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

17 In re:

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

18
19 FRONT SIGHT MANAGEMENT, LLC
20 Debtor.

**LAS VEGAS DEVELOPMENT FUND
LLC’S OBJECTION TO DISCLOSURE
STATEMENT**

21
22 Las Vegas Development Fund, LLC (“LVDF”), by and through its counsel, the Law Office
23 of Brian D. Shapiro, LLC and Jones Lovelock, respectfully submits its objection to the Debtor’s
24 First Amended Disclosure Statement Describing Debtor’s First Amended Chapter 11 Plan of
25 Reorganization dated September 9, 2022 (“**Disclosure Statement**”) (ECF No. 338). This
26 Objection is supported by the following Memorandum of Points and Authorities, the pleadings
27 filed herein and any oral argument that this Court may entertain at the hearing regarding the
28 Disclosure Statement.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. PRELIMINARY STATEMENT**

3 The Disclosure Statement provides inadequate and/or misleading information to creditors in
4 its attempt to obfuscate that the Chapter 11 plan is in reality a sale that benefits the New Equity
5 Investors and transfers all assets, including the insider claims against Mr. Piazza and the other
6 equity holders, to the Reorganized Debtor. Moreover, in a thinly veiled attempt to thwart the
7 distribution scheme under the bankruptcy code and without disclosing its contents, New Equity
8 Investors and Mr. Piazza are entering into a “consulting agreement” which purports to provide an
9 upside to Mr. Piazza by permitting him to have litigation decision control with respect to the LVDF
10 and Meacher Claims; and Mr. Piazza and the New Equity Investors have agreed to a division of
11 any recoveries from the LVDF and Meacher Litigation.
12

13 Despite the disclosure of the transfer of the insider claims, there is no meaningful discussion
14 within the Disclosure Statement about any investigation into the potential alter ego and fraudulent
15 transfer claims that the Bankruptcy Estate has against any of the Piazza Entities nor is there any
16 discussion about the potential of collection of funds from such insiders. The Disclosure Statement
17 also contains materially misleading information about the dispute with LVDF. Finally, in an
18 attempt to dissuade creditors to file claims (assuming such creditors received any actual notice of
19 the bankruptcy or the Disclosure Statement), the Debtor advises that it is rejecting all of the
20 membership agreements, provides such parties with the ability to file proofs of claim, but does not
21 give them the ability to vote on the plan.
22

23 **II. LEGAL ARGUMENT**

24 **A. Standard for Approval of Disclosure Statement**

25 Section 1125 requires the disclosure statement to provide “adequate information” to the
26 creditors in order for them to make an “informed judgement about the plan.” 11 U.S.C.
27
28

1 § 1125(a)(1).¹ “The purpose of a disclosure statement is to give all creditors a source of
 2 information which allows them to make an informed choice regarding the approval or rejection of
 3 a plan.” *See, Duff v. United States Trustee (In re California Fidelity, Inc.)*, 198 B.R. 567, 571
 4 (B.A.P. 9th Cir. 1996); *see also Huntington Banks of Mich. v. Felcor/LAX Holdings LP*, 9
 5 Fed. Appx. 669, 670 (9th Cir. 2001). “[T]he determination of what is adequate information is
 6 subjective and made on a case by case basis. This determination is largely within the
 7 discretion of the bankruptcy court.” *Computer Task Group, Inc. v. Brotby (In re Brotby)*,
 8 303 B.R. 177, 193 (B.A.P. 9th Cir. 2003).

10 Although Section 1125 speaks in terms of “adequate” disclosures, a primary purpose of the
 11 disclosure statement process is to avoid misinforming creditors. *In re Rook Broad of Idaho, Inc.*,
 12 154 B.R. 970, 976 (Bankr. D. Idaho 1993) (“The Bankruptcy Code’s requirement of court approval
 13 of a disclosure statement, combined with Rule 3017’s restrictions on dissemination of an
 14 unapproved disclosure statement, clearly contemplates some creditors need to be protected against
 15 misinformation.”); *In re Dakota Rail, Inc.*, 104 B.R. 138, 148-50 (Bankr. D. Minn. 1989) (denying
 16 approval of disclosure statement with “misleading” projections).

17
 18 Many courts have also held that a disclosure statement should not be approved if it is
 19 apparent from the face of the pertinent plan that the plan may not be confirmed. *See, e.g., In re*
 20 *Main StreetAc, Inc.*, 234 B.R. 771, 775 (Bankr. N.D. Cal. 1999) (“It is now well accepted that a
 21 court may disapprove of a disclosure statement, even if it provides adequate information about a
 22 proposed plan, if the plan could not possibly be confirmed”); *In re Arnold*, 471 B.R. 578, 585
 23 (Bankr. C.D. Cal. 2012) (appropriate to deny approval of disclosure statement where plan is un-

25 ¹ Section 1125(a)(1) sets forth the definition of “adequate information” which “means information of a kind, and in
 26 sufficient detail, as far as is reasonably practicable in light of the nature and history of the debtor and the condition
 27 of the debtor’s books and records, including a discussion of the potential material Federal tax consequences of the
 28 plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or
 interests in the case, that would enable such a hypothetical investor of the relevant class to make an informed
 judgment about the plan, but adequate information need not include such information about any other possible or
 proposed plan and in determining whether a disclosure statement provides adequate information, the court shall
 consider the complexity of the case, the benefit of additional information to creditors and other parties in interest,
 and the cost of providing additional information...”

1 confirmable on its face); and *In re Silberkraus*, 253 B.R. 890, 899 (Bankr. C.D. Cal. 2000) (holding
2 that it is a waste of resources to approve a disclosure statement if improper classification of claims
3 renders the plan unconfirmable).

4
5 In submitting a disclosure statement, debtors have an obligation to provide sufficient details
6 “as far as is reasonably practicable in light of the nature and history of the debtor and the condition
7 of the debtor’s books and records” that would allow a hypothetical investor to make an informed
8 judgment about the plan. 11 U.S.C. §1125(a)(1). Describing a debtor’s involvement in its stated
9 business is an important factor in determining whether the disclosure statement contains adequate
10 information. See, e.g., *In re Egan*, 33 B.R. 672, 673-74 (Bankr. N.D. Ill. 1983) (denying approval
11 of a disclosure statement due to, among other things, the debtor’s failure to adequately describe its
12 business and plans for reorganization).

13
14 “The plan proponent has the burden to show that its proposed disclosure statement contains
15 adequate information.” *In re Michelson*, 141B.R. 715, 719 (Bankr. E.D. Cal. 1992). “In short, the
16 plan proponent bears the ultimate risk of nonpersuasion on the question of compliance with the
17 requirement to disclose adequate information...” *In re Michelson*, 141 B.R. 715, 720 (Bankr.
18 E.D. Cal. 1992).

19 **B. Misleading Information as to LVDF**

20 Debtor’s Disclosure Statement contains self-serving statements regarding its dispute with
21 LVDF and Mr. Dziubla that are either disputed or misrepresent the undisputed record.² It is
22 therefore LVDF’s position that the Disclosure Statement be amended to require, at a minimum,
23 LVDF’s position so that the creditors have a complete understanding of the parties’ respective
24 positions. LVDF’s position is as follows as to each section of Debtor’s Disclosure Statement:

25 **1. The Debtor’s Prepetition Lender and Other Lienholders.**

26 On or about October 6, 2016, the Debtor and LVDF entered into that certain Construction
27 Loan Agreement and Promissory Note (the “CLA”) for an EB-5 loan of potentially up to \$75

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² ECF No. 338 at 22:27-17, 24:19-25, 31:9-33:14.

1 million to build the Project. ECF No. 280-14. The CLA required that Debtor use the proceeds of
2 the loan solely for the purpose of funding directly, or advancing to Affiliates to pay, the cost of the
3 Project as set forth in the Budget and the Project documents submitted to, and approved by, US
4 Customs & Immigration Service (“USCIS”). *Id.* at Section 1.7(e). The CLA also required Debtor
5 to seek an additional loan from a traditional financial institution specializing in financing projects
6 such as the Project and to obtain such Senior Debt no later than December 31, 2016. *Id.* at
7 FS1)00376 (defining “Senior Debt”), Section 5.27. That deadline was later extended, twice,
8 pursuant to two amendments to the CLA. See Exhibit 1, a copy of the July 1, 2017 First
9 Amendment to Loan Agreement; Exhibit 2, a copy of the February 28, 2018 Second Amendment
10 to Loan Agreement. **The Debtor never obtained the Senior Debt.**

11 The CLA is secured by that certain Construction Deed of Trust, Security Agreement,
12 Assignment of Leases and Rents, and Fixture Filing recorded on October 13, 2016, in the Official
13 Records Nye County, Nevada as document number 860867 (the “LVDF Deed of Trust”).

14 **2. Events Leading to the Debtor’s Chapter 11 Filing.**

15 In 2012, Debtor and Robert W. Dziubla (“Mr. Dziubla”) began to discuss the potential for
16 a loan for the Project. Initially, on or about April 7, 2012, Mr. Dziubla proposed a private equity
17 raise at a 20% plus IRR. Debtor was not interested in moving forward with a private equity raise
18 structure and declined the offer. Exhibit 3, a copy of April 7, 2012 through August 27, 2012 email
19 correspondence between Michael Meacher and Robert Dziubla, previously produced by Debtor as
20 FS 00002.

21 In August 2012, Mr. Dziubla proposed that Debtor consider an EB-5 raise for the Project.
22 Id. Mr. Dziubla told Debtor that an EB-5 raise may raise “some, or perhaps all, of the \$150
23 m[illion]” Debtor was seeking to raise for the Project. Id. Debtor was interested in a potential EB-
24 5 raise and LVDF understood that Debtor’s interest was motivated by Debtor’s principal’s
25 (Ignatius Piazza) disinterest in signing any personal guarantee or paying a high interest rate as well
26 as Debtor’s inability to obtain other financing. LVDF also understands that before proceeding,
27 Debtor hired legal counsel to perform their own analysis on a potential EB-5 loan, to conduct due
28

1 diligence (including but not limited to, background checks of Mr. Dziubla and Jon Fleming), and
2 to advise Debtor as to a potential EB-5 loan.

3 On February 14, 2013, Debtor and Mr. Dziubla, on behalf of EB5 Impact Advisors LLC
4 (“EB5IA”), executed an Engagement Letter. **Exhibit 4**, a copy of the February 14, 2013
5 Engagement Letter previously produced by Debtor as FS(1)00466-473. Pursuant to the
6 Engagement Letter, EB5IA committed to: (i) engage legal counsel to establish an EB5 regional
7 center (EB5 Impact Capital Regional Center (“EB5IC”)) in order to seek approval from USCIS
8 for the Project, (ii) to engage a business plan writer and economist to prepare an analysis for the
9 Project in order to serve as the exemplar project for the regional center (iii) advise Debtor on the
10 appropriate markets in which to obtain EB-5 financing, (iv) assist Debtor in making appropriate
11 presentations to relevant parties concerning the contemplated financing, (v) work with Debtor to
12 prepare an offering memorandum for the financing, and (vi) endeavor to obtain commitments for
13 the contemplated financing. *Id.* at FS(1)00467-468. The Engagement Letter specifically provided
14 that it was not “to be construed as a commitment by EB5IA, its affiliates or its agents to lend or to
15 invest in the contemplated Financing.” *Id.* at FS(1)000467. The Engagement Letter also
16 specifically stated that it was “*not a guarantee that any such Financing can be procured by*
17 *EB5IA for [Debtor] on terms acceptable to the Company, or a representation or guarantee that*
18 *EB5IA will be able to perform successfully the Services detailed in th[e] Agreement.*” *Id.*
19 (emphasis added).

20 EB5IA performed under the Engagement Letter by retaining legal counsel, having legal
21 counsel form EB5IC, applying to USCIS for approval for the Project as an exemplar project for
22 EB5IA, working with Debtor to prepare private placement memorandums, and endeavoring to
23 obtain EB-5 investors to finance the Project. As to the latter, EB5IA, through its agents, Mr.
24 Dziubla, Jon Fleming, and through contractual agreements with various third-party foreign
25 placement consultants, marketed the Project to potential EB-5 investors outside the United States.
26 EB5IA advised Debtor of its marketing efforts in real time as the Project was being marketed to
27 potential EB-5 investors.
28

1 In furtherance of EB5IA's efforts to market the project, EB5IA and Debtor worked together
2 to create a private placement memorandum for potential investors. Debtor was involved in the
3 drafting, editing, and finalizing of the same. The initial private placement memorandum crafted by
4 EB5IA and Debtor contemplated a minimum raise of \$25,000,000 and a maximum raise of
5 \$75,000,000. **Exhibit 5**, a copy of the draft Confidential Private Placement Memorandum.
6 However, the initial private placement memorandum specifically addressed the possibility that
7 \$25,000,000 may not be raised for the Project and, should that occur, provided that if subscriptions
8 of 50 interests (\$25M) were not received by the end of the offering period, all subscriptions and
9 funds received would be promptly refunded to subscribers. *Id.* at FS 02259. The initial private
10 placement memorandum also addressed the possibility that the minimum raise could be achieved
11 but that the maximum raise might not be achieved. Should that possibility occur, the private
12 placement memorandum provided that Debtor would be required to seek a senior commercial loan
13 for the difference between the amount of the Loan and the maximum offering amount to ensure
14 the Project could be realized. *Id.* at FS 02278 (entitled "Raise of Less than the Maximum Offering
15 Amount").

16 Debtor was aware that there was no guarantee of financing, that EB-5 financing was
17 competitive and that a raise of EB-5 funds was speculative. The initial private placement
18 memorandum reflected Debtor's understanding that the EB-5 market was competitive and that
19 other regional centers and projects may have greater financial and other resources than EB5IA to
20 market the Project. *Id.* at FS 02283 (entitled "EB-5 Market Competition").

21 While EB5IA marketed the Project, as agreed upon, by May 2016, it became clear to
22 EB5IA and its agents that even the minimum raise might not be possible. Accordingly, in May
23 2016, Mr. Dziubla requested a face-to-face meeting with Debtor's principal, Ignatius Piazza, and
24 Chief Operating Officer, Michael Meacher, to discuss how to proceed. In advance of that meeting,
25 Mr. Dziubla, on behalf of EB5IA, advised Debtor, in writing, that the EB-5 raise was turning out
26 to be harder and longer than anticipated and giving Debtor the choice to either: 1. "Call it a day,
27 shake hands, and part ways as friends" while refunding all EB-5 money raised thus far, 2. To
28 restructure the capital stack by (i) eliminating the minimum raise and (ii) requiring that Debtor to

1 bring in senior debt from a timeshare lender who understands the timeshare business to ensure the
2 Project could be realized, or 3. Purchase EB5IA, EB5IC and LVDF (the anticipated lender) so that
3 Debtor could proceed as it wished. **Exhibit 6**, a copy of Robert Dziubla's May 12, 2016 email to
4 Michael Meacher, previously produced by Debtor as FS(1)00462-465. By then, no money had
5 been loaned by LVDF to Debtor, and LVDF and Debtor had yet to enter into any agreements
6 (including, but not limited to the CLA).

7 Debtor chose the second of the options, eliminating the minimum raise and committing to
8 obtain senior debt to ensure the Project could be realized. Debtor and EB5IA then amended the
9 private placement memorandum to reflect their understanding. **Exhibit 7**, a copy of the
10 Confidential Private Placement Memorandum. The June 2016 private placement memorandum
11 contained no minimum raise and included Debtor's commitment to obtain bridge financing from
12 a commercial lender "in the amount sufficient to build the Project." *Id.* at FS 00497 ("The Loan").

13 Debtor and LVDF entered into the CLA on October 6, 2016. ECF No. 280-14. Debtor,
14 through its principal, Ignatius Piazza, pushed LVDF to enter into the CLA, threatening to sue
15 LVDF if it did not execute the CLA despite the fact that Debtor recognized that the money
16 anticipated to be loaned by LVDF to Debtor would not be "enough money . . . to make all that
17 much difference in the project." **Exhibit 8**, a copy of Ignatius Piazza's October 3, 2016 email
18 correspondence to Robert Dziubla and Scott Preston, previously produced by LVDF as A-007918-
19 7926. Nonetheless, Debtor represented that it still wanted the "current [EB-5] funds released so
20 [it] c[ould] marginally justify, and I mean **marginally** justify, the time and money [Debtor] ha[d]
21 already spent." *Id.* (emphasis in original).

22 The CLA also contained Debtor's commitment to obtain senior debt (in light of the parties'
23 agreement that there would be no minimum raise commitment). ECF No. 280-14 at FS(1)00376
24 (defining "Senior Debt"), Section 5.27. After the CLA was executed, LVDF initially disbursed
25 \$2,250,000 to Debtor.

26 Debtor and LVDF twice amended the CLA to allow Debtor additional time to obtain senior
27 debt as required by the CLA. Exs. 1 and 2. The amendments to the CLA also lowered the maximum
28 potential raise from \$75,000,000 to \$50,000,000. Ex. 1 at Section 3. After executing the CLA,

1 EB5IA and its agents continued to market the Project and to keep Debtor apprised of its efforts.
2 An additional \$4,125,000 was subsequently loaned by LVDF to Debtor after execution of the CLA
3 and the initial disbursement in October 2016.

4 Debtor never obtained senior debt. Debtor also refused to provide LVDF access to the
5 property, its books and records, and refused to provide LVDF with the contractually required EB-
6 5 documentation and information (documents and information that is necessary for the EB-5
7 investors to proceed with their petitions for U.S. citizenship before USCIS). Accordingly, in July
8 2018, LVDF notified Debtor of its default under the CLA.

9 The Court previously found that the default interest rate has applied since July 31, 2018.
10 **Exhibit 9**, a copy of the Notice of Entry of Findings of Fact and Conclusions of Law and Order
11 Granting in Part and Denying in Part LVDF's Motion to Dissolve Temporary Restraining Order,
12 entered April 7, 2022, at ¶ 25. However, Debtor has not made any payments on the default interest.
13 Debtor has also not made any payments on the principal of the loan. The maturity date on the loan
14 was October 4, 2021. Debtor has not made any payments since the maturity date.

15 Debtor paid EB5IA, not LVDF, to market the project to potential EB-5 investors. EB5IA
16 served two Notices of Accounting on or about November 30, 2018 and April 13, 2019, showing
17 that EB5IA had not only properly spent the funds paid by Debtor as per the agreed budget attached
18 to the original Engagement Letter but also invested over \$40,000 of its own money to continue
19 marketing the Project.

