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Stewart Title of Douglas County

IN OFFICIAL RECORDS OF
DOUGLAS CO., NEVADA

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APN 1220-21-110-013

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Stewart Title of Douglas County

1650 N. Lucerne, Ste. 101

Minden, NV 89423

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**ORDER AUTHORIZING DEBTORS' SALE OF REAL
PROPERTY FREE AND CLEAR OF LIENS AND
ENCUMBRANCES (1282 KYNDAL WAY GARDNERVILLE, NV)**

(Title of Document)

This page added to provide additional information required by NRS 111.312 Sections 1-2.
(Additional recording fee applies)

This cover page must be typed.

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STEPHEN R. HARRIS, ESQ.
BELDING, HARRIS & PETRONI, LTD.
Nevada Bar No. 001463
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Reno, Nevada 89509
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Attorney for Debtors

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UNITED STATES
BANKRUPTCY COURT
PATRICIA GRAY, CLERK

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:

JAMES W. MONTGOMERY, III and
ANDRIA B. MONTGOMERY,
husband and wife,

Case No. BK-N-04-53405
(Chapter 7)

**ORDER AUTHORIZING
DEBTORS' SALE OF REAL PROPERTY
FREE AND CLEAR OF LIENS AND
ENCUMBRANCES (1282 KYNDAL WAY
GARDNERVILLE, NEVADA)**

Debtors.

Hrg. DATE: November 30, 2004
and TIME: 2:00 p.m.
Est. Time: 5 minutes
Set By: Judge Zive - OST

The matter came before the Court on the MOTION FOR ORDER AUTHORIZING DEBTORS' SALE OF REAL PROPERTY FREE AND CLEAR OF LIENS AND ENCUMBRANCES (1282 KYNDAL WAY GARDNERVILLE, NEVADA) ("SALE MOTION"), filed on November 22, 2004, by STEPHEN R. HARRIS, ESQ. of BELDING, HARRIS & PETRONI, LTD., attorney for the Debtors, JAMES W. MONTGOMERY, III and ANDRIA B. MONTGOMERY ("Debtors"); and the Debtors having duly noticed a hearing on the SALE MOTION on Court-ordered shortened time for November 30, 2004, at 2:00 p.m., with STEPHEN R. HARRIS, ESQ. of BELDING, HARRIS & PETRONI, LTD., appearing on behalf of the Debtors, and the Debtor JAMES W. MONTGOMERY, III, also present; and the Court also noting the appearances of other attorneys for creditors, creditors and interested parties; and the Court having considered all pleadings on file and the oral argument of counsel in support of the relief requested by the Debtors; and no written opposition having been filed with the Court, and there being no over-

1 bidders for the subject Real Property; and good cause appearing,

2 **IT IS HEREBY ORDERED** that Debtors are authorized to sell their 100% ownership
3 interest in the Real Property located at 1282 Kyndal Way, Gardnerville, NV 89460 to R. WAYNE
4 ZIEGLER AND/OR ASSIGNEE(S), pursuant to 11 U.S.C. §363(b), for the cash sum of \$312,500.00,
5 pursuant to the terms and conditions set forth in the parties' Purchase Agreement attached hereto as
6 Exhibit "A" and incorporated herein by that reference, free and clear of liens and encumbrances
7 pursuant to 11 U.S.C. §363(f); and

8 **IT IS FURTHER ORDERED** that Debtors are authorized to pay from the escrow the real
9 estate commissions equal to 6.0% of the gross sales price of the Real Property, to be split 3.0% to the
10 listing broker, JOHN FISHER of RE/MAX REALTY AFFILIATES, and 3% to the selling agent,
11 DICK McCOLE of RE/MAX REALTY AFFILIATES; and

12 **IT IS FURTHER ORDERED** that Debtors are authorized to pay directly from the escrow
13 the financial liens and encumbrances recorded against the Real Property, pro-rations and closing costs;
14 and

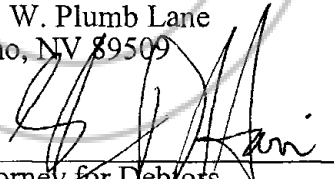
15 **IT IS FURTHER ORDERED** that all net proceeds after payment of closing costs,
16 pro-rations and commissions are to be paid directly from escrow to the Debtors, said sum representing
17 Debtors' homestead exemption not to exceed \$200,000.00, with any net proceeds in the excess of the
18 \$200,000.00 homestead exemption, if any, to be paid to the Trustee, Angelique L.M. Clark, and
19 further, the Court authorizes the Trustee to consent to the Debtors' claim of their homestead
20 exemption.

21 DATED this 30th November, 2004.

22 
23 BERT M. GOLDWATER
UNITED STATES BANKRUPTCY JUDGE

24 Prepared and Submitted by:

25 STEPHEN R. HARRIS, ESQ.
26 BELDING, HARRIS & PETRONI, LTD.
417 W. Plumb Lane
Reno, NV 89509

27 
28 Attorney for Debtors

SEAL

I certify that this is a true copy:

Attest: 
Deputy Clerk, Bankruptcy Court

COPY

EXHIBIT "A"

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STANDARD RESIDENTIAL PURCHASE AGREEMENT

DEFINITIONS

BROKER includes cooperating brokers and all sales persons. DAYS means calendar days, midnight to midnight, unless otherwise specified. BUSINESS DAY excludes Saturdays, Sundays and legal holidays. DATE OF ACCEPTANCE means the date Seller accepts the offer or the Buyer accepts the counter offer. DELIVERED means personally delivered, transmitted by facsimile machine, by a nationally recognized overnight courier, or by first class mail, postage prepaid. In the event of mailing, the document will be deemed delivered three (3) business days after deposit, in the event of overnight courier, one (1) business day after deposit, and if by facsimile, at time of transmission provided that a transmission report is generated and retained by the sender reflecting the accurate transmission of the document. Unless otherwise provided in this Agreement or by law, delivery to the agent will constitute delivery to the principal. DATE OF CLOSING means the date title is transferred. TERMINATING THE AGREEMENT means that both parties are relieved of their obligations and all deposits will be returned to Buyer. PROPERTY means the real property and any personal property included in the sale.

