

IN THE SUPREME COURT OF THE STATE OF NEVADA
Case No. 81584

OELLA RIDGE TRUST

Appellant

v.

SILVER STATE SCHOOLS CREDIT UNION

Respondent

Electronically Filed
May 12 2021 03:26 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

On Appeal from the Eighth Judicial District Court, Clark County
Case No. A-20-809078-C
THE HONORABLE MARK DENTON

APPENDIX TO RESPONDENT'S BRIEF

MICHAEL R. BROOKS, NV Bar No. 7287
MALIQ I. KENDRICKS, NV Bar No. 15254
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*Attorneys for Respondent Silver State Schools
Credit Union*

Document Index

Doc.	Description	Bates Nos.
1	Foreclosure Deed, Record No. 201211080002734	RA 1-1 – 1-3
2	Order of Reversal and Remand, filed July 11, 2019	RA 2-1 – 2-3
3	Judgment for Defendant and Counter-Claimant Silver State Schools Credit Union After Trial and Appeal, filed September 16, 2019	RA 3-1 – 3-4
4	Deed of Trust, Record No. 20040524-001406	RA 4-1 – 4-18
5	Summons and Amended Complaint, filed January 23, 2020	RA 5-1 – 5-5
6	Order on Motion to Dismiss, filed April 7, 2020	RA 6-1 – 6-3

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5	Summons and Amended Complaint, filed January 23, 2020	RA 5-1 – 5-5

CERTIFICATE OF SERVICE

I certify that on May 12, 2021, I served a copy of the foregoing upon all counsel of record by allowing the Court's ECF system to serve same upon:

Kerry P. Faughnan, Esq.
LAW OFFICES OF KERRY P. FAUGHNAN
P.O. Box 335361
North Las Vegas, Nevada 89033

*Attorneys for Appellant
Oella Ridge Trust*

/s/ Jeannette Versoza
An employee of HUTCHISON & STEFFEN

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RESPONDENT'S APPENDIX 1

(3-1)

st #: 201211080002734
Fees: \$18.00 N/C Fee: \$0.00
RPTT: \$25.50 Ex: #
11/08/2012 09:22:30 AM
Receipt #: 1375091
Requestor:
NORTH AMERICAN TITLE
COMPAN
Recorded By: MJM Pgs: 3
DEBBIE CONWAY
CLARK COUNTY RECORDER

Please mail tax statement and
when recorded mail to:
Oella Ridge Trust
900 South Las Vegas Blvd. Ste 810
Las Vegas, Nevada 89101

FORECLOSURE DEED

APN # 178-21-612-034
North American Title #45010-10-24586

NAS # NS5068B (11-)

The undersigned declares:

Nevada Association Services, Inc., herein called agent (for the Rancho Arroyo Grande), was the duly appointed agent under that certain Notice of Delinquent Assessment Lien, recorded January 12, 2010 as instrument number 0002164 Book 20100112, in Clark County. The previous owner as reflected on said lien is Theodore C Effhemeou, Jolene R Effhemeou. Nevada Association Services, Inc. as agent for Rancho Arroyo Grande does hereby grant and convey, but without warranty expressed or implied to: Oella Ridge Trust (herein called grantee), pursuant to NRS 116.31162, 116.31163 and 116.31164, all its right, title and interest in and to that certain property legally described as: Rancho Arroyo Grande Unit 1, Plat Book 74, Page 67, Lot 21, Block 1 Clark County

AGENT STATES THAT:

This conveyance is made pursuant to the powers conferred upon agent by Nevada Revised Statutes, the Rancho Arroyo Grande governing documents (CC&R's) and that certain Notice of Delinquent Assessment Lien, described herein. Default occurred as set forth in a Notice of Default and Election to Sell, recorded on 5/19/2010 as instrument # 0002555 Book 20100519 which was recorded in the office of the recorder of said county. Nevada Association Services, Inc. has complied with all requirements of law including, but not limited to, the elapsing of 90 days, mailing of copies of Notice of Delinquent Assessment and Notice of Default and the posting and publication of the Notice of Sale. Said property was sold by said agent, on behalf of Rancho Arroyo Grande at public auction on 11/2/2012, at the place indicated on the Notice of Sale. Grantee being the highest bidder at such sale, became the purchaser of said property and paid therefore to said agent the amount bid \$4,670.00 in lawful money of the United States, or by satisfaction, pro tanto, of the obligations then secured by the Delinquent Assessment Lien.

Dated: November 5, 2012


By Misty Blanchard, Agent for Association and Employee of Nevada Association Services

STATE OF NEVADA
COUNTY OF CLARK }

On November 5, 2012, before me, Elissa Hollander, personally appeared Misty Blanchard personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged that he/she executed the same in his/her authorized capacity, and that by signing his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.
WITNESS my hand and seal.

