EIGHTH AFFIRMATIVE OR OTHER DEFENSE**

7 (Unclean Hands)

8 The Complaint, and all purported causes of action contained therein, are barred by the
9 doctrine of unclean hands, as a result of the acts, conduct, and omissions of Plaintiff or of others
10 that are attributable to Plaintiff.

11 **NINTH AFFIRMATIVE OR OTHER DEFENSE**

12 (Acquiescence)

13 The Complaint, and all purported causes of action contained therein, are barred by the
14 doctrine of acquiescence, as a result of the acts, conduct, and omissions of Plaintiff or of others
15 that are attributable to Plaintiff.

16 **TENTH AFFIRMATIVE OR OTHER DEFENSE**

17 (Indemnity/Contribution)

18 Defendants alleges as to each and every cause of action that it is entitled to
19 indemnification and contribution by apportionment against all parties, persons or entities whose
20 acts or omissions directly or proximately caused or contributed to the incident alleged in the
21 Complaint, or to the damages allegedly sustained by Plaintiff, if any, either as alleged in the
22 Complaint or otherwise.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 (No Fraud)

25 Defendants allege that any alleged representations made by Defendants which formed the
26 basis of Plaintiff's Complaint were true and honest at the time made. Said representations were
27 made, if any were, without knowledge of any falsity, and were not made with the intent to
28 deceive or damage the Plaintiff. Plaintiff is therefore barred from recovery.

TWELFTH AFFIRMATIVE DEFENSE

(Good Faith)

Defendants allege that any and all conduct of which Plaintiff complains was a just and proper exercise of discretion, undertaken in good faith for a fair and honest reason under the circumstances then existing.

THIRTEENTH AFFIRMATIVE DEFENSE

(Business Necessity)

Defendants allege that any and all conduct for which Plaintiff seeks recovery against Defendants was required by business necessity.

FOURTEENTH AFFIRMATIVE OR OTHER DEFENSE

(Right to Raise Additional Affirmative Defenses and Amend this Answer)

Plaintiff has not set out his claims with sufficient particularity to permit Defendants to raise all appropriate affirmative defenses. Defendants have not knowingly or intentionally waived any applicable affirmative defenses, but Defendants reserve the right to assert and to rely upon additional defenses not stated here, including such other defenses as may become available or apparent. Defendants further reserve the right to file an Amended Answer to the Complaint, as more facts or legal theories become applicable by means of subsequent disclosures, discovery, procedural issues, or modification of existing statutes and defenses.

To the extent that Defendants have not expressly admitted an allegation in the Complaint or denied an allegation in the Complaint based on a lack of information and belief, Defendants deny all further and remaining allegations in the Complaint and no response contained herein is intended to constitute a waiver of such denial.

DEFENDANTS' PRAYER FOR RELIEF (ANSWER)

WHEREFORE, Defendants pray as follows:

1. That Plaintiff's Complaint be dismissed;
2. That Plaintiff take nothing by reason thereof;
3. That judgment be entered in favor of Defendants;
4. That Defendants be awarded its attorneys' fees and costs of suit; and,

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

Dated this 7th day of June, 2016.

JOLLEY URGAL WOODBURY & LITTLE

By: 

Martin A. Little, Esq.
Nevada Bar No. 7067
3800 Howard Hughes Pkwy, Suite 1600
Las Vegas, Nevada 89169
Telephone No. (702) 699-7500
*Attorneys for Defendants Criswell
Radovan, LLC, CR Cal Neva LLC,
Robert Radovan, William Criswell,
Cal Neva Lodge, LLC, Powell,
Coleman and Arnold LLP*

COX, CASTLE & NICHOLSON LLP
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*Attorneys for Defendants Criswell
Radovan, LLC, CR Cal Neva LLC,
Robert Radovan, William Criswell,
Cal Neva Lodge, LLC, Powell,
Coleman and Arnold LLP*

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CERTIFICATE OF SERVICE

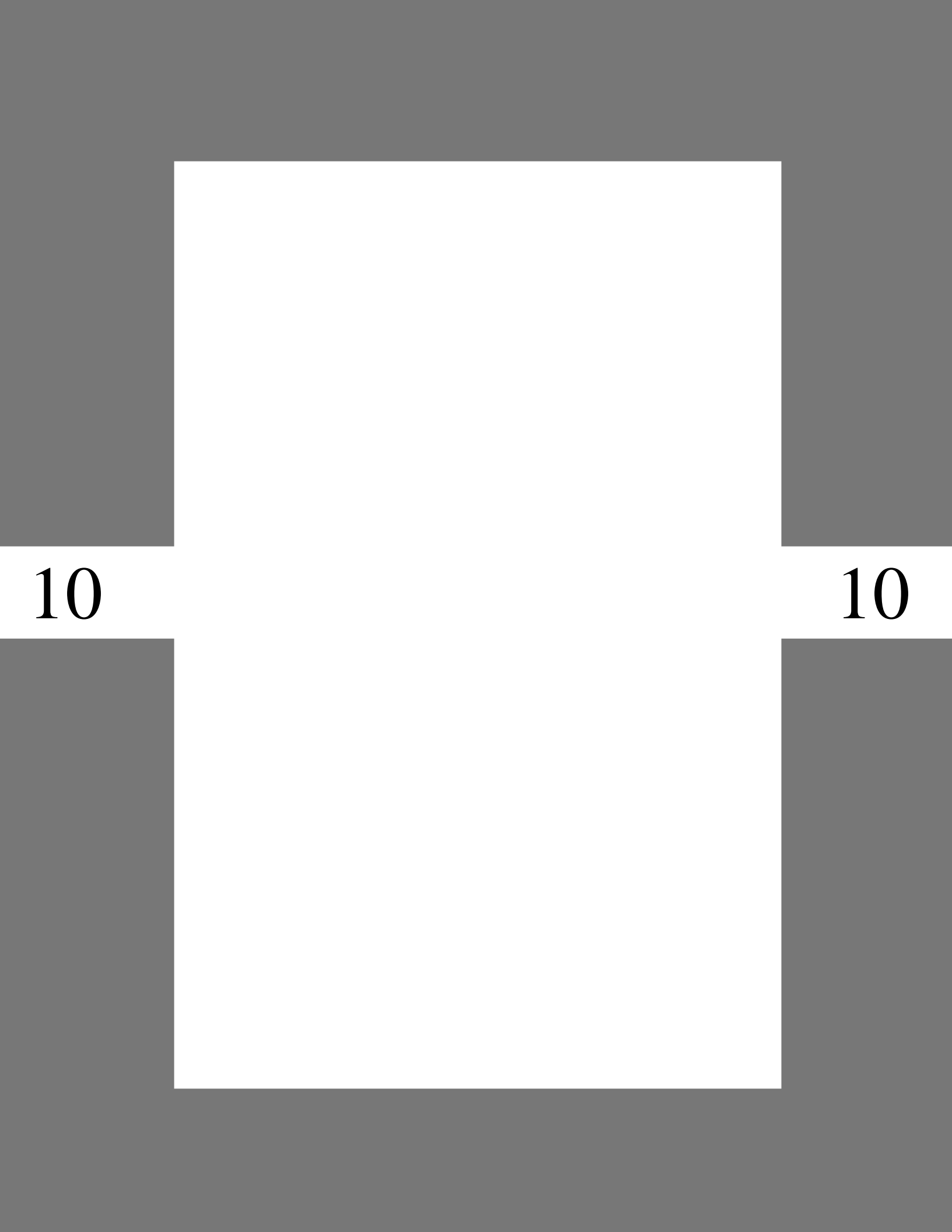
I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is Jolley Urga Woodbury & Little, 3800 Howard Hughes Parkway, 16th Floor, Las Vegas, Nevada, 89169.

On this day I served the **ANSWER OF DEFENDANTS CRISWELL RADOVAN, LLC, CR CAL NEVA LLC, ROBERT RADOVAN, WILLIAM CRISWELL, CAL NEVA LODGE, LLC, POWELL, COLEMAN AND ARNOLD LLP TO PLAINTIFF'S COMPLAINT** in this action or proceeding electronically with the Clerk of the Court via the E-Flex E-File and Serve system, which will cause this document to be served upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Second Judicial District Court e-Filing system in accordance with the mandatory electronic service requirements of Administrative Order ADKT No. 404 and the Nevada Electronic Filing and Conversion Rules.

Richard G. Campbell, Jr., Esq.
DOWNE BRAND LLP
100 West Liberty – Suite 900
Reno, NV 89501
Telephone: (775) 329-5900
Facsimile: (775) 3997-7417
Attorneys for Plaintiff

I certify under penalty of perjury that the foregoing is true and correct, and that I executed this Certificate of Service on June 7, 2016, at Las Vegas, Nevada.


An Employee of JOLLEY URGa WOODBURY & LITTLE



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CODE 1005
DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT NO. B7

ACCEPTANCE OF SERVICE

The undersigned, Andrew N. Wolf of Incline Law Group, LLP, with the authority of the
Defendant, DAVID MARRINER hereby accepts service of the Summons and Complaint in the

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DOWNEY BRAND LLP

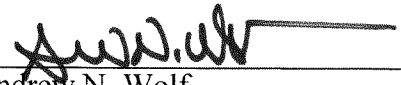
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1 above-entitled matter on behalf of defendant DAVID MARRINER.

2
3 DATED: May 31, 2016.

INCLINE LAW GROUP, LLP

4 By: 
5 Andrew N. Wolf
6 264 Village Blvd, Suite 104
7 Incline Village, NV 89451

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DOWNEY BRAND LLP

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SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, filed in this case:
ACCEPTANCE OF SERVICE

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

(State specific state or federal law)

- or -

☐ For the administration of a public program

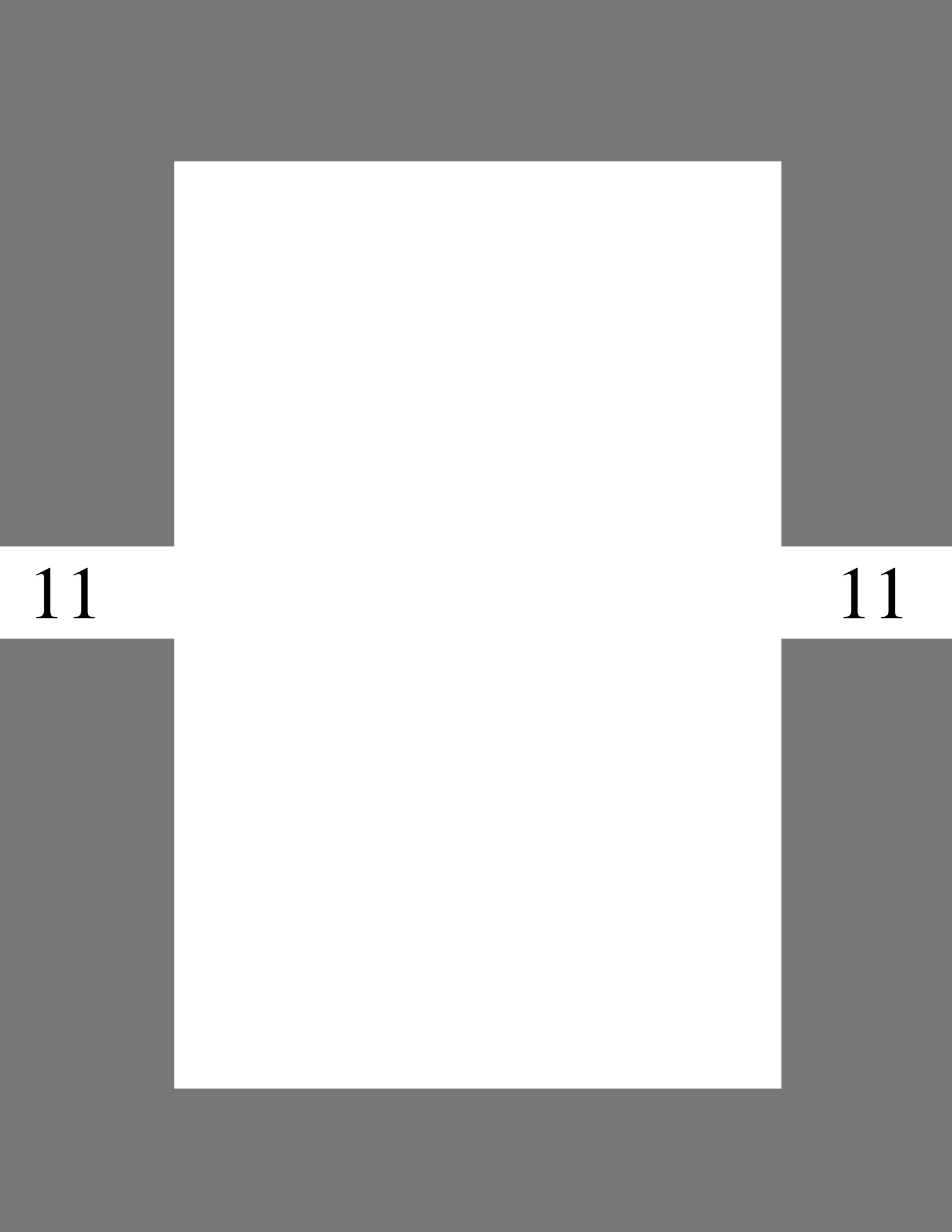
- or -

☐ For an application for a federal or state grant

Dated: June 6, 2016.

