

ESTADO LIBRE ASOCIADO DE PUERTO RICO  
TRIBUNAL DE PRIMERA INSTANCIA  
SALA SUPERIOR DE BAYAMÓN

[A] PATRICK A.P. DE MAN;  
[B] MIKA DE MAN (A/K/A MIKA  
KAWAJIRI-DE MAN OR MIKA  
KAWAJIRI);  
[C] SOCIEDAD LEGAL DE BIENES  
GANANCIALES COMPUESTA POR DE  
MAN-KAWAJIRI;

Demandantes,

v.

[1] ADAM C. SINN;  
[2] RAIDEN COMMODITIES, LP;  
[3] RAIDEN COMMODITIES 1, LLC;  
[4] ASPIRE COMMODITIES, LP;  
[5] ASPIRE COMMODITIES 1, LLC;  
[6] SINN LIVING TRUST;

Demandados.

CIVIL NÚM.: D AC2016-2144 (702)

SOBRE:

INCUMPLIMIENTO DE DEBER DE  
FIDUCIA; INCUMPLIMIENTO DE  
CONTRATO OPERATIVO;  
INCUMPLIMIENTO DE CONTRATO DE  
SOCIEDAD LIMITADA; DAÑOS Y  
PERJUICIOS; MALA FE Y DOLO, MALA  
FE EN LA CONTRATACIÓN;  
ENRIQUECIMIENTO INJUSTO.

RECIBIDO TPI  
BIZON PRESENTACIONES  
SALAS CIVIL-BAYAMON  
2017 SEP -5 PM 1:03

OPOSICIÓN A MOCIÓN SOLICITANDO REMEDIOS PROVISIONALES  
BAJO LA REGLA 56 DE LAS DE PROCEDIMIENTO CIVIL

AL HONORABLE TRIBUNAL:

COMPARECEN los demandantes, Patrick A.P. de Man (“de Man”), Mika de Man (t/c/c Mika Kawajiri o Mika Kawajiri-de Man) y la Sociedad Legal de Bienes Gananciales de Man-Kawajiri, representados por los abogados que suscriben, y muy respetuosamente exponen y solicitan:

I. INTRODUCCIÓN

La *Demanda* se presentó el 16 de diciembre de 2016, y los demandados fueron emplazados el 3 de enero de 2017. Durante los pasados *nueve (9) meses*, los demandados – guiados por su *alter ego*, el señor Adam C. Sinn (“Sinn”), quien se ha destacado por su reputación de prevaricación en los litigios – han descargado su arsenal de tácticas dilatorias para evitar enfrentar las alegaciones de la *Demanda* y continúan tratando de desenfocar la litigación del presente caso a través de continuas enmiendas a sus alegaciones, tanto a la *Contestación a la Demanda* como a su *Reconvención*,<sup>1</sup> así como presentando múltiples escritos que persiguen fragmentar la litigación y obtener remedios infundados e inmeritorios.

<sup>1</sup> El 30 de mayo de 2017, los codemandados señor Sinn, Raiden Commodities LP (“Raiden LP”), Raiden Commodities 1 LLC (“RC1”), Aspire Commodities LP (“Aspire LP”) y Aspire Commodities 1 LLC (“AC1”) presentaron su *Contestación a la Demanda y Reconvencción*. Poco después, el 22 de junio de 2017, los referidos codemandados presentaron una *Reconvencción Enmendada*, y el 28 de junio de 2017 presentaron una *Contestación*

Uno de los subterfugios más recientes vino *ocho (8) meses* luego de ser emplazados, el 7 de agosto de 2017, cuando las codemandadas Raiden LP y Aspire LP presentaron una *Moción Solicitando Remedios Provisionales Bajo la Regla 56 de las de Procedimiento Civil* (“Moción de Remedios Provisionales”). Dicho escrito, además de estar predicado en declaraciones perjuradas del señor Sinn, es un pretexto para tratar de que se adjudiquen, en esta etapa inicial del litigio, ciertas alegaciones esbozadas en la *Reconvención Enmendada*. Lo que realmente persiguen las codemandadas, al igual que trataron mediante la *Moción Solicitando la Bifurcación de los Procedimientos*, es que el señor de Man no pueda utilizar cierta información en contra de la parte demandada en este caso. Véase, *Moción de Remedios Provisionales*, a la pág. 12.

Valiéndose de hechos tergiversados y representaciones falaces, las codemandadas plantean esencialmente que “el señor de Man se ha negado a devolver cierta propiedad de éstas, incluyendo información confidencial y secretos de negocios”. Véase, *Moción de Remedios Provisionales*, a la pág. 1. Ello sin especificar qué información confidencial o cuáles secretos de negocios son los que reclaman. Incluso, argumentan vagamente que “[e]l señor de Man no tiene ningún derecho sobre la propiedad de las Demandadas”. *Id.* Además dicen que “[l]as acciones pasadas y presentes del señor de Man demuestran que existe una gran probabilidad de que éste utilice, explote o publique información de Raiden LP y/o Aspire LP con el propósito o el efecto necesario de causarle daños a éstas”. *Id.* Nuevamente sin indicar qué información es la que implican. Amparándose en tales premisas infundadas, solicitan que se “ordene al señor de Man entregar y devolver toda propiedad de las Demandadas que esté en su posesión o bajo su control, incluyendo cualquier copia que pudiera existir que contenga información confidencial y/o secretos de negocios de dichas entidades” *Id.*, a las págs. 1 y 2.

Mediante la presente Oposición, la parte demandante atiende y rebate cada una de las aseveraciones frívolas de Raiden LP y Aspire LP, acompañando una declaración jurada del señor de Man y prueba documental fehaciente en apoyo de la misma.

Como quedará demostrado, y distinto lo planteado por Raiden LP y Aspire LP, aquí ***no*** hay riesgo de daño irreparable ni inminente alguno que amerite la concesión de remedios provisionales solicitados. Peor aún, ha transcurrido ***más de un (1) año*** desde que se desataron

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*Enmendada a la Demanda.* El esfuerzo incesante de formular teorías y alegaciones frívolas en contra de la parte demandante es tal, que el 31 de agosto de 2017, los codemandados presentaron una *Moción Solicitando Autorización para Enmendar la Reconvención Enmendada*, a la cual acompañaron la propuesta *Segunda Reconvención Enmendada*. La parte demandante se reserva el derecho de oponerse a la *Moción Solicitando Autorización para Enmendar la Reconvención Enmendada*.

los conflictos entre las partes y Raiden LP y Aspire LP siguen sin especificar, mucho menos evidenciar, la supuesta “amenaza con causarles daños inminentes y sustanciales”. Quien único está sufriendo daños reales y sustanciales es la parte demandante, a quien se le debe la suma de \$690,847.00<sup>2</sup> retenida injustificadamente por el señor Sinn y sus empresas, al menos desde el 31 de julio de 2016, con la intención (y el efecto) de privar al señor de Man del dinero necesario para dedicarse a sus empresas.

Resultan completamente falsas e infundadas las siguientes alegaciones de Raiden LP y Aspire LP en cuanto a que el señor de Man “se apropió ilegalmente de propiedad de [Aspire LP y Raiden LP], borró información y documentación de las computadoras de sus ex compañeros de trabajo e incluso secuestró información propietaria de las entidades en cuestión, solicitando para su devolución una recompensa ascendente a un millón de dólares (\$1,000,000.00)”.

Además de atentar contra el derecho constitucional de libertad de expresión del señor de Man, resultan incorrectas las alegaciones de que “[e]l señor de Man ha publicado en las redes sociales múltiples comentarios falsos y difamatorios sobre Aspire LP, el señor Adam Sinn y los representantes legales de Aspire LP”, y que “[e]l señor de Man también ha realizado comentarios difamatorios a terceros sobre el señor Sinn y el abogado interno de Aspire”.

Por otro lado, Raiden LP y Aspire LP falsamente exponen que tienen derecho a reclamar la computadora y otros equipos electrónicos detallados en la página 10 de su solicitud. Sin embargo, ninguna de ellas pagó por tales equipos ni tiene derechos sobre ellos. Según se acreditará más adelante, el señor de Man pagó dichos equipos con sus fondos personales y *no* fue reembolsado por Raiden LP, Aspire LP o cualquier de los demás codemandados. Por tanto, Raiden LP y Aspire LP *no* tienen derecho alguno sobre los referidos bienes. De igual manera resultan improcedentes los argumentos infundados de las codemandadas sobre la alegada apropiación ilegal por parte del señor de Man de información confidencial y/o secretos de negocios de las codemandadas.

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<sup>2</sup> La suma de \$690,847.00 es el remanente de los \$890,847.00 que fueron reportados al gobierno federal en el formulario de contribución de impuestos en el Anejo K-1 [Schedule K-1 (el cual se reporta al Servicio de Rentas Internas de los Estados Unidos (“IRS”))] para el año calendario 2015, y, por tanto, eran propiedad del señor de Man. Véase, *Demanda*, ¶ 56; *Oposición a Moción Solicitando Bifurcación de los Procedimientos*, Anejo 1 – Anejo K-1 del 2015. Reconociendo que los \$890,847.00, reportados en el Anejo K-1, estaban vencidos, líquidos y adeudados, el 1 de abril de 2016, le hicieron un pago parcial al señor de Man por la cantidad de \$200,000.00. Por ello, se le adeudan al señor de Man los restantes \$690,847.00, retenidos injustificadamente. Sin embargo, desde mediados de 2016, el señor Sinn y su abogado, Lcdo. Barry Hammond, han ignorado las múltiples solicitudes y demandas de pago del señor de Man, a pesar de haber reconocido la validez del reclamo de éste último. *Id.*, ¶ 57.

A su vez, las codemandadas exponen asuntos irrelevantes al presente caso que envuelven a una entidad corporativa que no es parte, Rural Route 3 Holdings, LP (“RR3”), los cuales fueron transados recientemente en un caso ante el Tribunal de Distrito de los Estados Unidos para el Distrito de Puerto Rico (“Tribunal Federal”), por lo que deben ser considerados impertinentes o académicos.

Por éstas y otras razones que se discuten a continuación, procede que este Honorable Tribunal declare *No Ha Lugar* la *Moción de Remedios Provisionales*.

## II. DISCUSIÓN Y ANÁLISIS

La *Moción de Remedios Provisionales* debe ser denegada sin ulterior trámite. La misma, además de ser innecesariamente repetitiva, es un extracto de múltiples alegaciones y causas de acción (Primera, Segunda, Cuarta y Quinta Causa de Acción) de la *Reconvención Enmendada*. Por tal razón, la parte demandante adopta e incorpora por referencia a la presente Oposición todas las alegaciones y defensas afirmativas contenidas en la *Réplica a Reconvención Enmendada*, presentada el 14 de julio de 2017.

A su vez, la *Moción de Remedios Provisionales* está predicada **prácticamente** en una declaración jurada del codemandado señor Sinn, quien tiene un historial de hacer representaciones incorrectas sobre hechos materiales en los litigios. Véase, **Anejo A – Declaración Jurada del señor de Man**, ¶ 7.

Un examen de la *Moción de Remedios Provisionales* revela que las codemandadas incluyeron: (i) dos introducciones (págs. 1-3), (ii) esencialmente transcribieron al español la declaración jurada del señor Sinn, los cuales reseñaron como “los hechos relevantes para dirimir la [...] solicitud de remedios provisionales” (págs. 3-8), (iii) el estándar básico sobre la Regla 56 de Procedimiento Civil, 32 L.P.R.A. Ap. V, R. 56 (págs. 8-9), (iv) una breve discusión para intentar sostener que “[e]l señor de Man no tiene ningún derecho respecto a la información confidencial y propietaria de Raiden LP ni de Aspire LP” (págs. 10-11), y (v) una escueta conclusión que increíblemente hace referencia a una entidad (RR3) que no es parte en este caso y con la cual se llegó a un acuerdo transaccional en un caso ante el Tribunal Federal (pág. 12).

Debido a que la *Moción de Remedios Provisionales* hace una exposición desorganizada de varios asuntos, ello con la aparente intención de crear un miasma inexistente y tratar de



convencer al Honorable Tribunal lanzándole los mismos de forma mezclada, la parte demandante procede a discutirlos por temas:

- A. **El señor de Man “se apropió ilegalmente de propiedad de [Aspire LP y Raiden LP], borró información y documentación de las computadoras de sus ex compañeros de trabajo e incluso secuestró información propietaria de las entidades en cuestión, solicitando para su devolución una recompensa ascendente a un millón de dólares (\$1,000,000.00)”. Véase, *Moción de Remedios Provisionales*, a la pág. 2.**

Tales imputaciones incendiarias son patentemente falsas, frívolas y están sumamente reñidas con los postulados de la Regla 9.1 de Procedimiento Civil, 32 L.P.R.A. Ap. V, R. 9.1.

Las codemandadas alegan que “el señor de Man impidió que los empleados de Aspire LP pudieran tener acceso a sus servidores”, y que “[p]osteriormente, el señor de Man requirió el pago de \$1,000,000.00 como condición para reestablecer el acceso a dichos servidores”. Véase, *Moción de Remedios Provisionales*, a la pág. 2. Para intentar sustentar tales alegaciones, las codemandadas incluyeron los “Hechos Relevantes” número 1 al 17, todos predicados en la declaración jurada del señor Sinn. *Id.*, a las págs. 3-5. Sin embargo, las mismas son meras representaciones acomodaticias, empañadas de falsedad y desprovistas de prueba corroborativa.

En lugar de traducir al español de la declaración jurada sometida en apoyo de las contenciones, según hicieron las codemandadas, la parte demandante atenderá los “Hechos Relevantes” número 1 al 17, con las siguientes aseveraciones en inglés del señor de Man, según permite la Regla 8.7 de Procedimiento Civil, 32 L.P.R.A. Ap. V, R. 8.7:

8. Until reading the Sinn Statement, I had no knowledge of any of Mr. Sinn’s claims regarding the precarious trading position of Aspire Commodities LP (“Aspire”) and the stress allegedly caused by the sudden market shift. Without showing proof, nor even providing details about the format or forum, Mr. Sinn claims in Paragraph 10 of the Sinn Statement, that “Patrick de Man had access to those communications.” Whether I had access is irrelevant, and the crucial question is whether I participated in the alleged discussions of Mr. Sinn with his traders. That was not the case. I never participated in, or even witnessed any of “those communications.”
9. Conversations about trading positions and risk are typically held in the home office of Mr. Sinn, where I was not present anytime during June of 2016. The email correspondence shown in Exhibit 2 reflects my state of mind during June of 2016, and that I refused to meet with Mr. Sinn and Mr. Hammond at the apartment of Mr. Sinn. The situation did not improve afterwards, and my principal concern was to determine my next

- steps. I had no desire at all to inquire or know about Aspire's trading activities.
10. Alternatively, "those conversations" would have taken place by written text messages on the "Aspire Trading" channel of AOL Instant Messenger. I had not participated in, read, nor accessed communications on that forum since early June of 2016. Mr. Sinn would have been able to verify my activity on AOL Instant Messenger if he had not breached his fiduciary duty by purposely erasing his company's historical conversation logs and deactivating the recording functions of AOL Instant Messenger.
  11. Mr. Sinn's assertions about "panic" at Aspire are severely overstated, if not false. On Friday, July 1 of 2016, I communicated with Dave Schmidli, who is Mr. Sinn's most senior trader. The SMS text messages exchanged with Mr. Schmidli between 3:53pm and 4:09pm EST are reproduced in Exhibit 3. Mr. Schmidli, who in the past experienced panic attacks in extremely stressful work situations, showed no sign of any stress at all. In fact, Mr. Schmidli was at the airport to travel out of Puerto Rico for the long Independence Day holiday weekend of Saturday July 2 through Monday July 4, 2016. Additionally, Mr. Schmidli wrote that "Adam is a NYC" (sic). Contrary to what would be expected from a trader suffering from "extreme stress and worry," Mr. Sinn was in New York City and not, during working hours, at his desk "analyzing Aspire's risk and rationally changing its position in response to the market shift," as he emphatically claims was his top priority according to Paragraph 11 of the Sinn Statement.
  12. Also in Paragraph 11 of the Sinn Statement, Mr. Sinn repeatedly claims to be cognizant of exactly what I knew and what my intentions were at that particular time. I have never witnessed Mr. Sinn capable of telepathy, and his claims that my goal was to abuse my alleged knowledge regarding Aspire's precarious trading positions are preposterous and figments of his paranoid imagination.
  13. Contrary to Mr. Sinn's misleading assertions, I did not "lock Aspire's traders out of Aspire's system," assuming this means computer servers (which Aspire does not operate, rent or own). Neither did I block "Aspire's access to its own computers." Around midnight, I received an email warning me about an unsuccessful login attempt into my account of Dropbox, the cloud storage provider. In response, I updated my login credentials and temporarily suspended the Dropbox accounts of Mr. Sinn and other traders, but restored everything in the morning of July 2, 2016 (see Exhibit 4).

14. Later, I learned that Barry Hammond executed this failed login attempt. In his bad faith, Mr. Hammond intentionally ignored my question about this event (see email received at 10:39am EST on July 2, 2016 in Exhibit 4). Additionally, Defendants acted in bad faith when they pretended to be unaware of their own action when they alleged in Texas Court that “[Mr. de Man] initially prevaricated, claiming that he had changed the access credentials because he believed someone had attempted an unauthorized access.” See, Original Petition, ¶ 24, Cause Number 2016-59771, Harris County, TX, which was dismissed for lack of personal jurisdiction.
15. On July 2 of 2016 around 5:30pm EST, after the Dropbox accounts were reinstated, I apologized to Mr. Schmidli for the inconvenience. The SMS text messages exchanged are reproduced in Exhibit 5. Mr. Schmidli’s calm answer reflects the truth that there was “no problem,” again in utter contradiction to the assertions in the Sinn Statement.
16. I never demanded a \$1,000,000 ransom payment, as is immediately clear from a careful reading of the email correspondence included in Exhibit 4 (a more limited version was included as Exhibit A of the Sinn Statement). Furthermore, this email correspondence shows Mr. Hammond and Mr. Sinn exerting pressure on me by refusing to transfer the funds that were my property and that were reported to the IRS for tax year 2015. At that time, I had earnest fears that Mr. Sinn would withhold my capital indefinitely, and I made very clear that I was extremely uncomfortable with his actions which “threaten[ed] the livelihood of my family.” My fears were reinforced by Mr. Schmidli, who expressed a similar worry whether “[Mr. Sinn] pays me my last distribution one day.” (see Exhibit 3).

Véase, Anejo A – Declaración Jurada del señor de Man, ¶¶ 8-16.

En base a lo anterior, resultan frívolas las alegaciones de Raiden LP y Aspire LP. Por lo tanto, procede denegar la *Moción de Remedios Provisionales*.

- B. “El señor de Man ha publicado en las redes sociales múltiples comentarios falsos y difamatorios sobre Aspire LP, el señor Adam Sinn y los representantes legales de Aspire LP”, y que “[e]l señor de Man también ha realizado comentarios difamatorios a terceros sobre el señor Sinn y el abogado interno de Aspire”. Véase, Moción de Remedios Provisionales, a la pág. 2.

Sin fundamento válido alguno, Raiden LP y Aspire LP pretenden coartar el derecho constitucional de libertad de expresión y el uso de las redes sociales que utiliza el señor de Man.

Nótese que la *Reconvención Enmendada* **no** expone una causa de acción por difamación, la cual se pretende traer ahora (como Segunda Causa de Acción) en la propuesta *Segunda Reconvención*

*Enmendada* presentada el 31 de agosto de 2017. De modo que, al presente, tal causa de acción **no** ha sido autorizada, **no** está propiamente ante el Honorable Tribunal y debe ser rechazada.

Para intentar sostener su postura, Raiden LP y Aspire LP incluyen los “Hechos Relevantes” número 18 al 23.

Adviértase, sin embargo, que las codemandadas realmente persiguen que no se divulguen o denuncien públicamente las actividades ilícitas o actos ilegales llevados a cabo por el señor Sinn y/o sus empresas. Véase, por ejemplo, **Anejo B** – UDRP *Response* del señor de Man, donde se detallan instancias en las cuales el señor Sinn se apropió de propiedad intelectual de competidores y otros casos que implican al señor Sinn en violaciones de propiedad intelectual. Debido a que el señor Sinn es un beneficiario de la Ley 22 de 2012, según enmendada -- la cual atrae a individuos inversionistas a residir a Puerto Rico -- cualquier actividad ilícita o acto ilegal por parte de éste podría resultar en la revocación de los referidos beneficios contributivos, entre otras consecuencias legales.

La parte demandante atenderá los “Hechos Relevantes” número 18 al 23 con las siguientes aseveraciones en inglés del señor de Man:

17. The statements and comments referred to in Paragraph 14 of the Sinn Statement are quoted directly from various public court filings involving Mr. Sinn, and I always included clear references to the source. Those statements were originally authored by lawyers, not by me, based on their observations of and interactions with Mr. Sinn. Any harm claimed by Defendants is self-inflicted. My postings have been well received by the LinkedIn community, each surpassing 1,000 views. Even Stephen Dutton, partner at Barnes & Thornburg LLP, the law firm hired by Mr. Sinn to represent him against me in federal court in Puerto Rico, “liked” one of my postings and gave me a “thumbs up.”
18. Paragraph 15 of the Sinn Statement only contains hearsay as Mr. Sinn, again, refrains from including any details or proof. I never told anyone that Mr. Sinn “will be going to jail soon.” On August 17, 2016, during a phone conversation with my attorney Juan Carlos Bou-Cardona, Mr. Hammond asserted that “my client [Mr. Sinn] wants your client broke and in jail.” Being genuinely offended by that baseless statement, I have retold this as a literal quote to others.

Véase, **Anejo A** – Declaración Jurada del señor de Man, ¶¶ 17-18.

Lo antes expuesto confirma que resultan frívolas las alegaciones de Raiden LP y Aspire LP. Por lo tanto, procede denegar la *Moción de Remedios Provisionales*.

- C. “El señor de Man, por otro lado, ha rehusado devolverle a Raiden LP y a Aspire LP la información confidencial y de secretos de negocios que obra en su poder ilegítimamente, incluyendo aquella información localizada en cierta computadora que Aspire LP compró para que el señor de Man la utilizara mientras era su empleado”. Véase, *Moción de Remedios Provisionales*, a la pág. 2.

Las codemandadas alegan que “[l]a retención por parte del señor de Man de esta información amenaza con causarles daños inminentes y sustanciales a las Demandadas”. *Id.* Incluso, exponen que “el señor de Man no tiene ningún derecho sobre la propiedad objeto de la [...] solicitud, la cual le pertenece exclusivamente a Raiden LP y Aspire LP”. *Id.*, a la pág. 3. Sin embargo, ello es patentemente falso y se expone sin someter un ápice de prueba.

Según se alegó extensamente en la *Réplica a Reconvención Enmendada*, Raiden LP ni Aspire LP **no** han evidenciado o sometido prueba de que son dueñas de “bienes muebles” en posesión del señor de Man. Dichas codemandadas tampoco han evidenciado o sometido prueba de que el señor de Man “se apropió ilegalmente de propiedad e información perteneciente a las Demandadas”. Ello, sin más, destruye la solicitud para que se “ordene de inmediato la restitución de la misma y le prohíba [al señor de Man] divulgar cualquier información confidencial y/o que contenga secretos de negocios pertenecientes a las Demandadas”.

Para intentar sostener su postura, Raiden LP y Aspire LP incluyen los “Hechos Relevantes” número 37 al 43. Sin embargo, la parte demandante rebate tales “Hechos Relevantes” con las siguientes aseveraciones en inglés del señor de Man:

19. I personally purchased all computer equipment listed in ¶ 77 of the *Reconvención Enmendada*. The invoices for these purchases, included in **Error! Reference source not found.**, list both shipping and billing address at my former residence in Stamford, CT. For my purchases with Dell, I paid with gift cards and my personal American Express credit card. **Error! Reference source not found.** shows the credit card statements listing the four charges made by Dell, corresponding to the four invoices. Similarly, for my purchase with Amazon, I paid with my personal credit card as is clear from the invoice. I was never reimbursed for these purchases by Aspire, nor by any of the other Defendants.
20. Testament to their bad faith, Defendants have falsely been claiming this computer equipment is property of Aspire. They have maintained this false claim ever since Aspire and Raiden filed the lawsuit against me in Texas Court on September 6, 2016. In October of 2016, my counsel in Texas, Chris Reynolds, communicated with Kevin Mohr, who is Mr. Sinn’s counsel in Texas. Their email correspondence is reprinted in



**Error! Reference source not found.** Upon Mr. Reynolds's request for "proof that [Aspire or Raiden] in fact owns the equipment," Mr. Mohr responded that "I am prepared to demonstrate ownership of the computers at the appropriate time." That time never came and Aspire and Raiden have steadfastly refused to demonstrate ownership, simply because they cannot.

21. In Paragraph 20 of the Sinn Statement, Mr. Sinn describes several items that he collectively refers to as "Aspire Confidential Information." My access to this information was unrelated to possession of the "company-purchased computer," which in itself is a false statement. The truth is that **the information was voluntarily shared with me in my Dropbox account, and that Mr. Hammond authorized me to copy its contents. At 10:46 AM on July 3, 2016, he wrote me: "Please let me know when you have copied the folders you want so that I know when it is ok to remove you from the folders"** (see **Error! Reference source not found.**). This was according to Mr. Sinn's wishes as **Mr. Hammond wrote me earlier at 8:14am EST on July 2, 2016, that Mr. Sinn "never intended for you to be without those files"** (see **Error! Reference source not found.**). Furthermore, I am not and have never been subject to a confidentiality or non-disclosure agreement of any kind. Mr. Sinn terminated negotiations towards a separation agreement in which a confidentiality clause would have been incorporated.
22. Finally, in Paragraph 22 of the Sinn Statement, Mr. Sinn makes the misleading assertion that I could use the information "to compete with Aspire and Raiden." However, in October of 2016, Mr. Sinn acknowledged there is no threat of competition when he turned down the opportunity to meet a prospective hire and stated that "Patrick may have interest, but my strategies are very different than what Great Bay does – so I am not really interested at this moment" (see **Error! Reference source not found.**). As opposed to Mr. Sinn, I am exploiting similar opportunities as the trading firm Great Bay, which I would consider as a competitor to my trading activities. Logically, I thus cannot be considered a competitor to Mr. Sinn's business.

