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Insurance Corporation, as Receiver  
for Community Bank of Nevada

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

JEFFREY B. GUINN, individually ) Case No. 2:09-cv-01809-PMP-CWH  
and as Trustee of the DEL MAR )  
TRUST, et al. )  
) **PRELIMINARY INJUNCTION**  
Plaintiff/Counterdefendant, )  
)  
vs. )  
)  
FEDERAL DEPOSIT INSURANCE )  
CORPORATION, AS RECEIVER )  
FOR COMMUNITY BANK OF )  
NEVADA; DO INDIVIDUALS I-XX, )  
)  
Defendant/Counterclaimant. )  
\_\_\_\_\_ )

Defendant/Counterclaimant the Federal Deposit Insurance  
Corporation's, as Receiver for Community Bank of Nevada ("FDIC-R"),  
Motion for Preliminary Injunction was heard on October 28, 2013, at 2 p.m.  
Plaintiffs/Counterdefendants Kent and Marry Barry (the "Barrys") received  
notice of the motion and hearing and attended. The Court, having  
considered the FDIC-R's motion (#265) and the Declaration of Robert  
McCoy and exhibits in support of that motion, finds as follows:

1           1.     The FDIC-R has shown a likelihood of success on the  
2 merits of its motion for a writ of execution against Pacific Sunset  
3 Development, LLC ("Pacific Sunset"). The Court will address that motion  
4 after it is fully briefed.

5           2.     The FDIC-R has shown a possibility of harm if a  
6 preliminary injunction is not ordered because there is the possibility of the  
7 Barrys spending or moving the funds held in the Pacific Sunset bank  
8 account before the Court can rule on the FDIC-R's motion for a writ of  
9 execution.

10          3.     The balance of equities favors ordering a preliminary  
11 injunction against the Barrys because denial of a preliminary injunction  
12 would allow the Barrys unfettered access to any funds in the Pacific Sunset  
13 bank account, whether held at Wells Fargo or any other financial  
14 institution, which could hinder the FDIC-R's ability to collect on its  
15 outstanding judgments.

16          4.     Entering a preliminary injunction against the Barrys is in  
17 the public interest because the FDIC-R is an agency of the federal  
18 government and is tasked with the objective of collecting on the assets of a  
19 failed bank.

20          5.     The FDIC-R is not required to post a bond for a  
21 preliminary injunction pursuant to 12 U.S.C. § 1822(a).

22                   **IT IS HEREBY ORDERED THAT:**

23          1.     The FDIC-R's Motion for Preliminary Injunction is  
24 granted in part.

25          2.     Kent and Mary Barry, along with their officers, agents,  
26 servants, employees, and all persons in active concert or participation with  
27 one or both of them, are enjoined from transferring or removing any funds  
28 from any bank account held in the name of Pacific Sunset Development,

1 LLC at Wells Fargo or any other financial institution, except as follows for  
2 reasonable and necessary living expenses:

- 3 a. One rent payment per month in the amount of
- 4 \$4,500;
- 5 b. One payment per month per vehicle in the total
- 6 amount of \$1,308 and other attendant
- 7 transportation costs;
- 8 c. Utilities;
- 9 d. Insurance;
- 10 e. Food and groceries;
- 11 f. Necessary medical expenses; and
- 12 g. Education expenses.

13 3. In the event that any allowable expense(s) under this  
14 order (except the mortgage and car payment) will exceed \$1,000.00 total  
15 per month in any one of the categories enumerated above, the Barrys must  
16 give notice of such expenditure(s) that would cause the expenses in that  
17 category to exceed \$1,000 to the FDIC-R.

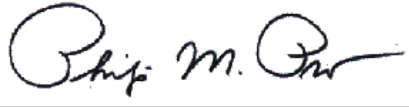
18 4. Kent and Mary Barry, along with their officers, agents,  
19 servants, employees, and all persons in active concert or participation with  
20 one or both of them, are enjoined from transferring or disposing of any  
21 funds from any bank account held in the name of Pacific Sunset  
22 Development, LLC at Wells Fargo or any other financial institution.

23 5. This Preliminary Injunction shall remain in effect until  
24 further order of this Court.

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6. The FDIC-R does not need to post any bond for this Preliminary Injunction to take effect.



UNITED STATES DISTRICT JUDGE

DATED: November 13, 2013