

ADAM SINN - April 08, 2015

<p style="text-align: right;">Page 1</p> <p>1 CAUSE NO. 2014-40964</p> <p>2 ERIC TORRES, ADAM SINN, * IN THE DISTRICT COURT OF</p> <p>3 XS CAPITAL MANAGEMENT, * L.P., and ASPIRE * 4 COMMODITIES, L.P., * 5 Plaintiffs * 6 v. * HARRIS COUNTY, TEXAS * 7 CRAIG TAYLOR and ATLAS * 8 COMMODITIES, L.L.C., * 9 Defendants * 157TH JUDICIAL DISTRICT</p> <p>10 *****</p> <p>11 ORAL AND VIDEOTAPED DEPOSITION OF</p> <p>12 ADAM SINN</p> <p>13 APRIL 8, 2015</p> <p>14 *****</p> <p>15 ORAL AND VIDEOTAPED DEPOSITION of ADAM SINN,</p> <p>16 produced as a witness at the instance of the</p> <p>17 Defendants, and duly sworn, was taken in the</p> <p>18 above-styled and numbered cause on the 8th day of</p> <p>19 April, 2015, from 8:43 a.m. to 11:16 a.m., before me,</p> <p>20 Jodi Wells, CSR, in and for the State of Texas,</p> <p>21 reported by machine shorthand, at the offices of</p> <p>22 Rapp & Krock, PC, 3050 Post Oak Boulevard, Suite 1425,</p> <p>23 Houston, Texas 77056, pursuant to the Texas Rules of</p> <p>24 Civil Procedure and the provisions stated on the record</p> <p>25 attached hereto.</p> <p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2</p> <p>3 FOR THE PLAINTIFFS:</p> <p>4 Mr. Matthew M. Buschi</p> <p>5 Ms. Terri S. Morgan</p> <p>6 Rapp & Krock, PC</p> <p>7 3050 Post Oak Boulevard, Suite 1425</p> <p>8 Houston, Texas 77056</p> <p>9 Telephone: 713-759-9977</p> <p>10 Facsimile: 713-759-9967</p> <p>11 Email: Mbuschi@rk-lawfirm.com</p> <p>12 Email: Tmorgan@rk-lawfirm.com</p> <p>13</p> <p>14 FOR THE DEFENDANTS:</p> <p>15 Mr. Geoffrey Berg</p> <p>16 Berg Feldman Johnson Bell, LLP</p> <p>17 4203 Montrose Boulevard, Suite 150</p> <p>18 Houston, Texas 77006</p> <p>19 Telephone: 713-526-0200</p> <p>20 Facsimile: 832-615-2665</p> <p>21 Email: Gberg@bfjblaw.com</p> <p>22</p> <p>23 ALSO PRESENT:</p> <p>24 Mr. Craig Taylor</p> <p>25 Mr. Terry Harrison, Videographer</p>	<p style="text-align: right;">Page 3</p> <p>1 EXAMINATION INDEX</p> <p>2 WITNESS: ADAM SINN</p> <p>3 EXAMINATION PAGE</p> <p>4 BY MR. BERG 4</p> <p>5 SIGNATURE PAGE 102</p> <p>6 REPORTER'S CERTIFICATION 104</p> <p>7</p> <p>8 EXHIBIT INDEX</p> <p>9 EXHIBIT NO. 1 PAGE</p> <p>10 Copy of text message dated December 21, 25 11 2013 and December 31, 2014</p> <p>12 EXHIBIT NO. 2 33</p> <p>13 Settlement Agreement</p> <p>14 EXHIBIT NO. 3 39</p> <p>15 Photograph</p> <p>16 EXHIBIT NO. 4 58</p> <p>17 Mobile Phone Examiner Plus Report</p> <p>18 MMS (1323 of 2658)</p> <p>19 EXHIBIT NO. 5 88</p> <p>20 Agreed Confidentiality and Protective Order</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: right;">Page 4</p> <p>1 THE VIDEOGRAPHER: Good morning. Today</p> <p>2 is April the 8th, 2015. We're on the record at 8:43.</p> <p>3 ADAM SINN,</p> <p>4 having been duly sworn, testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. BERG:</p> <p>7 Q. Good morning.</p> <p>8 A. Good morning.</p> <p>9 Q. Could you state your name for the record,</p> <p>10 please?</p> <p>11 A. Adam Sinn.</p> <p>12 Q. Mr. Sinn, have you given a deposition before?</p> <p>13 A. I have.</p> <p>14 Q. Okay. How many times?</p> <p>15 A. Just once.</p> <p>16 Q. In which case?</p> <p>17 A. A case involving work -- or an oil well</p> <p>18 dispute.</p> <p>19 Q. Okay. When was that?</p> <p>20 A. Last fall.</p> <p>21 Q. What was the caption of the case? Who were the</p> <p>22 parties?</p> <p>23 A. A company called Orca and a company called</p> <p>24 Matador and then myself.</p> <p>25 Q. Are you a plaintiff or a defendant in that</p>
---	--



