

IN THE SUPREME COURT OF THE STATE OF NEVADA

MEI-GSR HOLDINGS, LLC, a Nevada limited liability company, GRAND SIERRA RESORT UNIT OWNERS' ASSOCIATION, a Nevada nonprofit corporation, GAGE VILLAGE COMMERCIAL DEVELOPMENT, LLC, a Nevada limited liability company; AM-GSR HOLDINGS, LLC, a Nevada limited liability company,

Appellants/Cross-Respondents,

vs.

ALBERT THOMAS, individually; JANE DUNLAP, individually; JOHN DUNLAP, individually; BARRY HAY, individually; MARIE-ANNE ALEXANDER, as Trustee of the MARIE-ANNE ALEXANDER LIVING TRUST; MELISSA VAGUJHELYI and GEORGE VAGUJHELYI, as Trustees of the GEORGE VAGUJHELYI AND MELISSA VAGUJHELYI 2001 FAMILY TRUST AGREEMENT, U/T/A APRIL 13, 2001; D' ARCY NUNN, individually; HENRY NUNN, individually; MADELYN VAN DER BOKKE, individually; LEE VAN DER BOKKE, individually; ROBERT R. PEDERSON, individually and as Trustee of the PEDERSON 1990 TRUST; LOU ANN PEDERSON, individually and as Trustee of the PEDERSON 1990 TRUST; LORI ORDOVER, individually; WILLIAM A. HENDERSON, individually; CHRISTINE E. HENDERSON, individually; LOREN D. PARKER, individually; SUZANNE C. PARKER, individually; MICHAEL IZADY, individually; STEVEN TAKAKI, as Trustee of the STEVEN W. TAKAKI & FRANCES S. LEE REVOCABLE TRUSTEE AGREEMENT, UTD JANUARY 11, 2000; FARAD TORABKHAN, individually; SAHAR TAVAKOLI, individually;

Supreme Court No. 86092,

86985 & 87243

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District Court Case No. CV12-02222

Elizabeth A. Brown

Consolidated with

Clerk of Supreme Court
Supreme Court No. 86985

M&Y HOLDINGS, LLC; JL&YL HOLDINGS, LLC; SANDI RAINES, individually; R. RAGHURAM, as Trustee of the RAJ AND USHA RAGHURAM LIVING TRUST DATED APRIL 25, 2001; USHA RAGHURAM, as Trustee of the RAJ AND USHA RAGHURAM LIVING TRUST DATED APRIL 25, 2001; LORI K. TOKUTOMI, individually; GARRET TOM, as Trustee of THE GARRET AND ANITA TOM TRUST, DATED 5/14/2006; ANITA TOM, as Trustee of THE GARRET AND ANITA TOM TRUST, DATED 5/14/2006; RAMON FADRILAN, individually; FAYE FADRILAN, individually; PETER K. LEE and MONICA L. LEE, as Trustees of the LEE FAMILY 2002 REVOCABLE TRUST; DOMINIC YIN, individually; ELIAS SHAMIEH, individually; JEFFREY QUINN, individually; BARBARA ROSE QUINN individually; KENNETH RICHE, individually; MAXINE RICHE, individually; NORMAN CHANDLER, individually; BENTON WAN, individually; TIMOTHY D. KAPLAN, individually; SILKSCAPE INC.; PETER CHENG, individually; ELISA CHENG, individually; GREG A. CAMERON, individually; TMI PROPERTY GROUP, LLC; RICHARD LUTZ, individually; SANDRA LUTZ, individually; MARY A. KOSSICK, individually; MELVIN CHEAH, individually; DI SHEN, individually; NADINE'S REAL ESTATE INVESTMENTS, LLC; AJIT GUPTA, individually; SEEMA GUPTA, individually; FREDERICK FISH, individually; LISA FISH, individually; ROBERT A. WILLIAMS, individually; JACQUELIN PHAM, as Manager of Condotel 1906 LLC; MAY ANNE HOM, as Trustee of the MAY ANNE HOM TRUST; MICHAEL HURLEY, individually; DUANE WINDHORST, as Trustee of DUANE

H. WINDHORST TRUST U/A dtd. 01/15/2003 and MARILYN L. WINDHORST TRUST U/A/ dtd. 01/15/2003; MARILYN WINDHORST, as Trustee of DUANE H. WINDHORST TRUST U/A dtd. 01/15/2003 and MARILYN L. WINDHORST TRUST U/A/ dtd. 01/15/2003; VINOD BHAN, individually; ANNE BHAN, individually; GUY P. BROWNE, individually; GARTH A. WILLIAMS, individually; PAMELA Y. ARATANI, individually; DARLEEN LINDGREN, individually; LAVERNE ROBERTS, individually; DOUG MECHAM, individually; CHRISTINE MECHAM, individually; KWANG SOON SON, individually; SOO YEU MOON, individually; JOHNSON AKINBODUNSE, individually; IRENE WEISS, as Trustee of the WEISS FAMILY TRUST; PRAVESH CHOPRA, individually; TERRY POPE, individually; NANCY POPE, individually; JAMES TAYLOR, individually; RYAN TAYLOR, individually; KI NAM CHOI, individually; YOUNG JA CHOI, individually; SANG DAE SOHN, individually; KUK HYUN (CONNIE) YOO, individually; SANG SOON (MIKE) YOO, individually; BRETT MENMUIR, as Manager of CARRERA PROPERTIES, LLC; WILLIAM MINER, JR., individually; CHANH TRUONG, individually; ELIZABETH ANDRES MECUA, individually; SHEPHERD MOUNTAIN, LLC; ROBERT BRUNNER, individually; AMY BRUNNER, individually; JEFF RIOPELLE, as Trustee of the RIOPELLE FAMILY TRUST; PATRICIA M. MOLL, individually; DANIEL MOLL, individually,

Respondents/Cross-Appellants.

**APPENDIX TO RESPONDENTS' OPPOSITION TO APPELLANTS' MOTION TO
MAINTAIN OR REINSTATE STAYS PENDING PANEL REHEARING AND EN BANC
RECONSIDERATION OF DECEMBER 29, 2023 ORDER**

VOLUME 1 OF 1

Submitted for all respondents by:

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Robertson, Johnson, Miller & Williamson, over the age of eighteen, and not a party to the within action. I further certify that on January 16, 2024, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

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CV12-02222
ALBERT THOMAS ETAL
VS. MEI 10 Pages
District Court 01/07/2015 10:07 AM
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FILED

JAN - 7 2015

JACQUELINE BRYANT, CLERK
By: *[Signature]*
DEPUTY CLERK

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, individually; *et al.*,
Plaintiffs,

vs.

Case No. CV12-02222
Dept. No. 10

MEI-GSR Holdings, LLC, a Nevada Limited
Liability Company, GRAND SIERRA
RESORT UNIT OWNERS' ASSOCIATION,
a Nevada nonprofit corporation, GAGE
VILLAGE COMMERCIAL
DEVELOPMENT, LLC, a Nevada Limited
Liability Company and DOE DEFENDANTS
1 THROUGH 10, inclusive,
Defendants.

ORDER APPOINTING RECEIVER AND DIRECTING DEFENDANTS' COMPLIANCE

This Court having examined Plaintiffs' Motion for Appointment of Receiver ("Motion"), the related opposition and reply, and with *good* cause appearing finds that Plaintiffs have submitted the credentials of a candidate to be appointed as Receiver of the assets, properties, books and records, and other items of Defendants as defined herein below and have advised the Court that this candidate is prepared to assume this responsibility if so ordered by the Court.

IT IS HEREBY ORDERED that, pursuant to this Court's October 3, 2014 Order, and N.R.S. § 32.010(1), (3) and (6), effective as of the date of this Order, James S. Proctor, CPA, CFE, CVA and CFF ("Receiver") shall be and is hereby appointed Receiver over Defendant Grand Sierra Resort Unit Owners' Association, A Nevada Non-Profit Corporation ("GSRUOA").

The Receiver is appointed for the purpose of implementing compliance, among all condominium units, including units owned by any Defendant in this action (collectively, "the

Property”), with the Covenants Codes and Restrictions recorded against the condominium units, the Unit Maintenance Agreements and the original Unit Rental Agreements (“Governing Documents”). (See, Exhibits 1, 2 and 3.)

The Receiver is charged with accounting for all income and expenses associated with the compliance with the Governing Documents from forty-five (45) days from the date of entry of this Order until discharged.

All funds collected and/or exchanged under the Governing Documents, including those collected from Defendants, shall be distributed, utilized, or, held as reserves in accordance with the Governing Documents.

IT IS FURTHER ORDERED that the Receiver shall conduct itself as a neutral agent, of this court and not as an agent of any party.

IT IS FURTHER ORDERED that the Receiver is appointed without the need of filing or posting of a bond.

IT IS FURTHER ORDERED that Defendants MEI-GSR Holdings, LLC and Gage Village Commercial shall cooperate with the Receiver in accomplishing the terms described in this Order.

IT IS FURTHER ORDERED that, to enforce compliance with the Governing Documents the Receiver shall have the following powers, and responsibilities, and shall be authorized and empowered to:

I. General

a. To review and/or take control of:

i. all the records, correspondence, insurance policies, books and accounts of or relating to the Property which refer to the Property, any ongoing construction and improvements on the Property, the rent or liabilities pertaining to the Property.

ii. all office equipment used by Defendants in connection with development; improvement, leasing, sales, marketing and/or conveyance of the Property and the buildings thereon; including all computer equipment, all software programs and

1 passwords, and any other information, data, equipment or items necessary for the
2 operations with respect to the Property, whether in the possession and control of
3 Defendants or its principals, agents, servants or employees; provided, however
4 that such books, records, and office equipment shall be made available for the use
5 of the agents, servants and employees of Defendants in the normal course of the
6 performance of their duties not involving the Property.

7 iii. all deposits relating to the Property, regardless of when received, together
8 with all books, records, deposit books, checks and checkbooks, together with
9 names, addresses, contact names, telephone and facsimile numbers where any and
10 all deposits are held, plus all account numbers.

11 iv. all accounting records, accounting software, computers, laptops,
12 passwords, books of account, general ledgers, accounts receivable records,
13 accounts payable records, cash receipts records, checkbooks, accounts, passbooks,
14 and all other accounting documents relating, to the Property.

15 v. all accounts receivable, payments, rents, including all statements and
16 records of deposits, advances, and prepaid contracts or rents, if applicable,
17 including, any deposits with utilities and/or government entities relating to the
18 Property.

19 vi. all insurance policies relating to the Property.

20 vii. all documents relating to repairs of the Property, including all estimated
21 costs or repair.

22 viii. documents reasonably requested by Receiver.

23 b. To use or collect:

24 i. The Receiver may use any federal taxpayer identification number relating
25 to the Property for any lawful purpose.

26 ii. The Receiver is authorized and directed to collect and; open all mail of
27 GSRUOA relating to the Property.
28

1 c. The Receiver shall not become personally liable for environmental contamination
2 or health and safety violations.

3 d. The Receiver is an officer and master of the Court and, is entitled to effectuate the
4 Receiver's duties conferred by this Order, including the authority to communicate *ex parte* on the
5 record with the Court when in the opinion of the Receiver, emergency judicial action is
6 necessary.

7 e. All persons and entities owing, any money to GSRUOA directly or indirectly
8 relating to the Property shall pay the same directly to the Receiver. Without limiting the
9 generality of the foregoing; upon presentation of a conformed copy of this order, any financial
10 institution holding deposit accounts, funds or property of GSRUOA turnover to the Receiver
11 such funds at the request of the Receiver.

12 **2. Employment**

13 To hire, employ, and retain attorneys, certified public accountants; investigators, security
14 guards, consultants, property management companies, brokers, appraisers, title companies,
15 licensed construction control companies, and any other personnel or employees which the
16 Receiver deems necessary to assist it in the discharge of his duties.

17 **3. Insurance**

18 a. To maintain adequate insurance for the Property to the same extent and, in the
19 same manner as, it has heretofore been insured, or as in the judgment of the Receiver may seem
20 fit and proper, and to request all presently existing policies to be amended by adding the
21 Receiver and the receivership estate as an additional insured within 10-days of the entry of the
22 order appointing the Receiver. If there is inadequate insurance or if there are insufficient funds in
23 the receivership estate to procure adequate insurance, the Receiver is directed to immediately
24 petition the court for instructions. The Receiver may, in his discretion, apply for any bond or
25 insurance providing coverage for the Receiver's conduct and operations of the property, which
26 shall be an expense of the Property, during the period in which the Property is uninsured or
27 underinsured. Receiver shall not be personally responsible for any claims arising therefore.
28

1 b. To pay all necessary insurance premiums for such insurance and all taxes and
2 assessments levied on the Property during the receivership.

3 4. ***Treatment of Contracts***

4 a. To continue in effect any contracts presently existing and not in default relating to
5 the Property.

6 b. To negotiate, enter into and modify contracts affecting any part or all of the
7 Property.

8 c. The Receiver shall not be bound by any contract between Defendants and any
9 third party that the Receiver does not expressly assume in writing, including any portion of any
10 lease that constitutes the personal obligation of Defendants, but which does not affect a tenant's
11 quiet enjoyment of its leasehold estate.

12 d. To notify all local, state and federal governmental agencies, all vendors and
13 suppliers, and any and all others who provide goods or services to the Property of his
14 appointment-as Receiver of GSRUOA.

15 e. No insurance company may cancel its existing current-paid policy as a result of
16 the appointment of the Receiver, without prior order of this Court.

17 5. ***Collection***

18 To demand, collect and receive all dues, fees, reserves, rents and revenues derived from
19 the Property.

20 6. ***Litigation***

21 a. To bring and prosecute all proper actions for (i) the collection of rents or any
22 other income derived from the Property, (ii) the removal from the Property of persons not
23 entitled to entry thereon, (iii) the protection of the Property, (iv) damage caused to the Property;
24 and (v) the recovery of possession of the Property.

25 b. To settle and resolve any actual or potential litigation, whether or not an action
26 has been commenced, in a manner which, in the exercise of the Receiver's judgment is most
27 beneficial to the receivership estate.
28

1 7. ***Reporting***

2 a. The Receiver shall prepare on a monthly basis, commencing the month ending 30
3 days after his appointment, and by the last day of each month thereafter, so long as the Property
4 shall remain in his possession or care, reports listing any Receiver fees (as described herein
5 below), receipts and disbursements, and any other significant operational issues that have
6 occurred during the preceding month. The Receiver is directed to file such reports with this
7 Court. The Receiver shall serve a copy of this report on the attorneys of record for the parties to
8 this action.

9 b. The Receiver shall not be responsible for the preparation and filing of tax returns
10 on behalf of the parties.

11 8. ***Receivership Funds /Payments/ Disbursements***

12 a. To pay and discharge out of the Property's rents and/or GSRUOA monthly dues
13 collections all the reasonable and necessary expenses of the receivership and the costs and
14 expenses of operation and maintenance of the Property, including all of the Receiver's and
15 related fees, taxes, governmental assessments and charges and the nature thereof lawfully
16 imposed upon the Property.

17 b. To expend funds to purchase merchandise, materials, supplies and services as the
18 Receiver deems necessary and advisable to assist him in performing his duties hereunder and to
19 pay therefore the ordinary and usual rates and prices out of the funds that may come into the
20 possession of the Receiver.

21 c. To apply, obtain and pay any reasonable fees for any lawful license permit or
22 other governmental approval relating to the Property or the operation thereof, confirm the
23 existence of and, to the extent, permitted by law, exercise the privilege of any existing license or
24 permit or the operation thereof, and do all things necessary to protect and maintain such licenses,
25 permits and approvals.

26 d. To open and utilize bank accounts for receivership funds.
27
28

1 e. To present for payment any checks, money orders or other forms of payment
2 which constitute the rents and revenues of the Property, endorse same and collect the proceeds
3 thereof.

4 9. *Administrative Fees and Costs*

5 a. The Receiver shall be compensated at a rate that is commensurate with industry
6 standards. As detailed below, a monthly report will be created by the Receiver describing the fee,
7 and work performed. In addition, the Receiver shall be reimbursed for all expenses incurred by
8 the Receiver on behalf of the Property.

9 b. The Receiver, his consultants, agents, employees, legal counsel, and professionals
10 shall be paid on an interim monthly basis. To be paid on a monthly basis, the Receiver must
11 serve, a statement of account on all parties each month for the time and expense incurred in the
12 preceding calendar month. If no objection thereto is filed with the Court and served on the
13 attorneys of record for the parties to this action on or within ten (10) days following service
14 thereof, such statement of account may be paid by the Receiver. If an objection is timely filed
15 and served, such statement of account shall not be paid absent further order of the Court. In the
16 event objections are timely made to fees and expenses, the portion of the fees and expenses as to
17 which no objection has been interposed may be paid immediately following the expiration of the
18 ten-day objection period: The portion of fees and expenses to which: an objection has been
19 timely interposed may be paid within ten (10) days of an agreement among the parties or entry of
20 a Court order adjudicating the matter.

21 c. Despite the periodic payment of Receiver's fees and administrative expenses, such
22 fees and expenses shall be submitted to the Court for final approval and confirmation in the form
23 of either, a stipulation among the parties or the, Receiver's final account and report.

24 d. To generally do such other things as may be necessary or incidental to the
25 foregoing specific powers directions and general authorities and take actions relating to
26 the Property beyond the scope contemplated by the provisions set forth above, provided the
27 Receiver obtains prior court approval for any actions beyond the scope contemplated herein.
28

1 10. ***Order in Aid of Receiver***

2 **IT IS FURTHER ORDERED** Defendants, and their agents, servants and employees,
3 and those acting in concert with them, and each of them, shall not engage in or perform directly
4 or indirectly, any or all of the following acts:

5 a. Interfering with the Receiver, directly or indirectly; in the management and
6 operation of the Property.

7 b. Transferring, concealing, destroying, defacing or altering any of the instruments,
8 documents, ledger cards, books, records, printouts or other writings relating to the Property, or
9 any portion thereof.

10 c. Doing any act which will, or which will tend to, impair, defeat, divert, prevent or
11 prejudice the preservation of the Property or the interest of Plaintiffs in the Property.

12 d. Filing suit against the Receiver or taking other action against the Receiver without
13 an order of this Court permitting the suit or action; provided, however, that no prior court order
14 is required to file a motion in this action to enforce the provisions of the Order or any other order
15 of this Court in this action.

16 **IT IS FURTHER ORDERED** that Defendants and any other person or entity who may
17 have possession, custody or control of any Property, including any of their agents,
18 representatives, assignees, and employees shall do the following:

19 a. Turn over to the Receiver all documents which constitute or pertain to all
20 licenses, permits or, governmental approvals relating to the Property.

21 b. Turn over to the Receiver all documents which constitute or pertain to insurance
22 policies, whether currently in effect or lapsed which relate to the Property.

23 c. Turn over to the Receiver all contracts, leases and subleases, royalty agreements,
24 licenses, assignments or other agreements of any kind whatsoever, whether currently in effect or
25 lapsed, which relate to any interest in the Property.

26 d. Turn over to the Receiver all documents pertaining to past, present or future
27 construction of any type with respect to all or any part of the Property.
28

1 e. Turn over to the Receiver all rents, dues, reserves and revenues derived from the
2 Property wherever and in whatsoever mode maintained.

3 f. Nothing in the Order shall be intended to, nor shall be construed to, require the
4 Defendants to turn over any documents protected from disclosure by either the attorney-client
5 privilege or the attorney work product privilege.

6 g. Immediately advise the Receiver about the nature and extent of insurance
7 coverage on the Property.

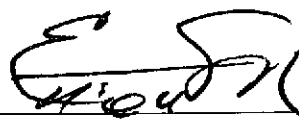
8 h. Immediately name the Receiver as an additional insured on each insurance policy
9 on the Property.

10 i. DO NOT cancel, reduce, or modify the insurance coverage.

11 **IT IS FURTHER ORDERED** that nothing contained herein, nor any powers conferred
12 on the Receiver pursuant to this Order, shall in any manner delegate, confer, empower or grant to
13 the Receiver any interest in the management of the gaming assets of the property, or confer any
14 rights to share in the management or the profit or loss of the casino operations, nor in any
15 manner manage any portion of the Property not specifically included in this order.

16 **IT IS FURTHER ORDERED** that the Receiver shall promptly, if requested to do so,
17 execute any further additional documents reasonably requested by Defendants' lenders or others
18 to confirm that other than as set forth herein, no transference, sale, hypothecation, or other
19 encumbrance has resulted which would create a change in ownership or management of MEI-
20 GSR.

21 DATED this 6 day of Jan, 2015
22 2014.

23 

24 DISTRICT COURT JUDGE

25 Submitted by:

26 /s/ Jarrad C. Miller

27 Jarrad C. Miller, Esq.
28 Attorney for Plaintiffs

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5 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
6 IN AND FOR THE COUNTY OF WASHOE
7 * * *

8 ALBERT THOMAS, individually, et al,

9 Plaintiffs,

Case No: CV12-02222

10 vs.