20 On or about September 14, 2018, Debtor commenced a lawsuit against LVDF, EB5IA,
21 EB5IC, Mr. Dziubla and Mr. Fleming, and Linda Stanwood. The Court subsequently dismissed a
22 number of Debtor's claims, including but not limited to Debtor's breach of fiduciary duty,
23 negligence, and negligent misrepresentation claims. **Exhibit 10**, a copy of the Notice of Entry of
24 Order Regarding Defendants' Motions to Dismiss Plaintiffs' Second Amended Complaint and
25 Motions to Strike Portions of Second Amended Complaint, entered April 10, 2019. Pursuant to a
26 temporary restraining order entered early in the case, LVDF was precluded from proceeding with
27 a non-judicial foreclosure of its security interest (the Debtor's Property) for some time. See Ex. 9
28 at ¶ 18.

1 In 2022, the Court ordered that there had been a change in circumstances, namely, that the
2 loan had matured, and that Debtor had failed to repay the loan. See, id. Therefore, the Court ordered
3 that Debtor post an increased bond to secure the temporary restraining order. Id. at ¶¶ 6-11. Debtor
4 did not do so and then filed its voluntary petition for Chapter 11 bankruptcy to avoid foreclosure
5 of the property.

6 **3. The LVDF Litigation and Subsequent Removal.**

7 As referenced above, Debtor's claims for breach of fiduciary duty, negligence, and
8 negligent misrepresentation were dismissed. See Ex. 10. Debtor does not have any such claims
9 pending against LVDF, Mr. Dziubla or any other party.

10 Debtor cites to a January 23, 2020 Order for the proposition that the state court has found
11 that Debtor was not in default of the CLA and had not improperly used the CLA loan proceeds.
12 On June 8, 2020, the Court entered two orders which specifically state that the findings of facts
13 and conclusions of law set forth in the Court's January 23, 2020 order were "preliminary findings"
14 and cannot be the basis of any final judgment in the case. **Exhibit 11**, a copy of the Notice of Entry
15 of Order Denying Counter Defendant Jennifer Piazza's Motion for Summary Judgment, entered
16 June 8, 2020; **Exhibit 12**, a copy of the Notice of Entry of Order Denying Counter Defendants
17 VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary Judgment, entered June
18 8, 2020. The January 23, 2020 Order was entered before the parties had an opportunity to retain
19 or disclose experts.

20 On April 3, 2020, LVDF disclosed Paul A. Zimmer, CPA, CFF as an initial expert in the
21 case. It is Mr. Zimmer's opinion that Debtor only spent roughly half of the \$6,375,000 in loan
22 proceeds disbursed to it by LVDF on actual post-CLA project expenditures.

23 **C. Lack of Disclosure of Market Testing to Support New Value**

24 The Disclosure Statement states that the New Equity Investor is contributing \$19 million
25 plus approximately \$5.2 million contribution of FS DIP's secured claim for a total of \$24 million.
26 In essence, the New Equity Investor is purchasing all of the assets of the Debtor for \$24 million
27 (including but not limited to the claims against the Piazza Entities). The U.S. Supreme Court in
28 *Bank of America Nat'l Trust & Sav. Ass'n v. 203 N. LaSalle Street P'ship*, 526 U.S. 434, 456–57,

1 119 S.Ct. 1411, 1424, 143 L.Ed.2d 607 (1999) requires that the quantum of new value be market
2 tested; otherwise, the parties and the court cannot know whether the amount of new value proposed
3 in the debtor's plan is the most available.

4 Here, there is no discussion of market testing. Rather, the Court should be cognizant that
5 the original DIP Loan provided the DIP Lender with a stalking horse remedy in which it agreed to
6 purchase the assets of the Debtor. Such offer was: "Lender will serve as the stalking horse bidder
7 (the "Stalking Horse Bidder") for the Debtor's assets in the amount of: (x) 14,000,000.00, plus the
8 amount due and owing under the Loan at the time of auction, or (y) \$19,000,000.00, whichever is
9 greater." See ECF No. 4, p. 16, l. 16-20 and ECF No. 150. Moreover, the loan document required
10 market testing on the 151st day after funding of the Loan. See, ECF 21-3, p. 4. There is no
11 disclosure of any attempt to market test the amount of the new value that is being provided.
12

13 **D. Lack of Disclosure of Insider Claims**

14 To the detriment of all creditors, the Reorganized Debtor is retaining all claims against the
15 Debtor's insiders, including current equity holders. However, there is no discussion of such
16 claims. On one hand, the Debtor states that it "does not believe that there is any value to its
17 potential claims against insiders". See, ECF No. 338, p. 55, l. 24-25. On the other hand, the Debtor
18 states "[t]he retention of these claims by the Reorganized Debtor is part of an integrated transaction
19 between and among the Debtor, FS DIP, the New Equity Investor and Dr. Piazza." *Id.* at p. 55, l.
20 21-22.
21

22 Although stated as an integrated transaction, the transaction appears to be disguised as a
23 method of providing releases to the insiders. Such integral transaction is violative of 9th Circuit
24 Law which prohibits a court from discharging the debt of a non-debtor. See *Blixseth v. Credit*
25 *Suisse*, 961 F.3d 1074, 1082 (9th Cir. 2020) ("We have interpreted [§ 524(e)] generally to prohibit
26 a bankruptcy court from discharging the debt of a non-debtor.").
27
28

1 The Debtor is well aware that the State Court was on the cusp of striking the answer of Mr.
2 Piazza and issuing a finding on liability as to fraudulent transfer claims due to Mr. Piazza's
3 discovery misconduct in the litigation. However, there is no discussion about any potential
4 fraudulent transfer claims, alter ego claims against the insiders, nor the collectability on such
5 claims. In the year prior to the filing of the bankruptcy case, Piazza utilized the Debtor as his own
6 lending institution by taking in excess of \$845,169 within 12 months prior to the Debtor filing
7 bankruptcy. See, ECF No 137, p. 83. The Debtor contends that thereafter he returned such funds
8 and then "contributed" additional cash to the Debtor. Id. Whether such funds were returned or not,
9 give rise to a potential factor that one should consider as whether such individual and equity holder
10 is the alter ego of the Debtor. Despite such fact—which was disclosed in the Schedules—there is
11 no discussion and no analysis in the Disclosure Statement as to the viability of such claims against
12 Piazza or Debtor's potential to collect against Piazza or the other equity holders (the VNV Dynasty
13 Trust I and the VNV Dynasty Trust II).

14
15 **E. Lack of Disclosures of Agreements with Insiders**

16
17 The Disclosure Statement states that the plan is an "integrated transaction between and
18 among the Debtor, FS DIP, the New Equity Investor and Dr. Piazza." See, ECF No. 338, p. 55, l.
19 21-22. But there is only a cursory discussion in the Disclosure Statement regarding the
20 involvement of Piazza and only a sparse discussion about his personal potential monetary benefit
21 under the proposed plan. The Disclosure Statement expounds that "[p]ursuant to the terms of a
22 consulting agreement between the New Equity Investor and the Debtor's principal, Ignatius Piazza
23 (the "Consulting Agreement"), which Consulting Agreement will be filed with the Plan
24 Supplement, the New Equity Investor has agreed to fund up to \$1,000,000 in litigation costs to
25 allow the Reorganized Debtor to litigate the LVDF and Meacher Claims. Mr. Piazza will have
26 litigation decision control with respect to the LVDF and Meacher Claims, and Mr. Piazza and the
27 Reorganized Debtor have agreed to a division of any recoveries from the LVDF and Meacher
28 litigation." See ECF No. 338, p. 42, l. 16-21.

1 But there is no discussion as to why Piazza, who allegedly is not part of the New Equity
2 Investor, will “have litigation decision control” and will “receive a division of any recoveries from
3 the LVDF and Meacher litigation.” In addition, the terms of the Consulting Agreement are absent
4 from the Disclosure Statement, including the financial arrangements between the parties.
5

6 **F. Lack of Disclosures as to Non-Insider Claims**

7 Although the plan intends on transferring all avoidance actions to the Reorganized Debtor for
8 the benefit of New Equity Investors, there is no discussion within the Disclosure Statement as to such
9 claims. The Disclosure Statement states “[t]he Debtor is currently investigating potential claims under,
10 among others, sections 544, 547, 548 and 550 of the Bankruptcy Code, and the Committee is currently
11 investigating claims under these code sections as well. The Debtor expects to update this section once
12 the aforementioned investigations have been concluded.” See, ECF No. 338, p. 43, l. 1-6. This
13 disclosure, on its face, is deficient as it provides no information.

14 **G. The Plan is Unconfirmable**

15 As stated above, courts have also held that a disclosure statement should not be approved if it
16 is apparent from the face of the pertinent plan that the plan may not be confirmed. See, e.g., *In re*
17 *Main StreetAc, Inc.*, 234 B.R. 771, 775 (Bankr. N.D. Cal. 1999) (“It is now well accepted that a court
18 may disapprove of a disclosure statement, even if it provides adequate information about a proposed
19 plan, if the plan could not possibly be confirmed”); *In re Arnold*, 471 B.R. 578, 585 (Bankr. C.D.
20 Cal. 2012) (appropriate to deny approval of disclosure statement where plan is un-confirmable on its
21 face); and *In re Silberkraus*, 253 B.R. 890, 899 (Bankr. C.D. Cal. 2000) (holding that it is a waste of
22 resources to approve a disclosure statement if improper classification of claims renders the plan
23 unconfirmable).

24 **1. LVDF’s Claim is Impaired and Should be Entitled to Vote**

25 Congress intended to define impairment broadly, and, generally, any alteration of a creditor's
26 legal rights constitutes impairment. *L J Anaheim Assocs. v. Kawasaki Leasing Int'l Inc. (In re Anaheim*
27 *Assocs.)*, 995 F.2d 940, 942-43 (9th Cir. 1993). “[The plain language of section 1124 says that a
28 creditor's claim is "impaired" unless its rights are left "unaltered" by the Plan. Id. at 944. There is no

1 suggestion here that only alterations of a particular kind or degree can constitute impairment. ” *In re L*
2 *J Anaheim Associates*, 995 F.2d 940, 943 (9th Cir. 1993) A class that is not impaired is "conclusively
3 presumed to have accepted the plan." 11 U.S.C. § 1126(f). BANKRUPTCY, ¶ 1125.02[2] (Richard
4 Levin & Henry J. Sommer eds., 16th ed.).

5 Here, the Disclosure Statement and Plan claim that LVDF is unimpaired and is not entitled to
6 vote. Despite such statement, the Debtor is attempting to impair LVDF’s contractual rights. The plan
7 proposes to place \$11,655,706.01 in a reserve account pursuant to the amount stated in LVDF’s proof
8 of claim and once the claim amount is determined such funds are to be released to LVDF and LVDF’s
9 lien on the Real Property is required to be released. However, the proof of claim reflects that interest,
10 costs and fees continues to accrue. To the extent that LVDF’s claim is determined to be more than
11 \$11,655,706.01, the amount in the reserve account would not be sufficient and LVDF should not be
12 required to release its deed of trust. Accordingly, to the extent that the Debtor is attempting to modify
13 the terms of the contractual agreement with LVDF, then LVDF is impaired and should be entitled to
14 vote.³

15 Further, the proposed Plan states that the Debtor will reject the EB-5 requirements under the
16 CLA. The entire basis and premise for the CLA, however, was the use of EB-5 funds. Debtor would
17 obtain low-cost, long-term construction financing -- without a personal guaranty by Mr. Piazza -- to
18 build the Project. In return, the Debtor, in recognition of the EB-5 loan and the EB-5 investors, was
19 required to invest the loan proceeds in accordance with the plans approved by USCIS, and Debtor was
20 required to provide documentation proving the same and the creation of the requisite jobs required in
21 an EB-5 project. Debtor’s failure to do the same, coupled with Debtor’s failures to obtain Senior Debt
22 led to the issuance of the first Notice of Default.

23 If the Debtor fails to comply with the EB-5 requirements of the CLA and is permitted to
24 discharge its ongoing EB-5 obligations, eighteen foreign EB-5 investors – and their families - will be
25 put at risk for having their I-829 petitions denied by USCIS and potentially be deported.

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³ As of the date of this filing, discussions have taken place between counsel and the New Equity Investor to try to resolve this issue.

1 **2. Artificial Impairment as to M2 EPC and Top Rank Builders/Morales**
2 **Construction Claim**

3 A doctrine has emerged that “artificial impairment” is a form of gerrymandering and when
4 abusively used is held to be antithetical to the good faith which must be at the center of any
5 reorganization effort. See e.g. *In re Hotel Assoc. of Tucson*, 165 B.R. 470, 474 (9th Cir. BAP 1994)
6 citing *In re L & J Anaheim Associates*, 995 F.2d 940, 943 n. 2 (9th Cir.1993); *In re Willows*
7 *Convalescent Centers, L.P.*, 151 B.R. 220, 223 (D.Minn.1991); *In re Windsor on the River*
8 *Associates, Ltd.*, 7 F.3d 127, 131–32 (8th Cir.1993).

9 Unlike LVDF’s claim, the claims of M2EPC (Class 3 Secured Claim of \$110,000) and
10 Top Rank Builders/Morales Construction (Claim 4 Secured claim in the amount of \$15,000) are
11 listed as being impaired and entitled to vote. However, such claims are to be paid in full and do
12 not appear to be impaired. Accordingly, such claims should not be entitled to vote under the plan.
13 By asserting that such claims are impaired, the Debtor is attempting to obtain a consenting class
14 without the necessity of such claims being impaired.

15 **3. The Lifetime Memberships are Executory Contracts, and such Members**
16 **are Entitled to Vote on the Plan**

17 The Debtor states that it “has operated its business by selling lifetime memberships...”
18 The Debtor’s intent was that the discounted lifetime memberships and other promotional benefits
19 (like “FrontSight bucks” [money to be used on limited items at Front Sight], certificates [to be
20 used for 2 day or 4-day training courses], etc.) would lead to a “captive” customer base that would
21 be more likely to take advantage of the Vacation Club & Resort which would then bring increased
22 revenue to the Debtor.” See, ECF 338, p. 31, l. 16-20. The Debtor seeks to “reject” the lifetime
23 memberships. Id. p. 47, l. 24. Moreover, such members may file a claim based upon such
24 rejection. Id. p. 56-57, l. 27-2. In an attempt to dissuade such members from filing claims, the
25 Debtor states that “[p]lease be advised that the Reorganized Debtor or other party in interest will
26 object to any claim filed with respect to a terminated membership agreement that arises out of a
27 member’s “Account Assets” (versus on the amount paid for such membership and such “Account
28

1 Assets”). Id. p. 57, l. 5-8.

2
3 In general, the memberships provided for the payment of an initial membership fee and the
4 members were then entitled to attend as many classes as they wished without paying a course fee.
5 After the bankruptcy filing, the Debtor breached the membership agreements by materially
6 changing the terms by charging an additional \$100 course fee to its members. Moreover, pre-
7 petition, Front Sight provided the members with the ability to gift memberships to others, sell their
8 memberships, will their membership, obtain credits in the form of Front Sight Bucks and similar
9 items of monetary value to use at Front Sight. Now, such memberships and related perks are all
10 being rejected.⁴ Despite such value provided to the members, the Debtor has taken the position
11 that any member who did not pay any funds for their membership should receive nothing and are
12 not creditors of the Bankruptcy Estate.

13
14 Now, the Debtor is stating that the memberships are executory contracts and may be
15 rejected. To the extent that this is the Debtor’s position, then such executory contracts should have
16 been listed in the schedules, such members should have received additional notice, should have
17 received notice of the Disclosure Statement (with the ability to participate in objecting to the
18 Disclosure Statement), and the ability to vote on such plan. However, in accordance with
19 Bankruptcy Rule 3017, such members may not have been provided notice of this hearing nor the
20 requirement to file a proof of claim. Therefore, on this basis alone, lack of notice, the Disclosure
21 Statement should be denied.

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⁴ For avoidance of doubt, whether the lifetime memberships are executory contracts has not been determined by this Court nor the value of the lifetime memberships along with the “perks” such as Front Sight Bucks,

CERTIFICATE OF SERVICE

On September 23, 2022, this pleading was served electronically through the Bankruptcy Court’s CM/ECF Noticing System to all registered users in this case including the parties listed below.

Dated 9-23-22 */s Brian D. Shapiro, Esq.*

Served Electronically Upon:

JASON BLUMBERG on behalf of U.S. Trustee U.S. TRUSTEE - LV - 11
Jason.blumberg@usdoj.gov

CANDACE C CARLYON on behalf of Cred. Comm. Chair Official Committee of Unsecured Creditors
ccarlyon@carlyoncica.com,
CRobertson@carlyoncica.com;nrodriguez@carlyoncica.com;9232006420@filings.docketbird.com;Dcica@carlyoncica.com

CHAPTER 11 - LV
USTPRegion17.lv.ecf@usdoj.gov

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nrodriguez@carlyoncica.com;croberson@carlyoncica.com;dmcica@gmail.com;dcica@carlyoncica.com;tosteen@carlyoncica.com;3342887420@filings.docketbird.com

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Philip@gersonnlaw.com

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sgubner@bg.law, ecf@bg.law

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7 nlovelock@joneslovelock.com, ljanuskevicius@joneslovelock.com

8 NICOLE E. LOVELOCK on behalf of Creditor EB5 Impact Capital Regional Center, LLC
9 nlovelock@joneslovelock.com, ljanuskevicius@joneslovelock.com

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14 NICOLE E. LOVELOCK on behalf of Creditor Linda Stanwood
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16 NICOLE E. LOVELOCK on behalf of Creditor Robert W Dziubla
17 nlovelock@joneslovelock.com, ljanuskevicius@joneslovelock.com

18 NICOLE E. LOVELOCK on behalf of Defendant EB5 Impact Advisors, LLC
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20 NICOLE E. LOVELOCK on behalf of Defendant EB5 Impact Capital Regional Center, LLC
21 nlovelock@joneslovelock.com, ljanuskevicius@joneslovelock.com

22 NICOLE E. LOVELOCK on behalf of Defendant LAS VEGAS DEVELOPMENT FUND,
23 LLC, A NEVADA LIMITED LIABILITY COMPANY, ET. AL.
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27 NICOLE E. LOVELOCK on behalf of Defendant Linda Stanwood
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3 Creditors

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21 LIMITED LIABILITY COMPANY

22 sseflin@bg.law

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7 U.S. TRUSTEE - LV - 11

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9 JESSICA S. WELLINGTON on behalf of Debtor FRONT SIGHT MANAGEMENT LLC

10 jwellington@bg.law

11

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EXHIBIT 1

FIRST AMENDMENT TO LOAN AGREEMENT

This FIRST AMENDMENT TO LOAN AGREEMENT (this "**First Amendment**") is entered into and effective as of July 1, 2017 (the "**First Amendment Effective Date**") by and between Las Vegas Development Fund, LLC, a Nevada Limited Liability Company ("**Lender**") and Front Sight Management, LLC, a Nevada Limited Liability Company, ("**Borrower**"). Lender and Borrower and their respective permitted successors and assigns are sometimes referred to in this First Amendment individually as a "**Party**" and collectively as the "**Parties**".