(Seal)

(Signature)



A handwritten signature in cursive script that reads "Elissa Hollander".

STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

a. 178-21-612-034

b. _____

c. _____

d. _____

2. Type of Property:

- | | |
|--|---|
| a. <input type="checkbox"/> Vacant Land | b. <input checked="" type="checkbox"/> Single Fam. Res. |
| c. <input type="checkbox"/> Condo/Twnhse | d. <input type="checkbox"/> 2-4 Plex |
| e. <input type="checkbox"/> Apt. Bldg | f. <input type="checkbox"/> Comm'l/Ind'l |
| g. <input type="checkbox"/> Agricultural | h. <input type="checkbox"/> Mobile Home |
| <input type="checkbox"/> Other | |

FOR-RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 4670.00

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

c. Transfer Tax Value:

\$ 4670.00

d. Real Property Transfer Tax Due

\$ 25.50

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 Misty Blanchard Capacity: Agent

Signature _____ Capacity: _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Nevada Association Services

Address: 6224 W. Desert Inn Road

City: Las Vegas

State: Nevada Zip: 89146

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Della Ridge Trust

Address: 900 S. Las Vegas Blvd. Ste 810

City: Las Vegas

State: Nevada Zip: 89101

COMPANY/PERSON REQUESTING RECORDING (Required if not seller or buyer)

North American Title Company

8485 W. Sunset Road, Suite 111

Las Vegas, NV 89113

Escrow # 24586 / N55068

State: _____ Zip: _____

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

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EXHIBIT PAGE ONLY



RESPONDENT'S APPENDIX 2

IN THE SUPREME COURT OF THE STATE OF NEVADA

SILVER STATE SCHOOLS CREDIT
UNION, A NEVADA CORPORATION,
Appellant,
vs.
OELLA RIDGE TRUST,
Respondent.

No. 76382

FILED

JUL 11 2019

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Yacena
DEPUTY CLERK

ORDER OF REVERSAL AND REMAND

This is an appeal from a district court judgment in a quiet title action. Eighth Judicial District Court, Clark County; Gloria Sturman, Judge.¹

Respondent Oella Ridge Trust purchased the subject property at the HOA's lien foreclosure sale and then filed the underlying quiet title action. Appellant Silver State Schools Credit Union (SSCU) opposed the action and asserted counterclaims for wrongful foreclosure and quiet title. Following a bench trial, the district court entered judgment in favor of Oella Ridge. In so doing, the district court found that in the 9 months preceding the HOA's notice of lien, the homeowners had paid an amount equal to 12 months of common assessments, and the HOA's lien notice consisted of interest, late and collection fees, and CC&R fines, only. Relying on *Shadow Wood Homeowners Ass'n, Inc. v. N.Y. Community. Bancorp, Inc.*, 132 Nev. 49, 366 P.3d 1105 (2016), the court nevertheless concluded that the foreclosure sale extinguished SSCU's deed of trust because, by the time the HOA recorded a notice of default and election sell, the homeowners had

¹Pursuant to NRAP 34(f)(1), we have determined that oral argument is not warranted.

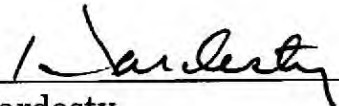
fallen behind on assessments, such that the lien foreclosed upon contained a superpriority component. SSCU appeals from that decision.


Having considered the parties' arguments and the record, we conclude that the district court's determination that the HOA foreclosure sale extinguished the first deed of trust was legally erroneous. *See Weddell v. H2O, Inc.*, 128 Nev. 94, 101, 271 P.3d 743, 748 (2012) (reviewing a district court's factual findings following a bench trial for substantial evidence and its legal conclusions de novo). In particular, substantial evidence in the record supports the district court's finding that the HOA's notice of delinquent assessments was for interest, late and collection fees, and fines, only, and the homeowners owed no past-due assessments at that time. Pursuant to controlling statutes and case law, the HOA's lien therefore lacked a superpriority component such that the district court erred by concluding that the ensuing foreclosure sale extinguished SSCU's deed of trust. *See* NRS 116.3116(2) (2009) (describing the superpriority component of an HOA's lien as "the assessments for common expenses . . . which would have become due . . . during the 9 months immediately *preceding* institution of an action to enforce the lien" (emphasis added)); *Saticoy Bay LLC Series 2021 Gray Eagle Way v. JPMorgan Chase Bank, N.A.*, 133 Nev. 21, 26, 388 P.3d 226, 231 (2017) (recognizing that under the pre-2015 version of NRS 116.3116, serving a notice of delinquent assessments constitutes institution of an action to enforce the lien); *Horizons at Seven Hills Homeowners Ass'n v. Ikon Holdings, LLC*, 132 Nev. 362, 371, 373 P.3d 66, 72 (2016) ("[T]he superpriority lien granted by NRS 116.3116(2) does not include an amount for collection fees and foreclosure costs incurred; rather it is limited to an

amount equal to the common expense assessments due during the nine months before foreclosure.”).²

Accordingly, the district court erred in determining that the foreclosure sale extinguished the first deed of trust.³ We therefore

ORDER the judgment of the district court REVERSED AND REMAND this matter to the district court for proceedings consistent with this order.