AGENCY RELATIONSHIP CONFIRMATION. The following agency relationship is hereby confirmed for this transaction and supersedes any prior agency election:

LISTING AGENT: REMAX REALTY AFFILIATES by BRAD SPIRES is the agent of (check one):

the Seller exclusively; or both the Buyer and the Seller.

SELLING AGENT: REMAX REALTY AFFILIATES by DICK MCCOLE is the agent of (check one):

the Buyer exclusively; or the Seller exclusively; or both the Buyer and the Seller.

Note: This confirmation DOES NOT take the place of the AGENCY DISCLOSURE forms required by regulation.

R WAYNE ZIEGLER AND/OR ASSIGNEE(S) hereinafter designated as BUYER, offers to purchase the real property situated in GARDNERVILLE, County of DOUGLAS, Nevada, commonly known as 1282 KYNDAL WAY

FOR THE PURCHASE PRICE OF \$ 312,500 (THREE HUNDRED AND TWELVE THOUSAND FIVE HUNDRED dollars) on the following terms and conditions:

Buyer does not intend to occupy the property as his or her residence.

1. FINANCING TERMS AND LOAN PROVISIONS.

A. \$ 5,000 DEPOSIT evidenced by check, or other, hold uncashed until acceptance and not later than three (3) business days thereafter deposited toward the purchase price with STEWART TITLE - CHARLENE HANOVER

B. \$ 0.00 ADDITIONAL CASH DEPOSIT to be placed in escrow within days after acceptance, upon receipt of Loan Commitment per Item 2, Other:

C. \$ 26,250 BALANCE OF CASH PAYMENT needed to close, not including closing costs.

D. \$ 287,250 NEW FIRST LOAN: CONVENTIONAL, FHA, VA, Other financing acceptable to Buyer. FIXED RATE: For years, interest not to exceed %, payable at approximately \$ per month (principal and interest only), with the balance due in not less than years. ARM: For 30 years, initial interest rate not to exceed %, with initial monthly payments of \$ 1,510.00 and maximum lifetime rate not to exceed %. Buyer will pay loan fee or points not to exceed. Lender to appraise property at no less than purchase price prior to loan contingency removal. If FHA or VA, Seller will pay % discount points. Seller will also pay other fees and costs, as required by FHA or VA, not to exceed \$

E. \$ 0.00 EXISTING FINANCING: ASSUMPTION OF, SUBJECT TO existing loan of record described as follows:

F. \$ 0.00 SELLER FINANCING: FIRST LOAN, SECOND LOAN, THIRD LOAN, secured by the property. Seller Financing Addendum is attached and made a part of this Agreement.

G. \$ 0.00 OTHER FINANCING TERMS:

H. \$ 312,500 TOTAL PURCHASE PRICE (not including closing costs).

2. LOAN APPROVAL. (Please check one of the following):

- A. CONTRACT IS NOT CONTINGENT upon Buyer obtaining a loan.
B. CONTRACT IS CONTINGENT upon Buyer's ability to obtain commitment for new financing, as set forth above, from a lender or mortgage broker of Buyer's choice, and/or consent to assumption of existing financing provided for in this Agreement, within 30 days after acceptance. Buyer will in good faith use his or her best efforts to qualify for and obtain the financing and will complete and submit a loan application within five (5) days after acceptance. Buyer will, will not provide a prequalification letter, or preapproval letter from lender or mortgage broker based on Buyer's application and credit report within 5 days after acceptance. In the event a loan commitment or consent is obtained but not timely honored without fault of Buyer, Buyer may terminate this Agreement.

Buyer and Seller have read this page.

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3. **BONDS AND ASSESSMENTS.** In the event there are other bonds or assessments which have an outstanding principal balance and are a lien upon the property, the current installment will be prorated between Buyer and Seller as of the date of closing. Future installments will be assumed by Buyer WITHOUT CREDIT toward the purchase price, EXCEPT AS FOLLOWS: SELLER TO PAY ANY

OUTSTANDING BONDS/ASSESSMENTS PRIOR TO CLOSING

This Agreement is conditioned upon both parties verifying and approving in writing the amount of any bond or assessment to be assumed or paid within ten (10) days after receipt of the preliminary title report. In the event of disapproval, the disapproving party may terminate this Agreement.

4. **PROPERTY TAX.** Buyer acknowledges that the property may be reassessed upon change of ownership which may result in a tax increase or decrease.

5. **EXISTING LOANS.** Seller will, within three (3) days after acceptance, provide Buyer with copies of all notes and deeds of trust to be assumed or taken subject to. Within five (5) days after receipt Buyer will notify Seller in writing of his or her approval or disapproval of the terms of the documents. Approval will not be unreasonably withheld. Within three (3) days after acceptance, Seller will submit a written request for a current Statement of Condition on the above loan(s). Seller warrants that all loans will be current at close of escrow. Seller will pay any prepayment charge imposed on any existing loan paid off at close of escrow. Buyer will pay the prepayment charge on any loan which is to remain a lien upon the property after close of escrow. The parties are encouraged to consult his or her lender regarding prepayment provisions and any due on sale clauses.