ADAM SINN - April 08, 2015

<p style="text-align: right;">Page 21</p> <p>1 any market person. That's the way it's supposed to be 2 fair and equal. 3 Q. Is that -- is that why it's regulated or is 4 that sort of the underlying premise of the regulation? 5 MR. BUSCHI: Object to the form. 6 A. I mean, I think it's the foundation to any 7 market -- 8 Q. (By Mr. Berg) Okay. 9 A. -- any functioning -- well-functioning market 10 is that everyone should have an equal footing no matter 11 how big or small they are. 12 Q. Okay. So, that's how it's supposed to work? 13 A. Yeah. 14 Q. Now, you said you thought there was a way that 15 it actually did work. 16 A. Yeah. I mean, the way I -- the way I -- you 17 know, the way that -- like I just said a second ago, 18 the brokers are only making money when there is a 19 transaction being placed. So, you know, if you're 20 paying, you know, a significant amount of money to said 21 person or broker, like in everything else, money 22 influences people to do certain things. And, so, you 23 know, in our -- in our industry, you know, those -- 24 the -- there's certain relation -- there's certain 25 relationships with -- you know, there are -- what's the</p>	<p style="text-align: right;">Page 23</p> <p>1 did you see Craig Taylor there in December? 2 A. In Dorado? 3 Q. Yeah. 4 THE WITNESS: You? 5 Q. (By Mr. Berg) Craig Taylor, the -- yes, the 6 party in this lawsuit who's sitting right here. 7 A. No. 8 Q. You can't -- you can't ask him a question. 9 A. Oh. Sorry. No. No. 10 Q. Did you think you saw him there? 11 A. No. 12 Q. Okay. Have you ever loaned Eric Torres any 13 money? 14 A. I've invested in Eric Torres. 15 Q. What does that mean? 16 A. That I made a fin -- I made a financial 17 investment in Eric Torres or Eric Torres's business. 18 Q. Which business? 19 A. Titan Commodities. 20 Q. When was that investment made? 21 A. I think in the summer of 2011 or '12 or -- wait 22 a minute. No. Like around -- I'm guessing here, but 23 I'm guessing like September of 2011. 24 Q. Okay. And what was the amount of the 25 investment?</p>
<p style="text-align: right;">Page 22</p> <p>1 best way to say it? 2 There's -- you know, if you're giving financial 3 incentive to someone to get someone done, for example, 4 someone may pay two to three or four times more 5 commission rate -- a higher commission rate than the 6 next person. So, it's going to be in the broker's best 7 interest financially speaking to get that person done 8 because he might get paid two, three, four or five 9 times more than if he gets the other person done on a 10 transaction. 11 Q. Got it. And so -- okay. Well, let's sort of 12 move on. I think I got the picture. 13 I didn't catch the name of the town in Puerto 14 Rico you said you lived in. 15 A. Dorado. 16 Q. Dorado. Can you give your actual address? 17 A. 200 Dorado Beach Drive, Unit 3232, and then 18 it's Dorado 00646. 19 Q. Do you work there? 20 A. Yes. 21 Q. All right. So, you work out of your home? 22 A. That's correct. 23 Q. Trading? 24 A. Yes. 25 Q. All right. And, I mean, just -- did you see --</p>	<p style="text-align: right;">Page 24</p> <p>1 A. It was \$750,000. 2 Q. What was the purpose of the investment? 3 A. He was going to start his own broker shop. 4 Q. What did he use it for? 5 A. He ended up in -- he ended up starting his own 6 broker shop and buying into Atlas Commodities. 7 Q. Wasn't it \$850,000? 8 A. It was -- I think it was a 9 hundred-thousand-dollar loan maybe and a 750,000-dollar 10 investment. I'm not -- I don't remember specifically 11 how it was set up, but I think you're correct. 12 Q. The total was \$850,000? 13 A. Yeah. I think you're correct. Yes. 14 Q. Okay. Has he repaid any of it? 15 A. Some of it has been repaid. 16 Q. How much? 17 A. The -- I think roughly 250,000. 18 Q. Out of 850,000? 19 A. That's correct. 20 Q. So, the remainder remains owed? 21 A. That's correct. 22 Q. With interest? 23 A. I haven't discussed that. 24 Q. Well, have you executed any documents with him 25 that indicates that he owes interest on that money?</p>