Véase, Anejo A – Declaración Jurada del señor de Man, ¶¶ 19-22 (Énfasis suplido).

Lo anterior demuestra que Raiden LP y Aspire LP han expuesto falsamente que tienen derecho a reclamar la computadora y otros equipos electrónicos en posesión del señor de Man. Ha quedado acreditado que el señor de Man pagó dichos equipos con sus fondos personales y no

fue reembolsado por Raiden LP, Aspire LP o cualquier de los demás codemandados. Simple y sencillamente, Raiden LP y Aspire LP **no** tienen derecho alguno sobre los referidos bienes.

Por otro lado, y según ha quedado evidenciado por la parte demandante, el Lcdo. Hammond – abogado del señor Sinn y sus empresas – autorizó al señor de Man a copiar el contenido de la cuenta “Dropbox for Business” y expresamente le informó que el señor Sinn “never intended for you to be without those files”. Ello derrota miserablemente la postura de las codemandadas.

A pesar de que las codemandadas alegan generalizadamente que “[l]a denegatoria de los remedios solicitados [...] expone a éstas a daños reales, inminentes, palpables y significativos, los cuales afectarían adversamente sus gestiones comerciales”, lo cierto es que en el presente caso **no** hay riesgo de daño irreparable ni inminente alguno que amerite la concesión de remedios provisionales solicitados. Es un hecho incontrovertible que ha transcurrido **más de un (1) año** desde que se desataron los conflictos entre las partes y Raiden LP y Aspire LP **no** han evidenciado la supuesta “amenaza con causarles daños inminentes y sustanciales”. Tales argumentos especulativos y sin base alguna se exponen, una y otra vez, para intentar causar presiones indebidas en los procedimientos y tratar de lograr una adjudicación, mediante un mecanismo procesal equivalente a un interdicto, sobre ciertas alegaciones y causas de acción contenidas en la *Reconvención Enmendada*.

Lo que realmente pretenden evitar las codemandadas es que la parte demandante pueda utilizar información relacionada a éstas en su contra durante el presente caso. Así expresamente lo reconocen las codemandadas en la página 12 de la *Moción de Remedios Provisionales*. Sin embargo, las codemandadas **no** han promovido ni demostrado interés de suscribir un acuerdo de confidencialidad para el manejo de información en el presente caso, lo cual sería una solución salomónica a la presente controversia, en lugar de solicitar remedios provisionales improcedentes.

Debido a que resultan inmeritorias e infundadas las alegaciones las codemandadas, procede denegar la *Moción de Remedios Provisionales*.

**D. “El señor de Man ha comenzado a hacer negocios bajo el nombre ‘ruralroute3.holdings’, el cual es virtualmente idéntico a Rural Route 3 Holdings, LP (“RR3”), entidad que es dueña del noventa y nueve por ciento (99%) de Aspire LP”. Véase, *Moción de Remedios Provisionales*, a la pág. 2.**

Sobre este asunto, se alega que “[e]l único objetivo del señor de Man al utilizar dicho nombre de negocios es crear confusión en los mercados con tal de dar la impresión de que éste

aún continua afiliado a las Demandadas”. Id. Para intentar sostener su postura, Raiden LP y Aspire LP incluyen los “Hechos Relevantes” número 24 al 36. Sin embargo, RR3 y el señor de Man transaron un pleito ante el Tribunal Federal que envuelve dichas alegaciones. Véase, **Anejo C – Joint Motion Submitting Settlement Agreement in Compliance with Court Order (Docket No. 33)**, a la cual acompañaron el *Settlement Agreement*. Por lo tanto, tales alegaciones de Raiden LP y Aspire LP, además de ser impertinentes al presente caso, son claramente académicas.

**POR TODO LO CUAL**, la parte demandante solicita muy respetuosamente que este Honorable Tribunal declare *No Ha Lugar* la *Moción de Remedios Provisionales* presentada por las codemandadas Raiden LP y Aspire LP.

**CERTIFICAMOS:** Que en esta misma fecha hemos notificado, por correo ordinario y electrónico, copia fiel y exacta de la presente *Oposición* al *Lcdo. Alfredo F. Ramírez Macdonald*, [alfredo.ramirez@oneillborges.com](mailto:alfredo.ramirez@oneillborges.com), *Lcda. Ana Margarita Rodríguez Rivera*, [ana.rodriguez@oneillborges.com](mailto:ana.rodriguez@oneillborges.com) y al *Lcdo. Arturo L. B. Hernández González*, [arturo.hernandez@oneillborges.com](mailto:arturo.hernandez@oneillborges.com), O’Neill & Borges LLC, Ave. Muñoz Rivera 250, Suite 800, San Juan, Puerto Rico 00918-1813.

**RESPECTUOSAMENTE SOMETIDA.**

En San Juan, Puerto Rico, hoy 5 de septiembre de 2017.

**Ferraiuoli** LLC

PO Box 195168

San Juan, PR 00919-5168

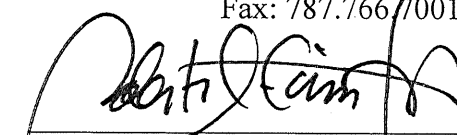
221 Plaza 5to Piso

221 Avenida Ponce de León

San Juan, Puerto Rico 00917

Tel.: 787.766.7000

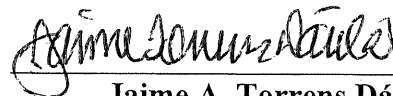
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COMMONWEALTH OF PUERTO RICO  
COURT OF FIRST INSTANCE  
SUPERIOR COURT OF BAYAMÓN

[A] PATRICK A.P. DE MAN;  
[B] MIKA DE MAN (A/K/A MIKA  
KAWAJIRI-DE MAN OR MIKA KAWAJIRI);  
[C] SOCIEDAD LEGAL DE BIENES  
GANANCIALES COMPUESTA POR DE  
MAN-KAWAJIRI;

**Plaintiffs,**

v.

[1] ADAM C. SINN;  
[2] RAIDEN COMMODITIES, LP;  
[3] RAIDEN COMMODITIES 1, LLC;  
[4] ASPIRE COMMODITIES, LP;  
[5] ASPIRE COMMODITIES 1, LLC;  
[6] SINN LIVING TRUST;

**Defendants.**

CIVIL NO.: D AC2016-2144 (702)

**SWORN STATEMENT OF PATRICK DE MAN**

I, Patrick A. P. de Man, of legal age, married, and resident of Dorado, Puerto Rico, hereby solemnly declare under oath as follows:

1. My name and personal circumstances are as stated above.
2. My address is 544 Corredor del Bosque, Dorado, Puerto Rico 00646.
3. I am an adult of sound mind, competent to testify to the matters in this Statement.
4. Except where obvious from the context, I have personal knowledge of the facts

asserted in this Statement.

5. Attached as Exhibits 1–9 to this Statement are true and correct copies of each of the following documents:

- Exhibit 1: Defendant/Counter-Plaintiffs' Response to Counter-Defendants Adam Sinn, XS Capital Investments, L.P., and Aspire Commodities, L.P.'s Motion for Traditional Summary Judgment in cause number 2014-40964.
- Exhibit 2: Email correspondence with Mr. Sinn on June 5-6 of 2016.
- Exhibit 3: SMS text messages exchanged with Mr. Dave Schmidli on July 1 of 2016.
- Exhibit 4: Email correspondence with Mr. Hammond on July 1-3 of 2016.
- Exhibit 5: SMS text messages exchanged with Mr. Dave Schmidli on July 2 of 2016.
- Exhibit 6: Invoices of computer equipment purchases with Amazon and Dell, listing both shipping and billing address at my personal (former) residence.

- Exhibit 7: Statements of my American Express credit card showing the charges made by Dell in December of 2010.
- Exhibit 8: Email correspondence between Mr. Reynolds and Mr. Mohr regarding demonstrating ownership of the computer equipment.
- Exhibit 9: Email correspondence between Mr. Sinn and Mr. Rill regarding meeting a prospective hire.

6. I have read (and re-read) the Sworn Statement of Adam Sinn (the “Sinn Statement”) that was submitted in support of Defendants’ *Moción Solicitando Remedios Provisionales Bajo la Regla 56 de las de Procedimiento Civil*, filed on August 7, 2017. As set forth below in this Statement, many of the claims made in the Sinn Statement are either demonstrably false, or badly misleading.

7. Adam Sinn (“Mr. Sinn”) has a history of misrepresenting material facts in litigation. And, his misrepresentations have been the subject of pleadings filed in cases to which he has been a party. See Exhibit 1 at 1–2, 17–19.

8. Until reading the Sinn Statement, I had no knowledge of any of Mr. Sinn’s claims regarding the precarious trading position of Aspire Commodities LP (“Aspire”) and the stress allegedly caused by the sudden market shift. Without showing proof, nor even providing details about the format or forum, Mr. Sinn claims in Paragraph 10 of the Sinn Statement, that “Patrick de Man had access to those communications.” Whether I had access is irrelevant, and the crucial question is whether I participated in the alleged discussions of Mr. Sinn with his traders. That was not the case. I never participated in, or even witnessed any of “those communications.”

9. Conversations about trading positions and risk are typically held in the home office of Mr. Sinn, where I was not present anytime during June of 2016. The email correspondence shown in Exhibit 2 reflects my state of mind during June of 2016, and that I refused to meet with Mr. Sinn and Mr. Hammond at the apartment of Mr. Sinn. The situation did not improve afterwards, and my principal concern was to determine my next steps. I had no desire at all to inquire or know about Aspire’s trading activities.

10. Alternatively, “those conversations” would have taken place by written text messages on the “Aspire Trading” channel of AOL Instant Messenger<sup>1</sup>. I had not participated in, read, nor accessed communications on that forum since early June of 2016. Mr. Sinn would have been able to verify my activity on AOL Instant Messenger if he had not breached his

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<sup>1</sup> I communicate on AOL Instant Messenger in my personal account with username “demanlehman”.



fiduciary duty by purposely erasing his company's historical conversation logs and deactivating the recording functions of AOL Instant Messenger.

11. Mr. Sinn's assertions about "panic" at Aspire are severely overstated, if not false. On Friday, July 1 of 2016, I communicated with Dave Schmidli, who is Mr. Sinn's most senior trader. The SMS text messages exchanged with Mr. Schmidli between 3:53pm and 4:09pm EST are reproduced in Exhibit 3. Mr. Schmidli, who in the past experienced panic attacks in extremely stressful work situations, showed no sign of any stress at all. In fact, Mr. Schmidli was at the airport to travel out of Puerto Rico for the long Independence Day holiday weekend of Saturday July 2 through Monday July 4, 2016. Additionally, Mr. Schmidli wrote that "Adam is a NYC" (sic). Contrary to what would be expected from a trader suffering from "extreme stress and worry," Mr. Sinn was in New York City and not, during working hours, at his desk "analyzing Aspire's risk and rationally changing its position in response to the market shift," as he emphatically claims was his top priority according to Paragraph 11 of the Sinn Statement.

12. Also in Paragraph 11 of the Sinn Statement, Mr. Sinn repeatedly claims to be cognizant of exactly what I knew and what my intentions were at that particular time. I have never witnessed Mr. Sinn capable of telepathy, and his claims that my goal was to abuse my alleged knowledge regarding Aspire's precarious trading positions are preposterous and figments of his paranoid imagination.

13. Contrary to Mr. Sinn's misleading assertions, I did not "lock Aspire's traders out of Aspire's system," assuming this means computer servers (which Aspire does not operate, rent or own). Neither did I block "Aspire's access to its own computers." Around midnight, I received an email warning me about an unsuccessful login attempt into my account of Dropbox, the cloud storage provider. In response, I updated my login credentials and temporarily suspended the Dropbox accounts of Mr. Sinn and other traders, but restored everything in the morning of July 2, 2016 (see Exhibit 4).

14. Later, I learned that Barry Hammond executed this failed login attempt. In his bad faith, Mr. Hammond intentionally ignored my question about this event (see email received at 10:39am EST on July 2, 2016 in Exhibit 4). Additionally, Defendants acted in bad faith when they pretended to be unaware of their own action when they alleged in Texas Court that "[Mr. de Man] initially prevaricated, claiming that he had changed the access credentials because he

believed someone had attempted an unauthorized access.” See, *Original Petition*, ¶ 24, Cause Number 2016-59771, Harris County, TX, which was dismissed for lack of personal jurisdiction.

15. On July 2 of 2016 around 5:30pm EST, after the Dropbox accounts were reinstated, I apologized to Mr. Schmidli for the inconvenience. The SMS text messages exchanged are reproduced in Exhibit 5. Mr. Schmidli’s calm answer reflects the truth that there was “no problem,” again in utter contradiction to the assertions in the Sinn Statement.

16. I never demanded a \$1,000,000 ransom payment, as is immediately clear from a careful reading of the email correspondence included in Exhibit 4 (a more limited version was included as Exhibit A of the Sinn Statement). Furthermore, this email correspondence shows Mr. Hammond and Mr. Sinn exerting pressure on me by refusing to transfer the funds that were my property and that were reported to the IRS for tax year 2015. At that time, I had earnest fears that Mr. Sinn would withhold my capital indefinitely, and I made very clear that I was extremely uncomfortable with his actions which “threaten[ed] the livelihood of my family.” My fears were reinforced by Mr. Schmidli, who expressed a similar worry whether “[Mr. Sinn] pays me my last distribution one day.” (see Exhibit 3).

17. The statements and comments referred to in Paragraph 14 of the Sinn Statement are quoted directly from various public court filings involving Mr. Sinn, and I always included clear references to the source. Those statements were originally authored by lawyers, not by me, based on their observations of and interactions with Mr. Sinn. Any harm claimed by Defendants is self-inflicted. My postings have been well received by the LinkedIn community, each surpassing 1,000 views. Even Stephen Dutton, partner at Barnes & Thornburg LLP, the law firm hired by Mr. Sinn to represent him against me in federal court in Puerto Rico, “liked” one of my postings and gave me a “thumbs up.”

18. Paragraph 15 of the Sinn Statement only contains hearsay as Mr. Sinn, again, refrains from including any details or proof. I never told anyone that Mr. Sinn “will be going to jail soon.” On August 17, 2016, during a phone conversation with my attorney Juan Carlos Bou-Cardona, Mr. Hammond asserted that “my client [Mr. Sinn] wants your client broke and in jail.” Being genuinely offended by that baseless statement, I have retold this as a literal quote to others.

19. I personally purchased all computer equipment listed in ¶ 77 of the *Reconvención Enmendada*. The invoices for these purchases, included in Exhibit 6, list both shipping and billing address at my former residence in Stamford, CT. For my purchases with Dell, I paid with gift cards and my personal American Express credit card. Exhibit 7 shows the credit card statements listing the four charges made by Dell, corresponding to the four invoices. Similarly, for my purchase with Amazon, I paid with my personal credit card as is clear from the invoice. I was never reimbursed for these purchases by Aspire, nor by any of the other Defendants.

20. Testament to their bad faith, Defendants have falsely been claiming this computer equipment is property of Aspire. They have maintained this false claim ever since Aspire and Raiden filed the lawsuit against me in Texas Court on September 6, 2016. In October of 2016, my counsel in Texas, Chris Reynolds, communicated with Kevin Mohr, who is Mr. Sinn's counsel in Texas. Their email correspondence is reprinted in Exhibit 8. Upon Mr. Reynolds's request for "proof that [Aspire or Raiden] in fact owns the equipment," Mr. Mohr responded that "I am prepared to demonstrate ownership of the computers at the appropriate time." That time never came and Aspire and Raiden have steadfastly refused to demonstrate ownership, simply because they cannot.

21. In Paragraph 20 of the Sinn Statement, Mr. Sinn describes several items that he collectively refers to as "Aspire Confidential Information." My access to this information was unrelated to possession of the "company-purchased computer," which in itself is a false statement. The truth is that the information was voluntarily shared with me in my Dropbox account, and that Mr. Hammond authorized me to copy its contents. At 10:46 AM on July 3, 2016, he wrote me: "Please let me know when you have copied the folders you want so that I know when it is ok to remove you from the folders" (see Exhibit 4). This was according to Mr. Sinn's wishes as Mr. Hammond wrote me earlier at 8:14am EST on July 2, 2016, that Mr. Sinn "never intended for you to be without those files" (see Exhibit 4). Furthermore, I am not and have never been subject to a confidentiality or non-disclosure agreement of any kind. Mr. Sinn terminated negotiations towards a separation agreement in which a confidentiality clause would have been incorporated.

22. Finally, in Paragraph 22 of the Sinn Statement, Mr. Sinn makes the misleading assertion that I could use the information "to compete with Aspire and Raiden." However, in

Sworn Statement of Patrick A. P. de Man

Patrick A. P. de Man, et al. v. Adam C. Sinn, et al.


Civil No.: D AC2016-2144 (702)

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October of 2016, Mr. Sinn acknowledged there is no threat of competition when he turned down the opportunity to meet a prospective hire and stated that “Patrick may have interest, but my strategies are very different than what Great Bay does – so I am not really interested at this moment” (see Exhibit 9). As opposed to Mr. Sinn, I am exploiting similar opportunities as the trading firm Great Bay, which I would consider as a competitor to my trading activities. Logically, I thus cannot be considered a competitor to Mr. Sinn’s business.

23. The information stated above is true and correct in every way.

IN WITNESS WHEREOF, I execute this Sworn Statement in San Juan, Puerto Rico, this 5<sup>th</sup> day of September, 2017.

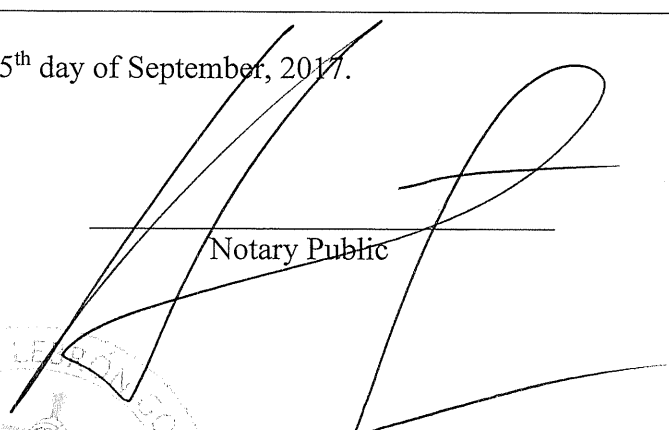


Patrick A. P. de Man

Affidavit No. -4949-

Sworn and subscribed before me by Patrick A. P. de Man, of the aforementioned personal circumstances, who is personally known to me or whom I have identified by

In San Juan, Puerto Rico, this 5<sup>th</sup> day of September, 2017.



Notary Public



# EXHIBIT 1





judgment, Sinn filed an affidavit denying that he breached the non-disparagement clause of the settlement agreement. At his deposition, he admitted having repeatedly made such statements. Their motions for summary judgment must be denied. Atlas and Taylor will move for summary judgment at the appropriate time and will show through the expert testimony of Rob Hancock that they have been harmed by Torres and Sinn's violations of the Settlement Agreement.

## II. OBJECTIONS TO SINN'S SUMMARY JUDGMENT EVIDENCE

Defendants object to Sinn's Summary Judgment Evidence as follows:

**Exhibit 1.** One of the two pieces of evidence attached to Sinn's motion for summary judgment is an affidavit that contains statements that are utterly false. For example, in paragraph 15 of his affidavit, Sinn states:

On December 22, 2013, I sent the Picture via group text message to the persons pictured in the Picture, Joonsup Park and David Schmidli. I did not send the picture to any customers or affiliates of Atlas, nor did I make any negative remarks about Taylor or Atlas.

(Sinn Ex. A. ¶ 15.) After executing this affidavit, Sinn admitted that he sent the photograph to an unknown person or persons with the message "Happy Holidays Atlas." (Ex. O, Sinn Dep., at 69:5–20.)

Sinn's testimony therefore rests entirely on his credibility. "If the credibility of the affiant or deponent is likely to be a dispositive factor in the resolution of the case, then summary judgment is inappropriate." *Casso v. Brand*, 776 S.W.2d 551, 558 (Tex. 1989).

## III. SUMMARY JUDGMENT EVIDENCE

Defendants rely on the following:

Exhibit A: Photograph

Exhibit B: December 23, 2013 Email from Berg to Moore and Langham

Exhibit C: December 24, 2013 Email from Langham to Berg, copy to Moore

- Exhibit D: December 24, 2013 Email from Berg to Langham, copy to Moore
- Exhibit E: December 24, 2013 Email from Langham to Berg and Moore
- Exhibit F: December 25, 2013 Email from Berg to Langham and Moore
- Exhibit G: December 31, 2013 Email from Berg to Langham and Moore
- Exhibit H: January 1, 2014 Email from Langham to Berg and Moore
- Exhibit I: January 2, 2014 Email from Berg to Langham and Moore
- Exhibit J: January 7, 2014 Email from Berg to Langham and Moore
- Exhibit K: January 7, 2014 Email from Langham to Berg and Moore
- Exhibit L: January 7, 2014 Email from Berg to Langham and Moore
- Exhibit M: August 15, 2013 Settlement Agreement
- Exhibit N: Excerpts from March 6, 2015 Deposition of Eric Torres
- Exhibit O: Excerpts from April 8, 2015 Deposition of Adam Sinn
- Exhibit P: Declaration of Craig Taylor
- Exhibit Q: Defendants' First Set of Interrogatories and Requests for Production to Plaintiff Eric Torres
- Exhibit R: Eric Torres' Response to Defendants' First Set of Interrogatories and Requests for Production
- Exhibit S: Defendants' First Set of Interrogatories and Requests for Production to Plaintiff Adam Sinn
- Exhibit T: Adam Sinn's Response to Defendants' First Set of Interrogatories and Requests for Production
- Exhibit U: Affidavit of Kathryn E. Nelson

#### **IV. UNDISPUTED FACTS**

Atlas is a commodities brokerage. For the most part, it brokers energy products, facilitating the transfer, storage, and purchase of gas, electricity, physical crude and related commodities. Taylor is Atlas' majority shareholder.

In or about September 2010, Torres and Taylor entered into negotiations for Torres to purchase an equity interest in Atlas. The idea was that Torres would buy into Atlas, establish and run Atlas' electricity/power transactions (known as ERCOT). Taylor agreed to sell a 25% ownership interest in Atlas to Torres for \$750,000. An additional 10% interest in Atlas was conveyed subject to reversion if Torres failed to meet certain revenue goals.

Soon after Torres "purchased" the shares in Atlas, Taylor questioned whether Plaintiff/Counter-Defendant Adam Sinn ("Sinn") was the source of Torres' investment funds. Torres prevaricated and stalled in order to protect himself and refused to admit that Sinn was indeed the source of the funds with which he "purchased" the shares in Atlas. (*See* Ex. N, Torres Dep. at 11:24–13:8; 14:8–17:5.)

When it became clear that Sinn had financed Torres' investment and was the true owner of Atlas' shares, Atlas offered to simply return all of Sinn's money in exchange for return of Atlas' shares and Torres' departure. (*See* Ex. N, Torres Dep., at 22:16–25.) Atlas was prepared to absorb the damage that had been done to the company and its reputation in order to be rid of Sinn and Torres. Sinn and Torres refused. (*See id.*)

Ultimately, as he did here, Torres preemptively filed suit against Atlas, Taylor and Marshall. Atlas and Taylor counterclaimed and joined Sinn, XS, and Aspire for, among other things, rescission of the sale to Torres/Sinn of Atlas shares. A settlement was reached and, on August 15, 2013, a settlement agreement was signed ("Settlement Agreement"). (Ex. M at 1.) Though Sinn/Torres had paid \$750,000 for shares of Atlas and the company had grown since the sale, Atlas/Taylor agreed to buy back their shares for \$500,000 paid out without interest over two years as follows: \$250,000 up front, and then \$10,000 per month for twenty-five months. (*See id.* ¶ 3.)

Return of Sinn/Torres' shares of Atlas was to, and did, take place immediately. (*See* Ex. M, Settlement Agreement, ¶ 1; Ex. N, Torres Dep., at 26:12–17.) Taylor and Atlas made the \$250,000 payment, and four subsequent payments of \$10,000 each. (*See* Ex. N, Torres Dep. at 26:24–27:28:3.) The case was dismissed with prejudice and, at Sinn's request, the records were sealed.

The Settlement Agreement contains the following non-disparagement provision:

**Non-Disparagement.** The Parties agree that in exchange for the consideration provided under this agreement, the Parties shall not directly or indirectly, disparage, make or publish any false, derogatory, slanderous or libelous comments about any other Party regarding any matter likely to be harmful to the Party's business, business reputation, or personal reputation. Further, the Parties agree that they shall not solicit from any third party any comments, statements, or the like that may be considered negative, false, derogatory or detrimental to the business reputation of any other Party. Further, the Parties agree that they will not restrict, limit, or prohibit any third party or employee from socializing, fraternizing, or doing business with any other Party.

(Ex. M, Settlement Agreement, ¶ 19.)

