

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

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Clerk of Supreme Court

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**BRAD L. KNOWLTON, an individual,**

**Appellant,**

**vs.**

**WILLIAM L. LINDNER, as Trustee of the William L. Lindner and Maxine G. Lindner Trust of 1988; JUEL A. PARKER, as Trustee of the Juel A. Parker Family Trust; LISA PARKER, as Trustee of the Juel A. Parker Family Trust; LISA PARKER, an individual; and S. BRUCE PARKER, as Trustee of the Steven Bruce Parker Family Trust,**

**Respondents.**

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**District Court Case No. A-20-809612-B  
Eighth Judicial District Court, Clark County, Nevada**

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**JOINT APPENDIX**

**VOLUME II OF III**

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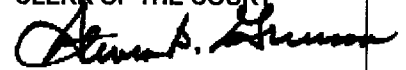
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**September 28, 2021**

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19 *Parker Family Trust, LISA PARKER, as Trustee of the*  
20 *Juel A. Parker Family Trust, LISA PARKER, an*  
21 *individual, and S. BRUCE PARKER, as Trustee of the*  
22 *Steven Bruce Parker Family Trust*

23 **EIGHTH JUDICIAL DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 BRAD L. KNOWLTON, an individual,

26 Plaintiff,

27 v.

28 VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker Family  
Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

Defendants.

CASE NO: A-20-809612-B

DEPT. XI

**DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION FOR  
PRELIMINARY INJUNCTION ON  
ORDER SHORTENING TIME AND  
COUNTERMOTION TO APPOINT  
INTERIM MANAGER AND ORDER  
COMPELLING PLAINTIFF TO  
PRODUCE VALLEY ASCENT, LLC's  
BOOKS AND RECORDS**

**Hearing Date: March 9, 2020**

**Hearing Time: 9:00 a.m.**

COME NOW, William L. Lindner, as Trustee of the William L. Lindner and Maxine G. Lindner Trust of 19988 ("Lindner"), Lisa Parker, individually and as Trustee of the Juel A. Parker Family Trust<sup>1</sup> ("Lisa"), and S. Bruce Parker, individually and as Trustee of the Steven Bruce Parker Family Trust ("Bruce") (collectively "Defendants" or "Majority Members"), by and through their counsel, the law firm of Greenberg Traurig, LLP, and hereby submit this Opposition to Plaintiff's Motion for Preliminary Injunction (the "Opposition"), Countermotion to Appoint Interim Manager, and Order Compelling Plaintiff to Produce Valley Ascent, LLC's Books and Records ("Counter motions").

The Opposition and Counter motions are based upon the pleadings on file herein, the attached Memorandum of Points and Authorities, and any oral argument the Court may permit at the hearing of this matter.

DATED this 6<sup>th</sup> day of March, 2020.

**GREENBURG TRAURIG, LLP**

/s/ Kara B. Hendricks  
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<sup>1</sup>Plaintiffs have also named Juel A. Parker as a defendant in this matter and have identified him as the Trustee of the Juel Parker Family Trust. Mr. J. Parker is 93 years old and appointed his daughter, Lisa Parker, as Trustee of the family trust in November 2018.

## MEMORANDUM OF POINTS AND AUTHORITIES

### I. INTRODUCTION

The self-serving motion for preliminary injunction hides the truth and asks the Court to disrupt the status quo. Notably, Plaintiff fails to advise the Court that before he was removed as manager of Valley Ascent, LLC (“VA” or the “Company”) that Brad Knowlton (“Knowlton”) virtually ignored a business records demand made pursuant to NRS 86, failed to produce bank records for Company accounts<sup>2</sup>, failed to maintain Company records in this state as required by the Amended Operating Agreement (“AOA”), failed to provide reports on at least an annual basis to the Majority Members as required by the AOA, failed to make monthly distributions to VA members on a number of occasions, and has no written approval or consent from the Majority Members for the 4% management fee that he admits he has been taking from the Company for nearly 15 years. Truth be told, Knowlton has absconded with an amount believed to be over \$430,000<sup>3</sup> of VA funds under the guise of “management fees” without the knowledge or consent of the other LLC members. Moreover, available banking records indicate one of the Company’s bank accounts decreased nearly \$800,000 in the last year. The amount of funds absconded is to be determined.

Knowlton was rightfully removed as manager of VA by the Majority Members for self-dealing and gross negligence and has blocked attempts to resolve this matter amicably. Moreover, Plaintiff conveniently forgot to inform the Court that lease payments related to the property owned by VA have been sent directly to Mountain American Credit Union (“MACU”), that MACU is willing to deposit the funds directly into VA’s existing checking account, and that the only thing stopping the funds from being deposited is Knowlton’s refusal to consent. Given that the basis for the order shortening time for hearing was a purported concern about the Company’s loan payment being made, the fact that Knowlton blocked efforts that would have allowed for the payment to be made is inexcusable.

As detailed below, Plaintiff’s Motion for Preliminary Injunction should be denied. Knowlton has not demonstrated a likelihood of success on the merits on either causes of action he cites in support of

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<sup>2</sup> Upon information and belief, Knowlton established bank accounts in Valley Ascent’s name at Bank of Utah and Mountain America Credit Union.

<sup>3</sup> The exact amount siphoned by Plaintiff as “management fees” is unknown as he has refused to produce Company books and records, including bank statement.

his Motion, nor has he demonstrated even a remote potential for irreparable harm. Moreover, the Majority Members request an order from the Court compelling Knowlton to produce Company books and records, and order appointing Lisa Parker or a third party to act as interim manager of VA. Attached hereto as **Exhibit A** is the curriculum vitae for Lisa Parker who is ready and willing to serve as manager of VA and will not charge a fee for her services. Additionally, attached hereto as **Exhibit B** is the curriculum vitae for Brian Gordon, CPA/ABV, who is also ready, willing and able to fill the role. Given opposing counsel's prior retention of Mr. Gordon, reasonable objection to his appointment is unexpected.

## **II. FACTUAL BACKGROUND**

The factual statement provided by Plaintiff misconstrues the facts and fails to advise the Court of events that occurred both prior to, and after Plaintiff's removal as manager. Notably, Plaintiff overstates his role in putting together the underlying business deal that led to a Fabulous Freddy's Car Wash being built on a parcel of land that was originally owned by Juel A. Parker ("Juel") and Lindner. Indeed, it was Bruce Parker that approached the owner of Fabulous Freddy's about the possibility of building a car wash on the property his father owned, and Bruce that helped structure the transaction. *See Exhibit C*, Bruce Parker Declaration at ¶ 3. Instead of taking a real estate commission and broker fee for his services, Bruce received a 5% interest in the Company. *Id.* at ¶ 4. Knowlton's interest in the arrangement purportedly came from the sweat equity he promised to provide by acting as the general contractor to build the car wash. *See*, February 18, 2005 Agreement, attached hereto as **Exhibit D** and Declaration of Lisa Parker, **Exhibit E** at ¶ 4. Knowlton had also previously set-up a Nevada limited liability company known as Valley Ascent, which was transformed from a single member LLC to an LLC with four members to facilitate the transaction. *See* Ex. D, Ex. E at ¶ 3, and the Amended Operating Agreement ("AOA") attached as Exhibit 3 to the underlying Motion.

After the project was complete, Knowlton did serve as the manager. However, contrary to the assertions in the Motion, the other members of VA were not aware that Knowlton was taking a 3% management fee or that he unilaterally increased the management fee to 4%. Ex. C at ¶ 5; Ex. E at ¶ 5; Declaration of William Lindner, **Exhibit F** at ¶ 3. Notably, there is no written consent of the members of VA as expressly required by the AOA to provide compensation to the manager in the

1 form taken<sup>4</sup>. Ex. C at ¶ 6; Ex. E at ¶ 6; Ex. F at ¶ 4. Further, Knowlton hid the fact that he was paying  
2 himself a management fee from the Majority Members and did not disclose the same in annual reports  
3 or tax records provided to the Majority Members. Ex. C at ¶ 7; Ex. E at ¶ 7; Ex. F at ¶ 5. Indeed, it  
4 was not until Lisa Parker was appointed as the trustee of the Juel A. Parker Family Trust (“Juel Trust”)  
5 that information regarding the management fee was uncovered. *See* Ex. E at ¶ 8.

6 Lisa was appointed as the Trustee of the Juel Trust in November 2018 as her father, Juel, was  
7 aging and no longer able to see well enough to handle financial matters. *Id.*

8 In her role as a trustee of the Juel Trust, Lisa began looking at the available books and records  
9 of VA and had a lot of concerns regarding what she was seeing. *Id.* at ¶ 9. For example, MACU loan  
10 documents showed a balance owed for a construction loan in excess of \$4.5 million, rather than the  
11 several hundred thousand dollars expected. *Id.* She was also contacted by an attorney representing  
12 Knowlton’s ex-wife in pending divorce proceedings in Utah<sup>5</sup> and was provided VA documents that were  
13 produced in that proceeding that raised a number of red-flags. *Id.* at ¶ 11. By way of example, documents  
14 provided include Bank of Utah account statements for accounts that were held in VA’s name which  
15 showed funds as of January 31, 2019 of \$1,001,690 in the account ending 0158. *Id.* at ¶ 12. Information  
16 recently provided by the Bank of Utah, however, indicates the balance of the account ending in 0158  
17 has decreased significantly in the last year and the same account had a balance of \$195,717.31 as of  
18 January 22, 2020. *Id.* at ¶ 12; Exhibit 1 attached thereto; *see also* Declaration of Kara Hendricks,  
19 **Exhibit G** at ¶ 13; **Exhibit H**, email communications with Bank of Utah. Additionally, information has  
20 been provided that indicates Knowlton refinanced the Company loan to purportedly obtain a lower  
21 interest rate and payment. Ex. E at ¶ 13. However, the Majority Members did not receive an increase in  
22 their monthly disbursements and the limited documents available do not indicate the loan payment  
23 increased, thus begging the question of where the savings from the refinancing went.<sup>6</sup> *Id.*

24 ///

25 \_\_\_\_\_  
26 <sup>4</sup>Paragraph 6 of the AOA provides: Compensation of Manager. Each Manager shall be reimbursed all reasonable  
27 expenses incurred in managing the Company and shall be entitled to compensation, in an amount to be  
28 determined from time to time **by the written consent of the Members**. Motion, Ex. 3, ¶ 6 (emphasis added).

<sup>5</sup>Knowlton is in the midst of contentious divorce proceedings and his estranged wife has asked the Court to give  
her all of Knowlton’s membership interest in Valley Ascent as part of the divorce proceedings. Defendants  
understand a ruling is expected later this month.

<sup>6</sup>Because Knowlton has refused to produce Company records, the extent of what transpired is not fully known.

1 In an effort to fully uncover the business dealings of VA, on October 2, 2019, a business records  
2 demand was made to Knowlton pursuant to NRS 86. **Exhibit I**, October 2, 2019 demand letter; Ex. G  
3 at ¶ 6. After the expiration of time for compliance with NRS 86.241, counsel for Knowlton  
4 acknowledged the request and indicated they were in the process of collecting the documents. **Exhibit**  
5 **J**, October 21, 2019 email from Nick Nielsen; Ex. G at ¶ 7. Counsel for the Juel Trust responded to the  
6 same and requested they be provided the documents by October 25, 2020. **Exhibit K**, October 21, 2019  
7 email from K. Hendricks to Nielsen; Ex. G at ¶ 6. Thereafter, limited documents were provided on  
8 Knowlton's behalf which counsel represented were "the documents that Valley Ascent, LLC currently  
9 has in its possession." **Exhibit L**, October 24, 2019 letter from Ryan Rudd; Ex. G at ¶ 7. However, the  
10 documents provided by Knowlton through counsel were woefully deficient and did not include:

- 11 • List of payments to affiliates of the Company *or its manager and the purpose/nature and*  
12 *method of calculation such as, for example, management fees, license fees, etc. and*  
13 *agreements separate from the Company's Operating Agreement that govern services*  
14 *provided by such affiliates;*
- 15 • Bank of Utah Account records from December 2016- February 2017 and April 2019-present  
16 for account ending in 0581;
- 17 • Bank of Utah Account records for account ending in 7687;
- 18 • Account statements for the MACU checking account in the Company's name;
- 19 • Accounting records in an electronic format, such as QuickBooks or its equivalent, for the  
20 relevant period, including the version of QuickBooks used and applicable user ID and  
21 passwords;
- 22 • Check images (or copies of the same) to support all disbursements made by the Company  
23 from January 2018- present;
- 24 • Loan documents and guaranty documents evidencing any outstanding loans and/or loan  
25 modifications to which the Company is a party and any documents evidencing personal  
26 guaranty agreements related to the same;
- 27 • Copies of payroll records;
- 28 • For any affiliate transfers (e.g., "Intercompany") not for services provided, documents  
sufficient to show the purpose for such transactions and the consideration received by the  
Company for any Intercompany transfers;
- True and complete records regarding the amount of cash and a description of the statement  
of the agreed value of any other property or services contributed by each member and which  
each member has agreed to contribute in the future, as well as the date on which each became  
a member; and
- Summaries of the capital accounts for 2018- present.

1 Ex. G at ¶ 8. Due to the lack of information provided and information that was obtained from the  
2 Knowlton divorce proceedings, Lisa began discussing concerns regarding VA's operations with Bruce  
3 and Lindner. *See* Ex. E at ¶ 14.

4 The Majority Members ultimately opted to hold a telephonic meeting to discuss their concerns  
5 on December 23, 2019, and during the same voted to remove Knowlton as manager of VA due to self-  
6 dealing and gross negligence. *See id.* at ¶ 15; Written Consent executed by the Majority Members  
7 attached as Exhibit 6 to the Motion. Additionally, the Majority Members appointed Lisa as an interim  
8 manager of VA and authorized her to have access to all Company books and records; access to bank  
9 accounts; to act on behalf of the Company in relation to its lease with Fabulous Freddy's; and, to make  
10 necessary arrangements for the payment of Company taxes and fees. *See* Ex. E at ¶ 16; *see* Written  
11 Consent executed by the Majority Members attached as Exhibit 7 to the Motion. Due to the holidays, it  
12 took a couple of weeks to compile all the signatures on the written consents. Once signatures were  
13 compiled, counsel for the Majority Members provided a copy of the same to Knowlton and his counsel,  
14 advised that the Majority Members intended to hold a meeting on January 15, 2020 to appoint a new  
15 permanent manager of VA, and invited Knowlton to attend. Ex. G at ¶ 9. Thereafter, notice was  
16 provided to Bank of Utah, MACU and Fabulous Freddy's of the action taken by the Majority Members.  
17 *See id.* at ¶ 10.

18 For the first time in years, all members of VA personally met on January 15, 2020. During the  
19 meeting, discussions were had regarding why the Majority Members voted to remove Knowlton from  
20 the manager position, including their lack of knowledge of the management fee he was paying himself,  
21 missed distribution payments<sup>7</sup>, and the failure of Knowlton to provide Company business records as  
22 requested. *See* Ex. E at ¶ 17. Knowlton was afforded an opportunity to explain his position and his  
23 counsel represented that the missing business records would be provided. *Id.* at ¶ 18. Additionally,  
24 during the meeting, the members discussed the election of a new manager, with both Knowlton (at a 4%  
25 fee) and Lisa (at no cost) expressing a willingness to do the same. *Id.* at ¶ 19. The members were unable

26  
27 <sup>7</sup>As detailed in the declaration of William Lindner attached hereto, he was not paid monthly distributions for  
28 November 2016, September 2018, January 2019, or November 2019. *See* Ex. F at ¶ 6. His attempts to resolve  
this matter with Knowlton were ignored. *Id.* Additionally, distributions were not paid to the Juel Trust for  
December 2016. After months of requesting the payment, it was finally received in November 2019. *See* Ex. E  
at ¶ 10.

1 to reach an agreement regarding a new manager as Knowlton expressly indicated that he would not vote  
2 for anyone to be manager but himself, and the Majority Members indicating they were not comfortable  
3 with Knowlton continuing in that role. *Id.* at ¶ 20. The Majority Members also suggested that a third-  
4 party be considered to act as manager until the parties could resolve their differences; however,  
5 Knowlton refused to consider the same. *Id.* at ¶ 21.

6 Subsequent to the January 15, 2020 meeting there have been numerous communications between  
7 counsel for the parties. Notably, there was a common concern expressed during the meeting that VA's  
8 loan payment be made. Fortunately, the members were able reach an agreement that allowed certain  
9 funds to be transferred from a Bank of Utah account<sup>8</sup> to MACU and permitted MACU to use available  
10 funds to make the January, February and March loan payments. *See*, Unanimous Written consent of  
11 Members attached as Exhibit 11 to Motion; Ex. E at ¶ 25. Subsequently, counsel for the parties were  
12 notified that MACU received Fabulous Freddy's rent check for February and that MACU was willing  
13 to deposit the same into VA's checking account.<sup>9</sup> Ex. G at ¶ 13. Counsel for the Majority Members  
14 requested that MACU deposit the check into the Company's checking account with instructions that the  
15 funds not be utilized by MACU without further consent of all members of the LLC. *Id.* at ¶ 14; *see*  
16 email chain between MACU and counsel for all parties beginning February 20, 2020 attached hereto as  
17 **Exhibit M**. However, Knowlton refused to consent to the deposit of funds. *Id.* As of March 3, 2020,  
18 MACU continues to hold the funds awaiting the consent of all parties and/or direction from the court to  
19 deposit the same. *Id.*

20 As of the date of this filing, Knowlton continues to demand that he be allowed sole access to  
21 Company funds, books and records, and has refused to allow Lisa to carry out the wishes of the Majority  
22 Members or consider electing a third party to act as manager. Accordingly, in addition to opposing the  
23 subject Motion, the Majority Members request that the Court affirm Lisa or third-party Brian Gordon (*see*  
24 Ex. B) as acting manager of VA and request an order compelling Knowlton to produce business records.

25 \_\_\_\_\_  
26 <sup>8</sup>After receiving notice of Knowlton's removal as manager and the appointment of Lisa as interim manager, the  
27 Bank of Utah advised Lisa of its intent to close VA's account due to prior fraud on the account and a willingness  
28 to send the funds to Lisa. Ex. E at ¶ 24. However, Knowlton contacted the Bank of Utah, disputed his removal,  
and the bank funds were ultimately frozen. *Id.* Bank of Utah has since retracted its statement that there was  
fraud on the VA accounts, but has maintained its request that VA's Bank of Utah accounts be closed. *Id.*

<sup>9</sup>In her role as interim manager of VA, Lisa requested that Fabulous Freddy's send the rent payment directly to  
MACU. *Id.* at ¶ 23.

1 **III. LEGAL ARGUMENT**

2 **A. Standard.**

3 Pursuant to NRS 33.010, a court is authorized to enter injunctive relief in the following  
4 circumstances:

- 5 1. When it shall appear by the complaint that the plaintiff is entitled to  
6 the relief demanded, and such relief or any part thereof consists in  
7 restraining the commission or continuance of the act complained of,  
8 either for a limited period or perpetually.
- 9 2. When it shall appear by the complaint or affidavit that the  
10 commission or continuance of some act, during the litigation, would  
11 produce great or irreparable injury to the plaintiff.
- 12 3. When it shall appear, during the litigation, that the defendant is  
13 doing or threatens, or is about to do, or is procuring or suffering to  
14 be done, some act in violation of the plaintiff's rights respecting the  
15 subject of the action and tending to render the judgment ineffectual.

16 Nevada courts require a party seeking injunctive relief to demonstrate that it: 1) "enjoys a  
17 reasonable probability of success on the merits;" and 2) "that the defendant's conduct, if allowed to  
18 continue, will result in irreparable harm for which compensatory damages is an inadequate remedy."  
19 *Sobol v. Capital Management Consultants, Inc.*, 102 Nev. 444, 726 P.2d 335, 337 (1986); *see also*  
20 *S.O.C., Inc. v. Mirage Casino Hotel*, 117 Nev. 403, 408, 23 P.3d 243 (2001). The court may also weigh  
21 the public interest and the relative hardships of the parties in deciding whether to grant a preliminary  
22 injunction. *See Winter v. Nat'l Res. Def. Council, Inc.*, 129 S. Ct. 365, 374 (2008); *Univ. & Cmty.*  
23 *College Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004); *Clark*  
24 *Co. School Dist. v. Buchanan*, 112 Nev. 1146, 1150, 924 P.2d 716, 719 (1996).

25 Here, each of these factors favors the denial of Plaintiff's request for injunctive relief. Plaintiff  
26 has not demonstrated a probability of success on the merits on either of the claims cited in support of  
27 his request: (1) breach of contract ("First COA"), and (2) breach of the implied covenant of good faith  
28 and fair dealing ("Second COA"). Knowlton will not prevail on his breach of contract claim for the  
unmistakable truth that his syphoning what is believed to be over \$433,000 for the last 15 years without  
written consent, and failure to produce and maintain the books, in derogation of the clear and  
unambiguous terms of the AOA, prevents him from ever proving up a breach of contract by the Majority  
Members. Additionally, Knowlton failed to pay members monthly distributions on at least five

1 occasions. Ex. E at ¶ 10, Ex. F at ¶ 6. “If there is anything well settled, it is that the party who commits  
2 the first breach of the contract cannot maintain an action against the other for a subsequent failure to  
3 perform.” *Bradley v. Nev-Cal-Or. Ry.*, 42 Nev. 411, 178 P. 906, 908-09 (1919).

4 Yet, even if Plaintiff were able to show that his breach postdated any wrongdoing by the Majority  
5 Members, which he cannot, the First and Second COA still fail as Knowlton has not suffered any  
6 damages. Knowlton was not authorized to pay himself a 3 or 4% monthly management fee. Thus,  
7 Knowlton cannot be damaged by the Majority Members taking away something he was never entitled  
8 to receive in the first instance. In short, a manager is not damaged when his ability to steal Company  
9 funds is removed. Furthermore, Knowlton has not been damaged by the Majority Members appointing  
10 an interim manager. To the contrary, it is Knowlton’s own actions and refusal to appoint any manager  
11 but himself that could damage the Company in the event loan payments cannot be made. Notably, after  
12 receiving notice of the Majority Members actions to remove Knowlton as manager, Bank of Utah,  
13 MACU and Fabulous Freddy’s all expressed a willingness to work with Lisa. Ex. E at ¶ 22. Accounts  
14 were only frozen after Plaintiff threatened the entities and refused to acknowledge his removal and the  
15 wishes of the Majority Members. *Id.* at ¶ 23.

16 Plaintiff has also failed to demonstrate the remote possibility of irreparable harm for which  
17 compensatory damages are inadequate. Plaintiff’s bald assertion that his removal as manager will  
18 somehow “undoubtedly” harm the Company’s relationship with Fabulous Freddy’s does not suffice.  
19 Mot. at 14:19. The relationship between the Company and Fabulous Freddy’s is one of landlord and  
20 tenant, and as demonstrated herein, despite Plaintiff’s removal, Fabulous Freddy’s continues to make  
21 timely rent payments – the relationship has endured no harm. Furthermore, to the extent Plaintiff claims  
22 irreparable harm in connection with frozen bank accounts or the possibility that his credit profile suffer  
23 should the MACU loan not be paid, again, Knowlton’s own actions are the root of this problem.  
24 Knowlton refuses to consent to MACU depositing funds which would allow the Company to pay the  
25 MACU loan, which, in turn, would eliminate the remote possibility that Knowlton’s credit profile be  
26 affected. Moreover, Knowlton refuses to appoint any manager but himself to tend to the Company’s  
27 banking. These discrete issues are easily remedied with a judicial appointment of an acting manager –  
28 which Defendants request. What is more, while the Majority Members dispute that Plaintiff would ever

1 suffer irreparable harm under the facts and circumstances here, even if harm were impending, Plaintiff  
2 fails to advise why compensatory damages would prove inadequate. Plaintiff's request for injunctive  
3 relief is properly denied.

4 **B. Plaintiff Has Not Demonstrated A Likelihood of Success on the Merits.**

5 1. Plaintiff's Breaches Pre-Date the Allegations Against the Majority Members,  
6 Preventing Plaintiff from Prevailing on the First COA.

7 Under Nevada law, to establish a breach of contract claim, the plaintiff must show: 1) the  
8 existence of a valid contract; 2) the plaintiff performed or was excused from performing; 3) the  
9 defendant materially breached the contract; and 4) damage as a result of the breach. *Brown v. Kinross*  
10 *Gold U.S.A., Inc.*, 531 F. Supp. 2d 1234, 1240 (D. Nev. 2008); *Cohel-Breen v. Gray Television Group,*  
11 *Inc.*, 661 F.Supp.2d 1158 (D. Nev. 2009). "If there is anything well settled, it is that the party who  
12 commits the first breach of the contract cannot maintain an action against the other for a subsequent  
13 failure to perform." *Bradley*, 178 P. 906 at 908-09; *see Harfouche v. Wehbe*, 2016 U.S. Dist. LEXIS  
14 33857, \*4 (D. Nev. 2016). The breaching party who, without excuse, is "in no position to demand that  
15 the [non-breaching party] should go on and perform or answer for its refusal to recognize the contract  
16 as in force." 42 Nev. at 421. "It is elementary contract law that a material breach by one party to the  
17 contract may excuse further performance by another party." *Crockett & Myers. v. Napier, Fitzgerald &*  
18 *Kirby*, 440 F. Supp. 2d 1184, 1193 (D. Nev. 2006); *see Young Elec. Sign Co. v. Fohrman*, 86 Nev. 185,  
19 466 P.2d 846, 847 (Nev. 1970).

20 Here, Plaintiff claims Defendants breached the AOA by removing him as manager and  
21 appointing Lisa as interim manager. Mot. at 12:1-13:25. While Defendants dispute these allegations,  
22 even if they were accurate, Defendants' purported breaches post-date Plaintiff's breaches, thereby  
23 precluding Plaintiff from prevailing on the First COA.

24 Article VII, Section 6 of the AOA provides:

25 Compensation of Manager. Each Manager shall be reimbursed all  
26 reasonable expenses incurred in managing the Company and shall be  
27 entitled to compensation, in an amount to be determined from time to time  
28 by the written consent of the Members.

28 ///

1 Ex. 1 to Mot. at Art. VII, Sec. 6 (emphasis added). Written consent – let alone verbal consent – for a 3  
2 and 4% management fee was never provided by the Majority Members, nor has Plaintiff come forward  
3 with any evidence to the contrary.

4 Instead, Plaintiff argues that the Majority Members agreed to the fee as a condition of them  
5 acquiring their membership interest in the Company (Mot. at 13:12-14) and said agreement was reached  
6 *before* signing the AOA (Mot. at 7:16-18). But this argument lacks merit. Not only is the position  
7 incorrect because the Majority Members never agreed to such arrangement (*see* Ex. B at ¶ 5; Ex. D at ¶  
8 5; Ex. E at ¶ 5), it is also contrary to the express terms of the AOA. Article VII, Section 6 demands  
9 “**written consent** of the Members.” Ex. 1 to Mot. at Art. VII, Sec. 6 (emphasis added). Moreover,  
10 Article XVII, Section 1 indicates “This Operating Agreement represents the entire agreement among all  
11 the Members and between the Members and the Company.” *Id.* at Art. VII, Sec. 6 (emphasis added).  
12 In other words, the members are precluded from claiming an agreement was reached that was not  
13 properly documented in the AOA. Had the Majority Members truly agreed to a 3 or 4% management  
14 fee prior to executing the AOA, the AOA had to state so in order to enforce it.

15 What is more, the AOA’s terms contradict the notion that there was a verbal agreement before  
16 signing the contract. Article VII, Section 6 contemplates a management fee in an amount *to be*  
17 *determined*. Ex. 1 to Mot. at Art. VII, Sec. 6 (emphasis added). Had there truly been an agreement  
18 before signing the AOA, the contract wouldn’t have called for the Members to determine the  
19 management fee at some undetermined point in the future.

20 Additionally, for the last 15 years, Plaintiff has breached Article IV of the AOA. Said provision  
21 required Knowlton to maintain the Company’s books and records within the State of Nevada (Section  
22 1) and provide the Majority Members annual reports on the Company’s accounting and records (Section  
23 2). Knowlton did not comply. Indeed, even the later October 2019 demand for books and records  
24 yielded very little and fell woefully short of complying with NRS 86. Moreover, Knowlton did not  
25 comply with Article X when he failed to provide required monthly distributions to the Lindner Trust  
26 and Juel Trust.

27 ///

28 ///

Each one of Plaintiff's breaches pre-dates any alleged wrongdoing on the part of the Majority Managers – which Defendants contest. Accordingly, the First COA fails and Plaintiff does not have a likelihood of success on the merits.

2. Plaintiff Was Properly Removed as Manager.

To their detriment, the Majority Members trusted Plaintiff – they allowed him to manage the Company with full faith that he would comply with the terms of the AOA and do right by the members. Unfortunately, time has proven that the Majority Members' trust and faith was misplaced. Upon discovering what could only reasonably be labeled self-dealing and gross negligence, the Majority Members sprung into action, removing Knowlton as manager so as to prevent any further damage to the Company and members. Critically, Knowlton's removal was carried out in compliance with the AOA. Article VII, Section 2 calls for 50% of the membership interests to vote in favor of removing a manager when gross negligence, self-dealing or embezzlement is discovered. Ex. 1 to Mot. at Art. VII, Sec. 2. Here, collectively, the Majority Members' membership interests exceed the threshold, and Knowlton was self-dealing – which he seems to acknowledge in his Motion – and/or committing gross negligence by taking an unauthorized management fee, paying a disproportionate share of distributions to himself,<sup>10</sup> and failing to provide annual reports and federal and state tax returns to the members. See Mot. at 13:11-14 (“The only specific act mentioned in the Removal Consent that could possibly be referable to self-dealing is the management fee.”); Ex. 2 to Mot. Accordingly, in removing Knowlton, the Majority Members complied with the AOA's requirements.

Plaintiff urges this Court to enforce the AOA in accordance with its plain terms whilst also reading language into the AOA that does not exist. Plaintiff faults the Majority Members for not petitioning a court for declaratory relief before removing him as manager (Mot. at 14:1-2), not retaining independent counsel for the Company to secure an unbiased legal opinion (Mot. at 14:12-15), and not asking him to take part in the vote to remove him (Mot. at 14:3-9). Yet, the AOA does not require that the Majority Members take such action before removal. While the AOA requires a judicial

<sup>10</sup>As set forth above, information has been provided that indicates Knowlton refinanced the Company loan to purportedly obtain a lower interest rate and payment. Ex. E at ¶ 13. However, the Majority Members did not receive an increase in their monthly disbursements and the limited documents available do not indicate the loan payment increased, thus begging the question of where the savings from the refinancing went. *Id.* Because Knowlton has refused to produce Company records, the extent of what transpired is not fully know.

determination before a Member is *expelled*, there is no similar requirement for removing managers. Ex. 1 to Mot at Art. XIII, Sec. 1. Moreover, the notion that the Majority Members should have asked Knowlton to join in on his own removal as manager is absurd. Of course, he would have voted against removal as he continues to refuse to appoint any manager but himself. Finally, the notion that counsel's opinion is bias is insulting and will not be entertained here.

3. Plaintiff Has Not Been Damaged.

As stated above, to prove a claim for breach of contract, Plaintiff must prove up damages. *Brown*, 531 F. Supp. 2d at 1240. Likewise, to prove a claim for breach of the implied covenant of good faith and fair dealing, Plaintiff must have suffered damages as a result of Defendants' breach. *See Perry v. Jordan*, 111 Nev. 943, 948, 900 P.2d 335, 338 (1995). Here, conspicuously missing from Plaintiff's Motion are any provable damages. "Causing tenants to be nervous and causing monies to be frozen in the Company bank accounts" as a direct result of Knowlton's own refusal to cooperate with the Majority Members does not suffice. Mot. at 14:11. Moreover, Knowlton cannot be damaged by the Majority Members taking away a management fee he was never entitled to receive in the first instance, nor can he prove up damages in connection with the Majority Members electing an interim manager to ensure proper operations of the Company.

Plaintiff's First COA and Second COA are not viable. Plaintiff has not shown a likelihood of success on the merits and the Motion should be denied.

**C. Plaintiff Has Not Demonstrated Irreparable Harm for Which Monetary Damages Would Not Suffice.**

Tellingly, Plaintiff's Motion is devoid of any authority which tends to show irreparable harm under the facts and circumstances presented here. Plaintiff does not meet his burden by claiming a speculative riff with Fabulous Freddy's especially when Fabulous Freddy's has already expressed a willingness to work with Lisa. Ex. E, at ¶ 22. Here, any thinkable threat of irreparable harm is remedied with a judicially appointed interim manager who can work to fix the Company's banking issues and authorize MACU to deposit funds and pay the Company loan. This sole act remedies all of Plaintiff's concerns he loosely labels irreparable harm. Plaintiff has not demonstrated irreparable harm for which monetary damages would not suffice and the Motion should be denied.

**D. Countermotion to Appoint Lisa or Gordon an Interim Manager.**

Knowlton's refusal to cooperate with the Majority Members to appoint an acting manager, whilst at the same time claiming to be harmed because the Company doesn't have a manager to oversee operations, is inexcusable. While Defendants dispute any allegation that their appointment of Lisa as interim manager was improper<sup>11</sup>, at this juncture, the issue mustn't be overshadowed by the fact that *someone* has to serve as manager to keep the Company operational.<sup>12</sup> The Majority Members submit that Lisa is the ideal candidate for the position. Afterall, she has offered to fill the role without charge; has legal training and is a barred attorney in Nevada; is familiar with the Company's operations; and, holds a personal stake in the matter vis-à-vis her role as trustee of the Juel Trust ensuring her compliance with the AOA. Lisa's professional background is detailed in Ex. A. Alternatively, the Majority Members recommend the appointment of Brian Gordon (Ex. B) whom, upon information and belief, Plaintiff's counsel is familiar. Given the prior relationship, an objection from Plaintiff is unexpected. Of course, Mr. Gordon will charge the Company a fee. However, given Plaintiff's history of taking an unauthorized fee of 4%, a similar charge should not be deemed unreasonable by him. Defendants respectfully request that the Court appoint either Lisa or Gordon as interim manager, authorizing her or him to fulfil all duties required by the AOA.

**E. Countermotion for an Order Compelling Plaintiff to Produce Company Books and Records Within Five Days.**

Nevada law provides the Majority Members, as members of the Company, the right to access the Company's complete books and records. *See* NRS 86.241. Specifically, that statute provides that

<sup>11</sup>Article VII, Section 2 permits the Majority Members to "decide all other issues submitted to a vote of the Members not requiring more than a majority vote of the Members." Ex. 1 to Mot. at Art. VII, Sec. 2. The AOA does not expressly require more than a majority vote to appoint an interim manager. Again, Plaintiff selectively chooses which provisions of the AOA he wishes this Court to enforce according to their plain terms, and which he prefers the Court read language into. Article VII, Section 1 does not expressly require 70% membership interest to appoint an interim manager. Ex. 1 to Mot. at Art. VII, Sec. 1. As Plaintiff concedes, the AOA doesn't even use the term "interim." *See* Mot. at 12:3-4. Moreover, the manner in which Plaintiff drafted the AOA left a critical hole in the manager position if the Majority Members removed a manager and that manager's vote was required for a permanent manager to be appointed.

<sup>12</sup>The AOA does contain a provision by which if 60 days after the removal of the manager a new manager is not appointed by the members that F. Scott Johansen is appointed as the Manger until a replacement Manger is appointed by the Members. *See* AOA Article VII, paragraph 3, Motion Ex. 3. However, Lisa reached out to Johansen regarding the same and he had no knowledge of the AOA and declined to serve as the Manager of VA. Ex. E at ¶ 26.

1 “[e]ach member of a limited-liability company is entitled to obtain from the company, from time to time  
2 upon reasonable demand, for any purpose reasonably related to the interests of the member as a member  
3 of the company . . . complete records regarding the activities and the status of the business and financial  
4 condition of the company,” among other records related to the Company’s operations and finances. NRS  
5 86.241(2)(b). Moreover, the AOA demands that the manager maintain and produce certain books and  
6 records and makes certain that all books and records be made available for inspection by each member  
7 at all reasonable times. See Ex. 1 to Mot. at Article IV, and Art. IV, Sec. 4.1.

