IN THE SUPREME COURT OF THE STATE OF NEVADA

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Elizabeth A. Brown
Clerk of Supreme Court

Case No. 80376

GREGORY GARMONG,

Appellant

--against--

WESPAC; GREG CHRISTIAN,

Respondents

Appeal from the Second Judicial District Court of Washoe County, Nevada
Judge Lynne Simons, Case No. CV12-01271

APPELLANT'S REPLY APPENDIX

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Gregory Garmong

INDEX TO REPLY APPENDIX

HEARING EXHIBIT 11

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GREGORY O. GARMONG

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October 22, 2007

Mr. Greg Christian
WESPAC
10425 Double R Blvd.
Reno, NV 89521

Re: Quarterly meeting and future management strategy

Dear Greg,

When we met recently, we discussed the current state of my investments that you manage. I expressed my concern about the volatility of the financial markets. You said not to worry, that you would be watching my accounts carefully.

I have retired as of August 31, 2007, 15 months before I reach age 65, and am winding down my practice although that will take 6-12 months because some long-time clients have asked me to complete work already started for them, and I agreed. As we discussed, I am in the midst of a difficult, contentious divorce. I am also involved heavily in my search-and-rescue work and volunteer firefighting, and taking a lot of EMT, paramedic, firefighting, and mountaineering training. These occupy much time, attention, and energy. As much as I hate to admit it, I am finding that as I approach age 64 my ability to handle some things is diminishing. So I am not able to contribute as much to the management of my accounts as I have in the past. That is why I hired you.

With all that in mind, you proposed that you would take over sole management of my investment accounts without input or attention from me. Your proposal was unexpected, but I very much appreciate it, as it eases many of my concerns. But, as you can appreciate, that is an enormous step for me, as I have taken sole responsibility for my finances since my late teens.

After having thought about it some more, I agree to turn the management of my retirement and savings investment accounts over to you entirely, under the condition that you manage them very conservatively. I've now had a chance to think more about the approach you propose, and I want to re-state and re-emphasize the general instructions that I gave you at the meeting: it is important that my investment accounts be managed very conservatively, and that they not lose money. The psychological impact of entering retirement is greater than I had expected it to be, the main effect being that I realize that I cannot earn any more and have to depend upon my savings and investments to support myself the rest of my life, as I have no pension other than social security. My savings are sufficiently large that I will be OK even if they do not earn any return, and I just draw on the capital, particularly after I complete the alimony.

The basic instruction in the Client Profile and that I gave you and Wespac orally when I started with you in 2005 was to manage my accounts generally conservatively. Now I want to emphasize that instruction even more. It is really important to me that you structure and manage my accounts so that they do not lose capital if the markets decline, as I believe they may, and if the markets do decline, to sell out the losers. I want to confirm to you what I said at the meeting, and to instruct you that I am willing to sacrifice potential gains to avoid losses. If the stock markets do well in 2008 and after that, I won't blame you if I don't have big gains, as long as I don't have big losses if the markets decline. You said that you would follow that approach.

As a final point, I am attaching some articles on housing markets and prices that I printed from the internet a while back and have saved in my files, that we discussed in general terms at the meeting, and that give me concern. The articles of August 25, 2006 and September 25, 2006 from the New York Times are of the most serious concern, as they reference the national market and the national organizations such as Fannie Mae. The articles from the local papers discuss the local markets, with much the same effect. I haven't printed any articles recently, but from what I read they are largely to the same point. And of course with declining housing markets, the building and financing industries are likely to have trouble.

I don't know enough about investing to understand the relation between the decline in the housing industry and the stock market, but from what I read recently the decline in housing prices is somehow related to mortgage finance and the sale of mortgage-based securities on the stock markets. In sum, with the housing market falling, it seems very possible that the stock market will fall as well. I am trusting you to watch my accounts very, very carefully and act to avoid losses, even at the expense of potential gains.

Sincerely,

Greg

Gregory O. Garmong

abc NEWS

Existing Home Sales at Two-Year Low

July Sales of Existing Homes Are at their Lowest Level Since January 2004

By DAN ARNALL

Aug. 23, 2006 — - The National Association of Realtors reported this morning that July sales of preowned homes fell to their lowest level in 2½ years, the latest sign of a pronounced slowdown in the housing market during the past year.

The Realtors' group says people bought existing homes at a seasonally adjusted annual rate of 6.33 million units during the month. That's 4.1 percent lower than in June, and 11.2 percent below the level from a year ago. Economists were expecting the number to be closer to 6.58 million units. In August 2005, nearly 7.2 million units were sold.

The report also showed that the median price of a home sold in July was $230,000, down slightly from the previous month but still above the level from a year ago (by 0.9 percent). Many economists had predicted a negative year-over-year growth for the first time in more than a decade, but that didn't happen this month.

Why Is This Happening?

David Lereah, chief economist at NAR, said it best in the press release: "Many potential home buyers have been on the sidelines, some kicking the tires but mostly waiting for sellers to compromise on prices and terms."

