

IN THE SUPREME COURT OF THE STATE OF NEVADA

SPANISH HEIGHTS ACQUISITION
COMPANY, LLC; SJC VENTURES
HOLDING COMPANY, LLC, d/b/a SJC
VENTURES, LLC,

Petitioners,

v.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK, AND THE
HONORABLE JOANNA KISHNER,
DISTRICT JUDGE

Respondents,

CBC PARTNERS I, LLC; CBC
PARTNERS, LLC; 5148 SPANISH
HEIGHTS, LLC; KENNETH ANTOS
AND SHEILA NEUMANN-ANTOS;;
DACIA, LLC,

Real Parties In
Interest.

**APPENDIX VOLUME II TO
EMERGENCY PETITION FOR
WRIT OF MANDAMUS OR
PROHIBITION DIRECTING THE**

**EIGHTH JUDICIAL DISTRICT
COURT CLARK COUNTY,
NEVADA, HONORABLE JOANNA
KISHNER, DISTRICT JUDGE, TO
REVERSE THE DENIAL OF AN
INJUNCTIVE RELIEF ORDER
WITH RESPECT TO
RESIDENTIAL PROPERTY
FORECLOSURE SALE SET FOR
FEBRUARY 1, 2022**

**RELIEF REQUESTED WITHIN 14
DAYS**

Dist. Ct. Case No.: A-20-813439-B

ORIGINAL PETITION

From the Eighth Judicial District Court, Clark County
The Honorable Joanna Kishner, District Judge

JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
Nevada Bar No. 13822
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DATE	DESCRIPTION	VOLUME	PAGES
01/25/2022	Appendix of Exhibits to Defendants/Counterclaimants' Opposition to Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II/III/IV	PA0356-PA0835
04/09/2020	Complaint	I	PA0005-PA0014
04/27/2020	Defendant CBC Partners I, LLC's Answer to Complaint; and Counterclaimants' 5148 Spanish Heights, LLC and CBC Partners I, LLC Counterclaim Against Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding Company, LLC, and Jay Bloom	I	PA0017-PA0040
09/03/2020	Defendant Sheila Antos and Kenneth Antos, as Trustees of the	I	PA0116-PA0140

	Kenneth & Sheila Antos Living Trust and the Kenneth M. Antois & Sheila M. Neumann-Antos Trust Answer to First Amended Complaint and Counterclaim		
06/10/2020	Defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC Answer to First Amended Complaint	I	PA0079-PA0096
01/25/2022	Defendants/Counterclaimants' Opposition to Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II	PA0342-PA0355
04/06/2021	Findings of Fact and Conclusions of Law	I	PA0160-PA0180
05/15/2020	First Amended Complaint	I	PA0041-PA0060
10/14/2010	Grant, Bargain, Sale Deed	I	PA0001-PA0004

01/05/2021	Notice of Entry of Order	I	PA0141-PA0148
04/20/2021	Notice of Entry of Order	I	PA0181-PA0204
01/19/2022	Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II	PA0250-PA0322
01/26/2022	Plaintiffs' Reply in Support of Application for Temporary Restraining Order and Motion for Preliminary Injunction on and Order Shortening Time	IV	PA0836-PA0873
01/25/2022	Receiver's Response to Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time	II	PA0323-PA0341
07/10/2020	Spanish Heights Acquisition Company, LLC, SJC Ventures, LLC, SJC Ventures Holding	I	PA0097-PA0115

	Company, LLC, and Jay Bloom's Answer to Counterclaim		
05/15/2020	Summons – 5148 Spanish Heights, LLC	I	PA0064-PA0066
04/09/2020	Summons – CBC Partners I, LLC	I	PA0015-PA0016
05/15/2020	Summons – CBC Partners I, LLC	I	PA0070-PA0072
05/15/2020	Summons – CBC Partners, LLC	I	PA0061-PA0063
05/15/20	Summons – Dacia, LLC	I	PA0076-PA0078
05/15/2020	Summons – Kenneth Antos, as Trustee of the Kenneth & Sheila Antos Living Trust and the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust	I	PA0067-PA0069
05/15/2020	Summons – Sheila Neumann- Antos, as Trustee of the Kenneth & Sheila Antos Living Trust and the Kenneth M. Antos & Sheila M. Neumann-Antos Trust	I	PA0073-PA0075

01/05/2021	Temporary Restraining Order	I	PA0149-PA0153
12/16/2021	Transcript of Proceedings – Motion to Quash Trial Subpoena and for Protective Order on Order Shortening Time	I	PA0205-PA0249
02/03/2021	Voluntary Petition for Non- Individuals Filing for Bankruptcy	I	PA0154-PA0159

CERTIFICATE OF SERVICE

I certify that on the 28th day of January 2022, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPENDIX VOLUME II TO EMERGENCY PETITION FOR WRIT OF MANDAMUS OR PROHIBITION DIRECTING THE EIGHTH JUDICIAL DISTRICT COURT CLARK COUNTY, NEVADA, HONORABLE JOANNA KISHNER, DISTRICT JUDGE, TO REVERSE THE DENIAL OF AN INJUNCTIVE RELIEF ORDER WITH RESPECT TO RESIDENTIAL PROPERTY FORECLOSURE SALE SET FOR FEBRUARY 1, 2022** shall be made in accordance with the Master Service List as follows:

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Attorneys for Larry L. Bertsch, Receiver

DATED this 28th day of January 2022.

/s/ Brandon Lopipero

An Employee of MAIER GUTIERREZ & ASSOCITES

APP/MOT

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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.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: 31

**PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND MOTION FOR PRELIMINARY
INJUNCTION ON AN ORDER
SHORTENING TIME**

[HEARING REQUESTED]

HEARING DATE: JANUARY 28, 2022
HEARING TIME: 8:30 A.M.

Plaintiffs Spanish Heights Acquisition Company, LLC ("SHAC") and SJC Ventures Holding
Company, LLC, d/b/a SJC VENTURES, LLC ("SJC") ("Plaintiffs"), by and through their attorney of
record, MAIER GUTIERREZ & ASSOCIATES, hereby move this Court for a temporary restraining order,

1 and, after notice and a hearing, for a preliminary injunction on an order shortening time (the
2 “Motion”).

3 As a result of Plaintiffs being unable to timely make a settlement payment on January 5, 2022,
4 Defendants have noticed a trustee sale of the residential Property at issue, with the **sale set for**
5 **February 1, 2022 at 9:30 a.m.** See **Exhibit 1**, Notice of Trustee’s Sale.

6 Although Plaintiffs do not take issue with the trustee’s sale itself, Plaintiffs are entitled to
7 redeem the Property before the foreclosure sale (which Defendants have acknowledged). However,
8 Defendants have issued a defective payoff demand, which includes an interest amount that is
9 overstated by at least \$410,096.10. **Exhibit 2**, Payoff Demand. The payoff demand also includes an
10 additional \$903,741.28. Nearly a million dollars in fees and costs for a simple foreclosure sale is
11 beyond unreasonable.

12 As such, Plaintiffs are entitled to an evidentiary hearing to determine the correct payoff
13 amount, so that Plaintiffs can make such payment in order to avoid the forelclosure of the Property
14 pursuant to NRS 107.080. It is therefore imperative that the Court issue a TRO enjoining the
15 Defendants from foreclosing on the Property until the correct payoff demand amount can be
16 adjudicated.

17 This motion is made and based upon the following memorandum of points and authorities, the
18 affidavits and exhibits attached hereto, and the papers and pleadings on file in this matter. An order
19 restraining Defendants is attached hereto to this motion as **Exhibit 7**.

20 DATED this 19th day of January, 2021.

21
22 **MAIER GUTIERREZ & ASSOCIATES**

23 */s/ Joseph A. Gutierrez*

24 _____
25 JOSEPH A. GUTIERREZ, ESQ.
26 Nevada Bar No. 9046
27 DANIELLE J. BARRAZA, ESQ.
28 Nevada Bar No. 13822
8816 Spanish Ridge Avenue
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Attorneys for Plaintiffs

1 was rebuffed by Mr. Mushkin on that request. My office has also pointed out the defects in
2 Defendants' interest calculations to Mr. Mushkin, to no avail.

3 8. It would be nearly impossible for Plaintiffs to quantify their ongoing harm through
4 actual damages in the event this sale of a residential property (serving as the only housing option for
5 an entire family including an octogenarian and three rescue dogs) is allowed to proceed. Ex. 3.
6 Therefore the harm being caused to Plaintiffs through Defendants' wrongful actions is irreparable,
7 and can only be prevented through injunctive relief.

8 9. As set forth in the Bloom Decl., Defendant's actions are causing immediate and
9 irreparable harm to Plaintiffs that will exponentially increase unless Defendants are immediately
10 enjoined. *See id.*

11 10. During the normal course of time it will take for Plaintiffs to serve their motion for
12 preliminary injunction, for Defendants to respond thereto, and for the Court to conduct a hearing on
13 Plaintiffs' motion, Plaintiffs will sustain immediate irreparable injury. **Specifically, according to**
14 **correspondence sent to the Property, a foreclosure sale is scheduled for February 1, 2022. If**
15 **relief is not granted by then, Plaintiffs' residential Property will be overtaken by Defendants.**

16 11. Accordingly, it is imperative that Plaintiffs' application for a temporary restraining
17 order be heard as soon as possible, preferably **on or before January 24, 2022**, such that a temporary
18 restraining order may be issued immediately, or in the alternative, so that Plaintiffs have adequate
19 time to pursue any necessary appeal.

20 12. Moreover, if the temporary restraining order is granted, a motion for preliminary
21 injunction should be set for hearing at the earliest possible time.

22 13. If Plaintiffs' motion for preliminary injunction is heard in the ordinary course, the
23 foreclosure event will take place prior to said hearing and the irreparable harm to Plaintiffs will be
24 permitted to continue.

25 14. Therefore, Plaintiffs are requesting their motion for preliminary injunction be heard on
26 an OST at the Court's earliest convenience.

27 15. Based on the foregoing, the requirements of Nev. R. Civ. P. 65(b), NRS 33.010 and
28 EDCR 2.26 have been met and the circumstances described above constitute good cause for the Court

1 to justify shortening of time to hear Plaintiffs' application for temporary restraining order and motion
2 for preliminary injunction.

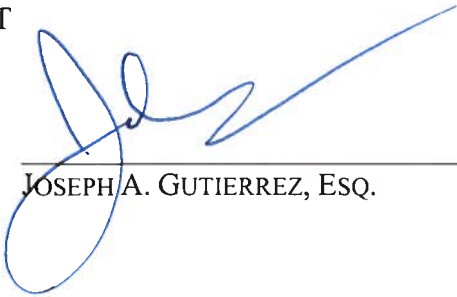
3 16. If the OST is granted, it will be promptly served by an acceptable method on all parties
4 pursuant to the requirements of EDCR 2.26, EDCR 7.26 and NRCP 5(b).

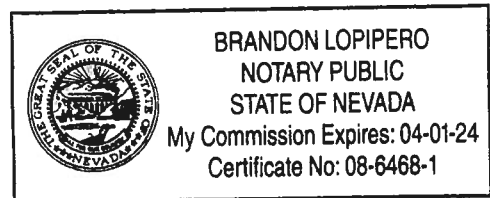
5 17. This affidavit is made in good faith and not for purposes of delay.

6 FURTHER AFFIANT SAYETH NAUGHT

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10 SUBSCRIBED and SWORN to before
me this 19th day of January, 2022.

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13 Notary Public for Said County and State

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JOSEPH A. GUTIERREZ, ESQ.



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IT IS FURTHER ORDERED that an opposition, if the opposing party desires to file one, shall be filed and served by January 25, 2022, by 5:00 p.m. A reply shall be filed and served by January 26, 2022, by 5:00 p.m.

Joanna S. Kushner

Respectfully submitted,

MAIER GUTIERREZ & ASSOCIATES

/s/ Joseph A. Gutierrez

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION AND RELEVANT HISTORY**

3 This action involves the residential property located at 5148 Spanish Heights Drive, Las
4 Vegas, Nevada 89148, with Assessor's Parcel Number 163-29-615-007 ("Property"). The Property
5 is owned by Plaintiff Spanish Heights Acquisition Company, LLC pursuant to a recorded deed, and
6 leased by Plaintiff SJC Ventures LLC pursuant to a valid lease agreement.

7 The Property serves as the place of residence for Jay Bloom and his wife and son, his
8 octogenarian in-law, his son's friend, and three rescue animals. Ex. 3.

9 On November 15, 2021, the parties placed settlement terms on the record before this Court.
10 That was followed by an order granting the parties' joint oral motion to vacate the trial date and stay
11 the case pending a settlement between the parties. *See* 11/30/21 Order, *on file*. The parties agreed
12 that in the event the settlement payments were not made, Defendants would have the ability to initiate
13 foreclosure proceedings on the Property. Ex. 3.

14 Plaintiffs were unable to make a scheduled payment on January 5, 2022, which resulted in a
15 default of the settlement agreement. Ex. 3.

16 As a result, Defendants have filed a Notice of Trustee's Sale, setting the sale for February 1,
17 2022. Ex. 1. There are numerous issues with this Notice of Sale.

18 First, the payoff demand accompanying the Notice of Sale includes a double-counting of
19 interest, resulting in an overstatement in interest by at least \$410,096.10. It also includes a demand
20 for fees and costs in an amount of nearly \$1 million, which is beyond unreasonable for a foreclosure
21 sale. This presents an unreasonable obstacle to plaintiff SHAC's ability to redeem their Property prior
22 to the foreclosure sale, pursuant to its statutory rights. NRS 107.080.

23 Although Defendants have the right to initiate foreclosure proceedings under the Settlement
24 Agreement, they are not allowed to violate Nevada law through an improper and hastily-constructed
25 foreclosure recordings with clear deficiencies.

26 Thus, it is clear that absent the requested relief, Plaintiffs will suffer irreparable harm.

27 As such, the exigent circumstances present in this case require granting Plaintiffs' application
28 for a temporary restraining order. Further, Plaintiffs possess a high probability of success on the

merits and will be irreparably harmed without such relief, thus a preliminary injunction should be ordered until this case can be fully decided on the merits.

II. STATEMENT OF FACTS AND RELEVANT HISTORY

As reflected on a Deed recorded on November 3, 2017, plaintiff Spanish Heights Acquisition Company, LLC (“SHAC”) owns the residential Property at issue. *See Exhibit 4*, Deed.

As documented by a real property lease, SJC Ventures LLC (“SJC Ventures”) is the lawful tenant of the Property, with SHAC being the lawful Landlord. *See Exhibit 5*, Lease Agreement.

A dispute arose regarding the Property between SHAC and SJC Ventures and the Defendants, leading to the instant litigation. A settlement agreement was reached, in which it was agreed that Plaintiffs would make certain monetary payments to Defendants, in exchange for the underlying claims being dismissed. The parties agreed that in the event the monetary payments were not made, then Defendants would have the ability to initiate foreclosure proceedings on the Property. Ex. 3.

Plaintiffs were unable to make the monetary payment scheduled for January 5, 2022. Ex.3. As a result, defendant 5148 Spanish Heights, LLC has issued a Notice of Trustee’s Sale, setting the sale for February 1, 2022. Ex. 1. Accompanying the Notice of Sale is a payoff demand, which includes numerous categories of interest, fees, and costs, but no explanation for the same. Ex. 2. More concerning, the payoff demand calculations do not make any sense when compared to the numbers previously represented in Defendants’ Notice of Default previously recorded on January 4, 2021. **Exhibit 6**, Jan. 4, 2021 Notice of Default.

Discrepancies with the Jan. 2022 Payoff Demand

In order to understand the problems with the January 2022 payoff demand, the Notice of Default recorded January 4, 2021 needs to be reviewed. Ex. 6. The January 4, 2021 Notice of Default included the following payoff calculations:

Amount in Default	\$5,578,459.15
Current unpaid Principal	\$2,935,001.14
Amount of accrued interest and late charges	\$1,315,105.24
Amount in advances paid on owner’s behalf	\$1,326,744.55

Ex. 6. Accordingly, the January 4, 2021 Notice of Default already accounted for interest accrued up until that point, representing that figure as \$1,315,105.24. *Id.* That January 4, 2021 Notice of Default also indicated that interest is accruing at a rate of \$1,608.22 per day until paid in full. Ex. 6. As such, Plaintiffs used that \$1,608.22 per day figure to calculate the additional interest accrued in each month since the January 4, 2021 Notice of Default was recorded. Those calculations are below:

Interest 1/5/21 - 1/31/21	\$41,813.72
Interest 2/1/21 - 2/28/21	\$45,030.16
Interest 3/1/21 - 3/31/21	\$49,854.82
Interest 4/1/21 - 4/30/21	\$48,246.60
Interest 5/1/21 - 5/31/21	\$49,854.82
Interest 6/1/21 - 6/30/21	\$48,246.60
Interest 7/1/21 - 7/31/21	\$49,854.82
Interest 8/1/21 - 8/31/21	\$49,854.82
Interest 9/1/21 - 9/30/21	\$48,246.60
Interest 10/1/21 - 10/31/21	\$49,854.82
Interest 11/1/21 - 11/30/21	\$48,246.60
Interest 12/1/21 - 12/31/21	\$49,854.82
Interest 1/1/22 - 1/31/22	\$49,854.82
TOTAL in additional interest from 1/4/21 to 1/31/22	\$628,814.02

Logically, this would mean that the total in accrued interest would be the initial \$1,315,105.24 in interest represented on the January 4, 2021 Notice of Default, plus the \$628,814.02 in interest accrued since then, which totals \$1,943,919.26.

But the payoff demand accompanying the Notice of Sale effectively double counts the interest owed since January 4, 2021. The payoff demand reiterates the \$1,315,105.24 figure as “accrued interest,” and then contends that the “interest owed” is \$1,038,910.12 (without any explanation as to how that figure was reached) for a total interest figure of \$2,352,015.36. Ex. 2.

1 This means that there is \$410,096.10 in unaccounted for interest that Defendants have added
2 to their payoff demand. Plaintiffs have yet to receive an explanation as to why Defendants disregarded
3 their own prior Notice of Default stated that the additional interest accrued would be \$1,608.22 per
4 day until paid in full. Ex. 6.

5 Beyond that, Defendants' payoff demand includes \$903,741.28 in legal fees and costs, which
6 is unreasonable and clearly does not account for solely a foreclosure sale. Defendants have failed to
7 substantiate these figures, despite a request from Plaintiffs' counsel.

8 Unfortunately, this is part of a long pattern and practice of Defendants sloppily trying to
9 engage in illegal and improper foreclosure activities without going about it the right way. This Court
10 has already issued two prior TROs in response to Defendants' illegal efforts to foreclose on the
11 Property, the first time as a result of the Defendants trying to foreclose in violation of Nevada's
12 foreclosure moratorium instilled during the Covid-19 pandemic (5/29/2020 Order, *on file*), and the
13 second time as a result of defendant 5148 Spanish Heights, LLC improperly issuing a Notice of Breach
14 and Election to Sell when it had not even issued the requisite Notice of Default (1/5/2021 Order, *on*
15 *file*). Defendants have also been sanctioned by both this Court (for failing to follow a discovery order)
16 and by the Bankruptcy Court (for violating the stay of litigation), so they are no strangers to cutting
17 corners and ignoring the rules when it comes to getting what they want.

18 Continuing that pattern, Defendants have oddly filed a "motion for writ of possession and
19 order to vacate" when they have not even foreclosed on the Property – an obvious violation of NRS
20 40.255(1)(C). That motion will be responded to in due course, but it is another example of Defendants
21 rushing to obtain possession of the Property without following the actual laws associated with non-
22 judicial foreclosure sales of residences.

23 Plaintiffs acknowledge that Defendants have a right to initiate foreclosure proceedings as a
24 result of the default in the Settlement Agreement, but Defendants need to follow Nevada's foreclosure
25 laws when doing so. The unaccounted for interest figures in the payoff demand, along with the
26 completely unreasonable figure being demanded in legal fees and costs, suggest serious errors in the
27 payoff demand. Because Plaintiffs have a statutory right to pay off the balance due and redeem the
28 Property prior to foreclosure (which they fully intend on doing), this Court should order that

1 Defendants be enjoined from proceeding on the Notice of Sale and from engaging in any further
2 foreclosure activities regarding the Property until an evidentiary hearing has been held on the payoff
3 figure and the Court has adjudicated the payoff amount.

4 **III. LEGAL ANALYSIS**

5 **A. STANDARD OF REVIEW**

6 As the Nevada Supreme Court has explained, injunctions are issued to protect plaintiffs
7 from irreparable injury and to preserve the court's power to render a meaningful decision after a trial
8 on the merits. *See Ottenheimer v. Real Estate Division*, 91 Nev. 338, 535 P.2d 1284 (1975). The
9 decision whether to grant a preliminary injunction is within the sound discretion of the district court,
10 whose decision will not be disturbed on appeal absent an abuse of discretion. *Number One Rent-A-*
11 *Car v. Ramada Inns*, 94 Nev. 779, 781, 587 P.2d 1329, 1330 (1978).

12 NRS 33.010 provides that an injunction may be granted "when it shall appear by the complaint
13 that the plaintiff is entitled to the requested relief, and such relief or any part thereof consists in
14 restraining the commission or continuance of the act complained of, either for a limited period or
15 perpetually." NRS 33.010(1). Thus, courts have held that "[a] preliminary injunction is available if
16 the applicant can show a likelihood of success on the merits and a reasonable probability that the non-
17 moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory
18 damages is an inadequate remedy." *Dangberg Holdings Nevada, LLC v. Douglas County*, 115 Nev.
19 129, 142, 978 P.2d 311, 319 (1999). A court must also weigh the potential hardships to the relative
20 parties, and consider the public interest. *See Univ. & Cmty. Coll. Sys. of Nevada v. Nevadans for*
21 *Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004).

22 The purpose of a preliminary injunction is to preserve the status quo until a trial on the merits
23 can be held. *Ottenheimer v. Real Estate Div. of Nevada Dep't of Commerce*, 91 Nev. 338, 342, 535
24 P.2d 1284, 1285 (1975). Thus, even if the harmful act has been completed before the complaint is
25 filed, an injunction may be granted in order to restore the status quo. *Memory Gardens of Las Vegas,*
26 *Inc. v. Pet Ponderosa Mem'l Gardens, Inc.*, 88 Nev. 1, 4, 492 P.2d 123, 124 (1972). "Given this
27 limited purpose, and given the haste that is often necessary if those positions are to be preserved, a
28 preliminary injunction is customarily granted on the basis of procedures that are less formal and

1 evidence that is less complete than in a trial on the merits. A party thus is not required to prove his
2 case in full at a preliminary-injunction hearing.” *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395, 101
3 S. Ct. 1830, 1834 (1981) (cited with approval by *Alliance for Am.'s Future v. State ex rel. Miller*,
4 56283, 2012 WL 642540 (Nev. Feb. 24, 2012)).

5 Likewise, an *ex parte* temporary restraining order “should be restricted to serving [its]
6 underlying purpose of preserving the status quo and preventing irreparable harm just so long as is
7 necessary to hold a hearing, and no longer.” *Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto*
8 *Truck Drivers Local No. 70 of Alameda Cnty.*, 415 U.S. 423, 439, 94 S. Ct. 1113, 1124 (1974). The
9 standard for a temporary restraining order is essentially the same as that for a preliminary injunction
10 without a likelihood of success on the merits. Nev. R. Civ. P. 65 provides that a court may issue an
11 *ex parte* temporary restraining order if (1) it clearly appears from specific facts shown by affidavit or
12 by the verified complaint that immediate and irreparable injury, loss or damage will result to the
13 applicant; and (2) the applicant’s attorney certified to the court in writing, the efforts, if any, which
14 have been made to give notice of the hearing. *See* Nev. R. Civ. P. 65(b).

15 Defendants’ conduct will cause substantial and irreparable harm to Plaintiffs unless injunctive
16 relief is granted immediately. Such relief should remain in place until the Court has adjudicated the
17 correct payoff amount, and Plaintiffs will likely succeed on the merits of their claims that Defendants
18 have made serious errors on the payoff figures. Furthermore, public policy and the balance of
19 hardships weigh in favor of Plaintiffs. Accordingly, Plaintiffs ask this Court to maintain the status
20 quo and issue a temporary restraining order and preliminary injunction against Defendants.

21 **B. PLAINTIFFS WILL LIKELY SUCCEED ON THE MERITS OF THEIR CLAIMS**
22 **REGARDING THE PAYOFF AMOUNT**

23 To grant a preliminary injunction, the Court must “assess the plaintiff’s likelihood of success
24 on the merits, not whether the plaintiff has actually succeeded on the merits.” *Southern Oregon Barter*
25 *Fair v. Jackson County*, 372 F.3d 1128, 1136 (9th Cir. 2004). Moreover, “decisions on preliminary
26 injunctions are just that--preliminary--and must often be made hastily and on less than a full record.”
27 *Id.* Thus, “the possibility that the party obtaining a preliminary injunction may not win on the merits
28 at the trial is not determinative of the propriety or validity of the trial court's granting the preliminary

1 injunction.” *B.W. Photo Utilities v. Republic Molding Corp.*, 280 F.2d 806, 807 (9th Cir.1960).

2 Here, Plaintiffs can show a likelihood of success on the merits as to their argument that
3 Defendants have provided a defective payoff demand which includes unaccounted for interest figures
4 and unreasonable fees and cost figures, which presents an unreasonable obstacle to SHAC exercising
5 its right to redeem the Property prior to the foreclosure sale pursuant to NRS 107.080.

6 It appears that Defendants have failed to acknowledge that their prior Notice of Default dated
7 January 4, 2021 already indicated that 1,315,105.24 had been accrue in interest up to that point. Ex.
8 6. This means that the additional interest that needs to be calculated is from January 2021 to present
9 day, at the \$1,608.22 per day figure included in Defendants’ January 2021 Notice of Default. Ex. 6.
10 Doing those calculations, that comes to another \$628,814.02 in interest accrued since January 2021.
11 The total of \$1,315,105.24 plus \$628,814.02 comes to \$1,943,919.26.

12 But the payoff demand accompanying the January 2022 Notice of Sale contends that the total
13 interest owed is \$2,352,015.36. Ex. 2. This is nonsensical, and results in a discrepancy of \$410,096.10
14 in unaccounted for interest that Defendants have added to their payoff demand. Alarminglly,
15 Defendants have not provided any kind of chart or table, or other logical explanation, breaking down
16 exactly how they reached \$2,352,015.36 in interest, as that figure does not match up with the prior
17 figures in the January 2021 Notice of Default.

18 Further, Defendants are seeking over \$900,000 in fees and costs on a foreclosure action. Ex.
19 2. This is beyond unreasonable, and the actual payoff demand indicates that Defendants are including
20 fees and costs outside of the foreclosure action, as there is a separate category for attorneys’ fees and
21 costs incurred in SHAC’s bankruptcy action (totaling nearly \$200,000), which is obviously unrelated
22 to the fees and costs incurred in recording the various statutory notices and conducting a non-judicial
23 foreclosure sale. Ex. 6.

24 Likewise, Defendants appear to have lazily lumped together all of their fees and costs in their
25 entirety from this underlying action and placed them into the payoff demand for the foreclosure sale,
26 which is improper and not supported by any legal authorities. The fees and costs need to be associated
27 with noticing and conducting the actual foreclosure sale, and there is no feasible scenario in which
28 Defendants conducting a non-judicial foreclosure sale results in over \$900,000 in fees and costs.

1 As such, Plaintiffs have demonstrated a likelihood of success as to their claim that the payoff
2 demand associated with the Notice of Sale is defective as a result of a myriad of accounting errors and
3 the overstating of fees and costs. Thus, a temporary restraining order and preliminary injunction are
4 warranted against Defendants.

5 **C. PLAINTIFFS WILL SUFFER IRREPARABLE INJURY IF AN INJUNCTION IS NOT ISSUED**

6 In the absence of immediate injunctive relief by this Court, Plaintiffs will suffer irreparable
7 harm for which no monetary damages are adequate. The Nevada Supreme Court has held that
8 “[g]enerally harm is ‘irreparable’ if it cannot adequately be remedied by compensatory damages.”
9 *Hamm v. Arrowcreek Homeowners’ Ass’n*, 124 Nev. 28, 183 P.2d 895, 901 (2008) (citing *Univ. Sys.*
10 *v. Nevadans for Sound Gov’t*, 120 Nev. 712, 721, 100 P.3d 179, 87 (2004)). “[A]n injury is not fully
11 compensable by money damages if the nature of the plaintiffs’ loss would make damages difficult to
12 calculate.” *Basicomputer Corp. v. Scott*, 973 F.2d 507, 511 (6th Cir. 1992).

13 Nevada courts have repeatedly held that real property is unique and interference with real
14 property rights usually leads to irreparable harm. See *Dixon v. Thatcher*, 103 Nev. 414, 416, 742 P.2d
15 1029, 1030 (1987) “[R]eal property and its attributes are considered unique and loss of
16 real property rights generally results in irreparable harm.” See also, *Leonard v. Stoebling*, 102 Nev.
17 543, 728 P.2d 1358 (1986) (view from home is unique asset; injunction issued to preserve view); see
18 also *Nevada Escrow Service, Inc. v. Crockett*, 91 Nev. 201, 533 P.2d 471 (1975) (denial of injunction
19 to stop foreclosure reversed because legal remedy inadequate).

20 As such, Plaintiffs would likely suffer irreparable injury if Defendants’ conduct is permitted
21 to continue because allowing Defendants to continue their foreclosure conduct unfettered will result
22 in a potential loss of the Property as to owner SHAC, and, if Defendants have their way, as to tenant
23 and renter SJC Ventures.

24 As it would be nearly impossible for Plaintiffs to quantify the harm that SHAC would suffer
25 if divested of its ownership interest in real property and SJC Ventures especially will endure as a result
26 of losing access to the Property as a tenant through actual damages, the harm is irreparable, and can
27 only be prevented through injunctive relief. Thus, in order to preserve this Court’s power to render a
28 meaningful decision on the merits of the payoff amount, this Court should issue a temporary

1 restraining order and preliminary injunction enjoining the Defendants' conduct.

2 **D. THE BALANCE OF HARDSHIPS AND PUBLIC INTEREST WEIGH HEAVILY IN FAVOR**
3 **OF PLAINTIFFS**

4 "In considering preliminary injunctions, courts also weigh the potential hardships to the
5 relative parties and other, and the public interest. *Univ. & Cmty. Coll. Sys. of Nev.*, 120 Nev. at 721,
6 100 P.3d at 187 (citation omitted).

7 Here, the balance of harm in this case heavily favors Plaintiffs. SHAC now faces the potential
8 loss of a real property interest, and SJC Ventures faces the loss of the real property that it currently
9 leases. There are living beings residing in the Property, including Mr. Bloom and his wife, his
10 octogenarian mother-in-law, and three rescue dogs. All will be displaced in the event this Court
11 permits Defendants to move forward with a foreclosure sale without justifying their payoff demand
12 figures which involve in 6-figure deficiencies. Issuance of a preliminary injunction would prevent
13 the Defendants from continuing their wrongful foreclosure actions.

14 Further, issuance of the injunction will merely maintain the status quo. "[T]he status quo is
15 the last uncontested status which preceded the pending controversy." *Tanner Motor Livery, Ltd. v.*
16 *Avis, Inc.*, 316 F.2d 804, 809 (9th Cir. 1963), cert denied, 375 U.S. 821 (1963). Here, an injunction
17 would merely return the parties to the status quo that existed prior to the Defendants' contested and
18 improper conduct.

19 Public policy also weighs in favor of not fast-tracking a foreclosure in this case which involves
20 a 6-figure deficiency in the payoff demand that that has gone unexplained. This is a not a *de minimis*
21 deficiency that Plaintiffs can simply pay off and then litigate after the fact. This is a serious deficiency
22 that needs to be resolved prior to the foreclosure sale taking place. There was simply no basis for
23 Defendants to illegally initiate foreclosure actions without being able to justify their payoff demand
24 figures, which at this point appear arbitrary, especially with respect to the alleged accrued interest,
25 which does not match up with the prior 2021 Notice of Default figures.

26 Accordingly, the balance of hardships favor Plaintiffs, and the injunctive relief requested
27 herein should be granted.
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Michael R. Mushkin, Esq.
MUSHKIN & COPPEDGE
6070 South Eastern Avenue, Suite 270
Las Vegas, Nevada 89119
*Attorneys for Defendants CBC Partners I, LLC, CBC Partners, LLC,
5148 Spanish Heights, LLC, and Dacia LLC*

An Employee of MAIER GUTIERREZ & ASSOCIATES

EXHIBIT 1

EXHIBIT 1



Nevada Trust Deed Services

January 7, 2022

JAY BLOOM MANAGER-SPANISH HEIGHTS ACQUISITION COMPANY LLC
C/O MAIER GUTIERREZ & ASSOCIATES
8816 SPANISH RIDGE AVENUE
LAS VEGAS, NV 89148

Re: File No. 20-09-008-FCL

We are enclosing herewith a copy of the Notice of the above Trustee's sale, the date of which has been set as February 1, 2022, and will be held at the location set forth in the attached Notice.

Publication will be on January 11, 2022, January 18, 2022 and January 25, 2022.

Sincerely,

Michele Dobar
Foreclosure Officer

Enclosures

Certified Mail
Return Receipt Requested

APN: 163-29-615-007

RETURN TO/TRUSTEE CONTACT INFO:
Nevada Trust Deed Services
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
(702)733-9900

Inst #: 20220111-0000672
Fees: \$42.00
01/11/2022 08:51:02 AM
Receipt #: 4848219
Requestor:
Nevada Trust Deed Service
Recorded By: OSA Pgs: 2
Debbie Conway
CLARK COUNTY RECORDER
Src: ERECORD
Ofc: ERECORD

NOTICE OF TRUSTEE'S SALE

FILE NO 20-09-008-FCL
DATED: January 7, 2022

On February 1, 2022 at 09:30 AM, Nevada Trust Deed Services, as duly appointed or substituted Trustee under and pursuant to the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") dated December 17, 2014 recorded as Instrument No. 20141229-0002856, and as modified or amended, if applicable, in the Office of the County Recorder of CLARK County, Nevada executed by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto in favor of 5148 Spanish Heights, LLC, a Nevada limited liability company as current beneficiary by reason of now continuing default in the payment or performance of obligations secured by said Deed of Trust, including the Notice of Breach and Election to Sell Under Deed of Trust which was recorded in the Office of the County Recorder of CLARK County, Nevada, by the beneficiary and the undersigned more than three months prior to the date thereof, WILL CAUSE TO BE SOLD AT PUBLIC AUCTION TO THE HIGHEST BIDDER FOR CASH (payable at the time of sale in lawful money of the United States of America) at the front entrance to Nevada Legal News, 930 S. Fourth Street, Las Vegas, NV 89101, all right, title and interest conveyed to and now held by it under said Deed of Trust in the property situated in said County and State described as:

Lot Seven (7) in Block Five (5) of Spanish Hills Estates Unit 5A, as shown by map thereof on file in Book 107, of Plats, Page 58, in the Office of the County Recorder of Clark County, Nevada.

Together with any and all improvements, personal property and fixtures located thereon or otherwise described in the Deed of Trust and in any other instruments in favor of the Beneficiary, and all singular tenements, hereditaments and appurtenances thereunto belonging or appertaining, rents, issues and profits thereof.

Commonly known as: 5148 Spanish Heights Dr., Las Vegas, NV 89148, APN: 163-29-615-007

If a street address or common designation of property is shown, no warranty is given as to its completeness or correctness.

Said sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal balance of the obligations secured by said Deed of Trust, to wit: \$2,935,001.14 together with interest, fees, premiums and charges thereon, as provided in said Secured Promissory Note and related loan documents, advances, if any, under the terms of said Deed of Trust, fees, charges and expenses of Trustee and of the Trusts created by said Deed of Trust.

NEVADA TRUST DEED SERVICES

By: Michele Dobar
Michele Dobar, Foreclosure Officer

Published in Nevada Legal News on the following dates:
January 11, 2022, January 18, 2022, January 25, 2022

STATE OF NEVADA
COUNTY OF CLARK

This instrument was acknowledged before me on January 7, 2022 by Michele Dobar, as Foreclosure Officer of Nevada Trust Deed Services.

Signature Christine Miranda
(Notary Public)



Christine Miranda
No. 01-68745-1
Exp. Feb. 1, 2023

Nevada Trust Deed Services
10161 Park Run Drive
Suite 150
Las Vegas NV 89145

USPS CERTIFIED MAIL



9414 8118 9876 5842 6452 53

20-09-008-FCL
Jay Bloom Spanish Heights Acquisition Co LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas NV 89148



\$6.13 US POSTAGE
FIRST-CLASS
Jan 11 2022
Mailed from ZIP 89145
1 oz First-Class Mail Letter

11923275



062S0012913542

EXHIBIT 2

EXHIBIT 2

Daily Interest	Today	Start date	Days	Total Interest today
\$1,608.22	1/7/2022	4/1/2020	646	\$1,038,910.12
Principal	\$2,935,001.14			
Accrued interest	\$1,315,105.24			
Advances	\$1,326,744.55			
Interest owed	\$1,038,910.12			
Attorney's Fees (foreclosure)	\$42,572.50			
Costs (foreclosure)	\$12,305.07			
Attorney's Fees (state)	\$624,479.00			
Costs (state)	\$28,696.06			
Attorney's Fees (BK)	\$174,790.50			
Costs (BK)	\$20,898.15			
Total Owed	\$7,519,502.33			

EXHIBIT 3

EXHIBIT 3

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DECLARATION OF JAY BLOOM

I, JAY BLOOM, hereby declare as follows:

1. I am over the age of eighteen (18) and I have personal knowledge of all the facts set forth herein. Except otherwise indicated, all facts set forth in this declaration are based upon my own personal knowledge, my review of the relevant documents, and my opinion of the matters that are the issues of this lawsuit. If called to do so, I would competently and truthfully testify to all matters set forth herein, except for those matters stated to be based upon information and belief.

2. I am providing this declaration in my capacity as Manager on behalf of SJC Ventures, LLC, and as Manager of the entity owning the majority interest in Spanish Heights Acquisition Company, LLC, the plaintiffs in this matter.

3. I have reviewed the "PLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION ON AN ORDER SHORTENING TIME" dated January 19, 2022 ("Motion") and the factual assertions in that Motion are true and accurate to the best of my knowledge.

4. I reside at the Property at issue with my wife, my son, his friend, my octogenarian mother-in-law, and three rescue dogs.

5. I understand and acknowledge that Plaintiffs defaulted on the Settlement Agreement at issue in this litigation by not timely making a payment by January 5, 2022, and as a result, Defendants are able to initiate foreclosure proceedings. However, Plaintiffs should also be permitted to redeem the Property, and they have been precluded from doing so as a result of Defendants failing to provide a true, accurate, valid and accounted-for payoff demand.

6. The payoff demand provided by Plaintiffs (Exhibit 2) has numerous deficiencies, including over \$410,000 in unexplained and demonstrably overstated interest accrued, and the calculations do not line up with Defendants' own prior Notice of Default from January 2021.

7. The payoff demand is also seeking in excess of \$900,000 in fees and costs for a foreclosure action, which Defendant refuses to substantiate by actual invoices and more importantly, appears to include fees and costs for work spent outside of noticing and conducting a rudimentary

1 non-judicial foreclosure sale.

2 8. Both Spanish Heights Acquisition Company, LLC and SJC Ventures, LLC will
3 undoubtedly be irreparably materially harmed if a TRO is not granted preventing Defendants from
4 foreclosing on the Property pending the adjudication of the accurate payoff demand amount and
5 opportunity to pay off the actual amount due. SHAC will be deprived of real property which is unique
6 and SJC will be deprived of its tenancy if this wrongful foreclosure is allowed to proceed on an
7 overstated demand, without the requisite opportunity to pay off the correct amount due, and my family
8 will be displaced and forced to find alternative housing.

9 9. Plaintiffs fully intend on redeeming the Property prior to the foreclosure sale, but they
10 can only do so after the Defendant's six-figure "over billing" in the payoff demand under threat of
11 non-judicial sale, are addressed and adjudicated by this Court through an evidentiary hearing.

