

Case Nos. 80427 & 80831

In the Supreme Court of Nevada

In the Matter of the Petition of
CLA PROPERTIES LLC.

SHAWN BIDSAL,
Appellant,

vs.

CLA PROPERTIES LLC,
Respondent.

CLA PROPERTIES LLC,
Appellant,

vs.

SHAWN BIDSAL,
Respondent.

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Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eight Judicial District Court, Clark County, Nevada
The Honorable JOANNA S. KISHNER, District Judge
District Court Case No. A-19-795188-P

APPELLANT'S APPENDIX

VOLUME 11

PAGES 2501-2750

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CERTIFICATE OF SERVICE

I certify that on November 24, 2020, I submitted the foregoing
“Appellant’s Appendix” for filing via the Court’s eFlex electronic filing
system. Electronic notification will be sent to the following:

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3

4

CLA PROPERTIES,

5

Claimant,

6

vs.

Reference No. 1260004569

7

SHAWN BIDSAL,

8

Respondent.

9

10

11

TRANSCRIPT OF PROCEEDINGS

12

Taken Before the Honorable Stephen E. Haberfeld

13

Volume I

14

Las Vegas, Nevada

15

May 8, 2018

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11:12 a.m.

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Reported by: Heidi K. Konsten, RPR, CCR
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TRANSCRIPT OF PROCEEDINGS, VOLUME I - 05/08/2018

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23 * * * * *

24

25

1 mean? When you said if the -- if the -- if the
2 offered price is low --

3 A Yes.

4 Q -- did you mean low -- what did you mean
5 by that?

6 A Lower than the regular going market
7 price. And the other guy doesn't have the money
8 but wants to sell, at that time, if you give him a
9 right to appraise, he would be protected.

10 Q I see.

11 A That's -- that's the -- that's what
12 the -- he said, and I thought it was a -- it's a
13 good idea. It's a balancing point.

14 And then there was another issue that
15 I -- these were the main two -- I'm sorry. These
16 were the main two issues, to come up with a
17 formula and to come up with an appraisal for the
18 remaining member. And I discussed it with him,
19 and I said, okay, let's figure out the -- made
20 suggestion, I said, "You know, would you like to
21 write something, and we go take it to LeGrand?"
22 He said, "I'm busy, you write it."

23 And I went down and I put everything
24 that I just said on the paper. If you look at
25 the -- and I called it rough draft, you know, it's

1 a suggestion that I have to my partner. And I
2 asked him that -- to take a look and give me --
3 give me his comments.

4 Q Okay. So let's --

5 A And --

6 Q Let's -- let's move on. Let's turn to
7 the page. Let's turn to exhibit --

8 A May I say something?

9 Q Sure, go ahead.

10 A Yeah. If you look at the -- whatever
11 e-mail that Mr. LeGrand sent on August 18, I took
12 that, the same -- the specific intention or the
13 same -- everything, and I added two -- actually,
14 it was one formula, but then we thought that it's
15 difficult to understand it. I added two formula
16 and appraisal, and that's it.

17 Q So you said you -- could you -- did you
18 use a prior draft from Mr. LeGrand to help you
19 draft -- to help you come up with the formula --

20 A Exactly. If you look at it verbatim,
21 you know, the bottom and the top is the same. The
22 two formula and the appraisal is what LeGrand
23 wanted. LeGrand wanted a formula, and we thought
24 it's a valid thing. I did -- I added that.

25 And the -- also, the appraisal, we --

1 Q Okay. Looking at the rough draft, at
2 the last paragraph on the first page --

3 A Yes.

4 Q -- where it talks about the specific
5 intent --

6 A Yes.

7 Q -- where did you get that language from?

8 A As I said, I got it from LeGrand's
9 October -- August 18, Section 7; Section 7, what
10 he calls it, a Dutch auction. And if you look at
11 the numbering, the numbering all is exactly like
12 what he wrote. And on the top -- on the top it
13 says "Purchase to sell right amount," all of them
14 is LeGrand, you know.

15 Q Okay. So after -- after you met with
16 Mr. Bidsal and went over the rough draft, did you
17 create another draft?

18 A That's right.

19 Q And --

20 A Then I created the second draft that
21 addressed his concern.

22 Q And that's on Exhibit 22?

23 A Yes. 21, sir -- no, you are right, 22.

24 Q And did you -- did you send this to
25 Mr. Bidsal?

TRANSCRIPT OF PROCEEDINGS, VOLUME I - 05/08/2018

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CERTIFICATE OF REPORTER

1

2

3 STATE OF NEVADA)
4 County of Clark) ss

5

6 I, Heidi K. Konsten, Certified Court
7 Reporter, do hereby certify:

8 That I reported in shorthand (Stenotype)
9 the proceedings had in the above-entitled matter at
10 the place and date indicated.

11 That I thereafter transcribed my said
12 shorthand notes into typewriting, and that the
13 typewritten transcript is a complete, true, and
14 accurate transcription of my said shorthand notes.

15 IN WITNESS WHEREOF, I have set my hand in
16 my office in the County of Clark, State of Nevada,
17 this 25th day of May, 2018.

18

19

20

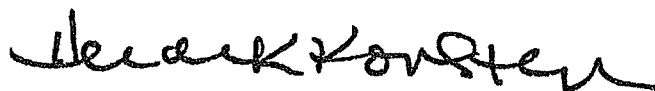
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23

24

25



Heidi K. Konsten, RPR, NV CCR #845

EXHIBIT QQ

002507

002507

EXHIBIT QQ

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10 CLA PROPERTIES, LLC, a California limited
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Reference #: 1260004569

11 Claimant,
 12 vs.

Arbitrator: Hon Stephen E. Haberfeld (Ret.)

13 SHAWN BIDSAL,

14 Respondent.

15
 16 **RESPONDENT SHAWN BIDSAL'S OBJECTION TO**
CLAIMANT CLA PROPERTIES, LLC'S PROPOSED INTERIM ORDER

17
 18 COMES NOW Respondent SHAWN BIDSAL, an individual ("***Bidsal***"), by and through his
 19 attorneys of record, SMITH & SHAPIRO, PLLC and GOODKIN & LYNCH, LLP, and files his
 20 Objection (the "***Objection***") to Claimant CLA Properties, LLC's Proposed Interim Award (the
 21 "***Award***")¹, as follows:

22 1. **Objection No. 1:** Paragraph No. 1 in Section V (RELIEF GRANTED OR DENIED)
 23 of the Award states, in pertinent part: "[a]ny distribution paid to Mr. Bidsal from Green Valley after
 24 July 7, 2017 shall be deducted from the payment to be made by CLA to Mr. Bidsal for his
 25 membership interest in Green Valley." This sentence is inappropriate and should be stricken from
 26 the Award.

27
 28 ¹ See *Exhibit "A"* for the Declaration of James E. Shapiro, Esq. explaining why the objections were not filed within the time originally provided for.

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1 First, the Merits Order, dated October 9, 2018, never provided any monetary award for
2 distributions or any such deduction from the purchase price to be paid by CLA for Mr. Bidsal's
3 membership interests in Green Valley Commerce, LLC ("GVC").

4 Second, JAMS Rule 11(b) does not grant the Arbitrator authority to award anything outside
5 of "disputes over the formation, existence, validity, interpretation or scope of the agreement under
6 which Arbitration is sought." Section 14.1 of Article III of the Operating Agreement only mandates
7 arbitration "[i]n the event of any dispute or disagreement between the members as to the
8 interpretation of any provision of this Agreement . . ." (emphasis added) Thus issues properly
9 considered in arbitration all deal with the interpretation of the Operating Agreement. Distributions
10 to the members has nothing to do with the interpretation of the Operating Agreement, and as such,
11 are not properly part of the issues to be decided in arbitration.

12 Third, CLA never sought any monetary remedies in arbitration when it filed its September
13 26, 2017 Demand for Arbitration. Rather, CLA simply sought assistance from the Arbitrator to
14 interpret the Operating Agreement consistent with CLA's interpretation of it and force Bidsal to sell
15 his membership interest in Green Valley Commerce to CLA. A true and correct copy of CLA's
16 Demand for Arbitration is attached hereto as *Exhibit "B"* and incorporated herein by this reference.
17 Nowhere in the Demand for Arbitration did CLA ask that any monetary issues relating to
18 distributions be decided, nor would it have been appropriate to do so. *See Exhibit "B"*.

19 Finally, for the reasons outlined above, the parties did not conduct any discovery or brief any
20 issues surrounding distributions to the members of Green Valley Commerce, LLC. As such, it
21 would be wholly improper for the Arbitration Award to include anything dealing with distributions.

22 For the forgoing reasons, Paragraph No. 1 in Section V (RELIEF GRANTED OR DENIED)
23 of the Award which states: "[a]ny distribution paid to Mr. Bidsal from Green Valley after July 7,
24 2017 shall be deducted from the payment to be made by CLA to Mr. Bidsal for his membership
25 interest in Green Valley" should be removed and deleted.

26 **2. Objection No. 2:** Paragraph 1 in Section V of the Award is also objectionable
27 because it orders Bidsal to transfer his membership interests in GVC to CLA "free and clear of all
28 liens and encumbrances." This phrase is contained nowhere in the Merits Order and is overreaching

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1 on the part of CLA. Further, Article V Section 4 of the Operating Agreement contains the only
2 operative provisions which the Arbitrator has now ruled were put in motion by Bidsal and which
3 allow CLA to acquire Bidsal's membership interests in GVC. Article V Section 4 only references
4 purchases and sales and the formula for determining price. It does not require transfers "free and
5 clear of all liens and encumbrances."

6 **3. Objection No. 3:** Paragraph 1 in Section V of the Award is also objectionable
7 because CLA places an arbitrary and commercially unreasonable deadline of 10 days for Bidsal to
8 complete the transfer of his membership interests in GVC. This was also not a term in the Merits
9 Order, nor is the time period found in Article V Section 4 of the GVC Operating Agreement, nor is
10 it a time period that was every mentioned by the Arbitrator nor discussed by any party.

11 Further, any final arbitration award is not enforceable in and of itself. Rather, both JAMS
12 Rule 24(J) and Article III Section 14.1 of the GVC Operating Agreement provide that the provisions
13 of the Federal Arbitration Act (9 U.S.C. § 1 *et seq.*) govern the process in this case. Under 9 U.S.C.
14 § 9, CLA must apply to a court of law to confirm any final arbitration award within one year, in
15 order to enforce it. At the same time, under 9 U.S.C. § 12, Bidsal is entitled to file a motion to
16 vacate, modify, or correct any final arbitration award within three (3) months after the award is filed
17 or delivered. Consequently, a ten (10) day finalization date is premature and unwarranted under the
18 law.

19 **4. Objection No. 4:** Paragraph 1 in Section V of the Award is also objectionable
20 because CLA added additional terms not contained in the Merits Order compelling Bidsal to turn
21 over management of GVC to CLA and to turn over all company records of GVC within ten (10)
22 days. This is also overreaching and goes beyond the scope of the Merits Order and the Arbitration.

23 As with the improper award of distributions to CLA, JAMS Rule 11(b) does not grant the
24 Arbitrator authority to award anything outside of "disputes over the formation, existence, validity,
25 interpretation or scope of the agreement under which Arbitration is sought." Whether, when, and
26 how management and records of GVC should be turned over is not an arbitrable issue. Likewise,
27 Section 14.1 of Article III of the Operating Agreement only mandates arbitration "[i]n the event of
28 any dispute or disagreement between the members as to the interpretation of any provision of this

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1 Agreement . . .” Turnover of management and records is outside the scope of the arbitration
 2 provision in the Operating Agreement. Finally, CLA never sought turnover of management and
 3 records in arbitration when it filed its September 26, 2017 Demand for Arbitration.

4 **5. Objection No. 5:** Paragraph 3 in Section V of the Award is also objectionable
 5 because it grants to CLA a deduction in the purchase price for Bidsal’s membership interests for the
 6 attorneys’ fees and costs which CLA expects to be awarded in relation to its pending application for
 7 attorneys’ fees and costs. This was not a provision in the Merits Order and is also beyond the scope
 8 of the arbitration and JAMS Rules, and not provided for under Section 14.1 of Article III of the
 9 Operating Agreement. Section 14.1 of Article III of the Operating Agreement, as well as JAMS
 10 Rule 24(g), simply allow for awards of attorneys’ fees and costs. The enforcement of those awards
 11 and the mechanisms for recovery of those awards (including execution and garnishment) are left up
 12 to the court system by virtue of the provisions of 9 U.S.C. § 1 *et seq.* CLA must pay full price for
 13 Bidsal’s membership interests in GVC.

14 **6. Objection No. 6:** Paragraph 5 in Section V of the Award is also objectionable
 15 because it grants to the Arbitrator continuing jurisdiction. However, once the Arbitrator has
 16 completed his review of CLA’s application for attorneys’ fees, his work is done in this case. The
 17 GVC Operating Agreement only provides for arbitration to settle disputes in interpretation of the
 18 Operating Agreement, which will have been completed with the entry of the final arbitration award.
 19 Further, 9 U.S.C. § 9 then transfers to a court of law the jurisdiction necessary to confirm and
 20 enforce the final arbitration award. There is no provision of the JAMS rules, 9 U.S.C. § 1 *et seq.*, or
 21 the GVC Operating Agreement that provide for further supervision or intervention by the Arbitrator.
 22 In fact, JAMS Rules 24(j), 24(k) and 25 makes it clear that other than a seven (7) objection period
 23 for computational and typographical errors, an award is final, leaving only two future paths: (1)
 24 enforcement by a court of law *per* 1 U.S.C. § 9, or (2) an alternative JAMS appeal process described
 25 in JAMS Rule 34. That is all.

26 **7. Objection No. 7:** Paragraphs 3 and 4 in Section II (Factual Context) of the Award
 27 and Paragraph 5 in Section II of the Award contain language not in the Merits Order and incorrectly
 28 identify GVC’s property as “residential” rather than commercial.

8. **Objection No. 8:** Paragraphs 17, 19, 20(C) and 20(I) in Section IV of the Award are also objectionable because they contain language not found in the Merits Order. Some of this includes commentary on the identity of the drafter of the Operating Agreement, and the right to an appraisal, which was not stated by the Arbitrator in the Merits Order.

For the foregoing reasons, the Award should be modified to strike out the aforementioned provisions in Section V, Paragraphs 1, 3, and 5 of the Award, as well as everything contained in Paragraphs 3, 4, 5, 17, 19, 20(C), and 20(I) of the Award which are not contained in the Merits Order.

DATED this 20th day of November, 2018.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro

James E. Shapiro, Esq.
Sheldon A. Herbert, Esq.
3333 E. Serene Ave., Suite 130
Henderson, NV 89074
Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 20th day of November, 2018, I served a true and correct copy of the forgoing **RESPONDENT SHAWN BIDSAL'S OBJECTION TO CLAIMANT CLA PROPERTIES, LLC'S PROPOSED INTERIM ORDER**, by emailing a copy of the same, with Exhibits, to:

Individual:	Email address:	Role:
Louis Garfinkel, Esq.	LGarfinkel@lgealaw.com	Attorney for CLAP
Rodney T Lewin, Esq.	rod@rtlewin.com	Attorney for CLAP
Laura Rio	LRios@jamsadr.com	JAMS Case Coordinator
Stephen Haberfeld, Esq.	judgehaberfeld@gmail.com	Arbitrator

/s/ Jill M. Berghammer

An employee of Smith & Shapiro, PLLC

EXHIBIT A

002513

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EXHIBIT A

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EXHIBIT B

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EXHIBIT B



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

TO RESPONDENT (PARTY ON WHOM DEMAND FOR ARBITRATION IS MADE)

Add more respondents on page 6.

RESPONDENT NAME Shawn Bidsal

ADDRESS 14309 Sherman Way Boulevard, Suite 201

CITY Van Nuys

STATE California

ZIP 91405

PHONE 818-901-8800

FAX

EMAIL wcico@yahoo.com

RESPONDENT'S REPRESENTATIVE OR ATTORNEY (IF KNOWN)

REPRESENTATIVE/ATTORNEY James E. Shapiro

FIRM/COMPANY Smith & Shapiro

ADDRESS 2520 St. Rose Parkway, Suite 220

CITY Henderson

STATE Nevada

ZIP 89074

PHONE 702-318-5033

FAX 702-318-5034

EMAIL jshapiro@smithshapiro.com

FROM CLAIMANT

Add more claimants on page 7.

CLAIMANT NAME CLA Properties, LLC

ADDRESS 2801 South Main Street

CITY Los Angeles

STATE California

ZIP 90007

PHONE 213-718-2416

FAX

EMAIL bengol7@yahoo.com

CLAIMANT'S REPRESENTATIVE OR ATTORNEY (IF KNOWN)

REPRESENTATIVE/ATTORNEY (1) Rodney T. Lewin and (2) Louis Garfinkel (info on attached)

FIRM/COMPANY Law Offices Rodney T. Lewin, APC

ADDRESS 8665 Wilshire Boulevard, Suite 210

CITY Beverly Hills

STATE California

ZIP (90211

PHONE 310-659-6771

FAX 310-659-7354

EMAIL rod@rtlewin.com



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

MEDIATION IN ADVANCE OF THE ARBITRATION

- ☐ If mediation in advance of the arbitration is desired, please check here and a JAMS Case Manager will assist the parties in coordinating a mediation session.

NATURE OF DISPUTE / CLAIMS & RELIEF SOUGHT BY CLAIMANT

CLAIMANT HEREBY DEMANDS THAT YOU SUBMIT THE FOLLOWING DISPUTE TO FINAL AND BINDING ARBITRATION.
A MORE DETAILED STATEMENT OF CLAIMS MAY BE ATTACHED IF NEEDED.

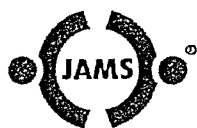
Claimant and Respondent are the sole members of Green Valley Commerce, LLC, a Nevada limited liability company ("Green Valley"), each with a 50% membership interest. Green Valley is governed by its Operating Agreement dated June 15, 2011. Article V Section 4 of the Operating Agreement is captioned Purchase or Sell Right among Members. In effect the provisions of Section 4 are buy-sell rights whereby one member can offer to buy out the other (the former called "Offering Member" and the latter called "Remaining Member") at a formula price based on the fair market value of Green Valley (called "FMV"). The Remaining Member then has the right either (1) to sell at the price based on the FMV stated by Offering Member, (2) demand an appraisal to determine FMV or (3) buy out the Offering Member at the same FMV.

On July 7, 2017 Respondent through his counsel (and there labelled "Offering Member") offered to buy out Claimant (there labelled "Remaining Member") at a price based on \$5,000,000 fair market value of Green Valley (there labelled "FMV"). In a timely fashion Claimant responded (directly to Respondent) in part that it "elects and exercises its option to purchase your 50% membership interest in the Company on the terms set forth in the July 7, 2017 letter based on your \$5,000,000 valuation of the Company." Respondent has refused to sell his interest, but instead has demanded an appraisal to determine FMV.

In fact Section 4.2 in part provides that "If the offered price is not acceptable to the Remaining Member(s), within 30 days of receiving the offer, the Remaining Members (or any of them) can request to establish FMV. . ." It does not provide that the Offering Member can after setting the FMV himself can then demand an appraisal; that was the sole right of the Remaining Member (option (2) above). But Claimant did not exercise that option. Rather it elected the third option, to buy out Respondent based on the FMV that Respondent established.

Any doubt in this regard is removed by the concluding paragraph of Section 4.2 which states: "The specific intent of this provision is that once the Offering Member presented his or its offer to the Remaining Members, then the Remaining Members shall either sell or buy at the same offered price (or FMV if appraisal is invoked) . . . In the case that the Remaining Member(s) decide to purchase, then Offering Member shall be obligated to sell his or its Member Interests to the remaining Member(s)."

AMOUNT IN CONTROVERSY (US DOLLARS) _____



Demand for Arbitration Form (continued)

Instructions for Submittal of Arbitration to JAMS

ARBITRATION AGREEMENT

This demand is made pursuant to the arbitration agreement which the parties made as follows. Please cite location of arbitration provision and attach two copies of entire agreement.

ARBITRATION PROVISION LOCATION

Article III, Section 14.1 of the Operating Agreement in part states:

"Dispute Resolution. [After providing for possible resolution through representatives which has taken place without success it states] [A]ny controversy, dispute or claim arising out of or relating in any way to this Agreement or the transactions arising hereunder shall be settled exclusively by arbitration in the City of Las Vegas, Nevada. Such arbitration shall be administered by JAMS in accordance with its then prevailing expedited rules, by one independent and impartial arbitrator selected in accordance with such rules. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. § 1 et seq. The fees and expenses of JAMS and the arbitrator shall be shared equally by the Members and advanced by them from time to time as required; provided that at the conclusion of the arbitration, the arbitrator shall award costs and expenses (including the costs of the arbitration previously advanced and fees and expenses of attorneys, accountants and other experts) to the prevailing party." (Other details follow within the section.)

RESPONSE

The respondent may file a response and counter-claim to the above-stated claim according to the applicable arbitration rules. Send the original response and counter-claim to the claimant at the address stated above with two copies to JAMS.

REQUEST FOR HEARING

REQUESTED LOCATION Las Vegas, Nevada

ELECTION FOR EXPEDITED PROCEDURES (IF COMPREHENSIVE RULES APPLY)

See: Comprehensive Rule 16.1



By checking the box to the left, Claimant requests that the Expedited Procedures described in JAMS Comprehensive Rules 16.1 and 16.2 be applied in this matter. Respondent shall indicate not later than seven (7) days from the date this Demand is served whether it agrees to the Expedited Procedures.

SUBMISSION INFORMATION

SIGNATURE

DATE September 26, 2017

NAME
(PRINT/TYPED)

CLA Properties, LLC, by Rodney T. Lewin, its attorney

ATTACHMENT

The information for Louis Garfinkel is as follows:

Louis E. Garfinkel, Esq.
Nevada Bar No. 3416
Levine, Garfinkel & Eckersley
8880 W. Sunset Road, Suite 390
Las Vegas, NV 89148
Tel: (702) 673-1612
Fax: (702) 735-2198

The relief sought is as follow: Respondent be ordered to transfer his interest in Green Valley Commerce, LLC ("Green Valley") to Claimant upon payment of the price determined in accordance with Section 4 of the Operating Agreement for Green Valley using five million dollars as the fair market value of Green Valley.

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Barbara Silver

EXHIBIT RR

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EXHIBIT RR

JAMS ARBITRATION NO. 1260004569

CLA PROPERTIES, LLC,

Claimant,

vs.

SHAWN BIDSAL,

Respondent.

**ORDER NO. 1 RE-SETTING INTENDED "TARGET DATE"
FOR RENDERING OF WRITTEN DECISION VIA MERITS ORDER**

Due to the unanticipated press of other matters --- good cause appearing and subject to further order --- the intended "target date" for the Arbitrator's rendering of a written decision, via merits order, on submitted merits issues in this arbitration is re-set to September 30, 2018.

IT IS SO ORDERED.

Dated: June 19, 2018



STEPHEN E. HABERFELD
Arbitrator

PROOF OF SERVICE BY EMAIL & U.S. MAIL

Re: CLA Properties, LLC vs. Bidsal, Shawn
Reference No. 1260004569

I, Bryan Winter, not a party to the within action, hereby declare that on June 20, 2018, I served the attached ORDER NO. 1 RE-SETTING INTENDED "TARGET DATE" FOR RENDERING OF WRITTEN DECISION VIA MERITS ORDER on the parties in the within action by Email and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at Los Angeles, CALIFORNIA, addressed as follows:

Rodney T. Lewin Esq.
L/O Rodney T. Lewin
8665 Wilshire Blvd.
Suite 210
Beverly Hills, CA 90211
Phone: 310-659-6771
rod@rtlewin.com
Parties Represented:
CLA Properties, LLC

Louis E. Garfinkel Esq.
Levine, Garfinkel & Eckersley
2965 S Jones Blvd
Suite C1-140
Las Vegas, NV 89146
Phone: 702-735-0451
lgarfinkel@lgkattorneys.com
Parties Represented:
CLA Properties, LLC

James E. Shapiro Esq.
Sheldon A. Herbert Esq.
Smith & Shapiro
3333 E Serene Ave.
Suite 130
Henderson, NV 89074
Phone: 702-318-5033
jshapiro@smithshapiro.com
sherbert@smithshapiro.com
Parties Represented:
Shawn Bidsal

Daniel Goodkin Esq.
Goodkin & Lynch
1875 Century Park East
Suite 1860
Los Angeles, CA 90067
Phone: 310-853-5730
dgoodkin@goodkinlynch.com
Parties Represented:
Shawn Bidsal

I declare under penalty of perjury the foregoing to be true and correct. Executed at Los Angeles, CALIFORNIA on June 20, 2018.



Bryan Winter
BWinter@jamsadr.com

JAMS ARBITRATION NO. 1260004569

CLA PROPERTIES, LLC,

Claimant,

vs.

SHAWN BIDSAL,

Respondent.

**ORDER NO. 2 RE-SETTING INTENDED "TARGET DATE"
FOR RENDERING OF WRITTEN DECISION VIA MERITS ORDER**

Due to the unanticipated press of other matters --- good cause appearing and subject to further order --- the intended "target date" for the Arbitrator's rendering of a written decision, via merits order, on submitted merits issues in this arbitration is re-set to October 9, 2018.

IT IS SO ORDERED.

Dated: September 18, 2018



STEPHEN E. HABERFELD
Arbitrator

PROOF OF SERVICE BY EMAIL & U.S. MAIL

Re: CLA Properties, LLC vs. Bidsal, Shawn
Reference No. 1260004569

I, Bryan Winter, not a party to the within action, hereby declare that on September 18, 2018, I served the attached ORDER NO. 2 RE-SETTING INTENDED "TARGET DATE" FOR RENDERING OF WRITTEN DECISION VIA MERITS ORDER on the parties in the within action by Email and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at Los Angeles, CALIFORNIA, addressed as follows:

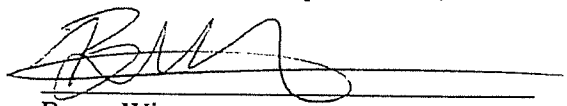
Rodney T. Lewin Esq.
L/O Rodney T. Lewin
8665 Wilshire Blvd.
Suite 210
Beverly Hills, CA 90211
Phone: 310-659-6771
rod@rtlewin.com
Parties Represented:
CLA Properties, LLC

Louis E. Garfinkel Esq.
Levine, Garfinkel & Eckersley
2965 S Jones Blvd
Suite C1-140
Las Vegas, NV 89146
Phone: 702-735-0451
lgarfinkel@lgkattorneys.com
Parties Represented:
CLA Properties, LLC

James E. Shapiro Esq.
Sheldon A. Herbert Esq.
Smith & Shapiro
3333 E Serene Ave.
Suite 130
Henderson, NV 89074
Phone: 702-318-5033
jshapiro@smithshapiro.com
sherbert@smithshapiro.com
Parties Represented:
Shawn Bidsal

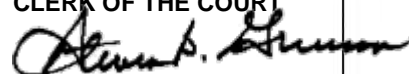
Daniel Goodkin Esq.
Goodkin & Lynch
1875 Century Park East
Suite 1860
Los Angeles, CA 90067
Phone: 310-853-5730
dgoodkin@goodkinlynch.com
Parties Represented:
Shawn Bidsal

I declare under penalty of perjury the foregoing to be true and correct. Executed at Los Angeles, CALIFORNIA on September 18, 2018.


Bryan Winter
BWinter@jamsadr.com

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Louis E. Garfinkel, Esq.
Nevada Bar No. 3416
LEVINE & GARFINKEL
1671 W. Horizon Ridge Pkwy, Suite 230
Henderson, NV 89012
Tel: (702) 673-1612
Fax: (702) 735-2198
Email: lgarfinkel@lgealaw.com
Attorneys for Petitioner CLA Properties LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

CLA PROPERTIES LLC, a limited liability
company,

Case No.: A-19-795188-P

Dept.: 31

Petitioner,

vs.

**SUPPLEMENTAL EXHIBIT TO
APPENDIX TO MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF PETITION FOR
CONFIRMATION OF ARBITRATION
AWARD AND IN OPPOSITION TO
COUNTER-PETITION TO VACATE
AWARD**

SHAWN BIDSAL, an individual,

Respondent.

Petitioner CLA Properties LLC ("CLA"), hereby submits Exhibit No. 122 to its Appendix to Memorandum of Points and Authorities in Support of Petition for Confirmation of Arbitration Award and in Opposition to Counter-Petition to Vacate Award.

Dated this 5th day of September, 2019.

LEVINE & GARFINKEL

By: 

Louis E. Garfinkel, Esq. (Nevada Bar No. 3416)
1671 W. Horizon Ridge Pkwy, Suite 230
Henderson, NV 89012
Tel: (702) 673-1612 / Fax: (702) 735-2198
Email: lgarfinkel@lgealaw.com
Attorneys for Petitioner CLA Properties LLC

CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of LEVINE & GARFINKEL, and that on the 5th day of September, 2019, I caused the foregoing **SUPPLEMENTAL EXHIBIT TO APPENDIX TO MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION FOR CONFIRMATION OF ARBITRATION AWARD AND IN OPPOSITION TO COUNTER-PETITION TO VACATE AWARD** to be served as follows:

☐ by placing a true and correct copy of the same to be deposited for mailing in the US Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or

☐ by hand delivery to the parties listed below; and/or

☒ pursuant to N.E.F.C.R. Rule 9 and Administrative Order 14-2, by sending it via electronic service to:

James E. Shapiro, Esq.
Nevada Bar No. 7907
Sheldon A. Herbert, Esq.
Nevada Bar No. 5988
Smith & Shapiro, PLLC
3333 E. Serene Ave., Suite 130
Henderson, NV 89074
T: (702) 318-5033 / F: (702) 318-5034
E: jshapiro@smithshapiro.com
sherbert@smithshapiro.com
Attorneys for Respondent Shawn Bidsal



An Employee of LEVINE & GARFINKEL

EXHIBIT “122”

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002528

EXHIBIT “122”

*** ROUGH DRAFT *** ROUGH DRAFT ***

1

ROUGH DRAFT TRANSCRIPT
EXCERPT OF PROCEEDINGS
CLA PROPERTIES vs. SHAWN BIDSAL

May 8, 2018

* * * * *

The following transcript of proceedings,
or any portion thereof, is being delivered
UNCERTIFIED by the court reporter.

This transcription has not been
proofread. It is a draft transcript, **NOT** a
certified transcript. As such, it may contain
computer-generated mistranslations of stenotype
code or electronic transmission errors, resulting
in inaccurate or nonsensical word combinations or
symbols which cannot be deciphered by
non-stenotypists.

The purchaser agrees not to disclose this
realtime, unedited transcription in any form
(written or electronic) to anyone who has no
connection to this case. This is an unofficial
transcription which should **NOT** be relied upon for
purposes of verbatim citation of testimony, nor
shall it be used or cited from at any time to rebut
or contradict the official, certified transcript.

Corrections will be made in the
preparation of the certified transcription,
resulting in differences in content, page and line
numbers, punctuation and formatting.

Heidi K. Konsten, RPR, CCR # 845.

*** ROUGH DRAFT *** ROUGH DRAFT ***

EXCERPT OF PROCEEDINGS

* * * * *

THE ARBITRATOR: Back on the record.

We've had an off-the-record conversation about post-evidentiary sessions briefing. We have not set any schedule at this time. The Arbitrator has had colloquy with counsel in the hearing room concerning the Arbitrator's intention after the last papers, which are anticipated to be reply papers concurrently served after opening briefs, including written closing argument initially concurrently served, which will be on dates in the schedule, taking into account the court reporter's estimated time for sending out the hearing transcripts in our matter, which she said will be ten business days or approximately two weeks from tomorrow, May 10.

So on the basis of that, counsel will meet and confer and e-mail a joint -- preferably a joint report to the Arbitrator and case manager of a proposed schedule for the closing argument and other briefing for the opening briefs, reply briefs.

And from that date, the Arbitrator

*** ROUGH DRAFT *** ROUGH DRAFT ***

1 intends to have in mind an intended target date of
2 about 30 to 45 days from the last papers' day to
3 render -- which is different from issuance of a
4 merits order, which will not in any way be an
5 award in our matter.

6 And then because the parties have
7 advised the Arbitrator that there is a prevailing
8 party attorney fees' clause or provision, one or
9 the other sides in our matter having been
10 determined as a prevailing party in the merits
11 already -- which I will style as Merits Order
12 No. 1 -- typically, as I mentioned off the record,
13 there will be an order directing the counsel to
14 immediately commence and diligently conduct
15 meet-and-confer communications leading to a
16 preferably joint scheduling of an application' by
17 the prevailing party for attorney fees and costs
18 supported by substantiating documentation, being a
19 declaration and billing records substantiating the
20 time requested and expenses requested.

21 And if past is prologue, there probably
22 will be a request for a telephonic hearing after
23 the briefing on that is concluded, at which time
24 we can have discussions as to whether there will
25 be an interim or final award which will include

1 the attorney fee's award, or whether it will be a
2 written order on attorney fees. And then we'll
3 decide what to do about an interim or final award
4 after that.

5 But I think that, conceptually, was what
6 we discussed and what is reflective of the
7 Arbitrator's thinking. And going back to the
8 difference of rendering and issuance of decisions,
9 the Arbitrator renders written decisions by order
10 or award typically. That means the transmission
11 from the Arbitrator to Jams. Issuance means the
12 transmission by Jams to the parties.

13 And typically that depends on the
14 payment of fees, which is beyond the Arbitrator's
15 sphere. It's just solely between Jams and the
16 parties. And that is what seems to be the
17 difference, so that I think that you will see that
18 Jams prefers -- and the Arbitrator concurs -- that
19 we try to get the dates of rendering and issuance
20 the same.

21 But for reasons that I've just alluded
22 to, sometimes they're not, and there's a delay in
23 the issuance of not having to do with not all the
24 fees being in, but that's just others and Jams and
25 not me.

1 Anything that anybody wants to inquire
2 about or comment on suggest before we end for
3 today?

4 MR. GOODKIN: The only suggestion I have
5 is that we acknowledge that what you just said
6 trumps -- because we're all in agreement on it --
7 the operating agreement, which has a day for the
8 rendering of the award.

9 And I just want to make sure that
10 everybody is clear that we're not demanding the
11 Arbitrator to render the award in the time frame
12 set forth in the clause.

13 THE ARBITRATOR: What does the provision
14 say?

15 MR. GOODKIN: It says the members shall
16 instruct --

17 THE ARBITRATOR: Maybe you can get me
18 right to it.

19 You said 29?

20 MR. GOODKIN: Yeah, 14.1.

21 THE ARBITRATOR: And what section says
22 that?

23 MR. GOODKIN: 14.1, page eight. It
24 says, "The members shall instruct the Arbitrator
25 to render his award within 30 days following the

1 conclusion of the arbitration hearing." And that
2 we're agreeing that we're not instructing you to
3 do that.

4 THE ARBITRATOR: And can we have a
5 stipulation that that provision does not govern
6 anything that we just talked about? That
7 provision has been waived.

8 MR. LEWIN: So stipulated.

9 MR. SHAPRIO: So stipulated.

10 MR. GOODKIN: So stipulated.

11 THE ARBITRATOR: Okay. We have a
12 stipulation, and I very much appreciate that being
13 expressly brought up and waived.

14 Anything further before we close our
15 record for today?

16 MR. LEWIN: Nothing on our side,
17 Your Honor.

18 MR. SHAPRIO: Nothing on our side.

19 MR. LEWIN: Except thank you.

20 THE ARBITRATOR: Okay. Thank you for
21 that. And let's say thank you all.

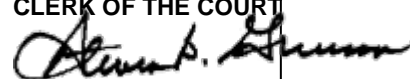
22 We're off the record.

23 (Whereupon, the proceedings
24 concluded at 2:47 p.m.)

25 * * * * *

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1 **RTRAN**

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5 **DISTRICT COURT**
6 **CLARK COUNTY, NEVADA**

7
8 **CLA PROPERTIES, LLC,**

9 **Petitioner,**

10 **vs.**

11 **SHAWN BIDSAL,**

12 **Respondent.**

CASE#: A-19-795188-P

DEPT. XXXI

13
14 **BEFORE THE HONORABLE JOANNA S. KISHNER,**
15 **DISTRICT COURT JUDGE**
16 **TUESDAY, SEPTEMBER 10, 2019**

17 ***RECORDER'S TRANSCRIPT OF HEARING:***
18 **ALL PENDING MOTIONS**

19 **APPEARANCES:**

20
21 **For the Petitioner:**

LOUIS E. GARFINKEL, ESQ.

22 **For the Respondent:**

JAMES E. SHAPIRO, ESQ.

23
24
25 **RECORDED BY: Sandra Harrell, Court Recorder**

1 Las Vegas, Nevada, Tuesday, September 10, 2019

2 [Case called at 9:07 a.m.]

3
4 THE COURT: Page 4, CLA Properties LLC, 795188.

5 Counsel, could I have appearances please?

6 MR. GARKINKEL: Good morning, Your Honor. Louis
7 Garfinkel on behalf of Petitioner, CLA Properties, LLC.

8 MR. SHAPIRO: Jim Shapiro on behalf of Shawn Bidsal.

9 THE COURT: Okay. So counsel, we've got issues here too.
10 So, here's what this Court understands. This Court understands that only
11 one of the parties, counsel for Bidsal, complied with EDCR 2.20 and
12 EDCR 7.26. Is that correct?

13 MR. SHAPIRO: I'm counsel for Bidsal, so I'll agree with you
14 that I complied, but I'm not sure what those rules are, so -- but I don't
15 have them memorized.

16 THE COURT: Counsel -- well -- okay. CLA, do you contend
17 that you complied timely with EDCR 2.20 and 7.26?

18 MR. GARFINKEL: Your Honor, if you're talking about
19 whether or not I provided courtesy copies to the Court in a timely manner,
20 the answer is no, Your Honor.

21 THE COURT: Okay. You all can look down at your counsel
22 tables -- the rules are right there.

23 MR. GARFINKEL: Your Honor, I'm -- I admit it.

24 THE COURT: Okay.

25 MR. GARFINKEL: You know, I haven't been in your

1 courtroom for quite some time, it's been a number of years. And
2 because of the electronic filing --

3 THE COURT: Oh, oh --

4 MR. GARKINKEL: I've um -- because of the electronic filing,
5 I'm used to the Courts not wanting paper. So that's my fault, Your Honor.

6 THE COURT: Oh counsel, counsel, counsel, counsel,
7 counsel.

8 MR. GARFINKEL: I'm taking responsibility --

9 THE COURT: Counsel, counsel --

10 MR. GARFINKEL: - for it, Your Honor.

11 THE COURT: Okay. I am sure you are not stating -- okay --
12 and I'm giving you each a moment. Those rules are sitting right there.
13 The rules are the rules. Everyone needs to comply with the rules.
14 Anyone asserting that EDCR 2.20(g) and EDCR 7.26 are not alive and
15 well and have been in -- around for over a decade? Correct?

16 MR. GARFINKEL: Absolutely, Your Honor.

17 THE COURT: Okay. So, everyone needs to comply with
18 them. Correct?

19 MR. GARFINKEL: Correct, Your Honor.

20 THE COURT: Okay. Now, I'm sure you're also not
21 contending that -- okay -- are you somehow contending that you don't
22 need to comply with them?

23 MR. GARFINKEL: Not at all, Your Honor.

24 THE COURT: Okay. Because I'm sure you're also not
25 contending that somehow -- did you contend to my law clerk that I'm the

1 only department that requires hard copies?

2 MR. GARFINKEL: No, Your Honor. What I said was, was
3 that most of the -- most of the Courts that I've been dealing with lately
4 have basically told me --

5 THE COURT: Ohh no.

6 MR. GARFINKEL: -- that they --

7 THE COURT: Go ahead.

8 MR. GARFINKEL: -- they don't -- they do not want hard
9 copies. I said, the last one that I dealt with who wanted copies was
10 Judge Denton.

11 THE COURT: Okay.

12 MR. GARFINKEL: So, I'm just -- so Your Honor, I'm just
13 telling you my experience.

14 THE COURT: So counsel, feel free to let me know what
15 department, because counsel, I will tell you -- counsel?

16 MR. GARFINKEL: Yes, Your Honor?

17 THE COURT: First off --

18 MR. GARFINKEL: I'm sorry, what?

19 THE COURT: As you know, you're required to comply with
20 the rules.

21 MR. GARFINKEL: Yes, Your Honor.

22 THE COURT: Now, just because a department does not
23 sanction you, or a department may still read pleadings, even if a party is
24 not compliant, in no way excuses non-compliance, does it counsel?

25 MR. GARFINKEL: No it does not, Your Honor.

1 THE COURT: Okay. I would also like to inform you, as you
2 are fully aware, you can always look at department websites, right?

3 MR. GARFINKEL: Yes, Your Honor.

4 THE COURT: And if you were to look at the department
5 websites, you would see the department websites and what each of the
6 Judges require. And if you were to look at those, feel free to name any
7 department, because I can tell you what their department website says
8 as far as courtesy copies. So, would you like to know how many
9 departments require courtesy copies, pursuant to their websites?

10 MR. GARFINKEL: Your Honor, it's not necessary, Your
11 Honor.

12 THE COURT: Okay, because would you like to know how
13 many departments, even if you weren't to take into account their
14 websites, that we informally sent out an email yesterday, as a result of
15 your statement, just to see if the websites were up to date, and to see of
16 the 32 departments, not including the Chief, who doesn't have a
17 department -- right -- who doesn't have docket?

18 One department that does the murder trials, so it doesn't have
19 a civil docket, right? Of the 28 departments that responded, right? Hum,
20 let's see. Well, you can informally look at all the departments, right?

21 MR. GARFINKEL: Your Honor, I get your point.

22 THE COURT: Okay. Basically, first off, every single
23 department -- let's see -- one does -- department 7 is the Chief. Okay.
24 One of the -- only one department who's prior law clerks specifically
25 requested courtesy copy, but that Judge currently says that they would

1 read it online, right? But clerks want the courtesy copies, but the Judge
2 would be -- could read it online in certain matters. Okay?

3 Let's see, how many people would vacate hearings? You
4 know how many departments will vacate hearings if they don't give their
5 courtesy copies? Several. So, one, two -- let's see -- over twenty-three
6 of the twenty-eight responding. So, and several of them will vacate. So
7 counsel, you need to comply with the rules, okay?

8 Do you know how many of the EDCRs -- there actually is -- it's
9 a local rule that is required twice? Do you realize courtesy copies are so
10 important, it's twice in the EDCR? Do you know how many times there's
11 actually a rule that's twice in the EDCR?

12 MR. GARFINKEL: No I don't, Your Honor.

13 THE COURT: You can feel free to check, it's about the only
14 one, because it's so important. Okay? So, here's the challenge counsel.
15 I'm sure you can appreciate, there was -- there's really two choices for
16 this Court here. You had over a thousand plus pages, right?

17 MR. GARFINKEL: Yes, Your Honor.

18 THE COURT: So, how were you anticipating that the Court
19 could read those thousand plus pages?

20 MR. GARFINKEL: I thought it would be online, Your Honor.

21 THE COURT: Okay, so you think that the Court is just
22 supposed to go page by page with its finger? Click page by page? You
23 realize you did those as seven different documents, right?

24 MR. GARFINKEL: Yes, Your Honor.

25 THE COURT: As a .pdf, so that would mean the Court would

1 have to go from one document -- right? -- find it -- actually was it seven or
2 eight -- eight documents, right? No actually nine documents, because
3 one of them was filed as a impermissible supplement on the 5th of
4 September, after the reply was filed.

5 So, that document -- Court -- so the Court would have to go
6 into one of your motions -- right? -- find a reference in your appendix and
7 then go out of that document. Those appendices were not otherwise
8 labeled as what they were -- have to find out which of those appendices -
9 - that potential document may be referenced in, go and find it in there and
10 then click page, by page, by page, by page, by page, by page, by page,
11 by page, by page -- find that particular reference, then go back into your
12 motion -- find it somewhere in your motion, then go to the next citation
13 and then the next time that's cited, then go out of that page -- that
14 document -- right? -- then go find it again on wherever it may next be, find
15 the next citation, go back into whichever potential one it might be, looking
16 through all of those different appendices, find it, and then click through
17 each one, page, by page, by page, by page, by page, by page, by page,
18 by page. Some of those appendices are several hundred pages long,
19 right, with no way to get it, except for going page by page, by page, by
20 page, by page, by page, by page, to try and find where that citation might
21 be? And then go back to the pleading each and every time you
22 referenced something? And would have to do that here at the
23 courthouse, potentially do that because you did a per se violation of two
24 of the local rules?

