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14 **UNITED STATES BANKRUPTCY COURT**
 15 **DISTRICT OF NEVADA**

16 In re:

17 FRONT SIGHT MANAGEMENT, LLC
 18 Debtor.

Case No. BK-S-22-11824-ABL
 Chapter 11

DECLARATION OF BRIAN D. SHAPIRO

21 I, Brian D. Shapiro, Esq., hereby declare as follows:

- 22 1. I am over eighteen (18) years of age and a resident of Clark County, Nevada.
- 23 2. I am an attorney duly licensed to practice law in the State of Nevada and am
 24 currently counsel of record for Las Vegas Development Fund, LLC (“LVDF”) and Robert
 25 Dziubla (“Mr. Dziubla”) in the Front Sight Management LLC Bankruptcy Case and relate
 26 adversary proceeding.
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 28

1 3. I have personal knowledge of and am competent to testify to the facts contained in
2 this Declaration. If called on to do so, I would competently and truthfully testify to all matters
3 set forth herein, except for those matters stated to be based upon information and belief.

4 4. On Friday, July 15, 2022, I was served electronically by the Bankruptcy Court’s
5 CM/ECF filing system with subpoenas for the attendance of the PMK for LVDF and Mr. Dzibula
6 for 2004 exams and subpoenas pertaining to document requests (collectively the “Subpoenas”).
7 Sometime during the week beginning Monday, July 18, 2022, I thereafter received a copy of the
8 same subpoenas in the mail without any type of witness fees.

9 5. On Monday, July 18, 2022, I left a voice mail message for Steven Gubner to
10 discuss the Subpoenas and thereafter sent him an email regarding the same. A true and correct
11 copy of that email is attached hereto as Exhibit 1. Thereafter, Mr. Gubner returned my call and
12 we discussed the Subpoenas. During this initial meet and confer call on July 18, 2022, I advised
13 Mr. Gubner that:
14

- 15 • Due to a pre-planned vacation, I was not available on August 1, 2022 (the date
16 Debtor unilaterally scheduled the 2004 exams).
- 17 • That the Subpoenas and 2004 exams were not appropriately issued and should
18 have been filed through the Adversary Action, and that Debtor’s claimed reason
19 for the 2004 exams—to estimate LVDF’s claim—did not justify 2004 exams of
20 LVDF and Mr. Dziubla because the State Court already estimated LVDF’s
21 claims in the Adversary Proceeding.
- 22 • That some of the documents and testimony requested would be in violation of
23 protective orders.
- 24 • The documents requested have already been produced to the Debtor but a second
25 copy can be produced through LVDF’s and Mr. Dziubla’s third party vendor at
26 a minimal cost. I advised that I was unaware of the process, but Ms. Champion
27 could explain such process further.
28

1 6. Mr. Gubner advised that the Debtor's State Court Counsel has not provided his
2 office with copies of the documents served by LVDF and Mr. Dziubla and sent the subpoena to
3 LVDF and Mr. Dziubla to obtain them a second time. Mr. Gubner also disagreed as to the
4 enforceability of the protective orders within the context of the bankruptcy proceeding and
5 contended that the information was needed to estimate LVDF's claim even though there was a
6 prior order estimating LVDF's claim. The Parties thereafter agreed to set a second meet and
7 confer later that week which occurred at approximately 8:00 a.m. on Wednesday, July 20, 2022.

8 7. On Wednesday, July 20, 2022 at approximately 8:00 a.m. Affiant, Ms. Andrea
9 Champion, Mr. Gubner and Ms. Seflin held a second meet and confer. During that call, Ms.
10 Champion explained that LVDF and Mr. Dziubla had already produced all responsive information
11 to the Subpoenas to Debtor that was not subject to a protective order entered in the Adversary
12 Proceeding, that the vast majority of Debtor's document requests sought documents subject to the
13 protective orders, that a third-party vendor—HOLO discovery—hosts LVDF and Mr. Dziubla's
14 relativity platform, that only the third-party vendor has the access to create an electronic load file
15 of the documents previously produced to LVDF and Mr. Dziubla, that if Debtor's bankruptcy
16 counsel was unable to obtain those documents from their own client or state court counsel, she
17 had already reached out to the third-party vendor for an estimate of the time and cost associated
18 with creating a new economic load file and was told it was anticipated doing so would not cost
19 more than \$600.00. Ms. Champion offered to work with Debtor and the third-party vendor to get
20 Debtor another copy of the documents previously produced to it.