On December 22, 2013 at 12:06 a.m., four months after execution of the Settlement Agreement, Taylor received a text message from Sinn. (Ex. P, Taylor Aff., ¶ 3.) The message contained no text, just a photograph of Sinn, Torres, Barry Hammond (another of Sinn's lawyers), and a few other energy traders, Evan Caron, Paul Sarver, and Sean Kelly. (*Id.*) They are standing in front of a Christmas tree—and all but Caron are extending their middle fingers at the camera. (Ex. A.) At the time the picture was taken, Caron and Kelly were traders at companies that do business with Atlas. (Ex. P, Taylor Aff., ¶ 4.) Sarver is a former Atlas employee who worked for a competitor. (Ex. P, Taylor Aff., ¶ 5.)

Taylor and Atlas were not interested in reinstating litigation or seeing the settlement unravel because Sinn and a few apparently intoxicated friends were not imaginative enough to do anything more amusing than say “f-you” with their fingers. So on Monday, December 23, 2013, counsel for Taylor and Atlas sent the following email to counsel for Torres and Sinn:



As you know, the settlement agreement between our clients contains confidentiality and non-disparagement clauses. I can't say I've ever seen a violation of those provisions quite like this one, but Mr. Sinn texted the attached picture to Craig Taylor this past weekend. As you can see, the photo features Mr. Sinn and Mr. Torres. Also making an appearance is Chanler's co-counsel, not exactly living up to the highest standards of professionalism by upholding his middle finger instead of the dignity of the profession, as the rules require.

Whether they thought they were being funny or trying to accomplish something else isn't clear. I'm going to guess, though, that this picture was not taken right after your clients and co-counsel either refused to discuss Atlas, Taylor, Marshall or the settlement or used "words to the effect that all disputes among [the Parties] have been fully settled and resolved" and nothing else, as the agreement requires.

It looks to me like they were just drunk. Whatever the case, Mr. Taylor isn't amused, and I don't blame him.

This case took a lot of effort from all of us to get settled and I don't want to undo it over this. Without waiving Atlas' right to act in response to any future violation(s), and without asking that either of your clients admit to having violated it, request is made that Mr. Sinn, Mr. Torres and Chanler's co-counsel (whose name escapes me at the moment) each apologize to Mr. Taylor before Christmas and then leave him alone.

If you would like to discuss, please let me know.

(Ex. B.)

The next day, on December 23, 2015, counsel for Sinn responded by saying that the picture was not intended for Taylor, but was in fact sent to people associated with *Atlas* with the tag line "Happy Holidays from *Atlas*." (Ex. C (emphasis added).) This of course would be a far more serious breach of the Settlement Agreement than originally believed, so counsel for Atlas and Taylor wrote back just over an hour later requesting (i) that Sinn provide "the picture with the tag line, a list of senders, and a full list of recipients, including all names, phone numbers, and email addresses," and (ii) that *no related material be deleted or destroyed*. (Ex. D.)

Later that night (at 8:30 on Christmas Eve), counsel for Sinn emailed again, explaining that in his response to counsel for Atlas, he typed "*Atlas*" when what he meant was "*Aspire*," Sinn's

company. In other words, Sinn was now claiming that the photograph was sent to people associated with *Aspire* with the tag line “Happy Holidays from *Aspire*.” Along with this explanation, counsel for Sinn forwarded to counsel for Taylor and Atlas an email from Sinn in which he explained:

I thought I was sending the photo to someone else, I know multiple Craig’s [sic] and even two Craig Taylor’s [sic] believe it or not. This is the first I’ve learned of Craig Taylor getting sent this photo errantly. Everyone needs to lighten up a bit, and yes I sent it to a bunch of folks as a joke. If Craig has [sic] issue I can surely apologize, but in now [sic] way are the others in the photo apologizing for something I did by accident.

(Ex. E.)

The next day, Wednesday, December 25, counsel for Taylor and Atlas again emailed counsel for Sinn, pointing out that the message received by Taylor contained no text—no “tag line”—at all, just a picture, and requesting that he forward what Sinn now claimed were “holiday cards” to *Aspire* associates by Friday, December 27. (Ex. F.)

By the following Tuesday, December 31, Sinn had not responded at all, so counsel for Taylor and Atlas again emailed counsel for Sinn and said:

I didn’t receive any of these, so I will assume your client does not intend to provide them.

Contacting people associated with Atlas with an obscene message purporting to be “from Atlas” is a violation of the settlement agreement. This breach by Mr. Sinn and Mr. Torres excuses further performance by Atlas, which will now consider what action it should take to protect itself.

(Ex. G.)

The following day, January 1, 2014, counsel for Sinn emailed the following *non sequitur* to counsel for Taylor and Atlas:

I assume from your response that you did not understand that I wrote a typo in my previous email. The places where I referenced “*Atlas*” should have referenced “*Aspire*.” It is my understanding that Mr. Taylor received the message and photo in error. It was not meant for him to receive it and it was not directed at him either.

Indeed, the message had nothing to do with Mr. Taylor or the lawsuit that we amicably resolved.

We did not send any messages to people associated with your client's company, we also did not purport to send any messages "from" your client's company. This apparently is all a big misunderstanding. I don't think it would be appropriate to claim that the mistaken message or my typo is some breach of the settlement agreement. I also don't think it would be appropriate to unilaterally cease your clients [*sic*] performance under the settlement agreement based on a mistaken text message.

With that said, we sincerely apologize for any inconvenience this may have caused you and your client.

(Ex. H (emphasis added).)

The next day, January 2, 2014, counsel for Taylor and Atlas responded to counsel for Sinn:

Thanks for the clarification, but I do understand that you claim your previous email's reference to Atlas was a typo. I hope that is the case and look forward to receiving the original texts with the original tag lines and a list of recipients so that it can be confirmed.

(Ex. I.) Again, Sinn did not respond.

On January 7, still having had no response from Sinn, counsel for Taylor and Atlas emailed again, this time pointing out that Sinn had to that point simply ignored repeated requests that he produce whatever it was that he sent out, so:

Request is made—again—that you provide the original texts in full, with a list of senders and recipients. If you do not provide it by the close of business on Friday, January 10, 2014, Atlas will assume that it is because to do so would confirm Mr. Sinn and Mr. Torres' breach of the settlement agreement.

Breach by Mr. Sinn and Mr. Torres excuses further performance by Atlas. If Mr. Sinn or Mr. Torres have breached the settlement agreement, Atlas will have no obligation to make further payment, and such payments will not be made.

(Ex. J.)

That same day, instead of simply producing the texts which Sinn claimed would vindicate him, thus avoiding this entire dispute, he invoked the mediation clause of the Settlement

agreement, requesting that the parties make themselves available for a teleconference with the parties' agreed mediator, Paul Clote. (Ex. K.)

Taylor and Atlas agreed about an hour later, but pointed out that none of this would be necessary if Sinn would simply produce the documents he claimed would exonerate him: Taylor and Atlas would not invoke their right to cease performance, no attorneys' fees would be incurred, and no costs of any kind would be necessary. If litigation followed, Taylor and Atlas would be entitled to production of those messages in discovery anyway—all at much greater expense than simply producing them ahead of time. All Sinn had to do was show Taylor and Atlas—even Taylor and Atlas' counsel for his eyes only—what Sinn claimed were messages unrelated in any way to Atlas or Taylor. Counsel for Taylor and Atlas therefore responded:

I agree that Mr. Sinn and Mr. Torres' breach of the settlement agreement requires that the parties to confer with Paul Clote before initiating any action. I am available tomorrow afternoon anytime, Thursday from 1:30–2:45, Friday morning until 11:00, and Tuesday the 14th from 1:30–3:00.

As you know, if Mr. Clote is not able to assist us in resolving this matter and litigation follows, your clients will be required to produce in discovery what we're requesting now. If the texts didn't mention Atlas or go to anyone associated with Atlas, as you now claim, there will be nothing to drag third parties into. If that isn't the case, however, we will find out about it during discovery and those third parties will, at a minimum, be witnesses anyway. It is curious that Mr. Sinn and Mr. Torres would prefer to spend time and money jumping through all of these hoops instead of just forwarding what they claim would exonerate them and dispose of this issue completely.

Neither Mr. Sinn nor Mr. Torres have any reason to believe that Atlas wants to litigate further, as you now claim. It doesn't. Craig Taylor, James Marshall, and Atlas want nothing more to do with your clients. It wasn't Atlas that contacted them and it isn't Atlas which is refusing to prove something so simple.

If this was all a mistake, proving it is easy (which I guess you don't deny since you promise to provide some of the evidence to Mr. Clote). What makes absolutely no sense at all is to insist on spending thousands of dollars going through a mediator instead of just forwarding the requested information. It does make sense if Mr. Sinn and Mr. Torres have something to hide, though.

If your clients were actually concerned that Atlas was looking for an excuse to initiate litigation, you could have asked at any time over the last two-plus-weeks for an assurance that if you provided the material, Atlas would consider the issue resolved. Atlas would have said yes because litigation isn't what it wants. Instead, Mr. Sinn and Mr. Torres have done everything they can not to have to turn over what they sent out.

Mr. Sinn, XS, Aspire, and Mr. Torres are in breach of the settlement agreement. Because of their breach, further performance by Mr. Taylor, Mr. Marshall, and Atlas is excused. This email will be printed and sent by certified mail and facsimile to you and Melissa pursuant to paragraph 20 of the Settlement Agreement.

(Ex. L.) Payment from Atlas and Taylor to Sinn was accordingly halted.

The parties mediated, first by phone and then in person on April 1, 2014. Sinn steadfastly refused to produce what he actually sent.

On July 17, 2014, Torres filed this lawsuit against Atlas and Taylor for breach of the Settlement Agreement, complaining of their failure to pay them monies he claimed were due. Atlas and Taylor answered on August 18, 2014 and asserted a claim for breach of the non-disparagement provision of the Settlement Agreement.

Also on August 18, 2014, Defendants served their First Set of Interrogatories and Requests for Production on Sinn. (*See Ex. S at 2.*) Defendants specifically requested information regarding the photograph attached as Exhibit A:

**REQUEST FOR PRODUCTION NO. 1:** Produce all documents or communications sent to, received from, or created by you mentioning, relating, or referring to the photograph attached as Exhibit A to Defendants' Original Counterclaim.

...

**REQUEST FOR PRODUCTION NO. 3:** Produce all communications between you and Eric Torres between August 15, 2013 and the present.

**REQUEST FOR PRODUCTION NO. 4:** Produce all communications between you and Evan Caron between August 15, 2013 and the present.

**REQUEST FOR PRODUCTION NO. 5:** Produce all communications between you and Paul Sarver between August 15, 2013 and the present.

**REQUEST FOR PRODUCTION NO. 6:** Produce all communications between you and Sean Kelly between August 15, 2013 and the present.

**REQUEST FOR PRODUCTION NO. 7:** Produce all communications between you and Joonsup Park between August 15, 2013 and the present.

**REQUEST FOR PRODUCTION NO. 8:** Produce all communications between you and David Schmidli between August 15, 2013 and the present.

**REQUEST FOR PRODUCTION NO. 9:** Produce all communications in your possession, custody or control between August 15, 2013 and the present that, directly or indirectly, mention, relate, or refer to Craig Taylor. This request includes but is not limited to communications sent by you and those received by you.

...

**REQUEST FOR PRODUCTION NO. 11:** Produce all communications in your possession, custody or control between August 15, 2013 and the present that, directly or indirectly, mention, relate, or refer to Atlas. This request includes but is not limited to communications sent by you and those received by you.

**REQUEST FOR PRODUCTION NO. 12:** Produce all communications in your possession, custody or control which say "Happy Holidays from Atlas" sent by you between December 21, 2013 and the present.

...

**REQUEST FOR PRODUCTION NO. 14:** Produce all communications in your possession, custody or control which say "Happy Holidays from Atlas" sent to you between December 21, 2013 and the present.

...

**REQUEST FOR PRODUCTION NO. 16:** Produce all communications in your possession, custody or control which contain or refer to the photograph attached to Defendants' Original Counterclaim as Exhibit A.

(Ex. S.) On September 22, 2014, Sinn served general, boilerplate objections to the requests, but produced no documents whatsoever. (*See* Ex. T.)

On September 29, 2014, one week later, Defendants moved to compel responses to the requests. After hearing Defendants' motion, on November 11, 2014, the Court compelled Sinn to produce documents responsive to the requests. Despite repeated requests and an order from the Court compelling him to do so, Sinn has never produced the material he apparently still maintains would exonerate him. What little he has produced is heavily redacted, purportedly for privilege.<sup>1</sup> Defendants question whether the redacted information is privileged and whether the privilege was properly preserved and reserve the right to raise these issues with the Court.

Sinn and Torres both have now admitted that Sinn was the source of the funds Torres used to purchase a share of Atlas. (Ex. N, Torres Dep., at 11:21–12:8; Ex. O, Sinn Dep., at 23:12–24:6.) In addition, Torres has admitted and Sinn has confirmed that they committed fraud in executing the Settlement Agreement. In the Settlement Agreement, Torres represented—under oath—that he had not assigned any of his rights or interests under the agreement:

**Warranty by Torres.** Torres hereby represents and warrants that he has not assigned or otherwise transferred to any other person or entity any interest in any claims, actions, demands and/or causes of action he has, or may have, or may claim to have in connection with the matters released hereby and/or the persons and entities released herein. . .

(Ex. M, Settlement Agreement, ¶ 11, at 10.) This representation is flatly contradicted by both Torres' and Sinn's deposition testimony. First of all, Torres and Sinn both acknowledged at deposition that all moneys paid under the Agreement (\$290,000 to date) went to Sinn:

Q. So that lawsuit between you and Atlas Commodities, James Marshall and Craig Taylor was ultimately settled after a mediation; correct?

A. That's correct.

Q. And under the terms of that settlement, Atlas and Taylor basically were going to pay \$500,000 to you; right?

---

<sup>1</sup> The documents have been designated "Confidential" pursuant to the parties' Agreed Protective Order entered by the Court on November 19, 2014 and therefore are not attached to this response.

A. Correct

...

Q. And under the terms of the settlement agreement—Well, strike that.

\$250,000 was paid under the terms of the settlement agreement. Where did that money go?

A. That was paid, if I recall, directly to Chandler's [*sic*] law firm. That's—I'm sure that's how we set it up. Yeah.

Q. Okay. \$250,000 went to Chanler's law firm Chanler Langham at Susman, Godfrey who represented Adam Sinn and XS Capital.

A. Correct.

Q. So \$250,000 to Susman, Godfrey which then did what with it?

A. I'm—I don't know exactly what they did with it. I'm sure they gave—gave it to Adam Sinn or they used part of it to pay for legal fees, gave it to Adam Sinn, I don't know; but I know some of it got to Adam Sinn.

Q. None of it came to you.

A. Correct.

Q. Right. Then there were two payments made following that payment under the settlement agreement; correct?

A. Was it only two? I thought it was four.

...

Q. Those payments went, under the terms of the settlement agreement, to Chanler Langham's law firm; correct?

A. Correct.

Q. Okay. Ultimately Chanler's firm represented you, but it didn't at that point; correct?

A. I was represented by Melissa Moore.

Q. Right. Okay. So that money went to Susman, Godfrey—

A. Uh-huh.



Q. —which did what with it?

A. I imagine they gave it to Adam Sinn, but I don't know for sure.

Q. *Okay. That money was going directly to Adam Sinn, or at least to his representative.*

A. *Sure.*

Q. *None of it was going to you.*

A. *No.*

Q. *And none of the remainder was going to you.*

A. *Correct.*

Q. *It all goes to Adam Sinn, ultimately.*

A. *Ultimately, yes.*

(See Ex. N, Torres Dep., at 26:3–10, 26:22–27:20, 27:25–28:21 (emphasis added).)

Q. All right. So, Atlas made that first 250,000-dollar payment. Where did that go?

A. To Susman Godfrey.

Q. And what did Susman Godfrey do with it?

A. They then distributed it out.

Q. To whom?

A. To myself.

Q. Did Mr. Torres get any of it?

A. No.

Q. Okay. And then Atlas made payments of \$10,000 per month for four months, correct?

A. Correct.

Q. And those payments also went to Susman Godfrey, right?

A. They did.

Q. Susman Godfrey was the law firm which represented you before you hired Rapp & Krock, correct?

A. Yes.

Q. All right. And Susman Godfrey represented you in the lawsuit that was settled by this Settlement Agreement, right?

A. Correct.

Q. Okay. So, \$10,000 a month for four months went to Susman Godfrey, right?

A. Correct.

Q. And what happened to each of those payments of \$10,000?

A. They were distributed out to me.

Q. *Did Mr. Torres get any of those funds?*

A. *No.*

(Ex. O, Sinn Dep., at 35:16–36:20 (emphasis added).)

More importantly, Torres and Sinn have further admitted that the entire \$500,000 settlement was assigned to Sinn by Torres and that Torres has no right to any of that money. The assignment from Torres to Sinn was, according to Torres' testimony in this case, executed between the time the parties settled the underlying matter at mediation and the time they entered into the Settlement Agreement:

Q. Okay. Did you sign some agreement with Adam Sinn saying: All the money under this settlement agreement is going to you?

A. If I recall correctly, I did. I don't remember the exact document; but I think *after the settlement day, between that until the actual final agreement, there was a document that I signed where the \$500,000 was to be paid to Adam Sinn, essentially—*

Q. Okay.

A. —to cut out the middleman, basically.

Q. Do you know if that document was produced in this litigation?

A. I don't think so, no.<sup>2</sup>

(See Ex. N, Torres Dep., at 28:22–29:9 (emphasis added).)

Q. But you do have a written agreement on the total of 500,000 under the Settlement Agreement?

A. I don't recall, but potentially we do.

Q. Okay. Well, if it's not written, it's certainly oral, correct?

A. Like, I literally don't recall. I mean, I know he said that, but I don't recall.

Q. Okay.

A. I don't recall what the specific structure—

Q. Then let me—let me put it this way. He says to you in one way or another, oral, written, whatever you leave open the possibility.

A. Okay.

Q. *You just don't recall. He says: Hey, I owe you this money. Under the Settlement Agreement, it's \$500,000. It's yours. I assign it to you.*

A. *Uh-huh.*

Q. *Is that right?*

A. *Basically correct.*

Q. *Right. Whether it's written or oral, you don't remember, but that's how it happened?*

A. *Correct.*

(Ex. O, Sinn Dep., at 38:24–39:20 (emphasis added).) In addition to being completely at odds with the affidavit Torres filed in support of his motion for summary judgment, the Torres/Sinn assignment is itself a violation of the Agreement. (See Ex. M, Settlement Agreement, ¶ 11.)

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<sup>2</sup> Defendants have produced no documentation of this assignment. (Ex. U, Nelson Aff., ¶ 3.) As otherwise set forth in this response, discovery is woefully incomplete. Defendants therefore request, in the alternative, a continuance of the motions for summary judgment set for July 24, 2015.

Any assignment of rights under the Settlement Agreement required consent of the Atlas parties:

**Successors and Assigns.** The rights of the Parties hereto, and any of their subsidiaries and affiliates, shall inure to the benefit of any and all of their successors and assigns. **No Party may assign any of its rights or delegate any of its duties hereunder without the written consent of the other Parties.**

(Ex. M, Settlement Agreement, ¶ 27 (emphasis added).) None of the Atlas parties consented to the Torres-Sinn assignment, nor were they ever asked. Atlas and Taylor would not have agreed to payment to Sinn, which is precisely why Plaintiffs did not ask. (See Ex. P, Taylor Aff., ¶ 7.)

In his motion for summary judgment and his affidavit in support thereof, Sinn claims that he “did not send the Picture to any customers or affiliates of Atlas, nor did he make any negative remarks about Taylor or Atlas.” (Mot. at 4.) This assertion is false. In paragraph 15 of his affidavit, Sinn again states:

On December 22, 2013, I sent the Picture via group text message to the persons pictured in the Picture, Joonsup Park and David Schmidli. *I did not send the picture to any customers or affiliates of Atlas, nor did I make any negative remarks about Taylor or Atlas.*

(Sinn Ex. A. ¶ 15 (emphasis added).) This representation, again, is false. After executing this affidavit, Sinn admitted that he sent the photograph to an unknown person or persons with the message “Happy Holidays Atlas”:

Q. Is this a message from you to someone else?

A. That’s correct.

Q. Okay. You see it has the picture—

A. Uh-huh.

Q. —which is attached as, I believe, Exhibit 3 to your deposition of you and your friends flipping off the camera? You see that?

A. Uh-huh.

Q. And it is to 713-377-2320, correct?

A. Correct.

Q. All right. And it says “Body: Happy Holidays Atlas.” Do you see that?

A. Yes.

Q. *So, you did send out a message saying “Happy Holidays Atlas” with the picture, correct?*

A. *Yeah. Apparently so.*

(Ex. O, Sinn Dep., at 69:5–20 (emphasis added).) Sinn admitted that he did not know whose phone number that was. (Ex. O, Sinn Dep., at 68:16–17.)

In addition, Sinn admitted to making several negative and disparaging comments about Taylor:

Q. Do you remember calling Craig Taylor a cock blast?

A. Not specifically.

Q. Have you called him a cock blast?

A. I mean, possibly.

Q. What’s a cock blast?

A. I would have no idea. Probably something like a dipshit.

Q. Well, it’s not good. It doesn’t sound good, is it?

...

A. Yeah. It’s probably not flattering.

Q. (By Mr. Berg) Would you call a Christmas miracle if Craig Taylor had a heart attack?

A. Yeah. I think I jokingly—jokingly said that.

...

Q. Dave Schmidli said, “Looks like a Christmas card.” And you said, “Funny shit. Hope he chokes on his breakfast.” You were talking about Craig Taylor?

A. That moment in time, yes.

(Ex. O, Sinn Dep., at 53:1–16; 56:18–21.)

## V. TRADITIONAL SUMMARY JUDGMENT STANDARD

Summary judgment is proper when there are no disputed issues of material fact and the movant is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c); *Provident Life & Accident Ins. Co. v. Knott*, 128 S.W.3d 211, 215–16 (Tex. 2003). A party moving for summary judgment on its own cause of action must conclusively establish each element of its claim as a matter of law. See *Winchek v. Am. Exp. Travel Related Servs. Co.*, 232 S.W.3d 197, 201 (Tex. 2007); *M.D. Anderson Hosp. & Tumor Inst. v. Willrich*, 28 S.W.3d 22, 23 (Tex. 2000) (per curiam). All summary judgment evidence must be admissible. *United Blood Servs. v. Longoria*, 938 S.W.2d 29, 30 (Tex. 1997) (per curiam). When reviewing a motion for summary judgment, the court must take the nonmovant’s evidence as true, indulge every inference in favor of the nonmovant, and resolve every doubt in the nonmovant’s favor. *M.D. Anderson*, 28 S.W.3d at 23.

## VI. ARGUMENT AND AUTHORITIES

### A. Sinn Is Not Entitled to Summary Judgment on Defendants’ Claims

Defendants incorporate by reference the preceding paragraphs for all purposes.

As an initial matter, Sinn is not entitled to summary judgment on all of Defendants’ claims because he has not moved for summary judgment on all of Defendants’ claims. See Tex. R. Civ. P. 166a(a), (c) (summary judgment may only be granted on claims regarding which a party moves). Sinn has not moved for summary judgment on Defendants’ claim for fraud in the inducement and their request for indemnity. (See 2d Am. Pet. ¶¶ 28–62.) Sinn also has not moved for summary judgment on Defendants’ request for a declaration that he violated the non-assignment provision

of the Settlement Agreement. (*See* 2d Am. Pet. ¶ 51.) Summary judgment therefore cannot be granted on those claims. *See* Tex. R. Civ. P. 166a(a), (c).

Sinn moves for summary judgment on the first three declarations sought by Defendants and on Defendants' claim for breach of contract, all of which are related to the creation and transmission of the photograph attached as Exhibit A, along with any message that may have accompanied it. (Mot. at 5–6.) Sinn asserts that, by sending the photograph to Taylor, he did not violate the non-disparagement clause of the Settlement Agreement. (*See* Mot. at 7.) Sinn misstates Defendants' claims. Defendants do not allege that the transmission of the photograph to Taylor violated the Settlement Agreement. (*See* 2d Am. Pet. ¶ 51.) Sinn therefore is not entitled to summary judgment on that basis.

Sinn further asserts that the photograph and any accompanying message sent to the persons in the photograph did not contain “any ‘false, derogatory, slanderous or libelous comments’ about Taylor or Atlas ‘regarding any matter likely to be harmful’ to Taylor’s or Atlas’ ‘business, business reputation, or personal reputation.” (Mot. at 7.) He further claims that that he “did not send the Picture to any customers or affiliates of Atlas, nor did he make any negative remarks about Taylor or Atlas.” (Mot. at 4.) In paragraph 15 of his affidavit, Sinn again states:

On December 22, 2013, I sent the Picture via group text message to the persons pictured in the Picture, Joonsup Park and David Schmidli. ***I did not send the picture to any customers or affiliates of Atlas, nor did I make any negative remarks about Taylor or Atlas.***

(Sinn Ex. A. ¶ 15 (emphasis added).) These representations are demonstrably false. Sinn admitted, after being confronted with a forensic copy, that he sent the photograph attached as Exhibit A and an accompanying message stating “Happy Holiday’s [*sic*] Atlas” to another person. (Ex. O, Sinn Dep., at 68:18–69:20; Ex. Q, Report (emphasis added).) Sinn admitted to additional disparagement of Taylor, including calling him a “cockblast,” saying it would be a “Christmas miracle” if he had

a heart attack, and hoping he choked on his breakfast, all because Sinn found it amusing. (*See Ex. O, Sinn Dep.*, at 53:13–16; 56:18–57:8; 63:8–16.) Sinn therefore is not entitled to summary judgment on that basis.