25 That's one choice. The other choice is if a party does a per se

1 violation of the rules, they don't get their pleadings read, right? -- or
2 considered. So, those are the two choices for the Court, which -- so you
3 can appreciate there's no possible way that the Court could do that.

4 So, what this Court does is -- this Court has very rosy colored
5 glasses. This Court tries -- because -- feel that this is a community --
6 born and raised in -- and figure that people kind of inadvertently may not -
7 - you know -- have complied with the rules. So, I ask my team to give
8 people the benefit of the doubt that it was not an intentional violation of
9 the rules and tell my law clerks before I hire them -- that guess what, in
10 this department they need to do a little bit more work than some other
11 departments, potentially, because we try and help out attorneys to extent
12 we can legally, ethically, within the rules of judicial conduct, and reach
13 out to attorneys sometimes when there's large documents and give them
14 a heads up that they may not have provided the courtesy copies and ask
15 them to provide the courtesy copies, and that takes a huge extra amount
16 of effort on behalf of my law clerk and they're very, very busy time trying
17 to prepare everything for the Court, and then takes extra time on my
18 behalf, because not only they have to do it to prepare, then I have to re-
19 read everything and wait until that stuff comes in, which takes late nights
20 and hours and weekends to do.

21 But my law clerks are willing to it, I'm willing to do it to try and
22 help out attorneys with those rosy colored glasses to try and do that and
23 then view it as inadvertence because it's not something that's substantive
24 -- ask them to provide that information so that everything can be read to
25 be fully prepared for a hearing. And you can appreciate then when

1 somebody is not willing to do so, or it doesn't do it in a positive manner
2 and doesn't do it, or doesn't provide everything, even when asked, or
3 provide something at 2:49 -- only parts of things at 2:49, a day before the
4 hearing, when a challenge that is for the Court.

5 And so, this department is likely heading to several other
6 departments policies of just vacating the hearing if we don't get a
7 courtesy copy from one side. And I'm not sure that all your colleagues
8 would like that, because most people like the fact that if they're getting a
9 call from the Court, trying to assist them and just viewing it as
10 inadvertence rather than willful non-compliance with the local rules.

11 So, I now have to re-evaluate asking my law clerks to, over
12 the years, try and be of assistance to counsel -- we're going to get that
13 negative feedback because it takes extra time from them, it takes extra
14 time for me to try and do all of that, to try and be of assistance, compliant
15 with still being completely fair, impartial, law, equity, to people.

16 But here's a case of over a thousand plus pages that -- there
17 was no possible way, because when you finally even -- last afternoon --
18 late afternoon -- it got logged in on 2:49 ish. What we got was things that
19 said -- a couple of tabs with a pp, a qq, and an rr that didn't match the 1
20 through 121, which this Court had no way of potentially even figuring out
21 what was the pp, qq, rr, matching the 1 through 121. Then saw a
22 supplement, which the supplements didn't match 1 through 121 because
23 it said 122, it was a supplemental pleading that had no -- any
24 supplemental pleadings have to be approved by the Court. They can't
25 come in after a reply and so really there's two choices. One, for today's

1 hearing, I only consider what was timely and properly filed, which means
2 I only consider what was by Bidsel, or two, I continue today's hearing
3 and at the continued hearing date I take into account -- the Court makes
4 not advisory rulings -- by taking into account multiplying the proceedings.
5 Those are the two choices. Counsel, which is it?

6 MR. GARFINKEL: Your Honor, I mean obviously I need to
7 continue the hearing, okay? I mean, we scheduled this. Mr. Shapiro's
8 going away on vacation, so I will get you the -- I will get you our exhibits -
9 - get them down here so we can continue and have the hearing.

10 So. I mean, Your Honor, this was a -- this was a heavily
11 litigated arbitration and obviously Mr. Shapiro -- we served our petition,
12 which was 6 pages. I attached a copy of the Arbitrator's award along
13 with the operating agreement. Mr. Shapiro, he went ahead and filed an
14 opposition and counter-petition with his thousand pages of exhibits,
15 which was 40 pages long, his motion. We filed a reply --

16 THE COURT: And I read all of his because he gave me all of
17 his.

18 MR. GARFINKEL: I understand, Your Honor, and that's my
19 oversight. There's nothing else I can say. I mean, I made a mistake and
20 I'll have to pay for it. So Your Honor, we filed our opposition in a timely
21 manner, we set up a briefing schedule, I failed to provide you with
22 courtesy copies, that's my fault, they filed their reply.

23 So obviously if -- Your Honor -- I can -- I can obviously get our
24 exhibits down here without a problem and we can reset the hearing. And
25 I apologize to Mr. Shapiro for having to come down today.

1 THE COURT: Okay, does that work for you, counsel?

2 MR. SHAPIRO: Yes, that works for me, Your Honor.

3 THE COURT: Okay. Um, Tuesday or Thursday, set it at a
4 9:30 or 10 o'clock slot. Make sure I have everything. It's currently five
5 days, that's what the rule currently says. As you know, the EDCR is
6 going before the Nevada Supreme Court because obviously that the
7 changes -- it's going to be seven days, is what the new rule of course is
8 going to say. Obviously, once the Supreme Court passes it -- so --

9 MR. SHAPIRO: So, we'll contact your chambers and get that
10 reset.

11 THE COURT: You don't need to contact chambers, you just
12 need to set a new --

13 MR. GARFINKEL: Oh, sure.

14 THE COURT: -- date.

15 MR. GARFINKEL: And, Your Honor, I will get your exhibits
16 down.

17 THE COURT: I do appreciate it. Thank you.

18 MR. SHAPIRO: Thank you, Your Honor.

19 THE COURT: It has to be at least five days before the
20 hearing. Thank you so much.

21 [Hearing concluded at 9:22 a.m.]

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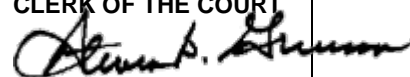
ATTEST: I do hereby certify that I have truly and correctly transcribed
the audio/video proceedings in the above-entitled case to the best of my
ability.



Sandra Harrell
Court Recorder/Transcriber

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1 RTRAN

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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8 IN THE MATTER OF THE PETITION
9 OF:

CASE#: A-19-795188-P

9

10 CLA PROPERTIES LLC

DEPT. XXXI

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12

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BEFORE THE HONORABLE JOANNA S. KISHNER
DISTRICT COURT JUDGE
TUESDAY, NOVEMBER 12, 2019

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RECORDER'S TRANSCRIPT OF PENDING MOTIONS

16

17

APPEARANCES:

18

For the Petitioner:

LOUIS E. GARFINKEL, ESQ.

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For the Respondent:

JAMES E. SHAPIRO, ESQ.

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RECORDED BY: SANDRA HARRELL, COURT RECORDER

25

1 Las Vegas, Nevada, Tuesday, November 12, 2019

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3 [Case called at 1:13 p.m.]

4 THE COURT: Okay. We're on the record In the Matter of the
5 Petition of CLA Properties, page 1, the only page on our special setting
6 for 1ish o'clock. Case 795188. Counsel, would you mind making your
7 appearances, please?

8 MR. GARFINKEL: Good afternoon, Your Honor. Louis
9 Garfinkel on behalf of Petitioner CLA Properties, LLC.

10 MR. SHAPIRO: Good afternoon. Jim Shapiro on behalf of
11 Sean Bidsal, and Mr. Bidsal is also present here today.

12 THE COURT: Thank you so much.

13 And so here we have a petition for the confirmation of the
14 arbitration award and a countermotion to vacate the award. And what
15 the Court, usually in these finds -- thank you I've got all the sensitive
16 briefing -- is that it's usually most useful really to let you all engage --
17 you all knew your case in arbitration. I'm going to let you engage in oral
18 argument.

19 And so since you have a motion and a countermotion,
20 generally the process would be that we agree to a time frame, and I give
21 you X amount of time, two shots each to engage in your oral argument.
22 And then if the Court has follow-up questions, the Court will either try
23 and ask them -- try and refrain, and not during your argument. If there's
24 something I have to interrupt -- I'll try not to interrupt, but if I do then we
25 don't take that time, and then if there's follow-up questions at the end.

1 And the if the Court can make a ruling from the bench, I will,
2 and if I need some follow-up because there's a couple of things that I
3 have when I was looking through this, then I might need to defer, and
4 the ruling may not be from the bench today. Does that work for the
5 parties?

6 MR. GARFINKEL: Sure.

7 MR. SHAPIRO: Yes, it does.

8 THE COURT: How much time do you think each side wants
9 to do for their oral arguments? I mean, the only reason why I'm trying to
10 give you some general ballpark is because really I just thought in
11 fairness to each side, so one side doesn't go on for an incredibly long
12 time, and then the other side doesn't have an opportunity to present
13 their --

14 MR. GARFINKEL: Your Honor, I plan on sort of addressing
15 our petition or our motion and their countermotion all at once.

16 THE COURT: Okay. That's fine.

17 MR. GARFINKEL: And my feeling is, is, Your Honor, that this
18 matter has been fully briefed.

19 THE COURT: Uh-huh.

20 MR. GARFINKEL: We filed our petition. The other side filed a
21 40 page countermotion with 1,000 pages. We responded to that in kind,
22 and then they filed -- you know, we filed a 40 page brief with exhibits,
23 and they filed a 30 page brief.

24 THE COURT: Okay.

25 MR. GARFINKEL: My sense is, based on the substantial

1 record below and what's been filed, that I don't know how much more
2 we can actually say. So I hope not to spend a lot of time on this, Your
3 Honor.

4 THE COURT: Sure. Okay. Then you know what I'm going to
5 do is, if your ballpark -- you should get probably 20 to 30 minutes in the
6 opening, and if you're going past that, then I'll see if you get an unfair
7 amount and stop you and make sure the other side gets an opportunity.

8 MR. SHAPIRO: That's fine.

9 THE COURT: Does that work for either side?

10 MR. GARFINKEL: Yeah.

11 MR. SHAPIRO: Sure.

12 MR. GARFINKEL: I hope not to take that long.

13 THE COURT: Okay. Well, if you don't that's always fine, but I
14 want to make sure everyone has a full opportunity to be fully heard.

15 So go ahead. And, yes, the Court has read everything
16 because, obviously, you all have done this for a bit of time, and
17 everybody knows that standard in which the Court has to look at it. It
18 wouldn't go to -- with regards to an arbitration award, either to confirm it
19 or to vacate it, and there's different standards, obviously for each. Go
20 ahead.

21 MR. GARFINKEL: Sure. Your Honor, Petitioner CLA and
22 Respondent Bidsal, are members in a Nevada limited liability company,
23 Green Valley Commerce. And, basically, they are parties to an operating
24 agreement that's dated June 15th, 2011.

25 And Section 4, Article 5 of the operating agreement has what

1 we've referred to, sort of, as a buy/sell provision where one member
2 may offer to purchase the remaining members interest in Green Valley.

3 And in July of 2017, Mr. Bidsal, through his attorney, Mr.
4 Shapiro, had basically made an offer to CLA Properties, to purchase CLA
5 Properties membership interest in Green Valley for the fair market
6 amount of -- fair market value of \$5 million. And CLA Properties, in turn,
7 said, well, we're going to go ahead and buy you out for the \$5 million
8 fair market value figure. And then within a couple of days, Mr. Shapiro,
9 on behalf of Bidsal, sent a letter to CLA and said, we're going to invoke
10 our right to an appraisal under the operating agreement. And CLA's
11 position is that they were not entitled to do that.

12 Once we offered to purchase it at \$5 million, that was it, and
13 that should have been the end of it. Mr. Bidsal did not have the right to
14 invoke the right to an appraisal. And as a result of these
15 communications, there was a dispute and Article 3, Section 14.1 of the
16 operating agreement has an arbitration provision and, basically, the
17 arbitration was supposed to be administered by JAMS, and governed by
18 the Federal Arbitration Act. And, Your Honor, the other thing is, is that
19 per the arbitration agreement, it said that any award rendered was final
20 and not subject to review.

21 And so on September 26th, 2017, Your Honor, CLA filed a
22 demand for arbitration with JAMS, and it asserted one claim for
23 declaratory relief under Nevada law and that claim basically sought a
24 declaration as to the parties dispute over Section 4, Article 5 of the
25 operating agreement, and that had to do with the buy/sell provision.

1 And Mr. Bidsal, in turn, asserted a counterclaim for declaratory relief
2 seeking a similar type of ruling internally. Basically, and interpretation of
3 that provision.

4 Pursuant to the arbitration agreement, the parties then
5 selected the Honorable Stephen Haberfeld, who was a former United
6 States Magistrate Judge, and he was appointed as the arbitrator.

7 On April 4th, 2019, Arbitrator Haberfeld entered a final
8 award. The award found in favor of CLA, with respect to the contract
9 interpretation of the buy/sell provision and further awarded CLA fees and
10 costs in the amount of \$298,256.

11 As set forth in Mr. Bidsal's countermotion, this matter was
12 originally filed by Bidsal in federal court. CLA Properties moved to
13 dismiss on the grounds of lack of subject matter jurisdiction. Judge
14 Gordon granted the motion, and so we're before you now, Your Honor.

15 And as I mentioned, this matter has been heavily briefed.
16 We filed our original petition. They filed a countermotion to vacate, 40
17 pages long, 1,000 pages of exhibits. We filed an opposition and reply, 40
18 pages, with 1,000 pages of exhibits including the full transcript of the
19 arbitration hearing, and then they filed a reply of 30 pages.

20 And, Your Honor, the first issue that really has to be decided
21 by the Court is choice of law. And Mr. Bidsal, in his countermotion,
22 essentially applies both federal law, the Federal Arbitration Act, and also
23 the Nevada Arbitration Act. And, Your Honor, in our opposition, on
24 pages -- I guess, it's page 10 -- I'm sorry, page 9, footnote 9, we cite the
25 *WPH Architecture v. Vegas VP, LP* case. And we believe that based on

1 that particular case, federal law is going to govern. And, Your Honor,
2 you can take a look at that case, and we believe it's pretty clear,
3 regardless of what law you apply. Whether you apply federal law, you
4 apply state law, the result is going to be the same. We believe that you
5 should confirm the arbitrator's award.

6 Your Honor, there's a couple of things I did want to just sort
7 of go over with the standard of review, and I don't know if you want me
8 to address it or not, but -- because you mentioned you thought that the
9 standard was pretty clear.

10 Under federal law, they cite 9 USC, Section 10, and basically,
11 it says that an award may be vacated if it was procured by fraud,
12 corruption, or undo means, or the arbitrator was biased or corrupt, guilty
13 of misconduct in refusing to postpone a hearing, or refusing to hear
14 evidence, pertinent material to a controversy, or any other misbehavior,
15 or the arbitrator exceeded his powers, or so imperfectly executed them
16 that a mutual final and definite award of the subject matter was not
17 made.

18 And basically, the federal courts have held that an arbitrator
19 -- and just so you know, in this case they're arguing partiality and also
20 that the arbitrator exceeded his powers. And the federal courts seem to
21 suggest that an arbitrator exceeds their powers not when they merely
22 interpret or apply the governing law incorrectly but when the award is
23 completely irrational or exhibits a manifest disregard of the law.

24 And a manifest disregard of the law requires something
25 beyond and different from a mere error in law or failure on the part of

1 arbitrators to understand and apply the law. Typically, you've got to
2 show that the arbitrator correctly stated the law but just disregarded it.
3 And there must be some evidence in the record other than the fact that
4 the arbitrator ruled against you. They've got to show he intentionally
5 disregarded it. And the standard for finding an award completely
6 irrational is extremely narrow and is satisfied only where the arbitrator's
7 decision fails to draw its essence from the agreement.

8 And, you know, the case law under the Federal Arbitration
9 Act basically says that an award draws its essence from the agreement if
10 the award is derived from the agreement due to -- in light of the
11 agreement's language and context, as well as other indications of the
12 parties intentions. And the Court -- the reviewing court should not
13 decide the right or wrongness of the contract interpretation, only
14 whether the panel's decision draws its essence from the contract.

15 THE COURT: God bless you.

16 MR. GARFINKEL: Now, Your Honor, Mr. Bidsal also cites
17 Nevada law, and I was kind of surprised though that they did not cite sort
18 of what I consider the seminal Nevada case, which is the *Health Plan of*
19 *Nevada v. Rainbow* medical case. And the Nevada Supreme Court has
20 basically said that Nevada recognizes both statutory and common law
21 grounds for examining an arbitrator's award. And the party seeking to
22 obtain the award vacated has the burden of proving by clear and
23 convincing evidence the statutory or common law grounds.

24 And NRS 38.241 sort of enumerates the grounds for vacating
25 an award, and it's very similar to the Federal Arbitration Act, corruption,

1 fraud, partiality, misconduct, refusing to postpone, refuse to consider
2 evidence, and then the arbitrator exceeded his powers. And the
3 language out of the *Health Plan of Nevada* case is kind of -- I think it's
4 instructive.

5 And basically, you see the language, it says, you know, when
6 reviewing whether an arbitrator exceeded his powers, the Court
7 presumes the arbitrator acted within the scope of his or her authority.
8 Arbitrators can exceed their authority when they act outside the scope of
9 the governing contract, but the Court would not vacate the award even if
10 erroneous, if the arbitrator's interpretation is rationally grounded in the
11 agreement or there is colorable justification for construing and applying
12 the way the arbitrator did it.

13 The central issue is not whether the arbitrator had the
14 authority under the agreement to decide an issue, but whether it -- well,
15 the question is whether they had the authority to decide the issue but not
16 whether the issue was correctly decided.

17 And the two common law grounds that have been discussed
18 by the Nevada Supreme Court are arbitrary and capricious. And
19 basically, that's whether the arbitrator's findings are supported by
20 substantial evidence, but that's not argued in this case. And then a
21 manifest disregard of law. And basically, it's kind of similar to what --
22 you know, what the Federal Arbitration Act discusses, an arbitrator
23 manifestly discouraged the law when he or she recognizes that the law
24 requires a given result, but nevertheless refuses to apply the law
25 correctly. And basically, the Nevada Supreme Court says this relief is

1 extremely limited.

2 So, Your Honor, sort of -- with that background, you know, I
3 think that it's pretty obvious that review of an arbitrator's award is highly
4 deferential and especially in a case where the parties agree that it would
5 not be subject to review. It was final and not subject to review. And in
6 this case, the parties selected the arbitrator, and the issue before the
7 arbitrator was pretty clear, and the arbitrator decided the issue. He did
8 exactly what he was instructed to do by the parties.

9 There's something that I did want to mention, Your Honor,
10 that I think really needs some discussion. And there are three places in
11 the countermotion and then the reply where Bidsal argues that under the
12 terms of the arbitration agreement, the arbitrator was supposed to issue
13 his award within 30 days of the merits hearing but that in this case it took
14 five months. And they believe that delay, if you will, may be the basis
15 for the arbitrator committing error in this case.

16 And, Your Honor, there are really two things that I wanted to
17 sort of point out. In our brief, we talked about the fact that the parties
18 actually came up with a briefing schedule. And if you go ahead, and you
19 take a look at CLA's appendix, volume 5, and it's Bates number 976
20 through 982, you will see that on the second day of the arbitration, which
21 was May 9th, 2018, that the parties actually waived the 30 day time
22 period, and they went on the record.

23 And Mr. Shapiro's co-counsel, Mr. Fooker [phonetic] was
24 there, and he actually requested that the arbitrator make it clear and the
25 parties go on the record that they were waiving the 30 days. And then it

1 was also understood that because the arbitration was transcribed, there
2 was a court reporter there that there was going to be post-arbitration
3 briefing. There would be a schedule, and then that there would be some
4 delay in the issuance of a merit order -- a merits order, and then also
5 because there was an attorney's fees provision that the parties would
6 then be able to brief that and submit their claims too. So, Your Honor,
7 the first thing is that the parties actually waived the 30 day.

8 The second point that I wanted to sort of raise, Your Honor,
9 is that even if they didn't waive it, and they did, I find it hard to believe
10 that the arbitrator because of the five month delay committed error. And
11 the reason why I say that, Your Honor, is that this particular dispute was
12 heavily litigated, and the parties had the opportunity to file cross
13 summary judgment motions, where they each filed a motion, and
14 opposition, and a reply. I believe this was in January of '18, and then in
15 Los Angeles, I believe, in February there was a two hour oral argument
16 on the motion for summary judgment, and that was denied.

17 The arbitration actually took place on the 8th and 9th of May.
18 It was transcribed. There was a court reporter before the arbitration.
19 The parties each had an opportunity to each file pre-arbitration briefs.
20 So to the extent that this was a matter of contract interpretation, even
21 before the arbitration and putting evidence on with live witnesses, the
22 parties got to brief their interpretation of the contract and what they
23 believed -- how they believed the arbitrator should rule.

24 The arbitration went on for two days. It was transcribed.
25 After the hearing, it took a while for the transcript to be transcribed, for

1 the court reporter who transcribed it. The parties then had the
2 opportunity to file post-arbitration briefs where they were able to assert
3 their arguments once again and cite to the transcript. They then each
4 had an opportunity to go ahead and file, if you will, an opposition to
5 each post-arbitration brief. So a substantial -- I mean, it was significantly
6 briefed. Everyone had an opportunity to present their theory of the case
7 and their interpretation of the contract, many times.

8 And, Your Honor, it was a two day arbitration where you had
9 Mr. Bidsal testify, Mr. Golshani who is the managing member of CLA
10 Properties and, also, David LeGrand. And I raise David LeGrand,
11 because David LeGrand is a lawyer who has been here many years, and
12 he's the one who represented both parties in the drafting of the
13 operating agreement. And as set forth in the arbitrator's award, he
14 basically said he was a non-biased party who drafted it. He was a
15 lawyer, and he gave great weight to Mr. LeGrand's interpretation of what
16 Section 4 of Article 5 meant, and he believed that it was consistent with
17 CLA Properties' interpretation of that provision.

18 So, Your Honor, I guess my point is, is that Judge Haberfeld
19 gave the parties every opportunity both orally and in writing to set forth
20 their respective positions regarding interpretation of the buy/sell
21 provision and Bidsal's claim that there was a significant amount of time
22 between the arbitration and issuance of Merits Order 1, contributed to
23 any errors alleged by Bidsal is simply without merit.

24 Now, Your Honor, I kind of wanted to focus on the
25 arbitrator's award, and I'll kind of just go through the evidence. As I

1 mentioned, on April 4th, 2019, Judge Haberfeld entered the final award,
2 finding in favor of CLA with respect to the buy/sell issue, and also
3 awarded attorney's fees in the amount of \$298,256. The final award is 20
4 pages. It's extremely detailed. It lays out the legal issue to be decided.
5 It discusses, in detail, the evidence, both documents and testimony
6 presented at the evidentiary hearing. Analyzes, in detail, the evidence
7 and set forth in detailed basis, after the conclusion, that Bidsal could be
8 forced to sell his 50 percent interest to CLA based on the valuation of \$5
9 million contained in Bidsal's offer.

10 The issue before the arbitrator was simply one of contractual
11 interpretation. The issue was whether CLA had the right to purchase
12 Bidsal's 50 percent membership based on Bidsal's \$5 million valuation,
13 or whether Bidsal was entitled to an appraisal to establish the fair market
14 value.

15 And, Your Honor, one of the provisions in Section 4, that was
16 prominently discussed in Judge Haberfeld's award, and I wouldn't say
17 it's -- in part, it was the basis for it, but it really wasn't addressed is
18 Section 4 of the operating agreement, and it's the last paragraph in
19 Section 4.2, and it states the specific intent of the parties, which Judge
20 Haberfeld found extremely persuasive. And it says the specific intent of
21 this provision is that once the offering member presented his or its offer
22 to the remaining members, then the remaining member shall either buy
23 or sell at the same offered price and, parenthetically, or if FMV -- if an
24 appraisal is invoked, close paren, and in accordance with the procedure
25 set in Section 4.

1 And it says, in the case that the remaining member decides
2 to purchase, then the offering member shall be obligated to sell his or
3 her member interest to the remaining member. And in this particular
4 case, it was Mr. Bidsal who made the offer to purchase CLA's
5 membership interest and CLA, in turn, said, we're going to purchase
6 your interest for your valuation of \$5 million and that's consistent with
7 the specific intent and that's what Judge Haberfeld found.

8 And in paragraph 13 of his award, he stated that, quote,
9 "specific intent language is expressed specific and could not be more
10 clear as to these parties' objectively manifested specific intent to be so
11 bound." And based on this language, in part, and the rest of the
12 testimony concluded that Section 4, did not require an appraisal to
13 determine the price to be paid by the remaining member.

14 And it said, Judge Haberfeld's conclusion regarding the
15 specific language supported by the evidence submitted at the hearing,
16 Your Honor, including Mr. Golshani's testimony regarding the operation
17 agreement, and also David LeGrand's testimony. And he noted that in a
18 dispute between litigating partners, the testimony of third-party
19 witnesses becomes important. And he stated, this is specifically so
20 when the third-part witness is unbiased, and the drafting lawyer was
21 jointly representing the parties. And they're talking about -- he's talking
22 about David LeGrand.

23 And, Your Honor, in paragraphs 11, 12, 13, and 14 of the final
24 award Judge Haberfeld discusses, in detail, Mr. LeGrand's testimony
25 regarding the specific language -- specific intent language, and clearly it

1 supports Judge Haberfeld's conclusion.

2 And one of the things that Judge Haberfeld did in the award,
3 Your Honor, is he discussed Mr. Bidsal's testimony in paragraphs 15, 16,
4 17, 18, 19, and 20 of the award. And basically, I wanted to summarize his
5 conclusions with respect to Mr. Bidsal's testimony.

6 He talked about the term that it was outcome determinative.
7 He said that Bidsal attempted to find a contractual out to regain his lost
8 leverage. He ignored, disregarded, and at the hearing resisted
9 application of the specific intent language. He found and apparently
10 settled on what Judge Haberfeld thought was maybe an ambiguity in the
11 operating agreement to argue that fair market value could only mean a
12 third-party appraiser. And one of the things that he argued was that --
13 Bidsal argued that because Golshani was the drafter of that provision it
14 had to be construed against Golshani.

15 And, Your Honor, Judge Haberfeld did not buy that
16 argument. And what he said was, in a couple of different places, that he
17 believed that Mr. Bidsal controlled the final -- he had the final control
18 over the drafting of the document. And he said that even if Golshani was
19 the drafter, it was not -- it wouldn't affect the outcome of his case. That
20 regardless of, you know, any ambiguity, and, you know, construing a
21 document -- you know, construing language against the drafter, the
22 arbitrator said it doesn't matter, I would still find against Bidsal in this
23 case.

24 So, at the end of the day, while Bidsal's counter-motion
25 spends pages arguing that, and that's really sort of the basis for turning

1 -- over turning this award, the arbitrator said even if that was the case, I
2 would still rule against them based on all of the other evidence.

3 And one of the things that Haberfeld concluded was that
4 Bidsal's position was legally flawed and did not work in all buy/sell
5 contingencies as contemplated by Section 4.2. He said that, you know,
6 he also looked at the specific intent language, and he said that CLA's
7 interpretation of Section 4.2 was logical, made sense, and worked in all
8 of the scenarios contemplated by Section 4.2, and he went to the extent
9 of actually giving examples of where the argument that FMV always
10 included an appraisal simply did not make sense. And, Your Honor,
11 based on that, he ruled that Bidsal's interpretation simply didn't make
12 any sense here.

13 And, Your Honor, I thought that our brief really did an
14 excellent job of sort of addressing all of their factual issues, you know, in
15 terms of -- and I'll just sort of go through them. He said that Bidsal
16 controlled the final drafting. The parties wanted a forced buy/sell. Bidsal
17 argued that the Dutch auction concept was not introduced until late in
18 the game. The evidence at the arbitration was to the contrary. It actually
19 started quite early in the process with David LeGrand.

20 David LeGrand testified both Mr. Bidsal and Mr. Golshani
21 wanted the forced buy/sell. In other words, this was something that they
22 both wanted. Mr. LeGrand is the one who brought up the fact that
23 capital accounts were difference and, as a result, you had to sort of come
24 up with some different language, which both Mr. Golshani and Mr.
25 Bidsal did in fact work on together, and that was part of the language

1 that actually showed up in Section 4.2, although it was in fact, I guess,
2 massaged by both Mr. Bidsal and Mr. LeGrand.

3 One of the arguments is that we argued that Bidsal's offer
4 confirms that the offered price is the fair market value. One of the things
5 he said, that Bidsal argued that there could not be a fair market value
6 without an appraisal, which simply did not make sense. One of the
7 things is, is that if that was the case, then the formula would not work.
8 And because, for example, what would happen if Mister -- Bidsal's
9 argument was FMV always said you need an appraisal.

10 And in this particular case, what would have happened if CLA
11 simply did nothing under the provision within 30 days, it would be
12 deemed accepted. Well, what do you put in there? It doesn't work. You
13 would have no fair market value if it always meant there was an
14 appraisal. That was one of the arguments. Bidsal argued that Mr.
15 Golshani tried to take care of -- take advantage of Bidsal by secretly
16 obtaining an appraisal. The evidence is contrary to that. Mr. Golshani
17 testified he told Bidsal in advance he was going to obtain an appraisal,
18 and he gave him the range.

19 One of the other things that came up and this, we believe,
20 may in fact may have been part of why Judge Haberfeld reached some
21 of the conclusions is that several months before Mr. Bidsal made the
22 offer to purchase CLA's membership interest, is that he had actually
23 talked to Mr. Golshani about if he was interested in additional
24 investments, and Golshani told him he was either not liquid or had other
25 projects he was considering.

1 And so Judge Haberfeld concluded that miscalculating
2 intentions, thinking and/or finding financial resources available to the
3 other party are not a cognizable basis for rewriting contractual
4 procedures. And basically, I think Judge Haberfeld concluded, based on
5 that testimony, that Mr. Bidsal sort of had -- he thought that Mr. Golshani
6 and CLA couldn't afford to do it, and he low balled them, and that's what
7 happened here. And then to get out of it, they invoked a provision where
8 they said, oh, we're entitled to an appraisal.

9 You know, Your Honor, we believe that Judge Haberfeld's
10 findings are supported, not contradicted by the evidence. One of the
11 other things that they argue is that in erring, I should say, Your Honor,
12 Judge Haberfeld applied a rough justice concept here as the parties'
13 intent. And, Your Honor, that's not the case. What he concluded was
14 that the Dutch auction provision, the end result of that would sort of be a
15 rough justice. He didn't apply rough justice. That was sort of the end
16 result of what that provision would ultimately leave the parties at. So as
17 a characterization of the process invoked by the parties.

18 Just a couple of other things. They argue that -- Mr. Bidsal
19 complained that the award required him to transfer his interest free and
20 clear of liens and encumbrances. That's what makes sense, Your Honor,
21 because if you went ahead, and you applied the formula, which the
22 parties agree on, it would make no sense that you could go ahead and
23 sell your interest and encumbrance. So the \$5 million offer for fair
24 market value means absolutely nothing. It would be worthless.

25 The other thing they talked about, transferring title within ten

1 days. Your Honor, the award came down in April of 2018 [sic]. It's
2 probably been six months now. Under the circumstances all we're
3 talking about is simply signing your name. Ten days is reasonable, and
4 we think it's within his power. Some date had to be set.

5 And, Your Honor, the last thing is that -- and they argued that
6 somehow Judge Haberfeld was guilty of partiality or misbehavior. And
7 they really don't give you any kind of concrete examples, other than the
8 fact that Judge Haberfeld ruled against Mr. Bidsal, and that's it. There's
9 got to be more than that. There's no fraud here, or corruption, or
10 anything like that.

11 So, Your Honor, based on that we would request that our
12 motion to confirm the arbitrator's award and entry of judgment be
13 granted in its entirety as set forth in our prayer for relief, and that the
14 countermotion to vacate the award be denied.

15 THE COURT: I do appreciate it. Thank you so very much.
16 Counsel.

17 MR. SHAPIRO: Thank you, Your Honor.

18 MR. GARFINKEL: Hopefully, Your Honor, I didn't go over that
19 much.

20 THE COURT: No, we're fine.

21 MR. GARFINKEL: Okay.

22 THE COURT: I just want to make sure everyone has full
23 opportunity to be heard.

24 MR. SHAPIRO: Thank you, Your Honor, for this opportunity
25 to speak and to give our side of the tale. I know you've read everything.

1 You understand the main arguments, so I'm not going to bore you with a
2 lot of those details. I will touch on some things that we feel are
3 important. But before I start, does Your Honor have any questions? I'm
4 used to arguing in front of the Supreme Court where I never get through
5 my arguments, and I prefer it that way. I want to know what the Justices
6 are thinking, so I can address their concerns. So if you have any, I would
7 be happy to answer them, otherwise I'll go into what I've prepared.

8 THE COURT: Feel free to go into what you prepared. I'm
9 going to wait until the end and then ask a couple question.

10 MR. SHAPIRO: Okay.

11 THE COURT: Thank you so much.

12 MR. SHAPIRO: Fair enough, Your Honor.

13 Your Honor, in our opposition and countermotion we set
14 forth both the federal and state standard. And, quite frankly, they are
15 pretty much equal. In fact, we cited to both of them as we set forth a lot
16 of these standards. And so I don't know that it really matters whether
17 you follow state law or federal law because from everything I saw, at
18 least as it applies to this case, they are pretty much identical.

19 When an arbitrator exceeds his powers -- and that has a lot
20 of connotations there that I'm going to talk about in a minute -- or where
21 there's evidence of partiality, or where the arbitrator engages in
22 misbehavior by which the rights of any party has been prejudiced, the
23 arbitration award should be set aside. And I understand. Look, this --
24 there is a policy to enforce arbitration awards. I understand that. We
25 have a burden. But based upon what we have presented, we have met

1 that burden. And I think it's clear that this arbitration award needs to be
2 vacated.

3 The Ninth Circuit Court of Appeals has held that where an
4 arbitrator exceeds their powers or that an arbitrator exceeds their
5 powers when the arbitration award is completely irrational or exhibits a
6 manifest disregard for the law. The United States Supreme Court has
7 held that when an arbitrator strays from the interpretation and
8 application of the agreement and effects -- effectively dispenses his own
9 brand of industrial justice, his or her decision may be unenforceable.

10 That is what happened in this case. The arbitrator manifestly
11 disregarded the law, manifestly disregarded the evidence, dispensed his
12 own brand of justice, and it's very clear that this happened. And I'm
13 going to walk you through a couple of the low hanging fruit that CLA
14 Properties wants to ignore, but it's vital issues that the judge just flat out
15 made up his own facts on.

16 The first one I'm going to start with is who drafted Section 4
17 of the operating agreement. CLA Properties wants to rely on the
18 arbitrator's award for this. They don't want to cite to the evidence. The
19 reason that they don't want to cite to the evidence is because the
20 evidence doesn't support it. When you look at the evidence, Exhibit N --
21 and, Your Honor, I'm going to be looking at Exhibits N through T, I
22 believe.

23 This is -- so to give you some background while you're
24 turning there, the parties needed an operating agreement. They didn't
25 have a form that they were comfortable with, and so one of the

1 professionals involved, and I apologize I don't remember who it was, but
2 gave Shawn the name of an attorney, David LeGrand. So Shawn went to
3 David LeGrand and said, hey, we need an operating agreement. And
4 David LeGrand did not represent Shawn, and he didn't represent Ben.
5 He was going to represent kind of CLA Properties and draft this
6 operating agreement.

7 So he starts drafting an operating agreement. And this was
8 -- he gets the operating agreement drafted, and there was multiple drafts
9 of this operating agreement. And you see different iterations of this
10 buy/sell language. David LeGrand initially is asked, hey -- well, Ben and
11 Shawn said we need some buy/sell language. So he proposes some
12 buy/sell language, and Ben doesn't like it. So David LeGrand proposes
13 different buy/sell language. Ben doesn't like that either. David LeGrand
14 comes up with what he calls a Dutch auction, and Ben doesn't like that.

15 Now David LeGrand's testimony was that was his idea and,
16 in fact, at the arbitration what he testified is he goes, you know, I now
17 realize that the way I was using Dutch auction is not the way it's
18 normally used is common vernacular. He goes, I was using it with
19 different concept. But it really doesn't matter how he was using the
20 phrase Dutch auction. What's important is that ultimately he sends an
21 email where he says, and this is Exhibit L -- and I apologize I said N. I'm
22 jumping back a couple.

23 THE COURT: Uh-huh.

24 MR. SHAPIRO: In Exhibit L, this is an email from David
25 LeGrand. Shawn and Ben, I got Ben's voicemail Saturday regarding

1 buy/sell, and I talked with Shawn about the issue, that because your
2 capital contributions are so different, you should consider a formula or
3 other approach to valuing your interest. A simple Dutch auction, where
4 either of you can make an offer to the other, and the other can elect to
5 buy or sell at the offered price does not appear to make sense to me.

6 That's David LeGrand's email, after he introduced the Dutch
7 auction. And in fact his testimony confirms that he threw that entire
8 concept out. That as of this date, September 19th, 2011, no longer was
9 part of the operating agreement. The fact that arbitrator relied on this
10 Dutch auction and gave it so much weight, notwithstanding David
11 LeGrand's own testimony and the clear and unambiguous evidence that
12 the concept had been discarded, demonstrates the manifest disregard
13 for the evidence.

14 Now what happened? Ben was so frustrated with David
15 LeGrand's efforts to come up with the buy/sell language, that he took a
16 stab at it on his own. And this is where we turn to Exhibit N as in Nancy.
17 Now David LeGrand abandoned the Dutch auction on September 11th.

18 On September 22nd, Ben Golshani sends an email to Shawn
19 Bidsal. Attached to that email is a file that's called buy/sell Ben version.
20 This is the document that Ben drafted. He named it -- he put his own in
21 name in it, and he emailed it to Shawn. Did you find Exhibit N, Your
22 Honor?

23 THE COURT: I'm --

24 MR. SHAPIRO: You're still digging through the --

25 THE COURT: -- I'm at P, so I'll just scoot back to -- give me a

1 Bate stamp number.

2 MR. SHAPIRO: 416. And I apologize, Your Honor, I should
3 have done that first, and I will do that from now on.

4 THE COURT: No worries. There it is. Okay. Thank you.

5 MR. SHAPIRO: Okay. He says, Shawn, enclosed please find
6 a rough draft of what I came up with. I tried to make it reciprocal. See if
7 you like it. Comments are appreciated. Ben. And then on Appendix 417,
8 is two pages of the language that Ben himself admitted he came up with.

9 Now let's continue the chronology. That's in Exhibit N. O is
10 the final version, and we'll come back to that if we need to. I don't know
11 that we need to. Go to P, which is 449. So on September 22nd, Ben
12 sends his version. The document has his name in it, and in his email he
13 says this is what I came up with.

14 October 26th, a little more than a month later. Again the
15 email from Ben to Shawn. Attachment, buysellbenversion2.docx.
16 Shawn, here is the agreement we discussed. Please take a look to see if
17 you like it. And attached is a document called rough draft 2. There was
18 no evidence that Shawn -- thank you, Your Honor.

19 THE COURT: No, only because my court recorder,
20 remember, she has to listen to all of this. So feel free. I get it that you
21 both are emphatic, but the louder the voices --

22 MR. SHAPIRO: My mom always told me, we're at the dinner
23 table you don't have to shout.

24 THE COURT: No, it's just my court recorder has to listen to it.

25 MR. SHAPIRO: Thank you.

1 THE COURT: I understand you both are enthusiastic on
2 behalf of your respective clients, but --

3 MR. SHAPIRO: Thank you.

4 THE COURT: -- keep the volume down just a little bit and be
5 a little nicer --

6 MR. SHAPIRO: Just --

7 THE COURT: -- to my court recorder who is listening.

8 MR. SHAPIRO: -- give me that sign again if I --

9 THE COURT: No worries.

10 MR. SHAPIRO: -- if I go back --

11 THE COURT: I appreciate you're both enthusiastically
12 representing your clients.

13 MR. SHAPIRO: Okay.

14 THE COURT: Please continue.

15 MR. SHAPIRO: So in Exhibit P, here Ben sends his revised
16 version, and it's called rough draft 2. And again there was no evidence
17 that Shawn had anything to do with any of the revisions. Well, no, that's
18 not true. Ben and Shawn did have a discussion about possible changes.
19 And in fact one of the changes is going to become very important in -- at
20 a later point.

21 All right. Now what happened? Ben and Shawn discussed
22 rough draft version 2. Ben then faxes it to David LeGrand. If you turn to
23 Exhibit R, which is 456. This is November 10th, 2011. This is an email
24 from David LeGrand to Shawn Bidsal. Shawn, I received a fax from Ben
25 and am rewriting it to be more detailed and complete. I will send it out

1 to both of you shortly. So now here David LeGrand -- and he
2 acknowledges this in his testimony. He acknowledges that he got a fax
3 from Ben, he made some changes, and that's what ultimately was
4 incorporated into the operating agreement.

5 Now I've got to switch binders. If you got to Exhibit S, this is
6 a version -- this came from actually David LeGrand. This is Appendix
7 457. My apologies, Your Honor. And it actually has two Bate stamps on
8 it. One is appendix, which my office put on it. The other one is DL00359.
9 The DL stands for David LeGrand. This came from his file.

10 THE COURT: Excuse me.

11 MR. SHAPIRO: And this is draft 2, which is his revisions to
12 the fax that was received from Ben Golshani.

13 And then if you turn to Exhibit T, Appendix 460, this is a
14 redline that shows the changes that David LeGrand made to Section 4.
15 And as you can see, the changes were nominal. He capitalized the word
16 member. He changed it from share to membership interest. He changed
17 it from abbreviation to definitions. There is no substantive change that
18 David LeGrand made before he put it into the operating agreement.

19 That's what the evidence showed. There is no evidence that
20 CLA Properties can point to that contradicts what I just described to Your
21 Honor. And yet the arbitrator found that Shawn was the drafter and/or
22 David LeGrand was the drafter.

23 Mr. Garfinkel was up here telling Your Honor how much the
24 arbitrator relied upon David LeGrand's testimony as far as the
25 interpretation of Section 4, and yet David LeGrand didn't even draft

1 Section 4. He tried, multiple times, and each of those were rejected,
2 including David LeGrand's Dutch auction concept, which again the
3 arbitrator incorporated into his final award. The arbitrator simply came
4 up with whatever narrative he wanted to come up with. He disregarded
5 the undisputed evidence.

6 If that's not enough, there was a subsequent email, and I
7 apologize, Your Honor, I don't have the citation. I can try and find. But
8 there was a subsequent email where David LeGrand, a few years later,
9 was preparing an operating agreement for another entity that Shawn
10 and Ben were both involved in. And he sent an email -- and this is cited
11 in my brief, and so I know it's in the pleadings.

12 David LeGrand sends an email out and goes, I'm going to
13 use the -- I think he said something to the effect of the Green Valley
14 operating agreement, which contains Ben's language in it. David
15 LeGrand acknowledged in that email, in his testimony, and everywhere
16 else, number one, that he was not the drafter of Section 4; number two,
17 that the Dutch auction concept was not part of what ultimately ended up
18 in the agreement.

19 The fact that the arbitrator nonetheless found that the
20 operating agreement, or Section 4 of the operating agreement was
21 drafted by Shawn Bidsal, demonstrates that he had -- it was completely
22 irrational, he was dispensing his own brand of justice, he had a manifest
23 disregard both for the law and the evidence. And on that ground
24 enough, the arbitration award in its entirety should be just -- should be
25 voided.

1 I've already kind of touched on it, but the second point,
2 which is distinct from who drafted Section 4 of the operating agreement,
3 is the fact that there was a Dutch auction, or a forced buy/sell was part of
4 the concept, I don't dispute that David LeGrand initially tried to put in
5 some forced buy/sell language. He certainly did. And that language was
6 specifically rejected by the parties. They didn't want it. And David
7 LeGrand himself admitted he abandoned it. The fact that the arbitrator
8 found that the Dutch auction or forced buy/sell was part of the concept,
9 shows a manifest disregard for the evidence. It shows that he's just
10 making this up. He's creating whatever it is he needs to create, so he
11 can rule the way he has already predetermined to rule.

12 And then the same goes with this rough justice that the
13 arbitrator was stuck on. If you look -- and I don't know how you cite to a
14 negative, right. I can cite to the hearing transcript though I don't expect
15 you to read it all. The phrase rough justice does not show up anywhere
16 in the hearing transcript. It was not used by any of the witnesses. It's not
17 contained in any of LeGrand's email. It's not contained in any of Shawn
18 Bidsal or Ben Golshani's emails.

19 That is the concept that the arbitrator -- he actually brought it
20 up early on when there was the dispositive motion hearing, and he
21 started talking about this rough draft, and he seemed stuck on it, and he
22 wasn't going to let it go. And it ultimately ended up in his final
23 arbitration award. The fact that that even showed up in his arbitration
24 award demonstrates a manifest disregard for the law. It demonstrates
25 that he's not making a ruling based upon the agreement.

