

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

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Elizabeth A. Brown  
Clerk of Supreme Court

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC.,

Appellants,

vs.

DOMINIQUE ARNOULD,

Respondent.

Supreme Court Case No: 81354, 81355,  
81356

**APPELLANT'S APPENDIX**

**VOLUME I**

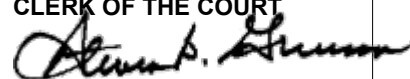
**APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT**

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CASE NO: A-19-803488-B  
Department 27

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants.

Case No.:  
Dept. No.:

**Arbitration Exemption Requested:**  
(Declaratory Relief)

**Business Court Requested:**  
(NRS Chapters 78-92A)

**COMPLAINT FOR APPOINTMENT OF A RECEIVER OR DISSOLUTION OF LLC;**  
**DECLARATORY RELIEF; BREACH OF FIDUCIARY DUTY; AND DAMAGES**

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould") by and through his attorneys  
Marquis Aurbach Coffing, alleges and complains as follows:

**PARTIES**

1. Clement Muney (hereinafter Muney) is a 50% owner/member and co-manager of  
CHEF EXEC SUPPLIERS, LLC, (hereinafter Chef Suppliers or the Company).

2. Arnould is the other 50% owner/member and co-manager of Chef Suppliers.

3. Muney and Chef Suppliers at all relevant times mentioned herein, were doing  
business in Clark County, Nevada.

4. The names and capacities, whether individuals, corporate, associate or otherwise  
of Defendants named herein as DOE and ROE CORPORATION are unknown or not yet



1 confirmed. Upon information and belief, said DOE and ROE CORPORATION Defendants are  
2 responsible for damages suffered by Plaintiff and, therefore, Plaintiff sues said Defendants by  
3 such fictitious names. Plaintiff will ask leave to amend this Complaint to show the true names  
4 and capacities of each DOE and ROE CORPORATION Defendant at such time as the same has  
5 been ascertained.

6 **JURISDICTION AND VENUE**

7 5. This Court possesses:

8 a. Subject matter jurisdiction because District Courts have subject matter  
9 jurisdiction over claims that are not within the subject matter jurisdiction of the Justice Court  
10 pursuant to Article 6, Section 6.1 of the Nevada Constitution and this claim is not within the  
11 subject matter jurisdiction of the Justice Court.

12 b. This Court has personal jurisdiction over the Defendants because the  
13 Defendants reside in and do business in Clark County, NV.

14 **BACKGROUND FACTS**

15 6. Arnould and Munev are 50/50 owners of Chef Suppliers.

16 7. Arnould and Munev are both are managers of Chef Suppliers.

17 8. Chef Suppliers has no written operating agreement.

18 9. Disputes between Arnould and Munev have arisen and are so deep that it is not  
19 reasonably practicable to carry on the business of the Company.

20 10. One of the disputes is that Las Vegas rent for Chef Suppliers was approximately  
21 \$3,800/month. The lease expired and the landlord wanted approximately \$5,800/month.  
22 Without any joint agreement, Munev is paying almost \$11,000/month rent. This rent is paid  
23 from sales of Chef Suppliers inventory. This is a breach of his fiduciary duty owed to Arnould  
24 and thus, Munev should be personally responsible for the difference between \$5,800/month and  
25 \$11,000/ month.

26 11. It has been impossible to get Munev to discuss his breach of fiduciary duties  
27 including but not limited to forming a new entity and having payments for Chef Suppliers'

28

1 inventory go to his new entity, which was formed without the knowledge or consent of Plaintiff  
2 Arnould.

3 12. A manager may ask a court to dissolve an LLC when, pursuant to NRS 86.495, it  
4 is not reasonably practicable to carry on the business of the company.

5 13. Arnould is a manager.

6 14. It would be a futile effort to make a demand on Muney since Muney is not  
7 disinterested, Muney's judgment is materially affected in favor of his actions and against the best  
8 interests of Chef Suppliers and nothing can be accomplished when both disagree on the direction  
9 of the company.

10 15. Arnould or Chef Suppliers derivatively have been damaged by Defendants'  
11 actions in an amount in excess of \$15,000.

12 **FIRST CLAIM FOR RELIEF**  
13 **(Declaratory Relief, Receiver and Dissolution)**

14 16. Arnould repeats and re-alleges the above paragraphs as though fully stated herein.

15 17. Because it is not reasonably practicable to carry on the business of the company  
16 an Order granting dissolution should be entered pursuant to NRS 86.495 and 86.505.

17 18. This Court should declare that the requirements for the appointment of a Receiver  
18 to run the Las Vegas operations of Chef Suppliers and potentially dissolve the company since the  
19 requirements for Dissolution have been met.

20 19. In order to pursue his claims as a direct and proximate result of the Defendants'  
21 conduct outlined herein, Arnould has incurred attorneys' fees as special damages in the sum of  
22 \$5,000 as of the date of filing this pleading and increasing up to and through trial and appeal, if  
23 any.

24 **SECOND CLAIM FOR RELIEF**  
25 **(Breach of Fiduciary Duty & Accounting)**

26 20. Plaintiff repeats and realleges the paragraphs above as though fully stated herein.

27 21. Arnould believes that Muney has taken money and diverted business  
28 opportunities and customers from Defendant Chef Suppliers and by virtue thereof has breached  
his fiduciary duties to Chef Suppliers and to Arnould.

22. Defendant Muney owes such funds and profits derived therefrom to Chef Suppliers and/or Arnould.

23. The Court should order a yearly accounting of all funds taken in and spent from Chef Suppliers for the last 3 years so Arnould can determine the amount of Muney's defalcation.

24. Arnould or Chef Suppliers derivatively is entitled to a judgment in an amount in excess of \$15,000 as a direct and proximate result of Defendant Muney's actions.

25. In order to pursue and defend its claims as a direct and proximate result of the Defendants' conduct outlined herein, Arnould has incurred attorneys' fees as special damages in the sum of \$5,000 as of the date of this pleading and increasing up to and through trial and appeal, if any.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, Arnould prays for the following relief against Defendants:

1. For an Order Appointing a Receiver and an Order requiring dissolution of Chef Suppliers in the ordinary course by the Receiver or by Arnould, its manager.

2. For a judgment in favor of Arnould or Chef Suppliers in a sum in excess of \$15,000; Against Muney for Defendant Muney's breach of fiduciary duty.

3. Attorneys fees as special damages in the sum of \$5,000 against Defendants as of the date of this pleading and increasing up to and through trial and appeal, if any, and

4. For any further relief as the Court deems to be just and proper.

Dated this 11th day of October, 2019.


MARQUIS AURBACH COFFING

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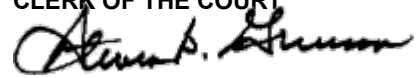
VERIFICATION

Under penalties of perjury, the undersigned declares that he is the plaintiff named in the foregoing complaint and knows the contents thereof; that the pleading is true of his own knowledge, except as to those matters stated on information and belief, and that as to such matters he believes it to be true.

Dated this 10 day of October, 2019



DOMINIQUE ARNOULD



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10 Attorney for Defendants

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff,

15 vs.

16 CLEMENT MUNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants.

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **ANSWER AND COUNTERCLAIMS**

22 CLEMENT MUNEY; and CHEF EXEC  
23 SUPPLIERS, LLC,

24 Plaintiffs,

25 vs.

26 DOMINIQUE ARNOULD,

27 Defendant.

28 COME NOW Defendants, CLEMENT MUNEY, (hereinafter "Muney"), and CHEF  
EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
counsel Robert Kern, ESQ., of KERN LAW, Ltd. and submit this Answer and  
Counterclaims to Plaintiff's Complaint on file herein and allege and aver as follows:

1  
2 1. Defendant admits the allegations contained in the following numbered  
3 paragraphs in Plaintiff's Complaint: 1, 2, 3, 6, 7, 8, and 13.

4 2. Defendant denies the allegations contained in the following numbered  
5 paragraphs in Plaintiff's Complaint: 9, 10, 11, 14, 15, 17, 18, 19, 22, 24, and 25.

6  
7 3. Defendant does not have knowledge or information sufficient to form a belief as  
8 to the truth of the allegations contained in the following numbered paragraphs in Plaintiff's  
9 Complaint and, therefore, denies them: 4, 5, 12, 16, 20, 21, and 23.

10  
11 **AFFIRMATIVE DEFENSES**

12 1. The Complaint, and each and every allegation thereof, fails to state facts  
13 sufficient to constitute a claim against this answering Defendant.

14 2. Plaintiff's claims and damages, if any, are proximately and legally caused by  
15 parties over whom Defendant had no control.

16 3. Plaintiff's cause of action is barred by the doctrine of unclean hands and  
17 Plaintiff's failure to do equity.

18 4. Plaintiff's claims are barred under the equitable theory of laches.

19  
20 5. Plaintiff's claims and damages, if any, have been willfully and intentionally  
21 overstated. Therefore, Plaintiff's claims are barred by Plaintiff's own malfeasance and  
22 misfeasance.

23 6. Plaintiff's damages, if any, are caused by its own actions, errors or omissions.

24 7. Plaintiff's damages, if any, are subject to offset.

25 8. Plaintiff's damages are barred by its breach of fiduciary duties.  
26  
27  
28

1 9. Plaintiff has made allegations with knowledge of their actual falsity and therefore  
2 said claim is violative of the rules of civil procedure and therefore the stated claims should  
3 be dismissed.

4 10. Plaintiff's claims, and each of them, are barred due to fraud.