RECITALS

A. Lender and Borrower entered into that certain Construction Loan Agreement dated as of October 4, 2016 (the "**Original Loan Agreement**"). The Original Loan Agreement as amended by this First Amendment is referred to herein as the "**Agreement**". Pursuant to the Original Loan Agreement, Borrower executed a Promissory Note dated October 6, 2016 (the "**Original Note**") and a Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 (the "**Deed of Trust**"). Initially capitalized terms not defined herein shall have the respective meanings assigned to such terms in the Original Loan Agreement.

B. The Parties desire to amend the Original Loan Agreement, the Original Note and the Deed of Trust to modify the rights and obligations of the Parties as further set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this First Amendment by this reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties further agree as follows:

- 1. COMMENCEMENT DATE.** The definition of "Commencement Date" in the Original Loan Agreement is hereby deleted and replaced with:

"Commencement Date means October 4, 2016."

- 2. INTEREST RATE.** The definition of Loan Rate in the Original Loan Agreement is amended to read as follows:

"Loan Rate" means the interest rate applicable to the Loan as calculated at an annual rate of 6% during the Initial Term with respect to all Advances made prior to July 1, 2017 and, with respect to such Advances, if extended, at an annual rate of 7% during the Extension Term; and with respect to all Advances made after July 1, 2017 as calculated at an annual rate of 7% during the Initial Term, and, if extended, at an annual rate of 8% during the Extension Term."

And Section 4 of the Note is amended to read as set forth in the Amended and Restated Promissory Note attached hereto as Exhibit A.

- 3. MAXIMUM LOAN AMOUNT.** The maximum Loan amount is hereby reduced from seventy-five million Dollars (\$75,000,000) to fifty million Dollars (\$50,000,000). Accordingly, the reference in Recital A of the Loan Agreement to SEVENTY-FIVE MILLION DOLLARS (\$75,000,000) is hereby amended to FIFTY MILLION DOLLARS (\$50,000,000), and the first sentence of the definition of

“Commitment” in the Loan Agreement is hereby amended to read: “Commitment” means an amount not to exceed Fifty Million Dollars (\$50,000,000)”.

Furthermore, the amount shown as the maximum principal amount on the Promissory Note is amended by replacing “\$75,000,000” with “\$50,000,000,” and the amount of “Seventy-Five Million and No/100 Dollars (\$75,000,000)” in the first sentence of the Promissory Note is replaced by “Fifty Million and No/100 Dollars (\$50,000,000)” as set forth in the Amended and Restated Promissory Note attached hereto as Exhibit “A”.

Additionally, the first sentence of Section 1.1 of the Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing has been amended in said document to read: “Loan. The indebtedness secured by this Deed of Trust is the result of a loan in the original principal amount of up to Fifty Million dollars (\$50,000,000) (the “Loan”) provided by Lender to Grantor.”

4. DATE TO OBTAIN SENIOR DEBT. The date of December 31, 2016, in the last sentence of the definition of Senior Debt, which is the outside date for Borrower to obtain such Senior Debt, is hereby amended to December 31, 2017, provided, however, that Borrower, at its sole election, may extend said date for an additional sixty (60) days from and after said date of December 31, 2017.

5. MAINTENANCE OF JOBS REQUIRED FOR EB-5 PURPOSES. Borrower agrees and covenants to continue to employ sufficient full-time employees to meet the jobs creation requirement of the EB-5 Program.

6. EB-5 INFORMATION. Borrower has provided Lender with a portion of the information and documentation required pursuant to Section 5.10 of the Original Loan Agreement. The parties acknowledge that Borrower’s copies of certain documentation were in an office in or around Santa Rosa, California, which was burned down in a major wildfire in Northern California. Notwithstanding the foregoing, on or before June 30, 2018, Borrower shall provide Lender with copies of major contracts, bank statements, receipts, invoices and cancelled checks or credit card statements or other proof of payment reasonably acceptable to Lender that document that Borrower has invested in the Project at least the amount of money as has been disbursed by Lender to Borrower on or before the First Amendment Effective Date, it being understood that such documentation may evidence investments occurring at any time from and after the date of the Original Loan Agreement up to and including June 30, 2018. Borrower further agrees that, in the event that there is an audit, compliance review or other form of request for such documentation by the USCIS or any successor or affiliated agency, including the U.S. Securities and Exchange Commission or the U.S. Department of Justice, Borrower will, at Borrower’s sole cost and expense, promptly reconstruct in its entirety such documentation evidencing the investment of the amount of funds disbursed on or before the First Amendment Effective Date by obtaining copies from third parties. Borrower further agrees that the provisions of the Original Loan Agreement continue to apply with respect to the EB-5 Information (as defined in the Original Loan Agreement) and all provisions of the Original Loan Agreement which require Borrower to provide information and/or documentation to Lender continue to apply and Borrower will comply fully therewith.

7. INDEMNIFICATION. Borrower agrees to defend, indemnify and hold Lender harmless from any actual expense, cost, loss or damage, including reasonable attorneys’ fees and court costs, paid or incurred by Lender due to (i) Borrower’s failure to provide the EB5 documentation for the period from the first disbursement of the Loan proceeds through October 31, 2017, or (ii) Borrower’s breach of its obligations contained in Paragraph 6, above.

8. AGREEMENT RATIFIED. Except as specifically amended or modified herein, each and every term, covenant, and condition of the Original Loan Agreement, Note and Deed of Trust as amended is

hereby ratified and shall remain in full force and effect. Each and every reference to the "Agreement" in the Original Loan Agreement (including, without limitation, the attachments thereto) shall be deemed to refer to the Original Loan Agreement as amended by this First Amendment.

9. GOVERNING LAW. This instrument shall be interpreted and construed in accordance with the laws of the State of Nevada.

10. BINDING AGREEMENT. This First Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.


11. COUNTERPARTS. This First Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

[Signature page follows]

A handwritten signature in black ink, appearing to be "RWJ", is written over the text "[Signature page follows]".


IN WITNESS WHEREOF, Lender and Borrower have signed this First Amendment as of the First Amendment Effective Date.

BORROWER: FRONT SIGHT MANAGEMENT, LLC,
A Nevada Limited Liability Company

By: 
Name: Ignatius Piazza
Title: Manager *11/14/17*

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC,
A Nevada Limited Liability Company

By: 
Name: Robert Dziubko
Title: President & CEO

PLEASE SEE ATTACHED
CALIFORNIA ALL-PURPOSE
ACKNOWLEDGEMENT FORM

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

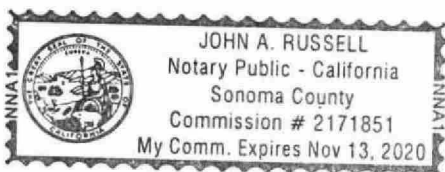
State of California

County of Sonoma

On November 14, 2017 before me, John A Russell Notary Public
Date Here Insert Name and Title of the Officer

personally appeared IGNATIUS ANTHONY PIAZZA II
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal and/or Stamp Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature John A Russell
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: First Amendment To Loan Agreement

Document Date: 11/14/2017 Number of Pages: 4

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____ Signer's Name: _____
 Corporate Officer - Title(s): _____ Corporate Officer - Title(s): _____
 Partner - Limited General Partner - Limited General
 Individual Attorney in Fact Individual Attorney in Fact
 Trustee Guardian of Conservator Trustee Guardian of Conservator
 Other: _____ Other: _____
 Signer is Representing: _____ Signer is Representing: _____

EXHIBIT 2

SECOND AMENDMENT TO LOAN AGREEMENT

This SECOND AMENDMENT TO LOAN AGREEMENT (this “**Second Amendment**”) is entered into and effective as of February 28, 2018 (the “**Second Amendment Effective Date**”) by and between Las Vegas Development Fund, LLC, a Nevada Limited Liability Company (“**Lender**”) and Front Sight Management, LLC, a Nevada Limited Liability Company, (“**Borrower**”). Lender and Borrower and their respective permitted successors and assigns are sometimes referred to in this Second Amendment individually as a “**Party**” and collectively as the “**Parties**”.

RECITALS

- A. Lender and Borrower entered into that certain Construction Loan Agreement dated as of October 4, 2016 (the “**Original Loan Agreement**”). The Original Loan Agreement as amended by this First Amendment is referred to herein as the “**Agreement**”. Pursuant to the Original Loan Agreement, Borrower executed a Promissory Note dated October 6, 2016 (the “**Original Note**”) and a Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing dated October 6, 2016 (the “**Deed of Trust**”). Initially capitalized terms not defined herein shall have the respective meanings assigned to such terms in the Original Loan Agreement. The Original Loan Agreement was amended by a First Amendment to Loan Agreement effective as of July 1, 2017 (the “**First Amendment**”) to further extend the date for obtaining the Senior Financing.
- B. Borrower has represented to Lender that further extending the date for obtaining the Senior Debt will benefit the Project by reducing borrowing costs by delaying the Senior Debt until it is strictly necessary to allow construction to proceed at the fastest feasible pace. Borrower has further represented to Lender that construction is currently proceeding at the most expedited pace reasonably possible and that Borrower has received preliminary pricing terms from two lenders for the Senior Debt (“**Senior Debt Term Sheets**”). The Parties desire to further amend the Original Loan Agreement, as modified by the First Amendment, to modify the rights and obligations of the Parties as further set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are hereby incorporated into the operative provisions of this First Amendment by this reference, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties further agree as follows:

- 1. DATE TO OBTAIN SENIOR DEBT.** The date of December 31, 2016, in the last sentence of the definition of Senior Debt in the Original Loan Agreement, which was the outside date for Borrower to obtain such Senior Debt, and which date was extended in the First Amendment, is hereby amended to June 30, 2018. Concurrently with the execution of this Second Extension, Borrower shall provide to Lender copies of term sheets, emails and other materials related to the Senior Debt Term Sheets and shall periodically, but no less than monthly, update the same.
- 2. AGREEMENT RATIFIED.** Except as specifically amended or modified herein, each and every term, covenant, and condition of the Original Loan Agreement, Note and Deed of Trust as amended is hereby ratified and shall remain in full force and effect. Each and every reference to the “**Agreement**” in

the Original Loan Agreement (including, without limitation, the attachments thereto) shall be deemed to refer to the Original Loan Agreement as amended by the First Amendment and this Second Amendment.

3. GOVERNING LAW. This instrument shall be interpreted and construed in accordance with the substantive laws of the State of Nevada, excluding choice of law principles.

4. BINDING AGREEMENT. This Second Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

5. COUNTERPARTS. This Second Amendment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

IN WITNESS WHEREOF, Lender and Borrower have signed this Second Amendment as of the Effective Date.

BORROWER:

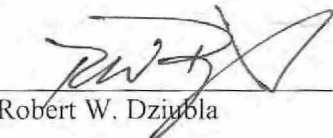
FRONT SIGHT MANAGEMENT, LLC,
A Nevada Limited Liability Company

By: 
Name: Ignatius Piazza

Title: Manager

LENDER:

LAS VEGAS DEVELOPMENT FUND, LLC,
A Nevada Limited Liability Company

By: 
Name: Robert W. Dziubla

Title: President & CEO

EXHIBIT 3

Traci Bixenmann

From: Robert Dziubla <rdziubla@kenworthcapital.com>
Sent: Monday, August 27, 2012 2:28 PM
To: 'Mike Meacher'
Subject: RE: Front Sight

Mike

I hope you're doing well and surviving the summer heat of the Pahrump desert. I left you a voicemail over the weekend but wasn't sure if you picked it up.

When we first looked at the Front Sight financing request, in light of the various factors (including the most critical for most investors / lenders, which is the fact that Front Sight involves a lot of high danger activity, i.e. shooting) we concluded that it would be very difficult to arrange any type of standard commercial financing (which comported with the ultimate result from both of your main banks) and therefore proposed a private equity type of investment, which Mr. Piazza rejected.

For quite some time now, I have been working on developing an investment platform that takes advantage of my long experience in China and working with Chinese and other Asian investors for, as you know, the Chinese have large surplus capital stemming from their large trade balance with the US. Those efforts have come to fruition, and I think that we may well be able to put together a financing package for some, or perhaps all, of the \$150m you were seeking to raise. The salient terms of the financing would likely be as follows: a 5 year term loan bearing a 6% interest rate, with a two year extension possible, and origination fees of 2 – 3% payable out of each drawdown under the loan. Depending on several factors, we might even be able to arrange for the first two years of interest to accrue. Also, the loan would be non-recourse, which would, we expect, be of tremendous importance and value to Mr. Piazza.

Please give me a ring if you've any interest.

Best regards,

From: Mike Meacher [mailto:meacher@frontsight.com]
Sent: Tuesday, April 24, 2012 10:33 AM
To: 'Robert Dziubla'
Subject: Front Sight

Bob,

Thanks to you and Jon for your review of Front Sight and your observations below.

I have forwarded this information to Ignatius Piazza, the owner of Front Sight, and he is currently not interested in moving forward with this type of capital raising structure.

If that situation changes, I will advise you and we can attempt to structure a deal.

Best Regards,

Mike
meacher@frontsight.com

800-403-0422

From: Robert Dziubla [mailto:rdziubla@kenworthcapital.com]
Sent: Saturday, April 07, 2012 5:50 PM
To: Mike Meacher
Cc: Jon Fleming
Subject: Front Sight - engagement proposal

Mike

Thanks again for lunch and for your time on Thursday showing Jon and me around the site and sharing the vision for Front Sight's expansion.

Based on the discussions, we have the following observations and suggestions:

1. We agree with you that there are multiple revenue streams that Front Sight is not yet exploiting – the 180,000 room nights and resultant \$18m of revenue is the most obvious, not to mention that Front Sight has only begun to scratch the surface of the available market of gun enthusiasts in the US – and we believe that a well-crafted expansion could turn Front Sight into a business with an impressive national and international footprint and a market value of \$1+ billion or perhaps even multiples of that.
2. We believe that the expansion project that Front Sight contemplates can be financed in the capital markets, though not necessarily in the commercial debt markets, as we discussed over lunch. We think it unlikely that a commercial bank will extend a conventional mortgage or commercial loan for your project the way it is currently envisioned and structured. The refusal of both Wells Fargo and BofA, despite Front Sight's valued-customer status, is testimony to that.
3. Nonetheless, we believe that with a professional and thorough presentation and underwriting, a well-honed and focused message, and the kind of creative and experienced approach that we bring to financing raises, we have a very good chance of raising the desired amounts. Doing so will require us to work closely together to craft a development and expansion plan that is based in hard reality and can be measured with proven performance at stages as the plan is implemented. As discussed, it will likely take us 60 – 90 days to craft the presentation (regardless of whether it's called an offering memorandum, investment summary, or something similar) and the fund raising will commence immediately thereafter, with that effort for the Phase 1 raise perhaps taking up to 6 – 12 months depending on market conditions and receptivity though it could also be as little as 3 months or less.
4. Our perception is that Front Sight is looking at three business models that need financing:
 - a. The firearms training component.
 - b. Real estate development to support the training.
 - c. Franchise development.

Our experience is that each of these will appeal to different types of investors and each will need to be well considered, structured, integrated, and presented. We have the expertise to help you do that.

5. We understand that Dr. Piazza wishes to maintain control of his business and does not want to have investors who can tell him "how he needs to paint the buildings." His status as a very successful entrepreneur who has succeeded despite numerous naysayers and obstacles certainly warrants that sentiment. We have the experience and expertise to structure the financing so that Dr. Piazza will be able to maintain control of his business.
6. Front Sight will need to understand that private equity investors typically require a return of their investment within 5 – 7 years, if not sooner, with a 20%-plus IRR. The deals that we have been doing the past 6 months are typically penciling out at 30 – 40% IRRs with a 5-year payback. The structuring of the deal will need to incorporate an exit strategy (refinancing, public market exit, strategic partner buy-in, other liquidity event) that provides the above.

7. We have great depth of experience and expertise in the real estate and real estate financing market, and I personally have been involved in over \$10 billion of hospitality and leisure transactions during my 35-year career as an investor, owner, operator, investment banker, and lawyer. We have been underwriting over a dozen hospitality transactions during the past 8 months, with two of them located in the desert just like Front Sight, so we have a keen appreciation and understanding of the peculiarities of that market and how to structure the transaction appropriately.

We would enjoy the chance to work with Front Sight on this development and have attached a proposed engagement letter that, as previously discussed, is on a success fee basis so that we don't get paid unless we raise the financing. We are confident enough of our ability to raise the money that we are willing to invest our time, energy, credibility and resources without compensation, but in turn expect to be appropriately paid when we do succeed.

Please let us know if you have any questions or comments.

Best regards,

Bob

Robert W. Dziubla
President & CEO
Kenworth Capital, Inc.
rdziubla@kenworthcapital.com
Phone: 858.699.4367
Fax: 858.332.1795
PO Box 3003
916 Southwood Blvd., Suite 1G
Incline Village, Nevada 89450

EXHIBIT 4

EB5 Impact Advisors LLC

EB5 IMPACT ADVISORS LLC
916 SOUTHWOOD BOULEVARD, SUITE 1G
P.O. BOX 3003
INCLINE VILLAGE, NEVADA 89450

Telephone: (858) 699-4367
Facsimile: (858) 699-4367

February 14, 2013

By Email

Mr. Mike Meacher
Chief Operating Officer
Front Sight Management Inc.
7975 Cameron Drive, #900
Windsor, CA 95492

Re: EB-5 debt financing of \$75m for Front Sight

Dear Mike:

This letter agreement will confirm the discussions that we have had with you and Ignatius Piazza, the owner of Front Sight, over the past few months about our raising \$75 million of debt financing for Front Sight to expand its operations through the EB-5 immigrant investor program supervised by the US Customs & Immigration Service (USCIS) (the "Financing"). The expansion includes building 100 timeshare units; 200 RV pads and supporting facilities such as a clubhouse and swimming pool; a combined conference, retail and restaurant center; and related infrastructure as part of the over-all expansion of Front Sight's current training facility located in Pahrump, Nevada (the "Project").