Interest rates have increased over the past year, which has given buyers pause when they're looking at buying a home. Freddie Mac says that on average a 30-year fixed rate mortgage is now 6.52 percent (up from 5.80 percent a year ago). Another factor -- jobs growth is slowing, which gives many first-time buyers another reason not to jump into the ownership pool.

Buyer hesitance has led to price-reduction signs popping up across the country and a significant uptick in inventory levels to their highest point in more than a decade. At this time, there's a 7.3 months' supply of homes on the market. That's the highest level we've seen since April 1993.

What Does This Mean for Consumers?

If you want to buy, you might see better pricing power in the next few months. If you're trying to sell your house, expect it to take longer than you'd initially imagined, and expect offers to come in below your asking price.

The New York Times
nytimes.com

August 25, 2006

Home for Sale, by Anxious Owner

By VIKAS BAJAJ and DAVID LEONHARDT

Home sales are falling rapidly, and the number of houses on the market is surging. Yet each new economic report offering evidence of a housing slowdown also shows that the national median home price has continued to rise over the last year.

To understand how this could be happening, consider a three-bedroom house surrounded by oak and redwood trees, not far from the Golden Gate Bridge, in San Rafael, Calif. Reluctant to cut the price from its current listing of $1.54 million, its owners are instead offering a weeklong vacation time-share, every year for life, worth about $10,000, or an equal amount toward lease of a car.

"Location and value will give the buyers a reason — this will give them a sense of urgency," said Tom Wessling, who owns the house with his wife, Brenda, and is being transferred to Atlanta. "If nothing else, it will be the thing that calls attention" to the house.

In California, the Northeast, South Florida and parts of the Southwest, deal sweeteners like these are playing an increasingly important role in supporting home prices. From large national home builders to individual homeowners, many sellers are offering thousands of dollars in perks, including straight cash, so they do not have to slice deeply into asking prices.

But these discounts are almost entirely missing from the statistics on new-home prices reported by the government and on existing-home prices reported by the National Association of Realtors. As a result, home prices may now be falling, despite what the official numbers show, many economists say.

The use of rebates helps home builders and individual sellers by making the real estate market look healthier than it may truly be and by preventing a snowballing decline in home prices. It also keeps commissions for real estate agents higher than they would otherwise be.

In July, the national median price — half sold for more and half for less — of a newly built home was $230,000, the Commerce Department said yesterday. That is 0.3 percent higher than the median price a year ago. The number of new-home sales fell 21.6 percent over the last year, with the sharpest drop occurring in the Northeast.

On Wednesday, the Realtor group reported that the median price of existing homes was also $230,000 in July, up 0.9 percent from a year earlier.

Mark Zandi, the chief economist of Moody's Economy.com, estimated that incentives might now be equal to as much as 3 percent of the effective prices of houses across the country, on average. But he and other economists said there was simply no way to know for certain.

"We don't have any house price indexes that get it right," said Todd Sinai, an associate professor of real estate at the Wharton School of the University of Pennsylvania.

"Sellers are pretty picky," he added. "They are not willing to lower prices enough in downturns; they don't do it very quickly." Their reluctance delays sales, contributes to rising inventories and allows prices on the remaining transactions to show an annual increase.

Incentives are most common in the new-home market, where builders are under financial pressure to sell empty homes and, as large businesses, have the ability to absorb the financial hit. Depending on the market, executives at the nation's biggest builders say the giveaways can equal 3 percent to 8 percent of a home's sale price. If builders instead reduced asking prices by that much, it would be enough to wipe out the year-over-year price gains in many markets. Last year, by contrast, many builders were selling out new subdivisions and condominiums in hours or days, often in auctions.

"If you were going to sell the house exactly the way it was before, you would be looking at a price decline," said David Seiders, chief economist at the National Association of Home Builders.

But in a sign of the housing market's deterioration, creative — and expensive — lures are also becoming more common in the existing-home market. With many houses languishing on the market for months, buyers often have the leverage to request a last-minute concession of a few thousand dollars, or more, as a prerequisite to a sale. The subsidy often comes in the form of a discount on the amount of cash a seller must pay at closing.

"It's using a little psychology," said Frank Borges LLosa , who owns Frankly Realty in northern Virginia, an agency that mainly represents buyers. "It makes it sometimes appear like I'm offering a higher price."

Mr. LLosa recently analyzed records for condominiums in one Virginia ZIP code and found that the use of subsidies had soared since last year, when they were almost nonexistent. In Arlington, 14 condominiums had sold for $350,000 to $550,000 since June 1, and 10 of them included a subsidy from the seller to the buyer. The average subsidy was more than $7,000.

The Wesslings of San Rafael have cut the price of their house twice, by a total of $160,000, since they put it on the market in May. Mr. Wessling, a marketing executive, believes the home is now "competitively priced" and hopes the perks, which also include a $10,000 reward for referring a qualified buyer, will be enough to clinch a deal.