, J.
Hardesty

, J.
Stiglich

, J.
Silver

cc: Hon. Gloria Sturman, District Judge
Kolesar & Leatham, Chtd.
Kerry P. Faughnan
Eighth District Court Clerk

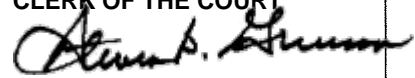
²As the district court observed, unless paid, assessments continue to accrue after an HOA records a notice of delinquent assessment lien, see *Shadow Wood*, 132 Nev. at 61, 366 P.3d at 1113. Here, however, there were no delinquent assessments at the time the HOA recorded and served its lien notice, and in order for a lien to be afforded superpriority status, it must include assessments that are unpaid *before* the lien notice is served. NRS 116.3116(2)(2009); see *Saticoy Bay* 133 Nev. at 26, 388 P.3d at 231.

³As SSCU's deed of trust was not extinguished by the HOA foreclosure sale, we need not address SSCU's other appellate arguments for reversal.

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RESPONDENT'S APPENDIX 3



JUDG

MICHAEL R. BROOKS, ESQ.

Nevada Bar No. 007287

KOLESAR & LEATHAM

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Las Vegas, Nevada 89145

Telephone: (702) 362-7800

Facsimile: (702) 362-9472

E-Mail: mbrooks@klnevada.com

Attorney for Defendant/Counter-Claimant

SILVER STATE SCHOOLS CREDIT UNION

DISTRICT COURT

CLARK COUNTY, NEVADA

OELLA RIDGE TRUST,

Plaintiff,

vs.

THEODORE C. EFTHEMEOU, an individual;
JOLENE R. EFTHEMEOU, an individual;
SILVER STATE SCHOOLS CREDIT UNION,
a Nevada Corporation; USAA SAVINGS
BANK aka USAA FEDERAL SAVINGS
BANK, d/b/a USAA SAVINGS BANK, a
Nevada Corporation; and any and all other
persons unknown claiming any right, title,
estate, lien, or interest in the Property adverse to
the Plaintiff's ownership, or any cloud upon
Plaintiff's title thereto (DOES 1 through 10,
inclusive,

Defendants.

SILVER STATE SCHOOLS CREDIT UNION,
a Nevada non-profit co-op corporation,

Counterclaimant,

vs.

OELLA RIDGE TRUST; RANCHO ARROYO
GRANDE HOMEOWNERS ASSOCIATION, a
Domestic Non-Profit Corporation; NEVADA
ASSOCIATION SERVICES, INC., a Domestic
corporation; and DOES 1 through 25, inclusive,

Counter-Defendants.

CASE NO. A-12-673389-C

DEPT NO. XXVI

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

**JUDGMENT FOR DEFENDANT AND COUNTER-CLAIMANT SILVER STATE
SCHOOLS CREDIT UNION AFTER TRIAL AND APPEAL**

On November 6, 2017, the above-entitled cause came on regularly for trial before this Court, sitting without a jury, with Michael Brooks, Esq., appearing as attorney for Defendant and Counter-Claimant, Silver State Schools Credit Union, and Kerry P. Faughnan, Esq., appearing as attorneys for Plaintiff and Counter-Defendant. The Court having considered all of the oral testimony and documentary evidence admitted in this proceeding, having heard the arguments of counsel for all of the parties, being fully advised in the premises, having signed written Findings of Facts. Among its findings, this Court found that in the 9 months prior to the commencement of the assessment lien sale, the borrower had paid an amount equal to 12 months of assessments, and the HOA's lien notice consisted of interest, late and collection fees, and CC&R fines, only. This Court's prior judgment having been reversed and remanded to this Court for proceedings consistent with the Nevada Supreme Court Order does hereby enter judgment as follows:

Nevada law including NRS 116.3116(2)(2009) and case law confirms that, based on the facts and findings of this Court, the assessment lien sale lacked the superpriority component of the assessment lien such that the foreclosure sale could not have extinguished SSSCU's first position deed of trust.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that Judgment shall be entered for Silver State Schools Credit Union;

IT IS FURTHER ORDERED, ADJUDGED and DECREED that Silver State Schools shall retain its beneficial interest in its first Deed of Trust such that Oella Ridge owns the property subject to Silver State School's first position Deed of Trust;

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1 IT IS FURTHER ORDERED, ADJUDGED and DECREED that this Judgment may be
2 recorded with the Clark County Recorder to reflect this adjudication.

