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By: MELISSA TORRES
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CAUSE NO. 2016-59771

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

PLAINTIFFS' SUPPLEMENTAL SUBMISSION IN OPPOSITION TO DEFENDANT'S SPECIAL APPEARANCE TO OBJECT TO JURISDICTION

In accordance with the parties' Rule 11 agreement, Plaintiffs file this supplement in response to the Defendant's special appearance pursuant to Texas Rule of Civil Procedure 120a(3).

INTRODUCTION

The very first sentence in Defendant's reply is a falsehood. Aspire and Raiden were based in Houston, not Puerto Rico, when the most important events at issue in this case occurred. The Defendant cannot escape that fact, and thus his reply systematically mischaracterizes facts and issues in the case in order to minimize his connections to Texas. The primary issue in this case is whether the Defendant is a partner in Aspire and Raiden, and if so, under what terms. Notwithstanding the Defendant's evasions, these basic jurisdictional facts are beyond dispute:

- Aspire has at all times been a Texas Limited Partnership;
- Aspire and Raiden had their principal place of business in Houston until 2013;
- The parties' negotiations about Defendant becoming a partner in Aspire and Raiden began while Aspire and Raiden were based in Houston, and while Mr. Sinn lived in Houston;

- The Defendant pursued a job with Aspire while it was based in Houston, and then telecommuted to his Texas-based job most days for several years; and
- The operative agreements of the partnerships in which the Defendant claims to be a partner contain Texas jurisdictional and choice of law provisions.

Defendant cannot dispel these facts, and thus attempts to obfuscate the truth by (1) cherry-picking events in the history of the parties' relationship, (2) mischaracterizing basic facts, and (3) focusing on issues that go to the merits rather than jurisdiction. The reply creates straw men to knock down, but fails to address the Defendants' many contacts with the state or their connection with the claims in this litigation. The court should deny the Defendant's special appearance.

ARGUMENT

I. Defendant Mischaracterizes Relevant Facts

1. The Defendant mischaracterizes the origin of the parties' relationship to give a false impression that Mr. Sinn reached out to him in Connecticut to lure him away from a stable job. In late 2010, Mr. Sinn and the Defendant were very close friends – a friendship that was forged when the Defendant worked for Mr. Sinn as an analyst on Lehman's trading desk in Houston. Declaration of A. Sinn, Ex. C ¶ 4. Lehman went bankrupt in 2008, ultimately leaving the Defendant (and numerous other employees) unemployed, and without paying him bonuses. *Id*. Mr. Sinn then helped the Defendant get a new job at RBS Sempra Commodities ("Sempra") in Connecticut, with the express purpose (as agreed between them) of allowing the Defendant to develop trading experience so that he could eventually come to work as a trader with Mr. Sinn. Mr. Sinn and the Defendant discussed that plan often during 2010, usually by email. *Id*.

2. In that context, the Defendant's recitation of a number of lunches and dinners in

New York is highly misleading. *Id*. ¶ 5. Mr. Sinn and the Defendant were close friends; Mr. Sinn often had meals with the Defendant and his family when he was in New York. *Id*. They may or may not have discussed their long-term plan of the Defendant ultimately coming to work for Aspire in Texas at those meals, but it is patently false to portray those friendly visits as recruiting trips in which Mr. Sinn "reached out" to the Defendant in New York. *See id.*

3. Mr. Sinn and the Defendant accelerated their long-term plan of having the Defendant come work for Aspire in late 2010, when the Defendant's fortunes at Sempra turned south. *Id*. ¶ 6. Sempra was owned by the Royal Bank of Scotland (RBS). *Id*. Reminiscent of the financial crisis that left Lehman bankrupt, RBS was heavily embroiled in the Eurozone debt crisis and by 2010 was looking to divest Sempra. *Id*. On October 7, 2010, RBS announced that it would sell its power and gas trading book to JP Morgan, but would leave behind a portion of the business that included the Defendant. *Id*. A few days later, the Defendant emailed Mr. Sinn to describe his bleak job prospects and renew discussions about coming to work with Mr. Sinn:

> Hi Adam,
>
> How are you?
>
> Sempra is going to close on the sale of power/gas to JPM Dec1.
> 3 scenarios:
> 1) either get laid off Dec 1.
> 2) get laid off a quarter or so later, in case they can use you for integration (i prefer this option myself)
> 3) get job offer from SocGen.
>
> in any case, we get paid what we're owed. But I think they mean any contracts, and nothing has been said regarding year-end bonuses.
> At this point, they still owe me 250k in retention and guarantee.
> Initially I was thinking to bring that into our fund as equity.
> However, now I think it's better to live of this money for the next year or two while working with you.

Id.; Ex. C-1.

4. Thus, far from the Defendant's tall tale that Mr. Sinn reached into Connecticut to lure him away from a stable job, the Defendant was eager to come work for Aspire because he was plum out of good options. Ex. C ¶ 7. His best alternative was a job offer from Societe General, the French bank that was the leading contender to buy the remaining assets of Sempra (and did so in January 2011). *Id*. As the Defendant told Mr. Sinn, however, he did not want to work for another European bank, with continued exposure to layoffs and risky compensation without much upside potential. *Id*. He was right to worry, since Societe General closed the Stamford office and laid off its remaining employees less than a year later. *Id*. It was in this context that the Defendant pursued a job with Aspire, which at that time was a Texas limited partnership that had its only office in Houston, and whose sole business was trading commodities in the Texas energy market. *Id*.

5. The long-term goal of Mr. Sinn and the Defendant at the time continued to be to form a partnership that they would operate in the U.S. Virgin Islands (USVI), but they could not accomplish that immediately for several reasons, including USVI residency requirements and the Defendant's immigration status. *Id*. ¶ 8. Consequently, Mr. Sinn formed Raiden in 2010 as a USVI limited partnership with an eye toward the future, but he operated Raiden from Houston. *Id*.

6. Defendant states in his declaration that "[a]t all times prior to this lawsuit, Raiden was a limited partnership formed under the laws of the Virgin Islands and had its principal place of business in Puerto Rico." De Man Decl. ¶ 6. That statement is patently false. Ex. C ¶ 9. The very document he cites show that Raiden had no connection to Puerto Rico until 2013. *See* De Man Decl. ¶ 6. Moreover, while the original Certificate of Limited Partnership for Raiden listed its office address in the USVI, the actual business operations of Raiden – the people and the

money doing work – were in Houston from its formation in 2010 until Mr. Sinn moved to Puerto Rico in 2013. Ex. C ¶ 9. The Defendant's (inaccurate) focus on formalities rather than substance is not germane to the issue before the Court.

7. So, when the Defendant came to work as an employee for Aspire in 2011, in order to trade for both Aspire and Raiden, both of those companies were based in Houston. *Id.* ¶ 10. The Defendant did not move to Houston (because the plan at the time was to move to the USVI when that became possible), but that does not change the fact that he worked for a Houston-based company (Aspire) performing services for it and another Houston-based company (Raiden). Moreover, unlike the *Gonzalez* case that Defendant relies so heavily upon (discussed further below), the job that he was hired to do was based in Texas. *Id*. He executed trades on behalf of two Houston-based companies, and provided analytical support to the companies' other employees based in Houston. *Id*. Mr. Sinn allowed him to work from his home in Connecticut, but Aspire and Raiden never had any offices, operations, or employees in Connecticut other than the Defendant. *Id*.

8. The Defendant does not dispute these facts, but instead attempts to distract from them with more immaterial formalities and mischaracterizations of the case. For example, the Defendant asserts that he was an employee of Raiden Commodities 1, LLC "at the time of the incidents alleged to serve as the basis of all of the claims (the summer of 2016)." Def. ex. A ¶ 3. There are two major problems with that assertion.

9. First, while the entity within the corporate group that paid the Defendant's salary changed in 2013, that did not affect the reality that the Defendant was an employee of Aspire from 2011-2013, or that he continued to perform services for Aspire and Raiden even after he formally became an employee of RC1 in 2013. *See* ex. C ¶ 12. In the lawsuit he filed in Puerto

Rico, the Defendant alleges that he had "total responsibility for these critical duties" of the "back and middle offices" of both Aspire and Raiden, and that "[d]uring 2014, De Man continued to ask for recognition and remuneration for his administrative and managerial work on behalf of Sinn, Aspire LP and Raiden LP." Pl. Ex. A-11 ¶¶ 47, 50. The entire basis for his "sweat equity" claim to a partnership interest – the correctness of which is an issue for the merits, not jurisdiction – is the fact that he performed services for Aspire and Raiden.[1] Moreover, in the draft "settlement agreement" that Defendant sent to the Plaintiffs (which in fact was a demand letter), Defendant offered to "resign as Vice-President and trader of RAIDEN USVI, as trader of ASPIRE LP, employee and Manager of RAIDEN PR, as well as from any other position or interest he holds in any other member of the RAIDEN GROUP." Pl. Ex. A-10 ¶ 3. His focus on formalities over substance is thus not only inconsistent, but obviously an attempt to distance himself from the fact that he claims an interest in a Texas limited partnership on the basis of work he performed for that limited partnership.

10. Second, the relevant period of time is not primarily, much less only, the summer of 2016. The primary issue in this case is whether the Defendant is a partner, and on what terms, in Aspire or Raiden. The Court need look no further than the lawsuit that Defendant filed in Puerto Rico, in which he sets out the reasons why he claims to be a partner, to know that the relevant events began long before 2016. The complaint contains pages and pages of allegations concerning events that occurred in 2009 through 2013, before the parties' moved to Puerto Rico, as the basis for Defendant's claim to a partnership interest.

11. The Defendant also attempts to distract the Court with irrelevant merits issues, such as evidence that the Plaintiffs reported his income to the IRS as partnership income

[1] Merits issues are not relevant to the jurisdictional analysis. *See, e.g., Hoagland v. Butcher*, 474 S.W.3d 802, 814 (Tex. App.—Houston [14th Dist.] 2014, no pet.) ("the argument that appellees are not parties to the Operating Agreement is a merits issue that, even if successful, would not deprive the court of jurisdiction.")

beginning in 2014. The Defendant is free to argue the relevance of that evidence at the merits phase of this case, but it is not dispositive of whether he was a limited partner, much less whether this Court has jurisdiction. The correct tax treatment of income follows from a determination of whether he was a limited partner, it does not conclusively establish it. Indeed, one of the reasons that Plaintiffs sought a declaratory judgment regarding the Defendant's partnership status was to formally determine whether he was a partner, after his wild allegations regarding the scope of his partnership rights made it clear that the parties never had a "meeting of the minds." There may need to be a correction of the tax classification of the Defendant's income, but that fact should follow the outcome of this action, not determine what court can hear it.

