

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3 FRONT SIGHT MANAGEMENT LLC, a  
4 Nevada Limited Liability Company,

5 Petitioner,

6 vs.

7 THE EIGHTH JUDICIAL DISTRICT  
8 COURT OF THE STATE OF NEVADA,  
9 IN AND FOR THE COUNTY OF CLARK;  
10 and THE HONORABLE TIMOTHY C.  
11 WILLIAMS, DISTRICT COURT JUDGE,

12 Respondents,

13 and

14 LAS VEGAS DEVELOPMENT FUND  
15 LLC, a Nevada Limited Liability Company;  
16 EB5 IMPACT CAPITAL REGIONAL  
17 CENTER LLC, a Nevada Limited Liability  
18 Company; EB5 IMPACT ADVISORS  
19 LLC, a Nevada Limited Liability Company;  
20 ROBERT W. DZIUBLA, individually and  
21 as President and CEO of LAS VEGAS  
22 DEVELOPMENT FUND LLC and EB5  
23 IMPACT ADVISORS LLC; JON  
24 FLEMING, individually and as an agent of  
25 LAS VEGAS DEVELOPMENT FUND  
26 LLC and EB5 IMPACT ADVISORS LLC;  
27 LINDA STANWOOD, individually and as  
28 Senior Vice President of LAS VEGAS  
DEVELOPMENT FUND LLC and EB5  
IMPACT ADVISORS LLC,

Real Parties in Interest.

No.: \_\_\_\_\_ Electronically Filed  
Sep 11 2020 04:37 p.m.  
Dist. Ct. Case No: A-18-781084-B Elizabeth A. Brown  
Clerk of Supreme Court



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13	Counterdefendant Jennifer Piazza’s Answer to	IX	2006-2029
14	Counterclaim (09/30/2019)		
15	Counterdefendant Jennifer Piazza’s Answer to First	XVIII	4360-4386
16	Amended Counterclaim (08/21/2020)		
17	Counterdefendants VNV Dynasty Trust I and VNV	VIII	1933-1957
18	Dynasty Trust II’s Answer to Counterclaim		
19	(09/30/2019)		
20	Declaration of C. Keith Greer in Support of	XIV	3257-3326
21	Defendant and Counterclaimants’ Oppositions to		
22	Jennifer Piazza and the VNV Dynasty Trust I and II		
23	Motions for Summary Judgment (02/03/2020)		
24	Declaration of C. Keith Greer in Support of	IV	0762-0769
25	Defendant LVD Fund’s Reply to Plaintiff’s		
26	Opposition to Defendant’s Motion to Appoint		
27	Receiver (02/26/2019)		
28	Declaration of C. Keith Greer in Support of	III	0559-0601
	Defendant’s Motion for Receivership (02/06/2019)		

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Declaration of C. Keith Greer in Support of Las Vegas Development Fund, LLC’s Motion for Leave to Amend the Countercomplaint (04/04/2020)	XV	3641-3645
Declaration of Robert Dziubla in Opposition to Plaintiff’s Motion for Sanctions (09/30/2019)	IX	2041-2044
Declaration of Robert Dziubla in Support of Defendant Las Vegas Development Fund LLC’s Motion for Appointment of Receiver <i>[redacted in district court filing]</i> (02/06/2019)	II / III	0379-0558
Defendant and Counter Claimant LVDF’s Objections to Plaintiff and Counter Defendant’s Statement of Undisputed Facts (02/03/2020)	XIII	3167-3222
Defendant and Counterclaimant Las Vegas Development Fund, LLC’s Notice of Motion and Motion for Leave to Amend the Countercomplaint <i>[redacted in district court filing]</i> (04/03/2020)	XIV / XV	3442-3640
Defendant and Counterclaimant LVD Fund’s Opposition to Counterdefendant Jennifer Piazza’s Motion for Summary Judgment <i>[redacted in district court filing]</i> (02/03/2020)	XIII	3223-3239
Defendant and Counterclaimant LVD Fund’s Opposition to VNV Dynasty Trust I and VNV Dynasty Trust II’s Motion for Summary Judgment <i>[redacted in district court filing]</i> (02/03/2020)	XIII / XIV	3240-3256
Defendant EB5 Impact Advisors LLC’s Opposition to Plaintiff’s Motion for Sanctions (09/30/2019)	IX	2030-2040
Defendant Las Vegas Development Fund LLC’s Motion for Appointment of Receiver and Request for Order Shortening Time (02/06/2019)	II	0351-0378

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Defendant Las Vegas Development Fund, LLC’s  
Motion for Clarification on Order Shortening Time  
(05/01/2020) XVII 4007-4016

Defendant Las Vegas Development Fund LLC’s  
Opposition to Motion to Seal and/or Redact portions  
of Defendants’ Oppositions to Jennifer Piazza and  
the NVN Trusts’ Motions for Summary Judgment to  
Protect Confidential Financial Information  
(02/14/2020) XIV 3369-3380

Defendant Las Vegas Development Fund, LLC’s  
Opposition to Plaintiff’s Second Motion for  
Temporary Restraining Order and Preliminary  
Injunction (03/19/2019) IV 0837-0860

Defendant Las Vegas Development Fund LLC’s  
Reply to Plaintiff’s Opposition to Defendant’s  
Motion for Appointment of Receiver (02/26/2019) III / IV 0741-0755

Defendants’ Answer to Plaintiff’s Second Amended  
Complaint and Counterclaim (04/23/2019) IV / V 0917-1083

Defendants’ Answer to Plaintiff’s Second Amended  
Complaint and First Amended Counterclaim  
*[redacted in district court filing]* (06/04/2020) XVII / XVIII 4073-4262

Defendants’ Opposition to Plaintiff’s Motion to  
Quash Subpoenas to Third Parties Bank of America  
and Lucas Horsfall, Murphy & Pindroh, LLP  
(11/6/2019) X / XI 2479-2655

Errata to Opposition to Defendant Las Vegas  
Development Fund LLC’s Motion for Appointment  
of Receiver (02/22/2019) III 0731-0740

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Errata to Supplemental Declaration of Robert Dziubla in Support of Defendants’ Opposition to Plaintiff’s Second Motion for Temporary Restraining Order and Preliminary Injunction (03/20/2019)	IV	0882-0892
Minutes of the Court (08/26/2020)	XVIII	4387-4389
Motion for Summary Judgment as to the Counterclaims Against Jennifer Piazza (01/23/2020)	XIII	3144-3166
Motion for Summary Judgment as to the Counterclaims Against VNV Dynasty Trust I and VNV Dynasty Trust II (01/23/2020)	XIII	3096-3143
Motion to Seal and/or Redact Pleadings and Exhibits to Protect Confidential Information, Motion to Amend Paragraph 2.3 of Protective Order, Motion for Order Shortening Time and Order Shortening Time (02/15/2019)	III	0602-0628
Motion to Seal and/or Redact Portions of Defendants’ Oppositions to Jennifer Piazza and the VNV Trusts’ Motions for Summary Judgment to Protect Confidential Financial Information, Motion for Order Shortening Time and Order Shortening Time (02/11/2020)	XIV	3331-3348
Notice of Entry of Disclaimer of Interest of Chicago Title Company and Stipulation and Order for Dismissal (02/05/2019)	II	0344-0350
Notice of Entry of Findings of Fact and Conclusions of Law and Order Granting In Part and Denying In Part Defendants’ Motion for Protective Order Regarding Discovery of Consultants and Individual Investors Confidential Information (07/06/2020)	XVIII	4334-4342

1	Notice of Entry of Findings of Fact, Conclusions of	XIII	3081-3091
2	Law, and Order Denying Defendant Las Vegas		
3	Development Fund LLC’s Motion to Dissolve		
4	Temporary Restraining Order and to Appoint a		
5	Receiver (01/23/2020)		
6	Notice of Entry of Findings of Fact, Conclusions of	XVIII	4269-4275
7	Law and Order Denying Plaintiff Front Sight		
8	Management, LLC’s Motion to Extinguish LVDF’s		
9	Deed of Trust, or Alternatively to Grant Senior Debt		
10	Lender Romspen a First Lien Position, and Motion		
11	to Deposit Funds Pursuant to NRCP 67 (06/08/2020)		
12	Notice of Entry of Order (03/19/2019)	IV	0876-0881
13	Notice of Entry of Order (04/10/2019)	IV	0893-0897
14	Notice of Entry of Order (04/10/2019)	IV	0898-0903
15	Notice of Entry of Order (04/10/2019)	IV	0904-0909
16	Notice of Entry of Order (04/10/2019)	IV	0910-0916
17	Notice of Entry of Order (05/16/2019)	V	1084-1089
18	Notice of Entry of Order (06/25/2019)	VI	1318-1324
19	Notice of Entry of Order (12/18/2019)	XII	2837-2840
20	Notice of Entry of Order (01/17/2020)	XII	2867-2874
21	Notice of Entry of Order (02/07/2020)	XIV	3327-3330
22	Notice of Entry of Order (03/02/2020)	XIV	3412-3416
23	Notice of Entry of Order (03/03/2020)	XIV	3417-3421
24	Notice of Entry of Order (03/12/2020)	XIV	3422-3429
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Notice of Entry of Order (04/01/2020)	XIV	3430-3436
Notice of Entry of Order (04/01/2020)	XIV	3437-3441
Notice of Entry of Order (04/28/2020)	XVI	3892-3896
Notice of Entry of Order Admitting to Practice (11/15/2018)	I	0064-0068
Notice of Entry of Order Denying Counter Defendant Jennifer Piazza’s Motion for Summary Judgment (06/08/2020)	XVIII	4288-4293
Notice of Entry of Order Denying Counter Defendants VNV Dynasty Trust I and VNV Dynasty Trust II’s Motion for Summary Judgment (06/08/2020)	XVIII	4282-4287
Notice of Entry of Order Denying Front Sight Management LLC’s Motion for Partial Summary Judgment With Findings of Fact and Conclusions of Law (06/22/2020)	XVIII	4318-4327
Notice of Entry of Order Denying Plaintiff’s Motion for Sanctions Related to Defendant EB5IA’s Accounting Records (12/19/2019)	XII	2854-2860
Notice of Entry of Order Denying Plaintiff’s Motion for Temporary Restraining Order and Preliminary Injunction related to Investor Funds and Interest Payments (09/13/2019)	VII	1585-1591
Notice of Entry of Order Denying Plaintiff’s Motion to Quash Subpoenas to Morales Construction, Top Rank Builders and All American Concrete and Masonry (12/19/2019)	XII	2847-2853

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Notice of Entry of Order Denying Plaintiff’s Motion to Quash Subpoenas to Plaintiff’s Bank and Accountant (12/6/2019) XII 2817-2822

Notice of Entry of Order Denying Plaintiff’s Motion to Quash Subpoenas to Summit Financial Group and US Capital Partners, Inc. (06/08/2020) XVIII 4276-4281

Notice of Entry of Order Denying Plaintiff’s Motion to Stay Enforcement of Order Denying Plaintiff’s Motion to Quash Subpoenas to Bank of America and Lucas Horsfall (01/02/2020) XII 2861-2866

Notice of Entry of Order Denying Without Prejudice Plaintiff’s Motion for Sanctions for Violation of Court Orders Related to Defendants Responses to Plaintiffs Requests for Production of Documents to Defendants (07/06/2020) XVIII 4343-4349

Notice of Entry of Order Granting Defendant and Counterclaimant Las Vegas Development Fund, LLC’s Notice of Motion and Motion for Leave to Amend the Countercomplaint (06/04/2020) XVII 4068-4072

Notice of Entry of Order Granting Defendant Las Vegas Development Fund, LLC’s Motion for Clarification on Order Shortening Time (06/05/2020) XVIII 4263-4268

Notice of Entry of Order Granting Defendant’s Motions to Quash Plaintiff’s Subpoenas to Non-Party Banks (12/6/2019) XII 2794-2800

Notice of Entry of Order Granting Defendants’ Motion for Protective Order Regarding the Defendants’ Private Financial Information (07/10/2020) XVIII 4350-4356



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Notice of Entry of Order Granting Defendants’  
Motion to Advance Hearing regarding Plaintiff’s  
Motion to Quash Subpoenas (11/08/2019)

XI 2656-2660

Notice of Entry of Order Granting in Part and  
Denying in Part Counterdefendants’ Motions to  
Dismiss Counterclaim (09/13/2019)

VII 1578-1584

Notice of Entry of Order Granting in Part and  
Denying in Part Defendants’ Motions to Quash  
Plaintiff’s Subpoenas to Non-Parties Empyrean  
West, Jay Carter and David Keller (12/6/2019)

XII 2786-2793

Notice of Entry of Order Granting in Part Motion for  
Sanctions and/or to Compel Actual Responses to  
Plaintiff’s First Sets of Interrogatories to Defendants  
(06/22/2020)

XVIII 4328-4333

Notice of Entry of Order Granting Las Vegas  
Development Fund, LLC’s Motion to Compel  
Production of Documents or, in the Alternative,  
Motion for Preliminary Injunction to Address Front  
Sight’s Continuing Violation of Section 5.10 of the  
Construction Loan Agreement and Request for  
Limited Relief From the Protective Order  
(05/18/2020)

XVII 4062-4067

Notice of Entry of Order Granting Plaintiff’s Motion  
for Protective Order (11/27/2018)

I 0075-0079

Notice of Entry of Order Granting Temporary  
Restraining Order and Expunging Notice of Default  
(11/27/2018)

I 0099-0104

Notice of Entry of Order on Defendants’ Motion to  
Dismiss Plaintiff’s First Amended Complaint  
(01/17/2019)

II 0333-0337

1	Notice of Entry of Order on Plaintiff's Motion for	II	0323-0327
2	Preliminary Injunction (01/17/2019)		
3	Notice of Entry of Order on Plaintiff's Motion to	II	0338-0343
4	Disqualify C. Keith Greer as Attorney of Record for		
5	Defendants (01/25/2019)		
6	Notice of Entry of Order on Plaintiff's Petition for	I	0069-0074
7	Appointment of Receiver and for an Accounting		
8	(11/27/2018)		
9	Notice of Entry of Order on Plaintiff's Renewed	II	0328-0332
10	Motion for an Accounting Related to Defendants Las		
11	Vegas Development Fund LLC and Robert Dziubla		
12	and for Release of Funds (01/17/2019)		
13	Notice of Entry of Order on Status Check Regarding	XIII	3092-3095
14	Discovery Responses/Plaintiff's Motion to Compel		
15	(01/23/2020)		
16	Notice of Entry of Order Regarding February 5,	XIV	3381-3385
17	2020 Status Check (02/19/2020)		
18	Notice of Entry of Order Shortening Time	III	0629-0658
19	(02/15/2019)		
20	Notice of Entry of Order Shortening Time	XII	2777-2785
21	(11/15/2019)		
22	Notice of Entry of Order Shortening Time	XII	2823-2836
23	(12/11/2019)		
24	Notice of Entry of Order Shortening Time	XIV	3349-3368
25	(02/11/2020)		
26	Notice of Entry of Order Shortening Time	XVIII	4294-4305
27	(06/12/2020)		

1	Notice of Entry of Order Staying All Subpoenas For	VII	1592-1599
2	Documents and Depositions which were Served on		
3	Non-Parties by Plaintiff (09/13/2019)		
4	Notice of Entry of Protective Order (11/27/2018)	I	0080-0098
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6	Notice of Entry of Stipulation and Order	XII	2841-2846
7	(12/18/2019)		
8	Notice of Entry of Stipulation and Order Regarding	VI	1325-1330
9	Defendants' Judicial Foreclosure Cause of Action		
10	(06/25/2019)		
11	Notice of Entry of Stipulation and Order Regarding	XII	2801-2816
12	Exhibit (12/6/2019)		
13	Notice of Entry of Stipulation and Order Resetting	XIV	3386-3391
14	Hearings and Briefing Schedule (02/25/2020)		
15	Notice of Entry of Stipulation and Order to Extend	XVIII	4390-4403
16	Discovery Deadlines (09/02/2020)		
17	Notice of Entry of Stipulation and Order to Extend	XVII	4046-4056
18	Discovery Deadlines and Continue Trial (Second		
19	Request) (05/13/2020)		
20	Notice of Entry of Stipulation and Order to Replace	XV / XVI	3693-3891
21	Exhibit "A" to Defendant's Motion for Leave to		
22	Amend the Countercomplaint <i>[redacted in district</i>		
	<i>court filing]</i> (04/20/2020)		
23	Notice of Intent to Issue Subpoena to Bank of	X	2379-2459
24	America, N.A. (10/22/2019)		
25	Notice of Intent to Issue Subpoena to Lucas Horsfall,	X	2298-2378
26	LLP (10/22/2019)		
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1	Opposition Memorandum of Defendant Las Vegas	III	0659-0669
2	Development Fund, LLC to Plaintiff's Motion to		
3	Seal and/or Redact Pleadings and Exhibits		
4	(02/19/2019)		
5	Opposition to Defendant Las Vegas Development	III	0670-0730
6	Fund LLC's Motion for Appointment of Receiver		
7	(02/22/2019)		
8	Opposition to Defendant Las Vegas Development	XVII	4017-4045
9	Fund LLC's Motion for Clarification on Order		
10	Shortening Time (05/11/2020)		
11	Order Re Rule 16 Conference, Setting Civil Jury	VII	1573-1577
12	Trial, Pre-Trial/Calendar Call and Deadlines for		
13	Motions; Discovery Scheduling Order (08/20/2019)		
14	Order Scheduling Hearing (09/27/2019)	VIII	1931-1932
15	Order Setting Settlement Conference (12/06/2018)	I	0105-0106
16	Order Setting Settlement Conference (06/04/2019)	VI	1314-1315
17	Plaintiff's Motion for Sanctions (09/17/2019)	VII	1600-1643
18	Plaintiff's Motion to Quash Subpoenas (10/29/2019)	X	2460-2478
19	Plaintiff's Second Motion for Temporary Restraining	IV	0770-0836
20	Order and Preliminary Injunction, Motion for Order		
21	Shortening Time, and Order Shortening Time		
22	(03/01/19)		
23	Reply in Support of Defendant and Counterclaimant	XVI / XVII	3897-4006
24	Las Vegas Development Fund, LLC's Motion for		
25	Leave to Amend the Counterclaim <i>[redacted in</i>		
26	<i>district court filing]</i> (04/29/2020)		
27	Reply to Opposition to Motion to Quash Subpoenas	XI / XII	2661-2776
28	(11/15/2019)		

1	Reply to Opposition to Plaintiff’s Motion for	IV / X	2233-2297
2	Sanctions (10/18/2019)		
3	Reporter’s Transcript of Hearing (Preliminary	VII / VIII	1644-1930
4	Injunction Hearing) (09/20/2019)		
5	Reporter’s Transcript of Motion (Preliminary	V / VI	1090-1313
6	Injunction Hearing) (06/03/2019)		
7	Reporter’s Transcript of Motions (Defendants’	IX	2045-2232
8	Motions to Quash Subpoena to Wells Fargo Bank,		
9	Signature Bank, Open Bank and Bank of Hope)		
10	(10/09/2019)		
11	Reporter’s Transcript of Preliminary Injunction	VI / VII	1331-1513
12	Hearing (07/22/2019)		
13	Reporter’s Transcript of Preliminary Injunction	VII	1514-1565
14	(07/23/2019)		
15	Response to Defendant LVDF’s Objections to	XIV	3392-3411
16	Statement of Undisputed Facts and Countermotion to		
17	Strike (02/28/2020)		
18	Second Amended Complaint (01/04/2019)	I / II	0107-0322
19	Statement of Undisputed Facts (01/17/2020)	XII / XIII	2875-3080
20	Supplemental Declaration of Defendant Robert	IV	0861-0875
21	Dziubla in Support of Defendant Las Vegas		
22	Development Fund, LLC’s Opposition to Plaintiff’s		
23	Second Motion for Temporary Restraining Order and		
24	Preliminary Injunction (03/19/2019)		
25	Supplemental Declaration of Robert W. Dziubla in	IV	0756-0761
26	Support of Defendant LVD Fund’s Reply to		
27	Plaintiff’s Opposition to Defendant’s Motion to		
28	Appointment of Receiver (02/26/2019)		

1 [REDACTED]

2 [REDACTED].

3 In these circumstances involving transfers by an insolvent corporation to insiders there  
4 are recognized indicia of fraud which establish a *prima facie* showing of a fraudulent transfer  
5 and shift the burden to the party making the transfer to justify it. “[W]here the creditor  
6 establishes the existence of certain indicia or badges of fraud, the burden shifts to the defendant  
7 to come forward with rebuttal evidence that a transfer was not made to defraud the creditor. . . .  
8 The defendant must show either that the debtor was solvent at the time of the transfer and not  
9 rendered insolvent thereby or that the transfer was supported by fair consideration.” *Sportsco*  
10 *Enterprises v. Morris*, 112 Nev. 625, 632 (1996)(citations omitted). “A number of these indicia  
11 exist here: relationship between the transferor and transferees, the pendency or threat of  
12 litigation, and insolvency or indebtedness of the transferor.” *Id.*

13 Accordingly, there is substantial evidence that the transfers to the Dynasty Trusts were in  
14 breach of the CLA and violated UFTA.

15 **C. There Is Substantial Evidence To Support Application of the *Alter Ego* Doctrine**

16 “Nevada has long recognized that although corporations are generally to be treated as  
17 separate legal entities, the equitable remedy of ‘piercing the corporate veil’ may be available to a  
18 plaintiff in circumstances where it appears that the corporation is acting as the alter ego of a  
19 controlling individual.” *LFC Mktg. Grp., Inc. v. Loomis*, 116 Nev. 896, 902 (2000).

20 There are three elements necessary to prove alter ego doctrine: “(1) the corporation must  
21 be influenced and governed by the person asserted to be the alter ego; (2) there must be such  
22 unity of interest and ownership that one is inseparable from the other; and (3) the facts must be  
23 such that adherence to the corporate fiction of a separate entity would, under the circumstances,  
24 sanction fraud or promote injustice.” *Polaris Indus. Corp. v. Kaplan*, 103 Nev. 598, 601, 747  
25 P.2d 884, 886 (1987).

26 Facts which are considered indicia of potential *alter ego* include: (1) commingling of  
27 funds; (2) undercapitalization; (3) unauthorized diversion of funds; (4) treatment of corporate  
28 assets as the individual's own; and (5) failure to observe corporate formalities. See *LFC Mktg.*

1 *Grp., Inc. v. Loomis*, 116 Nev. 896, 904 (2000); *North Arlington Medical Building, Inc. v.*  
2 *Sanchez Construction Co.*, 86 Nev. 515, 522 n. 8 (1970). See *Carson Meadows Inc. v. Pease*, 91  
3 Nev. 187, 191 (1975) (“Goldbeck commingled corporate funds with his own. He treated some  
4 corporate assets as his own and manipulated them to suit himself. He appears to have negotiated  
5 all of the corporate business, and truly may be said to have used the corporate shell as a conduit  
6 for his individual enterprise.”); *Certain v. Sunridge Builders, Inc.*, 431 P.3d 38 (Nev.  
7 2018)(“Hardy and Nelson treated SBI’s assets as their own as they paid themselves thousands of  
8 dollars in shareholder distributions, assigned all rights and interests in an SBI promissory note to  
9 themselves individually, and used SBI’s settlement money to defend the present action . . . . The  
10 district court therefore erred in concluding that Hardy and Nelson were not SBI’s alter egos.”).

11           There is evidence of these factors regarding the relationship between Front Sight, the  
12 Dynasty Trusts and the Piazzas. Ignatius Piazza is the dominating and controlling person for  
13 both Front Sight and the two Dynasty Trusts.<sup>18</sup> [REDACTED]

14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22           Thus, LVD Fund has provided evidence of: (1) commingling of funds; (2)  
23 undercapitalization; (3) unauthorized diversion of funds; and (4) treatment of corporate assets as  
24 the individual's own, sufficient to establish a prima facie claim that Front Sight is simply the  
25 alter ego of Ignatius and Jennifer Piazza . See *LFC Mktg. Grp., Inc. v. Loomis*, 116 Nev. 896,  
26 904 (2000).

27 \_\_\_\_\_  
28 <sup>18</sup> Indeed, Ignatius Piazza so controlled and dominated Front Sight operations that he maintained the books and records in his personal garage in California such that they were destroyed in the Northern California Wildfires. At a minimum this indicates that Front Sight did not maintain normal corporate formalities.

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**D. Intentional Interference with Contractual Relationships**

Dynasty Trust correctly states the proper elements of a cause of action for interference with contractual relationships. ““In an action for intentional interference with contractual relations, a plaintiff must establish: (1) a valid and existing contract; (2) the defendant’s knowledge of the contract; (3) intentional acts intended or designed to disrupt the contractual relationship; (4) actual disruption of the contract; and (5) resulting damage.” *J.J. Indus., LLC v. Bennett*, 119 Nev. 269, 274, 71 (Motion at 9:4-9). LVD Fund has provided evidence to satisfy each of these elements.

First, LVD Fund has established the existence of a valid contract, i.e., the CLA.

Second, because Front Sight and the Dynasty Trusts are under the common control of Ignatius Piazza, LVD Fund has established the element of knowledge of the contract.

Third, LVD Fund has provided evidence that the Dynasty Trusts, acting under the common control of Jennifer and Ignatius Piazza, acted intentionally to siphon money off from Front Sight to the Dynasty Trusts, thereby inducing breach of multiple provisions of the CLA. (CLA § 5.18 – Distributions: "Borrower shall not directly or indirectly, prior to completion of all of the improvements or the Completion Date, (a) make any distribution of money or property to any Related Party, or make or advance to any Related Party, or (b) make any loan or advance to any Related Party, or ... (d) pay any fees or other compensation ... to itself or to any Related Party, if any such payment in (a) through (d), inclusive, might adversely affect Borrower's ability to repay the loan in accordance with its terms ..."; CLA at §5.21 Related Party Transactions- Loan Proceeds have been misappropriated the Piazza family’s personal uses; CLA § 5.23 - “Borrower. will remain solvent”)(Greer Decl. Ex 4, CLA excerpts).

[REDACTED]

Fourth, the contract has been disrupted in that Front Sight has breached the contract for the specific benefit of Dynasty Trust.



1 Fifth, LVD Fund has been damaged in that the CLA has been breached and the ability of  
2 the borrower (Front Sight) to repay the loan has been impaired. CLA §5.23(i).

3 **E. Conspiracy**

4 Dynasty Trust also moves for summary judgment on Counterclaimants' claim for civil  
5 conspiracy against Front Sight and the Piazzas (Mtn at 14:1 - 14:12 ; Statement of Facts at 30:9-  
6 31:7). Although the intra corporate conspiracy doctrine would normally bar a civil conspiracy  
7 claim where the co-conspirators are related parties, See *Collins v. Union Fed. Sav. & Loan Ass'n*,  
8 99 Nev. 284, 303 (1983), the rule is subject to an important exception where, as here, the actions  
9 taken by the individuals were beyond the scope of their employment and were for their  
10 individual personal benefit. "In Nevada, therefore, a corporation cannot conspire with its  
11 employees **if those employees are acting within the course and scope of their employment.**"  
12 *Laxalt v. McClatchy*, 622 F. Supp. 737, 744-46 (D. Nev. 1985)(emphasis added); *U-Haul Co. of*  
13 *Nevada v. United States*, No. 2:08-CV-729-KJD-RJJ, 2012 WL 3042908, at \*2 (D. Nev. July 25,  
14 2012)("The intercorporate conspiracy doctrine requires a plaintiff stating a claim for conspiracy  
15 between employees to plead plausible facts showing: 1) that the alleged conspirator acted outside  
16 his official capacity, and 2) that he was acting for his individual advantage."); *O'Brien v.*  
17 *Morgan Stanley DW, Inc.*, No. 3:07-CV-00046LRHVPC, 2008 WL 4224409, at \*3 (D. Nev.  
18 Sept. 10, 2008) ("agents of a corporate principal cannot conspire with each other **unless they are**  
19 **acting for their individual advantage** as opposed to their principal's advantage.")(emphasis  
20 added).

21 [REDACTED]  
22 [REDACTED]  
23 **E. Waste**

24 "Waste is a tort actionable for the protection of an owner of an interest in land." *Cal.*  
25 *Dep't. of Toxic Substances Control v. Payless Cleaners, College Cleaners*, 368 F.Supp.2d 1069,  
26 1082 (E.D.Cal.2005). "Waste includes 'conduct, by both commission and omission, on the part  
27 of the person in possession of the property which impairs the value of the lender's security.'" *Evans v. Cal. Trailer Court, Inc.*, 28 Cal.App.4th 540, 553, 33 Cal.Rptr.2d 646 (1994).

1 In *Canada Life Assur. Co. v. LaPeter*, 563 F.3d 837, 844–45 (9th Cir. 2009) appointment  
2 of a receiver was justified where rents from the subject shopping mall were being mismanaged  
3 and diverted instead of being used to service the debt. “Here, the district court's appointment of  
4 a receiver was well within its discretion. It determined that the appointment was necessary  
5 because the Mall “and the rents associated therewith, constituting the collateral” were “in danger  
6 of substantial waste and risk of loss because income from the [Mall was] being diverted and not  
7 applied to servicing the debt. “ *Id.*

8 [REDACTED]  
9 [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]

16 Moreover, as alleged in the Counterclaim, the sale of membership interests and gift cards  
17 has created current liabilities reflected in the tax returns in excess of \$30 M. (*See* Schedule L,  
18 line 18 current liabilities “Gift Card – Reg. 1.451-5(D) \$33,716,794 (2016); \$34,302,095 (2017);  
19 \$32,919,927 (2018)). This liability renders Front Sight legally insolvent and significantly  
20 impairs the ability of Front Sight to repay the obligation. This is a classic example of waste.

21 **V. CONCLUSION**

22 For the reasons set forth above, the Court should deny Jennifer Piazza’s Motion for  
23 Summary Judgment.

24 DATED: February 3, 2020

GREER & ASSOCIATES, APC

26 By: /s/ C. Keith Greer  
27 C. KEITH GREER  
28 C. TYLER GREER  
Attorneys for Defendant





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

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

18 FRONT SIGHT MANAGEMENT LLC, a ) CASE NO.: A-18-781084-B  
Nevada Limited Liability Company, ) DEPT NO.: 16  
19 )  
Plaintiff, )  
20 ) **DECLARATION OF C. KEITH GREER**  
vs. ) **IN OPPOSITION TO COUNTER-**  
21 ) **DEFENDANTS', JENNIFER PIAZZA**  
LAS VEGAS DEVELOPMENT FUND LLC, a ) **AND DYNASTY TRUSTS, MOTION**  
22 Nevada Limited Liability Company; et al., ) **FOR SUMMARY JUDGMENT**  
23 )  
Defendants. )  
24 )  
25 )  
26 )  
27 )  
28 )

Date: February 19, 2020  
Time: 9:30 a.m.

1 STATE OF CALIFORNIA )  
2 COUNTY OF SAN DIEGO ) ss:

3 Affiant, being duly sworn, deposes and states the following:

- 4 1. I, C. Keith Greer, am an attorney at law in good standing before State Bar of California  
5 and have been admitted pro hac vice to represent the Defendants in this matter.  
6 2. Attached hereto as Exhibit 1 is a true and correct copy of the Holecek Note dated February  
7 7, 2006, in the amount of \$7,207,082.50 between “Front Sight Management,  
8 Incorporated” and “Holecek 1996 Irrevocable Trust Dated October 1, 1996.”  
9 3. Attached hereto as Exhibit 2 is a true and correct copy of the Holecek Deed of Trust  
10 recorded in Nye County, Nevada on February 12, 2006.  
11 4. Attached hereto as Exhibit 3 are a true and correct copies of relevant pages from Front  
12 Sight Management, Inc.’s corporate tax returns. (Filed Under Seal)  
13 5. Attached hereto as Exhibit 4 are a true and correct copies of relevant pages from the  
14 Construction Loan Agreement.  
15 6. I make this Declaration of my personal knowledge and the matters stated herein are true  
16 and correct. If called as a witness herein, I could, and would, testify competently thereto.  
17

18 I declare under penalty of perjury under the laws of the State of Nevada and the State of  
19 California that the foregoing is true and correct, and that this Declaration was executed on  
20 February 3, 2019 at San Diego, California.  
21

22 /s/ C. Keith Greer  
23 C. Keith Greer, Esq



# Exhibit 1

LOAN AGREEMENT

THIS LOAN AGREEMENT (hereinafter "Agreement") made February 7, 2006 by and between HOLECEK 1996 IRREVOCABLE TRUST DATED OCTOBER 1, 1996, (hereinafter referred to as "Lender") and FRONT SIGHT MANAGEMENT INCORPORATED, a California corporation, with its address being P.O. Box 2619, Aptos, California 95001 (hereinafter referred to as "Borrower").

WITNESSETH:

WHEREAS, Borrower desires to borrow \$7,207,082.50 (Seven Million Two Hundred Seven Thousand Eighty-Two and 50/100 Dollars) from Lender upon such repayment terms and at such rates of interest as shall be set forth in the Promissory Note, as hereinafter defined, contemplated by this Agreement; and

WHEREAS, Lender is willing to loan such sums pursuant to the Loan, as hereinafter defined, to Borrower to provide funds to refinance that certain Deed of Trust given to Vestin Mortgage which is encumbering Borrower's real property, and to pay off that predecessor loan made to Borrower by Bruce R. Holecek, all of which has been authorized by Borrower. Any sums remaining after paying the Vestin Mortgage loan and after paying Bruce R. Holecek all sums due and owing to him will be available only for the use of Borrower and then only for the development and marketing of Borrower, and for no other use, either presently or at any other time in the future. Any other use of the remaining funds is strictly prohibited by this agreement and any such improper use shall be considered as a breach of this agreement.

NOW, THEREFORE, in consideration of the foregoing and the following several and mutual recitals, representations, warranties, promises, covenants, conditions and stipulations herein contained, Borrower does hereby covenant, agree, represent and warrant as follows:

SECTION 1. DEFINITIONS

In this Agreement, as hereinafter defined, and in the Collateral Documents, as hereinafter defined, (unless the context thereof requires a contrary definition or unless the same shall be defined therein, in which latter event, the definitions shall be cumulative and not exclusive), the following words, phrases, and expressions shall have the respective meanings attributed to them:

- A. "Agreement" shall mean this Loan Agreement, and all extensions, amendments, modifications and alterations thereto, in writing, from time to time.
- B. "Borrower" shall mean FRONT SIGHT MANAGEMENT INCORPORATED, a California corporation.
- C. "Collateral" shall mean all property and security described in any of



the Collateral Documents, including, but not by way of limitation, that real property located in Nye County, Nevada described in Exhibit "A" hereto and all water rights pertaining to said property as described on Exhibit "B" hereto.

D. "Collateral Documents" shall mean any and all documents, instruments, notes, agreements, and written memoranda, referred to in this Agreement or referred to in any of the foregoing, or executed in connection herewith or therewith, now or hereafter existing, and specifically, but not by way of limitation, the documents identified in Section 4 hereof.

E. "Equipment" shall mean the Furniture, Fixtures, and Equipment, which is customarily identified and valued as removable from the Premises (as hereinafter defined).

F. "Existing Improvements" shall mean the improvements that existed on the date of acquisition of the Premises, as hereinafter defined.

G. "Event of Default" shall mean the occurrence of any act, omission, or failure as set forth in Section 7 hereof, including any applicable notice required thereunder and time period to cure same.

H. "Improvements" mean both the existing improvements on the Premises, as hereinafter defined, including the Equipment, and all other fixtures, trade fixtures, equipment and other personal property attached to and/or used or to be used in connection therewith, and, if any, the improvements added by any work, if any, funded by the Agreement.

I. "Indebtedness" shall mean and include by way of example, but not by way of limitation:

(i) all indebtedness, obligations and liabilities of the Borrower referred to in this Agreement, or in any of the Collateral Documents, of whatsoever kind, nature and description, primary or secondary, direct, indirect or contingent, due or to become due, and whether now existing or hereafter arising and howsoever evidenced or acquired, and whether joint, several, or joint and several; and,

(ii) all present and future Money Advances made by Lender in connection with this Agreement or the Collateral Documents, or otherwise, and whether made at Lender's option or otherwise, and the Loans, as hereinafter defined, and all Notes, as hereinafter defined, now or hereafter executed or existing in connection herewith, and interest accrued thereon, and any prepayment fee(s), if and to the extent applicable, from time to time; and,

(iii) all future advances made by Lender for the protection or preservation of Lender's rights and interests in the Collateral, or arising under this Agreement or the Collateral Documents, including, but not by way of limitation, advances for taxes, levies, assessments, insurance or maintenance of

the Collateral, and actual attorneys fees; and,

(iv) all costs and expenses incurred by Lender in connection with or arising out of the protection, enforcement or collection of any of the foregoing including, without limitation, actual attorney fees; and,

(v) all costs and expenses incurred by Lender in connection with, or arising out of, the sale, disposition, liquidation or other realization, including, but not by way of limitation, the taking, retaking or holding, and all proceedings, whether judicial or otherwise, of the Collateral, including, without limitation, actual attorney fees.

J. "Interest Rate" shall mean a rate of interest equal to twelve percent (12%) per annum (hereinafter referred to as the "Contract Rate").

K. "Lender" shall mean HOLECEK 1996 IRREVOCABLE TRUST DATED OCTOBER 1, 1996.

L. "Loan" shall mean, singularly, the Mortgage Loan.

M. "Money Advance" shall mean any disbursement of monies by Lender, and/or the Title Insurer, as hereinafter defined, to or for the benefit of Borrower, whether mandatory or optional.

N. "Mortgage Loan" shall mean the loan to Borrower in the amount of \$7,207,082.50 (Seven Million Two Hundred Seven Thousand Eighty-two and 50/100 Dollars).

O. "Note" shall mean the Promissory Note, as hereinafter defined.

P. "Premises" shall mean the Real Estate, as hereinafter defined, and existing improvements and additional improvements now or hereafter located, as existing and the same are constructed, on the Real Estate, as hereinafter defined.

Q. "Promissory Note" shall mean the Note evidencing the Mortgage Loan.

R. "Real Estate" shall mean that certain parcel of real property located in the County of Nye, State of Nevada, as more particularly described on Exhibit "A" attached hereto and made a part hereof, together with all easements, rights, privileges, appurtenances, tenements and hereditaments thereunder belonging, and which may hereafter attach, thereto and any and all heretofore or hereafter vacated alleys and streets abutting thereto, including, without limitation, the water rights.

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## SECTION 2. EVIDENCE OF INDEBTEDNESS

### A. Evidence of Indebtedness.

Borrower shall execute a Promissory Note in the amount of \$7,207,082.50 (Seven Million Two Hundred Seven Thousand Eighty-two and 50/100 Dollars) (U.S.) evidencing the maximum amount of the Loan as provided for pursuant to any loan commitment made by Lender and Borrower shall pay to Lender the payments required by the Promissory Note.

## SECTION 3. INTEREST RATE/PRE-PAYMENT FEES

### A. Loan Interest Rate.

The rate of interest shall be a fixed rate of interest equal to twelve (12%) per annum (hereinafter the "Contract Rate").

### B. Prepayment.

The Note may be prepaid, in whole or in part, at any time prior to maturity, without penalty, along with all interest at the Contract Rate, due as of the date of repayment of the Note.

## SECTION 4. COLLATERAL/COLLATERAL DOCUMENTS

As part of the Collateral and Collateral Documents providing security for the payment of the Note, Loan and all Indebtedness hereunder, and for the timely and faithful performance and observance of the terms, covenants, obligations and conditions of this Agreement and the Collateral Documents, Borrower, and/or all others herein required or to the extent required, hereby grant a security interest to Lender in the Collateral and shall execute and deliver to Lender, or cause to be executed and delivered to Lender, the following, all of which shall constitute a portion of the Collateral Documents:

### A. Deed of Trust.

The DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (sometimes hereinafter or in the Collateral Documents referred to as "Mortgage" or "Deed of Trust") executed by Borrower with respect to the Premises, mortgaging and warranting the Premises to Lender.

### B. Financing Statements.

Uniform Commercial Code, as adopted by the State of Nevada, Financing Statement(s), as required to evidence a security interest in favor of Lender as to that personal property provided by Borrower as

additional security for the Note.

C. Security Agreement.

A Security Agreement as defined by the Uniform Commercial Code, as adopted by the State of Nevada, is a part of the Deed of Trust.

D. Other Documents.

(i) Insurance: Certificates of insurance with respect to the Premises, with Lender named as an additional insured, covering public liability on the Premises, to be provided within thirty (30) days of closing in the amount of no less than One Million Dollars (\$1,000,000.00) per person and Three Million Dollars (\$3,000,000.00) per accident in the aggregate.

(ii) Any other document or agreement that the Lender may reasonably hereinafter require.

SECTION 5. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender as follows:

A. Authority.

Borrower has full power and authority to execute and deliver this Agreement, the Promissory Note, the Deed of Trust, and the Collateral Documents.

B. Titles.

Borrower has good and valid title to the Real Estate and is the owner of all other Collateral herein.

C. Litigation.

There are no known actions, suits or proceedings pending or, to the knowledge of Borrower, threatened against or affecting Borrower or the property of Borrower in any court or before or by any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which may result in any material adverse change in the business, properties or assets or in the condition, financial or otherwise, of Borrower. Borrower is not in default with respect to any order, writ, injunction, decree or demand of any court or federal, state, municipal, or other governmental department, commission, board, bureau, agency, instrumentality, default under which might have consequences which would materially and adversely affect the business or properties of Borrower.

D. Adverse Contracts, etc.

Borrower is not a party to any contract or agreement or subject to

any other restriction or no unusually burdensome order of any regulatory commission, board, or agency, which materially and adversely affect its business, properties or assets or its condition, financial or otherwise. The execution and performance of this Agreement and the Collateral Documents will not result in the creation of any other encumbrance or charge upon any asset of Borrower pursuant to the terms of any other agreement. No provision of any existing mortgage, indenture, contract or agreement binding on Borrower or affecting its property is in effect which would conflict with or in any way prevent the execution, delivery or carrying out of the terms of this Agreement or the Collateral Documents.

E. Default.

There is no Event of Default under this Agreement or the Collateral Documents, now existing or hereafter executed, and no event, act, or omission has occurred and/or which is continuing which, with applicable notice or the passage of time or either, would constitute an Event of Default hereunder.

F. Hazardous Substances.

To the best of Borrower's knowledge, there is no hazardous substance, waste, oil or hazardous material, stored, buried, or disposed of, on, under or in a location which will adversely affect the Premises or create any violation of or subject the Premises to the provision of any applicable environmental laws.

G. Survival and Continuation.

All representations and warranties contained in this Agreement, or in any of the Collateral Documents, now or hereafter existing, are and shall continue to be true and accurate at all times while any Money Advances are outstanding and said representations and warranties shall survive the execution hereof and the consummation of the transactions herein contemplated.

SECTION 6. COVENANTS

Borrower covenants and agrees that, so long as any Money Advance remains outstanding under this Agreement, or any Indebtedness is due, it will; and,

A. Payment of Principal and Interest.

Pay the principal amount of each Money Advance and accrued interest thereon when due in accordance with the terms of the Note, and have no Money Advances outstanding thereunder as otherwise prohibited by this Agreement.

B. Performance of Obligations.

Perform all of the obligations, covenants and agreements of Borrower under this Agreement, the Collateral Documents, or any other agreement, as

well as the Note or any other document executed between the Lender and Borrower, or any other relevant document to which they are a party, whether now existing or hereafter created, and maintain and take all action or not fail to take any action or suffer or permit any omission, necessary to maintain the representations and warranties made as true and accurate.

C. Information.

Furnish promptly and in a form satisfactory to Lender, such information as Lender may reasonably request, from time to time, and to permit Lender or a representative of Lender access to the Premises.

D. Income Taxes.

Pay when due all FICA taxes and all withheld federal, state and/or city income taxes, or any other necessary or relevant taxes related thereto and to notify Lender promptly in the event of its failure to make any such payment when due.

E. Taxes/Charges.

Pay all other taxes, assessments, and other governmental charges to which Borrower, or the property of same, or the Collateral, is or shall be subject before such charges become delinquent, except that no such charge need be paid so long as its validity or amount is being contested in good faith by appropriate proceedings and Borrower shall have established such reserve with respect thereto as shall be required by sound accounting principles, provided that any such tax, assessment, charge or levy shall be paid forthwith, under protest or, if possible bonded around, upon the commencement of proceedings to foreclose any liens securing the same or upon institution of distraint proceedings and further provided, the Borrower shall in any case involving a contested payment due from the Borrower in excess of Five Thousand (\$5,000.00) Dollars, give notice in writing of such action to Lender.

F. Compliance with Laws.

Continue at all times to comply with all laws, ordinances, regulations, permits, licenses or requirements of any governmental authority relating to the Project and Premises, and at all times operate the Premises and any portion thereof in compliance with all the foregoing and not permit the Premises or any portion thereof to be used for any unlawful purpose.

G. Condemnation.

Borrower, immediately upon obtaining knowledge of the threat of or the institution of any proceedings for the condemnation of the Premises or any portion thereof, will notify Lender of the pendency of such proceedings. Upon the threat of or institution of any proceedings for the condemnation of any part of the Premises, which is, in the reasonable opinion of Lender, material and adverse with

respect either to the value of the Collateral or the use or occupancy of the Premises, the Lender shall have the option to terminate its obligations herein. Lender may, upon request, participate in any such proceedings. Borrower from time to time will upon request deliver to Lender all instruments requested by it to permit such participation. In the event of such condemnation proceedings, the award or compensation payable is hereby assigned to and shall be paid to Lender. Lender shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount in which the same shall be paid. In any such condemnation proceedings, Lender may be represented by counsel selected by it. The proceeds of any award or compensation so received shall, at the option of Lender, either be applied, without premium, to the prepayment of the Note in accordance with its terms and at the rate of interest provided therein, regardless of interest payable on the award by the condemning authority, or be paid over to Borrower.

#### SECTION 7. EVENTS OF DEFAULT

The Indebtedness shall mature and become immediately due and payable, at the option of Lender, notwithstanding any maturity date to the contrary, upon the occurrence of any of the following acts, omissions or failures (hereinafter "Events of Default"), and no notice of default or time to cure said Event(s) of Default is required to be provided or given by Lender:

A. Payment.

Borrower shall fail to make payment of any installment of principal and interest required under the Note or of any payment by Borrower required pursuant to this Agreement or under the Collateral Documents; or

B. Deposit of Funds.

Borrower shall fail to make any deposit of funds required hereunder,  
or

C. Breach/Failure.

The failure or breach of any other covenant, warranty, agreement, undertaking, condition, promise, representation or warranty herein contained and/or contained in the Collateral Documents, including the failure to maintain all water rights in the name of Borrower; or

D. Insolvency.

Should any of the following occur:

- (i) a general assignment by Borrower for the benefit of creditors;
- (ii) the filing of a voluntary petition in bankruptcy by Borrower;

(iii) the filing of any involuntary petition under any bankruptcy or insolvency law by Borrower's creditors; or

(iv) the appointment by any court of a receiver to take possession of substantially all of Borrower's assets or of the Premises; or

(v) attachment, execution or other judicial seizure of substantially all of Borrower's assets or the Premises; or

(vi) the death of Ignatius A. Piazza II, President of Borrower; or

(vii) any event, no matter how constituted and, without limitation, pertaining to the dissolution, winding up, or liquidation of Borrower.

#### SECTION 8. REMEDIES IN EVENT OF DEFAULT

Upon the occurrence of any Event of Default, as set forth herein, the Lender shall have the following rights and remedies, provided further that the rights and remedies contained herein or otherwise available shall be cumulative and not exclusive, and Lender shall have the right to exercise any and all other rights and remedies which may be available, whether contained in this Agreement, the Collateral Documents, or available by virtue of law, including the Uniform Commercial Code, as adopted by the State of Nevada, or other similar laws or statutes applicable, or contained in any other instruments or agreements between the Lender and the Borrower, and any such action by Lender shall not serve to release or discharge any other security, property or Collateral held by Lender in connection with this transaction.

##### A. Premises.

Lender or any of its agents or representatives, without notice, shall have the right to enter the premises of Borrower, or any other place(s) where the books and records of Borrower may then be kept and maintained, no matter where located and no matter whether in the State of Nevada, or within the United States of America, or otherwise or Collateral maintained, and make and remove therefrom copies of all such books, records and Collateral including, but without limitation, all books and records referred to in this Agreement, to the premises of Lender or any agent of the Lender, for such time as Lender may desire in order to effectively collect and liquidate the Collateral. Upon demand by Lender, Borrower shall assemble the Collateral and make it available to Lender at a time and place to be designated by Lender.

##### B. Waiver.

To the extent permitted by applicable law, the Borrower agrees to waive and does hereby absolutely and irrevocably waive and relinquish the benefits and advantages of any valuation, stay, appraisalment, extension or



redemption laws now or hereafter existing which, but for this provision, might be applicable to any sale made under the judgment, order or decree of any court, or otherwise, if any should occur, take place or be present, based on any Note(s) contemplated hereby, or on any claim for interest on such Note(s), or any security interest set forth in this Agreement without reduction or limitation, no matter the basis for any claim or alleged right relating thereto.

C. Receiver.

In its sole and unlimited right and discretion to do so, Lender shall be entitled to the appointment of a receiver of the Premises and of the rents, profits and fees derived therefrom, and all Collateral. This appointment shall be in addition to any other rights, relief, or remedies afforded Lender. Such receiver, in addition to any other rights to which he shall be entitled, shall be authorized to sell any and all property of the Borrower for the benefit of Lender pursuant to provisions of Nevada law and the provisions of the Uniform Commercial Code then in effect and as adopted by the State of Nevada. In the event of any deficiency, Borrower shall remain liable therefor to the Lender.

D. Injunction.

Borrower acknowledges that upon the occurrence of an Event of Default no remedy at law will provide adequate relief to Lender; therefore, Borrower agrees that Lender shall be entitled to temporary and permanent injunctive, or other equitable relief, in any such case without requiring proof of actual damages, it being acknowledged that the nature of Borrower's business dictates such relief is necessary in order to preserve the Collateral and rights of the Lender. Furthermore, notwithstanding any rule, law, statute, or otherwise, to the contrary, Lender shall not be required to post or provide any bond relating thereto and, notwithstanding this provision, a bond is required prior to the court granting injunctive relief, Borrower shall be required to immediately pay all costs, fees, and expenses relating thereto, and said amounts shall be secured in full by the Deed of Trust related hereto.

E. Fees/Expenses.

Borrower shall pay to Lender, on demand, any and all expenses, including actual attorneys' fees and legal expenses incurred or paid by Lender in protecting or enforcing its rights under this Agreement, the Collateral Documents or pursuant to any other document or agreement. Lender shall apply the net proceeds of any sale, other disposition or holding of Collateral, after deducting all costs and expenses of every kind incurred therein or incidental to the retaking, holding, preparing for sale, selling, leasing or collecting or in any way relating to the rights of Lender hereunder, to the payment of any portion of the Indebtedness, in whole or in part, and with full discretion as to all particulars and regards as to said payment or payments, whether due or not due, absolute or contingent, making proper rebate for interest or discount on items not then due, if any, and only after so applying such net

proceeds and ascertainment by Lender of any other amounts required by any existing or future provision of law, need Lender account to Borrower for surplus, if there be any. Borrower shall remain liable at all times and without limitation to Lender for the payment of any deficiency of any Indebtedness, together with interest thereon at the default interest rate of Eighteen Percent (18%), until paid. Lender shall not be required to proceed against any other party, or against any other Collateral for any Indebtedness or pursue any other right or remedy hereunder, or under any other instrument or agreement, but all such rights and remedies shall be cumulative and in addition to all other rights and remedies of Lender.