ADAM SINN - April 08, 2015

<p style="text-align: right;">Page 33</p> <p>1 MR. BUSCHI: Object to the form.</p> <p>2 Q. (By Mr. Berg) That litigation went on for some</p> <p>3 time and then was settled, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Do you remember the terms of that settlement?</p> <p>6 A. Not -- not the specific terms, no.</p> <p>7 Q. Do you recall that Torres was to return his</p> <p>8 share of Atlas Commodities?</p> <p>9 A. I believe so.</p> <p>10 Q. Do you recall that he had paid \$750,000 to</p> <p>11 Atlas Commodities in exchange for a share of that</p> <p>12 company?</p> <p>13 A. I believe -- I believe that's correct.</p> <p>14 Q. And do you recall that he had told Atlas</p> <p>15 Commodities that money came from him and his wife?</p> <p>16 A. That's what I recall.</p> <p>17 Q. Okay. That was your money, correct?</p> <p>18 A. Correct.</p> <p>19 Q. All right. So, in exchange for the settlement,</p> <p>20 Mr. Torres returned all his interest in Atlas, right?</p> <p>21 A. If I'm recalling properly.</p> <p>22 Q. Here, let me just attach the Settlement</p> <p>23 Agreement. It might make it easier.</p> <p>24 (Exhibit No. 2 marked.)</p> <p>25 Q. All right. I'm going to hand you what I've</p>	<p style="text-align: right;">Page 35</p> <p>1 want to turn to page 2, paragraph three.</p> <p>2 A. Yes. Thanks.</p> <p>3 Q. Sure.</p> <p>4 A. That's correct.</p> <p>5 Q. And there was a structure of that payout,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. The first \$250,000 to be made up front upon</p> <p>9 execution of the Settlement Agreement, correct?</p> <p>10 A. Correct.</p> <p>11 Q. And that payment was made, correct?</p> <p>12 A. Correct.</p> <p>13 Q. And then \$10,000 per month every month</p> <p>14 thereafter until \$250,000, 25 months?</p> <p>15 A. Correct.</p> <p>16 Q. All right. So, Atlas made that first</p> <p>17 250,000-dollar payment. Where did that go?</p> <p>18 A. To Susman Godfrey.</p> <p>19 Q. And what did Susman Godfrey do with it?</p> <p>20 A. They then distributed it out.</p> <p>21 Q. To whom?</p> <p>22 A. To myself.</p> <p>23 Q. Did Mr. Torres get any of it?</p> <p>24 A. No.</p> <p>25 Q. Okay. And then Atlas made payments of \$10,000</p>
<p style="text-align: right;">Page 34</p> <p>1 marked as Exhibit 2 to your deposition.</p> <p>2 A. Thanks.</p> <p>3 Q. Sure. You can take a minute to look at it.</p> <p>4 I'm just going to ask if you've seen it before.</p> <p>5 A. I mean, I recall -- I recall this from several</p> <p>6 years ago. Yeah.</p> <p>7 Q. This is the Settlement Agreement between Eric</p> <p>8 Torres, Craig Taylor, S. James Marshall, Atlas</p> <p>9 Commodities, L.L.C., Adam Sinn, XS Capital Management,</p> <p>10 L.P., and Aspire Commodities, L.P., correct?</p> <p>11 A. That's correct.</p> <p>12 Q. And if you turn to the last three pages --</p> <p>13 A. Uh-huh.</p> <p>14 Q. -- those are signature pages for you, correct?</p> <p>15 A. That's correct.</p> <p>16 Q. You signed this document?</p> <p>17 A. I did, sir.</p> <p>18 Q. It looks like it was notarized by Barrington</p> <p>19 Hammond, Jr., correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Who is he?</p> <p>22 A. My attorney.</p> <p>23 Q. All right. So, as part of this settlement,</p> <p>24 Atlas and -- well, Taylor, Marshall, and Atlas were to</p> <p>25 pay to Mr. Torres \$500,000, correct? You can -- if you</p>	<p style="text-align: right;">Page 36</p> <p>1 per month for four months, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And those payments also went to Susman Godfrey,</p> <p>4 right?</p> <p>5 A. They did.</p> <p>6 Q. Susman Godfrey was the law firm which</p> <p>7 represented you before you hired Rapp & Krock, correct?</p> <p>8 A. Yes.</p> <p>9 Q. All right. And Susman Godfrey represented you</p> <p>10 in the lawsuit that was settled by this Settlement</p> <p>11 Agreement, right?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. So, \$10,000 a month for four months went</p> <p>14 to Susman Godfrey, right?</p> <p>15 A. Correct.</p> <p>16 Q. And what happened to each of those payments of</p> <p>17 \$10,000?</p> <p>18 A. They were distributed out to me.</p> <p>19 Q. Did Mr. Torres get any of those funds?</p> <p>20 A. No.</p> <p>21 Q. In fact, is he entitled to receive any of the</p> <p>22 settlement funds?</p> <p>23 MR. BUSCHI: Object to the form.</p> <p>24 A. At this time -- at this time, no.</p> <p>25 Q. (By Mr. Berg) Is there some point in time</p>

