

# IN THE SUPREME COURT OF THE STATE OF NEVADA

## INDICATE FULL CAPTION:

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC; SJC VENTURES  
HOLDING COMPANY, LLC  
Appellants.

vs.  
CBC PARTNERS I, LLC; CBC PARTNERS,  
LLC; 5148 SPANISH HEIGHTS, LLC

Respondents.

No. 83407

DOCKETING  
CIVIL APPEALS

Electronically Filed  
Sep 20 2021 05:11 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

## GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

## WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department 11

County Clark Judge Elizabeth Gonzalez

District Ct. Case No. A-20-813439-B

**2. Attorney filing this docketing statement:**

Attorney Joseph A. Gutierrez, Esq. Telephone (702) 629-7900

Firm Maier Gutierrez & Associates

Address 8816 Spanish Ridge Avenue, Las Vegas, NV 89148

Client(s) Spanish Heights Acquisition Company, LLC; SJC Ventures Holding Company LLC

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

**3. Attorney(s) representing respondents(s):**

Attorney Michael R. Mushkin, Esq. Telephone (702) 454-3333

Firm Mushkin & Coppedge

Address 6070 S. Eastern Avenue, Suite 270, Las Vegas, Nevada 89119

Client(s) CBC Partners I, LLC; CBC Partners, LLC; 5148 Spanish Heights, LLC

Attorney \_\_\_\_\_ Telephone \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Client(s) \_\_\_\_\_

(List additional counsel on separate sheet if necessary)

**4. Nature of disposition below (check all that apply):**

- |   |  |
|---|--|
| <input type="checkbox"/> Judgment after bench trial         | <input type="checkbox"/> Dismissal:  |
| <input type="checkbox"/> Judgment after jury verdict        | <input type="checkbox"/> Lack of jurisdiction  |
| <input type="checkbox"/> Summary judgment                   | <input type="checkbox"/> Failure to state a claim                                      |
| <input type="checkbox"/> Default judgment                   | <input type="checkbox"/> Failure to prosecute  |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief  | <input type="checkbox"/> Other (specify): _____  |
| <input type="checkbox"/> Grant/Denial of injunction         | <input type="checkbox"/> Divorce Decree:   |
| <input type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification                |
| <input type="checkbox"/> Review of agency determination     | <input checked="" type="checkbox"/> Other disposition (specify): <u>Receiver order</u> |

**5. Does this appeal raise issues concerning any of the following?**

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

**6. Pending and prior proceedings in this court.** List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

Pending appeal of underlying Findings of Fact, Conclusions of Law issued April 6, 2021: Spanish Heights Acquisition Company, LLC et al. v. CBC Partners I, LLC, et al., Nevada Supreme Court Appeal No. 82868; pending briefing.

Appellants are in the process of filing a writ petition and an emergency motion for stay relief, both of which are related to this appeal. Spanish Heights Acquisition Co., LLC vs. Dist. Ct. (CBC Partners I, LLC), Docket Number 83526.

**7. Pending and prior proceedings in other courts.** List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

Pending Bankruptcy proceeding: In re: Spanish Heights Acquisition Company, LLC, Bankruptcy No. BK-S-21-10501-NMC.

**8. Nature of the action.** Briefly describe the nature of the action and the result below:

This dispute involves the residential property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148 (the "Property"). The Property is owned by Appellant/Plaintiff Spanish Heights Acquisition Company, LLC ("SHAC") pursuant to a recorded deed, and leased by Appellant/Plaintiff SJC Ventures Holding Company LLC ("SJC") pursuant to a valid lease agreement. Third-party defendant Jay Bloom resides at the Property with his family. The original owners of the Property were Kenneth M. Antos and Sheila M. Neumann-Antos, who then transferred it to their Trust, prior to transferring the Property to Appellant/Plaintiff SHAC.

CBC Partners I, LLC and/or its claimed successor in interest 5148 Spanish Heights, LLC purport to be the holder of a Secured Promissory Note ("Note") issued in favor of various companies associated with Kenneth Antos. According to various amendments made to the Note, CBC Partners I, LLC attempted to acquire a third-position Deed of Trust against the Property as security for that Note, which the actual owners of the Property (the Antos Trust) did not receive any consideration for.

On August 10, 2021, the district court entered an order appointing a receiver over not only SJC, but also "any subsidiary and affiliated entities in which SJC has an ownership interest, specifically First 100, LLC and [SHAC]." That order appointing a receiver is the subject of this appeal.

**9. Issues on appeal.** State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

Whether the district court erred in appointing a receiver over not only SJC, but also "any subsidiary and affiliated entities in which SJC has an ownership interest, specifically First 100, LLC and [SHAC]."

Whether the district court erred in relying on 4/6/2021 Findings of Fact and Conclusions of Law which stemmed from a trial that the Bankruptcy Court held was conducted in violation of the automatic stay of litigation.

Whether the district court erred in granting the motion for receiver without a hearing, and explicitly holding that it was doing so based on Judge Denton's findings in the TGC/Farkas Funding, LLC v. First 100, LLC matter before the Eighth Judicial District Court (Case No. A-20-822273-C), when such findings had no relation to this matter.

**10. Pending proceedings in this court raising the same or similar issues.** If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

Appellants are in the process of filing a writ petition and an emergency motion for stay relief, both of which are related to this appeal. Spanish Heights Acquisition Co., LLC vs. Dist. Ct. (CBC Partners I, LLC), Docket Number 83526. The writ petition seeks a writ of mandamus with respect to both the district court's 4/6/2021 Findings of Fact and Conclusions of Law and the 8/10/2021 order appointing receiver, and the emergency motion for stay relief is being requested because the property at issue is at risk of foreclosure now that the bankruptcy stay of litigation has been lifted, and SJC, along with its pending business deals, are at risk of being wrongfully interfered with by the receiver.

**11. Constitutional issues.** If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☒ No

If not, explain:

**12. Other issues.** Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☐ An issue arising under the United States and/or Nevada Constitutions

☐ A substantial issue of first impression

☐ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain:

**13. Assignment to the Court of Appeals or retention in the Supreme Court.** Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

This matter challenges an order appointing a receiver. This matter is presumptively retained by the Supreme Court under NRAP 17(a)(9).

**14. Trial.** If this action proceeded to trial, how many days did the trial last? 2

Was it a bench or jury trial? Bench

**15. Judicial Disqualification.** Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?  
Not applicable.

## TIMELINESS OF NOTICE OF APPEAL

**16. Date of entry of written judgment or order appealed from** August 10, 2021

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

**17. Date written notice of entry of judgment or order was served** August 11, 2021

Was service by:

☐ Delivery

☒ Mail/electronic/fax

**18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)**

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b)      Date of filing \_\_\_\_\_

☐ NRCP 52(b)      Date of filing \_\_\_\_\_

☐ NRCP 59      Date of filing \_\_\_\_\_

**NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. \_\_\_\_, 245 P.3d 1190 (2010).**

(b) Date of entry of written order resolving tolling motion \_\_\_\_\_

(c) Date written notice of entry of order resolving tolling motion was served \_\_\_\_\_

Was service by:

☐ Delivery

☐ Mail

**19. Date notice of appeal filed** August 18, 2021

---

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:  
Not applicable.

**20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other**

NRAP 4(a)(1)

---

**SUBSTANTIVE APPEALABILITY**

**21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:**

(a)

- |  |                                       |
|--|---------------------------------------|
| <input type="checkbox"/> NRAP 3A(b)(1)                                   | <input type="checkbox"/> NRS 38.205   |
| <input type="checkbox"/> NRAP 3A(b)(2)                                   | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3)                                   | <input type="checkbox"/> NRS 703.376  |
| <input checked="" type="checkbox"/> Other (specify) <u>NRAP 3A(b)(4)</u> |                                       |
- 

(b) Explain how each authority provides a basis for appeal from the judgment or order:  
This is an appeal from an order appointing a receiver, which pursuant to NRAP 3A(b)(4) is an appealable determination.



**22. List all parties involved in the action or consolidated actions in the district court:**

(a) Parties:

Spanish Heights Acquisition Company, LLC; SJC Ventures Holding Company, LLC, plaintiffs

CBC Partners I, LLC; CBC Partners, LLC; 5148 Spanish Heights, LLC; Kenneth Antos and Sheila Neumann-Antos; Dacia, LLC, defendants;  
Jay Bloom, "counterdefendant"

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Kenneth Antos and Sheila Neumann-Antos are not involved in this appeal because they are not parties to SHAC's cause of action for injunctive relief.

Jay Bloom is not involved in this appeal because he is not a party to SHAC's cause of action for injunctive relief.

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

See attached page.

**24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?**

☐ Yes

☒ No

**25. If you answered "No" to question 24, complete the following:**

(a) Specify the claims remaining pending below:

See attached page.

(b) Specify the parties remaining below:

Spanish Heights Acquisition Company, LLC; SJC Ventures Holding Company, LLC,  
plaintiffs

CBC Partners I, LLC; CBC Partners, LLC; 5148 Spanish Heights, LLC; Kenneth Antos  
and Sheila Neumann-Antos; Dacia, LLC, defendants;  
Jay Bloom, "counterdefendant"

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☒ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☒ No

**26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):**

The order appointing a receiver is independently appealable under NRAP 3A(b)(4).

**27. Attach file-stamped copies of the following documents:**

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

## VERIFICATION

**I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.**

Spanish Heights Acquisition Company, et al.  
Name of appellant

Joseph A. Gutierrez  
Name of counsel of record

September 20, 2021  
Date

/s/ Joseph A. Gutierrez  
Signature of counsel of record

Clark County, Nevada  
State and county where signed

## CERTIFICATE OF SERVICE

I certify that on the 20th day of September, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

Michael R. Mushkin, Esq.  
Mushkin & Coppedge  
6070 S. Eastern Avenue, Suite 270  
Las Vegas, Nevada 89119  
Attorneys for Respondents

Persi J. Mishel  
10161 Park Run Drive, Suite 150  
Las Vegas, Nevada 89145  
Settlement Judge

Dated this 20th day of September, 2021

/s/ Natalie Vazquez  
Signature

**23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.**

SHAC and SJC's claims: (1) declaratory relief as to violation of the eviction moratorium; (2) declaratory relief as to CBC Partners I, LLC's lack of foreclosure rights; (3) declaratory relief as to the One Action Rule; (4) declaratory relief as to the Doctrine of Merger; (5) declaratory relief as to SHAC's manager; (6) injunctive relief against CBC Partners I, LLC and 5148 Spanish Heights, LLC; (7) declaratory relief as to the membership interest in SHAC; (8) breach of contract as to the Forbearance Agreement; (9) contractual breach of the covenant of good faith and fair dealing; (10) declaratory relief as to SHAC's lack of liability regarding alleged property disturbances at a different property; (11) indemnity against Dacia, LLC; (12) Contribution against Dacia, LLC.

CBC Partners I, LLC and 5148 Spanish Heights LLC's claims for relief: (1) breach of contract as to the Forbearance Agreement; (2) breach of the covenant of good faith and fair dealing; (3) unlawful detainer per NRS 40.250; (4) fraud in the inducement; (5) abuse of process/fraud upon the Court; (6) breach of fiduciary duty; (7) breach of contract (Operating Agreement); (8) breach of the covenant of good faith and fair dealing (Operating Agreement); (9) breach of contract (Pledge Agreement); (10) breach of the covenant of good faith and fair dealing (Pledge Agreement); (11) unjust enrichment; (12) declaratory relief.

The district court's 4/6/2021 Findings of Fact and Conclusions of Law resolved SHAC and SJC's sixth claim for injunctive relief. The district court's 4/6/2021 Findings of Fact and Conclusions of law also served as the disposition for CBC Partners I, LLC and 5148 Spanish Heights LLC's First, Fourth, Ninth, and Twelfth claims for relief. The district court's 4/6/2021 Findings of Fact and Conclusions of Law also served as the disposition for SHAC and SJC's third, fourth, and seventh causes of action.

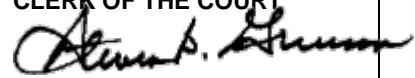
The remaining claims and counterclaims still need to be adjudicated by the district court.

**25. If you answered "No" to question 24, complete the following:**

**(a) Specify the claims remaining pending below:**

SHAC and SJC's remaining claims: (1) declaratory relief as to violation of the eviction moratorium; (2) declaratory relief as to CBC Partners I, LLC's lack of foreclosure rights; (3) declaratory relief as to SHAC's manager; (4) breach of contract as to the Forbearance Agreement; (5) contractual breach of the covenant of good faith and fair dealing; (6) declaratory relief as to SHAC's lack of liability regarding alleged property disturbances at a different property; (7) indemnity against Dacia, LLC; (8) Contribution against Dacia.

CBC Partners I, LLC and 5148 Spanish Heights LLC's remaining claims for relief: (2) breach of the covenant of good faith and fair dealing; (3) unlawful detainer per NRS 40.250; (4) abuse of process/fraud upon the Court; (5) breach of fiduciary duty; (6) breach of contract (Operating Agreement); (7) breach of the covenant of good faith and fair dealing (Operating Agreement); (8) breach of the covenant of good faith and fair dealing (Pledge Agreement); (9) unjust enrichment.



**ACOM**

JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

**MAIER GUTIERREZ & ASSOCIATES**

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Telephone: 702.629.7900

Facsimile: 702.629.7925

E-mail: [jag@mgalaw.com](mailto:jag@mgalaw.com)

[djb@mgalaw.com](mailto:djb@mgalaw.com)

*Attorneys for Plaintiffs*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES, LLC,  
a Delaware Limited Liability Company,

Plaintiffs,

vs.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC, a  
foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada Limited  
Liability Company; KENNETH ANTOS AND  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Defendants.

Case No.: A-20-813439-B

Dept. No.: 11

**FIRST AMENDED COMPLAINT**

**EXEMPT FROM ARBITRATION:**

- 1. Request for Declaratory Relief**
- 2. Action Concerning Real Property**

Plaintiffs Spanish Heights Acquisition Company, LLC, and SJC Ventures Holding Company, LLC, by and through their attorney of record, MAIER GUTIERREZ & ASSOCIATES, hereby file this First Amended Complaint. This First Amended Complaint is filed as of right, within 21 days of service of the first answering of defendant's responsive pleading. Nev. R. Civ. P. 15(a)(1)(B). In support of

1 this First Amended Complaint, Plaintiffs complain and allege against defendants as follows:

2 **PARTIES**

3 1. That at all times pertinent hereto, Plaintiff Spanish Heights Acquisition Company, LLC, is a  
4 Limited Liability Company duly registered and in good standing in the State of Nevada.

5 2. That at all times pertinent hereto, Plaintiff Spanish Heights Acquisition Company, LLC owns  
6 the property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor's Parcel  
7 Number 163-29-615-007 ("Property").

8 3. That at all times pertinent hereto, Plaintiff SJC Ventures Holding Company, LLC (hereinafter  
9 referred to as "SJC Ventures Holding, LLC") is a Limited Liability Company duly registered and in  
10 good standing in the State of Delaware.

11 4. That at all times pertinent hereto, Plaintiff SJC Ventures Holding, LLC has been the sole,  
12 exclusive and irrevocable Manager of Spanish Heights Acquisition Company, LLC.

13 5. That at all times pertinent hereto, Plaintiff SJC Ventures Holding, LLC has been a lawful  
14 tenant of the Property pursuant to a binding lease agreement.

15 6. That at all times pertinent hereto, Defendant CBC Partners I, L LC is a foreign company doing  
16 business in Clark County, State of Nevada without having registered as a foreign entity to do business  
17 in Nevada.

18 7. That at all times pertinent hereto, Defendant CBC Partners, LLC is a foreign company doing  
19 business in Clark County, State of Nevada without having registered as a foreign entity to do business  
20 in Nevada.

21 8. That at all times pertinent hereto, Defendant 5148 Spanish Heights, LLC is a Nevada Limited  
22 Liability Company doing business in Clark County, State of Nevada.

23 9. That at all times pertinent hereto, Kenneth Antos and Sheila Neumann-Antos are Trustees of  
24 the Defendant Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M.  
25 Neumann-Antos Trust (collectively referred to herein as the "Antos Trust"), which at all relevant  
26 times conducted activities in Clark County, State of Nevada.

27 10. That at all times pertinent hereto, Defendant DACIA, LLC is a foreign Limited Liability  
28 Company doing business in Clark County, State of Nevada.

11. That the following alleged incidents occurred in Clark County, Nevada.

12. The true names and capacities of Defendants DOES I through X and/or ROES I through X, whether individual, company, associate, or otherwise, are unknown to the Plaintiff at the time of filing of this Complaint, and Plaintiff therefore sues said Defendants by such fictitious names. Plaintiff is informed, believes and therefore alleges that each of the Defendants, designated as DOES I through X and/or ROES I through X are or may be, legally responsible for the events referred to in this action, and caused damages to the Plaintiff, as herein alleged, and Plaintiff will ask leave of this Court to amend the Complaint to insert the true names and capacities of such Defendants, when the same have been ascertained, and to join them in this action, together with the proper charges and allegations.

### **GENERAL ALLEGATIONS**

13. As documented by a Deed recorded at the Clark County Recorder's Office on November 3, 2017, Plaintiff Spanish Heights Acquisition Company, LLC owns the residential Property at issue.

14. As documented by the Operating Agreement of Spanish Heights Acquisition Company, LLC, SJC Ventures Holding, LLC is the lawful sole, exclusive and irrevocable Manager of Spanish Heights Acquisition Company, LLC.

15. As documented by a real property lease, SJC Ventures Holding, LLC is the lawful tenant of the Property, with Plaintiff Spanish Heights Acquisition Company, LLC being the lawful Landlord.

16. Defendant CBC Partners I, LLC claims to be the issuer of a Third Position Secured Promissory Note ("Note") dated June 22, 2012, which is purportedly secured by a Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing against the Property, made as of December 17, 2014. Subsequently, a First Modification to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing was recorded in the Property records through the Clark County Recorder's Office on December 19, 2016. Thus, defendant CBC Partners I, LLC purports to have been a secured lender with a subordinated interest in the Property.

17. Defendant CBC Partners I, LLC also purports to have secured certain remedies in the event of a default on the Note through a Forbearance Agreement dated September 27, 2017, and an Amendment to Forbearance Agreement dated December 1, 2019 (collectively the "Forbearance Agreement") which extended Spanish Heights Acquisition Company, LLC's purported obligations

1 under the Note through March 31, 2020.

2 18. One of the purported remedies under the Forbearance Agreement that Defendant CBC Partners  
3 I, LLC claims to have is a right to exercise a pledged membership interest in Spanish Heights  
4 Acquisition Company, LLC, through a separately-executed Pledge Agreement dated September 27,  
5 2017 (“Pledge Agreement”).

6 19. CBC Partners argues that it has the right to exercise this pledge of Spanish Heights Acquisition  
7 Company, LLC’s Membership Interest against both Antos Trust’s 49% interest and SJC Ventures  
8 Holding, LLC’s 51% Membership Interest.

9 20. SJC Ventures Holding, LLC argues that, as a non-party and non-signatory to the “Antos”  
10 Pledge Agreement, CBC Partners I, LLC only has a remedy against the Antos’ 49% Membership  
11 interest in Spanish Heights Acquisition Company, LLC and in no way has a pledge of non-party, non-  
12 signatory SJC Ventures Holding, LLC’s 51% Membership Interest in Spanish Heights Acquisition  
13 Company, LLC.

14 21. A separate purported remedy under the Forbearance Agreement that Defendant CBC Partners  
15 I, LLC claims to have is a right to exercise a security interest in SJC Ventures Holding’s beneficial  
16 interest in any proceeds realized by way of collections activity relating to a judgment obtained by SJC,  
17 through a separately-executed “SJC” Security Agreement dated September 27, 2017 (“Security  
18 Agreement”).

19 22. At the time the Forbearance Agreement was executed, the Antos Trust owned a 49%  
20 membership interest in Spanish Heights Acquisition Company, LLC, and SJC Ventures Holding, LLC  
21 owned a 51% membership interest in Spanish Heights Acquisition Company, LLC.

22 23. Although the Antos Trust is a signatory to the “Antos” Pledge Agreement, SJC Ventures  
23 Holding, LLC is not a signatory to the “Antos” Pledge Agreement.

24 24. Although SJC Ventures Holding, LLC is a signatory to the “SJC” Security Agreement, the  
25 Antos Trust is not a signatory to the “SJC” Security Agreement.

26 25. SJC Ventures Holding maintains that it was bound (until the Note’s extinguishment) by the  
27 “SJC” Security Agreement to which it is signatory and not bound by the “Antos” Pledge Agreement  
28 to which it is not signatory.



1 26. The Forbearance Agreement also indicates that “[d]uring the Forbearance Period, [CBC  
2 Partners I, LLC] shall continue to make payments to the first mortgagee and second mortgagee to  
3 prevent the default of the 1st Mortgage and the 2nd Mortgage.”

4 27. Upon information and belief, starting on or around January 2020, CBC Partners I, LLC  
5 breached the Forbearance Agreement by failing to continue to make payments to the first and second  
6 mortgagee.

7 28. On March 16, 2020, defendant CBC Partners I, LLC sent Spanish Heights Acquisition  
8 Company, LLC a “Notice of Default” correspondence which prematurely claimed that there was a  
9 default under the Forbearance Agreement even though the only performance deadline set forth in the  
10 Forbearance Agreement was March 31, 2020.

11 29. On March 23, 2020, Spanish Heights Acquisition Company, LLC sent correspondence to  
12 defendant CBC Partners I, LLC which reminded defendant CBC Partners I, LLC that the forbearance  
13 period set forth in the Forbearance Agreement was unambiguously extended until March 31, 2020,  
14 and CBC Partners I, LLC has no right to unilaterally modify the terms of the Forbearance Agreement  
15 to manufacture an earlier performance deadline.

16 30. Defendant CBC Partners I, LLC acknowledged its mistake by issuing an “Amended Notice of  
17 Default” on April 1, 2020, admittedly “correcting the default date to March 31, 2020.”