F. Enforcement of Rights.

Lender shall be entitled to enforce its rights hereunder and to avail itself of said other security, interests, Collateral and assets, simultaneously or successively, in such order and priority as Lender shall determine or desire, in its sole discretion, and all such security interests, Collateral, rights and remedies shall continue in full force and effect until all Indebtedness of the Borrower shall be satisfied in full, and no one or more of such additions shall be deemed an election of remedies.

G. Offset.

Lender or its assigns shall have the right of offset against any funds of Borrower on deposit with the Lender upon the occurrence of an Event of Default, which right of offset shall be exercisable by Lender without notice thereof.

H. Application of Funds in Account Against Note.

Upon the occurrence of an Event of Default, there shall be no obligation of Lender to make Money Advances pursuant to the Note or any other document or agreement relating to said Note or Notes, or otherwise, and it is stated herein that no such obligation is present herein at any time or for any reason.

I. Curing of Events of Default by Money Advances.

Upon the occurrence of an Event of Default which may be cured by the payment of money or the threat of such an Event of Default as determined by Lender in good faith, Lender shall have the right to make such payment if the Event of Default or threatened Event of Default is failure to pay monies due from Borrower, thereby curing, in whole or in part, the Event of Default.

J. Right of Contest.

Borrower shall have the right to contest in good faith any claim, demand, levy or assessment, the assertion of which would constitute an Event of Default hereunder, brought by any person(s) and/or entity and/or agency, and so

forth, without limitation, except if arising through or by the Lender herein. Any such contests shall be prosecuted diligently and in a manner that does not prejudice Lender hereunder. Upon demand by Lender, Borrower shall make suitable provisions by deposit of funds or by bond satisfactory to Lender for the possibility that the contest will be unsuccessful. Such provision shall be made within five (5) days after demand therefor and if made by deposit of funds, the amount so deposited shall be disbursed in accordance with the resolution of the contest either to Borrower or the adverse claimant. The right of contest is limited to those matters set forth in Section 1.04.1 of the Deed of Trust, pertaining to the payment of Taxes and Assessments.

## SECTION 9. MISCELLANEOUS

### A. Heirs, Successors, and Assigns.

This Agreement shall be binding upon and shall inure to the benefit of the Borrower and Lender, and their respective heirs, successors and assigns, provided that the foregoing shall not authorize any assignment by Borrower of its rights or duties hereunder, which assignment, in whole or in part, by Borrower shall not be permissible and any assignment made in violation of this provision shall be void from the outset.

### B. Non-Waiver.

No delay or failure of Lender in exercising any right, remedy, power, or privilege hereunder shall affect such right, remedy, power, or privilege, nor shall any single or partial exercise thereof preclude the exercise of any other right, remedy, power, or privilege. No delay or failure of Lender at any time to demand strict adherence to the terms of this Agreement, shall be deemed to constitute a course of conduct inconsistent with the Lender's right at any time, before or after any Event of Default, to demand strict adherence to the terms of this Agreement or the Collateral Documents.

### C. Incorporation.

The Collateral Documents are incorporated herein by reference, and in the event any provision thereof is inconsistent with the provisions of this Agreement, then this Agreement shall be deemed paramount unless the rights and remedies of the Lender would be adversely affected or diminished thereby.

### D. Interpretation.

This Agreement, the Notes and the Collateral Documents shall be interpreted, and the rights of the parties hereunder shall be determined, under the laws of the State of Nevada.

### E. Continuation of Representations and Warranties.

All representations and warranties contained herein, in the Collateral Documents, or in writing by the Borrower in connection herewith, shall survive the execution and delivery of this Agreement.

F. Additional Documents.

Borrower, from time to time, upon written request of Lender, will timely make, execute, acknowledge and deliver all such further and additional instruments, and take all such further action as may be required, to carry out the intent and purpose of this Agreement and to provide for the payment of the Loan, Notes, and Money Advances, according to the intent and purpose herein and therein expressed.

G. Hold Harmless/Indemnity.

Without limitation, offset, set-off or otherwise, Borrower hereby assumes total and complete responsibility and liability for, and hereby holds harmless and indemnifies Lender from and against, by way of example, but without limitation, any and all liabilities, demands, obligations, injuries, costs, damages whether direct, indirect or consequential, awards, loss of interest, principal, or any portion of the Indebtedness, charges, expenses, payments of monies and actual attorneys' fees, incurred or suffered, directly or indirectly, by Lender and/or asserted against Lender by any person or entity or agency whatsoever, including Borrower, arising out of this Agreement or the Collateral Documents, or the relationship herein set forth, or the exercise of any right or remedy including the realization, disposition or sale of the Collateral, or any portion thereof, or the exercise of any right in connection therewith, for which Lender may be liable or for which Lender may be claimed to be liable, for any reason whatsoever, even if the above is or are caused by the sole action, inaction, omission or negligence of Lender.

H. Complete Agreement.

This Agreement incorporates and/or contains the entire agreement of the parties hereto and none of the parties shall be bound by anything not expressed in writing.

I. Invalidity.

Should any part, term, or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any law of the State of Nevada, the validity of the remaining portion or provisions of the Agreement shall not be affected thereby.

J. Time.

Time shall be of the essence of this Agreement.

K. No Third Parties Benefited.

This Agreement is made and entered into for the sole protection and benefit of Lender and Borrower, their heirs, successors and assigns, and no other person or persons, entity, agency and so forth, without limitation, shall have any right of action hereon.

L. Actions.

Lender, in its sole discretion and/or desire to do so, shall have the right to commence, appear in, or defend any action or proceeding purporting to affect the rights, duties or liabilities of the parties hereunder or the disbursement of any funds in connection therewith. Lender may incur and pay costs and expenses, including attorney's fees, and Borrower agrees to pay to Lender on demand all such expenses, with any amount not so paid to be secured, without limitation, by the Deed of Trust, and all other documents and agreements related to or pertaining to herein.

M. Commissions and Brokerage Fees.

Borrower agrees to indemnify Lender from any responsibility and/or liability for the payment of any commission, charge or brokerage fees to anyone which may be payable in connection with the making of the Loan herein contemplated, it being understood that any such commission, charge or brokerage fees will be paid directly by the Borrower to the party or parties entitled thereto. Lender has not dealt with the Borrower through the agency of any person or entity in a manner that would, in Lender's good faith opinion, provide such person or entity with any claim for a commission or fee.

N. Modifications.

Without any notice to or any further assent by any other person or persons, entity, agency and/or so forth, the liability of Borrower to Lender for the Indebtedness herein may, from time to time, in whole or in part, be renewed, extended, modified, accrued, compromised or released by Lender, in its sole discretion. Any Collateral or liens for any such Indebtedness may be exchanged, sold, discharged, or surrendered by Lender, in its sole discretion, all without affecting the obligations of any parties hereto under this Agreement or any other Collateral Documents.

O. Continuing Agreement.

All of Borrower's and/or any other parties' agreements, representations, warranties and certificates under, pursuant or relating to this Agreement shall survive and continue until all of the Indebtedness hereunder is paid in full.

P. Payment of Costs.

It is understood and agreed that Borrower shall pay, now or hereafter at the decision and discretion of the Lender, all of the closing costs incurred herein, which shall include by way of description and not limitation, all attorneys' fees and costs relating thereto incurred by Lender, in connection with the consummation and closing of this Loan. All costs, including all attorneys' fees and related costs, in connection with the enforcing of the loan transaction, including by way of description and not limitation, such charges in any court or bankruptcy proceeding, shall also be paid by Borrower immediately upon demand to do so.

Q. Financing Statements.

Except for the financing statement or statements pertaining to the previous loan made to Borrower by Bruce R. Holecek in approximately May 2002, no financing statements covering any Collateral or proceeds thereof, as contemplated by this Agreement, are on file in any public office.

R. Counterparts.

This Agreement may be executed in several counterparts, and each executed counterpart shall constitute an original instrument, but such counterparts shall together constitute but one and the same instrument.

S. Notices.

All notices or demands hereunder to the parties hereto shall be sufficient if made in writing and deposited in the mail, postage prepaid, certified mail, and addressed to the parties respectively as follows:

**IF TO LENDER:**

**HOLECEK 1996  
IRREVOCABLE TRUST  
DATED OCTOBER 1, 1996**  
Attn: Jeri Holecek, Trustee  
13101 Bald Cypress Lane  
Naples, Florida 34119;

and,

Kenneth D. Goodman, Esq.  
Goodman Breen & Gibbs  
3838 Tamiami Trail North,  
Suite 300  
Naples, Florida 34103

**IF TO BORROWER:**

**FRONT SIGHT  
MANAGEMENT  
INCORPORATED**

Attn: Ignatius A. Piazza II, President  
P.O. Box 2619  
Aptos, California 95001;

and,

Dana E. Morris, Esq.  
Newman Morris & Dachelet, Ltd.  
700 Bank of America Plaza  
300 South Fourth Street  
Las Vegas, NV 89101

T. Relationship.

Nothing contained in this Agreement or any action of Lender or Borrower shall create any relationship of agency, partnership, co-venture, or joint venture so as to render Lender liable in any manner to any party dealing with Borrower including, without limitation, that Borrower understands and shall at all times hold Lender out to be solely a Lender and not a developer of the premises described on Exhibit "A." All obligations of Lender hereunder are imposed solely and exclusively for the benefit of Lender and its heirs, successors and assigns and no other person or entity or agency, and so forth, shall have standing to require satisfaction of such conditions in accordance with their terms or be entitled to assume that Lender will or will not do anything in regards to the agreements herein, and pertaining hereto, and no other person shall, under any circumstances, be deemed to be a beneficiary of such conditions, any and all of which may be freely waived in whole or in part by Lender at any time if in its sole discretion it deems it desirable to do so. In addition, Lender makes no representations and assumes no obligations as to third parties concerning the quality of any work of improvement done on the Premises by Borrower or at the direction of Borrower or the absence therefrom of defects. In this regard, Borrower agrees to and shall indemnify Lender from any liability, claims or losses resulting from the condition of the Premises or the Improvements, whether related to the quality of the work of improvement done on the Premises by Borrower, or at the direction of Borrower, or otherwise, and whether arising during or after the term of the Loan made by Lender to Borrower in connection herewith. This provision shall survive the repayment of said Loan and shall continue in full force and effect so long as the possibility of such liability, claims or losses exist.

U. Due on Sale.

Notwithstanding anything contained herein or elsewhere to the contrary, all Indebtedness shall, at the sole option of Lender, be due and payable in full upon the sale, conveyance, transfer, mortgage, pledge or hypothecation of any or all of the right, title or interest of Borrower in, to or under, any or all of the Premises which shall include any transfer of the stock of the Corporation or any

material change in the corporate structure of Borrower.

V. Consent to Jurisdiction.

Borrower hereby waives any plea of jurisdiction or venue on the grounds that Borrower is not a resident of Clark County, Nevada, and hereby specifically authorizes Lender in any action brought to enforce Borrower's obligations to Lender, to institute and prosecute such cause of action in either state or federal court, located in the State of Nevada, and Borrower hereby submits and consents to the jurisdiction of such Court as elected by Lender.

IN WITNESS WHEREOF, Lender and Borrower have each caused this Agreement to be executed, under seal, all as of the day and by the first-mentioned party written.

"LENDER"

HOLECEK 1996 IRREVOCABLE TRUST  
DATED OCTOBER 1, 1996

By: \_\_\_\_\_  
Jeri Holecek, Trustee

"BORROWER"

FRONT SIGHT MANAGEMENT  
INCORPORATED

By:   
Ignatius A. Piazza II, President

FINIS



# Exhibit 2

Recording Requested by, and  
when recorded, return to:

HOLECEK 1996 IRREVOCABLE TRUST  
13101 BALD CYPRESS LANE  
NAPLES, FLORIDA, 34119

APN: 45-481-01/02  
05127977-079

THE ORIGINAL OF THIS INSTRUMENT  
WAS RECORDED IN THE OFFICIAL RECORDS  
OF NYE COUNTY, NEVADA

ON 2/12/06 AT AM  
INSTRUMENT NO. 149308 BOOK NO. ---

**DEED OF TRUST, ASSIGNMENT OF RENTS,  
SECURITY AGREEMENT AND FIXTURE FILING**

THIS DEED OF TRUST, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (hereinafter called "Deed of Trust"), made as of February 7, 2006, by and between FRONT SIGHT MANAGEMENT INCORPORATED, a California corporation, with the address of P.O. Box 2619, Aptos, California 95001 (hereinafter referred to as "Trustor"); Chicago Title Agency of Nevada, Inc. with the address of "Commercial Division," 3980 Howard Hughes Parkway, Suite 100, Las Vegas, NV 89109 (hereinafter referred to as "Trustee"); and, the HOLECEK 1996 IRREVOCABLE TRUST DATED OCTOBER 1, 1996, with the address of 13101 Bald Cypress Lane, Naples, Florida 34119 (hereinafter referred to as "Beneficiary").

WITNESSETH:

FOR THE PURPOSE OF SECURING in such order of priority as Beneficiary may determine (1) the payment of a certain promissory note of even date herewith, in the amount of \$7,207,082.50 (Seven Million Two Hundred Seven Thousand Eighty-two and 50/100 Dollars) (U.S.), made by Trustor to the order of Beneficiary, payable at the times, in the manner and with interest as therein set forth, (hereinafter the "Note") and any extensions, renewals, or modifications thereof; (2) the performance of each and every covenant and agreement of Trustor and the satisfaction of all of the terms and conditions applicable to Trustor or within Trustor's control contained herein; in any other security or pledge agreement, supplemental agreement, or assignment; and, in any other instrument or document heretofore or hereafter executed by Trustor in connection with any indebtedness secured hereunder, as the same may be amended, modified or supplemented from time to time; (3) the payment of such additional loans or advances as hereafter may be made to Trustor or its successors or assigns, when evidenced by a promissory note or notes reciting that they are secured by this Deed of Trust; and (4) the payment of all sums expended or advanced by Beneficiary under or pursuant to the terms hereof or to protect the security hereof, together with interest thereon as herein provided, Trustor, in consideration of the premises, and for the purposes aforesaid, does hereby IRREVOCABLY GRANT, BARGAIN, SELL, CONVEY, TRANSFER AND ASSIGN UNTO THE TRUSTEE IN TRUST, WITH POWER OF SALE that certain property situated in the County of Nye, State of Nevada, more specifically described as follows:

(A) THE LAND: The real property, including any after-acquired title thereto, more particularly described in Exhibit "A" (hereinafter the "LAND" or "THE LAND"), and all water rights as set forth on Exhibit "B," together with any and all other water rights, of any legal kind or nature, appurtenant to THE LAND described on Exhibit "A" (hereafter the "Water Rights"), all of which Exhibits "A" and "B" are attached hereto and incorporated herein and made a part of this Deed of Trust for all purposes.

(B) THE IMPROVEMENTS: TOGETHER WITH (1) all the buildings, structures and improvements of every nature whatsoever now or hereafter situated on the Land, including off-site improvements, if any, and (2) all fixtures, machinery, appliances, equipment, machines and devices, furniture, inventory, and personal property of every nature whatsoever now or hereafter owned or leased by Trustor or in which Trustor has any rights or interests and located in or on, or attached to, and used or intended to be used in connection with the operation of the Land, buildings, structures or the improvements, or in connection with any construction being conducted or which may be conducted thereon, and owned or leased by Trustor or in which Trustor has any interest, and all extensions, additions, accessions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing, and all of the right, title and interest of Trustor in and to any such personal property or fixtures subject to any permitted lien, security interest or claim, which to the fullest extent permitted by law, shall be conclusively deemed fixtures and a part of the real property encumbered hereby (hereinafter called the "Improvements").

(C) EASEMENTS: TOGETHER WITH all easements, rights-of-way, gores or strips of land, streets, ways, alleys, passages, sewer rights, water courses, water rights and powers and all appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property described in paragraphs (A) and (B) hereof, or which hereinafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by Trustor.

(D) TOGETHER WITH (i) all the estate, right, title and interest of Trustor of, in and to all judgments, insurance proceeds, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the property described in paragraphs (A), (B) and (C) hereof or any part thereof under power of eminent domain or for any damage, whether caused by such taking or otherwise, to the property described in paragraphs (A), (B) and (C) hereof or any part thereof, or to any rights appurtenant thereto and all proceeds of any sales or other dispositions of the property described in Paragraphs (A) (B) and (C) hereof or any part thereof, provided that the foregoing shall not be deemed to permit such dispositions except as provided herein; and Beneficiary is hereby authorized to collect and receive said awards and proceeds and to give proper receipts and acquittances therefor, and, if it so elects, to apply the same toward the payment of the indebtedness and other sums secured hereby, notwithstanding the fact that the amount owing thereon may not then be due and payable; and (ii) all accounts, contract rights, general intangibles, actions and insurance proceeds and unearned premiums arising from or relating to the property described in paragraphs (A), (B) and (C) above; and (iii) all proceeds, products, replacements, additions, substitutions, renewals and accessions of and to the property described in paragraphs (A), (B) and (C).

(E) TOGETHER WITH all right, title and interest of Trustor in and to any and all leases now or hereafter on or affecting the property described in paragraphs (A), (B), and (C) hereof, together with all security therefor and all monies payable thereunder, and all books and records which contain payments made under the leases and all security therefor, subject however, to the conditional permission hereinabove given to Trustor to collect the rents, income and other benefits arising under any such lease. Beneficiary shall have the right, at any time and from time to time, to notify any lessee of the rights of Beneficiary as provided by this paragraph.

(F) TOGETHER WITH (i) Trustor's rights to further encumber the property described in paragraphs (A), (B) and (C) above for debt and (ii) all of the Trustor's rights to enter into any lease or lease agreement.

(G) TOGETHER WITH the water rights set forth on Exhibit "B" and described by Permit Number on Exhibit "B" attached hereto and incorporated herein and made a part of this

document for all purposes, together with any and all other water rights, of any legal kind or nature, appurtenant to the Land as described on Exhibit "A" attached hereto (the "Water Rights") are included in this Deed of Trust.

All of the property described in Paragraphs (A), (B), (C), (D), (E), (F) and (G), inclusive, above, and each item of property therein described, is herein referred to as "THE PROPERTY" or "PROPERTY."

(H) **THE PERSONAL PROPERTY:** That personal property, (tangible and intangible) owned by Trustor or in which Trustor holds an interest as set forth and described in that UCC-1 filing statement, along with any and all exhibits or addendums, filed concurrently, or substantial concurrently, herewith (hereinafter referred to as "Personal Property"), which consists of all of Trustor's interest in the firearms owned or held by Trustor which shall include, but is not limited to, submachine guns, machine guns, pistols, rifles, shotguns, magazines or clips (of no less than two magazines or clips per magazine or clip fed weapon), and all accessories, including any after-acquired accessories (which shall include at least one set of replacement parts used in the routine maintenance for each such firearm), now existing and held for training or for use of customers, as described in Exhibit "C" hereto and made a part hereof by reference.

(I) **THE LIFE INSURANCE POLICY:** That collateral assignment of the life insurance policy on the life of IGNATIUS A. PIAZZA II, currently of Aptos, County of Santa Cruz, State of California, issued by the First Colony Life Insurance Company, Policy Number 7054640, in the amount of Ten Million Dollars (\$10,000,000.00), with the assignee being BRUCE R. HOLECEK, currently of Naples, State of Florida, with said assignment expiring on the date and at the time that all payments due by Trustor to Beneficiary are paid in full. If Assignor shall die prior to the payment of the amounts due to assignee pursuant to this Deed of Trust, and all other relevant documents hereto, then assignee's interest in said policy of insurance shall only be to the extent of all sums due and owing to assignee hereunder, including interest due and owing until the date of payment of same to assignee. All other amounts remaining from said policy of insurance, after assignee has been paid in full, shall be paid without delay to Assignor's surviving spouse, then to Assignor's estate if Assignor's spouse shall not survive him.

(J) **THE STOCK CERTIFICATES:** That collateral assignment of all stock certificates evidencing all of the stock owned by IGNATIUS A. PIAZZA II, currently of Aptos, County of Santa Cruz, State of California, in that company, organized and existing pursuant to the laws of the State of California, known as FRONT SIGHT MANAGEMENT INCORPORATED, which is doing business in California, Nevada and elsewhere, as Front Sight Firearms Training Institute (hereinafter "Front Sight"), with said assignment expiring on the date and at the time that all payments due by Trustor to Beneficiary are paid in full.

Said stock certificates shall be held for the benefit of Beneficiary at the Law Offices of Newman Morris & Dachelet, Ltd., currently located at 700 Bank of America Plaza, 300 South Fourth Street, Las Vegas, NV 89101, attention Dana E. Morris, Esq. (hereinafter "NMD"), and said stock certificates shall be held by NMD until all payments due by Trustor to Beneficiary are paid in full, whereupon said stock certificates may be returned to Trustor. The stock certificates contemplated in this paragraph shall be provided by Trustor to NMD within thirty (30) days of the close of the escrow contemplated herein. The failure of the Trustor to provide the stock certificates evidencing the whole of Trustor's ownership in Front Sight shall be considered as an Event of Default, as described.

All of the property described in Paragraphs (A), (B), (C), (D), (E), (F), (G), (H), (I) and (J), inclusive, above, and each item of property therein described, is herein referred to as necessary as the "Collateral" and said property of the Trustor, and of no other or person, or entity, comprises the whole of the Collateral and security for the Note herein

And Trustor, for itself and its successors and assigns, covenants and agrees to and with the Trustee and Beneficiary, that at the time of the ensembling and delivery of these presents, Trustor, without warranty, has good right, full power and lawful authority to grant, bargain, sell, convey, transfer and assign the same in manner and form as aforesaid; hereby fully and absolutely waiving and releasing all rights and claims it may have in or to said lands, lease tenants, and property as a Homestead Exemption or other exemption, under and by virtue of any law of the State of Nevada now existing or which may hereafter be passed in relation thereto. Trustor agrees that any greater title to THE PROPERTY hereafter acquired by Trustor during the term hereof shall be subject hereto.

## ARTICLE I

### COVENANTS OF TRUSTOR

In order to induce Beneficiary to advance the loan evidenced by the Note, Trustor covenants and agrees with Beneficiary, and any successor in title as holder of the Note as follows:

1.01 Performance of Note, Deed of Trust, Etc. Trustor shall fully perform, observe and comply with all provisions hereof of the Note, Loan Agreement and of every other instrument and document securing the Note, Loan Agreement, or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder. Trustor will promptly pay to Beneficiary the principal with interest thereon and all other sums required to be paid by Trustor under the Note and pursuant to the provisions of this Deed of Trust and of every other instrument securing the Note, Loan Agreement or executed in connection therewith when such payment shall become due. All sums payable by Trustor hereunder shall be payable in immediately available funds.

1.02 General Representations, Covenants and Warranties. Trustor represents, covenants and warrants that: (a) Trustor is well and truly seized of a good and marketable title in fee simple to THE PROPERTY, and has good right, full power and lawful authority to mortgage and pledge the same as provided herein and Beneficiary may at all times peaceably and quietly enter upon, hold, occupy and enjoy THE PROPERTY in accordance with the terms hereof; (b) As to the Collateral which is separate and distinct from THE PROPERTY, Trustor is the legal and lawful owner of the whole of said Property, and has the legal right to sell, gift, assign or otherwise divest itself of its interest and/or possessory interest in said items of Collateral; (c) Trustor will maintain and preserve the lien on this Deed of Trust until the indebtedness evidenced by the Note and other sums secured hereby have been paid in full; (d) Trustor is now able to meet its debts as they mature, the fair market value of its assets exceeds its liabilities and no bankruptcy or insolvency proceedings are pending or contemplated by or against Trustor; (e) all reports, statements and other data furnished by Trustor to Beneficiary in connection with the loan evidenced by the Note are true, correct and complete in all material respects and do not omit to state any fact or circumstance necessary to make the statements contained therein not misleading; (f) this Deed of Trust and the Note and all other instruments securing the Note or otherwise executed in connection therewith are valid and binding obligations enforceable in accordance with their respective terms and the execution and delivery thereof do not contravene any contract or agreement to which Trustor is a party or by which Trustor or any of its respective

properties may be bound and do not contravene any law, order, decree, rule or regulation to which Trustor is subject; (f) there are no actions, suits or proceedings pending or, to the knowledge of Trustor, threatened against or affecting Trustor or THE PROPERTY or any other property making up the whole of the Collateral; (g) as of the date of this Deed of Trust, all costs arising from construction of any improvements and the purchase of all equipment located on THE PROPERTY have been paid; h) THE PROPERTY has frontage on, and direct access for ingress and egress to street(s); (i) electric, gas, sewer, water facilities and any other necessary utilities are, and at all times hereafter shall be, available in sufficient capacity to service THE PROPERTY satisfactorily, and any easements necessary to the furnishing of such utility service by Trustor have been obtained and duly recorded; (j) Trustor is not in default under the terms of any instrument evidencing or securing any indebtedness of Trustor and there has occurred no event which would if uncured or uncorrected, constitute a default under any such instrument with the giving of notice, passage of time or both; and k) the proceeds of the indebtedness advanced by Beneficiary and evidenced by the Note are to be used only for the purposes described in the Loan Agreement, which states that any sums remaining after paying the Vestin Mortgage loan and after paying Bruce R. Holecek all sums due and owing to him will be available only for the use of Borrower and then only for the development and marketing of Borrower, and for no other use, either presently or at any other time in the future. Any other use of the remaining funds is strictly prohibited by this agreement and any such improper use shall be considered as a breach of this agreement.

1.03 Compliance with Laws. Trustor covenants and warrants that THE PROPERTY presently complies with and will continue to comply with all applicable restrictive covenants, applicable zoning and subdivision ordinances and building codes, all applicable health and environmental laws and regulations and all other applicable laws, rules and regulations. If Trustor receives notice from any federal, state or other governmental body that it is not in compliance with any such covenant, ordinance, code, law or regulation, Trustor will immediately attempt to cure any violation and will provide Beneficiary with a copy of such notice promptly.

1.04 Taxes and Other Charges.

1.04.1 Taxes and Assessments. Subject to the provisions of paragraph 1.04.3, Trustor shall pay promptly when due all taxes, assessments, rates, dues, charges, fees, levies, fines, impositions, liabilities, obligations and encumbrances of every kind whatsoever now or hereafter imposed, levied or assessed upon or against THE PROPERTY, as well as all income taxes, assessments and other governmental charges levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon or against Trustor or in respect of THE PROPERTY or any part thereof; provided, however, that, unless the non-payment of a tax or assessment may create a forfeiture of THE PROPERTY, Trustor may in good faith, by appropriate proceedings, including without limitation payment of the asserted tax or assessment under protest if such payment must be made in order to contest such tax or assessment, contest the validity, applicability or amount of any asserted tax or assessment and pending such contest Trustor shall not be deemed in default hereunder if on or before the due date of the asserted tax or assessment Trustor establishes an escrow acceptable to Beneficiary in an amount estimated by Beneficiary to be adequate to cover the payment of such tax or assessment with interest, costs and penalties and a reasonable additional sum, to cover possible interest, costs and penalties, and if the amount of such escrow is insufficient to pay any amount adjudged by a court of competent jurisdiction to be due, with all interest, costs and penalties thereon, Trustor shall pay such deficiency no later than the date such judgment becomes final. If, by the laws of the United States of America, or of any state having jurisdiction over Trustor, any tax is due or becomes due in respect of the issuance of this Deed of Trust or of the Note or Loan Agreement, or the recording of all or any of the foregoing or of any security interest created thereby, Trustor will pay such tax in the manner required by such

law. Trustor shall also hold harmless and indemnify Trustee or Beneficiary against any liability incurred by reason of the imposition of any tax on the issuance of this Deed of Trust or of the Note, or on the recording of this Deed of Trust, the Note or of any security interest created thereby.

1.04.2 Mechanics and Other Liens. Trustor shall not permit or suffer any mechanic's, laborer's, materialman's, statutory or other lien, other than any lien for taxes not yet due, to be created upon THE PROPERTY.

1.04.3 Tax Escrow. In order to secure the performance and discharge of Trustor's obligations under this Paragraph 1.04, but not in lieu of such obligations, Trustor will pay over to Beneficiary an amount equal to one-twelfth of the next maturing annual ad valorem taxes, assessments and charges or which charges for purposes of this paragraph shall include, without limitation, water and sewer rents of the nature described in paragraph 1.04.1 for each month that has elapsed since the last date to which such assessments, taxes and charges were paid and Trustor will, in addition, pay over to Beneficiary, together with each installment on the Note, sufficient funds (as estimated from time to time by Beneficiary in its sole discretion) to permit Beneficiary to pay when due said assessments, taxes, and charges. Upon demand by Beneficiary, Trustor shall deliver to Beneficiary such additional monies as are required to make up any deficiencies in the amounts necessary to enable Beneficiary to pay such assessments, taxes, and similar charges. Such deposits shall not be, nor be deemed to be, trust funds nor constitute or be deemed to constitute Beneficiary as an agent of Trustor, but may be commingled with the general funds of Beneficiary, and no interest shall be payable in respect thereof. In the event of a default under any of the terms, covenants and conditions in the Note, this Deed of Trust, or any other instruments or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, to be kept, performed or observed by Trustor, Beneficiary may apply to the reduction of the sums secured hereby, in such manner as Beneficiary shall determine, any amount under this paragraph 1.04.3 and 1.04.4(d) of Article One remaining to Trustor's credit. Any such application of said amount or any portion thereof to any indebtedness secured hereby shall not be construed to cure or waive any default hereunder or invalidate any act done pursuant to any such default or notice. Notwithstanding anything to the contrary contained in this paragraph 1.04.3, Beneficiary's right to make demand for the ad valorem tax payments, assessments and other charges required herein is subject to a conditional waiver of such right so long as there exists no Event of Default and all such items are not delinquent. Beneficiary may conditionally waive such right so long as there exists no Event of Default and all such taxes are paid current. For purposes of the provisions set forth herein, as of the date of the execution of this instant Deed of Trust, real estate property taxes have been paid in full through June 2006.

1.04.4 Insurance.

(a) Subject to Paragraph 1.04.4(d), Trustor shall, at its sole expense, obtain for, deliver to, assign and maintain for the benefit of Beneficiary, during the life of this Deed of Trust, insurance policies insuring THE PROPERTY against all insurable hazards, casualties and contingencies, in such types and amounts as Beneficiary may reasonably require. Trustor shall pay promptly when due any premiums on such insurance policies and on any renewals thereof. The form of such policies and the companies issuing them shall be reasonably acceptable to Beneficiary. Copies of all such policies and renewals thereof shall be held by Beneficiary and shall contain a non-contributory standard mortgagee or beneficiary endorsement making losses payable to Beneficiary, its successors and assigns, as their interests may appear. To the extent required or necessary, Trustor shall ensure that Beneficiary is named as an Additional Insured to any and all hazard insurance policies applicable hereto. At least fifteen (15) days prior to the

expiration date of any such policies, renewals thereof satisfactory to Beneficiary shall be delivered to Beneficiary together with receipts evidencing the payment of all premiums on such insurance policies and renewals. In the event of loss, Trustor will give immediate written notice to Beneficiary and Beneficiary may make proof of loss if not made promptly by Trustor. In the event of the foreclosure of this Deed of Trust or any other transfer of title to THE PROPERTY in extinguishment of the indebtedness and other sums secured hereby, all right, title and interest of Trustor in and to all insurance policies and renewals thereof then in force shall pass to the purchaser or grantee. All such policies shall provide that they shall not be canceled or terminated without at least thirty (30) days' prior written notice to Beneficiary.

(b) Pursuant to its rights granted hereunder in all proceeds from any insurance policies, Beneficiary is hereby authorized and empowered at its option to adjust or compromise any loss under any insurance policies on THE PROPERTY and to collect and receive the proceeds from any such policy or policies. Each insurance company is hereby authorized and directed to make payment for all such losses directly to Beneficiary. After deducting from such insurance proceeds any expenses incurred by Beneficiary in the collection or handling of such funds, Beneficiary may apply the net proceeds, at its option, either towards restoring THE PROPERTY or as a credit on any portion of the indebtedness or other sums secured hereby, whether then matured or to mature in the future, or at the option of Beneficiary such sums either wholly or in part may be paid over to Trustor to be used to repair such improvements or to build new improvements in their place or for any other purpose or object satisfactory to Beneficiary, without affecting the lien of this Deed of Trust for the full amount secured hereby before such payment took place. Although Beneficiary intends to use its best efforts to collect such payments in a timely fashion, Beneficiary shall not be responsible for any failure to collect any insurance proceeds due under the terms of any policy regardless of the cause of such failure.

(c) Trustor at its sole expense shall obtain for, deliver to, and maintain for the benefit of, Beneficiary during the life of this Deed of Trust liability insurance policies relating to THE PROPERTY, in such amounts, with such companies and in such form as may be required by Beneficiary. Beneficiary may require such policies to contain an endorsement, in form satisfactory to Beneficiary, naming Beneficiary as an additional insured thereunder. Trustor shall pay promptly when due any premiums on such insurance policies and renewals thereof.

(d) In order to secure the performance and discharge of Trustor's obligations under paragraph 1.04.4, but not in lieu of such obligations, Trustor will pay over to Beneficiary an amount equal to one-twelfth (1/12th) of the next maturing annual insurance premiums for each month that has elapsed since the last date to which such premiums were paid; and Trustor will, in addition, pay over to Beneficiary together with each installment on the Note sufficient funds (as estimated from time to time by Beneficiary in its sole discretion) to permit Beneficiary to pay said premiums when due. Such deposits shall not be, nor be deemed to be, trust funds nor constitute or be deemed to constitute Beneficiary as an agent of Trustor, but may be commingled with the general funds of Beneficiary, and no interest shall be payable in respect thereof. Upon demand by Beneficiary, Trustor shall deliver to Beneficiary such additional monies as are necessary to make up any deficiencies in the amounts necessary to enable Beneficiary to pay such premiums when due. Notwithstanding anything to the contrary contained in this paragraph 1.04.4(d), Beneficiary may conditionally waive such right so long as there exists no Event of Default and all such policy premiums are paid and in full force and effect.

(e) Beneficiary shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts,



solvency of insurance companies, or payment or defense of lawsuits, and Trustor hereby expressly acknowledges and agrees that Trustor has full responsibility therefor and all liability, if any, with respect thereto.

1.04.5 Non-Impairment of Beneficiaries Rights. Nothing contained in either paragraphs 1.04.3 or 1.04.4 shall be deemed to affect any right or remedy of Beneficiary under any provision of this Deed of Trust or under any statute or rule of law to pay any amount required to be paid by paragraphs 1.04.1 and 1.04.4 and to add the amount so paid together with interest at the Default Rate to the indebtedness hereby secured. Although Beneficiary intends to use its best efforts to make such payments in a timely fashion, the arrangements provided for in paragraphs 1.04.3 and 1.04.4(d) are solely for the added protection of Beneficiary and entail no responsibility on Beneficiary's part beyond the allowing of due credit without interest, for sums actually received by it. Upon assignment of this Deed of Trust, any such funds on hand shall be turned over to the assignee and any responsibility of Beneficiary with respect thereto shall terminate.

1.05 Condemnation. Beneficiary shall be entitled to all compensation awards, damages, claims, rights of action, settlements and proceeds of, or on account of, any damage or taking through condemnation or arising from a conveyance in lieu of condemnation, and is hereby authorized, at its option, to commence, appear in and prosecute in its own or Trustor's name any action or proceeding relating to any condemnation and to settle or compromise any claim in connection therewith. All such compensation awards, damages, claims, rights of action and proceeds, and any other payments or relief, and the right thereto, are included in THE PROPERTY and Beneficiary, after deducting therefrom all its expenses, including attorneys' fees, may release any monies so received by it to Trustor without affecting the lien of this Deed of Trust or may apply the same, in such manner as Beneficiary shall determine, to the reduction of the sums secured hereby. Any balance of such monies then remaining shall be paid to Trustor. Trustor agrees to execute such further assignments of any compensation awards, damages, claims, rights of action, settlements and proceeds as Beneficiary may require. Notwithstanding any such condemnation or conveyance in lieu of condemnation, Trustor shall continue to pay interest, computed at the rate provided in the Note, on the entire unpaid principal amount thereof, and provided there is no default under this Deed of Trust, Beneficiary shall be limited to the greater of its then current principal amount secured or one hundred percent (100%) of such net award.

If any part of any automobile parking areas included within THE PROPERTY is taken by condemnation or before such areas are otherwise reduced, Trustor shall provide parking facilities in kind, size and location to comply with all Leases and before making any contract for such substitute parking facilities, Trustor shall furnish to Beneficiary satisfactory assurance of completion thereof, free of liens and in conformity with all governmental zoning, land use and environmental regulations.

1.06 Care of Property.

(a) Trustor shall preserve and maintain THE PROPERTY and any other property making up the Collateral in good condition and repair. Trustor shall not permit, commit or suffer any waste, impairment or deterioration of THE PROPERTY and/or any other property making up the Collateral or of any part thereof, that in any manner materially impairs Beneficiary's security hereunder and will not take any action which will increase the risk of fire or other hazard to THE PROPERTY and/or any other property making up the Collateral or to any part thereof.

(b) Except as otherwise provided in this Deed of Trust, no part of THE

PROPERTY and/or any other property making up the Collateral shall be removed, demolished or materially altered, without the prior written consent of Beneficiary. Trustor shall have the right, without such consent, to remove and dispose of free from the lien of this Deed of Trust any part of THE PROPERTY and/or any other property making up the Collateral as from time to time may become worn out or obsolete, provided that either simultaneously with or prior to such removal, any such property shall be replaced with other property of equal utility and of a value at least equal to that of the replaced property when first acquired and free from any security interest of any other person, and by such removal and replacement Trustor shall be deemed to have subjected such replacement property to the lien of this Deed of Trust.

(c) Beneficiary may enter upon and inspect THE PROPERTY and/or any other property making up the Collateral at any reasonable time during the life of this Deed of Trust.

(d) If any part of THE PROPERTY and/or any other property making up the Collateral shall be lost, damaged or destroyed by fire, condemnation or any other cause Trustor will give immediate written notice thereof to Beneficiary and shall promptly restore THE PROPERTY and/or any other property making up the Collateral to the equivalent of its original condition regardless of whether or not there shall be any insurance proceeds therefor. If part of THE PROPERTY and/or any other property making up the Collateral shall be lost, physically damaged, or destroyed through condemnation, Trustor will promptly restore, repair or alter the remaining property in a manner satisfactory to Beneficiary.

1.07 Transfer of Property. Except as provided in Section 1.12, Trustor shall not sell, contract to sell, convey, transfer, lease, alienate or further encumber any interest in all or any part of THE PROPERTY and/or any other property making up the Collateral either voluntarily or involuntarily, nor shall a voluntary sale, pledge or other transfer of the controlling interest in Trustor be effected, without the prior written consent of Beneficiary having been first obtained to the purchase, transfer, lease or pledge, as to the purchaser, transferee, lessee or pledge, and to the form and substance of any instrument evidencing any such purchase, transfer, lease or pledge. Any such sale, conveyance, alienation, transfer, pledge, lease or encumbrance made without Beneficiary's prior written consent shall be void. For the purposes and intent of this paragraph, prohibited transfers include the sale, pledge, or other transfer of Trustor's interest of any of Trustor's stock. Trustor shall not, without the prior written consent of Beneficiary, further assign the rents from THE PROPERTY to anyone other than the Beneficiary, and any such assignment without the prior express written consent of Beneficiary shall be null and void. Trustor agrees that in the event the ownership of THE PROPERTY and/or any other property making up the Collateral or any part thereof becomes vested in a person other than Trustor, Beneficiary may, without notice to Trustor, deal in any way with such successor or successors in interest with reference to this Deed of Trust and the Note and other sums hereby secured without in any way vitiating or discharging Trustor's liability hereunder or upon the Note and other sums hereby secured. No sale of THE PROPERTY and/or any other property making up the Collateral and no forbearance to any person with respect to the Deed of Trust and no extension to any person of the time for payment of the Note and other sums hereby secured given by Beneficiary shall operate to release, discharge, modify, change or affect the original liability of Trustor either in whole or in part.

1.08 Further Assurances. At any time and from time to time, upon Beneficiary's request, Trustor shall make, execute and deliver, or cause to be made, executed and delivered, to Beneficiary and where appropriate shall cause to be recorded or filed, and from time to time thereafter to be re-recorded and refiled at such time and in such offices and places as shall be

deemed desirable by Beneficiary, any and all such further deeds of trust, instruments of further assurance, certificates and other documents as Beneficiary may consider necessary or desirable in order to effectuate complete or perfect, or to continue and preserve, the obligations of Trustor under the Note and this Deed of Trust, and the lien of this Deed of Trust as a lien upon all of THE PROPERTY and/or any other property making up the Collateral, whether now owned or hereafter acquired by Trustor, and unto all and every person or persons deriving any estate, right, title or interest under this Deed or Trust or the power of sale herein contained. Upon any failure by Trustor to do so, Beneficiary may make, execute, record, file, re-record and/or refile any and all such deeds of trust, instruments, certificates and documents for and in the name of Trustor, and Trustor hereby irrevocably appoints Beneficiary the agent and attorney-in-fact of Trustor to do so.

1.09 Security Agreement and Financial Statements. Trustor (as Debtor) hereby grants to Beneficiary (as Creditor and Secured Party), as security for the payment of the Note and all other sums secured by this Deed of Trust, a security interest in all the following described property presently owned or hereafter acquired wherever the same be situated relating to or arising from-

THE PROPERTY: (i) all machinery, apparatus, equipment, fittings, fixtures and articles of personal property of every kind and nature whatsoever, including consumable goods, now or hereafter located in or upon THE PROPERTY or any part thereof, and used or useable in connection with any present or future operation of THE PROPERTY and now owned or hereafter owned by Debtor or leased by Debtor, including by way of description, but without limiting the generality of the foregoing, all water rights, including those set forth on Exhibit "B" hereto, all personal property of the Debtor set forth on Exhibit "C" hereto, where Exhibits "B" and "C" are incorporated herein by reference, as if both of said Exhibits are set forth in full herein, without limitation, all heating, lighting, laundry, incinerating, and power equipment, engines, pipes, pumps, tanks, motors, conduits, switchboards, plumbing apparatus, electrical apparatus including, but not limited to, all electrical transformers, switches, switch boxes, equipment boxes, cabinets, all whether used in the operation of THE PROPERTY or any business operated within or upon THE PROPERTY, lifting, cleaning, fire-prevention, fire-extinguishing, refrigerating, ventilating and communications apparatus, air-cooling, and air-conditioning apparatus, elevators, escalators, shades, awnings, screens, storm doors and windows, stoves, wall beds, refrigerators, attached cabinets, partitions, ovens, ranges, disposals, dishwashers, carpeting, plants and shrubbery, ground maintenance equipment, ducts and compressors; together with all building materials, goods and personal property on or off THE PROPERTY intended to be affixed to or incorporated in THE PROPERTY, but not yet affixed to or incorporated in THE PROPERTY; any and all rights to the name, signs, trade names used to operate the security, and goods and general intangibles, including all accounts now owned or hereafter acquired, wherever the same be situated; (ii) accounts receivable, contract rights, general intangibles, rents and profits, and any other form of obligation requiring the payment of money to Debtor, and any claim by Debtor for any of the foregoing arising from THE PROPERTY and improvements now or hereafter located thereon; (iii) inventory, goods, merchandise, products, commodities, raw materials, goods, finished goods, consumable products and supplies now or hereafter located on or used in connection with THE PROPERTY or the operation thereof; (iv) all assignable licenses, permits, registrations, governmental approvals; (v) Leases and Income with respect to THE PROPERTY (all as hereinafter defined); (vi) all accessions, parts, attachments, and accessories used or intended for use in connection with any of the foregoing; (vii) proceeds, products, proceeds of hazard insurance and eminent domain proceedings, and condemnation awards of all of the foregoing; and (viii) all substitutions, replacements, reposessions, returns and records of any of the foregoing.

For the purposes of the foregoing, the following definitions shall apply:

"Income" shall mean all rents, security or similar deposits, revenues, issues, royalties, earnings, products or proceeds, profits, income, including, without limitation, all rights to payment for occupancy, and all other benefits from THE PROPERTY.

"Leases" shall mean any Lease or agreement, written or oral, demising any portion of THE PROPERTY, now or hereafter existing, and all rights of Debtor thereto or therefrom.

Trustor shall execute any and all such documents, including without limitation, Financing Statements, pursuant to the Uniform Commercial Code, as adopted by the State of Nevada, as Beneficiary may request, to preserve and maintain the priority of the lien created hereby on such property which may be deemed personal property or fixtures, and shall pay to Beneficiary on demand any expenses incurred by Beneficiary in connection with the preparation, execution and filing of documents. Trustor hereby authorizes and empowers Beneficiary to execute and file, on Trustor's behalf, all financing statements and refilings and continuations thereof as Beneficiary deems necessary or advisable to create, preserve and protect said lien. This Deed of Trust shall be deemed a security agreement as defined in the Uniform Commercial Code, as adopted by the State of Nevada, and the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be cumulative (i) as prescribed herein, or (ii) by general law, or (iii) as to such part of the security which is also reflected in said Financing Statement by the specific statutory consequences now or hereafter enacted and specified in the Uniform Commercial Code, as adopted by the State of Nevada, all at Beneficiary's sole election.

Trustor and Beneficiary agree that the filing of a Financing Statement in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing the express declaration and intention of the parties hereto, hereinabove stated, that everything used in connection with the production of income from THE PROPERTY and/or adapted for use therein and/or which is described or reflected in this Deed of Trust is, and at all times and for all purposes and in all proceedings, both legal or equitable, shall be regarded as part of the real estate encumbered by this Deed of Trust irrespective of whether (i) any such item is physically attached to the Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Beneficiary or (iii) any such item is referred to or reflected in any such Financing Statement so filed at any time. Similarly, the mention in any such Financing Statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, or (2) any award in eminent domain proceedings for a taking or for lessening of value, or (3) Trustor's interest as lessor in any present or future lease, or rights to income growing out of the use and/or occupancy of the property conveyed hereby, whether pursuant to lease or otherwise, shall never be construed as in anywise altering any of the rights of Beneficiary as determined by this instrument or impugning the priority of Beneficiary's lien granted hereby or by any other recorded document, but such mention in the Financing Statement is declared to be solely for the protection of Beneficiary in the event any court or judge shall at any time hold with respect to the matters set forth in the foregoing clauses (1), (2), and (3), that notice of Beneficiary's priority of interest to be effective against a particular class of persons including, but not limited to, the federal government and any subdivisions or entities of the federal government, must be filed in the Uniform Commercial Code records of the State of Nevada, as said code has been adopted by the State of Nevada.

1.09.1 Fixture Filing Provisions. This Deed of Trust shall be effective as a Financing Statement filed as a fixture filing from the date of the recording hereof in accordance with NRS § 104.9502. In connection therewith, the addresses of the Trustor as debtor ("Debtor") and Beneficiary as secured party ("Secured Party") are as set forth in Paragraph 4.02 hereof. The foregoing address of Beneficiary, as the Secured Party, is also the address from which information

concerning the security interest may be obtained by any interested party.

(a) The property subject to this fixture filing is described in Paragraph 1.09 above.

(b) Portions of the property subject to this fixture filing as identified in (a) above are or are to become fixtures related to the real estate described on Exhibit "A" to this Deed of Trust.

(c) Secured Party is:

HOLECEK 1996 IRREVOCABLE TRUST DATED OCTOBER 1, 1996

(d) Debtor is:

FRONT SIGHT MANAGEMENT INCORPORATED

1.10 Assignment of Rents. The assignment contained under the section of this Deed of Trust entitled "THE PROPERTY" in paragraph (E) shall be fully operative upon recordation of this Deed of Trust without any further action on the part of either party and specifically Beneficiary is entitled hereunder to all INCOME described in paragraphs (A), (B), (C), (D) and as further defined in Paragraph 1.09 hereof whether or not Beneficiary takes possession of such property. Trustor hereby further grants to Beneficiary the right (i) to enter upon and take possession of THE PROPERTY for the purpose of collecting the said INCOME, (ii) to dispossess by the usual summary proceedings any tenant defaulting in the payment thereof to Beneficiary, (iii) to let THE PROPERTY or any part thereof, and (iv) to apply said INCOME after payment of all necessary charges and expenses, on account of the indebtedness and other sums secured hereby. Beneficiary agrees that Trustor shall have a license to receive, collect and enjoy said INCOME and to enforce all rights granted by Trustor to Beneficiary. This license shall exist so long as the Trustor is not in default as to any Event of Default of the Trust, conditions or provisions of the Note, this Deed of Trust or any other Loan Document. Such assignment and grant shall continue in effect until the indebtedness and other sums secured hereby are paid, the execution of this Deed of Trust constituting and evidencing the irrevocable consent of Trustor to the entry upon and taking possession of THE PROPERTY by Beneficiary pursuant to such grant, whether or not foreclosure has been instituted. Neither the exercise of any rights under this paragraph by Beneficiary nor the application or any such INCOME to the indebtedness and other sums secured hereby, shall cure or waive any default hereunder or invalidate any act done pursuant hereto, but shall be cumulative of all other rights and remedies.

It is understood and agreed that neither the foregoing assignment of rents and profits to Beneficiary nor the exercise by Beneficiary of any of its rights or remedies under Article 3 hereof shall be deemed to make Beneficiary a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to THE PROPERTY or the use, occupancy, enjoyment or operation of all or any portion thereof, unless and until Beneficiary, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for THE PROPERTY by any court at the request of Beneficiary or by agreement with Trustor, or the entering into possession of THE PROPERTY or any part thereof by such receiver, be deemed to make Beneficiary a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to THE PROPERTY or the use, occupancy, enjoyment or operation of all or any portion thereof.

Trustor shall apply the rents and profits to the payment of all necessary and

reasonable operating costs and expenses of THE PROPERTY, debt service on the indebtedness secured hereby, and a reasonable reserve for future expenses, repairs and replacements for THE PROPERTY, before using the rents and profits for Trustor's personal use or any other purpose not for the direct benefit of THE PROPERTY.

1.11 After Acquired Property. To the extent permitted by and subject to applicable law, the lien of this Deed of Trust will automatically attach, without further act, to all after acquired property located in or on, or attached to, or used or intended to be used in connection with, or with the operation of, THE PROPERTY, or of any part thereof.