12 I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct to the best of knowledge, information and belief.

14 DATED this 19th day of January, 2022.



15
16 JAY BLOOM

EXHIBIT 4

EXHIBIT 4

Inst #: 20171103-0002240

Fees: \$40.00

RPTT: \$0.00 Ex #: 009

11/03/2017 04:12:56 PM

Receipt #: 3240505

Requestor:

LEGAL WINGS

Recorded By: ANI Pgs: 3

DEBBIE CONWAY

CLARK COUNTY RECORDER

Src: FRONT COUNTER

Ofc: MAIN OFFICE

APN# 163-29-615-007

11-digit Assessor's Parcel Number may be obtained at:
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>

Deed of Sale

Type of Document

(Example: Declaration of Homestead, Quit Claim Deed, etc.)

Recording Requested By:

Maier Gutierrez & Associates

Return Documents To:

Name Joseph A. Gutierrez, Esq., Maier Gutierrez Ayon

Address 8816 Spanish Ridge Avenue

City/State/Zip Las Vegas, Nevada 89148

This page added to provide additional information required by NRS 111.312 Section 1-2

(An additional recording fee of \$1.00 will apply)

This cover page must be typed or printed clearly in black ink only.

OR Form 108 ~ 06/06/2007

Coversheet.pdf

APN: 163-29-615-007

Return document and mail tax statements to:

SPANISH HEIGHTS ACQUISITION COMPANY, LLC
5148 Spanish Heights Dr.
Las Vegas NV 89148

DEED OF SALE

THIS INDENTURE WITNESSETH: That first party

ANTOS, KENNETH & SHEILA LIV TR, KENNETH M ANTOS SHEILA M. NEUMANN-ANTOS TRS

for valuable consideration, the receipt of which is hereby acknowledged, does hereby convey without warranty, express or implied, to:

SPANISH HEIGHTS ACQUISITION COMPANY, LLC

the real property situated in the County of Clark, State of Nevada, described as follows:

LOT SEVEN (7) IN BLOCK FIVE (5) OF SPANISH HILLS ESTATES UNIT 5A, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 107, OF PLATS, PAGE 58, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA

and commonly known as 5148 SPANISH HEIGHTS DR., LAS VEGAS NV 89148.

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

Subject to:

1. Property taxes.
2. Conditions, covenants, restrictions, reservations, rights, rights of way, and easements now of record, if any.
3. Liens, deeds of trust, and other encumbrances now in force, if any.

Grantor: **ANTOS, KENNETH & SHEILA LIV TR**

By:


Kenneth Antos, Trustee

By:


Sheila Neuman-Antos, Trustee

STATE OF NEVADA)
COUNTY OF CLARK)

This instrument was executed before me on October 11, 2017, by (print name) Kenneth Antos
and Sheila Neuman-Antos

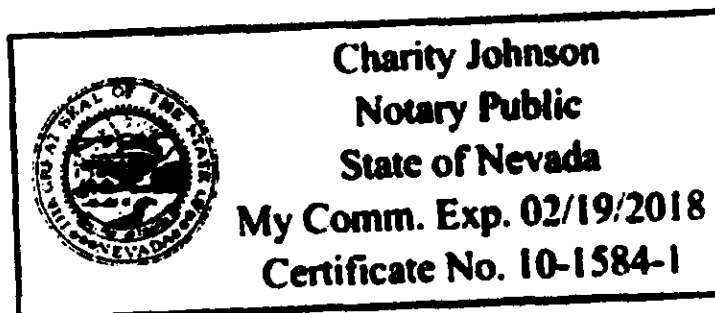

NOTARY PUBLIC

My Commission Expires:

2/19/18

My Certificate No.:

10-1584-1



STATE OF NEVADA
DECLARATION OF VALUE

1. Assessor Parcel Number(s)

a. 163-29-615-007

b.

c.

d.

2. Type of Property:

a. ☐ Vacant Land

b. ☒ Single Fam. Res.

c. ☐ Condo/Twnhse

d. ☐ 2-4 Plex

e. ☐ Apt. Bldg

f. ☐ Comm'l/Ind'l

g. ☐ Agricultural

h. ☐ Mobile Home

☐ Other

FOR RECORDERS OPTIONAL USE ONLY

Book _____ Page: _____

Date of Recording: _____

Notes: _____

3.a. Total Value/Sales Price of Property

\$ 0.00

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

c. Transfer Tax Value:

\$ 0.00

d. Real Property Transfer Tax Due

\$ 0.00

4. If Exemption Claimed:

a. Transfer Tax Exemption per NRS 375.090, Section #9

b. Explain Reason for Exemption: A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property

5. Partial Interest: Percentage being transferred: 100 % owns 100% of the corporation or organization

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

Signature _____

Capacity: Grantor/Seller

Signature Sheila Heumann-Grantor

Capacity: Grantor/Seller

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: Antos, Kenneth and Sheila LT

Address: 5148 Spanish Heights, Dr

City: Las Vegas

State: NV

Zip: 89148

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Spanish Heights Acq. Co, LLC

Address: 5148 Spanish Heights Dr

City: Las Vegas

State: NV

Zip: 89148

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

Print Name: Maria Gutierrez & Associates

Escrow # _____

Address: 8010 Spanish Ridge Avenue

City: Las Vegas

State: NV

Zip: 89148

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT 5

EXHIBIT 5

5148 Spanish Heights Dr.

Las Vegas, Nevada

LANDLORD

Spanish Heights Acquisition Company, LLC,
a Nevada limited liability company

TENANT

SJC Ventures, LLC
a Delaware limited liability company

REAL PROPERTY LEASE

THIS LEASE is made as of August 15, 2017, by and between Spanish Heights Acquisition Company, LLC, a Nevada limited liability company ("Landlord"), and SJC Ventures, LLC, a Delaware limited liability company ("Tenant") (the foregoing parties are collectively the "Parties" and each is a "Party").

ARTICLE I INTRODUCTORY PROVISIONS

1.1 Defined Terms. Capitalized terms used in this Lease and not otherwise defined shall have the meanings set forth or cross-referenced in Exhibit "1".

1.2 APPROVAL OF CBCI- The parties recognize that the execution this Real Property Lease is a condition to the Forbearance Agreement between CBC Partners I, LLC, and the Landlord, Tenant, and other parties. Accordingly, this Lease Agreement is subject to the written consent of CBCI ("CBCI's Consent"), in the form which is attached to Exhibit "2." The terms and conditions of CBCI's Consent, and the Forbearance Agreement shall supersede any provisions of this Lease that are inconsistent with, or contrary to, the Consent Agreement.


1.3 Basic Lease Provisions. The following are certain basic lease provisions that are part of and are referred to in subsequent provisions of this Lease:

(a) Term:

(i) two (2) years commencing on the Rent Commencement Date and expiring on the Term Expiration Date, unless this Lease is extended as provided herein or is earlier terminated by Law or as otherwise provided herein.

(ii) Tenant shall be afforded, at Tenants sole option, two additional consecutive lease extensions consisting of a two years term for each of the two extensions, as may be exercised by Tenant.

(b) Estimated Premises Delivery Date:

August 15, 2017 

(c) Rent Commencement Date:

The first day of the month following the Premises Delivery Date.

(d) Base Rent:

Per schedule set forth below. The monthly Base Rent shall be abated during certain months as indicated:

Initial Term Monthly Base Rent:

<u>Lease Month</u>	<u>Monthly Base Rent</u>
1-3	\$0.00
3-24	\$4,375

(e) Tenant's Name:
SJC Ventures, LLC

(f) Permitted Use:

The Premises may be occupied and used by the Tenant and its assigned solely for those lawful purposes allowed pursuant to Statute, Ordinance and CC&Rs for the community.

(g) Notice Addresses:
Tenant: SJC VENTURES, LLC
5148 Spanish Heights Dr.,
Las Vegas, Nevada 89148

With copies to:

Landlord: SPANISH HEIGHTS
ACQUISITION COMPANY, LLC
5148 Spanish Heights Dr.,
Las Vegas, Nevada 89148

With copies to:

A COPY OF ANY NOTICES SHALL ALSO BE PROVIDED
TO CBCI IN ACCORDANCE WITH THE CONSENT
AGREEMENT.

Payments to:

SPANISH HEIGHTS
ACQUISITION COMPANY, LLC
5148 Spanish Heights Dr.,
Las Vegas, Nevada 89148

(h) First Installment of Monthly Base Rent and Security Deposit:

Within 90 days of execution and delivery of this Lease, Tenant shall pay no less than the first year of the Monthly Base Rent of \$4,375.00 which installment shall be applied to the Monthly Base Rent for the third (3rd) through twelfth (12th) full calendar months of the Term. Monthly Base Rent for any partial calendar month at the beginning of the Term shall not be billable.

(i) Guarantor:

Tenant to provide a guarantee against its distributions resultant from its interest in 1st One Hundred Holdings, LLC. and any proceeds realized therefrom under such company's collections against its judgments in the Nevada State Clark County Eighth Judicial District Court Actions, cases numbered A-16-738970-C and A-17-753459-C.

1.3 Additional Provisions. The following provisions shall apply notwithstanding anything in this Lease to the contrary:

(a) Tenant Compliance with CC&Rs: Tenant shall comply with all CC&R obligations of unit owners and residents, as set forth in the Associations Governing Documents and Covenants Conditions and Restriction.

Should there be any compliance issue, Tenant shall be responsible to cure any such violation cited, and either defend or pay an fines associated with such violations asserted.

(d) Premises Delivery Condition: Landlord shall deliver the Premises in as is where is condition.

1.4 Modified Gross Lease. This Lease is a modified gross lease.

1.5 Exhibits. The following exhibits are attached hereto and incorporated herein by this reference:

EXHIBIT "1" - Definitions

EXHIBIT "2" – CBCI'S Consent to Lease.

ARTICLE II
PREMISES

2.1 Premises. Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises, subject to (a) the terms and conditions of this Lease, (b) all matters of record, and (c) all Community Association Governing Documents and Covenants Conditions and Restrictions.

ARTICLE III
TERM

3.1 Initial Term. The term of this Lease shall commence on the Rent Commencement Date and, unless this Lease extended as provided in Section 3.5 or is earlier terminated by Law or as elsewhere provided herein, shall expire at midnight on the "Term Expiration Date" which shall be the date at the end of the number of Lease Years stated in Section 1.2(d) (such term, as the same may be extended under Section 3.5, is referred to herein as the "Term").

3.2 Rent Commencement Date.

(a) As used in this Lease, the term "Rent Commencement Date" shall mean the date specified in Section 1.2(c).

3.3 Confirmation of Term. At any time following the Rent Commencement Date, Landlord and Tenant shall, within fifteen (15) days following the request of either Party, execute a written confirmation of the Rent Commencement Date and the Term Expiration Date.

3.4 Commencement of Tenant Obligations. From the date Landlord delivers possession of the Premises to Tenant until the Rent Commencement Date, Tenant shall observe and perform all obligations of Tenant hereunder (other than its obligations to pay Base Rent and Additional Charges) as if the term of this Lease began when possession of the Premises was so delivered to Tenant.

3.5 Extension of Term. Tenant is hereby granted an option to extend the term of this Lease, hereinafter referred to as the "Original Lease", for the additional consecutive periods set forth in Section 1.2(d), if any. Each such option shall be effectively exercised only if (a) Tenant notifies Landlord, in writing, no less than one (1) months nor more than six (6) months prior to the commencement of the applicable extension period, of Tenant's intention to exercise such option, and (b) Tenant, at the time of such notice and as of the commencement of such extension period, is not in default of this Lease. If Tenant fails to effectively exercise any such option, then such option, and any other future options to extend the term of this Lease, shall thereupon terminate. The terms and conditions of each extension period shall be the same as the terms and conditions of the Original Lease except that: (a) Tenant shall have no further right of extension after the expiration of the last extension period, and (b) the Base Rent payable during such extension period shall be calculated in accordance with Section 1.2(d).

3.6 Surrender Upon Lease Termination. Upon the expiration or earlier termination of this Lease, Tenant shall deliver and surrender to Landlord possession of the Premises in broom-clean

condition and otherwise in the state of condition and repair as Tenant is required to maintain the Premises hereunder.

3.7 Holding Over. If Tenant holds possession of the Premises after the expiration or earlier termination of this Lease, then Landlord may, in its sole and absolute discretion, treat such possession as an unauthorized holdover and as either a tenancy at sufferance or a month-to-month tenancy, upon the same terms and conditions as are hereinafter set forth, except that the monthly Base Rent shall be one hundred percent (100%) of the monthly Base Rent payable by Tenant immediately prior to such termination (prorated on a daily basis if such tenancy is treated by Landlord as a tenancy at sufferance). Nothing herein shall be construed to limit Landlord's right to obtain possession of the Premises upon termination of this Lease by unlawful detainer proceedings or otherwise if Landlord does not exercise its option to treat the continued possession by Tenant as a month-to-month tenancy, or to pursue any other remedy provided for in this Lease or available at law or in equity.

ARTICLE IV RENT

4.1 Base Rent.

(a) Tenant hereby covenants and agrees to pay to Landlord, without deduction or set-off and without notice or demand, as "Base Rent", the amount(s) set forth in Section 1.2(d), said amount(s) to be due and payable in monthly installments, in advance, on the Rent Commencement Date and on the first day of each and every calendar month thereafter. Monthly Base Rent for any partial calendar month shall be prorated based on the actual number of days in such month. A 30-day grace period shall exist on all rent due dates.

(b) Tenant shall pay the adjusted Base Rent as calculated pursuant to Section 1.2(d) commencing with the first month of the Lease Year affected by the adjustment. However, pending the determination of the adjusted Base Rent, Tenant shall continue to pay Base Rent in the same amount as the Base Rent for the Lease Year immediately preceding the Lease Year affected by the adjustment. When the adjusted Base Rent has been determined, Tenant, concurrently with the next monthly Base Rent payment due and payable after the furnishing by Landlord to Tenant of the computation of the adjusted Base Rent, in addition to the adjusted Base Rent for such month, shall pay Landlord a sum equal to the amount of the increase in the Base Rent due for each of the previous months in the Lease Year affected by the adjustment.

4.2 Manner of Payment. All Rent and other amounts that Tenant is required to pay to Landlord hereunder shall be paid in lawful currency of the United States of America at the address set forth in Section 1.2(d) or such other place as Landlord may, from time to time, designate in writing.

4.3 Late Charges. Notwithstanding anything in this Lease to the contrary, if Tenant fails to pay any Rent or other amount that Tenant is required to pay to Landlord hereunder within thirty (30) days

following the due date thereof, then Tenant shall pay to Landlord upon demand a late charge equal to two percent (2%) of the amount due per month from the due date thereof.

4.4 Accord and Satisfaction. No payment by Tenant or receipt by Landlord of an amount less than the amount of any payment of Rent or other amount herein stipulated shall be deemed to be other than on account of the earliest stipulated Rent or other amount, nor shall any endorsement or statement on any check or any letter accompanying any check or payment of Rent or other amount be deemed an accord and satisfaction, and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such Rent or other amount or pursue any other remedy provided for in this Lease or available at law or in equity.

ARTICLE V ADDITIONAL CHARGES

5.1 Status of Charges. Tenant shall additionally pay to Landlord, as part of the Rent, the amounts described in this Article VIII (collectively, the "Additional Charges").

5.2 Operating Costs.

(a) Tenant shall pay to Landlord Operating Costs. Tenant's share of the Premises Operating Costs shall be paid by Tenant to Landlord in equal monthly installments, in advance, without deduction or set-off and without notice or demand, on the first day of each calendar month during the Term in an amount equal to one-twelfth (1/12) of Tenant's share of the Premises Operating Costs as estimated by Landlord for the then current Landlord's Fiscal Year. The amount due for any partial Landlord's Fiscal Year shall be prorated based on the actual number of days in such year, and in any event, shall not exceed 10% of the base rent as specified in 1.2(d) above during the initial Lease Term. During any optional term, the 10% cap referenced in the preceding sentence will apply only to increases over the total Premises Operating Costs paid by Tenant in the final year of the initial Term.

(b) Within ninety (90) days after the end of each Landlord's Fiscal Year, Landlord shall furnish Tenant with a written statement in reasonable detail of the actual Operating Costs and the amount of Tenant's share thereof for such Landlord's Fiscal Year. If Tenant's share of the actual Operating Costs for such Landlord's Fiscal Year exceeds the aggregate of Tenant's monthly payments with respect thereto, then Tenant shall pay to Landlord any deficiency within thirty (30) days after Tenant's receipt of such statement from Landlord. If the aggregate of Tenant's monthly payments with respect thereto exceeds Tenant's share of the actual Operating Costs for such Landlord's Fiscal Year, then any surplus paid by Tenant shall be credited against the next installment of Rent due (except at the end of the Term, in which case Landlord shall pay such surplus to Tenant within thirty (30) days after Landlord's determination thereof). No failure of Landlord to provide such statement within the time prescribed shall relieve Tenant of its obligations hereunder. The obligations of Landlord and Tenant to make the foregoing adjustment shall survive the expiration or earlier termination of this Lease.

(c) As used herein, "Property Operating Costs" means all costs paid or incurred by Landlord in owning, operating, managing, maintaining, repairing, replacing, enhancing, securing, protecting and insuring the building, other improvements and spaces within the property, including,

without limitation: (i) costs of maintaining, repairing and replacing the roofs, structural portions and exteriors of the buildings in the Premises, (ii) costs of repainting the buildings and other improvements to the property, (iii) costs of electricity, water, gas, sewer and other utility services, (iv) costs of lighting, cleaning, heating, air-conditioning and otherwise cooling the premises, (v) costs of all maintenance and repairs necessary to preserve and maintain the utility and appearance of the premises, (vi) landscaping costs and costs of seasonal and other similar decorations for the premises, (vii) costs of installing, maintaining and repairing security systems, fire protection systems, lighting and utility systems, and storm drainage systems, (viii) trash, dirt, debris and other waste removal costs, (ix) pest extermination and control costs, (x) costs of supplies, materials, tools and equipment used in the operation, maintenance and repair of the premises, (xi) assessments paid or incurred by Landlord with respect to the premises under the Governing Documents or the CC&Rs, (xii) the reasonable costs of payroll, payroll taxes and employee benefits of all management personnel, including, managers, security and maintenance personnel, secretaries and bookkeepers, (xiii) reasonable consulting, accounting and legal fees and costs, (xiv) costs of purchasing and maintaining in full force all insurance that Landlord is required to maintain hereunder or that Landlord deems necessary or appropriate with respect to the premises, (xv) costs of services, if any, furnished by Landlord for the use of all tenants of the premises, including, without limitation, parcel pickup and delivery services, and (xvi) costs of improvements not part of initial premises construction which are (A) made to comply with Laws or insurance requirements not in force at the time of such initial construction, (B) undertaken for the protection of the health and safety of tenants, residents and other occupants of the premises and their agents, employees, customers and invitees, or (C) made for the purpose of reducing Premises Operating Costs.

5.3 Real Property Taxes.

(a) Tenant acknowledges that the Premises, its leasehold improvements and the underlying realty will be separately assessed for tax purposes. Tenant shall pay to Landlord as Tenant's share of the Real Property Taxes the portion of the Real Property Taxes set forth in Section 1.2(h). Tenant's share of Real Property Taxes shall be paid by Tenant to Landlord in equal monthly installments, in arrears, without deduction or set-off and without notice or demand, on the first day of each calendar month following the Term in an amount equal to one-twelfth (1/12) of Tenant's share of the Real Property Taxes as estimated by Landlord for the then current Landlord's Fiscal Year. The amount due for any partial Landlord's Fiscal Year shall be prorated based on the actual number of days in such year.

(b) Within ninety (90) days after Landlord's payment of the final installment of Real Property Taxes for each Landlord's Fiscal Year, Landlord shall furnish Tenant with a written statement in reasonable detail showing the actual amount of the Real Property Taxes and the amount of Tenant's share thereof for such Landlord's Fiscal Year. If Tenant's share of the actual Real Property Taxes for such Landlord's Fiscal Year exceeds the aggregate of Tenant's monthly payments with respect thereto, then Tenant shall pay to Landlord any deficiency within thirty (30) days after Tenant's receipt of such statement from Landlord. If the aggregate of Tenant's monthly payments with respect thereto exceeds Tenant's share of the actual Real Property Taxes for such Landlord's Fiscal Year, then any surplus paid by Tenant shall be credited against the next installment of Rent due (except at the end of the Term, in which case Landlord shall pay such surplus to Tenant within thirty (30) days after Landlord's determination thereof). No failure of Landlord to provide such statement within the time prescribed shall relieve Tenant of its obligations hereunder. The obligations of Landlord and Tenant to make the foregoing adjustment shall survive the expiration or earlier termination of this Lease.

(c) As used herein, "Real Property Taxes" means all taxes, assessments, levies, fees

and other governmental charges, general and special, ordinary and extraordinary, including, but not limited to, assessments for off-site public improvements for the benefit of the premises, which are laid, assessed, levied or otherwise imposed upon the premises or any part thereof and which are payable at any time during the Term, and all gross receipts taxes, rent taxes, business taxes and occupancy taxes, and shall include all of Landlord's reasonable administrative costs and all costs, including, without limitation, reasonable attorney fees, incurred by Landlord in contesting or negotiating any Premises Real Property Tax with any governmental authority, excepting only franchise, estate, inheritance, succession, capital levy, transfer, net income and excess profits taxes imposed upon Landlord.

(d) The Rent to be paid under this Lease shall be paid to Landlord absolutely and without deduction for taxes of any nature whatsoever. Landlord and Tenant recognize and acknowledge that there may be changes in the current real property tax system and that there may be imposed new forms of taxes, assessments, levies, fees or other governmental charges, or there may be an increase in certain existing taxes, assessments, levies, fees or other governmental charges placed on, or levied in connection with the ownership, leasing, occupancy or operation of, the Premises. All such new or increased taxes, assessments, levies, fees or other governmental charges which are imposed or increased as a result of or arising out of any changes in the structure of the real property tax system or any limitations on the real property taxes which can be assessed on real property including, but not limited to, any and all taxes, assessments, levies, fees and other governmental charges imposed due to the existence of this Lease (including any surcharge on the income directly derived by Landlord therefrom) or for the purpose of funding special assessment districts of the type funded by real property taxes, shall also be included within the meaning of "Premises Real Property Taxes". With respect to any general or special assessment which may be levied against or upon the Premises and which under the Laws then in force may be evidenced by improvement or other bonds, or may be paid in periodic installments, there shall be included within the meaning of "Real Property Taxes" with respect to any Landlord's Fiscal Year only the amount currently payable on such bond for such Landlord's Fiscal Year, or the periodic installment for such Landlord's Fiscal Year.

(e) Tenant shall be responsible for payment of any type of tax, excise or assessment (regardless of label or whether in the form of a rental tax, gross receipts tax, sales tax, business or occupation tax, use assessment, privilege tax, franchise tax, or otherwise, except any tax, excise or assessment which in substance is a net income or franchise tax that is based solely on Landlord's net income) which is laid, assessed, levied or otherwise imposed at any time by any governmental authority upon or against the Premises, the use or occupancy of the Premises, the Rent payable by Tenant to Landlord, or otherwise with respect to the landlord-tenant relationship hereunder. Tenant shall pay the full amount of such tax, excise or assessment directly to the appropriate governmental authority, unless the applicable law expressly imposes solely on Landlord the duty to pay or collect such tax, excise or assessment, in which case Tenant shall pay the full amount of such tax, excise or assessment as part of the Rent due and payable under this Lease to Landlord within thirty (30) days following receipt of Landlord's billing therefor. Notwithstanding that the applicable Law may impose on Landlord the duty to pay or collect such tax, excise or assessment, it is understood and agreed that Tenant shall nevertheless be obligated to pay such tax, excise or assessment and Landlord shall be indemnified against and held harmless from the same by Tenant. If (i) Tenant fails to timely pay such tax, excise or assessment and Landlord pays the same, or (ii) Landlord elects in its sole and absolute discretion to pay the same in advance, then Tenant shall promptly reimburse Landlord for the amount thereof as part of the Rent next due and payable under this Lease. The provisions of this paragraph shall also apply to any such tax, excise or assessment which may at any time replace or supplement any tax, excise or assessment described herein.

ARTICLE VI
SECURITY DEPOSIT

6.1 Security Deposit. Within 90 days of the Tenant's execution and submission of this Lease, Tenant shall deposit with Landlord and thereafter during the Term shall maintain on deposit with Landlord, without interest, the sum set forth in Section 1.2(d) as security deposit for the full, prompt and faithful performance by Tenant of all of its obligations hereunder. The Parties agree that it is the intent of the Parties that (a) such deposit or any portion thereof may be applied by Landlord to the initial obligations of the Tenant under this Agreement and/or the curing of any default that may exist, without prejudice to any other remedy or remedies which Landlord may have on account thereof, and at the end of the first year, Tenant shall pay to Landlord upon demand the amount so applied which shall be added to the security deposit so that the same will be restored to its original amount, (b) Landlord shall not be obligated to hold the security deposit as separate funds, but may commingle it with other funds, (c) if Tenant performs of all of the terms, covenants and conditions of this Lease on its part to be kept and performed, then the security deposit, or any then remaining balance thereof, shall be returned to Tenant, without interest, within sixty (60) days after the expiration of the Term, and (d) should the Premises be transferred by Landlord, the security deposit or any balance thereof may be turned over to Landlord's successor or transferee, and if the security deposit is turned over to such successor or transferee, Tenant agrees to look solely to such successor or transferee with respect to any required return of the security deposit.

ARTICLE VII
UTILITIES AND OTHER SERVICES

7.1 Utilities. Landlord will provide at points available to the Premises (through conduits, shafts, ducts or otherwise) the facilities necessary to enable Tenant to obtain for the Premises electricity, water, gas, sewer, cable and telephone service. Landlord, at its sole cost and expense, shall be responsible for installing and constructing all equipment, lines, improvements and alterations necessary to pull or otherwise bring such utilities from such points to the Premises. Landlord shall be solely responsible for, and shall promptly and timely pay, all costs (including, without limitation, connection and service charges) of all electricity, water, gas, sewer, telephone, and other utilities and services consumed or used at the Premises directly to the utility or service provider or to Landlord, as Landlord may direct, on the basis, where applicable, of separate meters and otherwise on such basis as Landlord reasonably designates. Landlord shall also pay all costs of installing meters or sub-meters, to the extent available, for such utilities and services. With respect to costs for utilities and services billed directly by Landlord, Landlord shall not charge Tenant at a rate in excess of the rate the utility and service providers would otherwise charge Tenant if billed directly ("Additional Charges").

7.2 Premises HVAC. Landlord, shall maintain all equipment, alterations and improvements necessary to provide HVAC for the premises. Tenant shall ensure that all Premises HVAC equipment is installed, operated and maintained in a manner that prevents roof leaks, damage or noise due to vibrations or improper installation, operation or maintenance.

7.3 Interruption of Service. Landlord shall not be liable to Tenant in damages or otherwise if

any one or more of such utilities or services used or consumed at the Premises is interrupted or terminated because of (a) necessary repairs, maintenance, replacements, improvements or alterations, (b) the failure or inability of any provider of any such utility or service to provide such utility or service to the Premises, (c) any Law, or (d) any other cause beyond Landlord's reasonable control. No such interruption or termination of utilities or services shall relieve Tenant from any of its obligations under this Lease.

7.4 Trash. Tenant shall dispose of all garbage, refuse, trash and other waste in the kind of containers, in the areas and otherwise in the manner reasonably directed by Landlord. If Tenant requires the services of a trash compactor or any special waste processing, it agrees to arrange for and coordinate such services through Landlord. Should Landlord implement a recycling program, Tenant agrees to follow all procedures designated by Landlord in compliance therewith.

7.5 Services. Tenant acknowledges that Landlord has entered into or may in the future enter into agreements with service providers (collectively, "Service Providers") for pest control, garbage removal and disposal, recycling, telecommunications services (including, without limitation, telephone, cable, internet, data, wireless and other communications services) and other services to provide services to the premises and its tenants for the purpose of achieving uniformity of services, favorable pricing and/or limiting the number of service providers working in or providing services to the Premises and its tenants. Landlord may, at its sole discretion, assume the sole responsibility of contracting with such Service Providers, and Tenant shall then be responsible for, and shall promptly and timely pay, all costs for such common services consumed or used at the Premises by Tenant, by making payment in advance either directly to the Common Service Provider or to Landlord, as determined by Landlord, on the basis Landlord reasonably designates. Landlord shall not charge Tenant at a rate in excess of the rate the Service Providers would otherwise charge Tenant directly (except that Landlord may include a reasonable administrative charge in such costs). In the event Landlord delegates any such service responsibilities directly to Tenant, Tenant agrees to contract with such Service Providers and to abide by the terms of Landlord's agreements with such Service Providers, provided that the amounts which are to be paid to such Service Providers by Tenant, and the quality of product and level of service to be provided by such Service Providers to Tenant, shall at all times be competitive in the Las Vegas metropolitan area. Upon request by Landlord, Tenant shall provide a copy of all documentation evidencing regular and proper conduct of all such services delegated to Tenant.

ARTICLE VIII MAINTENANCE

8.1 Maintenance by Landlord.

(a) Landlord shall keep and maintain the facilities described in the first sentence of Section 12.1, the roof, structural portions, interior and exterior of the Premises, in good and tenantable condition and repair during the Term; provided, however, that if the need for any such repair is attributable to or results from any violation of this Lease by Tenant or any act, omission, negligence or misconduct of Tenant, its agents, employees or contractors, then in such case Tenant shall reimburse Landlord on demand for all costs and expenses incurred by Landlord with respect to such repairs.

(b) For purposes of this Article VIII, neither the structural portions of the Premises

nor the exterior of the Premises shall be deemed to include the plate or other glass, window cases or frames, doors or door frames of the Premises.

(c) Landlord shall not be liable to Tenant for any failure by Landlord to make any repairs that Landlord is required to make hereunder unless Tenant has previously notified Landlord in writing of the need for such repairs and Landlord has failed to commence such repairs within a reasonable period of time following Landlord's receipt of Tenant's written notification or to thereafter diligently pursue such repairs to completion.

8.2 Maintenance by Tenant. Tenant, at its sole cost and expense, shall keep and maintain in good condition and repair the plate and other glass, window cases and frames, doors and door frames of the Premises; all equipment, lines, improvements and alterations for electricity, water, gas, sewer, HVAC, and other utilities and services which serve the Premises exclusively, whether located within or outside of the Premises; the interior of the Premises; all equipment, fixtures, alterations and improvements located in or exclusively serving the Premises; and all other portions of the Premises other than those that Landlord is expressly required to maintain under Section 13.1. All repairs and replacements made by Tenant under this Section 13.2 shall be in quality and class equal to the original work or item, and shall be performed in a good and workmanlike manner, in compliance with all applicable Laws, and at such times and in such manners as Landlord may reasonably designate to minimize any interference with the operation of the Premises. Tenant shall indemnify Landlord for expenses incurred by Landlord as a result of Tenant's failure to satisfy its maintenance requirements.

8.3 Casualty and Condemnation. This Article VIII shall not apply to damage caused by a fire or other casualty, or by condemnation. The relative obligations of Landlord and Tenant with respect to the repair of such damage shall instead be governed by the provisions of Article XIX or Article XX, as applicable.

ARTICLE IX CHANGES TO PREMISES

9.1 Alternations and Remodeling.

(a) Tenant, at its sole cost and expense, shall have the right, during the Term, to make such interior installations, improvements and other alterations in or to the Premises as Tenant may deem necessary or desirable for its use of the Premises; provided, however, that Landlord's prior written consent shall be required for (i) any installation, improvement or other alteration that requires a building permit under any applicable Law, (ii) any changes in the appearance of the Premises from any Common Area, (iii) any change to or affecting the structure of the Premises or the Building, and (iv) any material change to or affecting the electrical, water, gas, sewer, HVAC or any other mechanical system of the Premises, the Building or the Premises. Tenant shall not make any installation, improvement or other alteration in or to any other portion of the Premises (including, without limitation, the exterior walls or roof of the Premises), or make any penetration through the floor, exterior wall, grey shell ceiling or roof of the Premises, without Landlord's prior written consent. No consent of Landlord to any installation, improvement or other alteration shall create any responsibility or liability on the part of Landlord for their design, sufficiency or compliance with any Laws. In connection with any installation, improvement or other alteration in or to the Premises by Tenant, Landlord may require Tenant, at Tenant's sole cost and expense, to furnish to Landlord a payment and performance bond naming Landlord as beneficiary from a

surety reasonably satisfactory to Landlord, or other security reasonably satisfactory to Landlord, to assure diligent and faithful payment for and performance thereof. Tenant's compliance with NRS 108.2403 shall satisfy the performance bond requirements contained in the preceding sentence. If any installation, improvement or other alteration made by Tenant impacts the structure or any mechanical system of the Premises, the Building or the Premises, or if Tenant otherwise has the same prepared, then Tenant shall deliver "as-built" plans to Landlord promptly upon completion thereof.

(b) All installations, improvements and other alterations in or to the Premises made by Tenant shall be made promptly, in a good and workmanlike manner, in accordance with all applicable Laws, using contractors approved by Landlord in writing, and at such times and in such manners as Landlord may reasonably designate to minimize any interference with the operation of the Premises.

ARTICLE X LIENS

10.1 Liens. Tenant shall use reasonable efforts to prevent any mechanic's, materialman's or other lien directly attributable to the Tenants actions from being filed against the Premises, the Building or the Premises as a result of work, labor, services or materials performed for or furnished to Tenant. If any such lien is filed, then Tenant shall (a) cause such lien to be released of record by payment, bond, order of a court of competent jurisdiction or otherwise within thirty (30) days of Tenant's receipt of notice of such filing, subject to Tenant's right to contest the claim of such lien as provided below in this Article XV, and (b) defend (using counsel reasonably acceptable to Landlord), indemnify and hold harmless Landlord against and from all legal action, damages, loss, liability and other expenses (including reasonable attorney fees) arising from or out of such lien. If Tenant desires to contest any claim of any such lien, then Tenant, at its sole cost and expense, may do so upon furnishing Landlord with security reasonably acceptable to Landlord in the amount of at least one hundred fifty percent (150%) of the amount of such claim, plus estimated costs and interest. If a final judgment establishing the validity of such claim, or any part thereof, is entered, then Tenant shall pay and satisfy the same at within fifteen (15) days of such entry.

10.2 Litigation liens. Landlord shall endeavor to clear all third party liens, resultant from judgments, against the subject premises, through the initiation of a Quiet Title action.

ARTICLE XI OWNERSHIP OF TENANT IMPROVEMENTS AND PERSONAL PROPERTY

11.1 Tenant Improvements. Subject to Section 11.2, all installations, improvements and other alterations made by Tenant in or to the Premises, including, without limitation, HVAC equipment, water heaters, plumbing fixtures, lighting fixtures, wall coverings and floor finishes, shall become the property of Landlord upon completion and shall remain upon and be surrendered with the Premises upon the expiration or earlier termination of this Lease without any obligation on the part of Landlord to compensate Tenant for the same.

11.2 Tenant Personal Property. All fixtures installed by Tenant on or in the Premises ("Tenant

Personal Property”) shall be and remain the property of Tenant and shall be removable at any time, including upon the expiration or earlier termination of this Lease. Tenant shall promptly repair any damage to the Premises caused by the removal of any Tenant Personal Property. Any Tenant Personal Property not removed from the Premises by Tenant upon the expiration or within fifteen (15) days after any earlier termination of this Lease may be construed by Landlord as abandoned by Tenant. Alternatively, Landlord may order Tenant to remove such Tenant Personal Property from the Premises or have the same removed at Tenant’s expense. All costs associated with the installation and removal of Tenant Personal Property, inclusive of damage repair expenses, shall be the sole responsibility of Tenant.

11.3 Personal Property Taxes. Tenant shall pay before delinquency all taxes, assessments, levies, fees and other governmental charges which are laid, assessed, levied or otherwise imposed upon Tenant’s business operations, leasehold improvements, trade fixtures, equipment and other personal property at the Premises.

ARTICLE XII RIGHTS OF LANDLORD

12.1 Landlord’s Right to Access and Make Repairs. Landlord, solely upon notice to and consent by the Tenant (except in the case of an emergency in which case no such notice shall be required), shall have the right to enter the Premises to inspect the Premises, to make repairs to the Premises that Landlord is required to make hereunder, to perform any other obligation of Landlord hereunder, and to make repairs to the Building, during normal business hours and at any other time the Premises is open for business (and at any time in the case of an emergency). If Tenant is not in compliance with any maintenance or repair obligation of Tenant under this Lease, then Landlord shall have the right to immediately in the case of an emergency, and otherwise upon five (5) days notice (unless Tenant commences curing such noncompliance within such five (5) day period and thereafter diligently pursues such curing to completion), enter upon the Premises to remedy said noncompliance at Tenant’s expense (payable as additional rent within thirty (30) days following receipt of Landlord’s billing). In connection with any exercise of its rights under this Section 12.1, Landlord shall use commercially reasonable efforts to minimize interference with Tenant’s business, but shall not be liable for any interference caused thereby.

12.2 Landlord’s Right to Make Payments on Behalf of Tenant. Landlord has a right to make payments on behalf of Tenant where Tenant defaults in its payments or obligations under the terms of this Lease and fails to make such payments or perform such obligations within five (5) days of Landlord’s notice to Tenant of such default. Said payments by Landlord shall be considered as additional rent and be due and payable within thirty (30) days following receipt of Landlord’s billing.

ARTICLE XIII INDEMNITY AND INSURANCE

13.1 Mutual Indemnification.

(a) Subject to Section 13.4, Tenant shall defend (by counsel reasonably acceptable to

Landlord), indemnify and hold harmless Landlord against and from legal action, damages, loss, liability and any other expense (including reasonable attorney fees) in connection with loss of life, bodily or personal injury or property damage arising from or out of all acts, failures, omissions or negligence of Tenant, its agents, employees or contractors which occur in the Premises, or other parts of the Premises, unless and to the extent such legal action, damages, loss, liability or other expense (including reasonable attorney fees) results from any act, omission or neglect of Landlord, its agents, contractors, employees or Persons claiming through it.

(b) Subject to Section 13.4, Landlord shall defend (by counsel reasonably acceptable to Tenant), indemnify and hold harmless Tenant against and from legal action, damages, loss, liability and any other expense (including reasonable attorney fees) in connection with loss of life, bodily or personal injury or property damage, arising from or out of all acts, failures, omissions or negligence solely due to the conduct of Landlord, its agents, employees or contractors which occur in the Premises, Premises or other parts of the Premises, unless and to the extent such legal action, damages, loss, liability or other expense (including reasonable attorney fees) results from any act, omission or neglect of Tenant, its agents, contractors, employees or Persons claiming through it.

13.2 Tenant's Insurance.

(a) General Requirements. Tenant shall, from and after the date of delivery of the Premises from Landlord to Tenant and during the Term, carry and maintain with respect to the Premises the types of insurance set forth in Section 13.2(b), each of which shall be in the amount hereinafter specified (or in such other amount as Landlord may from time to time reasonably request) and in the form hereinafter provided for, and each of which shall be with an insurance company authorized to do business in the State of Nevada and rated A-/VIII or better in the most current edition of Best's Insurance Report. All policies of insurance required to be carried and maintained by Tenant hereunder (other than workers compensation policies of insurance) shall (i) name as additional insureds Landlord, each Secured Lender and such other Persons as Landlord specifies from time to time, (ii) contain a provision that Landlord and the other additional insureds, although named as insureds, shall nevertheless be entitled to recover under such policies for any loss occasioned to any of them by reason of the negligence or willful misconduct of Tenant, and (iii) contain a waiver of subrogation with regard to any claim against Landlord. All policies of such insurance shall be written as primary policies and not contributing with or in excess of the coverage, if any, which Landlord or any other Person may carry, and shall provide that Landlord be given written notice thirty (30) days prior to the expiration, material alteration, cancellation, non-renewal or replacement of the existing policies. Should Tenant fail to furnish said notice or obtain the policies as is provided in this Lease, and at the times herein provided, Landlord may obtain such insurance and the premiums on such insurance shall be deemed to be an Additional Charge to be paid by Tenant to Landlord upon demand. Tenant may maintain any of its required insurance coverages under umbrella or blanket policies of insurance covering the Premises and any other premises of Tenant, or any Affiliate of Tenant, provided that the coverage afforded will not be reduced or diminished by reason of the use of such blanket policy.