Dept. No: 10

11 MEI-GSR Holdings, LLC, a Nevada Limited
12 Liability Company, et al,

13 Defendants.
14 _____/

15 **FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT**

16 This action was commenced on August 27, 2012, with the filing of a COMPLAINT ("the
17 Complaint"). The Complaint alleged twelve causes of action: 1) Petition for Appointment of a
18 Receiver as to Defendant Grand Sierra Resort Unit-Owners' Association; 2) Intentional and/or
19 Negligent Misrepresentation as to Defendant MEI-GSR; 3) Breach of Contract as to Defendant
20 MEI-GSR; 4) Quasi-Contract/Equitable Contract/Detrimental Reliance as to Defendant MEI-GSR;
21 5) Breach of the Implied Covenant of Good Faith and Fair Dealing as to Defendant MEI-GSR;
22 6) Consumer Fraud/Nevada Deceptive Trade Practices Act Violations as to Defendant MEI-GSR; 7)
23 Declaratory Relief as to Defendant MEI-GSR; 8) Conversion as to Defendant MEI-GSR; 9) Demand
24 for an Accounting as to Defendant MEI-GSR and Defendant Grand Sierra Unit Owners Association;
25 10) Specific Performance Pursuant to NRS 116.122, Unconscionable Agreement; 11) Unjust
26 Enrichment/Quantum Meruit against Defendant Gage Village Development; 12) Tortious
27 Interference with Contract and/or Prospective Business Advantage against Defendants MEI-GSR
28

1 and Gage Development. The Plaintiffs (as more fully described *infra*) were individuals or other
2 entities who had purchased condominiums in the Grand Sierra Resort ("GSR"). A FIRST
3 AMENDED COMPLAINT ("the First Amended Complaint") was filed on September 10, 2012.
4 The First Amended Complaint had the same causes of action as the Complaint.

5 The Defendants (as more fully described *infra*) filed an ANSWER AND COUNTERCLAIM
6 ("the Answer") on November 21, 2012. The Answer denied the twelve causes of action; asserted
7 eleven affirmative defenses; and alleged three Counterclaims. The Counterclaims were for: 1)
8 Breach of Contract; 2) Declaratory Relief; 3) Injunctive Relief.

9 The Plaintiffs filed a SECOND AMENDED COMPLAINT ("the Second Amended
10 Complaint") on March 26, 2013. The Second Amended Complaint had the same causes of action as
11 the Complaint and the First Amended Complaint. The Defendants filed an ANSWER TO SECOND
12 AMENDED COMPLAINT AND COUNTER CLAIM ("the Second Answer") on May 23, 2013.
13 The Second Answer generally denied the allegations in the Second Amended Complaint and
14 contained ten affirmative defenses. The Counterclaims mirrored the Counterclaims in the Answer.

15 The matter has been the subject of extensive motion practice. There were numerous
16 allegations of discovery abuses by the Defendants. The record speaks for itself regarding the
17 protracted nature of these proceedings and the systematic attempts at obfuscation and intentional
18 deception on the part of the Defendants. Further, the Court has repeatedly had to address the
19 lackadaisical and inappropriate approach the Defendants have exhibited toward the Nevada Rules of
20 Civil Procedure, the District Court Rules, the Washoe District Court Rules, and the Court's orders.
21 The Defendants have consistently, and repeatedly, chosen to follow their own course rather than
22 respect the need for orderly process in this case. NRCP 1 states that the rules of civil procedure
23 should be "construed and administered to secure the just, speedy, and inexpensive determination of
24 every action." The Defendants have turned this directive on its head and done everything possible to
25 make the proceedings unjust, dilatory, and costly.

26 The Court twice has addressed a request to impose case concluding sanctions against the
27 Defendants because of their repeated discovery abuses. The Court denied a request for case
28 concluding sanctions in its ORDER REGARDING ORIGINAL MOTION FOR CASE

1 CONCLUDING SANCTIONS filed December 18, 2013 ("the December Order"). The Court found
2 that case concluding sanctions were not appropriate; however, the Court felt that some sanctions
3 were warranted based on the Defendants' repeated discovery violations. The Court struck all of the
4 Defendants' Counterclaims in the December Order and required the Defendants to pay for the costs
5 of the Plaintiffs' representation in litigating that issue.

6 The parties continued to fight over discovery issues after the December Order. The Court
7 was again required to address the issue of case concluding sanctions in January of 2014. It became
8 clear that the Defendants were disingenuous with the Court and Plaintiffs' counsel when the first
9 decision regarding case concluding sanctions was argued and resolved. Further, the Defendants
10 continued to violate the rules of discovery and other court rules even after they had their
11 Counterclaims struck in the December Order. The Court conducted a two day hearing regarding the
12 renewed motion for case concluding sanctions. An ORDER GRANTING PLAINTIFFS' MOTION
13 FOR CASE-TERMINATING SANCTIONS was entered on October 3, 2014 ("the October Order").
14 The Defendants' Answer was stricken in the October Order. A DEFAULT was entered against the
15 Defendants on November 26, 2014.

16 The Court conducted a "prove-up hearing" regarding the issue of damages from March 23
17 through March 25, 2015. The Court entered an ORDER on February 5, 2015 ("the February Order")
18 establishing the framework of the prove-up hearing pursuant to *Foster v. Dingwall*, 126 Nev. Adv.
19 Op. 6, 227 P.3d 1042 (2010). The February Order limited, but did not totally eliminate, the
20 Defendants' ability to participate in the prove-up hearing. The Court heard expert testimony from
21 Craig L. Greene, CPA/CFF, CFE, CCEP, MAFF ("Greene") at the prove-up hearing. Greene
22 calculated the damages owed the Plaintiffs using information collected and provided by the
23 Defendants. The Court finds Greene to be very credible and his methodology to be sound. Further,
24 the Court notes that Greene attempted to be "conservative" in his calculations. Greene used
25 variables and factors that would eliminate highly suspect and/or unreliable data. The Court has also
26 received and reviewed supplemental information provided as a result of an inquiry made by the
27 Court during the prove-up hearing.

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1 The GSR is a high rise hotel/casino in Reno, Nevada. The GSR has approximately 2000
2 rooms. The Plaintiffs purchased individual rooms in the GSR as condominiums. It appears to the
3 Court that the primary purpose of purchasing a condominium in the GSR would be as an investment
4 and revenue generating proposition. The condominiums were the subject of statutory limitations on
5 the number of days the owners could occupy them during the course of a calendar year. The owners
6 would not be allowed to "live" in the condominium. When the owners were not in the rooms they
7 could either be rented out or they had to remain empty.

8 As noted, *supra*, the Court stripped all of the Defendants general and affirmative defenses in
9 the October Order. The Defendants stand before the Court having involuntarily conceded all of the
10 allegations contained in the Second Amended Complaint. The Court makes the following findings
11 of fact:

12 **I. FINDINGS OF FACT**

13 1. Plaintiff Albert Thomas is a competent adult and is a resident of the State of
14 California.

15 2. Plaintiff Jane Dunlap is a competent adult and is a resident of the State of California.

16 3. Plaintiff John Dunlap is a competent adult and is a resident of the State of California.

17 4. Plaintiff Barry Hay is a competent adult and is a resident of the State of California.

18 5. Plaintiff Marie-Annie Alexander, as Trustee of the Marie-Annie Alexander Living
19 Trust, is a competent adult and is a resident of the State of California.

20 6. Plaintiff Melissa Vagujhelyi, as Co-Trustee of the George Vagujhelyi and Melissa
21 Vagujheyli 2001 Family Trust Agreement U/T/A April 13, 2001, is a competent adult and is a
22 resident of the State of Nevada.

23 7. Plaintiff George Vagujhelyi, as Co-Trustee of the George Vagujhelyi and Melissa
24 Vagujheyli 2001 Family Trust Agreement U/T/A April 13, 2001, is a competent adult and is a
25 resident of the State of Nevada.

26 8. Plaintiff D'Arcy Nunn is a competent adult and is a resident of the State of California.

27 9. Plaintiff Henry Nunn is a competent adult and is a resident of the State of California.
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- 1 10. Plaintiff Lee Van Der Bokke is a competent adult and is a resident of the State of
2 California.
- 3 11. Plaintiff Madelyn Van Der Bokke is a competent adult and is a resident of the State of
4 California.
- 5 12. Plaintiff Donald Schreifels is a competent adult and is a resident of the State of
6 Minnesota.
- 7 13. Plaintiff Robert R. Pederson, individually and as Trustee of the Pederson 1990 Trust,
8 is a competent adult and is a resident of the State of California.
- 9 14. Plaintiff Lou Ann Pederson, individually and as Trustee of the Pederson 1990 Trust,
10 is a competent adult and is a resident of the State of California.
- 11 15. Plaintiff Lori Ordovery is a competent adult and is a resident of the State of
12 Connecticut.
- 13 16. Plaintiff William A. Henderson is a competent adult and is a resident of the State of
14 California.
- 15 17. Plaintiff Christine E. Henderson is a competent adult and is a resident of the State of
16 California.
- 17 18. Plaintiff Loren D. Parker is a competent adult and is a resident of the State of
18 Washington.
- 19 19. Plaintiff Suzanne C. Parker is a competent adult and is a resident of the State of
20 Washington.
- 21 20. Plaintiff Michael Izady is a competent adult and is a resident of the State of New
22 York.
- 23 21. Plaintiff Steven Takaki is a competent adult and is a resident of the State of
24 California.
- 25 22. Plaintiff Farad Torabkhan is a competent adult and is a resident of the State of New
26 York.
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- 1 23. Plaintiff Sahar Tavakol is a competent adult and is a resident of the State of New
2 York.
- 3 24. Plaintiff M&Y Holdings is a Nevada Limited Liability Company with its principal
4 place of business in Nevada.
- 5 25. Plaintiff JL&YL Holdings, LLC is a Nevada Limited Liability Company with its
6 principal place of business in Nevada.
- 7 26. Plaintiff Sandi Raines is a competent adult and is a resident of the State of Minnesota.
- 8 27. Plaintiff R. Raghuram is a competent adult and is a resident of the State of California.
- 9 28. Plaintiff Usha Raghuram is a competent adult and is a resident of the State of
10 California.
- 11 29. Plaintiff Lori K. Tokutomi is a competent adult and is a resident of the State of
12 California.
- 13 30. Plaintiff Garrett Tom is a competent adult and is a resident of the State of California.
- 14 31. Plaintiff Anita Tom is a competent adult and is a resident of the State of California.
- 15 32. Plaintiff Ramon Fadrilan is a competent adult and is a resident of the State of
16 California.
- 17 33. Plaintiff Faye Fadrilan is a competent adult and is a resident of the State of California.
- 18 34. Plaintiff Peter K. Lee, as Trustee of the Lee Family 2002 Revocable Trust, is a
19 competent adult and is a resident of the State of California.
- 20 35. Plaintiff Monica L. Lee, as Trustee of the Lee Family 2002 Revocable Trust, is a
21 competent adult and is a resident of the State of California.
- 22 36. Plaintiff Dominic Yin is a competent adult and is a resident of the State of California.
- 23 37. Plaintiff Elias Shamieh is a competent adult and is a resident of the State of
24 California.
- 25 38. Plaintiff Nadine's Real Estate Investments, LLC, is a North Dakota Limited Liability
26 Company.
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- 1 39. Plaintiff Jeffery James Quinn is a competent adult and is a resident of the State of
2 Hawaii.
- 3 40. Plaintiff Barbara Rose Quinn is a competent adult and is a resident of the State of
4 Hawaii.
- 5 41. Plaintiff Kenneth Riche is a competent adult and is a resident of the State of
6 Wisconsin.
- 7 42. Plaintiff Maxine Riche is a competent adult and is a resident of the State of
8 Wisconsin.
- 9 43. Plaintiff Norman Chandler is a competent adult and is a resident of the State of
10 Alabama.
- 11 44. Plaintiff Benton Wan is a competent adult and is a resident of the State of California.
- 12 45. Plaintiff Timothy Kaplan is a competent adult and is a resident of the State of
13 California.
- 14 46. Plaintiff Silkscape Inc. is a California Corporation.
- 15 47. Plaintiff Peter Cheng is a competent adult and is a resident of the State of California.
- 16 48. Plaintiff Elisa Cheng is a competent adult and is a resident of the State of California.
- 17 49. Plaintiff Greg A. Cameron is a competent adult and is a resident of the State of
18 California.
- 19 50. Plaintiff TMI Property Group, LLC is a California Limited Liability Company.
- 20 51. Plaintiff Richard Lutz is a competent adult and is a resident of the State of California.
- 21 52. Plaintiff Sandra Lutz is a competent adult and is a resident of the State of California.
- 22 53. Plaintiff Mary A. Kossick is a competent adult and is a resident of the State of
23 California.
- 24 54. Plaintiff Melvin H. Cheah is a competent adult and is a resident of the State of
25 California.
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1 55. Plaintiff Di Shen is a competent adult and is a resident of the State of Texas.
2 56. Plaintiff Ajit Gupta is a competent adult and is a resident of the State of California.
3 57. Plaintiff Seema Gupta is a competent adult and is a resident of the State of California.
4 58. Plaintiff Fredrick Fish is a competent adult and is a resident of the State of Minnesota.
5 59. Plaintiff Lisa Fish is a competent adult and is a resident of the State of Minnesota.
6 60. Plaintiff Robert A. Williams is a competent adult and is a resident of the State of
7 Minnesota.
8 61. Plaintiff Jacquelin Pham is a competent adult and is a resident of the State of
9 California.
10 62. Plaintiff May Ann Hom, as Trustee of the May Ann Hom Trust, is a competent adult
11 and is a resident of the State of California.
12 63. Plaintiff Michael Hurley is a competent adult and is a resident of the State of
13 Minnesota.
14 64. Plaintiff Dominic Yin is a competent adult and is a resident of the State of California.
15 65. Plaintiff Duane Windhorst is a competent adult and is a resident of the State of
16 Minnesota.
17 66. Plaintiff Marilyn Windhorst is a competent adult and is a resident of the State of
18 Minnesota.
19 67. Plaintiff Vinod Bhan is a competent adult and is a resident of the State of California.
20 68. Plaintiff Anne Bhan is a competent adult and is a resident of the State of California.
21 69. Plaintiff Guy P. Browne is a competent adult and is a resident of the State of
22 California.
23 70. Plaintiff Garth Williams is a competent adult and is a resident of the State of
24 California.
25 71. Plaintiff Pamela Y. Aratani is a competent adult and is a resident of the State of
26 California.
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- 1 72. Plaintiff Darleen Lindgren is a competent adult and is a resident of the State of
2 Minnesota.
- 3 73. Plaintiff Laverne Roberts is a competent adult and is a resident of the State of
4 Nevada.
- 5 74. Plaintiff Doug Mecham is a competent adult and is a resident of the State of Nevada.
- 6 75. Plaintiff Chrisine Mecham is a competent adult and is a resident of the State of
7 Nevada.
- 8 76. Plaintiff Kwangsoo Son is a competent adult and is a resident of Vancouver, British
9 Columbia.
- 10 77. Plaintiff Soo Yeun Moon is a competent adult and is a resident of Vancouver, British
11 Columbia.
- 12 78. Plaintiff Johnson Akindodunse is a competent adult and is a resident of the State of
13 California.
- 14 79. Plaintiff Irene Weiss, as Trustee of the Weiss Family Trust, is a competent adult and
15 is a resident of the State of Texas.
- 16 80. Plaintiff Pravesh Chopra is a competent adult and is a resident of the State of
17 California.
- 18 81. Plaintiff Terry Pope is a competent adult and is a resident of the State of Nevada.
- 19 82. Plaintiff Nancy Pope is a competent adult and is a resident of the State of Nevada.
- 20 83. Plaintiff James Taylor is a competent adult and is a resident of the State of California.
- 21 84. Plaintiff Ryan Taylor is a competent adult and is a resident of the State of California.
- 22 85. Plaintiff Ki Ham is a competent adult and is a resident of Surry B.C.
- 23 86. Plaintiff Young Ja Choi is a competent adult and is a resident of Coquitlam, B.C.
- 24 87. Plaintiff Sang Dae Sohn is a competent adult and is a resident of Vancouver, B.C.
- 25 88. Plaintiff Kuk Hyung ("Connie") is a competent adult and is a resident of Coquitlam,
26 B.C.
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- 1 89. Plaintiff Sang (“Mike”) Yoo is a competent adult and is a resident of Coquitlam, B.C.
- 2 90. Plaintiff Brett Menmuir, as Trustee of the Cayenne Trust, is a competent adult and is
- 3 a resident of the State of Nevada.
- 4 91. Plaintiff William Miner, Jr., is a competent adult and is a resident of the State of
- 5 California.
- 6 92. Plaintiff Chanh Truong is a competent adult and is a resident of the State of
- 7 California.
- 8 93. Plaintiff Elizabeth Anders Mecua is a competent adult and is a resident of the State of
- 9 California.
- 10 94. Plaintiff Shepherd Mountain, LLC is a Texas Limited Liability Company with its
- 11 principal place of business in Texas.
- 12 95. Plaintiff Robert Brunner is a competent adult and is a resident of the State of
- 13 Minnesota.
- 14 96. Plaintiff Amy Brunner is a competent adult and is a resident of the State of
- 15 Minnesota.
- 16 97. Plaintiff Jeff Riopelle is a competent adult and is a resident of the State of California.
- 17 98. Plaintiff Patricia M. Moll is a competent adult and is a resident of the State of Illinois.
- 18 99. Plaintiff Daniel Moll is a competent adult and is a resident of the State of Illinois.
- 19 100. The people and entities listed above represent their own individual interests. They are
- 20 not suing on behalf of any entity including the Grand Sierra Unit Home Owner’s Association. The
- 21 people and entities listed above are jointly referred to herein as “the Plaintiffs”.
- 22 101. Defendant MEI-GSR Holdings, LLC (“MEI-GSR”) is a Nevada Limited Liability
- 23 Company with its principal place of business in Nevada.
- 24 102. Defendant Gage Village Commercial Development, LLC (“Gage Village”) is a
- 25 Nevada Limited Liability Company with its principal place of business in Nevada.
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1 103. Gage Village is related to, controlled by, affiliated with, and/or a subsidiary of MEI-
2 GSR.

3 104. Defendant Grand Sierra Resort Unit Owners' Association ("the Unit Owners'
4 Association") is a Nevada nonprofit corporation with its principal place of business in Nevada.

5 105. MEI-GSR transferred interest in one hundred forty-five (145) condominium units to
6 AM-GSR Holdings, LLC ("AM-GSR") on December 22, 2014.

7 106. Defendants acknowledged to the Court on January 13, 2015, that AM-GSR would be
8 added to these proceedings and subject to the same procedural posture as MEI-GSR. Further, the
9 parties stipulated that AM-GSR would be added as a defendant in this action just as if AM-GSR was
10 a named defendant in the Second Amended Complaint. Said stipulation occurring and being ordered
11 on January 21, 2015.

12 107. MEI-GSR, Gage Village and the Unit Owner's Association are jointly referred to
13 herein as "the Defendants".

14 108. The Grand Sierra Resort Condominium Units ("GSR Condo Units") are part of the
15 Grand Sierra Unit Owners Association, which is an apartment style hotel condominium development
16 of 670 units in one 27-story building. The GSR Condo Units occupy floors 17 through 24 of the
17 Grand Sierra Resort and Casino, a large-scale hotel casino, located at 2500 East Second Street,
18 Reno, Nevada.

19 109. All of the Individual Unit Owners: hold an interest in, own, or have owned, one or
20 more GSR Condo Units.

21 110. Gage Village and MEI-GSR own multiple GSR Condo Units.

22 111. MEI-GSR owns the Grand Sierra Resort and Casino.

23 112. Under the Declaration of Covenants, Conditions, Restrictions and Reservations of
24 Easements for Hotel-Condominiums at Grand Sierra Resort ("CC&Rs"), there is one voting member
25 for each unit of ownership (thus, an owner with multiple units has multiple votes).
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1 113. Because MEI-GSR and Gage Village control more units of ownership than any other
2 person or entity, they effectively control the Unit Owners' Association by having the ability to elect
3 MEI-GSR's chosen representatives to the Board of Directors (the governing body over the GSR
4 Condo Units).

5 114. As a result of MEI-GSR and Gage Village controlling the Unit Owners' Association,
6 the Individual Unit Owners effectively have no input or control over the management of the Unit
7 Owners' Association.

8 115. MEI-GSR and Gage Village have used, and continue to use, their control over the
9 Unit Owners' Association to advance MEI-GSR and Gage Villages' economic objectives to the
10 detriment of the Individual Unit Owners.

11 116. MEI-GSR and Gage Villages' control of the Unit Owners' Association violates
12 Nevada law as it defeats the purpose of forming and maintaining a homeowners' association.

13 117. Further, the Nevada Division of Real Estate requires a developer to sell off the units
14 within 7 years, exit and turn over the control and management to the owners.

15 118. Under the CC&Rs, the Individual Unit Owners are required to enter into a "Unit
16 Maintenance Agreement" and participate in the "Hotel Unit Maintenance Program," wherein MEI-
17 GSR provides certain services (including, without limitation, reception desk staffing, in-room
18 services, guest processing services, housekeeping services, Hotel Unit inspection, repair and
19 maintenance services, and other services).

20 119. The Unit Owners' Association maintains capital reserve accounts that are funded by
21 the owners of GSR Condo Units. The Unit Owners' Association collects association dues of
22 approximately \$25 per month per unit, with some variation depending on a particular unit's square
23 footage.

24 120. The Individual Unit Owners pay for contracted "Hotel Fees," which include taxes,
25 deep cleaning, capital reserve for the room, capital reserve for the building, routine maintenance,
26 utilities, etc.
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1 121. MEI-GSR has systematically allocated and disproportionately charged capital reserve
2 contributions to the Individual Unit Owners, so as to force the Individual Unit Owners to pay capital
3 reserve contributions in excess of what should have been charged.