8 While a formal demand in compliance with NRS 86 was made on October 2, 2019 for books and  
9 records dated January 1, 2016 to present, Knowlton has still failed to fully comply. As explained therein,  
10 demand was made, among other reasons, in order to evaluate the current financial status and viability of  
11 the Company, review the Company’s accounting for capital contributions and verification of  
12 distributions, properly exercise member voting rights, and further investigate Knowlton’s  
13 wrongdoings<sup>13</sup>, including but not limited to the possibility that he may have been commingling funds  
14 and failed to release accurate distributions. Ex. I. Although counsel for Plaintiff has represented on a  
15 number of occasions that the books and records would be forthcoming, despite being provided a  
16 summary of what was produced and what was missing based on the original demand, the Majority  
17 Members have not been provided with the information. Ex. G at ¶ 10 and, January 23, 2020  
18 correspondence to Mr. Beckstrom, attached hereto as **Exhibit N**.

19 Importantly, the Court need not determine in connection with the request whether Knowlton, in  
20 fact, engaged in wrongdoing. Rather, that the Court be satisfied that the information sought by the  
21 Majority Members bears a reasonable relationship to its legitimate interests in the Company, which  
22 Defendants submits has been satisfied.

23  
24 <sup>13</sup>See, e.g., *Saito v. McKesson HBOC, Inc.*, 806 A.3d 113, 114-15 (Del. 2002) (interpreting similar Delaware  
25 statute which enables stockholders to investigate matters “reasonably related to [their] interest as  
26 [stockholders]” and finding that a stockholder’s desire to investigate wrongdoing or mismanagement is a proper  
27 purpose for an action to inspect a corporation’s books and records under the statute); “Investigating potential  
28 wrongdoing” is likewise a proper purpose for pursuing review of a company’s books and records. See *Sanders*  
*v. Ohmite Holdings, LLC*, 17 A.3d 1186, 1194 (Del. Ch. Ct. 2011) (citing 6 Del. C. § 18-305(a)(1)) (citing  
*Forsythe v. CIBC Empl. Private Equity Fund (U.S.) I, L.P.*, 2005 Del. Ch. LEXIS 104, 2005 WL 1653963, at  
\*5 (Del. Ch. July 7, 2006)); *Thomas & Betts Corp. v. Leviton Mfg. Co.*, 681 A.2d 1026 (Del. 1996) (same);  
*Everett v. Hollywood Park, Inc.*, 1996 WL 32171 (Del. Ch. Ct. Jan 19, 1996) (same); see also *Saito v. McKesson*  
*HBOC, Inc.*, 806 A.3d 113, 114-15 (Del. 2002) (same).

1 In short, the Majority Members are entitled under Section 4.1 of the AOA to inspect *all* books  
2 and records, without limitation, and by NRS 86.241 to inspect the Company's full and complete  
3 financial records. The Majority Members have satisfied any and all prerequisites in order to obtain  
4 access to these much-needed records, whether under the AOA or statute. Knowlton has failed to  
5 comply despite having five months to do so, and Defendants request an order compelling his  
6 immediate production in five days' time.

7 **IV. CONCLUSION**

8 For the reasons addressed herein, the Majority Members request that the Court deny Plaintiff's  
9 Motion, appoint Lisa or Gordon as interim manager, and order Plaintiff to produce all Company books  
10 and records within five (5) days.

11 DATED this 6<sup>th</sup> day of March, 2020.

12 **GREENBURG TRAURIG, LLP**

13  
14 /s/ Kara B. Hendricks  
15 MARK E. FERRARIO, ESQ.  
16 Nevada Bar No. 1625  
KARA B. HENDRICKS, ESQ.  
17 Nevada Bar No. 7743  
ALAYNE M. OPIE, ESQ.  
18 Nevada Bar No. 12623  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89144

19 *Counsel for WILLIAM L. LINDNER, as Trustee of the*  
20 *William L. Lindner and Maxine G. Lindner Trust of*  
21 *1988, JUEL A. PARKER, as Trustee of the Juel A.*  
22 *Parker Family Trust, LISA PARKER, as Trustee of*  
23 *the Juel A. Parker Family Trust, LISA PARKER, an*  
24 *individual, and S. BRUCE PARKER, as Trustee of the*  
25 *Steven Bruce Parker Family Trust*  
26  
27  
28

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Las Vegas, Nevada 89135  
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Facsimile: (702) 792-9002

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of March, 2020, a true and correct copy of the foregoing **DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION ON ORDER SHORTENING TIME AND COUNTERMOTION TO APPOINT INTERIM MANAGER AND ORDER COMPELLING PLAINTIFF TO PRODUCE VALLEY ASCENT, LLC's BOOKS AND RECORDS** was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV Electronic Filing system and serving all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

The date and time of the electronic proof of service is in place of the date and place of deposit in the U.S. Mail.

/s/ Andrea Flintz  
An employee of Greenberg Traurig, LLP

# **EXHIBIT A**

# **LISA D. PARKER, ESQ.**

2260 Coral Ridge Avenue  
Henderson, NV 89052  
702-610-0976 (Mobile)  
702-617-9375(Fax)  
ppslaw1@aol.com

## **CURRENT POSITION**

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May 2007 through Present    PARKER PARKER & SIMON, LLC.    Henderson, NV  
Founder and Managing Partner

- Medical Malpractice and Personal Injury
- Health Law
- FMP Mediator (2010-present)

## **PAST EXPERIENCE**

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- Hall, Prangle & Schoonveld, LLC    Las Vegas, NV  
Associate Attorney
  - Medical Malpractice Defense
  - Insurance Defense
- Lewis, Brisbois, Bisgaard, and Smith    Las Vegas, NV  
Associate Attorney
  - Medical Malpractice Defense
  - Insurance Defense
- Nevada Supreme Court    2002-2003    Las Vegas, NV  
Law Clerk, Justice Myron E. Leavitt
- United States District Court    Las Vegas, NV  
Judicial Extern, Judge Roger L. Hunt
- Delta Air Lines    1985-2002    Salt Lake City, UT  
Flight Attendant
- Lagoon Amusement Park    Farmington, UT  
Assistant Entertainment Director

- Allman's Furniture and Interiors                      Bountiful, UT  
Owner/Manager
- L. Douglas Israelsen, D.D.S.                              Salt Lake City, UT  
Oral Surgery Assistant

## EDUCATION

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### JURIS DOCTORATE

- 2002                      William S. Boyd School of Law, U.N.L.V.                      Las Vegas, NV
- Magna Cum Laude
  - Class Rank #3
  - Member, Society of Advocates (Moot Court) (200-2001,2001-2002)
  - Executive Board, Society of Advocates (2000-2001)
  - Curriculum Committee (1999-2000)
  - UNLV Alumni Association Fred Albrecht Scholarship (Spring, 2001)
  - Boyd School of Law Academic Achievement Scholarship (1999-2002)
  - CALI Awards-Legal Writing(Lawyering Process III) and Intellectual Property I

### BACHELOR OF ARTS, PSYCHOLOGY

- 1997                      University Nevada, Las Vegas                      Las Vegas, NV
- Magna Cum Laude

## ADMISSIONS

---

- State Bar of Nevada, 2002
- U.S. District Court—District of Nevada

## ASSOCIATIONS

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- Clark County Bar Association

- State Bar of Nevada
- American Bar Association
- Federal Bar Association
- Nevada American Inns of Court

## **EXHIBIT B**

## EXPERT WITNESS CREDENTIALS – BRIAN R. GORDON, CPA/ABV

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### PROFESSIONAL AND BUSINESS HISTORY

#### **Principal**

Applied Analysis, November 2000 – Present  
Las Vegas, Nevada

Brian Gordon is a principal of Applied Analysis ("AA") and its affiliated companies. Gordon maintains operational and technical responsibilities in the following group of companies:

- **Applied Analysis** (November 2000 – Present): AA is a broad-based consultancy with expertise in a wide range of services, including economic analysis, financial analysis, hospitality and gaming consulting, market analysis, public policy analysis, opinion polling and consumer sentiment analysis, information technology and web-based solutions, and litigation and expert analysis. In addition to the core competencies and responsibilities associated with AA, Gordon also maintains responsibilities within the following affiliated companies.
- **SalesTraq** (March 2012 – Present): SalesTraq is a comprehensive residential real estate research and analysis firm. For more than two decades, SalesTraq has been providing home pricing, sales and development data to real estate agents, homebuilders, appraisers, buyers and investors. The company also maintains an archive catalogue of over 28,000 floor plans and over 41,000 photos and renderings of homes in Nevada and New Mexico.
- **Discovery Nevada** (March 2012 – Present): Discovery Nevada is a full-service market research and analysis firm. Founded in 2012, the company is a partnership between Applied Analysis and Discovery Research Group. The company is a full-service data collection and market research firm. Primary services span traditional telephone and intercept surveys to cutting-edge web-based paneling and social media analytics.
- **MyResearcher.com** (November 2012 – Present): MyResearcher is a web-based data tracking and information reporting tool. It provides customizable reports and analysis, allowing users to monitor the information that matters most to them without having to wade through the endless stream of data that doesn't. Customized client data dashboards are created that include broad and industry-specific economic, fiscal, social, real estate, tourism and other data.

#### **Audit & Business Advisory Manager**

Arthur Andersen LLP, June 2000 – November 2000  
Silicon Valley, California

#### **Audit & Business Advisory Senior**

Arthur Andersen LLP, September 1996 – June 2000  
Las Vegas, Nevada

### CERTIFICATIONS

#### **Certified Public Accountant (CPA)**

State of Nevada (License No. 3238)  
April 1999 – Present

#### **Accredited in Business Valuation (ABV)**

American Institute of Certified Public Accountants (License No. 4318)  
September 2014 – Present

## EDUCATION

### ***Bachelor of Science, Business Administration – Accounting***

University of Nevada, Las Vegas

*Cum Laude*

- UNLV Dean's Honor List – 1992-1996
- UNLV Scholarship Recipient

## SELECTED MEMBERSHIPS, COMMUNITY INVOLVEMENT & AWARDS

- American Institute of Certified Public Accountants (AICPA)
  - Member: 1999 to Present
- Barrington Monterossa Homeowners Association
  - Board of Directors: 2011 to 2018
  - President: 2012 to 2018
- City National Bank – Economic Advisory Council
  - Member: 2012 to 2015
- InBusiness Las Vegas' Top Businesspeople Under 40 (2002)
- Las Vegas Executives Association (LVEA)
  - Member: 2006 to 2015
  - Board of Directors: 2010 to 2015
  - Treasurer: 2012 to 2015
- NAIOP
  - Member: 2003 to Present
- Southern Nevada Home Builders Association
  - Member: 2013 to Present
  - Outstanding Member Award: 2014
  - Associate Member of the Year: 2017
  - Board Member: 2015 to 2017, 2019 to 2020
  - Officer, Associate Vice President: 2017
  - Officer, Treasurer: 2019 to 2020
- Volunteer Center of Southern Nevada
  - Board of Directors: circa 2001 to 2007
  - Vice-President and Treasurer: circa 2002 to 2007
- Wavecrest Homeowners Association
  - Board of Directors: 2008 to Present
  - President: 2013 to 2014
  - Treasurer: Various Years, Including 2017 to Present
- Who's Who in Southern Nevada (Various Years Beginning in 2002)
- Coach, National Junior Basketball – Summerlin and Northwest Divisions (Various Years)

## SELECTED PRESENTATIONS & PUBLICATIONS

- Author, "Gaming Industry: Performance Review," Gaming and Leisure Magazine, recurring series of articles, 2003 to Present
- Presenter, "Economic Outlook," Southern Nevada Home Builders Association Builder Breakfast Series, February 2020 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Market Update," Greater Las Vegas Association of Realtors Leadership Series, January 2020 (Las Vegas, Nevada)
- Presenter/Panelist, "Single Family Residential Market," *Appraisal Institute of Nevada*, Las Vegas Market Symposium, November 2019 (Las Vegas, Nevada)
- Presenter, "Economic and Housing Update," Greater Las Vegas Association of Realtors General Membership, October 2019 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Market Update," Greater Las Vegas Association of Realtors Broker-Only Event, August 2019 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Market Update," Greater Las Vegas Association of Realtors Leadership Series on Economic Development, March 2019 (Las Vegas, Nevada)
- Presenter/Panelist, "Land Market," *Appraisal Institute of Nevada*, Las Vegas Market Symposium, November 2018 (Las Vegas, Nevada)
- Presenter, "10 to Watch in Southern Nevada," Las Vegas Rotary, March 2018 (Las Vegas, Nevada)
- Presenter/Panelist, "Single Family Residential Market," *Appraisal Institute of Nevada*, Las Vegas Market Symposium, November 2017 (Las Vegas, Nevada)
- Presenter/Panelist, "Single Family Residential Market," *Appraisal Institute of Nevada*, Las Vegas Market Symposium, November 2016 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Housing Market: Review and Outlook," *State of Nevada Economic Forum*, October 2016 (Las Vegas, Nevada; video conferenced to Carson City, Nevada)
- Presenter, "Economic Overview & Housing Review," *Greater Las Vegas Association of Realtors*, September 2016 (Las Vegas, Nevada)
- Presenter, "Economic Overview and Outlook," *Greater Las Vegas Association of Realtors*, July 2016 (Las Vegas, Nevada)
- Presenter, "10 Reasons To Be Positive," *Las Vegas Executives Association*, January 2016 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Housing Market: Review and Outlook," *Greater Las Vegas Association of Realtors*, February 2015 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Housing: Market Fundamentals," *Greater Las Vegas Association of Realtors*, April 2014 (Las Vegas, Nevada)
- Presenter, "Southern Nevada Housing: Market Fundamentals," *Vegas Housing Report*, April 2014 (Las Vegas, Nevada)

- Presenter, "Know Your Market: Resale vs. New Homes," *Women's Council of Realtors*, February 2013 (Las Vegas, Nevada)
- Presenter, "Post Election, What it Means for You and Your Business," *City National Bank Economic Forum*, November 2012 (Reno, Nevada and Las Vegas, Nevada)
- Presenter, "Residential Real Estate: Market Trends," *State of Nevada Economic Forum*, June 2012 (Las Vegas, Nevada; video conferenced to Carson City, Nevada)
- Presenter, "Finding Opportunity in the Nevada Economy," *AIGA Return on Design Business and Design Conference*, November 2011
- Presenter, "The Impacts of the Financial Crisis on the State of Nevada," *Federal Financial Crisis Inquiry Commission*, September 2010
- Presenter, "Nevada Economic Overview," *Nevada State Bank Economic Forecast Webinar*, September 2009
- Presenter, "Economic Outlook," *Nevada Society of CPAs' 31st Annual Gaming Conference*, May 2009
- Presenter, "Southern Nevada Economy: Market Fundamentals," *City National Bank, Economic and Investment Meeting*, April 2009
- Presenter, "Las Vegas Market: Building on the Fundamentals," *Urban Land Institute, Annual Meeting*, October 2007
- Presenter, "Market and Economic Overview," *Appraisal Institute of Nevada*, January 2007
- Presenter, "Ten to Watch: Southern Nevada Trends," *Kiwanis Club of Las Vegas*, November 2006

#### EXPERT WITNESS TESTIMONY OR DEPOSITIONS

**In re Wells Fargo Bank, N.A. v. Greenstreet Properties, LLC et al.**

Case No. A592340-B; Dept. No. XI  
District Court, Clark County, Nevada  
Deposition (January 2011) and Trial (September 2011)

**In re Ion Baroi, et al. v. Platinum Condominium Development, LLC, et al.**

Case No. 2:09-CV-00671-PMP-GWF  
United States District Court, District of Nevada  
Deposition (October 2011)

**In the Matter of the Dealer Protest of Franchise Termination of**

Chapman Las Vegas Dodge, LLC (Petitioner) and Chrysler, LLC, (Respondent)  
State of Nevada Department of Motor Vehicles Office of Administrative Hearings  
Deposition (November 2011) and Trial (January 2012)

**In re Politis, Inc. d/b/a The Attic, Mayra Politis, and Victor Politis v. Nevada Power Company, NV Energy, Inc., and Southwest Gas Corporation**

Case No. A-11-653025-C; Dept. No. IV  
District Court, Clark County, Nevada  
Arbitration Hearing (June 2012)

**In re Lake at Las Vegas Joint Venture, LLC, et al. v. 820 Management Trust, et al.**

Case No. BK-S-08-17814-LBR  
United States Bankruptcy Court, District of Nevada  
Deposition (March 2013)

**In re Town & Country Bank, et al. v. SPS Investments, LLC**

Case No. A-12-664628-B  
District Court, Clark County, Nevada  
Deposition (July 2013) and Trial (August 2013)

**In re State of Nevada, on relations of its Department of Transportation v. The Alexander and Lily Gendall Trust, et al.**

Case No. A-12-666487-C  
District Court, Clark County, Nevada  
Deposition (September 2013)

**In re Robert J. Futoran, M.D. v. Women's Cancer Center of Nevada, Inc., Nicola Spirtos, M.D., Geoffrey Hsieh, M.D., et al.**

Case No. A-11-651098-B  
District Court, Clark County, Nevada  
Deposition (February 2014) and Trial (September 2014)  
Deposition (May 2015) and Damages Hearing (June 2015)

**In re Sher Development, LLC et al. v. Desert Land Acquisition, LLC et al.**

Case No. A-16-743298-B  
District Court, Clark County, Nevada  
Deposition (August 2017) and Trial/Hearing (September 2017)  
Deposition (March 2018) and Trial/Hearing (March 2018)

**In re Trina Jiles v. GFive Cultivation LLC and Larry D. Smith**

Case No. A-16-743986-C  
District Court, Clark County, Nevada  
Trial (July 2019)

**Fremont Food Emporium, LLC v. New El Portal, LLC et al.**

Case No. A-18-785650-B  
District Court, Clark County, Nevada  
Deposition (January 2020)

## SELECTED PROJECT AND WORK EXPERIENCE

The following provides a detailed sampling of relevant work and project experience. It is not all-inclusive but reflects the type of research conducted and general work experience.

- In 2012, completed the negotiation and consummation of the acquisition of SalesTraq, a Las Vegas-based residential research company and the operator of SalesTraq.com. Assumed responsibility for the operations of the 20-year-old firm, which includes overall management, research, and reporting. In 2013, completed the negotiation and consummation of the acquisition of SalesTraq New Mexico, an Albuquerque-based residential research company.
- Prepare recurring Las Vegas Quarterly Market Reports covering various real estate sectors in the Southern Nevada market. The quarterly series includes commercial office, commercial retail, industrial, multi-family and vacant land markets. The reports include economic and sector-specific analyses along with detailed market analysis statistics and performance measures. As part of the report series, developed the Southern Nevada market's first recurring vacant

land market report focusing on transactional volume and pricing data by size and region. Also developed the market's first recurring luxury condominium market report.

- From 2006 to 2014, retained by MGM Resorts International/CityCenter to evaluate supply-demand conditions in the Las Vegas high-rise residential and hotel-condominium market. Analyses include recurring reporting on inventory, availability, pricing, amenities, homeowner association dues and other key performance measures.
- From 2001 to 2016, retained by various commercial brokerage firms in Southern Nevada to provide an outsourced market research function. A sampling of clients includes Voit Real Estate Services, NAI Las Vegas, Cushman and Wakefield/Commerce CRG, The Bentley Group, ARA USA, Lee & Associates and Commercial Associates. Responsibilities include recurring analyses and reporting on the office, medical office, industrial, retail, apartment and vacant land markets.
- From 2006 to 2020, retained as the Executive Director of the Las Vegas Perspective, an annual research publication and industry event. The publication is known as the most comprehensive research publication in Southern Nevada with content covering demographics, community, business and industry, real estate, retail and tourism. The Las Vegas Perspective's research also includes a community-wide survey of residents to gauge consumer sentiment about the economy. The publication's readership exceeds 100,000 and is utilized by financial institutions, appraisers, governments, business leaders and a number of other business sectors.
- From 2001 to 2011, acted as an outsourced Chief Financial Officer for a multi-locational air tour operator. Responsibilities included overall senior management functions, debt negotiations and restructurings, equity financing transactions, business valuations, periodic financial reporting, strategic business planning, economic modeling and forecasting and other financial-related and managerial duties.
- In 2002, developed the Applied Analysis Gaming Index (AAGI) to meet the needs of the firm's clients and to provide insight into the gaming sector of our local economy. The AAGI is a monthly gauge on equity valuations of ten major gaming related companies, comprised of seven operators and three manufacturers of machines and equipment. Valuations are weighted based on market capitalization for publicly traded, gaming-related enterprises. The AAGI was used by news publications to report the health of the gaming industry for more than a decade, while the comprehensive monthly report had a national distribution.
- From 2007 to 2019, prepared an industry impact analysis for the Association of Gaming Equipment Manufacturers. The analysis focused on economic and fiscal impacts of the global gaming supplier industry. The analysis included consideration of direct, indirect and induced employment, wage, and output impacts.
- From 2008 to 2020, retained by Ultimate Fighting Championship (UFC) to evaluate the economic and fiscal impacts of their business operations and incremental visitation to Nevada. The analysis focused on employment, wages and economic output, as well as the evaluation of the direct, indirect and induced impacts. As part of the analysis, led a team of researchers to conduct intercept surveys of Las Vegas visitors to gauge a number of factors, including spending habits on rooms, food, beverage, entertainment, sightseeing, shopping and other activities while visiting the area. In addition, analyses have been performed in a number of domestic and international markets to evaluate the impact of special events.
- From 2009 to 2019, retained by a locals-oriented gaming operator to evaluate supply and demand conditions within the Las Vegas gaming market, along with assessment of local economic conditions. Analyses focused on key demand indicators, including population, employment and personal income.
- From 2012 to 2020, retained by a major master planned community developer to evaluate vacant land transactions and valuations throughout the Southern Nevada market. Analyses also considered broader economic conditions, including the performance of the commercial and residential markets.

- From 2012 to 2015, retained by the State of Nevada Department of Business and Industry to develop the Nevada Housing Stability Index to monitor the overall health and stability of Nevada's housing market. The analysis includes the evaluation of supply- and demand-side indicators.
- From 2010 to 2013, retained by the Regional Transportation Commission of Southern Nevada (RTC) to evaluate the economic and fiscal impacts of fuel tax indexing in Nevada. The analysis considered the potential revenue impacts for the state as well as the resulting economic impacts; the results were presented to the Nevada State Legislature in 2013.
- In 2008 and 2013, retained by Starwood Hotels and Resorts to prepare a comparative analysis of the performance of branded versus non-branded luxury condominiums throughout the United States and selected international locations. The analysis focused on pricing and absorption performance metrics.
- In 2010 and 2016, retained by an international transportation consultancy firm to develop forecasts of tourism industry metrics for the Southern Nevada market. The analysis was used as a foundational element in developing potential demand projections for high-speed train service between Las Vegas and southern California.
- Retained by a multi-locational gaming operator to evaluate supply and demand conditions within multiple states for a number of gaming markets in which they operate hotel and casino properties. The analyses focused on evaluating various demand indicators and developing market area assessments, including market-wide projections for each of the locations.
- Retained by MGM Resorts International to evaluate the economic and fiscal impacts of a proposed 20,000-seat arena on the Las Vegas Strip (now known as T-Mobile Arena). Analyses focused on the employment, wages and output of the operations and visitors to the Southern Nevada market. Fiscal impacts focused on a wide range of revenue sources, including property taxes, sales and use taxes, gaming percentage fees and modified business taxes.
- Retained as part of a team responsible for the creation of Southern Nevada's first Tourism Improvement District as defined by Nevada Revised Statutes Chapter 271A. Responsibilities included the research, analysis and reporting functions in evaluating selected regulatory requirements, including assessing the source of taxable retail sales occurring within the district boundary and the fiscal effect of the proposed district on state and local governments. The analysis was utilized by the City of Las Vegas, Clark County Board of County Commissioners, Clark County School District, Nevada Commission on Tourism and the Governor of the State of Nevada in evaluating the tax district proposal.
- Retained by the City of Las Vegas to evaluate the economic and fiscal impacts of its redevelopment area activities. Analysis was used by the City and the Nevada State Legislature in revising Nevada's redevelopment laws as they relate to the distribution of tax revenue during the 2009 Session of the Nevada Legislature.
- Retained by the City of North Las Vegas to evaluate gaming market concentration issues. Specifically, the analysis considered current and projected development of restricted and non-restricted gaming licensees relative to demand growth in the region.
- Retained by Genting Group to evaluate the economic and fiscal impacts of a proposed \$4.0-billion-plus integrated resort complex on the Las Vegas Strip. Analyses focused on the employment, wages and output of the operations and visitors to the Southern Nevada market. Fiscal impacts focused on a wide range of revenue sources, including property taxes, sales and use taxes, gaming percentage fees and modified business taxes.
- Retained by a multi-locational apartment owner to evaluate market conditions within the multifamily sector. Analyses focused on broad economic conditions, the residential overhang, apartment market supply and demand conditions, and the forecast for the industry as a whole and by submarket.

- Prepared an economic and fiscal impact analysis for the Las Vegas Museum of Organized Crime and Law Enforcement, also known as the Mob Museum. The analysis focused on projected economic output, salaries and wages paid and total employment sourced to the project's development and on-going operations.
- Retained by the Las Vegas Metropolitan Police Department ("Metro") to review and analyze the financial situation of Metro, with a specific focus on the "More Cops Tax" included within the local sales tax. Analysis included a projection of future revenue and expenditures to assess the viability of the fiscal structure.
- Retained by the Southern Nevada Home Builders Association to prepare a benefit-cost analysis of residential fire sprinklers systems in Clark County, Nevada and the City of Las Vegas. Analysis focused on the probabilities of fire, fatality and injury occurrences, along with the costs of sprinkler installations.
- Principal author of numerous market analyses of the condominium market in various sub-sectors and collaborator on the industry report *Las Vegas Gaming Market: Luxury Condos – Friend or Foe?* with Deutsche Bank to assess the impact of the luxury condominium market on the gaming industry, including hotel occupancies and demand for Las Vegas amenities.
- Performed a number of economic and fiscal impact analyses for proposed gaming developments on behalf of a wide range of clients, including large-scale gaming operators and independent investors. The studies were utilized to create or expand the gaming entitlements pursuant to Senate Bill 208.
- Prepared a market analysis for a major hospital operator seeking expansion into the northern Nevada market area. The analysis focused on demand-side factors, including population and employment trends, demographics, as well as other factors. The supply-side analysis considered existing and future hospitals in the area. Site specific analyses were prepared to evaluate a number of development alternative locations.
- Retained by McCarran International Airport to review and analyze supply, demand and financial feasibility for the development of two proposed industrial buildings within the existing Marnell Airport Center generally located near McCarran International Airport. The analysis also included a sensitivity analysis of projected occupancy rates and rental rates.
- Retained by Marnell Properties on behalf of the City of Henderson to develop a market assessment of a proposed development site within the City of Henderson. The study focused on the market potential of various product types and provided programming recommendations based on near- and long-term prospects.
- Retained by a group of stakeholders to conduct a review and analysis of the economic and fiscal implications of converting the Badlands Golf Club into residential uses. The preliminary findings were presented to City Council at the City of Las Vegas.
- Retained by the Southern Nevada Home Builders Association to conduct a review and analysis of the Bureau of Land Management ("BLM") Draft Resource Management Plan/Environmental Impact Statement issued in Fall 2014 ("RMP"). The analyses considered the following: (1) the RMP's impact on the performance of the Southern Nevada housing market, including land availability and affordability; (2) quantifies the economic impacts of construction within the housing market; and (3) evaluates selected fiscal impacts of development activity sourced to the housing market. The assessment also considered the impacts of mineral/trespass rights in Southern Nevada.
- Performed numerous highest and best use studies for developments throughout the Las Vegas Valley. These studies have focused on potential uses as diversified as hotel-gaming establishments to condominiums to retail strip centers. Generally speaking, these studies include a comprehensive review of locational factors, area economics and demographics, existing and potential competitive supply, existing and projected demand, project development costs and a maximal use analysis.
- Testified to the Financial Crisis Inquiry Commission (FCIC) on economic and real estate matters in the state of Nevada. The Financial Crisis Inquiry Commission was created to "examine the causes, domestic and global, of the current

financial and economic crisis in the United States." The Commission was established as part of the Fraud Enforcement and Recovery Act (Public Law 111-21) passed by Congress and signed by the President in May 2009. This independent, 10-member panel was composed of private citizens with experience in areas such as housing, economics, finance, market regulation, banking and consumer protection.

- Prepared an economic and fiscal impact analysis of a master planned community in North Las Vegas. The analysis spanned over 1,600 acres and considered the impacts sourced to nearly 9,000 residential units, infrastructure investments and supporting commercial uses. The analysis considered the one-time construction impacts as well as recurring economic impacts. Public revenue impacts were also evaluated.
- Retained by an international gaming operator to evaluate the market potential of luxury condominiums within a multi-billion hotel-casino-resort project being developed along the Las Vegas Strip. The analysis focused on competitive supply-demand trends, as well as, demographics and potential sources of demand from out-of-market visitors.
- Retained by a major master-planned community to conduct primary research of resident perceptions about the community as a whole and major amenities located within the project. The analysis also evaluated the demographic profile of the community to better understand key resident characteristics.
- Prepared an economic and fiscal impact assessment related to the acquisition, conversion and development of an  $\pm 160$ -acre property located within the City of Las Vegas. The property was previously operated as a pig farm and was subsequently closed (and relocated) and the property was annexed into the City of North Las Vegas. The analysis considered the economic and public revenue impacts of residential and commercial uses.
- Retained by a furniture trade show owner and operator to evaluate the market and financial feasibility of the conversion of temporary tent structures into a permanent convention facility in the downtown Las Vegas area. The analysis considered market-based research within the convention sector, as well as the preparation of a financial feasibility analysis that evaluated potential investor returns of the development.
- Retained by a global gaming operator to estimate the economic impacts of their operations throughout the United States. The analysis focused on economic output, salaries and wages and overall employment in each of their operating markets. The analysis also considered the incremental off-site spending that occurs within each of the respective communities in which they have major investments.
- Prepared an Economic Development Financial Proposal on behalf of Storey County for submission to the Governor's Office of Economic Development. The analysis considered the fiscal impact of developing a \$35-million effluent water pipeline from the Reno-Sparks area to Storey County for transportation of water at the Tahoe Reno Industrial Center for use by tenants, including Tesla, Switch, Google and others.
- Retained by the Las Vegas Global Economic Alliance to prepare an analysis of Southern Nevada's workforce. The study considered a number of factors, including the alignment of the workforce with the economy, the composition of the workforce, attracting and retaining talent and the advantages and challenges of the local market.
- Retained as part of a consultant group to evaluate the long-term outlook for Southern Nevada's population and demographic trends on behalf of the Las Vegas – Clark County Library District. The analysis provided a 25-year projection of aggregate population and demographic trends as well as within each of the district's various library service areas spanning 14 urban libraries and 11 rural libraries.
- Retained by a major hotel-casino operator to evaluate the market potential of two development sites suitable for hotel-gaming facilities in the northern Nevada market area. The analysis considered forward-looking demographics and market conditions to estimate potential demand. The study also evaluated supply-side conditions to generate a recommended development strategy and programming.

- Retained by the Las Vegas Global Economic Alliance to prepare a series of economic and employment profile newsletters to communicate performances within the Southern Nevada economy. The newsletters feature broad-based economic research as well as performance evaluations of various sectors of the Southern Nevada employment base.
- Retained by an investor group to evaluate gaming market conditions within the North Las Vegas market area. The analyses focused on key drivers of potential demand and an evaluation of supply conditions. The analysis included a projection of gaming revenues within the area.
- Retained by Nevada State College to evaluate the economic and social impacts of the development of a new academic education building on the Nevada State College campus in Henderson, Nevada. The analysis focused on the one-time capital investment impacts as well as the recurring operational impacts of the new facility.
- Retained by the Greater Las Vegas Association of Realtors to conduct research and analysis regarding the Southern Nevada housing market. The assignment includes the preparation of monthly housing reports, the development of an on-line data portal exclusive to the association's 14,000 members and delivery of various economic and housing update presentations.
- Retained by a gold mining company to evaluate their economic, fiscal and social impacts sourced to two mine operations in the state of Nevada. The analyses considered the one-time construction impacts and the recurring operational impacts.
- Retained by the Nevada Resort Association to prepare the recurring publication series titled *Nevada Gaming Fact Book*. The publication focuses on the economic, fiscal and corporate social responsibility contributions of the Nevada tourism industry. The publication has been prepared for the more than a decade during legislative years in Nevada.
- Testified to the Nevada State Legislature regarding housing affordability and the impacts of construction defect laws in the state of Nevada. The analysis focused on evaluating trends in the new and resale housing segments, affordability challenges, impacts sourced to 2015 construction defect reforms and the economic impact of the Nevada home building industry.
- Retained as a market and valuation expert witness to evaluate the market and financial feasibility of a resort and condominium development located within the Las Vegas resort corridor. The study included an assessment of market supply and demand conditions, as well as the overall financial viability of the project by developing pro forma financial statements while assessing a number of other market and financial factors.
- Retained and testified as an expert witness at trial regarding a dispute involving a developer and financial institution. The analysis focused on broader economic conditions in the Southern Nevada market, including the performance of the commercial retail real estate market. The market evaluation also included a review of pre-leasing activity, construction budgets, various financing scenarios, debt service coverage ratios, capitalization rates, and other factors in evaluating the overall financial feasibility and valuation of the project.
- Retained and testified as an expert witness at deposition with regard to a number of issues in the positioning, marketing and performance of a hotel-condominium development in the Las Vegas area. The analysis included the evaluation of financial projections, the hotel operating performances of the subject property and a number of key competitors and the methodologies employed in developing third-party forecasts.
- Retained as an expert witness in a dispute between a hotel-condominium developer and a class action group of owners regarding a number of issues. The analysis included an assessment of the appropriateness of the rental program and allocations between owners as well as other relevant analyses.
- Retained and testified at trial as an expert witness in a matter involving an automotive dealership entering the Southern Nevada market. The analysis included a number of market-based assessments, including market share analyses, geographic analysis of customer databases, fair share assessments and the development of a number of economic and financial impact scenarios.

- Retained and testified as an expert witness regarding market analysis and business valuations in a dispute involving a retailer. The analysis included a 10-year historical financial analysis as a baseline for developing key elements in a business valuation. The analysis included assessments of capitalization/discount rates and other factors under the income approach of valuation developed by the opposing expert. The analysis also considered external market factors, including the performance of taxable retail sales and commercial retail real estate.
- Retained and testified as an expert witness at deposition regarding the financial feasibility and valuation of a major master planned community in the Southern Nevada market. The analysis focused on the underlying assumptions of the project's financial pro forma, including the market performance within the Southern Nevada housing market and luxury condominium sector.
- Retained and testified as an expert witness at trial regarding a dispute between a property owner and financial institution. The assessment included trends in the valuation of real property in the Southern Nevada market, as well as reviewing and assessing real estate appraisals during a five-year period.
- Retained and testified as an expert witness at deposition in an eminent domain case. The analysis included an assessment of the business valuation of a retailer located within a commercial property, including valuations under the generally accepted approaches of business valuations.
- Retained and testified as an expert witness at trial in a dispute regarding the business valuation of a medical practice. Conducted a business valuation of a medical practice utilizing generally accepted methodologies, including the cost (asset) approach, market approach and income approach. The analysis also considered assessments of other factors such as discretionary earnings, intangibles and non-compete agreements.
- Retained as an expert witness in a dispute regarding financial matters related to a proposed gaming and mixed-use development in Oklahoma. The analysis considered a number of financing transactions, use of funds and forensic accounting as part of the assessment.
- Retained as an expert witness in a dispute between a major Las Vegas hotel-casino property and investors in a number of nightclub and restaurant venues. The analysis considered the broader economic climate and performance of the tourism industry. The analysis also evaluated trends in the nightclub and restaurant industries.
- Retained as an expert to quantify the damages associated with a construction defect matter related to a hotel-casino property located in the state of California. The analysis focused on damages primarily related to a hotel remediation and related consumer spending impacts.
- Retained as an expert witness to evaluate the financial and economic impact associated with a dispute regarding a lending transaction secured by a deed of trust. The analysis focused on a number of factors, including the time value of money and a forecast of land values in Southern Nevada and the Las Vegas Strip corridor.
- Retained as an expert witness to conduct forensic accounting related to a dispute involving the use of insurance proceeds sourced to a residential fire claim. The analysis included a review of financial-related activity over the course of a six-year period.
- Retained as an expert witness to conduct forensic accounting related to a dispute involving a mortgage loan servicer and borrower that filed for bankruptcy protection. The analysis included a review of several years of transactional data.
- Retained and testified as an expert witness at trial regarding a stakeholder dispute regarding ownership in a marijuana cultivation facility in Nevada. The analysis considered a number of factors, including lost profits and business valuation of the operations utilizing common approaches to valuing a business, including the income approach, market approach and asset approach.