(b) Required Insurance.

(i) Tenant shall carry and maintain commercial general liability insurance with a combined single limit of at least One Million Dollars (\$1,000,000.00) per occurrence. The policy for such insurance shall be written on an "occurrence" basis and shall include coverage for (A) personal injury claims including, without limitation, claims for bodily injury, death and property damage, (B)

contractual liability, with defense provided in addition to the policy limits for indemnitees of the named insured, (C) personal and advertising liability, including, without limitation, liability arising from intentional torts such as libel, slander, invasion of privacy, copyright infringement and unlawful detention, and (D) products and completed operations. Such policy shall provide for severability of interests, and shall not include a deductible in excess of \$25,000.00.

(ii) Tenant shall carry and maintain property insurance covering all leasehold improvements made by Tenant (including Tenant's Work), Tenant Personal Property and other personal property from time to time in, on or upon the Premises, in an amount not less than the full replacement cost thereof, without deduction for depreciation, providing protection against any peril included within the classification "all risks" insurance (including but not limited to coverage for water damage from all causes, including sprinkler damage, sewer discharge or backup, water line breakage, and overflow from Tenant's spaces). The policy for such insurance shall be endorsed with ISO endorsements specifying coverages for additional costs of contingent liability from the operation of building codes, increased costs of construction, debris removal and demolition costs. Such policy shall include coverage for all glass windows, doors and other glass fixtures and appurtenances at the Premises. The deductible under such policy shall not exceed Five Thousand Dollars (\$5,000.00) per occurrence. Landlord shall be named as a loss payee with respect to the coverage for Tenant improvements.

(c) Notice of Loss. Tenant shall promptly notify Landlord of any damage to Persons or property that occurs at the Premises from fire, any other casualty or serious injury.

13.3 Landlord's Insurance.

(a) General Requirements. Landlord shall, from and after the date of delivery of the Premises from Landlord to Tenant and during the Term, carry and maintain the types of insurance set forth in Section 13.3(b), each of which shall be in the amount hereinafter specified and in the form hereinafter provided for, and each of which shall be with an insurance company authorized to do business in the State of Nevada and rated A-/VIII or better in the most current edition of Best's Insurance Report. Landlord may maintain any of its required insurance coverages under umbrella or blanket policies of insurance covering the Building and any other premises of Landlord, or any Affiliate of Landlord, provided that the coverage afforded will not be reduced or diminished by reason of the use of such blanket policy. All premiums for insurance maintained by Landlord pursuant to this Section 13.3 shall be a part of the Premises Operating Costs.

(b) Required Insurance. Landlord shall carry and maintain (i) general liability insurance with respect to the Premises with such limits as Landlord may reasonably determine, and (ii) property insurance covering the Building (excluding Tenant's Work, Tenant Personal Property, all other property required to be covered by Tenant's insurance under Section 13(b)(ii), and all property required to be covered by the property insurance of other tenants or occupants of the Building) in such amount as Landlord may reasonably determine, but in no event less than the amount required any Secured Lender.

13.4 Waiver of Subrogation. Notwithstanding anything to the contrary contained elsewhere in this Lease, neither Party shall be liable to the other Party, or to any insurance company insuring the other Party by way of subrogated rights or otherwise, for any loss or damage which is covered by any insurance carried, or required to be carried, by Tenant under Section 13.2(b), or any insurance carried, or required to be carried, by Landlord under Section 13.3(b).

13.5 Limitations on Landlord's Liabilities. Landlord shall not be responsible or liable to Tenant, or those claiming by, through or under Tenant, for any loss or damage to their person or property resulting from (a) the acts or omissions of Persons occupying space adjoining or adjacent to the Premises or connected to the Premises, or occupying any other space within the Premises, (b) the acts or omissions of any other Persons (except as otherwise expressly provided in Section 13.1(b)), or (c) events such as the breaking or falling of electrical cables and wires; or the breaking, bursting, stoppage or leaking of water, gas, sewer, or steam pipes or equipment.

ARTICLE XIV
CASUALTY

14.1 Landlord's Obligation to Repair and Reconstruct.

(a) If the Premises shall be partially damaged by fire or other casualty but are not thereby rendered unsuitable for the purposes contemplated herein, Landlord shall cause the Premises to be repaired, subject to Section 14.1(c) and Section 14.2, and the Base Rent and Additional Charges shall not be abated. If by reason of such occurrence the Premises shall be rendered unsuitable for the purposes contemplated herein only in part, Landlord shall cause the Premises to be repaired, subject to Section 14.1(c) and Section 14.2, and the Base Rent and Additional Charges shall be abated proportionately as to the portion of the Premises rendered unsuitable for the purposes contemplated herein from the date of such occurrence until the earlier to occur of ninety (90) days after Landlord's restoration work has been substantially completed or the date the Premises so repaired has reopened for business.

(b) If the Premises shall be rendered wholly unsuitable for the purposes contemplated herein by reason of such occurrence, Landlord shall cause the Premises to be repaired, subject to Section 14.1(c) and Section 14.2, and the Base Rent and Additional Charges shall be abated from the date of such occurrence until the earlier to occur of ninety (90) days after Landlord's restoration work has been substantially completed or the date the Premises so repaired has reopened for business.

(c) If Landlord is required or elects to repair or reconstruct the Premises under the provisions of this Article XIV, its obligation shall be limited to that work with respect to the Premises which was Landlord's obligation to perform for Tenant at the commencement date of this Lease. Upon Landlord's completion of the work required to be performed by Landlord under this Section 14.1, other than details of construction which do not materially interfere with the performance of the work to be performed by Tenant under this Section 14.1, Tenant, at Tenant's expense, shall promptly perform all repairs and restoration not required to be done by Landlord and shall promptly re-fixture and reconstruct the Premises and recommence business in all parts thereof.

(d) Tenant shall not be entitled to any compensation or damages, other than stated herein, from Landlord for the loss of the use of the whole or any part of the Premises or damage to Tenant Personal Property or any inconvenience or annoyance occasioned by such damage, repair, reconstruction or restoration.

14.2 Option to Terminate. Landlord may elect to terminate this Lease by giving to Tenant notice of such election within ninety (90) days after the occurrence of any of the events below. If notice is given, this Lease shall terminate as of the date of such notice and Base Rent and Additional Charges shall be adjusted as of the date of such termination.

(a) the Premises are rendered wholly untenable, or damaged as a result of any cause which is not covered by Landlord's actual insurance or Landlord's required insurance under Section 13.3(b),

(b) the Premises are damaged or destroyed to the extent of twenty-five percent (25%) or more of the cost of replacement during the second-to-last Lease Year of the Term,

(c) the Premises are materially damaged or destroyed in whole or in part during the last Lease Year of the Term, or

(d) the Premises is damaged to the extent of ten percent (10%) or more of the cost of replacement, However, Landlord shall not terminate this Lease solely pursuant to this clause.

Notwithstanding the foregoing provisions, if Landlord terminates this Lease solely pursuant to clause (b) or clause (c) of this Section 14.2, and if at the time Tenant receives notice of such termination any option of Tenant to extend the term of this Lease under Section 6.5 may still be validly exercised, then Tenant may nullify Landlord's termination notice, and require Landlord to repair the Premises in accordance with Section 14.1, by exercising such option by giving Landlord written notice of such exercise within thirty (30) days after Tenant's receipt of Landlord's notice of termination. Tenant hereby waives any statutory rights of termination which may arise out of partial or total destruction of the Premises which Landlord is obligated to restore.

14.3 Demolition of Premises. If the Premises is so substantially damaged that it is reasonably necessary, in Landlord's reasonable judgment, to demolish a portion of the Premises, including the Premises, for the purpose of reconstruction, Landlord may demolish the Premises, in which event Tenant's Base Rent and Additional Charges shall be abated from the date of the casualty until the earlier to occur of ninety (90) days after Landlord's restoration work has been substantially completed or the date the Premises so restored has reopened for business.

ARTICLE XV CONDEMNATION

15.1 Condemnation. If the whole or substantially the whole of the Premises or the Premises shall be taken for any public or quasi-public use, by right of eminent domain or otherwise, or shall be voluntarily sold or conveyed in lieu of condemnation (but under threat of condemnation), then this Lease shall terminate as of the date when physical possession of the Premises or the Premises is taken by the condemning authority. If less than the whole or substantially the whole of the Premises is so taken, sold or conveyed, then Landlord (whether or not the Premises are affected thereby) may terminate this Lease by giving written notice thereof to Tenant prior to the date when physical possession of such portion of the Premises is taken by the condemning authority if such taking, sale or conveyance substantially impairs access to the Premises or the usefulness of the Premises as a mixed-use development, in which event this Lease shall terminate as of the date when physical possession of such portion of the Premises is taken by

the condemning authority. If less than the whole or substantially the whole of the Premises or the Premises is so taken, sold or conveyed, then either Landlord or Tenant may terminate this Lease by giving written notice thereof to the other party prior to the date when physical possession of such portion of the Premises or the Premises is taken by the condemning authority if such taking, sale or conveyance substantially impairs access to the Premises or the usefulness of the Premises for the purposes herein granted to Tenant, in which event this Lease shall terminate as of the date when physical possession of such portion of the Premises or the Premises is taken by the condemning authority. If this Lease is not so terminated upon any such taking, sale or conveyance, then (a) Landlord shall, to the extent Landlord deems feasible, restore the Premises and the Premises to substantially their former condition, but such work shall not exceed the scope of the work done by Landlord in originally constructing the Premises and the Premises, nor shall Landlord in any event be required to spend for such work an amount in excess of the amount received by Landlord as compensation for such taking, sale or conveyance, and (b) if any portion of the Premises is so taken, sold or conveyed, the Base Rent and Additional Charges shall be equitably reduced based on the manner the same are calculated hereunder (i.e., whether they are calculated on a square foot or fixed rate basis). All compensation awarded for any such taking, sale or conveyance of the fee and the leasehold, or any part thereof, shall belong to and be the property of Landlord. Tenant hereby assigns to Landlord all right, title and interest of Tenant in and to any award made for leasehold damages and/or diminution in the value of Tenant's leasehold estate. Tenant shall have the right to claim such compensation as may be separately awarded or allocated by reason of the cost or loss to which Tenant may incur in removing Tenant's fixtures, leasehold improvements and equipment from the Premises. Compensation as used in this Article XX shall mean any award given to Landlord for such taking, sale or conveyance in excess of, and free and clear of, all prior claims of the holders of any mortgages, deeds of trust or other security interests. No such taking, sale or conveyance shall operate as or be deemed an eviction of Tenant or a breach of Landlord's covenant of quiet enjoyment. Tenant hereby waives any statutory rights of termination which may arise by reason of any such partial taking, sale or conveyance of the Premises.

ARTICLE XVI
SUBORDINATION AND ATTORNMENT BY TENANT

16.1 Subordination of Lease. This Lease and the estate of Tenant hereunder shall be subject and subordinate to any ground lease, deed of trust, mortgage lien, or any reciprocal easement agreement or other operating agreement which now encumbers or which at any time hereafter may encumber the Premises (such ground lease, deed of trust, mortgage lien, or reciprocal easement agreement or other operating agreement, and any replacement, renewal, modification, consolidation or extension thereof, being hereinafter referred to as an "Encumbrance"). Any Encumbrance shall be prior and paramount to this Lease and to the right of Tenant hereunder and all Persons claiming through and under Tenant, or otherwise, in the Premises. Tenant's acknowledgment and agreement of subordination provided for in this Section 21.1 shall be self-operative and no further instrument of subordination shall be required. However, Tenant, on Tenant's behalf, and on behalf of all Persons claiming through and under Tenant, covenants and agrees that, from time to time at the request of Landlord or the holder of any Encumbrance, Tenant will execute and deliver any necessary or proper instruments or certificates reasonably necessary to acknowledge or confirm the priority of the Encumbrance over this Lease and the subordination of this Lease thereto or to evidence Tenant's consent to any Encumbrance. Notwithstanding the foregoing, any holder of an Encumbrance may elect to the extent possible that this Lease shall have priority over such Encumbrance and, upon notification of such election by the holder of such Encumbrance, this Lease shall

be deemed to have priority over such Encumbrance, whether this Lease is dated prior to or subsequent to the date of such Encumbrance.

16.2 Attornment by Tenant. Tenant agrees that if the holder of any Encumbrance or any Person claiming under said Encumbrance shall succeed to the interest of Landlord in this Lease, then Tenant shall recognize and attorn to said holder as Landlord under the terms of this Lease. Tenant agrees that it will, upon the request of Landlord, execute, acknowledge and deliver any and all instruments necessary or reasonably requested by Landlord or its lender to give effect or notice of such attornment and failure of Tenant to execute any such document or instrument upon demand shall constitute a default by Tenant under the terms of this Lease.

ARTICLE XVII ASSIGNMENT AND SUBLETTING

17.1 Landlord's Consent Required.

(a) Tenant shall not mortgage, pledge, encumber, franchise, assign or in any manner transfer this Lease, voluntarily or involuntarily, by operation of law or otherwise, nor sublet all or any part of the Premises for the conduct of any business by any unrelated third Person who does not maintain a relationship with Tenant, or for any purpose other than is herein authorized without Landlord's prior written consent, which shall not be unreasonable withheld.

(b) If Tenant is a "closely-held" entity (meaning a corporation which is not listed on a national securities exchange as defined in the Securities Exchange Act of 1934, as amended, a partnership, a limited liability company, or any other type of business entity that is not a corporation), a change in the "control" of Tenant or in the "control" of any entity that directly or indirectly "controls" Tenant ("control" meaning the ownership or control of fifty percent (50%) or more of the voting or ownership interests of an entity or, if such entity is a partnership, the general partner of such entity) without Landlord's prior written consent shall constitute an attempted assignment in violation of this Lease and shall at Landlord's election: (i) be deemed to be a default under this Lease, (ii) be deemed to be an offer of return of the Premises to Landlord pursuant to Section 22.3, or (iii) be deemed to be null and void and of no effect.

(c) Any consent by Landlord to any assignment or subletting, or other operation by a concessionaire, or licensee, shall not constitute a waiver of the necessity for such consent under any subsequent assignment or subletting or operation by a concessionaire or licensee.

(d) Reference anywhere else in this Lease to an assignee or subtenant shall not be considered as a consent by Landlord to such assignment or subletting nor as a waiver against the same except as specifically permitted in this Section 22.1.

(e) Notwithstanding the foregoing provisions, Tenant shall have the right to assign or otherwise transfer this Lease or sublease the Premises (in whole or in part), to its parent or to a wholly owned subsidiary or to an entity which is wholly owned by the same entity which wholly owns Tenant or to a related third party, provided, however, that (i) Tenant shall also remain primarily liable for all obligations under this Lease, (ii) the transferee shall, prior to the effective date of the transfer, deliver to

Landlord, instruments evidencing such transfer and its agreement to assume and be bound by all the terms, conditions and covenants of this Lease to be performed by Tenant, all in form acceptable to Landlord, (iii) Tenant shall not be in default under this Lease and (iv) Tenant's right to make such transfer is expressly conditioned on, and shall remain in effect only as long as the transferee maintains its relationship as parent or wholly owned subsidiary of Tenant or wholly owned subsidiary of Tenant's parent.

(f) If Landlord approves a sublease or assignment other than a sublease or assignment made pursuant to subsection 17.1(e) of this Lease, 50% of any profits generated from said sublease/assignment shall be paid by Tenant to Landlord as they are generated.

17.2 Insolvency Proceedings. If an assignment of the Premises is caused by operation of law due to Tenant's voluntary or involuntary insolvency proceedings under bankruptcy law, said assignment shall be subject to any and all provisions of the Bankruptcy Code as amended at the time of said assignment.

17.3 Return of Premises by Tenant. Prior to or simultaneously with any request by Tenant for consent as required in this Article XVII to assign this Lease or sublet the whole or substantially the whole of the Premises, Tenant shall, by written notice and without charge of any kind, offer the return of the Premises to Landlord herein. Landlord, within thirty (30) days of receipt of said written notice, shall have the option to accept the Premises without further liability upon Tenant as to the terms of this Lease ; provided, however, that if Landlord elects to accept the Premises, then Tenant may, by written notice to Landlord within thirty (30) days of Landlord's notice to Tenant of such election by Landlord, rescind such offer and continue to lease the Premises on the terms and conditions set forth herein.

17.4 Acceptance of Rent by Landlord. If this Lease be assigned, or if the Premises, or any part thereof, be subleased or occupied by anybody other than Tenant with or without Landlord's consent, Landlord may collect from assignee, subtenant or occupant, any Rent or other charges payable by Tenant under this Lease and apply the amount collected to the Rent herein reserved, but such collection by Landlord shall not be deemed a waiver of the provisions of this Lease, nor an acceptance of this assignee, subtenant or occupant, as a tenant of the Premises.

17.5 No Release of Tenant's Liability. No assignment or subletting or any other transfer by Tenant, either with or without Landlord's consent, required or otherwise, during the Term shall release Tenant from any liability under the terms of this Lease nor shall Tenant be relieved of the obligation of performing any of the terms, covenants and conditions of this Lease.

17.6 Legal Fees. In each instance where Landlord's consent to an assignment or subletting is requested by Tenant, Tenant acknowledges and agrees that Landlord shall not be deemed to be acting unreasonably if Landlord, as one of its conditions to the granting of such consent, should require Tenant to pay the reasonable attorney's fees incurred by Landlord for outside counsel, if any, or counsel for Landlord's lender if such lender's consent should be required, in the preparing, reviewing, negotiating and/or processing of documentation in connection with the requested assignment or subletting irrespective of whether or not consent is given to such assignment or subletting.

ARTICLE XVIII
DEFAULT

18.1 Events of Default. Each of the following shall be considered an “Event of Default” and shall give rise to and entitle Landlord to the remedies provided for in Section 23.2, as well as any and all other remedies, whether at law or in equity, provided for or otherwise available to Landlord or as otherwise provided for in this Lease:

(a) Tenant shall default in the payment of any Rent or charges, or in the payment of any other sums of money required to be paid by Tenant to Landlord under this Lease, or as reimbursement to Landlord for sums paid by Landlord on behalf of Tenant in the performance of the covenants of this Lease, and said default is not cured within ten (10) days after receipt of written notice thereof from Landlord.

(c) Tenant should vacate or abandon the Premises or shall fail to operate its business on the days and hours required, or fails to continuously occupy the Premises.

(d) Tenant shall default in the performance of any other covenants, terms, conditions, provisions, rules and regulations of this Lease and such default is not cured within one hundred eighty (180) days after written notice thereof given by Landlord, excepting such defaults that cannot be cured completely within such one hundred eighty (180) day period providing Tenant, within said one hundred eighty (180) day period, commences the curing thereof and continues thereafter with all due diligence to cause such curing to proceed to completion.

(e) There is commenced any case in bankruptcy against the original named Tenant, any assignee or subtenant of the original named Tenant, any then occupant of the Premises.

(f) The sale of Tenant’s interest in the Premises under attachment, execution or similar legal process.

(f) Any other Event of Default designated elsewhere herein occurs.

All cure periods provided in this Lease shall run concurrently with any periods provided by law.

18.2 Remedies and Damages.

(a) If any Event of Default occurs, Landlord may, at its option and in addition to any and all other rights or remedies provided Landlord in this Lease or at law or equity, immediately, or at any time thereafter, and without demand or notice (except as provided herein):

(i) without waiving the Event of Default, apply all or part of the security deposit, if any, to cure the Event of Default and Tenant shall upon demand after the expiration of the term restore the security deposit to its original amount;

(ii) without waiving such Event of Default, apply thereto any overpayment of Rent to curing the Event of Default in lieu of refunding or crediting the same to Tenant;

(iii) if the Event of Default pertains to work or other obligations (other than

the payment of Rent) to be performed by Tenant, without waiving such Event of Default, enter upon the Premises and perform such work or other obligation, or cause such work or other obligation to be performed, for the account of Tenant; and Tenant shall upon demand pay to Landlord the cost of performing such work or other obligation.

18.3 Rights of Redemption. Landlord expressly acknowledges any and all of Tenant's rights of redemption granted by or under any present or future laws in the event of Tenant being evicted or dispossessed for any cause, or in the event of Landlord obtaining possession of the Premises by reason of the violation, by Tenant, of any of the covenants or conditions of this Lease, or otherwise.

18.4 Default by Landlord. If Landlord fails or refuses to perform any of the provisions, covenants or conditions of this Lease on Landlord's part to be kept or performed, Tenant, prior to exercising any right or remedy Tenant may have against Landlord on account of such default, shall give written notice to Landlord and, if Tenant has been notified of the name and notice address of such lender, Landlord's lender of such default, specifying in said notice the default with which Landlord is charged and Landlord shall not be deemed in default if the same is cured within thirty (30) days of receipt of said notice. Notwithstanding any other provision hereof, Tenant agrees that if the default complained of in the notice provided for by this Section 23.6 is of such a nature that the same can be rectified or cured by Landlord, but cannot with reasonable diligence be rectified or cured within said thirty (30) day period, then such default shall be deemed to be rectified or cured if Landlord within said thirty (30) day period (or Landlord's lender in a longer reasonable time) shall commence the rectification and curing thereof and shall continue thereafter with all due diligence to cause such rectification and curing to proceed to completion.

18.5 Attorneys' Fees & Costs of Enforcement. In the event of a dispute among the parties that results in the filing of a court action seeking enforcement of the terms of this Lease, the prevailing party shall be entitled to all reasonable costs, attorney fees (including allocable in-house counsel costs) and related expenses incurred, whether or not the matter is taken to final judgment.

ARTICLE XIX NOTICES

19.1 Notices to Tenant and Landlord. Any and all notices and demands by or from Landlord to Tenant, or by or from Tenant to Landlord, required or desired to be given hereunder shall be in writing and shall be validly given if sent by any of the following methods which provides a written delivery confirmation receipt: i) served personally; ii) deposited in the United States mail, certified or registered, postage prepaid, return receipt requested; iii) delivered by a nationally recognized next day delivery courier service, or; iv) transmitted by facsimile with a copy sent the same day via US first class mail postage prepaid. All notices shall be effective upon receipt. However, if such notice or demand be served by registered or certified mail or by courier service in the manner provided, service shall be conclusively deemed given the first Business Day delivery is attempted whether or not it actually occurs. Notices shall be addressed in accordance with Section 1.2(k). Either party may change its address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the other party hereto, which notice of change of address shall not become effective, however, until the actual receipt thereof by the other party.

19.2 Notices to Mortgagee. Tenant shall give each Landlord's mortgagee (each a "Landlord Mortgagee") written notice of any alleged default which could give rise to Tenant's termination of this Lease or expenditure of money on behalf of Landlord provided Landlord has given Tenant a notice advising Tenant of the name and address of such Landlord Mortgagee. Such Landlord Mortgagee shall also be given an appropriate time to cure such default including the opportunity to obtain possession of Landlord's interest, if necessary, to cure the default.

ARTICLE XX MISCELLANEOUS

20.1 Force Majeure. Whenever a day is appointed herein on which, or a period of time is appointed in which, a Party is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such Party is prevented from the doing or completion of such act, matter or thing because of labor disputes, civil commotion, war, warlike operations, sabotage, unforeseen governmental regulations or control, fire or other casualty, unforeseen inability to obtain materials, fuel or energy, weather or other acts of God, or other causes beyond such Party's reasonable control (financial inability excepted); provided, however, that nothing contained herein shall excuse any Party from the prompt payment of any money that such Party is required to pay hereunder.

20.2 Time of the Essence. Subject to Section 20.1, time is of the essence of this Lease and all of the terms, covenants and conditions hereof.

20.3 Brokers. Tenant and Landlord each warrants to the other that it has had no dealings with any broker or agent in connection with this Lease. Subject to the foregoing, Tenant and Landlord covenant and agree to pay, hold harmless and indemnify the other from and against any and all costs, expenses or liability for any compensation, commissions and charges claimed by any broker or agent alleging to have dealt with the indemnifying party with respect to this Lease or the negotiation hereof (including, without limitation, the cost of legal fees in connection therewith).

20.4 Recordation. This Lease may be recorded by Tenant. Tenant may also record a memorandum or short form of this Lease,

20.5 Exculpation. If Landlord shall fail to perform any term, covenant or condition of this Lease upon Landlord's part to be performed and, as a consequence of such default, Tenant shall recover a money judgment against Landlord, such judgment shall be satisfied only out of the proceeds of sale received upon the execution of such judgment and levy thereon against the right, title and interest of Landlord in the Premises and out of rent or other income from the Premises receivable by Landlord or out of the consideration received by Landlord from the sale or other disposition of all or any part of Landlord's right, title and interest in the Premises. Neither Landlord, nor any of its members, partners, venturers, shareholders, officers, directors or Affiliates shall be liable for any deficiency.

20.6 Perpetuities. If for any reason the Rent Commencement Date has not occurred within three (3) years of the date hereof, this Lease shall thereupon terminate and be of no further force or effect (except with respect to matters that arose before such termination).

20.7 Estoppel Certificates. Tenant agrees at any time, upon not less than ten (10) days prior written request by Landlord, to execute, acknowledge and deliver to Landlord a written statement certifying that this Lease is unmodified and in full force and effect (or, if there has been modifications, that the same is in full force as modified and stating the modifications), the dates to which the Rent have been paid in pursuant to this Lease and such other certification concerning this Lease as may be reasonably requested by Landlord. Tenant further agrees that such statement may be relied upon by any mortgagee or prospective purchaser of the fee or assignee of any mortgage on the fee of the Premises.

20.8 Consents. Where in this Lease, or in any rules and regulations imposed by Landlord hereunder, Landlord's or Tenant's consent or approval is required and is not expressly permitted to be withheld in Landlord's or Tenant's sole discretion, such consent or approval shall not be permitted to be unreasonably withheld, conditioned or delayed. Tenant shall pay all costs and expenses (including reasonable attorney fees) that may be incurred by Landlord in processing, documenting or administering any request by Tenant for any consent or approval of Landlord required under this Lease. The grant by Landlord of any consent or approval hereunder shall in no way result in the incurrence by Landlord of any liability related to the subject matter of such consent or approval.

20.9 No Partnership. Nothing contained in this Lease shall be deemed or construed by the Parties or by any third party to create the relationship of principal and agent, a partnership, a joint venture or any other association between Landlord and Tenant. Neither the method of computation of rent nor any other provisions contained in this Lease nor any acts of the Parties shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

20.10 Effective Date of Lease. The submission of this Lease for examination or execution does not constitute a reservation of or option for the Premises; and this Lease becomes effective as a lease only upon execution and delivery thereof by both Parties.

20.11 Costs of Performing Obligations. Except as otherwise expressly provided herein, each Party shall perform its obligations hereunder at its sole cost and expense and without any right to receive any reimbursement therefore from the other Party.

20.12 Drafting. This Lease shall not be construed either for or against Landlord or Tenant, but shall be interpreted in accordance with the general tenor of its language.

20.13 Covenants. Whenever in this Lease any words of obligation or duty are used in connection with either Party, such words shall have the same force and effect as though framed in the form of express covenants on the part of such Party.

20.14 Captions. The captions appearing at the commencement of the articles and sections hereof, and as the title to the exhibits attached hereto, are descriptive only and for convenience in reference to this Lease, and in no way define, limit or describe the scope or intent of this Lease, nor in any way affect this Lease.

20.15 Limitation Language. In this Lease, the use of words such as "including" or "such as" shall not be deemed to limit the generality of the term, covenant or condition to which they have reference, whether or not non-limiting language (such as "without limitation", "but not limited to", or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other

items or matters that could reasonably fall within the broadest possible scope of such general term, covenant or condition.

20.16 Pronouns. Masculine and feminine pronouns shall be substituted for the neuter and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitutions.

20.17 Partial Invalidity. If any term, covenant or condition of this Lease, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, all terms, covenants and conditions of this Lease, and all applications thereof, not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby. In lieu of such invalid, void or unenforceable term, covenant or condition, there shall be added to this Lease a term, covenant or condition that is valid, not void and enforceable and that most closely approximates the intent of such invalid, void or unenforceable term, covenant or condition as may be possible.

20.18 Entire Agreement. This Lease sets forth the entire understanding and agreement between the Parties, and supersedes all previous communications, negotiations and agreements (including, without limitation, letters of intent), whether written or oral, with respect to the subject matter hereof. No addition to or modification of this Lease shall be binding on any Party unless reduced to writing and duly executed and delivered by the Parties. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that unless otherwise expressly set forth herein, neither Landlord nor any of its agents, representatives or employees has made any agreement with Tenant, or any covenant, promise, representation or warranty to Tenant, with respect to any of the following: (a) exclusive rights to sell goods or services within the Premises, (b) limitations on or restrictions against competing businesses within the Premises, (c) the future opening of other businesses within the Premises, (d) the type or quality of existing or prospective tenants located or to be located within the Premises, (e) work to be performed by Landlord in improving the Premises, (f) contributions by Landlord towards Tenant's leasehold improvement costs, (g) the annual amounts of Tenant's share of Premises Operating Costs or Tenant's share of Real Property Taxes during the Term, or (h) promotion or advertising of Tenant's business or Tenant's products or services.

20.19 Remedies Cumulative. The various rights, options, elections and remedies of Landlord contained in this Lease shall be cumulative and no one of them shall be construed as exclusive of any other, or of any right, priority or remedy allowed or provided for by law and not expressly waived in this Lease.

20.20 Waiver. Landlord and Tenant shall have the right at all times to enforce the terms, covenants and conditions of this Lease in strict accordance with the terms thereof, notwithstanding any conduct or custom on the part of Landlord or Tenant in refraining from so doing at any time or times. No failure by Landlord or Tenant to insist upon the strict performance of any term, covenant or condition of this Lease or to exercise any right or remedy available for a breach thereof, and no acceptance by Landlord of full or partial Rent during the continuance of any such breach by Tenant, shall constitute a waiver of any such breach or any such right or remedy. No term or condition of this Lease required to be performed by Landlord or Tenant, and no breach thereof, shall be waived, altered or modified except by a written instrument executed by the other party. A waiver by Landlord in respect to any tenant of the Premises shall not constitute a waiver in favor of any other tenant. No waiver by Landlord or Tenant of the breach of any condition, covenant or provision of this Lease shall excuse a future breach of the same

condition, covenant or provision or of any other condition, covenant or provision of this Lease. After the service of any notice or commencement of any suit, or final judgment therein, Landlord may receive and collect any Rent due, and such collection or receipt shall not operate as a waiver of nor affect such notice, suit or judgment unless the collection by Landlord of such Rent fully settles the subject matter of such notice, suit or judgment.

20.21 Insolvency and Death. It is understood and agreed that neither this Lease, nor any interest herein or hereunder, nor any estate hereby created in favor of Tenant, shall pass by operation of law under any insolvency, bankruptcy, inheritance or other similar Law to any trustee, receiver, assignee for the benefit of creditors, heir, legatee, devisee or other Person.

20.22 Successors and Assigns. The conditions, covenants and agreements contained in this Lease shall be binding upon and inure to the benefit of the Parties and their respective heirs, executors, administrators, successors and permitted assigns.

20.23 Joint Liability. If Tenant now or hereafter shall consist of more than one Person, then all such Persons shall be jointly and severally liable as Tenant hereunder.

20.24 Transfer of Landlord's Interest. Landlord shall be liable under this Lease only while owner of the Premises. If Landlord should sell or otherwise transfer Landlord's interest in the Premises, then such purchaser or transferee shall be responsible for all of the covenants and undertakings thereafter accruing of Landlord. Tenant agrees that Landlord shall, after such sale or transfer of Landlord's interest, have no liability to Tenant under this Lease or any modification or amendment thereof, or extensions or renewals thereof, except for such liabilities which (a) might have accrued prior to the date of such sale or transfer of Landlord's interest to such purchaser or transferee, and (b) are not assumed by such purchaser or transferee.

20.25 Waiver of Jury Trial. The Parties shall and hereby do waive all rights to trial by jury in any action, proceeding or counterclaim brought by either of the Parties against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises, or any claim of injury or damage.

20.26 Consents. No Party shall be deemed to have given any consent, approval or agreement required under this Lease unless and until such Party gives such consent, approval or agreement in writing.

20.27 Governing Law. The laws of the State of Nevada shall govern the validity, construction, performance and effect of this Lease. Any legal suit, action or proceeding against Landlord or Tenant arising out of or relating to this Lease shall be instituted in any federal or state court in Clark County, Nevada, and each Party waives any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, and each Party hereby irrevocably submits to the jurisdiction of any such court in any suit, action or proceeding.


[Signature Page Follows]


IN WITNESS WHEREOF, the Parties hereto have executed this Lease as of the day and year first written above.

LANDLORD:

Spanish Heights Acquisition Company, LLC, a
Nevada limited liability company

By: Member - ANTOS, KENNETH & SHEILA
LIV TR, KENNETH M ANTOS SHEILA M.
NEUMANN-ANTOS TRUST, Kenneth Antos and Sheila
Neumann-Antos as Trustees

By: 
Name: Kenneth Antos
Title: Trustee
Date: _____

By: 
Name: Sheila Neumann-Antos
Title: Trustee
Date: _____

TENANT:

SJC Ventures, LLC
a Nevada limited liability company

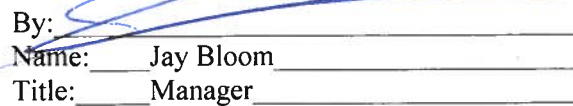
By: 
Name: Jay Bloom
Title: Manager
Date: _____

EXHIBIT "1"
DEFINITIONS

The following terms used in this Lease shall have the following meanings (unless otherwise expressly provided herein):

"Additional Charges" has the meaning given in Section 7.1.

"Affiliate" means a Person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, a specified Person. For purposes of this definition, the term "control" shall mean the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting interests, by contract or otherwise.

"Base Rent" has the meaning given in Section 1.2(d).

"Building" means the building now existing or to be constructed within the Premises at which the Premises is located.

"Business Day" means any day other than a Saturday, a Sunday or another day upon which banks in the State of Nevada are authorized or required to be closed.

"Service Providers" has the meaning given in Section 7.5.

"CPI-U" means the U.S. Department of Labor, Bureau of Labor Statistics, Consumers Price Index for all Urban Consumers, All Cities Average, Subgroup "all items" (base reference period 1982-84=100). If during the Term the U.S. Department of Labor, Bureau of Labor Statistics, ceases to publish a CPI-U, such other index or standard as will most nearly accomplish the aim and purpose of said CPI-U and the use thereof in this Lease shall be selected by Landlord in its reasonable discretion.

"Encumbrance" has the meaning given in Section 16.1.

"Event of Default" has the meaning given in Section 18.1.

"HVAC" means heating, ventilation and air conditioning.

"Landlord" has the meaning given in the preamble.

"Landlord Mortgagee" has the meaning given in Section 19.2.

"Landlord's Fiscal Year" shall mean the calendar year or such other twelve (12) month period as Landlord may from time to time elect in its sole and absolute discretion.

"Laws" means all laws, statutes, rules, orders, ordinances, directions, regulations and requirements of federal, state, county and municipal authorities as are in force from time to time.

"Lease" means this Lease, including all exhibits hereto, as the same may be amended from time to time.

“Lease Year” means each twelve (12) month period during the Term commencing on the day and month of the Rent Commencement Date; provided, however, that if the Rent Commencement Date is not the first day of a calendar month, then the first Lease Year shall commence on the Rent Commencement Date and end on the last day of the twelfth full calendar month thereafter and each subsequent Lease Year shall commence on the first day of the calendar month after the month of the Rent Commencement Date.

“Real Property Taxes” has the meaning given in Section 5.3(c).

“Original Lease” has the meaning given in Section 3.5.

“Parties” or “Party” has the meaning given in the preamble.

“Person” means any individual or any government entity, general partnership, limited partnership, joint venture, limited liability company, corporation, trust, cooperative, association or other similar organization.

“Premises” means that Real Property known as known as 5148 Spanish Heights Dr., Las Vegas, NV 89148, as the same may be reconfigured, expanded, reduced or otherwise modified from time to time in accordance herewith.

“Premises Real Property Taxes” has the meaning given in Section 5.3(c).

“Prevailing Party” has the meaning given in Section 18.5.

“Rent” means Base Rent and Additional Charges.

“Rent Commencement Date” has the meaning given in Section 6.2(a).

“Tenant” has the meaning given in the preamble.

“Tenant Personal Property” has the meaning given in Section 11.2.

“Term” has the meaning given in Section 1.2(a).

“Term Expiration Date” has the meaning given in Section 3.1.

“Premises” has the meaning given in Section 4.1.

“Premises Operating Costs” has the meaning given in Section 5.2(a).

EXHIBIT "2"

CONSENT TO LEASE

THIS CONSENT TO LEASE (the "Consent") is made and entered into this ____ day of _____ 20_____, (the "Effective Date") by and between Spanish Heights Acquisition Company, LLC ("Owner") of 5184 Spanish Heights Drive, Las Vegas, NV, (the "Property") and SJC Ventures, LLC (the "Tenant"), and CBC Partners I, LLC (the "CBCI").

RECITALS:

WHEREAS, the Tenant and Owner have entered into the Lease attached hereto (the "Lease"), for the Property.

WHEREAS, the parties recognize that the execution this Lease is a condition to the Forbearance Agreement between CBC Partners I, LLC, and the Landlord, Tenant, and other parties. Further, this Lease is subject to the written consent of CBCI

WHEREAS, the CBCI hereby consents to such Assignment upon the terms and conditions contained hereunder:

NOW, THEREFORE, for and in consideration of the covenants and obligations contained herein, CBCI, Tenant and Owner Agree represent and agree as follows:

CBCI hereby consents to the Lease attached hereto, subject to the following conditions:

1. The Lease shall be subject and subordinate to the lien and effect of the Forbearance Agreement insofar as it affects the real and personal property or which the Property form a part, and to all renewals, modifications, consolidations, replacements and extensions thereof, and to all advances made or to be made thereunder, to the full extent of amounts secured thereby and interest thereon.

2. In the event CBCI or any trustee for CBCI takes possession of the Property, as mortgagee-in-possession or otherwise, forecloses on the Property, sells the Property, or otherwise exercises its rights under the Forbearance Agreement, CBCI may terminate the Lease.

3. Although the foregoing provisions of this Agreement shall be self-operative, Tenant agrees to execute and deliver to CBCI such other instrument or instruments as CBCI or such other person shall from time to time request in order to confirm such provision.

5. Tenant hereby warrants and represents, covenants, and agrees to and with CBCI:

(a) not to alter or modify the Lease in any respect without prior written consent of CBCI;

(b) to deliver to CBCI at the address indicated above a duplicate of each notice of default delivered to Landlord at the same time as such notice is given to Landlord;

(d) not to seek to terminate the Lease by reason of any default of Landlord without prior written notice thereof to CBCI;

(e) not to pay any rent or other sums due or to become due under the Lease more than 30 days in advance of the date on which the same are due or to become due under the Lease;

(f) to certify promptly in writing to CBCI in connection with any proposed assignment of the Forbearance Agreement, whether or not any default on the part of Landlord then exists under the Lease; and

7. Any notices required to be sent to CBCI shall be sent to:

777 108th Ave NE Suite 1895
Bellevue, WA 98004

With a copy to:

The Law Office of Vernon Nelson
9480 S. Eastern Ave., Suite 252
Las Vegas, NV 89123

8. This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the Property is located.

IN WITNESS WHEREOF, CBCI, Tenant and Assignee have executed this Consent on the day and year first above written.

