

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

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4
5 NANYAH VEGAS, LLC, A Nevada limited
6 liability company,

7 Appellant,

8 v.

9 SIG ROGICH aka SIGMUND ROGICH as
10 Trustee of The Rogich Family Irrevocable
11 Trust; ELDORADO HILLS, LLC, a Nevada
12 limited liability company; TELD, LLC, a
13 Nevada limited liability company; PETER
14 ELIADES, individually and as Trustee of the
15 The Eliades Survivor Trust of 10/30/08; and
16 IMITATIONS, LLC, a Nevada limited liability
17 company,

18 Respondents.

19 **AND RELATED MATTERS.**

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Elizabeth A. Brown
Clerk of Supreme Court
Supreme Court No. 79917

Eighth Judicial District Court
Case No. A-13-686303-C

Eighth Judicial District Court
Case No. A-16-746239-C

20 **JOINT APPENDIX VOL. 15**

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<u>ALPHABETICAL</u>			
<u>DOCUMENT</u>	<u>DATE</u>	<u>VOL.</u>	<u>BATES</u>
Amended Answer to First Amended Complaint; and Counterclaim Jury Demand	9/16/14	3	JA_000665-675
Answer to First Amended Complaint and Counterclaim	11/8/13	1	JA_000048-59
Answer to Counterclaim	2/20/14	1	JA_000060-63
Appendix of Exhibits to Defendants Eldorado Hills, LLC, Peter Eliades, Individually and as Trustee of The Eliades Survivor Trust of 10/30/08, and Teld, LLC' Memorandum of Costs and Disbursements Volume 1 of 2	10/7/19	34-35	JA_008121-8369
Appendix of Exhibits to Defendants Eldorado Hills, LLC, Peter Eliades, Individually and as Trustee of The Eliades Survivor Trust of 10/30/08, and Teld, LLC' Memorandum of Costs and Disbursements Volume 2 of 2	10/7/19	35	JA_008370-8406
Appendix of Exhibits to Defendants Peter Eliades and Teld, LLC's Motion for Attorneys' Fees	10/17/19	35-36	JA_008471-8627
Appendix of Exhibits to Eldorado Hills, LLC's Motion for Summary Judgment Volume 1 of 2	6/1/18	8-9	JA_001862-2122

Appendix of Exhibits to Eldorado Hills, LLC's Motion for Summary Judgment Volume 2 of 2	6/1/18	9	JA_002123-2196
Appendix of Exhibits to Defendants Peter Eliades, Individually and as Trustee of The Eliades Survivor Trust of 10/30/08, and Teld, LLC's Motion for Summary Judgment Volume 1 of 2	6/1/18	9-10	JA_002212-2455
Appendix of Exhibits to Defendants Peter Eliades, Individually and as Trustee of The Eliades Survivor Trust of 10/30/08, and Teld, LLC's Motion for Summary Judgment Volume 2 of 2	6/1/18	10-11	JA_002456-2507
Complaint	7/31/13	1	JA_000001-21
Complaint	11/4/16	4	JA_000777-795
Decision and Order	10/4/19	33	JA_008054-8062
Declaration of Brenoch Wirthlin in Further Support of Rogich Defendants' Motion for Attorneys' Fees	2/28/2020	38	JA_009104-9108
Declaration of Joseph A. Liebman in Further Support of Defendants Peter Eliades and Teld, LLC's Motion for Attorneys' Fees	2/21/2020	38	JA_009098-9103

1	Defendant Eldorado Hills,	9/7/18	14	JA_003358-3364
2	LLC's Motion in Limine to			
3	Preclude Any Evidence or			
4	Argument Regarding an			
5	Alleged Implied-In-Fact			
6	Contract Between Eldorado			
	Hills, LLC and Nanyah			
	Vegas, LLC			
7	Defendant Eldorado Hills,	7/22/19	33	JA_007868-7942
8	LLC's Motion for Dismissal			
9	with Prejudice Under Rule			
	41(e)			
10	Defendant Eldorado Hills,	6/1/18	8	JA_001850-1861
11	LLC's Motion for Summary			
	Judgment			
12	Defendant Eldorado Hills,	5/22/19	32	JA_007644-7772
13	LLC's Motion for Summary			
	Judgment			
14	Defendant Eldorado Hills,	1/25/19	14-15	JA_003473-3602
15	LLC's Motion to Extend the			
16	Dispositive Motion Deadline			
17	and Motion for Summary			
	Judgment			
18	Defendant Eldorado Hills,	4/9/19	27	JA_006460-6471
19	LLC's Objections to Nanyah			
20	Vegas, LLC's 2 nd			
	Supplemental Pre-trial			
21	Disclosures			
22	Defendant Eldorado Hills,	4/9/19	27	JA_006441-6453
23	LLC's Opposition to Nanyah			
24	Vegas, LLC's			
	Countermotion for NRCP 15			
	Relief			

Defendant Eldorado Hills, LLC's Opposition to Nanyah Vegas, LLC's Motion in Limine #3: Defendants Bound by their Answers to Complaint	9/19/18	14	JA_003365-3368
Defendant Eldorado Hills, LLC's Opposition to Motion to Reconsider Order on Nanyah's Motion in Limine #5: Parol Evidence Rule	4/4/19	26	JA_006168-6188
Defendant Eldorado Hills, LLC's Opposition to Nanyah Vegas, LLC's Motion for Summary Judgment	2/15/19	17	JA_004170-4182
Defendant Eldorado Hills, LLC's Opposition to Nanyah Vegas, LLC's Motion in Limine #5 re: Parol Evidence Rule	3/8/19	23	JA_005618-5623
Defendant Eldorado Hills, LLC's Opposition to Nanyah Vegas, LLC's Motion in Limine #6 re: Date of Discovery	3/8/19	23	JA_005624-5630
Defendant Eldorado Hills, LLC's Opposition to Nanyah Vegas, LLC's Motion to Settle Jury Instructions Based upon the Court's October 5, 2018, Order Granting Summary Judgment	3/20/19	24	JA_005793-5818

1	Defendant Eldorado Hills,	7/19/18	13	JA_003083-3114
2	LLC's Reply in Support of			
3	its Motion for Summary			
4	Judgment and Opposition to			
5	Countermotion for Summary			
6	Judgment			
7	Defendant Eldorado Hills,	4/19/19	29	JA_007114-7118
8	LLC's Response to Nanyah			
9	Vegas, LLC's Request for			
10	Judicial Notice and			
11	Application of Law of the			
12	Case Doctrine			
13	Defendant Peter Eliades and	10/17/19	35	JA_008458-8470
14	Teld, LLC's Motion for			
15	Attorneys' Fees			
16	Defendant Sig Rogich,	8/11/14	1-3	JA_000084-517
17	Trustee of the Rogich			
18	Family Irrevocable Trust's			
19	Motion for Partial Summary			
20	Judgment			
21	Defendant the Rogich	5/6/19	30	JA_007219-7228
22	Family Irrevocable Trust's			
23	Memorandum of Costs and			
24	Disbursements Pursuant to			
25	NRS 18.005 and NRS			
26	18.110			
	Defendant The Rogich	5/21/19	31-32	JA_007610-7643
	Family Irrevocable Trust's			
	Motion for Attorneys' Fees			
	and Costs			
	Defendant's Reply in	12/30/14	4	JA_000759-764
	Support of Motion for			
	Award of Attorneys' Fees			
	Defendants' Answer to	4/24/17	4	JA_000831-841
	Complaint			

1	Defendants' First Amended	1/23/18	4	JA_000871-880
2	Answer to Complaint			
3	Defendants' Motion in	2/25/19	21	JA_005024-5137
4	Limine to Preclude Plaintiff			
5	Carlos Huerta From			
6	Presenting at Trial any			
7	Contrary Evidence as to Mr.			
8	Huerta's Taking of \$1.42			
9	million from Eldorado Hills,			
10	LLC as Go Global, Inc.'s			
11	Consulting Fee Income to			
12	Attempt to Refinance			
13	Defendants' Motion in	2/25/19	20-21	JA_004792-5023
14	Limine to Preclude the			
15	Altered Eldorado Hills'			
16	General Ledger and Related			
17	Testimony at Trial			
18	Defendants Peter Eliades,	4/11/18	7	JA_001502-1688
19	Individually and as Trustee			
20	of The Eliades Survivor			
21	Trust of 10/30/08, Eldorado			
22	Hills, LLC, and Teld,			
23	LLC's: (1) Reply in Support			
24	of their Joinder to Motion			
25	for Summary Judgment; and			
26	(2) Opposition to Nanyah			
	Vegas, LLC's			
	Countermotion for Summary			
	Judgment and for N.R.C.P.			
	56(f) Relief			
	Defendants Peter Eliades,	3/5/18	6	JA_001246-1261
	individually and as Trustee			
	of The Eliades Survivor			
	Trust of 10/30/08, Eldorado			
	Hills, LLC, and Teld, LLC's			
	Joinder to Motion for			
	Summary Judgment			

1 2 3 4 5 6 7 8 9	Defendants Peter Eliades, Individually and as Trustee of The Eliades Survivor Trust of 10/30/08, Eldorado Hills, LLC, and Teld, LLC's Joinder to Defendants Sigmund Rogich, Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Motion for Reconsideration	6/14/18	11	JA_002570-2572
10 11 12 13 14 15 16	Defendants Peter Eliades, Individually and as Trustee of the Eliades Survivor Trust of 10/30/08, Eldorado Hills, LLC, and Teld, LLC's Notice of Non-Opposition to Nanyah Vegas, LLC's Motion to Continue Trial and to Set Firm Trial Date on Order Shortening Time	5/11/18	8	JA_001822-1825
17 18 19 20 21 22 23 24 25 26	Defendants Peter Eliades, Individually and as Trustee of The Eliades Survivor Trust of 10/30/08, Eldorado Hills, LLC and Teld, LLC's Opposition to Nanyah Vegas, LLC's Motion to Reconsider Order Partially Granting Summary Judgment	6/21/18	12-13	JA_002952-3017

1	Defendants Eldorado Hills,	10/7/19	34	JA_008107-8120
2	LLC, Peter Eliades,			
3	Individually and as Trustee			
4	of the Eliades Survivor Trust			
5	of 10/30/08, and Teld,			
6	LLC's Memorandum of			
7	Costs and Disbursements			
8	Defendants Peter Eliades,	6/1/18	9	JA_002197-2211
9	Individually and as Trustee			
10	of The Eliades Survivor			
11	Trust of 10/30/08, and Teld,			
12	LLC's Motion for Summary			
13	Judgment			
14	Defendants Peter Eliades,	7/19/18	13	JA_003115-3189
15	Individually and as Trustee			
16	of the Eliades Survivor Trust			
17	of 10/30/08, and Teld,			
18	LLC's Reply in Support of			
19	Their Motion for Summary			
20	Judgment and Opposition to			
21	Countermotion for Summary			
22	Judgment			
23	Defendants Peter Eliades,	10/28/19	36-37	JA_008820-8902
24	Individually and as Trustee			
25	of The Eliades Survivor			
26	Trust of 10/30/08, Teld,			
	LLC, and Eldorado Hills,			
	LLC's: (1) Opposition to			
	Nanyah Vegas, LLC's			
	Motion to Retax Costs; and			
	(2) Countermotion to Award			
	Costs			

1	Defendants Sigmund	10/7/19	33	JA_008073-8106
2	Rogich, Individually and as			
3	Trustee of the Rogich			
4	Family Irrevocable Trust,			
5	and Imitations, LLC's			
6	Amended Memorandum of			
7	Costs and Disbursements			
8	Pursuant to NRS 18.005 and			
9	NRS 18.110			
10	Defendants Sigmund	10/8/19	35	JA_008407-8422
11	Rogich, Individually and as			
12	Trustee of the Rogich			
13	Family Irrevocable Trust,			
14	and Imitations, LLC's Errata			
15	to Amended Memorandum			
16	of Costs and disbursements			
17	Pursuant to NRS 18.005 and			
18	NRS 18.110			
19	Defendants Sigmund	6/5/18	11	JA_002535-2550
20	Rogich, Individually and As			
21	Trustee of the Rogich			
22	Family Irrevocable Trust and			
23	Imitations, LLC' Motion for			
24	Reconsideration			
25	Defendants Sigmund Rogich	2/18/19	17-19	JA_004183-4582
26	as Trustee of The Rogich			
	Family Irrevocable Trust,			
	Sigmund Rogich,			
	Individually and Imitations,			
	LLC's Omnibus Opposition			
	to (1) Nanyah Vegas LLC's			
	Motion for Summary			
	Judgment and (2) Limited			
	Opposition to Eldorado			
	Hills, LLC's Motion for			
	Summary Judgment			

1 2 3 4 5 6 7	Defendants Sigmund Rogich Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Opposition to Motion to Reconsider Order Partially Granting Summary Judgment	6/14/18	11	JA_002553-2569
8 9 10 11 12 13	Defendants Sigmund Rogich, Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Opposition to Nanyah's Motion in Limine #3 re Defendants Bound by their Answers to Complaint	9/28/18	14	JA_003387-3390
14 15 16 17 18 19	Defendants Sigmund Rogich, Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Opposition to Nanyah Vegas, LLC's Motion to Continue Trial and to Set Firm Trial Date on OST	5/10/18	8	JA_001783-1790

1	Defendants Sigmund	4/11/18	6-7	JA_001479-1501
2	Rogich, Individually and as			
3	Trustee of the Rogich			
4	Family Irrevocable Trust and			
5	Imitations LLC's Reply in			
6	Support of Motion for			
7	Summary Judgment and			
8	Opposition to Nanyah			
9	Vegas, LLC's			
10	Countermotion for Summary			
11	Judgment and for NRC			
12	P 56(f) Relief			
13	Defendants Sigmund	9/20/18	14	JA_003369-3379
14	Rogich, Individually and as			
15	Trustee of the Rogich			
16	Family Irrevocable Trust and			
17	Imitations, LLC's Reply in			
18	Support of Their Motion for			
19	Rehearing			
20	Defendants Sigmund	3/22/19	25	JA_006040-6078
21	Rogich, Individually and as			
22	Trustee of the Rogich			
23	Family Irrevocable Trust and			
24	Imitations, LLC's 2 nd			
25	Supplemental Pre-Trial			
26	disclosures			
	Eldorado Hills, LLC's	4/9/19	27	JA_006454-6456
	Notice of Non-Consent to			
	Nanyah Vegas, LLC's			
	Unpleaded Implied-in-fact			
	Contract Theory			
	Eldorado Hills, LLC's	11/6/19	37	JA_008903-8920
	Notice of Cross-Appeal			
	Eldorado Hills, LLC's	4/16/19	29	JA_006893-7051
	Pretrial Memorandum			

1	Errata to Nanyah Vegas,	9/5/18	14	JA_003352-3357
2	LLC's Opposition to Motion			
3	for Rehearing and			
4	Countermotion for Award of			
	Fees and Costs			
5	Errata to Pretrial	4/16/19	29	JA_007062-7068
6	Memorandum			
7	Ex Parte Motion for an	2/8/19	17	JA_004036-4039
8	Order Shortening Time on			
9	Motion for Relief From the			
	October 5, 208 Order			
	Pursuant to NRCP 60(b)			
10	First Amended Complaint	10/21/13	1	JA_000027-47
11	Joint Case Conference	5/25/17	4	JA_000842-861
12	Report			
13	Judgment	5/4/2020	38	JA_009247-9248
14	Judgment Regarding Award	5/5/2020	38	JA_009255-9256
15	of Attorneys' Fees and Costs			
16	in Favor of the Rogich			
	Defendants			
17	Minutes	4/18/18	7	JA_001710-1711
18	Minutes	2/21/19	20	JA_004790-4791
19	Minutes	3/5/19	22	JA_005261-5262
20	Minutes	3/20/19	25	JA_006038-6039
21	Minutes	4/18/19	29	JA_007104-7105
22	Minutes	4/22/19	30	JA_007146-7147
23	Minutes	9/5/19	33	JA_008025-8026
24	Minutes	1/30/2020	37	JA_009059-9060
25	Minutes	3/31/2020	38	JA_009227-9228
26	Minutes – Calendar Call	11/1/18	14	JA_003454-3455
	Minutes – Telephonic	11/5/18	14	JA_003456-3457
	Conference			

Motion for Award of Attorneys' Fees	11/19/14	3	JA_000699-744
Motion for Leave to File an Amended Answer on an Order Shortening Time	4/30/14	1	JA_000064-83
Motion for Rehearing	8/17/18	13-14	JA_003205-3316
Motion for Relief from the October 5, 2018, Order Pursuant to NRCP 60(b)	2/6/19	15-17	JA_003650-4035
Motion for Summary Judgment	2/23/18	4-6	JA_000894-1245
Motion for Summary Judgment or Alternatively for Judgment as a Matter of Law Pursuant to NRCP 50(a)	5/10/19	30-31	JA_007237-7598
Motion to Compel Production of Plaintiff's Tax Returns and for Attorneys' Fees on Order Shortening Time	2/27/19	21-22	JA_005175-5260
Motion to Reconsider Order on Nanyah's Motion in Limine #5: Parol Evidence Rule on Order Shortening Time	3/25/19	25	JA_006079-6104
Motion to Reconsider Order Partially Granting Summary Judgment	6/4/18	11	JA_002512-2534
Nanyah Vegas, LLC's 2 nd Supplemental Pretrial Disclosures	4/5/19	27	JA_006410-6422
Nanyah Vegas, LLC's 3 rd Supplemental Pretrial Disclosures	4/12/19	27	JA_006484-6496

1	Nanyah Vegas, LLC's	4/16/19	28	JA_006718-6762
2	Emergency Motion to			
3	Address Defendant The			
4	Rogich Family Irrevocable			
5	Trust's NRS 163.120 Notice			
6	and/or Motion to Continue			
	Trial for Purposes of NRS			
	163.120			
7	Nanyah Vegas, LLC's	5/10/18	8	JA_001791-1821
8	Motion in Limine #3 re:			
9	Defendants Bound by Their			
	Answers to Complaint			
10	Nanyah Vegas, LLC's	2/15/19	17	JA_004115-4135
11	Motion in Limine #5 re:			
	Parol Evidence Rule			
12	Nanyah Vegas, LLC's	2/15/19	17	JA_004136-4169
13	Motion in Limine #6 re:			
	Date of Discovery			
14	Nanyah Vegas, LLC's	5/3/18	8	JA_001759-1782
15	Motion to Continue Trial			
16	and to Set Firm Trial Date			
	on Order Shortening Time			
17	Nanyah Vegas, LLC's	1/30/19	15	JA_003603-3649
18	Motion to Extend the			
19	Dispositive Motion Deadline			
20	and Motion for Summary			
	Judgment			
21	Nanyah Vegas, LLC's	10/16/19	35	JA_008423-8448
22	Motion to Retax Costs			
23	Submitted by Eldorado			
24	Hills, LLC, Peter Eliades,			
25	Individually and as Trustee			
	of The Eliades Survivor			
	Trust of 10/30/08, and Teld,			
26	LLC's Memorandum of			
	Costs and Disbursements			

1 2 3 4 5 6 7 8	Nanyah Vegas, LLC's Motion to Retax Costs Submitted by Sigmund Rogich, Individually and as Trustee of the Rogich Family Revocable Trust, and Imitations, LLC's Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and NRS 18.110	10/16/19	35	JA_008449-8457
9 10 11 12	Nanyah Vegas, LLC's Motion to Settle Jury Instructions Base Upon the Court's October 5, 2018 Order Granting Summary Judgment	2/26/19	21	JA_005138-5174
13 14	Nanyah Vegas, LLC's Notice of Compliance with 4-9-2019 Order	4/16/19	29	JA_007052-7061
15 16 17 18 19 20 21	Nanyah Vegas, LLC's Opposition to Defendants Sigmund Rogich, Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Motion for Reconsideration and Joinder	6/25/18	13	JA_003053-3076
22 23 24 25 26	Nanyah Vegas, LLC's Opposition to Eldorado Hills, LLC's Motion for Dismissal with Prejudice Under Rule 41(e)	8/6/19	33	JA_007959-8006

Nanyah Vegas, LLC's Opposition to Eldorado Hills, LLC's Motion for Summary Judgment	7/11/19	32	JA_007840-7867
Nanyah Vegas LLC's Opposition to Eldorado Hills LLC's Motion to Extend the Dispositive Motion Deadline and Motion for Summary Judgment and Countermotion for NRCP 15 Relief	2/15/19	17	JA_004040-4070
Nanyah Vegas, LLC's Opposition to Motion for Rehearing and Countermotion for Award of Fees and Costs	9/4/18	14	JA_003317-3351
Nanyah Vegas LLC's Opposition to Motion for Relief From the October 5, 2018 Order Pursuant to NRCP 60(b)	2/15/19	17	JA_004071-4114
Nanyah Vegas, LLC's Opposition to Motion in Limine to Preclude any Evidence or Argument Regarding an Alleged Implied-in-Fact Contract Between Eldorado Hills, LLC and Nanyah Vegas, LLC	9/24/18	14	JA_003380-3386
Nanyah Vegas, LLC's Opposition to Peter Eliades and Teld, LLC's Motion for Attorneys' Fees and Costs	1/8/2020	37	JA_009001-9008

Nanyah Vegas, LLC's Opposition to Rogich Defendants' Motion for Attorneys' Fees and Costs	1/8/2020	37	JA_009009-9018
Nanyah Vegas, LLC's Opposition to Rogich Defendant's Motion for Summary Judgment	3/20/19	25	JA_005992-6037
Nanyah Vegas, LLC's Opposition to Rogich Defendants' Motion in Limine re: Carlos Huerta	3/20/19	24	JA_005836-5907
Nanyah Vegas, LLC's Opposition to Rogich Defendants' Motion in Limine to Preclude the Altered Eldorado Hill's Ledger and Related Testimony at Trial	3/20/19	25	JA_005908-5991
Nanyah Vegas, LLC's Opposition to Rogich Defendant's Motion to Compel	3/14/19	23	JA_005631-5651
Nanyah Vegas, LLC's Pretrial Disclosures	10/12/18	14	JA_003428-3439
Nanyah Vegas, LLC's Pretrial Memorandum	4/16/19	28	JA_006763-6892
Nanyah Vegas, LLC's Reply in Support of Motion in Limine #5 re: Parol Evidence Rule	3/14/19	23	JA_005652-5671
Nanyah Vegas, LLC's Reply in Support of Motion in Limine #6 re: Date of Discovery	3/14/19	23	JA_005672-5684

Nanyah Vegas, LLC's Reply in Support of Motion to Continue Trial and to set Firm Trial Date	5/15/18	8	JA_001826-1829
Nanyah Vegas, LLC's Reply in Support of Motion to Retax Costs submitted by Eldorado Hills, LLC, Peter Eliades, Individually and as Trustee of the Eliades survivor Trust of 10/30/08, and Teld, LLC's Memorandum of Costs and Disbursements	1/23/2020	37	JA_009033-9040
Nanyah Vegas, LLC's Reply in Support of its Motion to Retax Costs Submitted by Sigmund Rogich, Individually and as Trustee of the Rogich Family Revocable Trust, and Imitations, LLC's Memorandum of Costs and Disbursements Pursuant to NRS 18.005 and NRS 18.110	1/23/2020	37	JA_009041-9045
Nanyah Vegas, LLC's Reply in Support of Motion to Settle Jury Instructions Based Upon the Court's October 5, 2018, Order Granting Summary Judgment	3/27/19	25	JA_006114-6134

1	Nanyah Vegas, LLC's Reply	10/3/18	14	JA_003397-3402
2	to Oppositions to Motion in			
3	Limine #3 re: Defendants			
4	Bound by Their Answers to			
	Complaint			
5	Nanyah Vegas, LLC's	4/21/19	29	JA_007119-7133
6	Supplement to Its			
7	Emergency Motion to			
8	Address Defendant the			
9	Rogich Trust's NRS 163.120			
10	Notice and/or Motion to			
	Continue Trial for Purposes			
	of NRS 163.120			
11	Nanyah Vegas, LLC's	3/19/2020	38	JA_009120-9127
12	Supplement to its Opposition			
13	to Peter Eliades and Teld,			
	LLC's Motion for			
	Attorneys' Fees and Costs			
14	Nanyah Vegas, LLC's	3/19/2020	38	JA_009128-9226
15	Supplement to Its			
16	Opposition to Rogich			
17	Defendants' Motion for			
	Attorneys' Fees and Costs			
18	Nanyah Vegas, LLC's	10/31/18	14	JA_003440-3453
19	Supplemental Pretrial			
	Disclosures			
20	Nevada Supreme Court	4/29/16	4	JA_000768-776
21	Clerks Certificate/Judgment			
22	– Reversed and Remand;			
	Rehearing Denied			
23	Nevada Supreme Court	7/31/17	4	JA_000862-870
24	Clerk's Certificate Judgment			
	– Affirmed			
25	Notice of Appeal	10/24/19	36	JA_008750-8819
26	Notice of Appeal	4/14/2020	38	JA_009229-9231

1	Notice of Appeal	5/21/2020	38	JA_009283-9304
2	Notice of Consolidation	4/5/17	4	JA_000822-830
3	Notice of Cross-Appeal	11/7/19	37	JA_008921-8937
4	Notice of Entry of Decision and Order	10/4/19	33	JA_008063-8072
5	Notice of Entry of Judgment	5/6/2020	38	JA_009264-9268
6	Notice of Entry of Order	10/8/18	14	JA_003413-3427
7	Notice of Entry of Order	3/26/19	25	JA_006108-6113
8	Notice of Entry of Order	4/17/19	29	JA_007073-7079
9	Notice of Entry of Order	4/30/19	30	JA_007169-7173
10	Notice of Entry of Order	5/1/19	30	JA_007202-7208
11	Notice of Entry of Order	5/1/19	30	JA_007209-7215
12	Notice of Entry of Order	6/24/19	32	JA_007828-7833
13	Notice of Entry of Order	6/24/19	32	JA_007834-7839
14	Notice of Entry of Order	2/3/2020	37	JA_009061-9068
15	Notice of Entry of Order	4/28/2020	38	JA_009235-9242
16	Notice of Entry of Order	5/7/2020	38	JA_009269-9277
17	Notice of Entry of Order (sic)	5/7/2020	38	JA_009278-9282
18	Notice of Entry of Order	7/26/18	13	JA_003192-3197
19	Denying Motion for Reconsideration			
20				
21	Notice of Entry of Order Denying Nanyah Vegas, LLC's Motion for Reconsideration	8/13/18	13	JA_003200-3204
22				
23				
24	Notice of Entry of Order Denying Nanyah Vegas, LLC's Motion in Limine #5: Parol Evidence Rule	4/10/19	27	JA_006478-6483
25				
26				

1	Notice of Entry of Order	5/7/19	30	JA_007229-7236
2	Denying the Rogich			
3	Defendants' Motions in			
4	Limine			
5	Notice of Entry of Order	3/16/2020	38	JA_009113-9119
6	Granting Defendants Peter			
7	Eliades and Teld, LLC's			
8	Motion for Attorneys' Fees			
9	and Setting Supplemental			
10	Briefing on Apportionment			
11	Notice of Entry of Order	5/6/2020	38	JA_009257-9263
12	Granting Defendants Peter			
13	Eliades and Teld, LLC's			
14	Motion for Attorney's Fees			
15	Notice of Entry of Order	11/6/18	14	JA_003462-3468
16	Regarding Motions in			
17	Limine			
18	Notice of Entry of	5/16/19	31	JA_007603-7609
19	Stipulation and Order			
20	Suspending Jury Trial			
21	Notice of Entry of Orders	5/22/18	8	JA_001837-1849
22	Objection to Nanyah's	4/19/19	29	JA_007106-7113
23	Request for Judicial Notice			
24	and Application of the Law			
25	of the Case Doctrine			
26	Objections to Eldorado	4/5/19	27	JA_006434-6440
	Hills, LLC's Pre-Trial			
	Disclosures			
	Objections to Nanyah	4/5/19	27	JA_006423-6433
	Vegas, LLC's Pre-trial			
	Disclosures			

1	Opposition to Eldorado	6/19/18	12	JA_002917-2951
2	Hill's Motion for Summary			
3	Judgment and			
4	Countermotion for Summary			
5	Judgment			
6	Opposition to Eliades	6/19/18	11-12	JA_002573-2916
7	Defendants' Motion for			
8	Summary Judgment and			
9	Countermotion for Summary			
10	Judgment			
11	Opposition to Motion for	3/19/18	6	JA_001265-1478
12	Summary Judgment;			
13	Countermotion for Summary			
14	Judgment; and			
15	Countermotion for NRCP			
16	56(f) Relief			
17	Opposition to Motion for	5/24/19	32	JA_007773-7817
18	Summary Judgment or			
19	Alternatively for Judgment			
20	as a Matter of Law Pursuant			
21	to NRCP 50(a)			
22	Opposition to Nanyah	3/8/19	22-23	JA_005444-5617
23	Vegas, LLC's Motion in			
24	Limine #5 re: Parol			
25	Evidence Rule			
26	Opposition to Nanyah	3/8/19	22	JA_005263-5443
	Vegas, LLC's Motion in			
	Limine #6 re: Date of			
	Discovery			
	Opposition to Nanyah	1/9/2020	37	JA_009019-9022
	Vegas, LLC's Motion to			
	Retax Costs Submitted by			
	Rogich Defendants			

1	Opposition to Plaintiff's	4/18/19	29	JA_007093-7103
2	Emergency Motion to			
3	Address Defendant The			
4	Rogich Family Irrevocable			
5	Trust's NRS 163.120 Notice			
6	and/or Motion to Continue			
	Trial for Purposes of NRS			
	163.120			
7	Opposition to Plaintiff's	4/5/19	26	JA_006189-6402
8	Motion to Reconsider Order			
9	on Motion in Limine #5 re			
	Parol Evidence Rule on OST			
10	Order	4/30/19	30	JA_007165-7168
11	Order: (1) Granting	10/5/18	14	JA_003403-3412
12	Defendants Peter Eliades,			
13	Individually and as Trustee			
14	of the Eliades Survivor Trust			
15	of 10/30/08, and Teld,			
16	LLC's Motion for Summary			
17	Judgment; and (2) Denying			
	Nanyah Vegas, LLC's			
	Counter-motion for Summary			
	Judgment			
18	Order: (1) Granting Rogich	5/5/2020	38	JA_009249-9254
19	Defendants' Renewed			
20	Motion for Attorneys' Fees			
21	and Costs; and (2) Denying			
22	Nanyah's Motion to Retax			
	Costs Submitted by Rogich			
	Defendants			
23	Order Denying	5/22/18	8	JA_001830-1832
24	Counter-motion for Summary			
25	Judgment and Denying			
26	NRCP 56(f) Relief			

Order Denying Motion to Continue Trial Date and Granting Firm Trial Date Setting	6/4/18	11	JA_002508-2511
Order Denying Motion to Reconsider	7/24/18	13	JA_003190-3191
Order Denying Nanyah Vegas, LLC's Motion for NRCP 15 Relief	5/29/19	32	JA_007818-7820
Order Denying Nanyah Vegas, LLC's Motion for Reconsideration	8/10/18	13	JA_003198-3199
Order Denying Nanyah Vegas, LLC's Motion in Limine #5: Parol Evidence Rule	4/10/19	27	JA_006475-6477
Order Denying Nanyah Vegas, LLC's Motion in Limine #6 re: Date of Discovery	4/17/19	29	JA_007069-7072
Order Denying Plaintiff Nanyah Vegas, LLC's Motion to Settle Jury Instructions	5/1/19	30	JA_007174-7177
Order Denying Nanyah Vegas, LLC's Motion to Reconsider Order on Motion in Limine #5 re: Parol Evidence Rule	5/1/19	30	JA_007178-7181
Order Denying the Rogich Defendants' Motions in Limine	5/6/19	30	JA_007216-7218
Order Denying The Rogich Defendants' NRCP 60(b) Motion	3/26/19	25	JA_006105-6107

1	Order Granting Defendants	5/4/2020	38	JA_009243-9246
2	Peter Eliades and Teld,			
3	LLC's Motion for			
4	Attorney's Fees			
5	Order Granting Defendants	3/16/2020	38	JA_009109-9112
6	Peter Eliades and Teld,			
7	LLC's Motion for			
8	Attorney's Fees and Setting			
9	Supplemental Briefing on			
10	Apportionment			
11	Order Granting Motion for	2/10/15	4	JA_000765-767
12	Award of Attorneys Fees			
13	Order Granting Motion for	1/29/18	4	JA_000884-885
14	Leave to Amend Answer to			
15	Complaint			
16	Order Granting Partial	10/1/14	3	JA_000691-693
17	Summary Judgment			
18	Order Granting Partial	11/5/14	3	JA_000694-698
19	Summary Judgment			
20	Order Partially Granting	5/22/18	8	JA_001833-1836
21	Summary Judgment			
22	Order Regarding Motions in	11/6/18	14	JA_003458-3461
23	Limine			
24	Order Regarding Plaintiff's	5/29/19	32	JA_007821-7823
25	Emergency Motion to			
26	Address Defendant The			
	Rogich Family Irrevocable			
	Trust's NRS 163.120 Notice			
	and/or Motion to Continue			
	Trial for Purposes of NRS			
	163.120			
	Order Re-Setting Civil Jury	12/7/18	14	JA_003469-3470
	Trial and Calendar Call			
	Order Re-Setting Civil Jury	12/19/18	14	JA_003471-3472
	Trial and Calendar Call			

Order Setting Civil Jury Trial, Pre-Trial, and Calendar Call	6/6/18	11	JA_002551-2552
Partial Transcript of Proceedings, All Pending Motions (Excludes Ruling), Heard on April 18, 2018	4/23/18	7-8	JA_001718-1758
Partial Transcript of Proceedings, All Pending Motions (Ruling Only), Hearing on April 18, 2018	4/19/18	7	JA_001712-1717
Plaintiffs' Opposition to Defendant's Motion for Award of Attorneys' Fees	12/5/14	4	JA_000745-758
Plaintiff's Opposition to Defendant's Motion for Partial Summary Judgment and Counter-Motion for Partial Summary Judgment	8/25/14	3	JA_000518-664
Pretrial Memorandum	4/16/19	27-28	JA_006501-6717
Proof of Service (Eldorado Hills)	8/30/13	1	JA_000022-24
Proof of Service (Sig Rogich aka Sigmund Rogich)	9/18/13	1	JA_000025-26
Recorders Transcript of Hearing – Calendar Call, Heard on November 1, 2018	12/9/19	37	JA_008938-8947
Recorders Transcript of Hearing – Recorder's Transcript of Proceedings re: Motions, Heard on September 5, 2019	9/9/19	33	JA_008027-8053

1	Recorders Transcript of	12/9/19	37	JA_008948-8955
2	Hearing – Telephonic			
3	Conference, Heard on			
4	November 5, 2018			
5	Recorders Transcript of	5/1/19	30	JA_007182-7201
6	Hearing – Transcript of			
7	Proceedings, Telephonic			
8	Conference, Heard on April			
9	18, 2019			
10	Recorders Transcript of	12/9/19	37	JA_008956-9000
11	Proceedings – All Pending			
12	Motions, Heard on April 8,			
13	2019			
14	Reply in Support of	8/29/19	33	JA_008015-8024
15	Defendant Eldorado Hills,			
16	LLC’s Motion for Dismissal			
17	With Prejudice Under Rule			
18	41(e)			
19	Reply in Support of	8/29/19	33	JA_008007-8014
20	Defendant Eldorado Hills,			
21	LLC’s Motion for Summary			
22	Judgment			
23	Reply in Support of	10/3/18	14	JA_003391-3396
24	Defendant Eldorado Hills,			
25	LLC’s Motion in Limine to			
26	Preclude Any Evidence or			
	Argument Regarding an			
	Alleged Implied-In-Fact			
	Contract Between Eldorado			
	Hills, LLC and Nanyah			
	Vegas, LLC			
	Reply in Support of Motion	7/24/19	33	JA_007943-7958
	for Summary Judgment or			
	Alternatively for Judgment			
	as a Matter of Law Pursuant			
	to NRCP 50(a)			

1	Reply in Support of	3/28/19	25	JA_006135-6154
2	Defendants' Motion in			
3	Limine to Preclude the			
4	Altered Eldorado Hills'			
5	General Ledger and Related			
6	Testimony at Trial			
7	Reply in Support of	1/23/2020	37	JA_009023-9032
8	Defendants Peter Eliades			
9	and Teld, LLC's Motion for			
10	Attorneys' Fees			
11	Reply in Support of	7/2/18	13	JA_003077-3082
12	Defendants Sigmund			
13	Rogich, Individually and as			
14	Trustee of the Rogich			
15	Family Irrevocable Trust and			
16	Imitations LLC's Motion for			
17	Reconsideration			
18	Reply in Support of Motion	2/19/19	19-20	JA_004583-4789
19	for Relief From the October			
20	5, 2018 Order Pursuant to			
21	NRFP 60(b)			
22	Reply in Support of Motion	3/18/19	23-24	JA_005685-5792
23	to Compel Production of			
24	Plaintiff's Tax Returns			
25	Reply in Support of Motion	4/5/19	27	JA_006403-6409
26	to Reconsider Order on			
	Nanyah's Motion in Limine			
	#5; Parol Evidence Rule on			
	Order Shortening Time			
	Reply in Support of Motion	6/25/18	13	JA_003018-3052
	to Reconsider Order			
	Partially Granting Summary			
	Judgment			

1	Reply to Opposition to	4/16/18	7	JA_001689-1706
2	Counter-motion for Summary			
3	Judgment; and			
4	Counter-motion for NRC			
5	56(f) Relief			
6	Reply to Opposition to	9/18/14	3	JA_000676-690
7	Motion for Partial Summary			
8	Judgment			
9	Request for Judicial Notice	4/15/19	27	JA_006497-6500
10	Request for Judicial Notice	4/17/19	29	JA_007080-7092
11	and Application of the Law			
12	of the Case Doctrine			
13	Rogich Defendants'	3/20/19	24	JA_005819-5835
14	Opposition to Plaintiff's			
15	Motion to Settle Jury			
16	Instructions			
17	Rogich Defendants'	10/22/19	36	JA_008628-8749
18	Renewed Motion for			
19	Attorneys' Fees and Costs			
20	Rogich Defendants' Reply in	3/28/19	26	JA_006155-6167
21	Support of Motion in Limine			
22	to Preclude Contrary			
23	Evidence as to Mr. Huerta's			
24	Taking of \$1.42 Million			
25	from Eldorado Hills, LLC as			
26	Consulting Fee Income			
	Rogich Defendants' Reply in	1/23/2020	37	JA_009046-9055
	Support of Their Renewed			
	Motion for Attorneys' Fees			
	and Costs			

1 2 3 4 5 6 7	Sigmund Rogich, Individually and as a Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Joinder to Eldorado Hills, LLC's Notice of Non-Consent to Nanyah Vegas, LLC's Unpleaded Implied-in-fact Contract Theory	4/9/19	27	JA_006457-6459
8 9 10 11 12 13 14	Sigmund Rogich, Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations, LLC's Joinder to Eldorado Hills, LLC's Objections to Nanyah Vegas, LLC's 2 nd Supplemental Pre-Trial Disclosures	4/10/19	27	JA_006472-6474
15 16 17 18 19 20 21 22 23 24 25 26	Sigmund Rogich, Individually and as Trustee of the Rogich Family Irrevocable Trust and Imitations LLC's Joinder to Defendants Peter Eliades Individually and as Trustee of the Eliades Trust of 10/30/08 Eldorado Hills LLC and Teld's Joinder to Motion for Summary Judgment	3/8/18	6	JA_001262-1264

1	Sigmund Rogich,	4/17/18	7	JA_001707-1709
2	Individually and as Trustee			
3	of the Rogich Family			
4	Irrevocable Trust and			
5	Imitations LLC's Joinder to			
6	Defendants Peter Eliades,			
7	Individually and as Trustee			
8	of The Eliades Survivor			
9	Trust of 10/30/08, Eldorado			
10	Hills, LLC and Teld's Reply			
11	in Support of Their Joinder			
12	to motion for Summary			
	Judgment and Opposition to			
	Nanyah Vegas, LLC's			
	Countermotion for Summary			
	Judgment and NRCP 56(f)			
	Relief			
13	Stipulation and Order	4/22/2020	38	JA_009232-9234
14	Stipulation and Order	5/16/19	31	JA_007599-7602
15	Suspending Jury Trial			
16	Stipulation and Order re:	1/30/2020	37	JA_009056-9058
17	October 4, 2019 Decision			
18	Stipulation and Order	6/13/19	32	JA_007824-7827
19	Regarding Rogich Family			
20	Irrevocable Trust's			
	Memorandum of Costs and			
	Motion for Attorneys' Fees			
21	Stipulation for Consolidation	3/31/17	4	JA_000818-821
22	Substitution of Attorneys	1/24/18	4	JA_000881-883
23	Substitution of Attorneys	1/31/18	4	JA_000886-889
24	Substitution of Counsel	2/21/18	4	JA_000890-893
25	Summons – Civil	12/16/16	4	JA_000803-805
26	(Imitations, LLC)			
	Summons – Civil (Peter	12/16/16	4	JA_000806-809
	Eliades)			

Summons – Civil (The Eliades Survivor Trust of 10/30/08)	12/16/16	4	JA_000810-813
Summons – Civil (The Rogich Family Irrevocable Trust)	12/16/16	4	JA_000799-802
Summons – Sigmund Rogich	12/22/16	4	JA_000814-817
Summons – Teld, LLC	12/16/16	4	JA_000796-798
The Rogich Defendants’ Memorandum of Points and Authorities Regarding Limits of Judicial Discretion Regarding Notice Requirements Provided to Trust Beneficiaries Under NRS Chapter 163	4/21/19	30	JA_007134-7145
Transcript of Proceedings, Jury Trial, Hearing on April 22, 2019	4/23/19	30	JA_007148-7164
Transcript of Proceedings, Motions, Hearing January 30, 2020	2/12/2020	37	JA_009069-9097

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CERTIFICATE OF SERVICE


Pursuant to NRAP 25, I certify that I am an employee of SIMONS HALL JOHNSTON PC, and that on this date I caused to be served a true copy of the **JOINT APPENDIX VOL. 15** on all parties to this action by the method(s) indicated below:

X by using the Supreme Court Electronic Filing System:

Brenoch Wirthlin
Kolesar & Leatham
400 South Rampart Blvd., Ste. 400
Las Vegas, NV 89145
*Attorneys for Sigmund Rogich, Individually and as Trustee of the
Rogich Family Irrevocable Trust and Imitations, LLC*

Joseph Liebman
Dennis Kennedy
Bailey Kennedy
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
*Attorneys for Eldorado Hills, LLC, Teld, LLC, a Nevada limited
liability company; Peter Eliades, individually and as Trustee of the
The Eliades Survivor Trust of 10/30/08*

DATED: This 9 day of July, 2021.



JODI ALHASAN

oral. In the event of any conflict between any exhibits or schedules attached hereto, this Agreement shall control.

(g) Modifications. This Agreement shall not be modified, amended or changed in any manner unless in writing executed by the parties hereto.

(h) Waivers. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, and no waiver shall be binding unless evidenced by an instrument in writing and executed by the party making the waiver.

(i) Invalidity. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a Court of competent jurisdiction to be invalid, void or unenforceable, that provision shall be deemed severable and all provisions, covenants, and conditions of this Agreement, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

(j) Binding Effect. This Agreement shall be binding on and inure to the benefit of the heirs, personal representatives, successors and permitted assigns of the parties hereto.

(k) Counterparts. This Agreement may be executed in multiple counterparts, including facsimile counterparts, which together shall constitute one and the same document.

(l) Negotiated Agreement. This is a negotiated Agreement. All parties have participated in its preparation. In the event of any dispute regarding its interpretation, it shall not be construed for or against any party based upon the grounds that the Agreement was prepared by any one of the parties.

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(m) Arbitration. Any controversy, claim, dispute or interpretations which are in any way related to the Agreement that are not settled informally in mediation shall be resolved by arbitration, if both Buyer and Seller choose this option, administered by the American Arbitration Association under its Commercial Arbitration Rules, and the judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction of and shall be final and binding on all the parties. However, if both Buyer and Seller do not mutually choose to proceed with arbitration, then the traditional legal process will be the only alternative for the parties to pursue if mediation is ineffective. In the event of any controversy, claim, dispute or interpretation, the following procedures shall be employed:

(1) If the dispute cannot be settled informally through negotiations, the parties first agree, in good faith, to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Rules before resorting to arbitration or some other dispute resolution procedure. The mediation shall take place in Las Vegas, Nevada within sixty (60) days of initiating the mediation.

(2) At any time after the mediation, any party shall offer a request for Arbitration in writing on the other party(ies) to this Agreement and a copy of the request shall be sent to the American Arbitration Association.

(3) The party upon whom the request is served shall file a response within thirty (30) days from the service of the request for Arbitration. The response shall be served upon the other party(ies) and a copy sent to the American Arbitration Association.

(4) If both parties agree to Arbitration, then within ten (10) days after the

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American Arbitration Association sends the list of proposed arbitrators, all parties to the arbitration shall select their arbitrator and communicate their selection to the American Arbitration Association.

(5) Unless otherwise agreed in writing by all parties, the arbitration shall be held in Las Vegas, Nevada. The arbitration hearing shall be held within ninety 90 days after the appointment of the arbitrator if and when both Buyer and Seller are both in agreement with regard to Arbitration.

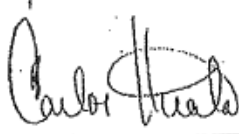
(6) The arbitrator is authorized to award to any party whose claims are sustained, such sums or other relief as the arbitrator shall deem proper and such award may include reasonable attorney's fees, professional fees and other costs expended to the prevailing party(ies) as determined by the arbitrator.

(n) Time of Essence. Time is of the essence of this Agreement and all of its provisions.

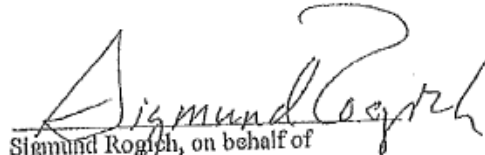
IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year first above written.

"SELLER"

"BUYER"



Carlos Huerta, on behalf of Go Global, Inc.



Sigmund Rogich, on behalf of
The Rogich Family Irrevocable Trust

EXHIBIT "A"

Potential Claimants

1.	Eddyline Investments, LLC (potential investor or debtor)	\$50,000.00
2.	Ray Family Trust (potential investor or debtor)	\$283,561.60
3.	Nanyah Vegas, LLC (through Canamex Nevada, LLC)	\$1,500,000.00
4.	Antonio Nevada, LLC/Jacob Feingold	\$3,360,000.00

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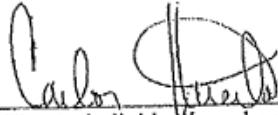
EXHIBIT "B"

Assignment

ASSIGNMENT

FOR VALUE RECEIVED, each of the undersigned hereby assigns and transfers unto The Rogich Family Irrevocable Trust ("Buyer"), all of the right, title and interest, if any, which the undersigned owns in and to Eldorado Hills, LLC, a Nevada limited-liability company (the "Company") and do hereby irrevocably constitute and appoint any individual designated by any officer or manager of the Company as attorney to each of the undersigned to transfer said interest(s) on the books of the Company, with full power of substitution in the premises.

DATED as of the 30 day of October, 2008.



Carlos Huerta, individually and on behalf of Go Global, Inc. as to any interest of either of them in and to the Company

EXHIBIT 1-B

EXHIBIT 1-B

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS AGREEMENT is effective as of the 30th day of October, 2008, by and among The Rogich Family Irrevocable Trust ("Seller") and Teld, LLC ("Buyer"), Go Global, Inc. ("Go Global"), an entity controlled by and substantially owned by Carlos Huerta ("Carlos") (each of Go Global and Carlos, parties to this Agreement for purposes of consenting to the transactions hereinafter set forth, and confirming the accuracy of the foregoing recitals and certain representations hereinafter made by Buyer with regard to the Company), and Sigmund Rogich ("Sig") and Pete Eliades, ("Pete"), each individually with respect to their individual limited agreements hereinafter set forth, with respect to the following facts and circumstances:

RECITALS:

A. Eldorado Hills, LLC, a Nevada limited-liability company ("Company") is indebted in the approximate amount of twenty-one million one hundred seventy thousand two hundred seventy-eight dollars and 08/100, inclusive of principal plus accrued interest (\$21,170,278.08), which is owing from the Company to the Federal Deposit Insurance Corporation ("FDIC"), as Receiver for ANB Financial, N.A. ("Lender") on a loan ("Existing Loan"), which encumbers certain real property located in Clark County, Nevada generally referred to as APN: 189-11-002-001 (the "Property") and more particularly described in that certain preliminary title report from Nevada Title Company dated as of September 22, 2008 ("Preliminary Report"), a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference;

SR / [Signature]
Teld, LLC
Pete Eliades
10/30/08
Purchase Agreement (1).doc

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B. Lender has indicated that it will re-write the loan (the "New Loan") pursuant to documentation entitled "Renewal, Extension, Modification, and Ratification of Note and Deed of Trust" ("New Loan Documentation"), the form of which (together with Escrow Instructions) is attached hereto as **Exhibit "B"** and incorporated herein by this reference;

C. Pursuant to the requirements of the Lender, and as set forth in the fifth Recital of the New Loan Documentation, a payment of \$4,321,718.32 must be made as a principal reduction and a sum in the amount of \$678,281.68 must be paid for accrued interest at or about the time of the execution of the New Loan Documentation, after which time the principal amount of the New Loan shall be \$16,170,278.08;

D. Seller desires to sell an interest in Company which, after issuance, will equal an aggregate one-sixth (1/6th) membership interest ("Membership Interest") to Buyer, and Buyer desires to acquire the Membership Interest in Company from Seller, on the terms hereinafter set forth.

E. Concurrently with the execution of this Agreement, Buyer also intends to execute a subscription agreement ("Subscription Agreement") directly with Company by which Buyer shall acquire a one-sixth (1/6th) Membership Interest pursuant to a Subscription Agreement, the form of which is attached hereto as **Exhibit "C"** and incorporated herein by this reference.

F. Concurrently herewith, also, the Seller shall acquire the ownership interest of Go Global and certain individuals directly or indirectly related to or affiliated with Go Global, after which time the ownership of Go Global shall be owned by Seller, in exchange for nominal consideration of one hundred dollars (\$100.00).

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Purchase Agreement 11.doc

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G. Concurrently with the closing of the purchase of the Membership Interest by Buyer from Seller, Buyer shall simultaneously close an essentially identical transaction with the Albert E. Flangas Revocable Living Trust dated July 22, 2005 (the "Flangas Trust") by which the Flangas Trust shall similarly acquire a one-sixth (1/6th) ownership interest in the Company from Seller, and concurrently acquire a one-sixth (1/6th) ownership interest from the Company pursuant to a substantially identical Subscription Agreement with the Company.

H. From the proceeds of the consideration (defined below), Seller at closing shall make a capital contribution to the Company of an amount necessary to pay (a) one-half of certain expenses of the Company, inclusive of attorneys' fees and closing costs relative to the closing of the New Loan (the "Eldorado Expenses") (the other one-half (1/2) of the Eldorado Expenses shall be paid from the proceeds of the Membership Interest Purchase Agreement between Seller and the Flangas Trust), and (b) the one hundred dollar (\$100.00) of consideration to be paid to Go Global in connection with Seller's purchase of all of Go Global's interest in the Company (as referenced in Recital F below), all of which amounts shall be treated as a capital contribution to the capital of the Company from Seller.

I. Concurrently with the closing of the purchase of the membership Interest by Buyer from Seller, the Company and its members shall adopt that Amended and Restated Operating Agreement (the "Amended and Restated Operating Agreement") as attached hereto as Exhibit "T".

NOW, THEREFORE, in consideration of the mutual promises, covenants and representations hereinafter contained, and subject to the conditions hereinafter set forth, it is agreed as follows:

1. Sale and Transfer of Interest. Subject to the terms and conditions set forth

J.R. 04
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this Agreement, Seller will transfer and convey the Membership Interest to Buyer, and Buyer will acquire the Membership Interest from Seller, upon payment of the Consideration (as defined herein below) at Closing.

2. Consideration. For and in consideration of Seller's transfer of the Membership Interest hereunder, Buyer shall pay to Seller at Closing the sum of five hundred thousand and no/100 dollars (\$500,000.00) (hereinafter referred to as the "Consideration").

3. Adoption of Amended and Restated Operating Agreement, Post-Closing Status of Ownership. At Closing the Company and its Members hereby adopt the Amended and restated Operating Agreement attached hereto as Exhibit I. If for any reason the adoption of the Amended and restated Operating Agreement is determined not to be valid, Seller shall consult with Buyer and take such actions as necessary and hold harmless, indemnify and defend Buyer to the extent necessary to put Buyer in the same position as if the Amended and Restated Operating Agreement were in full force and effect. At Closing, upon payment of the Consideration, ownership of the Company shall be as follows:

- a. Purchaser – one-third (1/3rd).
- b. Flangas Trust – one-third (1/3rd).
- c. Seller (and any investors for whom Seller shall assume responsibility as hereinafter set forth) - collectively one-third (1/3rd).

4. Representations of Seller. Subject to the information set forth and attached hereto in **Exhibit "D"** and incorporated herein by this reference (which matters shall only affect, if at all, the ownership interest of Seller, and which information is represented by Seller, Go Global and Carlos to be true and accurate, for the benefit of Buyer, and of Seller, respectively), Seller represents and warrants to Buyer as follows:

S.R. CH
To: Carlos
From: S.R. CH
Date: 10/27/2008
4 of 27
Purchase Agreement 11.doc

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a. Seller is the owner, beneficially and of record, of the Membership Interest, free and clear of all liens, encumbrances, security agreements, equities, options, claims, charges, and restrictions, and Buyer will receive at Closing good and absolute title thereto free of any liens, charges or encumbrances thereon.

b. Seller has full power to transfer the Membership Interest to Buyer without obtaining the consent or approval of any other person (other than Go Global and/or Carlos, each of whom by their respective signatures consents to all of the transactions contemplated by this Agreement and the Recitals set forth above) or governmental authority and there is no existing impediment to the sale and transfer of such Membership Interest from Seller to Buyer.

c. The Company is duly organized and validly existing under and by virtue of, and is in good standing under, the laws of the State of Nevada.

d. Attached hereto as **Exhibit "E"** and incorporated herein by this reference is a summary of all information ("Diligence Information") provided to Buyer and upon which Buyer is relying in entering into this Agreement.

The representations and warranties of Seller contained in this Agreement shall survive the Closing hereof and shall continue in full force and effect.

5. Representations of Buyer. Buyer represents and warrants to Seller as follows:

a. Buyer has not requested any information, financial or otherwise, concerning the Company other than as provided in Section 4 above.

b. Seller has made no representations to Buyer concerning revenues, income, sale, expenses and/or profits of the Company, other than set forth in the Exhibits referenced in Section 4 above or other than as set forth in the Exhibits to this Agreement.

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To be in
meeting with
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c. Buyer is entering into this Agreement based upon Buyer's own investigation and knowledge of the business without reliance upon, and makes no reliance upon, any statements, assertions, or documents or reports from Seller other than as incorporated in this Agreement.

d. Buyer makes the following "Investment Representations" upon which Seller is relying:

(i) Buyer is acquiring the Membership Interest for investment for Buyer's own account, not as a nominee or agent, and not with a view to, or for resale in connection with, any distribution thereof.

(ii) Buyer understands that the Membership Interest to be purchased has not been registered under the 1933 Act on the ground that the sale provided for in this Agreement and the issuance of securities hereunder is exempt from registration under the 1933 Act pursuant to Section 4(2) thereof which depends upon, among other things, the bona fide nature of the investment intent as expressed herein.

(iii) Buyer is experienced in evaluating and investing in recently organized companies such as the Company, is able to fend for itself in the transactions contemplated by this Agreement, has such knowledge and experience in financial business matters as to be capable of evaluating the merits and risks of its investment, has the ability to bear the economic risks of its investment and the ability to accept highly speculative risks and is prepared to lose the entire investment in the Company. Buyer has had an opportunity to discuss the Company's business, management and financial affairs with the Company's management and to review the Company's facilities.

(iv) Buyer understands that the Membership Interest may not be

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6 of 27
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sold, transferred, or otherwise disposed of without registration under the 1933 Act or pursuant to an exemption therefrom, and that in the absence of an effective registration statement covering the Membership Interest or an available exemption from registration under the 1933 Act, the Membership Interest must be held indefinitely. In particular, Buyer is aware that the Membership Interest may not be sold pursuant to Rule 144 promulgated under the 1933 Act unless all of the conditions of that Rule are met. Among the conditions for use of Rule 144 is the availability of current information to the public about the Company. Such information is not now available and the Company has no present plans to make such information available.

(v) Buyer has a preexisting business or personal relationship with the Company or one of its managers or controlling persons, or by reason of Buyer's business or financial experience or the business or financial experience of its or its professional advisor(s) who are unaffiliated with and who are not compensated by Company or any affiliate or selling agent of Company, directly or indirectly, Buyer has, or could be reasonably assumed to have, the capacity to protect Buyer's own interests in connection with the purchase of the Membership Interest pursuant to this Agreement.

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Tico LLC
Managing member
30 Oct 2009
7 of 27

(vii) Seller and Company have made available to Buyer at a reasonable time prior to the date hereof the opportunity to ask questions and receive answers concerning the terms and conditions of this offering and to obtain any additional information which Seller or the Company possess or can acquire without unreasonable effort or expense that is necessary to verify the accuracy of any information provided to Buyer.

(viii) Buyer's overall commitment to investments which are not readily marketable is not disproportionate to Buyer's net worth and the acquisition of the Membership Interest will not cause such overall commitment to investments which are not readily marketable to be disproportionate to the net worth of Buyer and the Buyer's acquisition of the Membership Interest will not cause such overall commitment to become excessive.

