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CAUSE NO. 2016-59771

RAIDEN COMMODITIES, LP, & ASPIRE COMMODITIES, LP,	§	IN THE DISTRICT COURT
Plaintiffs,	§	
vs.	§	OF HARRIS COUNTY, TEXAS
PATRICK DE MAN,	§	
Defendant.	§	125TH JUDICIAL DISTRICT

DEFENDANT'S REPLY BRIEF IN SUPPORT OF SPECIAL APPEARANCE

Defendant Patrick de Man files this Reply Brief in support of his special appearance to object to jurisdiction and would respectfully show as follows:

Introduction

The Plaintiffs in this case include Aspire Commodities, LP ("Aspire"), a limited partnership that was based in Dorado, Puerto Rico, throughout the period relevant to its claims, and Raiden Commodities, LP ("Raiden"), a limited partnership created under the laws of the Virgin Islands that was, during the period at issue in this case, based in Dorado, Puerto Rico. Both Plaintiffs are controlled by Adam Sinn ("Sinn"), a person who, since 2013, has been a resident of Puerto Rico. The Defendant, Patrick de Man ("De Man") is a person who, over the duration of events relevant to his Special Appearance, lived in New York, Connecticut or Puerto Rico. Thus, the Court is confronted with out-of-state plaintiffs, controlled by a citizen of Puerto Rico, arguing that the Defendant, a citizen of Puerto Rico, should be made to defend this case in Texas state court. Plaintiffs' arguments are based solely on the Declaration of Sinn, a person with a well-

earned reputation for prevarication in litigation.[1] This effort is offensive to traditional notions of "fair play and substantial justice" and the Court should sustain De Man's Special Appearance.

I. This Court lacks specific jurisdiction because De Man did not have minimum contacts with Texas that are substantially connected to the Plaintiffs' claims.

1. "[F]or a nonresident defendant's forum contacts to support an exercise of specific jurisdiction, there must be a substantial connection between those contacts and the operative facts of the litigation." *Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 585 (Tex. 2007).

2. "The purpose of the minimum-contacts analysis is to protect the defendant from being haled into court when its relationship with Texas is too attenuated to support jurisdiction." *Am. Type Culture Collection, Inc. v. Coleman*, 83 S.W.3d 801, 806 (Tex. 2002).

3. This Court lacks personal jurisdiction over De Man because the Plaintiffs' claims are not substantially connected to any Texas contacts by De Man.

A. De Man's negotiations occurred outside of Texas.

4. After the Lehman Brothers bankruptcy in 2008, De Man left his temporary corporate housing in Houston and moved back to his own apartment in New York City. De Man Declaration ¶ 13. In October 2009, he accepted a job with RBS Sempra Commodities ("Sempra"), and in 2010, he moved to Stamford, Connecticut. *Id.*

5. In 2009, De Man began discussions with Sinn about the possibility of working for or with one of the trading companies affiliated with Sinn. *Id.* ¶ 14. During the entire time that De Man negotiated with Sinn, De Man lived in either New York or Connecticut, and it was Sinn who repeatedly reached out to De Man. *Id.* While discussing the terms of a possible working relationship, Sinn met with De Man in New York on several occasions, and De Man never set foot

[1] *See* Declaration of Patrick de Man, attached as **Exhibit A**, ¶ 12 and Exhibit 18.

in Texas. *Id.* Sinn's trips to New York include:

- Dinner with De Man and his wife at Sushi of Gari 46 in the Theater District on August 21, 2009
- Lunch with De Man and his wife at an Italian restaurant in the East Village on December 19, 2009
- Dinner with De Man at Brasserie 8½ in Midtown Manhattan on September 19, 2010
- Meeting with De Man at the Standard Hotel in the Meatpacking District on October 30, 2010
- Lunch with De Man, his wife, and his son at Sprig in Midtown East on December 18, 2010

Id.