18 31. However, the Amended Notice of Default violated Nevada Governor Sisolak’s Declaration of  
19 Emergency Directive 008, issued on March 29, 2020 in response to the coronavirus/COVID-19  
20 pandemic, which states as follows:

21 No lockout, **notice to vacate**, notice to pay or quit, eviction, **foreclosure action, or**  
22 **other proceeding involving residential or commercial real estate based upon a**  
23 **tenant or mortgagee's default of any contractual obligations imposed by a rental**  
24 **agreement or mortgage** may be initiated under any provision of Nevada law effective  
25 March 29, 2020, at 11:59 p.m., until the state of emergency under the March 12, 2020  
26 Declaration of Emergency terminates, expires, or this Directive is rescinded by order  
27 of the Governor. This provision does not prohibit the eviction of persons who seriously  
28 endanger the public or other residents, engage in criminal activity, or cause significant

1 damage to the property. (Emphasis added).

2 32. Through correspondence dated April 1, 2020, Defendant CBC Partners I, LLC elected to select  
3 its claimed remedy by seeking to exercise its purported rights under the Pledge Agreement by having  
4 the Antos Trust's pledged collateral shares of Spanish Heights Acquisition Company, LLC transferred  
5 to CBC Partners I, LLC's nominee, CBC Partners, LLC.

6 33. Upon information and belief, on April 1, 2020, representatives of the Antos Trust assigned  
7 any right, title, interest, and membership interest they had in Spanish Heights Acquisition Company,  
8 LLC to CBC Partners, LLC, thus effectuating defendant CBC Partners I, LLC's remedy selection.  
9 Accordingly, CBC Partners I, LLC is purporting to be a part-owner of the Property, by means of  
10 purportedly owning the Antos' 49% membership interest in Spanish Heights Acquisition Company,  
11 LLC, owner of the real property.

12 34. Upon information and belief, upon assigning its membership interest in Spanish Heights  
13 Acquisition Company, LLC to CBC Partners I, LLC, the Antos Trust never signed any agreement  
14 which waived or excluded the applicability of the Merger Doctrine.

15 35. Upon information and belief, no other consideration was conferred upon the Antos Trust in  
16 consideration of its surrender of its alternative collateral Membership Interest, other than the  
17 extinguishment of the CBC Partners I, LLC Note in consideration of its tender of its 49% equitable  
18 interest in Spanish Heights Acquisition Company, LLC, the entity holding ownership of the real  
19 property collateral for that Note.

20 36. Upon information and belief, CBC Partners I, LLC purports to have sold its, at the time  
21 extinguished but, claimed Note sometime between April 8, 2020 and April 10, 2020 to defendant 5148  
22 Spanish Heights, LLC.

23 37. On April 3, 2020, defendant CBC Partners I, LLC issued a "Notice to Vacate" to SJC Ventures,  
24 LLC, the tenant of the Property. Defendant CBC Partners I, LLC issued this "Notice to Vacate" on  
25 April 3, 2020, even though:

26 a) Section 13(a) of the Pledge Agreement provides for a cure period of fifteen (15) days from  
27 the date of written notice of default;

28 b) There exists a valid lease agreement with SJC Ventures, acknowledged twice by CBC

Partners; and

- c) Four days prior, Governor Sisolak's March 29, 2020 Emergency Directive placed a moratorium on both foreclosure and eviction actions, which specifically precluded by name ALL "Notices to Vacate."

38. Upon information and belief, defendant CBC Partners I, LLC is attempting to exercise both legal title (ownership of the Property) and equitable title (lien encumbering the Property), in violation of the Merger Doctrine.

39. On April 8, 2020, CBC Partners I, LLC's counsel sent correspondence claiming that "the default notice will not be withdrawn and the foreclosure process will continue." This correspondence was sent even though CBC Partners I, LLC simultaneously argues to this Court that neither notice constitutes an Eviction or Foreclosure proceeding.

40. Further, CBC Partners I, LLC seeks to avoid injunctive relief to prevent foreclosure while simultaneously arguing it is not pursuing foreclosure or eviction activity.

41. Additionally, CBC Partners I, LLC seeks to argue that its foreclosure and eviction actions are acceptable under the Governor's exemption to the moratorium on foreclosures and evictions, while simultaneously arguing it is not pursuing foreclosure or eviction activity.

42. On April 4, 2020, April 6, 2020, and April 7, 2020, Spanish Heights Acquisition Company (at the direction of its majority owner and sole, exclusive and irrevocable Manager) sent correspondence to defendant CBC Partners I, LLC, demanding that defendant CBC Partners I, LLC rescind its illegal foreclosure and eviction action notices that were issued after Governor Sisolak's Emergency Directive placing a moratorium on foreclosure actions.

43. CBC Partners I, LLC simultaneously refused to rescind its illegal foreclosure and eviction action notices and also denied its actions were foreclosure and eviction actions, thus prompting this litigation.

44. Upon information and belief, defendant CBC Partners I, LLC contends it is exempt from following Governor Sisolak's Emergency Directive 008 because it alleges certain activities purportedly exist which CBC Partners asserts are qualifying as exemptions from the Governor's Emergency Executive Order as the purported activities pose imminent threat to the community or are

1 illegal.

2 45. CBC Partners 1, LLC relies on alleged “health and safety” violations from July 2019 assessed  
3 by the Home Owners Association as the basis for its claimed exceptions from the Governor’s  
4 moratorium on foreclosure and eviction activities.

5 46. Among the “health and safety” items cited by the HOA are:

- 6 a. Failure to provide a guest list 10 days prior to an event in 2019
- 7 b. Utilizing a resident transponder to provide access to residents and guests unlawfully  
8 denied access to the real property in 2019, and
- 9 c. Allegations that fireworks were set off from and an incendiary device was used at the  
10 Property in July of 2019.

11 47. All violations are presently disputed and are before the Nevada Real Estate Division.

12 48. In reality, the property owned by defendant DACIA, LLC (located at 5212 Spanish Heights  
13 Drive) which is in the same neighborhood as the Property at issue, set off fireworks and was the  
14 location of the use of the incendiary device in July of 2019.

15 49. To date, defendant CBC Partners I, LLC is attempting to violate the Merger Doctrine by  
16 attempting to hold both legal title and equitable title in the Property, thus prompting this litigation.  
17 Absent the application of de facto Merger, Defendant purports to be both Lender and Borrower for  
18 the same real property collateral on the same Note.

19 50. To date, defendant CBC Partners 1, LLC is attempting to violate the One Action Rule, having  
20 elected its remedy to accept equity in the entity pledged as additional collateral, it is now barred from  
21 further selecting a foreclosure remedy against the real property as it indicated in its April 8, 2020  
22 correspondence is its intention to do so under its former note (again extinguished under the de facto  
23 merger).

## 24 **FIRST CAUSE OF ACTION**

### 25 **(Declaratory Relief as to the Obligation to Abide by Governor Sisolak’s Emergency Directive** 26 **Placing a Moratorium on Foreclosure and Eviction Actions) – Against All Defendants**

27 51. Plaintiffs incorporate by reference paragraphs 1 through 50 as though fully set forth herein.

28 52. A true and justiciable controversy exists between the Plaintiffs and the Defendants concerning

1 the rights, status, and legal relations of the parties to this action.

2 53. The Plaintiffs' interests are adverse to those of the Defendants.

3 54. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are affected by  
4 statute, including NRS 107.

5 55. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are also effected  
6 by the State of Nevada, Executive Department, Declaration of Emergency Directive 008, dated March  
7 29, 2020, which placed a moratorium on foreclosure actions as it relates to residential or commercial  
8 real estate.

9 56. This matter is filed in part under the Uniform Declaratory Judgment Act.

10 57. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,  
11 and legal relations at issue in this matter and a declaration that the State of Nevada, Executive  
12 Department, Declaration of Emergency Directive 008, dated March 29, 2020, which placed a  
13 moratorium on foreclosure actions, is enforceable by the Plaintiffs against the Defendants.

14 58. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,  
15 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all  
16 attorneys' fees and interest thereon.

17 **SECOND CAUSE OF ACTION**

18 **(Declaratory Relief Regarding CBC Partners 1, LLC's Lack Of Rights To Foreclose Or Evict**  
19 **As It Admits It Sold And No Longer Possesses The Purported Note)**

20 **– Against CBC Partners I, LLC**

21 59. Plaintiffs incorporate by reference paragraphs 1 through 58 as though fully set forth herein.

22 60. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning  
23 the rights, status, and legal relations of the parties to this action.

24 61. The Plaintiffs' interests are adverse to those of the Defendant.

25 62. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by  
26 statute, including NRS 107.

27 63. CBC Partners 1, LLC acknowledges that it no longer possesses or has any interest in the  
28 underlying Third Position Note.

1 64. As such, CBC Partners 1, LLC has no authority to conduct any foreclosure or eviction action  
2 under NRS 107.

3 65. This matter is filed in part under the Uniform Declaratory Judgment Act.

4 66. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,  
5 and legal relations at issue in this matter and a declaration that CBC Partners 1, LLC admits that, as  
6 of at least April 8, 2020, it does not maintain any secured interest in the property as a lender and as  
7 such has no authority to continue any foreclosure or eviction action, and is enforceable by the Plaintiffs  
8 against the Defendant.

9 67. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,  
10 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all  
11 attorneys' fees and interest thereon.

12 **THIRD CAUSE OF ACTION**

13 **(Declaratory Relief Regarding the Application of the One Action Rule) – Against CBC**

14 **Partners I, LLC and 5148 Spanish Heights, LLC**

15 68. Plaintiffs incorporate by reference paragraphs 1 through 67 as though fully set forth herein.

16 69. A true and justiciable controversy exists between the Plaintiffs and the Defendants concerning  
17 the rights, status, and legal relations of the parties to this action.

18 70. The Plaintiffs' interests are adverse to those of the Defendants CBC Partners I, LLC and 5148  
19 Spanish Heights, LLC.

20 71. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are affected by  
21 statute, including NRS 107.

22 72. This matter is filed in part under the Uniform Declaratory Judgment Act.

23 73. Pursuant to NRS 40.430 and 30.040, the Plaintiffs are entitled to declaratory relief as to rights,  
24 statutes, and legal relations at issue in this matter and a declaration that the defendants CBC Partners  
25 I, LLC and 5148 Spanish Heights, LLC are precluded from pursuing any foreclosure action against  
26 the subject real property pursuant to the One Action Rule.

27 74. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,  
28 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all

1 attorneys' fees and interest thereon.

2 **FOURTH CAUSE OF ACTION**

3 **(Declaratory Relief Regarding the Applicability of the Doctrine of Merger) – Against**  
4 **CBC Partners I, LLC and 5148 Spanish Heights, LLC**

5 75. Plaintiffs incorporate by reference paragraphs 1 through 74 as though fully set forth herein.

6 76. A true and justiciable controversy exists between the Plaintiffs and the Defendants concerning  
7 the rights, status, and legal relations of the parties to this action.

8 77. The Plaintiffs' interests are adverse to those of the Defendants CBC Partners I, LLC and 5148  
9 Spanish Heights, LLC.

10 78. The Plaintiffs' rights, status, and legal relations in relation to the Defendants are affected by  
11 statute, including NRS 107.

12 79. This matter is filed in part under the Uniform Declaratory Judgment Act.

13 80. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,  
14 and legal relations at issue in this matter and a declaration that the purported Note that defendants  
15 CBC Partners I, LLC and 5148 Spanish Heights, LLC claim to be secured by a Deed of Trust recorded  
16 against the Property has been extinguished via the Merger Doctrine in light of CBC Partners I, LLC  
17 attempting to exercise purported rights to become legal owner of the Property.

18 81. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,  
19 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all  
20 attorneys' fees and interest thereon.

21 **FIFTH CAUSE OF ACTION**

22 **(Declaratory Relief Regarding the Status of SJC Ventures Holding, LLC as Sole and**  
23 **Exclusive Manager of Spanish Heights Acquisition Company, LLC)**  
24 **– Against All Defendants**

25 82. Plaintiffs incorporate by reference paragraphs 1 through 81 as though fully set forth herein.

26 83. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning  
27 the rights, status, and legal relations of the parties to this action.

28 84. The Plaintiffs' interests are adverse to those of the Defendants.

1 85. This matter is filed in part under the Uniform Declaratory Judgment Act.

2 86. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,  
3 and legal relations at issue in this matter and a declaration that SJC Ventures Holding, LLC is named  
4 the Sole and Exclusive Irrevocable Manager of Spanish Heights Acquisition Company, LLC under  
5 such company's Operating Agreement.

6 87. No event has occurred which would abdicate SJC Ventures Holding, LLC's position as sole,  
7 irrevocable and exclusive Manager of Spanish Heights Acquisition Company, LLC.

8 88. As such, SJC Ventures Holding, LLC is recognized and continues to be the Sole and Exclusive  
9 Irrevocable Manager of Spanish Heights Acquisition Company, LLC under such company's  
10 Operating Agreement

11 89. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit. Therefore,  
12 Plaintiffs are seeking recovery of any and all expenses incurred including, without limitation, all  
13 attorneys' fees and interest thereon.

14 **SIXTH CAUSE OF ACTION**

15 **(Temporary Restraining Order, Preliminary Injunction, and Permanent Injunction) –**  
16 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

17 90. Plaintiffs incorporate by reference paragraphs 1 through 89 as though fully set forth herein.

18 91. Plaintiffs have multiple justiciable controversies with Defendants CBC Partners I, LLC. and  
19 5148 Spanish Heights, LLC.

20 92. On the basis of the facts described herein, Plaintiffs have a reasonable probability of success  
21 on the merits of their claims and have no other adequate remedies of law.

22 93. Plaintiffs have a probable right to relief and will suffer immediate, severe, and irreparable  
23 injury unless the Defendants, their respective agents, servants, employers, principals, assignees,  
24 transferees, and/or beneficiaries, and all those in active concert and participation with Defendants are  
25 immediately restrained and enjoined from: (1) engaging in any further foreclosure activities against  
26 the Property or eviction activity against the tenants; (2) proceeding on the current Notices of Default  
27 and/or Notice to Vacate (including the tolling of any time under the Notice or Agreements); and (3)  
28 attempting to foreclose on the Property through an extinguished purported interest.



1 94. The actions of Defendant CBC Partners I, LLC described herein have resulted in immediate  
2 harm to, among other things, Plaintiffs' Property interests and tenant rights.

3 95. Plaintiffs are entitled to injunctive relief to end such actions and prevent further harm.

4 96. Plaintiffs have been required to retain the services of an attorney to file and prosecute this  
5 action and have thereby been damaged. Accordingly, Plaintiffs seek an award of reasonable attorneys'  
6 fees and costs incurred in this action.

### 7 **SEVENTH CAUSE OF ACTION**

#### 8 **(Declaratory Relief Regarding the Antos Trust's Purported Assignment of Membership** 9 **Interest in Spanish Heights Acquisition Company, LLC) – Against the Antos Trust**

10 97. Plaintiffs incorporate by reference paragraphs 1 through 96 as though fully set forth herein.

11 98. A true and justiciable controversy exists between the Plaintiffs and the Defendant Antos Trust  
12 concerning the rights, status, and legal relations of the parties to this action.

13 99. The Plaintiffs' interests are adverse to those of the Defendant the Antos Trust.

14 100. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by  
15 statute, including NRS 107.

16 101. This matter is filed in part under the Uniform Declaratory Judgment Act.

17 102. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,  
18 and legal relations at issue in this matter and a declaration that upon purportedly assigning its  
19 membership interest in Spanish Heights Acquisition Company, LLC to CBC Partners I, LLC,  
20 defendant the Antos Trust did not agree to waive or exclude the applicability of the Merger Doctrine,  
21 and further, the Antos Trust was provided no consideration for their equitable interest in the property  
22 other than the extinguishment of the Note under the De Facto Merger occurring on April 1, 2020.

23 103. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit.  
24 Therefore, Plaintiffs are seeking recovery of any and all expenses incurred including, without  
25 limitation, all attorneys' fees and interest thereon.

### 26 **EIGHTH CAUSE OF ACTION**

#### 27 **(Breach of Contract as to the Forbearance Agreement) – Against CBC Partners I, LLC**

28 104. Plaintiffs incorporate by reference paragraphs 1 through 103 as though fully set forth herein.

1 105. On or around September 27, 2017, defendant CBC Partners I, LLC executed the Forbearance  
2 Agreement, which upon information and belief is a valid contract.

3 106. On or around December 1, 2019, defendant CBC Partners I, LLC executed the Amendment  
4 to Forbearance Agreement and Related Agreements, which served as an amendment to the  
5 Forbearance Agreement and which extended the forbearance period through March 31, 2020.

6 107. Pursuant to the plain language of the Forbearance Agreement: “[d]uring the Forbearance  
7 Period, [CBC Partners I, LLC] shall continue to make payments to the first mortgagee and second  
8 mortgagee to prevent the default of the 1st Mortgage and the 2nd Mortgage.”

9 108. Upon information and belief, starting on or around January 2020, CBC Partners I, LLC  
10 materially breached the Forbearance Agreement by failing to continue to make payments to the first  
11 and second mortgagee.

12 109. CBC Partners I, LLC also materially breached the Forbearance Agreement by issuing a  
13 “Notice of Default” correspondence on March 16, 2020 which prematurely claimed that there was a  
14 default under the Forbearance Agreement even though the only performance deadline set forth in the  
15 Forbearance Agreement was March 31, 2020.

16 110. CBC Partners I, LLC’s material breach discharged the non-breaching party’s duty to  
17 perform, thus Plaintiffs had no further duty to perform under the Forbearance Agreement.

18 111. As a direct and proximate result of CBC Partners I, LLC’s material breach of contract, to the  
19 to the extent that Plaintiffs’ damages can be calculated with certainty, Plaintiffs have been and will be  
20 damaged in an amount in excess of \$15,000.00.

21 112. As a direct and proximate result of the aforementioned actions and/or omissions of CBC  
22 Partners I, LLC, Plaintiffs have been required to engage the services of an attorney, incurring  
23 attorneys’ fees and costs to bring this action, and Plaintiffs are therefore entitled to reasonable  
24 attorneys’ fees and costs incurred in this action.

25 **NINTH CAUSE OF ACTION**

26 **(Contractual Breach of the Covenant of Good Faith and Fair Dealing) – Against CBC**  
27 **Partners I, LLC**

28 113. Plaintiffs incorporate by reference paragraphs 1 through 112 as though fully set forth herein.

1 114. On or around September 27, 2017, defendant CBC Partners I, LLC executed the Forbearance  
2 Agreement, which upon information and belief is a valid contract.

3 115. On or around December 1, 2019, defendant CBC Partners I, LLC executed the Amendment  
4 to Forbearance Agreement and Related Agreements, which served as an amendment to the  
5 Forbearance Agreement and which extended the forbearance period through March 31, 2020.

6 116. Pursuant to the plain language of the Forbearance Agreement: “[d]uring the Forbearance  
7 Period, [CBC Partners I, LLC] shall continue to make payments to the first mortgagee and second  
8 mortgagee to prevent the default of the 1st Mortgage and the 2nd Mortgage.”

9 117. Defendant CBC Partners I, LLC owed a duty of good faith to Plaintiffs.

10 118. Plaintiffs reasonably expected that defendant CBC Partners I, LLC would fulfill its  
11 responsibilities under the Forbearance Agreement by continuing to make payments to the first and  
12 second mortgagee.

13 119. Upon information and belief, starting on or around January 2020, while collecting payments  
14 due each month from Spanish Heights Acquisition Company, LLC, CBC Partners I, LLC, materially  
15 breached the Forbearance Agreement by failing to continue to make its payments to the first and  
16 second mortgagee.

17 120. CBC Partners I, LLC also materially breached the Forbearance Agreement by issuing a  
18 “Notice of Default” correspondence on March 16, 2020 which prematurely claimed that there was a  
19 default under the Forbearance Agreement even though the only performance deadline set forth in the  
20 Forbearance Agreement was March 31, 2020.

21 121. Accordingly, Plaintiffs’ justified expectations were denied.

22 122. As a direct and proximate result of CBC Partners I, LLC’s contractual breach of the duty of  
23 good faith and fair dealing, to the to the extent that Plaintiffs’ damages can be calculated with  
24 certainty, Plaintiffs have been and will be damaged in an amount in excess of \$15,000.00.

25 123. As a direct and proximate result of the aforementioned actions and/or omissions of CBC  
26 Partners I, LLC, Plaintiffs have been required to engage the services of an attorney, incurring  
27 attorneys’ fees and costs to bring this action, and Plaintiffs are therefore entitled to reasonable  
28 attorneys’ fees and costs incurred in this action.

1 **TENTH CAUSE OF ACTION**

2 **(Declaratory Relief as to Plaintiffs' Lack of Liability for Fireworks Set off And The Use Of An**  
3 **Incendiary Device By a Different Property) – Against DACIA, LLC**

4 124. Plaintiffs incorporate by reference paragraphs 1 through 123 as though fully set forth herein.

5 125. A true and justiciable controversy exists between the Plaintiffs and the Defendant concerning  
6 the rights, status, and legal relations of the parties to this action.

7 126. The Plaintiffs' interests are adverse to those of the Defendant DACIA, LLC.

8 127. The Plaintiffs' rights, status, and legal relations in relation to the Defendant are affected by  
9 statute, including NRS 107.

10 128. This matter is filed in part under the Uniform Declaratory Judgment Act.

11 129. It is Plaintiffs' understanding that CBC Partners I, LLC contends it is exempt from following  
12 Governor Sisolak's Emergency Directive 008 because it alleges fireworks were set off from and an  
13 incendiary device was used at the Property in July of 2019.

14 130. In reality, the property owned by defendant DACIA, LLC, which is in the same  
15 neighborhood as the Property at issue, set off fireworks and used an incendiary device in July of 2019.

16 131. Pursuant to NRS 30.040, the Plaintiffs are entitled to declaratory relief as to rights, statutes,  
17 and legal relations at issue in this matter and a declaration that CBC Partners I, LLC is not entitled to  
18 claim an exemption to Governor Sisolak's Emergency Directive 008 based on fireworks that were not  
19 set off from or an incendiary device used at the Property but that were actually set off by property  
20 owned by defendant DACIA, LLC in July of 2019 – to the extent such fireworks or incendiary device  
21 even constitute the type of serious endangerment to the public or other residents or criminal activity  
22 referenced in the Governor's Emergency Directive, which has not been established.

