

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

**NO. 82208**

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BETTY CHAN; and ASIAN AMERICAN REALTY & PROPERTY  
MANAGEMENT,

Electronically Filed  
May 26, 2021 05:23 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

Appellants,

vs.

WAYNE WU; JUDITH SULLIVAN; NEVADA REAL ESTATE CORP.; and  
JERRIN CHIU,

Respondents.

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**APPELLANTS' APPENDIX  
(Volume 1)**

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Appeal from

the Eighth Judicial District Court sitting in Clark County, Nevada

District Court Case No.: A-16-744109-C

District Court Judge: Hon. Eric Johnson

**R. DUANE FRIZELL, ESQ.**

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## **CERTIFICATE OF SERVICE**

I hereby certify pursuant to NRAP 25(c), that on May 26, 2021, I served a true and correct copy of the forgoing ***APPELLANTS' APPENDIX (Volume 1)***, together with any and all exhibits and attachments, via the Supreme Court's

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**Chan, et al. v. Wu, et al.**  
**Nevada Supreme Court Case No. 82208 (8th Jud. Dist. Ct. Case No. A-16-744109-C)**  
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<b>1</b>	11/21/2016	Affidavit of Service	Appx000031- Appx000034
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<b>1</b>	12/7/2016	Certificate of Service	Appx000054 - Appx000055
<b>1</b>	12/19/2016	Reply to Counterclaim	Appx000056- Appx000060
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<b>1</b>		Exhibit 5 - Code of Ethics and Standards of Practice of the National Association of Realtors	Appx000114- Appx000117
<b>1</b>		Exhibit 6 - The Code of Ethics - Our Promise of Professionalism	Appx000118- Appx000121
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1	2/10/2017	Amended Reply to Counterclaim	Appx000132- Appx000136
1	2/14/2017	Plaintiff/Counterdefendants Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to Defendants/Counterclaimants Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000137- Appx000146
1		Exhibit - Declaration of Betty Chan in Support of Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000147- Appx000150
1	2/27/2017	Minutes of 02/27/2017 hearing, Plaintiffs' Motion for Stay Pending Arbitration--Defendants' and Counterclaimants' Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000151- Appx000152
1	3/30/2017	Order Granting Motion to Stay and Denying Motion to Dismiss and Motion for Summary Judgment	Appx000153- Appx000154
1	4/3/2017	Notice of Entry of Order Granting Motion to Stay and Denying Motion for summary Judgment	Appx000155- Appx000159
1	7/18/2018	Motion to Vacate or Modify Arbitration Award	Appx000160- Appx000175
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<b>3</b>		Exhibit A - Gmail email 11/2/15	Appx000493- Appx000494
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<b>3</b>		Exhibit E - Forms Associated with Purchase Agreement	Appx000503- Appx000530
<b>3</b>		Exhibit F - Addendum to Purchase Agreement and Escrow Instructions	Appx000532 - Appx000533
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<b>3</b>		Exhibit K - 7/19/2017 Myers email to Harper	Appx000546- Appx000548
<b>3</b>		Exhibit L - 9/27/2016 Complaint	Appx000549- Appx000558
<b>3</b>		Exhibit M - 11/15/2016 Amended Complaint	Appx000559- Appx000367
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3	8/15/2018	Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition/Motion to Strike Improper Countermotion	Appx000592- Appx000608
3		Exhibit 8 - Supplemental Declaration of Betty Chan	Appx000609- Appx000615
3	8/22/2018	Minutes of 8/22/2018 Hearing as to Plaintiff's Reply in Support of Motion to Vacate or Modify Arbitration and Opposition/Motion to Strike Improper Countermotion	Appx000616- Appx000617
3	8/22/2018	Transcript of Hearing: All Pending Motions	Appx000618- Appx000648
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3		Exhibit A - 05/01/2017 Minutes	Appx000662- Appx000664
3		Exhibit B - Request and Agreement to Arbitrate (P0001 - P0005)	Appx000665- Appx000670
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3	9/12/2018	Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees	Appx000674- Appx000675
3		Exhibit D - Affidavit of Michael A. Olsen, Esq.	Appx000676- Appx000690
3	9/18/2018	Order Denying Motion to Vacate or Modify Arbitration Award	Appx000691- Appx000694
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4	10/25/2018	Plaintiffs/Counterdefendants Betty Chan and Asia American Realty & Property Management's Supplement to Plaintiffs Opposition Defendants/Counterclaimants Wayne Wu, Judicith Sullivan, Nevada Real Estate Corp., Jerrin Chiu, KB Home Sales-Nevada, Inc.'s: (1) First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for summary Judgment, and for Attorney Fees (Filed 09/05/18) and (2) Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause fo Summary Judgment, and for Attorneys fees (Filed 09/12/18)	Appx000708- Appx000727
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4		Exhibit 4 - 11/2/2015 Chiu email to Chan	Appx000746- Appx000748
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4	10/29/2018	Reply to Plaintiff/Counterdefendants Supplement to Plaintiffs Opposition to Defendants/Counterclaimants 91) First supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys Fees and (2) Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause for Summary Judgment, and for Attorney Fees	Appx000755- Appx000761
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<b>4</b>	5/1/2019	Transcript of Hearing: Motion to Stay Execution on OST, Partial Opposition to Plaintiff's Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order Shortening Time) and Demand for Supersedeas Bond and Countermotion to Amend Order)	Appx000865- Appx000880
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<b>5</b>	7/8/2020	Plaintiff's Opposition to Defendant's Motion for summary Judgment, or in the Alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel and Release of Bond Deposited on Appeal and Countermotion for Summary Judgment on Defendants' Abuse of Process Counterclaim	Appx001097- Appx001120
<b>5</b>		Exhibit 1 - Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs (filed Mar. 22, 2019)	Appx001121- Appx001128
<b>5</b>		Exhibit 2 - Motion to Vacate Entry of Order or Motion for Extension of Time to File	Appx001129- Appx001133
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<b>6</b>		Exhibit 10 - Emails between counsel (Nov. 20, 2019 to Dec. 16, 2019)	Appx001169- Appx001173
<b>6</b>		Exhibit 11 - Opposition to Motion to Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorney Fees (filed Aug. 6, 2018) [excerpts]	Appx001174- Appx001177
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6		Exhibit 19 - Email from Betty Chan to GLVAR giving notice of intent to appeal arbitration	Appx001230- Appx001231
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6		Exhibit 1 - 2/5/2016 Chan email to "aaroffer"	Appx001250- Appx001252
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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>6</b>	7/21/2020	Transcript of Hearing: All Pending Motions	Appx001337- Appx001354
<b>6</b>	8/11/2020	Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001355- Appx001363
<b>6</b>		Exhibit 1 - Submitted in camera	Appx001364
<b>6</b>	8/12/2020	Certificate of Service	Appx001365- Appx001366
<b>6</b>	8/12/2020	Notice of Production of Documents for In Camera Review	Appx001367- Appx001368
		<b>Volume No. 7</b>	
<b>7</b>		Exhibit 1 - Blackrock Invoices	Appx001369- Appx001401
<b>7</b>	8/13/2020	Certificate of Service	Appx001402- Appx001403
<b>7</b>	9/9/2020	Plaintiffs' Opposition to Defendants' Memorandum for Production of Invoices for Attorney's Fees and Costs and Countermotion to have Defendants' Invoices Filed and made Part of the Public Record	Appx001404- Appx001414
<b>7</b>	9/20/2020	Reply in Support of Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001415- Appx001425
<b>7</b>	9/11/2020	Certificate of Service	Appx001426- Appx001427
<b>7</b>	9/30/2020	Minute Order - all Pending Motions	Appx001428- Appx001429
<b>7</b>	9/30/2020	Transcript of Hearing: Plaintiff's Opposition to Defendant's Memorandum for Production of Invoices for Attorney's Fees and Costs and Countermotion to Have Defendant's Invoices Filed and made part of the Public Record.	Appx001430- Appx001452
<b>7</b>	11/18/2020	Transcript of Hearing: Order/Case Status	Appx001453- Appx001455
<b>7</b>	11/23/2020	Order Granting in Part Defendant's Motion for Summary Judgment, or in the Alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel, and Release of Bond Deposited on Appeal and Order Granting Plaintiffs' Countermotion for Summary Judgment	Appx001456- Appx001464
<b>7</b>	11/23/2020	Notice of Entry of Order	Appx001465- Appx001475

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**Appendix (Chronological Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	11/24/2020	Certificate of Service	Appx001476- Appx001477
<b>7</b>	12/8/2020	Plaintiff's Notice of Appeal	Appx001478- Appx001480
<b>7</b>	12/8/2020	Plaintiff's Amended Notice of Appeal	Appx001481- Appx001483
<b>7</b>	12/9/2020	Court Minutes, Motion to Stay	Appx001484- Appx001485
<b>7</b>	12/9/2020	Transcript of Hearing: Plaintiffs' Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order Shortening Time)	Appx001486- Appx001502
<b>7</b>	12/22/2020	Notice of Cross Appeal	Appx001503- Appx001504
<b>7</b>	12/22/2020	Certificate of Service	Appx001505- Appx001506
<b>7</b>	1/14/2021	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx001507- Appx001515
<b>7</b>	2/1/2021	Plaintiffs' Notice of Posting Supersedeas Bond	Appx001516- Appx001519
<b>7</b>	2/1/2021	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx001520- Appx001530
<b>7</b>	5/26/2021	Register of Actions	Appx001531- Appx001539

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**Appendix (Alphabetical Index)**

<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>1</b>	11/21/2016	Affidavit of Service	Appx000019- Appx000022
<b>1</b>	11/21/2016	Affidavit of Service	Appx000023- Appx000026
<b>1</b>	11/21/2016	Affidavit of Service	Appx000027- Appx000030
<b>1</b>	11/21/2016	Affidavit of Service	Appx000031- Appx000034
<b>1</b>	12/1/2016	Affidavit of Service	Appx000035- Appx000038
<b>1</b>	11/15/2016	Amended Complaint	Appx000011- Appx000018
<b>1</b>	2/10/2017	Amended Reply to Counterclaim	Appx000132- Appx000136
<b>1</b>	12/6/2016	Answer and Counterclaim	Appx000039- Appx000053
<b>1</b>	12/7/2016	Certificate of Service	Appx000054 - Appx000055
<b>1</b>	2/6/2017	Certificate of Service	Appx000122- Appx000123
<b>1</b>	2/7/2017	Certificate of Service	Appx000124- Appx000125
<b>4</b>	9/21/2018	Certificate of Service	Appx000702- Appx000703
<b>4</b>	10/30/2018	Certificate of Service	Appx000762- Appx000763
<b>4</b>	3/25/2019	Certificate of Service	Appx000832- Appx000833
<b>6</b>	7/15/2020	Certificate of Service	Appx001333- Appx001334
<b>6</b>	8/12/2020	Certificate of Service	Appx001365- Appx001366
<b>7</b>	8/13/2020	Certificate of Service	Appx001402- Appx001403

**Chan, et al. v. Wu, et al.**  
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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	9/11/2020	Certificate of Service	Appx001426- Appx001427
<b>7</b>	11/24/2020	Certificate of Service	Appx001476- Appx001477
<b>7</b>	12/22/2020	Certificate of Service	Appx001505- Appx001506
<b>1</b>	9/27/2016	Complaint	Appx000001- Appx000010
<b>7</b>	12/9/2020	Court Minutes, Motion to Stay	Appx001484- Appx001485
<b>3</b>	9/5/2018	First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys fees	Appx000649- Appx000673
<b>6</b>	8/11/2020	Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001355- Appx001364
<b>4</b>	10/31/2018	Memorandum of Costs and Disbursements	Appx000764- Appx000779
<b>7</b>	9/30/2020	Minute Order - all Pending Motions	Appx001428- Appx001429
<b>1</b>	2/27/2017	Minutes of 02/27/2017 hearing, Plaintiffs' Motion for Stay Pending Arbitration--Defendants' and Counterclaimants' Opposition to Motion to Stay Pending Arbitration and	Appx000151- Appx000152
<b>3</b>	8/22/2018	Minutes of 8/22/2018 Hearing as to Plaintiff's Reply in Support of Motion to Vacate or Modify Arbitration and Opposition/Motion	Appx000616- Appx000617
<b>4</b>	5/1/2019	Minutes re Motion to Stay Execution on OST, Partial Opposition to Plaintiff's Motion to Stay Execution Pending Appeal (on an Ex	Appx000863- Appx000864
<b>5</b>	1/22/2020	Minutes re Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an	Appx001006- Appx001007
<b>6</b>	7/21/2020	Minutes, All Pending Motions	Appx001335- Appx001336

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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>1</b>	1/13/2017	Motion for Stay Pending Arbitration	Appx000061 - Appx000065
<b>5</b>	6/4/2020	Motion for Summary Judgment, or in the alternative, for Contractual Award of Attorney's Fees, for Writ of Execution on Plaintiff's Commissions Awarded by GLVAR Arbitration Panel and Release of bond Deposited on Appeal	Appx001034- Appx001084
<b>1</b>	7/18/2018	Motion to Vacate or Modify Arbitration Award	Appx000160- Appx000464
<b>4</b>	4/22/2019	Notice of Appeal	Appx000860
<b>4</b>	4/24/2019	Notice of Appearance	Appx000861- Appx000862
<b>7</b>	12/22/2020	Notice of Cross Appeal	Appx001503- Appx001504
<b>4</b>	9/18/2018	Notice of Entry of Order	Appx000695- Appx000701
<b>4</b>	3/22/2019	Notice of Entry of Order	Appx000823- Appx000831
<b>7</b>	11/23/2020	Notice of Entry of Order	Appx001465- Appx001475
<b>1</b>	4/3/2017	Notice of Entry of Order Granting Motion to Stay and Denying Motion for summary Judgment	Appx000155- Appx000159
<b>5</b>	3/10/2020	Notice of Entry of Order on Plaintiffs' Motion to formally Resolve Motion for Reconsideration and to Certify Judgment as Final	Appx001023- Appx001030

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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>4</b>	5/1/2019	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx000883- Appx000886
<b>7</b>	2/1/2021	Notice of Entry of Order on Plaintiff's Motion to Stay Execution Pending Appeal	Appx001520- Appx001530
<b>6</b>	8/12/2020	Notice of Production of Documents for In Camera Review	Appx001367- Appx001401
<b>1</b>	2/2/2017	Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for	Appx000066- Appx000121
<b>3</b>	8/6/2018	Opposition to Motion to Vacate or Modify Arbitration Award and Countermotion to Recognize Wu as the Procuring Cause, for	Appx000465- Appx000591
<b>5</b>	1/16/2020	Opposition to Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order shortening Time) and Countermotion	Appx000953- Appx001005
<b>3</b>	9/18/2018	Order Denying Motion to Vacate or Modify Arbitration Award	Appx000691- Appx000694
<b>4</b>	3/22/2019	Order Granting Defendants Countermotion for Summary Judgment and Attorney Fees and Costs	Appx000816- Appx000822
<b>7</b>	11/23/2020	Order Granting in Part Defendant's Motion for Summary Judgment, or in the Alternative, for Contractual Award of	Appx001456- Appx001464
<b>1</b>	3/30/2017	Order Granting Motion to Stay and Denying Motion to Dismiss and Motion for Summary Judgment	Appx000153- Appx000154
<b>5</b>	3/10/2020	Order on Plaintiffs' Motion to formally Resolve Motion for Reconsideration and to Certify Judgment as Final and Countermotion for Summary Judgment on Abuse of Process Claim	Appx001018- Appx001022

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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>4</b>	5/1/2019	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx000881- Appx000882
<b>7</b>	1/14/2021	Order on Plaintiffs' Motion to Stay Execution Pending Appeal	Appx001507- Appx001515
<b>1</b>	2/14/2017	Plaintiff/Counterdefendants Reply to Opposition to Motion to Stay Pending Arbitration and Opposition to	Appx000137- Appx000150
<b>5</b>	4/6/2020	Plaintiff's Amended Notice of Appeal	Appx001031-
<b>7</b>	12/8/2020	Plaintiff's Amended Notice of Appeal	Appx001481- Appx001483
<b>4</b>	1/7/2020	Plaintiffs' Motion to Formally Resolve Motion for Reconsideration and to Certify Judgment as Final (on an Application for an Order Shortening Time)	Appx000892- Appx000952
<b>7</b>	12/8/2020	Plaintiff's Notice of Appeal	Appx001478- Appx001480
<b>4</b>	5/7/2019	Plaintiffs' Notice of Posting Supersedeas Bond	Appx000887- Appx000891
<b>7</b>	2/1/2021	Plaintiffs' Notice of Posting Supersedeas Bond	Appx001516- Appx001519
<b>7</b>	9/9/2020	Plaintiffs' Opposition to Defendants' Memorandum for Production of Invoices for Attorney's Fees and Costs and	Appx001404- Appx001414
<b>5</b>	7/8/2020	Plaintiff's Opposition to Defendant's Motion for summary Judgment, or in the Alternative, for Contractual Award of	Appx001097- Appx001235
<b>4</b>	10/25/2018	Plaintiffs/Counterdefendants Betty Chan and Asia American Realty & Property Management's Supplement to Plaintiffs	Appx000708- Appx000754
<b>7</b>	5/26/2021	Register of Actions	Appx001531- Appx001539
<b>5</b>	6/9/2020	Remittitur	Appx001090

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<b>VOL</b>	<b>DATE</b>	<b>DOCKET TEXT/DESCRIPTION</b>	<b>BATES NOS</b>
<b>7</b>	9/20/2020	Reply in Support of Memorandum for Production of Invoices for Attorney's Fees and Costs	Appx001415- Appx001425
<b>6</b>	7/13/2020	Reply in Support of Motion for Summary Judgment, or in the alternative, for Contractual Award of Attorney's Fees, for Writ of	Appx001236- Appx001332
<b>3</b>	8/15/2018	Reply in Support of Motion to Vacate or Modify Arbitration Award and Opposition/Motion to Strike Improper Countermotion	Appx000592- Appx000615
<b>1</b>	12/19/2016	Reply to Counterclaim	Appx000056- Appx000060
<b>4</b>	10/29/2018	Reply to Plaintiff/Counterdefendants Supplement to Plaintiffs Opposition to Defendants/Counterclaimants 91) First supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for Attorneys Fees and (2) Supplement to First Supplement to Countermotion	Appx000755- Appx000761
<b>3</b>	9/12/2018	Supplement to First Supplement to Countermotion to Recognize Wu as the Procuring Cause, for Summary Judgment, and for	Appx000674- Appx000690
<b>1</b>	2/7/2017	Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment	Appx000126- Appx000131
<b>5</b>	6/9/2020	Supreme Court Clerk's Certificate, Judgment Dismissing Appeal	Appx001085- Appx001089
<b>3</b>	8/22/2018	Transcript of Hearing: All Pending Motions	Appx000618- Appx000648
<b>5</b>	1/22/2020	Transcript of Hearing: All Pending Motions	Appx001008- Appx001017
<b>6</b>	7/21/2020	Transcript of Hearing: All Pending Motions	Appx001337- Appx001354
<b>4</b>	10/31/2018	Transcript of Hearing: Defendants and Counterclaimants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu's	Appx000780- Appx000815
<b>4</b>	4/17/2019	Transcript of Hearing: Defendants' Motion for Writ of Execution	Appx000834- Appx000859
<b>4</b>	5/1/2019	Transcript of Hearing: Motion to Stay Execution on OST, Partial Opposition to Plaintiff's Motion to Stay Execution Pending	Appx000865- Appx000880
<b>7</b>	11/18/2020	Transcript of Hearing: Order/Case Status	Appx001453- Appx001455
<b>4</b>	10/17/2018	Transcript of Hearing: Plaintiffs' Motion to Extend Briefing on Order Shortening Time and continue Hearing Date	Appx000704- Appx000707



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<b>7</b>	12/9/2020	Transcript of Hearing: Plaintiffs' Motion to Stay Execution Pending Appeal (on an Ex Parte Application for an Order	Appx001486-Appx001502
<b>5</b>	6/30/2020	Transcript of Hearing: Plaintiff's Motion to Strike or in the Alternative to Extend Briefing and Continue the Hearing On	Appx001091-Appx001096
<b>7</b>	9/30/2020	Transcript of Hearing: Plaintiff's Opposition to Defendant's Memorandum for Production of Invoices for Attorney's Fees and	Appx001430-Appx001452

## XII

## DISTRICT COURT CIVIL COVER SHEET

Clark County, Nevada

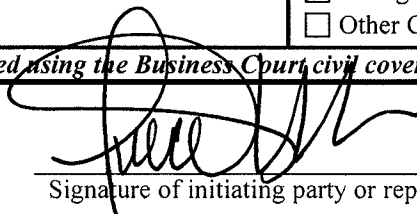
Case No. \_\_\_\_\_  
(Assigned by Clerk's Office)**I. Party Information** (provide both home and mailing addresses if different)Plaintiff(s) (name/address/phone):  
BETTY CHAN and ASIAN AMERICAN REALTY & PROPERTY  
MANAGEMENTyAttorney (name/address/phone):  
Avece M. Higbee, Esq. (NV Bar No. 3739)  
Marquis Aurbach Coffing  
10001 Park Run Drive  
Las Vegas, NV 89145  
(702) 382-0711Defendant(s) (name/address/phone):  
WAYNE WU, JUDITH SULLIVAN, NEVADA REAL  
ESTATE CORP., JERRIN CHIU, KB HOME SALES –  
NEVADA INC., DOES I through X, and ROES I  
through X

Attorney (name/address/phone):

**II. Nature of Controversy** (Please select the one most applicable filing type below)**Civil Case Filing Types**

Real Property	Torts	
<b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	<b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input checked="" type="checkbox"/> Other Tort
<b>Probate</b> <b>Probate</b> (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate <b>Estate Value</b> <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input checked="" type="checkbox"/> Other Contract p. m . w	<b>Judicial Review/Appeal</b> <b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency <b>Nevada State Agency Appeal</b> <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
<b>Civil Writ</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>Other Civil Filing</b> <b>Other Civil Filing</b> <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

Business Court filings should be filed using the Business Court civil coversheet.

9/26/16  
Date

  
Signature of initiating party or representative

  
CLERK OF THE COURT

**Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
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Attorneys for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

**A- 16- 744109- C**

Case No.:

Dept. No.:

**XI I**

**COMPLAINT**

**EXEMPT FROM ARBITRATION:  
REQUESTS INJUNCTIVE RELIEF**

**COMPLAINT**

Plaintiffs, Betty Chan and Asian American Realty and Property Management (“Plaintiffs”) by and through the law firm of Marquis Aurbach Coffing, hereby allege and complain against Defendants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu (“Defendants”) as follows:

**JURISDICTIONAL ALLEGATIONS**

1. Plaintiff Betty Chan is a resident of the State of Nevada is and was doing business as a licensed real estate broker for her company Asian American Realty & Property Management.

2. Defendant Wayne Wu is a resident of the State of Nevada, is and was doing business in the County of Clark as a real estate agent with Nevada Real Estate Corp.

3. Defendant Judith Sullivan is a resident of the state of Nevada and is the licensed real estate broker for Nevada Real Estate Corp.

7. The transactions which are the subject matter of the instant Complaint occurred in Clark County, Nevada, and therefore, jurisdiction and venue are appropriate with this Court.

15. On or about November 11, 2015, Defendant Chiu emailed Plaintiff Chan regarding his intention to purchase a house and listed out the criteria.

1           16. On or about November 28, 2015, Defendant Chiu emailed Plaintiff Chan  
2 concerning the location of a particular house he wanted to see.

3           17. On or about November 29, 2015, Plaintiff Chan responded concerning the  
4 viewing of the particular house.

5           18. On or about December 29, 2015, Plaintiff Chan prepared for the showing of  
6 homes to the Chiu family by pulling listings around Boca Park area.

7           19. Five resale homes were targeted to fit Defendant Chiu's criteria and Plaintiff  
8 Chan contacted the listing agents for the resales to set appointments.

9           20. Plaintiff Chan included the model homes in both a Toll Brothers development and  
10 a KB Home development previously viewed by Plaintiff Chan.

11           21. Plaintiff Chan checked the status of the listings, printed the information and  
12 arranged a route for the efficient showing of the properties.

13           22. On or about December 30, 2015, Plaintiff Chan picked up the Chiu family and  
14 showed the resale homes, the Toll Brother models and the KB Homes models.

15           23. KB Homes offered to compensate brokers for bringing buyers to KB Home  
16 Developments at Buyer's first visit.

17           24. At the front office of KB Homes, Plaintiff Chan spoke to Cheryl and picked up a  
18 price sheet.

19           25. Plaintiff Chan then showed the model homes to the Chiu family and Defendant  
20 Chiu liked the first and second model homes.

21           26. Back at the KB Homes model home office, Plaintiff Chan requested a floor plan  
22 and explained the buying process for a new home including the standards, elevations, prices,  
23 location of the site, etc. to the Chiu family.

24           27. Plaintiff Chan located a buyer registration card and Defendant Chiu filled in the  
25 buyer portion and Plaintiff Chan filled in the realtor portion.

26           28. No KB Homes representative was to be found so Plaintiff Chan left the  
27 registration card on the table in the KB Home front office to hurry to get the Chiu family to the  
28 next appointment.

- 1           29.     Plaintiff Chan emailed Dr. Kwang Chiu the four resale listings that were viewed.
- 2           30.     On or about December 31, 2015, Dr. Kwang Chiu called Plaintiff Chan and asked
- 3 if she could “kick back 1% of the commission” like the other agent offered him.
- 4           31.     On or about January 5, 2016, Plaintiff Chan followed up with Defendant Chiu
- 5 about the KB Home properties.
- 6           32.     Defendant Chiu did not respond.
- 7           33.     On or about January 15, 2016, Defendant Chiu admitted that he was using another
- 8 agent.
- 9           34.     On or about January 22, 2016, Plaintiff Chan went to the KB Homes office and
- 10 learned that Defendant Chiu had indeed signed a contract on the property shown by Plaintiff
- 11 Chan with another agent on January 8, 2016.
- 12           35.     On or about January 30, 2016, Plaintiff Chan went to the KB Homes office to
- 13 address the commission; both KB Homes representatives, Cheryl and Jana, stated that Defendant
- 14 Chiu told them Plaintiff Chan introduced him to KB Homes but that he determined to use
- 15 another agent.
- 16           36.     On or about February 1, 2016, KB Homes Sales Manager, Lara McLaughlin,
- 17 contacted Plaintiff Chan on two occasions indicating she was looking into the commission
- 18 dispute.
- 19           37.     Plaintiff Chan made efforts to resolve the dispute concerning her involvement in
- 20 the transaction and the entitlement to the commission to no avail.
- 21           38.     On or about May 27, 2016, Defendant Chiu closed on the purchase of a home in
- 22 the KB Home community known as 477 Cabral Peak, Las Vegas, Nevada (“Property”).
- 23           39.     Upon information and belief, before paying a commission to an agent for the sale
- 24 of a KB home, KB Homes requires that that agent sign a registration upon the first visit with the
- 25 buyer to the property.
- 26           40.     Upon information and belief, Defendant Wayne Wu signed a registration card at
- 27 KB Homes knowing that Defendant Jerrin Chiu had first visited the Property with Plaintiff Chan.
- 28

1 41. Defendant Wayne Wu and Defendant Judith Sullivan on behalf of Defendant  
2 Nevada Real Estate Corp claim to be entitled to the commission on the purchase and sale of the  
3 Property.

4 42. Upon information and belief, the commission is held with First American Title  
5 Company.

6 43. Plaintiffs were not paid any commission for the sale of the Property.

7 **FIRST CAUSE OF ACTION**

8 **(Declaratory Relief)**

9 44. Plaintiffs repeat and reallege the forgoing paragraphs as though fully stated  
10 herein.

11 45. A genuine controversy exists in this matter.

12 46. Plaintiffs and Defendants Wu, Sullivan and Nevada Real Estate Corp. claim  
13 adverse interests in the commission for the sale of the Property.

14 47. Defendant Chiu sought the assistance of Defendant Wu due to Wu's 1%  
15 commission kickback effectively circumventing Plaintiff Chan from the transaction and from the  
16 commission.

17 48. KB Homes offered the payment of a commission to brokers that brought buyers to  
18 KB Home Developments to Buyers first visit.

19 49. Plaintiff Chan brought Defendant Chiu to the KB Homes Development and  
20 showed him the model homes to decide which floor plan to purchase.

21 50. Defendant Chiu utilized another agent, Defendant Wayne Wu to write a contract  
22 for the purchase of the Property located in the same KB Homes Development.

23 51. Plaintiff Chan was the procuring cause of the sale of the Property but did not  
24 receive the commission.

25 52. Plaintiffs request a declaration from the Court that Plaintiffs are entitled to the  
26 commission on the sale of the Property.

27 53. Plaintiffs request a declaration from the court that Defendants Wu, Sullivan and  
28 Nevada Real Estate Corp. are not entitled to the commission on the sale of the Property.





**THIRD CAUSE OF ACTION****(Unjust Enrichment)**

67. Plaintiffs repeat, reallege, and incorporate each and every paragraph contained above as though fully set forth herein.

68. Plaintiff Chan was the procuring cause for the purchase of the Property by Defendant Chiu.

69. Defendant Wu interfered with the change of events set in motion by Plaintiff Chan by offering to kickback 1% of the commission to Defendant Chiu.

70. Defendant Chiu circumvented Plaintiff Chan's ability to complete the transaction when Defendant Chiu agreed to use Defendant Wu.

71. Upon information and belief, Defendant Wu and Defendant Chiu made misrepresentations to KB Homes concerning the initial showing of the Property.

72. Plaintiff Chan did not receive a commission despite being the procuring cause of the sale of the Property to Defendant Chiu.

73. Defendant Wu's receipt of any commission would be unjust.

74. Plaintiff Chan is entitled to the payment of the commission.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. For damages in excess of \$10,000, plus interest.
2. For prejudgment and post judgment interest;
3. For a declaration that KB Homes breached the contract;
4. For a declaration that Plaintiffs are entitled to the commission on the sale of the

Property;

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///

///

1  
2 5. For a declaration that Defendants Wu, Sullivan and Nevada Real Estate Corp. are  
3 not entitled to the commission on the sale of the Property;

4 6. For attorney's fees and costs; and

5 7. For any and other such relief as the Court deems just and proper.

6 Dated this 20<sup>th</sup> day of September, 2016.

MARQUIS AURBACH COFFING

By 

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff

**Marquis Aurbach Coffing**  
 Avece M. Higbee, Esq.  
 Nevada Bar No. 3739  
 10001 Park Run Drive  
 Las Vegas, Nevada 89145  
 Telephone: (702) 382-0711  
 Facsimile: (702) 382-5816  
 ahigbee@maclaw.com  
 Attorneys for Plaintiff

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
 REALTY & PROPERTY MANAGEMENT,

Plaintiff,

Case No.:  
 Dept. No.:

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
 REAL ESTATE CORP., JERRIN CHIU, KB  
 HOME SALES – NEVADA INC., DOES I  
 through X, and ROES I through X,

Defendants.

**INITIAL APPEARANCE FEE DISCLOSURE**

Pursuant to NRS Chapter 19, as amended by Senate Bill 106, filing fees are submitted for parties appearing in the above-entitled action as indicated below:

Betty Chan ..... \$270.00

Asian American Realty & Property Management..... \$30.00

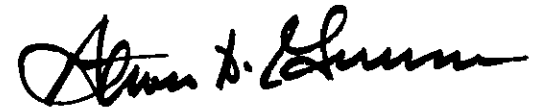
**TOTAL REMITTED ..... \$300.00**

Dated this 26<sup>th</sup> day of September, 2016.

MARQUIS AURBACH COFFING

By 

Avece M. Higbee, Esq.  
 Nevada Bar No. 3739  
 10001 Park Run Drive  
 Las Vegas, Nevada 89145  
 Attorney for Plaintiff



CLERK OF THE COURT

**Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
Attorneys for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

Case No.: A-16-744109-C

Dept. No.: XII

**AMENDED COMPLAINT**  
**EXEMPT FROM ARBITRATION:**  
**REQUESTS DECLARATORY RELIEF**

**COMPLAINT**

Plaintiffs, Betty Chan and Asian American Realty and Property Management (“Plaintiffs”) by and through the law firm of Marquis Aurbach Coffing, hereby allege and complain against Defendants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu (“Defendants”) as follows:

**JURISDICTIONAL ALLEGATIONS**

1. Plaintiff Betty Chan is a resident of the State of Nevada is and was doing business as a licensed real estate broker for her company Asian American Realty & Property Management.

2. Defendant Wayne Wu is a resident of the State of Nevada, is and was doing business in the County of Clark as a real estate agent with Nevada Real Estate Corp.

3. Defendant Judith Sullivan is a resident of the state of Nevada and is the licensed real estate broker for Nevada Real Estate Corp.

7. The transactions which are the subject matter of the instant Complaint occurred in Clark County, Nevada, and therefore, jurisdiction and venue are appropriate with this Court.

15. On or about November 11, 2015, Defendant Chiu emailed Plaintiff Chan regarding his intention to purchase a house and listed out the criteria.

1           16.     On or about November 28, 2015, Defendant Chiu emailed Plaintiff Chan  
2 concerning the location of a particular house he wanted to see.

3           17.     On or about November 29, 2015, Plaintiff Chan responded concerning the  
4 viewing of the particular house.

5           18.     On or about December 29, 2015, Plaintiff Chan prepared for the showing of  
6 homes to the Chiu family by pulling listings around Boca Park area.

7           19.     Five resale homes were targeted to fit Defendant Chiu's criteria and Plaintiff  
8 Chan contacted the listing agents for the resales to set appointments.

9           20.     Plaintiff Chan included the model homes in both a Toll Brothers development and  
10 a KB Home development previously viewed by Plaintiff Chan.

11          21.     Plaintiff Chan checked the status of the listings, printed the information and  
12 arranged a route for the efficient showing of the properties.

13          22.     On or about December 30, 2015, Plaintiff Chan picked up the Chiu family and  
14 showed the resale homes, the Toll Brother models and the KB Homes models.

15          23.     KB Homes offered to compensate brokers for bringing buyers to KB Home  
16 Developments at Buyer's first visit.

17          24.     At the front office of KB Homes, Plaintiff Chan spoke to Cheryl and picked up a  
18 price sheet.

19          25.     Plaintiff Chan then showed the model homes to the Chiu family and Defendant  
20 Chiu liked the first and second model homes.

21          26.     Back at the KB Homes model home office, Plaintiff Chan requested a floor plan  
22 and explained the buying process for a new home including the standards, elevations, prices,  
23 location of the site, etc. to the Chiu family.

24          27.     Plaintiff Chan located a buyer registration card and Defendant Chiu filled in the  
25 buyer portion and Plaintiff Chan filled in the realtor portion.

26          28.     No KB Homes representative was to be found so Plaintiff Chan left the  
27 registration card on the table in the KB Home front office to hurry to get the Chiu family to the  
28 next appointment.

1           29.     Plaintiff Chan emailed Dr. Kwang Chiu the four resale listings that were viewed.

2           30.     On or about December 31, 2015, Dr. Kwang Chiu called Plaintiff Chan and asked  
3 if she could “kick back 1% of the commission” like the other agent offered him.

4           31.     On or about January 5, 2016, Plaintiff Chan followed up with Defendant Chiu  
5 about the KB Home properties.

6           32.     Defendant Chiu did not respond.

7           33.     On or about January 15, 2016, Defendant Chiu admitted that he was using another  
8 agent.

9           34.     On or about January 22, 2016, Plaintiff Chan went to the KB Homes office and  
10 learned that Defendant Chiu had indeed signed a contract on the property shown by Plaintiff  
11 Chan with another agent on January 8, 2016.

12           35.     On or about January 30, 2016, Plaintiff Chan went to the KB Homes office to  
13 address the commission; both KB Homes representatives, Cheryl and Jana, stated that Defendant  
14 Chiu told them Plaintiff Chan introduced him to KB Homes but that he determined to use  
15 another agent.

16           36.     On or about February 1, 2016, KB Homes Sales Manager, Lara McLaughlin,  
17 contacted Plaintiff Chan on two occasions indicating she was looking into the commission  
18 dispute.

19           37.     Plaintiff Chan made efforts to resolve the dispute concerning her involvement in  
20 the transaction and the entitlement to the commission to no avail.

21           38.     On or about May 27, 2016, Defendant Chiu closed on the purchase of a home in  
22 the KB Home community known as 477 Cabral Peak, Las Vegas, Nevada (“Property”).

23           39.     Upon information and belief, before paying a commission to an agent for the sale  
24 of a KB home, KB Homes requires that that agent sign a registration upon the first visit with the  
25 buyer to the property.

26           40.     Upon information and belief, Defendant Wayne Wu signed a registration card at  
27 KB Homes knowing that Defendant Jerrin Chiu had first visited the Property with Plaintiff Chan.

28





54. Plaintiffs request a declaration from the court that Defendant KB Homes breached its obligation to pay the commission to Plaintiffs.

55. Plaintiffs request a declaration from the court that the commission be released from the title company to Plaintiffs and any shortfall be paid by Defendants.

56. As a result of Defendants' actions, Plaintiffs have been forced to retain the services of an attorney to prosecute the instant action and therefore is entitled to reasonable attorneys fees and costs.

## **SECOND CAUSE OF ACTION**

### **(Breach of Contract)**

57. Plaintiff Chan repeats, realleges, and incorporates each and every paragraph contained above as though fully set forth herein.

58. KB Homes offered to compensate brokers for selling KB Homes to their buyers upon their first visit.

59. Plaintiff Chan brought Defendant Chiu to the KB Homes community and showed the model homes to Defendant Chiu to decide which floor plan to purchase.

60. Plaintiff Chan and Defendant Chiu filled out a registration card providing their information to KB Homes.

61. Plaintiff Chan was the procuring cause of the sale of the Property to Defendant Chiu.

62. Defendant purchased the Property which is located in the same KB Homes community.

63. KB Homes failed to pay Plaintiffs the commission for the sale of the Property.

64. KB Homes breached its obligation to pay a commission to Plaintiffs.

65. As a result of KB Homes' action, Plaintiff Chan has been damaged in excess of \$10,000.

66. It has been necessary for Plaintiff Chan to retain the services of an attorney and to incur attorney's fees and costs to prosecute this action, and therefore, Plaintiff is entitled to reimbursement for those attorney's fees and costs incurred herein.

**THIRD CAUSE OF ACTION****(Unjust Enrichment)**

67. Plaintiffs repeat, reallege, and incorporate each and every paragraph contained above as though fully set forth herein.

68. Plaintiff Chan was the procuring cause for the purchase of the Property by Defendant Chiu.

69. Defendant Wu interfered with the change of events set in motion by Plaintiff Chan by offering to kickback 1% of the commission to Defendant Chiu.

70. Defendant Chiu circumvented Plaintiff Chan's ability to complete the transaction when Defendant Chiu agreed to use Defendant Wu.

71. Upon information and belief, Defendant Wu and Defendant Chiu made misrepresentations to KB Homes concerning the initial showing of the Property.

72. Plaintiff Chan did not receive a commission despite being the procuring cause of the sale of the Property to Defendant Chiu.

73. Defendant Wu's receipt of any commission would be unjust.

74. Plaintiff Chan is entitled to the payment of the commission.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

1. For damages in excess of \$10,000, plus interest.

2. For prejudgment and post judgment interest;

3. For a declaration that KB Homes breached the contract;

4. For a declaration that Plaintiffs are entitled to the commission on the sale of the

Property;

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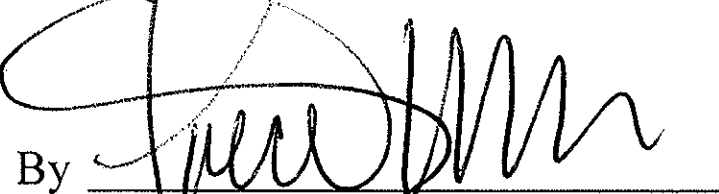
5. For a declaration that Defendants Wu, Sullivan and Nevada Real Estate Corp. are not entitled to the commission on the sale of the Property;

6. For attorney's fees and costs; and

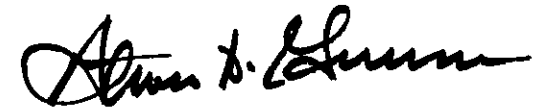
7. For any and other such relief as the Court deems just and proper.

Dated this 15<sup>m</sup> day of November, 2016.

MARQUIS AURBACH COFFING

By 

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff



CLERK OF THE COURT

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
(702) 382-0711  
4

5 BETTY CHAN and ASIAN AMERICAN REALTY &  
6 PROPERTY MANAGEMENT,

7 Plaintiff,

8 vs.

9 WAYNE WU ET AL,

10 Defendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**AFFIDAVIT OF SERVICE**

11 STATE OF NEVADA )  
12 ) ss.  
13 COUNTY OF CLARK )

14 **Richard Etienne, License No. 1506**, being duly sworn, says: that at all times herein  
15 affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this  
16 affidavit is made. That affiant received 1 copies of the **Summons & Amended Complaint** on  
the 16<sup>th</sup> day of **November 2016**, and served the same on the 16<sup>th</sup> day of **November 2016 @**  
**3:42 p.m.** by:

- 17 1. Delivering and leaving a copy with the **Wayne Wu** at his usual place of business located  
18 at **3512 Wynn Road Las Vegas Nevada 89103**
- 19 2. Serving the Defendant \_\_\_\_\_ by personally delivering and leaving a copy with  
20 a person of suitable age and discretion located at \_\_\_\_\_,
- 21 3. serving the Defendant \_\_\_\_\_, at his/her residence of \_\_\_\_\_ pursuant to N.R.S.  
22 14.090, by personally delivering and leaving a copy with the guard\* \_\_\_\_\_ posted at the  
gate, who has denied affiant access to the residence.
- 23 4. Serving \_\_\_\_\_ by personally delivering and leaving a copy at \_\_\_\_\_.
- 24
- 25 a. With as \_\_\_\_\_ as \_\_\_\_\_, an agent lawfully designated by  
26 statute to accept service of process;
- 27 b. With \_\_\_\_\_ pursuant to NRS 14.020 as a person of suitable age and  
28 discretion at the above address, which address is the address of the resident

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agent as shown on the current certificate of designation filed with the Secretary of State.

5. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- Ordinary mail
- Certified mail, return receipt requested
- Registered mail, return receipt requested

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

EXECUTED this 16<sup>th</sup> day of November, 2016.

  
\_\_\_\_\_  
Richard Etienne License # 1506  
Report to Court  
5940 S. Rainbow Blvd.  
Las Vegas, Nevada 89118

No Notary Required per NRS 53.045.

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
4 Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
5 Attorneys for Plaintiff

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,  
9  
Plaintiff,

Case No.: A-16-744109-C  
Dept. No.: XII

10 vs.

11 WAYNE WU, JUDITH SULLIVAN, NEVADA  
12 REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
13 through X, and ROES I through X,  
14 Defendants.

15 **SUMMONS - CIVIL**

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

18 **WAYNE WU**

19 **TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against  
20 you for the relief set forth in the Complaint.

- 21 1. If you intend to defend this lawsuit, within 20 days after this Summons is served  
22 on you, exclusive of the day of service, you must do the following:
- 23 (a) File with the Clerk of this Court, whose address is shown below, a formal  
24 written response to the Complaint in accordance with the rules of the  
25 Court, with the appropriate filing fee.
- 26 (b) Serve a copy of your response upon the attorney whose name and address  
27 is shown below.
- 28

- 1 2. Unless you respond, your default will be entered upon application of the  
2 Plaintiff(s) and failure to so respond will result in a judgment of default against  
3 you for the relief demanded in the Complaint, which could result in the taking of  
4 money or property or other relief requested in the Complaint.
- 5 3. If you intend to seek the advice of an attorney in this matter, you should do so  
6 promptly so that your response may be filed on time.
- 7 4. The State of Nevada, its political subdivisions, agencies, officers, employees,  
8 board members, commission members and legislators each have 45 days after  
9 service of this Summons within which to file an Answer or other responsive  
10 pleading to the Complaint.

11 STEVEN D. GRIERSON  
12 CLERK OF COURT

13 By: 

14 Deputy Clerk  
15 Regional Justice Center  
16 200 Lewis Avenue  
Las Vegas, NV 89155

JUDITH ANGYALNE KISS

Date

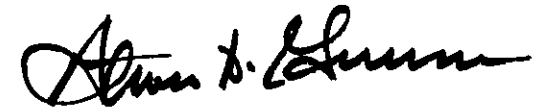
SEP 29 2016

17 Issued at the direction of:

18 MARQUIS AURBACH COFFING

19 By 

20 Avece M. Higbee, Esq.  
21 Nevada Bar No. 3739  
22 10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney for Plaintiff



CLERK OF THE COURT

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run  
3 Las Vegas, Nevada 89145  
(702) 382-0711  
4

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

7 BETTY CHAN ET AL..

8 Plaintiffs,

9 vs.

10 WAYNE WU ET AL.,

11 Defendants.

Case No.: A-16-744109-C  
Dept. No.: XII

12 **AFFIDAVIT OF SERVICE**

13 STATE OF NEVADA )  
14 ) ss.  
COUNTY OF CLARK )

15 **Richard Etienne, License No. 1506**, being duly sworn, says: that at all times herein  
16 affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this  
17 affidavit is made. That affiant received 1 copies of the **Summons and Amended Complaint**  
on the 16<sup>th</sup> day of November, 2016, and served the same on the 17<sup>th</sup> day of November 2016 @  
7:53 pm. by:

- 18 1. Delivering and leaving a copy with **Jerrin Chiu at 477 Cabral Peak Las Vegas**  
19 **Nevada 89138.**
- 20 2. Serving the Defendant, \_\_\_\_\_, by personally delivering and leaving a copy with  
21 \*\*, a person of suitable age and discretion at \_\_\_\_\_.
- 22 3. serving the Defendant \_\_\_\_\_, at his/her residence of \_\_\_\_\_ pursuant to N.R.S.  
23 14.090, by personally delivering and leaving a copy with the guard\* posted at the  
24 gate, who has denied affiant access to the residence.
- 25 4. Serving \_\_\_\_\_ by personally delivering and leaving a copy at \_\_\_\_\_.
- 26 a. With as \_\_\_\_\_ as \_\_\_\_\_, an agent lawfully designated by statute to accept  
27 service of process;
- 28 b. With \_\_\_\_\_ pursuant to NRS 14.020 as a person of suitable age and  
discretion at the above address, which address is the address of the resident



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agent as shown on the current certificate of designation filed with the Secretary of State.

5. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- Ordinary mail
- Certified mail, return receipt requested
- Registered mail, return receipt requested

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

EXECUTED this 20<sup>th</sup> day of November 2016.



Richard Etienne, License No. 1506  
Report to Court  
5940 S. Rainbow Blvd.  
Las Vegas, Nevada 89118

No Notary Required per NRS 53.045

**Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
Attorneys for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

Case No.: A-16-744109-C  
Dept. No.: XII

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

**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.**

**JERRIN CHIU**

**TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against  
you for the relief set forth in the Complaint.

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.

- 1           2.     Unless you respond, your default will be entered upon application of the
- 2                     Plaintiff(s) and failure to so respond will result in a judgment of default against
- 3                     you for the relief demanded in the Complaint, which could result in the taking of
- 4                     money or property or other relief requested in the Complaint.
- 5           3.     If you intend to seek the advice of an attorney in this matter, you should do so
- 6                     promptly so that your response may be filed on time.
- 7           4.     The State of Nevada, its political subdivisions, agencies, officers, employees,
- 8                     board members, commission members and legislators each have 45 days after
- 9                     service of this Summons within which to file an Answer or other responsive
- 10                    pleading to the Complaint.

11                             STEVEN D. GRIERSON  
12                             CLERK OF COURT

13                             By: 

14                             Deputy Clerk  
15                             Regional Justice Center  
16                             200 Lewis Avenue  
17                             Las Vegas, NV 89155

Date

SEP 29 2016

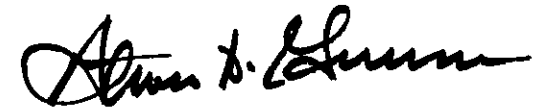
JUDIT ANGYALNE KISS

18           Issued at the direction of:

19                     MARQUIS AURBACH COFFING

20           By 

21                     Avece M. Higbee, Esq.  
22                     Nevada Bar No. 3739  
23                     10001 Park Run Drive  
24                     Las Vegas, Nevada 89145  
25                     Attorney for Plaintiff



CLERK OF THE COURT

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
(702) 382-0711  
4

5 BETTY CHAN and ASIAN AMERICAN REALTY &  
6 PROPERTY MANAGEMENT,

7 Plaintiff,

8 vs.

9 WAYNE WU ET AL,

10 Defendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**AFFIDAVIT OF SERVICE**

11 STATE OF NEVADA )  
12 ) ss.  
13 COUNTY OF CLARK )

14 **Richard Etienne, License No. 1506**, being duly sworn, says: that at all times herein  
15 affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this  
16 affidavit is made. That affiant received 1 copies of the **Summons & Amended Complaint** on  
the 16<sup>th</sup> day of **November 2016**, and served the same on the 16<sup>th</sup> day of **November 2016 @**  
**3:42 p.m.** by:

- 17 1. Delivering and leaving a copy with the \_\_\_\_\_ at her usual place of business located at  
18  
19 2. Serving the Defendant \_\_\_\_\_ by personally delivering and leaving a copy with  
a person of suitable age and discretion located at \_\_\_\_\_,  
20  
21 3. serving the Defendant \_\_\_\_\_, at his/her residence of \_\_\_\_\_ pursuant to N.R.S.  
14.090, by personally delivering and leaving a copy with the guard\* \_\_\_\_\_ posted at the  
gate, who has denied affiant access to the residence.

- 22 4. Serving **Nevada Real Estate Corp.** by personally delivering and leaving a copy at  
23 **3512 Wynn Road Las Vegas Nevada 89103.**

24  
25 a. With as \_\_\_\_\_ as \_\_\_\_\_, an agent lawfully designated by  
26 statute to accept service of process;

27 b. With **Wayne Wu** pursuant to NRS 14.020 as a person of suitable age and  
28 discretion at the above address, which address is the address of the resident

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agent as shown on the current certificate of designation filed with the Secretary of State.

5. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- Ordinary mail
- Certified mail, return receipt requested
- Registered mail, return receipt requested

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

EXECUTED this 16<sup>th</sup> day of November, 2016.

  
\_\_\_\_\_  
Richard Etienne License # 1506  
Report to Court  
5940 S. Rainbow Blvd.  
Las Vegas, Nevada 89118

No Notary Required per NRS 53.045.

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
4 Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
5 Attorneys for Plaintiff

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

9 Plaintiff,

Case No.: A-16-744109-C  
Dept. No.: XII

10 vs.

11 WAYNE WU, JUDITH SULLIVAN, NEVADA  
12 REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
13 through X, and ROES I through X,

14 Defendants.

15 **SUMMONS - CIVIL**

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

18 **NEVADA REAL ESTATE CORPORATION**

19 **TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against  
20 you for the relief set forth in the Complaint.

- 21 1. If you intend to defend this lawsuit, within 20 days after this Summons is served  
22 on you, exclusive of the day of service, you must do the following:
- 23 (a) File with the Clerk of this Court, whose address is shown below, a formal  
24 written response to the Complaint in accordance with the rules of the  
25 Court, with the appropriate filing fee.
- 26 (b) Serve a copy of your response upon the attorney whose name and address  
27 is shown below.
- 28

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

STEVEN D. GRIERSON  
CLERK OF COURT

By: 

Deputy Clerk  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, NV 89155

SEP 28 2016

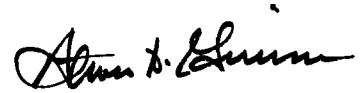
JUDIT ANGYALNE KOT

Issued at the direction of:

MARQUIS AURBACH COFFING

By: 

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney for Plaintiff



CLERK OF THE COURT

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
(702) 382-0711  
4

5 BETTY CHAN and ASIAN AMERICAN REALTY &  
6 PROPERTY MANAGEMENT,

7 Plaintiff,

8 vs.