21 8. Although Mr. Gubner indicated that his law firm had previously utilized the same
22 e-discovery platform (and therefore, an electronic load file was ideal), Debtor refused LVDF and
23 Mr. Dziubla's proposal. In addition, the Debtor's counsel indicated that it was not aware of the
24 protective orders entered in the Adversary Proceeding but, nonetheless, went on to take the
25 position that they were not binding now that the case was before the bankruptcy court.

26 9. Ms. Champion further explained to Mr. Gubner and Ms. Seflin that Debtor had
27 taken six days of testimony from Mr. Dziubla and was unaware of any additional information
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1 Debtor did not already adduce from Mr. Dziubla that was needed for the bankruptcy action.
2 Neither Mr. Gubner nor Ms. Seflin identified any such needed testimony in response. Instead,
3 they merely implied that they did not have Mr. Dziubla's prior testimony. Ms. Champion offered,
4 on behalf of LVDF and Mr. Dziubla, to provide them with the dates of Debtor's prior
5 examinations of Mr. Dziubla and the court reporting information so that Debtor could obtain
6 additional copies of those transcripts (if Debtor's counsel could not get the same from Debtor
7 himself or Debtor's state counsel). Debtor also refused that offer.
8

9 10. During the second meet and confer, it was clear that the parties were unable to
10 reach a resolution and I respectfully stated that we will have to simply agree to disagree. I
11 confirmed that we would be filing a motion on behalf of LVDF and Mr. Dziubla on or before July
12 29, 2022. We offered to work with Mr. Gubner and Ms. Seflin to come up with an agreeable
13 briefing schedule and to request the motion be heard on shortened time. A proposed briefing
14 schedule was suggested. While Ms. Seflin initially claimed that that was time of the essence and
15 desired to have the hearing heard sooner than later, Mr. Gubner vehemently disagreed and
16 appeared to overrule her comment by stating that it was Debtor's position that this was such an
17 important issue, that the parties should not short-cut the briefing on this issue, and that Debtor
18 would be prejudiced by a request to have these issues heard on shortened time. Accordingly,
19 despite the offer to file the motion on shorten time, LVDF and Mr. Dziubla agreed to file such
20 motion on regular notice and set if for the next omnibus hearing date, September 1, 2022.

21 I declare under penalty of perjury under the laws of the United States of America that the
22 foregoing is true and correct.

23 ls\ Brian D. Shapiro

24 Brian D. SHAPIRO, ESQ.
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EXHIBIT 1

Brian Shapiro

From: Brian Shapiro
Sent: Monday, July 18, 2022 5:14 PM
To: Steven T. Gubner; Susan K. Seflin
Cc: Andrea Champion; Brian Shapiro
Subject: Front Sight

Dear Steve and Susie:

Please note that earlier today I left Steve a voicemail to discuss your recent subpoenas and 2004 exams. I understand the Court entered the exparte request for an order for 2004 exams and you recently issued subpoenas. Please note that it is likely that all of the documents you have requested were provided to Front Sight within the State Court/Adversary Case and the principals have been previously deposed. Moreover, there are court orders preventing the disclosure of certain documents. As such, we would like to discuss this with you to see if we can reach an amicable resolution and/or agree to some procedure to address any disputes with the Court.

I am generally available tomorrow after 2:00 p.m. but unsure when Andi is available. Can you let me know if either of you are available to discuss tomorrow afternoon and if so, a convenient time?

I await your response.

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