3 DATED this 13th day of Sept, 2019.

4
5 
6 THE HONORABLE GLORIA STURMAN,
7 JUDGE OF THE DISTRICT COURT
8 

8 Submitted by:

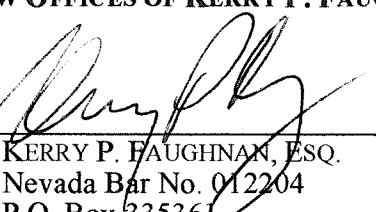
9 KOLESAR & LEATHAM

10
11 By 
12 MICHAEL R. BROOKS, ESQ.
13 Nevada Bar No. 007287
14 400 South Rampart Boulevard, Suite 400
15 Las Vegas, Nevada 89145

16 Attorney for Defendant/Counter-Claimant
17 SILVER STATE SCHOOLS CREDIT UNION

18 APPROVED AS TO FORM AND CONTENT:

19 LAW OFFICES OF KERRY P. FAUGHNAN

20 By 
21 KERRY P. FAUGHNAN, ESQ.
22 Nevada Bar No. 012204
23 P.O. Box 335361
24 North Las Vegas, NV 89033

25 Attorney for Plaintiff
26 OELLA RIDGE TRUST

27 *Oella Ridge Trust v. Theodore C. Efthymeou, et al.*/A-12-673389-C
28 Judgment for Defendant and Counter-Claimant Silver State Schools Credit Union After Trial and Appeal

KOLESAR & LEATHAM
400 S. Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

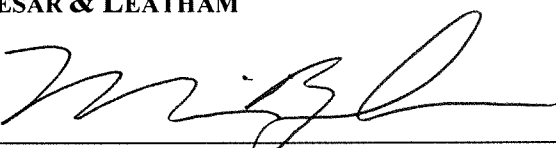
1 IT IS FURTHER ORDERED, ADJUDGED and DECREED that this Judgment may be
2 recorded with the Clark County Recorder to reflect this adjudication.

3 DATED this ____ day of _____, 2019.

4
5
6 THE HONORABLE GLORIA STURMAN,
JUDGE OF THE DISTRICT COURT

7
8 Submitted by:


9 KOLESAR & LEATHAM

10
11 By 
12 MICHAEL R. BROOKS, ESQ.
13 Nevada Bar No. 007287
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145

14 Attorney for Defendant/Counter-Claimant
15 SILVER STATE SCHOOLS CREDIT UNION

16
17 APPROVED AS TO FORM AND CONTENT:

18 LAW OFFICES OF KERRY P. FAUGHNAN

19
20 By 
21 KERRY P. FAUGHNAN, ESQ.
22 Nevada Bar No. 012204
P.O. Box 335361
North Las Vegas, NV 89033

23 Attorney for Plaintiff
24 OELLA RIDGE TRUST

25
26
27 *Oella Ridge Trust v. Theodore C. Efthimeou, et al.*/A-12-673389-C
28 Judgment for Defendant and Counter-Claimant Silver State Schools Credit Union After Trial and Appeal

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RESPONDENT'S APPENDIX 4

20040524-0001406

Fee \$31.00
05/24/2004 09:21:38 T20040327912
Rec LAND TITLE OF NEVADA
Frances Deane
Clark County Recorder Pg 18

37
Assessor's Parcel Number: 178-21-612-034

~~Recording Requested By:~~
SILVER STATE SCHOOLS CREDIT
UNION, A STATE CHARTERED CREDIT
UNION

And When Recorded Return To:
SILVER STATE SCHOOLS CREDIT UNION,
A STATE CHARTERED CREDIT UNION
4221 S. MCLEOD DRIVE
LAS VEGAS, NEVADA 89121
Loan Number: 1755765

(18)

10040888 DA (Space Above This Line For Recording Data)

DEED OF TRUST

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

- (A) "Security Instrument" means this document, which is dated MAY 11, 2004 together with all Riders to this document.
- (B) "Borrower" is THEODORE C. EFTHEMEOU AND JOLENE R. EFTHEMEOU HUSBAND AND WIFE AS JOINT TENANTS

Borrower is the trustor under this Security Instrument.

- (C) "Lender" is SILVER STATE SCHOOLS CREDIT UNION, A STATE CHARTERED CREDIT UNION organized and existing under the laws of NEVADA
Lender's address is 4221 S. MCLEOD DRIVE, LAS VEGAS, NEVADA 89121

Lender is the beneficiary under this Security Instrument.

