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May 12, 2014

Via Facsimile: (713) 739-8403

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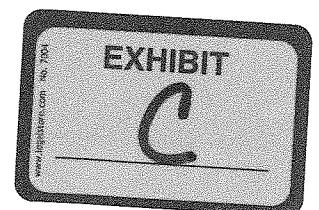
Re: Cause No. 2013-59098; *XS Capital Investments, LP, et al vs. Orca ICI Development JV, et al*; In the 234th Judicial District Court of Harris County, Texas

Gentlemen:

I write this letter to address some outstanding information due to Orca by your clients. In January, Plaintiffs were served with Orca Defendants' First Set of Interrogatories, Requests for Production, and Requests for Rule 194 Disclosures, in accordance with the Texas Rules of Civil Procedure. Although we received Plaintiffs' Objections and Responses to the Discovery Requests, a review of these responses noted several deficiencies. In addition, Plaintiffs have simply failed to respond to Orca's Requests for Disclosures in any fashion, even though the deadline to respond was three months ago. Further, Rule 47 of the Texas Rules of Civil Procedure necessitates that Plaintiffs amend their pleadings "so as to specify the maximum amount claimed." To date, half a year later, no such amendment has been made. Please accept this letter as a formal request to address these deficiencies and provide the required information. Specifically, your deficiencies are as follows:

First, although Orca is entitled to and requests all of the information due under Rule 194, it specifically requests that Plaintiffs address 194.2(d) on the amount claimed and any method of calculating economic damages. Please identify the amount of damages you are seeking, your method for calculation, and identify the amount associated with each category of damages, including:

- i. general compensatory damages incurred directly from the alleged breach of any contract;
- ii. special or consequential damages arising from the alleged breach of contract;
- iii. incidental damages;
- iv. punitive damages;
- v. exemplary damages; any



vi. any claim for loss of profits.

If there are any additional categories not included on the above list, please identify and detail the amount of damages sought by Plaintiffs in those additional categories of damages.

Second, even though information concerning damages should have been disclosed pursuant to Rule 194, Orca Defendants served discovery specifically exploring this very topic. For example, in Orca Defendants' Interrogatory No. 2 Plaintiffs were directed to detail which breaches of the provisions identified in Interrogatory 1 led to the injury or injuries suffered by Plaintiffs. This Interrogatory could not be more direct and more narrowly tailored to the core of this case. Further, it requires no marshaling of evidence, simply that Plaintiffs state their alleged injuries and from what source those injuries stemmed; there is no requirement for Plaintiffs to prove or establish any evidence of the identified injuries. Thus, the erroneous and baseless objections should be withdrawn and the Interrogatory properly answered. Instead, Plaintiffs merely quote their Petition, exclaiming that "Defendants' wrongful actions" caused Plaintiffs' injury, but fail to specify which of the twelve alleged contractual breach(es) (if any) caused the injury. Throughout the discovery requests, no delineation of damages is made between the various causes of action brought by Plaintiffs—it appears that Plaintiffs are alleging that all their causes of action (none of which were plead in the alternative), which include breach of contract, civil conspiracy (with no underlying tort), and the (non-existent) quasi estoppel claim, despite requiring vastly different elements, all led to the same economic injury.

Third, although your discovery responses state that Plaintiffs will calculate the final amount of damages suffered, no update of any kind has been provided in the two months since Plaintiffs sent their responses.

Orca Defendants request that the deficiencies in Plaintiffs' Discovery Responses be remedied, and of course, that any documents supporting either your amended or updated responses be produced, as specifically requested by Orca Defendants.

Fourth, Plaintiffs have not acted in accordance with Rule 47 of the Texas Rules of Civil Procedure, as they have failed to adequately respond to Orca Defendants' November 7, 2013 Special Exceptions and amend their pleadings specifying the maximum amount claimed. On November 20, 2013, in the attached correspondence, you stated that "I am not able to plead a maximum amount claimed at this point, but will do so in due course." The next day, our office responded, "[w]ith respect to pleading a maximum amount claimed, I trust you will not delay in so doing." Now, half a year later, no amendments have been made, and further, Plaintiffs have evaded any commitment to any monetary amount of damages, either through their pleadings, disclosures, or discovery requests. If Plaintiffs are unable to state, of all things, the maximum amount they seek to recover, then Plaintiffs should reconsider the basis for their lawsuit.

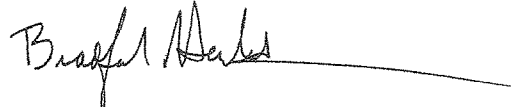
Finally, on April 25, 2014, Plaintiffs served their First Set of Request for Production to Orca Defendants. However, as Plaintiffs' pleadings do not conform to Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiffs "may not conduct discovery until [your] pleading is amended to comply." Consequently, both your Request for Production to the Orca Defendants and Deposition by Written Questions to Citigroup Energy, Inc. are invalid and thereby moot. Please

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let us know when we can expect your pleadings to be amended so that we can calculate our response deadline.

If you have any questions, please do not hesitate to contact me.

Respectfully,



Bradford Hendrickson

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