23 132. Plaintiffs have found it necessary to employ the undersigned attorney to bring suit.  
24 Therefore, Plaintiffs are seeking recovery of any and all expenses incurred including, without  
25 limitation, all attorneys' fees and interest thereon.

26 **ELEVENTH CAUSE OF ACTION**

27 **(Indemnity) – Against DACIA, LLC**

28 133. Plaintiffs incorporate by reference paragraphs 1 through 132 as though fully set forth herein.

1 134. Plaintiffs are informed and believe, and based thereon allege, that they are in no way  
2 responsible for causing any fireworks to be set off from or the use of an incendiary device at the  
3 Property in July of 2019, and that any such fireworks were set off from the property owned by DACIA,  
4 LLC.

5 135. Therefore, if the Court determines that an exemption to Governor Sisolak's Emergency  
6 Directive 008 exists as a result of fireworks being set off or the use of an incendiary device in July of  
7 2019, then Plaintiffs are informed and believe, and on that basis allege, that the conduct, in whole or  
8 in part of DACIA, LLC, as the owner of the Property that actually set off fireworks or used of an  
9 incendiary device at in July 2019, contributed to the happening of the fireworks being set off or the  
10 use of an incendiary device in the neighborhood.

11 136. By reason of the foregoing allegations, if the Court determines that an exemption to  
12 Governor Sisolak's Emergency Directive 008 exists as a result of fireworks being set off or the use of  
13 an incendiary device in July of 2019, then Plaintiffs are entitled to be indemnified by defendant  
14 DACIA, LLC, for its fair share of any judgment or fines imposed rendered against Plaintiffs as a result  
15 of that decision.

## 16 **TWELFTH CAUSE OF ACTION**

### 17 **(Contribution) – Against DACIA, LLC**

18 137. Plaintiffs incorporate by reference paragraphs 1 through 136 as though fully set forth herein.

19 138. A right to contribution exists “where two or more persons become jointly or severally liable  
20 in tort for the same injury to [a] person ... even though judgment has not been recovered against all or  
21 any of them.” NRS 17.225(1).

22 139. Plaintiffs are informed and believe, and based thereon allege, that they are in no way  
23 responsible for causing any fireworks to be set off from or the use of an incendiary device at the  
24 Property in July of 2019, and that any such fireworks were set off from the property owned by DACIA,  
25 LLC.

26 140. Therefore, if the Court determines that an exemption to Governor Sisolak's Emergency  
27 Directive 008 exists as a result of fireworks being set off or the use of an incendiary device in July of  
28 2019, then Plaintiffs are informed and believe, and on that basis allege, that the conduct, in whole or

1 in part of DACIA, LLC, as the owner of the Property that actually set off fireworks or used an  
2 incendiary device in July 2019, contributed to and caused the happening of the fireworks being set off  
3 in or the use of an incendiary device in the neighborhood.

4 141. By reason of the foregoing allegations, if the Court determines that an exemption to  
5 Governor Sisolak's Emergency Directive 008 exists as a result of fireworks being set off or the use of  
6 an incendiary device in July of 2019, then Plaintiffs are entitled to a judgment, over and against  
7 defendant DACIA, LLC, for its fair share of any judgment rendered against Plaintiffs as a result of  
8 that decision.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment against Defendants as follows:

11 1. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that the State  
12 of Nevada, Executive Department, Declaration of Emergency Directive 008, dated March 29, 2020,  
13 which placed a moratorium on eviction and foreclosure actions, is enforceable by the Plaintiffs  
14 against the Defendant and therefore Defendant's Notice of Default and Notice to Vacate are in  
15 violation of the Governor's Executive Order 008 and are null and void ab initio;

16 2. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that CBC  
17 Partners 1, LLC, as of at least April 8, 2020, by its own admission, is not a secured creditor against  
18 the subject real property, has no basis under which it can claim rights to undertake either a non-  
19 judicial foreclosure or eviction, has no basis under which it may continue any further foreclosure or  
20 eviction activity and is enforceable by the Plaintiffs against the Defendant and therefore Defendant's  
21 Notice of Default and Notice to Vacate are null and void ab initio;

22 3. For an entry of Declaratory Judgment pursuant to NRS 107 and 30.040 that the  
23 purported Note that defendant CBC Partners I, LLC claims to be secured by a Deed of Trust recorded  
24 against the Property has been extinguished via the Merger Doctrine in light of CBC Partners I, LLC  
25 exercising its purported rights to become partial legal owner of the Property;

26 4. For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that  
27 defendant CBC Partners I, LLC is precluded from pursuing any foreclosure action against the subject  
28 real property pursuant to the One Action Rule;

1           5.       For an entry of Declaratory Judgment that SJC Ventures Holding, LLC is recognized  
2 as the sole, exclusive and irrevocable Manager of SJC Ventures Holding, LLC as per the Four  
3 Corners of the SJC Ventures Holding, LLC Operating Agreement;

4           6.       For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that upon  
5 purportedly assigning its membership interest in Spanish Heights Acquisition Company, LLC to  
6 CBC Partners I, LLC, defendant the Antos Trust did not agree to waive or exclude the applicability  
7 of the Merger Doctrine;

8           7.       For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that CBC  
9 Partners I, LLC is not entitled to claim an exemption to Governor Sisolak's Emergency Directive  
10 008 based on last year's allegations of Spanish Heights Acquisitions Company, LLC's alleged failure  
11 to provide a guest list 10 days in advance of an event, using a residents transponder to allow entry to  
12 residents and guests wrongfully detained at the gate, or for fireworks or use of an incendiary device  
13 that were not set off from the Property but that were actually set off by property owned by defendant  
14 DACIA, LLC in July of 2019 – to the extent such fireworks on the Fourth of July 2019 or the use of  
15 an incendiary device during 2019, even constitute the type of serious endangerment to the public or  
16 other residents or criminal activity referenced in the Governor's Emergency Directive, which has not  
17 been established;

18           8.       For an entry of Declaratory Judgment pursuant to NRS 40.430 and 30.040 that the  
19 lease agreement between Spanish Heights Acquisitions Company, LLC, as landlord and SJC  
20 Ventures Holding, LLC as tenant is valid and binding unto all parties and is not subject to being  
21 voided or terminated prior to the expiration of the two extensions recognized by all parties;

22           9.       Judgment in favor of Plaintiffs on the complaint and all claims for relief asserted  
23 therein;

24           10.      For such injunctive relief as necessary;

25           11.      For an award of reasonable attorneys' fees and costs incurred by Plaintiffs;

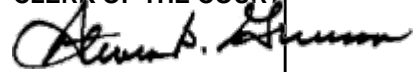
26           12.      For an award of pre and post-judgment interest; and

27       ///

28       ///







Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
Telephone: 702-454-3333  
Facsimile: 702-386-4979  
Michael@mccnvlaw.com  
jcoppedge@mccnvlaw.com

*Attorneys for Defendants  
Sheila Antos and Kenneth Antos,  
As Trustees of the Kenneth & Sheila  
Antos Living Trust and the Kenneth M.  
Antos & Sheila M. Neumann-Antos Trust*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES, LLC  
a Delaware limited liability company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign limited  
liability company; CBC PARTNERS, LLC, a  
foreign limited liability company, 5148  
SPANISH HEIGHTS, LLC, a Nevada limited  
liability company; KENNETH ANTOS and  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and the  
Kenneth M. Antos & Sheila M. Neumann-Antos  
Trust; DACIA, LLC, a foreign limited liability  
company; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No. A-20-813439-B

Dept. No.: 11

**DEFENDANTS SHEILA ANTOS AND  
KENNETH ANTOS, AS TRUSTEES  
OF THE KENNETH & SHEILA  
ANTOS LIVING TRUST AND THE  
KENNETH M. ANTOS & SHEILA M.  
NEUMANN-ANTOS TRUST  
ANSWER TO FIRST AMENDED  
COMPLAINT AND  
COUNTERCLAIM**

**EXEMPT FROM ARBITRATION:**

1. Request for Declaratory Relief
2. Action Concerning Real Property

CAPTION CONTINUES BELOW

1 5148 SPANISH HEIGHTS, LLC, a Nevada  
2 limited liability company; and CBC PARTNERS  
3 I, LLC, a Washington limited liability company,

4 Counterclaimants,

5 v.

6 SPANISH HEIGHTS ACQUISITION  
7 COMPANY, LLC, a Nevada Limited Liability  
8 Company; SJC VENTURES, LLC, a Delaware  
9 limited liability company; SJC VENTURES  
10 HOLDING COMPANY, LLC, a Delaware  
11 limited liability company; JAY BLOOM,  
12 individually and as Manager, DOE  
13 DEFENDANTS 1-10; and ROE DEFENDANTS  
14 11-20,

15 Counterdefendants.

16 KENNETH ANTOS and SHEILA NEUMANN-  
17 ANTOS, as Trustees of the Kenneth & Sheila  
18 Antos Living Trust and the Kenneth M. Antos &  
19 Sheila M. Nuemann-Antos Trust,

20 Counterclaimants,

21 v.

22 SJC VENTURES HOLDING COMPANY,  
23 LLC, d/b/a SJC VENTURES, LLC a Delaware  
24 limited liability Company, DOES I though X;  
25 and ROE CORPORATIONS I through X,  
26 inclusive,

27 Counterdefendants.

28  
**DEFENDANTS SHEILA ANTOS AND KENNETH ANTOS, AS TRUSTEES OF THE  
KENNETH & SHEILA ANTOS LIVING TRUST AND THE KENNETH M. ANTOS &  
SHEILA M. NEUMANN-ANTOS TRUST ANSWER TO FIRST AMENDED  
COMPLAINT AND COUNTERCLAIM**

Defendants, Sheila Antos and Kenneth Antos, as Trustees of the Kenneth & Sheila Antos  
Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust Answer to First

1 Amended Complaint ("Defendants"), by and through their attorney Michael R. Mushkin, of the  
2 law firm of Mushkin & Coppedge, for their Answer to Plaintiffs' First Amended Complaint  
3 ("FAC") hereby admits, deny, and affirmatively alleges as follows in response to the FAC on file  
4 in the above-entitled action:

5 **PARTIES**

6 1. In answering Paragraph 1 of the FAC, Defendants are without knowledge  
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
8 contained therein.

9 2. In answering Paragraph 2 of the FAC, Defendants admit that there is a property  
10 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor's Parcel  
11 Number of 163-29-615-007 and Defendants are without knowledge sufficient to form a belief as  
12 to the truth of the remainder of the allegations and therefore deny the allegations contained  
13 therein.

14 3. In answering Paragraph 3 of the FAC, Defendants are without knowledge  
15 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
16 contained therein.

17 4. In answering Paragraph 4 of the FAC, Defendants are without knowledge  
18 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
19 contained therein.

20 5. In answering Paragraph 5 of the FAC, Defendants are without knowledge  
21 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
22 contained therein.

23 6. In answering Paragraph 6 of the FAC, Defendants are without knowledge  
24 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
25 contained therein.

26 7. In answering Paragraph 7 of the FAC, Defendants are without knowledge  
27 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
28 contained therein.

8. In answering Paragraph 8 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

9. In answering Paragraph 9 of the FAC, Defendants admit the allegations contained therein.

10. In answering Paragraph 10 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

11. In answering Paragraph 11 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

12. In answering Paragraph 12 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

## GENERAL ALLEGATIONS

13. In answering Paragraph 13 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

14. In answering Paragraph 14 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

15. In answering Paragraph 15 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

16. In answering Paragraph 16 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

| / / /

1           17. In answering Paragraph 17 of the FAC, Defendants are without knowledge  
2 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
3 contained therein.

4           18. In answering Paragraph 18 of the FAC, Defendants are without knowledge  
5 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
6 contained therein.

7           19. In answering Paragraph 19 of the FAC, Defendants are without knowledge  
8 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
9 contained therein.

10          20. In answering Paragraph 20 of the FAC, Defendants deny the allegations contained  
11 therein.

12          21. In answering Paragraph 21 of the FAC, Defendants are without knowledge  
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
14 contained therein.

15          22. In answering Paragraph 22 of the FAC, Defendants are without knowledge  
16 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
17 contained therein.

18          23. In answering Paragraph 23 of the FAC, Defendants are without knowledge  
19 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
20 contained therein.

21          24. In answering Paragraph 24 of the FAC, Defendants are without knowledge  
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
23 contained therein.

24          25. In answering Paragraph 25 of the FAC, Defendants are without knowledge  
25 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
26 contained therein.

27          26. In answering Paragraph 26 of the FAC, Defendants admit the allegations contained  
28 therein.

1           27.     In answering Paragraph 27 of the FAC, Defendants deny the allegations contained  
2 therein.

3           28.     In answering Paragraph 28 of the FAC, Defendants deny the allegations contained  
4 therein.

5           29.     In answering Paragraph 29 of the FAC, Defendants deny the allegations contained  
6 therein.

7           30.     In answering Paragraph 30 of the FAC, Defendants deny the allegations contained  
8 therein.

9           31.     In answering Paragraph 31 of the FAC, Defendants deny the allegations contained  
10 therein.

11          32.     In answering Paragraph 32 of the FAC, Defendants deny the allegations contained  
12 therein.

13          33.     In answering Paragraph 33 of the FAC, Defendants are without knowledge  
14 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
15 contained therein.

16          34.     In answering Paragraph 34 of the FAC, Defendants are without knowledge  
17 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
18 contained therein.

19          35.     In answering Paragraph 35 of the FAC, Defendants are without knowledge  
20 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
21 contained therein.

22          36.     In answering Paragraph 36 of the FAC, Defendants are without knowledge  
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
24 contained therein.

25          37.     In answering Paragraph 37 of the FAC, Defendants admit that a Notice to Vacate  
26 was issued and Defendants are without knowledge sufficient to form a belief as to the truth of the  
27 remainder of the allegations and therefore deny the allegations contained therein.

28     ///

1           38.     In answering Paragraph 38 of the FAC, Defendants deny the allegations contained  
2 therein.

3           39.     In answering Paragraph 39 of the FAC, Defendants are without knowledge  
4 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
5 contained therein.

6           40.     In answering Paragraph 40 of the FAC, Defendants are without knowledge  
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
8 contained therein.

9           41.     In answering Paragraph 41 of the FAC, Defendants are without knowledge  
10 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
11 contained therein.

12          42.     In answering Paragraph 42 of the FAC, Defendants are without knowledge  
13 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
14 contained therein.

15          43.     In answering Paragraph 43 of the FAC, Defendants are without knowledge  
16 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
17 contained therein.

18          44.     In answering Paragraph 44 of the FAC, Defendants are without knowledge  
19 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
20 contained therein.

21          45.     In answering Paragraph 45 of the FAC, Defendants are without knowledge  
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
23 contained therein.

24          46.     In answering Paragraph 46 of the FAC, Defendants are without knowledge  
25 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
26 contained therein.

27          47.     In answering Paragraph 47 of the FAC, Defendants are without knowledge  
28 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny

1 the allegations contained therein.

2 48. In answering Paragraph 48 of the FAC, Defendants are without knowledge  
3 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny  
4 the allegations contained therein.

5 49. In answering Paragraph 49 of the FAC, Defendants deny the allegations contained  
6 therein.

7 50. In answering Paragraph 50 of the FAC, Defendants deny the allegations contained  
8 therein.

9 **FIRST CAUSE OF ACTION**

10 **(Declaratory Relief as to the Obligation to Abide by Governor Sisolak's Emergency**

11 **Directive Placing a Moratorium on Foreclosure and Eviction Actions)**

12 **Against all Defendants**

13 51. In answering Paragraph 51 of the FAC, Defendants repeat and reallege all answers  
14 as though fully set forth herein.

15 52. In answering Paragraph 52 of the FAC, Defendants are without knowledge  
16 sufficient to form a belief a to the truth of the remainder of the allegations and therefore deny the  
17 allegations contained therein.

18 53. In answering Paragraph 53 of the FAC, Defendants admit the allegations contained  
19 therein.

20 54. In answering Paragraph 54 of the FAC, Defendants are without knowledge  
21 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny  
22 the allegations contained therein.

23 55. In answering Paragraph 55 of the FAC, Defendants are without knowledge  
24 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny  
25 the allegations contained therein.

26 56. In answering Paragraph 56 of the FAC, Defendants are without knowledge  
27 sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny  
28 the allegations contained therein.



57. In answering Paragraph 57 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

58. In answering Paragraph 58 of the FAC, Defendants deny the allegations contained therein.

## SECOND CAUSE OF ACTION

**(Declaratory Relief Regarding CBC Partners I, LLC's Lack of Rights to Foreclose or to Evict as it Admits it Sold and no longer Possesses the Purported Note)**

### Against CBC Partners I, LLC

59. In answering Paragraph 59 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

60. In answering Paragraph 60 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

61. In answering Paragraph 61 of the FAC, Defendants admit the allegations contained therein.

62. In answering Paragraph 62 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

63. In answering Paragraph 63 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the remainder of the allegations and therefore deny the allegations contained therein.

64. In answering Paragraph 64 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

65. In answering Paragraph 65 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

66. In answering Paragraph 66 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

67. In answering Paragraph 67 of the FAC, Defendants deny the allegations contained therein.

### THIRD CAUSE OF ACTION

**(Declaratory Relief of the Application of the One Action Rule)**

### Against CBC Partners I, LLC and 5148 Spanish Heights, LLC

68. In answering Paragraph 68 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

69. In answering Paragraph 69 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

70. In answering Paragraph 70 of the FAC, Defendants admit the allegations contained therein.

71. In answering Paragraph 71 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

72. In answering Paragraph 72 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

73. In answering Paragraph 73 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

74. In answering Paragraph 74 of the FAC, Defendants deny the allegations contained therein.

///

///

1 **FOURTH CAUSE OF ACTION**

2 **(Declaratory Relief Regarding the Applicability of the Doctrine of Merger)**

3 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

4 75. In answering Paragraph 75 of the FAC, Defendant repeat and reallege all answers  
5 as though fully set forth herein.

6 76. In answering Paragraph 76 of the FAC, Defendants are without knowledge  
7 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
8 contained therein.

9 77. In answering Paragraph 77 of the FAC, Defendants admit the allegations contained  
10 therein.

11 78. In answering Paragraph 78 of the FAC, Defendants are without knowledge  
12 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
13 contained therein.

14 79. In answering Paragraph 79 of the FAC, Defendants are without knowledge  
15 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
16 contained therein.

17 80. In answering Paragraph 80 of the FAC, Defendants are without knowledge  
18 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
19 contained therein.

20 81. In answering Paragraph 81 of the FAC, Defendants deny the allegations contained  
21 therein.

22 **FIFTH CAUSE OF ACTION**

23 **(Declaratory Relief Regarding the Status of SJC Ventures Holding, LLC as Sole and**

24 **Exclusive Manager of Spanish Heights Acquisition Company, LLC)**

25 **Against all Defendants**

26 82. In answering Paragraph 82 of the FAC, Defendants repeat and reallege all answers  
27 as though fully set forth herein.

28 83. In answering Paragraph 83 of the FAC, Defendants are without knowledge

1 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
2 contained therein.

3 84. In answering Paragraph 84 of the FAC, Defendants admit the allegations contained  
4 therein.

5 85. In answering Paragraph 85 of the FAC, Defendants are without knowledge  
6 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
7 contained therein.

8 86. In answering Paragraph 86 of the FAC, Defendants are without knowledge  
9 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
10 contained therein.

11 87. In answering Paragraph 87 of the FAC, Defendants deny the allegations contained  
12 therein.

13 88. In answering Paragraph 88 of the FAC, Defendants deny the allegations contained  
14 therein.

15 89. In answering Paragraph 89 of the FAC, Defendants deny the allegations contained  
16 therein.

#### 17 **SIXTH CAUSE OF ACTION**

18 **(Temporary Restraining Order, Preliminary Injunction, and permanent Injunction)**

19 **Against CBC Partners I, LLC and 5148 Spanish Heights, LLC**

20 90. In answering Paragraph 90 of the FAC, Defendants repeat and reallege all answers  
21 as though fully set forth herein.

22 91. In answering Paragraph 91 of the FAC, Defendants are without knowledge  
23 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
24 contained therein.

25 92. In answering Paragraph 92 of the FAC, Defendants deny the allegations contained  
26 therein.

27 93. In answering Paragraph 93 of the FAC, Defendants deny the allegations contained  
28 therein.

94. In answering Paragraph 94 of the FAC, Defendants deny the allegations contained therein.

95. In answering Paragraph 95 of the FAC, Defendants deny the allegations contained therein.

96. In answering Paragraph 96 of the FAC, Defendants deny the allegations contained therein.

## SEVENTH CAUSE OF ACTION

**(Declaratory Relief Regarding the Antos Trust’s Purported Assignment of Membership  
Interest in Spanish Heights Acquisition Company)**

## Against the Antos Trust

97. In answering Paragraph 97 of the FAC, Defendants repeat and reallege all answers as though fully set forth herein.

98. In answering Paragraph 98 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

99. In answering Paragraph 99 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

100. In answering Paragraph 100 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

101. In answering Paragraph 101 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

102. In answering Paragraph 102 of the FAC, Defendants are without knowledge sufficient to form a belief as to the truth of the allegations and therefore deny the allegations contained therein.

///

1           103. In answering Paragraph 103 of the FAC, Defendants deny the allegations  
2 contained therein.

3                                   **EIGHTH CAUSE OF ACTION**

4                                   **(Breach of Contract as to the Forbearance Agreement)**

5                                   **Against CBC partners I, LLC**

6           104. In answering Paragraph 104 of the FAC, Defendants repeat and reallege all  
7 answers as though fully set forth herein.

8           105. In answering Paragraph 105 of the FAC, Defendants admit the allegations  
9 contained therein.

10          106. In answering Paragraph 106 of the FAC, Defendants admit the allegations  
11 contained therein.

12          107. In answering Paragraph 107 of the FAC, Defendants admit the allegations  
13 contained therein.

14          108. In answering Paragraph 108 of the FAC, Defendants deny the allegations  
15 contained therein.

16          109. In answering Paragraph 109 of the FAC, Defendants deny the allegations  
17 contained therein.

18          110. In answering Paragraph 110 of the FAC, Defendants deny the allegations  
19 contained therein.

20          111. In answering Paragraph 111 of the FAC, Defendants deny the allegations  
21 contained therein.