(x) Buyer represents and warrants that the Buyer has been urged to consult separate counsel in connection with the purchase of the Membership Interest and that if Buyer chooses not to consult with counsel that Buyer is competent to understand and interpret this Agreement and all exhibits attached hereto and further represents and warrants that Buyer has not relied upon any statements, advice or opinions of counsel for Seller.

S.R. CH
TCO LLC
Membership number
20 Oct 2008
8 of 27

(xi) Buyer agrees not to offer, sell, transfer, assign, pledge, hypothecate or otherwise dispose of the Membership Interest or any part thereof, in violation of the Act, the Nevada Securities Act (and all rules and regulations promulgated under either act) or the Operating Agreement.

(xii) Buyer further agrees not to offer, sell, transfer, assign, pledge, hypothecate or otherwise dispose of the Membership Interest until:

(a) One of the following events has occurred: (i) The Company has received a written opinion of counsel, in form and substance satisfactory to the Company to the effect the contemplated disposition will not violate the registration and prospectus delivery provisions of the Act or any applicable state securities laws, or (ii) the Company shall have been furnished with a letter from the SEC in response to a written request thereto setting forth all of the facts and circumstances surrounding the contemplated disposition, stating that the staff of the SEC will not recommend to the SEC that it take any action with regard to the contemplated disposition, or (iii) the Membership Interest are disposed of in conformity with a registration statement under the Act which has been filed with and declared effective by the SEC and qualified under the applicable state securities laws;

(b) All applicable requirements of any applicable state securities laws have been met; and

(c) There has been compliance with all applicable provisions of the Operating Agreement.

(xiii) Buyer agrees that any certificates evidencing the Membership Interest shall bear the following legend:

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9 of 27
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THE SECURITIES EVIDENCED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 ('ACT') OR QUALIFIED UNDER THE APPLICABLE STATE SECURITIES. THE RESTRICTED SECURITIES HAVE BEEN ACQUIRED FOR THE HOLDER'S OWN ACCOUNT AND NOT WITH A VIEW TO DISTRIBUTE THEM. RESTRICTED SECURITIES MUST BE HELD INDEFINITELY UNLESS THEY ARE SUBSEQUENTLY REGISTERED UNDER THE ACT AND ARE QUALIFIED UNDER THE APPLICABLE STATE SECURITIES LAWS OR AN OPINION OF COUNSEL FOR THE HOLDER IS DELIVERED TO THE COMPANY, WHICH OPINION SHALL, IN FORM AND SUBSTANCE BE SATISFACTORY TO THE COMPANY AND SHALL STATE AN EXEMPTION FROM SUCH REGISTRATION AND QUALIFICATION IS AVAILABLE.

(xiv) Buyer agrees to indemnify and hold harmless Seller, and all of the other parties hereto, or anyone acting on their behalf, from and against all damages, losses, costs, and expenses (including reasonable attorney fees) which they may incur by reason of the failure of Buyer to give full and accurate information herein or in connection with this investment.

(xv) Buyer understands that the effect of the foregoing representations, warranties and agreements is that:

(a) Because the Membership Interest (i) has not been registered under the Act or the Nevada Securities Act, and, therefore, cannot be sold unless they are registered under the Act or an exemption from such registration is available, (ii) presently has no public market and there is no current prospect for the creation of such a market in the foreseeable future, and (iii) is subject to certain transfer restrictions pursuant to the Operating Agreement, the ability of the Buyer to sell or otherwise transfer the Membership Interest, or any part thereof, is substantially restricted and the Buyer cannot expect to be able to liquidate the investment of the Buyer in case of an emergency or, possibly, at any time;

(b) Rule 144 of the SEC's Rules and Regulations presently requires that the Buyer must hold the Membership Interest for at least two (2) years after the date on which the Membership Interest is fully paid for and, even then, no assurance can be given that Rule 144 will be applicable to the proposed transfer of the Membership Interest at that time, or at any time thereafter;

(c) Buyer does not anticipate any resale, pledge or other disposition of the Membership Interest upon the occurrence or nonoccurrence of any predetermined or particular event, and any such disposition will be subject to the terms and conditions set forth in the Operating Agreement; and

(d) Seller and the other parties hereto are relying upon the truth and accuracy of the representations, warranties and agreements of the Buyer set forth in this Agreement in selling the Membership Interest to Buyer without registration under the Act.

The representations, warranties and covenants of Buyer contained in this Agreement shall survive the Closing hereof and shall continue in full force and effect.

6. Acceptance of Amended and Restated Operating Agreement Subject to Amendment. Buyer and Seller agree to execute the form of "Agreement to be Bound by Amended and Restated Operating Agreement" attached hereto as **Exhibit "F"** and incorporated herein by this reference effective as of the Closing Date and to be bound by the terms and conditions thereof from and after such date. The provisions of Section 8 below shall be deemed to amend the Operating Agreement if and to the extent it is inconsistent therewith.

7. Closing. The closing of the transactions hereunder (the "Closing") shall be consummated upon the execution of this Agreement and the delivery:

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Membership Interest
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11 of 27
Purchase Agreement (1) doc

a. by Seller to Buyer of evidence of a one-sixth (1/6th) Membership Interest in the Company in the form of a Membership Certificate in the form attached hereto as Exhibit "G" and incorporated herein by this reference.

b. Buyer to Seller of the Consideration in the form of a Wire Transfer, Cashier's Check or other instrument(s) satisfactory to Seller.

The Closing shall take place on the effective date of this Agreement as set forth on page 1 hereof.

8. Further Agreements Among Certain of the Parties. The parties hereto further agree as follows:

a. By execution of this Agreement, Seller, Sig and Carlos each consent to the foregoing sale of the Membership Interest to Buyer, and further consent to the Company's issuance of an additional one-sixth (1/6th) ownership interest in the Company pursuant to the Subscription Agreement.

b. Sig and Pete agree to request of Lender that the outstanding guaranty of the loan by Carlos (the "Carlos Guaranty") will be released and that Buyer and/or Pete individually, along with Sig (who already is a guarantor of the Existing Loan) shall become guarantors in lieu of Carlos. If such request is not granted, then Seller, Sig, Buyer and Pete shall indemnify and hold Carlos harmless from and against his obligations pursuant to the Carlos Guaranty.

c. Seller shall defend, indemnify and hold Buyer harmless from any and all the claims of Eddyline Investments, LLC, Ray Family Trust, Nanyah Vegas, LLC and Antonio Nevada, LLC, each of whom invested or otherwise advanced the funds, plus certain possible claimed accrued interest.

(i) It is the current intention of Seller that such amounts be

confirmed or converted to debt, with no obligation to participate in capital calls or monthly payments, a pro-rata distribution at such time as the Company's real property is sold or otherwise disposed of. Regardless of whether this intention is realized, Seller shall remain solely responsible for any claims by the above referenced entities set forth in this section above.

(ii) The "pro-rata distributions" hereinabove referenced shall mean equal one-third shares pursuant to the ownership set forth in Section 3 above, provided that any amounts owing to those entities set forth on Exhibit "D", or who shall otherwise claim an ownership interest based upon contributions or advances directly or indirectly to the Company made prior to the date of this Agreement, shall be satisfied solely by Seller.

(iii) Wherever in this Agreement, one party (the "Indemnitor") has undertaken to defend, indemnify or hold harmless another (an indemnitee), the Indemnitor shall indemnify the indemnitee and their respective officers, employees, directors, shareholders, successors, agents, licensees, sponsors and assigns (individually and collectively, the "Indemnitee") from any and all claims, demands, lawsuits, proceedings, losses, costs, damages, debts, obligations and liabilities of any nature whatsoever (including attorneys' fees reasonably incurred, costs, expenses, judgments for all types of monetary relief, fines, and any amounts paid in settlement), which directly or indirectly arise out of or in connection with the subject matter of the indemnification. All such claims, demands, etc., shall be referred to in this section by the term "Claim" or "Claims." From the first notification of the Claim and thereafter, Indemnitor shall pay for the defense of the Indemnitee against the entire Claim. Indemnitee may elect to utilize defense counsel provided by Indemnitor or may in Indemnitee's sole discretion elect

legal counsel of Indemnitee's choice, which shall be paid for by Indemnitor. If

Indemnitor does not unconditionally and immediately indemnify the Indemnitee with respect to any Claim, the Indemnitee shall have the right, without waiving any other right or remedy otherwise available to the Indemnitee, to adjudicate or settle any such Claim in its sole discretion and at Indemnitor's sole expense.

d. Go Global and Carlos shall defend, indemnify and hold Seller harmless from and against any potential claimants other than as set forth in Section 8(c) above, unless such potential claimant claims to have unilaterally dealt exclusively with Seller.

e. Seller and Buyer each agree to satisfy the monthly payments required pursuant to the New Loan documentation, as well as for payment of taxes, insurance, professional fees and other operating expenses as may arise in the future relative to the Company's operations, marketing or other activities (and one-third of such obligations shall be paid by the Flangas Trust and will be referenced in the Flangas Trust Membership Interest Purchase Agreement).

f. The amounts payable by Seller in regard to the Eldorado Expenses, and the amounts payable by each of the owners as hereinabove set forth in subsection (e) above shall be additional paid-in capital contributions and so reflected on the books and records of the Company.

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MEMBERSHIP PURCHASE
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g. Go Global and Carlos hereby resign from any and all managerial or official positions in the Company, effective immediately upon Closing of the transactions contemplated by this Agreement and the other agreements referenced in the Recitals to this Agreement ("Form of Resignation"). The form of Resignation is attached hereto as Exhibit "H" and incorporated herein by this reference. The parties agree that Seller may transfer Seller's ownership interest in the Company to one or more of the entities set forth in Exhibit "D" to satisfy any claims such entity may have. Go Global and Carlos hereby agree to promptly deliver to Seller at the address noted in Section 9(a) below, all books and records (including checkbooks, Company records and other materials related to the Company) promptly after Closing.

h. To the extent that, in the future, there are any costs or expenses incurred by the Company or its members relating to or concerning environmental remedial action in connection with the Property, Teld, LLC and the Flangas Trust shall each be responsible for 25% of the first three million dollars (\$3,000,000.00) of such costs and expenses and the Rogisch Trust shall be responsible for the remaining 50% of the first three million dollars (\$3,000,000) of such costs. Thereafter, the Rogisch Trust shall be solely responsible for any costs or expenses exceeding the aforementioned three million dollars (\$ 3,000,000.00) , if any. Notwithstanding the foregoing, if such excess above \$3,000,000 relates to any environmental contamination arising after Closing (except for lead-related contamination, to which this exception shall not apply), then the Members shall still share the costs of same, pro rata, based upon their respective Membership interests.

i. In the event that the FDIC fails to consummate the transactions contemplated in the New Loan Documentation as set forth in Exhibit "B" hereto, this Agreement

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shall be null and void, and all moneys paid by Teld, LLC and the Flangas Trust shall be returned to those parties.

9. Miscellaneous.

a. Notices. Any and all notices or demands by any party hereto to any other party, required or desired to be given hereunder shall be in writing and shall be validly given or made if served personally, delivered by a nationally recognized overnight courier service or if deposited in the United States Mail, certified, return receipt requested, postage prepaid, addressed as follows:

If to Buyer: Teld, LLC
c/o Pete Eliades
1531 Las Vegas Boulevard, South
Las Vegas, Nevada 89104

If to Seller: The Rogich Family Irrevocable Trust
c/o Sigmund Rogich
3883 Howard Hughes Parkway, Ste. 590
Las Vegas, Nevada 89169

Any party hereto may change its address for the purpose of receiving notices or demands as hereinabove provided by a written notice given in the manner aforesaid to the other party(ies). All notices shall be as specific as reasonably necessary to enable the party receiving the same to respond thereto.

b. Governing Law. The laws of the State of Nevada applicable to contracts made in that state, without giving effect to its conflict of law rules, shall govern the validity, construction, performance and effect of this Agreement.

c. Consent to Jurisdiction. Each party hereto consents to the jurisdiction

S.R. Rogich
Teld LLC
Witnessing member
for Teld LLC
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d. Attorneys' Fees. Unless otherwise specifically provided for herein, each party hereto shall bear its own attorneys' fees incurred in the negotiation and preparation of this Agreement and any related documents. In the event that any action or proceeding is instituted to interpret or enforce the terms and provisions of this Agreement, however, the prevailing party shall be entitled to its costs and attorneys' fees, in addition to any other relief it may obtain or be entitled to.

f. Entire Agreement. This Agreement, including all exhibits hereto, sets forth the entire understanding of the parties, and supersedes all previous agreements, negotiations, memoranda, and understandings, whether written or oral. In the event of any conflict between any exhibits or schedules attached hereto, this Agreement shall control.

g. Modifications. This Agreement shall not be modified, amended or changed in any manner unless in writing executed by the parties hereto.

modified, amended or

h. Waivers. No waiver of any of the provisions of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver, and no waiver shall be binding unless evidenced by an instrument in writing and executed by the party making the waiver.

i. Invalidity. If any term, provision, covenant or condition of this Agreement, or any application thereof, should be held by a court of competent jurisdiction to be invalid, void or unenforceable, that provision shall be deemed severable and all provisions, covenants, and conditions of this Agreement, and all applications thereof not held invalid, void or unenforceable, shall continue in full force and effect and shall in no way be affected, impaired or invalidated thereby.

j. Binding Effect. This Agreement shall be binding on and inure to the benefit of the heirs, personal representatives, successors and permitted assigns of the parties hereto.

k. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page to this Agreement by facsimile shall be effective as delivery of a manually executed counterpart of this Agreement in person.

l. Negotiated Agreement. This is a negotiated Agreement. All parties have participated in its preparation. In the event of any dispute regarding its interpretation, it shall not be construed for or against any party based upon the grounds that the Agreement was prepared by any one of the parties.


m. Arbitration. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration in the State of Nevada in accordance

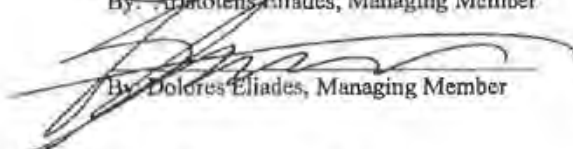
with the Rules of the American Arbitration Association, and judgment upon the award may be entered in any court having jurisdiction thereof pursuant to the provisions of Chapter 38 of Nevada Revised Statutes.


n. Time of Essence: Time is of the essence of this Agreement and all of its provisions.

IN WITNESS WHEREOF, the parties have executed this Agreement effective the day and year above-written.

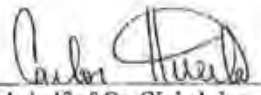
"BUYER"
Telo, LLC

By: 
Aristoteles Eliades, Managing Member

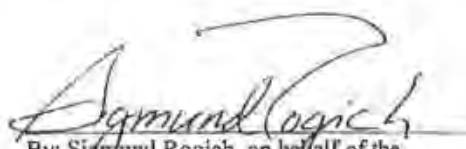
By: 
Dolores Eliades, Managing Member

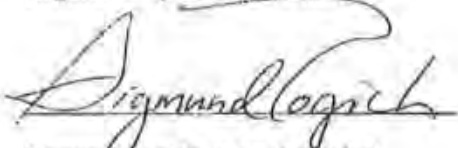

Peter Eliades, as an individual

Go Global, Inc.


Carlos Huerta, on behalf of Go Global, Inc.

"SELLER"
The Rogich Family Irrevocable Trust


By: Sigmund Rogich, on behalf of the
Rogich Family Irrevocable Trust


Sigmund Rogich, as an individual



Carlos Huerta, as an individual

EXHIBIT "A"

Preliminary Title Report from Nevada Title Company dated as of September 22, 2008
("Preliminary Report")

[See Attached]

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J.R.
TODD LLC
Member
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Purchase Agreement 11.doc

Order No. 08-09-0512-SD
1st Amendment

NEVADA TITLE COMPANY
2500 North Buffalo, Suite # 150
Las Vegas, Nevada 89128
(702) 251-5000

ATTENTION: Sue Dudzinski

October 28, 2008

Your Number

Order Number: 08-09-0512-SD

Dated as of October 21, 2008 at 7:30 a.m.

In response to the above referenced application for a policy of title insurance, Nevada Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to as an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in the exclusions and exceptions from coverage document attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the amount, if any, set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in the exclusions and exceptions from coverage. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referenced to below and the exceptions and exclusions set forth in the exclusions from coverage of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance, and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.



Title Officer: Sue Dudzinski

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Order No. 08-09-0512-SD
1st Amendment

SCHEDULE A

The form of Policy of Title Insurance contemplated by this report is:

- () California Land Title/American Land Title Association Homeowners Policy
- (X) American Land Title Association Lender's Policy 2006
- () American Land Title Association Owners Policy 2006
- (X) California Land Title Association Standard Owner's/Lenders

THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN
THIS SCHEDULE COVERED BY THIS REPORT IS:

A Fee

Title to said estate or interest at the date hereof is vested in:

Eldorado Hills L L C, a Nevada limited liability company,

The land referred to in this report is situated in the State of Nevada, County of Clark, and
is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A
PART HEREOF FOR LEGAL DESCRIPTION:

Buyer: Albert Flangas, Trustee of The Flangas Family Trust, Pete Eliades, Trustee of
The Eliades Family Trust
Address: 12801 South US Highway 95 Las Vegas, NV

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Order No. 08-09-0512-SD
1st Amendment

EXHIBIT "A"
LEGAL DESCRIPTION

THE SOUTHWEST QUARTER (SW ¼) OF SECTION 11, TOWNSHIP 23 SOUTH,
RANGE 63 EAST, M.D.B. & M., ACCORDING TO THE OFFICIAL PLAT OF SAID
LAND ON FILE IN THE OFFICE OF THE BUREAU OF LAND MANAGEMENT.

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SCHEDULE B

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

1. State and County Taxes for the fiscal period of 2008 to 2009, a lien now due and payable in the total amount of \$53,655.48, and payable in the following installments and becomes delinquent if not paid as set forth below.

First installment of \$13,413.87 has been paid

Second installment of \$13,413.87 has been paid

Third installment of \$13,413.87 unpaid delinquent first Monday in January

Fourth installment of \$13,413.87 unpaid delinquent first Monday in March

Parcel No. 189-11-002-001

2. Any supplemental or recapture taxes under NRS Chapter 361, as amended, which may become a lien on the subject property by reason of increased valuations due to land use, improvements or otherwise.
3. Reservations and Easements in the patent from the United States of America, recorded November 22, 1961, in Book 329 as Document No. 265853 and recorded May 16, 1985 in Book 2111 as Document No. 2070205, of Official Records.
4. Reservations and Easements in the patent from the United States of America, recorded May 17, 1956, in Book 94 as Document No. 78315, of Official Records.
5. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANTS RUNNING WITH THE LAND", recorded May 25, 1982, in Book 1571 as Document No. 1530303, of Official Records.
6. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANTS RUNNING WITH THE LAND", recorded September 10, 1982, in Book 1620 as Document No. 1579282, of Official Records.

7. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of NEVADA POWER COMPANY and CENTRAL TELEPHONE COMPANY, for electrical and communication facilities, recorded October 5, 1982, in Book 1630 as Document No. 1589544 of Official Records.

The exact location and extent of said easement is not disclosed in the document of record.

8. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of NEVADA POWER COMPANY and CENTRAL TELEPHONE COMPANY, for electrical and communication facilities, recorded October 5, 1982, in Book 1630 as Document No. 1589545 of Official Records.

The exact location and extent of said easement is not disclosed in the document of record.

9. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of COUNTY OF CLARK, for perpetual avigation, recorded May 11, 1989, in Book 890511 as Document No. 00572 of Official Records.

10. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANT RUNNING WITH THE LAND", recorded October 16, 1989, in Book 891016 as Document No. 00772, of Official Records.

The above document was re-recorded on November 15, 1989 in Book 891115 as Document No. 00820.

11. Terms, covenants, conditions and provisions in an instrument entitled, "COOPERATIVE AGREEMENT NO. 3 BETWEEN THE CITY OF HENDERSON, THE LAS VEGAS VALLEY WATER DISTRICT AND THE COLORADO RIVER COMMISSION REGARDING COLORADO RIVER WATER ENTITLEMENTS", recorded January 26, 1990, in Book 900126 as Document No. 00522, of Official Records.

12. The effect of the following Record of Survey performed by THOMAS E. KEMMES, filed in File 53 of Surveys at Page 87, recorded February 15, 1990, in Book 900215, as Document No. 00742 of Official Records.

13. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of COUNTY OF CLARK, for perpetual avigation, recorded March 5, 2003, in Book 20030305 as Document No. 04635 of Official Records.

14. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANT RUNNING WITH THE LAND", recorded May 9, 2003, in Book 20030509 as Document No. 01339, of Official Records.
15. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of NEVADA POWER COMPANY, for electrical lines, recorded December 22, 2003, in Book 20031222 as Document No. 02862 of Official Records.
16. Covenants, Conditions and Restrictions in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law affecting said land contained in the Deed recorded September 14, 2006 in Book 20060914 as Document No. 03231 of Official Records.
17. Deed of Trust to secure an indebtedness of \$21,000,000.00 and any other amounts payable under the terms thereof:
Recorded: May 25, 2007 in Book 20070525 Document No. 02845 of Official Records.
Dated: May 25, 2007
Trustor: Eldorado Hills, J.L.C, a Nevada limited liability company
Trustee: Nevada Title Company
Beneficiary: ANB Financial N.A.

The amount due, terms and conditions of the indebtedness should be determined by contacting the owner of the debt.
18. Any claim, loss or damage, due to the fact that there does not appear to be direct access to said land by a publicly dedicated road.
19. There are NO deeds affecting said land, recorded within twenty-four (24) months of the date of this report.
20. Water rights, claims or title to water, whether or not shown by the public records.
21. Subject to the rights of party or parties in possession in accordance with any unrecorded leases affecting portions of said land for the term and upon the terms, covenants, conditions and provisions therein contained.

NOTE: Should an inspection of the real property disclose any work of improvement in progress, this Company may be unwilling to provide mechanic's lien coverage.

22. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
23. Any Claim of Lien for labor and/or materials that may be filed against said land by reason of work or improvement thereon, as disclosed by an inspection of said premises.
24. The requirement that a physical inspection of the subject land be made prior to the close of escrow.

NOTE: Additional exceptions and/or requirements may be added to this report upon completion of said inspection.

25. Prior to the issuance of an ALTA form Policy of Title Insurance, it shall be required that this Company be furnished with an ALTA/ACSM LAND TITLE SURVEY conforming to the minimum standard requirements as revised in 2005.
26. Underwriter approval is needed to close this transaction; therefore, submit all documentation, including but not limited to requested endorsements, at least ONE WEEK prior to the contemplated closing date.

UNDERWRITER APPROVAL REQ.: The right is reserved to make additional exceptions and/or requirements upon examination of all documents submitted in satisfaction of the requirement above.

TAX INFORMATION:
2008-2009

District:	510
Tax Rate:	2.4855
Parcel No.:	189-11-002-001
Real Estate:	\$5,525,861.00
Improvements:	\$1,620,101.00
Assessed Valuation:	\$7,145,962.00
Acreage Assessed:	161.93

NOTE: This record is for assessment use only. No liability is assumed as to the accuracy of the data delineated hereon.

COUNTY RECORDER REQUIREMENTS

EFFECTIVE JULY 1, 2003, ALL DOCUMENTS, EXCEPT MAPS, SUBMITTED FOR RECORDING WITH THE OFFICE OF THE CLARK/NYE COUNTY RECORDER, MUST COMPLY WITH NRS 247.110, AS FOLLOWS:

- a) Be on 20# paper that is 8 ½ inches by 11 inches in size
- b) Have a margin of 1 inch on the left and right sides and at the bottom of each page; and
- c) Have a space of 3 inches by 3 inches at the upper right corner of the first page and have a margin on 1 inch at the top of each succeeding page.
- d) Not contain printed material on more than one side of each page.
- e) Print that is NO smaller than 10-point Times New Roman font and contains no more than 9 lines of text per vertical inch.
- f) MUST NOT be printed in any ink other than black

ANY DOCUMENT NOT COMPLYING WITH THESE GUIDELINES WILL BE SUBJECT TO AN ADDITIONAL, MINIMUM COUNTY NON-COMPLIANCE RECORDING CHARGE OF \$25.00 PER DOCUMENT.

NAN_000039

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JA_003526

Order Number: 08-09-0512-SD

SCHEDULE C

Privacy Notice (15 U.S.C. 6801 and 16 CFR Part 313): Nonpublic personal information about you is provided to us from information you submit on forms and documents and from others who are involved in your transaction. We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law. We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information. If you want a full page explanation of our privacy policy, or if you have questions, please contact us.

NAN_000040

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JA_003527

EXHIBIT 1 (REV. 6/17/06)
CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1000
EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

- (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING OR ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING (i) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND; (ii) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (iii) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREA OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (iv) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT A NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN, OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF THE EXERCISE THEREOF OR NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) WHETHER OR NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY; OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE OR FOR THE ESTATE OR INTEREST INSURED BY THIS POLICY.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF THE INSURED AT DATE OF POLICY, OR THE INABILITY OR FAILURE OF ANY SUBSEQUENT OWNER OF THE INDEBTEDNESS, TO COMPLY WITH THE APPLICABLE DOING BUSINESS LAWS OF THE STATE IN WHICH THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE, OR CLAIM THEREOF, WHICH ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED UPON USURY OR ANY CONSUMER CREDIT PROTECTION OR TRUTH-IN-LENDING LAW.
6. ANY CLAIM, WHICH ARISES OUT OF THE TRANSACTION VESTING IN THE INSURED THE ESTATE OR INTEREST INSURED BY THIS POLICY OR THE TRANSACTION CREATING THE INTEREST OF THE INSURED LENDER, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY OR SIMILAR CREDITORS' RIGHTS LAWS.

EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (AND THE COMPANY WILL NOT PAY COSTS, ATTORNEYS' FEES OR EXPENSES) WHICH ARISE BY REASON OF:

1. TAXES OR ASSESSMENTS WHICH ARE NOT SHOWN AS EXISTING LIENS BY THE RECORDS OF ANY TAXING AUTHORITY THAT LEVIES TAXES OR ASSESSMENTS ON REAL PROPERTY OR BY THE PUBLIC RECORDS.
2. PROCEEDINGS BY A PUBLIC AGENCY WHICH MAY RESULT IN TAXES OR ASSESSMENTS, OR NOTICES OF SUCH PROCEEDINGS, WHETHER OR NOT SHOWN BY THE RECORDS OF SUCH AGENCY OR BY THE PUBLIC RECORDS.
3. ANY FACTS, RIGHTS, INTEREST, OR CLAIMS WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS BUT WHICH COULD BE ASCERTAINED BY AN INSPECTION OF THE LAND OR WHICH MAY BE ASSERTED BY PERSONS IN POSSESSION THEREOF.
4. EASEMENTS, LIENS OR ENCUMBRANCES, OR CLAIMS THEREOF, WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
5. DISCREPANCIES, CONFLICTS IN BOUNDARY LINES, SHORTAGE IN AREA, ENCROACHMENTS, OR ANY OTHER FACTS WHICH A CORRECT SURVEY WOULD DISCLOSE, AND WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
6. (A) UNPATENTED MINING CLAIMS; (B) RESERVATIONS OR EXCEPTIONS IN PATENTS OR IN ACTS AUTHORIZING THE ISSUANCE THEREOF; (C) WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT THE MATTERS EXCEPTED UNDER (A), (B) OR (C) ARE SHOWN BY THE PUBLIC RECORDS.

CALIFORNIA LAND TITLE ASSOCIATION HOMEOWNER'S POLICY OF TITLE INSURANCE (10/22/03)
AMERICAN LAND TITLE ASSOCIATION HOMEOWNER'S POLICY OF TITLE INSURANCE (10/22/03)
EXCLUSIONS

IN ADDITION TO THE EXCEPTIONS IN SCHEDULE B, YOU ARE NOT INSURED AGAINST LOSS, COSTS, ATTORNEY'S FEES, AND EXPENSES RESULTING FROM:

1. GOVERNMENTAL POLICE POWER, AND THE EXISTENCE OR VIOLATION OF ANY LAW OR GOVERNMENT REGULATION. THIS INCLUDES ORDINANCES, LAWS AND REGULATIONS CONCERNING:
 - A. BUILDING
 - B. ZONING
 - C. LAND USE
 - D. IMPROVEMENTS ON THE LAND
 - E. LAND DIVISION
 - F. ENVIRONMENTAL PROTECTIONTHIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OR THE ENFORCEMENT OF THESE MATTERS IF NOTICE OF THE VIOLATION OR ENFORCEMENT APPEARS IN THE PUBLIC RECORDS AT THE POLICY DATE.
2. THE FAILURE OF YOUR EXISTING STRUCTURES, OR ANY PART OF THEM, TO BE CONSTRUCTED IN ACCORDANCE WITH APPLICABLE BUILDING CODES. THIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OF BUILDING CODES IF NOTICE OF THE VIOLATION APPEARS IN THE PUBLIC RECORDS AT THE POLICY DATE.
3. THE RIGHT TO TAKE THE LAND BY CONDEMNATING IT, UNLESS:
 - A. A NOTICE OF EXERCISING THE RIGHT APPEARS IN THE PUBLIC RECORDS AT THE POLICY DATE; OR
 - B. THE TAKING HAPPENED BEFORE THE POLICY DATE AND IS BINDING ON YOU IF YOU BOUGHT THE LAND WITHOUT KNOWING OF THE TAKING.
4. RISKS:
 - A. THAT ARE CREATED, ALLOWED, OR AGREED TO BY YOU, WHETHER OR NOT THEY APPEAR IN THE PUBLIC RECORDS;
 - B. THAT ARE KNOWN TO YOU AT THE POLICY DATE, BUT NOT TO US, UNLESS THEY APPEAR IN THE PUBLIC RECORDS AT THE POLICY DATE;
 - C. THAT RESULT IN NO LOSS TO YOU; OR
 - D. THAT FIRST OCCUR AFTER THE POLICY DATE - THIS DOES NOT LIMIT THE COVERAGE DESCRIBED IN COVERED RISK 7, 8D, 22, 23, 24 OR 25.
5. FAILURE TO PAY VALUE FOR YOUR TITLE.
6. LACK OF A RIGHT:
 - A. TO ANY LAND OUTSIDE THE AREA SPECIFICALLY DESCRIBED AND REFERRED TO IN PARAGRAPH 3 OF SCHEDULE A; AND
 - B. IN STREETS, ALLEYS, OR WATERWAYS THAT TOUCH THE LAND.THIS EXCLUSION DOES NOT LIMIT THE COVERAGE DESCRIBED IN COVERED RISK 11 OR 18.

Page 1

LIMITATIONS ON COVERED RISKS

YOUR INSURANCE FOR THE FOLLOWING COVERED RISKS IS LIMITED ON THE OWNER'S COVERAGE STATEMENT AS FOLLOWS:
 *OR COVERED RISK 14, 15, 16 AND 18, YOUR DEDUCTIBLE AMOUNT AND OUR MAXIMUM DOLLAR LIMIT OF LIABILITY SHOWN IN SCHEDULE A.
 *E DEDUCTIBLE AMOUNTS AND MAXIMUM DOLLAR LIMITS SHOWN ON SCHEDULE A ARE AS FOLLOWS:

	Your Deductible Amount	Our Maximum Dollar Limit of Liability		Your Deductible Amount	Our Maximum Dollar Limit of Liability
Covered Risk 14:	1% of Policy Amount or \$2,500 (whichever is less)	\$10,000	Covered Risk 16	1% of Policy Amount or \$5,000 (whichever is less)	\$25,000
Covered Risk 15:	1% of Policy Amount or \$5,000 (whichever is less)	\$25,000	Covered Risk 18	1% of Policy Amount or \$2,500 (whichever is less)	\$5,000

AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (9/1/87)

EXCLUSIONS

IN ADDITION TO THE EXCEPTIONS IN SCHEDULE B, YOU ARE NOT INSURED AGAINST LOSS, COSTS, ATTORNEYS' FEES, AND EXPENSES RESULTING FROM:

1. GOVERNMENTAL POLICE POWER, AND THE EXISTENCE OR VIOLATION OF ANY LAW OR GOVERNMENT REGULATION. THIS INCLUDES BUILDING AND ZONING ORDINANCES AND ALSO LAWS AND REGULATIONS CONCERNING:
 - LAND USE
 - IMPROVEMENTS ON THE LAND
 - LAND DIVISION
 - ENVIRONMENTAL PROTECTION

THIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OR THE ENFORCEMENT OF THESE MATTERS WHICH APPEAR IN THE PUBLIC RECORDS AT POLICY DATE.

THIS EXCLUSION DOES NOT LIMIT THE ZONING COVERAGE DESCRIBED IN ITEMS 12 AND 13 OF COVERED TITLE RISKS.
2. THE RIGHT TO TAKE THE LAND BY CONDEMNATING IT, UNLESS:
 - A NOTICE OF EXERCISING THE RIGHT APPEARS IN THE PUBLIC RECORDS ON THE POLICY DATE
 - THE TAKING HAPPENED PRIOR TO THE POLICY DATE AND IS BINDING ON YOU IF YOU BOUGHT THE LAND WITHOUT KNOWING OF THE TAKING
3. TITLE RISKS:
 - THAT ARE CREATED, ALLOWED, OR AGREED TO BY YOU
 - THAT ARE KNOWN TO YOU, BUT NOT TO US, ON THE POLICY DATE - UNLESS THEY APPEARED IN THE PUBLIC RECORDS
 - THAT RESULT IN NO LOSS TO YOU
 - THAT FIRST AFFECT YOUR TITLE AFTER THE POLICY DATE - THIS DOES NOT LIMIT THE LABOR AND MATERIAL LIEN COVERAGE IN ITEM 6 OF COVERED TITLE RISKS
4. FAILURE TO PAY VALUE FOR YOUR TITLE.
5. LACK OF A RIGHT:
 - TO ANY LAND OUTSIDE THE AREA SPECIFICALLY DESCRIBED AND REFERRED TO IN ITEM 3 OF SCHEDULE A
 - OR
 - IN STREETS, ALLEYS OR WATERWAYS THAT TOUCH YOUR LAND.

THIS EXCLUSION DOES NOT LIMIT THE ACCESS COVERAGE IN ITEM 5 OF COVERED TITLE RISKS.

AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10/17/82) WITH ALTA ENDORSEMENT-FORM 1 COVERAGE

EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING AND ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO (1) THE OCCUPANCY, USE OR ENJOYMENT OF THE LAND; (2) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (3) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREA OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (4) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT A NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF THE EXERCISE THEREOF OR A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (EXCEPT TO THE EXTENT THAT THIS POLICY INSURED THE PRIORITY OF THE LIEN OF THE INSURED MORTGAGE OVER ANY STATUTORY LIEN FOR SERVICES, LABOR OR MATERIAL OR TO THE EXTENT INSURANCE IS AFFORDED HEREIN AS TO ASSESSMENTS FOR STREET IMPROVEMENTS UNDER CONSTRUCTION OR COMPLETED AT DATE OF POLICY); OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF THE INSURED AT DATE OF POLICY, OR THE INABILITY OR FAILURE OF ANY SUBSEQUENT OWNER OF THE INDEBTEDNESS, TO COMPLY WITH APPLICABLE DOING BUSINESS LAWS OF THE STATE IN WHICH THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE, OR CLAIM THEREOF, WHICH ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED UPON USURY OR ANY CONSUMER CREDIT PROTECTION OR TRUTH-IN-LENDING LAW.
6. ANY STATUTORY LIEN FOR SERVICES, LABOR OR MATERIALS (OR THE CLAIM OF PRIORITY OF ANY STATUTORY LIEN FOR SERVICES, LABOR OR MATERIALS OVER THE LIEN OF THE INSURED MORTGAGE) ARISING FROM AN IMPROVEMENT OR WORK RELATED TO THE LAND WHICH IS CONTRACTED FOR AND COMMENCED SUBSEQUENT TO DATE OF POLICY AND IS NOT FINANCED IN WHOLE OR IN PART BY PROCEEDS OF THE INDEBTEDNESS SECURED BY THE INSURED MORTGAGE WHICH AT DATE OF POLICY THE INSURED HAS ADVANCED OR IS OBLIGATED TO ADVANCE.
7. ANY CLAIM, WHICH ARISES OUT OF THE TRANSACTION CREATING THE INTEREST OF THE MORTGAGEE INSURED BY THIS POLICY, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT IS BASED ON:
 - (1) THE TRANSACTION CREATING THE INTEREST OF THE INSURED MORTGAGEE BEING DEEMED A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER; OR

- (2) THE SUBORDINATION OF THE INTEREST OF THE INSURED MORTGAGEE AS A RESULT OF THE APPLICATION OF THE DOCTRINE OF EQUITABLE SUBORDINATION; OR
- (3) THE TRANSACTION CREATING THE INTEREST OF THE INSURED MORTGAGEE BEING DEEMED A PREFERENTIAL TRANSFER EXCEPT WHERE THE PREFERENTIAL TRANSFER RESULTS FROM THE FAILURE:
- (A) TO TIMELY RECORD THE INSTRUMENT OF TRANSFER; OR
- (B) OF SUCH RECORDATION TO IMPART NOTICE TO A PURCHASER FOR VALUE OR A JUDGMENT OR LIEN CREDITOR.

THE ABOVE POLICY FORMS MAY BE ISSUED TO AFFORD EITHER STANDARD OR EXTENDED COVERAGE. IN ADDITION TO THE ABOVE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE IN A STANDARD COVERAGE POLICY WILL ALSO INCLUDE THE FOLLOWING GENERAL EXCEPTIONS:

2005 ALTA LOAN POLICY (6/17/06)
EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE, PERMIT, OR GOVERNMENTAL REGULATION (INCLUDING THOSE RELATING TO BUILDING AND ZONING) RESTRICTING, REGULATING, PROHIBITING, OR RELATING TO:
 - (I) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND
 - (II) THE CHARACTER, DIMENSIONS, OR LOCATION OF ANY IMPROVEMENT ERECTED ON THE LAND;
 - (III) THE SUBDIVISION OF LAND, OR
 - (IV) ENVIRONMENTAL PROTECTION
 OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES, OR GOVERNMENTAL REGULATIONS. THIS EXCLUSION 1(A) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 5.
- (B) ANY GOVERNMENTAL POLICE POWER. THIS EXCLUSION 1(B) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 6.
2. RIGHTS OF EMINENT DOMAIN. THIS EXCLUSION DOES NOT MODIFY OR LIMIT COVERAGE PROVIDED UNDER COVERED RISK 7 OR 8.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS, OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AND INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (HOWEVER, THIS DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 11, 13, OR 14); OR
 - (E) RESULTING IN LOSS OR DAMAGE THAT WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF AN INSURED TO COMPLY WITH APPLICABLE DOING-BUSINESS LAWS OF THE STATE WHERE THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY IN WHOLE OR IN PART OF THE LIEN OF THE INSURED MORTGAGE THAT ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED UPON USURY OR ANY CONSUMER CREDIT PROTECTION OR TRUTH-IN-LENDING LAW.
6. ANY CLAIM, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT THE TRANSACTION CREATING THE LIEN OF THE INSURED MORTGAGE, IS:
 - (A) A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER, OR
 - (B) A PREFERENTIAL TRANSFER FOR ANY REASON NOT STATED IN COVERED RISK 13(B) OF THIS POLICY.
 ANY LIEN OF THE TITLE FOR REAL ESTATE TAXES OR ASSESSMENTS IMPOSED BY GOVERNMENTAL AUTHORITY AND CREATED OR ATTACHING BETWEEN DATE OF POLICY AND THE DATE OF RECORDING OF THE INSURED MORTGAGE IN THE PUBLIC RECORDS. THIS EXCLUSION DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 11(B).

AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10/17/92)
EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING AND ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO: (I) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND; (II) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (III) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREA OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (IV) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES, OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT A NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN, ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY; OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE ESTATE OR INTEREST INSURED BY THIS POLICY.
4. ANY CLAIM, WHICH ARISES OUT OF THE TRANSACTION VESTING IN THE INSURED THE ESTATE OR INTEREST INSURED BY THIS POLICY, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT IS BASED ON:
 - (I) THE TRANSACTION CREATING THE ESTATE OR INTEREST INSURED BY THIS POLICY BEING DEEMED A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER; OR
 - (II) THE TRANSACTION CREATING THE ESTATE OR INTEREST INSURED BY THIS POLICY BEING DEEMED A PREFERENTIAL TRANSFER EXCEPT WHERE THE PREFERENTIAL TRANSFER RESULTS FROM THE FAILURE:
 - (A) TO TIMELY RECORD THE INSTRUMENT OF TRANSFER; OR
 - (B) OF SUCH RECORDATION TO IMPART NOTICE TO A PURCHASER FOR VALUE OR A JUDGMENT OR A LIEN CREDITOR.

THE ABOVE POLICY FORMS MAY BE ISSUED TO AFFORD EITHER STANDARD COVERAGE OR EXTENDED COVERAGE. IN ADDITION TO THE ABOVE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE IN A STANDARD COVERAGE POLICY WILL ALSO INCLUDE THE FOLLOWING GENERAL EXCEPTIONS:

2006 ALTA OWNER'S POLICY (6/17/06)

EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY, AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES, OR EXPENSES THAT ARISE BY REASON OF:

- (A) ANY LAW, ORDINANCE, PERMIT, OR GOVERNMENTAL REGULATION (INCLUDING THOSE RELATING TO BUILDING AND ZONING) RESTRICTING, REGULATING, PROHIBITING, OR RELATING TO:
 - (i) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND;
 - (ii) THE CHARACTER, DIMENSIONS, OR LOCATION OF ANY IMPROVEMENT ERECTED ON THE LAND;
 - (iii) THE SUBDIVISION OF LAND; OR
 - (iv) ENVIRONMENTAL PROTECTION;
 OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES, OR GOVERNMENTAL REGULATIONS. THIS EXCLUSION (A) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 5.
- (B) ANY GOVERNMENTAL POLICE POWER. THIS EXCLUSION (B) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 6.
2. RIGHTS OF EMINENT DOMAIN. THIS EXCLUSION DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 7 OR 8.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS, OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED, OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (HOWEVER, THIS DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 9 AND 10); OR
 - (E) RESULTING IN LOSS OR DAMAGE THAT WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE TITLE.
4. ANY CLAIM, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT THE TRANSACTION VESTING THE TITLE AS SHOWN IN SCHEDULE A, IS:
 - (A) A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER; OR
 - (B) A PREFERENTIAL TRANSFER FOR ANY REASON NOT STATED IN COVERED RISK 9 OF THIS POLICY.
5. ANY LIEN ON THE TITLE FOR REAL ESTATE TAXES OR ASSESSMENTS IMPOSED BY GOVERNMENTAL AUTHORITY AND CREATED OR ATTACHING BETWEEN DATE OF POLICY AND THE DATE OF RECORDING OF THE DEED OR OTHER INSTRUMENT OF TRANSFER IN THE PUBLIC RECORDS THAT VESTS TITLE AS SHOWN IN SCHEDULE A.

ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)

EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE, OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING AND ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO (i) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND; (ii) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (iii) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREAS OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (iv) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT'S NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISKS 12, 13, 14, AND 16 OF THIS POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF THE EXERCISE THEREOF OR A NOTICE OF DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 12, 13, 14, AND 16.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (THIS PARAGRAPH DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 8, 16, 18, 19, 20, 21, 22, 23, 24, 25 AND 26); OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF THE INSURED AT DATE OF POLICY, OR THE INABILITY OR FAILURE OF ANY SUBSEQUENT OWNER OF THE INDEBTEDNESS, TO COMPLY WITH APPLICABLE DOING BUSINESS LAWS OF THE STATE IN WHICH THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE, OR CLAIM THEREOF, WHICH ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED ON USURY, EXCEPT AS PROVIDED IN COVERED RISK 27, OR ANY CONSUMER CREDIT PROTECTION OR TRUTH IN LENDING LAW.
6. REAL PROPERTY TAXES OR ASSESSMENTS OF ANY GOVERNMENTAL AUTHORITY WHICH BECOME A LIEN ON THE LAND SUBSEQUENT TO DATE OF POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISKS 7, 8(E) AND 26.
7. ANY CLAIM OF INVALIDITY, UNENFORCEABILITY OR LACK OF PRIORITY OF THE LIEN OF THE INSURED MORTGAGE AS TO ADVANCES OR MODIFICATIONS MADE AFTER THE INSURED HAS KNOWLEDGE THAT THE VESTEE SHOWN IN SCHEDULE A IS NO LONGER THE OWNER OF THE ESTATE OR INTEREST COVERED BY THIS POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED IN COVERED RISK 8.
8. LACK OF PRIORITY OF THE LIEN OF THE INSURED MORTGAGE AS TO EACH AND EVERY ADVANCE MADE AFTER DATE OF POLICY, AND ALL INTEREST CHARGED THEREON, OVER LIENS, ENCUMBRANCES AND OTHER MATTERS AFFECTING THE TITLE, THE EXISTENCE OF WHICH ARE KNOWN TO THE INSURED AT:
 - (A) THE TIME OF THE ADVANCE, OR
 - (B) THE TIME A MODIFICATION IS MADE TO THE TERMS OF THE INSURED MORTGAGE WHICH CHANGES THE RATE OF INTEREST CHARGED, IF THE RATE OF INTEREST IS GREATER AS A RESULT OF THE MODIFICATION THAN IT WOULD HAVE BEEN BEFORE THE MODIFICATION. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED IN COVERED RISK 8.
9. THE FAILURE OF THE RESIDENTIAL STRUCTURE, OR ANY PORTION THEREOF TO HAVE BEEN CONSTRUCTED BEFORE, ON OR AFTER DATE OF POLICY IN ACCORDANCE WITH APPLICABLE BUILDING CODES. THIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OF BUILDING CODES IF NOTICE OF THE VIOLATION APPEARS IN THE PUBLIC RECORDS AT DATE OF POLICY.

NEVADA TITLE COMPANY
2500 North Buffalo, Suite # 150
Las Vegas, Nevada 89128
(702) 251-5000

ATTENTION: Sue Dudzinski

September 29, 2008

Your Number
Order Number: 08-09-0512-SD

Dated as of September 22, 2008 at 7:30 a.m.

In response to the above referenced application for a policy of title insurance, Nevada Title Company hereby reports that it is prepared to issue, or cause to be issued, as of the date hereof, a Policy or Policies of Title Insurance describing the land and the estate or interest therein hereinafter set forth, insuring against loss which may be sustained by reason of any defect, lien or encumbrance not shown or referenced to us an Exception below or not excluded from coverage pursuant to the printed Schedules, Conditions and Stipulations of said Policy forms.

The printed Exceptions and Exclusions from the coverage and Limitations on Covered Risks of said Policy or Policies are set forth in the exclusions and exceptions from coverage document attached. The policy to be issued may contain an arbitration clause. When the Amount of Insurance is less than the amount, if any, set forth in the arbitration clause, all arbitrable matters shall be arbitrated at the option of either the Company or the Insured as the exclusive remedy of the parties. Limitations on Covered Risks applicable to the CLTA and ALTA Homeowner's Policies of Title Insurance which establish a Deductible Amount and a Maximum Dollar Limit of Liability for certain coverages are also set forth in the exclusions and exceptions from coverage. Copies of the Policy forms should be read. They are available from the office which issued this report.

Please read the exceptions shown or referenced to below and the exceptions and exclusions set forth in the exclusions from coverage of this report carefully. The exceptions and exclusions are meant to provide you with notice of matters which are not covered under the terms of the title insurance policy and should be carefully considered.

It is important to note that this preliminary report is not a written representation as to the condition of title and may not list all liens, defects, and encumbrances affecting title to the land.

This report (and any supplements or amendments hereto) is issued solely for the purpose of facilitating the issuance of a policy of title insurance, and no liability is assumed hereby. If it is desired that liability be assumed prior to the issuance of a policy of title insurance, a Binder or Commitment should be requested.


Title Officer: Sue Dudzinski

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JA_003533

SCHEDULE A

The form of Policy of Title Insurance contemplated by this report is:

- ☐ California Land Title/American Land Title Association Homeowners Policy
- ☒ American Land Title Association Lender's Policy 2006
- ☐ American Land Title Association Owners Policy 2006
- ☒ California Land Title Association Standard Owner's/Lenders

THE ESTATE OR INTEREST IN THE LAND DESCRIBED OR REFERRED TO IN THIS SCHEDULE COVERED BY THIS REPORT IS:

A Fee

Title to said estate or interest at the date hereof is vested in:

Eldorado Hills, LLC, a Nevada limited liability company

The land referred to in this report is situated in the State of Nevada, County of Clark, and is described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND BY THIS REFERENCE MADE A PART HEREOF FOR LEGAL DESCRIPTION:

Buyer: David Damante
Address: 12801 South US Highway 95 Las Vegas, NV

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JA_003534

Order No. 08-09-0512-SD

EXHIBIT "A"
LEGAL DESCRIPTION

THE SOUTHWEST QUARTER (SW ¼) OF SECTION 11, TOWNSHIP 23 SOUTH,
RANGE 63 EAST, M.D.B. & M., ACCORDING TO THE OFFICIAL PLAT OF SAID
LAND ON FILE IN THE OFFICE OF THE BUREAU OF LAND MANAGEMENT.

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SCHEDULE B

At the date hereof Exceptions to coverage in addition to the printed exceptions and exclusions contained in said policy form would be as follows:

1. State and County Taxes for the fiscal period of 2008 to 2009, a lien now due and payable in the total amount of \$53,655.48, and payable in the following installments and becomes delinquent if not paid as set forth below.

First installment of \$13,413.87 has been paid

Second installment of \$13,413.87 unpaid delinquent first Monday in October

Third installment of \$13,413.87 unpaid delinquent first Monday in January

Fourth installment of \$13,413.87 unpaid delinquent first Monday in March

Parcel No. 189-11-002-001

2. Any supplemental or recapture taxes under NRS Chapter 361, as amended, which may become a lien on the subject property by reason of increased valuations due to land use, improvements or otherwise.
3. Reservations and Easements in the patent from the United States of America, recorded November 22, 1961, in Book 329 as Document No. 265853 and recorded May 16, 1985 in Book 2111 as Document No. 2070205, of Official Records.
4. Reservations and Easements in the patent from the United States of America, recorded May 17, 1956, in Book 94 as Document No. 78315, of Official Records.
5. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANTS RUNNING WITH THE LAND", recorded May 25, 1982, in Book 1571 as Document No. 1530303, of Official Records.
6. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANTS RUNNING WITH THE LAND", recorded September 10, 1982, in Book 1620 as Document No. 1579282, of Official Records.

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7. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of NEVADA POWER COMPANY and CENTRAL TELEPHONE COMPANY, for electrical and communication facilities, recorded October 5, 1982, in Book 1630 as Document No. 1589544 of Official Records.

The exact location and extent of said easement is not disclosed in the document of record.

8. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of NEVADA POWER COMPANY and CENTRAL TELEPHONE COMPANY, for electrical and communication facilities, recorded October 5, 1982, in Book 1630 as Document No. 1589545 of Official Records.

The exact location and extent of said easement is not disclosed in the document of record.

9. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of COUNTY OF CLARK, for perpetual avigation, recorded May 11, 1989, in Book 890511 as Document No. 00572 of Official Records.

10. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANT RUNNING WITH THE LAND", recorded October 16, 1989, in Book 891016 as Document No. 00772, of Official Records.

The above document was re-recorded on November 15, 1989 in Book 891115 as Document No. 00820.

11. Terms, covenants, conditions and provisions in an instrument entitled, "COOPERATIVE AGREEMENT NO. 3 BETWEEN THE CITY OF HENDERSON, THE LAS VEGAS VALLEY WATER DISTRICT AND THE COLORADO RIVER COMMISSION REGARDING COLORADO RIVER WATER ENTITLEMENTS", recorded January 26, 1990, in Book 900126 as Document No. 00522, of Official Records.

12. The effect of the following Record of Survey performed by THOMAS E. KEMMERS, filed in File 53 of Surveys at Page 87, recorded February 15, 1990, in Book 900215, as Document No. 00742 of Official Records.

13. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of COUNTY OF CLARK, for perpetual avigation, recorded March 5, 2003, in Book 20030305 as Document No. 04635 of Official Records.

14. Terms, covenants, conditions and provisions in an instrument entitled, "RESTRICTIVE COVENANT RUNNING WITH THE LAND", recorded May 9, 2003, in Book 20030509 as Document No. 01339, of Official Records.
15. An easement affecting that portion of said land and for the purposes therein and incidental purposes thereto, in favor of NEVADA POWER COMPANY, for electrical lines, recorded December 22, 2003, in Book 20031222 as Document No. 02862 of Official Records.
16. Covenants, Conditions and Restrictions in the declaration of restrictions but omitting any covenants or restrictions, if any, including, but not limited to those based upon race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law affecting said land contained in the Deed recorded September 14, 2006 in Book 20060914 as Document No. 03231 of Official Records.
17. Deed of Trust to secure an indebtedness of \$21,000,000.00 and any other amounts payable under the terms thereof:
Recorded: May 25, 2007 in Book 20070525 Document No. 02845 of Official Records.
Dated: May 25, 2007
Trustor: Eldorado Hills, LLC, a Nevada limited liability company
Trustee: Nevada Title Company
Beneficiary: ANB Financial N.A.

The amount due, terms and conditions of the indebtedness should be determined by contacting the owner of the debt.
18. Any claim, loss or damage, due to the fact that there does not appear to be direct access to said land by a publicly dedicated road.
19. There are NO deeds affecting said land, recorded within twenty-four (24) months of the date of this report.
20. Water rights, claims or title to water, whether or not shown by the public records.
21. Subject to the rights of party or parties in possession in accordance with any unrecorded leases affecting portions of said land for the term and upon the terms, covenants, conditions and provisions therein contained.

NOTE: Should an inspection of the real property disclose any work of improvement in progress, this Company may be unwilling to provide mechanic's lien coverage.

22. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, or any other facts which a correct survey would disclose, and which are not shown by the public records.
 23. Any Claim of Lien for labor and/or materials that may be filed against said land by reason of work or improvement thereon, as disclosed by an inspection of said premises.
 24. The requirement that a physical inspection of the subject land be made prior to the close of escrow.
- NOTE: Additional exceptions and/or requirements may be added to this report upon completion of said inspection.
25. Prior to the issuance of an ALTA form Policy of Title Insurance, it shall be required that this Company be furnished with an ALTA/ACSM LAND TITLE SURVEY conforming to the minimum standard requirements as revised in 2005.
 26. Underwriter approval is needed to close this transaction; therefore, submit all documentation, including but not limited to requested endorsements, at least ONE WEEK prior to the contemplated closing date.

UNDERWRITER APPROVAL REQ.: The right is reserved to make additional exceptions and/or requirements upon examination of all documents submitted in satisfaction of the requirement above.

TAX INFORMATION:
2008-2009

District:	510
Tax Rate:	2.4855
Parcel No.:	189-11-002-001
Real Estate:	\$5,525,861.00
Improvements:	\$1,620,101.00
Assessed Valuation:	\$7,145,962.00
Acreage Assessed:	161.93

NOTE: This record is for assessment use only. No liability is assumed as to the accuracy of the data delineated hereon.

COUNTY RECORDER REQUIREMENTS

EFFECTIVE JULY 1, 2003, ALL DOCUMENTS, EXCEPT MAPS, SUBMITTED FOR RECORDING WITH THE OFFICE OF THE CLARK/NYE COUNTY RECORDER, MUST COMPLY WITH NRS 247.110, AS FOLLOWS:

- a) Be on 20# paper that is 8 1/2 inches by 11 inches in size
- b) Have a margin of 1 inch on the left and right sides and at the bottom of each page; and
- c) Have a space of 3 inches by 3 inches at the upper right corner of the first page and have a margin on 1 inch at the top of each succeeding page.
- d) Not contain printed material on more than one side of each page.
- e) Print that is NO smaller than 10-point Times New Roman font and contains no more than 9 lines of text per vertical inch.
- f) MUST NOT be printed in any ink other than black

ANY DOCUMENT NOT COMPLYING WITH THESE GUIDELINES WILL BE SUBJECT TO AN ADDITIONAL, MINIMUM COUNTY NON-COMPLIANCE RECORDING CHARGE OF \$25.00 PER DOCUMENT.

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SCHEDULE C

Privacy Notice (15 U.S.C. 6801 and 16 CFR Part 313): Nonpublic personal information about you is provided to us from information you submit on forms and documents and from others who are involved in your transaction. We do not disclose any nonpublic personal information about our customers or former customers to anyone, except as permitted by law. We restrict access to nonpublic personal information about you to those employees who need to know that information in order to provide products or services to you. We maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information. If you want a full page explanation of our privacy policy, or if you have questions, please contact us.

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JA_003541

EXHIBIT 1 (REV. 6/17/06)
CALIFORNIA LAND TITLE ASSOCIATION STANDARD COVERAGE POLICY - 1990
EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

- (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING OR ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND; (B) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (C) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREA OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (D) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT A NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN, OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF THE EXERCISE THEREOF OR NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) WHETHER OR NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY; OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE OR FOR THE ESTATE OR INTEREST INSURED BY THIS POLICY.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF THE INSURED AT DATE OF POLICY, OR THE INABILITY OR FAILURE OF ANY SUBSEQUENT OWNER OF THE INDEBTEDNESS, TO COMPLY WITH THE APPLICABLE DOING BUSINESS LAWS OF THE STATE IN WHICH THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE, OR CLAIM THEREOF, WHICH ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED UPON USURY OR ANY CONSUMER CREDIT PROTECTION OR TRUTH-IN-LENDING LAW.
6. ANY CLAIM, WHICH ARISES OUT OF THE TRANSACTION VESTING IN THE INSURED THE ESTATE OR INTEREST INSURED BY THIS POLICY OR THE TRANSACTION CREATING THE INTEREST OF THE INSURED LENDER, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY OR SIMILAR CREDITORS' RIGHTS LAWS.