4 122. MEI-GSR and Gage Development have failed to pay proportionate capital reserve
5 contribution payments in connection with their Condo Units.

6 123. MEI-GSR has failed to properly account for, or provide an accurate accounting for
7 the collection and allocation of the collected capital reserve contributions.

8 124. The Individual Unit Owners also pay "Daily Use Fees" (a charge for each night a unit
9 is occupied by any guest for housekeeping services, etc.).

10 125. MEI-GSR and Gage Village have failed to pay proportionate Daily Use Fees for the
11 use of Defendants' GSR Condo Units.

12 126. MEI-GSR has failed to properly account for the contracted "Hotel Fees" and "Daily
13 Use Fees."

14 127. Further, the Hotel Fees and Daily Use Fees are not included in the Unit Owners'
15 Association's annual budget with other assessments that provide the Individual Unit Owners' the
16 ability to reject assessment increases and proposed budget ratification.

17 128. MEI-GSR has systematically endeavored to increase the various fees that are charged
18 in connection with the use of the GSR Condo Units in order to devalue the units owned by
19 Individual Unit Owners.

20 129. The Individual Unit Owners' are required to abide by the unilateral demands of MEI-
21 GSR, through its control of the Unit Owners' Association, or risk being considered in default under
22 Section 12 of the Agreement, which provides lien and foreclosure rights pursuant to Section 6.10(f)
23 of the CC&R's.

24 130. Defendants MEI-GSR and/or Gage Village have attempted to purchase, and
25 purchased, units devalued by their own actions, at nominal, distressed prices when Individual Unit
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1 Owners decide to, or are effectively forced to, sell their units because the units fail to generate
2 sufficient revenue to cover expenses.

3 131. MEI-GSR and/or Gage Village have, in late 2011 and 2012, purchased such devalued
4 units for \$30,000 less than the amount they purchased units for in March of 2011.

5 132. The Individual Unit Owners effectively pay association dues to fund the Unit
6 Owners' Association, which acts contrary to the best interests of the Individual Unit Owners.

7 133. MEI-GSR's interest in maximizing its profits is in conflict with the interest of the
8 Individual Unit Owners. Accordingly, Defendant MEI-GSR's control of the Unit Owners'
9 Association is a conflict of interest.

10 134. As part of MEI-GSR's Grand Sierra Resort and Casino business operations, it rents:
11 (1) hotel rooms owned by MEI-GSR that are not condominium units; (2) GSR Condo Units owned
12 by MEI-GSR and/or Gage Village; and (3) GSR Condo Units owned by the Individual Condo Unit
13 Owners.

14 135. MEI-GSR has entered into a Grand Sierra Resort Unit Rental Agreement with
15 Individual Unit Owners.

16 136. MEI-GSR has manipulated the rental of the: (1) hotel rooms owned by MEI-GSR; (2)
17 GSR Condo Units owned by MEI-GSR and/or Gage Village; and (3) GSR Condo Units owned by
18 Individual Condo Unit Owners so as to maximize MEI-GSR's profits and devalue the GSR Condo
19 Units owned by the Individual Unit Owners.

20 137. MEI-GSR has rented the Individual Condo Units for as little as \$0.00 to \$25.00 a
21 night.

22 138. Yet, MEI-GSR has charged "Daily Use Fees" of approximately \$22.38, resulting in
23 revenue to the Individual Unit Owners as low as \$2.62 per night for the use of their GSR Condo Unit
24 (when the unit was rented for a fee as opposed to being given away).

25 139. By functionally, and in some instances actually, giving away the use of units owned
26 by the Individual Unit Owners, MEI-GSR has received a benefit because those who rent the
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1 Individual Units frequently gamble and purchase food, beverages, merchandise, spa services and
2 entertainment access from MEI-GSR.

3 140. MEI-GSR has rented Individual Condo Units to third parties without providing
4 Individual Unit Owners with any notice or compensation for the use of their unit.

5 141. Further, MEI-GSR has systematically endeavored to place a priority on the rental of
6 MEI-GSR's hotel rooms, MEI-GSR's GSR Condo Units, and Gage Village's Condo Units.

7 142. Such prioritization effectively devalues the units owned by the Individual Unit
8 Owners.

9 143. MEI-GSR and Gage Village intend to purchase the devalued units at nominal,
10 distressed prices when Individual Unit Owners decide to, or are effectively forced to, sell their units
11 because the units fail to generate sufficient revenue to cover expenses and have no prospect of
12 selling their persistently loss-making units to any other buyer.

13 144. Some of the Individual Unit Owners have retained the services of a third party to
14 market and rent their GSR Condo Unit(s).

15 145. MEI-GSR has systematically thwarted the efforts of any third party to market and
16 rent the GSR Units owned by the Individual Unit Owners.

17 146. MEI-GSR has breached the Grand Sierra Resort Unit Rental Agreement with
18 Individual Condo Unit Owners by failing to follow its terms, including but not limited to, the failure
19 to implement an equitable Rotational System as referenced in the agreement.

20 147. MEI-GSR has failed to act in good faith in exercising its duties under the Grand
21 Sierra Resort Unit Rental Agreements with the Individual Unit Owners.

22 The Court is intimately familiar with all of the allegations in the twelve causes of action
23 contained in the Second Amended Complaint. The Court's familiarity is a result of reviewing all of
24 the pleadings and exhibits in this matter to include the various discovery disputes, the testimony at
25 the numerous hearings conducted to date, and the other documents and exhibits on file. The Court
26 finds that the facts articulated above support the twelve causes of action contained in the Second
27 Amended Complaint.
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II. CONCLUSIONS OF LAW

- 1
2 A. The Court has jurisdiction over MEI-GSR, Gage Village, the Unit Owner's Association
3 and the Plaintiffs.
- 4 B. The appointment of a receiver is appropriate when: (1) the plaintiff has an interest in
5 the property; (2) there is potential harm to that interest in property; and (3) no other
6 adequate remedies exist to protect the interest. *See generally Bowler v. Leonard*, 70
7 Nev. 370, 269 P.2d 833 (1954). *See also* NRS 32.010. The Court appointed a receiver
8 to oversee the Unit Owner's Association on January 7, 2015. The Court concludes that
9 MEI-GSR and/or Gage Village have operated the Unit Owner's Association in a way
10 inconsistent with the best interests of all of the unit owners. The continued
11 management of the Unit Owner's Association by the receiver is appropriate under the
12 circumstances of this case and will remain in effect absent additional direction from the
13 Court.
- 14 C. Negligent misrepresentation is when "[o]ne who, in the course of his business,
15 profession or employment, or in any other action in which he has a pecuniary interest,
16 supplies false information for the guidance of others in their business transactions, is
17 subject to liability for pecuniary loss caused to them by their justifiable reliance upon
18 the information, if he fails to exercise reasonable care or competence in obtaining or
19 communicating the information." *Barmeltler v. Reno Air, Inc.*, 114 Nev. 441, 956 P.2d
20 1382, 1387 (1998) (quoting *Restatement (Second) of Torts § 552(1) (1976)*). Intentional
21 misrepresentation is when "a false representation made with knowledge or belief that it
22 is false or without a sufficient basis of information, intent to induce reliance, and
23 damage resulting from the reliance. *Lubbe v. Barba*, 91 Nev. 596, 599, 540 P.2d 115,
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1 117 (1975).” *Collins v. Burns*, 103 Nev. 394, 397, 741 P.2d 819, 821 (1987). MEI-
2 GSR is liable for intentionally and/or negligent misrepresentation as alleged in the
3 Second Cause of Action.

4
5 D. An enforceable contract requires, “an offer and acceptance, meeting of the minds, and
6 consideration.” *Certified Fire Protection, Inc. v. Precision Construction, Inc.* 128 Nev.
7 Adv. Op. 35, 283 P.3d 250, 255 (2012)(citing *May v. Anderson*, 121 Nev. 668, 672, 119
8 P.3d 1254, 1257 (2005)). There was a contract between the Plaintiffs and MEI-GSR.
9 MEI-GSR has breached the contract and therefore MEI-GSR is liable for breach of
10 contract as alleged in the Third Cause of Action.

11
12 E. MEI-GSR is liable for Quasi-Contract/Equitable Contract/Detrimental Reliance as
13 alleged in the Fourth Cause of Action.

14
15 F. An implied covenant of good faith and fair dealing exists in every contract in Nevada.
16 *Hilton Hotels Corp. v. Butch Lewis Productions, Inc.*, 109 Nev. 1043, 1046, 862 P.2d
17 1207, 1209 (1993). “The duty not to act in bad faith or deal unfairly thus becomes part
18 of the contract, and, as with any other element of the contract, the remedy for its breach
19 generally is on the contract itself.” *Id.* (citing *Wagenseller v. Scottsdale Memorial*
20 *Hospital*, 147 Ariz. 370, 383, 710 P.2d 1025, 1038 (1985)). “It is well established that
21 in contracts cases, compensatory damages ‘are awarded to make the aggrieved party
22 whole and ... should place the plaintiff in the position he would have been in had the
23 contract not been breached.’ This includes awards for lost profits or expectancy
24 damages.” *Road & Highway Builders, LLC v. Northern Nevada Rebar, Inc.*, 128 Nev.
25 Adv. Op. 36, 284 P.3d 377, 382 (2012)(*internal citations omitted*). “When one party
26 performs a contract in a manner that is unfaithful to the purpose of the contract and the
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1 justified expectations of the other party are thus denied, damages may be awarded
2 against the party who does not act in good faith.” *Perry v. Jordan*, 111 Nev. 943, 948,
3 900 P.2d 335, 338 (1995)(*citation omitted*). “Reasonable expectations are to be
4 ‘determined by the various factors and special circumstances that shape these
5 expectations.’” *Id.* (citing *Butch Lewis*, 107 Nev. at 234, 808 P.2d at 923). MEI-GSR is
6 liable for breach of the covenant of good faith and fair dealing as set forth in the Fifth
7 Cause of Action.
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10 G. MEI-GSR has violated NRS 41.600(1) and (2) and NRS 598.0915 through 598.0925,
11 inclusive and is therefore liable for the allegations contained in the Sixth Cause of
12 Action. Specifically, MEI-GSR violated NRS 598.0915(15) and NRS 598.0923(2).

13 H. The Plaintiffs are entitled to declaratory relief as more fully described below and
14 prayed for in the Seventh Cause of Action.

15 I. MEI-GSR wrongfully committed numerous acts of dominion and control over the
16 property of the Plaintiffs, including but not limited to renting their units at discounted
17 rates, renting their units for no value in contravention of written agreements between
18 the parties, failing to account for monies received by MEI-GSR attributable to specific
19 owners, and renting units of owners who were not even in the rental pool. All of said
20 activities were in derogation, exclusion or defiance of the title and/or rights of the
21 individual unit owners. Said acts constitute conversion as alleged in the Eighth Cause
22 of Action.

23 J. The demand for an accounting as requested in Ninth Cause of Action is moot pursuant
24 to the discovery conducted in these proceedings and the appointment of a receiver to
25 oversee the interaction between the parties.

26 K. The Unit Maintenance Agreement and Unit Rental Agreement proposed by MEI-GSR
27 and adopted by the Unit Owner’s Association are unconscionable. An unconscionable
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1 clause is one where the circumstances existing at the time of the execution of the
2 contract are so one-sided as to oppress or unfairly surprise an innocent party. *Bill*
3 *Stremmel Motors, Inc. v. IDS Leasing Corp.*, 89 Nev. 414, 418, 514 P.2d 654, 657
4 (1973). MEI-GSR controls the Unit Owner's Association based on its majority
5 ownership of the units in question. It is therefore able to propose and pass agreements
6 that affect all of the unit owners. These agreements require unit owners to pay
7 unreasonable Common Expense fees, Hotel Expenses Fees, Shared Facilities Reserves,
8 and Hotel Reserves ("the Fees"). The Fees are not based on reasonable expectation of
9 need. The Fees have been set such that an individual owner may actually *owe* money
10 as a result of having his/her unit rented. They are unnecessarily high and imposed
11 simply to penalize the individual unit owners. Further, MEI-GSR and/or Gage Village
12 have failed to fund their required portion of these funds, while demanding the
13 individual unit owners continue to pay the funds under threat of a lien. MEI-GSR has
14 taken the Fees paid by individual unit owners and placed the funds in its general
15 operating account rather than properly segregating them for the use of the Unit Owner's
16 Association. All of said actions are unconscionable and unenforceable pursuant to NRS
17 116.112(1). The Court will grant the Tenth Cause of Action and not enforce these
18 portions of the agreements.
19

- 20 L. The legal concept of *quantum meruit* has two applications. The first application is in
21 actions based upon contracts implied-in-fact. The second application is providing
22 restitution for unjust enrichment. *Certified Fire*, at 256. In the second application,
23 "[l]iability in restitution for the market value of goods or services is the remedy
24 traditionally known as quantum meruit. Where unjust enrichment is found, the law
25 implies a quasi-contract which requires the defendant to pay to the plaintiff the value of
26 the benefit conferred. In other words, the defendant makes restitution to the plaintiff in
27 *quantum meruit*." *Id.* at 256-57. Gage Village has been unjustly enriched based on the
28

orchestrated action between it and MEI-GSR to the detriment of the individual unit owners as alleged in the Eleventh Cause of Action.

M. Many of the individual unit owners attempted to rent their units through third-party services rather than through the use of MEI-GSR. MEI-GSR and Gage Village intentionally thwarted, interfered with and/or disrupted these attempts with the goal of forcing the sale of the individual units back to MEI-GSR. All of these actions were to the economic detriment of the individual unit owners as alleged in the Twelfth Cause of Action.

N. The Plaintiffs are entitled to both equitable and legal relief. “As federal courts have recognized, the long-standing distinction between law and equity, though abolished in procedure, continues in substance, *Coca-Cola Co. v. Dixi-Cola Labs.*, 155 F.2d 59, 63 (4th Cir. 1946); 30A C.J.S. *Equity* § 8 (2007). A judgment for damages is a legal remedy, whereas other remedies, such as avoidance or attachment, are equitable remedies. *See* 30A *Equity* § 1 (2007).” *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. Adv. Op. 15, 345 P.3d 1049, 1053 (2015).

O. “[W]here default is entered as a result of a discovery sanction, the non-offending party ‘need only establish a *prima facie* case in order to obtain the default.’ *Foster*, 227 P.3d at 1049 (*citing Young v. Johnny Ribeiro Building, Inc.*, 106 Nev. 88, 94, 787 P.2d 777, 781 (1990)). “[W]here a district court enters a default, the facts alleged in the pleadings will be deemed admitted. Thus, during a NRCP 55(b)(2) prove-up hearing, the district court shall consider the allegations deemed admitted to determine whether the non-offending party has established a *prima facie* case for liability.” *Foster*, 227 P.3d at 1049-50. A *prima facie* case requires only “sufficiency of evidence in order to send the question to the jury.” *Id.* 227 P.3d at 1050 (*citing Vancheri v. GNLV Corp.*, 105 Nev. 417, 420, 777 P.2d 366, 368 (1989)). The Plaintiffs have met this burden regarding all of their causes of action.

1 P. "Damages need not be determined with mathematical certainty." *Perry*, 111 Nev. at
2 948, 900 P.2d at 338. The party requesting damages must provide an evidentiary basis
3 for determining a "reasonably accurate amount of damages." *Id. See also*,
4 *Countrywide Home Loans, Inc. v. Thitchener*, 124 Nev. 725, 733, 192 P.3d 243, 248
5 (2008) and *Mort Wallin of Lake Tahoe, Inc. v. Commercial Cabinet Co., Inc.*, 105 Nev.
6 855, 857, 784 P.2d 954, 955 (1989).

7 Q. Disgorgement is a remedy designed to dissuade individuals from attempting to profit
8 from their inappropriate behavior. "Disgorgement as a remedy is broader than
9 restitution or restoration of what the plaintiff lost." *American Master Lease LLC v.*
10 *Idanta Partners, Ltd*, 225 Cal. App. 4th 1451, 1482, 171 Cal. Rptr. 3d 548, 572
11 (2014)(*internal citation omitted*). "Where 'a benefit has been received by the defendant
12 but the plaintiff has not suffered a corresponding loss or, in some cases, any loss, but
13 nevertheless the enrichment of the defendant would be unjust . . . the defendant may be
14 under a duty to give to the plaintiff the amount by which [the defendant] has been
15 enriched.'" *Id.* 171 Cal. Rptr. 3d at 573 (*internal citations omitted*). *See also Miller v.*
16 *Bank of America, N.A.*, 352 P.3d 1162 (N.M. 2015) and *Cross v. Berg Lumber Co.*, 7
17 P.3d 922 (Wyo. 2000).
18

19 III. JUDGMENT

20
21 Judgment is hereby entered against MEI-GSR, Gage Village and the Unit Owner's
22 Association as follows:

23 Monetary Relief:

- 24 1. Against MEI-GSR in the amount of \$442,591.83 for underpaid revenues to Unit owners;
- 25 2. Against MEI-GSR in the amount of \$4,152,669.13 for the rental of units of owners who had no
26 rental agreement;
- 27 3. Against MEI-GSR in the amount of \$1,399,630.44 for discounting owner's rooms without
28 credits;

- 1 4. Against MEI-GSR in the amount of \$31,269.44 for discounted rooms with credits;
- 2 5. Against MEI-GSR in the amount of \$96,084.96 for "comp'd" or free rooms;
- 3 6. Against MEI-GSR in the amount of \$411,833.40 for damages associated with the bad faith
- 4 "preferential rotation system";
- 5 7. Against MEI-GSR in the amount of \$1,706,798.04 for improperly calculated and assessed
- 6 contracted hotel fees;
- 7 8. Against MEI-GSR in the amount of \$77,338.31 for improperly collected assessments;
- 8 9. MEI-GSR will fund the FF&E reserve, shared facilities reserve and hotel reserve in the amount of
- 9 \$500,000.00 each. The Court finds that MEI-GSR has failed to fund the reserves for the units it, or
- 10 any of its agents, own. However, the Court has also determined, *supra*, that these fees were
- 11 themselves unconscionable. The Court does not believe that the remedy for MEI-GSR's failure to
- 12 fund the unconscionable amount should be some multiple of that unreasonable sum. Further, the
- 13 Court notes that Plaintiffs are individual owners: not the Unit Owner's Association. Arguably, the
- 14 reserves are an asset of the Unit Owner's Association and the Plaintiffs have no individual interest in
- 15 this sum. The Court believes that the "seed funds" for these accounts are appropriate under the
- 16 circumstances of the case; and
- 17 10. The Court finds that it would be inappropriate to give MEI-GSR any "write downs" or credits
- 18 for sums they may have received had they rented the rooms in accordance with appropriate business
- 19 practices. These sums will be disgorged.

20

21 **Non-Monetary Relief:**


- 22 1. The receiver will remain in place with his current authority until this Court rules otherwise;
- 23 2. The Plaintiffs shall not be required to pay any fees, assessments, or reserves allegedly due or
- 24 accrued prior to the date of this ORDER;
- 25 3. The receiver will determine a reasonable amount of FF&E, shared facilities and hotel reserve fees
- 26 required to fund the needs of these three ledger items. These fees will be determined within 90 days
- 27 of the date of this ORDER. No fees will be required until the implementation of these new
- 28

1 amounts. They will be collected from *all* unit owners and properly allocated on the Unit Owner's
2 Association ledgers; and
3 4. The current rotation system will remain in place.

4 **Punitive Damages:**

5 The Court specifically declined to hear argument regarding punitive damages during the
6 prove-up hearing. *See* Transcript of Proceedings 428:6 through 430:1. Where a defendant has been
7 guilty of oppression, fraud, or malice express or implied in an action *not arising from contract*,
8 punitive damages may be appropriate. NRS 42.005(1). Many of the Plaintiff's causes of action
9 sound in contract; therefore, they are not the subject of a punitive damages award. Some of the
10 causes of action may so qualify. The Court requires additional argument on whether punitive
11 damages would be appropriate in the non-contract causes of action. NRS 42.005(3). An appropriate
12 measure of punitive damages is based on the financial position of the defendant, its culpability and
13 blameworthiness, the vulnerability of, and injury suffered by, the offended party, the offensiveness
14 of the punished conduct, and the means necessary to deter further misconduct. *See generally*
15 *Ainsworth v. Combined Insurance Company of America*, 104 Nev. 587, 763 P.2d 673 (1988).
16 Should the Court determine that punitive damages are appropriate it will conduct a hearing to
17 consider all of the stated factors. NRS 42.005(3). The parties shall contact the Judicial Assistant
18 within 10 days of the date of this ORDER to schedule a hearing regarding punitive damages.
19 Counsel will be prepared to discuss all relevant issues and present testimony and/or evidence
20 regarding NRS 42.005 at that subsequent hearing.

21 DATED this 9 day of October, 2015.

22 
23 ELLIOTT A. SATTLER
24 District Judge
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Jonathan Tew, Esq.

Jarrad Miller, Esq.

Stan Johnson, Esq.

Mark Wray, Esq.

DATED this 9 day of October, 2015.