Mr. Zandi, the economist, said he believed that the use of perks was now approaching its peak and that sellers would soon be forced to cut list prices more heavily. He predicted that the home-price data released by the Realtors association would show a year-over-year decline, relative to the same month a year earlier, before the end of this year. If so, that would be the first such drop since 1993. The Realtors have never reported a drop in the annual average of national home prices, a fact frequently cited by real estate analysts.

"The reason the Realtors' data has never showed an outright decline" before, he said, "might be that they're not measuring the effective price."

Lawrence Yun, a senior economist with the Realtors group, said that in markets where inventories had been rising rapidly — like the Northeast and California — incentives could well equal 3 percent of house values. But he estimated that the national number was smaller, because homes sales were continuing to rise in roughly a third of markets around the country.

The typical incentive package from a home builder consists of upgrades to the house — granite countertops instead of humdrum tiles, stainless-steel refrigerators and stoves instead of plain white models and wood blinds instead of plastic. At the extremes, some have thrown in $30,000 swimming pools.

Buyers who demand discounts often get them in the form of excused closing costs or low interest rate loans made by builder-affiliated mortgage companies.

On the west coast of Florida, builders are advertising incentives like upgraded countertops, interest rate promotions and cash rebates totaling $40,000, or 6.6 percent to 8 percent of the sales price, on homes that sell for $500,000 to $600,000, said John Dew, a real estate agent in Naples.

Builders tend to choose discounts because they worry that reductions in the list price would send a clear signal that the market is in trouble, potentially angering previous buyers and emboldening future customers.

"They already sold the same product to the guy next door and if they reduce the price he is going to scream," Mr. Dew said. He added that many builders were also offering agents bonuses worth tens of thousands of dollars in finders' fees for bringing in buyers.

In effect, the incentives have become a quiet way to cut the price of houses without further damaging the market. Sellers "don't want to create this environment of fear in the market that prices are going down, so you should wait to buy," said Dean Baker, co-director of the Center for Economic Policy Research in Washington, who believes that prices will fall in coming years.

Incentives are often most substantial on homes built on speculation before a sales contract has been signed, or on properties that buyers have walked away from after signing a contract. Big builders report that cancellation rates are running as high as a third of new sales, compared with about 20 percent or less a year ago.

Pulte Homes, for instance, was recently offering unspecified incentives totaling as much as $10,000 on homes in a Connecticut development to buyers who were willing to move in before school started. In the spring, Centex Homes ran a "24-hour sale" in Southern California where buyers who agreed to purchase within the day could get a $100,000 discount. It ran a similar offer for a $60,000 discount in Atlanta.

Lenders are also wary of incentives. Lenders do not want to finance transactions where the sales price exceeds the true value of the home. Fannie Mae, the large buyer of mortgages, requires disclosure of perks and it caps them on a sliding scale from 2 percent to 9 percent of selling prices, depending on whether buyers will live in the home and based on the size of the down payment. The concerns of lenders will eventually limit the size of incentives in home sales, said Anthony Hsieh, president of LendingTree.com, the Web loan site. Many buyers may also balk because their property taxes will be based on the sales price listed on the contract.

Eventually, buyers will realize "there is no free lunch," he said. "There is a reason it's being given away."

The New York Times
nytimes.com

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September 25, 2006

Home Prices Drop After 11-Year Ascent

By JEREMY W. PETERS

The median price of a previously owned home fell for the first time in 11 years last month, and inventories of unsold homes swelled to levels not seen in more than a decade.

The number of existing homes sold also fell, but by only a small amount, suggesting that the sharp decline in home sales seen earlier this year has leveled off for now.

The National Association of Realtors reported today that existing home sales dropped 0.5 percent from July to August to a seasonally adjusted annual rate of 6.3 million units. That compares with a decline from June to July of 4.1 percent.

The median price in August fell to $225,000, down 1.7 percent from August 2005. That was the first time since April 1995 that the national median price was lower than the same month a year before.

David Lereah, chief economist of the association, said he expects prices to continue to fall. "We do expect an adjustment in home prices to last several months, as we work through a buildup in the inventory of homes on the market," he said in a written statement. "This is the price correction we've been expecting — with sales stabilizing, we should go back to positive price growth early next year."

At the end of August, there were enough unsold, previously owned homes on the market that it would take 7½ months to sell them all at the current sales pace. The association said that was a bigger backlog than at any time since April 1993.

"With inventory still rising, there is no chance of any short-term relief" for sellers, said Ian Shepherdson, chief United States economist with High Frequency Economics. "Prices and volumes have a long way to fall yet."

The decline was sharpest in the West, where the volume of sales in August was 2.3 percent lower than in July and 22.8 percent lower than a year ago, in August 2oo5. Prices in the West held steady.

In the South, sales volume in August was 0.8 percent lower than July 2006 and 7.4 percent lower than August 2005.

Sales volume rose moderately in the Northeast (up 1.9 percent) and the Midwest (up 0.7 percent).

Compared with a year earlier, prices were off 3.9 percent in the Northeast and 1.1 percent in the Midwest.

