

IN THE SUPREME COURT OF THE STATE OF NEVADA

JAY KVAM,

Appellant,

vs.

BRIAN MINEAU; and LEGION
INVESTMENTS, LLC,
Respondents.

Electronically Filed
Sep 21 2020 09:16 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

Supreme Court Case No. 81422
District Court Case No. CV1800764

**REPLY TO RESPONDENT'S OPPOSITION TO APPELLANT'S
MOTION TO DETERMINE APPEALABLE ORDER**

COMES NOW Appellant, Jay Kvam, by and through his counsel of record, Matuska Law Offices, Ltd., Michael L. Matuska, Esq., and hereby files this Reply to Respondent's *Opposition to Appellant's Motion to Determine Appealable Order* (hereafter, "*Motion*" and "*Opposition*," respectively) as follows.

Appellant Jay Kvam is the plaintiff in the proceedings before the District Court. Respondents Brian Mineau and Legion Investments, LLC are the defendants. The operative pleading is the *Second Amended Verified Complaint* ("SAC"). The need for injunctive relief in this case can only be understood by reference to the record, which has yet to be submitted. However, the record was submitted with the *Petition for Writ of Prohibition or Alternatively, Mandamus* in Case No. 81480.

Appellant herein provides the following summary by reference to the pleadings that were filed in the District Court.

I. KVAM REQUESTED INJUNCTIVE RELIEF IN HIS PLEADINGS

The real estate project that is the subject of this dispute was never completed and Kvam eventually filed suit against Mineau/Legion in the court below on April 11, 2018.¹ The *Complaint* included causes of action as follows: Declaration of Joint Venture; Rescission or Reformation of Agreement; Breach of Contract – Loan; Breach of Contract and Tortious Breach of the Implied Covenant of Good Faith and Fair Dealing – Joint Venture Agreement; Accounting; Court Supervision of Dissolution and Winding Up, and Appointment of Receiver; Temporary and Permanent Injunction; Derivative Claim (on behalf of the unincorporated joint venture referred to as 7747 S. May Street). In his Seventh Cause of Action for Temporary and Permanent Injunction, Kvam sought to prevent Mineau from incurring additional liabilities in furtherance of the failed real estate venture pending court supervised dissolution and winding up as follows:

**IX.
SEVENTH CAUSE OF ACTION
(Temporary and Permanent Injunction)**

46. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

¹ The pleadings also name the parties' unincorporated joint venture as a nominal defendant and identify the joint venture as "7747 S. May Street, an unincorporated joint venture."

47. Following dissolution of the joint venture, MINEAU and LEGION should be temporarily and permanently enjoined from conducting any business on behalf of 7747 or incurring any liabilities in furtherance of the renovation project, except as approved by the Court and necessary to preserve the House.

* * * *

WHEREFORE, Plaintiff prays for relief as follows:

* * * *

3. For a temporary and permanent injunction enjoining MINEAU and LEGION from any further involvement with 7747 and its assets;

(*See Complaint*, Ex. “1”).

During the early stages of the case, Kvam discovered that Mineau did not provide funding for the project as promised and that he had sold the house for a loss without notice to Kvam. Kvam therefore requested and was granted relief to file his *First Amended Complaint* (“FAC”) which included an additional cause of action for Fraud, Fraudulent Inducement and Fraudulent Concealment. The FAC was filed on January 31, 2019. Kvam’s Seventh Cause of Action for Temporary and Permanent Injunction was amended slightly to include a new reference to the proceeds of sale as follows:

47. Following dissolution of the joint venture, MINEAU and LEGION should be temporarily and permanently enjoined from conducting any business on behalf of 7747 or incurring any liabilities in furtherance of the renovation project, except as approved by the Court and necessary to preserve the proceeds of sale.

(*See FAC*, Ex. “2”).

On November 30, 2018 Kvam filed a motion pursuant to NRCP 65 entitled *Motion for Temporary Restraining Order and Preliminary Injunction* in order to prevent Mineau from absconding with the proceeds of sale. The motion was granted and the *Temporary Restraining Order* was entered on December 3, 2018. (See *Motion for Temporary Restraining Order and Preliminary Injunction*, Ex. “3”; *Order Granting Temporary Restraining Order*, Ex. “4”). Kvam did not need to proceed with the preliminary injunction hearing because Mineau stipulated to deposit the funds into court. The stipulation was adopted as the order of the court on December 12, 2018. (See *Stipulation to Deposit Funds; Order*, Ex. “5”).

Shortly thereafter, Mineau/Legion received a refund from escrow that has not been deposited into court. (See Check 70382818, Ex. “6”).

Kvam later discovered that Mineau had various other projects underway at the same time, that the same contractor was working on these other projects, and that Kvam’s project funds were co-mingled with funds for these other projects and possibly used on Mineau’s other projects. Kvam therefore requested and was granted relief to file a *Second Amended Complaint* (“SAC”) that added claims for conversion (diversion of project funds) and RICO. The SAC was filed on September 11, 2019 and was provided as Exhibit “1” to the *Docketing Statement*. The SAC repeats the Seventh Cause of Action for Temporary and Permanent Injunction.

The Order appealed from in this case is the June 5, 2020 *Order Granting, In Part, and Denying, In Part Defendants' Motion for Summary Judgment; Order Granting Summary Judgment on Claim Pursuant to Court's NRCP 56 Notice* (hereafter, the "Order"). A copy of the *Order* was provided as Exhibit "2" to the *Docketing Statement*. Regarding Kvam's Seventh Cause of Action for Temporary and Permanent Injunction, the *Order* states as follows:

8. Based on the Court's foregoing findings of fact and conclusions of law, summary adjudication is DENIED on the SAC's Seventh Cause of Action for Temporary and Permanent Injunction as the claim is legally ineffectual based on the deposit of funds.

Order at 43:15-18. Although the *Order* purports to deny Mineau/Legion's *Motion for Summary Judgment* on Kvam's Seventh Cause of Action, the effect of the *Order* is to deny injunctive relief to Kvam even though winding up of the joint venture is ongoing and will not be completed until the funds on deposit with the court are paid to Kvam. The effect of the *Order* on the funds on deposit is yet unknown and the *Order* seems to deny any further injunctive relief. This would preclude Kvam from filing an additional Rule 65 motion to prevent the loss of the money that Mineau/Legion received after the temporary restraining order was entered and to enjoin and restrain Mineau from conducting any further activities on behalf of the joint venture. Kvam therefore appealed from the *Order* pursuant to NRAP 3A(b)(3) as an order denying injunctive relief.

II. ANALYSIS

A. NRAP 3A(b)(3) Does Not Require a Rule 65 Motion

Mineau/Legion cite two (2) cases in their *Opposition* and argue that “Kvam never sought injunctive relief pursuant to NRCP 65.” Mineau/Legion seem to think that an aggrieved party can only notice an appeal pursuant to NRAP 3A(b)(3) if the aggrieved party filed a Rule 65 motion. Neither of the cases cited by Mineau/Legion support this conclusion.

This Court explained in *Nelson v. Nelson*, 136 Nev. Adv. Op. 36 (2020) that “injunctions are governed by NRCP 65” (*Id.* at 4, citations omitted) and that a joint preliminary injunction entered in a divorce proceeding pursuant to EDCR 5.517 is not governed by NRCP 65, and therefore, not appealable under NRAP 3A(b)(3). That case did not address the situation at hand where Kvam’s pleadings include a prayer for injunctive relief, the district court already granted relief under NRCP 65 and Kvam would be able to seek further relief under Rule 65 but for the District Court’s confusing order that appears to preclude injunctive relief.

Peck v. Crouser, 129 Nev. 120, 295 P.3d 586 (2013) is irrelevant to the case at hand. In that case, this Court explained that a post-judgment vexatious litigant order is not governed by NRCP 65 and is therefore not separately appealable. In contrast, the disputed order in this case precludes Appellant from seeking any further relief under NRCP 65.

The instant case is more similar to *Cheyenne Apartments PPG, LP v. Eighth Judicial District Court (State of Nevada, Department of Transportation)*, 373 P.3d 903 (Table) (Nev. No. 57279 Jan. 18, 2011). In that case, the district court granted NDOT's motion for declaratory relief regarding an indemnification agreement. The district court went on to deny Cheyenne Apartment's motion for reconsideration, and in so doing, ordered Cheyenne Apartments to defend and indemnify NDOT prior to December 7, 2010. Cheyenne Apartments filed a *Petition for Writ of Certiorari and Request for Immediate Stay* in which it argued *inter alia* that the order denying the motion for reconsideration "in effect is an injunction . . ." (*See Petition* Doc 10-31570 Case No. 57279 at 16:2). Cheyenne Apartments also filed a notice of appeal pursuant to NRAP 3A(b)(3). This Court denied the petition on the basis that "petitioner has an adequate legal remedy in the form of an appeal." *Cheyenne Apartments PPG, LP v. Eighth Judicial District Court*, 373 P.3d 903.

Based on the foregoing, the argument offered by Mineau/Legion that NRAP 3A(b)(3) requires a Rule 65 motion is mistaken. An order can be appealed as an order granting or denying injunctive relief based on its effect, even though the order does not arise from a Rule 65 motion. Applied to the instant case, Judge Simon's June 5, 2020 *Order* denies Rule 65 injunctive relief to Kvam, even though the *Order* results from Mineau/Legion's *Motion for Summary Judgment* rather than a motion

specifically requesting injunctive relief pursuant to Rule 65. The *Order* is therefore appealable pursuant to NRAP 3A(b)(3).

B. In the Alternative, Kvam Should be Allowed to Proceed with his Petition

Nelson v. Nelson, 136 Nev. Adv. Op. 36 is noteworthy because this Court invited the aggrieved party in that case to seek relief by way of a petition for a writ of mandamus. *Id.* 6-7. In the present case, Appellant Jay Kvam has already filed an alternative petition for writ of mandamus (See Dock. No. 81480). The disputed funds still need to be secured pending the winding up of the joint venture and Mineau needs to be enjoined and restrained from conducting any further business on behalf of the joint venture. As such, this Court should review the June 5, 2020 *Order* which denies injunctive to relief to Kvam, whether in this appeal or in the original proceeding for a writ of mandamus.

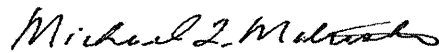
AFFIRMATION

The undersigned does hereby affirm that the preceding **Reply to Respondents' Opposition to Appellant's Motion to Determine Appealable Order**, filed in the Supreme Court of the State of Nevada, does not contain the social security number of any person.

Respectfully submitted,

This 18th day of September, 2020.

MATUSKA LAW OFFICES, LTD.



By:

MICHAEL L. MATUSKA, SBN 5711
Attorney for Appellant, JAY KVAM

CERTIFICATE OF SERVICE

I, Suzette Turley, certify that on the 18th day of September, 2020, I electronically filed the foregoing **REPLY TO RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION TO DETERMINE APPEALABLE ORDER**, with the Clerk of the Nevada Supreme Court via the Court's e-Flex system. Service will be made by e-Flex on all registered participants.

Austin K. Sweet, Esq.
GUNDERSON LAW FIRM
3895 Warren Way
Reno, NV 89509

/s/ SUZETTE TURLEY

An Employee of MATUSKA LAW OFFICES, LTD.