5 11. By virtue of Plaintiff's actions, conduct, and omissions, this answering  
6 Defendant has been released.

7 12. The claims of Plaintiff have been waived as a result of the acts and the conduct  
8 of the Plaintiff.

9 13. Plaintiff suffered no damage and therefore is not entitled to any relief.

10 14. Plaintiff, by his acts, conduct and/or omissions, has ratified the acts, conduct and  
11 omissions, if any, of these answering Defendants; therefore, Plaintiff is barred from seeking  
12 any relief from these answering Defendants.

13 15. These answering Defendants have not had sufficient time to prepare and obtain  
14 sufficient facts to determine all potential affirmative defenses. Therefore, these answering  
15 Defendants reserve the right to amend these affirmative defenses as additional facts are  
16 obtained and/or additional affirmative facts are discovered.

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21 **COUNTER-CLAIM**

22 Against PLAINTIFF DOMINIQUE ARNOULD

23 COME NOW Defendants, CLEMENT MUNNEY, (hereinafter "Muney"), and CHEF  
24 EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
25 counsel Robert Kern, ESQ., of KERN LAW, Ltd. and submit the following  
26 COUNTERCLAIMS against counter-defendant DOMINIQUE ARBOULD and allege and  
27 aver as follows:  
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**GENERAL ALLEGATIONS**

1. Jurisdiction and venue have been established by the elements of Plaintiff's Complaint that Defendants have admitted to.

2. Parties Dominique Arnould (hereinafter, "Arnould") and Muney are equal co—owners of Chef Exec, LLC, a Nevada LLC with no current operating agreement.

3. From the time Chefexec was founded, Arnould managed the Los Angeles side of the company, and Muney managed the Las Vegas side of the company.

4. The different branches of the company have been run largely independently of each other, with the only exception being that Arnould has been responsible for accounting for the entire company (including invoicing for both branches), and Muney has been responsible for marketing and supply for the whole company. At no time have the parties agreed that either would receive extra compensation for the work they perform for the company.

5. Both the Los Angeles and Las Vegas branches of Chefexec have been operating at a profit for the last several years.

6. Because Arnould managed the accounting through a local version of Quickbooks, and did not share the accounting files with Muney, Muney was unaware of some details of Arnould's practices until recently, sometime after the Quickbooks account was transferred to a cloud server, allowing Muney to access the information from Las Vegas.

7. Arnould is also an owner of two other companies, AAA Food Service, and Wines of the World. Upon review of accounting records and invoices, it appears that Arnould has been self dealing in favor of AAA Food Service and Wines of the World, to the detriment of Chefexec.

8. Both parties agreed to the lease of a warehouse in LA, upon the condition that AAA Food Service and Wines of the World would split the rent of the space equally, so they could share the space. However from review of the books it appears that Arnould did not charge those companies any rent the first few months, and since then has charged both of



1 them a total of only around 10% of the rent, leaving Chefexec to pay the remaining amount,  
2 in contravention of the agreement in which the lease was made.

3 9. Records also show that Arnould has sold significant merchandise from Chefexec to  
4 AAA Food Service, at significant discounts, without authorization or knowledge from  
5 Muney.

6 10. Records also show that although both Muney and Arnould are owners, and neither  
7 have agreed to pay themselves for their work on the company, Arnould has made a practice  
8 of paying himself commissions for sales, including for sales to his own company, AAA  
9 Food Service, for sales to companies that the partners agreed would be “house” customers  
10 (no commission paid), and sales to customers brought in by sales reps who had left the  
11 company (and thus whose customers should have become “house” customers).

12 11. Records show invoices for products to customers, but assigned a zero cost without  
13 explanation. Such customers have verified that they never received said products. This  
14 suggests Arnould was likely either providing free product to his own companies, or selling  
15 the product under the table and keeping the proceeds.

16 12. Chefexec previously leased a 7,745 sq/ft warehouse in Las Vegas, on a long-term  
17 lease it had held for multiple years, giving it a the company a lower-than-market price for  
18 the space.

19 13. Chefexec's lease of the previous warehouse expired on September 30, 2019. To  
20 renew the lease, the landlord required a 3-year lease, with a personal guarantee signed by  
21 both owners of Chefexec. When Muney requested that Arnould sign the lease renewal,  
22 Arnould refused, and his counsel advised Muney to lease the space with another company  
23 and sub-lease to Chefexec from that company (in an email that Arnould was copied on).

24 14. Muney did as instructed, and leased through a separate company, who charged  
25 Chefexec market price for the space.

26 15. After filing the complaint initiating the present action, Arnould withdrew \$15,000  
27 from Chefexec without authorization or notice, and later admitted that he had taken it, and  
28

1 that he intended it as a distribution to himself. His only justification was that he disagreed  
2 with Muney's signing of the Las Vegas warehouse lease.

3 16. In early 2019, Arnould indicated that he wished to retire soon and wanted to be  
4 bought out from his portion of Chefexec. Arnould had made no significant complaints about  
5 his partnership with Muney prior to deciding that he wished to retire.

6 17. Muney believes that a forensic audit of Chefexec's books will show additional  
7 wrongdoing by Arnould.

8  
9 **FIRST CAUSE OF ACTION**  
10 **(Breach of Fiduciary Duty)**

11 18. Counter-Plaintiffs repeat and re-allege the allegations contained in the preceding  
12 paragraphs of their Counterclaim as though fully set forth herein.

13 19. Arnould, as co-owner and co-manager of an LLC, owed a Fiduciary Duty to  
14 Counter-Plaintiffs Chefexec and Muney to manage the business, funds, and assets according  
15 to law and agreement.

16 20. Arnould breached that duty by acts including, but not limited to: using his position  
17 as book-keeper to pay himself funds that belonged to the company, allocating himself  
18 commissions that he was not entitled to, using Chefexec to provide benefits to his own  
19 companies, at Chefexec's detriment, without authorization, and seeking to dissolve the  
20 company when Muney did not offer him as much money as he wanted for a buyout.

21 21. As a direct result of said breach, Counter-Plaintiffs were damaged by loss of said  
22 funds, and business, in an amount in excess of fifteen thousand dollars (\$15,000), the exact  
23 amount to be proven at time of trial.

24 22. It has been necessary for Counter-Plaintiffs to obtain the legal services of Kern Law  
25 and they are therefore entitled to reimbursement of attorney's fees and costs incurred in this  
26 action.

27 23. The damages were suffered as a direct and proximate result of the conduct described  
28 herein by Counter-Defendant, who acted knowingly with malice and oppression, all to

1 Counter-Plaintiffs' harm, and therefore should be punished for their wrongful conduct with  
2 punitive damages in an amount to be established at trial.  
3

4 **SECOND CAUSE OF ACTION**  
5 (Conversion)

6 24. Counter-Plaintiffs repeat and re-allege the allegations contained in the preceding  
7 paragraphs of their Counterclaim as though fully set forth herein.

8 25. Counter-Plaintiffs are the legal owners of funds that were taken by Counter-  
9 Defendant, without legal right or authorization.

10 26. Counter-Defendant wrongfully and unlawfully took control of said funds, as detailed  
11 above, in denial of, and to the exclusion of, Counter-Plaintiffs' rights thereto.

12 27. As a result of Counter-Defendant's actions, Counter-Plaintiffs have incurred  
13 damages in excess of fifteen thousand dollars (\$15,000), the exact amount to be proven at  
14 time of trial.

15 28. It has been necessary for Counter-Plaintiffs to obtain the legal services of Kern Law  
16 and they are therefore entitled to reimbursement of attorney's fees and costs incurred in this  
17 action.

18 29. The damages were suffered as a direct and proximate result of the conduct described  
19 herein by Counter-Defendants, who acted knowingly with malice and oppression, all to  
20 Counter-Plaintiffs' harm, and therefore should be punished for their wrongful conduct with  
21 punitive damages in an amount to be established at trial.

22 **THIRD CAUSE OF ACTION**  
23 (Money Had and Received)

24 30. Counter-Plaintiffs repeat and re-allege the allegations contained in the preceding  
25 paragraphs of their Counterclaim as though fully set forth herein.

26 31. Arnould received monies that belonged to Counter-Plaintiffs in the form of funds  
27 taken from the business.  
28

1 32. Arnould ought, in equity and good conscience, to pay over the funds wrongfully  
2 retained.

3 33. Arnould has so far refused to pay over the amounts owed.

4 34. As a direct result of these actions, Counter-Plaintiffs have incurred damages in an  
5 amount in excess of \$15,000, the exact amount to be proven at trial.

6 35. It has been necessary for Counter-Plaintiffs to obtain the legal services of Kern Law  
7 and they are therefore entitled to reimbursement of attorney's fees and costs incurred in this  
8 action.

9 36. The damages were suffered as a direct and proximate result of the conduct described  
10 herein by Counter-Defendant, who acted knowingly with malice and oppression, all to  
11 Counter-Plaintiffs' harm, and therefore should be punished for their wrongful conduct with  
12 punitive damages in an amount to be established at trial.

13  
14 **FOURTH CAUSE OF ACTION**  
(Unjust Enrichment)

15 37. Counter-Plaintiffs repeat and re-allege the allegations contained in the preceding  
16 paragraphs of their Counterclaim as though fully set forth herein.

17 38. The benefit of receipt of funds and monies belonging to Chefexec, or other sales  
18 reps or owners of Chefexec, was conferred upon Arnould.

19 39. Arnould took and kept said funds, clearly appreciating the benefit.

20 40. Arnould did not return said funds, and thus retained the benefits received.

21 41. As said funds were over and above any funds Arnould was entitled to take from the  
22 company, Arnould's taking and retention of the benefit of said funds is inequitable and  
23 unjust.