The Record-Courier
Serving Douglas County Since 1880

Steep decline in Douglas housing market

Record Courier Staff Reports
July 21, 2006

by Susie Vasquez

Staff Writer

The seller's market in Douglas County is over.

The average price of a home in Douglas County dropped significantly in recent months, from a high of $675,000 during the last quarter of 2005 to $544,600 during the first quarter of 2006.

That's a drop of about $130,000, according to a quarterly report compiled by the Northern Nevada Regional Multiple Listing Service.

The organization provides information to real estate professionals in eight Northern Nevada counties and according to their figures, the number of homes on the market has risen from 584 to 719, while the number of homes sold has dropped, from 229 to 171 during the same period.

The amount of time homes are on the market in Douglas County also increased during that period, from 61 to 90 days.

Steve Bohler, a broker/owner with Pinon Pines Realty in Minden, said home selling prices in Douglas County are significantly lower than the asking prices, which indicates to him that they're overpriced.

"We still have plenty of buyers calling on ads, but once they've looked, they're shopping somewhere else," he said. "Buyers are checking out Elko, Winnemucca and Lovelock, or going up to Idaho, Oregon, Washington or Montana."

About four or five years ago the people moving here from California had never refinanced their homes, but that isn't the case now, he said.

"Instead of coming here with $700,000, they now have $300,000 to $400,000 cash," he said. "They want to buy a home for a couple hundred thousand and still have enough equity to retire.

"I hear that from a lot of people," he said.

The average asking price for a home in Douglas County had increased to $582,000 this week, but the actual sale price is around $484,000, according to information from Multiple Listing.

That's a discrepancy of about $100,000 and average home prices in neighboring counties are significantly lower. The market is flat in Washoe County where the average price of a home is $376,000. In Carson City where the median price of a home is $310,000, costs have dipped about $18,000 from the last quarter of 2005 to the first quarter of 2006.

Affordability is an issue in "hot" markets across the nation. The recent real estate boom seems to have bypassed cities like Denver, Colo. and Albuquerque, N.M, but those markets are now raising some eyebrows, according to David Lereah, chief economist for the National Association of Realtors.

"What these metros have in common is a healthy local economy and affordable housing prices," he said. "It is becoming increasingly clear that in the aftermath of the boom, households are now seeking affordable property to purchase and live in."

Bohler doesn't think mortgage interest rates, now at 6.75 percent, are having a major impact and that will continue until those rates rise to between 7 or 8 percent.

A report from the National Association of Realtors indicate that nationally, higher interest rates are cutting into existing home sales, particularly in high-priced markets.

New home sales have seen a 10.5 percent decrease in recent months, housing starts have declined and developers are seeing a huge rise in unsold inventory across the country.

In the face of this market adjustment some developers could be in deep trouble locally, Bohler said.

"I know of a development in Yerington that took his homes off the market. They've rented them because the developer can't get the asking price," he said. "Developers will have to get realistic quickly, or they're going to end up sitting on a lot of houses."

Despite the downturn, this is still a great market to make money for the astute investor, Bohler said.

"A lot of people are in way over their heads and eventually, they're going to have to sell," he said. "There will be deals that can be picked up and turned around. For buyers who know what they're doing, there's money to be made."

Lereah said the boom is over and most of the nation's hot housing markets are cooling, but most hot markets still have a healthy local economy and that should shore up the housing market.

"With job creation and income growth, households will continue to have the wherewithal to purchase property even in cooling local markets," he said. "That is the perfect recipe for a soft landing."

Despite the deflation of real estate prices, Bohler does not think the trend will help first-buyers in Douglas County.

"Average kids that grow up in Douglas County haven't been able to afford to live here for a long time," he said. "It's always been a lot cheaper to live in Carson City."

Susie Vasquez can be reached at svasquez@recordcourier.com or 782-5121, ext. 211.

BACK

The Record-Courier

Average Douglas home price declines $130K

Record Courier Staff Reports
July 23, 2006

by Susie Vasquez

Staff Writer

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BACK

NEVADA APPEAL

A competitive market pushes home prices lower

Rising interest rates have slowed Carson City home sales

Click to Enlarge

With the help of Mike Clements, right, Laura and Gerald Denham add a set of steps to their new manufactured home off of Koontz Lane on Tuesday.
Chad Lundquist/Nevada Appeal

Browse and Buy Nevada Appeal Photos

By Becky Bosshart
Appeal Staff Writer, bbosshart@nevadaappeal.com
July 26, 2006

As experts across the country speculate housing prices will fall to a soft landing, local buyers are finding a packed market and competitive pricing. But for some, those single-family homes are still too costly.

Buyers such as Laura and Gerald Denham, who are retired, decided to purchase a manufactured home in Carson City in May for about $80,000. The couple believes they saved about $10,000 over buying a home in California.

"I think you are going through high prices right now," Laura Denham said Tuesday. "But it was the time that we had to do it."