Exhibit Index

REPLY TO RESPONDENT'S OPPOSITION TO APPELLANT'S MOTION TO DETERMINE APPEALABLE ORDER

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Exhibit 1
COMPLAINT 04.11.18
(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

Exhibit 1
COMPLAINT 04.11.18
(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

1 **CODE: \$1425**

2 Michael L. Matuska, Esq. SBN 5711
3 MATUSKA LAW OFFICES, LTD.
4 2310 South Carson Street, Suite 6
5 Carson City, NV 89701
6 Attorneys for Plaintiff

7 **THE SECOND JUDICIAL DISTRICT COURT OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**

9 JAY KVAM,

Plaintiff,

10 v.

11 BRIAN MINEAU; LEGION INVESTMENTS,
12 LLC; 7747 S. May Street, an Unincorporated
13 Joint Venture; and DOES I-X, inclusive,

Defendants.

VERIFIED COMPLAINT

14 COMES NOW Plaintiff, JAY KVAM, by and through his counsel of record, Matuska Law
15 Offices, Ltd., Michael L. Matuska, and hereby complains, alleges, and avers as follows:
16

17 **I.**
PARTIES

18 1. Plaintiff JAY KVAM ("KVAM") is now and at all times mentioned herein was a
19 resident of Washoe County, Nevada.

20 2. Defendant LEGION INVESTMENTS, LLC ("LEGION") is a Nevada limited
21 liability company, duly formed and operating pursuant to Chapter 86 of the Nevada Revised
22 Statutes, with its principal place of business in Washoe County, Nevada.

23 3. Defendant BRIAN MINEAU ("MINEAU") is now and at all times mentioned
24 herein was a resident of Washoe County, Nevada and the member/manager of LEGION.

25 4. 7747 S. May Street, Chicago, Illinois, is an unincorporated joint venture formed
26 between KVAM, MINEAU, LEGION, and Michael Spinola, and is hereafter referred to "7747."

27 ///

MATUSKA LAW OFFICES, LTD.
2310 S. Carson Street, #6
Carson City NV 89701
(775) 350-7220

6. Plaintiff is informed and believes, and on that basis alleges, that each Defendant is the duly authorized agent, employee, or representative of the other named Defendants, and that each Defendant is liable for the acts and omissions of the other named Defendants.

7. Plaintiff is informed and believes, and therefore alleges, that at all times relevant herein, the fictitious entities identified herein were mere shams and were organized and operated as the alter ego of the individual Defendants named herein for their personal benefit and advantage, in that the individual Defendants have at all times herein mentioned exercised total dominion and control over the fictitious entities. The individual Defendants and the fictitious entities have so intermingled their personal and financial affairs that the fictitious Defendant entities were, and are, the alter egos of the individual Defendant(s), and should be disregarded. By reason of the failure of the fictitious entities, each individual Defendant should be and is liable to the Plaintiff for the relief prayed for herein.

II. GENERAL ALLEGATIONS

8. On or about February 2, 2017, KVAM entered an agreement with MINEAU and LEGION to participate in a joint venture, along with Michael Spinola (the "Agreement"). The purpose of the joint venture was to purchase, restore, and resell a house located at 7747 S. May Street, Chicago, Illinois (the "House") for profit. The general terms of the Agreement were memorialized in writing and include the following:

a. KHAM would provide the money to purchase the House, and would be entitled to a 7% annual return on investment, with an annual payment due 12 months from the date of disbursement;

1 b. Renovation would proceed through three (3) funding draws, one draw to be
2 funded by each joint venturer;

3 c. MINEAU would manage the project;

4 d. The profits would be shared 1/3rd each between KVAM, LEGION, and
5 Spinola; and

6 e. MINEAU would transfer all interest in the joint venture to KVAM in the
7 event the joint venture failed.

8 9. The joint venture created by the Agreement identified above and described herein
9 as 7747 was an unincorporated association that was not registered with the Nevada Secretary of
10 State and did not file a Statement of Partnership pursuant to NRS 87.4327.

11 10. KVAM invested \$93,781.31 in the project to date through a series of four (4) wire
12 transfers as follows:

13 a. \$44,000 on February 13, 2017 for the purchase money

14 b. \$781.31 on February 13, 2017 for closing costs

15 c. \$20,000 on April 4, 2017 for the first draw

16 d. \$20,000 on April 14, 2017 for the second draw

17 e. \$9,000 on May 18, 2014 for the third draw.

18 11. The amounts listed in Par. 10 are exclusive of any additional costs and interest, and
19 include KVAM's funding contribution, as well as Spinola's funding contribution, for which
20 KVAM acceded to Spinola's interest in the joint venture such that Spinola is no longer part of the
21 joint venture.

22 12. KVAM has not received his annual interest payment on any of the advances
23 identified in Par. 10.

24 13. Title to the House vested in LEGION, which is MINEAU's limited liability
25 company.

26 14. MINEAU initially represented that the project would take approximately six (6)
27 weeks to complete. The timeframe was later extended to 90 days for the construction phase.

28 ///

3 16. KVAM lacks knowledge as to whether MINEAU funded his required renovation
4 draw.

17. KHAM has demanded payment and an accounting from MINEAU and LEGION on multiple occasions, including demands and letters sent on February 16, 2018, March 9, 2018, and March 14, 2018. These demands have been refused.

8 18. KHAM is now disassociated from 7747.

9 19. Plaintiff has been forced to retain an attorney to prosecute the action and is entitled
10 to recover the legal fees and costs incurred a result thereof.

III. FIRST CAUSE OF ACTION (Declaration of Joint Venture)

20. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

21. There is an actual, justiciable, present controversy between KVAM, MINEAU, and LEGION on the question of whether the Agreement identified in Par. 7 constitutes a joint venture agreement, an agreement for MINEAU to transfer his membership interest in LEGION, or some other type of agreement.

19 22. KVAM therefore requests a declaration on the legal rights created by the
20 Agreement, the status of the unincorporated joint venture referred to herein as 7747 and the
21 respective interests of the joint venturers.

22 23. KVAM further requests a declaration on the amount of loans and contributions
23 made to the 7747 by each of the joint venturers.

24. KVM further requests a declaration that 7747, MINEAU, and LEGION were required to assign the entire interest in the 7747 to KVM in the event it failed in any way.

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IV.
SECOND CAUSE OF ACTION
(Rescission or Reformation of Agreement)

25. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

26. The parties were mutually mistaken about the viability of the project, the legal status of the joint venture created by the Agreement and identified herein as 7747, and the rights and obligations of the Parties as a result thereof.

27. The Agreement should be rescinded and KVAM should be restored to his original position with all money returned at a reasonable rate of interest of not less than 7%.

28. In the alternative, the Agreement should be reformed to clarify the status of 7747 as a joint venture and the role of the joint venturers.

V.
THIRD CAUSE OF ACTION
(Breach of Contract - Loan)

29. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

30. KVAM has demanded his annual payment and repayment of the monies loaned, but Defendants have failed and refused to repay him.

31. KVAM has performed all conditions precedent to his right to be repaid on the loan and, to the extent any further conditions were not performed, KVAM's performance was excused or rendered impossible by the acts of the Defendants.

32. As a result of the foregoing, KVAM has been damaged in an amount to be proven at trial in excess of \$10,000.

VI.
FOURTH CAUSE OF ACTION
(Breach of Contract and Tortious Breach of Implied Covenant of Good Faith
and Fair Dealing - Joint Venture Agreement)

33. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

VII.
FIFTH CAUSE OF ACTION
(Accounting)

39. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

40. As a joint venturer in 7747, MINEAU and LEGION have the duty to account to KVAM and KVAM has the right to examine the books and records of the joint venture.

41. The exact amount owing KVAM is yet unknown and KVAM is entitled to an equitable accounting in order to determine the same.

VIII.
SIXTH CAUSE OF ACTION
(Court Supervision of Dissolution and Winding Up, and Appointment of Receiver)

42. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

1 futile for him to delay the filing of this Complaint in order to attempt to secure Defendants'
2 agreement to initiate this action.

3 WHEREFORE, Plaintiff prays for relief as follows:

4 1. For an order declaring the rights and obligations of KVAM, MINEAU, LEGION,
5 and 7747;

6 2. For Court supervised winding up and an order appointing a receiver to secure any
7 remaining assets and to complete any remaining steps to winding up 7747;

8 3. For a temporary and permanent injunction enjoining MINEAU and LEGION from
9 any further involvement with 7747 and its assets;

10 4. For an order declaring that MINEAU and LEGION are liable for any debts of 7747
11 existing prior to or after the disassociation of KVAM and that they are further obligated to
12 indemnify KVAM against any liabilities;

13 5. For an equitable accounting;

14 6. For compensatory damages in an amount to be proven at trial in excess of \$15,000;

15 7. For punitive and exemplary damages in excess of \$100,000;

16 8. For an award of costs and attorney fees incurred in prosecuting this action;

17 9. For such other and further relief as the Court deems just in the premises.


18 Respectfully submitted,

19 Dated this 11th day of April 2018.

20 The undersigned does hereby affirm that the preceding document does not contain the
21 social security number of any person.

22 MATUSKA LAW OFFICES, LTD.

23
24 By:

25 
26 MICHAEL L. MATUSKA, SBN 5711
27 Attorneys for Plaintiff, JAY KVAM,
28 individually and derivatively on behalf
the unincorporated joint venture identified as 7747

[illegible]

STATE OF NEVADA)
COUNTY OF CARSON CITY) ss.

That he is the Plaintiff in the above-entitled action; that he has read the foregoing instrument and knows the contents thereof and that the same is true of his own knowledge except for those matters stated on information and belief, and as to those matters, he believes them to be true.

SUBSCRIBED AND SWORN to before me,
this 9th day of April 2018,
by JAY KVAM.


 LIZ STERN
STATE OF NEVADA
NOTARY PUBLIC
APPT. NO. 10-1717-3
MY APPT. EXPIRES 04-10-2020

Exhibit 2

FIRST AMENDED COMPLAINT 01.31.19

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

Exhibit 2

FIRST AMENDED COMPLAINT 01.31.19

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

CODE: 1090
Michael L. Matuska, Esq. SBN 5711
MATUSKA LAW OFFICES, LTD.
2310 South Carson Street, Suite 6
Carson City, NV 89701
Attorneys for Plaintiff

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

JAY KVAM,
Plaintiff,
v.

Case No. CV18-00764

Dept. No. 3

BRIAN MINEAU; LEGION INVESTMENTS,
LLC; 7747 S. May Street, an Unincorporated
Joint Venture; and DOES I-X, inclusive,
Defendants.

**FIRST AMENDED VERIFIED
COMPLAINT**

COMES NOW Plaintiff, JAY KVAM, by and through his counsel of record, Matuska Law
Offices, Ltd., Michael L. Matuska, and hereby complains, alleges, and avers as follows:

**I.
PARTIES**

1. Plaintiff JAY KVAM ("KVAM") is now and at all times mentioned herein was a
resident of Washoe County, Nevada.

2. Defendant LEGION INVESTMENTS, LLC ("LEGION") is a Nevada limited
liability company, duly formed and operating pursuant to Chapter 86 of the Nevada Revised
Statutes, with its principal place of business in Washoe County, Nevada.

3. Defendant BRIAN MINEAU ("MINEAU") is now and at all times mentioned
herein was a resident of Washoe County, Nevada and the member/manager of LEGION.