1.12 Leases Affecting Encumbered Property. Trustor represents that there are no leases of any nature presently in effect relating to THE PROPERTY. If any lease is executed, then as such lease shall expire or terminate or as any new lease shall be made, Trustor shall so notify Beneficiary in order that at all times Beneficiary shall have a current list of all leases affecting the property described in paragraphs (A), (B) and (C) hereof. Trustor shall comply with and observe its obligations as landlord under all leases affecting THE PROPERTY or any part thereof. Trustor, if required by Beneficiary, shall furnish promptly to Beneficiary original or certified copies of all such leases now existing or hereafter created. Trustor shall not, without the express written consent of Beneficiary, amend, modify, extend, terminate or cancel, accept the surrender of, subordinate, accelerate the payment of rent as to, or change the terms of any renewal option of any such lease hereafter created, or permit or suffer an assignment or sublease, except concession leases, for terms of less than one (1) year. Trustor shall not accept payment of rent more than one (1) month in advance without the prior written consent of Beneficiary; or take any action under or with respect to any leases which would decrease either the obligations of the Lessee thereunder or the rights or remedies of the lessor, or in any other manner impair Beneficiary's rights and interests in any such leases and the rents and profits from THE PROPERTY.

Trustor shall not execute any lease or other occupancy agreement (collectively, the "Leases") for terms of greater than one (1) year, of any part of THE PROPERTY, other than on a form approved by Beneficiary, and shall at all times fully perform the obligations of the lessor under all such Leases.

Each of the Leases shall, if required by Beneficiary, make provision for the attornment of the lessee thereunder to any person succeeding to the interest of Trustor as the result of any foreclosure or transfer in lieu of foreclosure hereunder, said provision to be in form and substance approved by Beneficiary.

1.13 Expenses. Trustor will pay when due and payable all appraisal fees, recording fees, taxes, brokerage fees and commissions, abstract fees, title policy fees, escrow fees, attorneys' fees, fees for inspecting architect(s) and engineer(s), if any, and all other costs and expenses of every character which have been incurred or which may hereafter be incurred by Beneficiary, its agents and counsel in connection with the issuance of its commitment, the preparation and execution of loan documents, the funding of its loan, and enforcement of loan documents; and Trustor will, upon demand, reimburse Beneficiary, its agents and counsel for all such expenses which have been incurred or which shall be incurred by any of them; and will indemnify and hold harmless Beneficiary from and against, and reimburse it for, all claims, demands, liabilities, losses, damages, judgments, penalties, costs and expenses including, without limitation, attorneys' fees, which may be imposed upon, asserted against, or incurred or paid by them by reason of, on account of or in connection with, any bodily injury or death or property damage occurring in or upon or in the vicinity of THE PROPERTY through any cause whatsoever or asserted against them on account of any act performed or omitted to be performed hereunder or

on account of any transaction arising out of or in any way connected with THE PROPERTY, or with this Deed of Trust or any of the indebtedness evidenced by the Note.

1.14 Beneficiary's Performance of Defaults. If Trustor defaults in the payment of any assessment or tax, encumbrance or other imposition, in its obligation to furnish insurance hereunder, or in the performance or observance of any other covenant, condition or term of this Deed of Trust, the Note or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, Beneficiary may, to preserve its interest in THE PROPERTY, perform or observe the same, and all payments made, whether such payments are regular or accelerated payments, and all costs and expenses incurred or paid by Beneficiary in connection therewith shall become due and payable immediately. The amounts so incurred or paid by Beneficiary, together with interest thereon, shall be added to the indebtedness and secured by the lien of this Deed of Trust. Beneficiary is hereby empowered to enter and to authorize others to enter upon THE PROPERTY or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to Trustor or any person in possession holding under Trustor.

1.15 Estoppel Affidavits. Trustor, within ten (10) days after written request from the Beneficiary, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of and interest on the Note, and any other unpaid sums secured hereby, and whether or not any offsets or defenses exist against such principal and interest or other sums and covering such other matters with respect to any such indebtedness as Beneficiary may require.

1.15 Use of Property. Trustor covenants that THE PROPERTY is primarily vacant land which will be used for development and for firearms training facilities.

1.16 Use of Beneficiary's Name. Trustor shall not use Beneficiary's name or the name of any person, firm or corporation controlling, controlled by, or under common control with, Beneficiary in connection with any of Trustor's activities, except as such use may be required by applicable law or regulation of any governmental body, or by any financing institution with which Trustor may be doing business.

1.17 Environmental Covenants, Warranties, Plan and Indemnity.

1.18.1 Indemnity. Trustor shall indemnify and hold harmless Beneficiary, its successors, agents, assigns, and so forth, from and against any loss, damage, cost, expense or liability directly or indirectly arising out of or attributable to the use, generation, manufacture, production, storage, release, threatened release, discharge, disposal, or presence of a hazardous substance on, under or about THE PROPERTY including, but not limited to, the actual attorneys' fees. This indemnity provision shall survive repayment of Trustor's obligations under the Note, or this Deed of Trust, and the release of the Deed of Trust, if any, whether by payment of the secured indebtedness or Trustee's power of sale, foreclosure, or any action in lieu thereof.

ARTICLE II  
DEFAULTS

2.01 Event of Default. The term Event of Default, wherever used in this Deed of Trust, shall mean any one or more of the following events:

(a) Failure by Trustor to pay (i) the payment which shall become due and payable under the Note; or (ii) the outstanding principal balance on the Note, together with

interest accrued thereon, upon acceleration, or upon prepayment of the Note; or (iii) any taxes and assessments or insurance premiums when due hereunder; or (iv) any other sums to be paid by Trustor or any Guarantor, or endorser of the Note hereunder, or under any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, when due hereunder or thereunder.

(b) Failure by Trustor or any Guarantor, or endorser of the Note, to duly keep, perform and observe any other covenant, condition or agreement in the Note, this Deed of Trust, the Loan Agreement or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder or the occurrence of any other default under any such instrument or document.

Included herewith is the absolute affirmative requirement on the part of Trustor that Trustor, at all times and in all regards, maintain in good and proper order the right to the benefit of those water rights applicable to Trustor and THE PROPERTY. Trustor shall seek the renewal of all of said water rights permits on an annual basis, as required by the express provisions of Nevada law, set forth in the Nevada Revised Statutes and the Nevada Administrative Code, in order that said water rights do not eventually revert back to the State of Nevada, after all statutorily required and applicable notice and cure periods shall have passed without Trustor, as the permit holder, shall have renewed its rights in and as to said water rights. Trustor affirmatively states that it is aware that all of the water rights benefit Trustor and THE PROPERTY. Trustor shall also continue to actively prosecute all actions, scope of work, activities and so forth required of Trustor so that it might be able to support the annual water right renewal process, prior to said permit holder obtaining a Proof of Beneficial Use certificate as to said water rights and THE PROPERTY. Trustor shall also at all times effectively and affirmatively maintain all pumps, equipment, water lines, fixtures, and so forth, for the use of and/or efficient implementation of the water contemplated by said water rights. Any failure on the part of Trustor to comply with the provisions and requirements set forth herein, and the relevant provisions of the Nevada Revised Statutes and the Nevada Administrative Code pertaining thereto, shall be considered an Event of Default herein.

(c) If any inaccuracy shall exist in any of the financial statements or in any other financial information furnished by or to be furnished by Trustor to Beneficiary pursuant to the provisions of this Deed of Trust or furnished or to be furnished to Beneficiary to induce Beneficiary to make the loan evidenced by the Note.

(d) Breach of any warranty or untruth of any representation of Trustor contained in the Note, this Deed of Trust or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder.

(e) If (i) a petition is filed by or against Trustor or any Guarantor, or endorser of the Note, seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any law relating to bankruptcy or insolvency, or (ii) Trustor or any Guarantor, or endorser of the Note, seeks, consents to, acquiesces in or is subject to the appointment of any trustee, receiver, assignee, custodian, master or liquidator of itself or any of its property or of any of the rent, revenues, issues, earnings, profits or income thereof, or (iii) Trustor or any Guarantor or endorser of the Note, makes any general assignment for the benefit of creditors, or (iv) Trustor or any Guarantor, or endorser of the Note is "insolvent," as hereafter defined; or (v) Trustor or any Guarantor or endorser of the Note, suspends the transaction of its usual business; or (vi) upon the death of Guarantor Ignatius A. Piazza II. For purposes of this paragraph, a person or entity shall be



deemed to be insolvent, if he, she or it is unable to pay his, her or its debts as they become due and/or if the fair market value of his, her or its assets do not exceed his, her or its aggregate liabilities.

(f) If all or any part of THE PROPERTY shall be damaged or taken through condemnation, which term when used herein shall include any damage or taking by any governmental authority or any other authority authorized by the laws of the State of Nevada or the United States of America to so damage or take, and any transfer by private sale in lieu thereof, either temporarily for a period in excess of thirty (30) days, or permanently.

(g) The entry by any court of last resort of a decision that an undertaking by Trustor as herein provided to pay taxes, assessments, levies, liabilities, obligations and encumbrances is legally inoperative or cannot be enforced, or in the event of the passage of any law changing in any way or respect the laws now in force for the taxation of deeds of trust or mortgages or debts secured thereby for any purpose, or the manner of collection of any such taxes, so as to affect adversely this Deed of Trust or the indebtedness or other sums secured hereby.

(h) Failure by Trustor to comply with each and every obligation contained in any approved prior encumbrance.

(i) The dissolution, merger, or consolidation of Trustor or any Guarantor or endorser of the Note.

### ARTICLE III REMEDIES

3.01 Acceleration of Maturity. If an Event of Default shall have occurred Beneficiary may declare the outstanding principal amount of the Note and the interest accrued thereon and all other sums secured hereby, to be due and payable immediately, and upon such declaration such principal and interest and other sums shall immediately become due and payable without demand or notice.

#### 3.02 Beneficiary's Power of Enforcement.

(a) Time is of the essence hereof. Upon default by Trustor in the payment of any indebtedness secured hereby or in the timely and complete performance of any term, covenant, condition or agreement in the Deed of Trust, in the Note, or in any instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, all sums secured hereby shall immediately become due. In the event of a default by Trustor hereunder, Beneficiary may, at its option and in its sole and absolute discretion, deliver to the Trustee written declaration of default and demand for sale and of written Notice of Breach and Election to Sell (this term is interchangeable with Notice of Default and Election to Sell) to cause said property to be sold forthwith to satisfy the obligations hereof, which Notice the Trustee shall cause to be filed for record. Beneficiary also may deposit with the Trustee the Note and all documents evidencing expenditures secured hereby.

(b) Following the recordation of said Notice of Breach and Election to Sell or equivalent, the Trustee, without demand on Trustor, shall sell said property at the time and place fixed by it in said notice, either as a whole or in separate parcels as it shall, in its sole discretion, determine, and in such order as it may determine, at public auction to the highest bidder, for cash in lawful money of the United States, payable in full at the time of sale. The Trustee may, for any cause it deems expedient, postpone the sale of all or any portion of said

property and, in every case, notice of postponement shall be given by public announcement thereof at the time and place last appointed for the sale and from time to time thereafter the Trustee may postpone such sale by public announcement at the time fixed by the preceding postponement. The Trustee shall execute and deliver to the purchaser its Deed conveying said property so sold but without any covenant or warranty, express or implied. The recitals in the Deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including Beneficiary, may bid at the sale.

After deducting all costs, fees and expenses of the Trustee and of this Trust, including the cost of any evidence of title procured in connection with such sale, the Trustee shall apply the proceeds of sale to the payment of: (1) all sums expended under the terms hereof, not then repaid, with accrued interest; (2) all other sums then secured hereby; and (3) the remainder, if any, to the person or persons legally entitled thereto.

(c) If an Event of Default shall have occurred, Beneficiary may, either with or without entry or taking possession as hereinafter provided or otherwise, and without regard to whether or not the indebtedness and other sums secured hereby shall be due and without prejudice to the right of Beneficiary thereafter to bring an action or proceeding to foreclose or any other action for any default existing at the time such earlier action was commenced, proceed by any appropriate action or proceeding: (A) to enforce payment of the Note or the performance of any term hereof or any other right; (B) to foreclose this Deed of Trust in the manner provided by law for the foreclosure of mortgages on real property and to sell, as an entirety or in separate lots or parcels, THE PROPERTY pursuant to the laws of the State of Nevada or under the judgment or decree of a court or courts of competent jurisdiction and Beneficiary shall be entitled to recover in any such proceeding all costs and expenses incident thereto, including the actual attorneys' fees in such amount as shall be awarded by the court; and (C) to pursue any other remedy available to it at law or in equity. Beneficiary shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, or both, as Beneficiary may determine.

### 3.03 Beneficiary's Right to Enter and Take Possession, Operate and Apply Income.

(a) If an Event of Default shall have occurred, notwithstanding and in addition to the Beneficiary's rights under paragraph 1.10 hereof, (i) Trustor upon demand of Beneficiary, shall forthwith surrender to Beneficiary the actual possession and, to the extent permitted by law, Beneficiary itself, or such officers or agents as it may appoint, may enter, and take possession of all of THE PROPERTY or any part thereof, and may exclude Trustor and its agents and employees wholly therefrom and may have joint access with Trustor to the books, papers and accounts of Trustor; and (ii) Trustor will pay monthly in advance to Beneficiary on Beneficiary's entry into possession, or to any receiver appointed to collect the rents, income and other benefits of THE PROPERTY, the fair and reasonable rental value for the use and occupation of such part of THE PROPERTY as may be in possession of Trustor and upon default in any such payment will vacate and surrender possession of such part of THE PROPERTY to Beneficiary or to such receiver and, in default thereof, Trustor may be evicted by summary proceedings or otherwise.

(b) If Trustor shall for any reason fail to surrender or deliver THE PROPERTY or any part thereof after Beneficiary's demand, Beneficiary may obtain a judgment or decree conferring on Beneficiary or the Trustee the right to immediate possession or requiring Trustor to deliver immediate possession of all or part of THE PROPERTY to Beneficiary or the Trustee and Trustor hereby specifically consents to the entry of such judgment or decree. Trustor

shall pay to Beneficiary or Trustee, upon demand, all costs and expenses of obtaining such judgment or decree and reasonable compensation to Beneficiary or the Trustee, their attorneys and agents, and all such costs, expenses and compensation shall, until paid, be secured by the lien of this Deed of Trust.

(c) Upon every such entering upon or taking of possession, the Beneficiary or the Trustee may hold, store, use, operate, manage and control THE PROPERTY and conduct the business thereof, and, from time to time in its sole and absolute discretion:

(i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personality and other property.

(ii) insure or keep THE PROPERTY insured;

(iii) manage and operate THE PROPERTY and exercise all the rights and powers of Trustor in its name or otherwise with respect to the same;

(iv) Enter into agreements with others to exercise the powers herein granted the Beneficiary or the Trustee, all as Beneficiary or the Trustee from time to time may determine; and Beneficiary or the Trustee may collect and receive all the rents, income and other benefits thereof, including those past due as well as those accruing thereafter; and shall apply the monies so received by the Beneficiary or the Trustee in such priority as Beneficiary may determine to (1) the payment of rent or any other tenant charges under the Lease; (2) the payment of interest and principal due and payable on the Note; (3) the deposits for taxes and assessments and insurance premiums due; (4) the cost of insurance, taxes, assessments and other proper charges upon THE PROPERTY or any part thereof; (5) the compensation, expenses and disbursements of the agents, attorneys and other representatives of Beneficiary or the Trustee and (6) any other charges or costs required to be paid by Trustor under the terms hereof.

Beneficiary or the Trustee shall surrender possession of THE PROPERTY to Trustor only when all that is due upon such interest and principal, tax and insurance deposits, and all amounts under any of the terms of this Deed of Trust, shall have been paid and all defaults fully cured. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

3.04 Leases. Beneficiary is authorized to foreclose this Deed of Trust subject to the rights of any tenants of THE PROPERTY, and the failure to make any such tenants parties defendant to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted by Trustor to be, a defense to any proceedings instituted by Beneficiary to collect the sums secured hereby or to collect any deficiency remaining unpaid after the sale of THE PROPERTY. Unless otherwise agreed by Beneficiary in writing, all leases and tenancies of THE PROPERTY executed subsequent to the date hereof, or any part thereof, shall be subordinate and inferior to the lien of this Deed of Trust, except that from time to time Beneficiary may execute and record among the land records of the jurisdiction where this Deed of Trust is recorded, subordination statements with respect to such of said leases as Beneficiary may expressly designate whereby the leases so designated by Beneficiary will be made superior to the lien of this Deed of Trust. From and after the recordation of such subordination statements, the leases therein referred to shall be superior to the lien of this Deed of Trust and shall not be affected by any foreclosure hereof. All such leases and tenancies shall contain a provision to the effect that the tenant recognizes the right of Beneficiary to effect such subordination of this Deed of Trust and consents thereto.

When requested by Beneficiary from time to time, and within such time as Beneficiary may reasonably require, Trustor shall execute, deliver, and record, and shall cause any lessee, tenant, or occupant (hereinafter referred to as tenant) of Trustor designated by Beneficiary to execute, deliver and record separate lease assignments covering any or all of the leases that may affect any part or all of THE PROPERTY. Such separate lease assignments shall be in such form and contain such provisions as Beneficiary may in its discretion require and, without limiting the generality of the foregoing, may require any such tenant to subordinate the tenant's rights to the lien of this Deed of Trust. In no event shall Beneficiary be required to give non-disturbance or similar commitments to any of such tenants. Whether or not separate lease assignments are required by Beneficiary, Trustor hereby authorizes and directs the lessees, tenants, and occupants of THE PROPERTY that, upon notice from Beneficiary, all payments required under said leases, or in any way respecting same, shall be made directly to Beneficiary as they become due. Trustor hereby relieves said lessees, tenants and guests from any liability to Trustor by reason of said payments being made to Beneficiary. Nevertheless, until Beneficiary notifies in writing said lessees, tenants and guests to make such payments to Beneficiary, Trustor shall be entitled to collect all such rents and/or payments. Beneficiary is hereby authorized to give such notification in the event of any breach or default by Trustor under ARTICLE TWO hereof.

3.05 Purchase by Beneficiary. Upon any such foreclosure sale, Beneficiary may bid for and purchase THE PROPERTY and, upon compliance with the terms of sale, may hold, retain and possess and dispose of such property in its own absolute right without further accountability.

3.06 Application of Indebtedness Towards Purchase Price.

Upon any such foreclosure sale, Beneficiary may, if permitted by law, and after allowing for costs and expenses of the sale, compensation and other charges in paying the purchase price, apply any portion of or all of the indebtedness and other sums due to Beneficiary under the Note, this Deed of Trust or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, in lieu of cash, to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon.

3.07 Waiver of Appraisalment, Valuation, Stay, Extension and Redemption Laws.

Trustor agrees to the full extent permitted by law that in case of a default on its part hereunder, neither Trustor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisalment, valuation, stay, extension or redemption laws now or hereafter in force in order to prevent or hinder the enforcement or foreclosure of this Deed of Trust or the absolute sale of THE PROPERTY or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereof, and Trustor, for itself and all who may at any time claim through or under it, hereby waives, to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprising THE PROPERTY marshaled upon any foreclosure of the lien hereof and agrees that the Trustee or any court having jurisdiction to foreclose such lien may sell THE PROPERTY in part or as an entirety.

3.08 Receiver. In addition to the rights of the Beneficiary under paragraph 1.10 hereof, if an Event of Default shall have occurred Beneficiary, to the extent permitted by law and without regard to the value, adequacy or occupancy of the security for the indebtedness and other sums secured hereby, shall be entitled as a matter of right if it so elects, to the appointment of a receiver to enter upon and take possession of THE PROPERTY and to collect all

rents, income and other benefits thereof and apply the same as the court may direct, and such receiver may be appointed by any court of competent jurisdiction by ex parte application and without notice of hearing, such notice and hearing being hereby expressly waived. The expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the powers herein contained, shall be secured by this Deed of Trust. The right to enter and take possession of and to manage and operate THE PROPERTY and to collect all rents, income, and other benefits thereof whether by a receiver or otherwise, shall be cumulative to any other right or remedy hereunder or afforded by law and may be exercised concurrently therewith or independently thereof. Beneficiary shall be liable to account only for such rents, income and other benefits actually received by Beneficiary, whether received pursuant to this paragraph or paragraph 3.03. Notwithstanding the appointment of any receiver or other custodian, Beneficiary shall be entitled as pledgee to the possession and control of any cash, deposits, and instruments at the time held by, or payable or deliverable under the terms of this Deed of Trust to Beneficiary.

3.09 Suits to Protect the Property. Beneficiary shall have the power and authority but shall have no obligation, to institute and maintain any suits and proceedings as Beneficiary may deem advisable (a) to prevent any impairment of THE PROPERTY by any acts which may be unlawful or any violation of this Deed of Trust; (b) to preserve or protect its interest in THE PROPERTY; and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be otherwise prejudicial to Beneficiary's interest.

3.10 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding affecting Trustor or any guarantor, co-maker or endorser of any of Trustor's obligations, its creditors or its property, Beneficiary, to the extent permitted by law, shall be entitled to file such proofs of claim or other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amount due and payable by Trustor under the Note, this Deed of Trust and any other instrument or document securing the Note, or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Trustor after such date.

3.11 Trustor to Pay on Any Default in Payment; Application of Monies by Beneficiary.

(a) If default shall be made in the payment of any amount due under the Note, this Deed of Trust or any other instrument or document securing the Note, or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, then upon Beneficiary's demand, Trustor will pay to Beneficiary the whole amount due and payable under the Note and all other sums secured hereby; and if Trustor shall fail to pay the same forthwith upon such demand, Beneficiary shall be entitled to sue for and to recover an immediate judgment against Trustor for the whole amount so due and unpaid together with costs and expenses including, without limitation, the reasonable compensation, expenses and disbursements of Beneficiary's agents, attorneys and other representatives, either before, after or during the pendency of any proceedings for the enforcement of this Deed of Trust; and the right of Beneficiary to recover such immediately acquired judgment shall not be affected by any taking possession or foreclosure sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the terms of this Deed of Trust, or the foreclosure of the lien hereof.

(b) In case of a foreclosure sale of all or any part of THE PROPERTY and of the application of the proceeds of sale to the payment of the sums secured hereby, Beneficiary shall be entitled to enforce payment from Trustor of all amounts then remaining due and unpaid and to recover immediate judgment against Trustor for any portion thereof remaining unpaid, with interest.

(c) Trustor hereby agrees, to the extent permitted by law, that no recovery of any such judgment by Beneficiary and no attachment or levy of any execution upon any of THE PROPERTY or any other property shall in any way affect the lien of this Deed of Trust upon THE PROPERTY or any part thereof or any lien, rights, powers or remedies of Beneficiary hereunder, but such lien rights, powers and remedies shall continue unimpaired as before.

(d) Any monies collected or received by Beneficiary under this paragraph 3.11 shall be applied to the payment of compensation, expenses and disbursements of the agents, attorneys and other representatives of Beneficiary, and the balance remaining shall be applied to the payment of the amounts due and unpaid under the Note, this Deed of Trust or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder.

(e) The provisions of this paragraph shall not be deemed to limit or otherwise modify the provisions of any guaranty of the indebtedness evidenced by the Note.

3.12 Delay or Omission No Waiver. No delay or omission of Trustee or Beneficiary or any holder of the Note to exercise any right, power or remedy upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein. Every right, power and remedy given to Trustee or Beneficiary may be exercised from time to time and as often as may be deemed expedient by Trustee or Beneficiary.

3.13 No Waiver of One Default to Affect Another.

No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If Beneficiary (a) grants forbearance or any extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted in the Note, this Deed of Trust or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder; (d) releases any part of THE PROPERTY from the lien of this Deed of Trust or any other instrument securing the Note; (e) consents to the filing of any map, plat or replat of the Land; (f) consents to the granting of any easement on the Land; or (g) makes or consents to any agreement changing the terms of this Deed of Trust or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under the Note, this Deed of Trust or otherwise of Trustor, or any subsequent purchaser of THE PROPERTY or any part thereof or any maker, co-signer surety or guarantor. No such act or omission shall preclude Beneficiary from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default, nor except as otherwise expressly provided in an instrument or instruments executed by Beneficiary, shall the lien of this Deed of Trust be altered thereby, except to the extent of releases as described in subparagraph (d) above of this paragraph 3.13. In the event of the sale or transfer by operation of law or otherwise of all or any part of THE PROPERTY, Beneficiary without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to THE PROPERTY or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal

with the original parties here, and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

3.14 Discontinuance of Proceedings; Position of Parties Restored.

If Beneficiary shall have proceeded to enforce any right or remedy under this Deed of Trust by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or such proceedings shall have resulted in a final determination adverse to Beneficiary then, and in every such case, Trustor and Beneficiary shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Beneficiary shall continue as if no such proceedings had been taken.

3.15 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Trustee by Beneficiary by the Note, this Deed of Trust, or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note or any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, or now or hereafter existing at law, in equity or by statute.

3.16 Interest After Event of Default. If an Event of Default shall have occurred, all sums outstanding and unpaid under the Note and this Deed of Trust shall continue to bear interest, but the Interest Rate shall increase to Eighteen Percent (18%) and shall remain at said rate until all payments due hereunder and/or herein shall have been paid in full.

3.17 Foreclosure; Expense of Litigation. If foreclosure be made by the Trustee, attorneys' fees for services in the supervision of said foreclosure proceeding shall be allowed by the Trustee as part of the foreclosure costs. In the event of foreclosure of the lien hereof, there shall be allowed and included as additional indebtedness all expenditures and expenses which may be paid or incurred by or on behalf of Beneficiary for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs, which may be estimated as to items to be expended after the foreclosure sale or entry of the decree, of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to title, as Beneficiary may deem reasonably advisable, either to prosecute such suit or to evidence to a bidder at any sale which may be had pursuant to such decree the true condition of the title to or the value of THE PROPERTY. All expenditures and expenses of the nature in this paragraph mentioned, and such expenses and fees as may be incurred in the protection of said premises and the maintenance of the lien of this Deed of Trust, including the fees of any attorney employed by Beneficiary in any litigation or proceeding affecting this Deed of Trust, the Note or THE PROPERTY, including probate and bankruptcy proceedings, or in the preparations for the commencement or defense of any proceeding or threatened suit or proceeding, shall be immediately due and payable by Trustor, with interest thereon, at the interest rate set forth for this Deed of Trust, and shall be secured by this Deed of Trust.

3.18 Deficiency Judgments. If after any foreclosure of this Deed of Trust or a Trustee's sale hereunder there shall remain any deficiency with respect to any amounts payable under the Note, or hereunder, or any amounts secured hereby, and Beneficiary shall institute any proceedings to recover such deficiency or deficiencies, all such amounts shall thereafter bear interest at Eighteen Percent (18%) per annum, both before and after the entry of any judgment.

In addition, Beneficiary and Trustee shall be entitled to recovery of their costs in connection with such proceedings, including their actual attorney's fees incurred. This provision shall survive any foreclosure or sale of THE PROPERTY and/or the extinguishment of the lien hereof.

ARTICLE IV MISCELLANEOUS  
PROVISIONS

4.01 Heirs, Successors and Assigns Included in Parties. Whenever one of the parties hereto is named or referred to herein, the heirs, successors and assigns of such party, however they shall appear, shall be included and all covenants, agreements, terms, provisions and conditions contained in this Deed of Trust, by or on behalf of Trustor, Trustee or Beneficiary shall bind and inure to the benefit of said respective heirs, successors and assigns, whether so expressed or not. In the event Trustor is composed of more than one party, the obligations, covenants, agreements, and warranties contained herein as well as the obligations arising therefrom are and shall be the joint and several obligations of each such party.

4.02 Addresses for Notices, Etc.

(a) Any notice, report, demand or other instrument authorized or required to be given or furnished under this Deed of Trust to Trustor or Beneficiary shall be deemed given or furnished (i) when addressed to the party intended to receive the same, at the address of such party set forth below, and delivered at such address or (ii) three days after the same is deposited in the United States mail as first class certified mail, return receipt requested, postage paid, whether or not the same is actually received by such party, except that service of any notice of default provided for herein or required by law shall, if mailed, be deemed effective on the date of mailing.

IF TO BENEFICIARY:

HOLECEK 1996 IRREVOCABLE TRUST  
DATED OCTOBER 1, 1996  
Attn: Jeri Holecek, Trustee  
13101 Bald Cypress Lane,  
Naples, Florida 34119;

And,

Kenneth Goodman, Esq.  
Goodman Breen & Gibbs  
3838 Tamiami Trail North  
Suite 300  
Naples, Florida 34103

IF TO TRUSTOR:

Front Sight Management Incorporated,  
a California corporation  
Attn: Dr. Ignatius A. Piazza II  
P.O. Box 2619  
Aptos, California 95001;

And,



Dana L. Morris, Esq.  
Newman Morris & Dachelet, Ltd.  
700 Bank of America Plaza  
300 South Fourth Street  
Las Vegas, Nevada 89101

(b) Either party may change the address to which any such notice, report, demand or other instrument is to be delivered or mailed by furnishing written notice of such change to the other party, but no such notice of change shall be effective unless and until received by such other party.

4.03 Headings. The headings of the articles, sections, paragraphs and subdivisions of this Deed of Trust are for convenience of reference only, are not to be considered a part hereof, and shall not limit or expand or otherwise affect any of the terms hereof.

4.04 Invalid Provisions to Affect No Others. In the event that any of the covenants, agreements, terms or provisions contained in the Note, or in this Deed of Trust, or in any other instrument or document securing the Note or otherwise heretofore or hereafter executed in connection with the indebtedness secured hereunder, shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements terms or provisions contained herein or in the Note or in any other such instrument or document shall be in no way affected, prejudiced or disturbed thereby.

4.05 Changes, Etc. Neither this Deed of Trust nor any term hereof may be changed, waived, discharged or terminated orally, or by any action or inaction, but only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought. Any agreement hereafter made by Trustor and Beneficiary relating to this Deed of Trust shall be superior to the rights of the holder of any intervening lien or encumbrance. Whenever a power of attorney is conferred upon Beneficiary hereunder, it is understood and agreed that such power is conferred with full power of substitution and Beneficiary may elect in its sole discretion to exercise such power itself or to delegate such power, or any part thereof, to one or more sub-agents.

4.06 Governing Law. This Deed of Trust is made by Trustor and accepted by Beneficiary in the State of Nevada, under the laws of such state and shall be construed, interpreted, enforced and governed by and in accordance with the laws of such state.

4.07 Required Notices. Trustor shall notify Beneficiary promptly of the occurrence of any of the following: (i) receipt of notice from any governmental authority relating to THE PROPERTY; (ii) receipt of any notice from any tenant leasing all or any portion of THE PROPERTY; (iii) any change in the occupancy of THE PROPERTY; (iv) receipt of any notice from the holder of any other lien or security interest in THE PROPERTY; or (v) commencement of any judicial or administrative proceedings by or against or otherwise affecting Trustor, THE PROPERTY or any entity controlled by or under common control with Trustor or any other action by any creditor thereof as a result of any default under the terms of any loan.

4.08 Statute of Limitations. To the extent permitted by law, Trustor hereby waives the right to plead the statute of limitations as a defense to any and all obligations secured by this Deed of Trust.

4.09 Substitution of Trustee. Beneficiary, or any successor in ownership of any indebtedness secured hereby may from time to time, by instrument in writing, substitute a successor

or successors to any Trustee named herein or acting hereunder, which instrument, executed by Beneficiary and duly acknowledged and recorded in the office of the recorder of the county or counties where THE PROPERTY is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the Trustee predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original Trustor, Trustee and Beneficiary hereunder, the book and page where this Deed of Trust is recorded, and the name and address of the new Trustee.

4.10 Management. As the management of THE PROPERTY is a material consideration of the Beneficiary in the extension of the monies evidenced by the Note, secured by this Deed of Trust, Trustor covenants that at all times prior to the payment in full of the indebtedness evidenced by the Note and other sums secured hereby, THE PROPERTY shall be managed by Trustor, or by an individual or entity which shall have been approved in writing by Beneficiary.

4.11 Default Rate. Upon an Event of Default, the interest rate herein shall increase to Eighteen Percent (18%) and shall remain at said rate until all monies secured hereby are paid in full.

4.12 Reconveyance. Upon written request of Beneficiary stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and the Note to the Trustee for cancellation and retention and upon payment of its fees, the Trustee shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in such reconveyance may be described as "the person or persons legally entitled thereto." Five years after issuance of such full reconveyance, the Trustee may destroy the Note and this Deed of Trust, unless directed in such request for reconveyance to retain them.

4.13 Partial Release of Trust Property. Provided Trustor is not in default under this Deed of Trust, the Note, the Loan Agreement or any other agreement given as security for the repayment of the Note, the Trustee may, at its sole discretion, with the prior written consent of Beneficiary, and on the written request of the Trustor, grant partial reconveyance(s) from the lien or charge of this Deed of Trust of any one or more of the parcels listed on the attached Exhibit "A," where "Parcel" shall include any part or portion of any one or more parcels listed.

4.14 Release of Water Rights. With the written approval of the Beneficiary, and for good and valuable consideration, Trustor shall sell such water rights as it deems appropriate to do so under the premises, with all of the net proceeds of any such sale to be delivered to Beneficiary for release of the security interest applying thereto and then to be applied to reduction of the principal of the Note; however, in no event shall the total sum of the release amounts paid to Beneficiary exceed the total unpaid principal due under the Note.

4.15 Attorneys Fees. Without limiting any other provision contained herein Trustor agrees to pay all costs of Beneficiary or Trustee incurred in connection with the enforcement of this Deed of Trust or the taking of this Deed of Trust as security for the repayment of the Note, including without limitation, all attorneys' fees, whether or not suit is commenced, and

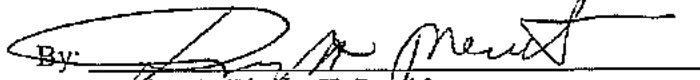
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specifically including fees incurred in connection with any appellate, bankruptcy, deficiency or any other litigation proceedings, all of which sum shall be secured hereby.

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing the day, month and year first written above.

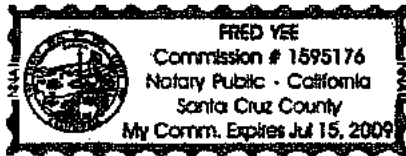
TRUSTOR:

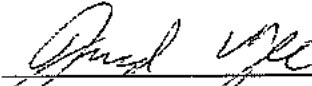
FRONT SIGHT MANAGEMENT INCORPORATED

By:   
Ignatius A. Piazza II, President

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of February 2006, by Ignatius A. Piazza II, President of Front Sight Management Incorporated, personally known to me or ✓ has produced a driver's license as identification.

NOTARY PUBLIC



Signed:   
Print: Fred Yee

My Commission Expires on the 7<sup>th</sup> day of Feb., 2006.

EXHIBIT "A"

BORROWER: FRONT SIGHT MANAGEMENT INCORPORATED  
LENDER: HOLECEK 1996 IRREVOCABLE TRUST  
DATED OCTOBER 1, 1996  
LOAN AMOUNT: \$7,207,082.50 (Seven Million Two Hundred Seven Thousand Eighty-two and 50/100 Dollars) (U.S.)

LEGAL DESCRIPTION

**LOT 1:**

A tract of land being a portion of Tract 38, of the Fraction Township 22 South, Range 54 East, M.D.M. as shown by the Independent Re-Survey and Survey with Tract Segregation filed with the Bureau of Land Management on May 10, 1935, all situated in Nye County, Nevada, more particularly described as follows:

Beginning at the north boundary corner of the most westerly boundary line of said Tract 38, being the corner known as "AP11" of Tract 38 as shown by said Bureau of Land Management survey; Thence along the boundary line of said Tract 38 on the following three (3) courses: 1) S89°55'56"W, 1318.50 feet; Thence 2) N00°48'15"W, 1309.00 feet; Thence 3) N89°19'08"W, 1310.94 feet; Thence S07°25'58"W, 864.51 feet; S51°50'25"E, 540.22 feet; Thence S85°06'44"E, 391.56 feet; S44°07'13"E, 886.99 feet; Thence, S32°07'51"E, 909.73 feet to a point on the boundary line of Tract 38, 861.95 feet; Thence S89°59'28"E along said boundary line of Tract 38, 861.95 feet; Thence N00°48'57"W along said boundary line of Tract 38, 1308.90 feet to the Point of Beginning, containing 3,361,454 square feet, or 77.168 acres of land, more or less.

**LOT 2:**

A tract of land being a portion of Tract 38, of the Fraction Township 22 South, Range 54 East, M.D.M. as shown by the Independent Re-Survey and Survey with Tract Segregation filed with the Bureau of Land Management on May 10, 1935, all situated in Nye County, Nevada, more particularly described as follows:

Commencing at the north boundary corner of the most westerly boundary line of said Tract 38, being the corner known as "AP11" of Tract 38 as shown by said Bureau of Land Management survey; Thence along the boundary line of said Tract 38 on the following three (3) courses: 1) S89°55'56"W, 1318.50 feet to "AP12" of said Tract 38; Thence 2) N00°48'15"W, 1309.00 feet to "AP13" of said Tract 38; Thence 3) N89°19'08"W, 1310.94 feet to the Point of Beginning of the tract of land described herein; Thence S07°25'58"W, 864.51 feet; S51°50'25"E, 540.22 feet; Thence S85°06'44"E, 391.56 feet; S44°07'13"E, 886.99 feet; Thence S32°07'51"E, 909.73 feet to a point on the boundary line of said Tract 38; Thence along said boundary line of Tract 38

on the following eleven (11) courses: 1) N89°59'28"W, 2636.95 feet; Thence 2) S00°19'21"E, 2632.07 feet; Thence 3) N89°43'00"W, 2650.49 feet; Thence 4) N00°00'22"W, 2637.91 feet; Thence 5) N89°33'52"W, 2645.16 feet; Thence 6) N00°21'41"E, 2638.39 feet; Thence 7) S89°18'43"E, 1308.09 feet; Thence 8) N01°14'10"E, 1318.86 feet; Thence 9) S88°49'59"E, 1266.00 feet; Thence 10) S00°32'57"E, 1307.62 feet; Thence 11) S89°19'08"E, 1302.28 feet to the **Point of Beginning**, containing 20,821,883 square feet, or 478.005 acres of land, more or less.

Including all water rights as set forth on Exhibit "B" attached hereto and incorporated herein and made a part hereof by this reference for all purposes, together with any and all other water rights, of any legal kind or nature, appurtenant to THE PROPERTY described on this Exhibit "A."

**EXHIBIT "B"**

TRUSTOR: FRONT SIGHT MANAGEMENT INCORPORATED  
TRUSTEE: CHICAGO TITLE AGENCY OF NEVADA, INC.  
BENEFICIARY: HOLECEK 1996 IRREVOCABLE TRUST DATED OCTOBER  
1, 1996  
LOAN AMOUNT: \$7,207,082.50 (Seven Million Two Hundred Seven Thousand  
Eighty-two and 50/100 Dollars) (U.S.)

**WATER RIGHTS**

On file with the Nevada State Engineers Office:

Permit 24071 (as abrogated)

Permit 57649 (as abrogated)

Permit 62443

Permit 62444

Permit 62445

Permit 62446

Permit 64434

Permit 64435

Permit 64832

Permit 64833

Permit 64834

# Exhibit 3

Filed Under Seal



# Exhibit 4

**CONSTRUCTION LOAN AGREEMENT**

by and between

**FRONT SIGHT MANAGEMENT LLC**

a Nevada limited liability company  
as Borrower

and

**LAS VEGAS DEVELOPMENT FUND LLC,**

a Nevada limited liability company,  
as Lender

Dated: October 6, 2016

(ii) Executive Order No. 13224. None of the Lender, or, to the best of Lender's knowledge, any Affiliate or member thereof or their respective agents acting or benefiting in any capacity in connection with the Loan or other transactions hereunder, is a Blocked Person.

(iii) None of Lender, or, to the best of Lender's knowledge, any Affiliate or member thereof nor any of their agents acting in any capacity in connection with the Loan, any letters of credit or other transactions hereunder (a) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (b) deals in, or otherwise engages in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224.

(iv) Neither Lender nor, to the best of Lender's knowledge, any Affiliate or member thereof nor any person owning an interest therein, are a "Special Designated National" or "Blocked Person" as those terms are defined in the office of Foreign Asset Control Regulations (31 C.F.R. § 500 et. seq.).

THE WARRANTIES AND REPRESENTATIONS IN THIS ARTICLE IV, AND ANY ADDITIONAL WARRANTIES AND REPRESENTATIONS CONTAINED HEREIN AND IN THE OTHER LOAN DOCUMENTS, SHALL BE DEEMED TO HAVE BEEN RENEWED AND RESTATED BY BORROWER AT THE TIME OF EACH REQUEST BY BORROWER FOR AN ADVANCE OF LOAN PROCEEDS.

## ARTICLE V

### (A) COVENANTS OF BORROWER

While this Agreement is in effect, and until Lender has been paid in full the principal of and interest on all Advances made by Lender hereunder and under the other Loan Documents, Borrower agrees to comply with, observe and keep the following covenants and agreements:

**Section 5.1 Completing Construction.** Borrower shall commence construction of the Improvements no later than the Commencement Date. Borrower shall not become a party to any contract, other than the General Contract and the Architect's Agreement, for the performance of any work on the Project or for the supplying of any labor, materials or services for construction of the Improvements, except upon such terms and with such parties as shall be approved in writing by Lender and subject to the condition that each Contractor party to any approved contract execute and deliver to Lender agreements in form acceptable to Lender that either subordinate or waive the lien rights of such Contractors to the liens of Lender under the Loan Documents including, without limitation, the liens of Lender evidenced by the Deed of Trust; provided, however, Borrower may, without the approval of Lender, enter into one or more contracts with any Contractor whose contracts' aggregate amount with such Contractor is less than \$250,000. Borrower shall provide to Lender a list, within thirty (30) days after the end of each calendar quarter, of all Contractors, including all subcontractors, who have entered into written contracts directly with either Borrower or the General Contractor during the preceding calendar quarter. No approval by Lender of any contract or change order shall make Lender

responsible for the adequacy, form or content of such contract or change order. Borrower shall expeditiously complete and fully pay for the construction of the Project in a good and workmanlike manner and in accordance with the Plans submitted or to be submitted to and approved by Lender, and in compliance with all applicable Governmental Requirements, and any covenants, conditions, restrictions and reservations applicable thereto so that Completion of the construction of the Project occurs on or before the Completion Date. Borrower assumes full responsibility for the compliance of the Plans and the Project with all Governmental Requirements, covenants, conditions, restrictions and reservations, and with sound building and engineering practices, and, notwithstanding any approvals by Lender, Lender shall have no obligation or responsibility whatsoever for the Plans or any other matter incident to the Project or the construction of the Improvements. Borrower shall correct or cause to be corrected (a) any defect in the Improvements, (b) any departure in the construction of the Improvements from the Plans or Governmental Requirements, and (c) any encroachment by any part of the Improvements or any other structure located on the Land on any building line, easement, property line or restricted area that is in violation of any applicable Governmental Requirements, or any private agreements for which Borrower has not received a waiver approved by the Lender in writing. Borrower shall cause all roads necessary for the utilization of the Project for its intended purposes to be completed and dedicated (if dedication thereof is required by any governmental authority), the bearing capacity of the soil on the Land to be made sufficient to support the Improvements, and sufficient local utilities to be made available to the Project and installed at costs (if any) set out in the Budget, on or before the Completion Date.

**Section 5.2 Changing Costs, Scope or Timing of Work.** Borrower shall deliver to Lender revised, estimated costs of the Project, showing changes in or variations from the original Estimated Construction Cost Statement, as soon as such changes are known to Borrower. Borrower shall deliver to Lender a revised construction schedule, if and when any target date set forth therein has been delayed by twenty (20) consecutive days or more, or when the aggregate of all such delays equals thirty (30) days or more.

Borrower shall not make or consent to any change or modification in such Plans, contracts or subcontracts, and no work shall be performed with respect to any such change or modification, without the prior written consent of Lender, if (i) such change or modification would in any material way alter the design or structure of the Project or change the rentable area thereof in any way, or increase or decrease the Project cost by \$250,000 or more (after taking into account cost savings and any insurance proceeds of Borrower received by Lender) for any single change or modification, or (ii) the aggregate amount of all changes and modifications exceeds \$500,000 (after taking into account cost savings and any insurance proceeds of Borrower received by Lender). Borrower shall promptly furnish Lender with a copy of all changes or modifications in the Plans, contracts or subcontracts for the Project prior to any Advance used to fund such change or modification whether or not Lender's consent to such change or modification is required hereby.

**Section 5.3 Using Loan Proceeds.** Subject to Section 3.2, Borrower shall use the Loan proceeds in its sole discretion to pay, or to reimburse Borrower for paying, costs and expenses incurred by Borrower in connection with the pre-construction, promotion, construction, development, operating and leasing of the Project on the Land and the equipping of the

Improvements, together with the payoff and release of any existing liens and encumbrances on the Land. Borrower shall take all steps necessary to assure that Loan proceeds are used by its contractors and subcontractors to pay such costs and expenses which could otherwise constitute a mechanic's lien claim against the Project. Within thirty (30) days after the Completion Date, Borrower shall provide the documentation and supporting accounting records and contract documents necessary, in Lender's discretion, to demonstrate that between the Closing Date and the date of delivery of such documentation not less than the total amount of the Advances has been spent directly or indirectly on the Project substantially in a form acceptable to Lender for compliance with the EB-5 Program.

**Section 5.4 Keeping of Records.** Borrower shall set up and maintain accurate and complete books, accounts and records pertaining to the Project. Borrower will permit representatives of Lender to have reasonable access to and to inspect and copy such books, records and contracts of Borrower and to inspect the Project and to discuss Borrower's affairs, finances and accounts with any of its principal officers, all at such times and as often as may reasonably be requested by Lender. Any such inspection by Lender shall be for the sole benefit and protection of Lender, and Lender shall have no obligation to disclose the results thereof to Borrower or to any third party. When a Default or Event of Default exists, Lender may do any of the foregoing during normal business hours without advance notice or other limitation.

**Section 5.5 Providing Evidence of Completion.** Upon completion of the Improvements, Borrower shall furnish Lender with all items required to evidence Completion, certification from the Project Architect that the Project has been completed in accordance with the approved Plans; the evidence of insurance required by Section 5.6 hereof; copies of all warranties covering materials, equipment and appliances included within the Project; copies of all licenses and permits required for operation of the Project, if not previously provided to Lender; and photographs of the completed Improvements as well as evidence that such Improvements have been fully completed, including all punch-list items, as well as such other documents and materials required pursuant to Section 3.7(b) hereof.

**Section 5.6 Maintaining Insurance Coverage.** Borrower shall, at all times until the Note and all other sums due from Borrower to Lender have been fully repaid, maintain, or cause to be maintained, in full force and effect (and shall furnish to Lender copies of), property insurance, liability insurance and workers compensation insurance that are consistent with policies issued from a reputable carrier in Southern Nevada for businesses such as that operated by Borrower. Borrower shall not take any action that would void or otherwise impair any coverages required hereby or that would result in any denial or limitation of such coverages.

**Section 5.7 Transferring, Conveying or Encumbering the Project or Borrower's Ownership Interests.** Without the prior written consent of Lender, Borrower shall not voluntarily or involuntarily agree to, cause, suffer or permit any sale, conveyance, lease, mortgage, grant, lien, encumbrance, security interest, pledge, assignment or transfer of: (a) the Project or any part or portion thereof, or (b) any ownership interest in Borrower, direct or indirect, legal or equitable (including the issuance, sale, redemption, or repurchase of any such interest, the distribution of treasury stock, or the payment of any indebtedness owed to Borrower by any managers, subsidiaries, Affiliates or owners of equity interests or debentures), except for

the following:

- (i) Permitted Encumbrances;
- (ii) Leases permitted by Section 5.24 of this Agreement;
- (iii) Routine, nonexclusive utility easements entered into by Borrower in the ordinary course of business which do not subject the Property to any material financial obligations;
- (iv) In connection with transfers of member interests in Borrower made for estate planning purposes that do not affect the management or control of Borrower and are in compliance with the requirements set forth in the Loan Documents;
- (v) In the event that that Borrower obtains any Senior Debt, Borrower shall be permitted to secure such Senior Debt with a deed of trust and other applicable security documents that are senior to the lien of the Deed of Trust and Lender shall cooperate with Borrower and the provider of the Senior Debt to cause the lien of the Deed of Trust to be subordinated to the lien of any deed of trust and other applicable security documents that are to secure such Senior Debt. For the avoidance of doubt, Lender does hereby covenant and agree with Borrower that Lender shall execute, or cause to be executed, any and all documentation reasonably required by the provider of the Senior Debt, in the form and content presented by the provider of the Senior Debt, in order to cause the aforementioned subordination of the lien of the Deed of Trust, including, but not limited to, any form of subordination and intercreditor agreement that may be required by the provider of the Senior Debt.

Furthermore, the Loan may not be assumed by any Person without Lender's prior written consent.

**Section 5.8 Complying with the Loan Documents and Other Documents.**

Borrower shall comply with and perform all of its obligations under the Loan Documents, and under all other contracts and agreements to which Borrower is a party relating to the ownership, occupancy, use, construction or management of the Project, and shall comply with all requests by Lender which are consistent with the terms thereof.

**Section 5.9 Updated Appraisals.** Borrower agrees that Lender shall have the right to obtain, at Lender's expense, an updated appraisal of the Project at any time that (a) an Event of Default shall have occurred and be continuing hereunder, or (b) after an occurrence of an Event of Default Lender determines, in its sole discretion, that the security for the Loan has been physically or financially impaired in any material manner. Without limitation of the foregoing, Lender may, at Lender's expense, elect to obtain such an appraisal from time to time regardless of whether any of the events described in (a) and (b) above have occurred. In the event that Lender shall elect to obtain an appraisal, Lender may immediately commission an appraiser acceptable to Lender, at Lender's cost and expense, to prepare the appraisal. Borrower shall cooperate with Lender and the appraiser in obtaining the necessary information to prepare such appraisal. In the event that Borrower fails to cooperate with Lender in obtaining such an

appraisal, such event shall constitute an Event of Default hereunder and Lender shall be entitled to exercise all remedies available to it hereunder. In the event such appraisal is required by reason of the damage or destruction of a portion of the Project, the fair market value shall be calculated on the Project after restoration of the Improvements.

**Section 5.10 Reporting Requirements.** Borrower shall furnish to Lender the following:

(a) Financial Statements.

As soon as available and in any event within seventy-five (75) days after the end of each calendar year, unaudited consolidated annual financial statements of Borrower prepared in accordance with GAAP (or another accounting basis reasonably acceptable to Lender) consistently applied, certified by Borrower, which financial statements shall include a balance sheet and related statements of income, retained earnings and cash flow (including, without limitation, the information necessary to determine Borrower's cash flow with respect to the previous calendar year), and a detailed list of real estate owned, directly or indirectly, by Borrower. The financial statements of Borrower shall be accompanied by a no default certificate in form acceptable to Lender certifying that Borrower has no knowledge of the occurrence of any event which constitutes a Default or an Event of Default under this Agreement.

(b) Operating Statements and Operating Budgets. Starting with the month after the calendar month in which Completion occurs, Borrower shall deliver to Lender such Operating Statements and annual Operating Budget as are provided to Borrower by the Management Company prior to the start of each Fiscal Year thereof starting with the Fiscal Year in which Completion occurs. All such Operating Statements shall be certified as true, correct and complete by Borrower and shall be prepared in accordance with GAAP.