DOWNEY BRAND LLP

By: *Danielle L. Bleeker*



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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
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9 GEORGE STUART YOUNT, et al.,

10 Plaintiff,

Case No.: CV16-00767

Dept. No.: 7

11 vs.
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13 CRISWELL RADOVAN, LLC, et al.,

14 Defendants.
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16 **PRETRIAL ORDER**

17 **IT IS HEREBY ORDERED THAT:**

18 No later than twenty (20) days after entry of this order, counsel for the
19 parties shall set an initial Mandatory Pretrial Conference, Pretrial Conference and
20 Trial. Please contact the Judicial Assistant of the department (775) 328-3158 to
21 schedule a setting appointment. Plaintiff's counsel is to prepare the Application for
22 Setting form; and should the setting be a telephonic setting, deliver the form to
23 chambers prior to setting.

24 **I. PRETRIAL CONFERENCES**

25 A. The initial Mandatory Pretrial Conference shall be held within sixty
26 (60) days of this Order. The purpose of this conference is to expedite settlement or
27 other appropriate disposition of the case. Attendance by counsel for each party will
28 be required; however, if counsel is located out of the Reno area, telephonic

1 appearance will be acceptable and is to be discussed with the Judicial Assistant
2 during the setting appointment.

3 Counsel must be prepared to discuss the following:

- 4 (1) The status of settlement discussions and any possible court
5 assistance;
6 (2) Any alternative dispute resolution techniques appropriate to
7 this case;
8 (3) Any possible simplification of issues;
9 (4) The nature and timing of all discovery;
10 (5) Any special case management procedures appropriate to this
11 case;
12 (6) Whether there is good cause to waive the requirements for
13 expert witness reports (NRCP 16.1(2)(B));
14 (7) Whether there is good cause to limit the number and duration of
15 depositions;
16 (8) Whether there is good cause to limit requests for production, or
17 to increase the number of interrogatories;
18 (9) Whether discovery, and any other disputes, may be handled by a
19 meeting or telephonic conference with the parties and the Court
20 without the need for written motions; or without submitting
21 discovery disputes to the Discovery Commissioner;
22 (10) Whether any or all of the requirements of NRCP 16.1 should be
23 waived pursuant to NRCP 16.1(f);
24 (11) Any possible amendments to the pleadings or additional parties;
25 and,
26 (12) Other matters as may aid in the prompt disposition of this
27 action.
28 (See, NRCP 1).

1 B. The Final Pretrial Conference is held approximately two weeks prior to
2 trial. The parties should be prepared to discuss the status of Motions in Limine,
3 and formulate a program for facilitating the admission of evidence

4 The conference shall be attended by:

- 5 (1) Trial or lead counsel for all parties;
6 (2) The parties (if the party is an entity, an authorized
7 representative);
8 (3) A representative with negotiating and settlement authority of
9 any insurer insuring any risk pertaining to this case may
10 attend, in person or telephonically; and
11 (4) Any unrepresented parties.

12 II. PRETRIAL MOTIONS

13 A. Any motions which should be addressed prior to trial – including
14 motions for summary judgment – shall be served, filed and submitted for decision
15 no later than thirty (30) days before trial.

16 B. Motions in limine shall be served, filed and submitted for decision no
17 later than fifteen (15) days before trial. Except upon a showing of unforeseen
18 extraordinary circumstances, the Court will not entertain any pretrial motions filed
19 or orally presented after these deadlines.

20 C. Legal memoranda submitted in support of any motion shall not exceed
21 fifteen (15) pages in length; opposition memoranda shall not exceed fifteen (15)
22 pages in length; reply memoranda shall not exceed five (5) pages in length. These
23 limitations are exclusive of exhibits. This limitation also applies to post-trial
24 motions. The parties may request leave to exceed these limits in extraordinary
25 circumstances.

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III. DISCOVERY

A. Prior to filing any discovery motion, the attorney for the moving party must consult with opposing counsel about the disputed issues. Counsel for each side must present to each other the merits of their respective positions with candor, specificity, and supporting material.

B. Unless a discovery dispute is submitted directly to this Court pursuant to § IA(9), supra, and if both sides desire a dispute resolution conference pursuant to NRCP 16.1(d), counsel must contact the Discovery Commissioner's office at (775) 328-3293 to obtain a date and time for the conference that is convenient to all parties and the Discovery Commissioner. If the parties cannot agree upon the need for a conference, the party seeking the conference must file and submit a motion in that regard.

C. A continuance of trial does not extend the deadline for completing discovery. A request for an extension of the discovery deadline, if needed, must be included as part of any motion for continuance.

D. A party objecting to a written discovery request must, in the original objection, specifically detail the reasons that support the objection, and include affidavits or other evidence for any factual assertions upon which an objection is based.

IV. TRIAL STATEMENT

A. A trial statement on behalf of each party shall be hand delivered to opposing counsel, filed herein and a copy delivered to chambers no later than 5:00 p.m. five (5) court days prior to trial.

B. In addition to the requirements of WDCR 5, the trial statement shall contain:

- (1) Any practical matters which may be resolved before trial (e.g. suggestions as to the order of witnesses, view of the premises, availability of audio or visual equipment);

- 1 (2) A list of proposed general voir dire questions for the Court or
2 counsel to ask of the jury;
3 (3) A statement of any unusual evidentiary issues, with appropriate
4 citations to legal authorities on each issue; and
5 (4) Certification by trial counsel that, prior to the filing of the trial
6 statement, they have personally met and conferred in a good
7 faith-effort to resolve the case by settlement.

8 V. JURY INSTRUCTIONS

9 A. The parties shall exchange all proposed jury instructions and verdict
10 forms ten (10) court days prior to trial.

11 B. All original instructions shall be accompanied by a separate copy of the
12 instruction containing a citation to the form instruction, statutory or case authority
13 supporting that instruction. All modifications made to instructions taken from
14 statutory authority, Nevada Pattern Jury Instructions, *Devitt and Blackmar*,
15 CALJIC, BAJI or other form instructions shall be specifically noted on the citation
16 page.

17 C. The parties shall confer regarding the proposed jury instructions and
18 verdict forms and submit these instructions and verdict forms jointly to the Court
19 five (5) court days prior to trial. The parties shall indicate which instructions and
20 verdict forms are jointly agreed upon and which are disputed.

21 D. At the time Jury Instructions are settled, the Court will consider the
22 disputed instructions and any additional instructions which could not have been
23 readily foreseen prior to trial.

24 VI. MISCELLANEOUS

25 A. The Court expects that all counsel will cooperate to try the case within
26 the time set. Trial counsel are ordered to meet and confer regarding the order of
27 witnesses, stipulations and exhibits and any other matters which will expedite trial
28 of the case.

1 B. Jurors will be permitted to take notes during trial. Jurors will be
2 permitted to ask reasonable questions in writing during trial after the questions are
3 screened by the Court and counsel. Any party objecting to this procedure shall set
4 forth this objection in the trial statement.

5 C. Counsel and/or the parties are ordered to specifically inform every
6 witness that they call about any orders in limine, or similar rulings, that restrict or
7 limit testimony or evidence and to further inform them that they may not offer, or
8 mention, any evidence that is subject to such an Order.

9 D. Trial counsel for all parties shall speak with the courtroom clerk, Ms.
10 Kim Oates (775) 328-3140 no later than five (5) court days prior to trial, to arrange
11 a date and time to mark trial exhibits. All exhibits shall be marked in one
12 numbered series (Exhibit 1, 2, 3, etc.) and placed in binder(s) provided by counsel.
13 Counsel shall cooperate to insure that three identical sets of exhibits (one for the
14 Court, one for the Clerk and one for testifying witnesses) are provided to the Court.
15 Once trial exhibits are marked by the clerk, they shall remain in the custody of the
16 clerk. When marking the exhibits with the clerk, counsel should advise the clerk of
17 all exhibits which may be admitted without objection and those that may be
18 admissible subject to reserved objections.

19 E. Any memorandum of costs and disbursements must comply with
20 Bergman v. Boyce, 109 Nev. 670, 856 P.2d 560 (1993) and Bobby Berosini v. PETA,
21 114 Nev. 1348, 971 P.2d 383 (1998).

22 F. All applications for attorney's fees shall state services rendered and
23 fees incurred for such services with sufficient specificity to enable an opposing party
24 and the court to review such application, and shall specifically address the factors
25 set out in Schouweiler v. Yancy, 101 Nev. 827, 712 P.2d 786 (1985).

26 VII. CIVILITY

27 The use of language which characterizes the conduct, arguments or ethics of
28 another is strongly discouraged and is to be avoided. In the appropriate case, the

1 Court will upon motion or sua sponte, consider sanctions, including monetary
2 penalties and/or striking the pleading or document in which such improprieties
3 appear, and may order any other suitable measure the Court deems to be justified.
4 This section of this order applies to written material exchanged between counsel,
5 briefs or other written materials submitted to the Court and conduct at depositions,
6 hearings, trial or meetings with the Court.

7 Failure to comply with any provision of this Pretrial Order may result in the
8 imposition of sanctions.

9 DATED this 9 day of June, 2016.

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13 PATRICK FLANAGAN
14 District Judge
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CERTIFICATE OF SERVICE

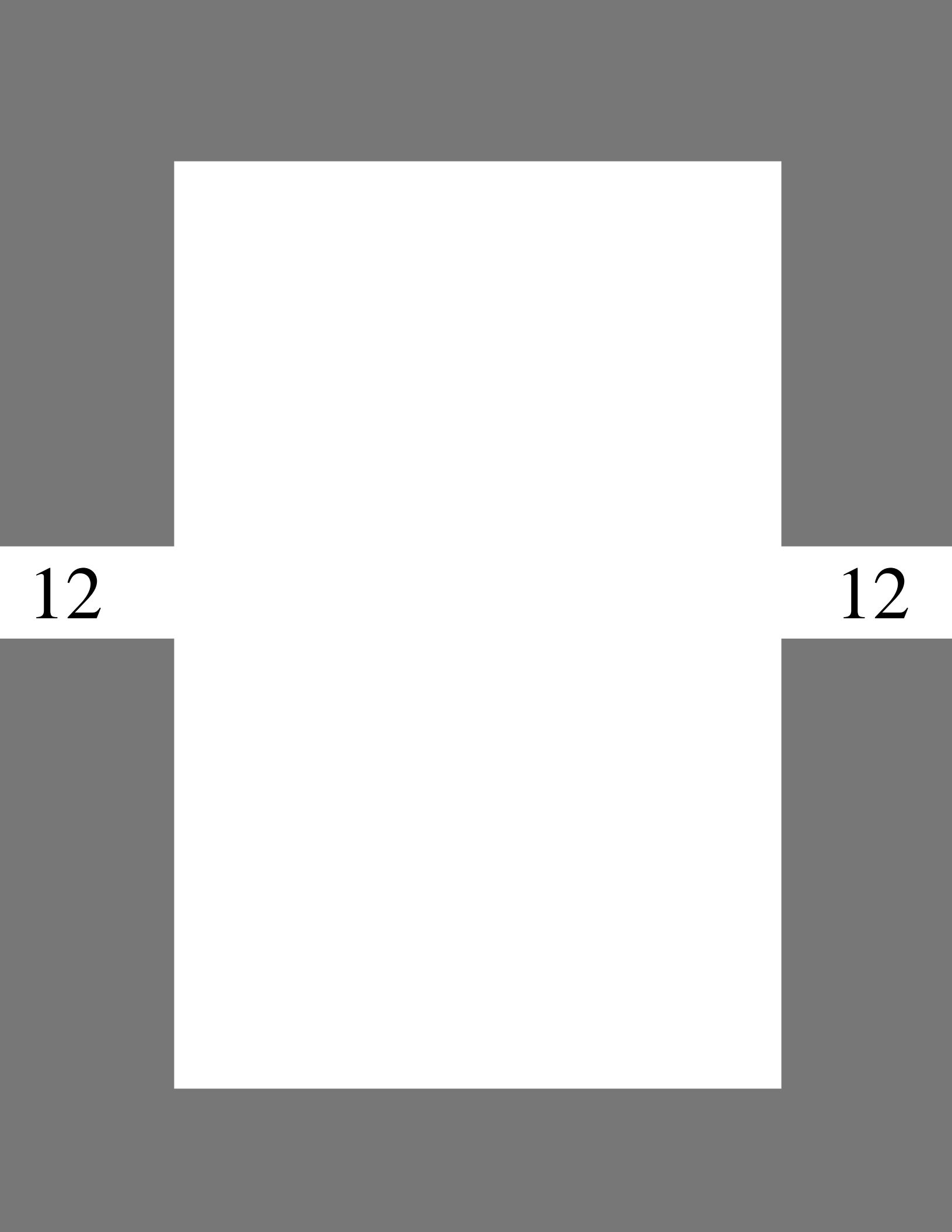
Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 9 day of June, 2016, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Richard Campbell, Jr., Esq. for George Stuart Yount, et al.; and

Martin Little, Esq. for Criswell Radovan, LLC, et al.

I deposited in the Washoe County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:


Judicial Assistant



12

12

1 DOWNEY BRAND LLP
 2 RICHARD G. CAMPBELL, JR. (Bar No. 1832)
 3 100 West Liberty, Suite 900
 4 Reno, NV 89501
 Telephone: 775-329-5900
 Facsimile: 775-997-7417

5 Attorneys for Plaintiff

6
 7
 8 IN THE SECOND JUDICIAL DISTRICT COURT OF
 9 THE STATE OF NEVADA IN AND FOR THE
 10 COUNTY OF WASHOE

11 GEORGE STUART YOUNT, Individually
 12 and in his Capacity as Owner of GEORGE
 STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

13 Plaintiff,

14 v.