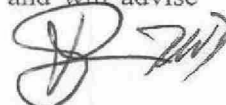
A summary of indicative terms for the Financing is attached as Schedule A. The projected budget and timeline for this transaction are attached as Schedule B; the parties acknowledge and agree that the budget and timelines are the best current estimates for both and that they may change in response to actions by USCIS and market conditions..

The Company hereby engages EB5 Impact Advisors LLC ("EB5IA"), as the Company's exclusive Financial Advisor with respect to the Financing, and EB5IA accepts such engagement.

Scope of Assignment; Services

As Financial Advisor to the Company, EB5IA will perform the following services (the "Services"):

- (a) EB5IA will promptly engage Baker & McKenzie as its legal counsel to establish the "EB5 Impact Capital Regional Center" ("RC") approved by USCIS to cover at a minimum Nye County, Nevada, and to have approved job codes that will encompass the Project. EB5IA shall also engage a business plan writer and an economist (Professor Sean Flynn) to prepare the business plan and economic impact analysis for both the RC and the Project as the exemplar transaction for the RC;
- (b) Advise the Company on the appropriate markets in which to obtain the contemplated Financing, especially China;
- (c) EB5IA will assist the Company in making appropriate presentations to relevant parties concerning the contemplated Financing, and will prepare an offering memorandum for the Financing (the "Memorandum"). The Company shall approve the Memorandum prior to its use and will advise



Mr. Mike Meacher
Chief Operating Officer – Front Sight
February 14, 2013
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EB5 IMPACT ADVISORS

EB5IA in writing that it has so approved the Memorandum and that the Company represents to EB5IA that the Memorandum does not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading; provided however, that the Company need not make any representation with respect to (i) matters specified in the Memorandum that are based on a source other than the Company or (ii) any projections as to the Company's financial results, other than that the projections were prepared in good faith and with a good faith belief in the reasonableness of the assumptions on which the projections were based;

(d) EB5IA will endeavor to obtain commitment(s) for the contemplated Financing that will accomplish the Company's objectives;

(e) If so requested, EB5IA will work with the Company, its counsel and other relevant parties in the structuring, negotiation, documentation and closing of the contemplated Financing; and

(f) EB5IA will render such additional advisory and related services as may from time to time be specifically requested by the Company, and agreed to by EB5IA. If the parties deem it advisable to do so, the scope and fees for any such additional services shall be set forth in an addendum to this Agreement (an "Addendum").

Nothing contained in this Agreement is to be construed as a commitment by EB5IA, its affiliates or its agents to lend to or invest in the contemplated Financing. This is not a guarantee that any such Financing can be procured by EB5IA for the Company on terms acceptable to the Company, or a representation or guarantee that EB5IA will be able to perform successfully the Services detailed in this Agreement.

Certain Obligations of EB5IA

EB5IA is prohibited from making any illegal payment from the fees paid under this engagement letter pursuant to applicable laws, including but not limited to the Foreign Corrupt Practices Act of the United States.

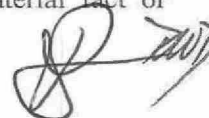
Certain Obligations of the Company

(a) The Company hereby engages EB5IA on an exclusive basis as its Financial Advisor for the Financing.

(b) The Company shall provide full cooperation to EB5IA as may be necessary for the efficient performance by EB5IA of its Services, including but not limited to the following. The Company will:

- (1) Keep EB5IA fully and accurately informed as to the status and progress of all important matters related to the Project and the Financing;
- (2) Respond promptly to EB5IA's suggestions for changes to the indicative terms of the Financing so as to make it more attractive to the EB-5 immigrant investors; and
- (3) Make one or more senior management personnel available to participate in presentations as may be reasonably required;

(c) The Company acknowledges that EB5IA is making no independent investigation of the accuracy or completeness of the information to be included in the Memorandum with regard to the Project and that EB5IA makes no representation or warranty with respect thereto. Furthermore, the Company agrees to advise EB5IA immediately of the occurrence of any event or any other change known to the Company which results in the Memorandum containing an untrue statement of a material fact or



Mr. Mike Meacher
Chief Operating Officer – Front Sight
February 14, 2013
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EB5 IMPACT ADVISORS

omitting to state a material fact required to be stated therein or necessary to make the statements contained therein not misleading.

Compensation

(a) Fee. The Company shall pay EB5IA a total fee of \$36,000 as per the attached budget, which fee will be offset against the first interest payments made on the Financing. Each payment due EB5IA shall be paid promptly by check or by wire transfer of next-day funds into such bank account(s) as are nominated by EB5IA.

(b) If the Company accepts a term sheet or letter of intent for the Financing substantially on the terms of Schedule A and then refuses to complete the Financing transaction, the Company shall pay EB5IA a break-up fee equal to 2% of the Financing amount.

Right of First Refusal for Refinancing

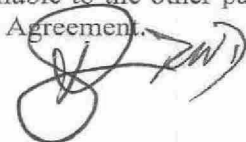
EB5IA shall have the right of first refusal for a period of five (5) years after the completion of the Financing to provide EB-5 immigrant investor financial advisory and placement services for any projects the Company may undertake.

Expenses

The Company will pay for or reimburse EB5IA, as billed periodically, for its expenses, which are detailed to the extent possible as this time on the attached budget, regardless of whether or not the contemplated Financing is completed. If any of such expenses have not previously been reimbursed at the time this Agreement terminates, the Company shall promptly reimburse EB5IA for any such expenses incurred or accrued prior to termination.

Indemnification

In connection with EB5IA's engagement hereunder, the Company and EB5IA mutually agree to indemnify and hold harmless the other party, and its affiliates, the respective directors, partners, officers, agents, representatives and employees of EB5IA and its affiliates and each other person, if any, controlling EB5IA and its affiliates (each an "Indemnified Party") to the full extent lawful, from and against any losses, claims, damages or liabilities (or actions, including shareholder actions, in respect thereof) and will reimburse any Indemnified Party for all costs and expenses (including counsel fees and disbursements) as they are incurred by such Indemnified Party in connection with investigating, preparing or defending any such action or claim, whether or not in connection with pending or threatened litigation in which either party or any other Indemnified Party is a party, caused by or arising out of any transaction contemplated by this Agreement or EB5IA's performing any service contemplated hereunder with regard to the Project. The indemnifying party will not, however, be liable to the extent that any claims, liabilities, losses, damages, costs or expenses of any Indemnified Party are judicially determined by a court of final jurisdiction to have resulted solely from the gross negligence or willful misconduct of such Indemnified Party. In no event shall either party be liable to the other party for any special, consequential or punitive damages arising under or related to this Agreement.



Mr. Mike Meacher
Chief Operating Officer – Front Sight
February 14, 2013
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EB5 IMPACT ADVISORS

The foregoing agreements shall be in addition to any rights that either party or any Indemnified Party may have at common law or otherwise.

No compromise or settlement by the indemnifying party of any action or proceeding related to the transactions contemplated hereby shall be effective unless it also contains an unconditional release of each Indemnified Party. Notwithstanding anything to the contrary herein, the indemnification obligations under this section shall survive the termination of this Agreement for a period not to exceed the statute of limitations under applicable law.

Termination

The engagement of EB5IA pursuant to this Agreement shall terminate on the earliest of (i) the Financing closing date, or (ii) twenty-four (24) calendar months from the date of this Agreement. This Agreement may be extended if agreed to in writing by both parties.

General Matters

- (a) This Agreement sets forth the entire understanding of the parties relating to the subject matter hereof, and supersedes and cancels any prior communications, understanding and agreements between the parties. This Agreement cannot be modified or changed, nor can any of its provisions be waived, except in writing signed by both parties.
- (b) The Company acknowledges that EB5IA may carry out its Services hereunder through or in conjunction with one or more consultants or affiliates. The contracting parties, however, shall be and remain the Company and EB5IA.
- (c) Any term or condition of this Agreement which is prohibited or unenforceable in any applicable jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof; and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by any applicable law, the Company hereby waives any provisions of such applicable law which render any provisions hereof prohibited or unenforceable in any respect.

Governing Law

This Agreement shall be governed by and construed in accordance with the substantive laws of Nevada, excluding choice of law provisions.

If the foregoing is in accordance with your understanding, please confirm your acceptance by signing and returning the enclosed copy of this letter, which upon execution will constitute an agreement between us.

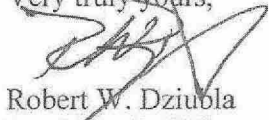


Mr. Mike Meacher
Chief Operating Officer – Front Sight
February 14, 2013
Page 5

EB5 IMPACT ADVISORS

We look forward to working with you on the Services detailed in this Agreement.

Very truly yours,



Robert W. Dziubla
President & CEO

Cc: Mr. Jon Fleming
Professor Sean Flynn

AGREED AND ACCEPTED:

Front Sight Management, Inc.

By:


Ignatius A. Piazza II
President & Owner

Mr. Mike Meacher
Chief Operating Officer – Front Sight
February 14, 2013
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EB5 IMPACT ADVISORS

SCHEDULE A

**SUMMARY OF INDICATIVE TERMS FOR
EB-5 FINANCING OF FRONT SIGHT TRAINING FACILITY IN PAHRUMP
NEVADA**

Borrower: Front Sight Management Inc.

Development Budget/
Capital Stack: 1) \$75m – EB-5 debt financing
2) \$35m – Borrower’s equity investment into the Project

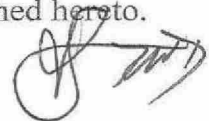
Loan amount: \$75m subject to acceptable economic analysis supporting requisite job creation, i.e. 1,500 direct, indirect and induced jobs

Term: 5 years with a 2-year extension

Interest rate: 6% per year

Accrual: Interest on the loan will accrue monthly and shall be payable on the first day of each month. The loan includes an interest reserve of \$10m.

Expenses: Borrower shall be responsible for payment of lender’s reasonable expenses, which are estimated to be \$277,230 as per the expense budget and timeline attached hereto.



Mr. Mike Meacher
 Chief Operating Officer – Front Sight
 February 14, 2013
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EB5 IMPACT ADVISORS

SCHEDULE B

**Budget and Timeline
 (attached)**

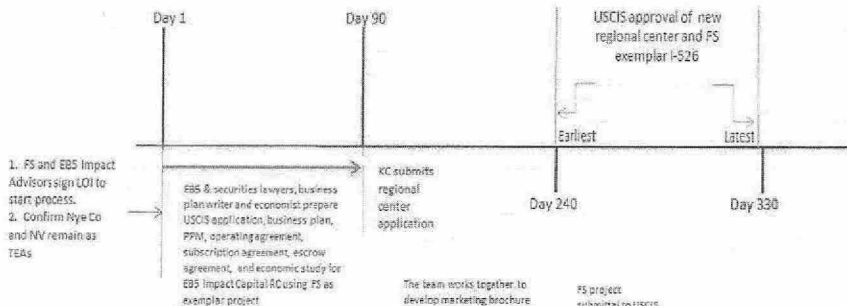
Regional Center & Front Sight Project Cost				
Category	Budget	Payor / Est. pymt date		
		EB5IC	Front Sight	
Economist	\$ 20,000		\$ 20,000	FS - 50% on Day 1 and balance on Day 45
SEC Attorney	\$ 45,000	\$ 22,500	\$ 22,500	Split 50 / 50; 50% due on Day 1 and balance over 90 days per milestones
EB-5 Attorney	\$ 25,000	\$ 12,500	\$ 12,500	Ditto
Business Plan (USCIS Format)	\$ 15,000	\$ 7,500	\$ 7,500	Split 50 / 50; 50% on Day 45 & balance at Day 90
Market Study (independent - HVS)	\$ 20,000		\$ 20,000	50% on Day 1, and 50% on Day 45. USCIS is now requiring that the business plan be supported by a 3rd party valuation
Exemplar I-526	(Included in line 10)			
USCIS Fee	\$ 6,230	\$ 6,230		EB5IC - due on Day 90 for RC application
USCIS Fee	\$ 6,230		\$ 6,230	FS - due on Day 241 for Front Sight project application
Website	(included in line 16)			
International Marketing in China	\$ 96,000		\$ 96,000	FS - approximately Day 150 to Day 361
Marketing/Brochures	(included in line 16)			
Staffing	\$ 2,000	\$ 2,000		EB5IC - ongoing
Translations	\$ 8,000		\$ 8,000	FS - Day 241 and later
Travel	\$ 15,000		\$ 15,000	FS - Day 241 and later
EB5 Impact Advisors Fee	\$ 36,000		\$ 36,000	50% on RC submittal; 50% on FS project submittal; offset against success payment
Escrow Fee	\$ 3,500		\$ 3,500	FS - Day 241 and later
Real estate mortgage loan docs	\$ 30,000		\$ 30,000	Given how far out this will be, the \$30k is a best guess at this point
Total Expenses	\$ 327,960	\$ 60,730	\$ 277,230	
Month 1			\$ 37,500	1/2 econ fee, 1/2 SEC atty split, 1/2 EB5 atty split, 1/2 market study
Month 2			\$ 32,500	1/2 econ fee, 1/4 SEC atty split, 1/4 EB5 atty split, 1/2 market study, 1/2 biz plan
Month 3			\$ 12,500	1/4 SEC atty, 1/4 EB5 atty, 1/2 biz plan
Month 4			\$ 18,000	1/2 EB5IC fee
Month 5			\$ -	
Month 6			\$ 32,000	1/4 intl marketing fee (line 17), and translations
Month 7			\$ -	
Month 8			\$ 48,230	USCIS fee, 1/4 intl marketing fee, 1/2 EB5IC fee
Month 9			\$ 65,000	Escrow fee, 1/2 travel costs, 100% mortgage loan docs, 1/4 intl marketing costs
Month 10			\$ 31,500	1/4 intl marketing fee, 1/2 travel costs
TOTAL			\$ 277,230	



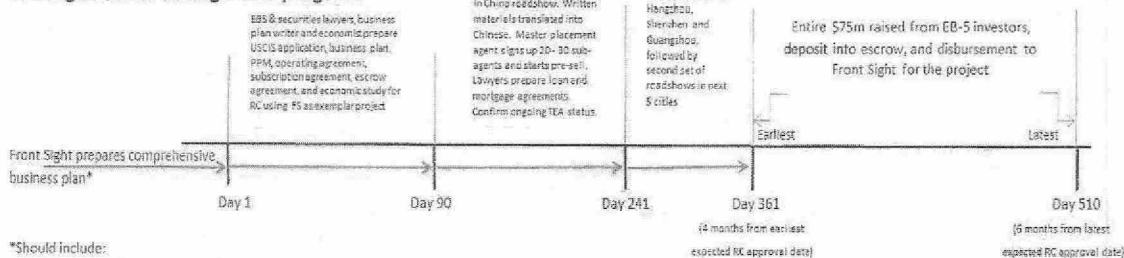
Mr. Mike Meacher
 Chief Operating Officer – Front Sight
 February 14, 2013
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EB5 IMPACT ADVISORS

New regional center establishment for Front Sight project



Raising of \$75m through EB-5 program



*Should include:

1. A description of the FS business, its products, services and objectives
2. A market analysis, including names of competitors and relative strengths and weaknesses.
3. A comparison with competitors' products and pricing structures
4. A list of the required permits and licenses obtained
5. A list of any contracts signed for the proposed development
6. A discussion of the marketing strategy of FS, including pricing, advertising & servicing
7. A discussion of FS's organizational structure and its personnel's experience
8. An explanation of FS's staffing requirements and a timetable for hiring, as well as job descriptions for all positions
9. Pro forma projections for sales, costs, and income projections
10. Letters of support from city, county and state officials / agencies

EXHIBIT 5

[FILED UNDER SEAL]

EXHIBIT 6

Robert Dziubla

From: Robert Dziubla <rdziubla@eb5impactcapital.com>
Sent: Thursday, May 12, 2016 2:49 PM
To: 'Mike Meacher'
Cc: Jon Fleming
Subject: RE: Meeting on May 18th

Flag Status: Flagged

Mike,

I wish I could accommodate that request, but I really can't push my departure from Oakland back that late given my already-altered travel plans to attend my son's graduation.

We would like to tee up the agenda for our Oakland meeting so that we can make efficient use of the two hours we will have together.

Background:

As we all know, the EB5 world has changed a lot since we first started down this road and then had to wait 18 months for USCIS to approve the project. The Front Sight raise is turning out to be much harder and taking longer than we had expected, and all of us are horribly frustrated and upset by this turn of events.

Jon and I love the Front Sight project and have been busting our butts to accomplish the EB5 raise and do so within the budget we agreed three years ago. However, we have now been working without pay for three years, have exhausted our personal resources, and can no longer continue without some major changes. We had to let Ethan go at the end of last week as we have no money to pay him because the modest amount of income we had anticipated from the admin fee while achieving the minimum raise is going to the greedy agents.

Of course there is enormous detail to all of the above, but discussing that won't fix the problem.

Choices:

After a lot of thought, it seems to us that we have three choices:

1. Call it a day, shake hands, and part ways as friends. Naturally, as part of that we first refund the EB5 money that is in escrow to the investors and then close our doors.
2. Restructure the capital stack by (i) eliminating the minimum raise and (ii) bringing in senior debt from a timeshare lender who understands the timeshare business. Elements of this approach include:
 - a. We have discussed item (ii) with a very experienced consultant in the timeshare finance industry who has closed over 2,000 financings. He believes that he can source one or more lenders who will provide construction financing and timeshare receivables financing at a blended rate of around 6 - 7%. Financing costs from the lender will be around 1.25% of the commitment. That is positive news and allays your concern about having to pay Guido-the-loanshark-rates.
 - b. By getting this timeshare financing into place ASAP, you can then start construction ASAP. With the timeshare financing in place and construction started, you can start pre-selling the timeshares and generating revenues.