EXCEPTIONS FROM COVERAGE - SCHEDULE B, PART I

THIS POLICY DOES NOT INSURE AGAINST LOSS OR DAMAGE (AND THE COMPANY WILL NOT PAY COSTS, ATTORNEYS' FEES OR EXPENSES) WHICH ARISE BY REASON OF:

1. TAXES OR ASSESSMENTS WHICH ARE NOT SHOWN AS EXISTING LIENS BY THE RECORDS OF ANY TAXING AUTHORITY THAT LEVIES TAXES OF ASSESSMENTS ON REAL PROPERTY OR BY THE PUBLIC RECORDS. PROCEEDINGS BY A PUBLIC AGENCY WHICH MAY RESULT IN TAXES OR ASSESSMENTS, OR NOTICES OF SUCH PROCEEDINGS, WHETHER OR NOT SHOWN BY THE RECORDS OF SUCH AGENCY OR BY THE PUBLIC RECORDS.
2. ANY FACTS, RIGHTS, INTEREST, OR CLAIMS WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS BUT WHICH COULD BE ASCERTAINED BY AN INSPECTION OF THE LAND OR WHICH MAY BE ASSERTED BY PERSONS IN POSSESSION THEREOF.
3. EASEMENTS, LIENS OR ENCUMBRANCES, OR CLAIMS THEREOF, WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
4. DISCREPANCIES, CONFLICTS IN BOUNDARY LINES, SHORTAGE IN AREA, ENCROACHMENTS, OR ANY OTHER FACTS WHICH A CORRECT SURVEY WOULD DISCLOSE, AND WHICH ARE NOT SHOWN BY THE PUBLIC RECORDS.
5. (A) UNPATENTED MINING CLAIMS; (B) RESERVATIONS OR EXCEPTIONS IN PATENTS OR IN ACTS AUTHORIZING THE ISSUANCE THEREOF; (C) WATER RIGHTS, CLAIMS OR TITLE TO WATER, WHETHER OR NOT THE MATTERS EXCEPTED UNDER (A), (B) OR (C) ARE SHOWN BY THE PUBLIC RECORDS.

CALIFORNIA LAND TITLE ASSOCIATION HOMEOWNER'S POLICY OF TITLE INSURANCE (10/22/03)
AMERICAN LAND TITLE ASSOCIATION HOMEOWNER'S POLICY OF TITLE INSURANCE (10/22/03)
EXCLUSIONS

IN ADDITION TO THE EXCEPTIONS IN SCHEDULE B, YOU ARE NOT INSURED AGAINST LOSS, COSTS, ATTORNEYS' FEES, AND EXPENSES RESULTING FROM:

1. GOVERNMENTAL POLICE POWER, AND THE EXISTENCE OR VIOLATION OF ANY LAW OR GOVERNMENT REGULATION. THIS INCLUDES ORDINANCES LAWS AND REGULATIONS CONCERNING:
 - A. BUILDING
 - B. ZONING
 - C. LAND USE
 - D. IMPROVEMENTS ON THE LAND
 - E. LAND DIVISION
 - F. ENVIRONMENTAL PROTECTIONTHIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OR THE ENFORCEMENT OF THESE MATTERS IF NOTICE OF THE VIOLATION OR ENFORCEMENT APPEARS IN THE PUBLIC RECORDS AT THE POLICY DATE.
2. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE DESCRIBED IN COVERED RISK 14, 15, 16, 17 OR 24.
3. THE FAILURE OF YOUR EXISTING STRUCTURES, OR ANY PART OF THEM, TO BE CONSTRUCTED IN ACCORDANCE WITH APPLICABLE BUILDING CODES. THIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OF BUILDING CODES IF NOTICE OF THE VIOLATION APPEARS IN THE PUBLIC RECORDS AT THE POLICY DATE.
4. THE RIGHT TO TAKE THE LAND BY CONDEMNATING IT, UNLESS:
 - A. A NOTICE OF EXERCISING THE RIGHT APPEARS IN THE PUBLIC RECORDS AT THE POLICY DATE; OR
 - B. THE TAKING HAPPENED BEFORE THE POLICY DATE AND IS BINDING ON YOU IF YOU BOUGHT THE LAND WITHOUT KNOWING OF THE TAKING.
5. RISKS:
 - A. THAT ARE CREATED, ALLOWED, OR AGREED TO BY YOU, WHETHER OR NOT THEY APPEAR IN THE PUBLIC RECORDS;
 - B. THAT ARE KNOWN TO YOU AT THE POLICY DATE, BUT NOT TO US, UNLESS THEY APPEAR IN THE PUBLIC RECORDS AT THE POLICY DATE;
 - C. THAT RESULT IN NO LOSS TO YOU; OR
 - D. THAT FIRST OCCUR AFTER THE POLICY DATE - THIS DOES NOT LIMIT THE COVERAGE DESCRIBED IN COVERED RISK 7, 8D, 22, 23, 24 OR 25.
6. FAILURE TO PAY VALUE FOR YOUR TITLE.
7. LACK OF A RIGHT:
 - A. TO ANY LAND OUTSIDE THE AREA SPECIFICALLY DESCRIBED AND REFERRED TO IN PARAGRAPH 3 OF SCHEDULE A; AND
 - B. IN STREETS, ALLEYS, OR WATERWAYS THAT TOUCH THE LAND.THIS EXCLUSION DOES NOT LIMIT THE COVERAGE DESCRIBED IN COVERED RISK 11 OR 18.

LIMITATIONS ON COVERED RISKS

YOUR INSURANCE FOR THE FOLLOWING COVERED RISKS IS LIMITED ON THE OWNER'S COVERAGE STATEMENT AS FOLLOWS:
 FOR COVERED RISK 14, 15, 16 AND 18, YOUR DEDUCTIBLE AMOUNT AND OUR MAXIMUM DOLLAR LIMIT OF LIABILITY SHOWN IN SCHEDULE A.
 THE DEDUCTIBLE AMOUNTS AND MAXIMUM DOLLAR LIMITS SHOWN ON SCHEDULE A ARE AS FOLLOWS:

	Your Deductible Amount	Our Maximum Dollar Limit of Liability		Your Deductible Amount	Our Maximum Dollar Limit of Liability
Covered Risk 14:	1% of Policy Amount or \$2,500 (whichever is less)	\$10,000	Covered Risk 16:	1% of Policy Amount or \$5,000 (whichever is less)	\$25,000
Covered Risk 15:	1% of Policy Amount or \$5,000 (whichever is less)	\$25,000	Covered Risk 18:	1% of Policy Amount or \$2,500 (whichever is less)	\$5,000

AMERICAN LAND TITLE ASSOCIATION RESIDENTIAL TITLE INSURANCE POLICY (9/1/87)

EXCLUSIONS

IN ADDITION TO THE EXCEPTIONS IN SCHEDULE B, YOU ARE NOT INSURED AGAINST LOSS, COSTS, ATTORNEYS' FEES, AND EXPENSES RESULTING FROM:

1. GOVERNMENTAL POLICE POWER, AND THE EXISTENCE OR VIOLATION OF ANY LAW OR GOVERNMENT REGULATION. THIS INCLUDES BUILDING AND ZONING ORDINANCES AND ALSO LAWS AND REGULATIONS CONCERNING:
 - LAND USE
 - IMPROVEMENTS ON THE LAND
 - LAND DIVISION
 - ENVIRONMENTAL PROTECTION
 THIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OR THE ENFORCEMENT OF THESE MATTERS WHICH APPEAR IN THE PUBLIC RECORDS AT POLICY DATE.
 THIS EXCLUSION DOES NOT LIMIT THE ZONING COVERAGE DESCRIBED IN ITEMS 12 AND 13 OF COVERED TITLE RISKS.
2. THE RIGHT TO TAKE THE LAND BY CONDEMNATION IT, UNLESS:
 - A NOTICE OF EXERCISING THE RIGHT APPEARS IN THE PUBLIC RECORDS ON THE POLICY DATE
 - THE TAKING HAPPENED PRIOR TO THE POLICY DATE AND IS BINDING ON YOU IF YOU BOUGHT THE LAND WITHOUT KNOWING OF THE TAKING
3. TITLE RISKS:
 - THAT ARE CREATED, ALLOWED, OR AGREED TO BY YOU
 - THAT ARE KNOWN TO YOU, BUT NOT TO US, ON THE POLICY DATE - UNLESS THEY APPEARED IN THE PUBLIC RECORDS
 - THAT RESULT IN NO LOSS TO YOU
 - THAT FIRST AFFECT YOUR TITLE AFTER THE POLICY DATE - THIS DOES NOT LIMIT THE LABOR AND MATERIAL LIEN COVERAGE IN ITEM 8 OF COVERED TITLE RISKS
4. FAILURE TO PAY VALUE FOR YOUR TITLE.
5. LACK OF A RIGHT:
 - TO ANY LAND OUTSIDE THE AREA SPECIFICALLY DESCRIBED AND REFERRED TO IN ITEM 3 OF SCHEDULE A
 - OR
 - IN STREETS, ALLEYS OR WATERWAYS THAT TOUCH YOUR LAND.
 THIS EXCLUSION DOES NOT LIMIT THE ACCESS COVERAGE IN ITEM 5 OF COVERED TITLE RISKS.

AMERICAN LAND TITLE ASSOCIATION LOAN POLICY (10/17/82) WITH ALTA ENDORSEMENT-FORM 1 COVERAGE

EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING AND ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO (1) THE OCCUPANCY, USE OR ENJOYMENT OF THE LAND; (2) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (3) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREA OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (4) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT A NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF THE EXERCISE THEREOF OR A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (EXCEPT TO THE EXTENT THAT THIS POLICY INSURED THE PRIORITY OF THE LIEN OF THE INSURED MORTGAGE OVER ANY STATUTORY LIEN FOR SERVICES, LABOR OR MATERIAL OR TO THE EXTENT INSURANCE IS AFFORDED HEREIN AS TO ASSESSMENTS FOR STREET IMPROVEMENTS UNDER CONSTRUCTION OR COMPLETED AT DATE OF POLICY); OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF THE INSURED AT DATE OF POLICY, OR THE INABILITY OR FAILURE OF ANY SUBSEQUENT OWNER OF THE INDEBTEDNESS, TO COMPLY WITH APPLICABLE DOING BUSINESS LAWS OF THE STATE IN WHICH THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE, OR CLAIM THEREOF, WHICH ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED UPON USURY OR ANY CONSUMER CREDIT PROTECTION OR TRUTH-IN-LENDING LAW.
6. ANY STATUTORY LIEN FOR SERVICES, LABOR OR MATERIALS (OR THE CLAIM OF PRIORITY OF ANY STATUTORY LIEN FOR SERVICES, LABOR OR MATERIALS OVER THE LIEN OF THE INSURED MORTGAGE) ARISING FROM AN IMPROVEMENT OR WORK RELATED TO THE LAND WHICH IS CONTRACTED FOR AND COMMENCED SUBSEQUENT TO DATE OF POLICY AND IS NOT FINANCED IN WHOLE OR IN PART BY PROCEEDS OF THE INDEBTEDNESS SECURED BY THE INSURED MORTGAGE WHICH AT DATE OF POLICY THE INSURED HAS ADVANCED OR IS OBLIGATED TO ADVANCE.
7. ANY CLAIM, WHICH ARISES OUT OF THE TRANSACTION CREATING THE INTEREST OF THE MORTGAGEE INSURED BY THIS POLICY, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT IS BASED ON:
 - (1) THE TRANSACTION CREATING THE INTEREST OF THE INSURED MORTGAGEE BEING DEEMED A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER; OR

- (2) THE SUBORDINATION OF THE INTEREST OF THE INSURED MORTGAGEE AS A RESULT OF THE APPLICATION OF THE DOCTRINE OF EQUITABLE SUBORDINATION; OR
- (3) THE TRANSACTION CREATING THE INTEREST OF THE INSURED MORTGAGEE BEING DEEMED A PREFERENTIAL TRANSFER EXCEPT WHERE THE PREFERENTIAL TRANSFER RESULTS FROM THE FAILURE:
 - (A) TO TIMELY RECORD THE INSTRUMENT OF TRANSFER; OR
 - (B) OF SUCH RECORDATION TO IMPART NOTICE TO A PURCHASER FOR VALUE OR A JUDGMENT OR LIEN CREDITOR.

THE ABOVE POLICY FORMS MAY BE ISSUED TO AFFORD EITHER STANDARD OR EXTENDED COVERAGE. IN ADDITION TO THE ABOVE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE IN A STANDARD COVERAGE POLICY WILL ALSO INCLUDE THE FOLLOWING GENERAL EXCEPTIONS:

**2005 ALTA LOAN POLICY (6/17/05)
EXCLUSIONS FROM COVERAGE**

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE, PERMIT, OR GOVERNMENTAL REGULATION (INCLUDING THOSE RELATING TO BUILDING AND ZONING) RESTRICTING, REGULATING, PROHIBITING, OR RELATING TO
 - (I) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND
 - (II) THE CHARACTER, DIMENSIONS, OR LOCATION OF ANY IMPROVEMENT ERECTED ON THE LAND;
 - (III) THE SUBDIVISION OF LAND; OR
 - (IV) ENVIRONMENTAL PROTECTION
 OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES, OR GOVERNMENTAL REGULATIONS. THIS EXCLUSION 1(A) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 5.
- (B) ANY GOVERNMENTAL POLICE POWER. THIS EXCLUSION 1(B) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 8.
2. RIGHTS OF EMINENT DOMAIN. THIS EXCLUSION DOES NOT MODIFY OR LIMIT COVERAGE PROVIDED UNDER COVERED RISK 7 OR 8.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS, OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AND INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (HOWEVER, THIS DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 11, 13, OR 14); OR
 - (E) RESULTING IN LOSS OR DAMAGE THAT WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF AN INSURED TO COMPLY WITH APPLICABLE DOING-BUSINESS LAWS OF THE STATE WHERE THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY IN WHOLE OR IN PART OF THE LIEN OF THE INSURED MORTGAGE THAT ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED UPON USURY OR ANY CONSUMER CREDIT PROTECTION OR TRUTH-IN-LENDING LAW.
6. ANY CLAIM, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT THE TRANSACTION CREATING THE LIEN OF THE INSURED MORTGAGE, IS:
 - (A) A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER, OR
 - (B) A PREFERENTIAL TRANSFER FOR ANY REASON NOT STATED IN COVERED RISK 13(B) OF THIS POLICY.
- ANY LIEN OF THE TITLE FOR REAL ESTATE TAXES OR ASSESSMENTS IMPOSED BY GOVERNMENTAL AUTHORITY AND CREATED OR ATTACHING BETWEEN DATE OF POLICY AND THE DATE OF RECORDING OF THE INSURED MORTGAGE IN THE PUBLIC RECORDS. THIS EXCLUSION DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 11(B).

**AMERICAN LAND TITLE ASSOCIATION OWNER'S POLICY (10/17/92)
EXCLUSIONS FROM COVERAGE**

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING AND ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO (I) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND; (II) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (III) A SEPARATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREA OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (IV) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES, OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT A NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN, ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME INSURED UNDER THIS POLICY
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY; OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE ESTATE OR INTEREST INSURED BY THIS POLICY.
4. ANY CLAIM, WHICH ARISES OUT OF THE TRANSACTION VESTING IN THE INSURED THE ESTATE OR INTEREST INSURED BY THIS POLICY, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT IS BASED ON:
 - (I) THE TRANSACTION CREATING THE ESTATE OR INTEREST INSURED BY THIS POLICY DEEMED A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER; OR
 - (II) THE TRANSACTION CREATING THE ESTATE OR INTEREST INSURED BY THIS POLICY BEING DEEMED A PREFERENTIAL TRANSFER EXCEPT WHERE THE PREFERENTIAL TRANSFER RESULTS FROM THE FAILURE:
 - (A) TO TIMELY RECORD THE INSTRUMENT OF TRANSFER; OR
 - (B) OF SUCH RECORDATION TO IMPART NOTICE TO A PURCHASER FOR VALUE OR A JUDGMENT OR A LIEN CREDITOR.

THE ABOVE POLICY FORMS MAY BE ISSUED TO AFFORD EITHER STANDARD COVERAGE OR EXTENDED COVERAGE. IN ADDITION TO THE ABOVE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE IN A STANDARD COVERAGE POLICY WILL ALSO INCLUDE THE FOLLOWING GENERAL EXCEPTIONS:

2000 ALTA OWNER'S POLICY (01/17/00)

EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY, AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES, OR EXPENSES THAT ARISE BY REASON OF:

- (A) ANY LAW, ORDINANCE, PERMIT, OR GOVERNMENTAL REGULATION (INCLUDING THOSE RELATING TO BUILDING AND ZONING) RESTRICTING, REGULATING, PROHIBITING, OR RELATING TO:
 - (i) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND;
 - (ii) THE CHARACTER, DIMENSIONS, OR LOCATION OF ANY IMPROVEMENT ERECTED ON THE LAND;
 - (iii) THE SUBDIVISION OF LAND; OR
 - (iv) ENVIRONMENTAL PROTECTION;
 OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES, OR GOVERNMENTAL REGULATIONS. THIS EXCLUSION (A) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 5.
- (B) ANY GOVERNMENTAL POLICE POWER. THIS EXCLUSION (B) DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 6.
2. RIGHTS OF EMINENT DOMAIN. THIS EXCLUSION DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 7 OR 8.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS, OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED, OR AGREED TO BY THE INSURED CLAIMANT;
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY (HOWEVER, THIS DOES NOT MODIFY OR LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 9 AND 10); OR
 - (E) RESULTING IN LOSS OR DAMAGE THAT WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE TITLE.
4. ANY CLAIM, BY REASON OF THE OPERATION OF FEDERAL BANKRUPTCY, STATE INSOLVENCY, OR SIMILAR CREDITORS' RIGHTS LAWS, THAT THE TRANSACTION VESTING THE TITLE AS SHOWN IN SCHEDULE A, IS:
 - (A) A FRAUDULENT CONVEYANCE OR FRAUDULENT TRANSFER; OR
 - (B) A PREFERENTIAL TRANSFER FOR ANY REASON NOT STATED IN COVERED RISK 9 OF THIS POLICY.
5. ANY LIEN ON THE TITLE FOR REAL ESTATE TAXES OR ASSESSMENTS IMPOSED BY GOVERNMENTAL AUTHORITY AND CREATED OR ATTACHING BETWEEN DATE OF POLICY AND THE DATE OF RECORDING OF THE DEED OR OTHER INSTRUMENT OF TRANSFER IN THE PUBLIC RECORDS THAT VESTS TITLE AS SHOWN IN SCHEDULE A.

ALTA EXPANDED COVERAGE RESIDENTIAL LOAN POLICY (10/13/01)

EXCLUSIONS FROM COVERAGE

THE FOLLOWING MATTERS ARE EXPRESSLY EXCLUDED FROM THE COVERAGE OF THIS POLICY AND THE COMPANY WILL NOT PAY LOSS OR DAMAGE, COSTS, ATTORNEYS' FEES OR EXPENSES WHICH ARISE BY REASON OF:

1. (A) ANY LAW, ORDINANCE OR GOVERNMENTAL REGULATION (INCLUDING BUT NOT LIMITED TO BUILDING AND ZONING LAWS, ORDINANCES, OR REGULATIONS) RESTRICTING, REGULATING, PROHIBITING OR RELATING TO (i) THE OCCUPANCY, USE, OR ENJOYMENT OF THE LAND; (ii) THE CHARACTER, DIMENSIONS OR LOCATION OF ANY IMPROVEMENT NOW OR HEREAFTER ERECTED ON THE LAND; (iii) A SEPERATION IN OWNERSHIP OR A CHANGE IN THE DIMENSIONS OR AREAS OF THE LAND OR ANY PARCEL OF WHICH THE LAND IS OR WAS A PART; OR (iv) ENVIRONMENTAL PROTECTION, OR THE EFFECT OF ANY VIOLATION OF THESE LAWS, ORDINANCES OR GOVERNMENTAL REGULATIONS, EXCEPT TO THE EXTENT THAT'S NOTICE OF THE ENFORCEMENT THEREOF OR A NOTICE OF A DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISKS 12, 13, 14, AND 15 OF THIS POLICY.
- (B) ANY GOVERNMENTAL POLICE POWER NOT EXCLUDED BY (A) ABOVE, EXCEPT TO THE EXTENT THAT A NOTICE OF THE EXERCISE THEREOF OR A NOTICE OF DEFECT, LIEN OR ENCUMBRANCE RESULTING FROM A VIOLATION OR ALLEGED VIOLATION AFFECTING THE LAND HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 12, 13, 14, AND 15.
2. RIGHTS OF EMINENT DOMAIN UNLESS NOTICE OF THE EXERCISE THEREOF HAS BEEN RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT NOT EXCLUDING FROM COVERAGE ANY TAKING WHICH HAS OCCURRED PRIOR TO DATE OF POLICY WHICH WOULD BE BINDING ON THE RIGHTS OF A PURCHASER FOR VALUE WITHOUT KNOWLEDGE.
3. DEFECTS, LIENS, ENCUMBRANCES, ADVERSE CLAIMS OR OTHER MATTERS:
 - (A) CREATED, SUFFERED, ASSUMED OR AGREED TO BY THE INSURED CLAIMANT
 - (B) NOT KNOWN TO THE COMPANY, NOT RECORDED IN THE PUBLIC RECORDS AT DATE OF POLICY, BUT KNOWN TO THE INSURED CLAIMANT AND NOT DISCLOSED IN WRITING TO THE COMPANY BY THE INSURED CLAIMANT PRIOR TO THE DATE THE INSURED CLAIMANT BECAME AN INSURED UNDER THIS POLICY;
 - (C) RESULTING IN NO LOSS OR DAMAGE TO THE INSURED CLAIMANT;
 - (D) ATTACHING OR CREATED SUBSEQUENT TO DATE OF POLICY | THIS PARAGRAPH DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVERED RISK 8, 15, 16, 19, 20, 21, 22, 23, 24, 25 AND 26; OR
 - (E) RESULTING IN LOSS OR DAMAGE WHICH WOULD NOT HAVE BEEN SUSTAINED IF THE INSURED CLAIMANT HAD PAID VALUE FOR THE INSURED MORTGAGE.
4. UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE BECAUSE OF THE INABILITY OR FAILURE OF THE INSURED AT DATE OF POLICY, OR THE INABILITY OR FAILURE OF ANY SUBSEQUENT OWNER OF THE INDEBTEDNESS, TO COMPLY WITH APPLICABLE DOING BUSINESS LAWS OF THE STATE IN WHICH THE LAND IS SITUATED.
5. INVALIDITY OR UNENFORCEABILITY OF THE LIEN OF THE INSURED MORTGAGE, OR CLAIM THEREOF, WHICH ARISES OUT OF THE TRANSACTION EVIDENCED BY THE INSURED MORTGAGE AND IS BASED ON USURY, EXCEPT AS PROVIDED IN COVERED RISK 27, OR ANY CONSUMER CREDIT PROTECTION OR TRUTH IN LENDING LAW.
6. REAL PROPERTY TAXES OR ASSESSMENTS OF ANY GOVERNMENTAL AUTHORITY WHICH BECOME A LIEN ON THE LAND SUBSEQUENT TO DATE OF POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED UNDER COVER RISKS 7, 8(E) AND 26.
7. ANY CLAIM OF INVALIDITY, UNENFORCEABILITY OR LACK OF PRIORITY OF THE LIEN OF THE INSURED MORTGAGE AS TO ADVANCES OR MODIFICATIONS MADE AFTER THE INSURED HAS KNOWLEDGE THAT THE VESTEE SHOWN IN SCHEDULE A IS NO LONGER THE OWNER OF THE ESTATE OR INTEREST COVERED BY THIS POLICY. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED IN COVERED RISK 6.
8. LACK OF PRIORITY OF THE LIEN OF THE INSURED MORTGAGE AS TO EACH AND EVERY ADVANCE MADE AFTER DATE OF POLICY, AND ALL INTEREST CHARGED THEREON, OVER LIENS, ENCUMBRANCES AND OTHER MATTERS AFFECTING THE TITLE, THE EXISTENCE OF WHICH ARE KNOWN TO THE INSURED AT:
 - (A) THE TIME OF THE ADVANCE OR
 - (B) THE TIME A MODIFICATION IS MADE TO THE TERMS OF THE INSURED MORTGAGE WHICH CHANGES THE RATE OF INTEREST CHARGED, IF THE RATE OF INTEREST IS GREATER AS A RESULT OF THE MODIFICATION THAN IT WOULD HAVE BEEN BEFORE THE MODIFICATION. THIS EXCLUSION DOES NOT LIMIT THE COVERAGE PROVIDED IN COVERED RISK 8.
9. THE FAILURE OF THE RESIDENTIAL STRUCTURE, OR ANY PORTION THEREOF TO HAVE BEEN CONSTRUCTED BEFORE, ON OR AFTER DATE OF POLICY IN ACCORDANCE WITH APPLICABLE BUILDING CODES. THIS EXCLUSION DOES NOT APPLY TO VIOLATIONS OF BUILDING CODES IF NOTICE OF THE VIOLATION APPEARS IN THE PUBLIC RECORDS AT DATE OF POLICY.

EXHIBIT "B"

**Renewal, Extension, Modification, and Ratification of Note and Deed of Trust
("New Loan Documentation")**

[See Attached]

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OK
TEB
Handwritten number
30 Oct 2008
21 of 27

Purchase Agreement11.doc

APN: 189-11-002-001

ESCROW NO. 08-09-0512-SD

RENEWAL, EXTENSION, MODIFICATION, AND RATIFICATION OF
NOTE AND DEED OF TRUST

STATE OF NEVADA

COUNTY OF CLARK

THIS RENEWAL, EXTENSION, MODIFICATION, AND RATIFICATION OF NOTE AND DEED OF TRUST (this "Agreement") is made and entered into by and between Eldorado Hills, LLC, a Nevada Limited Liability Company (the "Borrower"), whose address is 3883 Howard Hughes Pkwy, # 590, Las Vegas, Nevada 89169 and the Federal Deposit Insurance Corporation (the "FDIC"), as Receiver for ANB Financial, N.A., ("ANB") whose address is 1601 Bryan St., Dallas, Texas 75201.

RECITALS:

WHEREAS, the Borrower executed that certain Promissory Note dated May 25, 2007, payable to the order of ANB in the original principal amount of \$21,000,000.00 (the "Original Note"); and

WHEREAS, the Note is secured by the lien of that certain Deed Of Trust, of even date with the Original Note, to Nevada Title Company as Trustee for the benefit of ANB, and recorded on May 25, 2007, as Instrument No. 20070525-0002845 in the records of the County Recorder of Clark County, Nevada (the "Deed of Trust"), covering certain real property situated in Clark County, Nevada, as particularly described and defined therein and on Exhibit A attached hereto (the "Real Property"); and

WHEREAS, ANB was closed by the Comptroller of the Currency on May 9, 2008, and the FDIC was thereafter appointed receiver for ANB (the "Receiver"); and

WHEREAS, pursuant to 12 U.S.C. § 1821(d), the Receiver has succeeded to all of the right, title, and interest of ANB in, to, and under the Note and the Deed of Trust; and

WHEREAS, the Borrower is in default under the Note and the Deed Of Trust, and giving credit for all payments made from all persons, including, without limitation, a payment of \$4,321,718.32 as a principal reduction and payment of \$678,281.68 accrued interest, at or about the time of execution of this Agreement, there is due and owing on the Note the principal amount of \$16,170,278.08; and

WHEREAS, the Borrower has proposed and the Receiver has consented to renew, extend, and modify the Note and the Deed of Trust as hereinafter provided, and the Borrower desires to ratify the Note and the Deed Of Trust as so renewed, extended, and modified.

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NOW, THEREFORE, in consideration of the premises, including, without limitation, the forbearance of the Receiver in exercising its rights to (A) accelerate the indebtedness evidenced by the Note and secured by the lien of the Deed Of Trust upon the Real Property, as a result of the Borrower's default thereunder, and (B) foreclose upon the Real Property and any other collateral, either judicially or non-judicially, and for other good and valuable consideration, the receipt and sufficiency of all of which are hereby acknowledged, the Borrower and the Receiver hereby agree as follows:

1. Recitals. The Recitals set forth hereinabove are hereby incorporated into this Agreement and made a part hereof for all purposes as if fully set forth herein.

2. Renewal, Extension, and Modification of Note.

(a) The Note is hereby renewed, extended, and modified as herein set forth and Borrower hereby promises to pay to the order of the Receiver, its successors and assigns, at the address set forth hereinabove, or at such other place as the holder of the Note may from time to time designate in writing, the unpaid principal balance of the Note, which the Borrower and the Receiver hereby agree to be the amount of SIXTEEN MILLION, ONE HUNDRED SEVENTY THOUSAND, TWO HUNDRED SEVENTY EIGHT AND EIGHT ONE HUNDREDS DOLLARS (\$16,170,278.08), together with interest on the balance of principal remaining from time to time unpaid hereunder from the date of this Agreement at the rates provided for herein.

(b) Prior to default or maturity hereunder, the outstanding principal balance of the Note shall bear interest at a rate per annum (the "Regular Rate") equal to Wall Street Journal Prime, as such rate is published and adjusted from time to time, plus two per cent (2%), in each case calculated daily on the basis of a three hundred sixty-five (365)-day year for each day all or any part of the principal balance of the Note shall remain outstanding.

(c) The Note is payable hereunder in the following manner:

(i) On the 30th day of the month following the date of this Agreement, and on the 30th day of each and every month thereafter to and including the 30th day of the month preceding the Maturity Date (hereinafter defined), ONE HUNDRED AND TWENTY THOUSAND, FIVE HUNDRED SIXTY ONE AND TWENTY FIVE ONE HUNDREDS DOLLARS (\$120,561.25) shall be paid on account of principal and interest on the Note at the Regular Rate.

(ii) In all events, the entire principal balance of the Note, together with all accrued and unpaid interest thereon and all other sums due thereunder, if any, unless sooner paid, shall be due and payable on the Fifth (5th) anniversary of the date of this Agreement (the "Maturity Date").

(iii) During the term of this Note, individual lots will be released upon payment

of 125% of the value of such lot or lots established by the appraisal dated March 21, 2007, prepared by Rick Smith of RCS Appraisal, Inc., File #07-070.

3. Renewal, Extension, and Modification of Deed Of Trust. The Deed Of Trust and all rights, titles, interests, liens, powers, and privileges existing by virtue thereof, together with any and all other documents executed with regard thereto or to the indebtedness evidenced by the Note, are hereby renewed, extended, and modified as herein set forth and shall be and continue in full force and effect to secure payment of the indebtedness evidenced by the Note and any and all renewals and extensions thereof.

4. Ratification of Note and Deed Of Trust. The Borrower hereby ratifies the Note and the Deed Of Trust and any and all other documents executed with regard thereto or to the indebtedness evidenced thereby, as hereby renewed, extended, and modified. Except as expressly modified herein, all of the terms and provisions of the Note and the Deed Of Trust and any and all other documents executed with regard thereto or to the indebtedness evidenced thereby, shall remain in full force and effect. To the extent any conflicts exist between this Agreement and the terms and provisions of the Note and the Deed Of Trust and any and all other documents executed with regard thereto or to the indebtedness evidenced thereby, this Agreement shall control.

5. Interest Not to Exceed Maximum Lawful Amount. All agreements between the Borrower and ANB or the Receiver, whether now existing or hereafter arising and whether written or oral, are hereby limited so that in no contingency or event whatsoever, whether by reason of demand or acceleration of the maturity of the Note or otherwise, shall the amount contracted for, charged, received, paid, or agreed to be paid to ANB or the Receiver for the use, forbearance, or detention of the funds evidenced by the Note or otherwise, or for the performance or payment of any covenant or obligation contained in the Deed Of Trust, exceed the maximum amount permissible under applicable law. If, from any circumstance whatsoever, interest would otherwise be payable to ANB or the Receiver in excess of the maximum lawful amount, the interest payable to ANB or the Receiver shall be reduced to the maximum amount permitted under applicable law; and if from any circumstance ANB ever received or the Receiver ever receives anything of value deemed interest by applicable law in excess of the maximum lawful amount, an amount equal to any excessive interest shall be applied to the reduction of the principal of the Note and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal thereof, such excess shall be refunded to the Borrower. All interest paid or agreed to be paid to ANB or the Receiver shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full contemplated term of the Note (including the period of any renewal or extension thereof) until payment in full of the principal so that the interest thereon for such contemplated term shall not exceed the maximum amount permitted by applicable law; provided that if the principal is paid and performed in full prior to the end of such contemplated term thereof, and if the amount of interest received for the actual period of existence thereof exceeds the maximum lawful rate, the Receiver shall refund to the Borrower the amount of such excess. The term "applicable law" as used herein shall mean the laws of the United States or the law of the State of Texas, whichever laws allow the greater rate of interest, as such laws now exist or may be changed or amended or come into effect in the future. This Section 5 shall control all agreements between the Borrower and ANB or the

Receiver.

6. Reinstatement. If the maturity of the indebtedness evidenced by the Note has heretofore been accelerated or the Note has otherwise matured according to its terms, the Receiver hereby reinstates the Note and the Deed Of Trust as if the default giving rise to such acceleration had not occurred or the Note had not matured; however, such reinstatement shall be without prejudice to the rights of the Receiver to exercise at any time in the future any and all rights conferred upon ANB or the Receiver by the Note and the Deed Of Trust with respect to any default, breach, or failure to observe any provision provided therein which might occur subsequent to the date of this Agreement. Such reinstatement is being made by the Receiver at the request of the Borrower.

7. Prepayment. The Borrower shall have the option to prepay the Note upon written notice to the then holder thereof. Prepayment in full or in part without penalty shall be allowed provided that the Note or any instrument given to secure it are not in default, and that there are no funds then owing which may have been previously advanced pursuant to any such instrument securing the Note. Any such prepayment shall be applied first to the balance of the principal then remaining unpaid, and the remainder (if any) to interest payable thereunder.

8. Note and Deed Of Trust in Full Force and Effect. The Borrower and the Receiver hereby acknowledge and agree that the modifications contained herein shall in no manner impair the Note or its enforceability, or that of the lien and security interest of the Deed Of Trust, which Note, lien and security interest are hereby acknowledged by the Borrower to be valid and subsisting and all of the terms and provisions thereof shall be and remain in full force and effect as therein written except as modified by this Agreement. The Borrower further hereby acknowledges and agrees that, after giving effect to this Agreement, (a) ANB and the Receiver have fully performed each and every duty or obligation either might have had under the Note and the Deed Of Trust and no default on the part of ANB or the Receiver exists thereunder, (b) no default on the part of the Borrower exists under the Note or the Deed Of Trust, and (c) the Borrower has no (i) defenses to the enforcement of the Note or the Deed of Trust or (ii) right to any counterclaims or offsets thereunder.

9. Statutes of Limitation; Liability. The Borrower hereby (a) waives (if and to the fullest extent such waiver is permitted by law) the benefit of any and all applicable statutes of limitation as now existing or hereafter amended in relation to the Note or any payments, renewals, extensions, or modifications thereof, and (b) agrees that any renewals, extensions, modifications, assignments, or forbearances of any portion of the obligations evidenced by the Note shall in no way affect Borrower's liability thereunder or the enforceability thereof or of the lien of the Deed Of Trust.

10. Representations and Warranties of Borrower. The Borrower hereby represents and warrants to the Receiver, its successors and assigns, that all of the information and documentation provided to the Receiver in connection with the Borrower's negotiation of this Agreement are true and correct, including, without limitation, (a) the Borrower's present and continuing ownership of the Real Property and any and all other collateral pledged as security for the payment of the indebtedness evidenced by the Note, unencumbered by any other pledge, security interest, or lien given or granted by the Borrower to any other party for any other indebtedness, and (b) any and all financial

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information regarding the Borrower. The Borrower hereby acknowledges that the Receiver has relied upon such information and documentation in determining whether or not to allow the renewal, extension, and modification of the Note and the Deed Of Trust as provided for herein. If any of such information or documentation proves to have been false, such falsehood shall be an event of default under the Note and the Deed Of Trust, and the person or persons furnishing such false information or documentation shall be subject to criminal prosecution under 18 U.S.C. § 1007.

11. Lift of Stay. The Borrower hereby agrees that, as a part of the consideration for the transaction described in this Agreement, as such consideration is set forth hereinabove, in the event that the Borrower shall (a) file with any bankruptcy court of competent jurisdiction or be the subject of any petition under Title 11 of the U.S. Code, as amended, (b) be the subject of any order for relief issued under Title 11 of the U.S. Code, as amended, (c) file or be the subject of any petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency, or other relief for debtors, (d) have sought, consented to, or acquiesced in the appointment of any trustee, receiver, conservator, or liquidator, or (e) be the subject of any order, judgment, or decree entered by any court of competent jurisdiction approving a petition filed against such party for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future federal or state act or law relating to bankruptcy, insolvency, or relief for debtors, the Receiver shall thereupon be entitled to relief from any automatic stay imposed by Section 362 of Title 11 of the U.S. Code, as amended, or otherwise, on or against the exercise of the rights and remedies otherwise available to the Receiver as provided in the Note and the Deed Of Trust, as hereby renewed, extended, and modified, and as otherwise provided by law.

12. Entire Agreement. The Note and the Deed Of Trust, together with any and all other documents executed with regard thereto or to the indebtedness evidenced thereby, as hereby renewed, extended, and modified, embody the entire agreement between the Borrower and the Receiver regarding the subject matter hereof, which may not be further amended or modified in any manner without the written agreement of those parties.

13. Authority. The person(s) executing this Agreement on behalf of the Borrower each hereby warrant and represent to the Receiver that he or she has full right, power, and authority to do so.

14. Governing Law. Except as otherwise expressly set forth herein, the validity, construction, interpretation, enforcement, and performance of this Agreement, the Note, and the Deed Of Trust, and the rights and duties of the parties hereunder and thereunder, shall be governed by the laws of the United States of America and, to the extent that state law would apply under applicable federal law, the laws of the State of Texas, except as otherwise required by the laws of the jurisdiction where the property is located. Application of this Section 14 shall be made without regard to conflicts of law principles.

15. Parties Bound. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors, and assigns.

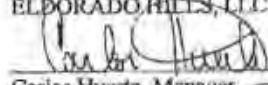
16. Communications. All payments, notices, demands, requests, and other communications required or permitted hereunder shall be in writing and shall be deemed to have been delivered to the addressee after the deposit of same in a post office of the United States Postal Service, or in a regularly maintained depository under the care and custody of the United States Postal Service, registered or certified, postage prepaid, addressed to such party at its address as respectively set forth hereinabove. Each party hereto may, by notice to the other party hereto, designate a different address. Payments, notices, demands, requests, and other communications given or made in the manner provided by this Section 16 shall be deemed sufficiently delivered, served, or given for all purposes hereunder at the time such payment, notice, demand, request, or communication shall have been mailed to the address of the addressee as hereinbefore provided. Rejection or refusal to accept, or inability to deliver because of changed address of which no notice of changed address was given, shall, as to any such payment, notice, demand, request, or communication, constitute delivery to addressee.

17. Counterparts. This Agreement may be executed in multiple counterparts, all of which shall be deemed originals, but which will evidence one and the same instrument.

THIS RENEWAL, EXTENSION, MODIFICATION, AND RATIFICATION OF NOTE AND DEED OF TRUST is executed by the parties hereto to be effective for all purposes as of the 30 day of October, 2008.

BORROWER:

ELDORADO HILLS, LLC


Carlos Huerta, Manager


Sigmund Rogich, Manager

[The Receiver's signature and the acknowledgments of the parties follow on the next page.]

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RECEIVER:

FEDERAL DEPOSIT INSURANCE CORPORATION,
as Receiver for ANB Financial NA

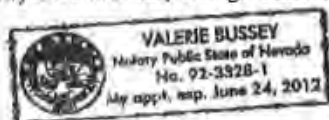
By: _____
Name: _____
Title: Attorney in Fact

ACKNOWLEDGMENTS

STATE OF NEVADA

COUNTY OF CLARK

The foregoing instrument was acknowledged before me this 30TH day of OCTOBER, 2008, by Carlos Huerta, Manager of El Dorado Hills, LLC, on behalf of the business or entity.

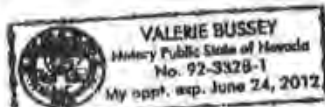


By: [Signature]
Notary Public, State of NEVADA
Residing at: CLARK COUNTY, NEVADA
My commission expires: 6/24/2012

STATE OF NEVADA

COUNTY OF CLARK

The foregoing instrument was acknowledged before me this 30TH day of OCTOBER, 2008, by Sigmund Rogich, Manager of El Dorado Hills, LLC, on behalf of the business or entity.



By: [Signature]
Notary Public, State of NEVADA
MY COMMISSION EXPIRES: 6/24/2012

STATE OF _____

COUNTY OF _____

On this _____ day of _____, 2008, before me, the undersigned Notary Public, personally appeared _____, to me known to be an Attorney in Fact of the Federal Deposit Insurance Corporation, acting in its capacity as Receiver for ANB Financial, NA and acknowledged that he executed the foregoing instrument on behalf of said entity.

By: _____
Notary Public, State of _____

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EXHIBIT A

Described as:

The southwest quarter (SW $\frac{1}{4}$) of Section 11, Township 23 South, Range 63 East,
M.D.B. & M., according to the official plat of said land on file in the office of the bureau of land
Management

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**ATTACHMENT TO RENEWAL, EXTENSION, MODIFICATION AND RATIFICATION OF
NOTE AND DEED OF TRUST
ACCOMMODATION RECORDING INSTRUCTIONS,
NOTICE AND WAIVER PURSUANT TO N.R.S. 692A.210
AND INDEMNITY AGREEMENT**

TO: NEVADA TITLE COMPANY DATE: October 29, 2008 ESCROW/ORDER # 08-09-0512-SD

FROM: The Undersigned

The documents listed below are for recording in the Recorder's Office as an accommodation only. You are to make no demand or inquiry in connection therewith. The undersigned understand that Nevada Title Company ("NTC") is not searching the public records in connection with any property affected thereby, and makes no assurances that the parties have any interest in any property described therein. Further, NTC has not examined the document(s), and makes no assurances as to their validity or effect on title. These documents are being delivered to the Recorder's Office only as a courtesy to the undersigned.

The undersigned also acknowledge that NTC will not now, nor will it in the future, receive any benefit, whether business or otherwise, as a result of the recordation of said document(s). The undersigned further acknowledge that NTC is unwilling to carry out the herein provided instructions without, and in the normal course of business would not do so without an Indemnity Agreement from the undersigned.

NOW THEREFORE, the undersigned do herein and hereby agree that, in consideration of NTC recording said documents, the undersigned will fully and forever protect, defend save harmless and otherwise indemnify NTC from and against any and all liabilities, responsibilities, loss, costs, damages, expenses, charges and fees including but not by way of limitation attorney's fees which it may suffer, expend or incur, directly or indirectly, under by way of, arising out of, or as a consequence of its fulfillment of these instructions and/or the recordation of the herein below described document.

THE UNDERSIGNED are responsible for the Clark County Recorder's Office documentation requirements, including (but not limited to) attaching a Declaration of Value form to any document recorded to transfer real property (or any right, title or interest therein).

The undersigned shall pay applicable Recording Fees and Transfer Tax (check payable to the "Clark County Recorder" to cover the charges concerning: i) the Recorder's Fee of \$14.00 for the first page, and \$1.00 for each additional page, of a document; ii) an additional fee of \$3.00 for any single-page document that is considered a "double-index" document; iii) real property transfer tax of \$5.10 per \$1,000.00 of equitable value in the property).

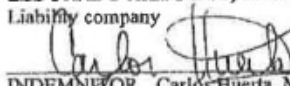
<u>DOCUMENT</u>	<u>1ST PARTY</u>	<u>2ND PARTY</u>	<u>TRANSFER TAX</u>	<u>RECORDING FEE</u>
Modification	Eldorado Hills	"FDIC"	Not Applicable	\$26.50 Est.
	LLC (Borrower)	(Receiver)		

FURTHERMORE, if a Lender's policy of title insurance is being issued but no Owner's title policy is being issued, then: notice is hereby given, as required in NRS 692A.210 that a mortgagee's title insurance policy is to be issued to your mortgage lender. The policy does not afford title insurance protection to you in the event of a defect or claim of defect in title to the real estate you own or are acquiring. An owner's title insurance policy affording protection to you in the amount of your purchase price, or for the amount of your purchase price plus the cost of any improvements, which you anticipate making, may be purchased by you. NRS 692A.210 requires that you sign the statement printed below if you do not wish to purchase an owner's title insurance policy.

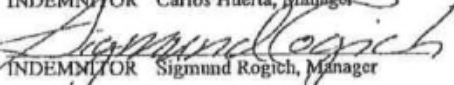
WE HAVE RECEIVED THE FOREGOING NOTICE, AND WAIVE OUR RIGHT TO PURCHASE AN OWNER'S TITLE INSURANCE POLICY FOR OUR PROTECTION.

ELDORADO HILLS LLC, a Nevada limited
Liability company

FEDERAL DEPOSIT INSURANCE
CORPORATION ("FDIC") AS RECEIVER FOR
ANB FINANCIAL, N.A.

INDEMNITOR  Carlos Huerta, Manager

INDEMNITOR Adron Neill, Authorized Signator

INDEMNITOR  Sigmund Rogich, Manager

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EXHIBIT "C"
Subscription Agreement

[See Attached]

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CH
S. R. D.
Test UIC
Membership number
30 Oct. 2008
22-08-07
Purchase Agreement11.doc

ELDORADO HILLS, LLC
A Nevada Limited-Liability Company

SUBSCRIPTION BOOKLET AND INSTRUCTIONS

SUBSCRIPTION INSTRUCTIONS

Attached is the Subscription Agreement (the "Subscription Agreement") relating to your purchase of certain limited-liability company Membership Interest Shares of Eldorado Hills, LLC, a Nevada limited-liability company (the "Company"). The Company is offering you an aggregate ownership interest pursuant to this Agreement equal to one-sixth of the limited-liability company Membership Interest Shares (the "Shares"), as will be outstanding effective as of the time of issuance (subject to the redemptions and expenditure referenced in Section 1.2 below), for an aggregate purchase price of two million five hundred thousand dollars (\$2,500,000.00).

A prospective purchaser desiring to subscribe for Shares must complete and execute the Subscription Agreement in accordance with the instructions herein and send this completed Subscription Booklet and payment for the relevant Shares as follows:

1. **Verification of Purchaser Suitability:** Please initial the appropriate boxes in Section 2.1 of the Subscription Agreement (Pages 3 and 4) to verify whether the prospective purchaser is suitable to purchase the Shares.
2. **Subscription for Shares:** Please indicate on the signature page of the Subscription Agreement (Page 11) the number of Shares to be purchased.
3. **Purchaser Information:** Please complete the requested purchaser information on the signature page of the Subscription Agreement (Page 11).
4. **Signature Page.** Please date and sign the signature page to this Subscription Agreement (Page 11).

Once the Subscription Booklet is fully completed and executed, the Subscription Booklet and the payment for the Shares should be sent to the attention of:

KENNETH A. WOLOSON, ESQ.
ELDORADO HILLS, LLC,
400 S. 4th Street, 3rd Floor
Las Vegas, Nevada 89101
Facsimile: (702) 791-0308

Handwritten note:
To be sent
to the
1st 12

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SUBSCRIPTION AGREEMENT

THIS SUBSCRIPTION AGREEMENT (this "Agreement") is made and entered into as of the date set forth on the signature page hereto, by and between Eldorado Hills, LLC, a Nevada limited-liability company (the "Company"), and the prospective purchaser listed on the signature page hereto (the "Purchaser").

RECITALS

A. The Company is proposing the sale of certain of its Membership Interests ("Shares"), the classes, rights, preferences and privileges of which are set forth in the Company's operating agreement, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference (the "Operating Agreement"), in reliance upon the exemption from registration provided by Section 4(2) of the Securities Act of 1933, as amended (the "Securities Act"), and/or pursuant to Rule 506 of Regulation D thereunder, as well as in reliance upon exemptive provisions of the securities laws of the State of Nevada;

B. The Company has previously provided Purchaser with certain materials consisting of a general description of the real property ("Real Property") commonly known as APN: 189-11-002-001, and other items concerning the Company and its finances, all as described in Exhibit "B" attached hereto and incorporated herein by this reference (together, the "Evaluation Materials");

C. The Company wishes to sell to the Purchaser, and the Purchaser wishes to purchase from the Company, an aggregate ownership interest equal to one-sixth (1/6th) of the Company's Membership Interest Shares (the "Shares"), as will be outstanding effective as of the time of issuance (subject to the redemption and expenditures referenced in Section 1.2 below), on the terms and in the manner set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the premises and mutual covenants, agreements, understandings, undertakings, representations, warranties and promises, and subject to the conditions hereinafter set forth, and intending to be legally bound thereby, the parties do hereby covenant and agree that the recitals set forth above are true and accurate and are hereby incorporated in and made a part of this Agreement, and further covenant and agree as follows:

Handwritten:
Rec'd by
managing member
30 Oct 2007
2017

1. PURCHASE AND SALE OF SHARES

1.1 Purchase Price. Subject to the terms and conditions of this Agreement, the Purchaser hereby agrees to purchase from the Company, and the Company hereby agrees to sell to the Purchaser, the Shares for a purchase price of two million five hundred thousand dollars (\$2,500,000.00).

1.2 Use of Proceeds. The Purchase Price shall be payable into Nevada Title Company Escrow No.: 08-09-0512SD and used to reduce the Company's currently outstanding loan in the approximate amount of twenty-one million one hundred seventy thousand two hundred seventy-eight dollars and 08/100, inclusive of principal plus accrued interest (\$21,170,278.08), which is owing from the Company to the Federal Deposit Insurance Corporation ("FDIC"), as Receiver for ANB Financial, N.A. ("Lender").

1.3 Concurrent with the transactions contemplated hereinabove, the Company is entering into a similar Purchase Agreement with Albert E. Flangas Revocable Living Trust u/a/d July 22, 2005 (the "Flangas Trust").

1.4 Furthermore, each of Purchaser and the Flangas Trust will be entering into a separate purchase agreement with The Rogich Family Irrevocable Trust ("Rogich Trust"), by which they will each acquire a one-sixth (1/6th) ownership interest in the Company owned by the Rogich Trust for a purchase price each of Five Hundred Thousand Dollars (\$500,000.00) and after which time, when combined with this Purchase Agreement and the Purchase Agreement between the Company and the Flangas Trust, will result in the ownership by the Company of one-third (1/3) by Purchaser, one-third (1/3) by the Flangas Trust and one-third (1/3) by the Rogich Trust (subject to the interest of the Rogich Trust possibly being adjusted as referenced in said separate purchase agreements. The representations, warranties, Exhibits, and covenants (covenants as to future financial obligations and distributions to and from the Company, respectively) set forth therein shall be deemed incorporated herein by this reference.

2. REPRESENTATIONS AND WARRANTIES OF THE PURCHASER

The Purchaser hereby represents and warrants to the Company as follows:

2.1 Purchaser Status. The Purchaser represents and warrants that the Purchaser is an "accredited investor" within the meaning of Rule 501(a) of Regulation D, promulgated under the Securities Act. The Purchaser understands that the Shares are being offered and sold only to "accredited investors" (as that term is defined under Rule 501(a) of Regulation D), and the Purchaser represents that the Purchaser is an accredited investor.

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Telo LLC
3/2/12

As provided by Rule 501(a) of Regulation D, the Purchaser's representation that the Purchaser is an accredited investor is based upon one of the following grounds that the Purchaser is a(n) (please check one):

- ☐ Private business development company as defined in Section 202(a)(22) of the Investment Advisors Act of 1940;
- ☐ Organization described in Section 501(c)(3) of the Internal Revenue Code, corporation, Massachusetts or similar business trust, or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of Five Million Dollars (\$5,000,000);
- ☐ Manager or executive officer of the Company;
- ☐ Natural person whose individual net worth, or joint net worth with that person's spouse, exceeds One Million Dollars (\$1,000,000);
- ☐ Natural person who has an individual income in excess of Two Hundred Thousand Dollars (\$200,000) in each of the two (2) most recent years and has a reasonable expectation of reaching the same income level in the current year;
- ☐ Natural person who has a joint income with that person's spouse in excess of Three Hundred Thousand Dollars (\$300,000) in each of the two (2) most recent years and has a reasonable expectation of reaching the same income level in the current year;
- ☐ Trust, with total assets in excess of Five Million Dollars (\$5,000,000), not formed for the specific purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as defined by Rule 506(b)(2)(ii) of the Securities Act; or
- ☐ Entity in which all of the equity owners are accredited investors;
- ☐ None of the foregoing representations apply to Purchaser.

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The Purchaser understands that the Company is relying on the Purchaser with respect to the accuracy of this representation and understands the significance of the Purchaser's representation to the Company that the Purchaser is an accredited investor. In addition, the Purchaser agrees to notify the Company of any material changes affecting accredited investor status prior to the closing of any purchase made.

2.2 Independent Investigation. The Purchaser represents and warrants that the Purchaser has received and has reviewed in its entirety the Evaluation Materials. In addition, the Purchaser represents and warrants that the Purchaser has had a reasonable opportunity to ask questions of and receive answers from the Company concerning the Company and the Private Placement, and all such questions, if any, have been answered to the full satisfaction of the Purchaser. In making this investment decision to purchase the Shares, the Purchaser is not relying on any oral or written representations or assurances from the Company or its agents other than as set forth in this Agreement.

2.3 Authorization. This Agreement constitutes valid and legally binding obligations of the Purchaser, enforceable in accordance with the terms herein. The Purchaser has full power and authority to enter into this Agreement. To the extent that the Purchaser is a trust, the undersigned trustee of the Purchaser is the duly authorized trustee and the Purchaser has all necessary powers and authority to acquire the Shares under the laws of the state of its domicile and under the terms of the trust agreement, as amended, under which it was created. To the extent that the Purchaser is a corporation, limited-liability company or partnership, the undersigned officer, manager or general partner of the Purchaser is the duly authorized officer, manager or general partner and the Purchaser has all necessary powers and authority to acquire the Shares under the laws of the state of its organization, the terms of the appropriate agreement, as amended, under which it was created, and the terms of the appropriate agreement, as amended, under which it is governed.

2.4 Purchase for Own Account. The Shares will be acquired for investment purposes only for such Purchaser's own account, not as a nominee or agent, and not with a view to the resale or distribution of any part thereof, and he has no present intention of selling, granting any participation in, or otherwise distributing the same. By executing this Agreement, the Purchaser further represents and warrants that the Purchaser does not have any contract, undertaking, agreement, or arrangement with any person to sell, transfer, or grant participations to such person or to any third person, with respect to any of the Shares.

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Investment
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2.5 Restricted Securities. The Purchaser acknowledges and understands that the Shares are characterized as "restricted securities" under the federal securities laws inasmuch as the Shares are being acquired from the Company in a transaction not involving a public offering and that under such laws and applicable regulations such securities may not be resold without registration under the Securities Act only in certain limited circumstances. In this regard, the Purchaser represents that the Purchaser is familiar with Securities and Exchange Commission Rule 144 ("Rule 144"), as presently in effect, and understand the resale limitations imposed thereby and by the Securities Act. Without in any way limiting the representations set forth above, the Purchaser: (1) agrees not to make any disposition of all or any portion of the Shares unless there is then in effect a registration statement under the Securities Act covering such proposed disposition and such disposition is made in accordance with such registration statement; or (2) shall have notified the Company of the proposed disposition and shall have furnished the Company with a statement of the circumstances surrounding the proposed disposition, and, if reasonably requested by the Company, the Purchaser shall have furnished the Company with an opinion of counsel, reasonably satisfactory to the Company, that such disposition will not require registration of such Shares under the Securities Act. It is agreed that the Company will request opinions of counsel for transactions made pursuant to Rule 144 only if such request is reasonable.

2.6 Risk of Loss. The Purchaser represents and warrants that the Purchaser: (1) has a pre-existing business relationship with the Company or one of its representatives such that the Company or one of its representatives would be aware of the character, business acumen, and general business and financial circumstances of the Purchaser; (2) understands that the Shares involve highly speculative risks; (3) possesses such knowledge and experience in financial and business matters that the Purchaser is capable of evaluating the merits and risks of the investment to be made by the Purchaser pursuant to this Agreement; and (4) can bear the economic risk of loss of the Purchaser's entire investment in the Company and the Shares without any material adverse effect on the Purchaser's economic stability.

2.7 Independent Legal Advice. The Purchaser represents and warrants that the Purchaser has had the opportunity to review the Evaluation Materials, this Agreement and the transactions contemplated by this Agreement with the Purchaser's own legal counsel. The Purchaser is relying solely on such counsel, if any, and not on any statements or representations of the Company or any of its agents for legal advice with respect to this investment or the transactions contemplated by this Agreement.

Handwritten:
AK
Terry Lee
Participating member
23 Oct 2008
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2.9 Projected Financial Information. The Purchaser acknowledges and understands that the Property was acquired in anticipation of future appreciation and not for development of any kind or nature. There is no assurance that the Property will maintain its current value or appreciate in future years. Any discussions with management in connection with possible future results shall not be considered or construed as investment, legal, tax or accounting advice. The Purchaser acknowledges that the Purchaser has been advised by the Company that the Purchaser should consult with the Purchaser's own counsel and other advisors with respect to the consequences of an investment in the Company.