9 WAYNE WU ET AL,

10 Defendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**AFFIDAVIT OF SERVICE**

11 STATE OF NEVADA )  
12 ) ss.  
13 COUNTY OF CLARK )

14 **Richard Etienne, License No. 1506**, being duly sworn, says: that at all times herein  
15 affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this  
16 affidavit is made. That affiant received 1 copies of the **Summons & Amended Complaint** on  
the 16<sup>th</sup> day of **November 2016**, and served the same on the 16<sup>th</sup> day of **November 2016 @**  
**3:05 p.m.** by:

- 17 1. Delivering and leaving a copy with the \_\_\_\_\_ at her usual place of business located at  
18  
19 2. Serving the Defendant \_\_\_\_\_ by personally delivering and leaving a copy with  
a person of suitable age and discretion located at \_\_\_\_\_,  
20 3. serving the Defendant \_\_\_\_\_, at his/her residence of \_\_\_\_\_ pursuant to N.R.S.  
21 14.090, by personally delivering and leaving a copy with the guard\* \_\_\_\_\_ posted at the  
gate, who has denied affiant access to the residence.  
22  
23 4. Serving **KB Home Sales – Nevada Inc.** by personally delivering and leaving a copy  
at **2215-B Renaissance Las Vegas Nevada 89119.**  
24  
25 a. With as \_\_\_\_\_ as \_\_\_\_\_, an agent lawfully designated by  
statute to accept service of process;  
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27 b. With **Taylor Lee** pursuant to NRS 14.020 as a person of suitable age and  
28 discretion at the above address, which address is the address of the resident



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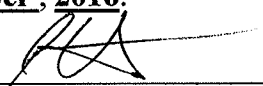
agent as shown on the current certificate of designation filed with the Secretary of State.

5. Personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope, postage prepaid (Check appropriate method):

- Ordinary mail
- Certified mail, return receipt requested
- Registered mail, return receipt requested

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

EXECUTED this 16<sup>th</sup> day of November, 2016.

  
\_\_\_\_\_  
Richard Etienne License # 1506  
Report to Court  
5940 S. Rainbow Blvd.  
Las Vegas, Nevada 89118

No Notary Required per NRS 53.045.

**Marquis Aurbach Coffing**

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
Attorneys for Plaintiff

**DISTRICT COURT****CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

Case No.: A-16-744109-C  
Dept. No.: XII

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

**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.**

**KB HOME SALES – NEVADA INC.**

**TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against  
you for the relief set forth in the Complaint.

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.

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

2. Unless you respond, your default will be entered upon application of the Plaintiff(s) and failure to so respond will result in a judgment of default against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.
3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.
4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators each have 45 days after service of this Summons within which to file an Answer or other responsive pleading to the Complaint.

STEVEN D. GRIERSON  
CLERK OF COURT

By: 

Deputy Clerk  
Regional Justice Center  
200 Lewis Avenue  
Las Vegas, NV 89155

Date

JUDIT ANGYALNE KICS

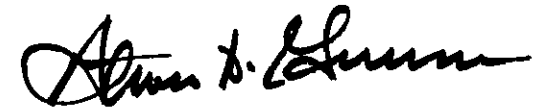
SEP 29 2016

Issued at the direction of:

MARQUIS AURBACH COFFING

By: 

Aveca M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney for Plaintiff



CLERK OF THE COURT

1 **Marquis Aurbach Coffing**  
Avece Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
(702) 382-0711  
4

5 BETTY CHAN ET AL.,

6  
7 Plaintiff,

8 vs.

9 WAYNE WU ET AL.,

10 Defendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**AFFIDAVIT OF SERVICE**

11 STATE OF NEVADA )  
12 ) ss.  
COUNTY OF CLARK )

13 **Richard Etienne, License No. 1506**, being duly sworn, says: that at all times herein  
14 affiant was and is over 18 years of age, not a party to nor interested in the proceeding in which this  
15 affidavit is made. That affiant received 1 copies of the **Summons & Amended Complaint** on  
the 16<sup>th</sup> day of **November 2016**, and served the same on the 29<sup>th</sup> day of **November 2016 @**  
16 **2:27 p.m.** by:

- 17 1. Delivering and leaving a copy with the **Judith Sullivan** at her usual place of business  
located at **3512 Wynn Rd. Las Vegas Nevada 89103**
- 18 2. Serving the Defendant \_\_\_\_\_ by personally delivering and leaving a copy with \_\_\_\_\_ a  
19 person of suitable age and discretion located at \_\_\_\_\_,
- 20 3. serving the Defendant \_\_\_\_\_, at his/her residence of \_\_\_\_\_ pursuant to N.R.S.  
21 14.090, by personally delivering and leaving a copy with the guard\* \_\_\_\_\_ posted at the  
22 gate, who has denied affiant access to the residence.
- 23 4. Serving \_\_\_\_\_ by personally delivering and leaving a copy at  
:  
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25 a. With as \_\_\_\_\_ as \_\_\_\_\_, an agent lawfully designated by  
statute to accept service of process;  
26  
27 b. With \_\_\_\_\_ pursuant to NRS 14.020 as a person of suitable age and  
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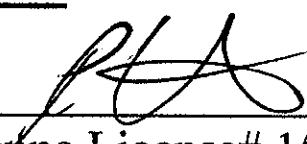
agent as shown on the current certificate of designation filed with the Secretary  
of State.

5. Personally depositing a copy in a mail box of the United States Post Office, enclosed  
in a sealed envelope, postage prepaid (Check appropriate method):

- Ordinary mail
- Certified mail, return receipt requested
- Registered mail, return receipt requested

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

EXECUTED this 30<sup>th</sup> day of November, 2016.

  
\_\_\_\_\_  
Richard Etienne License# 1506  
Report to Court  
5940 S. Rainbow Blvd.  
Las Vegas, Nevada 89118

No Notary Required per NRS 53.045.

1 **Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
2 Nevada Bar No. 3739  
10001 Park Run Drive  
3 Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
4 Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
5 Attorneys for Plaintiff

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

9 Plaintiff,

Case No.: A-16-744109-C  
Dept. No.: XII

10 vs.

11 WAYNE WU, JUDITH SULLIVAN, NEVADA  
12 REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
13 through X, and ROES I through X,

14 Defendants.

15 **SUMMONS - CIVIL**

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

18 **JUDITH SULLIVAN**

19 **TO THE DEFENDANT(S):** A civil Complaint has been filed by the Plaintiff(s) against  
20 you for the relief set forth in the Complaint.

- 21 1. If you intend to defend this lawsuit, within 20 days after this Summons is served  
22 on you, exclusive of the day of service, you must do the following:
- 23 (a) File with the Clerk of this Court, whose address is shown below, a formal  
24 written response to the Complaint in accordance with the rules of the  
25 Court, with the appropriate filing fee.
- 26 (b) Serve a copy of your response upon the attorney whose name and address  
27 is shown below.
- 28

MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

- 1 2. Unless you respond, your default will be entered upon application of the  
2 Plaintiff(s) and failure to so respond will result in a judgment of default against  
3 you for the relief demanded in the Complaint, which could result in the taking of  
4 money or property or other relief requested in the Complaint.
- 5 3. If you intend to seek the advice of an attorney in this matter, you should do so  
6 promptly so that your response may be filed on time.
- 7 4. The State of Nevada, its political subdivisions, agencies, officers, employees,  
8 board members, commission members and legislators each have 45 days after  
9 service of this Summons within which to file an Answer or other responsive  
10 pleading to the Complaint.

11 STEVEN D. GRIERSON  
12 CLERK OF COURT

13 By: 

14 Deputy Clerk  
15 Regional Justice Center  
16 200 Lewis Avenue  
Las Vegas, NV 89155

Date

JUDIT ANGYALNE KISS  
SEP 29 2016

17 Issued at the direction of:

18 MARQUIS AURBACH COFFING

19 By: 

20 Avece M. Higbee, Esq.  
21 Nevada Bar No. 3739  
22 10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorney for Plaintiff

  
CLERK OF THE COURT

ANS  
MICHAEL A. OLSEN, ESQ.  
Nevada Bar No. 6076  
THOMAS R. GROVER, ESQ.  
Nevada Bar No. 12387  
**Goodsell & Olsen, LLP**  
10155 W. Twain Ave., Suite 100  
Las Vegas, Nevada 89147  
Tel: (702) 869-6261  
Fax: (702) 869-8243  
*Attorneys for Defendants/Counterclaimants*  
*Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.*  
*and Jerrin Chiu*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN	)	Case No: A-16-744109-C
REALTY & PROPERTY MANAGEMENT,	)	
	)	Dept. No: XII
Plaintiff,	)	
v.	)	
	)	
WAYNE WU, JUDITH SULLIVAN,	)	<b>ANSWER AND COUNTERCLAIM</b>
NEVADA REAL ESTATE CORP., JERRIN	)	
CHIU, KB HOME SALES – NEVADA INC.,	)	
DOES I through X, and ROES I through X,	)	
Defendants.	)	

COMES NOW, Defendants, WAYNE WU (hereinafter “Mr. Wu” or “Wu”), JUDITH SULLIVAN (hereafter “Ms. Sullivan” or “Sullivan”), NEVADA REAL ESTATE CORP. (hereafter “NREC”) and JERRIN CHIU (hereafter “Mr. Chiu” or “Chiu”), by and through their attorney, Michael A. Olsen, Esq. of the law firm Goodsell & Olsen, LLP, and, in answer to Plaintiff’s Complaint on file herein, state as follows:

**JURISDICTION**

1. Answering paragraph 1 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

2. Answering paragraph 2 of the Complaint, answering Defendants admit the same.



1           3.       Answering paragraph 3 of the Complaint, answering Defendants admit the same.

2           4.       Answering paragraph 4 of the Complaint, answering Defendants admit the same.

3           5.       Answering paragraph 5 of the Complaint, answering Defendants are without  
4 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
5 the allegations contained in said paragraph in their entirety.

6           6.       Answering paragraph 6 of the Complaint, answering Defendants are without  
7 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
8 the allegations contained in said paragraph in their entirety.

9           7.       Answering paragraph 7 of the Complaint, answering Defendants are without  
10 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
11 the allegations contained in said paragraph in their entirety.

12                               **GENERAL ALLEGATIONS**

13           8.       Answering paragraph 8 of the Complaint, answering Defendant Chiu admits using  
14 Betty Chan (hereafter “Ms. Chan” or “Chan”) as his real estate agent in 2013, Defendants Wu,  
15 Sullivan and NREC are without sufficient knowledge as to the truth of the matters alleged  
16 therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

17           9.       Answering paragraph 9 of the Complaint, answering Defendants deny the same.

18           10.      Answering paragraph 10 of the Complaint, answering Defendant Chiu admits that  
19 Defendant Chan showed him some homes but he did not buy one at that time. Answering  
20 Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the truth of the  
21 matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph  
22 in their entirety.

23           11.      Answering paragraph 11 of the Complaint, answering Defendant Chiu admits that  
24 Dr. Kwang Chiu contacted Plaintiff Chan on or about March 2015 to make an appointment for  
25 him and his son, Defendant Jerrin Chiu to see homes in 2015 but they did not purchase a home.

1 Answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the truth  
2 of the matters alleged therein, and upon said grounds, deny the allegations contained in said  
3 paragraph in their entirety.

4 12. Answering paragraph 12 of the Complaint, answering Defendant Chiu admits that  
5 Dr. Kwang Chiu contacted Plaintiff Chan to make an appointment for him and his son,  
6 Defendant Jerrin Chiu to see homes in December 2015. Answering Defendants Wu, Sullivan  
7 and NREC are without sufficient knowledge as to the truth of the matters alleged therein, and  
8 upon said grounds, deny the allegations contained in said paragraph in their entirety.

9 13. Answering paragraph 13 of the Complaint, answering Defendant Chiu admits that  
10 Chan agreed to show some homes to Defendant Chiu in December of 2015 but that over a  
11 several day period of time Chan failed and refused to answer or respond to multiple telephone  
12 calls seeking further assistance in pursuing the purchase of a home. As a result of Plaintiff  
13 Chan's refusal to respond, Defendant Chiu was forced to seek the services of another realtor.  
14 Answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the truth  
15 of the matters alleged therein, and upon said grounds, deny the allegations contained in said  
16 paragraph in their entirety.

17 14. Answering paragraph 14 of the Complaint, answering Defendant Chiu admits  
18 that Plaintiff Chan requested updated financial information at some time in 2015 for loan pre-  
19 approval; answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to  
20 the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in  
21 said paragraph in their entirety.

22 15. Answering paragraph 15 of the Complaint, answering Defendant Chiu admits to  
23 telling Plaintiff Chan the criteria for a new home. Answering Defendants Wu, Sullivan and  
24 NREC are without sufficient knowledge as to the truth of the matters alleged therein, and upon  
25 said grounds, deny the allegations contained in said paragraph in their entirety.

1 16. Answering paragraph 16 of the Complaint, answering Defendant Chiu admits to  
2 informing Plaintiff Chan about a home (or homes) he was interested in looking at in a particular  
3 area. Answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the  
4 truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said  
5 paragraph in their entirety.

6 17. Answering paragraph 17 of the Complaint, answering Defendant Chiu admits that  
7 Plaintiff Chan initially responded to his request for information regarding homes he had located  
8 and wanted to see. Answering Defendants Wu, Sullivan and NREC are without sufficient  
9 knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the  
10 allegations contained in said paragraph in their entirety.

11 18. Answering paragraph 18 of the Complaint, answering Defendants are without  
12 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
13 the allegations contained in said paragraph in their entirety.

14 19. Answering paragraph 19 of the Complaint, answering Defendants are without  
15 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
16 the allegations contained in said paragraph in their entirety.

17 20. Answering paragraph 20 of the Complaint, answering Defendants admit that  
18 Defendant Chiu viewed model homes in both a Toll Brothers development and a KB Home  
19 development; however, answering Defendants are without sufficient knowledge as to the truth of  
20 the matters otherwise alleged in paragraph 20 of the Complaint, and upon said grounds, deny the  
21 allegations contained in said paragraph in their entirety.

22 21. Answering paragraph 21 of the Complaint, answering Defendants are without  
23 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
24 the allegations contained in said paragraph in their entirety.

25 / / /

22. Answering paragraph 22 of the Complaint, answering Defendant Chiu admits to seeing homes with Plaintiff Chan on or about December 30, 2015. Answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

23. Answering paragraph 23 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

24. Answering paragraph 24 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

25. Answering paragraph 25 of the Complaint, answering Defendant Chiu admits to touring the model homes and expressing interest in a couple of the layouts. Answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

26. Answering paragraph 26 of the Complaint, answering Defendant Chiu denies the same. Answering Defendants Wu, Sullivan and NREC are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

27. Answering paragraph 27 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

28. Answering paragraph 28 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

1           29.     Answering paragraph 29 of the Complaint, answering Defendants are without  
2 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
3 the allegations contained in said paragraph in their entirety.

4           30.     Answering paragraph 30 of the Complaint, answering Defendants are without  
5 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
6 the allegations contained in said paragraph in their entirety.

7           31.     Answering paragraph 31 of the Complaint, answering Defendant Chiu admits that  
8 after several days of being non-responsive to his calls, resulting in having to replace Ms. Chan  
9 with another realtor, Ms. Chan finally reached out to him. Defendant Chiu is uncertain of the  
10 date of the contact. Answering Defendants Wu, Sullivan and NREC are without sufficient  
11 knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the  
12 allegations contained in said paragraph in their entirety.

13           32.     Answering paragraph 32 of the Complaint, answering Defendants are without  
14 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
15 the allegations contained in said paragraph in their entirety.

16           33.     Answering paragraph 33 of the Complaint, answering Defendant Chiu admits to  
17 informing Ms. Chan that due to her non-responsiveness he had to retain another realtor.  
18 Defendant Chiu cannot recall the exact date of the communication. Answering Defendants Wu,  
19 Sullivan and NREC are without sufficient knowledge as to the truth of the matters alleged  
20 therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

21           34.     Answering paragraph 34 of the Complaint, answering Defendants are without  
22 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
23 the allegations contained in said paragraph in their entirety.

24     ///

25     ///

35. Answering paragraph 35 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

36. Answering paragraph 36 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

37. Answering paragraph 37 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

38. Answering paragraph 38 of the Complaint, answering Defendants admit the same.

39. Answering paragraph 39 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

40. Answering paragraph 40 of the Complaint, answering Defendants deny the same.

41. Answering paragraph 41 of the Complaint, answering Defendants admit the same.

42. Answering paragraph 42 of the Complaint, answering Defendants admit the same.

43. Answering paragraph 43 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

### **FIRST CAUSE OF ACTION**

#### **(Declaratory Relief)**

44. Answering paragraph 44 of the Complaint, answering Defendants repeat the answers to each and every allegation previously set forth.

45. Answering paragraph 45 of the Complaint, answering Defendants state that it calls for a legal conclusion and therefore deny the same.

1 46. Answering paragraph 46 of the Complaint, answering Defendants admit the same.

2 47. Answering paragraph 47 of the Complaint, answering Defendants deny the same.

3 48. Answering paragraph 48 of the Complaint, answering Defendants are without  
4 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
5 the allegations contained in said paragraph in their entirety.

6 49. Answering paragraph 49 of the Complaint, answering Defendants deny the same.

7 50. Answering paragraph 50 of the Complaint, answering Defendants Chiu and Wu  
8 admit that after Chan refused to respond to Chiu, Chiu hired Wu to act as his realtor in making  
9 an offer and in securing the purchase of a KB Homes property. Answering Defendants Sullivan  
10 and NREC are without sufficient knowledge as to the truth of the matters alleged therein, and  
11 upon said grounds, deny the allegations contained in said paragraph in their entirety.

12 51. Answering paragraph 51 of the Complaint, answering Defendants state that this  
13 paragraph calls for a legal conclusion and deny the same.

14 52. Answering paragraph 52 of the Complaint, answering Defendants deny the same.

15 53. Answering paragraph 53 of the Complaint, answering Defendants deny the same.

16 54. Answering paragraph 54 of the Complaint, answering Defendants are without  
17 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
18 the allegations contained in said paragraph in their entirety.

19 55. Answering paragraph 55 of the Complaint, answering Defendants deny the same.

20 56. Answering paragraph 56 of the Complaint, answering Defendants deny the same.

21 **SECOND CAUSE OF ACTION**

22 **(Breach of Contract)**

23 57. Answering paragraph 57 of the Complaint, answering Defendants repeat the  
24 answers to each and every allegation previously set forth.

25 ///

1           58.     Answering paragraph 58 of the Complaint, answering Defendants are without  
2 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
3 the allegations contained in said paragraph in their entirety.

4           59.     Answering paragraph 59 of the Complaint, answering Defendants deny the same.

5           60.     Answering paragraph 60 of the Complaint, answering Defendants are without  
6 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
7 the allegations contained in said paragraph in their entirety.

8           61.     Answering paragraph 61 of the Complaint, answering Defendants state that this  
9 paragraph calls for a legal conclusion and deny the same.

10          62.     Answering paragraph 62 of the Complaint, answering Defendants admit that  
11 Defendant Chiu purchased a KB Homes property.

12          63.     Answering paragraph 63 of the Complaint, answering Defendants are without  
13 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
14 the allegations contained in said paragraph in their entirety.

15          64.     Answering paragraph 64 of the Complaint, answering Defendants are without  
16 sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny  
17 the allegations contained in said paragraph in their entirety.

18          65.     Answering paragraph 65 of the Complaint, answering Defendants deny the same.

19          66.     Answering paragraph 66 of the Complaint, answering Defendants deny the same.

20                   **THIRD CAUSE OF ACTION**

21                   **(Unjust Enrichment)**

22          67.     Answering paragraph 67 of the Complaint, answering Defendants repeat the  
23 answers to each and every allegation previously set forth.

24          68.     Answering paragraph 68 of the Complaint, answering Defendants state that the  
25 paragraph calls for a legal conclusion and deny the same.



69. Answering paragraph 69 of the Complaint, answering Defendant Wu denies the same. Answering Defendants Chiu, Sullivan and NREC are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

70. Answering paragraph 70 of the Complaint, answering Defendants deny the same.

71. Answering paragraph 71 of the Complaint, answering Defendants deny the same.

72. Answering paragraph 72 of the Complaint, answering Defendants are without sufficient knowledge as to the truth of the matters alleged therein, and upon said grounds, deny the allegations contained in said paragraph in their entirety.

73. Answering paragraph 73 of the Complaint, answering Defendants deny the same.

74. Answering paragraph 74 of the Complaint, answering Defendants deny the same.

### **AFFIRMATIVE DEFENSES**

#### **First Affirmative Defense**

Plaintiffs have failed to state a claim against Defendants upon which relief can be granted.

#### **Second Affirmative Defense**

Plaintiffs' claims against Defendants are barred in whole or in part by the doctrines of estoppel and waiver.

#### **Third Affirmative Defense**

Plaintiffs are guilty of unclean hands.

#### **Fourth Affirmative Defense**

Plaintiffs' claims are, in whole or in part, in violation of the statute of frauds or the doctrine of laches and are therefore, barred, void or otherwise unenforceable.

#### **Fifth Affirmative Defense**

Defendants allege that Plaintiffs have waived any right of recovery from Defendants.

**Sixth Affirmative Defense**

Defendants lacked the requisite specific intent necessary for Plaintiffs to sustain their claims against Defendants.

**Seventh Affirmative Defense**

Plaintiffs have failed to mitigate their damages, if any.

**Eighth Affirmative Defense**

Plaintiffs have failed to satisfy conditions precedent to bringing any action against these answering Defendants.

**Ninth Affirmative Defense**

Plaintiffs' claims for relief are barred by the Doctrines of Estoppel, Estoppel by Fraud, and equitable relief.

**Tenth Affirmative Defense**

Defendants acted in good faith in all of their dealings with Plaintiffs.

**Eleventh Affirmative Defense**

Plaintiffs' claims for relief are barred by the Doctrines of mutual mistake, impossibility and/or impracticability.

**Twelfth Affirmative Defense**

Plaintiffs lack privity of contract with Defendants.

**Thirteenth Affirmative Defense**

There is no contract between the parties.

**Fourteenth Affirmative Defense**

Defendants hereby incorporate by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein.

///

///

**Fifteenth Affirmative Defense**

Plaintiffs had neither a contract with Defendants nor were the procuring cause of the purchase of property by Defendant Chiu.

**Sixteenth Affirmative Defense**

Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein in so far as sufficient facts are not available after reasonable inquiry upon the filing of this Answer; Defendants, therefore, reserve the right to amend this Answer to allege additional Affirmative Defenses as subsequent investigation warrants.

**COUNTER CLAIM**

**First Claim for Relief**

**(Abuse of Process)**

Defendants-Counterclaimants Wu, Chiu, Sullivan and NREC (collectively hereinafter “Defendants or Counterclaimants”), by and through their attorney, Michael A. Olsen, Esq. of the law firm Goodsell & Olsen, LLP complains of Plaintiff Betty Chan, an individual as follows:

1. Counter-defendant Chan is well aware that she failed to follow standard practice and procedure when she neglected to require Counterclaimant Chiu to enter into a written agreement for Chan to act as Chiu’s real estate agent or broker.

2. Counter-defendant Chan is also aware that there was never any meeting of the minds between Chan and Defendant Chiu regarding the core terms of her representation (including commission) nor was there any written or verbal agreement setting forth the terms of any agreement between the parties.

3. Counter-defendant Chan has fraudulently represented to Chiu and to First American Title Company that she was in possession of a broker registration card identifying her

1 as Mr. Chiu's agent. Upon being challenged to produce said document, Chan has been unable to  
2 do so.

3 4. Counter-defendant Chan is well aware that her own failure to respond to  
4 Counterclaimant Chiu's calls and requests for information resulted in Counterclaimant Chiu  
5 seeking the services of another realtor, Counterclaimant Wayne Wu.

6 5. Counter-defendant Chan is further aware that Counterclaimant Wu is the only  
7 realtor listed on the closing documents and is listed as the realtor of record.

8 6. Finally, Counter-defendant Chan is aware that Counterclaimant Wu did all of the  
9 work in procuring and closing the sale of the subject property.

10 7. Plaintiff Chan instituted this lawsuit not because she has a good faith claim to the  
11 commission on the sale of the subject property but for the ulterior purpose of extorting  
12 Counterclaimant Wu into sharing a portion, or all of his commission, with Plaintiffs solely to  
13 avoid incurring the legal fees and costs of defending this frivolous lawsuit.

14 8. In fact, the very filing of Counter-Defendant's Complaint is in direct violation of  
15 the ethical rules she voluntarily undertook to uphold when she became a member of the Greater  
16 Las Vegas Association of Realtors (hereafter "GLVAR") requiring that any and all legitimate  
17 disputes regarding commissions be handled by way of arbitration before the GLVAR. The  
18 purpose of this filing is solely to harass, abuse process and unnecessarily drive up the costs of  
19 this litigation.

20 9. None of the purposes in paragraphs 7 and 8 above are proper in the regular  
21 conduct of instituting a lawsuit.

22 10. As a result of Counter-defendant's actions, Counterclaimants have been forced to  
23 retain the services of an attorney to prosecute the instant action and therefore is entitled to  
24 reasonable fees and costs.

25 ///

**Second Claim for Relief****(Declaratory Relief)**

11. Counterclaimants repeat and reallege the foregoing paragraphs as though fully stated herein.

12. Counterclaimants and Counter-defendants claim adverse interest in the commission for the sale of the subject property.

13. As set forth above, Counterclaimant Wu is the only listed broker of record, is the listed broker in all closing documents and procured and closed the sale on the subject property.

14. Counterclaimants therefore request an Order of this Court declaring that Counterclaimants Wu, Sullivan and NREC are entitled to the full commission on the sale of the subject property, currently held by First American Title Company.

15. Counterclaimants further request an Order declaring that the commission be released from the title company to Counterclaimants and that Counter-defendants pay any shortfall in commissions along with all attorney's fees and costs associated with this action.

**PRAYER FOR RELIEF**

Wherefore, Counterclaimants pray for judgment against Counter-defendants as follows:

1. For damages in excess of \$10,000.00;
2. For Prejudgment and Postjudgment interest;
3. For Declaratory relief as set forth herein;
4. For an award of Counterclaimant's attorney's fees and costs;
5. For such other and further relief as the Court deems just and proper.

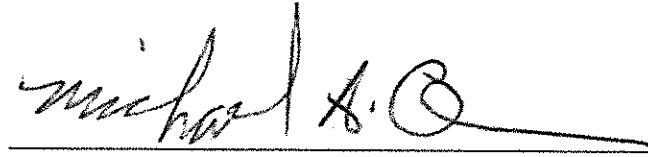
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///

///

///

DATED this 6<sup>th</sup> day of December, 2016.



MICHAEL A. OLSEN, ESQ.

Nevada Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

**GOODSELL & OLSEN, LLP**

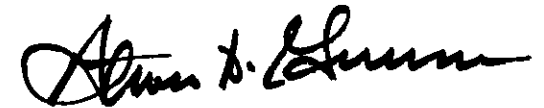
10155 W. Twain Ave., Suite 100

Las Vegas, Nevada 89147

*Attorneys for Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada Real Estate*

*Corp. and Jerrin Chiu*



CLERK OF THE COURT

1 **CSERV**  
2 MICHAEL A. OLSEN, ESQ.  
3 Nevada Bar No. 6076  
4 THOMAS R. GROVER, ESQ.  
5 Nevada Bar No. 12387

6 **Goodsell & Olsen, LLP**  
7 10155 W. Twain Ave., Suite 100  
8 Las Vegas, Nevada 89147  
9 Tel: (702) 869-6261  
10 Fax: (702) 869-8243  
11 *Attorneys for Defendants/Counterclaimants*  
12 *Wayne Wu, Judith Sullivan, Nevada*  
13 *Real Estate Corp. and Jerrin Chiu*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 BETTY CHAN and ASIAN AMERICAN  
11 REALTY & PROPERTY MANAGEMENT,  
12  
13 Plaintiff,

14 v.

15 WAYNE WU, JUDITH SULLIVAN,  
16 NEVADA REAL ESTATE CORP., JERRIN  
17 CHIU, KB HOME SALES – NEVADA INC.,  
18 DOES I through X, and ROES I through X,  
19 Defendants.

) Case No: A-16-744109-C

)  
) Dept. No: XII

20 **CERTIFICATE OF SERVICE**

21 I hereby certify that on December 6, 2016, I served a copy of the Answer and  
22 Counterclaim via electronic service pursuant to Administrative Order 14-2 and NEFCR 9 and in  
23 accordance with the Electronic Service and Filing Order to all parties listed on the Master  
24 Service List, including:

25 **Marquis Aurbach Coffing**

Contact	Email
Avece M. Higbee, Esq.	<a href="mailto:ahigbee@maclaw.com">ahigbee@maclaw.com</a>
Penny Williams	<a href="mailto:pwilliams@maclaw.com">pwilliams@maclaw.com</a>

///

Wood Smith Henning & Berman

Contact

Email

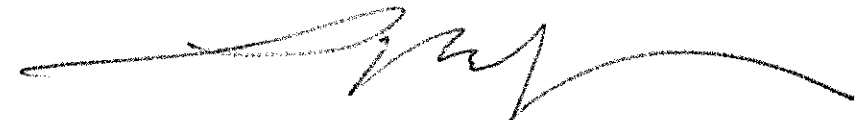
Janice M. Michaels

[jmichaels@wshblaw.com](mailto:jmichaels@wshblaw.com)

Judy Wisotsky

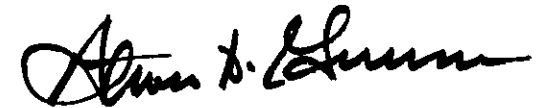
[jwisotsky@wshblaw.com](mailto:jwisotsky@wshblaw.com)

DATED this 7th day of December, 2016.



An Employee of Goodsell & Olsen





CLERK OF THE COURT

**RPLY**  
**Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
Attorneys for Plaintiff

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

Case No.: A-16-744109-C

Dept. No.: XII

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

**REPLY TO COUNTERCLAIM**

Plaintiff/Counterdefendant Betty Chan (“Chan” or “Counterdefendant”), by and through the law firm of Marquis Aurbach Coffing, her attorneys of record, hereby submits her Reply to Counterclaimants’ Counterclaim as follows:

**FIRST CLAIM FOR RELIEF****(Abuse of Process)**

1. In answering Paragraphs 1 and 2 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

2. In answering Paragraph 3 of Counterclaimants' Counterclaim, Counterdefendant admits that the document has not been produced and denies the remaining allegations contained therein.

3. In answering Paragraph 4 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

4. In answering Paragraph 5 of Counterclaimants' Counterclaim, Counterdefendant is without sufficient information to form an opinion as to the truth of the allegations contained therein, and therefore, denies the same.

5. In answering Paragraphs 6 and 7 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

6. In answering Paragraphs 8 of Counterclaimants' Counterclaim, the allegation is a legal conclusion rather than a factual allegation; therefore Chan is without knowledge to form a belief and therefore denies the same.

7. In answering Paragraph 9 of Counterclaimants' Counterclaim, Counterdefendant denied paragraphs 7, 8 and 9, and therefore, denies the allegations contained therein.

8. In answering Paragraph 10 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein

**SECOND CLAIM FOR RELIEF****(Declaratory Relief)**

9. In answering paragraph 11, Counterdefendant repeats and incorporates by reference the responses to all previous paragraphs, as if fully set forth herein.

10. In answering Paragraph 12 of Counterclaimants' Counterclaim, Counterdefendant is without sufficient information to form an opinion as to the truth of the allegations contained therein, and therefore, denies the same.

11. In answering Paragraphs 13, 14 and 15 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Counterclaimants have failed to state a claim against Counterdefendant upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Counterclaimants' claims against Counterdefendant are barred in whole or in part by the doctrines of estoppels and waiver.

#### **THIRD AFFIRMATIVE DEFENSE**

Counterclaimants are guilty of unclean hands.

#### **FIFTH AFFIRMATIVE DEFENSE**

Counterdefendant alleges that Counterclaimants have waived any right to recovery from Counterdefendant.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Counterclaimants' have failed to mitigate their damages, if any.

#### **EIGHTH AFFIRMATIVE DEFENSE**

Counterclaimants' have failed to satisfy conditions precedent to bringing any action against these answer Counterdefendants.

#### **NINTH AFFIRMATIVE DEFENSE**

Counterclaimants' claims for relief are barred by the Doctines of Estoppel, Estoppel by Fraud, and equitable relief.

#### **TENTH AFFIRMATIVE DEFENSE**

Counterdefendant acted in good faith in all of her dealings with Counterclaimant.

#### **TWELFTH AFFIRMATIVE DEFENSE**

Counterdefendants' had no ulterior purpose in bringing action against Counterclaimant.

#### **THIRTEENTH AFFIRMATIVE DEFENSE**

Counterdefendants' claims are proper in the regular course of proceedings.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Counterdefendant had neither a contract with Counterclaimants nor were the procuring cause of the purchase of property by Counterclaimants.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Counterdefendant hereby incorporate by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein in so far as sufficient facts are not available after reasonable inquiry upon the filing of this Answer; Counterdefendant, therefore, reserve the right to amend this answer to allege additional Affirmative Defenses as subsequent investigation warrants.

**PRAYER FOR RELIEF**

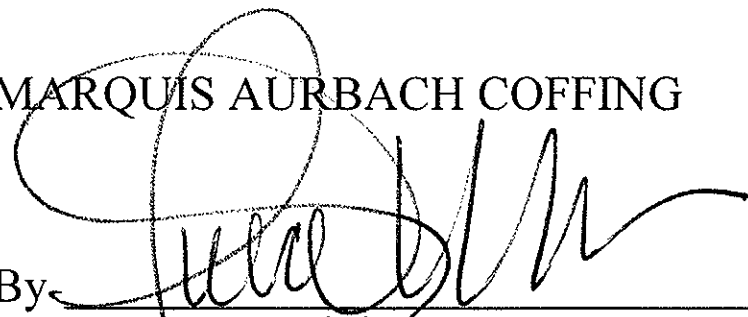
WHEREFORE, Counterdefendant prays for the following relief against Counterclaimant:

1. That Counterclaimants take nothing by way of its Complaint and that the same be dismissed with prejudice;
2. For an award of reasonable attorney fees and costs of suit; and
3. For any further relief as the Court deems to be just and proper.

Dated this 4<sup>th</sup> day of December, 2016.

MARQUIS AURBACH COFFING

By

  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
Jonathan B. Lee, Esq.  
Nevada Bar No. 13524  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff/Counterdefendant

**CERTIFICATE OF SERVICE**

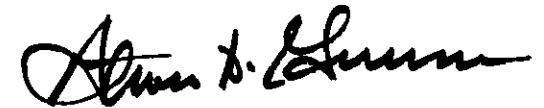
I hereby certify that the foregoing **ANSWER TO COUNTERCLAIM** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 19 day of December, 2016. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

**Goodsell & Olson**  
Michael A. Olsen, Esq.  
Thomas R. Grover, Esq.  
10155 W. Twain Ave., Suite 100  
Las Vegas, Nevada 89147



Penny M. Williams, an employee of  
Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



CLERK OF THE COURT

**MARQUIS AURBACH COFFING**

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
ahigbee@maclaw.com  
Attorneys for Plaintiff/  
Counterdefendant, Betty Chan  
and Asian American Realty &  
Property Management

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

Case No.: A-16-744109-C

Dept. No.: XII

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

**MOTION FOR STAY PENDING ARBITRATION**

Plaintiffs, Betty Chan and Asian American Realty & Property Management (“Plaintiffs”),  
by and through their attorneys of record, Marquis Aurbach Coffing, hereby move this Court to  
stay the proceedings in the above captioned matter until completion of arbitration through the  
Greater Las Vegas Association of Realtors (“GLVAR”). This motion is made and based upon

1 the papers and pleadings on file herein, the memorandum of points and authorities, and any  
2 argument allowed by the Court at the time of the hearing.

3 Dated this \_\_\_\_ day of January, 2017.

MARQUIS AURBACH COFFING

By 

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
*Attorney for Plaintiffs*

### NOTICE OF MOTION

11 You and each of you, will please take notice that the MOTION FOR STAY PENDING  
12 ARBITRATION will come on regularly for hearing on the 13 day of  
13 Feb ., 2017, at the hour of 8 : 3 0 a .m., or as soon thereafter as counsel  
14 may be heard, in Department 12 in the above-referenced court.

15 Dated this \_\_\_\_ day of January, 2017.

MARQUIS AURBACH COFFING

By 

Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
*Attorney for Plaintiffs*

### MEMORANDUM OF POINTS AND AUTHORITIES

#### I. INTRODUCTION

25 This case involves the entitlement to a commission on the purchase and sale of a  
26 residence. In December 2015, Chan showed Defendant Jerrin Chiu the KB Home Sales –  
27 Nevada, Inc. (“KB”) model homes. Defendant Jerrin Chiu purchased one of the homes from KB  
28

1 but used Defendant Wu as his agent. Chan claims entitlement to the commission on the purchase  
2 of the home due to her representation of Chiu and because she was the procuring cause for  
3 Defendant Chiu's purchase of the home from KB.

## 4 **II. PROCEEDINGS**

5 Plaintiffs filed a complaint against Defendants on September 27, 2016. Defendants Wu,  
6 Sullivan, Nevada Real Estate Corp. and Chiu answered the Complaint and asserted a  
7 counterclaim on December 6, 2016. Plaintiffs filed their Reply to Counterclaim on December  
8 19, 2016.

## 9 **III. THIS CASE SHOULD BE STAYED PENDING ARBITRATION**

10 Plaintiffs have submitted a claim for arbitration with the Greater Las Vegas Association  
11 of Realtors pursuant to the Code of Ethics and Arbitration Manual for the National Association  
12 of Realtors®. In the event of disputes between Realtors®, Realtors® must submit the dispute to  
13 arbitration in accordance with the policies of GLVAR. *See* Article 17. Plaintiff, Betty Chan is a  
14 Realtor® and Defendant, Wayne Wu and his Broker, Judith Sullivan are also Realtors®.

15 As set forth in the Complaint, Plaintiffs claim that Plaintiff Chan was the procuring cause  
16 for the sale of the property known as 477 Cabrial Peak, Las Vegas, Nevada ("Property") to  
17 Defendant Chiu. Plaintiff Chan claims that she showed the models at KB Homes prior to  
18 Defendant, Wayne Wu's insertion into the transaction. As such, Plaintiffs claim that they are  
19 entitled to the commission on the sale. Defendants dispute that Plaintiffs are entitled to the  
20 commission.

21 The dispute concerning the commission should be arbitrated pursuant to the obligations  
22 set forth in the Code of Ethics and Arbitration Manual for the National Association of Realtors®  
23 and the Greater Las Vegas Association of Realtors®. Consequently, this Court should stay the  
24 proceedings until conclusion of the GLVAR arbitration, at which point Plaintiffs may proceed  
25 with the claims against Defendant Chiu and any other remaining claims against the other  
26 Defendants<sup>1</sup>.

27  
28 <sup>1</sup> Upon information and belief, Defendant Wayne Wu interfered with the contract between Plaintiff Chan  
and Defendant Chiu when he offered to "kick back" a portion of the commission to Defendant Chiu.

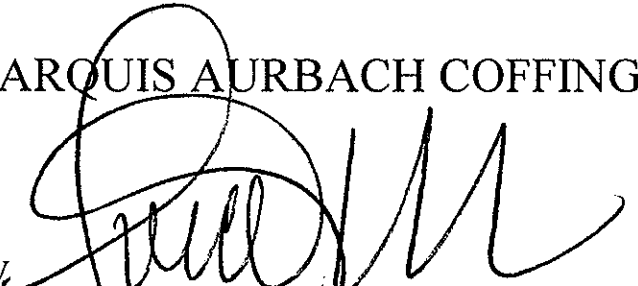


1 **IV. CONCLUSION**

2 Plaintiffs respectfully request the Court to stay the proceedings pending the completion of  
3 the arbitration through the Greater Las Vegas Association of Realtors®.

4 Dated this 22 day of January, 2017.

MARQUIS AURBACH COFFING

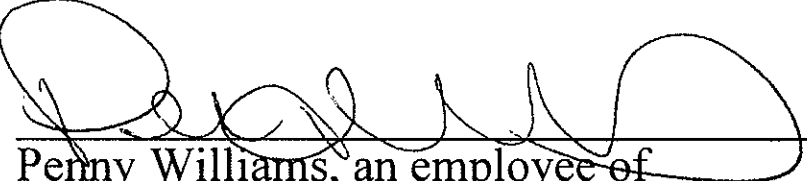
By   
Avece M. Higbee, Esq.  
Nevada Bar No. 3437  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
*Attorneys for Plaintiffs*

26 Further, upon information and belief, Defendant Chiu acted in bad faith to circumvent Plaintiff Chan's  
27 commission for personal gain in breach of his contract with Plaintiff Chan. Such claims are separate from  
28 the commission dispute between the parties and are outside the scope of GLVAR's arbitration jurisdiction.

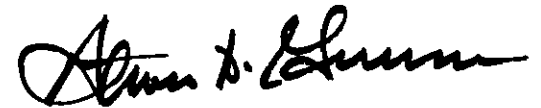
**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **MOTION FOR STAY** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 13<sup>th</sup> day of January, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>2</sup>

Goodsell & Olson  
Michael A. Olsen, Esq.  
Thomas R. Grover, Esq.  
10155 W. Twain Ave., Suite 100  
Las Vegas, Nevada 89147

  
Penny Williams, an employee of  
Marquis Aurbach Coffing

<sup>2</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



CLERK OF THE COURT

**OPP**  
MICHAEL A. OLSEN, ESQ.  
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*Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.*  
*and Jerrin Chiu*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,  
  
Plaintiffs,  
  
v.

) Case No: A-16-744109-C  
)  
) Dept. No: XII  
)

WAYNE WU, JUDITH SULLIVAN,  
NEVADA REAL ESTATE CORP., JERRIN  
CHIU, KB HOME SALES – NEVADA INC.,  
  
Defendants.

) **OPPOSITION TO MOTION TO**  
) **STAY PENDING ARBITRATION**  
) **AND COUNTERMOTION TO**  
) **DISMISS WITH PREJUDICE OR**  
) **IN THE ALTERNATIVE FOR**  
) **SUMMARY JUDGMENT**  
)

WAYNE WU, JUDITH SULLIVAN,  
NEVADA REAL ESTATE CORP., JERRIN  
CHIU,

Counterclaimants,

v.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendants,

COMES NOW, Defendants and Counterclaimants, WAYNE WU (“Wu”), JUDITH  
SULLIVAN (“Sullivan”), NEVADA REAL ESTATE CORP. (“NREC”) and JERRIN CHIU  
 (“Chiu”), by and through their attorney, Michael A. Olsen, Esq. of the law firm Goodsell &

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Olsen, LLP, submit their *Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment* and state as follows:

**FACTUAL STATEMENT**

1. On November 2, 2015, Chiu emailed BETTY CHAN (“Chan”), a broker working for ASIAN AMERICAN REALTY & PROPERTY MANAGEMENT (“AAPM”), expressing interest in searching for a home to purchase while Chiu’s parents were in town to visit in late December.

2. In the November 2, 2015 email, Chiu provided Chan with a relative price range, desired location, and expressed that he and his parents would be available to look at homes from December 30th to January 1, 2016. Chan agreed to show Chiu and his parents some options.

3. A few weeks later, Chiu contacted Chan again, confirming that she would accompany Chiu and his parents as they looked for a house. Chan confirmed the appointment.

4. Chiu and Chiu’s father, Dr. Kwang Chiu (“Kwang”) sought out Chan because she spoke Mandarin Chinese, making it easier to communicate with Chiu’s parents. Chiu was also familiar with Chan because Chiu had used Chan as a real estate agent before in 2013 when he purchased a condo.

5. On December 30, 2015, Chan picked up Chiu and his parents to show them some options. Neither Chiu nor his parents ever entered into any form of written agreement with Chan. Chan showed them three previously-owned homes. Chan tried to persuade Chiu to purchase one of the previously-owned homes, but Chiu and his parents were not interested.

6. Later that day, Chan took Chiu and his parents to Tevare at Summerlin, a housing development by KB Home Sales – Nevada, Inc. (“KB Home Development”). There, Chan showed Chiu and his parents three model home floor plans: Model 1 (a single-story home); Model 2 (a two-story home); and Model 3 (another two-story home). During this visit to the KB

1 Home Development, Chan also showed Chiu three different empty lots, including Lot 37 and Lot  
2 43.

3 7. During the December 30th visit to KB Home Development, Chan pressured Chiu  
4 to purchase Lot 37 and to choose the Model 3 floorplan. Chan preferred Lot 37, claiming it  
5 would give Chiu a better view of the Vegas Strip. Chiu was not interested in having a view of the  
6 Vegas Strip, preferring to have a view of the mountains. Chiu was also uninterested in the KB  
7 Home options because the development was outside the area he wanted to live, something he  
8 told Chan before the visit.

9 8. Additionally, Chiu disliked the Model 3 floorplan and expressed his distaste for  
10 the layout. Chiu initially held some mild interest in the Model 2 floorplan, however Chan's  
11 persistent pitch to sell Chiu a previously-built home or her preferred combination of Lot 37 with  
12 the Model 3 floorplan, left Chiu, at the end of the day, uninterested and confused.

13 9. The next morning, New Years' Eve, Chiu and his parents returned to the KB  
14 Home Development and called Chan at approximately 10:50 a.m., to express their desire to look  
15 at more options before Chiu's parents left town. Chan did not answer.

16 10. While waiting for Chan to return their call, Chiu and his parents met, without the  
17 assistance of a broker, with a KB Home representative and were informed that if they did not  
18 make a deposit before the end of the day, they would be subject to the development-wide price  
19 increase of \$3,000.00.

20 11. Even though he had not yet firmly decided to purchase a KB home, Chiu  
21 subsequently decided to make an earnest deposit of \$10,000.00 with KB Home to avoid the price  
22 increase on the KB Home lots. The deposit was refundable for fourteen (14) days.

23 12. Chiu was also concerned with the KB Development's poor reputation and several  
24 poor reviews regarding homes built by KB Homes. Thus, on January 1, 2016, Chiu posted a  
25

1 question on the city-data.com website forum inquiring about the integrity of homes built by KB  
2 Homes.<sup>1</sup>

3 13. On January 2, 2016, Kwang called Chan several times without answer and left a  
4 message. Chan had previously been made aware that time was of the essence for the Chius and  
5 she knew that Kwang and his wife had to return to California in two days and needed an agent to  
6 show them more housing options.

7 14. On January 3, 2016, Kwang called Chan again and left another message. Again  
8 time was of the essence as Chiu's parents had to leave the next day. Again, Chan did not  
9 respond.

10 15. Frustrated that Chan failed and refused to respond to their calls and messages,  
11 Chiu and his parents decided they wanted a different real estate agent. Kwang started the search  
12 by calling a few different agents, but none answered. Kwang remembered a former acquaintance  
13 who worked in the Vegas area as a broker, Wayne Wu ("Wu"). Kwang located Wu's number in  
14 a local newspaper and called Wu at approximately 1:40 p.m.

15 16. Kwang recommended Wu to Chiu because of his expertise in architecture, ability  
16 to speak Mandarin, and his knowledge of the Chinese tradition of feng shui.

17 17. On January 7, 2016, Chiu met with Wu at the KB Home Development. Chiu  
18 expressed his frustrations in dealing with Chan, her forceful nature in trying to convince him to  
19 buy a previously owned home, her pushing him (in the alternative) to purchase the KB Homes  
20 Model 3 floorplan, a plan Chiu was not impressed with, and her lack of responsiveness to his  
21 father's calls and voice messages. At this time, Wu suggested Lot 43 and the Model 2 floorplan,  
22 explaining that building the Model 2 floorplan on Lot 43 would be more practical, bringing in  
23 natural light with an impressive view of the mountains, and conformed to feng shui.

24  
25  

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<sup>1</sup> A true and correct copy of the January 1, 2016 post is attached hereto as Exhibit "1".

18. Based on Wu's recommendation, Chiu purchased Lot 43 with the Model 2 floorplan on January 8, 2016. Wu is the broker that procured the sale and the ONLY listed Broker on the purchase agreement<sup>2</sup> and the addendum.<sup>3</sup> There is no mention of Chan in any of the closing documents.

19. On November 11, 2016, Chan submitted her Amended Complaint, alleging that she and Chiu filled out a broker's registration card with KB Home Development, listing Chan as realtor and Chiu as a buyer. Chan also alleges, without any evidence, that Chiu sought out Wu in order to exclude Chan from the transaction because Wu offered a "commission kick-back." Chan further alleged that because Chan was the first to introduce Chiu to the KB Home Development, Wu was not entitled to the subsequent commission received.<sup>4</sup>

20. On December 6, 2016, Chiu submitted his *Answer and Counterclaim* and asserted that Chiu and Chan never entered a written agreement and that there was never a meeting of the minds regarding the core terms of her representation. Chiu also asserted that there was never any written or verbal agreement setting forth the terms of any agreement between the parties. Chiu further asserted that Chan fraudulently represented to Chiu and to First American Title Company that she possessed a broker registration card identifying her as Chiu's agent without being able to produce any such document upon challenge.<sup>5</sup>

21. On January 13, 2017, Chan, through counsel, filed her *Motion for Stay Pending Arbitration* stating that Chan "submitted a claim for arbitration with the Greater Las Vegas Association of Realtors pursuant to the Code of Ethics and Arbitration Manual for the National

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<sup>2</sup> A true and correct copy of the purchase agreement is attached hereto as Exhibit "2".

<sup>3</sup> A true and correct copy of the addendum to the purchase agreement is attached hereto as Exhibit "3".

<sup>4</sup> See Chan's Amended Complaint.

<sup>5</sup> See Chiu's Answer and Counterclaim. A true and correct copy of a March 24, 2016 letter sent to First American Title claiming that Chan had a broker's registration card is attached hereto as Exhibit "4".

1 Association of Realtors®. In the event of disputes between Realtors®, Realtors® must submit  
2 the dispute to arbitration in accordance with the policies of GLVAR.”<sup>6</sup>

3 22. Ten days later, Chan’s second counsel, Avece Higbee, Esq., submitted her *Motion*  
4 *to Withdraw as Counsel of Record for Plaintiffs Betty Chan and Asian American Realty &*  
5 *Property Management.*

### 6 LEGAL ARGUMENT

#### 7 **A. THIS COURT SHOULD DENY CHAN’S MOTION TO STAY AND DISMISS** 8 **THIS CASE WITH PREJUDICE BECAUSE FILING IN DISTRICT COURT** 9 **VIOLATES THE GLVAR RULE REQUIRING MANDATORY, BINDING** 10 **ARBITRATION AND CHAN WAS NOT THE PROCURING CAUSE OF CHIU’S** 11 **PURCHASE.**

- 12 1. This Court should deny Chan’s Motion to Stay and Dismiss this Matter with  
13 Prejudice because Chan violated GLVAR’s rules of ethics requiring mandatory,  
14 binding arbitration.

15 In this case the Plaintiff would like to “have her cake and eat it too.” In other words she  
16 would like to pursue binding arbitration pursuant to the ethical rules she has consented to abide,  
17 while at the same time reserving the right to come back to this court if she is unhappy with the  
18 result. The National Association of Realtors’ (“NAR”) Code of Ethics and Standards of Practice,  
19 Article 17 mandates that disputes between realtors, “if mediation is not required, Realtors shall  
20 submit the dispute to arbitration in accordance with the policies of the Board rather than litigate  
21 the matter.”<sup>7</sup> The NAR’s Code of Ethics further “includes the obligation of Realtors (principals)  
22 to cause their firms to . . . arbitrate and be bound by any resulting . . . award.”<sup>8</sup>

23 The Greater Las Vegas Association of Realtors’ (“GLVAR”) is one of Nevada’s local  
24 governing Boards within the NAR. The GLVAR’s code of ethics requires that any and all  
25

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<sup>6</sup> See Chan’s Motion for Stay Pending Arbitration, p.3.

<sup>7</sup> National Association of Realtors, *Code of Ethics and Standards of Practice*, Article 17 (January 1, 2017), attached hereto as Exhibit “5” [emphasis added].

<sup>8</sup> *Id* [emphasis added].



1 legitimate disputes regarding commissions between realtors are subject to arbitration before the  
2 GLVAR.<sup>9</sup>

3 Betty Chan is a member of the GLVAR, subjected to the requirement that her dispute  
4 with Wu be submitted to mandatory, binding arbitration. Because GLVAR requires arbitration  
5 for the dispute in this matter, Chan was required to “submit the dispute to arbitration in  
6 accordance with the policies of the [GLVAR] rather than litigate the matter.” Not only was Chan  
7 required to submit to arbitration rather than litigate this matter before the District Court, such  
8 arbitration is binding. Thus, the ethical codes of conduct, voluntarily accepted by Chan,  
9 proscribe the possibility of litigating this matter before this Court.