24 42. As a direct result of these actions, Chefexec and Muney have incurred damages in an  
25 amount in excess of \$15,000, the exact amount to be proven at trial.

26 43. It has been necessary for Counter-Plaintiffs to obtain the legal services of Kern Law  
27 and they are therefore entitled to reimbursement of attorney's fees and costs incurred in this  
28 action.

1 44. The damages were suffered as a direct and proximate result of the conduct described  
2 herein by Counter-Defendant, who acted knowingly with malice and oppression, all to  
3 Counter-Plaintiffs' harm, and therefore should be punished for their wrongful conduct with  
4 punitive damages in an amount to be established at trial.  
5

6 **FIFTH CAUSE OF ACTION**  
7 (Constructive Fraud)

8 45. Counter-Plaintiffs repeat and re-allege the allegations contained in the preceding  
9 paragraphs of their Counterclaim as though fully set forth herein.  
10

11 46. By virtue of the fiduciary relationship between Arnould, Muney, and Chefexec,  
12 Arnould had a duty to lawfully manage and disburse the funds and assets belonging to  
13 Chefexec. As described in the general allegations above, Arnould breached this duty by his  
14 wrongful and intentional failure to do so, and by hiding his breach of duty from his business  
15 partner.  
16

17 47. Arnould committed the acts complained of in this cause of action with the intent to  
18 deceive and defraud Chefexec and Muney. Upon information and belief, Arnould caused  
19 Muney to enter a fiduciary relationship with him and offered to manage the accounting and  
20 billing of the company in order to take wrongful possession of company monies, with the  
21 intent to induce reliance upon Arnould in his promise to manage the finances of the  
22 Company and disburse profits. Arnould breached this fiduciary duty intentionally and with  
23 forethought.  
24

25 48. As a result of Arnould's actions, Muney and Chefexec have incurred damages in  
26 excess of fifteen thousand dollars (\$15,000), the exact amount to be proven at time of trial.  
27  
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1 49. It has been necessary for Counter-Plaintiffs to obtain the legal services of Kern Law  
2 and Counter-Plaintiffs are therefore entitled to reimbursement of attorney's fees and costs  
3 incurred in this action.

4  
5 50. As a direct and proximate result of the representations and conduct described herein  
6 by Arnould, who acted knowingly with malice and oppression, all to Counter-Plaintiffs'  
7 harm, and therefore should be punished for his wrongful conduct with punitive damages in  
8 an amount to be established at trial.

9  
10 **SIXTH CAUSE OF ACTION**  
**(FRAUDULENT CONCEALMENT)**

11 51. Counter-Plaintiffs reallege and incorporate herein by reference each and every  
12 allegation contained in all preceding paragraphs as if fully set forth herein.

13 52. The facts (as described above) of Arnould's taking commissions that he was not  
14 entitled to, of taking unauthorized disbursements, of making false invoices to account for  
15 missing inventory, and upon information and belief, taking or selling that inventory for his  
16 own benefit, were material facts in deciding whether or not to continue doing business with  
17 Arnould, and continuing to allow Arnould to manage the accounting of Chefexec.

18  
19 53. Arnould had a duty to disclose all dealing to his partner, but nonetheless  
20 intentionally concealed such acts.

21 54. Arnould's concealment of his acts, as described above, was concealed specifically to  
22 prevent Chefexec and Muney from taking action to stop him from taking further monies  
23 from the company.

24  
25 55. Because Muney and Arnould had been longtime friends, and Arnould had  
26 experience managing companies, Muney's reliance upon him to lawfully and honestly  
27 manage the accounting of the company was objectively reasonable.

1 56. As a direct result of Arnould's actions, Counter-Plaintiffs have incurred damages in  
2 an amount in excess of \$15,000, the exact amount to be proven at trial.

3 57. It has been necessary for Counter-Plaintiffs to obtain the legal services of Kern Law  
4 and Counter-Plaintiffs are therefore entitled to reimbursement of attorney's fees and costs  
5 incurred in this action.  
6

7 58. As a direct and proximate result of the representations and conduct described herein  
8 by Arnould, who acted knowingly with malice and oppression, all to Counter-Plaintiffs'  
9 harm, and therefore should be punished for their wrongful conduct with punitive damages in  
10 an amount to be established at trial.  
11

12  
13 WHEREFORE, Defendants/Counter-Plaintiffs demand judgment against Plaintiff for:

- 14 1. Compensatory damages in excess of \$15,000;
- 15 2. An accounting of the business;
- 16 3. Return of all funds stolen, embezzled, or in any other way wrongfully taken;
- 17 4. Attorneys fees and costs of the action;
- 18 5. Punitive damages in an amount to be determined by the Court; and
- 19 6. All other relief this Court finds to be proper.

20 DATED this 7<sup>th</sup> day of November, 2019

**KERN LAW**

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26 Attorney for Defendants  
27  
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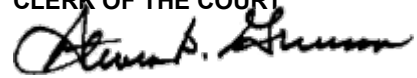
**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of November 2019, I served a true and correct copy of the foregoing **ANSWER AND COUNTERCLAIMS**, pursuant to NRCP 5(b), by electronic service, addressed to the following:

Phillip S. Aurbach, Esq.  
Marquis Aurbach Coffing  
Paurbach@Maclaw.com  
*Counsel for Dominique Arnould*

\_\_\_\_\_  
/s/ Robert Kern  
Employee of Kern Law





**MSJ**

Robert Kern, Esq.  
Nevada Bar Number 10104

**KERN LAW, Ltd.**

601 S. 6<sup>th</sup> Street  
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Admin@KernLawOffices.com  
Attorney for Defendants

**IN THE EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff/Counter-Defendant,

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive, and ROE CORPORATIONS I  
through X, inclusive,

Defendants/Counter-Claimants.

Case Number: A-19-803488-B

Dept. Number: 27

**DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

**HEARING REQUESTED**

COME NOW Defendants, CLEMENT MUNNEY, (hereinafter "Muney"), and CHEF  
EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
counsel Robert Kern, ESQ., of KERN LAW, Ltd. submit this Motion for Partial Summary  
Judgment, regarding all of Plaintiff's claims, but excluding Defendants' counterclaims. This  
motion is made pursuant to NRCP 56, and is based on the records and files of this case, the  
attached memorandum and exhibits and any matters adduced at the hearing.

**STATEMENT OF FACTS**

The company Chef Exec LLC was formed by Clement Muney and Dominique  
Arnould in 2007 for the purpose of selling imported and domestic goods to other businesses,  
with Muney handling the securing of supply contracts and the Las Vegas portion of the

1 business, and Arnould handling the accounting and the Los Angeles side of the business.  
2 Chefexec has no operating agreement in place. Chefexec operated smoothly and profitably  
3 for its entire existence until Arnould announced that he wished to retire. The first significant  
4 disputes between the partners did not occur until Arnould became frustrated that Muney  
5 would not offer the buyout amount that he wanted, and was, upon information and belief,  
6 unable to sell his interest in the company at a price he considered acceptable.  
7

8 During the time that a buyout of Arnould was being discussed, the lease on the  
9 company's Los Angeles warehouse came up for renewal, which required a personal  
10 guarantee from both partners. Arnould renewed it in both of their names; Muney and  
11 Arnould dispute whether Muney authorized Arnould to do so. Soon after, the lease on the  
12 Las Vegas warehouse came up for renewal, and like the LA warehouse, the renewal  
13 required a personal guarantee by both owners of the company. Muney asked for Arnould's  
14 permission to renew the lease, and Arnould refused. Arnould, through his attorney at the  
15 time, suggested that Muney lease the warehouse with a company that he owned entirely (so  
16 that he would be the only owner required to guarantee the warehouse), and have that  
17 company sub-lease the space to Chefexec (*See Exhibit 1*). Muney followed that advice, and  
18 a separate company leased the space, and sub-leased it to Chefexec, at a rate that Muney  
19 was advised was the standard rate for such storage in the area (*See Exhibit 2*). Muney has  
20 not received any notice or allegations of having "taken money and diverted business  
21 opportunities and customers" from Chefexec, beyond this warehouse lease.

22 Although the present dispute has arisen this year, a review of Chefexec business  
23 records shows that its profits have increased this year over the previous year, and that it is  
24 operating effectively, despite the dispute. Contrary to the sworn assertion in the verified  
25 complaint, Arnould was fully aware of Muney's company CMJJ, as he was receiving checks  
26 from CMJJ from 2006 onward (*See Exhibit 3*).

## 27 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 28 **A. Summary Judgment Standard**

Summary judgment is appropriate when, as a matter of law, there is no genuine issue as to any material fact. NRCP 56(c); *Prostack v. Songailo*, 97 Nev. 38, 40, 623 P.2d 978 (1981). In the case of *Wood v. Safeway, Inc.*, 121 Nev. 724, 121 P.3d 1026 (Oct. 20, 2005), the Nevada Supreme Court adopted the same standard employed by the U.S. Supreme Court. The Court held:

Summary Judgment is appropriate under NRCP 56 when the pleadings, deposition, answers to interrogatories, admissions, and affidavits, if any, that are properly before the court demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law. The substantive law controls which factual disputes are material and will preclude summary judgment; other factual disputes are irrelevant. A factual dispute is genuine when the evidence is such that a rational trier of fact could return a verdict for the nonmoving party.

