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10 **UNITED STATES BANKRUPTCY COURT**  
 11 **FOR THE DISTRICT OF NEVADA**

12 In re:  13 FRONT SIGHT MANAGEMENT LLC,  14 Debtor.	Case No.: 22-11824-ABL  Chapter 11
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15 **NOTICE OF INTENT TO ISSUE SUBPOENA IN A CASE UNDER THE BANKRUPTCY**  
 16 **CODE TO FRCP 30(B)(6) DESIGNEE OF LAS VEGAS DEVELOPMENT FUND, LLC**

17 Reorganized Debtor Front Sight Management LLC, by and through its counsel, the law  
 18 firm of Garman Turner Gordon LLP, and pursuant to Rules 7030, 9014, and 9016, Federal Rules  
 19 of Bankruptcy Procedure, hereby provides notice of the issuance of a *Subpoena in a Case Under*  
 20 *the Bankruptcy Code* to the FRCP 30(B)(6) Designee of Las Vegas Development Fund, LLC. A  
 21 copy of the subpoena is attached hereto as **Exhibit 1**.

22 DATED this 3rd day of March, 2023.

23 GARMAN TURNER GORDON LLP

24 By: /s/ Teresa M. Pilatowicz  
 25 GREGORY E. GARMAN, ESQ.  
 26 TALITHA GRAY KOZLOWSKI, ESQ.  
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 Front Sight Management LLC*

# **EXHIBIT 1**

# **EXHIBIT 1**

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEVADA

In re:

FRONT SIGHT MANAGEMENT LLC,

Debtor.

Case No.: 22-11824-ABL

Chapter 11

**SUBPOENA IN A CASE UNDER THE  
BANKRUPTCY CODE FOR  
DEPOSITION**

**TO: FRCP 30(B)(6) Designee of Las Vegas Development Fund, LLC**

c/o Andrea M. Champion, Esq.

JONES LOVELOCK

6600 Amelia Earhart Court, Suite C

Las Vegas, Nevada 89119

- YOU ARE COMMANDED to appear at the place, date, and time specified below to testify in this involuntary bankruptcy case. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

<p><b>PLACE<sup>1</sup></b></p> <p>Garman Turner Gordon 7251 Amigo Street, Suite 210 Las Vegas, Nevada 89101</p>	<p><b>DATE AND TIME:</b></p> <p>March 31, 2023 9:00 a.m.</p>
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- YOU ARE COMMANDED to produce and permit inspection and copying of the documents and communications requested on **Exhibit B** hereto, subject to the Definitions and Instructions, on **Exhibit A** hereto.

<p><b>PLACE</b></p>	<p><b>DATE AND TIME</b></p>
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Any subpoenaed organization not a party to this proceeding case shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify, Fed. R. Civ. P. 30(b)(6) made applicable to this proceeding by Rule 7030, Fed. R. Bankr. P.

The following provisions of Fed. R. Civ. P. 45, made applicable in bankruptcy cases by Fed. R. Bankr. P. 901, are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject of a subpoena; and Rule 45(e) and 45(g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

<sup>1</sup> The examination will be recorded *via* stenographic means and/or videotaped.

<b>ISSUING OFFICER SIGNATURE AND TITLE</b> <i>/s/ Teresa Pilatowicz</i>	<b>DATE</b> March 1, 2023
<b>ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER</b>  Gregory E. Garman, Esq. Talitha Gray Kozlowski, Esq. Teresa M. Pilatowicz, Esq. Garman Turner Gordon LLP 7251 Amigo Street, Suite 210 Las Vegas, NV 89119 (725) 777-3000	

**Notice to the person who issues or requests this subpoena**

If this subpoena commands the production of documents, electronically stored information, or tangible things, or the inspection of premises before trial, a notice and a copy of this subpoena must be served on each party before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

**PROOF OF SERVICE**

**(This section should not be filed with the court unless required by Fed. R. Civ. P. 45)**

I received this subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_.

I served the subpoena by delivering a copy to the named person as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the subpoena executed because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$\_\_\_\_\_.

My fees are \$\_\_\_\_\_ for travel and \$\_\_\_\_\_ for services, for a total of \$\_\_\_\_\_.

