

IN THE SUPREME COURT OF THE STATE OF NEVADA

KIMBERLY SPARKMAN, AN
INDIVIDUAL, AND KELLY
MARSCHIEDER, AN INDIVIDUAL,
Appellants,

vs.

WESTERN COMMERCIAL HOLDINGS,
LLC, A NEVADA LIMITED LIABILITY
COMPANY; AND LINCOLN
ENTERPRISES, LLC, A NEVADA
LIMITED LIABILITY COMPANY,
Respondents.

No. 52735

FILED

FEB 05 2010

TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER OF AFFIRMANCE

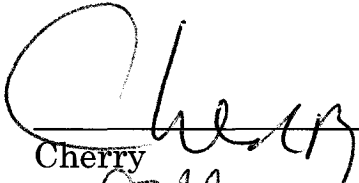
This is an appeal from a district court judgment in a real property action. Eighth Judicial District Court, Clark County; David B. Barker, Judge.

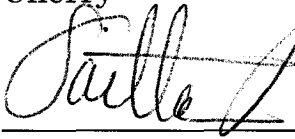
On appeal, appellants primarily rely on Gearhart v. Pierce Enterprises, 105 Nev. 517, 779 P.2d 93 (1989), to argue that the district court erred when it entered an order enforcing against appellants a default judgment entered against their dissolved corporation. The district court's decision was based on appellants having signed a guaranty of their corporation's lease with respondents, which lease the corporation breached. But Gearhart is distinguishable from this case. In Gearhart, this court concluded that a default judgment entered against a contractor as a discovery sanction could not be enforced against his surety because the surety "was not responsible" for its principal's "failure to comply with the lower court's discovery order." 105 Nev. at 520, 779 P.2d at 95. The surety was defending its own potential liability, not the principal's. Id. Here, however, the district court entered a default judgment against the


corporation for its failure to appear in the district court proceedings—a failure for which appellants, as the corporation’s principals, were responsible.

Having reviewed the briefs and appendix in this matter, then, we conclude that the district court did not err when it enforced appellants’ corporation’s default judgment against appellants as guarantors of the lease agreement that the corporation breached.¹ Keife v. Logan, 119 Nev. 372, 374, 75 P.3d 357, 359 (2003); NGA #2 Ltd. Liab. Co. v. Rains, 113 Nev. 1151, 1158, 946 P.2d 163, 167 (1997). Accordingly, we

ORDER the judgment of the district court AFFIRMED.


_____, J.
Cherry


_____, J.
Saitta


_____, J.
Gibbons

cc: Hon. David B. Barker, District Judge
Janet Trost, Settlement Judge
Ellsworth Moody & Bennion Chtd.

¹Having considered all of the issues raised by appellants, we conclude that their other contentions lack merit and thus do not warrant reversal of the district court’s order.

Johns & Durrant, LLP
Eighth District Court Clerk