*Id.* At 82-83. In so holding, the Court expressly rejected the “slightest doubt” standard and reiterated that the nonmoving party “is not entitled to build a case on the gossamer threads of whimsy, speculation, and conjecture.” *Id.* at 84 (citations omitted). Once the moving party has properly supported the motion, the burden shifts to the nonmoving party to come forward with specific facts showing that a genuine issue for trial exists. *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 587, 106 S.Ct. 1348, 1356, 89 L.Ed.2d 538 (1986). “The mere existence of a scintilla of evidence in support of the plaintiff’s position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff.” *Anderson*, 477 U.S. at 252, 106 S.Ct. At 2512. Muney wishes to make clear that this motion is for summary judgment on all claims raised in the complaint, but not on Defendants’ counterclaims.

**B. Muney has not Breached any Fiduciary Duty.**

In Plaintiff’s complaint, the only acts alleged to be a breach of fiduciary duty are Muney’s contracting with an outside entity (that he owns) for Las Vegas warehouse space,

1 and a vague allegation that “Arnould believes that Muney has taken money and diverted  
2 business opportunities and customers from Defendant Chef Suppliers.” The complaint  
3 contains no allegation that a fiduciary duty is owed to Arnould by Muney, and no statement  
4 identifying what type of fiduciary duty is alleged to be violated. Based on context, Muney  
5 will assume that Arnould is alleging the breach of a fiduciary duty owed between members  
6 of an LLC.

7         The primary element that must be established for a breach of fiduciary duty claim is  
8 the existence of a fiduciary duty. *Klein v. Freedom Strategic Partners, LLC*, 595 F. Supp.  
9 2d 1152, 1162 (D. Nev. 2009). Unlike corporations or partnerships, LLCs involve very few  
10 fiduciary duties absent those created by an operating agreement or other contract. They are  
11 limited to the duty to make contributions to the LLC that the member agreed to pay, and to  
12 hold as trustee any property that the member agreed to contribute to the company.  
13 *JPMorgan Chase Bank, NA v. KB HOME*, 632 F. Supp. 2d 1013 (D. Nevada 2009); NRS  
14 86.39. The Court in *JPMorgan Chase*, above, held that the presence of fiduciary duties in  
15 the NRS chapters for partnerships and corporations, and the absence of such duties in  
16 Chapter 86 for LLCs, was intentional, and clearly reflected a legislative intent not to apply  
17 the same fiduciary duties to members of LLCs. “Generally, when the legislature has  
18 employed a term or phrase in one place and excluded it in another, it should not be implied  
19 where excluded.” *JPMorgan Chase Bank, NA v. KB HOME*, Id. In light of this, the  
20 remaining question is whether either of the alleged acts constitute a violation of a duty to  
21 make promised contributions to the LLC, or to hold in trust any property promised to the  
22 LLC. Review of the allegations makes clear that they do not. The claim for breach of  
23 fiduciary duty must therefore fail.

24         It seems likely that Arnould has confused the 'corporate opportunity doctrine' as  
25 applying to LLCs. However, even if said doctrine did apply, Muney's acts of offering the  
26 opportunity to the LLC first, and charging a fair price for the space, make clear that the  
27 doctrine would not have been violated even if it did apply. As discussed in the facts above,  
28 Arnould had been a guarantor and signatory to the previous lease of the same space, and  
was thus fully apprised of its terms and purpose. *See* Exhibit 4. Muney did not initially seek

1 to lease the space himself, but rather requested Arnould to continue the lease, as continuing  
2 the lease required personal guarantees by both owners. Arnould explicitly refused to do so,  
3 and through first one counsel, and then a second, advised Muney to sign a lease with a  
4 different entity, and impliedly sub-lease the space to Chefexec. *See* Exhibit 1. It is thus  
5 without question that Muney offered the opportunity to Chefexec, and that Arnould  
6 explicitly rejected the opportunity.

7         The only other element of the opportunity doctrine that would apply (if the doctrine  
8 applied to LLCs at all), is that the price charged be fair. The Nevada Supreme Court has  
9 specifically held that a member of a corporation can lease a space and then sub-lease it to  
10 the company, at a profit, absent “substantial profiteering.” *Pederson v. Owen*, 556 P. 2d  
11 542, 543-544 (Nev: Supreme Court 1976); (“T-Car received just what it ordered, an  
12 elaborate warehouse, for little more than the contractor's cost. Without more, in the  
13 absence of a showing of substantial profiteering by Ready Mix, there is nothing in this  
14 record to support the lower court's determination that the contract was unfair when it was  
15 made.”). In the present case, Muney was required to personally guarantee a new lease, at an  
16 increased rate due to the refusal to continue the previous lease. Muney asked a Las Vegas  
17 commercial real estate professional what the market rate would be for such a sublease, and  
18 he charged Chefexec less than the amount quoted. *See* Exhibit 2. Its thus clear that the rate  
19 Muney charged is fair.

20         Finally, if this court were to apply corporate fiduciary duties (rather than those of an  
21 LLC) to Muney, the business judgment rule would exempt him from liability, absent further  
22 showing from Plaintiff. The business judgment rule “bars judicial inquiry into the actions of  
23 corporate directors taken in good faith and in the exercise of honest judgment in lawful  
24 furtherance of corporate purposes.” However misguided the business decision may be, the  
25 rule protects directors from judicial review of the wisdom of that decision<sup>1</sup>. *See Citron v.*

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26 <sup>1</sup> Most supporting law on this rule comes from Delaware courts, however this is in line  
27 with Nevada precedent, as Nevada Courts typically look to these courts for guidance on  
28 issues of corporate law, but the rule has been explicitly used in Nevada. (*Brown v.*  
*Kinross Gold USA, Inc.*, 531 F. Supp. 2d 1234 (D. Nevada 2008 ); (“Because the  
Nevada Supreme Court frequently looks to the Delaware Supreme Court and the  
Delaware Courts of Chancery as persuasive authorities on questions of corporation law,

1 *Fairchild Camera & Instrument Corp.*, 569 A.2d 53, 64 (Del. 1989). The protections  
2 afforded under the business judgment rule consist in part of the “presumption that the acts  
3 of corporate directors are honest and in the best interests of the company.” *Horowitz*, 604 F.  
4 Supp. at 1135 (citing *Foster v. Arata*, 74 Nev. 143, 325 P.2d 759,764 (1958)). According to  
5 the Delaware Supreme Court, the business judgment rule operates as a procedural guide and  
6 as a substantive rule of law. *Citron v. Fairchild Camera & Instrument Corp.*, 569 A.2d 53,  
7 64 (Del. 1989). “As a rule of evidence, it creates a ‘presumption that in making a business  
8 decision, the directors of a corporation acted on an informed basis i.e., with due care, in  
9 good faith and in the honest belief that the action taken was in the best interest of the  
10 company.” *Id.* (quoting *Aronson v. Lewis, Del. Supr.*, 473 A.2d 805, 812 (1984)). By this  
11 standard, Muney is entitled to a presumption that his decisions were proper, and in order to  
12 survive summary judgment, Plaintiffs must overcome that presumption.

13 Ultimately, Chefexec is an LLC, not a partnership or corporation, and thus Muney is  
14 not subject to any fiduciary duty that the allegations would support a violation of. Further,  
15 Muney's actions were clearly fair, as he was blocked from leasing necessary warehouse  
16 space by Arnould, and instructed to get the space with an entity he owned himself. Arnould  
17 ca not now say it was a breach of duty to do what Arnould himself instructed Muney to do.  
18 As to the allegation that “Muney has taken money and diverted business opportunities and  
19 customers from Defendant Chef Suppliers,” in order to survive summary judgment, Arnould  
20 must provide more than a boilerplate statement, and must specify exactly what other  
21 breaches Muney is accused of. With no indication of improper acts, and no fiduciary duty  
22 established, it is clear that there is no issue of fact necessary to find that the claim for breach  
23 of fiduciary duty fails.

24  
25  
26 this Court often looks to those sources to predict how the Nevada Supreme Court would  
27 decide the question.”); Nevada Courts: *Shoen v. SAC Holding Corp.*, 137 P. 3d 1171  
28 (Nev: Supreme Court 2006) *Shoen v. AMERCO*, 885 F.Supp. 1332, 1341. n. 20  
(D.Nev.1994); *see also Hilton Hotels Corp. v. ITT Corp.*, 978 F.Supp. 1342, 1347  
(D.Nev,1997).

1 **C. The Circumstances do not Meet the Standard for Judicial Dissolution or**  
2 **Appointment of a Receiver.**

3 A review of the evidence makes clear that dissolution of the company was Arnould's  
4 goal even prior to any alleged wrongdoing by Muney. *See* Exhibit 1<sup>2</sup> (Letters demanding  
5 dissolution sent on July 25 and August 7; Arnould stated he first became aware of the new  
6 lease on October 1). As Arnould wants to be bought out at better terms than what he was  
7 able to negotiate through proper channels, he is seeking to manufacture a dispute to allow  
8 him to more profitably cash out. *See* Exhibit 5 (June 26 email from Arnould asking for  
9 company to be split).