2.10 Need for Additional Financing. The Purchaser acknowledges and understands that the Company may need or desire (in the sole discretion of the Company's Managers) to raise additional financing (either through private offerings of the Company's equity or through loans, lines of credit and other forms of indebtedness). The issuance of additional equity will have the effect of reducing the relative percentage ownership of the Purchaser and may require the grant of certain rights, preferences or privileges superior to those of the Purchaser. In the event the Company attempts to raise additional funds, the Purchaser acknowledges and understands that there is no assurance that the Company will be able to obtain the additional funds necessary on terms favorable to the Company, or at all.

By execution of this Agreement, the Purchaser represents, warrants and acknowledges the Purchaser's receipt of the Amended and Restated Operating Agreement, the Purchaser's ability to review the terms and conditions of the Amended and Restated Operating Agreement (either with or without the Purchaser's own legal counsel or business or tax advisor), the Purchaser's ability to ask questions of and receive answers from the Company with respect to the Amended and Restated Operating Agreement (with all such questions, if any, being answered to the full satisfaction of the Purchaser) and the Purchaser's acceptance to be bound by the terms and conditions of the Amended and Restated Operating Agreement.

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4. INDEMNIFICATION BY THE PURCHASER

The Purchaser agrees that the Purchaser shall indemnify and hold harmless the Company and its members, managers, officers, directors, employees, agents and professional advisors from and against any and all loss, damage, liability, or expense, including costs and reasonable attorneys' fees, that the foregoing, or any of them, may incur by reason of, or in connection with, any misrepresentation, inaccurate statement or material omission made by the Purchaser herein, any breach of any of the Purchaser's warranties, or any failure on the Purchaser's part to fulfill any of the Purchaser's covenants, agreements or obligations set forth herein.

5. GENERAL PROVISIONS

5.1 Attorneys' Fees. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

5.2 Survival of Warranties. The warranties, representations and covenants of the Purchaser contained in or made pursuant to this Agreement shall survive the execution and delivery of this Agreement and shall in no way be affected by any investigation of the subject matter thereof made by or on behalf of the Purchaser or the Company.

5.3 Successors and Assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the signatories hereto any rights, remedies, obligations, or liabilities under or by reason of this Agreement. The Purchaser may not assign any of the Purchaser's rights or interests in and under this Agreement without the prior written consent of the Company, and any attempted assignment without such consent shall be null and void and without any force or effect whatsoever.

5.4 Governing Law; Venue. This Agreement shall be governed by and construed under the law of the State of Nevada, disregarding any principles of conflicts of law that would otherwise provide for the application of the substantive law of another jurisdiction. The Company and the Purchaser: (1) agree that any legal suit, action or proceeding arising out of or relating to this Agreement shall be instituted exclusively in Nevada State Court, County of Clark, or in the United States District Court for the District of Nevada; (2) waive any objection to the venue of any such suit, action or proceeding and the right to assert that such forum is not a convenient forum; and

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Telsa LLC
Purchaser
30 Oct 2008
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(3) irrevocably consent to the jurisdiction of the Nevada State Court, County of Clark, and the United States District Court for the District of Nevada in any such suit, action or proceeding. Each of the foregoing persons further agrees to accept and acknowledge service of any and all process which may be served in any such suit, action or proceeding in the Nevada State Court, County of Clark, or in the United States District Court for the District of Nevada and agrees that service of process upon it mailed by certified mail to its address shall be deemed in every respect effective service of process upon it in any such suit, action or proceeding.

5.5 Counterparts. This Agreement may be executed at different times and in one or more counterparts, including by facsimile signature, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

5.6 Titles and Subtitles. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

5.7 Notices. Unless otherwise provided, any notice required or permitted under this Agreement shall be given in writing, shall be sent by facsimile to the party to be notified and shall be deemed effectively given upon personal delivery to the party to be notified, or four days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified. Any notice to the Purchaser shall be sent to his facsimile number and address set forth on the signature page hereto, or at such other facsimile number or address as a party may designate by ten (10) days' advance written notice to the other party. Any notice to the Company shall, until further notice as provided hereinabove, be sent to Kenneth A. Woloson, Esq., 400 S. 4th Street, 3rd Floor, Las Vegas, Nevada 89101, facsimile number (702) 474-0281.

5.8 Severability. If one or more provisions of this Agreement are held to be unenforceable under applicable law, such provision shall be excluded from this Agreement and the balance of the Agreement shall be interpreted as if such provision were so excluded and shall be enforceable in accordance with its terms. In addition, if any such provision, or any part thereof, is held to be unenforceable, the parties agree that the court, regulatory agency or other governmental body making such determination shall have the power to delete or add specific words or phrases, so that such provision shall then be enforceable to the fullest extent permitted by law. Neutral Interpretation. This Agreement shall be construed in accordance with its intent and without regard to any presumption or any other rule requiring construction against the party causing the same to be drafted.

Handwritten:
Tels us
nothing more
to Oct 2006
9/11/12

6.0 Entire Agreement; Amendments and Waivers. This Agreement constitutes the full and entire understanding and agreement between the parties with regard to the subjects hereof. Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only with the written consent of the Company and the Purchaser.

IN WITNESS WHEREOF, the undersigned has executed this Agreement as of the 15th day of October, 2008.

NAME AND ADDRESS OF PURCHASER:

TELD, LLC

Tax ID Number /
Social Security
Number

26-3605584

By: Aristotelis Eliades, Managing Member

By: Dolores Eliades, Managing Member

1531 Las Vegas Boulevard South
Las Vegas, Nevada 89104

Telephone ()
(Home) -

10

Dolores Eliades, Managing Member
20 Oct 2008
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EXHIBIT "A"
AMENDED AND RESTATED OPERATING AGREEMENT

[SEE ATTACHED]

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JP
Taco LLC
Manager's meeting
30 Oct 2008
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**AMENDED AND RESTATED
OPERATING AGREEMENT
OF
ELDORADO HILLS, LLC
a Nevada limited liability company**

This Operating Agreement (the "Agreement") of Eldorado Hills, LLC, a Nevada limited liability company (the "Company"), is made, adopted and entered into at Las Vegas, Nevada, as of October _____, 2008 (the "Effective Date"), by The Rogich Family Irrevocable Trust (the "Rogich Trust"), Albert H. Flangas Revocable Living Trust w/a/d July 22, 2005 (the "Flangas Trust") and Teld, LLC ("Teld") (collectively, the "Members") with reference to the recitals set forth below.

RECITALS

A. Pursuant to those certain Purchase Agreements and Subscription Agreements of even date herewith, copies of which are attached hereto as Exhibits "A"- "D" and incorporated herein by this reference (collectively the "Purchase Documents"), the Flangas Trust and Teld entered into the foregoing agreements by which each would acquire a one-third (1/3rd) ownership interest in the Company. Capitalized terms not defined herein shall have the meanings ascribed to them in the Purchase Documentation.

B. The Rogich Trust will retain a one-third (1/3rd) ownership interest in the Company (subject to certain possible dilution or other indemnification responsibilities assumed by the Rogich Trust in the Purchase Documents).

C. As of the Effective Date, the Members desire to set forth and adopt this Amended and Restated Operating Agreement of the Company to provide for the conduct of the Company's business and affairs on and after the Effective Date.

NOW, THEREFORE, Members hereby agree to and adopt the following:

**ARTICLE I
DEFINITIONS**

1.1 Defined Terms. The capitalized terms used in this Agreement shall have the following meanings:

Act. "Act" means Chapter 86 of the NRS.

Affiliate. "Affiliate" means with respect to a specified Person, any other Person who or which is (a) directly or indirectly controlling, controlled by or under common control with the specified Person, or (b) any member, stockholder, director, officer, manager, or comparable principal of, or relative or spouse of, the specified Person. For purposes of this definition, "control", "controlling", and "controlled" mean the right to exercise, directly or indirectly, more than fifty percent of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

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Telds LLC
Managing member
7/20/08
10/1/08
[Signature] SL

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Agreement. "Agreement" means this Operating Agreement.

Articles. "Articles" means the Articles of Organization of the Company as filed with the office of the Nevada Secretary of State.

Capital Contribution. "Capital Contribution" means a contribution to the capital of the Company in cash, property, or otherwise.

Code. "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any corresponding United States federal tax statute enacted after the date of this Agreement. A reference to a specific section of the Code refers not only to such specific section but also to any corresponding provision of any United States federal tax statute enacted after the date of this Agreement, as such specific section or corresponding provision is in effect on the date of application of the provisions of this Agreement containing such reference.

Company. "Company" means Eldorado Hills, LLC, a Nevada limited-liability company.

Covered Person. "Covered Person" means the Members, any Manager and any other Person designated by the Members as a Covered Person, or any Person who was, at the time of the act or omission in question, a Members, a Manager or a Person designated by a Members as a Covered Person.

Interest. "Interest" means the entire ownership interest of the Members in the Company at any time, including the right of the Members to any and all benefits to which the Members may be entitled as provided under the Act and this Agreement.

Manager. "Manager" means any Person designated or appointed in the Articles or thereafter elected by the Members pursuant to this Agreement to be the Company's manager, as that term is defined in NRS Section 86.071.

Members. "Members" mean the members of the Company as set forth in the first paragraph of this Agreement.

NRS. "NRS" means the Nevada Revised Statutes.

Person. "Person" means a natural person, any form of business or social organization and any other non-governmental legal entity including, but not limited to, a corporation, partnership, association, trust, unincorporated organization, estate or limited liability company.

Records Office. "Records Office" means an office of the Company in Nevada, which may but need not be a place of its business, at which it shall keep all records identified in NRS 86.241, except that none of the lists required to be maintained pursuant to NRS 86.241 need be maintained in alphabetical order, nor shall the Company be required to maintain at its Records Office copies of powers of attorney except those relating to the execution of the Articles and this Agreement.

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Teco LLC
Manager
30 Oct 2008
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R.T. S.R.

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Regulations. "Regulations" means the regulations currently in force from time to time as final or temporary that have been issued by the U.S. Department of the Treasury pursuant to its authority under the Code. If a word or phrase is defined in this Agreement by cross-referencing the Regulations, then to the extent the context of this Agreement and the Regulations require, the term "Members" shall be substituted in the Regulations for the term "partner", the term "Company" shall be substituted in the Regulations for the term "partnership", and other similar conforming changes shall be deemed to have been made for purposes of applying the Regulations.

UCC. "UCC" means the Uniform Commercial Code as enacted and in effect in the State of Nevada and any other applicable state or jurisdiction.

1.2 Terms and Usage Generally. All references herein to articles, sections, exhibits and schedules shall be deemed to be references to articles and sections of, and exhibits and schedules to, this Agreement unless the context shall otherwise require. All exhibits and schedules attached hereto shall be deemed incorporated herein as if set forth in full herein. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to a Person are also to his, her or its successors and permitted assigns. Unless otherwise expressly provided herein, any agreement, instrument or statute defined or referred to herein or in any agreement or instrument defined or referred to herein means such agreement, instrument or statute as from time to time amended, modified or supplemented, including (in the case of agreements or instruments) by waiver or consent and (in the case of statutes) by succession of comparable successor statutes, and references to all attachments thereto and instruments incorporated therein.

ARTICLE II INTRODUCTORY MATTERS

2.1 Formation. Pursuant to the Act, the Company has been formed as a Nevada limited liability company under the laws of the State of Nevada. To the extent that the rights or obligations of the Members or any Manager are different by reason of any provision of this Agreement than they would be in the absence of such provision, this Agreement shall, to the extent permitted by the Act, control.

2.2 Name. The name of the Company shall be "Eldorado Hills, LLC." Subject to compliance with applicable law, the business and affairs of the Company may be conducted under that name or any other name that the Manager(s) deems appropriate or advisable.

2.3 Records Office. The Company shall continuously maintain in the State of Nevada a Records Office. The Records Office may be changed to another location within the State of Nevada as the Manager(s) may from time to time determine.

2.4 Other Offices. The Company may establish and maintain other offices at any time and at any place or places as the Manager(s) may designate or as the business of the Company may require.

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et J.R.

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ARTICLE III CAPITAL CONTRIBUTIONS

3.1 Capital Contributions Generally. The capital of the Company shall be maintained in accordance with generally accepted accounting principles to reflect the capital contributions made to the Company by the Members. Subject only to the indemnification obligations of the Rogich Trust hereinafter referenced, each of the Members agrees to satisfy, pro rata, the monthly payments required pursuant to the New Loan documentation, as well as for payment of taxes, insurance, professional fees and other operating expenses as may arise in the future relative to the Company's operations, marketing or other activities.

3.2 Requirement of Additional Capital Contributions. The Members shall make any additional Capital Contributions to the Company at such times and in such amounts as the Managers shall unanimously determine.

ARTICLE IV PROFITS AND LOSSES; INDEMNIFICATION

4.1 Profits and Losses; Indemnification. The Company's profits and losses for any period shall be allocated to the Members pro rata (that is, one-third (1/3rd) to each of the Rogich Trust, the Flangas Trust and Teld).

(a) The Rogich Trust shall indemnify and hold the Flangas Trust and Teld harmless from and against the claims of any individuals or entities claiming to be entitled to a share of profits and losses other than the Rogich Trust, the Flangas Trust and Teld, so as not to diminish the one-third (1/3rd) participation in profits and losses by each of the Flangas Trust and Teld.

(b) To the extent that, in the future, there are any costs or expenses incurred by the Company or its members relating to or concerning environmental remedial action in connection with the Property, Teld, LLC and the Flangas Trust shall each be responsible for 25% of the first three million dollars (\$3,000,000.00) of such costs and expenses and the Rogich Trust shall be responsible for the remaining 50% of the first three million dollars (\$3,000,000) of such costs. Thereafter, the Rogich Trust shall be solely responsible for any costs or expenses exceeding the aforementioned three million dollars (\$ 3,000,000.00) , if any. Notwithstanding the foregoing, if such excess above \$3,000,000 relates to any environmental contamination arising after Closing (except for lead-related contamination, to which this exception shall not apply), then the Members shall still share the costs of same, pro rata, based upon their respective Membership interests.

4.2 Tax Classification. So long as the Company is an entity that has more than one Member, it is intended that the Company be treated as a "partnership" for federal and all relevant state income tax purposes, and all available elections shall be made, and take all available actions shall be taken, to cause the Company to be so treated.

Handwritten notes and signature:
New LLC
Amended
30 Oct 2007
for # 12
et J.R.

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ARTICLE V DISTRIBUTIONS

5.1 Operating Distributions. Subject to Section 5.2, the Company shall from time to time distribute to the Members such amounts in cash and other assets as shall be determined by the Manager(s). Such distributions shall be on the same basis, subject to the same indemnification obligations of the Rogich Trust, as set forth in Section 4.1 above with respect to the distribution of profits and losses.

5.2 Limitations on Distribution. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution if such distribution would violate the NRS or other applicable law or would cause a breach or default under any agreement or instrument to which the Company is a party or by which it or its assets are bound, but instead shall make such distribution as soon as practicable such that the making of such distribution would not cause such violation, breach or default.

ARTICLE VI MEMBERSHIP

6.1 Limitation of Liability. The Members shall not be individually liable under a judgment, decree or order of a court, or in any other manner, for a debt, obligation or liability of the Company, except to the extent required by law or in an agreement signed by the Members. The Members shall not be required to loan any funds to the Company, nor shall the Members be required to make any contribution to the Company except as provided in Section 3.2 herein, nor shall the Members be subject to any liability to the Company or any third party, as a result of any deficit of the Company. However, nothing in this Agreement shall prevent the Members from making secured or unsecured loans to the Company by agreement with the Company.

6.2 Action by the Members. Unless otherwise required by this Agreement or by law, the Members may take action or give his, her or its consent in writing or by oral or electronic communication, and no action need be taken at a formal meeting.

6.3 Members Approval. The Members shall have voting rights, including, without limitation, constituting a quorum and determining acts of the Members, in accordance with the percentage Interests held by the Members. Approval of a majority in interest of the Members shall constitute the approval of the Members.

In addition to any other actions requiring the approval of the Members set forth in this Agreement or required by law, the following actions shall require the approval of 90% in interest of the Members:

- (a) any amendment to the Articles or this Agreement; and
- (b) the creation of any lien, mortgage, pledge or other security interest on the assets of the Company securing indebtedness of any third party which is not for the benefit of the business carried on by the Company.

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Rogich
Trust
20 Oct 2008
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6.4 Transfer of Interest. The Interest is personal property, and such Interest may be transferred or assigned, in whole or in part, and may not be transferred except on approval of the Members. Transfers in violation of this provision shall be null and void. Notwithstanding the above, the Rogich Trust may use a portion or all of its interests to satisfy claims of those entities listed on Exhibit "D" to the Purchase Agreements.

6.5 Other Ventures. The Members may engage in other business ventures of every nature and description, whether or not in competition with the Company, independently or with others, and neither the Company nor the Members shall have any right in or to any independent venture or activity or the income or profits therefrom.

ARTICLE VII MANAGEMENT

7.1 Number, Term, Election and Qualification. There shall be three (3) managers, who shall be the Rogich Trust, the Flangas Trust and Teld, provided that each of said three (3) Members may substitute another designated party to serve in lieu of said Member as a Manager in place of such Member.

7.2 Removal, Resignation and Vacancies. No Manager may be removed without the unanimous written consent of the Members. Any Manager may resign at any time by giving written notice to the remaining Managers or, if no remaining Manager, to the Members. Any such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.3 General Authority of the Managers. Except for matters expressly requiring the approval of the Members pursuant to this Agreement or the Act, the Manager(s) shall have full, exclusive and complete power, authority and discretion to manage, supervise, operate and control the business and affairs of the Company; make any and all decisions affecting the business and affairs and relating to the day-to-day operations of the Company; and take all actions and perform all duties and powers it deems necessary, appropriate, advisable, convenient or incidental to or for the furtherance of the purposes of the Company.

7.4 Certain Powers of the Managers. Subject to the provisions of this Agreement and the Act, and without limiting the generality of Section 7.3 but subject to Section 7.5, the Manager(s) shall have the specific power and authority, on behalf of the Company to:

(a) enter into, execute, deliver and commit to, or authorize any individual Manager, officer or other Person to enter into, execute, deliver and commit to, or take any action pursuant to or in respect of any contract, agreement, instrument, deed, mortgage, certificate, check, note, bond or obligation for any Company purpose;

(b) select and remove all officers, employees, agents, consultants and advisors of the Company, prescribe such powers and duties for them as may be consistent with law, the Articles and this Agreement and fix their compensation;

(c) employ accountants, legal counsel, agents or experts to perform services for the Company and to compensate them from Company funds;

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et 5.8

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(d) borrow money and incur indebtedness for the purposes of the Company, and to cause to be executed and delivered in the name of the Company, or to authorize any individual Manager, officer or other Person to execute and deliver in the name of the Company, promissory notes, bonds, debentures, deeds of trust, pledges, hypothecations or other evidence of debt and security interests;

(e) invest any funds of the Company in (by way of example but not limitation) time deposits, short-term governmental obligations, commercial paper or other investments;

(f) change the principal office and Records Office of the Company to other locations within Nevada and establish from time to time one or more subsidiary offices of the Company;

(g) attend, act and vote, or designate any individual Manager, officer or other Person to attend, act and vote, at any meetings of the owners of any entity in which the Company may own an interest or to take action by written consent in lieu thereof, and to exercise for the Company any and all rights and powers incident to such ownership; and

(h) do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

7.5 Limitations on Authority of the Managers. Except where specifically requiring the approval of all managers, the actions of a majority of the Managers taken in such capacity and in accordance with this Agreement shall bind the Company. The Manager(s) may authorize, in a resolution or other writing, one or more Persons, or one or more officers or employees of the Company, in the name and on behalf of the Company and in lieu of or in addition to the Manager(s), contract debts or incur liabilities and sign contracts or agreements (including, without limitation, instruments and documents providing for the acquisition, mortgage or disposition of property of the Company).

7.6 Meetings of the Managers. Meetings of the Managers shall governed by the following provisions:

(a) Place of Meetings. The meetings of the Managers shall be held at the Records Office, unless the Manager noticing the meeting designates another convenient location in the notice of the meeting.

(b) Notice. Meetings of the Managers for any purpose may be called at any time by any Manager. Written notice of the meeting shall be personally delivered to each Manager by hand to such Manager's last known address as it is shown on the records of the Company, or personally communicated to each Manager by a Manager or officer of the Company by telephone, telegraph or facsimile transmission, at least forty-eight (48) hours prior to the meeting. All meeting notices shall specify the place, date and time of the meeting, as well as the purpose or purposes for which the meeting is called.

AS
Manager
Ted L. L.
30 Oct 2007
7:00 PM

S.R.

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(c) Waiver of Notice. The transactions carried out at any meeting of the Managers, however called and noticed or wherever held, shall be as valid as though had at a meeting regularly called and noticed if (a) all of the Managers are present at the meeting, or (b) a majority of the Managers is present and if, either before or after the meeting, each of the Managers not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes thereof, which waiver, consent or approval shall be filed with the other records of the Company or made a part of the minutes of the meeting, provided that no Manager attending such a meeting without notice protests prior to the meeting or at its commencement that notice was not given to such Manager.

(d) Action of Managers. Except as otherwise provided in this Agreement or by the NRS, the action of a majority of the Managers is valid. A meeting at which a majority of the Managers is initially present may continue to transact business, notwithstanding the withdrawal from the meeting of any Manager, if any action taken is approved by a majority of the Managers.

(e) Action By Written Consent. Any action which may be taken at a meeting of Managers may be taken by the Managers without a meeting if authorized by the written consent of all, but not less than all, of the Managers. Whenever action is taken by written consent, a meeting of the Managers need not be called or notice given. The written consent may be executed in one or more counterparts and by facsimile, and each such consent so executed shall be deemed an original. All written consents shall be filed with the other records of the Company.

(f) Telephonic Meetings. Managers may participate in a meeting of the Managers by means of a telephone conference or similar method of communication by which all individuals participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 7.6(f) constitutes presence in person at the meeting.

7.7 Election of Officers. The Manager(s) may, from time to time, appoint any individuals as officers with such duties, authorities, responsibilities and titles as the Manager(s) may deem appropriate. Such officers shall serve until their successors are duly appointed by the Manager(s) or until their earlier removal or resignation. Any officer appointed by the Manager(s) may be removed at any time by the Manager(s) and any vacancy in any office shall be filled by the Manager(s).

7.8 Compensation of Manager and Officers. The Company shall not pay to the Managers any salary or other benefits other than such insurance and/or indemnification as may be determined by all of the Members.

7.9 Devotion of Time. No Manager shall be required to devote any specified amount of time to the Company's activities.

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**ARTICLE VIII
DISSOLUTION OF THE COMPANY AND
TERMINATION OF A MEMBER'S INTEREST**

8.1 Dissolution. The Company shall be dissolved and its affairs wound up as determined by the Members.

8.2 Resignation. Subject to Section 6.4 and applicable law, the Members may not resign from the Company before the dissolution and winding up of the Company.

8.3 Distribution on Dissolution and Liquidation. In the event of the dissolution of the Company for any reason (including the Company's liquidation within the meaning of Regulation 1.704-1(b)(2)(ii)(g)), the business of the Company shall be continued to the extent necessary to allow an orderly winding up of its affairs, including the liquidation and termination of the Company pursuant to the provisions of this Section 8.3, as promptly as practicable thereafter, and each of the following shall be accomplished:

- (a) the Members shall oversee the winding up of the Company's affairs;
- (b) the assets of the Company shall be liquidated as determined by the Members, or the Members may determine not to sell all or any portion of the assets, in which event such assets shall be distributed in kind; and
- (c) the proceeds of sale and all other assets of the Company shall be applied and distributed as follows and in the following order of priority:
 - (i) to the expenses of liquidation;
 - (ii) to the payment of the debts and liabilities of the Company, including any loans from the Members;
 - (iii) to the setting up of any reserves which the Members shall determine to be reasonably necessary for contingent, unliquidated or unforeseen liabilities or obligations of the Company or the Members arising out of or in connection with the Company; and
 - (iv) the balance, if any, to the Members pro rata in the manner set forth above in Section 4.1 with respect to the distribution of profits and losses.

**ARTICLE IX
LIABILITY, EXCULPATION AND INDEMNIFICATION**

9.1 Exculpation.

- (a) No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company, and in a manner reasonably

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For the
Members
30th Nov
9 at 11/13
Signature

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believed to be within the scope of authority conferred on such Covered Person by this Agreement, the Members or an authorized officer, employee or agent of the Company, except that the Covered Person shall be liable for any such loss, damage or claim incurred by reason of the Covered Person's intentional misconduct, fraud or a knowing violation of the law which was material to the cause of action.

(b) A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses or any other facts pertinent to the existence and amount of assets from which distributions to the Members might properly be paid.

9.2 Fiduciary Duty. To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company, then, to the fullest extent permitted by applicable law, the Covered Person acting under this Agreement shall not be liable to the Company or the Members for its good faith acts or omissions in reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, shall replace such other duties and liabilities of the Covered Person.

9.3 Indemnity. The Company does hereby indemnify and hold harmless any Covered Person to the fullest extent permitted by the Act.

9.4 Determination of Right to Indemnification. Any indemnification under Section 9.3, unless ordered by a court or advanced pursuant to Section 9.5 below, shall be made by the Company only as authorized in the specific case upon a determination by the Members that indemnification of the Covered Person is proper in the circumstances.

9.5 Advance Payment of Expenses. The expenses of the Members or any Manager incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Company as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the Members or any Manager to repay the amount if it is ultimately determined by a court of competent jurisdiction that the Members or the Manager(s) is or are not entitled to be indemnified by the Company. The provisions of this subsection do not affect any rights to advancement of expenses to which personnel of the Company other than the Members or the Manager(s) may be entitled under any contract or otherwise by law.

9.6 Assets of the Company. Any indemnification under this Article IX shall be satisfied solely out of the assets of the Company. No debt shall be incurred by the Company or the Members in order to provide a source of funds for any indemnity, and the Members shall not have any liability (or any liability to make any additional Capital Contribution) on account thereof.

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**ARTICLE X
MISCELLANEOUS PROVISIONS**

10.1 Notices. All notices to be given hereunder shall be in writing and shall be addressed to the party at such party's last known address or facsimile number appearing on the books of the Company. If no such address or facsimile number has been provided, it will be sufficient to address any notice (or fax any notice that may be faxed) to such party at the Records Office of the Company. Notice shall, for all purposes, be deemed given and received, (a) if hand-delivered, when the notice is received, (b) if sent by United States mail (which must be by first-class mail with postage charges prepaid), three (3) days after it is posted with the United States Postal Service, (c) if sent by a nationally recognized overnight delivery service, when the notice is received, or (d) if sent by facsimile, when the facsimile is transmitted and confirmation of complete receipt is received by the transmitting party during normal business hours. If any notice is sent by facsimile, the transmitting party shall send a duplicate copy of the notice to the parties to whom it is faxed by regular mail. If notice is tendered and is refused by the intended recipient, the notice shall nonetheless be considered to have been given and shall be effective as of the date of such refusal. The contrary notwithstanding, any notice given in a manner other than that provided in this Section that is actually received by the intended recipient shall be deemed an effective delivery of such notice.

10.2 Ownership Certificates. The Company may, but is not required to, issue a certificate to the Members to evidence the Interest. If issued, the Members, any Manager or authorized officer of the Company may sign such certificate on behalf of the Company. The Members or Manager may also deem the Interest a "security" under Section 104.8102(1)(o) of the UCC; in such event, a legend so stating shall be affixed to any certificate issued to the Members.

10.3 Insurance. The Company may purchase and maintain insurance, to the extent and in such amounts as the Manager(s) shall deem reasonable, on behalf of such Persons as the Manager(s) shall determine, against any liability that may be asserted against or expenses that may be incurred by any such Person in connection with the activities of the Company.

10.4 Complete Agreement. This Agreement, and the Membership Interest Purchase Agreement including any schedules or exhibits hereto or thereto, together with the Articles, constitutes the complete and exclusive agreement and understanding of the Members with respect to the subject matter contained herein. This Agreement and the Articles replace and supersede all prior agreements, negotiations, statements, memoranda and understandings, whether written or oral, of the Members.

10.5 Amendments. This Agreement may be amended only by a writing adopted and signed by at least 90% of the Members.

10.6 Applicable Law; Jurisdiction. This Agreement, and the rights and obligations of the Members, shall be interpreted and enforced in accordance with and governed by the laws of the State of Nevada without regard to the conflict laws of that State.

Handwritten:
Taco LLC
Managing Member
25 Oct 2019
11/01/19

Handwritten signature: JSK

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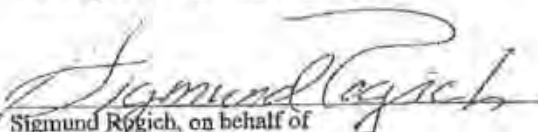
**ARTICLE XI
SUPERSEDING PROVISIONS**

11. In the event that the FDIC fails to consummate the transactions contemplated in the New Loan Documentation as set forth in Exhibit "B" to the Purchase Agreements, this Agreement shall be null and void, and all moneys paid by Teld and the Flangas Trust shall be returned to those parties.

IN WITNESS WHEREOF, each Member has executed this Agreement as of the Effective Date.

"MEMBERS"

The Rogich Family Irrevocable Trust

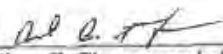

Sigmund Rogich, on behalf of
The Rogich Family Irrevocable Trust

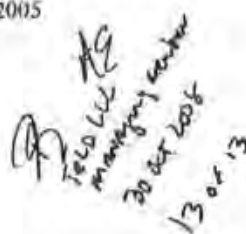
Teld, LLC


Aristotelis Eliades, Managing Member


Dolores Eliades, Managing Member 300 or 2005

Albert E. Flangas Revocable Living Trust w/a/d July 22, 2005


Albert B. Flangas, on behalf of the
Albert B. Flangas Revocable Living Trust w/a/d July 22, 2005


Teld LLC
Managing Member
30 Oct 2006
13 or 13

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EXHIBIT "B"
EVALUATION MATERIALS
[LIST OF ALL INFORMATION PROVIDED TO PURCHASER]

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EXHIBIT "D"

QUALIFICATION OF REPRESENTATIONS
OF SELLER

Seller confirms that certain amounts have been advanced to or on behalf of the Company by certain third parties, as referenced in Section 8 of the Agreement. Seller shall endeavor to convert the amounts advanced into non-interest bearing promissory notes for which Seller shall be responsible. Regardless of whether the amounts are so converted, Seller shall defend, indemnify and hold harmless the Company and its members for any claims by the parties listed below, and any other party claiming interest in the Company as a result of transactions prior to the date of this Agreement against the Company or its Members.

1.	Eddylne Investments, LLC (potential investor or debtor)	\$50,000.00
2.	Ray Family Trust (potential investor or debtor)	\$283,561.60
3.	Nanyah Vegas, LLC (through Canamex Nevada, LLC)	\$1,500,000.00
4.	Antonio Nevada/Jakob	\$3,360,000.00

EXHIBIT "E"

Diligence Information

[Need to list all information provided to Buyer]

1. **Articles of Organization**
2. **Operating Agreement**
3. **Certain financial information concerning the Company [to be specified or attached]**
4. **Certain real property descriptive information**

EXHIBIT "F"


Agreement to be Bound by Amended and Restated Operating Agreement

The undersigned, upon Closing of the Membership Interest Purchase Agreement to which this Agreement to be Bound is an Exhibit, hereby agrees by execution of this Agreement to be Bound, to become a party to and bound by the Company's Amended and Restated Operating Agreement ("Operating Agreement"), a copy of which is also attached to this Agreement.

DATED effective the 20th day of October, 2008.

"BUYER"

Albert B. Flangas Revocable Living Trust
u/a/d July 22, 2005


By: Albert B. Flangas, on behalf of the
Albert B. Flangas Revocable Living Trust
u/a/d July 22, 2005

"SELLER"

Rogich Family Irrevocable Trust

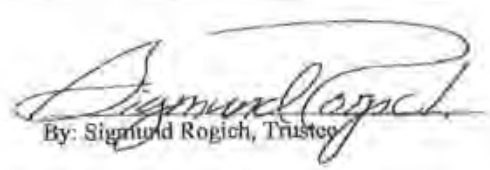

By: Sigmund Rogich, Trustee

EXHIBIT "G"

MEMBERSHIP CERTIFICATE

of

ELDORADO HILLS, LLC,
a Nevada limited-liability company

Member: Albert E. Flangas Revocable Living Trust u/a/d July 22, 2005
Capital Account: Five Hundred Thousand Dollars (\$500,000.00)
Ownership Interest: One-Sixth (1/6th)

KNOW ALL MEN BY THESE PRESENTS: That **Albert E. Flangas Revocable Living Trust u/a/d July 22, 2005** ("Buyer") has purchased a one-sixth (1/6th) ownership interest (the "Interest") in Eldorado Hills, LLC, a Nevada limited-liability company (the "Company"), for the sum of five hundred thousand dollars (\$500,000.00). This certificate is being issued subject to the representations and warranties of Buyer made in that certain Membership Interest Purchase Agreement executed on even date herewith, and pursuant to representations and warranties made in a Subscription Agreement directly with Company, all of which representations and warranties are incorporated herein by this reference.

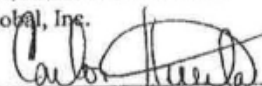
Without limiting the last sentence of the first paragraph above, Buyer confirms that the Interest represented by this certificate has not been registered under the Securities Act of 1933 (the "Act") or under the securities laws of any state or other jurisdiction ("Blue Sky Laws"). The Interest has been acquired for investment and may not be sold or transferred in the absence of (i) an effective registration statement covering the Interest under the Act and, if requested by the Company an opinion of counsel satisfactory to the Company to the effect that all requirements under the Blue Sky Laws applicable to the sale or transfer have been complied with, or (ii) an exemption from registration under the Act and, if required by the Company a favorable opinion of counsel satisfactory to the Company as to the availability of such exemption and to the effect that all requirements under the Blue Sky Laws applicable to the sale or transfer have been complied with.

Any sale, assignment, transfer, pledge or other disposition of the Interest is further restricted by, and subject to the recitative legend on the reverse of this Certificate and the terms and provisions of the Operating Agreement of the Company, a copy of which is on file at the Registered Office or Records Office of the Company. By acceptance of this Membership Certificate, the holder hereof warrants that the holder has executed the Operating Agreement and agrees to be bound thereby.

IN WITNESS WHEREOF, this Membership Certificate is executed as of the 20th day of October, 2008.

"MANAGER & MEMBER"

Go Global, Inc.


Carlos Huerta, on behalf of Go Global, Inc.

"MANAGER & MEMBER"

The Rogich Family Irrevocable Trust

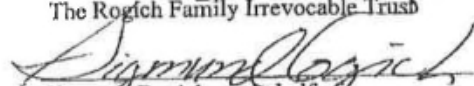
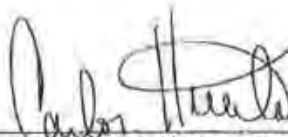

Sigmund Rogich, on behalf of
The Rogich Family Irrevocable Trust

EXHIBIT "H"

Form of Resignation

THE UNDERSIGNED does hereby resign from any and all positions which the undersigned may hold as an officer, manager or other representative of Eldorado Hills, LLC a Nevada limited-liability company (the "Company"). This Resignation is effective as of the closing of that certain Membership Interest Purchase Agreement to which this Resignation is attached as an Exhibit.



Carlos Huerta, on behalf of Go Global, Inc.



Carlos Huerta, individually

EXHIBIT "I"
Amended and Restated Operating Agreement

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EXHIBIT 1-C

EXHIBIT 1-C

ELADES FAMILY PURCHASE

#1

AMENDED AND RESTATED
OPERATING AGREEMENT
OF
ELDORADO HILLS, LLC
a Nevada limited liability company

This Operating Agreement (the "Agreement") of Eldorado Hills, LLC, a Nevada limited liability company (the "Company"), is made, adopted and entered into at Las Vegas, Nevada, as of October 1, 2008 (the "Effective Date"), by The Rogich Family Irrevocable Trust (the "Rogich Trust"), Albert M. Plaugas Revocable Living Trust v/d July 22, 2005 (the "Plaugas Trust") and Teld, LLC ("Teld") (collectively, the "Members") with reference to the recitals set forth below.

RECITALS

A. Pursuant to those certain Purchase Agreements and Subscription Agreements of even date herewith, copies of which are attached hereto as Exhibits "A"-"D" and incorporated herein by this reference (collectively the "Purchase Documents"), the Plaugas Trust and Teld entered into the foregoing agreements by which each would acquire a one-third (1/3rd) ownership interest in the Company. Capitalized terms not defined herein shall have the meanings ascribed to them in the Purchase Documentation.

B. The Rogich Trust will retain a one-third (1/3rd) ownership interest in the Company (subject to certain possible dilution or other indemnification responsibilities assumed by the Rogich Trust in the Purchase Documents).

C. As of the Effective Date, the Members desire to set forth and adopt this Amended and Restated Operating Agreement of the Company to provide for the conduct of the Company's business and affairs on and after the Effective Date.

NOW, THEREFORE, Members hereby agree to and adopt the following:

ARTICLE I
DEFINITIONS

1.1 Defined Terms. The capitalized terms used in this Agreement shall have the following meanings:

Act. "Act" means Chapter 86 of the NRS.

Affiliate. "Affiliate" means with respect to a specified Person, any other Person who or which is (a) directly or indirectly controlling, controlled by or under common control with the specified Person, or (b) any member, stockholder, director, officer, manager, or comparable principal of, or relative or spouse of, the specified Person. For purposes of this definition, "control", "controlling", and "controlled" mean the right to exercise, directly or indirectly, more than fifty percent of the voting power of the stockholders, members or owners and, with respect to any individual, partnership, trust or other entity or association, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled entity.

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Agreement. "Agreement" means this Operating Agreement.

Articles. "Articles" means the Articles of Organization of the Company as filed with the office of the Nevada Secretary of State.

Capital Contribution. "Capital Contribution" means a contribution to the capital of the Company in cash, property, or otherwise.

Code. "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any corresponding United States federal tax statute enacted after the date of this Agreement. A reference to a specific section of the Code refers not only to such specific section but also to any corresponding provision of any United States federal tax statute enacted after the date of this Agreement, as such specific section or corresponding provision is in effect on the date of application of the provisions of this Agreement containing such reference.

Company. "Company" means Eldorado Hills, LLC, a Nevada limited-liability company.

Covered Person. "Covered Person" means the Members, any Manager and any other Person designated by the Members as a Covered Person, or any Person who was, at the time of the act or omission in question, a Member, a Manager or a Person designated by a Member as a Covered Person.

Interest. "Interest" means the entire ownership interest of the Members in the Company at any time, including the right of the Members to any and all benefits to which the Members may be entitled as provided under the Act and this Agreement.

Manager. "Manager" means any Person designated or appointed in the Articles or hereafter elected by the Members pursuant to this Agreement to be the Company's manager, as that term is defined in NRS Section 86.071.

Members. "Members" mean the members of the Company as set forth in the first paragraph of this Agreement.

NRS. "NRS" means the Nevada Revised Statutes.

Person. "Person" means a natural person, any form of business or social organization and any other non-governmental legal entity including, but not limited to, a corporation, partnership, association, trust, unincorporated organization, estate or limited liability company.

Records Office. "Records Office" means an office of the Company in Nevada, which may but need not be a place of its business, at which it shall keep all records identified in NRS 86.241, except that none of the lists required to be maintained pursuant to NRS 86.241 need be maintained in alphabetical order, nor shall the Company be required to maintain at its Records Office copies of powers of attorney except those relating to the execution of the Articles and this Agreement.

Handwritten:
To be
maintained in
the Records Office
as of 12/13
J.H. S.L.

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UCC. "UCC" means the Uniform Commercial Code as enacted and in effect in the State of Nevada and any other applicable state or jurisdiction.

ARTICLE II INTRODUCTORY MATTERS

2.2 **Name.** The name of the Company shall be "Eldorado Hills, LLC." Subject to compliance with applicable law, the business and affairs of the Company may be conducted under that name or any other name that the Manager(s) deems appropriate or advisable.

2.4 Other Offices. The Company may establish and maintain other offices at any time and at any place or places as the Manager(s) may designate or as the business of the Company may require.

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witnessing under
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Elmer S. R.

**ARTICLE III
CAPITAL CONTRIBUTIONS**

3.1 Capital Contributions Generally. The capital of the Company shall be maintained in accordance with generally accepted accounting principles to reflect the capital contributions made to the Company by the Members. Subject only to the indemnification obligations of the Rogloh Trust hereinafter referenced, each of the Members agrees to satisfy, pro rata, the monthly payments required pursuant to the New Loan documentation, as well as for payment of taxes, insurance, professional fees and other operating expenses as may arise in the future relative to the Company's operations, marketing or other activities.

3.2 Requirement of Additional Capital Contributions. The Members shall make any additional Capital Contributions to the Company at such times and in such amounts as the Managers shall unanimously determine.

**ARTICLE IV
PROFITS AND LOSSES; INDEMNIFICATION**

4.1 Profits and Losses; Indemnification. The Company's profits and losses for any period shall be allocated to the Members pro rata (that is, one-third (1/3rd) to each of the Rogloh Trust, the Plangas Trust and Told).

(a) The Rogloh Trust shall indemnify and hold the Plangas Trust and Told harmless from and against the claims of any individuals or entities claiming to be entitled to a share of profits and losses other than the Rogloh Trust, the Plangas Trust and Told, so as not to diminish the one-third (1/3rd) participation in profits and losses by each of the Plangas Trust and Told.

(b) To the extent that, in the future, there are any costs or expenses incurred by the Company or its members relating to or concerning environmental remedial action in connection with the Property, Told, LLC and the Plangas Trust shall each be responsible for 25% of the first three million dollars (\$3,000,000.00) of such costs and expenses and the Rogloh Trust shall be responsible for the remaining 50% of the first three million dollars (\$3,000,000) of such costs. Thereafter, the Rogloh Trust shall be solely responsible for any costs or expenses exceeding the aforementioned three million dollars (\$3,000,000.00), if any. Notwithstanding the foregoing, if such excess above \$3,000,000 relates to any environmental contamination arising after Closing (except for lead-related contamination, to which this exception shall not apply), then the Members shall still share the costs of same, pro rata, based upon their respective Membership interests.

4.2 Tax Classification. So long as the Company is an entity that has more than one Member, it is intended that the Company be treated as a "partnership" for federal and all relevant state income tax purposes, and all available elections shall be made, and take all available actions shall be taken, to cause the Company to be so treated.

[Handwritten signature and date]
20 Oct 2004
Lia P. M. 13

ARTICLE V DISTRIBUTIONS

5.1 Operating Distributions. Subject to Section 5.2, the Company shall from time to time distribute to the Members such amounts in cash and other assets as shall be determined by the Manager(s). Such distributions shall be on the same basis, subject to the same indemnification obligations of the Rogleh Trust, as set forth in Section 4.1 above with respect to the distribution of profits and losses.

5.2 Limitations on Distribution. Notwithstanding any provision to the contrary contained in this Agreement, the Company shall not make any distribution if such distribution would violate the NRS or other applicable law or would cause a breach or default under any agreement or instrument to which the Company is a party or by which it or its assets are bound, but instead shall make such distribution as soon as practicable such that the making of such distribution would not cause such violation, breach or default.

ARTICLE VI MEMBERSHIP

6.1 Limitation of Liability. The Members shall not be individually liable under a judgment, decree or order of a court, or in any other manner, for a debt, obligation or liability of the Company, except to the extent required by law or in an agreement signed by the Members. The Members shall not be required to loan any funds to the Company, nor shall the Members be required to make any contribution to the Company except as provided in Section 3.2 herein, nor shall the Members be subject to any liability to the Company or any third party, as a result of any default of the Company. However, nothing in this Agreement shall prevent the Members from making secured or unsecured loans to the Company by agreement with the Company.

6.2 Action by the Members. Unless otherwise required by this Agreement or by law, the Members may take action or give his, her or its consent in writing or by oral or electronic communication, and no action need be taken at a formal meeting.

6.3 Members Approval. The Members shall have voting rights, including, without limitation, constituting a quorum and determining acts of the Members, in accordance with the percentage interests held by the Members. Approval of a majority in interest of the Members shall constitute the approval of the Members.

In addition to any other actions requiring the approval of the Members set forth in this Agreement or required by law, the following actions shall require the approval of 90% in interest of the Members:

- (a) any amendment to the Articles or this Agreement; and
- (b) the creation of any lien, mortgage, pledge or other security interest on the assets of the Company securing indebtedness of any third party which is not for the benefit of the business carried on by the Company.

Handwritten signatures and notes:
J. S. R.
20 Oct 2008
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6.4 Transfer of Interest. The Interest is personal property, and such Interest may be transferred or assigned, in whole or in part, and may not be transferred except on approval of the Members. Transfers in violation of this provision shall be null and void. Notwithstanding the above, the Rogich Trust may use a portion or all of its interests to satisfy claims of those entities listed on Exhibit "D" to the Purchase Agreements.

6.5 Other Ventures. The Members may engage in other business ventures of every nature and description, whether or not in competition with the Company, independently or with others, and neither the Company nor the Members shall have any right in or to any independent venture or activity or the income or profits therefrom.

ARTICLE VII MANAGEMENT

7.1 Number, Tenure, Election and Qualification. There shall be three (3) managers, who shall be the Rogich Trust, the Flangus Trust and Teld, provided that each of said three (3) Members may substitute another designated party to serve in lieu of said Member as a Manager in place of such Member.

7.2 Removal, Resignation and Vacancies. No Manager may be removed without the unanimous written consent of the Members. Any Manager may resign at any time by giving written notice to the remaining Managers or, if no remaining Manager, to the Members. Any such resignation shall take effect on the date of the receipt of such notice or at any later time specified therein; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.3 General Authority of the Managers. Except for matters expressly requiring the approval of the Members pursuant to this Agreement or the Act, the Manager(s) shall have full, exclusive and complete power, authority and discretion to manage, supervise, operate and control the business and affairs of the Company; make any and all decisions affecting the business and affairs and relating to the day-to-day operations of the Company; and take all actions and perform all duties and powers it deems necessary, appropriate, advisable, convenient or incidental to or for the furtherance of the purposes of the Company.

7.4 Certain Powers of the Managers. Subject to the provisions of this Agreement and the Act, and without limiting the generality of Section 7.3 but subject to Section 7.5, the Manager(s) shall have the specific power and authority, on behalf of the Company to:

(a) enter into, execute, deliver and commit to, or authorize any individual Manager, officer or other Person to enter into, execute, deliver and commit to, or take any action pursuant to or in respect of any contract, agreement, instrument, deed, mortgage, certificate, check, note, bond or obligation for any Company purpose;

(b) select and remove all officers, employees, agents, consultants and advisors of the Company, prescribe such powers and duties for them as may be consistent with law, the Articles and this Agreement and fix their compensation;

(c) employ accountants, legal counsel, agents or experts to perform services for the Company and to compensate them from Company funds;

[Handwritten signatures and initials]
W. J. Rogich
J. Flangus
T. Teld
5.8

(d) borrow money and incur indebtedness for the purposes of the Company, and to cause to be executed and delivered in the name of the Company, or to authorize any individual Manager, officer or other Person to execute and deliver in the name of the Company, promissory notes, bonds, debentures, deeds of trust, pledges, hypothecations or other evidence of debt and security interests;

(e) invest any funds of the Company in (by way of example but not limitation) time deposits, short-term governmental obligations, commercial paper or other investments;

(f) change the principal office and Records Office of the Company to other locations within Nevada and establish from time to time one or more subsidiary offices of the Company;

(g) attend, act and vote, or designate any individual Manager, officer or other Person to attend, act and vote, at any meetings of the owners of any entity in which the Company may own an interest or to take action by written consent in lieu thereof, and to exercise for the Company any and all rights and powers incident to such ownership; and

(h) do and perform all other acts as may be necessary or appropriate to the conduct of the Company's business.

7.5 Limitations on Authority of the Managers. Except where specifically requiring the approval of all managers, the actions of a majority of the Managers taken in such capacity and in accordance with this Agreement shall bind the Company. The Manager(s) may authorize, in a resolution or other writing, one or more Persons, or one or more officers or employees of the Company, in the name and on behalf of the Company and in lieu of or in addition to the Manager(s), contract debts or incur liabilities and sign contracts or agreements (including, without limitation, instruments and documents providing for the acquisition, mortgage or disposition of property of the Company).

7.6 Meetings of the Managers. Meetings of the Managers shall be governed by the following provisions:

(a) Place of Meetings. The meetings of the Managers shall be held at the Records Office, unless the Manager noticing the meeting designates another convenient location in the notice of the meeting.

(b) Notice. Meetings of the Managers for any purpose may be called at any time by any Manager. Written notice of the meeting shall be personally delivered to each Manager by hand to such Manager's last known address as it is shown on the records of the Company, or personally communicated to each Manager by a Manager or officer of the Company by telephone, telegraph or facsimile transmission, at least forty-eight (48) hours prior to the meeting. All meeting notices shall specify the place, date and time of the meeting, as well as the purpose or purposes for which the meeting is called.

Handwritten: All managers have received notice 7/21/14
EJH:00000 5.R

(c) Waiver of Notice. The transactions carried out at any meeting of the Managers, however called and noticed or wherever held, shall be as valid as though had at a meeting regularly called and noticed if (a) all of the Managers are present at the meeting, or (b) a majority of the Managers is present and if, either before or after the meeting, each of the Managers not present signs a written waiver of notice or a consent to holding such meeting or an approval of the minutes thereof, which waiver, consent or approval shall be filed with the other records of the Company or made a part of the minutes of the meeting, provided that no Manager attending such a meeting without notice protests prior to the meeting or at its commencement that notice was not given to such Manager.

(d) Action of Managers. Except as otherwise provided in this Agreement or by the NRS, the action of a majority of the Managers is valid. A meeting at which a majority of the Managers is initially present may continue to transact business, notwithstanding the withdrawal from the meeting of any Manager, if any action taken is approved by a majority of the Managers.

(e) Action By Written Consent. Any action which may be taken at a meeting of Managers may be taken by the Managers without a meeting if authorized by the written consent of all, but not less than all, of the Managers. Whenever action is taken by written consent, a meeting of the Managers need not be called or notice given. The written consent may be executed in one or more counterparts and by facsimile, and each such consent so executed shall be deemed an original. All written consents shall be filed with the other records of the Company.

(f) Telephonic Meetings. Managers may participate in a meeting of the Managers by means of a telephone conference or similar method of communication by which all individuals participating in the meeting can hear each other. Participation in a meeting pursuant to this Section 7.6(f) constitutes presence in person at the meeting.

7.7 Election of Officers. The Manager(s) may, from time to time, appoint any individuals as officers with such duties, authorities, responsibilities and titles as the Manager(s) may deem appropriate. Such officers shall serve until their successors are duly appointed by the Manager(s) or until their earlier removal or resignation. Any officer appointed by the Manager(s) may be removed at any time by the Manager(s) and any vacancy in any office shall be filled by the Manager(s).

7.8 Compensation of Manager and Officers. The Company shall not pay to the Managers any salary or other benefits other than such insurance and/or indemnification as may be determined by all of the Members.

7.9 Devotion of Time. No Manager shall be required to devote any specified amount of time to the Company's activities.

Handwritten notes and signatures:
This is a
handwritten note
to the
20 Oct 2012
J. R.
J. R.

ARTICLE VIII
DISSOLUTION OF THE COMPANY AND
TERMINATION OF A MEMBER'S INTEREST

8.1 Dissolution. The Company shall be dissolved and its affairs wound up as determined by the Members.

8.2 Resignation. Subject to Section 6.4 and applicable law, the Members may not resign from the Company before the dissolution and winding up of the Company.

8.3 Distribution on Dissolution and Liquidation. In the event of the dissolution of the Company for any reason (including the Company's liquidation within the meaning of Regulation 1.704-1(b)(2)(ii)(G)), the business of the Company shall be continued to the extent necessary to allow an orderly winding up of its affairs, including the liquidation and termination of the Company pursuant to the provisions of this Section 8.3, as promptly as practicable thereafter, and each of the following shall be accomplished:

- (a) the Members shall oversee the winding up of the Company's affairs;
- (b) the assets of the Company shall be liquidated as determined by the Members, or the Members may determine not to sell all or any portion of the assets, in which event such assets shall be distributed in kind; and
- (c) the proceeds of sale and all other assets of the Company shall be applied and distributed as follows and in the following order of priority:
 - (i) to the expenses of liquidation;
 - (ii) to the payment of the debts and liabilities of the Company, including any loans from the Members;
 - (iii) to the setting up of any reserves which the Members shall determine to be reasonably necessary for contingent, unliquidated or unforeseen liabilities or obligations of the Company or the Members arising out of or in connection with the Company; and
 - (iv) the balance, if any, to the Members pro rata in the manner set forth above in Section 4.1 with respect to the distribution of profits and losses.

ARTICLE IX
LIABILITY, EXCULPATION AND INDEMNIFICATION

9.1 Exculpation.

(a) No Covered Person shall be liable to the Company or any other Covered Person for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company, and in a manner reasonably

[Handwritten signatures and initials]

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believed to be within the scope of authority conferred on such Covered Person by this Agreement, the Members or an authorized officer, employee or agent of the Company, except that the Covered Person shall be liable for any such loss, damage or claim incurred by reason of the Covered Person's intentional misconduct, fraud or a knowing violation of the law which was material to the cause of action.

(b) A Covered Person shall be fully protected in relying in good faith upon the records of the Company and upon such information, opinions, reports or statements presented to the Company by any Person as to matters the Covered Person reasonably believes are within such other Person's professional or expert competence, including information, opinions, reports or statements as to the value and amount of the assets, liabilities, profits or losses or any other facts pertinent to the existence and amount of assets from which distributions to the Members might properly be paid.

9.2 Fiduciary Duty. To the extent that, at law or in equity, a Covered Person has duties (including fiduciary duties) and liabilities relating thereto to the Company, then, to the fullest extent permitted by applicable law, the Covered Person acting under this Agreement shall not be liable to the Company or the Members for its good faith acts or omissions in reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of a Covered Person otherwise existing at law or in equity, shall replace such other duties and liabilities of the Covered Person.

9.3 Indemnity. The Company does hereby indemnify and hold harmless any Covered Person to the fullest extent permitted by the Act.

9.4 Determination of Right to Indemnification. Any indemnification under Section 9.3, unless ordered by a court or advanced pursuant to Section 9.5 below, shall be made by the Company only as authorized in the specific case upon a determination by the Members that indemnification of the Covered Person is proper in the circumstances.

9.5 Advance Payment of Expenses. The expenses of the Members or any Manager incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Company as they are incurred and in advance of the final disposition of the action, suit or proceeding, upon receipt of an undertaking by or on behalf of the Members or any Manager to repay the amount if it is ultimately determined by a court of competent jurisdiction that the Members or the Manager(s) is or are not entitled to be indemnified by the Company. The provisions of this subsection do not affect any rights to advancement of expenses to which personnel of the Company other than the Members or the Manager(s) may be entitled under any contract or otherwise by law.

9.6 Assets of the Company. Any indemnification under this Article IX shall be satisfied solely out of the assets of the Company. No debt shall be incurred by the Company or the Members in order to provide a source of funds for any indemnity, and the Members shall not have any liability (or any liability to make any additional Capital Contribution) on account thereof.

Handwritten note:
Two new
Members added
to list
10-1-19

EH: [Signature]

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ARTICLE X
MISCELLANEOUS PROVISIONS

10.1 Notices. All notices to be given hereunder shall be in writing and shall be addressed to the party at such party's last known address or facsimile number appearing on the books of the Company. If no such address or facsimile number has been provided, it will be sufficient to address any notice (or fax any notice that may be faxed) to such party at the Records Office of the Company. Notice shall, for all purposes, be deemed given and received, (a) if hand-delivered, when the notice is received, (b) if sent by United States mail (which must be by first-class mail with postage charges prepaid), three (3) days after it is posted with the United States Postal Service, (c) if sent by a nationally recognized overnight delivery service, when the notice is received, or (d) if sent by facsimile, when the facsimile is transmitted and confirmation of complete receipt is received by the transmitting party during normal business hours. If any notice is sent by facsimile, the transmitting party shall send a duplicate copy of the notice to the parties to whom it is faxed by regular mail. If notice is tendered and is refused by the intended recipient, the notice shall nonetheless be considered to have been given and shall be effective as of the date of such refusal. The contrary notwithstanding, any notice given in a manner other than that provided in this Section that is actually received by the intended recipient shall be deemed an effective delivery of such notice.

10.2 Ownership Certificates. The Company may, but is not required to, issue a certificate to the Members to evidence the interest. If issued, the Members, any Manager or authorized officer of the Company may sign such certificate on behalf of the Company. The Members or Manager may also deem the interest a "security" under Section 104.3102(1)(c) of the UCC; in such event, a legend so stating shall be affixed to any certificate issued to the Members.

10.3 Insurance. The Company may purchase and maintain insurance, to the extent and in such amounts as the Manager(s) shall deem reasonable, on behalf of such Persons as the Manager(s) shall determine, against any liability that may be asserted against or expenses that may be incurred by any such Person in connection with the activities of the Company.

10.4 Complete Agreement. This Agreement, and the Membership Interest Purchase Agreement including any schedules or exhibits hereto or thereto, together with the Articles, constitutes the complete and exclusive agreement and understanding of the Members with respect to the subject matter contained herein. This Agreement and the Articles replace and supersede all prior agreements, negotiations, statements, memoranda and understandings, whether written or oral, of the Members.

10.5 Amendments. This Agreement may be amended only by a writing adopted and signed by at least 90% of the Members.

10.6 Applicable Law; Jurisdiction. This Agreement, and the rights and obligations of the Members, shall be interpreted and enforced in accordance with and governed by the laws of the State of Nevada without regard to the conflict laws of that State.

