



**STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION**

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2501 East Sahara Avenue, Suite 102 * Las Vegas, NV 89104-4137 * (702) 486-4033
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STATEMENT OF FACT

Your Name Aaron D. Lovaas, Ben F. Easterlin IV,
(Please Print or Type)
Mark R. Obenstine, attorney for parties BFE 404-266-2474 BFE 404-572-2430
listed in Exhibit A attached *(Home Phone) (Business Phone)*
Address King & Spalding LLP, 1180 Peachtree Street, NE, Atlanta, GA 30309-3521
(Street) (City) (State) (Zip)

Please complete the following information concerning your complaint. Our ability to investigate the matter will depend largely upon your giving us a complete and detailed sworn statement. **ATTACH ALL PERTINENT PAPERS AND/OR DOCUMENTS TO COPIES OF THIS FORM.** Keep originals for your file. A copy of this statement may be offered to the party against whom you make this complaint.

Complaint against Trump Ruffin Tower I LLC (Trump International Hotel I Tower)
Name of firm Trump Ruffin Tower I LLC
Address 3128 Las Vegas Blvd., South, Las Vegas, NV 89109
Telephone No _____ Date of transaction Various - beginning July 2005
Where is the real property located? 3120 Las Vegas Blvd., South, Las Vegas, NV
Did you seek legal counsel? Yes If "Yes," state name and address Lovaas & Lehtinen, P.C., Las Vegas, NV; King & Spalding LLP, Atlanta, GA; Mark R. Obenstine, Irvine, CA
Is any legal action pending? Yes, arbitration pending before American Arbitration Association

CONSIDER THE FOLLOWING CAREFULLY

- ❖ This Division is not empowered to compel anyone to accede to demands of any kind, i.e., we cannot compel cancellation of listing agreements, purchase contracts, etc., or refunds of any kind. In this regard, we suggest that you seek private counsel to protect your interests, as **we are not authorized to give legal advice.**
- ❖ We will investigate the matter to determine whether the available evidence warrants administrative action against a licensee or subdivider. You will be advised of our conclusions when drawn. If it is determined that administrative action is warranted it may be necessary for you to appear and testify.
- ❖ Do not delay any civil action you might be considering in the matter, as considerable time will be required to complete our investigation and any subsequent action due to workload and time required to develop supporting evidence.
- ❖ If a court judgment has been obtained against a licensee for fraud, misrepresentation or deceit, a Real Estate Education, Research and Recovery Fund is available for petition if the judgment has not been satisfied.

I declare under penalty of perjury under law of the State of Nevada that the foregoing attached statement consisting of 7 pages is true and correct.

Executed on July 31, 2008
(Date)

Ben F. Easterlin IV
(Signature)

EXPLAIN FULLY: *(Describe events in the order in which they happened, if possible. Please include dates and names.)*

Lovaas & Lehtinen, P.C., King & Spalding LLP, and Mark R. Obenstine (collectively "Claimants' counsel") represent multiple claimants (the "Claimants") who entered into Condominium Unit Purchase and Sale Agreements (the "Agreements") with Trump Ruffin Tower I LLC ("Trump") to purchase condominium hotel units (the "units") in the Trump International Hotel & Tower ("Trump Tower I") located in Las Vegas, Nevada. A list of the individual Claimants by unit number is attached to this Complaint as Exhibit A.

The State of Nevada Real Estate Division (the "State") granted Trump an exemption from the requirements of NRS 119.122(3) on June 23, 2004. This exemption has been renewed annually, with the most recent renewal occurring on June 24, 2005, so that Trump's exemption status is good until June 24, 2009. Claimants contest Trump's exemption status under NRS 119 and request that the State revoke the exemption to the limited extent specified hereafter.

The exemption granted to Trump in June 2004 pertained to the construction of a 1283 unit condo hotel, construction of which did not begin until the fall of 2005. Construction was completed in 2008, and the hotel opened March 31, 2008. Beginning in July 2005, Trump began entering into sales contracts with purchasers of units in the condo hotel, and the Claimants signed sales contracts in 2005 and 2006. Obviously, the Claimants could not make an on-site inspection of their units at the time of contracting, as those units had not been built.

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NRS 119 is a consumer protection statute designed to protect the interests of purchasers of lots, including units in condo hotels. Thus, NRS 119 requires, among other things, disclosure by a developer of sufficient information so that a purchaser will know what he or she is buying. One aspect of the protection of consumers, that the purchaser understand what he or she is buying, is alleviated when the purchaser can view the lot or unit in advance of committing to purchase. Thus, an exemption of the requirements of NRS 119 can be granted a developer in the situation where the protection of the statute is unnecessary because the purchaser can view the lot or unit to be purchased before committing. In that situation, the State's Form 587 requires that the developer must submit an "affirmation form to be signed by purchaser that an on-site inspection has been made". The State provides developers with the affirmation form attached as Exhibit B which complies with the State's requirements. That form reads:

"The undersigned, by his or her signature, hereby acknowledges that he or she has made a personal on-the-lot inspection of *(insert legal description of unit or lot)*, in *(name of subdivision)* developed by *(insert name of Developer)*, which is the lot upon which the undersigned plans to execute a contract of sale or lease."