22          112. In answering Paragraph 112 of the FAC, Defendants deny the allegations  
23 contained therein.

24                                   **NINTH CAUSE OF ACTION**

25                                   **(Contractual Breach of the Covenant of Good Faith and Fair Dealing)**

26                                   **Against CBC Partners I, LLC**

27          113. In answering Paragraph 113 of the FAC, Defendants repeat and reallege all  
28 answers as though fully set forth herein.

1           114. In answering Paragraph 114 of the FAC, Defendants admit the allegations  
2 contained therein.

3           115. In answering Paragraph 115 of the FAC, Defendants admit the allegations  
4 contained therein.

5           116. In answering Paragraph 116 of the FAC, Defendants admit the allegations  
6 contained therein.

7           117. In answering Paragraph 117 of the FAC, Defendants admit the allegations  
8 contained therein.

9           118. In answering Paragraph 118 of the FAC, Defendants admit the allegations  
10 contained therein.

11           119. In answering Paragraph 119 of the FAC, Defendants deny the allegations  
12 contained therein.

13           120. In answering Paragraph 120 of the FAC, Defendants deny the allegations  
14 contained therein.

15           121. In answering Paragraph 121 of the FAC, Defendants deny the allegations  
16 contained therein.

17           122. In answering Paragraph 122 of the FAC, Defendants deny the allegations  
18 contained therein.

19           123. In answering Paragraph 123 of the FAC, Defendants deny the allegations  
20 contained therein.

21           124. In answering Paragraph 124 of the FAC, Defendants repeat and reallege all  
22 answers as though fully set forth herein.

23           125. In answering Paragraph 125 of the FAC, Defendants deny the allegations  
24 contained therein.

25           126. In answering Paragraph 126 of the FAC, Defendants deny the allegations  
26 contained therein.

27           127. In answering Paragraph 127 of the FAC, Defendants deny the allegations  
28 contained therein.

1           128. In answering Paragraph 128 of the FAC, Defendants deny the allegations  
2 contained therein.

3           129. In answering Paragraph 129 of the FAC, Defendants deny the allegations  
4 contained therein.

5           130. In answering Paragraph 130 of the FAC, Defendants deny the allegations  
6 contained therein.

7           131. In answering Paragraph 131 of the FAC, Defendants deny the allegations  
8 contained therein.

9           132. In answering Paragraph 132 of the FAC, Defendants deny the allegations  
10 contained therein.

11           133. In answering Paragraph 133 of the FAC, Defendants repeat and reallege all  
12 answers as though fully set forth herein.

13           134. In answering Paragraph 134 of the FAC, Defendants deny the allegations  
14 contained therein.

15           135. In answering Paragraph 135 of the FAC, Defendants deny the allegations  
16 contained therein.

17           136. In answering Paragraph 136 of the FAC, Defendants deny the allegations  
18 contained therein.

19           137. In answering Paragraph 137 of the FAC, Defendants repeat and reallege all  
20 answers as though fully set forth herein.

21           138. In answering Paragraph 138 of the FAC, Defendants are without knowledge  
22 sufficient to form a belief as to the truth of the allegations and therefore deny the allegations  
23 contained therein.

24           139. In answering Paragraph 139 of the FAC, Defendants deny the allegations  
25 contained therein.

26           140. In answering Paragraph 140 of the FAC, Defendants deny the allegations  
27 contained therein.

28       ///



141. In answering Paragraph 141 of the FAC, Defendants deny the allegations contained therein.

## AFFIRMATIVE DEFENSES

1) Defendant deny each and every allegation contained in the First Amended Complaint not otherwise specifically admitted or denied herein.

2) Plaintiffs have failed to state a claim against Defendants upon which relief may be granted.

3) Plaintiffs' claims are barred because the grant of relief would unjustly enrich them.

4) Plaintiff's claims are barred because they failed to satisfy a condition precedent and/or a condition subsequent.

5) Defendants' actions upon which Plaintiffs' First Amended Complaint is based were reasonable, justified, undertaken in good faith, and lawful.

6) Plaintiffs' claims against Defendant are barred as a matter of law as Plaintiffs' Complaint makes numerous blatantly false claims.

7) Plaintiffs have failed to mitigate their damages.

8) Plaintiffs' claims are barred by the doctrine of laches.

9) Plaintiffs' claims are barred by the doctrine of unclean hands.

10) Plaintiff's claims are barred by a failure of consideration.

11) Plaintiffs are estopped from asserting the claims set forth in the Complaint because of improper conduct, acts, or omissions.

12) Plaintiffs' claims are barred by lack of authority.

13) Plaintiffs' claims are barred because Plaintiffs did not suffer any damages and, to the extent Plaintiffs have suffered any losses, they are speculative and vague.

14) Defendants have incurred attorneys' fees and costs in the defense of this action and is entitled to full reimbursement thereof.

15) Defendants hereby incorporates those affirmative defenses enumerated in NRCP 8 as if fully set forth herein. Such defenses are herein incorporated by reference for the specific purpose of not waiving any such defense. In the event further investigation or discovery reveals

1 the applicability of any such defenses, Defendant reserves the right to seek leave of the Court to  
2 amend this Answer to the Complaint and to specifically assert any such defense. Such defenses  
3 are herein incorporated by reference for the specific purpose of not waiving any such defense.

4 16) Pursuant to NRCP 11, all possible affirmative defenses may not have been alleged  
5 herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of the  
6 Answer to First Amended Complaint. Therefor Defendants reserve the right to amend this  
7 Answer, including adding affirmative defenses, based upon discovery, review of documents, and  
8 development of evidence in this case.

9 **COUNTERCLAIMANTS, KENNETH ANTOS AND SHEILA NEUMANN-ANTOS, AS**  
10 **TRUSTEES OF THE KENNETH & SHEILA ANTOS LIVING TRUST AND THE**  
11 **KENNETH M. ANTOS & SHEILA M. NEUMANN-ANTOS TRUST COUNTERCLAIM**  
12 **AGAINST SJC VENUTURES HOLDING COMPANY, LLC, D/B/A SJC VENTURES,**  
13 **LLC A DELAWARE**

14 Counterclaimants, Kenneth Antos and Sheila Neumann-Antos, as Trustees of the  
15 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-"Antos  
16 Trust, allege as follows:

17 **JURISDICTION AND VENUE**

18 1. Pursuant to Nevada's long arm statute codified at NRS 14.065, a Court of this  
19 State may exercise jurisdiction over a party to a civil action on any basis not inconsistent with  
20 the Constitution of Nevada or the Constitution of the United States.

21 2. Venue is proper pursuant to Nev. Rev. Stat. § 13.040.

22 **THE PARTIES**

23 3. Counterclaimants, Kenneth Antos and Sheila Neumann-Antos, as Trustees of the  
24 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos  
25 Trust, are individuals, residing in Clark County, Nevada.

26 4. Counterdefendant, SJC Ventures, LLC a Delaware limited liability company, upon  
27 information and belief, Jay Bloom is the Manager, of SJC Ventures, LLC a Delaware limited  
28

1 liability company. Upon information and belief, Jay Bloom is a resident of Clark County, Nevada.

2 5. Upon information and belief, Jay Bloom is the sole member of SJC Ventures, LLC.

3 6. Operating Agreement calls for investor member to perform the following:

4 a. "Provide for the funding of a (sic) **annual** expense reserve account in the  
5 amount of \$150,000.00 within ninety days from which non member CBCI is authorized to issue  
6 payment against its obligations due from Seller Member should Investor Member fail to effect  
7 such payments..." (emphasis added).

8 b. "Provide for a second funding of an annual expense reserve account one  
9 year later in the additional amount of \$150,000.00 within ninety days of the first anniversary of  
10 the signing from which non Member CBCI is authorized to issue payment against its Note should  
11 Investor Member fail to effect such payments..." (emphasis added).

12 c. "Cause the Company to effect repairs to the premises to bring it back to  
13 top quality standard and working repair."

14 d. "Cause the Company to pay all HOA assessments and fines."

15 e. "At the earlier of 2 years... pay off in full the CBC revicable (sic) as relates  
16 to the property."

17 f. At the earlier of 2 years... either assume service of or retire either or both  
18 of the 1st and 2nd position lenders."

19 7. On or about April 16, 2007 nonparties Kenneth M. Antos and Sheila M. Neumann-  
20 Antos transferred to Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth  
21 and Shelia Antos Living Trust dated April 26, 2007 ("Antos") real property located in Clark  
22 County, Nevada commonly known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148  
23 (the "Property").  
24  
25  
26  
27  
28

1           8.       On or about June 22, 2012, Antos with nonparties KCI Investments, LLC a Nevada  
2 limited liability company ("KCI") entered into a Secured Promissory Note with CBC Partners 1,  
3 LLC, a Washington limited liability company ("CBCI").  
4

5           9.       The June 22, 2012, Secured Promissory Note (the "Note") was modified and  
6 amended several times.

7           10.      On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security  
8 Agreement and Fixture Filing ("Deed of Trust") was recorded against the Property in the Clark  
9 County Recorder's Office as Instrument No. 201412290002856, for the purpose of securing the  
10 Note. The balance due is approximately \$5,578,459.15 (\$2,935,001.14 for principal, pre-  
11 forbearance protection payments of \$1,326,744.55, interest and late charges of \$1,315,105.24 and  
12 interest accrued at the rate of 20% in the amount of \$1,608.22 per day from April 1, 2020, *May*  
13 *14, 2020 Evidentiary Hearing Exhibit A-003-004*).  
14

15           11.      This Deed of Trust is subordinate to two (2) additional Deeds of Trust recorded  
16 against the Property. The First Mortgage to City National is in the principal amount of  
17 \$3,240,000.00 with monthly payment of \$19,181.07. The Second Mortgage to Northern Trust  
18 Bank is in the principal amount of \$599,000.00 with monthly payments of \$3,034.00.  
19

20           12.      The Deed of Trust was subsequently modified on July 22, 2015 and on December  
21 19, 2016 as recorded in the Clark County Recorder's Office Instrument No.'s 201507220001146  
22 and 201612190002739 respectively.  
23

24           13.      On or about September 27, 2017, Antos, SHAC and Counterdefendant SJC  
25 Ventures, LLC ("SJCVC") entered into a Forbearance Agreement of the Note, acknowledging  
26 default and affirming CBCI has fully performed.  
27

28       ///

1           14.     As part of the Forbearance Agreement Antos conveyed the Property to SHAC and  
2 SHAC leased the property to SJCVC.

3           15.     As part of the Forbearance Agreement SHAC would lease the Property to SJCVC  
4 the lease contained a Consent to Lease between SHAC and CBCI.

5           16.     Paragraph 2 of the Consent to Lease states: "In the event CBCI... or otherwise  
6 exercises its rights under the Forbearance Agreement, CBCI may terminate the Lease."

7           17.     Pursuant to the terms of the Forbearance Agreement SHAC was to make certain  
8 payments to CBCI and other parties. In addition, a balloon payment of the total amount owing  
9 was due on August 31, 2019.

10           18.     As part of the Forbearance Agreement there were certain requirements of SHAC  
11 attached as Exhibit B to the Forbearance Agreement. Among the certain requirements was the  
12 understanding that the First Lien holder would pay the real property taxes, that CBCI would pay  
13 the 1<sup>st</sup> and 2<sup>nd</sup> Mortgage payments to prevent default, that SHAC would make certain repairs and  
14 improvements to the Property in approximately the amount of \$100,000.00, SHAC would deposit  
15 \$150,000.00 with Bank of America and replenish the account and provide CBCI with an Account  
16 Control Agreement; SHAC would maintain the Property, and SHAC would pay for a customary  
17 homeowner's insurance policy and all Homeowner's Association dues.

18           19.     On or about August 4, 2017, SHAC was organized with the initial members being  
19 SJCVC, CBC Partners, LLC, and Antos.

20           20.     On or about August 9, 2017, CBC Partners resigned as a member of SHAC.

21           21.     In addition to the certain requirements of the Forbearance Agreement there was  
22 certain pledged collateral. Among the pledged collateral Antos and SJCVC pledged 100% of the  
23 membership interest in SHAC, the Pledge Agreement.

22. The Pledge Agreement was between Antos and SJCv as Pledgors and CBC1 as the Secured Party and was dated September 27, 2017.

23. Pursuant to the Pledge Agreement, Antos and SJCV and pledged all right, title and interest in and to 100% of their membership inters of SHAC to CBCI.

24. In addition to pledging membership interest the Pledgors agreed to not “sell, assign (by operation of law or otherwise) or otherwise dispose of, or grant any option with respect to, any of the Pledged Collateral...”

25. SJC Ventures, LLC has done none of the required acts to fulfill its obligations under the Operating Agreement and Pledge Agreements.

26. Plaintiff/Counterdefendant, SJC Ventures, LLC is in default of the Operating Agreement.

27. Defendant/Counterclaimant, Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust have been damaged in an amount in excess of \$15,000.00 and is entitled to rescission.

### FIRST CLAIM FOR RELIEF

## Breach of Contract

28. Defendants/Counterclaimants repeat and reallege each and every allegation set forth in Paragraphs 1 through 27 above and incorporates the same by reference as though fully set forth herein.

29. Counterdefendant has breached the Operating Agreement by failing to perform the terms of the Agreement.

/ / /

30. Counterdefendant's actions are in breach of the duties owed to Counterclaimants and Counterdefendant has violated the Agreements.

31. Counterdefendant did not compensate Counterclaimants under the terms of the Agreement, and Defendants/Counterclaimants are entitled to rescission of the Agreement and mandatory damages in excess of \$15,000.00.

32. Counterclaimants are entitled to be compensated for the reasonable attorneys' fees and costs incurred in the prosecution of this action.

## SECOND CLAIM FOR RELIEF

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

33. Defendants/Counterclaimants hereby repeat and reallege each allegation contained in paragraphs 1 through 20 of this Countercomplaint and incorporate the same herein by reference as though fully set forth herein.

34. It is well settled in Nevada that every contract imposes upon the contracting parties the duty of good faith and fair dealing.

35. Counterdefendant owed Counterclaimants a duty of good faith and fair dealing.

36. Counterdefendant breached the duty of good faith and fair dealings when they performed in a manner that was unfaithful to the purpose of the Agreements and to the justified expectations of Counterclaimants by failing to satisfy the outstanding balance owed to Counterclaimants.

37. As a direct and proximate result of Counterdefendant's breach of the implied covenant of good faith and fair dealing, Counterclaimants have been damaged in any amount in excess of fifteen thousand dollars (\$15,000.00), the exact amount of which will be the subject of proof at trial.

38. Counterdefendant's breaches of their contractual duties were intentionally done to injure Counterclaimants with a willful and conscious disregard for Counterclaimants' rights,

1 constituting oppression, fraud and/or malice.

2 39. Counterclaimants, in addition to compensatory damages, is entitled to recover all  
3 attorney's fees it has reasonably incurred and to recover punitive damages for the sake of  
4 example and by way of punishing Counterdefendant to deter similar conduct in the future.

### 5 **THIRD CLAIM FOR RELIEF**

#### 6 **Alter Ego**

7 40. Defendants/Counterclaimants hereby repeat and reallege each allegation  
8 contained in paragraphs 1 through 39 of this Countercomplaint and incorporate the same herein  
9 by reference as though fully set forth herein.

10 41. Defendants/Counterclaimants are informed and believe and thereupon allege that  
11 Counterdefendant, SJC Ventures, LLC was at all times relevant hereto a Delaware Limited  
12 Liability Company.

13 42. Plaintiff is informed and believes and thereupon alleges that, in addition to being  
14 the Manager of said corporation, Counterdefendant, Jay Bloom, was also the sole owner of said  
15 company, and that at all times material hereto said company and businesses existed only as the  
16 alter egos of Bloom, and that said company and businesses functioned merely as shells,  
17 instrumentalities, and conduits through which Bloom has carried out his business under the  
18 corporate and business name exactly as he would have conducted business without  
19 incorporation; that Bloom exercised complete control and dominion over said corporations and  
20 businesses to such an extent that no practical or real separateness has existed between these  
21 named Counterclaimants; that Bloom has at all times material hereto used this legal fiction to  
22 avoid payment of the obligations sued upon herein by Counterclaimant, for which Bloom is  
23 liable personally by reason of these acts.

#### 24 **PRAYER**

25 WHEREFORE, Defendant prays for judgment as follows:

26 1. That Plaintiffs take nothing by way of their claims, and the same be dismissed with  
27 prejudice;

28 2. That Defendants be awarded their attorneys' fees and costs incurred in the defense



1 of this action;


2 3. That Defendants/Counterclaimants be awarded rescission of the Spanish Heights  
3 Acquisition Company, LLC's Operating Agreement.

4 4. That Defendants/Counterclaimants be awarded damages in excess of \$15,000.00  
5 as proven at trial.

6 5. Such other and further relief as the Court deems just and proper.

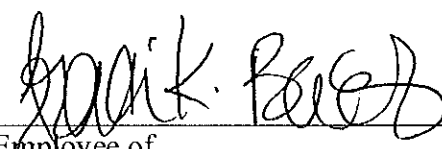
7 DATED this 30 day of September, 2020

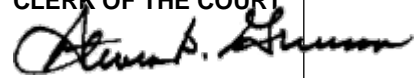
8 MUSHKIN & COPPEDGE

9  
10   
11 MICHAEL R. MUSHKIN, ESQ.  
12 Nevada Bar No. 2421  
13 L. JOE COPPEDGE, ESQ.  
14 Nevada Bar No. 4954  
15 6070 South Eastern Ave Ste 270  
16 Las Vegas, NV 89119

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that the foregoing **Defendants Sheila Antos and Kenneth Antos, as**  
19 **Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila**  
20 **M. Neumann-Antos Trust Answer to First Amended Complaint** was submitted electronically  
21 for filing and/or service with the Eighth Judicial District Court on this 30 day of September,  
22 2020. Electronic service of the foregoing document shall be upon all parties listed on the Odyssey  
eFileNV service contact list:

23  
24   
25 An Employee of  
26 MUSHKIN & COPPEDGE  
27  
28



1 FFCL

2  
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5 SPANISH HEIGHTS ACQUISITION  
6 COMPANY, LLC, a Nevada Limited Liability  
7 Company; SJC VENTURES HOLDING  
8 COMPANY, LLC, d/b/a SJC VENTURES,  
9 LLC, a Delaware Limited Liability Company,

Case No. A-20-813439-B

Dept. No.: XI

10 Plaintiffs,

11 v.

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

12 CBC PARTNERS I, LLC, a foreign Limited  
13 Liability Company; CBC PARTNERS, LLC, a  
14 foreign Limited Liability Company; 5148  
15 SPANISH HEIGHTS, LLC, a Nevada Limited  
16 Liability Company; KENNETH ANTOS AND  
17 SHEILA NEUMANN-ANTOS, as Trustees of  
18 the Kenneth & Sheila Antos Living Trust and  
19 the Kenneth M. Antos & Sheila M. Neumann-  
20 Antos Trust; DACIA, LLC, a foreign Limited  
21 Liability Company; DOES I through X; and  
22 ROE CORPORATIONS I through X,  
23 inclusive,

24 Defendants.

25 5148 SPANISH HEIGHTS, LLC, a Nevada  
26 limited liability company; and CBC  
27 PARTNERS I, LLC, a Washington limited  
28 liability company,

Counterclaimants,

v.

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES, LLC, a Delaware  
limited liability company; SJC VENTURES  
HOLDING COMPANY, LLC, a Delaware  
limited liability company; JAY BLOOM,  
individually and as Manager, DOE

1 DEFENDANTS 1-10; and ROE  
2 DEFENDANTS 11-20,  
3 Counterdefendants.

### 4 FINDINGS OF FACT AND CONCLUSIONS OF LAW

5 This matter having come on for preliminary injunction and consolidated non-jury trial on  
6 related issues pursuant to NRCP 65(a)(2)<sup>1</sup> before the Honorable Elizabeth Gonzalez beginning  
7 on February 1, 2021, February 2, 2021 , February 3, 2021,<sup>2</sup> and March 15, 2021; Plaintiffs  
8 SPANISH HEIGHTS ACQUISITION COMPANY, LLC, (“Spanish Heights”)<sup>3</sup> and SJC  
9 VENTURES HOLDING COMPANY, LLC, d/b/a SJC VENTURES, LLC (“SJCVC”) appearing  
10 by and through their representative Jay Bloom and their counsel of record JOSEPH A.  
11 GUTIERREZ, ESQ. and DANIELLE J. BARRAZA, ESQ. of the law firm of MAIER  
12

13  
14  
15 <sup>1</sup> Pursuant to NRCP 65(a)(2), the parties have stipulated that the following legal issues surrounding the  
16 claims and counterclaims are advanced for trial to be heard in conjunction with the hearing on the preliminary  
17 injunction hearing:

- 18 a) Contractual interpretation and/or validity of the underlying “Secured Promissory Note” between  
19 CBC Partners I, LLC, and KCI Investments, LLC, and all modifications (Counterclaim First, Fourth,  
20 Ninth, and Twelfth Claim for Relief);  
21 b) Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications  
22 thereto, and determination as to whether any consideration was provided in exchange for the Deed of Trust  
23 (Counterclaim First, Fourth, Ninth, and Twelfth Claim for Relief);  
24 c) Contractual interpretation and/or validity of the Forbearance Agreement, Amended Forbearance  
25 Agreement and all associated documents/contracts (Counterclaim First, Fourth, Ninth, and Twelfth Claim  
26 for Relief);  
27 d) Whether the Doctrine of Merger applies to the claims at issue (Amended Complaint Fourth,  
28 Seventh Cause of Action); and  
e) Whether the One Action Rule applies to the claims at issue (Amended Complaint Third Cause of  
Action).

The injunctive relief claims are contained in the Amended Complaint Sixth Cause of Action.

<sup>2</sup> The Court was advised on February 3, 2021, that Spanish Heights filed for bankruptcy protection. The Court suspended these proceedings and stayed the matter for 30 days as to all parties for Defendants to seek relief from the stay. As no order lifting the stay has been entered by the Bankruptcy Court, nothing in this order creates any obligations or liabilities directly related to Spanish Heights; however, factual findings related to Spanish Heights are included in this decision. The term “Plaintiffs” as used in these Findings of fact and Conclusions of Law is not intended to imply any action by this Court against the debtor, Spanish Heights.