SHEILA MANSFIELD
Judicial Assistant

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)

Pursuant to WDCR 12(5) the Court after a review of the briefing, exhibits, declarations,¹ transcripts and related documents and being fully informed rules on the APPLICATION FOR TEMPORARY RESTRAINING ORDER, AND MOTION FOR PRELIMINARY INJUNCTION (‘the Injunctive Relief Motion’) related to a meeting noticed by Defendants for March 14, 2022 to hold a vote on whether the Grand Sierra Resort Unit Owners Association (“GSRUOA”) should be dissolved.

The Court makes the following factual findings:

¹ The declarations considered include those filed on March 28, 2022 after the March 25, 2022 hearing.

1 The Court notes that at a hearing on March 11, 2022, the Court granted a temporary restraining
2 order on the following:

3 ...The meeting is scheduled for next Monday. I don't know how long it will take for the
4 order to be prepared, reviewed by Mr. McElhinney, sent to you for a signing and everything,
5 but I just want to make sure I understand that *the meeting next Monday is off*.

6 THE COURT: That is correct, by virtue of court order. Yes.

7 Transcript of March 11, 2022, Hearing, page 42 lines 1-7. (Emphasis added.)

8 Although no written order was filed, a bond was posted by Plaintiffs in the amount of \$50,000 on
9 March 11, 2022.

10 At the preliminary injunction hearing on March 25, 2022, the parties stipulated to an extension of
11 the temporary restraining order pending resolution of the Injunctive Relief Motion. Transcript of
12 March 25, 2022, Hearing, page 125.

13 The condominium-hotel arrangement at the Grand Sierra Resort constitutes a common-interest
14 community.

15 The rights and obligations of all unit owners at the Grand Sierra Resort are defined in Nevada
16 Revised Statutes, Chapter 116.

17 Each unit owner's Deed and Title to their Units at the Grand Sierra Resort, is subject to the
18 covenants, conditions, restrictions and reservations included in the Seventh Amendment to
19 Condominium Declaration of Covenants, Conditions, Restrictions and Reservations of Easements,
20 ("7th Amended CC&Rs").

21 These covenants, conditions, restrictions and reservations limit the owner's property interest.

22 Section 9.1, appearing on pages 48 and 49 of the 7th Amended CC&Rs, provides as follows:

23 a. At a meeting duly called for such purpose and open to attendance by all Unit Owners, the
24 Unit Owners by affirmative vote of the Unit Owners who own eighty percent (80%) or
25 more in the aggregate of the entire percentage ownership interest in the Common Elements
26 may elect to sell the Property as a whole. Within ten (10) days after the date of the meeting at
27 which such sale is approved, the Board shall give written notice of such action to each First
28 Mortgagee. Such action shall be binding upon all Unit Owners, and it shall thereupon

1 become the duty of every Unit Owner to execute and deliver such instruments and to
2 perform all acts as in manner and form may be necessary to effect such sale.

3 Section 9.1 of the 7th Amended CC&Rs sets forth both a right and obligation of the unit owners
4 that has been a part of their Deed and Title to their Units since the date they purchased their units.

5 Defendants and its privies are currently the owner of over 80% of the units of GSRUOA.

6 The notice of the unit owners meeting at issue in these injunctive relief proceedings is Exhibit 3 to
7 the Injunctive Relief Motion. That notice complies with NRS 116 and Section 9.1 of the 7th
8 Amended CC&Rs.

9 The Court has previously made Findings that Defendants are systematically attempting to increase
10 the various fees in order to devalue the units. October 9, 2015 Order par. 142-143.

11 The Court has previously made Findings that Defendants breached the Unit Maintenance
12 Agreement and the Unit Rental Agreement. October 9, 2015 Order par. 146.

13 The findings made in the October 9, 2015 Order do not preclude the Defendants, as owners of
14 more than 80% of the units,² from proceeding under Section 9.1 of the 7th Amended CC&Rs.

15 The January 7, 2015 Order Appointing Receiver and Directing Defendants' Compliance provides:

16 Defendants, and their agents, servants and employees, and those acting in concert with
17 them, shall not engage in or perform directly or indirectly, any or all of the following acts: a.
18 Interfering with the Receiver, directly or indirectly, in the management and operation of the
19 Property . . . c. Doing any act which will, or which will tend to, impair, defeat, divert, prevent
20 or prejudice the preservation of the Property or the interest in the Plaintiffs in the Property

21 January 7, 2015 Order at page 8 lines 2-11. Defendants efforts under Section 9.1 of the 7th
22 Amended CC&Rs do not violate this provision of the January 7, 2015 Order.

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² See Paragraph 6 of Declaration of David C. McElhinney filed on March 17, 2022 as Exhibit 12 of the Opposition to
the Injunctive Relief Motion.

1 The Receiver's authority is governed by the January 7, 2015 Order which gives certain authority over
2 the management and operation of the GSRUOA but does not extend to oversight over ownership
3 of the units.

4 The CC&R's constitute deed restrictions that limit and define Plaintiffs' interest in their units.

5
6 The judgment entered October 9, 2015 does not include the depreciation or diminution in value of
7 the units. As with any type of sale, a unit owner may assign, retain or otherwise reserve such a claim
8 from a transfer. These claims may have been preserved and may be retained by a unit owner, in this
9 matter, at the time of any transfer.³

10 In deciding an injunctive relief motion the court is guided by NRCP 65 and NRS 33.010.

11 Under the statute, an injunction may be granted under the following circumstances:

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

20 Injunctive relief is equitable in nature and allows a Court to fashion a remedy balancing the interests
21 of the parties that protects the right of the movant.

22 NRS 116.2118⁴ governs the termination of a common-interest community.

23 ³ To avoid confusion in this matter, a written notice of the intent to retain any of the claims must be made prior to the
24 sale.

25 ⁴ That statute provides:

- 26 1. Except in the case of a taking of all the units by eminent domain, in the case of foreclosure against an entire
27 cooperative of a security interest that has priority over the declaration, or in the circumstances described in NRS
28 116.2124, a common-interest community may be terminated only by agreement of units' owners to whom at least 80
percent of the votes in the association are allocated, or any larger percentage the declaration specifies, and with any other
approvals required by the declaration. The declaration may specify a smaller percentage only if all of the units are
restricted exclusively to nonresidential uses.
2. An agreement to terminate must be evidenced by the execution of an agreement to terminate, or ratifications
thereof, in the same manner as a deed, by the requisite number of units' owners. The agreement must specify a date after

1 NRS 116.2118(1), allows for the termination of a common-interest community by agreement of unit
2 owners to whom at least 80% of the votes in the association are allocated.

3 NRS 116.2118(2), provides that an agreement to terminate the common interest community must be
4 evidenced by the execution of an agreement to terminate, or ratifications thereof, in the same
5 manner as a deed, by the requisite number of unit owners.
6

7 NRS 116.2118 (1), dictates that the respective interests of unit owners are the fair market value of
8 their units.

9 Sale of the Plaintiffs' units will not operate to extinguish a unit owner's claims for damages which
10 exist at the time of the "transfer" and are retained by a unit owner.
11

12
13 which the agreement will be void unless it is recorded before that date. An agreement to terminate and all ratifications
14 thereof must be recorded in every county in which a portion of the common-interest community is situated and is
15 effective only upon recordation.

16 3. In the case of a condominium or planned community containing only units having horizontal boundaries described
17 in the declaration, an agreement to terminate may provide that all of the common elements and units of the common-
18 interest community must be sold following termination. If, pursuant to the agreement, any real estate in the common-
19 interest community is to be sold following termination, the agreement must set forth the minimum terms of the sale.

20 4. In the case of a condominium or planned community containing any units not having horizontal boundaries
21 described in the declaration, an agreement to terminate may provide for sale of the common elements, but it may not
22 require that the units be sold following termination, unless the declaration as originally recorded provided otherwise or
23 all the units' owners consent to the sale.

24 5. The association, on behalf of the units' owners, may contract for the sale of real estate in a common-interest
25 community, but the contract is not binding on the units' owners until approved pursuant to subsections 1 and 2. If any
26 real estate is to be sold following termination, title to that real estate, upon termination, vests in the association as trustee
27 for the holders of all interests in the units. Thereafter, the association has all powers necessary and appropriate to effect
28 the sale. Until the sale has been concluded and the proceeds thereof distributed, the association continues in existence
with all powers it had before termination. Proceeds of the sale must be distributed to units' owners and lienholders as
their interests may appear, in accordance with NRS 116.21183 and 116.21185. Unless otherwise specified in the
agreement to terminate, as long as the association holds title to the real estate, each unit's owner and his or her
successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly constituted the
unit. During the period of that occupancy, each unit's owner and his or her successors in interest remain liable for all
assessments and other obligations imposed on units' owners by this chapter or the declaration.

6. In a condominium or planned community, if the real estate constituting the common-interest community is not to
be sold following termination, title to the common elements and, in a common-interest community containing only units
having horizontal boundaries described in the declaration, title to all the real estate in the common-interest community,
vests in the units' owners upon termination as tenants in common in proportion to their respective interests as provided
in NRS 116.21185, and liens on the units shift accordingly. While the tenancy in common exists, each unit's owner and
his or her successors in interest have an exclusive right to occupancy of the portion of the real estate that formerly
constituted the unit.

7. Following termination of the common-interest community, the proceeds of a sale of real estate, together with the
assets of the association, are held by the association as trustee for units' owners and holders of liens on the units as their
interests may appear.

1 NRS 116.21185 provides for resolution of value of interests following termination.⁵

2 Plaintiffs have alleged that the appraisal done at the request of Defendants was not done by the
3 GSRUOA. The Court agrees. As a result, the Court will permit unit owners to contest the
4 appraisals and present their own appraisals setting forth their claimed fair market value.

5
6 Currently there are a number of Applications for Issuance of Orders to Show Cause related to
7 Defendants conduct with respect to the Receiver.⁶ These Applications for OSC will be decided
8 and, if cause is shown, hearings on these issues will proceed.

9
10 Currently the Receiver has not been paid as directed by the January 7, 2015 Order. As Defendants
11 are the 80% owners of the units at GSRUOA; are the owners noticing the meeting seeking
12 dissolution of GSRUOA, and sale under NRS 116.2118, Defendants must address this issue prior to
13 sale.

14
15
16 ⁵ NRS 116.21185 Respective interests of units' owners following termination. The respective interests of units'
owners referred to in subsections 5, 6 and 7 of NRS 116.2118 and in NRS 116.21183 are as follows:

17 1. Except as otherwise provided in subsection 2, the respective interests of units' owners are the fair market values
18 of their units, allocated interests, and any limited common elements immediately before the termination, as determined
19 by one or more independent appraisers selected by the association. The decision of the independent appraisers must be
20 distributed to the units' owners and becomes final unless disapproved within 30 days after distribution by units' owners
to whom 25 percent of the votes in the association are allocated. The proportion of interest of any unit's owner to that
of all units' owners is determined by dividing the fair market value of that unit and its allocated interests by the total fair
market values of all the units and their allocated interests.

21 2. If any unit or any limited common element is destroyed to the extent that an appraisal of the fair market value
thereto before destruction cannot be made, the interests of all units' owners are:

- 22 (a) In a condominium, their respective interests in the common elements immediately before the termination;
23 (b) In a cooperative, their respective ownerships immediately before the termination; and
(c) In a planned community, their respective liabilities for common expenses immediately before the termination..

24 ⁶ Those include:

25 Plaintiffs' 04/25/22 Motion for Order to Show Cause (Defendants' contempt for violations of Court's orders, including
01/04/22 orders)

26 Plaintiffs' 03/02/22 Motion for Order to Show Cause (Defendants' contempt for violations of Court's orders, including
01/04/22 orders)

27 Plaintiffs' 02/01/22 Motion for Order to Show Cause (Defendants' contempt for violations of Court's orders, including
01/04/22 orders)

28 Plaintiffs' 11/19/21 Motion for Order to Show Cause (Defendants' contempt for violating 01/17/15 Order) and,
12/23/21 Plaintiffs' 09/27/21 Motion for Order to Show Cause (Defendants' contempt for violating 01/17/15 Order)
Plaintiffs' 2/11/21 Motion for Order to Show Cause (Defendants' contempt for violating 12/24/22 order)

These are referred to collectively as the Applications for OSC.

1 The Court makes the following legal conclusions:

2 After balancing the interests of the parties and in evaluating the legal issues, the Court concludes
3 that Plaintiffs will suffer irreparable injury if no relief is granted. The Court has fashioned a remedy
4 that balances the rights of both parties in this matter.
5

6 The Court concludes the Plaintiffs will not suffer irreparable harm if the statutory process under
7 NRS 116.2118 et seq. along with Court supervision as outlined herein is followed.

8 The Court concludes Defendants property interest are protected by issuance of this relief.

9 Therefore, the Court issues the following Orders:

10 IT IS THEREFORE ORDERED, that the Grand Sierra unit owners are allowed to proceed with
11 their vote to terminate the GSRUOA and election to sell the Property as a whole.
12

13 IT IS FURTHER ORDERED that prior to a sale of the Property as a whole, the Court shall enter
14 an Order on motion to terminate and or modify the Receivership that addresses the issues of
15 payment to the Receiver and his counsel, the scope of the wind up process of the GSRUOA to be
16 overseen by the Receiver, as well as the responsibility for any amounts which are awarded as a result
17 of the pending Applications for OSC.
18

19 IT IS FURTHER ORDERED that no sale of the units at GSRUOA or the property rights related to
20 the GSRUOA and the units which currently compose GSRUOA shall occur until further order of
21 this Court which includes a process for the resolution of any retained claims by Plaintiffs and
22 procedure for the determination of fair market value of Plaintiffs' units under NRS 116.2118 et seq.
23

24 IT IS FURTHER ORDERED that this Court shall provide supervision of the appraisal process of
25 the units in order to assure that Plaintiffs are provided an opportunity to submit their own appraisal
26 of their respective units for consideration and determination of the fair market value of the units and
27 their allocated interests.
28

1 IT IS FURTHER ORDERED that Defendants and anyone acting on their behalf are restrained
2 from transferring, selling or otherwise alienating, the units at GSRUOA or the property rights
3 related to the GSRUOA and the units which currently compose GSRUOA pending further order of
4 the Court.
5

6 IT IS FURTHER ORDERED that the bond posted by Plaintiffs in the amount of \$50,0000,
7 following the Court's granting a Temporary Restraining Order on March 11, 2022, remain in place
8 as adequate security for this Preliminary Injunction.

9 IT IS FURTHER ORDERED that in all other respects the Injunctive Relief Motion is denied.
10

11
12 Dated this 5th day December, 2022.

13
14 
15 Hon. Elizabeth Gonzalez, (Ret.)
16 Sr. District Court Judge
17
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CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;
that on the 5th day of December, 2022, I electronically filed the foregoing with the
Clerk of the Court system which will send a notice of electronic filing to the following:

DALE KOTCHKA-ALANES

DANIEL POLSENBERG, ESQ.

DAVID MCELHINNEY, ESQ.

BRIANA COLLINGS, ESQ.

ABRAN VIGIL, ESQ.

JONATHAN TEW, ESQ.

JARRAD MILLER, ESQ.

TODD ALEXANDER, ESQ.

F. SHARP, ESQ.

STEPHANIE SHARP, ESQ.

G. DAVID ROBERTSON, ESQ.

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10 Facsimile: (775) 329-7169
11 *Attorneys for the Receiver for the Grand Sierra Resort*
12 *Unit Owners' Association, Richard M. Teichner*

13 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

14 IN AND FOR THE COUNTY OF WASHOE

15 Case No.: CV12-02222

16 ALBERT THOMAS, individually; *et al.*,

17 Dept. No.: OJ37

18 Plaintiff,

19 vs.

20 MEI-GSR Holdings, LLC, a Nevada Limited
21 Liability Company, GRAND SIERRA RESORT
22 UNIT OWNERS' ASSOCIATION, a Nevada
23 nonprofit corporation, GAGE VILLAGE
24 COMMERCIAL DEVELOPMENT, LLC, a
25 Nevada Limited Liability Company; AM-GSR
26 HOLDINGS, LLC, a Nevada Limited Liability
27 Company; and DOE DEFENDANTS 1
28 THROUGH 10, inclusive,

Defendants.

RECEIVER'S OMNIBUS REPLY TO THE PARTIES OPPOSITIONS TO THE

RECEIVER'S MOTION FOR ORDERS & INSTRUCTIONS

COMES NOW, RICHARD M. TEICHNER, CPA, ABV, CVA, MAFF, CFF, CRFAC,
CRFAU, FCPA, CGMA and CDFA (the "Receiver"), Court Appointed Receiver for the Grand
Sierra Resort Unit Owners' Association, by and through his retained attorneys, F. DeArmond
Sharp, Esq. and Stefanie T. Sharp, Esq., of the law offices of Robison, Sharp, Sullivan & Brust

1 (“RSSB”), and hereby filed this Omnibus reply to the Oppositions filed by the parties to the
2 Receiver’s Motion for Orders & Instructions (“Motion”) filed herein on December 1, 2022.

3 **I. DISCUSSION**

4 This Reply is not intended to dispute Defendants’ comments within *Defendants’ Reply In*
5 *Support of Their Motion Requesting That The Court Strike or Decline to Consider Receiver’s*
6 *Letter Dated November 14, 2022 to Senior Judge Gonzales*, filed December 7, 2022 (“Defendants’
7 Reply”) regarding the Receiver having not complied with various Court Orders. Based on the
8 following, Defendants’ comments are irrelevant:

9 The Receiver has filed *Receiver’s Motion for Orders & Instructions* (“Receiver’s Motion”) on
10 December 1, 2022, in which the Receiver stated that the substantive services that the Receiver had
11 been performing through May 2022 were discontinued except that the Receiver has continued to
12 perform certain necessary procedures pertaining to the GSRUOA, which were delineated in
13 Receiver’s Motion. The Receiver also delineated prior procedures that need to be performed, since
14 they were discontinued after May 2022, and delineated the future services that will need to be
15 performed, which are similar to the previous procedures.

16 In the Receiver’s Motion, the Receiver asked that the Court to provide the Receiver with
17 instruction as to the manner in which the Receiver will be paid the fees he is presently owed. The
18 Court has already stated that the amounts of “the outstanding invoices that were attached to the
19 Receiver’s 2/9/22 filing are approved”.¹

20 In Defendants’ Reply, Defendants, in their Conclusion, state that “there is, at this time, no
21 rental income due to and owing to the Plaintiffs as their fee and reserve expenses exceed their
22 rental income”, and, according to Defendants, this is because the Receiver has not yet recalculated
23 the fees. An Excel spreadsheet is attached hereto as Exhibit 1 which shows the amounts due to
24 each Plaintiff² after the following adjustments:

25 1. Court’s Request the Matters addressed in Briefing Submitted by the Receiver and the Parties Regarding the
26 Payment of the Fees of the Receiver and his Counsel Ordered by the Court at the Status Conf on 2/4/22.

27 2. I have only determined the amounts due to Plaintiffs herein and not to the Defendants, based on the net rents for
28 them that is due from GSR. Although the Plaintiffs’ position is that the Defendants owed units should be charged the
same amounts for fees as the amounts for fees for the Plaintiffs and the Defendants’ position is that Defendants should
be charged the fee charges that it determines based on its application of GRS’s budgeted expenses, the Receiver has

(1) In the column titled “Removal of Reversal of Fees by GSR in September 2021” the amounts are to eliminate an adjustment to the Plaintiffs’ accounts for 2020 made by Defendants in September 2021, whereby (a) the prior Receiver’s calculations of the fee charges had been used instead of GSR’s calculations for these fee charges, due to the Court having issued the *Order Granting Motion for Clarification* on December 24, 2020, (b) except that the Court reversed the order regarding the application of the prior Receiver’s fees in its *Finding of Facts, Conclusions of Law and Order*, filed September 29, 2021, and as a result, (c) the Defendants made an adjustment to the Plaintiffs’ accounts reinstating the fee charges that they had originally applied; (d) and although the fee reversals by Defendants were in accordance with the *Finding of Facts, Conclusions of Law and Order* and were proper at the time, the Court, in its *Order Granting Receiver’s Motion for Orders & Instructions*, filed January 4, 2022, had (e), (i) found that the *Finding of Facts, Conclusions of Law and Order* “directly contradicts the Court’s December 24, 2020 Order, is inequitable, and thus is denied outright” (3:10-11 as part of the paragraph at 2:26-3:11), and (ii) ordered that the “fees in place prior to the Court’s September 27, 2021 Order shall remain in place until the fees for 2020 are recalculated and approved by this Court”, and those fees are the fees for 2021 approved by the Court (8:3-5); and (iii) accordingly, the reversal of the 2020 fees in September 2021 should have been reversed since the Court’s *Order Granting Receiver’s Motion for Orders & Instructions* of January 4, 2022, (f) but since Defendants did not reverse its reversal adjustment, the removal of the adjustment to the Plaintiffs’ accounts is made in the column titled “Removal of Reversal of Fees by GSR in September 2021”. Accordingly, the removal of the reversal of 2020 fees made by GSR in September 2021 reinstates the fees for 2020 based on the fees previously determined by the prior Receiver;

(2) In the column titled “Reversal of Special Assessment”, the refunds of the special assessment charged to each Plaintiff’s account is reversed as a result of the Defendants being ordered that “any amounts paid by unit owners pursuant to the Notice of Special Assessment” ...

asked the Court to rule on this issue, and I, as Receiver, am not going to accommodate the wishes of either the Plaintiffs or Defendants. For purpose of this filing, I have only computed the positive balances of the Plaintiffs’ accounts, because to determine the total of the balances of the Defendants accounts (for which no statements are prepared of which this Receiver is aware) is a time-consuming tasks, and to perform that task before a ruling by the Court as to which fee charges apply to the Defendants’ units is premature.