15 CRISWELL RADOVAN, LLC, a Nevada
 16 limited liability company; CR Cal Neva,
 LLC, a Nevada limited liability company;
 17 ROBERT RADOVAN; WILLIAM
 CRISWELL; CAL NEVA LODGE, LLC, a
 18 Nevada limited liability company;
 19 POWELL, COLEMAN and ARNOLD
 LLP; DAVID MARRINER; MARRINER
 20 REAL ESTATE, LLC, a Nevada limited
 liability company; and DOES 1-10,

21 Defendants.

22
 23 **ORDER APPROVING STIPULATION**
TO SET ASIDE DEFAULT

24
 25 Pursuant to the *Stipulation to Set Aside Default* filed herein, and good cause appearing, IT
 26 IS HEREBY ORDERED that the *Default* filed against Marriner Real Estate, LLC, be and hereby
 27 is set aside, and it is hereby further ordered that Defendants David Marriner and Marriner Real
 28

1 Estate, LLC, file and serve a response to the *Complaint* on or before Tuesday, June 28, 2016.

2 DATED this 14 day of June, 2016.

3 Patrick Flanagan
4 DISTRICT JUDGE

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DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT NO. B7

ORDER APPROVING STIPULATION
TO ADD ADDITIONAL DEFENDANT TO COMPLAINT

Pursuant to the *Stipulation to Amend Complaint to Add Additional Defendant* filed herein,
and good cause appearing,

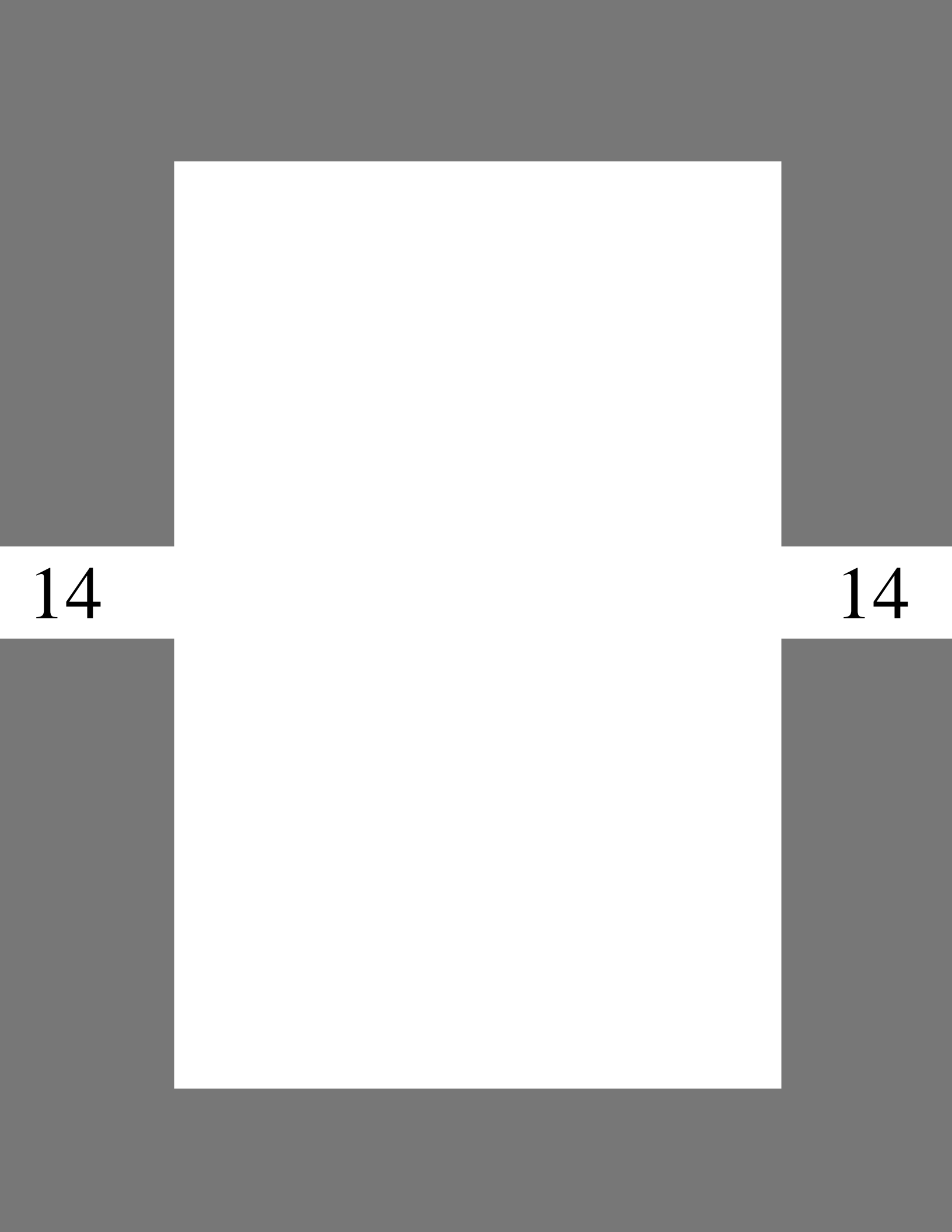
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1 IT IS HEREBY ORDERED that Plaintiff may amend his Complaint and add NEW CAL-
2 NEVA LODGE, LLC as a defendant in this matter.

3 DATED this 11 day of July, 2016.

4 Patrick Flanagan
5 DISTRICT JUDGE
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CODE 1090

DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
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Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; NEW CAL-NEVA
LODGE, LLC, a Nevada limited liability
company; and DOES 1-10,

Defendants.

FIRST AMENDED COMPLAINT
(Exemption from Arbitration Requested)

PLAINTIFF GEORGE STUART YOUNT, individually and in his capacity as owner of
the GEORGE STUART YOUNT IRA (hereinafter "Plaintiff"), for their Complaint against
Defendants CRISWELL RADOVAN, LLC, a Nevada limited liability company; CR CAL

1 NEVA, LLC, a Nevada limited liability company; ROBERT RADOVAN; WILLIAM
2 CRISWELL; CAL NEVA LODGE, LLC, a Nevada limited liability company; POWELL,
3 COLEMAN and ARNOLD LLP; DAVID MARRINER; MARRINER REAL ESTATE, LLC, a
4 Nevada limited liability company; and, NEW CAL-NEVA LODGE, LLC, a Nevada limited
5 liability company (hereinafter "Defendants") and DOES 1 through 10, inclusive, allege as
6 follows:

7 **PARTIES**

8 1. Plaintiff George Stuart Yount is an individual who resides in Crystal Bay, Nevada.

9 2. The George Stuart Yount IRA is an IRA owned by George Stuart Yount, for which
10 Premiere Trust, Inc., serves as custodian.

11 3. Defendant Criswell Radovan, LLC ("Criswell Radovan") is a Nevada limited
12 liability company whose managers are Sharon Criswell, William Criswell and Robert Radovan,
13 and upon information and belief is the owner of CR Cal Neva, LLC.

14 4. Defendant CR Cal Neva, LLC ("CR") is a Nevada limited liability company
15 whose managing member is William Criswell, and upon information and belief is owned by
16 William Criswell, Robert Radovan and/or Criswell Radovan.

17 5. Defendant Robert Radovan ("Radovan") is an individual residing, upon
18 information and belief, in Napa, California, and doing business in Nevada both individually and
19 through various entities, including Defendants.

20 6. Defendant William Criswell ("Criswell") is an individual residing, upon
21 information and belief, in Napa, California, and doing business in Nevada both individually and
22 through various entities, including Defendants.

23 7. Defendant Cal Neva Lodge, LLC ("CNL") is a Nevada limited liability company
24 whose manager is Robert Radovan.

25 8. Powell, Coleman and Arnold LLP ("Powell Coleman") is a law firm located in
26 Dallas, Texas, who has and continues to represent CR and CNL as to the financing and
27 development of the Cal Neva Lodge located in Nevada and California (as referred herein, the
28 "Cal Neva Lodge", or "Project").

1 9. Defendant David Marriner ("Marriner") is an individual residing in Incline
2 Village, Nevada, and acting as an agent and/or broker for CNL, CR, Criswell Radovan, LLC, and
3 the Cal Neva Lodge.

4 10. Marriner Real Estate, LLC ("Marriner Real Estate") is a Nevada limited liability
5 company whose manager is David Marriner, and upon information and belief is solely owned by
6 David Marriner which has acted as an agent and/or broker for CNL, CR, Criswell Radovan, LLC,
7 and Cal Neva Lodge.

8 11. Defendant New Cal-Neva Lodge, LLC ("NCNL") is a Nevada limited liability
9 company whose managing member is Cal Neva Lodge, LLC.

10 12. Plaintiff is ignorant of the true names and capacities of the DOES named herein as
11 DOES 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names.
12 Plaintiff will amend this Complaint to allege their true names and capacities when ascertained.
13 Plaintiff is informed and believes, and thereon alleges, that each of these fictitiously named DOE
14 Defendants was, and continues to be, responsible in some manner for the acts or omissions herein
15 alleged.

16 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

17 13. On or about February 18, 2014, Marriner met with Plaintiff and told him about the
18 new owners and developers of the Cal Neva Lodge, primarily Radovan and Criswell and their
19 related entities, including Defendants, who were looking for investors to help fund a newly
20 formed Nevada LLC that would acquire, remodel and reopen the Cal Neva Lodge. Marriner
21 acted as and represented that he was the agent and broker for the new owner and their myriad
22 legal entities. Thereafter, for a period of several months, Marriner acting individually and as the
23 owner of Marriner Real Estate, kept in contact with Plaintiff and made numerous representations
24 about the Project, the development of the Cal Neva Lodge and Radovan and Criswell's successful
25 development history. Marriner also provided marketing and promotional materials related to the
26 Project, and tours of the Cal Neva Lodge, all intended to induce Plaintiff to become an investor in
27 the Project and Cal Neva Lodge.

28 14. On or about July 25, 2015, Radovan sent an email to Plaintiff providing numerous

1 documents and other information related to the Project and development of the Cal Neva Lodge,
2 including financial information, with the intent to induce the Plaintiff into purchasing a "Founders
3 Unit" in CNL for \$1,000,000, as CNL was serving as the primary development vehicle for the
4 Project.

5 15. Plaintiff was later provided a "Subscription Booklet" that included Subscription
6 Instructions, a member signature page, a certificate of nonforeign status, investor instruction to
7 escrow and wire transfer information and an IRS form W-9. Plaintiff was also informed that
8 there was still \$1,500,000 of Founders Units available for purchase of the \$20,000,000 of
9 Founders Units authorized under the Subscription Agreement and related offering materials.
10 Plaintiff reviewed the Subscription Booklet, and based on the information contained therein and
11 the representations made by Radovan, Criswell, Marriner, and their respective agents and entities,
12 including Defendants, decided to purchase a Founders Unit in the amount of \$1,000,000.
13 Plaintiff elected to utilize funds held by the George Stuart Yount IRA of Plaintiff for the purchase
14 of such Founders Unit.

15 16. On or about October 12, 2015, Plaintiff, as owner of the George Stuart Yount IRA,
16 and Deborah Erdman as Trust Officer for Premier Trust Inc., as the custodian of the George
17 Stuart Yount IRA, signed and delivered the Subscription Agreement. On October 13, 2015,
18 Criswell, as president of CR signed the Acceptance of Subscription as manager of CNL. On
19 October 15, 2015, Premier Trust Inc. on behalf of the George Stuart Yount IRA, wired the
20 amount of \$1,000,000 to the trust account of Powell Coleman, the designated escrow holder for
21 subscription funds under the Subscription Agreement. Pursuant to the Subscription Agreement
22 the \$1,000,000 was to be deposited into the account of CNL.

23 17. On or about December 12, 2015, a meeting of members and investors in the
24 Project was held at the Fairwinds Lodge near the Cal Neva Lodge. At that meeting, for the first
25 time, Plaintiff was informed of several issues that were not disclosed or were incorrectly
26 represented to him prior to his investment, primarily that the Project was substantially over
27 budget and the Cal Neva Lodge was not going to open as scheduled.

28 18. The revelations at the December 12, 2015 meeting caused great concern to the

1 Plaintiff and the members and investors. Additionally, at that time, the bank statements of CNL
2 did not reflect that the \$1,000,000 had been deposited into any CNL account.

3 19. On or about January 22, 2016, Plaintiff received a Capitalization Table for CNL
4 indicating that his \$1,000,000 investment was not in CNL, but was within the \$2,000,000 equity
5 investment of CR in CNL. Plaintiff immediately responded that was in error and that his intent
6 all along, and the terms of the Subscription Agreement, provided for his purchase of a Founders
7 Unit under the Subscription Agreement as was evidenced by the fully executed Subscription
8 Agreement delivered by Plaintiff to CNL. Plaintiff had never entered into any verbal or written
9 agreement to buy any portion of the CR's Founder's Units in CNL. Plaintiff then requested that
10 the Capitalization Table be corrected to reflect that he was a holder of a \$1,000,000 Founders
11 Unit in CNL, as provided by the Subscription Agreement.

12 20. Based on these series of events, Plaintiff then started inquiring into the
13 whereabouts of his \$1,000,000.