12. Finally, the Defendant attempts to distract from the pertinent facts with a variety of other misleading allegations. For instance, the Defendant's histrionic assertion that the operative partnership agreements are "falsified, backdated documents that were not actually signed on the dates indicated on their signature pages" is both misleading and irrelevant. Mr. Sinn did not falsify any documents or change signature dates. Ex. C ¶ 13. The Aspire revised agreement was signed on August 5, 2014 and has an effective date of September 5, 2013. *Id*.; ex. C-3. The Raiden second revised agreement was signed on May 18, 2016, months before the Defendant left the company and the dispute arose, and has an effective date of July 30, 2013. Ex. C ¶ 13; ex. C-2. No one has ever asserted that those agreements were signed on the "effective dates," Ex. C ¶ 13, and the Defendant is blatantly wrong to imply that the documents were created after the dispute arose in order to bolster Plaintiffs' jurisdictional arguments.

13. The Defendant makes much ado about the Raiden first amended partnership agreement being amended without his knowledge. Reply ¶ 22. But, the Defendant's own exhibit 26 contains drafts of the first amended Raiden partnership agreement providing that Raiden's

General Partner has the right to amend the agreement without the consent of its limited partners and, having reviewed and commented on the drafts, the Defendant knew that. Def. Ex. A-26 ¶ 8.8. Even if the Defendant was a partner in Raiden, the Defendant knew that he had no right to consent to an amendment. And while the Defendant was a member of Raiden's General Partner, he was a non-voting member. Ex. D Schedule 1. He was not even a member of Aspire's General Partner. Ex. E.

14. ***Moreover, the Defendant's own exhibits show that he received a copy of the Aspire agreement containing a Texas forum-selection clause in 2014***. *See* Def. Ex. A-27, ¶ 7.10. He never signed it, because he never became a limited partner. If he had become a limited partner, however, he would have done so by executing agreements that contained a Texas forum selection clause. The Defendant should not be permitted to "have his cake and eat it too," arguing that he is entitled to the benefits of partnership without being bound by the partnerships' governing documents.

II. The Defendant's Legal Authorities Do Not Support Jurisdiction.

15. While an exchange of communications during or after negotiations, "by itself," does not constitute purposeful availment of Texas' laws, there is more than a mere exchange of communications here. *See* Reply ¶ 9. The Defendant directed his communications at Texas in order to form a business relationship working for a Texas limited partnership, Aspire. And, the work contemplated in the communications was Texas-based work, trading Texas electricity on a the Texas market. These reasons distinguish this case from the ones cited by the Defendant in his Reply:

- In *Tabor, Chabra & Gibbs, P.A. v. Med. Legal Evaluations, Inc.*, 237 S.W. 3d 762 (Tex. App.—Houston [1st Dist.] 2007, no pet.), the defendant law firm refused to pay, though a

third-party referral service, an in-state plaintiff expert witness, who then sued the firm. The appeals court granted the firm's special appearance because the out of state law firm did not contract with the in-state expert or recruit him in Texas. *Id*. at 774, 777. That case is different from the case here in several respects. The law firm communicated with the expert in Texas because the expert chose to work in Texas. *Tabor, Chabra & Gibbs, P.A.*, 237 S.W. 3d at 774. But, only the defendant's conduct matters for jurisdiction. *E.g., Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 575 (Tex. 2007). It is quite the opposite here, with the Defendant telecommuting to work in Texas just as the parties' negotiations contemplated. Also, there was no agreement—written or oral—between the plaintiff and defendant in *Tabor, Chabra & Gibbs, P.A*. Instead, in that case the out-of-state defendant law firm contracted with an out-of-state third party who referred the expert. *Id*. at 773. And even that agreement provided for jurisdiction in Pennsylvania. *Id*. at 774.

- In *Moncrief Oil Int'l Inc. v. OAO Gazprom*, 481 F.3d 309 (5th Cir. 2007), the out-of-state defendants/appellees breached an agreement with in-state plaintiff/appellant Moncrief to develop a natural gas field in Russia and Moncrief sued for declaratory relief, breach of contract, and more. The Fifth Circuit affirmed dismissal for lack of personal jurisdiction under circumstances quite different from those in the case at bar. There, the defendant did not perform any obligations in Texas, the contract did not provide for performance in Texas, and the contract was centered outside of Texas. *See id*. at 312. The situation could not be any different here, where the Defendant telecommuted to work in Texas under an agreement to trade Texas electricity in the Texas market. Also, the agreements in *Moncrief* provided for arbitration in Russia under Russian law. *Id*. at 312 and 313.

- In *Gonzales v. AAG Las Vegas, L.L.C.*, 317 S.W.3d 278 (Tex. App.—Houston [1st Dist.] 2009, pet. denied), the plaintiff/appellee car dealerships sought a declaratory judgment against their former employee concerning his claims to an ownership interest in two out-of-state car dealerships, and also sued for breach of loyalty and usurpation of corporate opportunity. The appeals court found that it lacked jurisdiction, but under circumstances different from the facts of this case. The plaintiffs in *Gonzales* were a Texas-based parent company and two subsidiaries based in Ohio and Nevada. The defendant was only an employee of the Ohio and Nevada companies, managing car dealerships in Ohio and Nevada. The Defendant here was an employee of a Texas company, telecommuting to a job based in Texas. The *Gonzales* plaintiffs' declaratory judgment claim asserted that the employee had lost any rights to an ownership interest in the car dealerships because of his conduct in Nevada. *Id*. In contrast, here, the Plaintiffs do not contend that the Defendant lost his partnership interest because of something he did in Puerto Rico. Rather, the question is whether he had a partnership interest in the first place and if so, under what terms. Moreover, the dispute in *Gonzales* only concerned ownership interests in the Ohio and Nevada companies, not in the parent company. Here, the Defendant claims an interest in Aspire (a Texas limited partnership) and Raiden (a USVI partnership with its principal place of business in Texas at the relevant times). The Defendant also makes too much of the lack of a written contract in *Gonzalez*. The *Gonzales* court only mentioned the lack of a contract to distinguish it from a different case and the key distinguishing factor in that other case was not the existence of a *written* contract, but of a contract solicited in Texas that defendant should have expected to be performed in Texas. *Id*. at 286. Written or not, the agreement in dispute here was solicited in Texas and both parties

knew it would be performed in Texas. Finally, the plaintiffs in *Gonzales* searched him out to interview for the position (which occurred in Houston despite the fact that the companies he would work for were based in Ohio and Nevada). The Defendant here, however, engaged in mutual bilateral discussions with a Texas company over a course of years about an employment opportunity in Texas. *See id.* at 286.

16. In his Reply the Defendant never addresses the nature of the work he performed. The work contemplated by the parties in their negotiations—trading Texas electricity in Texas' energy trading market—was performed in Texas, regardless of where the Defendant happened to reside at any particular time or where the partnerships were organized. This court has jurisdiction over the Defendant by virtue of the his telecommuting work in Texas. *See The Leader Institute v. Jackson*, 2015 WL 4508424, at *12-*13 (N.D. Tex. Jul. 24, 2015) (the court exerted jurisdiction over a telecommuting defendant with respect to breach of contract and misappropriation of trade secret claims in part because of the numerous contacts the defendant had with Texas customers by virtue of his telecommuting work).

17. Also, while this court would have jurisdiction even if the Defendant never stepped foot in Texas, the Defendant's visits reinforce the Texas-centric nature of his work. The Defendant argues that merely visiting Texas for work does not subject him to personal jurisdiction (Reply ¶ 16), but his visits are connected to the claims in this litigation. For example, the Defendant visited Texas to interview job applicants. Pl. Ex. A ¶ 15; *compare* Def. Ex A ¶ 19. During the litigation, it is likely that the Defendant will use this trip as evidence of his non-trading work, either to support his claim to be a partner or his claim for past compensation. *See e.g.,* Pl Ex. A-9 attachment at 1-2 (referencing "services rendered to Raiden and its affiliates"). As noted above, the Defendant did not have to come to Texas because he telecommuted most

days. But these visits simply reinforce that the Defendant performed his work in Texas, that the claims in this litigation relate to his contacts, and that he should not be surprised to face litigation in Texas.

18. Also, these visits differ from those in the cases cited by the Defendant:

- In *Info. Servs. Grp., Inc. v. Rawlinson*, 302 S.W.3d 392 (Tex. App.—Houston [14th Dist.] 2009, pet. denied) the plaintiff/appellant employer sued out-of-state former employee Rawlinson for breach of employment and confidentiality agreements after he began working for a competitor. The appellate court granted his special appearance, but Rawlinson's agreements did not provide for work in Texas and his two visits to Texas were completely unrelated to the claims in that case. Rawlinson visited Texas for company conferences. *Id.* at 401. Those visits alone did not justify jurisdiction (401), but in our case, the visits are connected to the claims in the litigation and occurred in the context of an ongoing, years-long employment relationship in which the Defendant telecommuted to Texas to trade Texas electricity on the Texas market on most days and, at times, physically travelled to Texas to do the same (*see* Pl. ex. A ¶ 15). Another distinguishing feature is that the defendant in *Info. Servs. Grp., Inc.*, visited Texas at his employer's direction (at 401), whereas here the Defendant visited Houston on his own volition. Ex. C ¶ 11. He visited to get a feel for the Houston office, as he was considering moving to Houston at that time, and to interact with a trader. *Id*. Finally, in contrast to the Texas-focused work in our case, in *Info Servs. Grp., Inc.* the United Kingdom was the place of performance. *Id.*, 400.
- In *Gustafson v. Provider HealthNet Servs., Inc.*, 118 S.W.3d 479 (Tex. App.—Houston [1st Dist.] 2009, pet. denied), the plaintiff/appellee sued the defendant/appellant

Gustafson for breach of a confidentiality agreement, misappropriation of trade secrets and business information, and breach of fiduciary duty for allegedly providing confidential information to a competitor. The court granted Gustafson's special appearance, but his only contacts with Texas consisted of an employment relationship with a Texas company whose administrative functions were administered from Texas; two unrelated visits; and communicating with employees in Texas. However, Gustafson only became employed by a Texas company when it purchased his Michigan employer. His work centered on, and was always performed in, Michigan. *Id*. at 484. The torts, if they occurred, occurred in Michigan and were unrelated to his Texas visits. *Id*. In contrast, the key issue in this case is the parties' relationship, which arose from the Defendant's reaching out to and negotiating with a Texas resident for work to be performed in Texas.