(c) Litigation and Other Proceedings. Promptly in writing, notice of (i) all litigation against Borrower in which the amount sought to be recovered exceeds \$50,000 except in cases when the claim is covered by insurance and the insurance company has agreed to assume the defense of the claim and (ii) all proceedings before any Governmental Authority affecting Borrower which, if adversely determined, would constitute a Material Adverse Occurrence as to Borrower.

(d) Defaults. Within five (5) Business Days after the occurrence of any event actually known to Borrower which constitutes a Default or an Event of Default, notice of such occurrence, together with a detailed statement of the steps being taken to cure such event, and the estimated date, if known, on which such action will be taken.

(e) Additional EB-5 reporting. Without limiting the foregoing, information to be provided to Lender by Borrower prior to October 31 of each year, shall specifically include:

(i) Annual report of expenditures on the project, showing amounts at least equal to the amount of money Lender has disbursed to Borrower have been spent on the Project. ; this will include appropriate backup documentation, such as copies of major invoices & payment receipts, major contracts, bank statements, etc.

(ii) Annual report of payroll records and I-9 records – Borrower shall require its contractors to provide quarterly employment records (form 941) so that the information available for its submissions to Lender.

(iii) Annual report of actual number of full-time jobs (35 hours per week minimum) at the Project.

(iv) Federal / state quarterly employment tax returns.

(v) Annual limited liability company income tax returns for the prior calendar year.

**Section 5.11 Taxes and Claims.** Borrower shall pay and discharge all taxes, when due, assessments and other governmental charges upon the Project, as well as all claims for labor and materials which, if unpaid, might become a lien or charge upon the Project; provided, however, that Borrower shall have the right to contest the amount, validity and/or applicability of any of the foregoing which is being contested in good faith and by proper proceedings, and strictly in accordance with the terms of the Deed of Trust.

**Section 5.12 Maintain Existence.** Borrower shall preserve and maintain its name, existence, rights and privileges in the jurisdiction of its organization and qualify and remain qualified in each jurisdiction in which such qualification is necessary in view of its business and operations.

**Section 5.13 Compliance with Applicable Laws.** Borrower shall promptly and faithfully comply with, conform to and obey all present and future Governmental Requirements, including, but not limited to, all Environmental Laws, where failure to so do might have a Material Adverse Occurrence; provided, however, that Borrower shall have the ability to contest any alleged failure to conform to or comply with such Governmental Requirements so long as such obligations shall be contested by appropriate proceedings pursued in good faith and any penalties or other adverse effect of its nonperformance shall be stayed or otherwise not in effect,.

**Section 5.14 Notice.** Borrower shall give prompt written notice to Lender (a) of any action or proceeding instituted by or against Borrower, in any federal or state court or before or by any commission or other regulatory body, federal, state or local, or any such proceedings threatened against Borrower which, if adversely determined, would be a Material Adverse Occurrence as to Borrower or where the amount is \$250,000 or more, (b) any material loss or unusual depreciation of any material asset and the amount of the same, (c) any material dispute that may arise between Borrower or any subsidiary and any Governmental Authority, (d) any



labor controversy resulting or likely to result in a strike or work stoppage against Borrower or any subsidiary, (e) any proposal by any governmental unit to acquire all or any part of Borrower or any subsidiary's assets or business, (f) any change in Borrower's place of business or location of any fixtures or other assets, and (g) any other matters which has resulted or is reasonably likely to result in a Material Adverse Occurrence.

**Section 5.15 Contingent Liability.** Borrower shall not assume, guarantee, endorse or otherwise become directly or contingently liable in connection with any obligation of any Person (other than Borrower), except (i) by endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, or (ii) by indemnity agreements given by Borrower to a title insurance company or a bonding company in connection with any project being constructed or sold by Borrower, including the Project.

**Section 5.16 Merger, Consolidation, and Management.** Borrower and its subsidiaries shall not dissolve, merge or consolidate into any Person, convert into any other type of Person, form or dispose of any subsidiary of Affiliate, or permit any other Person to merge into it, or acquire (in a transaction analogous in purpose or effect to a consolidation or merger) all or substantially all of the assets of any other Person. Furthermore, Borrower shall not make a material change to its management without a minimum of thirty (30) days' prior written notice to Lender.

**Section 5.17 Loss of Note or other Loan Documents.** Upon notice from Lender of the loss, theft, or destruction of the Note and upon receipt of an affidavit of lost note and an indemnity reasonably satisfactory to Borrower from Lender, or in the case of mutilation of a Note, upon surrender of such mutilated Note, Borrower shall make and deliver a new note of like tenor in lieu of the then-to-be-superseded Note. If any of the other Loan Documents were lost or mutilated, Borrower agrees to execute and deliver replacement Loan Documents in the same form of such Loan Document(s) that were lost or mutilated.

**Section 5.18 Distributions.** Borrower shall not, directly or indirectly, prior to the later to occur of Completion of all of the Improvements or the Completion Date, (a) make any distribution of money or property to any Related Party, or (b) make any loan or advance to any Related Party, or (c) pay any principal or interest on any indebtedness due any Related Party, or (d) pay any fees or other compensation (other than payments made to the General Contractor or Manager pursuant to the Budget in conformance with the terms of this Agreement or payments made to any principal of Borrower in accordance with prior historical distributions) to itself or to any Related Party, if any such payment in (a) through (d), inclusive, might adversely affect Borrower's ability to repay the loan in accordance with its terms, provided, however, after Completion of all of the Improvements and the Completion Date, Borrower may make the distributions, loans, advances and payments described in (a), (b), (c) and (d) as long as no Event of Default has occurred and is continuing, and Borrower is in compliance with the reporting requirements set forth in Section 5.12 of this Agreement and further provided that no such payments described in (a) through (d) above shall be made at any time if such payment might adversely affect the ability of the Borrower repay the Loan in accordance with its terms.

**Section 5.19 Permits and Licenses.** Borrower shall promptly obtain and comply with all necessary licenses, permits and approvals from, and has satisfied the requirements of, all governmental entities necessary to commence and complete construction of the Improvements.

**Section 5.20 Patriot Act.** Borrower shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person; (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law. Borrower shall deliver to Lender any certification or other evidence requested from time to time by Lender in its sole discretion, confirming Borrower's compliance with this Section. Borrower shall not authorize or enable any of their respective Affiliates or agents to do any of the foregoing in this Section.

**Section 5.21 Related Party Transactions.** Without Lender's prior written consent, Borrower shall not enter into, or be a party to, any contract or other transaction with a Related Party (including transactions involving the purchase, sale, or exchange of property, the rendering of services or sale of stock) except in the ordinary course of business and upon fair and reasonable terms no less favorable to itself than it would obtain in a comparable arms-length transaction. All Lender-approved Related Party agreements shall satisfy the following conditions: (i) the contract or other agreement therefore is terminable immediately at the election of Lender after the occurrence of an Event of Default, (ii) such agreements must provide that any amount payable by Borrower under any such contract or agreement with a Related Party is expressly made subordinate by Borrower and Related Party to Borrower's payment Obligations under the Loan Documents, and (iii) the contract or transaction is not otherwise prohibited by this Agreement or any of the other Loan Documents. In addition to the foregoing restrictions, Borrower shall not make any distributions of any type to any Related Party, except for salary and reimbursement of reasonable expenses actually incurred and consistent with the Budget, whether such proposed additional distribution is in the form of dividends, interest, returns of capital, distributions of profit, bonuses or any other form of distribution.

**Section 5.22 Leases.** Borrower shall not enter into any Lease, and shall not substantially modify or terminate any Lease, unless (a) Lender has been notified on or prior to the date of execution of such Lease, and (b) such Lease is made subordinate to the lien, operation and effect of the Deed of Trust pursuant to a subordination, non-disturbance and attornment agreement satisfactory each Lease is entered into in the ordinary course of Borrower's business. Borrower shall comply in all respects with the terms, the covenants, agreements, conditions and requirements of each of the Leases, as, when and in the manner required thereby. Borrower shall promptly notify Lender when Borrower receives notice of any default by Borrower as landlord under any Lease.

**Section 5.23 Debt; Operations and Fundamental Changes of Borrower. Borrower:**

(a) will not own any asset other than (i) the Project and (ii) incidental personal property necessary for the ownership, operation, management and financing of the Project;

(b) will not engage in any business other than the ownership, development, management, leasing, operation and sale of the Project and will conduct and operate its business in substantially the manner as presently anticipated to be conducted and operated;

(c) except for the Senior Debt, will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (i) the Loan, and (ii) trade payables or accrued expenses incurred in the ordinary course of business of operating the Project provided the same are paid when due in accordance with customary trade terms or contested in good faith by appropriate proceedings with adequate reserves as determined by Lender;

(d) will not and will not permit any subsidiary of Borrower to create, incur, or suffer any security interest upon any of its present or future assets that are collateralized by Lender, other than (i) in favor of Lender, (ii) in favor of the provider of the Senior Debt or (iii) liens or claims of materialmen, mechanics, carriers, warehousemen, or processors arising by operation of law in the ordinary course of business and securing obligations that are either paid when due or contested in good faith by appropriate proceedings with adequate reserves as determined by Lender.

(e) will not permit the Project or any portion thereof to secure any debt whatsoever (senior, subordinate or pari passu) other than the Loan and/or any Senior Debt;

(f) will not make any loans or advances to any third party other than financing to timeshare purchasers, and will not acquire obligations or securities of its Affiliates;

(g) will not make any payment on any indebtedness in violation of any subordination agreement made by the holder of such indebtedness;

(h) will not purchase or acquire obligations owed by third parties;

(i) will remain solvent and pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from Borrower's assets as the same shall become due;

(j) will do all things necessary to observe organizational formalities and preserve Borrower's existence;

(k) will at all times hold itself out to the public as a legal entity separate and distinct from any other entity (including any Affiliate of Borrower or any constituent party of Borrower), shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name, and shall not identify itself or any of its Affiliates as a division or part of the other;

(l) will maintain or have access to adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(m) will not make or consent to any material change in its method of accounting (including the basis of application of GAAP) or in its tax elections under any Law;

(n) will not sell, lease, transfer or otherwise dispose of all or any material part of its present or future assets other than the sale of timeshare interests in the Project;

(o) will, to the fullest extent permitted by law, not seek or effect the liquidation, dissolution, winding up, consolidation or merger, in whole or in part, of Borrower; and

(p) except as otherwise permitted in this Agreement or any of the other Loan Documents, will not commingle its funds and other assets with those of any Affiliate or constituent party of Borrower or any other Person, and will hold all of its assets in its own name.

**Section 5.24 Accessibility Regulation.** Borrower shall comply with all Accessibility Regulations which are applicable to the Project.

**Section 5.25 Reports and Returns.** Borrower shall file with the appropriate Governmental Authority every report and notice required by all Laws (including tax returns, levies, and assessments) on or before the initial due date or the extended due date, if there exists a valid extension for filing without interest or penalties.

**Section 5.26 Management Agreement.** Borrower shall deliver to Lender a copy of the fully-executed Management Agreement at least thirty (30) days before the issuance of any certificates of occupancy for the Project.

**Section 5.27 Senior Debt.** Borrower will use its best efforts to obtain Senior Debt as defined herein. Borrower and Lender expect that the Senior Debt documents will impose provisions concerning disbursement procedures, mechanisms to protect against mechanics liens and related matters as are customarily found in construction loans made by institutional lenders, which procedures also tend to help protect Lender. If Borrower has not obtained such Senior Debt by March 31, 2017, Borrower agrees that Lender may impose provisions concerning such matters similar to those customarily found in construction loans made by institutional lenders. In addition, Borrower will execute and deliver, upon request by Lender, such assignments of contracts relating to the Project as Lender shall request, including, but not limited to, the

Management Agreement, documents concerning the construction of the Project and any leases.

**(B) COVENANT OF LENDER**

Lender shall not (i) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person; (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the USA Patriot Act or any other Anti-Terrorism Law. Lender shall deliver to Borrower any certification or other evidence requested from time to time by Borrower in its sole discretion, confirming Lender's compliance with this Section. Lender shall not authorize or enable any of their respective Affiliates, members or agents to do any of the foregoing in this Section.

**ARTICLE VI**

**DEFAULTS**

**Section 6.1 Events of Default.** Any of the following events shall constitute an Event of Default under this Agreement (each an "**Event of Default**"):

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

(b) Borrower shall default in the payment of undisputed fees or other amounts payable to Lender hereunder or under any other Loan Document other than as set forth in subsection (a) above, and such default continues unremedied for a period of ten (10) days after notice from Lender to Borrower thereof.;

(c) Borrower shall default in the performance or observance of any agreement, covenant or condition required to be performed or observed by Borrower under the terms of this Agreement, or any other Loan Document, other than a default described elsewhere in this Section, and such default continues unremedied for a period of thirty (30) days after notice from Lender to Borrower thereof provided that, if cure cannot reasonably be effected within such 30-day period, such failure shall not be an event of default hereunder so long as Borrower promptly (in any event, within ten (10) days after such notice of default from Lender) commences cure, and thereafter diligently (in any event, within ninety (90) days after receipt of such notice of default from Lender) prosecutes such cure to completion; and provided further, however, that notwithstanding the 30-day cure period or extended cure period described above in this subparagraph (c), if a different notice or cure period is specified under any Loan Document or under any provision of the Loan Documents as to any such failure or breach, the specific Loan Document or provision shall control, and Borrower shall have no more time to cure the

failure or breach than is allowed under the specific Loan Document or provision as to such failure or breach;

(d) Any representation or warranty made by Borrower in this Agreement or by Borrower or an Affiliate, if made in connection with the Loan, in any of the other Loan Documents, or in any certificate or document furnished under the terms of this Agreement or in connection with the Loan, shall be untrue or incomplete in any material respect when made or deemed made or restated hereunder unless such representation or warranty was not known by Borrower to be untrue or incomplete at the time made and such representation or warranty is corrected by Borrower and disclosed by Borrower to Lender;

(e) Borrower shall be in default under any term, covenant or condition of any of the Note or of any of the other Loan Documents to which Borrower is a party, other than a default described elsewhere in this Section, after the expiration of any notice or grace period, if any, provided therein;

(f) Work on the Project, once commenced, shall be substantially abandoned, or shall, by reason of Borrower's fault, be unreasonably delayed or discontinued for a period of fifteen (15) consecutive days, or construction shall be delayed for any reason whatsoever to the extent that Completion cannot, in the reasonable judgment of Lender, be accomplished prior to the Completion Date;

(g) Any of Borrower, or any Related Party who is a party to any of the Loan Documents, shall file a petition for bankruptcy; or shall apply for, consent to or permit the appointment of a receiver, custodian, trustee or liquidator for it or any of its property or assets; or shall generally fail to, or admit in writing its inability to, pay its debts as they mature; or shall make a general assignment for the benefit of creditors or shall be adjudicated bankrupt or insolvent; or shall take other similar action for the benefit or protection of its creditors; or shall give notice to any governmental body of insolvency or of pending insolvency or suspension of operations; or shall file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors, or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, rearrangement, dissolution, liquidation or other similar debtor relief law or statute; or shall file an answer admitting the material allegations of a petition filed against it in any proceeding under any such law or statute; or shall be dissolved, liquidated, terminated or merged; or shall effect a plan or other arrangement with creditors; or a trustee, receiver, liquidator or custodian shall be appointed for it or for any of its property or assets and shall not be discharged within ninety (90) days after the date of his appointment; or a petition in involuntary bankruptcy or similar proceedings is filed against it and is not dismissed within ninety (90) days after the date of its filing;

(h) Lender determines that the remaining undisbursed Loan proceeds, together with the proceeds of any Senior Debt, are insufficient to fully pay all of the then-unpaid costs of the Project and the estimated expenses of completion (including the Interest Reserve), and Borrower fails to either (i) deposit with Lender, within three (3) Business

Days following demand, sufficient funds to permit Lender to pay said excess costs as the same become payable or (ii) pay said excess costs directly and deliver to Lender unconditional mechanics' lien waivers therefor (or paid receipts for non-lienable items), at Lender's option;

(i) A default shall occur with respect to the Senior Debt and shall remain uncured after the expiration of any applicable notice or grace period;

(j) A default occurs in the performance of Borrower's obligations in any of Section 5.6, 5.7, 5.8, 5.10, 5.13, 5.16, 5.18, 5.19, 5.22, 5.23 or 5.24, hereof;

(k) The General Contract shall be terminated by either party thereto or either party thereto shall fail to perform its obligations (after any applicable notice and cure period) under the General Contract;

(l) Any uncured default by Borrower under the Management Agreement.

(m) Any failure by Borrower to timely deliver the EB-5 information, which failure continues more than 5 days following notice of such failure from Lender.

**Section 6.2 Rights and Remedies.** Upon the occurrence of an Event of Default, unless such Event of Default is subsequently waived in writing by Lender, Lender may exercise any or all of the following rights and remedies, consecutively or simultaneously, and in any order:

(a) make one or more Advances of Loan proceeds without liability to make any subsequent Advance;

(b) suspend the obligation of Lender to make Advances under this Agreement, without notice to Borrower;

(c) declare that the Commitment is terminated whereupon the Commitment shall terminate;

(d) declare the entire unpaid principal balance of the Note to be immediately due and payable, together with accrued and unpaid interest on such Advances, without notice to or demand on Borrower;

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

(f) cure the Event of Default on behalf of Borrower, and, in doing so, enter upon the Project, and expend such sums as it may deem desirable, including reasonable attorneys' fees, all of which shall be deemed to be Advances hereunder, even though

causing the Loan to exceed the face amount of the Note, shall bear interest at the Default Rate provided herein and shall be payable by Borrower on demand; and/or;

(g) Lender may declare an Event of Default under any other Loan Document in accordance with the terms and conditions thereof, and may effectuate any remedies provided for in such agreement.

In addition to the other remedies set forth herein and in the other Loan Documents, Borrower hereby irrevocably authorizes Lender, at any time while an Event of Default continues, to set off any sum due to or incurred by Lender against all accounts, deposits and credits of Borrower with, and any and all claims of Borrower against Lender. Such right shall exist whether or not Lender shall have made any demand hereunder or under any other Loan Document, whether or not said sums, or any part thereof, or deposits and credits held for the account of Borrower is or are matured or unmatured, and regardless of the existence or adequacy of any collateral, or any other security, right or remedy available to Lender. Lender agrees that, as promptly as is reasonably possible after the exercise of any such setoff right, it shall notify Borrower of its exercise of such setoff right; provided, however, that the failure of Lender to provide such notice shall not affect the validity of the exercise of such setoff rights. Nothing in this Agreement shall be deemed a waiver or prohibition of or restriction on Lender to all rights of banker's lien, setoff and counterclaim available pursuant to law.

**Section 6.3 Completion of Project by Lender.** In addition, in case of the occurrence of an Event of Default specified in Section 6.1(f) hereof, or any Event of Default caused by, or which results in, Borrower's failure, for any reason, to continue with the completion of the construction of the Improvements as required by this Agreement, then Lender may (but shall not be obligated to), in addition to, or in concert with, the other remedies referred to above, take over and complete such construction in accordance with the Plans, with such changes therein as Lender may, in its discretion, deem appropriate, all at the risk, cost and expense of Borrower. Lender may assume or reject any contracts entered into by Borrower in connection with the Project with the exception of timeshare purchase contracts, may enter into additional or different contracts for work, services, labor and materials required, in the judgment of Lender, to complete the Project, may pay, compromise and settle all claims in connection with the construction of the Improvements. All sums, including reasonable attorneys' fees, and charges or fees for supervision and inspection of the construction of the Improvements and for any other necessary or desirable purpose in the discretion of Lender expended by Lender in completing or attempting to complete the construction of the Improvements (whether aggregating more, or less, than the aggregate face amount of the Note), shall be deemed Advances made by Lender to Borrower hereunder, and Borrower shall be liable to Lender, on demand, for the payment of such sums, together with interest on such sums from the date of their expenditure at the rates provided herein. Lender may, in its discretion, at any time abandon work on the Project, after having commenced such work, and may recommence such work at any time, it being understood that nothing in this Section shall impose any obligation on Lender either to complete or not to complete the construction of the Improvements. For the purpose of carrying out the provisions of this Section, Borrower irrevocably appoints Lender its attorney-in-fact, with full power of substitution, to execute and deliver all such documents, to pay and receive such funds, and to take such action as may be necessary, in the judgment of Lender, to complete the Project. This



power of attorney is coupled with an interest and is irrevocable. Lender, however, shall have no obligation to undertake any of the foregoing, and, if Lender does undertake any of the same, it shall have no liability for the adequacy, sufficiency or completion thereof.

## ARTICLE VII

### INTEREST, FEES AND EXPENSES

#### **Section 7.1 Interest; Fees; and Expenses.**

(a) Included in the Loan are amounts for Interest Reserve. Borrower hereby authorizes Lender to disburse the Interest Reserve to pay interest accrued on the Note and all other expenses and fees directly to the party to whom such payment is owed as set forth in this Article 7. The execution of this Agreement by Borrower shall, and hereby does, constitute an irrevocable authorization to Lender to make such advances provided for in this Article 7, and no further authorization from Borrower shall be necessary to warrant such direct advances, and all such direct advances shall be secured by the Deed of Trust as if made directly by Borrower.

(b) Lender in its sole discretion may (but shall not be obligated to do so) make such disbursements authorized under this Article 7 notwithstanding that an Event of Default exists under the terms of this Agreement or any other Loan Document. Such disbursements shall constitute an Advance and be added to the principal balance of the Note, and the Lender shall make the applicable Advances to fund any such disbursements. Such disbursements shall bear interest at the Default Rate. The authorization hereby granted is irrevocable, and no further direction or authorization from Borrower is necessary for Lender to make such disbursements. Nothing contained in this Article 7 shall require Lender to disburse Loan proceeds to pay for any of the items set forth in subsection (a) above if the other conditions set forth in this Agreement for Advances are not satisfied.

#### **Section 7.2 Authorization to Make Loan Advances to Cure Borrower's Defaults.**

If an Event of Default shall occur, Lender (subject to the provisions of this Article 7) may (but shall not be required to) perform any of such covenants and agreements with respect to which Borrower is in Default. Any amounts expended by Lender in so doing and any amounts expended by Lender in connection therewith shall constitute an Advance and be added to the outstanding principal amount of the Loan, and the Lender shall make the applicable Advances to fund any such disbursements. The authorization hereby granted is irrevocable, and no prior notice to or further direction or authorization from Borrower is necessary for Lender to make such disbursements.

## ARTICLE VIII

### MISCELLANEOUS

**Section 8.1 Waiver and Amendment.** No failure on the part of Lender or the holder of the Note to exercise and no delay in exercising any power or right hereunder or under any



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**NEO**  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
Nevada Bar No. 8410  
**ALDRICH LAW FIRM, LTD.**  
7866 West Sahara Avenue  
Las Vegas, NV 89117  
Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**NOTICE OF ENTRY OF ORDER**

AND ALL RELATED COUNTERCLAIMS.

PLEASE TAKE NOTICE that an Order Granting Counterdefendant Jennifer Piazza's  
Motion for Protective Order was entered by the Court in the above-captioned action on the 7<sup>th</sup>

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///

1 day of February, 2020, a true and correct copy of which is attached hereto.

2 DATED this 7<sup>th</sup> day of February, 2020.

3 **ALDRICH LAW FIRM, LTD.**

4 /s/ John P. Aldrich

5 John P. Aldrich, Esq.

6 Nevada Bar No. 6877

7 Catherine Hernandez, Esq.

8 Nevada Bar No. 8410

9 7866 West Sahara Avenue

10 Las Vegas, Nevada 89117

11 Telephone: (702) 853-5490

12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 7<sup>th</sup> day of February, 2020, I caused the foregoing  
16 **NOTICE OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the  
17 Court using Wiznet which will send notification of such filing to the email addresses denoted on  
18 the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the  
19 Electronic Mail Notice List, to the following parties:

20 Anthony T. Case, Esq.

21 Kathryn Holbert, Esq.

22 FARMER CASE & FEDOR

23 2190 E. Pebble Rd., Suite #205

24 Las Vegas, NV 89123

C. Keith Greer, Esq.

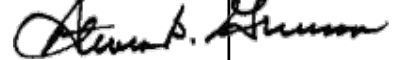
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



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/Counterdefendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

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

11 Plaintiff,

12 vs.

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

15 Defendants.

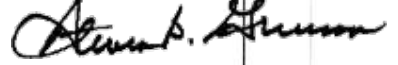
CASE NO.: A-18-781084-B  
DEPT NO.: 16

**ORDER GRANTING**  
**COUNTERDEFENDANT JENNIFER**  
**PIAZZA'S MOTION FOR**  
**PROTECTIVE ORDER**

16 AND ALL RELATED COUNTERCLAIMS.

17 This matter having come before the Court on February 5, 2020 at 9:00 a.m. on  
18 Counterdefendant Jennifer Piazza's Motion for Protective Order, John P. Aldrich, Esq.  
19 appearing on behalf of Plaintiff/Counterdefendants and Kathryn Holbert, Esq. and C. Keith  
20 Greer, Esq., appearing on behalf of Defendants/Counterclaimant, the Court having reviewed  
21 the pleadings on file herein, having received no Opposition to Counterdefendant Jennifer  
22 Piazza's Motion for Protective Order, having heard oral argument by the parties, and for good  
23 cause appearing therefore,





1 **MOT**

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, Nevada 89117  
9 Telephone: (702) 853-5490  
10 Facsimile: (702) 227-1975  
11 *Attorneys for Plaintiff*

12 **EIGHTH JUDICIAL DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 FRONT SIGHT MANAGEMENT LLC, a  
15 Nevada Limited Liability Company,

16 Plaintiff,

17 vs.

18 LAS VEGAS DEVELOPMENT FUND LLC, a  
19 Nevada Limited Liability Company; EB5  
20 IMPACT CAPITAL REGIONAL CENTER  
21 LLC, a Nevada Limited Liability Company;  
22 EB5 IMPACT ADVISORS LLC, a Nevada  
23 Limited Liability Company; ROBERT W.  
24 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  
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,

Defendants.

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

**MOTION TO SEAL AND/OR  
REDACT PORTIONS OF  
DEFENDANTS' OPPOSITIONS TO  
JENNIFER PIAZZA AND THE VNV  
TRUSTS' MOTIONS FOR  
SUMMARY JUDGMENT TO  
PROTECT CONFIDENTIAL  
FINANCIAL INFORMATION,  
MOTION FOR ORDER  
SHORTENING TIME, AND ORDER  
SHORTENING TIME**

DEPARTMENT XVI  
NOTICE OF HEARING  
DATE 2/18/20 TIME 9:00am  
APPROVED BY 


FEB 07 2020

1 COMES NOW Plaintiff FRONT SIGHT MANAGEMENT LLC by and through its  
2 attorneys, John P. Aldrich, Esq. and Catherine Hernandez, Esq., of the Aldrich Law Firm Ltd.,  
3 and hereby moves this Honorable Court (1) for an Order to seal and/or redact portions of  
4 Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions for Summary  
5 Judgment filed on February 3, 2020, which include confidential financial information, and (2) to  
6 have this matter heard on shortened time.

7 This Motion is made and based upon the pleadings and papers on file herein, the  
8 following Points and Authorities, the Affidavit of John P. Aldrich, Esq., and any attached  
9 exhibits.

10 DATED this 6<sup>th</sup> day of February, 2020.

11 **ALDRICH LAW FIRM, LTD.**

12 

13 John P. Aldrich, Esq.

14 Nevada Bar No. 6877

15 Catherine Hernandez, Esq.

16 Nevada Bar No. 8410

17 7866 West Sahara Avenue

18 Las Vegas, NV 89117

19 Tel (702) 853-5490

20 Fax (702) 226-1975

21 *Attorneys for Plaintiff*





1 reference to financial information should have been filed under seal and all references redacted  
2 in the first place. The information Defendants have disclosed includes information taken directly  
3 from Plaintiff's tax returns. This information has now been placed in the public domain and  
4 must be sealed, and all references thereto redacted, so as to protect this confidential proprietary  
5 and personal information. This is of the utmost importance to Plaintiff and Counterdefendants,  
6 and must be heard on an order shortening time.

7 6. Upon receipt of the pleadings disclosing the confidential tax information, I  
8 reached out to opposing counsel, explained Defendants had disclosed private tax information,  
9 and asked that Defendants remove the tax return information from the public domain.  
10 Defendants refused. The intent of the Protective Order was to protect exactly this type of  
11 information, as explained therein.

12 7. This is the second time Defendants have placed Plaintiff or Counterdefendants'  
13 private proprietary and personal financial information in the public domain. Early in the case, on  
14 February 6, 2019, Defendants described in detail Plaintiff's financial information in pleadings  
15 and then also filed Plaintiff's tax documents as attachments to the pleadings. Plaintiff brought a  
16 Motion to Seal. This Court granted the Motion in part, sealing the attachments (the actual tax  
17 return documents) but declining to seal the information that was taken from the tax returns and  
18 regurgitated verbatim in the pleadings.

19 6. Plaintiff respectfully requests that the Court hear this matter as soon as possible.  
20 The next hearing scheduled in this case is on February 26, 2020 on the following matters: (1)  
21 Motion to Compel and for Sanctions; (2) Motion for Summary Judgment as to the Counterclaims  
22 Against Jennifer Piazza; and (3) Motion for Summary Judgment as to the Counterclaims Against  
23 VNV Dynasty Trust I and VNV Dynasty Trust II. However, because Plaintiff's and  
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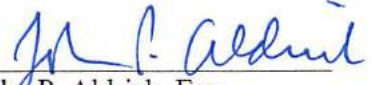
1 Counterdefendants' information has been filed in the public domain, movants respectfully  
2 request a hearing sooner than February 26, 2020; instead, movants request a hearing as soon as  
3 possible.

4 7. I respectfully request that, pursuant to EDCR 2.26, this Court grant Plaintiff's  
5 Order Shortening Time and set the Motion on shortened time.

6 9. This request for an Order shortening time is made in good faith and without  
7 dilatory motive.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 DATED this 6<sup>th</sup> day of February, 2020.

10   
11 John P. Aldrich, Esq.

12 Subscribed & sworn to before me  
13 this 6<sup>th</sup> day of February, 2020.

14   
15 NOTARY PUBLIC



1           **AFFIDAVIT OF JOHN P. ALDRICH, ESQ., IN SUPPORT OF MOTION TO SEAL**

2   State of Nevada        )  
                                  ) SS  
3   County of Clark        )

4           Affiant, being first duly sworn, deposes and states the following:

5           1.     I, John P. Aldrich, am an attorney licensed to practice in the State of Nevada and  
6   am a principal of the Aldrich Law Firm, Ltd.

7           2.     My office address is 7866 West Sahara Avenue, Las Vegas, Nevada 89117.

8           3.     I have personal knowledge of the contents of this document, or where stated upon  
9   information and belief, I believe them to be true and I am competent to testify to the facts set  
10   forth herein.

11          3.     Plaintiff moves this Honorable Court for an Order to seal the following portions  
12   of Defendants' recent filings:

13           a.     Defendant and Counterclaimant LVD Fund's Opposition to  
14                   Counterdefendant Jennifer Piazza's Motion for Summary Judgment:

- 15                   • Page 3, lines 5-26;
  - 16                   • Page 5, lines 8-14;
  - 17                   • Page 6, line 22 through page 7, line 6;
  - 18                   • Page 7, lines 8-22;
  - 19                   • Page 7, line 25 through page 8, line 8;
  - 20                   • Page 10, line 25 through page 11, line 2;
  - 21                   • Page 11, lines 17-19;
  - 22                   • Page 11, lines 23-26;
  - 23                   • Page 13, line 24 through page 14, line 7;
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- Page 15, lines 7-9; and
- Page 15, lines 23-24.

b. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary Judgment:

- Page 3, lines 5-25;
- Page 5, lines 20-23;
- Page 6, lines 7-16;
- Page 6, line 18 through page 7, line 12;
- Page 7, line 15 through page 8, line 2;
- Page 10, lines 15-18;
- Page 11, lines 11-14;
- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;
- Page 15, lines 21-22; and
- Page 16, lines 8-15.


4. There is a compelling privacy or safety interest that outweighs the public interest in access to the court record. Plaintiff is seeking to protect proprietary business information related to its business operations and Counterdefendants' personal information. This information at issue in this motion relates to Plaintiff's tax returns.

///

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1 5. Plaintiff and Counterdefendants must protect the public disclosure of the private,  
2 confidential, proprietary information.

3 DATED this 6<sup>th</sup> day of February, 2019.

4   
5 John P. Aldrich, Esq.

6 Subscribed & sworn to before me  
7 this 6<sup>th</sup> day of February, 2019.

8   
9 NOTARY PUBLIC



10 **ORDER SHORTENING TIME**

11 Good cause appearing therefore,

12 **IT IS HEREBY ORDERED** that the time for the hearing on Plaintiff's Motion to Seal  
13 and Redact Portions of Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions  
14 for Summary Judgment in the above-entitled matter be shortened, and the same will be heard on  
15 the 18 day of Feb., 2020, at the hour of 9:00 a.m. in Dept. 16 of the  
16 Eighth Judicial District Court.

17 DATED this 7 day of February, 2020.

18   
19 DISTRICT COURT JUDGE  
20 

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 I.

3 **STATEMENT OF FACTS**

4 The Court is well aware of the many motions and hearings that have occurred in this  
5 case, so Plaintiff will not recite the procedural history here except as pertinent for the instant  
6 motion.

7 On February 3, 2020, Defendants filed two pleadings: (1) Defendant and  
8 Counterclaimant LVD Fund's Opposition to Counterdefendant Jennifer Piazza's Motion for  
9 Summary Judgment, and (2) Defendant and Counterclaimant LVD Fund's Opposition to  
10 Counterdefendant VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary  
11 Judgment. Defendants have regurgitated information from portions of Front Sight's tax returns  
12 and placed that information in the public domain. Defendants are in violation of the Protective  
13 Order that was entered by the Court, and the general public policy to keep tax returns and other  
14 private financial information out of the public domain. Additionally, as a lender, Defendant  
15 LVDF had a duty to keep Plaintiff's tax returns and other private information private and not file  
16 them in the public domain. Defendants have clearly acted in bad faith in an effort to cause harm  
17 to Plaintiff and its principal, Dr. Ignatius Piazza and Counterdefendants Jennifer Piazza and the  
18 VNV Trusts.

19 Plaintiff demanded that Defendants immediately take steps to have Plaintiff's tax return  
20 information removed from the public domain and seal and redact any comments related to that  
21 information in the pleadings. Defendants, through counsel, have refused to do so. (See E-mail  
22 exchange between John P. Aldrich, Esq. and Keith Greer, Esq., dated February 4, 2020 and  
23 attached hereto as **Exhibit 1.**)

1 Mr. Aldrich and Mr. Greer also discussed this issue with the Court on February 5, 2020,  
2 after which the Court advised Mr. Aldrich to file this Motion.

3 Previously, on October 4, 2018, Plaintiff filed a Motion for Protective Order. Besides the  
4 fact that one of Defendants is a lender and had an independent duty to keep Plaintiff's  
5 confidential financial information private, Defendants have long been on notice that Plaintiff  
6 identified these records as confidential because Plaintiff described those records in our Motion  
7 for Protective Order. On page 16 of the Motion for Protective Order, Plaintiff stated the  
8 following:

9 Plaintiff is seeking to protect proprietary business information related to its  
10 project. This information contains various types of confidential and proprietary  
11 information, including plans for its project, projections, financial information, or  
12 references to this type of information. Plaintiff has provided literally thousands of  
pages of confidential financial information, including taxes, bank accounts, etc.,  
to Defendants. Defendants have also provided information that includes trade  
secrets and information about how Plaintiff's business is run and the like.

13 Plaintiff seeks to preclude Defendants (or any party to the litigation) from  
14 disclosing confidential, proprietary, trade secret, or other similar protected  
information. Any pleadings or exhibits containing such information should be  
sealed and protected from disclosure.

15 The Protective Order was entered on November 27, 2018. Consistent with the Motion,  
16 paragraph 1.2 of the Protective Order identifies financial records (which certainly include tax  
17 returns) as confidential.

18 Defendants LVDF and Dziubla are in violation of their duties as a lender, not to mention  
19 in violation of long-standing public policy that tax returns remain private.

20 Due to Defendants' refusal to remedy their disclosure of confidential information,  
21 Plaintiff respectfully moves this court to seal and redact the following:

22 ///

23 ///

1 a. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant  
2 Jennifer Piazza's Motion for Summary Judgment:

- 3 • Page 3, lines 5-26;
- 4 • Page 5, lines 8-14;
- 5 • Page 6, line 22 through page 7, line 6;
- 6 • Page 7, lines 8-22;
- 7 • Page 7, line 25 through page 8, line 8;
- 8 • Page 10, line 25 through page 11, line 2;
- 9 • Page 11, lines 17-19;
- 10 • Page 11, lines 23-26;
- 11 • Page 13, line 24 through page 14, line 7;
- 12 • Page 15, lines 7-9; and
- 13 • Page 15, lines 23-24.

14 b. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant  
15 VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary  
16 Judgment:

- 17 • Page 3, lines 5-25;
- 18 • Page 5, lines 20-23;
- 19 • Page 6, lines 7-16;
- 20 • Page 6, line 18 through page 7, line 12;
- 21 • Page 7, line 15 through page 8, line 2;
- 22 • Page 10, lines 15-18;
- 23 • Page 11, lines 11-14;
- 24



- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;
- Page 15, lines 21-22; and
- Page 16, lines 8-15.

This must be done immediately and the information referenced must be sealed and redacted immediately.

## II.

### LEGAL ARGUMENT

#### A. PLAINTIFF REQUESTS AN ORDER TO SEAL AND/OR REDACT PORTIONS OF DEFENDANTS' OPPOSITIONS TO PROTECT CONFIDENTIAL FINANCIAL INFORMATION

Nevada Supreme Court Rules, Part VII, pertain to the sealing and redacting Court records. Pursuant to Rule 3(4):

The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record. The parties' agreement alone does not constitute a sufficient basis for the court to seal or redact court records. . .

Rule 3(4) also sets forth eight specific instances that warrant the sealing of records:

(b) The sealing or redaction furthers an order entered under NRCP 12(f) or JCRCP 12(f) or a protective order entered under NRCP 26(c) or JCRCP 12(c);

....

(g) The sealing or redaction is necessary to protect intellectual proprietary or property interests such as trade secrets as defined in NRS 600A.030(5);

(h) The sealing or redaction is justified or required by another identified compelling circumstance.

1           There is a compelling privacy or safety interest that outweighs the public interest in  
2 access to the court record.

3           Plaintiff and Counterdefendants are seeking to protect proprietary business information  
4 related to its project and personal information. This information contains various types of  
5 confidential, personal, and proprietary information. Accordingly, sealing the financial  
6 documents would protect against the disclosure of proprietary and/or confidential business  
7 and/or personal information.

8           Rule 3(4)(h) also provides a catch-all provision, which allows the sealing of court records  
9 that is required by a compelling circumstance. Plaintiffs are seeking an order to seal the portions  
10 of Defendants' pleadings as set forth herein.

11           Finally, Rule 3(1) requires that a request to seal records must be in writing, must disclose  
12 in the document caption that it is a request to seal records, and must be served on all parties to  
13 the lawsuit. Plaintiff will serve the Motion to Seal and Redact Financial Documents on all  
14 Defendants through their counsel. Plaintiff respectfully requests that the Court enter an Order  
15 sealing and redacting pleadings as follows:

16           a.     Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant  
17                 Jennifer Piazza's Motion for Summary Judgment:

- 18                 • Page 3, lines 5-26;
- 19                 • Page 5, lines 8-14;
- 20                 • Page 6, line 22 through page 7, line 6;
- 21                 • Page 7, lines 8-22;
- 22                 • Page 7, line 25 through page 8, line 8;
- 23                 • Page 10, line 25 through page 11, line 2;
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- Page 11, lines 17-19;
- Page 11, lines 23-26;
- Page 13, line 24 through page 14, line 7;
- Page 15, lines 7-9; and
- Page 15, lines 23-24.

b. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary

Judgment:

- Page 3, lines 5-25;
- Page 5, lines 20-23;
- Page 6, lines 7-16;
- Page 6, line 18 through page 7, line 12;
- Page 7, line 15 through page 8, line 2;
- Page 10, lines 15-18;
- Page 11, lines 11-14;
- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;
- Page 15, lines 21-22; and
- Page 16, lines 8-15.

///  
///  
///

1 **B. PLAINTIFF'S MOTION SHOULD BE HEARD ON SHORTENED TIME**

2 EDCR 2.26 states in pertinent part:

3 **Rule 2.26. Shortening time.** Ex parte motions to shorten time may not  
4 be granted except upon an unsworn declaration under penalty of perjury or  
5 affidavit of counsel describing the circumstances claimed to constitute good cause  
6 and justify shortening of time. If a motion to shorten time is granted, it must be  
served upon all parties promptly. An order which shortens the notice of a hearing  
to less than 10 days may not be served by mail. In no event may the notice of the  
hearing of a motion be shortened to less than 1 full judicial day.

7 As set forth above, these items must be sealed and/or redacted immediately. Plaintiff  
8 cannot wait until either the ordinary course setting or the next hearing on February 26, 2020.

9 Based on the foregoing, Plaintiff respectfully requests that its Motion to Seal and Redact  
10 Financial Documents be heard on shortened time.

11 **III.**

12 **CONCLUSION**

13 Based upon the above, Plaintiff respectfully requests that this Court seal Defendants'  
14 pleadings as set forth herein and do so on shortened time.

15 DATED this 6<sup>th</sup> day of February, 2020.

16 **ALDRICH LAW FIRM, LTD.**

17   
18 John P. Aldrich, Esq.  
19 Nevada Bar No. 6877  
20 Catherine Hernandez, Esq.  
21 Nevada Bar No. 8410  
22 7866 West Sahara Avenue  
23 Las Vegas, NV 89117  
24 Tel (702) 853-5490  
Fax (702) 226-1975  
*Attorneys for Plaintiff*

# **EXHIBIT 1**

# **EXHIBIT 1**

## Traci Bixenmann

---

**From:** Keith Greer <keith.greer@greerlaw.biz>  
**Sent:** Tuesday, February 4, 2020 5:43 PM  
**To:** John Aldrich; kholbert@farmercase.com  
**Cc:** traci@johnaldrichlawfirm.com; 'Cathy Hernandez'  
**Subject:** RE: Oppositions filed last night  
**Attachments:** 2020.02.03-DEC W.Ex.3-CKG in Opppsition to MSJ Final [Jennifer and Dynasty Trusts].pdf

John:

I believe we addressed the disclosure issue last time we referenced the tax records, i.e., the records are filed under seal and not released to the public until action is taken to do so, but we can discuss discreet line items that are material to the issues. Last time we corrected the failure to file under seal, but the briefs remained unredacted. I am bringing hard copies of the attached unredacted declaration with me to court tomorrow and was planning on verifying the procedure with the clerk.

I am bringing you a memory stick to court with me tomorrow, containing the bank records, the accountants' records and our subsequent production of documents.

**C. Keith Greer, Esq.**  
*Greer & Associates, APC*



16855 W. Bernardo Dr., Suite 255  
San Diego, CA 92127  
Office: (858) 613-6677  
Facsimile: (858) 613-6680  
Mobile: (858) 361-4640  
**GreerLawAPC.com**

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---

**From:** John Aldrich <jaldrich@johnaldrichlawfirm.com>  
**Sent:** Tuesday, February 4, 2020 5:02 PM  
**To:** Keith Greer <keith.greer@greerlaw.biz>; kholbert@farmercase.com

Cc: traci@johnaldrichlawfirm.com; 'Cathy Hernandez' <chernandez@johnaldrichlawfirm.com>  
Subject: Oppositions filed last night

Keith and Kathryn,

I am just now getting a chance to look over your clients' Oppositions to the Motions for Summary Judgment filed by Jennifer Piazza and the VNV Trusts. I am pressed for time on other matters but will briefly address the most pressing items.

First, you have once again disclosed Front Sight's confidential financial information in the body of a pleading. Any place your documents reference financial information (revenue, money transfers, loans, earnings, etc.) of Front Sight or any other party must be redacted and sealed to remove it from public disclosure. This disclosure by Defendants is in violation of the protective order and Front Sight demands that Defendants immediately move to have that information sealed. Front Sight reserves the right to request sanctions for these violations.

Second, Defendants' two Oppositions reference documents received by Defendants from Front Sight's bank. However, Defendants have never provided those documents in discovery. Defendants have a duty to provide the documents they receive pursuant to a subpoena in a timely manner (not to mention in response to discovery requests). Please provide them immediately, along with a detailed explanation why Defendants have concealed those documents for what appears to be a period of weeks.

Third, Keith's Declaration indicates that one of the exhibits was filed under seal, yet we have received nothing indicating that is what occurred (i.e., an order sealing the documents) or what those documents are. Please immediately provide a copy of the order sealing your exhibit and the documents submitted under seal.

Please remedy all of these issues immediately. Thank you.

John P. Aldrich, Esq.  
**ALDRICH LAW FIRM, LTD.**  
7866 West Sahara Avenue  
Las Vegas, Nevada 89117  
[jaldrich@johnaldrichlawfirm.com](mailto:jaldrich@johnaldrichlawfirm.com)  
Tel (702) 853-5490  
Fax (702) 227-1975  
Visit us online at <http://www.johnaldrichlawfirm.com>

**WE HAVE MOVED!** Please note our new address above.

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**NEO**  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
Nevada Bar No. 8410  
**ALDRICH LAW FIRM, LTD.**  
7866 West Sahara Avenue  
Las Vegas, NV 89117  
Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**NOTICE OF ENTRY OF ORDER  
SHORTENING TIME**

AND ALL RELATED COUNTERCLAIMS.

PLEASE TAKE NOTICE that an Order Shortening Time on the Motion to Seal and/or Redact Portions of Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions for Summary Judgment to Protect Confidential Financial Information was entered by the Court in

///  
///  
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///



1 the above-captioned action on the 11<sup>th</sup> day of February, 2020, a true and correct copy of which is  
2 attached hereto.

3 DATED this 11<sup>th</sup> day of February, 2020.

4 **ALDRICH LAW FIRM, LTD.**

5 /s/ John P. Aldrich

6 John P. Aldrich, Esq.

7 Nevada Bar No. 6877

8 Catherine Hernandez, Esq.

9 Nevada Bar No. 8410

10 7866 West Sahara Avenue

11 Las Vegas, Nevada 89117

12 Telephone: (702) 853-5490

13 Facsimile: (702) 227-1975

14 *Attorneys for Plaintiff/Counterdefendants*

15 **CERTIFICATE OF SERVICE**

16 I HEREBY CERTIFY that on the 11<sup>th</sup> day of February, 2020, I caused the foregoing  
17 **NOTICE OF ENTRY OF ORDER SHORTENING TIME** to be electronically filed and  
18 served with the Clerk of the Court using Wiznet which will send notification of such filing to the  
19 email addresses denoted on the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if  
20 not included on the Electronic Mail Notice List, to the following parties:

21 Anthony T. Case, Esq.

22 Kathryn Holbert, Esq.

23 FARMER CASE & FEDOR

24 2190 E. Pebble Rd., Suite #205

Las Vegas, NV 89123

C. Keith Greer, Esq.

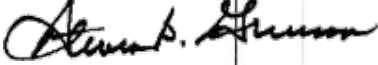
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



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**MOT**  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
Nevada Bar No. 8410  
**ALDRICH LAW FIRM, LTD.**  
7866 West Sahara Avenue  
Las Vegas, Nevada 89117  
Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
*Attorneys for Plaintiff*

**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

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

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

vs.

**MOTION TO SEAL AND/OR**  
**REDACT PORTIONS OF**  
**DEFENDANTS' OPPOSITIONS TO**  
**JENNIFER PIAZZA AND THE VNV**  
**TRUSTS' MOTIONS FOR**  
**SUMMARY JUDGMENT TO**  
**PROTECT CONFIDENTIAL**  
**FINANCIAL INFORMATION,**  
**MOTION FOR ORDER**  
**SHORTENING TIME, AND ORDER**  
**SHORTENING TIME**

LAS VEGAS DEVELOPMENT FUND LLC, a  
Nevada Limited Liability Company; EB5  
IMPACT CAPITAL REGIONAL CENTER  
LLC, a Nevada Limited Liability 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  
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,

Defendants.

DEPARTMENT XVI  
NOTICE OF HEARING  
DATE 2/18/20 TIME 9:00 am  
APPROVED BY CS


FEB 07 2020

1 COMES NOW Plaintiff FRONT SIGHT MANAGEMENT LLC by and through its  
2 attorneys, John P. Aldrich, Esq. and Catherine Hernandez, Esq., of the Aldrich Law Firm Ltd.,  
3 and hereby moves this Honorable Court (1) for an Order to seal and/or redact portions of  
4 Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions for Summary  
5 Judgment filed on February 3, 2020, which include confidential financial information, and (2) to  
6 have this matter heard on shortened time.

7 This Motion is made and based upon the pleadings and papers on file herein, the  
8 following Points and Authorities, the Affidavit of John P. Aldrich, Esq., and any attached  
9 exhibits.

10 DATED this 6<sup>th</sup> day of February, 2020.

11 **ALDRICH LAW FIRM, LTD.**

12 

13 John P. Aldrich, Esq.  
14 Nevada Bar No. 6877  
15 Catherine Hernandez, Esq.  
16 Nevada Bar No. 8410  
17 7866 West Sahara Avenue  
18 Las Vegas, NV 89117  
19 Tel (702) 853-5490  
20 Fax (702) 226-1975  
21 *Attorneys for Plaintiff*



1 reference to financial information should have been filed under seal and all references redacted  
2 in the first place. The information Defendants have disclosed includes information taken directly  
3 from Plaintiff's tax returns. This information has now been placed in the public domain and  
4 must be sealed, and all references thereto redacted, so as to protect this confidential proprietary  
5 and personal information. This is of the utmost importance to Plaintiff and Counterdefendants,  
6 and must be heard on an order shortening time.

7         6. Upon receipt of the pleadings disclosing the confidential tax information, I  
8 reached out to opposing counsel, explained Defendants had disclosed private tax information,  
9 and asked that Defendants remove the tax return information from the public domain.  
10 Defendants refused. The intent of the Protective Order was to protect exactly this type of  
11 information, as explained therein.

12         7. This is the second time Defendants have placed Plaintiff or Counterdefendants'  
13 private proprietary and personal financial information in the public domain. Early in the case, on  
14 February 6, 2019, Defendants described in detail Plaintiff's financial information in pleadings  
15 and then also filed Plaintiff's tax documents as attachments to the pleadings. Plaintiff brought a  
16 Motion to Seal. This Court granted the Motion in part, sealing the attachments (the actual tax  
17 return documents) but declining to seal the information that was taken from the tax returns and  
18 regurgitated verbatim in the pleadings.