14 21. On or about February 2, 2016, Plaintiff received an email from Bruce Coleman, a
15 partner of Powell Coleman, with attached documents, apparently drafted by Powell Coleman,
16 consisting of an Assignment of Interest in Limited Liability Company (backdated to October 13,
17 2015), Resolution of Members of CNL approving such assignment, and a Purchase Agreement
18 for CR to repurchase from Plaintiff the one-half of CR's equity position in CNL, which was
19 asserted by Powell Coleman to have been transferred to Plaintiff for \$1,000,000, which
20 agreement also classified Plaintiff's \$1,000,000 as a loan from Plaintiff to CR. Basically these
21 assignment documents set forth that the Subscription Agreement had been erroneously executed
22 and that the parties actually intended for the Plaintiff to purchase an interest in CR's Founder
23 Units in CNL, which was neither the intent nor agreement of the parties. Plaintiff responded to
24 Mr. Coleman expressly representing that it was never his intent, nor the agreement of the parties,
25 to purchase any portion of CR's interest in CNL, and that the only agreement and intent was to
26 purchase a Founders Unit in CNL in accordance with the Subscription Agreement, as evidenced
27 by his signed Subscription Agreement.

28 22. On or about March 16, 2016, Plaintiff sent an email to Mr. Coleman inquiring as

1 to the whereabouts of his \$1,000,000. After a series of emails between Plaintiff and Mr.
 2 Coleman, Mr. Coleman disclosed that the \$1,000,000 had been transferred to CR on October 14,
 3 2015, because "I was told by CR that it had sold 50% of its \$2m interest in Cal Neva Lodge, LLC
 4 to you for \$1m and that the payment would be transferred through my trust account. At the time
 5 of this transaction Cal Neva Lodge had already sold all of the shares it was authorized to sell
 6 under the terms of its Operating Agreement, so I had no reason to question the sale of a portion of
 7 CR's interest to you." As of March 16, 2016, Mr. Coleman, upon Plaintiff's information and
 8 belief, had in his possession the executed Subscription Agreement of October 13, 2015 with
 9 attached escrow instructions. Those escrow instructions directed that Powell Coleman was the
 10 escrow holder and specifically set forth that the \$1,000,000 from Plaintiff be retained in the
 11 escrow account until such time as certain conditions were met, at which time the funds were to be
 12 deposited into CNL. Plaintiff then asked Mr. Coleman for any documentation demonstrating that
 13 CR had sold 50% of its interest to him and authorizing that the payment would be transferred
 14 through his trust account. No such documentation was ever provided by Mr. Coleman.

15 23. Plaintiff has made repeated demands on Criswell and Radovan and their respective
 16 entities, including Defendants, for repayment of his \$1,000,000 and has yet to be repaid.

17 **FIRST CAUSE OF ACTION**

18 **(Breach of Contract against CR Cal Neva LLC; Cal Neva Lodge, LLC; Criswell Radovan, LLC; and New Cal-Neva Lodge, LLC)**

19 24. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the
 20 allegations in paragraphs 1 through 23 above.

21 25. The Subscription Agreement Plaintiff signed on October 13, 2015, which was
 22 countersigned by Criswell on October 14, 2015, was a binding contract which required the
 23 Plaintiff's \$1,000,000 to be held in escrow and then either deposited into the account of CNL if
 24 certain conditions were met, and if not, returned to the Plaintiff. If, as represented by counsel for
 25 CNL, the authorized capital of CNL, the terms of the offering, or the operating agreement for
 26 CNL prohibited the purchase by the Plaintiff, then the \$1,000,000 should have been returned to
 27 the Plaintiff as directed in the Subscription Agreement. The \$1,000,000 was not returned to
 28 Plaintiff; it was instead deposited into an account of CR without any authorization by Plaintiff or

any agreement for such a transfer. The actions by CR and its agents and/or attorneys constituted a breach of the Subscription Agreement causing damage to the Plaintiff in an amount in excess \$1,000,000.

SECOND CAUSE OF ACTION
(Breach of Duty Against Defendant Powell Coleman and Arnold LLP)

26. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 25 above.

27. Powell Coleman is the designated escrow holder for investor purchases under the Subscription Agreement for shares of CNL. As such, Powell Coleman had a duty, fiduciary, statutory or otherwise, (1) to comply with all provisions of the Subscription Agreement and the Investor's Instructions to Escrow and Wire Transfer Information, a copy of which is attached to this Complaint and incorporated herein as **Exhibit 1**, and (2) to insure that Plaintiff's \$1,000,000 was only released from escrow upon specific instructions from the Plaintiff.

28. On or about October 14, 2015, Powell Coleman received a wire transfer for \$1,000,000 into their trust account from Premier Trust Inc., on behalf of and as custodian of the George Stuart Yount IRA.

29. On October 15, 2015, Powell Coleman negligently distributed and transferred Plaintiff's \$1,000,000 to CR without Plaintiff's consent and without any documentation evidencing that the \$1,000,000 was for a purchase agreement between CR and Plaintiff and that payment was to go through the Powell Coleman Trust Account. Such transfer of Plaintiff's \$1,000,000 was a breach of the duty that Powell Coleman, as an escrow holder, had to Plaintiff. Such breach of duty has caused Plaintiff damages in excess of \$1,000,000.

THIRD CAUSE OF ACTION
(Fraud Against Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David Marriner; Marriner Real Estate, LLC; and, New Cal-Neva Lodge, LLC)

30. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 29 above.

31. Defendants knowingly made fraudulent misrepresentations or material omissions

of fact to Plaintiff intended to induce Plaintiff into contributing \$1,000,000 to obtain a Founders Unit in CNL. Such fraudulent misrepresentations include, but are not limited to, that the Cal Neva Lodge would open on or near the end of 2015; that the Project was only slightly over budget; that a refinancing of the \$6,000,000 mezzanine financing with a \$15,000,000 loan was in place or imminent; that the developers had a successful track record of developing similar projects; that the developers would not receive distributions or other payments related to the Project until after the preferred returns and equity investments were paid or returned to the investors; and, that there was \$1,500,000 left under the offering authorized and contemplated by the Subscription Agreement and related offering documents for purchase of a Founders Unit by Plaintiff.

32. Prior to Plaintiff signing the Subscription Agreement, there was also a material omission by Defendants, and Defendants failed to disclose, that CNL's liabilities exceeded its assets, and that Project was in fact in need of capital because the general contractor and numerous sub-contractors had not been paid. Plaintiff was not aware of the inaccuracy of the representations by Defendants, or the material omissions by Defendants, and was never informed prior to his investment that the Project was in serious financial trouble, that the offering contemplated by the Subscription Agreement and related offering documents was fully subscribed, and that the offering limit of \$20,000,000 had already been met when he signed the Agreement.

33. Plaintiff justifiably relied on the representations by Defendants and would not have made the investment had he known the true status and details of the Project or CNL. Plaintiff suffered damages from Defendants' fraud in excess of \$1,000,000.

FOURTH CAUSE OF ACTION

(Negligence Against Defendant Powell, Coleman and Young LLP)

34. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 33 above.

35. Defendant Powell Coleman had a duty as attorneys serving as escrow holder of Plaintiff's \$1,000,000 to insure that distribution of that amount was done in accordance with the

Subscription Agreement and Plaintiff's authorized and intended use for such funds. Powell Coleman's transfer of those funds to its client, CR, without any express written authorization from Plaintiff, was the proximate cause of Plaintiff's damages that are in excess of \$1,000,000.

FIFTH CAUSE OF ACTION

(Conversion against CR Cal Neva, LLC; William Criswell; Robert Radovan; Criswell Radovan, LLC; and New Cal-Neva Lodge, LLC)

36. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 35 above.

37. Defendants wrongfully exercised dominion over Plaintiff's \$1,000,000 when it instructed their attorneys, Powell Coleman, to transfer Plaintiff's \$1,000,000 out of Powell Coleman's trust account and into the possession of Defendants. Plaintiff had never authorized such transfer, nor executed any documents allowing such transfer, and such act to direct the transfer of funds was in derogation of Plaintiff's ownership of such funds. Such Conversion caused Plaintiff damages in excess of \$1,000,000.

SIXTH CAUSE OF ACTION

(Punitive Damages against all Defendants)

38. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 37 above.

39. Defendants Criswell Radovan, CR, Criswell, Radovan, Marriner and Marriner Real Estate's actions were fraudulent and in conscious disregard of Plaintiff's rights with the express malicious intent of causing harm to Plaintiff, and as such Plaintiff should be entitled to punitive damages.

40. Defendant Powell Coleman was specifically engaged in the business of administering escrows in Nevada and acting as an escrow agent for a Nevada business transaction, involving a Nevada property and holding money for residents of Nevada, without having procured a Nevada license to act as an escrow agent. As such Nevada Revised Statute 645A.222(2) authorizes an action for an award of punitive damages.

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SEVENTH CAUSE OF ACTION

(Claim for Fraud under NRS 90.570 in the Offer, Sale and Purchase of a Security against Defendants William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David Marriner; and Marriner Real Estate, LLC)

41. Plaintiff realleges and incorporates by this reference, as set forth in full herein, the allegations in paragraphs 1 through 40 above.

42. Defendants knowingly made fraudulent misrepresentations and/or material omissions of fact to Plaintiff intended to induce Plaintiff into contributing \$1,000,000 to obtain a Founders Unit in CNL. Such fraudulent misrepresentations include, but are not limited to, that the Cal Neva Lodge would open on or near the end of 2015; that the Project was only slightly over budget; that a refinancing of the \$6,000,000 mezzanine financing with a \$15,000,000 loan was in place or imminent; that the developers had a successful track record of developing similar projects; that the developers would not receive distributions or other payments related to the Project until after the preferred returns and equity investments were paid or returned to the investors; and, that there was \$1,500,000 left under the Subscription Agreement and related offering documents for purchase of a Founders Unit by Plaintiff.

43. Prior to Plaintiff signing the Subscription Agreement, there was also a material omission by Defendants, and Defendants failed to disclose, that CNL's liabilities exceeded its assets, and that Project was in fact in need of capital because the general contractor and numerous sub-contractors had not been paid. Plaintiff was not aware of the inaccuracy of the representations by Defendants, or the material omissions by Defendants, and was never informed prior to his investment that the Project was in serious financial trouble, that the offering contemplated by the Subscription Agreement and related offering documents was fully subscribed, and that the offering limit of \$20,000,000 had already been met when he signed the Agreement.

Plaintiff justifiably relied on the representations by Defendants and would not have made the investment had he known the true status and details of the Project or CNL. Plaintiff suffered damages from Defendants' fraud in excess of \$1,000,000.

///

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

1. For damages against Defendants in excess of \$1,000,000;
2. For punitive damages provided for by law;
3. For interest on the judgment as provided by law;
4. An award of attorneys' fees as provided for by law and under NRS 645A.222 and NRS 90.660(3);
5. Costs of the suit herein incurred; and,
6. For other such relief as the Court may deem just and proper.

DATED: July 20, 2016.

DOWNEY BRAND LLP

By: 

RICHARD G. CAMPBELL, JR.
Attorney for Plaintiff

DOWNEY BRAND LLP

000101

1 VERIFICATION

2 STATE OF NEVADA)
 3 COUNTY OF WASHOE) ss.

4 I, GEORGE STUART YOUNT, declare:

5 I am the Plaintiff in the above-entitled action.

6 I have read the foregoing COMPLAINT on file herein and know the contents thereof.

7 The same is true of my own knowledge, except as to those matters which are therein stated on
 8 information and belief, and, as to those matters, I believe them to be true.

9 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
 10 is true and correct.

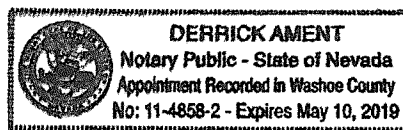
11 DATED this 20 day of July, 2016.

12 
 13 GEORGE STUART YOUNT

14 Subscribed and sworn to before me,
 15 this 20 day of July, 2016.

16 
 17 NOTARY PUBLIC

18 Commission Expires: May 10, 2019



SECOND JUDICIAL DISTRICT COURT
COUNTY OF WASHOE, STATE OF NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, filed in this case:
COMPLAINT;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

 (State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: July 20, 2016.

DOWNEY BRAND LLP

By: Danielle L. Bleeker

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 100 West Liberty, Suite 900, Reno, Nevada 89501. On July 20, 2016, I served the following document(s):

FIRST AMENDED COMPLAINT

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth below.
- ☐ **BY EMAIL:** by causing the document(s) to be electronically served.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by Reno Carson Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY E-MAIL/ELECTRONIC FILING SYSTEM:** by causing the document(s) to be electronically served via the court's electronic filing system to the following attorneys associated with this case.

Martin A. Little
Jolley Urga Woodbury & Little
3800 Howard Hughes Parkway, 16h Floor
Las Vegas, Nevada 89169

Andrew N. Wolf
Incline Law Group, LLC
264 Village Blvd, Suite 104
Incline Village, NV 89451

Ali P. Hamidi
Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, CA 94104-1513

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 20, 2016, at Reno, Nevada.



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DOWNEY BRAND LLP

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EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	LENGTH
1	Subscription Agreement	14 pages

Exhibit 1

000106

000106

Exhibit 1

SUBSCRIPTION BOOKLET

(for Founding Members)

CAL NEVA LODGE, LLC

SUBSCRIPTION INSTRUCTIONS

EACH POTENTIAL INVESTOR WHO WISHES TO SUBSCRIBE FOR FOUNDERS UNITS MUST COMPLETE, EXECUTE AND RETURN TO THE COMPANY THE FOLLOWING DOCUMENTS CONTAINED IN THIS SUBSCRIPTION BOOKLET (AS APPLICABLE):

- (1) A Subscription Agreement;
- (2) A Member Signature Page and Power of Attorney;
- (3) A Certificate of Nonforeign Status (for Members who are individuals);
- (4) A Certificate of Nonforeign Status (for Members who are entities);
- (5) Investor's Instructions to Escrow and Wire Transfer Information; and
- (6) IRS Form W-9.