With interest rates reaching 6.8 percent for a 30-year mortgage, the frantic buying period has cooled. The cost of homes leveled off in mid-2005 and is decreasing, said Carson City Assessor Dave Dawley. The frenzy started in Carson City in 2002, peaked in 2004 and has settled into a buyer's market — if you've got the cash to get in.

"We're still getting people from California willing to pay higher prices," Dawley said.
The average single-family home sold for $319,000 in the second quarter, which is about 10 percent less than the first quarter, according to the Northern Nevada Regional Multiple Listing Service. The listing service counted 134 agent-assisted home sales in Carson City.

According to city assessor records, which counted all 170 single-family home sales in Q2, the average price of a home was $347,800, only about $1,000 less than the previous quarter's average sale price.

If that is too much for buyers, the manufactured housing market is competitive, said Krisann Seiler-Tagay, general manager of Clayton Homes, in Mound House.
The average manufactured home sold for about $165,500 in Q2, according to the listing service. She estimates that number is too low because a fewer number of manufactured homes are sold in Carson City. She estimates a home with land will cost up to $250,000.

"The first of the year was great for us, and I think it was because of the stick-built industry," said Seiler-Tagay.

The average number of days on the market has also increased. More days on the market means there are not enough buyers and too much product, said Bob Fredlund, an agent with Coldwell Banker Best Sellers in Carson City.

"We've got a saturated market right now," he said. "A lot of people are trying to sell, and it's going to be a tough road ahead."

Fredlund said he believes not as many buyers are coming from California. Those who invested in a new property, second home or a resale got their business completed when interest rates were lower.

Sellers must price competitively, he said, because there are a lot more houses on the market, compared to 2005.

Federal Reserve Chairman Ben Bernanke has predicted a "soft landing" in the residential housing market, and local banker Jane Auerswald agrees.

"I think interest rates have slowed the market more than anything," said the city president of Colonial Bank. "I don't think they'll go higher;, therefore, we can have a little lull and a nice recovery in the fall."

Declining prices will continue to benefit the Denhams. They have family members who plan to move here to be close to their parents. If everything goes according to plan, their daughters will be looking for homes in Carson City next summer.

• Contact reporter Becky Bosshart at bbosshart@nevadaappeal.com or 881-1212.

BACK

The Record-Courier
Serving Douglas County Since 1880

Housing market's hills and valleys

Record Courier Staff Reports
July 26, 2006

The wave that was Nevada real estate values has crested and now homebuyers and sellers may have to spend a little bit of time in the trough.

What did we think would happen when tract homes selling for $200,000 two years ago hit $400,000? That somehow the market would magically lose all sense and continue to rocket upwards without rhyme or reason?

At some point people were going to get wise to the deal and start looking a little bit closer at the price of a house in Douglas County and decide that maybe it was better to wait out the high market.

As always the ones hurt most are those who overpaid for a home, thinking they would be able to turn it around for a profit within a couple of years. It is the last to purchase who find themselves paying a mortgage for a $500,000 home that is only worth $400,000. As long as they are willing to stick around for awhile, they'll be fine.

Compared to some periods in Nevada's history, this is only a minor pothole. Look out into the desert where fortunes were sought only to leave dilapidated ghost towns and tailing piles in their wake.

This state has seen more booms and busts than any other. Our economy has risen and fallen through history like the basin and range that covers most of the state.

This most recent trend is only a hiccup in a market that has consistently increased in value. Nevada real estate is still a great investment.

BACK

NEVADA APPEAL

Local housing market shows fewer houses selling

Buyers are spending slightly less than in second quarter

Becky Bosshart
Appeal Staff Writer, bbosshart@nevadaappeal.com
August 31, 2006

There aren't many people looking to buy homes during this typically slow season in late summer/early fall, but those who do are spending slightly less on average for a Carson City home, according to local officials.

The average single-family home in Carson City sold for $323,416 in July, which is about 6 percent less than a month before, according to city assessor records released Wednesday. Fifty homes sold in July. The average home sold for $345,798 in June. Seventy homes sold that month.

The July average sale price is nearly identical to what was reported at the same time last year.

"Around this time of year school starts so people are getting back into their cushion mode," said city Assessor Dave Dawley. "They are staying in properties and are not looking to move."

Spring and summer are typically the hot selling times. According to city assessor records, the average price for the 170 single-family homes sold in the second quarter was $347,800, only about $1,000 less than the previous quarter's average sale price.

Commercial property sales are staying even year-to-year. In July 2005, five commercial properties sold, compared to six last month.

"It's a stable, healthy market," said Andie Wilson, commercial sales agent for Coldwell Banker Commercial Premier Brokers. "It's a little harder for the (commercial) broker to put a deal together, and the reason is that sellers are still thinking it's this wild, crazy market where they can ask silly prices.

"The buyers are demanding reasonable returns at this point."

Residential sales are also being brought down by higher interest rates and sellers overestimating what their property is worth, said Bob Fredlund, an agent with Coldwell Banker Best Sellers in Carson City.

"The problem is that people don't want to lower the price because they have high expectations of the product," he said.