- c. By eliminating the minimum raise, we can start disbursing the EB5 money that is already in escrow to the project while we continue to raise as much EB5 money as possible. We would need to ensure that the EB5 money is applied to the project development where the 10 jobs are being created. (We need to have further discussion with our EB5 lawyer on this point and some others.)
 - d. The timeshare financing would have a 1st position mortgage (paying off the Holocek mortgage) and the EB5 money would have a second mortgage. We would need to negotiate an inter-creditor agreement between the timeshare lender and the EB5 money to sort out their respective rights etc.
 - e. We would have to amend the PPM, subscription agreement and other project documents to reflect the above changes.
 - f. We likely would have to give a rescission right to the EB5 investors who are already in escrow. We anticipate that none of them would exercise that right because then they would have to pull their I-526 application back from USCIS and find another project for their investment, thus putting them at the end of an ever-longer line.
 - g. FS would have a new loan agreement with the timeshare lender.
 - h. The EB5 loan agreement that Scott and Letvia have been reviewing would need to be revised to incorporate the above.
 - i. We would continue the EB5 marketing and raise as much EB5 money as possible. We have discussed the above changes to the capital stack with our agents, and they think those changes would make the project much more attractive to the investors because the project would no longer be an outlier, as the vast majority of projects being marketed these days have senior commercial debt and therefore have a much higher EB5 job surplus.
 - j. A preliminary budget for the above (not including costs that the timeshare lender might incur):
 - i. Upfront legal fees of \$11k: i.e., \$3k to amend the EB5 loan agreement, \$3k to amend the PPM and other project legal documents, \$5k to amend the EB5 documents and file them with USCIS.
 - ii. \$8k per month for us to keep our doors open and rehire Ethan (assuming that he hasn't found another job) until we have \$10m of EB5 money invested into the project (anticipated by Sept. 30).
 - iii. Additional legal fees of probably \$5 – 7k or so for the inter-creditor agreement.
3. We sell the EB5 Impact Capital Regional Center LLC and Las Vegas Development Fund LLC entities to you, and you then proceed as you wish.

We look forward to our meeting on Wednesday and hope that we can achieve a speedy resolution.

Bob

From: Mike Meacher [mailto:meacher@frontsight.com]
Sent: Wednesday, May 11, 2016 3:53 PM
To: 'Robert Dziubla' <rdziubla@eb5impactcapital.com>
Subject: RE: Meeting on May 18th

Bob,

I just noticed your flights only allow for about a 2 hour meeting presuming you need to be at the airport an hour before flight time. I suggest you change to the 5:50 departure (flight 2671) and then move to the earlier one if we are completed in time. I don't want to rush this discussion.

Thanks,

Mike
Meacher@frontsight.com
702-425-6550

From: Robert Dziubla [<mailto:rdziubla@eb5impactcapital.com>]
Sent: Wednesday, May 11, 2016 3:22 PM
To: 'Mike Meacher'; 'Jon Fleming'
Cc: 'Ignatius Piazza'
Subject: RE: Meeting on May 18th

Dear Mike,

I was planning to be traveling that day for my son's graduation but have rearranged that trip so we can meet with you and Naish as requested on Wednesday, May 18.

Jon and I are booked to arrive into Oakland at 11:55 a.m. on Southwest #696 and depart at 3:30 pm on Southwest # 1701.

Cheers,

Bob

From: Mike Meacher [<mailto:meacher@frontsight.com>]
Sent: Wednesday, May 11, 2016 2:04 PM
To: 'Robert Dziubla' <rdziubla@eb5impactcapital.com>; 'Jon Fleming' <jfleming@EB5impactcapital.com>
Cc: Ignatius Piazza <Ignatius@frontsight.com>
Subject: Meeting on May 18th
Importance: High

Bob and Jon,

Thanks for the update.

Naish wants to have a face to face meeting in Oakland on Wednesday, May 18th to discuss all the issues surrounding EB-5 and to work toward a solution of getting Front Sight funded. He and I have discussed the topics you raised about reducing the minimum raise and adjusting the capital stack. He is amenable to both ideas but wants to discuss the details.

I will arrive at 11:00AM in Oakland. See if you two can arrange to be there about this time. We can have a leisurely lunch and discuss all the considerations and depart late afternoon.

Please confirm ASAP.

Thanks,

Mike
Meacher@frontsight.com
702-425-6550

From: Robert Dziubla [<mailto:rdziubla@eb5impactcapital.com>]
Sent: Wednesday, May 11, 2016 11:21 AM
To: 'Mike Meacher'; 'Jon Fleming'
Subject: RE: Update

Dear Mike,

Please find attached the marketing report for the period through Saturday.

We had a good talk with Ralf, and he now understands EB5 and the FS deal much better, so will start reaching out to folks he knows in Panama who work with high-net worth investors, i.e. primarily attorneys and accountants. Ralf was musing, though, that most of the HNW Panamanians he knows probably wouldn't be interested in an EB5 green card because they already have long-term US visas and don't really need to have a US green card.

Also, on a separate point, John Small kindly introduced us to a couple of his contacts who he explained have been successful in sourcing EB5 investors from Latin America. We of course are following up on that.

We are awaiting word from Sinowel on their investor tour later this month. We also are awaiting further word from our Shanghai agent whose investors visited Front Sight.

When would you be available to talk with me and Jon over the next two days, as we have some important discussions and decisions? I am up in LA tonight for meetings and may end up spending the evening there, so sometime on Thursday afternoon or anytime on Friday except for one hour from 10:30 – 11:30 works for us. Please advise.

Thanks,

Bob

From: Mike Meacher [<mailto:meacher@frontsight.com>]

Sent: Tuesday, May 10, 2016 2:08 PM

To: Robert Dziubla <rdziubla@eb5impactcapital.com>; Jon Fleming <jfleming@EB5impactcapital.com>

Subject: Update

Bob and Jon,

How did your call go with Ralf?

What is the status of the Sinowel investor group tour later this month?

How many investors from the Shanghai group are moving forward?

Please give me a marketing update for the last week.

Thanks,

Mike

Meacher@frontsight.com

702-425-6550

EXHIBIT 7

[FILED UNDER SEAL]

EXHIBIT 8

From: Mike Meacher <meacher@frontsight.com>

Sent: Tue, 04 Oct 2016 10:14:26 -0700

To: 'Robert Dziubla' <rdziubla@eb5impactcapital.com>, 'Ignatius Piazza' <ignatius@frontsight.com>, "Scott A. Preston" <scott@prestonarza.com>

CC: 'Jon Fleming' <jfleming@EB5impactcapital.com>, mikeabrand@msn.com, "Letvia M. Arza-Goderich" <letvia@prestonarza.com>

Subject: Conference Call at 10:30

Please have everyone call into:

888-585-9008

Conference Room is 169513029#

Thanks,

Mike

Meacher@frontsight.com

702-425-6550

From: Robert Dziubla [mailto:rdziubla@eb5impactcapital.com]

Sent: Tuesday, October 04, 2016 9:40 AM

To: 'Ignatius Piazza'; 'Scott A. Preston'

Cc: 'Mike Meacher'; 'Jon Fleming'; mikeabrand@msn.com; 'Letvia M. Arza-Goderich'

Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

We are available for a call at 10:30 this morning. If you have a preferred conference number, please advise. Otherwise we can use ours.

We currently have approval from four investors to release their funds, so we would be able to disburse 75% of \$2m, for an initial disbursement of \$1.5m. We are awaiting approvals from the other four investors, one of whom asked the question "When will FS actually start selling (not reserving or pre-reserving) the units?" Please advise.

From: Ignatius Piazza [mailto:ignatius@frontsight.com]

Sent: Monday, October 3, 2016 10:40 PM

To: 'Robert Dziubla' <rdziubla@eb5impactcapital.com>; 'Scott A. Preston' <scott@prestonarza.com>

Cc: 'Mike Meacher' <meacher@frontsight.com>; 'Jon Fleming' <jfleming@EB5impactcapital.com>; mikeabrand@msn.com; 'Letvia M. Arza-Goderich' <letvia@prestonarza.com>

Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

Bob,

I am back at my computer.

Regardless of what you assert and how hard you cling to your expired engagement letter, which expired well before your e-mail trail established all the promises and expectations you gave us in exchange for all the money we paid you, five years of litigation is what you are going to earn if you don't get off your high horse, reasonably look at the Deed of Trust in a new light and get this deal closed. I don't know what kind of law you practiced but I doubt it was business litigation or you would be trying to avoid it at all costs. I am not an attorney but I have been in a ton of business litigation and I know you way are out on a limb. You should know it too. Are you willing to spend (or do you have) the kind of money it is going to cost if you piss me off any further? I doubt it. Put away your sword or you will die by it. I will make sure of it should you test me. I have the litigation history to prove it, you don't.

Now with that said, here is the olive branch.

Thank you for acknowledging the agreement we already made that there would be no stock pledge.

Please schedule a conference call tomorrow morning with all parties I requested to put the Deed of Trust language to bed.

As I am sure you recognized when we had the conference call over the last three sticking points of the loan agreement, everyone on the call was reasonable and we got it done in 30 minutes. I needed explanation of the issues, we all voiced our respective positions, and decisions were made for the good of getting the deal done. It worked well, I even asked, "Why the hell did it take so long to get these three point handled when we got it done in 30 minutes on the phone?" The same needs to be done for the Deed of Trust and Promissory note.

To answer your questions of what is going on, there is nothing going on other than I am sick and tired of all the delays. We are not talking about enough money in this deal to make all that much difference in the project, for the amount of grief and money I have

already spent to this point. Week after week passes by and we still do not have a deal closed. MONTHS ago you came to us stating that if we agreed to restack the capital, and agree to secure a first mortgage in front of the EB5 raise. our project would not be an "outlier" and investors would come in more readily, and those that we already had would release their money. We agreed and I immediately created the pre reservations of the Villas ahead of schedule to give lenders a very compelling reason to provide a construction loan. The PPM was amended, we gave you another \$8,000 to market more investors and we were expecting the deal to close and fund with the investors you had already secured to that point plus any others you secured during the next month. It did not close. Instead, we were told we needed an LOI (not just an amended PPM) before the investors would release their money. We found an LOI and moved it to an LOC but they would not accept an EB5 debt, subordinated or not. This would have required yet another change to the PPM and change to the overall "equity" structure of the deal and cost tens of thousands more in legal fees. So we secured a second LOI that would accept a EB5 fully subordinated debt, but it would cost me \$35,000 to commit to it. I was willing to commit to it if your investors would release their money upon my paying the \$35,000 commitment fee. I confirmed this with you in our call when we completed the last three points of the loan construction agreement that you stated was needed to release the funds. So we agreed on the language of the loan agreement and I paid the \$35,000 fee last week, only to find out that the Deed of Trust and Promissory note had not been amended to the changes of the loan agreement and the finger pointing and rhetoric started all over again.

Nothing is going on other than I am sick and tired of all the delays. Time is up. I want a closing date and I want all parties to bust their asses to close on Friday. I secured the pay-off amount from the Class Action Settlement for the third time in this fiasco. Closing is Friday. All I am trying to do is get the current funds released so I can marginally justify, and I mean **marginally** justify, the time and money I have already spent that has resulted in nothing but more promises and delays. The urgency to close should be on both sides, especially your side Bob, to get this done. I have never felt any sense of urgency on your part other than when you wanted a check. Now it is time for YOU to genuinely show a sense of urgency to get this deal closed by Friday.

So I reiterate:

I suggest you set up a conference call tomorrow morning with you, Jon, Scott or Letvia, and Mike Brand to get these issues settled. Mike Meacher and I will be on the call to move it along. Friday is approaching rapidly. You have no time to waste.

Please answer this question at the beginning of the call tomorrow morning, How many investors have agreed to RELEASE FUNDS now that you have confirmed the validity of the LOI and commitment?

Please answer this question as well, Are you prepared with the escrow office for

closing on Friday while we complete the remaining paperwork?

From: Robert Dziubla [<mailto:rdziubla@eb5impactcapital.com>]
Sent: Monday, October 03, 2016 6:32 PM
To: 'Scott A. Preston'
Cc: 'Ignatius Piazza'; 'Mike Meacher'; 'Jon Fleming'; mikeabrand@msn.com; 'Letvia M. Arza-Goderich'
Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

Dear Scott:

We vehemently disagree with your phrase "...the original starry-eyed representations of US\$75MM." We made no representations. Please refer to the signed engagement letter between ourselves and your client, which is the only contract governing our relationship, that specifically states "**Nothing** contained in this Agreement is to be construed as a commitment by EB5IA, its affiliates or its agents to lend to or invest in the contemplated Financing. This is **not** a guarantee that any such Financing can be procured by EB5IA for the Company on terms acceptable to the Company, **or** a representation or guarantee that EB5IA will be able to perform successfully the Services detailed in this Agreement." (Emphasis supplied.) That is the contract that your client signed.

And, by the way, your client has refused to pay costs that we have incurred under that contract and that are due and payable from Front Sight, as we have duly informed them, in an effort to pressure us to forsake our fiduciary duties to our investors. All of which is on top of the sordid actions of today.

We don't understand Front Sight's sudden desperation and apocalyptic assertions. Please explain to us what's going on.

In all events, the solution to Front Sight's urgency is very simple:

1. Sign the Deed of Trust that we sent to FS a year ago.

2. Sign the loan agreement in the form that we were willing to sign a week ago (but which you changed again even after that and to which we will require changes in response if there is any change to the DOT).
3. Sign the promissory note.
4. Pay our outstanding fees and costs.

We will agree to forego the share pledge.

Thanks,

Bob

From: Scott A. Preston [<mailto:scott@prestonarza.com>]
Sent: Monday, October 3, 2016 6:06 PM
To: Robert Dziubla <rdziubla@eb5impactcapital.com>
Cc: 'Ignatius Piazza' <ignatius@frontsight.com>; 'Mike Meacher' <meacher@frontsight.com>; 'Jon Fleming' <jfleming@EB5impactcapital.com>; mikeabrand@msn.com; Letvia M. Arza-Goderich <letvia@prestonarza.com>
Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

Evening Bob,

We are still at a loss to understand how your collateral has been materially decreased when you are being granted a lien and security interest in the real property and the improvements that will constitute the Front Sight Resort and Vacation Club.

With respect to the granting clauses, our client has been clear through this process that certain items would be excluded (such as the water rights and the gun inventory). Also, back in July, the parties agreed to delete the pledge.

With respect to Articles IV (affirmative covenants) and V (negative covenants), we would request that you review these against the many changes that have been agreed to in corresponding provisions of the construction loan agreement.

While our client may express himself in a more assertive tone than we might use, he is expressing his legitimate frustrations over the process of obtaining the EB-5 financing, from the time the whole process has taken, to the costs incurred both in establishing

the regional center and in keeping the marketing going, to the anticipated results of said marketing, which are much below the original starry-eyed representations of US\$75MM.

Thanks,

Scott

Scott A. Preston, Esq. | Preston Arza LLP | 8581 Santa Monica Boulevard, #710 | West Hollywood, California 90069-4120 | Phone: 310.464.0355 | Fax: 310.943.1701 | Cell: 310.890.8727 | Skype: scott.a.preston | E-Mail: scott@prestonarza.com



From: Robert Dziubla [<mailto:rdziubla@eb5impactcapital.com>]
Sent: Monday, October 03, 2016 3:46 PM
To: Scott A. Preston
Cc: 'Ignatius Piazza'; 'Mike Meacher'; 'Jon Fleming'; mikeabrand@msn.com; Letvia M. Arza-Goderich
Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

Dear Scott:

As we stated previously, your wholesale changes to the DOT materially decrease our collateral / security and increase our risks. In one of his many emails of today, Naish asked for a specific statement as to what material collateral / security has been deleted / changed.

For starters: the changes / additions / deletions to paragraphs (a), (c), 4.3, 4.4, 4.12, 4.14, 4.18, 4.19, 4.20, 5.5, 5.12, 6.1, 7.2, etc., etc.

We will require a DOT substantially in the form we provided almost a year ago.

Please also inform your client that we do not appreciate unilateral overtures, threats and subornations. Jon and I have fiduciary partnership duties to each other, and you

may wish to advise your client about the legal status of the same and the risk inherent in impinging on the same.

Bob

From: Scott A. Preston [<mailto:scott@prestonarza.com>]
Sent: Monday, October 3, 2016 12:02 PM
To: Robert Dziubla <rdziubla@eb5impactcapital.com>
Cc: 'Ignatius Piazza' <ignatius@frontsight.com>; 'Mike Meacher' <meacher@frontsight.com>; 'Jon Fleming' <jfleming@EB5impactcapital.com>; mikeabrand@msn.com; Letvia M. Arza-Goderich <letvia@prestonarza.com>
Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

Bob,

We are awaiting a response from our client.

In the meantime, we would remind you that the deed of trust, as revised by us, continues to provide what it was intended to provide, a lien and security interest in the real property and the improvements. We are surprised to learn that you would consider that **not** to be “meaningful security and collateral.”

The issue of the pledge had been resolved back in mid-July when it was agreed that this would **NOT** constitute part of the collateral and that your investors would be notified accordingly through a supplement to the PPM.

Scott

Scott A. Preston, Esq. | Preston Arza LLP | 8581 Santa Monica Boulevard, #710 | West Hollywood, California 90069-4120 | Phone: 310.464.0355 | Fax: 310.943.1701 | Cell: 310.890.8727 | Skype: scott.a.preston | E-Mail: scott@prestonarza.com



From: Robert Dziubla [<mailto:rdziubla@eb5impactcapital.com>]
Sent: Monday, October 03, 2016 10:15 AM
To: Scott A. Preston; mikeabrand@msn.com
Cc: 'Ignatius Piazza'; 'Mike Meacher'; 'Jon Fleming'; Letvia M. Arza-Goderich
Subject: RE: Front Sight/EB-5 - Revised Deed of Trust

Dear Scott:

We have just discussed your proposed wholesale changes to the Deed of Trust with Mike Brand.

As you realize, you have completely gutted the Deed of Trust, removing all meaningful security and collateral for the loan. Those changes are utterly unacceptable to us. The DOT must be substantially in the form we presented to Front Sight almost a year ago. We urge you and Front Sight to remember that the USCIS-approved business plan and PPM that Front Sight reviewed and approved specifically contemplated that we would have a mortgage, security interest and share pledge on all assets as collateral for the EB5 loan.

Unless this matter is resolved within the next 48 hours, we will inform our investors and proceed accordingly.

Regards,

Bob

From: Scott A. Preston [<mailto:scott@prestonarza.com>]
Sent: Thursday, September 29, 2016 9:55 PM
To: 'mikeabrand@msn.com' <mikeabrand@msn.com>
Cc: Ignatius Piazza (ignatius@frontsight.com) <ignatius@frontsight.com>; Mike Meacher <meacher@frontsight.com>; Robert Dziubla <rdziubla@eb5impactcapital.com>; Jon Fleming <jfleming@EB5impactcapital.com>; Letvia M. Arza-Goderich <letvia@prestonarza.com>
Subject: Front Sight/EB-5 - Revised Deed of Trust

Dear Mike,

Attached please find a revised version of the deed of trust, together with a copy marked against the original draft. We have spent substantial time on the review and revision of the attached and accordingly expect that this document should be in near-final form (other than minor formatting issues, such as removing the "Draft" watermark).