6. **DESTRUCTION OF IMPROVEMENTS.** If the improvements of the property are destroyed, materially damaged, or found to be materially defective as a result of such damage prior to close of escrow, Buyer may terminate this Agreement by written notice delivered to Seller or his or her Broker, and all unused deposits will be returned. In the event Buyer does not elect to terminate this Agreement, Buyer will be entitled to receive, in addition to the property, any insurance proceeds payable on account of the damage or destruction.

7. **EXAMINATION OF TITLE.** In addition to any encumbrances assumed or taken "subject to," Seller will convey title to the property subject only to: [1] real estate taxes not yet due; and [2] covenants, conditions, restrictions, rights of way and easements of record, if any.

Within three (3) days after acceptance, Buyer will order a Preliminary Title Report and copies of CC&Rs and other documents of record if applicable. Within five (5) days after receipt, Buyer will report to Seller in writing any valid objections to title contained in such report (other than monetary liens to be paid upon close of escrow). If Buyer objects to any exceptions to the title, Seller will use due diligence to remove such exceptions at his or her own expense before close of escrow. If such exceptions cannot be removed before close of escrow, this Agreement will terminate, unless Buyer elects to purchase the property subject to such exceptions. If Seller concludes he or she is in good faith unable to remove such objections, Seller will notify Buyer within ten (10) days after receipt of said objections. In that event Buyer may terminate this Agreement.

8. **EVIDENCE OF TITLE** will be in the form of a policy of title insurance, issued by _____, Owner's policy to be paid by Buyer, Seller, Split 50/50. Lender's policy to be paid by Buyer, Seller, Split 50/50.

STEWART TITLE

9. **PRORATIONS.** Rents, real estate taxes, interest, payments on bonds and assessments assumed by Buyer, and homeowners association fees will be prorated as of the date of recordation of the deed. Security deposits, advance rentals, or considerations involving future lease credits will be credited to Buyer.

10. **CLOSING.** Full purchase price to be paid and deed to be recorded on or before _____, OR within 30 days of acceptance. Both parties will deposit with an authorized escrow holder, to be selected by Buyer, all funds and instruments necessary to complete the sale in accordance with the terms of this Agreement. Where customary, signed escrow instructions will be delivered to escrow holder within _____ days of acceptance. Escrow fee to be paid by 1/2 EACH County/City transfer tax(es), if any, to be paid by _____ 1/2 EACH. Homeowner association transfer fee to be paid by _____ N/A. THIS PURCHASE AGREEMENT TOGETHER WITH ANY ADDENDA WILL CONSTITUTE JOINT ESCROW INSTRUCTIONS TO THE ESCROW HOLDER.

11. **PHYSICAL POSSESSION.** Physical possession of the property, with keys to all property locks, alarms, and garage door openers, will be delivered to Buyer (check one):
 On the date of recordation of the deed, not later than 5:00 a.m., p.m.;
 On the _____ day after recordation, not later than _____ a.m., p.m.;

12. **FIXTURES.** All items permanently attached to the property, including light fixtures and bulbs, attached floor coverings, all attached window coverings, including window hardware, window and door screens, storm sash, combination doors, awnings, TV antennas, burglar, fire, smoke and security alarms (unless leased), pool and spa equipment, solar systems, attached fireplace screens, electric garage door openers with controls, outdoor plants and trees (other than in movable containers), are included in the purchase price free of liens, EXCLUDING: NONE

13. **CONDITION OF PROPERTY.** Seller agrees that upon delivery of possession to the Buyer: (a) all built-in appliances included in the sale, and the electrical, plumbing (excluding irrigation systems), heating and cooling systems will be in working order and free of leaks; (b) the roof will be free of leaks; (c) all broken or cracked glass, including mirrors and shower/tub enclosures and broken seals between double-pane windows, will be replaced; (d) and existing window and door screens that are damaged will be repaired. Unless specifically

Buyer [Signature] and Seller [Signature] have read this page.

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Property Address: _____

excluded, all of the above are the obligation of the Seller regardless of any disclosures made or conditions discovered by the parties or their agents. The following items are specifically excluded from the above: **"AS-IS, ADDENDUM" ATTACHED**

Seller's obligations under this provision are not intended to create a duty to repair an item that may fail after possession is delivered. Buyer and Seller acknowledge that Broker is not responsible for any alleged breach of these covenants.

- 14. **INSPECTIONS OF PHYSICAL CONDITION OF PROPERTY.** Buyer will have the right to retain, at his or her expense, licensed experts including but not limited to engineers, geologists, architects, contractors, surveyors, arborists, and structural pest control operators to inspect the property for any structural and nonstructural conditions, including matters concerning roofing, electrical, plumbing, heating, cooling, appliances, well, septic system, pool, boundaries, geological and environmental hazards, toxic substances including asbestos, mold, formaldehyde, radon gas, and lead-based paint. Buyer, if requested by Seller in writing, will promptly furnish, at no cost to Seller, copies of all written inspection reports obtained. Buyer will approve or disapprove in writing all inspection reports obtained within 15 days after acceptance. In the event of Buyer's disapproval, Buyer may, within the time stated or mutually agreed upon extension, elect to terminate this Agreement, or invite Seller to negotiate repairs. (See P.P. Form 101-M, Addendum Regarding Removal of Inspection Contingencies.)
- 15. **MAINTENANCE.** Until possession is delivered, Seller will maintain all structures, landscaping, grounds, and pool in the same general condition as of the date of acceptance or physical inspection, whichever is later. Seller agrees to deliver the property in a neat and clean condition with all debris and personal belongings removed.
- 16. **PERSONAL PROPERTY.** The following personal property, on the premises when inspected by Buyer, is included in the purchase price and will be transferred to Buyer free of liens and properly identified by a Bill of Sale at close of escrow. Unless itemized here, personal property is not included in the sale. No warranty is made as to the condition of the personal property: NONE

17. **SELLER'S REAL PROPERTY DISCLOSURE STATEMENT (SRPDS).** Seller will comply with Chapter 113, Nevada Revised Statutes by providing Buyer with a completed Seller's Real Property Disclosure Statement.