6. At the time of these meetings, De Man had a job at a well-established and reputable institution, Sempra. Leaving that job to work with or for a Sinn-affiliated company—when De Man's wife had just recently given birth to their son—would have been a highly risky move. *Id.* ¶ 15. Sinn was a relatively unknown player in the market, and De Man's colleagues advised him to choose a stable job at a reputable bank. *Id.* In order to persuade De Man to take the risk of working with him, Sinn repeatedly visited De Man and promised De Man a partnership interest in the Plaintiff entities. *Id.* It was Sinn who reached into New York to recruit De Man, not the other way around.

7. Because these negotiations occurred *before* De Man started working for a Sinn-affiliated entity, they have no connection to the Plaintiffs' claims for conversion, misappropriation of trade secrets, and breach of partnership obligations, all of which deal with De Man's alleged conduct *after* he began working for Sinn-affiliated entities.

8. Furthermore, the Plaintiffs have not identified any negotiation communications that constitute minimum Texas contacts with a substantial connection to their declaratory judgment

action. The only evidence that the Plaintiffs cite concerning De Man's alleged Texas contacts during his negotiations are Paragraphs 7, 8, and 11 of Sinn's Declaration.

9. Paragraphs 7 and 8 claim that De Man negotiated with Sinn by phone, e-mail, and instant message while De Man was outside of Texas. Those communications do not establish personal jurisdiction because "an exchange of communications in the course of developing and carrying out a contract does not, by itself, constitute the required purposeful availment of the benefits and protections of Texas law." *Tabor, Chhabra & Gibbs, P.A. v. Med. Legal Evaluations, Inc.*, 237 S.W.3d 762, 774 (Tex. App.—Houston [1st Dist.] 2007, no pet.) (quoting *Moncrief Oil Int'l Inc. v. OAO Gazprom*, 481 F.3d 309, 312 (5th Cir. 2007) (holding that there was no personal jurisdiction in plaintiff's suit for declaratory relief)).

10. Paragraph 11 discusses an *unsigned* employment offer letter, stating that "Mr. de Man suggested revisions to several sections to the offer letter, but at no time raised any disagreement that his work for Aspire would be deemed performable in, or that disputes related to the employment relationship would be subject to jurisdiction and venue in, Harris County, Texas using Texas law." It is well established that a "purported acceptance that changes or qualifies an offer's material terms constitutes a rejection and counteroffer rather than an acceptance." *Parker Drilling Co. v. Romfor Supply Co.*, 316 S.W.3d 68, 74 (Tex. App.—Houston [14th Dist.] 2010, pet. denied); *see also Davis v. Tex. Farm Bureau Ins.*, 470 S.W.3d 97, 104–05 (Tex. App.—Houston [1st Dist.] 2015, no pet.). By suggesting revisions to the offer letter, De Man rejected the terms of Sinn's offer, and the fact that the parties never signed the document is evidence that they did *not* wish to be bound by its terms.

11. In *Gonzalez v. AAG Las Vegas, L.L.C.*, 317 S.W.3d 278 (Tex. App.—Houston [1st Dist.] 2009, pet. denied), the general manager of Lexus of Las Vegas and Lexus of Akron-Canton

was fired and sued in Houston for: (1) breach of fiduciary duty; (2) usurpation of corporate opportunities; and (3) a declaratory judgment that he was not entitled to ownership interests in Lexus of Las Vegas and Lexus of Akron-Canton. *Id.* at 280–81. As is the case here, there was no written contract describing the terms of the defendant's relationship with the plaintiffs. *Id.* at 286. The Court held that the general manager did not have minimum contacts with Texas, even though he: (1) went to Houston for a job interview, during which he claimed to have been promised an ownership interest in the dealerships; (2) was employed by a company that had its principal place of business in Houston; (3) was paid from Texas; (4) regularly reported to executives in Texas by telephone; and (5) attended a two-day meeting for general managers in Houston. *Id.* at 280–81. Even though the general manager went to Houston for an interview and to negotiate his ownership interests in the dealerships, the Court found that he did not "direct . . . efforts at Texas to obtain employment" with the Plaintiffs. *Id.* at 286. Rather, he "came to Texas to interview for the position" at the "request" of a representative of the Plaintiffs "while he was employed by another car dealership." *Id.* Thus, the Court held that there was "no substantial connection between the operative facts of the claims in this litigation and Gonzalez's alleged contacts with Texas." *Id.* at 285.