ALSO, IF APPLICABLE, PLEASE DELIVER THE FOLLOWING:

IF THE POTENTIAL INVESTOR IS A TRUST, INCLUDE A COPY OF THE TRUST AGREEMENT.

IF THE POTENTIAL INVESTOR IS A PARTNERSHIP, INCLUDE A COPY OF THE SIGNED PARTNERSHIP AGREEMENT, AND A COMPLETED SUBSCRIPTION AGREEMENT FOR EACH PARTNER.

IF THE POTENTIAL INVESTOR IS A CORPORATION, INCLUDE A COPY OF THE BOARD RESOLUTION DESIGNATING THE CORPORATE OFFICER AUTHORIZED TO SIGN ON BEHALF OF THE CORPORATION AND AUTHORIZING THE INVESTMENT AND THE CORPORATION'S MOST RECENT FINANCIAL STATEMENTS.

IF POTENTIAL INVESTOR IS A LIMITED LIABILITY COMPANY, INCLUDE A COPY OF THE SIGNED OPERATING AGREEMENT AND THE ARTICLES OF ORGANIZATION OR CERTIFICATE OF FORMATION, AS FILED, AND A COMPLETED SUBSCRIPTION AGREEMENT FOR EACH MEMBER AND EACH MANAGER.

SUBSCRIPTION AGREEMENT

TO: **CAL NEVA LODGE, LLC,**
a Nevada limited liability company
c/o CR Cal Neva, LLC
1336-D Oak Street
St. Helena, California 94574

Potential Investor:

The undersigned (the "Purchaser"), by completing and executing this Subscription Agreement and the Member Signature Page and Power of Attorney, hereby tenders this subscription and applies for the purchase of the number of Founders Units (the "Founders Units") of CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company"), set forth below the Purchaser's signature hereto, at a price of \$1,000,000 per Founders Unit (the "Purchase Price"). The Purchaser hereby acknowledges receipt of a copy of the Company's Confidential Private Placement Memorandum, dated _____ (the "Memorandum").


The Purchaser (or, if the Purchaser is signing in a fiduciary capacity, the person or persons for whom the fiduciary is signing) hereby represents and warrants to the Company that:

(a) The Purchaser is an "accredited investor" within the meaning of Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act"). The specific category or categories of "accredited investor" applicable to the Purchaser are as follows:

A. AND B. ARE APPLICABLE TO INDIVIDUALS (Please INITIAL applicable blanks):

- A. _____ The Purchaser is a natural person and has a net worth, either alone or with the Purchaser's spouse, of more than \$1,000,000 (*excluding* the value of Purchaser's primary residence).
- B. _____ The Purchaser is a natural person and had income in excess of \$200,000 (\$300,000 including income of spouse) during each of the previous two years and expects to have income in excess of such amounts during the current year.

C. THROUGH F. ARE APPLICABLE TO NON-INDIVIDUALS (Please INITIAL applicable blanks):

- C. _____ The Purchaser is a trust with total assets in excess of \$5,000,000, not formed for the specific purpose of acquiring the Founders Units, and the purchase is directed by a person meeting the criteria described in Subsection (g) below.
- D.  The Purchaser is an employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974 that either (i) has its investment decisions made by a plan fiduciary, as defined by Section 3(21) of such Act, which is a bank, savings and loan association, insurance company or a registered investment adviser, or (ii) has total assets in excess of \$5,000,000 or, if a self-directed plan, the investment decisions are made solely by persons who are accredited investors as described herein.
- E. _____ The Purchaser is an entity (*excluding* a trust UNLESS it is a revocable grantor trust) in which all of the equity owners are accredited investors within categories A and B above.

F. _____ The Purchaser is a corporation, or a partnership, not formed for the specific purpose of acquiring the Founders Units, with total assets in excess of \$5,000,000.

(b) The Purchaser understands that the Company has not registered the Founders Units under the Securities Act, or qualified the Founders Units under the applicable securities laws of any state, in reliance on exemptions from registration and qualification, and the Purchaser understands that such exemptions depend in large part on the Purchaser's investment intent at the time the Purchaser acquires the Founders Units;

(c) The Founders Units subscribed for herein will be acquired for the Purchaser's own account, for investment and not for resale or distribution to any person, corporation, or other entity, and the Purchaser has no intention of distributing or reselling the Founders Units;

(d) The Purchaser acknowledges that any disposition of the Founders Units is subject to restrictions imposed by federal and state law and that the certificates representing the Founders Units will bear a restrictive legend. The Purchaser also recognizes that the Founders Units cannot be disposed of by the Purchaser, absent registration and qualification, or an available exemption from registration and qualification, and that no undertaking has been made with regard to registering or qualifying the Founders Units in the future. The Purchaser understands that the availability of an exemption in the future will depend in part on circumstances outside the Purchaser's control and that the Purchaser may be required to hold the Founders Units for a substantial period. The Purchaser recognizes that no public market exists with respect to the Founders Units and no representation has been made to the Purchaser that such a public market will exist at a future date. The Purchaser understands that no state securities administrator or commissioner has made any finding or determination relating to the fairness for investment of the Founders Units and that no such administrator or commissioner has or will recommend or endorse the Founders Units;

(e) The Purchaser has not seen or received any advertisement or general solicitation with respect to the sale of the Founders Units;

(f) The Purchaser believes, by reason of the Purchaser's business or financial experience, that the Purchaser is capable of evaluating the merits and risks of this investment and of protecting the Purchaser's interest in connection with this investment;

(g) The Purchaser acknowledges that prior to acquiring the Founders Units, the Purchaser has been provided with financial and other written information about the Company and the terms and conditions of the offering. The Purchaser has been given the opportunity by the Company to obtain such information and ask such questions concerning the Company, the Founders Units and the Purchaser's investment as the Purchaser felt necessary, and to the extent the Purchaser took such opportunity, the Purchaser received satisfactory information and answers. If the Purchaser requested any additional information which the Company possessed or could acquire without unreasonable effort or expense which was necessary to verify the accuracy of the financial and other written information furnished to the Purchaser by the Company, such additional information was provided to the Purchaser and was satisfactory. In reaching the conclusion to acquire the Founders Units, the Purchaser has carefully evaluated the Purchaser's financial resources and investment position and the risks associated with this investment, and the Purchaser acknowledges that the Purchaser is able to bear the economic risks of this investment. The Purchaser further acknowledges that the Purchaser's financial condition is such that the Purchaser is not under any present necessity or constraint to dispose of the Founders Units to satisfy any existing or contemplated debt or undertaking;

(h) The Purchaser hereby accepts full and sole responsibility for all state and federal tax consequences which may result from the Purchaser's acquisition of the Founders Units;

(i) The Purchaser, if subject to the Employee Retirement Income Security Act of 1974 ("ERISA"), has taken into consideration the diversification requirements of ERISA prior to making an investment in the Founders Units;

(j) The Purchaser, if executing this Subscription Agreement and the Member Signature Page and Power of Attorney in a representative or fiduciary capacity, has full power and authority to execute and deliver this Subscription Agreement, the Operating Agreement and the Member Signature Page and Power of Attorney on behalf of the subscribing individual, partnership, trust, estate, corporation, or other entity for whom the Purchaser is executing such

documents, and such individual, partnership, trust, estate, corporation, or other entity has full right and power to perform pursuant to such documents and to become a member in the Company pursuant to the Operating Agreement;

(k) The Purchaser has thoroughly read the Memorandum and all documents attached thereto, and understands the contents of such documents. The Purchaser is familiar with the Company's business objectives and financial arrangements in connection therewith and believes the Founders Units that the Purchaser is purchasing are the kind of securities that the Purchaser wishes to hold for investment and that the nature and purchase price of the Founders Units are consistent with the Purchaser's investment program. No representations or warranties have been made to the Purchaser regarding this investment contrary to those contained in the Memorandum and attached documents, and the Purchaser agrees to inform the Company if the Purchaser learns that any statements made to the Purchaser in connection with the Purchaser's investment in the Company are untrue. The information set forth herein is true and correct;

(l) The Purchaser acknowledges and agrees that the Purchaser is not entitled to cancel, terminate or revoke this Subscription Agreement or any of the Purchaser's agreements hereunder and that this Subscription Agreement and any other agreements made hereby shall survive Purchaser's death or disability; and

(m) The Purchaser has such knowledge and experience in financial and business matters and in investments to be capable of evaluating the merits and risks of the investment in the Founders Units.

In addition, the Purchaser:

- (1) Understands that the Founders Units being acquired will be governed by the Operating Agreement;
- (2) Understands that the Company shall have the right to accept or reject this subscription in whole or in part in its sole and absolute discretion;
- (3) Understands that no public market for the Founders Units exists, or is likely to develop, and that it may not be possible to liquidate this investment readily, if at all, in the case of an emergency or for any other reason;
- (4) Understands that the Founders Units are subject to transfer restrictions as set forth in the Operating Agreement;
- (5) Acknowledges that to extent desired the Purchaser has consulted with the Purchaser's financial, business and tax advisers before executing this Subscription Agreement;
- (6) Acknowledges and agrees that a breach by the Purchaser of any of the Purchaser's representations made herein which results in a loss by the Company of the exemptions from registration and qualification requirements under applicable federal and state securities laws will cause the Purchaser to be liable to the Company for all damages and losses caused thereby;
- (7) If the consideration to be delivered is cash, Purchaser agrees to deliver the Purchase Price via bank wire transfer to the Company (or directly to the designated third-party escrow for the benefit of the Company, as applicable), see wire transfer instructions attached hereto, no later than three days after delivery of email notice by the Company to the Purchaser (the "Funding Notice") and acknowledges that the Purchaser's failure to timely deliver the Purchase Price will materially and adversely affect the Offering, the other investors and the Company and that the Purchaser will be responsible for all damages and losses that result from the Purchaser's failure to timely deliver the Purchase Price; and
- (8) Acknowledges and agrees that any funds delivered by the Purchaser to a designated third-party escrow for the benefit of the Company will be delivered to the Company (not Purchaser) upon either the termination or successful closing of the Offering, and that such funds will be returned to Purchaser by the Company only if the Company at the time of termination has not accepted subscriptions of at least \$14,000,000 (the "Offering Minimum").

This Subscription Agreement and all rights hereunder, shall be governed by, and interpreted in accordance with, the laws of the State of Nevada.

[Signature Page Follows]

000112

000112

IN WITNESS WHEREOF, the Purchaser has duly executed and delivered this Subscription Agreement effective as of the date set forth below.

Date: 10-12, 2015

[CORPORATION/TRUST]

"PURCHASER"

Premier Trust, Inc. Custodian FBO

George Stuart Young, IRA

By: Deb Erdmann

Title: DEBORAH ERDMANN
VP / TRUST OFFICER

By: _____

Title: _____

Premier Trust, Inc.
Address: 4465 S. Jones Boulevard
Las Vegas, NV 89103

EMAIL ADDRESS: KKlein@PremierTrust.com

Taxpayer ID No.: 1761

Subscription Amount: \$1,000,000.00

Number of Founders Units (\$1,000,000 Each): _____

I hereby confirm that the trust named above is a revocable grantor trust in which each of the grantors is an individually accredited investor as described in Sections (a) A. or B. of this Subscription Agreement.

By: _____

Title: _____

ACCEPTANCE OF SUBSCRIPTION

THE FOREGOING SUBSCRIPTION IS HEREBY ACCEPTED FOR 1 FOUNDERS UNITS.

DATED: Oct 13, 2015

CAL NEVA LODGE, LLC

By: CR CAL NEVA, LLC, a Nevada limited liability
company, Manager

By: 

Title: President

Form **W-9**
(Rev. August 2013)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

Name (as shown on your income tax return)
Premier Trust, Inc. Custodian FBO George Stuart Young, IRA

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:
☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____
☒ Other (see instructions) ▶ _____

Exemptions (see instructions):
 Exempt payee code (if any) _____
 Exemption from FATCA reporting code (if any) _____

Address (number, street, and apt. or suite no.)
 City, state, and ZIP code
**Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103**

List account number(s) here (optional)

Requester's name and address (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

			-			-			
--	--	--	---	--	--	---	--	--	--

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below), and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here Signature of U.S. person ▶ *Deb E. [Signature]* Date ▶ *10/12/15*

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. The IRS has created a page on irs.gov for information about Form W-9, at www.irs.gov/w9. Information about any future developments affecting Form W-9 (such as legislation enacted after we release it) will be posted on that page.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, payments made to you in settlement of payment card and third party network transactions, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the

withholding tax on foreign partners' share of effectively connected income, and

4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct.

Note. If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

MEMBER SIGNATURE PAGE AND POWER OF ATTORNEY

CAL NEVA LODGE, LLC,
a Nevada limited liability company

The undersigned, desiring to become a Member of CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company") hereby agrees to all of the terms and conditions of the Amended and Restated Operating Agreement of the Company (the "Operating Agreement") referred to, described in, and attached as an Exhibit to, the Company's Confidential Private Placement Memorandum dated 10-12-15 (the "Memorandum"), and agrees to be bound thereby. Any capitalized term contained herein that is not defined herein shall have the meaning set forth in the Operating Agreement.