<sup>3</sup> As a result of the bankruptcy filing, Spanish Heights did not participate in these proceedings on March 15, 2021.

1 GUTIERREZ & ASSOCIATES and Defendants CBC PARTNERS I, LLC, CBC PARTNERS,  
2 LLC, appearing by and through its representative Alan Hallberg (“Hallberg”); 5148 SPANISH  
3 HEIGHTS, LLC, KENNETH ANTOS and SHEILA NEUMANN-ANTOS, as Trustees of the  
4 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos  
5 Trust; DACIA, LLC, (collectively “Defendants”) all Defendants appearing by and through their  
6 counsel of record MICHAEL R. MUSHKIN, ESQ. and L. JOE COPPEDGE, ESQ. of the law  
7 firm of MUSHKIN & COPPEDGE; the Court having read and considered the pleadings filed by  
8 the parties; having reviewed the evidence admitted during the trial; having heard and carefully  
9 considered the testimony of the witnesses called to testify and weighing their credibility; having  
10 considered the oral and written arguments of counsel, and with the intent of rendering a decision  
11 on the limited claims before the Court at this time, pursuant to NRCP 52(a) and 58; the Court  
12 makes the following findings of fact and conclusions of law:

13  
14  
15 **I. Procedural Posture**

16 On April 9, 2020, the original complaint was filed and a Temporary Restraining Order  
17 was issued without notice by the then assigned judge.<sup>4</sup>

18  
19 Spanish Heights and SJCV initiated this action against CBC PARTNERS I, LLC, CBC  
20 PARTNERS, LLC, 5148 SPANISH HEIGHTS, LLC, KENNETH ANTOS AND SHEILA  
21 NEUMANN-ANTOS, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth  
22 M. Antos & Sheila M. Neumann-Antos Trust (“Antos Trust”); DACIA, LLC, with the First  
23 Amended Complaint being filed on May 15, 2020.

24  
25 By Order filed May 29, 2020, the Court granted Plaintiffs’ Motion for Preliminary  
26 Injunction on a limited basis that remained in effect until after expiration of the Governor’s  
27

---

28 <sup>4</sup> This matter was reassigned to this department after an April 13, 2020, Request for Transfer to Business Court was made by the Defendants.

1 Emergency Directive 008.

2 On June 10, 2020, defendants CBC PARTNERS I, LLC, CBC PARTNERS, LLC, and  
3 5148 Spanish Heights, LLC, filed their answer to the first amended complaint.

4 Defendants CBC PARTNERS I, LLC, and 5148 Spanish Heights, LLC, have also filed a  
5 counterclaim against plaintiffs, and Jay Bloom.

6  
7 On September 3, 2020, Defendant Antos Trust filed an answer and counterclaim against  
8 SJCVC, which SJCVC answered on September 28, 2020.<sup>5</sup>

9 **II. Findings of Fact**

10 1. This action involves residential real property located at 5148 Spanish Heights  
11 Drive, Las Vegas, Nevada 89148, with Assessor's Parcel Number 163-29-615-007 ("Property").

12 2. The original owners of the Property were Kenneth and Sheila Antos as joint  
13 tenants, with the original deed recorded in April 2007.

14 3. On or about October 14, 2010, Kenneth M. Antos and Sheila M. Neumann-Antos  
15 (collectively, "Antos") transferred the Property to Kenneth M. Antos and Sheila M. Neumann-  
16 Antos, as Trustees of the Kenneth and Shelia Antos Living Trust dated April 26, 2007 (the  
17 "Antos Trust", and together with "Antos", the "Antos Parties").

18 4. Nonparty City National Bank is the beneficiary of a first-position Deed of Trust  
19 recorded on the Property.

20 5. Nonparty Northern Trust Bank is the beneficiary of a second-position Deed of  
21 Trust recorded on the Property.

22 6. The Property is currently owned by Spanish Heights<sup>6</sup> which has entered into a  
23

24  
25  
26  
27 \_\_\_\_\_  
28 <sup>5</sup> The Antos have a pending motion for summary judgment.

<sup>6</sup> The manager of Spanish Heights is SJCVC.

1 written lease agreement with SJC.V.<sup>7</sup>

2 7. Although the Property is residential, it is not owner occupied, but is occupied by  
3 Jay Bloom (“Mr. Bloom”) and his family.

4 8. On or about June 22, 2012, nonparty KCI entered into a Secured Promissory Note  
5 (the “Note”) with CBC Partners I, LLC, a Washington limited liability company (“CBCI”).  
6

7 9. The Note memorialized a \$300,000 commercial loan that CBCI made to Antos’  
8 restaurant company KCI to be used for the restaurant business.

9 10. On or around June 22, 2012, Kenneth and Sheila Antos, in their individual  
10 capacities, signed a “Guaranty” in which they personally guaranteed payment of the Note.  
11

12 11. The Note was secured by a “Security Agreement” dated June 22, 2012, where the  
13 security interest includes KCI’s intellectual property, goods, tools, furnishings, furniture,  
14 equipment and fixtures, accounts, deposit accounts, chattel paper, and receivables.

15 12. The Property was not included as collateral for the original Note.

16 13. The Note was modified and amended several times.

17 14. On November 13, 2013, a Fourth Modification to Secured Promissory Note  
18 (“Fourth Modification”) was executed.  
19

20 15. Paragraph 4 of the Fourth Modification amended Paragraph 6.12 of the Note as  
21 follows:

22 6.12 Antos Debt. Permit guarantor Kenneth M. Antos (“Antos”) to incur,  
23 create, assume or permit to exist any debt secured by the real property  
24 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148.

25 16. Along with the Fourth Modification, the Antos Trust provided a Security  
26 Agreement with Respect to Interest in Settlement Agreement and Mutual Release (the “Security  
27

---

28 <sup>7</sup> The manager of SJC.V. is Bloom.

1 Agreement”).

2 17. This Security Agreement not only granted a security interest in a Settlement  
3 Agreement, but also contained certain Representations, Warranties and Covenants of the Antos  
4 Parties, including:

5 3.3 Sale, Encumbrance or Disposition. Without the prior written consent  
6 of the Secured Party, Antos will not (a) allow the sale or encumbrance of  
7 any portion of the Collateral and (b) incur, create, assume or permit to  
8 exist any debt secured by the real property located at 5148 Spanish  
9 Heights Drive, Las Vegas, NV 89148, other than the first and second  
position deeds of trust or mortgages...

10 18. KCI was acquired by Preferred Restaurant Brands, Inc. formerly known as Dixie  
11 Foods International, Inc. (“Dixie”).

12 19. The Note was assumed by Dixie with the Antos Parties continuing to guaranty the  
13 obligation.

14 20. On or about October 31, 2014, a Seventh Modification to Secured Promissory  
15 Note and Waiver of Defaults (“Seventh Modification”) was entered.

16 21. CBCI determined that prior to extension of additional credit; additional security  
17 was required to replace a previously released security interest in other collateral.  
18

19 22. Paragraph 18(f) of the Seventh Modification provided for a condition precedent:  
20

21 Execution and delivery by Kenneth M. Antos and Sheila M. Neumann-  
22 Antos, as Trustees of the Kenneth and Sheila Antos Living Trust dated  
23 April 26, 2007, and any amendments thereto (the “Antos Trust”) to Lender  
24 of a Deed of Trust on the real property located at 5148 Spanish Heights  
Drive, Las Vegas, Nevada 89148 (the “Real Property”), in form and  
substance satisfactory to Lender in its sole discretion.

25 23. On or about December 17, 2014, the Antos Trust delivered to CBCI a Certificate  
26 of Trust Existence and Authority (“Certificate of Trust”).

27 24. The Certificate of Trust provides in part:

28 Kenneth M. Antos and Sheila M. Neumann-Antos, as trustees (each, a

1 “Trustee”) acting on behalf of the Trust, are each authorized and  
2 empowered in the name of the Trust without the approval or consent of the  
other Trustee, the beneficiaries, or any other person:

3 To execute and deliver a Deed of Trust, Assignment of Rents,  
4 Security Agreement and Fixture Filing (the “Deed of Trust”), to  
5 secure (i) obligations owing to Lender by KCI Investments, LLC, a  
6 Nevada limited liability company, and Preferred Restaurant  
7 Brands, Inc., a Florida corporation (individually and collectively,  
8 “Borrower”), (ii) that certain Secured Promissory Note dated as of  
9 June 22, 2012, in the maximum principal amount of \$3,250,000.00  
10 (the “Note”) executed by Borrower in favor of Lender, (iii) that  
11 certain Guaranty dated June 22, 2012, executed by the Grantors as  
12 individuals and not in their capacity as trustees, and (iv) the other  
13 documents and instruments executed or delivered in connection  
14 with the foregoing.

15 25. The Certificate of Trust further provides:

16 The Deed of Trust and Lender’s provision of credit under the terms of the  
17 Note will directly and indirectly benefit the Trust and its beneficiaries.

18 The Trustees of the Trust have the authority to enter into the transactions  
19 with respect to which this Certificate is being delivered, and such  
20 transactions will create binding obligations on the assets of the Trust.

21 26. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security  
22 Agreement and Fixture Filing (the “Deed of Trust”) was recorded against the Property in the  
23 Clark County Recorder’s Office as Instrument No. 201412290002856 for the purpose of  
24 securing the Note.

25 27. The revocable trust indirectly benefitted from this additional credit that was  
26 issued to Antos and his business by CBCI.

27 28. The Deed of Trust is subordinate to the first mortgage to City National in the  
28 principal amount of approximately \$3,240,000.00 with a monthly payment of \$19,181.07, and a  
second mortgage to Northern Trust Bank in the principal amount of approximately \$599,000.00  
with monthly payments of \$3,034.00.

29 29. On or about April 30, 2015, a Ninth Modification to Secured Promissory Note



1 and Waiver of Defaults (“Ninth Modification”) was executed.

2 30. Paragraph 14(c) of the Ninth Modification provides for a condition precedent as  
3 follows:

4 Execution by the Trustees of the Kenneth and Sheila Antos Living Trust  
5 dated April 26, 2007, and any amendments thereto, and delivery to Lender  
6 of the Correction to Deed of Trust Assignment of Rents, Security  
7 Agreement and Fixture Filing, in form and substance satisfactory to  
8 Lender.

9 31. On July 22, 2015, a Correction to Deed of Trust, Assignment of Rent, Security  
10 Agreement and Fixture Filing (“Correction to Deed of Trust”) was recorded in the Clark County  
11 Recorder’s Office as Instrument No. 201507220001146.

12 32. This Correction to Deed of Trust modified Paragraph One of the Deed of Trust to  
13 read:

14 One: Payment of any and all amounts (collectively, the “Guarantied  
15 Obligations”) due and owing by Trustor under that certain Guaranty from  
16 Kenneth Antos and Sheila Antos (individually and collectively,  
17 “Guarantor”) dated June 22, 2012, in favor of Beneficiary (the  
18 “Guaranty”), guarantying the indebtedness evidenced by that certain  
19 Secured Promissory Note (and any renewals, extensions, modifications  
20 and substitutions thereof) (collectively, the “Note”), executed by KCI  
21 Investments, LLC, a Nevada limited liability company, and Preferred  
22 Restaurant Brands, Inc., a Florida corporation (individually and  
23 collectively, “Borrower”), dated June 22, 2012, as modified, in the  
24 maximum principal sum of THREE MILLION AND NO/100 DOLLARS  
25 (\$3,000,000.00), together with interest thereon, late charges and collection  
26 costs as provided in the Note.

27 33. On or about December 2, 2016, CBCI sold a portion of the monetary obligations  
28 of the Note in the amount of \$15,000.00 to Southridge Partners II, LP.

34. On or about December 2, 2016, CBCI and KCI entered into a Forbearance  
Agreement.

35. As part of the Forbearance Agreement, the Antos Trust executed a Consent,  
Reaffirmation, and General Release by the Trust wherein the Antos Trust agreed

1 to join in and be bound to the terms of the Representations and Warranties  
2 contained in Sections 4 and 7, and the General Release contained in  
3 Section 8 of the Agreement applicable as though the Trust were a Credit  
4 Party.

5 36. On or about December 2, 2016, a Tenth Modification to Secured Promissory Note  
6 (“Tenth Modification”) was entered into.

7 37. Paragraph 6(e) of the Tenth Modification provides for a condition precedent as  
8 follows:

9 Delivery to Lender of a duly executed First Modification to Deed of Trust,  
10 Assignment of Rents, Security Agreement and Fixture Filing, by Kenneth  
11 M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and  
12 Sheila Antos Living Trust dated April 26, 2007, and any amendments  
13 thereto, as trustor, related to that certain Deed of Trust, Assignment of  
14 Rents, Security Agreement and Fixture Filing made December 17, 2014,  
15 and recorded in the Official Records of Clark County, Nevada, on  
16 December 29, 2014, as instrument number 20141229-0002856.

17 38. On December 19, 2016, the First Modification to Deed of Trust, Assignment of  
18 Rents, Security Agreement and Fixture Filing was recorded in the Clark County Recorder’s  
19 Office as Instrument No. 201612190002739.

20 39. On or about July 21, 2017, Mr. Bloom proposed to service the CBCI Note in  
21 exchange for the ownership in the Property. Specifically, Mr. Bloom wrote,

22 My thought is that this proposal gets the 3rd lender:

- 23 • a full recovery of its Note balance plus all protective advances past and future,
- 24 • interim cash flow and
- 25 • provides interim additional full collateral where, given the current value of the  
26 property, the 3rd position lender is currently unsecured.

27 As to the Seller, he:

- 28 • gets out from under a potential deficiency judgment from the 3rd position  
lender and
- unburdens himself from any additional assets that may have been pledged.

40. Spanish Heights was created to facilitate this transaction.

41. On September 27, 2017, CBCI, the Antos Trust, Spanish Heights and Mr.

1 Bloom's company, SJCVC, entered into the 2017 Forbearance Agreement.

2 42. The September 27, 2017 Forbearance Agreement indicates that Mr. Bloom's  
3 company Spanish Heights intends to acquire the Property and make certain payments to CBCI  
4 pursuant to the terms of the 2017 Forbearance Agreement.

5 43. Mr. Bloom testified that he was not provided with a complete set of documents  
6 reflecting the prior transactions between the Antos and KCI<sup>8</sup> and that misrepresentations were  
7 made regarding the prior transactions by CBCI.

8 44. In the 2017 Forbearance Agreement, the Antos Parties, Spanish Heights and  
9 SJCVC acknowledged default and affirmed CBCI has fully performed.

10 45. The 2017 Forbearance Agreement contains an acknowledgement that the prior  
11 agreements between the Antos and CBCI are valid.

12 Par. 8.7 Enforceable Amended Note and Modified Deed of Trust/No Conflicts. The  
13 Amended Note and Modified Deed of Trust and the Forbearance Agreement, are legal,  
14 valid, and binding agreements of Antos Parties and the SJCVC Parties, enforceable in  
15 accordance with their respective terms, and any instrument or agreement required  
16 hereunder or thereunder, when executed and delivered, is (or will be) similarly legal,  
17 valid, binding and enforceable. This Forbearance Agreement does not conflict with any  
18 law, agreement, or obligation by which Antos Parties and the SJCVC parties is bound.

19 46. In connection with the 2017 Forbearance Agreement, on November 3, 2017, the  
20 Antos Trust conveyed the Property to Spanish Heights.

21 47. A lease agreement between Spanish Heights as the Landlord, and SJCVC as the  
22 Tenant, was executed by both Spanish Heights and SJCVC on or around August 15, 2017.

23 48. The lease agreement between Spanish Heights and SJCVC indicates that the lease  
24 term is two years, with an option for SJCVC to exercise two additional consecutive lease  
25

26  
27 <sup>8</sup> The Court finds that regardless of whether all of the prior transactional documents were provided to Mr.  
28 Bloom, Mr. Bloom was on notice of the prior transactions. The 2017 Forbearance Agreement clearly identifies the  
nature of the prior transactions in the section entitled "The Parties and Background" which begins on page 1 of the  
document.

1 extensions.

2 49. Pursuant to the terms of the 2017 Forbearance Agreement, Spanish Heights was  
3 to make certain payments to CBCI and other parties. In addition, a balloon payment of the total  
4 amount owing, under the Note, was due on August 31, 2019.

5 50. Pursuant to the 2017 Forbearance Agreement, SJCVC affirmed all obligations due  
6 to CBCI under the Note and Modified Deed of Trust.

7 51. The 2017 Forbearance Agreement provides in pertinent part, "CBCI is free to  
8 exercise all of its rights and remedies under the Note and Modified Deed of Trust..."

9 52. The 2017 Forbearance Agreement states the rights and remedies are cumulative  
10 and not exclusive, and may be pursued at any time.

11 53. As part of the 2017 Forbearance Agreement, there were certain requirements of  
12 Spanish Heights attached as Exhibit B to the 2017 Forbearance Agreement.

13 54. Among the requirements was the understanding that the First Lien holder would  
14 pay the real property taxes, that CBCI would pay the 1st and 2nd Mortgage payments to prevent  
15 default, that Spanish Heights would make certain repairs and improvements to the Property,  
16 Spanish Heights would maintain the Property, and Spanish Heights would pay for a customary  
17 homeowner's insurance policy and all Homeowner's Association dues.

18 55. In addition to the requirements of the 2017 Forbearance Agreement, there was  
19 additional security to be provided by Spanish Heights, SJCVC, and others.

20 56. Among the additional security was a Pledge Agreement, through which the  
21 members of Spanish Heights pledged 100% of the membership interest in Spanish Heights.<sup>9</sup>

22  
23  
24  
25  
26  
27  
28 <sup>9</sup> The Pledge Agreement states in pertinent part:

THIS PLEDGE AGREEMENT dated 27<sup>th</sup> (sic)(this "Agreement") is made by Kenneth & Sheila Antos

1           57.     The Pledge Agreement provides in pertinent part, “Secured Party shall have the  
2 right, at any time in Secured Party’s discretion after a Non-Monetary Event of Default ... to  
3 transfer to or to register in the name of Secured Party or any of Secured Party’s nominees any or  
4 all of the Pledged Collateral.”

5           58.     Pursuant to the Pledge Agreement, upon an event of default, Pledgors (SJCVC and  
6 Antos) appointed CBCI as Pledgors’ attorney-in-fact to execute any instrument which Secured  
7 Party may deem necessary or advisable to accomplish the purposes of the Pledge Agreement.  
8

9           59.     The Pledge Agreement was signed on September 27, 2017, by the Antos and Mr.  
10 Bloom as purported manager on behalf of Spanish Heights. No separate signature block for  
11 SJCVC appears on the Pledge Agreement.  
12

13           60.     Paragraph 17 of the Pledge Agreement contained a notice provision which  
14 required notice to the Pledgors to be given to Pledgors through Plaintiffs’ current counsel, Maier  
15 Gutierrez & Associates.  
16

17           61.     As additional required security, SJCVC agreed to a Security Agreement to grant  
18 CBCI a Security Interest in a Judgment described as:

19                   SJCVC represents that First 100, LLC, and 1st One Hundred Holdings,  
20 LLC, obtained a Judgment in the amount of \$2,221,039,718.46 against  
21 Raymond Ngan and other Defendants in the matter styled *First 100, LLC,*  
22 *Plaintiff(s) vs. Raymond Ngan, Defendant(s)*, Case No, A-17-753459-C in  
23 the 8th Judicial District Court for Clark County, Nevada (the “Judgment”),  
SJCVC represents It holds a 24,912% Membership Interest in 1st One  
Hundred Holdings, LLC. SJCVC represents and warrant that no party, other

---

24                   Living Trust (the Antos Trust”), SJC Ventures, LLC (“SJCVC”)(collectively the “Pledgors”) to CBC  
25 Partners I, LLC, a Washington limited-liability company (“Secured Party” or “CBCI”).

26 \*\*\*

27                   WHEREAS, Pledgors are the owners of 100%, of the membership interests (the “Membership Interests”)  
28 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company (“SHAC”), which has  
been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights  
Acquisition Company, LLC.

1 than the Collection Professionals engaged to collect the Judgment, have a  
2 priority to receive net Judgment proceeds attributable to SJCVC before  
3 SJCVC; and that SJCVC shall receive Its interest at a minimum in pari passu  
4 with other parties who hold interests in the Judgment. 1st One Hundred  
5 Holdings, LLC, represents and warrant that no party, other than the  
6 Collection Professionals engaged to collect the Judgment and certain other  
7 creditors of 1st One Hundred Holdings, have a priority to receive net  
8 Judgment proceeds prior to distributions to 1st One Hundred Holdings  
9 Members; and that SJCVC shall receive Its interest at a minimum in pari  
10 passu with other parties who hold interests in the Judgment.

11 62. In addition to the other consideration in the 2017 Forbearance Agreement, the  
12 Antos Trust signed a Personal Guaranty Agreement, guaranteeing to CBCI the full and punctual  
13 performance of all the obligations described in the 2017 Forbearance Agreement.

14 63. Pursuant to the Amendment to Forbearance Agreement and Related Agreements,  
15 dated December 1, 2019 (the "Amendment to 2017 Forbearance Agreement"), SJCVC<sup>10</sup>  
16 acknowledged that it pledged its membership interest in Spanish Heights as collateral for the  
17 2017 Forbearance Agreement.<sup>11</sup>

---

18 <sup>10</sup> An argument has been made that SJCVC did not pledge its stock under the original Pledge Agreement.  
19 Given the notice provision in the original Pledge Agreement, Mr. Bloom's signature as manager on behalf of  
20 Spanish Heights, rather than SJCVC, and the language of the Pledge Agreement reflecting a pledge of 100% of the  
interest in membership of Spanish Heights, it appears the signature line for Mr. Bloom may have been incorrect.  
Mr. Bloom is not the manager of Spanish Heights; Mr. Bloom is the manager of SJCVC, which serves as the manager  
of Spanish Heights. The language in paragraphs 5 and 9 of the Amendment to the 2017 Forbearance Agreement  
reaffirms SJCVC's pledge of its membership interest.

21 <sup>11</sup> The Amendment to the 2017 Forbearance Agreement states in pertinent part:

22 WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby  
23 CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by  
24 the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the  
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge  
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

25 \*\*\*

26 5. The Membership Pledge Agreement executed by SJCVC and the Antos Trust shall remain in effect and  
27 the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Membership  
Pledge Agreement.