19. The Defendant sets up a straw man in an attempt to deal with the Texas-centric nature of his work. *See* Reply ¶ 17. But, this is not a case of a third party suing the Defendant because of trades he made on the Plaintiffs' behalf. Rather, his trades arose from the business relationship that resulted from Texas negotiations with a Texas resident; these negotiations created enduring contacts with the state through the Defendant's near-daily telecommuting to Texas to trade Texas electricity on the Texas market; and the Defendant claims to be a partner in a Texas partnership and a related partnership on whose behalf he says the trades were made. *Id.* These are significant Texas contacts and the claims in this litigation are related to them.

20. This court also has jurisdiction over Plaintiffs' trade secret claims because Defendants' Texas contacts concerning trade secrets are connected to the claims in this litigation. The Defendants' objections miss the mark. This court should exercise jurisdiction if the Defendant's Texas contacts are related to the claims in the litigation, regardless of whether the

cause of action is the misappropriation of trade secrets here or the breach of a confidentiality agreement in *Delta Brands, Inc.* Reply ¶ 27; *see Delta Brands, Inc. v. Rautaruukki Steel*, 118 S.W.3d 506, 511 (Tex. App.—Dallas 2003, pet. denied). Also, whether the discussion of trade secrets in the Texas negotiations in 2009 and 2010 was covered by a confidentiality agreement or not goes to the merits of Plaintiffs' claims, not to the jurisdictional analysis. *See* Reply ¶ 26. But the court should not look at the merits of Plaintiffs' claim at this stage of the proceeding. *See Info. Servs. Grp., Inc.*, 302 S.W.3d at 406 ("we do not consider the merits of appellants' [breach of non-compete agreement] claims when conducting a personal jurisdiction analysis").

21. The Defendant all but admits that some of the trade secrets at issue were discussed between the parties during their Texas-focused negotiations. *See* Reply ¶ 26. And the draft offer letter exchanged during negotiations contained provisions protecting trade secrets under Texas law in Texas courts. Def. ex. A ¶ 9; Def. ex. A-1 ¶ 8. These negotiations will be at issue in the litigation and, therefore, this court has jurisdiction over the trade secret claims, too. Moreover, the Defendant came into possession of at least some trade secrets by using them to trade Texas electricity on the Texas market. *See* Def. ex. A ¶¶ 19-20. This course of performance will also be at issue in the litigation.

22. The court also has jurisdiction over Plaintiffs' conversion claims because the trade secrets at issue reside on the converted computer equipment. Def. ex. A ¶ 21. And, the Defendant could use this equipment and the trade secrets to trade Texas electricity in the Texas market in competition with the Defendant.

CONCLUSION

The Defendant attempted to mischaracterize the facts to draw attention from the key issue in this case, which is whether the parties formed a partnership and if so, under what terms. The

parties' Texas-focused negotiations are the key to this issue, not the later events that the Defendant discussed in his Reply. The court should deny the Defendant's special appearance.

CERTIFICATE OF SERVICE

I hereby certify that, on this 10th day of February, 2017 a true and correct copy of the foregoing has been served upon counsel of record in accordance with the requirements of the Texas Rules of Civil Procedure, addressed as follows:

Chris Reynolds
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Cory Liu
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Reynolds Frizzell
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Suite 3500
Houston, TX 77002

/s/ *Kevin D. Mohr*
Kevin D. Mohr

EXHIBIT C

CAUSE NO. 2016-59771

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

DECLARATION OF ADAM SINN

1. My name is Adam Sinn. I am over the age of eighteen and competent to give testimony in this action. I have personal knowledge of the statements set forth in this declaration and all of these facts are true and correct.

2. I am making this declaration in support of Raiden Commodities, LP and Aspire Commodities, LP's Original Petition and Response to Special Appearance.

3. I am the founder of Aspire and Raiden. I am also the sole voting member of the general partners of Aspire and Raiden, Aspire Commodities 1, LLC and Raiden Commodities 1, LLC, respectively. I am authorized to make this declaration on their behalf.

4. In late 2010, Mr. de Man and I had become good friends after working together for several years at Lehman, where he served as an analyst on the trading desk that I ran in Houston. Lehman went bankrupt in 2008, ultimately leaving Mr. de Man, myself, and numerous other employees unemployed, and without paying substantial bonuses. I then helped Mr. de Man get a new job at RBS Sempra Commodities ("Sempra") in Connecticut. By that time, we had discussed the prospect of trading together at some point in the future, but Mr. de Man did not have the right experience or enough capital. Thus, as we discussed with each other, Mr. de Man's

job at Sempra was an opportunity for him to develop trading experience so that he could eventually come to work as a trader with me. We discussed that plan often during 2010, usually by email.

5. In that context, Mr. de Man's listing of a number of lunches and dinners in New York is highly misleading. Mr. de Man and I were close friends and I often had meals with him and his family when I was in New York. We may or may not have discussed our long-term plan of Mr. de Man ultimately coming to work for Aspire in Texas at each of those meals; I do not specifically recall, but it would not have been unusual. It is not the case, however, that I reached out to him to recruit him. We had been mutually discussing the prospect of trading together since Lehman went bankrupt.

6. Mr. de Man and I accelerated our long-term plan of having him come work for Aspire in late 2010, when Mr. de Man's fortunes at Sempra turned south. Sempra was owned by the Royal Bank of Scotland (RBS), which was was heavily embroiled in the Eurozone debt crisis and by 2010 was looking to divest Sempra. On October 7, 2010, RBS announced that it would sell its power and gas trading book to JP Morgan, but would leave behind a portion of the business that included Mr. de Man. A few days later, Mr. de Man emailed me to describe his bleak job prospects and renew discussions about coming to work with me. Ex. 1 is a true and correct excerpt from an email Mr. de Man sent me on October 11, 2010:

> Hi Adam,
>
> How are you?
>
> Sempra is going to close on the sale of power/gas to JPM Dec1.
> 3 scenarios:
> 1) either get laid off Dec 1.
> 2) get laid off a quarter or so later, in case they can use you for integration (i prefer this option myself)
> 3) get job offer from SocGen.

> in any case, we get paid what we're owed. But I think they mean any contracts, and nothing has been said regarding year-end bonuses.
> At this point, they still owe me 250k in retention and guarantee.
> Initially I was thinking to bring that into our fund as equity.
> However, now I think it's better to live of this money for the next year or two while working with you.

7. Mr. de Man was eager to come work for Aspire because he was out of good options. His best alternative was a job offer from Societe General, the French bank that was the leading contender to buy the remaining assets of Sempra (and did so in January 2011). As the Mr. de Man told me, however, he did not want to work for another European bank, with continued exposure to layoffs and risky compensation without much upside potential. In fact, Societe General closed the Stamford office and laid off its remaining employees less than a year later. It was in this context that Mr. de Man pursued a job with Aspire, which at that time was a Texas limited partnership that had its only office in Houston, and whose sole business was trading commodities in the Texas energy market.

8. The long-term goal of Mr. de Man and I at the time continued to be to form a trading business that we would operate in the U.S. Virgin Islands (USVI), but we could not accomplish that immediately for several reasons, including USVI residency requirements and the Mr. de Man's immigration status. Consequently, I formed Raiden in 2010 as a USVI limited partnership with an eye toward the future, but I operated Raiden from Houston.

9. Mr. de Man states in his declaration that "[a]t all times prior to this lawsuit, Raiden was a limited partnership formed under the laws of the Virgin Islands and had its principal place of business in Puerto Rico." De Man Decl. at ¶ 6. That statement is false. Raiden had no connection to Puerto Rico prior to 2013. Moreover, while the original Certificate of Limited Partnership for Raiden listed its office address in the USVI, the actual business

operations of Raiden—the people and the money doing work—were in Houston from its formation in 2010 until I moved to Puerto Rico in 2013.

10. When Mr. de Man came to work as an employee for Aspire in 2011, in order to trade for both Aspire and Raiden, both of those companies were based in Houston. He was hired to work in Texas. Mr. de Man executed trades on behalf of two Houston-based companies, and provided analytical support to the companies' other employees based in Houston. I allowed him to work from his home in Connecticut, but Aspire and Raiden never had any offices, operations, or employees in Connecticut other than Mr. de Man.

11. Mr. de Man visited Texas on several occasions. In 2012, he was considering moving to Texas and he visited and worked out of Houston to get a feel for the Houston office. He also had a trader here in Houston working for him and he visited to interact with that trader. I never forced him to visit; he decided to visit and work out of the Houston office on his own.

12. Mr. de Man asserts that he was an employee of Raiden Commodities 1, LLC "at the time of the incidents alleged to serve as the basis of all of the claims (the summer of 2016)." Def. ex. A ¶ 3. I did change the entity that paid Mr. de Man's salary in 2013, but that did not affect his job duties. He was formally an employee of Aspire from 2011-2013, performing services for both Aspire and Raiden, which he continued to perform after he formally became an employee of RC1 in 2013.

13. I did not falsify any documents or change signature dates. The Aspire revised agreement that is Exhibit A-3 to Plaintiffs' Response to Special Appearance was signed on August 5, 2014 and has an effective date of Sept. 5, 2013. Ex. 3 is a true and correct copy of the DocuSign email verification showing the date it was executed. The Raiden second revised agreement that is Exhibit A-2 to Plaintiffs' Response to Special Appearance was signed on May

18, 2016, months before Mr. de Man left the company and the dispute arose, and has an effective date of July 30, 2013. Ex. 2 is a true and correct copy of the DocuSign email verification showing the date I signed the agreement. I have never asserted that those agreements were signed on the "effective dates."

14. My name is Adam Clark Sinn, my date of birth is February 6, 1978, and my address is 200 Dorado Beach Drive #3232, Dorado, PR 00646. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dorado County, State of Puerto Rico, on the 10th Day of February, 2017.

Adam Sinn, Declarant

EXHIBIT C-1

From: pat.deman@gmail.com [mailto:pat.deman@gmail.com] **On Behalf Of** Patrick de Man
Sent: Monday, October 11, 2010 9:25 AM
To: Adam Sinn <gonemaroon@hotmail.com>
Subject: Re:

Hi Adam,

How are you?