I declare under penalty of perjury that this information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information concerning attempted service, etc.:

**Federal Rules of Civil Procedure 45(c), (d), (e), and (g) (Effective 12/1/13)**  
**(made applicable in bankruptcy cases by Rule 9016, Federal Rules of Bankruptcy Procedure)**

**(c) Place of compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

(A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or

(B) within the state where the person resides, is employed, or regularly transacts business in person, if the person

(i) is a party or a party's officer; or

(ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

(A) production of documents, or electronically stored information, or things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and

(B) inspection of premises, at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

...

(g) **Contempt.** The court for the district where compliance is required — and also, after a motion is transferred, the issuing court — may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013)

## **EXHIBIT A**

Pursuant to Fed. R. Civ. P. 30(b)(6), made applicable to these proceedings pursuant to Fed. R. Bank. P. 7030, Las Vegas Development Fund, LLC shall designate one or more persons who consent to testify on its behalf as to all facts and other information known or reasonably available relating to the topics set forth below.

## **DEFINITIONS**

1. “Affiliate” shall be ascribed the definition set forth in 11 U.S.C. § 101(2).
2. “Amended Claim” means the Amended Proof of Claim filed by LVDF on December 23, 2022 as in Bankruptcy Case No. 22-11824-ABL, and any amendments or supplements thereto.
3. “Communication(s)” shall mean, without limitation, any transmittal, conveyance or exchange of a word, statement, fact, thing, idea, document, instruction, information, demand, question or other information by any medium, whether by written, oral or other means, including but not limited to personal conversations, written correspondence, memoranda, letters, reports, publications, electronic communications, text messaging, instant messaging, messages via social media and electronic mail.
4. “CLA” means the Construction Loan Agreement dated October 6, 2016, between Front Sight and LVDF, and amendments thereto.
5. “Date” means the exact day, month, and year, if known, or if not known, Your best approximation thereof. Exact dates shall be given in all answers except where it is explicitly indicated than an approximate
6. “Deed of Trust” means the Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents, and Fixture Filing executed in connection with the CLA and amendments thereto.
7. “Dziubla” means Robert Dziubla.
8. “EB5IA” means EB5 Impact Advisors, LLC.

9. “EB5IC” means EB5 Impact Capital Regional Center, LLC.
10. “Entity” includes, without limiting the generality of its meaning, every corporation, partnership, association, limited liability company, joint venture and professional business entity or any iteration, subsidiary, or affiliate thereof.
11. “Fleming” means Jon Fleming,
12. “Front Sight” means Front Sight Management, LLC.
13. “Morales Line of Credit” means the Loan Agreement – Construction Line of Credit, executed by Front Sight and the Morales Parties on or around October 31, 2017.
14. “Person” shall mean any natural person, trust, Entity, association of Entities and/or natural persons, and/or governmental body.
15. “Project” means the construction of the Front Sight Resort & Vacation Club and an expansion of the facilities and infrastructure of the Front Sight Firearms Training Institute located in a 550-acre site in Pahrump, Nevada, and as more specifically defined in the CLA.
16. “Promissory Notes” means the Promissory Note executed in connection with the CLA and any amendments thereto.
17. “Relate” or “relating to” means constituting, comprising, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, or referring to directly or indirectly.
18. “Relevant to” has the same meaning that it has in Fed. R. Civ. P. 26(b)(1) incorporated by Fed. R. Bank. P. 7026.
19. “USCIS” means U.S. Citizenship and Immigration Services.
20. “You” and “Your” shall mean Las Vegas Development Fund, LLC, and Your agents, servants, employees, attorneys, representatives, predecessors, or any other person over which You have control or have a superior right to compel to do an act or produce an item or information and specifically including, but not limited to: (i) any Entity of which You are an officer, director, manager, member, shareholder or in which You have or had any ownership or equity interest (contingent or otherwise); and (ii) any trust or similar device in which You are a



settlor, trustee, co-trustee, trust protector, or beneficiary or in which You have any interest (contingent or otherwise).