28 \*\*\*

1           64.     On or about December 1, 2019, CBCI, the Antos, Spanish Heights and SJC  
2 entered into an Amendment to the 2017 Forbearance Agreement, extending the date of the  
3 balloon payment to March 31, 2020.

4           65.     The Amendment to 2017 Forbearance Agreement was signed by the Antos,  
5 Bloom as purported manager on behalf of Spanish Heights, and Bloom as manager of SJC.  
6

7           66.     Pursuant to the Amendment to 2017 Forbearance Agreement, the Security  
8 Agreement “shall remain in effect and the execution of this Amendment shall not be considered  
9 a waiver of CBCI’s rights under the Security Agreement...”

10          67.     Pursuant to the Amendment to 2017 Forbearance Agreement, any amendment  
11 must be in writing.  
12

13          68.     On March 12, 2020, Spanish Hills Community Association recorded a Health and  
14 Safety Lien against the Property. This Lien was for Nuisances and Hazardous Activities.

15          69.     On or about March 16, 2020, CBCI mailed a Notice of Non-Monetary Defaults to  
16 Spanish Heights and SJC. This Notice of Non-Monetary Default delineated the following  
17 defaults:  
18

- 19               1. Evidence of homeowner’s insurance coverage Pursuant to Paragraph  
20               1(A)(6) of Amendment to Forbearance Agreement and Related  
21               Agreements;
- 22               2. Evidence of repairs pursuant to Paragraph 3(c)(1) of Exhibit B to  
23               Forbearance Agreement;
- 24               3. Evidence of Bank of America account balance of \$150,000.00  
25               pursuant to Paragraph 6(c) of Exhibit B to Forbearance Agreement;
- 26               4. Opinion letter from SJC Ventures and 1st One Hundred Holdings  
27               counsel regarding the Judgment and Security Agreement pursuant to  
28               Paragraph 1(A)(12) of Amendment to Forbearance Agreement and  
                Related Agreements;

---

9. The Membership Pledge Agreement executed by SJC and the Antos Trust shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI’s rights under the Membership Pledge Agreement.

5. Evidence of corporate authority for SJC Ventures and 1st One Hundred Holdings pursuant to Paragraph 1(A)(13) of Amendment to Forbearance Agreement and Related Agreements; and
6. Evidence of SJC Ventures filing of applications for mortgages to refinance 5148 Spanish Heights Drive, pursuant to paragraph 1(C) of Amendment to Forbearance Agreement and Related Agreements.

70. On April 1, 2020, a Notice of Default and Demand for Payment was sent to Spanish Heights and SJCVC. This letter had a typo on the date of final balloon payment being due on March 31, 2021. This was corrected and emailed to Spanish Height's and SJCVC's counsel noting that the default date was corrected to March 31, 2020.

71. On April 1, 2020, under separate cover, counsel for CBCI sent a Notice to Spanish Heights, SJCVC, and Antos that CBCI would exercise its rights under the Pledge Agreement by transferring the pledged collateral to CBCI's nominee CBC Partners, LLC.

72. On April 1, 2020, CBC Partners received the Assignment of Company and Membership Interest of Spanish Heights from the Antos Trust.

73. On April 3, 2020, a Notice to Vacate was sent to SJCVC.

74. On April 6, 2020, CBCI sold the Note and security associated with the Note, to 5148 Spanish Heights, LLC.

75. On May 28, 2020, the Assignment of Interest in Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202005280002508.

76. On September 15, 2020, Notice of Breach and Election to Sell Under Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202009150001405.

77. On December 15, 2020, Notice of Trustee's Sale was recorded in the Clark County Recorder's Office Instrument No 20201215-0000746. The Sale was scheduled for January 5, 2021.

78. CBCI, through Hallberg, and Mr. Antos, both individually and as Trustee of the



1 revocable living trust as makers; confirm the original debt and the Deed of Trust as collateral for  
2 the Note.

3 79. 5148 Spanish Heights, LLC, issued a new Notice of Default on January 4, 2021.

4 80. NRS 107.080 sets forth the notice requirements that were followed by 5148  
5 Spanish Heights, LLC, and Nevada Trust Deed Services.

6 81. Plaintiff has shown no defect or lack of adequate statutory notice in the current  
7 notice.  
8

9 82. NRS 47.240 provides for conclusive presumptions relevant to certain provisions  
10 of the relevant documents.<sup>12</sup>

11 83. Nothing in the evidence presented during these proceedings provides any basis for  
12 departure from the conclusive presumptions recited in the agreements between the parties.<sup>13</sup>  
13

14 84. At this time, CBCI has acquired the Antos interest in Spanish Heights through the  
15 Pledge Agreement. The membership interest in a limited liability company is not an interest in  
16

---

17 <sup>12</sup> **NRS 47.240 Conclusive presumptions.** The following presumptions, and no others, are conclusive:

18 \*\*\*

19 2. The truth of the fact recited, from the recital in a written instrument between the parties thereto, or their  
20 successors in interest by a subsequent title, but this rule does not apply to the recital of a consideration.

21 <sup>13</sup> For purposes of this proceeding, the Court applies the conclusive presumptions of NRS 47.240 to the  
22 following :

23 From the Pledge Agreement:

24 WHEREAS, Pledgors are the owners of 100%, of the membership interests (the "Membership Interests")  
25 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("SHAC"), which has  
26 been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights  
27 Acquisition Company, LLC.

28 From the Amendment to the 2017 Forbearance Agreement:

WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby  
CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by  
the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the  
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge  
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

1 real property. Title to the Property remains in Spanish Heights.

2 85. Plaintiff has not established unanimity of interest in title to the Property.

3 86. Plaintiff has not established an intent on behalf of the creditor to merge their lien  
4 with equitable title.

5 87. Plaintiff has provided no evidence that the 2017 Forbearance Agreement and  
6 Amendment to the 2017 Forbearance Agreement are vague or ambiguous.

7  
8 88. Plaintiff has provided no evidence of fraud or misrepresentation by any  
9 Defendant.

10 89. If any findings of fact are properly conclusions of law, they shall be treated as if  
11 appropriately identified and designated.  
12

### 13 **III. Conclusions of Law**

14  
15 1. The legal standard for granting injunctive relief is set forth in NRS 33.010, which  
16 provides:

17 Cases in which injunction may be granted. An injunction may be  
18 granted in the following cases:

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

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

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

28 2. Given the current bankruptcy stay, the Court extends the existing injunctive relief

1 entered January 5, 2021, pending further order from the Bankruptcy Court.

2 3. The relevant documents, including, but not limited to, the 2017 Forbearance  
3 Agreement and Amendment to Forbearance Agreement and Related Agreements, dated  
4 December 1, 2019, are clear and unambiguous as a matter of law

5 4. The Note is secured by the Property.

6 5. As a condition precedent to the Fourth, Seventh, Ninth, and Tenth Modifications  
7 to the Note, a Deed of Trust encumbering the Property was required.  
8

9 6. The Antos Parties had authority, individually and as Trustees of the Antos Trust,  
10 to encumber the Property with the Deed of Trust to CBCI.

11 7. Plaintiffs have waived any defects, acknowledged the encumbrance and agreed, in  
12 writing to pay twice; first in the 2017 Forbearance Agreement and second, in the Amendment to  
13 the 2017 Forbearance Agreement.  
14

15 8. Plaintiffs agreed in the 2017 Forbearance Agreements to pay the amounts in  
16 question by separate promise to the Antos Parties.  
17

18 9. The Antos Trust received an indirect benefit from the transactions related to the  
19 Deed of Trust.

20 10. Mr. Antos testified that the Property was used as security in exchange for  
21 additional capital and release of other collateral from CBCI .  
22

23 11. Mr. Antos agrees with CBCI that Plaintiffs have failed to perform.

24 12. NRS 107.500 is only required of owner-occupied housing.

25 13. The doctrine of merger provides that “[w]hen a greater and a less estate  
26 coincide and meet in one and the same person, without any intermediate estate, the less is  
27 immediately merged in the greater, and thus annihilated.” 31 C.J.S. Estates § 153.  
28

1           14.     Plaintiffs have made no showing of the applications of the doctrine of merger in  
2 this case. As no interests have merged, and there is no showing of intent to merge

3           15.     The one-action rule “does not excuse the underlying debt.” *Bonicamp v. Vazquez*,  
4 120 Nev. 377, 382-83, 91 P.3d 584, 587 (2004).

5           16.     The One-Action Rule prohibits a creditor from “first seeking the personal  
6 recovery and then attempting, in an additional suit, to recover against the collateral.” *Bonicamp*,  
7 120 Nev. at 383, 91 P.3d at 587 (2004). When suing a debtor on a secured debt, a creditor may  
8 initially elect to proceed against the debtor or the security. If the creditor sues the debtor  
9 personally on the debt, the debtor may then either assert the one-action rule, forcing the creditor  
10 to proceed against the security first before seeking a deficiency from the debtor, or decline to  
11 assert the one-action rule, accepting a personal judgment and depriving the creditor of its ability  
12 to proceed against the security. NRS 40.435(3); *Bonicamp*, 120 Nev. at 383, 91 P.3d at 587  
13 (2004).

14           17.     The “One-Action Rule” was specifically waived by the debtor. The Deed of Trust  
15 paragraph 6.21(a) states:  
16  
17

18                   Trustor and Guarantor each waive all benefits of the one-action  
19 rule under NRS 40.430, which means, without limitation, Trustor  
20 and Guarantor each waive the right to require Lender to (i) proceed  
21 against Borrower, any other guarantor of the Loan, any pledgor of  
22 collateral for any person’s obligations to Lender or any other  
23 person related to the Note and Loan Documents, (ii) proceed  
24 against or exhaust any other security or collateral Lender may  
25 hold, or (iii) pursue any other right or remedy for Guarantors’  
26 benefit.

27           18.     The 2017 Forbearance Agreement paragraph 25 gives the benefit of cumulative  
28 remedies.

                  The rights and remedies of CBCI under this Forbearance  
Agreement and the Amended Note and Modified Deed of Trust are

1 cumulative and not exclusive of any rights or remedies that CBCI  
2 would otherwise have, and may be pursued at any time and from  
3 time to time and in such order as CBCI shall determine in its sole  
4 discretion.

5 19. The Court concludes as a matter of law that the Plaintiffs have not established  
6 facts or law to support the claim that the One-Action Rule bars recovery under the defaulted  
7 Note and Security documents.

8 20. The Court's Temporary Restraining Order, filed January 5, 2021, will remain in  
9 place pending further order of the Bankruptcy Court.

10 21. If any conclusions of law are properly findings of fact, they shall be treated as if  
11 appropriately identified and designated.

## 12 JUDGMENT

13 Based upon the foregoing Findings of Fact and Conclusions of Law, and other good  
14 cause appearing:

15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that as to the  
16 Claims for Declaratory Relief, the Court declares the third position Deed of Trust is a valid  
17 existing obligation against the Property.


18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the  
19 Claims for Declaratory Relief, the Court declares that the Note is a valid existing obligation.

20 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the  
21 Claims for Declaratory Relief, the Court declares that the Pledge Agreement is a valid existing  
22 obligation of SJCVC.

23 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the  
24 Claims for Declaratory Relief, the Court declares that the acquisition of a membership interest in  
25 Spanish Heights does not merge the Defendants interests.  
26  
27  
28

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the Claims for Declaratory Relief, the Court declares that there has been a valid waiver of the One-Action Rule.

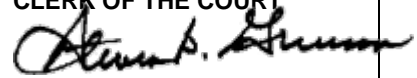
Dated this 6<sup>th</sup> day of April, 2021

  
Elizabeth Gonzalez, District Court Judge

## Certificate of Service

I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

/s/ *Dan Kutinac*  
Dan Kutinac, JEA



1 **NEO**

2 JOSEPH A. GUTIERREZ, ESQ.

3 Nevada Bar No. 9046

4 DANIELLE J. BARRAZA, ESQ.

5 Nevada Bar No. 13822

6 **MAIER GUTIERREZ & ASSOCIATES**

7 8816 Spanish Ridge Avenue

8 Las Vegas, Nevada 89148

9 Telephone: 702.629.7900

10 Facsimile: 702.629.7925

11 E-mail: [jag@mgalaw.com](mailto:jag@mgalaw.com)

[djb@mgalaw.com](mailto:djb@mgalaw.com)

12 *Attorneys for Plaintiffs*

13 **DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 SPANISH HEIGHTS ACQUISITION  
16 COMPANY, LLC, a Nevada Limited Liability  
17 Company; SJC VENTURES HOLDING  
18 COMPANY, LLC, d/b/a SJC VENTURES, LLC,  
19 a Delaware Limited Liability Company,

20 Plaintiffs,

21 vs.

22 CBC PARTNERS I, LLC, a foreign Limited  
23 Liability Company; CBC PARTNERS, LLC, a  
24 foreign Limited Liability Company; 5148  
25 SPANISH HEIGHTS, LLC, a Nevada Limited  
26 Liability Company; KENNETH ANTOS AND  
27 SHEILA NEUMANN-ANTOS, as Trustees of  
28 the Kenneth & Sheila Antos Living Trust and the  
Kenneth M. Antos & Sheila M. Neumann-Antos  
Trust; DACIA, LLC, a foreign Limited Liability  
Company; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: XI

**NOTICE OF ENTRY OF ORDER**

TO: ALL PARTIES AND THEIR COUNSEL OF RECORD.

YOU AND EACH OF YOU will please take notice that a **FINDINGS OF FACT AND**

1 **CONCLUSIONS OF LAW** was hereby entered on the 6th day of April, 2021. A copy of which is  
2 attached hereto.

3 DATED this 20th day of April, 2021.

4 Respectfully submitted,

5 **MAIER GUTIERREZ & ASSOCIATES**

6 /s/ Danielle J. Barraza

7 JOSEPH A. GUTIERREZ, ESQ.

8 Nevada Bar No. 9046

9 DANIELLE J. BARRAZA, ESQ.

10 Nevada Bar No. 13822

11 8816 Spanish Ridge Avenue

12 Las Vegas, Nevada 89148

13 *Attorneys for Plaintiffs*

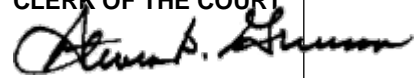


1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **NOTICE OF ENTRY OF ORDER**  
3 was electronically filed on the 20th day of April, 2021, and served through the Notice of Electronic  
4 Filing automatically generated by the Court's facilities to those parties listed on the Court's Master  
5 Service List as follows:

6 Michael R. Mushkin, Esq.  
7 MUSHKIN & COPPEDGE  
8 6070 South Eastern Avenue, Suite 270  
9 Las Vegas, Nevada 89119  
10 *Attorneys for Defendants CBC Partners I, LLC, CBC Partners, LLC,*  
11 *5148 Spanish Heights, LLC, and Dacia LLC*

12 /s/ Natalie Vazquez  
13 An Employee of MAIER GUTIERREZ & ASSOCIATES  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



1 FFCL

2  
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5 SPANISH HEIGHTS ACQUISITION  
6 COMPANY, LLC, a Nevada Limited Liability  
7 Company; SJC VENTURES HOLDING  
8 COMPANY, LLC, d/b/a SJC VENTURES,  
9 LLC, a Delaware Limited Liability Company,

10 Plaintiffs,

11 v.

12 CBC PARTNERS I, LLC, a foreign Limited  
13 Liability Company; CBC PARTNERS, LLC, a  
14 foreign Limited Liability Company; 5148  
15 SPANISH HEIGHTS, LLC, a Nevada Limited  
16 Liability Company; KENNETH ANTOS AND  
17 SHEILA NEUMANN-ANTOS, as Trustees of  
18 the Kenneth & Sheila Antos Living Trust and  
19 the Kenneth M. Antos & Sheila M. Neumann-  
20 Antos Trust; DACIA, LLC, a foreign Limited  
21 Liability Company; DOES I through X; and  
22 ROE CORPORATIONS I through X,  
23 inclusive,

24 Defendants.

Case No. A-20-813439-B

Dept. No.: XI

**FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

25 5148 SPANISH HEIGHTS, LLC, a Nevada  
26 limited liability company; and CBC  
27 PARTNERS I, LLC, a Washington limited  
28 liability company,

Counterclaimants,

v.

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES, LLC, a Delaware  
limited liability company; SJC VENTURES  
HOLDING COMPANY, LLC, a Delaware  
limited liability company; JAY BLOOM,  
individually and as Manager, DOE

1 DEFENDANTS 1-10; and ROE  
2 DEFENDANTS 11-20,  
3 Counterdefendants.

### 4 FINDINGS OF FACT AND CONCLUSIONS OF LAW

5 This matter having come on for preliminary injunction and consolidated non-jury trial on  
6 related issues pursuant to NRCP 65(a)(2)<sup>1</sup> before the Honorable Elizabeth Gonzalez beginning  
7 on February 1, 2021, February 2, 2021 , February 3, 2021,<sup>2</sup> and March 15, 2021; Plaintiffs  
8 SPANISH HEIGHTS ACQUISITION COMPANY, LLC, (“Spanish Heights”)<sup>3</sup> and SJC  
9 VENTURES HOLDING COMPANY, LLC, d/b/a SJC VENTURES, LLC (“SJCVC”) appearing  
10 by and through their representative Jay Bloom and their counsel of record JOSEPH A.  
11 GUTIERREZ, ESQ. and DANIELLE J. BARRAZA, ESQ. of the law firm of MAIER  
12

13  
14  
15 <sup>1</sup> Pursuant to NRCP 65(a)(2), the parties have stipulated that the following legal issues surrounding the  
16 claims and counterclaims are advanced for trial to be heard in conjunction with the hearing on the preliminary  
17 injunction hearing:

- 18 a) Contractual interpretation and/or validity of the underlying “Secured Promissory Note” between  
19 CBC Partners I, LLC, and KCI Investments, LLC, and all modifications (Counterclaim First, Fourth,  
20 Ninth, and Twelfth Claim for Relief);  
21 b) Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications  
22 thereto, and determination as to whether any consideration was provided in exchange for the Deed of Trust  
23 (Counterclaim First, Fourth, Ninth, and Twelfth Claim for Relief);  
24 c) Contractual interpretation and/or validity of the Forbearance Agreement, Amended Forbearance  
25 Agreement and all associated documents/contracts (Counterclaim First, Fourth, Ninth, and Twelfth Claim  
26 for Relief);  
27 d) Whether the Doctrine of Merger applies to the claims at issue (Amended Complaint Fourth,  
28 Seventh Cause of Action); and  
e) Whether the One Action Rule applies to the claims at issue (Amended Complaint Third Cause of  
Action).

The injunctive relief claims are contained in the Amended Complaint Sixth Cause of Action.

<sup>2</sup> The Court was advised on February 3, 2021, that Spanish Heights filed for bankruptcy protection. The Court suspended these proceedings and stayed the matter for 30 days as to all parties for Defendants to seek relief from the stay. As no order lifting the stay has been entered by the Bankruptcy Court, nothing in this order creates any obligations or liabilities directly related to Spanish Heights; however, factual findings related to Spanish Heights are included in this decision. The term “Plaintiffs” as used in these Findings of fact and Conclusions of Law is not intended to imply any action by this Court against the debtor, Spanish Heights.

<sup>3</sup> As a result of the bankruptcy filing, Spanish Heights did not participate in these proceedings on March 15, 2021.

1 GUTIERREZ & ASSOCIATES and Defendants CBC PARTNERS I, LLC, CBC PARTNERS,  
2 LLC, appearing by and through its representative Alan Hallberg (“Hallberg”); 5148 SPANISH  
3 HEIGHTS, LLC, KENNETH ANTOS and SHEILA NEUMANN-ANTOS, as Trustees of the  
4 Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos  
5 Trust; DACIA, LLC, (collectively “Defendants”) all Defendants appearing by and through their  
6 counsel of record MICHAEL R. MUSHKIN, ESQ. and L. JOE COPPEDGE, ESQ. of the law  
7 firm of MUSHKIN & COPPEDGE; the Court having read and considered the pleadings filed by  
8 the parties; having reviewed the evidence admitted during the trial; having heard and carefully  
9 considered the testimony of the witnesses called to testify and weighing their credibility; having  
10 considered the oral and written arguments of counsel, and with the intent of rendering a decision  
11 on the limited claims before the Court at this time, pursuant to NRCp 52(a) and 58; the Court  
12 makes the following findings of fact and conclusions of law:

13  
14  
15 **I. Procedural Posture**

16 On April 9, 2020, the original complaint was filed and a Temporary Restraining Order  
17 was issued without notice by the then assigned judge.<sup>4</sup>

18  
19 Spanish Heights and SJCV initiated this action against CBC PARTNERS I, LLC, CBC  
20 PARTNERS, LLC, 5148 SPANISH HEIGHTS, LLC, KENNETH ANTOS AND SHEILA  
21 NEUMANN-ANTOS, as Trustees of the Kenneth & Sheila Antos Living Trust and the Kenneth  
22 M. Antos & Sheila M. Neumann-Antos Trust (“Antos Trust”); DACIA, LLC, with the First  
23 Amended Complaint being filed on May 15, 2020.

24  
25 By Order filed May 29, 2020, the Court granted Plaintiffs’ Motion for Preliminary  
26 Injunction on a limited basis that remained in effect until after expiration of the Governor’s  
27

---

28 <sup>4</sup> This matter was reassigned to this department after an April 13, 2020, Request for Transfer to Business Court was made by the Defendants.

Emergency Directive 008.

On June 10, 2020, defendants CBC PARTNERS I, LLC, CBC PARTNERS, LLC, and 5148 Spanish Heights, LLC, filed their answer to the first amended complaint.

Defendants CBC PARTNERS I, LLC, and 5148 Spanish Heights, LLC, have also filed a counterclaim against plaintiffs, and Jay Bloom.

On September 3, 2020, Defendant Antos Trust filed an answer and counterclaim against SJCVC, which SJCVC answered on September 28, 2020.<sup>5</sup>

## **II. Findings of Fact**

1. This action involves residential real property located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148, with Assessor's Parcel Number 163-29-615-007 ("Property").