Sempra is going to close on the sale of power/gas to JPM Dec1.
3 scenarios:
1) either get laid off Dec 1.
2) get laid off a quarter or so later, in case they can use you for integration (i prefer this option myself)
3) get job offer from SocGen.

in any case, we get paid what we're owed. But I think they mean any contracts, and nothing has been said regarding year-end bonuses.
At this point, they still owe me 250k in retention and guarantee.
Initially I was thinking to bring that into our fund as equity.
However, now I think it's better to live of this money for the next year or two while working with you.

In any case, I think we do need to decide on a salary for me (for the visa sponsorship), but that can be minimal.
Also, I should be able to file my own paperwork for the H1B visa. I want to look into that today.
We could save a couple $k by doing it ourselves, instead of hiring a lawfirm.

Gerry is coming to Stamford tomorrow so I want to talk with him what he's thinking about our partnership.

Cheers,
Patrick.

On Mon, Oct 11, 2010 at 10:14 AM, Adam Sinn <gonemaroon@hotmail.com> wrote:

> What's the latest and greatest up there?

EXHIBIT C-2

From: DocuSign System [mailto:dse@docusign.net]
Sent: Wednesday, May 18, 2016 11:00 AM
To: Kyle Carlton <kcarlton@txwealthlawyers.com>
Subject: Completed: Please DocuSign: 3d-2013-07-30 2nd Amended Restated Ltd Ptrship Agmt - Raiden Commodities....pdf

DocuSign

Your document has been completed

REVIEW DOCUMENT

Kyle Carlton

accounting@prosrvllc.com

All parties have completed Please DocuSign: 3d-2013-07-30 2nd Amended Restated Ltd Ptrship Agmt - Raiden Commodities....pdf.

out to the sender by emailing them directly or replying to this email.

If you are having trouble signing the document, please visit the Help with Signing page on our Support Center.

Download the DocuSign App

EXHIBIT C-3

From: DocuSign System <dse@docusign.net> on behalf of Kyle Carlton via DocuSign <dse@docusign.net>
Sent: Tuesday, August 5, 2014 11:02 AM
To: Kyle Carlton
Subject: Completed: Round III - Aspire for signature

Your document has been completed

From: **Sent on behalf of DocuSign**

Hello Kyle Carlton,

All parties have signed the envelope 'Round III - Aspire for signature'.

To view the documents, recipients, and other information, please click on the link below.

View Documents

Alternately, you can access these documents by visiting docusign.com, clicking the 'Access Document' link, and using this security code:

ADD83BFEFA00446C9937C989E4D7CE9B1

EXHIBIT D

OPERATING AGREEMENT
OF
RAIDEN COMMODITIES 1, LLC

THIS OPERATING AGREEMENT of **RAIDEN COMMODITIES 1, LLC**, a Puerto Rico limited liability Company (the "**Company**"), is made and entered into and effective as of July 3, 2013, by the "Initial Voting Member" identified in Schedule I hereto, as member of the Company.

RECITALS

WHEREAS, the Initial Voting Member is the sole voting member of the Company, which was formed in accordance with the laws of the Commonwealth of Puerto Rico by the filing of a Certificate of Formation with the Corporations Registry of the Puerto Rico Department of State on July 3, 2013.

WHEREAS, the Initial Voting Member desires to set forth in this Agreement its entire agreement and understanding with respect to, among other things, the constitution and operation of the Company as a Puerto Rico limited liability Company, as well as its ownership of the Membership Interests.

NOW, THEREFORE, the Initial Member hereby agrees as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. Except as otherwise herein expressly provided, the following terms and phrases shall have the meanings as set forth below:

"**Act**" means the General Corporations Act of Puerto Rico, as the same may hereafter be amended from time to time.

"**Affiliate**" means, with respect to any Person, any Entity, which directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.

"**Agreement**" means this instrument comprising the Operating Agreement of the Company, as amended, modified, supplemented or restated from time to time in accordance with its terms.

"**Board**" shall have the meaning specified in Section 6.1.

"**Capital Contribution**" means, with respect to any Member, the amount of cash and the fair market value of any Contributed Property (net of liabilities to which such property is subject).

"**Certificate of Formation**" means the certificate of formation of the Company as filed with the Puerto Rico Department of State on July 3, 2013, as amended or amended and restated from time to time.

"**Code**" means Act No. 1 of January 31, 2011, known as the Puerto Rico Internal Revenue Code of 2011, as amended and in effect from time to time, as interpreted by the applicable regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"**Contributed Property**" means any property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Company with respect to the Membership Interest held by a Member.

"**Control**" means, with respect to an Entity which is a corporation, the right to exercise, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the shares of such Entity, including the ability to exercise a veto, and, with respect to an Entity which is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity. "**Controlling**" and "**Controlled**" have correlative meanings.

"**Covered Persons**" shall have the meaning specified in Section 11.1.

"**Manager**" means a Person that serves on the Board in accordance with Section 6.1(a).

"**Entity**" means any general partnership, limited partnership, limited liability Company, corporation, joint venture, foundation, trust, business trust, real estate investment trust or association.

"**GAAP**" means generally accepted accounting principles in effect from time to time.

"**Initial Voting Member**" means Adam C. Sinn.

"**Majority Approval of the Board**" means the approval, consent, determination or vote (as the case may be) of at least a majority of the Persons then serving on the Board.

"**Majority Approval of the Voting Members**" means the approval, consent, determination or vote (as the case may be) of holders of Class A Membership Interests which, in the aggregate, represent more than fifty percent (50%) of the then outstanding Class A Membership Interests/Units.

"**Member**" means the Initial Member, and, to the extent permitted hereby, each Person that may hereafter become an additional member of the Company or a substitute member of the Company pursuant to the provisions of this Agreement, in its capacity as a member of the Company.

"**Membership Interest or Unit**" means, with respect to any Member, the ownership interest of such Member in the Company as set forth in Schedule I, as the same may be amended from time to time.

"**Non-voting Members**" means the owners of Class B, Class C, Class D, Class E, Class F, Class G, Class H, Class I, and Class J Membership Interests.

"**Person**" means any natural person or Entity, as defined in the Act.

"**Voting Members**" means the owners of Class A Membership Interests.

Section 1.2 Interpretation. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context indicates is appropriate. The term "including" shall mean "including, but not limited to." References to Articles, Sections, Schedules and Exhibits refer to the Articles, Sections, Schedules and Exhibits of this Agreement, unless otherwise stated.

ARTICLE II
FORMATION AND BUSINESS OF THE COMPANY

Section 2.1 Formation.

(a) The Company has been formed as a Puerto Rico limited liability Company under and pursuant to the Act by the filing of the Certificate of Formation on July 3rd, 2013 with the Puerto Rico Department of State. This Agreement shall be the "limited liability Company agreement" (within the meaning of Section 19.01 of the Act) of the Company for purposes of the Act.

(b) The Initial Voting Member hereby certifies that all the actions taken to effect the formation of the Company are hereby approved, ratified, confirmed and adopted by and on behalf of the Company. Hereafter any Person authorized by the Board as an authorized person within the meaning of the Act shall execute, deliver and file, or cause the execution, delivery and filing of, all certificates required or permitted by the Act to be filed with the Puerto Rico State Department.

Section 2.2 Name. The name of the Company shall be "**RAIDEN COMMODITIES 1, LLC**" or such other name or names as may be selected by the Voting Members from time to time, and its business shall be carried on in such name with such variations and changes as the Board deems necessary to comply with requirements of the jurisdictions in which the Company's operations are conducted.

Section 2.3 Purpose: Nature of Business Permitted: Powers. The Company is formed for the main purpose of engaging in commodities trading or activity for which limited liability companies may be formed under the Act. The Company will contract the

necessary licensed personnel in the Commonwealth of Puerto Rico, as required under state law. The Company shall possess and may exercise all the powers and privileges granted by the Act or by any other law or by this Agreement, together with any powers incidental thereto, insofar as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the Company.

Section 2.4 Principal Office. The location of the principal place of business of the Company shall be 200 Dorado Beach Drive, Unit 3021, Dorado, PR 00646 or such other location as shall be selected from time to time by Majority Approval of the Voting Members.

Section 2.5 Registered Agent and Registered Office. The registered agent of the Company shall be the initial registered agent named in the Certificate of Formation or such other Person or Persons as the Board may designate from time to time in the manner provided by the Act. The registered office of the Company required by the Act to be maintained in the Commonwealth of Puerto Rico shall be the initial registered office named in the Certificate of Formation or such other office (which need not be a place of business of the Company) as the Board may designate from time to time in the manner provided by the Act.

Section 2.6 Addresses of Members. The name and address of each Member are set forth in Schedule I hereto, as updated from time to time to reflect changes in the Members and addresses as applicable.

Section 2.7 The Initial Voting Member. The Initial Member shall be admitted as a member of the Company on the date hereof upon its execution and delivery of this Agreement.

Section 2.8 Fiscal Year. The fiscal year of the Company for financial statement and income tax purposes shall commence on January 1st and conclude on December 31st of every year (the "Fiscal Year"), or as otherwise determined by the Board from time to time.

Section 2.9 Company Property. No property of the Company shall be deemed to be owned by any Member individually, but shall be owned by and title shall be vested solely in the Company. The Common Interests (as hereinafter defined) of the Members in the Company shall constitute personal property distinct and separate from the property of the Company.

ARTICLE III
TERM; LIMITED LIABILITY

Section 3.1 Term. The existence of the Company shall be deemed to commence on the date of the filing of the Certificate of Formation (also known as Certificate of Organization) in the office of the Puerto Rico Department of State in accordance with the

Act, and, subject to the provisions of Article IX hereof, the Company shall have a perpetual life.

Section 3.2 Limited Liability. Except as otherwise provided in this Agreement or by the Act, no Member shall be personally liable for any acts, debts or liabilities of the Company beyond its respective Capital Contributions. The Members shall look solely to the Company property for the return of their Capital Contributions and if the Company property remaining after payment or discharge of the debts and liabilities of the Company is insufficient to return such Capital Contributions, no Member shall have any recourse against any other Member, except as is expressly otherwise provided in this Agreement.

ARTICLE IV
MEMBERS; CAPITAL CONTRIBUTIONS

Section 4.1 Capital Contributions: Membership Interests.

As of the date hereof, the Initial Voting Member shall make a Capital Contribution to the Company in the U.S. dollar ($) values as set forth on Schedule II hereto. The Members are not required to make any additional Capital Contribution to the Company. However, a Member may make additional Capital Contributions to the Company at any time upon the written consent of such Member and the existing Voting Members.

As of the date hereof, the Initial Member(s) hereby receive the Membership Interest as set forth in Schedule I of this Agreement.