- Retained as an expert rebuttal witness to evaluate the lost earnings capacity of an individual involved in an alleged slip and fall incident that took place inside the Los Angeles International Airport. The analysis focuses on a number of factors including, but not limited to, an assessment of past earnings history, future wage growth and work-life expectancy.
- Retained as an expert witness to evaluate the financial and economic damages associated with a lease and series of sublease transactions associated with a commercial retail location. The analysis focuses on the evaluation of future base rents, percentage rents and other terms of various lease agreements; the analysis also considered discount rates. Analyses of lost profits and lost rents were also provided.
- Retained as a rebuttal expert to evaluate the forensic accounting conducted in a dispute between members in a limited liability company. The analysis considered the methods of evaluation and underlying transactional data.

## **EXHIBIT C**

**DECL**

MARK E. FERRARIO, ESQ.

Nevada Bar No. 1625

KARA B. HENDRICKS, ESQ.

Nevada Bar No. 7743

ALAYNE M. OPIE, ESQ.

Nevada Bar No. 12623

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*Attorneys for WILLIAM L. LINDNER, as Trustee of  
the William L. Lindner and Maxine G. Lindner Trust  
of 1988, JUEL A. PARKER, as Trustee of the Juel A.  
Parker Family Trust, LISA PARKER, as Trustee of  
the Juel A. Parker Family Trust, LISA PARKER, an  
individual, and S. BRUCE PARKER, as Trustee of the  
Steven Bruce Parker Family Trust*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BRAD L. KNOWLTON, an individual,

Plaintiff,

v.

VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine  
G. Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker  
Family Trust, LISA PARKER, an individual, and  
S. BRUCE PARKER, as Trustee of the Steven  
Bruce Parker Family Trust,

Defendants.

CASE NO.: A-20-809612-B

DEPT. NO. XI

**DECLARATION OF BRUCE PARKER**

1 I, Bruce Parker, declare as follows:

2 1. I am Trustee of the Steven Bruce Parker Family Trust, which entity is one of four  
3 Members of Valley Ascent, LLC ("VA"). I make this Declaration in support of DEFENDANTS'  
4 OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION ON ORDER  
5 SHORTENING TIME and COUNTERMOTION TO APPOINT INTERIM MANAGER AND  
6 ORDER COMPELLING PLAINTIFF TO PRODUCE VALLEY ASCENT, LLC's BOOKS AND  
7 RECORDS.

8 2. Except for any matter stated upon information and belief, I have personal knowledge of  
9 the facts herein and could competently testify if called upon by the Court.

10 3. I approached the owner of Fabulous Freddy's about the possibility of building a carwash  
11 on property owned by my father, vis-à-vis the Juel Parker Trust.

12 4. Instead of taking real estate commissions and a broker fee for structuring the deal, I  
13 received a 5 % interest in Valley Ascent, LLC ("VA").

14 5. After the project was complete, Plaintiff Brad Knowlton served as manager for VA.  
15 However, I was unaware that Knowlton was taking a 3% management fee or that he later unilaterally  
16 increased the management fee to 4%. Upon information and belief, the other members were too  
17 unaware aware of this fact.

18 6. Written consent of the members of VA approving the management fee has never been  
19 provided by Knowlton.

20 7. Upon information and belief, Knowlton hid the fact that he was paying himself a  
21 management fee from the Company's Majority Members<sup>1</sup> and did not disclose the same in annual  
22 reports or tax records provided to me.

23 I, Bruce Parker, declare under the penalty of perjury, that the foregoing statements are true and  
24 correct.

25 Executed this 6<sup>th</sup> day of March, 2020.

26   
Bruce Parker

27  
28 <sup>1</sup> Collectively, the William L. Linder and Maxine G. Linder Trust of 1988, Juel A. Parker Family Trust and Steven Bruce Parker Family Trust own a majority interest in the Company. Herein, said members are referred to as "Majority Members."

## **EXHIBIT D**

### AGREEMENT

AGREEMENT made this 18<sup>th</sup> day of February, 2005, by, between and among VALLEY ASCENT, LLC, a Nevada limited liability company ("Valley"), BRAD L. KNOWLTON, sole member of Valley ("Knowlton"), WILLIAM L. LINDNER and WILLIAM L. LINDNER, TRUSTEE of the WILLIAM L. LINDNER AND MAXINE G. LINDNER TRUST OF 1988 (collectively "Lindner"), JUEL A. PARKER, TRUSTEE, JUEL A. PARKER FAMILY TRUST ("Parker"), and S. BRUCE PARKER and S. BRUCE PARKER, TRUSTEE of the STEPHEN BRUCE PARKER AND RENEE LYNN PARKER FAMILY TRUST (collectively "S. Bruce Parker") and is made with reference to the following facts:

- (SP) STEVEN
- A. Valley is an existing Nevada limited liability company, of which Knowlton is the Manager and sole member, a copy of the Articles of Organization and Operating Agreement are attached hereto as Exhibits "A" and "B", respectively;
  - B. Parker owns a parcel of land situated in Clark County, State of Nevada, described as:  
  
That portion of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) of Section 6, Township 20 South, Range 61 East, MDM, described as follows: Lot one-two (1-2) as shown by map thereof on file, in file 102 of parcel maps, page 44, in the Office of the County Recorder of Clark County, Nevada. (The "Parker Parcel").
  - C. Lindner owns an adjacent parcel of land situated in Clark County, State of Nevada, more particularly described as follows:  
  
That portion of the Northeast Quarter (NE ¼) of the Southwest Quarter (SW ¼) of Section 6, Township 20 South, Range 61 East, MDM, described as follows: Lot one-one (1-1) as shown by map thereof on file, in File 102 of Parcel Maps, Page 44, in the Office of the County Recorder of Clark County, Nevada. (The "Lindner Parcel").  
  
Saying and excepting therefrom an irrevocable easement for pedestrian and vehicular traffic, access, ingress and egress for the benefit of an adjoining and abutting parcel described above as set forth in that certain Grant, Bargain Sale Deed recorded October 1, 2001, in Book 20011001 as Document No. 02753, of Official Records.
  - D. S. Bruce Parker has provided real estate services to the parties.
  - E. The Parker Parcel and the Lindner Parcel are referred to jointly herein as the "Development Parcel".
  - F. Valley has entered into a Build to Suit Lease with MCSmith, LLC, a Nevada limited liability company, as tenant (a copy of which is attached hereto as Exhibit "C"), pursuant to which Valley has agreed to build and lease to the tenant a one story convenience food store with gas

pumps, car wash and car service facilities, including fifty-one parking stalls (the "Improvements"), all built on the Development Parcel.

- G. Whereas, the parties have applied for and received approval from the City of North Las Vegas to construct the Improvements upon the Development Parcel.
- H. Valley has obtained a commitment for a construction loan for the Improvements to built on the Development Parcel (the "Construction Loan").

NOW, THEREFORE, it is agreed as follows:

1. The parties desire that the Development Parcel be conveyed to Valley in return for membership interests in Valley, and that the Improvements be constructed in accordance with the Build to Suit Lease.
2. Parker hereby agrees to convey the Parker Parcel and Thirty Five Thousand Dollars (\$35,000.00) to Valley in return for a 36.45% membership interest in Valley.
3. Lindner agrees to transfer the Lindner Parcel to Valley in return for a 20% membership interest in Valley and upon the closing of the Construction Loan the assumption by Valley of an outstanding obligation secured by a Deed of Trust dated May 16, 2003, recorded May 22, 2003, shown as exception number 13 on the preliminary title report on the Lindner Parcel, in an amount not exceeding Three Hundred Eighty Thousand Dollars (\$380,000.00), including principal and interest ("Lindner Trust Deed") which is a lien upon the Lindner Parcel, to be paid by Valley upon the closing of the Construction Loan. Valley shall also pay upon the closing of the Construction Loan One Hundred Thirty Six Thousand Two Hundred Fifty Dollars (\$136,250.00) in cash to Lindner. In the event of the failure of Valley to pay the trust deed note or the cash payment upon the closing of the Construction Loan, the sole remedy for Lindner will be the reconveyance by Valley of the Lindner Parcel to Lindner and at that time Valley shall also reconvey the Parker Parcel to Parker and Lindner and Parker shall reconvey their membership interests in Valley to Valley.
4. S. Bruce Parker is owed commissions and has agreed to take a five percent (5%) membership interest in Valley in lieu of payment of the commissions.
5. Attached hereto as Exhibits "D" and "E" are the preliminary title reports on the Parker Parcel and the Lindner Parcel respectively. The parties agree that the exceptions to title contained in said reports are acceptable. However, property taxes for the year 2005 shall be prorated at closing.
6. Parker, Knowlton and Lindner hereby agree to execute the Amended Operating Agreement of Valley, in the form attached hereto as Exhibit "F".

7. The closing shall take place on or before January 31, 2005, at the offices of Chicago Title Agency of Nevada, Inc., 2300 West Sahara Avenue, #140, Las Vegas, Nevada 89102, at which time:
  - A. Parker shall deliver a warranty deed conveying the Parker Parcel to Valley.
  - B. Lindner shall deliver a warranty deed conveying the Lindner Parcel to Valley subject to the Lindner Trust Deed.
  - C. The parties shall sign the Amended Operating Agreement attached hereto as Exhibit "F".
  - D. The Lindner Trust Deed Note, not exceeding Three Hundred Eighty Thousand Dollars (\$380,000.00), shall be paid and a Reconveyance shall be recorded.
  - E. Lindner shall be paid the sum of One Hundred Thirty Six Thousand Two Hundred Fifty Dollars (\$136,250.00), less prorations.
8. Failure of the Construction Loan to close on or before January 31, 2005, shall cause this Agreement to be null and void, and Valley shall reconvey the Parker Parcel to Parker and the Lindner Parcel to Lindner, and Parker and Lindner shall reconvey their membership interests in Valley to Valley.
9. This Agreement may be executed in several counterparts and all so executed shall constitute one Agreement, binding on all the parties hereto even though all the parties are not signatories to the original or the same counterpart.

"Valley"

VALLEY ASCENT, LLC,  
a Nevada limited liability company

  
Brad L. Knowlton  
Manager & Sole Member

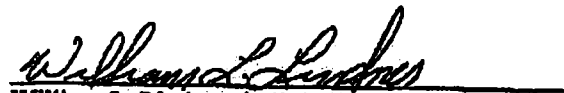
"Knowlton"

  
Brad L. Knowlton, individually

"Lindner"

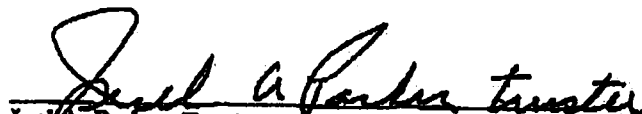
WILLIAM L. LINDNER AND MAXINE G.  
LINDNER TRUST OF 1988

  
William L. Lindner, Trustee

  
William L. Lindner, individually

"Parker"

JUEL A. PARKER FAMILY TRUST

  
Juel A. Parker, Trustee

"S. Bruce Parker"

STEPHEN BRUCE PARKER AND RENEE LYNN  
PARKER FAMILY TRUST

\_\_\_\_\_  
S. Bruce Parker, Trustee

\_\_\_\_\_  
S. Bruce Parker, individually

N:\20561\2\Agreement.upd

"Lindner"

WILLIAM L. LINDNER AND MAXINE G.  
LINDNER TRUST OF 1988

William L. Lindner, Trustee

William L. Lindner, individually

"Parker"

JUEL A. PARKER FAMILY TRUST

Juel A. Parker, Trustee

"S. Bruce Parker"

STEVEN  
STEVEN BRUCE PARKER AND RENEE LYNN  
PARKER FAMILY TRUST

S. Bruce Parker, Trustee

S. Bruce Parker, individually

MS065704/rev0001.rpt

## **EXHIBIT E**

MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
KARA B. HENDRICKS, ESQ.  
Nevada Bar No. 7743  
ALAYNE M. OPTE, ESQ.  
Nevada Bar No. 12623  
**GREENBERG TRAURIG, LLP**  
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Las Vegas, Nevada 89144  
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[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)  
[opica@gtlaw.com](mailto:opica@gtlaw.com)

*Attorneys for WILLIAM L. LINDNER, as Trustee of  
the William L. Lindner and Maxine G. Lindner Trust  
of 1988, JUEL A. PARKER, as Trustee of the Juel A.  
Parker Family Trust, LISA PARKER, as Trustee of the  
Juel A. Parker Family Trust, LISA PARKER, an  
individual, and S. BRUCE PARKER, as Trustee of the  
Steven Bruce Parker Family Trust*

**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BRAD L. KNOWLTON, an individual,

CASE NO: A-20-809612-B

Plaintiff.

DEPT. XI

v.

VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker  
Family Trust, LISA PARKER, an individual, and  
S. BRUCE PARKER, as Trustee of the Steven  
Bruce Parker Family Trust,

Defendants.

**DECLARATION OF LISA PARKER**

1 I, Lisa Parker, declare as follows:

2 1. I am Trustee of the Juel A. Parker Family Trust, which entity is one of four Members  
3 of Valley Ascent, LLC ("VA"). Moreover, I am interim manager of Valley Ascent, LLC. I  
4 make this Declaration in support of DEFENDANTS' OPPOSITION TO PLAINTIFF'S  
5 MOTION FOR PRELIMINARY INJUNCTION ON ORDER SHORTENING TIME and  
6 COUNTERMOTION TO APPOINT INTERIM MANAGER AND ORDER COMPELLING  
7 PLAINTIFF TO PRODUCE VALLEY ASCENT, LLC's BOOKS AND RECORDS.

8 2. Except for any matter stated upon information and belief, I have personal knowledge  
9 of the facts herein and could competently testify if called upon by the Court.

10 3. Valley Ascent, LLC (the "Company" and "VA") was originally formed by Plaintiff  
11 Brad Knowlton, and later transformed from a single member LLC to an LLC with four  
12 members to facilitate building a carwash on property owned by the Juel Trust and Lindner  
13 Trust.

14 4. Knowlton's interest in the arrangement came from the sweat equity he promised to  
15 provide by acting as the general contractor to build the car wash on the property owned by the  
16 Juel Trust and Lindner Trust. See February 18, 2005 Agreement, a true and correct copy of  
17 which is attached to the Opposition as Exhibit D. The Juel Trust's and Lindner Trust's  
18 interests came from the physical property contributed upon which the car wash was built, and  
19 the Parker Trust's interest from services rendered to the Company in lieu of taking a real  
20 estate commission and broker fee for the deal with Fabulous Freddy's.

21 5. After the project was complete, Knowlton served as manager for the Company.  
22 However, the Trustees of the Juel A. Parker Family Trust were not aware that Knowlton was  
23 taking a 3% management fee or that he later unilaterally increased the management fee to 4%.  
24 Upon information and belief, the other members were too unaware aware of this fact.

25 6. Written consent of the members of VA approving the management fee has never been  
26 provided by Knowlton.

7. Upon information and belief, Knowlton hid the fact that he was paying himself a management fee from the Company's Majority Members<sup>1</sup> and did not disclose the same in annual reports or tax records provided to the Juel Trust.

8. My father Juel A. Parker appointed me as trustee of the Juel Trust in November of 2018 as he was aging and no longer able to see well enough to handle financial matters. It was not until after my appointment that information regarding the management fee was uncovered.

9. Once I began looking at the available books and records of VA which are slim and clearly lacking - I had numerous significant concerns regarding what I was seeing. For example, Mountain American Credit Union ("MACU") loan documents showed a balance owed for a construction loan in excess of \$4.5 million, rather than the several hundred thousand dollars we understood the loan to be.

10. Additionally, I identified that distributions were not paid to the Juel Trust for December 2016. After nearly three years of requesting the payment, it was finally received in November of 2019.

11. Several months after I was appointed as the trustee of Juel Trust, I was contacted by an attorney representing Knowlton's ex-wife in pending divorce proceedings in Utah and was provided VA documents that were produced in that proceeding which raised a number of additional red-flags.

12. By way of example, documents provided include Bank of Utah account information for accounts that were held in VA's name which showed funds as of January 31, 2019 of \$1,001,690 in the account ending 0158.<sup>2</sup> Information recently provided by Bank of Utah, however, indicates the balance of that same account decreased significantly and as of January 22, 2020, the account ending in 0158 had a balance of \$195,717. Documents relating to the

<sup>1</sup> Collectively, the William L. Lindner and Maxine G. Lindner Trust of 1988, Juel A. Parker Family Trust and Steven Bruce Parker Family Trust own a majority interest in the Company. Herein, said members are referred to as "Majority Members."

<sup>2</sup> Records also indicate that \$150,000 was transferred to a market place account "per Brad" in February of 2019, but no Valley Ascent account has been identified to date in this amount. Such records are attached hereto as Exhibit I.

1 account and/or a legitimate explanation for the reduced balances has not been provided by  
2 Knowlton.

3 13. Additionally, I obtained information that indicated Knowlton refinanced the Company  
4 loan to purportedly obtain a lower interest rate and payment. However, the Majority Members  
5 did not receive an increase in their monthly disbursements, but rather, received a decreased  
6 distribution, and the limited documents available do not indicate loan payment increased thus  
7 begging the question of where the savings from the refinancing went.

8 14. Based upon what I saw, I raised concerns regarding the Company's operations with  
9 Bruce Parker and William Lindner, trustees for the other trust members of the Company.

10 15. The Majority Members ultimately opted to hold a telephonic meeting to discuss  
11 concerns on December 23, 2019, and during the same voted to remove Knowlton as manager  
12 of VA due to what could only be reasonably described as self-dealing and gross negligence.  
13 See Written Consents executed by the Majority Members, a true and correct copy of which is  
14 attached as Exhibit 6 to the Motion.

15 16. At the same meeting, the Majority Members appointed me as interim manager of VA,  
16 and authorized me to have access to all Company books and records; access to bank accounts;  
17 to act on behalf of the Company in relation to its lease with Fabulous Freddy's; and, to make  
18 necessary arrangements for the payment of Company taxes and fees. See Written Consent  
19 executed by the Majority Members, a true and correct copy of which is attached as Exhibit 3  
20 to the Motion.

21 17. A meeting of all members of VA was held on January 15, 2020, which included  
22 discussions regarding why the Majority Members voted to remove Knowlton from the  
23 manager position, including their lack of knowledge of the management fee he was paying  
24 himself, missed distribution payments, and the failure of Knowlton to provide Company  
25 business records as requested.

26 18. Moreover, during the meeting, Knowlton was afforded an opportunity to explain his  
27 position, and his counsel represented that the missing business records would be provided.  
28 Unfortunately, time has proven that representation was inaccurate.

1 19. Additionally, during the January 15, 2020 meeting, the members discussed the election  
2 of a new manager. Knowlton indicated that he wanted to remain manager and charge a fee of  
3 4% fee. I also offered to be the permanent manager and am willing to do so without charging  
4 any fee for my services.

5 20. The members were unable to reach an agreement regarding a new manager as  
6 Knowlton expressly indicated that he would not vote for anyone to be manager but himself  
7 and the Majority Members indicating they were not comfortable with Knowlton continuing in  
8 that role.

9 21. The Majority Members also suggested that a third-party be considered to act as  
10 manager until the parties could resolve their differences, however, Knowlton refused to  
11 consider the same.

12 22. After receiving notice of the Majority Members actions to remove Knowlton as  
13 manager, Bank of Utah, MACU and Fabulous Freddy's all expressed a willingness to work  
14 with me. Accounts were only frozen after Knowlton threatened the entities and refused to  
15 acknowledge his removal and the wishes of the Majority Members.

16 23. In my role as interim manager of VA, I requested that Fabulous Freddy's send the rent  
17 payment directly to MACU. MACU is in receipt of the February rent payment and is willing  
18 to deposit the funds into VA's checking account if all parties consent. However, Knowlton  
19 refuses to agree to the same

20 24. After Bank of Utah received notice of Knowlton's removal as manager and the  
21 appointment of me as interim manager, the bank advised me of its intent to close VA's account  
22 due to prior fraud on the account and expressed a willingness to send the funds to me.  
23 Thereafter, Knowlton contacted Bank of Utah, disputed his removal, and the bank funds were  
24 ultimately frozen. Bank of Utah has since retracted its statement that there was fraud on the  
25 VA accounts, but has maintained its request that VA's Bank of Utah accounts be closed.

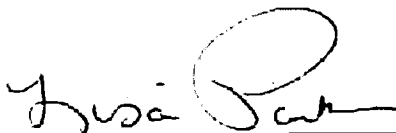
26 25. Despite the Majority Members differences with Mr. Knowlton, there was a common  
27 concern expressed during the January 15, 2020 meeting that VA's loan payment be made.  
28 Fortunately, the members were able reach an agreement that allowed certain funds to be

1 transferred from a Bank of Utah account to MACU and permitted MACU to use available  
2 funds to make the January, February and March loan payments. See, Unanimous Written  
3 consent of Members, a true and correct copy of which is attached as Exhibit 11 to Motion.

4 26. The Amended Operating Agreement contains a provision by which if 60 days after the  
5 removal of the manager a new manager is not appointed by the members that F. Scott  
6 Johansen is appointed as the Manager until a replacement Manager is appointed by the  
7 Members. I reached out to Mr. Johansen regarding the same and he had no knowledge of the  
8 Amended Operating Agreement and declined to serve as the Manager of VA.

9 I, Lisa Parker, declare under the penalty of perjury, that the foregoing statements are true and  
10 correct.

11 Executed this 6<sup>th</sup> day of March, 2020.

12  
13   
14 Lisa Parker

# **Exhibit 1**

VALLEY ASCENT LLC  
BRADLEY L KNOWLTON  
310 W PARK LANE  
FARMINGTON UT 84025-3647

**BUSINESS IMM**

Account Number XXXXXXXXXX 0158

Minimum Balance:	\$1,001,461.14	Balance Last Stmt. (12-31-18):	\$1,001,461.14
Average Available Balance:	\$1,001,461.14	1 Credits:	\$229.65
Average Balance:	\$1,001,461.14	0 Debits:	\$0.00
		Balance this Stmt. (01-31-19):	\$1,001,690.79

**OTHER CREDITS**

Date	Description	Amount
01-31	INTEREST	229.65

**CALCULATED INTEREST**

Average Ledger Balance:	\$1,001,461.14	Interest Earned:	\$229.65
Interest Paid this Period:	\$229.65	Days in Period:	31
Interest Paid 2019:	\$229.65	Annual Percentage Yield Earned:	0.270%

**DAILY BALANCE**

Date	Balance	Date	Balance	Date	Balance
01-31	1,001,690.79				

Your dreams may change, but one thing doesn't – Bank of Utah's ability to help you achieve them. Bank of Utah is more than your neighborhood bank, we're your partner in planning for all of life's milestones. From your first home, to a new car, to your dream vacation, we offer an array of financial services that move your life forward. Call, click, or visit any branch to find out how we help make dreams come true.

Access your accounts from home with Online Banking at [www.bankofutah.com](http://www.bankofutah.com)

RESPONDENT010445



1-800-516-5559 | www.BankofUtah.com

Member FDIC

### How to balance your statement:

- 1) List your statement ending balance. \$ \_\_\_\_\_
- 2) Add any deposits made but not included on the statement  
(i.e. Direct deposits, Social Security, etc.)  
+ \_\_\_\_\_  
+ \_\_\_\_\_  
+ \_\_\_\_\_
- 3) Subtotal \$ \_\_\_\_\_
- 4) Subtract total outstanding debits  
(from the table to the right)  
- \_\_\_\_\_
- 5) This is your balance  
(This should agree with your check register)  
\$ \_\_\_\_\_

Outstanding Debits/Checks (not yet charged to your statement):		
Check No.	Description	Amount
		\$
Total Outstanding Debits:		\$

If your adjusted balances calculated above do not agree, recheck your figures and compare transactions on your statement with those recorded in your check register. Make sure all of your transactions are accurately recorded in your check register. Recheck your register for addition and subtraction errors. **If you have additional questions about a particular check or transaction, please call 1-800-516-5559 or visit your local branch.**

### Bank of Utah Locations:

#### Cache & Box Elder County Branches

**Logan:** 435-752-7102 • 5 East 1400 North, Logan  
**Providence:** 435-752-7198 • 121 North Gateway Dr, Providence  
**Tremonton:** 435-257-3613 • 25 North Tremont St, Tremonton  
**Brigham City:** 435-723-9313 • 80 East 800 South, Brigham City

#### Weber & Davis County Branches

**Ben Lomond:** 801-399-4425 • 115 Washington Blvd, Ogden  
**Ogden (Main):** 801-409-5000 • 2605 Washington Blvd, Ogden  
**South Ogden:** 801-394-6611 • 4605 Harrison Blvd, Ogden  
**Roy:** 801-825-1647 • 5729 South 1900 West, Roy  
**Layton:** 801-773-2221 • 717 West Antelope Drive, Layton  
**Bountiful:** 801-689-0900 • 100 South 500 West, Bountiful

#### Wealth Management & Corporate Trust

200 E. South Temple, Ste. 210-220, Salt Lake City

#### Salt Lake, Utah & Wasatch County Branches

**7th South:** 801-532-7111 • 711 South State St, Salt Lake City  
**Redwood:** 801-973-2798 • 2309 South Redwood Rd, Salt Lake City  
**Sandy:** 801-562-5375 • 9320 South State St, Sandy  
**Lindon:** 801-922-9888 • 144 South State St, Lindon  
**Orem:** 801-765-4401 • 1000 West 800 North, Orem  
**Provo:** 801-377-4222 • 3670 North University, Provo  
**Heber:** 435-654-1300 • 620 West 100 South, Heber

#### Home Loans Only

**Logan City Center:** 435-792-4600 • 45 East 200 North, Ste 102, Logan  
**South Towne:** 801-285-5000 • 11075 S. State St, Bldg 2, Sandy  
**Price:** 435-637-3305 • 475 East Main St, Suite B, Price  
**St. George:** 435-986-7221 • 243 East St. George Blvd, Ste. 110

#### NOTICE IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR STATEMENT, AMOUNTS BILLED TO YOU OR ELECTRONIC TRANSFERS

If you think your statement, amounts billed to you, or any receipt of an electronic transfer is wrong, or if you need more information about any transfer or transaction on your statement or any receipt, write us on a separate sheet at the appropriate address listed above as soon as possible. You can telephone us, but we may require you to give a written confirmation of an error within 10 business days of an oral notice. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

In your letter, give us the following information: (1) Your name and account number, (2) The dollar amount of the suspected error, (3) Description of the error; and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

Generally, we will determine whether an error occurred within 10 business days (20 business days if the transfer involved a new account) after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days (90 days if the transfer involved a new account, a point-of-sale transaction, or a foreign-initiated transfer) to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days (20 business days if the transfer involved a new account) for the amount you think is in error, so you will have the use of the money during the time it takes us to complete our investigation. If we asked for your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

RESPONDENT010446 <sup>11/29/2018</sup>

VALLEY ASCENT LLC  
BRADLEY L KNOWLTON  
310 W PARK LANE  
FARMINGTON UT 84025-3647

**BUSINESS IMM**

Account Number [REDACTED] 0158

Minimum Balance:	\$851,690.79	Balance Last Stmt. (01-31-19):	\$1,001,690.79
Average Available Balance:	\$867,762.21	1 Credits:	\$179.73
Average Balance:	\$867,762.21	1 Debits:	\$150,000.00
		Balance this Stmt. (02-28-19):	\$851,870.52

**OTHER CREDITS**

Date	Description	Amount
02-28	INTEREST	179.73

**OTHER DEBITS**

Date	Description	Amount
02-04	TRANSFER TO Market Place 0406 per Brad	150,000.00

**CALCULATED INTEREST**

Average Ledger Balance:	\$867,762.21	Interest Earned:	\$179.73
Interest Paid this Period:	\$179.73	Days in Period:	28
Interest Paid 2019:	\$409.38	Annual Percentage Yield Earned:	0.270%

**DAILY BALANCE**

Date	Balance	Date	Balance
02-04	851,690.79	02-28	851,870.52

Access your accounts from home with Online Banking at [www.bankofutah.com](http://www.bankofutah.com)

RESPONDENT010447



1-800-516-5559 | www.BankofUtah.com

Member FDIC 

### How to balance your statement:

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+ \_\_\_\_\_  
+ \_\_\_\_\_  
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Price: 435-637-3305 • 475 East Main St, Suite B, Price  
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In your letter, give us the following information: (1) Your name and account number, (2) The dollar amount of the suspected error, (3) Description of the error; and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

Generally, we will determine whether an error occurred within 10 business days (20 business days if the transfer involved a new account) after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days (90 days if the transfer involved a new account, a point-of-sale transaction, or a foreign-initiated transfer) to investigate your complaint or question. If we decide to do this, we will credit your account within 10 business days (20 business days if the transfer involved a new account) for the amount you think is in error, so you will have the use of the money during the time it takes us to complete our investigation. If we asked for your complaint or question in writing and we do not receive it within 10 business days, we may not credit your account.

RESPONDENT010448

11/29/2018

# **EXHIBIT F**

1 MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
2 KARA B. HENDRICKS, ESQ.  
Nevada Bar No. 7743  
3 ALAYNE M. OPIE, ESQ.  
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10 *Attorneys for WILLIAM L. LINDNER, as Trustee of*  
11 *the William L. Lindner and Maxine G. Lindner Trust*  
12 *of 1988, JUEL A. PARKER, as Trustee of the Juel A.*  
13 *Parker Family Trust, LISA PARKER, as Trustee of*  
14 *the Juel A. Parker Family Trust, LISA PARKER, an*  
15 *individual, and S. BRUCE PARKER, as Trustee of the*  
16 *Steven Bruce Parker Family Trust*

17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 BRAD L. KNOWLTON, an individual,

20 Plaintiff,

21 v.

22 VALLEY ASCENT, LLC, a Nevada limited  
23 liability company, WILLIAM L. LINDNER, as  
24 Trustee of the William L. Lindner and Maxine G.  
25 Lindner Trust of 1988, JUEL A. PARKER, as  
26 Trustee of the Juel A. Parker Family Trust, LISA  
27 PARKER, as Trustee of the Juel A. Parker Family  
28 Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

Defendants.

CASE NO: A-20-809612-B

DEPT. XI

**DECLARATION OF WILLIAM L.  
LINDNER**

1 I, William Lindner, declare as follows:

2 1. I am Trustee of the William L. Lindner and Maxine G. Lindner Trust of 1988, which  
3 entity is one of four Members of Valley Ascent, LLC ("VA"). I make this Declaration in support of  
4 DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION  
5 ON ORDER SHORTENING TIME and COUNTERMOTION TO APPOINT INTERIM MANAGER  
6 AND ORDER COMPELLING PLAINTIFF TO PRODUCE VALLEY ASCENT, LLC's BOOKS  
7 AND RECORDS.

8 2. Except for any matter stated upon information and belief, I have personal knowledge of  
9 the facts herein and could competently testify if called upon by the Court.

10 3. Prior to December 2019, Plaintiff Brad Knowlton served as manager for VA. However,  
11 I was unaware that Knowlton was taking a 3% management fee or that he later unilaterally increased  
12 the management fee to 4%. Upon information and belief, the other members were also unaware of this  
13 fact.

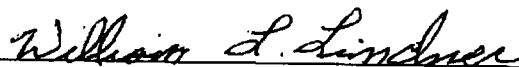
14 4. Notably, there is no written consent of the members of VA as expressly required by the  
15 AOA to provide compensation to the manager in the form taken.

16 5. Upon information and belief, Knowlton hid the fact that he was paying himself a  
17 management fee from the Company's Majority Members<sup>1</sup> and he did not disclose the same in annual  
18 reports or tax records provided to me.

19 6. On or about November 2016, September 2018, January 2019 and November 2019,  
20 Knowlton failed to pay monthly distributions to the Lindner Trust as the same were never received or  
21 deposited. While I have attempted to resolve this matter with Knowlton, my efforts were ignored.

22 I, William Lindner, declare under the penalty of perjury, that the foregoing statements are true  
23 and correct.

24 Executed this 6<sup>th</sup> day of March, 2020.

25   
26 William Lindner

27  
28 <sup>1</sup> Collectively, the William L. Lindner and Maxine G. Lindner Trust of 1988, Juel A. Parker Family Trust and Steven  
Bruce Parker Family Trust own a majority interest in the Company. Herein, said members are referred to as "Majority  
Members."

## **EXHIBIT G**

1 MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
2 KARA B. HENDRICKS, ESQ.  
Nevada Bar No. 7743  
3 ALAYNE M. OPIE, ESQ.  
Nevada Bar No. 12623  
4 **GREENBERG TRAURIG, LLP**  
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Las Vegas, Nevada 89144  
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Email: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)  
8 [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)  
9 [opiea@gtlaw.com](mailto:opiea@gtlaw.com)

10 *Attorneys for WILLIAM L. LINDNER, as Trustee of*  
11 *the William L. Lindner and Maxine G. Lindner Trust*  
12 *of 1988, JUEL A. PARKER, as Trustee of the Juel A.*  
13 *Parker Family Trust, LISA PARKER, as Trustee of*  
14 *the Juel A. Parker Family Trust, LISA PARKER, an*  
15 *individual, and S. BRUCE PARKER, as Trustee of the*  
16 *Steven Bruce Parker Family Trust*

17 **EIGHTH JUDICIAL DISTRICT COURT**

18 **CLARK COUNTY, NEVADA**

19 BRAD L. KNOWLTON, an individual,  
20  
21 Plaintiff,

22 v.

23 VALLEY ASCENT, LLC, a Nevada limited  
24 liability company, WILLIAM L. LINDNER, as  
25 Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker Family  
Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

26 Defendants.  
27  
28

CASE NO: A-20-809612-B

DEPT. XI

**DECLARATION OF KARA B.  
HENDRICKS**

1 I, Kara B. Hendricks, declare as follows:

2 1. I am a Shareholder of the law firm of Greenberg Traurig, LLP, and counsel for  
3 Defendants WILLIAM L. LINDNER, as Trustee of the William L. Lindner and Maxine G. Lindner  
4 Trust of 1988; JUEL A. PARKER, as Trustee of the Juel A. Parker Family Trust; LISA PARKER, as  
5 Trustee of the Juel A. Parker Family Trust; LISA PARKER, an individual; and, S. BRUCE PARKER,  
6 as Trustee of the Steven Bruce Parker Family Trust (collectively "Defendants" or "Majority  
7 Members").

8 2. I make this Declaration in support of DEFENDANTS' OPPOSITION TO  
9 PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION ON ORDER SHORTENING TIME  
10 and COUNTERMOTION TO APPOINT INTERIM MANAGER AND ORDER COMPELLING  
11 PLAINTIFF TO PRODUCE VALLEY ASCENT, LLC's BOOKS AND RECORDS ("Opposition").

12 3. Except for any matter stated upon information and belief, I have personal knowledge of  
13 the facts herein and could competently testify if called upon by the Court.

14 4. In an effort to fully uncover the business dealings of VA, on October 2, 2019, a business  
15 records demand was made to Knowlton pursuant to NRS 86. A true and correct copy of the demand is  
16 attached to the Opposition at **Exhibit I**.

17 5. After the expiration of the time for compliance with NRS 86.241, counsel for Knowlton  
18 acknowledged the request and indicated they were in the process of collecting the documents. A true  
19 and correct copy of the response is attached to the Opposition at **Exhibit J**.

20 6. The same day, I responded and requested they be provided the documents by October  
21 25, 2020. A true and correct copy of said communication is attached to the Opposition at **Exhibit K**.

22 7. Thereafter, limited documents were provided on Knowlton's behalf which counsel  
23 represented were "the documents that Valley Ascent, LLC currently has in its possession." A true and  
24 correct copy of the correspondence is attached to the Opposition at **Exhibit L**.

25 8. However, the documents provided by Knowlton through counsel were woefully  
26 deficient and did not include:

- 27 • List of payments to affiliates of the Company *or its manager and the purpose/nature and*  
28 *method of calculation such as, for example, management fees, license fees, etc. and agreements*

1 *separate from the Company's Operating Agreement that govern services provided by such*  
2 *affiliates;*

- 3 • Bank of Utah Account records from December 2016- February 2017 and April 2019-present  
4 for account ending in 0581;
- 5 • Bank of Utah Account records for account ending in 7687;
- 6 • Account statements for the Mountain America checking account in the Company's name;
- 7 • Accounting records in an electronic format, such as QuickBooks or its equivalent, for the  
8 Relevant Period, including the version of QuickBooks used and applicable user ID and  
9 passwords;
- 10 • Check images (or copies of the same) to support all disbursements made by the Company from  
11 January 2018- present;
- 12 • Loan documents and guaranty documents evidencing any outstanding loans and/or loan  
13 modifications to which the Company is a party and any documents evidencing personal  
14 guaranty agreements related to the same;
- 15 • Copies of payroll records;
- 16 • For any affiliate transfers (e.g., "Intercompany") not for services provided, documents sufficient  
17 to show the purpose for such transactions and the consideration received by the Company for  
18 any Intercompany transfers;
- 19 • True and complete records regarding the amount of cash and a description of the statement of  
20 the agreed value of any other property or services contributed by each member and which each  
21 member has agreed to contribute in the future, as well as the date on which each became a  
22 member; and
- 23 • Summaries of the capital accounts for 2018- present.