10 Nevada law only allows judicial dissolution and appointment of a receiver as an  
11 extreme remedy of last resort, when there is no other remedy at law. Further, it is only  
12 available when continued operation of the LLC's business is "no longer reasonably  
13 practicable." NRS 86.495. While Nevada courts have not established a more thorough  
14 definition of "reasonably practicable, looking to Delaware courts, as Nevada Courts  
15 typically do for issues of corporate law<sup>3</sup>, we see that the business must be without any  
16 reasonable ability to carry on. The Delaware Court of Chancery explained::

17 Dissolution of an entity chartered for a broad business purpose remains  
18 possible upon a strong showing that a confluence of situationally specific  
adverse financial, market, product, managerial, or corporate governance  
circumstances make it nihilistic for the entity to continue"

19 *Matter of Arrow Inv. Advisors, LLC*, 2009 WL 1101682, \*2 (Del. Ch. 2009). That court  
20 went on to explain that as a remedy of last resort, judicial dissolution and receivership is not  
21 appropriate as a response to allegations of breaches of fiduciary duty, and was so deficient  
22 as to warrant dismissal:

23 <sup>2</sup>Previous attorney Gershuni on July 25 "...the process which I previously proposed, which  
24 is a dissolution of the LLC..."; Current attorneys on August 7: "The purpose of this letter is  
25 to notify you that we have been retained to dissolve the Company. The dissolution will  
26 occur in one of two ways: (1)the parties will either work together to obtain a speedy and  
27 amicable dissolution internally, which will be much more cost efficient; or (2) we will  
28 unilaterally seek to dissolve the Company by judicial action whereby the terms of such  
dissolution will be decided under Nevada law." "If we do not receive a written response  
from you by this date, we will initiate judicial action to dissolve the Company as set forth  
herein.

<sup>3</sup> *Brown v. Kinross Gold USA, Inc.*, 531 F. Supp. 2d 1234 (D. Nevada 2008).

1 Here, Hamman has failed to allege that Arrow is not operating in  
2 accordance with the broad purposes set forth in its LLC agreement.  
3 Moreover, I will not entertain a claim for dissolution premised on  
4 unproven breaches of fiduciary duty. Dissolution is an extreme remedy to  
5 be applied only when it is not longer reasonably practicable for the  
6 company to operate in accordance with its founding documents, not as a  
7 response to fiduciary or contractual violations for which more appropriate  
8 and proportional relief is available.

9 Id. Just as in that case, Plaintiff has pled a pretextual breach of fiduciary duty (as shown  
10 above), and demanded an extreme remedy of last resort from this Court. *Bedore v.*  
11 *Familian*, 125 P. 3d 1168 (Nev. Supreme Court 2006); (Where taking excess salary and  
12 usurping corporate opportunity was alleged, receivership and dissolution not warranted);  
13 *Gottier's Furniture, LLC v. La Pointe*, No. CV040084606S, 2007 WL 1600021 (Conn.  
14 Super. May 16, 2007); (declining defendant member's request to appoint receiver to wind  
15 up affairs of LLC inasmuch as defendant member had misappropriated LLC funds and had  
16 unclean hands, and, alternatively, because dissolution receivership is extraordinary remedy  
17 that is not warranted merely based on dissension of members or financial difficulty).

18 It is clear from the law that in order to demand receivership and dissolution, Plaintiff  
19 must plead and prove that the business is no longer able to effectively operate. Plaintiff has  
20 not pled facts to support such an allegation, nor can he. Business records of the company  
21 show that this year, the year of the present dispute, ChefExec is making 73% more profit  
22 than it did the previous year. *See* Exhibit 6. This is possible despite disagreements because  
23 Muney and Arnould have always each run their own city's branch of the company. Thus  
24 while they may disagree, and such disagreements may cause issues, they do not prevent the  
25 company from operating.

26 Regarding Plaintiff's demand for an accounting, this is a remedy rather than a claim,  
27 and can not stand if the other claims fail. A claim for accounting must be "tethered to  
28 relevant actionable claims." *Simon v. Bank of America, N.A.*, Case No. 10-cv-00300-GMN-  
LRL, 2010 WL 2609436, \*11 (D. Nev. 2010); *Hafiz v. GreenPoint Mortgage Funding, Inc.*,  
652 F.Supp.2d 1039, 1043-44 (N.D.Cal.2009).



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**III.**

**CONCLUSION**

In its complaint, Plaintiff has raised two causes of action; Breach of Fiduciary Duty and Judicial Dissolution/Appointment of a Receiver. As shown above, there is no fiduciary duty Munez is in Breach of, and there are no alleged facts that would justify judicial dissolution or appointment of a receiver in this matter. None of these issues are subject to any dispute of material fact, and thus summary judgment should be granted as to the claims in Plaintiff's complaint.

DATED this 9<sup>th</sup> day of December, 2019

**KERN LAW**

By: /s/ Robert Kern /s/  
Robert Kern, Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 9<sup>th</sup> day of December 2019, I served a true and correct copy of the foregoing **MOTION FOR PARTIAL SUMMARY JUDGMENT**, pursuant to NRCp 56, by electronic service, addressed to the following:

Phillip S. Aurbach, Esq.  
Marquis Aurbach Coffing  
Paurbach@Maclaw.com  
*Counsel for Dominique Arnould*

\_\_\_\_\_  
/s/ Robert Kern  
Employee of Kern Law

# **EXHIBIT 1**



## MARQUIS AURBACH COFFING

DIRECT LINE: (702) 207-6086  
DIRECT FAX: (702) 856-8986  
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ALBERT G. MARQUIS  
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CHAD F. CLEMENT  
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JARED M. MOSER  
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LANCE C. EARL  
WILLIAM P. WRIGHT  
TROY R. DICKERSON  
BRIAN R. HARDY  
OF COUNSEL

August 7, 2019

### *Via Email and Regular Mail*

Clement Muney  
151 Augusta St.  
Henderson, NV 89074  
clement@chefexecsuppliers.com

Re: CHEF EXEC SUPPLIERS, LLC - Dissolution  
Our File No. 15755-001

Dear Mr. Muney:

Our firm represents Dominique Arnould ("Dominique") with respect to CHEF EXEC SUPPLIERS, LLC, a Nevada limited liability company (the "Company"), in which you and Dominique are both Managing Members each owning fifty percent (50%) of the total membership interests in the Company. **The purpose of this letter is to notify you that we have been retained to dissolve the Company. The dissolution will occur in one of two ways: (1) the parties will either work together to obtain a speedy and amicable dissolution internally, which will be much more cost efficient; or (2) we will unilaterally seek to dissolve the Company by judicial action whereby the terms of such dissolution will be decided under Nevada law.** It is Dominique's desire to dissolve the Company internally and amicably; however, if that is not possible, we are prepared to initiate judicial action.

If judicial action is required, the district court will dissolve the Company in accordance with the requirements set forth in Nevada Revised Statutes ("NRS") Chapter 86, which are as follows: (1) the Company's liabilities will be paid in the following order (a) to the Company's creditors (accounts payable, leasehold interests, and other general Company debt), and (b) to the Company's members in the amount of their capital contributions; and (2) the Company's assets will be distributed to the members in accordance with the percentage of their respective ownership interest. Please note that a court-ordered dissolution, under Nevada law, will not require any member to be bound by obligations of non-competition, non-solicitation of suppliers or customers, or any other restrictive covenant. Instead, it will be a simple and straightforward payment of debts and division of assets.

As a result of the foregoing, Dominique will not agree to dissolution terms that require the parties to be bound by terms and conditions that are more restrictive than what the parties would otherwise obtain by court action (e.g., non-competition and non-solicitation covenants). In any event, distribution to Dominique of his respective share of the Company's assets would not even constitute separate consideration for any such covenants, thus rendering them unenforceable. Continuing to demand that the parties agree to such unnecessary restrictions will force us to seek a court-ordered dissolution under Nevada law, as set forth above, and only cause both parties to incur court costs and

legal fees unnecessarily. To that end, it is proposed that the parties agree to an amicable dissolution based on the following terms and conditions:

1. **Liabilities.** The Company's debts and creditors are to be paid in full.
2. **Las Vegas Lease.** The lease cannot be renewed and must expire in September 2019. If any party desires to enter into a new lease at this location, that party must do so on its own accord—meaning, that party must form a new entity to enter into a new lease and shall not use or purport to use the other party as a guarantor.
3. **Los Angeles Lease.** Either (a) terminate the lease and buy out the remaining term from the landlord using Company funds, or (b) if any party desires to enter into a new lease at this location, that party must do so on its own accord—meaning, that party must form a new entity to enter into a new lease and shall not use or purport to use the other party as a guarantor.
4. **Accounts Receivable.** Both parties shall actively pursue collection of all the Company's accounts receivable. The proceeds of such collection shall be divided equally, i.e., 50-50, between the parties.
5. **Sales Commissions.** The sales commissions earned by but not paid to the applicable sales representative shall be paid to such representative in the Company's ordinary course of calculating and paying such commissions.
6. **Assets.** The Company's remaining assets (cash, equipment and inventory) shall be divided equally, i.e., 50-50, between the parties either in cash or in kind. Formal appraisals will be obtained to determine the value of any asset that is not mutually agreed upon by the parties, the cost of which would necessarily reduce the amount of remaining assets available for distribution.

Please respond to this letter in writing no later than 3:00 p.m. Nevada time on August 14, 2019. If we do not receive a written response from you by this date, we will initiate judicial action to dissolve the Company as set forth herein. Please also note that our client reserves all of his rights with respect to the Company and his membership interest therein, none of which are waived. Thank you in advance for your prompt attention to this urgent matter.

Sincerely,

MARQUIS AURBACH COFFING



Jordan B. Peel, Esq.

JBP:jbp  
cc: Client

MAC:15755-001 3807100 3 8/7/2019 2:53 PM

Re: Chef Exec Suppliers LLC

Robert Kern

Fri 12/6/2019 12:58 PM

**From:** Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>

**Subject:** Re: Chef Exec Suppliers LLC

**Date:** July 25, 2019 at 2:15:44 PM PDT

**To:** [clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)

**Cc:** [dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com), [domiarnould@yahoo.com](mailto:domiarnould@yahoo.com)

Dear Clement,

Thanks for your reply.