**TOPICS FOR TESTIMONY**

1. The representations made to Front Sight and its representative regarding “our EB-5 funding and/or fundraising” as stated in ¶ 5 of the Dzibula Declaration attached to the Amended Claim, specifically

- a. On April 7, 2012, Dziubla and Fleming claimed they had a “very good chance of raising the desired amounts” because of “the kind of creative and experienced approach that we bring to financing raises. . . .”
- b. On August 27, 2012, Dziubla and Fleming claimed they “have great depth of experience and expertise in the real estate financing market...,”
- c. On September 13, 2012 Dziubla further represented that he had “an expansive network of relationships throughout China for sourcing EB-5 investors; and this personal network coupled with our collective relationships with the leading visa advisory firms operating in China.”
- d. On September 13, 2012, Dzibula claimed to “have the luxury ... of picking and choosing the EB-5 projects we want to accept, and we accept only those projects that we think will be readily funded since we don’t get paid otherwise.”
- e. On September 28, 2012, Dzibula stated: “[W]e are currently working on a handful of other select projects totaling over \$250m of EB-5 debt financing.”
- f. On September 28, 2002, Dzibula stated “[w]e have spent much time and effort assembling a topnotch team. . . in China, Vietnam, and elsewhere,” which Dziubla claimed was “highly confidential and proprietary to us.”
- g. On September 28, 2002, Dzibula stated “Because we pay meticulous attention to choosing suitable EB-5 projects, working on just a few select projects, rigorously underwriting those projects before we go to market, and working with a long-time trusted team of partners in China and Asia, we have never failed to complete a raise

nor had a foreign investor's EB-5 visa denied. . . . Thus it is pretty straightforward to get the green card and the failure rate is quite low.”

2. LVDF's representatives “experience with EB-5 funding and/or fundraising” as stated in ¶ 5 of the Dzibula Declaration attached to the Amended Claim.

3. The terms of the private equity financing identified in ¶ 6 of the Dzibula Declaration attached to the Amended Claim.

4. The basis for Your understanding of the EB-5 program.

5. LVDF's knowledge of the status of any of LVDF's investors' I-525 and I-829 petitions.

6. Communications to LVDF from USCIS regarding:

- a. Job Creation;
- b. How EB5 fund received by LVDF were spent;
- c. Sufficiency of records provided to USCIS by any investor; and
- d. The scope and nature of the Front Sight Project.

7. Communications from LVDF to USCIS regarding:

- a. Job Creation;
- b. How EB5 fund received by LVDF were spent;
- c. Sufficiency of records provided to USCIS by any investor; and
- d. The scope and nature of the Front Sight Project

8. Any requests for information LVDF received from USCIS.

9. The relationship between LVDF, EB5IA, and EB5IC, and the factual basis for the contention that they are “distinct and play a different role in the Front Sight Project,” as stated in ¶ 14 of the Dzibula Declaration attached to the Amended Claim.

10. All payments made by LVDF to foreign placement agents.

11. LVDF's receipt and use of funds obtained from Front Sight, specifically

- a. Interest payments;
- b. \$90,000 paid to LVDF on November 22, 2017;

- c. \$40,000 paid to LVDF on December 29, 2017;
- d. \$60,000 paid to LVDF on March 1, 2018;
- e. \$56,000 paid to LVDF on May 2, 2018; and
- f. \$35,000 paid to LVDF on July 6, 2018.

12. Your interactions with Front Sight described in ¶ 21 of the Dzibula Declaration attached to the Amended Claim .

13. All EB-5 financing received by You from investors, specifically

- a. The amount of funds received;
- b. The date funds received; and
- c. The use of funds received

14. Your use of all EB-5 financing received by You.

15. The factual basis for your assertion that Front Sight “fail[ed] to pay agreed upon costs under the Engagement Letter in a timely fashion” and “attempts to sidestep its obligation to pay for marketing expenses,” as alleged in ¶ 24 of the Dzibula Declaration attached to the Amended Claim, including but not limited to the alleged costs and expenses, as well as the alleged failures and attempts of Front Sight.

16. All delays in your fundraising efforts, as well as the causes, as alleged in ¶ 25 of the Dzibula Declaration attached to the Amended Claim.

17. The facts and circumstances surrounding the SLS Casino that you contend impacted your ability to raise funds, as alleged in ¶ 25 of the Dzibula Declaration attached to the Amended Claim.

18. When and how you became aware that Front Sight’s financing goals for the project could not be reached, as set forth in ¶ 28 of the Amended Claim.

19. All communications with Your EB-5 investors or members regarding the status of construction of the Front Sight Project.

20. All communications with Your EB-5 investors or members regarding the raising of EB-5 funds and Front Sight’s financing goals.