Spanish Heights Acquisition Company, LLC

BY: 

Its: Manager

Print

Name: Jay Blam

CBC Partners I, LLC

BY: 

Its: President

Print

Name: John Otter

EXHIBIT 6

EXHIBIT 6

MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.
L. Joe Coppedge, Esq.
Mark C. Hafer, Esq.*

*of counsel

6070 South Eastern Avenue
Suite 270
Las Vegas, Nevada 89119

Telephone 702.454.3333
Facsimile 702.386.4979

January 4, 2021

Via Certified Mail
& USPS

Jay Bloom, Manager
Spanish Heights Acquisition Company, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Jay Bloom, Manager
SJC Ventures, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Kenneth & Sheila Antos Living Trust
4968 Mountain Foliage Drive
Las Vegas, NV 89148-1429

Reference: Clark County Nevada APN 163-29-615-007
5148 Spanish Heights Drive

THIS NOTICE IS SENT FOR THE PURPOSE OF COLLECTING A DEBT. YOUR LOAN IS NOW DUE AND PAYABLE; AND REMAINS UNPAID AS OF THE ABOVE DATE.

Dear Borrower:

READ THIS LETTER CAREFULLY. This is a courtesy notice. Pursuant to NRS 107.400-107.560 this Notice is only required for Owner-Occupied Housing Securing Residential Mortgage Loan.

Your loan with CBC Partners I, LLC and 5148 Spanish Heights, LLC as successor in interest is in default. Because of this, CBC Partners I, LLC and 5148 Spanish Heights, LLC as successor in interest, at its option, without further demand, may evoke the power of sale and any other remedies permitted by Nevada Law.

It has been established that the beneficiary and/or mortgage servicer of the deed of trust has caused a trustee to exercise the power of sale pursuant to NRS 107.080.

You are in default by failing to make the final balloon payment on March 31, 2020. Failure

January 4, 2021

Page 2

Re: APN: 163-29-615-007

to cure the default may result the sale of said property.

The undersigned, as attorney for the Beneficiary for the above referenced loan, does hereby notify you that a Notice of Default and Election to sell has been recorded on the referenced property due to non-payment.

With an Owner-Occupied property, you have a right to discuss foreclosure prevention alternatives and subject to qualification criteria.

The following information is required to be provided to Owner-Occupied properties under Nevada statute:

1. The amount of the payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of this statement:

2. The amount in default: \$5,578,459.15

3. The current unpaid principal amount of the obligation or debt secured by the deed of trust: \$2,935,001.14

4. The amount of accrued interest and late charges: \$1,315,105.24

5. The amount in advances paid on your behalf: \$1,326,744.55

6. Interest accrual (at 20% pursuant to the Forbearance Agreement dated September 27, 2017) in the amount of \$1,608.22 per day from April 1, 2020 until paid in full.

7. A good faith estimate of all fees imposed in connection with the exercise of the power of sale is between \$9,000.00 and \$25,000.00, an amount that will be added in and which you may ultimately be responsible for.

8. Contact information and telephone number for obtaining the most current amounts due:

Michael R. Mushkin
6070 S. Eastern Avenue, Suite 270
Las Vegas, NV 89119
Telephone: (702) 454-3333

To discuss the matter with a housing counseling agency approved by the United States

PA0316

January 4, 2021

Page 3

Re: APN: 163-29-615-007

Department of Housing and Urban Development, here is their telephone number in order to find such a housing counseling agency: 1-888-995-HOPE (4673). Additional contact information of one or more Counseling Agencies or Programs approved by the United States Department of Housing:

1. Community Services of Nevada
730 W. Cheyenne Avenue #10
North Las Vegas, Nevada 89030
702-307-1710
2. Financial Guidance Center
2650 S. Jones Blvd.
Las Vegas, Nevada 89146
702-364-0344

If you are a service member or a dependent of a service member, you may be entitled to certain protections under the federal Service members Civil Relief Act 50 U.S.C. Appx. 501 et seq., regarding the service member's interest rate and the risk of foreclosure, and counseling for covered service members that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency. The telephone number for Military OneSource is 1-800-342-9647

As a borrower, you may request:

1. A copy of your note and forbearance agreements
2. A copy of the recorded deed of trust
3. A copy of the recorded assignment, if applicable

Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf

PA0317

EXHIBIT 7

EXHIBIT 7

1 **TRO**

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
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.: 31

TEMPORARY RESTRAINING ORDER

The Court, having reviewed the application for temporary restraining order filed by Plaintiffs Spanish Heights Acquisition Company, LLC and SJC Ventures Holding Company, LLC

1 (“Plaintiffs”), including all other pleadings, declarations, and affidavits on file herein, and for good
2 cause appearing, finds that this is a proper instance for a temporary restraining order to be issued and
3 that if defendants CBC Partners I, LLC, CBC Partners, LLC, and 5148 Spanish Heights, LLC
4 (“Defendants”) are not restrained and enjoined by order of this Court, Plaintiffs will continue to suffer
5 immediate and irreparable injury. Accordingly,

6 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the application for
7 temporary restraining order filed by Plaintiffs be, and the same is hereby GRANTED.

8 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants, together with
9 any and all of its affiliates, agents, employees, and attorneys, are immediately and until after the
10 hearing on Plaintiffs’ motion or preliminary injunction:

- 11 1. Prevented and precluded from engaging in any further foreclosure activities until after the
12 hearing on Plaintiffs’ motion for preliminary injunction.

13 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that a hearing on the motion
14 or preliminary injunction filed by Plaintiffs will take place on the ____ day of _____, 2020/2021, at
15 _____ a.m., in Department 31 of the above-entitled Court. Notice of said hearing and the time
16 and place thereof shall be given by Plaintiffs to Defendants’ counsel no later than the ____ day of
17 _____, 2020/2021, by serving upon Defendants’ counsel a copy of this temporary restraining
18 order, together with a copy of the moving papers. An opposition, if the opposing party desires to file
19 one, shall be filed and served on or before _____. A reply shall be filed and served on or before
20 _____.

21 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiffs shall not be
22 required to post a bond/ post a bond or cash with the Court in the amount of _____ in
23 accordance with NRCP 65(c) as security for the payment of such costs and damages as may be
24 incurred or suffered by any party who is found to have been wrongfully enjoined or restrained in this
25 action.

26 ///

27 ///

28 ///

1 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this temporary restraining
2 order shall remain in effect until the hearing on the motion for preliminary injunction, unless further
3 extended by order of this Court or stipulation of the parties.

4
5
6
7
8 Respectfully submitted,

9 **MAIER GUTIERREZ & ASSOCIATES**

10 */s/ Danielle J. Barraza*

11 _____
12 JOSEPH A. GUTIERREZ, ESQ.
13 Nevada Bar No. 9046
14 DANIELLE J. BARRAZA, ESQ.
15 Nevada Bar No. 13822
16 8816 Spanish Ridge Avenue
17 Las Vegas, Nevada 89148
18 *Attorneys for Plaintiffs*
19
20
21
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28

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 31

9 CBC Partners I LLC,
10 Defendant(s)

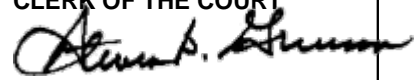
11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order Shortening Time 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: 1/19/2022

16 MGA Docketing	docket@mgalaw.com
17 Karen Foley	kfoley@mccnvlaw.com
18 Michael Mushkin	michael@mccnvlaw.com
19 Candace Carlyon	ccarlyon@carlyoncica.com
20 Tracy O'Steen	tosteen@carlyoncica.com
21 Nancy Rodriguez	nrodriguez@carlyoncica.com
22 Cristina Robertson	crobertson@carlyoncica.com
23 Cristiana Lopez	clopez@mccnvlaw.com

24
25
26
27
28



RSPN
CARLYON CICA CHTD.
CANDACEC.CARLYON, ESQ.
Nevada Bar No. 2666
TRACY M. O'STEEN, ESQ.
Nevada Bar No. 10949
265 E. Warm Springs Road, Suite 107
Las Vegas, NV 89119
PHONE: (702) 685-4444
FAX: (725) 220-4360
Email: CCarlyon@CarlyonCica.com
TOSTeen@CarlyonCica.com

Counsel for Larry L. Bertsch, Receiver

EIGHT JUDICIAL 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 Nevada 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.: 31

**RECEIVER'S RESPONSE TO
PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER
AND MOTION FOR PRELIMINARY
INJUNCTION ON AN ORDER
SHORTENING TIME**

Hearing Date: January 28, 2022
Hearing Time: 8:30 a.m.

Larry L. Bertsch, duly appointed Receiver in the above-captioned case (the "Receiver"), by and through his undersigned counsel, the law firm of Carlyon Cica Chtd., hereby submits this response (the "Response") to the Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening Time (the "Motion"). This Response is supported by the Declaration of Larry L. Bertsch attached hereto as **Exhibit A** (the "Bertsch Decl.").

1 The Receiver has no position with respect to the substantive relief requested in the
2 Application and Motion by Plaintiffs; however, as set forth in the Receiver's brief filed in support of
3 his Request for Instructions from the Court on file herein¹, the Receiver is very concerned about the
4 dissipation of assets. Further to that issue, the Receiver has discovered several questionable transfers
5 in the banking records of SJC Ventures Holding Company, LLC ("SJCV"), including payments made
6 to the Las Vegas Golden Knights since this litigation was commenced on April 9, 2020. Specifically,
7 on August 26, 2020, SJCV paid the Vegas Golden Knights \$19,092.50 and on June 24, 2021, SJCV
8 paid the Las Vegas Gold Knights \$7,486.66. These two transfers were from the SJCV Bank of
9 America Account ending in 1427. In addition, the Receiver also identified that SJCV has spent at
10 least \$1,089,109.13 in the aggregate on tickets for the Raiders (at \$810,000) and Las Vegas Golden
11 Knights (at \$279,009.13) from 2017 through 2021. *See* Schedule created by the Receiver attached
12 hereto as **Exhibit B**. SJCV also apparently chartered a private jet for the sum of \$228,000 paid out
13 of SJCV's Bank of America Account ending in #1427 on August 27, 2020.

14 Furthermore, per the testimony of Mr. Bloom, SJCV owns 100% of 1st One Hundred
15 Investment Pool I, LLC, which entity sold a piece of real property commonly known as 12017
16 Oakland Hills Drive. Las Vegas, Nevada between July and December of 2021, for the price of
17 \$1,450,000. *See* State of Nevada Declaration of Value form attached hereto as **Exhibit C**. Mr.
18 Bloom's prior testimony was that only approximately \$200,000 was distributed to SJCV from the
19 sale, and he does not remember whether those funds were actually deposited into bank account held
20 by SJCV.² The Receiver has reviewed all banking records provided with respect to SJCV and there
21 is no indication that proceeds from the sale were deposited during the relevant time frame. There do
22 not appear to be any corresponding transfers from Lawyers Title of Las Vegas during the pertinent
23 time frame. Also, during his deposition Mr. Bloom testified that SJCV had approximately one to
24 two million dollars on hand, but the bank statements for SJCV reflect a balance on hand of
25 \$98,874.44 as of 10/14/2021. *See* composite **Exhibit D** attached hereto (created from review of
26 ~~bank statements produced by SJCV~~).

27 ¹ The hearing on the Receiver's Request for Instructions from the Court is set for hearing on February
28 3, 2022 at 8:30 a.m.

² As discussed in the Receiver's Brief in support of the Request for Instructions on file herein.

1 The Receiver also identified transfers to Spanish Heights Acquisition Company LLC from
2 SJCVC from June of 2020 through December of 2021 in the aggregate amount of \$464,371.90. See
3 Schedule created by the Receiver attached hereto as **Exhibit E**.

4 The Receiver respectfully suggests that, if the Court is inclined to grant injunctive relief,
5 SJCVC and Mr. Bloom also be enjoined from making any transfers or asset dispositions outside of the
6 ordinary course of business, including transfers between related entities.

7 Respectfully submitted this 25th day of January 2022.

8
9 
LARRY L. BERTSCH
Receiver

10 CARLYON CICA, CHTD.

11 /s/ Tracy M. O'Steen, Esq.

12
13 CANDACE C. CARLYON, ESQ.
14 Nevada Bar No. 02666
15 TRACY M. O'STEEN, ESQ.
265 E. Warm Springs Road, Suite 107
Las Vegas, NV 89119
Counsel for Larry L. Bertsch, Receiver

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of Carlyon Cica Chtd., and
3 that on this 25th day of January 2022, I served a true and correct copy of the foregoing **RECEIVER'S**
4 **RESPONSE TO PLAINTIFFS' APPLICATION FOR TEMPORARY RESTRAINING**
5 **ORDER AND MOTION FOR PRELIMINARY INJUNCTION ON AN ORDER**
6 **SHORTENING TIME** via electronic means by operation of the Court's electronic filing system,
7 upon each party to this case who is registered as an electronic case filing user with the Clerk.

8 */s/ Nancy Rodriguez*
9 An Employee for Carlyon Cica Chtd.

EXHIBIT A

EXHIBIT A

DECL
CARLYON CICA CHTD.
CANDACEC.CARLYON, ESQ.
Nevada Bar No. 2666
TRACY M. O'STEEN, ESQ.
Nevada Bar No. 10949
265 E. Warm Springs Road, Suite 107
Las Vegas, NV 89119
PHONE: (702) 685-4444
FAX: (725) 220-4360
Email: CCarlyon@CarlyonCica.com
TOSTeen@CarlyonCica.com

Counsel for Larry L. Bertsch, Receiver

EIGHT JUDICIAL 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 Nevada 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.: 31

**DECLARATION OF LARRY L. BERTSCH
IN SUPPORT OF RECEIVER'S
RESPONSE TO PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND MOTION
FOR PRELIMINARY INJUNCTION ON
AN ORDER SHORTENING TIME**

Hearing Date: January 28, 2022
Hearing Time: 8:30 a.m.

I, LARRY L. BERTSCH, hereby declares under the penalty of perjury as follows:

1. I am duly the appointed Receiver ("Receiver") over SJC Ventures Holding Company
LLC d/b/a SJC Ventures, LLC, a Delaware limited liability company ("SJCV") in the above-
captioned case.

2. I make this declaration in support of the Receiver's Request for Instructions from the Court which is set for hearing on February 3, 2022. (the "Motion").

3. The following facts are personally known to me or are true and correct to the best of my information and belief based upon a review of documents as discussed below. If called to testify thereto, I could and would competently do so under oath.

4. **Exhibits B, C, D and E** to the Response are true and correct copies of documents either created by my firm or received by my firm in connection with this matter and were created and maintained by my office in the ordinary course of its business.

5. My firm has reviewed all banking records provided with respect to SJCVC and there is no indication that proceeds from the sale of the real property by SJCVC's wholly owned company were deposited during the relevant time frame. There do not appear to be any corresponding transfers from Lawyers Title of Las Vegas during the pertinent time frame.

5. It is my professional opinion that if the Court is inclined to grant injunctive relief, SJCVC and Mr. Bloom also being enjoined from making any transfers or asset dispositions outside of the ordinary course of business, including transfers between related entities.

6. I declare under the penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Respectfully submitted this 25th day of January 2022.

/s/ 
LARRY L. BERTSCH
Receiver

EXHIBIT B

EXHIBIT B

Raiders & Golden Knights

Date	Entity Purchased From	Account #	Paid To	Knights	Raiders	Total
12/13/2017	SJC Ventures Holdings Company, LLC	B of A #1427	Black Knights Sport (dba Vegas Golden Knights)	45,000.00		45,000.00
12/18/2017	SJC Ventures Holdings Company, LLC	B of A #1427	Black Knights Sport (dba Vegas Golden Knights)	18,372.00		18,372.00
3/18/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	81,015.00		81,015.00
3/21/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Stadium Events Company: Raiders PSL Payment		350,000.00	350,000.00
4/26/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	4,200.00		4,200.00
5/16/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	7,800.00		7,800.00
5/28/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	8,000.00		8,000.00
5/29/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	16,000.00		16,000.00
6/4/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	7,000.00		7,000.00
6/4/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	4,000.00		4,000.00
9/7/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	2,000.00		2,000.00
9/12/2018	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	16,000.00		16,000.00
2/13/2019	SJC Ventures Holdings Company, LLC	B of A #1427	Raiders		350,000.00	350,000.00
2/14/2019	SJC Ventures Holdings Company, LLC	B of A #1427	Raiders		20,100.00	20,100.00
3/15/2019	SJC Ventures Holdings Company, LLC	B of A #1427	Raiders		90,000.00	90,000.00
3/18/2019	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	13,505.00		13,505.00
4/15/2019	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	16,875.63		16,875.63
4/22/2019	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	12,662.34		12,662.34
8/26/2020	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	19,092.50		19,092.50
6/24/2021	SJC Ventures Holdings Company, LLC	B of A #1427	Vegas Golden Knights	7,486.66		7,486.66
				279,009.13	810,100.00	1,089,109.13

EXHIBIT C

EXHIBIT C

Inst #: 20210909-0002699
Fees: \$42.00
RPTT: \$7395.00 Ex #:
09/09/2021 02:18:06 PM
Receipt #: 4688842
Requestor:
Lawyers Title Las Vegas
Recorded By: RYUD Pgs: 4
Debbie Conway
CLARK COUNTY RECORDER
Src: ERECORD
Ofc: ERECORD

APN:191-05-412-014
ESCROW NO: 03025060-300-ABN
WHEN RECORDED MAIL TO and
MAIL TAX STATEMENT TO:

The Leparulo Family Trust, established
under agreement dated 1-6-2017
205 S. Rodeo Drive
Beverly Hills, CA 90212

GRANT, BARGAIN, SALE DEED

R.P.T.T. \$7,395.00

THIS INDENTURE WITNESSETH: That

1st One Hundred Investment Pool, LLC

FOR A VALUABLE CONSIDERATION, the receipt of which is hereby
acknowledged, do(es) hereby Grant, Bargain, Sell and Convey to

Ronald Alan Leparulo and Lori Kraus Leparulo, and their
Successors, as Trustees of the Leparulo Family Trust, established
under agreement dated 1-6-2017

all that real property situated in the County of Clark, State of Nevada,
described as follows:

For legal description of the real property, see Exhibit A attached hereto
and made a part hereof.

SUBJECT TO: 1. Taxes for the fiscal year 2021 – 2022
2. Rights of Way, reservations, restrictions, easements,
and conditions of record.

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

Witness my hand this 31 day of August, 2021.

1st One Hundred Investment Pool,
LLC

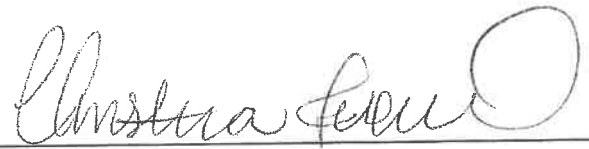



SJC Ventures Holding Company
LLC, manager
Jay Bloom, manager

STATE OF Nevada } ss:
COUNTY OF Clark

On August 31, 21, personally appeared before me, a Notary Public in and for said County and State, Jay Bloom,
manager
who acknowledged to me that he executed the same.

WITNESS my hand and official seal.


NOTARY PUBLIC in and for said County and State.

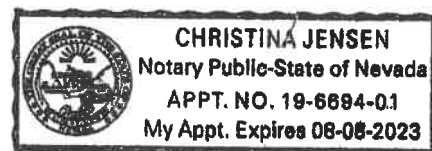


Exhibit "A"

All that certain real property situated in the County of Clark, State of Nevada, described as follows:

PARCEL ONE (1):

LOT 90 IN BLOCK A OF BELEZA AT SOUTHERN HIGHLANDS UNIT 2, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 96 OF PLATS, PAGE 50, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

PARCEL TWO (2):

A NON-EXCLUSIVE RIGHT AND EASEMENT OF INGRESS, EGRESS AND OF USE AND ENJOYMENT IN TO AND OVER THE COMMON ELEMENTS AS SET FORTH IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND RESERVATION OF EASEMENTS FOR SOUTHERN HIGHLANDS, RECORDED JANUARY 6, 2000 IN BOOK 20000106 AS DOCUMENT NO. 01678 AS THE SAME MAY FROM TIME TO TIME BE AMENDED AND/OR SUPPLEMENTED IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

**STATE OF NEVADA
DECLARATION OF VALUE FORM**

1. Assessor Parcel Number(s)

- a. 191-05-412-014
b. _____
c. _____
d. _____

2. Type of Property:

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

FOR RECORDER'S OPTIONAL USE ONLY

Book: _____ Page: _____
Date of Recording: _____
Notes: _____

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

\$1,450,000.00

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

(\$ _____)

c. Transfer Tax Value:

\$1,450,000.00

d. Real Property Transfer Tax Due:

\$7,395.00

4. If Exemption Claimed:

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

b. Explain Reason for Exemption: _____

5. Partial Interest: Percentage being transferred: 100%

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

Signature _____

Capacity _____

Signature _____

Capacity _____

SELLER (GRANTOR) INFORMATION
(REQUIRED)

Print Name: 1st One Hundred Investment Pool, LLC

Address: 3993 Howard Hughes Parkway #140

City/State/Zip: Las Vegas, NV 89169

BUYER (GRANTEE) INFORMATION
(REQUIRED)

Print Name: Ronald Alan Leparulo and Lori Kraus Leparulo, and their Successors, as Trustees of the Leparulo Family Trust, established under agreement dated 1-6-2017

Address: 205 S. Rodeo Drive

City/State/Zip: Beverly Hills, CA 90212

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

Lawyers Title of Nevada, Inc.
7670 W. Lake Mead Blvd. #120
Las Vegas, NV 89128

Escrow #: 3025060-300-ABN
Escrow Officer: Amber Bean

AS A PUBLIC RECORD THIS FORM MAY BE RECORDED/MICROFILMED

EXHIBIT D

EXHIBIT D

SJC Ventures Holding Company, LLC Account #1427				
Beginning Bal.				35,071.51
Deposits:		10/4/2021	8.99	
		10/6/2021	100,000.00	
		10/6/2021	5,000.00	
		10/8/2021	500,000.00	
		Total		605,008.99
Checks/Withdrawals:				
		10/4/2021	5,662.44	
		10/4/2021	18,721.70	
		10/4/2021	797.61	
		10/5/2021	1,350.00	
		10/6/2021	4,000.00	
		10/6/2021	5,000.00	
		10/6/2021	40,000.00	
		10/6/2021	3,000.00	
		10/6/2021	35,000.00	
		10/6/2021	5,000.00	
		10/7/2021	2,500.00	
		10/7/2021	1,200.00	
		10/8/2021	320,000.00	
		10/8/2021	41,000.00	
		10/8/2021	8,333.00	
		10/12/2021	2,000.00	
		10/12/2021	14,392.18	
		10/12/2021	8,775.95	
		10/12/2021	6,491.61	
		10/13/2021	3,681.34	
		10/14/2021	2,700.00	
		10/14/2021	250.00	
		10/14/2021	847.64	
		10/1/2021	200.00	
		10/1/2021	275.00	
		10/1/2021	400.00	
		10/4/2021	600.00	
		10/4/2021	500.00	
		10/4/2021	508.99	
		10/4/2021	64.00	
		10/5/2021	4,009.99	
		10/6/2021	2.00	
		10/6/2021	56.00	
		10/7/2021	25.00	
		10/8/2021	1,000.00	
		10/12/2021	600.00	
		10/12/2021	105.00	
		10/12/2021	45.50	

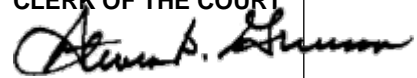
		10/12/2021	250.00	
		10/12/2021	150.00	
		10/13/2021	30.00	
		10/1/2021	822.16	
		10/12/2021	347.08	
		10/12/2021	300.00	
		10/12/2021	211.54	
		Total		(541,205.73)
		10/14/2021 Bal.		98,874.77

EXHIBIT E

EXHIBIT E

75

Transfers From SJC to SHAC			
SJC Ventures Holding Company, LLC Account #1427			
Date	To	Amount	
6/18/2020	SHAC BofA #2784	5,000.00	Transfer
7/6/2020	SHAC BofA #2784	22,421.90	Transfer
7/21/2020	SHAC BofA #2784	20,000.00	Transfer
7/29/2020	SHAC BofA #2784	1,000.00	Transfer
11/16/2020	SHAC BofA #2784	3,500.00	Transfer
11/16/2020	SHAC BofA #2784	150.00	Transfer
12/15/2020	SHAC BofA #2784	4,500.00	Transfer
12/15/2020	SHAC BofA #2784	250.00	Transfer
2/1/2021	SHAC BofA #2784	5,000.00	Transfer
2/1/2021	SHAC BofA #2784	5,000.00	Transfer
2/3/2021	SHAC Axos Acct #8706	50.00	Wire
3/2/2021	SHAC Axos Acct #8706	51,000.00	Wire
3/22/2021	SHAC Axos Acct #8706	49,000.00	Wire
5/5/2021	SHAC Axos Acct #8706	35,000.00	Wire
5/27/2021	SHAC Axos Acct #8706	350.00	Wire
5/28/2021	SHAC Axos Acct #8706	650.00	Wire
6/2/2021	SHAC Axos Acct #8706	35,000.00	Wire
6/12/2021	SHAC Axos Acct #8706	85,000.00	Wire
7/30/2021	SHAC Axos Acct #8706	30,000.00	Wire
8/13/2021	SHAC Axos Acct #8706	35,000.00	Wire
9/8/2021	SHAC Axos Acct #8706	5,000.00	Wire
9/24/2021	SHAC Axos Acct #8706	5,000.00	Wire
9/24/2021	SHAC Axos Acct #8706	30,000.00	Wire
10/27/2021	SHAC Axos Acct	3,500.00	Wire
11/2/2021	SHAC Axos Acct #8706	30,000.00	Wire
12/7/2021	SHAC Axos Acct #8706	3,000.00	Wire
		464,371.90	



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*

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

Hearing Date: January 28, 2022

Hearing Time: 8:30 am

**DEFENDANTS/COUNTERCLAIMANTS'
OPPOSITION TO PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND MOTION
FOR PRELIMINARY INJUNCTION ON
AN ORDER SHORTENING TIME**

CAPTION CONTINUES BELOW

1
2 5148 SPANISH HEIGHTS, LLC, a Nevada
3 limited liability company; CBC PARTNERS I,
4 LLC, a Washington limited liability company,
5 KENNETH ANTOS AND SHEILA
6 NEUMANN-ANTOS, as Trustees of the
7 Kenneth & Sheila Antos Living Trust and the
8 Kenneth M. Antos & Sheila M. Neumann-
9 Antos Trust

Counterclaimants,

v.

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

Counterdefendants.

16 **DEFENDANTS/COUNTERCLAIMANTS' OPPOSITION TO PLAINTIFFS'**
17 **APPLICATION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR**
18 **PRELIMINARY INJUNCTION ON AN ORDER SHORTENING TIME**

19 Defendants/Counterclaimants, by and through their attorney, Michael R. Mushkin, of the
20 law firm of Mushkin & Coppedge, hereby submit their Opposition to Plaintiffs' Application for
21 Temporary Restraining Order and Motion for Preliminary Injunction on an Order Shortening
22 Time. This Opposition is made and based upon the following Memorandum of Points and
23 Authorities, the papers, pleadings, and records on file herein, and any and all arguments that
24 may be allowed at the time of hearing of this motion.

25 **POINTS AND AUTHORITIES**

26 **I. Introduction**

27 This is not a simple foreclosure sale. Plaintiffs have weaponized the court system to
28 avoid paying their contracted for debts. And yet again, Plaintiffs are asserting arguments to the

1 Court with gross misinterpretations of the underlying documents. Plaintiffs and Mr. Bloom
2 continue to try and put before this court distorted and fabricated statements and attempt to
3 manipulate the facts for their own benefit. This is a continuing pattern of fraud upon multiple
4 courts.

5 Plaintiffs' mischaracterization of the Documents¹ represents a disingenuous attempt to
6 avoid their contractual obligations under the Documents. Plaintiffs seek only the benefits of the
7 contract Documents without the burden. Plaintiffs have paid nothing to CBC Partners I, LLC, or
8 its successor 5148 Spanish Heights, LLC, since March of 2020. Plaintiffs have always been
9 aware of the amount of interest owed, as the amounts owed are specifically listed on Pages 3
10 and 4 of the Forbearance Agreement.² In addition, the courtesy Notice of Default and Demand
11 for Payments³ sent to Plaintiffs' have continually listed the interest accruing from April 1,
12 2020.⁴ Counsel for Defendants specifically pointed Plaintiffs' counsel to the Forbearance
13 Agreement when they questioned the interest calculated.⁵ No alternative calculation was
14 provided by Plaintiffs' counsel; just the instant Motion. In addition, Plaintiffs' counsel is fully
15 aware that the Lease referenced in the Motion⁶ is no longer valid pursuant to Spanish Heights
16 Acquisition Company's Chapter 11 Plan of reorganization.

17 **II. Facts and Prior Proceedings**

18 1. This action involves real property located in Clark County, Nevada commonly
19 known as 5148 Spanish Heights Drive, Las Vegas, Nevada 89148 (the "Property").

20 2. On January 12, 2021, a Stipulation and Order was entered, wherein the parties
21 stipulated to five issues to be adjudicated by the State Court at the bifurcated trial.⁷ The issues
22

23 ¹ Documents are defined as the Exhibits admitted at the Preliminary Injunction Hearing and Trial, held on February
24 1, 2, 3, and March 15, 2021.

25 ² Exhibit A of Appendix of Exhibits to Opposition to Motion (Appx.); Trial Exhibit 1 at 5148SH 000003-5148SH
000004; to be discussed in more detail in this Opposition.

26 ³ Appx. Exhibit B; Trial Exhibit 72.

27 ⁴ *Id.* Items 4 and 6; see also Plaintiffs' Exhibit 6. Interest is accruing in the amount of \$1,608.22 per day from April
1, 2020.

28 ⁵ Appx. Exhibit C, Email correspondence p.22 "We start with amounts recited in the Forbearance Agreement..."

⁶
⁷ Exhibit D, Stipulation Regarding Legal Issues to be Decided by the Court at Bifurcated Trial Commencing
February 1, 2021

1 were: 1) Contractual interpretation and/or validity of the underlying “Secured Promissory Note”
2 between CBC Partners I, LLC and KCI Investments, LLC and all modifications thereto; 2)
3 Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications
4 thereto, and determination as to whether any consideration was provided in exchange for the
5 Deed of Trust; 3) Contractual interpretation and/or validity of the Forbearance Agreement,
6 Amended Forbearance Agreement and all associated documents/contracts; 4) Whether the
7 Doctrine of Merger applies to the claims at issue; and 5) Whether the One Action Rule applies
8 to the claims at issue.

9 3. On February 1, 2021, the Court began the bifurcated trial on the issues stipulated
10 to.

11 4. On February 2, 2021, the Plaintiff rested its case at which time Defendants made
12 a NRCP 50(a) Motion.

13 5. Judge Gonzalez denied the NRCP 50(a) Motion and stated, “While there is
14 significant evidence that would support the argument that Mr. Mushkin is making, it would
15 force the Court to weigh the credibility and the evidence at this time. I cannot do that under
16 50(a). So I am denying the motion for you to finish the case and then make your final
17 arguments.”⁸ The Defendants then began their presentation of evidence.

18 6. On the morning of February 3, 2021, just as the bifurcated trial was resuming,
19 Debtor filed its Chapter 11 Bankruptcy Petition, and the State Court stayed the matter for thirty
20 (30) days.

21 7. On March 15, 2021, the bifurcated trial resumed.

22 8. On April 6, 2021, the Honorable Elizabeth Gonzalez issued the Court’s Findings
23 of Fact and Conclusions of Law.⁹

24 9. The Court made a specific finding that on April 1, 2020, a Notice of Default and
25 Demand for Payment was sent to SHAC and SJCV. This letter had a typo on the date of final
26 balloon payment being due on March 31, 2021. This was corrected and emailed to SHAC’s and
27

28 ⁸ See Exhibit E, Transcript of Preliminary Injunction Hearing and Trial – Day 2 p. 46:1-6.

⁹ Appx. Exhibit F FFCL entered April 6, 2021.

1 SJC's counsel noting that the default date was corrected to March 31, 2020.¹⁰

2 10. Included in the FFCL are findings that Movant's Deed of Trust is a valid lien
3 against the Property, that the Note is valid and enforceable, that the membership interests in
4 Debtor were properly pledged and assigned to CBC Holdings LLC, and that the Pledge
5 Agreement associated with the pledge of those membership interests is a valid existing
6 obligation of SJC who has given CBC power of attorney to take all necessary actions to
7 transfer the membership interest in the Debtor to CBC ("Transfer of Membership Interest").¹¹

8 11. The Gonzalez FFCL found the Note was secured by the Property,¹² that the
9 "'One-Action Rule' was specifically waived by the debtor"¹³ and is not a bar to recovery under
10 the "Note and Security Documents".¹⁴

11 12. With respect to the Transfer of Membership Interest in the Debtor, one critical
12 finding by Judge Gonzalez is that "the members of [Debtor] pledged 100% of the membership
13 interests of [Debtor]" to Movant,¹⁵ and that Movant (as the "Secured Party") would have the
14 ability transfer to or to register in the name of the Secured Party (or its nominee) the
15 membership interests (referred to as the "Pledged Collateral" therein).¹⁶ Furthermore, the
16 Gonzalez FFCL found that in 2019, "SJC acknowledged that it pledged its membership
17 interest in [Debtor] as collateral for the 2017 Forbearance Agreement" (collectively, the
18 "Membership Interest Pledge and Assignment").¹⁷

19 13. On April 9, 2021, the Court granted in part Kenneth Antos and Sheila Neumann-
20 Antos Motion for Summary Judgment, which was filed with the Court on August 10, 2021
21 ("OGSJ").¹⁸

22 14. The OGSJ specifically found a lack of performance by SJC Ventures under the
23

24 ¹⁰ Exhibit F at p. 15 ¶70, See also Trial Exhibit 72, Appx. Exhibit B

25 ¹¹ Exhibit F at p. 20 and ¶¶56-60.

26 ¹² *Id.* at ¶4, p. 18

27 ¹³ *Id.* at ¶17, p. 19

28 ¹⁴ *Id.* at ¶19, p. 20

¹⁵ *Id.* at ¶ 56, p. 11

¹⁶ *Id.* at ¶57, p. 12)

¹⁷ *Id.* at ¶ 63, p. 13

¹⁸ Exhibit G; Order Granting in Part Kenneth Antos and Sheila Neumann-Antos Motion for Summary Judgment, filed August 10, 2021.

1 Forbearance Agreement and the Spanish Heights Acquisition Company Operating Agreement.¹⁹

2 15. On July 27, 2021, the Bankruptcy Court lifted the Automatic Stay to allow this
3 matter to proceed in State Court.²⁰

4 16. On or about November 15, 2021, the parties came to a settlement agreement and
5 entered the terms on the record (“Settlement Agreement”).²¹

6 17. As part of the Settlement Agreement, SJCVC agreed to make certain payments to
7 Defendants/Counterclaimants on January 5, 2022.²² If SJCVC failed to make the payment, the
8 Defendants/Counterclaimants will “continue foreclosure on the property without further order
9 of the Court...”²³

10 18. On November 24, 2021, SHAC’s Bankruptcy Chapter 11 Plan of Reorganization
11 was confirmed.²⁴

12 19. Under Paragraph III(C)(3) of SHAC’s Chapter 11 Plan, SHAC was required to
13 make an interest payment on January 1, 2022. Further, on January 5, 2022, SHAC was required
14 to make a payment in the amount of \$4,000,000.²⁵

15 20. Under Paragraph V(2) of SHAC’s Chapter 11 Plan, SHAC was required to enter
16 into a new lease of the Property with SJCVC in the amount of \$45,000.00 per month.²⁶

17 21. On January 1, 2022, SHAC failed to make its interest payment required under
18 the Chapter 11 Plan.

19 22. On January 5, 2022, SHAC failed to make the \$4,000,000 payment.

20 23. On January 11, 2022, Defendants/Counterclaimants by and through Nevada
21 Trust Deed Services, recorded a Notice of Trustee’s Sale against the Property.²⁷

23 ¹⁹ *Id.* at 2:28-3:4

24 ²⁰ Exhibit H, Status Report Regarding the Lifting of Bankruptcy Stay, filed July 28, 2021.

24 ²¹ Exhibit I, Transcript of Proceedings, filed December 16, 2021.

25 ²² *Id.* at 22:9-13

25 ²³ *Id.* at 22:24-23:5

26 ²⁴ Exhibit J, Order Confirming Third Amended Plan of Reorganization for the Debtor Under Chapter 11 of the
United States Bankruptcy Code, filed November 24, 2021

27 ²⁵ *Id.* Exhibit 1, Third Amended Plan of Reorganization of Spanish Heights Acquisition Company, LLC Dated June
2, 2021 Under Chapter 11 of the Bankruptcy Code pages 13-14.

27 ²⁶ *Id.* page 17.

28 ²⁷ Exhibit K, Notice of Trustee’s Sale, recorded in the Clark County, Nevada, Recorder’s Office as Instrument No.
20220111-0000672.

1 24. The Foreclosure Sale is set for February 1, 2022.

2 **III. Summary of Argument**

3 Plaintiffs continually misstate the documents put before this Court. The Plaintiffs have
4 not shown this Court facts or law to meet their burden. The Plaintiffs have not demonstrated
5 irreparable harm and cannot show the likelihood of success on the merits. In fact, Plaintiffs
6 acknowledge Defendants' right to foreclose.

7 As shown by the Forbearance Agreement²⁸ and the Demands for payment,²⁹ the interest
8 calculated is accurate. Further the Attorneys Fees and Costs are appropriate to be paid as all fees
9 and costs are a direct result of Plaintiffs trying to avoid the Trustee's Sale that was initially
10 noticed for January 5, 2021.³⁰ Plaintiffs come before this Court with unclean hands. Plaintiffs
11 have exhausted not one but two forbearance periods, filed multiple appeals, and have failed to
12 perform under the terms of the Settlement Agreement.

13 Plaintiffs have intentionally omitted critical parts of the facts and authority they rely
14 upon. Every act undertaken by Plaintiffs have been in bad faith, without merit, and without
15 evidence to this Court. The simple truth in this case is Plaintiffs have failed to perform and as a
16 result, the Trustee's Sale should move forward.

17 **IV. Argument**

18 **A. Legal Standard**

19 The legal standard for granting injunctive relief is well established in Nevada. NRS
20 33.010 provides:

21 Cases in which injunction may be granted. An injunction may be
22 granted in the following cases:

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

27 2. When it shall appear by the complaint or affidavit that the

28 ²⁸ Appx. Exhibit A

29 ²⁹ Appx Exhibit B

30 ³⁰ Appx. Exhibit L; Trial Exhibit 113, Notice of Trustee's Sale recorded December 15, 2020.

1 commission or continuance of some act, during the litigation,
2 would produce great or irreparable injury to the plaintiff.

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

8 Interpreting NRS 33.010, the legislative authority for injunctive relief, the Nevada
9 Supreme Court has held that "[a] preliminary injunction is available if an applicant can show a
10 likelihood of success on the merits and a reasonable probability that the non-moving party's
11 conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is
12 an inadequate remedy." *Dangberg Holdings Nevada, LLC v. Douglas County*, 115 Nev. 129,
13 142, 978 P.2d 311, 319 (1999) (affirming order granting a preliminary injunction).

14 Plaintiffs have wholly failed to satisfy the pre-requisites for injunctive relief. Plaintiffs
15 Motion is wrought with misleading information. Plaintiffs must show specific facts in an
16 affidavit or verified complaint that show immediate and irreparable injury, loss, or damage.
17 Plaintiffs have failed in this threshold requirement. By Plaintiffs own admission the argument
18 now is money damages.

19 **B. Plaintiffs cannot prevail on their claims for relief.**

20 In order to obtain injunctive relief, Plaintiffs must show a likelihood of success on the
21 merits. *Id.* As set forth below, Plaintiffs have absolutely no chance of prevailing in this matter.