1 “sent to the unit owners by Defendants on August 24, 2021”, as set forth in the *Order Granting*
2 *Receiver’s Motion for Orders & Instructions* (7:22-26). (An adjustment was made by Defendants
3 in January 2022, and there is no record of any reversals of the special assessments made by
4 Defendants to the Plaintiffs in the monthly statements for the Plaintiffs; and since this Receiver is
5 determining the positive balances in the Plaintiffs accounts as of December 31, 2021, the reversal
6 of the Special Assessment is included as an adjustment to the Plaintiffs’ accounts);

7 (3) In the column titled “Adjustment for Recalculation of Fees for 2021”, the adjustments
8 are for the purpose of giving effect to the calculated 2021 DUF, SFUE, and HE fees approved by
9 the Court for which the Defendants did not adjust to the Plaintiff’s accounts in 2021³. Important
10 to note is that the recalculated reserve charges will be less than the amounts charged to the
11 Plaintiffs, resulting in even larger amounts due to them, and

12 (4) In the column titled “Difference between 2021 Recalculated Fees Applied to 2020 and
13 Prior Receiver’s Fees”, the 2021 DUF, SFUE, and HE fee charges that were calculated for and
14 apply to 2021 are to be used for 2020 until the Receiver recalculates the fee charges for 2020; and
15 since, after the adjustment made in the column titled “Removal of Reversal of Fees by GSR in
16 September 2021” restates the fees for 2020 to be in accordance with the prior Receiver’s
17 calculations, those amounts are adjusted in the column titled “Difference between 2021
18 Recalculated Fees Applied to 2020 and Prior Receiver’s Fees” so that the fees for 2020 are the
19 same fees that are used 2021.

20 After giving effect to the adjustments made to the Plaintiffs’ accounts as of December 31,
21 2021, in the column titled “Balances (Negative) of Plaintiffs’ Accounts at 12/31/21”, as described
22 in (1) through (4), the total amount of the Plaintiffs’ positive account balances as of December 31,
23 2021 is \$1,103,950.99. Once the Receiver calculates the fee charges for 2020, the total of the
24 positive amounts will be somewhat greater than \$1,103,950.99, as GSR budgeted expenses for
25 2020 are less than GSR’s budgeted expenses for 2020.⁴

26 _____
27 3. The amounts in this column adjusts for the amounts that the fees charged to Plaintiffs by Defendants for 2021 that
28 were determined by the Defendants, plus adjustments Defendants had made to their accounts during 2021, so that the
Plaintiffs’ accounts reflect the amounts for the fee charges that the Receiver calculated for 2021.

4There are true-ups to the expenses that are included in determining the fee charges, and the adjustments to the fee

1 Notwithstanding the Defendants statement in their Conclusion contained in the
2 Defendants' Reply, which is, "there is, at this time, no rental income due to and owing to the
3 Plaintiffs as their fee and reserve expenses exceed their rental income", the Defendants would have
4 known that the Plaintiffs' accounts would have substantial positive balances from the removal of
5 the reversal of the 2020 fees they/GSR made in September 2021, the reversal of the special
6 assessment that was ordered by the Court, applying the fees for 2021 to the Plaintiffs' accounts for
7 that year, and applying the 2021 fees to the Plaintiffs' accounts for 2020.

8 II. CONCLUSION

9 Based on the forgoing, as well as the pleadings and papers on file herein, the Receiver hereby
10 requests that the Court grant the Motion and enter the Orders and associated relief requested by
11 the Receiver in the Motion.

12 **AFFIRMATION:** The undersigned does hereby affirm that this document does not
13 contain the Social Security Number of any person.

14 DATED this 19th day of December 2022.

15 ROBISON, SHARP, SULLIVAN & BRUST
16 71 Washington Street
17 Reno, Nevada 89503

18 /s/ Stefanie T. Sharp
19 F. DEARMOND SHARP, ESQ.
20 STEFANIE T. SHARP, ESQ.
21 *Attorneys for Receiver*

22
23
24
25 _____
26 charges for 2020 and 2021 can result in either greater amounts or lesser amounts due to the Plaintiffs. However, such
27 amounts will not be substantial. In case the true-ups would ultimately result in lesser amounts due to Plaintiffs, I intend
28 to retain 10% of the amounts due to Plaintiffs each time a distribution is made to them, so that a reserve is maintained
for any true-ups after the end of each year that would result in a reduction of the Plaintiffs' accounts. If, after true-
ups, the reserve becomes greater than 10% of the total amounts that were available for distribution for the year, then
a distribution would be made to the Plaintiffs for the excess of the amount that was available over an amount equal to
10% of such amount that was available for distribution.

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP,
3 SULLIVAN & BRUST, and that on this date I caused to be served a true copy of the forgoing
4 **RECEIVER'S OMNIBUS REPLY TO THE PARTIES OPPOSITIONS TO THE**
5 **RECEIVER'S MOTION FOR ORDERS & INSTRUCTIONS** on all parties to this action by
the method(s) indicated below:

6 • by using the Court's CM/ECF Electronic Notification System addressed to:

7 JARRAD MILLER, ESQ. for ALBERT THOMAS et al

8 BRIANA N. COLLINGS, ESQ. for ALBERT THOMAS et al

9 G. ROBERTSON, ESQ. for ALBERT THOMAS et al

10 ROBERT L. EISENBERG, ESQ. for ALBERT THOMAS et al

11 TODD R. ALEXANDER for ALBERT THOMAS et al

12 DAVID MCELHINNEY, ESQ. for MEI-GSR HOLDINGS, LLC., AM-GSR HOLDINGS, AND
13 GAGE COMMERCIAL VILLAGE COMMERCIAL DEVELOPMENT, LLC

14 JENNIFER K. HOSTETLER, ESQ. for MEI-GSR HOLDINGS LLC DBA GRAND SIERRA
15 RESORT AND CASINO et al

16 DANIEL F. POLSENBERG for MEI-GSR HOLDINGS LLC DBA GRAND SIERRA RESORT
17 AND CASINO et al

18 DALE KOTCHKA-ALANES, ESQ. for MEI-GSR HOLDINGS LLC DBA GRAND SIERRA
19 RESORT AND CASINO et al

20 DAWN HAYES, ESQ. for MEI-GSR HOLDINGS LLC DBA GRAND SIERRA RESORT AND
21 CASINO et al

22 ABRAM E. VIGIL, ESQ. for MEI-GSR Holdings, LLC., AM-GSR Holdings, and Gage
23 Commercial Village Commercial Development, LLC alongside Lewis Roca Rothgerber Christie
24 LLP.

25 ANN HALL, ESQ. for MEI-GSR Holdings, LLC., AM-GSR Holdings, and Gage Commercial
26 Village Commercial Development, LLC alongside Lewis Roca Rothgerber Christie LLP.

27 • by electronic mail to:

28 Richard M. Teichner, As Receiver for GSRUOA

Teichner Accounting Forensics & Valuations, PLLC

3500 Lakeside Court, Suite 210

Reno, NV 89509

accountingforensics@gmail.com

DATED: This 19th day of December 2022.

/s/ Leslie M. Lucero

Employee of Robison, Sharp, Sullivan & Brust

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EXHIBIT LIST

Exhibit #	Description	Pages
Exhibit "1"	Spread Sheet	4

Exhibit “1”

FILED
Electronically
CV12-02222
2022-12-19 03:29:28 PM
Alicia L. Lerud
Clerk of the Court
Transaction # 9417354

Exhibit “1”

Adjustments to Plaintiffs' Accounts With GSR Through December 31, 2021

	<u>Owner</u>	<u>Unit</u>	<u>Balances</u> <u>(Negative) of</u> <u>Plaintiffs'</u> <u>Accounts at</u> <u>12/31/21</u>	<u>Removal of</u> <u>Reversal of</u> <u>2020 Fees by</u> <u>GSR In</u> <u>September</u> <u>2021</u>	<u>Reversal of</u> <u>Special</u> <u>Assessment</u>	<u>Adjustment For</u> <u>Recalculation</u> <u>of Fees for</u> <u>2021</u>	<u>Difference</u> <u>between 2021</u> <u>Recalculated</u> <u>Fees Applied to</u> <u>2020 and Prior</u> <u>Receiver's Fees</u>	<u>Adjusted</u> <u>Balances</u> <u>(Positive) of</u> <u>Plaintiffs'</u> <u>Accounts at</u> <u>12/31/21</u>
1	ORDOVER	1706	15,940.39	(10,663.38)	(18,865.31)	(1,188.62)	1,089.09	(13,687.83)
2	ORDOVER	1708	17,692.08	(10,522.15)	(18,865.31)	(1,140.02)	1,078.49	(11,756.91)
3	MECHAM	1710	16,358.80	(10,706.60)	(18,865.31)	(1,201.63)	984.15	(13,430.59)
4	TOKUTOMI	1711	17,953.46	(10,432.03)	(18,865.31)	(1,148.55)	1,074.78	(11,417.65)
5A	SHEPHERD MOUNTAIN	1714	68,824.99	(30,280.36)	(59,202.62)	(3,429.67)	2,878.38	(21,209.28)
6	SHEPHERD MOUNTAIN	1720	25,761.67	(13,074.68)	(24,653.03)	(2,155.94)	674.86	(13,447.12)
7	KOSSICK	1728	26,057.99	(13,234.96)	(24,653.03)	(2,164.73)	687.05	(13,307.68)
8	ROBERTS	1729	17,986.90	(10,270.92)	(18,865.31)	(2,554.08)	3,281.01	(10,422.40)
9	KOSSICK	1730	25,018.91	(13,165.56)	(24,653.03)	(2,148.56)	583.70	(14,364.54)
10	TAKAKI	1732	29,503.46	(12,884.44)	(24,653.03)	(2,148.89)	584.23	(9,598.67)
11	POPE	1740	17,290.49	(10,461.67)	(18,865.31)	(1,175.18)	979.91	(12,231.76)
12	CARRERA PROPERTY	1742	15,367.40	(10,749.48)	(18,865.31)	(1,202.16)	982.56	(14,466.99)
13A	SHEPHERD MOUNTAIN	1749	71,629.17	(29,867.06)	(59,202.62)	(3,317.80)	3,056.04	(17,702.27)
14	SHEPHERD MOUNTAIN	1755	25,455.93	(13,037.26)	(24,387.95)	(1,451.12)	1,249.20	(12,171.20)
15	HOM	1756	14,753.17	(10,675.43)	(18,556.05)	(1,134.73)	1,007.00	(14,606.04)
16	SHEPHERD MOUNTAIN	1757	27,056.09	(13,102.79)	(24,387.95)	(1,450.38)	1,250.26	(10,634.77)
17	TMI PROPERTY GROUP	1762	15,769.66	(10,517.44)	(18,556.05)	(1,126.99)	1,007.00	(13,423.82)
18	FADRILAN	1763	26,884.80	(13,009.18)	(24,387.95)	(1,470.72)	1,251.32	(10,731.73)
19	TAYLOR	1769	29,855.92	(12,703.73)	(24,387.95)	(1,455.15)	1,249.73	(7,441.18)
20	TMI PROPERTY GROUP	1770	18,476.31	(9,947.60)	(18,556.05)	(1,062.59)	1,003.82	(10,086.11)
21	SHEPHERD MOUNTAIN	1773	25,711.73	(13,039.56)	(24,387.95)	(1,466.19)	1,248.14	(11,933.83)
22	TAYLOR	1775	12,871.69	(10,477.21)	(18,556.05)	(1,111.98)	1,107.54	(16,166.01)
23	SHEPHERD MOUNTAIN	1778	18,476.07	(10,420.83)	(18,556.05)	(1,079.49)	1,003.82	(10,576.48)
24	SHEPHERD MOUNTAIN	1780	18,071.99	(10,653.51)	(18,556.05)	(1,113.32)	1,008.59	(11,242.30)
25	SHEPHERD MOUNTAIN	1781	18,152.08	(10,417.47)	(18,556.05)	(1,091.43)	1,005.41	(10,907.46)
26	RAGHURAM	1790	17,953.30	(10,319.99)	(18,556.05)	(1,065.22)	1,005.41	(10,982.55)

Adjustments to Plaintiffs' Accounts With GSR Through December 31, 2021

	<u>Owner</u>	<u>Unit</u>	<u>Balances</u> <u>(Negative) of</u> <u>Plaintiffs'</u> <u>Accounts at</u> <u>12/31/21</u>	<u>Removal of</u> <u>Reversal of</u> <u>2020 Fees by</u> <u>GSR In</u> <u>September</u> <u>2021</u>	<u>Reversal of</u> <u>Special</u> <u>Assessment</u>	<u>Adjustment For</u> <u>Recalculation</u> <u>of Fees for</u> <u>2021</u>	<u>Difference</u> <u>between 2021</u> <u>Recalculated</u> <u>Fees Applied to</u> <u>2020 and Prior</u> <u>Receiver's Fees</u>	<u>Adjusted</u> <u>Balances</u> <u>(Positive) of</u> <u>Plaintiffs'</u> <u>Accounts at</u> <u>12/31/21</u>
27	SHEPHERD MOUNTAIN	1791	18,768.59	(10,820.88)	(19,174.58)	(1,194.58)	973.14	(11,448.31)
28	HAY	1802	15,539.35	(10,745.29)	(18,865.31)	(1,170.92)	482.37	(14,759.80)
29	RAINES	1803	23,195.02	(8,932.60)	(18,865.31)	(1,197.08)	483.96	(5,316.01)
30	RAINES	1805	24,205.75	(9,304.81)	(18,865.31)	(1,190.23)	481.84	(4,672.76)
31	MOLL	1806	14,356.72	(10,771.68)	(18,865.31)	(1,220.05)	484.49	(16,015.83)
32	WILLIAMS	1822	37,383.66	(12,687.80)	(24,653.03)	(2,184.50)	586.35	(1,555.32)
33	WILLIAMS	1824	37,749.29	(12,762.01)	(24,653.03)	(2,188.19)	587.94	(1,266.00)
34	WILLIAMS	1826	37,462.82	(12,716.87)	(24,653.03)	(2,183.72)	589.00	(1,501.80)
35	VAGUJHELYI	1827	13,592.15	(10,806.31)	(18,865.31)	(1,221.11)	486.61	(16,813.97)
36	SHEPHERD MOUNTAIN	1828	25,796.54	(13,436.96)	(24,653.03)	(2,186.60)	589.53	(13,890.52)
37	HENDERSON	1832	26,383.38	(13,386.85)	(24,653.03)	(2,177.08)	586.88	(13,246.70)
38	YIN	1837	16,945.25	(10,653.29)	(18,865.31)	(1,161.69)	482.37	(13,252.67)
39	WAN	1838	14,296.06	(10,828.59)	(18,865.31)	(1,211.59)	486.08	(16,123.35)
40	TOM TRUST	1845	14,107.07	(10,838.08)	(18,865.31)	(1,205.78)	490.37	(16,311.73)
41	PEDERSON	1847	17,973.88	(10,887.35)	(18,865.31)	(1,190.45)	483.96	(12,485.27)
42	RICHE	1865	25,765.19	(13,162.09)	(24,387.95)	(1,501.91)	1,253.97	(12,032.79)
43	QUINN	1870	14,398.95	(10,693.07)	(18,556.05)	(1,142.59)	1,008.59	(14,984.17)
44	KAPLAN	1874	16,430.90	(10,301.99)	(18,556.05)	(1,106.85)	1,006.47	(12,527.52)
45	NADINE'S REAL ESTATE	1886	14,697.54	(10,721.77)	(18,556.05)	(1,165.85)	1,008.59	(14,737.54)
46	SILKSCAPE INC	1902	18,909.60	(10,353.08)	(18,865.31)	(1,135.57)	982.03	(10,462.33)
47	TOM	1903	15,689.91	(10,680.79)	(18,865.31)	(1,191.25)	988.92	(14,058.52)
48	LEE	1905	18,009.18	(10,056.47)	(18,865.31)	(1,159.61)	984.68	(11,087.53)
49	PHAM	1906	17,064.11	(10,592.83)	(18,865.31)	(1,152.70)	985.21	(12,561.52)
50	LEE	1907	17,363.67	(10,424.81)	(18,865.31)	(1,122.30)	993.19	(12,055.56)
51	CHENG	1908	17,779.62	(10,564.96)	(18,865.31)	(1,164.09)	985.21	(11,829.53)

Adjustments to Plaintiffs' Accounts With GSR Through December 31, 2021

			<u>Balances</u> <u>(Negative) of</u> <u>Plaintiffs'</u> <u>Accounts at</u>	<u>Removal of</u> <u>Reversal of</u> <u>2020 Fees by</u> <u>GSR In</u> <u>September</u>	<u>Reversal of</u> <u>Special</u> <u>Assessment</u>	<u>Adjustment For</u> <u>Recalculation</u> <u>of Fees for</u> <u>2021</u>	<u>Difference</u> <u>between 2021</u> <u>Recalculated</u> <u>Fees Applied to</u> <u>2020 and Prior</u> <u>Receiver's Fees</u>	<u>Adjusted</u> <u>Balances</u> <u>(Positive) of</u> <u>Plaintiffs'</u> <u>Accounts at</u> <u>12/31/21</u>
	<u>Owner</u>	<u>Unit</u>	<u>12/31/21</u>	<u>2021</u>				<u>12/31/21</u>
52	CHEAH	1911	17,400.04	(10,477.07)	(18,865.31)	(1,136.06)	982.56	(12,095.84)
53	CAMERON	1926	27,762.38	(13,207.91)	(24,653.03)	(2,172.08)	591.12	(11,679.52)
54	SHEN	1939	15,736.25	(10,842.96)	(18,865.31)	(1,212.14)	989.45	(14,194.71)
55	KOSSICK	1945	18,292.60	(10,702.71)	(18,865.31)	(1,154.57)	989.98	(11,440.01)
56	PEDERSON	1961	26,173.54	(13,092.28)	(24,387.95)	(1,470.41)	1,255.03	(11,522.07)
57	DUNLAP	1963	27,662.66	(13,009.03)	(24,387.95)	(1,477.81)	1,255.56	(9,956.57)
58	VANDERBOKKE	1971	28,915.84	(13,045.52)	(24,387.95)	(1,468.59)	1,255.03	(8,731.19)
59	RICHE	1975	17,580.18	(10,686.19)	(18,556.05)	(1,163.73)	1,010.18	(11,815.61)
60	QUINN	1977	15,126.18	(10,558.95)	(18,556.05)	(1,142.34)	1,011.77	(14,119.39)
61	BROWNE	2044	16,845.45	(10,751.20)	(18,865.31)	(1,156.14)	987.86	(12,939.34)
62	KOSSICK	2055	25,527.04	(13,127.22)	(24,387.95)	(1,471.20)	1,255.56	(12,203.77)
63	RIOPELLE	2059	28,227.38	(12,711.52)	(24,387.95)	(1,464.58)	1,256.62	(9,080.05)
64	SILKSCAPE INC	2063	25,846.69	(13,039.30)	(24,387.95)	(1,502.37)	1,254.50	(11,828.43)
65	ALEXANDER	2065	27,816.98	(13,076.80)	(24,387.95)	(1,469.08)	1,256.62	(9,860.23)
66	KOSSICK	2068	18,090.31	(10,717.73)	(18,556.05)	(1,154.72)	1,012.83	(11,325.36)
67	HAY	2075	14,190.24	(10,681.26)	(18,556.05)	(1,146.01)	1,013.89	(15,179.19)
68	TORABKHAN	2076	14,390.45	(10,642.57)	(18,556.05)	(1,170.07)	1,012.30	(14,965.94)
69	LUTZ	2087	13,652.20	(10,710.41)	(18,556.05)	(1,140.73)	1,011.77	(15,743.22)
70	CHANDLER	2104	18,422.90	(10,389.78)	(18,865.31)	(1,139.51)	984.68	(10,987.02)
71	LINDGREN	2157	27,714.86	(13,039.14)	(24,387.95)	(1,462.74)	1,252.91	(9,922.06)
72	JL & YL HOLDINGS	2165	26,931.05	(13,013.45)	(24,387.95)	(1,467.23)	1,255.56	(10,682.02)
73	HURLEY	2167	26,755.69	(13,079.14)	(24,387.95)	(1,486.53)	1,256.09	(10,941.84)
74	M & Y HOLDINGS	2169	27,662.06	(13,005.34)	(24,387.95)	(1,472.00)	1,253.97	(9,949.26)
75	PARKER	2179	12,410.99	(10,639.66)	(18,556.05)	(1,165.56)	1,012.30	(16,937.98)
76	WINDHORST	2181	16,372.12	(10,545.76)	(18,556.05)	(1,121.22)	1,008.59	(12,842.32)
77	SON	2189	14,484.57	(10,646.29)	(18,556.05)	(1,137.04)	1,017.10	(14,837.71)