Sellers are shocked because of the decrease in the value of their property over a year ago when all real property was inflated, Fredlund said. Sellers perceive that they are taking a loss from what they might have made during the boom. But they're still going to make money, he said. Many sellers are making reductions in asking prices. He believes this trend will continue until Carson City gets a population influx.

"The reality is we've got fewer buyers now," he said. "Everybody purchased in the last year."

For example, 107 single-family homes sold in June 2005. Another 103 sold the next month.

Seller unease piqued because of rising interest rates.

The Federal Reserve held a key interest rate at 5.25 percent earlier this month, and market buzz has it staying steady at the next Fed meeting.

"Today's rates are wonderful, 6.75 to 7 percent, that's a beautiful rate," Fredlund said. "That's great for first-time buyers, great for all buyers."

• Contact reporter Becky Bosshart at bbosshart@nevadaappeal.com or 881-1212.

Average home sale prices in Carson City

July 2006

Single-family home: $323,416

Condo/town home: $184,400

Vacant land for a home: $206,500

June 2006

Single-family home: $345,798

Condo/town home: $160,300

Vacant land for a home: $200,000

July 2005

Single-family home: $325,180

Condo/town home: $196,892

Vacant land for a home: $223,333

June 2005

Single-family home: $344,455

Condo/town home: $201,146

Vacant land for a home: $243,103

Source: Carson City Assessor records

BACK

HEARING EXHIBIT 20

HEARING EXHIBIT 20

April 9, 2009

Wespac Advisors, LLC
10425 Double R Boulevard
Reno, NV 89521

Attention: Mr. Greg Christian
Consultant & Investment Advisor

Dear Greg:

I am writing you this letter in the hopes that Wespac is willing to reach an amicable resolution concerning the complaints my wife and I have in connection with Wespac's conduct and mishandling of my family's account.

At the Charles Schwab office in Reno in July, 2008, my wife and I attended a presentation by you (representing Wespac) as a prelude to selecting you as a Financial Advisor for our daughter's Charles Schwab Account Number 6211-2897. As part of your presentation, and in explaining your firm's past financial performance, you detailed your company's strategy of capital preservation through use of Stop Losses on all equity purchases. You emphasized the importance of this strategy in light of the stock market's volatility and the state of the economy.

Based on this presentation we selected Wespac as our Financial Advisor for the above-mentioned account. The account was opened on August 12, 2008, with equities purchases as listed in Section 1 and Section 2 of the attached Spreadsheet. The average cost basis of these equities was $47,000.00. Additionally, on 8/12/08, six (6) other equity positions (Flowers Foods, Ishares MSCI Brazil Fund, Ishares MSCI EMRG Mkt. Fund, Ishares MSCI Israel Index Fund, Ishares MSCI Taiwan Index Fund, Ishares TR S&P Latin America) were added with an average cost basis of $28,000.00.

In reviewing the Section 1 equities you will note that the average Stop Loss percentage for those transactions is 6.3%, and that included among those transactions was a Powershs ETF Basic Materials holding. However, with regard to the Section 2 equities, which were all Powershs ETF's, it does not appear as though Wespac included any Stop Losses in those transactions, with the average Stop Loss percentage exceeding 38%. Prudent and reasonable Stop Losses should have been exercised on these ETF's as was done on the Section 1 equities, and Wespac's failure to do so was wholly inconsistent with the investment strategy (purportedly designed to significantly limit our exposure to risk) that you proposed to us in your July 2008 presentation. Indeed, in our Account performance meeting in February 2009, when questioned about the loss on the Powershs ETF's, you admitted that Wespac had made modifications to the investment model, obviously to ensure that similar Stop Loss failures would not occur in future transactions.

Based on the reasonable and prudent Stop Losses placed on Section 1 equities, we would expect the same 6.3% loss percentages to have been incurred on Section 2 equities. At a 6.3% Stop Loss, the Section 2 losses should have been $11,914, compared to the actual losses of $72,063.00. (Of note, this calculation does not take into account other damages we have suffered due to Wespac's failure to initiate and execute Stop Losses on the Section 2 equities.)

We would prefer to address Wespac's improper conduct and mishandling of the Account without having to resort to formal dispute resolution proceedings. To that end, we would be willing to resolve this matter now in exchange for prompt payment by Wespac of $60,149.00.

Please let us know by no later than April 27, 2009, if this is acceptable to Wespac. Thank you for your attention to this matter.