You ask about the effect of the operating agreement. Please provide me with a fully executed (i.e., signed by both you and Dominique) copy of the operating agreement and I can then review it and give you my comments in response to your questions.

I agree that selecting an appraiser should be a relatively simple process. I also believe that you and Dominique would be agreeable to your respective interests in the company being valued at 50% of the appraised value of all assets, tangible and intangible. However, to carry out the process which I previously proposed, which is a dissolution of the LLC and winding up of its affairs, with the physical assets being allocated between you both according to the appraiser's valuation after all liabilities are satisfied, going forward should be simple. It is my understanding that each of you would be entitled to 50% of the inventory in each location and each of you would be entitled to 50% of the equipment in each location. Ultimately the two of you might agree on some variations in this regard, but if we can memorialize the fundamental terms of this dissolution, we can then get on with the process of selecting an appraiser.

As for your concern regarding the Las Vegas lease renewal in September, I will recommend that you form a new entity to be the lessee to take over the Las Vegas lease when it comes up for renewal in September. You would be the sole member of that new entity (or perhaps partner with someone else?) and Dominique, not being a principal of your new entity, would not be required to sign the new Las Vegas lease.

Would you like me to draft the proposed dissolution agreement? Please let me know ASAP.

Kindest personal regards,

*Gregory Gershuni*

Gregory Gershuni

Attorney at Law

THE GERSHUNI LAW FIRM



11377 West Olympic Blvd., Suite 521  
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*Integrity is Everything*

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-----Original Message-----

From: Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>  
To: Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>  
Cc: Clement Chef Exec <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>; dominique <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)>; [domiarnould@yahoo.com](mailto:domiarnould@yahoo.com) <[domiarnould@yahoo.com](mailto:domiarnould@yahoo.com)>  
Sent: Wed, Jul 24, 2019 6:34 pm  
Subject: Re: Chef Exec Suppliers LLC

Gregory,

Thank you for your email. To go forward, I think I need a better understanding of the situation.  
Can you tell me, does the operating agreement allow for unilateral dissolution on Dominique's part? Does it allow him to sell his voting interest in the company to another party without my consent? I'm just wondering where the contracts stand on all this.

Regardless of those answers, I think if we can agree on a selection method for an appraiser, and Dominique will accept the appraised value of 50% (representing his half of the company) of the total cost value of all inventory and the appraised value of physical assets, then we will have an agreement.

I do have another concern however, which is that the Las Vegas lease comes up for renewal in September. They will likely not allow renewal without signature from all principals of the company. What do you propose we do there?

Sincerely yours

Clement

On Jul 24, 2019, at 3:40 PM, Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)> wrote:

Dear Clement,

It's been a couple of days since I last wrote to you. Kindly afford me the courtesy of a reply.

Kindest personal regards,

*Gregory Gershuni*

Gregory Gershuni

Attorney at Law

THE **GERSHUNI** LAW FIRM

11377 West Olympic Blvd., Suite 521  
Los Angeles, California 90064

# **EXHIBIT 2**



## Fwd: PROPERTY LEASE RATES

clement MUNEY

Tue 10/15/2019 4:30 PM

To: Robert Kern <[robert@kernlawoffices.com](mailto:robert@kernlawoffices.com)>

Cc: clement MUNEY <[cmuney1@yahoo.com](mailto:cmuney1@yahoo.com)>; Jeremy Muney <[jeremymuney@yahoo.com](mailto:jeremymuney@yahoo.com)>

FYI

I took this quote

we have 7745 sqft ware house \*1.25\$ = 9681.25

+ Cam=1210\$

So a total opf \$10,891.25 per month

I am billing \$10,790 per month with CMJJ Gourmet Inc. to Chef Exec Suppliers LLC

Begin forwarded message:

**From:** GENE PROCTOR <[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)>

**Subject: Re: PROPERTY LEASE RATES**

**Date:** August 14, 2019 at 6:53:09 PM PDT

**To:** Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>

The rate with cams would increase to \$11,280.

On Wed, Aug 14, 2019 at 3:50 PM Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)> wrote:

Hello Gene,

Thank you for your email

With the "cam" like we have right now with Chef Exec Suppliers LLC, on our warehouse on Quail that you know, what total price would we looking at please all included on a month to month?

Thank you for your help

Clement Muney  
(702) 340 8697  
Sent from my iPhone

On Aug 14, 2019, at 15:43, GENE PROCTOR <[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)> wrote:

Clement,

The industrial property inventory is quite limited in Las Vegas right now. The per square foot rate increased 30% last year. The 8,000 square foot space you inquired about leases for \$1.00 psf but there is a 25% premium for a month to month lease bringing the rate to \$1.25 psf or a total of \$10,000 per month. Let me know if you have any other questions.

--

Gene Proctor Jr.  
Licensed Since 1998  
Commercial Leasing Specialist  
"Proctor's No Gamble"  
[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)  
Coldwell Banker Premier  
[8290 W. Sahara Ave., Suite 100](#)  
[Las Vegas, NV 89117](#)  
Cell 702.762-0917

--

Gene Proctor Jr.  
Licensed Since 1998  
Commercial Leasing Specialist  
"Proctor's No Gamble"  
[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)  
Coldwell Banker Premier  
8290 W. Sahara Ave., Suite 100  
Las Vegas, NV 89117  
Cell 702.762-0917

# **EXHIBIT 3**

**CMJJ GOURMET Inc.**  
**Vendor QuickReport**  
 All Transactions

Type	Date	Num	Memo	Account	Clr	Split
<b>Dominique Arnoud</b>						
Check	01/30/2006	1521		Citibank	X	Advertising
Check	08/19/2006	1603		Citibank	X	Advertising
Check	02/12/2007	1300		Citibank	X	Advertising
Check	07/06/2007	1383		Citibank	X	Advertising
Check	01/21/2008	1685		Citibank	X	Advertising
Check	07/08/2008	1778		Citibank	X	Advertising
Check	09/21/2009	1953		Citibank	X	Commissions P...
Bill	02/13/2012	02132...		Accounts Payable		Commissions P...
Bill Pmt -Check	02/13/2012	5270		Citibank	X	Accounts Paya...
Check	09/26/2012	5329		Citibank	X	Commissions P...
Bill	08/04/2013	08042...		Accounts Payable		Commissions P...
Bill Pmt -Check	08/15/2013	3347		Citibank	X	Accounts Paya...
Check	08/15/2014	5440		Citibank	X	Commissions P...
Check	09/10/2016	5662		Citibank	X	Commissions P...

12:07 PM

12/06/19

**CMJJ GOURMET Inc.**  
**Vendor QuickReport**  
All Transactions

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**Amount**

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-182.66  
-252.68  
-359.35  
-1,033.93  
-815.50  
-484.40  
-181.00  
-269.16  
-269.16  
-558.96  
-629.50  
-629.50  
-520.60  
-660.60

# **EXHIBIT 4**

**LEASE AGREEMENT**  
(Net)

THIS LEASE AGREEMENT ("Lease") is made between Trustees Under the Testamentary Trust of Helen Director, Deceased ("Landlord"), and Chef Exec Suppliers, LLC, a Nevada limited liability company ("Tenant"), dated for reference purposes only, as September 18, 2014 (the "date of this Lease").

**BASIC LEASE INFORMATION**

**DESCRIPTION OF PREMISES:** 3655 West Quail Avenue, Suite C, Las Vegas, Nevada 89118, (the Premises as shown on Exhibit A), consisting of approximately 7,745 square feet within Building 3655 West Quail Avenue (the "Building") of Landlord's multi-tenant development known as 3655 West Quail Avenue (the "Project" as shown on Exhibit A1). "Tenant's Proportionate Share" of the Project is 18.449%.

**PERMITTED USE:** Warehouse for storage, and distribution of restaurant supplies and related uses, and for no other purpose.

**INITIAL LEASE TERM:** Sixty (60) months

**EARLY OCCUPANCY DATE:** September 22, 2014

**COMMENCEMENT DATE (ANTICIPATED):** October 1, 2014

**EXPIRATION DATE:** September 30, 2019

**BASE RENT, OPERATING EXPENSES AND SECURITY DEPOSIT:**

- |   |  |                       |  |                      |  |                      |  |                      |  |                      |   |
|---|--|-----------------------|--|----------------------|--|----------------------|--|----------------------|--|----------------------|---|
| <p>(a) Base Rent due pursuant to Paragraph 3:</p> <table border="0"><tr><td>October 1, 2014 through September 30, 2015</td><td>\$2,250.00 per month*</td></tr><tr><td>October 1, 2015 through September 30, 2016</td><td>\$2,350.00 per month</td></tr><tr><td>October 1, 2016 through September 30, 2017</td><td>\$2,450.00 per month</td></tr><tr><td>October 1, 2017 through September 30, 2018</td><td>\$2,550.00 per month</td></tr><tr><td>October 1, 2018 through September 30, 2019</td><td>\$2,650.00 per month</td></tr></table> <p>*See Exhibit F for Concession</p> | October 1, 2014 through September 30, 2015 | \$2,250.00 per month* | October 1, 2015 through September 30, 2016 | \$2,350.00 per month | October 1, 2016 through September 30, 2017 | \$2,450.00 per month | October 1, 2017 through September 30, 2018 | \$2,550.00 per month | October 1, 2018 through September 30, 2019 | \$2,650.00 per month | <p>(b) Tenant's Proportionate Share of First Year Estimated Operating Expenses pursuant to Paragraph 4.2: \$983.62 per month thereafter</p> |
| October 1, 2014 through September 30, 2015  | \$2,250.00 per month*                      |                       |  |                      |  |                      |  |                      |  |                      |   |
| October 1, 2015 through September 30, 2016  | \$2,350.00 per month                       |                       |  |                      |  |                      |  |                      |  |                      |   |
| October 1, 2016 through September 30, 2017  | \$2,450.00 per month                       |                       |  |                      |  |                      |  |                      |  |                      |   |
| October 1, 2017 through September 30, 2018  | \$2,550.00 per month                       |                       |  |                      |  |                      |  |                      |  |                      |   |
| October 1, 2018 through September 30, 2019  | \$2,650.00 per month                       |                       |  |                      |  |                      |  |                      |  |                      |   |

- (c) Security Deposit pursuant to Paragraph 6:  
\$3,633.62.