*Two LLC
members
11/11/19*

EPK/NO

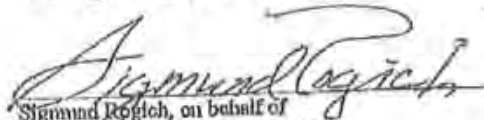
ARTICLE XI
SUPERSEDING PROVISIONS

11. In the event that the FDIC fails to consummate the transactions contemplated in the Now Loan Documentation as set forth in Exhibit "D" to the Purchase Agreements, this Agreement shall be null and void, and all moneys paid by Teld and the Flangas Trust shall be returned to those parties.

IN WITNESS WHEREOF, each Member has executed this Agreement as of the Effective Date.

"MEMBERS"

The Rogich Family Irrevocable Trust

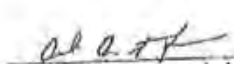

Sigmund Rogich, on behalf of
The Rogich Family Irrevocable Trust

Teld, LLC


Aristotels Blades, Managing Member


Dolores Blades, Managing Member 200 & 2006

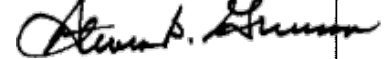
Albert E. Flangas Revocable Living Trust w/d July 22, 2005


Albert B. Flangas, on behalf of the
Albert E. Flangas Revocable Living Trust w/d July 22, 2005


1050 LLC
Managing Member
2005-2006
13 of 13

EH000102

NAN_000205



MSJD

Mark G. Simons, Esq., NSB No. 5132
SIMONS LAW, PC
6490 S. McCarran Blvd., #C-20
Reno, Nevada, 89509
Telephone: (775) 785-0088
Facsimile: (775) 785-0087
Email: mark@mgsimonslaw.com

Attorneys for Nanyah Vegas, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee
of interests of GO GLOBAL, INC., a
Nevada corporation; NANYAH VEGAS,
LLC, A Nevada limited liability company,

Plaintiffs,

v.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: A-13-686303-C
DEPT. NO.: XXVII

CONSOLIDATED WITH:
CASE NO.: A-16-746239-C

**NANYAH VEGAS LLC'S MOTION TO
EXTEND THE DISPOSITIVE MOTION
DEADLINE
AND
MOTION FOR SUMMARY JUDGMENT**

Hearing Date:

Hearing Time:

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

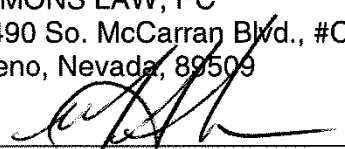
TELD, LLC, a Nevada limited liability
company; PETER ELIADAS, individually
and as Trustee of the The Eliades
Survivor Trust of 10/30/08; SIGMUND
ROGICH, individually and as Trustee of
The Rogich Family Irrevocable Trust;
IMITATIONS, LLC, a Nevada limited
liability company; DOES I-X; and/or ROE
CORPORATIONS I-X, inclusive,

Defendants.

1 Plaintiff Nanyah Vegas, LLC ("Nanyah"), by and through its undersigned counsel,
2 Mark G. Simons of SIMONS LAW, PC, submits the following Motion for Summary
3 Judgment seeking summary judgment against Sigmund Rogich as Trustee of the
4 Rogich Family Irrevocable Trust ("Rogich Trust") and against Eldorado Hills, LLC
5 ("Eldorado Hills"). Summary judgment is mandated in Nanyah's favor based upon this
6 Court's October 5, 2018 Order (the "Order").
7

8 DATED this 30th day of January, 2019.

9 SIMONS LAW, PC
10 6490 So. McCarran Blvd., #C-20
11 Reno, Nevada, 89509

12 
13 MARK G. SIMONS
14 Attorney for Nanyah Vegas, LLC

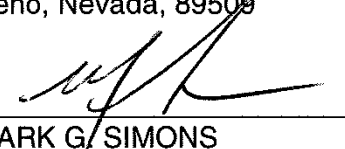
15 **NOTICE OF MOTION**

16 **TO: ALL INTERESTED PARTIES and THEIR ATTORNEYS OF RECORD:**

17 PLEASE TAKE NOTICE that counsel for the Nanyah Vegas, LLC will bring the
18 foregoing **NANYAH VEGAS LLC'S MOTION TO EXTEND THE DISPOSITIVE**
19 **MOTION DEADLINE AND MOTION FOR SUMMARY JUDGMENT** on for hearing
20 before the above-entitled Court on the 06 day of March, 2019, at the hour
21 of 10:00 a.m. or as soon thereafter as counsel may be heard.
22

23 DATED this 30th day of January, 2019.

24 SIMONS LAW, PC
25 6490 So. McCarran Blvd., #C-20
26 Reno, Nevada, 89509

27 
28 MARK G. SIMONS
Attorney for Nanyah Vegas, LLC

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MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT STATUS OF THE CASE.

This case focuses on Nanyah's efforts to recover its \$1.5 million investment in Eldorado. On October 5, 2018, this Court entered its Order making numerous findings of "undisputed fact" and rendering binding legal rulings "as a matter of law." See **Exhibit 1**. Based upon this Court's Order, this Court found as "undisputed facts" that Nanyah invested \$1.5 million into Eldorado, that Eldorado had an "obligation" to repay Nanyah its \$1.5 million investment, and that the Rogich Trust agreed to repay Nanyah its \$1.5 million investment on Eldorado's behalf.¹ Further, this Court found "as a matter of law" the contracts entered into by the Rogich Trust clearly and unambiguously stated the Rogich Trust's contractual obligation to repay Nanyah its \$1.5 million investment into Eldorado. As a consequence of the Court's factual and legal findings in the Order, summary judgment is now mandated in favor of Nanyah as requested.

II. THE ORDER DISMISSED PARTIES AND CLAIMS BASED UPON THE COURT'S UNDISPUTED FACTS AND LEGAL RULINGS.

The Court's Order granted summary judgment in favor of the Eliades Defendants² finding they had no liability for repayment of Nanyah's \$1.5 million investment because "**the obligation**" to repay Nanyah was "**specifically assumed**" by the Rogich Trust. The Court ruled that the various contracts clearly and unambiguously stated that "The Rogich Trust specifically agreed to assume the obligation to pay Nanyah its percentage or debt." Order, ¶17.

¹ Nanyah was entitled to repayment of its \$1.5 million investment and/or the issuance of a membership interest in Eldorado equal to that investment. Nanyah has elected to recover the repayment of its \$1.5 million investment.

² The Eliades Defendants are Peter Eliades individually and as Trustee of the Eliades Survivor Trust of 10/30/08 and Teld, LLC.

1 Now, as a consequence of the Court's Order, as a matter of law this Court must
2 also enter summary judgment in favor of Nanyah against the Rogich Trust and
3 Eldorado. This is because the Court has ruled that the contracts unambiguously state
4 that Eldorado owed the obligation to Nanyah to repay it the \$1.5 million investment and
5 that the Rogich Trust agreed to assume the obligation to pay Nanyah. Davis v. Beling,
6 128 Nev. Adv. Op. 28, 278 P.3d 501, 515 (2012) (if "the contract is clear and
7 unambiguous . . . the contract will be enforced as written."). Consequently, based upon
8 this Court's undisputed factual findings and based upon this Court's legal interpretation
9 of the various contracts, Nanyah is entitled to summary judgment in its favor against the
10 Rogich Trust and against Eldorado for \$1.5 million.

13 III. CLAIMS.

14 Given the Court's findings of undisputed facts and conclusions of law, Nanyah is
15 entitled to summary judgment on the following claims.

- 16 1. Breach of Contract: Rogich Trust.
- 17 2. Breach of Implied in Fact Contract: Eldorado.
- 18 3. Unjust Enrichment: Eldorado.

20 IV. THE COURT'S UNDISPUTED FINDINGS OF FACT AND LEGAL 21 CONCLUSIONS.

22 The following are undisputed facts and rulings of law contained in the Court's
23 Order:

- 24 2. In 2007, Huerta contacted Nanyah to invest. In December of 2007,
25 **Nanyah wired \$1,500,000.00 which eventually was deposited into
26 Eldorado's bank account. . . .**
- 27 . . .
- 28 4. . . the agreements identified The Rogich Trust specifically agreed to
assume the obligation to pay Nanyah its percentage interest in
Eldorado or to pay Nanyah its \$1,500,000 invested into Eldorado.

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- ...
- 5.a.ii The October 30, 2008, Purchase Agreement **states** at Section 4 the following: Seller [Go Global], however, will not be responsible to pay the Exhibit A Claimants their percentage or debt. **This will be Buyer's [The Rogich Trust's] obligation. . . ."** The Exhibit A Claimants include Nanyah and its \$1,500,000.00 investment.
- ...
- 5.b.i. The October 30, 2008, Membership Interest Purchase Agreement identifies Nanyah's \$1,500,000 investment into Eldorado at Exhibit D which **clearly and unequivocally states** the following: **Seller [Rogich Trust] confirms that certain amounts have been advanced to or on behalf of the Company [Eldorado] by certain third-parties [including Nanyah], as referenced in Section 8 of the Agreement. Exhibit D also memorializes Nanyah's \$1,500,000 investment into Eldorado.**
- ...
- 5.b.iv. Eliades acknowledges that **it was always the responsibility of Rogich and the Rogich Trust to repay Nanyah for its investment in Eldorado.**
- ...
- 5.d.i. As of August, 2012, **the debt owed to Nanyah of \$1,500,000.00 had not been paid.**
- ...
6. Any finding of fact set forth herein more appropriately designated as a conclusion of law shall be so designated.
7. The October 30, 2008, Purchase Agreement states that **The Rogich Trust specifically agreed to assume the obligation to pay Nanyah its percentage or Debt**
- ...
14. Because the relevant agreements are clear and unambiguous, **this Court may determine the intent of the parties as a matter of law**, and is precluded from considering any testimony to determine the Eliades Defendants' so-called contractual liability. *Krieger v. Elkins*, 96 Nev. 839, 843, 620 P.2d 370, 373 (1980) (holding that testimony used to contradict or vary the written terms of an agreement is a violation of the parol evidence rule).
15. Based on the above, **the Eliades Defendants never assumed the Rogich Trust's debt or obligation to Nanyah**, and therefore, there is no contractual basis for Nanyah—as an alleged third-party beneficiary—to sue the Eliades Defendants. *See Lipshie v. Tracy Inv. Co.*, 93 Nev. 370, 379-80, 566 P.2d 819, 825 (1977).

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...

21. ... the Court concludes that that Eliades Defendants did not specifically assumed the Rogich Trust's obligation to repay Nanyah Its \$1,500,000.00 investment into Eldorado

22. Any conclusion of law set forth herein more appropriately designated as a finding of fact shall be so designated.

Exh. 1 (emphasis added). Given the foregoing findings of fact and conclusions of law, this Court must grant summary judgment in favor of Nanyah against the Rogich Trust.

V. SUMMARY JUDGMENT IS MANDATED ON NANYAH'S CLAIMS.

The purpose of summary judgment is to avoid a needless trial when the undisputed facts establish that a party is entitled to judgment as a matter of law. Coray v. Hom, 80 Nev. 39, 389 P.2d 76, 77 (1964) (purpose of summary judgment " is to avoid a needless trial when an appropriate showing is made in advance that there is no genuine issue of fact to be tried, and the movant is entitled to judgment as a matter of law.").³

The facts are undisputed that Nanyah invested \$1.5 million into Eldorado, there was an "obligation" for Eldorado to repay this investment and the Rogich Trust contractually assumed Eldorado's obligation to repay Nanyah the \$1.5 million. Further, as a matter of law, Eldorado remains liable on the debt regardless of whether or not the Rogich Trust pays the debt. Accordingly, Nanyah is entitled to summary judgment on its breach of contract claims against the Rogich Trust and against Eldorado.

A. THE BREACH OF CONTRACT CLAIM AGAINST THE ROGICH TRUST MUST BE GRANTED.

To prevail on its breach of contract claim, Nanyah must establish the existence

³ Jesson v. Davis, 97 Cal. App. 4th 1032, 1036, 118 Cal. Rptr. 2d 839, 841 (Cal. Ct. App. 2002) (ruling that the parties did not need to appear at trial and testify because "[t]he undisputed facts of the case required no trial.")

1 of a contractual obligation, the breach of the contractual obligation and damages.
2 23 Williston on Contracts § 63:1 (4th ed. May 2010) (“a breach of contract is a failure,
3 without legal excuse, to perform any promise that forms the whole or part of a
4 contract.”).

5
6 In the present case, this Court has previously found as undisputed facts that The
7 October 30, 2008, Purchase Agreement (“Purchase Agreement”) and the October 30,
8 2008, Membership Interest Purchase Agreement (“Membership Agreement”), both
9 executed by the Rogich Trust, clearly state that the Rogich Trust contractually agreed to
10 repay Nanyah its \$1.5 million investment. Order, ¶4. The Court’s Order also outlines in
11 excruciating detail the “undisputed facts” of conclusively establishing that the Rogich
12 Trust breached its contractual duty to repay Nanyah the \$1.5 million invested into
13 Eldorado as follows:
14

15 **UNDISPUTED FINDINGS OF FACT.**

- 16 1. In December of 2007, Nanyah wired \$1,500,000.00 which eventually
17 was deposited into Eldorado’s bank account.⁴
18 2. The Rogich Trust specifically agreed to assume the obligation to pay
19 Nanyah its percentage interest in Eldorado or to pay Nanyah its
20 \$1,500,000 invested into Eldorado.⁵
21 3. The Rogich Trust agreed to repay Nanyah its \$1,500,000 investment into
22 Eldorado.⁶
23 4. Exhibit D to the October 30, 2018, Membership Interest Purchase
24 Agreement “identifies Nanyah’s \$1,500,000 investment into Eldorado.”⁷

25 ⁴ Exhibit 1, ¶2.

26 ⁵ Exhibit 1, ¶4.

27 ⁶ Exhibit 1, ¶5.a.ii.

28 ⁷ Exhibit 1, ¶5.b.i.

- 1 5. Exhibit D to the October 30, 2018, Membership Interest Purchase
2 Agreement unequivocally states that Rogich and the Rogich Trust
3 “confirmed” Nanyah “advanced to or on behalf of Eldorado” the
4 \$1,500,000 investment.⁸
5 6. Section 8(c) of the October 30, 2018, Membership Interest Purchase
6 Agreement states that Nanyah “invested or otherwise advanced funds”
7 into Eldorado.⁹
8 7. Peter Eliades was aware of the Rogich Trust’s obligation to Nanyah
9 contained in the October 30, 2008, Purchase Agreement when he entered
10 into the October 30, 2008, Membership Interest Purchase Agreement.¹⁰
11 8 Peter Eliades acknowledges that it was always the responsibility of Rogich
 and the Rogich Trust to repay Nanyah for its investment in Eldorado.¹¹
12 9 It is an undisputed fact that as of August, 2012, the debt owed to Nanyah
 of \$1,500,000 had not been paid.¹²

13 Consequently, in summary, the undisputed facts in this case are Nanyah invested \$1.5
14 million into Eldorado, Eldorado had an “obligation” to repay this investment, the Rogich
15 Trust “specifically agreed” to assume the repayment obligation to Nanyah and the debt
16 has not been repaid to Nanyah.

17 In addition, the Court’s Order details that, as a matter of law, the contracts
18 obligated the Rogich Trust to repay Nanyah’s \$1.5 million investment as follows: ¶7
19 (“The Rogich Trust specifically agreed to assume the obligation to pay Nanyah” its \$1.5
20 million investment); ¶14 (affirming the terms of the Purchase Agreement and
21 Membership Agreement are clear and unambiguous and are therefore enforced “as a
22 matter of law”); ¶15 (the Eliades Defendants did not assume the Rogich Trust’s
23

24 ⁸ Exhibit 1, ¶15.b.i.

25 ⁹ Exhibit 1, ¶15.b.ii.

26 ¹⁰ Exhibit 1, ¶15.b.iii.

27 ¹¹ Exhibit 1, ¶15.b.iv.

28 ¹² Exhibit 1, ¶15.d.i.

1 contractual obligation to repay Nanyah its \$1.5 million investment); and ¶21 (as a
2 matter of law the Rogich Trust had an “obligation to repay Nanyah its \$1.5 million
3 investment into Eldorado.”).¹³

4 Based upon the foregoing, the Court has already found as undisputed facts and
5 as matters of law the Rogich Trust contractually agreed to repay Nanyah its \$1.5 million
6 investment into Eldorado. There is no factual or legal basis to deny Nanyah’s motion
7 for summary judgment on this claim and Nanyah is entitled to judgment as requested.
8

9 **B. THE ROGICH DEFENDANTS ASSUMPTION OF ELDORADO’S**
10 **OBLIGATION TO NANYAH DOES NOT RELIEVE ELDORADO’S**
11 **ORIGINAL LIABILITY FOR THE DEBT.**

12 As a matter of law, Eldorado remains liable for the debt owed to Nanyah even
13 though this Court has found that the Rogich Defendants assumed the repayment of the
14 \$1.5 million obligation owed to Nanyah. Noah v. Metzker, 85 Nev. 57, 60, 450 P.2d
15 141, 144 (1969) (original contracting party “shall remain liable” unless there is a written
16 release of liability signed by the recipient of the debt); Fay Corp. v. BAT Holdings I, Inc.,
17 646 F. Supp. 946, 949–50 (W.D. Wash. 1986), aff’d sub nom. Fay Corp. v. Frederick &
18 Nelson Seattle, Inc., 896 F.2d 1227 (9th Cir. 1990) (“assignment does not discharge the
19 assignor’s original obligation to the lessor.”).
20

21 Accordingly, based upon this Court’s Order, Nanyah is entitled to summary
22

23 ¹³ Musser v. Bank of America, 114 Nev. 945, 947, 964 P.2d 51, 52 (1998) (“The
24 question of the interpretation of a contract when the facts are not in dispute is a
25 question of law.”). Further, the Court made specific conclusions of law relating to
26 contract interpretation. The Court is vested with the authority to render conclusions of
27 law relating to contract interpretation and enforcement. Galardi v. Naples Polaris, LLC,
28 301 P.3d 364, 366 (Nev. 2013) (“[I]n the absence of ambiguity or other factual
complexities,” contract interpretation presents a question of law that the district court
may decide on summary judgment.”); Chwialkowski v. Sachs, 108 Nev. 404, 406, 834
P.2d 405, 406 (1992) (holding that summary judgment was proper because an
unambiguous contract can be construed as a matter of law from the language of the
document).

1 judgment on its claim for Eldorado's breach of its implied-in-fact contractual obligation
2 to repay Nanyah its \$1.5 million investment. This Court has ruled as a matter of law
3 that Exhibit D to the Membership Agreement "identifies Nanyah's \$1,500,000
4 investment into Eldorado" and that the Rogich Trust "confirmed" Nanyah "advanced to
5 or on behalf of Eldorado" the \$1,500,000 investment.¹⁴ Further, the Court's Order
6 found at Section 8(c) of the Membership Agreement that Nanyah "invested or otherwise
7 advanced funds" into Eldorado.¹⁵ The Court's Order repeatedly identified Eldorado's
8 "obligation" to repay Nanyah the \$1.5 million investment.¹⁶

10 The United States Supreme Court long ago defined implied in fact agreements
11 as those "founded upon a meeting of the minds, which, although not embodied in an
12 express contract, is inferred, as a fact, from conduct of the parties showing, in the light
13 of the surrounding circumstances, their tacit understanding." Balt. & Ohio R.R. v.
14 United States, 261 U.S. 592, 597, 58 Ct.Cl. 709, 43 S.Ct. 425, 67 L.Ed. 816 (1923).

16 The Nevada Supreme Court also recognizes and imposes implied in fact contracts. In
17 Certified Fire Prot. Inc. v. Precision Constr., 283 P.3d 250, 256 (Nev. 2012), the Court
18 stated:

20 A contract implied in fact must be "manifested by conduct," . . . it "is a true
21 contract that arises from the tacit agreement of the parties." . . . To find a
22 contract implied in fact, the fact finder must conclude that the parties intended to
contract and promises were exchanged, the general obligations for which must
be sufficiently clear.

23 Id.

25 When the conduct is clear and undisputed, such as in this case based upon the

26 ¹⁴ Exh. 1, ¶5.b.i.

27 ¹⁵ Exh. 1, ¶5.b.ii.

28 ¹⁶ Exh. 1, ¶¶4,5.a.ii and 7.

1 express rulings of this Court in its Order, the Court must find the existence of Eldorado's
2 contractual obligation to repay Nanyah its \$1.5 million invested into it as a matter of law.
3 ACC Capital Corp. v. Ace W. Foam Inc., --- P.3d ---, 2018 WL 1127647 * 2 (Utah Ct.
4 App. 2018) ("The existence of a contract is a question of law.").

5
6 Again, the Court's Order has found as an undisputed fact and as a matter of law
7 that Nanyah invested \$1.5 million into Eldorado, Eldorado received Nanyah's money
8 and that Eldorado had a contractual "obligation" to repay Nanyah its \$1.5 million
9 investment and that the Rogich Trust also agreed to. Accordingly, Nanyah is also
10 entitled to summary judgment in its favor on its breach of implied in fact contract that
11 Eldorado is liable to it for its \$1.5 million investment since there is an "obligation"
12 imposed upon Eldorado to repay Nanyah for its \$1.5 million investment.
13

14 In addition, the existence of Eldorado's receipt of Nanyah's \$1.5 million
15 investment, Eldorado's "obligation" to repay Nanyah its \$1.5 million investment, and the
16 Rogich Trust's agreement to repay Nanyah on behalf of Eldorado are issues that have
17 all been vigorously briefed and argued to this Court. As a result, the Court's Order
18 addresses these exact issues. NRCP 15(b) addresses this situation and provides:
19 "[w]hen issues not raised by pleadings are tried by express or implied consent of the
20 parties, **they shall be treated in all respects as if they had been raised in the**
21 **pleadings.**" (emphasis added). The application of this rule is an extremely powerful
22 tool to be used by the Court when evidence is presented to the Court establishing legal
23 rights and remedies that exist, but for whatever reason, were not technically plead in an
24 action. "The purpose of Rule 15(b) is to align the pleadings to conform to the issues
25 actually tried." Cole v. Layrite Prod. Co., 439 F.2d 958, 961 (9th Cir. 1971).
26
27 Amendments to conform to proof are perfectly proper and courts should be liberal in
28

1 allowing such amendments. See Brean v. Nevada Motor Co., 51 Nev. 100, 269 P. 606,
2 606 (1928) (“courts should be liberal in allowing such amendments . . .”).

3 While a claim for breach of an implied in fact contract with Eldorado was not
4 technically pled in this action, the evidence supporting such a claim is at the heart of
5 this action. All parties have presented their various positions on Eldorado’s “obligation”
6 to repay Nanyah its \$1.5 million investment and this Court’s Order affirmatively
7 addresses Eldorado’s “obligation” and the Rogich Trust’s obligation to pay that
8 obligation on behalf of Eldorado.
9

10 Further, NRCP 54(c) states, “[e]very other final judgment should grant the
11 relief to which each party is entitled, even if the party has not demanded that
12 relief in its pleadings.” (Emphasis added). “The Nevada Supreme Court recognized
13 the liberal nature of NRCP 54(c) by confirming ‘Under the liberalized rules of pleading,’
14 a final judgment must grant the relief a party is entitled to, even where the prayer for
15 relief did not ask for such relief.” Magille v. Lewis, 74 Nev. 381, 387-88, 333 P.2d 717,
16 720 (1958).
17

18 In Magill, the Nevada Supreme Court analyzed the breadth and power of Rule
19 54(c) in relation to claims and relief that had not been pled by a party. The Nevada
20 Supreme Court stated NRCP 54(c) grants the Court the authority and power to
21 supersede any “particular legal theory of counsel” and that the legal theories of counsel
22 are subordinate to the power of the Court to grant relief in favor of a party “whether
23 demanded or not” as follows:
24

25
26 **“Particular legal theories of counsel then are subordinated to the**
27 **court’s right and duty to grant the relief to which the prevailing party is**
28 **entitled whether demanded or not. If a party has proved a claim for relief**
the court will grant him that relief to which he is entitled on the evidence
regardless of the designation of the claim or the prayer for relief. The
prayer for relief may be of help as indicating the relief to which the plaintiff

1 **may be entitled, but it is not controlling, and the question is not whether**
2 **the plaintiff has asked for the proper remedy but whether he is entitled to**
3 **any remedy.”**

4 Id. at 388, 333 P.2d at 720 (emphasis added) (citation omitted).

5 Accordingly, NRCP 54(c) is another powerful rule that allows a judge, as a trier of
6 fact, to grant relief to a party even if the party did not affirmatively seek such relief in its
7 pleadings. NRCP 54(c) therefore vests the Court with broad authority and discretion to
8 render relief “whether demanded or not”. The law is absolutely clear that when this
9 Court entered its Order, it was not constrained, limited or restricted by the pleadings or
10 even the “legal theories of counsel” when granting summary judgment in favor of the
11 Eliades Defendants. As a result of the Court’s Order, this Court also established that
12 Eldorado had an implied in fact contract with Nanyah to repay Nanyah its \$1.5 million
13 investment.
14

15 It is the express purpose and function of the Court to “grant the relief to which
16 the prevailing party is entitled whether demanded or not.” Therefore, it is entirely
17 irrelevant whether or not any particular claim for relief was asserted in the pleadings
18 and/or whether or not a plaintiff even affirmatively asked the Court for relief. It is the
19 duty and function of the Court to “grant [a party] that relief to which he is entitled on the
20 evidence regardless of the designation of the claim or the prayer for relief” Again,
21 on these grounds Nanyah is entitled to summary judgment against Eldorado on a claim
22 for implied in fact contract that Eldorado agreed and is obligated to repay Nanyah its
23 \$1.5 million investment.
24

25
26 **C. ALTERNATIVELY, NANYAH IS ENTITLED TO SUMMARY JUDGMENT**
27 **ON ITS UNJUST ENRICHMENT CLAIM.**

28 As an alternative to granting summary judgment, and based upon the same
factual and legal basis, as an alternative remedy to Nanyah’s contractual claim against

1 Eldorado, Nanyah is entitled to summary judgment on its unjust enrichment claim. This
2 is because the Court has specifically found that Nanyah conferred a \$1.5 million benefit
3 on Eldorado, Eldorado received and admitted the receipt of the benefit, and Eldorado
4 admitted there was an "obligation" to repay Nanyah for this benefit. Again, based upon
5 the undisputed facts and legal findings made by this Court in its Order, summary
6 judgment is also mandated on Nanyah's unjust enrichment claim.
7

8 The Court has found as "undisputed facts" and as a matter of law that Eldorado
9 received Nanyah's \$1.5 million investment. The Court found that Exhibit D to the
10 Membership Agreement states "certain amounts have been advanced to or on behalf of
11 the Company [Eldorado] by certain third-parties [including Nanyah], as referenced in
12 section 8 of the agreement. Exhibit D also memorializes Nanyah's \$1,500,000
13 investment into Eldorado."¹⁷ Further, the Court's Order found at Section 8(c) of the
14 Membership Agreement that Nanyah "invested or otherwise advanced funds" into
15 Eldorado.¹⁸ The Court's Order repeatedly identified Eldorado's "obligation" to repay
16 Nanyah the \$1.5 million investment.¹⁹
17

18 Based upon these undisputed facts, and based upon the express provisions of
19 the various agreements, Eldorado received and benefitted from Nanyah's \$1.5 million
20 investment. The Court's Order has found that Nanyah was entitled to receive
21 repayment of its investment into Eldorado and that the Rogich Trust agreed to assume
22 Eldorado's debt to Nanyah. Based upon the Court's Order, Nanyah is entitled to
23 summary judgment on its unjust enrichment claim against Eldorado since Eldorado
24
25

26 ¹⁷ Exh. 1, ¶5.b.i.

27 ¹⁸ Exh. 1, ¶5.b.ii.

28 ¹⁹ Exh. 1, ¶¶4,5.a.ii and 7.

1 received the benefit and enjoyment of Nanyah's \$1.5 million.

2 **D. THE COURT CANNOT DENY SUMMARY JUDGMENT SINCE IT IS**
3 **BOUND BY ITS ORDER GRANTING DISMISSAL OF THE CLAIMS**
4 **AGAINST THE ELIADES DEFENDANTS.**

5 Nanyah is entitled to summary judgment as requested because this Court is
6 bound by its undisputed factual findings and its legal rulings. The Court is not at liberty
7 to dismiss claims against certain defendants and then refuse to allow Nanyah to obtain
8 judgment against the remaining parties based upon those same findings. Stated
9 another way, this Court can't grant summary judgment dismissing the Eliades
10 Defendants based upon the Court's undisputed facts and contract interpretation then
11 refuse to enforce those same provisions against the Rogich Trust and Eldorado.
12

13 If any of the remaining parties desired to challenge the Court's findings of facts
14 and legal interpretation of the parties' various contracts contained in the Order, then
15 they should have filed a Motion for Reconsideration asking the Court to reconsider its
16 findings of fact and conclusions of law. See EDCR 2.24(b). No party filed a motion for
17 reconsideration and the time to seek reconsideration of the Court's Order has long
18 since expired.
19

20 Consequently, as a result of this Court's Order, the Rogich Trust and Eldorado
21 are barred from arguing or contesting the following:

- 22 (1) Nanyah did not invest \$1,500,000 into Eldorado.

23 **BARRED:** If any party attempted to offer this statement it would
24 constitute an untrue statement of fact. This Court found as an
25 undisputed fact that Nanyah did invest \$1.5 million into Eldorado and that
26 this fact was memorialized and identified in various contracts as a matter
of law.

- 27 (2) The Rogich Trust did not agree to repay Nanyah for its
28 \$1,500,000 investment into Eldorado.

BARRED: If any party attempts to offer this statement it would

1 constitute another untrue statement of fact. This Court found as an
2 undisputed fact and as an express contractual obligation that the Rogich
3 Trust "specifically agreed" to repay Nanyah its \$1.5 million investment into
4 Eldorado.

- 5 (3) The obligation to repay Nanyah its \$1,500,000 investment into Eldorado
6 does not exist.

7 **BARRED:** If any party attempts to offer this statement it would
8 constitute another untrue statement of fact. This Court found as an
9 undisputed fact and as an express contractual obligation that
10 Eldorado received Nanyah's \$1.5 million investment into Eldorado and
11 that the Rogich Trust "specifically agreed" to assume "the obligation" to
12 repay Nanyah its \$1.5 million investment into Eldorado.

13 Based upon the foregoing, these facts and conclusions of law cannot be challenged or
14 contested at trial and summary judgment is mandated in Nanyah's favor as requested.

15 **VI. THERE IS NO ISSUE OF FACT PRECLUDING SUMMARY JUDGMENT IN**
16 **NANYAH'S FAVOR.**

17 It is anticipated that the Rogich Trust may attempt to argue that Nanyah's claims
18 are barred by a statute of limitation that commenced on October 30, 2008, when the
19 Purchase Agreement and the Membership Agreement were entered into by the Rogich
20 Trust. However, this argument has already been rejected by this Court as a matter of
21 law because a cause of action commences upon a breach and/or repudiation by a party
22 and not upon the entering into the contract.

23 The contracts at issue also do not establish a date certain whereby Eldorado
24 and/or the Rogich Trust was to repay Nanyah its \$1.5 million investment. Accordingly,
25 there was no date certain Nanyah's claims accrued. Instead, the undisputed facts are
26 up to December 2012, Nanyah had always been informed by Eldorado that its \$1.5
27 million investment would be documented by a membership interest or would be repaid.

28 **Exhibit 2, Harlap Deposition, p. 18:10-16.**²⁰

²⁰ See also **Exhibit 3, Affidavit of Mark G. Simons ("Simons' Aff.")** at ¶14.

1 It was not until sometime in December 2012, that Nanyah was advised that the
2 Rogich Trust had secretly transferred its membership interest in Eldorado and was
3 refusing to repay Nanyah its \$1.5 million investment. **Exhibit 4**, Declaration of Yoav
4 Harlap, ¶2. Based upon the receipt of this information, Nanyah believed such action
5 was a repudiation of the defendants' obligations to it to repay its \$1.5 million investment
6 and/or to transfer to it a membership interest in Eldorado. Id., ¶3. These facts are
7 undisputed and the Rogich Trust and Eldorado have no facts contradicting Nanyah's
8 evidence.
9

10 Because defendants have absolutely no evidence contradicting Nanyah's date of
11 discovery of the defendants' breach occurring on December, 2012, Nanyah is entitled
12 to summary judgment that all its claims are timely and not barred by any statute of
13 limitations. Siragusa v. Brown, 114 Nev. 1384, 971 P.2d 801, 806 (1998) ("[T]he time
14 of discovery may be decided as a matter of law" when "uncontroverted evidence"
15 establishes the date of discovery of the breach).
16

17 Further, Nanyah obtained an Order granting its Motion in Limine No. 3 binding
18 the Rogich Trust to its admissions in its Answer that they never informed Nanyah of the
19 Rogich Trust's secret membership transfer in Eldorado in late 2012 (¶82) and that:
20

21 It was not until December, 2012, that Nanyah discovered that
22 Rogich Trust purported to no longer own any interest in Eldorado and that
23 Rogich Trust's interest in Eldorado had been transferred to Teld and/or
24 the Eliades Trust.

25 **Exhibit 5**, Order granting Nanyah's Motion in Limine No. 3 binding Rogich Trust to its
26 answers to Paragraphs 82 and 83, p.3.

27 However, the Court did not preclude the Rogich Trust from presenting any "new"
28 evidence at trial on this issue to the extent it "obtained additional information after the

1 Answer was filed” Id. No such information or evidence has been produced.

2 Pursuant to NRCP 37(c)(1)’s provisions, the Rogich Trust, as well as all the other
3 defendants, have not produced any information in this case that effects this admitted
4 fact in any regard. NRCP 37(c)(1) provides:

5
6 A party that without substantial justification fails to disclose information
7 required by Rule 16.1, 16.2, or 26(e)(1), or to amend a prior response to
8 discovery as required by Rule 26(e)(2), **is not, unless such failure is harmless,**
9 **permitted to use as evidence at a trial, at a hearing, or on a motion any**
10 **witness or information not so disclosed**

11 Id. (emphasis added).²¹ Since no evidence has been produced in this case rebutting or
12 contesting or even relating to Nanyah’s discovery of the Rogich Trust’s and/or
13 Eldorado’s breach of the repayment obligation until December, 2012, that date is
14 uncontested and uncontestable in this action.

15 Accordingly, the undisputed evidence is: (1) the various contracts did not have a
16 date certain to repay Nanyah its \$1.5 million investment; (2) defendants never informed
17 Nanyah about the Rogich Trust’s secret assignment in late 2012 of its membership
18 interest in Eldorado; (3) the defendants never informed Nanyah that they were
19 repudiating or refusing to repay Nanyah its \$1.5 million but at all times had affirmed
20 they were going to perform their contractual obligations; and (4) Nanyah did not
21 discover the defendants’ breach of their contractual obligations until December, 2012.

22 While the defendants may want to argue at trial that Nanyah should have know
23 sooner of the defendants’ breaches, argument does not take the place of evidence.
24 The law is clear that the defendants are not entitled merely to argue to the jury that
25 Nanyah’s evidence should not be believed. Instead, the Rogich Trust and Eldorado
26

27
28 ²¹ NRCP 26(e) requires parties to promptly supplement any discovery response and/or
disclose any information relevant to the issue in the case or be barred from use.

1 have an affirmative obligation to “present affirmative evidence in order to defeat a
2 properly supported motion for summary judgment.” Anderson v. Liberty Lobby, Inc.,
3 477 U.S. 242, 257, 106 S. Ct. 2505, 2514, 91 L. Ed. 2d 202 (1986). This exact issue
4 was addressed in A.I. Credit Corp. v. Gohres, 299 F. Supp. 2d 1156, 1161 (D. Nev.
5 2004) when the court held:
6

7 **[A] non-moving party may not rely on the court to simply disbelieve the**
8 **moving party's evidence. Rather, the party must “present affirmative**
9 **evidence in order to defeat a properly supported motion for summary**
10 **judgment.”**

11 Id. (emphasis added) (citing Anderson v. Liberty Lobby, Inc.). Accordingly, there is no
12 question of fact present that precludes the entry of summary judgment as requested.

13 **VII. THERE IS GOOD CAUSE TO EXTEND THE DISPOSITIVE MOTION**
14 **DEADLINE.**

15 Under NRCP 16(b): “[a] schedule shall not be modified except by leave of the
16 judge or a discovery commissioner upon a showing of good cause.” There is good
17 cause to modify the Scheduling Order in this matter and allow for another dispositive
18 motion. First, the Court--at the request of the Rogich Defendants--recently continued
19 the trial date to April 22, 2019. Although there may not have been sufficient time for
20 this Court to entertain another dispositive motion while the trial was scheduled for
21 November of 2018, there is now. Second, this Motion for Summary Judgment did not
22 ripen until this Court entered its October 5, 2018, Order well past the June 1, 2018
23 dispositive motion deadline. Thus, Nanyah could not have filed this Motion for
24 Summary Judgment prior to the current dispositive motion deadline. Third, it would be
25 entirely inefficient and inequitable to force Nanyah to participate in a five-day trial when
26 this Court’s Order resolves dispositive facts and has entered dispositive legal findings.
27
28

1 This Court should extend the dispositive motion deadline in order to entertain and
2 decide Nanyah's Motion for Summary Judgment.

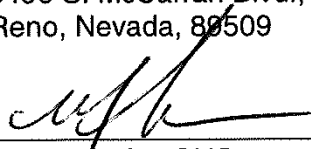
3 **VII. CONCLUSION.**

4 This case focuses on Nanyah's efforts to recover its \$1.5 million investment in
5 Eldorado. On October 5, 2018, this Court entered its Order making numerous findings
6 of "undisputed fact" and rendering binding legal rulings "as a matter of law." Based
7 upon this Court's Order, this Court found as "undisputed facts" that Nanyah invested
8 \$1.5 million into Eldorado, that Eldorado had an "obligation" to repay Nanyah its \$1.5
9 million investment, and that the Rogich Trust agreed to repay Nanyah its \$1.5 million
10 investment on Eldorado's behalf. Further, this Court found "as a matter of law" the
11 contracts entered into by the Rogich Trust clearly and unambiguously stated the Rogich
12 Trust's contractual obligation to repay Nanyah its \$1.5 million investment into Eldorado.
13
14 As a consequence of the Court's factual and legal findings in the Order, summary
15 judgment is now mandated in favor of Nanyah as requested.
16

17 **AFFIRMATION:** This document does not contain the social security number of
18 any person.
19

20 DATED this 30th day of January 2019.

21 SIMONS LAW, PC
22 6490 S. McCarran Blvd., #C-20
23 Reno, Nevada, 89509

24 
25 MARK G. SIMONS
26 Attorney for Nanyah Vegas, LLC
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 8.05, I certify that I am an employee of
SIMONS LAW, PC and that on this date I caused to be served a true copy of the
**NANYAH VEGAS LLC'S MOTION TO EXTEND THE DISPOSITIVE MOTION
DEADLINE AND MOTION FOR SUMMARY JUDGMENT** on all parties to this action via
the Odyssey E-Filing System:

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DATED this 30 day of January, 2019.


Employee of SIMONS LAW, PC

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EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	10/5/18 Order	10
2	Harlap Deposition Excerpts	4
3	Simons' Aff.	1
4	Harlap Declaration	1
5	11/6/18 Order	4

EXHIBIT 1

EXHIBIT 1



ORDR (CIV)

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Attorneys for Nanyah Vegas, LLC

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
Corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

vs.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

TELD, LLC, a Nevada limited liability
company; PETER ELIADES, individually and
as Trustee of The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No. A-13-686303-C
Dept. No. XXVII

**ORDER: (1) GRANTING DEFENDANTS
PETER ELIADES, INDIVIDUALLY
AND AS TRUSTEE OF THE ELIADES
SURVIVOR TRUST OF 10/30/08, AND
TELD, LLC'S MOTION FOR
SUMMARY JUDGMENT; AND (2)
DENYING NANYAH VEGAS, LLC'S
COUNTERMOTION FOR SUMMARY
JUDGMENT**

CONSOLIDATED WITH:

Case No. A-16-746239-C

THIS MATTER came before the Court on July 26, 2018 on Defendants Peter Eliades,
individually ("Eliades") and as Trustee of The Eliades Survivor Trust of 10/30/08 (the "Eliades
Trust"), and Teld, LLC's ("Teld") (collectively, the "Eliades Defendants") Motion for Summary

Judgment (the "Motion for Summary Judgment"), and Nanyah Vegas, LLC's ("Nanyah")

Counter-motion for Summary Judgment (the "Counter-motion for Summary Judgment"). The Parties appeared as follows:

- For the Eliades Defendants and Eldorado Hills, LLC ("Eldorado"): Joseph Liebman, Esq. of Bailey♦Kennedy, LLP.
- For Sig Rogich, individually ("Rogich") and as Trustee of the Rogich Family Irrevocable Trust (the "Rogich Trust"), and Imitations, LLC (collectively, the "Rogich Defendants"): Samuel Lionel, Esq. of Fennemore Craig, P.C.
- For Nanyah: Mark G. Simons, Esq. of Simons Law, PC.

The Court, having heard oral argument, having reviewed the papers, exhibits, and pleadings on file, and having considered the same, and for the reasons stated upon the record, finds as follows:

UNDISPUTED MATERIAL FACTS

The Relevant History of Eldorado

1. Eldorado was formed in 2005 for the purpose of owning and developing approximately 161 acres of land near Boulder City, Nevada. Eldorado was originally comprised of Go Global, Inc. (100% owned by Carlos Huerta) and the Rogich Trust.
2. In 2007, Huerta contacted Nanyah to invest. In December of 2007, Nanyah wired \$1,500,000.00 which eventually was deposited into Eldorado's bank account. At this time, the Eliades Defendants had no involvement with Eldorado.
3. In October of 2008, approximately ten months later, Teld purchased a 1/3 interest in Eldorado for \$3,000,000.00. Concurrently, The Flangas Trust also purchased a 1/3 interest in Eldorado for \$3,000,000.00, which was subsequently transferred to Teld when the Flangas Trust backed out of the deal. Because Teld ended up with a larger percentage of Eldorado than originally contemplated, it was later agreed that the Rogich Trust would re-acquire 6.67% of Eldorado from Teld. As a result of these transactions, Go Global (*i.e.*, Huerta) no longer owned an Eldorado membership interest, Teld owned 60% of Eldorado, and the Rogich Trust owned approximately 40% of Eldorado.
4. These transactions were memorialized in various written agreements. Nanyah was not

included as a named signatory on the agreements, however, the agreements identified that The Rogich Trust specifically agreed to assume the obligation to pay Nanyah its percentage interest in Eldorado or to pay Nanyah its \$1,500,000 invested into Eldorado.

The Relevant Agreements

5. The relevant agreements at issue in this case state as follows:

a. October 30, 2008 Purchase Agreement between Go Global, Carlos Huerta, and the Rogich Trust:

i. "[Go Global and Huerta] owns a membership interest ... in Eldorado Hills, LLC ... equal or greater than thirty-five percent and which may be as high as forty-nine and forty-four one hundredths (49.44%) of the total ownership interests in the Company. Such interest, as well as the ownership interest currently held by [the Rogich Trust], may be subject to certain potential claims of those entities set forth and attached hereto in Exhibit 'A' and incorporated by this reference ('Potential Claimants'). [The Rogich Trust] intends to negotiate such claims with [Go Global and Huerta's] assistance so that such claimants confirm or convert the amounts set forth beside the name of each said claimants into non-interest bearing debt, or an equity percentage to be determined by [the Rogich Trust] after consultation with [Go Global and Huerta] as desired by [Go Global and Huerta], with no capital calls for monthly payments, and a distribution in respect of their claims in amounts from the one-third (1/3rd) ownership interest in [Eldorado] retained by [the Rogich Trust]."

ii. The October 30, 2008, Purchase Agreement states at Section 4 the following: Seller [Go Global], however, will not be responsible to pay the Exhibit A Claimants their percentage or debt. This will be Buyer's [The Rogich Trust's] obligation. . . ." The Exhibit A Claimants include Nanyah and its \$1,500,000.00 investment.

2 **b. October 30, 2008 Membership Interest Purchase Agreement between Rogich,**
3 **the Rogich Trust, Teld, Go Global and Huerta:**

- 4 i. The October 30, 2008, Membership Interest Purchase Agreement identifies
5 Nanyah's \$1,500,000 investment into Eldorado at Exhibit D which clearly and
6 unequivocally states the following: Seller [Rogich and the Rogich Trust]
7 confirms that certain amounts have been advanced to or on behalf of the
8 Company [Eldorado] by certain third-parties [including Nanyah], as
9 referenced in Section 8 of the Agreement. Exhibit D also memorializes
10 Nanyah's \$1,500,000 investment into Eldorado.
- 11 ii. Section 8(c) of this agreement again states that "Seller [Rogich and the Rogich
12 Trust] shall defend, indemnify and hold Buyer [Teld] harmless from any and
13 all the claims of . . . Nanyah . . . each of whom invested or otherwise
14 advanced . . . funds . . . (i) It is the current intention of Seller [Rogich and the
15 Rogich Trust] that such amounts be confirmed or converted to debt . . .
- 16 iii. Eliades acknowledged that he was aware of the Rogich Trust's obligation to
17 Nanyah contained in the October 30, 2008, Purchase Agreement when he
18 entered into the October 30, 2008 Membership Interest Purchase Agreement
19 and that he understood that Teld's acquisition of the Rogich Trust's
20 membership interests in Eldorado was subject to the terms and conditions of
21 the October 30, 2008, Purchase Agreement.
- 22 iv. Eliades acknowledges that it was always the responsibility of Rogich and the
23 Rogich Trust to repay Nanyah for its investment in Eldorado.
- 24 v. "[The Rogich Trust] is the owner, beneficially and of record, of the
25 Membership Interest, free and clear of all liens, encumbrances, security
26 agreements, equities, options, claims, charges, and restrictions, and [Teld] will
27 receive at Closing good and absolute title thereto free of any liens, charges or
28 encumbrances thereon."
- vi. "[The Rogich Trust] shall defend, indemnify, and hold [Teld] harmless from

any and all the claims of Eddyline Investments, LLC, Ray Family Trust, Nanyah Vegas, LLC, and Antonio Nevada, LLC, each of whom invested or otherwise advanced the funds, plus certain possible claimed accrued interest.”

vii. “It is the current intention of [the Rogich Trust] that such amounts be confirmed or converted to debt, with no obligation to participate in capital calls or monthly payments, a pro-rata distribution at such time as [Eldorado’s] real property is sold or otherwise disposed of. Regardless of whether this intention is realized, [the Rogich Trust] shall remain solely responsible for any claims by the above referenced entities set forth in this section above.”

viii. “The ‘pro-rata distributions’ hereinabove referenced shall mean equal one-third shares pursuant to the ownership set forth in Section 3 above, provided, that any amounts owing to those entities set forth on Exhibit ‘D,’ or who shall otherwise claim an ownership interest based upon contributions or advances directly or indirectly to [Eldorado] made prior to the date of this agreement, shall be satisfied solely by [the Rogich Trust].”

ix. “The parties agree that [the Rogich Trust] may transfer [the Rogich Trust’s] ownership interest in [Eldorado] to one or more of the entities set forth in Exhibit ‘D’ to satisfy any claims such entity may have.”

c. October 30, 2008 Amended and Restated Operating Agreement between the Rogich Trust, the Flangas Trust, and Teld:

- i. “The Rogich Trust will retain a one-third (1/3rd) ownership interest in [Eldorado] (subject to certain possible dilution or other indemnification responsibilities assumed by the Rogich Trust in the Purchase Documents).”
- ii. “The Rogich trust shall indemnify and hold the Flangas Trust and Teld harmless from and against the claims of any individuals or entities claiming to be entitled to a share of profits and losses other than the Rogich Trust, the Flangas Trust and Teld, so as not to diminish the one-third (1/3rd) participation in profits and losses by each of the Flangas Trust and Teld.”

iii. The terms and conditions of the October 30, 2008 Membership Interest Purchase Agreement were incorporated by reference into the October 30, 2008 Amended and Restated Operating Agreement. Recital A.

d. **January 1, 2012 Membership Interest Assignment Agreement between the Rogich Trust and the Eliades Trust:**

- i. The January 1, 2012, Membership Interest Assignment Agreement was not executed until sometime in August, 2012.
 - ii. As of August, 2012, the debt owed to Nanyah of \$1,500,000.00 had not been paid.
 - iii. "Rogich has acquired a forty percent (40%) interest in Eldorado Hills, LLC, a Nevada limited-liability company...as of the date hereof...(Within the Rogich 40% is a potential 1.12% interest of other holders not of formal record with Eldorado)."
 - iv. "Rogich has not, other than as previously stated, transferred, sold, conveyed or encumbered any of his Forty Percent (40%) to any other person or entity prior to this Agreement, except for the potential claims of .95% held by The Robert Ray Family Trust and .17% held by Eddyline Investments, L.L.C."
 - v. "Rogich will cause the satisfaction of the Teld note at Closing and Eliades will receive at closing good and absolute title free of any liens, charges or encumbrances thereon."
 - vi. The Eliades Defendants never informed Nanyah of this agreement and/or that they were acquiring the remainder of the Rogich Trust's interest in Eldorado.
 - vii. The Eliades Defendants have no knowledge or understanding when Nanyah discovered or was informed of the d. January 1, 2012 Membership Interest Assignment Agreement.
 - viii. Nanyah was not a party to this agreement.
6. Any finding of fact set forth herein more appropriately designated as a conclusion of law shall be so designated.

CONCLUSIONS OF LAW

- 2 7. The October 30, 2008, Purchase Agreement states that The Rogich Trust specifically agreed
3 to assume the obligation to pay Nanyah its percentage or debt. However, there is nothing in
4 the Purchase Agreement that states Eliades, the Eliades Trust or Teld specifically agreed to
5 assume those obligations from the Rogich Trust.
- 6 8. Nanyah's contract theory rests upon a successors and assigns provision contained in the
7 October 30, 2008 Purchase Agreement between Go Global, Huerta, Rogich and the Rogich
8 Trust.
- 9 9. The language in the October 30, 2008 Purchase Agreement indicating that this agreement
10 will be binding on the Eliades Defendants, absent any specific agreement to be liable for the
11 Rogich Trust's obligation to Nanyah, is not itself sufficient to impose liability on the Eliades
12 Defendants to pay the Nanyah debt.
- 13 10. Under Nevada law, "[t]he fact that a contract or agreement contains a provision, as in the
14 case at bar, 'binding the successors, heirs, and assigns of the parties hereto,' is not of itself, as
15 a general rule, sufficient to impose personal liability upon the assignee, unless by specific
16 agreement to that effect or by an agreed substitution of the assignee for the vendee. *Southern*
17 *Pac. Co. v. Butterfield*, 39 Nev. 177, 154 P. 932, 932 (1916).¹
- 18 11. Further, "[a]n assignment 'cannot shift the assignor's liability to the assignee, because it is a
19 well-established rule that a party to a contract cannot relieve himself of his obligations by
20 assigning the contract. Neither does it have the effect of creating a new liability on the part
21 of the assignee, to the other party to the contract assigned, because the assignment does not
22 bring them together, and consequently there cannot be a meeting of the minds essential to the
23 formation of a contract.'"¹ *Id.* at 933 (citation omitted).
- 24 12. None of the Eliades Defendants were parties to the October 30, 2008 Purchase Agreement
25 with the successors and assigns provision relied on by Nanyah, and even if they were, the
26

27 ¹ Other jurisdictions are in accord. *Van Sickle v. Hallmark & Associates, Inc.*, 840 N.W.2d 92, 104 (N.D. 2013);
28 *In re Refco Inc. Sec. Litig.*, 826 F.Supp.2d 478, 494 (S.D.N.Y. 2011); *Pelz v. Streater Nat'l Bank*, 496 N.E.2d 315, 319-
20 (Ill. Ct. App. 1986).

explicit language contained in the October 30, 2008 Membership Interest Purchase Agreement (whereby Teld purchased some of the Rogich Trust's membership interests) confirms that the Eliades Defendants would not be responsible for the Rogich Trust's obligations to Nanyah's to pay Nanyah is percentage of Eldorado or the debt to Nanyah.

13. Likewise, the explicit language of the relevant agreements also make it crystal clear that the Eliades Defendants purchased all of their Eldorado membership interests free and clear from any type of encumbrance. Nanyah was not a party to this agreement.

14. Because the relevant agreements are clear and unambiguous, this Court may determine the intent of the parties as a matter of law, and is precluded from considering any testimony to determine the Eliades Defendants' so-called contractual liability. *Krieger v. Elkins*, 96 Nev. 839, 843, 620 P.2d 370, 373 (1980) (holding that testimony used to contradict or vary the written terms of an agreement is a violation of the parol evidence rule).

15. Based on the above, the Eliades Defendants never assumed the Rogich Trust's debt or obligation to Nanyah, and therefore, there is no contractual basis for Nanyah—as an alleged third-party beneficiary—to sue the Eliades Defendants. *See Lipshie v. Tracy Inv. Co.*, 93 Nev. 370, 379-80, 566 P.2d 819, 825 (1977).

16. A tortious implied covenant claim will only arise in "rare and exceptional circumstances." *Ins. Co. of the West v. Gibson Tile Co., Inc.*, 122 Nev. 455, 461, 134 P.3d 698, 702 (2006) (citation omitted).

17. Further, "the implied covenant or duty of good faith and fair dealing does not create rights or duties beyond those agreed to by the parties." 17A C.J.S. Contracts § 437.

18. Nanyah's tortious implied covenant claim fails because the Court concludes there is nothing within the relevant agreements which imposes any sort of obligation on the Eliades Defendants for Nanyah's benefit.

19. "[C]ivil conspiracy liability may attach where two or more persons undertake some concerted action with the intent to commit an unlawful objective, not necessarily a tort." *Cadle Woods v. Woods & Erickson, LLP*, 131 Nev. Adv. Op. 15, 345 P.3d 1049, 1052 (2015).

20. Nanyah's conspiracy theory relates to the transactions whereby the Eliades Defendants

obtained membership interests in Eldorado allegedly subject to repayment obligations owed to Nanyah and the Eliades Defendants supposedly pursued their own individual advantage by seeking to interfere with the return of Nanyah's alleged investment in Eldorado.

21. Because the Court concludes that that Eliades Defendants did not specifically assumed the Rogich Trust's obligation to repay Nanyah its \$1,500,000.00 investment into Eldorado, there is no unlawful objective to support a civil conspiracy claim. The Court also finds that the intracorporate conspiracy doctrine does not apply because the claim does not involve the Eliades Defendants conspiring with Eldorado.

22. Any conclusion of law set forth herein more appropriately designated as a finding of fact shall be so designated.

ORDER

Based upon the foregoing findings of fact and conclusions of law, **IT IS HEREBY ORDERED** that the Motion for Summary Judgment is **GRANTED**. The Court enters summary judgment in favor of the Eliades Defendants and against Nanyah, and dismisses, with prejudice, Nanyah's following claims for relief against the Eliades Defendants:

1. First Claim for Relief – Breach of Contract;
2. Second Claim for Relief – Breach of Implied Covenant of Good Faith and Fair Dealing;
3. Third Claim for Relief – Tortious Breach of Implied Covenant of Good Faith and Fair Dealing;
4. Sixth Claim for Relief – Civil conspiracy;
5. Eighth Claim for Relief – Declaratory Relief; and
6. Ninth Claim for Relief – Specific Performance.

As a result of this Order, the Eliades Defendants are completely dismissed from this litigation.

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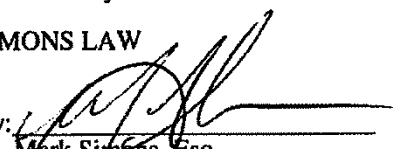
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2 For the reasons set forth above, **IT IS FURTHER ORDERED** that the Countermotion for
3 Summary Judgment is DENIED.

4 DATED this 1 day of Oct, 2018.

5
6 Nancy L. Alif
DISTRICT COURT JUDGE

7
8 Submitted by: 

9 SIMONS LAW
10
11 By: 
12 Mark Simons, Esq.
6490 South McCarran Blvd., # 20
13 Reno, NV 8950
Attorneys for Plaintiff Nanyah Vegas, LLC

14 Approved as to Form and Content:

15 BAILEY ♦ KENNEDY

16 By: _____
17 Dennis Kennedy, Esq.
Joseph Liebman, Esq.
18 8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
19 Attorneys for Defendants PETE ELIADES,
THE ELIADES SURVIVOR TRUST OF 10/30/08,
20 TELD, LLC and ELDORADO HILLS, LLC

Approved as to Form and Content:

FENNMORE CRAIG, P.C.

By: _____
Samuel Lionel, Esq.
300 S. Fourth Street, Suite 1400
Las Vegas, NV 89101
Attorneys for Defendants Sig Rogich,
Individually and as Trustee of the Rogich
Family Irrevocable Trust, and Imitations,
LLC

EXHIBIT 2

EXHIBIT 2

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DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;)
CARLOS A. HUERTA as Trustee of)
THE ALEXANDER CHRISTOPHER TRUST,)
a Trust established in Nevada)
as assignee of interests of)
GO GLOBAL, INC., a Nevada)
corporation; NANYAH VEGAS, LLC,)
A Nevada limited)

Plaintiffs,)

vs.)

SIG ROGICH aka SIGMUND ROGICH)
as Trustee of The Rogich Family)
Irrevocable Trust; ELDORADO)
HILLS, LLC, a Nevada limited)
liability company; DOES I-X;)
and/or ROE CORPORATIONS I-X,)
inclusive,)

Defendants.)

NANYAH VEGAS, LLC, a Nevada)
limited liability company,)

Plaintiff,)

vs.)

TELD, LLC, a Nevada limited)
liability company; PETER)
ELIADES, individually and as)
Trustee of The Eliades Survivor)
Trust of 10/30/08; SIGMUND)
ROGICH, individually and as)
Trustee of The Rogich Family)
Irrevocable Trust; IMITATIONS,)
LLC, a Nevada limited liability)
company; DOES I-X; and/or ROE)
CORPORATIONS I-X, inclusive,)

Defendants.)