Sincerely,

Enclosure

EQUITY DESCRIPTION	PURCH DATE	$ COST BASIS	DATE SOLD	$ SELL PRICE	$ STOP LOSS	% STOP LOSS
SECTION 1						
Currencyshares EURO Tr Symbol: FXE	8/12/08	47,290	9/11/08	44,216	3,074	6.5
Powershs ETF Basic Matl Symbol: PRFM	8/12/08	47,154	9/05/08	43,572	3,582	7.6
Rydex Mexican Paso Trust Symbol: FXM	8/12/08	47,505	9/22/08	45,293	2,212	4.7
Section 1 Totals		$141,949		$133,081	$8,868	6.3
SECTION 2						
Powershs ETF Financials Symbol: PRFF	8/12/08	47,196	11/13/08	26,322	20,874	44.2
Powershs ETF Industrials Symbol: PRFN	8/12/08	47,302	11/12/08	28,472	18,830	39.8
Powershs ETF Telecomm & Tech Symbol: PRFQ	8/12/08	47,638	11/12/08	31,325	16,313	34.2
Powershs ETF Utilities Symbol: PRFU	8/12/08	46,982	10/10/08	30,936	16,046	34.2
Section 2 Totals		$189,118		$117,055	$72,063	38.1

WESPAC972

April 23, 2009

Re: Your letter to Greg Christian dated April 9, 2009

Dear

This is to inform that we did receive your correspondence on April 20. We are thoroughly reviewing the details of your situation and will get back to you with a formal response. However, as it is the end of the quarter in our business cycle, we are very busy and will not be able to get back to you by your requested date of April 27. We do take this matter very seriously but will need more than 5 business days to investigate something that we are just hearing about for the first time. We will respond to you no later than Friday, May 15.

Sincerely,

John C. Williams, III
Chief Compliance Officer
WESPAC Advisors, LLC

WESPAC

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f. 510.287.5282
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So. California Office
655 North Central Ave., 17th Floor
Glendale, CA 91230

Nevada Office
10425 Double R Blvd.
Reno, NV 89521

May 14, 2009

Re: Your letter to Greg Christian dated April 9, 2009

Dear

We have reviewed all the facts and circumstances surrounding the events you outlined in your April9 letter regarding WESPAC's alleged mishandling of your account. According to Mr. Christian, you are correct that in his presentation to you and your wife in July and at a subsequent meeting with you and your daughter (the beneficiary of the trust), he discussed the use of stop losses and sector rotation at length. You were also provided detail sheets of all of the investment strategies that we provide our clients at WESPAC. After your review and Mr. Christian answering many follow up questions, you decided that our Core Equity Growth portfolio was best suited to your daughter's long term investment goals. This was confirmed during a lengthy visit in our Reno office with you and your daughter, after a few months of our managing the portfolio.

The Core Equity Growth portfolio in which the trust was invested has multiple components as you are aware, and they are clearly shown on page 10 of our investment brochure. The five components were:

35% Core equity MT

30% Major Markets ETF Rotation

15% International Country ETF Rotation

10% Commodity ETF Rotation

10% Cash

Due to market conditions and our underlying strategies, a portion of the account was invested in the ETF sector rotation strategies. As explained, we use relative strength to stop out our positions and then rotate into the next sector with the greatest relative strength. If at any point we feel that the market is exhibiting excess volatility, we may stay in cash instead of investing in a falling market. Referring to your spreadsheet you will notice that the ETF's in question were all part of the sector rotation strategy. The basic materials ETF was sold on 9/05/2008 at a 7.6% loss due to a major change in its relative strength, not because it was our policy to stop it out after a certain percentage loss. The proceeds were held and not reinvested. The other two ETF's referenced in section one of your spreadsheet are the FXE and FXM which were part of the ongoing commodity strategy.

In your letter dated April 9, 2009, you also mention a conversation with Mr. Christian where you discussed the larger losses in the power share positions and during which Mr. Christian told you we were making adjustments to our models to avoid such losses in the future (a change which we did in fact make). The sector rotation portion of the portfolio was replaced in all of our client models with our hedged ETF model, which is reflected in your account trade history. Our option to make modifications to our existing models if we can improve them is something clients pay us to do and part of our overall fiduciary responsibility.

As chief compliance officer of our firm, I have attended numerous investment presentations made by Mr. Christian or associates he has trained and they have all been consistent in outlining our strategy. With respect to your comparison of the varying magnitude of losses in different securities in your account, Mr. Christian never stated that it is our policy to stop a security out after a specified percentage loss. Furthermore, we control for this using different methods for different components of our portfolios, so to assert that we did something wrong because the losses weren't uniform is wholly inaccurate. We have also audited your account trade history and compared it to the composite history for all our accounts invested in the Core Equity Growth model. Your account was managed exactly the same as our other clients and we did not make any trading errors.

We are disappointed that we could not meet your service expectations, although we believe that we made an extra effort on at least two occasions during the brief stint we managed the account. On 1/23/09, at your request, we credited your account for $2,600 based on your assertion that either WESPAC or Schwab owed you the difference between a higher yielding money fund and the cash account that you and your Schwab representative chose when opening your account. We clearly had nothing to do with the selection of your cash/money market fund choice in your account, but chose to take the higher ground and work with you anyway based on what we had hoped would be a long term mutually beneficial relationship. Also per your request, we reversed $2,082.90 in management fees for the 3rd quarter and instead sent you an invoice for the fees. To date, we have not been paid for services rendered for the 4th quarter.