2. The original owners of the Property were Kenneth and Sheila Antos as joint tenants, with the original deed recorded in April 2007.

3. On or about October 14, 2010, Kenneth M. Antos and Sheila M. Neumann-Antos (collectively, "Antos") transferred the Property to Kenneth M. Antos and Sheila M. Neumann-Antos, as Trustees of the Kenneth and Shelia Antos Living Trust dated April 26, 2007 (the "Antos Trust", and together with "Antos", the "Antos Parties").

4. Nonparty City National Bank is the beneficiary of a first-position Deed of Trust recorded on the Property.

5. Nonparty Northern Trust Bank is the beneficiary of a second-position Deed of Trust recorded on the Property.

6. The Property is currently owned by Spanish Heights<sup>6</sup> which has entered into a

---

<sup>5</sup> The Antos have a pending motion for summary judgment.

<sup>6</sup> The manager of Spanish Heights is SJCVC.

1 written lease agreement with SJC.V.<sup>7</sup>

2 7. Although the Property is residential, it is not owner occupied, but is occupied by  
3 Jay Bloom (“Mr. Bloom”) and his family.

4 8. On or about June 22, 2012, nonparty KCI entered into a Secured Promissory Note  
5 (the “Note”) with CBC Partners I, LLC, a Washington limited liability company (“CBCI”).  
6

7 9. The Note memorialized a \$300,000 commercial loan that CBCI made to Antos’  
8 restaurant company KCI to be used for the restaurant business.

9 10. On or around June 22, 2012, Kenneth and Sheila Antos, in their individual  
10 capacities, signed a “Guaranty” in which they personally guaranteed payment of the Note.  
11

12 11. The Note was secured by a “Security Agreement” dated June 22, 2012, where the  
13 security interest includes KCI’s intellectual property, goods, tools, furnishings, furniture,  
14 equipment and fixtures, accounts, deposit accounts, chattel paper, and receivables.

15 12. The Property was not included as collateral for the original Note.

16 13. The Note was modified and amended several times.

17 14. On November 13, 2013, a Fourth Modification to Secured Promissory Note  
18 (“Fourth Modification”) was executed.  
19

20 15. Paragraph 4 of the Fourth Modification amended Paragraph 6.12 of the Note as  
21 follows:

22 6.12 Antos Debt. Permit guarantor Kenneth M. Antos (“Antos”) to incur,  
23 create, assume or permit to exist any debt secured by the real property  
24 located at 5148 Spanish Heights Drive, Las Vegas, Nevada 89148.

25 16. Along with the Fourth Modification, the Antos Trust provided a Security  
26 Agreement with Respect to Interest in Settlement Agreement and Mutual Release (the “Security  
27

---

28 <sup>7</sup> The manager of SJC.V. is Bloom.

1 Agreement”).

2 17. This Security Agreement not only granted a security interest in a Settlement  
3 Agreement, but also contained certain Representations, Warranties and Covenants of the Antos  
4 Parties, including:

5 3.3 Sale, Encumbrance or Disposition. Without the prior written consent  
6 of the Secured Party, Antos will not (a) allow the sale or encumbrance of  
7 any portion of the Collateral and (b) incur, create, assume or permit to  
8 exist any debt secured by the real property located at 5148 Spanish  
9 Heights Drive, Las Vegas, NV 89148, other than the first and second  
position deeds of trust or mortgages...

10 18. KCI was acquired by Preferred Restaurant Brands, Inc. formerly known as Dixie  
11 Foods International, Inc. (“Dixie”).

12 19. The Note was assumed by Dixie with the Antos Parties continuing to guaranty the  
13 obligation.

14 20. On or about October 31, 2014, a Seventh Modification to Secured Promissory  
15 Note and Waiver of Defaults (“Seventh Modification”) was entered.

16 21. CBCI determined that prior to extension of additional credit; additional security  
17 was required to replace a previously released security interest in other collateral.  
18

19 22. Paragraph 18(f) of the Seventh Modification provided for a condition precedent:  
20

21 Execution and delivery by Kenneth M. Antos and Sheila M. Neumann-  
22 Antos, as Trustees of the Kenneth and Sheila Antos Living Trust dated  
23 April 26, 2007, and any amendments thereto (the “Antos Trust”) to Lender  
24 of a Deed of Trust on the real property located at 5148 Spanish Heights  
Drive, Las Vegas, Nevada 89148 (the “Real Property”), in form and  
substance satisfactory to Lender in its sole discretion.

25 23. On or about December 17, 2014, the Antos Trust delivered to CBCI a Certificate  
26 of Trust Existence and Authority (“Certificate of Trust”).

27 24. The Certificate of Trust provides in part:

28 Kenneth M. Antos and Sheila M. Neumann-Antos, as trustees (each, a

1 “Trustee”) acting on behalf of the Trust, are each authorized and  
2 empowered in the name of the Trust without the approval or consent of the  
other Trustee, the beneficiaries, or any other person:

3 To execute and deliver a Deed of Trust, Assignment of Rents,  
4 Security Agreement and Fixture Filing (the “Deed of Trust”), to  
5 secure (i) obligations owing to Lender by KCI Investments, LLC, a  
6 Nevada limited liability company, and Preferred Restaurant  
7 Brands, Inc., a Florida corporation (individually and collectively,  
8 “Borrower”), (ii) that certain Secured Promissory Note dated as of  
9 June 22, 2012, in the maximum principal amount of \$3,250,000.00  
10 (the “Note”) executed by Borrower in favor of Lender, (iii) that  
11 certain Guaranty dated June 22, 2012, executed by the Grantors as  
12 individuals and not in their capacity as trustees, and (iv) the other  
13 documents and instruments executed or delivered in connection  
14 with the foregoing.

15 25. The Certificate of Trust further provides:

16 The Deed of Trust and Lender’s provision of credit under the terms of the  
17 Note will directly and indirectly benefit the Trust and its beneficiaries.

18 The Trustees of the Trust have the authority to enter into the transactions  
19 with respect to which this Certificate is being delivered, and such  
20 transactions will create binding obligations on the assets of the Trust.

21 26. On or about December 29, 2014, a Deed of Trust, Assignment of Rents, Security  
22 Agreement and Fixture Filing (the “Deed of Trust”) was recorded against the Property in the  
23 Clark County Recorder’s Office as Instrument No. 201412290002856 for the purpose of  
24 securing the Note.

25 27. The revocable trust indirectly benefitted from this additional credit that was  
26 issued to Antos and his business by CBCI.

27 28. The Deed of Trust is subordinate to the first mortgage to City National in the  
28 principal amount of approximately \$3,240,000.00 with a monthly payment of \$19,181.07, and a  
second mortgage to Northern Trust Bank in the principal amount of approximately \$599,000.00  
with monthly payments of \$3,034.00.

29 29. On or about April 30, 2015, a Ninth Modification to Secured Promissory Note



1 and Waiver of Defaults (“Ninth Modification”) was executed.

2 30. Paragraph 14(c) of the Ninth Modification provides for a condition precedent as  
3 follows:

4 Execution by the Trustees of the Kenneth and Sheila Antos Living Trust  
5 dated April 26, 2007, and any amendments thereto, and delivery to Lender  
6 of the Correction to Deed of Trust Assignment of Rents, Security  
7 Agreement and Fixture Filing, in form and substance satisfactory to  
8 Lender.

9 31. On July 22, 2015, a Correction to Deed of Trust, Assignment of Rent, Security  
10 Agreement and Fixture Filing (“Correction to Deed of Trust”) was recorded in the Clark County  
11 Recorder’s Office as Instrument No. 201507220001146.

12 32. This Correction to Deed of Trust modified Paragraph One of the Deed of Trust to  
13 read:

14 One: Payment of any and all amounts (collectively, the “Guaranteed  
15 Obligations”) due and owing by Trustor under that certain Guaranty from  
16 Kenneth Antos and Sheila Antos (individually and collectively,  
17 “Guarantor”) dated June 22, 2012, in favor of Beneficiary (the  
18 “Guaranty”), guarantying the indebtedness evidenced by that certain  
19 Secured Promissory Note (and any renewals, extensions, modifications  
20 and substitutions thereof) (collectively, the “Note”), executed by KCI  
21 Investments, LLC, a Nevada limited liability company, and Preferred  
22 Restaurant Brands, Inc., a Florida corporation (individually and  
23 collectively, “Borrower”), dated June 22, 2012, as modified, in the  
24 maximum principal sum of THREE MILLION AND NO/100 DOLLARS  
25 (\$3,000,000.00), together with interest thereon, late charges and collection  
26 costs as provided in the Note.

27 33. On or about December 2, 2016, CBCI sold a portion of the monetary obligations  
28 of the Note in the amount of \$15,000.00 to Southridge Partners II, LP.

34. On or about December 2, 2016, CBCI and KCI entered into a Forbearance  
Agreement.

35. As part of the Forbearance Agreement, the Antos Trust executed a Consent,  
Reaffirmation, and General Release by the Trust wherein the Antos Trust agreed

1 to join in and be bound to the terms of the Representations and Warranties  
2 contained in Sections 4 and 7, and the General Release contained in  
3 Section 8 of the Agreement applicable as though the Trust were a Credit  
4 Party.

5 36. On or about December 2, 2016, a Tenth Modification to Secured Promissory Note  
6 (“Tenth Modification”) was entered into.

7 37. Paragraph 6(e) of the Tenth Modification provides for a condition precedent as  
8 follows:

9 Delivery to Lender of a duly executed First Modification to Deed of Trust,  
10 Assignment of Rents, Security Agreement and Fixture Filing, by Kenneth  
11 M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and  
12 Sheila Antos Living Trust dated April 26, 2007, and any amendments  
13 thereto, as trustor, related to that certain Deed of Trust, Assignment of  
14 Rents, Security Agreement and Fixture Filing made December 17, 2014,  
15 and recorded in the Official Records of Clark County, Nevada, on  
16 December 29, 2014, as instrument number 20141229-0002856.

17 38. On December 19, 2016, the First Modification to Deed of Trust, Assignment of  
18 Rents, Security Agreement and Fixture Filing was recorded in the Clark County Recorder’s  
19 Office as Instrument No. 201612190002739.

20 39. On or about July 21, 2017, Mr. Bloom proposed to service the CBCI Note in  
21 exchange for the ownership in the Property. Specifically, Mr. Bloom wrote,

22 My thought is that this proposal gets the 3rd lender:

- 23 • a full recovery of its Note balance plus all protective advances past and future,
- 24 • interim cash flow and
- 25 • provides interim additional full collateral where, given the current value of the  
26 property, the 3rd position lender is currently unsecured.

27 As to the Seller, he:

- 28 • gets out from under a potential deficiency judgment from the 3rd position  
lender and
- unburdens himself from any additional assets that may have been pledged.

40. Spanish Heights was created to facilitate this transaction.

41. On September 27, 2017, CBCI, the Antos Trust, Spanish Heights and Mr.

1 Bloom's company, SJCVC, entered into the 2017 Forbearance Agreement.

2 42. The September 27, 2017 Forbearance Agreement indicates that Mr. Bloom's  
3 company Spanish Heights intends to acquire the Property and make certain payments to CBCI  
4 pursuant to the terms of the 2017 Forbearance Agreement.

5 43. Mr. Bloom testified that he was not provided with a complete set of documents  
6 reflecting the prior transactions between the Antos and KCI<sup>8</sup> and that misrepresentations were  
7 made regarding the prior transactions by CBCI.

8 44. In the 2017 Forbearance Agreement, the Antos Parties, Spanish Heights and  
9 SJCVC acknowledged default and affirmed CBCI has fully performed.

10 45. The 2017 Forbearance Agreement contains an acknowledgement that the prior  
11 agreements between the Antos and CBCI are valid.

12 Par. 8.7 Enforceable Amended Note and Modified Deed of Trust/No Conflicts. The  
13 Amended Note and Modified Deed of Trust and the Forbearance Agreement, are legal,  
14 valid, and binding agreements of Antos Parties and the SJCVC Parties, enforceable in  
15 accordance with their respective terms, and any instrument or agreement required  
16 hereunder or thereunder, when executed and delivered, is (or will be) similarly legal,  
17 valid, binding and enforceable. This Forbearance Agreement does not conflict with any  
18 law, agreement, or obligation by which Antos Parties and the SJCVC parties is bound.

19 46. In connection with the 2017 Forbearance Agreement, on November 3, 2017, the  
20 Antos Trust conveyed the Property to Spanish Heights.

21 47. A lease agreement between Spanish Heights as the Landlord, and SJCVC as the  
22 Tenant, was executed by both Spanish Heights and SJCVC on or around August 15, 2017.

23 48. The lease agreement between Spanish Heights and SJCVC indicates that the lease  
24 term is two years, with an option for SJCVC to exercise two additional consecutive lease  
25

26  
27 <sup>8</sup> The Court finds that regardless of whether all of the prior transactional documents were provided to Mr.  
28 Bloom, Mr. Bloom was on notice of the prior transactions. The 2017 Forbearance Agreement clearly identifies the  
nature of the prior transactions in the section entitled "The Parties and Background" which begins on page 1 of the  
document.

1 extensions.

2 49. Pursuant to the terms of the 2017 Forbearance Agreement, Spanish Heights was  
3 to make certain payments to CBCI and other parties. In addition, a balloon payment of the total  
4 amount owing, under the Note, was due on August 31, 2019.

5 50. Pursuant to the 2017 Forbearance Agreement, SJCVC affirmed all obligations due  
6 to CBCI under the Note and Modified Deed of Trust.

7 51. The 2017 Forbearance Agreement provides in pertinent part, "CBCI is free to  
8 exercise all of its rights and remedies under the Note and Modified Deed of Trust..."

9 52. The 2017 Forbearance Agreement states the rights and remedies are cumulative  
10 and not exclusive, and may be pursued at any time.

11 53. As part of the 2017 Forbearance Agreement, there were certain requirements of  
12 Spanish Heights attached as Exhibit B to the 2017 Forbearance Agreement.

13 54. Among the requirements was the understanding that the First Lien holder would  
14 pay the real property taxes, that CBCI would pay the 1st and 2nd Mortgage payments to prevent  
15 default, that Spanish Heights would make certain repairs and improvements to the Property,  
16 Spanish Heights would maintain the Property, and Spanish Heights would pay for a customary  
17 homeowner's insurance policy and all Homeowner's Association dues.

18 55. In addition to the requirements of the 2017 Forbearance Agreement, there was  
19 additional security to be provided by Spanish Heights, SJCVC, and others.

20 56. Among the additional security was a Pledge Agreement, through which the  
21 members of Spanish Heights pledged 100% of the membership interest in Spanish Heights.<sup>9</sup>

22  
23  
24  
25  
26  
27  
28 <sup>9</sup> The Pledge Agreement states in pertinent part:

THIS PLEDGE AGREEMENT dated 27<sup>th</sup> (sic)(this "Agreement") is made by Kenneth & Sheila Antos

1           57.     The Pledge Agreement provides in pertinent part, “Secured Party shall have the  
2 right, at any time in Secured Party’s discretion after a Non-Monetary Event of Default ... to  
3 transfer to or to register in the name of Secured Party or any of Secured Party’s nominees any or  
4 all of the Pledged Collateral.”

5           58.     Pursuant to the Pledge Agreement, upon an event of default, Pledgors (SJCVC and  
6 Antos) appointed CBCI as Pledgors’ attorney-in-fact to execute any instrument which Secured  
7 Party may deem necessary or advisable to accomplish the purposes of the Pledge Agreement.  
8

9           59.     The Pledge Agreement was signed on September 27, 2017, by the Antos and Mr.  
10 Bloom as purported manager on behalf of Spanish Heights. No separate signature block for  
11 SJCVC appears on the Pledge Agreement.  
12

13           60.     Paragraph 17 of the Pledge Agreement contained a notice provision which  
14 required notice to the Pledgors to be given to Pledgors through Plaintiffs’ current counsel, Maier  
15 Gutierrez & Associates.  
16

17           61.     As additional required security, SJCVC agreed to a Security Agreement to grant  
18 CBCI a Security Interest in a Judgment described as:

19                   SJCVC represents that First 100, LLC, and 1st One Hundred Holdings,  
20 LLC, obtained a Judgment in the amount of \$2,221,039,718.46 against  
21 Raymond Ngan and other Defendants in the matter styled *First 100, LLC,*  
22 *Plaintiff(s) vs. Raymond Ngan, Defendant(s)*, Case No, A-17-753459-C in  
23 the 8th Judicial District Court for Clark County, Nevada (the “Judgment”),  
SJCVC represents It holds a 24,912% Membership Interest in 1st One  
Hundred Holdings, LLC. SJCVC represents and warrant that no party, other

---

24                   Living Trust (the Antos Trust”), SJC Ventures, LLC (“SJCVC”)(collectively the “Pledgors”) to CBC  
25 Partners I, LLC, a Washington limited-liability company (“Secured Party” or “CBCI”).

26 \*\*\*

27                   WHEREAS, Pledgors are the owners of 100%, of the membership interests (the “Membership Interests”)  
28 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company (“SHAC”), which has  
been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights  
Acquisition Company, LLC.

1 than the Collection Professionals engaged to collect the Judgment, have a  
2 priority to receive net Judgment proceeds attributable to SJCVC before  
3 SJCVC; and that SJCVC shall receive Its interest at a minimum in pari passu  
4 with other parties who hold interests in the Judgment. 1st One Hundred  
5 Holdings, LLC, represents and warrant that no party, other than the  
6 Collection Professionals engaged to collect the Judgment and certain other  
7 creditors of 1st One Hundred Holdings, have a priority to receive net  
8 Judgment proceeds prior to distributions to 1st One Hundred Holdings  
9 Members; and that SJCVC shall receive Its interest at a minimum in pari  
10 passu with other parties who hold interests in the Judgment.

11 62. In addition to the other consideration in the 2017 Forbearance Agreement, the  
12 Antos Trust signed a Personal Guaranty Agreement, guaranteeing to CBCI the full and punctual  
13 performance of all the obligations described in the 2017 Forbearance Agreement.

14 63. Pursuant to the Amendment to Forbearance Agreement and Related Agreements,  
15 dated December 1, 2019 (the "Amendment to 2017 Forbearance Agreement"), SJCVC<sup>10</sup>  
16 acknowledged that it pledged its membership interest in Spanish Heights as collateral for the  
17 2017 Forbearance Agreement.<sup>11</sup>

---

18 <sup>10</sup> An argument has been made that SJCVC did not pledge its stock under the original Pledge Agreement.  
19 Given the notice provision in the original Pledge Agreement, Mr. Bloom's signature as manager on behalf of  
20 Spanish Heights, rather than SJCVC, and the language of the Pledge Agreement reflecting a pledge of 100% of the  
interest in membership of Spanish Heights, it appears the signature line for Mr. Bloom may have been incorrect.  
Mr. Bloom is not the manager of Spanish Heights; Mr. Bloom is the manager of SJCVC, which serves as the manager  
of Spanish Heights. The language in paragraphs 5 and 9 of the Amendment to the 2017 Forbearance Agreement  
reaffirms SJCVC's pledge of its membership interest.

21 <sup>11</sup> The Amendment to the 2017 Forbearance Agreement states in pertinent part:

22 WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby  
23 CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by  
24 the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the  
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge  
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

25 \*\*\*

26 5. The Membership Pledge Agreement executed by SJCVC and the Antos Trust shall remain in effect and  
27 the execution of this Amendment shall not be considered a waiver of CBCI's rights under the Membership  
Pledge Agreement.

28 \*\*\*

1           64.     On or about December 1, 2019, CBCI, the Antos, Spanish Heights and SJC  
2 entered into an Amendment to the 2017 Forbearance Agreement, extending the date of the  
3 balloon payment to March 31, 2020.

4           65.     The Amendment to 2017 Forbearance Agreement was signed by the Antos,  
5 Bloom as purported manager on behalf of Spanish Heights, and Bloom as manager of SJC.  
6

7           66.     Pursuant to the Amendment to 2017 Forbearance Agreement, the Security  
8 Agreement “shall remain in effect and the execution of this Amendment shall not be considered  
9 a waiver of CBCI’s rights under the Security Agreement...”

10          67.     Pursuant to the Amendment to 2017 Forbearance Agreement, any amendment  
11 must be in writing.  
12

13          68.     On March 12, 2020, Spanish Hills Community Association recorded a Health and  
14 Safety Lien against the Property. This Lien was for Nuisances and Hazardous Activities.

15          69.     On or about March 16, 2020, CBCI mailed a Notice of Non-Monetary Defaults to  
16 Spanish Heights and SJC. This Notice of Non-Monetary Default delineated the following  
17 defaults:  
18

- 19               1. Evidence of homeowner’s insurance coverage Pursuant to Paragraph  
20               1(A)(6) of Amendment to Forbearance Agreement and Related  
21               Agreements;
- 22               2. Evidence of repairs pursuant to Paragraph 3(c)(1) of Exhibit B to  
23               Forbearance Agreement;
- 24               3. Evidence of Bank of America account balance of \$150,000.00  
25               pursuant to Paragraph 6(c) of Exhibit B to Forbearance Agreement;
- 26               4. Opinion letter from SJC Ventures and 1st One Hundred Holdings  
27               counsel regarding the Judgment and Security Agreement pursuant to  
28               Paragraph 1(A)(12) of Amendment to Forbearance Agreement and  
                Related Agreements;

---

9. The Membership Pledge Agreement executed by SJC and the Antos Trust shall remain in effect and the execution of this Amendment shall not be considered a waiver of CBCI’s rights under the Membership Pledge Agreement.

5. Evidence of corporate authority for SJC Ventures and 1st One Hundred Holdings pursuant to Paragraph 1(A)(13) of Amendment to Forbearance Agreement and Related Agreements; and
6. Evidence of SJC Ventures filing of applications for mortgages to refinance 5148 Spanish Heights Drive, pursuant to paragraph 1(C) of Amendment to Forbearance Agreement and Related Agreements.

70. On April 1, 2020, a Notice of Default and Demand for Payment was sent to Spanish Heights and SJCVC. This letter had a typo on the date of final balloon payment being due on March 31, 2021. This was corrected and emailed to Spanish Height's and SJCVC's counsel noting that the default date was corrected to March 31, 2020.