22 On or about November 15, 2021, the parties came to a Settlement Agreement and
23 entered the terms on the record.³¹ As part of the Settlement Agreement, SJCV agreed to make
24 certain payments to Defendants/Counterclaimants on January 5, 2022.³² If SJCV failed to make
25 the payment, the Defendants/Counterclaimants will "continue foreclosure on the property
26 without further order of the Court..."³³ It is clear by the Settlement Agreement that Defendants
27

28 ³¹ Exhibit I, Transcript of Proceedings, filed December 16, 2021.

³² *Id.* at 22:9-13

³³ *Id.* at 22:24-23:5

1 have a right to hold the Trustee's Sale.³⁴ "Oral settlement agreements placed on the record in
2 open court are generally binding." *Grisham v. Grisham*, 128 Nev. 679, 683-84, 289 P.3d 230,
3 233 (2012).

4 Plaintiffs now come before this Court seeking extraordinary relief beyond the scope of
5 the Settlement Agreement. A court has no power to create a new contract or new duties for the
6 parties, which they have not created or intended themselves. *Old Aztec Mine, Inc. v. Brown*, 97
7 Nev. 49, 52, 623 P.2d, 901, 983 (1981).

8 Indeed, it is well settled in Nevada that "[p]arties are free to contract, and the courts will
9 enforce their contracts if they are not unconscionable, illegal, or in violation of public policy."
10 *Rivero v. Rivero*, 125 Nev. 410, 429, 216 P.3d 213, 226-227 (2009) (citing *NAD, Inc. v. Dist*
11 *Ct.*, 115 Nev. 71, 77, 976 P.2d 994, 997 (1999) (explaining that "parties are free to contract in
12 any lawful matter")). In fact, the Supreme Court of Nevada has specifically held:

13 It is not a proper function of the court to re-write or distort a
14 contract under the guise of judicial construction. **The law will not**
15 **make a better contract for the parties than they themselves**
16 **have seen fit to enter into, or alter it for the benefit of one**
17 **party and to the detriment of the other. The judicial function**
18 **of a court of law is to enforce the contract as it is written.**

19 *Pioneer Title Ins. & Trust Co. v. Cantrell*, 71 Nev. 243, 245-246, 286 P.2d 261, 263 (1955)
(internal citations omitted) (emphasis added).

20 1. The Interest Calculated is Correct

21 The 2017 Forbearance Agreement specifically defines the "amount of \$1,315,105.24 in
22 interest accrued the rate of 20%."³⁵ On April 1, 2020, Defendants, by and through counsel, sent
23 a Notice of Default and Demand for Payment to Plaintiffs.³⁶ This letter indicated the amount of
24 "accrued interest and late charges" was \$1,315,105.24.³⁷ The letter further stated Interest would

25
26
27 ³⁴ Appx Exhibit I, and Exhibit J Third Amended Plan of Reorganization of Spanish Heights Acquisition Company, LLC Dated June 2, 2021 Under Chapter 11 of the Bankruptcy Code pages 26-27.

28 ³⁵ Appx. Exhibit A, Trial Exhibit 1 at 5148SH 000004

³⁶ Appx Exhibit B; Trial Exhibit 72 at 5148SH 000879

³⁷ *Id.*

1 accrue “in the amount of \$1,608.22 per day from **April 1, 2020** until paid in full.”³⁸

2 The Plaintiffs’ Motion is intentionally misleading the Court by claiming that the interest
3 is overstated. The letter Plaintiffs attached to their Motion is identical to the April 1, 2020, letter
4 other than the date that it was mailed.³⁹ All Demand for Payment letters indicate that interest
5 will be charged from April 1, 2020, until paid in full at the daily rate of \$1,608.22. As a result,
6 interest from the date of default to today is due in the amount of \$1,067,858.08. (April 1, 2020,
7 to January 25, 2022 = 664 days * \$1,608.22) This is in addition to the accrued interest of
8 \$1,315,105.24 defined in the 2017 Forbearance Agreement.⁴⁰

9 This transaction is well documented, and all documents have been admitted into
10 evidence and ruled upon by the Court. To come before this bad math and no facts or law to
11 support their motion is worth of sanctions by this Court.

12 **2. Attorneys’ Fees Are Properly Charged**

13 Paragraph 6.2 of the 2017 Forbearance Agreement states:

14 Reimbursement of CBCI’s Costs and Expenses. CBCI will receive
15 reimbursement of all reasonable costs and expenses incurred by
16 CBCI relating to this Forbearance Agreement, including charges
17 for legal fees and expenses of CBCI’s counsel (“Reimbursable
18 Costs”)... Reimbursable Costs will be added to the amount due
under the CBCI Note.⁴¹

19 As a direct result of Plaintiffs actions Defendants have incurred Reimbursable fees and
20 costs in the amount of approximately \$903,741.28.

21 Plaintiffs failed to pay the amounts owed, by contract on March 31, 2020, as a result
22 Defendants started the foreclosure process, by sending a Demand for Payment to Plaintiffs.
23 Further, on April 9, 2020, Plaintiffs filed the Complaint for the instant action, along with a
24 Motion for Temporary Restraining Order and Motion for Preliminary Injunction. The litigation
25 in this matter has been lengthy and contentions. To further complicate things things SHAC filed
26

27 ³⁸ *Id.* emphasis added

28 ³⁹ See Plaintiffs’ Exhibit 6.

⁴⁰ Appx. Exhibit A; Trial Exhibit 1 at 5148SH 000003-5148SH 000004

⁴¹ Appx. Exhibit A; Trial Exhibit 1 at 5148SH 000014

for Bankruptcy on February 3, 2022, which Defendants had to participate in and to their interest.

It was Plaintiffs direct actions that led to the Reimbursable fees and Costs being added to the amounts due under the Forbearance Agreement. It is particularly galling to read Plaintiffs' rendition of the facts and documents given the April 6, 2021, Findings of Fact and Conclusions of Law, the Order Confirming Third Amended Plan of Reorganization for SHAC, and the Settlement Agreement. Bloom has been intentionally gaming the system since he described the transaction in a July 2017 email.⁴²

With the principal, interest, advances, reimbursable fees and costs, the total amount due is as follows:

Principal	\$2,935,001.14	Per 9/27/2017 Forbearance Agreement ¶ B		
Accrued Interest	\$1,315,105.24	Per 9/27/2017 Forbearance Agreement ¶ B		
Advances	\$397,872.65	Per 9/27/2017 Forbearance Agreement ¶ B		
Advances	\$928,871.90	9/1/2017 to March 1, 2020		
Interest owed	\$1,067,858.08	From date of default to 1/25/2022		
Attorneys' Fees (foreclosure)	\$42,572.50			
Costs (foreclosure)	\$12,305.07			
Attorneys' Fees (state)	\$624,479.00			
Costs (state)	\$28,696.06			
Attorney's Fees (BK)	\$174,790.50			
Costs (BK)	\$20,898.15			
Total Owed	\$7,548,450.29			
Daily Interest	Today	Start date	Days	Total Interest today
\$1,608.22	1/25/2022	4/1/2020	664	\$1,067,858.08

C. Plaintiffs have not suffered any harm caused by Defendants

In this matter it is the Defendants/Counterclaimants that are suffering harm. Plaintiffs executed the Forbearance Agreement and the Amended Forbearance Agreement and agreed to be bound by the Documents. The transfer of title to SHAC was consented to only after Plaintiff

⁴² Appx Exhibit F; p. 9 ¶39.

1 negotiated and consented to the promises contained in the Forbearance Agreements. Plaintiffs
2 accepted the benefit of each agreement and Defendants, or its successors paid over \$1.3 million
3 in advance payments for the benefit of Plaintiffs.

4 The balance due from Plaintiffs is approximately \$7,548,450.29 (\$2,935,001.14 for
5 principal, pre-forbearance protection payments of \$1,326,744.55, interest and late charges of
6 \$1,315,105.24 and interest accrued at the rate of 20% in the amount of \$1,608.22 per day from
7 April 1, 2020, in addition attorney's fees and costs for the foreclosure and litigation of
8 \$903,741.28). Plaintiff has made no attempt to pay any of the debt. Disputed amounts do not
9 constitute irreparable harm. Defendants are harmed by Plaintiffs failing to abide by the
10 Settlement Agreement and paying their debt.

11 **D. Public Policy mandates that Plaintiffs' request for a preliminary injunction**
12 **be denied.**

13 Plaintiffs' motion fails at every turn. By filing the instant motion, Plaintiffs are
14 effectively asking this Court to assist in their illegal activities. Plaintiffs have failed to provide
15 this Court with competent evidence to demonstrate that they are likely to prevail or that they
16 will suffer irreparable harm should the motion not be granted. Moreover, public policy
17 mandates that Plaintiffs should pay for their obligations contracted for. Once again Plaintiffs
18 accept the benefit of the documents without paying for their obligations under the Documents.

19 Moreover, Plaintiffs have now threatened Nevada Legal News with wrongful
20 foreclosure.⁴³ This is particularly offensive given Plaintiffs' Counsel opening admission that
21 Defendants have the right to foreclose. Public policy will never support this fraudulent
22 behavior.

23 **E. If the court were somehow inclined to issue a Preliminary injunction, the**
24 **bond must be substantial.**

25 "NRCF 65(c) provides, in part, that '(n)o restraining order or preliminary injunction
26 shall issue except upon the giving of security by the applicant, . . .'" *Strickland v. Griz Corp.*, 92

27
28 ⁴³ Appx. Exhibit M, Letter from Plaintiffs' Counsel to Nevada Legal News

1 Nev. 322, 323, 549 P.2d 1406, 1407 (1976) (citing NRCP 65). Nevada courts have long
2 considered the potential “inconvenience and loss to the opposing party,” when determining the
3 proper amount of a bond to secure a preliminary injunction. *Rhodes Mining Co. v. Belleville*
4 *Placer Mining Co.*, 106 P. 561, 563 (1910).

5 To now come before this Court and seek no bond is both violative of NRCP 65(c) and
6 the case law. Accordingly, Defendants would respectfully request the Court Order a bond in the
7 amount of \$10,750,000.00 from Plaintiffs, should this Court entertain extraordinary relief.

8 **V. Conclusion**

9 The Plaintiff has now sought this Injunctive Relief for the fourth time. The facts have
10 not changed. The debt is now due. Each claim by the Plaintiff is unsupported by the written
11 agreements.

12 The claims of the Plaintiffs are not proven. The statutory requirements for Injunctive
13 Relief have not been met by Plaintiffs. The Settlement Agreement was clear and unambiguous,
14 the debt is due. Defendants respectfully request this Court to deny the relief sought and award
15 Defendants their fees and costs.

16 DATED this 25th day of January, 2022

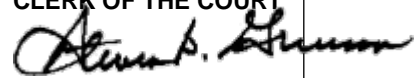
17 MUSHKIN & COPPEDGE

18
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 South Eastern Ave Ste 270
25 Las Vegas, NV 89119
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing **Defendants/Counterclaimants' Opposition to**
3 **Plaintiffs' Application for Temporary Restraining Order and Motion for Preliminary**
4 **Injunction on an Order Shortening Time** was submitted electronically for filing and/or
5 service with the Eighth Judicial District Court on this 25th day of January, 2022. Electronic
6 service of the foregoing document shall be upon all parties listed on the Odyssey eFileNV
7 service contact list:
8

9 /s/K.L. Foley
10 An Employee of
11 MUSHKIN & COPPEDGE
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*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 CLAIMS

Case No. A-20-813439-B

Dept. No.: XXXI

**APPENDIX OF EXHIBITS TO
DEFENDANTS/COUNTERCLAIMANTS'
OPPOSITION TO PLAINTIFFS'
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AND MOTION
FOR PRELIMINARY INJUNCTION ON
AN ORDER SHORTENING TIME**

**APPENDIX OF EXHIBITS TO OPPOSITION TO PLAINTIFFS' APPLICATION FOR
TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY
INJUNCTION ON AN ORDER SHORTENING TIME**

	Document
A.	2017 Forbearance Agreement; Trial Exhibit 1
B.	Demand for Loan Payment; Trial Exhibit 72
C.	Email Correspondence
D.	Stipulation Regarding Legal Issues to be Decided by the Court at Bifurcated Trial Commencing 2-1-2021
E.	Transcript of Proceedings Preliminary Injunction Hearing and Trial – Day 2
F.	Findings of Fact and Conclusions of Law
G.	Order Granting in Part Kenneth Antos and Sheila Neumann-Antos Motion for Summary Judgment
H.	Status Report Regarding Lifting of Bankruptcy Stay
I.	Transcript of Proceedings, November 15, 2021
J.	Order Confirming Third Amended Plan of Reorganization for the Debtor Under Chapter 11 of the United States Bankruptcy Code
K.	Notice of Trustee's Sale Recorded January 11, 2022
L.	Notice of Trustee's Sale Recorded December 15, 2020
M.	Letter from Plaintiffs' Counsel to Nevada Legal News

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that the foregoing **Appendix of Exhibits to Defendants/Count-**
3 **erclaimants' Opposition to Plaintiffs' Application for Temporary Restraining Order and**
4 **Motion for Preliminary Injunction on an Order Shortening Time** was submitted
5 electronically for filing and/or service with the Eighth Judicial District Court on this 11th day of
6 January, 2022. Electronic service of the foregoing document shall be upon all parties listed on
7 the Odyssey eFileNV service contact list:

8
9 /s/Karen L. Foley
10 An Employee of
11 MUSHKIN & COPPEDGE
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EXHIBIT “A”

FORBEARANCE AGREEMENT

THIS FORBEARANCE AGREEMENT (the "Forbearance Agreement") is made and dated as of the 27th day of September 2017 by and among CBC Partners I, LLC ("CBCI"), Kenneth & Sheila Antos Living Trust (the "Living Trust"), Kenneth M. Antos & Sheila M. Neumann-Antos Trust (the "K & S Trust"), Kenneth Antos and Sheila Neumann-Antos, as Trustees of the Living Trust and the K & S Trust, and as Personal Guarantors of the Secured Promissory Note described below., Spanish Heights Acquisition Company, LLC ("SHAC"), and SJC Ventures, LLC ("SJCv")

RECITALS

A. The Parties and Background

1. CBCI is a Washington limited-liability company. CBCI is the holder of a certain Secured Promissory Note dated June 22, 2012; which has been amended, by ten subsequent Amendments; all of which have been executed by KCI Investments, LLC and Preferred Restaurant Brands, Inc. (collectively the "Amended Note").

2. The Amended Note is secured by certain Personal Guarantees signed by Kenneth Antos and Sheila Antos. The Amended Note is also secured by certain Security Agreements, Subsidiary Guarantees, and Intercreditor Agreements, Deeds of Trust, Assignment of Rents, and Fixture Filings (collectively, the "Security Agreements").

3. In particular, the Amended Note is secured by a certain DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING made as of December 17, 2014, by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the

Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto, as trustor ("Trustor"), First American Title Insurance Company, a Nebraska corporation, as trustee ("Trustee"), for the benefit of CBCI. (the "2014 Deed of Trust"). Subsequently, the 2014 Deed of Trust was modified by a certain **FIRST MODIFICATION TO DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING** made effective as of November 30, 2016, by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust, dated April 26, 2007, and any amendments thereto, as trustor ("Trustor"), and CBCI ("Beneficiary") (collectively, the "Modified Deed of Trust") that encumbers the property commonly known as 5148 Spanish Heights Drive, Las Vegas, NV (the "Property"). The Property is owned by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust, dated April 26, 2007, and any amendments thereto (the "Antos Trust"). Agreement, Kenneth Antos, Sheila Antos and the Antos Trust may be collectively referred to as the "Antos Parties."

4. Several Events of Default (the "Identified Defaults") exist under the Amended Note, the Security Agreements; including the Modified Deed of Trust (collectively the "Loan Documents"). As a result of the Identified Defaults, CBCI is entitled to pursue certain remedies under the Loan Documents. These remedies include, foreclosing on the Property in accordance with the Deed of Trust. Pursuant to the terms of this Forbearance Agreement, CBCI is willing to forbear from exercising its right to foreclose on the Property in accordance with the Deed of Trust, with respect to the Identified Defaults, during the "Forbearance Period" defined below.

5. Pursuant to the terms hereunder, the Antos Trust intends to convey the Property to SHAC. SHAC is a Nevada limited-liability company. The Members of SHAC are SJC Ventures, LLC ("SJCv") and the Antos Trust. Pursuant to the terms hereunder, SHAC intends to acquire

the Property and make certain payments to CBC and other parties pursuant to the terms of this Forbearance Agreement.

3. SHAC is a Nevada limited-liability company. The Members of SHAC are SJCVC and the Antos Parties. Pursuant to the terms hereunder, SHAC intends to acquire the Property and make certain payments to CBCI and other parties pursuant to the terms of this Forbearance Agreement.

4. SHAC intends to rent the Property to SJCVC. SJCVC is a Nevada limited liability company. SJCVC owns a 24.912% Membership Interest in 1st One Hundred Holdings, LLC. 1st One Hundred Holdings, LLC, is the judgment creditor in possession of a final judgment in the amount of \$2.2 billion (the "Judgment"). The majority owner of 1st One Hundred Holdings, LLC is Tangled Web Family Trust. Jay Bloom is the Managing Member of 1st One Hundred Holdings LLC. Tangled Web Family Trust is the sole-member of SJCVC. Mr. Bloom is a trustee and beneficiary of the Tangled Web Family Trust. Mr. Bloom is also the Manager of SJCVC (the "SJCVC Parties." As a material term of the Forbearance Agreement, which forms the basis of the bargain, Mr. Bloom, as the Managing Member of 1st One Hundred Holdings, and as the Manager of SJCVC, have agreed that SJCVC will execute the "Security Agreement" described herein; and that 1st One Hundred Holdings will acknowledge its consent that SJCVC execute the Security Agreement. which will require 1st One Hundred Holdings and SJCVC to guaranty the obligations of SHAC and SJCVC under this Forbearance

B. The Amended Note and the Events of Default

1. Obligations Owed from Antos Parties to CBCI. As of August 21, 2017, the Antos Parties are indebted as follows to CBCI: (i) in the amount of \$2,935,001.14 for unpaid principal (the "Principal Balance"); (ii) certain Protection Payments (as defined in Exhibit "B") made by

CBCI prior to the effective date of this Forbearance Agreement in the amount of \$397,872.65 (the "Pre-Forbearance Protection Payments" as defined in Exhibit "B,"(iii) in the amount of \$1,315,105.24 in interest accrued at the rate of 20%; and (iv) in additional amounts for accrued and accruing interest, recoverable costs (including reasonable attorneys' fees), certain indemnities, Post-Forbearance Protection Payments and other "Note Expenses" as described below.

2. The Modified Deed of Trust. As part of the security for satisfaction of the Amended Note, CBCI holds the valid and perfected Modified Deed of Trust. Pursuant to the Modified Deed of Trust, CBCI is entitled to foreclose on the Property.

3. The Antos Parties and the SJCV Parties have no defenses, offsets, counterclaims, or adverse claims of any kind or amount with respect to the Loan Documents, including the Amended Note, the Modified Deed of Trust, and/or other collateral interests held by CBCI as security for satisfaction of the Note.

4. Identified Defaults. The Identified Defaults existing under the Loan Documents; including the Modified Deed of Trust are clearly set forth in the Loan Documents and are incorporated herein by reference.

C. Request for Forbearance.

1. The Antos Parties and the SJCV Parties have requested that, notwithstanding the existence of the Identified Defaults, CBCI forbear from exercising their rights and remedies with respect to the Identified Defaults through August 31, 2019.

2. Although CBCI is under no obligation to do so, CBCI is willing to agree to forbear pursuant to the terms and conditions of this Forbearance Agreement. The forbearance is being

provided by CBCI to allow SHAC to secure replacement financing to satisfy the amount owed to CBCI pursuant to the Note.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

AGREEMENT

1. Accuracy of Recitals. The Antos Parties and the SJCV parties acknowledge that the Recitals set forth above are true, accurate and correct. The Recitals are incorporated into this Forbearance Agreement without any difference or distinction between the two (2) segments of this Forbearance Agreement.

2. Reaffirmation of Loans. Except as modified by this Forbearance Agreement, the Antos Parties and the SJCV Parties reaffirm all obligations due to CBCI under the Amended Note and Modified Deed of Trust.

3. INTENTIONALLY LEFT BLANK

4. Forbearance. Provided that the Antos Parties and the SJCV Parties satisfy all the conditions described in Exhibit "B" to this Forbearance Agreement, CBCI agrees to forbear from exercising its rights and remedies with respect to the Identified Defaults from the effective date of the Forbearance Agreement through August 31, 2019 (the "Forbearance Period").

As further consideration for CBCI's agreement, in addition, the forbearance provided by CBCI to the Antos Parties and the SJCV Parties are limited as follows:

4.1 Forbearance Limited to Identified Defaults. CBCI's forbearance is limited solely to the suspended exercise of its respective rights and remedies arising under the Amended Note and Modified Deed of Trust as a result of the Identified Defaults, and CBCI shall not be

deemed to have suspended or waived any rights or remedies it may have with respect to any other existing breach, default, or Event of Default under the Loan Documents, including the Amended Note and the Modified Deed of Trust.

4.2 No New Events of Default. During the Forbearance Period, there shall occur no new Event of Default or an event which, with the passage of time or the giving of notice or both, would constitute an Event of Default under the Amended Note and Modified Deed of Trust or this Forbearance Agreement, nor shall there be a breach or failure of any warranty, representation or covenant as described in this Forbearance Agreement.

4.3 Agreement in the Nature of Forbearance Only. The Antos Parties and SJCV Parties acknowledge that CBCI's obligations under this Forbearance Agreement are in the nature of a conditional forbearance only, and that CBCI has made no agreement or commitment to provide additional forbearance, to modify or to extend the Amended Note and Modified Deed of Trust beyond the Forbearance Period. Antos Parties and the SJCV Parties also acknowledges that the Identified Defaults are not cured as a result of this Forbearance Agreement.

4.4 Termination of the Forbearance Period. The Forbearance Period shall end on the first to occur of the following:

4.4.1 Upon the expiration of the Forbearance Period.

4.4.2 A breach by the Antos Parties and the SJCV Parties of any of the covenants, representations, and/or warranties set forth in this Forbearance Agreement.

4.4.3 The occurrence of any new Event of Default under any of the Loan Documents, including the Amended Note and Modified Deed of Trust, or the occurrence of any event which, with the passage of time or giving of notice or both, would constitute an Event of Default thereunder.

4.4.4 The filing of a bankruptcy petition by or against any Obligated Party.

4.4.5 Any Obligated Party makes any assignment for the benefit of its creditors, or a receiver is appointed for any Obligated Party's business.

4.5 Exercise of Rights and Remedies Upon Termination of Forbearance

Period. If upon termination of the Forbearance Period, the Note has not been satisfied as part of the transactions described in Exhibit "B," CBCI is free to exercise all of its rights and remedies under the Amended Note and Modified Deed of Trust, including but not limited to, the rights and remedies available to CBCI as a result of the Identified Defaults.

5. Conditions to Forbearance. In addition to all other conditions set forth in Section 4 above, the forbearance provided by CBCI under this Forbearance Agreement is strictly conditioned upon satisfaction by Antos Parties and the SJCV Parties of the following:

5.1 No New Defaults. That during the Forbearance Period, there will occur no new event which would allow CBCI with or without notice to accelerate the Loan Documents, including the Amended Note and Modified Deed of Trust, or to exercise any rights or remedies against any collateral for provided for in the Loan Documents including the Amended Note and Modified Deed of Trust, or an event which, with the passage of time or the giving of notice or both, would constitute an Event of Default under any one or more of the Loan Documents, including the Amended Note and Modified Deed of Trust, or a default occurs under the Forbearance Agreement (collectively, an "Incipient Default"), and there will be no breach or failure of any warranty, representation or covenant contained in this Forbearance Agreement.

5.2 Forbearance by Other Lenders. That during the Forbearance Period, no other lender, creditor, or lessor (collectively "Other Lender(s)") undertakes efforts to enforce its rights or remedies relating to any default committed by the Antos Parties or SJCV Parties under

any loan agreement, lease, security agreement, or other financial agreement. If any Other Lender undertakes such efforts, CBCI may immediately terminate this Forbearance Agreement.

5.3 Delivery of Outstanding Items. By the time of execution of the Forbearance Agreement, the Antos Parties and the SJCV Parties will have delivered to CBCI any outstanding property, agreements, or other documents relating to the Property, or which are required to be provided pursuant to the Amended Note and Modified Deed of Trust or this Forbearance Agreement, including the agreements described in Exhibit "B" hereto.

5.4 Delivery of Consents. As evidenced by its signature below, any Guarantor which has guaranteed the obligations of the Antos Parties and the SJCV Parties, expressly consents to the terms, and conditions of this Forbearance Agreement, and confirms that its guarantee shall remain in full force and effect. This provision shall survive the termination of this Forbearance Agreement.

5.5 Pursuit of Certain Sales, Financings, and Collection of the Judgment. Upon execution of the Forbearance Agreement, Antos Parties and the SJCV Parties will undertake efforts to obtain financing to satisfy the Note prior to the termination of the Forbearance Period. Such efforts shall include: (1) efforts to obtain alternative financing; and (2) SJCV's efforts to collect on the Judgment described in Exhibit "B" and to use any monies collected to pay the Amended Note in accordance with the terms of the Judgment/Lien Pledge Agreement described in Exhibit "B."

5.7 Full Cooperation with Consultants. During the Forbearance Period, the Antos Parties and the SJCV Parties will cooperate fully with consultants engaged by CBCI to assess and address matters germane to Antos Parties and the SJCV Parties' performance under the Amended Note and Modified Deed of Trust or this Forbearance Agreement.

5.8 Capital Expenditures. During the Forbearance Period, and unless otherwise agreed to in writing by CBCI, the Antos Parties and the SJCVC Parties will not incur any liability or expend cash for capital expenditures or improvements over and above the amount of \$125,000 without the prior written approval of CBCI.

5.9 Additional Collateral. As additional security for satisfaction of the obligations of their obligations herein, the Antos Parties and SJCVC Parties grant to CBCI the additional collateral described in Exhibit "B" (collectively, the "Additional Collateral").

5.10 Financial Information/Other Information. The Antos Parties and the SJCVC parties will comply with reasonable requests made by CBCI to provide information about the Property; including information relating to the Antos Parties and SJCVC Parties efforts to comply with their obligations under section 5.5 of this Forbearance Agreement.

5.11 Negative Covenants. During the term of the Forbearance Period:

Except as is otherwise provided in this Forbearance Agreement, the Antos Parties and the SJCVC Parties will not incur any additional debt in excess of \$25,000. Notwithstanding the foregoing, the Antos Parties and the SJCVC Parties may incur debt from affiliated companies, or the principals of the Obligated Companies ("Affiliate Debt") so long as: (i) the Affiliate Debt is on terms acceptable to CBCI; (ii) the Affiliate Debt is subordinated in priority and payment to the Note; and (iii) no payments are made by the Antos Parties and the SJCVC Parties with respect to the Affiliate Debt unless and until all amounts due under the Amended Note are paid in full. In addition, the Antos Parties and the SJCVC Parties will not make any capital contributions, loans, or other advances to any of its affiliated companies outside of the ordinary course of business.

5.11.1 The Antos Parties and the SJCVC Parties will not make any payments of any kind (including principal, interest, or other amounts owed) on any existing or future loans from the principals of the Antos Parties and the SJCVC Parties.

5.11.2 Except for Liens arising under the Amended Note and Modified Deed of Trust, the Antos Parties and the SJCVC Parties will not allow any new liens to be secured by property which is owned or hereafter acquired by Antos Parties and the SJCVC Parties or any of their affiliated companies.

5.11.3 Subordination of other Obligations.

(a) For purposes of this Forbearance Agreement, "Senior Obligations" means (i) all principal, interest, fees, reimbursements, indemnifications, and other amounts, now or hereafter owed by the Antos Parties, or the SJCVC Parties to CBCI under or in connection with this Forbearance Agreement and of the other Agreements that are required to be executed pursuant to the terms of this Forbearance Agreement.

(b) For purposes of this Forbearance Agreement, "Senior Lien" means any and all Liens securing any of the Senior Obligations in favor of CBCI.

(c) For purposes of the Forbearance Agreement, a "Subordinate Creditor" is any party who extends credit to the Antos Parties and the SJCVC parties that is a "Subordinated Debt" as defined in this Forbearance Agreement.

(c) For purposes of this Forbearance Agreement, "Subordinated Debt" means all present and future indebtedness, liabilities, and obligations of any kind owed by the Antos Parties and/or the SJCVC Parties to any Subordinated Creditor.

(d) For purposes of this Forbearance Agreement, "Subordinated Lien" means any lien, secured by property of the Antos Parties and/or the SJCV Parties, that is intended to secure the repayment of all or any portion of the Subordinated Debt.

(e) Unless and until the Senior Obligations shall have been irrevocably paid in full; (i) any Subordinated Debt shall be subordinate to all Senior Debt; and (ii) any Subordinated Lien shall be subordinate to the Senior Lien.

(f) Unless and until the Senior Obligations shall have been irrevocably paid in full, there shall be no payments of any kind, direct or indirect, on the Subordinated Debt, unless expressly agreed to in a writing that is subject to CBCI's approval, which CBCI may withhold in its sole and absolute discretion.

(g) Notwithstanding subsection (f) above, if no Default or Event of Default is continuing or would be caused thereby, the Debtor may make regularly-scheduled payments of interest and principal with respect to a Subordinated Debt (such payments being referred to herein as "Permitted Payments"). The Subordinated Creditor shall consult with the Antos Parties, or SJCV Parties, as necessary, for the purpose of determining that each Permitted Payment to the Subordinated Creditor shall not cause a Default or Event of Default when made and the Subordinated Creditor shall bear the risk that the making of any Permitted Payments to the Subordinated Creditor violates the foregoing restriction. If at any time there shall occur a Default or Event of Default the Antos Parties, and the SJCV Parties, shall not make any payments with respect to any Subordinated Debt until the earlier of (i) the cure of the Default or Event of Default to the satisfaction of CBCI; or (ii) the irrevocable payment in full of the Senior

Obligations. The Antos Parties and the SJCV Parties shall give any and all Subordinated Creditor(s) prompt notice of any such Default or Event of Default.

(h) If there shall exist an event of default, however denominated, with respect to the Subordinated Debt, the Subordinated Creditor shall not take any action with respect to such event of default until the earlier of (a) the irrevocable payment in full of the Senior Debt; or (b) the receipt of written consent from CBCI to commence Remedial Action.

(j) Upon any distribution to creditors of SHAC, the Antos Parties, or the SJCV Parties (the "Debtor Parties"), in a liquidation or dissolution of any of the Debtor Parties, or in any Insolvency Proceeding with respect to any of the Debtor Parties, or any of their assets, all amounts due with respect to the Senior Obligations, shall be irrevocably paid in full before the Subordinated Creditor shall be entitled to collect or receive any payment with respect to the Subordinated Debt. Until CBCI has received all amounts due to CBCI, with respect to the Senior Debt in cash, or such payment is duly provided for, any distribution from the Debtor Parties or their assets to which the Subordinated Creditor should otherwise be entitled shall be made to CBCI.

(k) Any payments received by a Subordinated Creditor in violation of this Agreement shall be held by the Subordinated Creditor in trust for the benefit of CBCI and shall be immediately turned over to CBCI in the form received (together with any necessary endorsements) for application to the Senior Obligations, to the extent necessary to pay the Senior Debt in full.

(l) Other than a Subordinated Lien, the Subordinated Creditor will not create, assume, or suffer to exist any lien, security interest, or assignment of collateral securing the repayment of the Subordinated Debt. Any lien, security interest, or assignment existing in

violation of the foregoing and the Subordinated Lien shall be fully subordinate to the Senior Lien. At the request of CBCI, the Subordinated Creditor and the Debtor Parties will take any and all steps necessary to fully effect the release of any such lien, security interest, assignment, or collateral. Any financing statement filed with respect to the Subordinated Lien shall contain the following statement, "The security interest described in this financing statement is fully subordinate to the security interest in favor of CBC Parnters I, LLC.

(m) The Subordinated Creditor, the Antos Parties, and the SJCv Parties agree to execute any and all other documents requested by the Agent to further evidence the subordination of the Subordinated Debt to the Senior Debt and/or the Subordinated Lien to the Senior Lien.

(n) Any Subordinated Creditor will cause all Subordinated Debt to be evidenced by a note, debenture, instrument, or other writing evidencing such Subordinated Debt and will inscribe a statement or legend thereon to the effect that such note, debenture, instrument, or other writing is subordinated to the Senior Obligations in favor of CBCI in the manner and to the extent set forth in this Agreement. The Subordinated Creditor shall inscribe a statement or legend on the Security Agreement to the effect that the security interest created thereby is fully subordinated to the security interest in favor of CBCI.

(o) The Subordinated Creditor shall not assign or otherwise transfer to any other person any interest in the Subordinated Debt unless the Subordinated Creditor causes the assignee or other transferee to execute and deliver to CBCI a subordination agreement acceptable to CBCI or otherwise acknowledges to the reasonable satisfaction of CBCI the subordination of the applicable Subordinated Debt in accordance with this Agreement.

5.11.5 The Antos Parties and the SJCV Parties will not declare or pay any dividends, bonuses, and Antos Parties and the SJCV Parties will not repurchase any of their Membership Interests.

6. Conditions Precedent. Before this Forbearance Agreement becomes effective and CBCI becomes obligated under it, and in addition to any other conditions stated in this Forbearance Agreement, all of the following conditions shall have been satisfied at Antos Parties and the SJCV Parties' sole cost and expense in a manner acceptable to CBCI:

6.1 Receipt of Documents. CBCI will have received fully executed originals of this Forbearance Agreement, the Additional Guarantees, and any other documents that CBCI may require or request in accordance with this Forbearance Agreement and the Amended Note and Modified Deed of Trust, all in such form as CBCI may require in its reasonable discretion. Without limiting the foregoing, the Antos Parties and SJCV Parties acknowledge and agree that they shall be obligated to deliver to CBCI, duly executed by all parties thereto as applicable and in form and substance satisfactory to CBCI, each of the following: (a) such corporate resolutions, incumbency certificates, trust certifications and other authorizing documentation as CBCI may request and (b) all of the agreements, opinions of counsel and other documentation provided for in Exhibit "B" hereto.

6.2 Reimbursement of CBCI's Costs and Expenses. CBCI will receive reimbursement of all reasonable costs and expenses incurred by CBCI relating to this Forbearance Agreement, including charges for legal fees and expenses of CBCI's counsel ("Reimbursable Costs"). Reimbursable Costs may include the allocated costs, incurred to date or in the future, for services for CBCI's counsel and inhouse staffs, such as legal and appraisal, and Reimbursable Costs will be added to the amount due under the CBCI Note.

8. Antos Parties and the SJCVC Parties' Representations and Warranties. The Antos Parties and the SJCVC Parties represent and warrant to CBCI as follows:

8.1 Accuracy of Representations in Forbearance Agreement and Amended Note and Modified Deed of Trust. All representations and warranties made and given by Antos Parties and the SJCVC Parties in this Forbearance Agreement and in the Amended Note and Modified Deed of Trust are accurate and correct.

8.2 No Default. Other than the Identified Defaults, no Event of Default has occurred and/or is continuing under the Amended Note and Modified Deed of Trust, and no event has occurred and is continuing which, with notice or the passage of time or both, would be an Event of Default.

8.3 Property. To the extent applicable, the Antos Parties and the SJCVC Parties lawfully possess and hold a 100% ownership interest in the Property and Collateral for this Forbearance Agreement. The Antos Parties and the SJCVC Parties own all the Collateral for the Amended Note and Modified Deed of Trust free and clear of any defects, reservations of title and conditional sales contracts, and free and clear of any Liens, and security interest other than the liens and security interests in favor of CBCI. There is no financing statement affecting any Collateral for the obligations of the Antos Parties and the SJCVC Parties in any public office except for financing statements in favor of CBCI.

8.4 Disclosure with Respect to SJCVC's Judgment Interest. As is described above, SJCVC is a Member of 1st 100 Holdings LLC. 1st One Hundred Holdings, LLC is responsible for the payment of certain "Collection Attorneys" who may be owed fees relating to the collection of the Judgment. 1st 100 Holdings, LLC is obligated to pay the fees of the the Collection Attorneys prior to distribution to SJCVC. 1st One Hundred Holdings, also has about \$16,000,000

in obligations to repay from collection of the Judgment prior to distributions to Members, including SJCVC.

8.5 Good Standing. SHAC is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation.

8.6 Authorization. This Forbearance Agreement, and any instrument or agreement required hereunder, are within Antos Parties and the SJCVC Parties' powers, have been duly authorized, and do not conflict with any of its organizational papers.

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

9. Antos Parties and the SJCVC Parties Acknowledgments. The Antos Parties and the SJCVC Parties hereby acknowledge and agree that:

9.1 No Breach By CBCI. CBCI has not breached any duty to the Antos Parties and the SJCVC Parties relating to the Forbearance Agreement or the Amended Note and Modified Deed of Trust, and CBCI has fully performed all obligations it may have had or now has to Antos Parties and the SJCVC Parties.

9.2 Interest, Fees, and Other Charges. All interest, fees, or other charges imposed, accrued, or collected CBCI under the Amended Note and Modified Deed of Trust or this Forbearance Agreement, and the method of computing the interest, fees, or other charges, were

and are reasonable, proper, and agreed to by Antos Parties and the SJCVC Parties and were properly computed and collected.

9.3 No Waiver. By entering into this Forbearance Agreement, CBCI does not waive any existing defaults (including the Identified Defaults) or any defaults hereafter occurring, and CBCI does not become obligated to waive any condition or obligation in any agreement between or among any of the parties hereto.

9.4 No Future Obligations. CBCI have no obligation to make any additional loan or extension of credit to or for the benefit of the Antos Parties and the SJCVC Parties, and CBCI has no obligation to provide additional forbearance or to extend further accommodations to the Antos Parties and the SJCVC Parties.

9.5 No Third-Party Beneficiaries. This Forbearance Agreement is not intended for, and shall not be construed to be for, the benefit of any person not a signatory hereto.

9.6 Loan Balances. The outstanding balances owing on the Note, as described in this Forbearance Agreement, are true and correct.

9.7 Fair Consideration. All payments made and security granted by Antos Parties and the SJCVC Parties to CBCI under the Amended Note and Modified Deed of Trust and this Forbearance Agreement are for fair consideration and reasonably equivalent value.

9.8 Notice of Identified Defaults. The Antos Parties and SJCVC Parties have received or waives all notice required from CBCI under the Amended Note and Modified Deed of Trust with respect to the Identified Defaults; and, subject to the terms this Forbearance Agreement, CBCI is free to exercise all of its rights and remedies under the Note and 3rd Mortgage as a result of the Identified Defaults committed by Antos Parties and the SJCVC Parties.

10. Release of CBCI. In consideration of the agreements of CBCI set forth in this herein, the Antos Parties and the SJCV Parties, and all their respective heirs, personal representatives, predecessors, successors, and assigns (the "Releasors"), hereby fully release, remise, and forever discharge CBCI, the parents of CBCI and all other affiliates and predecessors of CBCI, and all past and present officers, directors, agents, employees, servants, partners, shareholders, attorneys and managers of CBCI, for, from, and against any and all claims, counterclaims, liens, demands, causes of action, controversies, offsets, obligations, losses, damages and liabilities of every kind and character whatsoever, including, without limitation, any action, omission, misrepresentation or other basis of liability founded either in tort or contract and the duties arising thereunder, that the Releasors, or any one of more of them, has had in the past, or now has, whether known or unknown, whether asserted or unasserted, by reason of any matter, cause, or thing set forth in, relating to or arising out of, of in any way connected with or resulting from, the Amended Note and Modified Deed of Trust, this Forbearance Agreement, and any other agreement executed in connection this Forbearance Agreement.

11. No Prejudice; Reservation of Rights. Except for the limited forbearance specifically set forth herein, this Forbearance Agreement shall not prejudice any rights or remedies of CBCI under the Amended Note and Modified Deed of Trust. Except for the limited forbearance specifically set forth herein, CBCI reserves, without limitation, all its rights against any Obligated Party, indemnitor, guarantor, or endorser of any of the Amended Note and Modified Deed of Trust and any other party liable in any way for satisfaction of the Amended Note and Modified Deed of Trust or other losses suffered by CBCI.