For the period from 8/31/08 through 12/31/08, your account lost 12.48%, while the S&P 500 lost 28.9%. From the period 12/31/08 through 2/13/09 when we stopped managing your account, the account lost 2.42% while the S&P 500 lost 13.44%. Therefore, after reviewing your account file, the trade history, and interviewing Mr. Christian, it is my belief that WESPAC acted properly in managing your account and that we fulfilled our fiduciary obligations to manage it prudently based on the stated long term objectives. You have also acknowledged to us and the Schwab representative that your account out performed your other advisors and its stated benchmarks. We respectfully decline your demand for WESPAC to reimburse you for your market related losses. Should you have any further questions, please contact me at (510) 740-4178.

Sincerely,

John C. Williams, III

John C. Williams, III
Chief Compliance Officer
WESPAC Advisors, LLC

July 20, 2009

Mr. John C. Williams, III
Chief Compliance Officer
WESPAC Advisors, LLC
2001 Broadway, 2nd Floor
Oakland, CA 94612

Dear Mr. Williams:

Your letter to the undersigned dated May 14, 2009

Let me clarify a few facts regarding the subject letter. My wife and I did attend the original sales presentation by Mr. G. Christian, of WESPAC, at the end of June, 2008, where he emphasized capital preservation through the use of a "stop Loss" methodology. My daughter, who resides in the State of Washington, visited us in Incline Village from July 8 to July 18, 2008, to vacation and talk to potential investment advisory firms. It was during the timeframe that she and I met with Mr. Christian and, subsequently, a final decision was made to select WESPAC as our advisor. My daughter has not been back to this area since that July 2008 visit. Consequently, there was no lengthy visit with WESPAC, after a few months of managing the account that confirmed the use of your Core Equity Growth portfolio. In reviewing my executed copy of the Confidential Client Agreement, I find no reference to this Core Equity Growth Portfolio.

Regarding WESPAC's Fourth Quarter 2008 Management Fee of $2,082.90 (which was reversed in December 2008), we hand-delivered our personal check (No. 427 dated December 1, 2008) in the amount of $2,082.90 to the WESPAC Reno office in early December. However, the check did not clear our bank account until January 22, 2009.

As for the $2,600 credit for money funds earnings, I originally took this issue up with Schwab because they had promised the higher rate. Although I thought Schwab should be responsible for making good on this back interest, they stated that it is the financial advisor's responsibility to ensure that the correct money market rate is paid to the client. Therefore, the payment of this $2,600 is strictly between WESPAC and Schwab and was not a customer accommodation.

While no specific stop loss percentages were contractually committed to, reasonable and prudent stop losses would have been appropriate for any model/methodology, as explained by Mr. Christian in his original sales presentations. If you review all buying and selling activity on our account from mid-August 2008 to February 2009, it is obvious that stop losses were exercised based on the equity dollars invested. This is reasonably consistent with the industry averages of firms that employ the "stop loss" methodology. The exception to this are the four (4) equity purchases of Powershares made on August 12, 2008. It would be hard to argue that a firm employing stop losses for capital preservation would not place reasonable stop losses on these four (4) portfolio equity investments simply because they are part of a sector rotation strategy.

Therefore, we hold WESPAC responsible for the $60,149 of excess losses, as stated in my April 9, 2009 letter, and we expect reimbursement. Please notify me by telephone at my residence (775) 831-9025 by no later than July 28, 2009, of your intent to settle this matter. Otherwise, we will proceed with formal dispute resolution.

Sincerely,

WESPAC

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Glendale, CA. 91230

Nevada Office
10425 Double R Blvd.
Reno, NV. 89521

July 24, 2009

Re: Your letter dated July 20, 2009

Dear

We received your letter and you have not raised any new issues regarding the management of your account by our firm from mid-2008 through early 2009. You are correct that our agreement did not contractually obligate us to any specific stop loss methodology in the management of your account.

To restate the points I made in my previous correspondence – after reviewing your account file, the trade history, and interviewing Mr. Christian, it is my strong belief that WESPAC acted properly in managing your account and fulfilled our fiduciary obligations to manage it prudently based on the stated long term objectives. You acknowledged that your account out performed your other advisors and its stated benchmarks. Your account was managed exactly the same as other clients who were in the same model, and most of them are grateful that we were able to prevent them from experiencing the steep delines experienced by the broad market last fall. Again, we respectfully decline your demand for WESPAC to reimburse you for your market related losses.

Sincerely,

John C. Williams III

John C. Williams, III
Chief Compliance Officer
WESPAC Advisors, LLC

PROOF OF SERVICE OF APPELLANT'S REPLY APPENDIX

I, Carl M. Hebert, certify that, on August 7, 2020, I served the Appellant's Reply Appendix on Thomas C. Bradley, Esq., counsel for respondents Wespac and Greg Christian, through the Court's electronic filing system to his e-mail address, tom@tombradleylaw.com, consistent with Nevada Electronic Filing and Conversion Rule 9(c).

DATED this August 7th, 2020.

/S/ Carl M. Hebert
CARL M. HEBERT, ESQ.

Counsel for appellant Garmong