Adjustments to Plaintiffs' Accounts With GSR Through December 31, 2021

		<u>Balances</u> <u>(Negative) of</u>	<u>Removal of</u> <u>Reversal of</u>	<u>Reversal of</u> <u>Special</u>	<u>Adjustment For</u> <u>Recalculation</u>	<u>Difference</u> <u>between 2021</u>	<u>Adjusted</u> <u>Balances</u>
		<u>Plaintiffs'</u> <u>Accounts at</u>	<u>GSR In</u> <u>September</u>	<u>Assessment</u>	<u>of Fees for</u> <u>2021</u>	<u>Fees Applied to</u> <u>2020 and Prior</u>	<u>(Positive) of</u> <u>Plaintiffs'</u>
	<u>Owner</u>	<u>12/31/21</u>	<u>2021</u>			<u>Receiver's Fees</u>	<u>Accounts at</u> <u>12/31/21</u>
78	PEDERSON	2261 29,104.06	(12,965.50)	(24,387.95)	(1,489.76)	1,258.77	(8,470.38)
79	SHAMIEH	2275 14,346.12	(10,786.23)	(18,556.05)	(1,140.25)	1,013.36	(15,123.05)
80	CHOI	2279 13,389.69	(10,745.22)	(18,556.05)	(1,123.07)	1,014.42	(16,020.23)
81	YOO	2283 17,413.16	(10,448.89)	(18,556.05)	(1,046.25)	1,010.18	(11,627.85)
82	WEISS	2326 28,876.30	(13,169.21)	(24,653.03)	(2,157.00)	589.53	(10,513.41)
83	FISH	2328 34,230.34	(12,885.13)	(24,653.03)	(2,182.00)	589.53	(4,900.29)
84	IZADY/AKASHEH MICHAEL/ANAHID	2337 18,754.77	(10,532.38)	(18,865.31)	(1,096.45)	984.15	(10,755.22)
85	PEDERSON	2345 18,366.57	(10,531.86)	(18,865.31)	(1,144.79)	986.80	(11,188.59)
86	FISH	2347 24,649.31	(9,482.53)	(18,865.31)	(1,136.77)	988.95	(3,846.35)
87	RICHE	2357 26,468.16	(13,014.62)	(24,387.95)	(1,466.24)	1,253.44	(11,147.21)
88	PEDERSON	2359 24,527.67	(13,008.12)	(24,387.95)	(1,490.29)	1,252.91	(13,105.78)
89	NUNN	2365 27,926.05	(12,969.19)	(24,387.95)	(1,476.50)	1,256.09	(9,651.50)
90	MINER	2371 27,475.05	(13,000.31)	(24,387.95)	(1,473.37)	1,252.38	(10,134.20)
91	VANDERBOKKE	2385 18,118.71	(10,299.43)	(18,556.05)	(1,104.61)	1,010.76	(10,830.62)
92	TRUONG	2389 13,489.30	(10,590.45)	(18,556.05)	(1,152.95)	1,011.24	(15,798.91)
93	SOHN	2475 16,899.09	(10,480.10)	(18,556.05)	(1,086.36)	1,110.88	(12,112.54)
		<u>2,052,763.65</u>	<u>(1,102,104.87)</u>	<u>(2,018,367.68)</u>	<u>(132,072.55)</u>	<u>95,830.46</u>	<u>(1,103,950.99)</u>

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)¹

Pursuant to WDCR 12(5) the Court after consideration of the Plaintiffs' November 6, 2015 Motion in Support of Punitive Damages Award ("Punitive Damages Motion"), the Defendants' December 1, 2020 opposition ("Opposition"), Plaintiffs' July 30, 2020 Reply in Support of Award of Punitive Damages ("Punitive Damages Reply"), Plaintiffs' July 6, 2022 Punitive Damages Summary, Defendants' July 6, 2022 Trial Summary, the oral argument and evidence submitted by the parties during the hearing on July 8 and 18, 2022, a review of the briefing, exhibits, testimony of the witness, transcripts of the proceedings as well as the evidence in the record, including but not

¹ On January 21, 2021, Chief District Court Judge Scott Freeman, entered an Order Disqualifying All Judicial Officers of the Second Judicial District Court. On September 19, 2022, the Nevada Supreme Court entered a Memorandum of Temporary Assignment, appointing the undersigned Senior Judge.

1 limited to, evidence submitted during the underlying hearing on compensatory damages, and being
2 fully informed rules on the Punitive Damages Motion²:

3 The Court conducted a prove up hearing on March 23-25, 2015³ after striking the Defendants
4 answer for discovery abuses and entering a default. This resulted in an admission as true all
5 allegations contained in the Second Amended Complaint. An order awarding damages and making
6 factual findings was entered on October 9, 2015. The Court at that time requested further briefing
7 on the issue of punitive damages and ordered the parties to contact chambers to schedule a hearing.
8 Defendants have argued the Unit Maintenance Agreement and Unit Rental Agreement prohibit an
9 award of punitive damages and limit an award of compensatory damages. These arguments were
10 already raised and rejected when the Court issued its October 9, 2015 Order.
11
12

13 The economic loss doctrine does not apply to limit Plaintiffs' recovery for intentional torts.⁴
14
15

16 ² Although no written order finding that punitive damages were warranted was entered after the July 8, 2022 hearing and
17 prior to the commencement of the July 18, 2022 hearing, it appears that all involved agreed that the July 18 hearing
18 would not be necessary if Senior Justice Saitta found that punitive damages should not be awarded. The motion was
19 granted orally during the July 18, 2022 hearing. 7/18/2022 Transcript, p. 10, l. 1-2. The findings stated on the record
20 were:

21 There were five tort claims set forth by the plaintiffs in an earlier hearing. Number 1, we have a tortious interference
22 with contract; we have fraud; we have conversion; we have deceptive trade practices -- it appears as if I'm missing one --
23 oh, tortious breach of the covenant of good faith and fair dealing; fraud and intentional misrepresentation -- let me be
24 clear on that one -- violation of the Deceptive Trade Practices Act. And I believe that that contains all the necessary
25 findings that need to be made for us to proceed in our hearing today.

26 7/18/2022 Transcript, p. 10; l. 8-18.

27 ³ Regardless of what an earlier Judge called the proceeding, the March 2015 evidentiary hearing was a bench trial. The
28 Court has determined that this is a bench trial based upon the USJR definitions.

According to the definitions in the data dictionary, a bench trial is held when a trial begins and evidence is taken or witnesses are sworn. Accordingly, if you have indicated that the bench trial was held, then a corresponding bench trial disposition should be used to dispose of the case.

See https://nvcourts.gov/AOC/Programs_and_Services/Research_and_Statistics/FAQs/#civil1. The length of time between the first portion of the trial and the conclusion of the trial is one which is unacceptable in the administration of justice in Nevada.

⁴ *Halcrow, Inc. v. Eighth Jud. Dist. Ct.*, 129 Nev. 394, 402 fn. 2 (2013).

1 The Nevada Legislature has limited the recovery of punitive damages in NRS 42.005.⁵

2 The Court in the October 9, 2015 Order found that the Defendants had made intentional
3 misrepresentations(fraud), breached the covenant of good faith and fair dealing, and converted the
4 property of the Plaintiffs.

5
6 The Court is tasked, in part, with determining which causes of action support the punitive damages
7 claim and warrant the award of punitive damages, if any.

8 While it is unclear whether the breach of the implied covenant finding in the October 9, 2015 Order
9 is sufficient to support a punitive damages award, the conduct related to the conversion and
10 intentional misrepresentation/fraud claims clearly warrant consideration of such damages.

11 Defendants' officers, including Kent Vaughan, Defendants' Senior Vice President of Operations,
12 admitted to the tortious scheme.⁶

13
14
15 ⁵ That statute provides in pertinent part:

16 1. Except as otherwise provided in [NRS 42.007](#), in an action for the breach of an obligation not arising from
17 contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud or
18 malice, express or implied, the plaintiff, in addition to the compensatory damages, may recover damages for the sake of
19 example and by way of punishing the defendant. Except as otherwise provided in this section or by specific statute, an
award of exemplary or punitive damages made pursuant to this section may not exceed:

(a) Three times the amount of compensatory damages awarded to the plaintiff if the amount of compensatory
damages is \$100,000 or more; or

20 * * *

21 3. If punitive damages are claimed pursuant to this section, the trier of fact shall make a finding of whether such
22 damages will be assessed. If such damages are to be assessed, a subsequent proceeding must be conducted before the
same trier of fact to determine the amount of such damages to be assessed. The trier of fact shall make a finding of the
amount to be assessed according to the provisions of this section...

23 ⁶ Vaughn testified in deposition on August 26, 2013. Relevant portions of the transcript show the conscious decision by
24 an officer of Defendants.

25 Q. How did you first come to know in July of 2011 that the Grand Sierra was taking in income for units that
were not in the unit rental program?

26 A. I authorized the front desk to use non-rental units due to demand, consumer demand.

27 Q. And when you authorized the front desk in was it July of 2011 –

A. Yes.

28 Q. -- to use units that were not in the unit rental program, did you or anyone else that you know of who
represents the Grand Sierra, contact the Grand Sierra Resort unit rental owners who were not in the program,
to advise them of this policy?

1 The Court finds the given the prior striking of Defendant's answer, Vaughn's testimony alone is
2 sufficient to meet the burden of proof of clear and convincing evidence to prove malice, oppression
3 or fraud related to the tortious scheme.

4 The damages awarded in the October 9, 2015 Order are based in part on contract claims. Damages
5 for the tort claims were based upon the same calculations and testimony provided by Plaintiffs' sole
6 witness. This crossover does not preclude an award of punitive damages related to the tort damages
7 but limits a double recovery.
8

9 A plaintiff may assert several claims for relief and be awarded damages on different theories.
10 It is not uncommon to see a plaintiff assert a contractual claim and also a cause of action
11 asserting fraud based on the facts surrounding the contract's execution and performance. See
12 Amoroso Constr. v. Lazovich and Lazovich, 107 Nev. 294, 810 P.2d 775 (1991). The
13 measure of damages on claims of fraud and contract are often the same. However, Marsh is
14 not permitted to recover more than her total loss plus any punitive damages assessed. She
15 can execute on the assets of any of the five parties to the extent of the judgments entered
16 against them until she recovers her full damages.

17 Topaz Mutual Co. v. Marsh, 108 Nev. 845, (1992) at pages 851- 852.

18 After review of all of the available evidence the Court concludes that two categories of damages
19 from the October 2015 Order warrant and support an award of punitive damages:
20

21 Damages awarded for underpaid revenues \$442,591.83 fall within the conversion claim⁷ and
22 intentional misrepresentation/fraud⁸;

23 A. No.

24 Q. Why?

25 A. I didn't have authorization to rent them.

26 Q. So it was a conscious decision to rent them without authorization?

27 A. Yes.

28 Vaughan Transcript, Ex. 1 to Reply, at p. 29 l. 3-21.

⁷ October 9, 2015 Order, Conclusion of Law C, at p. 16 l. 16 to p. 17 l. 4.

⁸ October 9, 2015 Order, Conclusion of Law I, at p. 18 l. 15 to l. 22.

1 Damages awarded for the rental of units of owners who had no rental agreements

2 \$4,152,669.13 falls within the conversion claim⁹ and intentional misrepresentation/fraud¹⁰;

3 The award of punitive damages on these claims would not act as a double recovery for Plaintiffs.

4 The Court finds that the remaining damages awarded in the October 9, 2015 Order are based on
5 contract claims rather than tort claims and not appropriate for consideration of punitive damages.
6

7 Given Defendants' tortious scheme and the intentional misconduct of Defendants, punitive
8 damages in this case are appropriate to set an example.


9 The amount of these damages serve to punish and will not destroy Defendants.¹¹

10 While the Court recognizes that there is a spectrum of percentages which have been awarded in
11 various Nevada punitive damages cases, given the nature of the conduct and procedural history of
12 this case, the Court concludes the appropriate multiplier in this matter is two (2) times the
13 compensatory award for the conversion claim and intentional misrepresentation/fraud claim.
14

15 Accordingly based on the compensatory damages for which punitive damages are appropriate
16 totaling \$4,595,260.96 the Court awards punitive damages in the total amount of \$9,190,521.92
17

18 Plaintiffs counsel is directed to submit a final judgment consistent with the October 9, 2015 Order
19 and this Order.
20

21 Dated this 17th day of January 2023.

22
23 
24 Hon. Elizabeth Gonzalez, (Ret.)
25 Sr. District Court Judge

26 ⁹ October 9, 2015 Order, Conclusion of Law C, at p. 16 l. 16 to p. 17 l. 4.

27 ¹⁰ October 9, 2015 Order, Conclusion of Law I, at p. 18 l. 15 to l. 22.

28 ¹¹ See July 18, 2022 transcript (sealed), p. 100 l. 2 to p. 101 l. 5.

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;
3 that on the 17th day of January, 2023, I electronically filed the foregoing with the Clerk
4 of the Court system which will send a notice of electronic filing to the following:

5 DALE KOTCHKA-ALANES

6 DANIEL POLSENBERG, ESQ.

7 DAVID MCELHINNEY, ESQ.

8 BRIANA COLLINGS, ESQ.

9 ABRAN VIGIL, ESQ.

10 JONATHAN TEW, ESQ.

11 JARRAD MILLER, ESQ.

12 TODD ALEXANDER, ESQ.

13 F. SHARP, ESQ.

14 STEPHANIE SHARP, ESQ.

15 G. DAVID ROBERTSON, ESQ.

16 ROBERT EISENBERG, ESQ.

17 JENNIFER HOSTETLER, ESQ.

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Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)

Pursuant to WDCR 12(5) the Court after a review of the briefing and related documents and being fully informed rules on the:

RECEIVER'S MOTION FOR ORDERS & INSTRUCTIONS filed 12/1/23.¹ This motion is granted.

The Order Appointing Receiver was entered on January 17, 2015 (the "Appointment Order"). The Appointment Order appointed the Receiver over Grand Sierra Resort Unit Owners Association ("GSRUOA") including units owned by Defendants. The units owned by Defendants are

¹ The Court has also reviewed the Defendants' Opposition filed on 12/14/2022, Plaintiffs' Opposition filed on 12/14/2022, and the Receiver's Omnibus Reply filed 12/19/2022.

specifically included in the definition of “the Property” and fall within the scope of the Receiver’s responsibilities. Appointment Order at page 1, line 27 to page 2, line 9.

The Appointment Order and its interpretation has been subject to motion practice as part of the tortured history of this matter. Pursuant to a Court order, the Receiver acts in place of the Board. Section 8a of the Appointment Order unambiguously provides the Receiver with the power to “pay and discharge out of the Property’s rents and/or GSRUOA monthly dues collections all the reasonable and necessary expenses of the receivership . . . including all of the Receiver’s and related fees”.

Central to answering the inquiries posed by the Receiver is the scope of the Receiver’s authority. Despite the arguments made by the Defendants, the Receiver is responsible over the entire GSRUOA. The GSRUOA includes not only units owned by Plaintiffs but also units owned by Defendants (collectively the “Parties”). While the Receiver is not to collect rent from the units of those who are not Parties to this action, the rent from the units owned by the Parties are to be paid to the Receiver and utilized for the purposes identified in the Appointment Order including payment of the Receiver’s expenses. These expenses can only be paid from the rents which are earned by the units owned by the Parties to the action, i.e. the Plaintiffs and the Defendants units.

As such the Court responds to the inquiries posed by the Receiver as follows:

The Receiver’s calculated Daily Use Fee (DUF), Shared Facilities Unit Expenses (SFUE), and Hotel Expense (HE) fees apply to both the Plaintiffs owned units and Defendants owned units. The rental income to be collected by the Receiver relates to units owned both by the Plaintiffs and Defendants. The Court confirms that, “in accordance with the Governing Documents”, including the “Findings of Fact, Conclusions of Law and Judgment, Filed October 9, 2015” that the Receiver has the authority to direct, audit, oversee, and implement the reserve study for all 670 condominium units.

1 Consistent with the Order entered on December 5, 2022 the Defendants are prevented from
2 foreclosing upon any other units owned by Plaintiffs until further order of the Court. Defendants
3 have indicated in their Opposition that they are in compliance with this Order.

4 The Receiver has not been paid. This is a result of the disagreements between the Parties as to the
5 allocation of expenses and the inability, without clarification, for the Receiver to calculate the
6 permissible expenses for Defendants to deduct from the revenue of the Parties units. The Court has
7 recognized this as an issue which must be resolved and has addressed it in the Order entered on
8 December 5, 2022.²

9
10 Attached as Exhibit 1 to the Receiver's Omnibus Reply is a spreadsheet with calculations based
11 upon the various orders of the Court. The Court notes these calculations appear to include only
12 units owned by Plaintiffs. If either Plaintiffs or Defendants object to the calculations contained in
13 Exhibit 1, a written objection shall be filed within 15 judicial days of entry of this Order. If an
14 objection is filed, the Receiver may file a response to the objection within 15 days of the filing of the
15 objection. If no objection is filed, the Defendants shall make the deposits of rent listed in the
16 column on the far right of each page of Exhibit 1 in the total amount of \$1,103,950.99 into the
17 Receiver's bank account within 25 judicial days of entry of this Order. Prior to making any
18 disbursements, the Receiver shall file a motion with the Court outlining the funds received and the
19
20
21
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23

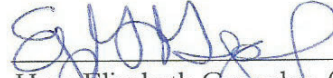
24 ² The language in the Order provides in part:

25 IT IS FURTHER ORDERED that prior to a sale of the Property as a whole, the Court shall enter an Order on motion
26 to terminate and or modify the Receivership that addresses the issues of payment to the Receiver and his counsel, the
27 scope of the wind up process of the GSRUOA to be overseen by the Receiver, as well as the responsibility for any
28 amounts which are awarded as a result of the pending Applications for OSC.

Order dated December 5, 2022, p. 7 at line 13-18.

1 proposed distributions for the Receiver's fees and expenses as well as amounts set aside for reserve
2 and any proposed distributions to the Parties.
3

4 Dated this 26th day January, 2023.

5 

6 Hon. Elizabeth Gonzalez, (Ret.)
7 Sr. District Court Judge
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CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;
that on the 26th day of January, 2023, I electronically filed the foregoing with the Clerk
of the Court system which will send a notice of electronic filing to the following:

DALE KOTCHKA-ALANES

DANIEL POLSENBERG, ESQ.

DAVID MCELHINNEY, ESQ.

BRIANA COLLINGS, ESQ.

ABRAN VIGIL, ESQ.

JONATHAN TEW, ESQ.

JARRAD MILLER, ESQ.

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STEPHANIE SHARP, ESQ.

G. DAVID ROBERTSON, ESQ.

ROBERT EISENBERG, ESQ.

JENNIFER HOSTETLER, ESQ.



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MERUELO GROUP, LLC

Legal Services Department

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2535 Las Vegas Boulevard South

Las Vegas, NV 89109

Tel: (562) 454-9786

Attorneys for Defendants

MEI-GSR Holdings, LLC;

Gage Village Commercial Development, LLC;

and AM-GSR Holdings, LLC

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, individually; JANE
DUNLAP, individually; JOHN DUNLAP,
individually; BARRY HAY, individually;
MARIE-ANNE ALEXANDER, as Trustee of
the MARIE-ANNIE ALEXANDER LIVING
TRUST; MELISSA VAGUJHELYI and
GEORGE VAGUJHELYI, as Trustees of the
GEORGE VAGUJHELYI AND MELISSA
VAGUJHELYI 2001 FAMILY TRUST
AGREEMENT, U/T/A APRIL 13, 2001; D'
ARCY NUNN, individually; HENRY NUNN,
individually; MADELYN VAN DER BOKKE,
individually; LEE VAN DER BOKKE,
individually; DONALD SCHREIFELS,
individually; ROBERT R. PEDERSON,
individually and as Trustee of the PEDERSON
1990 TRUST; LOU ANN PEDERSON,
individually and as Trustee of the PEDERSON
1990 TRUST; LORI ORDOVER, individually;
WILLIAM A. HENDERSON, individually;
CHRISTINE E. HENDERSON, individually;
LOREN D. PARKER, individually; SUZANNE
C. PARKER, individually; MICHAEL IZADY,
individually; STEVEN TAKAKI, individually;

Case No.: CV12-0222
Dept. No.: 10 (Senior Judge)

FINAL JUDGMENT

1 FARAD TORABKHAN, individually; SAHAR
2 TAVAKOL, individually; M&Y HOLDINGS,
3 LLC; JL&YL HOLDINGS, LLC; SANDI
4 RAINES, individually; R. RAGHURAM,
5 individually; USHA RAGHURAM,
6 individually; LORI K. TOKUTOMI,
7 individually; GARRET TOM, individually;
8 ANITA TOM, individually; RAMON
9 FADRILAN, individually; FAYE FADRILAN,
10 individually; PETER K. LEE and MONICA L.
11 LEE, as Trustees of the LEE FAMILY 2002
12 REVOCABLE TRUST; DOMINIC YIN,
13 individually; ELIAS SHAMIEH, individually;
14 JEFFREY QUINN individually; BARBARA
15 ROSE QUINN individually; KENNETH
16 RICHE, individually; MAXINE RICHE,
17 individually; NORMAN CHANDLER,
18 individually; BENTON WAN, individually;
19 TIMOTHY D. KAPLAN, individually;
20 SILKSCAPE INC.; PETER CHENG,
21 individually; ELISA CHENG, individually;
22 GREG A. CAMERON, individually; TMI
23 PROPERTY GROUP, LLC; RICHARD LUTZ,
24 individually; SANDRA LUTZ, individually;
25 MARY A. KOSSICK, individually; MELVIN
26 CHEAH, individually; DI SHEN, individually;
27 NADINE'S REAL ESTATE INVESTMENTS,
28 LLC; AJIT GUPTA, individually; SEEMA
GUPTA, individually; FREDRICK FISH,
individually; LISA FISH, individually;
ROBERT A. WILLIAMS, individually;
JACQUELIN PHAM, individually; MAY ANN
HOM, as Trustee of the MAY ANN HOM
TRUST; MICHAEL HURLEY, individually;
DOMINIC YIN, individually; DUANE
WINDHORST, individually; MARILYN
WINDHORST, individually; VINOD BHAN,
individually; ANNE BHAN, individually; GUY
P. BROWNE, individually; GARTH A.
WILLIAMS, individually; PAMELA Y.
ARATANI, individually; DARLENE
LINDGREN, individually; LAVERNE
ROBERTS, individually; DOUG MECHAM,
individually; CHRISINE MECHAM,
individually; KWANGSOO SON, individually;
SOO YEUN MOON, individually; JOHNSON
AKINDODUNSE, individually; IRENE
WEISS, as Trustee of the WEISS FAMILY
TRUST; PRAVESH CHOPRA, individually;
TERRY POPE, individually; NANCY POPE,
individually; JAMES TAYLOR, individually;
RYAN TAYLOR, individually; KI HAM,
individually; YOUNG JA CHOI, individually;
SANG DAE SOHN, individually; KUK
HYUNG (CONNIE), individually; SANG

(MIKE) YOO, individually; BRETT
MENMUIR, as Trustee of the CAYENNE
TRUST; WILLIAM MINER, JR., individually;
CHANH TRUONG, individually; ELIZABETH
ANDERS MECUA, individually; SHEPHERD
MOUNTAIN, LLC; ROBERT BRUNNER,
individually; AMY BRUNNER, individually;
JEFF RIOPELLE, individually; PATRICIA M.
MOLL, individually; DANIEL MOLL,
individually; and DOE PLAINTIFFS 1
THROUGH 10, inclusive ,

Plaintiff(s),

v.