24 9. On December 23, 2019 the Majority Members held a telephonic meeting during which  
25 Knowlton was reviewed as manger of VA and Lisa Parker was appointed as an interim. Once signatures  
26 were compiled on the written consents, I provided a copy of the same to Knowlton and his counsel,  
27 advised that the Majority Members intended to hold a meeting on January 15, 2020 to appoint a new  
28 permanent manager of VA, and invited Knowlton to attend.

10. Thereafter, notice was provided to Bank of Utah, Mountain America Credit Union  
("MACU") and Fabulous Freddy's of the action taken by the Majority Members.

11. Knowlton and his counsel attended the January 15, 2020 meeting; however, Knowlton  
refused to consider any manager but himself, including Lisa Parker whom offered to act in the role of  
manager free of charge.

12. Following the January 15, 2020 there were numerous communications between counsel  
for the Majority Members and counsel for Knowlton including correspondence I sent to Mr. Beckstrom  
on January 23, 2020 renewing my client's request for books and records and providing a summary of  
what was previously requested and provided. A true and correct copy of my January 15, 2020  
correspondence with Mr. Beckstrom is attached to the Opposition as Exhibit N.

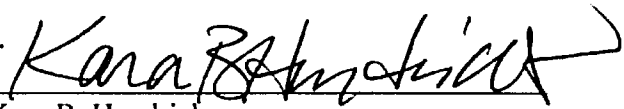
1 13. Counsel for the parties also had communication with Bank of Utah and MACU  
2 regarding VA accounts. Information provided by Bank of Utah, indicates the balance of the account  
3 ending in 0158 as of January 22, 2020 was \$195,717. Attached to the Opposition as **Exhibit H** are true  
4 and correct copies of my email exchanges with Bank of Utah detailing the account balances. Notably,  
5 the same bank account had a balance of \$1,001,690 as of January 31, 2019 based on documents obtained  
6 from Knowlton's divorce proceedings.

7 14. On February 20, 2020, counsel for the parties were notified that MACU received  
8 Fabulous Freddy's rent check for February and was willing to deposit the same into VA' checking  
9 account.

10 15. On behalf of the Majority Members, I requested that MACU deposit the check into the  
11 Company's checking account and instructed that the funds not be utilized by MACU without further  
12 consent of all members of the LLC. True and correct copies of email exchanges with MACU and  
13 counsel are attached to the Opposition at **Exhibit M**. However, Knowlton refused to consent to the  
14 deposit of funds. *Id.* As of March 3, 2020, MACU continues to hold the funds awaiting the consent of  
15 all parties and/or direction from the court to deposit the same. *Id.*

16 I, Kara B. Hendricks, declare under the penalty of perjury, that the foregoing statements are true  
17 and correct.

18 Executed this 6<sup>th</sup> day of March, 2020.

19   
20 Kara B. Hendricks  
21  
22  
23  
24  
25  
26  
27  
28

## **EXHIBIT H**

**From:** Tufts, David W.  
**To:** Steven W. Beckstrom; Hendricks, Kara (Shld-LV-LT)  
**Subject:** RE: Valley Ascent, LLC  
**Date:** Wednesday, January 22, 2020 1:56:33 PM  
**Attachments:** [image001.png](#)  
[image002.jpg](#)  
[Logo\\_570867ab-4cae-4e30-8683-b2e2d4a1baf1.png](#)

---

Kara, Steven,

There are two open accounts in the name of Valley Ascent, LLC. These are Account [REDACTED] 0158 (\$195,717.31) & [REDACTED] 0067 (\$225,962.21).

David Tufts

**David W. Tufts | Attorney at Law**

Durham Jones & Pinegar, P.C.  
111 S. Main Street, Suite 2400 | Salt Lake City, UT 84111  
Phone: 801.415.3000 | Fax: 801.415.3500  
[www.djplaw.com](http://www.djplaw.com) | [DTufts@djplaw.com](mailto:DTufts@djplaw.com)



**From:** Steven W. Beckstrom <[SWB@scmlaw.com](mailto:SWB@scmlaw.com)>  
**Sent:** Wednesday, January 22, 2020 2:40 PM  
**To:** Tufts, David W. <[DTufts@djplaw.com](mailto:DTufts@djplaw.com)>; [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)  
**Subject:** RE: Valley Ascent, LLC

I am ok to share account numbers and balances for Valley Ascent, LLC accounts only. No other accounts associated with Mr. Knowlton or entities associated with him should be shared.



**Steven W. Beckstrom | Lawyer**  
555 South Bluff Street, #301 | St. George, Utah 84770  
Direct: [435.215.2309](tel:435.215.2309) | Main: [435.673.8288](tel:435.673.8288) | [www.scmlaw.com](http://www.scmlaw.com)

**From:** Tufts, David W. <[DTufts@djplaw.com](mailto:DTufts@djplaw.com)>  
**Sent:** Wednesday, January 22, 2020 2:38 PM  
**To:** [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com); Steven W. Beckstrom <[SWB@scmlaw.com](mailto:SWB@scmlaw.com)>  
**Subject:** RE: Valley Ascent, LLC

Kara, Steven,

I told you yesterday that I misspoke, and there was no notice sent to Valley Ascent, LLC. As such, there is no notice I can send you. I'm not authorized provide information about other entities.

If Steven, will give his consent, I'm authorized to tell you the account numbers and balances of Valley Ascent, LLC accounts that remain open. Steven, is it okay for me to provide this information to both of you?

David Tufts

**David W. Tufts | Attorney at Law**

Durham Jones & Pinegar, P.C.

111 S. Main Street, Suite 2400 | Salt Lake City, UT 84111

Phone: 801.415.3000 | Fax: 801.415.3500

[www.djplaw.com](http://www.djplaw.com) | [DTufts@djplaw.com](mailto:DTufts@djplaw.com)



**From:** [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com) <[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)>

**Sent:** Tuesday, January 21, 2020 6:23 PM

**To:** [SWB@scmlaw.com](mailto:SWB@scmlaw.com); Tufts, David W. <[DTufts@djplaw.com](mailto:DTufts@djplaw.com)>

**Subject:** RE: Valley Ascent, LLC

David,

My understanding is that Bank of Utah notified Mr. Knowlton that it wanted the accounts closed prior to my clients providing notice of the manager change earlier this month. Can you please provide a copy of such notices? Also, as we work through the stipulation, I want to make sure we have all of the Valley Ascent accounts referenced. Is the list below complete?

Account Number [REDACTED] 0581

Account Number [REDACTED] 7687

Account Number [REDACTED] 0158

Account Number [REDACTED] 0067

Is there also an account ending in 0061?

We appreciate your assistance in this regard.

Kara

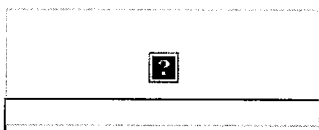
**Kara Hendricks**  
Shareholder

T 702.938.6856

**From:** Steven W. Beckstrom [<mailto:SWB@scmlaw.com>]  
**Sent:** Tuesday, January 21, 2020 4:08 PM  
**To:** Tufts, David W. <[DTufts@djplaw.com](mailto:DTufts@djplaw.com)>; Hendricks, Kara (Shld-LV-LT) <[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)>  
**Subject:** RE: Valley Ascent, LLC

Thank you for the correction. We will continue to work on finding a stipulation for the rest of the funds once we get the initial payment sent out to MACU.

Thanks,



**Steven W. Beckstrom | Lawyer**  
555 South Bluff Street, #301 | St. George, Utah 84770  
Direct: [435.215.2309](tel:435.215.2309) | Main: [435.673.8288](tel:435.673.8288) |  
[www.scmlaw.com](http://www.scmlaw.com)

**From:** Tufts, David W. <[DTufts@djplaw.com](mailto:DTufts@djplaw.com)>  
**Sent:** Tuesday, January 21, 2020 4:59 PM  
**To:** [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com); Steven W. Beckstrom <[SWB@scmlaw.com](mailto:SWB@scmlaw.com)>  
**Subject:** RE: Valley Ascent, LLC

Kara, Steven,

I apologize, because I misspoke when I said that the bank previously provided a notice to Valley Ascent LLC that it was closing Valley Ascent's accounts at the end of January. But, it remains the case that the bank wishes to close the accounts due to the pending control dispute between the members. As such, I again ask that you confer with Steven to work out a stipulation that will allow the bank to interplead the remaining balance with the court.

Regards,

David Tufts

**David W. Tufts | Attorney at Law**

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111 S. Main Street, Suite 2400 | Salt Lake City, UT 84111  
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[www.djplaw.com](http://www.djplaw.com) | [DTufts@djplaw.com](mailto:DTufts@djplaw.com)



**From:** [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com) <[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)>  
**Sent:** Tuesday, January 21, 2020 1:48 PM  
**To:** Tufts, David W. <[DTufts@djplaw.com](mailto:DTufts@djplaw.com)>; [SWB@scmlaw.com](mailto:SWB@scmlaw.com)  
**Subject:** RE: Valley Ascent, LLC

David,

We are working on the stipulation/consent. Can you please provide a copy of the notice provided to Valley Ascent that the accounts were being closed?

Thanks,  
Kara

**Kara Hendricks**  
Shareholder

T 702.938.6856

**From:** Tufts, David W. [<mailto:DTufts@djplaw.com>]  
**Sent:** Tuesday, January 21, 2020 12:38 PM  
**To:** Steven W. Beckstrom <[SWB@scmlaw.com](mailto:SWB@scmlaw.com)>; Hendricks, Kara (Shld-LV-LT) <[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)>  
**Subject:** Valley Ascent, LLC

**\*EXTERNAL TO GT\***

Steven, Kara,

After speaking with each of you over the weekend, I spoke with my client Bank of Utah this morning. The Bank requests the following:

1. With regard to the payment that is due, the two of you should work out the language of a stipulation that instructs Bank of Utah where to wire the payment (including financial institution name, wiring information, loan number reference), how much, and which account or accounts from which to take the payment. To be acceptable to the bank, your instructions should be signed by all of the members of Valley Ascent, LLC and it should include a representation that there are no other members except those who are the signers of the

instructions. Once you have the language of the instructions worked out between you, please send it to me so that the bank can review it, and approve it, before your clients execute the instructions.

2. With regard to the remaining balance in the accounts, the bank previously gave notice to Valley Ascent, LLC that it is going to close the accounts and the money had to be moved out by the end of January. I understand from speaking with each of you that there is or soon will be litigation commenced to resolve the control dispute between your clients. The bank stands by its position that the accounts need to be closed by the end of January. As such, the two of you and your clients should work out a stipulation that will allow the bank to interplead the remaining balance with the court before the end of January so that the funds can be held by the court, and distributed by the court as the court deems appropriate.

Please discuss these items between yourselves and get back to me at your convenience.

Regards,

David Tufts

**David W. Tufts | Attorney at Law**

Durham Jones & Pinegar, P.C.

111 S. Main Street, Suite 2400 | Salt Lake City, UT 84111

Phone: 801.415.3000 | Fax: 801.415.3500

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# **EXHIBIT I**

Kara Hendricks  
Tel 702.792.3773  
Fax 702.792.9002  
hendricksk@gtlaw.com

October 2, 2019

**VIA ELECTRONIC MAIL AND CERTIFIED MAIL**

Valley Ascent, LLC  
c/o Resident Agent  
Matthew Taylor  
CT Corporation System  
701 A. Carson Street, Ste. 200  
Carson City, NV 89701  
[Ct-statecommunications@wolterskluwer.com](mailto:Ct-statecommunications@wolterskluwer.com)

Brad L. Knowlton  
310 West Park Lane  
Farmington, UT 84025  
[Bradk@ascentconstruction.com](mailto:Bradk@ascentconstruction.com)

Brad L. Knowlton  
25 South Main, Suite 200  
Centerville, Utah 84014  
[Bradk@ascentconstruction.com](mailto:Bradk@ascentconstruction.com)

**Re: Juel A. Parker Family Trust's Demand for Valley Ascent, LLC's Business  
Records Pursuant to NRS Chapter 86**

Dear Mr. Taylor and Mr. Knowlton:

This law firm represents the Juel A. Parker Family Trust (the "Trust") with respect to its membership interest in Valley Ascent, LLC (the "Company"). Pursuant to NRS 86.241, *et seq.* and Article IV of the Company's Amended Operating Agreement (the "Operating Agreement"), the Trust hereby demands the production of the Company's books and records as identified herein in order to examine and evaluate such books and records in connection with, and in relation to, the Trust's interests as a member in the Company. The Trust needs such documents in order to, among other things, evaluate the current financial status and viability of the Company, review the Company's accounting for the Trust's capital contributions and verify its distributions, and to properly exercise its voting rights as contemplated by Article VIII of the Company's Operating Agreement. The books and records sought herein relating to the Company shall relate to the time period of January 1, 2016 through the present (the "Relevant Period").

**Greenberg Traurig, LLP | Attorneys at Law**

10845 Griffith Peak Drive | Suite 600 | Las Vegas, Nevada 89135 | T +1 702.792.3773 | F +1 702.792.9002

Albany. Amsterdam. Atlanta. Austin. Berlin. Boca Raton. Boston. Chicago. Dallas. Delaware. Denver. Fort Lauderdale. Houston. Las Vegas. London. Los Angeles. Mexico City. Miami. Minneapolis. New Jersey. New York. Northern Virginia. Orange County. Orlando. Philadelphia. Phoenix. Sacramento. San Francisco. Seoul. Shanghai. Silicon Valley. Tallahassee. Tampa. Tel Aviv. Tokyo. Warsaw. Washington, D.C. West Palm Beach. Westchester County.

Operates as "GreenbergTraurig Germany, LLP," "A separate UK registered legal entity," "GreenbergTraurig S.C.," "GreenbergTraurig LLP Foreign Legal Consultant Office," "A branch of GreenbergTraurig P.A. Florida USA," "GT Tokyo Horitsu Jimusho," "GreenbergTraurig Orzeszko sp. k."

It has also come to the Trust's attention that Company funds may have been commingled with Mr. Knowlton's personal funds in relation to the ongoing divorce proceedings between him and his wife in Utah. Moreover, records produced in those divorce proceedings raise concerns that the Company has not released accurate distributions in accordance with the Trust's ownership interest in the Company, as set forth in the Operating Agreement.

As contemplated by Article IV of the Company's Operating Agreement, and NRS 86.241 and 86.243, the Trust hereby demands production of complete records regarding the activities and status of the Company and its financial condition; the Company's federal, state, and local income tax returns for each year; true and complete records regarding the amount of cash and a description of the statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, as well as the date on which each became a member. For the avoidance of doubt, such books and records shall include the following specific information:

- Accounting records in an electronic format, such as QuickBooks or its equivalent, for the Relevant Period. Please specify the version of QuickBooks used and also provide the applicable user ID and password;
- Bank account statements for all Valley Ascent LLC accounts, including, but not limited to, the Bank of Utah Accounts ending in 7687 and 0158;
- Check images (or copies of the same) to support all disbursements made by the Company during the Relevant Period;
- Documents evidencing any outstanding loans and/or loan modifications to which the Company is a party and any documents evidencing personal guaranty agreements related to the same;
- Monthly reports from the onsite point of sales (POS) system that details the sales, including method of settlement, *i.e.*, cash, check, Visa/Mastercard, Amex, etc.;
- Federal income tax returns for the Company prepared and/or filed with the IRS during the Relevant Period;
- Quarterly and annual payroll returns filed with the IRS, including supporting schedules detailing out the employees. If such details are not kept with the payroll tax returns, then provide copies of the annual year-end payroll registers for the Relevant Period;
- Copies of any loan/note payable credit or long-term debt instruments to third parties, including associated benefits received by any other entities and/or individuals;

Matthew Taylor  
Brad L. Knowlton  
October 2, 2019  
Page 3

- List of payments to affiliates of the Company or its manager and the purpose/nature and method of calculation such as, for example, management fee, license fee, etc. If there are any agreements separate from the Company's Operating Agreement that govern services provided by such affiliates, please produce those as well;
- For any affiliate transfers (*e.g.*, "Intercompany") not for services provided, documents sufficient to show the purpose for such transactions and the consideration received by the Company for any Intercompany transfers;
- Summaries of the capital accounts; and,
- A copy of the filed Articles of Incorporation and all amendments thereto, together with executed copies of any power of attorney pursuant to which any Articles have been executed.

The aforementioned records are reasonably related to the Trust's interests in the Company, given its status as a 36.45% member of the Company, and its broad duties and rights to vote on issues relating to the Company's affairs as contemplated by Article VIII of the Company's Operating Agreement. Further, the Trust is likewise entitled under Article IV of the Company's Operating Agreement to inspect all books and records, and by NRS 86.241 to inspect the Company's full and complete financial records.

Attached please find a signed power of attorney and Mr. Parker's affidavit, executed on behalf of the Trust, as contemplated by NRS 86.241(6) and NRS 86.243(1), respectfully. **Please provide the requested records directly to me within ten (10) business days**, as contemplated by NRS 86.241(4).

Feel free to contact me directly if you have any questions or wish to discuss this demand further.

Best regards,



Kara Hendricks  
Shareholder

KBH:jkh

Enc: As stated

cc: Ryan Rudd

10150 South Centennial Parkway, Suite 150  
Sandy, Utah 84070  
[ryan@ruddfirm.com](mailto:ryan@ruddfirm.com)

**AFFIDAVIT OF LISA PARKER, TRUSTEE OF JUEL A. PARKER FAMILY TRUST,  
MEMBER OF VALLEY ASCENT, LLC, IN SUPPORT OF DEMAND FOR COMPANY  
RECORDS PURSUANT TO NRS 86.241 AND 86.243**

STATE OF NEVADA        )  
                                  ) ss:  
COUNTY OF CLARK        )

Lisa A. Parker, having been first duly sworn under other, hereby states as follows:

1. I am a trustee of the Juel A. Parker Family Trust ("Trust"). The Trust is a member of Valley Ascent, LLC (the "Company") and holds a 36.45% interest in the Company.

2. This Affidavit is submitted in support of the Trust's demand for business records and financial information concerning the Company to which the Trust is entitled pursuant to Article IV of the Company's Amended Operating Agreement ("Operating Agreement") and NRS 86.241 and 86.243.

3. The undersigned is seeking the information requested in the letter from counsel for purposes reasonably related to the Trust's interests in the Company and its broad duties and rights to vote on issues relating to the Company's affairs as contemplated by Article VIII of the Operating Agreement.

4. Among other things, the books and records requested are needed in order to evaluate the current financial status and viability of the Company, review the Company's accounting for the Trust's capital contributions, verify its distributions, and to properly exercise its voting rights as contemplated in the Operating Agreement.

5. For the avoidance of doubt as to the scope of information sought by the Trust's demand and request for information, the following is a specific list of documents and records that should be included within the documents provided to the Trust as they relate to the complete records regarding the activities and the status of the business and financial condition of the Company. Specifically, the Trust is requesting, is entitled to, and hereby demands, to have produced and/or to inspect and copy for the purposes stated herein for the period of January 1, 2016 through the present (the "Relevant Period"):

- Accounting records in an electronic format, such as QuickBooks or its equivalent, for the Relevant Period. Please specify the version of QuickBooks used and also provide the applicable user ID and password;
- Bank account statements for all Valley Ascent LLC accounts, including, but not limited to, the Bank of Utah Accounts ending in 7687 and 0158;
- Check images (or copies of the same) to support all disbursements made by the Company during the Relevant Period;
- Documents evidencing any outstanding loans and/or loan modifications to which the Company is a party and any documents evidencing personal guaranty agreements related to the same;
- Monthly reports from the onsite point of sales (POS) system that details the sales, including method of settlement, i.e., cash, check, Visa/Mastercard, Amex, etc.;
- Federal income tax returns for the Company prepared and/or filed with the IRS during the Relevant Period;
- Quarterly and annual payroll returns filed with the IRS, including supporting schedules detailing out the employees. If such details are not kept with the payroll tax returns, then provide copies of the annual year-end payroll registers for the Relevant Period;
- Copies of any loan/note payable credit or long-term debt instruments to third parties, including associated benefits received by any other entities and/or individuals;
- List of payments to affiliates of the Company or its manager and the purpose/nature and method of calculation such as, for example, management fee, license fee, etc. If there are any agreements separate from the Company's Operating Agreement that govern services provided by such affiliates, please produce those as well;
- For any affiliate transfers (e.g., "Intercompany") not for services provided, documents sufficient to show the purpose for such transactions and the consideration received by the Company for any Intercompany transfers;
- Summaries of the capital accounts; and,
- A copy of the filed Articles of Incorporation and all amendments thereto, together with executed copies of any power of attorney pursuant to which any Articles have been executed.

6. This demand to examine the foregoing documents and records is not desired for a purpose that is in the interest of a business or object other than the business of the Company, and the Trust has not at any time sold or offered for sale any list of members of any domestic or foreign

//

1 limited-liability company, or any list of stockholders of any domestic or foreign corporation, or aided  
2 or abetted any person in procuring any such record for any such purpose.

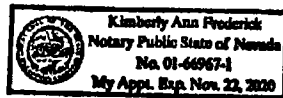
3 FURTHER AFFIANT SAYETH NAUGHT.

4 DATED this 1<sup>st</sup> day of October 2019.

5 Lisa Parker, TRUSTEE  
6 LISA PARKER, TRUSTEE  
7 On behalf of the Juel A. Parker Family Trust  
8  
9

10 Sworn to under oath and subscribed before  
11 me this 1<sup>st</sup> day of October 2019.

12 Kimberly Ann Frederick  
13 Notary Public in and for Clark County  
14 Clark County



## POWER OF ATTORNEY


PRINCIPAL: Lisa Parker, Trustee of the Juel A. Parker Family Trust

PROXY: Kara B. Hendricks, Esq.  
Greenberg Traurig, LLP  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, NV 89135  
702-792-3773  
[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)

I, Lisa Parker, in my capacity as the trustee of the Juel A. Parker Family Trust ("Trust"), hereby grant to Kara B. Hendricks, Esq., of the law firm Greenberg Traurig, LLP, power of attorney to take the actions set forth herein. Ms. Hendricks is authorized to demand, receive, review and discuss on behalf of the Trust copies of all of Valley Ascent, LLC's books and records including, but not limited to, its financial statements, tax returns, bank account statements, check images, point of sale reports, payroll returns, debt instruments, account summaries, accounting records and the like. Ms. Hendricks is specifically authorized to make a demand for records on behalf of the Trust under Articles IV of the Valley Ascent, LLC Amended Operating Agreement and Nevada Revised Statutes 86.241 and 86.243. It is requested that all telephone calls and correspondence relating to any requests or demands for information be directed to Ms. Hendricks at the above contact.

This power of attorney shall remain in full force and effect unless and until revoked by the Trust.

DATED this 15 day of October 2019.

  
\_\_\_\_\_  
LISA PARKER  
In my capacity as the trustee of the Juel A.  
Parker Family Trust

## **EXHIBIT J**

**From:** Nick Nielsen  
**To:** Hendricks, Kara (Shld-LV-LT)  
**Cc:** Ryan Rudd Esq.; Courtney Cooper  
**Subject:** Juel A. Parker Family Trust's and Valley Ascent, LLC  
**Date:** Monday, October 21, 2019 11:55:08 AM  
**Attachments:** Logo.png

---

**\*EXTERNAL TO GT\***

Dear Kara Hendricks,

Our firm is in receipt of a letter sent to our client, Bradley Knowlton, regarding the Juel A. Parker Family Trust and Valley Ascent, LLC. Our client has been in trial and out of town for the last two weeks but is working on collecting the documentation that has been requested in the letter. We anticipate that we will have the documents ready shortly.

Regards,

Nick Nielsen

--

Nick Nielsen, Esq.  
The Rudd Firm  
10150 S. Centennial Pkwy  
Suite 150  
Sandy, Utah 84070  
801-676-5337 - Office  
801-532-8400 - Fax  
nnielsen@ruddfirm.com



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## **EXHIBIT K**

**From:** Hendricks, Kara (Shld-LV-LT)  
**To:** "Nick Nielsen"  
**Cc:** Ryan Rudd Esq.; Courtney Cooper; Hicks, Jason (Assoc-LV-LT); Flintz, Andrea (Secy-LV-LT)  
**Subject:** RE: Juel A. Parker Family Trust's and Valley Ascent, LLC  
**Date:** Monday, October 21, 2019 1:24:00 PM

---

Nick,

Thank you for reaching out. The time for compliance with NRS 86.241 has already expired. However, we are willing to try and work with you. As such, please provide the requested documents electronically on or before the close of business October 25<sup>th</sup>. We can provide access to our secure file transfer system to facilitate the exchange if that would helpful.

Best,  
Kara

**Kara Hendricks**  
Shareholder

T 702.938.6856

**From:** Nick Nielsen [mailto:[nnielsen@ruddfirm.com](mailto:nnielsen@ruddfirm.com)]  
**Sent:** Monday, October 21, 2019 11:55 AM  
**To:** Hendricks, Kara (Shld-LV-LT) <[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)>  
**Cc:** Ryan Rudd Esq. <[ryan@ruddfirm.com](mailto:ryan@ruddfirm.com)>; Courtney Cooper <[ccooper@ruddfirm.com](mailto:ccooper@ruddfirm.com)>  
**Subject:** Juel A. Parker Family Trust's and Valley Ascent, LLC

**\*EXTERNAL TO GT\***

Dear Kara Hendricks,

Our firm is in receipt of a letter sent to our client, Bradley Knowlton, regarding the Juel A. Parker Family Trust and Valley Ascent, LLC. Our client has been in trial and out of town for the last two weeks but is working on collecting the documentation that has been requested in the letter. We anticipate that we will have the documents ready shortly.

Regards,

Nick Nielsen

--

Nick Nielsen, Esq.  
The Rudd Firm  
10150 S. Centennial Pkwy  
Suite 150  
Sandy, Utah 84070

801-676-5337 - Office  
801-532-8400 - Fax  
[nnielsen@ruddfirm.com](mailto:nnielsen@ruddfirm.com)

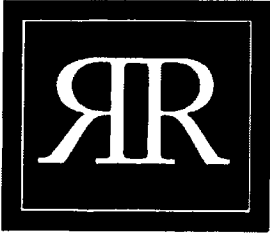


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# **EXHIBIT L**



# THE RUDD FIRM<sup>P.C.</sup>

ATTORNEYS AT LAW

10150 Centennial Pkwy, Suite 150 | Sandy, UT 84070  
Office: (801) 676-5337 | Fax: (801) 532-8400  
[www.ruddfirm.com](http://www.ruddfirm.com)

ALAN D. RUDD  
*Also Admitted-IL*  
MEAGAN L. RUDD  
*Also Admitted-CA*  
RYAN A. RUDD  
JONATHAN RUDD  
BRUCE PRITCHETT  
COURTNEY COOPER  
*Also Admitted-NY*  
NICK NIELSEN  
RICKY NELSON

October 25, 2019

Greenberg Traurig, LLP  
Attn: Kara Henricks  
10845 Griffith Peak Drive  
Suite 600  
Las Vegas, NV 89135

RE: **Juel A. Parker Family Trust's Demand for Valley Ascent, LLC's Business  
Records Pursuant to NRS Chapter 86**

Dear Ms. Hendricks:

Pursuant to your correspondence of October 2, 2019 regarding the above. Please find enclosed the documents Valley Ascent, LLC currently has in its possession.

We reserve the right to supplement these documents upon request and/or as further information becomes available.

Sincerely,

Ryan Rudd  
The Rudd Firm, P.C.

Enclosure  
cc: Bradley Knowlton

## **EXHIBIT M**

**From:** Hendricks, Kara (Shld-LV-LT)  
**Sent:** Tuesday, March 3, 2020 5:01 PM  
**To:** 'Jonathan Rupp' <jrupp@macu.com>; Steven W. Beckstrom <SWB@scmlaw.com>  
**Subject:** RE: Valley Ascent

Jonathan,

Please hold on to the check. Mr. Beckstrom has filed a motion with the Court which will be heard on Monday, March 9th that should address this issue.

Best,  
Kara

**Kara Hendricks**  
Shareholder

T 702.938.6856

**From:** Jonathan Rupp <jrupp@macu.com>  
**Sent:** Tuesday, March 3, 2020 4:50 PM  
**To:** Steven W. Beckstrom <SWB@scmlaw.com>; Hendricks, Kara (Shld-LV-LT) <hendricksk@gtlaw.com>  
**Subject:** RE: Valley Ascent

**\*EXTERNAL TO GT\***

Steven and Kara,

MACU is still holding on to the rent check as we have not received authority from both of you to deposit into the checking account for Valley Ascent. Please advise.

--Jonathan

**From:** Steven W. Beckstrom <[SWB@scmlaw.com](mailto:SWB@scmlaw.com)>  
**Sent:** Thursday, February 20, 2020 3:12 PM  
**To:** Jonathan Rupp <[jrupp@macu.com](mailto:jrupp@macu.com)>; [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)  
**Subject:** RE: Valley Ascent

I do not have authority to authorize you to deposit the check in Valley Ascent's account. I will need to talk to my client about this check. Can you tell me how the check was received by MACU? Did Fabulous Freddy's mail or deliver the check to MACU?

Also, on a different note, can you provide me with a current balance on the Valley Ascent loan?

Thanks,



**Steven W. Beckstrom | Lawyer**  
**555 South Bluff Street, #301 | St. George, Utah 84770**  
**Direct: [435.215.2309](tel:435.215.2309) | Main: [435.673.8288](tel:435.673.8288) | [www.scmlaw.com](http://www.scmlaw.com)**

**From:** Jonathan Rupp <[jrupp@macu.com](mailto:jrupp@macu.com)>  
**Sent:** Thursday, February 20, 2020 1:50 PM  
**To:** Steven W. Beckstrom <[SWB@scmlaw.com](mailto:SWB@scmlaw.com)>; [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)  
**Subject:** Valley Ascent

Steven and Kara,

This email will confirm my telephone call with Kara of a few minutes ago wherein she instructed me to have the approximately \$70,000 check which MACU received today from Fabulous Freddy's into Valley Ascent's checking account. At present, MACU will not apply the check proceeds to any loan payment as there are sufficient funds already in the account to cover payments through March.

Please let me know if either of you do not approve of this course of action.

Sincerely--  
--Jonathan



**Jonathan Rupp**  
*VP General Counsel, Legal Team*  
+1 801-325-1939 *tel*  
[jrupp@macu.com](mailto:jrupp@macu.com)  
<https://www.macu.com/>

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**Jonathan Rupp**

*VP General Counsel, Legal Team*

+1 801-325-1939 *tel*

[jrupp@macu.com](mailto:jrupp@macu.com)

<https://www.macu.com/>

## **EXHIBIT N**

Kara B. Hendricks  
Tel 702.792.3773  
Fax 702.792.9002  
hendricksk@gtlaw.com

January 23, 2020

**VIA ELECTRONIC & U.S. MAIL**

Steven W. Beckstrom, Esq.  
SNOW CHRISTENSEN & MARTINEAU  
555 South Bluff Street, Suite 301  
St. George, UT 84770  
[swb@scmlaw.com](mailto:swb@scmlaw.com)

**Re: Valley Ascent, LLC & Removal of Brad Knowlton as Manager**

Dear Steven:

This correspondence will serve as a formal response to your letter dated January 14, 2020 and a follow-up to the meeting that was held by the members of Valley Ascent, LLC ("Valley Ascent" or "Company") on January 15, 2020. To be clear, we disagree with a number of assertions in your letter but write in an attempt to further the January 15, 2020 discussions in hopes of finding an amicable resolution to the dispute between the members.

As a preliminary matter, we disagree with assertion that Brad Knowlton is the only manager of the Company. He was removed as manager consistent with the provisions of the Company's Amended Operating Agreement ("AOO") on December 23, 2019. Although we agree that Valley Ascent has been profitable during the time Mr. Knowlton was manager, we disagree with your assertion that Mr. Knowlton kept the members informed of the Company activities, affairs and financial matters. Indeed, it was apparent at the January 15<sup>th</sup> meeting that there had been no discussions for years between all of Valley Ascent members; that members were not updated regarding terms and amendments to the lease of the Company's asset; Mr. Knowlton has no documentation to support his assertion that he is the sole guarantor of the mortgage against the Property and never obtained a release from Dr. Juel Parker and/or his trust; that there were discrepancies between the K-1's provided to Mr. Lindner and the actual checks he received; and that there is no written authorization for the management fee that Mr. Knowlton has been paying himself for years (without the knowledge of the other members).<sup>1</sup> This non-exhaustive list of issues is demonstrative of

<sup>1</sup> The statements in your letter attempting to validate management fees that were unknown to other members of the Company and for which a written consent does not exist as required by the AOO are nonsensical. The fact that Mr. Knowlton hid the fee he was paying himself for the past 15 years does not make it right or provide a basis for the fees to continue and clearly demonstrates self-dealing.

ALBANY  
AMSTERDAM  
ATLANTA  
AUSTIN  
BOSTON  
CHICAGO  
DALLAS  
DELAWARE  
DENVER  
FORT LAUDERDALE  
HOUSTON  
LAS VEGAS  
LONDON  
LOS ANGELES  
MEXICO CITY  
MIAMI  
PALM BEACH  
NEW JERSEY  
NEW YORK  
NORTH VIRGINIA  
ORANGE COUNTY  
ORLANDO  
PALM BEACH COUNTY  
PHILADELPHIA  
PHOENIX  
ROME  
SACRAMENTO  
SAN FRANCISCO  
SEOUL  
SHANGHAI  
SILICON VALLEY  
TALLAHASSEE  
TAMPA  
TEL AVIV  
WARSAW  
WASHINGTON D.C.  
WESTCHESTER COUNTY  
GREENBERG TRAURIG, LLP  
ATTORNEYS AT LAW  
10845 GRIFFITH PEAK DRIVE, SUITE 600  
LAS VEGAS, NEVADA 89135  
TEL 702.792.3773 FAX 702.792.9002  
ACTIVE 47933580v1

the bigger problem, a lack of trust between the other members of Valley Ascent and Mr. Knowlton.

Your January letter also indicates that Mr. Knowlton was providing all Valley Ascent required reports and records to Todd Smith at the direction of Dr. Juel Parker. As the trustee of the Juel Parker Trust has been unable to locate the same, we request they be provided forthwith, as well as any written directive from Dr. Parker requesting that such records be provided to Mr. Smith. We also request that the annual reports and records that were sent to Bruce Parker and William Lindner also be produced.

Further, as was discussed at the January 15<sup>th</sup> meeting, the actions taken by the majority of members of Valley Ascent to remove Mr. Knowlton as manager were not taken based on rumors and false information rather than facts, as your letter alleges. You are now aware that, in October of 2019, my office made a demand for books and records of the Company on behalf of the Juel A. Parker Family Trust ("Juel Trust") pursuant to NRS 86.241 and the AOO and did not receive the majority of the documents that Juel Trust requested and to which it is entitled. For your reference and in an attempt to move this matter forward, attached hereto is a chart that identifies the document requests that were made and the limited information that was actually provided. Please provide the missing information forthwith. Additionally, given Bank of Utah's threat to close the Valley Ascent accounts, we request that bank records for the two Bank of Utah accounts ending with numbers xxxx0158 and xxxx0067 for the past year be expedited and provided by the close of business on January 27, 2020.

During the January member meeting, it was also represented that a forensic audit of Valley Ascent's books and records was completed as part of Mr. Knowlton's divorce proceedings and would be provided for review. Please provide the same. As you are aware, my clients are more than willing to consider any information that Mr. Knowlton has to support his position. However, at this juncture, very little documentation has been provided and nothing has been provided that suggests that the action taken by the majority of the members of the Company was based on false information.

As to the suggestion in your correspondence that the removal of Mr. Knowlton as manager was not proper and/or was legally ineffective, we disagree. As your client has already threatened litigation relating to this issue, we reserve all rights to address the same at a later date, if necessary.