4. 7747 S. May Street, Chicago, Illinois, is an unincorporated joint venture formed
between KVAM, MINEAU, LEGION, and Michael Spinola, and is hereafter referred to "7747."

///

6. Plaintiff is informed and believes, and on that basis alleges, that each Defendant is the duly authorized agent, employee, or representative of the other named Defendants, and that each Defendant is liable for the acts and omissions of the other named Defendants.

7. Plaintiff is informed and believes, and therefore alleges, that at all times relevant herein, the fictitious entities identified herein were mere shams and were organized and operated as the alter ego of the individual Defendants named herein for their personal benefit and advantage, in that the individual Defendants have at all times herein mentioned exercised total dominion and control over the fictitious entities. The individual Defendants and the fictitious entities have so intermingled their personal and financial affairs that the fictitious Defendant entities were, and are, the alter egos of the individual Defendant(s), and should be disregarded. By reason of the failure of the fictitious entities, each individual Defendant should be and is liable to the Plaintiff for the relief prayed for herein.

II. GENERAL ALLEGATIONS

8. On or about February 2, 2017, KHAM entered an agreement with MINEAU and LEGION to participate in a joint venture, along with Michael Spinola (the "Agreement"). The purpose of the joint venture was to purchase, restore, and resell a house located at 7747 S. May Street, Chicago, Illinois (the "House") for profit. The general terms of the Agreement were memorialized in writing and include the following:

a. KHAM would provide the money to purchase the House, and would be entitled to a 7% annual return on investment, with an annual payment due 12 months from the date of disbursement;

1 b. Renovation would proceed through three (3) funding draws, one draw to be
2 funded by each joint venturer;

3 c. MINEAU would manage the project;

4 d. The profits would be shared 1/3rd each between KVAM, LEGION, and
5 Spinola; and

6 e. MINEAU would transfer all interest in the joint venture to KVAM in the
7 event the joint venture failed.

8 9. The joint venture created by the Agreement identified above and described herein
9 as 7747 was an unincorporated association that was not registered with the Nevada Secretary of
10 State and did not file a Statement of Partnership pursuant to NRS 87.4327.

11 10. KVAM invested \$93,784.31 in the project to date through a series of five (5) wire
12 transfers as follows:

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17 e. \$9,000 on May 18, 2014 for the third draw.

18 11. The amounts listed in Par. 10 are exclusive of any additional costs and interest, and
19 include KVAM's funding contribution, as well as Spinola's funding contribution, for which
20 KVAM acceded to Spinola's interest in the joint venture such that Spinola is no longer part of the
21 joint venture.

22 12. KVAM has not received his annual interest payment on any of the advances
23 identified in Par. 10.

24 13. Title to the House was vested in LEGION, which is MINEAU's limited liability
25 company.

26 14. MINEAU initially represented that the project would take approximately six (6)
27 weeks to complete. The timeframe was later extended to 90 days for the construction phase.

28 15. MINEAU failed to fund his required renovation draw.

1 16. The renovation stalled, MINEAU and LEGION failed and refused to provide a
2 completion date or budget, and the House was eventually sold for a loss on November 16, 2018.
3 MINEAU and LEGION did not inform KVAM of the sale.

4 17. KVAM has demanded payment and an accounting from MINEAU and LEGION on
5 multiple occasions, including demands and letters sent on February 16, 2018, March 9, 2018, and
6 March 14, 2018. These demands have been refused and MINEAU and LEGION have not made
7 any payment to KVAM.

8 18. KVAM is now disassociated from 7747.

9 19. Plaintiff has been forced to retain an attorney to prosecute the action and is entitled
10 to recover the legal fees and costs incurred a result thereof.

11
12 **III.**
13 **FIRST CAUSE OF ACTION**
14 **(Declaration of Joint Venture)**

15 20. Plaintiff hereby incorporates by reference all of the paragraphs above as though
16 fully set forth herein.

17 21. There is an actual, justiciable, present controversy between KVAM, MINEAU, and
18 LEGION on the question of whether the Agreement identified in Par. 7 constitutes a joint venture
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26 24. KVAM further requests a declaration that 7747, MINEAU, and LEGION were
27 required to assign the entire interest in the 7747 to KVAM in the event it failed in any way.

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IV.
SECOND CAUSE OF ACTION
(Rescission or Reformation of Agreement)

25. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

26. The parties were mutually mistaken about the viability of the project, the legal status of the joint venture created by the Agreement and identified herein as 7747, and the rights and obligations of the Parties as a result thereof.

27. The Agreement should be rescinded and KVAM should be restored to his original position with all money returned at a reasonable rate of interest of not less than 7%.

28. In the alternative, the Agreement should be reformed to clarify the status of 7747 as a joint venture and the role of the joint venturers.

V.
THIRD CAUSE OF ACTION
(Breach of Contract - Loan)

29. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

30. KVAM has demanded his annual payment and repayment of the monies loaned, but Defendants have failed and refused to repay him.

31. KVAM has performed all conditions precedent to his right to be repaid on the loan and, to the extent any further conditions were not performed, KVAM's performance was excused or rendered impossible by the acts of the Defendants.

32. As a result of the foregoing, KVAM has been damaged in an amount to be proven at trial in excess of \$15,000.

VI.
FOURTH CAUSE OF ACTION
(Breach of Contract and Tortious Breach of Implied Covenant of Good Faith
and Fair Dealing - Joint Venture Agreement)

33. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

35. As parties to the joint Venture Agreement, MINEAU and LEGION further owed a duty of good faith to KHAM and 7747.

VII. FIFTH CAUSE OF ACTION (Accounting)

39. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

40. As a joint venturer in 7747, MINEAU and LEGION have the duty to account to KVAM and KVAM has the right to examine the books and records of the joint venture.

41. The exact amount owing KVM is yet unknown and KVM is entitled to an equitable accounting in order to determine the same.

VIII.
SIXTH CAUSE OF ACTION
(Court Supervision of Dissolution and Winding Up, and Appointment of Receiver)

42. Plaintiff hereby incorporates by reference all of the paragraphs above as though

1 fully set forth herein.

2 43. KVAM has disassociated from the joint venture, the joint venture is no longer
3 viable, the conduct of MINEAU and LEGION has frustrated the joint venture, the purpose of the
4 joint venture has been completed, and it is not reasonably practicable to carry on the joint venture,
5 such that 7747 should be dissolved and wound up.

6 44. As part of the winding up, KVAM is entitled to an accounting and settlement of all
7 partnership accounts and liquidation of the partnership assets.

8 45. The winding up should be conducted with court supervision and a receiver should
9 be appointed.

10 **IX.**
11 **SEVENTH CAUSE OF ACTION**
12 **(Temporary and Permanent Injunction)**

13 46. Plaintiff hereby incorporates by reference all of the paragraphs above as though
14 fully set forth herein.

15 47. Following dissolution of the joint venture, MINEAU and LEGION should be
16 temporarily and permanently enjoined from conducting any business on behalf of 7747 or
17 incurring any liabilities in furtherance of the joint venture, except as approved by the Court and
18 necessary to preserve the proceeds of sale.

19 **X.**
20 **EIGHTH CAUSE OF ACTION**
21 **(Fraud, Fraudulent Inducement and Fraudulent Concealment)**

22 48. Plaintiff hereby incorporates by reference all of the paragraphs above as though
23 fully set forth herein.

24 49. As parties to the joint venture Agreement, MINEAU and LEGION owed multiple
25 contractual, legal and fiduciary duties to KVAM and 7747, which included the duty to disclose
26 material facts.

27 50. Prior to signing the Agreement, MINEAU and LEGION misrepresented and
28 concealed the true facts, including their intention and ability to fund the project and complete the
project in a timely manner.

XI.
NINTH CAUSE OF ACTION
(Derivative Claim)

56. Plaintiff hereby incorporates by reference all of the paragraphs above as though fully set forth herein.

57. KHAM is disassociated from the joint venture identified herein as 7747.

58. Any all claims, causes of action, and prayers for relief asserted by KVAM are also asserted derivatively on behalf of 7747 to the fullest extent permitted by law.

59. KVAM has made multiple requests for MINEAU and LEGION to return his investment and to provide an accounting.

60. Because Defendants have already refused KHAM's numerous requests to cure the multiple breaches of the Agreement and to comply with the Nevada Revised Statutes, it would be futile for him to delay the filing of this Complaint in order to attempt to secure Defendants'

1 agreement to initiate this action.

2 WHEREFORE, Plaintiff prays for relief as follows:

- 3 1. For an order declaring the rights and obligations of KVAM, MINEAU, LEGION,
4 and 7747;
- 5 2. For Court supervised winding up and an order appointing a receiver to secure any
6 remaining assets and to complete any remaining steps to winding up 7747;
- 7 3. For a temporary and permanent injunction enjoining MINEAU and LEGION from
8 any further involvement with 7747 and its assets;
- 9 4. For an order declaring that MINEAU and LEGION are liable for any debts of 7747
10 existing prior to or after the disassociation of KVAM and that they are further obligated to
11 indemnify KVAM against any liabilities;
- 12 5. For an equitable accounting;
- 13 6. For compensatory damages in an amount to be proven at trial in excess of \$15,000;
- 14 7. For punitive and exemplary damages in excess of \$100,000;
- 15 8. For an award of costs and attorney fees incurred in prosecuting this action;
- 16 9. For such other and further relief as the Court deems just in the premises.

17 **AFFIRMATION**

18 The undersigned does hereby affirm that the preceding document does not contain the
19 social security number of any person.

20 Dated this 31th day of January, 2019.

22 MATUSKA LAW OFFICES, LTD.

23 *Michael L. Matuska*

24 By:

25 MICHAEL L. MATUSKA, SBN 5711
26 Attorneys for Plaintiff, JAY KVAM,
27 individually and derivatively on behalf of
28 the unincorporated joint venture identified as 7747

MATUSKA LAW OFFICES, LTD.
2310 S. Carson Street, #6
Carson City NV 89701
(775) 350-7220

VERIFICATION


STATE OF NEVADA)
COUNTY OF Washoe) ss.

JAY KVAM, being first duly sworn, deposes and says:

That he is the Plaintiff in the above-entitled action; that he has read the foregoing instrument and knows the contents thereof and that the same is true of his own knowledge except for those matters stated on information and belief, and as to those matters, he believes them to be true.

Jay Kvam
JAY KVAM

SUBSCRIBED AND SWORN to before me,
this 30th day of January, 2019,
by JAY KVAM.

Anna M. Romero
NOTARY PUBLIC
 ANNA M. ROMERO
Notary Public, State of Nevada
Appointment No. 08-8583-2
My Appt. Expires Sep 12, 2020

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Matuska Law Offices, Ltd. and that on the 31st day of January, 2019, I served a true and correct copy of the preceding document entitled **FIRST AMENDED VERIFIED COMPLAINT** as follows:

Austin K. Sweet, Esq.
GUNDERSON LAW FIRM
3895 Warren Way
Reno, NV 89509
asweet@gundersonlaw.com

☒ **BY CM/ECF:** I electronically filed a true and correct copy of the above-identified document with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the person(s) named above.

☐ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document(s) at Carson City, Nevada, in the ordinary course of business.