19         6. Plaintiff respectfully requests that the Court hear this matter as soon as possible.  
20 The next hearing scheduled in this case is on February 26, 2020 on the following matters: (1)  
21 Motion to Compel and for Sanctions; (2) Motion for Summary Judgment as to the Counterclaims  
22 Against Jennifer Piazza; and (3) Motion for Summary Judgment as to the Counterclaims Against  
23 VNV Dynasty Trust I and VNV Dynasty Trust II. However, because Plaintiff's and  
24

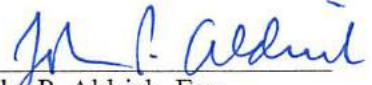
1 Counterdefendants' information has been filed in the public domain, movants respectfully  
2 request a hearing sooner than February 26, 2020; instead, movants request a hearing as soon as  
3 possible.

4 7. I respectfully request that, pursuant to EDCR 2.26, this Court grant Plaintiff's  
5 Order Shortening Time and set the Motion on shortened time.

6 9. This request for an Order shortening time is made in good faith and without  
7 dilatory motive.

8 I declare under penalty of perjury that the foregoing is true and correct.

9 DATED this 6<sup>th</sup> day of February, 2020.

10   
11 John P. Aldrich, Esq.

12 Subscribed & sworn to before me  
13 this 6<sup>th</sup> day of February, 2020.

14   
15 NOTARY PUBLIC



1           **AFFIDAVIT OF JOHN P. ALDRICH, ESQ., IN SUPPORT OF MOTION TO SEAL**

2   State of Nevada        )  
                                  ) SS  
3   County of Clark       )

4           Affiant, being first duly sworn, deposes and states the following:

5           1.     I, John P. Aldrich, am an attorney licensed to practice in the State of Nevada and  
6   am a principal of the Aldrich Law Firm, Ltd.

7           2.     My office address is 7866 West Sahara Avenue, Las Vegas, Nevada 89117.

8           3.     I have personal knowledge of the contents of this document, or where stated upon  
9   information and belief, I believe them to be true and I am competent to testify to the facts set  
10   forth herein.

11          3.     Plaintiff moves this Honorable Court for an Order to seal the following portions  
12   of Defendants' recent filings:

13           a.     Defendant and Counterclaimant LVD Fund's Opposition to  
14                   Counterdefendant Jennifer Piazza's Motion for Summary Judgment:

- 15                   • Page 3, lines 5-26;
  - 16                   • Page 5, lines 8-14;
  - 17                   • Page 6, line 22 through page 7, line 6;
  - 18                   • Page 7, lines 8-22;
  - 19                   • Page 7, line 25 through page 8, line 8;
  - 20                   • Page 10, line 25 through page 11, line 2;
  - 21                   • Page 11, lines 17-19;
  - 22                   • Page 11, lines 23-26;
  - 23                   • Page 13, line 24 through page 14, line 7;
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- Page 15, lines 7-9; and
- Page 15, lines 23-24.

b. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary Judgment:

- Page 3, lines 5-25;
- Page 5, lines 20-23;
- Page 6, lines 7-16;
- Page 6, line 18 through page 7, line 12;
- Page 7, line 15 through page 8, line 2;
- Page 10, lines 15-18;
- Page 11, lines 11-14;
- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;
- Page 15, lines 21-22; and
- Page 16, lines 8-15.

4. There is a compelling privacy or safety interest that outweighs the public interest in access to the court record. Plaintiff is seeking to protect proprietary business information related to its business operations and Counterdefendants' personal information. This information at issue in this motion relates to Plaintiff's tax returns.


///

///



1 5. Plaintiff and Counterdefendants must protect the public disclosure of the private,  
2 confidential, proprietary information.

3 DATED this 6<sup>th</sup> day of February, 2019.

4   
5 John P. Aldrich, Esq.

6 Subscribed & sworn to before me  
7 this 6<sup>th</sup> day of February, 2019.

8   
9 NOTARY PUBLIC



10 **ORDER SHORTENING TIME**

11 Good cause appearing therefore,

12 **IT IS HEREBY ORDERED** that the time for the hearing on Plaintiff's Motion to Seal  
13 and Redact Portions of Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions  
14 for Summary Judgment in the above-entitled matter be shortened, and the same will be heard on  
15 the 18 day of Feb., 2020, at the hour of 9:00 a.m. in Dept. 16 of the  
16 Eighth Judicial District Court.

17 DATED this 7 day of February, 2020.

18   
19 DISTRICT COURT JUDGE  
20 



1 Mr. Aldrich and Mr. Greer also discussed this issue with the Court on February 5, 2020,  
2 after which the Court advised Mr. Aldrich to file this Motion.

3 Previously, on October 4, 2018, Plaintiff filed a Motion for Protective Order. Besides the  
4 fact that one of Defendants is a lender and had an independent duty to keep Plaintiff's  
5 confidential financial information private, Defendants have long been on notice that Plaintiff  
6 identified these records as confidential because Plaintiff described those records in our Motion  
7 for Protective Order. On page 16 of the Motion for Protective Order, Plaintiff stated the  
8 following:

9 Plaintiff is seeking to protect proprietary business information related to its  
10 project. This information contains various types of confidential and proprietary  
11 information, including plans for its project, projections, financial information, or  
12 references to this type of information. Plaintiff has provided literally thousands of  
pages of confidential financial information, including taxes, bank accounts, etc.,  
to Defendants. Defendants have also provided information that includes trade  
secrets and information about how Plaintiff's business is run and the like.

13 Plaintiff seeks to preclude Defendants (or any party to the litigation) from  
14 disclosing confidential, proprietary, trade secret, or other similar protected  
information. Any pleadings or exhibits containing such information should be  
sealed and protected from disclosure.

15 The Protective Order was entered on November 27, 2018. Consistent with the Motion,  
16 paragraph 1.2 of the Protective Order identifies financial records (which certainly include tax  
17 returns) as confidential.

18 Defendants LVDF and Dziubla are in violation of their duties as a lender, not to mention  
19 in violation of long-standing public policy that tax returns remain private.

20 Due to Defendants' refusal to remedy their disclosure of confidential information,  
21 Plaintiff respectfully moves this court to seal and redact the following:

22 ///

23 ///

1 a. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant  
2 Jennifer Piazza's Motion for Summary Judgment:

- 3 • Page 3, lines 5-26;
- 4 • Page 5, lines 8-14;
- 5 • Page 6, line 22 through page 7, line 6;
- 6 • Page 7, lines 8-22;
- 7 • Page 7, line 25 through page 8, line 8;
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- 9 • Page 11, lines 17-19;
- 10 • Page 11, lines 23-26;
- 11 • Page 13, line 24 through page 14, line 7;
- 12 • Page 15, lines 7-9; and
- 13 • Page 15, lines 23-24.

14 b. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant  
15 VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary  
16 Judgment:

- 17 • Page 3, lines 5-25;
- 18 • Page 5, lines 20-23;
- 19 • Page 6, lines 7-16;
- 20 • Page 6, line 18 through page 7, line 12;
- 21 • Page 7, line 15 through page 8, line 2;
- 22 • Page 10, lines 15-18;
- 23 • Page 11, lines 11-14;
- 24

- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;
- Page 15, lines 21-22; and
- Page 16, lines 8-15.

This must be done immediately and the information referenced must be sealed and redacted immediately.

## II.

### LEGAL ARGUMENT

#### A. PLAINTIFF REQUESTS AN ORDER TO SEAL AND/OR REDACT PORTIONS OF DEFENDANTS' OPPOSITIONS TO PROTECT CONFIDENTIAL FINANCIAL INFORMATION

Nevada Supreme Court Rules, Part VII, pertain to the sealing and redacting Court records. Pursuant to Rule 3(4):

The court may order the court files and records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety interests that outweigh the public interest in access to the court record. The parties' agreement alone does not constitute a sufficient basis for the court to seal or redact court records. . .

Rule 3(4) also sets forth eight specific instances that warrant the sealing of records:

(b) The sealing or redaction furthers an order entered under NRCP 12(f) or JCRCP 12(f) or a protective order entered under NRCP 26(c) or JCRCP 12(c);

....

(g) The sealing or redaction is necessary to protect intellectual proprietary or property interests such as trade secrets as defined in NRS 600A.030(5);

(h) The sealing or redaction is justified or required by another identified compelling circumstance.

1           There is a compelling privacy or safety interest that outweighs the public interest in  
2 access to the court record.

3           Plaintiff and Counterdefendants are seeking to protect proprietary business information  
4 related to its project and personal information. This information contains various types of  
5 confidential, personal, and proprietary information. Accordingly, sealing the financial  
6 documents would protect against the disclosure of proprietary and/or confidential business  
7 and/or personal information.

8           Rule 3(4)(h) also provides a catch-all provision, which allows the sealing of court records  
9 that is required by a compelling circumstance. Plaintiffs are seeking an order to seal the portions  
10 of Defendants' pleadings as set forth herein.

11           Finally, Rule 3(1) requires that a request to seal records must be in writing, must disclose  
12 in the document caption that it is a request to seal records, and must be served on all parties to  
13 the lawsuit. Plaintiff will serve the Motion to Seal and Redact Financial Documents on all  
14 Defendants through their counsel. Plaintiff respectfully requests that the Court enter an Order  
15 sealing and redacting pleadings as follows:

16           a.     Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant  
17                 Jennifer Piazza's Motion for Summary Judgment:

- 18                 • Page 3, lines 5-26;
- 19                 • Page 5, lines 8-14;
- 20                 • Page 6, line 22 through page 7, line 6;
- 21                 • Page 7, lines 8-22;
- 22                 • Page 7, line 25 through page 8, line 8;
- 23                 • Page 10, line 25 through page 11, line 2;
- 24

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- Page 11, lines 17-19;
- Page 11, lines 23-26;
- Page 13, line 24 through page 14, line 7;
- Page 15, lines 7-9; and
- Page 15, lines 23-24.

b. Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant VNV Dynasty Trust I and VNV Dynasty Trust II's Motion for Summary

Judgment:

- Page 3, lines 5-25;
- Page 5, lines 20-23;
- Page 6, lines 7-16;
- Page 6, line 18 through page 7, line 12;
- Page 7, line 15 through page 8, line 2;
- Page 10, lines 15-18;
- Page 11, lines 11-14;
- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;
- Page 15, lines 21-22; and
- Page 16, lines 8-15.

///  
///  
///

1 **B. PLAINTIFF'S MOTION SHOULD BE HEARD ON SHORTENED TIME**

2 EDCR 2.26 states in pertinent part:

3 **Rule 2.26. Shortening time.** Ex parte motions to shorten time may not  
4 be granted except upon an unsworn declaration under penalty of perjury or  
5 affidavit of counsel describing the circumstances claimed to constitute good cause  
6 and justify shortening of time. If a motion to shorten time is granted, it must be  
served upon all parties promptly. An order which shortens the notice of a hearing  
to less than 10 days may not be served by mail. In no event may the notice of the  
hearing of a motion be shortened to less than 1 full judicial day.

7 As set forth above, these items must be sealed and/or redacted immediately. Plaintiff  
8 cannot wait until either the ordinary course setting or the next hearing on February 26, 2020.

9 Based on the foregoing, Plaintiff respectfully requests that its Motion to Seal and Redact  
10 Financial Documents be heard on shortened time.

11 **III.**

12 **CONCLUSION**

13 Based upon the above, Plaintiff respectfully requests that this Court seal Defendants'  
14 pleadings as set forth herein and do so on shortened time.

15 DATED this 6<sup>th</sup> day of February, 2020.

16 **ALDRICH LAW FIRM, LTD.**

17   
18 John P. Aldrich, Esq.  
19 Nevada Bar No. 6877  
20 Catherine Hernandez, Esq.  
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22 7866 West Sahara Avenue  
23 Las Vegas, NV 89117  
24 Tel (702) 853-5490  
Fax (702) 226-1975  
*Attorneys for Plaintiff*



# **EXHIBIT 1**

# **EXHIBIT 1**

## Traci Bixenmann

---

**From:** Keith Greer <keith.greer@greerlaw.biz>  
**Sent:** Tuesday, February 4, 2020 5:43 PM  
**To:** John Aldrich; kholbert@farmercase.com  
**Cc:** traci@johnaldrichlawfirm.com; 'Cathy Hernandez'  
**Subject:** RE: Oppositions filed last night  
**Attachments:** 2020.02.03-DEC W.Ex.3-CKG in Opppsition to MSJ Final [Jennifer and Dynasty Trusts].pdf

John:

I believe we addressed the disclosure issue last time we referenced the tax records, i.e., the records are filed under seal and not released to the public until action is taken to do so, but we can discuss discreet line items that are material to the issues. Last time we corrected the failure to file under seal, but the briefs remained unredacted. I am bringing hard copies of the attached unredacted declaration with me to court tomorrow and was planning on verifying the procedure with the clerk.

I am bringing you a memory stick to court with me tomorrow, containing the bank records, the accountants' records and our subsequent production of documents.

**C. Keith Greer, Esq.**  
*Greer & Associates, APC*



16855 W. Bernardo Dr., Suite 255  
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---

**From:** John Aldrich <jaldrich@johnaldrichlawfirm.com>  
**Sent:** Tuesday, February 4, 2020 5:02 PM  
**To:** Keith Greer <keith.greer@greerlaw.biz>; kholbert@farmercase.com

Cc: traci@johnaldrichlawfirm.com; 'Cathy Hernandez' <chernandez@johnaldrichlawfirm.com>

Subject: Oppositions filed last night

Keith and Kathryn,

I am just now getting a chance to look over your clients' Oppositions to the Motions for Summary Judgment filed by Jennifer Piazza and the VNV Trusts. I am pressed for time on other matters but will briefly address the most pressing items.

First, you have once again disclosed Front Sight's confidential financial information in the body of a pleading. Any place your documents reference financial information (revenue, money transfers, loans, earnings, etc.) of Front Sight or any other party must be redacted and sealed to remove it from public disclosure. This disclosure by Defendants is in violation of the protective order and Front Sight demands that Defendants immediately move to have that information sealed. Front Sight reserves the right to request sanctions for these violations.

Second, Defendants' two Oppositions reference documents received by Defendants from Front Sight's bank. However, Defendants have never provided those documents in discovery. Defendants have a duty to provide the documents they receive pursuant to a subpoena in a timely manner (not to mention in response to discovery requests). Please provide them immediately, along with a detailed explanation why Defendants have concealed those documents for what appears to be a period of weeks.

Third, Keith's Declaration indicates that one of the exhibits was filed under seal, yet we have received nothing indicating that is what occurred (i.e., an order sealing the documents) or what those documents are. Please immediately provide a copy of the order sealing your exhibit and the documents submitted under seal.

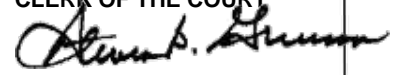
Please remedy all of these issues immediately. Thank you.

John P. Aldrich, Esq.  
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**WE HAVE MOVED!** Please note our new address above.

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13 EB5 IMPACT CAPITAL REGIONAL CENTER LLC,  
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,  
14 JON FLEMING and LINDA STANWOOD

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

17 FRONT SIGHT MANAGEMENT LLC, a )  
Nevada Limited Liability Company, )  
18 )  
Plaintiff, )  
19 vs. )  
20 LAS VEGAS DEVELOPMENT FUND LLC, )  
21 et al., )  
22 Defendants. )

) CASE NO.: A-18-781084-B  
) DEPT NO.: 16  
)  
) **DEFENDANT LAS VEGAS**  
) **DEVELOPMENT FUND LLC'S**  
) **OPPOSITION TO MOTION TO SEAL**  
) **AND/OR REDACT PORTIONS OF**  
) **DEFENDANTS' OPPOSITIONS TO**  
) **JENNIFER PIAZZA AND THE VNV**  
) **TRUSTS' MOTIONS FOR SUMMARY**  
) **JUDGMENT TO PROTECT**  
) **CONFIDENTIAL**  
) **FINANCIAL INFORMATION**

23 AND RELATED CROSS ACTION )  
24 )

) Hearing Date: February 18, 2020  
) Time: 9:00 a.m.  
) Department 16

28

1 Defendant Las Vegas Development Fund, LLC (“LVD Fund”) hereby submits this  
2 Memorandum of Points and Authorities in Opposition to the Motion to Seal and Redact Portions  
3 of Defendants’ Oppositions to Jennifer Piazza and the VNV Trusts’ Motions for Summary  
4 Judgment to Protect Confidential Financial Information (“Motion to Seal”). Consistent with this  
5 Court’s prior Order entered March 18, 2019 (Exhibit 1 hereto) LVD Fund (a) does not object to  
6 actual tax return documents being placed under seal but (b) submits that the information  
7 extracted from the tax returns and bank records should not be redacted from the subject briefs,  
8 ass previously determined by the Court.

9 **I. INTRODUCTION**

10 The present Motion to Seal is essentially a repeat of a similar Motion to Seal and/or  
11 Redact made one year ago by Front Sight in connection with LVD Fund’s Motion for  
12 Appointment of a Receiver. As set forth more fully herein, for many of the same reasons set  
13 forth on the similar motion last year, this Court should enter a similar ruling to that entered last  
14 year, i.e., (a) grant the motion to file the tax return documents under seal (with LVD Fund is  
15 already doing voluntarily pursuant to the Court’s prior ruling), and (b) deny the motion to redact  
16 references to information extracted from the financial records. Far from asserting true privacy or  
17 proprietary information concerns, Front Sight’s motion is largely that Front Sight’s self dealings  
18 with insiders should remain hidden from the public. As set forth herein, that is not a valid reason  
19 to overcome the public policy favoring public access. Further, there is no reason to reconsider  
20 the ruling made on the similar motion to seal brought last year.

21 **II. ARGUMENT**

22 **A. This Court Has Previously Addressed These Issues In An Order Dated**  
23 **March 18, 2019**

24 As referenced in ¶7 of the Aldrich Declaration in Support of the Motion to Seal, the  
25 issues presented by the current Motion to Seal were previously addressed by this court one year  
26 ago in connection with LVD Fund’s Motion for Appointment of a Receiver. At that time, LVD  
27 Fund attached certain tax return excerpts to a Declaration and also referenced that material in it’s  
28 written submissions to the Court. In response, Front Sight moved - as it does again now - for an

1 order placing the tax return excerpts under seal and redacting all references to materials extracted  
2 from the tax records.

3 This court: (a) granted the motion to seal the tax return documents; and (b) denied the  
4 motion to redact references to the information extracted from those returns from the written  
5 materials. Although Front Sight has not attached the prior order entered March 18, 2019 it is  
6 attached hereto as Exhibit 1. That Order states, in relevant part: **“IT IS FURTHER ORDERED**  
7 **that with regard to portions of Plaintiff’s tax returns that were filed in the court record, the**  
8 **motion is granted and the Clerk of Court is directed to seal Exhibits 6 and 7 to the Declaration of**  
9 **Robert Dziubla filed on February 6, 2019. [¶] IT IS FURTHER ORDERED that with regard to**  
10 **the redactions of the portions of the pleadings requested by Plaintiff, the motion to redact is**  
11 **denied.”** (Emphasis added).

12 LVD Fund respectfully submits that the same procedure should be followed here. In fact,  
13 LVD Fund filed a “placeholder” which did not include the tax returns as part of the public record  
14 while initiating the process of obtaining an order filing those excerpts under seal.

15 To the extent that Front Sight seeks a different result, the Motion to Seal is essentially an  
16 improper Motion for Reconsideration made without any change in circumstances. (“Motions for  
17 reconsideration are disfavored.”) *Bartech Sys. Int’l, Inc. v. Mobile Simple Sols., Inc.*, No.  
18 215CV02422MMDNJK, 2018 WL 1785869, at \*1 (D. Nev. Apr. 13, 2018); *ESCO Corp. v.*  
19 *Cashman Equip. Co.*, 158 F. Supp. 3d 1051, 1076 (D. Nev. 2016) (the motion must set forth both  
20 (1) a “valid reason” for reconsideration and (2) facts or law of a “strongly convincing nature to  
21 persuade the court to reverse its prior decision”) (*quoting Frasure v. United States*, 256 F. Supp.  
22 2d 1180, 1183 (D. Nev. 2003) ); *see also 389 Orange Street Partners v. Arnold*, 179 F.3d 656,  
23 665 (9th Cir. 1999) (the movant bears the burden of establishing grounds for reconsideration).

24 **B. Sealing of Records Is Generally Against Public Policy of Public Access to**  
25 **Documents Filed With the Court**

26 It is important to note that, “there exists a presumption in favor of public access to  
27 records and documents filed [with] the court.” *Howard v State of Nevada*, 128 Nev. 736, 142  
28 (2012). Moreover, “this presumption may be abridged only where the public right of access is

1 outweighed by a significant competing interest.” *Id.* The party seeking to seal a record or  
2 document bears the burden of establishing sufficient grounds for denying access. *Id.* These  
3 principles apply equally in criminal and civil proceedings. *Copper Sands Homeowners Ass’n v.*  
4 *Copper Sands Realty, LLC* 2012 WL 1080291 (U.S. D.C., Dist Nev.)(citing *U.S.E.E.O.C. v.*  
5 *Caesars Entertainment, Inc.*, 237 F.R.D. 428, 432 (D.Nev. 2006).

6 The importance of giving great weight to the public’s interest in court access is codified  
7 in N.S.C.R. Rule 3(4), which mandates that the court not seal a matter unless the sealing is  
8 “justified by identified *compelling privacy or safety interests* that outweigh the public interest in  
9 access to the court record.” Moreover, reference to Rule 3(4)(g) shows that the type of interests  
10 that are proper to protect are “intellectual proprietary or property interests such as trade secrets as  
11 defined in NRS 600A.030(5).”

12 Although Front Sight uses the word “proprietary” to pay lip service to this requirement,  
13 there is nothing “proprietary” about looting Front Sight for the Piazza family’s personal benefit  
14 while the Company is insolvent according to its own tax returns. Clearly, disclosing the amount  
15 of money that Piazza is pilfering from Front Sight is not a proprietary interest or trade secret of  
16 Front Sight. It reveals nothing about Front Sight’s business plans other than perhaps that Front  
17 Sight exists as an alter ego of the Piazza family solely for the personal benefit of the Piazza  
18 family. Therefore, Front Sight can not meet its burden needed to have this information sealed.

19 Although Front Sight cited *Hollinger Int’l Inc. v. Hollinger Inc.*, as authority for its prior  
20 motion to seal, Front Sight has - not surprisingly - NOT cited to *Hollinger* (or any other case law  
21 for that matter) in the current motion. That omission is not surprising because the *Hollinger*  
22 case supports public filing not under seal because it supports the fact that the 200,000  
23 members of Front Sight deserve to know whether Front Sight’s president is fraudulently taking  
24 money from the company. *Hollinger Int’l Inc. v. Hollinger Inc.*, 04 C 698, 2005 WL 3177880, at  
25 \*3 (N.D. Ill. Jan. 19, 2005). In *Hollinger*, the Court held that although there is potential that a  
26 party unlawfully paying themselves excessive compensation may suffer from embarrassment if  
27 such malfeasance is exposed, the disclosure does not constitute good cause to withhold the  
28 documents when weighed against the public interest in the alleged conduct. While, the court held

1 that certain tax documents were not relevant to the case, it stated that public concern does  
2 warrant the non-disclosure of any relevant document that shows the unlawful transactions. The  
3 public and 200,000 Front Sight members have an interest in knowing where their money is  
4 going and whether Front Sight is managing its revenues in a way that benefits its president, but  
5 dramatically undermines the company's financial strength. Accordingly, the public concern  
6 outweighs Plaintiff's privacy considerations here.

7 **C. Nevada does not recognize a "privilege" for tax returns.**

8 It is well established that tax returns are not "privileged" under Nevada law. *Hetter v.*  
9 *Eighth Judicial Dist. Court in and for County of Clark*, 110 Nev. 513, 520 (1994); *McNair v*  
10 *Eighth Judicial Dist. Court in and for County of Clark*, 110 Nev. 1285, 1289-90. Rather the test  
11 is whether they are relevant. *Hetter*, 110 Nev. at 520; *McNair*, 110 Nev. at 1290. Accordingly,  
12 Front Sight can not assert that the tax returns are privileged.

13 Moreover, the tax returns and the information contained therein are highly relevant to the  
14 issues raised by the Motions for Summary Judgment. As set forth in the Oppositions to the  
15 Jennifer Piazza and VNV Dynasty Trusts' Motions for Summary Judgment, Piazza has been  
16 diverting tens of millions of dollars out of Front Sight that should have been used to complete the  
17 EB-5 construction project, and he is using EB-5 loan proceeds to pay Front Sight's operating  
18 costs and pre-existing debt service. Additionally the evidence shows that Piazza was diverting  
19 millions of dollars for the benefit of his family trusts. Moreover, the tax returns make clear that  
20 this diversion of assets was brazenly conducted at a time when the tax returns show that Front  
21 Sight had negative retained earnings in excess of \$20 million, i.e., Front Sight was insolvent at  
22 the time Piazza systematically stripped it of millions of dollars for his family's benefit.

23 Thus, evidence showing the amount of money Piazza is diverting from Front Sight and  
24 the financial condition of Front Sight at the time is highly relevant to the Oppositions to the  
25 Motions for Summary Judgment and is therefore very "relevant" to these proceedings.  
26 Accordingly, the information derived from the tax returns is highly relevant.

27 **D. Information Derived From the Bank of America Records Is Highly Relevant**

28 Certain of the details regarding Related Party transactions and the efforts of Piazza to



1 strip Front Sight bare are derived from the records produced by Bank of America in response to  
2 subpoenas. The court will recall that Front Sight strove mightily to prevent LVD Fund from  
3 obtaining this material, first filing a motion to quash and then - after losing the motion to quash -  
4 filing a Petition for writ of mandamus. These efforts to block access to these records were  
5 ultimately unsuccessful. Now that the records have been obtained, it is apparent why Front Sight  
6 fought so vigorously to prevent their disclosure.

7         The recently obtained records reveal a looting of company assets worthy of “Lifestyles of  
8 the Rich and Famous” to the tune of several million dollars a year at a time when the company  
9 was insolvent. While this information may be detrimental and embarrassing to the individuals  
10 involved, it is neither privileged nor private. Indeed it is precisely the kind of information which  
11 the *Hollinger* case states is in the public interest. “[G]eneral assertions of ‘privacy’ and  
12 ‘embarrassment’ are insufficient to overcome the presumption of public access to judicial  
13 proceedings.” *Hollinger Int’l Inc. v. Hollinger Inc.*, No. 04 C 698, 2005 WL 3177880, at \*3  
14 (N.D. Ill. Jan. 19, 2005).

15         “It is also clear, however, that the public has a legitimate interest in knowing more  
16 about the alleged conduct of the individual Defendants. This suit involves issues  
17 of public concern. The complaint alleges that the individual Defendants  
18 unlawfully paid themselves excessive compensation. Hollinger International is a  
19 publicly traded company with hundreds of shareholders likely interested in the  
20 progress and outcome of the case. The potential embarrassment the individual  
21 Defendants would suffer from disclosure of relevant financial information does  
22 not constitute good cause when weighed against the public interest in the alleged  
23 conduct of the individual Defendants.”

24 *Hollinger Int’l Inc. v. Hollinger Inc.*, No. 04 C 698, 2005 WL 3177880, at \*4 (N.D. Ill. Jan. 19,  
25 2005).

26         Thus, the information derived from the Bank of America records should not be redacted.

27 ///

28 ///

1 **III. CONCLUSION**

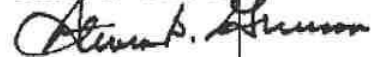
2 For the reasons set forth above, this Court should either summarily deny this motion as an  
3 improper motion to reconsider the Court's March 18, 2019 Order, or in the alternative treat the  
4 current motion consistent with the prior order of March 18, 2019 and: (a) order the actual tax  
5 return excerpts filed under seal; and (b) deny the motion to redact information culled from those  
6 records as referenced in the briefs.

7 Dated: February 14, 2020

**FARMER CASE & FEDOR**

8  
9 /s/Kathryn Holbert  
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18 EB5 IMPACT CAPITAL REGIONAL CENTER  
19 LLC, EB5 IMPACT ADVISORS LLC, ROBERT  
20 W. DZIUBLA, JON FLEMING and LINDA  
21 STANWOOD  
22  
23  
24  
25  
26  
27  
28

# EXHIBIT A



1 **ORDR**

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3 Nevada Bar No. 6877  
4 Catherine Hernandez, Esq.  
5 Nevada Bar No. 8410

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11 *Attorneys for Plaintiff*

12 **EIGHTH JUDICIAL DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

14 **FRONT SIGHT MANAGEMENT LLC, a**  
15 **Nevada Limited Liability Company,**

16 **Plaintiff,**

17 **vs.**

18 **LAS VEGAS DEVELOPMENT FUND LLC, a**  
19 **Nevada Limited Liability Company; EB5**  
20 **IMPACT CAPITAL REGIONAL CENTER**  
21 **LLC, a Nevada Limited Liability Company;**  
22 **EB5 IMPACT ADVISORS LLC, a Nevada**  
23 **Limited Liability Company; ROBERT W.**  
24 **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**  
**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,**

**Defendants.**

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

**ORDER GRANTING IN PART AND**  
**DENYING IN PART PLAINTIFF'S**  
**MOTION TO SEAL AND/OR**  
**REDACT PLEADINGS AND**  
**EXHIBITS TO PROTECT**  
**CONFIDENTIAL INFORMATION**  
**AND MOTION TO AMEND**  
**PARAGRAPH 2.3 OF PROTECTIVE**  
**ORDER**

03-11-19PG 1:49 RCVD

1 This matter having come before the Court, on February 20, 2019 at 9:00 a.m. on  
2 Plaintiff's Motion to Seal and/or Redact Pleadings and Exhibits to Protect Confidential  
3 Information and Motion to Amend Paragraph 2.3 of Protective Order, John P. Aldrich, Esq.  
4 appearing on behalf of Plaintiff and Kathryn Holbert, Esq. and C. Keith Greer, Esq., appearing  
5 on behalf of Defendants, the Court having reviewed the pleadings on file herein, having heard  
6 oral argument by the parties, and for good cause appearing therefore,

7 **IT IS HEREBY ORDERED** that Plaintiff's Motion to Seal and/or Redact Pleadings  
8 and Exhibits to Protect Confidential Information and Motion to Amend Paragraph 2.3 of  
9 Protective Order is GRANTED IN PART and DENIED IN PART.

10 **IT IS FURTHER ORDERED** that with regard to portions of Plaintiff's tax returns that  
11 were filed in the court record, the motion is granted and the Clerk of Court is directed to seal  
12 Exhibits 6 and 7 to the Declaration of Robert Dziubla filed on February 6, 2019.

13 **IT IS FURTHER ORDERED** that with regard to the redactions of the portions of the  
14 pleadings requested by Plaintiff, the motion to redact is denied.

15 **IT IS FURTHER ORDERED** that with regard to the motion to revise and amend  
16 paragraph 2.3 of the Protective Order, that motion is denied as well. However, in the event any  
17 party wishes to file any financial documents of any party, before filing any such documents, the

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1 parties are to meet and confer regarding the intended submission, and if the parties are unable to  
2 work out a resolution, the Court will hold a conference call with the parties and resolve the issue.

3 **IT IS SO ORDERED.**

4 DATED this 12 day of March, 2019.


5   
6 **DISTRICT COURT JUDGE** 

7 Respectfully submitted by:

Approved as to form and content:

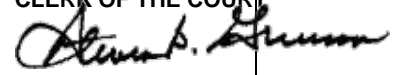
8 **ALDRICH LAW FIRM, LTD.**

**FARMER CASE & FEDOR**

9   
10 John P. Aldrich, Esq.  
11 Nevada Bar No. 6877  
12 Catherine Hernandez, Esq.  
13 Nevada Bar No. 8410  
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*Attorneys for Plaintiff*

  
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*Attorneys for Defendants*





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**NEO**  
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*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**NOTICE OF ENTRY OF ORDER  
REGARDING FEBRUARY 5, 2020  
STATUS CHECK**

AND ALL RELATED COUNTERCLAIMS.

PLEASE TAKE NOTICE that an Order Regarding February 5, 2020 Status Check was entered by the Court in the above-captioned action on the 19<sup>th</sup> day of February, 2020, a true and

///  
///  
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///



1 correct copy of which is attached hereto.

2 DATED this 19<sup>th</sup> day of February, 2020.

3 **ALDRICH LAW FIRM, LTD.**

4 /s/ John P. Aldrich

5 John P. Aldrich, Esq.

6 Nevada Bar No. 6877

7 Catherine Hernandez, Esq.

8 Nevada Bar No. 8410

9 7866 West Sahara Avenue

10 Las Vegas, Nevada 89117

11 Telephone: (702) 853-5490

12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 19<sup>th</sup> day of February, 2020, I caused the foregoing  
16 **NOTICE OF ENTRY OF ORDER REGARDING FEBRUARY 5, 2020 STATUS CHECK**  
17 to be electronically filed and served with the Clerk of the Court using Wiznet which will send  
18 notification of such filing to the email addresses denoted on the Electronic Mail Notice List, or  
19 by U.S. mail, postage prepaid, if not included on the Electronic Mail Notice List, to the  
20 following parties:

21 Anthony T. Case, Esq.

22 Kathryn Holbert, Esq.

23 FARMER CASE & FEDOR

24 2190 E. Pebble Rd., Suite #205

Las Vegas, NV 89123

C. Keith Greer, Esq.

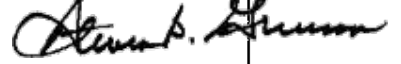
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



1 **ORDER**  
John P. Aldrich, Esq.  
2 Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
3 Nevada Bar No. 8410  
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4 7866 West Sahara Avenue  
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5 Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
6 *Attorneys for Plaintiff/Counterdefendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

9 FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,  
10  
Plaintiff,  
11  
vs.  
12 LAS VEGAS DEVELOPMENT FUND LLC, a  
Nevada Limited Liability Company; et al.,  
13  
Defendants.  
14

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

**ORDER REGARDING FEBRUARY 5,**  
**2020 STATUS CHECK**

15  
16 **AND ALL RELATED COUNTERCLAIMS.**

17 This matter having come before the Court, on February 5, 2020 at 9:00 a.m. for a Status  
18 Check regarding Defendants' discovery responses and Plaintiff's Motion to Compel and  
19 Supplements and Status Reports related thereto, John P. Aldrich, Esq. appearing on behalf of  
20 Plaintiff and Kathryn Holbert, Esq. and C. Keith Greer, Esq., appearing on behalf of  
21 Defendants, the Court having reviewed the pleadings on file herein, having heard oral argument  
22 by the parties, and for good cause appearing therefore,  
23  
24

**FEB 19 2020**

1           **WHEREAS** Plaintiff has requested increasing sanctions as the discovery dispute has  
2 continued, the Court believes that to afford Defendants proper due process, Defendants should  
3 be given an opportunity to fully brief the Motion to Compel and request for sanctions to  
4 address what has occurred since the Motion to Compel and for Sanctions was first filed. The  
5 Court further believes that in order to increase efficiency, it makes sense to combine the  
6 hearings that were previously set for February 19, 2020 and February 26, 2020, with all of  
7 those matters to be heard on February 26, 2020. To those ends,

8           **IT IS HEREBY ORDERED** that with respect to Plaintiff's Motion for Sanctions and  
9 related pleadings/supplements, Defendants shall file their Opposition or Response on or before  
10 February 19, 2020 and Plaintiff shall file its Reply on or before February 24, 2020.

11           **IT IS FURTHER ORDERED** that the hearing on Plaintiff's Motion for Sanctions be  
12 continued on **February 26, 2020 at 1:15 p.m.**

13           **IT IS FURTHER ORDERED** that the hearing on Plaintiff's Motion for Partial  
14 Summary Judgment, previously scheduled for February 19, 2020 at 9:30 a.m., is rescheduled to  
15 **February 26, 2020 at 1:15 p.m.**

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1 **IT IS FURTHER ORDERED** that the hearings on the Motions for Summary  
2 Judgment as to the Counterclaims Against Jennifer Piazza and VNV Trusts, previously  
3 scheduled for February 26, 2020 at 9:30 a.m., is rescheduled to **February 26, 2020 at 1:15**  
4 **p.m.**

5 **IT IS SO ORDERED.**

6 DATED this 10 day of February, 2020.


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8   
9 **DISTRICT COURT JUDGE** 

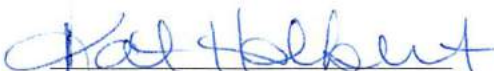
10 Respectfully submitted by:

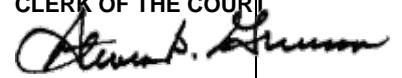
Approved as to form and content:

11 **ALDRICH LAW FIRM, LTD.**

**FARMER CASE & FEDOR**

12   
13 John P. Aldrich, Esq.  
14 Nevada Bar No. 6877  
15 Catherine Hernandez, Esq.  
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Fax: (702) 739-3001  
*Attorneys for Defendants*



1 **NEO**  
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6 *Attorneys for Plaintiff/Counterdefendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

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

14 Defendants.

15 AND ALL RELATED COUNTERCLAIMS.  
16

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

**NOTICE OF ENTRY OF**  
**STIPULATION AND ORDER**  
**RESETTING HEARINGS AND**  
**BRIEFING SCHEDULE**

17 PLEASE TAKE NOTICE that a Stipulation and Order Resetting Hearings and Briefing  
18 Schedule was entered by the Court in the above-captioned action on the 25<sup>th</sup> day of February,

19 ///

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23 ///

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1 2020, a true and correct copy of which is attached hereto.

2 DATED this 25<sup>th</sup> day of February, 2020.

3 **ALDRICH LAW FIRM, LTD.**

4 /s/ John P. Aldrich

5 John P. Aldrich, Esq.

6 Nevada Bar No. 6877

7 Catherine Hernandez, Esq.

8 Nevada Bar No. 8410

9 7866 West Sahara Avenue

10 Las Vegas, Nevada 89117

11 Telephone: (702) 853-5490

12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 25<sup>th</sup> day of February, 2020, I caused the foregoing  
16 **NOTICE OF ENTRY OF STIPULATION AND ORDER RESETTING HEARINGS AND**  
17 **BRIEFING SCHEDULE** to be electronically filed and served with the Clerk of the Court using  
18 Wiznet which will send notification of such filing to the email addresses denoted on the  
19 Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic  
20 Mail Notice List, to the following parties:

21 Anthony T. Case, Esq.

22 Kathryn Holbert, Esq.

23 FARMER CASE & FEDOR

24 2190 E. Pebble Rd., Suite #205

Las Vegas, NV 89123

C. Keith Greer, Esq.

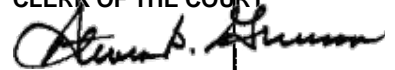
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



1 **SAO**

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Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
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*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**STIPULATION AND ORDER  
RESETTING HEARINGS AND  
BRIEFING SCHEDULE**

HEARING DATE(S)  
ENTERED IN  
ODYSSEY  
CO

AND ALL RELATED COUNTERCLAIMS.

Plaintiff FRONT SIGHT MANAGEMENT LLC, by and through its attorney of record,  
John P. Aldrich, Esq., of the Aldrich Law Firm, Ltd., and Defendants LAS VEGAS  
DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL REGIONAL CENTER LLC, EB5  
IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON FLEMING, and LINDA  
STANWOOD, by and through their attorneys of record Kathryn Holbert, Esq. and C. Keith  
Greer, Esq., hereby stipulate and agree as follows:

FEB 26 2020

1           **IT IS HEREBY STIPULATED AND AGREED** that the hearing on Plaintiff's  
2 Motion for Partial Summary Judgment, currently scheduled for February 26, 2020 at 1:15 p.m.,  
3 be moved to **March 6, 2020 at 9:30 a.m.**

4           **IT IS FURTHER STIPULATED AND AGREED** that the hearing on the Motion for  
5 Summary Judgment as to the Counterclaims against Jennifer Piazza, currently scheduled for  
6 February 26, 2020 at 1:15 p.m., be moved to **March 6, 2020 at 9:30 a.m.**

7           **IT IS FURTHER STIPULATED AND AGREED** that the hearing on the Motion for  
8 Summary Judgment as to the Counterclaims against VNV Dynasty Trust I and VNV Dynasty  
9 Trust II, currently scheduled for February 26, 2020 at 1:15 p.m., be moved to **March 6, 2020 at**  
10 **9:30 a.m.**

11           **IT IS FURTHER STIPULATED AND AGREED** that the hearing on Plaintiff's  
12 Motion for Sanctions and related pleadings/supplements, currently scheduled for February 26,  
13 2020 at 1:15 p.m., be moved to **March 6, 2020 at 9:30 a.m.**

14           **IT IS FURTHER STIPULATED AND AGREED** that with respect to Plaintiff's  
15 Motion for Sanctions and related pleadings/supplements, Defendants shall file their Opposition  
16 or Response on or before February 26, 2020 and Plaintiff shall file its Reply on or before  
17 March 4, 2020.

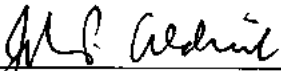
18           **IT IS SO STIPULATED.**

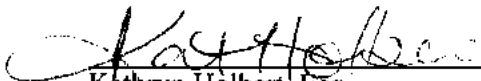
19 Dated this 19<sup>th</sup> day of February, 2020.

Dated this 19<sup>th</sup> day of February, 2020.

20 **ALDRICH LAW FIRM, LTD.**

**FARMER CASE & FEDOR**

21   
22 John P. Aldrich, Esq.  
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*Attorneys for Plaintiff*

  
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*Attorneys for Defendants*



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**ORDER**

Based upon the foregoing,

**IT IS HEREBY ORDERED** that the hearing on Plaintiff's Motion for Partial Summary Judgment, currently scheduled for February 26, 2020 at 1:15 p.m., be moved to **March 6, 2020 at 9:30 a.m.**

**IT IS FURTHER ORDERED** that the hearing on the Motion for Summary Judgment as to the Counterclaims against Jennifer Piazza, currently scheduled for February 26, 2020 at 1:15 p.m., be moved to **March 6, 2020 at 9:30 a.m.**

**IT IS FURTHER ORDERED** that the hearing on the Motion for Summary Judgment as to the Counterclaims against VNV Dynasty Trust I and VNV Dynasty Trust II, currently scheduled for February 26, 2020 at 1:15 p.m., be moved to **March 6, 2020 at 9:30 a.m.**

**IT IS FURTHER ORDERED** that the hearing on Plaintiff's Motion for Sanctions and related pleadings/supplements, currently scheduled for February 26, 2020 at 1:15 p.m., be moved to **March 6, 2020 at 9:30 a.m.**

**IT IS FURTHER ORDERED** that with respect to Plaintiff's Motion for Sanctions and related pleadings/supplements, Defendants shall file their Opposition or Response on or before February 26, 2020 and Plaintiff shall file its Reply on or before March 4, 2020.

**IT IS SO ORDERED.**

DATED this 20 day of February, 2020.

  
DISTRICT COURT JUDGE  


1 Respectfully submitted by:

2 **ALDRICH LAW FIRM, LTD.**

3 

4 John P. Aldrich, Esq.  
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Catherine Hernandez, Esq.  
5 Nevada Bar No. 8410  
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6 Las Vegas, Nevada 89117  
Tel: (702) 853-5490  
7 Fax: (702) 227-1975  
*Attorneys for Plaintiff*

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**RESP**  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
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*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,  
  
Plaintiff,  
  
vs.  
  
LAS VEGAS DEVELOPMENT FUND LLC,  
a Nevada Limited Liability Company; et al.,  
  
Defendants.  
  
\_\_\_\_\_  
  
AND ALL RELATED COUNTERCLAIMS.

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

**RESPONSE TO DEFENDANT LVDF'S  
OBJECTIONS TO STATEMENT OF  
UNDISPUTED FACTS  
AND  
COUNTERMOTION TO STRIKE**

COME NOW Plaintiff/Counterdefendant FRONT SIGHT MANAGEMENT LLC, by and through their attorneys, John P. Aldrich, Esq., and Catherine Hernandez, Esq., of the Aldrich Law Firm, Ltd., and hereby files this response to Defendant's Objections to Statement of Undisputed Facts and counter-moves the Court for an order striking Defendant and Counterclaimant LVD Fund's Objections to Plaintiff and Counterdefendant's Statement of Undisputed Facts.

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///

1 This Response and Countermotion is made and based on the attached memorandum of  
2 points and authorities and supporting documentation, the papers and pleadings on file in this  
3 action, and any oral argument this Court may allow.

4 DATED this 28<sup>th</sup> day of February, 2020.

5 **ALDRICH LAW FIRM, LTD.**

6 /s/ Catherine Hernandez

7 John P. Aldrich, Esq.

8 Nevada Bar No. 6877

9 Catherine Hernandez, Esq.

10 Nevada Bar No. 8410

11 7866 West Sahara Avenue

12 Las Vegas, Nevada 89117

13 Telephone: (702) 853-5490

14 Facsimile: (702) 227-1975

15 *Attorneys for Plaintiff/Counterdefendants*

16 **MEMORANDUM OF POINTS AND AUTHORITIES**

17 **I.**

18 **RESPONSE TO LVDF'S OBJECTIONS TO STATEMENT OF UNDISPUTED FACTS**

19 The Objections were filed late and should not be considered. EDCR 2.20. **The**  
20 **Objections were filed on behalf of LVDF only. Consequently, because the other**  
21 **Defendants failed to join in the Objections, all other Defendants have waived any**  
22 **objections to Plaintiff's Statement of Undisputed Facts.** EDCR 2.20. Defendant LVDF's  
23 Objections to Plaintiff's Statement of Undisputed Facts is 55 pages long. However, Defendant's  
24 Objections consist of essentially the same five (5) objections repeated over and over. None of  
Defendant's Objections have any merit and actually show that Plaintiff's Statement of  
Undisputed Facts is, in fact, undisputed. The five (5) core objections Defendant sets forth are as  
follows:

- 1           1.     Objection. The parol evidence rule forbids the reception of evidence  
2           which would vary or contradict the contract, since all prior negotiations  
3           and agreements are deemed to have been merged therein.” *Daly v. Del E.*  
4           *Webb Corp.*, 96 Nev. 359, 361 (1980). Here the contract specifically  
5           provides that “**“Nothing contained in this Agreement is to be construed**  
6           **as a commitment** by EB5IA, its affiliates or its agents to lend to or invest  
7           in the contemplated Financing. ***This is not a guarantee that any such***  
8           ***Financing can be procured*** by EB5IA for the Company on terms  
9           acceptable to the Company, ***or a representation or guarantee that EB5IA***  
10           ***will be able to perform successfully the Services detailed in this***  
11           ***Agreement.***” (Engagement Letter at 2 (emphasis added)). Accordingly,  
12           this proposed evidence violates the parol evidence rule and should not be  
13           considered by the court.
- 8           2.     Objection: Misstates testimony; Best Evidence.
- 9           3.     NRCF Rule 43(c) permits evidence on motions to be presented by  
10           affidavit. Local Rule 2.21(a) provides “[f]actual contentions involved in  
11           any pretrial or post-trial motion must be initially presented and heard upon  
12           affidavits [or] unsworn **declarations under penalty of perjury . . .**” NV  
13           ST 8 DIST CT Rule 2.21(emphasis added). The “expert report” of  
14           Douglas Winter, which Plaintiff relies heavily upon throughout its Motion,  
15           does not have an authenticating affidavit or declaration and the expert  
16           report itself is NOT sworn to under penalty of perjury. Such an unsworn  
17           document is incompetent evidence and should not be relied upon.
- 14          4.     This fact is not supported by any evidence or citation to the record.
- 15          5.     Objection: Lacks Foundation: the Court held EB5IA’s accounting was  
16           sufficient.

16     **A.     THE UNDISPUTED FACTS SET FORTH BY PLAINTIFF DO NOT VIOLATE**  
17     **THE PAROL EVIDENCE RULE, AS FRAUD IS AN EXCEPTION TO THE**  
18     **PAROL EVIDENCE RULE**

19           The main objection Defendant sets forth to Plaintiff’s Statement of Undisputed Facts is  
20     that the parol evidence rule forbids evidence that contradicts the agreement and that the  
21     agreement states there are no guarantees made that Defendants will be able to perform  
22     successfully. However, Nevada case law is clear that parol evidence is admissible if the party  
23     attacking the agreement can show fraud or mistake. *Chiquita Mining Co. v. Fairbanks, Morse &*  
24     *Co.*, 60 Nev. 142, 104 P.2d 191, 196 (Nev. 1940). “[A] party relying upon fraud for this purpose

1 must both plead and prove it.” *Tallman*, 208 P.2d at 306-07. Nevada prohibits the introduction  
2 of parol evidence to contradict a writing on a simple allegation, without proof, of fraud or  
3 mistake. *Id.* at 307. (“It is only when independent facts constituting fraud are first proven that  
4 parol evidence is admissible.”) The alleged fraud must consist of fraud in procuring the  
5 instrument or a breach of confidence concerning its use, and not a promise contradicting the  
6 written instrument's terms. *Id.*

7 In the present case, the fraud set forth by Plaintiff in its Statement of Undisputed Facts  
8 shows that Defendants committed fraud in inducing Plaintiff to enter into the Engagement Letter  
9 and Construction Loan Agreement (“CLA”). Plaintiff has set forth that when Defendants first  
10 approached Plaintiff about helping Front Sight raise funds for its expansion project, Front Sight  
11 politely declined. Defendants then set out on a deliberate, fraudulent scheme to dupe Front Sight  
12 into entering into both an Engagement Letter and CLA. Defendants made repeated false  
13 representations to Front Sight’s representatives, touting their extensive knowledge in EB-5  
14 lending, vast and top-notch network of agents, and perfect record with EB-5 raises. Defendants  
15 falsely represented that they could raise tens of millions of dollars in very short order.  
16 Defendants also concealed key facts from Front Sight – like the fact that they actually had **never**  
17 been successful with an EB-5 raise. Thus, Plaintiff has alleged fraud in procuring the  
18 Engagement Letter and CLA and the parol evidence rule is inapplicable.

19 Additionally, when faced with 36 pages of factual assertions, complete with abundant  
20 citations to the evidence already admitted in this case – and then clear statements of the truth –  
21 Defendants did little to refute those facts.

22 ///

23 ///

24 ///

1 **B. THE UNDISPUTED FACTS CITE DIRECTLY TO THE TESTIMONY OF**  
2 **DEFENDANTS AND/OR EMAILS SENT FROM DEFENDANTS AND, AS SUCH,**  
3 **DEFENDANT’S OBJECTIONS THAT THE STATEMENTS MISSTATE**  
4 **TESTIMONY OR ARE NOT THE BEST EVIDENCE ARE WITHOUT MERIT**

5 Defendant frequently objects to Plaintiff’s Statement of Undisputed Facts on the grounds  
6 that some of the facts allegedly misstate testimony and/or documents. However, Defendant  
7 makes no effort at all to state how or what portion of the Statement of Undisputed Facts is  
8 actually a misstatement of testimony. Further, Plaintiff cited to the record for all references to  
9 testimony, referenced documents already admitted into evidence, and attached any additional  
10 documents not already admitted into evidence, along with an Affidavit/Declaration  
11 authenticating the documents. As such, the Court has all the evidence and can determine for  
12 itself what the evidence sets forth.