Buyer has received and read the completed SRPDS.

Seller will provide to Buyer the completed SRPDS within 5 days after acceptance.

Buyer and Seller agree that any new reports or other disclosure documents received by Buyer from the Seller after receipt of the SRPDS are automatically deemed an amendment to the SRPDS. If any disclosure or a material amendment of any disclosure is delivered after the execution of an offer to purchase, Buyer will have three (3) days after delivery in person or five (5) days after deposit in the mail to terminate his or her offer by delivery of a written notice of termination to Seller or Seller's Agent.

Seller agrees to hold all Brokers in the transaction harmless and to defend and indemnify them from any claim, demand, action or proceedings resulting from any omission or alleged omission by Seller in his or her Real Property Disclosure Statement or supplement.

18. **SUPPLEMENT TO STATUTORY DISCLOSURE STATEMENT.** The following supplemental disclosures are attached or, if no, will be provided to the Buyer at time of acceptance:

- CONSENT TO ACT, DUTIES OWED BY LICENSEE, CONFIRMATION OF AGENCY RELATIONSHIP
- STANDARD DISCLOSURES AND DISCLAIMERS, LEAD-BASED PAINT DISCLOSURE,
- COMMON INTEREST COMMUNITY INFORMATION STATEMENT
- OTHER AS-IS, ADDENDUM

In the event the property is now construction, the following additional disclosures will be provided-

- PUBLIC OFFERING STATEMENT, GAMING CORRIDOR DISCLOSURE, NOTICE OF WATER/SEWAGE RATES,
- PUBLIC SERVICES AND UTILITIES DISCLOSURE, ELECTRIC TRANSMISSION LINE EASEMENTS,
- NOTICE OF IMPACT FEES, NOTICE OF CONSTRUCTION RECOVERY FUND
- OTHER

19. **SAFETY BOOKLETS.** By initialing below, Buyer acknowledges receipt of the following booklets:

Approved Lead-Based Paint Pamphlet Other _____

20. **ACCESS TO PROPERTY.** Seller agrees to provide reasonable access to the property to Buyer and inspectors, appraisers, and all other professionals representing Buyer.

21. **WALK-THROUGH INSPECTION.** Buyer will have the right to conduct a walk-through inspection of the property within 3 days prior to close of escrow, to verify Seller's compliance with the provisions under Item 12, FIXTURES, Item 13, CONDITION OF PROPERTY, Item 15, MAINTENANCE, and Item 16, PERSONAL PROPERTY. This right is not a condition of this Agreement, and Buyer's sole remedy for an alleged breach of these items is a claim for damages. Utilities are to remain turned on until transfer of possession.

22. **COMPLIANCE WITH LOCAL LAWS.** Seller will comply with any local laws applicable to the sale or transfer of the property, including but not limited to: Providing inspections and/or reports for compliance with local building and permit regulations, including septic system inspection reports; compliance with minimum energy conservation standards; and compliance with water conservation measures. All required inspections and reports will be ordered within three (3) days after acceptance and will be paid by Seller, Buyer. If Seller does not agree within five (5) days after receipt of a report to pay the cost of any repair or improvement required to comply with such laws, Buyer may terminate this Agreement. It is understood that if Seller has given notice that necessary permits or final approvals were not obtained for some improvements, Seller will not be responsible for bringing the improvements into compliance unless otherwise agreed.

Buyer [Signature] and Seller [Signature] have read this page.

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23. OPTIONAL PROVISIONS. The provisions of Item 23, IF INITIALED BY BUYER are included in this Agreement.

23-A. PEST CONTROL INSPECTION. Inspection to be paid for by Buyer, Seller. The main building and all structures on the property to be inspected by a licensed pest control operator, the inspection to be completed within 15 days of acceptance. Seller to pay for: (1) elimination of infestation and/or infection of wood-destroying pests or organisms; (2) repair of damage caused by such infestation and/or infection; (3) correction of conditions which caused said damage; and (4) repair of plumbing and other leaks and repair of damage caused by such leaks. Seller will not be responsible for preventive work where no damage is found, except where required for FHA or VA financing. Seller agrees to pay an amount NOT to exceed \$ 0.00 or repairs required by the pest control inspection.

If the inspecting pest control operator recommends further inspection of inaccessible areas, Buyer may require that said areas be inspected. If any infestation or infection is discovered by such inspection, the additional cost of such inspection and additional required work will be paid by Seller to the limit set forth above. If no such infestation or infection is discovered, the additional cost of inspecting such inaccessible areas and the work required to return the property to its original condition will be paid by Buyer.

23-B. SELLER TO PAY FOR WORK SHOWN IN EXISTING PEST CONTROL REPORT. Within 24 hours after acceptance, Seller will furnish Buyer a copy of the existing pest control report dated _____ by _____. Seller agrees to pay for the work, if any, recommended in said report, or perform the work himself or herself as stated in Item 23-A. Within fifteen (15) days after acceptance, Buyer will notify Seller in writing of approval or disapproval of the report. In case of disapproval, Buyer may terminate this Agreement.

23-C. WAIVER OF PEST CONTROL INSPECTION. Buyer has satisfied himself or herself about the condition of the property and agrees to purchase the property without the benefit of a structural pest control inspection. Buyer acknowledges that he or she has not relied upon any representations by either the Broker or the Seller with respect to matters that would normally be covered in a pest control inspection.