1 Now Mr. Garfinkel pointed out that the arbitrator found that
2 Section 4 is ambiguous. And quite frankly I think he's right. I think there
3 is some ambiguity in there. But that just underscores how important it
4 was that he find the right party -- make a factual finding as to who
5 drafted it because as Your Honor knows, under applicable law,
6 ambiguous language is construed against the drafter. And yet in this
7 case, the arbitrator found that Shawn Bidsal was the drafter of Section 4,
8 notwithstanding the evidence, and then construed any ambiguity against
9 Mr. Bidsal. That's a manifest disregard of the law as well as the
10 evidence.

11 The fact that the Court gave great weight -- and I'm quoting
12 Mr. Garfinkel's words -- the fact that the court gave great weight to
13 LeGrand's interpretation of Section 4, demonstrates a manifest disregard
14 for the evidence, because LeGrand himself testified, and the evidence is
15 clear, he didn't draft the language. Giving great weight to LeGrand was
16 inappropriate, because he didn't even come up with the language and
17 the amount of changes that he made to it were nominal at best.

18 We presented -- and, Your Honor, all of these exhibits were
19 presented to the arbitrator. The redline showing the changes that David
20 LeGrand made, which I believe is Exhibit T, that was presented to the
21 arbitrator. He had that in front of him. He could have looked at it and
22 seen that -- that was probably bad English. He could have looked at it
23 and saw that David LeGrand made nominal changes, and yet he relied
24 upon David LeGrand's testimony about what David LeGrand attempted
25 to do and was rejected by the parties.

1 The arbitrator made a finding that the \$5 million offer that
2 was contained in my initial offer letter, constituted fair market value. The
3 problem is when you look at Section 4, fair market value is specifically
4 defined. And for this you can turn to Exhibit O, which is Bate stamp 420.
5 This is the signed operating agreement. And actually, let me give you a
6 better pinpoint citation. Okay. It's actually 429. On Appendix 429. This
7 is again the signed operating agreement. This is ultimately what Ben
8 and Shawn signed. And this is the section that is at issue.

9 And if you look at Section 4.1, it says definitions. And the
10 last definition there is it says, FMV means fair market value obtained as
11 specified in Section 4.2. So you go to 4.2, and that's on the next page,
12 Appendix 430, the first full paragraph. The last sentence says, the
13 medium of these two appraisals constitutes the fair market value of the
14 property, which is called FMV.

15 So fair market value, by the terms of the operating
16 agreement, Section 4.1, says it means the fair market value obtained as
17 specified in 4.2. And 4.2 says, the medium of the two appraisals
18 constitutes the fair market value of the property, which is called FMV.
19 That means FMV can only be the product of two appraisals, and yet the
20 arbitrator found that Shawn Bidsal's best estimate of what was
21 contained -- or, I mean, best estimate of the fair market value of the
22 property that he put in his offer constituted the fair market value. That's
23 a manifest disregard of the language itself.

24 There's another important part that the arbitrator
25 disregarded and for this we're going to have to go back to --

1 THE COURT: Okay. I didn't want to stop you, but now I am
2 going to have to stop you --

3 MR. SHAPIRO: Okay.

4 THE COURT: -- because I understand what you're saying
5 about the FMV --

6 MR. SHAPIRO: Uh-huh.

7 THE COURT: -- definition --

8 MR. SHAPIRO: Uh-huh.

9 THE COURT: -- set forth in Exhibit O, like Oscar or operating
10 agreement, right.

11 MR. SHAPIRO: Uh-huh.

12 THE COURT: But the FMV referenced in the arbitrator's
13 decision --

14 MR. SHAPIRO: Uh-huh.

15 THE COURT: Are you referencing what he referenced on
16 page 9 of his decision, or are you referencing a different portion of his
17 decision where he talks about FMV?

18 MR. SHAPIRO: I apologize, Your Honor. And I don't know
19 exactly where it is, but basically he determined that the \$5 million that
20 was contained in --

21 THE COURT: So I thought you were referencing paragraph
22 16, which is pages 8 and 9 of the arbitrator's decision, but I just wasn't --
23 I'm just trying to parallel what --

24 MR. SHAPIRO: Sure.

25 THE COURT: -- you're referencing in your argument from the

1 arbitrator's decision.

2 MR. SHAPIRO: Bear with me, Your Honor --

3 THE COURT: No worries.

4 MR. SHAPIRO: -- I will find the answer. I am -- yes, that is.

5 It's paragraph 16 of the arbitrator's decision and --

6 THE COURT: Okay. But -- and I'm sorry, so this is my

7 question --

8 MR. SHAPIRO: Okay.

9 THE COURT: -- and you can answer at the end or I can wait.

10 Is there I saw that he had a citation actually to the hearing transcript
11 rather than the operating agreement itself. So when one goes and looks
12 at the hearing transcript, isn't that based on testimony of the hearing
13 transcript -- of what the interpretation of FMV meant from the hearing
14 transcript, not from the language of the operating agreement, or was it
15 your understanding it was something different? I'm just trying to get the
16 context to your argument.

17 MR. SHAPIRO: Well, absolutely, Your Honor. Your Honor, I
18 apologize. As I stand here today, I do not know what the hearing
19 transcript he referenced to is, but you raise a good point, and I want to
20 address that point.

21 THE COURT: No worries. And I didn't want to interrupt you.
22 It was only because I was seeing it as he was representing from the
23 hearing transcript as defined --

24 MR. SHAPIRO: Uh-huh.

25 THE COURT: -- whereas I heard your argument as being

1 from the operating agreement. I wanted to make sure I was
2 understanding your argument correctly. But I hear -- if I'm
3 understanding your argument correctly, but your point is still FMV
4 should be defined from the operating agreement.

5 MR. SHAPIRO: It is. And therein is the problem. The
6 arbitrator is required to enforce the agreement. The arbitrator can't
7 enforce an agreement that's contrary to the written document. It doesn't
8 matter what the testimony said. If the written document defines FMV as
9 the sum of two appraisals, and the arbitrator was relying on upon
10 testimony, then that in and of itself is a problem for the arbitrator unless,
11 of course, he explains some rational explanation as to why testimony
12 would trump a written contract.

13 As Your Honor is well aware, under contract law when the
14 contract is unambiguous you enforce the contract law, which is even
15 more problematic because if the arbitrator found that testimony was
16 relevant to interpret Section 4, then he needed to interpret it against the
17 drafter.

18 THE COURT: Right. But Mr. Lewin [phonetic] is your co-
19 counsel, correct?

20 MR. SHAPIRO: No.

21 MR. GARFINKEL: Your Honor, Mr. Lewin is my co-counsel.

22 THE COURT: Your co-counsel.

23 MR. GARFINKEL: Yes, Your Honor.

24 THE COURT: Okay. That's my point of clarification. Okay.

25 No worries.

1 MR. SHAPIRO: Okay. Does that answer your question?

2 THE COURT: That answers my question.

3 MR. SHAPIRO: Okay. I think I've covered a lot of this. Bear
4 with me, Your Honor, I'll try and skip to the end. I think I'm probably out
5 of time anyway, almost.

6 Yeah, I mean, if an award is determined to be arbitrary,
7 capricious, or unsupported by the agreement, it may not be enforced.
8 That's citing *Wichinsky v. Mosa*. The evidence is clear that the arbitrator
9 ignored the plain language, ignored the evidence, and just came up with
10 his own brand of justice and whatever it was he had predetermined to
11 do, which is simply not allowed. I get it that even if Your Honor would
12 not have enforced or not ruled the same way that the arbitrator ruled,
13 that's not enough for us to prevail, and I understand that.

14 But the fact that the arbitrator simply ignored the evidence is
15 enough to set aside the arbitrator's award. For instance, instead of
16 relying upon the testimony, the arbitrator -- I'm going to put myself out
17 to dry here, I've got a quote, and I put a citation. But in his order, he
18 relies upon what is common among partners in business entities like
19 partnerships, joint venture, LLCs, and close corporations.

20 Well, what is common shouldn't supplant what the language
21 of the agreement it, nor should it supplant what the evidence shows.
22 And yet the arbitrator ignored the evidence and instead of relying upon
23 the evidence, instead of relying upon what the agreement said, decided
24 to rely upon what is common among partners. That's a failure to draw
25 the essence from the agreement and, therefore, constitutes a completely

1 irrational decision, and it should be vacated.

2 And I'll wrap it up, because I think I've about used my 30
3 minutes. Let's see here.

4 We do think he's exceeded the authority, Your Honor. When
5 you look at the relief sought, it didn't allow the arbitrator to order that
6 the membership interest be conveyed free and clear of all liens or
7 encumbrances, nor did it allow him to give a deadline for when that is to
8 occur. I'll point the Court to *Kootee v Berringer* [phonetic], which is a
9 Ninth Circuit Court case, where the Court held that an arbitration award
10 that is legally irreconcilable with the undisputed facts can be set aside
11 and vacated. And I think that's what we have here.

12 We do believe that there's sufficient evidence to show that
13 the arbitrator is guilty of partiality. The fact that he found that Shawn
14 was the drafter just demonstrates that he had it in his head that he
15 wanted to rule against Shawn. And we cited a whole laundry list of
16 specific rulings in his ultimate award where he has it out for Shawn.

17 And this is what I missed. When you look at Ben Golshani's
18 first rough draft of his language it said the initiating offer -- in the event
19 that a member is willing to sell his or its membership interest in the
20 company to the other member, then the procedures and terms of Section
21 4, shall apply. That was changed to, in the event a member is willing to
22 purchase -- and I'm looking at Exhibit N, and I'm comparing that to
23 Exhibit P. If you look at the first section of Exhibit N --

24 THE COURT: Uh-huh.

25 MR. SHAPIRO: -- and the change to Exhibit P, there was a

1 specific change from sell to purchase. The Court, if they find an
2 ambiguity can look at the drafts and has to give credence to the fact that
3 the parties agreed that instead of the language reading, in the event that
4 member is willing to sell his or her interest, it's in the event that the
5 member is willing to purchase the remaining member's interest. That's
6 a key change because that demonstrates that the intent of the parties
7 was that an offer was not an offer to sell. It was only an offer to
8 purchase. If the parties wanted it to be an offer to buy or sell, they could
9 have said it, but they didn't. The initial language said willing to sell. The
10 language that ended up in the operating agreement was willing to
11 purchase. And that's a distinction that has to be considered. It was
12 completely ignored by the arbitrator.

13 And again, on that basis, the award should be vacated.
14 Obviously, if the award is vacated the award of attorney's fees should be
15 vacated. And unless Your Honor has more arguments -- let's see -- I
16 mean, more questions on the arguments.

17 THE COURT: No. No I don't have any other questions.

18 MR. SHAPIRO: I've addressed the specific issues that give
19 rise and give the basis for vacating the award, and we would request that
20 it be vacated.

21 THE COURT: Okay. Thank you. The Court does have a few
22 questions.

23 MR. SHAPIRO: Yes.

24 THE COURT: But here's my questions. I had offered initially
25 that you could each have two rounds if you wanted it, and then you kind

1 of said you were combining it. So do each want still two rounds or not?

2 MR. GARFINKEL: I just have a couple of comments. I'm not
3 going -- we briefed this thing --

4 THE COURT: Okay. Then you can have a couple comments,
5 and you can have a couple comments in response, then the Court will
6 save it questions. Go ahead.

7 MR. SHAPIRO: That works.

8 MR. GARFINKEL: Your Honor --

9 THE COURT: You may answer my questions in your
10 comments.

11 MR. GARFINKEL: Sure.

12 THE COURT: Go ahead.

13 MR. GARFINKEL: You know, opposing counsel sort of treats
14 this as here are facts, you need to buy them, and if you buy them, then
15 we're done. But opposing counsel has basically ignored all of the
16 evidence that was introduced both in documents and testimony at the
17 arbitration hearing, and it was as a result of all of that, that the arbitrator
18 concluded in CLA's favor.

19 And, Your Honor, Mr. Shapiro sort of gave you their best
20 scenario in their perfect world, but I urge you to go ahead and take a look
21 at our opposition to the counter motion to vacate and take a look at
22 pages 13 through 23 of our brief.

23 THE COURT: Okay. Give me one --

24 MR. GARFINKEL: Yeah.

25 THE COURT: -- let me get to that one. Okay. Go ahead,

1 counsel.

2 MR. GARFINKEL: And, Your Honor, if you go ahead, and you
3 take a look at those pages you will see that in excruciating detail we lay
4 out the, if you will, the beginning to the end of the drafting of the
5 operating agreement and the relevant provision.

6 We won, okay. And --

7 THE COURT: Sure. For clarity just -- so pointing to the page
8 numbers.

9 MR. GARFINKEL: Oh, I'm sorry, page 13 through 23.

10 THE COURT: Okay. There we go.

11 MR. GARFINKEL: Yeah. And if you go ahead, and you take a
12 look at that, Your Honor, you know, you will see that we address, in
13 detail, what we believe the evidence showed. And obviously, as the
14 prevailing party that we should be given great weight to that because
15 that's the -- those are the facts and the evidence that the arbitrator
16 believed as opposed to what he didn't believe in their argument.

17 And the arbitrator's brief lays that all out, but I suggest you
18 take a look at pages 13 through 23, and it basically goes through, in
19 detail, what happened. And it's, you know, contrary to what Mr. Shapiro
20 represents, and there's a different story here. And, please, if you have
21 any questions, Your Honor, take a look at it because that's what the
22 arbitrator agreed to.

23 One of the things that Mr. Shapiro talked about in great detail
24 was the whole issue about ambiguities of the contract, and it should be
25 construed against the drafter. And, Your Honor, one of the things that

1 we pointed out in our brief was basically -- there was a citation to a
2 recent United States Supreme Court case. Bear with me one second,
3 Your Honor. And it's called *Lamps Plus v. Varela*, and I will get you --
4 what page is that? It's on page 33 of our brief, Your Honor.

5 And there's the -- you know, the old maxim, you know, an
6 ambiguity in the contract should be construed against the drafter. And I
7 guess the rule is known as contra proferentem. But what the Supreme
8 Court basically said was, was that the rule only applies as a last -- as a
9 last resort when the meaning of a provision remains ambiguous after
10 exhausting the ordinary methods of interpretation, and it's only triggered
11 when the Court cannot discern the intent of the parties.

12 And, Your Honor, if you go through the arbitrator's award
13 you will see that clearly the arbitrator discerned the intent of the parties,
14 and he references Nevada law with contract interpretation. The
15 important thing is to discern the intent of the parties. He also goes
16 through a detailed analysis of what the intent was based on the
17 testimony. And so, Your Honor, we believe that, you know, that doesn't
18 make sense.

19 They also talked about the definition of FMV, and the
20 arbitration award addresses that in great detail, FMV, and what it means.
21 And the argument that they made is FMV always means you need an
22 appraisal. Well, the arbitrator rejected that argument. He listened to all
23 the testimony, he looked at the documents, and he rejected their
24 argument. It was in front of him, and he just decided against them.
25 They lost. He interpreted the agreement, and that's his interpretation.

1 Your Honor, I think that is -- that's about it for me. So I kept it
2 short. Any questions for me, Your Honor?

3 THE COURT: I'm going to have questions for both of you.

4 MR. GARFINKEL: Sure.

5 THE COURT: One of them is a chronology question. So it's
6 probably best left for you, Mr. Garfinkel. Okay.

7 MR. GARFINKEL: Sure.

8 THE COURT: The statement by counsel for Mr. Bidsal --

9 MR. GARFINKEL: I'm sorry, what?

10 THE COURT: I'm sorry, if I'm mispronouncing.

11 MR. SHAPIRO: Bidsal.

12 THE COURT: Bidsal. I'm sorry, if I mispronounce your folks'
13 names. Was that after September 18th or 19th, 2011, there was nothing
14 else about a Dutch auction, et cetera, okay. The email that you
15 referenced from Mr. LeGrand is dated September 16, 2011.

16 And I understand you each have a different argument. One
17 argument is, on behalf of CLA, is that nobody on behalf of Bidsal ever
18 disagreed with LeGrand's interpretation so, therefore, why would you
19 have to say anything else --

20 MR. GARFINKEL: Sure.

21 THE COURT: -- because they never disagreed with it?

22 And I'm hearing from Bidsal's counsel, well, there's changes
23 made, and he pointed me to N and P, the 7.2s, which has -- as he stated
24 were drafted by CLA and Mr. Golshani.

25 So is there anything other than the LeGrand email and the

1 7.2s that the arbitrator would have had -- including, I'm sorry, the
2 testimony of each of the three witnesses, which I'm about to ask a
3 question on that in just a second, but what did the arbitrator have the
4 benefit of other than the three witness' testimony and those documents
5 to try and reconcile those differing viewpoints?

6 MR. GARFINKEL: Your Honor, I think if you go to the
7 arbitrator's award, and you look at 12, he talks about -- paragraph 12, he
8 talks about --

9 THE COURT: Paragraph 12, is that on page 9? Maybe I'm
10 referencing --

11 MR. GARFINKEL: Page 7.

12 THE COURT: -- yeah, the last sentence that it doesn't matter
13 who the drafter, that part?

14 MR. GARFINKEL: No. I mean, obviously, that was part of it,
15 but what --

16 THE COURT: Oh, I'm sorry, you said paragraph 12. I was
17 referencing --

18 MR. GARFINKEL: It's paragraph 12.

19 THE COURT: -- paragraph 17. I'm sorry.

20 MR. GARFINKEL: What's pretty obvious, Your Honor, is that
21 this whole notion of the Dutch auction and the buy/sell came up very
22 early in the process. And basically, Mr. Bidsal and Mr. Golshani wanted
23 -- if someone wanted to get out, they wanted something that was going
24 to be quick and easy. And they talked about a buy/sell. And if you look
25 at some of the earlier emails where Mr. LeGrand talks about it, he goes,

1 listen, you want a situation where someone make an offer, and then the
2 remaining member can either, you know, accept it --

3 THE COURT: Uh-huh.

4 MR. GARFINKEL: -- or buy it at that and get out. And this
5 notion of the Dutch auction sort of started quite some time ago. It
6 started, I believe, back in June of 2011, and this sort of went on, you
7 know, until the very end.

8 And so at one point in time, Mr. LeGrand basically came up
9 with the specific intent language, which is in one of his drafts and that
10 language is what's found its way into the last version of the operating
11 agreement that it set forth what the intent was of the parties. And Mr.
12 LeGrand testified to that, Your Honor. And I kind of read it to you in --
13 you know, during my presentation.

14 And it's that language that was certainly relied on by the
15 arbitrator and was confirmed by David LeGrand, that it was always the
16 parties' intent that a member could make an offer, and then the other
17 member would have the right to either accept it or purchase it at that
18 amount. And I mean, that was always the intent. And if you look at the
19 specific intent language that found its way into the final operating
20 agreement, and I quoted it, which is on basically -- it's Section 4.2.

21 It says, the specific intent of this provision is that once the
22 offering member -- and in this case it was Mr. Bidsal presented his or its
23 offer to the remaining member, which was CLA, then the remaining
24 member shall either buy or sell at the same price offered. And then
25 parenthetically it says, (or FMV if an appraisal is invoked, close paren,

1 and according to the procedures set forth in Section 4.

2 And at the end it says, in the case that the remaining
3 member decides to purchase, then the offering member, which is Mr.
4 Bidsal in this case, shall be obligated to sell his or its membership
5 interest to the remaining member, which was CLA.

6 And, Your Honor, it was that language -- that specific intent
7 language, which was always contemplated by this agreement. That was
8 what Mr. Bidsal and Mr. Golshani wanted from the very beginning. And
9 if you take a look at the emails that were referred to by Mr. Shapiro, you
10 can see it. You can see how that was always the case.

11 Now I will tell you, in our brief, pages 23 [sic] through 23, we
12 go through in detail --

13 THE COURT: Uh-huh.

14 MR. GARFINKEL: -- the evolution of the language, all right.
15 And so from the very beginning there was always this notion of a quick
16 and dirty out. LeGrand is the one who talked about a buy/sell or also the
17 Dutch auction, and then he's the one who talked about it. And this
18 concept of the Dutch auction was always in the -- it was always in the
19 agreement. It was in the final agreement, the specific intent language,
20 because that was what he referred to as the Dutch auction.

21 Now what he did say at one point in time is that that concept
22 is a little more complicated, and the reason why is because if you look at
23 the operating agreement the capital contributions were different. Mr. --
24 I'm sorry, CLA's capital contribution was 70 percent, Bidsal's was 30
25 percent, although they each had a 50 percent membership. And so what

1 Mr. LeGrand said is that, that simple Dutch auction doesn't work because
2 you have the different capital accounts. And what happens is Mr.
3 Golshani and Mr. Bidsal took that concept of what Mr. LeGrand talked
4 about, and then they worked through together, language to address that.

5 And if you look at Section 4.2, and nobody disagrees with
6 this, there's the formula for determining the sales price. And it says, fair
7 market -- FMV minus COP, which is fair market value versus cost of
8 property, times .5, plus capital contribution of the selling member at the
9 time of the purchasing property, minus prorated liability. So basically, it
10 takes into consideration the very capital accounts. And that's what
11 happened.

12 But the concept of the Dutch auction never changed. It was
13 always, you have an offering member, you have the remaining member,
14 and the remaining member can either sell at the offering member's
15 price, and in this case it was determined by Mr. Bidsal with his \$5 million
16 valuation, or he could say, no, I want to buy it at that price. And so that
17 concept was always in there from the very beginning. It's just -- it was
18 just the change with respect to the, how do you deal with the capital
19 accounts. And they were different. And that's what Mr. LeGrand got to.

20 Does that answer your question, Your Honor?

21 THE COURT: It does from your perspective. Do you wish to
22 be heard?

23 MR. SHAPIRO: Yes.

24 THE COURT: Okay.

25 MR. SHAPIRO: Thank you, Your Honor.

1 THE COURT: Same question, different response. Go ahead.

2 MR. SHAPIRO: I do. And let me just -- I'm going to walk
3 Your Honor through it really quick, because I know this is an important
4 part of what we're here to discuss today.

5 Mr. Garfinkel points to pages 13 through 23, arguing that that
6 answers all of the questions, and yet all it does is support our argument.
7 When you look at pages 13 to 23 of their brief --

8 THE COURT: Okay.

9 MR. SHAPIRO: -- when you get there -- okay. I'm on page
10 13. This is additional supporting Judge Haberfeld's findings, and he
11 goes in and there's -- he goes all the way back to June 17th, 2011, when
12 Jeff Chain provided CLA's principal Benjamin Golshani with the form
13 operating agreement. All right. That was way early on, right?

14 THE COURT: Uh-huh.

15 MR. SHAPIRO: That was rejected. And then they take you
16 through the history. David LeGrand gets involved. When you look on
17 page 15, they talk about an August 18th, event that occurred, which is
18 well before Ben Golshani's language. And then you turn to page 16, and
19 now we're at September 16th. I'm looking at line 24, on page 16.

20 THE COURT: Uh-huh.

21 MR. SHAPIRO: They're talking about a September 16th
22 email. And if you turn to page 17, line 13, they're talking about a
23 September 19th email. And then they kind of just disappear.

24 Well, that is the problem is that they are focusing on what
25 happened prior to September 22nd, when Benjamin Golshani sent his

1 language. But everything changed at that moment. Nobody was happy
2 with the language that David LeGrand was proposing. If Your Honor --
3 David LeGrand proposed one, two, three, four, five, six, seven, eight
4 different versions, Exhibits F, G, H, I, J, K, L, and M, are all versions of
5 the operating agreement that were produced by David LeGrand prior to
6 Ben Golshani's language.

7 And if Your Honor looks at Exhibit N, because that was the
8 last version that David LeGrand proposed. Then if you look at Appendix
9 394 -- and just for context this is a September 20th, 2011, email from
10 David LeGrand to Shawn and Ben. Please find attached the revised
11 operating agreement with the new offer for Section 5, which sets forth
12 the Dutch auction, okay.

13 So let's go look at that. You look at the language -- and this
14 goes on for pages. It goes from 394 all the way to 396. And he proposes
15 all of this language that does not end up in the operating agreement,
16 which is Exhibit O. The parties trashed it. They eliminated it. And so all
17 of this discussion of David LeGrand up to September 20th, quite frankly,
18 is irrelevant, because on September 22nd, Benjamin Golshani sends an
19 email. Shawn: enclosed please find a rough draft of what I came up
20 with. He doesn't say modification of David LeGrand's language. He says
21 I came up with this.

22 And this language ultimately supplants and replaces the
23 three pages of language that was David LeGrand's most recent attempt.
24 That's what the evidence shows.

25 THE COURT: Okay. So then, counsel, comparing that,

1 right --

2 MR. SHAPIRO: Uh-huh.

3 THE COURT: So comparing Appendix 390 -- does most of
4 396, D00301, turn out to be incorporated into Appendix 429, which is
5 Exhibit O, the actual signed operating agreement?

6 MR. SHAPIRO: I'm sorry, I've got to get back to 396. Bear
7 with me.

8 THE COURT: 396 is what you were just referencing.

9 MR. SHAPIRO: Yeah.

10 THE COURT: You were referencing 394 and 396.

11 MR. SHAPIRO: No, it doesn't.

12 THE COURT: Is there any redline that shows the distinction
13 between what is pages 394 -- Appendix 394 to 396, versus what ends up
14 becoming in the operating agreement?

15 MR. SHAPIRO: There isn't, because it was a wholesale swap
16 out. I mean, the redline would be delete, delete, delete, delete, delete,
17 new, and the new is Ben Golshani's language. That's what the new was.

18 I mean, if you look under Exhibit M, which was David
19 LeGrand's last version --

20 THE COURT: Right, which is where I was at.

21 MR. SHAPIRO: Right.

22 THE COURT: Appendix 396.

23 MR. SHAPIRO: He has Section 4, procedure for right of first
24 refusal and that just does on and on. All of that language was removed.
25 If you compare that to Exhibit O, it just doesn't exhibit. It was gone. It's

1 a wholesale swap out. In fact, it's much shorter. His was three pages
2 long. What ultimately ended up was approximately one page worth of
3 language, and it was Ben Golshani's language.

4 MR. GARFINKEL: Your Honor, just so you know. I object to
5 his argument that it's Ben Golshani's language, because the record does
6 not support that. What the record supports is that Mr. Golshani and Mr.
7 Bidsal worked on that language together. So, anyhow.

8 THE COURT: The differing language, which is marked as 7.2,
9 which ends up going into Exhibit O, correct?

10 MR. SHAPIRO: As Section 4. That's a little confusing, but,
11 yes.

12 THE COURT: Yeah. The N and P, which goes into O?

13 MR. SHAPIRO: Yes.

14 THE COURT: Okay. You're saying M is different than the N
15 and P that ends up into O; is that correct?

16 MR. SHAPIRO: M -- yes, that's what I'm saying.

17 THE COURT: Okay. Counsel for CLA, would you agree,
18 without saying who was the drafter?

19 MR. GARFINKEL: Your Honor, I'm not sure on the record.

20 THE COURT: Okay. No worries.

21 MR. GARFINKEL: I'm not going to agree to that. I mean, I
22 don't agree with his argument, and I think that what we set out -- what
23 we set forth --

24 THE COURT: Sure.

25 MR. GARFINKEL: -- is accurate, Your Honor.

1 THE COURT: Let me just go back to the simple. Did anyone
2 redline the distinction between the Exhibit M, Bate stamp pages 394 to
3 396, as distinct from what ended up becoming in Exhibit O, the actual
4 signed operating agreement to see what the distinction in the language
5 is? I know you have arguments on --

6 MR. GARFINKEL: I don't know if it has, but I don't really
7 necessarily know if it's relevant in the context of the arbitration, that's all.

8 THE COURT: Sure. I just didn't see anything which you all
9 provided me.

10 MR. SHAPIRO: Yeah.

11 THE COURT: You certainly provided me a redline version
12 between the LeGrand, which was, I think, it's S versus P, but I did not see
13 any other redlines that went M versus either N or P. I only saw --

14 MR. SHAPIRO: There was one other redline. I apologize, I
15 don't see it, but it was not what you're looking for.

16 THE COURT: I'm not saying it should or should not exist. I
17 just didn't recall seeing it --

18 MR. SHAPIRO: Yeah.

19 THE COURT: -- in the thousands of pages --

20 MR. GARFINKEL: Your Honor --

21 THE COURT: -- I did get. Now, I just was making sure there
22 wasn't something --

23 MR. SHAPIRO: It doesn't exist.

24 MR. GARFINKEL: Your Honor, what I can tell you is I know
25 that a lot of emails and versions were produced. I took Mr. LeGrand's

1 deposition. I believe they may have had about -- we had about 100
2 exhibits --

3 THE COURT: Uh-huh.

4 MR. GARFINKEL: -- at the arbitration. And so, you know,
5 whatever was there was part of the record.

6 THE COURT: Okay. No worries. I just -- I was making sure I
7 just didn't miss anything. I didn't think I did in the thousands of pages
8 that I read, but if you want to do --

9 MR. GARFINKEL: I agree, Your Honor.

10 THE COURT: Huh?

11 MR. GARFINKEL: I agree. I get it.

12 THE COURT: Okay. I didn't think I did, but one of you --
13 okay. So then my other question, counsel for Mr. Bidsal. Going back to
14 the page 339 and 340 of the transcript -- hearing transcript, which is
15 referenced on page 7 of -- excuse me, I'm sorry, on page 9, I misspoke,
16 paragraph -- page 9 of the arbitrator's decision, paragraph 16, the very
17 last sentence. It's the FMV question I asked a moment ago.

18 MR. SHAPIRO: And I apologize, Your Honor, I do not have --

19 THE COURT: Well, I can show you my copy that you all gave
20 me. No worries.

21 MR. GARFINKEL: A copy of the arbitrator's award?

22 MR. SHAPIRO: No, of the hearing transcript. I'm trying to
23 find that.

24 THE COURT: No worries. You all can approach, and I can
25 show you what I was going to ask.

1 MR. SHAPIRO: Okay. Yeah.

2 THE COURT: It looked like it was Mr. Bidsal's testimony by
3 cross examination of Mr. Lewin. That's all I was going to ask. So I can
4 give you the --

5 MR. SHAPIRO: Do you have the Appendix number? Maybe I
6 can find it if you -- what's that?

7 THE COURT: Sure, 898.

8 MR. SHAPIRO: 898. Thank you, Your Honor. Let me find
9 that.

10 THE COURT: 898 to 899.

11 MR. SHAPIRO: I'm sorry, Your Honor, my 898 is an invoice.

12 THE COURT: Mine says Appendix (PX)000898.

13 MR. SHAPIRO: All right. I'm going to have to look at your
14 because mine's is Bate stamped different, so I apologize.

15 [Pause]

16 THE COURT: Because in the arbitrator's decision it
17 references hearing transcript at pp. 339:14 to 340:10, which appeared to
18 be the Appendix (PX)898-899.

19 MR. SHAPIRO: And your question about that?

20 THE COURT: My question is, isn't that cross-examination by
21 Mr. Lewin of Mr. Bidsal, and I base that on --

22 MR. GARFINKEL: May I see that? Can I approach, Your
23 Honor?

24 THE COURT: Yeah, of course. Yeah. Yeah, of course you
25 may.

1 MR. SHAPIRO: I do believe that that does appear right, but --

2 MR. GARFINKEL: This would probably be our -- they did not
3 include the entire transcript, Your Honor. We did.

4 MR. SHAPIRO: Cross-examination by Mr. Lewin.

5 THE COURT: I went back to page 331, which is Appendix
6 (PX)890, and it said cross-examination continued by Mr. Lewin.

7 MR. GARFINKEL: Yeah.

8 THE COURT: And it said Mr. Bidsal.

9 MR. GARFINKEL: Correct.

10 MR. SHAPIRO: Yeah.

11 THE COURT: So I was taking that a few pages later, it would
12 still be Mr. Bidsal's testimony.

13 MR. SHAPIRO: Yeah, more [indiscernible].

14 MR. GARFINKEL: Your Honor, we included the entire
15 transcript --

16 THE COURT: Yeah.

17 MR. GARFINKEL: -- for the two days.

18 THE COURT: No, no, I appreciate it. I just -- I went back
19 when I -- I was cross-referencing all the transcript cites that you all gave
20 me and the various places you gave it to me, so that I could cross-
21 reference because the FMV in the operating agreement versus the
22 hearing transcript.

23 So going to my question. My question is actually a relative
24 simple one.

25 MR. SHAPIRO: Okay.

1 THE COURT: The question really was in the argument of, or
2 the discussion of FMV, it appeared by the arbitrator's decision on page 9,
3 paragraph 16, where he references the hearing transcript, is that he was
4 referencing Mr. Bidsal's testimony in support of that proposition of Mr.
5 Bidsal's viewpoint of what FMV meant, and so my question was -- that's
6 why I went and looked it up, right.

7 MR. SHAPIRO: Uh-huh.

8 THE COURT: So when I was hearing your argument today
9 on FMV, to the extent if your client testified at a hearing on his
10 understanding of FMV, is it not -- are you asserting it wouldn't be
11 appropriate for the arbitrator to take Mr. Bidsal's own testimony as to his
12 understanding of what FMV meant into account with his decision, or
13 were you saying that he was misinterpreting your client's understanding
14 of FMV, because he was not taking it straight from -- God bless you -- the
15 operating agreement itself?

16 MR. SHAPIRO: There's two answers to your question.

17 THE COURT: Okay.

18 MR. SHAPIRO: The first answer is, yes, I do believe he
19 misinterpreted a whole lot of evidence and that would be one. But,
20 number two, to the extent that he was relying upon anything outside of
21 the four corners of the contract means it's ambiguous. And if it's
22 ambiguous, it should be interpreted against the drafter who is clearly
23 Ben Golshani. That is what the evidence shows.

24 And so --

25 THE COURT: Even if your -- he shouldn't rely on your client's

1 own interpretation of the contract?

2 MR. SHAPIRO: I don't think my -- now, Your Honor,
3 admittedly I have not looked at that transcript in I don't know how many
4 months.

5 THE COURT: No, I --

6 MR. SHAPIRO: It's not something --

7 THE COURT: No, I know.

8 MR. SHAPIRO: -- that I prepared to answer today --

9 THE COURT: Okay. No worries.

10 MR. SHAPIRO: -- and so I'm at somewhat of a loss, but I was
11 at the hearing, and I can tell you that I don't believe there was any
12 testimony that my client gave that could support the arbitrator's ultimate
13 decision.

14 THE COURT: Okay. As I said, each of the questions I've
15 asked, I would give each side an opportunity to respond to.

16 MR. GARFINKEL: Spoken like a true advocate, Mr. Shapiro.

17 THE COURT: Okay.

18 MR. GARFINKEL: And I'll leave it at that, Your Honor, since --

19 THE COURT: Not towards each other.

20 MR. GARFINKEL: You know what our position is.

21 THE COURT: Okay. I just -- I said each question I would ask,
22 I would give you each an opportunity to respond to it, so.

23 MR. GARFINKEL: Your Honor, anything else for me?

24 THE COURT: No. Those were -- no. Okay. Well, I think
25 there's two choices that the Court can do. One, is if you both wanted me

1 to rule today, I would rule today. If you both were okay with me double
2 checking a couple of things in light of the extensive record that you all
3 gave me and some of the things that you highlighted for the Court's
4 retention today, realizing that, yes, it was thousands of pages, and I have
5 a pretty decent memory, but that maybe you might want me to go back
6 and look at a couple of different things. I would be fine doing that as
7 well.

8 But I'm not intending on giving you all a 20 to 30 page
9 decision, because I don't see that this is a 20 to 30 page decision that
10 goes through all the law. I mean, I see that you really -- and I have to --
11 before I go there I really have to ask you all a couple foundational
12 questions.

13 Do you both agree that, A) this Court has jurisdiction to make
14 a determination on the declaratory relief action both to confirm and to
15 vacate, or do you either of you contend that this Court doesn't have
16 jurisdiction? I didn't see it in either of your briefs on the no jurisdiction,
17 but --

18 MR. GARFINKEL: Your Honor, we believe you have
19 jurisdiction because this was originally in federal court, and we got it
20 dismissed from there because of lack of subject matter jurisdiction. We
21 filed here, because we believe this Court has jurisdiction.

22 MR. SHAPIRO: If you don't have jurisdiction, nobody does.

23 MR. GARFINKEL: That's about right.

24 THE COURT: So I take that as a yes?

25 MR. SHAPIRO: Yes.

1 THE COURT: Okay. Well, I mean, I want to make sure no one
2 was contending that there was no right of review at all because of the
3 arbitration being by the parties' agreement or anything. So, you know, if
4 that was an issue, I would have to address that in said decision, right?
5 So if you both agree, then that one's easy. I don't have to address that.

6 So then that means the Court has jurisdiction, and the Court
7 really just has to look at the standards of whether it's to affirm or to
8 vacate, and which is appropriate in this case based on the totality of the
9 thousands of pages of record that the Court has, and the standards
10 looked at.

11 Now one side has raised federal and one side has raised
12 state, as far as the standard in looking at -- with regards to an arbitration
13 award and, however, in your oral arguments you both seem to be saying
14 that the standard is pretty nearly the same and that the Court really
15 could evaluate it under either. Maybe I'm not hearing that correctly, but I
16 wanted to make sure.

17 So do you all take a position that the Court should be one
18 versus the other, or that regardless of which standard the Court uses,
19 that in essence it gets to the same result, or do you wall want an analysis
20 under both? The Court's fine either way.

21 MR. SHAPIRO: I believe, Your Honor, that the Court can
22 apply both. I think they're mutually exclusive. Clearly, federal law
23 applies because of the language of the operating agreement, but I think
24 state common law applies as well, and I don't see anything that would
25 say that doesn't apply. And so I think both laws apply.

1 THE COURT: I didn't see that you argued though that state
2 common law gave you a different result.

3 MR. SHAPIRO: No, it doesn't because --

4 THE COURT: Okay. That's --

5 MR. SHAPIRO: -- they are essentially the same.

6 THE COURT: Okay. I just was --

7 MR. SHAPIRO: Yeah.

8 THE COURT: -- trying to make sure that nobody wasn't -- at
9 least I wanted to hear if either party was contending that the Court
10 should be using one versus the other, and that one versus the other
11 gives a different result. That's why --

12 MR. SHAPIRO: I think they both apply, and I think the result
13 is the same under both.

14 MR. GARFINKEL: Your Honor, we believe federal law does in
15 fact -- based on the Nevada Supreme Court case that we cited in our
16 brief, we believe that federal law does apply. However, we addressed
17 both, because they did. So, you know, if the Court's going to make a
18 determination --

19 THE COURT: So do you think state court gives them any
20 different answer?

21 MR. GARFINKEL: We win either way.

22 THE COURT: Okay. I appreciate the position. I'm trying to
23 narrow down where the -- okay. So the heart of the dispute is either
24 affirming or vacating; is that correct?

25 MR. SHAPIRO: Yes, Your Honor.

1 MR. GARFINKEL: Yes, Your Honor.

2 THE COURT: It's not the procedural issues that you need the
3 Court to be giving an analysis in. I'm trying to go from the expediency to
4 get you back a quick response is really where I'm trying to go without
5 having either side not have one of their issues addressed that you think
6 is an issues that needs to be addressed.

7 Okay. Is there something I missed or is it just to the heart
8 of --

9 MR. SHAPIRO: No.

10 THE COURT: Counsel.

11 MR. GARFINKEL: No, Your Honor.

12 THE COURT: Okay. I think the more well-reasoned is I go
13 back and look at a couple of things in light of some of the questions that
14 I've asked and in light of the very eloquent arguments that you each
15 have raised, and each of your different perspectives in walking the Court
16 through what is extensively and well-argued briefs and record but just to
17 go back and refocus on a couple of things in light of each of the gloss
18 that you have given to the Court today. That's what I think makes more
19 sense, but if someday --

20 MR. SHAPIRO: We're find with that, Your Honor.

21 MR. GARFINKEL: Your Honor, whatever the Court desires.

22 THE COURT: Well, I'm going to try to by this Friday, because
23 I'm actually, for once, not in trial this week, but I can't say that some
24 emergency is not going to -- hasn't hit on my doorstep -- well, I guess,
25 literal box, not doorstep right, while I've been with you this afternoon,

1 but I'm going to try and get it done by this afternoon. Anticipate it more
2 as a minute order than as a full analysis because of how well briefed this
3 is. Really to reiterate what you all have already said is not going to -- will
4 probably be in anyone's best interest, because it will take a lot longer
5 than to get to the essence of the resolution that you all want for
6 whatever purposes anybody needs to do. Does that meet with
7 everybody's needs?

8 MR. SHAPIRO: It does, Your Honor.

9 THE COURT: Okay. Thank you so very much.

10 MR. GARFINKEL: Thanks, Judge.

11 THE COURT: So if there's nothing further, then stay tuned.

12 Thank you for your time, and you'll receive the Court's decision. Did
13 everyone have a full opportunity to argue everything they wished to
14 argue?


15 MR. SHAPIRO: Yes.

16 MR. GARFINKEL: I believe so, Your Honor.

17 THE COURT: Okay. Thank you so much.

18 [Proceedings concluded at 2:47 p.m.]

19
20
21 ATTEST: I do hereby certify that I have truly and correctly transcribed the
22 audio-visual recording of the proceeding in the above entitled case to the
best of my ability.

23 

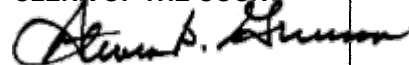
24 Maukele Transcribers, LLC

25 Jessica B. Cahill, Transcriber, CER/CET-708

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12/16/2019 9:22 AM
Steven D. Grierson
CLERK OF THE COURT



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11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 CLA PROPERTIES LLC, a limited liability
14 company,

15 Petitioner,

16 vs.

17 SHAWN BIDSAL, an individual,

18 Respondent.

Case No.: A-19-795188-P

Dept.: 31

**NOTICE OF ENTRY OF ORDER
GRANTING PETITION FOR
CONFIRMATION OF ARBITRATION
AWARD AND ENTRY OF
JUDGMENT AND DENYING
RESPONDENT'S OPPOSITION AND
COUNTERPETITION TO VACATE
THE ARBITRATOR'S AWARD**

19 PLEASE TAKE NOTICE that on December 6, 2019, the Court entered its Order Granting
20 Petition for Confirmation of Arbitration Award and Entry of Judgment and Denying Respondent's

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

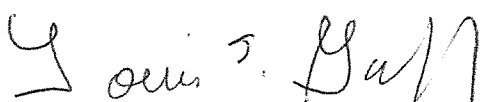
28 ///

1 Opposition and Counter-petition to Vacate the Arbitrator's Award, a copy of which is attached as Exhibit
2 "1."

3 Dated this 16th day of December, 2019

4
5 LEVINE & GARFINKEL

6
7 By:


8 Louis E. Garfinkel, Esq. (Nevada Bar No. 3416)
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13 *Attorneys for Petitioner CLA Properties LLC*

CERTIFICATE OF SERVICE


Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of LEVINE & GARFINKEL, and that on the 16th day of December, 2019, I caused the foregoing **NOTICE OF ENTRY OF ORDER GRANTING PETITION FOR CONFIRMATION OF ARBITRATION AWARD AND ENTRY OF JUDGMENT AND DENYING RESPONDENT'S OPPOSITION AND COUNTERPETITION TO VACATE THE ARBITRATOR'S AWARD** to be served as follows:

☐ by placing a true and correct copy of the same to be deposited for mailing in the US Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or

☐ by hand delivery to the parties listed below; and/or

☒ pursuant to N.E.F.C.R. Rule 9 and Administrative Order 14-2, by sending it via electronic service to:

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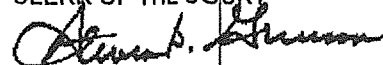


Melanie Bruner, an Employee of
LEVINE & GARFINKEL

EXHIBIT “1”

EXHIBIT “1”

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Steven D. Grierson
CLERK OF THE COURT



1 ORDR

2 DISTRICT COURT

3 CLARK COUNTY, NEVADA

4
5
6 IN THE MATTER OF THE PETITION OF
7 CLA PROPERTIES LLC

Case No.: A-19-795188-P
Dept. No.: XXXI

8 ORDER GRANTING PETITION FOR
9 CONFIRMATION OF ARBITRATION
10 AWARD AND ENTRY OF JUDGMENT
11 AND DENYING RESPONDENT'S
12 OPPOSITION AND
13 COUNTERPETITION TO VACATE
14 THE ARBITRATOR'S AWARD

14 This matter came on for hearing for Petitioner's Confirmation of Arbitration Award
15 and Entry of Judgement and Respondent's Opposition to CLA's Petition for
16 Confirmation of Arbitration Award and Entry of Judgement and Counterpetition to
17 Vacate Arbitration Award, on November 12, 2019. Present at the hearing was, Louis E.
18 Garfinkel Esq. for Petitioner; and James E. Shapiro, Esq. for Respondent. Respondent
19 Shawn Bidsal was also present.