The undersigned further grants to the Manager of the Company (the "Manager"), a special Power of Attorney irrevocably making, constituting and appointing the Manager as the undersigned's attorney-in-fact with full power of substitution with power and authority to act in the undersigned's name and on the undersigned's behalf, to execute, acknowledge and swear to in the execution, acknowledgment, and filing of documents which shall include, by way of illustration but not of limitation, the following:

- (a) The Operating Agreement of the Company, any amendments to the foregoing which, under the laws of the State of California or the laws of any other state, are required to be executed or filed or which the Company deems to be advisable to execute or file;
- (b) Any other instrument or document which may be required to be filed by the Company under the laws of any state or by any governmental agency;
- (c) Any instrument or document which may be required to effect the continuation of the Company, the admission of an additional or substituted Members, or the dissolution and termination of the Company (provided the continuation, admission or dissolution and termination are in accordance with the terms of the Operating Agreement) or to reflect any reduction in the amount of capital contributions of the Members; and
- (d) Any other documents deemed by the Manager to be necessary for the business of the Company.

The Power of Attorney granted hereby is a special Power of Attorney coupled with an interest, is irrevocable, shall survive the death or incapacity of the undersigned and is limited to the matters set forth herein. This special Power of Attorney may be exercised by the Manager, acting for the undersigned by a facsimile signature of the Manager; this Power of Attorney shall survive an assignment by the undersigned of all or any portion of the undersigned's Founders Units, but only until the assignee of the Founders Units is recognized as the owner of the Founders Units as set forth in the Operating Agreement.

[Signature Page Follows]

THIS SUBSCRIPTION IS FOR 1 FOUNDERS UNITS (\$1,000,000.00 EACH).

TOTAL INVESTMENT AMOUNT: \$ 1,000,000.00

Executed on 10-12, 2015, at Las Vegas, Nevada

Signature of Subscriber

Signature of Subscriber

Social Security Nos.: 1761

Driver's License Nos. _____

Email Address: K Klein @ Premier Trust, Inc.

Home Address: Premier Trust, Inc.
City: 4465 S. Jones Boulevard State: _____
Las Vegas, NV 89103
Zip: _____

Home Phone: () _____

Business Address: Premier Trust, Inc.
City: 4465 S. Jones Boulevard State: _____
Las Vegas, NV 89103
Zip: _____

Business Phone: (702) 507-0750

REGISTRATION:

PLEASE PRINT YOUR NAME(S) EXACTLY AS YOUR FOUNDERS UNITS ARE TO BE REGISTERED:

TITLE REGISTRATION PREFERENCE

CHECK ONE

- A. ☐ Individual Ownership
B. ☐ Joint Tenants with Right of Survivorship (ALL MUST SIGN)
C. ☐ Trust (Date Trust Established _____)
D. ☐ Partnership
E. ☐ Community Property
F. ☐ Tenants in Common (ALL MUST SIGN)
G. ☐ Corporation
H. ☐ Limited Liability Company
I. ☒ Other Retirement Plan I, et al

CERTIFICATE OF NONFOREIGN STATUS

Members That Are Entities

Section 1446 of the Internal Revenue Code provides that a limited liability company taxed as a partnership must pay a withholding tax to the Internal Revenue Service with respect to a member's allocable share of such limited liability company's effectively connected taxable income, if the member is a foreign person. To inform CAL NEVA LODGE, LLC, a Nevada limited liability company (the "Company") that the provisions of Section 1446 do not apply, the undersigned hereby certifies on behalf of Premier Trust, Inc. Custodian FBC (name of entity) (the "Member") the following: George Stuart Young, III

1. The Member is not a foreign corporation, foreign partnership, foreign trust, or foreign estate (as those terms are defined in the Internal Revenue Code and Income Tax Regulations);

2. The Member's U.S. employer identification number is: 1761; and

3. The Member's principal office address is: Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

The Member hereby agrees to notify the Company within 60 days after the Member becomes a foreign person and agrees to execute a new Certificate of Nonforeign Status from time to time as required by the Company. The Member understands that this certification may be disclosed to the Internal Revenue Service by the Company and that any false statement contained herein could be punished by fine, imprisonment or both.

Under penalty of perjury, I declare that I have examined this certification and to the best of my knowledge and belief, it is true, correct, and complete, and I further declare that I have authority to sign this document on behalf of the Member.

Dated: 10-12, 2015

(Please print name of Member)

By: Deb Erdmann

Title: DEBORAH ERDMANN
VP / TRUST OFFICER

(Please print name and title of person signing this Certificate)

INVESTOR'S INSTRUCTION TO ESCROW AND WIRE TRANSFER INFORMATION

I hereby instruct Powell Coleman & Arnold LLP ("Escrow Holder") to accept the sum of \$ 1,200,000.00. This sum is my investment in Cal Neva Lodge, LLC (the "Company"). I direct that this sum be placed in an escrow (the "Escrow") and retained by Escrow Holder until such time as either subscriptions for 14 Units are accepted and deposited into the Escrow representing a total sum of \$14,000,000 or the subscription period sooner expires by its terms under the Subscription Agreement, now scheduled for expiration on April 30, 2014 (unless extended for up to 90 days by the Company) (the "Termination Date"). Escrow Holder's wire transfer information is set forth below.

In the event that the total amount held in the Escrow reaches \$14,000,000, I further instruct Escrow Holder to disburse my funds deposited into the Escrow to the Company or its designated representative or agent. I acknowledge having read the Subscription Agreement and Confidential Private Placement Memorandum copies of which I received from the Company.

If, before the Termination Date, the amount deposited into the Escrow has not reached \$14,000,000, I direct Escrow Holder to return my investment of \$ 1,200,000.00 by check directly to me at the following address:

Premier Trust, Inc.
4465 S. Jones Boulevard
Las Vegas, NV 89103

By my signature below I agree that Escrow Holder has no duty to me other than to disburse the funds contained in the Escrow as instructed when one or the other of the above described events occurs. I further advise Escrow Holder that I have given the Manager of the Company a power of attorney to act for me in all matters related to the Escrow with the exception of modifying or canceling all Escrow Instructions, which modification or cancellation must be in a writing signed by all of the Investors unless all of the monies deposited into the Escrow are returned to the respective investor in connection with such modification or cancellation.

Premier Trust, Inc. Custodian FBO

Date: 10-12, 2015

Deb Erdmann
Investor Signature DEBORAH ERDMANN
SSN: 1741 VP / TRUST OFFICER
Telephone No.: 702 507 0710

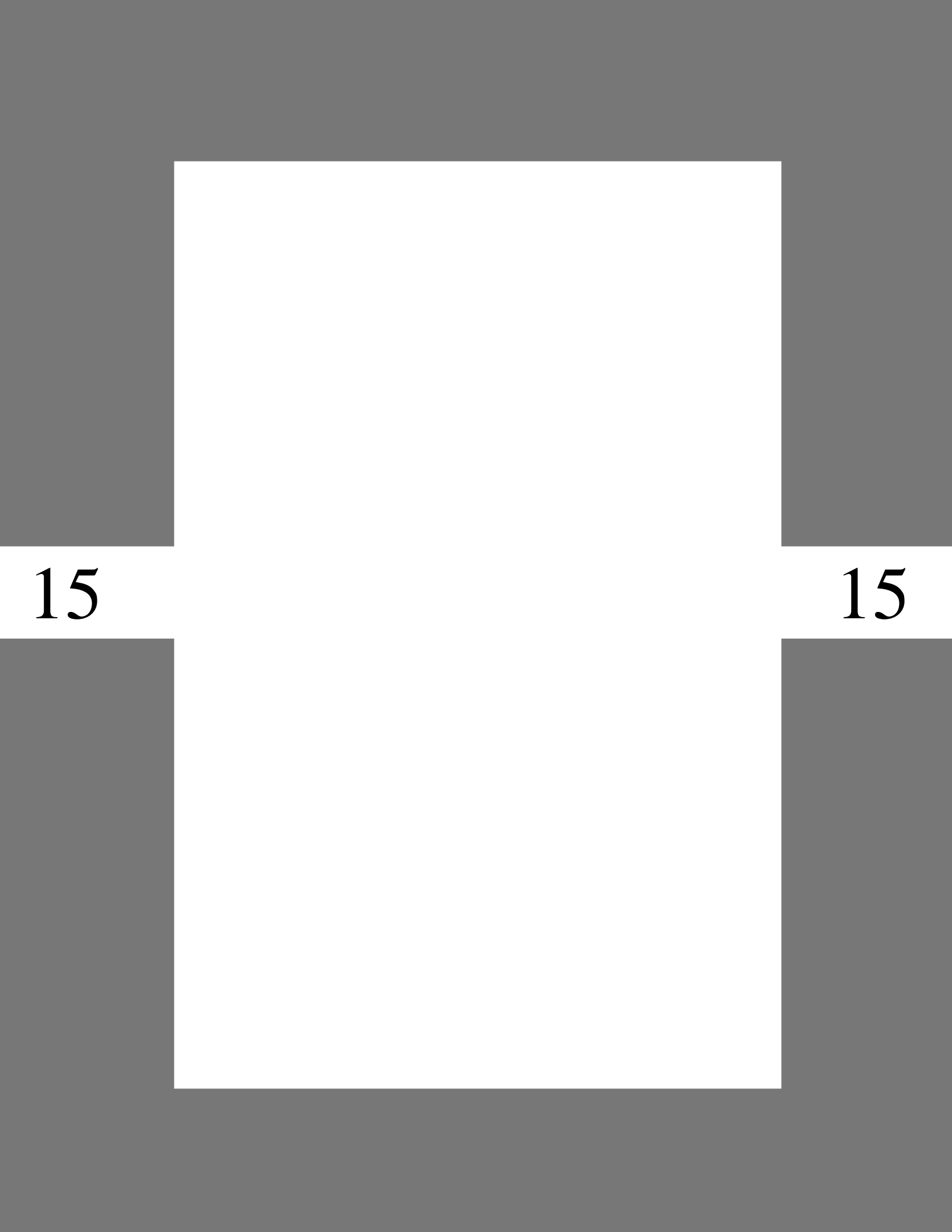
Investor Signature _____
SSN: _____
Telephone No.: _____

Escrow Holder's Wire Transfer Information:

BBVA Compass Bank
8080 N. Central Expressway
Dallas, Texas 75206

Powell Coleman & Arnold LLP
IOLTA Account No.: 3816
ABA No.: 7445

000120



15

15

CODE 1320
DOWNEY BRAND LLP
RICHARD G. CAMPBELL, JR. (Bar No. 1832)
100 West Liberty, Suite 900
Reno, NV 89501
Telephone: 775-329-5900
Facsimile: 775-997-7417

Attorneys for Plaintiff

IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
and in his Capacity as Owner of GEORGE
STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
limited liability company; CR Cal Neva,
LLC, a Nevada limited liability company;
ROBERT RADOVAN; WILLIAM
CRISWELL; CAL NEVA LODGE, LLC, a
Nevada limited liability company;
POWELL, COLEMAN and ARNOLD
LLP; DAVID MARRINER; MARRINER
REAL ESTATE, LLC, a Nevada limited
liability company; and DOES 1-10,

Defendants.

PLAINTIFF'S CASE CONFERENCE REPORT

I. PROCEEDINGS PRIOR TO THIS CASE CONFERENCE REPORT

A. Date of filing of Complaint and Answer: Plaintiff's Complaint was filed April 4, 2016; Defendants Criswell Radovan, LLC, CR Cal Neva LLC, Robert Radovan, William Criswell, Cal Neva Lodge, LLC, and Powell, Coleman and Arnold filed their Answer on June 7, 2016; Defendant Cal Neva Lodge, LLC filed its Chapter 11 Bankruptcy in the United States

1 Bankruptcy Court in and for the Northern District of California on June 10, 2016, Defendants
2 David Marriner and Marriner Real Estate, LLC filed a Motion to Dismiss herein on June 28,
3 2016, Plaintiff filed his First Amended Complaint on July 20, 2016, and Defendant New Cal
4 Neva Lodge, LLC filed its Chapter 11 Bankruptcy in the United States Bankruptcy Court in and
5 for the Northern District of California on July 28, 2016.

6 B. Date that Early Case Conference was held and who attended:

7 Early Case Conference was held July 7, 2016 attended by Rick Campbell, Martin
8 Little and Andrew Wolf.

9 C. Brief Description of the Action:

10 This action centers around a claim by Plaintiff that he was fraudulently induced to invest
11 \$1,000,000 into the Cal Neva Lodge and that funds that were supposed to be invested into the Cal
12 Neva Lodge were instead converted to the either the individual Defendants Criswell and
13 Radovan, or one of their myriad entities. The claim against Powell Coleman and Arnold was that
14 the law firm breached a duty to Plaintiff while acting as escrow agents by releasing Plaintiffs
15 funds to Criswell and or Radovan without express authority to do so. The claim against David
16 Marriner and Marriner Real Estate LLC is that these defendants were agents of the Cal- Neva
17 entities and Criswell and Radovan and their entities, and made certain false representation to
18 Plaintiff to induce him to invest in the Cal -Neva Lodge

19 D. Plaintiff's claims for relief are as follows: (1) Breach of Contract against CR Cal
20 Neva LLC; Cal Neva Lodge, LLC and Criswell Radovan, LLC; (2) Breach of Duty Against
21 Defendant Powell Coleman and Arnold LLP; (3) Fraud Against Defendants William Criswell;
22 Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva Lodge, LLC; David
23 Marriner; and Marriner Real Estate, LLC; (4) Negligence Against Defendant Powell, Coleman
24 and Young LLP; (5) Conversion against CR Cal Neva, LLC; William Criswell; Robert Radovan
25 and Criswell Radovan, LLC (6) Punitive Damages against all Defendants; and, (7) Claim for
26 Fraud under NRS 90.570 in the Offer, Sale and Purchase of a Security against Defendants
27 William Criswell; Robert Radovan; CR Cal Neva, LLC; Criswell Radovan, LLC; Cal Neva
28 Lodge, LLC; David Marriner; and Marriner Real Estate, LLC.