10 By filing her Complaint with this Court, Chan has deliberately violated Local, State, and  
11 National codes of ethics. Chan ignored the mandate to arbitrate the matter before the GLVAR,  
12 wasting both this Court’s time and resources. Not only has Chan wasted this Court’s resources  
13 and time, but Chan has also filed this matter before the Court to harass and unnecessarily drive  
14 up Defendants’ cost of defense.

15 Chan is required to submit to binding arbitration before the GLVAR pursuant to both  
16 local and national codes of professional conduct. Therefore, this Court should recognize Chan’s  
17 obligation to submit to binding arbitration and deny Chan’s Motion to Stay and dismiss this  
18 matter, with prejudice.

19 **2. This Court should deny Chan’s Motion to Stay and Dismiss this Matter with**  
20 **Prejudice Or Grant Summary Judgment, because Chan was not the Procuring**  
**Cause of Chiu’s Purchase.**

21 **A. STANDARD FOR SUMMARY JUDGMENT**

22 A party is entitled to summary judgment when there are no genuine issues of material  
23 fact in dispute and the moving party is entitled to summary judgment as a matter of law.<sup>10</sup> In

24  
25 <sup>9</sup> GLVAR, *The Code of Ethics – Our Promise of Professionalism*, p. 31, referring to the Standard of Practice, Article 17, attached hereto as Exhibit “6”.

<sup>10</sup> NRCP 56

1 Wood v. Safeway, Inc., 121 P.3d 1026 (2005), the Nevada Supreme Court stated that a factual  
2 dispute is “genuine” when the evidence is such that a rational trier of fact could return a verdict  
3 for the nonmoving party.<sup>11</sup>

4 Once the moving party has shown that there is no genuine dispute as to material facts, the  
5 burden shifts to the nonmoving party to set forth specific facts demonstrating the existence of a  
6 genuine issue for trial or have summary judgment entered against that party.<sup>12</sup>

7 In meeting this burden, the nonmoving party, “is not entitled to build a case on the  
8 gossamer threads of whimsy, speculation and conjecture.”<sup>13</sup>

9 In this case the undisputed facts are as follows:

- 10 1- Wayne Wu is the only broker listed in the purchase agreement;
- 11 2- Betty Chan’s name does not appear on any escrow documents;
- 12 3- Betty Chan claims she has a document indicating that she was/is the broker of
- 13 record but has been unable to produce any such document;
- 14 4- Defendant Chiu did NOT purchase the lot or property he was encouraged to
- 15 purchase by Betty Chan, nor did he make any offer on any properties while
- 16 viewing homes with Chan;
- 17 5- Chan was non-responsive to Chiu’s calls and messages in a timely fashion;

18 **B. Procuring Cause**

19 To determine whether a broker is entitled to commission, the Nevada Supreme Court has  
20 held that “a court must decide which [broker] was the procuring or inducing cause of the sale.”<sup>14</sup>  
21 To be the procuring cause of a sale, the broker’s conduct must be more than mere trifling.<sup>15</sup>

---

23 <sup>11</sup> *Id.*

24 <sup>12</sup> *NGA #2 Ltd. Liability Co. v. Rains*, 113 Nev. 1151, 1156, 946 P.2d 163, 166 (1997).

25 <sup>13</sup> *Collins v. Union Fed. S&L Ass'n*, 99 Nev. 284, 302 (Nev. 1983) quoting *Hahn v. Sargent*, 523 F.2d 461, 467 (1st Cir. Mass. 1975).

<sup>14</sup> *Bartsas Realty, Inc. v. Levertton*, 82 Nev. 6, 9 (1966) (citations omitted).

<sup>15</sup> *Id.* at 10.

1 “Merely introducing the eventual purchaser is not necessarily enough.”<sup>16</sup> A broker cannot be the  
2 procuring cause when it is shown that they have “abandoned efforts or been helplessly  
3 ineffective.”<sup>17</sup> Courts have also held that merely introducing or alerting a prospective buyer that  
4 a property is available is usually insufficient to constitute a procuring cause.<sup>18</sup> Several  
5 jurisdictions have held that the broker’s efforts must be the predominating cause of the sale.<sup>19</sup>

6 Chan was not the procuring cause of the sale because Chan merely introduced Chiu to the  
7 KB Homes development. In fact, Chan discouraged Chiu from purchasing Lot 43 and the Model  
8 2 floorplan before putting all her efforts into selling her preferences. Chan was determined to  
9 have Chiu purchase either a previously-owned home or Lot 37 with the Model 3 floorplan. Chiu  
10 was not interested in either option. Chiu never participated in any negotiation nor did he make  
11 any offer on any of the options Chan presented.

12 On the other hand, Wu was the procuring cause of the sale because Wu’s efforts were  
13 more than “mere trifling.” Wu not only convinced Chiu that the previously-owned homes and  
14 Lot 37 with the Model 3 floorplan were inferior choices, but Wu also settled Chiu’s concerns  
15 about the developer’s reputation and convinced Chiu to purchase the one option Chan  
16 discouraged Chiu from choosing.

17 Additionally, Chan cannot be the procuring cause of the sale because she abandoned her  
18 efforts as broker. Chan ceased answering the phone and failed to respond to messages for five  
19 days. From the afternoon of December 31, 2015 until January 5, 2016, Chan did not return any  
20 of the phone calls or voice messages placed by the Chius. These facts are not in dispute. What is  
21 more, Chan knew beforehand that Chiu’s parents were leaving on January 4, 2016 and that Chiu

---

22  
23 <sup>16</sup> *Id.*

24 <sup>17</sup> *Id.* See also, *Levy Wolf Real Estate Brokerage, Inc. v. Lizza Industries, Inc.*, 500 N.Y.S. 2d 37 (1986).

25 <sup>18</sup> See *United Farm Agency of Alabama, Inc. v. Green*, 466 So.2d 118 (Ala. 1988); *Greene v. Hellman*, 412 N.E.2d 1301 (N.Y. App. 1980).

<sup>19</sup> See *Carmichael v. Agur Realty Co., Inc.*, 574 So. 2d 603 (Miss. 1990); *Ham v. Morris*, 711 S.W. 2d 187 (Mo. 1986); *A N Associates, Inc. v. Quotron Systems, Inc.*, 159 Misc. 2d 515, 605 N.Y.S. 2d 178 (N.Y. City Civ. Ct 1993); *Vincent v. Weber*, 13 Ohio Misc. 280, 42 Ohio Op. 2d 347, 232 N.E. 2d 671 (Mun. Ct. 1965).

1 wanted to make a decision before his parents returned to California. Notwithstanding her prior  
2 knowledge that time was of the essence, Chan abandoned her efforts to help Chiu and his  
3 parents.

4 When Chan finally sent a response—an email asking if Chiu had made a decision—it was  
5 January 5, 2016, the day after Chiu's parents returned to California. Chiu sought out Wu after  
6 two days without a response because his parents were leaving town and he was without a broker  
7 to help find another option.

8 Not only had Chan abandoned her efforts, severing her role as Chiu's broker, but her  
9 efforts to sell Chiu the previously-owned homes and the Model 3 floorplan were "helplessly  
10 ineffective." After spending the day on December 30, 2015, Chan failed to generate any interest  
11 in the previously-owned homes or Lot 37 with the Model 3 floorplan. Not only did Chan's sales  
12 pitch fail to persuade Chiu to purchase Chan's preferences, her efforts muted whatever initial  
13 interest Chiu had in the Model 2 floorplan. In short, Chan is not the procuring cause of the sale  
14 because her efforts were "helplessly ineffective."

15 Wu is the procuring cause of the Chiu's purchase. Chan abandoned her efforts and ceased  
16 participating in her role as broker by refusing to respond to phone calls and voice messages for  
17 five (5) days. Even though Chan knew Chiu contacted her to find a home within a brief window  
18 of time, Chan quit answering her phone and did not return any voice message for five (5) days,  
19 beyond the time Chiu's parents were in Las Vegas. Chiu and his parents were given no other  
20 choice than to seek out another broker to find a home because Chan abandoned her efforts help  
21 Chiu find a home.

22 Additionally, Chan and Chiu never entered any written agreement showing that Chiu  
23 intended to purchase any of the options Chan presented. Chiu never made an offer or negotiated  
24 anything resembling terms of an agreement regarding Lot 43 or the Model 2 floorplan. There are  
25 no material facts in dispute regarding the purchase agreement, Chan's name does not appear on

1 any of them. The purchase agreement indisputably lists Wu as the ONLY broker on the deal.  
2 Since there are no MATERIAL facts in dispute Summary Judgment should be granted in favor  
3 of Defendants and against Plaintiff.

#### 4 CONCLUSION

5 This Court should deny Chan's Motion to Stay and dismiss this matter, with prejudice.  
6 Chan violated both National and Local ethical codes governing realtors and brokers by filing this  
7 dispute before this Court rather than submit to mandatory, binding arbitration. Furthermore, this  
8 Court should grant Summary Judgment as Chan abandoned her efforts and what efforts Chan  
9 took to sell Chiu the previously-owned homes and Lot 37 with the Model 3 floorplan were  
10 "helplessly ineffective." Wayne Wu is the procuring cause of the sale. Wu convinced Chiu to  
11 purchase Lot 43 and the Model 2 floorplan. Wu is listed as the broker on the purchase agreement  
12 and the addendum. Therefore, this Court should dismiss this case with prejudice and/or award  
13 Summary Judgment in favor of Defendants/Counterclaimants on the evidence presented this  
14 Court.

#### 15 PRAYER FOR RELIEF

16 Wherefore, Counterclaimants pray as follows:

- 17 1. For this Court to deny Plaintiff's Motion to Stay Pending Arbitration;
- 18 2. For an Order dismissing Plaintiff's claim with prejudice; and/or
- 19 3. For an Order Granting Summary Judgment; and
- 20 3. For such other and further relief as the Court deems just and proper.

21 ///

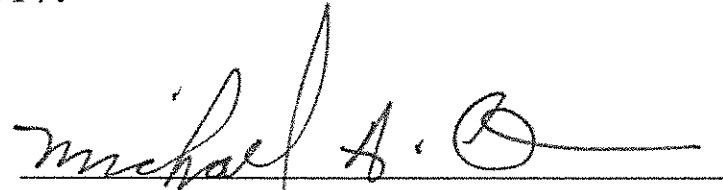
22 ///

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24 ///

25 ///

DATED this 2nd day of February, 2017.



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Nevada Bar No. 12387

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*Corp. and Jerrin Chiu*

## **EXHIBIT 1**



City-Data Forum > U.S. Forums > Nevada > Las Vegas

**KB homes anyone? (to buy, living in, homeowner)**

User Name  ☒ Remember Me

Password

Please **register** to participate in our discussions with 2 million other members - it's free and quick! Some forums can only be seen by registered members. After you **create your account**, you'll be able to customize options and access all our 15,000 new posts/day with fewer ads.

View **detailed profile** (Advanced) or search site with

**Search Forums** (Advanced)

01-01-2016, 01:49 AM

**chiuey**

44 posts, read 28,609 times  
Reputation: 17

Advertisements

Had a previous post about living in Tevere/Paseo village but didn't have many replies. I guess my follow up question is the home I am looking for is made by KB homes which have gotten many bad reviews in the previous years. Can anyone give any insight whether they are okay to buy now? or should I still stay clear from them? Thanks.

01-01-2016, 04:26 AM

**jet757f**

Location: Orange County  
978 posts, read 1,283,645 times  
Reputation: 766

I bought a new one in Ca and thought it was fine. No problems,

01-01-2016, 11:13 AM

**Everdeen**

3,475 posts, read 3,532,424 times  
Reputation: 4531

Knock on the doors of the other homeowners in the development and ask them.👍

01-02-2016, 12:38 PM

**yellowbelle** ★

1,495 posts, read 1,758,070 times  
Reputation: 3509

One of the reasons you may not have received many replies is because per the TOS:

Quote:

This is not the right place for consumer complaints. Such posts present defamation issues and they don't give the other side the opportunity to present their side of the argument.

If anyone would like to chime in, please do so via direct message.

My posts as a Moderator are in **RED**.  
Helpful links: [FAQ](#) ~ [Forum Rules](#) ~ [TOS](#) ~ [Infractions and Thread Deletion FAQs](#)  
[Full Mod List](#)  
~ If you're not kind on the internet, then you're not kind. ~

Please **register** to post and access all features of our very popular forum. It is free and quick. Over \$68,000 in prizes has already been given out to active posters on our forum. Additional giveaways are planned.

Detailed information about all U.S. cities, counties, and zip codes on our site: [City-data.com](#).

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## EXHIBIT 2

Below is a list of forms that are associated with the Purchase Agreement.

Below are important items of which every Buyer should be aware. Please explain each item.

**PACKET #1:**

- ☒ (1) BUYER'S DEPOSIT(S) (Earnest Money and Options Deposit)
- ☒ (2) THIRD-PARTY DEPOSIT ACKNOWLEDGMENT (if applicable)
- ☒ (3) RECONCILIATION OF SALES PRICE (if applicable)
- ☒ (4) SALES TRANSACTION CHECKLIST
- ☒ (5) MAIL-OUT COVER LETTER (if applicable)
- ☒ (6) SALES COMMISSIONS PAYROLL FORM
- ☒ (7) PURCHASE AGREEMENT
- ☒ (8) ADDITIONAL CO-BUYERS ADDENDUM (if applicable)
- ☒ (9) Affiliated Lender AND AUTHORIZATION TO SHARE FINANCIAL INFORMATION
- ☒ (10) NON-REFUNDABLE DEPOSIT ACKNOWLEDGEMENT (if applicable)
- ☒ (11) AVAILABILITY OF DESIRED MODEL AND/OR ELEVATION
- ☒ (12) EXISTING HOME ADDENDUM
- ☒ (13) THIRD-PARTY HOME INSPECTION
- ☒ (14) SELECTED OPTIONS
- ☒ (15) AVAILABLE OPTIONS WITH CUTOFF CODE "A"
- ☒ (16) GENERAL CONDITIONS OF ESCROW
- ☒ (17) REGIONAL GAMING DISTRICT OVERLAYS MAP DISCLOSURE
- ☒ (18) BROKER REGISTRATION AND COMMISSION AGREEMENT (if applicable)
- ☒ (19) COMMISSION CREDIT DISCLOSURE (if applicable)
- ☒ (20) DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE (AGENCY DISCLOSURE)
- ☒ (21) LENDER DISCLOSURE
- ☒ (22) ACKNOWLEDGEMENT OF RECEIPT OF RESIDENTIAL DISCLOSURE GUIDE
- ☒ (23) AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE

**PACKET #2:**

- ☒ (24) KB HOME NEW HOME LIMITED WARRANTY AGREEMENT, VOLUME 1
- ☒ (25) TENTATIVE LAND USE AND ZONING DISCLOSURE MAP (site plan)
- ☒ (26) RECEIPT FOR DOCUMENTS
- ☒ (27) CONSTRUCTION SITE VISIT/BUYER'S ASSUMPTION OF RISK
- ☒ (28) STANDARD DISCLOSURES TO BE SIGNED WITH CONTRACT
- ☒ (29) KB HOME STUDIO DISCLOSURE
- ☒ (30) SUBSEQUENT DISCLOSURES
- ☒ (31) EPG DISCLOSURE
- ☒ (32) FOR YOUR PROTECTION! GET A HOME INSPECTION (FHA Buyers Only)
- ☒ (33) PLOT PLAN (if available)
- ☒ (34) LONG FORM DISCLOSURE
- ☒ (35) PUBLIC OFFERING STATEMENT (if applicable)

**PACKET #3:**

TO MARKETING:

- ☒ (36) EXTERIOR COLOR DISCLOSURE

TO HOUSECALLS:

- ☒ (37) HOMEBUYER SURVEY

TRACT/HASE TEVARE - 415 / 28 LOT/BLOCK 43 / 1

SALESPERSON Jana McNeff

BUYER Jerrin Chiu

BUYER

DATE 1/8/2016

**CONSTRUCTION OF THE HOME / PRE-DRYWALL ORIENTATION**

FEATURES may differ from models. Seller may substitute other materials, fixtures, or methods of construction, if, in Seller's judgment, substitutions become necessary or desirable.

PRE-DRYWALL ORIENTATION - If the home you are purchasing is not past the framing stage of construction, Salesperson will schedule an appointment for you to walk the home with Seller's representative. Please review all options at that time.

EXTERIOR COLOR OF HOME - Of great importance to Seller and to our homebuyers is the overall appearance of the community. Because of this, Seller selects, coordinates, and finalizes all exterior paint colors/schemes of the homes.

LANDSCAPING/SIDEWALKS - Installed on production basis; no choice of trees or shrubs (if applicable). In some communities, sidewalks may only be installed on one side of the street. Check with Salesperson for information.

OUTSIDE WORK DONE ON THE HOME - NEVER permitted at any time until after escrow closes (title recorded) - VOIDS WARRANTIES

**THE LOAN**

YOUR LOAN - Loan application is required within 3 days from date of Purchase Agreement. Loan approval is required within 30 days from date of Purchase Agreement.

LENDER PROCEDURE - Complete cooperation; information provided may require further clarification and more documents.

**KB HOME STUDIO OPTIONS**

FLOORING SELECTIONS - Must be selected and paid for as per the terms of the Purchase Agreement. Flooring selections are final at time of selection.

PRE-SELECTED ITEMS OR PREVIOUSLY INSTALLED ITEMS - Must be sold with the house. Buyer acknowledges all previously installed options by signing a Selected Options Addendum.

OPTIONAL ITEMS - Items must be selected, and paid for, per the terms of the Purchase Agreement and the KB Home Studio Disclosure. Optional items are final at time of selection.

REFUNDS ON OPTIONAL ITEMS - Monies for optional items and/or carpet will become non-refundable as per the terms of the KB Home Studio Disclosure.

PROCESSING FEES FOR OPTIONAL ITEMS - A fee of \$150 per item is charged for any reselection of optional items, per the terms of the KB Home Studio Disclosure.

**LOCK IN YOUR RATE**

COMPLETION OF HOME - All dates given are tentative and NEVER guaranteed. Choosing to lock in a rate does not affect the completion date of the home.

**PREPARE TO MOVE IN**

FIRE INSURANCE - Lenders will require evidence of fire insurance coverage in escrow. Lenders will NOT accept binders. Fire Insurance coverage is highly recommended for cash buyers also.

KB HOME Insurance Agency Inc. - Phone number: 800-446-3371

**NEW HOME ORIENTATION**

NEW HOME ORIENTATION - The Salesperson will schedule a New Home Orientation for you. At this time, you will inspect the home with a KB HOME representative. The representative will provide you with a Homeowner's Manual.

NEW HOME ORIENTATION ITEMS - Seller will have up to 3 business days to complete most items noted during the New Home Orientation following the initial Orientation. Seller may take up to 30 days to complete some items.

**CLOSING TIME**

CLOSING ESCROW - Close of escrow takes place upon the recording of your loan and/or title transfer.

CLOSING FUNDS - Must be provided in the form of a wire transfer of readily available funds. (Amount determined by Escrow.)

**PICK UP YOUR KEYS**

KEY RELEASE - Released only after you complete your New Home Orientation and loan is recorded.

UTILITIES - Buyer's responsibility to turn on/transfer utilities in own name. If utilities are on in Seller's name, they will automatically be disconnected 48 hours after move-in or close of escrow, whichever occurs first.

**CANCELLATION POLICY** - Buyer may cancel at any time prior to the Non-Refundable Deposit Date (as defined in the Purchase Agreement) and obtain a refund of the Earnest Money and Options Deposit fewer costs incurred. Buyer's Deposit is non-refundable after the Non-Refundable Deposit Date as defined in the Purchase Agreement and KB HOME Studio Disclosure.

**CUSTOMER SERVICE POLICY**

**WARRANTY VS. MAINTENANCE ITEMS** - Read any and all applicable limited warranty agreement(s), the Limited Warranty Performance Standards, and maintenance documents carefully to determine if Seller or Buyer is responsible for correcting any problem that arises during any applicable warranty period.

**CUSTOMER SERVICE POLICY** - Use Customer Service forms to request Customer Service work. Written Customer Service requests help expedite scheduling and follow-up. Subcontractors' telephone numbers are provided in walk-through manual for the Homeowner to contact directly. Call the main office for emergencies ONLY.

BUYER UNDERSTANDS AND ACCEPTS THE ABOVE AND ACKNOWLEDGES RECEIPT OF THIS CHECKLIST BY SIGNING BELOW.

Buyer Signature

Date

Buyer Signature

Date

**PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS  
TRANSACTION SUMMARY**

- ☒ Original  
☐ Rewrite  
☐ No Existing Home  
☒ Existing Home

Buyer Jerrin Chiu  
 Salesperson Jana McNeff  
 (Print)  
 Community Tevare  
 Owner Occupied?: ☒ Yes ☐ No  
 Broker?: ☒ Yes ☐ No  
 Seller KB Home Las Vegas, Inc.  
 (Print)

**1. Property:**

Community Tevare Project 415 Lot/Block 43 / 1 Plan Type/Elevation JN / C  
 Street Address 477 CABRAL PEAK STREET Las Vegas NV 89138  
 Street Address City State Zip

**2. Buyer:**

Jerrin Chiu  
 First Initial Last  
 Present Address 2101 Jade Creek Street, Unit 206 Las Vegas NV 89117  
 Street Address City State Zip  
 Home Telephone Business Telephone  
 E-mail Address jchiuev@gmail.com Cell Phone (510) 932-3057

**Co-Buyer:**

First Initial Last  
 Present Address  
 Street Address City State Zip  
 Home Telephone Business Telephone  
 E-mail Address Cell Phone

**3. Buyer's Choice of Escrow Services, Title Insurance Company, and Lender ("Service Providers"):**

- Buyer may select any Service Providers of Buyer's choice.
- Buyer is NOT required to use any of the Service Providers recommended by Seller listed below.
- Buyer must choose one of the two options in each below section 4, 5, and 6 by checking either: (a) the first checkbox with Seller's recommended Service Provider in each section or (b) the second checkbox with Buyer filling in the applicable name and address of Buyer's choices for Service Providers in each section

**4. Escrow Holder:**

Buyer selects:

- ☒ Seller's recommended Escrow Company:  
FATCO, Address: 8311 W. Sunset Rd. Ste. 150 Las Vegas NV 89113  
☐ A different Escrow Company chosen by Buyer (print name and address below)  
 Escrow Company Name: Address:

**5. Title Insurance Company:**

Buyer selects:

- ☒ Seller's recommended Title Insurance Company:  
FATCO, Address: 8311 W. Sunset Rd. Ste. 150 Las Vegas NV 89113  
☐ A different Title Insurance Company chosen by Buyer (print name and address below)  
 Title Insurance Company Name: Address:

**6. Financing:**

- ☒ Conventional Loan ☐ VA Loan ☐ FHA Loan ☐ CASH

Lender: Home Community Mortgage

Lender Address: 8345 W. Sunset, #100, Las Vegas, 89113

**7. Purchase Price:**

**8. Buyer's Deposit(s):**

Base Purchase Price (including Elevation Premium)	\$376,790.00	Earnest Money Deposit (Check one)	\$10,000.00
Lot Premium	\$25,000.00	<input checked="" type="checkbox"/> Received with this Purchase Agreement (Ck. No. 1097 payable to Seller)	
Options:	\$2,975.00	<input type="checkbox"/> Previously received	
Other (see paragraph 10 for details):	\$0.00	<input type="checkbox"/> Transferred from	
	\$0.00	"A" Options Deposit (Ck. No. payable to Seller) <u>ck # 1099</u>	<u>297.00</u>
*Total Purchase Price:	\$404,765.00	Total Deposit: <u>X JC</u>	<u>10,297.01</u>

\*The Total Purchase Price does not include any of the following costs or expenses: Buyer's closing and escrow fees and charges, Buyer's lender fees, swimming pool or related options, any additional options set forth in an Options Contract signed by Buyer, flooring, or any incentives set forth except as expressly stated otherwise therein, in paragraph 11 of this Transaction Summary of the Purchase Agreement and Escrow Instructions.

**9. Significant Dates/Deadlines:**

Original Sale Date: 1/8/2016 Rewrite Date: Estimated Closing Date: To Be Determined

Date Total Deposit (Earnest Money Deposit and "A" Options Deposit) Becomes Non-Refundable: (Buyer to initial the applicable selection(s), and write N/A where not applicable.)

na 5 days after Original Sale Date, see attached Non-Refundable Deposit Addendum

na 5 days after Original Sale Date, if Estimated Closing Date is within 45 days from Original Sale Date or Model Home Purchase or if Buyer is paying cash

Loan Application Deadline: 3 days from Original Sale Date

Loan Approval Deadline: 30 days from Original Sale Date

KB HOME Studio Browse Appointment Date: 1/21

KB HOME Studio Final Appointment Date: 1/28

Buyer's Down Payment into Escrow: As required per Loan Approval or upon signing closing documents

Buyer's Rate Lock: 30 days prior to estimated COE Loan Docs into Escrow: within 48 hours before Buyer's New Home Orientation Date

Close of Escrow: Within 3 business days after Buyer is notified the Property is substantially complete

BUYER(S) INITIALS: JC


11. Additional Terms and Conditions:

Provided that Buyer complies with all the terms of the Purchase Agreement, Seller agrees to accept \$10,000.00 as Buyer's deposit collected at the time of purchase/reservation, as the Earnest Money Deposit for this transaction, instead of the amount that is 10% of the Purchase Price required by the Existing Home Addendum. This shall supersede the Addendum to Purchase Agreement, Existing Home.

12. Estimated Closing Date:

Many unforeseen factors can affect the actual completion of the home, and any anticipated final completion date for the home to be constructed on the Property is only a target date. Seller will endeavor to keep Buyer informed should any change to the completion schedule occur, but cannot guarantee it.

BUYER(S) INITIALS: JC ( ) Tract/Project TEVARE - 415 /415 Lot/Block 43 / 1

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PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES AND SHOULD BE READ AND UNDERSTOOD PRIOR TO SIGNING. THIS IS A BINDING CONTRACT BY WHICH YOU AGREE TO PURCHASE AN INTEREST IN REAL PROPERTY. YOU SHOULD EXAMINE YOUR RIGHTS OF REVOCATION CONTAINED ELSEWHERE IN THIS CONTRACT.

This Purchase Agreement and Escrow Instructions ("Agreement") is entered into between Seller and Buyer for the sale and purchase of certain real property and improvements thereon ("Property") as more particularly described in the foregoing Transaction Summary attached hereto and incorporated herein by this reference. Seller agrees to sell the Property to Buyer and Buyer agrees to purchase the Property from Seller subject to the terms and conditions which are set forth herein. Seller and Buyer shall sometimes be referred to herein as the "Parties." The Parties agree as follows:

1. **Property Description.** The description of the Property is set forth in the attached Transaction Summary. Seller has constructed or will construct the residence within the Property substantially in accordance with Seller's plans and specifications (and any amendments thereto) pertaining to the residence which are on file with the building department of the City or County in which the Property is located. The residence is not being constructed specifically for Buyer nor to the precise specifications or design of any model home displayed by Seller. This Agreement is an agreement to purchase a completed residence. Seller is not acting as Buyer's contractor.
2. **Purchase Price and Deposit.** Concurrently with the execution of the Agreement, Buyer has delivered to Seller an earnest money deposit and an "A" options deposit in the amount set forth in Paragraph 8 of the foregoing Transaction Summary (collectively, the "Deposit"), by check made payable to Seller, as set forth in the Transaction Summary. The Purchase Price of the Property may be increased and Buyer may be required to deposit additional amounts as set forth in any addenda attached hereto and made a part of this Agreement pursuant to Paragraph 22 below and pursuant to the terms of any option/upgrade work orders/contracts provided by Seller and signed by Buyer concurrently herewith or after the date of this Agreement for optional and upgrade improvements to the Property. As a result of Seller maintaining the Deposit, Seller may receive certain financial benefits such as an array of bank services, accommodations, loans or other business transactions ("Collateral Benefits"). All Collateral Benefits shall accrue to the sole benefit of Seller, and Seller shall have no obligation to account to the Buyer for the value of any such Collateral Benefits.
  - 2.1. The Deposit shall become non-refundable to Buyer and shall be deemed fully earned by Seller, regardless of whether Buyer's Loan (defined below) is approved or disapproved, on the "Date Earnest Money Deposit Becomes Non-Refundable," as set forth in Paragraph 9 of the foregoing Transaction Summary ("Non-Refundable Deposit Date"). At any time prior to the Non-Refundable Deposit Date, Buyer may cancel this Agreement, and the Deposit, less any costs incurred, shall be returned to Buyer.
3. **Financing.**
  - 3.1. **Cash Transactions.** If Buyer will be paying cash to complete the purchase of the Property:
    - (i) Within five (5) calendar days of executing this Agreement, Buyer agrees to provide Seller with evidence satisfactory to Seller that sufficient cash is available to complete this purchase;
    - (ii) Buyer agrees to execute any written forms reasonably necessary for Seller to make such verification;
    - (iii) during the term of escrow, Buyer agrees to maintain said source of cash at a balance equal to or greater than the Total Purchase Price and associated closing costs; and
    - (iv) the balance of the Total Purchase Price shall be deposited with the Escrow Company referred to in the Transaction Summary ("Escrow Holder"), in the form of a cashier's check or via a wire transfer of readily available funds not later than one business day prior to the scheduled Close of Escrow (defined below).Seller reserves the right to re-verify the cash amount any time during the term of Escrow, and if necessary funds are not maintained during the period, Buyer shall be deemed in default of this Agreement. Seller may, at its sole option, terminate this Agreement, in which event Seller may exercise any or all of its rights set forth in Paragraph 9 below and Seller shall have no further obligation to Buyer with respect to this Agreement or the Property.
  - 3.2. **Loan Application.** Buyer shall apply for a home loan ("Loan") through either Seller's Affiliated Lender, Home Community Mortgage, LLC ("Home Community Mortgage") or any other institutional lender selected by Buyer (whichever is chosen by Buyer being referred to as "Lender") within three (3) days after Buyer signs this Agreement. Buyer acknowledges that he/she has been afforded the opportunity to obtain the Loan from a Lender of Buyer's choosing, and, if Affiliated Lender has been selected as the Lender, that Buyer freely selected Affiliated Lender by his/her own choice. Buyer further acknowledges that Buyer shall be responsible for all costs and fees charged by a Lender through which Buyer has requested financing. Buyer shall provide Seller with a copy of the completed loan application immediately upon submittal thereof to Lender. Buyer agrees in good faith to take all steps and provide all information and supporting documentation required by the Lender for processing the loan application, including, without limitation, providing statements of identity, employment verifications, tax returns, pay stubs, notes, trust deeds, credit reports, loan escrow instructions, etc. Buyer shall promptly deliver to Lender any additional information or documentation required by the Lender and execute all documents required by Lender. In addition, even if Buyer is paying cash for the Property and does not intend to obtain third party financing, Buyer(s) agree, to fully complete and provide the Seller the additional documentation described above, at the time of purchase
  - 3.3. **Loan Approval/Disapproval.** Buyer shall, in good faith, apply for a Loan and diligently pursue Loan approval. Buyer acknowledges that Buyer's obligation to purchase the Property is not contingent upon Buyer obtaining Loan approval and that Buyer's Deposit shall become non-refundable to Buyer on the Non-Refundable Deposit Date, irrespective of whether the Loan is approved. Additionally, if Buyer fails to obtain written notification from Lender of unconditional Loan approval within thirty (30) days after the "Original Sale Date" as set forth in Paragraph 9 of the Transaction Summary, or any other time period as agreed to by Buyer and Seller, in writing, then Buyer or Seller may, by written notice to the other and to Escrow Holder, cancel this Agreement. In the event of such cancellation (a) Buyer shall have no right to purchase the Property and shall have no claim or interest in or to the Property, and (b) if such cancellation occurs before the Non-Refundable Deposit Date, all funds previously deposited by Buyer, less any escrow costs, credit report and loan charges incurred, shall be returned to Buyer, unless Seller is entitled to retain any such amounts pursuant to any option/upgrade work orders/contracts. If such cancellation occurs after the Non-Refundable Deposit Date, Seller shall retain Buyer's Deposit and all other funds previously deposited by Buyer to which Seller may be entitled pursuant to any option/upgrade work orders/contracts, all remaining funds shall be returned to Buyer and neither party shall have any further obligation, right, or liability whatsoever.
  - 3.4. **Buyer's Loan Default.** Buyer shall be in material default of this Agreement as a result of any of the following:
    - (i) any failure by Buyer to timely apply for a Loan as provided herein;
    - (ii) any voluntary act of Buyer undertaken for the purpose of preventing Lender from approving the Loan;
    - (iii) any request by Buyer that Lender not approve the Loan;
    - (iv) a failure by Buyer to furnish all documents and information required by the Lender within the time limits specified herein;
    - (v) any material misrepresentation or other default resulting in Lender's disapproval of the Loan;
    - (vi) any failure to properly sign all documents and take any and all actions required by Lender to approve or timely fund the Loan;
    - (vii) if purchasing with cash, failure to provide to Seller in a timely manner evidence of availability of cash as provided herein; or
    - (viii) any failure by Buyer to furnish all Loan documents to Escrow Holder on or before three (3) days prior to the Close of Escrow.Notwithstanding anything to the contrary, in the event of such default, Seller may, at its option, exercise any or all of its rights set forth in Paragraph 9 below.

BUYER(S) INITIALS: (X) ( )

Tract/Project TEVARE - 415/415

Lot/Block 43 / 1

- 3.5. Rate Locks. Buyer has been advised that Seller's construction completion dates are tentative and subject to change at any time. Therefore, Buyer understands and agrees that Seller is not involved in and is not responsible for interest rate lock agreements made between Buyer and Buyer's lender, even if the lender is Affiliated Lender. Further, Buyer understands and agrees that should Buyer lock in a particular interest rate with its lender and should said lock expire prior to the completion of Seller's Property, neither Seller nor Buyer's lender, including but not limited to Affiliated Lender, is responsible for any change in Buyer's interest rate and neither Seller nor Buyer's lender, including but not limited to Affiliated Lender, will contribute to any costs involved in extending or re-locking Buyer's lock agreement.
- 3.6. Loan Terms. THE TERMS AND CONDITIONS OF THE LOAN ARE A MATTER OF CONCERN SOLELY BETWEEN BUYER AND LENDER AND SHALL NOT IN ANY WAY AFFECT THE RIGHTS OR OBLIGATIONS OF THE PARTIES UNDER THIS AGREEMENT. BUYER ACKNOWLEDGES THAT SELLER MAKES NO REPRESENTATION THAT THE INTEREST RATE PREVAILING AT THE CLOSE OF ESCROW WILL BE THE RATE QUOTED BY THE LENDER TO THE BUYER AT THE TIME OF LOAN APPROVAL. BUYER ACKNOWLEDGES THAT THE SALE AND PURCHASE OF THE PROPERTY IS NOT CONTINGENT UPON BUYER'S ABILITY TO RETAIN THE INTEREST RATE QUOTED AT THE TIME OF LOAN APPROVAL AND THAT BUYER WILL BE REQUIRED TO PAY THE INTEREST RATE CHARGED BY THE LENDER AT THE CLOSE OF ESCROW. BUYER AGREES TO MAKE SUCH IMPOUND PAYMENTS FOR REAL PROPERTY TAXES AND ASSESSMENTS, HOMEOWNERS' ASSOCIATION ASSESSMENTS (WHEN APPLICABLE), AND FIRE AND OTHER HAZARD INSURANCE PREMIUMS AS MAY BE REQUIRED BY OR AS MAY BE NEGOTIATED WITH THE LENDER.
- 3.7. No Obligation to Use Home Community Mortgage. Buyer acknowledges that there is no obligation on the part of Buyer whatsoever to use the lending services of Home Community Mortgage. Buyer may select any lending institution of his/her choice for the purpose of securing mortgage financing and is not limited to Home Community Mortgage.
- 3.8. Not a Loan Application or Commitment. By signing this Agreement, Buyer acknowledges that this Agreement does not constitute either a loan application to, or loan approval or commitment by, any Lender. Buyer shall be solely responsible for obtaining the Loan.
- 3.9. Affiliated Lender. Seller's Affiliated Lender is Home Community Mortgage, LLC ("Home Community Mortgage" or "Affiliated Lender"). Buyer is NOT required to use Affiliated Lender as Buyer's lender. Buyer may select any lending institution of his or her choice for the purpose of securing mortgage financing and is NOT in any way whatsoever limited to obtaining financing from Affiliated Lender. Seller and Affiliated Lender are independently responsible for the products and services each company offers. Although Buyer is not required to use the services of Affiliated Lender prior to entering into a Purchase Agreement to purchase a Home from Seller, Buyer may be required to be prequalified for financing in order to establish Buyer's ability to complete the Home purchase. If so, Buyer may be required to provide to Affiliated Lender the basic information required on Affiliated Lender's loan application form and to permit credit reports to be obtained by Seller and Affiliated Lender in order to permit Affiliated Lender to prequalify Buyer as a qualified prospective Buyer. Prequalification involves no out of pocket costs to Buyer. In addition, Buyer is hereby notified that one of Seller's affiliates (KB Home) has entered into an arrangement with Affiliated Lender pursuant to which KB Home provides marketing services on behalf of Affiliated Lender. KB Home receives compensation from Affiliated Lender from providing these services.
- 3.10. Lender Information Release. By executing this Agreement, Buyer authorizes Lender to release to Seller or its representatives any and all information concerning the status of Buyer's Loan, including, but not limited to, the Loan application, Loan submittal, conditions to Loan approval, written Loan approval, written denial of Loan approval and reasons therefore, status of Loan documents, and funding conditions and requirements.
- 3.11. Buyer's Credit Information. Buyer hereby authorizes Seller or Affiliated Lender, to conduct a credit check on Buyer and Buyer agrees to execute such further written authorizations reasonably necessary to enable Seller and/or, Affiliated Lender, to conduct such a credit check.

Buyer's Initials

Buyer's Initials

4. Escrow.

- 4.1. Escrow Instructions: Opening of Escrow. Seller shall deposit an executed copy of this Agreement with Escrow Holder which shall thereafter constitute the escrow instructions of the Parties. The terms and provisions hereof may be modified from time to time during the pendency of Escrow only by mutual written agreement of the Parties. Any attempt to modify the Agreement without the written consent of both parties shall be void and without legal effect. Promptly after Seller executes this Agreement, the Parties shall open the Escrow by delivering a fully executed copy of this Agreement to Escrow Holder. Escrow Holder's General Provisions are set forth in the General Conditions of Escrow addendum attached to this Agreement. Seller and Buyer agree that, as between Buyer and Seller, in the event of any conflict between the General Conditions of Escrow addendum and this Agreement, this Agreement shall be controlling. Buyer and Seller shall execute and deposit with Escrow Holder such further funds, instructions, documents and forms consistent with the terms of this Agreement and necessary to consummate the sale and purchase of the Property in accordance with the terms of this Agreement as may be required by Escrow Holder or Seller. Buyer is NOT required to use any escrow service provider or title insurance provider recommended by Seller. Buyer may select any escrow service provider and title insurance company of his or her choice.
- 4.2. Close of Escrow. Unless the Escrow is earlier terminated as provided herein, Escrow shall close (the "close of escrow") within three (3) business days after notification to Buyer that the Property is substantially completed. At least one business day prior to the Close of Escrow, Buyer shall (a) deposit or cause to be deposited with Escrow the balance of the Purchase Price and all closing costs and fees to be paid by Buyer and all documents necessary to close Escrow. This amount must be provided in the form of a wire transfer of readily available funds, or a cashier's check made payable to the escrow company referred to in the Transaction Summary; Personal Checks and out-of-state cashier's checks will not be accepted; (b) Seller shall likewise deliver to Escrow all funds and documents necessary to close Escrow, including a fully executed and notarized Grant, Bargain and Sale Deed for the conveyance of title to the Property to Buyer, and (c) Buyer shall perform a New Home Orientation and inspect the completed residence as provided in Paragraph 12 below. Seller shall have up to thirty (30) days after the New Home Orientation to enable Seller to complete some or all of the corrective work identified at the New Home Orientation inspection. If, after notice and tender of its required performance by Seller, Buyer does not schedule or attend a New Home Orientation of the Property or is not ready to close Escrow within the time set forth herein, Buyer shall be in material default of its obligations under this Agreement. IF REQUESTED BY BUYER, SELLER MAY, AT SELLER'S SOLE OPTION, EXTEND THE TIME FOR CLOSING OF ESCROW, PROVIDED BUYER PAYS SELLER A NONREFUNDABLE FEE ("HOLDING FEE") IN THE AMOUNT OF \$100.00 PER DAY ON THE PROPERTY. THE HOLDING FEE SHALL NOT BE APPLICABLE TO THE PURCHASE PRICE OF THE PROPERTY.

If Buyer is using FHA or VA financing, Buyer understands that Close of Escrow may be delayed beyond date of completion of house construction if subdivision improvements are not completed. In such cases, Buyer may agree to pay the Holding Fee and take possession of the house after the date Notice of Completion of the house is recorded, with Seller's approval. Buyer understands that notwithstanding the payment of the Holding Fee, the Property shall still belong to Seller and Buyer shall have no interest in the Property until the Close of Escrow. For the purposes of this Agreement, the Close of Escrow shall be the date the Deed is recorded in the Official Records of the County in which the Property is located.

THE ACTUAL CLOSING DATE MAY VARY FROM THE ESTIMATED CLOSING DATE SET FORTH IN THE TRANSACTION SUMMARY. BUYER HEREBY ACCEPTS THE UNCERTAINTY OF THE DATE ESTIMATED FOR THE CLOSE OF ESCROW. SELLER WILL NOT BE RESPONSIBLE FOR INCONVENIENCE, LOSS, OR EXPENSE TO BUYER RESULTING FROM DELAYS IN CONSTRUCTION COMPLETION AND CLOSE OF ESCROW.

BUYER(S) INITIALS: (X) ( ) Tract/Project TEVARE - 415/415 Lot/Block 43 / 1



4.3. Appraisals

- (i) Appraised Value. Buyer acknowledges that the purchase of the Home is not contingent upon Buyer obtaining an appraisal equal to the purchase price of the Home. Buyer also acknowledges that should the appraised value of the Home be less than the purchase price of the Home, Buyer will be required to pay the difference, in cash, at the close of escrow.
- (ii) Appraisal Comps. Buyer acknowledges that the details of their purchase price, including options and flooring, may be provided to appraisers by Seller during escrow or after the close of escrow for the sole purpose of obtaining appraisal values for future KB HOME properties.

4.4. Authorized Disbursements to Third Parties. Provided that the Property is not located within a Common Interest Community, as defined by Nevada Revised Statutes 116.110323, Buyer's Deposit may be used to cover the costs, fees, and charges for credit reports, escrow services, contract coordination services, preliminary title reports, appraisals, and loan origination and processing. Buyer understands that from the amount so deposited, the Seller may make disbursements to third parties immediately upon receipt of billing. Buyer further understands that disbursements made to third parties pursuant to this paragraph are not refundable and that neither Seller, Broker nor Escrow Holder shall be liable therefore. Any portion of said funds which has not been disbursed to third parties by the Close of Escrow or by the earlier termination of this Agreement shall be refunded to Buyer, unless Seller is entitled to retain such amounts pursuant to Paragraph 9 below. If the actual amount of impounds and/or closing costs, including the fees listed above, exceeds the Deposit, then Buyer shall immediately upon receipt of notification of this amount, deposit with Escrow Holder the additional amount due. Notwithstanding the above, if Buyer obtains a loan guaranteed by VA, the amount deposited by Buyer pursuant to this Agreement shall not exceed the amounts permitted by applicable VA regulations.

4.5. Closing Costs. Buyer shall pay all lender closing costs escrow costs, contract coordination costs and one half (1/2) of the Real Property Transfer Tax amount. The cost of title insurance shall be allocated between Buyer and Seller in accordance with the usual custom in the County in which the Property is located, unless otherwise indicated in this Agreement. The total Purchase Price of the Property is based on the assumption that title insurance will be provided by the company selected by Seller. Buyer may request that such service be provided by another; however, in such case Seller shall not pay title costs in excess of the rate for escrow and title costs that would be charged by Seller's recommended title company in the County where the Property is located. Buyer shall pay or reimburse Seller through Escrow for any excess costs over what Seller would have normally paid.

4.6. Taxes/Prorations. All taxes, bonds and assessments, homeowners association assessments, if any, and other charges applicable to the Property shall be prorated as of the Close of Escrow based upon a thirty (30) day month and the most current available bills, statements and other information. In the event the estimate for the current fiscal year differs from the most current available bill or statement, the Buyer and Seller agree to refund to the other, as appropriate, any excess proration. Buyer acknowledges that the County Tax Assessor may not yet have separately assessed the lots/units in the project in which case the foregoing proration shall be based upon Buyer's pro rata share of the unsegregated tax bill for the total number of unsegregated lots/units in the Project. Buyer further acknowledges and understands that the Tax Assessor has the authority to re-assess newly constructed homes after Buyer acquires title to the home and that upon such re-assessment, the Tax Assessor may then issue a supplemental tax bill to Buyer for the tax difference resulting from any re-assessment. Buyer acknowledges and understands that Seller has no control over the Assessment, nor the timing or the amount of any supplemental bill resulting from the re-assessment and Seller accepts no responsibility for adjusted taxes.

4.7. Insurance Coverage. To prevent a delay in closing of escrow, no later than five (5) calendar days prior to Close of Escrow Buyer shall provide Escrow Holder with evidence of insurance coverage acceptable to Buyer's Lender. If Buyer does not provide evidence that insurance coverage has been arranged, then Buyer agrees that Escrow Holder may purchase and Buyer shall accept and pay for such insurance coverage as is required by Buyer's Lender from an insurance company to be selected by Seller.

5. Title to the Property.

5.1. Vesting. Title to the Property shall vest as specified by Buyer to Escrow Holder prior to the Close of Escrow.

NOTE: The manner of vesting title is at the sole discretion of the Buyer. The manner of taking title to the Property can have significant legal and tax consequences. Buyer is advised to give this matter serious consideration and consult with an attorney or tax consultant for advice.

5.2. Exceptions to Title. Title to the Property shall be given to Buyer subject to taxes for the current fiscal year and covenants, conditions, restrictions, reservations, easements, and rights of way, of record or to be recorded by the Seller, any loans placed on said Property by Buyer in financing this purchase, and reservations of water, oil, gas, mineral and hydrocarbon substances rights. A preliminary title report from the title insurance company showing matters of record will be provided to Buyer by the Escrow Company.

6. Compliance with Building Codes and Regulations. Buyer understands and agrees that the various steps of construction shall be deemed to have been satisfactorily performed in compliance with all existing and prevailing regulations at time of construction, when approved by the appropriate governmental authorities. Buyer understands and agrees that Seller shall only be responsible for compliance with building codes and other such regulations in effect at the time of construction of the house, and not for changes in codes, regulations, or technology occurring after building plan approval by applicable governmental agencies.

7. Construction Delays. In the event of flood, fire, earthquake, acts of God, shortages, priorities, allocations or rationing by any governmental authority, public or private utility, subcontractor or supplier, or other cause beyond Seller's reasonable control which affects the availability or promptness of delivery of labor, materials, energy or utility sources, connections or services required by Seller or its contractor to perform this Agreement, or in the event of civil riot, insurrection, war or foreign military commitments resulting in a material economic disruption of the ordinary prices or practices of the building industry, then Seller's time for performance shall be extended for the period of delay caused by such event.

8. Buyer's Right of Cancellation. Seller is acting as a "speculative builder" in this transaction and as such is constructing the house to its own standards to be offered for sale as constructed when completed. Seller is not acting as contractor for the Buyer and is not obligated or agreeing to construct the house to Buyer's standards, satisfaction, or schedule. Buyer shall inspect the house and lot upon completion and on the basis of Buyer's independent inspection shall, if satisfied with the house and lot when and as completed, so indicate by completing this purchase. If Buyer is not satisfied with the house and lot as completed, if construction is not completed when desired, or if substitutions are not satisfactory to Buyer, Buyer may cancel this agreement by notifying Seller. In this event, if cancellation occurs prior to the Non-Refundable Deposit Date, all funds previously deposited by Buyer, less any escrow costs, credit report and loan charges, and less any amounts which Seller is entitled to retain pursuant to any option/upgrade work orders/contracts, shall be returned to Buyer and neither party shall have any further obligation, right or liability whatsoever. If such cancellation occurs after the Non-Refundable Deposit Date, Seller shall retain Buyer's Deposit and all other funds previously deposited by Buyer to which Seller may be entitled pursuant to any option/upgrade work orders/contracts, all remaining funds shall be returned to Buyer and neither party shall have any further obligation, right, or liability whatsoever. Notwithstanding the foregoing, Seller shall endeavor to complete the construction of the dwelling on the Property within twelve (12) months after the date of execution of this Agreement or such earlier time as may be required by the VA or FHA if Buyer obtains a VA or FHA loan. If, through no fault of Buyer, Escrow is not closed within this twelve (12) month time period or such extended time period mutually agreed to in writing by Seller and Buyer, or if the house or other improvements of the Property are destroyed or materially damaged prior to the Close of Escrow; or with regard to Buyers with VA loans who are unable to obtain VA financing, if the house as constructed, or changes and substitutions made to the house are not in substantial conformity with plans, specifications, and change orders on file with the Veterans Administration, then Buyer shall have the following options:

BUYER(S) INITIALS: (JC) ( ) Tract/Project TEVARE - 415/415 Lot/Block 43 / 1

EXCEPT AS PROVIDED IN THE PRECEDING PARAGRAPH OF THIS SECTION 10, ANY AND ALL CLAIMS, CONTROVERSIES, BREACHES, OR DISPUTES (EACH A "DISPUTE") BY OR BETWEEN THE PARTIES HERETO, EXCEPT FOR DISPUTES CONTROLLED BY THE DISPUTE RESOLUTION

PROVISIONS IN THE KB HOME LIMITED WARRANTY (AS SUCH TERM IS DEFINED BELOW), ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE SALE OF THE PROPERTY BY SELLER, OR ANY TRANSACTION RELATED HERETO, WHETHER SUCH DISPUTE IS BASED ON CONTRACT, TORT, STATUTE, OR EQUITY, INCLUDING, WITHOUT LIMITATION, ANY DISPUTE OVER (1) THE DISPOSITION OF ANY DEPOSITS HEREUNDER, (2) BREACH OF CONTRACT, (3) NEGLIGENT OR INTENTIONAL MISREPRESENTATION OR FRAUD, (4) NONDISCLOSURE, (5) BREACH OF ANY ALLEGED DUTY OF GOOD FAITH AND FAIR DEALING, (6) ANY CLAIM RELATED TO CONSTRUCTION OR INSTALLATION OF ANY IMPROVEMENTS ON THE PROPERTY OR PROJECT, THE GRADING OF THE PROPERTY OR PROJECT, OR ANY WORK OR SERVICES PERFORMED BY OR ON BEHALF OF SELLER ON OR IN CONNECTION WITH THE PROPERTY OR PROJECT, INCLUDING, WITHOUT LIMITATION, CLAIMS OF ANY ALLEGED DEFECT (INCLUDING, WITHOUT LIMITATION, DISPUTES SUBJECT TO THE PROVISIONS OF NRS 40.600 TO 40.695; OR (7) ANY OTHER MATTER ARISING OUT OF OR RELATED TO THE INTERPRETATION OF ANY TERM OR PROVISION OF THIS AGREEMENT, OR ANY DEFENSE GOING TO THE FORMATION OR VALIDITY OF THIS AGREEMENT, OR ANY PROVISION OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ALLEGATIONS OF UNCONSCIONABILITY, FRAUD IN THE INDUCEMENT, OR FRAUD IN THE EXECUTION, WHETHER SUCH DISPUTE ARISES BEFORE OR AFTER THE CLOSE OF ESCROW, SHALL BE ARBITRATED PURSUANT TO THE FEDERAL ARBITRATION ACT AND SUBJECT TO THE PROCEDURES SET FORTH IN THIS PARAGRAPH.

THIS ARBITRATION AGREEMENT SHALL BE DEEMED TO BE A SELF-EXECUTING ARBITRATION AGREEMENT. ANY DISPUTE CONCERNING THE INTERPRETATION OR THE ENFORCEABILITY OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ITS REVOCABILITY OR VOIDABILITY FOR ANY CAUSE, ANY CHALLENGES TO THE ENFORCEMENT OR THE VALIDITY OF THIS AGREEMENT, OR THIS PARAGRAPH, OR THE SCOPE OF ARBITRABLE ISSUES UNDER THIS PARAGRAPH, AND ANY DEFENSE RELATING TO THE ENFORCEMENT OF THIS PARAGRAPH, INCLUDING, WITHOUT LIMITATION, WAIVER, ESTOPPEL, OR LACHES, SHALL BE DECIDED BY AN ARBITRATOR IN ACCORDANCE WITH THIS PARAGRAPH AND NOT BY A COURT OF LAW.