Sinn baldly asserts that the transmission of the photograph and any accompanying message could not have damaged Taylor’s or Atlas’ reputation, citing the elements for a cause of action for business disparagement. (Mot. at 8.) But Defendants do not allege business disparagement. Defendants have sued for a breach of the non-disparagement clause of the contract at issue. For that reason alone, Sinn’s motion for summary judgment may not be granted.

#### **B. Sinn Is Not Entitled to Attorney’s Fees**

Defendants incorporate by reference the preceding paragraphs for all purposes.

A party has a duty to exercise reasonable care to mitigate its damages. *Great Am. Ins. Co. v. N. Austin Mun. Utility Dist. No. 1*, 908 S.W.2d 415, 426 (Tex. 1995). If a party fails to exercise such reasonable care, it cannot recover damages that could have been avoided. *Pinson v. Red Arrow Freight Lines, Inc.*, 801 S.W.2d 14, 15 (Tex. App.—Austin 1990, no writ). The doctrine of mitigation applies to claims for attorney’s fees. *See Glenn v. Nortex Foundation Designs, Inc.*, No. 2-07-172-CV, 2008 WL 2078510, at \*4 (Tex. App.—Fort Worth 2008, no pet.) (mem. op.) (upholding reduction of recoverable attorney’s fees because of party’s failure to mitigate after rejecting reasonable settlement offer); *A.D. Willis Co., Inc./Metal Bldg. Components, Inc. v. Metal Bldg. Components, Inc.*, No. 03-09-00574-CV, 2000 WL 1508500, at \*5 (Tex. App.—Austin 2000, pet. denied) (upholding reduction of recoverable attorney’s fees because of party’s failure to make reasonable efforts to negotiate a compromise) Sinn has failed to mitigate his attorney’s fees in this case by resisting discovery and violating the non-assignment clause of the Settlement Agreement himself. (*See Ex. O, Sinn Dep.*, at 35:16–36:20; 39:12–20.) Sinn therefore is not entitled to an



award of the attorney's fees incurred because of his multiple failures to mitigate his damages. *See Glenn*, 2008 WL 2078510, at \*4; *A.D. Willis Co.*, 2000 WL 1508500, at \*5.

## VII. CONCLUSION AND PRAYER

For these reasons, Defendants/Counter-Plaintiffs Craig Taylor and Atlas Commodities, LLC respectfully request that the Court deny Plaintiff/Counter-Defendants Adam Sinn, XS Capital Investments, L.P., and Aspire Commodities, L.P.'s Motion for Summary Judgment in its entirety and any for any other and further relief to which they may be entitled.

Respectfully submitted,  
BERG FELDMAN JOHNSON BELL, LLP

By:           /s/ Geoffrey Berg            
Geoffrey Berg (gberg@bfjblaw.com)  
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832-615-2665 (fax)

ATTORNEYS FOR CRAIG TAYLOR AND  
ATLAS COMMODITIES, LLC



# EXHIBIT 2

## Patrick de Man

---

**From:** Adam Sinn <asinn@aspirecommodities.com>  
**Sent:** Monday, June 6, 2016 7:21 PM  
**To:** deman@alum.mit.edu  
**Cc:** 'Barry Hammond'  
**Subject:** RE: exit

Would 8AM at Mi Casa work?

**From:** Patrick de Man [mailto:pat.deman@gmail.com]  
**Sent:** Sunday, June 05, 2016 6:47 PM  
**To:** 'Adam Sinn' <asinn@aspirecommodities.com>  
**Cc:** 'Barry Hammond' <Barry@ruralroute3holdings.com>  
**Subject:** RE: exit

Sure. Not at your place though if Brian and Dave are there.

**From:** Adam Sinn [mailto:asinn@aspirecommodities.com]  
**Sent:** Sunday, June 5, 2016 6:46 PM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** Barry Hammond <Barry@ruralroute3holdings.com>  
**Subject:** Re: exit

Patrick,

Are you able to meet Barry and I on Tuesday?

On Jun 5, 2016, at 9:10 AM, Patrick de Man <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)> wrote:

Unfortunately, I have come to the conclusion there is no future for me anymore with Aspire and Raiden. After expressing my dissatisfaction in the past hoping to effect a change, it is now evident to me that I cannot work in this environment anymore. My tireless efforts to help Aspire/Raiden grow the business have never been recognized as I wished.

I wish this separation process to be civilized, and expect a fair settlement of affairs.

Patrick

# EXHIBIT 3

you in the office? Adam emailed you same minute as you texted me back.

\*emailed me



Jul 1, 2016

No I'm at the airport

Leaving in 20 min

Adam is a nyc

D

What's going on

Dave Schmidt (mobile) • Jul 1, 2016

spooky coincidence. he was emailing me about that distribution.

have a safe flight and a good long weekend!



Jul 1, 2016

D

He knows we r looking for our distributions we've put hints in

Dave Schmidt (mobile) • Jul 1, 2016

does he always keep money back from you? or he pays out everything that's on your K-1 of last year?



Jul 1, 2016

D

2 distributions so I'm always chasing my prl

Dave Schmidt (mobile) • Jul 1, 2016

yeah, so after the 2nd in July he doesn't have any funds from you from the previous year?



Jul 1, 2016

D

Yeah I guess but I'm always 6 months behind wondering if he pays me my last distribution one day

Dave Schmidt (mobile) • Jul 1, 2016

# EXHIBIT 4

**Patrick de Man**

---

**From:** Barry Hammond <Barry@ruralroute3holdings.com>  
**Sent:** Sunday, July 3, 2016 10:46 AM  
**To:** deman@alum.mit.edu  
**Cc:** asinn@aspirecommodities.com  
**Subject:** Re: Thank you

Thank you. Please let me know when you have copied the folders you want so that I know when it is ok to remove you from the folders.

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

---

**From:** Patrick de Man <pat.deman@gmail.com>  
**Sent:** Sunday, July 3, 2016 9:27:30 AM  
**To:** Barry Hammond  
**Cc:** asinn@aspirecommodities.com  
**Subject:** RE: Thank you

Done. I first need to share the folder with you before I can make you owner.  
The last folder has a lot data and is still processing.

**From:** Barry Hammond [mailto:[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)]  
**Sent:** Sunday, July 3, 2016 10:05 AM  
**To:** deman@alum.mit.edu  
**Cc:** asinn@aspirecommodities.com  
**Subject:** Re: Thank you

Thank you, we can handle transferring physical files this week.

I need to be added as an owner to these folders so I can add members to the folders.

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

---

**From:** Patrick de Man <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)>  
**Sent:** Sunday, July 3, 2016 9:00:11 AM  
**To:** Barry Hammond



**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)

**Subject:** RE: Thank you

Done.

FYI, I have some DVDs here with COP data, other data files that ERCOT has sent us.

Plus archived settlement files from Aspire and Raiden through 2013 that I burned onto a disc to regain harddrive space.

Patrick.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]

**Sent:** Sunday, July 3, 2016 9:31 AM

**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)

**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)

**Subject:** Re: Thank you

Thank you, Patrick, I accept your apology.

I'm not a technological illiterate. While you made me an administrator of the aspire business Dropbox team, you did not invite me to be a owner of the shared folders you currently own, so I cannot see or modify those folders, which is why my view in Aspire is empty. Please add me as an owner to those folders.

Thank you,

Barry Hammond

Barry M. Hammond, Jr.

Rural Route 3 Holdings

[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)

O: (832) 819-1020

M: (713) 634-8660

On Sun, Jul 3, 2016 at 8:28 AM -0500, "Patrick de Man" <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)> wrote:

Barry,

I apologize for unnecessarily barking at you.

I was overheated by the stress of this whole situation.

After trying to clear my head yesterday, I realized that you are just executing your orders.

Best,

Patrick.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]

**Sent:** Saturday, July 2, 2016 5:36 PM

**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)

**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)

**Subject:** Re: Thank you

You've officially crossed a line, Patrick. Enjoy the weekend and I will work with Adam to finish your separation.

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

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**From:** Patrick de Man <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)>  
**Sent:** Saturday, July 2, 2016 4:32:30 PM  
**To:** Barry Hammond  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** RE: Thank you

GoDaddy? What do you think I deleted from the email? You are making stuff up. I didn't delete massive amounts of emails from GoDaddy.

There's a huge trash folder there filled with emails about weather. That's where you find deleted emails.

And regarding Dropbox, you can contact them and they can reinstate the account. I did not remove anything from Dropbox either. I did not delete any IP. Everything is there. What are you smoking up there?

What are you babbling about here: "if when I logged into Dropbox there were files visible, but when I log in there are suspiciously none."

I have no idea what you mean.

Don't blame that you are a technical illiterate who doesn't know how to deal with these things. I used to do all this work on the side, because I trusted Adam that he would recognize that.

Turns out it was "expected" that these "duties" would be carried out for free.

I agree that this process could have gone a lot smoother, indeed. If Adam transferred my money to me as I asked him to last week, instead of disparaging me, "expecting" to perform "duties".

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Saturday, July 2, 2016 5:22 PM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** Re: Thank you

Patrick,

One of the reasons you haven't received an answer is because instead of working on your separation paperwork I'm having to work with godaddy to get files you deleted back online. This process would go a lot smoother if you hadn't availed yourself of electronic self help and illegally removed intellectual property and files. I have literally spent hours today undoing the harm you did at 1 am this morning.

Will you get your money on Tuesday? That's hard for me to answer (as its not my decision) and it's even harder for me to know the answer when I'm trying to undue the intentional harm you inflicted.

It would be a lot easier to answer if when I logged into Dropbox there were files visible, but when I log in there are suspiciously none. I can't get my job done when I'm cleaning up your mess.

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

On Sat, Jul 2, 2016 at 3:36 PM -0500, "Patrick de Man" <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)> wrote:

No. You cc-ed Adam on his Raiden email address when you forwarded me his phone screenshot.

And now he's on this email chain, plus I emailed him directly, I still have not received an answer.

I want this payment out of the way of further talks. It's my money, I need it, and there is no valid reason that he has to hold onto it.

There's a lot of distress at the moment in my head, my stomach has been twisted, and I feel sick.

Ignoring me does not make this process easier. Extortion for squeezing out some more free work is also not productive.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Saturday, July 2, 2016 2:26 PM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** Re: Thank you

Patrick -

You originally emailed an address that Adam does not check. I have added his new address to this chain.

I am preparing separation papers for you an will have those for you next week.

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

On Sat, Jul 2, 2016 at 11:49 AM -0500, "Patrick de Man" <pat.deman@gmail.com> wrote:

I would like to have an answer now, so I can prepare accordingly.  
I know Adam is reading these emails, and discussing this with you as his counsel.  
Can I expect that wire on Tuesday morning?

Regarding Dropbox: Dave and Jay are still under the 'deleted' list.  
Their files have been saved, so support can get it back.  
We only have 5 seats, so when I add you, either of them can't get back on unless you remove me.

Patrick

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Saturday, July 2, 2016 12:44 PM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** Re: Thank you

Thank you, Patrick. Additionally, please add me as an administrator to that account, I do not currently have access.

As I said, I will leave compensation matters to you and Adam to discuss.

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

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**From:** Patrick de Man <pat.deman@gmail.com>  
**Sent:** Saturday, July 2, 2016 11:39:58 AM  
**To:** Barry Hammond  
**Cc:** [asinn@raidencommodities.com](mailto:asinn@raidencommodities.com)  
**Subject:** RE: Thank you

What is a criminal matter is the way I was treated.  
By holding document in front of my eyes promising 50% ownership, to have me work my ass off, and then renegeing on that when it not convenient anymore.

I restored the Dropbox, or at least it's in process.  
And what about my money?  
Can I expect the wire on Tuesday?

Patrick

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Saturday, July 2, 2016 12:23 PM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@raidencommodities.com](mailto:asinn@raidencommodities.com)  
**Subject:** Re: Thank you

Patrick,

If access isn't restored immediately, this will become a legal criminal matter.

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

On Sat, Jul 2, 2016 at 11:19 AM -0500, "Patrick de Man" <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)> wrote:

It's weekend and I am not working.

So, I will do that on Tuesday morning, as soon as I receive the wire transfer from Raiden Commodities LP with the following that is owed to me:

- 1) \$690,847, which is the remainder of the funds reported on my K-1 of 2015 (Out of the \$890,847, Adam wired me \$200k in April)
- 2) \$120k, which is my share of YTD P/L, after expenses and salary already paid to me, of course
- 3) \$200k of PnL from PJM. This is my 20% share of about \$1M locked in capital gains that will be paid out from now until May 2017

All these are based on previous agreements, altogether \$1,010,847.  
There is nothing in these amounts that does not belong to me.

Withholding these funds directly threatens the livelihood of my family, and I feel a lot more at ease when we clear this hurdle in our further discussions about a separation.

I asked nicely that I wanted this to happen civilized, but Adam pushed me in a corner by refusing to transfer my money and 'expecting' me to hand over 'job duties'.

At both Lehman and Sempra when they wanted me to stick around to work on guiding the business to a smooth closing or transition, they compensated me handsomely for my time.

Here I am being bullied and extorted in an attempt to accomplish the same. Very disappointing, and I will not accept that.

These are the wire instructions:

Wire funds to	J.P. Morgan Chase, NY
Routing number	021000021
For credit to	National Financial Services LLC
Account number	066196-221
For the benefit of	Patrick de Man
For final credit to	X65890539

Address                    One Chase Manhattan Plaza  
                                 New York, NY 10005

Thanks,  
Patrick.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Saturday, July 2, 2016 10:39 AM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@raidencommodities.com](mailto:asinn@raidencommodities.com)  
**Subject:** Re: Thank you

Patrick -

The email address for the owner for the aspire and raiden Dropbox has been changed to your gmail account and everyone else's access has been removed. Please login, reauthorization everyone and add me as an administrator on the account.

Thank you,

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

On Sat, Jul 2, 2016 at 9:37 AM -0500, "Patrick de Man" <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)> wrote:

Goodmorning,

Let me check. I noticed last night someone tried to login into my Dropbox account. Then, there was an attempt to reset my password. The failed login attempt was coming from an IP address in Houston. Are you messing around in the account?

Patrick.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Saturday, July 2, 2016 8:14 AM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@raidencommodities.com](mailto:asinn@raidencommodities.com)  
**Subject:** Re: Thank you

Patrick,

Adam received the following email from Dropbox notifying him that he has been suspended from accessing the Aspire/Raiden Dropbox:



**From:** Dropbox <no-reply@dropbox.com>  
**Date:** July 2, 2016 at 1:52:26 AM EDT  
**To:** asinn@aspirecommodities.com  
**Subject:** Your administrator has suspended your Aspire Dropbox account



Hi Adam,

Your administrator has suspended your Aspire Dropbox account. You'll no longer have access to the account, and the files in your Aspire Dropbox will stop syncing. If



I'm not sure why this would have happened? Adam did not lock you out of accessing Dropbox, and he should not be locked out of it either. He's never intended for you to be without those files.

Did you do this? If so, we need Adam to be set up as the owner and administrator of the account.

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

On Fri, Jul 1, 2016 at 9:27 PM -0500, "Barry Hammond" <[Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)> wrote:

Patrick,

I don't know that I said anything about July 31 - and again, your compensation is a discussion for you and Adam. If I was part of any conversation, it was either to be there to help understand your concerns or to understand the envisioned structure of any separation. And at that breakfast meeting it was stated multiple times that I would work with you to document any such separation. You will receive those documents to review next week.

Thank you,

Barry Hammond

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

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**From:** Patrick de Man <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)>  
**Sent:** Friday, July 1, 2016 9:23:18 PM  
**To:** Barry Hammond  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** RE: Thank you

Barry,

Multiple times I have directed issues regarding compensation to Adam. But those have been ignored. There was never a follow-up.

You say these are discussion for me and Adam? Then why were you participating in this conversation a few weeks ago during breakfast?

I laid out the situation, and neither you nor him thought it was reasonable to compensate me for my efforts.

Instead, you 'expect' me to perform my 'duties', trying to squeeze out some more free work by holding me hostage by not wiring the funds that have already been reported on tax forms.

The 'normal' course of performance for me has always been that I ask Adam, and that he wires me the funds that are my share of the P/L.

I understand that the other guys have a contract where a payment schedule is specified, but I don't. I didn't get a distribution on January 31 this year, which is the 'normal' in those contract you refer to.

So, why should I now have to wait until the 'normal' July 31?

Patrick.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Friday, July 1, 2016 10:09 PM  
**To:** [deman@alum.mit.edu](mailto:deman@alum.mit.edu)  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** Re: Thank you

Patrick,

Any issues with your compensation can and should be directed at Adam, those decisions are above my paygrade. But if you are saying that your payroll did not get deposited, please let me know. I processed the payroll using the contact you gave me in PR.

I am drafting your separation paperwork and I understand that you will be paid in the normal course of performance - your decision to leave the company has not accelerated that payment schedule, from what I understand. But again, these are discussions for you and Adam, those are not my decisions. I am just merely processing requests and assuming responsibilities.

Thank you,

Barry Hammond

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

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**From:** Patrick de Man <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)>  
**Sent:** Friday, July 1, 2016 9:00:01 PM  
**To:** Barry Hammond  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** RE: Thank you

Hi Barry,

I thought that GoDaddy had problems with email, so that explains that.

Please explain what my job duties are.

I am a trader and I am truly puzzled why you and Adam keep expecting me to provide my time without any compensation.

I would really appreciate a transfer on Tuesday of the remainder of what was reported on my K-1 form. That was reported for tax purposes and I see no reason why you would hold that back. If you choose to do so, you are really upsetting me. There is more P/L on the way for this year, and that can be held back and wrapped up in a separation agreement.

Thanks,  
Patrick.

**From:** Barry Hammond [<mailto:Barry@ruralroute3holdings.com>]  
**Sent:** Friday, July 1, 2016 9:50 PM  
**To:** Patrick de Man <[pat.deman@gmail.com](mailto:pat.deman@gmail.com)>  
**Cc:** [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com)  
**Subject:** Thank you

Patrick,

Thank you for helping with the transition by sending me your job duties and corresponding with the exchanges and service providers. Adam let me know that you've given him notice, so I'm working with Tim to transfer certain of the electronic assets over, too. This weekend, your company email addresses are being transferred (you will be unable to log in to aspire or raiden emails), so that I do not miss any notices sent to those addresses. Please let me know if we've missed anything in the transition.

I'll also be sending over a separation agreement next week once it's finalized, so that your final distribution and other loose ends can be addressed.

Thank you,

Barry

Barry M. Hammond, Jr.  
Rural Route 3 Holdings  
Email: [Barry@ruralroute3holdings.com](mailto:Barry@ruralroute3holdings.com)  
O: (832) 819-1020  
M: (713) 634-8660

# EXHIBIT 5

as you may have heard, i am out at Aspire/Raiden. And i got upset because Adam refused to pay me when i asked him. instead holding on to that money as he "expects" me to train barry on my "duties". Free of charge of course.

so, sorry i messed up your dropbox, but that will get sorted out.



Jul 2, 2016

D

No problem. You got to do what you got to do. He still should be paying you out.

Dave Schmidt (mobi) • Jul 2, 2016

thank you for your understanding.

Jul 2, 2016

# EXHIBIT 6



## Final Details for Order #102-2897660-2193043

Print this page for your records.

**Order Placed:** December 22, 2010  
**Amazon.com order number:** 102-2897660-2193043  
**Order Total: \$17.17**

### Shipped on December 22, 2010

#### Items Ordered

1 of: *D-Link DWA-556 Xtreme N PCI Express Desktop Adapter*  
Sold by: Amazon.com LLC

**Price**  
\$58.54

Condition: New

#### Shipping Address:

Patrick de Man  
143 Hoyt St, Apt 3K  
Stamford, CT 06905  
United States

Item(s) Subtotal: \$58.54  
Shipping & Handling: \$0.00  
-----  
Total before tax: \$58.54  
Sales Tax: \$0.00  
Gift Card Amount: -\$41.37  
-----

#### Shipping Speed:

Two-Day Shipping

**Total for This Shipment: \$17.17**  
**Total paid by Gift Card: -\$41.37**  
-----

### Payment information

#### Payment Method:

Amazon.com Visa | Last digits: 8939  
Gift Card

Item(s) Subtotal: \$58.54  
Shipping & Handling: \$0.00  
-----

#### Billing address

Patrick de Man  
143 Hoyt St, Apt 3K  
Stamford, CT 06905  
United States

Total before tax: \$58.54  
Estimated tax to be collected: \$0.00  
Gift Card Amount: -\$41.37  
-----

**Grand Total: \$17.17**

#### Credit Card transactions

Amazon.com Visa ending in 8939: December 22, 2010: \$17.17

To view the status of your order, return to [Order Summary](#).



FID Number: 74-2616805  
 Sales Rep: CHRISTINA D MURPHY  
 For Sales: (800) 915 - 3355  
 Sales Fax: (00) -  
 Customer Service: (800) 624 - 9897  
 Technical Support: (800) 624 - 9896  
 Dell Online: www.dell.com

Customer Number: 115043914  
 Purchase Order:  
 Order Number: 560345451  
 Order Date: 12/22/10  
 29 01 A 01 00 N

Invoice Number: XF6JXXMJ6  
 Invoice Date: 01/13/11  
 Payment Terms: AMERICAN EXPRESS  
 Shipped Via: FEDEX HOME  
 Waybill Number: 918195973494960

SOLD TO:  
 PATRICK DE  
 DE MAN PATRICK  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

SHIP TO:  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

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Ordered	Shipped	Item Number	Description	Unit	Unit Price	Amount
1	1	224-8766	Studio XPS 9100	EA	2,015.55	2,015.55
1	1	317-4597	Studio XPS 9100 Intel Core i7- 960 processor(8MB L2 Cache, 3.20GHz)	EA	-	-
1	1	317-4905	18GB DDR3 SDRAM at 1333MHz	EA	-	-
1	1	331-0659	Dell Consumer Multimedia Keyboard	EA	-	-
1	1	320-7810	No Monitor	EA	-	-
1	1	320-1509	ATI Radeon HD 5870 1GB GDDR5	EA	-	-
1	1	342-1300	2TB Serial ATA 2 Hard Drive 72 00 RPM	EA	-	-
1	1	421-2039	Genuine Windows 7 Ultimate, 64 bit, English	EA	-	-
1	1	420-7938	Dell Connect 2.1	EA	-	-
1	1	420-8873	Dell Dock Consumer	EA	-	-
1	1	420-6576	DELL WELCOME,Software Dimension/Inspiron	EA	-	-
1	1	420-9691	DataSafe Local BackUp	EA	-	-
1	1	420-6436	PC-Restore, Dim/Insp	EA	-	-
1	1	330-6097	You have chosen a Windows 7 System	EA	-	-
1	1	421-2087	eBay Webslice	EA	-	-
1	1	330-9083	Dell Resource DVD with Application Backup	EA	-	-
1	1	421-4652	Dell Support Center 3	EA	-	-
1	1	421-4117	WHITEPAGES.COM,Webslice	EA	-	-
1	1	318-0455	Windows Live Wave 4	EA	-	-
1	1	330-1158	Dell USB 6-Button Laser Mouse	EA	-	-
1	1	313-3137	No Dial Up Modem Requested for Dell Dimension	EA	-	-
1	1	410-1867	ADOBE READER 9.0 MULTI- LANGUAGE	EA	-	-
1	1	313-9736	Blu-Ray, DVD+R/RW, CD-RW Drive	EA	-	-
1	1	420-8154	Roxio Creator 10.2 Premium Blu-Ray	EA	-	-
1	1	421-3844	CYBERLINK POWERDVD 9.5, BD	EA	-	-
1	1	421-9898	THX TruStudio PC	EA	-	-
1	1	313-2198	No Speaker Requested	EA	-	-
1	1	410-2441	McAfee SecurityCenter 15 Month Subscription	EA	-	-
1	1	410-0450	Microsoft Office Starter 2010	EA	-	-
1	1	937-8200	*Dell Limited Hardware Warranty Plus In-Home Service After Remote Diagnosis, Initial Year	EA	21.00	21.00
1	1	932-6778	*Dell Hardware Limited Warranty , Extended Year	EA	-	-
1	1	929-1171	*Dell Limited Hardware Warranty Plus In-Home Service After Remote Diagnosis, 1 Year Extended *TWG In-Home Service After Remote Diagnosis (TWG=TWG Innovative Solutions, Inc.): \$116.78 *Dell Limited Hardware Warranty - Parts: \$42.22	EA	159.00	159.00

FOR SHIPMENTS TO CALIFORNIA, A STATE ENVIRONMENTAL FEE UP TO \$25 PER ITEM WILL BE ADDED TO INVOICES FOR ALL ORDERS CONTAINING DISPLAYS GREATER THAN 4 INCHES. DELL MARKETING LP COLLECTS APPLICABLE TAX IN ALL STATES. BUYER IS RESPONSIBLE FOR REMITTING ADDITIONAL TAX TO TAX AUTHORITIES.