**NOTICE ADDRESSES:** **TO LANDLORD:**  
Trustees Under the Testamentary Trust  
of Helen Director, Deceased  
c/o Harsch Investment Properties  
3111 South Valley View Blvd., Suite K-101  
Las Vegas, Nevada 89102  
Attn: Property Manager  
Fax: (702) 368-2930

**TO TENANT:**  
Chef Exec Suppliers, LLC  
151 Augusta Street  
Henderson, Nevada 89074  
Attn: Clement Munev  
Phone: (702) 914-8442  
Email: [cmunev@cox.com](mailto:cmunev@cox.com)

**BILLING AND PAYMENT ADDRESSES:** **TO LANDLORD:**  
3655 W. Quail Avenue  
Unit No. 99  
P O Box 4900  
Portland, Oregon 97208- 4900

**TO TENANT:**  
Chef Exec Suppliers, LLC  
151 Augusta Street  
Henderson, Nevada 89074  
Attn: Clement Munev  
Phone: (702) 914-8442  
Email: [cmunev@cox.com](mailto:cmunev@cox.com)

**TENANT'S TAXPAYER ID #:** 26-0729551

**GUARANTOR:** N/A (If any, see Exhibit G)

**TENANT CONTACT:** Name: Clement Munev Telephone: (702) 914-8442 Email: [cmunev@cox.com](mailto:cmunev@cox.com)

IN WITNESS WHEREOF, the parties have executed this Lease, effective the date first written above. The Lease consists of Paragraphs 1 through 30 (the "Standard Lease Provisions") and Exhibits A (Premises), A-1 (Project), B (Insurance), C (Sign Criteria), C-1 (Signage Specifications), D (Tenant Improvements - Intentionally Omitted), E (Rules & Regulations) F (Further Provisions), G (Guaranty of Lease - Intentionally Omitted) and Exhibit H (Hazardous Materials Questionnaire) (all of which are incorporated herein by this reference (collectively, this "Lease"). In the event of any conflict between the provisions of the Basic Lease Information and the provisions of the Standard Lease Provisions, the Standard Lease Provisions shall control.

**STANDARD LEASE PROVISIONS**  
(Net)

1. **Premises.** Landlord hereby leases to Tenant and Tenant hereby leases from Landlord, subject to the following terms and conditions, the Premises located in the Project and described in the Basic Lease Information and shown on the attached **Exhibit A**. Landlord reserves the right to make such changes, additions and/or deletions to the Project and/or the common areas and parking or other facilities thereof as it shall determine from time to time. Tenant acknowledges that neither Landlord (nor any employee or agent of Landlord) has made any representation or warranty with respect to the suitability or use of the Premises or Project for Tenant's intended Permitted Use or operations. Landlord shall have no liability to Tenant whatsoever in the event Tenant cannot conduct its Permitted Use and/or intended operations in the Premises and in addition to any other requirements set forth in the Lease, Tenant shall be solely responsible for any and all costs that relate or pertain to alterations necessary or appropriate to make the Premises comply with any codes, regulations, laws or ordinances for such Permitted Use or operations.

2. **Term.**

2.1 Unless delayed or sooner terminated in accordance herewith, the term of this Lease (the "**Term**") shall be as set forth in the Basic Lease Information. If the Term Commencement Date is not the first day of a calendar month, there shall be added to the Term the partial month ("**Partial Lease Month**") from the Term Commencement Date through the last day of that calendar month containing the Term Commencement Date.

2.2 The Term shall commence as specified in the Basic Lease Information on the Scheduled Term Commencement Date unless the Landlord has not delivered the Premises to Tenant by that date. In the latter event, the Term Commencement Date shall be the earlier of the date Landlord delivers the Premises to Tenant or the date Tenant takes possession or commences use of any portion of the Premises for any business purpose. If this Lease contemplates the construction of tenant improvements in the Premises by Landlord, Landlord shall be deemed to have delivered the Premises to Tenant on the date set forth by **Exhibit D**. Tenant acknowledges that Tenant has inspected and accepts the Premises in their present condition, "AS-IS" (WITH ALL FAULTS), except for tenant improvements (if any) to be constructed by Landlord in the Premises.

2.3 This Lease shall be a binding contractual obligation upon mutual execution and delivery hereof by Landlord and Tenant, notwithstanding the later commencement of the Term. If the Term Commencement Date is delayed, this Lease shall not be void or voidable, the Term shall not be extended (except as provided in Paragraphs 2.1 & 2.2, and Landlord shall not be liable to Tenant for any loss or damage resulting therefrom; provided that Tenant shall not be liable for any Rent for any period prior to the Term Commencement Date unless the delay is caused by Tenant.

2.4 Upon mutual execution and delivery of this Lease and receipt by Landlord of monies due, satisfactory evidence of Tenant's compliance with the insurance provisions of the Lease and Landlord's written approval, Tenant may be permitted to occupy the Premises prior to the Term Commencement Date to install furniture, fixtures and the like. Early occupancy shall not advance the expiration date of the Lease and no Base Rent shall be payable, but Tenant shall be responsible for any separately metered utility usage and bound by all other provisions of the Lease, including, without limitation, Additional Rent. During any early occupancy or other period in which Landlord and Tenant are simultaneously occupying and/or performing work in the Premises, Landlord shall resolve any conflicts as to scheduling, access or related issues.

3. **Rent; Payment of Additional Rent; Operating Expenses.**

3.1 Subject to the provisions of this Paragraph 3, Tenant shall pay during the Term as rent for the Premises the sums specified in the Basic Lease Information (as increased from time to time as provided in the Basic Lease Information or as may otherwise be provided in this Lease) (the "**Base Rent**"). Base Rent shall be payable in consecutive monthly installments, in advance, without prior notice, demand, deduction or offset, commencing on the Term Commencement Date and continuing on the first day of each calendar month thereafter, except that the first full monthly installment of Base Rent shall be payable upon Tenant's execution of this Lease. If the Term Commencement Date is not the first day of a calendar month, then the Base Rent for the Partial Lease Month shall be prorated based on the actual number of days of that month, and shall be payable on the first day of the calendar month following the Term Commencement Date.

3.2 All monies to be paid by Tenant hereunder, including Tenant's Proportionate Share of Operating Expenses as specified in Paragraph 4 (estimated and/or revised), and all other amounts, fees, payments or charges payable hereunder by Tenant (collectively, "**Additional Rent**"), together with Base Rent, shall (i) each constitute rent payable hereunder (and shall sometimes collectively be referred to herein as "**Rent**"), (ii) be payable to Landlord in lawful money of the United States when



due without any prior demand therefor, except as may be expressly provided to the contrary herein, (iii) be payable to Landlord at Landlord's Payment Address set forth in the Basic Lease Information or to such other person or to such other place as Landlord may from time to time designate in writing to Tenant, and (iv) if applicable, be prorated based upon the actual number of days for any partial month.

#### 4. Operating Expenses.

4.1 **Operating Expenses.** In addition to the Base Rent required to be paid hereunder, Tenant shall pay as Additional Rent, Tenant's Proportionate Share of the Building and/or Project (as applicable), as defined in the Basic Lease Information, of Operating Expenses in the manner set forth below. Landlord and Tenant acknowledge that if the number of buildings which constitute the Project increases or decreases, or if physical changes are made to the Premises, Building and/or Project or the configuration of any thereof, Landlord may at its discretion adjust Tenant's Proportionate Share of the Building and/or Project to reflect the change. Landlord's determination of Tenant's Proportionate Share of the Building and/or Project shall be conclusive absent manifest error. "Operating Expenses" shall mean all expenses and costs of every kind and nature which Landlord shall pay or become obligated to pay, because of or in connection with the ownership, management, maintenance, repair, preservation, replacement and operation of the Building and/or Project and its supporting facilities and such additional facilities now and in subsequent years as may be determined by Landlord to be necessary or desirable to the Building and/or Project other than those expenses and costs which are specifically attributable to Tenant or which are expressly made the financial responsibility of Landlord pursuant to this Lease. Operating Expenses shall also include, but are not limited to, the following:

4.1.1 **Taxes.** All real property taxes and assessments, possessory interest taxes, sales taxes, personal property taxes, business or license taxes or fees, gross receipts taxes, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, transit charges, and other impositions, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind (including fees "in-lieu" of any such tax or assessment) which are now or hereafter assessed, levied, charged, confirmed, or imposed by any public authority upon the Landlord, Building, or the Project, its operations or the Rent (or any portion or component thereof), or any tax, assessment or fee imposed in substitution, partially or totally, of any of the above. Operating Expenses shall also include any taxes, assessments, reassessments, or other fees or impositions with respect to the development, leasing, management, maintenance, alteration, repair, use or occupancy by Tenant of the Premises, Building or Project or any portion thereof, including, without limitation, by or for Tenant, and all increases therein or reassessments thereof whether the increases or reassessments result from increased rate and/or valuation (whether upon a transfer of the Building or Project or any portion thereof or any interest therein or for any other reason). Operating Expenses shall not include inheritance or estate taxes imposed upon or assessed against the interest of any person in the Project, or taxes computed upon the basis of the net income of any owners of any interest in the Project. If it shall not be lawful for Tenant to reimburse Landlord for all or any part of such taxes, the monthly rental payable to Landlord under this Lease shall be revised to net Landlord the same net rental after imposition of any such taxes by Landlord as would have been payable to Landlord prior to the payment of any such taxes.