13 Defendant further objects based on the best evidence rule. This objection clearly has no  
14 merit. The best evidence rule provides that a witness cannot testify about a document without  
15 the document being admitted into evidence first. *Stephans v. State*, 127 Nev. 712, 717 262 P.3d  
16 727 (2011). In the instant matter, Plaintiff either directly quoted emails or documents already  
17 admitted into evidence, or cited direct testimony of the parties and all underlying emails or  
18 documents related to the testimony were already admitted into evidence. As such, Defendant’s  
19 objections based on the best evidence rule are meritless.

20 **C. DEFENDANT’S OBJECTION THAT THE REPORTS OF PLAINTIFF’S**  
21 **EXPERTS ARE UNSWORN AND ARE THEREFORE NOT ADMISSIBLE**  
22 **EVIDENCE ARE MERITLESS**

23 Defendant objects to the report of Plaintiff’s experts based on NRCP 43(c) and EDCR  
24 2.21(a). Defendant asserts that the expert reports submitted by Plaintiff in support of its Motion  
for Partial Summary Judgment were unsworn and therefore cannot be relied upon. All parties  
are well aware that the experts will testify consistently with their reports. However, the

1 September 19, 2019 supplemental expert report of Catherine Holmes does contain a Declaration  
2 with Catherine Holmes' signature. (See **Exhibit 1** attached hereto.) However, if the Court finds  
3 this not to be sufficient, Catherine Holmes has signed an additional Declaration stating that the  
4 statements are true and correct. (See **Exhibit 2** attached hereto.) Additionally, Plaintiff's other  
5 experts, Douglas Winters and David Evans, have also signed Declarations stating their  
6 statements are true and correct. (See **Exhibits 3 and 4**, attached hereto respectively.) As such,  
7 Defendant's objection has no merit.

8 **D. ALL FACTS ARE SUPPORTED BY EVIDENCE OR THE RECORD**

9 Defendant objects to the facts set forth in support of Plaintiff's claim for alter ego stating  
10 that the facts are not supported by evidence or the record. However, Defendant does not state  
11 that the statements are false. While some of the facts may have inadvertently not had a citation  
12 to the record, the majority of the facts are supported by evidence or the record, as set forth below  
13 (new citations bolded) and were included in other parts of the Statement of Undisputed Facts:

- 14 1. The Entity Defendants are influenced and governed by Defendants Dziubla, Fleming,  
15 and Stanwood.
  - 16 a. Dziubla is (or was) the President and CEO of all three Entity Defendants.  
17 **(June 3, 2019 Evid. Hrg. Tr., p. 26, ls. 23-25; p. 27, ls. 5-13; p. 28, ls. 9-11.)**
  - 18 b. Until at least the end of 2017, Defendant Fleming was 50/50 partners with  
19 Defendant Dziubla and the Entity Defendants. (November 20, 2019 Evid.  
20 Hrg. Tr., pp. 16, 26.)
  - 21 c. Dziubla and Fleming were the only officers before Fleming left at the end of  
22 2017. **(June 3, 2019 Evid. Hrg. Tr., p. 29, l. 15 - p. 31, l. 1.)**
  - 23 d. Dziubla described the Entity Defendants as a "two man operation" (although  
24 this is contrary to many of his fraudulent representations, which left the



1 impression Dziubla and company had many resources). (June 3, 2019 Evid.  
2 Hrg. Tr., p. 30.)

3 e. According to Dziubla's May 12 2018 e-mail, Stanwood worked on a "formal  
4 and full time basis" as the Senior Vice President of LVDF from January 1,  
5 2018 forward, and had worked with the Entity Defendants "informally for  
6 several years." (Evid. Hrg. Exhibit 1.)

7 f. Ms. Stanwood softened that representation, essentially claiming she had done  
8 nothing in furtherance of this project, but acknowledged she was the Senior  
9 Vice President of LVDF. (July 23, 2019 Evid. Hrg. Tr., pp. 19, 21.)

10 2. There is a unity of interest and ownership that is inseparable.

11 a. Again, all three individual Defendants make up the only officers the Entity  
12 Defendants have. **(June 3, 2019 Evid. Hrg. Tr., p. 29, l. 15 - p. 31, l. 1.)**  
13 Dziubla and Fleming own/ed LVDF and EB5IA, Sean Flynn also had an  
14 interest in the Regional Center.

15 b. The three individual Defendants are the only owners of the Entity Defendants.

16 c. While the three Entity Defendants allegedly had distinct roles in moving Front  
17 Sight's project forward, Defendants used them interchangeably.

18 d. Many of the e-mails came from an EB5IC e-mail address. **(See emails**  
19 **previously admitted into evidence.)**

20 e. Defendants Dziubla and Fleming paid themselves money out of Defendant  
21 EB5IA and LVDF at a minimum, based on the scant accounting provided by  
22 Defendants. **(See Exhibit 6 to Statement of Undisputed Facts, at p. 6.)**

23 f. Dziubla admitted he received compensation from LVDF. (June 3, 2019 Evid.  
24 Hrg. Tr., p. 131; **Exhibit 6 to Statement of Undisputed Facts**, at p. 6.)

1 g. As set forth in the Declaration of Ignatius Piazza submitted as Exhibit 1 to  
2 Plaintiff's Renewed Motion for Appointment of Receiver and for Accounting  
3 back on November 13, 2018, Defendants used the bank accounts of EB5IA  
4 and LVDF at least somewhat interchangeably.

5 3. And Defendants Dziubla and Fleming transferred money between the entities as well.  
6 Dziubla claims he and Fleming transferred \$44,300 from EB5IC to EB5IA – although  
7 Mr. Winters explained that they did so in order to pay themselves over \$78,000. (See  
8 **Exhibit 6 to Statement of Undisputed Facts**, at p. 6.)

9 As such, Defendant's objection has no merit.

10 **E. DEFENDANT EB5IA'S ACCOUNTING WAS NOT SUFFICIENT**

11 Defendant objects to Plaintiff's statements that Defendants have not provided a proper  
12 accounting. Defendant claims that the Court has already ruled that Defendants provided a proper  
13 accounting. However, Defendant failed to include any citation to an Order from this Court with  
14 such a finding. It is clear that Defendants did not in fact provide a proper accounting, as  
15 Defendants just produced additional documents on February 5, 2020, which include additional  
16 receipts and invoices for money spent by Defendant EB5IA. Further, Plaintiff's expert, Doug  
17 Winters, has opined that EB5IA's documents do not constitute a proper accounting. As such,  
18 this objection has no merit.

19 **III.**

20 **CONCLUSION**

21 Based on the foregoing, Defendants' Objections to Plaintiff's Statement of Undisputed  
22 Facts have no merit, the objections should be overruled and Plaintiff's Motion for Partial  
23 Summary Judgment should be granted.

24 ///

1                   **COUNTERMOTION TO STRIKE DEFENDANTS' OBJECTIONS TO PLAINTIFF'S**  
2                   **STATEMENT OF UNDISPUTED FACTS**

3                   **I.**

4                   **PROCEDURAL HISTORY**

5                   The Court is well aware of the extensive procedural history in this case. Plaintiff will  
6                   only provide the procedural history that specifically pertains to this Motion.

7                   On or about January 17, 2020, Plaintiff filed a Motion for Partial Summary Judgment.

8                   Also on January 17, 2020, Plaintiff filed a Statement of Undisputed Facts in support of  
9                   Plaintiff's Motion for Partial Summary Judgment.

10                  On or about January 27, 2020, Defendants filed an Opposition to Plaintiff's Motion for  
11                  Partial Summary Judgment and the Declaration of Robert Dziubla.

12                  On or about February 3, 2020, days after Defendant's Opposition was due,  
13                  Defendant/Counterclaimant LVDF filed its Objections to Plaintiff and Counterdefendant's  
14                  Statement of Undisputed Facts.

15                  **II.**

16                  **LEGAL ARGUMENT**

17                  Eighth Judicial District Court Rule 2.20(e) provides:

18                  Within 14 days after service of the motion, and 5 days after service of any joinder  
19                  to the motion, the opposing party must serve and file written notice of  
20                  nonopposition or opposition thereto, together with a memorandum of points and  
21                  authorities and supporting affidavits, if any, stating facts showing why the motion  
22                  and/or joinder should be denied. Failure of the opposing party to serve and file  
23                  written opposition may be construed as an admission that the motion and/or  
24                  joinder is meritorious and a consent to granting same.

                  In the instant matter, Plaintiff filed its Statement of Undisputed Facts in Support of  
                  Plaintiff's Motion for Summary Judgment on February 17, 2020. Defendant/Counterclaimant  
                  LVDF filed its Objections to Plaintiff's Statement of Undisputed Facts on February 3, 2020, 17

1 days after Plaintiff filed the Statement of Undisputed Facts. Defendant LVDF was required to  
2 file its Objection to Plaintiff's Statement of Undisputed Facts within 14 days. As such, LVDF's  
3 Objection to Plaintiff's Statement of Undisputed Facts is not in compliance with EDCR 2.20(e)  
4 and should be stricken as a fugitive document.

5 **III.**

6 **CONCLUSION**

7 Based on the foregoing, Plaintiff's Countermotion to Strike Defendant/Counterclaimant  
8 LVDF's Objections to Plaintiff's Statement of Undisputed Facts should be granted.

9 DATED this 28<sup>th</sup> day of February, 2020.

10 **ALDRICH LAW FIRM, LTD.**

11 /s/ Catherine Hernandez

12 John P. Aldrich, Esq.

13 Nevada Bar No. 6877

14 Catherine Hernandez, Esq.

15 Nevada Bar No. 8410

16 7866 West Sahara Avenue

17 Las Vegas, Nevada 89117

18 Telephone: (702) 853-5490

19 Facsimile: (702) 227-1975

20 *Attorneys for Plaintiff/Counterdefendants*

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that on the 28<sup>th</sup> day of February, 2020, I caused the foregoing  
3 **RESPONSE TO DEFENDANT LVDF'S OBJECTIONS TO STATEMENT OF**  
4 **UNDISPUTED FACTS AND COUNTERMOTION TO STRIKE** to be electronically filed  
5 and served with the Clerk of the Court using Wiznet which will send notification of such filing to  
6 the email addresses denoted on the Electronic Mail Notice List, or by U.S. mail, postage prepaid,  
7 if not included on the Electronic Mail Notice List, to the following parties:

8 Anthony T. Case, Esq.  
9 Kathryn Holbert, Esq.  
10 FARMER CASE & FEDOR  
2190 E. Pebble Rd., Suite #205  
Las Vegas, NV 89123

11 C. Keith Greer, Esq.  
12 16855 West Bernardo Drive, Suite 255  
San Diego, CA 92127

13 *Attorneys for Defendants/Counterclaimant*

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

# **EXHIBIT 1**

# **EXHIBIT 1**

FRONT SIGHT MANAGEMENT, LLC  
V.  
LAS VEGAS DEVELOPMENT FUND LLC, ET AL.  
SUPPLEMENTAL EXPERT WITNESS REPORT OF  
CATHERINE DEBONO HOLMES, ESQ.

This Supplemental Report is provided to describe the significance of the **Addendum ("Addendum") and Supplement ("Supplement") to Addendum to the Report titled "The Economic and Jobs-Creation Impacts of the Exemplar Front Sight Firearms Training Institute Expansion Project in the Applicant EB5 Impact Capital Regional Center LLC"** prepared for Front Sight Management, Inc. by Prepared by: Michael K. Evans and David R. Evans of Evans, Carroll & Associates, Inc., dated as of September 19, 2019.

1. I have personally reviewed copies of the Addendum and Supplement.
2. Based upon my review of the Addendum and Supplement, these reports provide evidence sufficient to support a finding by the U.S. Citizenship and Immigration Services ("USCIS") that the expenditures incurred to date to construct the Front Sight Firearms Training Institute Expansion Project (the "**Project**") have created new jobs in excess of the number required for the existing EB-5 investors who have invested in the Project. A total of 10 new jobs are required for every EB-5 Investor. According to the Addendum, 185 jobs have been created since July 2016 by the Project, and a total of 135 jobs have been created since October 2016, when the first EB-5 proceeds were received by the Project. Therefore, if 13 EB-5 Investors have invested in this Project, then all of those 13 investors have already met the job creation requirements necessary to obtain a permanent visa under the EB-5 Program. This means that even if no additional work was done on the Project, all of the existing EB-5 Investors in the Project would qualify to receive their visas under the EB-5 Program.
3. Michael Evans and David Evans, the economists who prepared the Addendum and Supplement, are two of the most respected and experienced economists within the EB-5 business community. They and their team have prepared hundreds if not thousands of economic reports used to support EB-5 applications. The fact that they prepared this Addendum and Supplement provides a high level of confidence that the Addendum and Supplement have been prepared in accordance with all USCIS requirements and will therefore be accepted by USCIS as evidence of job creation by this Project.
4. The opinions provided in my expert report were provided to a reasonable degree of probability and the factual statements included in my expert report are true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated: September 19, 2019.



Catherine DeBono Holmes, Esq.



# **EXHIBIT 2**

# **EXHIBIT 2**



# **EXHIBIT 3**

# **EXHIBIT 3**



# **EXHIBIT 4**

# **EXHIBIT 4**

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**DECLARATION OF DAVID R. EVANS**

STATE OF FLORIDA                    )  
  ) ss:  
COUNTY OF PALM BEACH         )

Affiant, being first duly sworn, deposes and states the following:

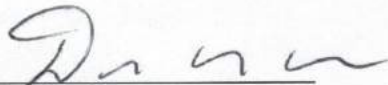
1. I, David R. Evans, have been hired by Plaintiff/Counterdefendant Front Sight Management LLC ("Front Sight") to act as an expert witness in the matter of *Front Sight Management LLC v. Las Vegas Development Fund LLC, et al.*, Eighth Judicial District Court, Case No. A-18-781084-B.

2. On September 19, 2019, I provided an expert report and a supplemental expert report to Front Sight. Additionally, I provided a second supplemental report on October 4, 2019.

3. I have reviewed the expert report and supplemental expert reports, and if I were called to testify in this matter, I would testify in accordance with the factual statements and opinions set forth in my expert reports.

4. The opinions provided in my expert reports were provided to a reasonable degree of probability and the factual statements included in my expert reports are true and correct to the best of my knowledge.

I declare under penalty of perjury under the laws of the State of Nevada that this Declaration was executed on the 27 day of February, 2020 and that the foregoing is true and correct.

  
\_\_\_\_\_  
David R. Evans  
Evans, Carroll & Associates, Inc.  
2785 NW 26th Street  
Boca Raton, FL 33434



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**NEO**  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
Nevada Bar No. 8410  
**ALDRICH LAW FIRM, LTD.**  
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Las Vegas, NV 89117  
Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**NOTICE OF ENTRY OF ORDER**

AND ALL RELATED COUNTERCLAIMS.

PLEASE TAKE NOTICE that an Order Granting Motion to Seal and/or Redact Portions  
of Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions for Summary  
Judgment to Protect Confidential Financial Information was entered by the Court in the above-

///  
///  
///  
///

1 captioned action on the 27<sup>th</sup> day of February, 2020, a true and correct copy of which is attached  
2 hereto.

3 DATED this 2<sup>nd</sup> day of March, 2020.

4 **ALDRICH LAW FIRM, LTD.**

5 /s/ John P. Aldrich

6 John P. Aldrich, Esq.

7 Nevada Bar No. 6877

8 Catherine Hernandez, Esq.

9 Nevada Bar No. 8410

10 7866 West Sahara Avenue

11 Las Vegas, Nevada 89117

12 Telephone: (702) 853-5490

13 Facsimile: (702) 227-1975

14 *Attorneys for Plaintiff/Counterdefendants*

15 **CERTIFICATE OF SERVICE**

16 I HEREBY CERTIFY that on the 2<sup>nd</sup> day of March, 2020, I caused the foregoing  
17 **NOTICE OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the  
18 Court using Wiznet which will send notification of such filing to the email addresses denoted on  
19 the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the  
20 Electronic Mail Notice List, to the following parties:

21 Anthony T. Case, Esq.

22 Kathryn Holbert, Esq.

23 FARMER CASE & FEDOR

24 2190 E. Pebble Rd., Suite #205

Las Vegas, NV 89123

C. Keith Greer, Esq.

16855 West Bernardo Drive, Suite 255

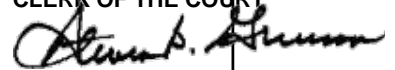
San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.





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  
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10 Facsimile: (702) 227-1975  
11 *Attorneys for Plaintiff/Counterdefendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

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

11 Plaintiff,

12 vs.

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

15 Defendants.

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

**ORDER GRANTING MOTION TO  
SEAL AND/OR REDACT PORTIONS  
OF DEFENDANTS' OPPOSITIONS  
TO JENNIFER PIAZZA AND THE  
VNV TRUSTS' MOTIONS FOR  
SUMMARY JUDGMENT TO  
PROTECT CONFIDENTIAL  
FINANCIAL INFORMATION**

16 AND ALL RELATED COUNTERCLAIMS.

17 This matter having come before the Court on February 18, 2020 at 9:00 a.m. on  
18 Plaintiff's Motion to Seal and/or Redact Portions of Defendants' Oppositions to Jennifer Piazza  
19 and the VNV Trusts' Motions for Summary Judgment to Protect Confidential Financial  
20 Information, John P. Aldrich, Esq. appearing on behalf of Plaintiff and Kathryn Holbert, Esq.  
21 appearing on behalf of Defendants, the Court having reviewed the pleadings on file herein,  
22 having heard oral argument by the parties, and for good cause appearing therefore,

23 ///

24 **FEB 20 2020**

1           **IT IS HEREBY ORDERED** that Plaintiff/Counterdefendants' Motion to Seal and/or  
2 Redact Portions of Defendants' Oppositions to Jennifer Piazza and the VNV Trusts' Motions  
3 for Summary Judgment to Protect Confidential Financial Information is GRANTED.

4           **IT IS FURTHER ORDERED** that the Clerk of Court shall seal the following portions  
5 of Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendant Jennifer  
6 Piazza's Motion for Summary Judgment (filed on February 14, 2020):

- 7           • Page 3, lines 5-26;
- 8           • Page 5, lines 8-14;
- 9           • Page 6, line 22 through page 7, line 6;
- 10          • Page 7, lines 8-22;
- 11          • Page 7, line 25 through page 8, line 8;
- 12          • Page 10, line 25 through page 11, line 2;
- 13          • Page 11, lines 17-19;
- 14          • Page 11, lines 23-26;
- 15          • Page 13, line 24 through page 14, line 7;
- 16          • Page 15, lines 7-9; and
- 17          • Page 15, lines 23-24.

18           **IT IS FURTHER ORDERED** that the Clerk of Court shall seal the following portions  
19 of Defendant and Counterclaimant LVD Fund's Opposition to Counterdefendants VNV Dynasty  
20 Trust I and VNV Dynasty Trust II's Motion for Summary Judgment (filed on February 14,  
21 2020):

- 22          • Page 3, lines 5-25;
- 23          • Page 5, lines 20-23;
- 24          • Page 6, lines 7-16;
- Page 6, line 18 through page 7, line 12;
- Page 7, line 15 through page 8, line 2;
- Page 10, lines 15-18;
- Page 11, lines 11-14;
- Page 12, lines 1-2;
- Page 13, lines 13-21;
- Page 14, lines 23-25;

///

- Page 15, lines 21-22; and
- Page 16, lines 8-15.


**IT IS SO ORDERED.**

DATED this 20 day of February, 2020.

  
DISTRICT COURT JUDGE 

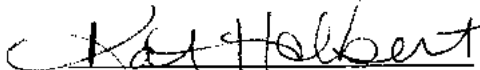
Respectfully submitted by:

**ALDRICH LAW FIRM, LTD.**

  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
Nevada Bar No. 8410  
7866 West Sahara Avenue  
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Tel: (702) 853-5490  
Fax: (702) 227-1975  
*Attorneys for Plaintiff*

Approved as to form and content:

**FARMER CASE & FEDOR**

  
Anthony T. Case, Esq.  
Nevada Bar No. 6589  
Kathryn Holbert, Esq.  
Nevada Bar No. 10084  
2190 E. Pebble Rd., Suite #205  
Las Vegas, NV 89123  
Tel: (702) 579-3900  
Fax: (702) 739-3001  
*Attorneys for Defendants*



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

7 **EIGHTH JUDICIAL DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

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

14 Defendants.

15 AND ALL RELATED COUNTERCLAIMS.  
16

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

**NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that an Order Granting Ex Parte Motion to Seal (1) Reply to  
18 Opposition to MSJ as to the Counterclaims Against VNV Trusts and Exhibits, and (2) Reply to  
19 Opposition to MSJ as to the Counterclaims Against Jennifer Piazza and Exhibits was entered by

20 ///

21 ///

22 ///

23 ///

1 the Court in the above-captioned action on the 3<sup>rd</sup> day of March, 2020, a true and correct copy of  
2 which is attached hereto.

3 DATED this 3<sup>rd</sup> day of March, 2020.

4 **ALDRICH LAW FIRM, LTD.**

5 /s/ John P. Aldrich

6 John P. Aldrich, Esq.

7 Nevada Bar No. 6877

8 Catherine Hernandez, Esq.

9 Nevada Bar No. 8410

10 7866 West Sahara Avenue

11 Las Vegas, Nevada 89117

12 Telephone: (702) 853-5490

13 Facsimile: (702) 227-1975

14 *Attorneys for Plaintiff/Counterdefendants*

15 **CERTIFICATE OF SERVICE**

16 I HEREBY CERTIFY that on the 3<sup>rd</sup> day of March, 2020, I caused the foregoing  
17 **NOTICE OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the  
18 Court using Wiznet which will send notification of such filing to the email addresses denoted on  
19 the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the  
20 Electronic Mail Notice List, to the following parties:

21 Anthony T. Case, Esq.

22 Kathryn Holbert, Esq.

23 FARMER CASE & FEDOR

24 2190 E. Pebble Rd., Suite #205

Las Vegas, NV 89123

C. Keith Greer, Esq.

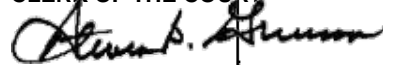
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



1 **ORDER**

2 John P. Aldrich, Esq.  
3 Nevada Bar No. 6877  
4 Catherine Hernandez, Esq.  
5 Nevada Bar No. 8410  
6 Jamie S. Hendrickson, Esq.  
7 Nevada Bar No. 12770

8 **ALDRICH LAW FIRM, LTD.**

9 7866 West Sahara Avenue  
10 Las Vegas, NV 89117  
11 Telephone: (702) 853-5490  
12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **EIGHTH JUDICIAL DISTRICT COURT**  
15 **CLARK COUNTY, NEVADA**

16 FRONT SIGHT MANAGEMENT LLC, a  
17 Nevada Limited Liability Company,

18 Plaintiff,

19 vs.

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

22 Defendants.

23 \_\_\_\_\_  
24 AND ALL RELATED COUNTERCLAIMS.

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

**ORDER GRANTING EX PARTE**  
**MOTION TO SEAL (1) REPLY TO**  
**OPPOSITION TO MOTION FOR**  
**SUMMARY JUDGMENT AS TO**  
**THE COUNTERCLAIMS AGAINST**  
**VNV DYNASTY TRUST I AND VNV**  
**DYNASTY TRUST II AND**  
**EXHIBITS, AND (2) REPLY TO**  
**OPPOSITION TO MOTION FOR**  
**SUMMARY JUDGMENT AS TO**  
**THE COUNTERCLAIMS AGAINST**  
**JENNIFER PIAZZA AND**  
**EXHIBITS**

25 The Court having reviewed the Ex Parte Motion to Seal (1) Reply to Opposition to  
26 Motion for Summary Judgment as to the Counterclaims Against VNV Dynasty Trust I and VNV  
27 Dynasty Trust II and exhibits, and (2) Reply to Opposition to Motion for Summary Judgment as  
28 to the Counterclaims Against Jennifer Piazza and exhibits, and other good cause appearing  
29 therefore, the Court finds that:

FEB 20 2020

1 Pursuant to Nevada Supreme Court Rule 3(4), the Court may order the court files and  
2 records, or any part thereof, in a civil action to be sealed or redacted, provided the court makes  
3 and enters written findings that the specific sealing or redaction is justified by identified  
4 compelling privacy or safety interests that outweigh the public interest in access to the court  
5 record.

6 Rule 3(4) also sets forth eight specific instances that warrant the sealing of records:

7 (b) The sealing or redaction furthers an order entered under NRCP  
8 12(f) or JCRCP 12(f) or a protective order entered under NRCP 26(c) or JCRCP  
9 12(c);

10 (g) The sealing or redaction is necessary to protect intellectual  
11 proprietary or property interests such as trade secrets as defined in NRS  
12 600A.030(5);

13 (h) The sealing or redaction is justified or required by another  
14 identified compelling circumstance.

15 The Stipulated Protective Order provides that the Replies should be sealed.

16 Counterdefendants are seeking to file their (1) Reply to Opposition to Motion for  
17 Summary Judgment as to the Counterclaims Against VNV Dynasty Trust I and VNV Dynasty  
18 Trust II and exhibits and (2) Reply to Opposition to Motion for Summary Judgment as to the  
19 Counterclaims Against Jennifer Piazza and exhibits under seal. Counterdefendants' Replies in  
20 support of their Motions for Summary Judgment contain confidential personal and financial  
21 information. Accordingly, the sealing of Counterdefendants' Replies in support of their Motions  
22 to Enforce Summary Judgment is justified.

23 Based upon the foregoing,

24 **IT IS HEREBY ORDERED** that Counterdefendants' Ex Parte Motion to Seal (1) Reply  
to Opposition to Motion for Summary Judgment as to the Counterclaims Against VNV Dynasty  
Trust I and VNV Dynasty Trust II and Exhibits and (2) Reply to Opposition to Motion for  
Summary Judgment as to the Counterclaims Against Jennifer Piazza and Exhibits is GRANTED,  
and that Counterdefendants may file their (1) Reply to Opposition to Motion for Summary

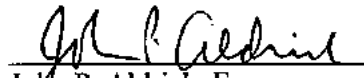
1 Judgment as to the Counterclaims Against VNV Dynasty Trust I and VNV Dynasty Trust II and  
2 exhibits and (2) Reply to Opposition to Motion for Summary Judgment as to the Counterclaims  
3 Against Jennifer Piazza and exhibits under seal.

4 DATED this 27 day of February, 2020.

5   
6 DISTRICT COURT JUDGE  
7 CS

8 Respectfully submitted by:

9 **ALDRICH LAW FIRM, LTD.**

10 

11 John P. Aldrich, Esq.  
12 Nevada Bar No. 6877

13 Catherine Hernandez, Esq.  
14 Nevada Bar No. 8410

15 Jamie S. Hendrickson, Esq.  
16 Nevada Bar No. 12770

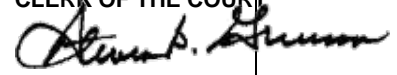
17 7866 West Sahara Avenue  
18 Las Vegas, NV 89117

19 Tel (702) 853-5490

20 Fax (702) 226-1975

21 *Attorneys for Plaintiff/Counterdefendants*





1 **NEO**  
John P. Aldrich, Esq.  
2 Nevada Bar No. 6877  
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3 Nevada Bar No. 8410  
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4 7866 West Sahara Avenue  
Las Vegas, NV 89117  
5 Telephone: (702) 853-5490  
Facsimile: (702) 227-1975  
6 *Attorneys for Plaintiff/Counterdefendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

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

14 Defendants.

15 AND ALL RELATED COUNTERCLAIMS.  
16

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

**NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that a Stipulation and Order to Extend Discovery Deadlines  
18 (First Request) was entered by the Court in the above-captioned action on the 11<sup>th</sup> day of March,

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23 ///

1 2020, a true and correct copy of which is attached hereto.

2 DATED this 12<sup>th</sup> day of March, 2020.

3 **ALDRICH LAW FIRM, LTD.**

4 /s/ John P. Aldrich

5 John P. Aldrich, Esq.

6 Nevada Bar No. 6877

7 Catherine Hernandez, Esq.

8 Nevada Bar No. 8410

9 7866 West Sahara Avenue

10 Las Vegas, Nevada 89117

11 Telephone: (702) 853-5490

12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **CERTIFICATE OF SERVICE**

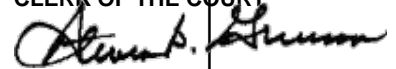
15 I HEREBY CERTIFY that on the 12<sup>th</sup> day of March, 2020, I caused the foregoing  
16 **NOTICE OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the  
17 Court using Wiznet which will send notification of such filing to the email addresses denoted on  
18 the Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the  
19 Electronic Mail Notice List, to the following parties:

20 Anthony T. Case, Esq.  
21 Kathryn Holbert, Esq.  
22 FARMER CASE & FEDOR  
23 2190 E. Pebble Rd., Suite #205  
24 Las Vegas, NV 89123

C. Keith Greer, Esq.  
16855 West Bernardo Drive, Suite 255  
San Diego, CA 92127  
*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



1 **SAO**  
2 John P. Aldrich, Esq.  
3 Nevada Bar No. 6877  
4 Catherine Hernandez, Esq.  
5 Nevada Bar No. 8410  
6 Jamie S. Hendrickson, Esq.  
7 Nevada Bar No. 12770  
8 **ALDRICH LAW FIRM, LTD.**  
9 7866 West Sahara Avenue  
10 Las Vegas, NV 89117  
11 Telephone: (702) 853-5490  
12 Facsimile: (702) 227-1975  
13 *Attorneys for Plaintiff/Counterdefendants*

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

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

12 Plaintiff,

13 vs.

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

16 Defendants.

17 AND ALL RELATED COUNTERCLAIMS.

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

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY DEADLINES**

***(FIRST REQUEST)***

18 Plaintiff FRONT SIGHT MANAGEMENT LLC (“Plaintiff” or “Front Sight”) and  
19 Defendants LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT CAPITAL  
20 REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA, JON  
21 FLEMING, and LINDA STANWOOD, by and through their respective counsel, and hereby  
22 stipulate and agree to extend the discovery deadlines pursuant to the provisions of Rule 2.35 of  
23 the Eighth Judicial District Court Rules.

24 **MAR 05 2020**

1 This extension is not sought for the purpose of delay or for any other untoward purpose.

2 In compliance with EDCR 2.35(b), the parties advise the Court of the following:

3 **Discovery Completed to Date:**

4 1. Plaintiff has served the following NRCP 16.1 Early Case Conference List of Witnesses  
5 and Documents:

- 6 a. Initial Disclosures served on June 25, 2019
- 7 b. First Supplement to Initial Disclosures served on July 18, 2019
- 8 c. Second Supplement to Initial Disclosures served on July 29, 2019
- 9 d. Third Supplement to Initial Disclosures served on August 7, 2019
- 10 e. Fourth Supplement to Initial Disclosures served on October 22, 2019
- 11 f. Fifth Supplement to Initial Disclosures served on February 7, 2020

12 2. Defendants have served the following NRCP 16.1 Early Case Conference List of  
13 Witnesses and Documents:

- 14 a. Initial Disclosures served on July 9, 2019
- 15 b. First Supplement to Initial Disclosures served on August 19, 2019
- 16 c. Third Supplement to Initial Disclosures served on January 10, 2020
- 17 d. Fourth Supplement to Initial Disclosures served on February 4, 2020

18 3. Plaintiff has served several sets of Requests for Production of Documents to all  
19 Defendants. These written discovery requests are subject to current ongoing motion  
20 practice. Additionally, Plaintiff has served several sets of Interrogatories to all  
21 Defendants.

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4. Defendants have served several sets of Requests for Production of Documents and Interrogatories to Front Sight and Jennifer Piazza, all of which have been responded to by Front Sight and Jennifer Piazza.
5. The parties have conducted or are set to take the following depositions:
  - a. Deposition of Jay Carter taken on February 12, 2020
  - b. Deposition of David Keller taken on February 12, 2020
  - c. Deposition of Person Most Knowledgeable of Empyrean West, LLC taken on February 12, 2020
  - d. Deposition of Sean Flynn scheduled to take place on March 12, 2020
  - e. Deposition of Person Most Knowledgeable of Morales Construction, Inc. scheduled to take place on March 16, 2020
  - f. Deposition of Person Most Knowledgeable of All American Concrete and Masonry, Inc. scheduled to take place on March 16, 2020
  - g. Deposition of Person Most Knowledgeable of Top Rank Builders, Inc. scheduled to take place on March 16, 2020

**Remaining Discovery to be Completed:**

- The parties believe that the following discovery remains to be completed:
1. Depositions of witnesses identified by Plaintiff and Defendants
  2. Additional written discovery
  3. Initial expert disclosures
  4. Rebuttal expert disclosures
  5. Expert depositions
  6. Other discovery as necessary

1 **Reasons Why Remaining Discovery Not Completed:**

2 The parties have proceeded diligently with discovery thus far, including exchanging tens  
3 of thousands of pages of documents, and have now commenced taking third party depositions,  
4 and believe that continuing to conduct discovery in due course will result in discovery being  
5 completed by the stipulated discovery cut off date.

6 **Proposed Schedule for Completing Remaining Discovery:**

7 The remaining discovery set forth above should be completed by July 3, 2020. The  
8 parties agree that the extension of the discovery deadlines is necessary to complete the parties'  
9 initial expert and rebuttal expert disclosures. Therefore, the parties request and stipulate that  
10 the Court continue the discovery deadlines permit the following proposed Discovery  
11 Scheduling Order:

<b><u>EVENT DEADLINE</u></b>	<b><u>CURRENT DATE</u></b>	<b><u>PROPOSED DATE</u></b>
Last day to complete discovery	June 5, 2020	July 3, 2020
Last day to file motions to amend pleadings or add parties	March 5, 2020	April 3, 2020
Last day for initial expert disclosures	March 5, 2020	April 3, 2020
Last day for rebuttal expert disclosures	April 6, 2020	May 4, 2020
Last day to file dispositive motions	July 6, 2020	August 3, 2020

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1 **Current Trial Date:**

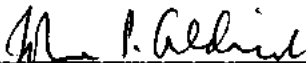
2 The parties expect to be ready for trial by October 5, 2020, and do not request an  
3 extension of the current trial date. This Stipulation is made in good faith and not for purposes  
4 of delay.

5 Dated this 4 day of March, 2020.

Dated this 4 day of March, 2020.

6 **ALDRICH LAW FIRM, LTD.**

**GREER & ASSOCIATES**

7 



8 John P. Aldrich, Esq.  
9 Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
10 Nevada Bar No. 8410  
11 Jamie S. Hendrickson, Esq.  
12 Nevada Bar No. 12770  
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*Attorneys for Plaintiff/Counterdefendants*

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Kathryn Holbert, Esq.  
Nevada Bar No. 10084  
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Las Vegas, NV 89123  
Tel: (702) 579-3900  
Fax: (702) 739-3001  
*Attorneys for Defendants/Counterclaimant*

14 **ORDER**

15 Having reviewed and considered the above Stipulation by the parties, and good cause  
16 appearing therefore,

17 **IT IS HEREBY ORDERED** that the discovery deadlines will be extended as agreed to  
18 by the parties as follows:

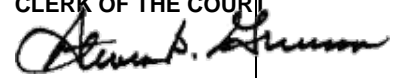
19

<b><u>EVENT DEADLINE</u></b>	<b><u>ORDERED DATE</u></b>
Last day to complete discovery	<b>July 3, 2020</b>
Last day to file motions to amend pleadings or add parties	<b>April 3, 2020</b>
Last day for initial expert disclosures	<b>April 3, 2020</b>
Last day for rebuttal expert disclosures	<b>May 4, 2020</b>
Last day to file dispositive motions	<b>August 3, 2020</b>

23 *///*







1 **NEO**  
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2 Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
3 Nevada Bar No. 8410  
**ALDRICH LAW FIRM, LTD.**  
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Facsimile: (702) 227-1975  
6 *Attorneys for Plaintiff/Counterdefendants*

7 **EIGHTH JUDICIAL DISTRICT COURT**  
8 **CLARK COUNTY, NEVADA**

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

10 Plaintiff,

11 vs.

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

14 Defendants.

15 AND ALL RELATED COUNTERCLAIMS.  
16

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

**NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that a Stipulation and Order Resetting Hearings and Briefing  
18 Schedule was entered by the Court in the above-captioned action on the 27<sup>th</sup> day of March, 2020,

19 ///

20 ///

21 ///

22 ///

23 ///

1 a true and correct copy of which is attached hereto.

2 DATED this 1<sup>st</sup> day of April, 2020.

3 **ALDRICH LAW FIRM, LTD.**

4 /s/ John P. Aldrich

5 John P. Aldrich, Esq.

6 Nevada Bar No. 6877

7 Catherine Hernandez, Esq.

8 Nevada Bar No. 8410

9 7866 West Sahara Avenue

10 Las Vegas, Nevada 89117

11 Telephone: (702) 853-5490

12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 1<sup>st</sup> day of April, 2020, I caused the foregoing **NOTICE**  
16 **OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the Court using  
17 Wiznet which will send notification of such filing to the email addresses denoted on the  
18 Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic  
19 Mail Notice List, to the following parties:

20 Anthony T. Case, Esq.

21 Kathryn Holbert, Esq.

22 FARMER CASE & FEDOR

23 2190 E. Pebble Rd., Suite #205

24 Las Vegas, NV 89123

C. Keith Greer, Esq.

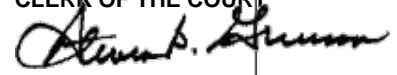
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



1 **SAO**  
2 John P. Aldrich, Esq.  
3 Nevada Bar No. 6877  
4 Catherine Hernandez, Esq.  
5 Nevada Bar No. 8410  
6 Jamie S. Hendrickson, Esq.  
7 Nevada Bar No. 12770  
8 **ALDRICH LAW FIRM, LTD.**  
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10 Las Vegas, NV 89117  
11 Telephone: (702) 853-5490  
12 Facsimile: (702) 227-1975  
13 *Attorneys for Plaintiff/Counterdefendants*

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

HEARING DATE(S)  
ENTERED IN  
ODYSSEY  
\_\_\_\_\_

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

11 Plaintiff,

12 vs.

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

15 Defendants.

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

**STIPULATION AND ORDER**  
**RESETTING HEARINGS AND**  
**BRIEFING SCHEDULE**

16 AND ALL RELATED COUNTERCLAIMS.

17 Plaintiff/Counterdefendants, by and through their attorneys of record, John P. Aldrich,  
18 Esq., Catherine Hernandez, Esq., and Jamie S. Hendrickson, Esq., of the Aldrich Law Firm, Ltd.,  
19 and Defendants/Counterclaimant, by and through their attorneys of record, Kathryn Holbert, Esq.  
20 and C. Keith Greer, Esq., hereby stipulate and agree as follows:

21 On March 25, 2020, the Order Granting Plaintiff's Motion to Compel was filed with this  
22 Court. Notice of entry has not yet been filed but is expected to be shortly. That Order imposed  
23 deadlines for Defendants/Counterclaimant, including the following:  
24

1           **IT IS HEREBY ORDERED** that Plaintiff's Motion to Compel is  
2 GRANTED in part as set forth herein.

3           **IT IS FURTHER ORDERED** that Defendants EB5 Impact Advisors,  
4 LLC, EB5 Impact Capital Regional Center, LLC, Robert W. Dziubla, Jon  
5 Fleming, and Linda Stanwood shall provide supplemental responses to Plaintiff's  
6 Requests for Production of Documents (served to Defendants on October 30,  
7 2019), with particularity and without boilerplate objections, and addressing all of  
8 the requests, no later than **March 30, 2020**.

9           **IT IS FURTHER ORDERED** that Defendant Las Vegas Development  
10 Fund LLC shall provide additional supplemental responses to Plaintiff's Requests  
11 for Production of Documents (served to Defendants on October 30, 2019), with  
12 particularity and without boilerplate objections, and addressing all of the requests,  
13 no later than **March 30, 2020**.

14           **IT IS FURTHER ORDERED** that if Defendants fail to provide a  
15 response or documents by asserting any privilege(s), including regarding investor  
16 documents and attorney invoices, Defendants shall identify all allegedly  
17 privileged documents in a privilege log that complies with Nevada law and shall  
18 file their Motion for Protective Order no later than **March 30, 2020**, or otherwise  
19 the privilege(s) is waived. Plaintiff's Opposition brief to any Motion for  
20 Protective Order shall be due on **April 13, 2020**, and Defendants' Reply brief  
21 shall be due on **April 20, 2020**.

22           **IT IS FURTHER ORDERED** that a hearing on Defendants' Motion for  
23 Protective Order is scheduled for **April 22, 2020 at 10:30 a.m.**

24           **IT IS HEREBY STIPULATED AND AGREED** that the deadlines and hearing in the  
March 25, 2020 Order are modified as follows (new dates/modifications are in **bold and**  
**underline**):

.....

**IT IS FURTHER ORDERED** that Defendants EB5 Impact Advisors,  
LLC, EB5 Impact Capital Regional Center, LLC, Robert W. Dziubla, Jon  
Fleming, and Linda Stanwood shall provide supplemental responses to Plaintiff's  
Requests for Production of Documents (served to Defendants on October 30,  
2019), with particularity and without boilerplate objections, and addressing all of  
the requests, no later than **April 13, 2020**.

**IT IS FURTHER ORDERED** that Defendant Las Vegas Development  
Fund LLC shall provide additional supplemental responses to Plaintiff's Requests  
for Production of Documents (served to Defendants on October 30, 2019), with  
particularity and without boilerplate objections, and addressing all of the requests,  
no later than **April 13, 2020**.

**IT IS FURTHER ORDERED** that if Defendants fail to provide a  
response or documents by asserting any privilege(s), including regarding investor  
documents and attorney invoices, Defendants shall identify all allegedly

1 privileged documents in a privilege log that complies with Nevada law and shall  
2 file their Motion for Protective Order no later than April 13, 2020, or otherwise  
3 the privilege(s) is waived. Plaintiff's Opposition brief to any Motion for  
Protective Order shall be due on April 27, 2020, and Defendants' Reply brief  
shall be due on May 4, 2020.

4 **IT IS FURTHER ORDERED** that a hearing on Defendants' Motion for  
Protective Order **will be rescheduled by the Court. The parties request a**  
5 **telephonic hearing to discuss scheduling, preferably either March 31, 2020**  
**or April 1, 2020.**

6 On March 11, 2020, Defendants/Counterclaimant filed redacted versions of the following  
7 documents: (1) Motion for Partial Summary Judgment; (2) Declaration of Robert Dziubla in  
8 Support of Motion for Partial Summary Judgment and (3) Separate Statement of Undisputed  
9 Facts in support of Motion for Partial Summary Judgment. Defendants/Counterclaimants served  
10 unredacted versions of those documents on March 12, 2020. Plaintiff's responses to those  
11 documents are currently due on **March 26, 2020**. The Notice of Hearing sets the hearing on  
12 **April 15, 2020**.

13 **IT IS HEREBY STIPULATED AND AGREED** that Plaintiff's responsive pleadings  
14 to the (1) Motion for Partial Summary Judgment; (2) Declaration of Robert Dziubla in Support  
15 of Motion for Partial Summary Judgment and (3) Separate Statement of Undisputed Facts in  
16 support of Motion for Partial Summary Judgment shall be due on **April 9, 2020**.  
17 Defendants/Counterclaimant's Reply shall be due on **April 13, 2020**.  
18 Defendants/Counterclaimants wish to maintain the hearing date on **April 15, 2020**.

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1 Protective Order shall be due on April 27, 2020, and Defendants' Reply brief  
shall be due on May 4, 2020.

2 **IT IS FURTHER ORDERED** that a hearing on Defendants' Motion for  
Protective Order will be rescheduled by the Court.

3 **IT IS HEREBY ORDERED** that Plaintiff's responsive pleadings to the (1) Motion for  
4 Partial Summary Judgment; (2) Declaration of Robert Dziubla in Support of Motion for Partial  
5 Summary Judgment and (3) Separate Statement of Undisputed Facts in support of Motion for  
6 Partial Summary Judgment shall be due on **April 9, 2020**. Defendants/Counterclaimant's Reply  
7 will be due **April 13, 2020**. The hearing date shall remain on **April 15, 2020**.

8 **IT IS HEREBY ORDERED** that the parties shall participate in a telephonic hearing to  
9 discuss scheduling on the 1st day of April at 10:30 a.m. ~~p~~m. via Bluejeans

10 **IT IS SO ORDERED.**

11 DATED this 27th day of March, 2020.

12  
13   
14 DISTRICT COURT JUDGE LB

15 Respectfully submitted by:

16 **ALDRICH LAW FIRM, LTD.**

17 /s/ John P. Aldrich

18 John P. Aldrich, Esq.  
19 Nevada Bar No. 6877  
20 7866 West Sahara Avenue  
21 Las Vegas, Nevada 89117  
22 Tel: (702) 853-5490  
23 *Attorneys for Plaintiff*  
24



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**NEO**  
John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
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*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**NOTICE OF ENTRY OF ORDER**

AND ALL RELATED COUNTERCLAIMS.

PLEASE TAKE NOTICE that an Order Granting Plaintiff's Motion to Compel was entered by the Court in the above-captioned action on the 25<sup>th</sup> day of March, 2020, a true and

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///  
///  
///  
///



1 correct copy of which is attached hereto.

2 DATED this 1<sup>st</sup> day of April, 2020.

3 **ALDRICH LAW FIRM, LTD.**

4 /s/ John P. Aldrich

5 John P. Aldrich, Esq.

6 Nevada Bar No. 6877

7 Catherine Hernandez, Esq.

8 Nevada Bar No. 8410

9 7866 West Sahara Avenue

10 Las Vegas, Nevada 89117

11 Telephone: (702) 853-5490

12 Facsimile: (702) 227-1975

13 *Attorneys for Plaintiff/Counterdefendants*

14 **CERTIFICATE OF SERVICE**

15 I HEREBY CERTIFY that on the 1<sup>st</sup> day of April, 2020, I caused the foregoing **NOTICE**  
16 **OF ENTRY OF ORDER** to be electronically filed and served with the Clerk of the Court using  
17 Wiznet which will send notification of such filing to the email addresses denoted on the  
18 Electronic Mail Notice List, or by U.S. mail, postage prepaid, if not included on the Electronic  
19 Mail Notice List, to the following parties:

20 Anthony T. Case, Esq.

21 Kathryn Holbert, Esq.

22 FARMER CASE & FEDOR

23 2190 E. Pebble Rd., Suite #205

24 Las Vegas, NV 89123

C. Keith Greer, Esq.

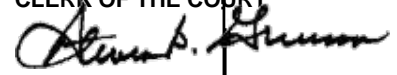
16855 West Bernardo Drive, Suite 255

San Diego, CA 92127

*Attorneys for Defendants*

/s/ T. Bixenmann

An employee of ALDRICH LAW FIRM, LTD.



**ORDER**

John P. Aldrich, Esq.  
Nevada Bar No. 6877  
Catherine Hernandez, Esq.  
Nevada Bar No. 8410  
Jamie S. Hendrickson, Esq.  
Nevada Bar No. 12770

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*Attorneys for Plaintiff/Counterdefendants*

**EIGHTH JUDICIAL DISTRICT COURT  
CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a  
Nevada Limited Liability Company,

Plaintiff,

vs.

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

Defendants.

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

**ORDER GRANTING PLAINTIFF'S  
MOTION TO COMPEL**

**AND ALL RELATED COUNTERCLAIMS.**

This matter having come before the Court, on March 6, 2020 at 9:30 a.m. on Plaintiff's Motion to Compel, with John P. Aldrich, Esq. appearing on behalf of Plaintiff and Kathryn Holbert, Esq. and C. Keith Greer, Esq., appearing on behalf of Defendants, the Court having reviewed the pleadings on file herein, having heard oral argument by the parties, and for good cause appearing therefor,

**IT IS HEREBY ORDERED** that Plaintiff's Motion to Compel is GRANTED in part as set forth herein.

1           **IT IS FURTHER ORDERED** that Defendants EB5 Impact Advisors, LLC. EB5  
2 Impact Capital Regional Center, LLC. Robert W. Dziubla. Jon Fleming, and Linda Stanwood  
3 shall provide supplemental responses to Plaintiff's Requests for Production of Documents  
4 (served to Defendants on October 30, 2019), with particularity and without boilerplate  
5 objections, and addressing all of the requests, no later than **March 30, 2020**.

6           **IT IS FURTHER ORDERED** that Defendant Las Vegas Development Fund LLC  
7 shall provide additional supplemental responses to Plaintiff's Requests for Production of  
8 Documents (served to Defendants on October 30, 2019), with particularity and without  
9 boilerplate objections, and addressing all of the requests, no later than **March 30, 2020**.

10           **IT IS FURTHER ORDERED** that if Defendants fail to provide a response or  
11 documents by asserting any privilege(s), including regarding investor documents, attorney  
12 invoices and/or any Defendants' financial information, including bank statements, Defendants  
13 shall identify all allegedly privileged documents in a privilege log that complies with Nevada  
14 law and shall file their Motion for Protective Order no later than **March 30, 2020**, or otherwise  
15 the privilege(s) is waived. Plaintiff's Opposition brief to any Motion for Protective Order shall  
16 be due on **April 13, 2020**, and Defendants' Reply brief shall be due on **April 20, 2020**.

17           **IT IS FURTHER ORDERED** that a hearing on Defendants' Motion for Protective  
18 Order is scheduled for **April 22, 2020 at 10:30 a.m.**

19     ///

20     ///

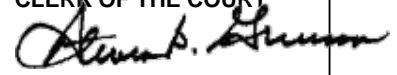
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Attorneys for Defendants  
LAS VEGAS DEVELOPMENT FUND LLC, EB5  
IMPACT CAPITAL REGIONAL CENTER LLC,  
EB5 IMPACT ADVISORS LLC, ROBERT W. DZIUBLA,  
JON FLEMING and LINDA STANWOOD

**EIGHTH JUDICIAL DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

FRONT SIGHT MANAGEMENT LLC, a Nevada ) CASE NO.: A-18-781084-B  
Limited Liability Company, ) DEPT NO.: 16  
)  
Plaintiff, )  
vs. )  
) **DEFENDANT AND**  
LAS VEGAS DEVELOPMENT FUND LLC, a ) **COUNTERCLAIMANT LAS VEGAS**  
Nevada Limited Liability Company, et al., ) **DEVELOPMENT FUND, LLC'S**  
) **NOTICE OF MOTION AND MOTION**  
Defendants. ) **FOR LEAVE TO AMEND THE**  
) **COUNTERCOMPLAINT**  
\_\_\_\_\_)  
LAS VEGAS DEVELOPMENT FUND LLC, )  
) **HEARING REQUESTED**  
Counterclaimant, )  
vs. )  
)  
FRONT SIGHT MANAGEMENT, LLC, et al.; )  
)  
Counter-Defendants. )  
\_\_\_\_\_)

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Pursuant to Nevada Rule of Civil Procedure (“NRCP”) 15, Defendant and Counterclaimant LAS VEGAS DEVELOPMENT FUND, LLC (“LVD Fund”), hereby files this Motion for Leave to Amend its Countercomplaint in light of discovering new evidence that Plaintiff and Counter-Defendant FRONT SIGHT MANAGEMENT, LLC (“Front Sight”) and non-party MORALES CONSTRUCTION (“Morales”) conspired to defraud LVD Fund.

This Motion is based on the pleadings and papers on file, the Memorandum of Points and Authorities attached hereto and incorporated herein by this reference, the declaration of Keith Greer filed herewith, and such other and further oral or written evidence as may be presented at the time of the hearing of this Motion to Increase Injunction Bond.