12. No Impairment/Security. Except as otherwise specifically set forth herein, the Amended Note and Modified Deed of Trust remain unaffected by this Forbearance Agreement; and the Amended Note and Modified Deed of Trust shall remain in full force and effect. The Antos Parties and the SJCV Parties payment and performance of their various obligations to CBCI under the Amended Note and Modified Deed of Trust, including all extensions, amendments, renewals, or replacements thereof, continue to be and shall be secured by any and all liens arising under the Amended Note and Modified Deed of Trust. Nothing contained herein shall be deemed a waiver of any of the rights and remedies that CBCI may have against the Antos Parties and the SJCV Parties, or any other party, or of any of CBCI's rights and remedies arising out of the Amended Note and Modified Deed of Trust.

13. INTENTIONALLY LEFT BLANK

14. Purpose and Effect of CBCI's Approval. CBCI's approval of any matter in connection with the Amended Note and Modified Deed of Trust shall be for the sole purpose of protecting CBCI's security, rights, and remedies under the Note and Other 3rd Mortgage Documents. No such approval shall result in a waiver of any default of the Antos Parties and the SJCV Parties. In no event shall CBCI's approval be a representation by CBCI regarding the matter being approved.

15. Integration. The Amended Note and Modified Deed of Trust and this Forbearance Agreement and its exhibits: (a) integrate all the terms and conditions mentioned in or incidental to the 3rd Mortgage Documents; (b) supersede all oral negotiations and prior and other writings with respect to their subject matter; and (c) are intended by the parties as the final expression of the agreement with respect to the terms and conditions set forth in those documents and as the complete and exclusive statement of the terms agreed to by the parties. If there is any conflict

between the terms, conditions and provisions of this Forbearance Agreement and the terms, conditions, or provisions of any other agreement or instrument, including any of the other Amended Note and Modified Deed of Trust, the terms, conditions, and provisions of this Forbearance Agreement shall prevail. No modification of this Forbearance Agreement or the Amended Note and Modified Deed of Trust shall be effective unless in writing and signed by the applicable parties to be bound thereby.

16. Notices. All notices, reports, and other communications provided for herein (collectively, for purposes of this paragraph 16, "notices") will be in writing and will be delivered: (a) in person; (b) by telecopier, telefax, or other facsimile communication; or (c) by overnight courier, postage prepaid, addressed as follows:

CBC Partners I, LLC 777 108th Ave NE Suite 1895, Bellevue, WA 98004 With a copy to: The Law Office of Vernon Nelson 9480 S. Eastern Ave., Suite 252 Las Vegas, NV 89123	Spanish Heights Acquisition Company, LLC c/o Maier Gutierrez & Associates 8816 Spanish Ridge Ave, Las Vegas, NV 89148
Kenneth & Sheila Antos Living Trust	SJC Ventures, LLC c/o Maier Gutierrez & Associates 8816 Spanish Ridge Ave, Las Vegas, NV 89148
Kenneth M. Antos & Sheila M. Neumann-Antos Trust	Sheila Antos
Kenneth Antos	

17. Counterparts. This Forbearance Agreement and any attached consents or exhibits requiring signatures may be executed in as many counterparts as necessary or convenient, and by the different parties on separate counterparts each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute but one and the same agreement.

18. Invalidity. If any court of competent jurisdiction determines any provision of this Forbearance Agreement or any of the Amended Note and Modified Deed of Trust to be invalid, illegal or unenforceable, that portion shall be deemed severed from the rest, which shall remain in full force and effect as though the invalid, illegal, or unenforceable portion had never been a part of the Forbearance Agreement or the Amended Note and Modified Deed of Trust.

19. Governing Law, Venue, Forbearance of Jury Trial. To the extent possible, this Forbearance Agreement shall be governed by and construed according to the laws of the State of Washington. The Antos Parties and the SJCV Parties hereby submit to jurisdiction and venue in King County, Washington, and, to the extent possible, agree that any and all pending or future litigation, arbitration, or bankruptcy proceedings relating to the Amended Note and Modified Deed of Trust may be venued and maintained in King County, Washington. The parties recognize that certain proceedings related to the possession of the Property may be required to be conducted in Clark County, Nevada and the parties submit to jurisdiction and venue in Clark County, Nevada. In the event of judicial proceedings relating to disputes arising under this Forbearance Agreement, the Antos Parties and the SJCV Parties agree that all issues (including defenses, cross-claims and counter-claims) shall be resolved by a judge and not a jury; and, therefore, the Antos Parties and the SJCV Parties waive their rights to a jury trial which it otherwise would have had.

20. Successors and Assigns. This Forbearance Agreement shall be binding upon and

inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, Antos Parties and the SJCVC Parties may not transfer its rights under the Forbearance Agreement or the Amended Note and Modified Deed of Trust without the prior written consent of CBCI. CBCI may transfer its rights under this Forbearance Agreement or the Amended Note and Modified Deed of Trust to any successor in interest.

21. Construction. As used herein, the word "include(s)" means "include(s), without limitation", and the word "including" means "including, but not limited to".

22. Default. The failure of Antos Parties and the SJCVC Parties to comply with any provision of this Forbearance Agreement or the failure of Antos Parties and the SJCVC Parties to comply with the terms and conditions of the Amended Note and Modified Deed of Trust (other than the Identified Defaults) shall constitute an Event of Default and shall entitle CBCI to exercise all of its rights and remedies under the Amended Note and Modified Deed of Trust and this Forbearance Agreement.

23. No Waiver. No failure to exercise, and no delay in exercising any right, power or remedy under any of the Amended Note and Modified Deed of Trust or under this Forbearance Agreement shall impair any right, power, or remedy that CBCI may have, nor shall such delay be construed to be a waiver of any of such rights, powers or remedies. No waiver of any default or breach of Antos Parties and the SJCVC Parties shall be a waiver of any other default or breach or of any default or breach subsequently occurring. CBCI shall not be deemed to have waived any right, power, or remedy except in writing signed by an officer of CBCI expressly stating that it is a waiver of same right, power or remedy.

24. No Consent. Except as specifically provided in this Forbearance Agreement, no

express or implied consent to any further forbearance or modifications involving any of the matters set forth in this Forbearance Agreement or otherwise shall be inferred or implied by CBCI's execution of this Forbearance Agreement or any other action of CBCI. CBCI's execution of this Forbearance Agreement shall not constitute a waiver, either express or implied, of the requirement that any further forbearance or modification of the Amended Note and Modified Deed of Trust shall require the express written approval of CBCI. CBCI must provide any consent required from the CBCI under this Forbearance Agreement.

25. Cumulative Remedies. The rights and remedies of CBCI under this Forbearance Agreement and the Amended Note and Modified Deed of Trust are cumulative and not exclusive of any rights or remedies that CBCI would otherwise have, and may be pursued at any time and from time to time and in such order as CBCI shall determine in its sole discretion.

26. Mutual Agreement. The parties hereto agree that the terms and provisions of this Forbearance Agreement embody their mutual intent and that such terms and provisions are not to be construed more liberally in favor, or more strictly against, any party. This Forbearance Agreement shall not be construed as if it had been prepared by one of the parties, but rather as if it had been prepared by all of the parties.

27. Time is of the Essence. Time is of the essence of this Forbearance Agreement and the Amended Note and Modified Deed of Trust.

28. Headings. Section headings are for reference only and shall not affect the interpretation or meaning of any provisions of this Forbearance Agreement.

29. Further Performance. The Antos Parties and the SJCV Parties, whenever and as often as shall be requested by CBCI, shall execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered such further instruments and documents and to do any


and all things as may be requested by CBCI in order to carry out the intent and purpose of this Forbearance Agreement and the Amended Note and Modified Deed of Trust.

30. Survival. The representations, warranties, acknowledgments, and agreements set forth herein shall survive the date of this Forbearance Agreement.

31. Binding Effect. This Forbearance Agreement shall be binding upon and inure to the benefit of CBCI, the Antos Parties and SJCV Parties, and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Forbearance Agreement to be executed on the dates set forth below to be effective as of the day and year set forth above.

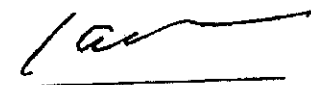
CBC Partners I, LLC

BY: 

Its: President

Print
Name: John Otter

Kenneth & Sheila Antos Living Trust


BY: 

Kenneth Antos, Trustee

BY: 

Sheila Antos, Trustee

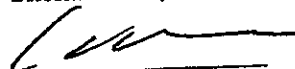
Kenneth M. Antos & Sheila M. Neumann-
Antos Trust

BY: 


Kenneth Antos, Trustee

BY: 

Sheila Antos, Trustee



Kenneth Antos, Individually



Sheila Antos, Individually,

SJC Ventures, LLC

BY: 

Its: Manager

Print
Name: Jay Blum

EXHIBIT “B”

MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.
L. Joe Coppedge, Esq.
Mark C. Hafer, Esq.*

*of counsel

6070 South Eastern Avenue
Suite 270
Las Vegas, Nevada 89119

Telephone 702.454.3333
Facsimile 702.386.4979

April 1, 2020

Via Certified Mail
& USPS

Jay Bloom, Manager
Spanish Heights Acquisition Company, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Jay Bloom, Manager
SJC Ventures, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Kenneth & Sheila Antos Living Trust
4968 Mountain Foliage Drive
Las Vegas, NV 89148-1429

Reference: Clark County Nevada APN 163-29-615-007
5148 Spanish Heights Drive

THIS NOTICE IS SENT FOR THE PURPOSE OF COLLECTING A DEBT. YOUR LOAN IS NOW DUE AND PAYABLE; AND REMAINS UNPAID AS OF THE ABOVE DATE.

Dear Borrower:

READ THIS LETTER CAREFULLY. Your loan with CBC Partners I, LLC is in default. Because of this, CBC Partners I, LLC, at its option, without further demand, may evoke the power of sale and any other remedies permitted by Nevada Law.

This is your notice your default. It has been established that the beneficiary and/or mortgage servicer of the deed of trust may cause a trustee to exercise the power of sale pursuant to NRS 107.080, commence a civil action for the recovery of any debt, or to enforce any right under a mortgage loan that is not barred by NRS. 40.430.

You are in default by failing to make the final balloon payment on March 31, 2020. Failure to cure the default may result the sale of said property.

The undersigned, as attorney for the Beneficiary for the above referenced loan, does

5148SH 000878
PA0386

April 1, 2020

Page 2

Re: APN: 163-29-615-007

hereby notify you that a Notice of Default and Election to sell will be recorded on the referenced property due to non-payment.

As a borrower, you have a right to discuss foreclosure prevention alternatives and subject to qualification criteria.

The following information is required to be provided to you under Nevada statute:

1. The amount of the payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of this statement:
2. The amount in default: \$5,578,459.15
3. The current unpaid principal amount of the obligation or debt secured by the deed of trust: \$2,935,001.14
4. The amount of accrued interest and late charges: \$1,315,105.24
5. The amount in advances paid on your behalf: \$1,326,744.55
6. Interest accrual (at 20% pursuant to the Forbearance Agreement dated September 27, 2017) in the amount of \$1,608.22 per day from April 1, 2020 until paid in full.
7. A good faith estimate of all fees imposed in connection with the exercise of the power of sale is between \$9,000.00 and \$25,000.00, an amount that will be added in and which you may ultimately be responsible for.
8. Contact information and telephone number for obtaining the most current amounts due:

Michael R. Mushkin
6070 S. Eastern Avenue, Suite 270
Las Vegas, NV 89119
Telephone: (702) 454-3333

To discuss the matter with a housing counseling agency approved by the United States Department of Housing and Urban Development, here is their telephone number in order to find such a housing counseling agency: 1-888-995-HOPE (4673). Additional contact information of one or more Counseling Agencies or Programs approved by the United States Department of Housing:

April 1, 2020

Page 3

Re: APN: 163-29-615-007

1. Community Services of Nevada
730 W. Cheyenne Avenue #10
North Las Vegas, Nevada 89030
702-307-1710
2. Financial Guidance Center
2650 S. Jones Blvd.
Las Vegas, Nevada 89146
702-364-0344

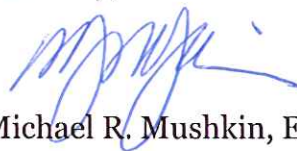
If you are a service member or a dependent of a service member, you may be entitled to certain protections under the federal Service members Civil Relief Act 50 U.S.C. Appx. 501 et seq., regarding the service member's interest rate and the risk of foreclosure, and counseling for covered service members that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency. The telephone number for Military OneSource is 1-800-342-9647

As a borrower, you may request:

1. A copy of your note and forbearance agreements
2. A copy of the recorded deed of trust
3. A copy of the recorded assignment, if applicable

Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf
cc: CBC Partners I, LLC

EXHIBIT “C”

From: [Danielle Barraza](#)
To: [Michael Mushkin](#)
Cc: [Joseph Gutierrez](#)
Subject: SHAC payment
Date: Wednesday, January 5, 2022 12:09:54 PM

Michael, our client has been in the process of arranging for the transferal of his funds but due to holiday and anti-money laundering international banking regulations, the funds are moving slower than anticipated.

Let us know if you are amenable to accepting a 1 month interest payment in exchange for pushing the January 5th deadline for the first payment by no more than one month to allow the funds to settle so the payment can be processed. The \$4 million would be paid immediately upon the funds settling, and likely before the Jan. 11th status check.

Joe is in a deposition today but will be available later this afternoon if you want to discuss further.

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

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From: [Michael Mushkin](#)
To: [Danielle Barraza](#)
Cc: [James Greene](#); [Joseph Gutierrez](#)
Bcc: [David Hodgman](#); [L Russo](#)
Subject: Re: SHAC payment
Date: Wednesday, January 5, 2022 12:13:37 PM

Danielle

Unfortunately my clients have instructed me to grant no extensions. If payment is not received by close of business today I have been instructed to foreclose and litigate our remaining claims.

MRM

Sent from my iPhone

On Jan 5, 2022, at 12:09 PM, Danielle Barraza <djb@mgalaw.com> wrote:

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From: [Danielle Barraza](#)
To: [Michael Mushkin](#)
Cc: [James Greene](#); [Joseph Gutierrez](#)
Subject: RE: SHAC payment
Date: Wednesday, January 5, 2022 3:11:34 PM

In any event please send us any foreclosure documents that get recorded for our files.

Thanks,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>
Sent: Wednesday, January 05, 2022 12:14 PM
To: Danielle Barraza <djb@mgalaw.com>
Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Subject: Re: SHAC payment

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From: [Danielle Barraza](#)
To: [Michael Mushkin](#)
Cc: [James Greene](#); [Joseph Gutierrez](#)
Subject: RE: SHAC payment
Date: Friday, January 7, 2022 9:39:02 AM

Michael, following up, we need to be sent copies of any foreclosure recordings which should include the payoff amount and proof of calculations.

Thanks,

Danielle J. Barraza | Associate
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8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
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djb@mgalaw.com | www.mgalaw.com

From: Danielle Barraza
Sent: Wednesday, January 05, 2022 3:11 PM
To: 'Michael Mushkin' <Michael@mccnlaw.com>
Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Subject: RE: SHAC payment

In any event please send us any foreclosure documents that get recorded for our files.

Thanks,

Danielle J. Barraza | Associate
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To: Danielle Barraza <djb@mgalaw.com>
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Subject: Re: SHAC payment

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From: [Michael Mushkin](#)
To: [Danielle Barraza](#)
Cc: [James Greene](#); [Joseph Gutierrez](#)
Subject: RE: SHAC payment
Date: Friday, January 7, 2022 1:55:00 PM

Counsel

The date down was completed today. The publication will begin on Monday for a sale date of February 1, 2022. Once published I will provide you with a courtesy copy. If you would like to discuss the remaining claims and potential trial dates please feel free to contact me.

MRM

Michael R. Mushkin, Esq.
Mushkin & Coppedge
6070 South Eastern Avenue, Ste 270
Las Vegas, NV 89119
(702) 454-3333 Phone
(702) 386-4979 Fax
www.mccnvlaw.com

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From: Danielle Barraza <djb@mgalaw.com>
Sent: Friday, January 7, 2022 9:39 AM
To: Michael Mushkin <Michael@mccnvlaw.com>
Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Subject: RE: SHAC payment

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From: Danielle Barraza

Sent: Wednesday, January 05, 2022 3:11 PM

To: 'Michael Mushkin' <Michael@mccnvlaw.com>

Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>

Subject: RE: SHAC payment

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To: Danielle Barraza <djb@mgalaw.com>

Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>

Subject: Re: SHAC payment

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From: [Danielle Barraza](#)
To: [Michael Mushkin](#)
Cc: [James Greene](#); [Joseph Gutierrez](#)
Subject: RE: SHAC payment
Date: Friday, January 7, 2022 2:34:57 PM

To clarify, are you refusing to provide the payoff amount?

Danielle J. Barraza | Associate

MAIER GUTIERREZ & ASSOCIATES

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Tel: 702.629.7900 | Fax: 702.629.7925

djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>

Sent: Friday, January 07, 2022 1:56 PM

To: Danielle Barraza <djb@mgalaw.com>

Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>

Subject: RE: SHAC payment

Counsel

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MRM

Michael R. Mushkin, Esq.

Mushkin & Coppedge

6070 South Eastern Avenue, Ste 270

Las Vegas, NV 89119

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Sent: Friday, January 7, 2022 9:39 AM

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Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>

Subject: RE: SHAC payment

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Las Vegas, Nevada 89148

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djb@mgalaw.com | www.mgalaw.com

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Sent: Wednesday, January 05, 2022 3:11 PM

To: 'Michael Mushkin' <Michael@mccnvlaw.com>

Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>

Subject: RE: SHAC payment

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djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>

Sent: Wednesday, January 05, 2022 12:14 PM

To: Danielle Barraza <djb@mgalaw.com>

Cc: James Greene <jgreene@greeneinfusolaw.com>; Joseph Gutierrez <jag@mgalaw.com>

Subject: Re: SHAC payment

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Sent from my iPhone

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From: [Michael Mushkin](#)
To: [Danielle Barraza](#); [Joseph Gutierrez](#); ["James Greene"](#)
Cc: [Karen Foley](#)
Subject: Payoff Calculations
Date: Friday, January 7, 2022 2:52:09 PM
Attachments: [220107 Amount Owed.pdf](#)

Counsel

Attached is the breakdown of the presses. You did not respond to my request regarding trial dates. I would like to have proposed dates for the Judge on the 11th.

MRM

Michael R. Mushkin, Esq.
Mushkin & Coppedge
6070 South Eastern Avenue, Ste 270
Las Vegas, NV 89119
(702) 454-3333 Phone
(702) 386-4979 Fax
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Daily Interest	Today	Start date	Days	Total Interest today
\$1,608.22	1/7/2022	4/1/2020	646	\$1,038,910.12
Principal	\$2,935,001.14			
Accrued interest	\$1,315,105.24			
Advances	\$1,326,744.55			
Interest owed	\$1,038,910.12			
Attorney's Fees (foreclosure)	\$42,572.50			
Costs (foreclosure)	\$12,305.07			
Attorney's Fees (state)	\$624,479.00			
Costs (state)	\$28,696.06			
Attorney's Fees (BK)	\$174,790.50			
Costs (BK)	\$20,898.15			
Total Owed	\$7,519,502.33			

From: [Danielle Barraza](#)
To: [Michael Mushkin](#); [Joseph Gutierrez](#); ["James Greene"](#)
Cc: [Karen Foley](#)
Subject: RE: Payoff Calculations
Date: Friday, January 7, 2022 4:34:36 PM
Attachments: [145 - 210105\[Executed\] Notice of Default and Demand for Payment.PDF](#)

Please reconcile your calculations to your previous defective NOD from CBC Partners (issued after CBC sold its note) on January 4, 2021, where CBC asserts a default balance due of \$5,578,459.15, and interest accruing at \$1608.22 per day for the last 368 days would come to \$591,824.19 in accrued interest since the CBC NOD.

You are claiming \$1,038,910.12 in "Interest Owed" when your stated daily rate calculates to \$591,824.19. Please explain the differential.

Also, please provide documentation to justify the attorneys' fees and costs you are claiming in the amount of \$903,741.28.

Lastly, please provide a calculation as to how you arrived at \$5,578,459.15 in your defective CBC NOD as of January 4, 2021.

Our client will be paying off the note in full but believes your numbers to be inaccurate.

Thank you,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>
Sent: Friday, January 07, 2022 2:52 PM
To: Danielle Barraza <djb@mgalaw.com>; Joseph Gutierrez <jag@mgalaw.com>; 'James Greene' <jgreene@greeneinfusolaw.com>
Cc: Karen Foley <KFoley@mccnvlaw.com>
Subject: Payoff Calculations

Counsel

Attached is the breakdown of the presses. You did not respond to my request regarding trial dates. I would like to have proposed dates for the Judge on the 11th.

MRM

Michael R. Mushkin, Esq.
Mushkin & Coppedge

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MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.
L. Joe Coppedge, Esq.
Mark C. Hafer, Esq.*

*of counsel

6070 South Eastern Avenue
Suite 270
Las Vegas, Nevada 89119

Telephone 702.454.3333
Facsimile 702.386.4979

January 4, 2021

Via Certified Mail
& USPS

Jay Bloom, Manager
Spanish Heights Acquisition Company, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Jay Bloom, Manager
SJC Ventures, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Kenneth & Sheila Antos Living Trust
4968 Mountain Foliage Drive
Las Vegas, NV 89148-1429

Reference: Clark County Nevada APN 163-29-615-007
5148 Spanish Heights Drive

THIS NOTICE IS SENT FOR THE PURPOSE OF COLLECTING A DEBT. YOUR LOAN IS NOW DUE AND PAYABLE; AND REMAINS UNPAID AS OF THE ABOVE DATE.

Dear Borrower:

READ THIS LETTER CAREFULLY. This is a courtesy notice. Pursuant to NRS 107.400-107.560 this Notice is only required for Owner-Occupied Housing Securing Residential Mortgage Loan.

Your loan with CBC Partners I, LLC and 5148 Spanish Heights, LLC as successor in interest is in default. Because of this, CBC Partners I, LLC and 5148 Spanish Heights, LLC as successor in interest, at its option, without further demand, may evoke the power of sale and any other remedies permitted by Nevada Law.

It has been established that the beneficiary and/or mortgage servicer of the deed of trust has caused a trustee to exercise the power of sale pursuant to NRS 107.080.

You are in default by failing to make the final balloon payment on March 31, 2020. Failure

January 4, 2021

Page 2

Re: APN: 163-29-615-007

to cure the default may result the sale of said property.

The undersigned, as attorney for the Beneficiary for the above referenced loan, does hereby notify you that a Notice of Default and Election to sell has been recorded on the referenced property due to non-payment.

With an Owner-Occupied property, you have a right to discuss foreclosure prevention alternatives and subject to qualification criteria.

The following information is required to be provided to Owner-Occupied properties under Nevada statute:

1. The amount of the payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of this statement:

2. The amount in default: \$5,578,459.15

3. The current unpaid principal amount of the obligation or debt secured by the deed of trust: \$2,935,001.14

4. The amount of accrued interest and late charges: \$1,315,105.24

5. The amount in advances paid on your behalf: \$1,326,744.55

6. Interest accrual (at 20% pursuant to the Forbearance Agreement dated September 27, 2017) in the amount of \$1,608.22 per day from April 1, 2020 until paid in full.

7. A good faith estimate of all fees imposed in connection with the exercise of the power of sale is between \$9,000.00 and \$25,000.00, an amount that will be added in and which you may ultimately be responsible for.

8. Contact information and telephone number for obtaining the most current amounts due:

Michael R. Mushkin
6070 S. Eastern Avenue, Suite 270
Las Vegas, NV 89119
Telephone: (702) 454-3333

To discuss the matter with a housing counseling agency approved by the United States

January 4, 2021

Page 3

Re: APN: 163-29-615-007

Department of Housing and Urban Development, here is their telephone number in order to find such a housing counseling agency: 1-888-995-HOPE (4673). Additional contact information of one or more Counseling Agencies or Programs approved by the United States Department of Housing:

1. Community Services of Nevada
730 W. Cheyenne Avenue #10
North Las Vegas, Nevada 89030
702-307-1710
2. Financial Guidance Center
2650 S. Jones Blvd.
Las Vegas, Nevada 89146
702-364-0344

If you are a service member or a dependent of a service member, you may be entitled to certain protections under the federal Service members Civil Relief Act 50 U.S.C. Appx. 501 et seq., regarding the service member's interest rate and the risk of foreclosure, and counseling for covered service members that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency. The telephone number for Military OneSource is 1-800-342-9647

As a borrower, you may request:

1. A copy of your note and forbearance agreements
2. A copy of the recorded deed of trust
3. A copy of the recorded assignment, if applicable

Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf

From: [Michael Mushkin](#)
To: [Danielle Barraza](#)
Subject: Re: Payoff Calculations
Date: Friday, January 7, 2022 5:06:54 PM
Attachments: [145 - 210105\[Executed\] Notice of Default and Demand for Payment.PDF](#)

Danielle

I have no obligation to do as you have requested. If you would like to provide an alternative calculation please do as we don't want to argue over nickels and dimes.

My attorney fees are what they are. I am not going to waste my time for the umpteenth time with no proof that your client has the ability to pay. If you would be so kind to provide proposed trial dates I would appreciate it. As you are well aware Ken Antos is over 70 years of age and qualifies for a priority setting. It's time we bring this matter to a close.

MRM

Sent from my iPhone

On Jan 7, 2022, at 4:34 PM, Danielle Barraza <djb@mgalaw.com> wrote:

Please reconcile your calculations to your previous defective NOD from CBC Partners (issued after CBC sold its note) on January 4, 2021, where CBC asserts a default balance due of \$5,578,459.15, and interest accruing at \$1608.22 per day for the last 368 days would come to \$591,824.19 in accrued interest since the CBC NOD.

You are claiming \$1,038,910.12 in "Interest Owed" when your stated daily rate calculates to \$591,824.19. Please explain the differential.

Also, please provide documentation to justify the attorneys' fees and costs you are claiming in the amount of \$903,741.28.

Lastly, please provide a calculation as to how you arrived at \$5,578,459.15 in your defective CBC NOD as of January 4, 2021.

Our client will be paying off the note in full but believes your numbers to be inaccurate.

Thank you,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148

Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>
Sent: Friday, January 07, 2022 2:52 PM
To: Danielle Barraza <djb@mgalaw.com>; Joseph Gutierrez <jag@mgalaw.com>;
'James Greene' <jgreene@greeneinfusolaw.com>
Cc: Karen Foley <KFoley@mccnvlaw.com>
Subject: Payoff Calculations

Counsel

Attached is the breakdown of the presses. You did not respond to my request regarding trial dates. I would like to have proposed dates for the Judge on the 11th.

MRM

Michael R. Mushkin, Esq.
Mushkin & Coppedge
6070 South Eastern Avenue, Ste 270
Las Vegas, NV 89119
(702) 454-3333 Phone
(702) 386-4979 Fax
www.mccnvlaw.com

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From: [Danielle Barraza](#)
To: [Michael Mushkin](#); [Joseph Gutierrez](#)
Cc: [Karen Foley](#)
Subject: RE: Balance Due SHAC
Date: Monday, January 10, 2022 1:12:47 PM
Attachments: [145 - 210105\[Executed\] Notice of Default and Demand for Payment.PDF](#)

Michael, you are still double counting the interest from the period of Jan. 5, 2021 through Jan. 4th, 2022. The "interest accrued" in the 1/4/21 Notice of Default already includes interest from 4/1/20 through 1/4/21. Your new calculations include this interest a second time in the "interest owed" line item, overstating the amount due by \$628,814.02.

This is a defective calculation and we will be forced to file a motion for TRO on the sale and request a hearing on the mistaken calculations, as the true amount due needs to be determined, including the amount of reasonable fees and costs for a foreclosure action.

If you want to discuss further tomorrow after the status check let us know. Our client would like to avoid an evidentiary hearing on this, and wants to just get the correct amount paid off.

Our client is also willing to discuss resolution involving advancing the entire \$7 million to avoid any bench trial.

Let us know if you want to discuss further. Regardless, please explain the double counting of the interest referenced above.

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <mushkin3@icloud.com>
Sent: Monday, January 10, 2022 9:34 AM
To: Danielle Barraza <djb@mgalaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Cc: Karen Foley <KFoley@mccnvlaw.com>
Subject: Balance Due Bloom

Danielle

Below is calculation. We start with amounts recited in the Forbearance Agreement and follow the terms of note.

MRM

Sent from my iPhone

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MUSHKIN & COPPEDGE

Michael R. Mushkin, Esq.
L. Joe Coppedge, Esq.
Mark C. Hafer, Esq.*

*of counsel

6070 South Eastern Avenue
Suite 270
Las Vegas, Nevada 89119

Telephone 702.454.3333
Facsimile 702.386.4979

January 4, 2021

Via Certified Mail
& USPS

Jay Bloom, Manager
Spanish Heights Acquisition Company, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Jay Bloom, Manager
SJC Ventures, LLC
c/o Maier Gutierrez & Associates
8816 Spanish Ridge Avenue
Las Vegas, NV 89148

Via Certified Mail
& USPS

Kenneth & Sheila Antos Living Trust
4968 Mountain Foliage Drive
Las Vegas, NV 89148-1429

Reference: Clark County Nevada APN 163-29-615-007
5148 Spanish Heights Drive

THIS NOTICE IS SENT FOR THE PURPOSE OF COLLECTING A DEBT. YOUR LOAN IS NOW DUE AND PAYABLE; AND REMAINS UNPAID AS OF THE ABOVE DATE.

Dear Borrower:

READ THIS LETTER CAREFULLY. This is a courtesy notice. Pursuant to NRS 107.400-107.560 this Notice is only required for Owner-Occupied Housing Securing Residential Mortgage Loan.

Your loan with CBC Partners I, LLC and 5148 Spanish Heights, LLC as successor in interest is in default. Because of this, CBC Partners I, LLC and 5148 Spanish Heights, LLC as successor in interest, at its option, without further demand, may evoke the power of sale and any other remedies permitted by Nevada Law.

It has been established that the beneficiary and/or mortgage servicer of the deed of trust has caused a trustee to exercise the power of sale pursuant to NRS 107.080.

You are in default by failing to make the final balloon payment on March 31, 2020. Failure

January 4, 2021

Page 2

Re: APN: 163-29-615-007

to cure the default may result the sale of said property.

The undersigned, as attorney for the Beneficiary for the above referenced loan, does hereby notify you that a Notice of Default and Election to sell has been recorded on the referenced property due to non-payment.

With an Owner-Occupied property, you have a right to discuss foreclosure prevention alternatives and subject to qualification criteria.

The following information is required to be provided to Owner-Occupied properties under Nevada statute:

1. The amount of the payment required to make good the deficiency in performance or payment, avoid the exercise of the power of sale and reinstate the terms and conditions of the underlying obligation or debt existing before the deficiency in performance or payment, as of the date of this statement:

2. The amount in default: \$5,578,459.15

3. The current unpaid principal amount of the obligation or debt secured by the deed of trust: \$2,935,001.14

4. The amount of accrued interest and late charges: \$1,315,105.24

5. The amount in advances paid on your behalf: \$1,326,744.55

6. Interest accrual (at 20% pursuant to the Forbearance Agreement dated September 27, 2017) in the amount of \$1,608.22 per day from April 1, 2020 until paid in full.

7. A good faith estimate of all fees imposed in connection with the exercise of the power of sale is between \$9,000.00 and \$25,000.00, an amount that will be added in and which you may ultimately be responsible for.

8. Contact information and telephone number for obtaining the most current amounts due:

Michael R. Mushkin
6070 S. Eastern Avenue, Suite 270
Las Vegas, NV 89119
Telephone: (702) 454-3333

To discuss the matter with a housing counseling agency approved by the United States

January 4, 2021

Page 3

Re: APN: 163-29-615-007

Department of Housing and Urban Development, here is their telephone number in order to find such a housing counseling agency: 1-888-995-HOPE (4673). Additional contact information of one or more Counseling Agencies or Programs approved by the United States Department of Housing:

1. Community Services of Nevada
730 W. Cheyenne Avenue #10
North Las Vegas, Nevada 89030
702-307-1710
2. Financial Guidance Center
2650 S. Jones Blvd.
Las Vegas, Nevada 89146
702-364-0344

If you are a service member or a dependent of a service member, you may be entitled to certain protections under the federal Service members Civil Relief Act 50 U.S.C. Appx. 501 et seq., regarding the service member's interest rate and the risk of foreclosure, and counseling for covered service members that is available from Military OneSource and the United States Armed Forces Legal Assistance or any other similar agency. The telephone number for Military OneSource is 1-800-342-9647

As a borrower, you may request:

1. A copy of your note and forbearance agreements
2. A copy of the recorded deed of trust
3. A copy of the recorded assignment, if applicable

Should you have any questions, or need further assistance from our office, please do not hesitate to contact the undersigned.

Sincerely,



Michael R. Mushkin, Esq.

MRM:klf

From: [Michael Mushkin](#)
To: [Danielle Barraza](#); [Joseph Gutierrez](#)
Cc: [Karen Foley](#)
Subject: RE: CBC v SHAC
Date: Monday, January 10, 2022 2:22:00 PM

Once again I have been instructed to grant no continuances. My email sets forth the issues. My dates are varied but my client Mr. Antos is elderly and there by we should get a priority setting. If your guy pays, we are left with the fraud claims. If he doesn't we will have the deficiency claim as well. When Joe is better we should have a frank conversation about where this is going. Tomorrow I will seek the earliest possible trial date.

MRM

Michael R. Mushkin, Esq.
Mushkin & Coppedge
6070 South Eastern Avenue, Ste 270
Las Vegas, NV 89119
(702) 454-3333 Phone
(702) 386-4979 Fax
www.mccnvlaw.com

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From: Danielle Barraza <djb@mgalaw.com>
Sent: Monday, January 10, 2022 2:15 PM
To: Michael Mushkin <Michael@mccnvlaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Cc: Karen Foley <KFoley@mccnvlaw.com>
Subject: RE: CBC v SHAC

Michael, Joe has been out sick and I am in a deposition today. Let us know what trial dates work on your end, the issues you are proposing for jury v. judge, and anything else you want to address.

We would be amenable to re-setting appeal briefing deadlines for 30 days out.

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Michael Mushkin <Michael@mccnvlaw.com>
Sent: Monday, January 10, 2022 1:47 PM
To: Danielle Barraza <djb@mgalaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Cc: Karen Foley <KFoley@mccnvlaw.com>
Subject: CBC v SHAC

Joe

I have left several messages for you regarding the status hearing tomorrow. You have not responded. In addition your opening brief is due today before the Supreme Court.

I would appreciate a response. Issues for discussion:

Trial dates

Appeal Schedule

Stipulations regarding value.

Issues for Jury v Judge

MRM

Michael R. Mushkin, Esq.
Mushkin & Coppedge
6070 South Eastern Avenue, Ste 270
Las Vegas, NV 89119
(702) 454-3333 Phone
(702) 386-4979 Fax
www.mccnvlaw.com

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From: [Michael Mushkin](#)
To: [Danielle Barraza](#); [Joseph Gutierrez](#)
Cc: ["James Greene"](#)
Subject: Notice of Trustee Sale.
Date: Tuesday, January 11, 2022 10:43:28 AM
Attachments: [Beneficiary Package - Re-Adv NOS.pdf](#)

Attached per your request.

Michael R. Mushkin, Esq.
Mushkin & Coppedge
6070 South Eastern Avenue, Ste 270
Las Vegas, NV 89119
(702) 454-3333 Phone
(702) 386-4979 Fax
www.mccnvlaw.com

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Nevada Trust Deed Services

January 7, 2022

5148 Spanish Heights, LLC, a Nevada limited liability company
Michael R. Mushkin
6070 S Eastern Ave., Ste. 270
Las Vegas, NV 89119

Loan No.: 5148 Spanish Heights

Re: File No.: 20-09-008-FCL

We are enclosing herewith the publication date down endorsement along with a copy of the Notice of Trustee's sale.

Sincerely,

Michele Dobar
Foreclosure Officer

Enclosures

ENDORSEMENT**Attached to:**

Guarantee No: A27012-TSG-145261

Order No: 5107011446

**OLD REPUBLIC NATIONAL
TITLE INSURANCE COMPANY**
a Corporation, of Minneapolis, Minnesota

The Company hereby assures the Assured that, subsequent to the date of the Guarantee issued under the above number, no matters are shown by the public records which would affect the assurances in said Guarantee other than the following:

See Endorsement Continuation attached hereto


The total liability of the Company under said Guarantee and under this endorsement thereto shall not exceed, in the aggregate, the amount stated in said Guarantee.

This endorsement is made a part of said Guarantee and is subject to the exclusions from coverage, the limits of liability and the other provisions of the Conditions and Stipulations therein, except as modified by the provisions hereof.