Notwithstanding the foregoing, it is in the best interest of all members of Valley Ascent to elect a new manager to oversee the operations of the Company going forward. My clients do not believe that Mr. Knowlton is best suited to be the manager and Mr. Knowlton made it clear at the meeting that he does not want Ms. Parker to be the manager. Given that Mr. Knowlton drafted the AOO in such a way that his vote is necessary to elect a new permanent manager, we suggest that the parties look to have a disinterested third-party serve in the role

Steven W. Beckstrom, Esq.  
January 23, 2020  
Page | 3

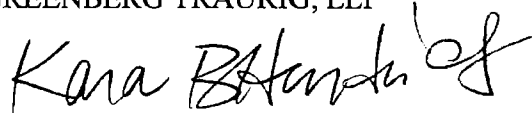
and report to the members going forward. Please let us know if Mr. Knowlton is amenable to such a resolution and propose names of persons that Mr. Knowlton believes would be suited to do so.

Finally, we appreciate efforts to facilitate payment of the January Mountain America Credit Union ("MACU") loan payment and payments for February and March and hope that that process will be finalized in the near term. However, we have yet to hear from you regarding our request that Mr. Knowlton agree to have the Valley Ascent funds currently held by Bank of Utah moved in their entirety to Valley Ascent's existing account at MACU, due to Bank of Utah's representations that they intend to close Valley Ascent's accounts at the end of the month. Additionally, we renew our request that Mr. Knowlton agree to jointly instruct Valley Ascent's tenant to forward future rent/lease payments directly to MACU to be deposited in the Company's existing account. These requests should not be controversial and are made to ensure Company assets are protected until the dispute between the members is resolved.

We look forward to your response to the foregoing.

Best regards,

GREENBERG TRAURIG, LLP

A handwritten signature in black ink, appearing to read "Kara B. Hendricks", with a stylized flourish at the end.

Kara B. Hendricks  
Shareholder

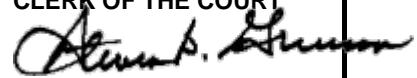
KBH/abf  
Enc: Chart

### Juel Trust Document Request and Response

Complete records regarding the activities and status of the Company and its financial condition	
The Company's federal, state, and local income tax returns for each year	Federal tax return (Form 1065) for years 2015, 2016, 2017, 2018, including Schedule K-1 for the Trust for those same years
True and complete records regarding the amount of cash and a description of the statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, as well as the date on which each became a member	
Accounting records in an electronic format, such as QuickBooks or its equivalent, for the Relevant Period. Please specify the version of QuickBooks used and also provide the applicable user ID and password	
Bank account statements for all Valley Ascent LLC accounts, including, but not limited to, the Bank of Utah Accounts ending in 7687 and 0158	Bank statements for Bank of Utah Account ending in 0581 from January-November 2016  Bank statements for Bank of Utah Account ending in 0158 from March 2017-March 2019  Bank statements for Bank of Utah Account ending 7687 from January 2017-December 2017
Check images (or copies of the same) to support all disbursements made by the Company during the Relevant Period;	Copies of check stubs (not actual checks) for disbursements for January-December 2017. Copies of some disbursement checks are included in the Bank of Utah Accounts statements, ending 0581 and 7687 for the dates listed above.
Documents evidencing any outstanding loans and/or loan modifications to which the Company is a party and any documents evidencing personal guaranty agreements related to the same	Loan Modification dated January 2019 (note: this document appears not to be fully executed).

Monthly reports from the onsite point of sales (POS) system that details the sales, including method of settlement, <i>i.e.</i> , cash, check, Visa/Mastercard, Amex, etc.	
Federal income tax returns for the Company prepared and/or filed with the IRS during the Relevant Period	Federal tax return (Form 1065) for years 2015, 2016, 2017, 2018 and Schedule K-1 for the Trust for those same years
Quarterly and annual payroll returns filed with the IRS, including supporting schedules detailing out the employees. If such details are not kept with the payroll tax returns, then provide copies of the annual year-end payroll registers for the Relevant Period	
Copies of any loan/note payable credit or long-term debt instruments to third parties, including associated benefits received by any other entities and/or individuals	
List of payments to affiliates of the Company or its manager and the purpose/nature and method of calculation such as, for example, management fee, license fee, etc. If there are any agreements separate from the Company's Operating Agreement that govern services provided by such affiliates, please produce those as well	
For any affiliate transfers ( <i>e.g.</i> , "Intercompany") not for services provided, documents sufficient to show the purpose for such transactions and the consideration received by the Company for any Intercompany transfers	
Summaries of the capital accounts	Two-page Trial Balance summaries are provided for years 2016 and 2017, but such records only show summaries of credits and debits, without itemization, for each category
A copy of the filed Articles of Incorporation and all amendments thereto, together with executed copies of any power of attorney pursuant to which any Articles have been executed	Unexecuted copy of Operating Agreement, purportedly as of June 2004; shows Brad has 100% membership interest at the time; filed-stamped copy of the Articles of Incorporation, dated August 3, 2004.

ACTIVE 46836406v1



TRAN

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

BRAD KNOWLTON,

Plaintiff,

vs.

WILLIAM L. LINDNER AND  
MAXINE G. LINDNER TRUST OF  
1988

Defendants.

AND RELATED PARTIES

CASE NO. A-20-809612-B  
DEPT NO. XI

**TRANSCRIPT OF  
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE

MONDAY, MARCH 9, 2020

**PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION ON ORDER**

**SHORTENING TIME**

APPEARANCES:

FOR THE PLAINTIFF:

STEVEN W. BECKSTROM, ESQ.  
ANDREW D. SMITH, ESQ.

FOR THE DEFENDANTS:

MARK E. FERRARIO, ESQ.  
KARA B. HENDRICKS, ESQ.

RECORDED BY: JILL HAWKINS, COURT RECORDER  
TRANSCRIBED BY: JD REPORTING, INC.

1       **LAS VEGAS, CLARK COUNTY, NEVADA, MARCH 9, 2020, 10:02 A.M.**

2                               **\* \* \* \* \***

3               THE COURT: Knowlton vs. Lindner, my injunctive  
4 relief that is not (indiscernible) a counter motion for books  
5 and records.

6               If I could have appearances, please, starting over  
7 here.

8               MR. SMITH: Hi. Good morning, Your Honor. Andrew  
9 Smith, 8890, for the plaintiff.

10              MR. BECKSTROM: Steven Beckstrom on behalf of the  
11 plaintiff.

12              MR. FERRARIO: Good morning, Your Honor. Mark  
13 Ferrario and Kara Hendricks on behalf of the defendants.

14              THE COURT: And you brought your respective clients  
15 with you.

16              MR. FERRARIO: Right.

17              MR. BECKSTROM: Yes, Your Honor. Mr. Knowlton is  
18 here.

19              THE COURT: All right. so this is your application  
20 for injunctive relief.

21              MR. BECKSTROM: Yes, Your Honor.

22              Thanks, Your Honor. This is a motion for preliminary  
23 injunction where we are seeking three things:

24              Number one, we are asking for Lisa Parker to be  
25 enjoined from taking any action on behalf of the company in

1 question, Valley Ascent, acting as a purported manager of the  
2 company;

3 Second, we're asking for Mr. Knowlton to be affirmed  
4 as the manager of the company, as the proper manager of the  
5 company; and

6 Third, to have the defendants enjoined from  
7 interfering with his manager position in the future while this  
8 case is pending.

9 Just briefly, Your Honor, we've briefed the facts  
10 fairly well, but I wanted to just talk just a little bit. This  
11 is a company that was formed in 2004 by Mr. Knowlton. At the  
12 time of its formation it was a single-member LLC with Knowlton  
13 as the sole member and manager. The purpose of the venture was  
14 to create a build-to-suit project for Fabulous Freddy's Car  
15 Wash and CStore (phonetic).

16 And working with Mr. Knowlton and Mr. Freddy Smith,  
17 they identified a location on Craig Road. That property -- it  
18 was actually two parcels of property -- it happened to be owned  
19 by the defendants Lindner and the Juel Parker Trust. And as a  
20 result of that, Mr. Knowlton approached the two gentlemen and  
21 negotiated for them to contribute the land in exchange for a  
22 membership interest in Valley Ascent.

23 During those discussions, there was -- originally the  
24 scope of the project was a little bit smaller and a proforma  
25 was exchanged during that time that indicated there would be a

1 management fee of 3 percent going to Mr. Knowlton. And as the  
2 size of the project grew and Mr. Lindner decided he did not  
3 want to personally guarantee the construction loan that was  
4 going to be required for this project, the size of the  
5 management fee went up, and the ownership interest got adjusted  
6 slightly. And so that's the nature of how this thing came  
7 together.

8           Once that agreement was reached, there was an amended  
9 operating put together, and that amended operating agreement  
10 has a couple of important divisions:

11           First, it says that the manager is Mr. Knowlton and  
12 that in order to remove him -- the general rule is that you  
13 need to (indiscernible) have a vote of 70 percent of the  
14 members unless you can show gross negligence, self-dealing or  
15 embezzlement, in which case the burden shifts to a 50 percent  
16 vote.

17           Next, the operating agreement also indicates that the  
18 manager is entitled to a -- is entitled to compensation in an  
19 amount to be determined from time to time in writing.

20           Next, in order to establish the amount of  
21 compensation, it simply requires a majority vote.

22           This partnership has gone great, Your Honor. All the  
23 members of this company have made a lot of distribution over  
24 the 15 years of this project. They have been steadily paying  
25 down debt. They have a long term lease in place with its

1 tenant Fabulous Freddy's, through, I think, 2035. And things  
2 are going really well.

3 Then a couple of things happened, Your Honor, that  
4 kinda tipped the balance or started causing waves. Number one,  
5 Juel Parker was getting up in age. And as a result of that,  
6 and I think their declarations say in November of 2018, Lisa  
7 Parker took over as a trustee of that trust.

8 And, secondly, Mr. Knowlton, unfortunately, went  
9 through a divorce proceedings in the state of Utah. And as a  
10 result of that divorce proceedings, his ex-wife started  
11 spreading false rumors about, to the defendants, about what was  
12 going on in the operation of this business. And that in lies  
13 why we're here today, Your Honor, those two factors.

14 No doubt Lisa Parker has it in her mind that she  
15 wants to take over control of this venture. The problem with  
16 the way she went about doing it is that she didn't get the  
17 proper vote to put herself in as manager.

18 So, Your Honor, we're here for preliminary  
19 injunction. So let's first talk about Lisa Parker. And,  
20 specifically, in December 23rd, 2019, there was two consents  
21 that were issued and signed by all the members except  
22 Mr. Knowlton. First, there was a consent issued that purported  
23 to remove Mr. Knowlton as manager of the company on the grounds  
24 of, I'm sure you can guess, they didn't go with the 70 percent  
25 vote because they couldn't get that without Mr. Knowlton's

1 approval.

2 THE COURT: Counsel, if you didn't know, I read  
3 everything

4 MR. BECKSTROM: Right.

5 THE COURT: Okay.

6 MR. BECKSTROM: And so -- and secondly, they  
7 purported to appoint Lisa Parker as the, quote, "interim  
8 manager." So on that note, Your Honor, the first harm that's  
9 being caused here is that Lisa Parker did not get the required  
10 vote in order to appoint herself as manager. The operating  
11 agreement is clear that a 70 percent vote is required in order  
12 to allow that to happen. And Mr. Knowlton didn't even know a  
13 vote was happening. And so she cannot, under the terms of the  
14 operating agreement, act as the manager.

15 And even though she knows that, after the consent was  
16 issued, she went out and she informed two banks that she was  
17 the manager; she went and told the tenant that she was the  
18 manager. And that's a problem, Your Honor, because now we have  
19 frozen accounts at Bank of Utah. In fact, Bank of Utah is  
20 saying that those accounts should be closed.

21 And, second, she went to Mountain America Credit  
22 Union, which, initially, until very recently, was only intended  
23 to be a loan account, but that account, nonetheless, has been  
24 frozen by Mountain America Credit Union, and they've indicated  
25 they won't allow anybody to take any action on the account

1 unless there is a unanimous consent of all members, which  
2 causes all sorts of problems in light of the terms of the  
3 operating agreement.

4 And, third, she reached out the tenant and convinced  
5 the tenant to pay rent -- directed the tenant to pay rents to  
6 her -- to him -- to her, excuse me, and therefore the -- those  
7 rents have been going to Lisa Parker at least for the last  
8 month, which in turn have been forwarded to Mountain America  
9 Credit Union and are sitting there right presently.

10  
11 So, Your Honor, that's the first harm that's  
12 happening.

13 Second, they -- Brad Knowlton was wrongfully removed  
14 from this company. Until the opposition was filed, a lot of  
15 the circumstances under which this removal consent was signed  
16 were unknown to Brad. They didn't even tell Brad they were  
17 having a meeting or a vote. The operating agreement doesn't  
18 technically require a meeting, but, nonetheless, you'd  
19 certainly think that if you were going to remove a manager you  
20 would inform him that you are taking a vote to remove him.  
21 They didn't do that.

22 They didn't, second, they didn't even tell him that  
23 the allegations were -- what the allegations were against him.  
24 Instead they held this vote on, purportedly, on December 23rd,  
25 and now in their opposition they do say that, oh, well, it took

1 a few weeks to get all the signatures, but they didn't tell him  
2 for over -- over two weeks that he had even been removed as a  
3 manager. And they used that interim period to go inform the  
4 banks, inform the tenant so they can get everything, all their  
5 ducks in a row to make it as hard as possible for Brad to  
6 assert his legal position in this case.

7 And so, you know, and you look at the heart of what  
8 they're arguing with respect to why they removed him. And  
9 again a lot of this stuff is coming up for the very first time  
10 in opposition. They say, Well, first, you know, there was a  
11 refinance that happened recently, and, you know, we expect to  
12 have higher distributions. Yet at the same time in their  
13 opposition, Your Honor, they say, Well, we're surprised that  
14 the debt was in the -- was not -- was in the hundreds; we were  
15 surprised that the debt was in the millions range, not the  
16 hundreds of thousands of dollars range. So out one side of  
17 their mouth they are saying, Well, Your Honor, we should be  
18 getting higher distributions, but yet they are saying, Well,  
19 oh, hold on, we want the debt reduced.

20 And the bottom line is the debt has been getting  
21 reduced. It has been reduced significantly over the 15 years  
22 and will continue to be reduced. But, you know, if you want to  
23 have distributions -- higher distributions, which all the  
24 members have received over time, then that's the give and take  
25 you have, and it's certainly just a business judgment that

1 Mr. Knowlton has made. Again, we find out about this in  
2 opposition for the first time.

3 And also there's no -- why no phone call? Why not  
4 even pick up the phone call and ask Mr. Knowlton about this?  
5 There's a simple explanation. They just didn't ask for it.  
6 They didn't ask for an explanation at all. Instead they  
7 decided to try to remove him.

8 Then they raised the issue of, well, there's some  
9 missing distributions. Over the course of the 15-year period  
10 there was one missing distribution payment that was made --  
11 that was failed to be made to the Juel Parker Trust, and  
12 Mr. Knowlton was adamant for a number of -- in fact, there was  
13 a year or two that he had believed that he had made the  
14 payment, and it wasn't until he did a forensic accounting on  
15 the company through his divorce proceedings in Utah that he  
16 realized that, man, I missed one check to Juel Parker. And you  
17 know what happened the moment he found out? He wrote the  
18 check. So that issue was resolved.

19 Now, not until January of 2020 did we first learn  
20 that Bill Lindner is claiming apparently that there's four  
21 checks that are missing. We were generally told about it, told  
22 about the missing checks, although I think at the meeting we  
23 were told two, but now they are saying four checks in  
24 opposition that they filled on Friday. And we're happy to get  
25 to the bottom of it. There was no intent on Mr. Knowlton's

1 part to ever miss any distribution checks. In fact, it's  
2 been --

3 THE COURT: Thank you, Counsel.

4 MR. BECKSTROM: Thank you.

5 THE COURT: Thank you.

6 Mr. Ferrario.

7 MR. FERRARIO: I know you've read everything.

8 THE COURT: Tell me why you think Brian Gordon would  
9 be a good interim manager.

10 MR. FERRARIO: Well, I think he is well-known in the  
11 community. He works for Applied Analysis. We've given you his  
12 CV. I've dealt with him for a number --

13 THE COURT: He's testified in front of me a couple of  
14 times.

15 MR. FERRARIO: I've dealt with him for a number of  
16 years. I don't know that you can find someone much better,  
17 quite frankly, but I'll be happy to answer any questions,  
18 Judge. Like I said, I've been in front of you a number of  
19 times on matters like this.

20 THE COURT: So talk to me about your countermotion.

21 MS. FERRARIO: Well, I think that at this point we  
22 should put Mr. Gordon in. Or, you know, quite frankly, you can  
23 adopt some hybrid measure. Ms. Parker is here. You know, we  
24 are managing the company. I'm not going to try the whole case  
25 here in front of you --

1 THE COURT: Good. Because I have a trial.

2 MR. FERRARIO: Right. None of this would have  
3 happened. Well, I think we probably would've been here on a  
4 more crystalized dispute had we simply gotten any type of  
5 cooperation from Mr. Knowlton.

6 THE COURT: On your books and records request.

7 MR. FERRARIO: Yes.

8 THE COURT: Made in the fall.

9 MR. FERRARIO: Absolutely. This is very much similar  
10 to another case that I am fading out of, the marijuana case  
11 involving CW. That started much the same way, with promises to  
12 cooperate, with duties to cooperate, then refusal to cooperate  
13 and then people being left with no choice but to take certain  
14 actions. That's what happened here

15 And everything was done transparently. And for  
16 counsel to stand up and say Mr. Knowlton didn't have any idea  
17 this was coming is just farcical. He refused to talk to my  
18 clients. He refused to cooperate. That's why we're here. We  
19 needed some sort of intervention. And so if you want to adopt  
20 a hybrid -- because the agreement is kind of quirky, okay. You  
21 can remove if there's misconduct or gross negligence --

22 THE COURT: But you can't replace.

23 MR. FERRARIO: -- and then you have --

24 Yeah, you can't replace.

25 Well, we have an alternate fellow, but he didn't want

1 to serve. So now we're kind of in limbo. So we've proposed  
2 Mr. Gordon. I think on an interim basis we should probably  
3 bring him in. Let's get the accounts that we can get our hands  
4 on. Let's see what happened to this money.

5 We just got a letter March 6th --

6 What is that, last Friday?

7 UNIDENTIFIED SPEAKER: Friday afternoon.

8 MR. FERRARIO: -- where they still don't have all the  
9 records and can't produce the records. And so we need to get a  
10 handle on what happened to the money.

11 We will have a fight, it appears, over this  
12 management-fee issue. I'm not even going into that now because  
13 counsel stands up on one hand and says, well, it was a  
14 preexisting arrangement. Well, if it was a preexisting  
15 arrangement, by operation of law, superceded when that new  
16 operating agreement went into effect. So we're going to have  
17 some fights here, I suspect.

18 But in the interim this Court needs to take control  
19 of this, and whether you want to put -- leave Ms. Parker there  
20 with some strict constraints on what she can and can't do, I'm  
21 comfortable with that. We'll provide transparent reporting to  
22 the plaintiffs on what happens.

23 This isn't an overly complex business. The key thing  
24 for us is to get access to the records so that we can go back  
25 and see if we've been paid everything we're entitled to, and

1 then maybe we are going to have a fight -- not maybe, we are  
2 going to have a fight over the management fee.

3 THE COURT: Thank you.

4 MR. FERRARIO: So I will leave it to the Court's  
5 discretion.

6 THE COURT: Anything else, Mr. Beckstrom? You have  
7 two minutes to wrap up since your time has already expired.

8 MR. BECKSTROM: Yes, Your Honor. First of all, with  
9 respect of the document request, the letter that was sent out  
10 on Friday gives an explanation for where we have either given  
11 all the documents or we are an open book. The bank records,  
12 most of which is what they are asking for, they are frozen  
13 right now. We can't get access to them. So we are happy to  
14 consent --

15 THE COURT: You could've gotten access to them in the  
16 fall, couldn't you?

17 MR. BECKSTROM: That's -- potentially, but again we  
18 provided everything. They asked for records from 2016 through  
19 the present. And now, you know, they've got all but a couple  
20 of months, and that's all that was missing. So...

21 THE COURT: All right. Thank you.

22 I am going to deny the injunctive relief at this  
23 point. There has been a facial showing of financial misconduct  
24 by the management fee that was taken and the failure to provide  
25 books and records as requested by the other members.

1           At this time, I am not going to confirm Ms. Parker as  
2 the interim manager. I am going to appoint Brian Gordon, who  
3 had previously been used by the company, to act as the interim  
4 manager.

5           I am going to not permit him at any time to testify  
6 as an expert for either side. He is to manage the ongoing  
7 daily operations of the company and respond to document  
8 requests by the members.

9           MR. BECKSTROM: Your Honor, just one point of  
10 clarification.

11           MR. FERRARIO: Thank you, Your Honor. We'll  
12 prepare --

13           MR. BECKSTROM: I don't think he's ever provided work  
14 for this company.

15           THE COURT: Did he provide work for Mr. Knowlton  
16 personally then?

17           MR. BECKSTROM: No, not that I know of.

18           THE COURT: Okay. All right.

19           MS. HENDRICKS: Your Honor, we were just --

20           UNIDENTIFIED SPEAKER: No.

21           MS. HENDRICKS: The reference in the complaint was  
22 that Mr. Beckstrom's firm has used him before too.

23           THE COURT: Oh, Mr. Beckstrom's firm.

24           MR. BECKSTROM: I've never met the guy. So I  
25 don't...

1 THE COURT: He's partners with Jeremy Aguero. He  
2 comes and testifies on lots of valuation stuff and management  
3 stuff. I see him a couple times a year, not as many as others  
4 but --

5 MR. FERRARIO: Thank you. We'll prepare the order.

6 THE COURT: Bye.

7 ATTORNEYS: Thank you.

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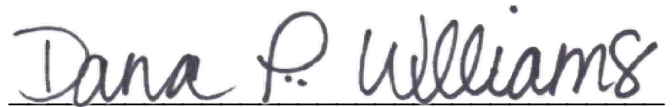
**CERTIFICATION**

I DO HEREBY CERTIFY THAT I HAVE TRULY AND CORRECTLY TRANSCRIBED  
THE AUDIO/VIDEO PROCEEDINGS IN THE ABOVE-ENTITLED CASE TO THE  
BEST OF MY ABILITY.

**AFFIRMATION**

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL  
SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**DANA L. WILLIAMS**  
LAS VEGAS, NEVADA 89183



DANA L. WILLIAMS, TRANSCRIBER

08/11/2021

DATE

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HENDRICKS: [1] 14/21</div> <div>THE COURT: [1] 6/5</div> <div>UNIDENTIFIED SPEAKER: [1] 14/20</div> <div>0</div> <div>08/11/2021 [1] 16/18</div> <div>1</div> <div>10:02 [1] 2/1</div> <div>15 [1] 4/24</div> <div>15 years [1] 8/21</div> <div>15-year [1] 9/9</div> <div>1988 [1] 1/10</div> <div>2</div> <div>2004 [1] 3/11</div> <div>2016 [1] 13/18</div> <div>2018 [1] 5/6</div> <div>2019 [1] 5/20</div> <div>2020 [3] 1/15 2/1 9/19</div> <div>2021 [1] 16/18</div> <div>2035 [1] 5/1</div> <div>23rd [2] 5/20 7/24</div> <div>5</div> <div>50 [1] 4/15</div> <div>6</div> <div>6th [1] 12/5</div> <div>7</div> <div>70 [3] 4/13 5/24 6/11</div> <div>8</div> <div>8890 [1] 2/9</div> <div>89183 [1] 16/12</div> <div>A</div> <div>A.M [1] 2/1</div> <div>ABILITY [1] 16/5</div> <div>about [9] 5/11 5/11 5/16 5/19 9/1 9/4 9/21 9/22 10/20</div> <div>ABOVE [1] 16/4</div> <div>ABOVE-ENTITLED [1] 16/4</div> <div>Absolutely [1] 11/9</div> <div>access [3] 12/24 13/13 13/15</div> <div>account [3] 6/23 6/23 6/25</div> 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<p><b>U</b></p> <p><b>unfortunately [1]</b> 5/8</p> <p><b>UNIDENTIFIED [1]</b> 12/7</p> <p><b>Union [3]</b> 6/22 6/24 7/9</p> <p><b>unknown [1]</b> 7/16</p> <p><b>unless [2]</b> 4/14 7/1</p> <p><b>until [4]</b> 6/22 7/14 9/14 9/19</p> <p><b>up [7]</b> 4/5 5/5 8/9 9/4 11/16 12/13 13/7</p> <p><b>us [1]</b> 12/24</p> <p><b>used [3]</b> 8/3 14/3 14/22</p> <p><b>Utah [4]</b> 5/9 6/19 6/19 9/15</p>	<p><b>whole [1]</b> 10/24</p> <p><b>why [6]</b> 5/13 8/8 9/3 9/3 10/8 11/18</p> <p><b>wife [1]</b> 5/10</p> <p><b>will [3]</b> 8/22 12/11 13/4</p> <p><b>WILLIAM [1]</b> 1/9</p> <p><b>WILLIAMS [2]</b> 16/12 16/16</p> <p><b>without [1]</b> 5/25</p> <p><b>won't [1]</b> 6/25</p> <p><b>work [2]</b> 14/13 14/15</p> <p><b>working [1]</b> 3/16</p> <p><b>works [1]</b> 10/11</p> <p><b>would [4]</b> 3/25 7/20 10/8 11/2</p> <p><b>would've [1]</b> 11/3</p> <p><b>wrap [1]</b> 13/7</p> <p><b>writing [1]</b> 4/19</p> <p><b>wrongfully [1]</b> 7/13</p> <p><b>wrote [1]</b> 9/17</p>			
<p><b>V</b></p> <p><b>Valley [2]</b> 3/1 3/22</p> <p><b>valuation [1]</b> 15/2</p> <p><b>VEGAS [2]</b> 2/1 16/12</p> <p><b>venture [2]</b> 3/13 5/15</p> <p><b>very [3]</b> 6/22 8/9 11/9</p> <p><b>VIDEO [1]</b> 16/4</p> <p><b>vote [11]</b> 4/13 4/16 4/21 5/17 5/25 6/10 6/11 6/13 7/17 7/20 7/24</p>	<p><b>X</b></p> <p><b>XI [1]</b> 1/6</p>			
<p><b>W</b></p> <p><b>want [6]</b> 4/3 8/19 8/22 11/19 11/25 12/19</p> <p><b>wanted [1]</b> 3/10</p> <p><b>wants [1]</b> 5/15</p> <p><b>was [42]</b></p> <p><b>Wash [1]</b> 3/15</p> <p><b>wasn't [1]</b> 9/14</p> <p><b>waves [1]</b> 5/4</p> <p><b>way [2]</b> 5/16 11/11</p> <p><b>we [31]</b></p> <p><b>We'll [3]</b> 12/21 14/11 15/5</p> <p><b>we're [9]</b> 3/3 5/13 5/18 8/13 9/24 11/18 12/1 12/16 12/25</p> <p><b>we've [4]</b> 3/9 10/11 12/1 12/25</p> <p><b>weeks [2]</b> 8/1 8/2</p> <p><b>well [15]</b> 3/10 5/2 7/25 8/10 8/13 8/17 8/18 9/8 10/10 10/10 10/21 11/3 11/25 12/13 12/14</p> <p><b>well-known [1]</b> 10/10</p> <p><b>went [7]</b> 4/5 5/8 5/16 6/16 6/17 6/21 12/16</p> <p><b>were [10]</b> 5/21 7/16 7/16 7/19 7/23 7/23 8/14 9/21 9/23 14/19</p> <p><b>what [11]</b> 5/11 7/23 8/7 9/17 11/14 12/4 12/6 12/10 12/20 12/22 13/12</p> <p><b>when [1]</b> 12/15</p> <p><b>where [3]</b> 2/23 12/8 13/10</p> <p><b>whether [1]</b> 12/19</p> <p><b>which [7]</b> 4/15 6/22 7/1 7/8 7/15 8/23 13/12</p> <p><b>while [1]</b> 3/7</p> <p><b>who [1]</b> 14/2</p>	<p><b>Y</b></p> <p><b>Yeah [1]</b> 11/24</p> <p><b>year [3]</b> 9/9 9/13 15/3</p> <p><b>years [3]</b> 4/24 8/21 10/16</p> <p><b>Yes [4]</b> 2/17 2/21 11/7 13/8</p> <p><b>yet [2]</b> 8/12 8/18</p> <p><b>you [43]</b></p> <p><b>you'd [1]</b> 7/18</p> <p><b>you've [1]</b> 10/7</p> <p><b>your [24]</b></p>			



1 **NEO**  
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17 *of the William L. Lindner and Maxine G. Lindner*  
18 *Trust of 1988; JUEL A. PARKER, individually*  
19 *and as Trustee of the Juel A. Parker Family Trust;*  
20 *LISA PARKER, individually and as Trustee of the*  
21 *Juel A. Parker Family Trust; and S. BRUCE*  
22 *PARKER, as Trustee of the Steven Bruce Parker*  
23 *Family Trust*

24 **EIGHTH JUDICIAL DISTRICT COURT**

25 **CLARK COUNTY, NEVADA**

26 BRAD L. KNOWLTON, an individual,  
27  
28 Plaintiff,

v.

29 VALLEY ASCENT, LLC, a Nevada limited liability  
30 company, WILLIAM L. LINDNER, as Trustee of  
31 the William L. Lindner and Maxine G. Lindner Trust  
32 of 1988, JUEL A. PARKER, as Trustee of the Juel  
33 A. Parker Family Trust, LISA PARKER, as Trustee  
34 of the Juel A. Parker Family Trust, LISA PARKER,  
35 an individual, and S. BRUCE PARKER, as Trustee  
36 of the Steven Bruce Parker Family Trust,  
37  
38 Defendants.

CASE NO: A-20-809612-B

DEPT. XI

**NOTICE OF ENTRY OF ORDER**

1 WILLIAM L. LINDNER, as Trustee of the William  
2 L. Lindner and Maxine G. Lindner Trust of 1988,  
3 indiviudally and derivatively; LISA PARKER, as  
4 Trustee of the Juel A. Parker Family Trust,  
5 indiviudally and derivatively; S. BRUCE PARKER,  
as Trustee of the Steven Bruce Parker Family Trust,  
indiviudally and derivatively, and JUEL PARKER,  
individually,

6 Counter-Plaintiffs

7 v.

8 BRAD L. KNOWLTON, individually and  
9 derivatively; and DOE Individuals I-X and ROE  
Entities I-X, inclusive,

10 Counter-Defendant,

11 and

12 Nominal party VALLEY ASCENT, LLC, a Nevada  
13 limited liability company.  
14

15  
16 TO: ALL PARTIES AND THEIR COUNSEL OF RECORD

17 YOU AND EACH OF YOU will please take notice that, on March 19, 2020, the Court entered  
18 an Order Regarding Plaintiff's Motion for Preliminary Injunction on Order Shortening Time and

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Countermotion to Appoint Interim Manager and Order Compelling Plaintiff to Produce Valley  
2 Ascent, LLC's Books and Records, a copy of which is attached hereto as Exhibit "A."

3 DATED this 20<sup>th</sup> day of March, 2020.

4 **GREENBURG TRAUIG, LLP**

5  
6 /s/ Kara B. Hendricks

7 MARK E. FERRARIO, ESQ.

8 Nevada Bar No. 1625

9 KARA B. HENDRICKS, ESQ.

10 Nevada Bar No. 7743

11 ALAYNE M. OPIE, ESQ.

12 Nevada Bar No. 12623

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14 Las Vegas, Nevada 89144

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16 *the William L. Lindner and Maxine G. Lindner Trust*  
17 *of 1988; JUEL A. PARKER, individually and as*  
18 *Trustee of the Juel A. Parker Family Trust; LISA*  
19 *PARKER, individually and as Trustee of the Juel A.*  
20 *Parker Family Trust; and S. BRUCE PARKER, as*  
21 *Trustee of the Steven Bruce Parker Family Trust*

22  
23  
24  
25  
26  
27  
28  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of March, 2020, a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV Electronic Filing system and serving all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

The date and time of the electronic proof of service is in place of the date and place of deposit in the U.S. Mail.

/s/ Andrea Flintz  
An employee of Greenberg Traurig, LLP

EXHIBIT “A”

EXHIBIT “A”



1 **ORD**

2 MARK E. FERRARIO, ESQ.

3 Nevada Bar No. 1625

4 KARA B. HENDRICKS, ESQ.

5 Nevada Bar No. 7743

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16 *Attorneys for WILLIAM L. LINDNER, as Trustee of the*

17 *William L. Lindner and Maxine G. Lindner Trust of*

18 *1988, JUEL A. PARKER, as Trustee of the Juel A.*

19 *Parker Family Trust, LISA PARKER, as Trustee of the*

20 *Juel A. Parker Family Trust, LISA PARKER, an*

21 *individual, and S. BRUCE PARKER, as Trustee of the*

22 *Steven Bruce Parker Family Trust*

23 **EIGHTH JUDICIAL DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 BRAD L. KNOWLTON, an individual,

26 Plaintiff,

27 v.

28 VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker Family  
Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

Defendants.

CASE NO: A-20-809612-B

DEPT. XI

**ORDER REGARDING PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION ON ORDER SHORTENING  
TIME AND COUNTERMOTION TO  
APPOINT INTERIM MANAGER AND  
ORDER COMPELLING PLAINTIFF TO  
PRODUCE VALLEY ASCENT, LLC's  
BOOKS AND RECORDS**

Hearing Date: March 9, 2020

Hearing Time: 9:00 a.m.

03-16-20P12:20 RCVD

1 On March 9, 2020, Plaintiff Brad Knowlton, by and through counsel, Steven Beckstrom of Snow,  
2 Christensen & Martineau, and Andrew Smith of Winner & Sherrod, Ltd. on the one hand, and William  
3 L. Lindner, as Trustee of the William L. Lindner and Maxine G. Lindner Trust of 19988 ("Lindner"),  
4 Lisa Parker, individually and as Trustee of the Juel A. Parker Family Trust ("Lisa"), and S. Bruce Parker,  
5 individually and as Trustee of the Steven Bruce Parker Family Trust ("Bruce") (collectively  
6 "Defendants" or "Majority Members"), by and through counsel, Mark Ferrario and Kara Hendricks of  
7 Greenberg Traurig, LLP, on the other hand, appeared in Court on Plaintiff's Motion for Preliminary  
8 Injunction (the "Motion"), Defendants' Countermotion to Appoint Interim Manager, and Order  
9 Compelling Plaintiff to Produce Valley Ascent, LLC's Books and Records (collectively  
10 "Counter motions"). The Court, having considered all pleadings and papers, having considered oral  
11 arguments and good cause appearing,

12 **THE COURT FINDS** Defendants have made a facial showing of financial misconduct by the  
13 management fee that was taken by Mr. Knowlton and the failure to provide books and requested by  
14 other members;

15 Accordingly,

16 **IT IS HEREBY ORDERED** that Plaintiff's Motion is DENIED.

17 **IT IS HEREBY FURTHER ORDERED** that Defendants' Countermotion to Appoint Interim  
18 Manager is GRANTED. Brian Gordon CPA/ABV of Applied Analysis is hereby appointed interim  
19 manager of Valley Ascent, LLC and is permitted to manage the operations of the Company. In  
20 connection therewith, *but without limitation*, Mr. Gordon is given all rights and authorities provided for  
21 the manager of Valley Ascent, LLC, as provided under the Amended Operating Agreement signed by  
22 all members thereof. Mr. Gordon is given access to all Company books and records; access to and  
23 control of all Company bank accounts, including but not limited to those currently or previously held at  
24 Mountain American Credit Union and Bank of Utah (including, but not limited to acct nos. ending in  
25 0158 & 0067), including the ability to close and open bank accounts; granted signing privileges for all  
26 Company bank accounts; permitted to act on the Company's behalf in relation to its lease with MCSmith,  
27 LLC, including but not limited to the ability to collect lease/rent payments; permitted to make necessary  
28 arrangements for the payment of Company taxes and any related fees; permitted to make distributions

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under Section 2.3 of the Amended Operating Agreement (which shall be made in proportion to each member's Membership Interest) and pay Company bills; permitted to demand Company records; etc.


Mr. Gordon shall not serve as an expert in this action for either Plaintiff or Defendants, and likewise, will not be permitted to testify in an expert capacity on either party's behalf.