Dated: April 3, 2020

FARMER CASE & FEDOR

/s/ Kathryn Holbert

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---

1           **I.       INTRODUCTION**

2           Counter Claimant Las Vegas Development Fund LLC (“LVD Fund) seeks leave to file this First  
3 Amended Counter Claim on grounds that evidence uncovered during the March 16, 2020 deposition  
4 of Rene Morales, president of Morales Construction Inc., revealed that the Counter Defendants  
5 entering into a comprehensive scheme to defraud LVD Fund by falsely representing that Counter  
6 Defendant Front Sight had entered into a legitimate and bonafide \$36,000,000 “Loan Agreement -  
7 Construction Line of Credit” with Counter Defendant Morales Construction, Inc. (“Morales  
8 Construction”), that would have provided sufficient capital to make substantial progress toward  
9 completing the project. In reality, the “Loan Agreement” was a complete scam because all of the  
10 Counter Defendants knew Morales was not capable of fulfilling its obligation to extend tens of  
11 millions of dollars in credit, and none of the Counter Defendants ever intended to perform under the  
12 Loan Agreement. Thus, a new First Cause of Action for Fraud has been added.

13           In addition, financial records produced during the course of discovery show that substantial funds  
14 were transferred to or on behalf of Ignatius Piazza during the past several years, in violation of the  
15 terms of the Construction Loan Agreement and at a time when Front Sight was insolvent (based on  
16 recent analysis by designated accounting experts). Thus, a new Second Cause of Action for  
17 Fraudulent Transfer has been added.

18           Lastly, in the proposed DEFENDANTS’ ANSWER TO PLAINTIFF’S SECOND AMENDED  
19 COMPLAINT; AND FIRST AMENDED COUNTERCLAIM, attached hereto as Exhibit A, LVD  
20 Fund has addressed the Court’s September 12, 2019 ruling on Counter Defendants’ motion to  
21 dismiss, striking the First Cause of Action for Breach of Contract and the Second Cause of Action for  
22 Breach of the Covenant of Good Faith and Fair Dealing, and also removing Jennifer Piazza from the  
23 Seventh Cause of Action for Waste.

24           **II.       ARGUMENT**

25                   **a.   Legal Standard for Amending Pleadings**

26           At any time before trial, “a party may amend its pleading only with . . . the court's leave. The  
27 court should freely give leave when justice so requires.” NRCP 15. Leave to amend should be  
28

1 liberally granted and requires courts to err on the side of allowing amendments. See *DCD Programs,*  
2 *Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir.1987) (“rule 15’s policy of favoring amendments to  
3 pleadings should be applied with extreme liberality” [and] “amendment is to be liberally granted  
4 where from the underlying facts or circumstances, the plaintiff may be able to state a claim”)

5 The court should “permit amendments that appear arguable or even borderline, because denial  
6 of a proposed pleading amendment amounts to denial of the opportunity to explore any potential  
7 merit it might have had.” See *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 292, 357 P.3d 966, 975  
8 (Nev. App. 2015).

9 The court considers five factors when assessing the propriety of a motion for leave to amend:  
10 (1) bad faith, (2) undue delay, (3) prejudice to the opposing party, (4) futility of amendment, and (5)  
11 whether the plaintiff has previously amended the complaint. *Johnson v. Buckley*, 356 F.3d 1067, 1077  
12 (9th Cir. 2004); See also *Residential Credit Sols., Inc. v. TRP Fund IV, LLC*, 457 P.3d 245 (Nev.  
13 2020); *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 284, 357 P.3d 966, 970 (Nev. App. 2015)  
14 (Motions for leave to amend “ought to be granted unless a strong reason exists not to do so, such as  
15 prejudice to the opponent or lack of good faith by the moving party”).

16 As discussed below, all five factors support this court granting to LVD Fund’s motion for  
17 leave to amend the countercomplaint.

### 18 **1. This Motion is Not Made in Bad Faith**

19 A bad faith motive may be grounds to deny the motion for leave to amend. *Foman v. Davis*,  
20 83 S. Ct. 227, 230 (1962); See also *Febus-Cruz v. Sauri-Santiago*, 652 F. Supp. 2d 166, 169 (D.P.R.  
21 2009) (‘Bad Faith’ defined as making false or misleading statements to the court regarding the  
22 reasons for amendment). However, “this factor requires an affirmative demonstration by the non-  
23 moving party.” *Roller Bearing Co. of Am., Inc. v. Am. Software, Inc.*, 570 F. Supp. 2d 376, 386 (D.  
24 Conn. 2008). Mere inferences of delay will not satisfy the non-moving party’s burden of proving bad  
25 faith. (Id.)

26 Here, the amendments are based on facts developed during the course of discovery and are  
27 not sought in bad faith.  
28



1                   **2. This Motion was Not Delayed**

2                   Counterclaimant LVD Fund first discovered Morales and Front Sight’s fraudulent scheme at  
3 the deposition of the person most knowledgeable for Morales on March 16, 2020. LVD Fund brings  
4 this Motion for Leave to Amend to add a new cause first cause of action for fraud less than a month  
5 after the discovery of the facts that form the basis of the proposed amendment. And the Fraudulent  
6 Transfer cause of action is also based on discovery developed in the case. Accordingly, this motion  
7 was not unduly delayed.

8                   **3. Amending the Countercomplaint will Not Prejudice Current Counter-**  
9                   **Defendants**

10                  Allowing leave to amend will not prejudice Counter-Defendants or Morales because there is  
11 still substantial time left before discovery closes and trial is not set for another seven months. See  
12 *Residential Credit Sols., Inc. v. TRP Fund IV, LLC*, 457 P.3d 245 (Nev. 2020) (Defendant was not  
13 prejudiced when there was sufficient time to conduct further discovery.) Here, the discovery cutoff is  
14 six months away and trial is currently set for October 17, 2020, which is seven months away  
15 (assuming these dates are not impacted by the CoVid-19 pandemic). Counter-Defendants will have  
16 sufficient time to conduct further discovery and will not be prejudiced by the amendment.

17                   **4. The Amendment is Not Futile**

18                  An amendment is considered futile if amending party seeks to amend the complaint in order  
19 to plead an impermissible claim. *Residential Credit Sols., Inc. v. TRP Fund IV, LLC*, 457 P.3d 245  
20 (Nev. 2020). Examples of such futile claims are ones which would not survive a motion to dismiss  
21 under NRCP 12(b)(5) or a “last-second amendment [ ] alleging meritless claims in an attempt to save  
22 a case from summary judgment.” *Nutton v. Sunset Station, Inc.*, 131 Nev. 279, 292 [quoting *Soebbing*  
23 *v. Carpet Barn, Inc.*, 109 Nev. 78, 84, 847 P.2d 731, 736 (1993)].

24                  Counterclaimant LVD Fund’s proposed amendment is not futile. The proposed amendment  
25 pleads fraud with the requisite specificity to survive a motion to dismiss. NRCP 9 (“In alleging fraud  
26 or mistake, a party must state with particularity the circumstances constituting fraud or mistake.  
27 Malice, intent, knowledge, and other conditions of a person's mind may be alleged generally”). Here,  
28

1 LVD Fund sufficiently alleges the Morales Loan agreement was a sham document, which the  
2 Counter Defendants never intended to utilize and the lender, Morales, was not even capable of  
3 meeting its \$36 million obligation.

4 Moreover, the proposed amendment is not “last-second amendment alleging meritless claims  
5 in an attempt to save a case from summary judgment.” Here, there is no pending summary judgment.  
6 All of Plaintiffs’ motions for summary judgment were denied.

7 Accordingly, Counterclaimant LVD Fund’s proposed amendment is not futile and leave to  
8 amend should be granted.

9 **5. Counterclaimant has Not Previously Amended the Countercomplaint**

10 Counterclaimant has not filed any previous amendments to the Countercomplaint.

11 **III. CONCLUSION**

12 Accordingly, this court should grant Counterclaimant LVD Fund’s Motion for Leave to  
13 Amend the Countercomplaint.

14  
15 DATED: April 3, 2020

GREER & ASSOCIATES, APC

16 By: /s/ C. Keith Greer  
17 C. KEITH GREER,  
18 Attorneys for Counter Claimant LAS VEGAS  
19 DEFELOPMENT FUND LLC  
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**CERTIFICATE OF SERVICE and/or MAILING**

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

**DEFENDANT AND COUNTERCLAIMANT LAS VEGAS DEVELOPMENT FUND, LLC'S  
NOTICE OF MOTION AND MOTION FOR LEAVE TO AMEND THE  
COUNTERCOMPLAINT**

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

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

By:

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

U.S. MAIL: I deposited a true and correct copy of said document(s) in a sealed, postage 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.

Dated: April 3, 2020

/s/ Kathryn Holbert  
An Employee of FARMER CASE & FEDOR

# EXHIBIT A

# EXHIBIT A

1 **ANS&CC**  
C. Keith Greer, ESQ.  
2 Admitted *pro hac vice*  
[keith.greer@greerlaw.biz](mailto:keith.greer@greerlaw.biz)  
3 **GREER AND ASSOCIATES, A PC**  
17150 Via Del Campo, Suite 100  
4 San Diego, CA 92127  
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5 Facsimile: (858) 613-6680

6 ANTHONY T. CASE, ESQ.  
Nevada Bar No. 6589  
7 [tcase@farmercase.com](mailto:tcase@farmercase.com)  
KATHRYN HOLBERT, ESQ.  
8 Nevada Bar No. 10084  
[kholtbert@farmercase.com](mailto:kholtbert@farmercase.com)  
9 **FARMER CASE & FEDOR**  
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10 Las Vegas, NV 89123  
Telephone: (702) 579-3900  
11 Facsimile: (702) 739-3001

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

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

17 FRONT SIGHT MANAGEMENT LLC, a ) CASE NO.: A-18-781084-B  
Nevada Limited Liability Company, ) DEPT NO.: 16  
18 Plaintiff, )  
19 vs. ) **DEFENDANTS' ANSWER TO**  
20 LAS VEGAS DEVELOPMENT FUND LLC, ) **PLAINTIFF'S SECOND AMENDED**  
et al., ) **COMPLAINT; AND FIRST AMENDED**  
21 Defendants. ) **COUNTERCLAIM**  
22 \_\_\_\_\_ )  
23 LAS VEGAS DEVELOPMENT FUND LLC, )  
a Nevada Limited Liability Company, )  
24 Counter Claimant, )  
25 vs. )  
26 FRONT SIGHT MANAGEMENT, LLC., a )  
27 Nevada Limited Liability Company; )  
IGNATIUS PIAZZA, as an individual and in )  
28

1  
**DEFENDANTS' ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT; AND  
FIRST AMENDED COUNTERCLAIM**

1 his capacity as Trustee and/or beneficiary of )  
 2 VNV DYNASTY TRUST I and VNV )  
 3 DYNASTY TRUST II; JENNIFER )  
 4 PIAZZA, as an individual and in her capacity )  
 5 as Trustee and/or beneficiary of VNV )  
 6 DYNASTY TRUST I and VNV DYNASTY )  
 7 TRUST II; VNV DYNASTY TRUST I, an )  
 8 irrevocable Nevada trust, VNV DYNASTY )  
 9 TRUST II, an irrevocable Nevada trust; )  
 10 MORALES CONSTRUCTION, INC., a )  
 11 Nevada Corporation; ALL AMERICAN )  
 12 CONCRETE & MASONRY INC., a Nevada )  
 13 Corporation; TOP RANK BUILDERS INC., )  
 14 a Nevada Corporation; EFRAIN RENE )  
 15 MORALES-MORENO, an individual; )  
 16 MICHAEL GENE MEACHER, an )  
 17 individual; and ROES 1 through 10, )  
 18 inclusive, )  
 19 Counter Defendants. )  
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13 COMES NOW Defendants, LAS VEGAS DEVELOPMENT FUND LLC, EB5 IMPACT  
 14 CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC; ROBERT W.  
 15 DZIUBLA; JON FLEMING; and LINDA STANWOOD, ( collectively "Responding Parties"), by  
 16 and through their attorneys, KATHRYN HOLBERT, ESQ., of FARMER CASE & FEDOR, and  
 17 C. KEITH GREER, ESQ., of GREER & ASSOCIATES, A.P.C., and specifically admit, deny  
 18 and respond to the allegations of FRONT SIGHT MANAGEMENT, LLC.'s ("Plaintiff") Second  
 19 Amended Complaint as follows:

- 20 1. These responding Defendants lack sufficient information to admit or deny the  
 21 allegations in Paragraph 1 of Plaintiff's Second Amended Complaint and, therefore, deny the  
 22 same.
- 23 2. These responding Defendants admit the allegations in Paragraph 2 of Plaintiff's  
 24 Second Amended Complaint.
- 25 3. These responding Defendants admit the allegations in Paragraph 3 of Plaintiff's  
 26 Second Amended Complaint.
- 27 4. These responding Defendants admit the allegations in Paragraph 4 of Plaintiff's  
 28 Second Amended Complaint.



1 Paragraph 13 of Plaintiff's Second Amended Complaint.

2 14. These responding Defendants admit that Defendants and Plaintiff exchanged  
3 correspondence. However, these responding Defendants deny the remainder of the allegations in  
4 Paragraph 14 of Plaintiff's Second Amended Complaint.

5 15. These responding Defendants admit that Defendants and Plaintiff exchanged  
6 correspondence. However, these responding Defendants deny the remainder of the allegations in  
7 Paragraph 15 of Plaintiff's Second Amended Complaint.

8 16. These responding Defendants admit that Defendants and Plaintiff exchanged  
9 correspondence. However, these responding Defendants deny the remainder of the allegations in  
10 Paragraph 16 of Plaintiff's Second Amended Complaint.

11 17. These responding Defendants admit that Defendants and Plaintiff exchanged  
12 correspondence. However, these responding Defendants deny the remainder of the allegations in  
13 Paragraph 12 of Plaintiff's Second Amended Complaint.

14 18. These responding Defendants deny the allegations in Paragraph 18 of Plaintiff's  
15 Second Amended Complaint.

16 19. These responding Defendants admit that Defendants and Plaintiff exchanged  
17 correspondence. However, these responding Defendants deny the remainder of the allegations in  
18 Paragraph 19 of Plaintiff's Second Amended Complaint.

19 20. These responding Defendants admit that Defendants and Plaintiff exchanged  
20 correspondence. However, these responding Defendants deny the remainder of the allegations in  
21 Paragraph 20 of Plaintiff's Second Amended Complaint.

22 21. These responding Defendants lack sufficient information to admit or deny the  
23 allegations in Paragraph 21 of Plaintiff's Second Amended Complaint and, therefore, deny the  
24 same.

25 22. These responding Defendants admit that Defendant, EB5 Impact Advisors LLC  
26 and Plaintiff executed an engagement letter dated February 13, 2013. However, these  
27 responding Defendants deny the remainder of the allegations in Paragraph 22 of Plaintiff's  
28 Second Amended Complaint.



1           23.     These responding Defendants admit that Defendant, EB5 Impact Advisors LLC  
2 and Plaintiff executed an engagement letter dated February 13, 2013. However, these  
3 responding Defendants deny the remainder of the allegations in Paragraph 23 of Plaintiff's  
4 Second Amended Complaint.

5           24.     These responding Defendants admit that Defendant, EB5 Impact Advisors LLC  
6 and Plaintiff executed an engagement letter dated February 1, 2013. However, these responding  
7 Defendants deny the remainder of the allegations in Paragraph 24 of Plaintiff's Second Amended  
8 Complaint.

9           25.     These responding Defendants admit that Defendant, EB5 Impact Advisors LLC  
10 and Plaintiff executed an engagement letter dated February 1, 2013. However, these responding  
11 Defendants deny the remainder of the allegations in Paragraph 25 of Plaintiff's Second Amended  
12 Complaint.

13          26.     These responding Defendants admit that Defendants and Plaintiff exchanged  
14 correspondence. However, these responding Defendants deny the remainder of the allegations in  
15 Paragraph 26 of Plaintiff's Second Amended Complaint.

16          27.     These responding Defendants admit that the Regional Center Application was  
17 filed on or about April 14, 2014 and that the application was approved on or about July 27, 2015,  
18 and deny the remaining allegations in Paragraph 27 of Plaintiff's Second Amended Complaint.

19          28.     These responding Defendants admit that the application for EB5 Impact Capital  
20 Regional Center, LLC was filed on April 15, 2014. However, these responding Defendants deny  
21 the remainder of the allegations in Paragraph 28 of Plaintiff's Second Amended Complaint.

22          29.     These responding Defendants admit that Defendants and Plaintiff exchanged  
23 correspondence. However, these responding Defendants deny the remainder of the allegations in  
24 Paragraph 29 of Plaintiff's Second Amended Complaint.

25          30.     These responding Defendants admit that the application for EB5 Impact Capital  
26 Regional Center, LLC was approved on July 27, 2015. However, these responding Defendants  
27 deny the remainder of the allegations in Paragraph 30 of Plaintiff's Second Amended Complaint.

28          31.     These responding Defendants admit that Defendants and Plaintiff exchanged

1 correspondence. However, these responding Defendants deny the remainder of the allegations in  
2 Paragraph 31 of Plaintiff's Second Amended Complaint.

3 32. These responding Defendants admit that Defendants and Plaintiff exchanged  
4 correspondence. However, these responding Defendants deny the remainder of the allegations in  
5 Paragraph 32 of Plaintiff's Second Amended Complaint.

6 33. These responding Defendants admit to the existence of a website identified as  
7 "eb5impactcapital.com," and deny the allegations in Paragraph 33 of Plaintiff's Second Amended  
8 Complaint.

9 34. These responding Defendants admit that Defendants and Plaintiff exchanged  
10 correspondence. However, these responding Defendants deny the remainder of the allegations in  
11 Paragraph 34 of Plaintiff's Second Amended Complaint.

12 35. These responding Defendants admit that Defendants and Plaintiff exchanged  
13 correspondencce. However, these responding Defendants deny the remainder of the allegations in  
14 Paragraph 35 of Plaintiff's Second Amended Complaint.

15 36. These responding Defendants admit that Defendants and Plaintiff exchanged  
16 correspondencce. However, these responding Defendants deny the remainder of the allegations in  
17 Paragraph 36 of Plaintiff's Second Amended Complaint.

18 37. These responding Defendants admit that Defendants and Plaintiff exchanged  
19 correspondence. However, these responding Defendants deny the remainder of the allegations in  
20 Paragraph 37 of Plaintiff's Second Amended Complaint.

21 38. These responding Defendants admit that Defendants and Plaintiff exchanged  
22 correspondence. However, these responding Defendants deny the remainder of the allegations in  
23 Paragraph 38 of Plaintiff's Second Amended Complaint.

24 39. These responding Defendants admit that Defendants and Plaintiff exchanged  
25 correspondence. However, These responding Defendants deny the allegations in Paragraph 39 of  
26 Plaintiff's Second Amended Complaint.

27 40. These responding Defendants admit that LVD Fund has loaned Front Sight  
28 \$6,375,000 and deny the rest of the allegations in Paragraph 40 of Plaintiff's Second Amended

1 Complaint.

2 41. These responding Defendants admit that Defendants and Plaintiff exchanged  
3 correspondence. However, these responding Defendants deny the remainder of the allegations in  
4 Paragraph 41 of Plaintiff's Second Amended Complaint.

5 42. These responding Defendants admit that Defendants and Plaintiff exchanged  
6 correspondence. However, these responding Defendants deny the remainder of the allegations in  
7 Paragraph 42 of Plaintiff's Second Amended Complaint.

8 43. These responding Defendants deny the allegations in Paragraph 43 of Plaintiff's  
9 Second Amended Complaint.

10 44. These responding Defendants admit that Defendants and Plaintiff exchanged  
11 correspondence. However, these responding Defendants deny the allegations in Paragraph 44 of  
12 Plaintiff's Second Amended Complaint.

13 45. These responding Defendants deny the allegations in Paragraph 45 of Plaintiff's  
14 Second Amended Complaint.

15 46. These responding Defendants deny the allegations in Paragraph 46 of Plaintiff's  
16 Second Amended Complaint.

17 47. These responding Defendants deny the allegations in Paragraph 47 of Plaintiff's  
18 Second Amended Complaint.

19 48. These responding Defendants admit that Defendant LVD Fund loaned  
20 \$6,375,000 to Plaintiff and deny the remaining allegations in Paragraph 48 of Plaintiff's Second  
21 Amended Complaint.

22 49. These responding Defendants admit that Defendant Las Vegas Development Fund  
23 served a Notice of Default on July 31, 2018. However, these responding Defendants deny the  
24 remainder of the allegations in Paragraph 49 of Plaintiff's Second Amended Complaint.

25 50. These responding Defendants deny the allegations in Paragraph 50 of Plaintiff's  
26 Second Amended Complaint.

27 51. These responding Defendants deny the allegations in Paragraph 51 of Plaintiff's  
28 Second Amended Complaint.

1           52.     These responding Defendants admit that Plaintiff responded to Defendant Las  
2 Vegas Development Fund's July 31, 2018 Notice of Default. However, these responding  
3 Defendants deny the remainder of the allegations in Paragraph 52 of Plaintiff's Second Amended  
4 Complaint.

5           53.     These responding Defendants admit that Defendant Las Vegas Development Fund  
6 served a second Notice of Default on August 24, 2018. However, these responding Defendants  
7 deny the remainder of the allegations in Paragraph 53 of Plaintiff's Second Amended Complaint.

8           54.     These responding Defendants deny the allegations in Paragraph 54 of Plaintiff's  
9 Second Amended Complaint.

10          55.     These responding Defendants admit that Plaintiff responded to Defendant Las  
11 Vegas Development Fund's August 24, 2018 Notice of Default. However, these responding  
12 Defendants deny the remainder of the allegations in Paragraph 55 of Plaintiff's Second Amended  
13 Complaint.

14          56.     These responding Defendants admit that Defendant Las Vegas Development Fund  
15 served a third Notice of Default on August 28, 2018. However, these responding Defendants  
16 deny the remainder of the allegations in Paragraph 53 of Plaintiff's Second Amended Complaint.

17          57.     These responding Defendants admit that Defendants and Plaintiff attempted to  
18 resolve the issues regarding Plaintiff's Defaults regarding the Construction Loan Agreement.  
19 However, these responding Defendants deny the remainder of the allegations in Paragraph 57 of  
20 Plaintiff's Second Amended Complaint.

21          58.     These responding Defendants admit that Defendant Las Vegas Development  
22 Fund recorded a Notice of Default on September 11, 2018. However, these responding  
23 Defendants deny the remainder of the allegations in Paragraph 58 of Plaintiff's Second Amended  
24 Complaint.

25          59.     These responding Defendants admit that Defendants and Plaintiff exchanged  
26 correspondence. However, these responding Defendants deny the allegations in Paragraph 59 of  
27 Plaintiff's Second Amended Complaint.

28          60.     These responding Defendants deny the allegations in Paragraph 60 of Plaintiff's

1 Second Amended Complaint.

2 61. These responding Defendants admit that a Court order was entered regarding  
3 Plaintiff's Petition for Appointment of Receiver and for an Accounting. However, these  
4 responding Defendants deny the remainder of the allegations in Paragraph 61 of Plaintiff's  
5 Second Amended Complaint.

6 62. These responding Defendants admit they have complied with the Court order  
7 which was entered regarding Plaintiff's Petition for Appointment of Receiver and for an  
8 Accounting. However, these responding Defendants deny the remainder of the allegations in  
9 Paragraph 62 of Plaintiff's Second Amended Complaint.

10 63. These responding Defendants deny the allegations in Paragraph 63 of Plaintiff's  
11 Second Amended Complaint.

12 64. These responding Defendants admit Plaintiff is entitled to a \$36,000.00 offset.  
13 However, these responding Defendants deny the remainder of the allegations in Paragraph 64 of  
14 Plaintiff's Second Amended Complaint.

15 65. These responding Defendants admit Defendant EB5IA has been dissolved.  
16 However, these responding Defendants deny the remainder of the allegations in Paragraph 65 of  
17 Plaintiff's Second Amended Complaint.

18 66. These responding Defendants admit Defendant EB5IA has been dissolved.  
19 However, these responding Defendants deny the remainder of the allegations in Paragraph 65 of  
20 Plaintiff's Second Amended Complaint.

21 67. These responding Defendants deny the allegations in Paragraph 67 of Plaintiff's  
22 Second Amended Complaint.

23 68. These responding Defendants deny the allegations in Paragraph 68 of Plaintiff's  
24 Second Amended Complaint.

25 69. These responding Defendants admit Plaintiff wired funds to the wrong accounts on  
26 multiple occasions. However, these responding Defendants deny the remainder of the allegations  
27 in Paragraph 69 of Plaintiff's Second Amended Complaint.

28 70. These responding Defendants admit Plaintiff wired funds to the wrong accounts on

1 multiple occasions. However, these responding Defendants deny the remainder of the allegations  
2 in Paragraph 70 of Plaintiff's Second Amended Complaint.

3 71. These responding Defendants admit Plaintiff wired funds to the wrong accounts on  
4 multiple occasions. However, these responding Defendants deny the remainder of the allegations  
5 in Paragraph 71 of Plaintiff's Second Amended Complaint.

6 72. These responding Defendants admit Plaintiff wired funds to the wrong accounts on  
7 multiple occasions. However, these responding Defendants deny the remainder of the allegations  
8 in Paragraph 72 of Plaintiff's Second Amended Complaint.

9 73. These responding Defendants deny the allegations in Paragraph 73 of Plaintiff's  
10 Second Amended Complaint.

11 **FIRST CAUSE OF ACTION**  
12 **(Fraud/Intentional Misrepresentation/Concealment Against All Defendants)**

13 74. These responding Defendants repeat and re-allege their responses to each of the  
14 preceding and succeeding paragraphs as though fully set forth herein.

15 75. These responding Defendants deny the allegations in Paragraph 75 of Plaintiff's  
16 Second Amended Complaint.

17 76. These responding Defendants deny the allegations in Paragraph 76 of Plaintiff's  
18 Second Amended Complaint.

19 77. These responding Defendants admit that Defendant Dziubla is married to  
20 Defendant Stanwood and that correspondence was exchanged. However, these responding  
21 Defendants deny the remainder of the allegations in Paragraph 77 of Plaintiff's Second Amended  
22 Complaint.

23 78. These responding Defendants deny the allegations in paragraph 78 of Plaintiff's  
24 Second Amended Complaint.

25 79. These responding Defendants deny the allegations in Paragraph 79 of Plaintiff's  
26 Second Amended Complaint.

27 80. These responding Defendants deny the allegations in Paragraph 80 of Plaintiff's  
28 Second Amended Complaint.

81. These responding Defendants deny the allegations in Paragraph 81 of Plaintiff's

1 Second Amended Complaint.

2 82. These responding Defendants deny the allegations in Paragraph 82 of Plaintiff's  
3 Second Amended Complaint.

4 83. These responding Defendants deny the allegations in Paragraph 83 of Plaintiff's  
5 Second Amended Complaint.

6 84. These responding Defendants deny the allegations in Paragraph 84 of Plaintiff's  
7 Second Amended Complaint.

8 **SECOND CAUSE OF ACTION**  
9 **(Breach of Fiduciary Duty Against All Defendants)**

10 85-89. Plaintiff's Second Cause of Action has been dismissed as against all Defendants  
11 pursuant to this Court's Order filed April 9, 2019.

12 **THIRD CAUSE OF ACTION**  
13 **(Conversion Against All Defendants)**

14 90. These responding Defendants repeat and re-allege their responses to each of the  
15 preceding and succeeding paragraphs as though fully set forth herein.

16 91. These responding Defendants deny the allegations in Paragraph 91 of Plaintiff's  
17 Second Amended Complaint.

18 92. These responding Defendants deny the allegations in Paragraph 92 of Plaintiff's  
19 Second Amended Complaint.

20 93. These responding Defendants deny the allegations in Paragraph 93 of Plaintiff's  
21 Second Amended Complaint.

22 94. These responding Defendants deny the allegations in Paragraph 94 of Plaintiff's  
23 Second Amended Complaint.

24 **FOURTH CAUSE OF ACTION**  
25 **(Civil Conspiracy Against All Defendants)**

26 95. These responding Defendants repeat and re-allege their responses to each of the  
27 preceding and succeeding paragraphs as though fully set forth herein.

28 96. These responding Defendants deny the allegations in Paragraph 96 of Plaintiff's  
29 Second Amended Complaint.

30 97. These responding Defendants deny the allegations in Paragraph 97 of Plaintiff's  
31 Second Amended Complaint.

1 Second Amended Complaint.

2 98. These responding Defendants deny the allegations in Paragraph 98 of Plaintiff's  
3 Second Amended Complaint.

4 99. These responding Defendants deny the allegations in Paragraph 99 of Plaintiff's  
5 Second Amended Complaint.

6 **FIFTH CAUSE OF ACTION**  
7 **(Breach of Contract Against All Defendants EB5IA and LVDF)**

8 100. These responding Defendants repeat and re-allege their responses to each of the  
9 preceding and succeeding paragraphs as though fully set forth herein.

10 101. These responding Defendants admit the allegations in Paragraph 101 of Plaintiff's  
11 Second Amended Complaint.

12 102. These responding Defendants deny the allegations in Paragraph 102 of Plaintiff's  
13 Second Amended Complaint.

14 103. These responding Defendants deny the allegations in Paragraph 103 of Plaintiff's  
15 Second Amended Complaint.

16 104. These responding Defendants deny the allegations in Paragraph 104 of Plaintiff's  
17 Second Amended Complaint.

18 105. These responding Defendants deny the allegations in Paragraph 105 of Plaintiff's  
19 Second Amended Complaint.

20 106. These responding Defendants deny the allegations in Paragraph 106 of Plaintiff's  
21 Second Amended Complaint.

22 **SIXTH CAUSE OF ACTION**  
23 **(Contractual Breach of Implied Covenant of Good Faith and Fair Dealing Against the**  
24 **Entity Defendants)**

25 Plaintiff's Sixth Cause of Action has been dismissed as against Defendant EB5IC pursuant to  
26 this Court's Order filed April 9, 2019.

27 107. These responding Defendants repeat and re-allege their responses to each of the  
28 preceding and succeeding paragraphs as though fully set forth herein.

108. These responding Defendants admit the allegations in Paragraph 108 of Plaintiff's  
Second Amended Complaint.





1 Second Amended Complaint.

2 127. These responding Defendants deny the allegations in Paragraph 127 of Plaintiff's  
3 Second Amended Complaint.

4 128. These responding Defendants deny the allegations in Paragraph 128 of Plaintiff's  
5 Second Amended Complaint.

6 **NINTH CAUSE OF ACTION**  
7 **(Unjust Enrichment Against all Defendants)**

8 129-135. Plaintiff's Ninth Cause of Action has been dismissed as against all  
9 Defendants pursuant to this Court's Order filed April 9, 2019.

10 **TENTH CAUSE OF ACTION**  
11 **(Negligent Misrepresentation Against all Defendants)**

12 Plaintiff's Tenth Cause of Action has been dismissed as against Defendants Stanwood, Fleming,  
13 EB5IC and LVDF pursuant to this Court's Order filed April 9, 2019. Therefore Defendants  
14 EB5IA and Dziubla respond as follows:

15 136. These responding Defendants repeat and re-allege their responses to each of the  
16 preceding and succeeding paragraphs as though fully set forth herein.

17 137. These responding Defendants admit the allegations in Paragraph 137 of Plaintiff's  
18 Second Amended Complaint.

19 138. These responding Defendants deny the allegations in Paragraph 138 of Plaintiff's  
20 Second Amended Complaint.

21 139. These responding Defendants deny the allegations in Paragraph 139 of Plaintiff's  
22 Second Amended Complaint.

23 140. These responding Defendants deny the allegations in Paragraph 140 of Plaintiff's  
24 Second Amended Complaint.

25 141. These responding Defendants deny the allegations in Paragraph 141 of Plaintiff's  
26 Second Amended Complaint.

27 142. These responding Defendants deny the allegations in Paragraph 142 of Plaintiff's  
28 Second Amended Complaint.

143. These responding Defendants deny the allegations in Paragraph 143 of Plaintiff's

1 Second Amended Complaint.

2 144. These responding Defendants deny the allegations in Paragraph 144 of Plaintiff's  
3 Second Amended Complaint.

4 145. These responding Defendants deny the allegations in Paragraph 145 of Plaintiff's  
5 Second Amended Complaint.

6 **ELEVENTH CAUSE OF ACTION**  
7 **(Negligence Against all Defendants)**

8 146-150. Plaintiff's Eleventh's Cause of Action has been dismissed as against all  
9 Defendants pursuant to this Court's Order filed April 9, 2019.

10 **TWELFTH CAUSE OF ACTION**  
11 **(Alter Ego Against all Defendants)**

12 151-160. Plaintiff's Twelfth Cause of Action has been dismissed as against all  
13 Defendants pursuant to this Court's Order filed April 9, 2019.

14 These responding Defendants, LAS VEGAS DEVELOPMENT FUND LLC, EB5  
15 IMPACT CAPITAL REGIONAL CENTER LLC, EB5 IMPACT ADVISORS LLC, a dissolved  
16 Nevada Limited Liability Company; ROBERT W. DZIUBLA, JON FLEMING; LINDA  
17 STANWOOD. by and through their attorneys, KATHRYN HOLBERT, ESQ., of the law firm  
18 FARMER CASE & FEDOR, and C. KEITH GREER of the law offices of GREER &  
19 ASSOCIATES, A.P.C. having fully and specifically responded to each and every allegation set  
20 forth in Plaintiff's Second Amended Complaint, now assert the following:

21 **AFFIRMATIVE DEFENSES**

22 **FIRST AFFIRMATIVE DEFENSE**

23 Plaintiff's Amended Complaint fails to state a claim for which relief can be granted as  
24 against these responding Defendants.

25 **SECOND AFFIRMATIVE DEFENSE**

26 These responding Defendants generally deny all liability and all allegations of negligence  
27 or wrongdoing.

28 **THIRD AFFIRMATIVE DEFENSE**

Any allegations or factual matters asserted by Plaintiff that are not specifically admitted

1 are hereby denied.

2 **FOURTH AFFIRMATIVE DEFENSE**

3 The claims referred to in Plaintiff's Amended Complaint, and the resulting damage, if  
4 any, to Plaintiff, was proximately caused or contributed to by Plaintiff's own negligence, and as  
5 such, Plaintiff's negligence was greater than the negligence, if any, of these responding  
6 Defendants and, therefore Plaintiff's recovery should be barred or diminished.

7 **FIFTH AFFIRMATIVE DEFENSE**

8 If Plaintiff has been damaged as alleged, then said damages are the sole, direct and  
9 proximate result of actions and/or inactions of other named parties and/or third parties not  
10 presently named herein over which these responding Defendants had no control.

11 **SIXTH AFFIRMATIVE DEFENSE**

12 These responding Defendants reserve the right to assert any and all defenses raised by any  
13 other party to this action.

14 **SEVENTH AFFIRMATIVE DEFENSE**

15 These responding Defendants reserve the right to amend their Answer and/or assert  
16 additional affirmative defenses based upon discovery as well as an investigation of the facts and  
17 circumstances concerning the alleged incident that is the subject of Plaintiff's Amended  
18 Complaint.

19 **EIGHTH AFFIRMATIVE DEFENSE**

20 As a separate and distinct affirmative defense, these responding Defendants allege that to  
21 the extent that Plaintiff's Amended Complaint alleges violations of law, those alleged violations  
22 of law are the result of the conduct or omissions of persons or entities other than these  
23 responding Defendants.

24 **NINTH AFFIRMATIVE DEFENSE**

25 Plaintiff is barred from asserting any claims against these responding Defendants because  
26 the alleged damages were the result of the intervening and/or superseding conduct of others.

27 **TENTH AFFIRMATIVE DEFENSE**

28 Plaintiff's claims are barred by the doctrine of laches and/or the statute of limitation.

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**ELEVENTH AFFIRMATIVE DEFENSE**

These responding Defendants reserve the right to seek contribution and indemnity in the event that these responding Defendants deem it appropriate to do so.

///

**TWELFTH AFFIRMATIVE DEFENSE**

As a separate and distinct affirmative defense, these responding Defendants allege that before the commencement of this action, these responding Defendants performed, satisfied, and discharged all duties and obligations they may have owed to Plaintiff.

**THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred by the doctrine of unclean hands.

**FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because Plaintiff was the first party to breach the contract and cannot maintain an action against the Defendants for a subsequent failure to perform.

**FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because the alleged tortious act by Defendants was justified and/or privileged.

**SIXTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because all alleged injuries and damages, if any, were caused by the acts or omissions of Plaintiff.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred because Defendants complied with applicable statutes and with the requirements and regulations of the State of Nevada.

**FIRST AMENDED COUNTER CLAIM**

1. This First Amended Counterclaim claim stems from Front Sight's misappropriation and diversion of construction loan proceeds for the personal benefit of its principal, Ignatius Piazza, his wife Jennifer Piazza, and beneficiaries of the VNV Trust Defendants, and Front Sight's breach of multiple material provisions of the Construction Loan

1 Agreement (the "CLA")<sup>1</sup>, including its failure to meet the construction schedule, material  
2 changes to the Project scope, failure to provide government approved construction plans, failure  
3 to obtain senior debt, failure to meet its reporting obligations to Lender under the CLA and EB-5  
4 regulations, refusing to give Lender access to its books and records, refusal to allow a site  
5 inspection and answer questions by Lender's representatives, failure to pay default interest,  
6 further encumbering the Property by selling securities, and failure to pay Lender's legal fees  
7 relating to enforcing Borrower to comply with the terms of the CLA. Moreover, Borrower's  
8 recent actions of delaying construction, refusing to grant Lender's representatives access to the  
9 property and concealing its books and records, raise serious questions regarding Front Sight's  
10 continued solvency (which is a required loan covenant) and thus, its ability to complete the  
11 Project.

12 2. This First Amended Counter Claim is further based upon Counter Defendants  
13 entering into a comprehensive scheme to defraud LVD Fund by falsely representing that Counter  
14 Defendant Front Sight had entered into a legitimate and bonafide \$36,000,000 "Loan Agreement  
15 - Construction Line of Credit" with Counter Defendant Morales Construction, Inc. ("Morales  
16 Construction"), that would have provided sufficient capital to make substantial progress toward  
17 completing the project. In reality, the "Loan Agreement" was a complete scam because all of the  
18 Counter Defendants knew Morales was not capable of fulfilling its obligation to extend tens of  
19 millions of dollars in credit, and none of the Counter Defendants ever intended to perform under  
20 the Loan Agreement.

21 **I. PARTIES**

22 3. Counter Claimant LAS VEGAS DEVELOPMENT FUND LLC (hereafter "LVD  
23 Fund" or "Lender") is a Nevada limited liability company with a principal place of business  
24  
25

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26  
27 <sup>1</sup> "CLA" refers to the Construction Loan Agreement dated October 6, 2016, between Front  
28 Sight Management LLC ("Borrower") and Las Vegas Development Fund LLC ("Lender"). (See  
Dziubla Decl., Ex. 3).

1 located in Nevada and has an interest and right in a the Property through a certain Deed of Trust<sup>2</sup>  
2 that was by and between Front Sight and LVD FUND.

3 4. FRONT SIGHT MANAGEMENT LLC (hereinafter as “Front Sight” or  
4 “Borrower”) is a Nevada limited liability company with a principal place of business located in  
5 Clark County, Nevada.

6 5. Counter Claimant is informed and believe, and on that basis alleges, Counter  
7 Defendant VNV DYNASTY TRUST I is a Nevada statutory trust, Nevada business, family trust,  
8 or other irrevocable trust that functions as an entity and that may claim title and ownership  
9 interest in the Property. Counter Claimant is informed and believe, and on that basis alleges,  
10 Counter Defendant VNV DYNASTY TRUST I was organized and exists under the laws of  
11 Nevada and Counter Defendants IGNATIUS PIAZZA and JENNIFER PIAZZA are trustees  
12 and/or beneficiaries of the VNV DYNASTY TRUST I.

13 6. Counter Claimant is informed and believe, and on that basis alleges, Counter  
14 Defendant VNV DYNASTY TRUST II is a Nevada statutory trust, Nevada business, family  
15 trust, or other irrevocable trust that functions as an entity and that may claim title and ownership  
16 interest in the Property. Counter Claimant is informed and believe, and on that basis alleges,  
17 Counter Defendant VNV DYNASTY TRUST II was organized and exists under the laws of  
18 Nevada and Counter Defendants IGNA'TIUS PIAZZA and JENNIFER PIAZZA are trustees  
19 and/or beneficiaries of the VNV DYNASTY TRUST II. (Hereinafter VNV DYNASTY TRUST I  
20 and VNV DYNASTY TRUST II are collectively referred to as the “VNV Trust Defendants” or  
21 “Trust Defendants”)

22 7. Counter Claimant is informed and believe, and on that basis alleges, that Counter  
23 Defendant IGNATIUS A. PIAZZA II, (“Piazza”), is an individual who is, and at all times  
24

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25 <sup>2</sup>“Deed of Trust” refers to the “Construction Deed of Trust, Security Agreement, Assignment  
26 of Leases and Rents, and Fixture Filing,” recorded in the official records of Nye County, Nevada,  
27 as “DOC #860867” on October 13, 2016, a copy of which is attached as Exhibit 1, filed herewith,  
28 as amended by the “First Amendment to Construction Deed of Trust, Security Agreement and  
Fixture Filing,” recorded in the official records of Nye County, Nevada, as “DOC #886510” on  
January 12, 2018, a copy of which is provided as Exhibit 2.

1 relevant hereto was, a resident of Sonoma County, California. Piazza is the managing member, or  
2 otherwise in control under another title, of Counter Defendant Front Sight Management, LLC  
3 and Trustee and/or beneficiary of VNV Trust Defendants.

4 8. Counter Claimant is informed and believe, and on that basis alleges, that  
5 DEFENDANT JENNIFER PIAZZA, is an individual who is, and at all times relevant hereto was,  
6 a resident of Sonoma County, California and is Trustee and/or beneficiary of VNV Trust  
7 Defendants.

8 9. Counter Defendant MORALES CONSTRUCTION, INC. ("MORALES  
9 CONSTRUCTION") is a Nevada Corporation and licensed contractor with its principal place of  
10 business in Pahrump, Nevada.

11 10. Counter Defendant ALL AMERICAN CONCRETE & MASONRY INC. ("ALL  
12 AMERICAN CONCRETE") is a Nevada Corporation and licensed contractor with its principal  
13 place of business in Pahrump, Nevada.

14 11. Counter Defendant TOP RANK BUILDERS INC. ("TOP RANK BUILDERS") is  
15 a Nevada Corporation and licensed contractor with its principal place of business in Pahrump,  
16 Nevada.

17 12. Counter Claimant is informed and believes, and on such basis alleges, that  
18 Counter Defendant EFRAIN RENE MORALES-MORENO ("MORALES") is, and at all times  
19 relevant was, a resident of Nye County, Nevada, and the principal and chief executive officer of  
20 MORALES CONSTRUCTION, ALL AMERICAN AND TO RANK.

21 13 Counter Claimant is informed and believes, and on such basis alleges, that  
22 Counter Defendant MICHAEL GENE MEACHER ("MEACHER") is, and at all times relevant  
23 was, a resident of Nye County, Nevada, and the Vice President and Chief Operating Office of  
24 Counter Defendant FRONT SIGHT.

25 14 Upon information and belief, each of the Counter Defendants sued herein as ROE  
26 Counter Defendants 1 through 10, inclusive, are beneficiaries or trustees of the Trust Defendants  
27 and claim an interest in the Property or are responsible in some manner for the events and  
28 happenings herein that Counter Claimant seeks to enjoin; that when the true names and capacities



1 of such defendants become known, Counter Claimant will ask leave of this Court to amend this  
2 counterclaim to insert the true names, identities and capacities together with proper charges and  
3 allegations.

4 15. Counter Claimant is informed and believe, and on that basis alleges that Counter  
5 Defendants Front Sight and the VNV Trust Defendants are influenced and governed by Counter  
6 Defendant Ignatius Piazza, and they are so intertwined with one another as to be factually and  
7 legally indistinguishable. As such, the adherence to an LLC, corporate or trust fiction of separate  
8 entities would, under the circumstances, sanction fraud and promote injustice.

9 16 As a result of Front Sight being the alter ego of Counter Defendant Ignatius  
10 Piazza, Ignatius Piazza is personally liable for the liabilities of Front Sight regarding  
11 the allegations set forth in this Counterclaim.

## 12 **II. GENERAL ALLEGATIONS**

13 17 The CLA was made to fund construction of the Front Sight Resort & Vacation  
14 Club ("FS Resort") and an expansion of the facilities and infrastructure of the Front Sight  
15 Firearms Training Institute (the "Training Facilities") located on a 550-acre site in Pahrump,  
16 Nevada (the "Project"). The CLA dated October 6, 2016 (Exhibit 3) is the operative agreement  
17 for purposes of determining Front Sight's obligations as the "Borrower," and the remedies  
18 available to LVD Fund as the "Lender."

19 18 The "Project" is described as construction of the Front Sight Resort & Vacation  
20 Club ("FSRVC") and an expansion of the facilities and infrastructure of the Front Sight Firearms  
21 Training Institute ("FSFTI") (the "Facilities") located in a 550 acre site in Pahrump, Nevada. The  
22 Facilities will include 102 timeshare residential units, up to 150 luxury timeshare RV pads, an  
23 85,000 square foot restaurant, retail, classroom, and office building (to be known as the Patriot  
24 Pavilion) and related infrastructure and amenities, all of which will be located at One Front Sight  
25 Road, Pahrump, Nevada 89041.

26 19 All of the loan funds came from foreign citizens participating in the Federal  
27 Immigrant Investor Program, known as "EB-5." The EB-5 Immigrant Investor Program, which is  
28 administered by the United States Citizenship and Immigration Services ("USCIS"), provides

1 certain immigrant investors, who can demonstrate that their investments are creating jobs in this  
2 country, with a potential avenue to lawful permanent residency in the United States. The program  
3 sets aside EB-5 visas for participants who invest in commercial enterprises approved by USCIS,  
4 frequently administered by entities called "regional centers." Each investor is required to invest a  
5 minimum of \$500,000 and, through the EB-5 Immigrant Investor Program, are anticipated to  
6 receive permanent foreign resident status within the United States *assuming compliance with the*  
7 *EB-5 program requirements and creation of 10 US jobs per investor.* Material departures from  
8 the U.S. Citizenship and Immigration Service ("USCIS") approved plans for the Project,  
9 including delays in construction, and diversion of funds from the Project to general corporate or  
10 personal uses, are all significant breaches of the CLA and potentially jeopardize the immigration  
11 status of the EB-5 Investors.

12         20. According to the US Citizenship and Immigration Services, the Immigrant Investor  
13 Program, also known as "EB-5," was created to stimulate the U.S. economy through job creation  
14 and capital investment from immigrant investors by creating a new commercial enterprise or  
15 investing in a troubled business. In this case, the immigrant investors are attempting to gain  
16 lawful permanent residence for themselves and their families by participating in a Regional Center  
17 Pilot Program, which requires them to make a capital investment of \$500,000, since this region is  
18 deemed to be a Targeted Employment Area ("TEA"), i.e., "a rural area or an area that has  
19 experienced high unemployment of at least 150 percent of the national average." The new  
20 commercial enterprise must create or preserve 10 full-time jobs for qualifying U.S. workers within  
21 two years (or under certain circumstances, within a reasonable time after the two year period) of  
22 the immigrant investor's admission to the United States as a Conditional Permanent Resident  
23 (CPR)."

24         21. The CLA, as well as the USCIS approved business plan and Confidential Offering  
25 Memorandum that comply with both EB-5 legislation and U.S. securities laws and regulations,  
26 specifically require that loan proceeds and disbursements be applied toward construction of the  
27 Project and the creation of jobs. The CLA also includes a contractually agreed upon construction  
28 schedule and construction budget that were specifically approved by the USCIS and must be

1 substantially complied with in order to meet the immigrant investors' obligations under the EB-5  
2 Program.

3 22. Section 6.3 of the CLA (Exhibit 3) and Section 7.2(d) of the Deed of Trust  
4 (Exhibit 1) specifically authorize Lender to take over and complete construction of the Project in  
5 accordance with the USCIS approved plans and construction schedule in the event of certain  
6 defaults which place timely completion of the project in jeopardy.

7 23. Pursuant to the terms of §6.1 of the CLA, each of the following, without limitation,  
8 constitutes an Event of Default under the CLA:

9 (a) Borrower shall default in any payment of principal or interest . . .

10 \* \* \*

11 (c) Borrower shall default in the performance or observance of any  
12 agreement, covenant or condition required to be performed or  
13 observed by Borrower under the terms of this Agreement, or any  
14 other Loan Document, other than a default described elsewhere in  
15 this Section . . .

14 \* \* \*

15 (j) A default occurs in the performance of Borrower's obligations in  
16 any of Section 5.6, 5.7, 5.8, 5.10, 5.13, 5.16, 5.18, 5.19, 5.22, 5.23  
17 or 5.24, hereof;

17 \* \* \*

18 (m) Any failure by Borrower to timely deliver the EB-5  
19 information, which failure continues more than 5 days following  
20 notice of such failure from Lender.”

21 24. In the event of default, Lender can, *inter alia*: suspend the obligation to make  
22 further advances of funds (CLA §6.2(b)); foreclose on the Deed of Trust (CLA §6.2(e)); and *“take  
23 over and complete such construction in accordance with the Plans, with such changes therein  
24 as Lender may, in its discretion, deem appropriate, all at the risk, cost and expense of  
25 Borrower.”* (CLA §6.3). [emphasis added]

24 **BORROWER'S BREACHES AND DEFAULT UNDER THE CLA**

25 **A. Breach Number 1: Improper Use of Loan Proceeds - CLA § 1.7(e)**

26 25. [REDACTED]  
27 [REDACTED]  
28 [REDACTED]

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]

6 26. Counter Claimants are informed and believe and thereon allege that more than  
7 \$3,000,000 of EB-5 loan proceeds have been diverted to fund matters that are not related to  
8 completion of the approved EB-5 plan, such as payment of Front Sight’s general overhead  
9 expenses, thereby severely prejudicing the EB-5 investors.

10 27. Counter Claimants are informed and believe and thereon allege that during the past  
11 two years, while Front Sight has been using EB-5 (CLA) loan proceeds to pay its general  
12 overhead operating costs, pay off a pre-existing loan for which Ignatius Piazza and Jennifer Piazza  
13 are personal guarantors, and disburse multi-million shareholder distributions to Counter  
14 Defendants Ignatius Piazza, Jennifer Piazza, and the VNV Trust Defendants.