23-D. HOME PROTECTION CONTRACT, paid for by Buyer, Seller, split 50/50, will become effective upon close of escrow for not less than one year at a cost not to exceed \$ _____ with the following optional coverage:

The Brokers have informed both parties that such protection programs are available, but do not approve or endorse any particular program. Unless this provision is initialed, Buyer understands that such a protection plan is waived.

23-E. COMMON INTEREST COMMUNITY DISCLOSURE. Within fifteen (15) days after acceptance, Seller, at his or her expense, agrees to provide to Buyer the management documents and other information required by Nevada Revised Statutes, §16.4109. Within five (5) days after receipt, Buyer will notify Seller in writing of approval or disapproval of the documents and information. In case of disapproval, Buyer may terminate this Agreement.

Any delinquent assessments including penalties, attorney's fees, and other charges that are or could become a lien on the property will be credited to Buyer at close of escrow.

23-F. FLOOD HAZARD ZONE. Buyer has been advised that the property is located in a special flood hazard area designated by the Federal Emergency Management Agency (FEMA). It will be necessary to purchase flood insurance in order to obtain any loan secured by the property from any federally regulated financial institution or a loan insured or guaranteed by an agency of the U.S. Government. The purpose of the program is to provide flood insurance at reasonable cost. For further information consult your lender or insurance carrier.

23-G. PROBATE/CONSERVATORSHIP SALE. This sale is subject to court approval at which time the court may allow open competitive bidding. An "AS IS" Addendum is, is not attached and made a part of this Agreement.

23-H. RENTAL PROPERTY. If checked, property will be vacated no less than five (5) (or) days prior to close of escrow. If not checked, Buyer to take property subject to rights of parties in possession on leases or month-to-month tenancies. Within seven (7) days after acceptance, Seller will deliver to Buyer for his or her approval copies of the following documents: (a) existing leases and rental agreements with tenants; (b) any outstanding notices sent to tenants; (c) a written statement of all oral agreements with tenants; (d) existing defaults by Seller or tenants; (e) claims made by or to tenants; (f) a statement of all tenants deposits held by Seller; (g) a complete statement of rental income and expenses; (h) and any service and equipment rental contracts with respect to the property which run beyond close of escrow. Seller warrants all of this documentation to be true and complete.

Within seven (7) days after receipt of documents, Buyer will notify Seller in writing of approval or disapproval of the documents. In case of disapproval, Buyer may terminate this Agreement. During the escrow period of this transaction Seller agrees that no changes in the existing leases or rental agreements will be made, nor new leases or rental agreements longer than month to month entered into, nor will any substantial alterations or repairs be made or undertaken without the written consent of the Buyer. Security deposits, advance rentals, or considerations involving future lease credits will be credited to Buyer in escrow.

23-I. TAX DEFERRED EXCHANGE (INVESTMENT PROPERTY). In the event that Seller wishes to enter into a tax deferred exchange for the property, or Buyer wishes to enter into a tax deferred exchange with respect to property owned by him or her in connection with this transaction, each of the parties agrees to cooperate with the other party in connection with such exchange, including the execution of such documents as may be reasonably necessary to complete the exchange; provided that: (a) the other party will not be obligated to delay the closing; (b) all additional costs in connection with the exchange will be borne by the party requesting the exchange; (c) the other party will not be obligated to execute any note, contract, deed or other document providing for

Buyer [Signature] and Seller [Signature] have read this page.

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Property Address: _____

any personal liability which would survive the exchange; and (d) the other party will not take title to any property other than the property described in this Agreement. It is understood that a party's rights and obligations under this Agreement may be assigned to a third party intermediary to facilitate the exchange. The other party will be indemnified and held harmless against any liability which arises or is claimed to have arisen on account of the exchange.

24. CONTINGENT ON SALE. (Please check one of the following):

- A. CONTRACT IS NOT CONTINGENT upon the sale or close of any property owned by Buyer.
- B. CONTRACT IS CONTINGENT on Buyer's Property at _____ which is in escrow and concerning which all contingencies have, have not been satisfied, closing on or before _____. If Buyer's escrow is terminated, abandoned, or does not close on time, this Agreement will terminate without further notice unless the parties agree otherwise in writing.
- C. CONTRACT IS CONTINGENT on Buyer accepting an offer for his or her property at _____ within _____ days after acceptance of this Agreement, and that sale closing on or before _____. Seller will have the right to continue to offer the property for sale. When Buyer has accepted an offer on the sale of his or her property, Buyer will promptly deliver a written notice of the sale to Seller. If Buyer's purchase agreement is subject to the sale of another property, it does not qualify without the written consent of Seller. Upon delivering notice of the qualified sale, this Agreement will still be contingent on Buyer's property closing as specified in this Item 24-C. If Buyer's escrow is terminated, abandoned, or does not close on time, this Agreement will terminate without further notice unless the parties agree otherwise in writing.
If Seller accepts a bona fide written offer from a third party prior to Buyer's delivery of notice of acceptance of an offer on the sale of Buyer's property, Seller may give Buyer written notice of that fact. Within three (3) days of receipt of the notice, Buyer will waive the contingency of the sale and close of his or her property, or this Agreement will terminate without further notice. In order to be effective, the waiver of contingency must be accompanied by reasonable evidence that funds needed to close escrow will be available and Buyer's ability to obtain financing is not contingent upon the sale and/or close of any property.

25. DEFAULT. In the event Buyer defaults in the performance of this Agreement (unless Buyer and Seller have agreed to liquidated damages), Seller may, subject to any rights of Broker, retain Buyer's deposit to the extent of damages sustained and may take such actions as he or she deems appropriate to collect such additional damages as may have been actually sustained. Buyer will have the right to take such action as he or she deems appropriate to recover such portion of the deposit as may be allowed by law.