12. In this case, just as Gonzalez did not reach out to Texas to seek a general manager position with Lexus of Las Vegas and Lexus of Akron-Canton, De Man did not reach out to Sinn in Texas for positions with Raiden and Aspire. Rather, it was Sinn who repeatedly visited De Man in New York to persuade him to quit his job with Sempra and become his partner. De Man's Texas contacts during the negotiations were more attenuated than those of Gonzalez because De Man never once set foot in Texas, whereas Gonzalez actually went to Houston to interview and negotiate his ownership interests in the dealerships. Under the First District's precedent in

Gonzalez, there is no substantial connection between De Man's Texas contacts during the negotiations and any of the Plaintiffs' claims.

B. De Man worked for the Plaintiffs outside of Texas.

13. In addition to De Man's negotiations occurring outside of Texas, De Man's work with the Sinn-controlled entities also occurred outside of Texas. During the entire course of the working relationship, De Man lived in either Connecticut or Puerto Rico. None of the Plaintiffs' claims have a substantial connection to any Texas contacts by De Man.

14. Numerous documents prove that both Sinn and De Man understood that De Man was working outside of Texas. In 2012 and part of 2013, De Man was hired by Aspire as a commodities trader in Connecticut, as evidenced by: (1) an application to the Connecticut Department of Labor completed by Sinn, which describes the "Business Location" as De Man's home address in Connecticut; (2) an Employer Contribution Voucher from the Connecticut Department of Labor for the first quarter of 2013; (3) a letter acknowledging Aspire's registration with the Connecticut Department of Revenue Services; (4) an invoice for worker's compensation insurance in Connecticut for 2012; (5) a notice of cancellation of worker's compensation insurance beginning July 1, 2013; and (6) a paystub for De Man for working from his home in Stamford, Connecticut. De Man Declaration ¶ 17 and Exhibits 20–25.

15. In 2013, De Man moved to Puerto Rico and subsequently became a partner in Raiden and Aspire. Because he was a partner in those entities, those entities prepared and provided to De Man Schedule K-1 tax forms (IRS Form 1065), entitled "Partner's Share of Income, Deductions, Credits, Etc." Aspire and Raiden listed his address in Puerto Rico on those tax documents because that is where he lived and performed his work for the Plaintiff entities. *Id.* ¶ 18. De Man has lived in Puerto Rico continuously since 2013, and with the exception of one trip to Houston from

3/12/2014 to 3/14/2014, he performed all of his work from outside of Texas during that period. *Id.* ¶ 19.

16. Although De Man made three visits to Houston in 2011 and one visit in 2014, each lasting between three and five days, *id.*, there is no substantial connection between De Man's conduct during those visits and any of the Plaintiffs' claims. "[V]isits to Texas that are unrelated to the claims asserted are insufficient to establish specific jurisdiction." *Info. Servs. Grp., Inc. v. Rawlinson*, 302 S.W.3d 392, 401 (Tex. App.—Houston [14th Dist.] 2009, pet. denied). Merely visiting Texas for work-related purposes does not subject a defendant to personal jurisdiction when the plaintiff's claims are not substantially connected to those trips. *See, e.g., Gonzalez v. AAG Las Vegas, L.L.C.*, 317 S.W.3d 278, 284–85 (Tex. App.—Houston [1st Dist.] 2009, pet. denied) (holding that there was no personal jurisdiction even though the defendant visited Houston twice, once to discuss his compensation and once to attend a two-day meeting); *Gustafson v. Provider HealthNet Servs., Inc.*, 118 S.W.3d 479, 483 (Tex. App.—Dallas 2003, no pet.) (holding that there was no personal jurisdiction even though the defendant made "two short visits to Texas").