The provisions of this Section 4.1 are intended solely to benefit the Members and no Member shall have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

Section 4.2 No Interest on or Return of Capital Contribution. No Member shall be entitled to interest on its Capital Contribution. Except as provided herein or by law, no Member shall have any right to demand or receive the return of its Capital Contribution.

Section 4.3 Approvals by the Members. Any actions with respect to the Company that are subject to the approval, consent, determination or vote of the Members shall require Majority Approval of the Voting Members, except as otherwise provided herein.

Section 4.5 Classes. The initial Membership Interests of the Company shall consist of Class A, Class B, Class C, Class D, Class E, Class F, Class G, Class H, Class I, and Class J units. The Board may issue additional Classes and Units within said Classes upon the Majority Approval of the Voting Members.

Section 4.6 Terms of Units.

(a) Class A Units. Class A Units are the only Membership Interests with the right to vote on or participate in the management of the Company. Class A Units shall have the right to participate in and receive distributions as determined by the Board.

(b) Class B Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(c) Class C Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(d) Class D Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(e) Class E Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(f) Class F Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(g) Class G Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(h) Class H Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(i) Class I Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(j) Class J Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

The Company may redeem Class B through Class J Participation Interests/Units at any time without notice and without payment or compensation to the owners of such Participation Interests/Units.

Only Voting Members shall have the right to request access to the Company's confidential books and records.

ARTICLE V
ALLOCATIONS, DISTRIBUTIONS AND OTHER TAX AND ACCOUNTING MATTERS

Section 5.1 Allocations of Net Profits and Net Losses from Operations. Net profits and net losses shall be allocated among the Members in accordance with the provisions of Article 4 and 5 herein.

Section 5.2 No Right to Distributions. No Member shall have the right to demand or receive distributions of any amount, except as expressly provided in this Article V.

Section 5.3 Distributions. The Board shall determine, at its sole discretion, profits available for distribution to the Members and the amount, if any, to be distributed to Members.

Section 5.4 Withholding. The Company is authorized to withhold from distributions to a Member, or with respect to allocations to a Member, and to pay over to a Federal, foreign, state or local government, any amounts required to be withheld pursuant to the Code or any provisions of any other Federal, foreign, state or local law.

Section 5.5 Books of Account. At all times during the continuance of the Company, the Company shall maintain or cause to be maintained full, true, complete and correct books of account in accordance with GAAP. In addition, the Company shall keep all records required to be kept pursuant to the Act.

Section 5.6 Reports. The Company shall cause to be prepared such reports and/or information as the Company is required to prepare by applicable law.

Section 5.7 Exemptions. The Members shall have the right to request on behalf of the Company any and all applicable tax incentives, benefits and/or exemptions available under the Code or any other applicable law in Puerto Rico.

ARTICLE VI
MANAGEMENT AND ACTIVITIES OF THE COMPANY

Section 6.1 Management of the Company.

(a) The business and affairs of the Company shall be initially managed by or under the direction of a board of two (2) managers (the "Board") designated by the Voting Member(s), as set forth in Schedule III. The Voting Members may determine at any time in their sole and absolute discretion the number of Managers to constitute the Board. The authorized number of Managers may be increased or decreased by the Voting Members at any time in their sole and absolute discretion. Each Manager elected, designated or appointed shall hold office until a successor is elected and qualified or until such Manager's earlier death, resignation or removal. A Manager need not be a Member or a resident of the Commonwealth of Puerto Rico, however, the Board will always be composed of at least one (1) Voting Member.

(b) The Board may hold meetings, both regular and special, within or outside the Commonwealth of Puerto Rico. Regular and Special meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

(c) At all meetings of the Board, a majority of the Managers shall constitute a quorum for the transaction of business and, except as otherwise provided in any other provision of this Agreement, the act of a majority of the Managers present at any meeting at which there is a quorum shall be the act of the Board. If a quorum shall not be present at any meeting of the Board, the Managers present at such meeting may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all members of the Board consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board.

(d) Members of the Board may participate in meetings of the Board by means of telephone conference or similar communications equipment that allows all persons participating in the meeting to hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

(e) Unless otherwise restricted by law, any Manager or the entire Board may be removed, with or without cause, by the Members, and any vacancy caused by any such removal may be filled by action of the Members.

(f) To the extent of their powers set forth in this Agreement, the Managers are agents of the Company for the purpose of the Company's business, and the actions of the Managers taken in accordance with such powers set forth in this Agreement shall bind the Company.

(g) The Board shall have the power to do any and all acts necessary, convenient or incidental to or for the furtherance of the Company's purposes described herein, including all powers, statutory or otherwise, subject to the limitations provided herein below.

(h) Managers, as such, shall not receive any stated salary for their services, but, on resolution of the Board of Managers, a fixed sum for expenses of attendance, if any, may be allowed for attendance at each meeting, regular or special, provided that nothing herein contained shall be construed to preclude any manager from serving the Company in any other capacity and receiving compensation therefor. Members of either executive or special committees may be allowed such compensation as the Board of Managers may determine for attending committee hearings.

Section 6.2 Limitations on Actions. Notwithstanding the provisions of Section 6.1, the affirmative vote of a Majority Approval of Voting Members shall be necessary to effect any of the following actions:

(a) Any merger or consolidation of the Company with or into any other Person;
(b) Any sale, lease, assignment or other disposition by the Company in any single transaction or series of related transactions (i) of all or substantially all of its assets, or (ii) that is not in the ordinary course of business;
(c) Any transaction involving or consisting of a voluntary pledge of, mortgage of, grant of a security interest in, or other encumbrance in the nature of a pledge or mortgage of, any assets of the Company;
(d) Commencement of any voluntary proceeding in respect of the Company seeking liquidation, reorganization, dissolution or bankruptcy;
(e) Entry by the Company into any contract or transaction with, or for the benefit of, any Member; and
(f) Liquidation or dissolution of the Company.

Section 6.3 Liability of a Manager. A Manager shall not have any liability to the Company or to any Member for any mistakes or errors in judgment, or for any act or omission believed in good faith to be within the scope of authority conferred by this Agreement. A Manager shall be liable only for acts and/or omissions involving intentional wrongdoing. Actions or omissions taken in reliance upon the advice of legal counsel that they are within the scope of a Manager's authority hereunder shall be conclusive evidence of good faith; provided, however, a Manager shall not be required to procure such advice to be entitled to the benefit of this subparagraph.

ARTICLE VII
OFFICERS

Section 7.1 Election and Designation of Officers. The Board of Managers shall elect a President, a Vice President, a Secretary, a Treasurer, and, in its discretion, may elect one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant

Treasurers, and such other officers as the Board of Managers may deem necessary. No Officer need be a manager. Any two or more of such offices may be held by the same person.

Section 7.2 Term of Office; Vacancies. The officers of the Company shall hold office until their successors are duly elected by the Board of Managers, except in case of resignation, removal from office or death. The Board of Managers may remove any officer at any time with or without cause by a majority vote of the managers then in office. Any vacancy in any office may be filled by the Board of Managers.

Section 7.3 President. The President shall preside at all meetings of the Members and at all meetings of the Board of Managers. Subject to directions of the Board of Managers, the President shall have general executive supervision over the property, business and affairs of the Company. He may execute all authorized deeds, mortgages, bonds, contracts, and other obligations in the name of the Company and shall have such other authority and shall perform such other duties as may be determined by the Board of Managers.

Section 7.4 Vice Presidents. In the absence of the President or in event of his/her death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors

Section 7.5 Secretary. The Secretary shall keep the minutes of meetings of the members and of the Board of Managers. He shall keep such books as may be required by the Board of Managers, shall give notices of members' meetings and of Board meetings as may required by this Operating Agreement, or otherwise, and shall have such authority and shall perform such other duties as may be determined by the Board of Managers.

Section 7.6 Treasurer. The Treasurer shall receive and have in charge all money, bills, notes, bonds, stocks in other companies, and similar property belonging to the Company, and shall do with the same as may be ordered by the Board.

Section 7.7 Other Officers. The Assistant Secretaries and Assistant Treasurers, if any, and any other officers whom the Board of Managers may elect shall, respectively, have such authority and perform such duties as may be determined by the Board of Managers.

Section 7.8 Delegation of Authority and Duties. The Board of Managers is authorized to delegate the authority and duties of any officer to any other officer and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

Section 7.9 Compensation. The compensation of officers of the Company, or the method of fixing such compensation, shall be determined by or pursuant to authority conferred by the Board of Managers or any committee of the Board of Managers. Such compensation

may include pension, disability and death benefits, and may be by way of fixed salary, or on the basis of earnings of the Company, or any combination thereof, or otherwise, as determined or authorized from time to time by the Board of Managers or any committee of the Board of Managers.

ARTICLE VIII
CERTIFICATES FOR UNITS

Section 8.1 Form of Certificates and Signatures. Each holder of a Membership Unit shall be entitled to one or more certificates, signed by the President or Vice President and by the Secretary or the Treasurer (or any Assistant Treasurer or Assistant Secretary) of the Company, which shall certify the number and class of Membership Units held by him in the Company, but no certificate for Membership Units shall be executed or delivered until such units are fully paid. When such a certificate is countersigned by a transfer agent or registrar, the signature of any of said officers of the Company may be facsimile, engraved, stamped or printed.

Section 8.2 Transfer of Units. Subject to Section 10.1 below, Membership Units in the Company shall be transferable upon the books of the Company by the holders thereof, in person, or by a duly authorized attorney, upon surrender and cancellation of certificates for a like number of units of the same class, with duly executed assignment and power of transfer endorsed thereon or attached thereto, and with such proof of the authenticity of the signatures to such assignment and power of transfer as the Company or its agents may reasonably require.

Section 8.3 Lost, Stolen or Destroyed Certificates. The Company may issue a new certificate for Membership Units in place of any certificate theretofore issued by it and alleged to have been lost, stolen or destroyed, and the Board of Managers may, in its discretion, require the owner, or his legal representatives, to give the Company a bond containing such terms as the Board of Managers may require to protect the Company or any person injured by the execution and delivery of a new certificate.

Section 8.4 Transfer Agent and Registrar. The Board of Managers may appoint, or revoke the appointment of, transfer agents or registrars and may require all certificates for Membership Units to bear the signatures of such transfer agents and registrars or any of them.

ARTICLE IX
DISSOLUTION

Section 9.1 Dissolution. The Company shall be dissolved and liquidated upon a determination by the Voting Members to dissolve the Company, in the manner provided for by this Agreement, by law or the Act.