26. EXPIRATION OF OFFER. This Offer will expire unless acceptance is delivered to Buyer or to _____ DICK MCCOLE (Buyer's Broker) on or before (date) 10-28-04 (time) 5:00 a.m. p.m.

27. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which is deemed to be an original.

28. CONDITIONS SATISFIED/WAIVED IN WRITING. Each condition or contingency, covenant, approval or disapproval will be satisfied according to its terms or waived by written notice delivered to the other party or his or her Broker.

29. TIME. Time is of the essence of this Agreement; provided, however, that if either party fails to comply with any contingency in this Agreement within the time limit specified, this Agreement will not terminate until the other party delivers written notice to the defaulting party requiring compliance within 24 hours after receipt of notice. If the party receiving the notice fails to comply within the 24 hours, the non-defaulting party may terminate this Agreement without further notice. It is understood that neither the making of deposits nor the close of escrow is a contingency.

30. LIQUIDATED DAMAGES. By initialing in the spaces below,

[Signature] Buyer agrees Buyer does not agree

[Signature] Seller agrees Seller does not agree

that in the event Buyer defaults in the performance of this Agreement, Seller will retain as liquidated damages the deposit set forth in Items 1-A and 1-B, and that said liquidated damages are reasonable in view of all the circumstances existing on the date of this Agreement. The liquidated damages will not exceed three percent (3%) of the purchase price and any deposit in excess of that amount will be refunded to Buyer. In the event that Buyer defaults and has not made the deposit required under Item 1-B, or refuses to execute liquidated damage provision with respect to additional deposits, then Seller will have the option of retaining the initial deposit(s) that have been made, or terminating the obligations of the parties under this Item 30 and recovering such damages from Buyer as may be allowed by law. The parties understand that in case of dispute mutual cancellation instructions are necessary to release funds from escrow or trust accounts.

31. MEDIATION OF DISPUTES. If a dispute arises out of or relates to this Agreement or its breach, by initialing in the "agree" spaces below the parties agree to first try in good faith to settle the dispute by voluntary mediation before resorting to court action or arbitration, unless the dispute is a matter excluded under Item 32-ARBITRATION. The fees of the mediator will be shared equally between all parties to the dispute. If a party initials the "agree" space and later refuses mediation, that party will not be entitled to recover prevailing party attorney fees in any subsequent action.

[Signature] Buyer agrees Buyer does not agree

[Signature] Seller agrees Seller does not agree

Buyer [Signature] and Seller [Signature] have read this page.

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Property Address: _____

12. **ARBITRATION OF DISPUTES.** Any dispute or claim in law or equity between the Buyer and Seller arising out of this Agreement will be decided by neutral binding arbitration in accordance with the Nevada Uniform Arbitration Act (Chapter 38, Nevada Revised Statutes), and not by court action except as provided by Nevada law for judicial review of arbitration proceedings. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. The parties will have the right to discovery in accordance with NRS §§ 38.085-38.095.

The parties agree that the following procedure will govern the making of the award by the arbitrator: (a) a Tentative Award will be made by the arbitrator within 30 days following submission of the matter to the arbitrator; (b) the Tentative Award will explain the factual and legal basis for the arbitrator's decision as to each of the principal controverted issues; (c) the Tentative Award will be in writing unless the parties agree otherwise; provided, however, that if the hearing is concluded within one (1) day, the Tentative Award may be made orally at the hearing in the presence of the parties. Within 15 days after the Tentative Award has been served or announced, any party may serve objections to the Tentative Award. Upon objections being timely served, the arbitrator may call for additional evidence, oral or written argument, or both. If no objections are filed, the Tentative Award will become final without further action by the parties or arbitrator. Within thirty (30) days after the filing of objections, the arbitrator will either make the Tentative Award final or modify or correct the Tentative Award, which will then become final as modified or corrected.

The following matters are excluded from arbitration: (a) a judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust or mortgage; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court, bankruptcy court, or small claims court; or (e) an action for bodily injury or wrongful death. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, will not constitute a waiver of the right to arbitrate under this provision.

NOTICE: By initialing in the ["agree"] space below you are agreeing to have any dispute arising out of the matters included in the "Arbitration of Disputes" provision decided by neutral arbitration as provided by Nevada law and you are giving up any rights you might possess to have the dispute litigated in a court or jury trial. By initialing in the ["agree"] space below you are giving up your judicial rights to discovery and appeal, unless those rights are specifically included in the "Arbitration of Disputes" provision. If you refuse to submit to arbitration after agreeing to this provision, you may be compelled to arbitrate under the authority of Chapter 38, Nevada Revised Statutes. Your agreement to this arbitration provision is voluntary.

We have read and understand the foregoing and agree to submit disputes arising out of the matters included in the "Arbitration of Disputes" provision to neutral arbitration.

Buyer agrees Buyer does not agree
 Seller agrees Seller does not agree

33. **ATTORNEY FEES.** In any action, arbitration, or other proceeding involving a dispute between Buyer and Seller arising out of the execution of this Agreement or the sale, whether for tort or for breach of contract, and whether or not brought to trial or final judgment, the prevailing party will be entitled to receive from the other party a reasonable attorney fee, expert witness fees, and costs to be determined by the court or arbitrator(s).

34. **SURVIVAL.** The omission from escrow instructions of any provision in this Agreement will not waive the right of any party. All representations or warranties will survive the close of escrow.