21. The drafting of the CLA and its amendments, specifically
  - a. Who drafted the CLA and amendments; and
  - b. The drafting process for the CLA and amendments.
22. The need or cause of each of the amendments to the CLA
23. The drafting of the Promissory Note, specifically
  - a. Who drafted the Promissory Note; and
  - b. The drafting process for the Promissory note
24. The terms of the CLA and Promissory Note, specifically:
  - a. The payment of Existing Liens;
  - b. The “Commitment” as defined in the CLA;
  - c. Section 3.3;
  - d. Article V; and
  - e. Article VI.
25. All information required by USCIS that LVDF contends it was required to obtain from Front Sight.
26. The drafting and terms of the Deed of Trust, specifically
  - a. Who drafted the Deed of Trust; and
  - b. The drafting process for the Deed of Trust.
27. The purpose behind the reduction of the CLA from \$75,000,000, including all requests from the “foreign placement consultants,” as alleged in ¶ 26 of the Dzibula Declaration attached to the Amended Claim.
28. All government approved plans that Front Sight provided or failed to provide you, as alleged in ¶ 29 of the Dzibula Declaration attached to the Amended Claim.
29. The construction schedule that you claim Front Sight ran behind on, as alleged in ¶ 29 of the Dzibula Declaration attached to the Amended Claim.
30. The Senior Debt that you claim Front Sight failed to obtain, as alleged in ¶ 29 of the Dzibula Declaration attached to the Amended Claim, specifically

- a. Your knowledge of Front Sight's efforts to obtain Senior Debt;
- b. Your knowledge of the Morales Construction Line of Credit;
- c. LVDF's position regarding the Morales Construction line of Credit as Senior Debt; and
- d. LVDF's evidence that Front Sight did not use best efforts to obtain Senior Debt.

31. The requisite EB-5 prove up documents LVDF alleges that Front Sight failed to provide, as alleged in ¶ 29 of the Dzibula Declaration attached to the Amended Claim.

32. The monthly project costs you contend Front Sight was obligated to provide, as alleged in ¶ 29 of the Dzibula Declaration attached to the Amended Claim.

33. All communications you had with USCIS regarding the items in ¶ 29 of the Dzibula Declaration attached to the Amended Claim.

34. The date(s) in which you provided notice of any alleged default under the CLA.

35. LVDF's contentions, if any, that the default rate of interest under the applicable loan documents is not a penalty and is otherwise enforceable.

36. LVDF's alleged damages suffered as a result of Front Sight's purported breaches of the CLA.

37. Any communications informing Front Sight of its "failures to comply with the CLA" and requests that it "comply with its obligations under the CLA.

38. All interest payments made to you under the CLA, and your use of the interest payments.

39. The loan statement and items contained thereon, specifically

- a. The calculation for any late fees claimed by you, including the date the fees were incurred;
- b. and basis for any late fees claim by you;
- c. The calculation of any attorneys' fees sought by you, both past and present;
- d. The reasonableness and/or necessity of the fees; and

e. Your calculation of any current and past due interest claimed by you.

40. Any and all agreements between you and any other party regarding the payment of attorneys' fees, and specifically how attorneys' fees and costs are split and billed amongst the EB5 Parties and whether it is LVDF's position that Front Sight is obligation to pay for the fees and costs of all of the EB5 Parties.

41. Your retention or joint retention of any law firm for which you seek to recover attorney's fees, and specifically how attorneys' fees and costs are split and billed amongst the EB5 Parties and whether it is LVDF's position that Front Sight is obligation to pay for the fees and costs of all of the EB5 Parties.

42. Your Affiliated entities and principals receipt of any funds from EB-5 Investors, including the use of those funds.

43. Your Affiliated entities and principals receipt of any funds from Front Sight, including the use of those fund.

44. Your communications with the "very experienced consultant in the timeshare finance industry," as stated in FS(1)00462.

45. All discussions with Your EB-5 consultants regarding the use of LVDF's loan proceed, including whether the use complied with the EB-5 requirements.

46. All discussions with Your EB-5 consultants regarding jobs created by the Project.

47. All discussions with Your EB-5 consultants regarding Front Sight's purported breach of the CLA.

48. Your contention in the *Response to Amended Objection to Claim No. 284 Filed by Las Vegas Development Fund, LLC* ("Claim Objection Response") that "Front Sight never sought additional financing under the CLA."

49. Your contention in the Claim Objection Response that "Front Sight...failed...to use best efforts to obtain Senior Debt."