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SALVATORE STREET TRUST; AND
SATICOY BAY SERIES 9014 SALVATORE STREET

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Elizabeth A. Brown
Clerk of Supreme Court

IN THE SUPREME COURT OF NEVADA

LEIDIANNE L. BAUTISTA,
CONSTANTINE S. NACAR

Appellants,

v.

ROC TITLE, LLC, NEVADA
ASSOCIATION SERVICES, INC.,
SATICOY BAY LLC SERIES 10449
FORKED RUN.

Respondents.

Supreme Court Case No. 85204

District Court Case No. A-22-852903-C
Appeal from Hon. Adriana Escobar

MOTION TO DISMISS

COMES NOW Respondent SATICOY BAY LLC SERIES 10449 FORKED
RUN, (“Saticoy”) by and through their undersigned counsel, and hereby submits this

Motion to Dismiss. This Motion is based on the points and authorities submitted herein, the papers and pleading on file, and any oral arguments the Court may entertain.

Dated this August 3, 2023.

**ROGER P. CROTEAU & ASSOCIATES,
LTD.**

/s/ Roger P. Croteau

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SATICOY BAY LLC SERIES 10449

FORKED RUN

NRAP 26.1 DISCLOSURE

The undersigned counsel of record certifies that the following are persons and entities as described in NRAP 26.1(a) and must be disclosed. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

1. Law firms that have appeared for Saticoy Bay LLC Series 10449 Forked Run (“Saticoy”): Roger P. Croteau & Associates, Ltd.

2. Parent corporations/entities: Saticoy Bay LLC Series 10449 Forked Run is a Nevada series limited liability company. Respondent’s Manager is Bay Harbor Trust, with Iyad Haddad as the trustee of the Bay Harbor Trust. No publicly held corporation owns 10% or more of the beneficial interest in the Appellant and/or the Bay Harbor Trust.

Dated this August 3, 2023.

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Roger P. Croteau

Roger P. Croteau, Esq.

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Christopher L. Benner

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MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

This matter concerns a foreclosure sale (“Sale”) on March 24, 2022, by Quintessa II at Mountains Edge Homeowners Association (“HOA”), by way of Nevada Association Services (“NAS”) as the collection agent of the HOA, whereby Saticoy obtained an interest in the subject property located at 10449 Forked Run St., Las Vegas, Nevada 89178 after being the high bidder for the amount of \$315,000.00. Appellants Leidianne L. Bautista and Constantine S. Nacar’s (“Bautista”) failed to timely redeem following the Sale; instead, Bautista elected to file an action against NAS and Saticoy to seek to stay the redemption period set forth in NRS 116.31166, so that Bautista could effectuate a sale of the Property, using the proceeds from Bautista’s sale of the Property to address the Sale to Saticoy. Bautista’s Complaint was filed on May 19, 2022; the requested “emergency relief” to stay the redemption period was heard on June 9, 2022, continued to June 23, and following additional briefing denied by an Order entered and noticed on August 15, 2022. Bautista then appealed the matter on August 16, 2022.

The appeal was initially dismissed for failure to pay the filing fees on September 9, 2022. Following an order to reinstate, the matter was referred to the settlement program. The matter was found to be inappropriate for the settlement

program, and was removed on December 27, 2022. Bautista was repeatedly directed to file the case appeal and docketing statements, and warned that failure to comply with the filing deadlines could result in the dismissal of the appeal pursuant to NRAP 3(a)(2). On January 4, 2023, NAS submitted a Motion to Waive Its Right to File an Answering Brief. Also on January 4, 2023, and following the filing of the docketing and case appeal statement, this Court entered an “Order Removing from Settlement Program and Reinstating Briefing” which set a deadline of 90 days, to April 4, 2023, for the filing of an opening brief. Bautista thereafter failed to file an opening brief or appendix. On July 25, 2023, Bautista was directed by Order of the Court to file an opening brief and appendix by August 1, 2023. No extension of time has been requested or granted, and the opening brief and appendix have not been filed to date.

LEGAL ARGUMENT

Appellant has failed to file an opening brief or appendix, request an extension by stipulation or motion, or otherwise prosecute this appeal. NRAP 31 (d) “Consequences of Failure to File Briefs or Appendix” states:

(1) Appellant. If an appellant fails to file an opening brief or appendix within the time provided by this Rule, or within the time extended, a respondent may move for dismissal of the appeal or the court may dismiss the appeal on its own motion.

The deadline for the opening brief was clearly set forth in the Order Reinstating Briefing, setting forth the deadline as 90 days from the January 4, 2023, entry of

the Order, namely, April 4, 2023. As of the date of the filing of this Motion, more than 90 days have expired since the entry of the Order Reinstating Briefing, and more than 7 days have elapsed since Bautista was direct by Order to submit an opening brief and appendix. Respondent thus requests dismissal of the appeal in this matter pursuant to NRAP 31(d). As this Court has previously cautioned Appellant regarding compliance with deadlines, Respondent requests that this appeal be dismissed without further delay.

CONCLUSION

Based upon the foregoing, Saticoy respectfully requests that the Motion to Dismiss be Granted, and this appeal dismissed.

Dated this August 3, 2023

ROGER P. CROTEAU & ASSOCIATES, LTD.

/s/ Roger P. Croteau

ROGER P. CROTEAU

Nevada Bar No. 4958

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Attorney for Respondent

SATICOY BAY SERIES LLC SERIES 10449

FORKED RUN

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of ROGER P. CROTEAU & ASSOCIATES, LTD. and that on the August 3, 2023, I caused a true and correct copy of the foregoing document to be served on all parties as follows:

 X VIA ELECTRONIC SERVICE: through the Nevada Supreme Court's eflex e-file and serve system.

 VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, addressed as indicated on service list below in the United States mail at Las Vegas, Nevada.

 VIA FACSIMILE: by causing a true copy thereof to be telecopied to the number indicated on the service list below.

 VIA PERSONAL DELIVERY: by causing a true copy hereof to be hand delivered on this date to the addressee(s) at the address(es) set forth on the service list below.

/s/ Joseph Koehle
An employee of ROGER P. CROTEAU &
ASSOCIATES, LTD.