Dated : December 29th, 2021 at 8:00 AM

OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY
A Stock Company
400 Second Avenue South, Minneapolis, Minnesota 55401
(612) 371-1111

Countersigned:

By 

Validating Officer

By  President
Attest  Secretary

ENDORSEMENT CONTINUATION

1. Notice of Lien as follows:

By : Republic Silver State Disposal, Inc., DBA Republic Services
Against : Spanish Heights Acquisition Company LLC
For : solid waste collection, charges, fees and penalties
Amount : \$370.82
Recorded : [September 10, 2020 in Book 20200910 of Official Records, Inst. No. 04479](#)

Returned to
Address : Republic Services
P.O. Box 98508
Las Vegas, Nevada 89193-8508

Their Reference : 620-695771

2. Abstract of Judgment for the amount herein stated and any other amounts due.

Creditor : Simpson VIII, L.L.C., Simpson IV, L.L.C., and BTC Trust Company of SD, as Administrative Trustee
Debtor : Kenneth Antos, KCI Investments, LLC and Preferred Restaurant Brands, Inc.
Entered : August 6, 2020
Court : District Court, Clark County, Nevada
Case No. : A-20-819156-F
Amount : \$18,742,773.80
Dated : April 6, 2020
Recorded : [December 3, 2020 in Book 20201203 of Official Records, Inst. No. 0445](#)

Creditor Address &
Phone : Evans Fears & Schuttert LLP
David W. Gutke
6720 Via Austi Parkway, Suite 300
Las Vegas, NV 89119
(Attorney for plaintiff)

Simpson VIII, L.L.C.
5032 S. Bur Oak Place, Suite 131A
Sioux Falls, SD 57108

Simpson IV, L.L.C.
5032 S. Bur Oak Place, Suite 131A
Sioux Falls, SD 57108

BTC Trust Company of SD
5032 S. Bur Oak Place, Suite 131A
Sioux Falls, SD 57108

3. Taxes and assessments, general and special, for the fiscal year 2021 - 2022, as follows:

Assessor's Parcel No	:	163-29-615-007	
Code No.	:	417	
1st Installment	:	\$15,387.90	Marked Paid
Due on or Before	:	Third Monday in August	
2nd Installment	:	\$15,384.83	Marked Paid
Due on or Before	:	First Monday in October	
3rd Installment	:	\$15,384.83	Marked Paid
Due on or Before	:	First Monday in January	
4th Installment	:	\$15,384.83	NOT Marked Paid
Due on or Before	:	First Monday in March	
Land Value	:	\$222,600.00	
Improvements	:	\$2,240,193.00	
Net Total	:	\$2,462,793.00	
Total Tax	:	\$61,542.39	

4. Notice of Trustee's Sale under said Deed of Trust,

Executed By	:	Nevada Trust Deed Services
Recorded	:	December 15, 2020 in Official Records Instrument No. 20201215-0000746
Trustee's No.	:	20-09-008-FCL
Sale Date	:	January 5, 2021
Returned to	:	
Address	:	Nevada Trust Deed Services 10161 Park Run Drive, Suite 150 Las Vegas, NV 89145

5. Notice of Lien as follows:

By	:	Republic Silver State Disposal, Inc., dba Republic Services
Against	:	Spanish Heights Acquisitions Company LLC
For	:	Solid Waste Collection
Amount	:	\$325.86
Recorded	:	March 9, 2021 in Official Records Instrument No. 20210309-0002903
Their Reference	:	620-695771

6. Abstract of Judgment for the amount herein stated and any other amounts due.

Creditor : Bank of America, NA
Debtor : Kenneth Antos aka Ken Antos
Entered : February 4, 2021
Court : District
Case No. : A-21-828948-F
Amount : \$556,260.64
Dated : February 4, 2021
Recorded : [March 11, 2021 in Official Records Instrument No. 20210311-0000426](#)

Creditor Address &
Phone : Nathan Kanute, Esq.
Nevada Bar No. 12413
Wayne Klomp, Esq.
Nevada Bar No. 10109
Snell & Wilmer L.L.P.
50 West Libert Street, Suite 510
Reno, Nevada 89501-1961

7. Abstract of Judgment for the amount herein stated and any other amounts due.

Creditor : Bank of America, NA
Debtor : Kenneth Antos aka Ken Antos
Entered : February 4, 2021
Court : District
Case No. : A-21-828948-F
Amount : \$556,260.64
Dated : February 4, 2021
Recorded : [April 26, 2021 in Official Records Instrument No. 20210426-0000702](#)

Creditor Address &
Phone : Nathan Kanute, Esq.
Nevada Bar No. 12413
Wayne Klomp, Esq.
Nevada Bar No. 10109
Snell & Wilmer L.L.P.
50 West Libert Street, Suite 510
Reno, Nevada 89501-1961

8. Notice of Lien as follows:

By : Republic Silver State Disposal, Inc., dba Republic Services
Against : Spanish Heights Acquisitions Company LLC
For : Solid Waste Collection
Amount : \$357.10
Recorded : [September 16, 2021 in Official Records Instrument No. 20210916-0002994](#)
Their Reference : 620-954724

APN: 163-29-615-007

RETURN TO/TRUSTEE CONTACT INFO:

Nevada Trust Deed Services
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
(702)733-9900

Inst #: 20220111-0000672
Fees: \$42.00
01/11/2022 08:51:02 AM
Receipt #: 4848219
Requestor:
Nevada Trust Deed Service
Recorded By: OSA Pgs: 2
Debbie Conway
CLARK COUNTY RECORDER
Src: ERECORD
Ofc: ERECORD

NOTICE OF TRUSTEE'S SALE

FILE NO 20-09-008-FCL
DATED: January 7, 2022

On February 1, 2022 at 09:30 AM, Nevada Trust Deed Services, as duly appointed or substituted Trustee under and pursuant to the Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (the "Deed of Trust") dated December 17, 2014 recorded as Instrument No. 20141229-0002856, and as modified or amended, if applicable, in the Office of the County Recorder of CLARK County, Nevada executed by Kenneth M. Antos and Sheila M. Neumann-Antos, Trustees of the Kenneth and Sheila Antos Living Trust dated April 26, 2007, and any amendments thereto in favor of 5148 Spanish Heights, LLC, a Nevada limited liability company as current beneficiary by reason of now continuing default in the payment or performance of obligations secured by said Deed of Trust, including the Notice of Breach and Election to Sell Under Deed of Trust which was recorded in the Office of the County Recorder of CLARK County, Nevada, by the beneficiary and the undersigned more than three months prior to the date thereof, WILL CAUSE TO BE SOLD AT PUBLIC AUCTION TO THE HIGHEST BIDDER FOR CASH (payable at the time of sale in lawful money of the United States of America) at the front entrance to Nevada Legal News, 930 S. Fourth Street, Las Vegas, NV 89101, all right, title and interest conveyed to and now held by it under said Deed of Trust in the property situated in said County and State described as:

Lot Seven (7) in Block Five (5) of Spanish Hills Estates Unit 5A, as shown by map thereof on file in Book 107, of Plats, Page 58, in the Office of the County Recorder of Clark County, Nevada.

Together with any and all improvements, personal property and fixtures located thereon or otherwise described in the Deed of Trust and in any other instruments in favor of the Beneficiary, and all singular tenements, hereditaments and appurtenances thereunto belonging or appertaining, rents, issues and profits thereof.

Commonly known as: 5148 Spanish Heights Dr, Las Vegas, NV 89148, APN: 163-29-615-007

If a street address or common designation of property is shown, no warranty is given as to its completeness or correctness.

Said sale will be made, but without covenant or warranty, expressed or implied, regarding title, possession, or encumbrances, to pay the remaining principal balance of the obligations secured by said Deed of Trust, to wit: \$2,935,001.14 together with interest, fees, premiums and charges thereon, as provided in said Secured Promissory Note and related loan documents, advances, if any, under the terms of said Deed of Trust, fees, charges and expenses of Trustee and of the Trusts created by said Deed of Trust.

NEVADA TRUST DEED SERVICES

By: Michele Dobar
Michele Dobar, Foreclosure Officer

Published in Nevada Legal News on the following dates:
January 11, 2022, January 18, 2022, January 25, 2022

STATE OF NEVADA
COUNTY OF CLARK

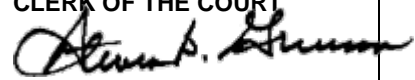
This instrument was acknowledged before me on January 7, 2022 by Michele Dobar, as Foreclosure Officer of Nevada Trust Deed Services.

Signature Christine Miranda
(Notary Public)



Christine Miranda
No. 01-68745-1
Exp. Feb. 1, 2023

EXHIBIT “D”



STIP

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

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.

AND RELATED CLAIMS.

Case No.: A-20-813439-B

Dept. No.: 11

**STIPULATION REGARDING LEGAL
ISSUES TO BE DECIDED BY THE COURT
AT BIFURCATED TRIAL COMMENCING
FEBRUARY 1, 2021**

As requested by the Court, in preparation for the bifurcated trial commencing on February 1,
2021, Plaintiffs/Counterdefendants and Defendants/Counterclaimants, by and through their respective

attorneys of record, hereby stipulate that the following unresolved legal issues should be adjudicated by the Court at the bifurcated trial:

- 1) Contractual interpretation and/or validity of the underlying “Secured Promissory Note” between CBC Partners I, LLC and KCI Investments, LLC and all modifications thereto;
- 2) Interpretation and/or validity of the claimed third-position Deed of Trust and all modifications thereto, and determination as to whether any consideration was provided in exchange for the Deed of Trust;
- 3) Contractual interpretation and/or validity of the Forbearance Agreement, Amended Forbearance Agreement and all associated documents/contracts;
- 4) Whether the Doctrine of Merger applies to the claims at issue; and
- 5) Whether the One Action Rule applies to the claims at issue.

Dated this 11th day of January, 2021.

Dated this 11th day of January, 2021.

Respectfully submitted,

Approved as to form and content:

MAIER GUTIERREZ & ASSOCIATES

MUSHKIN & COPPEDGE

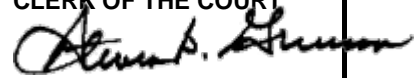
/s/ Danielle J. Barraza

/s/ Michael R. Mushkin

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EXHIBIT “E”



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

SPANISH HEIGHTS ACQUISITION)
COMPANY LLC,)
)
Plaintiff,)
)
vs.)
)
CBC PARTNERS I LLC,)
)
)
Defendant.)
)
AND RELATED PARTIES)

CASE NO. A-20-813439-B
DEPT NO. XI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE ELIZABETH GONZALEZ, DISTRICT COURT JUDGE
TUESDAY, FEBRUARY 2, 2021

PRELIMINARY INJUNCTION HEARING AND TRIAL - DAY 2

APPEARANCES:

FOR THE PLAINTIFFS: JOSEPH A. GUTIERREZ, ESQ.

FOR CBC PARTNERS I: MICHAEL R. MUSHKIN, ESQ.

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

I N D E X

W I T N E S S E S

WITNESSES FOR THE PLAINTIFF:

JAY BLOOM

Direct Examination by Mr. Gutierrez

5

WITNESSES FOR THE DEFENSE:

JAY BLOOM

Direct Examination by Mr. Mushkin

47

1 **LAS VEGAS, CLARK COUNTY, NEVADA, FEBRUARY 2, 2021, 9:59 A.M.**

2 * * * * *

3 THE COURT: And we are missing Mr. Coppedge today,
4 but we have quite capable help.

5 Don't take it off.

6 MR. MUSHKIN: I'm just switching masks.

7 THE COURT: Okay. You're putting on the one we can
8 actually hear you through.

9 MR. MUSHKIN: Yes, ma'am.

10 THE COURT: Okay.

11 MR. MUSHKIN: And may I take my coat off again?

12 THE COURT: You may take your coat off any time you'd
13 like. You don't even have to ask permission.

14 Mr. Bloom, if at any time --

15 Oh, I like your mask. That's nice.

16 THE WITNESS: Thank you.

17 THE COURT: If at any time you need to take a break,
18 you just let us know. Okay?

19 THE WITNESS: Thank you. I'm feeling much better
20 than yesterday.

21 THE COURT: All right. Well, sometimes when you get
22 the vaccine it's the second or third day that it hits is what I
23 heard.

24 Okay. Raise your right hand.

25 **JAY BLOOM**

1 [having been called as a witness and being first duly sworn,
2 testified as follows:]

3 THE CLERK: Thank you. Please seated. Please state
4 and spell your name for the record.

5 THE WITNESS: Jay Bloom. J-a-y, B-l-o-o-m.

6 MR. GUTIERREZ: Your Honor, I'm just looking for our
7 second binder for him.

8 MR. MUSHKIN: Your Honor, if I may, more of an
9 administrative matter, as you recall, in my opening statement I
10 was concerned about the parol evidence rule.

11 THE COURT: Uh-huh.

12 MR. MUSHKIN: I want to lodge my objection now. I'll
13 try and make it throughout the course of the testimony, but any
14 time --

15 THE COURT: Luckily, I'm the fact finder. So I can
16 sift through all that stuff.

17 MR. MUSHKIN: I understand, Your Honor.

18 THE COURT: Okay.

19 MR. MUSHKIN: With that said, to the extent that
20 Mr. Bloom attempts to contradict the terms of the contract, I
21 would object under the parol evidence rule.

22 THE COURT: I certainly understand that, but I would
23 encourage you to make that objection orally so that it can be
24 part of the record, and I will take that into the calculus that
25 is in the back of my mind on how I'm evaluating things.

1 MR. MUSHKIN: I will do so, Your Honor. Thank you.

2 THE COURT: Thank you.

3 THE COURT RECORDER: Mr. Bloom.

4 THE WITNESS: Yes.

5 THE COURT RECORDER: You're going to have to scoot up
6 closer. I know that the chair is stuck on that thing, but once
7 you get over it, you'll be all right.

8 THE WITNESS: Okay. Is that better?

9 THE COURT RECORDER: Yeah.

10 THE WITNESS: Okay. The mask doesn't help.

11 THE COURT: Believe me, we know.

12 MR. GUTIERREZ: Okay. Are you ready, Your Honor?

13 THE COURT: I've been ready.

14 MR. GUTIERREZ: Okay.

15 THE COURT: I've been here since 9:00 o'clock
16 working. I've been sitting in the same place.

17 DIRECT EXAMINATION

18 BY MR. GUTIERREZ:

19 Q Good morning, Mr. Bloom. Can you tell us where you
20 currently live.

21 A 5148 Spanish Heights Drive, Las Vegas, Nevada.

22 Q And we've been calling the 5148 Spanish Heights Drive
23 property the property or Spanish Heights property for purposes
24 of this case. Are you okay using those definitions going
25 forward?

1 A Yes.

2 Q And who do you live at the Spanish Heights property
3 with?

4 A I live with my wife, my son and my wife has recently
5 brought my mother-in-law and her husband in to live with us as
6 well.

7 Q Okay. And how long have you lived at the Spanish
8 Heights property?

9 A A little over three years I believe.

10 Q And is the Spanish Heights property your primary
11 family residence?

12 A Yes.

13 Q And at some point did you purchase the Spanish
14 Heights property?

15 A Yes.

16 Q And can you tell us about the circumstances for
17 having bought the Spanish Heights property.

18 MR. MUSHKIN: Objection to the form of the question.
19 Vague and ambiguous as to "you."

20 THE COURT: Overruled.

21 THE WITNESS: I -- my wife actually found it through
22 a Realtor online. It had been listed for quite a period of
23 time. We contacted the Realtor. The Realtor put us in touch
24 with a representative Alan Hallberg for CBC Partners, and there
25 were extended negotiations and discussions which ultimately

1 lead to the purchase of the real property.

2 Q And did you purchase the Spanish Heights property in
3 your own name personally or through a company that you control?

4 A I purchased it into a special purpose entity created
5 for that purpose.

6 Q And what's the name of that company?

7 A Spanish Heights Acquisition Company.

8 Q And at the time of the purchase, who was the
9 owners -- who owned Spanish Heights Acquisition Company?

10 A It was originally formed to be owned one third by
11 CBC, one third by SJC, which is my entity, and one third by the
12 Antos Trust, which was the seller.

13 Mr. Hallberg came back and said after speaking with
14 lawyers he can't hold ownership or that CBC can't hold
15 ownership of the property.

16 MR. MUSHKIN: Objection. Hearsay, Your Honor.

17 THE COURT: Overruled.

18 THE WITNESS: And therefore he resigned CBC's
19 membership interest in Spanish Heights Acquisition Company.
20 And we redid -- we redid -- and SJC resigned its interest as
21 well. And then after the transaction where the Antos Trust
22 transferred the property to Spanish Heights, it was the Antos
23 Trust transferred 50 percent of the interest in Spanish Heights
24 Acquisition Company to SJC -- actually, 51 percent.

25 MR. GUTIERREZ: Okay.

1 THE WITNESS: And retained 49 percent interest for
2 itself.

3 BY MR. GUTIERREZ:

4 Q And what is SJC Ventures?

5 A SJC Ventures is an entity that -- that holds a number
6 of different -- it's a holding company. It holds a number of
7 different projects that I'm involved in.

8 Q And who manages SJC Ventures?

9 A I'm the manager of SJC Ventures.

10 Q Okay. And as part of this transaction, Mr. Bloom,
11 did SJC Ventures pledge a part of its beneficial interest in a
12 judgment that First 100, LLC has?

13 A Yes.

14 Q And can you explain that portion of the transaction.

15 A Yes. The original proposal was a pledge of -- by the
16 Antoses of their 49 percent interest in the property, and SJC
17 would pledge 51 percent of its 51 percent interest in the
18 property.

19 Subsequent negotiations resulted in the culmination
20 of, as CBC Partners was looking for their money back and not
21 the property, the discussions led to a proposal where in lieu
22 of the interest in the -- membership interest in SJC -- in
23 SHAC, Spanish Heights Acquisition Company --

24 I'll stay away from SHAC for the Court.

25 THE COURT: Thanks.

1 THE WITNESS: -- it would -- it would instead secure
2 its obligation through an assignment of a portion of its
3 beneficial interest and proceeds collection -- realized through
4 collection efforts on the judgment.

5 BY MR. GUTIERREZ:

6 Q How did you know that CBC wanted -- or tell us the
7 basis of your understanding that CBC wanted to get paid money
8 versus acquire the property.

9 A In my conversations, it was -- it was very clear to
10 me through direct representations that there's no -- there's no
11 interest in the property. They just want to get their money
12 back.

13 Q When you say they, are you talking about CBC?

14 A CBC.

15 Q Okay. Now, who owned the property when you were
16 thinking about purchasing it in 2017?

17 A The Antos Trust.

18 Q And was it your understanding that the Spanish
19 Heights property was the Antoses' primary residence when they
20 bought the property?

21 A Yes.

22 Q Okay. And can you tell us about the discussions you
23 had with Ken Antos when you were deciding whether or not to
24 purchase the property?

25 A At the time we were discussing purchasing the

1 property, it was -- discussions were primarily with CBC. I
2 didn't speak to the Antoses very often. They had pretty much
3 thrown up their hands with regard to the property.

4 Q Well, who did you speak with at CBC during this first
5 transaction?

6 A Mr. Hallberg.

7 Q Okay. Were you ever told during this time frame, and
8 we're talking about 2017 before Spanish Heights Acquisition
9 Company bought the property, were you ever told during this
10 time frame that the original note for the Antos' debt was for a
11 commercial restaurant loan for a company called KCI
12 Investments?

13 A No.

14 Q And when you were introduced to -- well, let's back
15 up.

16 What kind of due diligence did you do when you were
17 going to purchase the Spanish Heights property?

18 A There really wasn't a lot of due diligence. A lot of
19 it was reliance on representations. So there's a warranties
20 and representations section, I believe, and there were
21 representations made in the conversations which gave us the
22 basis for moving forward in the transaction.

23 Q And during this time frame, what was your
24 understanding as to the relationship between the Antos Trust
25 and CBC?

1 A I understood the Antos Trust held or the Antos Trust
2 had a third mortgage that was held by CBC.

3 Q Did Mr. Antos or CBC ever provide you with the
4 underlying note or guarantees that memorialized the loan
5 between CBC and the Antoses?

6 A Not prior to the culmination of the transaction.

7 Q And what representations --

8 MR. MUSHKIN: Your Honor, I will object as under the
9 parol evidence rule as this reflects the clear reps and
10 warranties within the document.

11 THE COURT: Overruled.

12 BY MR. GUTIERREZ:

13 Q Mr. Bloom, what representations were made to you
14 about the third position deed of trust on the property?

15 A The representations were that it related to a third
16 mortgage. You know, yeah. It just -- it was always a third
17 mortgage throughout the entire negotiations.

18 Q Okay. Now, the deed of trust mentions for good and
19 valuable consideration on it. Did Ken Antos ever explain to
20 you what the consideration for the Antos Trust was for pledging
21 the deed of trust on the property?

22 A No. Consistent with his testimony here and in his
23 deposition -- he testified in his deposition that there was no
24 consideration. He testified here in live testimony that there
25 was no consideration, and I'm not aware of any consideration

1 that the Antos Trust was provided --

2 MR. MUSHKIN: Same objection, Your Honor.

3 THE WITNESS: -- from Ken Antos.

4 THE COURT: Overruled.

5 BY MR. GUTIERREZ:

6 Q Mr. Bloom, since this case, this litigation has begun
7 last year, did you have a chance -- have you now had a chance
8 to review the underlying promissory note?

9 A I have.

10 Q To KCI?

11 A I have, yes.

12 Q Where did you learn about the -- in your review of
13 the underlying note.

14 A I learned that it was originally a commercial loan to
15 a restaurant in which Mr. Antos had an interest and that it was
16 guaranteed by Mr. Antos and Mrs. Antos individually. I learned
17 that there were 10 subsequent modifications. I learned that
18 there was a deed of trust issued by the Antos Trust in 2014, I
19 believe that, although the Antos Trust was not a guarantor or a
20 borrower under the note. So my -- you know, what I've learned
21 is that the deed of trust doesn't create the obligation. It
22 secures an obligation under another document.

23 And in this instance, in 2014, the Antos Trust is
24 neither a borrower nor a guarantor or had any obligation for
25 which a 2014 deed of trust could secure.

1 Q So going to the --

2 MR. MUSHKIN: Your Honor, same objection. His
3 testimony conflicts the clear written terms of the note.

4 THE COURT: The objection is overruled.

5 BY MR. GUTIERREZ:

6 Q Mr. Bloom, and now I want to talk about that timeline
7 with the third deed of trust and then the amended deed of trust
8 on the property. You're familiar with both of those documents;
9 correct?

10 A Correct.

11 Q Now, tell us your understanding of what the deed of
12 trust was -- that was issued in 2014, what obligation it was
13 securing.

14 A Well, so the deed of trust was supposed to secure the
15 guarantee of the Antos Trust, but there was no guarantee of the
16 Antos Trust. So there was nothing for the deed of trust to
17 secure.

18 So if you look at the chronology of the documents
19 that we've received for the first time through discovery in
20 this matter, there's a 2014 deed of trust against a commercial
21 restaurant loan which has no nexus to the Antos Trust, the
22 owner of the property. So there's nothing in 2014 for the deed
23 of trust to secure.

24 In 2016, there's a reaffirmation, but again there's,
25 at that point, after, I don't know, 10 note modifications or

1 amendments, there was never an amendment that added the Antos
2 Trust as a guarantor or a borrower.

3 Now, I did see a modification that added Preferred
4 Restaurant Brands as a borrower later on through the course of
5 additional advances to the restaurant.

6 But in 2016 there's a reaffirmation of a nonexisting
7 guarantee and an amendment to the deed of trust.

8 We also learned through this litigation that there's
9 a 2017 guarantee that the Antos Trust, but no subsequent deed
10 of trust issued once there finally was a guarantee.

11 So I think the Antos Trust guaranteed it but never
12 pledge the property before selling the property to Spanish
13 Heights Acquisition Company.

14 Q Now I want to turn your attention, Mr. Bloom, to
15 Exhibit 1, which is the 2017 forbearance agreement.

16 Do you have that in front of you?

17 A (No audible response.)

18 Q Do you have that in front of you, Mr. Bloom?

19 A I do.

20 Q Okay. Mr. Bloom, what's your understanding of what
21 this forbearance agreement was to document?

22 A So in the course of our discussions, while I was
23 under the understanding that there was a third mortgage, there
24 was an action by -- or there was the potential of an action by
25 CBC to foreclose under their, what I thought was a third

1 mortgage. And, in fact -- and this document was for them to
2 forbear taking any actions against the third mortgage against
3 the property that I was interested in buying.

4 Q And, Mr. Bloom, if you could turn to Exhibit 7, which
5 is Exhibit B to the forbearance agreement.

6 Are you familiar with this document?

7 A Yes, I believe so.

8 Q Okay. And if you can turn to page 81 under this
9 exhibit.

10 Can you tell us what the obligations were by CBC
11 under this forbearance agreement.

12 A CBC was to make payments on the first and second
13 mortgage to prevent the default of the first and second
14 mortgage.

15 Q Did CBC continue to make payments under the first and
16 second mortgage during the forbearance period?

17 A For January, February and March of 2020, they did
18 not.

19 MR. MUSHKIN: I'm sorry, Your Honor. I didn't hear
20 that answer.

21 THE COURT: Could you repeat yourself, sir.

22 THE WITNESS: For January, February and March
23 of 2020, during the forbearance period, CBC did not make
24 payments to the first or the second.

25 / / /

1 BY MR. GUTIERREZ:

2 Q And after the forbearance agreement was executed, did
3 the Antos Trust provide you with a deed of trust on the
4 property that was recorded?

5 A Not until this litigation, no.

6 Q Now, Mr. Bloom, I want to turn your attention to the
7 pledge agreement, which is Exhibit 10. I'm sorry. I believe
8 it's Exhibit 8, yeah, Exhibit 8.

9 Now, can you tell us what the purpose was for this
10 pledge agreement?

11 MR. MUSHKIN: Objection to the question to the extent
12 it contradicts the clear meaning of the document, Your Honor.

13 THE COURT: Overruled.

14 THE WITNESS: So this was the pledge of the Antos'
15 49 percent interest in Spanish Heights Acquisition Company as
16 signed by Kenneth and Sheila Antos living trust as pledgors.

17 BY MR. GUTIERREZ:

18 Q And if you turn to page 97 in this document, it's
19 exhibit -- is that your signature on behalf of Spanish Heights
20 Acquisition Company?

21 A It is.

22 Q Okay. And there's been references about potentially
23 SJC pledging its interest in SHAC to CBC, but is SJC a signer
24 on this document at any point?

25 A No. The SJC signature block was removed for

1 execution.

2 Q Okay. And tell us why it was removed.

3 A It was removed in favor of a security agreement by
4 offering a position in SJC's beneficial interest in any
5 proceeds realized by SJC's collection under a First 100
6 judgment.

7 Q And if you turn to Exhibit 10, is that the security
8 agreement that you're discussing?

9 A Yes, it is.

10 Q Okay. And if you turn to Exhibit 11, can you tell us
11 what this document is.

12 A This is a payment direction letter where First 100
13 and SJC authorize Maier Gutierrez & Associates as attorneys for
14 First 100 to direct payment to CBC directly upon collection of
15 proceeds from the judgment.

16 Q Okay. And this is consistent with the security
17 agreement we saw in Exhibit 10; is that correct?

18 A Correct.

19 Q Okay. And who is the manager of Spanish Heights
20 Acquisition Company?

21 A I am the sole, exclusive and irrevocable manager.

22 Q When you say you, are you talking about you
23 individually, or SJC Ventures?

24 A SJC Ventures and me as the manager of SJC.

25 Q Okay.

1 Now, Mr. Bloom, what was the condition of the Spanish
2 Heights property when you purchased it in 2017?

3 A Cosmetically it was in decent shape. Mechanically it
4 had some problems with HVAC and some of the systems, home
5 automation and pool, that kind of thing.

6 Q Did you make improvements to the property after you
7 bought it?

8 A Yes.

9 Q And how much money did you put in improvements to the
10 property?

11 A In excess of a hundred thousand dollars.

12 Q Were you required in any document to make over a
13 hundred thousand dollars in improvements?

14 A My recollection is that we had agreed to do a hundred
15 thousand. I think the document said I may do a hundred
16 thousand, but, no, more than 125,000. So I stayed within the
17 parameters of the documents.

18 Q And, Mr. Bloom, if you can go back to Exhibit 7,
19 which is Exhibit B to the forbearance agreement, and go to
20 page 82.

21 A I'm sorry. Page 82?

22 Q Yes, under Exhibit 7.

23 A Okay.

24 Q And Section C discusses SHAC's obligation to maintain
25 property after conveyance to SHAC. Do you see that?

1 A Yes.

2 Q And does that refresh your recollection as far as the
3 obligations for SHAC for improvements on the property?

4 A Yeah. So SHAC made certain repairs and improvements,
5 and the estimate was to be about a hundred thousand, and that
6 SHAC will not spend more than -- or Spanish Heights Acquisition
7 Corp., will not spend more than 125,000 for such repairs
8 without consent.

9 Q Okay. And is there a lease on the Spanish Heights
10 property?

11 A Yes.

12 Q And who is the tenant?

13 A SJC Ventures.

14 Q And what's the term of the lease?

15 A I'm sorry?

16 Q What is the term of the lease?

17 A It was two years with two successive two-year
18 extensions at the option of the tenant.

19 Q And if you turn to Exhibit 15, is that the lease for
20 the property?

21 A Yes, it is.

22 Q Okay. And if you turn to Exhibit 16, I want to talk
23 to you about the amendment to the forbearance agreement that
24 stated December 1st, 2019. Let me know when you have that in
25 front of you.

1 A I have it in front of me.

2 Q Okay. And then tell us the purpose of the amended
3 forbearance agreement.

4 A So this was to serve several purposes. It extended
5 the CBC agreement to forbear from any collection activity
6 against what I understood at the time was a third mortgage. It
7 also acknowledged the extension of the lease and the exercise
8 of the two extensions to continue the lease for the two
9 successive two-year terms.

10 Q And if you turn to page 160 under this exhibit, is
11 that the acknowledgment of the lease extension?

12 A Yes. And B1, the last sentence, The parties
13 acknowledge that the conditions to which SJC options were
14 subject have been satisfied and that the SJC options have been
15 exercised.

16 Q And the next page, is that the -- and this was signed
17 off by CBC Partners; is that correct?

18 A By John Otter, the president of CBC.

19 Q Okay. Now, Mr. Bloom, did CBC follow all of its
20 obligations under the amended forbearance agreement?

21 A To the best of my knowledge it did with the exception
22 of the balloon payment, which we discovered was not really an
23 obligation of the Antos Trust when we bought the property.

24 Q I'm sorry. I was asking about CBC. Did CBC comply
25 with its obligations?

1 A Oh, did CBC. I'm sorry.

2 Q Yeah.

3 A No. CBC didn't, as I mentioned before, did not make
4 the January, February and March 2020 payments under their
5 obligations under the forbearance agreement.

6 Q And has Spanish Heights Acquisition Company been
7 servicing the first and second mortgages on the property?

8 A Yes, for almost a year now.

9 Q And has Spanish Heights also been paying the HOA dues
10 and insurance on the property?

11 A Yes.

12 Q Okay. Now, one of the allegations that's been made
13 in this case by CBC, Mr. Bloom, is that you failed to set up a
14 funding account, as stated in the agreements. What is your
15 position on that claim?

16 A So this is again a chronology issue that Mr. Mushkin
17 seems to have --

18 THE COURT: Sir, don't give me any personal attacks,
19 please. Just answer the question.

20 THE WITNESS: There was originally, at the beginning
21 of the discussions, the initial conversation was that Spanish
22 Heights Acquisition Company would establish a security account
23 to assure payments under -- payment obligations that arise
24 under the -- under the agreement. I went to Bank of America.
25 They could not provide the kind of account that CBC was asking

1 for. I told CBC and offered instead to just prepay the
2 expenses negating the need for a security account. CBC agreed.
3 There was a prepayment of the expenses, and there was no
4 requirement for a security account at that point because its
5 function was mooted with the prepayment.

6 Q Did CBC ever contact you after 2017 to discuss not
7 setting up that account?

8 A No. And we did the same thing on the extension as
9 well -- well, for the second year of the lease term, the
10 initial lease term.

11 Q Now, CBC has claimed that SHAC defaulted by not
12 making the balloon payment under the forbearance agreement.
13 What's your response to that claim?

14 A So the default -- there is a default on the note.
15 The note though is a commercial loan to a restaurant with
16 personal guarantees by the Antoses. So CBC does have a
17 defaulted note, or I guess their successor has a defaulted
18 commercial loan to a restaurant with personal guarantees by the
19 Antoses.

20 Q Mr. Bloom, I'm going to turn to discussion of the
21 doctrine of merger. You testified earlier about Spanish
22 Heights Acquisition Company originally being a third, a third
23 ownership; is that correct?

24 A Right. Correct.

25 Q And in 2017, what was the ownership after CBC

1 rescinded its ownership in Spanish Heights Acquisition Company?

2 A The ownership was 51 percent SJC and 49 percent Antos
3 Trust.

4 Q Now, at some point in 2020, did you become aware that
5 CBC was attempting or acquired the ownership interest from the
6 Antos Trust in Spanish Heights Acquisition Company?

7 A Yes. CBC I acquired the interest from the Antoses,
8 almost in the form of a deed in lieu of foreclosure type
9 structure where the Antoses signed over their 49 percent
10 interest --

11 MR. MUSHKIN: Objection to the form of the
12 question --

13 THE WITNESS: -- in the real property.

14 MR. MUSHKIN: -- your Honor.

15 THE COURT: Overruled.

16 MR. MUSHKIN: Directly contradicts the documents.

17 THE WITNESS: The Antoses --

18 THE COURT: Overruled.

19 THE WITNESS: The Antoses signed over their
20 49 percent interest, and the only consideration the Antoses
21 would've gotten for that was the satisfaction of the
22 obligation.

23 BY MR. GUTIERREZ:

24 Q And were you sent a letter from -- well, from Mushkin
25 and Coppedge on behalf of CBC where they informed you of the

1 Antos Trust transferring the interest to CBC Partners I?

2 A Yes.

3 Q Okay. I want to show you what's been admitted as
4 Exhibit 74.

5 THE COURT: No, you can't approach. Use the Elmo.

6 MR. GUTIERREZ: Okay. I'm going to need help on the
7 Elmo, Your Honor. I haven't used this in a while. Maybe
8 Ramsey can help us out.

9 THE COURT: I can't let you approach anymore. I'm
10 really sorry.

11 MR. GUTIERREZ: I'm going to need Ramsey to approach
12 me to help me with the Elmo.

13 THE COURT: Ramsey is going to turn on the Elmo for
14 you.

15 (Pause in the proceedings.)

16 THE COURT: And I know this document is admitted
17 because it's not one of the two or three that aren't. So...

18 MR. GUTIERREZ: Yes, Judge. This is admitted
19 Document 74.

20 THE COURT: Can you blow it up a little bit so people
21 can see. Do you know how to use it?

22 MR. GUTIERREZ: No, Judge. I am --

23 THE COURT: Really?

24 MR. GUTIERREZ: I've seen it used a few times, but
25 I've never really used it.

1 THE COURT: Boy, you're young.

2 (Pause in the proceedings.)

3 BY MR. GUTIERREZ:

4 Q Mr. Bloom, do you see this letter on your monitor?

5 A I do.

6 Q It's an April 1st, 2020, letter from the law firm

7 Mushkin & Coppedge, and it's Exhibit 74, Bates stamp

8 5148SH 000887. Do you see the Bates stamp, Mr. Bloom?

9 A Yes. Yes, I do.

10 Q Do you recall receiving this letter?

11 A I do.

12 Q And what did this letter tell you as the manager of

13 Spanish Heights Acquisition Company?

14 A That the interest of the Antos Trust for 49 percent

15 in Spanish Heights Acquisition Company has transferred to CBC

16 Partners I, the lender, under the pledge agreement.

17 Q Okay. So was it your understanding that as of April

18 1st, 2020, Spanish Heights Acquisition Company was owned a

19 51 percent by SJC and 49 percent by CBC Partners I?

20 A Correct.

21 Q Did you ever sign an assignment of interest document

22 on behalf of SJC's 51 percent interest in SHAC over to anybody?

23 A No, I did not.

24 Q Okay. So as you sit here today, SJC remains a

25 51 percent owner in Spanish Heights Acquisition Company?

1 A Yes. That's correct.

2 Q What was your understanding of what this notice to
3 vacate letter was attempting to do?

4 A The notice to vacate was trying to take physical
5 possession of the house.

6 Q And the defendant is claiming that in this case they
7 could foreclose on the property and is stating that 5.5 million
8 is owed as a balloon payment. What is your position on that
9 claim?

10 A Well, again you have a 2014 deed of trust that
11 secures no obligation at the time the deed of trust was issued
12 because there was no --

13 MR. MUSHKIN: Same objection, Your Honor.

14 THE COURT: Overruled.

15 You can answer.

16 THE WITNESS: There was no guarantee by the Antos
17 Trust under the note, and the Antos Trust was not the borrower.
18 Then in 2016 you have the reaffirmation, but you have a
19 defective deed of trust in November in 2014, which remains
20 defective in 2016. We finally get to a guarantee in 2017 which
21 obligates the Antos Trust, but there's no subsequent pledge of
22 the collateral. The Antos Trust then transfers the property,
23 and there's no encumbrance on the property that's -- would not
24 be defective that would allow a foreclosure to occur.

25 / / /

1 BY MR. GUTIERREZ:

2 Q Have you heard of a company called 5148 Spanish
3 Heights, LLC?

4 A I have.

5 Q What do you know about 5148 Spanish Heights, LLC, in
6 relation to its involvement in this case?

7 A Well, I know Mr. Mushkin testified that it's his
8 company. I understand that he purchased the CBC commercial
9 loan to the KCI restaurant as guaranteed by the Antoses
10 individually, and that he funded it with money that he
11 borrowed, I believe, from Laurentiu Russo I think the name is,
12 who is -- owns a neighboring -- two neighboring properties
13 actually.

14 Q Has CBC continued trying to foreclose on the property
15 even though it sold its note to 5148 Spanish Heights, LLC?

16 A Yes. It sold CBC -- CBC I sold its note in April
17 of 2020. And then three months later in July of 2020, CBC I
18 issued a notice of default.

19 Q And for the record, the CBC notice of default from
20 July 2020 is an admitted Exhibit 144.

21 And, Mr. Bloom, why should CBC and its successor 5148
22 Spanish Heights, LLC, be prevented from foreclosing on the
23 Spanish Heights property?

24 A Well, CBC and its successor don't have a valid deed
25 of trust. The deed of trust is not the obligation. It secures

1 an obligation under another -- another instrument.

2 In this case, it's a commercial restaurant loan --

3 MR. MUSHKIN: Same objection, Your Honor.

4 THE COURT: Overruled.

5 THE WITNESS: In this case it's a commercial
6 restaurant loan to KCI where Preferred Restaurant Brands
7 through one of the amendments to the note was later added as a
8 borrower as guaranteed by the Antoses individually. But at no
9 time prior to the issuance of the deed of trust did the Antos
10 Trust ever have an obligation under the note. So the deed of
11 trust secures the pledger's obligation in this case, the
12 obligation is zero.

13 MR. GUTIERREZ: Thank you, Mr. Bloom.

14 I'll pass the witness, Your Honor.

15 THE COURT: Cross-examination.

16 MR. MUSHKIN: Your Honor, I'd like --

17 THE COURT: Does anybody need a break before we
18 start?

19 MR. MUSHKIN: No, I don't. I'd like to make a motion
20 before we start, Judge.

21 THE COURT: Okay. Hold on a second.

22 Sir, do you need a break before we start
23 cross-examination?

24 (No audible response.)

25 THE COURT: Mr. Bloom?

1 THE WITNESS: I'm sorry.

2 THE COURT: Do you need a break before we start
3 cross?

4 THE WITNESS: I think I'm okay.

5 THE COURT: Okay. Your motion.

6 MR. MUSHKIN: Your Honor, in the opening of this case
7 I was pretty clear the burden is on the plaintiff. This is
8 their third witness, and they've passed.

9 THE COURT: They haven't rested yet.

10 MR. MUSHKIN: Well, Your Honor --

11 THE COURT: They haven't rested yet. There's things
12 that happen before you make this motion. I'm not there yet.

13 MR. MUSHKIN: Okay.

14 THE COURT: If you want to reserve your examination
15 of Mr. Bloom and I then ask Mr. Gutierrez that question --

16 MR. MUSHKIN: I would like to reserve my examination
17 until you ask that question.

18 THE COURT: Okay.

19 MR. MUSHKIN: I apologize, Your Honor. I jumped
20 to --

21 THE COURT: So you don't want to examine Mr. Bloom at
22 this time. You want to reserve it for your own case in chief?

23 MR. MUSHKIN: Well, I'd like to reserve it until I
24 have the opportunity to make my motion.

25 THE COURT: Okay. Let me say it a different way. If

1 you pass now and I ask Mr. Gutierrez if he rests or if he has
2 any additional evidence, which is what I ask before he rests,
3 and then he then says he rests, then it would be time to make
4 your motion. If that happens, you are then in your case in
5 chief, and you have to call Mr. Bloom if you want to examine
6 him in your case in chief. You don't get to cross-examine him
7 after Mr. Gutierrez rests. So you pick your poison.

8 Do you want to ask him questions now, or do you just
9 want to reserve it all for when you do your --

10 MR. MUSHKIN: I'll reserve, Your Honor.

11 THE COURT: Okay. So, Mr. Bloom, you can step down.

12 THE WITNESS: Okay.

13 THE COURT: Do you have any additional evidence or
14 witnesses that you would like to submit at this time?

15 MR. GUTIERREZ: No, Your Honor. The plaintiff will
16 rest.

17 THE COURT: Okay. All right. So the plaintiff has
18 rested.

19 Now, do you have something you want to do,
20 Mr. Mushkin?

21 MR. MUSHKIN: Yes, I do, Your Honor.

22 THE COURT: Sorry. I have this procedure. I've got
23 to get it right.

24 MR. MUSHKIN: And I apologize for jumping the gun
25 just a little bit.

1 Court's indulgence just one minute.

2 Your Honor, when I opened, I was pretty clear that
3 the documents were not controverted. Plaintiff has now rested.
4 They've claimed no ambiguity. They've given you no authority
5 other than Mr. Bloom's testimony that somehow a defense of the
6 trust would give him standing to negate the deed of trust.
7 Documents have all been admitted. The trust gave a certificate
8 of trust. The trust became a credit borrower. The trust gave
9 a guarantee. The trust said in its documents that it received
10 direct and indirect consideration for the -- a benefit.

11 THE COURT: And Mr. Antos testified to that.

12 MR. MUSHKIN: And Mr. Antos testified to that. And
13 more importantly, Judge, and the reason their motion fails on
14 its face is they have made no showing that it would be
15 unreasonable for CBC and its successor 5148 to rely on the
16 representations of the trust. They have skipped over one of
17 the elements that they would have to prove, that somehow they
18 were harmed.