**IT IS HEREBY FURTHER ORDERED** that Plaintiff shall produce all Company books and records in his possession that he has not yet provided to Defendants. Defendants will prepare a list of records they believe are in Plaintiff's possession which have not yet been produced and provide that list to Plaintiff's counsel. Thereafter, the Plaintiff shall have seven (7) days to produce the records identified on the list, or, if he does not have the records in his possession, to provide the Defendants with a written explanation regarding his knowledge of the existence of such records and the records current location. **IT IS SO ORDERED.**

DATED this 17 day of March, 2020.


  
Honorable Elizabeth Gonzalez

Respectfully submitted,  
**GREENBURG TRAURIG, LLP**

  
MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
KARA B. HENDRICKS, ESQ.  
Nevada Bar No. 7743  
ALAYNE M. OPIE, ESQ.  
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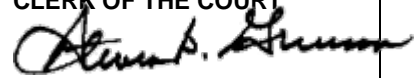
*Counsel for Defendants*

Approved as to form and content,  
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*Counsel for Plaintiff*



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16 *Attorneys for WILLIAM L. LINDNER as Trustee*  
17 *of the William L. Lindner and Maxine G. Lindner*  
18 *Trust of 1988; JUEL A. PARKER, individually*  
19 *and as Trustee of the Juel A. Parker Family Trust;*  
20 *LISA PARKER, individually and as Trustee of the*  
21 *Juel A. Parker Family Trust; and S. BRUCE*  
22 *PARKER, as Trustee of the Steven Bruce Parker*  
23 *Family Trust*

24 **EIGHTH JUDICIAL DISTRICT COURT**

25 **CLARK COUNTY, NEVADA**

26 BRAD L. KNOWLTON, an individual,  
27  
28 Plaintiff,

v.

VALLEY ASCENT, LLC, a Nevada limited liability  
company, WILLIAM L. LINDNER, as Trustee of  
the William L. Lindner and Maxine G. Lindner Trust  
of 1988, JUEL A. PARKER, as Trustee of the Juel  
A. Parker Family Trust, LISA PARKER, as Trustee  
of the Juel A. Parker Family Trust, LISA PARKER,  
an individual, and S. BRUCE PARKER, as Trustee  
of the Steven Bruce Parker Family Trust,

Defendants.

**CASE NO: A-20-809612-B**

**DEPT. XI**

**ANSWER AND COUNTERCLAIMS**

1 WILLIAM L. LINDNER, as Trustee of the William  
2 L. Lindner and Maxine G. Lindner Trust of 1988,  
3 indiviudally and derivatively; LISA PARKER, as  
4 Trustee of the Juel A. Parker Family Trust,  
5 indiviudally and derivatively; S. BRUCE PARKER,  
6 as Trustee of the Steven Bruce Parker Family Trust,  
7 indiviudally and derivatively, and JUEL PARKER,  
8 individually,

9 Counter-Plaintiffs,

10 v.

11 BRAD L. KNOWLTON, individually and  
12 derivatively; and DOE Individuals I-X and ROE  
13 Entities I-X, inclusive,

14 Counter-Defendant,

15 and

16 Nominal party VALLEY ASCENT, LLC, a Nevada  
17 limited liability company.

18 COME NOW, Defendants LISA PARKER, an individual; LISA PARKER and JUEL A.  
19 PARKER, as Trustees for the JUEL A. PARKER FAMILY TRUST (the “Juel Parker Trust”);  
20 WILLIAM L. LINDNER, as Trustee for the WILLIAM L. LINDNER and MAXINE G. LINDNER  
21 TRUST OF 1988 (the “Lindner Trust”); and S. BRUCE PARKER, as Trustee for the STEVEN BRUCE  
22 PARKER FAMILY TRUST (the “Bruce Parker Trust”; collectively, “Defendants”), by and through  
23 their counsel of record, the law firm of Greenberg Traurig, LLP, and hereby submit this Answer to  
24 Plaintiff’s Complaint:

25 **PARTIES, JURISDICTION AND VENUE**

26 1. Answering Paragraph 1, Defendants are without knowledge or information sufficient to  
27 form a belief as to Plaintiff’s residency, and, therefore deny the same. Defendants admit Plaintiff claims  
28 a 38.55% membership interest in Valley Ascent, LLC (“VA”).

2. Answering Paragraph 2, Defendants admit VA is a Nevada limited liability company  
with its principal place of business located in Clark County, State of Nevada.

4. Answering Paragraph 4, Defendants deny Juel A. Parker is trustee of the Juel A. Parker Family Trust. Defendants admit the Juel A. Parker Family Trust holds a 36.45% membership interest in VA and that Juel A. Parker is a resident of Clark County, State of Nevada.

5. Answering Paragraph 5, Defendants admit Lisa Parker is a resident of Clark County, State of Nevada, and is also trustee of the Juel A. Parker Family Trust.

6. Answering Paragraph 6, Defendants admit S. Bruce Parker is a resident of Clark County, State of Nevada, and is a trustee of the Steven Bruce Parker Family Trust.

7. Paragraph 7 calls for a legal conclusion, and on that basis, Defendants deny.

8. Paragraph 8 calls for a legal conclusion, and on that basis, Defendants deny.

## GENERAL ALLEGATIONS

9. Answering Paragraph 9, Defendants admit Nevada Secretary of State reflects the VA entity was formed August 3, 2004. Defendants are without knowledge or information sufficient to deny or admit the remaining allegation.

10. Answering Paragraph 10, Defendants are without knowledge or information sufficient to deny or admit the allegation.

11. Answering Paragraph 11, Defendants are without knowledge or information sufficient to deny or admit the allegation.

12. Answering Paragraph 12, Defendants state it was Bruce Parker who approached the owner of Fabulous Freddy's about the possibility of building a car wash on the property his father owned. Accordingly, Defendants deny.

13. Answering Paragraph 13, Defendants state it was Bruce Parker who approached the owner of Fabulous Freddy's about the possibility of building a car wash on the property his father owned. Accordingly, Defendants deny.

///

///

1           14.     Answering Paragraph 14, Defendants admit 4309 West Craig Road, North Las Vegas,  
2 consisted of two separate parcels of real property, with one of the parcels owned by the Lindner Trust,  
3 and the other owned by the Juel Parker Trust.

4           15.     Answering Paragraph 15, Defendants admit the Juel Parker Trust and Lindner Trust  
5 contributed their respective real properties in exchange for a membership interest in VA. Defendants  
6 deny the remaining allegations.

7           16.     Answering Paragraph 16, Defendants admit that Juel Parker and William Lindner  
8 discussed their respective positions in VA and the carwash that was to be built. Defendants deny all  
9 remaining allegations.

10          17.     Answering Paragraph 17, Defendants deny.

11          18.     Answering Paragraph 18, Defendants deny.

12          19.     Answering Paragraph 19, Defendants admit that Plaintiff, the Lindner Trust, Juel Parker  
13 Trust and Bruce Parker Trust entered into an Amended Operating Agreement (“AOA”), and a true and  
14 correct copy appears to be attached to the Complaint at Exhibit 1. Defendants expressly deny ever  
15 agreeing that Plaintiff should be paid a 4% management fee. Defendants deny all remaining allegations.

16          20.     Answering Paragraph 20, Defendants admit the AOA reflects that Plaintiff holds a  
17 38.55% membership interest in VA; the Lindner Trust a 20% membership interest; the Juel Parker  
18 Family Trust a 36.45% membership interest; and, the Bruce Parker Trust 5%.

19          21.     Answering Paragraphs 21, 22, and 24 the terms of the AOA speak for themselves, and  
20 on that basis, deny.

21          22.     Answering Paragraph 23, Defendants deny Plaintiff was ever authorized to receive a 4%  
22 management fee. Defendants admit Plaintiff improperly paid himself a management fee since at least  
23 January 2005. Defendants deny all remaining allegations.

24          23.     Answering Paragraph 25, Defendants deny ever agreeing to pay Plaintiff a 4%  
25 management fee. Accordingly, there was no need to take a vote to change such unauthorized act. On  
26 that basis, the Paragraph is denied.

27          24.     Answering Paragraph 26, Defendants admit VA has been a profitable venture.  
28 Defendants deny being paid consistent distributions.

1           25.     Answering Paragraph 27, Defendants deny.

2           26.     Answering Paragraph 28, Defendants deny.

3           27.     Answering Paragraph 29, upon information and belief, Plaintiff does not maintain a

4 strong relationship with Fabulous Freddy's, and therefore Defendants deny.

5           28.     Answering Paragraph 30, Defendants admit the property at issue has been repaired and

6 the Fabulous Freddy's lease modified. Defendants are without information or knowledge sufficient to

7 form a belief as to the truth of the remaining allegations, and therefore deny.

8           29.     Answering Paragraph 31, the terms of the AOA, including the VA's Manager's duties

9 and responsibilities identified therein, speak for themselves, and on that basis, Defendants deny.

10          30.     Answering Paragraph 32, the referenced lease is through year 2035, and on that basis

11 Defendants deny.

12          31.     Answering Paragraph 33, Plaintiff has failed to produce books and records, rendering

13 Defendants unable to intelligently respond to the allegation. Accordingly, Defendants are without

14 sufficient knowledge or information, and on that basis deny.

15          32.     Answering Paragraph 34, Defendants deny.

16          33.     Answering Paragraph 35, Defendants deny.

17          34.     Answering Paragraph 36, Defendants deny.

18          35.     Answering Paragraph 37, Defendants admit Plaintiff concealed his self-dealing;

19 therefore, Defendants had no knowledge of, and did not accuse him of, the same.

20          36.     Answering Paragraph 38, Defendants admit Plaintiff concealed his embezzlement;

21 therefore, Defendants had no knowledge of, and did not accuse him of, the same.

22          37.     Answering Paragraph 39, Defendants admit Plaintiff concealed his gross negligence;

23 therefore, Defendants had no knowledge of, and did not accuse him of, the same.

24          38.     Answering Paragraph 40, Defendants admit that on December 23, 2019, Defendants

25 voted to remove Plaintiff as manager of VA on the grounds that he committed gross negligence and/or

26 engaged in self-dealing. A true and correct copy of the Written Consent of the Members of Valley

27 Ascent, LLC is attached to the Complaint as Exhibit 2.

28     ///

1           39.     Answering Paragraph 41, Defendants admit that they voted to remove Plaintiff as  
2 manager of VA, and that they were successful in removing him. Defendants admit that collectively,  
3 they hold 61.45% of the membership interests in VA. Defendants deny the remaining allegations.

4           40.     Answering Paragraph 42, Defendants admit they did not notify Plaintiff that they  
5 intended to remove him as manager before he was removed as manager. Defendants state the terms of  
6 the AOA speak for themselves, and on that basis, deny the remaining allegations.

7           41.     Answering Paragraph 43, Defendants deny the notion that they did not present Plaintiff  
8 with any allegations of wrongdoing prior to December 23, 2019. As for the remaining allegations, to  
9 the extent they call for a legal conclusion, no response is required. Alternatively, Defendants deny.

10          42.     Answering Paragraph 44, Plaintiff knows of all his wrongdoings, and on that basis,  
11 Defendants deny.

12          43.     Answering Paragraph 45, Defendants admit that they voted to remove Plaintiff as  
13 manager of VA.

14          44.     Answering Paragraph 46, Defendants admit Plaintiff was notified after his removal as  
15 manager of VA that said action had been completed. Defendants deny all remaining allegations.

16          45.     Answering Paragraph 47, the terms of the AOA speak for themselves, and on that basis,  
17 deny.

18          46.     Answering Paragraph 48, Defendants deny.

19          47.     Answering Paragraph 49, Defendants deny.

20          48.     Answering Paragraph 50, Defendants deny.

21          49.     Answering Paragraph 51, Defendants deny.

22          50.     Answering Paragraph 52, Defendants admit they appointed Lisa Parker as interim  
23 manager as reflected in the Written Consent of the Members of Valley Ascent, LLC, a true and correct  
24 copy of which is attached to the Complaint at Exhibit 3.

25          51.     Answering Paragraph 53, Defendants admit that they appointed Lisa Parker as interim  
26 manager. Defendants admit that collectively, they hold 61.45% of the membership interests in VA.

27          52.     Answering Paragraphs 54, 55 and 56 the terms of the AOA speak for themselves, and  
28 on that basis, deny. Moreover, Defendants deny that they did not have sufficient membership interests

1 in VA to appoint an interim manager, that their actions were in any manner improper, invalid or  
2 ineffective.

3 53. Answering Paragraph 57, the terms of the AOA speak for themselves, and on that basis,  
4 deny.

5 54. Answering Paragraph 58, Defendants deny ever “interfering” with the operations of the  
6 Company in that said term implies wrongdoing, which Defendants expressly deny. On that basis,  
7 Defendants deny.

8 55. Answering Paragraph 59, Defendants admit contacting VA’s banking institutions and  
9 advising them that Plaintiff was removed as manager, and Lisa Parker appointed interim manager. To  
10 the extent Plaintiff infers any wrongdoing on Defendants’ part, Defendants expressly deny.

11 56. Answering Paragraph 60, Defendants admit that Lisa Parker, as interim manager,  
12 managed the Company’s finances. Defendants deny all remaining allegations.

13 57. Answering Paragraph 61, Defendants admit that Lisa Parker, as interim manager,  
14 managed the Company’s finances. Defendants deny all remaining allegations.

15 58. Answering Paragraph 62, the terms of the AOA speak for themselves, and on that basis,  
16 deny. Moreover, Defendants deny “usurping their role between the members and managers of VA.”

17 59. Answering Paragraph 63, Defendants deny.

18 60. Answering Paragraph 64, Defendants admit Lisa Parker was appointed trustee of the Juel  
19 A. Parker Family Trust, and that Juel Parker is 93 years of age. Defendants deny all remaining  
20 allegations.

21 61. Answering Paragraph 65, Defendants deny.

22 62. Answering Paragraph 66, Defendants deny.

23 **Count I – Breach of Contract**

24 63. Answering Paragraphs 1-67 of the Complaint, Defendants incorporate their responses  
25 above as if fully stated here.

26 64. Answering Paragraph 68, Defendants admit that the AOA is a valid and binding contract.

27 65. Answering Paragraphs 69, 70, 71, 72, 73 and 74 Defendants deny.

28 ///

**Count II – Breach of Implied Covenant of Good Faith and Fair Dealing**

66. Answering Paragraphs 1-75 of the Complaint, Defendants incorporate their responses above as if fully stated here.

67. Answering Paragraph 76, Defendants admit Nevada law imposes an implied duty of good faith and fair dealing in every contract.

68. Answering Paragraph 77, Defendants admit that the AOA is a valid contract.

69. Answering Paragraphs 78, 79, 80, 81 and 82, Defendants deny.

**Count III – Declaratory Relief**

70. Answering Paragraphs 1-83 of the Complaint, Defendants incorporate their responses above as if fully stated here.

71. Answering Paragraph 84, to the extent the allegations are legal conclusions, no response is required, and therefore Defendants deny. Otherwise, the Paragraph is denied.

72. Answering Paragraph 85, to the extent the allegations are legal conclusions, no response is required, and therefore Defendants deny. Otherwise, the Paragraph is denied.

73. Answering Paragraphs 86, 87, 88, 89, 90, 91, 92, 93 and 94, Defendants deny.

**Count IV – Intentional Interference with Contractual Relations**

74. Answering Paragraphs 1-95 of the Complaint, Defendants incorporate their responses above as if fully stated here.

75. Answering Paragraph 96, Defendants admit relationships between VA and Bank of Utah, and VA and Mountain American Credit Union. Defendants are without sufficient knowledge or information to admit or deny the remaining allegations, and on that basis, deny.

76. Answering Paragraph 97, Defendants admit relationships between VA and Bank of Utah, and VA and Mountain American Credit Union. Defendants are without sufficient knowledge or information to admit or deny the remaining allegations, and on that basis, deny.

77. Answering Paragraph 98, Defendants deny.

78. Answering Paragraph 99, Defendants admit the banks froze VA accounts. The remaining allegations are denied.

79. Answering Paragraph 100, Defendants deny.

1 80. Answering Paragraph 101, Defendants admit Knowlton is Plaintiff. Defendants deny the  
2 action is a proper derivative action.

3 81. Answering Paragraph 102, Defendants deny.

4 82. Answering Paragraph 103, Defendants admit VA has likely suffered damages by account  
5 of Plaintiff's actions. Defendants deny the remaining allegations.

6 83. Answering Paragraphs 104 and 105, Defendants deny.

7 **Count V – Expulsion**

8 84. Answering Paragraphs 1-106 of the Complaint, Defendants incorporate their responses  
9 above as if fully stated here.

10 85. Answering Paragraph 107, the terms of the AOA speak for themselves, and on that basis,  
11 Defendants deny.

12 86. Answering Paragraphs 108, 109, 110, 111, and 112 Defendants deny.

13 **Count VI – Breach of Fiduciary Duty**

14 87. Answering Paragraphs 113 of the Complaint, Defendants incorporate their responses  
15 above as if fully stated here.

16 88. Answering Paragraph 114, Defendants admit a fiduciary duty is owed.

17 89. Answering Paragraph 115, Defendants admit a fiduciary duty is owed.

18 90. Answering Paragraph 116, Defendants deny.

19 91. Answering Paragraph 117, Defendants admit Knowlton is Plaintiff. Defendants deny the  
20 action is a proper derivative action.

21 92. Answering Paragraphs 118, 119, 120, and 121, Defendants deny.

22 **Count VII - Receivership**

23 93. Answering Paragraph 122 of the Complaint, Defendants incorporate their responses  
24 above as if fully stated here.

25 94. Answering Paragraph 123, Defendants deny that Plaintiff is VA's manager. Nonetheless,  
26 the allegations are moot as the Court has already appointed a neutral third-party interim manager, and  
27 on that basis, Defendants deny.

28 ///

1 95. Answering Paragraph 124, the allegations are moot as the Court has already appointed a  
2 neutral third-party interim manager, and on that basis, Defendants deny.

3 96. Answering Paragraphs 125 and 126, Defendants deny.

4 **Count VIII – Preliminary Injunction**

5 97. Answering Paragraph 127 of the Complaint, Defendants incorporate their responses  
6 above as if fully stated here.

7 98. Answering Paragraphs 128, 129, 130, 131, 132, 133 and 134, Defendants deny.

8 **Denial**

9 1. To the extent any Paragraph was not specifically addressed, or it is determined that a  
10 more specific response was required, Defendants deny the same.

11 **AFFIRMATIVE DEFENSES**

12 Defendants, without altering the burdens of proof the parties must bear, assert the following  
13 affirmative defenses to Plaintiff's Complaint and the claims asserted therein. Defendants specifically  
14 incorporate into the affirmative defenses their answers to the preceding paragraphs of Plaintiff's  
15 Complaint as if fully set forth herein.

16 1. Plaintiff's Complaint, all the claims for relief alleged therein, and all requests for  
17 damages, fail to state a claim against Defendants upon which relief can be granted.

18 2. Plaintiff has not been damaged directly, indirectly, proximately or in any manner  
19 whatsoever by any conduct of Defendants.

20 3. Plaintiff failed to mitigate his damages, if any.

21 4. The allegations contained in the Complaint, and the resulting damages, if any, to Plaintiff  
22 was proximately caused or contributed to by Plaintiff's own conduct, and such improper conduct was  
23 greater than the improper conduct, if any, of Defendants.

24 5. Any harm or injury or claim of damage of Plaintiff, or cause of action of Plaintiff, as  
25 alleged or stated in the Complaint, is barred by the doctrine of estoppel, laches, fraud and unclean  
26 hands.

27 6. Plaintiff's damages, if any, must be reduced or outright eliminated to reflect Plaintiff's  
28 proportionate share of fault.

- 1           7.       Defendants acted in good faith, with innocent intent and with due care.
- 2           8.       Plaintiff has engaged in conduct, acts, deeds, activities and/or omissions sufficient to
- 3 constitute waiver of any alleged breach of duty or other conduct, if any, as set forth in the Complaint.
- 4           9.       Plaintiff was the first to breach any contractual obligation between the parties, and
- 5 therefore, cannot pursue recovery against Defendants.
- 6           10.      Plaintiff lacks standing to bring one or more causes of action delineated in the Complaint.
- 7           11.      Plaintiff's Complaint is not properly verified.
- 8           12.      Plaintiff's claims are frivolous, without merit, and asserted in bad faith for an ulterior
- 9 purpose and they are barred accordingly.
- 10          13.      Plaintiff's claims against Defendants are barred in whole or in part because Defendants'
- 11 liability, if any, is limited by the AOA and Nevada law, including NRS 86.
- 12          14.      Plaintiff's claims against Defendants are barred in whole or in part because Defendants'
- 13 actions are authorized by and comport with the AOA and Nevada law.
- 14          15.      Pursuant to NRCP 8, all possible affirmative defenses may not have been alleged herein
- 15 insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants'
- 16 Answer and, therefore, Defendants reserve the right to amend their Answer to allege additional
- 17 affirmative defenses if subsequent investigation warrants.

18           **WHEREFORE**, Defendants pray for judgment as follows:

- 19          1.       That Plaintiff takes nothing by way of his Complaint, and the same be dismissed with
- 20 prejudice;
- 21          2.       That Defendants be awarded their attorneys' fees and costs incurred in the defense of this
- 22 action; and

23       ///

24       ///

25       ///

26       ///

27       ///

28       ///

**GREENBURG TRAURIG, LLP**

*/s/ Kara B. Hendricks*  
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*Attorneys for WILLIAM L. LINDNER as Trustee of the William L. Lindner and Maxine G. Lindner Trust of 1988; JUEL A. PARKER, individually and as Trustee of the Juel A. Parker Family Trust; LISA PARKER, individually and as Trustee of the Juel A. Parker Family Trust; and S. BRUCE PARKER, as Trustee of the Steven Bruce Parker Family Trust*

## COUNTERCLAIMS

COME NOW, Counter-Plaintiffs WILLIAM L. LINDNER, as Trustee for the WILLIAM L. LINDNER and MAXINE G. LINDNER TRUST OF 1988 (the “Lindner Trust”), LISA PARKER, as Trustee of the JUEL A. PARKER FAMILY TRUST (“Juel Trust”), S. BRUCE PARKER, as Trustee of the STEVEN BRUCE PARKER FAMILY TRUST (“Parker Trust”), each individually and derivatively on behalf of VALLEY ASCENT, LLC (“Counter-Plaintiffs”), and JUEL PARKER, individually, by and through their counsel, the law firm of Greenberg Traurig, LLP, and hereby allege as follows:

## THE PARTIES

1. Nominal party Valley Ascent, LLC (“VA” and “Company”) is a Nevada limited liability company, with its principal place of business in Las Vegas, Nevada.

2. William L. Lindner is a resident of the State of California and Trustee of the William L. Lindner and Maxine G. Lindner Trust of 1988, which holds a 20% membership interest in VA.

///

3           4.       S. Bruce Parker is a resident of Clark County, Nevada and Trustee of the Steven Bruce  
4 Parker Family Trust, which holds a 5% membership interest in VA.

5           5.       At all relevant times described herein, Juel Parker is an elderly person over the age of 60  
6 years old, and a resident of Clark County, Nevada.

6. Upon information and belief, Counter-Defendant Brad Knowlton (“Knowlton”) is a resident of the State of Utah and claims a 38.55% membership interest in VA.

9           7.       The true names and capacities of DOES and ROES I through X are not currently known  
10 to Counter-Plaintiffs and as such cannot yet be named herein. Therefore, Counter-Plaintiffs sue said  
11 Counter-Defendants by such fictitious names. Counter-Plaintiffs are informed and believe, and on  
12 such basis allege, that each of the Counter-Defendants designated as DOES I through X and ROE  
13 Corporations and Limited Liability Companies I through X is responsible in some manner for the  
14 events and occurrences referred to in this Counterclaim, and/or may be affiliated with one of the other  
15 Counter-Defendants, and/or is the alter-ego of the Counter-Defendants. Counter-Plaintiffs will seek  
16 leave of this Court to amend this Counterclaim and insert the true names and capacities of DOES I  
17 through X and ROE Corporations and Limited Liability Companies I through X, when the same have  
18 been ascertained and to join said Counter-Defendants in this action.

19 **VENUE AND JURISDICTION**

20           8. Pursuant to NRS 13.040, Clark County, Nevada is the proper venue for resolution of  
21 the claims contained herein.

9. Section XVII (4) of VA's Amended Operating Agreement ("AOA") provides that any suit or action regarding the AOA shall be instituted in a court of competent jurisdiction in the State of Nevada.

24 GENERAL ALLEGATIONS

**The Company and Amended Operating Agreement**

26           10.     The Company is a limited liability company, established for the purposes of engaging in  
27 the business of real estate investment and development, ownership and leasing of equipment and  
28 personal property, and all related activities and other lawful activities agreed to by its Members.

11. On or about February 18, 2005, Counter-Plaintiffs and Counter-Defendant (collectively, Counter-Plaintiffs and Counter-Defendant are the “Parties”) adopted the AOA, which, along with Nevada law, governs the operations of VA.

12. In exchange for a 36.45% membership interest in the Company, the Juel Trust conveyed a parcel of real property (the “Juel Parcel”) to the Company and additionally contributed Thirty-Five Thousand Dollars (\$35,000.00).

13. In exchange for a 20% membership interest in the Company and additional monetary compensation from Knowlton, the Lindner Trust transferred a parcel of property (the “Lindner Parcel”) to the Company.

14. Bruce Parker agreed to provide real estate services to the Company, and in lieu of a real estate commission or broker fee, the Parker Trust received a 5% membership interest in the Company.

15. Knowlton’s claimed 38.55% membership interest in the Company purportedly came from the sweat equity he promised to provide by acting as the general contractor to build a car wash on the Juel Parcel and Lindner Parcel (collectively the Juel Parcel and Lindner Parcel are referred to as the “Property”) as well as monetary compensation he provided to Lindner to increase his membership interest.

16. Among other provisions, the AOA provides that:

- a. It is the sole agreement of the Members and Managers, except for a separate written agreement with the Manager regarding fees and any other additional responsibilities (Art. I, Sec. 2; Art. XVII, Sec. 1), and with respect to a Manager’s compensation, the amount was to be determined by the written consent of all Members (Art. VII, Sec. 6);
- b. The Manager is required to maintain the Company’s books and records in the State of Nevada, including but not limited to tax returns, financial statements, and governing documents (Art. IV, Sec. 1), and provide reports regarding the Company’s books and records to Members at least annually (Art. IV, Sect. 2; Sec. 4);
- c. Additionally, the Company’s books and records are to be kept in accordance with generally accepted accounting practices applied in a consistent manner, must reflect all Company transactions and be appropriate and adequate for Company business, and open for inspection by all Members (Art. IV, Sec. 4);
- d. Furthermore, with little exception, the Manager is tasked with distributing profits monthly (Art. X, Sec. 2 & 3);

///

1 e. A Manager lacks any contractual right to such position and is subject to removal  
2 by an affirmative vote of the Members (Art. VII, Sec. 2). When a Manager is  
3 grossly negligent, self-deals, or embezzles, said Manager is removed upon  
4 affirmative vote of 50% of the membership interests (Art. X, Sec. 2);

5 f. A Manager is personally liable to the Company or its Members for damages for  
6 any breach of duty in the capacity where a judgment or other final adjudication  
7 adverse to the Manager establishes that the Manger's acts or omissions were in  
8 bad faith or involved gross negligence or willful misconduct or that the Manager  
9 personally gained a financial profit or other advantage to which the Manger was  
10 not legally entitled (Art. VII, Sec. 8)

11 17. Knowlton was appointed Manager in or around the time the AOA was executed.

### 12 The Project

13 18. In or around 2004, Bruce Parker approached the owner of Fabulous Freddy's about the  
14 possibility of building a car wash on the Property (the "Project").

15 19. The Project would consist of a one-story convenience food store with gas pumps, car  
16 wash and car service facilities, among other improvements.

17 20. In connection with the Project and Property, on or about September 4, 2004, Fabulous  
18 Freddy's, by and through the entity MCSmith, LLC, entered into a Build to Suit Lease with the Company  
19 ("Fabulous Freddy's Lease").

20 21. In 2005, the build out of the Project was financed by the Company through a construction  
21 loan granted by Mountain American Federal Credit Union ("MACU"), ("MACU Construction Loan").

22 22. The MACU Construction Loan was later modified in 2013, at which time the interest rate  
23 was, upon information and belief, reduced.

### 24 Knowlton's Bad Acts Are Uncovered

25 23. On or about November 2018, Lisa Parker was appointed trustee of the Juel Trust, as her  
26 father, Juel Parker, a 93-year old elderly person, was aging and unable to see well enough to handle  
27 financial matters.

28 24. Prior to, Knowlton, in his capacity as Manager, had very little, oversight.

29 25. To their detriment, Juel Parker, William Lindner and Bruce Parker trusted Knowlton, and  
30 allowed him to manage the Company with full faith that he would comply with the terms of the AOA  
31 and do right by the Members.

32 ///

1           26.     Time has proven that Juel Parker's, William Lindner's and Bruce Parker's trust and faith  
2 was misplaced.

3           27.     In her role as trustee of the Juel Trust, Lisa Parker began looking at available Company  
4 books and records.

5           28.     Her investigation uncovered facts and circumstances which, from Counter-Plaintiffs'  
6 perspective, led to the conclusion that Knowlton had engaged in self-dealing, embezzlement, gross  
7 negligence and/or exploitation of an older person.

8           29.     The full extent of Knowlton's bad acts has not yet been uncovered as he has failed to  
9 produce pertinent books and records that he, as Manager, was required to maintain.

10          30.     On October 2, 2019, Counter-Plaintiffs served Knowlton with a demand for books and  
11 records in accordance with NRS 86.

12          31.     Weeks after the expiration of time for compliance with NRS 86.241, Knowlton produced  
13 limited documents, claiming to have produced everything within the Company's possession at that time.

14          32.     The documents were woefully deficient and did not include, among other things:

- 15           a.     A list of payments to affiliates of the Company or its manager and the  
16                 purpose/nature and method of calculation such as, for example, management fees,  
17                 license fees, etc. and agreements separate from the Company's Operating  
18                 Agreement that govern services provided by such affiliates;
- 19           b.     The Company's Bank of Utah account records;
- 20           c.     Account statements for the MACU checking account in the Company's name;
- 21           d.     Accounting records in an electronic format, such as QuickBooks or its equivalent,  
22                 for the relevant period, including the version of QuickBooks used and applicable  
23                 user ID and passwords;
- 24           e.     Check images (or copies of the same) to support all disbursements made by the  
25                 Company from January 2018- present; or
- 26           f.     Loan documents and guaranty documents evidencing any outstanding loans  
27                 and/or loan modifications to which the Company is a party and any documents  
28                 evidencing personal guaranty agreements related to the same.

25          33.     Upon information and belief, Knowlton has intentionally concealed and/or destroyed the  
26 Company's books and records in an attempt to keep Counter-Plaintiffs from discovering the full extent  
27 of Knowlton's self-dealing, embezzlement, gross negligence, fraud and/or exploitation of an older  
28 person.

34. Based upon information currently available, Counter-Plaintiffs have unveiled the following of Knowlton's bad acts, which run afoul of the express terms of the AOA, spirit and intent of the AOA, Counter-Plaintiffs' trust and faith, and Nevada law:

- a. Without authorization or written consent required by the AOA, Knowlton took a "management fee" equal to 4% or more of the Company's gross income. Upon information and belief, Knowlton has been taking a "management fee" since January 2005 and has since absconded with an amount in excess of \$430,000.
- b. Knowlton paid a monthly fee of \$300 to his daughter, Valerie Knowlton, for "bookkeeping services," in addition to the large monthly "management fee" Knowlton took for himself. Based upon books and records currently available, this monthly "bookkeeping services" fee was paid January 2016 through November 2016 and January 2017 through September 2017. Counter-Plaintiffs did not authorize said "bookkeeping services" fee and, given the state of the Company's books and records, said fee was not paid in exchange for legitimate bookkeeping services.
- c. The Company's available 2016 financials indicate that Knowlton created an \$802,000 personal note and recorded it as a tax entry. Counter-Plaintiffs have not been provided a copy of the note, nor did they authorize Knowlton to enter this onto the Company's books.
- d. Upon information and belief, in 2013, Knowlton paid himself a \$48,050.49 "guarantor fee" in connection with the Company refinancing the MACU Construction Loan. Counter-Plaintiffs neither authorized, nor consented to said "guarantor fee."
- e. What is more, Knowlton, in instructing Juel Parker to sign documents in connection with refinancing the MACU Construction Loan, incorrectly advised that Juel Parker's Guaranty only applied to the Parker Trust's pro-rata share of the Company's debt. Upon information and belief, Knowlton intentionally concealed the fact that Juel Parker was purportedly guaranteeing the entire Company debt and led Juel Parker to believe that the loan was significantly less than \$4.5 million.
- f. Upon information and belief, Knowlton siphoned an additional \$50,000 when the MACU Construction Loan was refinanced, as loan documents show said fee being paid to Ascent Construction, a corporation owned by Knowlton.
- g. Company bank records indicate that Knowlton paid himself additional distributions, which were neither authorized, nor consented to, in February 2016 (\$13,800) and April 2016 (\$13,800).
- h. Throughout years 2015, 2016, 2017, 2018, and 2019, Knowlton paid himself a disproportionate amount of distributions, exceeding the membership interest he claims in the Company, and shorting Counter-Plaintiffs. Upon information and belief, excess payments to Knowlton exceed \$80,000.

35. In addition to the aforementioned bad acts discovered upon receipt of limited Company books and records, Knowlton has committed other bad acts, thereby breaching the express terms of the

1 AOA and spirit and intent of the AOA, and in violation of Counter-Plaintiffs' trust and faith, and Nevada  
2 Law.

3 36. Specifically, throughout the years, Knowlton failed to make timely monthly distributions  
4 to the Lindner Trust and Juel Trust.

5 37. For one, Knowlton failed to pay the Lindner Trust monthly distributions for November  
6 2016, September 2018, January 2019 and November 2019. The Lindner Trust's attempts to resolve the  
7 non-payment have been ignored by Knowlton.

8 38. Moreover, Knowlton failed to pay the Juel Trust a distribution for December 2016. In  
9 January 2019, Knowlton acknowledged the \$12,220 debt owed to the Juel Trust but stated he would not  
10 pay it unless Juel Parker signed an affidavit which Knowlton later submitted in Knowlton's divorce  
11 proceeding. Despite this acknowledgement and promise to pay, the debt remains.

12 39. Critically, Knowlton failed to produce original MACU Construction Loan documents.

13 40. Despite the Company having purportedly paid the MACU Construction Loan for  
14 approximately eight years, in 2013, the principal balance owed was still \$4.5 million, begging the  
15 question, where did the funds go?

16 41. Through discovery, Counter-Plaintiffs expect to find that Knowlton paid himself or one  
17 of his businesses a significant amount of money by and through the MACU Construction Loan, for  
18 materials and construction of the Project.

19 42. Because Knowlton's membership interest was purportedly earned by and through sweat  
20 equity he promised to contribute to the Project, in the event it is proven that Knowlton paid himself or  
21 one of his businesses for materials and construction of the Project, the purported consideration he  
22 provided in exchange for his membership interest fails.

23 43. Should Knowlton's membership interest fail for lack of consideration, every dollar he  
24 has received from the Company was taken under false pretenses and must be repaid.

25 44. Throughout the years, Knowlton failed to provide Counter-Plaintiffs with required  
26 annual financial statements.

27 45. Upon information and belief, Knowlton intentionally concealed the Company's financial  
28 records in furtherance of his plan to continue to siphon Company money.

1           46. Finally, through discovery, Counter-Plaintiffs expect to confirm that Knowlton co-  
2 mingled funds and/or used Company bank accounts and funds to pay for his personal endeavors.

3           47. For example, the Company's Bank of Utah account statements showed available funds  
4 on January 31, 2019 in excess of \$1 million. On January 22, 2020 however, the same account had a  
5 balance less than \$200,000. Company expenses and distributions throughout that same timeframe are  
6 nowhere near \$800,000.

7           48. By way of another example, on February 4, 2019, \$150,000 was transferred out of the  
8 Company's Bank of Utah account, with the description "TRANSFER TO Market Place 0406 per Brad."  
9 Brad Knowlton is the only "Brad" within the Company with access to Company bank accounts.

10                           **Knowlton Is Removed as Manager, Yet, Continues to**  
11                           **Wreak Havoc on Counter-Plaintiffs and the Company**

12           49. In an effort to mitigate Counter-Plaintiffs' and the Company's damages, on or about  
13 December 23, 2019, Counter-Plaintiffs voted to, and successfully removed Knowlton as Manager.

