

CAUSE NO. 2019-79857B

PATRICK A.P. DE MAN, GARNISHOR,	§	IN THE DISTRICT COURT OF
	§	
	§	
vs.	§	HARRIS COUNTY, TEXAS
	§	
JP MORGAN CHASE, GARNISHEE,	§	
	§	
	§	
RAIDEN COMMODITIES, L.P., AND ASPIRE COMMODITIES, L.P., DEFENDANTS.	§	61 ST JUDICIAL DISTRICT

**SUPPLEMENT TO EMERGENCY MOTION TO DISSOLVE WRIT OF
GARNISHMENT**

Movants Raiden Commodities, L.P. (“Raiden”) and Aspire Commodities, L.P. (“Aspire”) (together, “Movants”) hereby file this Supplement to Emergency Motion to Dissolve Writ of Garnishment obtained by Patrick DeMan (“DeMan”) against J.P. Morgan Chase (“JPMC”) (the “Writ”) and would show the Court as follows:

INTRODUCTION

Since Movants filed their Emergency Motion to Dissolve Writ of Garnishment (the “Motion”), the following events (or non-events) have made even clearer that the Writ should be dissolved.

1. On December 27, 2019, Movants filed in the Puerto Rico court that rendered the Partial Judgment a motion in which Raiden agreed to deposit into that court’s registry, funds sufficient to satisfy the Partial Judgment (*i.e.*, the gross judgment amount minus withholdings, given that the judgment amount was found to represent wages owed Mr. DeMan) pending resolution of additional issues in that litigation. Stated simply, the Writ in Texas is additionally unnecessary to secure the Partial Judgment because the judgment will be secured in Puerto Rico. Thus, any attempt to garnish Movants’ funds from JPMC, or any other source, is motivated not by

Mr. DeMan's stated need for financial security, but solely for the purposes of harassing and injuring Movants. The Writ should be dissolved for this reason alone, in addition to those reasons Movants identified earlier.

2. As explained in the Motion, DeMan obtained a temporary restraining order ("TRO") which required Movants to segregate the Judgment Amount and restrained Movants, or anyone affiliated with them, from removing any portion of the restrained account while the TRO was in effect. *See* Mot. at 2; *see* Mot. at Ex. 2. Per the Court's order, the TRO expired on January 1, 2020. Mot. at Ex. 2. Although DeMan argued that he would suffer immediate and irreparable harm without the TRO, at no point during the time fixed in the TRO did DeMan attempt to extend the TRO. That is because DeMan knows Movants have sufficient funds and other property to satisfy the Partial Judgment if it ever becomes final. Because Movants possess property in Texas subject to execution sufficient to satisfy the Partial Judgment, and because Raiden will deposit funds with the court registry in Puerto Rico sufficient to satisfy the amount owed DeMan pursuant to the Partial Judgment, the Writ is unnecessary and it is only being pursued to injure Movants. The Writ should be dissolved.

3. The scope of the Writ is express evidence that DeMan seeks the Writ solely to injure Movants. JPMC has been ordered "not to pay to defendant any debt or to deliver to him any effects pending further order of this court." That instruction freezes significantly more of Movants' funds than is necessary to secure the Partial Judgment, including interest for one year and probable costs. *See* Tex. R. Civ. P. 664a. In reality, DeMan has asked JPMC to not pay anything to any Movant, even if the funds in the JPMC account significantly exceed the Partial Judgment amount.

4. Additionally, Movants object to the Court's failure to hear the Motion within ten days as required by Tex. R. Civ. P. 664a which states "the motion shall be heard promptly, after reasonable notice to the plaintiff . . . and the issue shall be determined not later than ten days after the motion is filed." The Motion was filed on December 20, 2019. The Court will not hear the Motion until January 6, 2020, well beyond the ten-day deadline prescribed by the Texas Rules of Civil Procedure. Accordingly, the Writ should be dissolved.

5. Finally, no return of service for the Writ has been filed with the Court and it is unclear if the Writ was ever properly served or even served at all.

CONCLUSION

For the reasons set forth in the Motion as well as the reasons set forth in this supplement to the Motion, the writ of garnishment should be dissolved.

Dated: January 6, 2020

Respectfully submitted,

/s/ Benjamin T. Pendroff

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and Aspire Commodities, L.P.*

CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2020 a true and correct copy of the foregoing document was served via electronic service to all counsel of record in accordance with the Texas Rules of Civil Procedure.

/s/ Benjamin T. Pendroff

Benjamin T. Pendroff

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DEFENDANTS.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

61ST JUDICIAL DISTRICT

**VERIFICATION OF EMERGENCY MOTION TO DISSOLVE WRIT OF
GARNISHMENT AND SUPPLEMENT TO EMERGENCY MOTION TO DISSOLVE
WRIT OF GARNISHMENT**

STATE OF TEXAS §
 §
HARRIS COUNTY §

BEFORE ME, the undersigned notary, on this day personally appeared Adam Sinn, the affiant, whose identity is known to me. After I administered an oath, affiant testified as follows:

1. My name is Adam Sinn. I am over 18 years of age. I am of sound mind, competent, and authorized to make this verification, the statements of which are within my personal knowledge.


2. I have read the Emergency Motion to Dissolve Writ of Garnishment (the "Motion") in the above-captioned action. The following facts recited in the Motion are within my personal knowledge and are true and correct:

- a. the facts in the "Background" section at pages 2–3;
- b. Movants have within the State of Texas assets far in excess of the Judgment Amount DeMan seeks to recover.

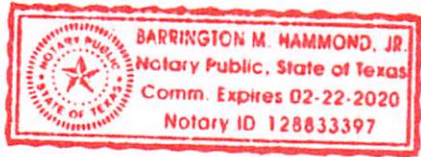
- c. DeMan is a former Raiden employee; and
- d. the facts recited in Exhibit 7 (Declaration of Adam Sinn).

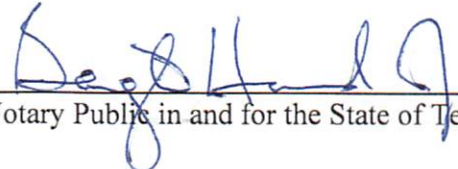
3. I have also read the Supplement to Emergency Motion to Dissolve Writ of Garnishment (the “Supplement”) in the above-captioned action. The following facts recited in the Supplement are within my personal knowledge and are true and correct:

- a. On December 27, 2019, Movants filed in the Puerto Rico court that rendered the Partial Judgment a motion in which Raiden agreed to deposit into that court’s registry, funds sufficient to satisfy the Partial Judgment (i.e. the gross judgment amount minus withholdings, given that the judgment amount was found to represent wages owed Mr. DeMan) pending resolution of additional issues in that litigation;
- b. DeMan obtained a temporary restraining order which required Movants to segregate the Judgment Amount and restrained Movants, or anyone affiliated with them, from removing any portion of the restrained account while the TRO was in effect. Per the Court’s order, the TRO expired on January 1, 2020. At no point during the time fixed in the TRO did DeMan notify Movants that he sought to extend the TRO;
- c. Movants possess property in Texas subject to execution sufficient to satisfy the Partial Judgment; and
- d. Ordering JPMC “not to pay to defendant any debt or to deliver to him any effects pending further order of this court” freezes significantly more of Movants’ funds than is necessary to secure the Partial Judgment, including interest for one year and probable costs.



Sworn to and subscribed before me by Adam Sinn on January 6, 2020.





Notary Public in and for the State of Texas