Thanks,

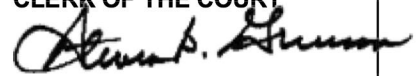
Scott

Scott A. Preston, Esq. | **Preston Arza LLP** | 8581 Santa Monica Boulevard, #710 | West Hollywood, California 90069-4120 | Phone: 310.464.0355 | Fax: 310.943.1701 | Cell: 310.890.8727 | Skype: scott.a.preston | E-Mail: scott@prestonarza.com



EXHIBIT 9

Electronically Filed
4/8/2022 10:59 AM
Steven D. Grierson
CLERK OF THE COURT



JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

1 **NEFF**
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Nicole E. Lovelock, Esq.
3 Nevada State Bar No. 11187
Sue Trazig Cavaco, Esq.
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*Attorneys for Las Vegas Development
Fund, LLC, EB5 Impact Capital Regional
Center, LLC, EB5 Impact Advisors, LLC,
Robert W. Dziubla, Jon Fleming and Linda Stanwood*

DISTRICT COURT

CLARK COUNTY, NEVADA

19 FRONT SIGHT MANAGEMENT LLC, a
Nevada Limited Liability Company,

CASE NO.: A-18-781084-B
DEPT NO.: XVI

21 Plaintiff,
22 vs.

**NOTICE OF ENTRY OF FINDING OF
FACT AND CONCLUSIONS OF LAW AND
ORDER GRANTING IN PART AND
DENYING IN PART LAS VEGAS
DEVELOPMENT FUND LLC'S MOTION
TO DISSOLVE TEMPORARY
RESTRAINING ORDER**

23 LAS VEGAS DEVELOPMENT FUND LLC,
a Nevada Limited Liability Company; et al.,

24 Defendants.

25 AND ALL RELATED COUNTERCLAIMS

27 **PLEASE TAKE NOTICE** that a *Finding of Fact and Conclusions of Law and Order Granting*
28 *in Part and Denying in Part Las Vegas Development Fund LLC's Motion to Dissolve Temporary*

1 *Restraining Order* was filed on the 7th day of April 2022, a true and correct copy of which is attached
2 hereto.

3 DATED this 8th day of April 2022.

4 **JONES LOVELOCK**

5 /s/ Andrea M. Champion, Esq.
6 Nicole Lovelock
7 Nevada Bar No. 11187
8 Sue T. Cavaco
9 Nevada State Bar No. 6150
10 Andrea M. Champion
11 Nevada State Bar No. 13461
12 6600 Amelia Earhart Ct., Suite C
13 Las Vegas, Nevada 89119
14 Tel: (702) 805-8450

15 Kenneth E. Hogan, Esq.
16 Nevada State Bar No. 10083
17 **HOGAN HULET PLLC**
18 10501 W. Gowan Rd., Suite 260
19 Las Vegas, Nevada 89129

20 *Attorneys for Las Vegas Development*
21 *Fund, LLC, EB5 Impact Capital Regional*
22 *Center, LLC, EB5 Impact Advisors, LLC,*
23 *Robert W. Dziubla, Jon Fleming and Linda Stanwood*

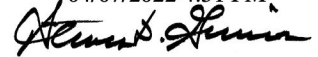
24 **JONES LOVELOCK**
25 6600 Amelia Earhart Ct., Suite C
26 Las Vegas, Nevada 89119
27
28

CERTIFICATE OF SERVICE

1
2 The undersigned hereby certifies that on the 8th day of April 2022, a true and correct copy of the
3 foregoing **NOTICE OF ENTRY OF FINDING OF FACT AND CONCLUSIONS OF LAW AND**
4 **ORDER GRANTING IN PART AND DENYING IN PART LAS VEGAS DEVELOPMENT**
5 **FUND LLC’S MOTION TO DISSOLVE TEMPORARY RESTRAINING ORDER** was served
6 by electronically submitting with the Clerk of the Court using electronic system and serving all parties
7 with an email on record.

8
9 /s/ Julie Linton
10 An employee of JONES LOVELOCK

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JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119



CLERK OF THE COURT

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

1 **ORDR**
2 Andrea M. Champion, Esq.
3 Nevada State Bar No. 13461
4 Nicole E. Lovelock, Esq.
5 Nevada State Bar No. 11187
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*Attorneys for Las Vegas Development
Fund, LLC, EB5 Impact Capital Regional
Center, LLC, EB5 Impact Advisors, LLC,
Robert W. Dziubla, Jon Fleming and Linda Stanwood*

DISTRICT COURT

CLARK COUNTY, NEVADA

19 FRONT SIGHT MANAGEMENT LLC, a
20 Nevada Limited Liability Company,

CASE NO.: A-18-781084-B
DEPT NO.: XVI

21 Plaintiff,
22 vs.

**FINDINGS OF FACT AND CONCLUSIONS
OF LAW AND ORDER GRANTING IN
PART AND DENYING IN PART LAS
VEGAS DEVELOPMENT FUND LLC'S
MOTION TO DISSOLVE TEMPORARY
RESTRAINING ORDER**

23 LAS VEGAS DEVELOPMENT FUND LLC,
a Nevada Limited Liability Company; et al.,

24 Defendants.

25 AND ALL RELATED COUNTERCLAIMS

26
27 This matter initially came before the Court on January 12, 2022 at 9:00 a.m. on Las Vegas
28 Development Fund LLC's ("LVD Fund") Motion to Dissolve Temporary Restraining Order on

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Las Vegas, Nevada 89119

1 Application for Order Shortening Time (the “Motion”) and Plaintiffs’ Countermotion to Re-Calendar
2 the Evidentiary Hearing (the “Countermotion”), with John P. Aldrich, Esq. appearing on behalf of
3 Plaintiff/Counterdefendant Front Sight Management, LLC (“Borrower”) and Nicole E. Lovelock,
4 Esq., Andrea M. Champion, Esq., appearing on behalf of Defendants/Counterclaimants Las Vegas
5 Development Fund, LLC (“Lender” or “LVD Fund”), EB5 Impact Capital Regional Center, LLC,
6 EB5 Impact Advisors, LLC, Robert W. Dziubla, Jon Fleming, and Linda Stanwood (collectively,
7 “Lender Parties”). Following the January 12, 2022 hearing, on February 4, 2022, the Court entered
8 an initial Findings of Fact and Conclusions of Law and Order Granting in Part and Denying in Party
9 the Motion, granting Lender’s request to increase the bond and requesting supplemental briefing
10 regarding the appropriate amount of the bond.

11 On January 26, 2022, Lender filed its Supplemental Brief in Support of its Motion (“Lender’s
12 Supplement”). On February 7, 2022, Borrower filed its Supplemental Opposition to the Motion.

13 This matter came before the Court again on February 10, 2022 on the Motion, with John P.
14 Aldrich, Esq. appearing on behalf of Borrower and Nicole E. Lovelock, Esq. and Andrea M.
15 Champion, Esq. appearing on behalf of the Lender Parties. Having considered the pleadings on file
16 herein, the supplemental briefs, having heard oral argument by the parties, and for good cause
17 appearing therefor, the Court makes the following Findings of Fact and Conclusions of Law. These
18 Findings of Fact and Conclusions of Law are meant to supplement the Findings of Fact and
19 Conclusions of Law from the February 4, 2022 Order (“the February 4, 2022 Order”) and are meant
20 to be the final disposition of the Motion.

21 Insofar as any conclusions of law are deemed to have been or include a finding of fact, such
22 a finding of fact is hereby included as a factual finding. Insofar as any finding of fact is deemed to
23 have been or to include a conclusion of law, such is included as a conclusion of law herein.

24 **FINDINGS OF FACT**

- 25 1. The Findings of Fact and Conclusions of Law from the February 4, 2022 Order stand.
26 2. Specifically, on October 4, 2016, Borrower executed and delivered a Construction
27 Loan Agreement (“Original Loan Agreement”) and a Promissory Note dated October 6, 2016
28

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Las Vegas, Nevada 89119

1 (“Original Note”). The Original Note Loan Agreement and Original Note evidence a loan (“Loan”)
2 made from Lender to Borrower.

3 3. The Original Note was secured by a Construction Deed of Trust, Security Agreement,
4 Assignment of Rents and Leases, and Fixture Filing (“Original Deed of Trust”) dated October 6,
5 2016, and recorded October 13, 2016, as Document No. 860867, in the Official Records, Nye County,
6 Nevada encumbering certain real property located in Nye County, Nevada (the “Property”).

7 4. On July 1, 2017, Borrower executed and delivered a First Amendment to the Loan
8 Agreement (“First Amended Loan Agreement”) whereby the Original Loan Agreement was amended
9 to reduce the maximum loan amount from seventy-fix million dollars (\$75,000,000) to fifty-million
10 dollars (\$50,000,000), among other things. An Amended and Restated Promissory Note (“Amended
11 Note”) and First Amended to Construction Deed of Trust, Security Agreement, and Fixture Filing
12 (“Amended Deed of Trust”) were executed to modify the rights and obligations of the parties. The
13 Amended Deed of Trust was recorded January 12, 2018, as Document No. 886510, in the Official
14 Records, Nye County, Nevada encumbering the Property.

15 5. On February 28, 2018, Borrower executed and delivered a Second Amendment to the
16 Loan Agreement (“Second Amended Loan Agreement”) to allow time for Borrower to obtain senior
17 debt.¹

18 6. Pursuant to the Loan Documents, Lender loaned Borrower six million three-hundred
19 thousand and seventy-five dollars (\$6,375,000.00).

20 7. Pursuant to the unambiguous terms of the Loan Documents, Borrower was to make
21 full repayment of all amounts due and owing under the Loan Documents on or by October 4, 2021
22 (“Maturity Date”).

23 8. The Initial Maturity Date, as defined in the Loan Agreement, is “the date sixty (60)
24 months after the first disbursement of funds by Lender to Borrower under this Agreement.”

25

26

27

28 ¹ The Original Loan Agreement, First Amended Loan Agreement, and the Second Amended Loan Agreement shall
hereinafter be referred to collectively as the “Loan Agreement”).

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1 9. The first disbursement occurred on October 4, 2016, making October 4, 2021 the
2 Initial Maturity Date.

3 10. The Initial Maturity Date was never extended, thus, making the Initial Maturity Date
4 the Maturity Date.

5 11. Borrower failed to pay back the money owed pursuant to the Loan Documents on the
6 Maturity Date or at any time thereafter.

7 12. Borrower had been making monthly interest payments on the Loan until September
8 3, 2021, but no money had been paid by Borrower to Lender since the payment of \$36,604.17 on
9 September 3, 2021. The parties dispute whether said interest payments satisfy the amount of interest
10 payments that were due and owing pursuant to the Loan Documents.

11 13. Following Borrower's failure to repay the loan in its entirety upon the Maturity Date
12 set forth in the Loan Documents, Lender made demand upon Borrower.

13 14. Despite the demand, Borrower has not made any additional payment and Borrower's
14 counsel confirmed during the hearing on the Motion that Borrower did not intend to make any
15 additional payments until final judgment is rendered in this case.

16 15. Section 6.1 of the Loan Agreement defines an "Event of Default" as follows:

17 (a) Borrower shall default in any payment of principal or interest due according to
18 the terms hereof or of the Note, and such default shall remain uncured for a period
19 of five (5) days after the payment became due, provided, however, there is no cure
20 period for payments due on the Maturity Date.

21 16. Upon an Event of Default, Section 6.2 provides the following remedies for
22 Lender:

23 (e) exercise any or all remedies specified herein and in the other Loan Documents,
24 including (without limiting the generality of the foregoing) the right to foreclose
25 the Deed of Trust, and/or any other remedies which it may have therefor at law, in
26 equity or under statute;

27 17. The Deed of Trust also provides that Borrower's failure to repay the amounts due and
28 owing on the Maturity Date is "Event of Default" and allows the Lender to foreclose on the Property.

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6600 Amelia Earhart Ct., Suite C
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1 18. The Court’s November 5, 2019 Order Granting in Part and Denying in Part Plaintiff’s
2 Second Motion for Temporary Restraining Order and Setting Preliminary Injunction Hearing
3 (“TRO”) prevents Borrower from conducting a non-judicial foreclosure sale.

4 19. In filing the Motion, Lender requested that the Court dissolve the TRO and allow the
5 Lender to proceed with a non-judicial foreclosure of the Property. Alternatively, Lender requested
6 that the Court set a bond amount for the payment of such costs and damages as may be incurred or
7 suffered by Lender if found to have been wrongfully enjoined or restrained.

8 20. Borrower opposed Lender’s Motion and countermoved to continue the evidentiary
9 hearing on Borrower’s pending Motion for Permanent Injunction.

10 21. After finding that Borrower’s failure to pay any payments under the Loan
11 Agreements, and the passage of the Maturity Date, constitute a significant change in the facts
12 warranting an increase in the bond to secure the TRO, the Parties submitted supplemental briefing,
13 at the Court’s request, regarding the appropriate amount of the bond.

14 22. There is no dispute in this case that Lender loaned Borrower the principal amount of
15 six million three-hundred thousand and seventy-five dollars (\$6,375,000.00) and no amount of
16 principal has been repaid.

17 23. Pursuant to the Loan Documents, interest accrues on the loan at 6% during the Initial
18 Term for all advances made prior to July 1, 2017, and accrues at 7% during the Initial Term for all
19 advances made after July 1, 2017.

20 24. If Borrower defaults under the Loan Documents, then the default interest rate applies
21 at five percent (5%) per annum “in excess of the Loan Rate or the maximum lawful rate of interest
22 which may be charged, if any.” In another words, 11% during the Initial Term for advances made
23 prior to July 1, 2017 and 12% during the Initial Term for advances made after July 1, 2017.

24 25. Lender declared Borrower in default on July 31, 2018. As a result, the default interest
25 rate has applied since July 31, 2018.

26 26. The Loan Documents also provide that in the event Borrower fails to make any
27 required payment of principal or interest payments on the Note, then Borrower shall also pay to
28

JONES LOVELOCK
6600 Amelia Earhart Ct., Suite C
Las Vegas, Nevada 89119

1 Lender, “in addition to interest at the Loan Rate, a late payment charge equal to three percent (3%)
2 of the amount of the overdue payment.”

3 27. Attorneys’ fees and costs advance against the Loan and become part of the secured
4 indebtedness and incur interest pursuant to Section 4.7 of the Construction Deed of Trust, Security
5 Agreement, Assignment of Leases and Rents, and Fixture Filing.

6 28. Lender has submitted documentation to the Court that demonstrates that the interest
7 currently due and owing and past due on the Loan is \$1,584,225.18.

8 29. Lender has submitted documentation to the Court that demonstrates that the late fees
9 currently due and owing on the Loan is \$806,314.42.

10 30. Lender has submitted documentation to the Court that demonstrates that Lender has
11 incurred \$1,586,967.49 in attorneys’ fees and \$121,756.15 in litigation costs.

12 **CONCLUSIONS OF LAW**

13 1. As addressed in the February 4, 2022 Order, the Court previously DENIED Lender’s
14 request to dissolve the TRO. Specifically, while the Court does not make any findings about
15 Borrower’s likelihood of success on the merits of Borrower’s claim, in light of Borrower’s pending
16 fraudulent inducement claims, the Court finds that the TRO should stay in place.

17 2. The Court does, however, GRANT Lender’s request to increase the bond.

18 3. Pursuant to NRCP 65, “The court may issue a preliminary injunction or a temporary
19 restraining order only if the movant gives security in an amount that the court considers proper to
20 pay the costs and damages sustained by any party found to have been wrongfully enjoined or
21 restrained.” NRCP 65(c). “The expressed purpose of posting a security bond is to protect a party
22 from damages incurred as a result of a wrongful injunction.” *American Bonding Co. v. Roggen*
23 *Enterprises*, 109 Nev. 588, 591, 854 P.2d 868, 870 (1993).

24 4. Courts should err on the high side when setting bond. *See Manpower, Inc. v. Mason*,
25 405 F. Supp. 2d 959, 976 (E.D. Wis. 2005) (“Because the damages caused by an erroneous
26 preliminary injunction cannot exceed the amount of the bond posted as security, and because an error
27 in setting the bond too high is not serious, district courts should err on the high side when setting
28 bond.”) (internal citation omitted); *see also Guzzetta v. Serv. Corp. of Westover Hills*, 7 A.3d 467,

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Las Vegas, Nevada 89119

1 469 (Del. 2010) (stating that district courts should set a bond “at a level likely to meet or exceed a
2 reasonable estimate of potential damages” to the enjoined party). A wrongfully enjoined party is
3 “entitled to recover the actual expense and loss occasioned by the writ of injunction[,] [which] would
4 include the costs of the original proceeding, the reasonable counsel fee paid for setting aside the
5 injunction, and such other damage as the *natural and proximate consequence of the issuance and*
6 *enforcement of the writ, and no more.” American Bonding Co. v. Roggen Enterprises*, 109 Nev. 588,
7 591, 854 P.2d 868, 870 (1993) (quotation marks and citations omitted) (emphasis in original).

8 5. The Court shall set the bond consistent at “the actual expense and loss occasioned by
9 the writ of injunction[,] which [] include[s] the cost of the original proceeding, the reasonable
10 counsel fee paid for setting aside the injunction, and such other damage as the natural and proximate
11 consequence of the issuance and enforcement of the writ.” *See e.g., Megino v. Linear Financial*, No.
12 2:09-CV-00370, 2011 U.S. Dist. LEXIS 1872, 2011 WL 53086 at *5 (D. Nev. Jan. 6, 2011); *see also*
13 *Renteria v. United States*, 452 F. Supp. 2d 910, 922-23 (D. Ariz. 2006).

14 6. While the bond securing the TRO is currently set at the nominal amount of one-
15 hundred dollars (\$100), there is a significant change in facts warranting an increase in that bond
16 amount; namely, borrower’s failure to pay any payments under the Loan Agreements and the passage
17 of the Maturity Date, both of which constitute a significant change in the facts and circumstances
18 relating to the adequacy of the bond amount.

19 7. The TRO shall now be secured at a bond amount of \$9,741,657.57.