ADAM SINN - April 08, 2015

Page 37

1 where he might be entitled to receive some of it?
 2 **A. Most likely not.**
 3 Q. So, there are some contingencies in which he
 4 might be able to receive it?
 5 **A. Not under this structure.**
 6 Q. Okay. So, let me see if I can ask it sort of
 7 more directly.
 8 If he found a bunch of money that would satisfy
 9 his debt to you, he could pay it to you. Then he would
 10 be able to receive these settlement funds, right?
 11 **A. Yes, sir.**
 12 Q. Okay. You don't envision that happening?
 13 **A. At this current time, I do not.**
 14 Q. All right. That was really all I was asking.
 15 **A. Okay.**
 16 Q. Okay. So, you have an assignment from
 17 Mr. Torres giving to you the right to collect under the
 18 Settlement Agreement, correct?
 19 **A. I don't recall.**
 20 Q. Okay. Remember in Mr. Torres's deposition
 21 where he testified that there was an assignment that
 22 was signed?
 23 **A. I honestly don't recall that, but if you -- if**
 24 **there is, then he said it.**
 25 Q. Do you know who prepared that instrument?

Page 38

1 **A. I do not.**
 2 Q. I think he said it was your attorney. Would
 3 that have been Mr. Hammond?
 4 **A. It would have been Chanler Langham.**
 5 Q. Okay. That's -- Chanler was your lawyer at
 6 Susman Godfrey, correct?
 7 **A. Yes.**
 8 Q. Okay. Now, there is -- this Settlement
 9 Agreement is for \$500,000 which does not bear interest,
 10 correct?
 11 **A. Correct.**
 12 Q. So, that leaves a shortfall, if my calculation
 13 is correct, in the debt that Mr. Torres owes to you of
 14 \$350,000; is that right?
 15 **A. That's correct.**
 16 Q. Does he still owe that money to you, that extra
 17 \$350,000?
 18 **A. He does.**
 19 Q. And do you have some type of plan of payment?
 20 **A. At this moment, we do not have a -- like, a**
 21 **written agreement.**
 22 Q. On that 350,000?
 23 **A. Correct.**
 24 Q. But you do have a written agreement on the
 25 total of 500,000 under the Settlement Agreement?

Page 39

1 **A. I don't recall, but potentially we do.**
 2 Q. Okay. Well, if it's not written, it's
 3 certainly oral, correct?
 4 **A. Like, I literally don't recall. I mean, I know**
 5 **he said that, but I don't recall.**
 6 Q. Okay.
 7 **A. I don't recall what the specific structure --**
 8 Q. Then let me -- let me put it this way. He