- (D) "Trustee" is LAND TITLE OF NEVADA, INC.
4000 S. EASTERN AVE., #235, LAS VEGAS, NEVADA 89119

- (E) "Note" means the promissory note signed by Borrower and dated MAY 11, 2004
The Note states that Borrower owes Lender ONE HUNDRED SIXTY THOUSAND AND 00/100 Dollars (U.S. \$ 160,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than JUNE 1, 2034

- (F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- | | | |
|--|--|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider | <input type="checkbox"/> Second Home Rider |
| <input type="checkbox"/> Balloon Rider | <input checked="" type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> Other(s) [specify] |
| <input type="checkbox"/> 1-4 Family Rider | <input type="checkbox"/> Biweekly Payment Rider | |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the

COUNTY

of CLARK

[Type of Recording Jurisdiction]

[Name of Recording Jurisdiction]

LOT TWENTY ONE (21) IN BLOCK ONE (1) OF RANCHO ARROYO GRANDE -
UNIT 1, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 74 OF PLATS,
PAGE 67, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY,
NEVADA.
A.P.N. #: 178-21-612-034

MAIL TAX STATEMENTS TO: SILVER STATE SCHOOLS CREDIT UNION, A STATE CHARTERED
CREDIT UNION, 4221 S. MCLEOD DRIVE, LAS VEGAS, NEVADA 89121
which currently has the address of 193 OBELLA RIDGE COURT

HENDERSON

[City]

, Nevada

89012

[Zip Code]

[Street]

("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to

foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. Application of Payments or Proceeds. Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. Funds for Escrow Items. Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits

Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. Charges; Liens. Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. Property Insurance. Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. Occupancy. Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. Preservation, Maintenance and Protection of the Property; Inspections. Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. Borrower's Loan Application. Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument. If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until

termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

11. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the

sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

12. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

13. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

14. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted

limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

15. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

16. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

17. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

18. Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

19. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c)

entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

20. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

21. Hazardous Substances. As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall

not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

22. Acceleration; Remedies. Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option, and without further demand, may invoke the power of sale, including the right to accelerate full payment of the Note, and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute written notice of the occurrence of an event of default and of Lenders' election to cause the Property to be sold, and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender shall mail copies of the notice as prescribed by Applicable Law to Borrower and to the persons prescribed by Applicable Law. Trustee shall give public notice of sale to the persons and in the manner prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

23. Reconveyance. Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

24. **Substitute Trustee.** Lender at its option, may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

25. **Assumption Fee.** If there is an assumption of this loan, Lender may charge an assumption fee of U.S. \$

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

 (Seal)
THEODORE C. EFTHYMEOU -Borrower

 (Seal)
JOLENE R. EFTHYMEOU -Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

____ (Seal)
-Borrower

Witness:

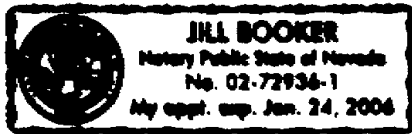
Witness:

(Space Below This Line For Acknowledgment)

State of Nevada
County of CLARK

This instrument was acknowledged before me on may 17, 2004
~~THEODORE C. EFTHEMEOU~~, JOLENE R. EFTHEMEOU

by



(Seal)

A handwritten signature in dark ink, appearing to read "Jill Booker", written over a horizontal line.

Notary Public

My commission expires: 1-24-06

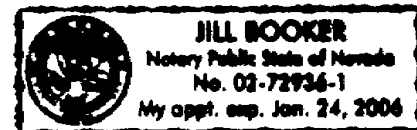
STATE OF Nevada

COUNTY OF Clark

On May 18, 2004, personally appeared before me, a
Notary Public, Theodore C. E Ffrench

personally known or proven to me to be the person(s) whose name(s)
is/are subscribed to the above instrument who acknowledged that
__he__ executed the instrument.

Jill Booker



Notary Public

Loan Number: 1755765

PLANNED UNIT DEVELOPMENT RIDER

THIS PLANNED UNIT DEVELOPMENT RIDER is made this 11th day of MAY, 2004, and is incorporated into and shall be deemed to amend and supplement the Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") of the same date, given by the undersigned (the "Borrower") to secure Borrower's Note to SILVER STATE SCHOOLS CREDIT UNION, A STATE CHARTERED CREDIT UNION (the "Lender") of the same date and covering the Property described in the Security Instrument and located at:

193 OELLA RIDGE COURT, HENDERSON, NEVADA 89012

[Property Address]

The Property includes, but is not limited to, a parcel of land improved with a dwelling, together with other such parcels and certain common areas and facilities, as described in

COVENANTS, CONDITIONS AND RESTRICTIONS OF RECORD

(the "Declaration"). The Property is a part of a planned unit development known as

RANCHO ARROYO GRANDE

[Name of Planned Unit Development]

(the "PUD"). The Property also includes Borrower's interest in the homeowners association or equivalent entity owning or managing the common areas and facilities of the PUD (the "Owners Association") and the uses, benefits and proceeds of Borrower's interest.