Ship. &/or Handling	\$	0.00
Subtotal	\$	2,229.99
Taxable	Tax	
\$ 2,229.99	\$	133.30
ENVIRO FEE	\$	0.00
Invoice Total	\$	2,363.29
AMERICAN EXPRESS	\$	763.29
Dell Gift Card	\$	1,600.00
	\$	
Balance Due	\$	0.00





FID Number: 74-2616805  
 Sales Rep: CHRISTINA D MURPHY  
 For Sales: (800) 915 - 3355  
 Sales Fax: (00) -  
 Customer Service: (800) 624 - 9897  
 Technical Support: (800) 624 - 9896  
 Dell Online: [www.dell.com](http://www.dell.com)

Customer Number: 115043914  
 Purchase Order:  
 Order Number: 560345451  
 Order Date: 12/22/10

Invoice Number: XF6JXXMJ6  
 Invoice Date: 01/13/11  
 Payment Terms: AMERICAN EXPRESS  
 Shipped Via: FEDEX HOME  
 Waybill Number: 918195973494960

29 01 A 01 00 N

**SOLD TO:**

PATRICK DE  
 DE MAN PATRICK  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

**SHIP TO:**

PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

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Ordered	Shipped	Item Number	Description	Unit	Unit Price	Amount
1	1	926-9147	*Dell Hardware Limited Warranty , Initial Year	EA	-	-
1	1	950-3338	*2 Year Limited Warranty	EA	-	-
1	1	933-0390	*Warranty Support, Initial Year	EA	-	-
1	1	925-4541	*Warranty Support, 1 Year Exten ded	EA	10.00	10.00
1	1	420-8878	Soft Contracts Dell In-Home Ha rdware Agreement	EA	-	-
1	1	421-4356	Software, DataSafe Online 2.0 2GB	EA	-	-
1	1	988-0099	*To activate your online backup account, go to Start, Programs , DataSafe Online	EA	-	-
1	1	927-2357	*DataSafe Online 2.0 2GB	EA	-	-
1	1	330-0172	S and P Drop-in-Box Marcom for DHS Desktops	EA	-	-
1	1	468-9422	\$100 Dell Promo Gift Card - Ar rives in 6-8 wks, carries a 90 Day Exp. Dell.com/giftcard	EA	-	-
1	1	468-9207	Adobe Photoshop Elements/ Prem ier Elements 8.0 DISCOUNT(S) AND/OR CO	EA	24.44	24.44
		System Service Tags	3NSB9P1			



FID Number: 74-2616805  
 Sales Rep: ARB CONSUMER ONLINE SALES  
 For Sales: (888) 518 - 3355  
 Sales Fax: (00) -  
 Customer Service: (800) 624 - 9897  
 Technical Support: (800) 624 - 9896  
 Dell Online: [www.dell.com](http://www.dell.com)

Customer Number: 115082566  
 Purchase Order:  
 Order Number: 558791997  
 Order Date: 12/20/10  
 22 03 A 01 00 N

Invoice Number: **XF636FR75**  
 Invoice Date: 12/22/10  
 Payment Terms: AMERICAN EXPRESS  
 Shipped Via: UPS COMMERCIAL  
 Waybill Number:

**SOLD TO:**  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

**SHIP TO:**  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

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Ordered	Shipped	Item Number	Description	Unit	Unit Price	Amount
1	1	PH5NY	Display,Wide Flat Panel Displa y,30,U3011	EA	899.00	899.00
1	1	3E476	Information,Equipment	EA	-	-
1	1	375-6061	Thank you, Dell Outlet	EA	-	-

FOR SHIPMENTS TO CALIFORNIA, A STATE ENVIRONMENTAL FEE UP TO \$25 PER ITEM WILL BE ADDED TO INVOICES FOR ALL ORDERS CONTAINING DISPLAYS GREATER THAN 4 INCHES. DELL MARKETING LP COLLECTS APPLICABLE TAX IN ALL STATES. BUYER IS RESPONSIBLE FOR REMITTING ADDITIONAL TAX TO TAX AUTHORITIES.

Ship. &/or Handling	\$	0.00
Subtotal	\$	899.00
Taxable	Tax	
\$	899.00	\$ 53.94
ENVIRO FEE	\$	0.00
Invoice Total	\$	952.94
AMERICAN EXPRESS	\$	902.94
Dell Gift Card	\$	50.00
	\$	
Balance Due	\$	0.00



This is your ACKNOWLEDGEMENT

FID Number: 74-2616805  
 Sales Rep: ARB CONSUMER ONLINE SALES  
 For Sales: (888) 518 - 3355  
 Sales Fax: (00) -  
 Customer Service: (800) 624 - 9897  
 Technical Support: (800) 624 - 9896  
 Dell Online: [www.dell.com](http://www.dell.com)

Customer Number: 115082566  
 Purchase Order:  
 Order Number: 558795097  
 Order Date: 12/20/10  
 22 03 A 01 00 N

Invoice Number: **XF636JM45**  
 Invoice Date: 12/22/10  
 Payment Terms: AMERICAN EXPRESS  
 Shipped Via: UPS COMMERCIAL  
 Waybill Number:

SOLD TO:  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

SHIP TO:  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

PLEASE REVIEW DELL'S [TERMS & CONDITIONS OF SALE AND POLICIES AT www.dell.com/us/policy](http://www.dell.com/us/policy) OR UPON REQUEST, WHICH GOVERN THIS TRANSACTION

Ordered	Shipped	Item Number	Description	Unit	Unit Price	Amount
1	1	PH5NY	Display,Wide Flat Panel Displa y,30,U3011	EA	899.00	899.00
1	1	3E476	Information,Equipment	EA	-	-
1	1	375-6061	Thank you, Dell Outlet	EA	-	-

FOR SHIPMENTS TO CALIFORNIA, A STATE ENVIRONMENTAL FEE UP TO \$25 PER ITEM WILL BE ADDED TO INVOICES FOR ALL ORDERS CONTAINING DISPLAYS GREATER THAN 4 INCHES. DELL MARKETING LP COLLECTS APPLICABLE TAX IN ALL STATES. BUYER IS RESPONSIBLE FOR REMITTING ADDITIONAL TAX TO TAX AUTHORITIES.

Ship. &/or Handling	\$	0.00
Subtotal	\$	899.00
Taxable	Tax	
\$	899.00	\$ 53.94
ENVIRO FEE	\$	0.00
Invoice Total	\$	952.94
AMERICAN EXPRESS	\$	902.94
Dell Gift Card	\$	50.00
	\$	
Balance Due	\$	0.00



This is your ACKNOWLEDGEMENT

FID Number: 74-2616805  
 Sales Rep: ZEUS B DELA CRUZ  
 For Sales: (800) 915 - 3355  
 Sales Fax: (00) -  
 Customer Service: (800) 624 - 9897  
 Technical Support: (800) 624 - 9896  
 Dell Online: [www.dell.com](http://www.dell.com)

Customer Number: 115083079  
 Purchase Order:  
 Order Number: 558804170  
 Order Date: 12/20/10  
 29 01 A 01 00 N

Invoice Number: **XF6217556**  
 Invoice Date: 12/21/10  
 Payment Terms: AMERICAN EXPRESS  
 Shipped Via: FEDEX HOME  
 Waybill Number: 134619885401664

**SOLD TO:**  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

**SHIP TO:**  
 PATRICK DE  
 -  
 143 HOYT ST APT 3K  
 STAMFORD, CT 069055749

PLEASE REVIEW DELL'S [TERMS & CONDITIONS](http://www.dell.com/us/policy) OF SALE AND POLICIES AT [www.dell.com/us/policy](http://www.dell.com/us/policy) OR UPON REQUEST, WHICH GOVERN THIS TRANSACTION

Ordered	Shipped	Item Number	Description	Unit	Unit Price	Amount
1	1	313-8742	Dell Flat Panel Display SoundBar with Virtual Surround, Customer Installed	EA	49.99	49.99

FOR SHIPMENTS TO CALIFORNIA, A STATE ENVIRONMENTAL FEE UP TO \$25 PER ITEM WILL BE ADDED TO INVOICES FOR ALL ORDERS CONTAINING DISPLAYS GREATER THAN 4 INCHES. DELL MARKETING LP COLLECTS APPLICABLE TAX IN ALL STATES. BUYER IS RESPONSIBLE FOR REMITTING ADDITIONAL TAX TO TAX AUTHORITIES.

Ship. &/or Handling	\$	0.00
Subtotal	\$	49.99
Taxable	Tax	
\$ 49.99	\$	3.00
ENVIRO FEE	\$	0.00
Invoice Total	\$	52.99
AMERICAN EXPRESS	\$	2.99
Dell Gift Card	\$	50.00
	\$	
Balance Due	\$	0.00

# EXHIBIT 7



PATRICK DE MAN  
Closing Date 01/02/11

Account Ending 5-01007

**New Balance**  
**Minimum Payment Due**

**Payment Due Date** **01/27/11**

**Late Payment Warning:** If we do not receive your Minimum Payment Due by the Payment Due Date listed above, you may have to pay a late fee of up to \$35.00 and your Purchase APR may be increased to the Penalty APR of 27.24%.

**Minimum Payment Warning:** If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges and each month you pay...	You will pay off the balance shown on this statement in about...	And you will pay an estimated total of...
Only the Minimum Payment Due	19 years	
	3 years	

If you would like information about credit counseling services, call 1-888-733-4139.

See page 2 for important information about your account.

We recently notified you that beginning 12/17/2010, certain changes would be made to your rewards program. Those changes will be delayed until 03/15/2011. For more information, please visit your Blue Cash account summary at [americanexpress.com/accountssummary](http://americanexpress.com/accountssummary).

**Rebate**  
As of DEC 2010

For details, please see your Cash Rebate Summary.

**Account Summary**

Previous Balance  
Payments/Credits  
New Charges  
Fees  
Interest Charged

**New Balance**  
**Minimum Payment Due**

Credit Limit  
Available Credit  
Cash Advance Limit  
Available Cash  
Days in Billing Period: 31

**Customer Care**

**Pay by Computer**  
[americanexpress.com/pbc](http://americanexpress.com/pbc)

**Customer Care** 1-888-258-3741  
**Pay by Phone** 1-800-472-9297

See page 2 for additional information.

Please fold on the perforation below, detach and return with your payment

**Payment Coupon**  
Do not staple or use paper clips

**Pay by Computer**  
[americanexpress.com/pbc](http://americanexpress.com/pbc)

**Pay by Phone**  
1-800-472-9297

**Account Ending 5-01007**

Enter account number on all documents.  
Make check payable to American Express.

PATRICK DE MAN  
143 HOYT ST APT 3K  
STAMFORD CT 06905-5749



Payment Due Date  
**01/27/11**

New Balance

Minimum Payment Due

Check here if your address or phone number has changed. Note changes on reverse side.

AMERICAN EXPRESS  
P.O. BOX 1270  
NEWARK NJ 07101-1270



\$ \_\_\_\_\_  
**Amount Enclosed**

0000349991573365160 000309710000006200 01 H

**Detail Continued**

**Amount**

12/20/10	DELL CATALOG SALES (WWW.DELL.COM) N/A-ONLINE CUSTOM06905	\$2.99
12/20/10	DELL - ASSET RECOVERWWW.DELL.COM N/A-ONLINE CUSTOM06905	\$902.94
12/20/10	DELL - ASSET RECOVERWWW.DELL.COM N/A-ONLINE CUSTOM06905	\$902.94

Continued on next page



Blue Cash® from American Express

PATRICK DE MAN  
Closing Date 02/02/11

Account Ending 5-01007

**New Balance**  
**Minimum Payment Due**  
**Payment Due Date** **02/27/11**

**Late Payment Warning:** If we do not receive your Minimum Payment Due by the Payment Due Date listed above, you may have to pay a late fee of up to \$35.00 and your Purchase APR may be increased to the Penalty APR of 27.24%.

**Rebate**  
As of JAN 2011

For details, please see your Cash Rebate Summary.

**Account Summary**

Previous Balance  
 Payments/Credits  
 New Charges  
 Fees  
 Interest Charged

**New Balance**  
**Minimum Payment Due**

Credit Limit  
 Available Credit  
 Cash Advance Limit  
 Available Cash  
 Days in Billing Period: 31

**Minimum Payment Warning:** If you make only the minimum payment each period, you will pay more in interest and it will take you longer to pay off your balance. For example:

If you make no additional charges and each month you pay...	You will pay off the balance shown on this statement in about...	And you will pay an estimated total of...
Only the Minimum Payment Due	19 years	
	3 years	

If you would like information about credit counseling services, call 1-888-733-4139.

See page 2 for important information about your account.

We recently notified you that beginning 12/17/2010, certain changes would be made to your rewards program. Those changes will be delayed until 03/15/2011. For more information, please visit your Blue Cash account summary at [americanexpress.com/accountsummary](http://americanexpress.com/accountsummary).

**Customer Care**

**Pay by Computer**  
[americanexpress.com/pbc](http://americanexpress.com/pbc)

**Customer Care** 1-888-258-3741    **Pay by Phone** 1-800-472-9297

See page 2 for additional information.

↓ Please fold on the perforation below, detach and return with your payment ↓

**Payment Coupon**  
Do not staple or use paper clips

**Pay by Computer**  
[americanexpress.com/pbc](http://americanexpress.com/pbc)

**Pay by Phone**  
1-800-472-9297

**Account Ending 5-01007**

Enter account number on all documents.  
Make check payable to American Express.

PATRICK DE MAN  
143 HOYT ST APT 3K  
STAMFORD CT 06905-5749



Payment Due Date  
**02/27/11**

New Balance

Minimum Payment Due

Check here if your address or phone number has changed. Note changes on reverse side.

AMERICAN EXPRESS  
P.O. BOX 1270  
NEWARK NJ 07101-1270



\$ \_\_\_\_\_  
**Amount Enclosed**

0000349991573365160 000303789000006100 01 H





PATRICK DE MAN  
Closing Date 02/02/11

Account Ending 5-01007

**Payments and Credits**

**Summary**

**Total**

Payments

Credits

\$0.00

**Total Payments and Credits**

**Detail**

\*Indicates posting date

Payments

**Amount**

01/27/11\* PATRICK DE MAN ELECTRONIC PAYMENT RECEIVED-THANK

**New Charges**

**Summary**

**Total**

PATRICK DE MAN 5-01007

MIKA DE MAN 5-01015

**Total New Charges**

**Detail**

\*Indicates posting date

\*\* Foreign currency charges subject to a conversion fee equal to 2.7% of the converted US dollar amount. See page 2 for details.



**PATRICK DE MAN**  
Card Ending 5-01007

Foreign  
Spend

**Amount**

12/22/10 DELL CATALOG SALES (WWW.DELL.COM) \$763.29  
N/A-ONLINE CUSTOM06905

DIRECT MKTG MISC

Continued on Page 4

Please detach here

**Travel Insurance Premium Refund/Credit Form**

Please see the back if requesting refunds for TravelAssure, TravelAssure Classic or International Medical Protection. Otherwise, continue below. Please fill out this form to request refunds for travel insurance premiums incurred with the purchase of an airline ticket or a car rental. If you have been charged an insurance premium for one of the reasons listed to the right, please provide the information requested below. Please deduct the total premium refund amount from your total balance due and return this form with your payment. In order to receive a refund, you must fill out this form completely. Failure to do so may result in a delay in processing or a denial of your request.

**Please do not fill out this coupon if you cancelled an airline ticket or a car rental reservation and expect credits for these on your American Express account. These premiums will be automatically refunded to you- any refunded premiums will appear as credits on your monthly statement.**

**Reasons for Refund/Credit**

- Non-fare airline services charge(s) (e.g. excess baggage, itinerary charges, upgrade, or any other non-air transportation charge)
- An uninsured person
- Non-scheduled airline flights (e.g. private jet)
- Two or more premium charges for same car rental
- Car rental no show
- Other charges unrelated to actual car rental (e.g., gas)
- Car rental in an excluded country
- A vehicle other than a rental car
- Cancelled Trip with non-refundable ticket
- Other reason

**Account Ending: 5-01007**

499915733651600202

# EXHIBIT 8

## Patrick de Man

---

**From:** Chris Reynolds <creynolds@reynoldsfrizzell.com>  
**Sent:** Wednesday, October 26, 2016 11:22 AM  
**To:** Patrick de Man  
**Cc:** Cory Liu; Juan Bou; Roberto Fuertes  
**Subject:** FW: Raiden Commodities, LP and Aspire Commodities, LP v. Patrick de Man

---

**From:** Kevin Mohr <KMohr@KSLAW.com>  
**Date:** Wednesday, October 26, 2016 at 10:11 AM  
**To:** Chris Reynolds <creynolds@reynoldsfrizzell.com>  
**Cc:** "Almonte, Erich" <EAlmonte@KSLAW.com>, Cory Liu <cliu@reynoldsfrizzell.com>  
**Subject:** RE: Raiden Commodities, LP and Aspire Commodities, LP v. Patrick de Man

Chris,

As I said in my letter, we are not opposed in principle to an early mediation. However, because of your client's aggressive conduct, we need information regarding what he has done with the data on the computers, and his communications with third parties about my clients' business, in order for a mediation to have any chance of success. Simply put, we could not possibly give him a release until we have a better idea of what conduct we are releasing. Your client is not in the same position (which is what makes Patrick's possession of the computers and data different from my clients' possession of money that Patrick claims to be owed).

Although I considered whether we need full discovery before mediating, in order to accommodate the shared goal of an early mediation, we limited the discovery to two very narrow requests. If Patrick wants to accelerate the mediation, one option would be to waive the 50-day response period and set an earlier date for production of the computers and responsive documents.

While I am prepared to demonstrate ownership of the computers at the appropriate time, I don't think I have to prove the merits of my case now in order to get discovery of clearly relevant evidence. Moreover, the request that we do so feels like gamesmanship. (Does Patrick seriously intend to contest ownership of the computers?) While I understand his impulse to respond tit for tat, we have a legitimate need for the limited discovery we have requested before we can mediate. Placing unserious obstacles in our way of obtaining that discovery is not going to get us to a mediation any faster.

Kevin

---

**From:** Chris Reynolds [mailto:creynolds@reynoldsfrizzell.com]  
**Sent:** Tuesday, October 25, 2016 4:16 PM  
**To:** Mohr, Kevin  
**Cc:** Almonte, Erich; Cory Liu  
**Subject:** Re: Raiden Commodities, LP and Aspire Commodities, LP v. Patrick de Man

Kevin-

The worst thing that could happen in a near-term mediation (at least from the perspective of our clients) is that the case will not settle. That is what will happen if we do not mediate. Thus, I am at a loss as to your clients' continuing efforts to condition their willingness to mediate on Patrick surrendering things that could and should be traded as a part the negotiation

process. For example, we have not conditioned our willingness to appear on your clients paying Patrick the \$690K he is now owed.

But, in order to help me deal with your request for a forensic examination of computer equipment, I need to see proof that one or both of the plaintiffs in fact owns the equipment. This should be an easy task by pointing to the general ledger and/or depreciation schedules for either or both companies (and not those of some affiliated entity(ies)).

Thanks

---

**From:** "Kmieciak, Jeff" <[JKmieciak@KSLAW.com](mailto:JKmieciak@KSLAW.com)>

**Date:** Friday, October 21, 2016 at 5:23 PM

**To:** Chris Reynolds <[creynolds@reynoldsfrizzell.com](mailto:creynolds@reynoldsfrizzell.com)>

**Cc:** Kevin Mohr <[KMohr@KSLAW.com](mailto:KMohr@KSLAW.com)>, "Almonte, Erich" <[EAlmonte@KSLAW.com](mailto:EAlmonte@KSLAW.com)>

**Subject:** Raiden Commodities, LP and Aspire Commodities, LP v. Patrick de Man

Mr. Reynolds,

On behalf of Kevin Mohr, please see the attached correspondence and discovery requests.

Sincerely,

Jefferie Kmieciak

**Jefferie Kmieciak**  
Legal Practice Assistant to Reginald R. Smith,  
Kevin Mohr, Christie Cardon, William Burns  
King & Spalding LLP  
1100 Louisiana, Suite 4000  
Houston, TX 77002  
Tel: (713) 751-3217  
Fax: (713) 751-3290  
[jkmieciak@kslaw.com](mailto:jkmieciak@kslaw.com)

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# EXHIBIT 9

## Patrick de Man

---

**From:** Adam Sinn <asinn@aspirecommodities.com>  
**Sent:** Wednesday, October 19, 2016 4:24 PM  
**To:** 'Robb'; 'Patrick de Man'  
**Subject:** RE: Energy Trader Available

Patrick may have interest, but my strategies are very different than what Great Bay does – so I am not really interested at this moment.

Thanks for thinking of me,  
Adam

**From:** Robb [mailto:robb@thestrategicgroup.com.pr]  
**Sent:** Wednesday, October 19, 2016 3:05 PM  
**To:** Patrick de Man <pat.deman@gmail.com>; Adam Sinn <asinn@aspirecommodities.com>  
**Subject:** Energy Trader Available

Patrick and Adam,

I have an ex energy trader on the island that used to work for Dennis that is looking for a local energy trading slot. He has some strategies to bring with him.

Should I make an introduction?

Regards,

Robb



**Robb Rill**  
Managing Director  
The Strategic Group PR | A Proprietary Equities Firm  
t: (787) 626-6500  
e: [robb@thestrategicgroup.com.pr](mailto:robb@thestrategicgroup.com.pr)

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Rural Route 3 Holdings, LP )  
 200 Dorado Beach Drive )  
 Dorado, PR 00646 )  
 (Complainant) )  
 )  
 v. )  
 )  
 Rural Route 3 Holdings LLC )  
 Patrick de Man )  
 544 Corredor del Bosque )  
 Dorado, PR 00646 )  
 (Respondent) )  
 \_\_\_\_\_ )

**Domain Names In Dispute:**  
*ruralroute3.holdings*

**Case Number:**  
*FA1707001739477*

## RESPONSE

[1.] Respondent received a Written Notice of Complaint and Commencement of Administrative Proceeding on July 19, 2017. The Notification stated that Complainant had submitted a Complaint for decision in accordance with the Uniform Domain Name Dispute Resolution Policy, adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) on August 26, 1999 and approved by ICANN on October 24, 1999 (“UDRP” or “Policy”), and the Rules for Uniform Domain Name Dispute Resolution Policy (“Rules”), effective July 31, 2015, and the FORUM Supplemental Rules (“Supp. Rules”), effective July 31, 2015. Rule 4.

## [2.] RESPONDENT INFORMATION

[a.] Name: Patrick de Man  
 [b.] Organization: Rural Route 3 Holdings LLC  
 [c.] Address: 544 Corredor del Bosque  
 Dorado, PR 00646  
 [d.] Telephone: +1-939-240-3510  
 [e.] Fax: +1-939-697-6083  
 [f.] E-Mail: [patrick@ruralroute3.holdings](mailto:patrick@ruralroute3.holdings)  
[pat.deman@gmail.com](mailto:pat.deman@gmail.com)

[3.] **RESPONDENT AUTHORIZED REPRESENTATIVE, IF ANY**

- [a.] Name: Eugenio Torres
- [b.] Address: P.O. Box 195168  
San Juan, PR 00919-5168
- [c.] Telephone: +1-787-766-7000
- [d.] Fax: +1-787-766-7001
- [e.] E-Mail: [etorres@ferraiuoli.com](mailto:etorres@ferraiuoli.com)

UDRP Rule 5(b)(ii).

Respondent's preferred contact person for correspondence relating to this case:

- [a.] Contact Name(s): Eugenio Torres, Patrick de Man
- [b.] Contact Emails(s): [etorres@ferraiuoli.com](mailto:etorres@ferraiuoli.com), [pat.deman@gmail.com](mailto:pat.deman@gmail.com)

Rule 5(b)(iii).

The Respondent chooses to have this dispute heard before a **single-member** administrative panel. Rule 5(b)(iv).

[4.] **RESPONSE TO FACTUAL AND LEGAL ALLEGATIONS MADE IN AMENDED COMPLAINT**

This Response specifically responds to the statements and allegations contained in the Complaint and includes any and all bases for the Respondent to retain registration and use of the disputed domain name. Rule 5(b)(i).

- [a.] **The Disputed Domain Name is not identical, nor confusingly similar and Complainant does not own the RURAL ROUTE 3 HOLDINGS trademark.** Rule 3(b)(ix)(1); UDRP ¶ 4(a)(i).

[i] Rural Route 3 Holdings LLC ("Respondent") and Rural Route 3 Holdings LP ("Complainant") have distinct organizational jurisdictions. Respondent is organized in Delaware and operated from Puerto Rico (Exhibit 1). Complainant is organized and operated from Texas. Complainant's alleged address is false. The Texas Secretary of State registration, of which screenshots are shown in Exhibit 2, shows that Complainant is located at 3333 Allen Parkway, #1605, Houston, TX 77019.

[ii] Respondent is owned by and under control of entrepreneur Patrick de Man. Complainant is controlled and ultimately owned by Adam Sinn. As shown in Exhibit 3, Mr. Sinn also served as registered agent until late October 2016. Both Mr. de Man and Mr. Sinn each own several entities managing a variety of investments, but they operate in completely different industries. Complainant has on behalf of Mr. Sinn mostly invested passively, for example in a real estate fund focused on Los Angeles, CA (see below). On the other hand, Mr. de Man has been actively involved with his investments in hospitality in PR and a food business (Wyse Organics in NY).

[iii] Complainant fails to meet the first of a three-part test to achieve the cancellation of the disputed domain name. Although Complainant is registered as an entity in



Texas by the name of RURAL ROUTE 3 HOLDINGS, this does not equate to having trademark rights over such name. Complainant has not registered, nor applied for any trademark with the United States Patent and Trademark Office. Neither does Complainant have any registration for any trademark with the Texas Secretary of State (Exhibit 4). Thus, Complainant does not own the trademark RURAL ROUTE 3 HOLDINGS.