71. On April 1, 2020, under separate cover, counsel for CBCI sent a Notice to Spanish Heights, SJCVC, and Antos that CBCI would exercise its rights under the Pledge Agreement by transferring the pledged collateral to CBCI's nominee CBC Partners, LLC.

72. On April 1, 2020, CBC Partners received the Assignment of Company and Membership Interest of Spanish Heights from the Antos Trust.

73. On April 3, 2020, a Notice to Vacate was sent to SJCVC.

74. On April 6, 2020, CBCI sold the Note and security associated with the Note, to 5148 Spanish Heights, LLC.

75. On May 28, 2020, the Assignment of Interest in Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202005280002508.

76. On September 15, 2020, Notice of Breach and Election to Sell Under Deed of Trust was recorded in the Clark County Recorder's Office as Instrument No 202009150001405.

77. On December 15, 2020, Notice of Trustee's Sale was recorded in the Clark County Recorder's Office Instrument No 20201215-0000746. The Sale was scheduled for January 5, 2021.

78. CBCI, through Hallberg, and Mr. Antos, both individually and as Trustee of the



1 revocable living trust as makers; confirm the original debt and the Deed of Trust as collateral for  
2 the Note.

3 79. 5148 Spanish Heights, LLC, issued a new Notice of Default on January 4, 2021.

4 80. NRS 107.080 sets forth the notice requirements that were followed by 5148  
5 Spanish Heights, LLC, and Nevada Trust Deed Services.

6 81. Plaintiff has shown no defect or lack of adequate statutory notice in the current  
7 notice.  
8

9 82. NRS 47.240 provides for conclusive presumptions relevant to certain provisions  
10 of the relevant documents.<sup>12</sup>

11 83. Nothing in the evidence presented during these proceedings provides any basis for  
12 departure from the conclusive presumptions recited in the agreements between the parties.<sup>13</sup>  
13

14 84. At this time, CBCI has acquired the Antos interest in Spanish Heights through the  
15 Pledge Agreement. The membership interest in a limited liability company is not an interest in  
16

---

17 <sup>12</sup> **NRS 47.240 Conclusive presumptions.** The following presumptions, and no others, are conclusive:

18 \*\*\*

19 2. The truth of the fact recited, from the recital in a written instrument between the parties thereto, or their  
20 successors in interest by a subsequent title, but this rule does not apply to the recital of a consideration.

21 <sup>13</sup> For purposes of this proceeding, the Court applies the conclusive presumptions of NRS 47.240 to the  
22 following :

23 From the Pledge Agreement:

24 WHEREAS, Pledgors are the owners of 100%, of the membership interests (the "Membership Interests")  
25 of Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("SHAC"), which has  
26 been organized pursuant to the terms of the Limited Liability Company Agreement of Spanish Heights  
27 Acquisition Company, LLC.

28 From the Amendment to the 2017 Forbearance Agreement:

WHEREAS, on or about September 27, 2017, the parties executed a Forbearance Agreement whereby  
CBCI agreed to forbear from exercising the rights and remedies under certain loan documents executed by  
the "Antos Parties." In addition to the Forbearance Agreement, the parties executed "Exhibit B" to the  
Forbearance Agreement, a Lease Agreement, an Account Control Agreement, a Membership Pledge  
Agreement, an Assignment of Rents, and a Security Agreement (collectively "the Related Agreements").

1 real property. Title to the Property remains in Spanish Heights.

2 85. Plaintiff has not established unanimity of interest in title to the Property.

3 86. Plaintiff has not established an intent on behalf of the creditor to merge their lien  
4 with equitable title.

5 87. Plaintiff has provided no evidence that the 2017 Forbearance Agreement and  
6 Amendment to the 2017 Forbearance Agreement are vague or ambiguous.

7  
8 88. Plaintiff has provided no evidence of fraud or misrepresentation by any  
9 Defendant.

10 89. If any findings of fact are properly conclusions of law, they shall be treated as if  
11 appropriately identified and designated.  
12

### 13 **III. Conclusions of Law**

14  
15 1. The legal standard for granting injunctive relief is set forth in NRS 33.010, which  
16 provides:

17 Cases in which injunction may be granted. An injunction may be  
18 granted in the following cases:

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

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

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

28 2. Given the current bankruptcy stay, the Court extends the existing injunctive relief

1 entered January 5, 2021, pending further order from the Bankruptcy Court.

2 3. The relevant documents, including, but not limited to, the 2017 Forbearance  
3 Agreement and Amendment to Forbearance Agreement and Related Agreements, dated  
4 December 1, 2019, are clear and unambiguous as a matter of law

5 4. The Note is secured by the Property.

6 5. As a condition precedent to the Fourth, Seventh, Ninth, and Tenth Modifications  
7 to the Note, a Deed of Trust encumbering the Property was required.  
8

9 6. The Antos Parties had authority, individually and as Trustees of the Antos Trust,  
10 to encumber the Property with the Deed of Trust to CBCI.

11 7. Plaintiffs have waived any defects, acknowledged the encumbrance and agreed, in  
12 writing to pay twice; first in the 2017 Forbearance Agreement and second, in the Amendment to  
13 the 2017 Forbearance Agreement.  
14

15 8. Plaintiffs agreed in the 2017 Forbearance Agreements to pay the amounts in  
16 question by separate promise to the Antos Parties.  
17

18 9. The Antos Trust received an indirect benefit from the transactions related to the  
19 Deed of Trust.

20 10. Mr. Antos testified that the Property was used as security in exchange for  
21 additional capital and release of other collateral from CBCI .  
22

23 11. Mr. Antos agrees with CBCI that Plaintiffs have failed to perform.

24 12. NRS 107.500 is only required of owner-occupied housing.

25 13. The doctrine of merger provides that “[w]hen a greater and a less estate  
26 coincide and meet in one and the same person, without any intermediate estate, the less is  
27 immediately merged in the greater, and thus annihilated.” 31 C.J.S. Estates § 153.  
28

1           14.     Plaintiffs have made no showing of the applications of the doctrine of merger in  
2 this case. As no interests have merged, and there is no showing of intent to merge

3           15.     The one-action rule “does not excuse the underlying debt.” *Bonicamp v. Vazquez*,  
4 120 Nev. 377, 382-83, 91 P.3d 584, 587 (2004).

5           16.     The One-Action Rule prohibits a creditor from “first seeking the personal  
6 recovery and then attempting, in an additional suit, to recover against the collateral.” *Bonicamp*,  
7 120 Nev. at 383, 91 P.3d at 587 (2004). When suing a debtor on a secured debt, a creditor may  
8 initially elect to proceed against the debtor or the security. If the creditor sues the debtor  
9 personally on the debt, the debtor may then either assert the one-action rule, forcing the creditor  
10 to proceed against the security first before seeking a deficiency from the debtor, or decline to  
11 assert the one-action rule, accepting a personal judgment and depriving the creditor of its ability  
12 to proceed against the security. NRS 40.435(3); *Bonicamp*, 120 Nev. at 383, 91 P.3d at 587  
13 (2004).

14           17.     The “One-Action Rule” was specifically waived by the debtor. The Deed of Trust  
15 paragraph 6.21(a) states:  
16

17                   Trustor and Guarantor each waive all benefits of the one-action  
18 rule under NRS 40.430, which means, without limitation, Trustor  
19 and Guarantor each waive the right to require Lender to (i) proceed  
20 against Borrower, any other guarantor of the Loan, any pledgor of  
21 collateral for any person’s obligations to Lender or any other  
22 person related to the Note and Loan Documents, (ii) proceed  
23 against or exhaust any other security or collateral Lender may  
24 hold, or (iii) pursue any other right or remedy for Guarantors’  
benefit.

25           18.     The 2017 Forbearance Agreement paragraph 25 gives the benefit of cumulative  
26 remedies.

27                   The rights and remedies of CBCI under this Forbearance  
28 Agreement and the Amended Note and Modified Deed of Trust are

1 cumulative and not exclusive of any rights or remedies that CBCI  
2 would otherwise have, and may be pursued at any time and from  
3 time to time and in such order as CBCI shall determine in its sole  
4 discretion.

5 19. The Court concludes as a matter of law that the Plaintiffs have not established  
6 facts or law to support the claim that the One-Action Rule bars recovery under the defaulted  
7 Note and Security documents.

8 20. The Court's Temporary Restraining Order, filed January 5, 2021, will remain in  
9 place pending further order of the Bankruptcy Court.

10 21. If any conclusions of law are properly findings of fact, they shall be treated as if  
11 appropriately identified and designated.

## 12 JUDGMENT

13 Based upon the foregoing Findings of Fact and Conclusions of Law, and other good  
14 cause appearing:

15 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that as to the  
16 Claims for Declaratory Relief, the Court declares the third position Deed of Trust is a valid  
17 existing obligation against the Property.


18 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the  
19 Claims for Declaratory Relief, the Court declares that the Note is a valid existing obligation.  
20

21 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the  
22 Claims for Declaratory Relief, the Court declares that the Pledge Agreement is a valid existing  
23 obligation of SJCVC.  
24

25 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the  
26 Claims for Declaratory Relief, the Court declares that the acquisition of a membership interest in  
27 Spanish Heights does not merge the Defendants interests.  
28

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that as to the Claims for Declaratory Relief, the Court declares that there has been a valid waiver of the One-Action Rule.

Dated this 6<sup>th</sup> day of April, 2021

  
Elizabeth Gonzalez, District Court Judge

## Certificate of Service

I hereby certify that on the date filed, a copy of the foregoing Findings of Fact and Conclusions of Law was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program.

/s/ *Dan Kutinac*  
Dan Kutinac, JEA

Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
Telephone: 702-454-3333  
Facsimile: 702-386-4979  
Michael@mccnvlaw.com  
jcoppedge@mccnvlaw.com

*Attorneys for Defendant and Counterclaimants*  
*5148 Spanish Heights, LLC and*  
*CBC Partners I, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES,  
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC, a  
foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada Limited  
Liability Company; KENNETH ANTOS AND  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED MATTERS

Case No. A-20-813439-B

Dept. No.: 11

**ORDER APPOINTING RECEIVER**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

THE COURT FINDS that a receiver over SJC Ventures, LLC (“SJCv”) is appropriate at this time given the evidence presented during the trial of this matter, as well as Judge Denton’s findings in the *TGC/Farkas Funding, LLC v. First 100, LLC* matter before the Eighth Judicial District Court (Case No. A-20-822273-C).

THEREFORE, IT IS HEREBY ORDERED THAT:

- Page 2 of 4



1 authorities, or responsibilities aside from those explicitly stated in this Order.

2 7. Counterdefendant Bloom is specifically ordered to cooperate with the Receiver in  
3 providing the business records of SJCVC and any subsidiary and affiliated entities in which SJCVC  
4 has an ownership interest, specifically First 100, LLC and Spanish Heights Acquisition Company,  
5 LLC;

6 8. The Receiver shall be the agent of the Court and shall be accountable directly to  
7 this Court. This Court hereby asserts exclusive jurisdiction The Receiver is authorized to perform  
8 a review and accounting of all of SJCVC's assets, holdings, and interests. The Receiver is  
9 empowered to use any and all lawful means to identify the assets, rights, holdings, and interests  
10 of SJCVC and any subsidiary and affiliated entities in which SJCVC has an ownership interest,  
11 specifically First 100, LLC and Spanish Heights Acquisition Company, LLC; The Receiver is  
12 acting solely in its capacity as a court-appointed Receiver and the debts of the Receiver are solely  
13 the debts of the Receivership Estate. In no event shall the Receiver or its personnel have any  
14 personal liability or obligation for the proper debts of the Receiver and/or the Receivership Estate.

15 9. The Receiver and the interested parties to the Receivership Estate may petition this  
16 Court for instructions in connection with this Order and any further orders which this Court may  
17 make.

18 10. Unless expressly limited herein, the Receiver shall be further granted all powers  
19 given to an equity receiver, provided by N.R.S. Chapter 32 and/or common law.

20 11. Larry Bertsch is acting solely in his capacity as Receiver and no risk, obligation  
21 or expense incurred shall be the personal risk, obligation, or expense of Larry Bertsch.

22 12. No individual or entity may sue the Receiver without first obtaining the permission  
23 of this Court.

24 ///

25 ///

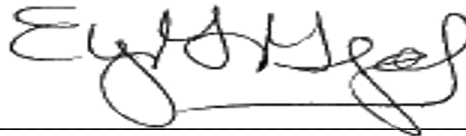
26 ///

1           13.     Individuals or entities interested in the Receivership Estate may contact the  
2 Receiver directly by and through the following individual:

3                   Larry Bertsch  
4                   265 E. Warm Springs Road Suite 104  
5                   Las Vegas, Nevada 89119  
6                   (702) 471-7223

7  
8           **IT IS SO ORDERED**

**Dated this 10th day of August, 2021**

9  
10                     
11                   \_\_\_\_\_

12                   **E9A D44 3F77 4620**  
13                   **Elizabeth Gonzalez**  
14                   **District Court Judge**

15           Respectfully Submitted by:  
16           MUSHKIN & COPPEDGE

17           Read and Approved:  
18           MAIER GUTIERREZ & ASSOCIATES

19           /s/Michael R. Mushkin  
20           MICHAEL R. MUSHKIN, ESQ.,  
21           Nevada Bar No. 2421  
22           L. JOE COPPEDGE, ESQ.,  
23           Nevada Bar. No. 4954  
24           6070 S. Eastern Ave., Suite 270  
25           Las Vegas, Nevada 89119

26           Did Not Approve  
27           JOSEPH A. GUTIERREZ, ESQ.  
28           Nevada Bar No. 9046  
              DANIELLE J. BARRAZA, ESQ.  
              Nevada Bar No. 13822  
              8816 Spanish Ridge Avenue  
              Las Vegas, Nevada 89148

*Attorneys for*  
              *Defendants/Counterclaimants*

*Attorneys for Plaintiffs/Counterdefendants*

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Spanish Heights Acquisition  
7 Company LLC, Plaintiff(s)

CASE NO: A-20-813439-B

8 vs.

DEPT. NO. Department 11

9 CBC Partners I LLC,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Granting Motion was served via the court's electronic eFile  
system to all recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/10/2021

16 MGA Docketing

docket@mgalaw.com

17 Karen Foley

kfoley@mccnvlaw.com

18 Michael Mushkin

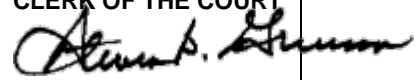
michael@mccnvlaw.com

19 Kimberly Yoder

kyoder@mccnvlaw.com

20 Jady Hayes

jhayes@mccnvlaw.com



Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
Telephone: 702-454-3333  
Facsimile: 702-386-4979  
Michael@mccnvlaw.com  
jcoppedge@mccnvlaw.com

*Attorneys for Defendant and Counterclaimants  
5148 Spanish Heights, LLC and  
CBC Partners I, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES,  
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC, a  
foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada Limited  
Liability Company; KENNETH ANTOS AND  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and the  
Kenneth M. Antos & Sheila M. Neumann-Antos  
Trust; DACIA, LLC, a foreign Limited Liability  
Company; DOES I through X; and ROE  
CORPORATIONS I through X, inclusive,

Defendants.

Case No. A-20-813439-B

Dept. No.: 11

**NOTICE OF ENTRY OF ORDER**

CAPTION CONTINUES BELOW

1 5148 SPANISH HEIGHTS, LLC, a Nevada  
2 limited liability company; and CBC PARTNERS  
3 I, LLC, a Washington limited liability company,

4 Counterclaimants,

5 v.

6 SPANISH HEIGHTS ACQUISITION  
7 COMPANY, LLC, a Nevada Limited Liability  
8 Company; SJC VENTURES, LLC, a Delaware  
9 limited liability company; SJC VENTURES  
10 HOLDING COMPANY, LLC, a Delaware  
11 limited liability company; JAY BLOOM,  
individually and as Manager, DOE  
12 DEFENDANTS 1-10; and ROE DEFENDANTS  
11-20,

Counterdefendants.

13 **NOTICE OF ENTRY OF ORDER**

14 PLEASE TAKE NOTICE that an Order Appointing Receiver was entered in the above-  
15 entitled action on August 10, 2021, a copy of which is attached hereto.

16 DATED this 11<sup>th</sup> day of August, 2021.

17 MUSHKIN & COPPEDGE

18  
19 /s/Michael R. Mushkin  
MICHAEL R. MUSHKIN, ESQ.  
20 Nevada State Bar No. 2421  
L. JOE COPPEDGE, ESQ.  
21 Nevada Bar No. 4954  
22 6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
23  
24  
25  
26  
27  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

/s/Kimberly C. Yoder  
An Employee of  
MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.  
Nevada Bar No. 2421  
L. Joe Coppedge, Esq.  
Nevada Bar No. 4954  
MUSHKIN & COPPEDGE  
6070 South Eastern Ave Ste 270  
Las Vegas, NV 89119  
Telephone: 702-454-3333  
Facsimile: 702-386-4979  
Michael@mccnvlaw.com  
jcoppedge@mccnvlaw.com

*Attorneys for Defendant and Counterclaimants*  
*5148 Spanish Heights, LLC and*  
*CBC Partners I, LLC*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

SPANISH HEIGHTS ACQUISITION  
COMPANY, LLC, a Nevada Limited Liability  
Company; SJC VENTURES HOLDING  
COMPANY, LLC, d/b/a SJC VENTURES,  
LLC, a Delaware Limited Liability Company,

Plaintiffs,

v.

CBC PARTNERS I, LLC, a foreign Limited  
Liability Company; CBC PARTNERS, LLC, a  
foreign Limited Liability Company; 5148  
SPANISH HEIGHTS, LLC, a Nevada Limited  
Liability Company; KENNETH ANTOS AND  
SHEILA NEUMANN-ANTOS, as Trustees of  
the Kenneth & Sheila Antos Living Trust and  
the Kenneth M. Antos & Sheila M. Neumann-  
Antos Trust; DACIA, LLC, a foreign Limited  
Liability Company; DOES I through X; and  
ROE CORPORATIONS I through X, inclusive,

Defendants.

AND RELATED MATTERS

Case No. A-20-813439-B

Dept. No.: 11

**ORDER APPOINTING RECEIVER**

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 0
- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8

THE COURT FINDS that a receiver over SJC Ventures, LLC (“SJCv”) is appropriate at this time given the evidence presented during the trial of this matter, as well as Judge Denton’s findings in the *TGC/Farkas Funding, LLC v. First 100, LLC* matter before the Eighth Judicial District Court (Case No. A-20-822273-C).

THEREFORE, IT IS HEREBY ORDERED THAT:

- Page 2 of 4



1 authorities, or responsibilities aside from those explicitly stated in this Order.

2 7. Counterdefendant Bloom is specifically ordered to cooperate with the Receiver in  
3 providing the business records of SJCVC and any subsidiary and affiliated entities in which SJCVC  
4 has an ownership interest, specifically First 100, LLC and Spanish Heights Acquisition Company,  
5 LLC;

6 8. The Receiver shall be the agent of the Court and shall be accountable directly to  
7 this Court. This Court hereby asserts exclusive jurisdiction The Receiver is authorized to perform  
8 a review and accounting of all of SJCVC's assets, holdings, and interests. The Receiver is  
9 empowered to use any and all lawful means to identify the assets, rights, holdings, and interests  
10 of SJCVC and any subsidiary and affiliated entities in which SJCVC has an ownership interest,  
11 specifically First 100, LLC and Spanish Heights Acquisition Company, LLC; The Receiver is  
12 acting solely in its capacity as a court-appointed Receiver and the debts of the Receiver are solely  
13 the debts of the Receivership Estate. In no event shall the Receiver or its personnel have any  
14 personal liability or obligation for the proper debts of the Receiver and/or the Receivership Estate.

15 9. The Receiver and the interested parties to the Receivership Estate may petition this  
16 Court for instructions in connection with this Order and any further orders which this Court may  
17 make.

18 10. Unless expressly limited herein, the Receiver shall be further granted all powers  
19 given to an equity receiver, provided by N.R.S. Chapter 32 and/or common law.

20 11. Larry Bertsch is acting solely in his capacity as Receiver and no risk, obligation  
21 or expense incurred shall be the personal risk, obligation, or expense of Larry Bertsch.

22 12. No individual or entity may sue the Receiver without first obtaining the permission  
23 of this Court.

24 ///

25 ///

26 ///

13. Individuals or entities interested in the Receivership Estate may contact the Receiver directly by and through the following individual:

Larry Bertsch  
265 E. Warm Springs Road Suite 104  
Las Vegas, Nevada 89119  
(702) 471-7223

**Dated this 10th day of August, 2021**

## IT IS SO ORDERED

Eylül

**E9A D44 3F77 4620**  
**Elizabeth Gonzalez**  
**District Court Judge**

Respectfully Submitted by:  
MUSHKIN & COPPEDGE

Read and Approved:  
MAIER GUTIERREZ & ASSOCIATES

/s/ Michael R. Mushkin  
MICHAEL R. MUSHKIN, ESQ.,  
Nevada Bar No. 2421  
L. JOE COPPEDGE, ESQ.,  
Nevada Bar. No. 4954  
6070 S. Eastern Ave., Suite 270  
Las Vegas, Nevada 89119

**Did Not Approve**  
**JOSEPH A. GUTIERREZ, ESQ.**  
 Nevada Bar No. 9046  
**DANIELLE J. BARRAZA, ESQ.**  
 Nevada Bar No. 13822  
 8816 Spanish Ridge Avenue  
 Las Vegas, Nevada 89148

*Attorneys for  
Defendants/Counterclaimants*

*Attorneys for Plaintiffs/Counterdefendants*

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Spanish Heights Acquisition  
7 Company LLC, Plaintiff(s)

CASE NO: A-20-813439-B

8 vs.

DEPT. NO. Department 11

9 CBC Partners I LLC,  
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12  
13 This automated certificate of service was generated by the Eighth Judicial District  
14 Court. The foregoing Order Granting Motion was served via the court's electronic eFile  
system to all recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 8/10/2021

16 MGA Docketing

docket@mgalaw.com

17 Karen Foley

kfoley@mccnvlaw.com

18 Michael Mushkin

michael@mccnvlaw.com

19 Kimberly Yoder

kyoder@mccnvlaw.com

20 Jady Hayes

jhayes@mccnvlaw.com

21  
22  
23  
24  
25  
26  
27  
28