

IN THE SUPREME COURT OF THE STATE OF NEVADA

D. MICHAEL TALLA; SHAC MT, LLC;
REX LICKLIDER; PETER FEINSTEIN;
LEE POLSTER; PETER ALPERT;
SHELDON BERGER; GEORGE
VASILAKOS; ROBERT SHIPP; JOHN
MOLLER; MARK SPINO; BADDA BING
PARTNERS; SHAC FEINSTEIN, LLC;
AND FEINSTEIN FINANCIAL, LLC,
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK, AND THE HONORABLE
ELIZABETH GOFF GONZALEZ,
DISTRICT JUDGE,

Respondents,

and

SHAC ELIADES, LLC; AND STAKE,
LLC,
Real Parties in Interest.

No. 48172

FILED

OCT 18 2006

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY *J. Richards*
CHIEF DEPUTY CLERK

ORDER DENYING PETITION FOR
WRIT OF MANDAMUS OR PROHIBITION

This original petition for a writ of mandamus or prohibition challenges a district court order denying a motion to set aside an auction.

A writ of mandamus is available to compel the performance of an act that the law requires, or to control an arbitrary or capricious exercise of discretion.¹ This court may issue a writ of prohibition to arrest the proceedings of a district court exercising its judicial function, when

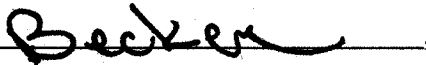
¹See NRS 34.160; Round Hill Gen. Imp. Dist. v. Newman, 97 Nev. 601, 637 P.2d 534 (1981).

such proceedings are in excess of the district court's jurisdiction.² Both mandamus and prohibition are extraordinary remedies, and it is within this court's discretion to determine if a petition will be considered.³ And petitioners bear the burden of demonstrating that extraordinary relief is warranted.⁴

Here, asserting that the parties' public auction and related settlement process "went off course," petitioners request that this court direct the district court to set the auction aside and return the parties' settlement process to its "starting point." Having reviewed the petition and accompanying documentation, we conclude that petitioners have failed to demonstrate that our intervention by way of extraordinary relief is warranted.⁵

Accordingly, we

ORDER the petition DENIED.⁶


Becker, J.


Hardesty, J.


Parraguirre, J.

²See NRS 34.320.

³See Smith v. District Court, 107 Nev. 674, 818 P.2d 849 (1991).

⁴Pan v. Dist. Ct., 120 Nev. 222, 228, 88 P.3d 840, 844 (2004).

⁵See id. at 28-29, 88 P.3d at 844.

⁶NRAP 21(b).

cc: Hon. Elizabeth Goff Gonzalez, District Judge
Kummer Kaempfer Bonner Renshaw & Ferrario/Las Vegas
Beckley Singleton, Chtd./Las Vegas
Greenberg Traurig, LLP
Clark County Clerk