☐ **BY EMAIL:** (as listed above)

☐ **BY PERSONAL SERVICE:** I personally delivered the above-identified document(s) by hand delivery to the office(s) of the person(s) named above.

☐ **BY FACSIMILE:**

☐ **BY FEDERAL EXPRESS ONE-DAY DELIVERY:**

☐ **BY MESSENGER SERVICE:** I delivered the above-identified document(s) to Reno-Carson Messenger Service for delivery.

/s/ SUZETTE TURLEY
SUZETTE TURLEY

Exhibit 3
**MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION 11.30.18**
(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

Exhibit 3
**MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION 11.30.18**
(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

1 **CODE: 2222**

2 Michael L. Matuska, Esq. SBN 5711
3 MATUSKA LAW OFFICES, LTD.
4 2310 South Carson Street, Suite 6
5 Carson City, NV 89701
6 Attorneys for Plaintiff

7 **THE SECOND JUDICIAL DISTRICT COURT OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**

9 JAY KVAM,

10 Plaintiff,

Case No. CV18-00764

11 v.

Dept. No. 3

12 BRIAN MINEAU; LEGION INVESTMENTS,
13 LLC; 7747 S. May Street, an Unincorporated
14 Joint Venture; and DOES I-X, inclusive,

15 Defendants.

16 **MOTION FOR TEMPORARY RESTRAINING ORDER**
17 **AND PRELIMINARY INJUNCTION**

18 COMES NOW Plaintiff, JAY KVAM, by and through his counsel of record, Matuska Law
19 Offices, Ltd., Michael L. Matuska, and hereby moves pursuant to NRCP 65 and NRS 33.010 for a
20 temporary restraining order to prevent Defendants BRIAN MINEAU and LEGION
21 INVESTMENTS, LLC from diverting funds received from the sale of the property located at 7747
22 S. May Street in Chicago, Illinois.

23 This motion is made and based on the points and authorities attached hereto, the Affidavit
24 of Jay Kvam and exhibits submitted herewith, and all other pleadings, exhibits and documents of
25 record.

26 Dated this 30th day of November 2018.

27 MATUSKA LAW OFFICES, LTD.

28 *Michael L. Matuska*

By:

MICHAEL L. MATUSKA, SBN 5711
Attorneys for Plaintiff, JAY KVAM,
individually and derivatively on behalf the
unincorporated joint venture identified as 7747

1 **POINTS AND AUTHORITIES IN SUPPORT OF MOTION FOR TEMPORARY**
2 **RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

3 **I. BACKGROUND**

4 On or about February 14, 2017, the Plaintiff Jay Kvam ("Kvam") entered into an
5 agreement (the "Agreement") with Defendants Brian Mineau ("Mineau") and Legion Investments,
6 LLC ("Legion") concerning property located at 7747 May Street, Chicago, Illinois (the
7 "Property") as follows:

8 Terms of Agreement between Legion Investments LLC (its Members) and
9 Jay Kvam (Initial Funding Member of Same)
 Re: 7747 May Street, Chicago, Illinois.

10 With Regards to acquisition of the aforementioned property, it is understood that
11 the membership of Legion Investments LLC for this acquisition is Brian Mineau,
12 Jay Kvam and Michael Spinola. All parties are entitled to 33.33% of net profit,
13 after all expenses are accounted for, to include interest due on funds dispersed.
14 Initial purchase is being funded by Kvam, who is there by assigned any remedies
15 due should the transaction fail in anyway. Initial funder will be due a 7% annual
16 return on any funds provided due from date of disbursement. There is expected to
17 be 3 renovation draws necessary on this project. First draw to be funded by Mr.
18 Kvam, Due to present and ongoing business dealings between Jay and Michael,
19 Michael has agreed to allot %50 of his 1/3 profit for both initial funding's.

20 See Affidavit of Jay Kvam ("Kvam Aff.") and Ex. "1" attached hereto.

21 Kvam asserts that the Agreement has two separate components: First, a joint venture
22 agreement to share profits; and Second, a loan agreement which is not conditioned on profits and
23 which must be repaid prior to the distribution of any profits. Kvam funded \$93,781.31 toward the
24 purchase and renovation of the Property as shown on the summary attached as Ex. "2," the
25 February 13, 2017 Settlement Statement (Ex. "3") and Defendants' Response to Interrogatory No.
26 6 attached hereto as Ex. "4". Kvam has predictably demanded his money back.

27 Defendants do not dispute that Kvam is entitled the return of his investment, but only
28 dispute that the loan has to be repaid prior to sale of the Property. In their verified discovery
 responses, Defendants acknowledge as follows:

 Jay Kvam repeatedly demanded to be "reimbursed" for all funds he invested into
 the Property, despite the fact that the project was incomplete, no disbursements
 were yet due to anyone under the "Terms of Agreement," and the project had
 been severely set back by Mr. Kvam's own actions. Brian Mineau and Legion

1 Investments, LLC nonetheless affirmed that they intended to complete the project
2 and perform their obligations under the "Terms of Agreement."

3 (Response to Interrogatory No. 10, Ex. "4")

4 The Property recently sold on November 16, 2018. Payment is now due to Kvam, even
5 under Defendants' theory of the case, and the dispute over whether Defendants could wait until the
6 Property sold to repay Kvam is moot. Unfortunately, Defendants sold the Property without
7 informing Kvam. He only learned about the sale from his own investigation. Defendants' attorney
8 provided the settlement statement only after being confronted about the issue from Kvam's
9 attorney (See Letter, Ex. "5" and Settlement Statement, Ex. "6"). Defendants have not paid Kvam,
10 or otherwise accounted to him, and it is yet unknown what Defendants have done with the
11 proceeds of sale. As such, Kvam requests a temporary restraining order to prevent Defendants
12 from disposing of any proceeds of sale, and either to pay the proceeds to Kvam or at least deposit
13 the proceeds of sale in an interest bearing account with the Clerk of the Court pending further
14 orders.
15

16 II. ARGUMENT

17 NRCP 65(b) provides, *inter alia*, that:

18
19 A temporary restraining order may be granted with or without
20 written or oral notice to the adverse party or his attorney only if (1)
21 it clearly appears from specific facts shown by affidavit or by the
22 verified complaint that immediate and irreparable injury, loss or
23 damage will result to the applicant before the adverse party or his
24 attorney can be heard in opposition, and (2) the applicant's attorney
25 certifies to the court in writing the efforts, if any, which have been
26 made to give the notice and the reasons supporting his claim that
27 notice should not be required.

28 NRS 33.010 identifies the cases in which injunctive relief may be granted:

An injunction may be granted in the following cases:

1. When it shall appear by the complaint that the plaintiff is entitled to the relief demanded, and such relief or any part thereof consists in restraining the commission or continuance of the act complained of, either for a limited period or perpetually.

1 2. When it shall appear by the complaint or affidavit that the commission
2 or continuance of some act, during the litigation, would produce great or
3 irreparable injury to the plaintiff.

4 3. When it shall appear, during the litigation, that the defendant is doing
5 or threatens, or is about to do, or is procuring or suffering to be done,
6 some act in violation of the plaintiff's rights respecting the subject of the
7 action, and tending to render the judgment ineffectual.

8 “A preliminary injunction is available if an applicant can show a likelihood of success on
9 the merits and a reasonable probability that the non-moving party's conduct, if allowed to
10 continue, will cause irreparable harm for which compensatory damage is an inadequate remedy.”
11 *Dangberg Holdings v. Douglas County*, 115 Nev. 129, 142, 978 P.2d 311 (citing *Pickett v.*
12 *Comanche Construction, Inc.*, 108 Nev. 422, 426, 836 P.2d 42, 44 (1992)). In considering
13 preliminary injunctions, courts also weigh the potential hardships to the relative parties and others,
14 and the public interest. *University and Community College System of Nevada v. Nevadans for*
15 *Sound Government*, 120 Nev. 712, 100 P.3d 179, 187 (2004). The decision whether to grant a
16 preliminary injunction is within the Court's discretion. *Id.*

17 Kvam's showing of great or irreparable harm is supported by the previous statement of
18 facts. In this case, Kvam is entitled to be repaid on his loan with interest at the rate of 7% before
19 Mineau and Legion are paid. There is no excuse for Defendants' failure to pay. It is not enough
20 to simply say that Kvam could obtain a judgment for the amount owing to him. He will suffer
21 great harm if Mineau and Legion divert the funds in that they will have inadequate funds to repay
22 him. Also, Mineau and Legion have recently disposed of other property, as recently as September
23 20, 2016 (See Deed and Ownership History attached hereto as Ex. "7"). It appears therefore that
24 Defendants are trying to make themselves judgment proof or prepare for filing bankruptcy. Kvam
25 is therefore entitled to a temporary restraining order and preliminary injunction under NRS 33.010
26 and the "relative hardships" test adopted in *Dangberg* and *Nevadans for Sound Government*.

27 Although NRS 233B.140 and NRCP 65 both require bonds to support a temporary
28 restraining order and preliminary injunction, no monetary damage can or will inure to Defendants
if they are enjoined from diverting the funds and deposit the funds with the Clerk of the Court

1 while this matter is pending. As such, only a nominal cash bond of \$100 should be required.

2 AFFIRMATION

3 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
4 document does not contain the social security number of any person.

5 Dated this 30th day of November 2018.

6
7 MATUSKA LAW OFFICES, LTD.

8 *Michael L. Matuska*

9 By:

10 MICHAEL L. MATUSKA, SBN 5711
11 Attorneys for Plaintiff, JAY KVAM,
12 individually and derivatively on behalf
13 the unincorporated joint venture identified as
14 7747
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AFFIDAVIT

STATE OF NEVADA)

) ss.

COUNTY OF Elko)

COMES NOW PLAINTIFF, JAY KVAM, who being first duly sworn deposes and says:

1. That I am the Plaintiff in the above-encaptioned action. I am over the age of 18, a resident of Washoe County, Nevada, and am competent to make this affidavit. I have first-hand knowledge of the facts alleged herein, the same are true and correct to the best of my knowledge, information and belief, and I am competent to testify to these facts if called upon to do so.

2. On or about February 14, 2017, I entered into an agreement (the "Agreement") with Defendants Brian Mineau ("Mineau") and Legion Investments, LLC ("Legion") concerning the purchase, renovation and resale of a house located at 7747 May Street, Chicago, Illinois (the "Property"). A true and correct copy of the Agreement is attached hereto as Ex. "1".

3. I funded \$93,781.31 toward the purchase and renovation of the Property as shown on the summary attached as Ex. "2" to this affidavit. The initial amount of \$44,784.31 was paid directly to escrow to purchase the property as reflected in the 2/13/2017 Alta Settlement Statement attached hereto as Ex. "3". Legion took title to the Property.

4. I recently discovered that the Property had been sold. Brian Mineau did not inform me that the property was listed for sale, that escrow was pending, or that the Property had in fact sold. I discovered this information by searching websites such as Zillow.com.

6. That on November 28, 2018, my attorney of record, Michael L. Matuska, sent a letter to Defendants' attorney (Ex. "4") and received the settlement statement in return (Ex. "5").