19 Now, let's take a look at the forbearance agreement
20 itself and the reps and warranties where Mr. Bloom reps and
21 warrants that he got everything he asked for. Let's look at
22 the amended forbearance agreement where he reaffirms. And
23 finally, Judge, you must look to the testimony that you heard
24 today that makes absolutely no sense. It completely ignores
25 the obligation to the Antos parties, as does the motion.

1 Your Honor, you may recall in the original motion
2 there was a statement that now that the authenticity of the
3 documents has been called into question. If you recall, I was
4 quite exercised about that before.

5 THE COURT: Because we'd admitted them at the first
6 evidentiary hearing, and I told you, yeah, I understand, but
7 we've still got to go through the process.

8 MR. MUSHKIN: And now we've done it again.

9 THE COURT: I know. I am here with you, but I'm
10 not --

11 MR. MUSHKIN: No challenge to authenticity.

12 THE COURT: My problem is I'm at a 50(a) standard
13 right now, which is a different standard than I have to make if
14 we finish the evidence. That's my current concern. Now, I
15 understand the argument you're making. I'm going to let you
16 finish, but that's part of the concern I have.

17 MR. MUSHKIN: I understand, Judge.

18 Now let's look at 50(a), okay. What is the standard
19 of 50(a)? Have they proven -- now, mindful of what the
20 testimony is that somehow it was misrepresented, that's their
21 testimony. Now, there was a misrepresentation. Even though
22 the documents all over say KCI Preferred Brands, et cetera,
23 et cetera. Have they been able to present any evidence of
24 misrepresentation to this Court unequivocally? No. No
25 evidence of misrepresentation.

1 What they're trying to do, Judge, is avoid the
2 obligations that they contracted for, and their defense is
3 somehow that there's a defect that they have a right to claim.
4 They have no right to claim said defect, Your Honor. They've
5 waived it twice in writing. They've acknowledged it.

6 So under Rule 50 and the parol evidence rule, they
7 have to provide you competent evidence of a material --
8 material breach I guess is what they're saying. They're saying
9 they don't owe it at all. It's an all or nothing here, and
10 they have to -- they have to somehow -- somehow get this Court
11 to believe that the documents and the title report and
12 everything that's now been submitted to the Court is somehow
13 wrong. And respectfully, Judge, they haven't even sniffed it.
14 The only thing they have is convoluted testimony from Mr. Bloom
15 that says that he can't -- that he doesn't have to pay. Your
16 Honor, there is one document that closes the loop entirely, and
17 they brought it out. I believe it's 74, Judge.

18 THE COURT: Is that the letter?

19 MR. MUSHKIN: That's the letter.

20 THE COURT: Okay.

21 MR. MUSHKIN: Mr. Bloom testified that this says that
22 the Antoses transferred their interest. That's not what it
23 says. I don't know if he didn't bother to read the letter or
24 he just doesn't like to tell the truth to the Court.

25 THE COURT: We're avoiding personal attacks, but I

1 understand the credibility --

2 MR. MUSHKIN: No, this is -- this is that, Your
3 Honor, I am --

4 THE COURT: Credibility is one thing, but accusing
5 somebody of being a liar is that step we can't take. So I need
6 you to focus on --

7 MR. MUSHKIN: So the veracity of a witness is
8 important, Judge.

9 THE COURT: It is true. That is true. So you have
10 to use careful words when you do that.

11 MR. MUSHKIN: I will use very careful words, Judge.
12 The -- it's funny because I got those words from Mr. Coppedge,
13 and I'm going to go yell at him.

14 This witness testified that he made the payments in
15 January, February and March. The record shows the opposite.
16 The record shows that those payments were made by CBC or their
17 successor. That is a direct misrepresentation to the Court.
18 He testified that he was servicing. The first payment that he
19 made, Judge, wasn't until June paying April. We have the
20 checks.

21 But this document says it all, Judge. It does not
22 say that Mr. Antos has transferred his. It says that they are
23 seeking an assignment from Mr. Bloom and an assignment from
24 Mr. Antos, both of which were attached to that letter, and,
25 Judge, it's pretty clear they are trying to exercise their

1 rights under the pledge agreement.

2 Now let's go to the pledge agreement for just a
3 minute, Judge.

4 THE COURT: What number is that?

5 MR. MUSHKIN: I'm getting there.

6 MS. FOLEY: 8.

7 THE COURT: Thank you.

8 And you did a good job yesterday.

9 MS. FOLEY: Thank you.

10 MR. MUSHKIN: The first line of the pledge agreement,
11 Judge, SJC Ventures is a party to the pledge.

12 THE COURT: But remember there wasn't a signature.

13 MR. MUSHKIN: Oh, we're going to get to that one,
14 Judge.

15 THE COURT: All right. I'm just remembering.

16 MR. MUSHKIN: We're going to get to that one.

17 THE COURT: There's this document from -- we've
18 talked about this one before.

19 MR. MUSHKIN: No, we have, Judge.

20 THE COURT: I know.

21 MR. MUSHKIN: Because the truth, Judge, neither
22 signature is right, and you're going to see.

23 THE COURT: I know. I know.

24 MR. MUSHKIN: So the delivery of pledge collateral is
25 at paragraph 3, and that's what that letter was doing was

1 exercising the delivery of pledge collateral.

2 Now, let's go to the signature line. Judge, it's not
3 executed properly by Spanish Heights Acquisition Company
4 because Mr. Bloom is not the manager of Spanish Heights
5 Acquisition Company.

6 Mr. Bloom is the manager of SJCVC.

7 THE COURT: Which is the manager.

8 MR. MUSHKIN: SJCVC is the manager.

9 THE COURT: I know.

10 MR. MUSHKIN: So what you have is the classic
11 misexecution. How do you cure it? Well, that's real simple,
12 Judge. This document is in September. So we look first to the
13 forbearance agreement itself, and the forbearance agreement
14 itself recites a hundred percent of the interest of SHAC. Then
15 we go to the amended forbearance agreement. It reaffirms --

16 THE COURT: What exhibit number is that one?

17 MR. MUSHKIN: The amended is --

18 MS. FOLEY: 16.

19 THE COURT: Thank you.

20 MR. MUSHKIN: Thank you.

21 SJC and Antos continue to pledge, and this one,
22 Judge, just like the original forbearance agreement is signed
23 by SJCVC.

24 Now, I want to go to one other provision in this
25 agreement that was looked at and again is illustrative of the

1 lack of candor in the testimony before the Court.

2 The page 7 of that document at paragraph B in bold
3 print, Your Honor.

4 THE COURT: 7? B?

5 MR. MUSHKIN: Page 7. It's 000160.

6 THE COURT: I'm there.

7 MR. MUSHKIN: Acknowledgment and condition applicable
8 to lease agreement options to extend have terminated. And then
9 it goes on to say the parties have exercised, et cetera, have
10 terminated, bold print, and it's pretty clear why, Judge, and
11 that is because this document extends everything to March
12 31st where it says it's over, end of relationship. You have
13 to pay by the 31st. There is a provision in the consent to
14 lease, a prior document, that gives CBC the right to terminate
15 the lease agreement as well. But this makes it even more clear
16 terminating the lease.

17 Now, so what you have, and, Your Honor, frankly
18 occupancy is not an issue today. Today is only a motion to
19 stop the foreclosure and a preliminary injunction.

20 THE COURT: And for dec relief on certain of the five
21 things in the trial that --

22 MR. MUSHKIN: Yes, ma'am.

23 THE COURT: -- we have -- you have stipulated to.

24 MR. MUSHKIN: Yes.

25 So, but my 50(b) motion is simply to the preliminary

1 injunction issue. And what I want to conclude with in terms of
2 my comments are the --

3 Court's indulgence one minute.

4 So the testimony that was given was that CBC hadn't
5 performed and that SHAC had performed; do you recall that
6 testimony, Your Honor?

7 THE COURT: I do recall that testimony.

8 MR. MUSHKIN: There is no testimony, and there is no
9 question that there has -- the various obligations of the SJCV
10 party have not been met. There have not been a quiet-title
11 action. They've produced no applications for financing.
12 They've not retired the debt. They have not paid the --
13 there's just step after step that was not done, but yet the
14 testimony before you is that somehow they performed and CBC
15 haven't. They have no evidence of that. So in order to obtain
16 extraordinary relief by way of a preliminary injunction, they
17 must make this showing.

18 Respectfully, Judge, they have not gotten close.
19 There is no showing that anything other than a due obligation
20 secured by a deed of trust on the property, parol evidence rule
21 bars all of this stuff that was testified to. There's been no
22 emails produced. The prior testimony that somehow there was
23 wrong language or it was substituted, it violates the parol
24 evidence rule. It goes against the clear meaning of an
25 unambiguous contract, Judge. Respectfully, the preliminary

1 injunction should be off the table.

2 THE COURT: Thank you.

3 Mr. Gutierrez.

4 MR. GUTIERREZ: Thank you, Your Honor.

5 I think the first issue raised in the 50(a) motion
6 was on standing, and, Your Honor, Spanish Heights Acquisition
7 Company acquired the property, and they said there was no harm
8 to the company. Well, the harm is if they acquired a property
9 with a deed of trust that's invalid. So they have standing to
10 make this objection. You know, the standard under 50(a) is
11 that we haven't met our burden, which we believe the evidence
12 we presented not only through the testimony, but the documents
13 has met this burden.

14 The next issue is consideration. The testimony about
15 consideration was clear. Both Mr. Hallberg and Mr. Antos got
16 up and said, yeah, there is no consideration. That's what they
17 said. They said, well, there may have been indirect benefit to
18 the trust beneficiaries. Where was the consideration? They
19 both testified. That's the evidence before the Court.

20 They discuss -- you know, Mr. Bloom discussed in his
21 testimony the misrepresentation regarding the third deed of
22 trust and what it allegedly secured. He can't waive what he
23 does not know, and that's an issue that is before the Court.
24 It's a factual dispute that's before this Court.

25 The next issue they went down to is on CBC's failure

1 to make payments under January, February and March of 2020.
2 It's our position that was a material breach on their end that
3 excused any performance on First 100's position. If they came
4 back later and made those payments and didn't pay any late fees
5 and interest, that doesn't excuse the fact that they initially
6 breached by failing to make those payments, and that's the
7 issue -- that's what's before this Court at this stage.

8 There was a lot of, you know, arguments about on --
9 by Mr. Mushkin on evidence that's not before the Court, but the
10 evidence we have is the testimony of Mr. Hallberg and from
11 Mr. Antos when we walked through the history of this
12 transaction, and it's clear it's a commercial restaurant loan
13 that was never -- that was secured by the Antoses individually.
14 That was secured. There were 10 amendments where they then
15 added an additional borrower. So they knew what they were
16 doing when they added an additional borrower. But then they go
17 and they never actually add the Antos Trust as an additional
18 guarantor until 2017, which is after the two deeds of trust
19 have already issued.

20 So I even asked Mr. Hallberg yesterday about the
21 effect of his 2014 agreement. Is this a guarantee? He's like
22 I don't think it is. He knew, and these documents were all
23 prepared by their attorneys in Washington.

24 So, Your Honor, we have several issues and factual
25 disputes that are before this Court that I believe this honor

1 has -- Your Honor as both the trier of fact in the trier of law
2 will make these determinations at the end of trial, and I don't
3 think these obviously address the other two legal arguments
4 that will be made, which would prevent a foreclosure. You have
5 the doctrine of merger, which is a legal argument that's going
6 to be made, and you have clear testimony from Mr. Hallberg and
7 documents that show that the Antoses assigned to their interest
8 in Spanish Heights Acquisition Company to CBC Partners I and
9 that they acquired it.

10 And Mr. Hallberg said yesterday we have a 49 percent
11 interest in Spanish Heights Acquisition Company. Okay, well
12 now that's a legal issue before this Court of whether or not
13 the doctrine of merger applies in this context because they
14 have now become both the borrower and the lender. Did that
15 interest merge?

16 Same with the one action rule. They selected the
17 remedy in acquiring ownership of the property, almost like a
18 deed in lieu of foreclosure. Does that now prevent them from
19 foreclosing?

20 Those legal issues are before Your Honor that would
21 prevent foreclosure. So how can any ruling on a 50(a), a
22 directed verdict at this stage would be premature. I believe
23 Your Honor can weigh the facts and the evidence and apply it
24 with the law that's before this Court.

25 And if you have any questions, Your Honor, I'd be

1 more than happy to --

2 THE COURT: I don't.

3 Mr. Mushkin, anything else?

4 MR. MUSHKIN: Very briefly, Judge.

5 NRS 106.320 defines a future advance of loan money to
6 a borrower pursuant to an agreement that made after the
7 agreement is executed. Specifically called out by statute.

8 106.005 states in pertinent part the deeds of trust
9 create consideration in the promise, but a promise to create a
10 trust in the future is enforceable only if it is under the
11 requirements to enforce the note.

12 Your Honor, the plaintiff has said that the trust is
13 not a borrower. The document that we've provided you shows the
14 trust became a credit party. The plaintiffs have said the
15 trust is not the guarantor. We have provided you the exhibit
16 that shows the trust became the guarantor. In fact, the trust
17 became a guarantor as a part of the transaction.

18 I'd like to take you to one last exhibit, Your Honor,
19 and then I'll hopefully allow you to rule in my favor on the
20 motion.

21 The emails have been admitted, and Mr. Bloom
22 testified about an email that I would direct the Court's
23 attention to.

24 THE COURT: What exhibit number?

25 MS. FOLEY: 104. It's going to be a --

1 THE COURT: Hold on.

2 MS. FOLEY: -- a specific page.

3 THE COURT: Dulce is going to send me to it.

4 MR. MUSHKIN: Hang on.

5 THE COURT: I've got to get the exhibit first. And
6 then I'll go to the page you tell me. 104.

7 THE CLERK: Okay. This is --

8 MR. MUSHKIN: And it is at 003618.

9 THE CLERK: Okay. Because it's a thousand pages. So
10 I can't email (indiscernible) so I have to get the page.

11 3618?

12 MR. MUSHKIN: 003618.

13 THE CLERK: Mine only goes up to --

14 MS. FOLEY: There should be three 104s in the folder.

15 THE COURT: Can you use the Elmo?

16 MR. MUSHKIN: Yes.

17 THE CLERK: Sorry.

18 THE COURT: Dulce can't email the document to me
19 because it's too big.

20 MR. MUSHKIN: It's one page, Judge.

21 THE COURT: No. I mean the exhibit is thousands of
22 pages.

23 MR. MUSHKIN: No. No. I -- you know you asked me if
24 I can use the Elmo. Of course, I can.

25 THE COURT: You know what an Elmo is.

1 MR. MUSHKIN: Your Honor, I'm a high-tech kind of
2 guy. Not.

3 THE MARSHAL: Do we need to blow them up, Judge?

4 MR. MUSHKIN: Yeah.

5 THE COURT: He's got it. He knows what he's doing.

6 THE MARSHAL: Okay.

7 THE COURT: Mr. Gutierrez knows how to do a
8 PowerPoint, but Mr. Mushkin knows how to work the Elmo.

9 MR. MUSHKIN: That might say something about our age,
10 Judge.

11 MS. FOLEY: Together we could do a whole show.

12 MR. MUSHKIN: So, Judge, let's kind of go through
13 this real quick.

14 First of all, and this literally goes to the
15 credibility of the witness that it -- it defies all logic.

16 THE COURT: But you know on a 50(a) I'm not supposed
17 to weigh credibility.

18 MR. MUSHKIN: Your Honor, 50(a) says they have to
19 meet a burden. How can the Court not weigh credibility if
20 there's a burden to reach? It makes no sense.

21 So all I want to do is show that the timing and the
22 timeline of events in this case make it impossible for the
23 security in the judgment to have replaced the collateral of the
24 pledge of the Spanish Heights Acquisition Company.

25 The first paragraph are SHAC as buyer obligations.

1 The second is the third lender obligations. And if you notice,
2 at the bottom of this it -- oh, I'll go down a little farther,

3 My thoughts in this proposal give the
4 third lender a full recovery of its note
5 balance --

6 THE COURT: You've got to push it up a little bit
7 further.

8 MR. MUSHKIN: Sorry.

9 THE COURT: It's okay.

10 MR. MUSHKIN: Oh, there it is.

11 -- a full recovery of its note balance,
12 plus all protective advances past and future;
13 interim cash flow; provides interim
14 additional full collateral where given the
15 current value of the property, the third
16 position lender is currently unsecured.

17 Do you see that, Your Honor?

18 THE COURT: I do.

19 MR. MUSHKIN: That's in July. So under the rules,
20 they have to make a showing of a likelihood of success on the
21 merits. With the parol evidence rule, Your Honor, and the
22 testimony of both Mr. Antos and Mr. Hallberg, the plaintiff has
23 failed to do so, and I respectfully request that this Court
24 rule against them on the issue of a preliminary injunction.

25 THE COURT: Thank you.

1 While there is significant evidence that would
2 support the argument that Mr. Mushkin is making, it would force
3 the Court to weigh the credibility and the evidence at this
4 time. I cannot do that under 50(a).

5 So I am denying the motion for you to finish the case
6 and then make your final arguments.

7 So would you like a break before we start your case
8 in chief?

9 MR. MUSHKIN: Your Honor, I'd just as soon go back on
10 until about noon and then break for lunch.

11 THE COURT: All right.

12 MR. MUSHKIN: Unless the staff or anybody else needs
13 a break.

14 THE COURT: Do you guys need a break?

15 (No audible response.)

16 THE COURT: They say no.

17 Next witness.

18 MR. MUSHKIN: Mr. Bloom.

19 THE COURT: Mr. Bloom. Come on back up. You've
20 already been sworn today so I'm not going to swear you again.

21 And tomorrow we'll start at 9:30 if we don't finish
22 today because I have a 9:00 o'clock hearing.

23 **JAY BLOOM**

24 (having been recalled as a witness and previously sworn,
25 testified as follows:)

DIRECT EXAMINATION

BY MR. MUSHKIN:

Q Mr. Bloom, let's go over your testimony. You testified that you and your wife and your son and your in-laws live in the house; is that correct?

A That's correct.

Q There are other people that live in the house too, aren't there?

A No.

Q Well, that's not what you testified to at your deposition. Have the living arrangements changed?

A Yes.

Q What's changed?

A We had somebody that worked for us that no longer does has moved out.

Q Your testimony at your deposition you had two other people living there.

A Yes.

Q Who were those people?

A Albert Ramirez (phonetic) has moved out, and James Burn (phonetic) has moved out.

Q And what did those people do for you?

A Albert Ramirez was a business partner, and James Burn helped around the house.

Q Your testimony is that SJCVC is the owner today of

1 51 percent of the interest in Spanish Heights Acquisition
2 Company; is that correct?

3 A That's correct.

4 Q And you've testified that SJCVC holds other projects?

5 A Correct.

6 Q What are those projects?

7 MR. GUTIERREZ: I'm going to object as to the
8 relevance, Your Honor.

9 THE COURT: Overruled.

10 You can answer.

11 THE WITNESS: They range from real estate projects to
12 entertainment projects to renewable energy projects. There's
13 a -- there's a number of them.

14 BY MR. MUSHKIN:

15 Q Well, let's go through them, sir.

16 Before you do that, why would you -- why did you
17 refuse to answer this question at the time of your deposition?

18 A Well, because the specifics of the projects are
19 covered by confidentiality agreements that would preclude my
20 answering the level of detail that you were asking about.

21 Q Well, I asked you for the confidentiality agreement.
22 Do you recall that in your deposition?

23 A No, I don't recall that.

24 Q Well, let's go to your deposition.

25 THE COURT: So, Mr. Gutierrez, do you have a copy of

1 the deposition you want to share with the witness, or do you
2 want us to do it on the Elmo?

3 MR. MUSHKIN: I'd like to publish the deposition,
4 Your Honor.

5 THE COURT: You can't publish it. Well, publish it
6 electronically. He can't take it. It's paper. I know.

7 MR. MUSHKIN: I'm an old -- I'm an old dog.

8 THE COURT: I can't do the whole Nevada thing of
9 unsealing the hermetically sealed envelope with the bar napkin.

10 MS. FOLEY: They are numbered 130 and 131 in the
11 dropbox.

12 THE CLERK: Is it Volume I or II?

13 MS. FOLEY: He'll start with Volume I.

14 MR. GUTIERREZ: Your Honor, I have a copy of -- my
15 copy I can give to Mr. Bloom for his review if that's okay with
16 the Court.

17 THE COURT: Mr. Bloom, go run back over there to your
18 table, and your counsel will hand you your depo, and you can
19 come on back up.

20 But I'm not going to let him approach because I get
21 too crowded in the well, and I need to keep everybody at least
22 6 feet away from everybody else.

23 MR. GUTIERREZ: This is Volume I.

24 THE COURT: Can you get him Volume 2 too since it
25 sounds like we're going there too.

1 MR. GUTIERREZ: Yeah. I've got both of them.

2 THE COURT: Thank you. You are on top of it.

3 MR. GUTIERREZ: Thank you, Judge.

4 THE COURT: And because I know what's going to
5 happen, Mr. Bloom, I am handing you, but not getting close to
6 you, binder clips.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Thank you for helping us with the social
9 distancing except within your own teams, which I can't really
10 control.

11 All right. Where do you want him to go?

12 The depos I and II are both published, the electronic
13 versions. So do what you need to do now.

14 BY MR. MUSHKIN:

15 Q Are you ready, Mr. Bloom?

16 A Yes.

17 Q I asked you what was the source of funds for SJCV
18 making the advances on behalf of SHAC. Do you recall that
19 question?

20 A Can you point me to the page you're on in the --

21 Q Well, first I'm asking you if you recall the
22 question.

23 A Vaguely.

24 Q Okay. And do you know what your answer was?

25 A I don't recall.

1 Q I'll read you your answer, and you can read along at
2 page 9 of your deposition if you'd like.

3 A Which half?

4 Q Volume I, page 9.

5 A Okay. Okay.

6 Q And you see your answer,

7 SJC holds various business interests
8 from which it generates income.

9 Do you see that?

10 A I do.

11 Q And what are those various business interests?

12 Do you see that?

13 A I do.

14 Q And what was your answer?

15 A I questioned the relevance of the question.

16 Q You made an objection, didn't you, sir?

17 A I did.

18 Q Your attorney didn't, did she?

19 A No, I did.

20 Q Thank you. And you were here as a 30(b)(6); is that
21 correct?

22 A Correct.

23 Q Are you an attorney?

24 A I am not.

25 Q Are you aware that under the rules of 30(b)(6) a

1 corporation cannot represent itself?

2 A I am.

3 Q Okay. Yet you still made objections throughout the
4 deposition?

5 A I did.

6 Q Thank you.

7 And so you objected, and then the question was, the
8 next question was, You still have to answer the question,
9 Mr. Bloom.

10 And do you know what your answer was at the time --
11 well, before you read it, do you know what your answer was at
12 the time?

13 A I have it in front of me, and I've read it.

14 Q Okay. And so is that still your testimony?

15 A Yes.

16 Q Well, the Judge just told you had to answer. So
17 that's not your testimony today, is it?

18 A That was my testimony up until the Judge's decision
19 that the objection was overruled.

20 Q So is it your testimony that any time you object you
21 don't have to answer a question?

22 MR. GUTIERREZ: Object, Your Honor.

23 BY MR. MUSHKIN:

24 Q Until a Judge rules?

25 MR. GUTIERREZ: Objection. Argumentative.

1 THE COURT: Overruled.

2 You can answer.

3 THE WITNESS: That's my understanding until the Judge
4 or the discovery commissioner rules as to the legitimacy of the
5 question or the applicability of the question or the
6 appropriateness of the question.

7 BY MR. MUSHKIN:

8 Q And where did you learn this, sir?

9 A In my past I've been involved in litigations with
10 other parties through various businesses.

11 Q And have you ever been before the discovery
12 commissioner?

13 A I have prior to her being appointed to the -- or
14 prior to her election to the Supreme Court -- or appointment --
15 oh, no, she's on the appellate court.

16 Prior to her appointment to the appellate court.

17 THE COURT: And that would be Commissioner Bulla?

18 THE WITNESS: Yes.

19 THE COURT: Okay.

20 BY MR. MUSHKIN:

21 Q And did you learn at that hearing in front of Judge
22 Bulla that somehow you didn't have to answer a question until a
23 Judge or a commissioner ruled on an objection?

24 A That's my understanding.

25 Q So I asked you the question again, and your answer

1 is --

2 I'm going to ask the question again. What are the
3 source of funds SJCV used to pay for SHAC's obligations to CBC?

4 Various sources of funds. There are various sources
5 of funds. The documents speak for themselves. Your question
6 is overly broad, and I'm not going to get into SJC's business
7 outside its relevant to this matter.

8 Do you see that?

9 A I do.

10 Q And I asked the court reporter to certify the
11 question; correct?

12 A You do.

13 THE COURT: Do you still certify questions?

14 (No audible response.)

15 THE COURT: Nevermind.

16 MR. MUSHKIN: The reporter didn't say no I don't do
17 that anymore.

18 THE COURT: They tell me they just mark them.

19 MR. GUTIERREZ: Yeah.

20 BY MR. MUSHKIN:

21 Q So we had a rather lengthy discussion about your
22 ability to object. Do you recall that, sir?

23 A You asked a lot of questions that day. I don't
24 recall with specificity this one question.

25 Q I'm not sure that was responsive to my question, sir.

1 A I don't recall with specificity --

2 Q Would you like me to read back my question?

3 THE WITNESS: Please.

4 THE COURT: He says he doesn't remember.

5 BY MR. MUSHKIN:

6 Q I asked you, What representations that you made to
7 CBC upon entering into the transaction?

8 Do you see that question?

9 A Which page and which line?

10 Q Page 10, line 16?

11 A I do.

12 Q And Ms. Barraza objects as to form. Do you see that?

13 A I do.

14 Q Now, I notice that you answered the question. So if
15 your understanding is that you don't answer until somebody
16 rules on it, why are you answering questions then, sir, after
17 an objection?

18 MR. GUTIERREZ: Objection, Your Honor. Misstates the
19 testimony. Relevance.

20 THE COURT: Overruled.

21 You can answer.

22 THE WITNESS: That's not what I said. I didn't say
23 that you don't answer questions after an objection. I said
24 that if you choose not to answer a question with an objection,
25 you can -- my experience has been you can request a decision

1 from the discovery commissioner about whether an answer can be
2 compelled.

3 BY MR. MUSHKIN:

4 Q Did your attorney seek any sort of protection for any
5 of these questions, sir?

6 A I don't know that she did.

7 Q And then you answered the question, and you answered,
8 The question is overly broad as well. Do you have a specific
9 representation or representations to which you are referring?
10 And do you see my response to you?

11 A Yes. Your response was, I'm asking the questions.
12 You don't get to tell me whether my questions are overly broad.

13 Q Your lawyer can make that objection, but you don't
14 get to object. Your (sic) answer my questions.

15 And then do you see your response?

16 A (No audible response.)

17 Q Mr. Mushkin, I get to enter objections as well, and I
18 just did. So if you would like to make a more specific
19 question, I'd be happy to address it.

20 Do you see that?

21 A Correct.

22 Q I'm asking you.

23 And then you answer, All representations over the
24 last four or five years is overly broad, and I'm not able to
25 answer.

1 Do you see that?

2 A Yes.

3 Q And then I go on to ask you, I'm asking about the
4 representations that you made before you signed the agreements
5 in question in this case. I'm asking about specific
6 representations that you made to CBC. Do you recall any of
7 them?

8 And what was your response, sir?

9 A Not off the top of my head. If you have a specific
10 representation or representations you would like to ask me
11 about, I'd be happy to address them.

12 Q And is it your testimony before this Court at the
13 time of your deposition you didn't remember any of the
14 representations that you made?

15 A Um...

16 Q Well, let's go through them, sir.

17 A Yeah, that would be --

18 Q There's a hundred thousand dollars in repairs. You
19 didn't remember about the hundred thousand in repairs?

20 A No, I did not remember about the hundred thousand
21 dollars in repairs.

22 Q There was a quiet title action --

23 A I'm sorry. I'm still answering the question.

24 THE COURT: You got to let him finish, Mr. Mushkin.
25 You can finish, sir.

1 THE WITNESS: No, I did not remember any of the
2 representation specifically in the context of the question. If
3 you had asked me about the \$100,000, that would have refreshed
4 my recollection, and I would've been able to answer it, and I
5 can do so now.

6 BY MR. MUSHKIN:

7 Q So you didn't remember about the hundred thousand;
8 correct?

9 A Not at the time you asked me the question.

10 Q And you didn't remember about the quiet-title action;
11 correct?

12 A Not at the time you asked me the question during the
13 deposition.

14 Q And you didn't remember about the balloon payment;
15 correct?

16 A I knew that there was a balloon payment that was due,
17 but I didn't think of it in terms of a representation.

18 Q And you --

19 A Which is why I was asking for clarification.

20 Q You didn't remember the...

21 A You can't remember?

22 Q No. I have a whole list. I'll deal with them in
23 order.

24 You didn't remember any of them. Okay.

25 So then I asked you, Do you recall providing tax

1 returns?

2 Do you remember what you answered?

3 A Yes. I have it in front of -- I don't remember, but
4 I'm reading the transcript. So I answered, I do not.

5 Q That's not true, is it?

6 A No, that's true.

7 Q Sir, you provided tax returns in this case in advance
8 of the forbearance agreement. We've admitted them in evidence.
9 Would like me to show them to you?

10 A Are you talking -- what tax returns? Because I
11 understood this to be tax returns with respect to Spanish
12 Heights Acquisition Company. So I --

13 Q I asked you if you provided tax returns. It doesn't
14 say any party. I asked you if you provided tax returns?

15 A In the context of the question, I understood your
16 question to be tax returns related to Spanish Heights
17 Acquisition Company.

18 Q Okay. So then I direct your attention to 1041.
19 And what do you say?

20 A So you said, Oh, no, I'm lying.
21 And then I said, Certainly.

22 Q It's 1044.

23 A You said, It's 1044. We're going to pull it up to
24 you.

25 And I said, Thank you.

1 Q And now I show you the federal tax returns; correct?

2 A (No response.)

3 Q Your 2014 --

4 A Yes.

5 Q -- federal U.S. individual income tax return to CBC.

6 Do you see that?

7 A I do.

8 Q And what was your answer?

9 A I said I'm not confirming or denying I provided my
10 tax return. I just don't have a recollection.

11 Q So when you're provided the document, you still don't
12 remember providing it, sir?

13 A I didn't at the time of the deposition. There were a
14 lot of documents flying in a very short period of time.

15 Q Did you have counsel for the preparation and
16 execution of the forbearance agreement?

17 A I don't remember having counsel. I don't think I
18 used counsel for it.

19 MR. MUSHKIN: Court's indulgence one minute.

20 THE COURT: Okay.

21 (Pause in the proceedings.)

22 BY MR. MUSHKIN:

23 Q Mr. Bloom, can you see Exhibit 104, page 001801?

24 A I can. Yes.

25 Q And the subject is loan docs; correct?

1 A Correct.

2 Q And can you see who it's to?

3 A It's to me.

4 Q And who is that from?

5 A It's from Vernon Nelson, the attorney for CBC.

6 Q I don't think so. Look at the top of the page:

7 8/27/2017; 10:17 a.m.; from Jay Bloom to Vernon Nelson, Jay

8 Bloom --

9 A Hang on a second. The top of the page says from
10 Vernon Nelson to Jay Bloom. I don't know if there's more above
11 that.

12 Q Sir, 1801.

13 THE COURT: He may have --

14 MR. GUTIERREZ: Your Honor, I just object.

15 THE COURT: -- not all of the document's showing on
16 the Elmo. Thank you.

17 MR. MUSHKIN: Oops.

18 THE COURT: It's all right. We'll help you.

19 MR. MUSHKIN: Thank you, Judge.

20 MR. GUTIERREZ: I was (indiscernible) confusing --

21 MR. MUSHKIN: I said I know how to use the Elmo.

22 MR. GUTIERREZ: I thought you knew how to use that.

23 MR. MUSHKIN: Obviously not.

24 Sorry, Mr. Bloom.

25 / / /

1 BY MR. MUSHKIN:

2 Q Now, let's take a look at it.

3 From Jay Bloom to Vernon Nelson. Copy Alan Hallberg,
4 Joseph Gutierrez. Regarding loan docs,

5 I have copied my counsel Joe Gutierrez
6 on my comments as well so we can conduct
7 parallel discussions with our respective
8 attorneys. Please see below and attached.

9 Do you see that, sir?

10 A I do.

11 Q Does that refresh your recollection as to who your
12 attorney was for this transaction?

13 A So Mr. Gutierrez was the attorney for First 100. He
14 was copied because First 100 had to sign off on -- and his firm
15 had to sign off on the assignment under the judgment to CBC.

16 THE COURT: So you're saying "my counsel" didn't mean
17 "my counsel." It meant First 100's counsel?

18 THE WITNESS: Yeah. I've used that --

19 THE COURT: Okay. It's all right. I'm just asking
20 if that's what your testimony is.

21 THE WITNESS: Yeah. In this -- yes.

22 THE COURT: Okay.

23 MR. MUSHKIN: There's no question before you,
24 Mr. Bloom.

25 THE WITNESS: There was a question from --

1 BY MR. MUSHKIN:

2 Q Now, let's go a little farther.

3 THE COURT: Same document?

4 BY MR. MUSHKIN:

5 Q It's the prior email from Vernon Nelson to you,
6 Mr. Bloom. Do you see that?

7 A I do.

8 Q And here's a draft of the loan document. Do you see
9 that?

10 A I do.

11 Q Do you see the deal points?

12 A (No response.)

13 Q Why don't you take a minute and look at that.

14 A I'm reading it now.

15 I think, if you're asking me about --

16 Q I'm not asking you yet, sir. I'm just asking you to
17 take a look at it. When you're ready, I'll start asking
18 questions.

19 A Okay. When you say take a look at it, you were
20 referencing the deal points. The deal points seemed to go off
21 the bottom of the page on the Elmo.

22 Q They do. When you're down at the bottom, I'll give
23 you the next page. Just let me know.

24 A Okay. I'm down at the bottom.

25 Q Have you gotten all the way through paragraph 4?

1 THE COURT: He couldn't because it wasn't all on the
2 screen.

3 Okay. And if you could move it over to the left a
4 little bit. There you go. Stop.

5 Mr. Bloom, can you --

6 You got to push it up just a tad.

7 Mr. Bloom, can you read the whole thing now, the rest
8 of 4?

9 THE WITNESS: Yes.

10 THE COURT: Okay. Let us know when you're done.

11 MS. FOLEY: Michael, can you move your finger. Thank
12 you.

13 THE WITNESS: Okay.

14 THE COURT: Is there more on the next portion of the
15 email?

16 MR. MUSHKIN: Yes.

17 BY MR. MUSHKIN:

18 Q Are you done?

19 A Yes.

20 MS. FOLEY: Scoot it to the left a little.

21 THE WITNESS: Do you want to -- I'm done with what's
22 on the screen if you want to slide it down it more.

23 MR. MUSHKIN: Okay.

24 THE WITNESS: Well, I haven't seen the rest of the
25 document.

1 MR. MUSHKIN: No. We're going to get to the rest of
2 it.

3 BY MR. MUSHKIN:

4 Q Do you see that, sir, where it says concurrent with
5 the attorneys and CBC Partners?

6 A No, it's off the --

7 Q -- thanks much, Jay?

8 MR. GUTIERREZ: It's --

9 MS. FOLEY: Scoot it down a little.

10 THE WITNESS: It's off the screen.

11 MR. GUTIERREZ: Objection. Your Honor, this is not
12 the document that's being shown.

13 THE COURT: Can you scoot down.

14 MR. GUTIERREZ: There you go.

15 BY MR. MUSHKIN:

16 Q Do you see that?

17 THE COURT: Do you see it in blue at the top?

18 THE WITNESS: Yeah, I do see it.

19 THE COURT: Okay.

20 BY MR. MUSHKIN:

21 Q Okay. So do you see anywhere in here where it talks
22 about substitute collateral?

23 A Well, I don't know. It was at the bottom of the page
24 that you didn't go down to.

25 Q There's nothing at the bottom.

1 THE WITNESS: Oh, no, the previous page that you only
2 showed half the page.

3 THE COURT: And that was the part we looked at all
4 the way to 4, remember? So if you go all the way to the bottom
5 where we see 4 again.

6 THE WITNESS: Right. Then there was the next page
7 that he put up.

8 BY MR. MUSHKIN:

9 Q 5.

10 A Right. And then the bottom of this page you
11 didn't --

12 Q So it would be 7, security agreement.

13 A So the collateral --

14 Q And then the end of the letter there?

15 A No. Right. But the previous page --

16 MR. GUTIERREZ: Objection, Your Honor --

17 THE WITNESS: -- that you just pulled away --

18 MR. GUTIERREZ: -- he's trying to answer the
19 question.

20 THE COURT: Could you go back to the prior page.
21 Okay.

22 THE WITNESS: So your question was there any other
23 collateral --

24 MR. MUSHKIN: No, sir.

25 / / /

1 BY MR. MUSHKIN:

2 Q Substitute collateral?

3 A Yeah. That portion of the SJC beneficial interest in
4 the judgment is necessary to secure the secured -- and the
5 language goes off the page -- estimated to be about
6 \$700 million. We only need to secure about 3 million.

7 So, yeah, that's the substitute collateral.

8 Q Where does it say substitute collateral?

9 A That's the purpose of the collateral.

10 Q Show me where it says that, sir?

11 A It's not in that language, but conceptually that's
12 what it is.

13 Q In fact, in your email that I read to you earlier, it
14 said additional collateral, didn't it?

15 A Yes.

16 Q Thank you. And I wanted to show you that one more
17 time, sir. Because not only does it say additional, it says
18 additional full collateral, doesn't it?

19 A Where are you looking?

20 Q My thoughts is that this proposal gets the third
21 lender a full recovery of its note balance plus all protected
22 advances past and future, interim cash flow and provides
23 interim additional full collateral where given the current
24 value of the property of the third position lender is currently
25 unsecured; correct?

1 A Where given the current value of the property, the
2 third position --

3 If you could scroll over.

4 MS. FOLEY: Scoot to the left, Michael.

5 THE WITNESS: -- is currently unsecured.

6 Yes, that's what it said, and that was the context of
7 the proposal initially.

8 BY MR. MUSHKIN:

9 Q And you wrote this document, didn't you?

10 A Well, I wrote the responses to an email that was sent
11 to me. So part of it was written by me.

12 Q Okay. You don't argue that the pledge agreement
13 recites a hundred percent of the interest; correct?

14 A Correct.

15 Q Yet you just alleged that -- I'm going to do it
16 again. I'm going to get it out of order, SJCVC -- is that the
17 right order?

18 A SJCVC.

19 Q I keep questioning it now.

20 A You got it.

21 MR. MUSHKIN: I reversed it one day, Judge, and I'm
22 just lost. I can't get in the right order.

23 BY MR. MUSHKIN:

24 Q SJCVC. You don't argue that the forbearance agreement
25 says a hundred percent; correct?

1 A Yes. Although it's not signed by SJCVC.

2 Q No, the forbearance agreement.

3 A Oh, the forbearance agreement, yes.

4 Q Yes. And the forbearance agreement is signed by
5 SJCVC?

6 A Right.

7 Q And you don't argue that the amended forbearance says
8 a hundred percent; correct?

9 A Correct.

10 Q And that the amended forbearance agreement is signed
11 by SJCVC.

12 A Correct.

13 Q And you don't argue that each of those documents
14 contained merger clauses, do you?

15 A Which merger clause are you referring to?

16 Q That all modifications had to be in writing?

17 A Well, you'd have to show me the documents.

18 Q Okay. I'll show you.

19 (Pause in the proceedings.)

20 BY MR. MUSHKIN:

21 Q I would direct your attention to Exhibit 1.

22 Now, Mr. Bloom, who are the parties to this
23 agreement?

24 A Kenneth and Sheila Antos Living Trust, CBC
25 Partners I, Kenneth and Sheila Antos individually, and