17. Although De Man purchased and sold power contracts in the market administered by the Electric Reliability Council of Texas (ERCOT), he made those transactions when he was outside of Texas, not in his personal capacity, but on behalf of either Aspire Capital Management, LLC (until April 2012), or Raiden Commodities, LP (2011–2016). De Man Declaration ¶ 17. Because De Man was acting on behalf of Raiden, his trading activities did not establish a basis for personal jurisdiction. *See Mort Keshin & Co., Inc. v. Houston Chronicle Pub. Co.*, 992 S.W.2d 642, 647 (Tex. App.—Houston [14th Dist.] 1999, no pet.) ("When an agent negotiates a contract for its principal in Texas, it is the principal who does business in this state, not the agent."); *Hotel Partners v. Craig*, 993 S.W.2d 116, 121 (Tex. App.—Dallas 1994, pet. denied) ("When an agent

arrives in Texas to represent his principal, only the principal is doing business in Texas."); *Ross F. Meriwether & Associates, Inc. v. Aulbach*, 686 S.W.2d 730, 731 (Tex. App.—San Antonio 1985, no writ) ("The agent, having entered into no contract, has done no business in Texas, and, therefore, has done no act nor has he consummated a transaction in Texas.").

18. Contrary to Plaintiffs' misleading assertions, Raiden was not a "Texas limited partnership" or a "Texas-based business" at any time during De Man's relationship with Raiden. At all times prior to this lawsuit, Raiden was incorporated in the Virgin Islands and had its principal place of business in Puerto Rico. De Man Declaration ¶ 6 and Exhibits 10 and 11. The Schedule K-1 tax forms provided by Raiden to Sinn and De Man show that Raiden was located in the Virgin Islands and Puerto Rico. *Id.* Exhibits 2, 9, and 12. It was only on September 19, 2016—*thirteen days after this lawsuit was filed*—that Sinn converted Raiden to a Texas limited partnership. At all relevant times Raiden was, in the Plaintiffs' own words, "a limited partnership incorporated under the laws of the Virgin Islands with its principal office in San Juan, Puerto Rico." Plaintiffs' Original Petition ¶ 3. Because Raiden is foreign to Texas, De Man did not have any Texas contacts when he negotiated with and performed out-of-state work for Raiden. De Man's relationship with Raiden therefore does not serve as a basis for this Court's exercise of personal jurisdiction with respect to any of the Plaintiffs' claims.

19. Aspire's principal place of business is Puerto Rico. The K-1 forms that Aspire prepared for Sinn and De Man, two of its partners, show that Aspire was at all material times based in Puerto Rico. De Man Declaration ¶ 7 and Exhibits 3 and 12. Although Aspire is a limited partnership formed under Texas law, it is well established that merely working for a Texas company does not provide a basis for personal jurisdiction. *See, e.g., Gonzalez v. AAG Las Vegas, L.L.C.*, 317 S.W.3d 278, 283–87 (Tex. App.—Houston [1st Dist.] 2009, pet. denied) (holding that there

was no personal jurisdiction over a nonresident employee of a Texas company); *Gustafson v. Provider HealthNet Servs., Inc.*, 118 S.W.3d 479, 483 (Tex. App.—Dallas 2003, no pet.) ("Merely contracting with a Texas company does not constitute purposeful availment for jurisdiction purposes. . . . Nor does simply being employed by a Texas company."). Because Aspire's claims are not substantially connected to any of De Man's Texas contacts, this Court lacks personal jurisdiction over its claims against him.

C. The falsified, backdated partnership agreements submitted by the Plaintiffs were signed by Sinn after the events at issue in this litigation took place.

20. Plaintiffs claim that their Exhibits A-2 and A-3 represent operative partnership agreements for the Plaintiff entities, based on Sinn's signature on those documents and Paragraphs 17 and 18 of Sinn's Declaration. Those are falsified, backdated documents that were not actually signed on the dates indicated on their signature pages. The DocuSign software used to produce the signatures on those documents allows for the actual date of the signature to be omitted from the final document, and Sinn appears to have done this with his electronic signatures on Exhibits A-2 and A-3. *See* De Man Declaration ¶ 20.