20 8. The bond amount is calculated as follows:

- 21 a. Principle sum pursuant to the Loan Documents: \$6,375,000.00
- 22 b. Interest: \$1,484,225.18
- 23 c. Late Fees: \$806,314.42
- 24 d. Litigation Costs: \$121,756.15
- 25 e. Attorneys’ Fees: \$854,361.82.

26 9. “The granting of a temporary restraining order without a proper bond is a nullity.”
27 *State ex rel. Hersh v. First Judicial Dist. Court In and For Ormsby County*, 86 Nev. 73, 77, 464 P.2d
28 783, 785 (1970).

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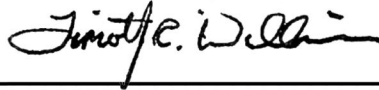
10. The bond shall be posted no later than April 22, 2022.

11. If Borrower fails to post the bond by April 22, 2022, the TRO shall be automatically dissolved and rendered null and void, at which time, Lender may immediately proceed with a non-judicial foreclosure of the collateral.

12. The parties will appear for a status check on April 25, 2022 at 9:30 a.m. to discuss the status of the bond and, if the bond is not posted by Borrower, what additional discovery is needed.

IT IS SO ORDERED.

Dated this 7th day of April, 2022



MH

1D9 309 E6A5 1521
Timothy C. Williams
District Court Judge

Respectfully submitted by:

JONES LOVELOCK

/s/ Andrea M. Champion, Esq.
Nicole E. Lovelock, Esq.
Nevada State Bar No. 11187
Sue Trazig Cavaco, Esq.
Nevada State Bar No. 6150
Andrea M. Champion, Esq.
Nevada State Bar No. 13461
6600 Amelia Earhart Court, Suite C
Las Vegas, Nevada 89119

Attorneys for Defendants/Counterclaimant

Approved as to form and content:

ALDRICH LAW FIRM, LTD.

/s/ Competing Order Being Submitted
John P. Aldrich, Esq.
Nevada State Bar No. 6877
Jamie S. Hendrickson, Esq.
Nevada Bar No. 12770
7866 West Sahara Avenue
Las Vegas, Nevada 89117

Attorneys for Plaintiff/Counterdefendants

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Front Sight Management LLC,
7 Plaintiff(s)

CASE NO: A-18-781084-B

8 vs.

DEPT. NO. Department 16

9 Las Vegas Development Fund
10 LLC, Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**

12
13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Order was served via the court's electronic eFile system to all
recipients registered for e-Service on the above entitled case as listed below:

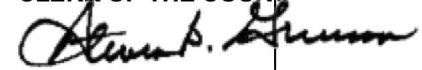
15 Service Date: 4/7/2022

16 Traci Bixenmann	traci@johnaldrichlawfirm.com
17 Nicole Lovelock	nlovelock@joneslovelock.com
18 Kathryn Holbert	kholbert@farmercase.com
19 Lorie Januskevicius	ljanuskevicius@joneslovelock.com
20 Keith Greer	keith.greer@greerlaw.biz
21 Dianne Lyman	dianne.lyman@greerlaw.biz
22 John Aldrich	jaldrich@johnaldrichlawfirm.com
23 Mona Gantos	mona.gantos@greerlaw.biz
24 Stephen Davis	sdavis@joneslovelock.com
25 Kenneth Hogan	ken@h2legal.com
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27	
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Jeffrey Hulet	jeff@h2legal.com
Julie Linton	jlinton@joneslovelock.com
Georlen Spangler	jspangler@joneslovelock.com
Andrea Champion	achampion@joneslovelock.com

EXHIBIT 10



1 **NEO**
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 Catherine Hernandez, Esq.
 3 Nevada Bar No. 8410
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 4 7866 West Sahara Avenue
 Las Vegas, Nevada 89117
 5 Telephone: (702) 853-5490
 Facsimile: (702) 227-1975
 6 *Attorneys for Plaintiff*

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

9 FRONT SIGHT MANAGEMENT LLC, a
 Nevada Limited Liability Company,

10
 11 Plaintiff,

12 vs.

13 LAS VEGAS DEVELOPMENT FUND LLC, a
 Nevada Limited Liability Company; EB5
 IMPACT CAPITAL REGIONAL CENTER
 14 LLC, a Nevada Limited Liability Company;
 EB5 IMPACT ADVISORS LLC, a Nevada
 15 Limited Liability Company; ROBERT W.
 DZIUBLA, individually and as President and
 16 CEO of LAS VEGAS DEVELOPMENT
 FUND LLC and EB5 IMPACT ADVISORS
 17 LLC; JON FLEMING, individually and as an
 agent of LAS VEGAS DEVELOPMENT
 18 FUND LLC and EB5 IMPACT ADVISORS
 LLC; LINDA STANWOOD, individually and
 19 as Senior Vice President of LAS VEGAS
 DEVELOPMENT FUND LLC and EB5
 20 IMPACT ADVISORS LLC; DOES 1-
 10, inclusive; and ROE CORPORATIONS 1-
 21 10, inclusive,

22 Defendants.
 23
 24

CASE NO.: A-18-781084-B
 DEPT NO.: 16

NOTICE OF ENTRY OF ORDER

1 **NOTICE OF ENTRY OF ORDER**

2 PLEASE TAKE NOTICE that an Order Regarding Defendants' Motions to Dismiss
3 Plaintiff's Second Amended Complaint and Motion to Strike Portions of Second Amended
4 Complaint was entered by the Court in the above-captioned action on the 9th day of April, 2019,
5 a true and correct copy of which is attached hereto.

6 DATED this 10th day of April, 2019.

7 **ALDRICH LAW FIRM, LTD.**

8 /s/ John P. Aldrich
9 John P. Aldrich, Esq.
10 Nevada Bar No. 6877
11 Catherine Hernandez, Esq.
12 Nevada Bar No. 8410
13 7866 West Sahara Avenue
14 Las Vegas, NV 89117
15 Tel (702) 853-5490
16 Fax (702) 226-1975
17 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

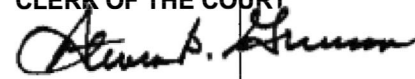
I HEREBY CERTIFY that on the 10th day of April, 2019, I caused the foregoing **NOTICE OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the Court using Wiznet which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic Mail Notice List, to the following parties:

Anthony T. Case, Esq.
Kathryn Holbert, Esq.
FARMER CASE & FEDOR
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
LLC, EB5IMPACT CAPITAL REGIONAL CENTER LLC,
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD*

C. Keith Greer, Esq.
17150 Via del Campo, Suite 100
San Diego, CA 92127
*Attorneys for Defendants LAS VEGAS DEVELOPMENT FUND
LLC, EB5IMPACT CAPITAL REGIONAL CENTER LLC,
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,
JON FLEMING and LINDA STANWOOD*

/s/ T. Bixenmann
An employee of ALDRICH LAW FIRM, LTD.

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Steven D. Grierson
CLERK OF THE COURT



1 **ORDER**

2 John P. Aldrich, Esq.
3 Nevada Bar No. 6877
4 Catherine Hernandez, Esq.
5 Nevada Bar No. 8410
6 **ALDRICH LAW FIRM, LTD.**
7 7866 West Sahara Avenue
8 Las Vegas, NV 89117
9 Telephone: (702) 853-5490
10 Facsimile: (702) 227-1975
11 *Attorneys for Plaintiff*

7 **EIGHTH JUDICIAL DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9 FRONT SIGHT MANAGEMENT LLC, a
10 Nevada Limited Liability Company,
11
12 Plaintiff,

11 vs.

12 LAS VEGAS DEVELOPMENT FUND LLC, a
13 Nevada Limited Liability Company; EB5
14 IMPACT CAPITAL REGIONAL CENTER
15 LLC, a Nevada Limited Liability Company;
16 EB5 IMPACT ADVISORS LLC, a Nevada
17 Limited Liability Company; ROBERT W.
18 DZIUBLA, individually and as President and
19 CEO of LAS VEGAS DEVELOPMENT
20 FUND LLC and EB5 IMPACT ADVISORS
21 LLC; JON FLEMING, individually and as an
22 agent of LAS VEGAS DEVELOPMENT
23 FUND LLC and EB5 IMPACT ADVISORS
24 LLC; LINDA STANWOOD, individually and
as Senior Vice President of LAS VEGAS
DEVELOPMENT FUND LLC and EB5
IMPACT ADVISORS LLC; DOES 1-
10, inclusive; and ROE CORPORATIONS 1-
10, inclusive,

22 Defendants.

CASE NO.: A-18-781084-B
DEPT NO.: 16

ORDER REGARDING
DEFENDANTS' MOTIONS TO
DISMISS PLAINTIFF'S SECOND
AMENDED COMPLAINT AND
MOTION TO STRIKE PORTIONS
OF SECOND AMENDED
COMPLAINT

04-05-19A07:30 RCVD

1 This matter having come before the Court on March 19, 2019 at 1:30 p.m. on (1)
2 Motion to Dismiss Plaintiff's Second Amended Complaint filed by Defendants Las Vegas
3 Development Fund, Robert Dziubla and EB 5 Impact Advisors; (2) Motion to Dismiss
4 Plaintiff's Second Amended Complaint filed by Defendant Jon Fleming; (3) Motion to Dismiss
5 Plaintiff's Second Amended Complaint filed by Defendant EB5 Impact Capital Regional
6 Center; (4) Motion to Dismiss Plaintiff's Second Amended Complaint filed by Defendant
7 Linda Stanwood; and (5) Defendants' Motion to Strike Portions of Plaintiff's Second Amended
8 Complaint, John P. Aldrich, Esq. appearing on behalf of Plaintiff and Kathryn Holbert, Esq.
9 and C. Keith Greer, Esq., appearing on behalf of Defendants, the Court having reviewed the
10 pleadings on file herein, having heard oral argument by the parties, and for good cause
11 appearing therefore,

12 As to the First Cause of Action (Fraud/Intentional Misrepresentation/Concealment
13 Against All Defendants) of Plaintiff's Second Amended Complaint, **IT IS HEREBY**
14 **ORDERED** that the Motions to Dismiss are DENIED without prejudice as to all Defendants.

15 As to the Second Cause of Action (Breach of Fiduciary Duty Against All Defendants)
16 of Plaintiff's Second Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to
17 Dismiss are GRANTED without prejudice.

18 As to the Third Cause of Action (Conversion Against All Defendants) of Plaintiff's
19 Second Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to Dismiss are
20 DENIED without prejudice as to all Defendants.

21 As to the Fourth Cause of Action (Civil Conspiracy Against All Defendants) of
22 Plaintiff's Second Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to
23 Dismiss are DENIED without prejudice as to all Defendants.

1 As to the Fifth Cause of Action (Breach of Contract Against Defendants EB5IA and
2 LVDF) of Plaintiff's Second Amended Complaint, **IT IS HEREBY ORDERED** that the
3 Motions to Dismiss are DENIED without prejudice.

4 As to the Sixth Cause of Action (Contractual Breach of Implied Covenant of Good
5 Faith and Fair Dealing Against the Entity Defendants) of Plaintiff's Second Amended
6 Complaint, **IT IS HEREBY ORDERED** that the Motions to Dismiss are DENIED, without
7 prejudice as to Defendants EB5IA and LVDF and GRANTED without prejudice as to
8 Defendant EB5IC.

9 As to the Seventh Cause of Action (Tortious Breach of Implied Covenant of Good Faith
10 and Fair Dealing Against the Entity Defendants) of Plaintiff's Second Amended Complaint, **IT**
11 **IS HEREBY ORDERED** that the Motions to Dismiss are GRANTED without prejudice.

12 As to the Eighth Cause of Action (Intentional Interference with Prospective Economic
13 Advantage Against the Entity Defendants and Defendant Dziubla) of Plaintiff's Second
14 Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to Dismiss are DENIED,
15 without prejudice as to Defendants Dziubla and LVDF and GRANTED without prejudice as to
16 Defendants EB5IC and EB5IA.

17 As to the Ninth Cause of Action (Unjust Enrichment Against All Defendants) of
18 Plaintiff's Second Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to
19 Dismiss are GRANTED without prejudice.

20 As to the Tenth Cause of Action (Negligent Misrepresentation Against All Defendants)
21 of Plaintiff's Second Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to
22 Dismiss are DENIED without prejudice as to Defendants EB5IA and Dziubla and GRANTED
23 without prejudice as to Defendants Stanwood, Fleming, EB5IC and LVDF.

24

1 As to the Eleventh Cause of Action (Negligence Against All Defendants) of Plaintiff's
2 Second Amended Complaint, **IT IS HEREBY ORDERED** that the Motions to Dismiss are
3 GRANTED without prejudice.

4 As to the Twelfth Cause of Action (Alter Ego Against Defendants Dziubla, LVDF,
5 EB5IA, and EB5IC) of Plaintiff's Second Amended Complaint, **IT IS HEREBY ORDERED**
6 that the Motions to Dismiss are GRANTED as to this claim as a stand-alone cause of action,
7 but DENIED as to this claim as a remedy.

8 As to Defendants' Motion to Strike Portions of Plaintiff's Second Amended Complaint,
9 as revised in Defendants' Reply brief to seek only the striking of Exhibits 1-5, 7, 8, 10-18, 20-
10 26, 28, and 29 to the Second Amended Complaint, the Court GRANTS the Motion to Strike
11 those exhibits from the Second Amended Complaint, with the explicit caveat that there is no
12 waiver, estoppel, or other negative effect that will inure to Plaintiff's detriment related to the
13 striking of these exhibits.

14 **IT IS SO ORDERED.**

15 DATED this 5 day of April, 2019.

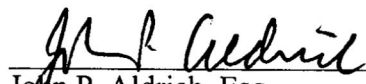
16 
17 **DISTRICT COURT JUDGE** *CR*

18 Respectfully submitted by:

Approved as to form and content:

19 **ALDRICH LAW FIRM, LTD.**

FARMER CASE & FEDOR

20 
21 John P. Aldrich, Esq.
22 Nevada Bar No. 6877
23 Catherine Hernandez, Esq.
24 Nevada Bar No. 8410
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Attorneys for Plaintiff

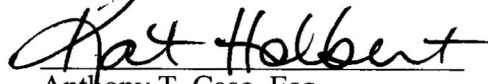
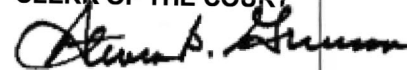

Anthony T. Case, Esq.
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Nevada Bar No. 10084
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Tel: (702) 579-3900
Fax: (702) 739-3001
Attorneys for Defendants

EXHIBIT 11

Electronically Filed
6/8/2020 12:23 PM
Steven D. Grierson
CLERK OF THE COURT



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Nevada Bar No. 10084
4 kholbert@farmercase.com
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12 Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC,
13 EB5 IMPACT CAPITAL REGIONAL CENTER, LLC,
EB6 IMPACT ADVISORS, LLC, ROBERT W. DZIUBLA,
14 JON FLEMING and LINDA STANWOOD

15 **EIGHTH JUDICIAL DISTRICT COURT**
16 **CLARK COUNTY, STATE OF NEVADA**

17 FRONT SIGHT MANAGEMENT, LLC., a)
18 Nevada Limited Liability Company,)
19 Plaintiff,)
20 v.)

CASE NO.: A-18-781084-B
DEPT NO.: 16

NOTICE OF ENTRY OF
ORDER DENYING COUNTER
DEFENDANT JENNIFER PIAZZA'S
MOTION FOR SUMMARY JUDGMENT

21 LAS VEGAS DEVELOPMENT FUND LLC,)
a Nevada Limited Liability Company, EB5)
22 IMPACT CAPITAL REGIONAL CENTER)
LLC, a Nevada Limited Company, EB5)
23 IMPACT ADVISORS LLC, a Nevada)
Limited Liability Company; ROBERT W.)
24 DZIUBLA, individually and as President and)
CEO of LAS VEGAS DEVELOPMENT)
25 FUND LLC and EB5 IMPACT ADVISORS)
agent of LAS VEGAS DEVELOPMENT)
26 FUND LLC and EB5 IMPACT ADVISORS)

27 *Front Sight Management LLC v. Las Vegas Development Fund LLC, et al., Case No.: A-18-781084-B Dept. No.: XVI*

NOTICE OF ENTRY OF ORDER DENYING COUNTER DEFENDANT
JENNIFER PIAZZA'S MOTION FOR SUMMARY JUDGMENT

1 LLC; LINDA STANWOOD, individually and)
as Senior Vice President of LAS VEGAS)
2 DEVELOPMENT FUND LLC and EB5)
IMPACT ADVISORS LLC; CHICAGO)
3 TITLE COMPANY, a California corporation;)
DOES 1-10, inclusive; and ROE)
4 CORPORATIONS 1-10, inclusive,)
5 Defendants.)

6 _____)
and related Cross-Claims.)
7 _____)

8 **NOTICE OF ENTRY OF ORDER DENYING COUNTER DEFENDANT**
9 **JENNIFER PIAZZA'S MOTION FOR SUMMARY JUDGMENT**

10 PLEASE TAKE NOTICE THAT on the 5th day of June, 2020, an Order Denying Counter
11 Defendant Jennifer Piazza's Motion for Summary Judgment was entered on the Court docket
12 regarding the above referenced case.

13 A copy of said Order is attached hereto as Exhibit A.

14 DATED this 5th day of June, 2020.

FARMER CASE & FEDOR

15
16 

17 KATHRYN HOLBERT, ESQ.
18 Nevada Bar No. 10084
2190 E. Pebble Rd., Suite #205
19 Las Vegas, NV 89123
Telephone: (702) 579-3900
20 kholbert@farmercase.com
Attorney for Defendants
21 LAS VEGAS DEVELOPMENT FUND
22 LLC., EB5 IMPACT CAPITAL REGIONAL
23 CENTER, LLC, EB6 IMPACT ADVISORS,
LLC, ROBERT W. DZIUBLA, JON
FLEMING and LINDA STANWOOD

1 **CERTIFICATE OF SERVICE and/or MAILING**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of Farmer Case & Fedor,
3 and that on this date, I caused true and correct copies of the following document(s):

4 **NOTICE OF ENTRY OF ORDER DENYING COUNTER DEFENDANT**
5 **JENNIFER PIAZZA'S MOTION FOR SUMMARY JUDGMENT**

6 to be served on the following individuals/entities, in the following manner,

7
8 John P. Aldrich, Esq. Attorneys for Plaintiff
9 Catherine Hernandez, Esq. FRONT SIGHT MANAGEMENT, LLC
10 ALDRICH LAW FIRM, LTD.
1601 S. Rainbow Blvd., Suite 160
Las Vegas, Nevada 89146

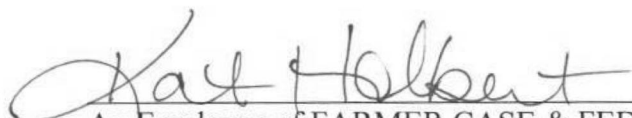
11 By:

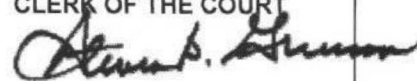
12 ■ **ELECTRONIC SERVICE:** Said document(s) was served electronically upon all eligible
13 electronic recipients pursuant to the electronic filing and service order of the Court (NECRF 9).

