



SM downtown developer found to have committed massive fraud

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Dear SMCLC Supporter,

Santa Monica's Most Prolific Downtown Developer Found to have Forged Documents, Committed Perjury, and Engaged in Massive Fraud

Last Tuesday developer NMS Properties and Neil Shekhter, its founder and CEO, were found by the Los Angeles Superior Court to have committed “massive, intentional, coordinated efforts to destroy evidence,” “fraud,” and “perjury.”

In an 88-page opinion, the Court detailed NMS' and Shekhter's orchestration of a fraudulent plot to cheat its partner on multiple Westside real estate properties. The Court found an elaborate NMS scheme of forgery, altering computer metadata, backdating Shekhter's home computer at least seventeen times, and destroying and hiding evidence. Their conduct was called “shocking.”

<http://smclc.net/NMS.CourtOpinion.pdf>

Further, the Court specifically found that Neil Shekhter had committed perjury, having “provided false testimony under oath to mislead the Court and cover up his own misconduct.”

Such pervasive fraudulent conduct as found by the Court doesn't just suddenly happen. What was unveiled is a deeply disturbing picture of a corporate culture gone wrong.

With Seven NMS Projects Now Pending, the City Should Immediately End Discussions with NMS and Shekhter Given Their Massive Fraud

NMS has been a favored developer in City Hall's plans for increasingly large-scale developments in our downtown. NMS's many projects factor heavily in the proposed Downtown Community Plan which the Council will take up this coming spring. **NMS has at least 7 projects pending in Santa Monica, including the adjoining Aaron Brothers and Jo-Ann Fabrics sites on Lincoln, comprising hundreds of thousands of square feet.**

Three of NMS' numerous existing real estate projects totaling over 200,000 sq. ft. were previously recommended by city staff and approved by the Council after the Court had already issued extraordinary orders against NMS involving forgery claims: (1) that NMS "freeze all of its electronic documents so that they cannot be modified or deleted;" and (2) ordered a forensic examination of its electronic documents.

While these Court orders should have set off alarm bells at Santa Monica's City Hall, apparently the City's approvals went through without any consideration or public mention of the issues raised by the NMS case. NMS' misconduct continued after these city approvals.

We urge you to read the Court's opinion to get a full appreciation of NMS's intentional, pervasive and outrageous conduct as found by the Court. From the Court's opinion, NMS sounds like a criminal enterprise run amok.

According to Gerry LaPorte, a former Secret Service forensic expert, this was one of the worst cases of blatant forgery he has seen in his long career. <http://www.labusinessjournal.com/news/2016/nov/23/judge-rules-santa-monica-developer-forged-document/>
<http://therealdeal.com/la/2016/10/17/hogs-get-slaughtered-aew-claims-nms-forged-documents-in-joint-venture-lawsuit/>

Santa Monica should not do business with a fraudster. A company like NMS that commits these horrendous business practices cannot be trusted to exercise basic integrity and ethics. It cannot be trusted to follow the law. It would be a breach of the City's stewardship obligations to allow people who have been found to be fundamentally dishonest to develop entire parts of our downtown.

Here are Initial Action Items the City should take Now to Protect Itself and the Public:

- 1. End any discussions with NMS, Shekhter or those associated with them, on all pending NMS development projects,** including their 7 pending NMS downtown projects. If a hearing is required, the City should hold one. Santa Monica should not do business with or reward those found to be fraudsters and perjurers whose words have been found to be worthless and whose actions have been found to utterly fail to comply with ethical business norms.
- 2. Carry out a thorough review of all relevant aspects of the existing NMS projects,** including

representations NMS has made, its existing and future obligations and its business operations. All of the City's rights vis-à-vis NMS should be evaluated.

3. **Review the City's internal controls** to determine the extent to which it knew of these serious allegations against NMS, the court orders and NMS' questionable litigious history of having sued its opponent's lawyers and a host of their clients. This should be part of a larger review of the City's due diligence and vetting processes.
4. **Provide the Council and the public with a complete and detailed list and report of all existing and pending NMS projects**, their status and all pertinent details.

This is a very serious matter. We will keep you informed.

Best,

Victor, Diana, Sherrill, Jeff

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