 9 says to you in one way or another, oral, written,
 10 whatever -- you leave open the possibility.
 11 **A. Okay.**
 12 Q. You just don't recall. He says: Hey, I owe
 13 you this money. Under the Settlement Agreement, it's
 14 \$500,000. It's yours. I assign it to you.
 15 **A. Uh-huh.**
 16 Q. Is that right?
 17 **A. Basically correct.**
 18 Q. Right. Whether it's written or oral, you don't
 19 remember, but that's how it happened?
 20 **A. Correct.**
 21 Q. Okay. That was -- that's it. Okay. Now, the
 22 picture.
 23 (Exhibit No. 3 marked.)
 24 Q. I'm going to show you what I have -- I'm
 25 actually going to cover up the exhibit label on here.

Page 40

1 I've marked this as Exhibit 3 to your deposition. I
 2 think you've seen this before. Exhibit 3 is a
 3 photograph, correct?
 4 **A. Correct.**
 5 Q. All right. If you could just put the other
 6 exhibits aside, I want to --
 7 **A. Okay.**
 8 Q. -- focus on this.
 9 All right. What is Exhibit 3 a photograph of?
 10 **A. It's a photograph of myself and several of my**
 11 **friends.**
 12 Q. Can you identify them, if you will, reading or
 13 identifying from left to right as you look at the
 14 picture?
 15 **A. It's Sean Kelly, Evan Caron, Barry Hammond,**
 16 **Paul Sarver, Eric Torres, Adam Sinn.**
 17 Q. Now, Barry Hammond is the person you identified
 18 earlier as your attorney, correct?
 19 **A. Correct.**
 20 Q. All right. And Eric Torres is the other party
 21 in this litigation, right?
 22 **A. That's correct.**
 23 Q. Okay. You sent that photograph with no text to
 24 Craig Taylor in December of 2013, correct?
 25 **A. Correct.**

ADAM SINN - April 08, 2015

Page 101

1 THE VIDEOGRAPHER: Off the record. The
 2 time is 11:15.
 3 (Brief recess)
 4 THE VIDEOGRAPHER: We are back on the
 5 record, and the time is 11:16.
 6 MR. BERG: Pass the witness. Thank you.
 7 MR. BUSCHI: I reserve all my questions
 8 for the time of trial.
 9 THE VIDEOGRAPHER: Off the record at
 10 11:16.
 11 (Deposition adjourned at 11:16 a.m.)
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23
 24
 25

Page 102

1 WITNESS CORRECTIONS AND SIGNATURE
 2 Please indicate changes on this sheet of paper,
 3 giving the change, page number, line number and reason
 4 for the change. Please sign each page of changes.
 5 PAGE/LINE CORRECTION REASON FOR CHANGE
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____
 ADAM SINN