ANY AND ALL SUCH DISPUTES SHALL BE SUBMITTED TO BINDING ARBITRATION BY AND PURSUANT TO THE RULES OF AMERICAN ARBITRATION ASSOCIATION, 6795 N. PALM AVENUE, FLOOR 2, FRESNO, CA 93704, (877) 528-0880 (HEREINAFTER, "AAA") IN EFFECT AT THE TIME OF THE INITIATION OF THE ARBITRATION. IN THE EVENT AAA IS FOR ANY REASON UNWILLING OR UNABLE TO SERVE AS THE ARBITRATION SERVICE, THE PARTIES SHALL SELECT ANOTHER REPUTABLE ARBITRATION SERVICE. IF THE PARTIES ARE UNABLE TO AGREE ON AN ALTERNATIVE SERVICE, THEN EITHER PARTY MAY PETITION ANY COURT OF COMPETENT JURISDICTION IN THE COUNTY IN WHICH THE PROPERTY IS LOCATED TO APPOINT SUCH AN ALTERNATIVE SERVICE, WHICH SHALL BE BINDING ON THE PARTIES. THE RULES AND PROCEDURES OF SUCH ALTERNATIVE ARBITRATION SERVICE IN EFFECT AT THE TIME OF THE INITIATION OF THE ARBITRATION SHALL BE FOLLOWED.

10.1 GENERAL ARBITRATION PROVISIONS.

- (i) Buyer and Seller expressly agree and acknowledge that this Agreement involves and concerns interstate commerce and is governed by the provisions of the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect and as the same may from time to time be amended, to the exclusion of any different or inconsistent state or local law, ordinance, regulation, or judicial rule. Accordingly, any and all disputes shall be arbitrated – which arbitration shall be mandatory and binding – pursuant to the Federal Arbitration Act.
- (ii) To the extent that any state or local law, ordinance, regulation, or judicial rule shall be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.
- (iii) This paragraph shall inure to the benefit of, and be enforceable by, Seller's subcontractors, agents, vendors, suppliers, design professionals, insurers and any other person whom buyer contends is responsible for all or any portion of a Dispute.
- (iv) In the event any Dispute is submitted to arbitration, each party shall bear its own attorneys' fees and costs (including expert costs) for the arbitration.
- (v) The arbitrator shall be authorized to provide all recognized remedies available in law or in equity for any cause of action that is the basis of the arbitration. The decision of the arbitrator shall be final and binding. Buyer and Seller expressly agree that an application to confirm, vacate, modify, or correct an award rendered by the arbitrator shall be filed in any court of competent jurisdiction in the county in which the property is located.
- (vi) The participation by any party in any judicial or other proceeding relating to any matter arbitral hereunder shall not be asserted or accepted as a reason to delay or to refuse to participate in arbitration hereunder, or to refuse to enforce this paragraph.
- (vii) The fees to initiate the arbitration shall be advanced by Seller. Subsequent fees and costs of the arbitration and/or the arbitrator shall be borne equally by the parties to the arbitration; provided, however, that the fees and costs of the arbitration and/or the arbitrator ultimately shall be borne as determined by the arbitrator.
- (viii) The arbitrator appointed to serve shall be a neutral and impartial individual.
- (ix) The venue of the arbitration shall be in the County where the property is located unless the parties agree in writing to another location.
- (x) If any provision of this paragraph shall be determined to be unenforceable or to have been waived, the remaining provisions shall be deemed to be severable therefrom and enforceable according to their terms.

NOTICE: BUYER AND SELLER AGREE TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THIS PARAGRAPH ENTITLED "ARBITRATION OF DISPUTES" DECIDED BY NEUTRAL, BINDING ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND NEVADA ARBITRATION LAW, TO THE EXTENT NEVADA LAW IS NOT INCONSISTENT WITH THE FEDERAL ARBITRATION ACT, AND BUYER AND SELLER ARE GIVING UP ANY RIGHTS BUYER AND SELLER MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALING IN THE SPACE BELOW BUYER AND SELLER ARE GIVING UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS PARAGRAPH ENTITLED

BUYER(S) INITIALS: SC ( ) Tract/Project TEVARE - 415/415 Lot/Block 43 / 1



SELLER DOES NOT ASSUME ANY OBLIGATION TO SERVICE OR REPAIR SUCH CONSUMER PRODUCTS OR GOODS. THEY ARE INCLUDED ON AN "AS IS" BASIS WITH BUYER ASSUMING THE ENTIRE COST OF ALL NECESSARY SERVICE, REPAIR, OR REPLACEMENT IN THE EVENT OF DEFECT IN QUALITY OR PERFORMANCE.

NOTWITHSTANDING ANY OTHER PROVISION HEREIN, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARE DISCLAIMED AND EXCLUDED BY SELLER TO THE MAXIMUM EXTENT PERMITTED BY LAW, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR PARTICULAR PURPOSE, HABITABILITY AND WORKMANSHIP. I (WE), THE BUYER, HAVE READ AND UNDERSTAND THE ABOVE PARAGRAPH AND ACKNOWLEDGE RECEIPT OF A COPY OF THE ABOVE-REFERENCED KB HOME LIMITED WARRANTY AND DISCLAIMER OF IMPLIED WARRANTIES.

JC  
Buyer's Initials

16. Obligation to Provide Documents to Subsequent Buyers, Obligation to Provide Information to Seller. As to any documents provided pursuant hereto, or in conjunction herewith, including, without limitation, the KB Home Limited Warranty, the Warranty Performance Standards and Seller's Homeowner Manual, Buyer hereby acknowledges that Buyer is obligated to, and hereby agrees to, provide copies of such documents to any subsequent purchasers of the Property from Buyer. Buyer further hereby acknowledges that Buyer is obligated to, and hereby agrees to, provide Seller promptly at the time of the sale with the names of any subsequent purchasers of the Property from Buyer.
17. Recordation of Documents. Buyer acknowledges and hereby agrees that Seller may, at Seller's election, but shall not be obligated to, record against title to the Property (or record notice of the existence of) the KB Home Limited Warranty, the Warranty Performance Standards and/or all or portions of Seller's Homeowner Manual, and such other documents as may be reasonably necessary to effectuate the intent and purposes of said documents.
18. Lot and Off-site Improvements. Lot and street improvement work will be provided by Seller in accordance with plans filed with the appropriate governmental agency. Seller shall make all reasonable efforts to install streets and off-site improvements prior to Close of Escrow, but if all other requirements hereunder have been met and Seller is unable, for reasons beyond its control, to install said improvements prior to Close of Escrow, Buyer agrees that Escrow may close without installation of said improvements, provided the dwelling is habitable, accessible and suitable for occupancy. Buyer further agrees to execute all documents necessary to close Escrow, and Seller agrees to install and complete such improvements within a reasonable time, without additional cost to Buyer. In such event, Buyer agrees to grant Seller an easement to enter upon the Property to perform the work necessary to complete such improvements. Buyer shall be responsible for any damages resulting from any changes made by Buyer to the established drainage pattern or lot grading.
19. FHA and VA Loans. With regard to FHA and VA Loans, it is expressly agreed that notwithstanding any other provisions of this Agreement, the Buyer shall not incur any penalty by forfeiture of the Deposit or be obligated to complete the purchase of the Property if the purchase price of the Property exceeds the appraised value of the Property for mortgage insurance purposes by FHA or the Reasonable Value established by VA. The Buyer shall, however, have the privilege and option of proceeding with the consummation of this contract without regard to the amount of the FHA appraisal or VA Reasonable Value. A spot appraisal will be required and will be ordered by the lender from FHA or the VA.
20. General Provisions.
- 20.1. Entire Agreement. Except for the KB HOME Limited Warranty applicable to the Property, this Agreement is intended by Buyer and Seller as the final expression and complete and exclusive statement of their agreement with respect to the provisions of this Agreement, and any prior or contemporaneous oral or written agreements or understandings which may contradict, explain or supplement these terms shall not be admissible or effective for any purpose. No salesperson, agent or employee of Seller has the authority to make any representations which contradict or alter any terms of this Agreement. There are no collateral understandings, representations or agreements between the parties with respect to the transaction contemplated herein, other than those contained in this Agreement and any written amendments or addenda hereto or written disclosures provided to Buyer in connection with this Agreement.
- 20.2. Amendment. From time to time following acceptance of the Agreement by Seller, Buyer and Seller may amend this Agreement by completing and signing a Terms and Conditions Addendum. Any such Addendum that refers to Buyer and the Property, once signed by Buyer and accepted by Seller, shall constitute an amendment to the Transaction Summary attached to this Agreement. This Agreement may not be otherwise altered except in writing signed by Buyer and Seller expressly stating that it amends this Agreement.
- 20.3. No Assignment. This Agreement and Escrow may not be assigned or otherwise transferred, voluntarily or by operation of law, by Buyer without the written consent of Seller, which consent may be withheld by Seller at its sole discretion, and any attempt to do so shall be void and shall constitute a default by Buyer.
- 20.4. Severability. If any provision of the Agreement or its application to any party or circumstance is declared invalid or unenforceable by an appropriate court, then the remaining provisions (and the affected provision to the extent it is not so declared) shall remain valid and enforceable and in full force and effect.
- 20.5. No Waivers. The waiver by Seller of any provision of this Agreement or any default by Buyer is effective only if it is in writing and shall not be considered as a waiver of any other provision of default. The waiver by the Seller of a breach of any provision of this agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach, whether of the same or another provision of this Agreement.
- 20.6. Joint Obligations. If Buyer is comprised of more than one person or entity, then each party comprising Buyer shall be jointly and severally responsible for the performance of Buyer's obligations under this Agreement.
- 20.7. Interpretation. Headings in this Agreement are included for reference purposes only and shall not affect the meaning of any provisions of this Agreement.
- 20.8. Notices. All notices to Buyer and Seller shall be personally delivered, including by telephonic telegram, courier or messenger service, or by ordinary or certified mail to the address of Buyer and Seller set forth in this Agreement. Delivery of a notice shall be deemed made on the date of actual delivery if it is personally delivered or sent by certified mail or two (2) business days after it is deposited in the mail if it is sent by ordinary mail. Notices to Seller shall be addressed as follows: Attn: Division President, KB Home Las Vegas, Inc., 5795 Badura Ave., Suite 180, Las Vegas, NV 89118.
- 20.9. Cooperation. Buyer and Seller agree to execute all instruments and documents and to take all actions as may be required herein and by Escrow Holder and Lender, if any, to consummate the sale and purchase herein contemplated.
- 20.10. No Tax Withholding. Section 1445 of the Internal Revenue Code provides that a transferee of a United States real property interest must withhold tax if the transferor (i.e., Seller) is a foreign person. To inform Buyer that withholding of tax is not required in connection with this transaction, Seller certifies that Seller is not a foreign corporation, foreign partnership, foreign trust or foreign estate.
- 20.11. Buyer's Acknowledgments. Buyer has read and understands all of the terms of this Agreement and all Addenda referred to below which are checked as being applicable and which are attached hereto. This Agreement does not create a fiduciary relationship between Seller or Seller's sales representative(s) on the one hand and Buyer on the other hand.

BUYER(S) INITIALS: JC ( )

Tract/Project TEVARE - 415/415

Lot/Block 43 / 1

20.12. Time is of the Essence. Buyer acknowledges that (i) time is of the very essence in the performance of Buyer's obligations under this Agreement, and (ii) any delay in Buyer's performance under this Agreement will prejudice Seller.

20.13. Offer and Acceptance. Buyer acknowledges and understands that Buyer's signing this document constitutes only an offer to purchase the Property from Seller. The signature of a representative of KB Home Sales - Nevada Inc., as set forth in the Receipt of Deposit section below, shall NOT constitute the acceptance of Seller. Only a written acceptance by Seller's authorized agent, in the space indicated below, shall constitute Seller's ratification of this Agreement.

20.14. Choice of Law. This contract is to be construed according to the laws of the State of Nevada and specifically Chapter 119 of NRS.

21. Residential Construction Recovery Fund. Pursuant to NRS 624.520, Buyer is hereby notified that payment may be available from the Residential Construction Recovery Fund (the "Fund") if Buyer is damaged financially by work performed on the Property pursuant to a contract, including construction, remodeling, repair or other improvements, and the damage resulted from certain specified violations of Nevada law by a contractor licensed in Nevada. To obtain information relating to the Fund and filing a claim for recovery from the Fund, you may contact the State Contractor's Board, which is located at 2310 Corporate Circle, Suite 200, Henderson, Nevada 89074, (702) 486-1100.

22. Addenda. The following addenda are attached to and incorporated into this Agreement without the necessity of being executed on behalf of Seller (unless any modification to the printed form is made, in which case Seller's signature shall be required in order for such modification to be effective), provided that the box adjacent to such addenda has been checked and Buyer has separately signed such addenda. [Check all that apply]:

<input type="checkbox"/>	Additional Co-Buyer(s) Addendum
<input checked="" type="checkbox"/>	Affiliated Lender and Authorization to Share Financial Information
<input type="checkbox"/>	Model Home Sale
<input checked="" type="checkbox"/>	Non-Refundable Deposit Acknowledgement
<input checked="" type="checkbox"/>	Availability of Desired Model and/or Elevation Addendum
<input checked="" type="checkbox"/>	Existing Home Addendum
<input checked="" type="checkbox"/>	Third Party Home Inspection Contractors Addendum
<input checked="" type="checkbox"/>	Selected Options Addendum
<input checked="" type="checkbox"/>	Available Options with Cutoff Code "A" Addendum
<input checked="" type="checkbox"/>	General Conditions of Escrow
<input checked="" type="checkbox"/>	Broker Registration and Commission Agreement
<input checked="" type="checkbox"/>	Duties Owed by A Nevada Real Estate Licensee
<input checked="" type="checkbox"/>	Lender Disclosure

23. Other Terms.

I HAVE FULLY READ AND UNDERSTAND THIS AGREEMENT. I OFFER TO PURCHASE THE PROPERTY SUBJECT TO THE TERMS AND CONDITIONS CONTAINED HEREIN. I UNDERSTAND THIS OFFER IS NOT A BINDING CONTRACT AND SELLER HAS NO OBLIGATION UNTIL THIS CONTRACT IS ACCEPTED BY THE SELLER. THE SALESPERSON IS NOT THE SELLER AND IS NOT AUTHORIZED TO ACCEPT THIS OFFER.

The purchaser of any subdivision or any lot, parcel, unit or interest in any subdivision not exempted pursuant to the provisions of NRS 119.120 or 119.122 may cancel the contract of sale, by written notice, until midnight of the fifth calendar day following the date of execution of the contract, unless the contract prescribes a longer period for cancellation. The right of cancellation may not be waived. Any attempt by the developer to obtain such a waiver results in a contract which is voidable by the purchaser. The notice of cancellation must be delivered personally to the developer or sent by certified mail or telegraph to the business address of the developer. The developer shall, within 15 days after receipt of the notice of cancellation, return all payments made by purchaser.

[Signature] 1/8/16  
Buyer Date  
Jerrin Chiu  
(Print Name)

\_\_\_\_\_  
Co-Buyer Date  
(Print Name)

RECEIPT OF THE DEPOSIT SPECIFIED ABOVE IS HEREBY ACKNOWLEDGED AND PRESENTATION OF THIS OFFER TO SELLER IS BEING MADE BY:

\_\_\_\_\_  
KB Home Sales - Nevada Inc.  
Broker  
By [Signature]  
Salesperson

This offer is accepted and the undersigned Seller agrees to sell the Property subject to the terms and conditions contained in this Agreement, including Section 10, entitled Arbitration of Disputes, and including those addenda attached hereto and referred to in Paragraph 22 above, next to which there is a check mark.

\_\_\_\_\_  
KB Home Las Vegas, Inc.  
Seller

\_\_\_\_\_  
Authorized Agent Date

Tract/Project TEVARE - 415/415 Lot/Block 43 / 1

**Affiliated Lender AND AUTHORIZATION TO SHARE FINANCIAL INFORMATION  
ADDENDUM TO THE PURCHASE AGREEMENT AND LONG FORM DISCLOSURES**

Community: Tevare Date of Agreement: 1/8/2016  
Buyer: Jerrin Chiu  
Buyer: \_\_\_\_\_  
Property: Lot 43 Block 1 Section/Phase \_\_\_\_\_ / 28  
Address: 477 CABRAL PEAK STREET, Las Vegas, NV 89138

This Affiliated Lender and Authorization to Share Financial Information Addendum to the Purchase Agreement and Long Form Disclosures ("Addendum") is attached to and made a part of that certain Purchase Agreement (the "Agreement") between the Buyer(s) described above and the Seller described below, and that certain long form disclosure statement provided to the Buyer(s) described above in connection with the Agreement, covering the real property as described above ("Property"). If any provision of this Addendum conflicts with any provision of the Agreement, the provisions of this Addendum shall prevail. All terms used in this Addendum shall have the same meaning as in the Agreement.

1. Seller recommends that Buyer obtain financing from Seller's Affiliated Lender, Home Community Mortgage, LLC ("Home Community Mortgage"). Home Community Mortgage is an affiliate of Seller and Seller's parent company KB Home owns 49.9% of Home Community Mortgage.

2. All references in the Agreement and Seller's long form disclosures to Seller's Affiliated Lender or preferred lender shall be deemed to refer to Home Community Mortgage. Buyer is not required to use Home Community Mortgage as their lender and is NOT in any way whatsoever limited to obtaining financing from Home Community Mortgage. Buyer has the absolute right to decline any Seller offers or incentives that are contingent upon financing with Home Community Mortgage and Buyer is free to use any qualified lender of their choosing.


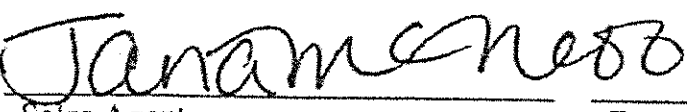
3. Although Buyer is not required to use the services of Home Community Mortgage prior to entering into a Purchase Agreement to purchase the Property from Seller, Buyer may be required to verify Buyer's ability to obtain financing in order to establish Buyer's ability to complete the purchase of the Property. If so, Buyer may, at Seller's discretion, be required to complete and sign Home Community Mortgage's standard form of authorization to obtain a credit report and to use and disclose consumer credit information ("Credit Authorization"), which Home Community Mortgage may use to evaluate Buyer's financial wherewithal to purchase the Property and to evaluate Buyer as a qualified prospective Buyer.

Buyer understands that the Credit Authorization, if required, is not and does not in any way constitute an application for a mortgage loan and that Buyer must separately obtain, complete and submit a mortgage application with, and meet the underwriting standards of either: (a) Home Community Mortgage if Buyer chooses to use Home Community Mortgage as Buyer's lender, or (b) any other qualified lender selected by Buyer.

4. Buyer authorizes Seller to discuss and share Buyer's customer and financial information (related to the Buyer's purchase transaction of the Property from Seller) with Home Community Mortgage and/or any other qualified lender selected by Buyer, for the purposes of assisting Seller in evaluating, facilitating, processing, and coordinating Buyer's purchase of the Property.

This Addendum shall not be binding on Seller until accepted by an authorized representative of Seller in the space provided below. Seller's Sales Agent is not an authorized representative of Seller for these purposes.

Seller's Sales Agent:  
KB Home Sales - Nevada Inc.

 1/8/16 By:  1.8.16  
Buyer Date Sales Agent Date

\_\_\_\_\_  
Buyer Date

Accepted by Seller:  
KB Home Las Vegas, Inc.

By: \_\_\_\_\_  
Authorized Representative of Seller Date

## ADDENDUM TO PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

### NON-REFUNDABLE DEPOSIT ACKNOWLEDGEMENT

BUYER(S): Jerrin Chiu  
PROPERTY  
ADDRESS: 477 CABRAL PEAK STREET, Las Vegas, NV 89138  
COMMUNITY: Tevare PROJECT: 415 LOT/BLOCK: 43 / 1

This Addendum to Purchase Agreement and Escrow Instructions (the "Addendum") is attached to and made a part of that certain Purchase Agreement and Escrow Instructions dated 1/8/2016 between Buyer(s) and Seller, covering the real property described above (the "Agreement"). All capitalized terms used in this Addendum, but not defined herein, shall have the meanings assigned to such terms in the Agreement.

Buyer acknowledges and agrees that the Deposit shall become non-refundable and shall be retained by the Seller on the date which is five (5) days after the Original Sale Date (the "Non-Refundable Deposit Date"), except that after the Non-Refundable Deposit Date, Buyer may obtain a refund of its Deposit in accordance with Sections 8(a), 9.2, 19 and 20.13 of the Agreement; provided the following occur:

(i) Buyer fails to obtain written notification from Lender of unconditional Loan approval within thirty (30) days after the Original Sale Date (the "Approval Deadline");

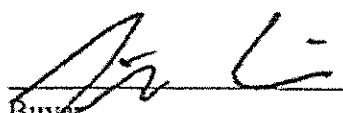
(ii) Buyer fully cooperated with the Loan approval process in good faith, including, without limitation, providing to Lender all documentation requested by Lender; and

(iii) Buyer obtained his/her Loan file from the Lender, permitted Seller and any lender designated by Seller ("Seller's Lender") to review such Loan file and provided Seller's Lender an opportunity to qualify Buyer for a Loan;

then Buyer or Seller may, by written notice to the other and Escrow Holder, cancel the Agreement, and (A) if such cancellation occurs before the Approval Deadline, the Deposit and all other funds previously deposited by Buyer, less any escrow costs, credit report and loan charges incurred, shall be returned to Buyer, unless Seller is entitled to retain any such amounts pursuant to any option/upgrade work orders/contracts; and (B) if such cancellation occurs after the Approval Deadline, the Deposit and all other funds subsequently deposited by Buyer shall be retained by the Seller.

**THIS ADDENDUM SUPERSEDES ANY PORTION OF THE AGREEMENT OR THE TRANSACTION SUMMARY INCONSISTENT OR IN CONFLICT WITH THE TERMS HEREOF.**

APPROVED AND AGREED TO:

  
Buyer

KB Home Las Vegas, Inc.

Seller

Buyer

Authorized Agent

1/8/16  
Date

Date

# AVAILABILITY OF DESIRED FLOORPLAN AND/OR ELEVATION

DATE OF PURCHASE AGREEMENT: 1/8/2016

BUYER(S): Jerrin Chiu

COMMUNITY: Tevare

TRACT/ PHASE: TEVARE - 415 / 28

LOT/BLOCK: 43 / 1

"PROPERTY" ADDRESS: 477 CABRAL PEAK STREET

Las Vegas

NV

89138

DESIRED FLOORPLAN: JN

ARCHITECTURAL PLAN: 235.2625

DESIRED ELEVATION: C

GARAGE: R

This Addendum to Purchase Agreement ("Addendum") is attached to and made a part of that certain Purchase Agreement (the "Agreement") between Buyer(s) and Seller, covering the real property as described above. If any portion of this Addendum conflicts with any portion of the Agreement, the provisions of this Addendum shall prevail. All terms used in this Addendum shall have the same meaning as in the Agreement.

## SALESPERSON TO CHECK ONE OF THE FOLLOWING

NA The above-referenced floorplan and elevation have been previously selected by Seller for this property. Buyer hereby acknowledges and understands that Seller may or may not have already received approval from the applicable building department or other municipal agency to construct a home on this property with the previously-selected floorplan and/or elevation. Should Seller receive notification from the applicable entity that the previously-selected floorplan and/or elevation has not been approved for construction on this property, Seller will advise Buyer of such within ten (10) days after receiving said notification. Should that occur, Buyer may elect one of the options as stated in Paragraphs (a) and (b) below, not later than ten (10) days after notification to Buyer. Buyer acknowledges that these are the sole options in this event. If Buyer fails to elect one of the specified options within the ten-day period, Buyer shall be deemed to have elected to terminate the Purchase Agreement as provided in Paragraph 2 below.

✓ Seller will provide Buyer with a copy of the plot plan within four (4) to six (6) weeks from the date of the Agreement for the floorplan selected by Buyer and approved by Seller and for which a construction permit was obtained. If a start date has not been set on Buyer's contracted home at the time of entering into a Purchase Agreement, Buyer will, depending upon the available lot inventory in the Community, generally be able to select the floorplan (the "Desired Floorplan") and the elevation (the "Desired Elevation") that Buyer desires to be constructed on the lot he/she has selected. Approval of the Desired Floorplan and/or the Desired Elevation is subject to the restrictions set forth below and to the Community's "Lot Fit" analysis, which identifies the types of floorplans and elevations that Seller believes to be suitable for each particular lot then for sale in the Community.

Buyer should understand, however, that in certain situations (a) Seller may not have received, as of the date of Buyer's execution of the contract, all necessary approvals from the applicable building department or other municipal agency to build the Desired Floorplan and/or the Desired Elevation on the contracted lot and/or (b) it is possible that Seller will not be able to obtain a permit, or it will otherwise be impractical, to construct the Buyer's Desired Floorplan or Desired Elevation on the contracted lot despite the Lot Fit. In either of such events, Seller shall promptly notify the Buyer and, not later than ten (10) days after Buyer's receipt of such notice, Buyer will be able to elect one of the following options, which will be Buyer's sole options:

- (a) Select a different Floorplan and/or Elevation that would be possible and practical to construct on Buyer's lot and enter into a new contract or contract addendum outlining the revised terms of agreement.
- (b) Elect to have the Desired Floorplan and Desired Elevation constructed on a different Lot within the community on which it is possible and practical to construct Buyer's Desired Floorplan and Desired Elevation and enter into a new contract or contract addendum outlining the revised terms of agreement.

If option (b) is selected, the purchase price may be adjusted to account for differences between the prices of the floorplans or to account for lot location. The price adjustment would be consistent with Seller's general pricing structure within the Community. Buyer shall not be entitled to any other adjustment in price as a penalty against Seller or as compensation to Buyer. If, within three (3) days after Seller receives notice from Buyer that Buyer elects an option in this Paragraph 1, Buyer and Seller are unable to agree on the pricing for Buyer's selected different Floorplan and/or Elevation or Lot, then Seller shall have the option to terminate the Agreement at any time thereafter and the provisions of Paragraph 2, below, shall apply. Seller will provide Buyer with a copy of the plot plan within four (4) to six (6) weeks from the date of the Agreement for the floorplan selected by Buyer and approved by Seller and for which a construction permit was obtained. Buyer acknowledges that the construction schedule for the home shall be extended to account for this change.

If Buyer fails to elect one of the above within the ten (10)-day period, Buyer shall be deemed to have elected to terminate the Purchase Agreement, in which case (i) all funds previously deposited shall be returned to Buyer less any authorized disbursements as provided in the Purchase Agreement and (ii) neither party shall have any further obligation to each other under the Purchase Agreement.

APPROVED AND AGREED TO:

[Signature]  
Buyer

Buyer

1/8/16

Date

ACCEPTED AND AGREED TO:

Brokerage: KB Home Sales - Nevada Inc.

By: [Signature]  
Salesperson

Seller: KB Home Las Vegas, Inc.

By:

Authorized Agent

Date

**ADDENDUM TO PURCHASE AGREEMENT  
EXISTING HOME**

BUYER(S): Jerrin Chiu  
COMMUNITY: TEVARE - 415 / 28 LOT/BLOCK: 43 / 1  
PROPERTY ADDRESS: 477 CABRAL PEAK STREET, Las Vegas, NV 89138  
DATE: 1/8/2016

This Addendum to Purchase Agreement ("Addendum") is attached to and made a part of that certain Purchase Agreement (the "Agreement") between the Buyer(s) described above and the Seller described below, covering the real property as described above (the "Property"). If any provision of this Addendum conflicts with any provision of the Agreement, the provisions of this Addendum shall prevail. All terms used in this Addendum shall have the same meaning as in the Agreement.

(Buyer(s) must initial ONE of the following)

n/a  
(Initials)

Buyer hereby represents to Seller that Buyer does not currently own a home and will not close on the purchase of another home prior to the closing on the Property to be purchased from Seller. In the event Buyer has selected this paragraph as being applicable and Seller subsequently discovers that Buyer does currently own a home, or prior to closing on the Property acquires a home, Seller, in Seller's sole discretion, shall be entitled to treat Buyer as being in default under the Agreement which shall entitle Seller, in Seller's sole discretion, to immediately terminate the Agreement and retain all deposits held under the Agreement as liquidated damages pursuant to the terms of the Agreement and thereafter all further rights, duties and obligations under the Agreement shall be null and void and of no further force and effect.

-OR-

JC  
(Initials)

Buyer is the owner of an "Existing Home" located at: 2101 Jade Creek Street, Unit 206, Las Vegas, NV 89117. At the time of execution of this Addendum, Buyer shall make a Deposit equal to 10% of the Purchase Price. Seller shall not commence construction of the home on the Property until Buyer has obtained unconditional Loan approval, as required under Section 3.3 of the Agreement. Notwithstanding the foregoing, Buyer shall be required to visit the Studio and select its options, as required under the Agreement. Nothing herein shall be construed as providing that the purchase of the Property is contingent upon Buyer's sale of the Existing Home.

All other terms and conditions of the Purchase Agreement remain unchanged. This Addendum shall not be binding on Seller until accepted and signed by Seller below.

ACCEPTED AND AGREED TO:

[Signature] 1/8/16  
Buyer Date

ACCEPTED AND AGREED TO:

SELLER: KB Home Las Vegas, Inc.

Buyer

Date

Authorized Agent

Date



THIRD PARTY HOME INSPECTION CONTRACTORS

This addendum, when duly executed by both parties, will constitute a part of the Purchase Agreement dated 1/8/2016 between Jerrin Chiu as "Buyer" and KB Home Las Vegas, Inc. as "Seller," covering Lot/Block 43 / 1 of Tract/Phase TEVARE - 415 / 28 .

Occasionally, homebuyers choose to hire at their own cost, a third party home inspection contractor ("Home Inspection Contractor") to inspect the home that they are purchasing. Seller neither encourages nor discourages the use of Home Inspection Contractors by homebuyers. In the event that Buyer chooses to hire a Home Inspection Contractor to inspect the home Buyer is purchasing and the inspection occurs prior to or after the close of escrow, Buyer agrees to protect, defend, indemnify and hold Seller harmless from and against any and all liens against the lot and home that Buyer is purchasing that may arise out of the home inspection. Buyer also agrees that as a condition precedent to the Home Inspection Contractor entering onto the lot on which the home is located or any area within the tract or phase in which the home is located, including but not limited to adjacent streets, Buyer shall provide to Seller the following documents:

1. A photocopy of the Home Inspection Contractor's license/certification from the State of Nevada;
2. Certificates of insurance evidencing the Home Inspection Contractor's coverage under (i) an automobile insurance policy and a comprehensive general liability insurance policy, each with policy limits of at least Five Hundred Thousand Dollars (\$500,000) and with a deductible/self-insured retention of not more than Twenty-five Thousand Dollars (\$25,000), (ii) worker's compensation insurance as required by law, and (iii) errors and omissions insurance in an amount of not less than One Hundred Thousand Dollars (\$100,000), all issued by insurance companies acceptable to Seller in its absolute discretion.
3. An endorsement to the Home Inspection Contractor's general liability insurance policy naming KB Home Las Vegas, Inc. and its parent corporation, KB HOME, as additional insureds as to the comprehensive general liability coverage. The endorsement shall indicate that the Home Inspection Contractor's insurance shall be primary coverage and Seller's insurance shall be excess and non-contributory with regard to claims in connection with the Home Inspection Contractor's activities in, on or about the home and the lot, tract or phase in which the home being inspected is located and shall provide that thirty (30) days prior notice shall be given Seller in the event of the cancellation or reduction in Home Inspection Contractor's coverage.
4. A written covenant executed by the Home Inspection Contractor which acknowledges the provisions herein and which provides as follows:

"In consideration of KB Home Las Vegas, Inc. ("Seller") allowing access to Seller's construction project for the purposes of conducting a home inspection on behalf of a Seller homebuyer, the undersigned Home Inspection Contractor agrees to protect, indemnify, defend, and hold harmless Seller, its officers, directors, shareholders, employees, agents, subcontractors, consultants and affiliated entities or persons, including but not limited to KB HOME (collectively, Seller) from and against any and all claims, demands, liabilities, damages, costs or expenses, including attorneys' fees and court costs, incurred by or made against Seller and caused by or resulting from any act or omission of Home Inspection Contractor in connection with Home Inspection Contractor's inspection of the home located at 477 CABRAL PEAK STREET, Las Vegas, NV 89138. This indemnity shall not extend to any claims, demands, or liabilities arising out of the sole negligence or willful misconduct by Seller. In addition, the undersigned Home Inspection Contractor hereby releases, waives and forever discharges Seller of and from any and all claims, damages, injuries, debts, liens, liabilities, demands, obligations, costs, expenses, actions and causes of action, of every nature, character and description which Home Inspection Contractor may incur during the course of any activities in, on or about the home being inspected or the lot, tract or phase in which the home is located, including without limitation, any accident, casualty and bodily injury, unless caused by the willful misconduct of Seller."

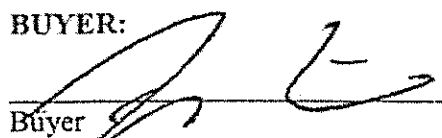
5. Any inspection shall occur at least three (3) business days prior to the scheduled walk-through date for Buyer's home and Buyer shall give Seller at least three (3) business days advance written notice of the date and time of any inspection addressed as follows:

Attn: Escrow Coordinator / Escrow Dept.  
KB HOME  
5795 Badura Avenue, Suite 180  
Las Vegas, NV 89118

In addition, Seller's representatives shall be entitled to accompany the Home Inspection Contractor throughout entirety of the home inspection.

If, for any reason, a home inspection is authorized and performed after the walk-through date, any items questioned by the Home Inspection Contractor will be noted by Seller's representative on a Customer Service Request form. Seller's Customer Service department will address the noted items after close of escrow has occurred. Buyer understands and agrees that a home inspection occurring after the walk-through date shall not delay the close of escrow for any reason.

All other terms and conditions of the Purchase Agreement remain unchanged.

BUYER:   
Buyer

Buyer  
1/8/16  
Date

SELLER:  
KB Home Las Vegas, Inc. \_\_\_\_\_

Authorized Agent  
\_\_\_\_\_  
Date

# ADDENDUM TO PURCHASE AGREEMENT

## SELECTED OPTIONS

BUYER(S): Jerrin Chiu  
 TRACT/PHASE: TEVARE - 415 / 28 LOT/BLOCK: 43 / 1  
 ADDRESS: 477 CABRAL PEAK STREET, Las Vegas, NV 89138

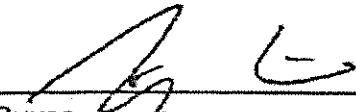
This Addendum to the Purchase Agreement ("Addendum") is attached to and made a part of the certain Purchase Agreement and Escrow Instructions ("Agreement") between Buyer(s) and Seller, covering the real property as described above. If any portion of this Addendum conflicts with any portion of the Agreement, the provisions of this Addendum shall prevail. All terms used in this Addendum shall have the same meaning as in the Agreement.

The following options are included in the purchase of the referenced property. Buyer acknowledges that if FHA or VA financing is obtained, Buyer might not be allowed to include these options in the loan amount.

OPTION SELECTIONS	UNIT PRICE	QTY	TOTAL
Covered Balcony - Per Plan *	Included	1	Included
Covered Patio - Per Plan *	Included	1	Included
Den and Powder Room to Bedroom with Bath *	2,840.00	1	2,840.00
Water Heater - 50 Gallon *	135.00	1	135.00

Total Price Selected Options: \$2,975.00

\* DENOTES OPTIONS SELECTED AT SALES OFFICE.

  
 Buyer

SELLER: KB Home Las Vegas, Inc.

Buyer

By: \_\_\_\_\_  
 Authorized Agent

1/8/16  
 Date

\_\_\_\_\_  
 Date



# ADDENDUM TO PURCHASE AGREEMENT

## AVAILABLE OPTIONS WITH CUTOFF CODE "A"

Buyer(s): Jerrin Chiu

Tract/Phase: TEVARE - 415 / 28

Lot/Block: 43 / 1

Address: 477 CABRAL PEAK STREET, Las Vegas, NV 89138

This Addendum to the Purchase Agreement ("Addendum") is attached to and made a part of the certain Purchase Agreement and Escrow Instructions ("Agreement") dated between Buyer(s) and Seller, covering the real property as described above. If any portion of this Addendum conflicts with any portion of the Agreement, the provisions of this Addendum shall prevail. All terms used in this Addendum shall have the same meaning as in the Agreement.

Please note that the following options are available for selection **ONLY** at the Sales Office, at the time of contract. By signing below, Buyer acknowledges that some or all of the options listed may be unavailable for selection depending on the stage of construction of the above-referenced property.

Option Selections	Unit Price	Buyer Initial on Selected Options
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Covered Balcony - Per Plan	Included	<u>JC</u>
Model: Mirador		
Covered Patio - Per Plan	Included	<u>JC</u>
Model: Loggia		
Den and Powder Room to Bedroom with Bath	\$2,840.00	<u>JC</u>
Model: Bedroom 5 with Bath 4		
Loft to Bedroom 4	\$2,000.00	<u>n/a</u>
Tankless Hot Water Heater - #1 - Rinnai	\$1,390.00	<u>n/a</u>
Model: Model: TBD		
Water Heater - 40 Gallon	Included	<u>n/a</u>
Water Heater - 50 Gallon	\$135.00	<u>JC</u>

Buyer [Signature]

SELLER: KB Home Las Vegas, Inc.

Buyer

Date

1/8/16

By:

Authorized Agent

Date

**GENERAL CONDITIONS OF ESCROW**

TO: <u>FIRST AMERICAN TITLE COMPANY</u>	DATE: <u>1/8/2016</u>	TOTAL SALES PRICE: <u>\$404,765.00</u>  <input type="checkbox"/> CASH <input checked="" type="checkbox"/> CONV <input type="checkbox"/> FHA <input type="checkbox"/> VA
---	-----------------------	---

The Purchase Agreement (also known as the "Agreement") and all addenda/disclosures entered into on 1/8/2016 between KB Home Las Vegas, Inc. as SELLER and Jerrin Chiu as BUYER(S) shall serve as the Escrow Instructions to this transaction, and these General Conditions of Escrow shall become an additional addendum to the Agreement, to serve as additional Escrow Instructions, for the purchase of property which is described as follows:

LOT 43\_\_ IN BLOCK 1 OF TEVARE - 415 / 28\_\_ as shown by map thereof on file in Book \_\_\_\_ of Plats, Page \_\_\_\_ in the office of the County Recorder of Clark County, Nevada.

(See Exhibit "A," attached hereto and made a part hereof by this reference, for the complete legal description.)

More commonly known as 477 CABRAL PEAK STREET, Las Vegas, NV 89138.

Escrow Agent will obtain a grant, bargain and sale deed conveying said property to the above-named Buyer(s) to be used only when Buyer(s) has/have deposited with First American Title Company (also known as Escrow/Title Company) the deed of trust and note shown as item 3 below, together with all other forms and information required by lender and/or FHA and/or Veterans Administration and any funds required from Buyer(s) for completion of this transaction.

Seller and Buyer(s) authorize Escrow Agent to deliver Seller's instrument of conveyance to the above-named party upon payment to Escrow/Title Company for Seller's account the full consideration and upon condition that Escrow/Title Company issues the usual form of CLTA Standard Owner's policy with liability limited to the total sales price, and ALTA Lender's policy for any lenders with the liability limited to the amount of the first deed of trust.

**SUBJECT ONLY TO:**

- (1) Taxes for the current tax year, INCLUDING PERSONAL PROPERTY TAXES, IF ANY, except as otherwise specifically required in the Agreement.
- (2) RESTRICTIONS, CONDITIONS, RESERVATIONS, RIGHTS, RIGHTS OF WAY, AND EASEMENTS NOW OF RECORD, if any, affecting the use and occupancy of said property as the same may now appear of record.
- (3) Deed of trust executed by the above-named Buyer(s), securing payment of a note in the amount of the first deed of trust in favor of Home Community Mortgage.

**AND RESERVING:**

All water rights, permits and certificates of Grantor of whatever kind or nature for ground water and surface water, and any and all other decrees, orders or judgments affecting, adjudicating, or decreeing water rights, to the end that this deed shall not confer, grant, or transfer to Grantee any water rights whatsoever, or any claim to water or water rights.

And further all mineral, oil, gas, petroleum, other hydrocarbon substances, and all geothermal energy sources in, under, or which may be produced from the within-described land, which lie below a plane parallel to and 500 feet below the surface of the within-described land, for the purpose of prospecting, exploration, development, production, or extraction of said substances by means of mines, well, or derricks, or other equipment, provided, however, that the owner of said substances shall have no right to enter upon the surface of the within-described land, nor to use said land above said plane parallel to and 500 feet below the surface of such land.

Said deed of trust and note to be in the forms and terms required by the lender and/or the administration named above.

**ESCROW/TITLE COMPANY HAS NO RESPONSIBILITY FOR INVESTIGATING OR GUARANTEEING THE STATUS OF ANY GARBAGE FEE, POWER, WATER, TELEPHONE, GAS, AND/OR OTHER UTILITY OF USE BILL, EXCEPT AS OTHERWISE SPECIFICALLY REQUIRED.**

**PRORATIONS:** Property taxes, Homeowner's Association fees, Landscape Maintenance Association Fees, Special Improvement District (SID) fees, and any existing encumbrances that shall be assumed by Buyer(s) shall be prorated and computed on the basis of a thirty-day month. The term "close of escrow" shall be deemed to mean the date upon which all necessary documents are filed for record with the appropriate county recorder's office. Escrow Agent is directed to mail the respective policy(ies) of title insurance to the holder of any new encumbrance called and to the Buyer(s).

Co-op commission, if applicable, shall be payable to the following real estate broker/firm(s): Nevada Real Estate Corp. and Escrow Agent is directed to disburse same to the extent that the proceeds of this escrow available therefore become disburseable from Seller's account.

Escrow/Title Company assumes no liability for, and is hereby relieved of any liability in connection with any PERSONAL PROPERTY which may be a part of this escrow.

Escrow Agent is directed to file the necessary Deeds, Trust Decds, and other instruments and pay any encumbrance which a title search reveals against the subject property, except as set forth. Escrow/Title Company is authorized and directed to pay said encumbrances as directed by the lienholder thereof, acting solely upon the written direction of such lienholder, and it is expressly understood and agreed that Escrow/Title Company assumes no liability for the accuracy of any such statement or direction.

Escrow Agent is further directed to insert the names of the Grantees in the necessary conveyance and/or encumbering documents prior to recordation of same, based upon the written direction tendered by Grantee or in compliance with instructions set forth by the beneficiary under any new loan documents. Escrow Agent is expressly authorized to charge to the account of the party obligated to pay same, any charge or expense incurred in connection with this transaction or the terms thereof. Escrow Agent is further directed and authorized to reimburse itself for any charges which it may incur during this escrow by charging such amount to the party obligated to pay same. All disbursements made under this transaction shall be made in the form of a check by Escrow/Title Company.

Any deposits made by Buyer(s) into this escrow shall be in the form of certified funds or cashier's check (no personal checks or out-of-state cashier's checks will be accepted). Any check presented for deposit into this escrow by either party shall be subject to clearance thereof and Escrow Agent shall not be obligated to act upon nor disburse against any such funds until notified by the bank upon which check is drawn that said check has cleared its account.

In the event a legal proceeding is brought by any party(ies) to this escrow to which the Escrow Holder is named as a party and which results in a judgment in favor of the Escrow Holder and/or against party or principal of any party hereunder, the principal or principal's agent(s) agree to pay said Escrow Holder all costs, expenses, and reasonable attorney fees which it pays or incurs in said proceeding, the amount thereof to be fixed and judgment to be rendered by the trier of fact in said proceeding.

Time is of the essence of this agreement and requires that the Buyer(s) execute these instructions within the time requirements specified in the Agreement. If said closing date falls on a Saturday, Sunday or holiday, the time limit set out is extended through the next business day and provided further that Escrow Holder is authorized to take any administrative steps necessary to implement the closing of this escrow subsequent to said closing date unless otherwise instructed in writing by Buyer(s) and Seller.

Pursuant to Section 4.2 of the Agreement, Buyer(s) may be responsible for rent from the date of occupancy (upon approval from Seller) or a holding fee three (3) days after a valid notice of completion of construction is recorded, and will pay said rent/holding fee in accordance with the information to be furnished by Seller's local sales office. Escrow Agent shall be notified in writing of such information prior to the close of escrow for the purpose of computing charges against Buyer(s) account.

If escrow is not closed as scheduled, or if this agreement is in any way breached, then on instruction from Buyer(s) and/or Seller escrow shall be cancelled. In such an event, the provisions of Paragraphs 8 and/or 9 of the Agreement shall be applicable and neither party shall have any further obligation, right, or liability whatsoever. The Escrow Holder is hereby released and held completely harmless from Seller and Buyer(s) from any and all liability and/or responsibility in connection with the cancellation of this escrow. In the event of a cancellation of this escrow, adjustment if any, of funds paid outside of this escrow is to be made outside of this escrow.

It is expressly understood and agreed that the Escrow Agent, without any obligation to exercise such right, retains the right to resign its duties as Escrow Agent under this transaction, at any time and at its sole discretion and/or to refrain from taking any act in furtherance of the subject transaction at the sole discretion of Escrow Agent if deemed advisable. NO liability shall accrue to said Escrow Agent for any such act or forbearance.

With regard to FHA/VA loans, it is expressly agreed that notwithstanding any other provisions of this agreement, the Buyer(s) shall not incur any penalty by forfeiture of Deposit or be obligated to complete the purchase of the property if the purchase price of the property exceeds the appraised value of the property for mortgage insurance by FHA or the reasonable value established by VA. Buyer(s) shall, however, have the privilege and option of proceeding with the consummation of this purchase without regard to the amount of the FHA appraisal or VA reasonable value.

With regard to VA loans only: If Buyer(s) is/are unable to obtain GI financing or if construction of the house is not completed within one (1) year from the date of the Agreement, or if the house as constructed or changes or substitutions made to the house are not in substantial conformity with plans, specifications, and change orders on file with the Veterans Administration, then Buyer(s) may cancel the purchase and have any Deposit refunded less any credit report and loan charges incurred (however, these charges shall not exceed \$100.00).

These General Conditions of Escrow in all parts apply to, inure to the benefit of and bind all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns, and whenever the context so requires, the masculine gender includes the feminine and neuter, and the singular number includes the plural.

These General Conditions of Escrow may be executed in any number of counterparts, each of which shall be considered an original and be effective as such, and all of which, when aggregated, shall constitute one fully executed original.

Buyer(s) and Seller shall notify Escrow Agent in writing of any change in address during the course of this escrow and authorize Escrow Agent, unless Escrow Agent is in receipt of written indication to the contrary, to mail any notices filed by either party to or against the other, to the address set forth.

Seller is hereby made aware that there is a law which became effective January 1, 1987, which requires all escrow holders to complete a modified 1099 form, based upon specific information between Seller and the Escrow/Title Company. You are authorized and instructed to provide this information to the Internal Revenue Service after the close of escrow in the manner prescribed by law, or it is understood that this transaction shall not close with Escrow/Title Company.

To the extent that the terms and conditions of said Agreement, and any modification thereto, shall conflict with these General Conditions of Escrow, the obligations of Escrow/Title Company shall be governed exclusively by these General Conditions of Escrow and Escrow Instructions contained herein. Anything to the contrary herein notwithstanding, Escrow Agent is hereby unconditionally relieved from any liability or responsibility whatsoever involving compliance with or adherence to "Consumer Credit Protection Act (Truth In Lending)" or similar law.

Buyer(s) authorize(s) Escrow Agent to furnish Seller with a copy of Buyer's closing statement. Seller and Buyer(s) authorize(s) Escrow Agent to furnish copies of closing statement and escrow instructions to the lender involved.

In the event a post-closing or post-disbursement adjustment is necessary by an entity involved with this escrow transaction, the undersigned authorizes Escrow/Title Company, if immediate action be necessary, advance funds on their behalf to effect an accurate closing statement. The undersigned, upon notification, and the opportunity to investigate such advances, agrees to fully cooperate and pay to Escrow/Title Company any and all funds so advanced on their behalf, providing that said adjustments are not due to errors on the part of Escrow/Title Company.

COMMUNITY / PROJECT: Tevare / 415

LOT / 43 / 1  
BLOCK:

BUYER(S)

The Buyer(s) and Seller to this escrow have entered into agreements which do not concern the Escrow Agent; however, they desire to memorialize their agreements within the records of the Escrow Agent. In this connection and with the understanding that the Escrow Agent has no control over these agreements and further that the Escrow Agent assumes no liability and/or responsibility in connection with them.

Buyer(s) will receive a copy of the preliminary title report after the title company receives their copy of the accepted Purchase Agreement from Seller.

The Federal Gramm-Rudman Hollings bill will require a reduction of expenditures in most federal government agencies. In an effort to meet the budgetary limitation of Gramm-Rudman Hollings, the Federal Housing Administration and/or Veterans Administration may run out of funds with which to insure loans. Should FHA or VA reach its legal limit on insuring authority, and the limit is not increased within two (2) weeks after reaching its limit, Seller may cancel the Agreement. Buyer(s) shall have the right to submit a conventional financing offer to purchase within five (5) days after being cancelled. That offer will be considered by Seller prior to acceptance of any other offer.

Buyer(s) acknowledge(s) that Seller has no control over FHA/VA policies and action. Buyer(s) holds Seller harmless from any problems or liability in obtaining an FHA/VA guaranteed loan.

**BUYER TAKE NOTICE:**

**SUPPLEMENTAL TAX BILLS**

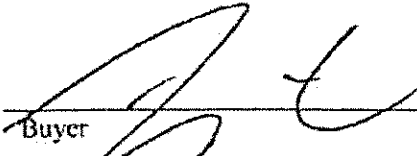
BUYER(S) IS/ARE BEING MADE AWARE THAT DUE TO NEVADA LEGISLATION, (NRS 361.260), THERE IS A POSSIBILITY THAT A SUPPLEMENTAL TAX BILLING MAY BE ISSUED AFTER THE CLOSE OF ESCROW. THIS BILLING WOULD PLACE REAL PROPERTY WHOSE EXISTENCE IS ASCERTAINED AFTER JULY 1, IN EACH ASSESSMENT YEAR ON THE UNSECURED TAX ROLLS. IT IS POSSIBLE THAT YOU MAY BE ISSUED A TAX BILL FOR THE VALUE OF CONSTRUCTION WORK PERFORMED AFTER THE END OF THE NORMAL ASSESSMENT PERIOD. IN THE EVENT THAT SUCH A BILL IS DUE AND PAYABLE AT THE CLOSE OF ESCROW, THE ESCROW HOLDER IS DIRECTED TO PRO RATE BASED ON A THIRTY (30) DAY MONTH AND THE LATEST TAX FIGURES AVAILABLE, AT CLOSING. IF A SUPPLEMENTAL TAX BILL IS NOT ISSUED UNTIL AFTER THE CLOSE OF ESCROW, NO PRO-RATION SHALL BE MADE AND PAYMENT OF THE ENTIRE BILLING SHALL BE THE SOLE RESPONSIBILITY OF THE BUYER(S).

I/We have read the foregoing General Conditions of Escrow and Escrow Instructions and am/are buying the property described on the terms and conditions set forth, and will within the time limit either hand Escrow Agent or cause to be handed Escrow Agent, the consideration as specified in the Agreement. I/We agree to pay the following escrow charges unless otherwise stated in the Agreement, and/or not allowed by VA/FHA regulations: ALTA Premium, one half (1/2) of the Real Property Transfer Tax amount, Loan Fee (as required by Lender), Escrow Fee, Contract Coordination Fee, Recording Fee, HOA Transfer Fee, Appraisal Fee ordered by lender, and Incidental Expenses as may be incurred with any new loan(s).

SELLER

Seller agrees to pay the following escrow charges: CLTA/PLP Policy of Title Insurance, Recording Fee, Reconveyance Fee, one half (1/2) of the Real Property Transfer Tax amount, any fees as specified in the Agreement, and Incidental Expenses necessary to convey insurable title as described, provided, however, Seller shall have no obligation to pay any amount in excess of what Seller would have paid through Seller's preferred title company.

