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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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TOWN & COUNTRY BANK.)
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 Plaintiff(s),)
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 vs.)
)
 BRIAN GODDARD and DANIEL K. LAK,)
)
 Defendant(s).)
)
 _____)
 BRIAN GODDARD,)
)
 Counterclaimant,)
)
 vs.)
)
 TOWN & COUNTRY BANK, *et al*,)
)
 Counterdefendant.)
 _____)

Case No: 2:09-cv-0686-RLH-LRL
ORDER
(Application to Appoint Appraiser #66)

Before the Court is Defendant Brian Goddard’s **Application to Appoint Appraiser** (#66, filed November 22, 2010) to ensure an impartial appraisal of the property in question. Plaintiff filed its Opposition (#70), to which Defendant Goddard filed a Reply (#71).

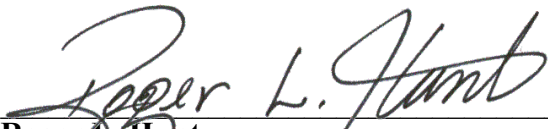
This case arises out of a deficiency action by Plaintiff to recover the alleged deficiency between the amount owed on the Note and the amount the property sold for at the trustee’s sale on or about February 3, 2009. Goddard petitions the Court to appoint an independent appraiser pursuant to N.R.S. §40.457. The Application will be denied.

1 Defendant Goddard's Application suggests that the Court has no discretion in the
2 matter. The suggestion is inaccurate. The purpose of N.R.S. §40.457 is to obtain an independent
3 and neutral appraisal when there is a significant discrepancy between the appraisals of the parties.
4 However, a court's failure to appoint an appraiser even where there was a large discrepancy was not
5 oppressive or arbitrary and there was not an abuse of discretion, nor is the court required to adopt
6 the opinion of the appraiser. *See Unruh v. Streight*, 96 Nev. 684, 615 P.2d 247 (1980).

7 In this case there has been no showing of a huge discrepancy. In fact, Mr. Goddard
8 did not obtain the services of an appraiser and Town & Country Bank has obtained its own
9 appraiser in this matter. Now, it appears that Mr. Goddard wishes the Court to bear the burden of
10 obtaining another appraiser in the apparent hope that a different appraisal will be more favorable to
11 Defendant Goddard. The Court declines to take sides or provide Mr. Goddard an appraiser under
12 these circumstances.

13 IT IS THEREFORE ORDERED that Defendant Brian Goddard's **Application to**
14 **Appoint Appraiser** (#66) is DENIED.

15 Dated: March 29, 2011.

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18 **Roger L. Hunt**
19 **Chief United States District Judge**
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