15 **B. Breach Number 2: Failure to Provide Government Approved Plans-CLA §3.2(b)**

16 28. Section 3.2 (b)(I) of the CLA requires that prior to the Commencement Date Front  
17 Sight provide LVD Fund with “Plans, in the form previously submitted to Lender, as finally  
18 approved for construction by the Project Architect and the applicable Governmental Authority.”  
19 (Exhibit 3, pg. 20). The “Commencement Date” for the Project is defined in the First Amendment  
20 to Loan Agreement effective July 1, 2017 as “October 6, 2016.” (Exhibit 4). This is to include “a  
21 schedule listing all Contractors, and primary contracts relating to the Project having a contracts  
22 sum in excess of \$250,000 for any such Contractor, and construction contracts, subcontracts and  
23 schedules relating to the Project. (*Id.* CLA §3.2(b)(ii)). In a letter dated August 28, 2018, Robert  
24 Dziubla, on behalf of LVD Fund, gave notice to Front Sight that it was in default for failure to  
25 provide construction plans and the related lists of contractors, licenses, agreements and permits  
26 relating to the construction as required under §§3.2(b)(I) and (ii) of the CLA. Front Sight remains  
27 in default under these provisions of the CLA..

28 **C. Breach Number 3: Failure to Timely Complete Construction - CLA § 5.1**

1           29. Pursuant to Section 5.1 of the CLA, Front Sight was required to complete  
2 construction by the "Completion Date" which is defined as "the date that is no later than thirty-six  
3 (36) months from the Commencement Date." (Exhibit 3 pg. 3). Pursuant to the First Amendment  
4 to the Loan Agreement, the "Commencement Date" is defined as "October 4, 2016." (Exhibit 4,  
5 §1). Therefore, construction of the project should have been completed on or before October 4,  
6 2019.

7           30. As of January 2020, there are no government approved plans for the Project,  
8 construction has not even started on any of the planned vertical structures and construction  
9 appears to be at a virtual standstill.

10          31. This is a material event of Default, and it is particularly prejudicial to the EB-5  
11 investors who risk losing their EB-5 benefits if the project is not completed in accordance with the  
12 schedule approved by the USCIS.

13 **D. Breach Number 4: Material Change of Costs, Scope or Timing of Work - CLA § 5.2**

14          32. Section 5.2 of the CLA states in pertinent part:

15                   "Borrower shall deliver to Lender revised, estimated costs of the  
16 Project, showing changes in or variations from the original  
17 Estimated Construction Cost Statement, as soon as such changes are  
18 known to Borrower. Borrower shall deliver to Lender a revised  
19 construction schedule, if and when any target date set forth therein  
20 has been delayed by twenty (20) consecutive days or more, or when  
21 the aggregate of all such delays equals thirty (30) days or more.  
22 Borrower shall not make or consent to any change or modification  
23 in such Plans, contracts or subcontracts, and no work shall be  
24 performed with respect to any such change or modification, without  
25 the prior written consent of Lender, if (I) such change or  
26 modification would in any material way alter the design or structure  
27 of the Project or change the rentable area thereof in any way, or  
28 increase or decrease the Project cost by \$250,000 or more (after  
taking into account cost savings and any insurance proceeds of  
Borrower received by Lender) for any single change or  
modification, or (ii) the aggregate amount of all changes and  
modifications exceeds \$500,000 (after taking into account cost  
savings and any insurance proceeds of Borrower received by  
Lender). Borrower shall promptly furnish Lender with a copy of all  
changes or modifications in the Plans, contracts or subcontracts for  
the Project prior to any Advance used to fund such change or  
modification whether or not Lender's consent to such change or  
modification is required hereby."

33. Front Sight has made multiple material changes to the plans and schedule without

1 obtaining written consent from LVD Fund, including, *inter alia*, reducing the size of the “Patriot  
2 Pavilion” from 85,000 square feet, as represented to USCIS, to approximately 25,000 - 30,000  
3 square feet, while also modifying plans to eliminate foundations. Counter Claimants are informed  
4 and believe and thereon allege that this change by Front Sight is a material change in the  
5 construction plans, in breach of the CLA.

6 **E. Breach Number 5: Refusal to Comply Regarding Senior Debt - CLA § 5.27**

7 34. Under the CLA, Front Sight was required to obtain Senior Debt from a traditional  
8 construction lender, originally by March 31, 2016 (Exhibit 3 at pg. 11 “Senior Debt” defined),  
9 then was given an extension to December 31, 2017 (Exhibit 4 at ¶4), and then was given and  
10 extension to June 30, 2018 (Exhibit 5 at ¶1). To date, Front Sight has not secured a Senior Debt  
11 that meets the requirements of the CLA.

12 **F. Breach Number 6: Failure to Provide Monthly Project Costs - CLA § 3.2(a)**

13 35. Front Sight has not delivered the required Monthly Evidence of Project Costs.  
14 “From and after the date of the first Advance of the Loan, Borrower shall deliver to Lender on a  
15 monthly basis evidence of the Project costs funded during the preceding month.” (CLA § 3.2(a)).  
16 Counter Defendant Front Sight has not delivered a single monthly Project cost report.

17 **G. Breach Number 7: Failure to Notify of Event of Default - CLA § 5.10**

18 36. Section 5.10(d) of the CLA requires the Borrower to notify Lender of the  
19 occurrence of an Event of Default. “Within five (5) Business Days after the occurrence of any  
20 event actually known to Borrower which constitutes a Default or an Event of Default, notice of  
21 such occurrence, together with a detailed statement of the steps being taken to cure such  
22 event, and the estimated date, if known, on which such action will be taken.” Front Sight has  
23 failed to notify LVD Fund of either (1) the existence of certain events of default or (2) a detailed  
24 statement of the steps being taken to cure the event of default.

25 **H. Breach Number 8: Refusal to Allow Inspection of Records - CLA § 5.4**

26 37. Section 5.4 of the CLA provides:

27 **Keeping of Records.** Borrower shall set up and maintain accurate  
28 and complete books, accounts and records pertaining to the Project.  
Borrower will permit representatives of Lender to have reasonable

1 access to and to inspect and copy such books, records and contracts  
2 of Borrower and to inspect the Project and to discuss Borrower's  
3 affairs, finances and accounts with any of its principal officers, all at  
4 such times and as often as may reasonably be requested by Lender.

5 38. LVD Fund made a demand to Inspect the Books and Records by Notice of Default  
6 and Letter dated July 30, 2018.

7 39. Front Sight explicitly refused to comply with this obligation under the CLA, as  
8 stated in the letter from Ignatius Piazza dated August 20, 2018. It states "Borrower is not in  
9 breach; thus, there will be no inspections. In the Notice; you have included a "Notice of  
10 Inspections" which alleges that "[P]ursuant to articles 3.3 and 5.4 of the CLA, we hereby serve  
11 you notice that we and our representatives will inspect the Project and your books and records on  
12 Monday, August 27." As set forth above and below herein, we contend that Borrower is not in  
13 breach or default of any of its obligations under the Loan Agreement; thus, **Borrower will not  
14 authorize any inspections whatsoever by Lender or its representatives of the Project or its  
15 books and records on the proposed date of August 27 [2018], or at any other time."**

16 40. The right of inspection with advance notice pursuant to §3.3 and §5.4 of the CLA  
17 is **not** contingent on whether there is an Event of Default. Front Sight's refusal to permit the  
18 inspection constitutes a separate Event of Default acknowledged in writing by Front Sight.

19 **I. Breach Number 9: Refusal to Allow Inspection of the Project - CLA § 3.3**

20 41. Section 3.3 of the CLA provides:

21 **Inspections:** Lender and its representatives shall have access to the  
22 Project at all reasonable times and shall have the right to enter the  
23 Project to conduct such inspections thereof as they shall deem  
24 necessary or desirable for the protection of Lender's interests;  
provided, however, that for so long as no Event of Default shall  
have occurred and be continuing, Lender shall provide to borrower  
prior to the notice of not less than seventy-two (72) hours of any  
such inspections and such inspection shall be subject to the rights of  
club members (i.e., owners of timeshare interests) and any tenants  
under any applicable leases."

25 42. As discussed in the section above, on July 30, 2018, LVD Fund made a demand to  
26 Front Sight for permission to inspect the Project, with more than 72 hours notice, even though  
27 Events of Default negated the need for advanced notice. In response, Front Sight explicitly refused  
28 to comply with this obligation under the CLA, stating: "**Borrower will not authorize any**

1 inspections whatsoever by Lender or its representatives of the Project or its books and  
2 records on the proposed date of August 27 [2018], or at any other time.”

3 43. This is a material breach of the CLA justifying court intervention because the right  
4 of inspection is necessary for Lender to determine, *inter alia*, appropriate use of loan proceeds,  
5 construction progress, and possible impairment of security, which is necessary for Lender to  
6 protect its interests.

7 **J. Breach Number 10: Failure to Provide EB-5 Information - CLA § 1.7(f)**

8 44. In order to verify continuing eligibility for participation in the EB-5 Investor  
9 Program with the USCIS, Front Sight was required to submit certain EB-5 information on a  
10 continuing basis as a condition of the loan. “Borrower shall submit to Lender the EB-5  
11 Information. Failure of Borrower to use the proceeds of the Loan in accordance with the terms and  
12 conditions of this Agreement or to provide the EB-5 Information shall be a default pursuant to  
13 Section 6.1.” (Exhibit 3). This obligation was further specified in the First Amendment to the  
14 CLA requiring “Borrower [to] provide Lender with copies of major contracts, bank statements,  
15 receipts, invoices and cancelled checks or credit card statements or other proof of payment  
16 reasonably acceptable to Lender that document that Borrower has invested in the Project at least  
17 the amount of money as has been disbursed by Lender to Borrower on or before the First  
18 Amendment Effective Date.” (Exhibit 4).

19 45. Front Sight failed to provide the required EB-5 Information. It is necessary to give  
20 Lender access to the information needed in order to meet its obligations to its EB-5 investors so  
21 the investors don’t lose their investment and their path to citizenship.

22 **K. Breach Number 12: Transferring Assets to Related Parties - CLA § 5.18**

23 46. Section 5.18 of the CLA provides that: “Borrower shall not directly or indirectly,  
24 prior to completion of all of the improvements or the Completion Date, (a) make any distribution  
25 of money or property to any Related Party, or make or advance to any Related Party, or (b) make  
26 any loan or advance to any Related Party, or . . . (d) pay any fees or other compensation . . . to  
27 itself or to any Related Party, if any such payment in (a) through (d), inclusive, might adversely  
28 affect Borrower’s ability to repay the loan in accordance with its terms . . .”



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47. [REDACTED]

48. Counter Claimant LVD Fund is informed and believes that Ignatius Piazza has transferred additional funds from Front Sight to himself, his wife Jennifer Piazza (either directly or indirectly) and the VNV Trust Defendants in violation of §5.18, which have yet to be disclosed.

49. Counter Claimants are informed and believe and thereon allege that Counter Defendants Ignatius Piazza and Jennifer Piazza both individually, as Trustees of the VNV Trust Defendants, and/or as beneficiaries of the VNV Trust Defendants knew about the source of the transferred funds, and that transferring such funds violated the CLA, and with such knowledge endorsed and aided in the removal of funds from Front Sight, and directly benefitted from the funds through the VNV Trust Defendants and by reduction in debts that Ignatius Piazza and Jennifer Piazza had personally guaranteed.

50. Counter-Defendant's have now diverted out of Front Sight, for their personal benefit, enough capital to have completed the Front Sight Resort Project well within the time constraints approved by the USCIS for the EB-5 Project. By diverting profits generated by Front Sight's operations to themselves, their trusts, and using EB-5 investor funds to pay Front Sight's operating expenses and pre-existing loans, Counter Defendants Ignatius Piazza and Jennifer Piazza misappropriated loan proceeds and endangered Front Sight's solvency.

**L. Breach Number 11: Non Payment of Default Interest - CLA § 1.2**

51. Section 1.2 of the CLA provides that if there is an Event of Default, interest shall be charged at the "Default Rate." The "Default Rate" is defined as "the lesser of five percent (5%) per annum in excess of the Loan Rate or the maximum lawful rate of interest which may be charged." (Exhibit 3, CLA, pg. 4, "Default Rate Defined.") Because Front Sight is in default under multiple provisions of the CLA as detailed above, the Default Rate provisions of Section

1 1.2 were properly triggered.

2 52. Front Sight has failed and refused to pay the Default Rate despite the demand  
3 therefor. As a result of failing to pay default interest rates, **Front Sight is in monetary default**  
4 **under the terms of the CLA.**

5 **M. Breach Number 12: Non Payment of Legal Fees - CLA § 8.2**

6 53. Section 8.2(a) of the CLA provides that "Borrower agrees to pay and reimburse  
7 Lender upon demand for all reasonable expenses paid or incurred by Lender (including reasonable  
8 fees and expenses of legal counsel) in connection with the collection and enforcement of the Loan  
9 Documents, or any of them." This obligation was specifically reaffirmed in ¶7 of the First  
10 Amendment to the Loan Agreement (Exhibit 4), with respect to failure to provide the EB-5  
11 Information. LVD Fund has incurred legal fees in connection with the Notices of Default and has  
12 made demand of payment therefor from Front Sight. To date, Front Sight has refused to pay such  
13 fees and this constitutes a monetary default under §6.1(b) of the CLA. LVD Fund has also  
14 incurred attorneys' fees and costs in defense of this action and pursuing its rights and remedies  
15 under the CLA and Deed of Trust, for which Front Sight is contractually liable.

16 **N. Breach Number 13: Wrongfully Encumbering the Property.**

17 54. Section 5.7 of the CLA provides that "[w]ithout the prior written consent of  
18 Lender, Borrower shall not voluntarily or involuntarily agree to, cause, suffer or permit any sale,  
19 conveyance, lease, mortgage, grant, lien, encumbrance, security interest, pledge, assignment or  
20 transfer of: (a) the Project or any part or portion thereof, or (b) any ownership interest in  
21 Borrower, direct or indirect, legal or equitable (including the issuance, sale, redemption, or  
22 repurchase of any such interest, the distribution of treasury stock, or the payment of any  
23 indebtedness owed to Borrower by any managers, subsidiaries, Affiliates or owners of equity  
24 interests or debentures).

25 55. In breach of this provision of the CLA, Counter Defendants Front Sight and  
26 Ignatius Piazza have been selling, and continue to sell "credits," "points," "memberships,"  
27 "certificates," and other instruments and products, including the sale of unregistered securities,  
28 that create contingent liabilities for Counter Defendant Front Sight and/or include the current or

1 contingent rights to convert said instruments directly or indirectly into ownership interests in  
2 Counter Defendant Front Sight or the Project.

3 56. As a result of the multiple breaches outlined above, on January 4, 2019, LVD Fund  
4 filed the "Notice of Breach, Default and Election to Sell Under the Deed of Trust" with the Nyc  
5 County Recorder (DOC #905512, attached hereto as Exhibit 6).

6 57. Counter Defendant Front Sight thereafter failed to correct any of the previously  
7 cited breaches and Events of Default under the CLA, and further breached the CLA by failing to  
8 provide Counter Claimant LVD Fund with financial statements within 75 days of the end of  
9 calendar year 2018, as identified in § 5.10 of the CLA, despite Counter Claimant making the  
10 demand for said financial statements by letter dated March 25, 2019.

11 58. In addition, on November 11, 2019 a mechanics lien was recorded against the  
12 subject property in the amount of \$100,795.13 by Direct Paving and Grading, without Lender's  
13 written consent, in breach of §5.7. Despite LVD Fund giving Front Sight written notice of this  
14 event of default on or about January 10, 2020, Front Sight failed to cure the default.

15 **Material Misrepresentations Regarding the Morales Construction Line of Credit**

16 59. In or about October 2017, Counter Defendants Front Sight, Piazza, Meacher,  
17 Morales and the Morales Entities (i.e., Morales Construction, All American Concrete and Top  
18 Rank Builders) entered into a comprehensive scheme to further defraud LVD Fund. The scheme  
19 involved Front Sight and the Morales Entities entering into a fictitious multi- million dollar loan  
20 agreement, to give the false appearance that Front Sight had access to enough credit to virtually  
21 complete the Project.

22 60. Counter Defendants carried out the fraudulent scheme with the intent that LVD  
23 Fund would rely on this false appearance of access to credit and believe that the credit would in  
24 fact be utilized for construction of the Project. Counter Defendants further intended that the  
25 fictitious loan agreement would give LVD Fund a false sense of security so that it would release  
26 funds it was withholding from Front Sight, and facilitate continued solicitation of additional EB-5  
27 investors by using the loan agreement to give an appearance that Front Sight was putting more  
28 money into construction than it really was.

1           61.     In furtherance of fraudulent scheme, on October 31, 2017, Front Sight entered into  
2 the purported "Loan Agreement - Construction Line of Credit" ("Loan Agreement") with the  
3 Morales Entities. (See Exhibit 8). The Loan Agreement was executed by Counter Defendant  
4 Morales. Per the terms of the Loan Agreement, the Morales Entities were to provide Front Sight  
5 with up to \$36 million of credit to be applied toward completing the Project.

6           62.     Counter Defendants Front Sight, Piazza, Meacher, Morales and the Morales  
7 Entities caused this "Loan Agreement" to be executed with no intent to ever utilize the credit line,  
8 and with knowledge that the Morales Entities were not capable of extending or carrying the  
9 amount of credit purportedly made available under the agreement's terms.

10          63.     On October 31, 2017, Meacher represented to LVD Fund that:

11           "Attached please find fully executed documents between Front Sight  
12 Management and our three primary contractors. This Construction Line of  
13 Credit and associated Promissory Note extends to Front Sight up to  
14 \$36,000,000 in construction credit pursuant to the terms of the  
15 agreements. . . .

16           These documents and the attached construction line of credit along with  
17 the upcoming Letter of Commitment from USCP should jump start the  
18 marketing in both China and India. Please release the funds for the  
19 investor you now hold and give me the vehicle by which we send the  
20 funds for Dr. Shah's marketing road show that we promised with his next  
21 closing. Also light a fire under David and Kyle. Get them to put some  
22 serious effort to close the 26 investors in China who are currently looking  
23 for another project. There are now no excuse [sic] for not closing more  
24 of these EB-5 investors." (Emphasis added)

25          64.     Counter Claimant is informed and believes, and thereon alleges, that in return for  
26 the Morales Entities entering into the fraudulent Loan Agreement, Front Sight agreed to contract  
27 with the Morales Entities to perform construction work on the Project. Morales, as the owner of  
28 the Morales Entities, personally benefitted from the profit generated by the millions of dollars  
received from Front Sight.

        65.     But rather than the construction funding coming from the Morales Entities  
pursuant to the Loan Agreement, the funds were to come solely from LVD Fund. The Loan  
Agreement was simply a ruse to lull LVD Fund into soliciting more EB-5 funds, with the intent  
that the false appearance of Front Sight having a \$36 million line of credit would result in a  
greater number of EB-5 investors coming forward.

1 **FIRST CAUSE OF ACTION**

2 **Fraud against Front Sight, Piazza, Meacher, Morales and the Morales Entities**

3 66. Counter Claimant repeats and realleges each and every allegation contained in  
4 paragraphs 1 through 65 of this Counterclaim as though set forth fully herein at length.

5 67. When Counter Defendants made the misrepresentations set forth above, they  
6 knew them to be false.

7 68. Counter Defendants made the misrepresentations knowing that LVD Fund  
8 would rely on said misrepresentations.

9 69. LVD Fund did in fact rely on said misrepresentations to its detriment. Had  
10 LVD Fund known the true facts it would not have released the funds it was holding and  
11 would not have solicited additional EB-5 investors for the Front Sight Project.

12 70. As a result direct and proximate result of the fraud and intentional  
13 misrepresentations made by the Counter Defendants, Counter Claimant LVD Fund has  
14 sustained damages well in excess the fifteen thousand dollar (\$15,000) jurisdictional limit  
15 of this court.

16 71. The conduct of Counter Defendants, and each of them, as described herein,  
17 was malicious, oppressive and fraudulent under NRS 42.005, entitling Counter Claimant  
18 to an award of punitive damages.

19 72. As a result of Counter Defendants' actions, Counter Claimant has been required to  
20 retain the services of an attorney in order to pursue this claim against said Counter Defendants,  
21 and each of them, and is therefore entitled to be compensated for any and all costs incurred in the  
22 prosecution of this action, including without limitation, any and all reasonable costs and attorney's  
23 fees.

24 73. LVD Fund also is entitled to attorney's fees under Section 8.2 of the Construction  
25 Loan Agreement for enforcement of the contract.

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1 SECOND CAUSE OF ACTION

2 **Fraudulent Transfers – NRS §§112.180 AND 112.190**

3 **Against Front Sight, VNV Dynasty Trust I and VNV Dynasty Trust II**

4 74. Counter Claimant repeats and realleges each and every allegation contained in  
5 paragraphs 1 through 73 of this Counterclaim as though set forth fully herein at length.

6 75. Pursuant to the CLA §5.18 Front Sight was prohibited from making certain related  
7 party transactions or transfers if such transfers would impair the ability of Front Sight to repay the  
8 CLA.

9 76. [REDACTED]

10 [REDACTED]

11 77. [REDACTED]

12 [REDACTED]

13 78. [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 79. [REDACTED]

17 [REDACTED]

18 80. [REDACTED]

19 [REDACTED]

20 81. [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 82. The above transactions were made with actual intent to hinder, delay or defraud  
24 LVD Fund.

25 83. Front Sight engaged in the above transactions without receiving reasonably  
26 equivalent value in exchange for the transfer at a time when: (1) Front Sight was engaged in a  
27 transaction (the CLA and the Project) for which the remaining assets of Front Sight were  
28 unreasonably small in relation to the transaction; and (2) in which Front Sight intended to incur,

1 or reasonably should have believed it was incurring, debts that were beyond the ability of Front  
2 Sight to pay when due. NRS 112.180.

3 84. The above transactions were: (a) to an insider; (b) and the insider retained  
4 possession or control of the transferred funds; (c) the transfers were unconsented to by LVD Fund  
5 despite the obligation of CLA §5.18; (d) the transfers were made shortly after Front Sight incurred  
6 a substantial debt pursuant to the CLA; and (e) Front Sight was insolvent at the time the transfers  
7 were made. NRS 112.180

8 85. The above transfers are fraudulent transfers as to LVD Fund because they were  
9 made after the obligation to LVD Fund was incurred and they were made without receiving a  
10 reasonably equivalent value in exchange for the transfer or obligation and Front Sight was  
11 insolvent at the time the transfers were made. NRS 112.190.

12 86. The above transfers are further fraudulent transfers as to LVD Fund because the  
13 obligation to LVD Fund was incurred before the transfers were made and the transfers were to an  
14 insider at a time when Front Sight was insolvent, and the insider (Piazza) knew that Front Sight  
15 was insolvent.

16 87. Pursuant to NRS 112.210, LVD Fund seeks: (a) Avoidance of the transfers and  
17 loan to shareholder; (b) An attachment or garnishment against the asset transferred or other  
18 property of the transferee pursuant to NRS 31.010 to 31.460, inclusive; and (c) Subject to  
19 applicable principles of equity and in accordance with applicable rules of civil procedure: (1) An  
20 injunction against further disposition by the debtor or a transferee, or both, of the assets  
21 transferred or of other property; (2) Appointment of a receiver to take charge of the assets  
22 transferred or of other property of the transferee; or (3) Any other relief the circumstances may  
23 require.

24 **THIRD CAUSE OF ACTION**

25 **Intentional Interference with Contractual Relationships Against Ignatius Piazza, Jennifer**  
26 **Piazza, and VNV Trust Defendants.**

27 88. Counter Claimant repeats and realleges each and every allegation contained in  
28 paragraphs 1 through 87 of this Counterclaim as though set forth fully herein at length.





1 defiance of Counter Claimant's rights and title to its money and/or property.

2 99. As a result of Counter Defendants' actions, Counter Claimant has been required to  
3 retain the services of an attorney in order to pursue this claim against said Counter Defendants,  
4 and each of them, and is therefore entitled to be compensated for any and all costs incurred in the  
5 prosecution of this action, including without limitation, any and all reasonable costs and attorney's  
6 fees.

7 **FIFTH CAUSE OF ACTION**

8 **Civil Conspiracy Against All Counter Defendants**

9 100. Counter Claimant repeats and realleges each and every allegation contained in  
10 paragraphs 1 through 99 of this Counterclaim as though set forth fully herein at length.

11 101. As set forth above, Counter Defendants Ignatius Piazza and Jennifer Piazza, both  
12 in their individual capacity and in their capacity as Trustees and/or beneficiaries of the VNV Trust  
13 Defendants, acted together in concert, in their individual capacities, to accomplish their unlawful  
14 objectives for the purpose of harming Counter Claimant.

15 102. While acting in their individual capacities and in their capacity as Trustees and/or  
16 beneficiaries of the VNV Trust Defendants, Ignatius Piazza and Jennifer Piazza conspired with  
17 the Front Sight and the VNV Trust Defendants, using Front Sight and VNV Trust Defendants to  
18 achieve their unlawful objective of diverting monies from Front Sight that were needed to  
19 maintain Front Sight's solvency and its ability to meet its obligations under the CLA regarding  
20 timely completion of the Project and repayment of the loan, for their own individual advantage  
21 and benefit.

22 103. As a direct and proximate result of the Counter Defendants' acts, Counter Claimant  
23 has been damaged in an amount to be proven at trial.

24 104. Counter Defendants' conduct was malicious, oppressive and fraudulent under NRS  
25 42.005, entitling Counter Claimant to an award of punitive damages.

26 105. As a result of Counter Defendants' actions, Counter Claimant has been required to  
27 retain the services of an attorney in order to pursue this claim against said Counter Defendants,  
28 and each of them, and is therefore entitled to be compensated for any and all costs incurred in the

1 prosecution of this action, including without limitation, any and all reasonable costs and attorney's  
2 fees.

3 106. Based on Counter Defendants' conduct and the inequitable result of allowing the  
4 transferred funds to remain in control of Counter Defendants, a constructive trust should be placed  
5 on all moneys transferred from Front Sight to the VNV Trust Defendants, as prayed for below.

6 **SIXTH CAUSE OF ACTION**

7 **Judicial Foreclosure Against Front Sight**

8 107. Counter Claimant repeats and realleges each and every allegation contained in  
9 paragraphs 1 through 106 of this Counterclaim as though set forth fully herein at length.

10 108. In July 2017, Counter Defendant Front Sight for good and valuable consideration  
11 executed and delivered the original Promissory Note to LVD Fund. On November 14, 2017,  
12 Counter Defendant Front Sight executed and delivered the Amended and Restated Promissory  
13 Note to LVD Fund. (Exhibit 7).

14 109. To secure the Note, on October 13, 2016, Counter Claimant LVD Fund recorded a  
15 Deed of Trust titled "Construction Deed of Trust, Security Agreement, Assignment of Leases and  
16 Rents, and Fixture Filing," in the official records of Nyc County, Nevada, as "DOC #860867."  
17 (Exhibit 1). On January 12, 2018, the "First Amendment to Construction Deed of Trust, Security  
18 Agreement and Fixture Filing," was recorded in the official records of Nye County, Nevada, as  
19 "DOC #886510." (Exhibit 2).

20 110. Counter Claimant LVD Fund is the owner and the holder of the note for value and  
21 has performed all obligation under the Promissory Note.

22 111. The encumbered Property is now owned by and in possession of the Counter  
23 Defendant Front Sight.

24 112. Counter Defendants have breached the Deed of Trust as discussed in detail above,  
25 which include but are not limited to: improper use of loan proceeds; failure to provide government  
26 approved plans; material delays in construction, material changes to cost, scope and timing of the  
27 construction; refusal to comply with regarding senior debt; failure to provide monthly project  
28 costs; failure to notify Lender of events of default; refusal to allow Lender to inspect books and

1 records; diverting Front Sight assets out of Front Sight for the benefit the the individual Counter  
2 Defendants; refusal to allow site inspections; failure to give Lender annual financial statements;  
3 and failure to provide EB5 documentation.

4 113. As of January 4, 2019 there remained due and owing under the Note approximately  
5 \$345,787.24 as described in the Notice of Breach and Election to Sell Under the Deed of Trust.  
6 (Exhibit 6). Counter Defendants reserve the right to amend this Counterclaim up to the time of  
7 trial to include any additional amounts which become due and remain unpaid as a result of  
8 additional damages caused by Counter Defendants.

9 114. Counter Claimant is entitled to an order directing a foreclosure sale in the subject  
10 Property to abrogate any and all interest or claims that Counter Defendants might have in the  
11 subject Property.

12 115. As a result of Counter Defendants' actions, Counter Claimant has been required to  
13 retain the services of an attorney in order to pursue this claim against said Counter Defendants,  
14 and each of them, and is therefore entitled to be compensated for any and all costs incurred in the  
15 prosecution of this action, including without limitation, any and all reasonable costs and attorney's  
16 fees.

17 **SEVENTH CAUSE OF ACTION**

18 **Waste Against Front Sight, Ignatius Piazza and the VNV Trust Defendants**

19 116. Counter Claimant repeats and realleges each and every allegation contained in  
20 paragraphs 1 through 115 of this Counterclaim as though set forth fully herein at length.

21 117. Counter Claimant LVD Fund (Lender) has a lien encumbering the subject Property.

22 118. Counter Defendant Front Sight (Borrower) has possession of the Property.

23 119. Waste was committed to the property in bad faith, impairing its value, including  
24 but not limited to improperly using funds earmarked for development of the Property for the  
25 personal benefit of Counter Defendants Ignatius Piazza, Jennifer Piazza and the VNV Trust  
26 Defendants; selling unregistered securities which create substantial legal and financial liability to  
27 Front Sight, misappropriating Front Sight's assets for the personal benefit of Ignatius and Jennifer  
28 Piazza and other beneficiaries of the VNV Trust Defendants, and selling various instruments

1 which include rights to Front Sight's resort property for highly reduced rates which further  
2 encumbers the Property, either directly or indirectly.

3 120. As a direct and proximate result of the waste committed by Counter Defendants,  
4 Counter Claimant has been injured in an amount to be proven at trial.

5 121. Counter Claimant is entitled to treble damages under NRS 40.150.

6 122. Counter Defendants' conduct was malicious, oppressive and fraudulent under NRS  
7 42.005, entitling Counter Claimant to an award of punitive damages.

8 123. As a result of Counter Defendants' actions, Counter Claimant has been required to  
9 retain the services of an attorney in order to pursue this claim against said Counter Defendants,  
10 and each of them, and is therefore entitled to be compensated for any and all costs incurred in the  
11 prosecution of this action, including without limitation, any and all reasonable costs and attorney's  
12 fees.

13 **PRAYER FOR RELIEF**

14 WHEREFORE, all material allegations of Plaintiff's Second Amended Complaint having  
15 been denied, affirmative defenses having been stated, and counterclaims asserted, these  
16 responding Defendants now pray as follows:

17 1. That Plaintiff take nothing by way of its Second Amended Complaint on file herein  
18 and that the same be dismissed with prejudice;

19 2. For Judgment in favor of Counter Claimants against Counter Defendants, and each  
20 of them, in an amount in excess of Fifteen Thousand Dollars (\$15,000.00), subject to proof at  
21 trial;

22 3 For appointment of a receiver over Counter Defendant Front Sight;

23 4. For an accounting from Counter Defendant Front Sight from October 6, 2016  
24 forward, of any and all money paid and received, from all sources;

25 5. For an accounting from the Counter Defendant VNV Trusts from October 6, 2016  
26 forward, of any and all money received from Counter Defendant Front Sight, and for all money  
27 distributed by the Counter Defendant Trusts since October 6, 2016.

28 6. For imposition of a constructive trust over the money transferred by Counter

1 Defendant Front Sight to the Piazza and the VNV Trust Defendants in violation of Section 5.18 of  
2 the CLA, because the retention of said funds by the Counter Defendants against Counter Claimant  
3 LVD Fund's interests would be inequitable, and a constructive trust is essential to the effectuation  
4 of justice, and that restrictions be placed on such funds that limit their use to paying for the costs  
5 and expenses relating to completion of the Project.

6 7. For injunctive relief pursuant to NRS 33.010 or as otherwise permitted by law or  
7 equity to enjoin Counter Defendant Front Sight from engaging in acts that further encumber the  
8 Property and increase Counter Defendant Front Sight's actual or contingent liabilities in violation  
9 of the CLA, including the sale of "credits," "points," "memberships," "certificates," or any other  
10 instruments or products, including the sale of unregistered securities, that create contingent  
11 liabilities for Counter Defendant Front Sight and/or include the current or contingent right to  
12 convert said instruments directly or indirectly into ownership interests in Counter Defendant Front  
13 Sight or the Project.

14 8. For punitive damages pursuant to NRS 42.005.

15 9. For disgorgement of the funds misappropriated by Counter Defendant Front Sight  
16 to the other Counter Defendants;

17 10. For attorneys' fees and cost of suit incurred herein; and

18 11. For such other and further relief as the Court may deem just and proper.

19  
20 DATED: April 3, 2020

FARMER CASE & FEDOR

21  
22 /s/ Kathryn Holbert

23 ANTHONY T. CASE, ESQ.  
Nevada Bar No. 6589  
tcase@farmercase.com  
24 KATHRYN HOLBERT, ESQ.  
Nevada Bar No. 10084  
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25 FARMER CASE & FEDOR  
26 2190 E. Pebble Rd., Suite #205  
Las Vegas, NV 89123  
27 Telephone: (702) 579-3900  
28 Facsimile: (702) 739-3001

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C. KEITH GREER, ESQ.  
Cal. Bar. No. 135537 (Pro Hac Vice)  
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San Diego, California 92128  
Telephone: (858) 613-6677  
Facsimile: (858) 613-6680

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

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**CERTIFICATE OF SERVICE and/or MAILING**

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

**DEFENDANTS' ANSWER TO PLAINTIFF'S SECOND AMENDED COMPLAINT; AND FIRST AMENDED COUNTERCLAIM**

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

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

By:

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

Dated: April 3, 2020

/s/ Kathryn Holbert  
An Employee of FARMER CASE & FEDOR

# Exhibit 1



# DOC #860867

RECORDING REQUESTED BY: )  
AFTER RECORDING, RETURN TO: )  
LAS VEGAS DEVELOPMENT FUND LLC  
070 EB5 Impact Capital  
PO BOX 3003  
Incline Village, NV 89450  
APN  
045-481-05  
045-481-06

Official Records Nye County NV  
Deborah Beatty - Recorder  
10/13/2016 08:32:24 AM  
Requested By: CHICAGO TIMESHARE ES  
Recorded By: tc RPTT:\$0  
Recording Fee: \$51.00  
Non Conformity Fee: \$25.00  
Page 1 of 38

57285-NBCL/93090176-426

Space above this line for Recorder's use

## CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING

This Document serves as a Fixture Filing under the Uniform Commercial Code, as amended from time to time, covers goods that are or become fixtures on the land, and is to be filed in the real property records of Nye County, Nevada.

THIS CONSTRUCTION DEED OF TRUST, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, AND FIXTURE FILING (the "Deed of Trust") is made and entered into effective as of October 06, 2016 by FRONT SIGHT MANAGEMENT, LLC, a Nevada limited liability company ("Grantor"), whose address is 1 Front Sight Road, Pahrump, Nevada 89061, to Chicago Title Company ("Trustee") whose address is 725 S. Figueroa Street, Suite 200, Los Angeles, California 90017, for the benefit of Las Vegas Development Fund LLC, a Nevada limited liability company ("Lender"), as beneficiary, whose address is P.O. Box 3003, 916 Southwood Blvd., Suite 1G, Incline Village, Nevada 89450.

To secure the full and timely payment of the secured indebtedness (as hereinafter defined), and in further consideration of the premises and for the purposes herein recited, and to secure the payment, performance and observance by Grantor of the covenants and conditions contained herein, in the Note (as hereinafter defined) and in all other agreements, documents and instruments (the "Other Documents") now or hereafter governing, securing, or guaranteeing the Loan (as hereinafter defined) evidenced by the Note (the Note, this Deed of Trust and the Other Documents being sometimes hereinafter collectively referred to as the "Loan Documents"), Grantor GRANTS, BARGAINS, SELLS, ASSIGNS and CONVEYS unto Trustee, in trust, for the benefit of Lender, WITH POWER OF SALE, AND RIGHT OF ALL ENTRY and possession of the following described land, real property interests, buildings, improvements, fixtures and other personal property:

(a) All that tract or parcel of land and other real property interests in Nye County, Nevada, more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and all buildings and improvements of every kind and description now or hereafter erected or placed on the Land (the "Improvements"), and all right, title and interest of Grantor, now owned or hereafter acquired, in and to (i) all streets, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or

proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; (ii) any strips or gores between the Land and abutting or adjacent property; and (iii) all options to purchase the Land or the Improvements or any portion thereof or interest therein, and any greater estate in the Land or the Improvements, including any and all water and water rights up to two hundred (200) acre-feet only per year, timber, crops and mineral interests on or pertaining to the Land;

(b) All materials intended for construction, reconstruction, alteration and repair of the Improvements, all of which materials shall be deemed to be included within the premises hereby conveyed immediately upon the delivery thereof to the Land, and all fixtures and articles of personal property now or hereafter owned by Grantor and attached to or contained in and used in connection with the aforesaid Land and Improvements, including, but not limited to, all furniture, furnishings, apparatus, machinery, equipment, motors, elevators, fittings, radiators, ranges, refrigerators, awnings, shades, screens, blinds, carpeting, office equipment and other furnishings and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment, telephone systems, televisions and television systems, computer systems and fixtures and appurtenances thereto and all renewals or replacements thereof or articles in substitution thereof, whether or not the same are or shall be attached to the Land and Improvements in any manner, but specifically excluding any and all firearms and related ammunition inventory owned or held by Grantor on the Land (the "Accessories");

(c) All (i) plans and specifications for the Improvements; (ii) Grantor's rights, but not liability for any breach by Grantor, under all commitments, insurance policies, contracts and agreements for the design, development, construction, operation or inspection of the Improvements and other contracts related to the Land, Improvements and Accessories or the operation thereof and related to the sale of any Land comprising the Improvements; (iii) deposits (including, but not limited to, Grantor's rights in tenants' security deposits, deposits with respect to utility services to the Land and Improvements, and any deposits or reserves hereunder or under any other Loan Document for taxes, insurance or otherwise), rebates or refunds of impact fees or other taxes, assessments or charges, money, accounts, instruments, documents, notes and chattel paper arising from or by virtue of any transactions related to the Land, Improvements and Accessories, and any account or deposit account from which Grantor may from time to time authorize Lender to debit and/or credit payments due with respect to the Loan; (iv) permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Land, Improvements and Accessories; (v) leases, rents, royalties, bonuses, issues, profits, revenues and other benefits of the Land, Improvements and Accessories; (vi) engineering, accounting, title, legal and other technical or business data concerning the Land, Improvements and Accessories which are in the possession of Grantor or in which Grantor can otherwise grant a security interest; (vii) all lists and contact information concerning then current members of the Front Sight Vacation Club and Resort, and all booklets, brochures and advertising materials for current members of the Front Sight Vacation Club and Resort.

(d) All (i) proceeds (cash or non-cash) of or arising from all or any portion of the properties, rights, titles and interests referred to in paragraphs (a), (b) and (c) above, including, but not limited to, proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance relating thereto (including premium refunds), proceeds of the taking thereof or of any

rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by condemnation, eminent domain or transfer in lieu thereof for public or quasi-public use under any law, and proceeds arising out of any damage thereto; and (ii) other interests of every kind and character which Grantor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to in paragraphs (a), (b) and (c) above and all property used or useful in connection therewith, including, but not limited to, rights of ingress and egress and remainders, reversions and reversionary rights or interests;

TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (collectively, the "Property") unto Trustee, its successors in trust, forever, with power of sale, and Grantor does hereby bind itself, its successors, and assigns, to WARRANT AND FOREVER DEFEND the title to the Property unto Trustee against every person whomsoever lawfully claiming or to claim the same or any part thereof.

Grantor, as debtor, hereby grants to Lender, as secured party, a security interest in all of the property described in paragraphs (a), (b), (c) and (d) above which constitutes personal property or fixtures (collectively, the "Collateral") to secure the obligations of Grantor under the Note and the other Loan Documents. This Deed of Trust constitutes a security agreement under the Uniform Commercial Code, as amended from time to time, in effect in the state in which the Land is situated, or under the Uniform Commercial Code in force in any other state to the extent the same is applicable law, and Lender shall have all of the rights of a secured party thereunder in addition to its right hereunder or otherwise. This Deed of Trust may secure an obligation incurred for the construction of an improvement on the Land and as such constitutes a "construction mortgage" under the Uniform Commercial Code, as amended from time to time, in effect in the state in which the Land is situated.

Grantor covenants, represents and agrees to and with Trustee and Lender as follows:

## ARTICLE I The Loan

1.1 Loan. The indebtedness secured by this Deed of Trust is the result of a loan in the original principal amount of up to Seventy-Five Million Dollars \$75,000,000 (the "Loan") provided by Lender to Grantor. The Loan is evidenced by (a) that certain Construction Loan Agreement (together with any extensions, revisions, modifications or amendments hereafter made, the "Loan Agreement"), of even date herewith, by and between Grantor and Lender, and (b) that certain Promissory Note executed by Grantor of even date herewith, payable to the order of Lender in the maximum original principal amount of the Loan (together with any extensions, revisions, modifications or amendments hereafter made, the "Note").

1.2 Use of Loan Proceeds. The Loan evidenced by the Note is solely for business and commercial purposes, and is not for personal, family, household or agricultural purposes. The Property forms no part of any property owned, used or claimed by Grantor as a residence or business homestead and is not exempt from forced sale under the laws of the state in which the Property is situated. Grantor hereby disclaims and renounces each and every claim to all or any part of the Property as a homestead.

1.3 Payment of Note. Grantor will pay principal and interest on the Loan in accordance with the Loan Documents, including the Loan Agreement, the Note and this Deed of Trust.

1.4 Amount Secured. This Deed of Trust secures and enforces the payment and performance of the Note and the other Loan Documents, and all indebtedness, liabilities, duties, covenants, promises and other obligations, whether joint or several, direct or indirect, fixed or contingent, liquidated or unliquidated, and the cost of collection of all such amounts, owed by Grantor to Lender now or hereafter incurred or arising pursuant to or permitted by the provisions of the Note, this Deed of Trust or any other Loan Document. This Deed of Trust also secures all present and future loan disbursements (future advances) made by Lender under the Note (it being contemplated by Grantor and Lender that such future indebtedness may be incurred), plus interest thereon, all charges and expenses of collection incurred by Lender, including court costs and reasonable attorneys' fees, and all other sums from time to time owing to Lender by Grantor under the Loan Documents. The indebtedness referred to in this Section 1.4 is hereinafter sometimes referred to as the "secured indebtedness" or the "indebtedness secured hereby".

1.5 Defined Terms. All capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Note, the terms and provisions of which are incorporated herein by reference, or if such capitalized term is not defined in the Note, the capitalized term shall have the meaning assigned to it in the Loan Agreement.

1.6 Subordination to Senior Debt. Lender agrees that this Deed of Trust shall be subordinated to the Senior Debt and to other Permitted Encumbrances, as such terms are defined in the Loan Agreement, and that such subordination of this Deed of Trust to the Senior Debt and other Permitted Encumbrances shall be in accordance with the applicable provisions of the Loan Agreement.

## ARTICLE II Release

If and when Grantor has paid and performed all of the secured indebtedness, and no further advances are to be made under the Note, Trustee, upon request by Lender, will provide a reconveyance of the Property from the lien of this Deed of Trust and termination statements for filed financing statements, if any, to Grantor. Grantor shall be responsible for the recordation of such reconveyance and the payment of any recording and filing costs. Upon the recording of such reconveyance and the filing of such termination statements, the absolute assignment of rents set forth below shall automatically terminate and become null and void.

## ARTICLE III Grantor's Representations and Warranties

Grantor represents and warrants to Lender that:

3.1 Organization. Grantor (a) is a limited liability company duly organized with a legal status separate from its affiliates, validly existing, and in good standing under the laws of the state of its formation or existence, and (b) has complied with all conditions prerequisite to its doing business in the state in which the Land is situated.

3.2 Authority; Power to Carry on Business; Licenses. Grantor has all requisite power and authority to execute and deliver the Loan Documents to which it is a party, to receive the Loan, to grant and convey the security interests contemplated under this Deed of Trust and to perform its obligations under the Note, this Deed of Trust, the other Loan Documents, and all such action has been duly and validly authorized by all necessary limited liability company proceedings on its part. Grantor has all requisite power and authority to own and operate its properties and to carry on its business as now conducted and as presently planned to be conducted. Grantor has all licenses, permits, consents and governmental approvals or authorizations necessary to carry on its business as now conducted or as presently planned to be conducted.

3.3 Execution and Binding Effect. The Loan Documents to which Grantor is a party have been duly and validly executed and delivered by Grantor and constitute legal, valid and binding obligations of Grantor, enforceable in accordance with their terms.

3.4 Authorizations and Filings. No authorization, consent, approval, license, exemption or other action by, and no registration, qualification, designation, declaration or filing with, any Governmental Authority is or will be necessary or advisable in connection with the execution and delivery of the Note, this Deed of Trust and the other Loan Documents, the consummation of the transactions contemplated herein or therein, or the performance of or compliance by Grantor with the terms and conditions herein or therein.

3.5 Execution and Delivery. Neither the execution and delivery of the Note, this Deed of Trust or the other Loan Documents and the consummation of the transactions herein or therein contemplated, nor performance of or compliance with the terms and conditions hereof or thereof will (a) violate any applicable law, (b) conflict with or result in a breach of or a default under the organizational documents of Grantor, (c) conflict with or result in a breach of or a default under any agreement or instrument to which Grantor is a party or by which it or any of its properties (now owned or acquired in the future) may be subject or bound, or (d) result in the creation or imposition of any lien or encumbrance upon any property (owned or leased) of Grantor (other than the liens created by this Deed of Trust or the other Loan Documents).

3.6 Title to Property. Grantor represents and warrants that it has good and indefeasible title to the Land and Improvements (and any fixtures) in fee simple and has title to any appurtenant easements and interests described above and has the right to convey and encumber the same, that title to such property is free and clear of all liens, encumbrances and claims whatsoever except for (a) the Permitted Encumbrances, (b) the liens and security interests evidenced by this Deed of Trust, (c) statutory liens for real estate taxes and assessments on the Property which are not yet delinquent or due and payable, (d) other liens and security interests (if any) in favor of Lender, and (e) the matters set forth in Schedule B of the final mortgagee title policy insuring this Deed of Trust, as approved by Lender, and that it will warrant and defend the title to such property against the claims of all persons or parties. As to the Collateral, Grantor represents and warrants that it has title to such property, free and clear of all liens, encumbrances, and claims whatsoever except for the liens and security interests (if any) in favor of the lender of the Senior Debt and the Permitted Encumbrances, that it has the right to convey and encumber such property and that it will warrant and defend title to such property against the claims of all persons or parties.

3.7 Financial Information. Any financial information provided by Grantor to Lender as of the date hereof is accurate and complete and has been prepared in accordance with generally accepted accounting principles consistently applied.

3.8 Adequate Access. The Land has adequate rights of access to public road and rights of way, as shown in the survey(s) furnished to Lender.

3.9 Utilities. All utility services necessary for the development of the Land and the Property are available at the boundaries of the Land, including electric and natural gas facilities, telephone service, water supply, storm and sanitary sewer facilities.

3.10 Zoning. The current and anticipated use of the Land complies with all applicable zoning ordinances, regulations and restrictive covenants affecting the Land without the existence of any variance, non-complying use, nonconforming use or other special exception, all use restrictions of any Governmental Authority having jurisdiction have been satisfied, and no violation of any law or regulation exists with respect thereto.

3.11 Endangered Species and Historical Sites Disclosure. There are no threatened or endangered species or their habitat affecting the Property, and there are no cemeteries, burial grounds, or archeological or historical sites on the Property.

3.12 Jurisdictional Wetlands or Waters of the U.S. There are no jurisdictional wetlands or "waters of the U.S." located on any part of the Property.

3.13 Special Assessment Districts and Other Reimbursement Obligations. The Property is not located in a utility district, flood control district or other special assessment district, except for the Grantor-disclosed drainage channels that go across the Land and are considered "flood zone areas" on which areas no construction is contemplated or planned. There are no special assessments, special taxes, pro-rata or other reimbursement obligations applicable to the Property.

3.14 Property Disclosure. Grantor has fully disclosed the existence, presence or applicability to the Property of the following: existing gas or oil wells and applicable municipal set-back requirements; special use permits; development permits, plans and plats; existing water wells and confirmation of water rights; drainage channels considered "flood zone areas" on or near which no construction is contemplated or planned; any water features and/or dams located on or adjacent to the Property; wetlands or other environmental permits; and any other licenses, permits or approvals necessary for the ownership or operation of the Property.

3.15 Foreign Person Disclosure. Grantor is not a "foreign person" within the meaning of the Internal Revenue Code, as amended, Sections 1445 and 7701 or the regulations promulgated thereunder.

3.16 OFAC Disclosure. Neither Grantor nor any of its affiliates, nor any of their respective partners, members, shareholders or other equity owners, and none of their respective employees, officers, directors, representatives or agents is, nor will they become, a person or entity with whom U.S. persons or entities are restricted from doing business under regulations of the Office of Foreign Asset Control ("OFAC"), of the Department of the Treasury (including those named on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive

order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities.

3.17 No Material Adverse Change. Since the date of the most recent financial statements provided by Grantor to Lender, there has been no material adverse change in the financial condition, business or properties of Grantor.

3.18 No Event of Default; Compliance with Instruments. No event has occurred and is continuing, and no condition exists, which constitutes an Event of Default (as hereinafter defined) or with the passage of time would constitute an Event of Default. Grantor is not in violation of any term of its organizational documents. Grantor is not in violation of any agreement or instrument to which it is a party or by which it or any of its properties (now owned or hereafter acquired) may be subject or bound.

3.19 Litigation. There is no pending, contemplated or, to Grantor's knowledge, threatened action, suit or proceeding by or before any Governmental Authority against or affecting Grantor or the Property or any portion thereof.

3.20 Laws. Grantor is not in violation of any law, which violation is reasonably likely to have a material adverse effect on the financial condition, business or properties of Grantor.

3.21 Accurate and Complete Disclosure. No representation or warranty made by Grantor under this Deed of Trust or under the other Loan Documents and no statement made by Grantor in any financial statement, certificate, report, exhibit or document furnished by Grantor to Lender pursuant to or in connection with the Note, this Deed of Trust or the other Loan Documents is false or misleading in any material respect (including by omission of material information necessary to make such representation, warranty or statement not misleading). Grantor is not aware of any facts which have not been disclosed to Lender in writing by or on behalf of Grantor which would be reasonably likely to have a material adverse effect on the financial condition, business or properties of Grantor. The representations and warranties set forth herein are to survive the delivery of the Loan Documents and the making of the Loan.

#### ARTICLE IV Affirmative Covenants

Grantor covenants to Lender as follows:

4.1 Preservation of Existence and Franchises. Grantor, and each signatory to this Deed of Trust that signs on Grantor's behalf, will preserve and keep in full force and effect its existence (separate and apart from its affiliates), good standing, rights, franchises, trade names, trademarks and other associated goodwill whether existing at common law or as a federal or state registration.

4.2 Compliance with Licensing Bodies. Grantor shall maintain all certificates of compliance and authority and licenses that are necessary or required by any Governmental Authority or licensing authority having jurisdiction over Grantor or the Property for the current and anticipated use or operation of the Property.