21 The issues before the Court were whether the Award in favor of Petitioner should
22 be upheld or whether the Arbitrator erroneously interpreted Section 4.2 of the Green
23 Valley Operating Agreement and thus the Award should be vacated.

24 **I. PROCEDURAL AND FACTUAL BACKGROUND**

25 CLA Properties, LLC (Petitioner or CLA) and Shawn Bidsal (Respondent or Mr.
26 Bidsal) were the sole members of Green Valley, LLC (Green Valley), a Nevada limited
27

1 liability company, which owns and manages real property in Las Vegas, Nevada. CLA
2 Properties, LLC is solely owned by its principal Benjamin Golshani (Mr. Golshani).
3 Petitioner and Respondent each owned a 50% membership interest in Green Valley.

4 It is undisputed that Mr. Golshani on behalf of CLA, along with Respondent
5 executed an Operating Agreement for Green Valley (Operating Agreement) on June 15,
6 2011. Section 4 of Article 5 (Section 4) of the Operating Agreement contained
7 provisions regarding how the membership interest of one member could be purchased
8 and/or sold to the other member. The Operating Agreement allows members to initiate
9 the purchase or sale of one member's interest by the other. These provisions were
10 drafted by third party attorney, David LeGrand, and then were modifications made.
11 More specifically, Section 4 allowed the offering member to buy out the remaining
12 member at a price based upon a valuation of the fair market value of Green Valley. It is
13 then that the remaining member is given the option to buy or sell pursuant to the
14 valuation or demand an appraisal.
15
16

17 Section 4 of Article V commences on page 10 and the relevant
18 portions read as follows:
19

20 **Section 4. Purchase or Sell Right among Members.**

21 In the event that a Member is willing to purchase the Remaining
22 Member's Interest in the Company then the procedures and terms
23 of Section 4.2. shall apply.

24 **Section 4.1 Definitions.**

25 Offering Member means the member who offers to purchase the
26 membership Interest(s) of the Remaining Member(s). "Remaining
27 members" means the Members who received an offer (from
28 Offering Member) to sell their shares.

"COP" means the cost of purchase" as it is specified in the
escrow closing statement at the time of purchase of each
property owned by the Company.

1 "Seller" means the Member that accepts the offer to sell his or its
2 Membership Interest.

3 "FMV" means "fair market value" obtained as specified in section
4.2

4 **Section 4.2 Purchase or Sell Procedure.**

5 Any Member ("Offering Member") may give notice to the
6 Remaining Member(s) that he or it is ready, willing and able to
7 purchase the Remaining Members' Interests for a
8 price the Offering Member thinks is the fair market value. The
9 terms to be all cash and close escrow within 30 days of the
10 acceptance.

11 If the offered price is not acceptable to the Remaining Member(s),
12 within 30 days of receiving the offer, the Remaining Members (or
13 any of them) can request to establish FMV based on the following
14 procedure. The Remaining Member(s) must provide the Offering
15 Member the complete information of 2 MIA appraisers. The Offering
16 Member must pick one of the appraiser to appraise the property
17 and furnish a copy to all Members. The Offering Member also must
18 provide the Remaining Member with the complete information of 2
19 MIA approved appraiser. The Remaining Member must pick one of
20 the appraiser to appraise the property and furnish a copy to all
21 Members. The medium of these 2 appraisals constitute the fair
22 market value of the property which is called (FMV).

23 The Offering Member has the option to offer to purchase the
24 Remaining Member's share at FMV as determined by Section
25 4.2, based on the following formula.

26 (FMV- COP) x 0.5 plus capital contribution of the Remaining
27 Member(s) at the time of purchasing the property minus prorated
28 liabilities.

29 The Remaining Member(s) shall have 30 days within which to
30 respond in writing to the Offering Member by either

- 31 (i) Accepting the Offering Member's purchase offer, or.
32 (ii) Rejecting the purchase offer and making a counteroffer to
33 purchase the interest of the Offering Member based upon the
34 same fair market value (FMV) according to the following
35 formula....

36 On July 7, 2017, Respondent sent Petitioner a written offer to buy Petitioner's
37 50% membership interest based on an estimate valuation of \$5 million. On August 3,
38 2017, Petitioner instead elected to buy Respondent's 50% membership interest based
39 on the \$5 million valuation and without an appraisal. On August 7, 2019, Respondent

1 refused to sell his interest to Petitioner and instead stated that he had a right to have a
2 fair market value appraisal of his membership interest. The parties disputed whether
3 the Operating Agreement provided that Respondent had a right to seek a fair market
4 valuation of his interest or whether the Agreement provided that Respondent had to sell
5 his share at the \$5 million dollar price.
6

7 On May 8, 2018 through May 9, 2018, the parties arbitrated the dispute in Las
8 Vegas, Nevada, pursuant to Article III, Section 14.1 of the Operating Agreement.

9 Article III, Section 14.1 of the Operating Agreement of Green Valley is entitled
10 "Dispute Resolution" and contains an arbitration provision whereby the parties agreed
11 the dispute would be resolved exclusively by arbitration. Section 14.1 states in
12 pertinent part:
13

14 The representative shall promptly meet in good faith effort
15 to resolve the dispute.

16 If the representatives do not agree upon a decision within
17 thirty (30) calendar days after reference of the matter to
18 them, any controversy, dispute or claim arising out of or
19 relating in any way to this Agreement or the transaction
20 arising hereunder shall be settled exclusively by arbitration
21 in the City of Las Vegas, Nevada: Such arbitration shall be
22 administered by JAMS in accordance with its then
23 prevailing expedited rules, by one independent and impartial
24 arbitrator selected in accordance with such rules. The
25 arbitration shall be governed by the United States
26 Arbitration Act, 9 U.S.C. § 1, *et seq.* . . . The award
27 rendered by the arbitrator shall be final and not subject
28 to judicial review and judgment thereon may be entered in
any court of competent jurisdiction. The decision of the
arbitrator shall be in writing and shall set forth findings of
fact and conclusions of law to the extent applicable.

See, Exhibit "2", pp. 7-8

1 Arbitrator Stephen E. Haberfeld (Arbitrator) was appointed in JAMS Arbitration
2 Number 1260004569. On April 5, 2019, the Arbitrator entered the Award in favor of
3 Petitioner and ordered Respondent to transfer his 50% membership interest in Green
4 Valley to Petitioner, free and clear of all liens and encumbrances. Further, the Award
5 ordered the transfer by sale at a price computed at \$5 million, in accordance with
6 Section 4. Lastly, the Award granted Petitioner \$298,256.00 plus attorneys' fees and
7 costs. Conversely, Respondent was awarded nothing on the counterclaim.
8

9 On May 21, 2019, Petitioner filed the Petition for Confirmation of Arbitration
10 Award and Entry of Judgment, which asserted that Respondent failed to comply with the
11 Arbitrator's Award. On July 15, 2019, Respondent filed an Opposition to CLA's Petition
12 for Confirmation of Arbitration Award and Entry of Judgment and Counterpetition to
13 Vacate Arbitration Award.
14

15 Petitioner argued that Respondent is required to transfer his fifty (50%) percent
16 Membership Interest in Green Valley Commerce, LLC (Green Valley), free and clear of
17 all liens and encumbrances, to CLA Properties, LLC. Petitioner further argued the price
18 is specifically to be computed pursuant to Section 4.2 of the Operating Agreement, and
19 with the Fair Market Value portion of the formula fixed as five million dollars. Petitioner
20 contends that the ruling of the Arbitrator both as to the sale price and the attorney fees
21 awarded is correct and should be affirmed.
22

23 Respondent argued the Court should vacate the Award because the Arbitrator
24 interpreted Section 4.2 of the Operating Agreement as a "forced buy-sell" agreement.
25 Further, Respondent disagrees with the Arbitrator's findings that the subject contract
26 provision was drafted by Respondent, rather than third-party, David LeGrand. Lastly,
27
28

1 Respondent contends the Arbitrator exceeded his authority by ignoring the plain
2 language definition of "FMV" (fair market value), as stated in the Operating Agreement.

3 The parties also litigated this matter in Federal Court. On April 9, 2019,
4 Respondent filed a Motion to Vacate an Arbitration Award in United States District
5 Court, District of Nevada. On April 25, 2019, Petitioner filed a Motion to Dismiss for
6 Lack of Subject Matter Jurisdiction. On June 24, 2019, the United States District Court,
7 District of Nevada, granted Petitioner's Motion to Dismiss because the case did not
8 present a federal question. Petitioner filed the present action with the Court.
9
10

11 II. ANALYSIS

12 At the November 12, 2019 hearing, the parties agreed that this Court has
13 jurisdiction to review the Arbitrator's Award pursuant to Nevada Revised Statute
14 38.244(2). Moreover, the parties agreed the Court's decision to vacate the Award is.
15 properly governed by United States Arbitration Act, 9 U.S.C. § 9. Respondent also
16 analyzed the Motions pursuant to Nevada Revised Statute 38. The parties further
17 agreed that regardless if the Court utilized the federal or state standard, the result would
18 be the same. The dispute is whether the Court should affirm or vacate the Arbitrator's
19 award.
20
21

22 Having reviewed the papers and pleadings on file herein, including, but not
23 limited to, exhibits and affidavits; having heard oral arguments of the parties in excess
24 of ninety minutes, the Court finds that the Arbitration award should be affirmed. The
25 language of the Operating Agreement supports the decision of Arbitrator Haberfeld. (Ex.
26 MM, App 1088). The Court finds that Arbitrator Haberfeld's analysis that the offering
27
28

1 member does not have a right to an appraisal in the instant scenario is supported by the
2 language of the Operating Agreement and the testimony of the witnesses including that
3 of David LeGrand as well as the other evidence presented.

4 Although Respondent contends that the Arbitrator interpreted Section 4.2 of the
5 Operating Agreement as a "forced buy-sell" agreement, the decision sets forth that the
6 labeling of the Agreement was not the controlling factor, but instead it was the language
7 of the Agreement as supported by the evidence presented at the Arbitration. The fact
8 that the final provision in the Agreement was not the same language initially drafted by
9 Mr. LeGrand has not been shown by Respondent to merit setting aside the Arbitrator's
10 findings under either the federal or state standards. Further, the Arbitrator said that his
11 decision would be the same, even if Mr. Golshani had been the draftsman. See, e.g.,
12 17 of Ex. MM pg 9, APP 1088 at 1097. Thus, whether both parties modified the
13 language in some respect or if Respondent's position is adopted that it was only Mr.
14 Golshani, the outcome is the same—there was not sufficient evidence that the
15 Arbitrator's decision should be vacated based on his interpretation of who drafted
16 the provision.

17 Further, while Respondent contends the Arbitrator exceeded his authority by
18 ignoring the plain language definition of "FMV" (fair market value), as stated in the
19 Operating Agreement, there is insufficient support or evidence to support that
20 contention. Instead, Arbitrator's Haberfeld's decision clearly articulates the evidence he
21 relied on in making his decision and he supported that decision to the extent necessary
22 to have it affirmed both under state and federal law. While Respondent disagrees with
23 the decision, he has not established pursuant to the plethora of case law cited in both
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1 party's briefs, that his disagreement merits vacating the award. Moreover, to the extent
2 his decision was not as timely as the parties would have wished has not been shown to
3 invalidate the decision. Accordingly, as Petitioner has met its burden to have the award
4 affirmed and Respondent has not met his burden to vacate the award. Thus, the Court
5 must affirm the Arbitrator's award in its entirety.
6

7 ORDER

8
9 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that pursuant to the
10 Operating Agreement, 9 U.S.C. § 9 and Nevada Revised Statute 38.244(2),
11 Petitioner's Confirmation of Arbitration Award and Entry of Judgement is GRANTED.
12 Accordingly, the Court ORDERS Judgment in favor of Petitioner CLA Properties, LLC
13 and against Respondent Shawn Bidsal in accordance with the Award, confirming that
14 Bidsal shall take nothing by his Counterclaim and ordering Bidsal to:

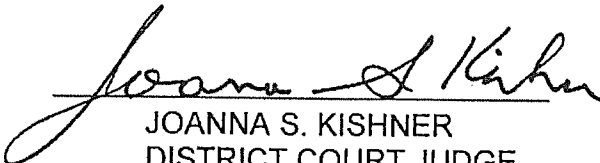
15
16 A. Within fourteen (14) days of the Judgment, (A) transfer his fifty percent
17 (50%) Membership Interest in Green Valley Commerce, LLC ("Green Valley"), free
18 and clear of all liens and encumbrances, to CLA Properties, LLC, at a price
19 computed in accordance with the contractual formula set forth in Section 4.2 of
20 the Green Valley Operating Agreement, with the "FMV" portion of the formula
21 fixed as Five Million Dollars and No Cents (\$5,000,000.00) and, further, (B)
22 execute any and all documents necessary to effectuate such sale and transfer.
23

24 B. Pay CLA as the prevailing party on the merits of the Arbitration
25 Claim, the sum awarded by the Arbitrator. Specifically, CLA shall recover from
26 Bidsal the sum and amount of \$298,256.00 plus interest from April 5, 2019 at the
27
28

1 legal rate, and as and for contractual attorneys' fees and costs reasonably
2 incurred in connection with the Arbitration.
3

4 **IT IS FURTHER ORDERED ADJUDGED, and DECREED** that Respondent's
5 Opposition to CLA's Petition for Confirmation of Arbitration Award and Entry of
6 Judgment and Counterpetition to Vacate Arbitration Award is DENIED.¹
7

8 Dated this 5th day of December, 2019.
9

10
11 
12 JOANNA S. KISHNER
13 DISTRICT COURT JUDGE
14
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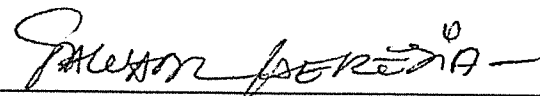
27 ¹ Any request for fees and/or costs for the present action before the state District Court is not presently
28 before the Court and thus, if any request were to be made it would need to be by separate Motion.

CERTIFICATE OF SERVICE

I hereby certify that on or about the date filed, a copy of this Order was provided to all counsel, and/or parties listed below via one, or more, of the following manners: via email, via facsimile, via US mail, via Electronic Service if the Attorney/Party has signed up for Electronic Service, and/or a copy of this Order was placed in the attorney's file located at the Regional Justice Center:

Louis E. Garfinkel, Esq.
1671 W. HORIZON RIDGE PKWY, STE. 230
HENDERSON, NV. 89031

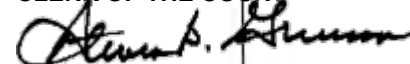
James E. Shapiro, Esq.
2400 SAINT ROSE PKWY, STE. 220
HENDERSON, NV. 89074

for 
TRACY CORDOBA
JUDICIAL EXECUTIVE ASSISTANT

002619

28

28



OSCC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

* * * *

IN THE MATTER OF THE PETITION
OF
CLA PROPERTIES LLC

CASE NO.: A-19-795188-P

DEPARTMENT 31

CIVIL ORDER TO STATISTICALLY CLOSE CASE

Upon review of this matter and good cause appearing,
IT IS HEREBY ORDERED that the Clerk of the Court is hereby directed to
statistically close this case for the following reason:

DISPOSITIONS:

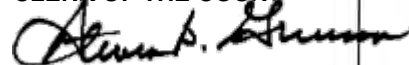
- | | |
|-------------------------------------|----------------------------------------|
| <input type="checkbox"/> | Default Judgment |
| <input checked="" type="checkbox"/> | Judgment on Arbitration |
| <input type="checkbox"/> | Stipulated Judgment |
| <input type="checkbox"/> | Summary Judgment |
| <input type="checkbox"/> | Involuntary Dismissal |
| <input type="checkbox"/> | Motion to Dismiss by Defendant(s) |
| <input type="checkbox"/> | Stipulated Dismissal |
| <input type="checkbox"/> | Voluntary Dismissal |
| <input type="checkbox"/> | Transferred (before trial) |
| <input type="checkbox"/> | Non-Jury – Disposed After Trial Starts |
| <input type="checkbox"/> | Non-Jury – Judgment Reached |
| <input type="checkbox"/> | Jury – Disposed After Trial Starts |
| <input type="checkbox"/> | Jury – Verdict Reached |
| <input type="checkbox"/> | Other Manner of Disposition |

DATED this 30th day of December, 2019.


JOANNA S. KISHNER
DISTRICT COURT JUDGE

29

29



MAFC
Louis E. Garfinkel, Esq.
Nevada Bar No. 3416
LEVINE & GARFINKEL
1671 W. Horizon Ridge Pkwy, Suite 230
Henderson, NV 89012
Tel: (702) 673-1612
Fax: (702) 735-0198
Email: lgarfinkel@lgealaw.com
Attorneys for Petitioner CLA Properties LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

CLA PROPERTIES LLC, a limited liability
company,

Case No.: A-19-795188-P
Dept.: 31

Petitioner,

**PETITIONER CLA PROPERTIES,
LLC'S MOTION FOR ATTORNEY'S
FEES AND COSTS**

vs.

SHAWN BIDSAL, an individual,

HEARING REQUESTED

Respondent.

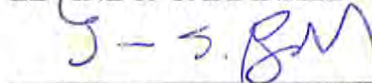
Pursuant to NRCP 54(d) and NRS 38.243, Petitioner CLA Properties, LLC ("CLA") hereby moves the Court for an Order awarding it attorney's fees and costs.

This Motion is made and based on all the pleadings and papers on file herein, the attached Memorandum of Points and Authorities, the attached exhibits, the Affidavits of Rodney T. Lewin, Esq. and Louis E. Garfinkel, Esq., and any other such argument the Court may entertain.

Dated this 3rd day of January, 2020.

LEVINE & GARFINKEL

By:



Louis E. Garfinkel, Esq. (Nevada Bar No. 3416)
1671 W. Horizon Ridge Pkwy, Suite 230
Henderson, NV 89012
Tel: (702) 673-1612 / Fax: (702) 735-2198
Email: lgarfinkel@lgealaw.com
Attorneys for Petitioner CLA Properties LLC

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR
ATTORNEY'S FEES AND COSTS

The whole purpose of a buy-sell provision within an agreement along with an arbitration provision in case of a dispute is to enable a party to extricate himself quickly and easily from his relationship with another. This arbitration case began in September, 2017, and is still going on because of the conduct of Respondent Shawn Bidsal ("Bidsal").

I.

PROCEDURAL HISTORY AND STATEMENT OF FACTS

A. Underlying Agreement

Bidsal is a resident of the State of California. Respondent CLA is a California limited liability company. The sole member of CLA is Benjamin Golshani who is a resident of the State of California.

Bidsal and CLA are members of Green Valley Commerce, LLC ("Green Valley"), a Nevada limited liability company. Attached as Exhibit "1" is a true and correct copy of the Operating Agreement of Green Valley which has an effective date of June 15, 2011 ("Operating Agreement").

Article III, Section 14.1, of the Operating Agreement is entitled "Dispute Resolution" and contains an arbitration clause along with an attorney's fee provision. Under Section 14.1, if a dispute arises, Bidsal and CLA are first required to mediate the dispute, but if the dispute is not resolved, the parties agree that the dispute will be resolved exclusively by arbitration. Section 14.1 in relevant part states as follows:

In the event of any dispute or disagreement between the Members as to the interpretation of any provision of this Agreement (or the performance of obligations hereunder), the matter, upon written request of either Party, shall be referred to representatives of the Parties for decision. The representatives shall promptly meet in a good faith effort to resolve the dispute. If the representatives do not agree upon a decision within thirty (30) calendar days after reference of the matter to them, any controversy, dispute or claim arising out of or relating in any way to this Agreement or the transaction arising hereunder shall be settled exclusively by arbitration in the City of Las Vegas, Nevada. Such arbitration shall

1 be administered by JAMS in accordance with its then prevailing expedited rules,
2 by one independent and impartial arbitrator selected in accordance with such
3 rules. The arbitration shall be governed by the United States Arbitration Act, 9
4 U.S.C. § 1, *et seq.* The fees and expenses of JAMS and the arbitrator shall be
5 shared equally by the Members and advanced by them from time to time as
6 required; provided that at the conclusion of the arbitration, the arbitrator shall
7 award costs and expenses (including the costs of the arbitration previously
8 advanced and the fees and expenses of attorneys, accountants and other experts)
9 to the prevailing party. . . . The award rendered by the arbitrator shall be final and
10 not subject to judicial review and judgment thereon may be entered in any court
11 of competent jurisdiction. The decision of the arbitrator shall be in writing and
12 shall set forth findings of fact and conclusions of law to the extent applicable.

13 See, Exhibit "1", pp. 7-8.

14 Article X, Section d, of the Operating Agreement contains a choice of law provision,
15 which provides that in all respects the Operating Agreement is governed and construed with the
16 laws of the State of Nevada. See, Exhibit "1", p. 16.

17 A dispute arose between Bidsal and CLA, and on September 26, 2017, CLA filed a
18 Demand for Arbitration with JAMS in accordance with the Operating Agreement. The dispute
19 involved the interpretation of the buy-sell provision contained in the Operating Agreement.

20 Intent on delaying for as long as possible, Bidsal moved to stay the Arbitration, which
21 motion was denied. Ultimately, the Arbitration was held on May 8-9, 2018. At the Arbitration
22 hearing, CLA was represented solely by California counsel, Rodney T. Lewin, of the Law
23 Offices of Rodney T. Lewin, APC. Bidsal was represented both by his California and Nevada
24 counsel. On April 4, 2019, the Arbitrator, the Honorable Steven Haberfield, entered a Final
25 Award. Arbitrator Haberfield found in favor of CLA with respect to the buy-sell dispute, and
26 further awarded CLA's attorney's fees and costs until then in the amount of \$298,256.00.
27 Attached as Exhibit "2" is a true and correct copy of the Final Award entered by Arbitrator
28 Haberfield.

B. Federal Waste of Time

From the get-go, Bidsal has done everything in his power to destroy whatever usefulness
arbitration has. Rather than complying with the Final Award, Bidsal on April 9, 2019 filed a
Motion to Vacate Arbitration Award (the "Federal Motion") in the United States District Court,

Case No. 2:19-cv-00605-APG-BNW.

Because the Federal Motion was in excess of twenty-four pages (in fact it was 34 pages), Bidsal then filed a Motion for Leave to File Motion in Excess of Twenty-Four Pages Re: Motion to Vacate Arbitration Award (the “Leave Motion”).

Bidsal then filed an Appendix to the Federal Motion, consisting of six volumes.

In response to the Federal Motion, on April 15, 2019, CLA was served with the Summons, the Leave Motion and the Federal Motion.

On April 25, 2019, Defendant CLA filed its Motion to Dismiss for Lack of Subject Matter Jurisdiction (the “Motion to Dismiss”).¹

On May 1, 2019, Bidsal and CLA filed a Stipulation with the Federal Court agreeing to stay the Federal Motion and the Leave Motion pending a decision by that Court regarding the Motion to Dismiss, which stay was granted by the Court on May 2, 2019.

On May 13, 2019, Bidsal filed his Opposition to the Motion to Dismiss.

On May 13, 2019, Bidsal also filed his Motion to Remand to State Court (the “Remand Motion”).

On May 20, 2019, CLA filed its Reply in Support of Motion to Dismiss.

On May 24, 2019, CLA filed its Opposition to Remand Motion.

On May 31, 2019, Bidsal filed his Reply in Support of Remand Motion.

On June 13, 2019, the Court entered an Order denying Bidsal’s Remand Motion.

On June 24, 2019, the Court entered an Order granting CLA’s Motion to Dismiss on grounds that the Court lacked subject matter jurisdiction, just as CLA had argued.

¹ This litigation should have never been filed in a federal court. The first issue that arises any time a party considers litigating in federal court is subject matter jurisdiction. Federal Courts are courts of limited jurisdiction. If Bidsal had performed the most basic research, he would have determined that even though arbitration under the Operating Agreement is governed by the Federal Arbitration Act, he nevertheless had to establish an independent basis for federal jurisdiction. Based on clear and unambiguous Ninth Circuit precedent and the factual record, Plaintiff Bidsal should have immediately determined that diversity jurisdiction or federal question jurisdiction did not exist. Nevertheless, CLA does not seek an award of fees in connection therewith—it has filed a separate motion for fees in the federal court.

1 On June 24, 2019, the Federal Clerk entered Judgment in favor of CLA and against
2 Bidsal dismissing the matter for lack of subject matter jurisdiction.

3 **C. Motion to Vacate, "Take Two"**

4 Confident that the United States District Court would agree that it lacked jurisdiction,
5 CLA filed its Petition for Confirmation of the Arbitration Award and Entry of Judgment in this
6 Court on May 21, 2019.

7 Because of the pendency of Bidsal's frivolous federal action, on June 20, 2019 the
8 parties here stipulated to stay this proceeding until the federal proceeding was completed (or
9 altogether if the federal court had taken jurisdiction, which it did not). On June 24, 2019 the
10 Federal District Court dismissed Bidsal's Federal Motion because of the lack of jurisdiction. On
11 July 15, 2019, Bidsal filed its Opposition and Counter Petition to vacate the Arbitration Award,
12 the second such motion, this time in this Court.

13 Bidsal's Opposition and Counter Petition was 39 pages. It included massive citations to
14 the transcript of the arbitration hearing and approximately thirty citations of authority, each of
15 which had to be read, digested, "key cited" and otherwise analyzed. Along with this Motion,
16 Bidsal filed 6 Volumes of Exhibits **totaling 1,143 pages**. On August 5, 2019, CLA filed its 39
17 page Memorandum of Points and Authorities in Support of its Petition and Opposition to the
18 Counter Petition to Vacate. It responded to the points raised in Bidsal's 39 pages. On August
19 26, 2019, Bidsal filed its 30 page Reply Memorandum, requiring careful analysis in preparation
20 for oral argument.

21 Finally, on December 6, 2019, this Court granted CLA's Petition for Confirmation of the
22 Arbitration Award and Entry of Judgment and denied Bidsal's latest attempt to Motion to Vacate
23 the Award, his latest attempt to scuttle the arbitration agreement.

24 ///

25 ///

26 ///

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28 ///

II.

ARGUMENTA. The Court Should Enter an Order Awarding CLA Its Attorney's Fees.1. Applicable Law Regarding Attorney's Fees - NRS 38.243

NRS Chapter 38 governs mediation and arbitration under Nevada law. NRS 38.243 addresses an award of attorney's fees and litigation expenses to a prevailing party by the court after entering an order confirming, vacating, modifying, or correcting an award. NRS 38.243 states as follows:

1. Upon granting an order confirming, vacating without directing a rehearing, modifying or correcting an award, the court shall enter a judgment in conformity therewith. The judgment may be recorded, docketed and enforced as any other judgment in a civil action.

2. A court may allow reasonable costs of the motion and subsequent judicial proceedings.

3. On application of a prevailing party to a contested judicial proceeding under NRS 38.239, 38.241 or 38.242, the court may add reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a judgment confirming, vacating without directing a rehearing, modifying or correcting an award.

2. Basis for an Award of Attorney's Fees.

On December 6, 2019, the Court entered an Order granting Defendant CLA's Motion to Confirm Arbitration Award and Entry of Judgment and denying Bidsal's Motion to Vacate that Award. As such, Defendant CLA is a prevailing party. CLA is entitled to an award of attorney's fees under the Operating Agreement or Nevada law.

Article III, Section 14.1 of the Operating Agreement quoted above contains an arbitration clause along with an attorney's fees provision. Under Section 14.1 of the Operating Agreement, the arbitrator shall award attorney's fees and costs to the prevailing party which occurred in this case. Based on Section 14.1, CLA, as a prevailing party, is entitled to an award of attorney's fees under the Operating Agreement.

CLA is also entitled to an award of attorney's fees under Nevada law. NRS Chapter 38

1 governs mediation and arbitration under Nevada law. NRS 38.243 allows the court after
2 entering an order confirming, vacating, modifying or correcting an award, to award a prevailing
3 party reasonable fees and other expenses incurred in the proceedings after the award is made.

4 In sum, CLA is entitled to an award of attorney's fees pursuant to the Operating
5 Agreement or under Nevada law.

6 **3. CLA is Entitled To Award of Attorney's Fees In The Amount of \$ 87,174.81.**

7 As the Arbitration Award in Footnote 2 confirms, "the evidentiary sessions of the Merits
8 Hearing were held in Las Vegas, Nevada, at the insistence of Mr. Bidsal, notwithstanding that
9 the individual principals (including Mr. Bidsal), CLA's lead counsel and the Arbitrator are
10 residents of Southern California." In fact, as above noted, only CLA's California "lead counsel"
11 attended the hearings on May 8 and May 9, 2018.

12 The work in this proceeding required the joint effort of CLA's California counsel, the
13 Law Offices of Rodney T. Lewin, APC, and its Nevada counsel, Louis Garfinkel, Esq. Having
14 been the only CLA attorney attending the arbitration hearing, the Lewin Office was uniquely
15 able to present what took place at that hearing and how, why and where the transcript thereof
16 supported the Final Award, and respond to Bidsal's assertions relating to the hearing. On the
17 other hand, CLA had to rely on Nevada law and procedure in this Court and thus had to also use
18 its Nevada counsel. The lion's share of the work in drafting the pleadings to obtain
19 confirmation of the Final Award in this proceeding and defeating Bidsal's Counter Petition to
20 Vacate the Award was performed by the Lewin firm (lead counsel) because of its familiarity
21 with the arbitration proceedings, and by necessity reviewed by Louis Garfinkel, local counsel
22 and attorney of record in this proceeding who also argued the motion at the hearing.

23 The time incurred by Louis Garfinkel, Esq. and the fees paid to him for such time are set
24 forth in his Affidavit and the time incurred by the Law Offices of Rodney T. Lewin and the fees
25 and costs paid to that firm are set forth in the Affidavit of Rodney T. Lewin, Esq..

26 **III.**

27 **FACTORS TO BE CONSIDERED**

28 As stated in *Bunzell v. Golden Gate National Bank*, 85 Nev. 345,348, 455P.3d 31 (1969),

1
2 "[T]he well-known basic elements to be considered in determining the
3 reasonable value of an attorney's services... may be classified under four general
4 headings (1) the qualities of the advocate: his ability, his training, education,
5 experience, professional standing and skill; (2) the character of the work to be
6 done: its difficulty; its intricacy, its importance, time and skill required, the
7 responsibility imposed on the prominence and character of the parties where they
8 affect the importance of the litigation; (3) the work actually performed by the
9 lawyer: the skill, time and attention given to the work; (4) the result: whether
10 the attorney was successful and what benefits were derived.

11 The time incurred by CLA's counsel was neither any more than nor less than that
12 required, much of which necessitated by the conduct of Bidsal's counsel. Applying the *Brunzell*
13 factors, the fees sought by CLA are reasonable and justified. The first *Brunzell* factor is the
14 qualities of the advocate, including ability, training, education, experience, professional standing
15 and skill. As "trial" counsel the services of Rodney T. Lewin's firm was essential. Rodney
16 Lewin, Esq. has been practicing business and real estate law since 1976 (43 years) and has had
17 his own firm since 1981. Mr. Lewin's hourly rate, which was not increased during the case, is
18 \$475.00 per hour which is below the hourly rates of qualified attorneys in the Los Angeles
19 community. Richard Agay, Esq., of counsel to the Lewin firm, has been practicing law since
20 1957 (62 years), and was originally with the prominent Beverly Hills law firm Cooper Epstein &
21 Hurwitz. Mr. Agay was also the prevailing counsel before the Supreme Court and the creation of
22 the so-called "Comden" rule, *Comden v. Superior Court* 20 Cal.3d 906 (1978). He was also trial
23 counsel and appellate counsel in *Young v. Rosenthal*, 212 Cal.App.3d 96 (1989) which, when
24 issued, was at the time in a published decision the highest award for frivolous appeal in favor of
25 responding party. Mr. Agay's hourly rate of \$395.00 an hour is *far below* the hourly rate of
26 similarly qualified and skilled attorneys in the Los Angeles community with similar experience
27 and qualifications. Michael Lavaee, Esq. is also of counsel to the Lewin firm. He has been in
28 practice for ten years and his billed rate is \$265/hour (which is discounted from his normal
hourly rate of \$350.00+ per hour).

1 Louis Garfinkel, Esq. (Las Vegas counsel) has been licensed to practice law in the State
2 of Nevada since 1988 (31 years). He started practicing law with the prominent firm of Lionel
3 Sawyer & Collins and in 1997 started his own firm. His normal and customary hourly billing
4 rate of \$375.00 per hour is well within or below customary market rates for Las Vegas attorneys.

5
6 The second *Brunzell* factor is the character of the work to be performed including
7 difficulty, intricacy, importance, time, and skill required, and responsibility imposed and the
8 prominence and character of the parties where they affect the importance of the litigation. It was
9 Bidsal who created the need for much of the review, analysis and work that needed to be done in
10 order to oppose to obtain court judgment confirming the Final Award in order to enforce it and to
11 oppose his claims in attempt to prevent same. We above have summarized what this has
12 entailed.

13
14 As more specifically laid out in Mr. Lewin's Affidavit, both Mr. Lewin and Mr. Agay did
15 extensive work in this matter. In this proceeding it was extended because of Bidsal's Opposition
16 and Counter Petition which in some instances mis-cited and misquoted evidence, case authority
17 and the Final Award which required CLA to carefully review Bidsal's petition and correct the
18 record. More importantly, Mr. Bidsal virtually asked this Court to retry the arbitration case all
19 over again. Now CLA readily acknowledges that that should not be permitted, but CLA hardly
20 could be so cavalier as to ignore what Bidsal said. No, only a careless attorney would fail to at
21 least briefly demonstrate why the Final Award was perfectly proper, and CLA's counsel chose
22 not to be careless. For that surely, CLA should not be punished by failing to award the fees
23 which Bidsal caused to be incurred.

24
25 It should also be noted that the Lewin firm, in addition to a substantial amount of time
26 recorded as "**no charge**" (see billing statements, Exhibit A to Lewin Affidavit), from time to
27 time provided reductions (credits) in the billing for CLA which on the time charged for this
28

1 proceeding through November, 2019 is \$6,864.54 and should serve to nullify any possible claims
2 by Bidsal of duplication or overlap.

3 This being a Nevada proceeding, Mr. Garfinkel's time was even more necessary.

4 The third *Brunzell* factor is the work performed by the lawyer including skill, time, and
5 attention given to work. The accompanying Affidavits of Rodney Lewin, Esq. and Louis
6 Garfinkel, Esq. provide extensive details of the work performed in this case, including detailing
7 some of the work, not all, that was caused by **Mr. Bidsal's insistence on pursuing a scorched**
8 **earth litigation strategy.**

9 The last *Brunzell* factor is the result and whether the attorney was successful and what
10 benefits were derived. There is no question that CLA was successful.

11 In this procedure up through November, the total time spent and charged to client (in
12 hours) was by Rodney T. Lewin, Esq. 19.45, Richard Agay, Esq. 19.45 hours, Michael Lavaee,
13 Esq. 13.85, and by legal assistants Jack Margolin, 28, and Ronald Faulk 0.66. In December in
14 this proceeding Mr. Lewin spent 2.5 hours and Mr. Agay spent 17.1 hours. The time spent by
15 Louis Garfinkel, Esq. in this proceeding was 53 hours which also includes time spent by him in
16 December including that to prepare this motion and his affidavit. The total charged (or for
17 December to be charged) for time and costs in this proceeding is \$72,174.81. We shall provide
18 supplemental Affidavit regarding January time and for reply to any opposition and hearing, but
19 estimate that will amount to \$15,000.00 more for an estimate of a total of \$87,174.81.

20 ///

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24 ///

IV.

CONCLUSION

For the above and foregoing reasons, CLA's Motion for Attorney's Fees and Costs should be granted. Petitioner CLA should be awarded attorney's fees and costs in the amount of \$ 87,174.81.

Dated this 3rd day of January, 2020.

LEVINE & GARFINKEL

By: 

Louis E. Garfinkel, Esq.
(Nevada Bar No. 3416)
1671 W. Horizon Ridge Pkwy, Suite 230
Henderson, NV 89012
Tel: (702) 673-1612 / Fax: (702) 735-2198
Email: lgarfinkel@lgealaw.com
Attorneys for Petitioner CLA Properties LLC

CERTIFICATE OF SERVICE

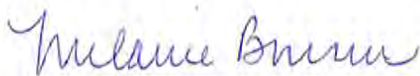
Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of LEVINE & GARFINKEL, and that on the 3rd day of January, 2020, I caused the foregoing **PETITIONER CLA PROPERTIES, LLC'S MOTION FOR ATTORNEY'S FEES AND COSTS:**

☐ by placing a true and correct copy of the same to be deposited for mailing in the US Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or

☐ by hand delivery to the parties listed below; and/or

☒ pursuant to N.E.F.C.R. Rule 9 and Administrative Order 14-2, by sending it via electronic service to:

James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
Smith & Shapiro, PLLC
3333 E. Serene Ave, Suite 130
Henderson, NV 89074
T: (702) 318-5033/F: (702) 318-5034
Email: jshapiro@smithshapiro.com
acannon@smithshapiro.com
Attorneys for Respondent Shawn Bidsal



Melanie Bruner, an Employee of
LEVINE & GARFINKEL

EXHIBIT “1”

002633

002633

EXHIBIT “1”

OPERATING AGREEMENT

Of

Green Valley Commerce, LLC
A Nevada limited liability company

This Operating Agreement (the "Agreement") is by and among Green Valley Commerce, LLC, a Nevada Limited Liability Company (sometimes hereinafter referred to as the "Company" or the "Limited Liability Company") and the undersigned Member and Manager of the Company. This Agreement is made to be effective as of June 15, 2011 ("Effective Date") by the undersigned parties.

WHEREAS, on about May 26, 2011, Shawni Bidsal formed the Company as a Nevada limited liability company by filing its Articles of Organization (the "Articles of Organization") pursuant to the Nevada Limited Liability Company Act, as Filing entity #E0308602011-0; and

NOW, THEREFORE, in consideration of the premises, the provisions and the respective agreements hereinafter set forth and for other good and valuable consideration, the parties hereto do hereby agree to the following terms and conditions of this Agreement for the administration and regulation of the affairs of this Limited Liability Company.

Article I.

DEFINITIONS

Section 01 Defined Terms

Advisory Committee or Committees shall be deemed to mean the Advisory Committee or Committees established by the Management pursuant to Section 13 of Article III of this Agreement.

Agreement shall be deemed to mean this Operating Agreement of this herein Limited Liability Company as may be amended.

Business of the Company shall mean acquisition of secured debt, conversion of such debt into fee simple title by foreclosure, purchase or otherwise, and operation and management of real estate.

Business Day shall be deemed to mean any day excluding a Saturday, a Sunday and any other day on which banks are required or authorized to close in the State of Formation.

Limited Liability Company shall be deemed to mean Green Valley Commerce, LLC a Nevada Limited Liability Company organized pursuant of the laws of the State of Formation.

Management and Manager(s) shall be deemed to have the meanings set forth in Article, IV of this Agreement.

B.E. JB

Member shall mean a person who has a membership interest in the Limited Liability Company.

Membership Interest shall mean, with respect to a Member the percentage of ownership interest in the Company of such Member (may also be referred to as **Interest**). Each Member's percentage of Membership Interest in the Company shall be as set forth in Exhibit B.

Person means any natural person, sole proprietorship, corporation, general partnership, limited partnership, Limited Liability Company, limited liability limited partnership, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, any federal, state, county or municipal government (or any agency or political subdivision thereof), endowment fund or any other form of entity.

State of Formation shall mean the State of Nevada.

Article II. OFFICES AND RECORDS

Section 01 Registered Office and Registered Agent.

The Limited Liability Company shall have and maintain a registered office in the State of Formation and a resident agent for service of process, who may be a natural person of said state whose business office is identical with the registered office, or a domestic corporation, or a corporation authorized to transact business within said State which has a business office identical with the registered office, or itself which has a business office identical with the registered office and is permitted by said state to act as a registered agent/office within said state.

The resident agent shall be appointed by the Member Manager.

The location of the registered office shall be determined by the Management.

The current name of the resident agent and location of the registered office shall be kept on file in the appropriate office within the State of Formation pursuant to applicable provisions of law.

Section 02 Limited Liability Company Offices.

The Limited Liability Company may have such offices, anywhere within and without the State of Formation, the Management from time to time may appoint, or the business of the Limited Liability Company may require. The "principal place of business" or "principal business" or "executive" office or offices of the Limited Liability Company may be fixed and so designated from time to time by the Management.

Section 03 Records.

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The Limited Liability Company shall continuously maintain at its registered office, or at such other place as may be authorized pursuant to applicable provisions of law of the State of Formation the following records:

- (a) A current list of the full name and last known business address of each Member and Managers separately identifying the Members in alphabetical order;
- (b) A copy of the filed Articles of Organization and all amendments thereto, together with executed copies of any powers of attorney pursuant to which any document has been executed;
- (c) Copies of the Limited Liability Company's federal income tax returns and reports, if any, for the three (3) most recent years;
- (d) Copies of any then effective written operating agreement and of any financial statements of the Limited Liability Company for the three (3) most recent years;
- (e) Unless contained in the Articles of Organization, a writing setting out:
 - (i) 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;
 - (ii) The items as which or events on the happening of which any additional contributions agreed to be made by each Member are to be made;
 - (iii) Any right of a Member to receive, or of a Manager to make, distributions to a Member which include a return of all or any part of the Member's contribution; and
 - (iv) Any events upon the happening of which the Limited Liability Company is to be dissolved and its affairs wound up.
- (f) The Limited Liability Company shall also keep from time to time such other or additional records, statements, lists, and information as may be required by law.
- (g) If any of the above said records under Section 3 are not kept within the State of Formation, they shall be at all times in such condition as to permit them to be delivered to any authorized person within three (3) days.

Section 04 Inspection of Records.

Records kept pursuant to this Article are subject to inspection and copying at the request, and at the expense, of any Member, in person or by attorney or other agent. Each Member shall have the right during the usual hours of business to inspect for any proper purpose. A proper purpose shall mean a purpose reasonably related to such person's interest as a Member. In every

instance where an attorney or other agent shall be the person who seeks the right of inspection, the demand under oath shall be accompanied by a power of attorney or such other writing which authorizes the attorney or other agent to so act on behalf of the Member.

Article III.

MEMBERS' MEETINGS AND DEADLOCK.

Section 01 Place of Meetings.

All meetings of the Members shall be held at the principal business office of the Limited Liability Company the State of Formation except such meetings as shall be held elsewhere by the express determination of the Management; in which case, such meetings may be held, upon notice thereof as hereinafter provided; at such other place or places, within or without the State of Formation, as said Management shall have determined, and shall be stated in such notice. Unless specifically prohibited by law, any meeting may be held at any place and time, and for any purpose; if consented to in writing by all of the Members entitled to vote thereat.

Section 02 Annual Meetings.

An Annual Meeting of Members shall be held on the first business day of July of each year, if not a legal holiday, and if a legal holiday, then the Annual Meeting of Members shall be held at the same time and place on the next day is a full Business Day.

Section 03 Special Meetings.

Special meetings of the Members may be held for any purpose or purposes. They may be called by the Managers or by Members holding not less than fifty-one percent of the voting power of the Limited Liability Company or such other maximum number as may be, required by the applicable law of the State of Formation. Written notice shall be given to all Members.

Section 04 Action in Lieu of Meeting.

Any action required to be taken at any Annual or Special Meeting of the Members or any other action which may be taken at any Annual or Special meeting of the Members may be taken without a meeting if consents in writing setting forth the action so taken shall be signed by the requisite votes of the Members entitled to vote with respect to the subject matter thereof.

Section 05 Notice.

Written notice of each meeting of the Members, whether Annual or Special, stating the place, day and hour of the meeting, and, in case of a Special meeting, the purpose or purposes thereof, shall be given or given to each Member entitled to vote thereat, not less than ten (10) nor more than sixty (60) days prior to the meeting unless, as to a particular matter, other or further notice is required by law, in which case such other or further notice shall be given.

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Notice upon the Member may be delivered or given, either personally or by express or first class mail, Or by telegram or other electronic transmission, with all charges prepaid, addressed to each Member at the address of such Member appearing on the books of the Limited Liability Company or more recently given by the Member to the Limited Liability Company for the purpose of notice.

If no address for a Member appears on the Limited Liability Company's books, notice shall be deemed to have been properly given to such Member if sent by any of the methods authorized here in to the Limited Liability Company 's principal executive office to the attention of such Member, or if published, at least once in a newspaper of general circulation in the county of the principal executive office and the county of the Registered office in the State of Formation of the Limited Liability Company.