Seller has furnished to Escrow Holder a true and complete copy of a bond payable to the State of Nevada in an amount satisfactory to the Nevada Division of Real Estate in accordance with Nevada Revised Statutes Section 116.411. The bond is on file with the State of Nevada. In consideration thereof, Seller has elected to exercise its option to have Buyer's Deposit paid directly to Seller (which is KB Home Las Vegas, Inc. for all communities, General Account #CCCPPP0090.2361) prior to the Close of Escrow. THIS SHALL NOT AFFECT BUYER'S RIGHT TO THE RETURN OF ITS ENTIRE DEPOSIT (LESS AUTHORIZED DISBURSEMENTS, IF APPLICABLE) IN THE EVENT THAT BUYER IS ENTITLED TO SUCH RETURN OF ITS DEPOSIT IN ACCORDANCE WITH THE AGREEMENT. Buyer and Seller agree that Seller, and not Escrow Holder or Broker, shall be solely responsible to return to Buyer the Deposit or portion thereof held by Seller in the event required under the Agreement and Buyer hereby releases Escrow Holder and Broker from any and all responsibility and liability in connection therewith.

  
\_\_\_\_\_  
Buyer  
  
\_\_\_\_\_  
Buyer  
1/8/16  
\_\_\_\_\_  
Date

SELLER: KB Home Las Vegas, Inc.  
\_\_\_\_\_  
Authorized Agent  
\_\_\_\_\_  
Date

COMMUNITY / PROJECT: Tevare / 415

LOT / 43 / 1  
BLOCK: \_\_\_\_\_

REGIONAL GAMING DISTRICT OVERLAYS MAP  
LAS VEGAS VALLEY

DISCLOSURE AND WAIVER OF 24-HOUR NOTICE PERIOD

BUYER(S): Jerrin Chiu

COMMUNITY: Tevare

LOT / BLOCK: 43 / 1

In 1997, the Nevada State Legislature amended Nevada Revised Statutes 113.080 requiring, in Clark County, the disclosure of the location of the gaming enterprise district nearest to the residence being purchased by the Buyer. Additionally, Seller must provide a copy of the most recent gaming enterprise district map available from the city, town or county in which the residence is located. Seller may not sign a Purchase Agreement until at least twenty-four (24) hours after such disclosure.

Buyer is advised that:

- Attached hereto is a copy of a Regional Gaming District Overlays Map ("Map") dated 11/2015 that is based upon the most recent gaming enterprise district maps that have been made available for public inspection by Clark County and the Cities of Las Vegas, Henderson, and North Las Vegas.
- The Salesperson for the community in which Buyer is purchasing will mark the attached Map with a highlighter to indicate where the community is located. Based on a review of the Map as so marked, Buyer can make a personal determination of which gaming enterprise district is located nearest to the above-referenced property.
- Gaming enterprise districts are subject to change and not under Seller's control.
- To obtain more current information, Buyer may contact:

City of Las Vegas  
Department of Planning & Development  
731 S. Fourth Street  
Las Vegas, NV 89101  
(702) 299-6301

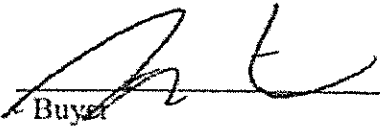
Clark County  
Comprehensive Planning Department  
500 S. Grand Central Parkway  
Las Vegas, NV 89155-1744  
(702) 455-4314

City of Henderson  
Planning Department  
240 Water Street  
Henderson, NV 89015  
(702) 565-2474

City of North Las Vegas  
2266 Civic Center Drive  
North Las Vegas, NV 89036  
(702) 633-1515

Buyer hereby ☒ waives ☐ does not waive the requirement of Nevada state law that Seller provide Buyer with the above at least 24 hours before the time an authorized agent of Seller signs acceptance of Buyer's Purchase Agreement for the above-referenced property.

BUYER UNDERSTANDS THE PROXIMITY OF THE GAMING ENTRPRISE DISTRICT TO THE PROPERTY BEING PURCHASED, HAS REVIEWED THE HIGHLIGHTED AREA OF THE ATTACHED MAP, AND ACKNOWLEDGES RECEIPT OF THIS DISCLOSURE AND WAIVER BY SIGNING BELOW.

  
Buyer

11/8/16  
Date

\_\_\_\_\_  
Buyer

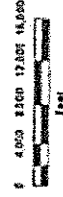
\_\_\_\_\_  
Date

# GAMING ENTERPRISE DISTRICTS and LOCATIONS APPROVED for NON-RESTRICTED GAMING

Las Vegas Valley  
Clark County, Nevada



- Existing Non-Restricted Gaming Locations (CLV)
- Gaming Enterprise Districts
- Las Vegas Blvd Corridor
- Master Planned by Resort Hotels
- Block Boundaries
- Section Boundaries
- Freeways
- Major Streets
- Railroads

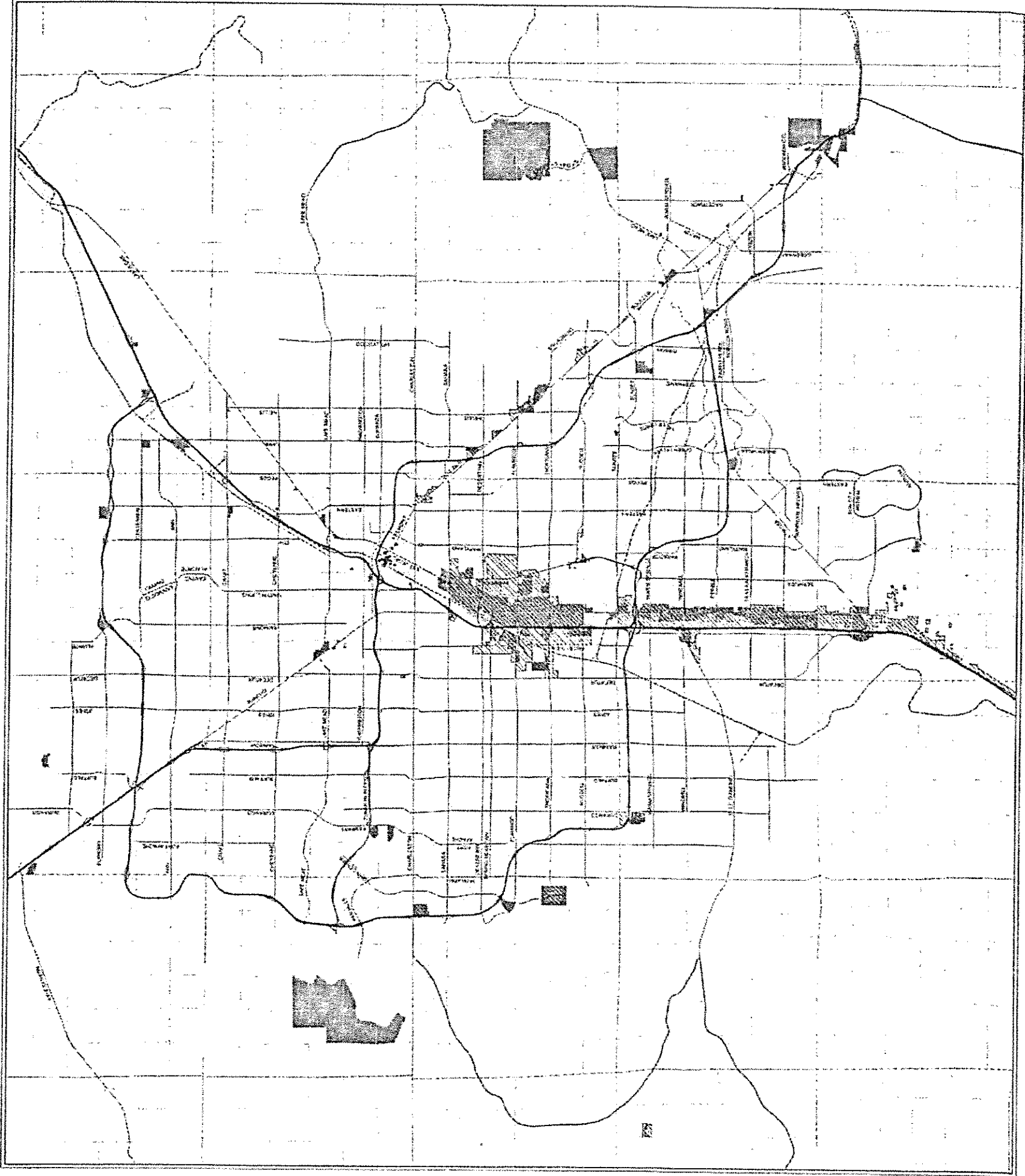


Map Created: November 2015

This information is for display purposes only.  
No liability is assumed as to the accuracy of the data delineated hereon.



Clark County, Nevada  
Comprehensive Planning  
Map of the Las Vegas Valley





TRACT / PHASE: TEVARE - 415 / 28 LOT / BLOCK: 43 / 1  
PROPERTY ADDRESS: 477 CABRAL PEAK STREET Las Vegas NV 89138  
SALESPERSON: Jana McNeff DATE: 1/8/2016

The following constitutes the entire agreement (the "Agreement") by and between KB Home Las Vegas, Inc. ("Seller") and the "Broker" listed below regarding a potential referral sales commission described in Paragraph 1 below with respect to the Buyer(s) and the Property described above. No other representations or acknowledgements shall be binding upon either party unless agreed to in writing by both parties. The parties agree as follows:

1. Seller shall pay to Broker a commission equal to three percent (3%) of the total net sales price of the above-referenced home, including: (A) base price, (B) elevation premium, (C) lot premium, (D) decor items, options and upgrades selected by Buyer at the KB HOME Sales Office and at the KB HOME Studio or previously installed by Seller, and excluding (E) the value of any incentive provided by Seller, (the "Commission") at the close of escrow provided (i) a contract is signed by Buyer and accepted by Seller within thirty (30) days after the date of this Agreement, and (ii) such close of escrow occurs within three hundred sixty-five (365) days after the date of this Agreement.

No commission shall be paid if a contract is signed more than thirty (30) days after the date of this Agreement unless Broker has re-registered the Buyer, and the contract is signed within thirty (30) days of such re-registration. This Agreement serves as escrow instructions to govern payment of the Commission to Broker only. Seller does not pay commissions to any entities or individuals other than Broker.

2. It is an absolute condition for the payment of any Commission that Broker accompanies and registers Buyer at the Community at the time of Buyer's first visit as a prospective purchaser to the Community. Broker shall not be entitled to any Commission if Buyer or any relative of Buyer or any other person designated by Buyer has visited the Community without Broker prior to the date of this Agreement.

3. The registration of the Broker shall be established only for the particular Buyer for the Property but shall be established only by: (a) complete execution and acceptance of this Agreement and (b) Buyer's completion of Seller's Broker/Client Registration form at the Community acknowledging the portion of the form which evidences that Broker referred Buyer to the Property. Upon request, a copy of the Agreement will be given to Broker. Any attempt by Broker to effectuate a broker relationship with Seller without Broker's actual presence at Buyer's first visit shall be null and void.

4. Buyers of Seller's homes are **NOT** required to use Home Community Mortgage, LLC ("Home Community Mortgage") for their financing as a condition of purchase. Buyer may obtain financing from any qualified lending institution. Broker has been made aware of this and acknowledges its obligation to inform Buyer thereof. Buyer and Buyer's Broker authorize Seller's agent or an agent on behalf of Home Community Mortgage to contact Buyer directly to discuss any aspect of Buyer's purchase of the home, including the selection of options and upgrades and Buyer's financing of its purchase, including the use of Home Community Mortgage as its lender.

5. Broker understands and agrees that any fees Buyer has agreed to pay to Broker are Buyer's entire responsibility and any issue arising out of the payment of such fees to Broker by Buyer shall not delay close of escrow between Buyer and Seller.

6. If Broker wishes the Commission to be reduced and a portion to be paid to Buyer, Seller will require Buyer to execute Seller's Commission Credit Disclosure.

7. Broker represents that it is licensed as a real estate broker or salesperson in the state in which the Property is located. To the extent required by law, Broker must provide an executed form of disclosure of its agency relationship with Buyer (executed by Broker and Buyer) indicating that Broker is the agent of Buyer exclusively prior to Buyer's execution of a sales contract. Broker represents and warrants that its license number as set forth below accurately represents its current, active license number.

8. Seller's on-site agent shall be primarily responsible for coordinating loan processing; however, Broker acknowledges that, if requested by Seller, Broker shall be obligated to assist Seller in obtaining documentation or other information from Buyer with respect to its loan approval, loan closing or the title or escrow documentation for the closing of the transaction. Broker's failure to cooperate as required in the preceding sentence shall cause Broker to forfeit its Commission.

9. In the event that Buyer elects to purchase a property from Seller other than a property in this Community, Seller shall have no obligation to pay Broker a commission therewith unless a separate Agreement is established between Seller and Broker in writing, using the form hereof and Broker meets the obligations set forth therein.

10. Broker agrees to indemnify and hold harmless Seller, Seller's parent, subsidiary and affiliate companies and Seller's employees, officers and directors (collectively, the "Affiliates") from and against any and all claims, charges, costs, fees, obligations, damages, liabilities, expenses and attorneys' fees incurred by Seller or the Affiliates by virtue of Broker's actions or errors with respect to or in connection with this Agreement or the potential transaction between Seller and Buyer referred herein (the "Sale Transaction").

11. Broker has no independent authority to bind Buyer or Seller. Only Seller's Purchase Agreement will be used. Broker may not advertise any of Seller's homes in any printed form.

12. If a real estate salesperson or broker other than Broker attempts to register as Buyer's broker within thirty (30) days after the date hereof, Seller shall only be obligated to pay a single Commission to the Broker which first registered Buyer at the Community in which Buyer purchased a home from Seller (assuming a sale contract is signed within such thirty (30) day period and all other criteria of this Agreement have been met).

13. This Agreement is only in effect for the Buyer described above and may be rescinded and terminated in Buyer's sole discretion upon written notice to Seller and Broker.

14. Broker is not authorized to and shall not make any warranties, representations, or covenants regarding the above-referenced home or on behalf of Seller.

15. In accordance with NRS 645.635, Broker hereby acknowledges and agrees that Seller may contact and communicate directly with Buyer in connection with Buyer's interest in Seller's communities and its purchase of a property from Seller. Seller shall have no obligation to notify Broker of any communication with Buyer. For the purposes of this Agreement, "Buyer" shall mean the Buyer(s) shown on the executed Purchase Agreement or as Prospective Buyer(s) prior to the execution of the Purchase Agreement.

This Agreement shall not be effective unless it has been executed by an authorized officer of Seller. On-site sales representatives are not authorized representatives of Seller for such purposes.

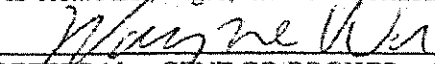
**ALL CHECKS WILL BE ISSUED AS DIRECTED ONLY TO THE BROKER LISTED BELOW.**

**BROKERAGE:** *Please Print or Type*

Broker's Agent (Licensee)	<u>Wayne Wu</u>	Company Name	<u>Nevada Real Estate Corp</u>
Broker Name	<u>Judith Sullivan</u>	Broker License #	<u>21094</u>
		Broker Tax I.D. #	<u>88-0340457</u>
Broker Address	<u>8360 W. Sahara Avenue, Suite 210</u>		
City	<u>Las Vegas</u>	State	<u>NV</u>
		Zip	<u>89117</u>
Telephone	<u>(702) 319-7288</u>	Cell Phone:	<u>(702) 338-1822</u>
		Fax:	<u>(702) 368-6883</u>
		E-Mail:	<u>waynew5988@aol.com</u>

Agreed to by:

KB Home Las Vegas, Inc. - Authorized Signature



Date

1-8-16

REFERRAL AGENT OR BROKER - Authorized Signature

Date

Broker's representation of Buyer and Broker's rights under this Referral Broker Commission Agreement are acknowledged by Buyer(s) as of the same date of Broker's signature above. Buyer acknowledges that Broker is not authorized to make any warranties, representations, or covenants regarding the above-referenced home or on behalf of Seller.



1/8/16  
Date

Jerrin Chiu

Buyer's Printed Name

Buyer's Signature

Date

Buyer's Printed Name

BUYER(S): Jerrin Chiu  
COMMUNITY: Tevare LOT/BLOCK: 43 / 1  
LENDER: Home Community Mortgage  
LENDER'S COMPLETE MAILING ADDRESS: 8345 W. Sunset, #100, Las Vegas, 89113  
LOAN OFFICER: Mosi Gatling  
TELEPHONE NUMBER: (702) 439-1174 FAX NUMBER: 702.549.2587 EMAIL: MOSI.gatling@HCMLoans.com

**Lender Fees, Processing Requirements, Closing Procedures:**

We, the above-referenced Buyer(s), have elected to use the lender referenced above at no costs or fees to Seller. Buyer understands that Buyer's

**DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE**

*This form does not constitute a contract for services nor an agreement to pay compensation.*

In Nevada, a real estate licensee is required to provide a form setting forth the duties owed by the licensee to:

- Each party for whom the licensee is acting as an agent in the real estate transaction, and
- Each unrepresented party to the real estate transaction, if any.

LICENSEE: The licensee in the real estate transaction is <u>Jana McNeff</u>	
whose license number is <u>BS.0144239</u> . The Licensee is acting for [client's name(s)]	
<u>KB Home Las Vegas, Inc.</u>	who is/are the <input checked="" type="checkbox"/> Seller/Landlord; <input type="checkbox"/> Buyer/Tenant.
BROKER: The broker is <u>Sherry E. Scanlan</u> ("Broker"), whose company is <u>KB Home Sales - Nevada Inc.</u>	

**Licensee's Duties Owed to All Parties:**

A Nevada real estate licensee shall:

- Not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest.
- Exercise reasonable skill and care with respect to all parties to the real estate transaction.
- Disclose to each party to the real estate transaction as soon as practicable:
  - Any material and relevant facts, data or information which licensee knows, or with reasonable care and diligence the licensee should know, about the property.
  - Each source from which licensee will receive compensation.
- Abide by all other duties, responsibilities and obligations required of the licensee in law or regulations.

**Licensee's Duties Owed to the Client:**

A Nevada real estate licensee shall:

- Exercise reasonable skill and care to carry out the terms of the brokerage agreement and the licensee's duties in the brokerage agreement;
- Not disclose, except to the licensee's broker, confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless licensee is required to do so by court order or the client gives written permission;
- Seek a sale, purchase, option, rental or lease of real property at the price and terms stated in the brokerage agreement or at a price acceptable to the client;
- Present all offers made to, or by the client as soon as practicable, unless the client chooses to waive the duty of the licensee to present all offers and signs a waiver of the duty on a form prescribed by the Division;
- Disclose to the client material facts of which the licensee has knowledge concerning the real estate transaction;
- Advise the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee; and
- Account to the client for all money and property the licensee receives in which the client may have an interest;

Duties Owed By a broker who assigns different licensees affiliated with the brokerage to separate parties. Each licensee shall not disclose, except to the real estate broker, confidential information relating to client.

Licensee Acting for Both Parties: You understand that the licensee N/A may or X may not, in the future act  
(Client Init) (Client Init)  
for two or more parties who have interests adverse to each other. In acting for these parties, the licensee has a conflict of interest. Before a licensee may act for two or more parties, the licensee must give you a "Consent to Act" form to sign.

I/We acknowledge receipt of a copy of this list of licensee duties, and have read and understand this disclosure.			
<u>Seller/Landlord</u>	<u>Date</u>	<u>Time</u>	<u>Buyer/Tenant</u>
<u>1/8/16</u>	<u>11:40am</u>		
<u>Seller/Landlord</u>	<u>Date</u>	<u>Time</u>	<u>Buyer/Tenant</u>





**AFFILIATED BUSINESS ARRANGEMENT DISCLOSURE STATEMENT  
NOTICE**

To: BUYER(S): Jerrin Chiu  
TRACT/PHASE: TEVARE - 415 / 28 LOT/BLOCK: 43 / 1  
PROPERTY ADDRESS: 477 CABRAL PEAK STREET, Las Vegas, NV 89138  
DATE: 1/8/2016

From: KB Home Las Vegas, Inc.

This is to give you notice that KB Home Las Vegas, Inc. and KB Home Sales - Nevada Inc. have a business relationship with one another and with KB HOME Insurance Agency Inc. (which companies are collectively referred to herein as the "Affiliated Companies"), and Home Community Mortgage, LLC ("Home Community Mortgage"). Specifically, KB HOME, directly or indirectly, owns 100% of the Affiliated Companies, and 49.9% of Home Community Mortgage. Because of these relationships, referrals to Home Community Mortgage for mortgage services and KB HOME Insurance Agency Inc. for insurance products may provide KB Home Las Vegas, Inc. and KB HOME a financial or other benefit.

Set forth below are the estimated charges or range of charges by Home Community Mortgage and KB HOME Insurance Agency Inc. for the following settlement services. You are **NOT** required to use any particular company as a condition for the purchase of the subject property. **THERE ARE FREQUENTLY OTHER SETTLEMENT SERVICE PROVIDERS AVAILABLE WITH SIMILAR SERVICES. YOU ARE FREE TO SHOP AROUND TO DETERMINE THAT YOU ARE RECEIVING THE BEST SERVICES AND THE BEST RATE FOR THESE SERVICES.**

Home Community Mortgage provides mortgage lending and related services. The company's estimated charges or range of charges are as follows:

**Conventional Loans**

Loan Origination Fee	0-1% of loan amount
Appraisal Fee	\$400-\$505 (for SFR-varies by state)
Credit Report Fee	\$20
Tax Service	\$85
Flood Certification	\$10
Lender Fees	\$375 - Underwriting \$375 - Processing

**FHA, VA and USDA Loans**

Loan Origination Fee	0-1% of loan amount
Appraisal Fee	\$400-\$625 (for SFR-varies by state)
Credit Report Fee	\$20
Tax Service	\$85-(N/A on FHA & VA loans)
Flood Certification	\$10
Lender Fees	\$375 - Underwriting \$375 - Processing

KB HOME Insurance Agency Inc. provides hazard insurance and related products. The company's estimated charges or range of charges are as follows:

Premiums vary according to product(s) and coverage(s) purchased and also vary depending on the price and location of the home and numerous other factors. By way of example, the annual premium for a homeowner's fire and extended coverage policy in the amount of \$242,000, with a \$1,000 deductible and \$169,500 contents coverage, new construction, will range from \$257 to \$315. On request, a representative of KB HOME Insurance Agency Inc. will provide further information and/or a quote regarding specific insurance products and premiums for the home you are considering purchasing.

You may be referred to First American Title Insurance Company and its subsidiaries and affiliates, Fidelity National Title, or another title insurance company for title insurance and escrow services. You are **NOT** required to use any of these referred companies as a condition for the purchase of the subject property.

The estimate of charges or range of charges listed above for Home Community Mortgage and KB HOME Insurance Agency Inc. are current as of the date hereof, but are subject to change.

**ACKNOWLEDGMENT**

I/We have read this disclosure form, and understand that KB Home Las Vegas, Inc. is referring me/us to purchase the above-described settlement services from Home Community Mortgage and KB HOME Insurance Agency Inc., and that they, and/or their parent companies, including KB HOME may receive a financial or other benefit as the result of these referrals.

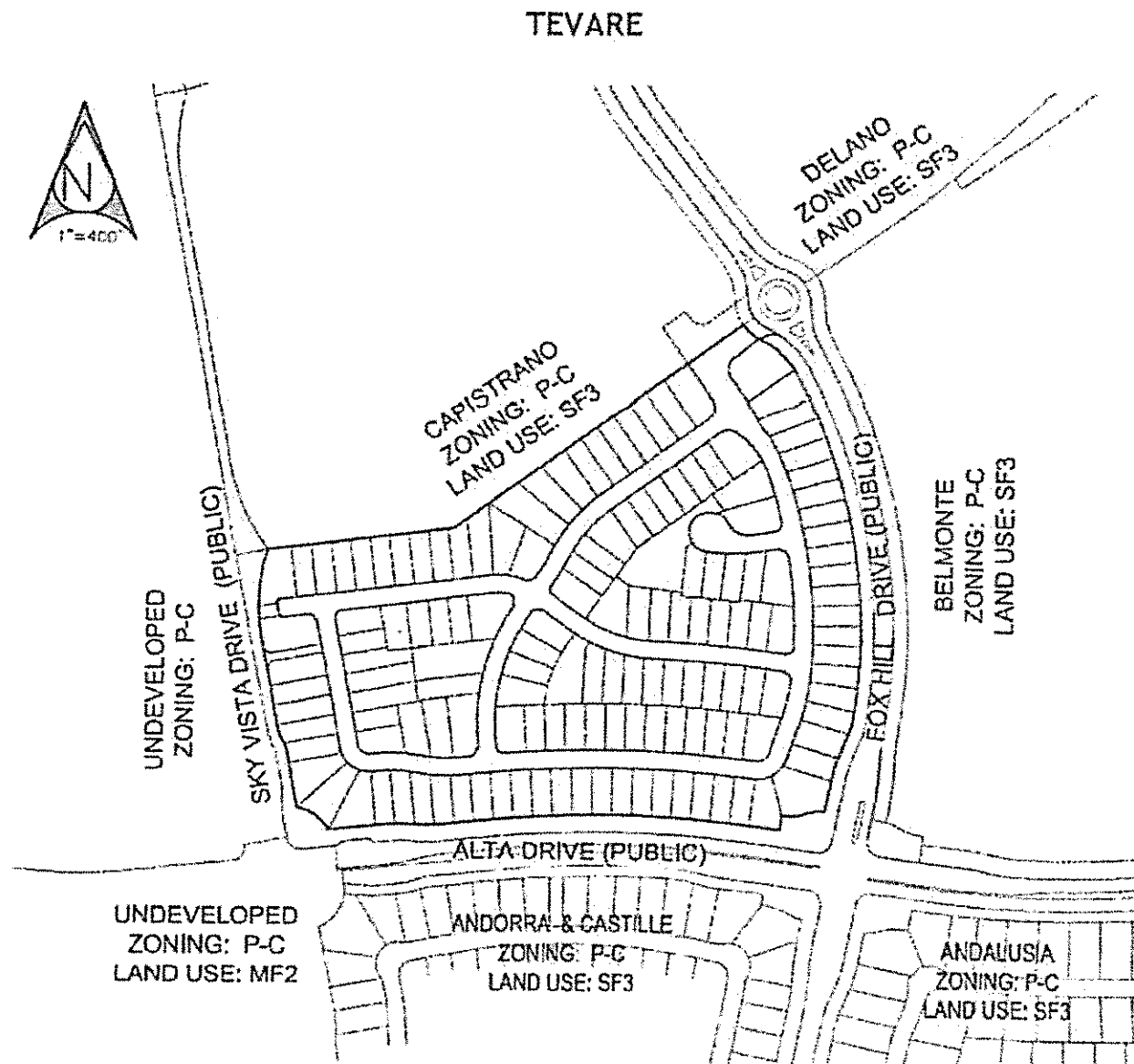
You are not required to purchase products or services from any person or entity suggested or recommended by any of the Affiliated Companies or the lender. However, the lender hereby reserves the right to approve the entity selected by the borrower, which approval may not be unreasonably withheld.

Buyer

Date

Buyer

Date



#### TENTATIVE LAND USE AND ZONING DISCLOSURE MAP

In accordance with Senate Bill 61 affecting Chapter 113 of the Nevada Revised Statutes, prior to signing a "Sales Agreement," the Seller is required to inform you of the current zoning designations of adjoining parcels of land to your new home. This zoning disclosure must be updated not less than once every six months if the information is available from the local government.

Before the initial purchaser of a residence signs a sales agreement or opens escrow, whichever occurs earlier, the Seller shall, by separate written document, disclose to the initial purchaser the zoning classifications and the designations in the master plan regarding land use adopted pursuant to Chapter 278 of the NRS, and the general land uses described therein, for the adjoining parcels of land. Zoning classifications describe land uses currently permitted on a parcel of land. Designations in the master plan regarding land use describe the land uses that the governing city or county proposes for a parcel of land. Zoning classifications and designations in the master plan regarding land use are established and defined by local ordinances. If the zoning classification for a parcel of land is inconsistent with the designation in the master plan regarding land use for the parcel, the possibility exists that the zoning classification may be changed to be consistent with the designation in the master plan regarding land use for the parcel. Additionally, the local ordinances that establish and define the various zoning classifications and designations in the master plan regarding land use are also subject to change.

The master plan is for the general, comprehensive and long-term development of land in the area and that the designations in the master plan regarding land use provide the most probable indication of future development which may occur on the surrounding properties. The master plan and zoning ordinances and regulations are subject to change.

The above plat is intended to give Buyer a general idea of what is proposed for development in the area surrounding Buyer's new home. It is based on information available as of January, 2016, and represents only one concept of possible development. This information is tentative and may be changed at any time. Seller makes no representation that development will follow the above plat and assumes no responsibility for errors or omissions in the information provided. Some of the property shown on this plat is not owned by Seller and, therefore, Seller has no control over its development. As to property which Seller owns, Seller reserves the right to make changes in the proposed land use, street pattern, type, style, price of buildings to be constructed, or to sell the property to others. For more current information, Seller suggests Buyer contact the County Planning and Zoning Department at (702) 455-4314.

ZONING DESIGNATION		LAND USE	
P-C	Planned Community	MF2	Multi Family, Max 21 dwelling units/acre
		SF3	Single Family, Max 10 dwelling units/acre

Please sign below to acknowledge you have received a copy of the Zoning Disclosure surrounding your new home.

SELLER: KB HOME LAS VEGAS, INC.

COMMUNITY: TEVARE (853/415)

LOT/BLOCK: 4211

[Signature]  
Buyer

Buyer

Date 1/8/16

RECEIPT FOR DOCUMENTS PERTAINING TO SALE  
INCLUDING NEVADA REVISED STATUTES (NRS) DOCUMENTS

TEVARE

BUYER(S): Chiu  
PROJECT: 415 LOT/BLOCK: 43/1

Buyer is to initial in the blank in front of the document applicable to each sale. If a document is not applicable, "N/A" is to be inserted. NONE of the blanks are to be left empty.

1. JC Public Offering Statement
2. Tevare Homeowners Association's documents, which include the following:
  - JC CC&Rs
  - JC Amended and Restated Supplemental Declaration of Annexation and of CC&Rs
  - JC Articles of Incorporation
  - JC Association Bylaws
  - JC Budget
  - JC Subsidy Agreement
3. Summerlin West Master Homeowners Association's documents, which include the following:
  - JC Article of Incorporation
  - JC Audit 2012
  - JC Balance Sheet, January 2014
  - JC Bylaws
  - JC Supplemental CC&Rs
  - JC CC&Rs
  - JC Fees and Charges Statement
  - JC Legal Disclosure
  - JC Operating Budget
  - JC Policies
  - JC Summerlin Homebuyer's Notice
4. Summerlin Council documents, which include the following:
  - JC Article of Incorporation
  - JC Budget
  - JC Bylaws
5. JC City of Las Vegas Special Improvement District Nos. 808 and 810 Information Form
6. JC Copies of Nevada Revised Statutes 11.202 to 11.206, and NRS 40.600 to 40.695, as amended by Assembly Bill No. 125 (also enclosed)
7. JC Nevada Real Estate Division Residential Disclosure Guide
8. Warranty Documents, which include the following:
  - JC KB HOME New Home Limited Warranty (with signed Agreement and Acceptance form)
  - JC KB HOME New Home Limited Warranty Performance Standards
9. JC KB HOME Homeowner's Manual

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF ALL OF THE DOCUMENTS MARKED ABOVE IN PARAGRAPHS 1 THROUGH 9 BY MEANS OF ☒ ELECTRONIC USB DRIVE, OR ☐ PAPER DOCUMENTS. IF THE FIRST BOX IS CHECKED, BUYER ACKNOWLEDGES THAT HE/SHE HAS THE MEANS TO ACCESS AND READ THESE DOCUMENTS.

10. JC Soils Report – Buyer acknowledges that a copy of the soils report(s) for the community in which the property is located is available for review in the sales office by Buyer and, if Buyer so requests, Seller shall provide to Buyer a copy of the soils report(s).

Buyer's Initials: JC

Buyer is aware that, pursuant to NRS Chapter 113, Buyer may, not later than 20 days after Buyer's receipt of all applicable soils reports, rescind its Purchase Agreement for the Property.

Please indicate your choice by checking the applicable box:

- ☐ Buyer hereby declines a copy of the soils report(s) to review and waives the right to rescind the Purchase Agreement as provided for by NRS Chapter 113.
- ☒ Buyer hereby requests a copy of the soils report(s) to review and does not waive the right to rescind the Purchase Agreement as provided for by NRS Chapter 113.

The undersigned hereby acknowledges receiving the documents marked above pertaining to the purchase of the above-referenced property:

SELLER STRONGLY RECOMMENDS THAT BUYER READ ALL OF THE ABOVE DOCUMENTS AS SOON AFTER PURCHASING AS POSSIBLE.

APPROVED AND AGREED TO:

Buyer [Signature] Date 1/8/16

Buyer \_\_\_\_\_ Date \_\_\_\_\_

CONSTRUCTION SITE VISIT / BUYER'S ASSUMPTION OF RISK  
DISCLOSURE

BUYER(S) Jerrin Chiu

TRACT / PHASE: TEVARE - 415 / 28

LOT / BLOCK: 43 / 1

Buyers are certainly welcome to visit the Community or their prospective home site after contracting for a home and before moving in. Indeed, Buyers are urged to familiarize themselves with the Community and surrounding neighborhood before contracting to purchase their home in order to assess potential impacts of noise, traffic, available commercial and recreational amenities and the buyers' personal sensitivities to such concerns.

During visits to the Community, Buyer must be aware that Buyer's lot is located within a construction area of the Community and that such construction sites are potentially dangerous. Seller will permit Buyer to enter his/her lot and the construction area surrounding the lot provided that Buyer is fully aware of and accepts the risks of such entry.

**BUYER ACKNOWLEDGES BEING INFORMED BY SELLER THAT:**

1. Seller discourages Buyer from entering upon the lot and home being purchased while construction is in progress (the "Construction Site"), particularly when workers are present;
2. Construction Sites, including homes under construction, may be hazardous and dangerous places to visit;
3. Certain hazards and dangers of Construction Sites, including homes under construction, are not obvious or readily apparent; and
4. Visitors to Construction Sites, including homes under construction, may suffer personal injury, property damage, and/or special, indirect and/or consequential damages.

**IN VIEW OF THE FOREGOING, BUYER AGREES WITH SELLER AS FOLLOWS:**

- A. Seller strongly recommends that Buyer be accompanied by a Salesperson or another representative on any and all visits to the home, and Seller further requests that such visits be limited to non-construction hours but during Sales Office hours.
- B. Buyer acknowledges that Seller has warned Buyer that such entry is DANGEROUS and POTENTIALLY HAZARDOUS. There are numerous risks of injury to person and property associated with visiting a home or the construction site during construction because of conditions including, without limitation, open trenches, construction traffic, potential falling debris, exposed nails and electrical wiring, incomplete construction and certain other potential hazards. Buyer will neither invite nor allow anyone else to accompany Buyer onto the Construction Site.
- C. Buyer agrees to use due care, including without limitation, the wearing of hard hats and protective footwear.
- D. If Buyer enters upon the Construction Site, then, without exception:
  - 1) Buyer agrees that during any site visit he/she shall proceed at his/her own risk, and releases and waives any claims against Seller and all of its affiliates, parent and subsidiary companies, officers, directors, employees, attorneys, assigns and any and all other persons or entities that could be potentially liable to Buyer as a result of any injury that may occur during Purchaser's visit to the lot or to any portion of the Community. Buyer assumes all risks of injury and damage to person and/or property, and all risks of special, indirect and/or consequential damages; and
  - 2) Buyer, on behalf of him/herself and/or Buyer's minor child(ren), if any:
    - a. Voluntarily and knowingly dismisses with prejudice, forever releases and discharges, and agrees to indemnify, defend, and hold harmless Seller and Broker together with their respective representatives, employees, directors, officers, agents, insurers, attorneys, predecessors, successors, assigns, both past and present, and all firms, persons, associations, venturers, co-venturers, partners, co-partners, contractors, engineers, subcontractors, subsidiaries, parents, affiliates or corporations connected therewith, and each of them (collectively "Seller"), from any and all claims, debts, liabilities, demands, obligations, costs, expenses, attorney's fees, actions, and causes of action of every nature, character, and description, whether legal, equitable, statutory, or contractual, that Buyer and/or Buyer's minor child(ren), if any, have held, now hold, or may hold in the future, whether known or unknown, against Seller, directly or indirectly arising out of any entry upon the Construction Site and/or activities engaged in during any entry upon the Construction Site;
    - b. Agrees to forever refrain and forebear from commencing, instituting or participating in, either as named or unnamed party, any action, lawsuit or other proceedings against Seller, whether brought by Buyer or another on behalf of Buyer and/or Buyer's minor child(ren), if any, based on or arising out of any entry upon the Construction Site and/or activities engaged in during any entry upon the Construction Site;
    - c. Acknowledges that a general release may not ordinarily extend to claims which the person giving the release does not know or suspect to exist in his/her favor at the time of executing the release, which, if known by him or her, must have materially affected his/her settlement with Seller, and nonetheless elects to and does assume all risk for claims heretofore or hereafter arising, known or unknown, out of the herein-stated matters, and waives the provisions of this principle of law; and
    - d. Agrees that this Disclosure shall be binding upon the heirs, executors, representatives, predecessors, successors and assigns of Buyer and/or Buyer's minor child(ren), if any, and all those subrogated to the rights of Buyer and/or Buyer's minor child(ren), if any.

APPROVED AND AGREED TO:

Buyer 

Buyer

Date 1/8/16

## EXHIBIT 3

# ADDENDUM TO PURCHASE AGREEMENT AND ESCROW INSTRUCTIONS

## SALES SUMMARY

SELLER:	KB Home Las Vegas, Inc.		
BUYER(S):	Chiu, Jerrin		
TRACT/PHASE:	Tevare	LOT/BLOCK:	43/1

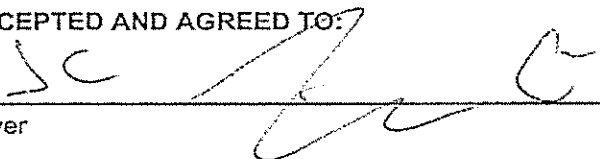
This Addendum to Purchase Agreement and Escrow Instructions (this "Addendum") is attached to and made part of that certain Purchase Agreement and Escrow Instructions between Buyer(s) and Seller, dated January 08, 2016, (the "Purchase Agreement"). Unless otherwise specified, all initially capitalized terms used in this Addendum shall have the meanings set forth in the Purchase Agreement. The Purchase Agreement is hereby amended as follows:

Base purchase price of property		\$376,790.00
Lot Premium	\$25,000.00	
Options	\$44,105.00	
Window Treatments	\$0.00	
Flooring	\$13,949.00	
Total to be paid to Seller		\$459,844.00
Earnest Money Deposit	\$10,297.00	
Option Deposit(s)	\$7,295.00	

Changes are being made due to Buyer adding options and / or flooring to total sales price.

Except as expressly modified herein, all other terms and conditions of the Purchase Agreement along with all sales supporting documents previously signed remain unchanged. This Addendum, together with the Purchase Agreement and previously executed sales supporting documents constitute the entire Agreement between the parties and Buyer and Seller acknowledge that no statements, representations or promises made by Buyer, Seller or by the Salesperson shall be binding unless in writing by both Buyer and Seller. In the event of a conflict between the provisions of this Addendum and the Purchase Agreement, this Addendum shall control.

ACCEPTED AND AGREED TO:



Buyer

Buyer

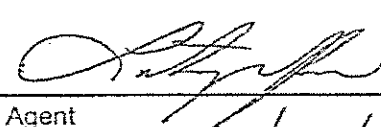
5/27/16

Date

APPROVED AND AGREED TO:

KB Home Las Vegas, Inc.

Seller



Authorized Agent

3/16/2016

Date

Prepared By: Johnson, LaToya

Date Prepared: 03/16/16 15:51:24

KB HOME  
KB Home Las Vegas Inc.(853)  
Sales Summary

Contract Date	01/08/2016	Project No.	00853 415
Community Name	Tevare	Bldg Type/#	/
Buyer Names	Chiu, Jerrin	Lot/Tract	43/1
Property Address	477 CABRAL PEAK STREET	Plan/Elevation	JN/C
	Las Vegas , NV 89138		
Lender	Chase Bank	Mortgage Type	OSL
Sales Price Breakdown:			
Gross Sales Price		Gross	Adjustments
		Ties to HUD	Accounting Net
			(Internal use only)
Base Price	(.4012)	\$376,790.00	\$0.00
Lot Premium	(.4014)	\$25,000.00	\$0.00
Flooring Upgrades	(.4050)	\$13,949.00	
Window Treatments	(.4061)	\$0.00	
Option Upgrades - Sales Office	(.4070-50001)	\$2,975.00	
Option Upgrades - KB Home Studio	(.4070-50002)	\$41,130.00	
Total Gross Sales Price		\$459,844.00	\$0.00
Allowances			
Sales Allowances - Base Price	(.4090)	\$0.00	\$0.00
Sales Allowances - Flooring Upgrades	(.4092)	\$0.00	\$0.00
Sales Allowances - Option Upgrades	(.4094)	\$0.00	\$0.00
Total Allowances		\$0.00	\$0.00
Gross Sales Price		\$459,844.00	\$0.00
		(Total on HUD)	(Internal use only)
Seller Closing Costs	(.5129)	\$0.00	
Mortgage Discounts	(.5126)	\$0.00	
NRCC	(.5123)	\$0.00	
Referral Fee	(.5123-1099)	\$0.00	
Comments	OSL - BROKER - NO INCENTIVES:: PRICE PARTICIPATION TO HOWARD HUGHES \$18,807.56		
	TRANSFER TAX SPLIT		
Hold-Back	Program	Amount	\$0.00
Pool Participation Program	Pool Company	Participation Fee	\$0.00
Mortgage Commitment	Program	Amount	\$0.00
Buyer Deposits	Earnest	\$10,297.00	Upgrades \$7,295.00
			*POC \$0.00
Broker Commission			
Broker Name	WAYNE WU	Realty Company	Nevada Real Estate Corp.
Percentage	3.00 %	Bonus	\$0.00
Gross Broker Commission Earned	\$13,795.32		
Gross Receipts Tax	\$0.00	0.00 %	
Less Amount Prepaid	\$0.00		
Broker Commission To Be Paid At Closing	\$13,795.32		
KB Sales Commission Basis	\$459,844.00		
Notes			
*POC amount is NOT to be credited @COE.			
Prepared By: Johnson, LaToya			
SSR Reason: CLOSE 03/16/16 15:51:24			

## EXHIBIT 4





PECCOLE PROFESSIONAL PARK  
10080 WEST ALTA DRIVE, SUITE 200  
LAS VEGAS, NEVADA 89145  
702.385.2500  
FAX 702.385.2086  
HUTCHLEGAL.COM

JEFFREY R. HALL  
PARTNER  
JHALL@HUTCHLEGAL.COM  
FILE NO. 6495-001

March 24, 2016

First American Title  
Karen Patton  
8311 W. Sunset Road, #150  
Las Vegas, NV 89113  
[kapatton@firstam.com](mailto:kapatton@firstam.com)

*Re: ESCROW NO. 112-249-8656*

This firm represents Betty Chan with respect to the payment of a commission from the sale of the property located at 477 Cabral Peak Street, Las Vegas, Nevada 89138. Ms. Chan was the procuring cause of the sale of the home to Jerrin Chiu. She showed the property to Mr. Chiu on December 31, 2015. Mr. Chiu signed a broker registration identifying Ms. Chan as his agent on the same day. Subsequently, Mr. Chiu used a different broker, Wayne Wu, to close the transaction despite Ms. Chan showing Mr. Chiu the property. Ms. Chan disputes any commission payment to Mr. Wu since she was the procuring cause of the sale on the buyer's side of the transaction.

As you are aware, the broker who is the procuring cause of the sale is entitled to the commission for the sale. *See Schneider v. Biglieri*, 94 Nev. 426, 427, 581 P.2d 8, 9 (1978); *Bartsas Realty, Inc. v. Levertton*, 82 Nev. 6, 409 P.2d 627 (1966). The broker's presence at the sale is not required for that broker to earn his or her commission. *See Horton v. Colbron*, 60 Wyo. 263, 150 P.2d 315, 319 (1944). Ms. Chan became the procuring cause of the sale when she showed the property to Mr. Chiu as Mr. Chiu's broker.

By this correspondence, you have been made aware of Ms. Chan's claim to the buyer's commission from the sale of at 477 Cabral Peak Street, Las Vegas, Nevada 89138 to Mr. Chiu. In the event that buyer's commission's paid to anyone other than Ms. Chan as a result of this transaction, we will pursue the recovery of that commission from the payee. Ms. Chan reserves all rights against any party that pays or receives a buyer's commission for this transaction to anyone other than her.

First American Title  
Karen Patton  
Page 2

Please contact me if you have any questions regarding this matter.

Sincerely yours,

HUTCHISON & STEFFEN



Jeffrey R. Hall  
*For the Firm*

cc: *Wayne Wu*  
*Anthony C. Gordon*  
*Jerrin Chiu*  
*Betty Chan*

## EXHIBIT 5

# Code of Ethics and Standards of Practice

## of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2017

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®S.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

### Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. (Amended 1/07)

### Duties to Clients and Customers

#### Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

##### • Standard of Practice 1-1

REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)

##### • Standard of Practice 1-2

The duties imposed by the Code of Ethics encompass all real estate-related activities and transactions whether conducted in person, electronically, or through any other means.

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual relationship with the REALTOR® or the REALTOR®'s firm; "prospect" means a purchaser, seller, tenant, or landlord who is not subject to a representation relationship with the REALTOR® or REALTOR®'s firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. (Adopted 1/95, Amended 1/07)

##### • Standard of Practice 1-3

REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

##### • Standard of Practice 1-4

REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. (Amended 1/93)

##### • Standard of Practice 1-5

REALTORS® may represent the seller/landlord and buyer/tenant in the

- **Standard of Practice 16-6**

When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. *(Amended 1/98)*

- **Standard of Practice 16-7**

The fact that a prospect has retained a REALTOR® as an exclusive representative or exclusive broker in one or more past transactions does not preclude other REALTORS® from seeking such prospect's future business. *(Amended 1/04)*

- **Standard of Practice 16-8**

The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement. *(Amended 1/98)*

- **Standard of Practice 16-9**

REALTORS®, prior to entering into a representation agreement, have an affirmative obligation to make reasonable efforts to determine whether the prospect is subject to a current, valid exclusive agreement to provide the same type of real estate service. *(Amended 1/04)*

- **Standard of Practice 16-10**

REALTORS®, acting as buyer or tenant representatives or brokers, shall disclose that relationship to the seller/landlord's representative or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's representative or broker not later than execution of a purchase agreement or lease. *(Amended 1/04)*

- **Standard of Practice 16-11**

On unlisted property, REALTORS® acting as buyer/tenant representatives or brokers shall disclose that relationship to the seller/landlord at first contact for that buyer/tenant and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement. *(Amended 1/04)*

REALTORS® shall make any request for anticipated compensation from the seller/landlord at first contact. *(Amended 1/98)*

- **Standard of Practice 16-12**

REALTORS®, acting as representatives or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/04)*

- **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's representative or broker, and not with the client, except with the consent of the client's representative or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospects, REALTORS® shall ask prospects whether they are a party to any exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. *(Adopted 1/93, Amended 1/04)*

- **Standard of Practice 16-14**

REALTORS® are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. *(Amended 1/98)*

- **Standard of Practice 16-15**

In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.

- **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant representatives or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer/tenant representatives or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. *(Amended 1/04)*

- **Standard of Practice 16-17**

REALTORS®, acting as subagents or as buyer/tenant representatives or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. *(Amended 1/04)*

- **Standard of Practice 16-18**

REALTORS® shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. *(Amended 1/02)*

- **Standard of Practice 16-19**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. *(Amended 1/93)*

- **Standard of Practice 16-20**

REALTORS®, prior to or after their relationship with their current firm is terminated, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS® (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. *(Adopted 1/98, Amended 1/10)*

## Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of the Board rather than litigate the matter.

In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.

The obligation to participate in mediation and arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate and arbitrate and be bound by any resulting agreement or award. *(Amended 1/12)*

• **Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. *(Adopted 2/86)*

• **Standard of Practice 17-2**

Article 17 does not require REALTORS® to mediate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to mediate through the Board's facilities. The fact that all parties decline to participate in mediation does not relieve REALTORS® of the duty to arbitrate.

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. *(Amended 1/12)*

• **Standard of Practice 17-3**

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. *(Adopted 1/96)*

• **Standard of Practice 17-4**

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

- 1) Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. *(Adopted 1/97, Amended 1/07)*
- 2) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the seller or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. *(Adopted 1/97, Amended 1/07)*

- 3) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. *(Adopted 1/97)*

- 4) Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. *(Adopted 1/97)*

- 5) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, claims to be the procuring cause of sale or lease. In such cases arbitration shall be between the listing broker and the buyer or tenant representative and the amount in dispute is limited to the amount of the reduction of commission to which the listing broker agreed. *(Adopted 1/05)*

• **Standard of Practice 17-5**

The obligation to arbitrate established in Article 17 includes disputes between REALTORS® (principals) in different states in instances where, absent an established inter-association arbitration agreement, the REALTOR® (principal) requesting arbitration agrees to submit to the jurisdiction of, travel to, participate in, and be bound by any resulting award rendered in arbitration conducted by the respondent(s) REALTOR®'s association, in instances where the respondent(s) REALTOR®'s association determines that an arbitrable issue exists. *(Adopted 1/07)*

## Explanatory Notes

The reader should be aware of the following policies which have been approved by the Board of Directors of the National Association:

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in *Interpretations of the Code of Ethics*.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.

**EXHIBIT 6**



# The Code of Ethics – Our Promise of Professionalism

CE.5424000-RE  
For (3) Ethics Credit Hours

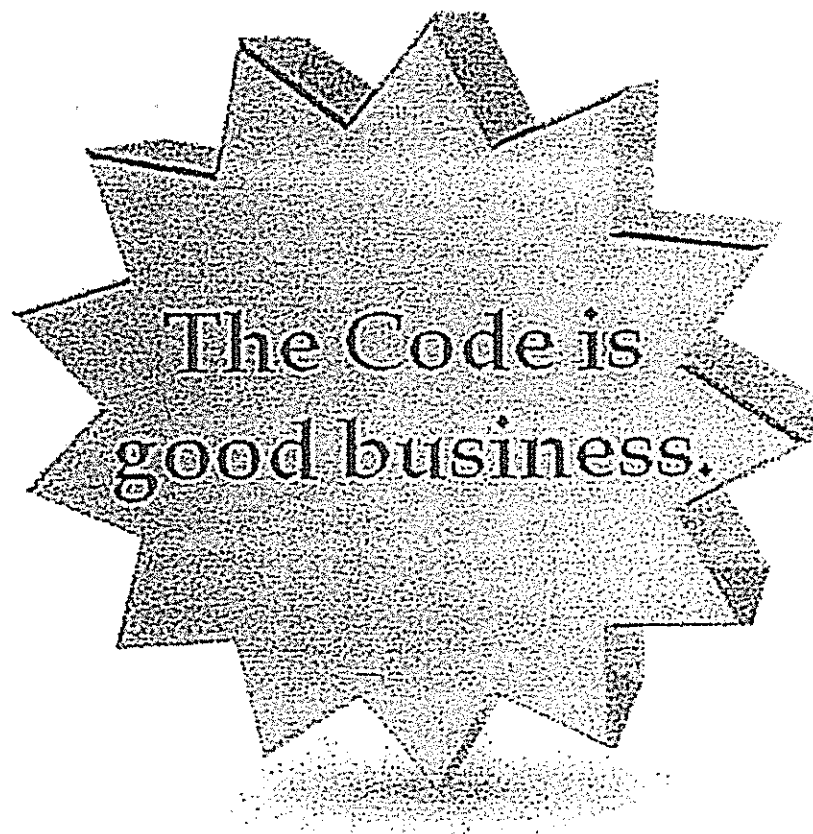




# The Code of Ethics: Our Promise of Professionalism

## The REALTORS® Code of Ethics Member Education Program

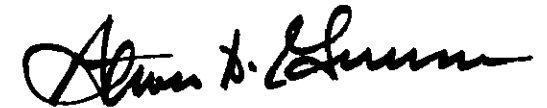
### Participant's Guide



## Part 5: Summaries and Case Studies of Selected Articles of the Code of Ethics

### 4. Article 17

- REALTORS® (principals) are required to arbitrate contractual and specific non-contractual disputes identified in Standard of Practice 17-4 that they have with REALTORS® (principals) in other firms.
- REALTORS®' clients may invoke mandatory arbitration with their REALTOR® (principal).
- REALTORS® are obligated to cause their firms to arbitrate.