Reported by: Monice K. Campbell, NV CCR No. 312
Job No.: 693

CERTIFIED COPY

Case No.:

A-13-686303-C

Dept. No.: XXVII

CONSOLIDATED WITH:

Case No.:

A-16-746239-C

DEPOSITION OF:

YOAV HARLAP

TAKEN ON:

OCTOBER 11, 2017

1 Q. That is a 2008 document. Did you see it
2 in 2008?

3 A. I do not know.

4 Q. You don't know. You don't know or you
5 don't remember?

6 A. I don't remember.

7 Q. But you don't know?

8 A. I might have.

9 Q. You might have. Okay.

10 A. I might have, because I do remember
11 vividly that Carlos have explained to me, if I'm not
12 mistaken, over the phone, that my rights in the
13 Eldorado Hills are secured and that the buyer of
14 Eldorado Hills from him has taken the commitment to
15 pay me or register my rights or pay me back my
16 investment in Eldorado Hills.

17 Q. When did Carlos tell you that?

18 A. This was at the time when he explained to
19 me that he has his own issues. He had to sell and
20 that my rights remained there. But this is many
21 years ago, so it's the best of my recollection from,
22 you know, the telephone conversation that was going
23 on.

24 MR. LIONEL: Would you mark this as three,
25 Miss Reporter.

1 asks for a legal conclusion. He doesn't know what
2 this claim is.

3 THE WITNESS: I don't know.

4 BY MR. LIONEL:

5 Q. You don't know.

6 It says, "Nanyah's entitled to specific
7 performance of the purchase agreement."

8 Are you entitled to -- do you know what
9 that means?

10 A. If that's what it says, it's probably
11 right, and I have full confidence in my legal counsel
12 that he knows what to write.

13 Q. In your lawyer.

14 And it says that, "These agreements vest
15 you with a membership interest in Eldorado."

16 What do these documents have to do with
17 your membership?

18 A. I don't know.

19 Q. You don't know.

20 MR. LIONEL: That's it.

21 (Whereupon, the deposition was concluded at
22 3:17 p.m. this date.)

23 * * * * *

24

25

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
) ss:
3 COUNTY OF CLARK)

4 I, Monice K. Campbell, a Certified Court Reporter
5 licensed by the State of Nevada, do hereby certify:
6 That I reported the deposition of YOAV HARLAP, on
7 Wednesday, October 11, 2017, at 9:45 a.m.

8 That prior to being deposed, the witness was
9 duly sworn by me to testify to the truth. That I
10 thereafter transcribed my said stenographic notes via
11 computer-aided transcription into written form, and
12 that the typewritten transcript is a complete, true
13 and accurate transcription of my said stenographic
14 notes; that review of the transcript was requested.

15 I further certify that I am not a relative,
16 employee or independent contractor of counsel or of
17 any of the parties involved in the proceeding; nor a
18 person financially interested in the proceeding; nor
19 do I have any other relationship that may reasonably
20 cause my impartiality to be questioned.

EXHIBIT 3

EXHIBIT 3

**AFFIDAVIT OF MARK G. SIMONS IN SUPPORT OF
MOTION NANYAH VEGAS LLC'S MOTION TO EXTEND THE DISPOSITIVE MOTION
DEADLINE AND MOTION FOR SUMMARY JUDGMENT**

STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

I, Mark Simons, being duly sworn, depose and state under penalty of perjury the following:

1. I am an attorney licensed in Nevada and am counsel representing Nanyah Vegas, LLC in this matter. I am a shareholder with the law firm of SIMONS LAW, PC.

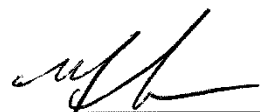
2. I have personal knowledge of the facts set forth in this affidavit, and if I am called as a witness, I would and could testify competently as to each fact set forth herein.

3. I submit this affidavit in support of Nanyah Vegas, LLC's Motion to Extend the Dispositive Motion Deadline and Motion for Summary Judgment Motion to Retax and Alternatively Motion to Strike ("Motion"), to which this affidavit is attached as Exhibit 3.

4. Exhibit 2 to the Motion are and correct excerpts of Yoav Harlap's October 11, 2017 deposition transcript.

FURTHER AFFIANT SAYETH NAUGHT.

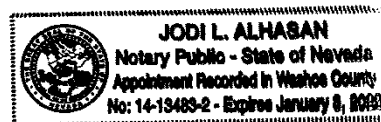
Dated this 30th day of January, 2019.




MARK G. SIMONS

STATE OF NEVADA)
)ss.
COUNTY OF WASHOE)

Subscribed and sworn to before me on this 30 day of January, 2019 by Mark G. Simons at Reno, Nevada.





NOTARY PUBLIC

EXHIBIT 4

EXHIBIT 4

DECLARATION OF YOAV HARLAP

I, Yoav Harlap, have personal knowledge of the facts set forth in this Declaration and am competent to testify to the matters stated herein.

1. I am the sole member and manager of the plaintiff Nanyah Vegas, LLC.
2. It was not until sometime in December 2012, that I was advised that Rogich and the Rogich Trust had secretly agreed to transfer its interest in Eldorado to the Eliades Trust without issuing Nanyah any interest in Eldorado and without repaying Nanyah its \$1.5 million investment.
3. Based upon the receipt of this information, I believed such action was a repudiation of the defendants' obligations to Nanyah to repay its \$1.5 million investment and/or to transfer to it a membership interest in Eldorado to it.

Dated this 18th day of March, 2018

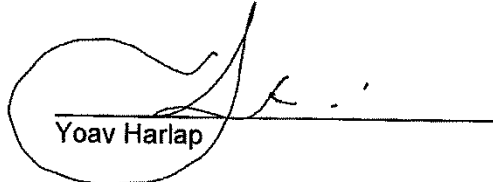

Yoav Harlap

EXHIBIT 5

EXHIBIT 5

ORIGINAL

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11/6/2018 3:22 PM
Steven D. Grierson
CLERK OF THE COURT



1 **ORDR (CIV)**

2 DENNIS L. KENNEDY

3 Nevada Bar No. 1462

4 JOSEPH A. LIEBMAN

5 Nevada Bar No. 10125

6 **BAILEY ♦ KENNEDY**

7 8984 Spanish Ridge Avenue

8 Las Vegas, Nevada 89148-1302

9 Telephone: 702.562.8820

10 Facsimile: 702.562.8821

11 DKennedy@BaileyKennedy.com

12 JLiebman@BaileyKennedy.com

13 *Attorneys for Defendant* ELDORADO HILLS,
14 LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

11 CARLOS A. HUERTA, an individual;
12 CARLOS A. HUERTA as Trustee of THE
13 ALEXANDER CHRISTOPHER TRUST, a
14 Trust established in Nevada as assignee of
15 interests of GO GLOBAL, INC., a Nevada
16 Corporation; NANYAH VEGAS, LLC, A
17 Nevada limited liability company,

Plaintiffs,

vs.

16 SIG ROGICH aka SIGMUND ROGICH as
17 Trustee of The Rogich Family Irrevocable
18 Trust; ELDORADO HILLS, LLC, a Nevada
19 limited liability company; DOES I-X; and/or
20 ROE CORPORATIONS I-X, inclusive,

Defendants.

20 NANYAH VEGAS, LLC, a Nevada limited
21 liability company,

Plaintiff,

vs.

23 TELD, LLC, a Nevada limited liability
24 company; PETER ELIADES, individually and
25 as Trustee of The Eliades Survivor Trust of
26 10/30/08; SIGMUND ROGICH, individually
27 and as Trustee of The Rogich Family
28 Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No. A-13-686303-C
Dept. No. XXVII

**ORDER REGARDING MOTIONS IN
LIMINE**

CONSOLIDATED WITH:

Case No. A-16-746239-C

BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

1 The following Motions *in Limine* came before the Court on October 10, 2018.

2 ➤ Nanyah Vegas, LLC (“Nanyah”).

- 3 ▪ Motion *in Limine* # 1 Re: Eldorado Hills, LLC Bound by Admissions and Statements
- 4 of its Managing Member (“Nanyah’s MIL # 1”).
- 5 ▪ Motion *in Limine* # 2 Re: NRS 47.240(2) Mandates Finding That Nanyah Vegas,
- 6 LLC Invested \$1.5 Million into Eldorado Hills, LLC (“Nanyah’s MIL # 2”).
- 7 ▪ Motion *in Limine* # 3 Re: Defendants Bound by Their Answers to Complaint
- 8 (“Nanyah’s MIL # 3”).
- 9 ▪ Motion *in Limine* # 4 Re: Yoav Harlap’s Personal Financials (“Nanyah’s MIL # 4”).

10 ➤ Eldorado Hills, LLC (“Eldorado”).

- 11 ▪ Motion *in Limine* to Preclude Any Argument That Eldorado Hills, LLC is Bound by
- 12 Any Testimony or Statements by Carlos Huerta Following His Resignation as an
- 13 Eldorado Hills, LLC Manager (“Eldorado’s MIL Regarding Carlos Huerta”).
- 14 ▪ Motion *in Limine* to Preclude Any Argument That Eldorado Hills, LLC is Bound by
- 15 Any Contractual Recitals, Statements, or Language (“Eldorado’s MIL Regarding
- 16 Contract Recitals”).
- 17 ▪ Motion *in Limine* to Preclude Any Evidence or Argument Regarding an Alleged
- 18 Implied-in-fact Contract Between Eldorado Hills, LLC and Nanyah Vegas, LLC
- 19 (“Eldorado’s MIL Regarding Implied-In-Fact Contract”).

20 **APPEARANCES**

21 The Parties appeared as follows:

- 22 ➤ For Eldorado Hills, LLC (“Eldorado”): Joseph Liebman, Esq. of Bailey ♦ Kennedy, LLP.
- 23 ➤ For Sig Rogich, individually (“Rogich”) and as Trustee of the Rogich Family Irrevocable
- 24 Trust (the “Rogich Trust”), and Imitations, LLC (collectively, the “Rogich Defendants”):
- 25 Samuel Lionel, Esq. and Brenoch Wirthlin, Esq. of Fennemore Craig, P.C.
- 26 ➤ For Nanyah: Mark G. Simons, Esq. of Simons Law, PC.

27 ///

28 ///

ORDER

The Court, having heard oral argument, having reviewed the papers, exhibits, and pleadings on file, and having considered the same, and for the reasons stated upon the record, ORDERS AS FOLLOWS:

- Nanyah's MIL # 1 is denied. Conversely, Eldorado's MIL Regarding Carlos Huerta is granted. Carlos Huerta's testimony was provided or will be provided following his resignation as a manager of Eldorado and while he is adverse to Eldorado, and thus, cannot bind Eldorado as a matter of law. For any statements made by Mr. Huerta after he resigned as a manager of Eldorado, Nanyah and its counsel are precluded from arguing to the jury that Carlos Huerta's testimony is binding on Eldorado. This prohibition does not apply to statements made by Mr. Huerta while acting as a manager of Eldorado.
- Nanyah's MIL # 2 is denied. Conversely, Eldorado's MIL Regarding Contract Recitals is granted. The specific presumption sought by Nanyah under NRS 47.240(2) is a recital of consideration, which is excluded from the statute. Nanyah and its counsel are precluded from arguing to the jury that Eldorado is bound by any of the contractual recitals in the October 30, 2008 Purchase Agreement, the October 30, 2008 Membership Interest Purchase Agreement, and the October 30, 2008 Amended and Restated Operating Agreement pursuant to the provisions of NRS 47.240(2) as the Court finds that evidentiary presumption is inapplicable on the grounds stated.
- Nanyah's MIL # 3 is granted in part and only against the Rogich Defendants, as Eldorado was not a party to the Answer in Case No. A-16-746239-C. The Rogich Defendants are bound by their answers to paragraphs 82 and 83 of Nanyah's Complaint. However, to the extent the Rogich Defendants obtained additional information after their Answer was filed, they are not precluded from bringing that forward at the time of trial.
- Nanyah's MIL # 4 is granted in part. Defendants are precluded from inquiring into Yoav Harlap's personal finances. However, there may be some latitude depending on what happens at trial, and the Court will maintain discretion on these issues. If the Court deems it appropriate, it may allow inquiry into Yoav Harlap's business acumen and other investments.

➤ Eldorado's MIL Regarding Implied-In-Fact Contract is deferred until the time of trial, as the Court needs additional information before determining whether Nanyah may proceed on an implied-in-fact contract claim against Eldorado.

DATED this 2 day of February, 2018.

[Signature]
DISTRICT COURT JUDGE

Submitted by:

BAILEY ♦ KENNEDY

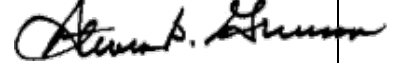
By [Signature]
Dennis Kennedy, Esq.
Joseph Liebman, Esq.
8984 Spanish Ridge Avenue
Las Vegas, NV 89148-1302
Attorneys for Defendant ELDORADO HILLS, LLC

Approved as to Form and Content:
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Mark Simons, Esq.
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Approved as to Form and Content:
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By: /s/ Samuel Lionel
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Individually and as Trustee of the Rogich
Family Irrevocable Trust, and Imitations,
LLC*



MOT

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*Attorneys for Sigmund Rogich, Individually and as
Trustee of the Rogich Family Irrevocable Trust and
Imitations, LLC*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

v.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

TELD, LLC, a Nevada limited liability
company; PETER ELIADAS, individually and
as Trustee of the The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: A-13-686303-C

DEPT. NO.: XXVII

**MOTION FOR RELIEF FROM THE
OCTOBER 5, 2018 ORDER
PURSUANT TO NRCP 60(b)**

Date of hearing

Time of hearing:

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

1 **MOTION FOR RELIEF FROM THE OCTOBER 5, 2018 ORDER**

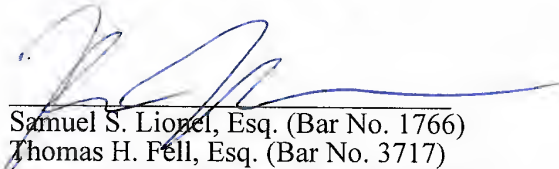
2 **PURSUANT TO NRCP 60(b)**

3 Pursuant to NRCP 60(b), Defendants Sigmund Rogich, individually ("Mr. Rogich"), and
4 as Trustee of the Rogich Family Irrevocable Trust (the "Trust" and collectively with Mr. Rogich
5 referred to as the "Rogich Defendants"), and Imitations, LLC ("Imitations" and collectively with
6 the Rogich Defendants referred to as the "Moving Defendants" and with Mr. Rogich referred to
7 herein as the "Rogich Defendants"), by and through their counsel of record, Fennemore Craig,
8 P.C., hereby move this Court for an order for relief from the Order: (1) Granting Defendants Peter
9 Eliades, Individually and as Trustee of the Eliades Survivor Trust of 10/30/08, and Teld, LLC's
10 Motion for Summary Judgment; and (2) Denying Nanyah Vegas, LLC's Countermotion for
11 Summary Judgment filed on October 5, 2018 (the "October 2018 Order"). As set forth more fully
12 herein, while summary judgment was not being sought against the Moving Defendants in the
13 motions for summary judgment which gave rise to the October 2018 Order, said order includes
14 language which could potentially be misconstrued as findings on disputed issues of fact against
15 the Rogich Defendants.

16 This Motion is based on all documents on file with the Court, the exhibits attached to this
17 Motion, the Memorandum of Points and Authorities which follows, and any oral argument the
18 Court chooses to entertain at a hearing on this matter.

19 DATED: February 6, 2019.

20 **FENNEMORE CRAIG, P.C.**

21 
22 Samuel S. Lionel, Esq. (Bar No. 1766)
23 Thomas H. Fell, Esq. (Bar No. 3717)
24 Brenoch Wirthlin, Esq. (Bar No. 10282)
25 **FENNEMORE CRAIG, P.C.**
26 300 S. Fourth Street, Suite 1400
27 Las Vegas, Nevada 89101
28 Attorneys for the Rogich Defendants

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NOTICE OF HEARING

TO: ALL PARTIES AND THEIR

PLEASE TAKE NOTICE that the undersigned will bring the above and foregoing
MOTION FOR RELIEF FROM THE OCTOBER 5, 2018 ORDER on or for hearing on the
14 day of March, 2019 at the hour of 9:30 a.m., or as soon
after as counsel may be heard.

DATED: February 6, 2019.

FENNEMORE CRAIG, P.C.



Samuel S. Lionel, Esq. (Bar No. 1766)
Thomas H. Fell, Esq. (Bar No. 3717)
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300 S. Fourth Street, Suite 1400
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Attorneys for the Rogich Defendants

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **STATEMENT OF FACTS**

4 **A. Relevant Procedural History**

5 1. On June 1, 2018, Peter Eliades, Individually and as Trustee of the Eliades Survivor
6 Trust of 10/30/08, and Teld, LLC filed their Motion for Summary Judgment (the “Eliades
7 Defendants’ Motion for Summary Judgment”) against plaintiff Nanyah Vegas, LLC (“Plaintiff” or
8 “Nanyah”). *See Exhibit A.*

9 2. On June 19, 2018, Nanyah filed its Opposition to the Eliades Defendants’ Motion
10 for Summary Judgment and Countermotion for Summary Judgment (“Nanyah’s Countermotion
11 for Summary Judgment”) against the Eliades Defendants. *See Exhibit B.*

12 3. On July 19, 2018, the Eliades Defendants filed their Reply in Support of their
13 Motion for Summary Judgment and Opposition to Nanyah’s Countermotion for Summary
14 Judgment. *See Exhibit C.*

15 4. On July 26, 2018, the Court held the hearing on the Eliades Defendants and
16 Nanyah’s competing Motions. *See Exhibit D.*

17 5. On October 5, 2018, the Court entered the Order: (1) Granting Defendants Peter
18 Eliades, Individually and as Trustee of the Eliades Survivor Trust of 10/30/08, and Teld, LLC’s
19 Motion for Summary Judgment; and (2) Denying Nanyah Vegas, LLC’s Countermotion for
20 Summary Judgment (the “October 2018 Order”). *See Exhibit E.* The October 2018 Order was
21 never approved as to form and content by the Moving Defendants’ counsel or by counsel for the
22 Eliades Defendants. Further, competing orders were offered by the Eliades Defendants and
23 Nanyah. *See Exhibits F-1 and F-2.*

24 6. With respect to Nanyah’s competing Order, attached as Exhibit F-2, Nanyah
25 included a redlined version of the 2 competing Orders highlighting the differences between the 2
26 versions. *See Exhibit F-2 to this Motion, at Attachment 2.*

27 7. On October 8, 2018, Notice of Entry of the October 2018 Order was filed and
28 served. *See Exhibit G.*

1 There is no dispute that the above-referenced motions for summary judgment, which
2 resulted in the entry of the October 2018 Order, did not seek summary judgment against the
3 Moving Defendants, or any of them.

4 **B. The October 2018 Order is not consistent with the record.**

5 The October 2018 Order could be misconstrued to have made several affirmative findings
6 and conclusions that the Rogich Trust has an obligation or debt owed to Nanyah (as a potential
7 claimant) for its purported investment into Eldorado Hill. *See* Exhibit E.¹ The record clearly
8 shows that the arguments/exhibits, presented in the moving papers and at the hearing (as cited
9 below), indicate that any claim by Nanyah is only a “potential” claim, and that any purported
10 investment by Nanyah into Eldorado is not only disputed, but demonstrably inaccurate. Set forth
11 below are various references to documents and testimony in the record in this case demonstrating
12 that a genuine issue of material fact clearly remains regarding Nanyah’s purported “claim” against
13 any of the defendants, and regarding its purported “investment” into Eldorado:

14 **1. Eliades Defendants’ Motion for Summary Judgment**

- 15
- 16 • “On the contrary, the Purchase Agreements state that the Rogich Trust
17 agreed to negotiate with Nanyah (amongst others) to attempt to resolve its
18 “potential” claim.” *See* Exhibit A, pg. 6, ll. 6-10.
 - 19 • “*Notably, the Rogich Trust --not Teld, Eliades, or the Eliades Trust--*
20 *agreed to be responsible for Nanyah’s potential claim.”* *Id.*, pg. 11, ll. 5-
21 6.
 - 22 • “On the contrary, the Purchase Agreements reiterate over and over again
23 the only the Rogich Trust is responsible for Nanyah’s potential claim.” *Id.*,
24 pg. 12, ll. 7-9.

25 **2. Eliades Defendants’ Reply in Support of their Motion**

- 26
- 27 • “Despite this clear legal authority, Nanyah argues that the successors and
28 assigns clause contained in the October 30, 2008 Purchase Agreement

¹ The Rogich Defendants specifically dispute the affirmative findings and conclusions provided for at: (1) Undisputed Material Facts, paragraphs 4, 5(a)(ii), 5(b)(i), 5(b)(iii), 5(b)(iv) and 5(d)(ii); and (2) Conclusion of Law, paragraphs 7, 9, 12, 15, 20 and 21. The Rogich Defendants provide a redlined/amended version of the October 2018 Order so as to correct the disputed affirmative findings and conclusions (*See* **Exhibit H**).

1 accomplished the first purpose above (*i.e.*, to bind the Eliades Defendants
2 as purported successors or assignees to the Rogich Trust's **potential**
3 obligation to Nanyah)." *See* Exhibit C, pg. 6, ll. 1-4.

- 4 • "...the explicit language...confirms that **only** Rogich Trust would be
5 responsible for Nanyah's **potential** claim." *Id.*, pg. 6, ll. 6-8.
- 6 • "The relevant contracts are clear as day. They explicitly show the parties'
7 intent for the Rogich Trust to remain **solely** responsible for Nanyah's
8 **potential** claim." *Id.*, pg. 6, ll. 16-18.
- 9 • "Accordingly, even assuming that Nanyah's **potential** claim encumbered
10 the Rogich Trust's membership interest in any respect (it did not), the
11 Eliades Defendants never assumed any responsibility for that potential
12 obligation." *Id.*, pg. 7, ll. 21-23.
- 13 • "As shown above, Eliades testimony is entirely consistent with the relevant
14 contracts, which prove that Rogich Trust **solely** assumed liability for
15 Nanyah's **potential** claim." *Id.*, pg. 12, ll. 11-12.
- 16 • "When Teld became involved with Eldorado Hills ten months later in
17 October of 2008, the only mention of Nanyah was in the relevant
18 contracts, **which explicitly stated that solely the Rogich Trust was liable**
19 **for that potential claim.**" *Id.*, pg. 13, ll. 9-12.

18 3. **Transcript of the July 26, 2018 Hearing**

- 19 • Mr. Liebman: "Fourth, in 2008, when TELD LLC does become involved
20 with the company, they put forward these explicit agreements that address
21 Nanyah's **potential** claim -- that's the word it uses, a **potentially** [sic]
22 claim...." *See* Exhibit D, pg. 5, ll. 13-16.

23 C. **The language of the October 5, 2018 is inconsistent within itself.**

24 As mentioned in section B above, the October 2018 Order includes disputed affirmative
25 findings and conclusions (*i.e.*, that The Rogich Trust has any obligation or debt owed to Nanyah
26 (as a potential claimant) for its alleged investment into Eldorado Hill), which are provided for at:
27 (1) Undisputed Material Facts, paragraphs 4, 5(a)(ii), 5(b)(i), 5(b)(iii), 5(b)(iv) and 5(d)(ii); and
28 (2) Conclusion of Law, paragraphs 7, 9, 12, 15, 20 and 21. *See* Exhibit E. Importantly, the

October 2018 Order itself includes the following findings and conclusions that are inconsistent with the affirmative findings and conclusions:

- “...there is no basis for Nanyah--as an **alleged** third-party beneficiary--to sue the Eliades Defendants.” *Id.*, at pg. 8, ll. 14-15.
- “...the Eliades Defendants supposedly pursued their own individual advantage by seeking to interfere with the return of Nanyah’s **alleged** investment in Eldorado.” *Id.*, at pg. 9, ll. 2-3.

These above inconsistencies acknowledge there are still disputed material facts at issue.

D. Disputed Material Facts

To further support relief from the October 2018 Order, the Moving Defendants provide the Court with the below disputed material facts still at issue in this case. While this is not an exhaustive listing of the disputed material facts, it more than supports the Moving Defendants’ requested relief from the October 2018 Order:

1. The Alleged Investment

a. The set-up of Nanyah Vegas, LLC and CanaMex Nevada, LLC

- In June of 2007, Mr. Harlap and Mr. Huerta were communicating with one another, where they were discussing Mr. Harlap’s potential investment of \$1.5 Million into CanaMex Nevada, LLC (“CanaMex”). Mr. Huerta directed Mr. Harlap to CanaMex’s website of CanaMexNevada.com and Mr. Harlap confirmed he was interested in investing \$1.5 Million. Mr. Harlap requested Mr. Huerta to set-up the Nevada company (which would become Nanyah). Mr. Huerta suggested he be the Registered Agent for Nanyah. *See* NAN234-235, attached as **Exhibit I**.

- CanaMex registered as a Nevada limited liability company on December 3, 2007, just 4 days prior to Nanyah being registered. Mr. Harlap is the sole manager of Nanyah. Go Global Inc. was sole the Manager/Managing Member of CanaMex. *See* RT203 and PLTF247, attached as **Exhibit J**.

- Mr. Huerta was the sole officer of Go Global, Inc. *See* Harlap Depo (attached as **Exhibit K**), p. 10, ll: 17-21.

b. Nanyah’s \$1.5 Million Wire

1 • Mr. Huerta testified (as Nanyah's PMK) that he instructed Mr.
2 Harlap to wire the money to the account of Eldorado Hills. *See* Nanyah PMK
3 Depo (attached as **Exhibit L**), p. 31, ll. 4-11.

4 • Contrary to this deposition testimony, on December 4, 2007, Mr.
5 Huerta e-mailed Mr. Harlap instructing him to **wire the \$1.5 Million into**
6 **CanaMex Nevada, LLC's bank account**. *See* NAN241, attached as **Exhibit M**.

7 • *Nowhere in the e-mailed instructions from Mr. Huerta to Mr.*
8 *Harlap is there any indication of, or reference to, Eldorado Hills, LLC*
9 *("Eldorado Hills").*

10 • Mr. Huerta further testified (as Nanyah's PMK) that Nanyah wired
11 the funds into Eldorado Hills' bank account and that the money **never** went into
12 the CanaMex's account. *See* Nanyah PMK Depo/Exhibit L, p. 29, l. 21 to p. 30, l.
13 14 and p. 60, ll. 5-14. Further, Mr. Harlap testified that he "transferred the money
14 to Eldorado Hills as per Carlos Huerta's wiring instructions" and that this is the
15 basis of Nanyah's claims. *See* Harlap Depo/Exhibit K, p. 20, l. 20 to p. 21, l. 11.

16 • Contrary to these deposition testimonies, the bank records show
17 that **Mr. Harlap actually wired the \$1.5 Million into CanaMex's Nevada State**
18 **Bank account** on December 6, 2007 in compliance with Mr. Huerta's emailed
19 instructions (not Eldorado Hills' bank account). *See* NAN387-388, attached as
20 **Exhibit N**.

21 *c. The Bank Transfers*

22 • After the alleged investment funds were wired by Mr. Harlap into
23 CanaMex's bank account, Mr. Huerta proceeded with the following series of bank
24 transfers, where a majority of \$1.5 Million ended up in the bank account of
25 CanaMex's sole manager/managing member (Go Global, Inc., which is a business
26 solely operated by Mr. Huerta):

27 • **CanaMex:** The December 2007 bank statement for CanaMex
28 shows a \$1.5 Million check (#92) written to Eldorado Hills, signed by Mr. Huerta
and processed on December 10, 2007. *See* NAN387-388, attached as Exhibit N.

 • **Eldorado Hills:** The December 2007 bank statement for Eldorado
Hills checking account shows a \$1.5 Million deposit on December 7, 2007 (which
is the \$1.5 Million check from CanaMex) and a \$1.45 Million internet transfer to
its money market account on December 10, 2007. The December 2007 bank

1 statement for Eldorado Hills money market account shows a \$1.45 Million internet
2 transfer deposit from the Eldorado Hills checking account on December 10, 2007
3 and a \$1.42 Million transfer out processed on December 14, 2007. See NAN449-
4 450, attached as **Exhibit O**.

5 • **Go Global:** The December 2007 bank statement for Go Global
6 checking account shows the Eldorado Hills transfer for \$1.42 Million was
7 deposited into Go Global Inc.'s account on December 14, 2007. This \$1.42
8 Million transfer was per "an e-mail request from Carlos Huerta". See RT155 and
9 PLTF443, attached as **Exhibit P**.

10 *d. Investment confirmation*

11 • **December 8, 2007:** Mr. Harlap received an e-mail from Summer
12 Rellamas, Finance and Administration Manager with Go Global Properties, which
13 attached an investment confirmation letter. The letter thanked Mr. Harlap for his
14 recent investment of \$1.5 Million into CanaMex, confirmed receipt of his \$1.5
15 Million wire on December 6, 2007 and advised him that his 2007 federal tax forms
16 should be received by February 2008. See (NAN248-249, attached as **Exhibit Q**.

17 • **January 3, 2008:** Mr. Huerta e-mailed Mr. Harlap an update on
18 CanaMex and provided a letter from Go Global Properties with a subject line of
19 CanaMex. See NAN250-251, attached as **Exhibit R**.

20 • **January 30, 2008:** Mr. Harlap received an e-mail from Summer
21 Rellamas of Go Global Properties attaching Nanyah's annual investor portfolio
22 which summarizes its investment with Go Global Properties. See NAN256-264,
23 attached as **Exhibit S**.

24 • **March 13, 2008:** Mr. Harlap received an e-mail from Huerta
25 attaching an update letter on letterhead of Go Global Properties, signed by Mr.
26 Huerta as Managing Manager for CanaMex, indicated that "We, at Go Global
27 Properties, felt it time to send out an update in regards to our CanaMex Nevada
28 project in Las Vegas" and again directed Mr. Huerta to
www.CanaMexNevada.com. See NAN265-268, attached as **Exhibit T**.

e. The K-1s

• Mr. Huerta (as Nanyah's PMK) confirmed that equity and
ownership interests are preserved by a K-1 and confirmed a tax return will show
the ownership interest. See Nanyah PMK/Exhibit L, p. 22, ll. 3-15.

1 • Mr. Huerta further testified (inaccurately) that Nanyah was going to
2 be a member of Eldorado Hills or CanaMex, but that CanaMex didn't happen and
3 Eldorado Hills never formalized its investment with a K-1. *See* Huerta Depo
(attached as **Exhibit U**), p. 164, ll. 7-18.

4 • Contrary to this deposition testimony, but consistent with Nanyah's
5 confirmed investment in CanaMex, on April 12, 2008, CanaMex sent Nanyah a
6 2007 Schedule K-1 form via an e-mail from Summer Rellamas at Go Global
7 Properties. The Schedule K-1 from CanaMex shows: (1) shows Nanyah as 99%
8 owner of CanaMex; (2) for the time period of December 3, 2007 through
9 December 31, 2007; (3) Nanyah's capital contribution during the year of \$1.5
Million; and (4) that after a decrease in business income of \$2,515, Nanyah's
ending capital account with CanaMex as of December 31, 2007 was \$1,497,485.
See NAN269-270, attached as **Exhibit V**.

- 10
- 11 ○ CanaMex additionally sent Nanyah a 2010 Schedule K-1 with a letter, which
12 indicated that its "2010 Schedule K-1 ... has been filed with the partnership tax
13 return of CanaMex Nevada, LLC" and further advised that "[s]hould [Nanyah]
14 have any questions regarding the information reported to [it] on this Schedule K-1,
15 please call." The 2010 K-1 shows: (1) Nanyah still as 99% owner of CanaMex;
16 (2) Nanyah's capital account with CanaMex at \$1,497,695; and (3) that after a
17 decrease in business income of \$10, Nanyah's ending capital account with
18 CanaMex as of December 31, 2010 was \$1,497,685. *See* NAN389-390, attached as
19 **Exhibit W**.

2. The Potential Claimants

18 The dispute as to the relevant contracts relate to the contracts at issue. The
19 relevant contracts provide that Mr. Rogich' Trust will look into the **potential**
20 claimants listed in the Purchase Agreement, and not that his Trust would pay the
21 potential claimants. In reviewing the potential claimants, Mr. Rogich knew they
were without merit:

22 • Eldorado Hills (under Mr. Huerta's direction as the Tax Matters
23 partner) had already provided to the first 2 potential claimants (The Ray Trust and
24 Eddyline) with 2007 K-1s. *See* RT197/RT200, attached as **Exhibit X**.

25 • As for Antonio Nevada, Eldorado Hills had paid it in full. In fact,
26 Antonio Nevada later sued Eldorado Hills as a result of being a potential claimant
27 under this Purchase Agreement. Eldorado Hills was successful in defending
28 against that lawsuit and obtaining a Judgment against Antonio Nevada. *See*
RT192, attached as **Exhibit Y**.

- As for Nanyah, there was no K-1 issued by Eldorado Hills to Nanyah for 2007 and none of the financial records mentioned Nanyah. *See* RT164-165, attached as **Exhibit Z**. Mr. Huerta controlled the books and records of both companies at that time.

3. Statute of Limitations

- Mr. Huerta testified (as Nanyah's PMK) being aware of the Purchase Agreement being signed in October 2008. *See* Nanyah PMK Depo/Exhibit L, p. 26, ll. 4-18.

- Mr. Harlap testified he first became aware of the Purchase Agreement in 2008. *See* Harlap Depo/Exhibit K, p. 16, line 19 to p. 18, l. 23.

- Mr. Harlap testified that he understood that Nanyah's potential claim to \$1.5 Million investment in Eldorado Hills started from day one from his transferring or sending \$1.5 Million in 2007. *See* Harlap Depo/Exhibit K, p. 74, l. 12 to p. 75, l. 2.

• On February 13, 2016, Mr. Huerta e-mailed Mr. Harlap indicating the following: "...our Nevada Supreme Court overturned the judgment entered, here in district court, against Nanyah Vegas and it proves that you (nor I) deserves what this judge Allf doled out. Attached is the order. It, basically, says that Nanyah's claims could not have been dismissed, **when Eldorado Hills, LLC did not prove the statute began to run, once the money was tendered, or when a membership interest should have been provided and maintained, on your behalf** and how I was guaranteed that it would be by this "respected" Sig Rogich. This judge Allf should be exposed for the complete disgrace that she really is." See NAN303, attached as **Exhibit AA**.

The above facts support this Court granting the Moving Defendants relief from the October 2018 Order.

II.

LEGAL ARGUMENT

**THIS COURT SHOULD RELIEVE THE ROGICH DEFENDANTS FROM THE
OCTOBER 5, 2018 ORDER DUE TO MISTAKE AND/OR INADVERTENCE**

NRCP 60(b) in pertinent part, allows the Court, “[o]n motion and **upon such terms as are just**”, to “**relieve a party...from a final judgment, order** or proceeding for the following reasons:

1 (1) **mistake, inadvertence**, surprise or excusable neglect....” NRCP 60(b) (Emphasis Added).
2 Moreover, the relief requested by the Moving Defendants is well within this Court’s jurisdiction
3 to grant. *See A-Mark Coin Co. v. Redfield’s Estate*, 94 Nev. 495, 498, 582 P.2d 359, 361 (1978)
4 (recognizing, in the probate context, that a court “has jurisdiction to vacate a prior order upon
5 learning that it was entered through mistake” and further confirms that “[o]ur remedial rule,
6 NRCP 60(b), contemplates such action.”) (citation omitted). The instant Motion is timely filed
7 within six (6) months from service of the notice of entry of the October 2018 Order. *See id.*

8 While, as noted above, in drafting the October 2018 Order, the Plaintiff correctly noted in
9 one instance that Nanyah’s claim that it “invested” in Eldorado is only an allegation, it is clear
10 that in many instances the Plaintiff neglected to clarify this fact. Moreover, despite the fact that
11 the documents at issue plainly state that Nanyah’s alleged claim is only “potential” – a significant
12 detriment to Nanyah’s current position – this critical modifier failed to make its way into the
13 October 2018 Order through inadvertence or neglect. Regardless, there can be no doubt that
14 Nanyah should not be able to benefit from its own error in drafting the October 2018 Order, as it
15 now attempts to do by ignoring the fact that its purported claim is only “potential”, and its
16 purported “investment” into Eldorado is only an allegation, not a proven fact.

17 Thus, while the subject Motions for Summary Judgment were not seeking summary
18 judgment against the Moving Defendants, the October 2018 Order inadvertently or mistakenly
19 makes affirmative findings and conclusions that Nanyah now attempts to incorrectly construe as a
20 basis for summary judgment against the Rogich Defendants, even going so far as to allege in its
21 newly filed MSJ that the Moving Defendants are even prohibited from presenting any evidence in
22 their defense at trial. *See generally* Nanyah’s MSJ, filed on January 30, 2019.^{2 3}

23 It is worth noting that Nanyah Vegas has, in past proceedings, brought motions for
24 summary judgment against the Rogich Defendants, where it sought summary judgment very
25 similar to the disputed affirmative findings and conclusions provided for within the October 2018

26 ² The Moving Defendants request the Court take judicial notice of Nanyah’s newly filed MSJ pursuant to NRS
27 47.130 – 47.170.

28 ³ Eldorado Hills has also filed an MSJ based upon the October 2018 Order, which the Moving Defendants will
also oppose for generally the same reasons set forth in this motion.
14595272

1 Order. Each time, the Rogich Defendants were successful and this Court denied Nanyah
2 summary judgment on what are very clearly disputed issues of fact. Without question, Nanyah's
3 mistakes in drafting the October 2018 Order, if left uncorrected, would gravely and unjustly
4 impact the Moving Defendants' due process rights.

5 Given there are disputed material facts still at issue regarding the referenced provisions of
6 the October 2018 Order, the affirmative findings and conclusions related to these disputed
7 material facts should be modified to reflect them as allegations only. This Court should grant the
8 Moving Defendants relief from the October 2018 Order. To illustrate the small, but significant,
9 changes that would be required to amend the October 2018 Order, and for the Court's
10 convenience, the Moving Defendants provide a redlined/amended version of the October 2018
11 Order that they believe should have been entered (the "Proposed Amended Order"). See Exhibit
12 G. The Moving Defendants request that the Proposed Amended Order be entered in place of the
13 October 2018 Order.

14 **III.**

15 **CONCLUSION**

16 For all these reasons, the Moving Defendants respectfully request that this Court grant
17 their Motion for Relief from the October 2018 Order in its entirety, and grant such other and
18 further relief as the Court deems appropriate.

19 DATED: February 6, 2019.

20 **FENNEMORE CRAIG, P.C.**

21 

22 Samuel S. Lionel, Esq. (Bar No. 1766)
23 Thomas H. Fell, Esq. (Bar No. 3717)
24 Brenoch Wirthlin, Esq. (Bar No. 10282)

25 **FENNEMORE CRAIG, P.C.**
26 300 S. Fourth Street, Suite 1400
27 Las Vegas, Nevada 89101
28 *Attorneys for the Rogich Defendants*

CERTIFICATE OF SERVICE

I hereby certify that a copy of **MOTION FOR RELIEF FROM THE OCTOBER 5, 2018 ORDER PURSUANT TO NRCP 60(b)** was served upon the following person(s) by electronic transmission through the Wiznet system pursuant to NEFCR 9, NRCP 5(b) and EDCR 7.26, on February 6, 2019 as follows:

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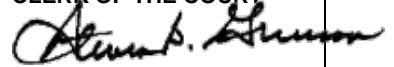
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/s/ Morganne Westover

An employee of
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EXHIBIT A



MSJD (CIV)

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Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
Corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

vs.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

TELD, LLC, a Nevada limited liability
company; PETER ELIADES, individually and
as Trustee of The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No. A-13-686303-C

Dept. No. XXVII

**DEFENDANTS PETER ELIADES,
INDIVIDUALLY AND AS TRUSTEE OF
THE ELIADES SURVIVOR TRUST OF
10/30/08, AND TELD, LLC'S MOTION
FOR SUMMARY JUDGMENT**

Hearing Date:

Hearing Time:

CONSOLIDATED WITH:

Case No. A-16-746239-C

**DEFENDANTS PETER ELIADES, INDIVIDUALLY AND AS TRUSTEE OF THE
ELIADES SURVIVOR TRUST OF 10/30/08, AND TELD, LLC'S MOTION FOR
SUMMARY JUDGMENT**

Pursuant to N.R.C.P. 56, Defendants Peter Eliades, individually ("Eliades") and as Trustee of The Eliades Survivor Trust of 10/30/08 (the "Eliades Trust"), and Teld, LLC ("Teld") (collectively, the "Eliades Defendants") move for summary judgment dismissing the following claims for relief brought by Nanyah Vegas, LLC ("Nanyah"):

- First Claim for Relief – Breach of Contract against Teld and Eliades;
- Second Claim for Relief – Breach of Implied Covenant of Good Faith and Fair Dealing against Teld and Eliades;
- Third Claim for Relief – Tortious Breach of Implied Covenant of Good Faith and Fair Dealing against Teld and Eliades;
- Sixth Claim for Relief – Conspiracy against Teld, Eliades, and the Eliades Trust;
- Eighth Claim for Relief – Declaratory Relief against Teld, Eliades, and the Eliades Trust;
- Ninth Claim for Relief – Specific Performance against Teld, Eliades, and the Eliades Trust.

This Motion for Summary Judgment is based on the following Memorandum of Points and Authorities, the exhibits attached hereto, and any oral argument heard by the Court.

DATED this 1st day of June, 2018.

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

Attorneys for Defendants
PETE ELIADES, THE ELIADES
SURVIVOR TRUST OF 10/30/08, TELD,
LLC and ELDORADO HILLS, LLC

NOTICE OF HEARING

PLEASE TAKE NOTICE that the foregoing Motion for Summary Judgment will come on for hearing before the Court on the 05 day of JULY, 2018, at the hour of 10:30A .M., or as soon thereafter as counsel can be heard in Dept. XXVII, at the Regional Justice Center, 200 Lewis Avenue, Las Vegas, Nevada 89155.

DATED this 1st day of June, 2018.

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

Attorneys for Defendants
PETE ELIADES, THE ELIADES
SURVIVOR TRUST OF 10/30/08, TELD,
LLC and ELDORADO HILLS, LLC

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Nanyah sued the Eliades Defendants because they are a deep pocket, not because they actually did anything wrong. Nanyah dragged them into this lawsuit based on an alleged investment in 2007 *even though the Eliades Defendants did not have any involvement with Eldorado Hills, LLC (“Eldorado”) until October of 2008*. In fact, the Eliades Trust did not become an Eldorado member until 2012.¹ Further, Nanyah’s contract claims are based on agreements which *do not obligate the Eliades Defendants to do anything for Nanyah’s benefit*. On the contrary, those very agreements confirm that the Eliades Defendants are not responsible for any aspect of Nanyah’s claim. *As a matter of law*, Nanyah cannot sue the Eliades Defendants as a supposed third-party beneficiary of those agreements.

The Eliades Defendants also do not have any tort liability. Nanyah’s tortious implied

¹ Nanyah’s claims and allegations that the Eliades Trust participated in some sort of fraudulent transfer in 2012 has already been dismissed by this Court via summary judgment.

covenant claim fails because there is no evidence of a special relationship between Nanyah and the Eliades Defendants, nor is there evidence of “grievous and perfidious misconduct.” Further, these agreements cannot create a tort claim when they strictly preclude a contract claim. Nanyah’s civil conspiracy claim is barred by the intra-corporate conspiracy doctrine as a matter of law, because Eliades and Rogich cannot conspire with each other as Eldorado co-agents. Likewise, Nanyah’s civil conspiracy claim fails due to the lack of an underlying tort.

Finally, Nanyah cannot prove its alleged damages when it has failed to comply with N.R.C.P. 16.1(a)(1)(C) and failed to provide any evidence showing the alleged value of an Eldorado membership interest. For the foregoing reasons, Nanyah’s claims against the Eliades Defendants have no merit, and summary judgment should be entered dismissing them with prejudice.

II. STATEMENT OF FACTS

A. Nanyah’s Claims Against the Eliades Defendants.

On November 4, 2016, Nanyah filed a Complaint against Sigmund Rogich, individually (“Rogich”) and as Trustee of the Rogich Family Irrevocable Trust (the “Rogich Trust”), Imitations, LLC (“Imitations”) (collectively, the “Rogich Defendants”), and the Eliades Defendants.² In sum and substance, Nanyah alleges that it invested \$1,500,000.00 for a membership interest in Eldorado which it never received.³ *Notably, this investment supposedly occurred in December of 2007, ten months before Teld became an Eldorado member and over four years before the Eliades Trust became an Eldorado member.*⁴

The majority of Nanyah’s remaining claims for relief are contractual. Nanyah alleges that it is a third-party beneficiary of various agreements that were executed on or around October 30, 2008, which supposedly memorialize its \$1,500,000.00 investment in Eldorado.⁵ Based on this theory, Nanyah sued some or all of the Eliades Defendants, among others, for: (1) breach of contract; (2)

² (See generally Compl., filed Nov. 4, 2016.) This Complaint was later consolidated with Nanyah’s earlier lawsuit against Eldorado Hills, LLC, Case No. A-13-686303-C. The sole claim remaining in that action (unjust enrichment) is the subject of a separate Motion for Summary Judgment.

³ See generally *id.*

⁴ *Id.*, ¶¶ 15-17, 38.

⁵ See generally *id.*

breach of the implied covenant of good faith and fair dealing; (3) declaratory relief; and (4) specific performance (the “Contract Claims”).⁶

Nanyah also sued some or all of the Eliades Defendants for various torts. Summary judgment was recently entered against Nanyah on its claims for intentional interference with contractual relations, fraudulent transfer, and constructive trust due to expiration of the statute of limitations. Nanyah’s two remaining tort claims are: (1) tortious breach of the implied covenant of good faith and fair dealing; and (2) civil conspiracy (the “Tort Claims”).⁷

B. The Relevant History of Eldorado.

Eldorado was formed in 2005 for the purpose of owning and developing approximately 161 acres of land near Boulder City, Nevada.⁸ Eldorado was originally comprised of Go Global, Inc. (100% owned by Carlos Huerta) and the Rogich Trust.⁹ In 2007, Huerta contacted Nanyah to invest. In December of 2007, Nanyah wired \$1,500,000.00 into another entity’s bank account, which Huerta eventually funneled into Eldorado’s bank account for a few days.¹⁰ *At this time, the Eliades Defendants had absolutely no involvement with Eldorado.*

In October of 2008, *approximately ten months later*, Teld purchased a 1/3 interest in Eldorado for \$3,000,000.00.¹¹ The Flangas Trust also purchased a 1/3 interest in Eldorado for \$3,000,000.00, which was quickly transferred to Teld when the Flangas Trust backed out of the deal.¹² Because Teld ended up with a larger percentage of Eldorado than originally contemplated, it was later agreed that the Rogich Trust would re-acquire 6.67% of Eldorado from Teld.¹³ As a result,

⁶ *Id.*, ¶¶ 85-99, 131-140.

⁷ *Id.*, ¶¶ 100-108, 120-123.

⁸ *Id.*, ¶ 9.

⁹ Operating Agreement, Ex. A (NAN_000544), attached as Exhibit 1-A (“The members, Go Global, Inc. and The Rogich Family Irrevocable Trust will each hold their operating addresses as: 3980 Howard Hughes Pkwy, Suite 550, Las Vegas, NV 89109, and will retain 50.00% of all Membership Rights, Equity, and Interests within The Company....”).

¹⁰ Huerta quickly transferred \$1,420,000.00 of those funds to himself as an alleged distribution, although it was originally characterized as a “consulting fee.” (Compl., ¶ 17.)

¹¹ *See generally* Oct. 30, 2008 Teld Membership Interest Purchase Agreement, attached as Exhibit 1-B.

¹² *See generally* Oct. 30, 2008 Flangas Trust Membership Interest Purchase Agreement, attached as Exhibit 1-C; *see also* Nov. 2008 Membership Interest Purchase Agreement, attached as Exhibit 1-D.

¹³ *See generally* Oct. 30, 2008 Membership Interest Assignment Agreement, attached as Exhibit 1-E.

Go Global (*i.e.*, Huerta) no longer owned an Eldorado membership interest. These transactions were memorialized in various written agreements, none of which included Nanyah as a party.

C. The Relevant Agreements.

Nanyah's Contract Claims are entirely based on "the Purchase Agreement, the Membership Interest Purchase Agreements, and the Amended and Restated Operating Agreement" (collectively, the "Purchase Agreements").¹⁴ Regardless of Nanyah's arguments to the contrary, none of the Purchase Agreements state that the Eliades Defendants agreed to pay Nanyah \$1,500,000.00 or ensure that it received an Eldorado membership interest. On the contrary, the Purchase Agreements state that the Rogich Trust agreed to negotiate with Nanyah (amongst others) to attempt to resolve its "potential claim." *Notably, the Rogich Trust—not Teld, Eliades, nor the Eliades Trust—agreed to be solely responsible for Nanyah's claim.* In fact, the Purchase Agreements require the Rogich Trust to fully defend and indemnify the Eliades Defendants with respect to any such claim.

Specifically, the Purchase Agreements state as follows:

➤ ***October 30, 2008 Purchase Agreement between Go Global, Carlos Huerta, and the Rogich Trust:***¹⁵

- "[Go Global and Huerta] owns a membership interest ... in Eldorado Hills, LLC ... equal or greater than thirty-five percent and which may be as high as forty-nine and forty-four one hundredths (49.44%) of the total ownership interests in the Company. Such interest, as well as the ownership interest currently held by [the Rogich Trust], may be subject to certain potential claims of those entities set forth and attached hereto in Exhibit 'A' and incorporated by this reference ('Potential Claimants'). *[The Rogich Trust] intends to negotiate such claims* with [Go Global and Huerta's] assistance so that such claimants confirm or convert the amounts set forth beside the name of each said claimants into non-interest bearing debt, or an equity percentage to be determined by [the Rogich Trust] after consultation with [Go Global and Huerta] as desired by [Go Global and Huerta], with no capital calls for monthly payments,

¹⁴ Compl., ¶ 88.

¹⁵ None of the Eliades Defendants are parties to the October 30, 2008 Purchase Agreement.

1 *and a distribution in respect of their claims in amounts from the one-third (1/3rd)*
2 *ownership interest in [Eldorado] retained by [the Rogich Trust].”¹⁶*

- 3 ▪ [Go Global and Huerta], however, will not be responsible to pay the Exhibit A
4 Claimants their percentage or debt. *This will be [the Rogich Trust’s] obligation,*
5 *moving forward....”¹⁷*

6 ➤ *October 30, 2008 Membership Interest Purchase Agreement between the Rogich Trust,*
7 *Teld, Go Global and Huerta.*¹⁸

- 8 ▪ “[The Rogich Trust] is the owner, beneficially and of record, of the Membership
9 Interest, free and clear of all liens, encumbrances, security agreements, equities,
10 options, *claims*, charges, and restrictions, *and [Teld] will receive at Closing good and*
11 *absolute title thereto free of any liens, charges or encumbrances thereon.*”¹⁹
- 12 ▪ “[The Rogich Trust] shall defend, indemnify, and hold [Teld] harmless from any and
13 all the claims of Eddyline Investments, LLC, Ray Family Trust, *Nanyah Vegas, LLC*,
14 and Antonio Nevada, LLC, each of whom invested or otherwise advanced the funds,
15 plus certain possible claimed accrued interest.”²⁰
- 16 ▪ “It is the current intention of [the Rogich Trust] that such amounts be confirmed or
17 converted to debt, with no obligation to participate in capital calls or monthly
18 payments, a pro-rata distribution at such time as [Eldorado’s] real property is sold or
19 otherwise disposed of. *Regardless of whether this intention is realized, [the Rogich*
20 *Trust] shall remain solely responsible for any claims by the above referenced*
21 *entities set forth in this section above.*”²¹
- 22 ▪ “The ‘pro-rata distributions’ hereinabove referenced shall mean equal one-third

23
24 ¹⁶ October 30, 2008 Purchase Agreement, attached as Exhibit 1-F, Recital A (emphasis added).

25 ¹⁷ *Id.*, § 4 (emphasis added).

26 ¹⁸ The Eliades Trust is not a party to the October 30, 2008 Membership Interest Purchase Agreement. Further, Eliades was only a limited party for the sole purpose of guaranteeing Eldorado’s pending bank loan. (Ex. 1-B, § 8(b).)

27 ¹⁹ *Id.*, § 4(a) (emphasis added).

28 ²⁰ *Id.*, § 8(c) (emphasis added).

²¹ *Id.*, § 8(c)(i) (emphasis added).

shares pursuant to the ownership set forth in Section 3 above, provided, that any amounts owing to those entities set forth on Exhibit 'D,' or who shall otherwise claim an ownership interest based upon contributions or advances directly or indirectly to [Eldorado] made prior to the date of this agreement, *shall be satisfied solely by [the Rogich Trust]*.”²²

- “The parties agree that [the Rogich Trust] may transfer [the Rogich Trust’s] ownership interest in [Eldorado] to one or more of the entities set forth in Exhibit ‘D’ to satisfy any claims such entity may have.”²³
- “[The Rogich Trust] confirms that certain amounts have been advanced to or on behalf of [Eldorado Hills] by certain third parties, as referenced in Section 8 of the Agreement. [The Rogich Trust] shall endeavor to convert the amounts advanced into non-interest bearing promissory notes *for which [the Rogich Trust] shall be responsible*. Regardless of whether the amounts are so converted, *[the Rogich Trust] shall defend, indemnify and hold harmless [Eldorado] and its members for any claims by the parties listed below*, and any other party claiming interest in [Eldorado] as a result of transactions prior to the date of this Agreement against [Eldorado] or its Members. ...

3. Nanyah Vegas, LLC (through Canamex Nevada, LLC) \$1,500,000.00.”²⁴

➤ ***October 30, 2008 Amended and Restated Operating Agreement between the Rogich Trust, the Flangas Trust, and Teld:***²⁵

- “The Rogich Trust will retain a one-third (1/3rd) ownership interest in [Eldorado] (subject to certain possible dilution or other indemnification responsibilities *assumed by the Rogich Trust in the Purchase Documents*).”²⁶

²² *Id.*, § 8(c)(ii) (emphasis added).

²³ *Id.*, § 8(g).

²⁴ *Id.*, Exhibit D (emphasis added).

²⁵ Eliades and the Eliades Trust are not parties to the Amended and Restated Operating Agreement. (Am. and Restated Op. Agreement, attached as Exhibit I-G.)

²⁶ *Id.*, Recital B (emphasis added).

- “The Rogich trust shall indemnify and hold the Flangas Trust and Teld harmless from and against the claims of any individuals or entities claiming to be entitled to a share of profits and losses other than the Rogich Trust, the Flangas Trust and Teld, so as not to diminish the one-third (1/3rd) participation in profits and losses by each of the Flangas Trust and Teld.”²⁷

➤ ***January 1, 2012 Membership Interest Assignment Agreement between the Rogich Trust and the Eliades Trust.***²⁸

- “Rogich has acquired a forty percent (40%) interest in Eldorado Hills, LLC, a Nevada limited-liability company ... as of the date hereof... (Within the Rogich 40% is a potential 1.12% interest of other holders not of formal record with Eldorado).”²⁹
- “Rogich has not, other than as previously stated, transferred, sold, conveyed or encumbered any of his Forty Percent (40%) to any other person or entity prior to this Agreement, except for the potential claims of .95% held by The Robert Ray Family Trust and .17% held by Eddyline Investments, L.L.C.”³⁰

D. Nanyah’s Alleged Damages.

On April 21, 2017, Nanyah served its initial disclosures pursuant to N.R.C.P. 16.1. With respect to Nanyah’s damages disclosure, Nanyah stated the following:

See Damages identified in Nanyah’s Complaint. As interest is continuing to accrue, Nanyah will supplement its damage calculation on appropriate intervals.³¹

Notably, the only “damages” mentioned in Nanyah’s Complaint are the boilerplate \$10,000.00 allegations required for subject matter jurisdiction.³² ***Nanyah never supplemented its damages disclosure throughout this litigation. Nanyah never provided any calculations or evidence showing the alleged value of Nanyah’s supposed membership interest in Eldorado. Nanyah never***

²⁷ *Id.*, § 4.1(a).

²⁸ Membership Interest Assignment Agreement, attached as Exhibit 1-H.

²⁹ *Id.*, Recital A.

³⁰ *Id.*, § 3(c).

³¹ Nanyah Vegas, LLC’s NRCP 16.1 Case Conference Production, attached as Exhibit 2.

³² *See, e.g., Compl.*, ¶¶ 93, 99.

1 *provided any information regarding the alleged amount or theory of damages for the various*
2 *Contract Claims and Tort Claims it asserted against the Eliades Defendants.*

3 III. ARGUMENT

4 A. Legal Standard.

5 “Summary judgment is appropriate and ‘shall be rendered forthwith’ when the pleadings and
6 other evidence on file demonstrate that no ‘genuine issue as to any material fact [remains] and that
7 the moving party is entitled to a judgment as a matter of law.’” *Wood v. Safeway, Inc.*, 121 Nev.
8 724, 729, 121 P.3d 1026, 1029 (2005) (quoting N.R.C.P. 56(c)). “[T]he non-moving party must, by
9 competent evidence, produce specific facts that demonstrate the presence of a genuine issue for
10 trial.” *Elizabeth E. v. ADT Sec. Sys. W., Inc.*, 108 Nev. 889, 892, 839 P.2d 1308, 1310 (1992). The
11 non-moving party’s burden must be borne on each and every element of its claims for relief;
12 “[w]here an essential element of a claim for relief is absent, the facts, disputed or otherwise, as to
13 other elements are rendered immaterial and summary judgment is proper.” *Barmettler v. Reno Air,*
14 *Inc.*, 114 Nev. 441, 446-47, 956 P.2d 1382, 1386 (1998).