1 E. Defendant's Defenses and Claims: Defendants have generally denied all of the
2 allegations in Plaintiffs complaint and have asserted stock affirmative defenses. Marriner and
3 Marriner Real Estate LLC have filed a Motion to Dismiss.

4 **II. LIST OF ALL DOCUMENTS, DATA COMPILATIONS AND TANGIBLE**
5 **THINGS IN THE POSSESSION, CUSTODY OR CONTROL OF EACH PARTY**
6 **WHICH WERE IDENTIFIED OR PROVIDED AT THE CASE CONFERENCE**
7 **OR AS A RESULT THEREOF**

8 A. Plaintiff's Disclosures:

9 See *Plaintiff's Initial Disclosures* and *First Supplement to Plaintiff's Initial Disclosures*,
copies of which are attached hereto as Exhibits 1 and 2.

10 B. Defendants' Disclosures:

11 See *Criswell Radovan, LLC, CR Cal Neva, LLC, Robert Radovan, William Criswell, Cal*
12 *Neva Lodge, LLC, Powell, Coleman And Arnold LLP's Initial Disclosures*, a copy of which is
13 attached hereto as Exhibit 3.

14 See *Defendants David Marriner and Marriner Real Estate LLC's Initial Disclosures Per*
15 *NRCP 16.1*, a copy of which is attached hereto as Exhibit 4.

16 **III. LIST OF PERSONS IDENTIFIED BY EACH PARTY AS LIKELY TO HAVE**
17 **INFORMATION DISCOVERABLE UNDER RULE 26(B), INCLUDING**
18 **IMPEACHMENT OR REBUTTAL WITNESSES**

19 A. Plaintiff's Disclosures: See II A. above.

20 B. Defendants' Disclosures: See II B. above.

21 **IV. DISCOVERY PLAN**

22 A. When disclosures under 16.1(a)(1) were made or will be made: See Sections II
and III above.

23 B. Subjects on which discovery may be needed: Open.

24 C. Should discovery be conducted in phases or limited to or focused upon particular
25 issues: No.

26 D. What changes, if any, should be made in limitations on discovery imposed under
27 these rules and what, if any, other limitations should be imposed: None.

28 E. What, if any, other orders should be entered by the court under Rule 26(c) or Rule

1 16(b) and (c): None.

2 F. Estimated Time for Trial: One week

3 **V. DISCOVERY AND MOTION DATES**

4 Dates Agreed by the Parties:

5 A. Close of discovery: March 15, 2017

6 B. Final date to file motions to amend pleadings or add parties (without a further
7 court order): April 15, 2017

8 C. Final dates for expert disclosures:

9 Initial disclosures: December 15, 2016

10 Rebuttal disclosures: January 15, 2017

11 D. Final date to submit dispositive motions: No agreed date.

12 E. A Mandatory Pretrial Conference has been set for October 11, 2016, a Pretrial
13 Conference has been set for May 31, 2017, and trial has been for five days to commence June 17,
14 2017.

15 **VI. JURY DEMAND**

16 No demand for jury has been filed.

17 **VII. INITIAL DISCLOSURES/OBJECTIONS**

18 If a party objects during the Case Conference that initial disclosures are not appropriate in
19 the circumstances of this case, those objections must be stated herein. No such objections have
20 been made, however, Plaintiff reserves the right to assert all objections, evidentiary or otherwise,
21 if and when necessary.

22 The undersigned attorney affirms that counsel have discussed possible settlement of the
23 action, as well as use of extrajudicial procedures or alternative dispute resolution methods to
24 resolve the case.

25 This report is signed in accordance with Rule 26(g)(1) of the Nevada Rules of Civil
26 Procedure. Counsel's signature constitutes a certification that to the best of the signer's
27 knowledge, information and belief, formed after a reasonable inquiry, the disclosures made by the
28 signer are complete and correct as of this time.

1 Plaintiff circulated a draft *Joint Case Conference Report* and not having received any
2 revisions or comments from counsel, submits *Plaintiff's Case Conference Report* as set forth
3 above.

4 DATED: August 8, 2016.

DOWNEY BRAND LLP

By: 

RICHARD G. CAMPBELL, JR. (SBN 109131)
Attorneys for Plaintiff

DOWNEY BRAND LLP

000125

SECOND JUDICIAL DISTRICT COURT**COUNTY OF WASHOE, STATE OF NEVADA****AFFIRMATION****Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document, filed in this case:
Plaintiff's Case Conference Report;

☒ Document does not contain the social security number of any person

- OR -

☐ Document contains the social security number of a person as required by:

☐ A specific state or federal law, to wit:

 (State specific state or federal law)

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

Dated: August 8, 2016.

DOWNEY BRAND LLP

By: Danielle L. Bleeker

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 100 West Liberty, Suite 900, Reno, Nevada 89501. On August 8, 2016, I served the following document(s):

PLAINTIFF'S CASE CONFERENCE REPORT

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth below.
- ☐ **BY EMAIL:** by causing the document(s) to be electronically served.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by Reno Carson Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY E-MAIL/ELECTRONIC FILING SYSTEM:** by causing the document(s) to be electronically served via the court's electronic filing system to the following attorneys associated with this case.

Martin A. Little
Jolley Urga Woodbury & Little
3800 Howard Hughes Parkway, 16h Floor
Las Vegas, Nevada 89169

Andrew N. Wolf
Incline Law Group, LLC
264 Village Blvd, Suite 104
Incline Village, NV 89451

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on August 8, 2016, at Reno, Nevada.



EXHIBIT INDEX

EXHIBIT NO.	DESCRIPTION	LENGTH
1	<i>Plaintiff's Initial Disclosures</i>	6 pages
2	<i>First Supplement to Plaintiff's Initial Disclosures</i>	3 pages
3	<i>Criswell Radovan, LLC, CR Cal Neva, LLC, Robert Radovan, William Criswell, Cal Neva Lodge, LLC, Powell, Coleman And Arnold LLP's Initial Disclosures</i>	5 pages
4	<i>Defendants David Marriner and Marriner Real Estate LLC's Initial Disclosures Per NRCP 16.1,</i>	5 pages

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DOWNEY BRAND LLP

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EXHIBIT 3

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EXHIBIT 3

1 Martin A. Little, Esq.
 Nevada Bar No. 7067
 2 E-mail: mal@juwww.com
 JOLLEY URG & WOODBURY & LITTLE
 3 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169
 4 Telephone: (702) 699-7500
 Facsimile: (702) 699-7555
 5

6 **IN THE SECOND JUDICIAL DISTRICT COURT OF**
 7 **THE STATE OF NEVADA IN AND FOR THE**
 8 **COUNTY OF WASHOE**

9 GEORGE STUART YOUNT, Individually
 and in his Capacity as Owner of GEORGE
 10 STUART YOUNT IRA,

CASE NO. CV16 00767

Dept. No. B7

11 Plaintiff,
 12 vs.

**CRISWELL RADOVAN, LLC, CR CAL
 NEVA LLC, ROBERT RADOVAN,
 WILLIAM CRISWELL, CAL NEVA
 LODGE, LLC, POWELL, COLEMAN
 AND ARNOLD LLP'S INITIAL
 DISCLOSURES**

13 CRISWELL RADOVAN, LLC, a Nevada
 limited Liability company; CR CAL NEVA
 14 LLC, a Nevada limited liability company;
 ROBERT RADOVAN, WILLIAM
 15 CRISWELL, CAL NEVA LODGE, LLC, a
 Nevada limited liability company; POWELL,
 16 COLEMAN AND ARNOLD LLP; DAVID
 MARRINER; MARRINER REAL ESTATE,
 17 LLC, a Nevada limited liability company; and
 DOES 1 – 10,

18 Defendants.

19 Defendants Criswell Radovan, LLC, CR Cal Neva LLC, Robert Radovan, William
 20 Criswell, Cal Neva Lodge, LLC, and Powell, Coleman and Arnold LLP ("Defendants"), hereby
 21 submit their Initial Disclosures Pursuant to NRCP 16.1.

22 **I.**

23 **Individuals Likely to Have Discoverable Information (NRCP 16.1(a)(1)(A))**

- 24 1. George Stuart Yount
 c/o Downey Brand LLP
 25 100 West Liberty Street, Suite 900
 Reno, Nevada 89501

26 This witness is expected to testify as to his knowledge of the facts and circumstances
 27 surrounding the subject litigation, including the events referred to in the Complaint.

28 ///

1 2. Geri Yount
 2 c/o Downey Brand LLP
 3 100 West Liberty Street, Suite 900
 4 Reno, Nevada 89501

5 Geri Yount is the wife of Plaintiff in this action and has knowledge of the events
 6 referred to in the Complaint.

7 3. Robert Radovan
 8 c/o Jolley Urga Woodbury & Little
 9 3800 Howard Hughes Parkway, 16th Floor
 10 Las Vegas, Nevada 89169

11 Mr. Radovan has knowledge regarding the events referred to in Plaintiff's Complaint.

12 4. William Criswell
 13 c/o Jolley Urga Woodbury & Little
 14 3800 Howard Hughes Parkway, 16th Floor
 15 Las Vegas, Nevada 89169

16 Mr. Criswell has knowledge regarding the events referred to in Plaintiff's Complaint.

17 5. Bruce Coleman
 18 Powell, Coleman and Arnold LLP
 19 c/o Jolley Urga Woodbury & Little
 20 3800 Howard Hughes Parkway, 16th Floor
 21 Las Vegas, Nevada 89169

22 Bruce Coleman, with Powell, Coleman and Arnold LLP, may have knowledge regarding
 23 the events referred to in Plaintiffs Complaint.

24 6. David Marriner
 25 c/o Incline Law Group LLP
 26 264 Village Boulevard, Suite 104
 27 Incline Village, Nevada 89451

28 During times relevant to the allegations in Plaintiff's Complaint, Mr. Marriner was an
 agent/broker for CR Cal Neva LLC, Cal Neva Lodge, LLC, Criswell Radovan, LLC and the Cal
 Neva Lodge, and has knowledge regarding the events referred to in Plaintiff's Complaint.

Heather Hill
 Criswell Radovan, LLC
 c/o Jolley Urga Woodbury & Little
 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169

Ms. Hill has knowledge regarding the events referred to in Plaintiff's Complaint.

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1 8. PMK
 2 Cal Neva Lodge LLC
 3 c/o Jolley Urga Woodbury & Little
 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169

4 The Person Most Knowledgeable with Cal Neva Lodge LLC who may have knowledge
 5 regarding the events referred to in Plaintiff's Complaint, as well as knowledge regarding Cal
 6 Neva Lodge LLC's bankruptcy filing.

7 9. PMK
 8 Criswell Radovan, LLC
 c/o Jolley Urga Woodbury & Little
 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169

10 The Person Most Knowledgeable with Criswell Radovan, LLC who may have knowledge
 11 regarding the events referred to in Plaintiffs Complaint.

12 10. PMK
 CR Cal Neva LLC
 c/o Jolley Urga Woodbury & Little
 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169

13 The Person Most Knowledgeable with CR Cal Neva LLC who may have knowledge
 14 regarding the events referred to in Plaintiff's Complaint.

15 Defendants expressly also reserve the right to supplement this list of persons with
 16 knowledge as additional persons become known

17 II.

18 DOCUMENT DISCLOSURES (NRCP 16.1(a)(1)(B))

19 1. Defendant will make available for inspection and copying correspondence,
 20 emails, and documents sent between Plaintiff, on the one hand, and Defendants, on the other
 21 hand, regarding the subject matter of the Complaint.

22 2. Any and all documents produced by any other party in this litigation.

23 Plaintiff expressly reserves the right to supplement this list of documents as known.

24 ///

25 ///

26 ///

III.

INSURANCE AGREEMENTS (NRCP 16.1(A)(1)(D))

Upon information and belief, none. Defendants reserve the right to amend these disclosures if subsequent investigation warrants.

Dated this 1 day of August, 2016.

JOLLEY URGAL WOODBURY & LITTLE

By: 

Martin A. Little, Esq.
Nevada Bar No. 7067
3800 Howard Hughes Pkwy, Suite 1600
Las Vegas, Nevada 89169
Telephone No. (702) 699-7500
*Attorneys for Defendants Criswell
Radovan, LLC, CR Cal Neva LLC,
Robert Radovan, William Criswell,
Cal Neva Lodge, LLC, Powell,
Coleman and Arnold LLP*

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CERTIFICATE OF SERVICE BY MAIL

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is that of Jolley Urga Woodbury & Little, 3800 Howard Hughes Parkway, Suite 1600, Las Vegas, Nevada, 89169.