If notice addressed to a Member at the address of such Member appearing on the books of the Limited Liability Company is returned to the Limited Liability Company by the United States Postal Service marked to indicate that the United States Postal Service is unable to deliver the notice to the Member at such address, all future notices or reports shall be deemed to have been duly given without further mailing, if the same shall be available to the Member upon written demand of the Member at the principal executive office of the Limited Liability Company for a period of one (1) year from the date of the giving of such notice. It shall be the duty and of each member to provide the manager and/or the Limited Liability Company with an official mailing address.

Notice shall be deemed to have been given at the time when delivered personally or deposited in the mail or sent by telegram or other means of electronic transmission.

An affidavit of the mailing or other means of giving any notice of any Member meeting shall be executed by the Management and shall be filed and maintained in the Minute Book of the Limited Liability Company.

Section 06 Waiver of Notice.

Whenever any notice is required to be given under the provisions of this Agreement, or the Articles of Organization of the Limited Liability Company or any law, a waiver thereof in writing signed by the Member or Members entitled to such notice, whether before or after the time stated therein, shall be deemed the equivalent to the giving of such notice.

To the extent provided by law, attendance at any meeting shall constitute a waiver of notice of such meeting except when the Member attends the meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, and such Member so states such purpose at the opening of the meeting.

Section 07 Presiding Officials.

Every meeting of the Limited Liability Company for whatever reason, shall be convened by the Managers or Member who called the meeting by notice as above provided; provided, however,

it shall be presided over by the Management; and provided, further; the Members at any meeting, by a majority vote of Members represented thereat, and notwithstanding anything to the contrary elsewhere in this Agreement, may select any persons of their choosing to act as the Chairman and Secretary of such meeting or any session thereof.

Section 08 Business Which May Be Transacted at Annual Meetings.

At each Annual Meeting of the Members, the Members may elect, with a vote representing ninety percent (90%) in interest of the Members, a Manager or Managers to administer and regulate the affairs of the Limited Liability Company. The Manager(s) shall hold such office until the next Annual Meeting of Members or until the Manager resigns or is removed by the Members pursuant to the terms of this Agreement, whichever event first occurs. The Members may transact such other business as may have been specified in the notice of the meeting as one of the purposes thereof.

Section 09 Business Which May Be Transacted at Special Meetings.

Business transacted at all special meetings shall be confined to the purposes stated in the notice of such meetings.

Section 10 Quorum.

At all meetings of the Members, a majority of the Members present, in person or by proxy, shall constitute a quorum for the transaction of business, unless a greater number as to any particular matter is required by law, the Articles of Organization or this Agreement, and the act of a majority of the Members present at any meeting at which there is a quorum, except as may be otherwise specifically provided by law, by the Articles of Organization, or by this Agreement, shall be the act of the Members.

Less than a quorum may adjourn a meeting successively until a quorum is present, and no notice of adjournment shall be required.

Section 11 Proxies.

At any meeting of the Members, every Member having the right to vote shall be entitled to vote in person, or by proxy executed in writing by such Member or by his duly, authorized attorney-in-fact. No proxy shall be valid after three years from the date of its execution, unless otherwise provided in the proxy.

Section 12 Voting.

Every Member shall have one (1) vote(s) for each \$1,000.00 of capital contributed to the Limited Liability Company which is registered in his/her name on the books of the Limited Liability Company, as the amount of such capital is adjusted from time to time to properly reflect any additional contributions to or withdrawals from capital by the Member.

12.1 The affirmative vote of %90 of the Member Interests shall be required to:

(A) adopt clerical or ministerial amendments to this Agreement and

- (B) approve indemnification of any Manager, Member or officer of the Company as authorized by Article XI of this Agreement;

12.2. The affirmative vote of at least ninety percent of the Member Interests shall be required to:

- (A) Alter the Preferred Allocations provided for in *Exhibit "B"*;
- (B) Agree to continue the business of the Company after a Dissolution Event;
- (C) Approve any loan to any Manager or any guarantee of a Manager's obligations; and
- (D) Authorize or approve a fundamental change in the business of the Company.
- (E) Approve a sale of substantially all of the assets of the Company.
- (F) Approve a change in the number of Managers or replace a Manager or engage a new Manager.

Section 13 Meeting by Telephonic Conference or Similar Communications Equipment.

Unless otherwise restricted by the Articles of Organization, this Agreement of by law, the Members of the Limited Liability Company, or any Committee thereof established by the Management, may participate in a meeting of such Members or committee by means of telephonic conference or similar communications equipment whereby all persons participating in the meeting can hear and speak to each other, and participation in a meeting in such manner shall constitute presence in person at such meeting.

Section 14. Deadlock.

In the event that Members reach a deadlock that cannot be resolved with a respect to an issue that requires a ninety percent vote for approval, then either Member may compel arbitration of the disputed matter as set forth in Subsection 14.1

14.1 Dispute Resolution. In the event of any dispute or disagreement between the Members as to the interpretation of any provision of this Agreement (or the performance of obligations hereunder), the matter, upon written request of either Party, shall be referred to representatives of the Parties for decision. The representatives shall promptly meet in a good faith effort to resolve the dispute. If the representatives do not agree upon a decision within thirty (30) calendar days after reference of the matter to them, any controversy, dispute or claim arising out of or relating in any way to this Agreement or the transactions arising hereunder shall be settled exclusively by arbitration in the City of Las Vegas, Nevada. Such arbitration shall be administered by JAMS in accordance with its then prevailing expedited rules, by one independent and impartial

arbitrator selected in accordance with such rules. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. § 1 et seq. The fees and expenses of JAMS and the arbitrator shall be shared equally by the Members and advanced by them from time to time as required; provided that at the conclusion of the arbitration, the arbitrator shall award costs and expenses (including the costs of the arbitration previously advanced and the fees and expenses of attorneys, accountants and other experts) to the prevailing party. No pre-arbitration discovery shall be permitted, except that the arbitrator shall have the power in his sole discretion, on application by any party, to order pre-arbitration examination solely of those witnesses and documents that any other party intends to introduce in its case-in-chief at the arbitration hearing. The Members shall instruct the arbitrator to render his award within thirty (30) days following the conclusion of the arbitration hearing. The arbitrator shall not be empowered to award to any party any damages of the type not permitted to be recovered under this Agreement in connection with any dispute between or among the parties arising out of or relating in any way to this Agreement or the transactions arising hereunder, and each party hereby irrevocably waives any right to recover such damages. Notwithstanding anything to the contrary provided in this Section 14.1 and without prejudice to the above procedures, either Party may apply to any court of competent jurisdiction for temporary injunctive or other provisional judicial relief if such action is necessary to avoid irreparable damage or to preserve the status quo until such time as the arbitrator is selected and available to hear such party's request for temporary relief. The award rendered by the arbitrator shall be final and not subject to judicial review and judgment thereon may be entered in any court of competent jurisdiction. The decision of the arbitrator shall be in writing and shall set forth findings of fact and conclusions of law to the extent applicable.

Article IV. MANAGEMENT

Section 01 Management.

Unless prohibited by law and subject to the terms and conditions of this Agreement (including without limitation the terms of Article IX hereof), the administration and regulation of the affairs, business and assets of the Limited Liability Company shall be managed by Two (2) managers (alternatively, the "Managers" or "Management"). Managers must be Members and shall serve until resignation or removal. The initial Managers shall be Mr. Shawn Bidsal and Mr. Benjamin Golshani.

Section 02 Rights, Powers and Obligations of Management.

Subject to the terms and conditions of Article IX herein, Management shall have all the rights and powers as are conferred by law or are necessary, desirable or convenient to the discharge of the Management's duties under this Agreement.

Without limiting the generality of the rights and powers of the Management (but subject to Article IX hereof), the Management shall have the following rights and powers which the Management may exercise in its reasonable discretion at the cost, expense and risk of the Limited Liability Company:

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- (a) To deal in leasing, development and contracting of services for improvement of the properties owned subject to both Managers executing written authorization of each expense or payment exceeding \$20,000;
- (b) To prosecute, defend and settle lawsuits and claims and to handle matters with governmental agencies;
- (c) To open, maintain and close bank accounts and banking services for the Limited Liability Company.
- (d) To incur and pay all legal, accounting, independent financial consulting, litigation and other fees and expenses as the Management may deem necessary or appropriate for carrying on and performing the powers and authorities herein conferred.
- (e) To execute and deliver any contracts, agreements, instruments or documents necessary, advisable or appropriate to evidence any of the transactions specified above or contemplated hereby and on behalf of the Limited Liability Company to exercise Limited Liability Company rights and perform Limited Liability Company obligations under any such agreements, contracts, instruments or documents;
- (f) To exercise for and on behalf of the Limited Liability Company all the General Powers granted by law to the Limited Liability Company;
- (g) To take such other action as the Management deems necessary and appropriate to carry out the purposes of the Limited Liability Company or this Agreement; and
- (h) Manager shall not pledge, mortgage, sell or transfer any assets of the Limited Liability Company without the affirmative vote of at least ninety percent in Interest of the Members.

Section 03 Removal.

Subject to Article IX hereof: The Managers may be removed or discharged by the Members whenever in their judgment the best interests of the Limited Liability Company would be served thereby upon the affirmative vote of ninety percent in Interest of the Members.

Article V. MEMBERSHIP INTEREST

Section 01 Contribution to Capital.

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The Member contributions to the capital of the Limited Liability Company may be paid for, wholly or partly, by cash, by personal property, or by real property, or services rendered. By unanimous consent of the Members, other forms of contributions to capital of a Limited Liability company authorized by law may be authorized or approved. Upon receipt of the total amount of the contribution to capital, the contribution shall be declared and taken to be full paid and not liable to further call, nor shall the holder thereof be liable for any further payments on account of that contribution. Members may be subject to additional contributions to capital as determined by the unanimous approval of Members.

Section 02 Transfer or Assignment of Membership Interest.

A Member's interest in the Limited Liability Company is personal property. Except as otherwise provided in this Agreement, a Member's interest may be transferred or assigned. If the other (non-transferring) Members of the Limited Liability Company other than the Member proposing to dispose of his/her interest do not approve of the proposed transfer or assignment by unanimous written consent, the transferee of the Member's interest has no right to participate in the management of the business and affairs of the Limited Liability Company or to become a member. The transferee is only entitled to receive the share of profits or other compensation by way of income, and the return of contributions, to which that Member would otherwise be entitled.

A Substituted Member is a person admitted to all the rights of a Member who has died or has assigned his/her interest in the Limited Liability Company with the approval of all the Members of the Limited Liability Company by the affirmative vote of at least ninety percent in Interest of the members. The Substituted Member shall have all the rights and powers and is subject to all the restrictions and liabilities of his/her assignor.

Section 3. Right of First Refusal for Sales of Interests by Members. Payment of Purchase Price.

The payment of the purchase price shall be in cash or, if non-cash consideration is used, it shall be subject to this Article V, Section 3 and Section 4.

Section 4. Purchase or Sell Right among Members.

In the event that a Member is willing to purchase the Remaining Member's Interest in the Company then the procedures and terms of Section 4.2 shall apply.

Section 4.1 Definitions

Offering Member means the member who offers to purchase the Membership Interest(s) of the Remaining Member(s). "Remaining Members" means the Members who received an offer (from Offering Member) to sell their shares.

"COP" means "cost of purchase" as it specified in the escrow closing statement at the time of purchase of each property owned by the Company.

"Seller" means the Member that accepts the offer to sell his or its Membership Interest.

"FMV" means "fair market value" obtained as specified in section 4.2

Section 4.2 Purchase or Sell Procedure.

Any Member ("Offering Member") may give notice to the Remaining Member(s) that he or it is ready, willing and able to purchase the Remaining Members' Interests for a price the Offering

Member thinks is the fair market value. The terms to be all cash and close escrow within 30 days of the acceptance.

If the offered price is not acceptable to the Remaining Member(s), within 30 days of receiving the offer, the Remaining Members (or any of them) can request to establish FMV based on the following procedure. The Remaining Member(s) must provide the Offering Member the complete information of 2 MIA appraisers. The Offering Member must pick one of the appraisers to appraise the property and furnish a copy to all Members. The Offering Member also must provide the Remaining Members with the complete information of 2 MIA approved appraisers. The Remaining Members must pick one of the appraisers to appraise the property and furnish a copy to all Members. The medium of these 2 appraisals constitute the fair market value of the property which is called (FMV).

The Offering Member has the option to offer to purchase the Remaining Member's share at FMV as determined by Section 4.2, based on the following formula.

$(FMV - COP) \times 0.5$ plus capital contribution of the Remaining Member(s) at the time of purchasing the property minus prorated liabilities.

The Remaining Member(s) shall have 30 days within which to respond in writing to the Offering Member by either

- (i) Accepting the Offering Member's purchase offer; or,
- (ii) Rejecting the purchase offer and making a counteroffer to purchase the interest of the Offering Member based upon the same fair market value (FMV) according to the following formula.

$(FMV - COP) \times 0.5$ + capital contribution of the Offering Member(s) at the time of purchasing the property minus prorated liabilities.

The specific intent of this provision is that, once the Offering Member presented his or its offer to the Remaining Members, then the Remaining Members shall either sell or buy at the same offered price (or FMV if appraisal is invoked) and according to the procedure set forth in Section 4. In the case that the Remaining Member(s) decide to purchase, then Offering Member shall be obligated to sell his or its Member interests to the remaining Member(s).

Section 4.3 Failure To Respond Constitutes Acceptance.

Failure by all or any of the Remaining Members to respond to the Offering Member's notice within the thirty (30 day) period shall be deemed to constitute an acceptance of the Offering Member.

Section 5. Return of Contributions to Capital.

Return to a Member of his/her contribution to capital shall be as determined and permitted by law and this Agreement.

Section 6. Addition of New Members.

A new Member may be admitted into the Company only upon consent of at least ninety percent in interest of the Members. The amount of Capital Contribution which must be made by a new Member shall be determined by the vote of all existing Members.

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A new Member shall not be deemed admitted into the Company until the Capital Contribution required of such person has been made and such person has become a party to this agreement.

DISTRIBUTION OF PROFITS

Section 03 Qualifications and Conditions.

The profits of the Limited Liability Company shall be distributed to the Members, from time to time, as permitted under law and as determined by the Manager, provided however, that all distributions shall in accordance with Exhibit B, attached hereto and incorporated by reference herein.

Section 04 Record Date.

The Record Date for determining Members entitled to receive payment of any distribution of profits shall be the day in which the Manager adopts the resolution for payment of a distribution of profits. Only Members of record on the date so fixed are entitled to receive the distribution notwithstanding any transfer or assignment of Member's interests or the return of contribution to capital to the Member after the Record Date fixed as aforesaid, except as otherwise provided by law.

Section 05 Participation in Distribution of Profit.

Each Member's participation in the distribution shall be in accordance with Exhibit B, subject to the Tax Provisions set forth in Exhibit A.

Section 06 Limitation on the Amount of Any Distribution of Profit.

In no event shall any distribution of profit result in the assets of the Limited Liability Company being less than all the liabilities of the Limited Liability Company, on the Record Date, excluding liabilities to Members on account of their contributions to capital or be in excess of that permitted by law.

Section 07 Date of Payment of Distribution of Profit.

Unless another time is specified by the applicable law, the payment of distributions of profit shall be within thirty (30) days of after the Record Date.

Article VI.

ISSUANCE OF MEMBERSHIP INTEREST CERTIFICATES

Section 01 Issuance of Certificate of Interest.

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The interest of each Member in the Company shall be represented by a Certificate of Interest (also referred to as the Certificate of Membership Interest or the Certificate). Upon the execution of this Agreement and the payment of a Capital Contribution by the Member, the Management shall cause the Company to issue one or more Certificates in the name of the Member certifying that he/she/it is the record holder of the Membership Interest set forth therein.

Section 02 Transfer of Certificate of Interest.

A Membership Interest which is transferred in accordance with the terms of Section 2 of Article V of this Agreement shall be transferable on the books of the Company by the record holder thereof in person or by such record holder's duly authorized attorney, but, except as provided in Section 3 of this Article with respect to lost, stolen or destroyed certificates, no transfer of a Membership Interest shall be entered until the previously issued Certificate representing such Interest shall have been surrendered to the Company and cancelled and a replacement Certificate issued to the assignee of such Interest in accordance with such procedures as the Management may establish. The management shall issue to the transferring Member a new Certificate representing the Membership Interest not being transferred by the Member, in the event such Member only transferred some, but not all, of the Interest represented by the original Certificate. Except as otherwise required by law, the Company shall be entitled to treat the record holder of a Membership Interest Certificate on its books as the owner thereof for all purposes regardless of any notice or knowledge to the contrary,

Section 03 Lost, Stolen or Destroyed Certificates.

The Company shall issue a new Membership Interest Certificate in place of any Membership Interest Certificate previously issued if the record holder of the Certificate:

- (a) makes proof by affidavit, in form and substance satisfactory to the Management, that a previously issued Certificate has been lost, destroyed or stolen;
- (b) requests the issuance of a new Certificate before the Company has notice that the Certificate has been acquired by a purchaser for value in good faith and without notice of an adverse claim;
- (c) Satisfies any other reasonable requirements imposed by the Management.

If a Member fails to notify the Company within a reasonable time after it has notice of the loss, destruction or theft of a Membership Interest Certificate, and a transfer of the Interest represented by the Certificate is registered before receiving such notification, the Company shall have no liability with respect to any claim against the Company for such transfer or for a new Certificate.

Article VII. AMENDMENTS

Section 01 Amendment of Articles of Organization.

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Notwithstanding any provision to the contrary in the Articles of Organization or this Agreement, but subject to Article IX hereof, in no event shall the Articles of Organization be amended without the vote of Members representing at least ninety percent (90%) of the Members Interests.

Section 02 Amendment, Etc. of Operating Agreement.

This Agreement may be adopted, altered, amended or repealed and a new Operating Agreement may be adopted by at least ninety percent in Interest of the Members, subject to Article IX.

Article VIII.

COVENANTS WITH RESPECT TO, INDEBTEDNESS, OPERATIONS, AND FUNDAMENTAL CHANGES

The provisions of this Article IX and its Sections and Subsections shall control and supercede any contrary or conflicting provisions contained in other Articles in this Agreement or in the Company's Articles of Organization or any other organizational document of the Company.

Section 01 Title to Company Property.

All property owned by the Company shall be owned by the Company as an entity and, insofar as permitted by applicable law, no Member shall have any ownership interest in any Company property in its individual name or right, and each member's interest in the Company shall be personal property for all purposes for that member.

Section 02 Effect of Bankruptcy, Death or Incompetency of a Member.

The bankruptcy, death, dissolution, liquidation, termination or adjudication of incompetency of a Member shall not cause the termination or dissolution of the Company and the business of the Company shall continue. Upon any such occurrence, the trustee, receiver, executor, administrator, committee, guardian or conservator of such Member shall have all the rights of such Member for the purpose of settling or managing its estate or property, subject to satisfying conditions precedent to the admission of such assignee as a substitute member. The transfer by such trustee, receiver, executor, administrator, committee, guardian or conservator of any Company interest shall be subject to all of the restrictions hereunder to which such transfer would have been subject if such transfer had been made by such bankrupt, deceased, dissolved, liquidated, terminated or incompetent member.

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Article X.
MISCELLANEOUS

a. Fiscal Year.

The Members shall have the paramount power to fix, and from time to time, to change, the Fiscal Year of the Limited Liability Company. In the absence of action by the Members, the fiscal year of the Limited Liability Company shall be on a calendar year basis and end each year on December 31 until such time, if any, as the Fiscal Year shall be changed by the Members, and approved by Internal Revenue service and the State of Formation.

b. Financial Statements; Statements of Account.

Within ninety (90) business days after the end of each Fiscal Year, the Manager shall send to each Member who was a Member in the Limited Liability Company at any time during the Fiscal Year then ended an unaudited statement of assets, liabilities and Contributions To Capital as of the end of such Fiscal Year and related unaudited statements of income or loss and changes in assets, liabilities and Contributions to Capital. Within forty, five (45) days after each fiscal quarter of the Limited Liability Company, the Manager shall mail or otherwise deliver to each Member an unaudited report providing narrative and summary financial information with respect to the Limited Liability Company. Annually, the Manager shall cause appropriate federal and applicable state tax returns to be prepared and filed. The Manager shall mail or otherwise deliver to each Member who was a Member in the Limited Liability Company at any time during the Fiscal Year a copy of the tax return, including all schedules thereto. The Manager may extend such time period in its sole discretion if additional time is necessary to furnish complete and accurate information pursuant to this Section. Any Member or Manager shall the right to inspect all of the books and records of the Company, including tax filings, property management reports, bank statements, cancelled checks, invoices, purchase orders, check ledgers, savings accounts, investment accounts, and checkbooks, whether electronic or paper, provided such Member complies with Article II, Section 4.

c. Events Requiring Dissolution.

The following events shall require dissolution winding up the affairs of the Limited Liability Company:

- i. When the period fixed for the duration of the Limited Liability Company expires as specified in the Articles of Organization.

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d. Choice of Law.

IN ALL RESPECTS THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEVADA INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY, PERFORMANCE AND THE RIGHTS AND INTERESTS OF THE PARTIES UNDER THIS AGREEMENT WITHOUT REGARD TO THE PRINCIPLES GOVERNING CONFLICTS OF LAWS, UNLESS OTHERWISE PROVIDED BY WRITTEN AGREEMENT.

e. Severability.

If any of the provisions of this Agreement shall contravene or be held invalid or unenforceable, the affected provision or provisions of this Agreement shall be construed or restricted in its or their application only to the extent necessary to permit the rights, interest, duties and obligations of the parties hereto to be enforced according to the purpose and intent of this Agreement and in conformance with the applicable law or laws.

f. Successors and Assigns.

Except as otherwise provided, this Agreement shall be binding upon and inure to the benefit of the parties and their legal representative, heirs, administrators, executors and assigns.

g. Non-waiver.

No provision of this Agreement shall be deemed to have been waived unless such waiver is contained in a written notice given to the party claiming such waiver has occurred, provided that no such waiver shall be deemed to be a waiver of any other or further obligation or liability of the party or parties in whose favor the waiver was given.

h. Captions.

Captions contained in this Agreement are inserted only as a matter of convenience and in no way define, limit or extend the scope or intent of this Agreement or any provision hereof.

i. Counterparts.

This Agreement may be executed in several counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. It shall not be necessary for all Members to execute the same counterpart hereof.

j. Definition of Words.

Wherever in this agreement the term he/she is used, it shall be construed to mean also it's as pertains to a corporation member.

k. Membership.

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A corporation, partnership, limited liability company, limited liability partnership or individual may be a Member of this Limited Liability Company.

I. Tax Provisions.

The provisions of Exhibit A, attached hereto are incorporated by reference as if fully rewritten herein.

ARTICLE XI **INDEMNIFICATION AND INSURANCE**

Section 1. Indemnification: Proceeding Other than by Company. The Company may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, except an action by or in the right of the Company, by reason of the fact that he or she is or was a Manager, Member, officer, employee or agent of the Company, or is or was serving at the request of the Company as a manager, member, shareholder, director, officer, partner, trustee, employee or agent of any other Person, joint venture, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him or her in connection with the action, suit or proceeding if he or she acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, does not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company, and that, with respect to any criminal action or proceeding, he or she had reasonable cause to believe that his or her conduct was unlawful.

Section 2. Indemnification: Proceeding by Company. The Company may indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Company to procure a judgment in its favor by reason of the fact that he or she is or was a Manager, Member, officer, employee or agent of the Company, or is or was serving at the request of the Company as a manager, member, shareholder, director, officer, partner, trustee, employee or agent of any other Person, joint venture, trust or other enterprise against expenses, including amounts paid in settlement and attorneys' fees actually and reasonably incurred by him or her in connection with the defense or settlement of the action or suit if he or she acted in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Company. Indemnification may not be made for any claim, issue or matter as to which such a person has been adjudged by a court of competent jurisdiction, after exhaustion of all appeals there from, to be liable to the Company or for amounts paid in settlement to the Company, unless and only to the extent that the court in which the action or suit was brought or other court of competent jurisdiction determines upon application that in view of all the circumstances of the case, the person is fairly and reasonably entitled to indemnity for such expenses as the court deems proper.

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Section 3. Mandatory Indemnification. To the extent that a Manager, Member, officer, employee or agent of the Company has been successful on the merits or otherwise in defense of any action, suit or proceeding described in Article XI, Sections 1 and 2, or in defense of any claim, issue or matter therein, he or she must be indemnified by the Company against expenses, including attorneys' fees, actually and reasonably incurred by him or her in connection with the defense.

Section 4. Authorization of Indemnification. Any indemnification under Article XI, Sections 1 and 2, unless ordered by a court or advanced pursuant to Section 5, may be made by the Company only as authorized in the specific case upon a determination that indemnification of the Manager, Member, officer, employee or agent is proper in the circumstances. The determination must be made by a majority of the Members if the person seeking indemnity is not a majority owner of the Member Interests or by independent legal counsel selected by the Manager in a written opinion.

Section 5. Mandatory Advancement of Expenses. The expenses of Managers, Members and officers incurred in defending a civil or criminal action, suit or proceeding must be paid by the Company as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the Manager, Member or officer to repay the amount if it is ultimately determined by a court of competent jurisdiction that he or she is not entitled to be indemnified by the Company. The provisions of this Section 5 do not affect any rights to advancement of expenses to which personnel of the Company other than Managers, Members or officers may be entitled under any contract or otherwise.

Section 6. Effect and Continuation. The indemnification and advancement of expenses authorized in or ordered by a court pursuant to Article XI, Sections 1 - 5, inclusive:

(A) Does not exclude any other rights to which a person seeking indemnification or advancement of expenses may be entitled under the Articles of Organization or any limited liability company agreement, vote of Members or disinterested Managers, if any, or otherwise, for either an action in his or her official capacity or an action in another capacity while holding his or her office, except that indemnification, unless ordered by a court pursuant to Article XI, Section 2 or for the advancement of expenses made pursuant to Section Article XI, may not be made to or on behalf of any Member, Manager or officer if a final adjudication establishes that his or her acts or omissions involved intentional misconduct, fraud or a knowing violation of the law and was material to the cause of action.

(B) Continues for a person who has ceased to be a Member, Manager, officer, employee or agent and inures to the benefit of his or her heirs, executors and administrators.

(C) Notice of Indemnification and Advancement. Any indemnification of, or advancement of expenses to, a Manager, Member, officer, employee or agent of the Company in accordance with this Article XI, if arising out of a proceeding by or on behalf of the Company, shall be reported in writing to the Members with or before the notice of the next Members' meeting.

(D) Repeal or Modification. Any repeal or modification of this Article XI by the Members of the Company shall not adversely affect any right of a Manager, Member, officer, employee or agent of the Company existing hereunder at the time of such repeal or modification.

ARTICLE XII

INVESTMENT REPRESENTATIONS; PRIVATE OFFERING EXEMPTION

Each Member, by his or its execution of this Agreement, hereby represents and warrants to, and agrees with, the Managers, the other Members and the Company as follows:

Section 1. Pre-existing Relationship or Experience. (i) Such Member has a preexisting personal or business relationship with the Company or one or more of its officers or control persons or (ii) by reason of his or its business or financial experience, or by reason of the business or financial experience of his or its financial advisor who is unaffiliated with and who is not compensated, directly or indirectly, by the Company or any affiliate or selling agent of the Company, such Member is capable of evaluating the risks and merits of an investment in the Company and of protecting his or its own interests in connection with this investment.

Section 2. No Advertising. Such Member has not seen, received, been presented with or been solicited by any leaflet, public promotional meeting, newspaper or magazine article or advertisement, radio or television advertisement, or any other form of advertising or general solicitation with respect to the offer or sale of Interests in the Company.

Section 3. Investment Intent. Such Member is acquiring the Interest for investment purposes for his or its own account only and not with a view to or for sale in connection with any distribution of all or any part of the Interest.

Section 4. Economic Risk. Such Member is financially able to bear the economic risk of his or its investment in the Company, including the total loss thereof.

Section 5. No Registration of Units. Such Member acknowledges that the Interests have not been registered under the Securities Act of 1933, as amended (the "Securities Act"), or qualified under any state securities law or under the laws of any other jurisdiction, in reliance, in part, on such Member's representations, warranties and agreements herein.

Section 6. No Obligation to Register. Such Member represents, warrants and agrees that the Company and the Managers are under no obligation to register or qualify the Interests under the Securities Act or under any state securities law or under the laws of any other jurisdiction, or to assist such Member in complying with any exemption from registration and qualification.

Section 7. No Disposition in Violation of Law. Without limiting the representations set forth above, and without limiting Article 12 of this Agreement, such Member will not make any disposition of all or any part of the Interests which will result in the violation by such Member or by the Company of the Securities Act or any other applicable securities laws. Without limiting the foregoing, each Member agrees not to make any disposition of all or any part of the Interests unless and until: (A) there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement and any applicable requirements of state securities laws; or (B) such Member has notified the Company of the proposed disposition and has furnished the Company with a detailed statement of the circumstances surrounding the proposed disposition, and if reasonably requested by the

Managers, such Member has furnished the Company with a written opinion of legal counsel, reasonably satisfactory to the Company, that such disposition will not require registration of any securities under the Securities Act or the consent of or a permit from appropriate authorities under any applicable state securities law or under the laws of any other jurisdiction.

Section 8. Financial Estimate and Projections. That it understands that all projections and financial or other materials which it may have been furnished are not based on historical operating results, because no reliable results exist, and are based only upon estimates and assumptions which are subject to future conditions and events which are unpredictable and which may not be relied upon in making an investment decision.

ARTICLE XIII

Preparation of Agreement.

Section 1. This Agreement has been prepared by David G. LeGrand, Esq. (the "Law Firm"), as legal counsel to the Company, and:

- (A) The Members have been advised by the Law Firm that a conflict of interest would exist among the Members and the Company as the Law Firm is representing the Company and not any individual members, and
- (B) The Members have been advised by the Law Firm to seek the advice of independent counsel; and
- (C) The Members have been represented by independent counsel or have had the opportunity to seek such representation; and
- (D) The Law Firm has not given any advice or made any representations to the Members with respect to any consequences of this Agreement; and
- (E) The Members have been advised that the terms and provisions of this Agreement may have tax consequences and the Members have been advised by the Law Firm to seek independent counsel with respect thereto; and
- (F) The Members have been represented by independent counsel or have had the opportunity to seek such representation with respect to the tax and other consequences of this Agreement.

IN WITNESS WHEREOF, the undersigned, being the Members of the above-named Limited Liability Company, have hereunto executed this Agreement as of the Effective Date first set forth above.

Member:

Shawn Bidsal

Shawn Bidsal, Member

CLA Properties, LLC

by

Benjamin Golshani

Benjamin Golshani, Manager

Manager/Management:

Shawn Bidsal

Shawn Bidsal, Manager

Benjamin Golshani

Benjamin Golshani, Manager

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TAX PROVISIONS

EXHIBIT A

1.1 Capital Accounts.

- 4.1.1 A single Capital Account shall be maintained for each Member (regardless of the class of Interests owned by such Member and regardless of the time or manner in which such Interests were acquired) in accordance with the capital accounting rules of Section 704(b) of the Code, and the regulations there under (including without limitation Section 1.704-1(b)(2)(iv) of the Income Tax Regulations). In general, under such rules, a Member's Capital Account shall be:
- 4.1.1.1 increased by (i) the amount of money contributed by the Member to the Company (including the amount of any Company liabilities that are assumed by such Member other than in connection with distribution of Company property), (ii) the fair market value of property contributed by the Member to the Company (net of liabilities secured by such contributed property that under Section 752 of the Code the Company is considered to assume or take subject to), and (iii) allocations to the Member of Company income and gain (or item thereof), including income and gain exempt from tax; and
- 4.1.1.2 decreased by (i) the amount of money distributed to the Member by the Company (including the amount of such Member's individual liabilities that are assumed by the Company other than in connection with contribution of property to the Company), (ii) the fair market value of property distributed to the Member by the Company (net of liabilities secured by such distributed property that under Section 752 of the Code such Member is considered to assume or take subject to), (iii) allocations to the Member of expenditures of the Company not deductible in computing its taxable income and not properly chargeable to capital account, and (iv) allocations to the Member of Company loss and deduction (or item thereof).
- 4.1.2 Where Section 704(c) of the Code applies to Company property or where Company property is revalued pursuant to paragraph (b)(2)(iv)(f) of Section 1.704-1 of the Income Tax Regulations, each Member's Capital Account shall be adjusted in accordance with paragraph (b)(2)(iv)(g) of Section 1.704-1 of the Income Tax Regulations as to allocations to the Members of depreciation, depletion, amortization and gain or loss, as computed for book purposes with respect to such property.
- 4.1.3 When Company property is distributed in kind (whether in connection with liquidation and dissolution or otherwise), the Capital Accounts of the Members shall first be adjusted to reflect the manner in which the unrealized income, gain, loss and deduction inherent in such property (that has not been

reflected in the Capital Account previously) would be allocated among the Members if there were a taxable disposition of such property for the fair market value of such property (taking into account Section 7701 (g) of the Code) on the date of distribution.

- 4.1.4 The Members shall direct the Company's accountants to make all necessary adjustments in each Member's Capital Account as required by the capital accounting rules of Section 704(b) of the Code and the regulations there under.

5

ALLOCATION OF PROFITS AND LOSSES; TAX AND ACCOUNTING MATTERS

5.1 Allocations. Each Member's distributive share of income, gain, loss, deduction or credit (or items thereof) of the Company as shown on the annual federal income tax return prepared by the Company's accountants or as finally determined by the United States Internal Revenue Service or the courts, and as modified by the capital accounting rules of Section 704(b) of the Code and the Income Tax Regulations there under, as implemented by Section 8.5 hereof, as applicable, shall be determined as follows:

5.1.1 Allocations. Except as otherwise provided in this Section 1.1:

5.1.1.1 items of income, gain, loss, deduction or credit (or items thereof) shall be allocated among the members in proportion to their Percentage Interests as set forth in Exhibit "B", subject to the Preferred Allocation schedule contained in Exhibit "B", except that items of loss or deduction allocated to any Member pursuant to this Section 2.1 with respect to any taxable year shall not exceed the maximum amount of such items that can be so allocated without causing such Member to have a deficit balance in his or its Capital Account at the end of such year, computed in accordance with the rules of paragraph (b)(2)(ii)(d) of Section 1.704-1 of the Income Tax Regulations. Any such items of loss or deduction in excess of the limitation set forth in the preceding sentence shall be allocated as follows and in the following order of priority:

5.1.1.1.1 first, to those Members who would not be subject to such limitation, in proportion to their Percentage Interests, subject to the Preferred Allocation schedule contained in Exhibit "B"; and

5.1.1.1.2 Second, any remaining amount to the Members in the manner required by the Code and Income Tax Regulations.

Subject to the provisions of subsections 2.1.2 – 2.1.11, inclusive, of this Agreement, the items specified in this Section 1.1 shall be allocated to the

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Members as necessary to eliminate any deficit Capital Account balances and thereafter to bring the relationship among the Members' positive Capital Account balances in accord with their pro rata interests.

- 5.1.2 Allocations With Respect to Property Solely for tax purposes, in determining each Member's allocable share of the taxable income or loss of the Company, depreciation, depletion, amortization and gain or loss with respect to any contributed property, or with respect to revalued property where the Company's property is revalued pursuant to paragraph (b)(2)(iv)(f) of Section 1.704-1 of the Income Tax Regulations, shall be allocated to the Members in the manner (as to revaluations, in the same manner as) provided in Section 704(c) of the Code. The allocation shall take into account, to the full extent required or permitted by the Code, the difference between the adjusted basis of the property to the Member contributing it (or, with respect to property which has been revalued, the adjusted basis of the property to the Company) and the fair market value of the property determined by the Members at the time of its contribution or revaluation, as the case may be.
- 5.1.3 Minimum Gain Chargeback. Notwithstanding anything to the contrary in this Section 2.1, if there is a net decrease in Company Minimum Gain or Company Nonrecourse Debt Minimum Gain (as such terms are defined in Sections 1.704-2(b) and 1.704-2(i)(2) of the Income Tax Regulations, but substituting the term "Company" for the term "Partnership" as the context requires) during a Company taxable year, then each Member shall be allocated items of Company income and gain for such year (and, if necessary, for subsequent years) in the manner provided in Section 1.704-2 of the Income Tax Regulations. This provision is intended to be a "minimum gain chargeback" within the meaning of Sections 1.704-2(f) and 1.704-2(i)(4) of the Income Tax Regulations and shall be interpreted and implemented as therein provided.
- 5.1.4 Qualified Income Offset. Subject to the provisions of subsection 2.1.3, but otherwise notwithstanding anything to the contrary in this Section 2.1, if any Member's Capital Account has a deficit balance in excess of such Member's obligation to restore his or its Capital Account balance, computed in accordance with the rules of paragraph (b)(2)(ii)(d) of Section 1.704-1 of the Income Tax Regulations, then sufficient amounts of income and gain (consisting of a pro rata portion of each item of Company income, including gross income, and gain for such year) shall be allocated to such Member in an amount and manner sufficient to eliminate such deficit as quickly as possible. This provision is intended to be a "qualified income offset" within the meaning of Section 1.704-1(b)(2)(ii)(d) of the Income Tax Regulations and shall be interpreted and implemented as therein provided.
- 5.1.5 Depreciation Recapture. Subject to the provisions of Section 704(c) of the Code and subsections 2.1.2 – 2.1.4, inclusive, of this Agreement, gain recognized (or deemed recognized under the provisions hereof) upon the sale

or other disposition of Company property, which is subject to depreciation recapture, shall be allocated to the Member who was entitled to deduct such depreciation.

- 5.1.6 Loans If and to the extent any Member is deemed to recognize income as a result of any loans pursuant to the rules of Sections 1272, 1273, 1274, 7872 or 482 of the Code; or any similar provision now or hereafter in effect, any corresponding resulting deduction of the Company shall be allocated to the Member who is charged with the income. Subject to the provisions of Section 704(c) of the Code and subsections 2.1.2 – 2.1.4, inclusive, of this Agreement, if and to the extent the Company is deemed to recognize income as a result of any loans pursuant to the rules of Sections 1272, 1273, 1274, 7872 or 482 of the Code, or any similar provision now or hereafter in effect, such income shall be allocated to the Member who is entitled to any corresponding resulting deduction.
- 5.1.7 Tax Credits Tax credits shall generally be allocated according to Section 1.704-1(b)(4)(ii) of the Income Tax Regulations or as otherwise provided by law. Investment tax credits with respect to any property shall be allocated to the Members pro rata in accordance with the manner in which Company profits are allocated to the Members under subsection 2.1.1 hereof, as of the time such property is placed in service. Recapture of any investment tax credit required by Section 47 of the Code shall be allocated to the Members in the same proportion in which such investment tax credit was allocated.
- 5.1.8 Change of Pro Rata Interests. Except as provided in subsections 2.1.6 and 2.1.7 hereof or as otherwise required by law, if the proportionate interests of the Members of the Company are changed during any taxable year, all items to be allocated to the Members for such entire taxable year shall be prorated on the basis of the portion of such taxable year which precedes each such change and the portion of such taxable year on and after each such change according to the number of days in each such portion, and the items so allocated for each such portion shall be allocated to the Members in the manner in which such items are allocated as provided in section 2.1.1 during each such portion of the taxable year in question.
- 5.1.9 Effect of Special Allocations on Subsequent Allocations. Any special allocation of income or gain pursuant to subsections 2.1.3 or 2.1.4 hereof shall be taken into account in computing subsequent allocations of income and gain pursuant to this Section 9.1 so that the net amount of all such allocations to each Member shall, to the extent possible, be equal to the net amount that would have been allocated to each such Member pursuant to the provisions of this Section 2.1 if such special allocations of income or gain under subsection 2.1.3 or 2.1.4 hereof had not occurred.
- 5.1.10 Nonrecourse and Recourse Debt. Items of deduction and loss attributable to Member nonrecourse debt within the meaning of Section 1.7042(b)(4) of the

Income Tax Regulations shall be allocated to the Members bearing the economic risk of loss with respect to such debt in accordance with Section 1704-2(i)(1) of the Income Tax Regulations. Items of deduction and loss attributable to recourse liabilities of the Company, within the meaning of Section 1.752-2 of the Income Tax Regulations, shall be allocated among the Members in accordance with the ratio in which the Members share the economic risk of loss for such liabilities.

- 5.1.11 State and Local Items. Items of income, gain, loss, deduction, credit and tax preference for state and local income tax purposes shall be allocated to and among the Members in a manner consistent with the allocation of such items for federal income tax purposes in accordance with the foregoing provisions of this Section 2.1.

- 5.2 Accounting Matters. The Managers or, if there be no Managers then in office, the Members shall cause to be maintained complete books and records accurately reflecting the accounts, business and transactions of the Company on a calendar-year basis and using such cash, accrual, or hybrid method of accounting as in the judgment of the Manager, Management Committee or the Members, as the case may be, is most appropriate; provided, however, that books and records with respect to the Company's Capital Accounts and allocations of income, gain, loss, deduction or credit (or item thereof) shall be kept under U.S. federal income tax accounting principles as applied to partnerships.

5.3 Tax Status and Returns.

- 5.3.1 Any provision hereof to the contrary notwithstanding, solely for United States federal income tax purposes, each of the Members hereby recognizes that the Company may be subject to the provisions of Subchapter K of Chapter 1 of Subtitle A of the Code; provided, however, the filing of U.S. Partnership Returns of Income shall not be construed to extend the purposes of the Company or expand the obligations or liabilities of the Members.
- 5.3.2 The Manager(s) shall prepare or cause to be prepared all tax returns and statements, if any, that must be filed on behalf of the Company with any taxing authority, and shall make timely filing thereof. Within one-hundred twenty (120) days after the end of each calendar year, the Manager(s) shall prepare or cause to be prepared and delivered to each Member a report setting forth in reasonable detail the information with respect to the Company during such calendar year reasonably required to enable each Member to prepare his or its federal, state and local income tax returns in accordance with applicable law then prevailing.
- 5.3.3 Unless otherwise provided by the Code or the Income Tax Regulations there under, the current Manager(s), or if no Manager(s) shall have been elected, the Member holding the largest Percentage Interest, or if the Percentage Interests be equal, any Member shall be deemed to be the "Tax Matters

Member." The Tax Matters Member shall be the "Tax Matters Partner" for U.S. federal income tax purposes.

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EXHIBIT B

Member's Percentage Interest	Member's Capital Contributions
Shawn Bidsal 50%	\$ 1,215,000 _____ (30% of capital)
CLA Properties, LLC 50%	\$ 2,834,250 _____ (70% of capital)

PREFERRED ALLOCATION AND DISTRIBUTION SCHEDULE

Cash Distributions from capital transactions shall be distributed per the following method between the members of the LLC. Upon any refinancing event, and upon the sale of Company asset, cash is distributed according to a "Step-down Allocation." Step-down means that, step-by-step, cash is allocated and distributed in the following descending order of priority, until no more cash remains to be allocated. The Step-down Allocation is:

First Step, payment of all current expenses and/or liabilities of the Company;

Second Step, to pay in full any outstanding loans (unless distribution is the result of a refinance) held with financial institutions or any company loans made from Manager(s) or Member(s).

Third Step, to pay each Member an amount sufficient to bring their capital accounts to zero, pro rata based upon capital contributions.

Final Step, After the Third Step above, any remaining net profits or excess cash from sale or refinance shall be distributed to the Members fifty percent (50%) to Shawn Bidsal and fifty percent (50%) to CLA Properties, LLC.

Losses shall be allocated according to Capital Accounts.

Cash Distributions of Profits from operations shall be allocated and distributed fifty percent (50%) to Shawn Bidsal and fifty percent (50%) to CLA Properties, LLC

It is the express intent of the parties that "Cash Distributions of Profits" refers to distributions generated from operations resulting in ordinary income in contrast to Cash Distributions arising from capital transactions or non-recurring events such as a sale of all or a substantial portion of the Company's assets or cash out financing.

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EXHIBIT “2”

EXHIBIT “2”

IAMS ARBITRATION NO. 1260004569

CLA PROPERTIES, LLC,
Claimant and Counter-Respondent,

vs.

SHAWN BIDSAL,
Respondent and Counterclaimant.

FINAL AWARD

THE UNDERSIGNED ARBITRATOR, having been duly designated to be the Arbitrator in accordance with the arbitration provision of Article III, Section 14.1 of the Operating Agreement, dated June 15, 2011, of Green Valley Commerce, LLC, a Nevada LLC ("Green Valley"), based on careful consideration of the evidence adduced during and following the May 8-9, 2018 evidentiary sessions of the Merits Hearing of the Arbitration Hearing of this arbitration, applicable law, the written submissions of the parties, and good cause appearing, makes the following findings of fact, conclusions of law and determinations ("determinations") and this Final Award ("Award"), as follows.