PUD COVENANTS. In addition to the covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows.

A. PUD Obligations. Borrower shall perform all of Borrower's obligations under the PUD's Constituent Documents. The "Constituent Documents" are the (i) Declaration; (ii) articles of incorporation, trust instrument or any equivalent document which creates the Owners Association; and (iii) any by-laws or other rules or regulations of the Owners Association. Borrower shall promptly pay, when due, all dues and assessments imposed pursuant to the Constituent Documents.

B. Property Insurance. So long as the Owners Association maintains, with a generally accepted insurance carrier, a "master" or "blanket" policy insuring the Property which is satisfactory to Lender and which provides insurance coverage in the amounts (including deductible levels), for the periods, and against loss by fire, hazards included within the term "extended coverage," and any other hazards, including, but not limited to, earthquakes and floods, for which Lender requires insurance, then: (i) Lender waives the provision in Section 3 for the Periodic Payment to Lender of the yearly premium installments for property insurance on the Property; and (ii) Borrower's obligation under Section 5 to maintain property insurance coverage on the Property is deemed satisfied to the extent that the required coverage is provided by the Owners Association policy.

What Lender requires as a condition of this waiver can change during the term of the loan.

Borrower shall give Lender prompt notice of any lapse in required property insurance coverage provided by the master or blanket policy.

In the event of a distribution of property insurance proceeds in lieu of restoration or repair following a loss to the Property, or to common areas and facilities of the PUD, any proceeds payable to Borrower are hereby assigned and shall be paid to Lender. Lender shall apply the proceeds to the sums secured by the Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

C. Public Liability Insurance. Borrower shall take such actions as may be reasonable to insure that the Owners Association maintains a public liability insurance policy acceptable in form, amount, and extent of coverage to Lender.

D. Condemnation. The proceeds of any award or claim for damages, direct or consequential, payable to Borrower in connection with any condemnation or other taking of all or any part of the Property or the common areas and facilities of the PUD, or for any conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. Such proceeds shall be applied by Lender to the sums secured by the Security Instrument as provided in Section 11.

E. Lender's Prior Consent. Borrower shall not, except after notice to Lender and with Lender's prior written consent, either partition or subdivide the Property or consent to: (i) the abandonment or termination of the PUD, except for abandonment or termination required by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain; (ii) any amendment to any provision of the "Constituent Documents" if the provision is for the express benefit of Lender; (iii) termination of professional management and assumption of self-management of the Owners Association; or (iv) any action which would have the effect of rendering the public liability insurance coverage maintained by the Owners Association unacceptable to Lender.

F. Remedies. If Borrower does not pay PUD dues and assessments when due, then Lender may pay them. Any amounts disbursed by Lender under this paragraph F shall become additional debt of Borrower secured by the Security Instrument. Unless Borrower and Lender agree to other terms of payment, these amounts shall bear interest from the date of disbursement at the Note rate and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this PUD Rider.

 (Seal)
THEODORE C. EFTHEMEOU -Borrower

 (Seal)
JOLENE R. EFTHEMEOU -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

____ (Seal)
____ -Borrower

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RESPONDENT'S APPENDIX 5

SUMM

Kerry Faughnan, Esq.
Nevada Bar No.12204
P.O. Box 335361
North Las Vegas, NV 89033
(702) 301-3096
(702) 331-4222- Fax
Kerry.faughnan@gmail.com
Attorney for Plaintiff

**EIGHTH JUDICIAL DISTRICT COURT FOR
CLARK COUNTY, NEVADA**

OELLA RIDGE TRUST

Plaintiff,

v.

SILVER STATE SCHOOLS CREDIT
UNION, a Nevada Corporation;

Defendants.

Case No. A-20-809078-C

Dept. No. 13

SUMMONS - CIVIL

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ
THE INFORMATION BELOW.**

TO: SILVER STATE SCHOOLS CREDIT UNION A civil Complaint has been filed by the
Plaintiff(s) against you.

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

- (a) File with the Clerk of this Court, whose address is shown below, a
formal written response to the Complaint in accordance with the rules
of the Court, with the appropriate filing fee.

- (b) Serve a copy of your response upon the attorney whose name and
address is shown below.


2. Unless you respond, your default will be entered upon application of the

1 Plaintiff(s) and failure to so respond will result in a judgment of default
2 against you for the relief demanded in the Complaint, which could result in
3 the taking of money or property or other relief requested in the Complaint.


4 3. If you intend to seek the advice of an attorney in this matter, you should do
5 so promptly so that your response may be filed on time.