[iv] Moreover, after existing for more than five years, Complainant has never used the name RURAL ROUTE 3 HOLDINGS as a trademark or as a source of specific goods and/or services. Complainant has still not created a website on its registered domain *ruralroute3holdings.com* (Exhibit 5). Complainant does not advertise its services, if any, with the RURAL ROUTE 3 HOLDINGS name nor does it have company brochures, nor any marketing material, nor any kind of publications, nor letterhead, not even a logo. Complainant does not have an office. Instead, its registered address is a residence (a rental apartment) in Houston, TX. Furthermore, Exhibit 6 shows that Complainant's General Partner has its mailing address, principal office, and principal place of business at 1302 Waugh Drive in Houston, TX, which is an outlet of "The UPS Store"<sup>1</sup>. In other words, Complainant's public identity is nonexistent. The only place where Complainant's name appears is in private corporate and investment documents, inaccessible to the general public. This is not considered trademark use. Furthermore, Barry Hammond is the **only** person occasionally communicating by email on Complainant's domain with [barry@ruralroute3holdings.com](mailto:barry@ruralroute3holdings.com) (see Exhibit D of the Amended Complaint). However, this is merely a façade as Mr. Hammond's official function is General Counsel of Aspire Commodities LP ("Aspire LP"), according to his registration with the State Bar of Texas and according to his LinkedIn profile (Exhibit 7). Finally, in an admission by Complainant of their bad faith, Section 1 of the Amended Complaint lists Mr. Hammond not on Complainant's registered domain, but as: [barry.hammond@gmail.com](mailto:barry.hammond@gmail.com). In summary, the only conclusion to be drawn is that, contrary to the allegation in Section [4][a][iii] of the Amended Complaint, there is **absolutely no** "widespread association of the RURAL ROUTE 3 HOLDINGS mark with Complainant in the minds of the public".

[v] The lack of public presence of Complainant follows from its role as investment vehicle for Mr. Sinn's **personal** funds. Nevertheless, Complainant does not play a significant role in the investment process and anyone soliciting investment funds would have discussions primarily with Mr. Sinn, the individual. Only after terms have been decided on, and documents are to be signed, Complainant makes an appearance to conceal Mr. Sinn's identity from outsiders. For example, Exhibit 8 shows an email sent by a principal of the Timberlane LA Fund I LLC to Mr. Sinn<sup>2,3</sup> at [asinn@aspirecommodities.com](mailto:asinn@aspirecommodities.com) with a quarterly report regarding Complainant's investment. The accompanying attachments demonstrate that Complainant provides Mr. Sinn anonymity from the other investors in said fund. Thus, the public does not, and is not supposed to know any background or details about Complainant.

[vi] For the reasons and authorities above, Complainant does not own trademark rights, has not established common law trademark rights, and the Disputed Domain Name is **not** confusingly similar, nor identical.

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<sup>1</sup> The UPS Store: <https://goo.gl/maps/jofq7yTcX4M2> and <https://houston-tx-1733.theupsstorelocal.com/>

<sup>2</sup> Mr. Sinn subsequently forwarded this email to Mr. de Man.

<sup>3</sup> It is important to note that all information and documents presented in this Response were voluntarily shared with Mr. de Man, who is not subject to any non-disclosure or confidentiality agreement.

[b] **Respondent does, and Complainant does not have a legitimate interest in the Disputed Domain Name.** Rule 3(b)(ix)(2); UDRP ¶ 4(a)(ii).

[i] When Mr. de Man prepares for a new venture, his priority is to lock in a domain name matching to the company he intends to form. Mr. de Man locked in the Disputed Domain Name and, shortly thereafter, registered Respondent. Due to the summer vacation with his family, Mr. de Man experienced some delay, but still submitted the company registration (Exhibit 1) prior to the notification regarding this UDRP proceeding (Exhibit 9). This demonstrates Mr. de Man's sincere intent to form a legitimate business and the fact that Mr. de Man is known by the Disputed Domain Name.

[ii] Complainant operated quietly without a public presence for more than four years before registering the *ruralroute3holdings.com* domain. For over five years, as illustrated above in Section [4][a], Complainant had little to no interest in creating or properly managing a public identity. Thus, it is Complainant who has no legitimate interest in the Disputed Domain Name.

[iii] While multiple organizations had previously been named with some variation of the term "Rural Route," and despite the existence of other domain names based on the dominant feature *ruralroute*, and even *ruralroute3*, Complainant never filed a dispute before. Complainant's allegations are inconsistent with its previous position.

[iv] The WHOIS Information (See Exhibit C of Amended Complaint) identifies the registrant of Complainant's domain *ruralroute3holdings.com* as Adam Sinn, without any organization specified. As demonstrated in Section [4][a], Mr. Sinn is commonly associated with the company Aspire LP, and he has adopted an email address on domain *aspirecommodities.com* for all his business communications. Moreover, the WHOIS Information lists Mr. Sinn at an address in Puerto Rico, while Complainant is not authorized to do business in Puerto Rico given that it is not registered with the Puerto Rico Department of State (Exhibit 10).

[v] Complainant is grasping at straws with references to legal authorities that do not apply in this dispute. Central to *Am. Int'l Group, Inc. v. Busby*, FA 156251 (FORUM May 30, 2003) is the finding that respondent passed itself off as the complainant online, while the Complainant in this dispute does not even have a website. *Abbott Laboratories v. Miles White*, FA 1646590 (FORUM Dec. 10, 2015), is about using the disputed domain name to impersonate an executive of complainant. The email correspondence brought as **only** evidence in Exhibit D of the Amended Complaint is certainly insufficient to reach that same conclusion in this dispute.

[vi] For the reasons and authorities above, Respondent does, and Complainant does not, have a legitimate interest in the Disputed Domain Name.

[c.] **Respondent did not act in bad faith. Complainant has been acting in bad faith and the Amended Complaint is an act of harassment and an attempt to reverse domain hijack the Disputed Domain Name.** Rule 3(b)(ix)(3); UDRP ¶ 4(a)(iii).

[i] **One email** precipitated this dispute. Complainant's allegation that "Respondent intends to use the Disputed Domain Name ... for the purpose of confusing and deceiving others" is pure conjecture. Complainant fails to bring any additional evidence because there is none.

[ii] Instead of approaching Respondent with courtesy and civility and requesting clarification regarding the single email in question, Respondent gets served with a federal lawsuit **and** this UDRP proceeding. Complainant's overly litigious conduct can only be interpreted as harassment and an attempt to wrest away, from Respondent, a domain name that Complainant should have registered a long time ago if Complainant indeed is as concerned about its public identity as is depicted in the Amended Complaint.

[iii] The authorities referenced by Complainant are irrelevant as the findings in those cases all relied on a "commonly known mark," "marks in which the complainant had rights," or "trademarks," and Respondent has made abundantly evident that Complainant does not have any rights to any trademark. Given the fact that Respondent registered its domain name before Complainant had acquired any trademark rights over the disputed domain name (as it has not used nor is currently using the term as trademark), there cannot be any finding of bad faith.

[iv] Complainant refers to Aspire LP as "Complainant Subsidiary," but during Mr. de Man's employment with Aspire LP, Complainant was not an owner. Complainant became an owner when Mr. Sinn electronically signed an amended partnership agreement for Aspire LP on August 5, 2014, and **backdated** that agreement to September 5, 2013. This was elaborately demonstrated in briefs filed in Cause Number 2016-59771 in Harris County, TX.

[v] Mr. de Man was an employee of Aspire LP only until June of 2013, as is clear from Exhibit 11, which shows the employee list maintained by SurePayroll. This employee list also shows that Aspire LP has not had any employees, nor contractors, since January of 2015.

[vi] Complainant falsely alleges that Respondent initiated litigation against Aspire LP. The truth is, in fact, the opposite. Aspire LP and another of Mr. Sinn's entities, Raiden Commodities LP, initiated litigation against Mr. de Man on September 6, 2016, in Harris County, TX. The original petition in that case, just like the Complaint, was overflowing with fictitious, misrepresented, and inaccurate statements and allegations. Justly so, that lawsuit was dismissed on February 17, 2017 (Exhibit 12). Mr. Sinn now seems to have found an alternative way to harass Mr. de Man.

[vii] Section [4][c][iii] on page 5 of the Amended Complaint contains Complainant's most outrageous allegations. Without providing a shred of evidence, Complainant takes a cheap shot at Respondent, and attempts to relitigate the fantastic causes of action that were dismissed in February. In reality, Mr. Sinn has been attacking Mr. de Man's reputation since September of last year to exert undue pressure on legal proceedings to try and protect certain files which Mr. Sinn illegally obtained and/or appropriated from competing

companies. For example, Exhibit 13 shows a screenshot displaying the properties of an Excel file that is property of Suez North America<sup>4</sup>. Exhibit 14 is another example showing an Excel file that is property of Energy Future Holdings, the parent company of Luminant, the largest generator of electricity in Texas. With his trade secrets misappropriation, Mr. Sinn gained illegal access to proprietary and confidential parameters and characteristics of many electricity generating plants in the Texas grid, thereby establishing an unfair advantage in the market. Both of these files are located in the "Dropbox for Business" registered to Aspire LP.

[viii] Furthermore, it is utterly perplexing that Complainant is making accusations regarding intellectual property infringement. For years, Mr. Sinn has illegally been obtaining login credentials to access protected computers to utilize software and data critical to the trading operations of Aspire LP. There even exists a "black book" containing passwords to websites that Mr. Sinn's traders considered necessary to carry out their work, but that they were refused legitimate access to (see Exhibit 15). Specific examples include the continual logging in, without authorization, to websites of Genscape and Pattern Recognition Technology ("PRT"). Mr. Sinn incorporated the insights gained from these illegally accessed software and data to make trading decisions resulting in profits of tens of millions of dollars.

[ix] The scheme regarding Genscape was particularly conniving. In his Houston rental apartment, Mr. Sinn installed a dedicated computer that he referred to as the "GS computer," where the acronym "GS" stands for Genscape (Exhibit 16). This computer, connected to the internet with IP address 73.206.224.82 (Comcast Cable), was always logged into the website of Genscape with credentials that Mr. Sinn misappropriated from someone else. Next, to mask Mr. Sinn's true location (whether that be in Puerto Rico or anywhere else in the world), Mr. Sinn remotely logs into this "GS computer" to view what is on its screen, i.e. the Genscape software and data. Since there are many energy traders with a Genscape license in Houston logging in from IP addresses with nearby geolocations, Mr. Sinn's illegitimate logins have gone unnoticed. In Puerto Rico, however, the number of Genscape licensees can be counted on one hand and illegal logins originating from there would certainly raise a red flag.

[x] Despite these misguided precautions in executing his intellectual property infringement, Mr. Sinn brazenly discusses and evaluates the illegally accessed data on instant messaging, mostly referring to "GS" when discussing the real-time generation status of certain power plants on the "Aspire Trading" channel of AOL Instant Messenger. Fully aware of his fraud, Mr. Sinn attempted to erase this evidence by demanding that his traders delete historical conversation logs, and refrain from logging future conversations. Mr. Sinn seems to have learned nothing from his job with Arthur Andersen, where document destruction eventually caused that company's fall from grace.

[xi] For the reasons provided above, Complainant's bad faith is clear and Respondent has not acted in bad faith. Complainant is harassing Respondent and is attempting to reverse domain hijack the Disputed Domain Name.

---

<sup>4</sup> In 2013, Aspire LP sued Suez North America for market manipulation: Aspire Commodities LP and Raiden Commodities LP v. GDF Suez Energy North America Inc. et al., case number: 4:14-cv-01111, in the U.S. District Court for the Southern District of Texas. The lawsuit was dismissed and the dismissal was affirmed on appeal.

**[5.] OTHER LEGAL PROCEEDINGS**

Pursuant to Rule 5(b)(vi), Respondent submits that prior to commencing these UDRP procedures, Complainant filed against Respondent the federal lawsuit attached as Exhibit E to the Amended Complaint. Consistent with previous behavior, Complainant filed a federal lawsuit peppered with plenty falsities and misrepresentations. Respondent was served today, on August 14, 2017.

**[6.] RESPONSE TRANSMISSION**

The Respondent asserts that a copy of the Response, as prescribed by FORUM's Supplemental Rules, has been sent or transmitted to the Complainant, in accordance with Rule 2(b). Rule 5(b)(vii); FORUM Supp. Rule 5.

**[7.] RESPONDENT REQUESTS**

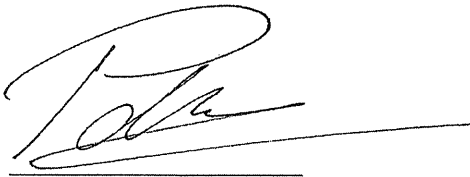
The Respondent respectfully requests that the Administrative Panel denies the remedy requested by the Complainant.

For the reasons and evidence provided above in Section 4, pursuant to Rule 15(e), Respondent respectfully requests that the Panel make a finding of reverse domain-name hijacking.

**[8.] CERTIFICATION**

Respondent certifies that the information contained in this Response is to the best of Respondent's knowledge complete and accurate, that this Response is not being presented for any improper purpose, such as to harass, and that the assertions in this Response are warranted under these Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.

Respectfully Submitted, this 14<sup>th</sup> day of August, 2017.

A handwritten signature in black ink, appearing to read 'Patrick de Man', written over a horizontal line.

Rural Route 3 Holdings LLC  
Patrick de Man

Schedule of Exhibited Evidence

Exhibit 1	Respondent's Receipt and Certificate of Formation with the State of Delaware
Exhibit 2	Screenshots of website of Texas Secretary of State showing current registrations for Complainant (Rural Route 3 Holdings LP)
Exhibit 3	Statement of Change of Registered Agent for Complainant filed by Complainant with the Texas Secretary of State
Exhibit 4	Search results for "rural route 3" under registrant and trademark from the website of the Texas Secretary of State
Exhibit 5	Internet browser printout for Complainant's domain <i>ruralroute3holdings.com</i>
Exhibit 6	Public Information Report filed with the Texas Secretary of State for Complainant's General Partner (Rural Route 3 Management LLC)
Exhibit 7	State Bar of Texas registration and LinkedIn profile of Barry Hammond
Exhibit 8	Correspondence to Mr. Sinn regarding Complainant's investment, including two files attached to the email demonstrating Complainant provides anonymity to Mr. Sinn.
Exhibit 9	Notification email from Google Domains regarding UDRP proceeding
Exhibit 10	Screenshot of the website of the Puerto Rico Department of State showing the absence of Complainant from its registry
Exhibit 11	Screenshot of the SurePayroll website showing the employee list of Aspire LP
Exhibit 12	Copies of Civil Case Information Sheet and Order to Grant the Special Appearance (from Cause number 2016-59771 in Harris County, TX)
Exhibit 13	Screenshot of Excel file properties establishing ownership by "Suez North America"
Exhibit 14	Screenshot of Excel file properties establishing ownership by "EFH Corp"
Exhibit 15	SMS text messages from Dave Schmidli to Patrick de Man
Exhibit 16	Email correspondence from Mr. Sinn regarding the "GS computer"

# EXHIBIT 1

---

**From:** sales@delawareinc.com  
**Sent:** Wednesday, July 12, 2017 5:09 PM  
**To:** deman@alum.mit.edu  
**Subject:** Receipt for Rural Route 3 Holdings LLC

**Harvard Business Services, Inc.**  
**16192 Coastal Highway**  
**Lewes, Delaware 19958 USA**  
**1-800-345-2677**  
**www.delawareinc.com**

---

**Incorporation Order Receipt July 12, 2017 5:04PM**

---

**Company Information:**

Company Name: Rural Route 3 Holdings LLC  
Company Type: Limited Liability Company

**Order Information:**

Order ID: INC296942

**Communications Contact Information:**

Full Name: Mr. Patrick de Man  
Phone Number: (939)240-3510  
E-Mail Address: deman@alum.mit.edu  
Contact Address: 544 Corredor Del Bosque  
Dorado, PR, 00646  
United States

**Payment Information:**

Credit Card Type: Visa  
Cardholder's Name: Patrick de Man  
Card Number: 4108-xxxx-xxxx-7693

**Order Summary:**

Domestic Green Package: \$279.00  
Discount Amount: -\$100.00  
Total Charge: \$179.00

---

\*We have received the above order to form this company on your behalf. Please keep this receipt for your records. Once the company is officially approved by the Delaware Division of Corporations, we will contact you by email.



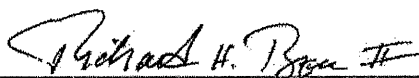
**CERTIFICATE OF FORMATION  
OF  
Rural Route 3 Holdings LLC**

(A Delaware Limited Liability Company)

**First:** The name of the limited liability company is: Rural Route 3 Holdings LLC

**Second:** Its registered office in the State of Delaware is located at 16192 Coastal Highway, Lewes, Delaware 19958, County of Sussex. The registered agent in charge thereof is Harvard Business Services, Inc.

IN WITNESS WHEREOF, the undersigned, being fully authorized to execute and file this document have signed below and executed this Certificate of Formation on this July 13, 2017.



Harvard Business Services, Inc., Authorized Person  
By: Richard H. Bell, II, President

# EXHIBIT 2

TEXAS SECRETARY OF STATE

ROLANDO PABLOS

UCC Business Organizations Trademarks Notary Account Help/Fees Briefcase Logout

BUSINESS ORGANIZATIONS INQUIRY - VIEW ENTITY

Filing Number: 801584021 Entity Type: Domestic Limited Partnership (LP)  
 Original Date of Filing: April 19, 2012 Entity Status: In existence  
 Formation Date: N/A  
 Tax ID: 32047712578 FEIN:  
 Duration: Perpetual  
 Name: Rural Route 3 Holdings, LP  
 Address: 3333 Allen Parkway, #1605  
 Houston, TX 77019 USA

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Name	Address	Inactive Date			
KB Carlton, PLLC	7800 Dallas Parkway, Suite 300 Plano, TX 75024 USA				

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES	
View Image	Document Number	Filing Type	Filing Date	Effective Date	Eff. Cond	Page Count
/	418000340003	Certificate of Formation	April 19, 2012	April 19, 2012	No	2
/	630840598448	Tax Forfeiture	February 21, 2014	February 21, 2014	No	1
/	564514050004	Reinstatement	August 28, 2014	August 28, 2014	No	1
/	895727970003	Change of Registered Agent/Office	October 24, 2016	October 24, 2016	No	2

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Name	Name Status	Name Type	Name Inactive Date	Consent Filing #	
Rural Route 3 Holdings, LP	In use	Legal			

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Last Update	Name	Title	Address		
April 19, 2012	Rural Route 3 Management, LLC	General Partner	3333 Allen Parkway, #1605 Houston, TX 77019 USA		

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES
Assumed Name	Date of Filing	Expiration Date	Inactive Date	Name Status	Counties
No names exist for this filing.					

REGISTERED AGENT	FILING HISTORY	NAMES	MANAGEMENT	ASSUMED NAMES	ASSOCIATED ENTITIES	
Name	Entity Type	Document Description	Filing Date	Entity Filing Number	Jurisdiction	Capacity
There are no documents listed for this entity which match your inquiry.						

# EXHIBIT 3

Form 401

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709



**Statement of Change of  
Registered Office/Agent**

Filed in the Office of the  
Secretary of State of Texas  
Filing #: 801584021 10/24/2016  
Document #: 695727970003  
Image Generated Electronically  
for Web Filing

Filing Fee: See Instructions

**Entity Information**

The name of the entity is :

**Rural Route 3 Holdings, LP**

The file number issued to the entity by the secretary of state is: **801584021**

The registered agent and registered office of the entity as currently shown on the records of the secretary of state are:

**Adam C Sinn**

**3333 Allen Parkway, #1605, Houston, TX, USA 77019**

**Change to Registered Agent/Registered Office**

The following changes are made to the registered agent and/or office information of the named entity:

**Registered Agent Change**

A. The new registered agent is an organization by the name of:

**KB Carlton, PLLC**

OR

B. The new registered agent is an individual resident of the state whose name is:

**Registered Office Change**

C. The business address of the registered agent and the registered office address is changed to:

**7800 Dallas Parkway, Suite 360, Plano, TX, USA 75024**

The street address of the registered office as stated in this instrument is the same as the registered agent's business address.

**Consent of Registered Agent**

A. A copy of the consent of registered agent is attached.

B. The consent of the registered agent is maintained by the entity.

**Statement of Approval**

The change specified in this statement has been authorized by the entity in the manner required by the BOC or in the manner required by the law governing the filing entity, as applicable.

**Effectiveness of Filing**

A. This document becomes effective when the document is filed by the secretary of state.

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its filing by the secretary of state. The delayed effective date is:

**Execution**

The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument.

Date: **October 24, 2016**

**KYLE E. CARLTON, AIF for Adam Sinn, Manager of Rural Route 3 Management, LLC, GP**

Signature of authorized person(s)

FILING OFFICE COPY

# EXHIBIT 4

FIND - REGISTRANT

This search was performed with the following search parameter:  
 REGISTRANT NAME : Rural Route 3

There are no records which match your inquiry.

[Return to Order](#) [New Search](#)

FIND - TRADEMARK - ACTIVE AND INACTIVE

This search was performed with the following search parameter:  
 TRADEMARK NAME : Rural Route 3

Mark	Registration Number	Word Description	Trademark Status
<input type="radio"/>	<a href="#">3510317</a>	3 WORLDS	Expired
<input type="radio"/>	<a href="#">5977317</a>	3-D SEISMIC WHILE DRILLING [Design Code: 290701]	Expired
<input type="radio"/>	<a href="#">801707529</a>	3x3 Xcelerate [Design Code: 261712]	Abandoned
<input type="radio"/>	<a href="#">801486654</a>	Evans E Third Generation Builders [Design Code: 010103]	Registered
<input type="radio"/>	<a href="#">800530316</a>	FT - 3	Expired
<input type="radio"/>	<a href="#">5544717</a>	G3 GREEN GORILLA GRILLE	Expired
<input type="radio"/>	<a href="#">802393929</a>	MEXI-RITA S GRILL [Design Code: 050904]	Abandoned
<input type="radio"/>	<a href="#">801471531</a>	TH3 DRAFT Music & Drinks Sports Bar [Design Code: 240501]	Abandoned
<input type="radio"/>	<a href="#">801523434</a>	TH3DRAFT MUSIC & DRINKS SPORTS BAR [Design Code: 260104]	Registered
<input type="radio"/>	<a href="#">5846917</a>	THE ROLL YOUR RATE CD	Expired

Records 1 to 10 of 14 scroll [Next >>](#) OR proceed to page  of 2 pages [GO](#)

[Return to Order](#) [New Search](#)

FIND - TRADEMARK - ACTIVE AND INACTIVE

This search was performed with the following search parameter:  
 TRADEMARK NAME : Rural Route 3

Mark	Registration Number	Word Description	Trademark Status
<input type="radio"/>	<a href="#">800611824</a>	THIRD RAIL LOFTS	Registered
<input type="radio"/>	<a href="#">800611849</a>	THIRD RAIL LOFTS [Design Code: 261704]	Registered
<input type="radio"/>	<a href="#">801589175</a>	THREE BAR K SPORT HORSES [Design Code: 260101]	Abandoned
<input type="radio"/>	<a href="#">801380345</a>	Texas Best Flooring Company, Inc. Home Of The 3 BBB's Best Value, Best Installation, Best Price. V.I.P. Treatment For Everyone! [Design Code: 011712]	Abandoned

Records 11 to 14 of 14 scroll [<< Previous](#) OR proceed to page  of 2 pages [GO](#)

[Return to Order](#) [New Search](#)



# EXHIBIT 5



Welcome to: [ruralroute3holdings.com](http://ruralroute3holdings.com)  
This Web page is parked for FREE, courtesy of [GoDaddy.com](http://GoDaddy.com).



Share a \$9.99\* .COM with friends!

Search for domains similar to [ruralroute3holdings.com](http://ruralroute3holdings.com)

[Get Started](#)

Related Links

[Financial Investors](#)

[Holding Company](#)

[Stock Holdings](#)

[Stock Market Investors](#)

[Investor Presentations](#)



Is this your domain?  
Let's turn it into a website!

[Get Started](#)

OR



Would you like to buy this domain?

[Learn More](#)

**\$0.99\* .COM**  
THE domain at THE price.

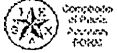
**.com** [GET YOURS](#)

Visit [GoDaddy.com](http://GoDaddy.com) for the best values on  
[Domain names](#) ▪ [Web hosting](#) ▪ [Website builders](#) ▪ [Email accounts](#) ▪ [SSL Certificates](#) ▪ [eCommerce tools](#) ▪ [See product catalog](#)

\*Restrictions apply. See website for details.

Copyright © 1999-2017 GoDaddy, LLC. All rights reserved. [Privacy Policy](#)

# EXHIBIT 6



05-102  
(Rev. 9-15/33)

**Texas Franchise Tax Public Information Report**

To be filed by Corporations, Limited Liability Companies (LLC), Limited Partnerships (LP), Professional Associations (PA) and Financial Institutions

Code 13196 Franchise

Taxpayer number

Report year

You have certain rights under Chapter 552 and 559, Government Code, to review, request and correct information we have on file about you. Contact us at 1-800-252-1381.

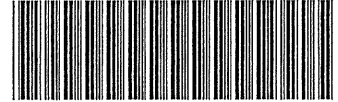
3	2	0	4	7	7	1	2	6	2	8
---	---	---	---	---	---	---	---	---	---	---

2	0	1	6
---	---	---	---

Taxpayer name <b>RURAL ROUTE 3 MANAGEMENT LLC</b>			<input type="checkbox"/> Blacken circle if the mailing address has changed.		
Mailing address <b>1302 WAUGH DRIVE 539</b>			Secretary of State (SOS) file number or Comptroller file number <b>0801584014</b>		
City <b>HOUSTON</b>	State <b>TX</b>	ZIP code plus 4 <b>77019</b>			

Blacken circle if there are currently no changes from previous year; if no information is displayed, complete the applicable information in Sections A, B and C.

Principal office <b>1302 WAUGH DRIVE 539, HOUSTON, TX, 77019</b>
Principal place of business <b>1302 WAUGH DRIVE 539, HOUSTON, TX, 77019</b>



1000000000015

You must report officer, director, member, general partner and manager information as of the date you complete this report.