DETERMINATIONS

1. The determinations in this Award are the determinations by the Arbitrator, which the Arbitrator has determined to be true, correct, necessary and/or appropriate for purposes of this Award. To the extent that the Arbitrator's determinations differ from any party's positions, that is the result of determinations as to relevance, burden of proof considerations, the weighing of the evidence, etc.

To the extent, if any, that any determinations set forth in this Award are inconsistent or otherwise at variance with any prior determination in the Interim Award, Merits Order No. 1 or any prior order or ruling of the Arbitrator, the determination(s) in this Award shall govern and prevail in each and every such instance.

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JURISDICTION, PARTIES, AND MERITS ORDER NO. 1

2. Pursuant to Rule 11(b) of the JAMS Comprehensive Arbitration Rules and Procedures --- which govern this arbitration and which Rules the Arbitrator has the authority and discretion to exercise, as here¹ --- the Arbitrator has the jurisdiction and has exercised his jurisdiction to determine his arbitral jurisdiction, which has been determined to be as follows:

The Arbitrator has and has had continuing jurisdiction over the subject matter and over the parties to the arbitration, who/which are Claimant and Counter- Respondent CLA Properties, LLC, a California limited liability company ("CLA") and Respondent and Counterclaimant Sharam Bidsal, also known as Shawn Bidsal, an individual. ("Mr. Bidsal").

CLA has been represented by the Law Offices of Rodney T. Lewin and Rodney T. Lewin, Esq. and Richard D. Agay, Esq. of that firm, whose address is 8665 Wilshire Blvd., Ste. 210, Beverly Hills, CA 90211-2931, and Levine, Garfinkel & Eckersely and Louis E. Garfinkel, Esq. of that firm, whose address is 1671 W. Horizon Ridge Pkwy, Ste. 220, Henderson, NV 89012.

Mr. Bidsal has been represented by Smith & Shapiro, PLLC and James E. Shapiro, Esq. of that firm, whose address is 2222 E. Seren Ave., Ste. 130, Henderson, NV 89074, and Goodkin & Lynch, LLP and Daniel L. Goodkin, Esq. of that firm, whose address is 1800 Century Park East, 10th Fl., Los Angeles, CA 90067.

On October 10, 2018, the Arbitrator rendered and JAMS issued Merits Order No. 1, and on February 22, 2019, the Arbitrator rendered and JAMS issued the Interim Award in this arbitration. The Interim Award and Merits Order No. 1 contained the Arbitrator's determinations and written decision as to relief to be granted and denied, based on the evidence adduced evidentiary sessions of the Merits Hearing of the Arbitration Hearing held on May 8-9, 2018,²

¹ JAMS Comprehensive Arbitration Rule 11(b) provides as follows:

"Jurisdictional and arbitrability disputes, including disputes over the formation, existence, validity, interpretation or scope of the agreement under which Arbitration is sought, and who are proper Parties to the Arbitration, shall be submitted to and ruled on by the Arbitrator. Unless the relevant law requires otherwise, the Arbitrator has the authority to determine jurisdiction and arbitrability issues as a preliminary matter."

² The evidentiary sessions of the Merits Hearing were held in Las Vegas, Nevada, at the insistence of Mr. Bidsal, notwithstanding that the individual principals (including Mr. Bidsal), CLA's lead counsel and the Arbitrator are residents of Southern California.

applicable law, and extensive post-evidentiary submissions of the parties. One of the determinations was and remains that CLA is the prevailing party in this arbitration.

March 7, 2019 is hereby declared to be the date for last briefs in this arbitration and the date as of which the Arbitrator hereby declares the Arbitration Hearing (including the Merits Hearing thereof) closed. See JAMS Comprehensive Arbitration Rule 24(h).

The Arbitrator shall continue to maintain jurisdiction over the parties concerning the subject matter of this arbitration until the last day permitted by law and JAMS Comprehensive Arbitration Rules & Procedures.

II FACTUAL CONTEXT

3. CLA and Mr. Bidsal are the sole members of Green Valley, LLC, a Nevada limited liability company ("Green Valley"), which owns and manages real property in Las Vegas, Nevada. At all relevant times, CLA and Mr. Bidsal have each owned a 50% Membership interest in Green Valley. CLA is wholly and solely owned by its principal, Benjamin Golshani ("Mr. Golshani").

4. Mr. Golshani on behalf of CLA and Mr. Bidsal executed an Operating Agreement for Green Valley, dated June 15, 2011. Exhibit 29. Section 4 of Article V of that Operating Agreement, captioned "Purchase or Sell Rights among Members" ("Section 4"), contains provisions permitting one member of Green Valley to initiate the purchase or sale of one member's interest by the other. Those Section 4 provisions were referred to by the parties and their joint attorney, David LeGrand, as "forced buy/sell" and "Dutch auction," whereby one of the members (designated as the "Offering Member") can offer to buy out the interest of the other based upon a valuation of the fair market value of the LLC set by the Offering Member in the offer. The other member (designated as the "Remaining Member") is then given the option to either buy or sell using the Offering Member's valuation, or the Remaining Member can demand an appraisal.

On July 7, 2017, Mr. Bidsal sent CLA a Section 4 written offer to buy CLA's 50% Green Valley membership interest, based on a "best estimate" valuation of \$5 million. On August 3, 2017 --- via timely Section 4 notice, in response to Mr. Bidsal's July 7 offer --- CLA elected to buy rather than sell a 50% Green Valley membership interest --- i.e., Mr. Bidsal's --- based upon Mr. Bidsal's \$5 million valuation, and thus without a requested appraisal. On August 7, 2017

--- response to CLA's election --- Mr. Bidsal refused to sell his Green Valley membership interest to CLA based on his \$5 million valuation, and "invoke[d] his right to establish the FMV by appraisal,"³ "in accordance with Article V, Section 4 of the Company's Operating Agreement."

III "CORE" ARBITRATION ISSUE

5. While this arbitration --- as briefed, tried, argued and resolved as a business/legal dispute thusly involving "pure" issues of contractual interpretation --- is also, significantly, a contentious, intra-familial dispute. Messrs. Bidsal and Golshani are first cousins, as well as each effectively owning 50% Membership Interests in Green Valley.

6. Mr. Bidsal contended that if CLA elected to buy his 50% Membership Interest rather than sell, Mr. Bidsal had the right to demand that the "FMV" portion of the Section 4 formula for determining price must be determined by an appraisal. CLA contended upon its election to purchase rather than sell, it has the right to purchase Mr. Bidsal's fifty percent (50%) Membership based upon the valuation made by Mr. Bidsal, as the Offering Member, and that the FMV portion of the Section 4 formula to determine price must be the same amount as set forth in Mr. Bidsal's offer, i.e. \$5 million, and that Mr. Bidsal should be ordered to transfer his Membership Interest based thereupon.

6. Thus, the "core" of the parties' dispute is whether or not Mr. Bidsal contractually agreed to sell, and can be legally compelled to sell, his 50% Membership Interest in Green Valley to CLA at a price computed via a contractual formula not in dispute, based on Mr. Bidsal's undisputed \$5 million "best estimate" of Green Valley's fair market valuation, as stated in Mr. Bidsal's July 7, 2017 written offer to purchase CLA's 50% Membership Interest in Green Valley --- without regard to a formal appraisal of Green Valley, which Mr. Bidsal has contended that the parties agreed that he had a contractual right to demand as a "counteroffered seller" under Section 4.2 of the Green Valley Operating Agreement.

³ The formula in Section 4 for determining price is stated twice, once if sale is by Remaining Member and once if sale is by Offering member. But whether the membership interest is sold by the Remaining Member or by the Offering Member, the formula for determining the price is the same, except that the identity of the selling Member, Remaining Member or Offering Member, is included: "(FMV - COP) x 0.5 plus capital contribution of the [selling] Member at the time of purchasing the property minus prorated liabilities."

7. Despite conflicting testimony and impeachment on cross-examination on both sides,⁴ the evidence presented during the evidentiary sessions materially assisted the Arbitrator in reaching the interpretative determinations set forth in this Award concerning the pivotal "buy-sell" provisions set forth in Section 4.2 of the Green Valley Operating Agreement --- which, as a result of collective drafting over a six-month period, was not a model of clarity, which precluded the granting of both sides' Rule 18 cross-motions, based on Section 4.2.

8. The "forced buy-sell" agreement, or so-called "Dutch auction," is common among partners in business entities like partnerships, joint ventures, LLC's, close corporations --- a primary purpose of which is to impose fairness and discipline among partners considering maneuvering, via pre-agreed procedures and consequences. If not careful and fair, the Dutch auction imposes a risk of one "overplaying one's hand" --- such that an intended buyer might end up becoming an unintended seller, at a price below, possibly well below, the price at which the partner was motivated to buy the same Membership Interest, under the "buy-sell" procedures which he/she/it initiated. If the provisions work, as intended, the result might not be expertly authoritative or precise, but nevertheless a form of cost-effective "rough justice," when one partner "pulls the trigger" on separation, by initiating Section 4.2 procedures.

9. As amplified below, the parties' dispute and this arbitration have been a result and expression of "seller's remorse" by Mr. Bidsal --- after having initiated Section 4.2 procedures, of which he was the principal draftsman,⁵ in the belief that, after the completion of those procedures, he would be the buyer of the other 50% Membership Interest in Green Valley, based on his "best estimate of the [then] current fair market value of the Company," for calculation of the buy-out price, using the formula set out in Section 4.2.

⁴ Neither of the parties' Rule 18 positions that Section 4.2 of the Green Valley Operating Agreement unambiguously supported the asserting side's position on contractual interpretation was sustained after briefing and argument during an in-person hearing on the parties' cross-motions. The Rule 18 denials and the inability of the parties to reach requisite stipulations, following the Rule 18 hearing, required the in-person evidentiary sessions of the Merits Hearing --- which sessions were held on May 8-9, 2018 in Las Vegas, Nevada. The evidence adduced during those evidentiary sessions corroborated the Arbitrator's experience that trial of issues raised earlier in Rule 18 motions --- including via cross-examination of witnesses, which the Arbitrator regards as an engine of truth --- often results in the emergence of new and/or changed facts and circumstances which bear on resolution of what were Rule 18 issues.

⁵ While not dispositive, *per se*, the Arbitrator has materially determined that Mr. Bidsal controlled the final drafting of the Green Valley Commerce, LLC Operating Agreement, and thus should be deemed the principal drafter of Section 4.2 of that agreement.

10. As also amplified below, CLA Properties is the prevailing party on the merits of the parties' contentions in this Merits Hearing, based on the Arbitrator's principal contractual interpretation determinations that:

A. The clear, specific and express "specific intent" language of the last paragraph of Section 4.2 prevails over any earlier ambiguities about the contracting parties' Section 4.2 rights and obligations.

B. Mr. Bidsal's testimony, arguments and position in support of his having contractual appraisal rights appear to be "outcome determinative" in his favor. That is, they do not, as they apparently cannot, be logically applied in all instances contemplated by the Section 4.2 "buy-sell" provision, beyond the situation in which he was placed by Mr. Golshani's August 3, 2017 Section 4.2 response --- specifically, for example, in instances in which CLA either would have (1) timely accepted Mr. Bidsal's July 7, 2017 Section 4.2 offer to buy CLA's 50% Membership Interest in Green Valley or (2) deliberately, inadvertently or otherwise failed to timely or otherwise properly respond to that offer within the 30-day time limit set under Section 4.2. CLA's testimony, arguments and position in support of its contractual interpretation of the operative provisions of Section 4.2 not only are based on and consistent with the Section 4.2's "specific intent" language, they can be logically applied in all instances contemplated by the Section 4.2 "buy-sell" provision --- including beyond the situation created by the July 7/ August 3 Section 4.2 written offer/ response of the parties, which gave rise to the parties' dispute and this arbitration.

C. Mr. Bidsal contractually agreed to sell and can be legally compelled to sell and transfer his fifty percent (50%) Membership Interest in Green Valley to CLA at a price computed via the contractual formula set forth in Section 4.2 of the Green Valley Operating Agreement, based on Mr. Bidsal's undisputed \$5 million "best estimate" of Green Valley's fair market valuation, as stated in Mr. Bidsal's July 7, 2017 offer.

11. In a dispute between litigating partners or other parties, the testimony of third-party witnesses becomes important. That is especially so, when the third-party witness is unbiased and the drafting lawyer was jointly representing the contracting parties in connection with the preparation of the underlying contract in suit. David LeGrand was that lawyer, and the substance of his testimony is essentially the same as, and thus corroborates, CLA's contentions, supported by the testimony of CLA's principal, Mr. Golshani. Mr. LeGrand was not shown to be biased for or against either side in this matter. On cross-examination and on redirect, Mr. LeGrand testified that he had performed legal work for Mr. Golshani for a number of years, including during August 2017, but not recently, and that he had been asked to do legal work by

Mr. Bidsal within about six months of his testimony, and shortly prior to his deposition in connection with this arbitration, but that Mr. LeGrand was too busy to take on Mr. Bidsal's legal work.

12. A portion of Mr. LeGrand's deposition testimony --- which was read into the evidentiary session record, during Mr. LeGrand's hearing testimony on May 9, 2018 --- was that, at Mr. Golshani's instance, Messrs. Bidsal and Golshani agreed to a "forced buy-sell" in lieu of a right of first refusal for inclusion in the Green Valley Operating Agreement. Although he attempted to take back or resist his prior use of the word "forced" at hearing, Mr. LeGrand understood "buy-sell" to mean that an offeree partner, presented with an offer under the "buy-sell" provision of the LLC Operating Agreement, has
(A) the option to buy or sell at the price offered by the other/ offeror member and
(B) the contractual right to compel performance of that option, including at the price stated in offeror member's offer. That testimony is consistent with the "specific intent" language of Section 4.2 which Mr. LeGrand specially drafted, and which reads as follows:

"The specific intent of this provision is that once the Offering Member presented his or its offer to the Remaining Members, then the Remaining Members shall either sell or buy at the same offered price (or FMV if appraisal is invoked) and according to the procedure set forth in Section 4. In the case that the Remaining Member(s) decide to purchase, then Offering Member shall be obligated to sell his or its Member Interest to the [R]emaining Member(s)."

13. That "specific intent" language is express, specific and could not be more clear as to these parties' objectively manifested "specific intent" to be so bound. Under governing Nevada law,⁶ the purpose of contract interpretation "is to discern the intent of the contracting parties." American First Federal Credit Union v. Soro, 359 P.3d 105, 106 (Nev. 2015), quoting and citing Davis v. Beling, 279 P.3d 501, 515 (Nev. 2011). Because the evidence is that both Messrs. Bidsal and Golshani were each very interested in changing drafts over a six-month period of what became the Section 4.2 "buy-sell" provision, each of them must have closely read that section, including the "specific intent" last sentence of that section of the Green Valley Operating Agreement. Accordingly, any prior, contemporaneous or other ambiguity as to Remaining Member CLA's Section 4.2 "buy-sell" options and Offering Member Bidsal's obligation to sell his 50% Membership Interest to CLA "at the same offered price" as presented in his July 7, 2017 offer, as a result of CLA's August 3, 2017 response to Mr. Bidsal's

⁶ Article X (d) of the Green Valley Operating Agreement provides that Nevada law shall apply to the interpretation and enforcement of the contract.

July 7 offer, must give way to that objectively manifested specific intent of the parties.

14. When directed to that "specific intent" provision of Section 4.2, during hearing, Mr. LeGrand was asked and answered, as follows:

"Q And does that -- does that language reflect your -- your then understanding of what the intent of this provision was?

"A Yes.

"Q And that was your understanding of what Mr. Golshani and Mr. Bidsal had wanted you to put in?

"A Yes.

"Q And it was your understanding that they had both --- that was what they both had agreed to, right?

"A Yes.

*** ***

"Q But the reason you put -- the reason that you put down a -- the reason you inserted the specific intent of the parties was to make sure there was no question about what the intent of the parties

was, right?

"A That was what I intend when I put language like 'specific intent,' yes."

5/9/2018 Hrg.Tr., at pp. 295:19-296:5, 297:4-10.

15. It appears that in this case, Mr. Bidsal attempted to find a contractual "out" to regain lost leverage to either buy or sell a 50% membership interest in Green Valley at a price and/or on terms less favorable than he originally envisaged, when he made his July 7, 2017 offer, but more favorable than CLA's August 3, 2017 acceptance of Mr. Bidsal's company valuation price and CLA's "standing on the contract" to buy, rather than sell, based on Mr. Bidsal's market valuation figure --- which interpretation and position the Arbitrator has determined have been proved correct by a preponderance of the evidence, after hearing, and according to law.

16. What Mr. Bidsal seems to have settled on for negotiation and arbitration was ignoring, disregarding and, it appeared at hearing, resisting strict application of the "specific intent" language quoted and discussed above. Under resumed cross-examination by CLA's counsel on May 9, 2018 --- while acknowledging that CLA/Mr. Golshani was a Section 4.2 "Remaining Member" in respect to Mr. Bidsal's July 7, 2017 offer to buy CLA's 50% Membership Interest in Green Valley for \$5 million, which truly represented Mr. Bidsal's best estimate of the value of the Company, when he made his offer, and as he so

expressly stated in his offer --- Mr. Bidsal (A) repeatedly refused to acknowledge that CLA had and duly exercised a Section 4.2 option, alternatively to either sell or buy a 50% Membership Interest in Green Valley based on Mr. Bidsal's offering \$5 million as the value of the LLC, and (B) insisted, rather, that (1) CLA's August 3, 2017 response to Mr. Bidsal's July 7, 2017 offer constituted a "counteroffer," and that (2) as a contractual and apparently legal consequence of Mr. Bidsal having been made the recipient of a "counteroffer," he became entitled, as a seller, now, to Section 4.2 optional appraisal rights to determine Green Valley's fair market value or "FMV." Hrg. Tr. at pp. 339:14 -340:10.

17. What Mr. Bidsal apparently found and settled on was a drafting ambiguity in Section 4 of the Green Valley Operating Agreement --- i.e., "FMV," which ambiguity the Arbitrator has determined somehow found its way into Section 4.2 late in the process --- and using that ambiguity to argue that "FMV" could only mean third-party expert-appraised fair market value was required in the circumstances. Under Section 4.2 of the Green Valley Operating Agreement, the "Remaining Member" (CLA) has the option to sell or buy "the [50%] Membership Interest" put in issue by the Offering Member, "based upon the same fair market value (FMV)" set forth in the Offering Member's Section 4.2-compliant offer --- which valuation of the Company the Offering Member "thinks is the fair market value" of the Company. Mr. Bidsal used that ambiguity as his justification for refusing to perform as a compelled seller under the Section 4.2 "buy-sell." contending that Section 4 should be interpreted in his favor because Mr. Golshani was its draftsman. While Mr. Golshani had some role in what became Section 4, based on the evidence the Arbitrator finds that Mr. Bidsal controlled the final drafting of the Green Valley Commerce, LLC Operating Agreement, and had the last and final say on what the language was before signing the Operating Agreement, and is deemed to be the principal drafter of Section 4.2 of that agreement and therefore bears the burden of risk of ambiguity or inconsistency within the disputed provision. However, the determinations and award contained herein are based upon the testimony and exhibits introduced at the hearing in this matter, and the determination of draftsman is not dispositive. For the reasons set out herein the determinations and award would be made even if Mr. Bidsal's contention that Mr. Golshani was the draftsman of Section 4 were correct.

18. Beyond the parties' signed, closely read, express Section 4.2 specific intent, per se, there is an unanswered logical flaw in Bidsal's position --- which the Arbitrator has determined to be "outcome determinative." That is, Mr. Bidsal's position might be plausible in the situation in which he has found himself on August 3 --- after and in light of CLA's written response to his July 7 offer --- but it does not and cannot work in all "buy-sell" contingencies contemplated by Section 4.2, given that section's formula, specific intent

language and all other language in that section, without Mr. Bidsal sub silentio conceding the correctness of CLA's internally consistent position which "works" in all contemplated Section 4.2 "buy-sell" contingencies.

A. Specifically, without that important concession, Mr. Bidsal would be unable to assign a "FMV" value to the Section 4.2 formula in contingencies in which CLA accepted or deliberately or inadvertently failed to respond to Mr. Bidsal's July 7 offer timely, properly or at all.

B. Under the parties' agreed formula for arriving at the "buyout" price, as set forth immediately above the "specific intent" provision of Section 4.2 --- regardless of who is the buyer --- the buy-out price could not be computed, and Mr. Bidsal's contemplated transaction be completed or performed or enforced, without \$5 million being "FMV" in the formula, if CLA, via Mr. Golshani, accepted or ignored the Offering Member's Section 4.2 offer.

19. If that is so, and the Arbitrator finds it is, then, logically as well as fairly under Section 4.2 --- which is an agreed fairness provision of the parties --- then \$5 million is the "FMV" for the same buy-out formula, if CLA, as here, opted to buy rather than sell a 50% Membership Interest in Green Valley, LLC, without invoking its optional appraisal rights. Absent a demand by the Remaining Member, Section 4 of the Operating Agreement for Green Valley Commerce, LLC does not require an appraisal to determine the price to be paid by Remaining Member CLA for its purchase of Offering Member Bidsal's membership interest in Green Valley, and Mr. Bidsal had no right to demand an appraisal to determine the price to be paid by CLA for Mr. Bidsal's membership interest in Green Valley Commerce, LLC.

20. Significant among other factors adduced at hearing and in post-evidentiary sessions briefing, the Arbitrator further has determined that:

A. The "triggering" of the parties' Section 4.2 "buy-sell" provisions of the Green Valley Commerce, LLC ("Green Valley") Operating Agreement was under the control of Mr. Bidsal, as the Section 4.2 "Offering Party." What that means in this arbitration is that, among other things, Mr. Bidsal controlled whether and when he made his offer, and what the offering price would be, including whether or to what extent Mr. Bidsal engaged in due diligence to determine Green Valley's fair market valuation including via third-party professional appraisal, if he opted to obtain one preparatory to making his Section 4.2 offer.

B. Once Mr. Bidsal, as the contractually "Offering Party" conveyed his Section 4.2 offer --- and pursuant to the parties' "specific intent" set

forth in that section and discussed elsewhere herein, and as a matter of fundamental, cost-effective fairness between essentially partners, regardless of labels --- Mr. Bidsal contractually surrendered control of what next followed in the Section 4.2 "buy-sell" process to Mr. Golshani, on behalf of "Remaining Member" CLA.

C. There was no contractual residual protection available to Mr. Bidsal as to appraisal and/or price of his Membership Interest --- which, under Section 4.2, upon Mr. Bidsal's "triggering" of the same, became "the Membership interest" which Mr. Bidsal put in play. Put another way --- although CLA put up about 70% of Green Valley's capital --- CLA and Mr. Bidsal, by agreement, each had a 50% Membership Interest in the Green Valley LLC --- so that, at that point, CLA had the election under the "buy-sell" whether to buy or sell "the" 50% Membership Interest in Green Valley put in play by Mr. Bidsal. If CLA elected to buy, rather than sell, CLA had the contractual option to compel Mr. Bidsal to sell his 50% Membership Interest to CLA at a purchase price computed via the Section 4.2 formula, based either on Mr. Bidsal's \$5 million valuation of the LLC in his July 7, 2017 Section 4.2 offer. If CLA elected to sell, rather than buy, CLA had the election to have the purchase price, via formula, set in accordance with Mr. Bidsal's offering valuation of \$5 million or a (presumably greater) valuation set via contractual third-party appraisal, also under Section 4.2, if Mr. Golshani thought an appraised valuation for purposes of sale of its 50% Membership Interest to Mr. Bidsal would be more favorable to CLA. Thus, Mr. Bidsal had no right to demand an appraisal, and under Section 4.2 Mr. Bidsal was obligated to close escrow and sell his 50% Membership Interest to CLA within 30 days after CLA elected to buy, i.e. by September 3, 2017.

D. Under Section 4.2, CLA, as the Remaining Member, had 30 days from Mr. Bidsal's "triggering" of the "buy-sell" to make its election to buy or sell at the "same" price set forth in Mr. Bidsal's offer or to sell at a presumably higher appraised price --- or as indicated above to deliberately or inadvertently allow the 30-day period to expire without timely, adequate or any written response.

E There is no reference or indication in any earlier draft or other documentation generated prior to, or contemporaneous with, or following execution of the Green Valley Operating Agreement --- pre-dispute --- that an Offering Member retains a reserved right to unilaterally demand an appraisal, following, as here, the Remaining Member's unqualified, written acceptance of the Offering Member's Section 4.2-compliant written offer --- the offer and acceptance both expressly stating, and thus bindingly agreeing, that \$5 million is the agreed valuation of the Company for purposes of computing the purchase

and sale price of "the Membership Interest" which was the subject of the parties' Section 4.2-compliant offer and acceptance.⁷

While an earlier version of what became Section 4.2 required that an offer be accompanied by an appraisal, the only reference to an appraisal or appraisal right in the final version of Section 4.2 is "If the offered price is not acceptable to the Remaining Member(s), within 30 days of receiving the offer, the Remaining members (or any of them) can request to establish FMV based on the following procedure...." To repeat, appraisal rights are triggered only "[i]f the [Offering Member's] offered price is not acceptable to the Remaining Member" and, further, that the Remaining Member requests the "following procedure" of an appraisal "within 30 days of receiving the offer." That 30-day period is exactly the same time limitation on the Remaining Member by which to accept the Offering Member's offers or not. By implication, that logically would foreclose the possibility of Mr. Bidsal, as the Offering Member, having a contractual right to request an appraisal to determine "FMV" as a "second bite at the [Green Valley valuation] apple." Similarly, Section 4.2's use of the word "same" market value would exclude a third-party expert-appraised market valuation right in Mr. Bidsal --- that is, without reading in a provision which just is not there expressly or by fair implication.

F. Mr. Bidsal's contractual interpretation position is irreconcilably inconsistent with the parties' specially included "specific intent" language added to the "buy-sell" provision mechanics.

G. Miscalculating the intentions, thinking and/or financial resources available to the other party in an arm's length transaction, such as a Section 4.2 "buy-sell," are not cognizable bases for re-writing or re-interpreting the parties' contractual procedures.

H. Mr. Bidsal's "best estimate of the current fair market value of the Company" at \$5 million was authorized, prepared and conveyed on Mr. Bidsal's behalf by his lawyer on July 7, 2017. CLA accepted Mr. Bidsal's July 7 offer on August 3, 2017 --- 27 days later. While Mr. Bidsal appears to have had a unilateral right to retract his offer, at any time prior to its acceptance during that 27-day period --- including because of a realization that he had made a mistake in underestimating the then current fair market value of the Company

⁷ Deleted from the execution copy of the Green Valley Operating Agreement, which was signed by the parties, was Mr. LeGrand's earlier language of Section 7 --- which became Section 4 of the final --- that an LLC member's offer under the "buy-sell" was to be accompanied by an appraiser's appraisal. ⁸ Similarly, the Arbitrator has not considered any other instance in which Mr. Bidsal contended that he allegedly had appraisal rights.

--- the preponderance of the evidence is that Mr. Bidsal's \$5 million conveyed "best estimate" of Green Valley's value in his Section 4.2-compliant offer was the product of careful analysis and forethought and not error -- that is until Mr. Bidsal was informed of CLA's acceptance of his offer and Section 4.2 election to buy, rather than sell, a 50% Membership Interest based on Mr. Bidsal's \$5 million valuation of the Company. It was only on August 5, 2017, in express "response to your August 3, 2017 letter relating to the Membership Interest in Green Valley Commerce, LLC" --- that Mr. Bidsal for the first time invoke[d] a purported right to establish the FMV by appraisal "in accordance with Article V, Section 4 of the Company's Operating Agreement."

21. Mr. Bidsal has not sustained his burden of proof under his counterclaim, and is not entitled to any relief thereunder.

22. CLA's motion for reconsideration of the Arbitrator's sustaining Mr. Bidsal's objections to the admission of Exhibit 39 has been denied. Exhibit 39 is not in evidence, and CLA's reference to that exhibit in briefing other than whether or not that exhibit should be in evidence has not been considered.

A. The apparent primary purpose of CLA's attempt to introduce Exhibit 39 into evidence was to establish so-called "pattern evidence" of the parties' intent to include a "forced buy-sell" in the contract over which the parties are in dispute in this arbitration.⁸ CLA's stated or ostensible --- but, the Arbitrator believes, secondary --- purpose in attempting to introduce Exhibit 39 is impeachment. Both efforts by CLA fail for the following reasons.

B. There is no contractual specification or limitation on the Arbitrator's broad authority and discretion conferred by operative JAMS Comprehensive Arbitration Rules, specifically Rule 22(d), to make evidentiary rulings and decisions --- including concerning the admission or exclusion of Exhibit 39.

C. Pattern evidence generally requires more than one instance of the alleged pattern --- which in this case is limited to one instance, which is an operating agreement of an unrelated entity, to which Mr. Bidsal was not a party, concerning an unrelated property, and a dispute in another arbitration, details of which bearing on Exhibit 39 the Arbitrator sought to avoid getting into during hearing in this arbitration. Those factors sufficiently weakened CLA's argument that the proffered "pattern evidence" that Mr. Bidsal's prior inclusion of a "buy-sell" provision agreed to by him in the other operating agreement (Exhibit 39)

⁸ Similarly, the Arbitrator has not considered any other instance in which Mr. Bidsal contended that he allegedly had appraisal rights.

raises an inference that he similarly agreed to a "forced" buy-sell in the Green Valley Operating Agreement.

D. Exhibit 39 was not produced by CLA to Mr. Bidsal, prior to its attempted introduction during the June 28, 2018 Merits Hearing evidentiary session. CLA's only justification for its non-production was that Exhibit 39, as documentation used for impeachment, only, need not be produced or identified, prior to attempted use for that limited purpose during hearing. With respect, the Arbitrator has not been persuaded that Exhibit 39 was withheld from production solely for impeachment at hearing.

24. Paragraph 1 of the relief granted to CLA in this Final Award contains the following language:

"Within ten (10) days of the issuance of the final award in this arbitration, Respondent Sharam Bidsal also known as Shawn Bidsal ("Mr. Bidsal") shall (A) transfer his fifty percent (50%) Membership Interest in Green Valley Commerce, LLC ("Green Valley"), free and clear of all liens and encumbrances, to Claimant CLA Properties, LLC, at a price computed via the contractual formula set forth in Section 4.2 of the Green Valley Operating Agreement with the "FMV" portion of the formula fixed as Five Million Dollars and No Cents (\$5,000,000.00) and, further, (B) execute and deliver any and all documents necessary to effectuate such sale and transfer."

Mr. Bidsal's obligation to transfer his 50% interest to CLA pursuant to Section 4.1 of the Green Valley Operating Agreement's, as well as CLA's request for relief in its arbitration demand, necessarily imply and contemplate that the subject interest at the time of transfer must be "free and clear of all liens and encumbrances" --- as the price for that interest under Section 4.1 is to be calculated on the same --- plus via means and within a time after a final arbitration award is issued, by which Mr. Bidsal must effect and complete that transfer --- here, within ten (10) days of the issuance of the final award, pursuant to the execution and delivery of all documents necessary to effectuate the sale and transfer of Mr. Bidsal's 50% interest in Green Valley, LLC.

IV

ATTORNEYS' FEES AND COSTS

25. Having been determined the prevailing party on the merits of the parties' contentions in this Merits Hearing, CLA is entitled to recover its attorneys' fees, costs and expenses as provided under Article III, Section 14.1 of the Green Valley Operating Agreement, which provides, in pertinent part that "at the conclusion of the arbitration, the arbitrator shall award the costs and

expenses (including the cost of the arbitration previously advanced and the fees and expenses of attorneys, accountants, and other experts) to the prevailing party."

26. The Arbitrator has carefully considered and weighed the evidence and other written submissions of the parties in connection with CLA's Section 14.1 attorneys' fees and costs application --- including weighing and consideration of the so-called Brunzell factors, under Nevada law⁹ --- and has determined that CLA should be awarded \$298,256.900, as and for contractual prevailing party attorneys' fees and costs and expenses reasonably incurred in connection with this arbitration.

27. The \$298,256.00 amount to be awarded to CLA against Mr. Bidsal, as and for contractual prevailing party attorneys' fees and costs, has been computed as follows.

A. The full amount of CLA's requested attorneys' fees and costs through September 5, 2018, which is the last date of billed services rendered and costs and expenses incurred, per CLA's October 30, 2018 application for attorneys' fees and costs is \$266,239.82.¹⁰

B. The full amount of additional requested attorneys' fees and costs through February 28, 2019, per CLA's supplemental application for attorneys' fees and costs (denominated, "Additional Presentation") is \$52,238.67.

C. CLA's share of Arbitrator's compensation and JAMS management fees and expenses since the last JAMS invoice of 12/19/2018 submitted by CLA's counsel in its Additional Presentation --- including the Arbitrator's time since last JAMS billing to the date of the rendering of this Final Award --- is \$6,295.00.

D. The aggregate of the sum of those amounts --- i.e., \$324,773.49 -- should and will be reduced by \$26,517.26, computed as follows: (1) \$13,158.63, representing CLA's attorneys' fees and costs billed in connection with CLA's unsuccessful Rule 18 cross-motion (but not CLA's successful defense of Mr. Bidsal's Rule 18 cross-motion, in the amount of \$11,800.00), (2) \$12,000.00, representing a discretionary downward adjustment of CLA's attorneys' fees reasonably incurred, primarily after September 5, 2018, based on the Arbitrator's

⁹ Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345 (1969) ("Brunzell").

¹⁰ The full amount of CLA's requested attorneys' fees and costs through September 5, 2018 has been corrected to \$266,239.92 from \$249,078.75, the figure set forth in Paragraph 3 of Section V of the Interim Award.

careful consideration of CLA's initial application and Additional Presentations and Mr. Bidsal's objections to CLA's requested attorneys' fees, exclusive of his Rule 18 objection (which is covered under item (A), above), and (3) \$1,358.63, as and for Mr. Golshani's Las Vegas-related expenses in connection with this arbitration.

After weighing and considering all relevant considerations and in the exercise of the Arbitrator's discretion ---- the Arbitrator has determined that not all of that billed additional attorney and paralegal time can or should be included in the Final Award and that the ultimate amount to be awarded in this Final Award is correct and appropriate in the circumstances.

The discretionary downward adjustment of \$12,000.00 from CLA's approximately \$41,000.00 additional attorneys' fees requested since issuance of the Interim Award should not be interpreted as any direct or indirect criticism of CLA's counsel's decision-making and tasking at any time during this arbitration --- especially given that substantial attorney time appears to have been prompted by Mr. Bidsal's submissions, throughout this arbitration, as also determined below and elsewhere in this Final Award.

28. A principal determination in connection with CLA's application is that the main reason for the attorneys' fees and related costs being of the magnitude sought by CLA is that Mr. Bidsal, not CLA, was the principal cause and driver of those costs. Notwithstanding that Mr. Bidsal selected the attorney who drew the Operating Agreement (Mr. LeGrand), and that Mr. Bidsal had a key role in determining what became the "signed-off" Section 4 contractual provision which has been at the "core" of the parties' dispute, and notwithstanding the parties' specific contractual Section 4.2 "specific intent" and all the other reasons set out above (as in Par. 20(A) through (H), above), Mr. Bidsal's resistance to complying with his obligations included his conducting a "no holds barred" litigation over the "core" dispute over Section 4 contractual interpretation were the main drivers of the high costs of this litigation. "Parties who litigate with no hold barred in cases such as this, in which the prevailing party is entitled to a fee award, assume the risk they will have to reimburse the excessive expenses they force upon their adversaries."¹¹ --- requiring an arbitration involving attorney-intensive discovery and review of earlier drafts of the Operating Agreement, deposition and hearing testimony of Mr. LeGrand, attorney time to oppose Mr. Bidsal's motion to stay the arbitration and then to develop and demonstrate to the Arbitrator by testimony (including cross-

¹¹ Stokus v. Marsh, 295 Cal.App3d 647, 653-654 (1990). Mr. Bidsal earlier on conceded that "although Nevada law controls, Nevada courts do consider California cases if they assist with the interpretation." January 8, 2018 Bidsal Opening Brief, at p. 7. Mr. Bidsal's objections to attorneys' fees cite California, as well as Nevada cases.

examination) and extensive briefing why Mr. Bidsal's position, exhibits (e.g., Exhibit 351) and contentions concerning his claimed right of appraisal, in lieu of a \$5 million "FMV", did not have merit --- were the main drivers of the high costs of this litigation, also knowing of the Section 14.1 consequences, if and as he has lost his unavailing fight for an unavailable rights of appraisal. CLA was required to have two senior attorneys (i.e., Rodney Lewin, Esq. and Louis Garfinkel, Esq.) because --- while Mr. Lewin, was CLA's lead counsel --- he is not admitted in Nevada, whose law governed the "core" Section 4.2 provision, as well as the Section 14.1 "prevailing party" attorneys' fees and costs provision --- and Mr. Garfinkel is admitted in Nevada and, further attended the deposition of Mr. LeGrand, which was taken in Nevada. It is also material that there was a symmetry in representation between the teams representing the parties. Mr. Bidsal was represented in this arbitration by three attorneys (Messrs. Shapiro and Herbert (NV) and Mr. Goodkin (CA), two of whom appeared for each deposition.

The applicability of Nevada substantive law and the provision for a Nevada venue for the Merits Hearing evidentiary sessions does not require or, without more, persuade the Arbitrator that Las Vegas, Nevada rates should be a "cap" or "prevailing market" hourly rate for purposes of determining the reasonable attorney's fees of a Section 14.1 prevailing party in this arbitration. Mr. Bidsal has not cited any case so requiring or that Las Vegas is the sole relevant legal market, regardless, for determining reasonable hourly rates for legal services.¹² Both sides had Southern California counsel, as well as Nevada counsel, as part of their trial teams and Messrs. Bidsal and Golshami are residents of Southern California. While the Arbitration Demand stated that the arbitration should be held in Las Vegas, it was at Mr. Bidsal's behest, later, that the Merits Hearing evidentiary sessions were held in Las Vegas, rather than in Southern California.

In the circumstances of this hotly contested case, and with the Arbitrator being familiar with prevailing hourly rates for legal services in both Las Vegas and Southern California, the \$475/hr, with 42 years experience, and \$395/hr for 60 years experience for Messrs Lewis and Agay and Mr. Garfinkel's rate of \$375/hr for 30 years experience, were reasonable,¹³ as were their billed hours of service, in the circumstances.¹⁴ That is so notwithstanding the

¹² But see Reazin v. Blue Cross & Shield, 899 F.2d 951, 983 (10th Cir. 1990) (affirmance of district court award attorneys' fees award, including based on out-of-state (Jones Day) hourly rates which exceeded those of local (Wichita) attorneys).

¹³ The hourly rates of Messrs. Lewin and Agay are below comparable Southern California prevailing hourly rates for comparable legal services and relevant experience.

¹⁴ That is so, particularly after a pre-application downward adjustment of approximately \$28,000 in the amount of CLA's billed attorneys' fees.

considerable cross-traffic of briefing which, in the circumstances, appears to have been largely unavoidable, as well as, on balance, helpful to the Arbitrator, and thus, should not be the subject of penalty (including denial of prevailing party recovery).

However, under the authority of Nevada law --- in contrast to California law and, generally, law elsewhere --- CLA is not entitled to its attorneys' fees and costs incurred in connection with its Rule 18 cross-motion which --- along with Mr. Bidsal's cross-motion --- was denied. Barney v. Mt. Rose Heating & Air Conditioning, 192 P.2d 730, 726-737 (2008). As CLA's attorneys' fees in connection with the cross-motions in the amount of approximately \$23,600 cannot meaningfully or cost-effectively be segregated by cross-motion, the Arbitrator has determined that one half of that amount --- i.e., \$11,800 --- should not and will not include CLA's Rule 18 fees and costs incurred as part of CLA's awardable prevailing party fees and costs. In addition, Mr. Golshani's Las Vegas-related travel and accommodation expenses of \$1,358.63 will also not be included as recoverable legal fees or costs.

Both sides have waived any objection which they had or may have had to a more detailed (e.g., factor-by-factor) and/or full-bodied analysis or discussion of the Bunzell factors in this Final Award or in the Interim Award. That is because neither side submitted any request for any such analysis or discussion, timely or at all, for inclusion of the same in this Final Award, after having been expressly afforded the opportunity to make such a request by February 28, 2019, 4:00 p.m. in the 7th subparagraph of Paragraph 23 of the Interim Award --- expressly subject to waiver of objection under JAMS Comprehensive Arbitration Rule 27(b) (Waiver) for failure to timely make such a request.¹⁵

/////

In addition, the relative amounts of total hours billed among CLA's counsel and a paralegal appear for this engagement to be in balance.

¹⁵ The 7th subparagraph of Paragraph 23 of the Interim Award, at p. 19 thereof, states as follows:

"Upon receipt of written request by either side, by February 28, 2019, 4:00 p.m. (PT), the Arbitrator will consider preparing and including in the final award a more detailed explanation, including via Brunzell factor-by-factor analysis. If neither side timely requests a more full-bodied analysis and/or discussion of the Brunzell factors than the salient factors and considerations hereinabove set forth, any subsequent objection based on Brunzell should and will be deemed waived. See JAMS Comprehensive Arbitration Rule 27(b) (Waiver)."

V
RELIEF GRANTED AND DENIED

Based on careful consideration of the evidence adduced during and following the evidentiary hearings held to date, and the determinations hereinabove set forth, and applicable law, and good cause appearing, and subject to further modification as permitted by law and JAMS Comprehensive Arbitration Rules and Procedures, the Arbitrator hereby grants and denies relief in this Final Award, and it is adjudged and decreed, as follows:

1. Within ten (10) days of the issuance of this Final Award, Respondent Sharam Bidsal also known as Shawn Bidsal ("Mr. Bidsal") shall (A) transfer his fifty percent (50%) Membership Interest in Green Valley Commerce, LLC ("Green Valley"), free and clear of all liens and encumbrances, to Claimant CLA Properties, LLC, at a price computed in accordance with the contractual formula set forth in Section 4.2 of the Green Valley Operating Agreement, with the "FMV" portion of the formula fixed as Five Million Dollars and No Cents (\$5,000,000.00) and, further, (B) execute any and all documents necessary to effectuate such sale and transfer.
2. Mr. Bidsal shall take nothing by his Counterclaim.
3. As the prevailing party on the merits, CLA shall recover from Mr. Bidsal the sum and amount of \$298,256.00, as and for contractual attorneys' fees and costs reasonably incurred in connection with this arbitration.
4. Except as permitted under JAMS Comprehensive Arbitration Rule 24, neither side may file or serve any further written submissions, without the prior written permission of the Arbitrator. See JAMS Comprehensive Rule 29.
5. To the extent, if any, that there is any inconsistency and/or material variance between anything in this Final Award and the Interim Award, Merits Order No. 1 and/or any other prior order or ruling of the Arbitrator, this Final Award shall govern and prevail in each and every such instance.

/////

/////

/////

6. This Final Award resolves all claims, affirmative defenses, requests for relief (including requests for reconsideration) and all principal issues and contentions between the parties to this arbitration.

Except as expressly granted in this Final Award, all claims and requests for relief, as between the parties to this arbitration, are hereby denied.



Dated: April 5, 2019

STEPHEN E. HABERFELD
Arbitrator

PROOF OF SERVICE BY EMAIL & U.S. MAIL

Re: CLA Properties, LLC vs. Bidsal, Shawn
Reference No. 1260004569

I, Anne Lieu, not a party to the within action, hereby declare that on April 05, 2019, I served the attached Final Award on the parties in the within action by Email and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at Los Angeles, CALIFORNIA, addressed as follows:

Rodney T. Lewin Esq.
L/O Rodney T. Lewin
8665 Wilshire Blvd.
Suite 210
Beverly Hills, CA 90211
Phone: 310-659-6771
rod@rtlewin.com

Parties Represented:
CLA Properties, LLC

Louis E. Garfinkel Esq.
Levine Garfinkel Eckersley & Angioni
1671 W. Horizon Ridge Parkway
Suite 230
Henderson, NV 89102
Phone: 702-735-0451
lgarfinkel@lgkattorneys.com

Parties Represented:
CLA Properties, LLC


James E. Shapiro Esq.
Sheldon A. Herbert Esq.
Smith & Shapiro
3333 E Serene Ave.
Suite 130
Henderson, NV 89074
Phone: 702-318-5033
jshapiro@smithshapiro.com
sherbert@smithshapiro.com

Parties Represented:
Shawn Bidsal

Daniel Goodkin Esq.
Goodkin & Lynch
1875 Century Park East
Suite 1860
Los Angeles, CA 90067
Phone: 310-853-5730
dgoodkin@goodkinlynch.com

Parties Represented:
Shawn Bidsal

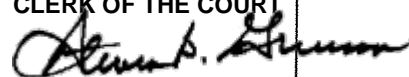
I declare under penalty of perjury the foregoing to be true and correct. Executed at Los Angeles, CALIFORNIA on April 05, 2019.