14           50. In Knowlton's place, Counter-Plaintiffs appointed Lisa Parker as interim Manager,  
15 authorized to access all Company books and records, bank accounts, make arrangements to pay  
16 Company taxes, facilitate receiving and depositing Fabulous Freddy's rent check, payment of the  
17 MACU Construction Loan, etc.

18           51. Fabulous Freddy's, MACU and Bank of Utah were notified of the Company's actions.

19           52. Later, on January 15, 2020, the parties met to elect a new permanent Manager, among  
20 other reasons.

21           53. Knowlton refused to appoint any Manager but himself.

22           54. Upon information and belief, subsequent to the January 15, 2020 meeting, Knowlton  
23 contacted MACU and Bank of Utah, contested his removal and Lisa Parker's appointment, and  
24 threatened them with legal action.

25           55. In response, MACU and Bank of Utah froze the Company's accounts, rendering the  
26 Company unable to deposit Fabulous Freddy's rent check, pay the MACU Construction Loan, pay an  
27 accountant to prepare and file Company taxes, make distributions, etc.

28           ///

1           56.     Moreover, in response to Knowlton's threatened legal action, Bank of Utah instructed  
2 the Company to close all bank accounts with Bank of Utah.

3           57.     Despite Counter-Plaintiffs' objections, Knowlton continued to demand that he be  
4 allowed sole access to Company funds, books and records, and refused to allow Lisa Parker or a neutral  
5 third-party to act as Manager.

6           58.     Upon information and belief, Knowlton's refusal was in furtherance of his efforts to  
7 conceal his self-dealing, embezzlement, gross negligence and/or exploitation of an older person.

8                               **FIRST CAUSE OF ACTION**

9                               **Breach of Fiduciary Duty/Constructive Trust**

10          59.     Counter-Plaintiffs incorporate by reference all allegations contained in the preceding  
11 paragraphs and assert those allegations as though fully set forth herein.

12          60.     Knowlton owed fiduciary duties, including, but not limited to, the duties of loyalty,  
13 candor, good faith, care, fairness and honesty.

14          61.     Knowlton breach fiduciary duties he owed to Counter-Plaintiffs and the Company.

15          62.     Counter-Plaintiffs are authorized to bring this action derivatively without the consent of  
16 Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would  
17 have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been  
18 likely to approve bringing action against himself.

19          63.     Counter-Plaintiffs and the Company have suffered a loss in excess of \$15,000 as the  
20 result of Knowlton's conduct.

21          64.     Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this  
22 action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

23          65.     Knowlton's breaches of fiduciary duty were committed with specific, malicious and  
24 willful intent to injure Counter-Plaintiffs and the Company and to benefit Counter-Defendant, thereby  
25 entitling Counter-Plaintiffs and the Company to compensatory and punitive damages in an amount to be  
26 determined.

27       ///

28       ///

**SECOND CAUSE OF ACTION**

**Breach of Contract**

66. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding paragraphs and reassert those allegations as though fully set forth herein.

67. The Amended Operating Agreement is a valid and enforceable contract.

68. Counter-Plaintiffs performed their obligations under the Operating Agreement.

69. Knowlton breached his obligations under the AOA.

70. Counter-Plaintiffs and the Company have suffered injury in excess of \$15,000 as a result of Knowlton's breaches.

71. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been likely to approve bringing action against himself.

72. Counter-Plaintiffs and the Company are entitled to an accounting of all Company funds.

73. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

74. The breaches of contract were committed with specific, malicious and willful intent to injure Counter-Plaintiffs and the Company, and to benefit Knowlton, thereby entitling Counter-Plaintiffs and the Company to compensatory and punitive damages in an amount to be determined.

**THIRD CAUSE OF ACTION**

**Breach of the Covenant of Good Faith and Fair Dealing**

75. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding paragraphs and reassert those allegations as though fully set forth herein.

76. The Amended Operating Agreement is a valid and enforceable contract.

77. The AOA contains an implied covenant of good faith and fair dealing.

78. Knowlton performed his obligations with respect to such contract in a manner that is contrary to the intention and spirit of the contract.

///

1           79.     Counter-Plaintiffs' and the Company's justified expectations from the contract have been  
2 denied as a result of Knowlton's conduct.

3           80.     Counter-Plaintiffs and the Company have suffered damages in excess of \$15,000 as a  
4 result of Knowlton's conduct.

5           81.     Counter-Plaintiffs are authorized to bring this action derivatively without the consent of  
6 Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would  
7 have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been  
8 likely to approve bringing action against himself.

9           82.     Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this  
10 action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

11           83.     Knowlton's breaches were committed with specific, malicious and willful intent to injure  
12 Counter-Plaintiffs and the Company, and to benefit Knowlton, thereby entitling Counter-Plaintiffs and  
13 the Company to compensatory and punitive damages in an amount to be determined.

#### 14                                   **FOURTH CAUSE OF ACTION**

##### 15                                   **Fraudulent Concealment**

16           84.     Counter-Plaintiffs incorporate by reference all allegations contained in the preceding  
17 paragraphs and reassert those allegations as though fully set forth herein.

18           85.     Knowlton concealed and/or suppressed numerous material facts, as demonstrated herein,  
19 which he was under a duty to disclose to Counter-Plaintiffs and the Company.

20           86.     Knowlton intentionally concealed and/or suppressed these facts with the intention of  
21 defrauding Counter-Plaintiffs and the Company.

22           87.     Counter-Plaintiffs and the Company were unaware of the material facts wrongfully  
23 withheld by Knowlton and would have acted differently and consistent with their rights under the AOA  
24 had they known.

25           88.     Counter-Plaintiffs and the Company have suffered injury in excess of \$15,000 as a result  
26 of Knowlton's concealment.

27           89.     Counter-Plaintiffs and the Company are entitled to an accounting of all Company funds.

28     ///

90. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been likely to approve bringing action against himself.

91. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

92. The fraudulent concealment was committed with specific, malicious and willful intent to injure Counter-Plaintiffs and the Company and to benefit Counter-Defendants, thereby entitling Counter-Plaintiffs to compensatory and punitive damages in an amount to be determined.

## FIFTH CAUSE OF ACTION

## Tortious Breach of Implied Covenant of Good Faith

93. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding paragraphs and reassert those allegations as though fully set forth herein.

94. Counter-Plaintiffs and Knowlton entered into certain contracts, namely the Amended Operating Agreement.

95. Implied in every agreement under Nevada law is the obligation of good faith and fair dealing.

96. A special relationship, confidential and fiduciary in nature, exists between Counter-Plaintiffs, Knowlton and the Company.

97. Counter-Plaintiffs and the Company were required to rely upon and trust Knowlton to carry out his duties and obligations under the AOA in good faith.

98. In light of Knowlton's superior knowledge relating to the Company due to Knowlton's concealment of information, and limitations on Counter-Plaintiffs' and the Company's access to certain information relating to the same, Counter-Plaintiffs and the Company were required to hold Knowlton in an entrusted position as part of the business relationship constituting a special relationship.

99. Knowlton tortiously breached the implied covenant of good faith and fair dealing by, among other things, engaging in misconduct relating to the AOA and his obligations thereunder.

///

1 100. Counter-Plaintiffs and the Company have suffered injury in excess of \$15,000 as a result  
2 of Knowlton's breaches.

3 101. Counter-Plaintiffs and the Company are entitled to an accounting of all Company funds.

4 102. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of  
5 Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would  
6 have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been  
7 likely to approve bringing action against himself.

8 103. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this  
9 action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

10 104. Knowlton's breaches were committed with specific, malicious and willful intent to injure  
11 Counter-Plaintiffs and the Company, and to benefit Knowlton, thereby entitling Counter-Plaintiffs to  
12 compensatory and punitive damages in an amount to be determined.

### 13 **SIXTH CAUSE OF ACTION**

#### 14 **Intentional Interference with Contractual Relations**

15 105. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding  
16 paragraphs and reassert those allegations as though fully set forth herein.

17 106. The Company had valid and enforceable agreements with the Bank of Utah.

18 107. Knowlton was aware of the Company's contractual relationship with Bank of Utah.

19 108. Knowlton took specific measures to interfere with the Company's contractual  
20 relationship with Bank of Utah, causing Company's funds to be frozen.

21 109. As a result of Knowlton's actions, Bank of Utah has directed the Company to close its  
22 accounts.

23 110. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of  
24 Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would  
25 have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been  
26 likely to approve bringing action against himself.

27 111. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this  
28 action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

1 112. Knowlton's actions were committed with specific, malicious and willful intent to injure  
2 Counter-Plaintiffs and the Company, and to benefit Knowlton, thereby entitling Counter-Plaintiffs to  
3 compensatory and punitive damages in an amount to be determined.

4 **SEVENTH CAUSE OF ACTION**

5 **Expulsion**

6 113. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding  
7 paragraphs and reassert those allegations as though fully set forth herein.

8 114. Under the AOA, a Member may be expelled by judicial determination that a Member has  
9 engaged in wrongful conduct that adversely and materially affected the Company's business; that it has  
10 willfully and persistently committed a material breach of the AOA or of a duty owed to the Company  
11 or the other Members; or has engaged in conduct relating to the Company's business which makes it not  
12 reasonably practicable to carry on business with the Member.

13 115. Knowlton has engaged in wrongful conduct that adversely and materially affected the  
14 Company's business.

15 116. Knowlton has willfully and persistently committed material breaches of the AOA.

16 117. Knowlton has willfully and persistently breached duties owed to the Company and  
17 Counter-Plaintiffs.

18 118. Knowlton has engaged in conduct relating to the Company's business which makes it not  
19 reasonably practicable to carry on business with Knowlton.

20 119. Accordingly, Knowlton should be expelled as a Member of the Company.

21 120. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of  
22 Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would  
23 have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been  
24 likely to approve bringing action against himself.

25 121. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this  
26 action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

27 ///

28 ///

**EIGHTH CLAIM FOR RELIEF**

**Accounting**

122. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding paragraphs and reassert those allegations as though fully set forth herein.

123. Knowlton has maintained and retained all of the corporate and business books, records, and documents relating to the Company's operations and finances without providing full and complete access to Counter-Plaintiffs and without providing a full and complete general ledger, accounting, reconciliation, and/or audit of the Company's financial records.

124. Upon information and belief, Knowlton has intentionally concealed and/or destroyed the Company's books and records in an attempt to keep Counter-Plaintiffs from discovering the full extent of Knowlton's self-dealing, embezzlement, gross negligence, fraud and/or abuse and exploitation of an older and vulnerable person.

125. As a result, Counter-Plaintiffs are entitled to a full and complete accounting regarding all of the Company's assets, liabilities, revenues and expenses.

126. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been likely to approve bringing action against himself.

127. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

**NINTH CLAIM FOR RELIEF**

**Conversion**

128. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding paragraphs and reassert those allegations as though fully set forth herein.

129. Knowlton wrongfully and intentionally exercised dominion over monies that were paid to the Company.

130. Knowlton's conduct effectuated a denial of the Company's and Counter-Plaintiffs' use and enjoyment of those monies

1 131. Knowlton's conduct was committed in derogation, exclusion, or defiance of the  
2 Company's and Counter-Plaintiffs' rights or title in those monies.

3 132. Counter-Plaintiffs and the Company have suffered injury in excess of \$15,000 as a result  
4 of Knowlton's actions.

5 133. Counter-Plaintiffs and the Company are entitled to an accounting of all Company funds.

6 134. Counter-Plaintiffs are authorized to bring this action derivatively without the consent of  
7 Knowlton because any effort to cause Knowlton to bring the action on behalf of the Company would  
8 have been futile since Knowlton is a Counter-Defendant in this action, and thus, would not have been  
9 likely to approve bringing action against himself.

10 135. Counter-Plaintiffs have retained the services of Greenberg Traurig, LLP to prosecute this  
11 action and are entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

12 136. Knowlton's actions were committed with specific, malicious and willful intent to injure  
13 Counter-Plaintiffs and the Company, and to benefit Knowlton, thereby entitling Counter-Plaintiffs to  
14 compensatory and punitive damages in an amount to be determined.

15 **TENTH CLAIM FOR RELIEF**

16 **Elder Exploitation – NRS 41.1395**

17 137. Counter-Plaintiffs incorporate by reference all allegations contained in the preceding  
18 paragraphs and reassert those allegations as though fully set forth herein.

19 138. At all relevant times described herein, Juel Parker and William Lindner were over the  
20 age of 60.

21 139. Knowlton knew Juel Parker and William Lindner were over the age of 60.

22 140. Knowlton, as Manager of the Company, was in a position of trust and confidence.

23 141. Nonetheless, Knowlton deceived, intimidated, and/or unduly influenced Juel Parker and  
24 William Lindner in order to obtain control over his money, assets and property.

25 142. Knowlton acted with the intention of permanently depriving Juel Parker and William  
26 Lindner of ownership, use, benefit and possession of his money, assets and property.

27 143. Juel Parker and William Lindner have suffered injury in excess of \$15,000 as a result of  
28 Knowlton's actions.

144. Juel Parker and William Lindner have retained the services of Greenberg Traurig, LLP to prosecute this action and is entitled to recover reasonable attorneys' fees and costs of suit incurred herein.

145. Knowlton's actions were committed with specific, malicious and willful intent to injure Juel Parker and William Lindner, and to benefit Knowlton, thereby entitling Juel Parker and William Lindner to compensatory and punitive damages in an amount to be determined.

146. Knowlton is liable to Juel Parker and William Lindner for two times actual damages incurred due to the exploitation.

**PRAYER FOR RELIEF**

**WHEREFORE**, Counter-Plaintiffs and the Company pray for judgment against Knowlton as follows:

1. For general damages and loss in an amount of at least \$15,000, to be proven at trial;
2. For compensatory, consequential, incidental and special damages resulting from Knowlton's actions, and pre- and post-judgment interest, in an amount of at least \$15,000, to be proven at trial;
3. An award of attorneys' fees and costs incurred in prosecuting this action; and
4. For such other and further relief as the Court may deem just and proper.

DATED this 20<sup>th</sup> day of March, 2020.

**GREENBURG TRAURIG, LLP**

/s/ Kara B. Hendricks  
MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
KARA B. HENDRICKS, ESQ.  
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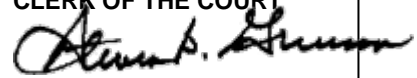
*Attorneys for WILLIAM L. LINDNER as Trustee of the William L. Lindner and Maxine G. Lindner Trust of 1988; JUEL A. PARKER, individually and as Trustee of the Juel A. Parker Family Trust; LISA PARKER, individually and as Trustee of the Juel A. Parker Family Trust; and S. BRUCE PARKER, as Trustee of the Steven Bruce Parker Family Trust*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of March, 2020, a true and correct copy of the foregoing **ANSWER AND COUNTERCLAIMS** was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV Electronic Filing system and serving all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

The date and time of the electronic proof of service is in place of the date and place of deposit in the U.S. Mail.

/s/ Andrea Flintz  
An employee of Greenberg Traurig, LLP



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10  
11 *Attorneys for Plaintiff Brad L. Knowlton*

12 **IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

13 **IN AND FOR THE COUNTY OF CLARK**

14  
15  
16 BRAD L. KNOWLTON, an individual,

17 Plaintiff,

18 v.

19 VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDER, as  
20 Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
21 Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker  
22 Family Trust, LISA PARKER, an individual, and  
S. BRUCE PARKER, as Trustee of the Steven  
23 Bruce Parker Family Trust,

24 Defendants.

CASE NO: A-20-809612-B

DEPT. XI

**ANSWER TO COUNTERCLAIM**

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**FIRST AFFIRMATIVE DEFENSE**

The Counterclaim fails to state a claim upon which relief may be granted.

**SECOND AFFIRMATIVE DEFENSE**

Knowlton denies each and every allegation of the Counterclaim not specifically admitted herein.

Knowlton denies each and every allegation of the Counterclaim not specifically admitted herein.

**THIRD AFFIRMATIVE DEFENSE**

**PARTIES**

1. With respect to Paragraph 1 of the Counterclaim, Knowlton admits that Valley

1. With respect to Paragraph 1 of the Counterclaim, Knowlton admits that Valley Ascent, LLC is a Nevada limited liability company but denies all remaining allegations contained therein.

3. With respect to Paragraph 3 of the Counterclaim, Knowlton admits that the Juel A. Parker Family Trust holds a 36.45% membership interest in VA, but is without sufficient information or belief as to the remaining allegations contained therein, and therefore, denies the same.

5. Knowlton denies the allegations contained in Paragraph 5 of the Counterclaim.

6. Knowlton admits the allegations contained in Paragraph 6 of the Counterclaim.

7. Knowlton denies the allegations contained in Paragraph 7 of the Counterclaim.

## VENUE AND JURISDICTION

8. Knowlton admits the allegations contained in Paragraph 8 of the Counterclaim.

9. Knowlton denies the allegations contained in Paragraph 9 of the Counterclaim, and affirmatively alleges that the terms of the written document speaks for itself.

## GENERAL ALLEGATIONS

## **The Company and Amended Operating Agreement**

10. With respect to Paragraph 10 of the Counterclaim, Knowlton admits that the Company is a limited liability company that was established for the purposes of real estate ownership and development but denies all other allegations contained therein.

11. With respect to Paragraph 11 of the Counterclaim, Knowlton admits that the Parties adopted an Amended Operating Agreement at some point in 2005, but denies all other allegations contained therein.

12. Knowlton denies the allegations contained in Paragraph 12 of the Counterclaim.

13. Knowlton admits the allegations contained in Paragraph 13 of the Counterclaim.

14. Knowlton denies the allegations contained in Paragraph 14 of the Counterclaim.

15. Knowlton denies the allegations contained in Paragraph 15 of the Counterclaim.

16. With respect to Paragraph 16 of the Counterclaim, including but not limited to the allegations set forth in subparagraphs a. through f., Knowlton denies the allegations set forth therein, and affirmatively alleges that the terms of the written document speaks for itself.

17. Knowlton denies the allegations contained in Paragraph 17 of the Counterclaim.

## The Project

18. Knowlton denies the allegations contained in Paragraph 18 of the Counterclaim.

19. Knowlton denies the allegations contained in Paragraph 19 of the Counterclaim.

20. Knowlton admits the allegations contained in Paragraph 20 of the Counterclaim.

21. Knowlton admits the allegations contained in Paragraph 21 of the Counterclaim.

22. Knowlton denies the allegations contained in Paragraph 22 of the Counterclaim.

**Knowlton's Bad Acts Are Uncovered**

23. Knowlton is without sufficient information or belief as to the allegations set forth in Paragraph 23 of the Counterclaim, and therefore, denies the same.

24. Knowlton denies the allegations contained in Paragraph 24 of the Counterclaim.

25. Knowlton denies the allegations contained in Paragraph 25 of the Counterclaim.

26. Knowlton denies the allegations contained in Paragraph 26 of the Counterclaim.

27. Knowlton denies the allegations contained in Paragraph 27 of the Counterclaim.

28. Knowlton is without sufficient information or belief as to the allegations set forth in Paragraph 28 of the Counterclaim, and therefore denies the same as it relates to the beliefs of persons whom have never expressed such conclusions to Knowlton, and furthermore, Knowlton specifically denies that he ever engaged in "self-dealing, embezzlement, gross negligence, and/or exploitation of an older person."

29. Knowlton denies the allegations contained in Paragraph 29 of the Counterclaim.

30. Knowlton denies the allegations contained in Paragraph 30 of the Counterclaim.

31. Knowlton denies the allegations contained in Paragraph 31 of the Counterclaim.

32. Knowlton denies the allegations contained in Paragraph 32 of the Counterclaim, including but not limited to those allegations set forth in subparagraphs a. through f.

33. Knowlton denies the allegations contained in Paragraph 33 of the Counterclaim.

34. Knowlton denies the allegations contained in Paragraph 34 of the Counterclaim, including but not limited to those set forth in subparagraphs a. through h.

35. Knowlton denies the allegations contained in Paragraph 35 of the Counterclaim.

36. Knowlton denies the allegations contained in Paragraph 36 of the Counterclaim.

37. Knowlton denies the allegations contained in Paragraph 37 of the Counterclaim.

38. Knowlton denies the allegations contained in Paragraph 38 of the Counterclaim.

39. Knowlton denies the allegations contained in Paragraph 39 of the Counterclaim.

40. Knowlton denies the allegations contained in Paragraph 40 of the Counterclaim.

41. Knowlton denies the allegations contained in Paragraph 41 of the Counterclaim.

42. Knowlton denies the allegations contained in Paragraph 42 of the Counterclaim.

- 1 43. Knowlton denies the allegations contained in Paragraph 43 of the Counterclaim.  
2 44. Knowlton denies the allegations contained in Paragraph 44 of the Counterclaim.  
3 45. Knowlton denies the allegations contained in Paragraph 45 of the Counterclaim.  
4 46. Knowlton denies the allegations contained in Paragraph 46 of the Counterclaim.  
5 47. Knowlton denies the allegations contained in Paragraph 47 of the Counterclaim.  
6 48. Knowlton denies the allegations contained in Paragraph 48 of the Counterclaim.

7 **Knowlton Is Removed as Manager, Yet, Continues to**  
8 **Wreak Havoc on Counter-Plaintiffs and the Company**

- 9 49. Knowlton denies the allegations contained in Paragraph 49 of the Counterclaim.  
10 50. Knowlton denies the allegations contained in Paragraph 50 of the Counterclaim.  
11 51. Knowlton denies the allegations contained in Paragraph 51 of the Counterclaim.  
12 52. Knowlton denies the allegations contained in Paragraph 52 of the Counterclaim.  
13 53. Knowlton denies the allegations contained in Paragraph 53 of the Counterclaim.  
14 54. Knowlton denies the allegations contained in Paragraph 54 of the Counterclaim.  
15 55. Knowlton denies the allegations contained in Paragraph 55 of the Counterclaim.  
16 56. Knowlton denies the allegations contained in Paragraph 56 of the Counterclaim.  
17 57. Knowlton denies the allegations contained in Paragraph 57 of the Counterclaim.  
18 58. Knowlton denies the allegations contained in Paragraph 58 of the Counterclaim.

19 **FIRST CAUSE OF ACTION**  
20 **Breach of Fiduciary Duty/Constructive Trust**

21 59. Knowlton incorporates his responses to Paragraphs 1 through 58 of the Counterclaim,  
22 and further answers the allegations of the Counterclaim as set forth below.

- 23 60. Knowlton denies the allegations contained in Paragraph 60 of the Counterclaim.  
24 61. Knowlton denies the allegations contained in Paragraph 61 of the Counterclaim.  
25 62. Knowlton denies the allegations contained in Paragraph 62 of the Counterclaim.  
26 63. Knowlton denies the allegations contained in Paragraph 63 of the Counterclaim.  
27 64. Knowlton denies the allegations contained in Paragraph 64 of the Counterclaim.  
28 65. Knowlton denies the allegations contained in Paragraph 65 of the Counterclaim.

**SECOND CAUSE OF ACTION**

**Breach of Contract**

66. Knowlton incorporates his responses to Paragraphs 1 through 65 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

67. Knowlton denies the allegations contained in Paragraph 67 of the Counterclaim.

68. Knowlton denies the allegations contained in Paragraph 68 of the Counterclaim.

69. Knowlton denies the allegations contained in Paragraph 69 of the Counterclaim.

70. Knowlton denies the allegations contained in Paragraph 70 of the Counterclaim.

71. Knowlton denies the allegations contained in Paragraph 71 of the Counterclaim.

72. Knowlton denies the allegations contained in Paragraph 72 of the Counterclaim.

73. Knowlton denies the allegations contained in Paragraph 73 of the Counterclaim.

74. Knowlton denies the allegations contained in Paragraph 74 of the Counterclaim.

**THIRD CAUSE OF ACTION**

**Breach of the Covenant of Good Faith and Fair Dealing**

75. Knowlton incorporates his responses to Paragraphs 1 through 74 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

76. Knowlton denies the allegations contained in Paragraph 76 of the Counterclaim.

77. Knowlton denies the allegations contained in Paragraph 77 of the Counterclaim.

78. Knowlton denies the allegations contained in Paragraph 78 of the Counterclaim.

79. Knowlton denies the allegations contained in Paragraph 79 of the Counterclaim.

80. Knowlton denies the allegations contained in Paragraph 80 of the Counterclaim.

81. Knowlton denies the allegations contained in Paragraph 81 of the Counterclaim.

82. Knowlton denies the allegations contained in Paragraph 82 of the Counterclaim.

83. Knowlton denies the allegations contained in Paragraph 83 of the Counterclaim.

**FOURTH CAUSE OF ACTION**

**Fraudulent Concealment**

84. Knowlton incorporates his responses to Paragraphs 1 through 83 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

85. Knowlton denies the allegations contained in Paragraph 85 of the Counterclaim.

86. Knowlton denies the allegations contained in Paragraph 86 of the Counterclaim.

1 87. Knowlton denies the allegations contained in Paragraph 87 of the Counterclaim.

2 88. Knowlton denies the allegations contained in Paragraph 88 of the Counterclaim.

3 89. Knowlton denies the allegations contained in Paragraph 89 of the Counterclaim.

4 90. Knowlton denies the allegations contained in Paragraph 90 of the Counterclaim.

5 91. Knowlton denies the allegations contained in Paragraph 91 of the Counterclaim.

6 92. Knowlton denies the allegations contained in Paragraph 92 of the Counterclaim.

7 **FIFTH CAUSE OF ACTION**

8 **Tortious Breach of Implied Covenant of Good Faith**

9 93. Knowlton incorporates his responses to Paragraphs 1 through 92 of the Counterclaim,  
10 and further answers the allegations of the Counterclaim as set forth below.

11 94. Knowlton denies the allegations contained in Paragraph 94 of the Counterclaim.

12 95. Knowlton denies the allegations contained in Paragraph 95 of the Counterclaim.

13 96. Knowlton denies the allegations contained in Paragraph 96 of the Counterclaim.

14 97. Knowlton denies the allegations contained in Paragraph 97 of the Counterclaim.

15 98. Knowlton denies the allegations contained in Paragraph 98 of the Counterclaim.

16 99. Knowlton denies the allegations contained in Paragraph 99 of the Counterclaim.

17 100. Knowlton denies the allegations contained in Paragraph 100 of the Counterclaim.

18 101. Knowlton denies the allegations contained in Paragraph 101 of the Counterclaim.

19 102. Knowlton denies the allegations contained in Paragraph 102 of the Counterclaim.

20 103. Knowlton denies the allegations contained in Paragraph 103 of the Counterclaim.

21 104. Knowlton denies the allegations contained in Paragraph 104 of the Counterclaim.

22 **SIXTH CAUSE OF ACTION**

23 **Intentional Interference with Contractual Relations**

24 105. Knowlton incorporates his responses to Paragraphs 1 through 104 of the  
25 Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

26 106. Knowlton denies the allegations contained in Paragraph 106 of the Counterclaim.

27 107. Knowlton denies the allegations contained in Paragraph 107 of the Counterclaim.

28 108. Knowlton denies the allegations contained in Paragraph 108 of the Counterclaim.

109. Knowlton denies the allegations contained in Paragraph 109 of the Counterclaim.

110. Knowlton denies the allegations contained in Paragraph 110 of the Counterclaim.

111. Knowlton denies the allegations contained in Paragraph 111 of the Counterclaim.

112. Knowlton denies the allegations contained in Paragraph 112 of the Counterclaim.

## **SEVENTH CAUSE OF ACTION**

### **Expulsion**

113. Knowlton incorporates his responses to Paragraphs 1 through 112 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

114. Knowlton denies the allegations contained in Paragraph 114 of the Counterclaim.

115. Knowlton denies the allegations contained in Paragraph 115 of the Counterclaim.

116. Knowlton denies the allegations contained in Paragraph 116 of the Counterclaim.

117. Knowlton denies the allegations contained in Paragraph 117 of the Counterclaim.

118. Knowlton denies the allegations contained in Paragraph 118 of the Counterclaim.

119. Knowlton denies the allegations contained in Paragraph 119 of the Counterclaim.

120. Knowlton denies the allegations contained in Paragraph 120 of the Counterclaim.

121. Knowlton denies the allegations contained in Paragraph 121 of the Counterclaim.

## **EIGHTH CAUSE OF ACTION**

### **Accounting**

122. Knowlton incorporates his responses to Paragraphs 1 through 121 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

123. Knowlton denies the allegations contained in Paragraph 123 of the Counterclaim.

124. Knowlton denies the allegations contained in Paragraph 124 of the Counterclaim.

125. Knowlton denies the allegations contained in Paragraph 125 of the Counterclaim.

126. Knowlton denies the allegations contained in Paragraph 126 of the Counterclaim.

127. Knowlton denies the allegations contained in Paragraph 127 of the Counterclaim.

## **NINTH CAUSE OF ACTION**

### **Conversion**

128. Knowlton incorporates his responses to Paragraphs 1 through 127 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

129. Knowlton denies the allegations contained in Paragraph 129 of the Counterclaim.

130. Knowlton denies the allegations contained in Paragraph 130 of the Counterclaim.

131. Knowlton denies the allegations contained in Paragraph 131 of the Counterclaim.

132. Knowlton denies the allegations contained in Paragraph 132 of the Counterclaim.

133. Knowlton denies the allegations contained in Paragraph 133 of the Counterclaim.

134. Knowlton denies the allegations contained in Paragraph 134 of the Counterclaim.

135. Knowlton denies the allegations contained in Paragraph 135 of the Counterclaim.

136. Knowlton denies the allegations contained in Paragraph 136 of the Counterclaim.

**TENTH CAUSE OF ACTION**  
**Elder Exploitation- NRS 41.1395**

137. Knowlton incorporates his responses to Paragraphs 1 through 136 of the Counterclaim, and further answers the allegations of the Counterclaim as set forth below.

138. Knowlton denies the allegations contained in Paragraph 138 of the Counterclaim.

139. Knowlton denies the allegations contained in Paragraph 139 of the Counterclaim.

140. Knowlton denies the allegations contained in Paragraph 140 of the Counterclaim.

141. Knowlton denies the allegations contained in Paragraph 141 of the Counterclaim.

142. Knowlton denies the allegations contained in Paragraph 142 of the Counterclaim.

143. Knowlton denies the allegations contained in Paragraph 143 of the Counterclaim.

144. Knowlton denies the allegations contained in Paragraph 144 of the Counterclaim.

145. Knowlton denies the allegations contained in Paragraph 145 of the Counterclaim.

146. Knowlton denies the allegations contained in Paragraph 146 of the Counterclaim.

**FOURTH AFFIRMATIVE DEFENSE**

The Counterclaims are barred, in whole or in part, by the doctrines of laches, estoppel, waiver, and unclean hands.

**FIFTH AFFIRMATIVE DEFENSE**

Knowlton incorporates each and every allegation contained in his Complaint herein.

**SIXTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, by its failure to mitigate its damages.

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**SEVENTH AFFIRMATIVE DEFENSE**

The Counterclaims are barred, in whole or in part, since the Defendants were the first and only parties to breach the terms of the parties’ written agreement, and therefore, any performance of Knowlton under such agreement is excused.

**EIGHTH AFFIRMATIVE DEFENSE**

Knowlton has not violated any duties owed to any of the Defendants.

**NINTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, under the doctrine of mistake, payment, release, or accord and satisfaction.

**TENTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, by the Statute of Frauds.

**ELEVENTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, by the statute of limitations.

**TWELFTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, under the doctrine of ratification or acceptance of the undertakings and actions performed by Knowlton as manager of the Company.

**THIRTEENTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, by the Defendants’ failure to comply with the appropriate statutory, legal, equitable, or other requirements related to the Counterclaim.

**FOURTEENTH AFFIRMATIVE DEFENSE**

The Counterclaim is barred, in whole or in part, by a lack of consideration for alleged promises and warranties made.

**FIFTEENTH AFFIRMATIVE DEFENSE**

The Defendants’ damages, if any, should be limited by their own proportionate share of the fault.

**SIXTEENTH AFFIRMATIVE DEFENSE**

The Defendants lack standing to assert some or all of the claims raised in their Counterclaim.

## SEVENTEENTH AFFIRMATIVE DEFENSE

The Counterclaim is frivolous, asserted in bad faith, and without any factual basis, and was brought for the sole purpose of harassing, intimidating, and preventing Knowlton from asserting his just and rightful claims, and therefore, the Defendants should be sanctioned by the Court in an amount necessary to deter such future conduct, and to compensate Knowlton for his attorneys fees and expenses incurred in defense of the baseless claims.

## **EIGHTEENTH AFFIRMATIVE DEFENSE**

The Defendants' damages, if any, are expressly limited by the terms of the Amended Operating Agreement and/or Nevada law, including but not limited to NRS Chapter 86.

## **NINETEENTH AFFIRMATIVE DEFENSE**

The Counterclaim is not properly verified by the Defendants, and therefore, is invalid in all respects.

**TWENTIETH AFFIRMATIVE DEFENSE**

The Counterclaim is barred since Knowlton's conduct was in full and complete compliance with the terms of the Amended Operating Agreement and all provisions of Nevada law.

## TWENTY-FIRST AFFIRMATIVE DEFENSE

Knowlton asserts that he may have further, separate, and/or additional affirmative defenses that are not currently known to him, but which may be discovered during the course of the litigation of this case, and thus, Knowlton specifically reserves the right to amend its pleading to raise such additional defenses as they become known.

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WHEREFORE, based upon the above and foregoing, Knowlton prays that the Defendants' Counterclaim be dismissed with prejudice, with none of them taking no recovery thereunder, and that Knowlton be awarded his reasonable attorneys' fees and costs incurred in connection with this action, and that Knowlton be awarded such other relief as this Court deems just and proper.

DATED this 9th day of April, 2020.

**WINNER & SHERROD, LTD.**

Andrew D. Smith

Nevada Bar No. 8890

SNOW, CHRISTENSEN &amp; MARTINEAU

**Steven W. Beckstrom, Esq.**

Nevada Bar No. 8372

555 South Bluff Street, Suite 301

St. George, Utah 84770

*Attorneys for Plaintiff Brad L. Knowlton*

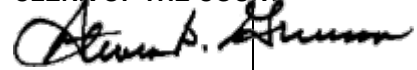
**CERTIFICATE OF SERVICE**

I certify that on this 9th day of April, 2020, the foregoing **ANSWER TO COUNTERCLAIM** was served on the following by ☐ Electronic Service pursuant to NEFR 9 ☒ Electronic Filing and Service pursuant to NEFR 9 ☐ hand delivery ☐ overnight delivery ☐ fax ☐ fax and mail ☐ mailing by depositing with the U.S. mail in Las Vegas, Nevada, enclosed in a sealed envelope with first class postage prepaid, addressed as follows:

Kara Hendricks  
GREENBERG TRAURIG, LLP  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, NV 89135  
*Attorneys for Defendants*

  
An employee of Snow, Christensen & Martineau

4812-0575-8649, v. 1



1 **ORDR**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 BRAD L KNOWLTON, )

6 Plaintiff, )

7 vs )

8 VALLEY ASCENT, LLC, ET AL, )

9 Defendant(s). )

**Case No. 20 A 809612 B**

**Dept. No. XI**

**Date of Hearing: 06/22/20**

**Time of Hearing: 9:00a.m.**

10  
11 **BUSINESS COURT ORDER**

12 This BUSINESS COURT ORDER (“Order”) is entered to reduce the costs of litigation,  
13 to assist the parties in resolving their disputes if possible and, if not, to reduce the costs and  
14 difficulties of discovery and trial. This Order may be amended or modified by the Court upon  
15 good cause shown, and is made subject to any Orders that have heretofore been entered herein.  
16 This case is deemed “complex” and is automatically exempt from Arbitration.

17 **IT IS HEREBY ORDERED:**

18 **I. MANDATORY RULE 16 CONFERENCE**

19 A. A mandatory Rule 16 conference with the Court and counsel/parties in proper  
20 person will be held on **June 22, 2020, at 9:00 a.m.**

21 **B. The following persons are required to attend the conference:**

22 (1) trial or lead counsel for all parties; and

23 (2) parties may attend. If counsel feels that the requirement of attendance of the  
24 parties is beneficial, please contact the department to schedule a conference call with the Judge  
25 for a determination. The conference call must be scheduled at least two weeks prior to the  
26 conference.