CLERK OF THE COURT

1 **CSERV**  
2 MICHAEL A. OLSEN, ESQ.  
3 Nevada Bar No. 6076  
4 THOMAS R. GROVER, ESQ.  
5 Nevada Bar No. 12387  
6 **Goodsell & Olsen, LLP**  
7 10155 W. Twain Ave., Suite 100  
8 Las Vegas, Nevada 89147  
9 Tel: (702) 869-6261  
10 Fax: (702) 869-8243  
11 *Attorneys for Defendants/Counterclaimants*  
12 *Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.*  
13 *and Jerrin Chiu*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 BETTY CHAN and ASIAN AMERICAN ) Case No: A-16-744109-C  
11 REALTY & PROPERTY MANAGEMENT, )  
12 ) Dept. No: XII  
13 Plaintiffs, )  
14 v. )

15 WAYNE WU, JUDITH SULLIVAN, )  
16 NEVADA REAL ESTATE CORP., JERRIN )  
17 CHIU, KB HOME SALES – NEVADA INC., )  
18 Defendants. )

**CERTIFICATE OF SERVICE**

19 WAYNE WU, JUDITH SULLIVAN, )  
20 NEVADA REAL ESTATE CORP., JERRIN )  
21 CHIU, )

22 Counterclaimants, )

23 v. )

24 BETTY CHAN and ASIAN AMERICAN )  
25 REALTY & PROPERTY MANAGEMENT, )

Counterdefendants, )

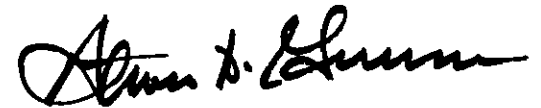
23 I hereby certify that on February 2, 2017, I served a copy of the **OPPOSITION TO**  
24 **MOTION TO STAY PENDING ARBITRATION AND COUNTERMOTION TO**  
25 **DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY**

**JUDGMENT** via electronic service pursuant to Administrative Order 14-2 and NEFCR 9 and in accordance with the Electronic Service and Filing Order to all parties listed on the Master Service List, including:

Marquis Aurbach Coffing	
Contact	Email
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An Employee of Goodsell & Olsen



CLERK OF THE COURT

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6 *Attorneys for Defendants/Counterclaimants*  
*Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.*  
7 *and Jerrin Chiu*

8 **DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

9 BETTY CHAN and ASIAN AMERICAN ) Case No: A-16-744109-C  
10 REALTY & PROPERTY MANAGEMENT, )  
11 ) Dept. No: XII  
Plaintiffs, )  
v. )

12 WAYNE WU, JUDITH SULLIVAN, ) **CERTIFICATE OF SERVICE**  
13 NEVADA REAL ESTATE CORP., JERRIN )  
14 CHIU, KB HOME SALES – NEVADA INC., )  
Defendants. )

15  
16 WAYNE WU, JUDITH SULLIVAN, )  
17 NEVADA REAL ESTATE CORP., JERRIN )  
CHIU, )

18 Counterclaimants, )

19 v. )

20 BETTY CHAN and ASIAN AMERICAN )  
21 REALTY & PROPERTY MANAGEMENT, )

22 Counterdefendants, )

23 I hereby certify that on February 7, 2017, I served a copy of the **SUPPLEMENT TO**  
24 **OPPOSITION TO MOTION TO STAY PENDING ARBITRATION AND**  
25 **COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE**

1 **FOR SUMMARY JUDGMENT** via electronic service pursuant to Administrative Order 14-2  
2 and NEFCR 9 and in accordance with the Electronic Service and Filing Order to all parties listed  
3 on the Master Service List, including:

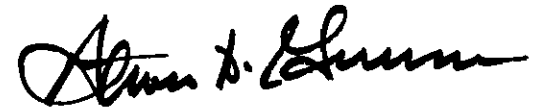
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CLERK OF THE COURT

1 **SUPP**

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7 *and Jerrin Chiu*

8 **DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

10 BETTY CHAN and ASIAN AMERICAN )

REALTY & PROPERTY MANAGEMENT, )

11 Plaintiffs, )

12 v. )

13 WAYNE WU, JUDITH SULLIVAN, )

NEVADA REAL ESTATE CORP., JERRIN )

14 CHIU, KB HOME SALES – NEVADA INC., )

15 Defendants. )

16 WAYNE WU, JUDITH SULLIVAN, )

17 NEVADA REAL ESTATE CORP., JERRIN )

CHIU, )

18 Counterclaimants, )

19 v. )

20 BETTY CHAN and ASIAN AMERICAN )

REALTY & PROPERTY MANAGEMENT, )

21 Counterdefendants, )

22  
23 **SUPPLEMENT TO OPPOSITION TO MOTION TO STAY PENDING ARBITRATION**  
24 **AND COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE**  
25 **ALTERNATIVE FOR SUMMARY JUDGMENT**

**GOODSELL & OLSEN**

ATTORNEYS AT LAW

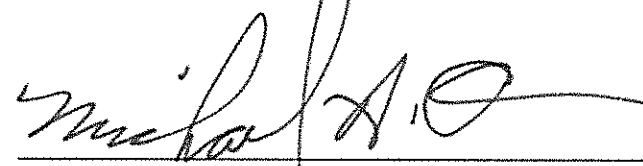
10155 W. TWAIN AVE., SUITE 100, LAS VEGAS, NV 89147

(702) 869-6261 TEL - (702) 869-8243 FAX

COMES NOW, Defendants and Counterclaimants, WAYNE WU ("Wu"), JUDITH SULLIVAN ("Sullivan"), NEVADA REAL ESTATE CORP. ("NREC") and JERRIN CHIU ("Chiu"), by and through their attorney, Michael A. Olsen, Esq. of the law firm Goodsell & Olsen, LLP, respectfully submit their *Supplement to Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment* ("Supplement"). Defendants and Counterclaimants submit their Supplement to include the sworn affidavit of Jerrin Chiu, supporting the factual statements represented in their *Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment*. A true and accurate copy of Jerrin Chiu's Affidavit is attached hereto as Exhibit "1".

DATED this 24<sup>th</sup> day of FEBURARY 2017.

GOODSELL & OLSEN, LLP



MICHAEL A. OLSEN, ESQ.

Nevada Bar No. 6076

THOMAS R. GROVER, ESQ.

Nevada Bar No. 12387

**GOODSELL & OLSEN, LLP**

*Attorneys for*

*Defendants/Counterclaimants*

*Wayne Wu, Judith Sullivan, Nevada Real Estate Corp.*

*and Jerrin Chiu*



## EXHIBIT 1

AFFIDAVIT OF JERRIN CHIU

State of Nevada )  
County of Clark ) ss:

JERRIN CHIU, being first duly sworn, deposes and says that I am over the age of 18 years, have personal knowledge of and am competent to testify to the following facts.

1. I have never been convicted of a felony.
2. I currently live at 477 Cabrial Peak, Las Vegas, Nevada 89138.
3. I have personal knowledge of the facts stated in the *Opposition to Motion to Stay Pending Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment* and believe them to be accurate.
4. I emailed Betty Chan on November 2, 2015 requesting her assistance in looking for real estate.
5. On December 30, 2015, Betty Chan picked up my parents and me and showed us three previously-owned homes and three model homes at the Tevare KB Home Development in Summerlin.
6. I felt pressured to purchase Betty Chan's preferred selection of Lot 37 and the Model 3 floorplan. I did not like that option and declined moving forward with the purchase of a home, or even making an offer on that date.
7. Initially, I lacked interest in the KB Home Development options because the Development was located outside of the parameters I gave to Betty Chan previously.
8. Despite being uncertain about buying a KB home, I submitted a refundable \$10,000.00 deposit to KB Home on December 31, 2015 because I was informed that I would face a \$3,000.00 price increase on the lots if I did not submit the deposit before the New Year. I

1 would not have made the deposit but for being informed that it was refundable for 14 days if I  
2 decided not to move forward with purchasing a home. Betty Chan was not taking our calls and  
3 did not represent me in making the deposit with KB Homes on December 31, 2015.

4  
5 9. My father, Kwang Chiu, called Betty Chan the morning of December 31, 2015  
6 seeking further assistance from her. She did not respond to the call.

7 10. My father called Betty Chan several times and left a voice message on January 2,  
8 2016. Again, Chan did not answer the January 2, 2016 calls.

9 11. My father called Betty Chan on January 3, 2016 and left a voice message. Betty  
10 Chan did not answer.

11 12. I was frustrated with Betty Chan because she did not answer several phone calls  
12 and voice messages from my father despite knowing that my parents were leaving town and time  
13 was of the essence. It was due to her non-responsiveness that my parents and I determined to  
14 seek assistance from another agent.

15 13. After calling a couple of other possible agents, my father recommended Wayne  
16 Wu as a replacement real estate agent and called Wayne on my behalf.

17 14. I met with Wayne Wu on January 7, 2016 at the KB Home Development and  
18 Wayne convinced me to purchase Lot 43 with the Model 2 floorplan.

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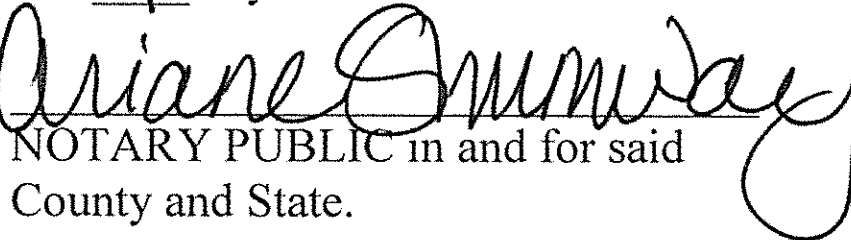
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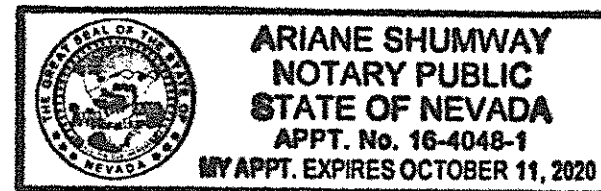
15. In addition to being the agent that actually presented me with a home/lot combination that I was comfortable with, Mr. Wu was the only agent that actually performed any work on negotiating a purchase contract, opening escrow and ultimately closing the purchase. FURTHER YOUR AFFIANT SAYETH NAUGHT.

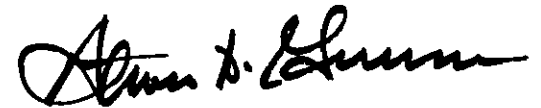
DATED this 7 day of FEBRUARY 2017.

  
JERRIN CHIU

SIGNED AND SWORN to before me  
this 7 day of FEBRUARY 2017.

  
NOTARY PUBLIC in and for said  
County and State.





CLERK OF THE COURT

**RPLY**  
**Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
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ahigbee@maclaw.com  
Attorneys for Plaintiff/  
Counterdefendant, Betty Chan  
and Asian American Realty &  
Property Management

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

Case No.: A-16-744109-C  
Dept. No.: XII

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

**AMENDED REPLY TO COUNTERCLAIM**

Plaintiff/Counterdefendant Betty Chan (“Chan” or “Counterdefendant”), by and through  
the law firm of Marquis Aurbach Coffing, her attorneys of record, hereby submits her Amended  
Reply to Counterclaimants’ Counterclaim as follows:

**FIRST CLAIM FOR RELIEF****(Abuse of Process)**

1. In answering Paragraphs 1 and 2 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

2. In answering Paragraph 3 of Counterclaimants' Counterclaim, Counterdefendant admits that the document has not been produced and denies the remaining allegations contained therein.

3. In answering Paragraph 4 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

4. In answering Paragraph 5 of Counterclaimants' Counterclaim, Counterdefendant is without sufficient information to form an opinion as to the truth of the allegations contained therein, and therefore, denies the same.

5. In answering Paragraphs 6 and 7 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

6. In answering Paragraphs 8 of Counterclaimants' Counterclaim, the allegation is a legal conclusion rather than a factual allegation; therefore Chan is without knowledge to form a belief and therefore denies the same.

7. In answering Paragraph 9 and 10 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein

**SECOND CLAIM FOR RELIEF****(Declaratory Relief)**

8. In answering paragraph 11, Counterdefendant repeats and incorporates by reference the responses to all previous paragraphs, as if fully set forth herein.

9. In answering Paragraph 12 of Counterclaimants' Counterclaim, Counterdefendant admits that she claims the entire interest in the commission but is without sufficient information to form an opinion as to the truth of the remaining allegations contained therein, and therefore, denies the same.

10. In answering Paragraphs 13, 14 and 15 of Counterclaimants' Counterclaim, Counterdefendant denies the allegations contained therein.

### **AFFIRMATIVE DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

Counterclaimants have failed to state a claim against Counterdefendant upon which relief can be granted.

#### **SECOND AFFIRMATIVE DEFENSE**

Counterclaimants' claims against Counterdefendant are barred in whole or in part by the doctrines of estoppels and waiver.

#### **THIRD AFFIRMATIVE DEFENSE**

Counterclaimants are guilty of unclean hands.

#### **FOURTH AFFIRMATIVE DEFENSE**

Counterclaimants have waived any right to recovery from Counterdefendant.

#### **FIFTH AFFIRMATIVE DEFENSE**

Counterclaimants' have failed to mitigate their damages.

#### **SIXTH AFFIRMATIVE DEFENSE**

Counterclaimants' have failed to satisfy conditions precedent to bringing any action against these answer Counterdefendants.

#### **SEVENTH AFFIRMATIVE DEFENSE**

Counterclaimants' claims for relief are barred by the Doctrines of Estoppel, Estoppel by Fraud, and equitable relief.

#### **EIGHTH AFFIRMATIVE DEFENSE**

Counterdefendant acted in good faith in all of her dealings with Counterclaimants.

#### **NINTH AFFIRMATIVE DEFENSE**

Plaintiff/Counterdefendant had no ulterior purpose in bringing action against Counterclaimants.

#### **TENTH AFFIRMATIVE DEFENSE**

Counterdefendant's claims are proper in the regular course of proceedings.

**ELEVENTH AFFIRMATIVE DEFENSE**

Counterdefendant had a contract with Counterclaimant Chiu and Counterclaimant Wu could not represent Counterclaimant Chiu.

**TWELVETH AFFIRMATIVE DEFENSE**

Counterclaimants Wu, Sullivan and NRED were not the procuring cause of the purchase of property by Counterclaimant Chiu.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Counterdefendant hereby incorporates by reference those affirmative defenses enumerated in Rule 8 of the Nevada Rules of Civil Procedure as if fully set forth herein.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged herein in so far as sufficient facts are not available after reasonable inquiry upon the filing of this Reply; Counterdefendant, therefore, reserves the right to amend this Reply to allege additional Affirmative Defenses as subsequent investigation warrants.

**PRAYER FOR RELIEF**

WHEREFORE, Counterdefendant prays for the following relief against Counterclaimants:

1. That Counterclaimants take nothing by way of their Counterclaim and that the same be dismissed with prejudice;
2. For an award of reasonable attorney fees and costs of suit; and
3. For any further relief as the Court deems to be just and proper.

Dated this 10<sup>th</sup> day of February, 2017.

MARQUIS AURBACH COFFING

By

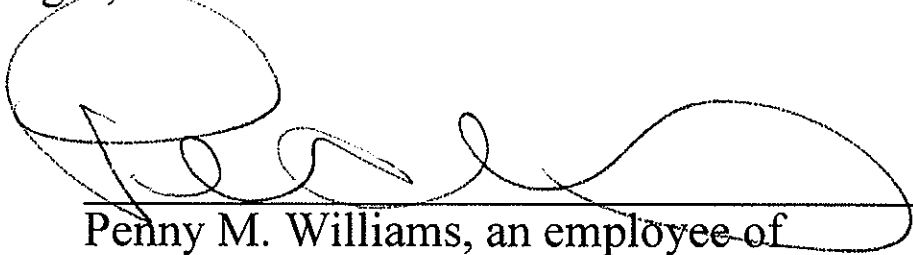
Avee M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for Plaintiff/Counterdefendant



**CERTIFICATE OF SERVICE**

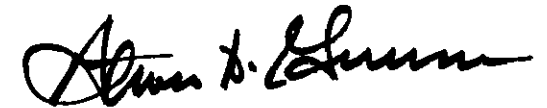
I hereby certify that the foregoing **AMENDED REPLY TO COUNTERCLAIM** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10 day of February, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

**Goodsell & Olson**  
Michael A. Olsen, Esq.  
Thomas R. Grover, Esq.  
10155 W. Twain Ave., Suite 100  
Las Vegas, Nevada 89147



Penny M. Williams, an employee of  
Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



CLERK OF THE COURT

**Marquis Aurbach Coffing**  
Avece M. Higbee, Esq.  
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Las Vegas, Nevada 89145  
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Facsimile: (702) 382-5816  
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Attorneys for Plaintiff/  
Counterdefendant, Betty Chan  
and Asian American Realty &  
Property Management

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**PLAINTIFFS/COUNTERDEFENDANTS REPLY TO OPPOSITION TO MOTION TO  
STAY PENDING ARBITRATION AND OPPOSITION TO  
DEFENDANTS/COUNTERCLAIMANTS COUNTERMOTION TO DISMISS WITH  
PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT**

Plaintiffs/Counterdefendants, Betty Chan and Asian American Realty & Property  
Management (“Plaintiffs” or “Chan”) by and through their attorney of record, Marquis Aurbach  
Coffing, hereby file their Reply to Opposition to Motion to Stay Pending Arbitration and

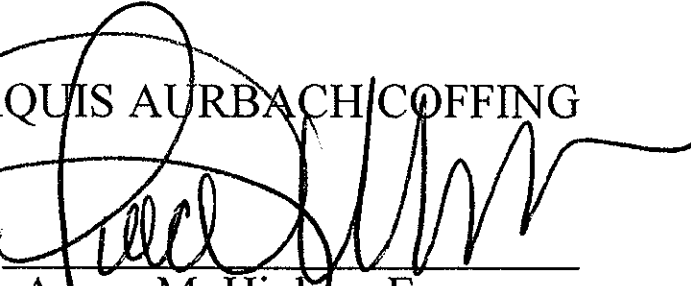
1 Opposition to Defendants/Counterclaimants' Countermotion to Dismiss with Prejudice or in the  
2 Alternative for Summary Judgment.

3 This Reply and Opposition are made and based upon the attached Memorandum of Points  
4 and Authorities, all papers and pleadings on file herein, and any oral argument allowed at the  
5 time of the hearing.

6 Dated this 14 day of February, 2017.

MARQUIS AURBACH COFFING

By

  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for  
Plaintiffs/Counterdefendants

### MEMORANDUM OF POINTS AND AUTHORITIES

#### I. INTRODUCTION

15 Plaintiffs simply seek the stay of the above referenced case while Plaintiffs and some of  
16 the Defendants arbitrate the commission dispute. There is no basis for dismissal of any  
17 Defendant or any claim under Nevada law. Summary judgment is inappropriate as the issue of  
18 procuring cause for the sale of property is an issue of fact. Should this court determine procuring  
19 cause, Plaintiff Chan is the procuring cause of the sale of the KB home to Defendant Chiu.

#### II. STATEMENT OF FACTS

21 Betty Chan and Asian American Realty & Property Management ("Chan" or "Plaintiffs")  
22 had a professional relationship with Defendant Jerrin Chiu for a number of years<sup>1</sup>. Chan worked  
23 as the real estate agent for Defendant Jerrin Chiu ("Defendant Chiu") on the purchase of his first  
24 home in 2013. In 2014, Defendant Chiu again requested the assistance of Chan in purchasing a  
25 second home. In 2014, Chan showed some homes to Defendant Chiu but he did not find  
26 anything he wanted to purchase. In March 2015, Chan showed houses again and Defendant Chiu  
27

28 <sup>1</sup> See Declaration of Betty Chan attached hereto.

1 made an offer on a home in Desert Shores; Defendant Chiu determined again not to purchase the  
2 home.

3 With respect to the property and commission now in question, Chan began working with  
4 Defendant Chiu and was then excluded from the completion of the transaction. On or about  
5 October 2, 2015, Dr. Kwang Chiu contacted Chan to make an appointment for him and his son,  
6 Defendant Chiu, to see homes in December 2015. Chan agreed to represent Defendant Chiu as  
7 the buyer. Chan requested updated financial information for Defendant Chiu's loan pre-  
8 approval. On or about November 11, 2015, Defendant Chiu emailed Chan regarding his  
9 intention to purchase a house and listed out the criteria. On or about November 28, 2015,  
10 Defendant Chiu emailed Chan concerning the location of a particular house he wanted to see.  
11 On or about November 29, 2015, Chan responded concerning the viewing of the particular  
12 house. On or about December 29, 2015, Chan prepared for the showing of homes to the Chiu  
13 family by pulling listings around Boca Park area. Five resale homes were targeted to fit  
14 Defendant Chiu's criteria and Chan contacted the listing agents for the resale homes to set  
15 appointments. Chan included the model homes in both a Toll Brothers development and a KB  
16 Home development previously viewed by Plaintiff Chan. Chan checked the status of the listings,  
17 printed the information and arranged a route for the efficient showing of the properties.

18 On or about December 30, 2015, Chan picked up the Chiu family and showed the resale  
19 homes, the Toll Brother models and the KB Homes models. At the front office of KB Homes,  
20 Chan spoke to Cheryl and picked up a price sheet. Chan then showed all of the model homes to  
21 the Chiu family and Defendant Chiu liked the first and second model homes. Back at the KB  
22 Homes model home office, Chan requested a floor plan and explained the buying process for a  
23 new home including the standards, elevations, prices, location of the site, etc. to the Chiu family.  
24 Chan located a buyer registration card and Defendant Chiu filled in the buyer portion and Chan  
25 filled in the realtor portion. No KB Homes representative was to be found so Chan left the  
26 registration card on the table in the KB Home front office to hurry to get the Chiu family to the  
27 next appointment. Plaintiff Chan emailed Dr. Kwang Chiu the four resale listings that were  
28 viewed.

1 On or about December 31, 2015, Dr. Kwang Chiu called Chan and asked if she could  
2 “kick back 1% of the commission” like the other agent offered him. Chan offered a ¼%  
3 reduction. On or about January 5, 2016, Chan followed up with Defendant Chiu about the KB  
4 Home properties. Defendant Chiu did not respond. Contrary to the unsubstantiated statements  
5 made by Defendants concerning phone calls made to Chan, no such calls were made to Chan.  
6 On or about January 15, 2016, Defendant Chiu finally admitted that he was using another agent.

7 On or about January 22, 2016, Chan went to the KB Homes office and learned that  
8 Defendant Chiu had indeed signed a contract on the property shown by Chan with another agent  
9 on January 8, 2016. On or about January 30, 2016, Chan went to the KB Homes office to  
10 address the commission; both KB Homes representatives, Cheryl and Jana, stated that Defendant  
11 Chiu told them Chan introduced him to KB Homes but that he determined to use another agent.

12 On or about May 27, 2016, Defendant Chiu closed on the purchase of a home in the KB  
13 Home community known as 477 Cabral Peak, Las Vegas, Nevada (“Property”).

### 14 **III. LEGAL ARGUMENTS**

#### 15 **A. CHAN IS ENTITLED TO A STAY OF THE PROCEEDINGS PENDING** 16 **ARBITRATION SO THAT THIS COURT CAN HEAR THE REMAINDER** 17 **OF THE CLAIMS THAT ARE NOT RESOLVED IN THE** 18 **ARBITRATION.**

19 Defendants argue that this Court should dismiss the case rather than stay the case on the  
20 grounds that Chan violated the National Association of Realtors (“NAR”) Code of Ethics and  
21 Standards of Practice (“Code of Ethics”). There is no basis for this Court to dismiss the case on  
22 such grounds. To the contrary, a stay of the case is the most judicially efficient way to allow  
23 Chan to meet her obligations to arbitrate and then address the remaining claims.

24 First, Plaintiffs are seeking to arbitrate as required by the NAR Code of Ethics. There  
25 was and is no violation because Plaintiffs has already submitted her claim involving the  
26 commission dispute to the Greater Las Vegas Association of Realtors® (“GLVAR”) pursuant to  
27 the process set forth in the NAR Code of Ethics.

28 Second, some of Plaintiffs’ claims are outside of the arbitration requirements through  
GLVAR and involve parties that are not subject to the NAR Code of Ethics. Plaintiffs’ claims

1 for attorneys fees against Defendant Wu, Sullivan and Nevada Real Estate Corp. and for  
2 interference with Chan's contract with Defendant Chiu are not for resolution through the  
3 arbitration process. For example, Plaintiffs have a claim against Defendant Chiu for breach of  
4 contract. He agreed to utilize Plaintiffs for representation in the purchase of a home. Defendant  
5 Chiu breached that agreement when Defendant Chiu utilized another agent, Defendant Wu.  
6 Additionally, Plaintiffs' claims against Defendant Chiu are not governed by the arbitration  
7 process. NAR Article 17 requires arbitration between Realtors®. Defendant Chiu is not a  
8 Realtor® and Chan has no obligation to arbitrate any dispute against him through GLVAR.  
9 Such claims are properly before this Court.

10 Third, there is no basis for this Court to dismiss the case based on an alleged violation of  
11 the NAR Code of Ethics. To the contrary, should there be a violation of the NAR Code of Ethics  
12 it is the GLVAR's responsibility to enforce any obligation to arbitrate. GLVAR and NAR are  
13 voluntary organizations and set the rules and requirements for membership. Should Defendants  
14 believe that Chan is in violation of the Code of Ethics they can pursue that claim with GLVAR  
15 or NAR.

16 Clearly, Plaintiffs' claims against the parties should remain subject to this Court for  
17 further proceedings following arbitration. Should these claims be resolved at the arbitration  
18 against all parties, then the case would be dismissed in the future. However, in the meantime,  
19 this case should be stayed pending the arbitration of Plaintiffs and Defendant Wu and his  
20 Broker's commission dispute.

21 **B. DEFENDANTS HAVE NOT SET FORTH ANY BASIS FOR DISMISSAL**  
22 **AND PLAINTIFFS HAVE STATED FACTS AND CLAIMS IN THEIR**  
**COMPLAINT AGAINST DEFENDANTS.**

23 Defendants have failed to articulate a legal basis for dismissal. Defendants reference  
24 only the NAR Code of Ethics which does not require this Court to dismiss the case. As stated  
25 above, the NAR Code of Ethics provides for GLVAR to take action against parties for their  
26 violation of duties.

27 If NRCP 12(b)(5) provides the basis for Defendants' Motion to Dismiss, such argument  
28 fails as Plaintiffs have articulated claims against Defendants. As the Court is well aware, the

1 Court must “recognize all factual allegations in [the Plaintiffs’] complaint as true and draw all  
2 inferences in [their] favor.” Buzz Stew, LLC v. City of North Las Vegas, 124 Nev. 224, 228,  
3 181 P.3d 670, 672 (2008). Plaintiffs’ claims for relief should not be dismissed unless “it appears  
4 beyond a doubt that [they] could prove no set of facts, which, if true, would entitle [them] to  
5 relief.” *Id.*

6 Nevada is a “notice pleading” jurisdiction, so “the ultimate facts alleged within the  
7 pleadings need not be recited with particularity (except when required by NRCP 9...), much less  
8 supported by citations to evidence and testimony within the pleading.” Nutton v. Sunset Station,  
9 Inc., 131 Nev. Adv. Op. 34, 357 P.3d 966, 974 (2015) (citing Hall v. SSF, Inc., 112 Nev. 1384,  
10 1391, 930 P.2d 94, 98 (1996) (“[A] complaint need only set forth sufficient facts to demonstrate  
11 the necessary elements of a claim for relief so that the defending party has adequate notice of the  
12 nature of the claim and the relief sought.”) (internal quotation marks omitted); Pittman v. Lower  
13 Court Counseling, 110 Nev. 359, 365, 871 P.2d 953, 957 (1994) (“Nevada is a notice pleading  
14 jurisdiction and we liberally construe pleadings to place matters into issue which are fairly  
15 noticed to the adverse party.”), overruled on other grounds by Nunez v. City of N. Las Vegas,  
16 116 Nev. 535, 1 P.3d 959 (2000)). Therefore, Plaintiffs, under NRCP 8, need only set forth  
17 “general allegations in [their] complaint ... ” *Id.*; see also Brown v. Kellar, 97 Nev. 582, 583,  
18 636 P.2d 874, 874 (1981) (“NRCP 8(a) requires that a pleading contain only a short and plain  
19 statement showing that the pleader is entitled to relief. ...”).

20 Under applicable law, dismissal is only appropriate “where the allegations are insufficient  
21 [under Nevada’s pleading standards] to establish the elements of a claim for relief.” Stockmeier  
22 v. Nev. Dep’t of Corr. Psychological Review Panel, 124 Nev. 313, 316, 183 P.3d 133, 135  
23 (2008). Plaintiffs have alleged claims and named parties that are not subject to NAR Code of  
24 Ethics. Those claims have been properly pled in Plaintiffs complaint. Plaintiffs have set forth  
25 claims upon which relief can be granted and thus, Plaintiffs claims should not be dismissed.  
26 Defendants request for dismissal is based on all Defendants and all claims. Dismissal of all  
27 claims and all Defendants thwarts the rights of Plaintiffs to pursue their claims.  
28

1           **C.       DEFENDANTS ARE NOT ENTITLED TO SUMMARY JUDGMENT**  
2           **BECAUSE CHAN WAS PROCURING CAUSE OF CHIU'S PURCHASE.**

3           1.       **Standard for Summary Judgment**

4           Pursuant to NRCP 56, parties are entitled to Summary Judgment when there are no  
5           genuine issues of material fact in dispute and the moving party is entitled to summary judgment  
6           as a matter of law. In the present case, summary judgment cannot be entered on the issues of  
7           procuring cause.

8           2.       **Procuring cause is a factual question for the Court and therefore**  
9           **cannot be determined at summary judgment level.**

10          Defendants argue that Defendant Wu was the procuring cause of the sale to Defendant  
11          Chiu and therefore is entitled to the commission. In fact, the Defendants have asked for  
12          summary judgment on this issue. The Nevada Supreme Court has been very clear as it is stated  
13          in Atwell:

14               Whether a broker's efforts constitutes "procuring cause" of a sale is a question of  
15               fact. Bartsas Realty, Inc. v. Levertson, 82 Nev. 6, 9, 409 P. 2d 627, 629 (1966)  
16               procuring cause is impossible to measure quantitatively. Thus, this issue is  
17               generally inappropriate for summary judgment.

18          Atwell v. Southwest Securities, 107 Nev. 820, 820 P.2d 776 (1991). Whether or not Defendant  
19          Wu was the procuring cause of the sale of the KB Home to Defendant Chiu is inappropriate for  
20          summary judgment. Thus, on this ground alone Defendants Motion for Summary Judgment  
21          must be denied.

22          3.       **There are issues of fact precluding summary judgment in favor of**  
23          **Defendant Wu.**

24          Defendants list out the documents that were entered into by Defendant Chiu to purchase  
25          the property by KB Homes. In fact, Defendants called the facts "indisputable". Chan was cut  
26          out of the transaction by Defendants; therefore, there is absolutely no way that the Plaintiffs  
27          would be on any of the documents listed. Plaintiffs showed Defendant Chiu the property along  
28          with his father. There were at least four models shown to the Chiu's in the presence of Chan. A  
day after the showing, Defendant Chiu's father contacted Chan and asked for a reduction in the  
commission. Chan said she could offer a 1/4% reduction and Defendant Chiu's father said he  
would call back and let her know which home his son was purchasing. From there Chan



1 attempted to contact Defendant Chiu. Finally, Defendant Chiu responded back with an email  
2 indicating that he had retained another agent. There are questions of fact precluding summary  
3 judgment in favor of Defendants.

4 **4. Should this Court choose to consider procuring cause, Chan is clearly**  
5 **the procuring cause for the sale of the home to Defendant Chiu.**

6 Should the Court determine to consider procuring cause, the undisputed facts show that  
7 Chan is the procuring cause. The facts that are not in dispute are the following:

- 8 1. Chan showed Defendant Chiu the model homes at KB Homes.
- 9 2. Defendant Chiu's father requested a reduction in the commission.
- 10 3. Chan attempted contact with Defendant Chiu on several occasions.
- 11 4. Defendant Chiu retained another agent.

12 To be entitled to a commission from the sale of real estate, a broker must show that (1) an  
13 employment contract existed, and (2) the broker was the procuring cause of the sale. Shell Oil  
14 Co. v. Ed Hoppe Realty Inc., 91 Nev. 576 Com. 80, 540 P.2d 107, 109 – 110 (1975) as cited in  
15 Atwell v. Southwest Securities, 107 Nev. 820, 820 P.2d 776 (1991).

16 Certain guidelines have been developed to aid and determine whether a broker's efforts  
17 are sufficient to support a finding that the broker was the procuring cause. One important factor  
18 is who brought the attention of the buyer to the property. The Nevada Supreme Court has stated  
19 "whether the broker first approaches or brings to the attention of the buyer that the property is for  
20 sale or brings the buyer into the picture, has considerable weight in determining whether the  
21 broker is the procuring cause of the sale" at pg. 770 citing Fay Barger, 103 Nev. 247, 737 P.2d  
22 353 (1987). In the present case, Plaintiff Chan, the broker for Asian American Realty showed all  
23 of the models at the KB Homes to Defendant Chiu. Clearly this important factor weights heavy  
24 in its determination of procuring cause. Further action by Plaintiff Chan was impossible since  
25 after several inquiries, Defendant Chiu indicated to Chan that he had retained another agent,  
26 Defendant Wu. In other words, Defendant Chan was cut out of the deal.

1 Under these undisputed facts and law, it is clear that Chan was the procuring cause of the  
2 sale of the home and is entitled to the commission; but for Chan's introduction of the model  
3 homes to Defendant Chiu, there would not have been a sale.

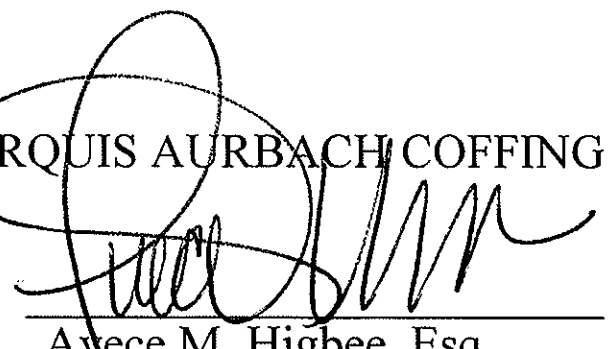
4 **IV. CONCLUSION**

5 Based on the foregoing, Plaintiffs respectfully requests this Court grant Plaintiffs' Motion  
6 to Stay the Case Pending Arbitration. Plaintiffs also request that this Court deny Defendants  
7 Motion to Dismiss and Motion for Summary Judgment.

8 Dated this 14 day of February, 2017.

MARQUIS AURBACH COFFING

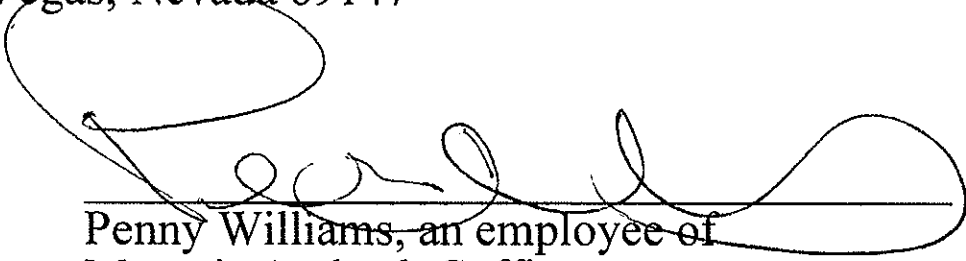
By

  
Avece M. Higbee, Esq.  
Nevada Bar No. 3739  
10001 Park Run Drive  
Las Vegas, Nevada 89145  
Attorneys for  
Plaintiffs/Counterdefendants

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **REPLY TO OPPOSITION TO MOTION TO STAY PENDING ARBITRATION AND COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 14<sup>th</sup> day of February, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>2</sup>

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Penny Williams, an employee of  
Marquis Aurbach Coffing

<sup>2</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

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Attorneys for Plaintiff/  
Counterdefendant, Betty Chan  
and Asian American Realty &  
Property Management

**DISTRICT COURT****CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X,

Defendants.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**DECLARATION OF BETTY CHAN IN SUPPORT OF REPLY TO OPPOSITION TO  
MOTION TO STAY PENDING ARBITRATION AND OPPOSITION TO  
COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE  
FOR SUMMARY JUDGMENT**

Betty Chan declares as follows:

1. This Declaration is made in support of Plaintiffs' Reply to Opposition to Motion to Stay Pending Arbitration and Plaintiffs' Opposition to Countermotion to Dismiss with Prejudice or in the Alternative for Summary Judgment.

2. I am the broker of record for Asian American Realty & Property Management.

1           3.       I worked as the real estate agent for Defendant Jerrin Chiu ("Defendant Chiu") on  
2 the purchase of his first home in 2013.

3           4.       In 2014, Defendant Chiu again requested my assistance in purchasing a second  
4 home.

5           5.       In 2014, I showed some homes to Defendant Chiu but he did not find anything he  
6 wanted to purchase.

7           6.       In March 2015, I showed houses again and Defendant Chiu made an offer on a  
8 home in Desert Shores; Defendant Chiu determined again not to purchase the home.

9           7.       On or about October 2, 2015, Dr. Kwang Chiu contacted me to make an  
10 appointment for him and his son, Defendant Chiu, to see homes in December 2015.

11          8.       I agreed to represent Defendant Chiu as the buyer.

12          9.       I requested updated financial information for Defendant Chiu's loan pre-approval.

13          10.      On or about November 11, 2015, Defendant Chiu emailed Me regarding his  
14 intention to purchase a house and listed out the criteria.

15          11.      On or about November 28, 2015, Defendant Chiu emailed Me concerning the  
16 location of a particular house he wanted to see.

17          12.      On or about November 29, 2015, I responded concerning the viewing of the  
18 particular house.

19          13.      On or about December 29, 2015, I prepared for the showing of homes to the Chiu  
20 family by pulling listings around Boca Park area.

21          14.      Five resale homes were targeted to fit Defendant Chiu's criteria and I contacted  
22 the listing agents for the resale homes to set appointments.

23          15.      I included the model homes in both a Toll Brothers development and a KB Home  
24 development that I had previously viewed.

25          16.      I checked the status of the listings, printed the information and arranged a route  
26 for the efficient showing of the properties.

27          17.      On or about December 30, 2015, I picked up the Chiu family and showed the  
28 resale homes, the Toll Brother models and the KB Homes models.

1 18. KB Homes offered to compensate brokers for bringing buyers to KB Home  
2 Developments at Buyer's first visit.

3 19. At the front office of KB Homes, I spoke to Cheryl and picked up a price sheet.

4 20. I then showed the model homes to the Chiu family and Defendant Chiu liked the  
5 first and second model homes.

6 21. Back at the KB Homes model home office, I requested a floor plan and explained  
7 the buying process for a new home including the standards, elevations, prices, location of the  
8 site, etc. to the Chiu family.

9 22. I located a buyer registration card and Defendant Chiu filled in the buyer portion  
10 and I filled in the realtor portion.

11 23. No KB Homes representative was to be found so I left the registration card on the  
12 table in the KB Home front office to hurry to get the Chiu family to the next appointment.

13 24. I emailed Dr. Kwang Chiu the four resale listings that were viewed.

14 25. On or about December 31, 2015, Dr. Kwang Chiu called me and asked if I could  
15 "kick back 1% of the commission" like the other agent offered him.

16 26. I said I can offer a reduction of ¼% and Dr. Kwang Chiu said he would call me  
17 back and tell me which property Defendant Chiu wanted to buy.

18 27. On or about January 5, 2016, I followed up with Defendant Chiu about the KB  
19 Home properties.

20 28. Defendant Chiu did not respond.

21 29. Contrary to Defendant Chiu's statements, he did not try to contact me several  
22 times.

23 30. On or about January 15, 2016, Defendant Chiu admitted that he was using another  
24 agent.

25 31. On or about January 22, 2016, I went to the KB Homes office and learned that  
26 Defendant Chiu had indeed signed a contract on the property I had shown him with another agent  
27 on January 8, 2016.  
28

Betty Chan

**REGISTER OF ACTIONS****CASE NO. A-16-744109-C****Betty Chan, Plaintiff(s) vs. Wayne Wu, Defendant(s)**§  
§  
§  
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Case Type: **Other Contract**  
 Date Filed: **09/27/2016**  
 Location: **Department 20**  
 Cross-Reference Case Number: **A744109**  
 Supreme Court No.: **78666**  
**82208**

**P. TY INFORMATION**

<b>Counter Claimant</b>	<b>Chiu, Jerrin</b>	<b>Lead Attorneys</b> <b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Counter Claimant</b>	<b>Nevada Real Estate Corp</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Counter Claimant</b>	<b>Sullivan, Judith</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Counter Claimant</b>	<b>Wu, Wayne</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Counter Defendant</b>	<b>Chan, Betty</b>	<b>R Duane Frizell</b> <i>Retained</i> 702-657-6000(W)
<b>Defendant</b>	<b>Chiu, Jerrin</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Defendant</b>	<b>KB Home Sales-Nevada Inc</b>	<del><b>Janice M Michaels</b></del> <del><i>Retained</i></del> <del>702-251-4100(W)</del>
<b>Defendant</b>	<b>Nevada Real Estate Corp</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Defendant</b>	<b>Sullivan, Judith</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Defendant</b>	<b>Wu, Wayne</b>	<b>Michael A. Olsen</b> <i>Retained</i> 702-855-5658(W)
<b>Plaintiff</b>	<b>Asian American Realty &amp; Property Management</b>	<b>R Duane Frizell</b> <i>Retained</i> 702-657-6000(W)
<b>Plaintiff</b>	<b>Chan, Betty</b>	<b>R Duane Frizell</b> <i>Retained</i> 702-657-6000(W)

**EVENTS & ORDERS OF THE COURT**

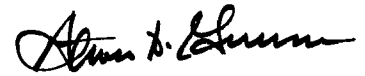


02/27/2017 **All Pending Motions** (8:30 AM) (Judicial Officer Leavitt, Michelle)**Minutes**

02/27/2017 8:30 AM

- PLAINTIFFS' MOTION FOR STAY PENDING ARBITRATION...DEFENDANTS' AND COUNTERCLAIMANTS' OPPOSITION TO MOTION TO STAY PENDING ARBITRATION AND COUNTERMOTION TO DISMISS WITH PREJUDICE OR IN THE ALTERNATIVE FOR SUMMARY JUDGMENT Discussions regarding additional claims to be filed, and additional parties. Ms. Higbee argued the matter should not be dismissed, pending arbitration. Court noted there are parties and claims not addressing arbitration. Discussions as to commission dispute. Mr. Olsen argued as to direct violation of ethical rules, amount having exceeded and approaching \$15,000.00, GLVAR rules, and there having been no contact between buyer and Defendant. Further arguments were made regarding arbitration proceedings, KB Home Sales-Nevada Inc., having been seller of property, and the matter needing to be dismissed with prejudice, or summary judgment needing to be granted. Discussions as to Court having enough evidence for dismissal or to grant summary judgment, opposing counsel not having alleged otherwise, and Jerin Chiu not having had a contractual relationship with Plaintiff. Further arguments by Ms. Higbee as to alleged contact, violation of agreement, reduction of commission having been sought, there being no basis for summary judgment or a dismissal, and determination to be made at time of trial. COURT ORDERED, Motion for stay pending arbitration GRANTED. Ms. Higbee to prepare the order.

[Parties Present](#)[Return to Register of Actions](#)



CLERK OF THE COURT

**Marquis Aurbach Coffing**  
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Attorneys for Plaintiffs/  
Counterdefendants, Betty Chan  
and Asian American Realty &  
Property Management

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiffs,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X

Defendants.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

Case No.: A-16-744109-C  
Dept. No.: XII

**ORDER GRANTING MOTION TO STAY  
AND DENYING MOTION TO DISMISS  
AND MOTION FOR SUMMARY  
JUDGMENT**

Plaintiffs/Counterdefendants Betty Chan and Asian American Realty & Property Management (hereinafter “Plaintiffs/Counterdefendants”) having filed their Motion to Stay Pending Arbitration, (“Motion to Stay”) and Defendants Wayne Wu, Judith Sullivan, Nevada Real Estate Corp. and Jerrin Chiu (“Defendants/Counterclaimants”) filed an Opposition to

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MARQUIS AURBACH COFFING

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 Motion to Stay Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative  
2 For Summary Judgment ("Countermotion") and Plaintiffs/Counterdefendants having opposed the  
3 Countermotion in a matter coming on for hearing before this Court on February 27, 2017 with  
4 Attorney Avece M. Higbee of Marquis Aurbach Coffing appearing for  
5 Plaintiffs/Counterdefendants and Attorney Michael Olson appearing on behalf of  
6 Defendants/Counterclaimants and the Court hearing argument from counsel and having  
7 considered the pleadings, papers and documents on file therein and being otherwise fully  
8 advised, and good cause appearing therefore, it is hereby ordered as follows:

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that  
10 Plaintiffs/Counterdefendants Motion to Stay Pending Arbitration is hereby granted.

11 **IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED** that upon  
12 entry of this Order the above captioned matter is stayed pending the completion of arbitration  
13 between Plaintiffs/Counterdefendants and Defendants Wayne Wu, Judith Sullivan and Nevada  
14 Real Estate Corp.

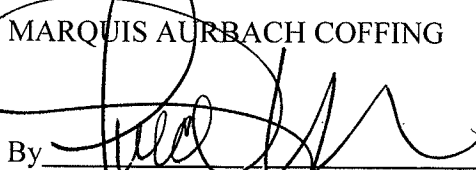
15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that  
16 Defendants/Counterclaimants Countermotion to Dismiss With Prejudice or in the alternative for  
17 Summary Judgment is denied.

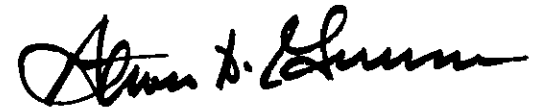
18 Dated this 27 day of March, 2017.

19   
20 DISTRICT COURT JUDGE  
21 

22 Respectfully submitted by:

23 MARQUIS AURBACH COFFING

24   
25 By Avece M. Higbee, Esq.  
26 Nevada Bar No. 3739  
27 10001 Park Run Drive  
28 Las Vegas, Nevada 89145  
Attorneys for Plaintiffs/  
Counterdefendants



CLERK OF THE COURT

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Attorneys for Plaintiffs/  
Counterdefendants, Betty Chan  
and Asian American Realty &  
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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Case No.: A-16-744109-C  
Dept. No.: XII

Plaintiffs,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC., DOES I  
through X, and ROES I through X

Defendants.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES – NEVADA INC.,

Counterclaimants,

vs.

BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Counterdefendant.

**NOTICE OF ENTRY OF ORDER  
GRANTING MOTION TO STAY AND  
DENYING MOTION FOR SUMMARY  
JUDGMENT**

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 3<sup>rd</sup> day of April, 2017. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

**Maier Gutierrez Ayon PLLC****Contact**

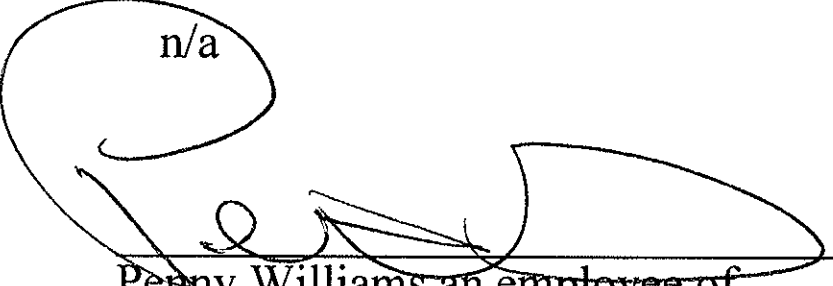
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Darren T. Rodriguez  
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[ndv@mgalaw.com](mailto:ndv@mgalaw.com)

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage prepaid, addressed to:

n/a

  
Penny Williams an employee of  
Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



CLERK OF THE COURT

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10 Counterdefendants, Betty Chan  
11 and Asian American Realty &  
12 Property Management

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 **BETTY CHAN and ASIAN AMERICAN**  
11 **REALTY & PROPERTY MANAGEMENT,**

12 **Plaintiffs,**

13 **vs.**

14 **WAYNE WU, JUDITH SULLIVAN, NEVADA**  
15 **REAL ESTATE CORP., JERRIN CHIU, KB**  
16 **HOME SALES – NEVADA INC., DOES I**  
17 **through X, and ROES I through X**

18 **Defendants.**

19 **WAYNE WU, JUDITH SULLIVAN, NEVADA**  
20 **REAL ESTATE CORP., JERRIN CHIU, KB**  
21 **HOME SALES – NEVADA INC.,**

22 **Counterclaimants,**

23 **vs.**

24 **BETTY CHAN and ASIAN AMERICAN**  
25 **REALTY & PROPERTY MANAGEMENT,**

26 **Counterdefendant.**

Case No.: A-16-744109-C  
Dept. No.: XII

**ORDER GRANTING MOTION TO STAY**  
**AND DENYING MOTION TO DISMISS**  
**AND MOTION FOR SUMMARY**  
**JUDGMENT**

27 Plaintiffs/Counterdefendants Betty Chan and Asian American Realty & Property  
28 Management (hereinafter "Plaintiffs/Counterdefendants") having filed their Motion to Stay  
Pending Arbitration, ("Motion to Stay") and Defendants Wayne Wu, Judith Sullivan, Nevada  
Real Estate Corp. and Jerrin Chiu ("Defendants/Counterclaimants") filed an Opposition to

**RECEIVED**  
MAR 22 2017  
**DEPT. 12**

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816


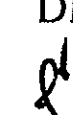
1 Motion to Stay Arbitration and Countermotion to Dismiss with Prejudice or in the Alternative  
2 For Summary Judgment ("Countermotion") and Plaintiffs/Counterdefendants having opposed the  
3 Countermotion in a matter coming on for hearing before this Court on February 27, 2017 with  
4 Attorney Avece M. Higbee of Marquis Aurbach Coffing appearing for  
5 Plaintiffs/Counterdefendants and Attorney Michael Olson appearing on behalf of  
6 Defendants/Counterclaimants and the Court hearing argument from counsel and having  
7 considered the pleadings, papers and documents on file therein and being otherwise fully  
8 advised, and good cause appearing therefore, it is hereby ordered as follows:

9 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that  
10 Plaintiffs/Counterdefendants Motion to Stay Pending Arbitration is hereby granted.

11 **IT IS FURTHER HEREBY ORDERED, ADJUDGED, AND DECREED** that upon  
12 entry of this Order the above captioned matter is stayed pending the completion of arbitration  
13 between Plaintiffs/Counterdefendants and Defendants Wayne Wu, Judith Sullivan and Nevada  
14 Real Estate Corp.

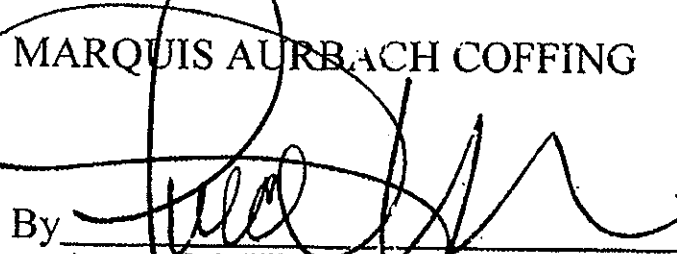
15 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that  
16 Defendants/Counterclaimants Countermotion to Dismiss With Prejudice or in the alternative for  
17 Summary Judgment is denied.