Anne Lieu
alieu@jamsadr.com

30

30



1 **ASAF**
2 Louis E. Garfinkel, Esq,
3 Nevada Bar No. 3416
4 Levine & Garfinkel
5 1671 W. Horizon Ridge Parkway, Suite 220
6 Henderson, NV 89012
7 Tel: (702) 673-1612
8 Fax: (702) 735-0198
9 Email: lgarfinkel@lgealaw.com
10 *Attorneys for Petitioner* CLA Properties, LLC

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

13 CLA PROPERTIES, LLC, a California
14 limited liability company,

15 Petitioner,

16 v.

17 SHAWN BIDSAL, an individual,

18 Respondent.

Case No.: A-19-795188-P
Dept.: 31

AFFIDAVIT OF RODNEY T. LEWIN, ESQ. IN
SUPPORT OF CLA PROPERTIES, LLC'S
MOTION FOR ATTORNEY'S FEES AND
COSTS

19 STATE OF CALIFORNIA)
20 COUNTY OF LOS ANGELES)

21 I, Rodney T. Lewin, being first duly sworn depose and says:

22 1. I am an attorney at law duly licensed to practice before all the Courts of the State of
23 California, and represented Claimant CLA Properties, LLC ("CLA") in the arbitration, the award
24 of which this proceeding was brought to seek court confirmation and judgment. The facts set
25 forth herein are based upon my personal knowledge, and if called to testify thereto, I could and
26 would competently do so.
27
28

1 2. Subject to below exceptions, attached hereto as Exhibit "1" are true and correct copies
2 of the billing statements sent to CLA Properties relating to the arbitration regarding Green Valley
3 Commerce, LLC. Some portions of the statements have been redacted either to protect attorney-
4 client privileges or because they did not relate to this proceeding. I am also one of the custodians
5 of records at the Law Offices of Rodney T. Lewin who maintains the files in connection with my
6 firm's representation of CLA in this action. The bills attached as Exhibit "1" reflect the daily
7 time entries made by me, Richard Agay, Michael Lavaee and legal assistants Jack Margolin and
8 Ronald Faulk working on this matter under my supervision and direction. These billing records
9 were made in the regular course of business, made at or near the actions described therein. The
10 billing is recorded daily into a computer program and a monthly bill is created therefrom. The
11 method employed to prepare the billing records insure that the records are accurate and
12 trustworthy. The time spent on this matter was recorded in our file No. 7157. This file number
13 was assigned for the litigation associated with arbitration between CLA and Mr. Bidsal.
14

15
16 3. The following persons assisted me in working on this action and performed work in
17 connection with it: Richard Agay, Esq. whose normal hourly rate is \$395 per hour, Michael
18 Lavaee who is of counsel to my firm and who at my directions conducted research and whose
19 billed hourly rate is \$265.00 per hour of this file (discounted from his normal hourly rate of
20 \$350.00 or more) and Jack Margolin and Ronald Faulk (legal assistants), whose normal hourly
21 rates are \$135.00 per hour. In addition, I billed my time on this matter at my standard hourly rate
22 of \$475.00 which is far below the hourly rate of similarly qualified and skilled attorneys in the
23 Los Angeles community with similar experience and qualifications. I have been practicing
24 business and real estate law since 1976 (43 years) and have had my own firm since 1981.
25 Richard Agay, Esq. is of counsel to my firm, has been practicing law since 1957 (62 years), and
26 was originally with the prominent Beverly Hills law firm Cooper Epstein & Hurwitz. Mr. Agay
27
28

1 was also the prevailing counsel before the Supreme Court and the creation of the so-called
2 "Comden" rule, Comden v. Superior Court 20 Cal.3d 906 (1978). He was also trial counsel and
3 appellate counsel in Young v. Rosenthal, 212 Cal.App.3d 96 (1989) which, when issued, was at
4 the time in a published decision the highest award for frivolous appeal in favor of responding
5 party. Mr. Agay's hourly rate of \$395.00 an hour is far below the hourly rate of similarly
6 qualified and skilled attorneys in the Los Angeles community with similar experience and
7 qualifications. Mr. Lavaee is also of counsel to my firm, has been practicing law for more than
8 10 years and also has an MBA. Our local counsel, Louis Garfinkel, also worked on this matter
9 and billed his time at his normal hourly rate of \$375.00 per hour. The rates charged by Mr. Agay,
10 Mr. Lavaee and me, as well as my legal assistants (Mr. Margolin and Mr. Faulk) in connection
11 with this action are commensurate with our experience and are well within (or are below) the
12 rates charged by similarly qualified and experienced attorneys and legal assistants in other
13 similarly-sized firms in Los Angeles handling matters such as this one.

14
15
16 4. I have reviewed all of the entries contained in the billing records submitted herewith.
17 The billing records on a daily basis contain a reasonable description of the work performed and
18 the time spent, all of which time was spent on CLA's behalf in this arbitration. The billing
19 records accurately reflect the time spent each day and the entries were made soon after
20 completion of the task referenced in the bills in the normal course of keeping track of the services
21 provided. The description of services was also written by the individual performing the service.
22 Each entry contained within the billing records for CLA reflects necessary and reasonable work
23 in the prosecution and defense of this action. Added to the statements as attached in handwriting
24 are the amounts deducted from those statements for services not directly related to this
25 proceeding and the discount of the fees that were billed for this proceeding. The costs shown on
26 statements applied to this proceeding.

1 5. Attached as Exhibit 2 is a schedule showing the amount of the statement as sent to
2 client, the reduction of the amount of fees attributable to matters not directly related to this
3 proceeding and the reduction of the fees for the discount given to the client. The total amount of
4 the discounts on just the fees applicable strictly to this proceeding through November, 2019
5 statements is 6,864.54.
6

7 6. Some of the time spent in resisting Bidsal's Counterpetition to Vacate was spent ahead
8 of its filing because the Counterpetition to Vacate the Award by Bidsal was anticipated, given
9 that he had filed a Motion to Vacate previously in the Federal Court, and therefore we were able
10 to commence preparation of opposition to that Counterpetition to Vacate ahead of its actual
11 receipt.
12

13 7. The total of these fees and costs due my firm, after reduction for discounts given the
14 client as applicable to this proceeding through November, 2019 is \$ 49,010.79. The time spent
15 was in fact precipitated by Bidsal's papers which amounted to nothing less than an attempt to
16 retry the entire arbitration. I was aware that that was not proper, and that the arbitrator's being
17 correct was not truly a legitimate issue. But after CLA had spent over a quarter of a million
18 dollars to prevail in the arbitration I could not afford to be so cavalier as to rely on that position
19 alone. Rather we painstakingly went through all the claims made by Bidsal and showed in detail
20 each way in which he was wrong. Instead of our effort being one simply to show the Award, it
21 became more like the defense of a judgment where the attacker had the right to seek a de novo
22 review.
23
24

25 8. As reflected by Exhibit 1 the time spent on this proceeding by my firm through
26 November, 2019 was (in hours) 19.45 by me, 94.65 by Mr. Agay, 13.85 by Mr. Lavaee, 28 by
27 assistant Margolin and 0.66 by assistant Faulk.
28

1 9. I have been practicing law for forty-two years. My practice has always focused on
2 business and real estate litigation. Getting the favorable Award was terribly time-intensive.
3 Getting that Award confirmed has proven to be equally difficult. It started on April 5, 2019 and
4 did not finally conclude until December 6, 2019.

5
6 10. For the time spent through November, 2019 by my office, CLA seeks attorneys' fees
7 and costs of \$ 49,010.79. Added thereto and the fees and costs of Nevada counsel, Louis
8 Garfinkel of \$16,409.52 (which includes his time for preparation of his affidavit and work on this
9 motion), gives a total before December time by my firm of \$ 65,420.31.

10 11. The statement for services rendered and costs incurred by my firm in December, 2019
11 has not yet been prepared. However, I reviewed the time entries and determined that during
12 December 2019 I spent 2.5 hours related to this proceeding, (including providing information
13 included in the this Motion) and Mr. Agay spent 17.10 finalizing portions of the moving papers.
14 At the rates above stated that amounts to \$1,187.50 for my time during December, 2019 and
15 \$6,754.50 for Mr. Agay's time. Based thereon the total amounts billed and to be billed to CLA
16 on this proceeding (and without January, 2020 time) is \$55,765.29. Adding that to Mr.
17 Garfinkel's fees and costs the total through December, 2019 is \$ 72,174.81.

18
19 12. Some time has been spent in January, 2020, but it has not yet been calculated. In
20 addition, we can only guess at what if any opposition will be made to this motion. Thus I can
21 only estimate fees incurred in any reply or oral argument. We shall, supply supplemental
22 affidavit we that time becomes more certain, but for present purposes I estimate that there will be
23

24 ///

25 ///

26 ///

27 ///

28 ///

1 an additional \$15,000.00, which raises the total sought by CLA by this motion to \$87,174.81.

2
3 
4 RODNEY T. LEWIN

5 STATE OF CALIFORNIA

6 COUNTY OF LOS ANGELES

7
8 SWORN TO AND SUBSCRIBED
9 BEFORE me this 3rd day of January, 2020.



10 Angela Crawford
11 NOTARY-PUBLIC

12 My Commission Expires: August 11, 2020

ACKNOWLEDGMENT

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

State of California
County of Los Angeles

On January 3, 2020 before me, Angela Crawford, notary public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Angela Crawford (Seal)



CERTIFICATE OF SERVICE

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of LEVINE & GARFINKEL, and that on the 3rd day of January, 2020, I caused the foregoing **AFFIDAVIT OF RODNEY T. LEWIN, ESQ., IN SUPPORT OF CLA PROPERTIES, LLC'S MOTION FOR ATTORNEY'S FEES AND COSTS:**

☐ by placing a true and correct copy of the same to be deposited for mailing in the US Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or

☐ by hand delivery to the parties listed below; and/or

☒ pursuant to N.E.F.C.R. Rule 9 and Administrative Order 14-2, by sending it via electronic service to:

James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
Smith & Shapiro, PLLC
3333 E. Serene Ave, Suite 130
Henderson, NV 89074
T: (702) 318-5033/F: (702) 318-5034
Email: jshapiro@smithshapiro.com
acannon@smithshapiro.com
Attorneys for Respondent Shawn Bidsal

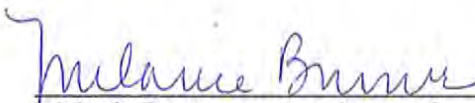

Melanie Bruner, an Employee of
LEVINE & GARFINKEL

EXHIBIT “1”

002692

002692

EXHIBIT “1”

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

May 31, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157
Invoice No. 20412

Professional Services

	Hours	Amount
05/01/19 RTL	0.20	95.00
RDA	0.25	98.75
RDA		
05/02/19 RDA	0.05	19.75
	3.00	1,185.00
05/03/19 JM		
05/06/19 RDA	0.30	40.50
05/07/19 JM	0.10	39.50
	0.40	NO CHARGE
05/08/19 RDA		
05/09/19 JM	0.20	79.00
	0.40	NO CHARGE
RDA		
05/13/19 RTL	1.00	395.00
RDA	0.35	166.25
	2.40	948.00
05/14/19 RTL		
RDA	0.50	237.50
	1.35	533.25
05/18/19 RTL		
05/20/19 RTL	-0.50	227.50
	0.60	285.00
JM		
RDA	0.80	NO CHARGE
	1.65	651.75
RDA		
05/21/19 RTL	0.85	335.75
RTL	0.20	95.00
JM	0.10	NO CHARGE
	0.30	40.50
RTL		
JM	0.25	118.75
	0.40	54.00

REVIEW E-MAILS FROM LOUIS; REVIEW AND REVISE PETITION;
CONFERENCE, INTRA-OFFICE RE SAME AND TO DO
EDIT/RE-EDIT PETITION TO CONFIRM AWARD V.2 AND V.3
REVIEWED PAST RESEARCH TO DETERMINE ADDITIONAL MATTERS
NEEDED BECAUSE ISSUE WOULD BE RAISED IN STATE COURT AND
MEMO RE ADDITIONAL RESEARCH NEEDED
REVIEWED AND REVISED PETITION TO CONFIRM AWARD
REVIEW PETITION AND EMAIL TO LOUIS.
TELEPHONE CALL FROM LOUIS RE PETITION AND SERVICE ISSUES
REVIEW/FILE/INDEX PETITION FOR CONFIRMATION OF ARBITRATION
AWARD
CONFERENCE, INTRA-OFFICE RE RESEARCH
REVIEW/INDEX/DOWNLOAD/FILE SUMMONS OF PETITION FOR
CONFIRMATION OF AWARD; NOTICE OF HEARING FOR PETITION TO
CONFIRM ARBITRATION AWARD

CLA000 1

BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

May 31, 2019

Page 2

		Hours	Amount
05/21/19	ML REVIEW RDA MEMO CONF WITH RTL	1.25	331.25
05/22/19	ML CONF W RTL RE FACTUAL ISSUES AND SCOPE OF RESEARCH	0.70	185.50
05/23/19	REF COPYING OF PETITION FOR SERVICE, EMAIL TO DDS FOR SERVICE OF PETITION ON BIDSAL; SAVING FOR FILE	0.33	55.00
	REDACTED	2.00	530.00
05/24/19	RTL REVIEW BIDSAL SERVICE NOTIFICATION E-MAIL WITH LOUIS	0.05	NO CHARGE
	REF TELEPHONE CALL WITH DDS; EMAILS TO LOUIS RE PREPARATION OF PROOF OF SERVICE AND SENDING TO HIM THE PROOF ONCE RECEIVED. SAVING FOR FILE	0.33	55.00
	REDACTED		
05/28/19	RTL TELEPHONE CALLS WITH LOUIS RE TELEPHONE CALL WITH SHAPIRO AND REVIEW STIPULATION	0.20	344.50 95.00
	ML REVIEW SUPREME COURT CASES RELATING TO ARBITRATION INCLUDING DIRECT TV, AND RESEARCH CALIFORNIA CASES CITING IT	2.50	662.50
05/29/19	ML CONT. RESEARCH RE TO RICHARD MEMO	3.10	821.50
	RDA REVIEWED REVISED PETITION TO CONFIRM AWARD AND E-MAILS EXCHANGE RE SAME AND SERVICE	0.15	59.25
	RDA CONFERENCE, INTRA-OFFICE RE RESEARCH	0.15	59.25
05/30/19	REDACTED		
	ML BRIEF MEMO RE RESEARCH AND RESPONSES TO RICHARD MEMO; REVIEW ANSWER, REVIEW ARB. AGRMT.; REVIEW AWARD	6.30	1,669.50
	REDACTED		
	REDACTED		237.00
For professional services rendered		35.51	\$10,951.00
Additional Charges :			
05/31/19	COS PHOTOCOPY CHARGES		77.40
	COS PHOTOCOPY CHARGES (COLOR)		51.00
Total costs			\$128.40
Total amount of this bill			\$11,079.40
Previous balance			\$17,606.20
4/17/2019 Payment - thank you			(\$1,234.95)
4/17/2019 Credit			(\$135.95)
5/14/2019 Payment - thank you			(\$10,000.00)
5/14/2019 Payment - thank you			(\$6,176.50)
Total payments and adjustments			(\$17,547.40)
Balance due			\$11,138.20

NOTE: A 10% COURTESY DISCOUNT ON CURRENT FEES OF \$10,951.00 (-\$1,095.10) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$9,855.90 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

Attorney Summary

Name	Hours	Rate	Amount
JL MARGOLIN	1.00	135.00	\$135.00
MICHAEL LAVAE	17.15	265.00	\$4,544.75
RICHARD D. AGAY	11.75	395.00	\$4,641.25
RODNEY T. LEWIN	3.20	475.00	\$1,520.00

CLA000 2

BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

May 31, 2019

Page 3

<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
RONALD E. FAULK	0.66	165.00	\$110.00

*THIS FIRM IS A PROFESSIONAL CORPORATION (EIN #95-4822188).
WE APPRECIATE TIMELY PAYMENTS. IF THERE IS A PROBLEM WITH YOUR BILL
PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.*

PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

June 30, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157

Invoice No. 20434

Professional Services

		<u>Hours</u>	<u>Amount</u>
06/02/19	RTL CONFERENCE, INTRA-OFFICE RE ISSUES AND RESEARCH	0.70	332.50
06/03/19	RTL REVIEW AND REVISE STIPULATION FOR STATE CASE	0.20	95.00
	RTL CONFERENCE WITH CLIENT	0.50	237.50
06/04/19	JM FILE MANAGEMENT	0.30	40.50
06/07/19	RTL REVIEW STIPULATION AND E-MAIL	0.10	47.50
06/12/19	RDA E-MAIL RE PROCEEDINGS NEEDED AND HOW TO APPROACH	0.25	98.75
	RDA RESEARCH RE OPPOSITION TO MOTION TO VACATE;	1.45	572.75
	PREPARATION OF MEMORANDUM ON ADDITIONAL RESEARCH NEEDED		
06/13/19	RDA CONTINUED ANALYSIS OF RESEARCH TO DETERMINE FURTHER	1.95	770.25
	RESEARCH NEEDED; RESEARCHING CALIFORNIA CASES AND		
	READING KYOCERA		
06/14/19	J [REDACTED]		40.50
06/20/19	RTL TELEPHONE CALL FROM LOUIS; CONFERENCE, INTRA-OFFICE RE	0.10	47.50
	TO DO		
06/25/19	[REDACTED]		67.50
	RDA REVIEWED STIPULATION; RESPONDED TO E-MAIL RE SAME	0.15	59.25
	RDA CONTINUED RESEARCH RE MOTION TO VACATE	1.00	395.00
06/26/19	RDA CONTINUED RESEARCH RE MOTION TO VACATE AND DRAFTING	2.95	1,165.25
	OPPOSITION		
06/27/19	RTL CONFERENCE WITH CLIENT	0.25	118.75
06/28/19	RDA CONTINUED RESEARCH RE MOTION TO VACATE AND DRAFTING	1.50	592.50
	OPPOSITION		

For professional services rendered

12.20 \$4,681.00

Additional Charges :

06/01/19	COS DDS LEGAL SUPPORT INV. NO. 416285 - PROCESS SERVICE ON SHAWN BIDSAL	103.90
	(5/23/19)	
06/30/19	COS PHOTOCOPY CHARGES	36.60
	COS PHOTOCOPY CHARGES (COLOR)	20.25

Total costs

\$160.75

Total amount of this bill

\$4,841.75

Previous balance

\$11,138.20

4,681.00
TIME DELETED < 108.007
4,573.00
4,573.00
24015.70
160.75
4,176.45

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BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

June 30, 2019

Page 2

	<u>Amount</u>
6/14/2019 Payment - thank you	(\$9,855.90)
6/14/2019 Credit	(\$1,282.30)
Total payments and adjustments	(\$11,138.20)
Balance due	<u>\$4,841.75</u>

NOTE: A 10% COURTESY DISCOUNT ON CURRENT FEES OF \$4,681.00 (-\$468.10) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$4,373.65 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

Attorney Summary			
<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
JL MARGOLIN	1.10	135.00	\$148.50
RICHARD D. AGAY	9.25	395.00	\$3,653.75
RODNEY T. LEWIN	1.85	475.00	\$878.75

*THIS FIRM IS A PROFESSIONAL CORPORATION (EIN #95-4822188).
WE APPRECIATE TIMELY PAYMENTS. IF THERE IS A PROBLEM WITH YOUR BILL
PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.*

PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

July 31, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157

Invoice No. 20573

Professional Services

		<u>Hours</u>	<u>Amount</u>
07/01/19	[REDACTED]	[REDACTED]	-166.25
07/03/19	RDA FURTHER RESEARCH AND DRAFTING RESPONSE TO MOTION TO VACATE	3.00	1,185.00
07/08/19	RDA FURTHER RESEARCH AND DRAFTING RESPONSE TO MOTION TO VACATE	3.50	1,382.50
07/10/19	RDA FURTHER RESEARCH AND DRAFTING RESPONSE TO MOTION TO VACATE	1.50	592.50
07/11/19	RDA FURTHER RESEARCH AND DRAFTING RESPONSE TO MOTION TO VACATE	2.00	790.00
07/16/19	RDA REVIEWED EXCHANGE OF E-MAILS RE OPPOSITION TO PETITION TO CONFIRM AND SOUGHT DATE AND RESEARCH AND DRAFTING RESPONSE TO PETITION TO VACATE	0.70	276.50
07/17/19	RTL CONFERENCE, INTRA-OFFICE RE ISSUES AND STRATEGY FOR DRAFTING OPPOSITION; MULTIPLE TELEPHONE CALL WITH LOUIS; REVIEW E-MAIL COMMUNICATIONS FOR LOUIS	1.35	641.25
	RDA CONTINUING RESEARCH RE RESPONSE TO PETITION TO VACATE	3.40	1,343.00
07/19/19	RDA CONTINUING RESEARCH RE RESPONSE TO PETITION TO VACATE; CONTINUE DRAFTING RESPONSE	3.65	1,441.75
07/22/19	RTL WORK ON (EDITING) OPPOSITION;	2.75	1,306.25
07/23/19	RTL ADDITIONAL EDITS TO OPPOSITION TO MOTION TO VACATE; CONFERENCE, INTRA-OFFICE RE ISSUES AND FURTHER EDITS/WORKUP	1.00	475.00
	RDA TELEPHONE CONFERENCE WITH GARFINKLE RE NEVADA RULES; DRAFTING REPLY RE MOTION TO CONFIRM	5.10	2,014.50
07/24/19	JM CONFERENCE WITH RDA; PHONE CALL WITH LOUIS GARFINKLE; DOWNLOAD PLEADINGS/BRIEFS; FILE MANAGEMENT	1.00	135.00
	RDA DRAFTING REPLY RE PETITION TO CONFIRM AND ARRANGING EXHIBITS; REVIEWING RULES RE FILING REQUIREMENTS	9.00	3,555.00
07/25/19	RTL REVIEW OPPOSITION TO MOTION FOR ATTORNEYS FEES AND TELEPHONE CALL WITH TO LOUIS	0.50	237.50
	JM CONFERENCES WITH RDA/RTL FOR FILE MANAGEMENT STRATEGY FROM ARBITRATION TO AWARD MOTIONS; FILE SUPPORT FOR RTL/RDA BRIEF REVIEWING BIDSAL APPENDIX OF EXHIBITS IN PREPARATION FOR GOLSHANI BRIEF APPENDIX OF EXHIBITS PER NEVADA RULE	2.00	270.00
	RDA DRAFTING REPLY RE PETITION TO CONFIRM; REVIEWED OPERATING AGREEMENT RE POSSIBLE RESTRICTION ON ENCUMBRANCE OF INTEREST	6.40	2,528.00
07/26/19	RTL REVIEW DRAFT IN PROGRESS AND EDIT	1.00	475.00
	JM FILE SUPPORT COMPILING EXHIBITS FOR REPLY BRIEF APPENDIX	4.00	540.00
	JM COMPLETE DOCUMENT COMPILATION IN FILE SUPPORT FOR BRIEF APPENDIX INCLUDING ARBITRATION TRANSCRIPT; PHONE CALL TO SAUL AT KNJ FOR PRINTING/LABELING QUOTE	2.00	270.00
07/28/19	RDA DRAFTING OPPOSITION	2.00	790.00
07/29/19	RDA DRAFTING OPPOSITION RE MOTION	1.00	395.00
07/30/19	JM COMPLETE APPENDIX OF EXHIBITS FILE SUPPORT; PHONE CALLS WITH KNJ PRINTING; CONFERENCES WITH RDA; TRANSFER HARD COPIES TO KNJ	5.00	675.00
	RDA DRAFTING OPPOSITION RE MOTION	10.00	3,950.00

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BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

July 31, 2019

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	Hours	Amount
07/31/19 JM FILE SUPPORT FOR RDA BRIEF WITH EXHIBITS APPENDIX; PHONE CALL WITH LOUIS GARFINKLE FOR INSTRUCTIONS	2.00	270.00
RDA DRAFTING OPPOSITION RE MOTION TO VACATE	9.50	3,752.50
For professional services rendered	83.70	\$29,457.50
Additional Charges :		
07/31/19 COS PHOTOCOPY CHARGES (LESS 20% DISCOUNT OF \$116.56)		466.24
COS PHOTOCOPY CHARGES - COLOR (LESS 20% DISCOUNT OF \$32.25)		129.00
Total costs		\$595.24
Total amount of this bill		\$30,052.74
Previous balance		\$4,841.75
7/15/2019 REFUND FROM JAMS		(\$1,345.60)
7/30/2019 Payment - thank you		(\$4,373.65)
Total payments and adjustments		(\$5,719.25)
Balance due		\$29,175.24

29,457.50
 TIME DELETED
 166.257
 29,291.25
 DISCOUNT
 4,373.65
 24,917.60
 595.24
 25,492.84

NOTE: A 15% COURTESY DISCOUNT ON CURRENT FEES OF \$29,457.50 (-\$4,418.63) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$24,756.61 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

Attorney Summary

Name	Hours	Rate	Amount
JL MARGOLIN	16.00	135.00	\$2,160.00
RICHARD D. AGAY	60.75	395.00	\$23,996.25
RODNEY T. LEWIN	6.95	475.00	\$3,301.25

THIS FIRM IS A PROFESSIONAL CORPORATION (EIN #95-4822188).
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 PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.

PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

August 31, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157
Invoice No. 20660

Professional Services

			<u>Hours</u>	<u>Amount</u>
08/01/19	RTL	BEGIN REVIEW AND EDIT OF OPPOSITION TO MOTION TO VACATE	0.65	308.75
	JM	MULTIPLE CONFERENCES WITH RDA RE: BREAKING UP APPENDIX INTO SUBPARTS FOR SUCCESSFUL E-FILING; PHONE CALLS TO KNJ; REVIEW EMAILS FROM RDA AND GARFINKEL; PHONE CALL TO GARFINKEL; EDIT APPENDIX SLIP SHEETS AND INDEX PAGINATION; DRAFT INSTRUCTION MEMO FOR KNJ TO BREAK INTO 6 SUBPARTS; EMAIL KNJ WITH ATTACHMENTS	4.00	540.00
	RDA	EDITING MEMORANDUM IN SUPPORT OF CONFIRMATION; COMPLETING APPENDIX NEW NUMBER IN EACH CITATION; CREATING APPENDICES	5.45	2,152.75
08/02/19	JM	RECEIVE/REVIEW/FILE MANAGEMENT OF APPENDIX SUBPARTS FROM KNJ; FILE SUPPORT FOR RTL	0.60	81.00
	JM	FILE SUPPORT FOR BRIEF	0.40	54.00
	RTL	REVIEW AND EDIT OPPOSITION; TELEPHONE CALL TO LOUIS RE ISSUES AND FINALIZATION	4.50	2,137.50
08/03/19	RDA	REVIEWING FURTHER EDITS AND COMMENTING UPON SAME	1.00	395.00
08/05/19	RTL	WORK ON FINALIZING BRIEF; TELEPHONE CONFERENCES WITH LOUIS RE SAME	1.75	831.25
	JM	MULTIPLE PHONE CALLS/EMAILS WITH LOUIS GARFINKEL REQUIRING EDITS TO APPENDIX OF EXHIBITS; MULTIPLE PHONE CALLS WITH KNJ FOR CHANGES NEEDED FOR E-FILING; REVIEW REVISED APPENDIX; FORWARD APPENDIX OF EXHIBITS IN SEPARATE EMAILS TO ENSURE DELIVERY AND SUCCESSFUL E-FILING; REVIEW/DOWNLOAD/FILE COURT STAMPED E-FILING OF ALL DOCUMENTS	2.50	337.50
	JM	HARD COPY FILE MANAGEMENT	0.50	NO CHARGE
	RDA	FINAL REVISIONS TO MEMORANDUM	2.15	849.25
08/12/19	RDA	E-MAIL EXCHANGE RE CLIENT REQUEST FOR EXHIBITS	0.15	NO CHARGE
08/14/19	JM	REVIEW EMAILS FROM CLIENT; CONFERENCE WITH RDA; FORWARD MULTIPLE EMAILS WITH EXHIBITS AND APPENDIX TO CLIENT	0.40	54.00
08/27/19	JM	PHONE CALL WITH LOUIS GARFINKEL REGARDING CHRONOLOGY FOR UPCOMING ARGUMENT; EMAIL PLEADINGS BINDER INDEX; REVIEW GARFINKEL EMAIL REQUEST FOR ADDITIONAL ITEM DATES AND INFORMATION; FILE SEARCH; EMAIL SUPPORTING DOCUMENTS TO GARFINKEL; REVIEW ADDITIONAL, MULTIPLE GARFINKEL EMAILS FOR MORE DATES/EVENTS	2.00	270.00
	JM	FILE MANAGEMENT OF BIDSAL REPLY TO CLA MEMORANDUM AND BRIEF IN SUPPORT OF OPPOSITION TO COUNTER PETITION TO VACATE AWARD	0.30	40.50
	JM	FURTHER FILE SUPPORT FOR RDA	0.40	54.00
	RDA	REVIEWING BIDSAL REPLY BRIEF TO PREPARE POINTS FOR ORAL ARGUMENT; REVIEWING TRANSCRIPT AND PAPERS FOR SUPPORT POINTS FOR ORAL ARGUMENT	3.00	1,185.00

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BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

August 31, 2019

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	<u>Hours</u>	<u>Amount</u>
08/28/19 RDA CONTINUED REVIEWING BIDSAL REPLY BRIEF TO PREPARE POINTS FOR ORAL ARGUMENT; REVIEWING TRANSCRIPT AND PAPERS FOR SUPPORT POINTS FOR ORAL ARGUMENT	0.75	296.25
08/29/19 RTL CONFERENCE RE HEARING STRATEGY;	0.25	118.75
RDA CONTINUED REVIEWING BIDSAL REPLY BRIEF TO PREPARE POINTS FOR ORAL ARGUMENT; REVIEWING TRANSCRIPT AND PAPERS FOR SUPPORT POINTS FOR ORAL ARGUMENT	0.50	197.50
08/30/19 RTL TELEPHONE CALL FROM LOUIS RE HEARING PREPARATION	0.20	95.00
For professional services rendered	31.45	\$9,998.00
Additional Charges :		
08/12/19 COS CONGRUITY 360 BILLING NO. 00007287		383.44
08/31/19 COS PHOTOCOPY CHARGES		203.40
COS PHOTOCOPY CHARGES (COLOR)		280.50
Total costs		\$867.34
Total amount of this bill		\$10,865.34
Previous balance		\$29,175.24
8/21/2019 Payment - thank you		(\$24,756.61)
8/21/2019 Courtesy Credit per RTL		(\$4,418.63)
Total payments and adjustments		(\$29,175.24)
Balance due		\$10,865.34

10,865.34
 DISCOUNT < 999.80
 9,865.54

NOTE: A 10% COURTESY DISCOUNT ON CURRENT FEES OF \$9,998.00 (-\$999.80) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$9,865.54 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

Attorney Summary

<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
JL MARGOLIN	10.60	135.00	\$1,431.00
RICHARD D. AGAY	12.85	395.00	\$5,075.75
RODNEY T. LEWIN	7.35	475.00	\$3,491.25

THIS FIRM IS A PROFESSIONAL CORPORATION (EIN #95-4822188).
 WE APPRECIATE TIMELY PAYMENTS. IF THERE IS A PROBLEM WITH YOUR BILL
 PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.

PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

September 30, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157

Invoice No. 20711

Professional Services

		<u>Hours</u>	<u>Amount</u>
09/04/19	JM FILE SUPPORT FOR RDA	0.40	54.00
	RDA TELEPHONE CALL FROM GARFINKLE RE ORAL ARGUMENT; CONTINUING REVIEW OF REPLY BRIEF TO DETERMINE BULLET POINTS FOR ORAL ARGUMENT; REVIEWING TRANSCRIPT AND PRIOR CLA BRIEF	3.05	1,204.75
09/05/19	RTL REVIEW AND EDIT ARGUMENT NOTES AND CONFERENCE, INTRA-OFFICE RE FINALIZING TO SEND TO LOUIS	0.50	237.50
	RDA COMPLETING REVIEW OF REPLY BRIEF TO DETERMINE BULLET POINTS FOR ORAL ARGUMENT; REVIEWING TRANSCRIPT AND PRIOR CLA BRIEF; EDITING BULLET POINTS	5.50	2,172.50
09/06/19	RTL CONFERENCE WITH LOUIS RE STRATEGY AND ISSUES FOR ARGUMENT	0.25	118.75
09/09/19	RTL REVIEW LOUIS OUTLINE AND ARGUMENTS IN PREPARATION FOR TELEPHONE CALL WITH LOUIS;	0.85	403.75
	RTL TELEPHONE CALL WITH LOUIS RE HEARING POINTS AND STRATEGY;	0.25	118.75
09/10/19	RTL TELEPHONE CALL FROM LOUIS; TELEPHONE CALL TO BEN	0.20	95.00
09/17/19	RTL REVIEW MINUTES OF HEARING; CONFERENCE, INTRA-OFFICE	0.10	47.50
For professional services rendered		11.10	\$4,452.50

Additional Charges :

09/30/19	COS PHOTOCOPY CHARGES	4,488.90	36.40
Total costs			\$36.40
Total amount of this bill		4,488.90	
Previous balance		\$10,865.34	
9/30/2019 Payment - thank you		(\$9,865.54)	
9/30/2019 Credit		(\$999.80)	
Total payments and adjustments		(\$10,865.34)	
Balance due			\$4,488.90

NOTE: A 10% COURTESY DISCOUNT ON CURRENT FEES OF \$4,452.50 (-\$445.25) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$4,043.65 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

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BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

September 30, 2019

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Name	Attorney Summary	Hours	Rate	Amount
JL MARGOLIN		0.40	135.00	\$54.00
RICHARD D. AGAY		8.55	395.00	\$3,377.25
RODNEY T. LEWIN		2.15	475.00	\$1,021.25

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PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.*

PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

October 31, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157
Invoice No. 20841

Professional Services

	<u>Hours</u>	<u>Amount</u>
10/21/19 RTL REVIEW NOTES AND TELEPHONE CALL WITH LOUIS RE HEARING STRATEGY;	0.35	166.25
For professional services rendered	0.35	\$166.25
Additional Charges :		
10/31/19 COS PHOTOCOPY CHARGES		3.20
COS PHOTOCOPY CHARGES (COLOR)		15.00
Total costs		\$18.20
Total amount of this bill		\$184.45
Previous balance		\$4,488.90
10/31/2019 Payment - thank you		(\$4,043.65)
10/31/2019 Credit		(\$445.25)
Total payments and adjustments		(\$4,488.90)
Balance due		\$184.45

184.45
166.25
168.82

DISCOUNT

NOTE: A 10% COURTESY DISCOUNT ON CURRENT FEES OF \$166.25 (-\$16.63) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$167.82 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

Attorney Summary

<u>Name</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
RODNEY T. LEWIN	0.35	475.00	\$166.25

THIS FIRM IS A PROFESSIONAL CORPORATION (EIN #95-4822188).
WE APPRECIATE TIMELY PAYMENTS. IF THERE IS A PROBLEM WITH YOUR BILL
PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.

BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

October 31, 2019

Page 2

PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

002705

002705

RODNEY T. LEWIN, A PROFESSIONAL CORPORATION
8665 WILSHIRE BLVD.
SUITE 210
BEVERLY HILLS, CA 90211-2931

November 30, 2019

BENJAMIN GOLSHANI
2801 S. MAIN ST.
LOS ANGELES, CA 90007

In Reference To: CLA PROPERTIES, LLC - #7157

Invoice No. 20874

Professional Services

	Hours	Amount
11/12/19 RTL TELEPHONE CALL FROM LOUIS RE HEARING	0.15	71.25
11/14/19 RDA REVIEWED MINUTE ORDER AND RESPONDED TO GARFINKEL E-MAIL AND TELEPHONE CONFERENCE WITH GARFINKEL	0.25	98.75
11/15/19 RDA REVIEWED GARFINKEL E-MAIL RE ATTORNEY FEES AND RESPONDED	0.15	59.25
For professional services rendered	0.55	\$229.25
Additional Charges :		
11/30/19 COS PHOTOCOPY CHARGES		2.00
Total costs		\$2.00
Total amount of this bill		\$231.25
Previous balance		\$184.45
11/29/2019 Payment - thank you		(\$166.25)
11/29/2019 Credit		(\$18.20)
Total payments and adjustments		(\$184.45)
Balance due		\$231.25

231.25
DISCOUNT < 22.937
208.32

NOTE: A 10% COURTESY DISCOUNT ON CURRENT FEES OF \$229.25 (-\$22.93) WILL BE GIVEN IF THE TOTAL DISCOUNTED BALANCE DUE OF \$208.32 IS PAID WITHIN TEN (10) DAYS. THANK YOU!

Attorney Summary

Name	Hours	Rate	Amount
RICHARD D. AGAY	0.40	395.00	\$158.00
RODNEY T. LEWIN	0.15	475.00	\$71.25

THIS FIRM IS A PROFESSIONAL CORPORATION (EIN #95-4822188).
WE APPRECIATE TIMELY PAYMENTS. IF THERE IS A PROBLEM WITH YOUR BILL
PLEASE CALL RODNEY T. LEWIN, TEL. NO. (310) 659-6771.

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BENJAMIN GOLSHANI

In Reference To: CLA PROPERTIES, LLC - #7157

November 30, 2019

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PLEASE REMIT PAYMENT WITHIN 10 DAYS AFTER RECEIPT. THANK YOU.

002707

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EXHIBIT “2”

002708

002708

EXHIBIT “2”

EXHIBIT 2**ADJUSTMENTS TO STATEMENTS**

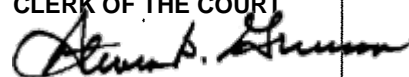
	April	May	June	July	August	Sept.	Oct.	Nov.
Statement Total Fees		10,951.00	4,681.00	29,457.50	9,998.00	4,452.50	166.25	229.25
Fees for Time Eliminated For Other Tasks		-5,661.50	-108.00	-166.25				
Net Fees For This Proceeding		5,289.95	4,573.00	29,291.25				
Discount of Fees For This Proceeding		-528.95	-457.30	-4,393.68	-999.80	-445.25	-16.63	-22.93
Net Fees Charged For This Proceeding		4,760.55	4,015.70	24,897.57	8,998.20	4,007.25	149.62	206.32
Costs		128.40	160.75	595.24	867.34	36.40	18.20	2.00
Fees and Costs Charged For This Proceeding After Discount	166.25	4,888.95	4,176.45	25,492.81	9,865.54	4,043.65	168.82	208.32

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002709

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1 **ASAF**
2 Louis E. Garfinkel, Esq.
3 Nevada Bar No. 3416
4 LEVINE & GARFINKEL
5 1671 W. Horizon Ridge Pkwy, Suite 230
6 Henderson, NV 89012
7 Tel: (702) 673-1612
8 Fax: (702) 735-0198
9 Email: lgarfinkel@lgealaw.com
10 *Attorneys for Petitioner CLA Properties LLC*

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

13 CLA PROPERTIES LLC, a limited liability
14 company,

Case No.: A-19-795188-P

Dept.: 31

15 Petitioner,

16 vs.

17 SHAWN BIDSAL, an individual,

18 Respondent.

19 **AFFIDAVIT OF LOUIS E.**
20 **GARFINKEL, ESQ. IN SUPPORT OF**
21 **CLA PROPERTIES, LLC'S MOTION**
22 **FOR ATTORNEY'S FEES AND**
23 **COSTS**

24 STATE OF NEVADA)
25)
26 COUNTY OF CLARK)

27 I, Louis E. Garfinkel, Esq., being first duly sworn depose and says:

28 1. I am a partner of the law firm of Levine & Garfinkel. I have been licensed to practice law in the State of Nevada since 1988. I make this Affidavit in Support of CLA Properties, LLC's ("CLA") Motion for Attorney's Fees and Costs.

2 2. I have knowledge of the facts stated herein, except as to matters based upon information and belief, which I believe to be true, and am competent to testify to the same and would testify if called as a witness.

3 3. As discussed above, I have been licensed to practice as an attorney in the State of Nevada since 1988. I was originally hired by the law firm of Lionel Sawyer & Collins and after

1 leaving that firm, I started my own firm. Since 1997, I have been affiliated with a series of small
2 law firms. My principal area of practice is commercial litigation. My hourly rate in connection
3 with this case is \$375.00 per hour, which based upon my experience and skill level, is customary
4 or below customary rates within the Las Vegas area.

5 4. Petitioner CLA is a California limited liability company. The sole member of
6 CLA is Benjamin Golshani, who is a resident of California.

7 5. Petitioner CLA and Respondent Shawn Bidsal ("Bidsal") are members of Green
8 Valley Commerce, LLC ("Green Valley"), a Nevada limited liability company. Respondent
9 Bidsal is a resident of the State of California. A dispute arose between Petitioner CLA and
10 Respondent Bidsal over a buy-sell provision contained in the Green Valley Operating Agreement.

11 6. On or about September 26, 2017, CLA's California counsel, Rodney T. Lewin,
12 Esq. of the Law Offices of Rodney T. Lewin, filed a Demand for Arbitration with JAMS' Las
13 Vegas office in accordance with the Green Valley Operating Agreement (the "Nevada
14 Arbitration").

15 7. I was retained as co-counsel in connection with the Nevada Arbitration.

16 8. The Nevada Arbitration was held on May 8-9, 2018. Mr. Lewin handled the
17 arbitration. On April 4, 2019, the Honorable Stephen Haberfeld entered a Final Award in the
18 Nevada Arbitration. Arbitrator Haberfeld found in favor of Petitioner CLA with respect to the
19 buy-sell dispute, and further awarded Petitioner CLA attorney's fees and costs in the amount of
20 \$298,256.00.

21 9. On April 9, 2019, Respondent Shawn Bidsal filed a Motion to Vacate Arbitrator's
22 Award (the "Motion to Vacate") in the United States District Court, District of Nevada, Case No.
23 2:19-cv-00605-APG-PAL (the "Federal Action").

24 10. On April 25, 2019, Petitioner CLA filed a Motion to Dismiss for Lack of Subject
25 Jurisdiction (the "Motion to Dismiss") in the Federal Action. Petitioner CLA and Respondent
26 Bidsal then filed a stipulation in the Federal Action agreeing to stay the Motion to Vacate pending
27 a decision by the Court regarding the Motion to Dismiss.

28 11. Because Petitioner CLA firmly believed that the Federal Court did not have

1 subject matter jurisdiction, before the Court ruled on the Motion to Dismiss in the Federal Action,
2 on May 21, 2019, Petitioner CLA filed its Petition for Confirmation of Arbitrator Award and
3 Entry of Judgment with this Court.

4 12. After this action was filed, Petitioner CLA and Respondent Bidsal entered into a
5 stipulation to stay the proceedings in this matter pending a ruling on the Motion to Dismiss in the
6 Federal Action.

7 13. On June 3, 2019, the Court entered an Order in the Federal Action granting
8 Petitioner CLA's Motion to Dismiss.

9 14. After the Federal Action was dismissed, Petitioner CLA and Respondent Bidsal
10 fully briefed CLA's Petition to Confirm Arbitrator's Award and Entry of Judgment and Bidsal's
11 Counter-Petition to Vacate Arbitrator's Award in this action.

12 15. After oral argument on the competing Petitions, on December 6, 2019, this Court
13 entered its Order Granting Petition for Confirmation of Arbitration Award and Entry of Judgment
14 and Denying Respondent's Opposition and Counter-Petition to Vacate the Arbitrator's Award.

15 16. Petitioner CLA now seeks an award of attorney's fees and costs incurred to
16 confirm the Arbitrator's Final Award.

17 17. Attached as Exhibit "1" is Levine & Garfinkel's invoice to Petitioner CLA dated
18 June 5, 2019. The invoice contains entries for services performed and costs incurred in
19 connection with the Federal Action and this action. I have redacted entries and costs that pertain
20 to the Federal Action and an entry that I believe to be privileged. I spent a total of 2.6 hours in
21 connection with this lawsuit and the costs billed to the client were \$292.10. Petitioner CLA was
22 billed a total of \$1,267.10 in connection with this case for this invoice.

23 18. Attached as Exhibit "2" is Levine & Garfinkel's invoice to Petitioner CLA dated
24 July 3, 2019. This invoice contains entries for services performed in connection with the Federal
25 Action and this action. I have redacted entries that pertain to the Federal Action. I spent a total
26 of 2.2 hours in connection with this lawsuit, but only billed the client for 2.1 hours. Petitioner
27 CLA was also given a courtesy discount of \$358.10. After applying the discount, Petitioner CLA
28 was billed the sum of \$429.40 for legal services and \$3.50 for costs for this invoice.