21. This would explain why the document purporting to be the "Second Amended & Restated Partnership Agreement of Raiden Commodities, LP," Exhibit A-2, is dated July 30, 2013, when the First Amended and Restated Limited Partnership Agreement of Raiden Commodities, LP, was signed and dated on September 20, 2013. *Id.* ¶ 20 and Exhibit 11. A number of e-mails corroborate that the first agreement dated September 20, 2013, is authentic. For instance, on August 30, 2013, Brett Geary, a legal assistant of a Virgin Islands law firm, circulated a draft of a partnership agreement for Raiden Commodities, LP. *Id.* ¶ 20 and Exhibit 26. On September 4, 2013, Kyle Carlton, Sinn's transactional lawyer in Texas, sent an e-mail to De Man and Sinn suggesting that they might restyle the partnership agreement the "First Amended Limited

Partnership Agreement" and date it "September ___, 2013." *Id.* De Man sent that suggestion to Will Thomas, a Virgin Islands lawyer, who circulated a revised version of the agreement to De Man and Sinn on September 9, 2013. *Id.*

22. Similarly, the document purporting to be the First Amended and Restated Partnership Agreement of Aspire Commodities, LP, is also backdated. Kyle Carlton sent an unsigned (and also backdated) draft of an earlier version of that document to De Man on July 17, 2014, in an e-mail stating: "I'm finally starting to finalize all the aspire/raiden docs. Should have the other ancillary docs done in the next few days but, in the meantime, here's the agreement for Aspire. The Raiden LP agreements and the LLC Agreements will end up being VERY similar to this." *Id.* ¶ 21 and Exhibit 27. On July 24, 2014, De Man responded with comments on the draft, and Carlton acknowledged receipt of the comments, remarking that he would "try to circulate an updated draft in the next few days." *Id.* On June 17, 2015, De Man sent Carlton and Sinn an e-mail wondering about the status of the proposed amendments to the partnership agreements, and on June 25, 2015, Carlton responded: "I have drafted up the documents, but I need to check over it one more time. I should be able to knock this out later this week / early next week. It is the last piece in Adam's puzzle." *Id.* That was the last De Man heard about the proposed amendments to the Raiden and Aspire partnership agreements.

23. These facts make two things clear: (1) the falsified, backdated agreements that Plaintiffs' have submitted to this Court in Exhibits A-2 and A3 were not yet signed as of June 17, 2015; and (2) Plaintiffs conceded that De Man held a partnership interest in Raiden and Aspire as early as 2014. This means that De Man asserted his partnership interest *before* the backdated partnership agreements were *actually* signed. When De Man claimed his partnership interest, the *true* operative agreements for Raiden and Aspire *did not* contain forum-selection clauses. As Sinn

himself acknowledges in Paragraph 17 of his Declaration: "At the time of their original formation, the partnership agreements of Aspire and Raiden contained no provisions expressly governing jurisdiction for disputes related to the partnership." This completely undermines the Plaintiffs' claims in Paragraphs 41, 42, and 44 of their Response that the forum-selection clauses in Exhibits A-2 and A-3 somehow support the exercise of personal jurisdiction over De Man.

D. The trade-secret claims have no substantial connection to Texas contacts.

24. Among the most fatuous of Plaintiffs' claims is the assertion that they own, and that De Man has misappropriated, trade secrets. Plaintiffs—each of which is allegedly engaged in the highly competitive market of trading contracts—allege the following with respect to the actions taken by De Man in July of 2016, while he was a partner in Raiden LP, a company based in St. Thomas, in the Virgin Islands:

> **Plaintiffs face irreparable harm if an injunction is not issued** because Defendant's use of the trade secrets precludes Plaintiffs from using them, or at least using them to achieve maximum trading profits. Defendant is also likely to share those trade secrets with his purported partner, and **once revealed, the confidential information will cease to be Plaintiffs' trade secret**.
>
> **Plaintiff has no adequate remedy at law because monetary damages from the use and/or disclosure of Plaintiffs' trade secrets are difficult to calculate**.