In order to obtain an exemption from the requirements of NRS 119, Trump presented the State the affirmation form attached as Exhibit C which does not protect

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purchasers and which carefully circumvents the requirements of the affirmation form provided by the State. In contrast to the State's form, Trump's form reads:

“The undersigned purchaser (the “*Purchaser*”) hereby acknowledges that he/she has made a personal inspection of a lot generally located on Fashion Show Drive west of Las Vegas Boulevard and east of Industrial Drive in Las Vegas, Nevada, on which Trump Ruffin Tower I LLC, a Delaware limited liability company will develop a certain condominium building to be known as Trump International Hotel & Tower - Las Vegas, which will contain condominium unit _____ for which Purchaser plans to execute a contract of sale.”

As opposed to the State's requirement of an inspection of a specific unit or lot, Trump's form merely acknowledges an inspection of “a lot” which is “generally located” somewhere on an empty space on the Frontier Hotel property. This inspection does not provide a purchaser with the type of information which NRS 119 requires in order to protect the purchaser's interest, and it certainly does not refer to the type of inspection of a specific unit or lot specified by the State's form. Instead, Trump's affirmation form merely references some undefined vacant area of land in a general area where Trump will eventually develop a condominium building. Under no reasonable logic can this document be considered an affirmation that a consumer has actually viewed and inspected what he or she is committing to purchase. Thus, Trump's affirmation form is

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insufficient to meet the requirements necessary to obtain an exemption from the requirements of NRS 119.

However, upon information and belief, the State allowed Trump to avoid the on-site inspection requirement of NRS 119 based on Trump's representation to the State that it would show prospective purchasers the specifications and plans of the condominium development which were attached to Trump's application for exemption ("Trump's plans and specifications") in lieu of an actual on-site inspection. Yet, Trump's plans and specifications are insufficient to protect the interests of prospective purchasers, as they do not provide the purchasers the equivalent of an on-site inspection. On the contrary, Trump's plans and specifications actually mislead purchasers. For example, Trump's plans and specifications indicate that units to be purchased are on floors beginning 16 levels above ground and running up to 64 levels when, in truth, the floors begin 9 levels above ground and run up to only 56 levels.

Finally, even if the State were to find Trump's affirmation form sufficient and Trump's plans and specifications sufficient to protect the purchasers' interests, Trump has violated the conditions upon which the State granted the exemption by failing to show the plans and specifications to the purchasers before obtaining sales contracts from them and by failing to obtain signed affirmation forms from those purchasers. The Claimants, for example, are located not only in Nevada, but also in distant locales, including Hawaii, California, and states along the east coast of the United States. Many

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of these Claimants contracted through the mail without any opportunity to view plans and specifications. Claimants' Counsel have found no Claimants who were shown Trump's plans and specifications before executing sales contracts or who signed Trump's affirmation form after reviewing the plans and specifications. Indeed, Trump's representations to the State that it would show the purchasers its plans and specifications and obtain signed affirmation forms when it had no intention of doing so, as evidenced by its total failure to comply, may constitute an intentional misrepresentation, as referenced in 119.330(2).

NRS 119.260 states that the Administrator may issue an order directing Trump to cease and desist from engaging in activities which are not in compliance with the provisions of NRS 119. Specifically, an exemption under 119.122(3) is to be extended only upon a finding that NRS 119 "is not necessary in the public interest and for the protection of purchasers." Here, NRS 119 was necessary for the protection of purchasers, as they were unable to inspect what they were buying in advance of executing binding contracts. As discussed above, the purchasers had no ability to determine that the units they were contracting to purchase were not located the number of levels from the ground as indicated by Trump's flooring system. Additionally, the purchasers could not make an inspection to determine that the square footage of the units they contracted to purchase was in some cases almost 20% less than advertised by Trump.

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As a result of circumventing the requirements of NRS 119, Trump was able to induce the Claimants and others into executing sales contracts to purchase units in Trump Tower I that contain significantly less square footage than was represented, are not located on the floors represented, and that purport to prohibit the Claimants from testifying in any legal proceeding regarding representations made to them by Trump. As the entity charged with enforcing the consumer protection intent of NRS 119, the State should take corrective action. While total revocation of the exemption granted Trump is justified, Claimants only seek relief that will protect their rights in the current circumstance.

Thus, the Claimants respectfully request that the Administrator issue an order as follows:

1. Revoking Trump's exemption from the requirement of NAC 119.530(3) providing that a developer cannot include language in a contract of sale of a unit maintaining that no representations, oral or implied, have been made to purchaser other than what is contained in the contract;
2. Alternatively, Claimants request that the Administrator file suit against Trump pursuant to NRS 119.220 requesting that the sales contracts of Claimants be rescinded and that all deposits made by those purchasers be refunded to them.