Page 103

1 I, ADAM SINN, have read the foregoing
 2 deposition and hereby affix my signature that same is
 3 true and correct, except as noted on the previous
 4 page(s), and that I am signing this before a Notary
 5 Public.
 6
 7 _____
 8 ADAM SINN
 9
 10
 11 STATE OF T E X A S*
 12 COUNTY OF _____ *
 13
 14 Before me, _____, on this
 15 day personally appeared ADAM SINN, known to me to be
 16 the person whose name is subscribed to the foregoing
 17 instrument and acknowledged to me that they executed
 18 the same for the purposes and consideration therein
 19 expressed.
 20 Given under my hand and seal of office on this
 21 _____ day of _____, 2015.
 22
 23
 24
 25 _____
 NOTARY PUBLIC IN AND FOR
 THE STATE OF TEXAS

Page 104

1 CAUSE NO. 2014-40964
 2 ERIC TORRES, ADAM SINN, * IN THE DISTRICT COURT OF
 3 XS CAPITAL MANAGEMENT, *
 4 L.P., and ASPIRE *
 5 COMMODITIES, L.P., *
 6 Plaintiffs *
 7 v. * HARRIS COUNTY, TEXAS
 8 *
 9 CRAIG TAYLOR and ATLAS *
 10 COMMODITIES, L.L.C., *
 11 Defendants * 157TH JUDICIAL DISTRICT
 12 REPORTER'S CERTIFICATION
 13 ORAL AND VIDEOTAPED DEPOSITION OF ADAM SINN
 14 APRIL 8, 2015
 15 I, Jodi Wells, a Certified Shorthand Reporter
 16 in and for the State of Texas, hereby certify to the
 17 following:
 18 That the witness, ADAM SINN, was duly sworn by
 19 the officer and that the transcript of the oral
 20 deposition is a true record of the testimony given by
 21 the witness;
 22 That the deposition transcript was submitted on
 23 _____, 2015, to the witness, or to the
 24 attorney for the witness, for examination, signature
 25 and return to me by _____, 2015;
 That the amount of time used by each party at
 the deposition is as follows:
 MR. BERG - 02:01
 That pursuant to information given to the
 deposition officer at the time said testimony was

ADAM SINN - April 08, 2015

Page 105

1 taken, the following includes counsel for all parties
2 of record:

- 3 MR. BUSCHI, Attorney for Plaintiffs
- MS. MORGAN, Attorney for Plaintiffs
- 4 MR. BERG, Attorney for Defendants

5 I further certify that I am neither counsel
6 for, related to, nor employed by any of the parties or
7 attorneys in the action in which this proceeding was
8 taken, and further that I am not financially or
9 otherwise interested in the outcome of the action.

10 Further certification requirements pursuant to
11 Rule 203 of TRCP will be certified to after they have
12 occurred.

13 Certified to by me this 21st day of April,
14 2015.



JODI WELLS, TEXAS CSR #6769
Expiration Date: 12/31/15
Firm Registration No. 62
1225 North Loop West, Suite 327
Houston, Texas 77008
Telephone: (713) 626-2629

Page 106

1 FURTHER CERTIFICATION UNDER RULE 203 TRCP

2 The original deposition was _____ was not _____
3 returned to the deposition officer on _____,
4 2015;

5 If returned, the attached Corrections and Signature
6 page contains any changes and the reasons therefor;

7 If returned, the original deposition was delivered
8 to MR. GEOFFREY BERG, Custodial Attorney;

9 That \$_____ is the deposition officer's
10 charges to the Attorney for Defendants, GEOFFREY BERG,
11 for preparing the original deposition transcript and
12 any copies of exhibits;

13 That the deposition was delivered in accordance with
14 Rule 203.3, and that a copy of this certificate was
15 served on all parties shown herein and filed with the
16 Clerk.

17 Certified to by me this _____ day of
18 _____, 2015.

JODI WELLS, TEXAS CSR #6769
Expiration Date: 12/31/15
Firm Registration No. 62
1225 North Loop West, Suite 327
Houston, Texas 77008
Telephone: (713) 626-2629