27 C. The purpose of this conference is to streamline discovery, expedite settlement or  
28 other appropriate disposition of the case. Counsel/parties in proper person must be prepared to  
discuss the following:

1 (1) status of 16.1 settlement discussions and a review of possible court  
2 assistance;

3 (2) alternative dispute resolution appropriate to this case;

4 (3) simplification of issues;

5 (4) the nature and timing of all discovery;

6 (5) an estimate of the volume of documents and/or electronic information  
7 likely to be the subject of discovery in the case from parties and nonparties and whether there  
8 are technological means, including but not limited to production of electronic images rather than  
9 paper documents and any associated protocol, that may render document discovery more  
10 manageable at an acceptable cost;

11 (6) identify any and all document retention/destruction policies including  
12 electronic data;

13 (7) whether the appointment of a special master or receiver is necessary  
14 and/or may aid in the prompt disposition of this action;

15 (8) any special case management procedures appropriate to this case;

16 (9) trial setting;

17 (10) other matters that may aid in the prompt disposition of this action; and

18 (11) identify any unusual issues that may impact discovery.

19 D. Parties desiring a settlement conference before another judge shall so notify the  
20 court at the setting.

21 E. The Plaintiff is responsible for serving a copy of this Order upon counsel for all  
22 parties who have not formally appeared in this case as of the date of the filing of this order.

## 23 **II. PRETRIAL MOTIONS**

24 A. No documents may be submitted to the Court under seal based solely upon the  
25 existence of a protective order.

26 Any sealing or redaction of information must be done by motion.

1 All motions to seal and/or redact and the potentially protected information must be filed  
2 at the clerk's office front counter during regular business hours 9 am to 4 pm.

3 In accordance with, Administrative Order 19-03, the motion to seal must contain the  
4 language "Hearing Requested" on the front page of the motion under the Department number.

5 Pursuant to SRCR Rule 3(5)(b), redaction is preferred and sealing will be permitted only  
6 under the most unusual of circumstances.

7 If a motion to seal and/or redact is filed with the potentially protected information, the  
8 proposed redacted version of the document with a slip-sheet for any exhibit entitled "Exhibit \*\*  
9 Confidential Filed Under Seal" must be attached as an Exhibit.

10 The potentially protected information in unredacted and unsealed form must be filed at  
11 the same time and a hearing on the motion to seal set. While the motion to seal is pending, the  
12 potentially protected information will not be accessible to the public.

13 If the motion to seal is noncompliant, the motion to seal may be stricken and the  
14 potentially protected information unsealed.

15 B. Any requests for injunctive relief must be made with notice to the opposing party  
16 unless extraordinary circumstances exist. All parties shall advise the Court in writing if there is  
17 an agreement to consolidate the trial on the merits with the preliminary injunction hearing  
18 pursuant to NRCR 65(a)(2).

19 C. Any motions which should be addressed prior to trial – including motions for  
20 summary judgment – shall be served, filed and scheduled for hearing no later than 45 days  
21 before trial.

22 D. Motions in limine shall be served, filed and scheduled for hearing no later than  
23 45 days before trial. Omnibus motions in limine will not be accepted. Except upon a showing  
24 of unforeseen extraordinary circumstances, the Court will not shorten time for the briefing of  
25 any pretrial motions or orally presented after these deadlines.

### 26 **III. DISCOVERY**

27 A. All discovery disputes in this matter will be handled by the District Court Judge  
28 rather than the Discovery Commissioner.

1           B.     A continuance of trial does not extend the deadline for completing discovery. A  
2 request for an extension of the discovery deadline, if needed, must be presented in compliance  
3 with EDCR 2.35.

4           C.     A party objecting to a written discovery request must, in the original objection,  
5 specifically detail the reasons that support the objection, and include affidavits or other evidence  
6 for any factual assertions upon which an objection is based.

7  
8           D.     Documents produced in compliance with NRCP 16.1 or in response to a written  
9 discovery request, must be consecutively Bates stamped or numbered and accompanied by an  
10 index with a reasonably specific description of the documents.

11           E.     Any party whether in compliance with NRCP 16.1 or in a response to a written  
12 discovery request not producing all documents in its possession, custody or control, shall:

13                   (1)     identify any documents withheld with sufficient particularity to support a  
14 Motion to Compel; and

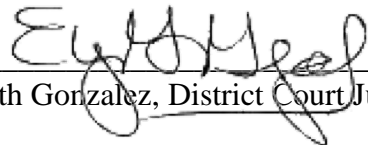
15                   (2)     state the basis for refusing to produce the documents(s).

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17           F.     If photographs are produced in compliance with NRCP 16.1 or in a response to a  
18 written discovery request, the parties are instructed to include one (1) set of color prints (Color  
19 laser copies of sufficient clarity are acceptable), accompanied by a front page index, location  
20 depicted in the photograph (with reasonable specificity) and the date the photograph was taken.  
21 If color laser copies are deposited, any party wishing to view the original photographs shall  
22 make a request to do so with the other party.

23  
24           When a case is settled, counsel for the plaintiff and each unrepresented plaintiff of  
25 record shall notify the District Court Judge within twenty-four (24) hours of the settlement and  
26 shall advise the Court of the identity of the party or parties who will prepare and present the  
27 judgment, dismissal, or stipulation of dismissal, which shall be presented within twenty (20)  
28 days of the notification of settlement.

1 Failure to comply with any provision of this Pretrial Order may result in the imposition  
2 of sanctions.

DATED this 8<sup>th</sup> day of June, 2020.

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6   
7 Elizabeth Gonzalez, District Court Judge

8 **Certificate of Service**

9 I hereby certify that on the date filed, this Order was electronically served, pursuant to  
10 N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic  
11 Filing Program.

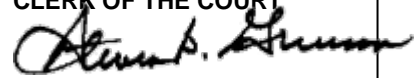
12 Mark E Ferrario, Esq. (Greenberg Traurig)

13 Andrew D Smith, Esq. (Winner & Sherrod)

14 If indicated below, a copy of the foregoing Order was also:

15 ☐ Mailed by United States Postal Service, postage prepaid, to the proper parties  
16 listed below at their last known address(es):

17  
18 /s/ *Dan Kutinac*  
19 Dan Kutinac, JEA  
20  
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27  
28



**NOTC**

MARK E. FERRARIO, ESQ.

Nevada Bar No. 1625

KARA B. HENDRICKS, ESQ.

Nevada Bar No. 7743

ALAYNE M. OPIE, ESQ.

Nevada Bar No. 12623

**GREENBERG TRAURIG, LLP**

10845 Griffith Peak Drive, Suite 600

Las Vegas, NV 89135

Telephone: (702) 792-3773

Facsimile: (702) 792-9002

Email: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)

[hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)

[opiea@gtlaw.com](mailto:opiea@gtlaw.com)

*Attorneys for WILLIAM L. LINDNER as Trustee  
of the William L. Lindner and Maxine G. Lindner  
Trust of 1988; JUEL A. PARKER, individually  
and as Trustee of the Juel A. Parker Family Trust;  
LISA PARKER, individually and as Trustee of the  
Juel A. Parker Family Trust; and S. BRUCE  
PARKER, as Trustee of the Steven Bruce Parker  
Family Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

BRAD L. KNOWLTON, an individual,

Plaintiff,

v.

VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker Family  
Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

Defendants.

Case No.: A-20-809612-B

Dept. No.: XI

**NOTICE OF ASSIGNMENT OF  
MEMBERSHIP INTEREST IN  
VALLEY ASCENT, LLC**

1 WILLIAM L. LINDNER, as Trustee of the William L.  
2 Lindner and Maxine G. Lindner Trust of 1988,  
3 indiviudally and derivatively; LISA PARKER, as  
4 Trustee of the Juel A. Parker Family Trust,  
5 indiviudally and derivatively; S. BRUCE PARKER, as  
6 Trustee of the Steven Bruce Parker Family Trust,  
7 indiviudally and derivatively, and JUEL PARKER,  
8 individually,

9 Counter-Plaintiffs

10 v.

11 BRAD L. KNOWLTON, individually and  
12 derivatively; and DOE Individuals I-X and ROE  
13 Entities I-X, inclusive,

14 Counter-defendant,

15 and

16 Nominal party VALLEY ASCENT, LLC, a Nevada  
17 limited liability company.

18 Please take notice that, effective June 19, 2020, Plaintiff and Counter-defendant Brad L.  
19 Knowlton transferred and assigned his interest in Valley Ascent, LLC to Shondell Swenson and

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1 permanently relinquished, waived and released all rights, interests, and/or claims related to his  
2 ownership interest in Valley Ascent, LLC, a copy of the Assignment is attached hereto as **Exhibit A**.

3 DATED this 10<sup>th</sup> day of August, 2020.

4 **GREENBURG TRAUIG, LLP**

6 /s/ Kara B. Hendricks

7 MARK E. FERRARIO, ESQ.

8 Nevada Bar No. 1625

9 KARA B. HENDRICKS, ESQ.

10 Nevada Bar No. 7743

11 ALAYNE M. OPIE, ESQ.

12 Nevada Bar No. 12623

13 10845 Griffith Peak Drive, Suite 600

14 Las Vegas, Nevada 89135

15 *Attorneys for WILLIAM L. LINDNER as Trustee*  
16 *of the William L. Lindner and Maxine G. Lindner*  
17 *Trust of 1988; JUEL A. PARKER, individually*  
18 *and as Trustee of the Juel A. Parker Family*  
19 *Trust; LISA PARKER, individually and as*  
20 *Trustee of the Juel A. Parker Family Trust; and*  
21 *S. BRUCE PARKER, as Trustee of the Steven*  
22 *Bruce Parker Family Trust*  
23  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 10<sup>th</sup> day of August, 2020, a true and correct copy of the foregoing  
**NOTICE OF ASSIGNMENT OF MEMBERSHIP INTEREST IN VALLEY ASCENT, LLC**  
was served by electronically filing with the Clerk of the Court using the Odyssey eFileNV  
Electronic Filing system and serving all parties with an email address on record, pursuant to  
Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

The date and time of the electronic proof of service is in place of the date and place of  
deposit in the U.S. Mail.

A courtesy copy of the same was also provided to:

Brian Gordon  
APPLIED ANALYSIS / SALESTRAQ  
6385 S. Rainbow Blvd.; Suite 105;  
Las Vegas, Nevada 89118  
[bgordon@appliedanalysis.com](mailto:bgordon@appliedanalysis.com)  
*Acting Manager of Valley Ascent*

Jon Memmott  
MEMMOTT & ASSOCIATES  
[jmemmott@arbinger.com](mailto:jmemmott@arbinger.com)  
*Counsel for Shondell Swenson*

/s/ Andrea Flintz  
An employee of Greenberg Traurig, LLP

EXHIBIT “A”

EXHIBIT “A”

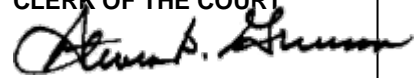
**ASSIGNMENT OF MEMBERSHIP INTEREST IN VALLEY ASCENT, LLC  
A NEVADA LIMITED LIABILITY COMPANY**

Effective June 19, 2020 and pursuant to the Judgment and Decree of Divorce entered on June 5, 2020 by the Court in Utah Civil Case No. 174701016:

(1) Bradley L. Knowlton hereby transfers and assigns his interest in Valley Ascent, LLC, a Nevada limited liability company, to Shondell Swenson; and

(2) Bradley L. Knowlton hereby permanently relinquishes, waives, and/or releases any and all rights, interests, and/or claims related to his ownership interest in Valley Ascent, LLC, all of which have been transferred to Shondell Swenson by virtue of this Assignment of Interest.

  
Bradley L. Knowlton



1 **MSJ**

2 MARK E. FERRARIO, ESQ.

3 Nevada Bar No. 1625

4 KARA B. HENDRICKS, ESQ.

5 Nevada Bar No. 7743

6 ALAYNE M. OPIE, ESQ.

7 Nevada Bar No. 12623

8 **GREENBERG TRAUIG, LLP**

9 10845 Griffith Peak Drive, Suite 600

10 Las Vegas, NV 89135

11 Telephone: (702) 792-3773

12 Facsimile: (702) 792-9002

13 Email: [ferrariom@gtlaw.com](mailto:ferrariom@gtlaw.com)

14 [hendricksk@gtlaw.com](mailto:hendricksk@gtlaw.com)

15 [opiea@gtlaw.com](mailto:opiea@gtlaw.com)

16 *Attorneys for WILLIAM L. LINDNER as Trustee of*  
17 *the William L. Lindner and Maxine G. Lindner Trust*  
18 *of 1988; JUEL A. PARKER, individually and as*  
19 *Trustee of the Juel A. Parker Family Trust; LISA*  
20 *PARKER, individually and as Trustee of the Juel A.*  
21 *Parker Family Trust; and S. BRUCE PARKER, as*  
22 *Trustee of the Steven Bruce Parker Family Trust*

23 **EIGHTH JUDICIAL DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 BRAD L. KNOWLTON, an individual,

26 Plaintiff,

27 v.

28 VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker Family  
Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

Defendants.

**CASE NO: A-20-809612-B**

**DEPT. XI**

**[HEARING REQUESTED]**

**DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

1 WILLIAM L. LINDNER, as Trustee of the William  
2 L. Lindner and Maxine G. Lindner Trust of 1988,  
3 individually and derivatively; LISA PARKER, as  
4 Trustee of the Juel A. Parker Family Trust,  
5 individually and derivatively; S. BRUCE PARKER,  
as Trustee of the Steven Bruce Parker Family Trust,  
individually and derivatively, and JUEL PARKER,  
individually,

6 Counter-Plaintiffs,

7 v.

8 BRAD L. KNOWLTON, individually and  
9 derivatively; and DOE Individuals I-X and ROE  
Entities I-X, inclusive,

10 Counter-Defendant,

11 and

12 Nominal party VALLEY ASCENT, LLC, a Nevada  
13 limited liability company.

14 Defendants/Counterclaimants WILLIAM L. LINDNER, as Trustee of the William L. Lindner  
15 and Maxine G. Lindner Trust of 1988; JUEL A. PARKER, individually and as Trustee of the Juel A.  
16 Parker Family Trust; LISA PARKER, individually and as Trustee of the Juel A. Parker Family Trust;  
17 and S. BRUCE PARKER, as Trustee of the Steven Bruce Parker Family Trust (collectively”  
18 Defendants” or “Majority Members”), by and through their counsel of record, the law firm of  
19 Greenberg Traurig, LLP, hereby files this Motion for Summary Judgment (“Motion”) and requests  
20 judgment in their favor and against Plaintiff/Counter-defendant BRAD L. KNOWLTON (“Mr.  
21 Knowlton”) on each one of Mr. Knowlton’s claims for relief.

22 On or about June 19, 2020, Mr. Knowlton permanently relinquished, waived, and released  
23 any and all rights, interests, and/or claims in the instant action, and transferred and assigned them to  
24 his now ex-wife, Shondell Swenson. Critically, Ms. Swenson wishes to dismiss all claims against  
25 Defendants and has instructed Mr. Knowlton to cease and desist pursuit of this action, but Mr.  
26 Knowlton persists. Because Mr. Knowlton lacks standing to pursue any of the claims asserted in this  
27 action, summary judgment is warranted. Indeed, no genuine issue as to any material fact remains and  
28 Defendants are entitled to judgment as a matter of law in their favor.

1 This Motion is based upon the pleadings and papers on file in this action, the following  
2 Memorandum of Points and Authorities, the Declaration of Shondell Swenson attached hereto as  
3 **Exhibit A**, all exhibits attached hereto, and any and all oral arguments allowed by this Court at the  
4 time of hearing.

5 DATED this 23<sup>rd</sup> day of September, 2020.

6 **GREENBURG TRAURIG, LLP**

7  
8 /s/ Kara B. Hendricks  
9 MARK E. FERRARIO, ESQ.  
10 Nevada Bar No. 1625  
KARA B. HENDRICKS, ESQ.  
11 Nevada Bar No. 7743  
ALAYNE M. OPIE, ESQ.  
12 Nevada Bar No. 12623  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89144

13 *Attorneys for WILLIAM L. LINDNER as Trustee of*  
14 *the William L. Lindner and Maxine G. Lindner*  
15 *Trust of 1988; JUEL A. PARKER, individually and*  
16 *as Trustee of the Juel A. Parker Family Trust;*  
17 *LISA PARKER, individually and as Trustee of the*  
18 *Juel A. Parker Family Trust; and S. BRUCE*  
19 *PARKER, as Trustee of the Steven Bruce Parker*  
20 *Family Trust*

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. INTRODUCTION**

23 This case emanates from a dispute between members of a Nevada Limited Liability Company,  
24 Valley Ascent, LLC (“Valley Ascent”). Former Member, Brad A. Knowlton, instituted this lawsuit  
25 after Defendants, who are also the Majority Members of Valley Ascent, removed Mr. Knowlton as  
26 Manager of Valley Ascent for self-dealing. Specifically, it was discovered that Mr. Knowlton  
27 absconded with over \$430,000 in unapproved “management fees,” paid his daughter an additional  
28 \$13,200 to purportedly handle Valley Ascent’s books and records, and used the company bank  
account to hide funds from his now ex-wife, Shondell Swenson, and other creditors.

///

1           Until just a few months ago, Mr. Knowlton and Ms. Swenson were parties to a highly-  
2           contested divorce proceeding in the State of Utah. Pursuant to the Judgment and Decree of Divorce  
3           entered in the Utah action, Ms. Swenson was awarded Mr. Knowlton's membership interests in  
4           Valley Ascent, including all rights, interests, and/or claims related thereto, which necessarily include  
5           all claims in connection with the instant lawsuit.

6           Apparently recognizing the futility of Mr. Knowlton's claims and defenses, Ms. Swenson has  
7           no desire to proceed with this litigation. As rightful owner of the claims in this action, Ms. Swenson  
8           directed Mr. Knowlton to dismiss the litigation, but Mr. Knowlton has refused to do so. For that  
9           reason, Defendants move for summary judgment in their favor and against Mr. Knowlton on all  
10          claims he pled in this action. No genuine issue as to any material fact remains and Defendants are  
11          entitled to judgment as a matter of law in their favor.

## 12          II.       STATEMENT OF UNDISPUTED FACTS

13           1.       On or about June 27, 2017, Shondell Swenson filed for divorce against Brad L.  
14          Knowlton, said proceeding bearing Utah civil case no. 174701016. *See* Ex. A ¶ 3.

15           2.       After battling with highly-contentious divorce proceedings for nearly three years, the  
16          Court of Utah finally and forever divided the martial assets and liabilities, and entered a Judgment  
17          and Decree of Divorce on June 5, 2020. *Id.* at ¶ 4.

18           3.       In connection therewith, Ms. Swenson was awarded all rights, title and interest to Mr.  
19          Knowlton's 38.55% membership interest in Valley Ascent, LLC. *Id.* at ¶ 5.

20           4.       On or about June 19, 2020, Mr. Knowlton executed an Assignment of Membership  
21          Interest in Valley Ascent, LLC, a Nevada Limited Liability Company ("Assignment"), a true and  
22          correct copy of which is attached hereto as **Exhibit B**; Ex. A at ¶ 6.

23           5.       Therein, Mr. Knowlton "transfer[ed] and assign[ed] his interest in Valley Ascent,  
24          LLC, a Nevada Limited Liability Company, to Shondell Swenson; and...permanently relinquish[ed],  
25          waiv[ed], and/or release[d] any and all rights, interests, **and/or claims related to his ownership**  
26          **interest in Valley Ascent, LLC**, all of which have been transferred to Shondell Swenson by virtue  
27          of this Assignment of Interest." Ex. B (emphasis added)

28          ///

6. Said Assignment was filed in this action on August 10, 2020. *See* Notice of Assignment of Membership Interest on file.

7. By way of the Assignment and as a matter of law, all of Mr. Knowlton's claims pled in the instant action were transferred to Ms. Swenson. Ex. A at ¶ 8.

8. Indeed, each and every claim pled by Mr. Knowlton in the instant action relates to his *prior* ownership interest in Valley Ascent, LLC. *See* Complaint on file.

9. On July 20, 2020, by and through counsel, Ms. Swenson, as rightful owner of all claims in this action, demanded that Mr. Knowlton dismiss this litigation. Ex. A at ¶ 9. Specifically, Ms. Swenson, by and through counsel, advised that she "does not want to pursue any claims and specifically direct[ed] [Mr. Knowlton] to not pursue any action or claim related to [his] prior ownership interest in Valley Ascent." *Id.* A true and correct copy of the referenced July 20, 2020 email is attached hereto as **Exhibit C**.

10. Mr. Knowlton has failed to comply and has instead proceeded with the instant litigation in derogation of Ms. Swenson's rights and despite his clear lack of standing. *Id.* at ¶ 10.

### **III. LEGAL ARGUMENT**

#### **A. Standard.**

Summary judgment under Rule 56 is appropriate and "shall be rendered forthwith" when the pleadings and other evidence on file demonstrate that no "genuine issue as to any material fact [remains] and that the moving party is entitled to judgment as a matter of law." *See* NRCP 56(c), *Tucker v. Action Equip. and Scaffold Co.*, 113 Nev. 1349, 1353, 951 P.2d 1027, 1029 (1997). Although the court must view the evidence in the light most favorable to the nonmoving party, the Nevada Supreme Court has made it abundantly clear that "when a motion for summary judgment is made and supported as required by N.R.C.P 56, the non-moving party may not rest upon general allegations and conclusions, but must, by affidavit or otherwise, set forth specific facts demonstrating the existence of a genuine factual issue." *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713 (2002). The Nevada Supreme Court has defined a *genuine issue* as "evidence such that a rational trier of fact could return a verdict for the nonmoving party." *Id.* (citing *Matsushita Electric Industrial Co. v. Zenith Radio*, 475 U.S. 574, 586 (1986)). As to materiality, only disputes

1 over facts that might affect the outcome of the suit under the governing law will preclude the entry  
2 of summary judgment. *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026, 1030 (2005). Factual  
3 disputes which are irrelevant or unnecessary will not be considered. *Id.* Thus, the nonmoving party  
4 must set forth facts demonstrating the existence of a genuine issue or have summary judgment  
5 entered against it. *Bulbman, Inc. v. Nevada Bell*, 108 Nev. 105, 110, 825 P.2d 588, 592 (1992).

6 Moreover, if the nonmoving party – here, Mr. Knowlton -- bears the burden of persuasion at  
7 trial, the party moving for summary judgment may satisfy the summary judgment burden of  
8 production by “pointing out that there is an absence of evidence to support the nonmoving party’s  
9 case.” *Cuzze v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 603, 172 P.3d 131, 134 (2007).  
10 “In such instances, in order to defeat summary judgment, the nonmoving party must transcend the  
11 pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine  
12 issue of material fact.” *Id.* If the party bearing the burden fails to do so, “Rule 56 should not be  
13 regarded as a ‘disfavored procedural shortcut’; but instead ‘as an integral part of the [rules of civil  
14 procedure] as a whole, which are designed to secure the just, speedy and inexpensive determination  
15 of every action.” *Wood*, 121 P.3d at 1030.

16 Here, Mr. Knowlton lacks standing to pursue Ms. Swenson’s affirmative claims against  
17 Defendants and is, therefore, unable to demonstrate a genuine issue of material fact precluding  
18 summary judgment in Defendants’ favor. Respectfully, Defendants submit judgment in their favor  
19 and against Mr. Knowlton is appropriate.

20 **B. Mr. Knowlton Lacks Standing.**

21 Under Nevada law, an action must be commenced by the real party-in-interest – “one who  
22 possesses the right to enforce the claim and has a significant interest in the litigation.” *Szilagyi v.*  
23 *Testa*, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983); *see* NRCp 17(a). Due to this limitation, a party  
24 generally has standing to assert only its own rights and cannot raise the claims of a third party not  
25 before the court. *See Deal v. 999 Lakeshore Association*, 94 Nev. 301, 304, 579 P.2d 775, 777 (1978).  
26 The burden of demonstrating the right to pursue a claim is properly placed upon the claimant.  
27 *Mortgage Elec. Reg. Sys. v. Chong*, 2009 U.S. Dist. LEXIS 127500 at \*6 (D. Nev. Dec. 4, 2009).

28 ///

1 Here, Mr. Knowlton is unable to demonstrate such right and therefore, Defendants are entitled  
2 to summary judgment in their favor on all of Mr. Knowlton's claims, including (1) breach of contract,  
3 (2) breach of the implied covenant of good faith and fair dealing, (3) declaratory relief, (4) intentional  
4 interference with contractual relations, (5) expulsion as a member, (6) breach of fiduciary duty, (7)  
5 receivership and (8) preliminary injunction. Each one of the aforementioned affirmative claims pled  
6 relate to Mr. Knowlton's prior ownership interest in Valley Ascent. Because Mr. Knowlton  
7 unequivocally "...permanently relinquish[ed], waiv[ed], and/or release[d] any and all rights,  
8 interests, **and/or claims related to his ownership interest in Valley Ascent, LLC...**" to Ms.  
9 Swenson, Mr. Knowlton must surrender and remove himself from this litigation. Ex. B. (emphasis  
10 added).

11 Specifically, the first and second claim for relief emanate from Valley Ascent's Amended  
12 Operating Agreement and/or Defendants' and Mr. Knowlton's relationship, as it relates to Mr.  
13 Knowlton's purported rights in connection with the company's operations. See Comp. at ¶ 68 ("The  
14 Amended Operating Agreement constitutes a valid and binding contract between the parties...."); ¶ 70  
15 ("...[Defendants] have failed and/or refused to perform their obligations wed to the Plaintiff under  
16 the Amended Operating Agreement or other agreements that exist between them.") & ¶ 77. Mr.  
17 Knowlton no longer has such rights.

18 Mr. Knowlton's third claim for declaratory relief concerns Mr. Knowlton's removal as Valley  
19 Ascent's Manager and Defendants' recognition of his replacement, Lisa Parker. *Id.* at ¶¶ 86-87 & 92  
20 ("Plaintiff is entitled to a judicial declaration that he is the only duly authorized manager of the  
21 company..."). However, this Court previously recognized the futility of this argument in denying  
22 the motion for preliminary injunction filed by Plaintiff and in granting Defendants' Countermotion  
23 for the appointment of an interim manager of Valley Ascent and compelling Mr. Knowlton to produce  
24 company books and records. See March 19, 2020 Order on file herein. Moreover, given that Mr.  
25 Knowlton no longer has any interest in Valley Ascent, he does not have standing to seek declaratory  
26 relief.

27 Likewise, the fourth claim stems from Defendants' purported interference with Valley  
28 Ascent's contractual relationship with its banking institutions, Bank of Utah and Mountain American

1 Credit Union, and tenant Fabulous Freddy's. *See* Comp. at ¶¶ 96-105. Not only was there no  
2 interference, but the bank accounts are now under the control of the interim manager of Valley Ascent  
3 (as appointed by the Court) and Mr. Knowlton has no right to pursue claims associated with the same,  
4 even if they did exist.

5 The fifth and sixth claims for relief, expulsion as a member of Valley Ascent and breach of  
6 fiduciary duties owed, speak for themselves. Such claims undoubtedly relate to Mr. Knowlton's prior  
7 ownership interest in Valley Ascent and he has no right to pursue recovery based on the same. *See*  
8 *id.* at ¶¶ 107-121.

9 Finally, the seventh claim requests that the Court appoint a "neutral third-party to act as  
10 receiver for [Valley Ascent]", and eighth claim seeks to enjoin Defendants from "...taking any action  
11 as purported managers of [Valley Ascent]..." ¶¶ 122-134. First, as stated above, this Court  
12 previously granted Defendants' request to appoint a neutral party to serve as interim manager of  
13 Valley Ascent. *See* March 19, 2020 Order on file herein. Second, assuming, *arguendo*, that there  
14 was even a valid basis to bring the aforementioned claims in the first instance, which there was not,  
15 Mr. Knowlton's prior ownership interest in Valley Ascent provided the only grounds to assert the  
16 same. As he no longer has an interest in Valley Ascent, he lacks all grounds to raise such causes of  
17 action and summary judgment is warranted.

18 Accordingly, because all claims asserted in the Complaint relate to Mr. Knowlton's prior  
19 ownership interest in Valley Ascent, as of June 20, 2020, he has no right to pursue them. Mr.  
20 Knowlton is unable to demonstrate a genuine issue of material fact and summary judgment should  
21 render in Defendants' favor.

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1 **IV. CONCLUSION**

2 For the foregoing reasons, Defendants respectfully request this Court grant their Motion for  
3 Summary Judgment and enter judgment in Defendants' favor on all affirmative claims against Mr.  
4 Knowlton.

5 DATED this 23<sup>rd</sup> day of September, 2020.

6 **GREENBURG TRAURIG, LLP**

7  
8 /s/ Kara B. Hendricks

9 MARK E. FERRARIO, ESQ.

10 Nevada Bar No. 1625

11 KARA B. HENDRICKS, ESQ.

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15 10845 Griffith Peak Drive, Suite 600

16 Las Vegas, Nevada 89144

17 *Attorneys for WILLIAM L. LINDNER as Trustee of*  
18 *the William L. Lindner and Maxine G. Lindner*  
19 *Trust of 1988; JUEL A. PARKER, individually and*  
20 *as Trustee of the Juel A. Parker Family Trust;*  
21 *LISA PARKER, individually and as Trustee of the*  
22 *Juel A. Parker Family Trust; and S. BRUCE*  
23 *PARKER, as Trustee of the Steven Bruce Parker*  
24 *Family Trust*  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I certify that on this 23<sup>rd</sup> day of September, 2020, I caused a true and correct copy of the forgoing **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT** to be e-served on the parties by causing it to be transmitted via Odyssey, the Court's e-service/e-filing system.

The date and time of the electronic proof of service is in place of the date and place of deposit in the mail.

/s/ Andrea Flintz  
An Employee of Greenberg Traurig, LLP

EXHIBIT “A”

EXHIBIT “A”

MSJ  
MARK E. FERRARIO, ESQ.  
Nevada Bar No. 1625  
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*Attorneys for WILLIAM L. LINDNER as  
Trustee of the William L. Lindner and  
Maxine G. Lindner Trust of 1988; JUEL A.  
PARKER, individually and as Trustee of the  
Juel A. Parker Family Trust; LISA  
PARKER, individually and as Trustee of the  
Juel A. Parker Family Trust; and S. BRUCE  
PARKER, as Trustee of the Steven Bruce  
Parker Family Trust*

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

BRAD L. KNOWLTON, an individual,

Plaintiff,

v.

VALLEY ASCENT, LLC, a Nevada limited  
liability company, WILLIAM L. LINDNER, as  
Trustee of the William L. Lindner and Maxine G.  
Lindner Trust of 1988, JUEL A. PARKER, as  
Trustee of the Juel A. Parker Family Trust, LISA  
PARKER, as Trustee of the Juel A. Parker Family  
Trust, LISA PARKER, an individual, and S.  
BRUCE PARKER, as Trustee of the Steven Bruce  
Parker Family Trust,

Defendants.

Case No.: A-20-809612-B  
Dept. No.: XI

**DECLARATION OF SHONDELL  
SWENSON IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

I, SHONDELL SWENSON, declare as follows:

1           1.       I am over 21 years of age and competent to testify to the facts in this Declaration  
2 based upon personal knowledge, except those matters stated upon information and belief, and as  
3 to those matters, I believe them to be true.

4           2.       I make this declaration in support of the Defendants' Motion for Summary  
5 Judgment ("Motion") in the above captioned matter.

6           3.       After forty years of marriage, I was unfortunately faced with having to file for  
7 divorce against my now ex-husband, Brad L. Knowlton, in the State of Utah.

8           4.       After battling highly contentious divorce proceedings for nearly three years, the  
9 Court of Utah finally and forever divided the martial assets and liabilities, and entered a Judgment  
10 and Decree of Divorce on June 5, 2020.

11          5.       In connection therewith, I was awarded all rights, title and interest to Brad's  
12 38.55% membership interest in Valley Ascent, LLC, among other assets and liabilities.

13          6.       On or about June 19, 2020, Brad executed an Assignment of Membership Interest  
14 in Valley Ascent, LLC, a Nevada Limited Liability Company ("Assignment"), a true and correct  
15 copy of which is attached to the Motion as **Exhibit B**.

16          7.       Therein, Brad "transfer[ed] and assign[ed] his interest in Valley Ascent, LLC, a  
17 Nevada limited liability company, to [me]; and...permanently relinquish[ed], waiv[ed], and/or  
18 release[d] any and all rights, interests, and/or claims related to his ownership interest in Valley  
19 Ascent, LLC, all of which [were also] transferred to [me]." *Id.* (emphasis added)

20          8.       Upon information and belief, the Assignment transferred all rights to the claims  
21 pled by Brad in the instant action to me.

22          9.       On July 20, 2020, by and through my attorney, I demanded that Brad dismiss this  
23 litigation. Specifically, Brad was advised that I do not want to pursue any of the asserted claims  
24 and he was specifically directed to not pursue any action or claim related to his prior ownership  
25 interest in Valley Ascent. A true and correct copy of a July 20, 2020 email from my attorney to  
26 Brad's is attached to the Motion as **Exhibit C**.

27       //

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3 10. Brad failed to comply and has instead proceeded with the instant litigation in  
4 derogation of my rights.

5 11. As a 38.55% owner in Valley Ascent, and having acquired all interests in the  
6 company formerly held by my ex-husband Brad Knowlton, I do not want to pursue any of the  
7 claims he asserted against Defendants in this matter.

8 I, Shondell Swenson, declare under the penalty of perjury under the laws of the State of  
9 Nevada, that the foregoing statements are true and correct.

10 Executed this \_\_\_\_\_ day of September, 2020.

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Shondell Swenson

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10. Brad failed to comply and has instead proceeded with the instant litigation in derogation of my rights.

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11. As a 38.55% owner in Valley Ascent, and having acquired all interests in the company formerly held by my ex-husband Brad Knowlton, I do not want to pursue any of the claims he asserted against Defendants in this matter.

7

8

I, Shondell Swenson, declare under the penalty of perjury under the laws of the State of Nevada, that the foregoing statements are true and correct.

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Executed this 22 day of September, 2020.

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Shondell Swenson

Shondell Swenson

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EXHIBIT “B”

EXHIBIT “B”

**ASSIGNMENT OF MEMBERSHIP INTEREST IN VALLEY ASCENT, LLC  
A NEVADA LIMITED LIABILITY COMPANY**

Effective June 19, 2020 and pursuant to the Judgment and Decree of Divorce entered on June 5, 2020 by the Court in Utah Civil Case No. 174701016:

(1) Bradley L. Knowlton hereby transfers and assigns his interest in Valley Ascent, LLC, a Nevada limited liability company, to Shondell Swenson; and

(2) Bradley L. Knowlton hereby permanently relinquishes, waives, and/or releases any and all rights, interests, and/or claims related to his ownership interest in Valley Ascent, LLC, all of which have been transferred to Shondell Swenson by virtue of this Assignment of Interest.

  
Bradley L. Knowlton

EXHIBIT “C”

EXHIBIT “C”

**From:** [Jon Memmott](#)  
**To:** [swb@scmlaw.com](mailto:swb@scmlaw.com)  
**Cc:** [Jon Memmott](#); [Shawn P Bailey](#); [Hendricks, Kara \(Shld-LV-LT\)](#)  
**Subject:** Valley Ascent assignment of all claims and interests  
**Date:** Monday, July 20, 2020 5:07:14 PM  
**Attachments:** [Valley Ascent, LLC Assignment of Interest.pdf](#)

---

**\*EXTERNAL TO GT\***

Steve, Attached is the assignment of interest Brad gave to Shondell pursuant to the decree. As you can read Brad clearly “permanently relinquishes, waives, and/or releases any and all rights, interests, and/or claims related to his ownership interest in Valley Ascent, LLC all of which have been transferred to Shondell Swenson by virtue of this Assignment of Interest.” As you can clearly see in paragraph 2 Brad transferred much more than just his ownership interest. Any claim related to his ownership interest in Valley Ascent that is or was being raised by Brad has been transferred to Shondell. I believe we need to discuss this tomorrow as Shondell does not want to pursue any actions and specifically directs you to not pursue any action or claim related to Brad’s prior ownership interest in Valley Ascent. Have a safe and pleasant day!!

Best,

Jon

Memmott & Associates  
W: (801) 706-8022  
Appointments: (801) 928-4138  
[jmemmott@arbinger.com](mailto:jmemmott@arbinger.com)

The information contained in this e-mail and any attachments are confidential and solely for the use of the intended recipient. If the intended recipient is our client, then this information is also privileged attorney-client communication. Unauthorized use or disclosure of this information is prohibited. If you have received this communication in error, do not read it. Please delete it from your system without copying it, and notify the sender by e-mail or calling (801) 706-8022, so that our address record can be corrected. Thank you.