1 19. Attached as Exhibit "3" is Levine & Garfinkel's invoice to Petitioner CLA dated
2 August 6, 2019. This invoice contains entries for services performed in connection with the
3 Federal Action and this action. I have redacted the entries that pertain to the Federal Action and
4 an entry that I believe to be privileged. I spent a total of 5.9 hours in connection with this lawsuit
5 on this invoice. Petitioner CLA was also given a courtesy discount of \$618.97.. Applying the
6 discount, Petitioner CLA was billed a total of \$1,593.75 for services performed for this invoice.

7 20. Attached as Exhibit "4" is Levine & Garfinkel's invoice to Petitioner CLA dated
8 September 5, 2019. The invoice contains entries for services performed in connection with the
9 Federal Action and this action. I have redacted entries that pertain to services performed in the
10 Federal Action. I spent a total of 4.70 hours in connection with this lawsuit, but only billed the
11 client for 4.50 hours. Petitioner CLA was also given a courtesy discount of \$347.50. Applying
12 the discount, Petitioner CLA was billed a total of \$1,340.00 for services in connection with this
13 lawsuit. The costs incurred in connection with this lawsuit for this invoice was \$28.00.

14 21. Attached as Exhibit "5" is Levine & Garfinkel's invoice to Petitioner CLA dated
15 October, 3, 2019. I spent a total of 11.8 hours in connection with this lawsuit, but only charged
16 the client for 11.5 hours of work. I also gave Petitioner CLA a courtesy discount of \$900.00.
17 Petitioner CLA was billed the sum of \$3,412.50 for legal services. Petitioner CLA was also
18 billed \$191.97 for costs incurred on this invoice.

19 22. Attached as Exhibit "6" is Levine & Garfinkel's invoice to Petitioner CLA dated
20 November 6, 2019. I spent a total of 3.9 hours in connection with this lawsuit, but only billed the
21 client for 1.6 hours. The total amount billed to Petitioner CLA for services was \$600.00. The
22 costs incurred were \$81.80 for this invoice.

23 23. Attached as Exhibit "7" is Levine & Garfinkel's invoice to Petitioner CLA dated
24 December 5, 2019. I performed a total of 10 hours in connection with this lawsuit. I gave
25 Petitioner CLA a courtesy discount of \$750.00. The total amount billed to Petitioner CLA for
26 services was \$3,000.00.

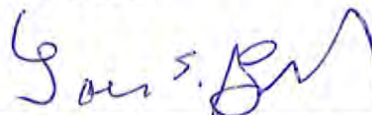
27 24. Levine & Garfinkel has not completed its invoice for services performed in
28 connection with this matter during December 2019. However, I have reviewed my timesheets

1 and have spent 11.90 hours in connection with this matter. I have performed the following
 2 services: review of the Court's Order; telephone conferences with the client; telephone
 3 conferences with co-counsel; drafting and reviewing correspondence to and/or from the client and
 4 co-counsel; legal research regarding various issues; and preparation of the present motion and my
 5 affidavit in support of the motion.

6 25. I spent a total of 53 hours in connection with this matter on behalf of CLA.
 7 However, after CLA's courtesy discounts, CLA was and/or will be billed \$15,813.15 in attorney's
 8 fees for this matter. CLA was also billed for costs totaling \$596.37.

9 26. CLA is seeking a total of \$16,409.52 for attorney's fees and costs incurred by my
 10 firm in connection with this motion. The total fees and costs were actually and necessarily
 11 incurred and are reasonable.

12
 13 FURTHER AFFIANT SAYETH NAUGHT.

14 

15
 16 LOUIS E. GARFINKEL, Esq.

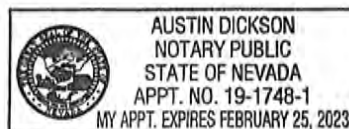
17 STATE OF NEVADA)

18 COUNTY OF CLARK)

19 SWORN TO AND SUBSCRIBED
 20 BEFORE me this 3rd day of January, 2020.

21 
 22 NOTARY PUBLIC

23 My Commission Expires: 2-25-23



CERTIFICATE OF SERVICE


Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that I am an employee of LEVINE & GARFINKEL, and that on the 3rd day of January, 2020, I caused the foregoing **AFFIDAVIT OF LOUIS E. GARFINKEL, ESQ. IN SUPPORT OF CLA PROPERTIES, LLC'S MOTION FOR ATTORNEY'S FEES AND COSTS:**

☐ by placing a true and correct copy of the same to be deposited for mailing in the US Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid; and/or

☐ by hand delivery to the parties listed below; and/or

☒ pursuant to N.E.F.C.R. Rule 9 and Administrative Order 14-2, by sending it via electronic service to:

James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
Smith & Shapiro, PLLC
3333 E. Serene Ave, Suite 130
Henderson, NV 89074
T: (702) 318-5033/F: (702) 318-5034
Email: jshapiro@smithshapiro.com
acannon@smithshapiro.com
Attorneys for Respondent Shawn Bidsal



Melanie Bruner, an Employee of
LEVINE & GARFINKEL

EXHIBIT “1”

EXHIBIT “1”

LEVINE & GARFINKEL
 1671 W. Horizon Ridge Pkway
 Suite 230
 Henderson, NV 89012
 Tax ID 56-2349556
 (702) 735-0451

Benjamin Golshani
 c/o Law Offices of Rodney T. Lewin
 Rod@rtlewin.com

June 05, 2019

In Reference To: **CLA PROPERTIES, LLC adv**
Shawn Bidsal

Account No.: 35338.002

FOR PROFESSIONAL SERVICES

		Hours	Amount
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
5/21/2019	LEG Review and proof Petition for Confirmation of Arbitration Award; prepare exhibits to Petition; telephone conference with Rod Lewin; draft correspondence to Rod Lewin.	0.80	\$300.00
5/22/2019	LEG Draft correspondence to Jim Shapiro; draft correspondence to Rod Lewin; review Notice of Hearing; draft correspondence to Rod Lewin; telephone conference with Court Clerk; draft correspondence to Rod Lewin.	0.30	\$112.50
5/23/2019	LEG [REDACTED] telephone conference with Rod Lewin; draft correspondence to Rod Lewin; review correspondence; draft correspondence to Rod Lewin.	0.50	\$187.50
5/24/2019	LEG Draft correspondence to Rod Lewin; review correspondence; draft correspondence to Rod Lewin; review correspondence; telephone conference with Rod Lewin; draft correspondence to Jim Shapiro.	0.20	\$75.00

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LEVINE GARFINKEL :

Benjamin Golshani

June 05, 2019

Page 2

		<u>Hours</u>	<u>Amount</u>
5/28/2019	LEG Telephone conference with Jim Shapiro; telephone conference with Rod Lewin; review correspondence; draft correspondence to Rod Lewin.	0.30	\$112.50
5/29/2019	LEG Review correspondence; draft correspondence to Jim Shapiro; research [REDACTED] telephone conference with Rod Lewin.	0.50	\$187.50
5/30/2019	LEG Draft correspondence to Jim Shapiro; review correspondence.	0.10	\$37.50
TOTAL FOR NEW SERVICES		7.90	\$2,962.50
Additional Charges :			

		<u>Price</u>	
5/21/2019	Wiznet fee to Clark County District Court - Petition for Confirmation	281.60	281.60
	Wiznet fee to Clark County District Court - Initial Appearance Fee Disclosure	3.50	3.50
	Wiznet fee to Clark County District Court - Summons	3.50	3.50
5/28/2019	Wiznet fee to Clark County District Court - Affidavit of Service	3.50	3.50
	[REDACTED]	[REDACTED]	[REDACTED]
Total costs			\$395.60
TOTAL AMOUNT OF THIS BILL			\$3,358.10
PREVIOUS BALANCE			\$5,004.25
5/30/2019	Payment - thank you. Check No. Wire		(\$5,004.25)
Total adjustments (if applicable)			(\$5,004.25)
BALANCE DUE			\$3,358.10

To insure proper credit, please include the account number or copy of invoice with your payment.

EXHIBIT “2”

EXHIBIT “2”

LEVINE & GARFINKEL
 1671 W. Horizon Ridge Pkway
 Suite 230
 Henderson, NV 89012
 Tax ID 56-2349556
 (702) 735-0451

Benjamin Golshani
 c/o Law Offices of Rodney T. Lewin
 Rod@rtlewin.com

July 03, 2019

In Reference To: **CLA PROPERTIES, LLC adv**
Shawn Bidsal

Account No.: **35338.002**

FOR PROFESSIONAL SERVICES

	<u>Hours</u>	<u>Amount</u>
6/3/2019 LEG [REDACTED] draft correspondence to Rod Lewin; review correspondence; telephone conference with Jim Shapiro; draft correspondence to Rod Lewin.	0.40	\$150.00
6/6/2019 LEG Revision of Stipulation to Stay Proceedings; review correspondence; telephone conference with Rod Lewin; draft correspondence to Jim Shapiro.	0.30	\$112.50
6/7/2019 LEG Review correspondence and revision of Stipulation and Order.	0.10	NO CHARGE
6/11/2019 LEG Review correspondence; telephone conference with Rod Lewin; draft correspondence to Jim Shapiro; review correspondence; draft correspondence to Jim Shapiro.	0.20	\$75.00
6/12/2019 LEG Review revised Stipulation; draft correspondence to Jim Shapiro; review correspondence.	0.20	\$75.00
[REDACTED]		
[REDACTED]		
6/18/2019 LEG Draft correspondence to Jm Shapiro; review correspondence; review Order; draft correspondence to counsel.	0.20	\$75.00
6/20/2019 LEG Telephone conference with Rod Lewin.	0.20	\$75.00
6/24/2019 LEG Review Order and Judgment; telephone conference with Rod Lewin; draft Notice of Entry of Order and Judgment.	0.30	\$112.50
6/25/2019 LEG Revision of Notice of Entry of Order Granting Motion to Dismiss and Entry of Judgment; draft correspondence to Rod Lewin.	0.40	\$150.00
[REDACTED]		
[REDACTED]		
TOTAL FOR NEW SERVICES	3.00	\$975.00

LEVINE GARFINKEL

Benjamin Golshani

July 03, 2019

Page 2

Additional Charges :

	<u>Price</u>	<u>Amount</u>
6/25/2019 Wiznet fee to Clark County District Court - Notice of Entry of Order		3.50
	3.50	
Total costs		<u>\$3.50</u>
 TOTAL AMOUNT OF THIS BILL		 \$978.50
PREVIOUS BALANCE		\$3,358.10
6/14/2019 Payment - thank you. Check No. WIRE		(\$3,000.00)
6/30/2019 Courtesy Discount per Louis E. Garfinkel, Esq.		<u>(\$358.10)</u>
Total adjustments (if applicable)		(\$3,358.10)
 BALANCE DUE		 <u>\$978.50</u>

To insure proper credit, please include the account number or copy of invoice with your payment.

EXHIBIT “3”

002722

002722

EXHIBIT “3”

LEVINE & GARFINKEL
 1671 W. Horizon Ridge Pkwy
 Suite 230
 Henderson, NV 89012
 Tax ID 56-2349556
 (702) 735-0451

Benjamin Golshani
 c/o Law Offices of Rodney T. Lewin
 Rod@rtlewin.com

August 06, 2019

In Reference To: **CLA PROPERTIES, LLC adv**
Shawn Bidsal

Account No.: **35338.002**

FOR PROFESSIONAL SERVICES

		Hours	Amount
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
7/12/2019	LEG Draft correspondence to Jim Shapiro.	0.10	\$37.50
7/16/2019	LEG Review correspondence; telephone conference with Rod Lewin; Review and compare Motions to Vacate Arbitration Award; telephone conference with Rod Lewin.	0.60	\$225.00
7/17/2019	LEG Review Bidsal's opposition to petition for confirmation of arbitration award and counter opposition to vacate award; review arbitration award; telephone conference with Rod Lewin and Richard Agay; research [REDACTED]; review correspondence.	1.80	\$675.00
7/18/2019	LEG Review correspondence; legal research regarding [REDACTED]; telephone conference with Rod Lewin.	2.20	\$825.00
7/23/2019	LEG Review correspondence; telephone conference with Richard Agay; Telephone conference with Richard Agay; telephone conference with Judge's law clerk; telephone conference with Richard Agay; telephone conference with Rod Lewin; telephone conference with Rod Lewin; review Bidsal's Appendix..	1.20	\$450.00
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]	[REDACTED]	[REDACTED]

LEVINE GARFINKEL

Benjamin Golshani

August 06, 2019

Page 2

Hours	Amount
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[REDACTED]	16.50	\$6,187.50
[REDACTED]	16.50	\$6,187.50

TOTAL FOR NEW SERVICES

16.50 \$6,187.50

PREVIOUS BALANCE

\$978.50

7/31/2019 Courtesy Discount per Louis E. Garfinkel, Esq.

(\$618.75)

Total adjustments (if applicable)

(\$618.75)

BALANCE DUE

\$6,547.25

002724

002724

Current	30 Days	60 Days	90 Days	120 Days
6,187.50	359.75	0.00	0.00	0.00

To insure proper credit, please include the account number or copy of invoice with your payment.

CLA000 6

EXHIBIT “4”

002725

002725

EXHIBIT “4”

LEVINE & GARFINKEL
 1671 W. Horizon Ridge Pkway
 Suite 230
 Henderson, NV 89012
 Tax ID 56-2349556
 (702) 735-0451

Benjamin Golshani
 c/o Law Offices of Rodney T. Lewin
 Rod@rtlewin.com

September 05, 2019

In Reference To: **CLA PROPERTIES, LLC** adv
Shawn Bidsal

Account No.: 35338.002

FOR PROFESSIONAL SERVICES

		Hours	Amount
	[REDACTED]	[REDACTED]	[REDACTED]
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
8/5/2019 LEG	Review correspondence; review revisions to opposition to vacate arbitration award; telephone with Rod Lewin; telephone conference with Jack Liev; review appendix; telephone conference with Jack Liev; review revised draft of opposition; telephone conference with Rod Lewin; prepare opposition for filing.	1.90	\$712.50
8/12/2019 LEG	Telephone conference with Jim Shapiro regarding hearing.	0.10	NO CHARGE
8/13/2019 LEG	Review correspondence; draft correspondence to Jill Berghammer.	0.10	NO CHARGE
8/14/2019 LEG	Review correspondence from Jill Berghammer; review correspondence; draft multiple emails to Barb Lewin; review correspondence; draft multiple emails to Jill Berghammer; review correspondence; telephone conference with Ben Golshini; review correspondence; draft correspondence to Jill Berghammer; review correspondence.	0.40	\$150.00
8/26/2019 LEG	Review Bidsal's reply in support of counterclaim to vacate award.	0.30	\$112.50
	[REDACTED]		
	[REDACTED]		
	[REDACTED]		
8/29/2019 LEG	Prepare for argument on motion to confirm arbitrator's award.	1.70	\$637.50
8/30/2019 LEG	Telephone conference with Rod Lewin regarding hearing.	0.20	\$75.00
TOTAL FOR NEW SERVICES		9.00	\$3,300.00

LEVINE GARFINKEL

Benjamin Golshani

September 05, 2019

Page 2

Additional Charges :

	<u>Price</u>	<u>Amount</u>
8/5/2019 Wiznet fee to Clark County District Court - Appendix		3.50
	3.50	
Wiznet fee to Clark County District Court - Memorandum of Points		3.50
	3.50	
Wiznet fee to Clark County District Court - Exhibits		3.50
	3.50	
Wiznet fee to Clark County District Court - Exhibits Part 2		3.50
	3.50	
Wiznet fee to Clark County District Court - Exhibits Part 3		3.50
	3.50	
Wiznet fee to Clark County District Court - Exhibits Part 4		3.50
	3.50	
Wiznet fee to Clark County District Court - Exhibits Part 5		3.50
	3.50	
Wiznet fee to Clark County District Court - Exhibits Part 6		3.50
	3.50	
Total costs		<u>\$28.00</u>
 TOTAL AMOUNT OF THIS BILL		 \$3,328.00
PREVIOUS BALANCE		\$6,547.25
8/22/2019 Payment - thank you. Check No. ACH		(\$6,200.00)
8/31/2019 Courtesy Discount per Louis E. Garfinkel, Esq.		(\$347.25)
Total adjustments (if applicable)		<u>(\$6,547.25)</u>
 BALANCE DUE		 <u>\$3,328.00</u>

To insure proper credit, please include the account number or copy of invoice with your payment.

EXHIBIT “5”

002728

002728

EXHIBIT “5”

LEVINE & GARFINKEL
 1671 W. Horizon Ridge Pkway
 Suite 230
 Henderson, NV 89012
 Tax ID 56-2349556
 (702) 735-0451

Benjamin Golshani
 c/o Law Offices of Rodney T. Lewin
 Rod@rtlewin.com

October 03, 2019

In Reference To: **CLA PROPERTIES, LLC adv**
Shawn Bidsal

Account No.: **35338.002**

FOR PROFESSIONAL SERVICES

		<u>Hours</u>	<u>Amount</u>
9/3/2019	LEG Prepare argument for petition to confirm arbitration award.	1.90	\$712.50
9/4/2019	LEG Prepare for oral argument on motion to confirm arbitrator's award; telephone conference with Richard Agay.	1.10	\$412.50
9/5/2019	LEG Telephone conference with Ben Golshani regarding hearing; prepare for hearing on motion to confirm arbitration award; draft supplement to appendix in support of motion to confirm arbitrator's award.	1.60	\$600.00
9/6/2019	LEG Review [REDACTED] telephone conference with Rod Lewin; prepare for hearing on motion to confirm arbitrator's award.	1.40	\$525.00
9/9/2019	LEG Prepare for hearing on motion to confirm arbitrator's award; telephone conference with Rod Lewin; telephone conference with Ben Golshani.	2.20	\$825.00
9/10/2019	LEG Prepare for hearing; travel to court for hearing on motion to confirm arbitrator's award; attend hearing; conference with Jim Shapiro; telephone conference with Rod Lewin; travel to office; telephone conference with Jim Shapiro; telephone conference with Judge's assistant.	2.90	\$1,087.50
9/11/2019	LEG Telephone conference with Sean McConnell regarding exhibits.	0.10	NO CHARGE
9/13/2019	LEG Prepare exhibits; telephone conference with Judge's assistant; draft correspondence to Jim Shapiro; telephone conference with Jill Berghammer; review correspondence	0.20	\$75.00
9/16/2019	LEG Draft correspondence to Judge Kishner; review correspondence; draft correspondence to Sandra Hassell; telephone conference with Rod Lewin.	0.20	\$75.00
9/17/2019	LEG Review court minutes; draft correspondence to Rod Lewin.	0.10	NO CHARGE
9/18/2019	LEG Review court docket; draft correspondence to counsel; telephone conference with Judge's assistant.	0.10	NO CHARGE
TOTAL FOR NEW SERVICES		11.80	\$4,312.50

CLA000 9

LEVINE GARFINKEL -

Benjamin Golshani

October 03, 2019
Page 2

Additional Charges :

	<u>Price</u>	<u>Amount</u>
8/20/2019 Wiznet fee to Clark County District Court - Exhibits		3.50
	3.50	
9/17/2019 Photocopy Charge (Holo)		157.22
	157.22	
9/30/2019 Photocopy Charge		31.25
	31.25	
Total costs		<u>\$191.97</u>
TOTAL AMOUNT OF THIS BILL		<u>\$4,504.47</u>
PREVIOUS BALANCE		\$3,328.00
9/30/2019 Courtesy Discount per Louis E. Garfinkel, Esq.		<u>(\$900.00)</u>
Total adjustments (if applicable)		<u>(\$900.00)</u>
BALANCE DUE		<u>\$6,932.47</u>

To insure proper credit, please include the account number or copy of invoice with your payment.

EXHIBIT “6”

EXHIBIT “6”

LEVINE & GARFINKEL
 1671 W. Horizon Ridge Pkway
 Suite 230
 Henderson, NV 89012
 Tax ID 56-2349556
 (702) 735-0451

Benjamin Golshani
 c/o Law Offices of Rodney T. Lewin
 Rod@rtlewin.com

November 06, 2019

In Reference To: **CLA PROPERTIES, LLC adv**
Shawn Bidsal

Account No.: **35338.002**

FOR PROFESSIONAL SERVICES

	<u>Hours</u>	<u>Amount</u>
10/18/2019 LEG Prepare for hearing on motion to confirm arbitrator's award.	2.30	NO CHARGE
10/21/2019 LEG Prepare for hearing on motion to confirm arbitrator's award; telephone conference with Ben Golshani; telephone conference with Rod Lewin; review memo from the court; telephone conference with Jill Berghammer; draft correspondence to Jim Shapiro; review correspondence; draft correspondence to Jill Berghammer.	1.60	\$600.00

TOTAL FOR NEW SERVICES	<u>3.90</u>	<u>\$600.00</u>
-------------------------------	-------------	-----------------

Additional Charges :

	<u>Price</u>
9/10/2019 Recorder's billing invoice	81.80
Total costs	<u>81.80</u> <u>\$81.80</u>
TOTAL AMOUNT OF THIS BILL	<u>\$681.80</u>
PREVIOUS BALANCE	<u>\$6,932.47</u>
10/3/2019 Payment - thank you. Check No. ACH	<u>(\$3,328.00)</u>
10/31/2019 Payment - thank you. Check No. ACH	<u>(\$3,604.47)</u>
Total adjustments (if applicable)	<u>(\$6,932.47)</u>

BALANCE DUE	<u><u>\$681.80</u></u>
--------------------	------------------------

To insure proper credit, please include the account number or copy of invoice with your payment.

EXHIBIT “7”

002733

002733

EXHIBIT “7”

LEVINE GARFINKEL

Benjamin Golshani

December 05, 2019

Page 2

In Reference To: **CLA PROPERTIES, LLC adv**
Shawn Bidsal

Account No.: **35338.002**

FOR PROFESSIONAL SERVICES

		<u>Hours</u>	<u>Amount</u>
11/8/2019	LEG Prepare for hearing on motion to confirm arbitrator's award.	1.30	\$487.50
11/12/2019	LEG Prepare for hearing on motion to confirm arbitrator's award.	2.70	\$1,012.50
	LEG Travel to court; attend hearing on motion to confirm arbitrator's award' telephone conference with Rod Lewin; travel to office.	3.90	\$1,462.50
11/13/2019	LEG Review minute order; draft correspondence to Rod Lewin; telephone conference with Ben Golshani.	0.30	\$112.50
11/14/2019	LEG Review correspondence; telephone conference with Richard Agay; research regarding motion for attorney's fees; draft correspondence to Richard Agay,	0.60	\$225.00
11/15/2019	LEG Legal research [REDACTED] draft correspondence to Richard Agay; review correspondence; telephone conference with Rod Lewin.	0.40	\$150.00
11/19/2019	LEG Review court docket; telephone conference with Rod Lewin; telephone conference with Ben Golshani.	0.20	\$75.00
11/22/2019	LEG Legal research [REDACTED] draft correspondence to Rod Lewin.	0.40	\$150.00
11/25/2019	LEG Telephone conference with Rod Lewin; telephone conference with Ben Golshani.	0.20	\$75.00
TOTAL FOR NEW SERVICES		10.00	\$3,750.00
PREVIOUS BALANCE			\$681.80
11/29/2019	Payment - thank you. Check No. ACH		(\$681.80)
11/30/2019	Courtesy Discount per Louis E. Garfinkel, Esq.		(\$750.00)
Total adjustments (if applicable)			(\$1,431.80)
BALANCE DUE			<u>\$3,000.00</u>

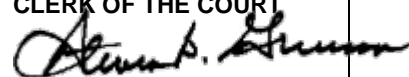
To insure proper credit, please include the account number or copy of invoice with your payment.

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702-318-5033
Attorneys for SHAWN BIDSAL

DISTRICT COURT

CLARK COUNTY, NEVADA

CLA, PROPERTIES, LLC, a California limited
liability company,

Case No. A-19-795188-P
Dept. No. 31

Petitioner,

vs.

SHAWN BIDSAL, an individual,

Respondent.

NOTICE OF APPEAL

Notice is hereby given that Respondent SHAWN BIDSAL hereby appeal to the Supreme
Court of Nevada from the following:

1) The District Court's Order Granting Petition for Confirmation of Arbitration Award
and Entry of Judgment and Denying Respondent's Opposition and Countermotion to Vacate the
Arbitrator's Award, entered on December 16, 2019.

2) All other orders and rulings made appealable from the foregoing.

Dated this 9th day of January, 2020.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro
James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
3333 E. Serene Ave., Suite 130
Henderson, Nevada 89074
Attorneys for Respondent, Shawn Bidsal

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 9th day of January, 2020, I served a true and correct copy of the foregoing **NOTICE OF APPEAL**, by e-serving a copy on all parties registered and listed as Service Recipients in Odyssey File & Serve, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered on May 9, 2014.

/s/ Jennifer Bidwell

An employee of Smith & Shapiro, PLLC

SMITH & SHAPIRO, PLLC

3333 E. Serene Ave., Suite 130

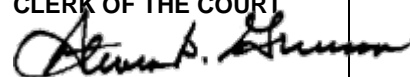
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Attorneys for SHAWN BIDSAL

DISTRICT COURT

CLARK COUNTY, NEVADA

CLA, PROPERTIES, LLC, a California limited liability company,

Case No. A-19-795188-P
Dept. No. 31

Petitioner,

vs.

SHAWN BIDSAL, an individual,

Respondent.

CASE APPEAL STATEMENT

1. Name of appellants filing this case appeal statement: Respondent SHAWN BIDSAL.

2. Identify the judge issuing the decision, judgment, or order appealed from: The Honorable JOANNA S. KISHNER, Dept. No. 31.

3. Identify each appellant and the name and address of counsel for each appellant:

Appellant: SHAWN BIDSAL

Appellant's counsel: JAMES E. SHAPIRO, ESQ.
SMITH & SHAPIRO, PLLC
3333 E. Serene Ave., Suite 130
Henderson, NV 89074.

4. Identify each respondent and the name and address of respondent counsel, if known, for each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much and provide the name and address of that cross-respondent's trial counsel):

\\

Respondent: CLA, PROPERTIES, LLC,
a California limited liability company,

Respondent's appellate counsel: Unknown

Respondent's trial counsel: LOUIS E. GARFINKEL, ESQ.
LEVINE & GARFINKEL
1671 W. Horizon Ridge Pkwy., Suite 230
Henderson, NV 89012

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission): N/A.

6. Indicate whether appellant was represented by appointed or retained counsel in the district court: retained counsel.

7. Indicate whether respondent is represented by appointed or retained counsel on appeal: retained counsel.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave: N/A.

9. Indicate the date the proceedings commenced in the district court (e.g., date complaint, indictment, information, or petition was filed): May 21, 2019.

10. Provide a brief description of the nature of the action and result in the district court, including the type of judgment or order being appealed and the relief granted by the district court: The underlying dispute revolves around the attempted break-up of a limited liability company, Green Valley Commerce, LLC ("Green Valley"), by its members, under the buy-sell provisions of Green Valley's operating agreement (the "OPAG"). On September 26, 2017, Respondent, CLA, PROPERTIES, LLC ("CLAP"), filed a Demand for Arbitration, which ultimately resulted in a Final Award being entered on April 5, 2019, in JAMS Arbitration No. 1260004569 (the "Arbitration Award"). On April 9, 2019, Appellant SHAWN BIDSAL ("Bidsal") filed a Motion to Vacate Arbitration Award in the United States District Court for the District of Nevada (the "Federal Case"). The Federal Case was dismissed for lack of subject matter jurisdiction on June 24, 2019. On May 21, 2019, CLAP filed a Petition for Confirmation of Arbitration Award and Entry of Judgment

in the Eighth Judicial District Court, in and for, Clark County, Nevada. On July 15, 2019, Bidsal filed his Opposition to CLA's Petition for Confirmation of Arbitration Award and Entry of Judgment and Counterpetition to Vacate Arbitration Award. On December 6, 2019, the district court entered its Order Granting Petition for Confirmation of Arbitration Award and Entry of Judgment and Denying Respondent's Opposition and Counterpetition to Vacate the Arbitrator's Award (the "District Court's Order"), wherein the district court upheld and confirmed the Arbitration Award. The Notice of Entry of the District Court's Order was filed December 16, 2019. Appellant Bidsal is appealing the District Court's Order.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme Court docket number of the prior proceeding: This case has *not* previously been the subject of an appeal to or original writ proceedings in the Supreme Court.

12. Indicate whether this appeal involves child custody or visitation: This case does *not* involve child custody or visitation.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement: This is a civil case and settlement is possible.

Dated this 9th day of January, 2020.

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro
James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
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Attorneys for Respondent, Shawn Bidsal

002739

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002739

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 9th day of January, 2020, I served a true and correct copy of the foregoing **CASE APPEAL STATEMENT**, by e-serving a copy on all parties registered and listed as Service Recipients in Odyssey File & Serve, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered on May 9, 2014.

/s/ Jennifer Bidwell

An employee of Smith & Shapiro, PLLC

SMITH & SHAPIRO, PLLC

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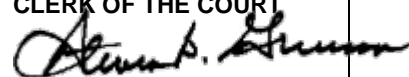
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Attorneys for Respondent, Shawn Bidsal

DISTRICT COURT

CLARK COUNTY, NEVADA

CLA PROPERTIES, LLC, a California limited liability company,

Petitioner,

vs.

SHAWN BIDSAL, an individual,

Respondent.

Case No. **A-19-795188-P**

Dept. No. 31

Hearing Requested

RESPONDENT'S MOTION FOR STAY PENDING APPEAL

Respondent SHAWN BIDSAL, an individual ("*Bidsal*"), by and through his attorneys, SMITH & SHAPIRO, PLLC, hereby submits his Motion for Stay Pending Appeal. (the "*Motion*")

This Motion is made and based upon the attached Memorandum of Points and Authorities, the attached affidavit and exhibit and any oral argument the Court may wish to entertain in the premises.

Dated this 17th day of January, 2020

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro

James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
3333 E. Serene Ave., Suite 130
Henderson, Nevada 89074
Attorneys for Respondent, Shawn Bidsal

SMITH & SHAPIRO, PLLC

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

Petitioner CLA PROPERTIES, LLC (“CLAP”) and Respondent Bidsal are the sole members of Green Valley Commerce, LLC (“GVC”). *See* Declaration of Shawn Bidsal, a true and correct copy of which is attached hereto as *Exhibit “A”* and incorporated herein by this reference. GVC owns and manages commercial property in Las Vegas, Nevada. *Id.* CLAP is solely owned by its principal Benjamin Golshani (“Golshani”). *Id.* On or about June 15, 2011 CLAP and Bidsal entered into an Operating Agreement (“OPAG”) for GVC. *Id.* From its inception, GVC’s primary business has been the ownership and operation of commercial properties. *See* Exhibit “A”.

On or about July 7, 2017 Bidsal sent CLAP a written offer to purchase CLAP’s share of GVC. After that July 7, 2017 correspondence was received, CLAP and Bidsal reached an impasse as to how the OPAG directed a buy-out of interests for GVC (the “Impasse”).

From on or about May 8, 2018 to May 9, 2018 Bidsal and CLAP participated in an arbitration to resolve the Impasse. Arbitrator Stephen E. Haberfeld (“Arbitrator”) was appointed to hear the matter. Nearly eleven months later, on or about April 5, 2019, the Arbitrator entered an arbitration award in favor of CLAP (the “Arbitrator’s Award”). Under the Arbitrator’s Award, CLAP is required to pay well over One Million Dollars (\$1,000,000) to Bidsal for Bidsal’s membership interest in GVC. *See* Exhibit “A”.

On May 21, 2019, CLAP filed a Petition for Confirmation of Arbitration Award and Entry of Judgment (the “Petition”). Bidsal, filed an Opposition to CLAP’s Petition for Confirmation of Arbitration Award and Entry of Judgment and filed a Counterpetition to Vacate Arbitration Award on July 15, 2019 (the “Counterpetition”).

The Petition and the Counterpetition were heard on November 12, 2019 in the District Court. On December 6, 2019 the District Court rendered a decision granting the Petition (“District Court Order”). The Notice of Entry of the District Court Order was entered on December 16, 2019.

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On January 9, 2020 Bidsal filed a Notice of Appeal of the District Court Order. For the reasons set forth below, Bidsal requests that the Court enter a stay pending appeal of the District Court Order.

II.

STATEMENT OF AUTHORITIES

A. LEGAL STANDARD.

NRAP 8 allows a party to seek a stay of any order pending an appeal of the same and requires that the motion be first brought in front of the district court judge. NRCP 62, which governs requests for a stay pending appeal, states in pertinent part:

(d) Stay Pending an Appeal.

(1) By Supersedeas Bond. If an appeal is taken, the appellant may obtain a stay by supersedeas bond, except in an action described in Rule 62(a)(2). The bond may be given upon or after filing the notice of appeal or after obtaining the order allowing the appeal. The stay is effective when the supersedeas bond is filed.

(2) By Other Bond or Security. If an appeal is taken, a party is entitled to a stay by providing a bond or other security. Unless the court orders otherwise, the stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.

NRCP 62(d).

As NRCP 62(d) indicates, a stay pending appeal is granted as a matter of routine so long as a supersedeas bond has been posted. NRCP 62(d). Further, a supersedeas bond is not required before a stay will be granted, so long as some other bond or other security is provided. *Id.*

The amount of the bond is left to the discretion of the Court, but ordinarily is in an amount equal to the amount of the judgment. McCulloch v. Jeakins, 99 Nev. 122, 123, 659 P.2d 302, 303 (1983). However, “[a] district court, in its discretion, may provide for a bond in a lesser amount, or may permit security other than a bond, when unusual circumstances exist and so warrant.” *Id.*

In deciding whether to issue a stay, the Nevada Supreme Court considers the following factors: (1) whether the object of the appeal or writ petition will be defeated if the stay is denied; (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay is denied; (3) whether respondent/real party in interest will suffer irreparable or serious injury if the stay is granted; and (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or writ petition. Hansen v.

1 Eighth Judicial Dist. Court ex rel. Cnty. of Clark, 116 Nev. 650, 657, 6 P.3d 982, 986 (2000). *See*
 2 *also* NRAP Rule 8(c).

3 **B. A STAY OF ENFORCEMENT OF THE ORDER IS APPROPRIATE.**

4 Considering the four factors identified in Hansen, a stay would be appropriate in this case.
 5 First, the purpose of the appeal is to determine whether Bidsal has an obligation to abide by the
 6 Arbitrator's decision, confirmed by the District Court. However, the District Court Order requires
 7 the transfer of Bidsal's interest in GVC to occur within 14 days of the Judgment. Thus, the object of
 8 the appeal would be defeated absent a stay because Bidsal would be required by the District Court
 9 Order to transfer his shares before the court that hears the appeal determines whether such an
 10 transfer as ordered by the District Court is required.

11 Second, Bidsal will suffer irreparable harm if the stay is denied. If the transfer of shares in
 12 GVC occurs and the appeal results in a reversal of the Arbitrator's decision, it will be virtually
 13 impossible to undo the transfer. *See* Exhibit "A". This is in part, because Bidsal, who is currently
 14 managing the property owned by GVC, would lose the ability to manage GVC and its properties if
 15 the transfer occurs prior to the appeal. *Id.* The value of any commercial property, including GVC's
 16 commercial property, is directly linked to its management. *Id.* By losing the ability to manage GVC
 17 and its properties pending the appeal, Bidsal will suffer irreparable harm. *Id.*

18 Third, respondent will not suffer any injury if the stay is granted. If the Order is confirmed on
 19 appeal, Respondent will merely be required to wait a little longer to receive Bidsal's shares. Bidsal
 20 has managed the real property that is GVC's primary asset from the beginning, including while this
 21 matter has worked its way through the legal system. Bidsal has proven capable and willing to
 22 continue to manage the property for GVC. CLAP will not in any way be divested of its shares in
 23 GVC simply due to a stay. Further, CLAP will suffer no monetary harm. While the Arbitrator
 24 awarded CLAP attorneys fees, CLAP can easily offset the full amount of the award from the
 25 purchase price which CLAP ultimately pays to Bidsal for Bidsal's shares (should the Arbitrator's
 26 Award be upheld). Because confirming the Arbitrator's Award will require a significant payment of
 27 money from CLAP to Bidsal, there is literally no monetary risk to CLAP as CLAP can offset any
 28 amounts owed by Bidsal to CLAP from CLAP's ultimate payment to Bidsal.

Fourth, while no appeal is sure to be successful, under these circumstances, the appeal is warranted, and this appeal has as much chance of success as any other appeal.

Based upon the foregoing, a stay should be granted.

C. THE REQUIREMENT OF SUPERSEDEAS BOND SHOULD BE WAIVED.

While NRCP 62 generally requires the posting of a supersedeas bond before a stay can be imposed, under these circumstances, the requirement of a bond should be waived.

A district court has discretion in identifying the type of security required before a stay will be entered. *See* NRCP 62(d); *See also McCulloch*, 99 Nev. 122. The purpose of requiring a supersedeas bond “is to protect the judgment creditor’s ability to collect the judgment if it is affirmed by preserving the status quo and preventing prejudice to the creditor arising from the stay.” *Nelson v. Heer*, 121 Nev. 832, 122 P.3d 1252(2005); *See also V-1 Oil Co. v. People*, 799 P.2d 1199, 1203 (Wyo. 1990) (“The essence of posting a supersedeas bond by an appellant following judgment entry is to avoid a mootness challenge that might otherwise arise if the judgment is paid before appeal is taken”) cited by the Nevada Supreme Court in *Wheeler Springs Plaza, LLC v. Beemon*, 119 Nev. 260, 71 P. 3d 1258 (Nev. 2003).

In this case, the Arbitration Award and District Court Order require CLAP to essentially pay Two Million, Five Hundred Thousand Dollars (\$2,500,000.00) to Bidsal¹. Because CLAP is the one who, under the terms of the Arbitration Award, is required to pay \$2.5M to Bidsal, CLAP will not be prejudiced by any stay as it will simply give CLAP more time to come up with the money. Further, to the extent that CLAP incurs any harm from the appeal, the monetary amount can simply be deducted from the amount which CLAP ultimately must pay to Bidsal.

Because the purpose of the bond “is to protect the judgment creditor’s ability to collect the judgment if it is affirmed by preserving the status quo and preventing prejudice to the creditor arising from the stay,” and because, under the unique facts of this case, CLAP is already fully

¹ The Arbitration Award found that Bidsal’s offer based upon a \$5,000,000 fair market value was enforceable against Bidsal by CLAP. Because Bidsal owns 50% of GVC, on its face, CLAP would have to pay Bidsal 50% of the \$5,000,000 of the fair market value, or \$2,500,000. While there are adjustments which need to be made before the final payment is paid, the point is that at the end of the day, CLAP will owe Bidsal significantly more than any monetary harm CLAP will incur while the appeal is pending.

protected by virtue of the payment which CLAP will owe to Bidsal should the Arbitration Award be upheld, requiring a bond will not further the reason for the bond in the first place, nor will it provide any additional security to CLAP, who is already fully protected. *See Nelson v. Heer*, 121 Nev. 832, 122 P.3d 1252(2005). In fact, requiring any type of bond at this point will only prejudice Bidsal, without providing any tangible benefit to CLAP.

Because the purpose and intent of a supersedeas bond is entirely missing, Bidsal requests that, under these unique circumstances, the requirement of a supersedeas bond be waived. Alternatively, the amount should be nominal.

III.

CONCLUSION

Based upon the foregoing points and authorities, the Bidsal respectfully requests that the Court grant this Motion for Stay.

Dated this 17th day of January, 2020

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro
James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
3333 E. Serene Ave., Suite 130
Henderson, Nevada 89074
Attorneys for Respondent, Shawn Bidsal

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of SMITH & SHAPIRO, PLLC, and that on the 17th day of January, 2020, I served a true and correct copy of the foregoing **RESPONDENT'S MOTION FOR STAY PENDING APPEAL**, by e-serving a copy on all parties registered and listed as Service Recipients in Odyssey File & Serve, the Court's on-line, electronic filing website, pursuant to Administrative Order 14-2, entered on May 9, 2014.

/s/ Jennifer Bidwell
An employee of Smith & Shapiro, PLLC

EXHIBIT A

002747

EXHIBIT A

DECLARATION OF SHAWN BIDSAL
IN SUPPORT OF RESPONDENT'S MOTION FOR STAY PENDING APPEAL

I, Shawn Bidsal, do hereby declare under penalty of perjury, under the laws of the State of Nevada in accordance with N.R.S. § 53.045 as follows:

1. I am a resident of the State of California.
2. I am the Managing Member of GREEN VALLEY COMMERCE, LLC ("GVC").
3. I am currently the respondent in the petition of CLA Properties, LLC v. Shawn Bidsal, Case No. A-19-795188-P.
4. My counsel is Smith & Shapiro, PLLC ("Bidsal's Counsel").
5. GVC owns and manages commercial property in Las Vegas, NV. From its inception, GVC's primary business has been the ownership and operation of commercial properties.
6. Since its inception, I have managed GVC and all of the commercial properties it has owned.
7. If I lose the ability to manage GVC, I will suffer irreparable harm, particularly if Benjamin Golshani ("Ben") takes over the manager as Ben is in textile business and has no experience with commercial properties.
8. It is my understanding that Ben is the sole owner and principal of CLA Properties, LLC ("CLAP").
9. Ben is the individual I have dealt with who has acted on behalf of CLAP.
10. On or about June 15, 2011, I entered into an Operating Agreement for GVC with CLAP.
11. On or about July 7, 2017, I sent CLAP a written offer to purchase its share of GVC.
12. After my July 7, 2017 correspondence, CLAP and I reached an impasse as to how the GVC operating agreement directed a buy-out of one member's interest.
13. I participated in an arbitration with CLAP from May 8, 2018 to May 9, 2018 in an effort to resolve the buy-out impasse.
14. Stephen E. Haberfeld was the arbitrator during the May 8, 2018 to May 9, 2018 arbitration.

15. Nearly 11 months later, on or about April 5, 2019, Arbitrator Haberfeld entered an arbitration award in favor of CLAP.

16. Under the arbitrator's award, CLAP is required to pay well over a Million Dollars (\$1,000,000) to me for my membership interest in GVC.

17. On May 21, 2019 CLAP filed a Petition for Confirmation of Arbitration Award and Entry of Judgment.

18. On July 15, 2019 I filed an Opposition to CLAP's Petition for Confirmation of Arbitration Award and Entry of Judgment and filed a Counterpetition to Vacate Arbitration Award.

19. The Petition and Counterpetition were heard on November 12, 2019 in the Eighth Judicial District Court.

20. On December 6, 2019 the District Court rendered a decision granting the Petition. The Notice of Entry of the District Court Order was entered on December 16, 2019.

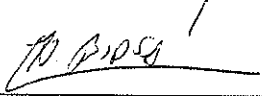
21. On January 9, 2020 I filed a Notice of Appeal of the District Court Order.

22. If I am required to transfer my shares in GVC, prior to the Supreme Court of Nevada considering my appeal I will suffer irreparable harm, as I will lose the ability to manage GVC's commercial properties.

23. By losing the ability to manage GVC and its properties, I will suffer irreparable harm.

24. I make this Declaration freely and of my own free will and choice and I declare under penalty of perjury that the foregoing is true and correct.

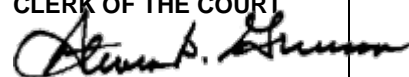
Dated this 16 day of January, 2020.


Shawn Bidsal

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702-318-5033
Attorneys for Respondent, Shawn Bidsal

DISTRICT COURT

CLARK COUNTY, NEVADA

CLA, PROPERTIES, LLC, a California limited liability company,

Case No. A-19-795188-P
Dept. No. 31

Petitioner,

vs.

SHAWN BIDSAL, an individual,

Respondent.

RESPONDENT'S OPPOSITION TO PETITIONER CLA PROPERTIES, LLC'S MOTION FOR ATTORNEY'S FEES AND COSTS

COMES NOW Respondent SHAWN BIDSAL ("Bidsal"), by and through his attorneys, SMITH & SHAPIRO, PLLC, hereby files his Opposition to Petitioner CLA PROPERTIES, LLC'S ("CLAP") Motion for Attorney's Fees and Costs (the "Motion").

This Opposition is made and based upon the papers and pleadings on file herein, the attached Memorandum of Points and Authorities, and any oral argument the Court may wish to entertain in the premises.

Dated this 17th day of January, 2020

SMITH & SHAPIRO, PLLC

/s/ James E. Shapiro
James E. Shapiro, Esq.
Nevada Bar No. 7907
Aimee M. Cannon, Esq.
Nevada Bar No. 11780
3333 E. Serene Ave., Suite 130
Henderson, Nevada 89074
Attorneys for Respondent, Shawn Bidsal