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 30 day of ^{November} ~~November~~, 2018.
v0

KVAM

Jay Kvam

JAY

SUBSCRIBED and SWORN before me:
^{November}
this 30 day of ~~July~~, 2018,
by JAY KVAM. v0

K. Brennan
NOTARY PUBLIC

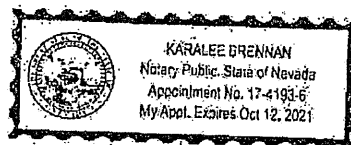


EXHIBIT INDEX

- 1 Terms of Agreement
- 2 Funding Draws
- 3 Settlement Statement 02.13.17
- 4 Defendants' Answers to Interrogatories
- 5 Letter to A. Sweet 11.28.18
- 6 Settlement Statement 11.16.18
- 7 Deed and Ownership History (2489 Sherman Lane, Carson City, NV)

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Matuska Law Offices, Ltd. and that on the 30th day of November 2018, I served a true and correct copy of the preceding document entitled **REQUEST FOR SUBMISSION** as follows:

Austin K. Sweet, Esq.
GUNDERSON LAW FIRM
3895 Warren Way
Reno, NV 89509
asweet@gundersonlaw.com

☐ **BY U.S. MAIL:** I deposited for mailing in the United States mail, with postage fully prepaid, an envelope containing the above-identified document(s) at Carson City, Nevada, in the ordinary course of business.

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** I electronically filed a true and correct copy of the above-identified document with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the person named above.

☐ **BY PERSONAL SERVICE:** I personally delivered the above-identified document(s) by hand delivery to the office(s) of the person(s) named above.

☐ **BY FACSIMILE:**

☐ **BY FEDERAL EXPRESS ONE-DAY DELIVERY.**

☐ **BY MESSENGER SERVICE:** I delivered the above-identified document(s) to Reno-Carson Messenger Service for delivery.

/s/ Suzette Turley
SUZETTE TURLEY

EXHIBIT INDEX

| | |
|---|---|
| 1 | Terms of Agreement |
| 2 | Funding Draws |
| 3 | Settlement Statement 02.13.17 |
| 4 | Defendants' Answers to Interrogatories |
| 5 | Letter to A. Sweet 11.28.18 |
| 6 | Settlement Statement 11.16.18 |
| 7 | Deed and Ownership History (2489 Sherman Lane, Carson City, NV) |

EXHIBIT 1
TERMS AGREEMENT
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 1
TERMS AGREEMENT
(Motion for Temporary Restraining Order and
Preliminary Injunction)

Terms of Agreement between Legion Investments LLC (its Members)

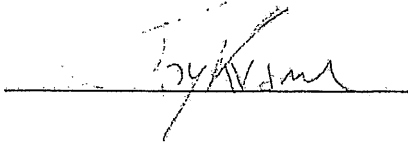
And Jay Kvam (Initial Funding Member of Same)

RE:

7747 S. May Street, Chicago Illinois.

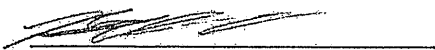
With Regards to acquisition of the aforementioned property, it is understood that the membership of Legion Investments LLC for this acquisition is Brian Mineau, Jay Kvam, and Michael J. Spinola. All parties are entitled to 33.33% of net profit, after all expenses are accounted for, to include interest due on funds dispersed. Initial purchase is being funded by Jay Kvam, who is there by assigned any remedies due should the transaction fail in anyway. Initial funder will be due a 7% annual return on any funds provided due from date of disbursement. There is expected to be 3 renovation draws necessary on this project. First draw to be funded by Mr. Kvam, Due to present and ongoing business dealings between Jay and Michael, Michael has agreed to allot %50 of his 1/3 profit to Mr. Kvam for both initial funding's.

Jay Kvam



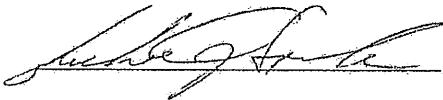
Date 2017-02-14

Brian Mineau



Date 2/13/2017

Michael J. Spinola



Date 2/13/17

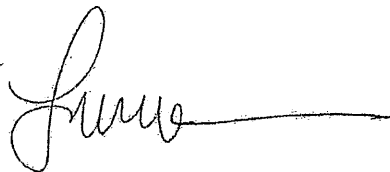
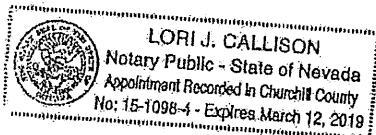


EXHIBIT 2
FUNDING DRAWS
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 2
FUNDING DRAWS
(Motion for Temporary Restraining Order and
Preliminary Injunction)

Exhibit A

| item | value | date |
|---------------------------------------|-------------|------------|
| property purchase | \$44,781.31 | 2017-02-13 |
| wire transfer fees, property purchase | \$60.00 | 2017-02-13 |
| 1st draw | \$20,000.00 | 2017-03-23 |
| wire transfer fee, 1st draw | \$20.00 | 2017-03-23 |
| 2nd draw | \$20,000.00 | 2017-04-14 |
| wire transfer fee, 2nd draw | \$30.00 | 2017-04-14 |
| 3rd draw | \$9,000.00 | 2017-05-18 |
| wire transfer fee, 3rd draw | \$30.00 | 2017-05-18 |
| interest, 1st draw | \$1,143.01 | 2018-01-15 |
| interest, 2nd draw | \$1,058.63 | 2018-01-15 |
| interest, 3rd draw | \$417.70 | 2018-01-15 |

EXHIBIT 3
SETTLEMENT STATEMENT 02.13.17
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 3
SETTLEMENT STATEMENT 02.13.17
(Motion for Temporary Restraining Order and
Preliminary Injunction)

File No./Escrow No.: 719630 Citywide Title Corporation
 Print Date & Time: 02/13/17 6:24 AM ALTA Universal ID:
 Officer/Escrow Officer: 850 W. Jackson
 Settlement Location: Citywide Title Suite 320
 Chicago, IL 60607

Property Address: 7747 South May Street
 Chicago, IL 60620

Buyer: Legion Investments

Seller: SDLIVest Group, LLC

Settlement Date: 02/13/2017

Disbursement Date: 02/13/2017

Additional dates per state requirements:

| Seller | | Description | Borrower/Buyer | |
|------------|-------------|---|----------------|----------|
| Debit | Credit | | Debit | Credit |
| | | Financial | | |
| | \$44,000.00 | Sale Price of Property | \$44,000.00 | |
| | | Prorations/ Adjustments | | |
| \$935.17 | | County Property Taxes from 07/01/2016 thru 12/31/2016 | | \$935.17 |
| \$250.52 | | County Property Taxes from 01/01/2017 thru 02/13/2017 | | \$250.52 |
| | | Title Charges & Escrow / Settlement Charges | | |
| \$50.00 | | Title - CPL Fee to First American | \$25.00 | |
| \$3.00 | | Title - DFI Policy Fee to Citywide Title | | |
| \$800.00 | | Title - Owner's Policy to Rosenthal Law Group, LLC | \$800.00 | |
| \$250.00 | | Title - Search Fee to Citywide Title | | |
| \$600.00 | | Title - Settlement Fee to Citywide Title | \$600.00 | |
| \$125.00 | | Title - Update Fee to Citywide Title | \$125.00 | |
| \$40.00 | | Title - Wire Fee to Citywide Title | \$40.00 | |
| | | Government Recording and Transfer Charges | | |
| | | Recording Fee (Deed) to Cook County Recorder | \$50.00 | |
| \$44.00 | | Transfer Tax to State of Illinois | | |
| \$132.00 | | City Transfer Tax to City of Chicago | \$330.00 | |
| \$22.00 | | County Transfer Tax to Cook County | | |
| | | Miscellaneous | | |
| \$1,148.99 | | 2016 1st Cook tax to Cook County Treasurer | | |
| \$50.00 | | Final water to City of Chicago | | |
| \$750.00 | | Seller Attorney fee to Rosenthal Law Group, LLC | | |

| Seller | | Description | Borrower/Buyer | |
|-------------|-------------|--------------------------------------|----------------|-------------|
| Debit | Credit | | Debit | Credit |
| \$320.00 | | Water/zoning to River North Clerking | | |
| | | | | |
| Seller | | Description | Borrower/Buyer | |
| Debit | Credit | | Debit | Credit |
| \$5,520.68 | \$44,000.00 | Subtotals | \$45,970.00 | \$1,185.69 |
| | | Due From Borrower | | \$44,784.31 |
| \$38,479.32 | | Due To Seller | | |
| \$44,000.00 | \$44,000.00 | Totals | \$45,970.00 | \$45,970.00 |

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Citywide Title Corporation to cause the funds to be disbursed in accordance with this statement.

Legion Investments

SDLiVest Group, LLC

By _____

Date _____

By _____

Date _____

Escrow Officer

Date

EXHIBIT 4
DEFENDANTS' ANSWERS TO
INTERROGATORIES
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 4
DEFENDANTS' ANSWERS TO
INTERROGATORIES
(Motion for Temporary Restraining Order and
Preliminary Injunction)

1 **DISC**

2 GUNDERSON LAW FIRM

3 Austin K. Sweet, Esq.

4 Nevada State Bar No. 11725

5 Mark H. Gunderson, Esq.

6 Nevada State Bar No. 2134

7 3895 Warren Way

8 Reno, Nevada 89509

9 Telephone: 775.829.1222

10 *Attorneys for Brian Mineau and Legion Investments*

11
12 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
13 **IN AND FOR THE COUNTY OF WASHOE**

14 JAY KVAM,

Case No. CV18-00764

15 Plaintiff / Counterdefendant,

Dept. No. 3

16 vs.

17 BRIAN MINEAU; LEGION INVESTMENTS,
18 LLC; 7747 S. May Street, an Unincorporated
19 Joint Venture; and DOES I-X, inclusive,

20 Defendants / Counterclaimants.
21 _____/

22 **BRIAN MINEAU AND LEGION INVESTMENTS' RESPONSES TO**
23 **PLAINTIFF JAY KVAM'S FIRST SET OF INTERROGATORIES**

24 **PROPOUNDING PARTY:** Jay Kvam

25 **RESPONDING PARTY:** Brian Mineau and Legion Investments, LLC

26 Pursuant to NRCP 16.1, Defendants / Counterclaimants BRIAN MINEAU ("Mineau") and
27 LEGION INVESTMENTS, LLC ("Legion"), by and through their counsel of record, Austin K.
28 Sweet, Esq., and Mark H. Gunderson, Esq., and pursuant to Rule 33 of the Nevada Rules of Civil
Procedure, responds to Plaintiff / Counterdefendant JAY KVAM ("Kvam")'s First Set of
Interrogatories to Mineau and Legion ("Requests") as follows:

///

///

///

1 **INTERROGATORY NO. 1:**

2 Describe when and how Mr. Kvam allegedly turned off power to the Property. Including the
3 date and time.

4 **RESPONSE TO INTERROGATORY NO. 1:**

5 At some point between March 1, 2018, and March 24, 2018, electrical service to the Property
6 ceased. On April 14, 2018, Mr. Kvam confirmed via email that he had cancelled electrical service to
7 the Property. Further details concerning when and how Mr. Kvam completed this task, including the
8 date and time, are presently unknown.