MEI-GSR HOLDINGS, LLC, a Nevada
Limited Liability Company, AM-GSR
HOLDINGS, LLC, a Nevada Limited Liability
Company, GRAND SIERRA RESORT UNIT
OWNERS' ASSOCIATION, a Nevada
Nonprofit Corporation, GAGE VILLAGE
COMMERCIAL DEVELOPMENT, LLC., a
Nevada Limited Liability Company, and DOES
I-X inclusive,

Defendant(s).

This matter having come before the Court for a default prove-up hearing from March 23, 2015 to March 25, 2015, with Findings of Fact and Conclusions of Law and Judgment entered October 9, 2015, and again before the Court on July 8, 2022 and July 18, 2022 on Plaintiffs' November 6, 2015 Motion in Support of Punitive Damages Award, with an Order entered on January 17, 2023,

IT IS HEREBY ORDERED AND ADJUDGED that judgment is entered in favor of Plaintiffs and against Defendants as follows:

1. Against MEI-GSR in the amount of \$442,591.83 for underpaid revenues to Unit owners;
2. Against MEI-GSR in the amount of \$4,152,669.13 for the rental of units of owners who had no rental agreement;
3. Against MEI-GSR in the amount of \$1,399,630.44 for discounting owner's rooms without credits;
4. Against MEI-GSR in the amount of \$31,269.44 for discounted rooms with credits;
5. Against MEI-GSR in the amount of \$96,084.96 for "comp'd" or free rooms;

1 6. Against MEI-GSR in the amount of \$411,833.40 for damages associated with the bad
2 faith "preferential rotation system";

3 7. Against MEI-GSR in the amount of \$1,706,798.04 for improperly calculated and
4 assessed contracted hotel fees;

5 8. Against MEI-GSR in the amount of \$77,338.31 for improperly collected assessments;

6 **TOTAL COMPENSATORY DAMAGES.....\$8,318,215.54**

7 IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs be given and granted
8 punitive damages against Defendants in the total amount of **\$9,190,521.92**.

9 This Judgment shall accrue pre- and post-judgment at the applicable legal rate as provided
10 by Nevada law until fully satisfied. No pre-judgment interest shall accrue on the punitive damages
11 award.

12 IT IS FURTHER ORDERED AND ADJUDGED that Defendants shall take nothing by
13 way of their counterclaims which were previously stricken by the Court.

14
15 Dated this 2nd day of February, 2023

16
17 
18 THE HONORABLE ELIZABETH G. GONZALEZ
(RET.)

19 Respectfully submitted by:

20 PISANELLI BICE PLLC

21
22 By: /s/ Jordan T. Smith
23 Jordan T. Smith, Esq., #12097
24 400 South 7th Street, Suite 300
25 Las Vegas, Nevada 89101

26 *Attorneys for Defendants/Appellants*
27 *MEI-GSR Holdings, LLC;*
28 *Gage Village Commercial Development, LLC;*
and AM-GSR Holdings, LLC

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)

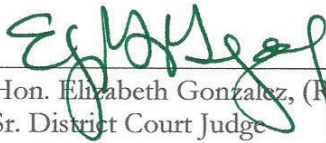
Pursuant to WDCR 12(5) the Court after a review of the briefing and related documents and being fully informed rules on Defendants December 29, 2022 Motion to Compel Receiver to Prepare Report on Defendants' Request for Reimbursement of Capital Expenditures ("Motion to Compel").¹ After consideration of the payment issues relating to the Receiver's failure to perform, the Court denies the motion.

In an Order filed January 26, 2023, the Court ordered that certain payments be made by Defendants for withheld rents. Once those payments are made, the Receiver may petition the Court for the fees

¹ The court has also reviewed the, the Receiver filed his Response to Motion to Compel Receiver to Prepare Report on Defendants' request for Reimbursement of Capital Expenditures) filed on January 9, 2023, Plaintiffs filed their Opposition to Defendants Motion to Compel filed on January 12, 2023 and the Reply in Support of the Motion to Compel Defendants filed on January 17, 2022.

1 incurred by he and his counsel to be paid. Once those fees are paid the Receiver shall carry out his
2 obligation to recalculate the DUF, SFUE, and HE, including true-ups and the setting of the budget
3 for 2023 as well as the other items identified in his Response on pages 4 and 5.
4

5 Dated this 3rd day February, 2023.

6 
7 _____
8 Hon. Elizabeth Gonzalez, (Ret.)
9 Sr. District Court Judge
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ORDER - 2

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DALE KOTCHKA-ALANES
DANIEL POLSENBERG, ESQ.
DAVID MCELHINNEY, ESQ.
BRIANA COLLINGS, ESQ.
ABRAN VIGIL, ESQ.
JONATHAN TEW, ESQ.
JARRAD MILLER, ESQ.
TODD ALEXANDER, ESQ.
F. DEARMOND SHARP, ESQ.
STEPHANIE SHARP, ESQ.
G. DAVID ROBERTSON, ESQ.
ROBERT EISENBERG, ESQ.
JENNIFER HOSTETLER, ESQ.
ANN HALL, ESQ.
JAMES PROCTOR, ESQ.
JORDAN SMITH, ESQ.

Holly W. Ruge

3025

**IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE**

ALBERT THOMAS, et. al.,

Plaintiff(s),

v.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, AM-GSR
Holdings, LLC., a Nevada Limited Liability
Company, GRAND SIERRA RESORT UNIT
OWNERS' ASSOCIATION, a Nevada
Nonprofit Corporation, GAGE VILLAGE
COMMERCIAL DEVELOPMENT, LLC., a
Nevada Limited Liability Company, and DOES
I-X inclusive,

Defendant(s).

Case No. CV12-02222


Dept. No.: 10

ORDER APPROVING PARTIES STIPULATION

The Court having received and reviewed the Stipulation signed by attorneys for Plaintiffs and Defendants and Exhibit 1 attached thereto and the same having been filed with the Court on February 6, 2023, ("Stipulation") and good cause appearing,

1 IT IS ORDERED that the Receiver shall execute the “certification” of the Agreement to
2 Terminate, a true and correct copy of which is attached to the Stipulation as Exhibit 1.

3
4 Dated this 7 day of February, 2023.

5
6 
7 Hon. Elizabeth Gonzalez, (Ret.)
8 Sr. District Court Judge
9

10
11 **Submitted by:**

12 ABRAN VIGIL, ESQ.
13 Nevada Bar No. 7548
14 ANN HALL, ESQ.
15 Nevada Bar No. 5447
16 DAVID C. McELHINNEY, ESQ.
17 Nevada Bar No. 0033
18 MERUELO GROUP, LLC
19 *Attorneys for Defendants*
20 *MEI-GSR Holdings, LLC,*
21 *AM-GSR Holdings, LLC, and*
22 *GAGE VILLAGE*
23 *COMMERCIAL*
24 *DEVELOPMENT, LLC*
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INDEX OF EXHIBITS

1. February 6, 2023 Signed and Filed Stipulation..... 6-24 pp.

Exhibit 1

1 **3795**

2 ABRAN VIGIL, ESQ.
3 Nevada Bar No. 7548
4 ANN HALL, ESQ.
5 Nevada Bar No. 5447
6 DAVID C. McELHINNEY, ESQ.
7 Nevada Bar No. 0033
8 MERUELO GROUP, LLC
9 Legal Services Department
10 5th Floor Executive Offices
11 2535 Las Vegas Boulevard South
12 Las Vegas, NV 89109
13 Tel: (562) 454-9786
14 abran.vigil@meruelogroup.com
15 ann.hall@meruelogroup.com
16 david.mcelhinney@meruelogroup.com

17 *Attorneys for Defendants MEI-GSR Holdings,*
18 *LLC, AM-GSR Holdings, LLC, and GAGE*
19 *VILLAGE COMMERCIAL DEVELOPMENT,*
20 *LLC*

21 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
22 **IN AND FOR THE COUNTY OF WASHOE**

23 ALBERT THOMAS, et. al.,

24 Plaintiff(s),

25 v.

26 MEI-GSR HOLDINGS, LLC., a Nevada
27 Limited Liability Company, AM-GSR
28 Holdings, LLC., a Nevada Limited Liability
Company, GRAND SIERRA RESORT UNIT
OWNERS' ASSOCIATION, a Nevada
Nonprofit Corporation, GAGE VILLAGE
COMMERCIAL DEVELOPMENT, LLC., a
Nevada Limited Liability Company, and DOES
I-X inclusive,

Defendant(s).

Case No. CV12-02222

Dept. No.: 10

STIPULATION

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs ALBERT
THOMAS, et al., by and through their counsel JARRAD MILLER, ESQ. and Defendants MEI-
GSR Holdings, LLC; AM-GSR Holdings, LLC.; and GAGE VILLAGE COMMERCIAL

1 DEVELOPMENT, LLC; that the attached Agreement to Terminate has been approved by the
2 parties as compliant with the Court order of January 26, 2023 (filed at 11:06 a.m.) The parties
3 allow the Receiver to execute the "certification" of the Agreement to Terminate in accordance
4 with Court Order.

5
6 **AFFIRMATION PURSUANT TO NRS 239B.030**

7 The undersigned does hereby affirm that the preceding document does not contain the
8 social security number of any person.

9
10 **IT IS SO STIPULATED.**

11
12 By: /s/ David McElhinney, Esq.

13
14 6th ^{February} of ~~January~~, 2023.

15
16 David McElhinney
17 2500 East Second Street
18 Reno, NV 89595
19 Attorney for Defendants

By: 

2nd ^{Feb.} of ~~January~~, 2023.

20
21 Jarrad Miller
22 Robertson, Johnson, Miller and Williamson
23 50 W. Liberty Street Suite 600
24 Reno, NV 89501
25 Attorney for Plaintiffs
26
27
28

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G. David Robertson, Esq., SBN 1001	F. DeArmond Sharp, Esq., SBN 780
Jarrad C. Miller, Esq., SBN 7093	Stefanie T. Sharp, Esq. SBN 8661
Briana N. Collings, Esq. SBN 14694	ROBISON, SHARP, SULLIVAN & BRUST
ROBERTSON, JOHNSON, MILLER &	71 Washington Street
WILLIAMSON	Reno, Nevada 89503
50 West Liberty Street, Suite 600	Tel: (775) 329-3151
Reno, Nevada 89501	Tel: (775) 329-7169
Tel: (775) 329-5600	dsharp@rssblaw.com
jarrad@nvlawyers.com	ssharp@rssblaw.com
briana@nvlawyers.com	<i>Attorneys for the Receiver</i>
<i>Attorneys for Plaintiffs</i>	<i>Richard M. Teichner</i>
Robert L. Eisenberg, Esq. SBN 0950	Jordan T. Smith, Esq.
LEMONS, GRUNDY, & EISENBERG	Pisanelli Bice PLLC
6005 Plumas Street, Third Floor	400 South 7th Street, Suite 300
Reno, Nevada 89519	Las Vegas, NV 89101
<i>Attorney for Plaintiffs</i>	

Iliana Godoy

Iliana Godoy

INDEX OF EXHIBITS

1. Agreement to Terminate Condominium Hotel, Condominium Hotel Association, and Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.. 6-17 pp.

Exhibit 1

APNS: 012-211-24; 012-211-28; 012-211-36;
012-491-01; 012-491-02; 012-491-04;
012-491-05; 012-491-08; 012-491-12;
012-491-13; 012-492-01 through 012-492-06;
012-492-08; 012-492-08; 012-492-14 through
012-492-16; 012-492-18; 012-493-01; 012-493-02;
012-493-04 through 012-493-06

When recorded please mail to:
Grand Sierra Resort Unit Owners Association
c/o Associa Sierra North
10509 Professional Circle #200
Reno, NV 89521

The undersigned hereby affirms that this document, including any exhibits, submitted for recording does not contain the social security number of any person or persons. (Per NRS 239B.030)

**AGREEMENT TO TERMINATE CONDOMINIUM HOTEL, CONDOMINIUM HOTEL
ASSOCIATION, AND DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND RESERVATION OF EASEMENTS**

Condominium Hotel : Hotel-Condominiums At Grand Sierra Resort

Association : Grand Sierra Resort Unit – Owner’s Association

Declaration : Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Hotel-Condominiums at Grand Sierra Resort recorded December 15, 2006 as Document No. 3475705, Official records Washoe County, Nevada and all amendments thereto, including but not limited to the Seventh Amendment to Condominium Declaration of Covenants, Conditions, Restrictions and Easements for Hotel-Condominiums at Grand Sierra Resort recorded June 27, 2007 as Document No. 3548504 and the Ninth Amendment to Condominium Declaration of Covenants, Conditions, Restrictions and Easements for Hotel-Condominiums at Grand Sierra Resort re-recorded November 30, 2021 as Document No. 5253317.

Real Property : The legal description is included in Exhibit A attached hereto. This legal description is Exhibit A from the Declaration.

The undersigned Hotel Unit Owner and the owners of units at the Condominium Hotel representing at least eighty percent (80%) of the votes in the Association defined above (the “80% Units’ Owners”) hereby agree as follows:

1. Termination of Condominium Hotel. At a meeting conducted by the Association on January 18, 2023 (the “Meeting”), Hotel Unit Owner and 80% Units’ Owners approved the termination of the Condominium Hotel. The Condominium Hotel is terminated effective upon the filing of this Agreement in the records of the Office of the County Recorder of Washoe County, State of Nevada.

2. Sale of Common Elements, Shared Components, and Units. Following termination of the Condominium Hotel, all of the common elements, shared components, and units of the Condominium Hotel shall be sold pursuant to the terms of a subsequently drafted Agreement for Sale of Condominium Hotel Interests and further Court Order from the Second Judicial District Court of the State of Nevada in and for the County of Washoe in Case No. CV12-02222 (“Receivership Action”). Pursuant to NRS 116.2118(5), approval of the yet to be drafted Agreement for Sale of Condominium Hotel Interests must take place at a meeting and receive approval from the Hotel Unit Owner and 80% of the Units’ Owners and be approved by the Court in the Receivership Action.

3. Approval of Sale of Real Estate. At the Meeting, Hotel Unit Owner and 80% Units’ Owners authorized the Association controlled by the Receiver appointed in the Receivership Action, on behalf of the Units’ Owners, to contract for the sale of real estate owned by the Units’ Owners in the Condominium Hotel. For all real estate to be sold following termination, title to that real estate, upon execution of this termination agreement, vests in the Association with the Receiver as trustees for the holders of all interests in the units. And as long as the Association hold title to the real estate, each of the Unit’s Owners shall have a right of occupancy as provided in the Declaration and during that period of occupancy, each of the Units’ Owners shall remain liable for all assessments, shared expenses and other obligations imposed on Units’ Owners by applicable Nevada law or the Declaration.

4. Termination of Association. At the Meeting, Hotel Unit Owner and 80% of Units’ Owners approved the termination of the Association. The Association defined above now has all powers necessary and appropriate to affect the sale. Until the sale has been concluded and the proceeds thereof distributed upon Court approval in the Receivership Action, the Association continues in existence with all powers it had before termination under the receivership. Upon execution of the sale documents and distribution of the proceeds and an order issued in the Receivership Action the Association will be terminated.

5. Termination of Declaration. The Declaration is terminated effective upon the filing of this Agreement in the records of the Office of the County Recorder of Washoe County, State of Nevada unless otherwise ordered by the Court in the Receivership Action, or the Association is terminated in accordance with paragraph 4 herein. A Rescission and Notice of Termination of the Declaration shall also be recorded on or before the date identified in Section 8 below.

6. Severability. If any provision of this Agreement is held to be invalid or unenforceable to any extent, the invalidity or unenforceability of that provision shall not affect any other provision of this Agreement so long as the essential terms of the transactions contemplated

by this Agreement remain enforceable or otherwise ordered in the Receivership Action. The stricken provision or part shall be replaced, to the extent possible, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision or part as is legally possible so as to effect the original intent of the parties as closely as possible. If modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this Agreement, the entire Agreement is to be held unenforceable.

7. Compliance. To the extent that any provisions of this Agreement, should be deleted, modified, or amended in order to comply with the provisions of the Declaration or Nevada Revised Statutes, those provisions shall be deleted, modified, or amended accordingly in a self-executing manner to the same extent necessary to achieve compliance and achieve the essential purposes of this Agreement unless otherwise ordered in the Receivership Action. All other terms of this Agreement shall remain in full force and effect.

8. Effectiveness of Agreement. This Agreement will be void unless it is recorded on or before December 1, 2050.

9. General Provisions. This Agreement may be executed in counterparts and may be further altered by Court Order.

[End of Page – Signatures Follow]

EXECUTION

The parties executed this Agreement as of the date first written above.

HOTEL UNIT OWNER:

MEI-GSR HOLDINGS, LLC,
a Nevada limited liability company

By: _____
Alex Meruelo
Manager

80% of UNITS' OWNERS:

AM-GSR HOLDINGS LLC
a Nevada limited liability company

By: _____
Alex Meruelo
Manager

GAGE VILLAGE COMMERCIAL
DEVELOPMENT, LLC, a California
limited liability company

By: _____
Alex Meruelo
Manager

CERTIFICATION ON NEXT PAGE

Certification

The undersigned, hereby certifies, under penalty of perjury, that this Agreement to Terminate (a) was provided to its members for action and that at least eighty percent (80%) voted in favor of termination of the Association and termination of the Declaration; (b) that the affirmative action was taken by those members whose votes are recorded in the official records of the Association, and (c) that such affirmative vote conforms with the requirements found in the Declaration.

ASSOCIATION:

Grand Sierra Resort Unit-Owners Association, A
Nevada Nonprofit Corporation

By: _____
Richard M. Teichner, Receiver

STATE OF NEVADA)
)
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2023, by Alex Meruelo as Manager of MEI-GSR Holdings, LLC, a Nevada limited liability company, as manager of AM-GSR HOLDINGS LLC, a Nevada limited liability company, and as manager of GAGE VILLAGE COMMERCIAL DEVELOPMENT, LLC, a California limited liability company

Notary Public

STATE OF NEVADA)
)
COUNTY OF WASHOE)

This instrument was acknowledged before me on _____, 2023, by _____ as Receiver of Grand Sierra Resort Unit-Owners Association, a Nevada nonprofit corporation.

Notary Public

EXHIBIT A

Legal Description

The land referred to herein is situated in the State of Nevada, County of, described as follows:

PARCEL 1:

All that certain lot, piece or parcel of land situated in the City of Reno, County of Washoe, State of Nevada, Section Seven (7), Township Nineteen (19) North, Range Twenty (20) East, M.D.M.:

BEGINNING at the Northwest corner of Parcel Map No. 340, recorded November 10, 1976, Official Records, Washoe County, Nevada, said POINT OF BEGINNING being further described as lying on the Southerly right of way of Glendale Avenue;

THENCE North 88°15'47" East along said Southerly right of way 347.44 feet to a found 5/8" rebar with cap, stamped "Summit Engineers RLS 4787", said point also being the Northeast corner of Parcel 1 of Parcel Map 338, recorded November 10, 1976, Official Records, Washoe County, Nevada;

THENCE South 00°06'54" East along the East line of said Parcel 1, a distance of 208.59 feet;

THENCE South 89°53'06" West, 174.30 feet;

THENCE South 00°06'54" East, 158.86 feet to the South line of said Parcel 2;

THENCE North 89°23'54" West along said South line, a distance of 174.31 feet to a found 5/8" rebar, being the Southwest corner of said Parcel 1;

THENCE North 00°05'36" East along the West line of Parcel 1, a distance of 355.44 feet to the POINT OF BEGINNING.