Section 9.2 Liquidation. In the event the Company is hereby dissolved, it shall be liquidated and its affairs shall be wound up. All proceeds from such liquidation shall be

distributed to the Voting Members as provided by law and this Agreement and all interests in the Company shall be cancelled.

ARTICLE X
TRANSFER AND ASSIGNMENT

Section 10.1 Assignments. No Member shall have the right to sell, convey, assign, transfer, pledge, grant a security interest in or otherwise dispose of all or any part of its Membership Interest (each a "Transfer"), other than to a transferee Member that agrees to be bound by all of the provisions hereof and subject to the Majority Approval of the Voting Members; provided that, no such assignment shall release any Member from its obligations hereunder until the assignment is consummated and all accounts with such Member are liquidated. If a Member transfers all of its Membership Interest pursuant to this Section, the transferee shall be admitted to the Company as a substitute Member upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the transfer, and, immediately following such admission, the transferor Member shall cease to be a Member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to a Member by merger or consolidation shall, without further act, be a Member hereunder, and such merger or consolidation shall not constitute an assignment for purposes of this Agreement. All Transfers in violation of this Article are null and void.

Section 10.2 Admission of Additional Members. One or more additional Members of the Company may be admitted to the Company with the written consent of the Voting Members; provided that, notwithstanding the foregoing, no Person may be admitted as a Member of the Company unless such Person accepts, adopts and agrees to be bound by all of the terms and provisions of this Agreement as are applicable to the Initial Member, as the same may have been amended, as if such Person had joined in the original execution of this Agreement as a Member.

ARTICLE XI
EXCULPATION, INDEMNIFICATION AND INSURANCE

Section 11.1 Exculpation and Indemnification.

(a) No Member, Manager, employee or agent of the Company and no employee, agent or Affiliate of a Member (collectively, the "**Covered Persons**") shall be liable to the Company or any other Person who has an interest in or claim against the Company for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence or willful misconduct.

(b) To the fullest extent permitted by and in accordance with the Act, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 11.1 shall be provided out of and to the extent of Company assets only.

Section 11.2 Insurance. To the fullest extent permitted by and in accordance with the Act, the Company shall have the power to purchase and maintain insurance, including insurance on behalf of any Covered Person against any liability asserted against such Person and incurred by such Covered Person in any such capacity, or arising out of such Covered Person's status as an agent of the Company, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of Section 11.2 or the Act.

ARTICLE XI1
GENERAL PROVISIONS

Section 12.1 Notices. All notices, offers or other communications required or permitted to be given pursuant to this Agreement shall be in writing and may be personally served or sent by regular mail and shall be deemed to have been given when delivered in person or three (3) business days after deposit in mail, registered or certified, postage prepaid, and properly addressed, by or to the appropriate party. The address of any party hereto may be changed by a notice in writing given in accordance with the provisions of this Section 12.1.

Section 12.2 Controlling Law. This Agreement shall be governed by and construed in all respects in accordance with the laws of the Commonwealth of Puerto Rico (without regard to conflicts of law principles thereof).

Section 12.3 Severability. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

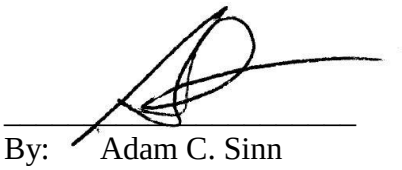
Section 12.4 Entire Agreement. This Agreement (together with the Schedules hereto) contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

Section 12.5 Amendment. This Agreement and the Certificate of Formation may be amended, supplemented or restated only by written consent of all the Voting Members. Upon obtaining the approval of any such amendment, supplement or restatement as to the Certificate of Formation, the Company shall cause a Certificate of Amendment or Amended and Restated Certificate to be prepared, executed and filed in accordance with the Act.

Section 12.6 Headings. The Article and Section headings in this Agreement are for convenience and they form no part of this Agreement and shall not affect its interpretation.

Section 12.07 Assurances. Each of the Members shall hereafter execute and deliver such further instruments and do such further acts and things as may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused this Agreement to be executed on their behalf as of the date first above written.



By: Adam C. Sinn
As: the Initial Voting Member

SCHEDULE I
LIST OF MEMBERS

MEMBER	CLASS	MEMBERSHIP INTEREST
Adam C. Sinn 200 Dorado Beach Drive, Unit 3021 Dorado, PR 00646	A (voting)	100% (10 units)
Patrick de Man URB Sabanera Dorado 544 Corredor del Bosque Dorado, PR 00646	B (non-voting)	100% (10 units)
	C (non-voting)	100% (10 units)
	D (non-voting)	100% (10 units)
	E (non-voting)	100% (10 units)
	F (non-voting)	100% (10 units)
	G (non-voting)	100% (10 units)
	H (non-voting)	100% (10 units)
	I (non-voting)	100% (10 units)
	J (non-voting)	100% (10 units)
	K (non-voting)	100% (10 units)

SCHEDULE II
CAPITAL CONTRIBUTIONS AND PROPERTIES

MEMBER	CONTRIBUTION
Adam C. Sinn 200 Dorado Beach Drive Unit 3021 Dorado, PR 00646	$1000
Patrick de Man URB Sabanera Dorado 544 Corredor del Bosque Dorado, PR 00646	$1000

SCHEDULE III
LIST OF MANAGERS

Adam C. Sinn
200 Dorado Beach Drive,
Unit 3021
Dorado, PR 00646

Patrick de Man
URB Sabanera Dorado
544 Corredor del Bosque
Dorado, PR 00646

EXHIBIT E

OPERATING AGREEMENT
OF
ASPIRE COMMODITIES 1, LLC

THIS OPERATING AGREEMENT of **ASPIRE COMMODITIES 1, LLC**, a Puerto Rico limited liability Company (the "**Company**"), is made and entered into and effective as of July 3, 2013, by the "Initial Voting Member" identified in Schedule I hereto, as member of the Company.

RECITALS

WHEREAS, the Initial Voting Member is the sole voting member of the Company, which was formed in accordance with the laws of the Commonwealth of Puerto Rico by the filing of a Certificate of Formation with the Corporations Registry of the Puerto Rico Department of State on July 3, 2013.

WHEREAS, the Initial Voting Member desires to set forth in this Agreement its entire agreement and understanding with respect to, among other things, the constitution and operation of the Company as a Puerto Rico limited liability Company, as well as its ownership of the Membership Interests.

NOW, THEREFORE, the Initial Member hereby agrees as follows:

ARTICLE I
DEFINITIONS; INTERPRETATION

Section 1.1 Definitions. Except as otherwise herein expressly provided, the following terms and phrases shall have the meanings as set forth below:

"**Act**" means the General Corporations Act of Puerto Rico, as the same may hereafter be amended from time to time.

"**Affiliate**" means, with respect to any Person, any Entity, which directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, such Person.

"**Agreement**" means this instrument comprising the Operating Agreement of the Company, as amended, modified, supplemented or restated from time to time in accordance with its terms.

"**Board**" shall have the meaning specified in Section 6.1.

"**Capital Contribution**" means, with respect to any Member, the amount of cash and the fair market value of any Contributed Property (net of liabilities to which such property is subject).

"**Certificate of Formation**" means the certificate of formation of the Company as filed with the Puerto Rico Department of State on July 3, 2013, as amended or amended and restated from time to time.

"**Code**" means Act No. 1 of January 31, 2011, known as the Puerto Rico Internal Revenue Code of 2011, as amended and in effect from time to time, as interpreted by the applicable regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"**Contributed Property**" means any property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Company with respect to the Membership Interest held by a Member.

"**Control**" means, with respect to an Entity which is a corporation, the right to exercise, directly or indirectly, more than fifty percent (50%) of the voting rights attributable to the shares of such Entity, including the ability to exercise a veto, and, with respect to an Entity which is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such entity. "**Controlling**" and "**Controlled**" have correlative meanings.

"**Covered Persons**" shall have the meaning specified in Section 11.1.

"**Manager**" means a Person that serves on the Board in accordance with Section 6.1(a).

"**Entity**" means any general partnership, limited partnership, limited liability Company, corporation, joint venture, foundation, trust, business trust, real estate investment trust or association.

"**GAAP**" means generally accepted accounting principles in effect from time to time.

"**Initial Voting Member**" means Adam C. Sinn.

"**Majority Approval of the Board**" means the approval, consent, determination or vote (as the case may be) of at least a majority of the Persons then serving on the Board.

"**Majority Approval of the Voting Members**" means the approval, consent, determination or vote (as the case may be) of holders of Class A Membership Interests which, in the aggregate, represent more than fifty percent (50%) of the then outstanding Class A Membership Interests/Units.

"**Member**" means the Initial Member, and, to the extent permitted hereby, each Person that may hereafter become an additional member of the Company or a substitute member of the Company pursuant to the provisions of this Agreement, in its capacity as a member of the Company.

"**Membership Interest or Unit**" means, with respect to any Member, the ownership interest of such Member in the Company as set forth in Schedule I, as the same may be amended from time to time.

"**Non-voting Members**" means the owners of Class B, Class C, Class D, Class E, Class F, Class G, Class H, Class I, and Class J Membership Interests.

"**Person**" means any natural person or Entity, as defined in the Act.

"**Voting Members**" means the owners of Class A Membership Interests.

Section 1.2 Interpretation. Words used herein, regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context indicates is appropriate. The term "including" shall mean "including, but not limited to." References to Articles, Sections, Schedules and Exhibits refer to the Articles, Sections, Schedules and Exhibits of this Agreement, unless otherwise stated.

ARTICLE II
FORMATION AND BUSINESS OF THE COMPANY

Section 2.1 Formation.

(a) The Company has been formed as a Puerto Rico limited liability Company under and pursuant to the Act by the filing of the Certificate of Formation on July 3rd, 2013 with the Puerto Rico Department of State. This Agreement shall be the "limited liability Company agreement" (within the meaning of Section 19.01 of the Act) of the Company for purposes of the Act.

(b) The Initial Voting Member hereby certifies that all the actions taken to effect the formation of the Company are hereby approved, ratified, confirmed and adopted by and on behalf of the Company. Hereafter any Person authorized by the Board as an authorized person within the meaning of the Act shall execute, deliver and file, or cause the execution, delivery and filing of, all certificates required or permitted by the Act to be filed with the Puerto Rico State Department.

Section 2.2 Name. The name of the Company shall be "**ASPIRE COMMODITIES 1, LLC**" or such other name or names as may be selected by the Voting Members from time to time, and its business shall be carried on in such name with such variations and changes as the Board deems necessary to comply with requirements of the jurisdictions in which the Company's operations are conducted.