On this date I served the within **CRISWELL RADOVAN, LLC, CR CAL NEVA LLC, ROBERT RADOVAN, WILLIAM CRISWELL, CAL NEVA LODGE, LLC, POWELL, COLEMAN AND ARNOLD LLP'S INITIAL DISCLOSURES** by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

Richard G. Campbell, Jr., Esq.
DOWNE BRAND LLP
100 West Liberty – Suite 900
Reno, NV 89501
Telephone: (775) 329-5900
Facsimile: (775) 3997-7417
Attorneys for Plaintiff

Andrew N. Wolf, Esq.
INCLINE LAW GROUP
264 Village Blvd. – Suite 104
Incline Village, NV 89451
Telephone: (775) 831-3666
Facimile: (775) 831-4044
Attorneys for Defendants
David Marriner and
Marriner Real Estate, LLC

and placing the envelope in the mail bin at the firm's office.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it is deposited with the U. S. Postal Service on the same day it is placed in the mail bin, with postage thereon fully prepaid at Las Vegas, Nevada, in the ordinary course of business.

I certify under penalty of perjury that the foregoing is true and correct, and that I executed this Certificate of Service on August 1, 2016, at Las Vegas, Nevada.

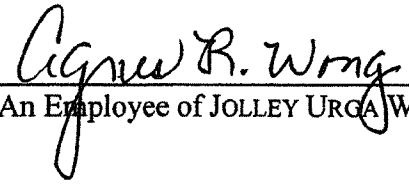

An Employee of JOLLEY URGAWOODBURY & LITTLE

EXHIBIT 2

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EXHIBIT 2

1 DOWNEY BRAND LLP
 2 RICHARD G. CAMPBELL, JR. (Bar No. 1832)
 3 100 West Liberty, Suite 900
 4 Reno, NV 89501
 5 Telephone: 775-329-5900
 6 Facsimile: 775-997-7417

7 Attorneys for Plaintiff

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IN THE SECOND JUDICIAL DISTRICT COURT OF
 THE STATE OF NEVADA IN AND FOR THE
 COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
 and in his Capacity as Owner of GEORGE
 STUART YOUNT IRA,

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
 limited liability company; CR Cal Neva,
 LLC, a Nevada limited liability company;
 ROBERT RADOVAN; WILLIAM
 CRISWELL; CAL NEVA LODGE, LLC, a
 Nevada limited liability company;
 POWELL, COLEMAN and ARNOLD
 LLP; DAVID MARRINER; MARRINER
 REAL ESTATE, LLC, a Nevada limited
 liability company; and DOES 1-10,

Defendants.

CASE NO. CV16-00767

DEPT NO. B7

FIRST SUPPLEMENT TO PLAINTIFF'S INITIAL DISCLOSURES

Plaintiff GEORGE STUART YOUNG ("Plaintiff" or "Yount"), by and through his undersigned counsel, Downey Brand, LLP, hereby supplements his initial disclosures served July 19, 2016, as follows:

...

1 **B. Document Disclosures (NRCP 16.1(a)(1)(B))**

2 Plaintiff produces with this supplement, a disk containing the emails and email
3 attachments previously identified, marked GSY000001 – GSY005076.

4 Plaintiff reserves the right to use as evidence any documents disclosed by Defendants. If
5 Plaintiff discovers any additional non-privileged responsive documents, he will supplement this
6 disclosure as soon as reasonably possible.

7 ...

8 Plaintiff specifically reserves the right to supplement or amend his disclosures to include
9 information hereafter acquired, or as otherwise provided by the Nevada Rules of Civil Procedure.

10 DATED: July 27, 2016.

DOWNEY BRAND LLP

11
12 By: 

13 RICHARD G. CAMPBELL, JR. (SBN 109131)
14 Attorneys for Plaintiff

000137
DOWNEY BRAND LLP

000137

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 100 West Liberty, Suite 900, Reno, Nevada 89501. On July 27, 2016, I served the following document(s):

FIRST SUPPLEMENT TO PLAINTIFF'S INITIAL DISCLOSURES

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth below.
- ☐ **BY EMAIL:** by causing the document(s) to be electronically served.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by Reno Carson Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY E-MAIL/ELECTRONIC FILING SYSTEM:** by causing the document(s) to be electronically served via the court's electronic filing system to the following attorneys associated with this case.

Martin A. Little
Jolley Urga Woodbury & Little
3800 Howard Hughes Parkway, 16h Floor
Las Vegas, Nevada 89169

Andrew N. Wolf
Incline Law Group, LLC
264 Village Blvd, Suite 104
Incline Village, NV 89451

Ali P. Hamidi (*without disk)
Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, CA 94104-1513

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 27, 2016, at Reno, Nevada.



EXHIBIT 1

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EXHIBIT 1

1 DOWNEY BRAND LLP
 2 RICHARD G. CAMPBELL, JR. (Bar No. 1832)
 3 100 West Liberty, Suite 900
 4 Reno, NV 89501
 5 Telephone: 775-329-5900
 6 Facsimile: 775-997-7417

7 Attorneys for Plaintiff

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IN THE SECOND JUDICIAL DISTRICT COURT OF
 THE STATE OF NEVADA IN AND FOR THE
 COUNTY OF WASHOE

GEORGE STUART YOUNT, Individually
 and in his Capacity as Owner of GEORGE
 STUART YOUNT IRA,

CASE NO. CV16-00767

DEPT NO. B7

Plaintiff,

v.

CRISWELL RADOVAN, LLC, a Nevada
 limited liability company; CR Cal Neva,
 LLC, a Nevada limited liability company;
 ROBERT RADOVAN; WILLIAM
 CRISWELL; CAL NEVA LODGE, LLC, a
 Nevada limited liability company;
 POWELL, COLEMAN and ARNOLD
 LLP; DAVID MARRINER; MARRINER
 REAL ESTATE, LLC, a Nevada limited
 liability company; and DOES 1-10,

Defendants.

PLAINTIFF'S INITIAL DISCLOSURES

Plaintiff GEORGE STUART YOUNG ("Plaintiff" or "Yount"), by and through his undersigned counsel, Downey Brand, LLP, hereby submits the following initial disclosures.

Through the process of formal discovery and investigation, different and/or additional information and evidence may be revealed and made available to Plaintiff. Accordingly, Plaintiff provides the information herein in a good faith effort to comply with NRCP 16.1(a)(1), but

1 reserves the right to supplement and/or amend these disclosures in any necessary respect. By
 2 these disclosures, Plaintiff does not waive his right to present additional witnesses, or rely on
 3 documents or other information which have not been included in these initial disclosures.
 4 Plaintiff will supplement or correct any material information that is later determined to be
 5 incomplete or incorrect, unless the other parties to this action obtain such supplemental or
 6 corrected information through the discovery process.

7 Plaintiff also does not, by providing the information set forth herein, waive any privileges
 8 or protections that may be related to any information or documents discussed herein, including,
 9 but not limited to, the attorney-client privilege, attorney work-product doctrine, and any other
 10 right of privacy, all of which are expressly claimed and reserved.

11 **A. Individuals Likely to Have Discoverable Information (NRCP 16.1(a)(1)(A))**

12 Plaintiff identifies the following individuals as persons likely to have discoverable
 13 information that he may use to support his claims and/or defenses:

- 14 1. George Stuart Yount
 15 c/o Downey Brand LLP
 16 100 West Liberty Street, Suite 900
 Reno, Nevada 89501

17 Mr. Yount is the Plaintiff in this action and has knowledge of the events referred to in his
 18 Complaint (the "Complaint").

- 19 2. Geri Yount
 20 c/o Downey Brand LLP
 21 100 West Liberty Street, Suite 900
 Reno, Nevada 89501

22 Geri Yount is the wife of Plaintiff in this action and has knowledge of the events referred
 23 to in the Complaint.

- 24 3. PMK
 25 Criswell Radovan, LLC
 26 c/o Jolly Urga Woodbury & Little
 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169

27 The Person Most Knowledgeable with Criswell Radovan, LLC who may have knowledge
 28 regarding the events referred to in Plaintiff's Complaint.

1 4. PMK
2 CR Cal Neva LLC
3 c/o Jolly Urga Woodbury & Little
4 3800 Howard Hughes Parkway, 16th Floor
5 Las Vegas, Nevada 89169

6 The Person Most Knowledgeable with CR Cal Neva LLC who may have knowledge
7 regarding the events referred to in Plaintiff's Complaint.

8 5. Robert Radovan
9 c/o Jolly Urga Woodbury & Little
10 3800 Howard Hughes Parkway, 16th Floor
11 Las Vegas, Nevada 89169

12 During times relevant to the allegations in Plaintiff's Complaint, Mr. Radovan was a
13 manager of Criswell Radovan, LLC, as well as the CEO/COO of CR Cal Neva LLC, which was
14 the Manager of Cal Neva Lodge, LLC, which was the manager of New Cal Neva Lodge, LLC,
15 the owner of Cal Neva Lodge, and has knowledge regarding the events referred to in Plaintiff's
16 Complaint.

17 6. William Criswell
18 c/o Jolly Urga Woodbury & Little
19 3800 Howard Hughes Parkway, 16th Floor
20 Las Vegas, Nevada 89169

21 During times relevant to the allegations in Plaintiff's Complaint, Mr. Criswell was a
22 manager of Criswell Radovan, LLC, as well as the chairman or managing member of CR Cal
23 Neva LLC, which was the Manager of Cal Neva Lodge, LLC, which was the manager of New
24 Cal Neva Lodge, LLC, the owner of Cal Neva Lodge, and has knowledge regarding the events
25 referred to in Plaintiff's Complaint.

26 7. PMK
27 Cal Neva Lodge LLC
28 c/o Jolly Urga Woodbury & Little
 3800 Howard Hughes Parkway, 16th Floor
 Las Vegas, Nevada 89169

 The Person Most Knowledgeable with Cal Neva Lodge LLC who may have knowledge
regarding the events referred to in Plaintiff's Complaint, as well as knowledge regarding Cal
Neva Lodge LLC's bankruptcy filing.

///

1 8. Bruce Coleman
 2 Powell, Coleman and Arnold LLP
 3 c/o Jolly Urga Woodbury & Little
 4 3800 Howard Hughes Parkway, 16th Floor
 5 Las Vegas, Nevada 89169

6 Bruce Coleman, with Powell, Coleman and Arnold LLP, may have knowledge regarding
 7 the events referred to in Plaintiff's Complaint.

8 9. David Marriner
 9 c/o Incline Law Group LLP
 10 264 Village Boulevard, Suite 104
 11 Incline Village, Nevada 89451

12 During times relevant to the allegations in Plaintiff's Complaint, Mr. Marriner was an
 13 agent/broker for CR Cal Neva LLC, Cal Neva Lodge, LLC, Criswell Radovan, LLC and the Cal
 14 Neva Lodge, and has knowledge regarding the events referred to in Plaintiff's Complaint.

15 Plaintiff also reserves the right to call as a witness any person disclosed by Defendants.

16 In addition, there may be other individuals currently unknown to Plaintiff who have
 17 discoverable information, and Plaintiff reserves the right to supplement this disclosure if and
 18 when those individuals are identified.

19 **B. Document Disclosures (NRCP 16.1(a)(1)(B))**

20 Plaintiff identifies emails and email attachments sent by or received by Plaintiff, saved in
 21 Plaintiff's emails, relating to the allegations made in Plaintiff's complaint.

22 Plaintiff reserves the right to use as evidence any documents disclosed by Defendants. If
 23 Plaintiff discovers any additional non-privileged responsive documents, he will supplement this
 24 disclosure as soon as reasonably possible.

25 **C. Computation of Damages (NRCP 16.1(a)(1)(C))**

26 As stated in Plaintiff's Complaint on file herein, Plaintiff seeks damages against
 27 Defendants in excess of \$1,000,000; punitive damages provided for by law; interest on the
 28 judgment as provided by law; an award of attorneys' fees as provided for by law and costs of suit.

Plaintiff's total damages are ongoing and cannot be computed at this time.

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///

1 **D. Insurance Agreements (NRCp 16.1(a)(1)(D))**

2 Plaintiff is currently aware of no applicable insurance agreements under NRCp
3 16.1(a)(1)(D).

4 Plaintiff specifically reserves the right to supplement or amend these disclosures to
5 include information hereafter acquired, or as otherwise provided by the Nevada Rules of Civil
6 Procedure.

7 DATED: July 19, 2016.

DOWNEY BRAND LLP

8
9 By: 

RICHARD G. CAMPBELL, JR. (SBN 109131)
Attorneys for Plaintiff

DOWNEY BRAND LLP

000144

PROOF OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is Downey Brand LLP, 100 West Liberty, Suite 900, Reno, Nevada 89501. On July 19, 2016, I served the following document(s):

PLAINTIFF'S INITIAL DISCLOSURES

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☐ **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth below.
- ☐ **BY EMAIL:** by causing the document(s) to be electronically served.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by Reno Carson Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ **BY E-MAIL/ELECTRONIC FILING SYSTEM:** by causing the document(s) to be electronically served via the court's electronic filing system to the following attorneys associated with this case.

Martin A. Little
Jolley Urga Woodbury & Little
3800 Howard Hughes Parkway, 16h Floor
Las Vegas, Nevada 89169

Andrew N. Wolf
Incline Law Group, LLC
264 Village Blvd, Suite 104
Incline Village, NV 89451

Ali P. Hamidi
Cox, Castle & Nicholson LLP
555 California Street, 10th Floor
San Francisco, CA 94104-1513

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on July 19, 2016, at Reno, Nevada.

Danielle L Blecker

EXHIBIT 4

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EXHIBIT 4