15 B. The Eliades Defendants Do Not Owe Any Contractual Duties to Nanyah as an Alleged 16 Third-Party Beneficiary to the Purchase Agreements.

17 Nanyah’s third-party beneficiary theory is comparable to the failed third-party beneficiary
18 argument in *Lipshie v. Tracy Inv. Co.*, 93 Nev. 370, 566 P.2d 819 (1977). Although there was an
19 agreement whereby one party (Bonanza No. 2) agreed to pay a debt to Norman Lipshie, the other
20 contracting party (Tracy Investment Company) did not agree to assume any such debt. Notably, in
21 rejecting the third-party beneficiary claim against Tracy, the Court stated as follows:

22 Here, although Appellant was mentioned in the agreement and he would
23 indeed receive a benefit, there was no promise, *at least on the part of Tracy*,
24 to satisfy his indebtedness. The agreement between Tracy and Wolf
25 provides only that the obligation of Bonanza to Lipshie for the amount of
26 the extraordinary loan would survive the bankruptcy proceedings. The
27 matter of negotiations between Tracy and Wolf, the intent of the parties,
28 and the tenor of the agreement *make it plain that Tracy did not assume, or*
intend to assume, any obligation to Lipshie.

Id. at 379-380, 566 P.2d at 825 (emphasis added).

1 The Eliades Defendants are in a similar posture to Tracy. Nanyah cannot point to any
2 language within the Purchase Agreements (or any other written agreement) which shows that any of
3 the Eliades Defendants owed any sort of contractual obligation to Nanyah. On the contrary, the
4 Purchase Agreements merely state that the Rogich Trust would negotiate with Nanyah (amongst
5 others) to attempt to resolve its claim. *Notably, the Rogich Trust—not Teld, Eliades, or the Eliades*
6 *Trust—agreed to be responsible for Nanyah’s potential claim.*³³ Even Nanyah admits that its
7 Eldorado membership interest was supposed to come from the Rogich Trust.³⁴ As a matter of law,
8 the Eliades Defendants do not owe any contractual obligations to Nanyah as a third-party
9 beneficiary. Accordingly, summary judgment should be entered, dismissing all of the Contract
10 Claims against the Eliades Defendants.³⁵

11 **C. Summary Judgment Should be Entered Against Nanyah on its Tort Claims.**

12 1. *Nanyah’s Tortious Implied Covenant Claim is Missing Many Required Elements.*

13 A claim for tortious breach of the implied covenant of good faith and fair dealing only arises
14 if there is a “special relationship” between the parties. *State, Univ. and Comm. Coll. Sys. v. Sutton*,
15 120 Nev. 972, 989, 103 P.3d 8, 19 (2004). Further, the plaintiff must prove that the alleged
16 tortfeasor engaged in “grievous and perfidious misconduct.” *Id.* (citation omitted). A tortious
17 implied covenant claim will only arise in “rare and exceptional circumstances.” *Ins. Co. of the West*
18 *v. Gibson Tile Co., Inc.*, 122 Nev. 455, 461, 134 P.3d 698, 702 (2006) (citation omitted).

19 There is no basis for any sort of special relationship between Nanyah and the Eliades
20 Defendants. Nanyah’s principal, Yoav Harlap, testified that he has never even spoken with
21 Eliades.³⁶ The Eliades Defendants had absolutely no involvement with Eldorado when Nanyah

22 ³³ See, e.g., Ex. 1-B, § 8(c)(i).

23 ³⁴ Nanyah’s Opp’n to Mot. for S. Judg., 18:17-20, filed March 19, 2018 (“Based on the terms of the original
24 Purchase Agreement, the Membership Interest Purchase Agreements and the Eldorado Amended Operating Agreement,
Nanyah’s membership interest would come from part of the Rogich Trust’s membership interest rather than Eldorado
issuing an additional membership interest.”) (emphasis added).

25 ³⁵ Because Nanyah’s implied covenant claim is identical to its breach of contract claim, (*compare* Compl., ¶ 92
26 *with* ¶ 97), summary judgment should be entered on those grounds as well. See *Shaw v. CitiMortgage, Inc.*, 201
27 F.Supp.3d 1222, 1252 (D. Nev. 2016) (“It is well established that a claim alleging breach of the implied covenants of
good faith and fair dealing cannot be based on the same conduct establishing a separately pled breach of contract
claim.”) (citations omitted).

28 ³⁶ Dep. Trans. of Yoav Harlap, 32:22-23, attached as Exhibit 3.

provided its \$1,500,000.00 to Huerta. Likewise, there is no evidence of any “grievous or perfidious misconduct” by any of the Eliades Defendants that would permit Nanyah to pursue the “rare and exceptional” claim of a tortious breach of the implied covenant of good faith and fair dealing.

Further, “the implied covenant or duty of good faith and fair dealing does not create rights or duties beyond those agreed to by the parties.” 17A C.J.S. Contracts § 437. Nanyah cannot seek tort liability based on the Purchase Agreements because there is nothing within those agreements which imposes any sort of obligation on the Eliades Defendants for Nanyah’s benefit. On the contrary, the Purchase Agreements reiterate over and over again that only the Rogich Trust is responsible for Nanyah’s potential investment. Accordingly, summary judgment should be entered dismissing Nanyah’s tortious implied covenant claim against the Eliades Defendants.

2. Nanyah’s Civil Conspiracy Claim is Barred by the Intra-Corporate Conspiracy Doctrine and the Lack of an Underlying Tort.

“Agents and employees of a corporation cannot conspire with their corporate principal or employer where they act in their official capacities on behalf of the corporation and not as individuals for their individual advantage.” *Collins v. Union Fed. Sav. & Loan Ass’n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983).

Nanyah alleges that various owners/agents of Eldorado Hills (*e.g.*, Teld, the Rogich Trust, the Eliades Trust) conspired with one another in order to prohibit Nanyah from receiving its membership interest. All of these conspiracy allegations relate back to two individuals making decisions on behalf of Eldorado—Eliades and Rogich. In other words, Nanyah is alleging that Eldorado conspired with itself. Therefore, there is no “combination of two or more persons,” a necessary element for a civil conspiracy claim.

Further, “[c]ivil conspiracy requires the existence of an underlying tort.” *Markey v. Bank of Am., N.A.*, 2012 WL 3317789, at *3 (D. Nev. Aug. 10, 2012). Nanyah’s Complaint fails to identify any alleged tort supporting its conspiracy claim.³⁷ For the reasons stated above, Nanyah’s last remaining tort claim (tortious implied covenant claim) must be dismissed. Without an underlying

³⁷ Compl., ¶¶ 120-123.

tort to support the conspiracy claim, it fails as a matter of law. Accordingly, summary judgment should be entered dismissing all the Tort Claims.

D. Nanyah Cannot Prove its Alleged Damages.

[A] party must, without awaiting a discovery request, provide to other parties ... [a] computation of any category of damages claimed by the disclosing party making available for inspection and copying as under Rule 34 the documents or other evidentiary matter, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

N.R.C.P. 16.1(a)(1)(C). “[T]he ‘category of damages’ disclosure requires more than a list of the broad types of damages.” *Olaya v. Wal-Mart Stores, Inc.*, No. 2:11-cv-997-KJD-CWH, 2012 WL 3262875, at *2 (D. Nev. Aug. 7, 2012).³⁸ This rule also “‘requires more than merely setting forth the figure demanded.’” *Max Impact, LLC v. Sherwood Group, Inc.*, No. 09 Civ. 902(JGK)(HBP), 2014 WL 902649, at *5 (S.D.N.Y. March 7, 2014) (citations omitted); *accord CCR/AG Showcase Phase I Owner, L.L.C. v. United Artists Theatre Circuit, Inc.*, No. 2:08-cv-00984-RCJ-GWF, 2010 WL 1947016, at *5 (D. Nev. May 13, 2010) (“[T]he word ‘computation’ contemplates some analysis beyond merely setting forth a lump sum amount for a claimed element of damages.”) (citation omitted).

Nanyah failed to comply with N.R.C.P. 16.1(a)(1)(C). Its disclosures do not contain any information or evidence relating to Nanyah’s alleged damages. As a result, Nanyah does not have any admissible evidence to prove its alleged damages. For example, it has not disclosed any evidence or expert testimony which would show the value of Nanyah’s supposed membership interest in Eldorado. It has not disclosed the percentage of the membership interest to which it believes it is entitled, and how that amount was calculated. The mere fact that Nanyah invested \$1,500,000.00 does not mean it has \$1,500,000.00 in damages. Issuance of a membership interest in a corporate entity does not guarantee repayment of the investment, especially if Eldorado is unsuccessful. As stated in the Operating Agreement at the time of Nanyah’s alleged investment:

³⁸ Federal cases interpreting rules of civil procedure are persuasive authority in Nevada courts. *Exec. Mgmt. Ltd. v. Tigor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d 872, 876 (2002) (citing *Las Vegas Novelty v. Fernandez*, 106 Nev. 113, 119, 787 P.2d 772, 776 (1990)).

Each Member shall look solely to the Property of the Company for the return of his investment, and if the Property remaining after the payment or discharge of the debts and liabilities of the Company is insufficient to return the investment of each Member, such Member shall have no recourse against the Company [or] any other Member, or their employees and agents for indemnification, contribution, or reimbursement.³⁹

Members were only entitled to share in the “income, gains, losses, deductions, credit, or similar items of, and to receive Distributions from, the Company....”⁴⁰ Further, they were obligated to make the following investment representation and warranty:

Economic Risk. By reason of each Member’s business and financial experience, each Member has the capacity to protect such Member’s interests in connection with the purchase of such Member’s Units and can bear the economic risk of such Member’s proposed investment, ***including the loss of the entire amount of the investment.***⁴¹

Without admissible evidence supporting the value of Eldorado’s supposed right to a membership interest, the percentage amount of that membership interest, and that it would have actually been a successful investment, all of Nanyah’s claims (with the exception of declaratory relief and specific performance) fail as a matter of law.

IV. CONCLUSION

For the foregoing reasons, summary judgment should be entered against Nanyah and in favor of the Eliades Defendants with respect to the Contract Claims and Tort Claims.

DATED this 1st day of June, 2018.

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

Attorneys for Defendants
PETE ELIADES, THE ELIADES
SURVIVOR TRUST OF 10/30/08, TELD,
LLC and ELDORADO HILLS, LLC

³⁹ Operating Agreement, attached as Exhibit 1-I, § 12.3

⁴⁰ *Id.*, §§ 2.18; 9.1; 17.12.

⁴¹ *Id.*, § 17.5 (emphasis added).

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ❖ KENNEDY and that on the 1st day of June, 2018, service of the foregoing **DEFENDANTS PETER ELIADES, INDIVIDUALLY AND AS TRUSTEE OF THE ELIADES SURVIVOR TRUST OF 10/30/08, AND TELD, LLC'S MOTION FOR SUMMARY JUDGMENT** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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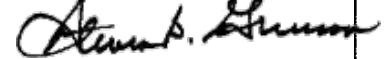
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EXHIBIT B



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DISTRICT COURT

CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee
of interests of GO GLOBAL, INC., a
Nevada corporation; NANYAH VEGAS,
LLC, A Nevada limited liability company,

Plaintiffs,

v.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

CASE NO.: A-13-686303-C

DEPT. NO.: XXVII

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

v.

TELD, LLC, a Nevada limited liability
company; PETER ELIADAS, individually
and as Trustee of the The Eliades
Survivor Trust of 10/30/08; SIGMUND
ROGICH, individually and as Trustee of
The Rogich Family Irrevocable Trust;
IMITATIONS, LLC, a Nevada limited
liability company; DOES I-X; and/or ROE
CORPORATIONS I-X, inclusive,

Defendants.

CONSOLIDATED WITH:

CASE NO.: A-16-746239-C

**OPPOSITION TO ELIADES
DEFENDANTS' MOTION FOR
SUMMARY JUDGMENT AND
COUNTERMOTION FOR
SUMMARY JUDGMENT**

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28
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TABLE OF CONTENTS

I.	BASIS OF NANYAH'S CLAIMS.	5
II.	UNDISPUTED FACTS MANDATING SUMMARY JUDGMENT IN NANYAH'S FAVOR AND DENIAL OF THE ELIADES DEFENDANTS' MOTION.	5
A.	NANYAH INVESTED \$1.5 MILLION INTO ELDORADO.	6
B.	ROGICH AND THE ROGICH TRUST ADMIT AND CONFIRM NANYAH'S \$1.5 MILLION INVESTMENT INTO ELDORADO.	10
1.	THE OCTOBER 30, 2008, PURCHASE AGREEMENT.	10
2.	THE OCTOBER 30, 2008, MEMBERSHIP INTEREST PURCHASE AGREEMENTS.	11
3.	THE OCTOBER 30, 2008, ELDORADO AMENDED AND RESTATED OPERATING AGREEMENT EXPRESSLY CONFIRMS NANYAH'S \$1.5 MILLION INVESTMENT INTO ELDORADO.	12
4.	ROGICH TRUST'S JANUARY 1, 2012, ASSIGNMENT OF INTEREST IN ELDORADO.	13
C.	IT IS UNDISPUTED THAT THE DEFENDANTS NEVER INFORMED NANYAH OF THEIR SECRET PLAN TO NOT REPAY NANYAH ITS \$1.5 MILLION INVESTMENT.	15
D.	PETER ELIADES DEPOSITION.	16
E.	DOLORES ELIADES DEPOSITION.	17
III.	THE ELIADES DEFENDANTS' MOTION FOR SUMMARY JUDGMENT MUST BE DENIED.	19
A.	THE ELIADES DEFENDANTS OWE CONTRACTUAL OBLIGATIONS TO NANYAH.	19
B.	THE ELIADES DEFENDANTS OWE FIDUCIARY OBLIGATIONS, AND, THEREFORE, THERE IS A SPECIAL RELATIONSHIP TO NANYAH.	21
C.	NANYAH'S CONSPIRACY CLAIM IS VALID.	28

1	D.	NANYAH'S DAMAGES ARE UNDISPUTED AND ADMITTED.	30
2	IV.	NANYAH'S COUNTERMOTION FOR SUMMARY JUDGMENT MUST	
3		BE GRANTED.	34
4	A.	NANYAH INVESTED \$1.5 MILLION INTO ELDORADO.	34
5	B.	AS SUCCESSORS IN INTEREST, THE ELIADES DEFENDANTS	
6		ARE LIABLE FOR ALL OF THE CONTRACTUAL OBLIGATIONS	
7		OWED TO NANYAH INCLUDING REPAYMENT OF NANYAH'S	
8		\$1.5 MILLION INVESTMENT OR THE OBLIGATION TO	
9		TRANSFER A MEMBERSHIP INTEREST TO NANYAH	
10		REFLECTING ITS \$1.5 MILLION INVESTMENT.	37
11	C.	AS DIRECT CONTRACTING PARTIES, THE ELIADES	
12		DEFENDANTS ARE LIABLE FOR ALL OF THE CONTRACTUAL	
13		OBLIGATIONS WED TO NANYAH INCLUDING REPAYMENT OF	
14		NANYAH'S \$1.5 MILLION INVESTMENT OR THE OBLIGATION	
15		TO TRANSFER A MEMBERSHIP INTEREST.	39
16	V.	CONCLUSION.	39

1 **I. BASIS OF NANYAH'S CLAIMS.**

2 Nanyah invested \$1.5 million in Eldorado. All the defendants agreed Nanyah
3 was entitled to repayment of its \$1.5 million investment or that Nanyah would be issued
4 a membership interest reflecting its investment. The defendants all acknowledged and
5 admit in testimony, in Court documents and in all the various contracts the existence
6 of Nanyah's \$1.5 million investment into Eldorado and that Nanyah was owed the
7 repayment of the \$1.5 million or the issuance of a membership certificate.
8

9 Contrary to the Eliades Defendants' hyperbole, they are not named in this action
10 because they are allegedly deep pocket defendants. See Mot., p. 3:16. Instead they
11 are liable in this action due to both their contractual obligations and their participation in
12 conduct that was perpetrated to deprive Nanyah of its investment. The Eliades
13 Defendants motion makes the following arguments. First, that they have no contractual
14 obligations to Nanyah as an alleged third-party beneficiary of the various contracts.
15 Second, that there is no special relationship supporting the tort claim of breach of the
16 implied covenant of good faith and fair dealing. Third, that the civil conspiracy claim is
17 barred by the intra-corporate conspiracy doctrine. And finally, that Nanyah cannot
18 prove its damages. Each of these arguments are baseless and the motion must be
19 denied.
20
21

22 **II. UNDISPUTED FACTS MANDATING SUMMARY JUDGMENT IN NANYAH'S**
23 **FAVOR AND DENIAL OF THE ELIADES DEFENDANTS' MOTION.**

24 Subsequent to the Court's denial of Nanyah's prior motion for summary
25 judgment, the following depositions have occurred: Rogich, Rogich's chief financial
26 officer Melissa Olivas ("Olivas"), Peter Eliades and Dolores Eliades. Dolores Eliades
27 was the managing member of TELD during the relevant periods of time discussed
28

1 herein.

2 The foregoing depositions, in conjunction with Eldorado's business records,
3 conclusively demonstrate that Nanyah invested \$1.5 million into Eldorado; that Rogich
4 "confirmed" and represented that Nanyah was owed \$1.5 million for investing in
5 Eldorado; that Rogich would pay Eldorado \$1.5 million obligation owed to Nanyah or
6 would receive the transfer of a membership interest in Eldorado from Rogich equivalent
7 to the value of such investment.
8

9 When the evidence is undisputed, a trial on the issue is unwarranted and a party
10 is entitled to summary judgment as a matter of right. Nw. Motorcycle Ass'n v. U.S.
11 Dep't of Agric., 18 F.3d 1468, 1471 (9th Cir. 1994) ("The purpose of summary judgment
12 is to avoid unnecessary trials when there is no dispute as to the facts before the
13 court."). In the present case, there are no facts in dispute that prevent the entry of
14 summary judgment in Nanyah's favor.
15

16 **A. NANYAH INVESTED \$1.5 MILLION INTO ELDORADO.**

17 1. Carlos Huerta ("Huerta") was the Managing Member of Eldorado during
18 the time period 2005 through October 31, 2008. See **Exhibit 1**, Eldorado Hill's Motion
19 for Partial Summary Judgment, p. 2, ¶8 ("Huerta was a manager of Eldorado from 2005
20 through October 31, 2008."). **This admission is binding upon this Court as a**
21 **judicial admission.** See St. Paul Mercury Ins. Co. v. Frontier Pacific Ins. Co., 111
22 Cal.App.4th 1234, 1248, 4 Cal.Rptr.3d 416, 428-429 (Cal. Ct. App. 2003), ("In summary
23 judgment or summary adjudication proceedings, '[a]dmissions of material facts made in
24 an opposing party's pleadings are binding on that party as 'judicial admissions.' **They**
25 **are conclusive concessions of the truth of those matters, are effectively removed**
26
27
28

1 as issues from the litigation, and may not be contradicted by the party whose
2 pleadings are used against him or her.” (emphasis added)).²

3 2. Eldorado’s original Operating Agreement (“Eldorado Operating
4 Agreement”) vested Huerta, as principal of Go Global, Inc., with Managing Member
5 responsibilities for Eldorado. **Exhibit 2**, Eldorado Operating Agreement, ¶5.3(a) and
6 Exh. A.³

7 3. The Eldorado Operating Agreement expressly provided that Huerta “**may**
8 **bind the Company in all matters. . . .**” Exh. 2, Exh. A (emphasis added).
9

10 4. Eldorado’s Managing Member Huerta also testified that he was vested
11 with the authority of being the Managing Member for Eldorado during the years 2006
12 through 2008. **Exhibit 4**, Huerta Deposition excerpts, p. 7:20-8:2.⁴

13 5. Eldorado’s Managing Member Huerta also testified he was responsible for
14 soliciting investors for Eldorado. Exh. 4, p.7:2-7.
15

16 6. Rogich admits that Huerta had the authority to solicit investors into
17 Eldorado. **Exhibit 5**, Sig Rogich Deposition excerpts, p. 28:6-21.⁵
18

19
20 ² Reyburn Lawn & Landscape Designers, Inc. v. Plaster Development Co., Inc., 255
21 P.3d 268, 276-277 (Nev. 2011) (“Judicial admissions are defined as deliberate, clear,
22 unequivocal statements by a party about a concrete fact within that party’s
23 knowledge.”); 32 C.J.S. Evidence § 628 (May 2010) (“Admissions in a pleading have
24 the effect of withdrawing a fact from issue and eliminating the necessity of proof relating
25 to the fact so admitted”).

26 ³ See also Simons’ Aff. at ¶4. For clarification, as detailed herein there are three (3)
27 Eldorado operating agreements that are involved in this case: Eldorado’s original
28 Operating Agreement (Exhibit 2), the Amended and Restated Operating Agreement
(Exhibit 12) and the First Amendment to the Amended and Restated Operating
Agreement (Exhibit 18).

⁴ See also Simons’ Aff. at ¶5.

⁵ See also Simons’ Aff. at ¶6.

1 7. As Managing Member of Eldorado, Huerta had the authority to bind
2 Eldorado to repay Nanyah's investment. **Exhibit 6**, Melissa Olivas Deposition excerpts,
3 p. 105:11-13.⁶
4

5 8. Rogich has admitted and agreed that Huerta's responsibilities as
6 Managing Member of Eldorado was to "take care of everything" including the authority
7 to set up bank accounts, deposit and withdraw funds from the bank accounts and all
8 aspects of the accounting and investors for Eldorado. Exh. 5, Sig Rogich deposition
9 excerpts, p. 25:13-21; p. 43:9-24; p.79:3-6
10

11 9. Rogich also admits that Huerta had the responsibility to handle all the
12 financing for Eldorado. *Id.*, p. 75:15-18.

13 10. Eldorado's Managing Member Huerta admits that Nanyah invested \$1.5
14 million into Eldorado. See **Exhibit 7**, Declaration of Carlos Huerta, ¶8.

15 11. Nanyah's \$1.5 million investment was deposited into Eldorado's bank
16 account. **Exhibit 8**, Eldorado Bank Statement; see also Exh. 5, ¶9.⁷
17

18 12. Eldorado's internal business records confirm that Nanyah invested \$1.5
19 million into Eldorado. **Exhibit 9**, Eldorado Capital Account Detail; see also Exh. 3, ¶5.⁸

20 13. Eldorado's Managing Member Huerta testified regarding Nanyah's
21 investment of \$1.5 million into Eldorado as follows:
22

23 **a million and a half was sent from Mr. Harlap on behalf of his entity,**
24 **Nanyah Vegas, LLC, and Eldorado Hills, LLC, received that**

25 ⁶ See also Simons' Aff. at ¶7.

26 ⁷ See also Simons' Aff. at ¶8.

27 ⁸ See also Simons' Aff. at ¶9.

1 **\$1,500,000.**

2 Exh. 4, Huerta Deposition excerpts, p. 64:11-13 (emphasis added).

3 14. Eldorado's Managing Member Huerta testified Eldorado treated Nanyah's
4 \$1.5 million investment as a "capital contribution" into Eldorado as follows: **"It was a**
5 **capital contribution to Eldorado Hills, LLC."** Id. p. 51:25-52:1 (emphasis added).
6

7 15. Eldorado's Managing Member Huerta also testified that during the Buyout
8 he specifically discussed Nanyah's \$1.5 million investment with Rogich and Rogich
9 affirmed, promised and represented that he was going to repay Nanyah's investment
10 after buying Go Global's interest as follows:
11

12 Q. What was said about Nanyah Vegas specifically?

13 A. That he [Rogich] would pay them the amount that they invested.

14 Q. He [Rogich] said that about Nanyah?

15 A. Yes.

16 Q. Did he know about Nanyah before October 2008?

17 A. Yes.
18

19 Exh. 4, p. 33:1-10.

20 16. Eldorado's Managing Member Huerta also testified that he and Rogich
21 specifically discussed including Nanyah's \$1.5 million investment in the Purchase
22 Agreement and the Membership Interest Purchase Agreements to confirm Nanyah's
23 membership interest and to confirm Eldorado's obligation to Nanyah as an investor as
24 follows:
25

26 Q. ... I talked to Mr. Rogich specifically about all the investors.
27 They're not only mentioned in Exhibit 1 [to the Purchase
28 Agreement], they're also mentioned in the documents with TELD
 and Flangas and Eliades.

1 Id., p. 37:21-25.

2 17. Eldorado's Managing Member Huerta testified repeatedly that Nanyah
3 was included in the Purchase Agreement and the Membership Interest Purchase
4 Agreements with Rogich because Nanyah "was an integral party" as follows:
5

6 We discussed this agreement several times, reviewed different drafts,
7 discussed it. **Nanyah Vegas was an integral part of this agreement. I**
8 **wanted to make sure that all the investors showed up on the**
9 **agreement.**

10 Id., p.48:2-6 (emphasis added).

11 **B. ROGICH AND THE ROGICH TRUST ADMIT AND CONFIRM NANYAH'S**
12 **\$1.5 MILLION INVESTMENT INTO ELDORADO.**

13 **1. THE OCTOBER 30, 2008, PURCHASE AGREEMENT.**

14 18. On October 30, 2008, Go Global, Inc. ("Go Global") and the Rogich Trust
15 entered into a Purchase Agreement whereby the Rogich Trust agreed to acquire Go
16 Global's membership interest in Eldorado (the "Purchase Agreement). **Exhibit 10,**
17 **Purchase Agreement.**⁹

18 19. The Purchase Agreement's terms state that Go Global's interest in
19 Eldorado, which the Rogich Trust was acquiring, was subject to dilution based upon the
20 additional investment made by Nanyah into Eldorado. Exh. 10, Recitals, A.

21 20. The Rogich Trust agreed to be fully responsible as the new Managing
22 Member in Eldorado for repayment of Nanyah's \$1.5 million investment in Eldorado
23 and/or agreed it would issue membership interest to Nanyah out of the Rogich Trust's
24 interest. Id.

25 21. Rogich Trust agreed that if Nanyah's investment was converted into a
26

27
28 ⁹ See also Simons' Aff. at ¶10.

1 membership interest, as a member Nanyah would not be subject to any capital calls.

2 Id.

3 22. Rogich Trust also agreed that if Nanyah's investment was converted into a
4 membership interest in Eldorado, Nanyah's interest would be deducted from and paid
5 from the Rogich Trust's membership interest in Eldorado. Id.

6
7 23. Eldorado's Managing Member Huerta specifically represented and
8 warranted to Rogich and the Rogich Trust that Nanyah had invested \$1.5 million in
9 Eldorado, and Nanyah's investment was specifically identified in the Purchase
10 Agreement at Exhibit A. Id., ¶4.

11
12 **2. THE OCTOBER 30, 2008, MEMBERSHIP INTEREST PURCHASE AGREEMENTS.**

13 24. Concurrent with the purchase of Go Global's interest in Eldorado, the
14 Rogich Trust also entered into two (2) Membership Interest Purchase Agreements, one
15 with Teld and the other with the Albert Flangas Revocable Living Trust u/a/d July 22,
16 2005 ("Flangas Trust"). **Exhibit 11**,¹⁰ excerpts of the Teld Membership Interest
17 Purchase Agreement, pp. 1, 2, 4, 12, 19 and Exhibit D.

18
19 25. The Teld Membership Interest Purchase Agreement was executed by
20 Rogich individually and as Trustee of the Rogich Trust, Teld and Peter Eliades
21 individually. Exh. 11, p. 19.

22
23 26. In the Teld Membership Interest Purchase Agreement, Rogich and the
24 Rogich Trust admit and confirm that Nanyah invested \$1.5 million into Nanyah at
25 Exhibit D which clearly and unequivocally states the following:

26
27
28 ¹⁰ See also Simons' Aff. at ¶11.

1 **Seller [Rogich and the Rogich Trust] confirms that certain amounts**
2 **have been advanced to or on behalf of the Company [Eldorado] by**
3 **certain third-parties [including Nanyah], as referenced in Section 8 of**
4 **the Agreement.**

5 ...
6 **3. Nanyah Vegas, LLC ... \$1,500,000**

7 Exh. 11, at Exh. D.

8 27. Rogich testified that he represented and affirmed that in Exhibit D of the
9 Teld Membership Interest Agreement that Nanyah had invested \$1.5 million into
10 Eldorado. Exh. 5, p. 142:3-10 (emphasis added).

11 28. In addition to the clear and unequivocal language that "confirms"
12 Nanyah's investment of \$1.5 million into Eldorado contained in Exhibit D, Section 8(c)
13 of the Teld Membership Interest Purchase Agreement also clearly identify Nanyah's
14 \$1.5 million investment and state the following:

15 Seller [Rogich and the Rogich Trust] shall defend, indemnify and
16 Hold Buyer harmless from any and all the claims of ... Nanyah ... **each**
17 **of whom invested or otherwise advanced ... funds**

18 **(i) It is the current intention of Seller [Rogich and the**
19 **Rogich Trust] that such amounts be confirmed or**
20 **converted to debt**

21 Exh. 11, p. 12, Section 8(c) (emphasis added).

22 29. Rogich again testified that he represented and affirmed that Nanyah had
23 invested \$1.5 million into Eldorado under Section 8(c) when he executed the Teld
24 Membership Interest Purchase Agreement. Exh. 5, p. 143:12-144:1.

25 **3. THE OCTOBER 30, 2008, ELDORADO AMENDED AND**
26 **RESTATED OPERATING AGREEMENT EXPRESSLY**
27 **CONFIRMS NANYAH'S \$1.5 MILLION INVESTMENT INTO**
28 **ELDORADO.**

29 30. Concurrently with the Rogich Trust's purchase of Huerta/Go Global's

1 interest in Eldorado, and its resale of a portion of that interest to Teld, all these parties
2 entered into an Amended and Restated Operating Agreement of Eldorado Hills, LLC
3 ("Amended Operating Agreement"). **Exhibit 12**, Amended Operating Agreement.¹¹
4

5 31. The Eldorado Amended Operating Agreement specifically incorporated
6 Exhibit D from the Membership Interest Purchase Agreements signed by Teld. Exh. 12,
7 p. 1, Recital A.

8 32. As a matter of law, Eldorado, Rogich, the Rogich Trust, Peter Eliades,
9 Teld and the Eliades Trust are conclusively bound by Eldorado's Amended Operating
10 Agreement's confirmation of Nanyah's \$1.5 million investment and that Nanyah was
11 deprived of a membership interest in Eldorado. See NRS 47.240(2).
12

13 33. Because Nanyah's \$1.5 million investment into Eldorado is recited in the
14 Purchase Agreement, the Teld Membership Interest Purchase Agreement and in
15 Eldorado's Amended Operating Agreement, Nanyah is entitled to a membership
16 interest and/or full repayment of its investment, as this fact is conclusively established
17 and must be treated as true and uncontestable by this Court. Harpaz v. Laidlaw
18 Transit, Inc., 942 A.2d 396, 412 (2008) ("the conclusive presumption . . . attaches and
19 the employer is barred from contesting . . ."); Kusior v. Silver, 54 Cal. 2d 603, 619,
20 354 P.2d 657, 668 (1960) ("A conclusive presumption is in actuality a substantive rule
21 of law.").

22
23 **4. ROGICH TRUST'S JANUARY 1, 2012, ASSIGNMENT OF**
24 **INTEREST IN ELDORADO.**

25 34. Rather than honor their contractual and fiduciary obligations to Nanyah to
26

27
28 ¹¹ See also Simons' Aff. at ¶12.

1 repay Nanyah its \$1.5 million investment or document its membership interest in
2 Eldorado, the defendants secretly conspired for Rogich and the Rogich Trust to transfer
3 its interest in Eldorado to the Eliades Trust allegedly in late 2012, pursuant to a
4 Membership Interest Assignment Agreement ("Secret Membership Assignment").¹²

5 **Exhibit 14**, Secret Membership Assignment.¹³

6
7 35. Based upon the terms of the original Purchase Agreement, Rogich and
8 the Rogich Trust agreed that any assignees of its purchase of Huerta/Go Global's
9 membership interest (which membership interest was subject dilution for Nanyah's
10 interest) would remain subject to and be bound by the terms of the Purchase
11 Agreement as follows:

12
13 Binding Effect. This Agreement shall be binding on. . . successors and
14 permitted assigns of the parties hereto.

15 Exh. 10, ¶7(j).

16 36. In addition, the Teld Membership Purchase Agreement, also states that
17 the terms of the agreement are binding on all successors as follows:

18 Binding Effect. This Agreement shall be binding on. . . successors and
19 permitted assigns of the parties hereto.

20 Exh. 11, ¶9(j).

21 ///

22 ///

23 ///

24
25 ¹² Concurrent documents demonstrate that this alleged transfer occurred in August,
26 2012 and that the Secret Membership Assignment was backdated to January 1, 2012.
27 See e.g., **Exhibit 13**. See also Simons' Aff. at ¶13.

28 ¹³ See also Simons' Aff. at ¶14.

1 **C. IT IS UNDISPUTED THAT THE DEFENDANTS NEVER INFORMED**
2 **NANYAH OF THEIR SECRET PLAN TO NOT REPAY NANYAH ITS \$1.5**
3 **MILLION INVESTMENT.**

4 37. This Court must accept as a stipulated fact that the defendants never
5 informed Nanyah of the Secret Membership Assignment or the defendants' secret
6 transfer of the Rogich Trust's membership interest in Eldorado to the Eliades Trust.
7 This is because Nanyah's Complaint in the consolidated action A-16-746239-C asserts
8 the following facts:

9 82. Rogich Trust, Sigmund Rogich, Teld, Peter Eliades and the Eliades
10 Trust never informed Nanyah of the Eliades Trust Acquisition
11 and/or the Eldorado Resolution.

12 Nanyah's Complaint, ¶82. Defendants admit that they never informed Nanyah of the
13 Secret Membership Agreement or that the Rogich Trust allegedly transferred its interest
14 in Eldorado to Teld. Defendants' First Amended Answer, ¶82. Defendants are
15 conclusively barred from attempting to alter, contest or change this stipulated fact.¹⁴

16 38. Up until December 2012, Nanyah had always been informed by Eldorado
17 that its investment would be documented by a membership interest or repaid. **Exhibit**
18 **15**, Harlap Deposition, p.18:10-16.¹⁵

19 39. It was not until sometime in December 2012, that Nanyah was advised
20 that Rogich and the Rogich Trust had secretly agreed to transfer its interest in Eldorado
21 to the Eliades Trust without issuing Nanyah any interest in Eldorado and without
22 repaying Nanyah its \$1.5 million. See **Exhibit 16**, Declaration of Yoav Harlap, ¶2.
23
24

25
26 ¹⁴ See e.g., Nevada Pattern Jury Instruction 2.06 ("If counsel for the parties have
27 stipulated to any fact, you will regard that fact as being conclusively proved.").

28 ¹⁵ See also Simons' Aff. at ¶15.

1 Based upon the receipt of this information, Nanyah believed such action was a
2 repudiation of the defendants' obligations to it to repay its \$1.5 million investment
3 and/or to transfer to it a membership interest in Eldorado. Id., ¶13.

4
5 **D. PETER ELIADES DEPOSITION.**

6 40. Peter Eliades testified that he knew and understood that pursuant to the
7 terms of the Original Purchase Agreement and the Membership Interest Purchase
8 Agreement between Peter Eliades, Teld, LLC, and the Rogich Family Irrevocable Trust,
9 that the membership interest Rogich was acquiring from Go Global **was subject to the**
10 **contractual duties owed by Eldorado and Rogich to Nanyah to repay the \$1.5**
11 **million investment and/or to issue a corresponding membership interest to**
12 **Nanyah.** Specifically, Peter Eliades testified that he was aware of the contractual
13 obligation owed to Nanyah because "[t]hat's the way it was." **Exhibit 16**, Peter Eliades
14 Deposition excerpt, p. 21:20-22:5.¹⁶

15
16 41. Peter Eliades also testified that the Rogich Trust's original acquisition of
17 the Go Global membership interest—which Nanyah had a claim in—was binding on him
18 and Teld as follows:

19
20 Q. **Did you understand that when you acquired some of the Rogich**
21 **Trust interests that it held in Eldorado Hills, that it was still subject**
22 **to the terms and conditions of this original purchase agreement?**

23 A **Yes.**

24 Id., pp. 29:24-30:4 (emphasis added).

25 42. Peter Eliades also testified that under the terms of his agreements with
26 Rogich and the Rogich Trust, Rogich always admitted Rogich was liable to repay

27
28 ¹⁶ See also Simons' Aff. at ¶16.

1 Nanyah its \$1.5 million investment as follows:

2 Q Who was going to be responsible, under
3 your understanding of the deal, for the Nanyah
4 Vegas, LLC, claim?

5 A **Well, [Rogich] represented to me that it was**
6 **always Mr. Rogich that would be responsible for --**
7 **for that.**

8 Id., pp., 40:22-41:2 (emphasis added).

9 43. Peter Eliades testified that under the terms of his agreements with Rogich
10 and the Rogich Trust, that Rogich would comply with the terms of the agreements and
11 repay Nanyah its investment as follows:

12 Q Okay. So as I understand it, you
13 understood that Mr. Rogich would always comply
14 with the terms of the agreement and take care of
15 these individuals or investors?

16 A 100 percent.

17 Id., p., 42:10-14.

18 **E. DOLORES ELIADES DEPOSITION.**

19 44. Dolores Eliades, was the Managing Member of Teld during 2008.

20 **Exhibit 21**, Dolores Eliades Deposition excerpts, p. 17:19-22 ("You are identified as a
21 managing member. Is that what you understood your position was in Teld at the time?

22 A. Yes.").¹⁷

23 45. Dolores Eliades testified that Rogich and the Rogich trust promised and
24 represented to her and Teld, that Rogich would repay Nanyah its \$1.5 million
25 investment into Eldorado as follows:

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28 ¹⁷ See also Simons' Aff. at ¶20.

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Q. Was there ever a time where Sig Rogich said, "I'm not going to pay Nanyah Vegas, LLC the monies that are owed to it"?

MR. LIONEL: I'm going to object to that. No foundation. You are leading the witness. You are asking her to speculate.

BY MR. SIMONS:
Go ahead.

A. **He had always said he was going to pay.**

Exh. 21, pp. 30:22-31:5 (emphasis added).

46. Dolores Eliades, the Managing Member of Teld, testified that Rogich and the Rogich Trust were obligated to repay Nanyah's investment into Eldorado on behalf of Eldorado as follows:

Q. What did you understand was the agreement by the Rogich Trust with regards to the obligation called out here for Nanyah Vegas, LLC?

A. They were

MR. LIONEL: Objection. Objection. The writing speaks for itself.

BY MR. SIMONS:

Q. Okay.

A. That they were going to take care of the debt.

Q. Okay. What do you mean by "take care of the debt"?

A. **They were supposed to pay it.**

Q. **Okay. They would be Sig Rogich was supposed to pay this debt?**

MR. LIONEL: Objection. Leading the witness. You are testifying, Counsel.

THE WITNESS: **Sig Rogich or his entity.**

1 Id., pp. 24:14-25:7 (emphasis added).

2 **III. THE ELIADES DEFENDANTS' MOTION FOR SUMMARY JUDGMENT MUST**
3 **BE DENIED.**

4 **A. THE ELIADES DEFENDANTS OWE CONTRACTUAL**
5 **OBLIGATIONS TO NANYAH.**

6 The Eliades Defendants' motion for summary judgment argues that the Eliades
7 Defendants do not have any contractual obligations to Nanyah. Mot., pp. 10-11.
8 However, the contention is baseless in that the Eliades Defendants clearly ignore the
9 terms of the original Purchase Agreement, the Teld Membership Purchase Agreement
10 and Eldorado's Amended Operating Agreement, all contracts the Eliades Defendants
11 are parties to and all contracts that subject them to direct contractual claims by Nanyah
12 relating to Nanyah's \$1.5 million investment.
13

14 Initially, the Purchase Agreement states that the terms of the agreement are
15 binding on all of the Rogich Trust's successors and assignees. Exh. 10, ¶7(j) ("Binding
16 Effect. This Agreement shall be binding on. . . successors and permitted assigns of
17 the parties hereto."). Peter Eliades also admits that when he and Teld signed the Teld
18 Membership Interest Purchase Agreement acquiring the Rogich Trust's membership
19 interest in Eldorado, they took such membership interest subject to and liable for
20 repayment of Nanyah's \$1.5 million investment or transfer of a membership interest to it
21 as documented in the original Purchase Agreement as follows:
22

23 **Q. Did you understand that when you acquired some of the Rogich**
24 **Trust interests that it held in Eldorado Hills, that it was still subject**
25 **to the terms and conditions of this original purchase agreement?**

26 **A Yes.**

27 Id., pp. 29:24-30:4 (emphasis added). This admission is binding and dispositive of the
28

1 Eliades Defendants' arguments since this is a clear admission of liability.

2 Accordingly, as Peter Eliades admits, when Peter Eliades, Teld and the Eliades
3 Trust entered into the various contracts acquiring the Rogich Trust's membership
4 interest in Eldorado, under the terms of the Purchase Agreement and the Teld
5 Membership Purchase Agreement, these defendants took such membership interest
6 subject to and liable for the contractual obligation to repay Nanyah's its \$1.5 million
7 investment or transfer a corresponding membership interest to it.
8

9 The law is clear that Peter Eliades, Teld and the Eliades Trust, as successors to
10 the assignment of Go Global's membership interest via Rogich's acquisition, are each
11 in contractual privity with Nanyah as an express third-party beneficiary of those
12 contracts. See Mason v. Telefunken Semiconductors Am., LLC, 797 F.3d 33, 40 (1st
13 Cir. 2015) ("a successor in interest to a contract . . . is bound by the meaning assigned
14 to its terms by the original parties. . . ."); In re Parrott Broad. Ltd. P'ship, 492 B.R. 35, 42
15 (Bankr. D. Idaho 2013) ("An assignee who covenants with the lessee to perform all the
16 obligations in the original lease is liable to the lessee on privity of contract." (citation
17 omitted)); Chicago Title & Tr. Co. v. GTE Directories Corp., 1995 WL 584419, at *2
18 (N.D. Ill. 1995) ("When an assignee assumes the obligations of the original lease, privity
19 of contract is established. The assignee becomes liable under the lease itself").
20
21

22 In addition, Eldorado Hill's Amended Operating Agreement confirms and admits
23 Nanyah's \$1.5 million investment and that Nanyah was entitled to a membership
24 interest commensurate with its investment and/or Eldorado was obligated to repay the
25 \$1.5 million investment. First, the Eldorado Amended Operating Agreement specifically
26 incorporated Exhibit D from the Membership Interest Purchase Agreements signed by
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1 Rogich, the Robich Trust, Peter Eliades and Teld--which exhibit expressly confirms
2 Nanyah invested \$1.5 million into Eldorado --and was entitled to repayment of its
3 investment or the issuance of its membership interest as part and parcel of the
4 Eldorado Amended Operating Agreement. Exh. 12, p. 1, Recital A. Again, Exhibit D
5 from the Membership Interest Purchase Agreements contained all the parties' express
6 admissions and confirmations that Nanyah invested \$1.5 million into Eldorado and that
7 Nanyah would be issued a membership interest from Rogich and/or repaid its \$1.5
8 million investment.
9

10 Moreover, the Eldorado's Amended Operating Agreement specifically details that
11 the Rogich Trust's interest in Eldorado was subject to Nanyah's contractual claims for
12 repayment and/or a portion of the membership interest. Exh. 12, p. 1, Recital B.
13

14 Based upon the foregoing, there are clear contractual obligations owed by the
15 Eliades Defendants, and each of them, to Nanyah as successors in interest under the
16 Purchase Agreement, the Teld Membership Interest Purchase Agreement and/or under
17 Eldorad's Amended Operating Agreement's contractual terms and conditions.
18 Consequently, the motion must be denied as the Eliades Defendants' motion is without
19 merit as they do in fact owe contractual duties to Nanyah.
20

21 **B. THE ELIADES DEFENDANTS OWE FIDUCIARY**
22 **OBLIGATIONS, AND, THEREFORE, THERE IS A SPECIAL**
23 **RELATIONSHIP TO NANYAH.**

24 The Eliades Defendants' arguments on this issue merely regurgitate the prior
25 argument presented in the defendants' prior motion for summary judgment which the
26 Court previously denied. The Court previously denied the Eliades Defendants' motion
27 for summary judgment on this issue finding that the arguments had no merit. Based
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1 upon the Court's previous ruling, this Court must again deny the Eliades Defendants'
2 motion for summary judgment on the claim for tortious breach of the implied covenant
3 of good faith and fair dealing since no new evidence or law is presented.
4

5 In an abundance of caution, Nanyah will again rebut the Eliades Defendants'
6 contention and demonstrate again why summary judgment cannot be entered on this
7 claim. Initially, the existence and/or non-existence of a special relationship is a
8 question of fact and not appropriate for resolution on summary judgment. Mackintosh
9 v. California Federal Sav. & Loan Assoc., 113 Nev. 393, 935 P.2d 1154, 1159 (1997)
10 ("[T]he existence of the special relationship is a factual question . . ."). Accordingly,
11 because the issue of a special relationship is a question of fact, the Eliades
12 Defendants' motion must be denied.
13

14 There are extensive facts demonstrating the special relationship and/or fiduciary
15 relationship between the Eliades Defendants and Nanyah. The Eliades Defendants,
16 and each of them, were all signatories to the various agreements identified above. In
17 addition, the Eliades Defendants were all managers and/or members in Eldorado, and
18 agreed that Nanyah was entitled to repayment of its \$1.5 million investment and/or the
19 issuance of a membership interest from the Rogich Trust's interest. In this situation,
20 Nanyah reposed a special element of reliance on defendants to honor Nanyah's
21 Investment into Eldorado, and to advise it about all material aspects of its investment.
22 In such a situation, a special relationship is established. Abu Dhabi Commercial Bank
23 v. Morgan Stanley & Co. Inc., 910 F. Supp. 2d 543, 547 (S.D.N.Y. 2012) (relationship of
24 investor created special relationship to disclose information); Boyer v. Salomon Smith
25 Barney, 188 P.3d 233, 238 (Or. 2008) (duty to provide information to investor
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1 establishes the "special relationship"). At a minimum, the existence of a special
2 relationship is a question of fact not appropriate for resolution on summary judgment.
3 Mackintosh v. California Federal Sav. & Loan Assoc., 113 Nev. 393, 935 P.2d 1154,
4 1159 (1997) ("[T]he existence of the special relationship is a factual question . . .").

5
6 In addition, Rogich testified that all the defendants, and each of them, owed
7 fiduciary duties to Nanyah relating to its investment into Eldorado as follows:

8 Q Are you familiar with the -- what are
9 called fiduciary duties?

10 A Yes.

11 Q **What is your understanding of a
12 fiduciary duty?**

13 . . .
To handle the company with integrity.

14 Q Any duties with regard to communication?

15 A As needed.

16 Q Communicate with who?

17 A The owners, partners, investors.

18 Q So what's the responsibility or the duty
19 that you believe exists with regards to investors,
20 partners, or owners in a venture?

21 A **To communicate with them.**

22 . . .

23 Q **To advise the owners, partners, or
24 investors of financial activities relating to the
25 company?**

26 A Yes.

27 Q **Communicate with the owners, partners,
28 investors with regard to events that may impact**

1 **their ownership or investment?**

2 A **Yes.**

3 **Exh. 5**, Rogich Deposition excerpt, p. 175:1-176:3. Ignoring his clear fiduciary duty as
4 a manager and member of Eldorado, Rogich testified that he did not once communicate
5 with Nanyah regarding Nanyah's investment into Eldorado as follows:
6

7 Q All right. What steps did you take to
8 work with Nanyah Vegas, LLC, to resolve its
investment in Eldorado Hills?

9 A None.

10 Id., p. 125:10-13.

11 As established in the Undisputed Statement of Facts, all the defendants admit
12 they never once communicating with Nanyah regarding the repayment of Nanyah's \$1.5
13 million investment even though Nanyah was owed fiduciary duties. Further, Rogich
14 affirmed the Eliades Defendants' answer in that they never once communicated with
15 Nanyah regarding its investment even though Nanyah was owed fiduciary duties as an
16 investor in Eldorado. Exh. 5, Rogich Excerpts, p. 170:20-23 ("Q Okay. So when you
17 filed your answer in this case and you said you never communicated with Nanyah, that
18 was a true statement; right? A Yes.").

19 In breach of their fiduciary duties, the defendants intentionally and willfully
20 concealed critical facts from Nanyah for the purpose of avoiding the obligations to
21 Nanyah. That activity is a clear breach of defendants' fiduciary duties owed to Nanyah.
22 Powers v. United Servs. Auto. Ass'n, 114 Nev. 690, 701, 962 P.2d 596, 603 (1998)
23 ("concealing facts to gain an advantage" . . . is a breach of this kind of fiduciary
24 responsibility), opinion modified on denial of reh'g, 115 Nev. 38, 979 P.2d 1286 (1999)).
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1 Furthermore, in Nevada as with all other states, a limited liability company is a
2 creature of statute. Weddell v. H2O, Inc., 271 P.3d 743, 749 (Nev. 2012). NRS
3 86.286(7) provides that a limited liability operating agreement can agree to have the
4 members not be liable for breach of fiduciary duties owing to each other. Id. ("An
5 operating agreement may provide for the limitation or elimination of any and all liabilities
6 for breach of contract and breach of duties, if any, of a member, manager or other
7 person to a limited-liability company, to any of the members or managers, or to another
8 person that is a party to or is otherwise bound by the operating agreement.").

9
10 Nevada statutory and case law, however, has not yet expressly defined the
11 nature of the duties among members and managers. However, as demonstrated in
12 NRS 86.286(7) the law is not silent because the statute expressly allows members and
13 managers of a limited liability company to expressly negate liability for their breach of
14 fiduciary duties. In this regard, in 2009 the Nevada Legislature specifically amended
15 the limited liability company statute to allow members of a limited liability company to
16 disclaim fiduciary duties among themselves, so long as that disclaimer does not excuse
17 "a bad faith violation of the implied contractual covenant of good faith and fair dealing."
18 NRS 86.286(7) (enacted in 2009 by S.B. 350, 75th Leg. Sess., Ch. 361, § 35).

19
20 The language of the statute and its history demonstrates that the default state of
21 affairs **is that managers and members owe fiduciary duties to the other members**
22 **of the limited liability company.** See also Auriga Capital Corp. v. Gatz Props., 40
23 A.3d 839, 850–52 (Del. Ch. 2012) (using similar reasoning in holding that managers
24 owe fiduciary duties to members in a limited liability company).

25
26 Consistent with NRS 86.286's express recognition of fiduciary duties between
27
28

1 managers and members in limited liability companies, other states also recognize that
2 “[g]enerally speaking, members in member-managed LLCs and managers in manager-
3 managed LLCs have fiduciary obligations.” J. William Callison and Maureen A. Sullivan,
4 *Limited Liability Companies: A State-by-State Guide To Law And Practice* § 8:7 (2012).
5 See also Rev. Unif. Ltd. Liab. Co. Act § 409(a), (g) (2006), in 6B U.L.A. 488 (2008)
6 (providing that members and managers of an LLC owe fiduciary duties to the company
7 and to the other members); Sofia Design& Dev. at S. Brunswick, LLC v. D’Amore (In re
8 D’Amore), 472 B.R. 679, 689 (Bankr. D.N.J. 2012) (finding, under New Jersey law, that
9 “absent a contrary provision in an LLCs operating agreement, managing members of an
10 LLC owe the traditional fiduciary duties of loyalty and care to non-managing members
11 of that LLC.”); Salm v. Feldstein, 20 A.D.3d 469, 469–70, 799 N.Y.S.2d 104, 104 (N.Y.
12 App. Div. 2005) (finding a fiduciary duty to make full disclosures of outside offers for
13 assets under New York law).

14
15
16 Finally, in Delaware, a leading source of doctrine on the nature of intra-entity
17 relationships, managers and members of a limited liability company owe fiduciary duties
18 to other members unless such duties are explicitly and adequately disclaimed. As
19 explained by the Delaware Chancery Court:

20
21 It seems obvious that, under traditional principles of equity, a manager of
22 an LLC would qualify as a fiduciary of that LLC and its members. . . . Equity
23 distinguishes fiduciary relationships from straightforward commercial
24 arrangements where there is no expectation that one party will act in the
25 interests of the other.

26 The manager of an LLC—which is in plain words a limited liability
27 “company” having many of the features of a corporation—easily fits the
28 definition of a fiduciary. The manager of an LLC has more than an
arms-length, contractual relationship with the members of the LLC. Rather,
the manager is vested with discretionary power to manage the business of the
LLC.

1
2 Thus, because the LLC Act provides for principles of equity to apply,
3 because LLC managers are clearly fiduciaries, and because fiduciaries owe the
4 fiduciary duties of loyalty and care, the LLC Act starts with the default that
5 managers of LLCs owe enforceable fiduciary duties.

6 Auriga Capital, 40 A.3d at 850–51 (citations omitted).¹⁸

7 In light of the foregoing, and the Nevada Legislature’s decision in 2009 to
8 expressly allow for exclusion of liability for breach of fiduciary duties, it is clear that
9 Nevada law does allow and does impose fiduciary duties between members in limited
10 liability companies. Stated another way, it would be pointless to have the ability to
11 exclude fiduciary duties if no such duties existed in a limited liability company. This
12 Court must assume the Nevada Legislature did not enact a meaningless statute.
13 General Motors v. Jackson, 111 Nev. 1026, 1029, 900 P.2d 345, 348 (1995) (statutory
14 interpretation should avoid absurd or unreasonable results); Cragun v. Nevada
15 Pub. Emp. Ret. Bd., 92 Nev. 202, 205, 547 P.2d 1356, 1358 (1976) (“The meaning of
16 words used in a statute may be sought by examining the context and by considering the
17 reason or spirit of the law or the causes which induced the legislature to enact it.”).
18 Accordingly, this Court must find that the Eliades Defendants did in fact owe fiduciary
19 duties to Nanyah as an investor in Eldorado.
20

21 Under the original Eldorado Operating Agreement Rogich was called out as a
22 member of Eldorado and the Rogich Trust was a manager. See Exh. 2, Exh. A. Under
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24
25 ¹⁸ The Nevada Supreme Court often looks to Delaware law on corporate law matters
26 when there is no case law on point. See Am. Ethanol, Inc. v. Cordillera Fund, L.P., 252
27 P.3d 663, 667 (Nev. 2011) (looking to Delaware corporate law on the scope of “fair
28 value” in corporate buyouts); Shoen v. SAC Holding Corp., 122 Nev. 621, 633–34, 137
P.3d 1171, 1179-80 (2006) (applying Delaware law’s particularity requirements for
pleading demand futility).

1 the Amended Operating Agreement, the subsequent members were the Rogich Trust,
2 Teld and the Flangas Trust. Exh. 12, p.1. In addition, the Rogich Trust and Teld were
3 both managers. Id., p. 13. Thereafter, on June 25, 2009, under the First Amendment
4 to the Amended Operating Agreement, Rogich Trust and Teld continued to be the
5 members and managers. **Exhibit 18**, First Amended Operating Agreement, p.1, ¶1.¹⁹
6 Subsequently, the Eliades Trust became a member in Eldorado. See Peter Eliades
7 Enterprise General Journal Transaction dated August 21, 2012, **Exhibit 19**.²⁰
8 Accordingly, at all relevant times, the Eliades Defendants have been co-members
9 and/or managers of Eldorado, with each having fiduciary duties to Nanyah. Thus, as a
10 matter of law, the defendants owed fiduciary duties to Nanyah. Given the admitted
11 existence of a special and fiduciary relationship by and between the Eliades
12 Defendants and Nanyah, the motion to dismiss must be denied.

13
14
15 **C. NANYAH'S CONSPIRACY CLAIM IS VALID.**

16 The Eliades Defendants separately argue that the intra-corporate conspiracy
17 doctrine immunized the Eliades Defendants from Nanyah's conspiracy claim. The intra-
18 corporate conspiracy doctrine is not applicable to this case. This is because there is no
19 claim of conspiracy asserted against Eldorado. The intra corporate conspiracy doctrine
20 only applies to claims asserted by and between the corporation and others. When the
21 corporation is not implicated in the conspiracy claim, there is no intra corporate
22 conspiracy doctrine application. In re Derivium Capital, LLC, 380 B.R. 407, 418 (Bankr.
23 D.S.C. 2006) ("Under this doctrine, agents of a corporation cannot be liable for
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26
27 ¹⁹ See also Simons' Aff., at ¶17.

28 ²⁰ See also Simons' Aff., at ¶18.