35. **ENTIRE AGREEMENT/ASSIGNMENT PROHIBITED.** This document contains the entire agreement of the parties and supersedes all prior agreements or representations with respect to the property which are not expressly set forth. This Agreement may be modified only in writing signed and dated by both parties. Both parties acknowledge that they have not relied on any statements of the real estate Agent or Broker which are not expressed in this Agreement. Buyer may not assign any right under this agreement without the prior written consent of Seller. Any such assignment will be void and unenforceable.

36. **ADDITIONAL TERMS AND CONDITIONS.**

Buyer and Seller have read this page.

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Page 6 of 7
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Property Address: _____ 7604 RIVINGTON RD _____

DISCLOSURE: A real estate broker/agent is qualified to advise on real estate. If you have any questions concerning the legal sufficiency, legal effect, insurance, or tax consequences of this document or the related actions, consult with your attorney, accountant or insurance advisor.

The undersigned Buyer acknowledges that he or she has thoroughly read and approved each of the provisions of this offer and agrees to purchase the property for the price and on the terms and conditions specified. Buyer acknowledges receipt of a copy of this offer.

Buyer James W. Montgomerie Date 10/27/2004 Time 12:40

Buyer _____ Date _____ Time _____

Address _____

ACCEPTANCE

Seller accepts the foregoing Offer and agrees to sell the property for the price and on the terms and conditions specified.

NOTICE: The amount or rate of real estate commissions is not fixed by law. They are set by each Broker individually and may be negotiable between the Seller and Broker.

37. COMMISSION. Seller agrees to pay in cash the following real estate commission for services rendered, which commission Seller hereby irrevocably assigns to Broker(s) from escrow:
3 % of the accepted price, or \$ _____, to the listing Broker: RE/MAX REALTY AFFILIATES, and
3 % of the accepted price, or \$ _____, to the selling Broker: RE/MAX REALTY AFFILIATES
without regard to the agency relationship. Escrow instructions with respect to commissions may not be amended or revoked without the written consent of the Broker(s).
In any action for commission the prevailing party will be entitled to reasonable attorney fees whether or not the action is brought to trial or final judgment.

38. PROVISIONS TO BE INITIALED. The following items must be "agreed to" by both parties to be binding on either party. In the event of disagreement, Seller should make a counter offer.

Item 30. LIQUIDATED DAMAGES Item 31. MEDIATION OF DISPUTES Item 32. ARBITRATION OF DISPUTES

Seller acknowledges receipt of a copy of this Agreement. Authorization is hereby given the Broker(s) in this transaction to deliver a signed copy to Buyer and to disclose the terms of purchase to members of a Multiple Listing Service, Board or Association of REALTORS® at close of escrow.

39. IF CHECKED ACCEPTANCE IS SUBJECT TO ATTACHED COUNTER OFFER DATED _____

Seller Andria Montgomery
(Signature)

Seller James W. Montgomerie
(Signature)

Andria Montgomery
(Printed Print Name)

James W. Montgomerie
(Printed Print Name)

Date 10/27/04 Time 4pm

Date 10-27-04 Time 4:00 pm

Address _____

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ADDENDUM — "AS IS" SALE

To Agreement dated 10-27-04 between JAMES AND ANNE MONTGOMERY, Seller and R WAYNE ZIEGLER AND/OR ASSIGNEE(S) Buyer, concerning property commonly known as 1282 KYNDAL WAY ("Property").

The Property being sold is not new and neither Seller nor Seller's agent warrant the condition of the property, which is sold in its present "AS IS" condition. Buyer understands and agrees that Seller, his or her agents or assigns, will not, prior or subsequent to close of escrow, be responsible for the repair, replacement, or modification of any deficiencies, malfunctions or mechanical defects in the material, workmanship, or mechanical components of the structures, improvements, or land, including but not limited to: heating, plumbing, electrical or sewage disposal system, well or other water supply system, drainage or moisture conditions, foundations, air conditioning, hot water heater, pools, spas, solar systems, appliances, roof, or damage by or presence of pests, mold, or other organisms. This provision supersedes all other provisions in the Purchase Agreement regarding the condition of the Property (except those relating to destruction of improvements, risk of loss, compliance with local laws applicable to the sale or transfer of property, and leaving property free of debris and personal property). However, Seller agrees the Property (including all structures, pool, spa, grounds and landscaping) will be maintained and delivered to Buyer at close of escrow in the same or better condition than as of the date of acceptance or, if there is an inspection contingency, as of the time the inspection contingency is removed.

Buyer has been advised to carefully inspect the Property personally, and to obtain inspection reports from qualified experts regarding all systems and features of the Property including boundary lines, lot and dwelling size, roof, plumbing, electrical, appliances, sewers, septic system, soil conditions, foundation, heating, air conditioning, structural components, pool and related equipment, and any possible environmental hazards, pest, or mold infestation or infection.

Seller agrees to permit Buyer and Buyer's representatives reasonable access to the Property to complete the inspections.

Buyer will notify Seller in writing, within the inspection contingency period specified in the purchase agreement (or, if not specified, within 15 days from date of acceptance) that the condition of the Property is either acceptable or unacceptable. If the Buyer finds the Property acceptable, Buyer agrees to take the Property in its present "AS IS" condition as of the time the inspection condition is satisfied. Should Buyer find the Property unacceptable, the Buyer has the option of terminating the Purchase Agreement.

Buyer is not relying upon Seller or Seller's agent to investigate and report on the condition of the Property other than conditions known by the Seller or Seller's agent and noted on any disclosure statements that have been provided. In all other respects, Buyer agrees that he or she is relying exclusively upon Buyer's own inspection and that of experts retained by Buyer as to the condition of the physical features of the Property and location of the boundary lines.

The parties understand that, even though this is an "AS IS" sale, the Seller is obligated by law to reveal all known defects of a material nature of which the Seller is aware. The parties do not intend by this Addendum to waive any provision of the law requiring that the Seller or the agents furnish disclosure statements, nor do the parties intend to waive any provisions of local laws requiring inspections or reports.