*Please sign below!*

**This report must be signed to satisfy franchise tax requirements.**

**SECTION A** Name, title and mailing address of each officer, director, member, general partner or manager.

Name <b>ADAM C SINN</b>	Title <b>MANAGING MEMBER</b>	Director <input checked="" type="radio"/> YES	Term expiration m m d d y y <b>1 2 3 1 1 6</b>
Mailing address <b>200 DORADO BEACH DR 3232</b>	City <b>DORADO</b>	State <b>PR</b>	ZIP Code <b>00646</b>
Name	Title	Director <input type="radio"/> YES	Term expiration m m d d y y
Mailing address	City	State	ZIP Code
Name	Title	Director <input type="radio"/> YES	Term expiration m m d d y y
Mailing address	City	State	ZIP Code

**SECTION B** Enter information for each corporation, LLC, LP, PA or financial institution, if any, in which this entity owns an interest of 10 percent or more.

Name of owned (subsidiary) corporation, LLC, LP, PA or financial institution <b>NONE</b>	State of formation	Texas SOS file number, if any	Percentage of ownership
Name of owned (subsidiary) corporation, LLC, LP, PA or financial institution	State of formation	Texas SOS file number, if any	Percentage of ownership

**SECTION C** Enter information for each corporation, LLC, LP, PA or financial institution, if any, that owns an interest of 10 percent or more in this entity.

Name of owned (parent) corporation, LLC, LP, PA or financial institution <b>NONE</b>	State of formation	Texas SOS file number, if any	Percentage of ownership
---	--------------------	-------------------------------	-------------------------

Registered agent and registered office currently on file (see instructions if you need to make changes)  
Agent: **KB CARLTON PLLC**

You must make a filing with the Secretary of State to change registered agent, registered office or general partner information.

Office: <b>7800 DALLAS PARKWAY SUITE 360</b>	City <b>PLANO</b>	State <b>TX</b>	ZIP Code <b>75024</b>
--	----------------------	--------------------	--------------------------

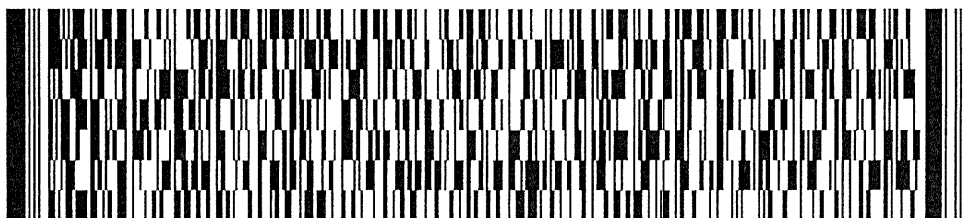
The information on this form is required by Section 171.203 of the Tax Code for each corporation, LLC, LP, PA or financial institution that files a Texas Franchise Tax Report. Use additional sheets for Sections A, B and C, if necessary. The information will be available for public inspection.

I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the date below, and that a copy of this report has been mailed to each person named in this report who is an officer, director, member, general partner or manager and who is not currently employed by this or a related corporation, LLC, LP, PA or financial institution.

Signature <b>ADAM C SINN</b>	Title <b>MANAGING MEMBER</b>	Date <b>11/09/2016</b>	Area code and phone number <b>( 979 ) 575 - 7026</b>
---------------------------------	---------------------------------	---------------------------	---

**Texas Comptroller Official Use Only**

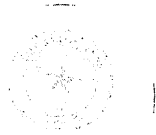
VE/DE <input type="checkbox"/>	PIR IND <input type="checkbox"/>
--------------------------------	----------------------------------



# EXHIBIT 7



STATE BAR of TEXAS

**MR. BARRINGTON MARTIN 'BARRY' HAMMOND JR.**

• Eligible to Practice in Texas

ASPIRE COMMODITIES, LP

Bar Card Number: 24059883

TX License Date: 11/02/2007

Primary Practice Location: Houston , Texas

1302 Waugh Drive #539  
Houston, TX 77019

**CONTACT INFORMATION**

Tel: 832-819-1020 ☎

Practice Areas: Business, Litigation: Commercial, Real Estate, Finance

Statutory Profile Last Certified On: 02/03/2017

**PRACTICE INFORMATION**

Firm: Aspire Commodities, LP

Firm Size: 2 to 5

Occupation: Private Law Practice

Practice Areas: Business, Litigation: Commercial, Real Estate, Finance

**Services Provided:**

Hearing impaired translation: Not Specified

ADA-accessible client service: Not Specified

Language translation: Not Specified

**Fee Options Provided: ?**

None Reported By Attorney

*Please note: Not all payment options are available for all cases, and any payment arrangement must be agreed upon by the attorney and his/her client. The State Bar of Texas is not responsible for payment arrangements between an attorney and his/her client.*

**Foreign Language Assistance:**

None Reported By Attorney

**LAW SCHOOL****School****Degree earned**

Indiana University School Of L

Doctor of Jurisprudence/Juris Doctor (J.D.)

Graduation Date 05/2006

**COURTS OF ADMITTANCE****Federal:**

Texas Southern District/Bankruptcy Court

**Other Courts:**

None Reported By Attorney

**Other States Licensed:**

None Reported By Attorney

**PUBLIC DISCIPLINARY HISTORY****State of Texas\***

No Public Disciplinary History

**Other States**

None Reported By Attorney

**Note\*** Only Texas disciplinary sanctions within the past 10 years are displayed. For sanction information beyond 10 years, information about a specific disciplinary sanction listed above or to request a copy of a disciplinary judgment, please contact the Office of the Chief Disciplinary Counsel at (877) 953-5535. There is a \$15.00 fee for each disciplinary judgment copied. Make checks payable to: State Bar of Texas; PO Box 12487; Austin TX 78711 or by Credit Card.

**Note\*\***

The Texas Attorney Profile provides basic information about Attorneys licensed to practice in Texas. Attorney profile information is provided as a public service by the State Bar of Texas as outlined in Section 81.115 of the Texas Government Code. The information contained herein is provided "as is" with no warranty of any kind, express or implied. Neither the State Bar of Texas, nor its Board of Directors, nor any employee thereof may be held responsible for the accuracy of the data. Much of the information has been provided by the attorney and is required to be reviewed and updated by the attorney annually. The information noted with an asterisk (\*) is provided by the State Bar of Texas. Texas grievance/disciplinary information will not appear on the profile until a final determination is reached. Access to this site is authorized for public use only. Any unauthorized use of this system is subject to both civil and criminal penalties. This does not constitute a certified lawyer referral service.

# Barry Hammond

General Counsel at Aspire Commodities, LP  
Houston, Texas Area | Law Practice

Present at Rapp & Krock, PC, Patel Hammond PLLC, Mahoney & Associates  
Education Indiana University School of Law—Bloomington

Send a message

Endorse

500+ connections

Contact Info

Courts

Arbitration

Mediation

Public Speaking

Westlaw



Barry also knows about...

Criminal Law

Dispute Resolution

Restructuring

Venture Capital

Government

Education

Indiana University School of Law—Bloomington

J.D., Law  
2003 – 2006

Texas A&M University

Bachelor of Science (B.S.), Economics  
1999 – 2003



Clear Lake High School

1995 – 1999

## Recommendations

Given (2)



Patrick, would you like to recommend Barry?  
Recommend Barry



Ashton Adduci  
Custom Specialist

Ashton is the best! She's incredibly professional and has taken the time to help me actually pay attention to my clothing and has given me great direction. I know she has a lot of clients but she always makes me feel important and well taken care of.

July 17, 2015, Barry was Ashton's client



Katie Floyd  
Communications Consultant

While serving as a member of the Houston Urban Debate League Board of Directors, I was responsible for assisting in the Board's development and fundraising efforts. Katie was recommended by others as an amazingly effective communicator, project manager, and event coordinator, one that would be able to help us meet our annual fundraising goals.

Katie far exceeded our expectations! She almost single-handedly organized our organization's first annual fundraising Gala, which raised nearly \$100,000. She coordinated with law firms, attorneys, school district officials and business leaders to make the event an unprecedented success. And she did so at such a low cost and with such style that improving upon it the next year was a Herculean challenge.

Katie approached her duties with a smile and creativity. She never failed to produce the expected result on deadline. She made all of our lives and jobs easier. When she left to pursue other opportunities, we were truly at a loss.

Katie would be a great addition to any organization. less

December 6, 2010, Barry was Katie's client



1st

## Relationship

Note | Reminder | Tag

Connected  
6/17/2012

4 years ago

## Background

Experience

### General Counsel

Aspire Commodities, LP  
May 2016 – Present (4 months)

### Associate

Rapp & Krock, PC  
October 2014 – May 2016 (1 year 8 months) | Houston, Texas Area



### Partner

Patel Hammond PLLC  
July 2011 – October 2014 (3 years 4 months) | Houston, Texas Area

### Associate

Mahoney & Associates  
August 2010 – May 2011 (10 months) | Houston, Texas Area

### Deputy Campaign Manager

Texans for Hurd  
September 2009 – April 2010 (8 months)



### Attorney

King and Spalding  
May 2008 – November 2009 (1 year 7 months)



### Associate

Alvarez & Marsal, LLC  
September 2008 – May 2008 (1 year 9 months)



Skills

## Top Skills

Litigation

Legal Research

Legal Writing

Commercial Litigation

Corporate Law

Courts





# EXHIBIT 8

---

**From:** John Chaffetz <john@timberlanepartners.com>  
**Sent:** Tuesday, October 27, 2015 12:58 AM  
**To:** Adam Sinn <asinn@aspirecommodities.com>  
**Cc:** kcarlton@dallasbusinesslaw.com; dave@timberlanepartners.com;  
adam@timberlanepartners.com; christine@timberlanepartners.com  
**Subject:** LA Fund I 3Q15 Financial Update

Dear Adam,

We are pleased to send to you our first round of quarterly reporting for the LA fund.

3Q15 marks the first round of financials that will include a formal P&L and Balance Sheet, which together provide a much more detailed picture of your investment.

The fund closed its first acquisition (Echo Park) midway through the third quarter, with Silver Lake and Harvey closing subsequently. As a result, the P&L doesn't yet tell much of a story. That will change during the 4th quarter, as both Echo Park and Silver Lake have move-outs taking place as we speak. These vacant units will provide us with a chance to make improvements and increase rent.

In the meantime, the Balance Sheet provides a clear snapshot of what we have acquired with the fund to date. Some of you may have experience with these types of reports and others may not, so please don't hesitate to send questions our way. They not only indicate your equity basis, but also the land/building costs, capitalized fees, earnest monies, cash reserves, and loan balances. As with the P&L, balance sheet changes over time are more informative, so we expect to provide beefier commentary next quarter, along with a conference call.

On an operational note, we feel positive about the progress made so far at Echo Park and Silver Lake (Harvey is too fresh for comment). Our models rely on 20-25% turnover on rent-controlled properties to deliver our forecasted returns, and both EP and SL are tracking well in this respect. October has seen three move-outs at EP (vs 32 units in total) and 1 notice given at Silver Lake, along with a commercial eviction which is in process. Together, these developments should provide ample opportunity to grow revenue over the near term, which is the single best way to improve cashflows and value.


Given the small unit size at Harvey, that property presents the opposite concern, where turnover must be managed to maintain reasonable costs - the "in-place" revenue should be more than enough for ample cashflow. As mentioned, we feel it is too early to make strong pronouncements, though things are certainly off to a smooth start.


Detroit is scheduled to close in the very beginning of January. Given holiday schedules we will likely aim to close prior to Christmas, but in either case, we are focusing purely on diligence and lending for the next month or so.

Big picture, we are focused primarily on incorporating the Fund's recent acquisitions into our platform. While that is far and away our main priority at the moment, we are also keeping our eyes peeled for the next target and will provide an update when we find one.

Thank you all,  
John

[Download documents](#)

 TP LA FUND Income Statement Q3.pdf

 TP LA FUND B.SHEET Q3.pdf

Timberlane LA Fund I LLC  
Income Statement  
September 2015

	Echo Park		Harvey		Silver Lake		TP LA FUND I LLC Consolidated	
	Sep 15	Aug 15	Sep 15	YTD	Sep 15	Aug 15	Sep 15	YTD
<b>Income</b>								
Gross Scheduled Rents	35,544	28,633	14,340	64,178	17,834	2,972	67,718	99,324
4003 - Less Vacancy Loss	(1,369)	0	0	(1,369)	0	0	(1,369)	(1,369)
4200 - Other Income	489	0	0	489	0	0	489	489
<b>Total 4010 - Total Other Revenue</b>	<b>(860)</b>	<b>0</b>	<b>0</b>	<b>(860)</b>	<b>0</b>	<b>0</b>	<b>(860)</b>	<b>(860)</b>
<b>Total Income</b>	<b>34,664</b>	<b>28,633</b>	<b>14,340</b>	<b>63,298</b>	<b>17,834</b>	<b>2,972</b>	<b>66,638</b>	<b>98,444</b>
<b>Expense</b>								
<b>5000 - Property Operating Costs</b>								
5010 - Management Expense	1,732	0	0	1,732	0	0	1,732	1,732
5020 - Mgt Salaries & Wages	194	0	0	194	0	0	194	194
5040 - Administrative Expense	847	0	0	847	0	0	847	847
5050 - Utilities	5,689	0	1,430	5,689	1,430	0	7,119	7,119
5060 - Repairs & Maintenance	1,137	4,750	0	5,887	0	0	1,137	5,887
5066 - Legal & Licenses	3,500	0	0	3,500	0	0	3,500	3,500
<b>Total 5000 - Property Operating Costs</b>	<b>13,089</b>	<b>4,750</b>	<b>1,430</b>	<b>17,849</b>	<b>1,430</b>	<b>0</b>	<b>14,529</b>	<b>19,279</b>
<b>Total Expense</b>	<b>13,089</b>	<b>4,750</b>	<b>1,430</b>	<b>17,849</b>	<b>1,430</b>	<b>0</b>	<b>14,529</b>	<b>19,279</b>
<b>Net Operating Income</b>	<b>21,565</b>	<b>23,883</b>	<b>14,340</b>	<b>45,449</b>	<b>16,404</b>	<b>2,972</b>	<b>52,309</b>	<b>79,165</b>
<b>Other Income</b>								
Reserve Holdback	(800)	0	0	(800)	(200)	0	(1,000)	(1,000)
<b>Total Other Income</b>	<b>(800)</b>	<b>0</b>	<b>0</b>	<b>(800)</b>	<b>(200)</b>	<b>0</b>	<b>(1,000)</b>	<b>(1,000)</b>
<b>Other Expense</b>								
5900 - Mortgage Interest Expense	0	0	2,174	0	0	1,351	2,174	3,525
6014 - Legal Fees	0	671	0	1,739	0	2,171	0	3,910
6015 - Registered Agent	0	4,875	8,483	6,625	0	125	8,483	18,246
6100 - Professional & Legal Fees	0	0	0	0	0	464	0	464
6207 - Amortization Expense	1,528	299	0	1,826	427	277	1,955	2,530
6208 - Depreciation Expense	15,711	12,164	0	27,875	8,302	2,410	24,013	38,588
6305 - Escrow Settlement Expenses	0	15,278	(774)	15,278	0	11,112	(774)	25,616
<b>Total Other Expense</b>	<b>17,239</b>	<b>33,387</b>	<b>9,883</b>	<b>53,343</b>	<b>8,729</b>	<b>17,910</b>	<b>35,851</b>	<b>92,879</b>
<b>Net Income</b>	<b>3,526</b>	<b>(9,504)</b>	<b>4,457</b>	<b>(6,694)</b>	<b>7,475</b>	<b>(14,938)</b>	<b>15,458</b>	<b>(14,714)</b>

Timberlane LA Fund I LLC  
**Income Statement**  
 September 2015

	Sep 15	Aug 15	YTD	Sep 15	Aug 15	YTD	Sep 15	Aug 15	YTD
Add Back Depreciation & Amortization	17,239	12,463	29,701	0					
Net Income	\$ 20,765	\$ 2,959	\$ 21,007	\$ 4,457			\$ 16,204	\$ (12,251)	\$ 940
							\$ 41,426	\$ (9,292)	\$ 26,404

Original Investor Basis \$ 12,465,000

**Investor**

Alta Investments LLC	12.52%
Carthage LLC	3.13%
Craig Lande	0.63%
David Biel	0.63%
David Chaffetz	0.31%
Didier J. LeGall	6.26%
Edward I. Knorrng, Jr. IRREVOCABLE TRUST dated 12/12/12	1.57%
Edward I Knorrng Jr Trust Dated 12/23/99	1.57%
Elaine Golin	0.63%
Greenswap LLC	0.31%
Janet M. Brown	3.13%
Jennifer Fan	3.13%
JHK Ventures LLC	3.13%
J Investments LLC	6.26%
John Kim	6.26%
Joseph Giacalone	0.63%
Loretta C. Chang, Trustee, JNG Irrevocable Trust Dated 11/07/12	0.94%
Mark & Sandra Plenge, Trustees of the Plenge Revocable Trust dated Sep 8, 2011	1.25%
MRE Ventures 1, LLC	1.25%
MRJ Investors, LLC	6.26%
NJ45 Investments LLC	1.50%
Paul & Susan Kempe	3.13%
Peter Chaffetz	0.31%
Pike Street Northwest LLC	0.63%
Reza Sharifi	1.25%
Rural Route 3 Holdings, LP	12.52%
Samy Khoury, custodian FBO Equity Trust Company a/c #400383 IRA	1.44%
Shear 2011 Descendent's Trust	1.57%
Studebaker & Seirafi Family Trust	0.94%
Sugar Magnolia Ventures LLC	6.26%
Summit Avenue LLC	0.63%
Timberlane Holdings	0.63%
TJR Enterprises	1.57%
Westwrite LLC	6.26%
William Fortney	1.57%
	<u>100.00%</u>

**Timberlane LA Fund I LLC**  
**Balance Sheet**  
As of September 30, 2015

**ASSETS**

**Current Assets**

**Checking/Savings**

Checking-Chase-1582	349,319.10
Mgt Checking-E.Park	28,564.07
Mgt Checking-S.Lake	23,404.13
<b>Total Checking/Savings</b>	<u>401,287.30</u>

**Other Current Assets**

**Bank Reserves**

Renovation Earnout-Echo Park	2,400,000.00
Renovation Holdback-Homestreet	485,562.00
Reserve Holdback-Investment	-1,000.00

**Walker & Dunlap Reserves**

Completion Repair Reserves-Harv	78,062.00
Insurance Escrow- Reserves	7,719.08
Tax Escrow-Reserves	21,309.33

<b>Total Walker &amp; Dunlap Reserves</b>	<u>107,090.41</u>
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<b>Total Bank Reserves</b>	2,991,652.41
<b>Due from Investors</b>	323,982.46
<b>Earnest Money- Detroit -LA</b>	300,000.00
<b>Prepaid Insurance</b>	90,400.83
<b>Prepays -Echo Park</b>	4,957.32
<b>Total Other Current Assets</b>	<u>3,710,993.02</u>

<b>Total Current Assets</b>	<u>4,112,280.32</u>
-----------------------------	---------------------

**Fixed Assets**

**LA Properties**

**Building**

Accumulated Depreciation	-38,587.44
Building-Echo Park	5,184,720.00
Building-Silverlake	2,739,750.00
Building -The Harvey	9,912,500.00
Building Improvements-Echo Park	15,350.00
Building Improvements-Harvey	250.00
Building Improvemnt-S.Lake	1,300.00
<b>Total Building</b>	<u>17,815,282.56</u>

**Land**

Echo Park Land	1,940,280.00
Harvey-Land	5,337,500.00
Silverlake-Land	1,475,250.00

<b>Total Land</b>	<u>8,753,030.00</u>
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<b>Total LA Properties</b>	<u>26,568,312.56</u>
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<b>Total Fixed Assets</b>	<u>26,568,312.56</u>
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**Timberlane LA Fund I LLC**  
**Balance Sheet**  
As of September 30, 2015

<b>Other Assets</b>	
<b>Intangible Assets</b>	
Accumulated Amortization	-2,529.94
Commissions-Afton (Harvey)	60,000.00
Loan Fees	175,770.00
Organization Costs-Legal Fees	178,480.89
Sucess Fees	228,300.00
<b>Total Intangible Assets</b>	<u>640,020.95</u>
<b>Marketable Securities</b>	
Hedge Derivative	158,900.00
<b>Total Marketable Securities</b>	<u>158,900.00</u>
<b>Total Other Assets</b>	<u>798,920.95</u>
<b>TOTAL ASSETS</b>	<u><u>31,479,513.83</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Other Current Liabilities</b>	
Security Deposits Held	109,227.00
<b>Total Other Current Liabilities</b>	<u>109,227.00</u>
<b>Total Current Liabilities</b>	<u>109,227.00</u>
<b>Long Term Liabilities</b>	
<b>Notes Payable</b>	
Note Payable-First FoundationSL	1,720,000.00
Note Payable-Homestreet-Echo	5,900,000.00
Note Payable-W & D (Harvey)	11,300,000.00
<b>Total Notes Payable</b>	<u>18,920,000.00</u>
<b>Total Long Term Liabilities</b>	<u>18,920,000.00</u>
<b>Total Liabilities</b>	<u>19,029,227.00</u>

**Timberlane LA Fund I LLC**  
**Balance Sheet**  
As of September 30, 2015

Equity

Alta Investments LLC	
Capital Contribution	1,563,556.67
Total Alta Investments LLC	<u>1,563,556.67</u>
Carthage LLC	
Capital Contribution	390,889.17
Total Carthage LLC	<u>390,889.17</u>
Craig Lande	
Capital Contribution	78,177.83
Total Craig Lande	<u>78,177.83</u>
David Biel	
Capital Contribution	78,177.83
Total David Biel	<u>78,177.83</u>
David Chaffetz	
Capital Contribution	39,088.92
Total David Chaffetz	<u>39,088.92</u>
Didier J. LeGall	
Capital Contribution	781,778.33
Total Didier J. LeGall	<u>781,778.33</u>
Edward Knorring Trust 12/99	
Capital Contribution	195,444.58
Total Edward Knorring Trust 12/99	<u>195,444.58</u>
Edward Knorring Irrv Trst 12/12	
Capital Contribution	195,444.58
Total Edward Knorring Irrv Trst 12/12	<u>195,444.58</u>
Elaine Golin	
Capital Contribution	78,177.93
Total Elaine Golin	<u>78,177.93</u>
Greenswap LLC	
Capital Contribution	39,088.92
Total Greenswap LLC	<u>39,088.92</u>
J Investments LLC	
Capital Contribution	781,778.33
Total J Investments LLC	<u>781,778.33</u>
Janet M. Brown	
Capital Contribution	390,889.17
Total Janet M. Brown	<u>390,889.17</u>
Jennifer Fan	
Capital Contribution	390,889.17
Total Jennifer Fan	<u>390,889.17</u>
JHK Ventures LLC	
Capital Contribution	390,889.17
Total JHK Ventures LLC	<u>390,889.17</u>



**Timberlane LA Fund I LLC**  
**Balance Sheet**  
As of September 30, 2015

<b>John Kim</b>	
Capital Contribution	781,778.33
<b>Total John Kim</b>	<u>781,778.33</u>
<b>Joseph Giacalone</b>	
Capital Contribution	78,177.83
<b>Total Joseph Giacalone</b>	<u>78,177.83</u>
<b>Loretta Chang JNG irrev Trst</b>	
Capital Contribution	117,266.75
<b>Total Loretta Chang JNG irrev Trst</b>	<u>117,266.75</u>
<b>Mark &amp; Sandra Plenge Trust</b>	
Capital Contribution	156,355.67
<b>Total Mark &amp; Sandra Plenge Trust</b>	<u>156,355.67</u>
<b>MRE Ventures 1 LLC</b>	
Capital Contribution	156,355.67
<b>Total MRE Ventures 1 LLC</b>	<u>156,355.67</u>
<b>MRJ Investors LLC</b>	
Capital Contribution	781,778.33
<b>Total MRJ Investors LLC</b>	<u>781,778.33</u>
<b>NJ45 Investments</b>	
	167,626.80
<b>Paul &amp; Susan Kempe</b>	
Capital Contribution	390,889.17
<b>Total Paul &amp; Susan Kempe</b>	<u>390,889.17</u>
<b>Peter Chaffetz</b>	
Capital Contribution	39,088.92
<b>Total Peter Chaffetz</b>	<u>39,088.92</u>
<b>Pike Street NW LLC</b>	
Capital Contribution	78,177.83
<b>Total Pike Street NW LLC</b>	<u>78,177.83</u>
<b>Reza Sharifi</b>	
Capital Contribution	156,355.67
<b>Total Reza Sharifi</b>	<u>156,355.67</u>
<b>Rural Route 3 Holdings LP</b>	
	1,563,556.67
<b>Samy Khoury Equity Trst IRA</b>	
Capital Contribution	179,809.02
<b>Total Samy Khoury Equity Trst IRA</b>	<u>179,809.02</u>
<b>Shear 2011 Descendent's Trust</b>	
Capital Contribution	195,444.58
<b>Total Shear 2011 Descendent's Trust</b>	<u>195,444.58</u>
<b>Studebaker&amp; Seifari Family Trst</b>	
Capital Contribution	117,266.75
<b>Total Studebaker&amp; Seifari Family Trst</b>	<u>117,266.75</u>
<b>Sugar Magnolia Ventures LLC</b>	
Capital Contribution	781,778.33
<b>Total Sugar Magnolia Ventures LLC</b>	<u>781,778.33</u>

Timberlane LA Fund I LLC

**Balance Sheet**

As of September 30, 2015

Summit Ave LLC	
Capital Contributions-Summit	78,177.83
Total Summit Ave LLC	<u>78,177.83</u>
Timberlane Holdings LLC	
Capital Contributions	78,177.83
Total Timberlane Holdings LLC	<u>78,177.83</u>
TJR Enterprises	
Capital Contribution	195,444.58
Total TJR Enterprises	<u>195,444.58</u>
Westwrite LLC	
Capital Contribution	781,779.00
Total Westwrite LLC	<u>781,779.00</u>
William Steven Fortney	
Capital Contribution	195,444.58
Total William Steven Fortney	<u>195,444.58</u>
Net Income	<u>-14,713.91</u>
Total Equity	<u>12,450,286.83</u>
TOTAL LIABILITIES & EQUITY	<u><u>31,479,513.83</u></u>

# EXHIBIT 9

---

**From:** registrar-support@google.com  
**Sent:** Thursday, July 13, 2017 2:35 PM  
**To:** pat.deman@gmail.com  
**Subject:** [0-7027000018108] A UDRP complaint has been filed against one or more of your domain names

Hello,

Google Domains was notified that ruralroute3.holdings is being investigated in an administrative proceeding under what is called the "Uniform Domain Name Dispute Resolution Policy." As a result, Google Domains is prohibited from transferring these domain registrations to another registrar. Further, you will not be able to update or change any of your WHOIS information at this time. For the duration of the investigation and for 15 business days afterwards, we have placed these domain registrations under a transfer and administrative lock. If you have elected to have your WHOIS information to remain private, the privacy registration provider may choose to suspend this privacy service during this UDRP complaint and as such your information may be visible in WHOIS.