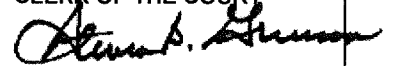
6
7 4. The State of Nevada, its political subdivisions, agencies, officers,
8 employees, board members, commission members and legislators each
9 have 45 days after service of this Summons within which to file an Answer
10 or other responsive pleading to the Complaint.
11

12 STEVEN D. GRIERSON
13 CLERK OF COURT

14
15 By:  JAN 24 2020
16 Deputy Clerk OFELIA DAVID Date
17 Regional Justice Center
18 200 Lewis Avenue
19 Las Vegas, NV 89155

20 Submitted By:


21 Kerry P. Faughnan, Esq.
22 Nevada Bar No.12204
23 P.O. Box 335361
24 North Las Vegas, NV 89033
25 (702) 301-3096
26 (702) 331-4222- Fax
27 Kerry.faughnan@gmail.com
28 Attorney for Plaintiff



1 **ACOM**
Kerry P. Faughnan, Esq., NSB #12204
2 P.O. Box 335361
North Las Vegas, NV 89033
3 (702) 301-3096
(702) 331-4222- Fax
4 Kerry.faughnan@gmail.com
Attorney for Plaintiff
5

6 **EIGHTH JUDICIAL DISTRICT COURT FOR**
7 **CLARK COUNTY, NEVADA**

8 **OELLA RIDGE TRUST**

Case No.

9 Plaintiff,

Dept. No.

10 v.

11 **SILVER STATE SCHOOLS CREDIT**
UNION, a Nevada Corporation;

AMENDED COMPLAINT

**Exempt from Arbitration: Complaint for
Declaratory Relief**

12
13
14
15 Plaintiff OELLA RIDGE TRUST, by and through its counsel of record, Kerry P.
16 Faughnan, Esq., who hereby complains against the above-named Defendants as follows:

17 **PARTIES, JURISDICTION AND VENUE**

18 1. This action relates to a note and deed of trust secured by certain real property
19 located in Clark County, Nevada, commonly known as 193 Oella Ridge Court in Henderson,
20 Nevada 89012 ("Property"). Accordingly, jurisdiction and venue are appropriate in Clark County,
21 Nevada.

22 2. Plaintiff Oella Ridge Trust ("Plaintiff") is a Nevada Trust formed under the laws of
23 the state of Nevada.

24 3. Defendant, Silver State Schools Credit Union (SSSCU) is a credit union doing
25 business in Clark County, Nevada, hereinafter SSSCU.
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4. Plaintiff is the owner of the Property as a result of a HOA foreclosure sale which
 place about November 2, 2012.

5. The Property is subject to a note and first deed of trust of which SSSCU is the note holder and beneficiary of the deed of trust.

6. The current trustee of the deed of trust is First American Title Insurance Company.

7. Plaintiff desires to either reinstate or payoff SSSCU's note, and in furtherance of requested reinstatement and payoff amounts on the loan.

8. Plaintiff received reinstatement and payoff numbers for the loan from SSSCU on November 18, 2019.

9. On October 10, 2019, Plaintiff contacted SSSCU in order to have the attorney fees contained in the payoff and reinstatement quotes removed as SSSCU had not been paid those fees in the Quiet Title action Plaintiff had filed in the District Court on December 2 in Case A-12-673389-C.

10. On October 10, 2019, SSSCU responded and stated that they would not be paying those charges and were entitled to them.

(Declaratory Relief)

11. Plaintiff repeats and re-alleges each and every allegation contained in paragraphs 1 through 10 of this Complaint, as though fully set forth herein.

12. A dispute has arisen between SSSCU and Plaintiff over claimed attorney fees, in amount of approximately \$96,170.75, claimed due above the unpaid principal, interest and late fees, that are unsubstantiated, unexplained, unreasonable, were waived at trial and after judgment and have never been awarded to SSSCU.

13. Plaintiff seeks a declaration from this Court, pursuant to NRS 30.010, that SSSCU
t demand the approximately \$96,170.75 in claimed attorney fees above the unpaid
al, interest and late charges, as they are unsubstantiated, unexplained, unreasonable, were

1 waived at trial after appeal, and have never been awarded to SSSCU, as additional sums necessary
2 to reinstate or payoff SSSCU's note above unpaid principal, interest and late charges.

3 14. Plaintiffs are further entitled to a permanent injunction enjoining SSSCU from
4 making any future demand for the approximately \$96,170.75 in attorney's fees in any future
5 payoff demand to Plaintiff.

6 WHEREFORE, Plaintiff prays for the following relief:

- 7 1. For a determination and declaration that Plaintiff is not liable to SSSCU for the
8 disputed attorney fees that are unsubstantiated, unexplained, unreasonable, were
9 waived at trial after appeal, and have never been awarded to SSSCU;
- 10 2. For a permanent injunction enjoining SSSCU from making any future demand for
11 the disputed attorney fees;
- 12 3. For attorney's fees and costs as allowed by law;
- 13 4. For such other and further relief the Court deems just and proper.