Plaintiffs' Original Petition ¶¶ 45–46 (emphasis added).

25. The conduct of De Man that is made the subject of the trade-secret claims allegedly started on July 1, 2016. Plaintiffs' Original Petition ¶¶ 22–23. It is now February 3, 2017. In the intervening 217 days, neither Plaintiff, each allegedly suffering ongoing and "irreparable" injuries, has sought a TRO or temporary injunction in this or any other Court. Needless to say, if either of the Plaintiffs owned one or more valuable trade secrets, and if either or both of them believed that those trade secrets had been misappropriated or was being used improperly by De Man, they could

have petitioned this Court, or a court in Puerto Rico or elsewhere, for the issuance of a TRO or a temporary injunction. Their failure to do so speaks volumes.

26. Sinn's Declaration (¶ 19) explains one of the reasons behind Plaintiffs' failure to seek an injunction:

> The trade secrets at issue in this case are also Texas-focused. The majority of them were developed in Texas and designed for use in the Texas market. Some were discussed with Mr. de Man during negotiations in 2011 from Texas. Mr. de Man and I contemplated protecting the trade secrets in our negotiations and draft agreements. *See* Ex. 1 ¶ 8. We also contemplated resolving disputes about these trade secrets in a Texas court under Texas law. *See* Ex. 1 ¶11.

As this excerpt shows, Sinn discussed information now claimed to constitute "trade secrets" with a potential employee who was then employed by Sempra, Plaintiffs' competitor, in the absence of any non-disclosure or confidentiality agreement. This admission shows one of two things: (i) Sinn did not regard the information to be "secret"; or (ii) he elected to waive any claim of secrecy with respect to it. As Plaintiffs concede in their Original Petition, "once revealed, the confidential information will cease to be Plaintiffs' trade secret." Plaintiffs' Original Petition ¶ 45. Having conceded that the alleged trade secrets were "revealed" to De Man while he was employed by Sempra, a competitor, the information that was revealed "cease[d] to be Plaintiffs' trade secret."

27. Plaintiffs stress that "protecting the trade secrets" was "contemplated." Not "agreed." This admission serves to distinguish the facts of this case from *Delta Brands*, the primary case on which Plaintiffs rest their trade-secret claims. Plaintiffs' Response to Defendant's Special Appearance ¶ 48. In *Delta Brands*, the defendant contesting personal jurisdiction first signed a confidentiality agreement that expressly extended to and covered the information allegedly misappropriated. *Delta Brands, Inc. v. Rautaruukki Steel*, 118 S.W.3d 506, 511 (Tex. App.—Dallas 2003, pet. denied). Having signed that confidentiality agreement, the defendant traveled to Texas, and, while there, received the information at issue. In this case, the information was

allegedly disclosed in the absence of any confidentiality agreement, at a time when De Man was employed by Sempra, one of Plaintiffs' competitors. *See* De Man Declaration ¶ 13 and Exhibit 19. Significantly, the parties later contemplated, but failed to agree, on obligations of confidentiality.

E. The conversion claims have no substantial connection to Texas contacts.

28. With respect to Plaintiffs' conversion claim, this Court lacks jurisdiction because allegations that an out-of-state defendant refused to return property that belongs to a Texas plaintiff are insufficient to establish personal jurisdiction over the defendant. *See Pervasive Software, Inc. v. Lexware GmbH & Co. KG*, 688 F.3d 214, 230 (5th Cir. 2012) (citing *Laykin v. McFall*, 830 S.W.2d 266, 269–70 (Tex. App.—Amarillo 1992, no writ)) ("The mere fact that the converted item originated in Texas is not sufficient to create personal jurisdiction under the long-arm statute; the item must be in Texas when the conversion actually occurs. . . . Because the alleged conversion by Lexware occurred, if at all, in Germany, when Lexware refused to return its copy of Btrieve [software contained on a "master CD" with a "key generator"] to Pervasive, the Texas district court lacked specific personal jurisdiction over the conversion claim."); *Laykin*, 830 S.W.2d at 269–70 (holding that there is no personal jurisdiction over a conversion claim where a ring, sent voluntarily out of Texas to a broker in California, was not converted until the broker refused to return it and therefore converted it in California, not Texas).