18 Dated this 27 day of March, 2017.

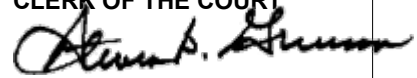
19   
20 DISTRICT COURT JUDGE  
21 

22 Respectfully submitted by:

23 MARQUIS AURBACH COFFING

24   
25 By Avece M. Higbee, Esq.  
26 Nevada Bar No. 3739  
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[tkennedy@kclawnv.com](mailto:tkennedy@kclawnv.com)[mcouvillier@kclawnv.com](mailto:mcouvillier@kclawnv.com)*Attorneys for Laboratory Medicine Consultants, Ltd.***DISTRICT COURT****CLARK COUNTY NEVADA**BETTY CHAN and ASIAN AMERICAN  
REALTY & PROPERTY MANAGEMENT,

Plaintiff,

vs.

WAYNE WU, JUDITH SULLIVAN, NEVADA  
REAL ESTATE CORP., JERRIN CHIU, KB  
HOME SALES-NEVADA, INC.; DOES I through  
X, and ROES I through X,

Defendants.

Case No.: A-16-744109-C

Dept. No.: XX

**MOTION TO VACATE OR MODIFY  
ARBITRATION AWARD**

DATE:

TIME:

Pursuant to NRS 38.241-242 and Nevada common law, Plaintiffs move the Court to vacate the arbitration award entered by the Greater Las Vegas Association of Realtors on the grounds that the arbitration panel exceeded its powers, the award is arbitrary and capricious, contrary to the operative agreement and/or, alternatively is in manifest disregard for the law or otherwise is the result of misconduct prejudicing the rights of Plaintiff here.

This motion is based upon the pleadings and papers on file herein and the attached

memorandum of points and authorities.

KENNEDY & COUVILLIER

By: \_\_\_\_\_

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*Attorneys for Plaintiffs.*

## NOTICE OF MOTION

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

PLEASE TAKE NOTICE THAT the foregoing motion will be heard before the above-captioned Court on the \_\_\_\_ day of August 22, 2018, at 8:30 a.m./p.m. or as soon thereafter as counsel may be heard.

KENNEDY & COUVILLIER

\_\_\_\_\_  
Todd E. Kennedy, Bar #6014

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. FACTS

#### A. Procedural History

This action was commenced in 2016 by Plaintiffs (“Chan”), a real estate broker, alleging claims arising out of the purchase of a home from KB Homes by defendant Jerrin Chiu (“Chiu”). The action arises over a dispute concerning entitlement to a commission for the purchase of the

1 new home between competing agents/brokers Chan and Wayne Wu (“Wu”).<sup>1</sup>

2 The disputing real estate agents/brokers are members of the Greater Las Vegas  
3 Association of Realtors (“GLVAR”). To be members, they are required to consent and abide by  
4 the association’s rules and standards. One of those ethical provisions require the mandatory  
5 arbitration of disputes between members. See GLVAR Ethics Rule Article 17, attached as  
6 Exhibit 1.  
7

8 Plaintiffs moved this court to stay the matter pending outcome of that arbitration. The  
9 Court granted the motion and entered its order staying proceedings on March 30, 2017.

10 Each sides’ arbitration submissions (including documentary evidence) is attached as  
11 Exhibit 2 and 3. The arbitration took place on April 17, 2018. The sole issue in the proceeding  
12 was the determination who, as between Chan and Wu, was the procuring cause of the sale and  
13 entitled to the commission. The GLVAR panel’s decision was initially sent with a transmittal  
14 April 20, 2018. Exhibit 4. The GLVAR subsequently revised its transmission letter and sent an  
15 amended notice on April 27, 2018. Exhibit 5.  
16

17 The award provides no reasons or rational, but determines that, between the two  
18 disputing claimants, the commission presently held by the title company should be paid  
19 \$3,448.83 to Chan and the balance, \$10,346.49, be paid to Respondents Wayne Wu and Judith  
20 Sullivan (Nevada Real Estate Group). *Id.*  
21

## 22 B. Facts

23 Chan had previously assisted Chiu with a home purchase in 2014. See Exhibit 2 at  
24  
25

---

26 <sup>1</sup> Judith Sullivan, Nevada Real Estate Corp., is the broker under which Mr. Wu operates.  
27  
28

1 P0021-44; p0070-85.<sup>2</sup> In 2014 and into 2015, Chiu sought Chan's assistance in another  
2 purchase, but it ultimately did not proceed at that time. *Id.*

3 In late October/early November 2015, Chiu and his father asked Chan to be available the  
4 last part of December when Chiu's father would be in Las Vegas from December 30 through  
5 January 1 to view prospects for Chiu to purchase. *Id.* at P0045. Chiu provided the parameters  
6 for the purchase, looking at existing (i.e., resale) homes in the Boca Park area. *Id.* Chan  
7 researched prospects and planned out a home viewing route and schedule for December 30,  
8 2015. *Id.* at P0057-66.

9 On December 30, 2018, Chan picked up Chiu and his father and they viewed several  
10 existing homes. P0085. Even though it was outside of Chiu's parameters and specified area of  
11 interest, Chan encouraged and convinced Chiu to tour the new construction homes at the Tevare  
12 development by KB homes. *Id.* at P0066. They viewed all the models and, for the plan  
13 preferred by Chiu, Plan 2, Chan determined that only two lots in the current release were  
14 reported as remaining designated for that plan. Ex. 3 at D0006 (ll.10-11; admitting Chan showed  
15 available lots); P0066. While at that sales office, Chan she filled out the seller provided realtor  
16 registration card to confirm she was the first agent to bring Chiu to the community. *Id.* at P.0089-  
17 96.<sup>3</sup> They left to view another existing home for which Chan had made an appointment with the  
18 listing broker.

19 It is undisputed Chan was the instigating factor in Chiu to view the model or even  
20 consider these new-construction homes in Tevare. *See e.g.*, Exh. 3 at D0006-7; D0027 (¶5). It

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22  
23  
24 \_\_\_\_\_  
25 <sup>2</sup> For ease of reference, both sides submissions for the arbitration have been bates numbered. Page  
26 references are to those bates numbers.

27 <sup>3</sup> KB Homes has apparently lost the card and has been unable to date to produce a copy.

1 is further admitted by Chiu that *the very next day* he returned to KB Homes and placed a \$10,000  
2 deposit down. Exh. 3 at 0027 at ¶8.

3 The factual dispute arises from the claim that Chui and his father attempted to contact  
4 Chan from December 31 through January 3 but received no response. There is no record of the  
5 alleged attempts. Chan acknowledges a call on December 31, 2015, in which the only subject  
6 discussed was Chiu's father request for a commission "kickback." P0056; 0013. Chan  
7 suspected the request was a result of speaking to another agent and being offered such a  
8 commission rebate. Exh. 2 P0087. Chan acknowledges as well that Chiu's father left her a  
9 message on January 3, 2016, asking for her to contact them. P0014. Chan responded with an  
10 email directly to her client Dr. Chiu on January 5, 2018: "Jerrin Have you decided anything  
11 yet?" P0052. Chiu ignored her and did not respond.

12 Instead, without even informing Chan that he had *already put a \$10,000 deposit down on*  
13 *a purchase in Tevare*, Chiu went back to the KB development with Defendant agent Wayne Wu  
14 and signed the formal purchase agreement on January 8, 2016. D0033-62. As part of the  
15 contract package executed by Chui, Wu and seller KB Homes was a broker agreement. D0054.  
16 In that document, at paragraph 2, the agreement provides that "It is an absolute condition for the  
17 payment of any Commission that Broker accompanies and registers Buyer at the Community at  
18 the time of *Buyer's first visit as a prospective purchaser in the Community*. Broker shall not be  
19 entitled to any Commission if Buyer or any relative of Buyer or any other person designated by  
20 Buyer has visited the Community without Broker prior to the date of this Agreement." D0054  
21 (italic and bold emphasis added, underlining in original). Notably, the document also provides  
22 that "Any attempt by Broker to effectuate a broker relationship with Seller *without Broker's*  
23 *actual presence at Buyer's first visit shall be null and void.*" Id. at ¶3 (italics and bold  
24  
25  
26  
27  
28

1 emphasis added, underlining in original). The document is signed by both Wu and Chiu and  
2 clearly fraudulently misstates and misrepresents that Wu was the first agent to bring Chiu to the  
3 community and was present at his first visit. Indeed, under the terms of this document, Wu *has*  
4 *clearly waived any right to any commission and acknowledged that he was not the procuring*  
5 *cause as contemplated by this document.*

7 This was concealed from Chan who was waiting patiently for her client to make a  
8 decision and give her direction. As more time passed, Chan reached out to her client again. On  
9 January 15, 2016, she sent a text again asking about Mr. Chiu's decision. P0087. Instead of  
10 telling the truth, Mr. Chiu lied: "Ah nah, been kinda busy lately." *Id.* Since Chan suspected  
11 there may be another broker offering kickbacks to get the commission she had heard, she  
12 continued by acknowledging that Chiu or his father could use another broker. P0086-87. It was  
13 then that Chiu acknowledged they were going with a "family friend" (that he said he had been  
14 looking for since Chiu moved to town years before and only just conveniently located). Notably,  
15 Chiu still continued to conceal that he had, in fact, already signed contracts at Tevare in which he  
16 fraudulently represented to KB that Wu was the first broker to bring him to the property. *Id.* at  
17 P0087. Chan's response was to acknowledge the choice, but to remind Chiu that she showed  
18 him Tevare and so she would be entitled to the commission if he bought there. *Id.* at P0088. Of  
19 Court, Chiu did not even then acknowledge that they had already signed contracts.

22 Chan later found out that Chiu had purchased in Tevare, retained counsel (since  
23 replaced), commenced this lawsuit and initiated the arbitration process at GLVAR.

24 The hearing at GLVAR took place on April 17, 2018. The award issued by the GLVAR  
25 panel does not actually make a determination of procuring cause. Rather, it simply awards  
26 \$3,448.83 of the commission to Chan and \$10,346.49 to Wu.

## II. ARGUMENT

### A. Standards For Review Of An Arbitration Award

Nevada's version of the Uniform Arbitration Act provides for the judicial confirmation, vacation or modification of arbitration awards. *See* NRS 38.239-.242. In addition to those statutory provisions, Nevada precedent authorizes the Court to vacate a arbitration award when the arbitrator's decision is arbitrary and capricious, is unsupported by the agreement or amounts to a manifest disregard for the law. *Clark County Educ. Ass'n v. Clark County School Dist.* 122 Nev. 337, 131 P.3d 5 (2006); *Knickmeyer v. State*, 408 P.3d 161, 168 (Nev. App. 2017).

### B. The Sole Issue Presented To The Arbitration Panel Was Procuring Cause

In Nevada, a real estate agent generally is entitled to a commission when a contract exists and the agent is the procuring cause of a sale. *Shell Oil Co. v. Ed Hoppe Realty Inc.*, 91 Nev. 576, 580, 540 P.2d 107, 109-10 (1975); *Flamingo Realty, Inc. v. Midwest Development, Inc.*, 110 Nev. 984, 989, 879 P.2d 69, 72 (1994). GLVAR standards and arbitration procedures further emphasize the key determination when two realtor's dispute a commission is procuring cause. *See* Exh. 1; Standard of Practice 17-4 at paragraph 1 (providing that between competing brokers for a commission the panel is to determine procuring cause).<sup>4</sup> Both sides arbitration submissions show that the issue submitted for arbitration was the determination of which between Wu and Chan was the procuring cause. *See e.g.* P0017-20; D0016-19.

### C. The Arbitration Panel Exceeded Its Authority

#### 1. Procuring Cause Is Not A Spectrum, There Can Be Only One

Procuring case in real estate transactions is a well-known and long-standing concept. It

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<sup>4</sup> *See also* NAR Code of Ethics and Arbitration Manual 2018 (Excerpts), attached as Exhibit 6.

1 is generally defined in Nevada law as essentially the party who “set in motion a chain of events  
2 which, without break in their continuity, cause the buyer and seller to come to terms as the  
3 proximate result of his or her particular activities.” *Carrigan v. Ryan*, 109 Nev. 797, 801-02, 858  
4 P.2d 29, 32 (1993). While more than mere “trifling” effort is required, there are no precise  
5 standards. *Id.* Indeed, “[i]f a real estate broker has been a “procuring” or “inducing” cause of a  
6 sale, he or she is entitled to the agreed commission irrespective of who makes the actual sale or  
7 terms thereof.” *Morrow v. Barger*, 103 Nev. 247, 253, 737 P.2d 1153, 1157 (1987).

9 As is evident by its definition and application, there can be only one procuring cause.  
10 Nothing in Nevada law contemplates that there can be more than one procuring cause for a sale.  
11 Indeed, as the Nevada Supreme Court has recognized, the entire “procuring cause” doctrine  
12 developed for the purpose of deciding disputes between two competing agents as to whom was  
13 entitled to a commission. *See Carrigan*, 109 Nev at 799 (noting procuring cause as a “pervasive  
14 tool” for resolving disputes when *more than one* broker claims entitlement to the commission);  
15 *Bartsas Realty, Inc. v. Levertton*, 82 Nev. 6, 9, 409 P.2d 627, 629 (1966) (“Faced with competing  
16 brokers, a court must decide which was the ‘procuring’ or ‘inducing’ cause of the sale.”); *Van C.*  
17 *Argiris & Co. v. FMC Corp.* 494 N.E.2d 723, 727 (Ill. App. 1986) (“The law is well settled in  
18 Illinois that only one commission will become due when a ready, willing and able purchaser has  
19 been found, and the commission will be due only to the broker who can show that he was the  
20 procuring cause.”).<sup>5</sup>

21  
22  
23  
24 <sup>5</sup> *See also Briden v. Osborne*, 184 S.W.2d 860, 863 (Tex. App. 1944) (“Whether there be but one broker  
25 involved, or more than one independent broker, the one who is the procuring cause of the sale is the one  
26 entitled to a commission.”); *Salamon v. Brooklyn Sav. Bank*, 44 N.Y.S.2d 420, 421 (N.Y. Sup. Ct. 1943)  
27 (allowing interpleaded of commission for determination between competing claimants: “[O]nly one  
28 could have been the procuring cause.”); *Lundburg v. Stinson*, 695 P.2d 328, 335 (Haw. App. 1985)  
29 (“When there are many brokers involved in a transaction, there can be only one ‘procuring cause ...”



2. The Panel's Authority Was To Determine Whether Wu or Chan Was The Procuring Cause And Entitled To The Commission And Exceeded That Authority By Awarding Part Of The Commission To Each

The concept of procuring cause exists to distinguish between competing agents those entitled to a commission and those who are not. Here, the GLVAR panel never made a procuring cause determination, as was its limited authority. Instead, the panel inexplicably *split* the commission awarding Chan a small portion and Wu the remainder. Ex. 4.

There is no question that the dispute arbitrated was between two competing real estate agents disputing which was the procuring cause and entitled to the buyers agent sales commission.

The arbitration's panel's authority thus was to determine procuring cause and award the commission to *either* Chan as the procuring cause *or* Wu. As there can be only one procuring cause, the panel lacked the authority to make partial awards to each. Indeed, in doing so, the panel failed in its sole charge to determine *the* procuring case; it never made the determination at all.

NRS 38.241 authorizes the Court to vacate an award when the arbitrator[s] have exceeded their authority. *See Health Plan of Nevada, Inc. v. Rainbow Medical, LLC*, 120 Nev. 689, 697, 100 P.3d 172, 178 (2004) ("Arbitrators exceed their powers when they address issues or make awards outside the scope of the governing contract."). In this instance, there is no contract between the two competing brokers but there is an obligation to arbitrate imposed by the GLVAR. They each claim they were the procuring case as agent for Chiu and entitled to the

---

*citing MaCartny v. Malm*, 627 P.2d 1014, 1022, (Wyo. 1981); *Bartsas Realty, Inc. v. Leverton*, 82 Nev. 6, 9, 409 P.2d 627, 629 (1966))

1 commission paid by KB Homes. The GLVAR requires the submission of such a dispute to  
2 arbitration, and specifically defines the issue to be arbitrated as a determination of who is the  
3 procuring cause. *See* Article 17, Standard of Practice 17-4(1).

4  
5 Because procuring cause is not a sliding scale but, rather, a binary determination the  
6 Panel could only decide that either Wu or Chan was *the* procuring cause. Here, the Panel made  
7 no procuring cause determination and exceeded its authority when it unilaterally and without any  
8 contractual or legal basis, awarded part of the commission to Wu and part to Chan. As such, the  
9 panel exceeded its authority and the award should be vacated and returned to the GLVAR for a  
10 procuring cause determination.

11  
12 **C. The Award Must Be Vacated Because The Panel Acted Arbitrarily, Is**  
13 **Unsupported By The Agreement To Pay Buyer's Agent A Commission**  
14 **And/Or Manifestly Disregarded The Law**

15 Nevada precedent recognizes that this Court may also vacate or modify an arbitration  
16 decision when the award is arbitrary and capricious, is unsupported by the operative agreement  
17 or is in manifest disregard for the law. *See Washoe County School Dist. v. White*, 396 P.3d 834,  
18 839 (Nev. 2017); *Clark County Educ. Ass'n v. Clark County School Dist.* 122 Nev. 337, 131  
19 P.3d 5 (2006); *Knickmeyer v. Eighth Jud. Dist. Ct.*, 408 P.3d 161, 168 (Nev. App. 2017).  
20 Manifest disregard for the law is found when the arbitrator[s] knew and appreciated the outcome  
21 mandated by the law but simply disregarded it. *Id.* The arbitrary or capricious standard looks to  
22 whether the determination is "supported by substantial evidence in the record." *White*, 396 P.3d  
23 at 841.

24 Here there are several reasons why the award must be overturned.

25 **1 The Panel Acted Arbitrarily And In Manifest Disregard By Not**  
26 **Determining The Procuring Cause And Entering An Award Contrary**  
27 **To Their Agreement Which Splits The Commission**

1  
2 First, as discussed above, the authority of the arbitration was to determine the either/or  
3 proposition of procuring cause as between Chan and Wu. By failing to do so, and indeed  
4 splitting the commission, the Panel has acted arbitrarily, manifestly disregarded the law, and  
5 their action is unsupported by agreement.

6 By awarding Chan a portion of the commission, the Panel necessarily determined she was  
7 the procuring cause. This is reasonable and rational under the facts, given that it was Chan who  
8 took Chiu to multiple listings; convinced Chiu to consider new construction rather than the re-  
9 sales he was focused on, and showed Chiu the Tevare development, took him through the models  
10 and did enough that he was *moved to place a \$10,000 deposit the very next day*. She followed up  
11 and continued to stand ready to assist once a decision was made (a decision which Chiu made  
12 but concealed from her in an effort to move a commission to a “family friend” who did not earn  
13 it). This is vastly more than a mere “trifling” involvement or bare introduction. *See Flamingo*  
14 *Realty, Carrigan, supra*.

15 But the Panel acted arbitrarily and manifestly disregarded the law when it also awarded  
16 some of the commission to Chiu, because as the second broker involved (under questionable  
17 circumstances) it is axiomatic that if Chan was the procuring cause enough to be entitled to  
18 anything, he *could not be* the procuring case *at all*. *See Morrow v. Barger*, 103 Nev. 247, 253,  
19 737 P.2d 1153, 1157 (1987) (“If a real estate broker has been a “procuring” or “inducing” cause  
20 of a sale, he or she is entitled to the agreed commission irrespective of who makes the actual sale  
21 or terms thereof.”).

22 Indeed, the fact that the Panel “split” the commission and *made no express procuring*  
23 *cause determination at all* is itself a manifest disregard of the law and the GLVAR standards  
24  
25  
26

1 requiring arbitration panels to determine one of the two competing brokers as being the  
2 procuring cause and entitled to the commission. While nothing requires findings in the award,  
3 the Award manifestly disregards the law and is arbitrary because it necessarily makes an implicit  
4 finding *that cannot exist*: more than one procuring cause.

5  
6 The Panel, experienced real estate agents themselves, obviously knew the law and the  
7 standards, but failed to make the critical determination and then entered an award that is wholly  
8 contrary to law and facts.

9 **2. The Facts And Law Support Only A Conclusion That Chan Was The**  
10 **Procuring Cause**

11 The operative facts were never in dispute. Chan was retained to assist Chiu to find a  
12 suitable residence to purchase. Chan expended substantial time and effort finding existing  
13 homes that fit Chiu's disclosed parameters and determining a viewing schedule. She spent most  
14 of a day driving Chiu and his father to these various showings, and then she, and she alone,  
15 induced Chiu to consider the Tevare new home construction. There is no dispute she took Chiu  
16 there. Assisted with viewing the models and available lots, and did all of the usual and ordinary  
17 things an agent would do during a showing. *She did enough that Chiu* placed a \$10,000 deposit  
18 down with KB *the very next day*. All of this took place on December 30 and 31, 2016.

19  
20 Chiu signed purchase documents with Tevare *only 8 days later*. It is now known that  
21 during the interim, Chiu was acting secretly with Wu to piggyback onto Chan's efforts to  
22 wrongfully throw the buyer's agent commission to his "family friend," Wu. The Panel has  
23 already determined that Chan was the procuring cause but acted arbitrarily and capriciously and  
24 manifestly disregarded the law when it also awarded Wu some of the commission. Chan  
25 necessarily was the procuring cause and just because Wu may have been part of the closing/sale  
26

1 (misrepresenting with Chiu that he was the only agent involved) does not change the necessary  
2 legal outcome here. *See Morrow*, 103 Nev. at 253, 737 P.2d at 1157 (“If a real estate broker has  
3 been a “procuring” or “inducing” cause of a sale, he or she is entitled to the agreed commission  
4 irrespective of who makes the actual sale or terms thereof.”).

5  
6 Fundamentally, the Panel must have acted improperly because its award recognizes the  
7 law compelled that she be compensated as the procuring cause but provided a portion of the  
8 commission to Chan, to which she would only be legally entitled if she were the procuring cause.  
9 But the Panel must have, in derogation of the law and the result compelled by the facts, wanted  
10 to give Wu something (apparently because he was with the buyer for final negotiations and  
11 closing). By entering an award motivated by the Panel’s feelings rather than the legally required  
12 result, the Panel entered an award that cannot legally exist (two procuring causes).

13  
14 Further, the operative agreement providing for a commission at all from seller KB to a  
15 buyer’s agent mandate that Wu cannot receive a commission. This agreement, which is a three-  
16 way agreement between Wu, KB Homes and Chiu, expressly acknowledges that KB will only  
17 pay a commission to the buyer’s broker if the broker was the first one to bring the buyer to the  
18 property and was with the buyer at the buyer’s *first* visit to the development. *See D0054*  
19 (paragraphs 2-3).<sup>6</sup> Manifestly, the agreement (the only agreement at issue here pertaining to a  
20 commission) *cannot* support an award of any commission to Wu. By express agreement, he  
21 agreed (and Wu agreed) that he could receive a commission, and only if, he met these the  
22 threshold requirement as being the agent/broker to bring Chiu to the development *for his first*  
23 *visit. Id.*

24  
25  
26 <sup>6</sup> This document was submitted to the Panel by Wu and was part of the evidence before the Panel.

1 Accordingly, the operative commission agreement itself prohibits Wu from claiming a  
2 commission (leaving only Chan as the procuring cause). Moreover, while the law and the facts  
3 compel the conclusion that Chan was the procuring cause, this contractual arrangement between  
4 seller, broker, and buyer Chiu mandate effectively mandate contractually that to be a procuring  
5 cause for the sale in this instance, Wu must have been the agent to bring Chui to the property on  
6 his *first* visit. *See Clark County Educ. Ass'n v. Clark County School Dist.* 122 Nev. 337, 131  
7 P.3d 5 (2006). *See also Carrigan*, 109 Nev. at 799, 858 P.2d at 31 (contract terms regarding  
8 commission entitlement prevail). Wu (and Chiu) admit that Wu was not. Under the very  
9 document that allows a commission to be paid by KB to buyer's agent *at all* Wu cannot receive  
10 any of the commission (indeed, his signature on the document necessarily waives it).

11  
12 Hence, the Panel awarded part of the commission to the very party who agreed in the  
13 commission contract with the seller *he was not entitled to any commission*.

14  
15 Finally, Wu has claimed he was unaware of Chan's involvement. Regardless of that  
16 claim, Chiu, also a party to the agreement, absolutely knew and knew that Chan, not Wu was  
17 entitled to the commission. Chiu appeared as Wu's witness, and his support for his "family  
18 friend" is obvious from Defendant's documentary evidence submitted to the Panel. Here, Chiu  
19 actively concealed his moving forward with the purchase from Chan, fraudulently signed  
20 purchase documents misrepresenting Wu as the broker who first brought him to the KB  
21 development and testified equally fraudulently in favor of Wu as entitled to a commission  
22 notwithstanding. Under these circumstances, in addition to the other reasons discussed above,  
23 Chiu's involvement in assisting Wu obtain the challenged arbitration award compels the  
24 conclusion that it was procured by fraud and should also be vacated pursuant to NRS  
25 38.241(1)(a).  
26

**D. The Award Is Ambiguous and Should Be Remanded For Clarification**

The award itself simply proclaims without explanation that Chan is to receive one fractional portion of the commission and Wu is to receive the remainder. While the financial division is clear enough, the issue submitted to the panel was to determine procuring cause. The award does not mention procuring cause much less make the required determination. As discussed above, procuring cause results in one procuring cause, both Chan and Wu cannot logically be the procuring cause. Accordingly, the award itself is vague and ambiguous because it fails to advise what was determined and how that relates to the controlling principal of procuring cause. Pursuant to NRS 38.241(1)(b) or 38.242, the Court should vacate and remand the award for clarification on this point.

**CONCLUSION**

For the foregoing reasons, the arbitration award here should be vacated. Because Wu is contractually prohibited from receiving a commission from KB Homes, the entire commission must be awarded to Chan.

KENNEDY & COUVILLIER

/s/ Todd E. Kennedy

By: \_\_\_\_\_

Todd E. Kennedy, Esq.  
Nevada Bar No. 6014

**KENNEDY & COUVILLIER, PLLC**  
3271 E. Warm Springs Rd.  
Las Vegas, NV 89120  
Tel: (702) 605-3440  
Fax: (702) 625-6367  
[tkennedy@kclawnv.com](mailto:tkennedy@kclawnv.com)

*Attorneys for Plaintiffs.*

Certificate of Service

I certify I served the foregoing Motion on all counsel of record using the Court's e-file/e-service facility.

Dated this 18th day of July 2018.

/s/ Todd E. Kennedy

---

Todd E. Kennedy, an employee of  
Kennedy & Couvillier



# EXHIBIT 1



- HOME
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Transaction Desk

Future Home of GLVAR

CONSUMERS

Residential Search

# Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS® Effective January 1, 2015



Click desired language to view Code of Ethics translation:

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[Chinese](#), [Traditional Chinese](#)

[Duties to Clients and Customers](#)

[Duties to the Public](#)

[Duties to REALTORS®](#)

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®s.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

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## Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment. Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal. In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities whether conducted personally, through associates or others, or via technological means, and to conduct their business in accordance with the tenets set forth below. (Amended 1/07)

## Duties to Clients and Customers

## Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising out of their relationship as REALTORS®, the REALTORS® shall mediate the dispute if the Board requires its members to mediate. If the dispute is not resolved through mediation, or if mediation is not required, REALTORS® shall submit the dispute to arbitration in accordance with the policies of the Board rather than litigate the matter.

In the event clients of REALTORS® wish to mediate or arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall mediate or arbitrate those disputes in accordance with the policies of the Board, provided the clients agree to be bound by any resulting agreement or award.

The obligation to participate in mediation and arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to mediate and arbitrate and be bound by any resulting agreement or award. (Amended 1/12)

### • Standard of Practice 17-1

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. (Adopted 2/86)

### • Standard of Practice 17-2

Article 17 does not require REALTORS® to mediate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to mediate through the Board's facilities. The fact that all parties decline to participate in mediation does not relieve REALTORS® of the duty to arbitrate.

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. (Amended 1/12)

### • Standard of Practice 17-3

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. (Adopted 1/96)

### • Standard of Practice 17-4

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

1. Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97, Amended 1/07)
2. Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. When arbitration occurs between two (or more) cooperating brokers and where the listing broker is not a party, the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the seller or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97, Amended 1/07)
3. Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
4. Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. (Adopted 1/97)
5. Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, claims to be the procuring cause of sale or lease. In such cases arbitration shall be between the listing broker and the buyer or tenant

representative and the amount in dispute is limited to the amount of the reduction of commission to which the listing broker agreed. (Adopted 1/05)

• **Standard of Practice 17-5**

The obligation to arbitrate established in Article 17 includes disputes between REALTORS® (principals) in different states in instances where, absent an established inter-association arbitration agreement, the REALTOR® (principal) requesting arbitration agrees to submit to the jurisdiction of, travel to, participate in, and be bound by any resulting award rendered in arbitration conducted by the respondent(s) REALTOR®'s association, in instances where the respondent(s) REALTOR®'s association determines that an arbitrable issue exists. (Adopted 1/07)

## Explanatory Notes

The reader should be aware of the following policies which have been approved by the Board of Directors of the National Association:

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in Interpretations of the Code of Ethics.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.

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Form No. 166-288-15 (01/15 VG)

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(702) 784-5000 | [membersupport@glvar.org](mailto:membersupport@glvar.org) | [Privacy Policy](#)

There is a difference when using a REALTOR®. REALTOR® is a registered collective membership mark that identifies a real estate professional who is a member of the National Association of REALTORS® and subscribes to its strict Code of Ethics.

The Greater Las Vegas Association of REALTORS® (GLVAR) is committed to providing an accessible website. If you have difficulty accessing content, have difficulty viewing a file on the website, or notice any accessibility problems, please contact GLVAR to specify the nature of the accessibility issue and any assistive technology you use. GLVAR will strive to provide the content you need in the format you require.

GLVAR welcomes your suggestions and comments about improving ongoing efforts to increase the accessibility of this website. For assistance, please contact [lance@glvar.org](mailto:lance@glvar.org)

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## EXHIBIT 2



Greater Las Vegas Association of REALTORS®  
1750 E. Sahara AV., Las Vegas, NV 89104  
(702) 784-5052

REQUEST AND AGREEMENT TO ARBITRATE (MEMBER)  
**PAGES 2, 3, 4 AND 5 MUST BE COMPLETED, SIGNED AND SUBMITTED  
WITH A SUMMARY AND SUPPORTING DOCUMENTS  
OR YOUR COMPLAINT WILL BE RETURNED TO YOU.**

DATE: 11/9/2016

CASE NUMBER: 1620/A (assigned by GLVAR@staff)

1. The undersigned, by becoming and remaining a member of the Greater Las Vegas Association of REALTORS®, (or participate in its MLS), has previously consented to arbitration through the Association under its Rules and regulations.
2. Each person named below is a member in good standing of the Association or was a member at the time the dispute arose.
3. A dispute arising out of the real estate business as defined by Article 17 of the Code of Ethics exists between me (or my firm) and (list all persons and/or firms you wish to name as respondents to this arbitration):\*

**PLEASE NAME RESPONDENTS:**

Judith Sullivan, Principal Broker of Nevada Real Estate Corp. Company  
Wayne Wu, Agent of Nevada Real Estate Corp. Company

(Note: Arbitration is generally conducted between REALTORS® (principals) or between firms comprised of REALTOR® principals.)

4. There is due, unpaid, and owing to me (or I retain) from the above named person(s) the sum of \$ 13,795.32. My claim is predicated upon the statement attached, marked Exhibit "1", and supporting documents which are incorporated by reference into this application. DO NOT STAPLE your packet - turn in original complaint form and copies of supporting documents.  
disputed funds are held by First American Title: Escrow No. 112-24908656

Parties are strongly encouraged to provide any and all documents and evidence they intend to introduce during the hearing to the other party(ies) and to the association prior to the day of the hearing. Providing documents and evidence in advance can expedite the hearing process and prevent costly, unnecessary continuances.

5. I request and consent to arbitration through the Association in accordance with the *Code of Ethics and Arbitration Manual* (alternatively, "in accordance with the professional standards procedures set forth in the bylaws of the Board"). I agree to abide by the arbitration award and, if I am the non-prevailing party, to, within ten (10) days following transmittal of the award, either (1) pay the award to the party(ies) named in the award or (2) deposit the funds with the Professional Standards Administrator to be held in an escrow or trust account maintained for this purpose. Failure to satisfy the award or to deposit the funds in the escrow or trust account within this time period may be considered a violation of a membership duty and may subject the member to disciplinary action at the discretion of the Board of Directors consistent with Section 53, The Award, *Code of Ethics and Arbitration Manual*.

In the event I do not comply with the award and it is necessary for any party to obtain judicial confirmation and enforcement of the award against me, I agree to pay that party costs and reasonable attorney's fees incurred in obtaining such confirmation and enforcement.

11/9/16  
gk  
1-1

6. I have enclosed my check in the sum of \$500.00 for the arbitration filing deposit of commissions of \$501.00 and above. I have enclosed my check in the sum of \$100.00 for the arbitration filing deposit of commissions \$500.00 and below which I understand is refundable to the prevailing party or if arbitration does not take place.

7. I understand that I may be represented by counsel and that I must provide written notice no less than (15) fifteen days before the hearing of the name, address and phone number of my attorney to all parties and the Association. Failure to provide this notice may result in a continuance of the hearing, if the Hearing Panel determines that the rights of the other party (ies) require representation.

All parties appearing at a hearing may be called as a witness without advance notice.

Notice of witnesses and legal and/or REALTOR® Counsel must be submitted at least 15 days prior to the hearing date. Each party shall arrange for his witnesses to be present at the time and place designates for the hearing. The following REALTOR® non-principal (or REALTOR-ASSOCIATE® nonprincipal) affiliated with my firm has a financial interest in the outcome of the proceeding and has the right to be present throughout the hearing:

8. I declare this application and the allegations contained herein are true and correct to the best of my knowledge and belief and this request for arbitration is filed within one hundred eighty (180) days after the closing of the transaction, if any, or within one hundred eighty (180) days after the facts constituting the arbitrable matter could have been in the exercise of reasonable diligence, whichever is later.

9. If either party to an arbitration request believes that the Grievance Committee has incorrectly classified the issue presented in the request (i.e., mandatory or voluntary), the party has twenty (20) days from the date of receipt of the Grievance Committee's decision to file a written appeal of the decision. Only those materials that the Grievance Committee had at the time of its determination may be considered with the appeal by the Board of Directors.

10. Are the circumstances giving rise to this arbitration request the subject of civil litigation? ☒ Yes ☐ No

11. Important note related to arbitration conducted pursuant to Standards of Practice 17-4 (1) or (2): Where arbitration is conducted between two (or more) cooperating brokers pursuant to Standards of Practice 17-4 (1) or (2), the amount in dispute and the amount of any potential resulting award is limited to the amount paid to the respondent by the listing broker, seller, or landlord and any amount credited or paid to a party to the transaction at the direction of the respondent.

12. Address of the property in the transaction given rise to this arbitration request  
477 Cabral Peak Street, Las Vegas, NV89138

13. The sale/lease closed on: May 27 2016

Agreements to arbitrate are irrevocable except as otherwise provided under state law.

By submission of this complaint and / or response, I consent to receive communications sent from the Greater Las Vegas Association of REALTORS® via U.S. Mail, e-mail telephone or facsimile at the numbers and locations noted by you on this form. This permission includes all future U.S. mailing address, e-mail, telephone, which I might supply to the Greater Las Vegas Association of REALTORS®. Permission continues until / unless specifically revoked, in writing, to the Greater Las Vegas Association of REALTORS®.

Signature (Broker): Betty Chan  
Broker's Name (print): Betty Chan  
Company: Asian American Realty & Property Management  
Address: 4651 Spring Mountain Road, Las Vegas, NV 89102

Signature (Agent): Betty Chan  
Agent's Name (print): Betty Chan  
Company: Asian American Realty & Property Management  
Address: 4651 Spring Mountain Road, Las Vegas, NV 89102

Telephone: (702 ) 222-0078

Telephone: (702 ) 222-0078

NOTE: This Association offers voluntary mediation, binding only if parties reach a written, signed settlement.

Rev 2/5/16 JK

Greater Las Vegas Association of REALTORS®  
1750 E. Sahara AV., Las Vegas, NV 89104  
Phone Number (702) 784-5052

**DESIGNATION OF LEGAL COUNSEL  
(ARBITRATION)**

DATE: 11/9/2016

CASE NUMBER: \_\_\_\_\_

COMPLAINANT(S):

RESPONDENT(S):

Betty Chan

v.

Judith Sullivan

Wayne Wu

☐ I do not wish to designate counsel at this time

**OR**

☐ I, Betty Chan, do hereby designate the following LEGAL counsel\* for representation in all aspects of these proceedings:

Attorney Name: Avece M Higbee

Firm Name: Marquis Aurbach Coffing

Address: 10001 Park Run Drive, Las Vegas, NV 89145

Phone: ( 702 ) 942-2194

The Greater Las Vegas Association of REALTORS® is requested to send copies of any and all notices and other documents pertaining to this case to the above attorney and the undersigned does hereby designate the attorney as his/her agent and spokesman in these proceedings.

Date: 11/9/2016

Betty Chan  
Signature of Broker

Betty Chan

Name (please print)

Asian American Realty & Property Management  
Company

\*REALTOR® counsel (a fellow REALTOR® who may offer guidance or advice) may be used in ethics hearings only, not in arbitration hearings.

Exhibit 12

Greater Las Vegas Association of REALTORS®  
 1750 E. Sahara Ave., Las Vegas, NV 89104  
 702-784-5052

Case# \_\_\_\_\_

# Notice of Right to Challenge Hearing Panel Members

Notice is given herewith to parties in the matter of:

Betty Chan

vs. Judith Sullivan/Wayne Wu

an arbitration proceeding, that a party has a right to challenge the qualifications of any individual who may be appointed to serve on a Hearing Panel or the Board of Directors. A list of such individuals is provided below. If you wish to challenge the qualification of any of the individuals listed to sit on the Tribunal, please indicate by checking the appropriate blank, and return this form or copy of same with a letter the Professional Standards explaining your reason ("cause") for challenge. If your reason is deemed sufficient to support your challenge, the individual challenged will not be appointed to the Tribunal. Pursuant to Section 27 Qualification for Tribunal, challenges must be filed with the Board within fifteen (15) days from the date the list of names is mailed

See names crossed out below

Challenge: ☒ Yes ☐ No

Challenge: ☐ Yes ☐ No

Challenge: ☐ Yes ☐ No

~~Roger Stein~~  
~~Jean Kaptz~~  
 Nancy Anderson  
~~Tod Barton~~  
 Honey Borla  
~~Kathryn Bovard~~  
~~Damon Caldwell~~  
~~Teresa Chapman~~  
 Elaine Christensen  
~~Lisa Cobb~~  
~~Rosilyn Cobb~~  
 Walt Coffey  
 Peggy Cook  
 Chuck Doty  
 Ross Fabrizio  
 Mina Farah  
~~Deirdre Felgar~~  
~~Richard Foster~~  
~~Britney Gaitan~~  
~~Lonnie Garvin~~  
~~Jede Gavish~~

Danny Gennette  
~~Ernest Gonzales~~  
~~Vince Haakett~~  
~~Tina Helberg~~  
~~Jennie Helder~~  
~~Barbara Holland~~  
~~Eric Humes~~  
 Jean Sharon Jones  
 Melissa Jones  
 Keith Kelley  
 Myrna Kingham  
 Donald Lainer  
~~Patrick Leibovici~~  
~~Charles Martin~~  
~~Patrick Martino~~  
 Ashley McCormick  
 JC Melvin  
 Eric Mendoza  
 Todd Miller  
 Michele Mittenmiller  
~~Eafie Moore~~

Jackie Porter  
 Douglas Proudfit  
~~Ben Ramirez~~  
~~Di Redman Wolfgram~~  
~~Michael Reiss~~  
~~Linda Rheinberger~~  
 Bradford Roberts  
 Louise Rozich  
 Donna A. Ruthe  
 Sandra Salsbury  
 Ronnie Schwartz  
~~Carol Sovers~~  
~~Tim Shaw~~  
 Peggy Simon  
 Susan Sippel  
~~Nora Slagle~~  
~~Linda Stegall~~  
~~Jona Sterlacci~~  
 Robert Sweeney  
 David Tina Sr.  
 Melissa Towbin

Linda Turman  
 Tom Uribe  
 Susann Weisse  
 Erin Young  
 BOD-Appeal Purposes  
 Jillian Batchelor  
~~Scott Beaudry~~  
~~Vandana Bhalla~~  
 Chris Bishop  
~~Tom Blanchard~~  
 Janet Carpenter  
~~Soozi Jones Walker~~  
 Kolleen Kelley  
~~Omar Lopez~~  
 Keith Lynam  
~~Aldo Martinez~~  
 Georgia Purpura  
 Torres Ramey  
 Brandon Roberts  
 Krystal Sherry  
 Mark Sivek  
 David Tina Jr.

*Request 10 years or more experience*

OR

I have no challenges:

(Print Name)

(Signature)

I have no challenges:

Submitted

## **Index**

Cover	Request and agreement to Arbitration	
Exhibit 1	Betty Chan Statement	(12 pages)
Exhibit 2	Time Line referred in Exhibit 1	(2 pages)
Exhibit 3	Buyer Jerrin's Dad called me 33 times a day and I answered 20 of them.	(2pages)
<u>Exhibit 4</u>	11/2/14- 4/23/15 Buyer Jerrin's second purchase/did not work out	(18 pages)
Exhibit 5	11/2/2015-1/8/2016 Details of subject disputed purchase Agency Relationship confirmed in writing	(11 pages)
Exhibit 6	December 30 2016 –Showing day and showing route including Subject disputed property	(9 pages)
Exhibit 7	Duties Owed	(2 pages)
Exhibit 8	Conversation/Text messages of Buyer Jerrin Chiu	(18 pages)
Exhibit 9	Conversation/Text messages of KB Agents	(8 pages)
Exhibit 10	Attorney letters and formal complaint to KB	(7 pages)

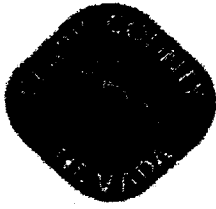
**KB HOME**  
**KB Home Las Vegas Inc. (853)**  
**Sales Summary**

Contract Date	01/08/2016	Project No.	00853-115
Community Name	Tovare	Bldg Type/#	1
Buyer Names	Chiu, Jenn	Lot/Tract	43/1
Property Address	477 CARRAL PEAK STREET	Plan/Elevation	JVC
	Las Vegas, NV 89138		
Lender	Chase Bank	Mortgage Type	OSL
Sales Price Breakdown:			
Gross Sales Price		Gross	Adjustments
		Tier to HUD	Accounting Not
Base Price	(.4012)	\$370,790.00	(Interest use only)
Lot Premium	(.4014)	\$25,000.00	\$0.00
Flooring Upgrades	(.4050)	\$13,849.00	\$0.00
Window Treatments	(.4061)	\$0.00	\$0.00
Option Upgrades - Sales Office	(.4070-30001)	\$2,975.00	\$0.00
Option Upgrades - KB Home Studio	(.4070-30002)	\$41,139.00	\$2,975.00
Total Gross Sales Price		\$459,644.00	\$41,139.00
Allowances		\$459,644.00	\$0.00
Sales Allowances - Base Price	(.4090)	\$0.00	\$0.00
Sales Allowances - Flooring Upgrades	(.4092)	\$0.00	\$0.00
Sales Allowances - Option Upgrades	(.4094)	\$0.00	\$0.00
Total Allowances		\$0.00	\$0.00
Gross Sales Price		\$459,644.00	\$0.00
		(Total on HUD)	(Interest use only)
Seller Closing Costs	(.5125)	\$0.00	
Mortgage Discounts	(.5126)	\$0.00	
NRCC	(.5123)	\$0.00	
Referral Fee	(.5123-1095)	\$0.00	
Comments	OSL - BROKER - NO INCENTIVES: PRICE PARTICIPATION TO HOWARD HUGHES \$18,807.58		
	TRANSFER TAX SPLIT		
Hold Back	Program	Amount	\$0.00
Pool Participation Program	Pool Company	Participation Fee	\$0.00
Mortgage Commitment	Program	Amount	\$0.00
Buyer Deposits	Earnest	\$10,297.00	
	Upgrades	\$7,285.00	
	POC	\$0.00	
		Total Deposits	\$17,582.00
Broker Commission			
Broker Name	WAYNE WU	Realty Company	Nevada Real Estate Corp.
Percentage	3.00 %	Gross	\$0.00
Gross Broker Commission Earned	\$13,795.32		
Gross Receipts Tax	\$0.00	0.00 %	
Less Amount Prepaid	\$0.00		
Broker Commission To Be Paid At Closing	\$13,795.32		
KB Sales Commission Basis	\$459,644.00		
Notes			

\*POC amount is NOT to be credited @COE.

Prepared By: Johnson, LaToya

SSR Reason: CLOSE 03/16/16 15:51:24

**Clark County Recorder's Office**

**Modify Date:** 5/27/2016  
**Record Date:** 5/27/2016 1:48 PM  
**Number of Pages:** 5  
**Book Type:** OR  
**Document Type:** (D) DEED  
**Grantor** KB HOME LV TEVARE LLC  
**Grantee** CHIU, JERRIN  
**Total Value:** \$459,844.00  
**Parcel #:** 137-34-119-012



**Exhibit 1**

**Betty Chan Statement**

**Betty Chan, Broker/Asian American Realty & Property Management**

**Vs.**

**Wayne Wu, Agent and Judith Sullivan, Broker/ Nevada Real Estate Corp.**

**RE: Buyer: Dr. Jerrin Chiu**

**Property: 477 Cabral Peak Street, Las Vegas, NV 89138**

**Disputed Commission: \$13,795.32**

I, Betty Chan, believed that there is due, unpaid and owing to me from the above named Realtors the sum of \$13,795.32.

**A) Broker Betty Chan and Buyer Jerrin Chiu's business relationship**

It is important to realize that the business relationship I have with Buyer Jerrin has been an ongoing relationship since August 2013. Attached hereto as Exhibit 2, is a timeline showing my business relationship with this buyer and his family over the last three years.

I have been highly regarded by the whole family to be a professional, reliable and honest Realtor since 3 years ago until the day Jerrin Chiu signed the purchase contract with the other agent on 1/8/2016 on a KB Home where I was the procuring cause. All of a sudden within a short 5 business days' period, he made me into a person that he did not like and a person that did not want to return his "allegedly" many phone calls and voice messages and therefore he needed to put a different agent's name on the purchase contract. The truth of the matter is a whole different story.

**B) Buyer Jerrin began to look for a Second Purchase**

This was the beginning of Buyer Jerrin's second house hunting leading to the final closing of the subject disputed property.

11/2/2014. Eighth months after he closed on his first condo, Buyer Jerrin emailed me that he was planning to look for a second house and he wanted me to find him a waterfront property for his father to stay while visiting Las Vegas. I told him that it was very impressive that he could save so much money in a short period of time. Buyer Jerrin said he did not have enough down payment yet but his father would help him financially if he found a nice property. Was that not true that our agency relationship commenced again? We saw some houses but we did not find anything that Buyer Jerrin wanted to purchase.

11/19/2014. I received a kidney transplant and was not allowed to work. During my recovery months, Buyer Jerrin's father Dr. Kwang Chiu regularly called me and reminded me on how to take care of my health and my kidney. I felt grateful for his

attention as if I got a personal doctor. I felt that they were not just a buyer and they had become my friends.

3/30/2015. I updated the loan pre-approval for Buyer Jerrin first before we started looking house again. Buyer Jerrin liked a one story house on the water in Desert Shore area. He liked it and needed to discuss with his father before he would make an offer. We made an offer after their family discussion.

4/18/2015. Buyer Jerrin got into a traffic accident and he texted me the hilarious picture of his accident.

4/23/2015. Seller was very difficult about the price and they had about 5 offers. I gave Buyer Jerrin my experience how to overcome the other buyers. We then became the first one of all the offers chosen by the Seller to work with. Buyer Jerrin decided to pass because he wanted to buy a car instead since his car was totaled after the accident. I told him tried not to buy too expensive car if he still considered buying a house because we needed to control the debt ratio. Buyer Jerrin still wanted to make another purchase but he changed his purchase criteria to include not just Lake Front or 1 story properties but any houses with good value.

5/11/2015. Buyer Jerrin emailed me that his condo had a leak and might have a mold problem. I explained to him how the process should be handled.

7/18/2015. I texted Buyer Jerrin to check up on his injury. He told me that he needed a surgery on his shoulder. He also said that if he decided to stay in Las Vegas, he would be looking to buy a house again.

### **C) Chain of events leading to the Purchase of the Subject Disputed Property**

#### **i) The Appointment**

10/2/2015. Buyer Jerrin's father, Dr. Kwang Chiu called me specifically to tell me that he would be in town on Dec 30 and wanted to make sure I would be in town. Dr. Kwang Chiu wanted me to show him and Buyer Jerrin houses on Dec 30 2015 at 10 am. I told him I would be in town and I would get everything ready. I asked Buyer Jerrin to give me updated financials to update his loan pre approval.

11/2/2015. Buyer Jerrin emailed and reminded me that a month ago his father had already talked to me about his intention to buy a house again. He listed out his criteria, perimeter, and price range. He wanted the location to be in Summerlin areas. Buyer Jerrin informed me that they would be available for viewing on 12/30, 12/31 and 1/1. I replied as "Sure. Thank you for using my service again." I believed that at that moment our agency relationship was confirmed in writing. I would even consider that as my exclusive agency relationship since both the father and the son repeatedly asked me to make sure I would be available for them for viewing houses.

11/21-12/6/2015. I was in Hong Kong.

11/28/2015. While I was in Hong Kong, Buyer Jerrin emailed me that he was looking for some house around Boca Park area where he found one particular house that he would like to see. He asked me to show him that same house on 12/30 or 12/31. He also wished me a Happy Thanksgiving in his ending.

Our exclusive agency relationship was reaffirmed for a second time.

11/29/2015. I responded that I would show him that house if it were still available. I told him I would be back on Dec 6. He responded that he would talk to me when I returned.

### **ii) The Preparation**

12/29/2015. I prepared for the showing for the Chiu family on Dec 30 2015. I pulled up and screened every listing under 500K in Summerlin and around Boca Park area where Buyer Jerrin worked. I found a total of 5 that would fit Buyer Jerrin's liking. I personally wanted to show them 2 new homes in Summerlin. Toll had all one story homes and the expensive look should meet Dr, Kwang Chiu's criteria but would be out of Buyer Jerrin's qualified price range. KB would fit Buyer Jerrin for his price range. I had looked at that tract when KB first opened up. KB had changed their cookie cutter style. The modern look and price range should fit Buyer Jerrin perfectly. I also contacted the listing agents of all the resales and set up appointments for viewing as required on the listing.

12/30/2015-12 am. I checked the status of those listings a final time and printed out all listings. I also arranged the route for showings before I went to bed.

### **iii) The Showing**

12/30/2015 10 am. I picked up Buyer Jerrin and his parents at Buyer Jerrin's condo on Jade Creek. Buyer Jerrin's father wasn't feeling well so I told them to bring him a jacket because Summerlin was colder. My showing consisted of 5 resales where 4 of the 5 were in Summerlin areas. I also showed 2 brand new homes in Summerlin with one at Toll Brothers with the one story neighborhood and the other at KB where it had a one story plan which I liked it myself. Based on my past few years working with Buyer Jerrin, I knew that he would love KB much better because it fitted exactly in his price range of around 400K and it also fitted his desired size and location.

New homes were only opened half day that day. After we showed the first 3 resales and all showed very nice. We then went to Toll Brothers. They liked it but they were not very interested about the price tag. We did not finish all the models. We were already very late for the 4<sup>th</sup> resale appointment and also late for KB as I was not sure what time they closed that day. I pulled up from my phone to locate KB office and left them a message that we were on our way and asked them to wait for us. I also called the 4<sup>th</sup> resale to let the agent know we were running a half hour late. The agent agreed to meet us at the house.

#### **iv) KB Home**

When we got to KB, a lady (now known to me as Cheryl) was sitting at the front office facing the entrance door wearing a name tag. She was doing some paperwork and did not even look up to greet us. I just said Hi and helped myself with the price sheet and headed towards the models. The first model was plan 1849 a single story. Buyer Jerrin and his family already liked both the price and floor plan. While we were touring the master bedroom of the second model plan 2625, Buyer Jerrin told me that he really liked it so we spent a longer time there. I felt his anxiety and I already knew that was the one that he would buy depending if he was willing to take his parents' money. The last purchase he insisted to do with his own money. I told Buyer Jerrin that we had appointment with another property at 1:30 pm and was already late so we needed to hurry. We could come back later. We toured the last model plan 2568 which did not show a very good plan.