9 **INTERROGATORY NO. 2:**

10 State the date and approximate time on which the water pipes burst at the house on the
11 Property.

12 **RESPONSE TO INTERROGATORY NO. 2:**

13 The water pipes burst at the house on the Property at some point between March 1, 2018, and
14 March 24, 2018.

15 **INTERROGATORY NO. 3:**

16 State the date on which Legion Investments, LLC's improvements to the house at the Property
17 were completed.

18 **RESPONSE TO INTERROGATORY NO. 3:**

19 Objection. Interrogatory No. 3 assumes incorrect facts and therefore cannot be directly
20 answered. Specifically, Interrogatory No. 3 assumes that Legion Investments, LLC was the party
21 making improvements to the house at the Property and that such improvements were completed.

22 Without waiving this objection, Legion Investments, LLC has not itself made improvements
23 to the house at the Property and the improvements which were being made to the house at the Property
24 by licensed contractors have not been completed.

25 **INTERROGATORY NO. 4:**

26 State the date and amount of each expenditure for improvements to the Property.

27 ///

28 ///

1 **RESPONSE TO INTERROGATORY NO. 4:**

2 Legion Investments, LLC and Brian Mineau are aware of the following expenditures made
3 for improvements to the Property:

| | | |
|---|----------------|-------------|
| 4 | March 23, 2017 | \$20,000.00 |
| 5 | April 14, 2017 | \$20,000.00 |
| 6 | May 18, 2017 | \$9,000.00 |
| 7 | May 26, 2017 | \$20,000.00 |

8 **INTERROGATORY NO. 5:**

9 State date [sic] and amount of each capital call or funding request for the property.

10 **RESPONSE TO INTERROGATORY NO. 5:**

11 None.

12 **INTERROGATORY NO. 6:**

13 Identify all persons who contributed capital or funds for the purchase and improvement of the
14 Property. Including the names, addresses, phone numbers, dates and amounts of the contributions.

15 **RESPONSE TO INTERROGATORY NO. 6:**

| | | | |
|----|-------------------|-------------------|-------------|
| 16 | Jay Kvam | | |
| | 7565 Michaela Dr. | | |
| 17 | Reno, NV 89511 | | |
| | Contributions: | February 13, 2017 | \$44,000.00 |
| 18 | March 23, 2017 | \$20,000.00 | |
| | April 14, 2017 | \$20,000.00 | |
| 19 | May 18, 2017 | \$9,000.00 | |

| | | | |
|----|-------------------|----------------|-------------|
| 20 | Criterion NV LLC | | |
| 21 | 7560 Michaela Dr. | | |
| | Reno, NV 89511 | | |
| 22 | Contributions: | March 26, 2017 | \$20,000.00 |

23 **INTERROGATORY NO. 7:**

24 Describe the heating system for the property, including the heater model and number, and
25 whether it a [sic] gas or electric heater.

26 **RESPONSE TO INTERROGATORY NO. 7:**

27 The heating system on the property is electric. The heater model and number are unknown.

28 ///

1 **INTERROGATORY NO. 8:**

2 Identify all dates that Brian Mineau was present at the Property.

3 **RESPONSE TO INTERROGATORY NO. 8:**

4 Brian Mineau has never been present at the Property.

5 **INTERROGATORY NO. 9:**

6 Identify all prospective economic relationships alleged in your Fourth Claim for Relief.
7 Include the name, address, phone numbers and describe any contracts and the dates and contents
8 thereof.

9 **RESPONSE TO INTERROGATORY NO. 9:**

10 The earlier completion of the project and profitable sale of the Property. Although most
11 potential buyers are not specifically known, Mutual Happiness LLC was in contract to purchase the
12 Property but cancelled that contract. Documentation of this lost prospective economic relationship
13 has been produced and identified as LEG0023 – LEG0036.

14 **INTERROGATORY NO. 10:**

15 Describe all acts of coercion, duress and intimidation identified in your Fifth claim for Relief
16 (Deceptive Trade Practices). Include the date, time and manner of the alleged acts and any identify
17 any [sic] witness thereto.

18 **RESPONSE TO INTERROGATORY NO. 10:**

19 Jay Kvam repeatedly demanded to be “reimbursed” for all funds he invested into the Property,
20 despite the fact that the project was incomplete, no disbursements were yet due to anyone under the
21 “Terms of Agreement,” and the project had been severely set back by Mr. Kvam’s own actions. Brian
22 Mineau and Legion Investments, LLC nonetheless affirmed that they intended to complete the project
23 and perform their obligations under the “Terms of Agreement.” However, Mr. Kvam demanded that
24 the “Terms of Agreement” be renegotiated to his benefit and threatened Mr. Mineau and Legion
25 Investments, LLC with frivolous legal action if they refused to acquiesce to those demands. Mr.
26 Kvam also wrongfully and fraudulently accessed Atlas Investors Southside LLC (“Atlas”)’s bank
27 accounts and fraudulently, and without authorization, used Atlas’s operating funds to pay off an
28 interest-free debt held by Atlas which would not come due for several more years, causing Atlas’s

1 operating account to be overdrawn and forcing Mr. Mineau and Legion Investments, LLC to liquidate
2 other assets to provide Atlas with adequate operating funds and avoid drastic financial and business
3 consequences. Mr. Kvam also demanded Legion Investments' historic financial records, without any
4 legal or factual right to such information, again under threat of frivolous litigation. Mr. Kvam also
5 demanded that Mr. Mineau and/or Legion Investments, LLC personally guaranty Mr. Kvam's return
6 on his investment and provide separate collateral to protect his investment, again under threat of
7 frivolous litigation. When Brian Mineau and Legion Investments, LLC refused, Mr. Kvam's agents
8 harassed, threatened, and intimidated Mr. Mineau's family. Each of these acts constitutes acts of
9 coercion, duress, and intimidation designed to compel Mr. Mineau and/or Legion Investments, LLC
10 to buy Mr. Kvam out of the "Terms of Agreement," pay him more than he is entitled under the "Terms
11 of Agreement," and/or pay him sooner than he is entitled under the "Terms of Agreement." The date,
12 time, and manner of these acts is documented in correspondence between the parties' counsel and the
13 pleadings of this action.

14 **INTERROGATORY NO. 11:**

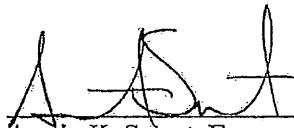
15 Describe all chattels identified in your Eighth Claim for Relief (Trespass to Chattels).

16 **RESPONSE TO INTERROGATORY NO. 11:**

17 Drywall, insulation, and copper plumbing.

18 DATED this 1 day of October, 2018.

19 GUNDERSON LAW FIRM

20
21
22 By: 
23 Austin K. Sweet, Esq.
24 Nevada State Bar No. 11725
25 Mark H. Gunderson, Esq.
26 Nevada State Bar No. 2134
27 3895 Warren Way
28 Reno, Nevada 89509
Telephone: 775.829.1222
Attorneys for Brian Mineau and Legion Investments

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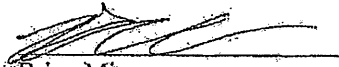
VERIFICATION

I, Brian Mineau, a Defendant and a Manger of Legion Investments, LLC in the above-entitled action, make this verification. I have read the foregoing *Brian Mineau and Legion Investments' Responses to Plaintiff Jay Kyam's First Set of Interrogatories* and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged upon information and belief, and as to those matters, I believe them to be true.

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


Executed in Reno, NV

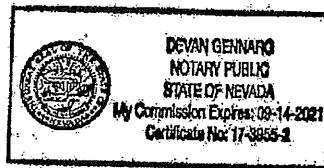
DATED this 1st day of October, 2018,


Brian Mineau

STATE OF NEVADA
COUNTY OF WASHOE

This instrument was acknowledged before me
on this 1st day of October, 2018 by Brian Mineau.


NOTARY PUBLIC for Nevada
Commission Expires: 9/14/2021



1 CERTIFICATE OF SERVICE

2 Pursuant to NRCP 5(b), I certify that I am an employee of the law office of Gunderson Law
3 Firm, and that on the 1 day of October, 2018, I deposited for mailing in Reno, Nevada a true and
4 correct copy of the **BRIAN MINEAU AND LEGION INVESTMENTS' RESPONSES TO**
5 **PLAINTIFF JAY KVAM'S FIRST SET OF INTERROGATORIES**, to the following:

6
7 Michael Matuska, Esq.
8 Matuska Law Offices, Ltd.
9 2310 South Carson Street, Suite 6
10 Carson City, Nevada 89701
11 *Attorneys for Jay Kvam*

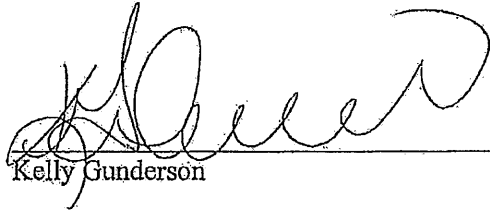
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13 Kelly Gunderson
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EXHIBIT 5
LETTER TO A. SWEET 11.28.18
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 5
LETTER TO A. SWEET 11.28.18
(Motion for Temporary Restraining Order and
Preliminary Injunction)



**MATUSKA
LAW OFFICES**

Michael L. Matuska, Attorney at Law

November 28, 2018

Via Email and U.S. Mail

Austin K. Sweet, Esq.
Gunderson Law Firm
3895 Warren Way
Reno NV 89509
asweet@gundersonlaw.com

Re: *Kvam v. Mineau, et al.*
Second Judicial District Court Case No. CV18-00764

Dear Mr. Sweet:

Please confirm by the close of business today that Jay Kvam will be paid from the proceeds of sale of the property located at 7747 May Street, Chicago, Illinois, and that the payment will be received by the close of business on Friday, November 30, 2018. Absent this confirmation and payment, we will immediately move for a temporary restraining order to enjoin the diversion of funds.

Please also see the Second Set of Requests for the Production of Documents provided herewith.

Sincerely,

MATUSKA LAW OFFICES, LTD.

A handwritten signature in cursive script, appearing to read 'Michael L. Matuska'.