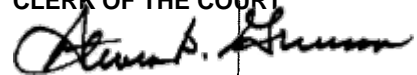
14 DATED January 23, 2020.

15 /s/ Kerry P. Faughnan
16 Kerry P. Faughnan, Esq., NSB#12204
17 P.O. Box 335361
18 North Las Vegas, Nevada 89033
19 (702) 301-3096
20 (702) 331-4222- Fax
21 Kerry.faughnan@gmail.com
22 Attorney for Plaintiff
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RESPONDENT'S APPENDIX 6



1 **OGM**

2 MICHAEL R. BROOKS, ESQ.
3 Nevada Bar No. 007287
4 HUTCHISON & STEFFEN, PLLC
5 Peccole Professional Park
6 10080 West Alta Drive, Suite 200
7 Las Vegas, Nevada 89145
8 Telephone: (702) 385.2500
9 Facsimile: (702) 385.2086
10 Email: mbrooks@hutchlegal.com

11 *Attorneys for Defendant,*
12 *Silver State Schools Credit Union*

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 OELLA RIDGE TRUST,

16 Plaintiff,

17 vs.

18 SILVER STATE SCHOOLS CREDIT UNION,
19 a Nevada Corporation,

20 Defendant.

Case No. A-20-809078-C

Dept. No. 13

Date: March 9, 2020

Time: 9:00 a.m.

Dept: 13

21 **ORDER ON MOTION TO DISMISS**

22 This matter came on regularly for hearing before this Court on March 9, 2020 at 9:00
23 a.m. on the Defendant SILVER STATE SCHOOLS CREDIT UNION'S Motion to Dismiss
24 ("Motion"). The Court, having considered the Motion, and the Opposition filed thereto, and
25 being fully advised in the premises and good cause appearing therefor, hereby finds and
26 orders as follows:

27 THE COURT FINDS that there are no triable issues of fact regarding the
28 Defendant's ability to add attorneys fees expended in connection with the defense of its
security interest as additional debt to the Note pursuant to the Deed of Trust.

THE COURT FURTHER FINDS that Plaintiff had constructive notice of the
additional debt provision contained in the Deed of Trust based the recording of the Deed of

1 Trust in the Official Records of Clark County, Nevada as of the date that Plaintiff acquired
2 its interest in the Property.

3 THE COURT FINDS that there is insufficient evidence to confirm the
4 reasonableness of the additional debt added to the Note pursuant to the Deed of Trust.

5 Based upon the foregoing,

6 IT IS HEREBY ORDERED that this matter is converted to a Motion for Summary
7 Judgment for the Court to find that Silver State Schools Credit Union has a legal basis to
8 recover attorneys fees incurred in the defense of its Deed of Trust to the outstanding balance
9 of the debt pursuant to the express provision of the recorded Deed of Trust.

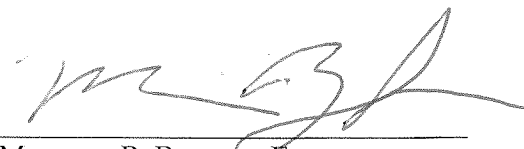
10 IT IS FURTHER ORDERED that Defendant Silver State Schools Credit Union shall
11 have until March 30, unless otherwise extended by agreement, to produce billing records
12 necessary for Plaintiff's counsel to review and determine any objectionable charges.

13 DATED this 7 day of April, 2020.

14 
15 _____
16 DISTRICT JUDGE

17 Respectfully submitted by:

18 HUTCHISON & STEFFEN, PLLC

19 
20 By: _____
21 MICHAEL R. BROOKS, ESQ.
22 Nevada Bar No. 007287
23 10080 West Alta Drive, Suite 200
24 Las Vegas, Nevada 89145

25 *Attorneys for defendant,*
Silver State Schools Credit Union

26	<input type="checkbox"/>	Voluntary Dismissal	<input type="checkbox"/>	Summary Judgment
27	<input type="checkbox"/>	Involuntary Dismissal	<input type="checkbox"/>	Stipulated Judgment
28	<input type="checkbox"/>	Stipulated Dismissal	<input type="checkbox"/>	Default Judgment
	<input checked="" type="checkbox"/>	Motion to Dismiss by Deft(s)	<input type="checkbox"/>	Judgment of Arbitration

1 Approved as to form:

2
3
4 By: 

KERRY P. FAUGHNAN, ESQ.
Nevada Bar No. 12204
P.O. Box 335361
North Las Vegas, Nevada 89033

7 *Attorneys for Plaintiff,*
8 *Oella Ridge Trust*
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