Said parcel is also shown as Adjusted Parcel 2 on Record of Survey No. 3004.

APN: 012-211-24.

PARCEL 1-A:

A non-exclusive easement for the right, privilege and authority
Continued on next page

for the purpose only of ingress and egress of vehicles and/or persons in, upon and over the roadway and cuts, located on the land and premises, situated in the County of Washoe, State of Nevada, described as follows:

The following describes a parcel of ground located within the South 1/2 of Section 7, Township 19 North, Range 20 East, M.D.B.&M., County of Washoe, State of Nevada, and being more particularly described as follows:

BEGINNING at the Northeast corner of Parcel B, as shown on Parcel Map No. 227, filed in the office of the Washoe County Recorder on the 26th day of February, 1976, File No. 397925; thence South 89°23'54" East, 51.51 feet;

THENCE North 89°53'06" East, 10.00 feet to the true point of beginning; thence North 0°06'54" West, 29.91 feet, thence 15.71 feet on the arc of a tangent curve to the left, having a radius of 10.00 feet and a central angle of 90°00'00"; thence North 0°06'54" West, 60.00 feet; thence 15.71 feet on the arc of a curve to the left whose tangent bears North 89°53'06" East, having a radius of 10.00 feet and a central angle of 90°00'00"; thence North 0°06'54" West, 80.00 feet; thence 15.71 feet on the arc of a tangent curve to the left, having a radius of 10.00 feet and a central angle of 90°00'00";

THENCE North 0°06'54" West, 60.00 feet; thence 15.71 feet on the arc of a curve to the left, whose tangent bears North 89°53'06" East, having a radius of 10.00 feet and a central angle of 90°00'00"; thence North 0°06'54" West, 90.00 feet;

THENCE 15.55 feet on the arc of a tangent curve to the right, having a radius of 9.72 feet and a central angle of 91°37'19" to a point on the Southerly right of way of Glendale Avenue; thence along said Southerly right of way line North 88°15'47" East, 69.74 feet; thence departing said Southerly right of way line, 15.42 feet on the arc of a curve to the right, whose tangent bears South 88°15'47" West, having a radius of 10.00 feet and a central angle of 88°22'41"; thence South 0°06'54" East, 361.61 feet; thence South 89°53'06" West, 50.00 feet to the true point of beginning.

Continued on next page

EXCEPT all that portion of said easement lying within the hereinabove described Parcel 1.

Document Number 2292338 is provided pursuant to the requirements of Section 1. NRS 111.312

PARCEL 2:

A portion of the North Half (N 1/2) of Section 18, Township 19 North, Range 20 East, M.D.M., more particularly described as follows:

COMMENCING at the Section corner common to Sections 7, 8, 17 and 18, Township 19 North, Range 20 East, M.D.M. and proceeding South 10°25'59" East, a distance of 99.98 feet to a 1/2 inch diameter pin, said pin being at the Northeast corner of that land conveyed from Matley, et al, to Lee Brothers, in a deed recorded as Document No. 306898 of the Official Records of Washoe County, Nevada; thence North 89°00'20" West, along the Northerly line of said Parcel, a distance of 563.20 feet to a 1/2 inch diameter iron pin; thence South 00°59'40" West, a distance of 187.77 feet to a 1/2 inch diameter iron pin; thence North 84°35'28" West, a distance of 24.46 feet to the TRUE POINT OF BEGINNING; thence North 84°35'28" West, a distance of 231.51 feet; thence South 00°54'52" West, a distance of 370.06 feet to a galvanized steel fence post; thence North 54°40'01" West, a distance of 335.84 feet to a point on the Southerly right of way line of Greg Street; thence along the Southerly right of way line of Greg Street the following four (4) courses and distances: 1) North 47°58'37" East, a distance of 232.02 feet; 2) from a tangent which bears the last named course, along a circular curve to the right with a radius of 760.00 feet and a central angle of 19°23'42", an arc length of 257.27 feet to a point of compound curvature; 3) along said compound circular curve to the right with a radius of 45.00 feet and central angle of 83°54'13", an arc length of 65.90 feet; 4) South 28°43'28" East a distance of 134.97 feet to the TRUE POINT OF BEGINNING, all as shown and set forth on that certain Record of Survey for MGM GRAND, filed in the office of the County Recorder of Washoe County, Nevada, on November 24, 1981, as File No. 769946.

APN: 012-231-29

Continued on next page

Document Number 2292339 is provided pursuant to the requirements of Section 1. NRS 111.312

PARCEL 3:

A parcel of land situate in Sections 7 & 18, Township 19 North, Range 20 East, M.D.M., Reno, Washoe County, Nevada, and more particularly described as follows:

Beginning at the intersection of the Northerly line of Mill Street with the Easterly line of U.S. Highway 395 as shown on Record of Survey Map Number 1518, File Number 769946 of the Official Records of Washoe County, Nevada, from which the Northeast corner of said Section 18 bears North 86°22'05" East a distance of 3260.13 feet; thence along the Easterly line of Interstate 580 the following eight (8) courses and distances; 1) North 09°34'52" West, a distance of 352.44 feet; 2) North 03°28'05" West, a distance of 425.16 feet; 3) North 01°26'55" West, a distance of 498.41 feet; 4) North 01°24'09" West, a distance of 434.30 feet; 5) from a tangent which bears North 01°25'23" West, along a circular curve to the right with a radius of 858.86 feet and a central angle of 36°09'39", an arc length of 541.54 feet; 6) from an tangent which bears North 34°44'16" East along a circular curve to the left with a radius of 900.00 feet and a central angle of 28°28'08", an arc length of 447.19 feet; 7) North 06°16'08" East a distance of 117.19 feet; 8) from a tangent which bears the last named course, along a circular curve to the right with a radius of 61.15 feet and a central angle of 83°37'49", an arc length of 89.26 feet to a point on the Southerly line of Glendale Avenue; thence along the Southerly line of Glendale Avenue the following four (4) courses and distances; 1) North 89°53'57" East, a distance of 196.41 feet; 2) North 00°06'21" East, a distance of 4.00 feet; 3) North 89°53'57" East, a distance of 11.17 feet; 4) North 88°16'07" East, a distance of 80.83 feet to a point on the Westerly line of Watson and Meehan Corporation Property, said point being the Northeasterly corner of Parcel No. 1, as shown on the Parcel Map No. 340, filed in the Office of Washoe County Recorder on November 10, 1976 File No. 434453; thence along the Westerly, Southerly, and Easterly lines of said Watson and Meehan Corporation Property the following three (3) courses and distances: 1) South 00°05'56" West, a distance of 355.44 feet; 2) South

Continued on next page

89°23'34" East, a distance of 348.62 feet; 3) North
 00°06'34" West, a distance of 369.63 feet to a point on the
 Southerly right of way line of Glendale Avenue, said point
 being the Northeast corner of Parcel No. 1, as shown on
 the Parcel Map No. 338, filed in the Office of Washoe
 County Recorder on November 10, 1976, File No. 434451;
 thence North 88°16'07" East, along the Southerly right of
 way line of Glendale Avenue, a distance of 156.65 feet;
 thence South 02°12'06" East a distance of 4.24 feet to the
 Northeast corner of a concrete block wall, thence South
 02°12'06" East, along Easterly face of said block wall, a
 distance of 13.05 feet to an angle point in said block
 wall; thence North 88°00'20" East, along the Northerly
 line of said block wall, a distance of 61.31 feet to a chain
 link fence; thence along said chain link fence the
 following seventeen (17) courses and distances; 1) South
 88°11'19" East, a distance of 18.04 feet; 2) South 79°03'12"
 East, a distance of 10.54 feet; 3) South 70°04'24" East, a
 distance of 9.08 feet; 4) South 56°48'54" East, a distance
 of 10.33 feet; 5) South 52°50'24" East, a distance of 49.76
 feet; 6) South 49°03'32" East, a distance of 10.57 feet; 7)
 South 38°43'47" East, a distance of 78.93 feet; 8) South
 41°22'11" East, a distance of 10.14 feet; 9) South
 48°20'20" East, a distance of 10.07 feet; 10) South
 54°50'53" East, a distance of 10.04 feet; 11) South
 59°44'13" East, a distance of 39.96 feet; 12) South
 50°21'10" East, a distance of 10.37 feet; 13) South
 39°50'28" East, a distance of 10.12 feet; 14) South
 31°57'47" East, a distance of 105.60 feet; 15) South
 20°08'38" East, a distance of 76.52 feet; 16) South
 34°19'10" East, a distance of 165.32 feet; 17) South
 14°17'58" East, a distance of 279.78 feet; thence along a
 line that is more or less coincident with said chain link
 fence the following fifteen (15) courses and distances: 1)
 South 06°44'18" East, a distance of 109.36 feet; 2) South
 05°15'13" East, a distance of 158.53 feet; 3) South
 27°57'06" East, a distance of 129.07 feet; 4) South
 43°18'46" East, a distance of 228.10 feet; 5) South
 44°58'46" East, a distance of 133.07 feet; 6) South 38°2'46"
 East, a distance of 64.06 feet; 7) South 47°15'56" East, a
 distance of 107.92 feet; 8) South 50°50'59" East, a
 distance of 489.05 feet; 9) South 55°41'02" East, a distance
 of 45.51 feet; 10) South 46°38'29" East, a distance of 98.99
 feet; 11) South 63°53'42" East a distance of 151.28 feet;
 12) South 53°31'06" East, a distance of 151.08 feet; 13)

Continued on next page

North 78°53'28" East, a distance of 75.55 feet; 14) South 73°46'40" East, a distance of 132.04 feet; 15) South 64°35'20" East, a distance of 98.69 feet to a point on the Northerly right of way line of Greg Street; thence along the Northerly right of way line of Greg Street the following ten (10) courses and distances: 1) South 20°40'40" West, a distance of 294.78 feet; 2) from a tangent which bears South 47°48'19" West, along a circular curve to the right with a radius of 750.00 feet and a central angle of 27°10'38", and arc length of 355.75 feet; 3) South 74°58'57" West, a distance of 120.67 feet; 4) from a tangent which bears the last named course, along a circular curve to the right with a radius of 36.00 feet and a central angle of 31°49'47", an arc length of 20.00 feet to a point of compound curvature; 5) along said compound circular curve to the right with a radius of 116.00 feet and a central angle of 32°40'13", an arc length of 66.14 feet; 6) South 71°14'17" West, a distance of 50.82 feet; 7) South 11°03'06" East, a distance of 8.54 feet; 8) from a tangent which bears the last named course, along a circular curve to the right with a radius of 36.00 feet and a central angle of 76°26'01", an arc length of 48.02 feet to a point of reverse curvature; 9) along said reverse circular curve to the left with a radius of 604.00 feet and a central angle of 17°23'58", an arc length of 183.42 feet; 10) South 47°58'57" West, a distance of 824.52 feet to the Northeast corner of parcel conveyed to Bruno Benna, et al, recorded as Document No. 83899, Official Records of Washoe County, Nevada; thence North 63°46'57" West along the Northerly line of said Benna Parcel, a distance of 1099.66 feet to the Northeast corner of Parcel B as shown on Parcel Map No. 341, filed in the office of Washoe County recorded on November 10, 1976, File No. 434454, thence South 26°13'03" West, along the Easterly line of said Parcel B, a distance of 266.37 feet; thence South 18°46'57" East and distance of 28.28 feet to a point on the Northerly right of way line of Mill Street; thence North 63°44'52" West, along said Northerly right of way line, a distance of 80.00 feet; thence North 26°13'03" East, a distance of 286.32 feet to the Northerly line of said Benna Parcel; thence from a tangent which bears North 63°43'05" East, along a circular curve to the left with a radius of 86.58 feet and a central angle of 81°31'28" an arc length of 123.19 feet; thence North 77°48'23" West a distance of 234.00 feet; thence South 26°13'03" West a distance of 280.15 feet to the

Continued on next page

Northerly line of Mill Street; thence North $63^{\circ}44'52''$ West, along the Northerly line of Mill Street, a distance of 208.34 feet to the Point of Beginning.

said land is shown and delineated as Parcel A on Record of Survey Map No. 3804, recorded June 23, 2000 as Document No. 2458502, Official Records.

BASIS OF BEARINGS: Recorded of Survey Map Number 2775, File No. 1834848 of the Official Records of Washoe County, Nevada; NAD 83, Nevada West Zone.

APN: 012-211-26

Document Number 2458501 is provided pursuant to the requirements of Section 1. NRS 111.312

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)

Pursuant to WDCR 12(5) the Court after a review of the briefing and related documents and being fully informed rules on DEFENDANTS' OBJECTION TO RECEIVER'S CALCULATIONS CONTAINED IN EXHIBIT 1 ATTACHED TO RECEIVER'S OMNIBUS REPLY TO PARTIES OPPOSITIONS TO THE RECEIVER'S MOTION FOR ORDERS & INSTRUCTIONS ("Objection").¹ After consideration of the briefing, the Court overrules the objection.

While the Court appreciates the arguments that are made in the Objection, these are the arguments which have been rejected by the Court and in large part will be addressed as part of the contempt hearing beginning on April 3, 2023. Defendant shall comply with the Order entered on January 26,

¹ The court has also reviewed the Receiver's response filed on February 24, 2023.

2023, including the deposits as directed in that Order within five (5) judicial days of entry of this
Order.

Dated this 27th day March, 2023.



Hon. Elizabeth Gonzalez, (Ret.)
Sr. District Court Judge

CERTIFICATE OF SERVICE

I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT; that on the 27th day of March, 2023, I electronically filed the foregoing with the Clerk of the Court system which will send a notice of electronic filing to the following:

DALE KOTCHKA-ALANES
DANIEL POLSENBERG, ESQ.
DAVID MCELHINNEY, ESQ.
BRIANA COLLINGS, ESQ.
ABRAN VIGIL, ESQ.
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Attorneys for Plaintiffs

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, individually; *et al.*,

Plaintiffs,

vs.

Case No. CV12-02222
Dept. No. OJ41

MEI-GSR HOLDINGS, LLC, a Nevada
limited liability company, GRAND SIERRA
RESORT UNIT OWNERS' ASSOCIATION,
a Nevada nonprofit corporation, GAGE
VILLAGE COMMERCIAL
DEVELOPMENT, LLC, a Nevada limited
liability company; AM-GSR HOLDINGS,
LLC, a Nevada limited liability company; and
DOE DEFENDANTS 1 THROUGH 10,
inclusive,

Defendants.

ORDER FINDING DEFENDANTS IN CONTEMPT

On June 6 through 8, 2023, the Court held a hearing on Plaintiffs' various Motions for Orders to Show Cause. Based upon the pleadings, papers on file herein, and the oral argument and evidence admitted at the hearing, the Court rules as follows on two such motions:

1 With respect to the Applications for Order to Show Cause filed February 1st, 2022, and
2 December 29th, 2022, the Appointment Order dated January 7, 2015 provides in pertinent part,
3 “It is further ordered that Defendants and any other person or entity who may have possession,
4 custody or control of any property, including any of their agents, representatives, assignees, and
5 employees shall do the following: . . . Turn over to the Receiver all rents, dues, reserves and
6 revenues derived from the Property wherever and in whatsoever mode maintained.”

7 This language is clear and unambiguous. While the Receiver has testified that he initially
8 chose to monitor the existing reserve accounts rather than opening new accounts, this did not
9 change the entity who was in control of those funds.

10 On September 15th, 2021, a request was renewed by Receiver’s counsel to transfer the
11 funds, including the reserve funds, regardless of the account the reserve funds were in. Since the
12 appointment of the Receiver, the reserve funds have been under the control of the Receiver
13 pursuant to the Appointment Order.

14 Neither the Court nor the Receiver authorized any withdrawal of funds from the reserve
15 account. Although the Defendants filed motions with the Court to approve certain capital
16 expenditures, they did not obtain a decision.

17 The Court finds by clear and convincing evidence that Defendants willfully violated the
18 Appointment Order by withdrawing \$3,562,441.28 in 2021 and \$12,892,660.18 in 2022 from the
19 reserve accounts without approval by the Receiver or the Court. These funds have not been
20 returned to the reserve accounts.

21 Defendants claim those amounts were largely for prepayment of expenses for the remodel
22 of the condominiums. Less than 300 units have been remodeled, most owned by entities
23 affiliated with the Defendants. As the Grand Sierra Resort Unit Owners’ Association has been
24 dissolved at the request of Defendants prior to completing the remodel, this wrongful conduct is
25 magnified.

26 Despite the willful misappropriation of the reserve funds by Defendants, the Court is
27 limited to the penalties in NRS 22.100. The Court orders the following:

- 1 (1) Within 30 days of the entry of this written order, Defendants are to return the
2 \$16,455,101.46 misappropriated from the reserve fund along with interest that would
3 have been earned in the reserve account, or statutory interest, whichever is higher,
4 from the date of the withdrawal; and
5 (2) Within 45 days of the entry of this written order, transfer all of the reserve funds to a
6 separate interest-bearing account designated by the Receiver.

7 Fines will be the maximum statutory amount under NRS 22.100(2) of \$500 for this
8 blatant and contemptuous conduct to be paid to the Plaintiffs and the Court determines the
9 following additional reasonable expenses under NRS 22.100(3) are to be paid to the Plaintiffs by
10 Defendants:

- 11 (1) The reasonable attorney fees for the Plaintiffs in preparing orders from the contempt
12 proceeding;
13 (2) 75 percent of the reasonable attorney fees for the Plaintiffs preparing for the contempt
14 proceeding not previously ordered by the Court and 75 percent of the reasonable
15 attorney fees for the Plaintiffs participating in the contempt proceeding; and
16 (3) The Plaintiffs' share of the reasonable expenses of the Receiver in preparing for and
17 testifying at the June 6 through 8 proceedings.

18 DATED this 27 day of July, 2023.

19
20
21 
22 THE HONORABLE ELIZABETH G. GONZALEZ
(RET.)

23 Submitted by:

24 ROBERTSON, JOHNSON,
25 MILLER & WILLIAMSON

26 /s/ Jarrad C. Miller

27 Jarrad C. Miller, Esq. (NV Bar No. 7093)
28 Briana N. Collings, Esq. (NV Bar No. 14694)
Attorneys for Plaintiffs

Hon. Elizabeth Gonzalez (Ret.)
Sr. District Court Judge
PO Box 35054
Las Vegas, NV 89133

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

ALBERT THOMAS, et. al.,

Plaintiff,

vs.

MEI-GSR HOLDINGS, LLC., a Nevada
Limited Liability Company, et al

Defendant.

ORDER

Case#: CV12-02222

Dept. 10 (Senior Judge)

Pursuant to WDCR 12(5) the Court after a review of the briefing and related documents and being fully informed rules on Defendants' MOTION FOR RECONSIDERATION OF (1) JANUARY 26, 2023 ORDER DENYING DEFENDANTS' MOTION FOR INSTRUCTIONS TO RECEIVER RE REIMBURSEMENT OF 2017 THROUGH 2019 CAPITAL EXPENDITURES; AND (2) JANUARY 26, 2023 ORDER DENYING DEFENDANTS' MOTION FOR INSTRUCTIONS REGARDING REIMBURSEMENT OF 2020 CAPITAL EXPENDITURES AND REQUEST FOR EVIDENTIARY HEARING ("Motion for Reconsideration"),¹ the Court grants the Motion, in part. Defendants argument that the GSRUOA is subject to the business

¹ The court has also reviewed the Opposition filed September 14, 2023 and the Reply filed on September 29, 2023.

1 judgement rule and has absolute discretion ignores the fact that Receiver is a check on the
2 Defendants unfettered actions given the prior findings of fraud.

3 Given, the Receiver's June 7, 2023 testimony:

4
5 Q. . . are there expenses outside [the condominium tower] such as the pool area or the lobby
6 or the front desk or the mezzanine that there's refurbishing going on---are the unit owners
7 responsible for that according to your interpretation of the CC&Rs?

8 A. No.

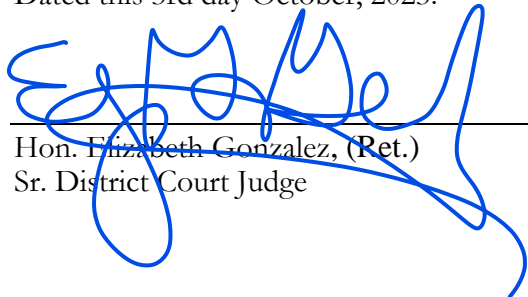
9 Q. Okay.

10 A. Again, you keep asking me about my interpretation, and I keep telling you that my
11 interpretation is based on my attorney's interpretation, and if you want---you'll have to
12 question her for her legal reasons for what she arrived at.

13 June 7, 2023 (day 2) transcript, pg. 30: 7-16; pg. 32:9-21.

14 The Court determines that it is appropriate to readdress these expenses and potential reimbursement
15 to Defendants as part of the wind up process of the GSRUOA and truing up process to be
16 conducted following the valuations and/or appraisals of the Plaintiffs interest in the former units.

17 Dated this 3rd day October, 2023.

18
19 
20 Hon. Elizabeth Gonzalez, (Ret.)
21 Sr. District Court Judge
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28

1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of THE SECOND JUDICIAL DISTRICT COURT;
3 that on the 3rd day of October, 2023, I electronically filed the foregoing with the Clerk
4 of the Court system which will send a notice of electronic filing to the following:

5 DALE KOTCHKA-ALANES
6 DANIEL POLSENBERG, ESQ.
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