II. This Court lacks general jurisdiction because De Man did not have continuous and systematic contacts with Texas that would render him essentially at home in Texas.

29. In contrast to specific jurisdiction, general jurisdiction requires a "substantially higher threshold" of evidence with a "more demanding minimum contacts analysis." *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 168 (Tex. 2007). The Plaintiffs appear to acknowledge this, as they have declined to advance any arguments for general jurisdiction in their Response. *See* Plaintiffs' Response to Defendant's Special Appearance ¶ 22 n.3.

30. At all times relevant to this lawsuit, De Man was a resident of New York, Connecticut, or Puerto Rico. Although De Man had occasional contacts with Texas when he worked with the Plaintiffs (discussed above in Paragraphs 15 and 16), those contacts were not so continuous and systematic as to render him "essentially at home" in Texas. *Daimler AG v. Bauman*, 134 S. Ct. 746, 749 (2014) (quoting *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011)). As such, De Man is not subject to general jurisdiction in Texas.

III. The lawsuit in Puerto Rico has no bearing on personal jurisdiction.

31. The Plaintiffs' discussion of the burdens of litigating in Puerto Rico is irrelevant to the issue of personal jurisdiction in this case. The exercise of personal jurisdiction over De Man will not cause the Puerto Rico lawsuit to disappear. Whether the burdens of litigating in Puerto Rico are unreasonable is an issue for the Puerto Rico court to decide, either sua sponte or upon a motion by the defendants. It has no bearing on whether the exercise of personal jurisdiction over De Man in this case would comport with traditional notions of fair play and substantial justice.

32. It is puzzling that the Plaintiffs would argue that bringing Sinn to court in Puerto Rico would impose a "massive" hardship on him by subjecting him to "the unique and onerous burden placed on a party called to defend a suit in a foreign legal system." *See* Plaintiffs' Response to Defendant's Special Appearance ¶ 56 (quoting *Spir Star AG v. Kimich*, 310 S.W.3d 868, 879 (Tex. 2010)). Since 2013, Sinn has claimed Puerto Rico residency and avoided millions of dollars in federal tax obligations as a result. Given that Puerto Rico residency can only be claimed by those who spend more than half of their days during the calendar year in Puerto Rico, one has to wonder why a resident of Puerto Rico would object so strenuously to litigation in that forum. If Sinn has been truthful in his federal tax filings with the IRS, it is the legal system of *Texas* that is "foreign" to him, and not that of Puerto Rico.

Respectfully submitted,

REYNOLDS FRIZZELL LLP

By: */s/ Chris Reynolds*
Chris Reynolds
State Bar No: 16801900
Cory R. Liu
State Bar No: 24098003
1100 Louisiana Street, Suite 3500
Houston, TX 77002
Phone: (713) 485-7200
Fax: (713) 485-7250
creynolds@reynoldsfrizzell.com
cliu@reynoldsfrizzell.com

CERTIFICATE OF SERVICE

I certify that on this 3rd day of February 2017, a true and correct copy of the foregoing instrument has been served upon counsel of record in accordance with the requirements of the Texas Rules of Civil Procedure, addressed as follows:

Kevin D. Mohr
kmohr@kslaw.com
Erich J. Almonte
ealmonte@kslaw.com
KING & SPALDING LLP
1100 Louisiana Street
Suite 4000
Houston, TX 77002
Fax: (713) 751-3290

/s/ Chris Reynolds