1 conspiring with the corporation because a corporation cannot conspire with itself.”).
2 Because there is no claim of conspiracy asserted against Eldorado, the intra-corporate
3 conspiracy doctrine has no application.
4

5 Further, the claim of conspiracy is asserted against Rogich, the Rogich Trust,
6 Teld, Peter Eliades and the Eliades Trust are as independent actors relating to their
7 investment. The conspiracy arises relating to the transactions whereby these
8 defendants obtained membership interests in Eldorado subject to repayment
9 obligations owed to Nanyah. The intra corporate conspiracy doctrine only applies to
10 employees or agents of the corporation acting within the course and scope of their
11 employment. Welsh v. City & Cty. of San Francisco, 1995 WL 415127, at *2 (N.D. Cal.
12 1995) (“The ‘intra-corporate conspiracy doctrine’ holds that a corporation cannot
13 “conspire with its own agents acting within the scope of their employment.”); Hull v.
14 Cuyahoga Valley Joint Vocational Sch. Dist. Bd. of Educ., 926 F.2d 505, 509 (6th
15 Cir.1991) (“The intra-corporate conspiracy doctrine provides that employees of a
16 corporation or governmental entity cannot conspire among themselves because they
17 are treated as one entity.”). The Eliades Defendants were never acting as “employees”
18 of Eldorado and their actions were unrelated to any of Eldorado’s business operations
19 so cannot fall within the scope of the doctrine and it has no application to the facts of
20 this case.
21
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23 Further, the complained of conspiratorial conduct relates to these defendants
24 pursuing their own individual advantages seeking to interfere with the return of
25 Nanyah’s investment in Eldorado. In re Derivium Capital, LLC, 380 B.R. 407, 418
26 (Bankr. D.S.C. 2006), the Court addressed an almost identical argument as made by
27
28

1 the Eliades Defendants and rejected it. In rejecting the argument, the Court stated that
2 the plaintiffs' claims against other members of a company for wrongfully conspiring to
3 take assets and deprive the plaintiff of its investment in the company was valid and not
4 subject to dismissal based upon the intra corporate conspiracy doctrine as follows:
5 "Plaintiff has pled the elements necessary for civil conspiracy by alleging a conspiracy
6 between Movants to injure Debtor, thus the action should not be dismissed at this
7 juncture." *See also Greenville Publishing Co., Inc. v. Daily Reflector, Inc.*, 496 F.2d
8 391, 399 (4th Cir.1974) (finding agents of a corporation may be liable for conspiracy if
9 they have an independent personal stake in the outcome). Because the Eliades
10 Defendants were acting to promote their own personal interests and to avoid repayment
11 of Nanyah's \$1.5 million investment and/or the issuance of a membership interest, the
12 civil conspiracy claim is valid and is not subject to the doctrine of intra-corporate
13 conspiracy immunity.
14

15
16 **D. NANYAH'S DAMAGES ARE UNDISPUTED AND ADMITTED.**

17 In a clear demonstration of bad-faith litigation tactics, the Eliades Defendants'
18 motion baselessly asserts that summary judgment should be entered in their favor
19 because Nanyah cannot prove its damages. Mot., p. 13. Not only is the fact of
20 Nanyah's \$1.5 million investment undisputed--it cannot be contested by the Eliades
21 Defendants pursuant to NRS 47.240(2). Specifically, NRS 47.240(2) establishes a
22 conclusive presumption of the truth of this fact because Nanyah's \$1.5 million
23 investment into Eldorado is repeatedly affirmed in the recitals to multiple contracts
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1 entered into by defendants.²¹ See Purchase Agreement, Recital A, Eldorado
2 Amended and Restated Operating Agreement, Recitals A & B. Accordingly, the Eliades
3 Defendants are barred from contesting Nanyah's \$1.5 million investment into Eldorado
4 and the Court must establish such investment as a matter of undisputed fact in these
5 proceedings.
6

7 Further, to the extent the Eliades Defendants contend that Nanyah allegedly did
8 not comply with NRCP 16.1(a)(1)(c)'s obligation to disclose its claimed damages this
9 contention demonstrates the propriety of awarding sanctions in favor of Nanyah in
10 having to respond to this baseless argument. The following is a list of disclosures,
11 Court Orders, briefs and undisputed testimony elicited by the Eliades Defendants
12 during this action establishing Nanyah's \$1.5 million investment as its damages in this
13 case.
14

15 A. January 4, 2014. Nanyah's NRCP 16.1 Disclosure. Clearly and
16 unmistakably identified Nanyah's damages were the \$1.5 million it invested into
17 Eldorado. See **Exhibit 20**, p. 4:11-12 (Nanyah's damages are "in an amount of
at least \$1.5 million dollars, exclusive of interest, attorneys' fees and costs.").²²

18 B. July 25, 2014, Eldorado Hill's Motion for Summary Judgment.
19 Clearly and articulately describing Nanyah's damages as follows: "Nanyah
20 alleges it invested \$1,500,000 in Eldorado in 2006 and 2007". Exh. 1, excerpt of
Eldorado Hill's Mot. for Sum. Jud., p.2 at ¶1.

21 C. April 30, 2014, Carlos Huerta deposition. Mr. Huerta testified
22 extensively as to Nanyah's \$1.5 million investment and Eldorado Hill's obligation

23 ²¹ NRS 47.240(2) states that "the following presumptions . . . are conclusive: 2. The truth
24 of the fact recited, from the recital in a written instrument between the parties thereto, or
25 their successors in interest"

26 ²² This computation of damages requirement applies only to special damages, not
27 general or other intangible damages. See NRCP 16.1(a)(1)(C) drafter's note.
28 Accordingly, Nanyah's identification of its general damages in its initial Disclosure fully
complied with NRCP 16.1's requirements. See also Simons' Aff., at ¶19.

1 to repay that investment and/or to issue a membership interest. Exh. 4, SOF
2 ¶¶5, 13-18.

3 D. February 12, 2016, Nevada Supreme Court's Order of Reversal
4 and Remand detailing Nanyah's \$1.5 million investment upon which Nanyah
5 asserted its claims and held as follows:

6 Appellant's claim for unjust enrichment did not accrue until Eldorado Hills
7 retained \$1.5 million under circumstances where it was inequitable for
8 Eldorado Hills to do so. . . . As Eldorado Hills failed to demonstrate that no
9 genuine issues of material fact remain regarding whether the limitations
10 period on appellant's unjust enrichment claim commenced when Eldorado
11 Hills received the \$1.5 million or at a later date when Eldorado Hills
12 allegedly failed to issue a membership interest to appellant or repay the
13 money as a loan

14 See **Exhibit 22**, Order of Reversal and Remand dated February 12, 2016.²³

15 E. October 11, 2017, Deposition of Yoav Harlap. Mr. Harlap testified
16 extensively as to his \$1.5 million invested into Eldorado as the source of his
17 damage claim. Exh. 15. p. 26, 123, 175 (referencing the basis of his \$1.5
18 million claim). *Of critical note, at the time Mr. Harlap was deposed, Mr. Lionel*
19 *represented the Eliades Defendants and therefore, the Eliades Defendants*
20 *elicited all the facts and evidence supporting Nanyah's \$1.5 million investment*
21 *during this deposition conducted by their attorney.*

22 F. February 23, 2018, Motion for Summary Judgment filed by Rogich,
23 the Rogich Trust and Imitations, p. 5 (referencing Nanyah's \$1.5 million
24 investment; p. 7 (referencing Nanyah's \$1.5 million investment).

25 G. March 5, 2018, Joinder in Motion for Summary Judgment, filed by
26 Eliades, Eliades Trust, Eldorado and Teld, p. 3:21-23 ("Nanyah . . . invested
27 [\$1.5 million] . . . and also alleged that it was entitled to reimbursement of those
28 funds."); p. 3 (extensive reference to Nevada Supreme Court's decision detailing
Nanyah's \$1.5 million investment); p. 4:1-2 (Nanyah's Amended Complaint
"clarified that Nanyah's contribution to Eldorado was \$1,500,000.00."); pp. 3-9
(seven (7) pages of joinder discussing various aspects of Nanyah's \$1.5 million
investment, the Nevada Supreme Court's analysis of the obligation to
convert the \$1.5 million into equity or repay it as a loan).

H. March 19, 2018, Nanyah's Countermotion for Summary Judgment.
Detailing the extensive undisputed evidence establishing Nanyah's \$1.5 million
investment and demanding summary judgment in Nanyah's favor in the amount
of \$1.5 million for its investment. See pp. 6-47. The Eliades Defendants filed a

²³ See also Simons' Aff., at ¶21.

1 reply to the counter motion and engaged in discussing Nanyah's \$1.5 million
2 investment.

3 I. April 9, 2018, Nanyah's Supplement to Second Amended Answers
4 to Defendants' First Set of Interrogatories. Nanyah reiterates in excruciating
5 detail the basis of its claims supporting its recovery of the \$1.5 million invested
6 by Nanyah into Eldorado. **Exhibit 23**, Excerpt of Int. 1 only.

7 The foregoing demonstrates beyond any doubt that Nanyah has properly disclosed the
8 extents of its damages and any contention that Nanyah's damages have not been
9 established in this litigation is nonsense.

10 In addition, the Eliades Defendants confuse discovery disclosures with
11 evidentiary standards at trial. The Eliades Defendants seek summary judgment relating
12 to a perceived discovery infraction. However, summary judgment is not available as a
13 remedy because the Eliades Defendants never asserted any failure by Nanyah to
14 disclose its damages in this litigation. For instance, the Eliades Defendants would have
15 had to comply with EDCR 2.34 regarding the meet and confer obligation before seeking
16 discovery sanctions and/or before filing any discovery motion. However, clearly the
17 Eliades Defendants never conducted any meet and confer and never asserted that they
18 were unable to comprehend Nanyah's damage claim when conducting discovery in this
19 case and when filing briefs before this Court acknowledging and admitting Nanyah's
20 \$1.5 million investment. Accordingly, the motion must be denied as Nanyah's damages
21 are undisputed in this action and have been briefed and litigated extensively.²⁴
22
23

24
25 ²⁴ Notwithstanding this opposition, Nanyah continues to reserve its right to seek the
26 remedy of specific performance and will elect the remedy it desires the jury to award at
27 the appropriate time. The specific performance remedy includes the issuance of a
28 membership interest in Eldorado commensurate with the value of its \$1.5 investment as
of December, 2007, when Eldorado received and retained the benefit of, which value
will be established at trial.

1 **IV. NANYAH'S COUNTERMOTION FOR SUMMARY JUDGMENT MUST BE**
2 **GRANTED.**

3 Nanyah moves for summary judgment requesting that this Court enter judgment
4 in its favor that:

- 5 (1). Nanyah invested \$1.5 million into Eldorado;
6
7 (2). As successors in interest, the Eliades Defendants are liable for all of the
8 contractual obligations owed to Nanyah including repayment of Nanyah's
9 \$1.5 million investment or the obligation to transfer a membership interest
10 to Nanyah reflecting its \$1.5 million investment;
11
12 (3). As direct contracting parties, the Eliades Defendants are liable for all of
13 the contractual obligations owed to Nanyah including repayment of
14 Nanyah's \$1.5 million investment or the obligation to transfer a
15 membership interest to Nanyah reflecting its \$1.5 million investment.

16 Each of these issues and the grounds for summary judgment are detailed below.

17 **A. NANYAH INVESTED \$1.5 MILLION INTO ELDORADO.**

18 Nanyah is entitled to summary judgment that it invested \$1.5 million into
19 Eldorado. The following undisputed facts mandate summary judgment in Nanyah's
20 favor as requested.

- 21 (1). Eldorado's original Operating Agreement vested Huerta with Managing
22 Member responsibilities and Huerta could bind Eldorado to contractual
23 obligations. SOF, ¶1.
24
25 (2). Eldorado's Managing Member Huerta admitted soliciting Nanyah's
26 investment of \$1.5 million into Eldorado. SOF, ¶¶5, 13-18.
27
28 (3). Eldorado's Managing Member admitted Eldorado received the \$1.5 million
investment from Nanyah as a capital contribution for a membership
interest in Eldorado. SOF, ¶¶13-14.

(4). Eldorado's bank statement conclusively demonstrates Eldorado received
Nanyah's \$1.5 million investment into its account. Exh. 8.

(5). Eldorado's internal records conclusively demonstrate that Eldorado
received Nanyah's \$1.5 million investment into its account. Exh. 9.

- 1 (6). Rogich admits that he confirmed and admitted that Nanyah invested \$1.5
2 million into Eldorado. SOF, ¶¶27, 29.
- 3 (7). Defendants are conclusively bound by the recitals in the Purchase
4 Agreement that Nanyah invested \$1.5 million and was entitled to return of
5 its investment or a membership interest in Eldorado. Exh. 10, NRS
6 47.240(2).²⁵
- 7 (8). Rogich and the Rogich Trust "confirmed" Nanyah's \$1.5 million
8 investment into Eldorado in the Membership Interest Purchase
9 Agreements they signed with Teld and Flangas. SOF ¶27.
- 10 (9). The recitals in the Membership Interest Purchase Agreement with Teld
11 conclusively establish that the Rogich Trust was acquiring Go Global's
12 interest in Eldorado subject to Nanyah's right to receive repayment of its
13 \$1.5 million investment or a portion of that membership interest for its
14 \$1.5 million investment. Exh. 11, Recital F; NRS 47.240(2).
- 15 (10). Eldorado's Amended Operating Agreement conclusively establishes that
16 the Rogich Trust's acquisition of Huerta/Go Global's prior interest was
17 subject to Nanyah's right to receive a portion of that membership interest
18 for its \$1.5 million investment and/or return of its \$1.5 million investment.
19 Exh. 12, Recital B; NRS 47.240(2).
- 20 (11). Eldorado's Amended Operating Agreement also incorporates Exhibit D
21 from the Membership Interest Purchase Agreements, which Exhibit D
22 "confirms" Nanyah's \$1.5 million investment into Eldorado and its right to
23 receive repayment and/or a membership interest. Exh. 12, Recital A;
24 NRS 47.240(2). This confirmation cannot be rebutted or challenged.
- 25 (12). Eldorado's, Rogich's and the Rogich Trust's contractual obligation to
26 repay Nanyah its \$1.5 million investment was assigned to Teld and the
27 Eliades Trust and these defendants are also contractually obligated to
28 honor that obligation to Nanyah. Exh. 14, ¶8.J.
- (13). Peter Eliades testified that Nanyah was owed \$1.5 million by Eldorado
and Rogich and the Rogich Trust agreed to repay that debt. SOF ¶¶42-
43.

²⁵ NRS 47.240(2) establishes a conclusive presumption fact recited in a written instrument as follows: "[There is a conclusive presumption of] [t]he truth of the fact recited, from the recital in a written instrument between the parties thereto, or their successors in interest by a subsequent title"

1 (14). Dolores Eliades testifies that Nanyah was owed \$1.5 million by Eldorado
2 and Rogich and the Rogich Trust agreed to repay that debt. SOF ¶¶44-
3 46.

4 In light of the foregoing undisputed facts, summary judgment must be granted in
5 Nanyah's favor.

6 In addition, summary judgment in Nanyah's favor is mandated because the
7 defendants are barred from contesting the conclusively established facts contained in
8 the recitals of the various contracts. Harpaz v. Laidlaw Transit, Inc., 942 A.2d 396, 412
9 (2008) (the conclusive presumption of compensability attaches and the employer is
10 barred from contesting"). Further, Nanyah is entitled to summary judgment as a
11 matter of law that it invested \$1.5 million into Eldorado since the conclusive
12 presumption contained in NRS 47.240(2) is a substantive rule of law. Kusior v. Silver,
13 54 Cal. 2d 603, 619, 354 P.2d 657, 668 (1960) ("A conclusive presumption is in
14 actuality a substantive rule of law."). Therefore, as a matter of law Nanyah is entitled to
15 summary judgment in its favor as requested.
16

17 In addition, summary judgment must be granted because the defendants cannot
18 avoid summary judgment by attempting to contradict the statements and admissions of
19 Eldorado's Managing Member Huerta. Huerta, as Eldorado's Managing Member, was
20 fully authorized to solicit Nanyah's investment and to bind Eldorado to repayment of
21 Nanyah the \$1.5 million investment and/or to issue Nanyah a membership interest.
22

23 Furthermore, Eldorado is bound by the admissions of its Managing Member
24 Huerta that Nanyah invested \$1.5 million into Eldorado and that Eldorado was entitled
25 to a membership interest in Eldorado. Exh. 2, Exh. A (Huerta is the "Managing
26 Member" and "may bind the Company in all matters" (emphasis added). Because
27
28

1 Huerta's Managing Member's status is undisputed and uncontestable, Eldorado is
2 bound by Huerta's statements and admissions. Sharp Elecs. Corp. v. Lodgistix, Inc.,
3 772 F. Supp. 540, 546 (D. Kan. 1991) ("once it has been shown that the agent was
4 authorized, either expressly or impliedly, to make representations or statements
5 concerning the subject matter to which the challenged statements pertain, the principal
6 is bound by the agent's statements."); Cordaro v. Singleton, 229 S.E.2d 707, 709 (N.C.
7 App. 1976) ("A principal is bound by statements made by an agent acting within the
8 scope of his authority and in the course of his agency."); 2A N.Y. Jur. 2d Agency § 279
9 (Feb. 2018) ("principal is bound by statements and declarations made by the agent
10 within the scope of . . . the actual or apparent authority of the principal.").

11
12 Based upon the foregoing, Nanyah is entitled to summary judgment that it
13 invested \$1.5 million in Eldorado.
14

15 **B. AS SUCCESSORS IN INTEREST, THE ELIADES DEFENDANTS ARE**
16 **LIABLE FOR ALL OF THE CONTRACTUAL OBLIGATIONS OWED TO**
17 **NANYAH INCLUDING REPAYMENT OF NANYAH'S \$1.5 MILLION**
18 **INVESTMENT OR THE OBLIGATION TO TRANSFER A MEMBERSHIP**
19 **INTEREST TO NANYAH REFLECTING ITS \$1.5 MILLION**
20 **INVESTMENT.**

21 Nanyah is entitled to summary judgment that the Eliades Defendants have a
22 contractual obligation to honor Nanyah's investment of \$1.5 million and to repay the
23 debt and/or issue it a membership interest. Here, the facts are undisputed. Nanyah
24 invested \$1.5 million into Eldorado. The Eliades Defendants admit that their contracts
25 subjected them to the repayment of Nanyah's \$1.5 million investment or they were
26 obligated to transfer a portion of the Go Global membership interest they acquired to
27 Nanyah. Since Teld and the Eliades Trust now hold 100% of the membership interest
28 in Eldorado, these defendants are liable for the issuance of a commensurate

1 membership interest to Nanyah since the \$1.5 million investment has not been repaid.
2 Peter Eliades freely admits that when he and Teld signed the Teld Membership
3 Interest Purchase Agreement acquiring the Rogich Trust's membership interest in
4 Eldorado, they took such membership interest subject to and liable for repayment of
5 Nanyah's \$1.5 million investment or transfer of a membership interest to it as
6 documented in the original Purchase Agreement as follows:
7

8 Q. Did you understand that when you acquired some of the Rogich
9 Trust interests that it held in Eldorado Hills, that it was still subject
10 to the terms and conditions of this original purchase agreement?

11 A. Yes.

12 Exh. 17, pp. 29:24-30:4 (emphasis added).

13 Similarly, when Peter Eliades acquired the remainder of the Rogich Trust's
14 interest via the Eliades Trust (pursuant to the Secret Membership Assignment in 2012)
15 the Eliades Trust also knowingly took that membership interest subject to the terms and
16 conditions of the original Purchase Agreement establishing the obligation to repay
17 Nanyah its \$1.5 million or to be issued a commensurate membership interest.
18

19 Based upon the clear and unambiguous terms of these contracts, Nanyah is
20 entitled to summary judgment as requested. Sandy Valley Associates v. Sky Ranch
21 Estate Owners Ass'n, 117 Nev. 948, 953-954, 35 P.3d 964, 967-968 (2001) ("When a
22 contract is clear on its face, it will be construed from the written language and enforced
23 as written.").

24 ///

25 ///

26 ///

27 ///

28

1 **C. AS DIRECT CONTRACTING PARTIES, THE ELIADES DEFENDANTS**
2 **ARE LIABLE FOR ALL OF THE CONTRACTUAL OBLIGATIONS OWED**
3 **TO NANYAH INCLUDING REPAYMENT OF NANYAH'S \$1.5 MILLION**
4 **INVESTMENT OR THE OBLIGATION TO TRANSFER A MEMBERSHIP**
5 **INTEREST.**

6 As demonstrated above, Eldorado has admitted Nanyah's investment and that it
7 did not issue a membership interest or return Nanyah's investment. By executing the
8 Eldorado Amended Operating Agreement, identifying Nanyah as am member in
9 Eldorado in the event Nanyah was not repaid its \$1.5 million investment. Again, based
10 upon the undisputed language of the contract, summary judgment must be entered in
11 Nanyah's favor as requested. Sandy Valley Associates v. Sky Ranch Estate Owners
12 Ass'n, 117 Nev. 948, 953-954, 35 P.3d 964, 967-968 (2001) ("When a contract is clear
13 on its face, it will be construed from the written language and enforced as written.").

14 **V. CONCLUSION.**

15 The defendants' motion must be dismissed as it is unsupported by fact or law.
16 Concurrently, Nanyah is entitled to summary judgment in its favor that: (1) Nanyah
17 invested \$1.5 million into Eldorado; (2) as successors in interest, the Eliades
18 Defendants are liable for all of the contractual obligations owed to Nanyah including
19 repayment of Nanyah's \$1.5 million investment or the obligation to transfer a
20 membership interest to Nanyah reflecting its \$1.5 million investment; (3) as direct
21 contracting parties, the Eliades Defendants are liable for all of the contractual
22 obligations owed to Nanyah including repayment of Nanyah's \$1.5 million investment or
23 the obligation to transfer a membership interest to Nanyah reflecting its \$1.5 million
24 investment.

25 ///
26
27
28

1 **AFFIRMATION:** This document does not contain the social security number of
2 any person.

3 DATED this 19th day of June, 2018.
4

5 SIMONS LAW, PC
6 6490 S. McCarran Blvd., #C-20
7 Reno, Nevada, 89509

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9

10 _____
11 MARK G. SIMONS
12 Attorney for Nanyah Vegas, LLC
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 8.05, I certify that I am an employee of
SIMONS LAW, PC, and that on this date I caused to be served a true copy of the
OPPOSITION TO ELIADES DEFENDANTS' MOTION FOR SUMMARY JUDGMENT
AND COUNTERMOTION FOR SUMMARY JUDGMENT on all parties to this action via
the Odyssey E-Filing System:

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DATED this 19th day of June, 2018.

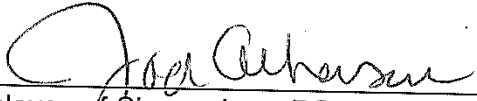
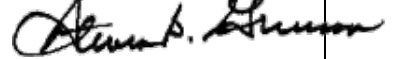

Employee of Simons Law, PC

EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Eldorado's Motion for Partial Summary Judgment	6
2	Eldorado Operating Agreement	34
3	Simons' Affidavit	3
4	Huerta Deposition Excerpts	13
5	Rogich Deposition Excerpts	15
6	Olivas Deposition Excerpts	6
7	Huerta Declaration	7
8	Eldorado Bank Statement	1
9	Eldorado Capital Account Detail	1
10	Purchase Agreement	11
11	Teld Membership Purchase Agreement	104
12	Amended, Restated Operating Agreement	13
13	Eliades/Rogich Checks	2
14	Membership Interest Assignment Agreement	6
15	Harlap Deposition Excerpts	7
16	Harlap Declaration	1
17	Eliades Deposition Excerpts	9
18	First Amendment to Operating Agreement	3
19	Eliades Journal Entry	1
20	Nanyah 1/4/14 16.1 Disclosure	5
21	Dolores Eliades Deposition Excerpts	6
22	2/12/16 Order of Reversal and Remand	3
23	Excerpt of Nanyah Supplemental Second Amended Answers to Interrogatories	22

EXHIBIT C



RIS (CIV)

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Attorneys for Defendants PETE ELIADES, THE
ELIADES SURVIVOR TRUST OF 10/30/08,
TELD, LLC and ELDORADO HILLS, LLC

DISTRICT COURT
CLARK COUNTY, NEVADA

CARLOS A. HUERTA, an individual;
CARLOS A. HUERTA as Trustee of THE
ALEXANDER CHRISTOPHER TRUST, a
Trust established in Nevada as assignee of
interests of GO GLOBAL, INC., a Nevada
Corporation; NANYAH VEGAS, LLC, A
Nevada limited liability company,

Plaintiffs,

vs.

SIG ROGICH aka SIGMUND ROGICH as
Trustee of The Rogich Family Irrevocable
Trust; ELDORADO HILLS, LLC, a Nevada
limited liability company; DOES I-X; and/or
ROE CORPORATIONS I-X, inclusive,

Defendants.

NANYAH VEGAS, LLC, a Nevada limited
liability company,

Plaintiff,

vs.

TELD, LLC, a Nevada limited liability
company; PETER ELIADES, individually and
as Trustee of The Eliades Survivor Trust of
10/30/08; SIGMUND ROGICH, individually
and as Trustee of The Rogich Family
Irrevocable Trust; IMITATIONS, LLC, a
Nevada limited liability company; DOES I-X;
and/or ROE CORPORATIONS I-X, inclusive,

Defendants.

Case No. A-13-686303-C

Dept. No. XXVII

**DEFENDANT ELDORADO HILLS,
LLC'S REPLY IN SUPPORT OF ITS
MOTION FOR SUMMARY JUDGMENT
AND OPPOSITION TO
COUNTERMOTION FOR SUMMARY
JUDGMENT**

Hearing Date: 7/26/18

Hearing Time: 10:30 a.m.

CONSOLIDATED WITH:

Case No. A-16-746239-C

1 **DEFENDANT ELDORADO HILLS, LLC’S REPLY IN**
2 **SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND**
3 **OPPOSITION TO COUNTERMOTION FOR SUMMARY JUDGMENT**

4 Defendant Eldorado Hills, LLC (“Eldorado Hills”) files its Reply in Support of its Motion for
5 Summary Judgment (the “Motion”). Additionally, Eldorado Hills opposes Nanyah Vegas, LLC’s
6 (“Nanyah”) Countermotion for Summary Judgment (the “Countermotion”). This Reply/Opposition
7 is based on the following Memorandum of Points of Authorities, the exhibits attached hereto and to
8 the related briefs, and any oral argument heard by the Court.

9 DATED this 19th day of July, 2018.

10 BAILEY ♦ KENNEDY

11 By: /s/ Joseph A. Liebman
12 DENNIS L. KENNEDY
13 JOSEPH A. LIEBMAN

14 Attorneys for Defendants
15 PETE ELIADES, THE ELIADES
16 SURVIVOR TRUST OF 10/30/08, TELD,
17 LLC and ELDORADO HILLS, LLC

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 **I. INTRODUCTION**

20 Corporate law 101—the Rogich Family Irrevocable Trust (the “Rogich Trust”) and Eldorado
21 Hills are not one and the same. Just because the Rogich Trust supposedly agreed to repay Nanyah
22 does not mean that Eldorado Hills also agreed to pay Nanyah. In fact, quite to the contrary, *as the*
23 *written agreements on which Nanyah continually relies explicitly confirm that solely the Rogich*
24 *Trust—and not Eldorado Hills—was responsible for Nanyah’s potential claim.*

25 Knowing it does not have a claim against Eldorado Hills, Nanyah is attempting to complicate
26 a simple issue. It is undisputed that Eldorado Hills only had access to Nanyah’s \$1,500,000.00
27 payment for a few days. It is also undisputed that the *vast majority* of Nanyah’s payment
28 (\$1,420,000.00) was transferred to Go Global, LLC (“Go Global”) by Carlos Huerta. Nanyah’s
 claim that Eldorado Hills paid Go Global \$1,420,000.00 to satisfy an Eldorado Hills’ debt is false.
 The \$1,420,000.00 payment satisfied a *Rogich Trust* debt to Go Global. *That is precisely why the*

1 *written agreements confirm that the Rogich Trust—not Eldorado Hills—is solely responsible for*
2 *Nanyah’s potential claim.* Eldorado Hills is a temporary innocent recipient of Nanyah’s
3 \$1,500,000.00 payment, and therefore, summary judgment should be entered dismissing Nanyah’s
4 unjust enrichment claim against Eldorado Hills.

5 Despite this Court’s admonition that it does not consider dispositive motions via
6 countermotion because of due process concerns, Nanyah brazenly filed an untimely Countermotion
7 seeking three forms of dispositive relief.¹ Irrespective of the multiple procedural issues with the
8 Countermotion, it is also substantively incorrect for numerous reasons. First, Nanyah does not have
9 a pending claim for an implied-in-fact contract and it is too late to amend its pleadings. Second,
10 Nanyah did not provide sufficient evidence of the obligations making up this supposed implied-in-
11 fact contract. Third, Nanyah failed to show the absence of a genuine issue of material fact with
12 respect to its claim that it invested \$1,500,000.00 in Eldorado, as ample documentary evidence
13 shows it actually invested in Canamex Nevada, LLC (one of Carlos Huerta’s other entities). Fourth,
14 for the reasons described in support of the Motion, Nanyah’s unjust enrichment claim fails as a
15 matter of law. Thus, the Countermotion should be denied.

16 II. ADDITIONAL UNDISPUTED FACTS

17 A. Eldorado Hills Is Not a Party to Any of the Agreements at Issue—Further, Not a Single 18 One of These Agreements State That Eldorado Hills Is Responsible for Nanyah’s 19 Potential Claim.

20 Much of Nanyah’s Opposition is comprised of citations to various agreements which it
21 misleadingly uses to argue that Eldorado Hills is liable for \$1,500,000.00 under an unjust enrichment
22 theory. In doing so, Nanyah conveniently ignores several salient and undisputed facts.

23 First, *Eldorado Hills is not a party to any of these agreements.* The October 30, 2008
24 Purchase Agreement is between Go Global, Huerta, and the Rogich Trust.² The October 30, 2008
25 Membership Interest Purchase Agreement is between the Rogich Trust, Teld, Go Global, and

26 ¹ Two of these three forms of dispositive relief were already requested by Nanyah and denied by this Court just
27 two months ago. (Order Denying Countermotion for Summary Judgment and Denying NRCP 56(f) Relief, filed May
28 22, 2018.)

² See generally Ex. 1-B to Def. Eldorado Hills, LLC’s Mot. for Summary Judgment (the “Motion”), filed June 1,
2018.

Huerta.³ The October 30, 2008 Amended and Restated Operating Agreement is between the Rogich Trust, the Flangas Trust, and Teld.⁴ There is no legal basis to hold *non-party* Eldorado Hills liable based on the language in these agreements. *JPMorgan Chase Bank, N.A. v. KB Home*, 632 F.Supp.2d 1013, 1023 (D. Nev. 2009) (“Generally under Nevada law, ‘no one is liable upon a contract except those who are parties to it.’”) (citation omitted).

Even worse, none of these agreements contain any language indicating that Eldorado Hills is responsible for Nanyah’s potential claim. On the contrary, each and every agreement explicitly states that the Rogich Trust is *solely* responsible for Nanyah’s potential claim.⁵ Nanyah continuously refers to Exhibit D to the October 30, 2008 Membership Interest Purchase Agreement between the Rogich Trust, Teld, Go Global, and Huerta, arguing it is proof that all of the parties agreed that Eldorado Hills was responsible for Nanyah’s \$1,500,000.00 investment. Unsurprisingly, Nanyah refuses to quote the entirety of Exhibit D, which states as follows:

QUALIFICATION OF REPRESENTATIONS OF *[THE ROGICH TRUST]*

[The Rogich Trust] confirms that certain amounts have been advanced to or on behalf of [Eldorado Hills] by certain third parties, as referenced in Section 8 of the Agreement. *[The Rogich Trust]* shall endeavor to convert the amounts advanced into non-interest bearing promissory notes *for which [The Rogich Trust] shall be responsible*. Regardless of whether the amounts are so converted, *[The Rogich Trust] shall defend, indemnify, and hold harmless [Eldorado Hills] and its members for any claims by the parties listed below*, and any other party claiming interest in [Eldorado Hills] as a result of transactions prior to the date of this Agreement against [Eldorado Hills] and its members.

- | | |
|---|-----------------------------|
| 1. Eddyline Investments, LLC (potential investor or debtor) | \$50,000.00 |
| 2. Ray Family Trust (potential investor or debtor) | \$283,561.60 |
| 3. Nanyah Vegas, LLC (through Canamex Nevada, LLC) | \$1,500,000.00 |
| 4. Antonio Nevada/Jakob | \$3,360,000.00 ⁶ |

Exhibit D does not contain any language whereby Eldorado Hills—*a non-party to the Agreement*—admits that Nanyah invested \$1,500,000.00 in Eldorado Hills. On the contrary, the information

³ See generally Ex. 1-C to Mot.

⁴ See generally Ex. 1-D to Mot.

⁵ Mot., 7:1-9:3.

⁶ Ex. 1-C to Mot., Exhibit D (emphasis added).

1 contained in Exhibit D was a representation solely by the Rogich Trust. *Even more importantly,*
2 *Exhibit D confirms that Eldorado Hills was not responsible for any of these potential claims, and*
3 *that the Rogich Trust was solely responsible.* As explained above, the Rogich Trust and Eldorado
4 Hills are not one and the same. To the extent Nanyah relies on these agreements, they actually
5 defeat its unjust enrichment claim.

6 **B. Pete Eliades’ Testimony Does Not Support Nanyah’s Arguments.**

7 Again, Nanyah tries to misleadingly conflate the Rogich Trust and Eldorado Hills when
8 citing Mr. Eliades’ deposition testimony.⁷ Specifically, when Mr. Eliades testified “[t]hat’s the way
9 it was,” it was within the following context:

10 Q And under paragraph three, it identifies that “At the conclusion of the transaction,
11 Teld will own one-third of Eldorado Hills, the Flangas Trust will own one-third, *and*
12 *the Rogich Trust will own one-third subject to those investors for whom the Rogich*
13 *Trust shall assume responsibility.*” Do you remember that?

14 A Yes.

15 Q Okay. Is that your understanding of how the transaction also went down?

16 A That’s the way it was.⁸

17 When the entirety of Mr. Eliades’ testimony is revealed, his answer has nothing to do with Eldorado
18 Hills’ supposed liability and everything to do with the Rogich Trust’s liability. Again, *Eldorado*
19 *Hills and the Rogich Trust are not one and the same.*⁹

20 ///

21 ///

22 ///

23 ⁷ Opp’n to Eldorado Hills’ Mot. for Summary Judgment and Countermotion for Summary Judgment (the
24 “Opposition to Eldorado MSJ”), 10:17-27, filed June 19, 2018 (misleadingly referencing “contractual duties owed by
Eldorado and Rogich to Nanyah...”).

25 ⁸ Ex. 17 to Opp’n to Eliades Defs.’ Mot. for Summary Judgment and Countermot. for Summary Judgment (the
26 “Opposition to Eliades Defendants’ MSJ”), 21:20-22:6, filed June 19, 2018 (emphasis added).

27 ⁹ Despite its failure to attach or quote any of her testimony in the Opposition, Nanyah misleadingly claims that
28 Dolores Eliades testified that Eldorado Hills owed Nanyah \$1,500,000.00. (Opp’n to Eldorado MSJ, 18:23-25.).
Dolores Eliades never testified that Eldorado Hills owed Nanyah anything. Just like Mr. Eliades’ testimony, Dolores
Eliades testified that the Rogich Trust was solely responsible for Nanyah’s potential claim. (Opp’n to Eliades Defs.’
MSJ, 17:17-19:1.) *Eldorado Hills and the Rogich Trust are not one and the same.*

III. ARGUMENT RELATING TO MOTION

A. Nanyah Failed to Show a Genuine Issue of Material Fact With Respect to Its Unjust Enrichment Claim.

Nanyah’s only pending claim against Eldorado Hills is the equitable claim of unjust enrichment. Nanyah has not asserted any contractual claims against Eldorado Hills, nor has it asserted any tort claims against Eldorado Hills.¹⁰ On summary judgment, one would expect Nanyah—which has the burden of proof—to provide a clear basis for its sole claim for relief. *Certified Fire Prot., Inc. v. Precision Constr. Inc.*, 128 Nev. 371, 381, 283, P.3d 250, 257 (2012) (The plaintiff “must establish each element of unjust enrichment.”). Nanyah failed to do so, and instead spent the vast majority of its Opposition trying to prove the Rogich Trust’s liability. Again, ***Eldorado Hills and the Rogich Trust are not one and the same.*** See *Haugrud v. Craig*, 903 N.W.2d 537, 541 (N.D. 2017) (“Equally settled is that a LLC and its members are separate and distinct entities....”); *Geis v. Colina Del Rio, LP*, 362 S.W.3d 100, 109 (Tex. App. 2011) (A “member or manager of a limited liability company” is “legally distinct” from the company.); *In re Erskine*, 550 B.R. 362, 370 (Bankr. W.D. Tenn. 2016) (“[T]he assets and liabilities of a limited liability company are separate from the assets and liabilities of its members.”).

Nanyah argues that the “internal use of Nanyah’s money is entirely irrelevant to Nanyah’s right to receive the return of its \$1.5 million investment.”¹¹ Nanyah does not cite any legal authority for this argument. Nor could it, because it is incorrect as a matter of law. Under binding Nevada precedent, an unjust enrichment claim—the sole claim Nanyah asserted against Eldorado Hills—requires sufficient proof of three separate elements. The plaintiff must confer a *benefit* on the defendant, the defendant must appreciate such *benefit*, and there must be *acceptance and retention* by the defendant of such *benefit* under circumstances such that it would be inequitable for him to retain the *benefit* without payment of the value thereof. *Unionamerica Mortg. and Equity Trust v. McDonald*, 97 Nev. 210, 212, 626 P.2d 1272, 1273 (1981) (citation omitted).

¹⁰ See generally First. Am. Compl., Case No. A-13-686303-C, filed Nov. 21, 2013.

¹¹ Opp'n to Eldorado MSJ, 14:12-14.

Perhaps the beneficial use of Nanyah’s money is irrelevant for Nanyah’s potential claim against the Rogich Trust since it explicitly agreed to be solely responsible. However, with respect to Eldorado Hills and the theory of unjust enrichment, it very much matters what happened to the money. As shown above and below, Eldorado Hills did not benefit from or retain the \$1,500,000.00 payment—the Rogich Trust benefitted and Go Global retained the money. To be sure, *even Nanyah admits that its \$1,500,000.00 payment was the Rogich Trust’s responsibility and not Eldorado Hills’ responsibility*.¹² While Nanyah may have a claim for the return of its money, it does not have a claim against Eldorado Hills, let alone an unjust enrichment claim. Accordingly, summary judgment should be entered, dismissing Nanyah’s unjust enrichment claim against Eldorado Hills.

B. The \$1,420,000.00 Payment to Go Global Did Not Relate to an Eldorado Hills Debt—It Related to a Rogich Trust Debt.

“Go Global and the Rogich Trust were 50%-50% owners of Eldorado. As such, they both were obligated to fund 50% of Eldorado expenses.”¹³ This is one of the few statements by Nanyah that is consistent with Nevada law. As stated in the Motion, NRS 86.391 renders each member of an LLC liable *to the LLC* for any capital contribution shortfall. *See also JPMorgan Chase Bank, N.A.*, 632 F.Supp.2d at 1025 (“The Nevada limited liability company statutes provide that a member is liable to a limited liability company for contributions that the member agreed to pay.”); *Julka v. U.S. Bank Nat’l Ass’n*, 516 S.W.3d 84, 88 (Tex. App. 2017) (“[C]ontributions made to the company become the company’s assets; they are no longer the personal assets of the company’s members.”).

When the Rogich Trust failed to provide its 50% capital contribution obligation for the Antonio Nevada payment, the Rogich Trust owed that shortfall *to Eldorado Hills*. Go Global then increased its capital contribution to Eldorado Hills to cover the Rogich Trust’s shortfall.¹⁴ If

¹² Opp’n to Mot. for Summary Judgment; Countermot. for Summary Judgment; and Countermot. for NRCP 56(f) Relief, 18:17-20, filed March 19, 2018 (“Based on the terms of the original Purchase Agreement, the Membership Interest Purchase Agreements and the Eldorado Amended Operating Agreement, *Nanyah’s membership interest would come from part of the Rogich Trust’s membership interest rather than Eldorado issuing an additional membership interest*.”) (emphasis added).

¹³ Opp’n to Eldorado MSJ, 15:5-9.

¹⁴ Nanyah misleadingly claims that Go Global loaned these extra funds to Eldorado Hills. The evidence proves the contrary. *In the document cited and relied upon by Nanyah*, it is described as a “CC [Capital Contribution] to cover Antonio Nevada payment.” (Ex. 2-H to Mot., PLTF 568.) Although other Go Global payments were described as loans, the payment related to Antonio Nevada was explicitly classified as a capital contribution. *Id.*; *see also In re Williams*,

Nanyah’s \$1,500,000.00 payment reimbursed Go Global for this additional capital contribution, it did not provide a benefit to Eldorado Hills because it was already entitled to those funds under NRS 86.391—it just received them from a different member. The only entities which actually benefitted from this so-called reimbursement was the Rogich Trust, which was absolved of its debt to Eldorado Hills, and Go Global, which received \$1,420,000.00 in reimbursement. In other words, *Nanyah’s payment was not used to pay a debt owed by Eldorado Hills to Go Global—it was used to pay a debt owed by the Rogich Trust to Go Global.*

Eldorado Hills ended up in the same position it would have been had the Rogich Trust complied with its capital contribution obligation to begin with. On the other hand, if Eldorado Hills is liable for Nanyah’s payment, it will be forced to pay the Rogich Trust’s capital contribution shortfall long after the Rogich Trust left the company. Any such result is inequitable and completely contrary to NRS 86.391. As stated in the Motion, the “principles of unjust enrichment will not support the imposition of liability that leaves an innocent recipient worse off than if the transaction with the claimant had never taken place.” *Certified Fire Prot., Inc. v. Precision Constr. Inc.*, 128 Nev. at 382, 283, P.3d at 257 (citing Restatement (Third) of Restitution and Unjust Enrichment § 1, cmt. d (2011)). Accordingly, summary judgment should be entered, dismissing Nanyah’s unjust enrichment claim against Eldorado Hills.¹⁵

IV. ARGUMENT RELATING TO COUNTERMOTION FOR SUMMARY JUDGMENT

A. Nanyah’s Countermotion for Summary Judgment is Untimely.

This Court recently set the dispositive motion deadline for June 1, 2018.¹⁶ Based on that deadline, Eldorado Hills filed this Motion on June 1, 2018. *Nineteen days after the dispositive motion deadline*, Nanyah filed the Countermotion.¹⁷ The right to file a countermotion does not

455 B.R. 485, 500-01 (Bankr. E.D. Va. 2011) (treating payments to the company as capital contributions as opposed to loans because there were “no formal debt instruments” and the “books and records” did not “reflect any indebtedness owed to its interest holders.”).

¹⁵ To the extent it did retain a benefit, it is limited to \$80,000.00, the difference between Nanyah’s payment (\$1,500,000.00) and the payment to Go Global (\$1,420,000.00).

¹⁶ Discovery Commissioner’s Report and Recommendation, filed May 1, 2018 (affirmed and adopted by this Court on April 27, 2018).

¹⁷ The Countermotion is practically identical to the Countermotion for Summary Judgment filed by Nanyah on March 19, 2018, and denied by this Court on May 22, 2018. (Order Denying Countermot. for Summary Judgment and

1 permit a party to disregard the dispositive motion deadline. *See, e.g., Sfr Invs. Pool I v. Nationstar*,
2 Case. No. A-13-688566-C, 2016 Nev. Dist. LEXIS 1104, at *6-7 (Dist. Ct. Feb. 9, 2016) (striking a
3 countermotion for summary judgment as untimely because it did not comply with the dispositive
4 motion deadline); *accord Candow v. Dust*, No. 2:11-CV-00343-LRH-GWF, 2014 WL 4636372, at
5 *3 (D. Nev. Sep. 16, 2014). Nanyah filed its Countermotion in violation of this Court's scheduling
6 order and without the requisite good cause. *See* N.R.C.P. 16(b). The Countermotion should be
7 denied.

8 **B. Nanyah's Countermotion is Procedurally Improper.**

9 On September 11, 2014, in conjunction with Eldorado Hills' first Motion for Summary
10 Judgment against Nanyah, this Court informed Nanyah that it "rarely" considers countermotions.
11 Specifically, the Court stated as follows:

12 And let me indicate to both of you that I rarely consider countermotions
13 because I'm concerned about the due process rights of the parties. When
14 a motion is filed and then a countermotion is filed it doesn't allow for a
full briefing so I rarely consider them.¹⁸

15 When Nanyah disregarded this admonition and began to argue its countermotion, the Court repeated
16 itself:

17 You know I'm really – I don't want to cut you off from making your
18 record but I'm really not inclined to deal with a dispositive request for
19 relief when there's not due process to both sides. If you believe you
20 have a cause of action then file your motion and give them a chance to
fully brief it; give me the chance to fully digest the facts and determine
the law.¹⁹

21 Apparently Nanyah decided to ignore the Court yet again by tacking a substantial Countermotion to
22 its Opposition. For that reason alone, the Countermotion should be denied.

23
24
25
26 Denying NRCP 56(f) Relief, filed May 22, 2018.) Nanyah has not explained why it filed an untimely Countermotion
which was already denied by this Court.

27 ¹⁸ Tr. of Proceedings, Sep. 11, 2014, 6:7-10, attached as Exhibit 1.

28 ¹⁹ *Id.*, 14:7-11.

1 **C. Nanyah Did Not Plead a Contractual Claim Against Eldorado Hills—It Only Pled an**
2 **Unjust Enrichment Claim.**

3 Nanyah’s unjust enrichment claim against Eldorado Hills has been pending since July 31,
4 2013, *almost five years ago*.²⁰ Nanyah amended its July 31, 2013 Complaint, *yet did not add a*
5 *contractual claim against Eldorado Hills*.²¹ In 2016, Nanyah filed a new lawsuit against the other
6 Defendants, *yet did not add a contractual claim against Eldorado Hills*.²²

7 Now, *approximately four months before trial, well past the deadline to amend pleadings,*
8 *and past the close of discovery*, Nanyah seeks summary judgment regarding a purported implied-in-
9 fact contract claim against Eldorado Hills that is nowhere to be found within its pleadings. Implied-
10 in-fact contract and unjust enrichment are markedly different legal theories. *See Certified Fire Prot.*
11 *Inc.*, 128 Nev. at 379-82, 283 P.3d at 256-57. An implied-in-fact contract is a “true contract,” while
12 an unjust enrichment claim can only exist in the absence of a contract. *Id.* As it pertains to Eldorado
13 Hills, *Nanyah has only pled the latter—not the former*. Suffice it to say that summary judgment
14 cannot be entered on a contractual claim that does not exist. Therefore, the Countermotion should be
15 denied.

16 **D. Nanyah Has Not Shown An Implied-In-Fact Contract With Eldorado Hills.**

17 Even assuming this Court permits Nanyah to proceed on a claim it never pled during the
18 pendency of this litigation, the fact remains that Nanyah failed to prove an implied-in-fact contract
19 with Eldorado Hills. “To find a contract implied-in-fact, the fact-finder must conclude that the
20 parties intended to contract and promises were exchanged, *the general obligations for which must*
21 *be sufficiently clear.*” *Certified Fire Prot.*, 128 Nev. at 380, 283 P.3d at 256 (emphasis added). The
22 obligations which supposedly comprise this implied-in-fact contract between Eldorado Hills and
23 Nanyah are a mystery. In particular, what “membership interest” did Nanyah supposedly contract to
24 receive for its \$1,500,000.00 investment? What percentage of Eldorado Hills was Nanyah
25 contractually entitled to own? Would that membership interest reduce Go Global’s or the Rogich

26
27 ²⁰ Compl., Case No. A-13-686303-C, filed July 31, 2013.

28 ²¹ First. Am. Compl., Case No. A-13-686303-C, filed Oct. 21, 2013.

²² Compl., Case. No. A-16-746239-C, filed Nov. 4, 2016.

1 Trust’s existing membership interest, and if so, by how much? Would Nanyah have any voting
2 rights? Would Nanyah have any managerial rights? Would Nanyah be bound by the Operating
3 Agreement? Would Nanyah have an obligation to comply with capital calls? Without proof that
4 these obligations were discussed and agreed upon, there is not nearly enough certainty or detail to
5 conceive an implied-in-fact contract for an investment in an LLC. *See id.* (“There are simply too
6 many gaps to fill in the asserted contract for quantum meruit to take hold.”).

7 Further, contrary to Nanyah’s interpretation of the Operating Agreement, Huerta did **not** have
8 unilateral authority to **orally** agree to transfer an Eldorado Hills membership interest. Under Section
9 11.5, “no Member shall be entitled to transfer, assign[,], convey, sell, encumber or in any way
10 alienate all or any part of such Member’s Membership Interest ... **except with prior Written consent**
11 **of the Board...**”²³ Eldorado Hills’ Board of Managers was comprised of Go Global (*i.e.*, Huerta)
12 and Rogich.²⁴ Nanyah failed to provide this Court with any **written consent** by Eldorado Hills’
13 Board (either by Go Global, Rogich, or both) which authorized the sale of any Eldorado Hills
14 membership interest to Nanyah or the transfer of any portion of Go Global or the Rogich Trust’s
15 Eldorado Hills membership interest to Nanyah.

16 Finally, much of Nanyah’s Countermotion is comprised of deposition testimony and a
17 declaration from Huerta **in 2014** that Nanyah claims are binding on Eldorado Hills.²⁵ As a **former**
18 Eldorado representative, Huerta had absolutely no authority to bind Eldorado with his statements in
19 2014. *See, e.g., Rebel Comm., LLC v. Virgin Valley Water Dist.*, No. 2:10-cv-00513-LRH-GWF,
20 2011 WL 677308, at *8 (D. Nev. Feb. 15, 2011) (“[B]ecause the former employee no longer is an
21 agent of the corporation, **she cannot make revelations that bind the corporation as evidentiary**
22 **admissions....**”) (citation omitted) (emphasis added); *Brown v. St. Joseph Cty.*, 148 F.R.D. 246, 252
23 (N.D. Ind. 1993) (“[F]ormer employees cannot bind the organization, **and their statements cannot**
24 **be introduced as admissions of the corporation.**”) (citation omitted) (emphasis added).

26 ²³ Operating Agreement, § 11.5, attached as Exhibit 2 to Opp’n to Eliades Defs.’ MSJ, filed June 19, 2018
(emphasis added).

27 ²⁴ *Id.*, § 2.6; § 5.3.

28 ²⁵ Opp’n to Eldorado MSJ, 19:21-20:15.

1 Bottom line: even with Huerta’s biased, non-binding 2014 testimony, Nanyah has submitted
2 insufficient evidence to create an implied-in-fact contract between Eldorado Hills and Nanyah.
3 Therefore, the Countermotion should be denied.²⁶

4 **E. Nanyah Has Not Shown That It Invested \$1,500,000.00 in Eldorado Hills.**

5 Nanyah seeks summary judgment “that it invested \$1.5 million into Eldorado.” Yet, the
6 documentary evidence indicates otherwise. As explained in detail in the Motion, much of the
7 correspondence between Huerta and Harlap discussed an investment in Canamex Nevada, Inc.
8 (“Canamex”)—not in Eldorado Hills.²⁷ Harlap, through Nanyah, ultimately decided to invest
9 \$1,500,000.00 into Canamex—not Eldorado Hills.²⁸ Huerta/Nanyah wired the money to
10 Canamex—not Eldorado Hills.²⁹ Although Huerta temporarily funneled the money through
11 Eldorado Hills before paying it to Go Global, every piece of documentary evidence (*i.e.*, investor
12 updates from Go Global, tax documents, etc.) indicate that Nanyah received an interest in
13 Canamex—not Eldorado Hills—in exchange for Harlap’s \$1,500,000.00 payment.³⁰

14 All of this evidence shows that Nanyah invested in Canamex and not in Eldorado Hills. And,
15 as shown above, Huerta’s testimony does not bind Eldorado Hills. Accordingly, Nanyah is not
16 entitled to summary judgment on its allegation that it invested \$1,500,000.00 into Eldorado Hills.
17 Further, even if Nanyah is found to have invested \$1,500,000.00 in Eldorado Hills, that does not
18 mean that Eldorado Hills is liable for unjust enrichment or any other claim. As explained above, the
19 Rogich Trust explicitly agreed that it was solely responsible for Nanyah’s potential claim. The
20 Countermotion should be denied.

21 **F. Nanyah is Not Entitled to Summary Judgment on its Unjust Enrichment Claim.**

22 As explained in detail above, Eldorado Hills did not retain a benefit from Nanyah’s
23

24 ²⁶ To the extent that Nanyah tries to argue that its alleged implied-in-fact contract is an obligation by Eldorado to
25 repay \$1,500,000.00, it would also be barred by the statute of frauds. NRS 111.220(4) (loans for more than \$100,000
must be in writing).

26 ²⁷ Exs. 2-A and 2- B to Mot.

27 ²⁸ *Id.*

28 ²⁹ Exs. 2-B, 2-D, and 2-E to Mot.

³⁰ Exs. 2-I, 2-J, 2-K, 2-L, 2-M, and 2-N to Mot.

1 \$1,500,000.00 payment. Nanyah’s argument completely misconstrues the nature of limited liability
2 companies. As the entity, Eldorado Hills was entitled to capital contributions from its members to
3 the extent expenses needed to be paid. NRS 86.391. Accordingly, when Eldorado Hills needed to
4 repay Antonio Nevada, the Rogich Trust and Go Global were required to fund those expenses. Go
5 Global provided an additional capital contribution because the Rogich Trust could not pay its share.
6 But Eldorado was not obligated to repay that amount to Go Global. On the contrary, the Rogich
7 Trust was obligated to repay that amount to Go Global. Therefore, once Nanyah provided its
8 \$1,500,000.00 payment, Huerta apparently took that money and repaid Go Global. Eldorado Hills
9 did not benefit from that payment—the Rogich Trust and Go Global did. There is no basis to
10 impose equitable liability against Eldorado Hills. Doing so would leave an innocent temporary
11 recipient of those funds worse off than if Nanyah’s payment had never been made. Accordingly, the
12 Countermotion should be denied in its entirety.

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V. CONCLUSION

The Rogich Trust and Eldorado Hills are not one and the same. Merely because the Rogich Trust—one of Eldorado Hills’ members—agreed to be *individually responsible* for Nanyah’s potential claim does not mean that Eldorado Hills is also liable for the same debt. On the contrary, the relevant agreements explicitly prove that Eldorado Hills was not intended to be liable for Nanyah’s potential claim. The reason is simple—Eldorado Hills did not benefit from Nanyah’s payment nor did it retain Nanyah’s payment. The Rogich Trust and Go Global did. Accordingly, summary judgment should be entered dismissing Nanyah’s unjust enrichment claim, and Nanyah’s untimely Countermotion should be denied.

DATED this 19th day of July, 2018.

BAILEY ♦ KENNEDY

By: /s/ Joseph A. Liebman
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN

Attorneys for Defendants
PETE ELIADES, THE ELIADES
SURVIVOR TRUST OF 10/30/08, TELD,
LLC and ELDORADO HILLS, LLC

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 19th day of July, 2018, service of the foregoing **DEFENDANT ELDORADO HILLS, LLC'S REPLY IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO COUNTERMOTION FOR SUMMARY JUDGMENT** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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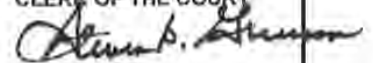
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EXHIBIT D



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

CARLOS HUERTA,

Plaintiff,

vs.

ELDORADO HILLS LLC, et al.,

Defendants.

CASE NO. A-13-686303-C
DEPT NO. XXVII

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE NANCY ALLE, DISTRICT COURT JUDGE

RE: MOTIONS

THURSDAY, JULY 26, 2018

APPEARANCES:

FOR THE NANYAH VEGAS:

MARK. G. SIMONS, ESQ.

FOR ELDORADO HILLS TELD
ELIADES ENTITIES:

JOSEPH A. LIEBMAN, ESQ.

FOR ROGICH TRUST:

SAMUEL S. LIONEL, ESQ.

RECORDED BY: BRYNN GRIFFITHS, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

1 LAS VEGAS, CLARK COUNTY, NEVADA, JULY 26, 2018, 10:40 A.M.

2 * * * * *

3 THE COURT: And I'm going to ask the parties to set
4 up for Huerta versus El Dorado Hills, and we'll call that case
5 just in a minute.

6 MR. SIMONS: -- Vegas.

7 THE COURT: Thank you, Mr. Simons.

8 MR. LIONEL: Samuel Lionel representing the Rogich
9 Trust.

10 THE COURT: Thank you, Mr. Lionel.

11 MR. LIEBMAN: Good morning, Your Honor. Joseph
12 Liebman on behalf of Eldorado Hills, Pete Eliades and TELD LLC
13 and the Eliades Trust.

14 THE COURT: Thank you, Mr. Liebman.

15 All right. So we've got a number of matters on
16 today. We have the Eliades motion -- Eliades motion to strike
17 untimely countermotions, the Rogich defendant's motions for
18 expedited hearing on pending motions on order shortening time,
19 and then we have two summary judgments -- Eldorado's motion for
20 summary judgment, again, opposition and countermotion; Eliades
21 motion for summary judgment, opposition and countermotion.

22 What I'd like to do is, I think, argue the Eldorado
23 Hills motion for summary judgment first, take the opposition,
24 countermotion, and we'll exhaust that, and we'll get to the
25 second motion for summary judgment.

JD Reporting, Inc.

1 MR. LIEBMAN: Okay.

2 THE COURT: That's the way we briefed them. That's
3 the way -- if you think it makes sense to do it in a different
4 order, I'll consider that.

5 MR. LIEBMAN: The only thing I was potentially
6 thinking is maybe handling the motion to strike first so we
7 know whether or not we have to talk about the countermotion,
8 but it's completely up to you.

9 THE COURT: The motions to strike, I regularly deny
10 motions to strike given the Supreme Court's direction that we
11 should consider merits, matters on the merits.

12 MR. LIEBMAN: Okay.

13 THE COURT: But I'd rather take that up in the
14 context of the argument.

15 MR. LIEBMAN: That's fine, Your Honor.

16 THE COURT: Thank you, Mr. Liebman.

17 MR. LIEBMAN: With respect to the Eldorado Hills
18 motion --

19 THE COURT: And to let you guys know, I had to
20 schedule a conference call in another case that has discovery.
21 It's in the middle of a deposition. That's at 11:15. If we're
22 not concluded, we'll have to take a break at that point.

23 MR. LIEBMAN: Understood, Your Honor.

24 THE COURT: Thank you.

25 MR. LIEBMAN: I'll do my best to work through it