Section 2.3 Purpose: Nature of Business Permitted: Powers. The Company is formed for the main purpose of engaging in commodities trading or activity for which limited liability companies may be formed under the Act. The Company will contract the

necessary licensed personnel in the Commonwealth of Puerto Rico, as required under state law. The Company shall possess and may exercise all the powers and privileges granted by the Act or by any other law or by this Agreement, together with any powers incidental thereto, insofar as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the Company.

Section 2.4 Principal Office. The location of the principal place of business of the Company shall be 200 Dorado Beach Drive, Unit 3021, Dorado, PR 00646 or such other location as shall be selected from time to time by Majority Approval of the Voting Members.

Section 2.5 Registered Agent and Registered Office. The registered agent of the Company shall be the initial registered agent named in the Certificate of Formation or such other Person or Persons as the Board may designate from time to time in the manner provided by the Act. The registered office of the Company required by the Act to be maintained in the Commonwealth of Puerto Rico shall be the initial registered office named in the Certificate of Formation or such other office (which need not be a place of business of the Company) as the Board may designate from time to time in the manner provided by the Act.

Section 2.6 Addresses of Members. The name and address of each Member are set forth in Schedule I hereto, as updated from time to time to reflect changes in the Members and addresses as applicable.

Section 2.7 The Initial Voting Member. The Initial Member shall be admitted as a member of the Company on the date hereof upon its execution and delivery of this Agreement.

Section 2.8 Fiscal Year. The fiscal year of the Company for financial statement and income tax purposes shall commence on January 1st and conclude on December 31st of every year (the "Fiscal Year"), or as otherwise determined by the Board from time to time.

Section 2.9 Company Property. No property of the Company shall be deemed to be owned by any Member individually, but shall be owned by and title shall be vested solely in the Company. The Common Interests (as hereinafter defined) of the Members in the Company shall constitute personal property distinct and separate from the property of the Company.

ARTICLE III
TERM; LIMITED LIABILITY

Section 3.1 Term. The existence of the Company shall be deemed to commence on the date of the filing of the Certificate of Formation (also known as Certificate of Organization) in the office of the Puerto Rico Department of State in accordance with the

Act, and, subject to the provisions of Article IX hereof, the Company shall have a perpetual life.

Section 3.2 Limited Liability. Except as otherwise provided in this Agreement or by the Act, no Member shall be personally liable for any acts, debts or liabilities of the Company beyond its respective Capital Contributions. The Members shall look solely to the Company property for the return of their Capital Contributions and if the Company property remaining after payment or discharge of the debts and liabilities of the Company is insufficient to return such Capital Contributions, no Member shall have any recourse against any other Member, except as is expressly otherwise provided in this Agreement.

ARTICLE IV
MEMBERS; CAPITAL CONTRIBUTIONS

Section 4.1 Capital Contributions: Membership Interests.

As of the date hereof, the Initial Voting Member shall make a Capital Contribution to the Company in the U.S. dollar ($) values as set forth on Schedule II hereto. The Members are not required to make any additional Capital Contribution to the Company. However, a Member may make additional Capital Contributions to the Company at any time upon the written consent of such Member and the existing Voting Members.

As of the date hereof, the Initial Member(s) hereby receive the Membership Interest as set forth in Schedule I of this Agreement.

The provisions of this Section 4.1 are intended solely to benefit the Members and no Member shall have any duty or obligation to any creditor of the Company to make any contribution to the Company or to issue any call for capital pursuant to this Agreement.

Section 4.2 No Interest on or Return of Capital Contribution. No Member shall be entitled to interest on its Capital Contribution. Except as provided herein or by law, no Member shall have any right to demand or receive the return of its Capital Contribution.

Section 4.3 Approvals by the Members. Any actions with respect to the Company that are subject to the approval, consent, determination or vote of the Members shall require Majority Approval of the Voting Members, except as otherwise provided herein.

Section 4.5 Classes. The initial Membership Interests of the Company shall consist of Class A, Class B, Class C, Class D, Class E, Class F, Class G, Class H, Class I, and Class J units. The Board may issue additional Classes and Units within said Classes upon the Majority Approval of the Voting Members.

Section 4.6 Terms of Units.

(a) Class A Units. Class A Units are the only Membership Interests with the right to vote on or participate in the management of the Company. Class A Units shall have the right to participate in and receive distributions as determined by the Board.

(b) Class B Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(c) Class C Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(d) Class D Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(e) Class E Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(f) Class F Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(g) Class G Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(h) Class H Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(i) Class I Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

(j) Class J Units. Are not entitled to voting rights. Participation in distributions issued by the Company will depend on the gross income generated by this Class and shall be determined at the sole discretion of the Board from time to time. This class shall not participate in the losses of the Company.

The Company may redeem Class B through Class J Participation Interests/Units at any time without notice and without payment or compensation to the owners of such Participation Interests/Units.

Only Voting Members shall have the right to request access to the Company's confidential books and records.

ARTICLE V
ALLOCATIONS, DISTRIBUTIONS AND OTHER TAX AND ACCOUNTING MATTERS

Section 5.1 Allocations of Net Profits and Net Losses from Operations. Net profits and net losses shall be allocated among the Members in accordance with the provisions of Article 4 and 5 herein.

Section 5.2 No Right to Distributions. No Member shall have the right to demand or receive distributions of any amount, except as expressly provided in this Article V.

Section 5.3 Distributions. The Board shall determine, at its sole discretion, profits available for distribution to the Members and the amount, if any, to be distributed to Members.

Section 5.4 Withholding. The Company is authorized to withhold from distributions to a Member, or with respect to allocations to a Member, and to pay over to a Federal, foreign, state or local government, any amounts required to be withheld pursuant to the Code or any provisions of any other Federal, foreign, state or local law.

Section 5.5 Books of Account. At all times during the continuance of the Company, the Company shall maintain or cause to be maintained full, true, complete and correct books of account in accordance with GAAP. In addition, the Company shall keep all records required to be kept pursuant to the Act.

Section 5.6 Reports. The Company shall cause to be prepared such reports and/or information as the Company is required to prepare by applicable law.

Section 5.7 Exemptions. The Members shall have the right to request on behalf of the Company any and all applicable tax incentives, benefits and/or exemptions available under the Code or any other applicable law in Puerto Rico.

ARTICLE VI
MANAGEMENT AND ACTIVITIES OF THE COMPANY

Section 6.1 Management of the Company.

(a) The business and affairs of the Company shall be initially managed by or under the direction of a board of two (2) managers (the "Board") designated by the Voting Member(s), as set forth in Schedule III. The Voting Members may determine at any time in their sole and absolute discretion the number of Managers to constitute the Board. The authorized number of Managers may be increased or decreased by the Voting Members at any time in their sole and absolute discretion. Each Manager elected, designated or appointed shall hold office until a successor is elected and qualified or until such Manager's earlier death, resignation or removal. A Manager need not be a Member or a resident of the Commonwealth of Puerto Rico, however, the Board will always be composed of at least one (1) Voting Member.

(b) The Board may hold meetings, both regular and special, within or outside the Commonwealth of Puerto Rico. Regular and Special meetings of the Board may be held without notice at such time and at such place as shall from time to time be determined by the Board.

(c) At all meetings of the Board, a majority of the Managers shall constitute a quorum for the transaction of business and, except as otherwise provided in any other provision of this Agreement, the act of a majority of the Managers present at any meeting at which there is a quorum shall be the act of the Board. If a quorum shall not be present at any meeting of the Board, the Managers present at such meeting may adjourn the meeting, without notice other than announcement at the meeting, until a quorum shall be present. Any action required or permitted to be taken at any meeting of the Board may be taken without a meeting if all members of the Board consent thereto in writing, and the writing or writings are filed with the minutes of proceedings of the Board.

(d) Members of the Board may participate in meetings of the Board by means of telephone conference or similar communications equipment that allows all persons participating in the meeting to hear each other, and such participation in a meeting shall constitute presence in person at the meeting.

(e) Unless otherwise restricted by law, any Manager or the entire Board may be removed, with or without cause, by the Members, and any vacancy caused by any such removal may be filled by action of the Members.

(f) To the extent of their powers set forth in this Agreement, the Managers are agents of the Company for the purpose of the Company's business, and the actions of the Managers taken in accordance with such powers set forth in this Agreement shall bind the Company.

(g) The Board shall have the power to do any and all acts necessary, convenient or incidental to or for the furtherance of the Company's purposes described herein, including all powers, statutory or otherwise, subject to the limitations provided herein below.

(h) Managers, as such, shall not receive any stated salary for their services, but, on resolution of the Board of Managers, a fixed sum for expenses of attendance, if any, may be allowed for attendance at each meeting, regular or special, provided that nothing herein contained shall be construed to preclude any manager from serving the Company in any other capacity and receiving compensation therefor. Members of either executive or special committees may be allowed such compensation as the Board of Managers may determine for attending committee hearings.

Section 6.2 Limitations on Actions. Notwithstanding the provisions of Section 6.1, the affirmative vote of a Majority Approval of Voting Members shall be necessary to effect any of the following actions:

(a) Any merger or consolidation of the Company with or into any other Person;
(b) Any sale, lease, assignment or other disposition by the Company in any single transaction or series of related transactions (i) of all or substantially all of its assets, or (ii) that is not in the ordinary course of business;
(c) Any transaction involving or consisting of a voluntary pledge of, mortgage of, grant of a security interest in, or other encumbrance in the nature of a pledge or mortgage of, any assets of the Company;
(d) Commencement of any voluntary proceeding in respect of the Company seeking liquidation, reorganization, dissolution or bankruptcy;
(e) Entry by the Company into any contract or transaction with, or for the benefit of, any Member; and
(f) Liquidation or dissolution of the Company.

Section 6.3 Liability of a Manager. A Manager shall not have any liability to the Company or to any Member for any mistakes or errors in judgment, or for any act or omission believed in good faith to be within the scope of authority conferred by this Agreement. A Manager shall be liable only for acts and/or omissions involving intentional wrongdoing. Actions or omissions taken in reliance upon the advice of legal counsel that they are within the scope of a Manager's authority hereunder shall be conclusive evidence of good faith; provided, however, a Manager shall not be required to procure such advice to be entitled to the benefit of this subparagraph.

