

CAUSE NO. 2016-59771

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

**PLAINTIFFS' PROPOSED ALTERNATIVE  
AND SUPPLEMENTAL FINDINGS OF FACT**

As directed by the Court at the status conference conducted telephonically on April 20, 2017, and having reviewed the Defendant's Proposed Findings of Facts and Conclusions of Law, the Plaintiffs submit the following proposed alternative and supplemental findings of fact. Plaintiffs reserve all objections to the Defendant's Proposed Findings of Fact and Conclusions of Law.

**FINDINGS OF FACT**

1. Patrick de Man ("De Man") lives in Dorado, Puerto Rico.<sup>1</sup> At all times material to this case he was a citizen of the Netherlands.<sup>2</sup>

2. During 2008, the Defendant worked at Lehman Brothers in Houston under the supervision of Adam Sinn ("Sinn").<sup>3</sup> After the Lehman Brothers bankruptcy in September 2008, De Man moved from Houston, Texas to New York City, New York, and he lived there until 2010.<sup>4</sup>

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<sup>1</sup> De Man Declaration ¶ 1.

<sup>2</sup> First Sinn Declaration ¶ 6; Second Sinn Declaration ¶ 8.

<sup>3</sup> First Sinn Declaration ¶ 6; Second Sinn Declaration ¶ 4.

<sup>4</sup> De Man Declaration ¶ 13; First Sinn Declaration ¶ 6; Second Sinn Declaration ¶ 4.

3. In October 2009, De Man accepted a job offer with Sempra Energy Trading LLC in Stamford, Connecticut.<sup>5</sup> Sinn helped him obtain that job and encouraged him to learn a different trading strategy that he might one day use while working with Sinn.<sup>6</sup>

4. From 2010 to 2013, De Man lived in Stamford, Connecticut.<sup>7</sup>

5. De Man moved to Puerto Rico in 2013, and he has lived there ever since.<sup>8</sup>

6. De Man has not lived in Texas since September 2008.

7. In 2009, Adam Sinn (“Sinn”) approached De Man about the possibility of working with one of the trading companies affiliated with Sinn<sup>9</sup> located in Houston, Texas.<sup>10</sup>

8. During the entire time that Sinn was having those discussions with De Man, De Man lived in New York or Connecticut, and De Man never set foot in Texas.<sup>11</sup>

9. In 2009 and 2010, Sinn met with De Man in New York on at least five occasions for personal reasons and on these personal trips, discussed the possibility of a working relationship.<sup>12</sup> Sinn and De Man primarily discussed the possibility of a working relationship, and the structure and terms of that relationship, by email or telephone between Sinn in Texas and De Man in New York/Connecticut.<sup>13</sup>

10. At the time of those meetings, De Man felt that he had a job at a well-established and reputable institution, Sempra, and the thought of leaving that job to work with a Sinn-

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<sup>5</sup> *Id.*

<sup>6</sup> First Sinn Declaration ¶ 6; Second Sinn Declaration ¶ 4.

<sup>7</sup> De Man Declaration ¶¶ 13, 18.

<sup>8</sup> De Man Declaration ¶ 18.

<sup>9</sup> De Man Declaration ¶ 14.

<sup>10</sup> First Sinn Declaration ¶ 4.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*; Second Sinn Declaration ¶ 4.

<sup>13</sup> First Sinn Declaration ¶ 8; Second Sinn Declaration ¶ 4.

affiliated company seemed risky to him.<sup>14</sup> De Man's wife had recently given birth to his son, and Sinn sought to persuade De Man to take the risk of working with him.<sup>15</sup>

11. But in late 2010 Sempra's financial situation worsened and De Man contacted Sinn to accelerate their discussions about working together.<sup>16</sup> Sempra was soon sold to Royal Bank of Scotland, which closed the Samford, CT office less than a year later, but after De Man had left the company to work with Sinn.<sup>17</sup>