When we returned to the sales office, there was a pair of Chinese buyers appearing to be mother and son sitting in front of the sales lady's (Cheryl's) office. I interrupted Cheryl and asked her if she could give us floor plans. She told me she was off that day and only came back to sign a contract. I did not understand why she told me that. I was thinking to myself whether she worked on that day or not had anything to do with giving me the floor plans? She was wearing a KB name tag and was sitting in a KB office with no one else in the office.

I gave Buyer Jerrin all the floor plans and price sheet. Since this was the first time Buyer Jerrin was buying a new home, I spent extra time to explain the buying process including what came standard with the house, different elevations with different prices that they could pick, the location of the site and how far the property would be from Buyer Jerrin's work. While we were talking, there was a second lady (now known to me as Jana) who hurried in and asked us if she could help. I told her the first lady (Cheryl) had given us the floor plans and then Jana just hurried out towards the parking lot. (I told Jana that just so that she knew Cheryl had been helping us as I did not know how their commission arrangement and I did not want to step on anybody's toes).

#### **v) The Registration Card**

The Chinese buyers were leaving when I was trying to locate the registration card and had Buyer Jerrin completing his part. The registration cards were sitting in a small box stand on the table in the front area of the office. That registration card looked different from the traditional registration and was not the same as those used in the other KB office where I also had one sale.

This card required Buyer's information on the top left corner of the card instead of everything at the bottom. That was the first time I saw it and I had to read it before I could show Buyer Jerrin where to sign. Since that registration card was so different, I also tried to look for if they had the other traditional registration card somewhere. All

Builders liked to separate Realtors registration cards from those for the buyers without Realtors. I could not find any other type of cards.

During this entire time, the first lady (Cheryl) did not come out to talk to us. When we finished the registration card, the first lady (Cheryl) was nowhere to be found. I tried to look for her through the back door of the office into the model and see whether she was in there but I could not see her. I waited for few more minutes while we were talking about the house but since we had another appointment with the other resale, we really had to leave. I just left the registration card on the table and we left.

We went to the 4<sup>th</sup> resale and met the agent and the homeowner who was a military personnel and was about to be transferred. That house was also a great buy.

#### **vi) After showing**

After the showing was completed, I asked Buyer Jerrin and his family whether they would like to get a quick bite to eat but Buyer Jerrin's father said no because he needed to get back to meet someone at 3pm. Normally when I knew the buyer liked the property, I would take them back to the tract to check what lots were available but since Buyer Jerrin's father was in a hurry, I did not go back to KB and drove them straight home. We decided not to go to the 5<sup>th</sup> resale as it was farther away, the price was not great compared to the last one that we saw and we did not have enough time to return before 3 pm.

#### **vii) Follow up**

Before I left, Buyer Jerrin's father, Dr. Kwang Chiu told me to email him the 4 resale listings that they saw that day and I emailed him the same night. JA

12/31/2016. My daughter was home from San Diego for fireworks which was our routine to celebrate the New Year. I did not want to disturb Buyer Jerrin and his family during the holidays. In the past, they usually discussed for a few days before Buyer Jerrin's father, Dr. Kwang Chiu would call me with instructions.

Surprisingly, around 2 pm, Dr. Kwang Chiu called me and asked me if I could kick back 1% commission like the other agent would offer him. I told him I made his son more than that amount for the last condo purchase. (The market value of that condo was 20K higher than what he paid.) and I only charged him \$1800 for doing that loan and saved him a lot of loan costs. I also told him I never had the "kick-back" practice. However, I felt a little guilty if I said no since he had been checking on me regularly when I was very sick. I did not want to get him upset and that relationship to me was priceless. So I agreed to give him  $\frac{3}{4}$  % if I could do the loan and the purchase. He said Ok and he would discuss with his son and he would let me know.

1/1/2016-1/3/2016. Both my daughter and I were very busy with our work. We felt the New Year holidays were our stolen free days. Normally we spent our time at free will, mostly crazily shopping and eating around town.

Buyer Jerrin's father was supposed to leave on Jan 2 as he had asked me during the showing whether the traffic would be better on the 2<sup>nd</sup> or the 3<sup>rd</sup>. I told him better to leave on 2<sup>nd</sup>, if not, need to be very early or very late on the 3<sup>rd</sup> which was a Sunday. As such, I did not expect that I would receive any phone calls from Dr. Kwang Chiu. Normally it would take them few days to contact me.

I did not know that Buyer Jerrin's father, Dr. Kwang Chiu had left me a message around 2:30 pm. on January 3.

I found out that message late at night when I got home.

1/4/2016. Right before the holiday, one of my own rentals got broken into. Every single windows were broken. Homeless people almost made it their home. Lucky Police just kicked them out for me. I had a prior appointment early in the morning to meet with my wrought iron guy to install the wrought iron gate around the house and all windows. Another repair guy would come to repair broken stove, clean up broken glasses and replacing carpet. While I was there, there was a little challenge with another homeless guy. It was just a crazily busy day. I was going to call Dr Kwang Chiu when I got to the house, but I was side tracked by the hectic situation at the rental house that I completely forgot everything else.

1/5/2016. First thing I did that morning was to email Buyer Jerrin and asked him if he had decided anything yet. I did not get any response from him. I just thought that he was busy and might be still debating which one he wanted to buy the one story or the two story.

#### **viii) The Other Agent's Intrusion**

1/15/2016. I did not hear back from either Buyer Jerrin or Dr. Kwang Chiu. I felt like it was taking too long for their discussion. I started to think that they might have found some other properties with the other agent who offered them the 1% kickback.

So I texted Buyer Jerrin and asked him if he wanted the 1 story. I just guessed that he did not want his parents' money like the last purchase. He replied that he was very busy and not buying. (I later found out that he lied at that moment as he had actually signed the KB purchase contract on the 8<sup>th</sup> with the other agent.)

I wanted to see whether he went with the other agent to get another property. So I texted him back that it was OK for him to find another agent. He did fall into my trap and started telling me that his father had found another agent. He told me that he felt terrible and he should have told me sooner. I told him it was no problem but the other agent could not sell him any of the houses that I had shown him before. At that point, Buyer Jerrin suddenly turned silent and did not respond any more.

1-14

At once I knew he had made a purchase on one of the houses that I had shown him. I was sure it must have been the KB Home. I was very upset and real sad at the same time.

1/19/2016. I was sandwiched in a traffic accident. I did not feel well as I was hurt in the head, my back and my leg so I was busy going to the doctor, reporting the accident and fixing my car.

#### **ix) Registration Card**

1/22/2016. I decided I needed to find out whether Buyer Jerrin really bought the house at KB, so I went to KB sale office. Jana (the sale agent who rushed in and out on the day I showed Buyer Jerrin the tract) was on site and I asked her if I needed to sign any paperwork since my buyer had made a purchase. She was lost and asked me who my buyer was. I told her the name then she said "crap". Buyer Jerrin had signed the contract with another agent.

Then she got nervous and started to check her computer for registration. She then told me that she could not find me but she looked again and then shut down the computer so the screen went dark. She did not check for the other agent's registration either.

I told her that it was impossible. I was talking to the other lady (Cheryl) that day. Jana said it was impossible because that day Cheryl was off and she could not have been in the office. I was hesitant for a moment and tried to decide whether I was confused with Toll's agents. However, I knew for a fact that I was at KB sale office. Then Jana checked her calendar and then said yes, the other lady (Cheryl) was at the sales office between 12 and 2 to sign a contract. I even told Jana at that time that if I was correct, Buyer Jerrin would have signed the contract on the 8<sup>th</sup> because that was his day off. ( My guess was right). He most likely had bought the one story or the two story home if he accepted his parents' help with the down payment.

Then she told me she would check with her partner to see whether the registration was in her partner's possession. However, her partner was on vacation until the following week. Jana also told me she was a single mom and she could not lose the job. Before I left, Jana told me do not talk to anybody and she would look into it. Jana would talk to the manager and would call me later. I felt odd but I needed her cooperation to locate my registration so I told her that I would not call the manager.

1/25/2016. Jana left me a voice mail and asked me more about the registration.

1/26/2016. I went back to KB. This time I met with the first lady (Cheryl) from the day I showed Buyer Jerrin the property. She told me Jana was on leave to make up the time she worked during Cheryl's vacation and she would not be back until the weekend. She said she remembered that I came with buyers the other day. She said she knew me because she emailed me KB updates. She also said she was a lawyer. She said Jana did ask her questions about the registration but nothing afterwards so she thought the matter was resolved.



**x) Reasoning with Buyer Jerrin**

1/25/2016-1/27/2016. I was still trying to talk to Buyer Jerrin to do something with KB homes. Instead, Buyer Jerrin emailed back and said he was unhappy with me because he could not find me when he needed me and I did not respond with their many phone calls and messages and his parents were in town for only few days. This was a lie. His lies to attack my professionalism hurt me more than losing the \$13K commission.

All I missed was one message from his father on a Sunday around 2:30 pm and they did not call me or leave me any messages after that. (If I could answer almost all of his father's 33 calls in a day *after* they put a deposit down on his first \$118K condo, I could return the calls when they were ready to buy this 430K KB Home.) I believe no Realtor with a logical mind could afford ignoring such phone calls or messages that could result with a \$13K commission.

I followed up with Buyer Jerrin for an update on the 5<sup>th</sup>, 2 business days from the showing on 12/30/2016. He did not respond to me at all because he already planned to sign the contract on the 8<sup>th</sup> with the other agent. However he lied on his text that he was not buying because he was busy. Why he needed to lie if he had such a great reason not to use me but had to use the other agent. Technically our exclusive agency relationship was still in place on the day he signed the contract with another agent and he even admitted on his text that he could have told me sooner.

My effort was in vain, so I wrote him one last email and told him I was ready to file a lawsuit.

**xi) KB lost my Registration Card**

1/30/2016. I went to KB sale office again to check status with Jana. I did not hear anything from the KB Manager. I asked her if she had talked to Buyer Jerrin. She said yes and Buyer Jerrin admitted that I was the first one who took him to the KB homes. While I was chatting with Jana, Cheryl became very angry and came over to yell at me. She said I should not talk any more because the buyer said he did not like me so he used someone else. She also said she would not be a witness if I was going to file a lawsuit. I calmly told Cheryl that I was talking to Jana and it was not her business to eavesdrop on our conversation. She shut up and went back to her own office.

No one in KB office or Buyer Jerrin disputed that I was the first agent that showed him the house. Also, no one had ever told me that I was lying and I never had registered the buyer. All of them told me they would look everywhere for my registration. Finally they said that they could not locate my registration card.

I did not have a copy of the registration because normally the onsite agent needed to sign and gave me a copy. At that moment, no agent was around and I could not wait any longer as we had another appointment waiting for us. If I could have foreseen my trusted buyer for 3 years would circumvent my commission, I would have taken a picture with



my phone. I would never ever have any doubt about these buyers' integrity when both father and son were doctors who supposed to have a higher moral standard than anyone else.

There was no rule that I had to produce my registration to get my commission. I left my registration on the table inside a KB office monitored by a KB agent at that time. KB has the responsibility to safekeeping my registration because they made the rule. Obviously KB home had recognized that I was the agent that showed the buyer and had registered the Buyer at his first visit, then they should honor to pay me the commission.

**xii) KB Homes Counsel's Response**

2/1/2016. KB Homes Manager Lara called me from her car and we spoke for about 44 minutes while she was driving home. I felt weird at her informal style of investigating a complaint. I insisted on speaking with management and she said she would look into it and would need to speak with few people first. She asked me how I knew Buyer Jerrin would buy KB. I told her that because I was smart and because I was his agent and I knew which house he liked.

2/29/2016. Manager Lara called me twice, both times were in her car and both times her answer was she still needed to speak to her legal department and few more people. I believed her at first because one of her message was she hoped that she would have a favorable outcome. When I did not hear back from her, I mailed a certified letter of intent to file a lawsuit in order to get a formal answer.

3/7/2016. KB's legal counsel responded by simply saying that it was not their business to deal with the commission dispute and that I needed to deal with buyer directly.

3/8/2016. I responded to KB's legal counsel and sent a copy to Lara and Title to cease and desist paying commission. I also contacted my attorney to initiate legal action.

6/8/2016. First American Title notified my attorney that the disputed transaction was closed successfully.

**D) My Closing Statement**

**i) Procuring Clause**

As defined by Black's Law Dictionary, Fifth Edition:

Procuring Clause: The proximate cause; the cause originating a series of events which, without break in their continuity, result in the accomplishment of the prime object. The inducing cause: the direct or proximate cause. Substantially synonymous with "efficient cause"

It was a fact that my efforts and a series of my acts, namely: get a loan pre approval to make sure Buyer Jerrin Chiu is a buyer who is willing and able to qualify for the necessary financing for the purchase, researching, screening from 200 +/- homes down to 5, setting up appointments, strategically planning the route, touring resale homes, new models and detailed explanation of the process of buying a new home built from scratch. All my work are the foundation and direct cause leading or inducing the Buyer to successfully achieve his intended purpose of buying a second house based on his defined price range, location, size and the style as per his criteria. When he offered me to be his agent in writing, I accepted and completed that job.

This is absolutely an undisputed fact that I was the procuring clause. *Mohamed v. Robbins*, 23 Ariz.App.195.531 p.2d 928,930 ( quoted from NAR)

There is also no need for me to have an exclusive buyer agreement in writing to be the procuring clause, *Christo v. Ramanda Inns, Inc.*, 609 F.2d1058 (3d Cir. 1979); *Ahrens v. Haskin*, 299 S.W.2d 87(Ark.1957), *Feeley v. Mullikin*, 269 p.2d 828 (Wa. 1954); *Wilson v. Sewee*, 171 P.2d647(N.M. 1946) ( quoted from NAR)

However, in this case, I did have proof to show that both buyer and his father has the full intention repeatedly in writing asking me to be their agent to show them houses that they wanted to see, even made the appointment with me 2 months in advance. As far as I know at that moment, I did not feel that they had another agent that they were working with nor was I told that they had the existence of such agent.

**ii) No break in continuity of my efforts and no proof of abandonment of the Buyer**

There was no break in the continuity of my effort from the day that I showed Buyer Jerrin the house on 12/30/2016 to the day he signed his contract on 1/8/2016. Buyer Jerrin is the one that tried to circumvent my commission by lying to KB homes that the other agent was the one that show him the house and listed the other agent on the contract.

There was absolutely no evidence to prove that I abandoned or intended to abandon my buyer during a short period of 5 business days after my showing. Right after the showing, I emailed to them lists of resale homes that we saw that day per their request. I talked with Buyer's father about the other agent's offer of a 1% commission the day after the showing and made an agreement with the Father that I would agree to give them a credit of ¾ %. I followed up by email on 1/5/2006, 2 business days (or 6 calendar days) after showing but did not get buyer's response. I then followed up again on 1/15/2016 only to find out the buyer already signed a contract on that KB home with the other agent just a week earlier on 1/8/2016.

**iii) No Indication of Termination of My Agency Relationship**

There was no indication orally or in writing that my agency relationship with Buyer Jerrin Chiu was terminated on the day or before he signed the purchase contract with the other agent. Later when KB questioned him about which agent showed him the house

first, according to KB sales agent, he said it was me but his excuse to use another agent was he did not like me any more and therefore he chose another agent.

**iv) Buyer acted in bad faith**

Whether an agent is liked or not does not change the facts regarding procuring cause. I still am entitled to 100% of the commission paid by KB. I however will not stop you from choosing another agent, just not using my commission to pay him or pay your kickback.

Buyer has acted in bad faith by taking advantage of my expertise and my time to find him the house and then through another agent to purchase the house so that he can manufacture an opportunity for himself to save 1% of the commission for his personal enrichment.

**v) Intrusion of the Other Agent, Agent Wayne Wu**

Agent Wu was totally aware of the fact that he did not bring Buyer Jerrin at his first visit to KB Home. He chose not to reveal that information and made it even worse by misrepresenting himself that he did accompany the Buyer at his first visit to KB home and signed both the registration card and the contract. His misrepresentation had already violated so many parts of Code of Ethics. He acted in bad faith by offering 1% commission kickback to buyer so as to intervene in my sale transaction. He was not the procuring cause. *Wright, 427 S.W.2d at 276 (quoted from NAR)*

**vi) Agent Wu Did Not Contribute Any Negotiation or Effort For the Purchase**

KB home is a new home builder same as many other new home builders who have their own form of contract and will not allow buyers make any changes to the contract. They released certain lots to be purchased at any one time. Buyer can only select the lots designated for certain floor plan to be built. They would not allow custom changes but could only select changes from their standard option list. There was no negotiation on the price and with this particular popular tract in Summerlin, they would not give out any special incentives to the buyers. Maybe their preferred lenders would help buyer's closing cost. In other words, Seller KB dictated the whole buying process according to their own rules including but not limited to when the contract needed to be signed, when the option to be selected, when the deposit become non refundable, the walk thru date and the closing date etc. In other words Agent Wu pretty much had nothing to negotiate for the buyer in terms of the purchasing process.

**vii) Who made the greatest efforts?**

I do not see what kind of effort Mr. Wayne Wu had contributed other than he simply followed my path to finish the purchase. Compared to my effort, it is so easy to tell that I had contributed the greatest efforts towards Buyer Jerrin's successful purchase of KB

home. Therefore, I had fully met KB Home's criteria for getting pay for their procuring cause commission.

**E) Betty Chan is the Procuring Cause**

The above fact speaks for itself. I have performed with my utmost dignity and highest professionalism in accomplishing Buyer Jerrin's goal for purchasing a second house fulfilling his search criteria. My effort was the direct and immediate cause resulting with a willing and ready buyer for KB Home and therefore Betty Chan deserves to be paid the sale commission of \$13,795.32 by KB Home.

## Exhibit 2

### **Time Lines**

8/18/2013. Buyer Jerrin Chiu's father, Dr. Kwang Chiu from CA called me and wanted to buy a house for his son Jerrin in Las Vegas. We set up appointment to meet for 9/10-

9/11/13 when they came to Las Vegas.

8/28/2013. I began emailing Dr. Kwang Chiu property listings

9/5/2013. During our conversation, I found out that Buyer Jerrin and my daughter are both graduated optometrists from SCCO. At that time, they were also co-workers in an optometry office in China Town for a short period of time before Buyer Jerrin moved to work for Lenscrafters. Since he is my daughter's friend then I started to share with him what I did with my daughter to invest with her money. There was no better way to start saving by buying a little condo with a small down payment and get all the tax deduction benefit and in the end the mortgage payment is almost the same as the rent they have to pay. So I told him that his Dad had a great foresight to prep him for investing in real estate

Before we started viewing homes, I did a pre-approval for Buyer Jerrin so that he knew exactly what would be the loan amount that he could qualify for and how much would be his monthly payment which was lesser than his rent payment.

9/10/2013. I picked up Dr. Kwang Chiu from Buyer Jerrin's rental condo and then we went to check out houses.

10/3/2013. We did not find any houses during the first meeting with Buyer Jerrin's parent. However, I got Buyer Jerrin a Fannie loan approval.

12/25/2013. I reached out to Buyer Jerrin and Dr. Kwang Chiu to see whether they would be in town for holiday. Dr. Kwang Chiu could not come so he told me just to show Buyer Jerrin.

1/24/2014. We found a house that Buyer Jerrin liked but he needed to discuss with his father first. After discussion with Dr. Kwang Chiu, Buyer Jerrin decided to make his first offer. There were back and forth negotiations.

1/31/2014. Finally my negotiation effort won our offer accepted by the Seller. I began the process of Buyer Jerrin's loan at both Buyer Jerrin and Dr. Kwang Chiu's request.

2/2/2014. Dr. Kwang Chiu, Buyer Jerrin's father, called me for offer updates a total of 33 times on that Chinese New Year day. He called during my dialysis treatment and my Family dinner. I picked up most of his calls but I was frustrated as father and son did not exchange notes. I could not push the other agent for status within the same day. I should

allow the other agent time to respond. I understand his father was very concerned with his son's offer but 33 calls a day sound little too much. So I emailed to Buyer Jerrin and asked his Dad to calm down. Buyer Jerrin told me that both he and his father appreciated that I had been a good agent. They told me that I had done a great job and gave them honest opinions about everything. Dr. Kwang Chiu would always help me with any health concerns.

3/18/2014. Buyer Jerrin's condo closed at \$118,000.

I maintained business contact with Buyer Jerrin throughout the remainder of 2014 about his condo and some maintenance issues.

**Exhibit 3** (2 pages)

Buyer Jerrin's Dad called me 33 times a day and I answered 20 of them.

6/28/2016

Gmail - verification of employment



Betty Chan <aalender@gmail.com>

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## verification of employment

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Jerrin Chiu <jchiuey@gmail.com>  
To: Betty Chan <aalender@gmail.com>

Sun, Feb 2, 2014 at 12:29 PM

Betty!

First Happy new year. Second, I apologize for my dad's behavior. He called 30 too many times haha. He can be overbearing sometimes and I already let him know he doesn't need to call so much. In all fairness though, he just wanted 1 call back in the afternoon just as an update because we were scared we weren't going to get the condo and the other party wasn't responding. I've seen you get calls all day long so I know that you are very busy. But he was a little angry just because he couldn't get 1 call back from 11am all the way to the counter-offer email at 5:30pm. In any case, I agree he called wayyy too many times. He loves to talk on the phone; I think he is just bored a lot haha. Please don't let his excessive calls yesterday leave a bad relationship between any of us. Again, he likes to get things done fast and will become like a gnat until it's completed.

Third, I want to thank you for doing a great job thus far and getting me the condo that I wanted. Thank you for doing the loan and talking to the other agent and giving us honest opinions about everything. My father also told me that you've been a good agent and he hopes you do well health wise and he will always help you with any health concern. I have full faith in him when it comes to medicine. He is just stubborn so he probably won't say thank you to you. I appreciate you working with us and want to continue with everything.

We should talk to each other instead of relaying through my dad. I just thought you guys could talk before since he is more knowledgeable about buying houses/condos, but instead that may have been a hindrance. From now on, we can talk to each other and I can relay the information to him. If he needs to talk to you about something, I'll tell him to keep the phone calls to a minimum. Email me is definitely a good way, or I respond to text fast as well.

If we can, let's move forward and thank you for processing the loan. From what I understand, we have gotten the acceptance for the condo, and now

- 1) We are just waiting for the loan approval? This process will take a couple weeks but everything should go through?
- 2) Once the loan is approved, we can lock down the interest rate for the house? What is the average usually?
- 3) At this time, we also get an appraisal for the house? What is getting an appraisal for?
- 4) Are we still planning to do an inspection this Friday?

All in all, do you think this process will be a normal, easy process or do you think there will be any hiccups along the way?

Thank you Betty for all your time and work. I'm pretty excited about the new place! In other news, I had a patient that was a contract manager for the new mall that's being built and he stated they are building a stadium and a community with a lot of new homes and condos around that area. He said housing prices will rise fast around that area so I think this was a good purchase.

Cheers

Jerrin

[Quoted text hidden]

P0024

1 Appx 000207

2-1-24



6/28/2016

Gmail - bank statement



Betty Chan <aalender@gmail.com>

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## bank statement

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Betty Chan <aalender@gmail.com>

Sun, Feb 2, 2014 at 3:15 PM

To: Jerrin Chiu <jchiuey@gmail.com>

Hi Jerrin

During those hours that you talked about, I was still in the meeting with the attorney and your Dad knew about it. I have a lot of lands stuff need to talk with my attorney and right after that I had to rush to my dialysis. As soon as I settled down, I answered your Dad call at 303 pm, Anyway, that is not really a big deal as long as we understand each other and will accomodate each other, and I am sure whether he call or not, I will still handle your file to the best of my ability.

After you get off today, do you have any appointment to go as I need to see you to get your signature on these loan papers. PI call me at 702222-0078 so that I can meet you either at my office which is also on Spring Mtn road or McDonald, and may be we can have dinner together, I will see whether Sandi can join us as well.

Betty

1-25  
f

**Exhibit 4** (18 pages)

11/2/14- 4/23/15

Buyer Jerrin Chiu asked me to help his second purchase

I also provided him a pre approval for the purchase

Did not work out in the end.

6/28/2016

Gmail - hi Betty!



Betty Chan <aalender@gmail.com>

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**hi Betty!**

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**Jerrin Chiu** <jchiuey@gmail.com>

To: Betty Chan <aalender@gmail.com>

Sun, Nov 2, 2014 at 1:10 PM

Hey Betty!

How have you been? Hope you are doing okay. I may be looking for another house soon. I am not in any rush right now but I'm looking at the waterfront property at Desert Shores. I was hoping you could give me some more information on them. How are the houses there? The availability? The amenities and HOA? Any info you have would be great! If there is an open house I would like to check them out sometime. I would have my father come down and see them as well since he is interested too. Thanks Betty, hope to hear from you soon.

Jerrin

11-27  
11/1

6/28/2016

Gmail - hi Betty!



Betty Chan <aalender@gmail.com>

hi Betty!

Betty Chan <aalender@gmail.com>

To: Jerrin Chiu <jchiuey@gmail.com>

Sun, Nov 2, 2014 at 7:13 PM

Hi Jerrin, glad to hear from you. You save up pretty fast! Good job.

Desert shore is a beautiful area. I used to live there in 94 when they first opened up. The assn fee for those on the water gated will be higher, somewhere around \$100, otherwise it is only \$45 may have gone up after all these years. If it is in south Shore was like \$30.

Since it is 20 years old, so maintenance issues start to show. Most of them are 8 ft ceiling. On the water Harbor Cove is my favorite, they are very well constructed and the floor plan is still good after 20 years. They are probability close to 500K. If it is not on the water, price about high 200 to mid 300k. Trade wind is the cheapest but worst construction. I will not buy that one. They have some townhouse too but very small and assn fee is very high should be more than 200 by now.

Anyway I will ck the inventory and email you if I see something I like.

Sandi just bought a house just moved in this weekend in Rhodes ranch.

Thanx for asking me for your new investment.

Betty

[Quoted text hidden]

4-1-28  
R

6/28/2016

Gmail - hi Betty!



Betty Chan <aalender@gmail.com>

hi Betty!

Jerrin Chiu <jchiuey@gmail.com>

To: Betty Chan <aalender@gmail.com>

Mon, Nov 3, 2014 at 10:17 AM

Oh I don't have much money right now haha, but if we find a good deal, my father will help since they want a nice house to stay at when they come visit as well. I am definitely looking only for an on the water house. So the backyard is the lake. Harbor cove seems nice. If there is any good deals or foreclosures please let me know! I think this time my budget will be at the 500k mark. If the house is around 500k, about how much would mortgage be with a 20% down payment?

Tell Sandi congrats!! That place is really nice, my friend lives there and likes it a lot. Good gym and basketball courts.

Thanks Betty

Jerrin

[Quoted text hidden]

6/28/2016

Gmail - hi Betty!



Betty Chan <aalender@gmail.com>

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**hi Betty!**

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**Jerrin Chiu** <jchiuey@gmail.com>

Mon, Nov 3, 2014 at 10:25 AM

To: Betty Chan <aalender@gmail.com>

oh and another question. How does Desert shores compare to The Lakes near sahara?

[Quoted text hidden]

130  
4-4

6/28/2016

Gmail - hi Betty!



Betty Chan <aalender@gmail.com>

---

**hi Betty!**

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**Betty Chan** <aalender@gmail.com>  
To: Jemin Chiu <jchiuey@gmail.com>

Mon, Nov 3, 2014 at 6:19 PM

Desert Shore is a much better managed community. Desert Shore community is much bigger in size so have more money to control, newer home. The lake is pumped everyday not like sahara lake. All residents in desert shore have access to the lake activity. Sahara lake is only those on the water.

[Quoted text hidden]

6/28/2016

Gmail - Loan



**Betty Chan <aalender@gmail.com>**

## Loan

**Jerrin Chiu** <jchiuey@gmail.com>

To: Betty Chan <aalender@gmail.com>

Thu, Apr 2, 2015 at 11:43 AM

Wow found a really nice house that's cheaper and bigger and has a pool. Too bad it was sold in 2013. This makes the current \$425k seem way too much. Was this house short sale or something?

<https://www.redfin.com/NV/Las-Vegas/2813-Summer-Lake-Dr-89128/home/29141776>

**Pictures here**

[http://www.zillow.com/homedetails/2813-Summer-Lake-Dr-Las-Vegas-NV-89128/6937091\\_zpid/](http://www.zillow.com/homedetails/2813-Summer-Lake-Dr-Las-Vegas-NV-89128/6937091_zpid/)  
[Quoted text hidden]

[Quoted text hidden]

P0032

1 Appx 000215



6/28/2016

Gmail - Loan



Betty Chan <aalender@gmail.com>

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## Loan

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Betty Chan <aalender@gmail.com>  
To: Jerrin Chiu <jchiuey@gmail.com>

Thu, Apr 2, 2015 at 7:31 PM

Jerrin

I dont think it helps you if you are looking the old stuff, we could not buy back time. 2003, nobody even mentioned about Las Vegas, but the market has signs that was about to go up. Not even any Realtor noticed that but I was the one that told all my buyers just closed their eyes and bought as many as they could. I personally had bought a lot of houses and reserved a lot of lots and then I tried to sell to my buyer. Everybody made a lot of money at that time.

My reason was based on the gap between our price and CA price was getting wider, normally the difference was about 30%, that year our price was 50% to 60% less than CA, so Las Vegas had to go up.

Right now the pricing was back to 2001, so anything you bought today you will not go wrong. ( Sound familiar, I thought I told you the same when I first show you property and I said may be better to buy a house at that time.) The price then was the lowest ever.

Anyway, you can use those site for referenc. the best accurate and updated site for finding properties should be Realtor.com. Every site just copy from our site.

I am working on gettin you a loan commitment this weekend and then we can make an offer at the price that you are willing to pay.

Betty

[Quoted text hidden]

1-33  
4-17

6/28/2016

Gmail - credit approval



Betty Chan <aalender@gmail.com>

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## credit approval

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**Betty Chan** <aalender@gmail.com>  
To: Jerrin Chiu <jchiuey@gmail.com>

Sun, Apr 5, 2015 at 6:56 PM

Hi Jerrin

You mid credit score is 809 higher than last time.

You can qualify up to 500K sale price, with 10% down 30 years fixed, at 4.65% interest rate ( dont worry about the rate yet, this is prepared for the worst scenario.). The payment is probably too high at 2900, including PITI, PMI and association fee.

The PMI is about \$250/ mth, so may be better off to put 20% down if manageable.

400K sale price the payment will be \$2440, still using 10% down.

Betty

6/28/2016

Gmail - tax returns



Betty Chan <aalender@gmail.com>

## tax returns

Betty Chan <aalender@gmail.com>  
To: Jerrin Chiu <jchiuey@gmail.com>

Tue, Apr 14, 2015 at 8:05 AM

The seller is a dreamer. He is going to have a broker open house this week. I think we are one of the offers in his consideration list.

Just keep your finger crossed.

Whenever you have the tax return then pl give it to me.

Betty

On Thursday, April 9, 2015, Jerrin Chiu <jchiuey@gmail.com> wrote:

Probably in a week?

On Apr 9, 2015 4:35 PM, "Betty Chan" <aalender@gmail.com> wrote:  
He can fax to 7029936866. When will u get 2014?

On Thursday, April 9, 2015, Jerrin Chiu <jchiuey@gmail.com> wrote:  
The 2014 hasn't come out yet, but we can get 2013. He's going to have to copy it and then mail it to me though.

On Thu, Apr 9, 2015 at 3:36 PM, Jerrin Chiu <jchiuey@gmail.com> wrote:  
Ok ill tell him. I don't know think he knows how to scan it though.

On Thu, Apr 9, 2015 at 3:31 PM, Betty Chan <aalender@gmail.com> wrote:  
both, he can email me

On Thu, Apr 9, 2015 at 3:31 PM, Jerrin Chiu <jchiuey@gmail.com> wrote:  
The full tax report? or just the w2 form. All the papers are at my fathers house I believe.

On Thu, Apr 9, 2015 at 2:51 PM, Betty Chan <aalender@gmail.com> wrote:  
Hi Jerrin

Pl bring your 2013 and 2014 tax return and 2 month bank statement on your checking account.

Betty

6/28/2016

Gmail - tax returns



Betty Chan <aalender@gmail.com>

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**tax returns**

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Jerrin Chiu <jchiuey@gmail.com>  
To: Betty Chan <aalender@gmail.com>

Sat, Apr 18, 2015 at 9:30 AM

Hey Betty

Just wondering, any news on the house? I actually got into a car accident which was totaled so I may need to be looking for a new car soon too. Thanks

Jerrin  
[Quoted text hidden]

6/28/2016

Gmail - tax returns



Betty Chan <aalender@gmail.com>

---

## tax returns

---

Betty Chan <aalender@gmail.com>

To: Jemin Chiu <jchiuey@gmail.com>

Sat, Apr 18, 2015 at 7:22 PM

oh gosh, are you ok?

They said they will give me an answer Monday. Are you going to pay cash or can you car pool for a little while until we hear the result.

I have to look at your file again to see the debt ratio if you are going to have a car payment

Betty

[Quoted text hidden]



Betty Chan <aalender@gmail.com>

## Re: seller counter

Jerrin Chiu <jchiuey@gmail.com>

To: Kwang Chiu <simpo43@gmail.com>, Tiffany Chiu <tiffchiu51@gmail.com>, Betty Chan <aalender@gmail.com>

Tue, Apr 21, 2015 at 12:39 PM

A few questions.

1. This counter seems like there are hidden damages in the house since I have to pay for any repairs and warranty. Would I be able to still back out if inspection finds damages to the house? That means I would have to have paid for the appraisal and inspector first though.
2. Also, if the appraisal is lower then the listing price, seems like they can still back out now which is what I was afraid of. I'm going to have to re-think if I would be willing to buy the house for 425k since that is still a little too pricey for me.
3. How much is Home warranty?
4. Does this mean the other offers on the house he is not considering? I am the first one in line for the house?

I'm in sort of a bind right now because I was planning on buying a car on Thursday and putting \$10,000 for a down payment. I'm also wondering if the lake means that much to me because I can find a really bigger nicer house for 425k. In any case, if this one doesn't go through, I'll still be looking for a nice house around the 400k price range, lake or no lake.

Can we take a look at the house one more time on Thurs or Fri? I want to inspect it a little longer.

Jerrin

On Tue, Apr 21, 2015 at 12:22 PM, Jerrin Chiu <jchiuey@gmail.com> wrote:

----- Forwarded message -----

From: **Betty Chan** <aaroffer@gmail.com>

Date: Tue, Apr 21, 2015 at 12:10 PM

Subject: seller counter

To: Jerrin Chiu <jchiuey@gmail.com>

Hi Jerrin

I think it is ok to accept. All you lose is the appraisal fee. The appraisal comes in higher or lower, the owner need to sell but not required.

I'm going into a long meeting right now, just email back and will discuss with you when I get out of the meeting

Betty Chan, CCIM, CPM, CRS

Broker

Asian American Realty & Property Management

Office 702-222-0078

Fax 702-222-1772

"The Happiest Realtor in Las Vegas"



Betty Chan <aaroffer@gmail.com>

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**Ocean front.**

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Jerrin Chiu <jchiuey@gmail.com>

To: Betty Chan <aaroffer@gmail.com>

Thu, Apr 23, 2015 at 9:40 AM

Ok. I think I will have to pass on the house as for right now and decline the counter offer. I need to get a new car which I will have to put down 10k for the down payment. My payments will be around \$600 if I do a 36 month finance. I will still be looking at houses though. But I am not limited to lake front anymore, but it has to be close to boca park since I really like the convenience. After I get this settled away and maybe save a bit more money, I will start looking for houses again.

Thanks Betty

[Quoted text hidden]

4-1/3  
39

## Uniform Residential Loan Application

This application is designed to be completed by the applicant(s) with the Lender's assistance. Applicants should complete this form as "Borrower" or "Co-Borrower," as applicable. Co-Borrower information must also be provided (and the appropriate box checked) when the income or assets of a person other than the Borrower (including the Borrower's spouse) will be used as a basis for loan qualification or the income or assets of the Borrower's spouse or other person who has community property rights pursuant to state law will not be used as a basis for loan qualification, but his or her liabilities must be considered because the spouse or other person has community property rights pursuant to applicable law and Borrower resides in a community property state, the security property is located in a community property state, or the Borrower is relying on other property located in a community property state as a basis for repayment of the loan.

If this is an application for joint credit, Borrower and Co-Borrower each agree that we intend to apply for joint credit (sign below):

Jerrin Chiu

Borrower Jerrin Chiu Co-Borrower \_\_\_\_\_

I. TYPE OF MORTGAGE AND TERMS OF LOAN					
Mortgage Applied for:	<input type="checkbox"/> VA <input type="checkbox"/> FHA	<input type="checkbox"/> Conventional <input type="checkbox"/> USDA/Rural Housing Service	<input type="checkbox"/> Other (explain):	Agency Case Number:	Lender Case Number:
Amount \$	Interest Rate %	No. of Months	Amortization Type:	<input type="checkbox"/> Fixed Rate <input type="checkbox"/> GPM <input type="checkbox"/> ARM (type):	<input type="checkbox"/> Other (explain):

II. PROPERTY INFORMATION AND PURPOSE OF LOAN	
Subject Property Address (street, city, state & ZIP)	No. of Units
Legal Description of Subject Property (attach description if necessary)	Year Built

Purpose of Loan <input checked="" type="checkbox"/> Purchase <input type="checkbox"/> Refinance <input type="checkbox"/> Construction <input type="checkbox"/> Construction-Permanent <input type="checkbox"/> Other (explain):	Property will be: <input checked="" type="checkbox"/> Primary Residence <input type="checkbox"/> Secondary Residence <input type="checkbox"/> Investment
--	---

*Complete this line if construction or construction-permanent loan.*

Year Lot Acquired	Original Cost	Amount Existing Liens	(a) Present Value of Lot	(b) Cost of Improvements	Total (a + b)
	\$	\$	\$	\$	\$ 0.00


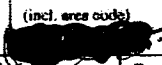

*Complete this line if this is a refinance loan.*

Year Acquired	Original Cost	Amount Existing Liens	Purpose of Refinance	Describe Improvements	<input type="checkbox"/> made <input type="checkbox"/> to be made
	\$	\$		Cost: \$	

Title will be held in what Name(s) <u>Jerrin Chiu</u>	Manner in which Title will be held	Estate will be held in: <input type="checkbox"/> Fee Simple <input type="checkbox"/> Leasehold (show expiration date)
--	------------------------------------	---

Source of Down Payment, Settlement Charges, and/or Subordinate Financing (explain)

### III. BORROWER INFORMATION

Borrower				Co-Borrower			
Borrower's Name (include Jr. or Sr. if applicable) <u>Jerrin Chiu</u>				Co-Borrower's Name (include Jr. or Sr. if applicable)			
Social Security Number	Home Phone (incl. area code)	DOB (mm/dd/yyyy)	Yrs. School	Social Security Number	Home Phone (incl. area code)	DOB (mm/dd/yyyy)	Yrs. School
			<u>22</u>				
<input type="checkbox"/> Married <input type="checkbox"/> Separated		<input checked="" type="checkbox"/> Unmarried (include single, divorced, widowed)		<input type="checkbox"/> Married <input type="checkbox"/> Separated		<input checked="" type="checkbox"/> Unmarried (include single, divorced, widowed)	
Present Address (street, city, state, ZIP)		<input checked="" type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.		Present Address (street, city, state, ZIP)		<input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.	
<u>2101 Jade Creek St Unit 206, Las Vegas, NV 89117</u>				<u>8000 Spring Mt. Rd. # 1036, Las Vegas, NV 89117</u>			
Mailing Address, if different from Present Address				Mailing Address, if different from Present Address			
<u>8000 Spring Mt. Rd. # 1036, Las Vegas, NV 89117</u>							

*If residing at present address for less than two years, complete the following:*

Former Address (street, city, state, ZIP)	Former Address (street, city, state, ZIP)
<input type="checkbox"/> Own <input checked="" type="checkbox"/> Rent 1 No. Yrs.	<input type="checkbox"/> Own <input type="checkbox"/> Rent No. Yrs.

### IV. EMPLOYMENT INFORMATION

Borrower		Co-Borrower	
Name & Address of Employer	<input type="checkbox"/> Self-Employed	Name & Address of Employer	<input type="checkbox"/> Self-Employed
<u>Progressive Eyecare</u>			
<u>740 S. Rampart Blvd. Suite 6</u>			
<u>Las Vegas, NV 89145</u>			
Position/Title/Type of Business	Business Phone (incl. area code)	Position/Title/Type of Business	Business Phone (incl. area code)
<u>Optometrist</u>	<u>702 834 5609</u>		

*If employed in current position for less than two years or if currently employed in more than one position, complete the following:*



Borrower		IV. EMPLOYMENT INFORMATION (cont'd)		Co-Borrower	
Name & Address of Employer <b>Spring Mt. Vision</b> <b>4043 Spring Mt Road</b> <b>Las Vegas, NV 89102</b>	<input type="checkbox"/> Self Employed	Dates (from - to) <b>9/12 - 10/13</b>	Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)
		Monthly Income <b>\$ 5600</b>			Monthly Income <b>\$</b>
Position/Title/Type of Business <b>Optometrist</b>		Business Phone (incl. area code) <b>(702) 889-8338</b>	Position/Title/Type of Business		Business Phone (incl. area code)
Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)	Name & Address of Employer	<input type="checkbox"/> Self Employed	Dates (from - to)
		Monthly Income <b>\$</b>			Monthly Income <b>\$</b>
Position/Title/Type of Business		Business Phone (incl. area code)	Position/Title/Type of Business		Business Phone (incl. area code)

V. MONTHLY INCOME AND COMBINED HOUSING EXPENSE INFORMATION						
Gross Monthly Income	Borrower	Co-Borrower	Total	Combined Monthly Housing Expense	Present	Proposed
Base Empl. Income*	\$	\$	\$ 0.00	Rent	\$	\$
Overtime			0.00	First Mortgage (P&I)		
Bonuses			0.00	Other Financing (P&I)		
Commissions			0.00	Hazard Insurance		
Dividends/Interest			0.00	Real Estate Taxes		
Net Rental Income			0.00	Mortgage Insurance		
Other (before completing, see the notice in "describe other income" below)			0.00	Homeowner Assn. Dues		
				Other:		
<b>Total</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>Total</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>

\* Self Employed Borrower(s) may be required to provide additional documentation such as tax returns and financial statements.

Describe Other Income

Notice: Alimony, child support, or separate maintenance income need not be revealed if the Borrower (B) or Co-Borrower (C) does not choose to have it considered for repaying this loan.

B/C	Monthly Amount
	\$

#### VI. ASSETS AND LIABILITIES

This Statement and any applicable supporting schedules may be completed jointly by both married and unmarried Co-Borrowers if their assets and liabilities are sufficiently joined so that the Statement can be meaningfully and fairly presented on a combined basis; otherwise, separate Statements and Schedules are required. If the Co-Borrower section was completed about a non-applicant spouse or other person, this Statement and supporting schedules must be completed about that spouse or other person also.

Completed ☐ Jointly ☐ Not Jointly

ASSETS	Cash or Market Value	LIABILITIES	Monthly Payment & Months Left to Pay	Unpaid Balance
Description:		Liabilities and Pledged Assets. List the creditor's name, address, and account number for all outstanding debts, including automobile loans, revolving charge accounts, real estate loans, alimony, child support, stock pledges, etc. Use continuation sheet, if necessary. Indicate by (*) those liabilities, which will be satisfied upon sale of real estate owned or upon refinancing of the subject property.		
Cash deposit toward purchase held by:	\$			
<b>List checking and savings accounts below</b>				
Name and address of Bank, S&L, or Credit Union		Name and address of Company	\$ Payment/Months	\$
Acct. no.	\$	Acct. no.		
Name and address of Bank, S&L, or Credit Union		Name and address of Company	\$ Payment/Months	\$
Acct. no.	\$	Acct. no.		
Name and address of Bank, S&L, or Credit Union		Name and address of Company	\$ Payment/Months	\$
Acct. no.	\$	Acct. no.		

Name and address of Bank, S&L, or Credit Union		Name and address of Company		\$ Payment/Months	\$
Acct. no.	\$	Acct. no.			
Stocks & Bonds (Company name/number & description)	\$	Name and address of Company		\$ Payment/Months	\$
		Acct. no.			
Life Insurance net cash value	\$	Name and address of Company		\$ Payment/Months	\$
Face amount: \$					
<b>Subtotal Liquid Assets</b>	<b>\$ 0.00</b>				
Real estate owned (enter market value from schedule of real estate owned)	\$				
Vested interest in retirement fund	\$				
Net worth of business(es) owned (attach financial statement)	\$	Acct. no.			
Automobiles owned (make and year)	\$	Alimony/Child Support/Separate Maintenance Payments Owed to:		\$	
Other Assets (itemize)	\$	Job-Related Expense (child care, union dues, etc.)		\$	
		<b>Total Monthly Payments</b>		<b>\$</b>	
<b>Total Assets a.</b>	<b>\$ 0.00</b>	<b>Net Worth (a minus b)</b>	<b>\$ 0.00</b>	<b>Total Liabilities b.</b>	<b>\$ 0.00</b>

Property Address (enter S if sold, PS if pending sale or R if rental being held for income)		Type of Property	Present Market Value	Amount of Mortgages & Liens	Gross Rental Income	Mortgage Payments	Insurance, Maintenance, Taxes & Misc.	Net Rental Income
			\$	\$	\$	\$	\$	\$
		Totals	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$

Alternate Name	Creditor Name	Account Number
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A. DETAILS OF TRANSACTION			A. DECLARATIONS				
a.	Purchase price	\$	If you answer "Yes" to any questions a through f, please see continuation sheet for explanation.  a. Are there any outstanding judgments against you? b. Have you been declared bankrupt within the past 7 years? c. Have you had property foreclosed upon or given title or deed in lieu thereof in the last 7 years? d. Are you a party to a lawsuit? e. Have you directly or indirectly been obligated on any loan which resulted in foreclosure, transfer of title in lieu of foreclosure, or judgment?  (This would include such loans as home mortgage loans, SBA loans, home improvement loans, educational loans, manufactured (mobile) home loans, any mortgage, financial obligation, bond, or loan guarantee. If "Yes," provide details, including date, name, and address of Lender, FHA or VA case number, if any, and reasons for the action.)	Borrower		Co-Borrower	
b.	Alterations, improvements, repairs			Yes	No	Yes	No
c.	Land (if acquired separately)			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	Refinance (incl. debts to be paid off)			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	Estimated prepaid items			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	Estimated closing costs			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	PMI, MIP, Funding Fee						
h.	Discount (if Borrower will pay)						
i.	Total costs (add items a through h)	0.00					

VII. DETAILS OF TRANSACTION		VIII. DECLARATIONS											
j. Subordinate financing		If you answer "Yes" to any question a through i, please use continuation sheet for explanation.		<table border="1"> <thead> <tr> <th colspan="2">Borrower</th> <th colspan="2">Co-Borrower</th> </tr> <tr> <th>Yes</th> <th>No</th> <th>Yes</th> <th>No</th> </tr> </thead> </table>		Borrower		Co-Borrower		Yes	No	Yes	No
Borrower		Co-Borrower											
Yes	No	Yes	No										
k. Borrower's closing costs paid by Seller		f. Are you presently delinquent or in default on any Federal debt or any other loan, mortgage, financial obligation, bond, or loan guarantee?		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
l. Other Credits (explain)		g. Are you obligated to pay alimony, child support, or separate maintenance?		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
m. Loan amount (exclude PMI, MIP, Funding Fee financed)		h. Is any part of the down payment borrowed?		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
n. PMI, MIP, Funding Fee financed		i. Are you a co-maker or endorser on a note?		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
o. Loan amount (add m & n)	0.00	j. Are you a U.S. citizen?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
p. Cash from/to Borrower (subtract j, k, l & o from i)		k. Are you a permanent resident alien?		<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
		l. Do you intend to occupy the property as your primary residence?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
		If "Yes," complete question m below.											
		m. Have you had an ownership interest in a property in the last three years?		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>						
		(1) What type of property did you own—principal residence (PR), second home (SH), or investment property (IP)?		PR									
		(2) How did you hold title to the home—by yourself (S), jointly with your spouse (SP), or jointly with another person (OT)?		S									

**IX. ACKNOWLEDGEMENT AND AGREEMENT**

Each of the undersigned specifically represents to Lender and to Lender's actual or potential agents, brokers, processors, attorneys, insurers, servicers, successors and assigns and agrees and acknowledges that: (1) the information provided in this application is true and correct as of the date set forth opposite my signature and that any intentional or negligent misrepresentation of this information contained in this application may result in civil liability, including monetary damages, to any person who may suffer any loss due to reliance upon any misrepresentation that I have made on this application; and/or in criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Sec. 1001, et seq.; (2) the loan requested pursuant to this application (the "Loan") will be secured by a mortgage or deed of trust on the property described in this application; (3) the property will not be used for any illegal or prohibited purpose or use; (4) all statements made in this application are made for the purpose of obtaining a residential mortgage loan; (5) the property will be occupied as indicated in this application; (6) the Lender, its servicers, successors or assigns may retain the original and/or an electronic record of this application, whether or not the Loan is approved; (7) the Lender and its agents, brokers, insurers, servicers, successors, and assigns may continuously rely on the information contained in the application, and I am obligated to amend and/or supplement the information provided in this application if any of the material facts that I have represented herein should change prior to closing of the Loan; (8) in the event that my payments on the Loan become delinquent, the Lender, its servicers, successors or assigns may, in addition to any other rights and remedies that it may have relating to such delinquency, report my name and account information to one or more consumer reporting agencies; (9) ownership of the Loan and/or administration of the Loan account may be transferred with such notice as may be required by law; (10) neither Lender nor its agents, brokers, insurers, servicers, successors or assigns has made any representation or warranty, express or implied, to me regarding the property or the condition or value of the property; and (11) my transmission of this application as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or my facsimile transmission of this application containing a facsimile of my signature, shall be as effective, enforceable and valid as if a paper version of this application were delivered containing my original written signature.

**Acknowledgement.** Each of the undersigned hereby acknowledges that any owner of the Loan, its servicers, successors and assigns, may verify or reverify any information contained in this application or obtain any information or data relating to the Loan, for any legitimate business purpose through any source, including a source named in this application or a consumer reporting agency.

Borrower's Signature X <i>[Signature]</i>	Date 3/30/15	Co-Borrower's Signature X	Date
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**X. INFORMATION FOR GOVERNMENT MONITORING PURPOSES**

The following information is requested by the Federal Government for certain types of loans related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may not discriminate either on the basis of this information, or on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, under federal regulations, this lender is required to note the information on the basis of visual observation and surname if you have made this application in person. If you do not wish to furnish the information, please check the box below. (Lender must review the above material to assure that the disclosures satisfy all requirements to which the lender is subject under applicable state law for the particular type of loan applied for.)

BORROWER		CO-BORROWER	
I do not wish to furnish this information		I do not wish to furnish this information	
Ethnicity:	<input type="checkbox"/> Hispanic or Latino <input checked="" type="checkbox"/> Not Hispanic or Latino	Ethnicity:	<input type="checkbox"/> Hispanic or Latino <input checked="" type="checkbox"/> Not Hispanic or Latino
Race:	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input checked="" type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> White	Race:	<input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input checked="" type="checkbox"/> Asian <input type="checkbox"/> Black or African American <input type="checkbox"/> White
Sex:	<input type="checkbox"/> Female <input checked="" type="checkbox"/> Male	Sex:	<input type="checkbox"/> Female <input checked="" type="checkbox"/> Male

To be Completed by Loan Originator:  
 This information was provided:  
☐ In a face-to-face interview  
☐ In a telephone interview  
☐ By the applicant and submitted by fax or mail  
☐ By the applicant and submitted via e-mail or the Internet

Loan Originator's Signature X <i>[Signature]</i>		Date
Loan Originator's Name (print or type)	Loan Originator Identifier	Loan Originator's Phone Number (including area code)
Loan Origination Company's Name	Loan Origination Company Identifier	Loan Origination Company's Address

**CONTINUATION SHEET RESIDENTIAL LOAN APPLICATION**

Use this continuation sheet if you need more space to complete the Residential Loan Application. Mark B for Borrower or C for Co-Borrower.

Borrower:

Agency Case Number:

Co-Borrower:

Lender Case Number:

I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements concerning any of the above facts as applicable under the provisions of Title 18, United States Code, Section 1001, et seq.

Borrower's Signature

Date

Co-Borrower's Signature

Date

X

3/30/15

X