14 ■ **U.S. MAIL:** I deposited a true and correct copy of said document(s) in a sealed, postage
15 prepaid envelope, in the United States Mail, to those parties and/or above named individuals
which were not on the Court's electronic service list.

16 □ **FACSIMILE:** I caused said document(s) to be transmitted by facsimile transmission. The
17 sending facsimile machine properly issued a transmission report confirming that the transmission
was complete and without error.

18 Dated: June 8, 2020

19
20 
21 An Employee of FARMER CASE & FEDOR
22
23
24
25
26



1 **ORDR**
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2 Nevada Bar No. 6589
tcase@farmercase.com

3 KATHRYN HOLBERT, ESQ.
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4 kholbert@farmercase.com

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9 **GREER & ASSOCIATES, A.P.C.**
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12 Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC,
13 EB5 IMPACT CAPITAL REGIONAL CENTER, LLC,
EB6 IMPACT ADVISORS, LLC, ROBERT W. DZIUBLA,
14 JON FLEMING and LINDA STANWOOD

15
16 **EIGHTH JUDICIAL DISTRICT COURT**
17 **CLARK COUNTY, STATE OF NEVADA**

18 FRONT SIGHT MANAGEMENT, LLC., a)
Nevada Limited Liability Company,)
19 Plaintiff,)
20 v.)

CASE NO.: A-18-781084-B
DEPT NO.: XVI

21 LAS VEGAS DEVELOPMENT FUND LLC,)
a Nevada Limited Liability Company, EB5)
22 IMPACT CAPITAL REGIONAL CENTER)
LLC, a Nevada Limited Company, EB5)
23 IMPACT ADVISORS LLC, a Nevada)
Limited Liability Company; ROBERT W.)
24 DZIUBLA, individually and as President and)
CEO of LAS VEGAS DEVELOPMENT)
25 FUND LLC and EB5 IMPACT ADVISORS)
LLC; JON FLEMING, individually and as an)
26 agent of LAS VEGAS DEVELOPMENT)
FUND LLC and EB5 IMPACT ADVISORS)

ORDER DENYING COUNTER
DEFENDANT JENNIFER
PIAZZA'S MOTION FOR
SUMMARY JUDGMENT

Hearing Date: March 12, 2020
Hearing Time: 1:15 p.m.

27 *Front Sight Management LLC v. Las Vegas Development Fund LLC, et al.*, Case No.: A-18-781084-B Dept. No.: XVI

ORDER DENYING COUNTER DEFENDANT JENNIFER PIAZZA'S
MOTION FOR SUMMARY JUDGMENT

1 LLC; LINDA STANWOOD, individually and)
as Senior Vice President of LAS VEGAS)
2 DEVELOPMENT FUND LLC and EB5)
IMPACT ADVISORS LLC; CHICAGO)
3 TITLE COMPANY, a California corporation;)
DOES 1-10, inclusive; and ROE)
4 CORPORATIONS 1-10, inclusive,)
5 Defendants.)

6 _____)
and related Counter-Claims.)
7 _____)

8 **ORDER DENYING COUNTER DEFENDANT JENNIFER PIAZZA’S**
9 **MOTION FOR SUMMARY JUDGMENT**

10 This matter having come before the Court on March 12, 2020 at 1:15 p.m. on Counter
11 Defendant Jennifer Piazza’s Motion for Summary Judgment. John Aldrich, Esq. with Aldrich
12 Law Firm personally appearing on behalf of Plaintiff; Keith Greer, Esq. with Greer and
13 Associates personally appearing on behalf of Defendants and Kathryn Holbert, Esq. with Farmer
14 Case and Fedor also personally appearing on behalf of Defendants; the Court having reviewed
15 the pleadings and having heard arguments by counsel and good cause appearing therefore,

16 This Court hereby finds and concludes that the findings of facts and conclusions of law
17 set forth in this Court’s Order dated January 23, 2020 were preliminary findings and while such
18 findings were the basis of the Court’s January 23, 2020 Order, in accordance with the U.S.
19 Supreme Court’s holding in *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395, 101 S.Ct. 1830,
20 1834, 68 L. Ed. 2d 175 (1981), this Court’s preliminary findings related to the temporary
21 restraining order were not intended to be and cannot be the basis of any final judgment in this
22 case.

23 ///

24 ///

25 ///

26 ///

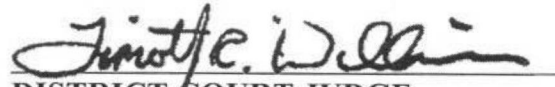
27 *Front Sight Management LLC v. Las Vegas Development Fund LLC, et al.*, Case No.: A-18-781084-B Dept. No.: XVI

28 **ORDER DENYING COUNTER DEFENDANT JENNIFER PIAZZA’S**
MOTION FOR SUMMARY JUDGMENT

1 Based upon the above findings of fact and conclusions of law, it is hereby ORDERED
2 that Counter Defendant Jennifer Piazza's Motion for Summary Judgment is DENIED.

3 **IT IS SO ORDERED.**

4 DATED this 5th day of June, 2020.


DISTRICT COURT JUDGE
A-18-781084-B CG
Dept 16

7 Respectfully submitted by:

8 **FARMER CASE & FEDOR**

9
10 /s/ Kathryn Holbert

11 Kathryn Holbert, Esq.
12 Nevada Bar No. 10084
2190 E. Pebble Rd., Suite #205
Las Vegas, NV 89123
Tel: (702) 579-3900
13 *Attorneys for Defendants LAS VEGAS*
14 *DEVELOPMENT FUND LLC, EB5 IMPACT*
15 *CAPITAL REGIONAL CENTER LLC, EB5*
16 *IMPACT ADVISORS LLC, ROBERT W.*
DZIUBLA, JON FLEMING and LINDA
STANWOOD

Reception

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Notification of Service

Case Number: A-18-781084-B
 Case Style: Front Sight Management LLC, Plaintiff(s)vs.Las Vegas Development Fund LLC, Defendant(s)
 Envelope Number: 6151225



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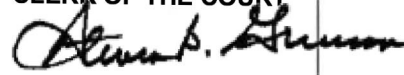
Filing Details	
Case Number	A-18-781084-B
Case Style	Front Sight Management LLC, Plaintiff(s)vs.Las Vegas Development Fund LLC, Defendant(s)
Date/Time Submitted	6/8/2020 12:23 PM PST
Filing Type	Notice of Entry - NEO (CIV)
Filing Description	Notice of Entry of Order Denying Counter Defendant Jennifer Piazza's Motion for Summary Judgment
Filed By	Kathryn Holbert
Service Contacts	Las Vegas Development Fund LLC: John Bailey (jbailey@baileykennedy.com) Bailey Kennedy, LLP (bkfederaldownloads@baileykennedy.com) Kathryn Holbert (kholbert@farmercase.com) Andrea Champion (achampion@baileykennedy.com) Keith Greer (keith.greer@greerlaw.biz) Dianne Lyman (dianne.lyman@greerlaw.biz) Mona Gantos (mona.gantos@greerlaw.biz)

	<p>Joshua Dickey (jdickey@baileykennedy.com)</p> <p>Front Sight Management LLC:</p> <p>John Aldrich (jaldrich@johnaldrichlawfirm.com)</p> <p>Traci Bixenmann (traci@johnaldrichlawfirm.com)</p>
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EXHIBIT 12

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5 KATHRYN HOLBERT, ESQ.
6 Nevada Bar No. 10084
7 kholbert@farmercase.com
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10 Las Vegas, NV 89123
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12 Facsimile: (702) 739-3001

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18 San Diego, California 92127
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20 Facsimile: (858) 613-6680

21 Attorneys for Defendants
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23 EB5 IMPACT CAPITAL REGIONAL CENTER, LLC,
24 EB6 IMPACT ADVISORS, LLC, ROBERT W. DZIUBLA,
25 JON FLEMING and LINDA STANWOOD

26 **EIGHTH JUDICIAL DISTRICT COURT**
27 **CLARK COUNTY, STATE OF NEVADA**

28 FRONT SIGHT MANAGEMENT, LLC., a)
Nevada Limited Liability Company,)

Plaintiff,)

v.)

CASE NO.: A-18-781084-B
DEPT NO.: 16

NOTICE OF ENTRY OF
ORDER DENYING COUNTER
DEFENDANTS VNV DYNASTY TRUST I
and VNV DYNASTY TRUST II'S
MOTION FOR SUMMARY JUDGMENT

LAS VEGAS DEVELOPMENT FUND LLC,)
a Nevada Limited Liability Company, EB5)
IMPACT CAPITAL REGIONAL CENTER)
LLC, a Nevada Limited Company, EB5)
IMPACT ADVISORS LLC, a Nevada)
Limited Liability Company; ROBERT W.)
DZIUBLA, individually and as President and)
CEO of LAS VEGAS DEVELOPMENT)
FUND LLC and EB5 IMPACT ADVISORS)
LLC; JON FLEMING, individually and as an)
agent of LAS VEGAS DEVELOPMENT)
FUND LLC and EB5 IMPACT ADVISORS)

Front Sight Management LLC v. Las Vegas Development Fund LLC, et al., Case No.: A-18-781084-B Dept. No.: XVI
**NOTICE OF ENTRY OF ORDER DENYING COUNTER DEFENDANTS VNV DYNASTY TRUST I and VNV
DYNASTY TRUST II'S MOTION FOR SUMMARY JUDGMENT**

1 LLC; LINDA STANWOOD, individually and)
as Senior Vice President of LAS VEGAS)
2 DEVELOPMENT FUND LLC and EB5)
IMPACT ADVISORS LLC; CHICAGO)
3 TITLE COMPANY, a California corporation;)
DOES 1-10, inclusive; and ROE)
4 CORPORATIONS 1-10, inclusive,)
5 Defendants.)

6 _____)
and related Cross-Claims.)
7 _____)

8 **NOTICE OF ENTRY OF ORDER DENYING COUNTER DEFENDANTS**
9 **VNV DYNASTY TRUST I and VNV DYNASTY TRUST II'S**
10 **MOTION FOR SUMMARY JUDGMENT**

11 PLEASE TAKE NOTICE THAT on the 5th day of June, 2020, an Order Denying Counter
12 Defendants VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary Judgment
13 was entered on the Court docket regarding the above referenced case.

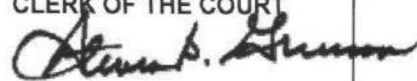
14 A copy of said Order is attached hereto as Exhibit A.

15 DATED this 8th day of June, 2020.

FARMER CASE & FEDOR

17 

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kholbert@farmercase.com
22 Attorney for Defendants
LAS VEGAS DEVELOPMENT FUND
23 LLC., EB5 IMPACT CAPITAL REGIONAL
CENTER, LLC, EB6 IMPACT ADVISORS,
24 LLC, ROBERT W. DZIUBLA, JON
FLEMING and LINDA STANWOOD



1 **ORDR**
ANTHONY T. CASE, ESQ.
2 Nevada Bar No. 6589
tcase@farmercaser.com
3 KATHRYN HOLBERT, ESQ.
Nevada Bar No. 10084
4 kholbert@farmercaser.com
FARMER CASE & FEDOR
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Las Vegas, NV 89123
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7
8 C. KEITH GREER, ESQ.
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9 **GREER & ASSOCIATES, A.P.C.**
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Telephone: (858) 613-6677
11 Facsimile: (858) 613-6680

12 Attorneys for Defendants
LAS VEGAS DEVELOPMENT FUND LLC,
13 EB5 IMPACT CAPITAL REGIONAL CENTER, LLC,
EB6 IMPACT ADVISORS, LLC, ROBERT W. DZIUBLA,
14 JON FLEMING and LINDA STANWOOD

15 **EIGHTH JUDICIAL DISTRICT COURT**
16 **CLARK COUNTY, STATE OF NEVADA**

17 FRONT SIGHT MANAGEMENT, LLC., a)
18 Nevada Limited Liability Company,)
19 Plaintiff,)
20 v.)

CASE NO.: A-18-781084-B
DEPT NO.: XVI

21 LAS VEGAS DEVELOPMENT FUND LLC,)
a Nevada Limited Liability Company, EB5)
22 IMPACT CAPITAL REGIONAL CENTER)
LLC, a Nevada Limited Company, EB5)
23 IMPACT ADVISORS LLC, a Nevada)
Limited Liability Company; ROBERT W.)
24 DZIUBLA, individually and as President and)
CEO of LAS VEGAS DEVELOPMENT)
25 FUND LLC and EB5 IMPACT ADVISORS)
agent of LAS VEGAS DEVELOPMENT)
26 FUND LLC and EB5 IMPACT ADVISORS)

ORDER DENYING COUNTER
DEFENDANTS VNV DYNASTY
TRUST I and VNV DYNASTY
TRUST II'S MOTION FOR
SUMMARY JUDGMENT

Hearing Date: March 12, 2020
Hearing Time: 1:30 p.m.

27 *Front Sight Management LLC v. Las Vegas Development Fund LLC, et al.*, Case No.: A-18-781084-B Dept. No.: XVI

ORDER DENYING COUNTER DEFENDANTS VNV DYNASTY TRUST I and
VNV DYNASTY TRUST II'S MOTION FOR SUMMARY JUDGMENT

1 LLC; LINDA STANWOOD, individually and)
 2 as Senior Vice President of LAS VEGAS)
 3 DEVELOPMENT FUND LLC and EB5)
 4 IMPACT ADVISORS LLC; CHICAGO)
 5 TITLE COMPANY, a California corporation;)
 6 DOES 1-10, inclusive; and ROE)
 7 CORPORATIONS 1-10, inclusive,)
 8 Defendants.)
 9 _____)
 10 and related Counter-Claims.)
 11 _____)

8 **ORDER DENYING COUNTER DEFENDANTS VNV DYNASTY**
 9 **TRUST I and VNV DYNASTY TRUST II'S MOTION**
 10 **FOR SUMMARY JUDGMENT**

11 This matter having come before the Court on March 12, 2020 at 10:30 a.m. on Counter
 12 Defendants' VNV Dynasty Trust I and II's Motion for Summary Judgment. John Aldrich, Esq.
 13 with Aldrich Law Firm personally appearing on behalf of Plaintiff; Keith Greer, Esq. with Greer
 14 and Associates personally appearing on behalf of Defendants and Kathryn Holbert, Esq. with
 15 Farmer Case and Fedor also personally appearing on behalf of Defendants; the Court having
 16 reviewed the pleadings and having heard arguments by counsel and good cause appearing
 17 therefore,

18 This Court hereby finds and concludes that the findings of facts and conclusions of law
 19 set forth in this Court's Order dated January 23, 2020 were preliminary findings and while such
 20 findings were the basis of the Court's January 23, 2020 Order, in accordance with the U.S.
 21 Supreme Court's holding in *Univ. of Texas v. Camenisch*, 451 U.S. 390, 395, 101 S.Ct. 1830,
 22 1834, 68 L. Ed. 2d 175 (1981), this Court's preliminary findings related to the temporary
 23 restraining order were not intended to be and cannot be the basis of any final judgment in this
 24 case.

25 ///

26 ///

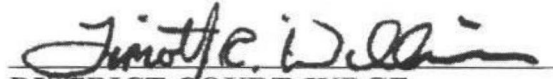
27 *Front Sight Management LLC v. Las Vegas Development Fund LLC, et al.*, Case No.: A-18-781084-B Dept. No.: XVI

28 **ORDER DENYING COUNTER DEFENDANTS VNV DYNASTY TRUST I and**
VNV DYNASTY TRUST II'S MOTION FOR SUMMARY JUDGMENT

1 Based upon the above findings of fact and conclusions of law, it is hereby ORDERED
2 that Counter Defendants' VNV Dynasty Trust I and II's Motion for Summary Judgment is
3 DENIED.

4 **IT IS SO ORDERED.**

5 DATED this 5th day of June, 2020.


DISTRICT COURT JUDGE
A-18-781084-B CG
Dept 16

6
7
8 Respectfully submitted by:

9 **FARMER CASE & FEDOR**

10 /s/ Kathryn Holbert

11 Kathryn Holbert, Esq.
12 Nevada Bar No. 10084
2190 E. Pebble Rd., Suite #205
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DEVELOPMENT FUND LLC, EB5 IMPACT
15 *CAPITAL REGIONAL CENTER LLC, EB5*
16 *IMPACT ADVISORS LLC, ROBERT W.*
DZIUBLA, JON FLEMING and LINDA
17 *STANWOOD*

Reception

From: efilngmail@tylerhost.net
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Notification of Service

Case Number: A-18-781084-B
 Case Style: Front Sight Management LLC,
 Plaintiff(s)vs.Las Vegas Development Fund LLC,
 Defendant(s)
 Envelope Number: 6151225



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Filing Details	
Case Number	A-18-781084-B
Case Style	Front Sight Management LLC, Plaintiff(s)vs.Las Vegas Development Fund LLC, Defendant(s)
Date/Time Submitted	6/8/2020 12:23 PM PST
Filing Type	Notice of Entry - NEO (CIV)
Filing Description	Notice of Entry of Order Denying Counter Defendants VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary Judgment
Filed By	Kathryn Holbert
Service Contacts	Front Sight Management LLC: John Aldrich (jaldrich@johnaldrichlawfirm.com) Traci Bixenmann (traci@johnaldrichlawfirm.com) Las Vegas Development Fund LLC: John Bailey (jbailey@baileykennedy.com) Bailey Kennedy, LLP (bkfederaldownloads@baileykennedy.com) Kathryn Holbert (kholbert@farmercase.com)

	Andrea Champion (achampion@baileykennedy.com) Keith Greer (keith.greer@greerlaw.biz) Dianne Lyman (dianne.lyman@greerlaw.biz) Mona Gantos (mona.gantos@greerlaw.biz) Joshua Dickey (jdickey@baileykennedy.com)
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