ARTICLE VII
OFFICERS

Section 7.1 Election and Designation of Officers. The Board of Managers shall elect a President, a Vice President, a Secretary, a Treasurer, and, in its discretion, may elect one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant

Treasurers, and such other officers as the Board of Managers may deem necessary. No Officer need be a manager. Any two or more of such offices may be held by the same person.

Section 7.2 Term of Office; Vacancies. The officers of the Company shall hold office until their successors are duly elected by the Board of Managers, except in case of resignation, removal from office or death. The Board of Managers may remove any officer at any time with or without cause by a majority vote of the managers then in office. Any vacancy in any office may be filled by the Board of Managers.

Section 7.3 President. The President shall preside at all meetings of the Members and at all meetings of the Board of Managers. Subject to directions of the Board of Managers, the President shall have general executive supervision over the property, business and affairs of the Company. He may execute all authorized deeds, mortgages, bonds, contracts, and other obligations in the name of the Company and shall have such other authority and shall perform such other duties as may be determined by the Board of Managers.

Section 7.4 Vice Presidents. In the absence of the President or in event of his/her death, inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors

Section 7.5 Secretary. The Secretary shall keep the minutes of meetings of the members and of the Board of Managers. He shall keep such books as may be required by the Board of Managers, shall give notices of members' meetings and of Board meetings as may required by this Operating Agreement, or otherwise, and shall have such authority and shall perform such other duties as may be determined by the Board of Managers.

Section 7.6 Treasurer. The Treasurer shall receive and have in charge all money, bills, notes, bonds, stocks in other companies, and similar property belonging to the Company, and shall do with the same as may be ordered by the Board.

Section 7.7 Other Officers. The Assistant Secretaries and Assistant Treasurers, if any, and any other officers whom the Board of Managers may elect shall, respectively, have such authority and perform such duties as may be determined by the Board of Managers.

Section 7.8 Delegation of Authority and Duties. The Board of Managers is authorized to delegate the authority and duties of any officer to any other officer and generally to control the action of the officers and to require the performance of duties in addition to those mentioned herein.

Section 7.9 Compensation. The compensation of officers of the Company, or the method of fixing such compensation, shall be determined by or pursuant to authority conferred by the Board of Managers or any committee of the Board of Managers. Such compensation

may include pension, disability and death benefits, and may be by way of fixed salary, or on the basis of earnings of the Company, or any combination thereof, or otherwise, as determined or authorized from time to time by the Board of Managers or any committee of the Board of Managers.

ARTICLE VIII
CERTIFICATES FOR UNITS

Section 8.1 Form of Certificates and Signatures. Each holder of a Membership Unit shall be entitled to one or more certificates, signed by the President or Vice President and by the Secretary or the Treasurer (or any Assistant Treasurer or Assistant Secretary) of the Company, which shall certify the number and class of Membership Units held by him in the Company, but no certificate for Membership Units shall be executed or delivered until such units are fully paid. When such a certificate is countersigned by a transfer agent or registrar, the signature of any of said officers of the Company may be facsimile, engraved, stamped or printed.

Section 8.2 Transfer of Units. Subject to Section 10.1 below, Membership Units in the Company shall be transferable upon the books of the Company by the holders thereof, in person, or by a duly authorized attorney, upon surrender and cancellation of certificates for a like number of units of the same class, with duly executed assignment and power of transfer endorsed thereon or attached thereto, and with such proof of the authenticity of the signatures to such assignment and power of transfer as the Company or its agents may reasonably require.

Section 8.3 Lost, Stolen or Destroyed Certificates. The Company may issue a new certificate for Membership Units in place of any certificate theretofore issued by it and alleged to have been lost, stolen or destroyed, and the Board of Managers may, in its discretion, require the owner, or his legal representatives, to give the Company a bond containing such terms as the Board of Managers may require to protect the Company or any person injured by the execution and delivery of a new certificate.

Section 8.4 Transfer Agent and Registrar. The Board of Managers may appoint, or revoke the appointment of, transfer agents or registrars and may require all certificates for Membership Units to bear the signatures of such transfer agents and registrars or any of them.

ARTICLE IX
DISSOLUTION

Section 9.1 Dissolution. The Company shall be dissolved and liquidated upon a determination by the Voting Members to dissolve the Company, in the manner provided for by this Agreement, by law or the Act.

Section 9.2 Liquidation. In the event the Company is hereby dissolved, it shall be liquidated and its affairs shall be wound up. All proceeds from such liquidation shall be

distributed to the Voting Members as provided by law and this Agreement and all interests in the Company shall be cancelled.

ARTICLE X
TRANSFER AND ASSIGNMENT

Section 10.1 Assignments. No Member shall have the right to sell, convey, assign, transfer, pledge, grant a security interest in or otherwise dispose of all or any part of its Membership Interest (each a "Transfer"), other than to a transferee Member that agrees to be bound by all of the provisions hereof and subject to the Majority Approval of the Voting Members; provided that, no such assignment shall release any Member from its obligations hereunder until the assignment is consummated and all accounts with such Member are liquidated. If a Member transfers all of its Membership Interest pursuant to this Section, the transferee shall be admitted to the Company as a substitute Member upon its execution of an instrument signifying its agreement to be bound by the terms and conditions of this Agreement, which instrument may be a counterpart signature page to this Agreement. Such admission shall be deemed effective immediately prior to the transfer, and, immediately following such admission, the transferor Member shall cease to be a Member of the Company. Notwithstanding anything in this Agreement to the contrary, any successor to a Member by merger or consolidation shall, without further act, be a Member hereunder, and such merger or consolidation shall not constitute an assignment for purposes of this Agreement. All Transfers in violation of this Article are null and void.

Section 10.2 Admission of Additional Members. One or more additional Members of the Company may be admitted to the Company with the written consent of the Voting Members; provided that, notwithstanding the foregoing, no Person may be admitted as a Member of the Company unless such Person accepts, adopts and agrees to be bound by all of the terms and provisions of this Agreement as are applicable to the Initial Member, as the same may have been amended, as if such Person had joined in the original execution of this Agreement as a Member.

ARTICLE XI
EXCULPATION, INDEMNIFICATION AND INSURANCE

Section 11.1 Exculpation and Indemnification.

(a) No Member, Manager, employee or agent of the Company and no employee, agent or Affiliate of a Member (collectively, the "**Covered Persons**") shall be liable to the Company or any other Person who has an interest in or claim against the Company for any loss, damage or claim incurred by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that a Covered Person shall be liable for any such loss, damage or claim incurred by reason of such Covered Person's gross negligence or willful misconduct.

(b) To the fullest extent permitted by and in accordance with the Act, a Covered Person shall be entitled to indemnification from the Company for any loss, damage or claim incurred by such Covered Person by reason of any act or omission performed or omitted by such Covered Person in good faith on behalf of the Company and in a manner reasonably believed to be within the scope of the authority conferred on such Covered Person by this Agreement, except that no Covered Person shall be entitled to be indemnified in respect of any loss, damage or claim incurred by such Covered Person by reason of such Covered Person's gross negligence or willful misconduct with respect to such acts or omissions; provided, however, that any indemnity under this Section 11.1 shall be provided out of and to the extent of Company assets only.

Section 11.2 Insurance. To the fullest extent permitted by and in accordance with the Act, the Company shall have the power to purchase and maintain insurance, including insurance on behalf of any Covered Person against any liability asserted against such Person and incurred by such Covered Person in any such capacity, or arising out of such Covered Person's status as an agent of the Company, whether or not the Company would have the power to indemnify such Person against such liability under the provisions of Section 11.2 or the Act.

ARTICLE XI1
GENERAL PROVISIONS

Section 12.1 Notices. All notices, offers or other communications required or permitted to be given pursuant to this Agreement shall be in writing and may be personally served or sent by regular mail and shall be deemed to have been given when delivered in person or three (3) business days after deposit in mail, registered or certified, postage prepaid, and properly addressed, by or to the appropriate party. The address of any party hereto may be changed by a notice in writing given in accordance with the provisions of this Section 12.1.

Section 12.2 Controlling Law. This Agreement shall be governed by and construed in all respects in accordance with the laws of the Commonwealth of Puerto Rico (without regard to conflicts of law principles thereof).

Section 12.3 Severability. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

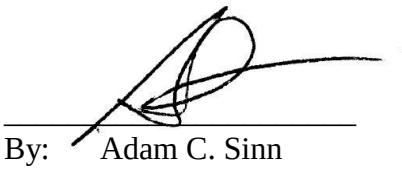
Section 12.4 Entire Agreement. This Agreement (together with the Schedules hereto) contains the entire understanding among the parties hereto with respect to the subject matter hereof, and supersedes all prior and contemporaneous agreements and understandings, inducements or conditions, express or implied, oral or written, except as herein contained.

Section 12.5 Amendment. This Agreement and the Certificate of Formation may be amended, supplemented or restated only by written consent of all the Voting Members. Upon obtaining the approval of any such amendment, supplement or restatement as to the Certificate of Formation, the Company shall cause a Certificate of Amendment or Amended and Restated Certificate to be prepared, executed and filed in accordance with the Act.

Section 12.6 Headings. The Article and Section headings in this Agreement are for convenience and they form no part of this Agreement and shall not affect its interpretation.

Section 12.07 Assurances. Each of the Members shall hereafter execute and deliver such further instruments and do such further acts and things as may be reasonably required or useful to carry out the intent and purpose of this Agreement and as are not inconsistent with the terms hereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement or caused this Agreement to be executed on their behalf as of the date first above written.



By: Adam C. Sinn
As: the Initial Voting Member

SCHEDULE I
LIST OF MEMBERS

MEMBER	CLASS	MEMBERSHIP INTEREST
Adam C. Sinn 200 Dorado Beach Drive, Unit 3021 Dorado, PR 00646	A (voting)	100% (10 units)
	B (non-voting)	100% (10 units)
	C (non-voting)	100% (10 units)
	D (non-voting)	100% (10 units)
	E (non-voting)	100% (10 units)
	F (non-voting)	100% (10 units)
	G (non-voting)	100% (10 units)
	H (non-voting)	100% (10 units)
	I (non-voting)	100% (10 units)
	J (non-voting)	100% (10 units)
	K (non-voting)	100% (10 units)

SCHEDULE II
CAPITAL CONTRIBUTIONS AND PROPERTIES

MEMBER	CONTRIBUTION
Adam C. Sinn 200 Dorado Beach Drive Unit 3021 Dorado, PR 00646	$1000

SCHEDULE III
LIST OF MANAGERS

Adam C. Sinn
200 Dorado Beach Drive,
Unit 3021
Dorado, PR 00646