An agency (known as the "dispute resolution provider") should have contacted you directly with the details of the dispute and the investigation. You can find more information here: <https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en>

Please contact the dispute resolution provider directly regarding this matter.

Thank you for your patience and understanding.

---

The Google Domains Support Team

# EXHIBIT 10



# Registry of Corporations and Entities

## Corporations and Entities

- [Search](#)
- [Create / Authorize](#)
- [Amend](#)
- [Dissolve / Withdraw](#)
- [Convert](#)
- [Merge / Consolidate](#)
- [Restore](#)
- [Reserve Name](#)

## Corporations Search



Specify search criteria then click the Search button.

Standard Search

Register Number

Equals

Corporation Name

All Words

Rural Route 3 Holdings

Results limited to 250 records

## Annual Filings

- [2016 Annual Report](#)
- [2016 LLC Fees](#)
- [LLP Renewal](#)
- [Prior Years](#)

## Corporation Search Results

Search Criteria: Corporation Name All Words Rural Route 3 Holdings, All Entities

7/23/2017, 8:06:25 AM

Records Found: 0


## Certificates

- [Order Good Standing](#)
- [Order Existence](#)
- [Validate](#)

Cannot find corporation.

# EXHIBIT 11

## Employee List

New Employee/Contractor? 

### SALARY EMPLOYEES

MAANA, JEFF	wxjeff	Reset	Full Time	08/01/2013	Paper check on 12/31/2014
-------------	--------	-------	-----------	------------	---------------------------

### 1099 CONTRACTOR

CONSULTING LLC, JAYSHA WEATHER	wxjeff100	Reset	1099 Contractor	03/01/2012	Direct deposit on 12/31/2014
DESAI, VAISHALI	vaishalidesai	Reset	1099 Contractor	06/01/2013	Direct deposit on 04/30/2014
INVESTMENTS LP, SCHMIDL	schmidl1	Reset	1099 Contractor	09/06/2012	Paper check on 12/31/2014
SARVER, PAUL	8e02g	Reset	1099 Contractor	04/17/2013	Paper check on 12/31/2014
TRADING INC, VORTEX ENERGY	mdg197	Reset	1099 Contractor	01/01/2012	Paper check on 12/31/2014

### TERMINATED

ALLEN, WILLIAM	caiten6498	Reset	1099 Contractor	02/04/2013	Paper check on 12/05/2012
BENCHLUCH, MOISES	sbenchluch	Reset	1099 Contractor	02/29/2012	Direct deposit on 02/29/2012
DE MAN, PATRICK	deman	Reset	Full Time		Direct deposit on 07/02/2013
HORNSBY, LINDSAY	h71k31	Reset	Full Time		Paper check on 09/06/2013
KELLY, SEAN	rbfeo3	Reset	1099 Contractor	02/04/2013	Paper check on 07/31/2012
PALANS, BRIAN	ke1krv	Reset	1099 Contractor		Direct deposit on 02/28/2013
PAN, LINXUE	yl168888	Reset	Full Time	02/29/2012	Direct deposit on 02/29/2012
TRUEDDELL, KEN	KTruesdell	Reset	Full Time		Paper check on 04/30/2013
WOSTAWAT, WILLIAM ADAM	q45w41	Reset	1099 Contractor	02/04/2013	Direct deposit on 10/02/2012



# EXHIBIT 12

CIVIL CASE INFORMATION SHEET (REV. 2/13)

9/6/2016 4:03:46 PM  
 Chris Daniel - District Clerk  
 Harris County  
 Envelope No: 12504423  
 By: OVALLE, MONICA  
 Filed: 9/6/2016 4:03:46 PM

CAUSE NUMBER (FOR CLERK USE ONLY):

COURT (FOR CLERK USE ONLY):

2016-59771 / Court: 125

STYLED Aspire Commodities, LP and Raiden Commodities, LP v. Patrick de Man

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>I. Contact information for person completing case information sheet:</b>		<b>Names of parties in case:</b>	<b>Person or entity completing sheet is:</b>
Name: <u>Kevin D. Mohr</u>	Email: <u>kmohr@kslaw.com</u>	Plaintiff(s)/Petitioner(s): <u>Aspire Commodities, LP and</u>	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner
Address: <u>1100 Louisiana, Ste. 4000</u>	Telephone: <u>(713) 751-3200</u>	<u>Raiden Commodities, LP</u>	<input type="checkbox"/> Pro Se Plaintiff/Petitioner
City/State/Zip: <u>Houston, TX 77002</u>	Fax: <u>(713) 751-3290</u>	Defendant(s)/Respondent(s): <u>Patrick de Man</u>	<input type="checkbox"/> Title IV-D Agency
Signature: <u>/s/ Kevin D. Mohr</u>	State Bar No: <u>24002623</u>		<input type="checkbox"/> Other: _____
			Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____
[Attach additional page as necessary to list all parties]			

**2. Indicate case type, or identify the most important issue in the case (select only 1):**

Civil		Family Law		
<b>Contract</b>	<b>Injury or Damage</b>	<b>Real Property</b>	<b>Marriage Relationship</b>	<b>Post-judgment Actions (non-Title IV-D)</b>
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input checked="" type="checkbox"/> Other Debt/Contract: <u>Partnership Agreement</u> <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other <b>Title IV-D</b> <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order <b>Parent-Child Relationship</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____
<b>Employment</b>	<b>Other Civil</b>			
<input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____		
<b>Tax</b>	<b>Probate &amp; Mental Health</b>			
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<i>Probate/Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____	

**3. Indicate procedure or remedy, if applicable (may select more than 1):**

<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action	<input checked="" type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input checked="" type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
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**4. Indicate damages sought (do not select if it is a family law case):**

Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees  
 Less than \$100,000 and non-monetary relief  
 Over \$100,000 but not more than \$200,000  
 Over \$200,000 but not more than \$1,000,000  
 Over \$1,000,000

CAUSE NO. 2016-59771

RAIDEN COMMODITIES, LP, &  
ASPIRE COMMODITIES, LP,

Plaintiffs,

vs.

PATRICK DE MAN,

Defendant.

§  
§  
§  
§  
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§

IN THE DISTRICT COURT

OF HARRIS COUNTY, TEXAS

125TH JUDICIAL DISTRICT

**ORDER**

Having considered the pleadings and arguments of counsel, the Court concludes that it lacks personal jurisdiction over Plaintiffs' claims against Defendant Patrick de Man. Defendant's special appearance is GRANTED, and this case is dismissed without prejudice.

Signed this the \_\_\_\_\_ day of \_\_\_\_\_, 2017

Signed:  
3/7/2017



\_\_\_\_\_  
JUDGE PRESIDING



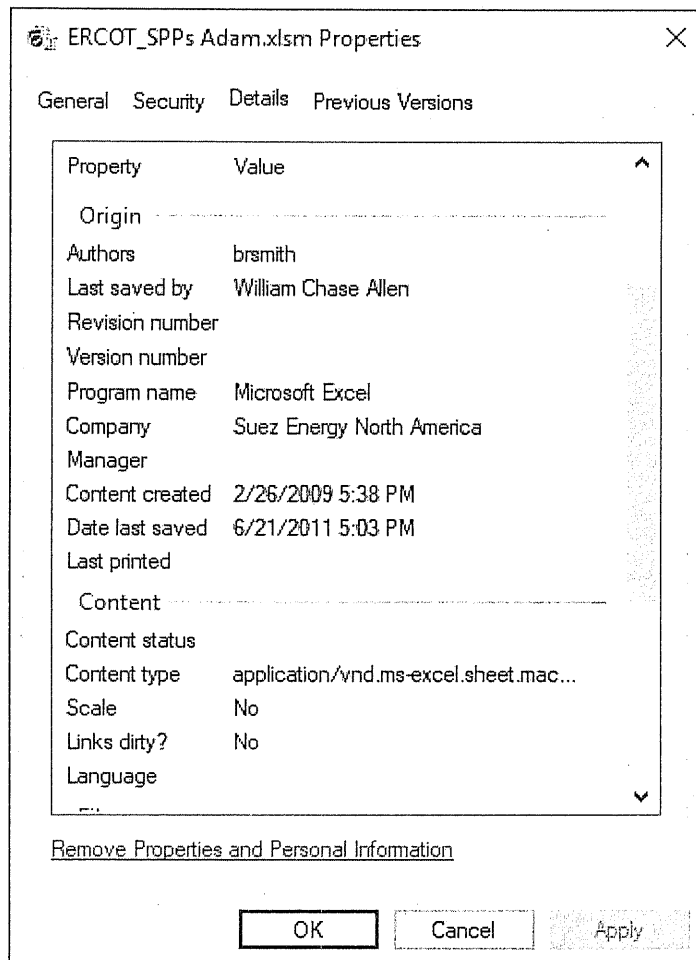
I, Chris Daniel, District Clerk of Harris County, Texas certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date.  
Witness my official hand and seal of office this March 9, 2017

Certified Document Number: 74137763 Total Pages: 1

Chris Daniel, DISTRICT CLERK  
HARRIS COUNTY, TEXAS

**In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail [support@hcdistrictclerk.com](mailto:support@hcdistrictclerk.com)**

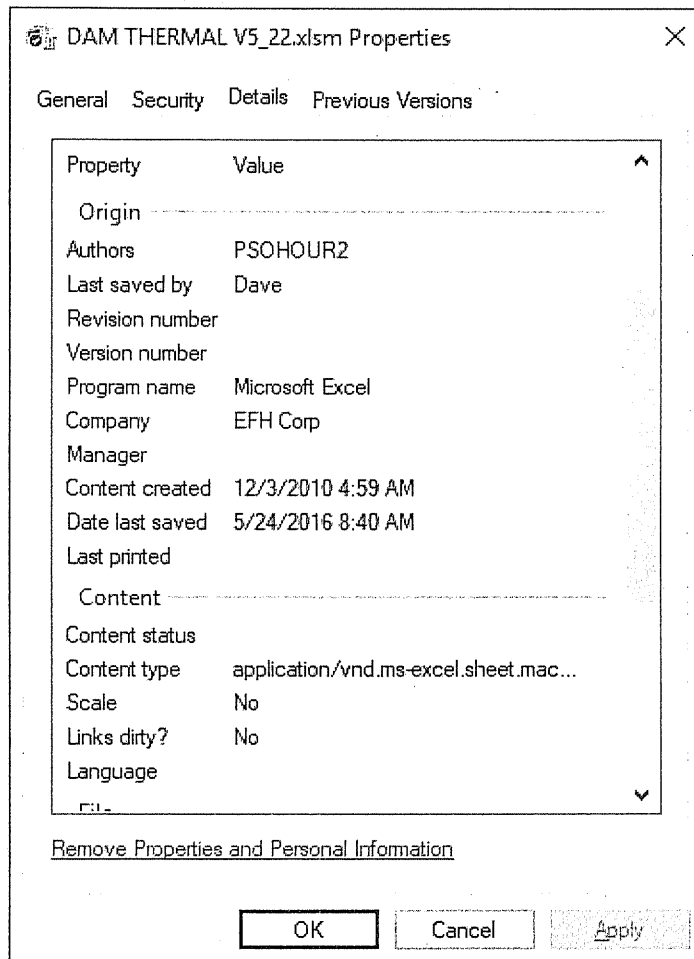
# EXHIBIT 13



**This file is intellectual property of “Suez Energy North America,” currently known as “Engie North America,” and is located on the “Dropbox for Business” account registered to Aspire LP.**

**The person who last saved this file is “William Chase Allen”, who was an employee of Suez prior to becoming an independent contractor for Aspire LP in 2011 (See Exhibit 11).**

# EXHIBIT 14



**This file is intellectual property of “Energy Future Holdings Corp.,” the parent company of Luminant, and is located on the “Dropbox for Business” account registered to Aspire LP.**

**The person who last saved this file is “Dave” Schmidli, who was an employee of Luminant prior to becoming an independent contractor for Aspire LP in 2012 (See Exhibit 11).**



# EXHIBIT 15

SMS text messages from Dave Schmidli to Patrick de Man.

D

If you are going to Sabanera today can you do me a huge favor? I have a notebook that's black on my desk with passwords. My prt went down and I'm praying it didn't expire. It's very difficult to trade without that for me

Dave Schmidli (mobile) • Oct 21, 2014

D

This prt being down is like u losing lit. I'm scrambling looking for a password. I told Adam take it out of my pnl but he said it's a shit program

Dave Schmidli (mobile) • Oct 21, 2014

# EXHIBIT 16

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**From:** Adam Sinn <asinn@aspirecommodities.com>  
**Sent:** Thursday, January 28, 2016 3:17 PM  
**To:** pdeman@aspirecommodities.com; dschmidli@aspirecommodities.com; 'Brian Tyson'; Jay Viswanathan  
**Subject:** RE:

Computer description: ASPIRE\_HOME\_TX

**From:** Adam Sinn [mailto:asinn@aspirecommodities.com]  
**Sent:** Thursday, January 28, 2016 1:15 PM  
**To:** pdeman@aspirecommodities.com; dschmidli@aspirecommodities.com; 'Brian Tyson' <btyson@aspirecommodities.com>; Jay Viswanathan <jviswanathan@aspirecommodities.com>  
**Subject:**

New password is 123456789 on GS computer

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

RURAL ROUTE 3 HOLDINGS, L.P.,

Plaintiff,

v.

PATRICK A.P. DE MAN,

Defendant.

Case No.: 3:17-cv-01948

**JOINT MOTION SUBMITTING SETTLEMENT AGREEMENT IN  
COMPLIANCE WITH COURT ORDER (DOCKET NO. 31)**

TO THE HONORABLE COURT:

COME NOW Plaintiff Rural Route 3 Holdings, L.P. ("RR3") and Patrick A. P. de Man ("Mr. de Man") (RR3 and Mr. de Man are jointly referred to as the "Parties"), through their respective undersigned legal counsel, and, in compliance with this Honorable Court's *Order* (Docket No. 31), respectfully submit the *Settlement Agreement* hereby attached as **Exhibit I**. Also, the Parties respectfully request that this Honorable Court enter Judgment pursuant to the terms and conditions of the aforementioned *Settlement Agreement*.

**WHEREFORE**, Rural Route 3 Holdings, L.P. and Patrick A. P. de Man respectfully request that the Honorable Court (1) take note of the foregoing, (2) deem that the Parties have complied with its *Order* at Docket No. 31, and (3) enter Judgment as per the terms and conditions of the *Settlement Agreement* hereby attached.

RESPECTFULLY SUBMITTED

In San Juan, Puerto Rico, this 25<sup>th</sup> day of August, 2017.

**O'NEILL & BORGES LLC**

*Attorneys for Plaintiff*

250 Muñoz Rivera Avenue, Suite 800

San Juan, PR 00918-1813

Tel: (787) 764-8181

Fax: (787) 753-8944

By: s/ Alfredo F. Ramírez-Macdonald

Alfredo F. Ramírez-Macdonald

USDC No. 205208

E-mail: alfredo.ramirez@oneillborges.com

By: s/ Ana Margarita Rodríguez-Rivera

Ana Margarita Rodríguez-Rivera

USDC No. 227503

E-mail: ana.rodriguez@oneillborges.com

By: s/ Arturo L.B. Hernández-González

Arturo L.B. Hernández-González

USDC No. 304601

E-mail: arturo.hernandez@oneillborges.com

and

**BARNES & THORNBURG LLP**

*Attorneys for Plaintiff*

11 South Meridian Street

Indianapolis, IN 46204-3535

Tel: (317) 231-7748

Fax: (317) 231-7433

By: s/ T. Joseph Wendt

T. Joseph Wendt

E-mail: Joseph.Wendt@btlaw.com

**FERRAIUOLI LLC**

*Attorneys for Defendant*

221 Plaza 5<sup>th</sup> Floor

221 Ponce de Leon Avenue

San Juan, PR 00917

Tel: (787) 766-7000

Fax: (787) 766-7001

By: s/ Cristina Arenas Solís

Cristina Arenas Solís

USDC No. 223511

E-mail: [carenas@ferraiuoli.com](mailto:carenas@ferraiuoli.com)

### SETTLEMENT AGREEMENT

This Settlement Agreement (the "Agreement") is made as of this 25<sup>th</sup> day of August, 2017, by and between:

AS PARTY OF THE FIRST PART: Rural Route 3 Holdings LP ("RR3"), a Texas limited partnership, represented by its authorized representative, Adam C. Sinn.

AS PARTY OF THE SECOND PART: Mr. Patrick de Man ("Mr. de Man"), a resident of Dorado, Puerto Rico, in his individual capacity and as authorized representative of Rural Route 3 Holdings LLC.

RR3, Mr. de Man and Rural Route 3 Holdings LLC are collectively referred to in this Agreement as the "Parties".

### PRELIMINARY STATEMENTS

**WHEREAS**, on July 11, 2017, RR3 filed a Complaint against Mr. de Man in the United States District Court for the District of Puerto Rico, captioned Rural Route 3 Holdings, L.P. v. Patrick A.P. de Man, Case No. 17-01948 (JAG) (the "Civil Proceeding"), which complaint was later amended (the "Complaint").

**WHEREAS**, RR3 also filed an Application for a Temporary Restraining Order and Preliminary Injunction (the "Application for Injunctive Relief").

**WHEREAS**, on August 10, 2017, the Court granted RR3's requested temporary restraining order (the "Order").

**WHEREAS**, on July 11, 2017, RR3 filed a Complaint, which was later amended, (the "UDRP Complaint") against Mr. de Man before the National Arbitration Forum in accordance with the Uniform Domain Name Dispute Resolution Policy ("UDRP") adopted by the Internet Corporation for Assigned Names and Numbers in the proceeding captioned Rural Route 3 Holdings, L.P. v. Patrick de Man, File Number FA1707001739477 (the "UDRP Proceeding"), demanding that the registrations of the domain name "ruralroute3.holdings" (the "Disputed Domain Name") be transferred to RR3.

**WHEREAS**, on August 14<sup>th</sup>, 2017, Mr. de Man filed his Response to the UDRP Complaint.

**WHEREAS**, it is the desire of the Parties to resolve their disputes in the Civil Proceeding and the UDRP Proceeding.

**NOW THEREFORE**, in consideration of the foregoing premises and the mutual covenants contained in this Agreement, the Parties agree as follows:



CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE  
Page -2-

1. The Parties agree that the above paragraphs are part of this Agreement and are not merely recitals.

2. Within 5 days of executing this Agreement, the Parties will submit a Settlement Agreement form in the UDRP Proceeding, where Mr. de Man shall transfer the Disputed Domain Name to RR3 and the UDRP Proceeding will be dismissed with prejudice.

3. Mr. de Man shall change the name of Rural Route 3 Holdings, LLC to a name that is not confusingly similar to Rural Route 3 Holdings, L.P. or to any of the company names listed below, within seven (7) days of the execution of this Agreement. Rural Route 3 Holdings, L.P. must approve the name change, which approval will not be unreasonably withheld. Mr. de Man may also have the option of cancelling the existence of Rural Route 3 Holdings, LLC.

3S Real Estate Investments, LLC  
Aspire Capital Management, LLC  
Gonemaroon Living Trust  
Rural Route 3 Management, LLC  
Sinn Gift Trust  
Aspire Commodities 1, LLC  
Aspire Commodities, LP  
Poseidon Commodities, LLC  
XS Capital Management, LLC  
XS Capital Investments, LP  
Maroon Services, Inc

4. The Parties agree to facilitate and complete the transfer of the Disputed Domain Name to RR3, after which the UDRP proceeding will be dismissed with prejudice.

5. Mr. de Man agrees that, now and in the future, he will not directly or indirectly own, and shall not purchase, control, register, seek to register any business names, domain names, trademarks, social media handles, advertising keywords, or other digital assets that incorporate, reference or use (1) the terms RURAL ROUTE, RURAL ROUTE 3, RURAL ROUTE 3 HOLDINGS, or any similar variations thereof; (2) the names of the companies listed in paragraph 3 above, any variations or components of those company names, or any similar variations thereof; or (3) the name Adam Sinn, or any components or variations of that name. Furthermore, Mr. de Man shall not assist or induce any other party, except for RR3, in doing the same.

6. Within two (2) days of receipt of notification of the domain name transfer described in paragraph 2 above and a satisfactory name change as described in paragraph 3 above, RR3 will dismiss the Civil Proceeding with prejudice.

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

Page -3-

7. Mr. de Man will assume all the fees and expenses required to carry out the domain name transfer and name change provided in this Agreement.

8. All the appearing Parties hereby represent and warrant to each other that: (a) they are duly authorized to sign and have the actual authority to enter into and perform this Agreement; (b) they have read and understand fully all of the terms and provisions of this Agreement; and (c) they have consulted with counsel of their choice during the negotiation of and before signing this Agreement.

9. Neither this Agreement nor any proceedings in connection herewith are, or shall in any way be, construed or invoked as an admission of any liability or wrongdoing by any of the Parties hereto or of any of the allegations made in the Civil Proceeding or in the UDRP Proceeding, and thus neither this Agreement nor any of its terms shall be offered or received into evidence as anything other than the terms of the Agreement settling the disputes among and between the Parties.

10. In case any one or more of the provisions contained in this Agreement should be declared invalid, unlawful or unenforceable in any respect whatsoever by a court or other forum with competent jurisdiction over the Parties hereto and the subject matter hereof, the validity, legality and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.

11. This Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matters referenced herein, and may not be amended, renounced, altered, modified or revoked except in a subsequent writing signed by all of the Parties to this Agreement.

12. This Agreement was achieved through the negotiation of each term and provision, and no term or provision of this Agreement shall be construed against any of the Parties based on a contention or argument that said party or its counsel drafted such term or provision.

13. No failure of any of the Parties to exercise any right or to insist upon strict compliance by the other party with any obligation and no custom or practice of the Parties in variance with this Agreement shall constitute a waiver of the right of a party to demand exact compliance. Moreover, waiver by one party of any particular default by the other party shall not affect or impair a party's rights with respect to any subsequent default or one of a different nature, nor shall any delay or omission of a party to exercise any rights arising from such default affect or impair the rights of that party as to such default or any subsequent default.

14. If Mr. de Man breaches any provision of this Agreement, he shall be responsible for all fees, including reasonable attorneys' fees, incurred as a result of that breach.

15. This Agreement is subject to, and must be interpreted according to, the laws of the Commonwealth of Puerto Rico.

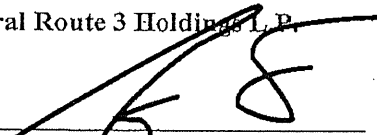
CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE

Page -4-

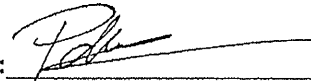
16. This Agreement may be executed in multiple counterparts and each of said counterparts, once so executed and delivered, shall be deemed an original and taken together shall constitute but one and the same instrument. Electronic signatures shall be as valid as original signatures.

IN WITNESS WHEREOF, the appearing Parties hereto have caused this Agreement to be executed by their duly authorized representatives, to be effective as of the date set forth on the first page of this Agreement.

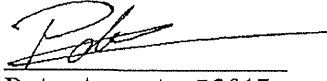
Rural Route 3 Holdings L.P.

By:   
Name: Adam Sinn  
Position: President  
Date: August 25, 2017

Rural Route 3 Holdings LLC

By:   
Name: Patrick de Man  
Position:  
Date: August 25, 2017

Patrick de Man

  
Date: August 25, 2017

Affidavit No. \_\_\_\_\_

Acknowledged and subscribed before me on August \_\_, 2017, in \_\_\_\_\_, Puerto Rico, by Patrick A.P. de Man, of legal age, married, and resident of Dorado, Puerto Rico, in his personal capacity and as authorized representative of Rural Route 3 Holdings LLC, who I identify through his driver's license number \_\_\_\_\_, issued by the Commonwealth of Puerto Rico,

\_\_\_\_\_  
Notary Public

CONFIDENTIAL SETTLEMENT AGREEMENT AND GENERAL RELEASE  
Page -5-

Affidavit No. \_\_\_\_\_

Acknowledged and subscribed before me on August \_\_, 2017, in \_\_\_\_\_, Puerto Rico, by Adam C. Sinn, of legal age, single, and resident of Dorado, Puerto Rico, as an authorized representative of Rural Route 3 Holdings, L.P., who I identify through

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Notary Public