12. In April 2011, De Man was hired by Plaintiff Aspire Commodities LP ("Aspire") to work as a commodities trader.<sup>18</sup> Aspire was a Texas limited partnership and its office and personnel were located in Houston.<sup>19</sup> De Man was physically located in Connecticut, as evidenced by numerous employment documents from the State of Connecticut.<sup>20</sup> De Man primarily traded power on the Texas power trading market run by ERCOT, and his job responsibilities were all directed toward Aspire's operations in Texas.<sup>21</sup>

13. In 2013, De Man moved to Puerto Rico, and he was subsequently described as a partner on Schedule K-1 tax forms (IRS Form 1065) for Plaintiffs Raiden Commodities LP ("Raiden") and Aspire Commodities LP.<sup>22</sup>

14. All of the trading in which De Man engaged in on behalf of Raiden and Aspire

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<sup>14</sup> De Man Declaration ¶ 15.

<sup>15</sup> *Id.*

<sup>16</sup> Second Sinn Declaration ¶¶ 6-7 and Exhibit C-1.

<sup>17</sup> *Id.* ¶ 7.

<sup>18</sup> First Sinn Declaration ¶ 14.

<sup>19</sup> First Sinn Declaration ¶¶ 4, 10, 15.

<sup>20</sup> De Man Declaration ¶ 17 and Exhibits 20–25.

<sup>21</sup> Second Sinn Declaration ¶ 7; First Sinn Declaration ¶¶ 5, 14-15.

<sup>22</sup> De Man Declaration at Exhibits 2, 3, and 9.

was executed from outside of Texas.<sup>23</sup> But the majority of that trading was conducted on the Texas power market.<sup>24</sup> And De Man worked out of the Houston office on several occasions.<sup>25</sup>

15. While Raiden's principle place of business was Houston, TX from its inception in 2011 until Sinn moved his personal residence to Puerto Rico in 2013,<sup>26</sup> Raiden was originally incorporated in the Virgin Islands, and it was incorporated there at all times prior to and including the date on which this lawsuit was filed.<sup>27</sup>

16. The Schedule K-1 tax forms provided by Raiden to Sinn and De Man show that Raiden was a Virgin Islands partnership at all times prior to and including the date on which this lawsuit was filed and was located in Puerto Rico since 2013.<sup>28</sup>

17. The Schedule K-1 tax forms provided by Aspire to Sinn and De Man show that Aspire is located in Puerto Rico,<sup>29</sup> though Aspire is and has always been a Texas limited partnership and had its principle place of business in Houston, TX from its inception until Sinn moved his personal residence to Puerto Rico in 2013.<sup>30</sup>

18. Even after the move to Puerto Rico, many of Aspire's and Raiden's administrative functions, such as payroll, legal, and human resources, were and still are

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<sup>23</sup> De Man Declaration ¶ 16.

<sup>24</sup> First Sinn Declaration ¶ 5; Second Sinn Declaration ¶ 7.

<sup>25</sup> Second Sinn Declaration ¶ 11.

<sup>26</sup> First Sinn Declaration ¶¶ 4, 13.

<sup>27</sup> De Man Declaration ¶ 6 and Exhibits 10 and 11.

<sup>28</sup> De Man Declaration at Exhibits 2, 9, and 12.

<sup>29</sup> De Man Declaration ¶ 7 at Exhibits 3 and 12.

<sup>30</sup> First Sinn Declaration ¶ 4. Aspire was initially formed as Aspire Capital Management LLC in 2009 and subsequently reformed as Aspire Commodities, LP, one of the Plaintiffs in this case. *Id.*

conducted from Houston.<sup>31</sup>

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

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JUDGE PRESIDING

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<sup>31</sup> First Sinn Declaration ¶ 16.

Respectfully submitted,

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**CERTIFICATE OF FILING AND SERVICE**

I hereby certify that, on this 21st day of April, 2017 a true and correct copy of the foregoing has been served upon counsel of record of all parties to the trial court proceeding using the Court's electronic case filing system, addressed as follows:

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