Buyer R Wayne Ziegler Date 10/27/2004 Buyer _____ Date _____
Seller James Montgomery Date 10/27/04 Seller James Montgomery Date 10-27-04

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DUTIES OWED

This form does not constitute a contract for services.

In Nevada, a real estate licensee can (1) act for only one party to a real estate transaction, (2) act for more than one party to a real estate transaction with written consent of each party, or (3) if licensed as a broker, assign different licensees affiliated with the broker's company to separate parties to a real estate transaction. A licensee, acting as an agent, must act in one of these capacities in every real estate transaction. If this form is used for a lease, the term Seller shall mean Landlord/Lessor and the term Buyer shall mean Tenant/Lessee.

LICENSEE. The licensee in the real estate transaction is DICK MCCOLE ("Licensee") whose license number is 15355. The Licensee is acting for BUYER.
BROKER. The broker in the real estate transaction is JOHN FISHER ("Broker"), whose company is RE/MAX REALTY AFFILIATES ("Company").

A NEVADA REAL ESTATE LICENSEE IN A REAL ESTATE TRANSACTION SHALL:

- 1. Disclose to each party to the real estate transaction as soon as is practicable:
a. Any material and relevant facts, data or information which Licensee knows, or which by the exercise of reasonable care and diligence licensee should have known, relating to the property which is the subject of the real estate transaction.
b. Each source from which Licensee will receive compensation as a result of the transaction.
c. That Licensee is a principal to the transaction or has an interest in a principal to the transaction.
d. Any changes in Licensee's relationship to a party to the real estate transaction.
2. Disclose, if applicable, that Licensee is acting for more than one party to the transaction. Upon making such a disclosure the Licensee must obtain the written consent of each party to the transaction for whom Licensee is acting before Licensee may continue to act in Licensee's capacity as an agent.
3. Exercise reasonable skill and care with respect to all parties to the real estate transaction.
4. Provide this form to each party to the real estate transaction.
5. Not disclose, except to the Broker, confidential information relating to a client.
6. Exercise reasonable skill and care to carry out the terms of the brokerage agreement and to carry out Licensee's duties pursuant to the terms of the brokerage agreement.
7. Not disclose confidential information relating to a client for 1 year after the revocation or termination of the brokerage agreement, unless Licensee is required to do so by order of the court. Confidential information includes, but is not limited to the client's motivation to purchase, sell or trade and other information of a personal nature.
8. Promote the interest of his client by:
a. Seeking a sale, lease or property at the price and terms stated in the brokerage agreement or at a price acceptable to the client.
b. Presenting all offers made to or by the client as soon as is practicable.
c. Disclosing material facts of which the licensee has knowledge concerning the transaction.
d. Advising the client to obtain advice from an expert relating to matters which are beyond the expertise of the licensee.
e. Accounting for all money and property Licensee receives (in which the client may have an interest) as soon as is practicable.
9. Not deal with any party to a real estate transaction in a manner which is deceitful, fraudulent or dishonest.
10. Abide by all duties, responsibilities and obligations required of Licensee in chapters 119, 119A, 119B, 645, 645A, and 645C of the NRS.

I/We acknowledge receipt of a copy of this list of licensee duties, and have read and understand this disclosure.

Handwritten signatures and dates for Seller/Landlord and Buyer/Tenant, including dates like 10/27/04 and 10/27/2004.

RE/MAX Realty 0632462 775-782-4029 BK1204PG09389

CONFIRMATION REGARDING REAL ESTATE

This does not constitute a contract for services

Property Address:

1282 KYNDAL WAY

In the event any party to the real estate transaction is also represented by another licensee who is affiliated with the same Company, the Broker may assign a licensee to act for each party, respectively. As set forth within the Duties Owed form, no confidential information will be disclosed. This is is not such a transaction.

I/We confirm the duties of a real estate licensee of which has been presented and explained to me/us. My/Our representative's relationship is:

BRAD SPIRES is the AGENT of

Seller/Landlord Exclusively(2) | Buyer/Tenant Exclusively(3) | Both Buyer/Tenant & Seller/Landlord(1)

DICK MCCOLE is the AGENT of

Buyer/Tenant Exclusively (3) | Seller/Landlord Exclusively (2) | Both Buyer/Tenant & Seller/Landlord(1)

- (1) IF LICENSEE IS ACTING FOR MORE THAN ONE PARTY IN THIS TRANSACTION, you will be provided a Consent to Act form for your review, consideration and approval or rejection. A licensee can legally represent both the Seller/Landlord and Buyer/Tenant in a transaction, but ONLY with the knowledge and written consent of BOTH the Seller/Landlord and Buyer/Tenant.
- (2) A licensee who is acting for the Seller/Landlord exclusively, is not representing the Buyer/Tenant and has no duty to advocate or negotiate for the Buyer/Tenant.
- (3) A licensee who is acting for the Buyer/Tenant exclusively, is not representing the Seller/Landlord and has no duty to advocate or negotiate for the Seller/Landlord.

RE/MAX REALTY AFFILIATES

by

Seller's/Landlord's Company

Licensed Real Estate Agent

10-27-04
Date

12 pm
Time

RE/MAX REALTY AFFILIATES

by

Buyer's/Tenant's Company

Licensed Real Estate Agent

10-27-04
Date

12 pm
Time

[Signature]
Seller/Landlord

10/27/04 4pm
Date Time

[Signature]
Buyer/Tenant

10/27/04 12:40
Date Time

[Signature]
Seller/Landlord

10/27/04 4
Date Time

Buyer/Tenant

Date Time