By:

MICHAEL L. MATUSKA, ESQ.
2310 South Carson Street, Suite 6
Carson City NV 89701

cc: Client

I:\Client Files\Litigation\Kvam\y. Mineau\Corr\Sent\Sweet 11.28.18.docx

775-350-7220 Phone
775-350-7222 Fax
mlm@matuskalawoffices.com

Licensed in Nevada and California

2310 South Carson Street, #6
Carson City, NV 89701
www.matuskalawoffices.com

EXHIBIT 6
SETTLEMENT STATEMENT 11.16.18
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 6
SETTLEMENT STATEMENT 11.16.18
(Motion for Temporary Restraining Order and
Preliminary Injunction)

American Land Title Association

ALTA Settlement Statement - Cash
Adopted 05-01-2015

File No./Escrow No.: 730323
 Print Date & Time: 11/16/18 8:49 AM
 Officer/Escrow Officer:
 Settlement Location:
 Citywide Title
 850 W. Jackson Blvd., Ste. 320
 Chicago, IL 60607

Citywide Title Corporation
 ALTA Universal ID:
 850 W. Jackson
 Suite 320
 Chicago, IL 60607

Property Address: 7747 S May St
 Chicago, IL 60620
 Borrower: Thousand Oaks Management, LLC
 Seller: Legion Investments, LLC
 Settlement Date: 11/16/2018
 Disbursement Date: 11/16/2018
 Additional dates per state requirements:

| Seller | | Description | Borrower/Buyer | |
|------------|-------------|--|----------------|------------|
| Debit | Credit | | Debit | Credit |
| | | Financial | | |
| | \$41,000.00 | Sale Price of Property | \$41,000.00 | |
| | | Deposit | | \$1,000.00 |
| | | Prorations/Adjustments | | |
| \$2,233.36 | | County Property Taxes from 01/01/2018 thru 11/14/2018 | | \$2,233.36 |
| | | Other Loan Charges | | |
| | | Appraisal Fee | | |
| | | Credit Report Fee | | |
| | | Flood Certification Fee | | |
| | | Tax Service Fee | | |
| | | Title Charges & Escrow / Settlement Charges | | |
| \$50.00 | | Title - CPL Fee to First American | \$25.00 | |
| \$3.00 | | Title - DFI Policy Fee to Citywide Title | | |
| \$1,660.00 | | Title - Owner's Policy to Chi-City Title Co. | | |
| \$250.00 | | Title - Search Fee to Citywide Title | | |
| \$687.50 | | Title - Settlement Fee to Citywide Title | \$687.50 | |
| \$150.00 | | Title - Update Fee to Chi-City Title Co. | \$150.00 | |
| \$40.00 | | Title - Wire Fee to Citywide Title | \$40.00 | |
| | | Commission | | |
| \$700.00 | | Commission to Altura Realty | | |
| \$1,300.00 | | Commission to Miller Chicago, LLC | | |

| Seller | | Description | Borrower/Buyer | |
|-------------|-------------|--|----------------|-------------|
| Debit | Credit | | Debit | Credit |
| | | Government Recording and Transfer Charges | | |
| | | Recording Fee (Deed) to Cook County Recorder | \$50.00 | |
| \$41.00 | | Transfer Tax to State of Illinois | | |
| \$123.00 | | City Transfer Tax to City of Chicago | \$307.50 | |
| \$20.50 | | County Transfer Tax to Cook County | | |
| | | | | |
| | | Miscellaneous | | |
| | | Buyer Attorney Fee to Whitacre & Stefanczuk LTD | \$500.00 | |
| \$650.00 | | Seller Attorney fee to Rosenthal Law Group, LLC | | |
| \$1,000.00 | | Sold Tax TI to Citywide TI Account | | |
| \$4,547.87 | | Sold Taxes to Cook County Treasurer | | |
| \$400.00 | | Survey to Urchell & Associates | | |
| \$2,000.00 | | Water Bill TI to Citywide TI Account | | |
| \$320.00 | | Water/Zoning Certs to River North Clerking | | |
| | | Invoice to Altura Realty | \$2,300.00 | |
| \$350.00 | | fees due prior files to Rosenthal Law Group, LLC | | |
| Seller | | | Borrower/Buyer | |
| Debit | Credit | | Debit | Credit |
| \$16,526.23 | \$41,000.00 | Subtotals | \$45,060.00 | \$3,233.36 |
| | | Due From Borrower | | \$41,826.64 |
| | | Due To Seller | | |
| \$24,473.77 | | | | |
| \$41,000.00 | \$41,000.00 | Totals | \$45,060.00 | \$45,060.00 |

Acknowledgement

We/I have carefully reviewed the ALTA Settlement Statement and find it to be a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction and further certify that I have received a copy of the ALTA Settlement Statement. We/I authorize Citywide Title Corporation to cause the funds to be disbursed in accordance with this statement.

Buyer/Borrower:

Willmetta D. Jones, by
Daniel Shumate as Agent 11-16-18
THOUSAND OAKS MANAGEMENT LLC Date

Seller:

[Signature] 11-16-18
LEGION INVESTMENTS, LLC Date

[Signature]
Escrow Officer

Michael B. Brown

11/16/2018
Date

EXHIBIT 7
DEED AND OWNERSHIP HISTORY (2489
SHERMAN LANE, CARSON CITY, NV)
(Motion for Temporary Restraining Order and
Preliminary Injunction)

EXHIBIT 7
DEED AND OWNERSHIP HISTORY (2489
SHERMAN LANE, CARSON CITY, NV)
(Motion for Temporary Restraining Order and
Preliminary Injunction)

STATE OF NEVADA
DECLARATION OF VALUE FORM

1. Assessor Parcel Number(s)

- a. 8-172-24
b. _____
c. _____
d. _____

FOR RECORDERS OPTIONAL USE ONLY

Document #: **488671**

Date of Recording: **09/20/2018**

2. Type of Property:

- a. ☐ Vacant Land
b. ☒ Single Fam. Res.
c. ☐ Condo/Twnhse
d. ☐ 2-4 Plex
e. ☐ Apt. Bldg
f. ☐ Comm'l/Ind'l
g. ☐ Agricultural
h. ☐ Mobile Home
i. Other _____

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page _____

Date of Recording: _____

Notes: _____

3. a. Total Value/Sales Price of Property:

\$ 270,000.00

b. Deed in Lieu of Foreclosure Only (value of property)

\$ _____

c. Transfer Tax Value

\$ 270,000.00

d. Real Property Transfer Tax Due:

\$ 1,053.00

4. If Exemption Claimed

a. Transfer Tax Exemption, per NRS 375.090, Section _____

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100%

The undersigned declares and acknowledges, under penalty of perjury, pursuant to NRS 375.060 and NRS 375.110, that the information provided is correct to the best of their information and belief, and can be supported by documentation if called upon to substantiate the information provided herein. Furthermore, the parties agree that disallowance of any claimed exemption, or other determination of additional tax due, may result in a penalty of 10% of the tax due plus interest at 1% per month. Pursuant to NRS 375.030, the Buyer and Seller shall be jointly and severally liable for any additional amount owed.

Signature _____

Capacity _____

Signature _____

Capacity _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Brian T. Mineau

Address: 2171 San Remo Dr.

City: Sparks

State: NV Zip: 89434

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Jo A. Dodd

Address: 2489 Sherman Lane

City: Carson City

State: NV Zip: 89706

COMPANY/PERSON REQUESTING RECORDING (Required if not Seller or Buyer)

Print Name: Ticor Title of Nevada, Inc.

Escrow No.: 01804444-010-DC1

Address: 307 W. Winnie Lane Suite #1

City, State, Zip: Carson City, NV 89703

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED.

WHEN RECORDED MAIL TO:
Jo A. Dodd
2489 Sherman Lane
Carson City, NV 89706

MAIL TAX STATEMENTS TO:
SAME AS ABOVE

Escrow No. 1804444-DC1

The undersigned hereby affirms that this document
submitted for recording does not contain the social
security number of any person or persons.
(Pursuant to NRS 239b.030)

APN No.: 8-172-24
R.P.T.T. \$1,053.00

RECORDED AT THE REQUEST OF
TICOR TITLE CARSON CITY- 307
09/20/2018 03:42PM
FILE NO.488671
SUSAN MERRIWETHER
CARSON CITY RECORDER
FEE \$35.00 DEP SY

SPACE ABOVE FOR RECORDER'S USE ONLY

GRANT, BARGAIN, SALE DEED

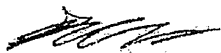
THIS INDENTURE WITNESSETH: That Brian T. Mineau, a married man as his sole and separate property

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, do/does hereby Grant,
Bargain, Sell and Convey to Jo A. Dodd, a widow

SEE EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF

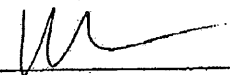
Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in
anywise appertaining.

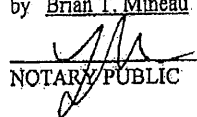
488671



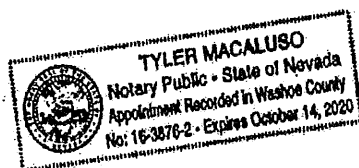
Brian T. Mineau

STATE OF NEVADA *Th*
COUNTY OF CARSON CITY *Washoe*

This instrument was acknowledged before me on, *ss: Sep 17, 2018*
by Brian T. Mineau 



NOTARY PUBLIC



Order No.: 01804444-DC1

EXHIBIT A

All that certain real property situate in the County of Carson City, State of Nevada, described as follows:

A portion of the Southwest 1/4 of the Northeast 1/4 of Section 9, Township 15 North, Range 20 East, M. D. B. & M., particularly described as follows:

Beginning at a point in the Southwest 1/4 of the Northeast 1/4 of said Section 9 from which said point, the section corner common to Sections 3, 4, 9 and 10, Township 15 North, Range 20 East, M. D. B. & M., bears North 55°59'47" East a distance of 2388.21 feet and the quarter section corner common to said Sections 4 and 9 bears North 26°31'25" West a distance of 1481.21 feet; thence South 0°01'25" West a distance of 101.00 feet to the Northeast corner of that certain Parcel conveyed to Sylvester P. Loiacano and Edna R. Loiacano by Deed recorded in Book 74 of Deeds, Page 75, Ormsby County, Nevada, records; thence North 89°58'35" West along the North line of the aforesaid Loiacano Parcel a distance of 200.00 feet to the Northwest corner of the aforesaid Loiacano parcel; thence North 0°01'25" East a distance of 100.41 feet; thence North 89°51'15" East a distance of 200.00 feet to the point of beginning.

EXCEPTING THEREFROM the West 95 feet of the above described parcel of land.

ALSO EXCEPTING THEREFROM any portion lying within Sherman Lane.

ALSO KNOWN AS Parcel B as shown on the Parcel Map for Glenn E. and Thelma A. Walker recorded March 25, 1976 in Book 3, Page 496, Document No. 61782, Official Records of Carson City, Nevada amended on November 8, 1978, in Book 3, Page 690, Document No. 83551, Official Records of Carson City, Nevada.

APN: 8-172-24

Note: Document No. 462619 is provided pursuant to the requirements of Section 6.NRS 111.312.

Ownership History for Parcel # 008-172-24

Current Owners

| Name | From |
|---|------|
| DODD, JO A 2489 SHERMAN LN CARSON CITY, NV 89706-0000 | 2018 |

Prior Owners

| Name | From | To |
|---|------|------|
| MINEAU, BRIAN T 2171 SAN REMO DR SPARKS, NV 89434-0000 | 2016 | 2018 |
| LEGION INVESTMENTS LLC 2171 SAN REMO DR SPARKS, NV 89434-0000 | 2015 | 2016 |
| U S BANK TRUST, TRUSTEE % U S BANK TRUST, TRUSTEE 16745 W BERNARDO DR STE 300 SAN DIEGO, CA 92127-0000 | 2015 | 2015 |
| LSF8 MASTER PARTICIPATION TRUST % U S BANK TRUST, TRUSTEE 16745 W BERNARDO DR STE 300 SAN DIEGO, CA 92127-0000 | 2015 | 2015 |
| JOHNSON, KATHRYN K 3045 CHIPMUNK DR WASHOE, NV 89704-0000 | 2013 | 2015 |
| JOHNSON, JACK 3045 CHIPMUNK DR WASHOE, NV 89704-0000 | 2013 | 2015 |
| C C TREAS - TRUSTEE (JOHNSON, J % JACK & KATHRYN K JOHNSON 3045 CHIPMUNK DR WASHOE, NV 89704-0000 | 2013 | 2013 |
| JOHNSON, JACK % JACK & KATHRYN K JOHNSON 3045 CHIPMUNK DR WASHOE, NV 89704-0000 | 2013 | 2013 |
| JOHNSON, KATHRYN K % JACK & KATHRYN K JOHNSON 3045 CHIPMUNK DR WASHOE, NV 89704-0000 | 2013 | 2013 |
| JOHNSON, JACK 210 GROSH AVE DAYTON, NV 89403-9717 | 1987 | 2013 |
| JOHNSON, KATHRYN K 210 GROSH AVE DAYTON, NV 89403-9717 | 1987 | 2013 |

NOTE: This is not a complete history and should not be used in place of a title search.

[Go Back](#)

Exhibit 4

ORDER GRANTING TEMPORARY RESTRAINING ORDER 12.03.18

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

Exhibit 4

ORDER GRANTING TEMPORARY RESTRAINING ORDER 12.03.18

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

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

JAY KVAM,

Case No. CV18-00764

Plaintiff,

Dept. No. 3

vs.

BRIAN MINEAU; LEGION INVESTMENTS,
LLC; 7747 S. May Street, an Unincorporated
Joint Venture; and DOES I-X, inclusive,

Defendants.

ORDER GRANTING TEMPORARY RESTRAINING ORDER

Currently before this Court is Plaintiff/Counter-Defendant JAY KVAM'S ("KVAM")
MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION
("Motion") filed on November 30, 2018. The matter was submitted to this Court the same day.

As alleged by Kvam, an agreement was entered into on or about February 14, 2017 with
Defendants BRIAN MINEAU and LEGION INVESTMENTS, LLC ("Defendants"). The
agreement concerned a loan given by Kvam to Defendants to renovate a property. Kvam funded
\$93,781.31 toward the purchase and renovation of the property and was due to receive 7% annual
return on his investment. Kvam has now demanded his money back as a result of not having
received any interest payment and of the cessation of renovation activity on the property. Kvam has

1 asserted that he is entitled to receive a return of his investment prior to the sale of the property.

2 Defendants have disputed this entitlement.

3 The basis of Kvam's instant request for a temporary restraining order ("TRO") is the recent
4 sale of the property. Because the property was sold, Kvam argues, the dispute over when his
5 investment should be returned—before or after sale of the property—has become moot, and he is
6 due his investment under either theory. Kvam requests a TRO with regard to the sale proceeds, to
7 prevent Defendants from disposing of them before any claim he has to them has been adjudicated.
8

9 NRCP 65 recognizes three kinds of injunctive orders: (1) TRO's, (2) preliminary
10 injunctions, and (3) permanent injunctions. Generally, a temporary restraining order grants
11 injunctive relief on an emergency basis for a limited time until the court can hear the matter in a
12 motion for a preliminary injunction. *See* NRCP 65. Under Nevada law, a court may issue an
13 injunction when, it appears from the face of the complaint or affidavit, the commission of some act
14 during the litigation would produce great or irreparable injury to the plaintiff. NRS 33.010(2). In
15 order to issue a preliminary injunction or TRO, the moving party must demonstrate that without the
16 grant of an injunction, he will suffer irreparable harm because there is no adequate remedy at law.
17 *See Dixon v. Thatcher*, 103 Nev. 414, 415, 742 P.2d 1029, 1030 (1987). In addition, the movant
18 must also demonstrate a reasonable probability of success on the merits of his case. *Id.* The purpose
19 of such an order is to preserve the status quo. *Id.*
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21

22 Injunctive relief is extraordinary relief, and irreparable harm must be articulated in specific
23 terms by the issuing order or be sufficiently apparent elsewhere in the record. *Foley*, 121 Nev. at 80,
24 109 P.3d at 762. For the purposes of injunctive relief, irreparable harm is harm for which
25 compensatory damages would be inadequate. *S.O.C. Inc., v. Mirage Casino-Hotel*, 117 Nev. Adv.
26 Rep 36, 23 P.3d 243 (2001); *Pickett v. Comanche Construction Inc.*, 108 Nev. 422, 426, 836 P.2d
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1 42, 44 (1992); *Number One Rent-A-Car v. Ramada Inns, Inc.*, 94 Nev. 779, 780-781, 587 P.2d
2 1329, 1330 (1978). If an equitable remedy is "far superior" to a legal remedy or damages are
3 difficult to calculate, the existence of an adequate remedy at law will not preclude an injunction.
4 *Nevada Escrow Service v. Crockett*, 91 Nev. 201, 533 P.2d 471 (1975); *Harmon v. Tanner Motor*
5 *Tours of Nevada, Ltd.*, 179 Nev. 4, 377 P.2d 622 (1963).

6 The rights asserted by Kvam are certainly prejudiced by the sale of the property and the fact
7 that he has yet to be repaid even the principal amount of the loan. The relevant question here,
8 however, is whether compensatory damages, which is, ultimately, what Kvam is asking for, would
9 be inadequate. Kvam argues that "[i]t appears...Defendants are trying to make themselves judgment
10 proof or prepare for filing bankruptcy." Mot. 4. If this were the case, compensatory damages may
11 not be available to Kvam if Defendants are able to dispose of the sale proceeds as they see fit.
12

13 Kvam further requests that the Court set a nominal bond in the amount of \$100, as the
14 Defendants will sustain no damage if the injunctive relief is granted. A nominal bond is appropriate
15 at this time as the Court may always increase the amount of the bond during the pendency of the
16 injunction if the facts and circumstances so warrant.
17

18 The Court is satisfied that Kvam's rights to a return of his investment could be irreparably
19 harmed if the instant Motion is not granted. Kvam has also shown a reasonable likelihood of
20 success on the merits, as both parties agree that, if an enforceable contract exists, he is entitled
21 under the Terms of Agreement to receive a return of his investment at some point in the
22 proceedings.
23

24 Accordingly,

25 BRIAN MINEAU, LEGION INVESTMENTS, LLC, and any affiliated party/interested
26 organization are HEREBY ESTOPPED from disposing of any of the proceeds from the sale of the
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1 property located at 7747 S. May Street, Chicago, Illinois 60620.

2 This TRO is to expire within 15 days from the filing of this Order. A hearing to address
3 injunctive relief is hereby scheduled for December 17 at 1:30 p.m.

4 Kvam is hereby required to place the sum of \$500.00 in the possession of the Court as
5 security for the payment of costs and damages as may be suffered by any party.

6
7 IT IS SO ORDERED.

8 Dated this 3rd day of December, 2018.

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11 JEROME M. POLAHA
12 DISTRICT JUDGE
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CERTIFICATE OF MAILING

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 3 day of December, 2018 I did the following:

☒ Electronically filed with the Clerk of the Court, using the eFlex system which constitutes effective service for all eFiled documents pursuant to the eFile User

Agreement:

MARK HARLAN GUNDERSON, ESQ. for BRIAN MINEAU, LEGION INVESTMENTS, LLC

AUSTIN K. SWEET, ESQ. for BRIAN MINEAU, LEGION INVESTMENTS, LLC

MICHAEL L. MATUSKA, ESQ. for JAY KVAM

☐ Transmitted document to the Second Judicial District Court mailing system in a sealed envelope for postage and mailing by Washoe County using the United States

Postal Service in Reno, Nevada:

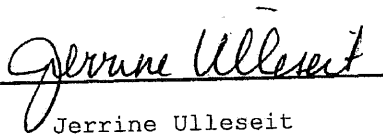

Jerrine Ulleseit

Exhibit 5

STIPULATION TO DEPOSIT FUNDS; ORDER 12.12.18

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

Exhibit 5

STIPULATION TO DEPOSIT FUNDS; ORDER 12.12.18

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

1 **CODE 4050**
2 GUNDERSON LAW FIRM
3 Austin K. Sweet, Esq.
4 Nevada State Bar No. 11725
5 Mark H. Gunderson, Esq.
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**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

JAY KVAM, Case No. CV18-00764

Plaintiff / Counterdefendant, Dept. No. 3

vs.

BRIAN MINEAU; LEGION INVESTMENTS,
LLC; 7747 S. May Street, an Unincorporated
Joint Venture; and DOES I-X, inclusive,

Defendants / Counterclaimants.

STIPULATION TO DEPOSIT FUNDS; ORDER

On November 30, 2018, Plaintiff / Counterdefendant JAY KVAM ("Kvam") filed a *Motion for Temporary Restraining Order and Preliminary Injunction* ("Motion"), requesting an order restraining and enjoining Defendants / Counterclaimants BRIAN MINEAU ("Mineau") and LEGION INVESTMENTS, LLC ("Legion") from diverting the funds received from the sale of the property located at 7747 S. May Street, Chicago, Illinois (the "Property").

On December 3, 2018, this Court entered an *Order Granting Temporary Restraining Order* ("Order"), estopping Mineau and Legion from disposing of the proceeds from the sale of the Property.

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1 This Court's Order also set a hearing to address the injunctive relief requested in the Motion
2 on December 17, 2018, at 1:30 p.m. ("Hearing").

3 In lieu of pursuing the preliminary injunction and conducting the Hearing, IT IS
4 STIPULATED among the parties, by and through their respective counsel, that:

5 1. Pursuant to NRCP 67(a), Legion shall deposit TWENTY-FOUR THOUSAND FOUR
6 HUNDRED SEVENTY-THREE DOLLARS AND SEVENTY-SEVEN CENTS (\$24,473.77),
7 representing the proceeds received from the sale of the Property, with the clerk of the court within ten
8 (10) days of entry of the order approving this stipulation;

9 2. Upon proof that the funds have been deposited with the court, the Hearing shall be
10 vacated, the Order shall be deemed satisfied and terminated, the preliminary injunction aspect of the
11 Motion shall be deemed withdrawn without prejudice, and the clerk of court may return the \$500.00
12 bond posted pursuant to the Order to Kvam;

13 3. The deposited funds shall be invested by the clerk of court in an interest-bearing
14 instrument, subject to withdrawal, in whole or in part, at any time thereafter upon order by this Court
15 to dispose of the funds in a specified manner;

16 4. By entering into this stipulation, Legion and Mineau do not acknowledge the validity
17 or merits of the Motion or the claims or arguments made therein; and

18 5. By entering into this stipulation, no parties waive any rights or claims whatsoever,
19 including any claims they may have to ultimately receive the sum deposited with the court.
20

21 **AFFIRMATION**

22 The undersigned does hereby affirm that the preceding document filed in the Second Judicial
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1 District Court of the State of Nevada, County of Washoe, does not contain the social security number
2 of any person.

3 DATED this 10 day of December, 2018.

DATED this 10th day of December, 2018.

4 GUNDERSON LAW FIRM

MATUSKA LAW OFFICES, LTD.

5
6 By: 

By: 

Austin K. Sweet, Esq.
Nevada State Bar No. 11725
Mark H. Gunderson, Esq.
Nevada State Bar No. 2134
*Attorneys for Brian Mineau and
Legion Investments*

Michael L. Matuska, Esq.
Nevada State Bar No. 5711
Attorneys for Jay Kvam

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12 ORDER

13 IT IS SO ORDERED.

14 DATED this 11th day of Dec., 2018.

15
16
17 By: 

DISTRICT JUDGE

Exhibit 6

CHECK 70382818 REFUND FROM ESCROW 12.18.18

(Reply to Respondent's Opposition to Appellant's
Motion to Determine Appealable Order)

Exhibit 6

CHECK 70382818 REFUND FROM ESCROW 12.18.18

(Reply to Respondent's Opposition to Appellant's
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