4.1.2 **Insurance.** All insurance premiums and costs, including, but not limited to, any deductible amounts, premiums and other costs of insurance incurred by Landlord, including for the insurance coverage required under Paragraph 11.1 below.

#### 4.1.3 **Common Area Maintenance.**

4.1.3.1 Repairs, replacements, and general maintenance of and for the Building and Project and public and common areas and facilities of and comprising the Building and Project, including, but not limited to, the roof and roof membrane, elevators, mechanical rooms, alarm systems, pest extermination, landscaped areas, parking and service areas, driveways, sidewalks, truck staging areas, rail spur areas, fire sprinkler systems, sanitary and storm sewer lines, utility services, heating/ventilation/air conditioning systems, electrical, mechanical or other systems, telephone equipment and wiring servicing, plumbing, lighting, and any other items or areas which affect the operation or appearance of the Building or Project, which determination shall be at Landlord's discretion, except for: those items to the extent paid for by the proceeds of insurance; and those items attributable solely or jointly to specific tenants of the Building or Project.

4.1.3.2 Repairs, replacements, and general maintenance shall include the cost of any improvements made to or assets acquired for the Project or Building that in Landlord's discretion may reduce any other Operating Expenses, including present or future repair work, are necessary for the health and safety of the occupants of the Building or Project, or for the operation of the Building systems, services and equipment, or are required to comply with any Regulation, such costs or allocable portions thereof to be amortized over such reasonable period as Landlord shall determine, together with interest on the unamortized balance.

4.1.3.3 Payment under or for any easement, license, permit, operating agreement, declaration, restrictive covenant or instrument relating to the Building or Project.

4.1.3.4 All expenses and rental related to services and costs of supplies, materials and equipment used in operating, managing and maintaining the Premises, Building and Project, the equipment therein and the adjacent sidewalks, driveways, parking and service areas, including, without limitation, expenses related to service agreements regarding security, fire and other alarm systems, janitorial services to the extent not furnished by Tenant under Paragraph 7.2 hereof, window cleaning, elevator maintenance, Building exterior maintenance, landscaping and expenses related to the administration, management and operation of the Project.

4.1.3.5 The cost of supplying any services and utilities which benefit all or a portion of the Premises, Building or Project to the extent not furnished by Tenant under Paragraph 7.2 hereof.

4.1.3.6 Legal expenses and the cost of audits by certified public accountants; provided, however, that legal expenses chargeable as Operating Expenses shall not include the cost of negotiating leases, collecting rents, evicting tenants nor shall it include costs incurred in legal proceedings with or against any tenant or to enforce the provisions of any lease.

4.1.3.7 A management fee equal to five percent (5%) of the sum of the Landlord's effective gross income from the Project which consists of the gross rents charged the tenants of the Project plus expense reimbursements and other operating income.

If the rentable area of the Building and/or Project is not fully occupied during any calendar year of the Term as determined by Landlord, an adjustment shall be made in Landlord's discretion in computing the Operating Expenses for such year so that Tenant pays an equitable portion of all variable items (e.g., utilities, janitorial services and other component expenses that are affected by variations in occupancy levels) of Operating Expenses, as determined by Landlord; provided, however, that in no event shall Landlord be entitled to collect in excess of one hundred percent (100%) of the total variable Operating Expenses from all of the tenants in the Building or Project, as the case may be.

The above enumeration of services and facilities shall not be deemed to impose an obligation on Landlord to make available or provide such services or facilities except to the extent if any that Landlord has specifically agreed elsewhere in this Lease to make the same available or provide the same. Without limiting the generality of the foregoing, Tenant acknowledges and agrees that it shall be responsible for providing adequate security for its use of the Premises, the Building and the Project and that Landlord shall have no obligation or liability with respect thereto, except to the extent if any that Landlord has specifically agreed elsewhere in this Lease to provide the same.

**4.2 Payment of Estimated Operating Expenses.** "Estimated Operating Expenses" for any particular year shall mean Landlord's estimate of the Operating Expenses for such calendar year. During the last month of each calendar year during the Term, or as soon thereafter as practicable, Landlord shall give Tenant written notice of the Estimated Operating Expenses for the ensuing calendar year. Tenant shall pay Tenant's Proportionate Share of the Estimated Operating Expenses together with monthly installments of Base Rent for the calendar year to which the Estimated Operating Expenses applies on the first day of each calendar month during such year, in advance, prorated for any partial month, if applicable. If at any time during the course of the calendar year, Landlord determines that Operating Expenses are projected to vary from the then Estimated Operating Expenses by more than five percent (5%), Landlord may, by written notice to Tenant, revise the Estimated Operating Expenses for the balance of such calendar year, and Tenant's monthly installments for the remainder of such year shall be adjusted so that by the end of such calendar year Tenant has paid to Landlord Tenant's Proportionate Share of the revised Estimated Operating Expenses for such year.

**4.3 Computation of Operating Expense Reconciliation.** "Operating Expense Reconciliation" shall mean the difference between Estimated Operating Expenses and actual Operating Expenses for any calendar year as determined below. Within one hundred twenty (120) days after the end of each calendar year, or as soon thereafter as practicable, Landlord shall deliver to Tenant a statement of actual Operating Expenses for the calendar year just ended, accompanied by a computation of Operating Expense Reconciliation. If such statement shows that Tenant's monthly payment based upon Estimated Operating Expenses are less than Tenant's Proportionate Share of Operating Expenses, then Tenant shall pay to Landlord the difference within twenty (20) days after receipt of such statement. If such statement shows that Tenant's payments of Estimated Operating Expenses for the previous calendar year exceed Tenant's Proportionate Share of Operating Expenses, then (provided that Tenant is not in default under this Lease) Landlord shall pay to Tenant the difference within thirty (30) days after delivery of such statement to Tenant. If this Lease has been terminated or the Term hereof has expired prior to the date of such statement, then the Operating Expense Reconciliation shall be paid by the appropriate party within thirty (30) days after the date of delivery of the statement. Tenant's Proportionate Share of the Operating Expense Reconciliation shall be prorated based on the actual number of days and the number of calendar months during such calendar year that this Lease is in effect.

Notwithstanding anything to the contrary contained in Paragraph 4.1 or 4.2, Landlord's failure to provide any notices or statements within the time periods specified in those paragraphs shall in no way excuse Tenant from its obligation to pay Tenant's Proportionate Share of Operating Expenses.

**4.4 Net Lease.** This shall be a net Lease and Base Rent shall be paid to Landlord net of all costs and expenses, except as specifically provided to the contrary in this Lease. The provisions for payment of Operating Expenses and the Operating Expense Reconciliation are intended to pass on to Tenant and reimburse Landlord for all costs and expenses of the nature described in Paragraph 4.1, incurred in connection with the ownership, management, maintenance, repair, preservation, replacement and operation of the Building and/or Project and its supporting facilities and such additional facilities now and in subsequent years as may be determined by Landlord to be necessary or desirable to the Building and/or Project.

**4.5 Tenant Audit.** If Tenant disputes the amount set forth in any statement provided by Landlord under Paragraph 4.3 above, Tenant shall have the right, not later than twenty (20) days following receipt of such statement and upon the condition that Tenant shall first deposit with Landlord the full amount in dispute, to cause Landlord's books and records with respect to Operating Expenses for such calendar year to be audited by a certified public accountant selected by Tenant and subject to Landlord's right of approval. The Operating Expense Reconciliation may be adjusted in accordance with the audit. If the audit discloses a discrepancy in Tenant's favor in excess of ten percent (10%) of Tenant's Proportionate Share of the Operating Expenses previously reported, the cost of the audit shall be borne by Landlord; otherwise the cost of the audit shall be paid by Tenant. If Tenant does not request an audit in accordance with the provisions of this Paragraph 4.5 within twenty (20) days after receipt of Landlord's statement provided pursuant to Paragraph 4.3, such statement shall be final and binding for all purposes hereof. Tenant acknowledges and agrees that any information revealed in the above described audit may contain proprietary and sensitive information and that significant damage could result to Landlord if such information were disclosed to any party other than Tenant's auditors. Tenant shall not in any manner disclose, provide or make available any information revealed by the audit to any person or entity without Landlord's prior written consent, which consent may be withheld by Landlord in its sole and absolute discretion. The information disclosed by the audit will be used by Tenant solely for the purpose of evaluating Landlord's books and records in connection with this Paragraph 4.5.

**5. Delinquent Payment; Handling Charges.**

**5.1 Delinquent Payments.**

If any sum payable by Tenant to Landlord under this Lease is not paid when due, Tenant shall also pay a late charge equal to one hundred dollars (\$100.00) or ten percent (10%) of the delinquent amount, whichever is greater. In addition, any amount due from Tenant to Landlord which is not paid when due shall bear interest at an annual rate of fifteen percent (15%). Any late charges and interest shall be deemed and constitute Additional Rent under the Lease and shall be paid by Tenant within five (5) calendar days from receipt of any statement or invoice from Landlord. Landlord reserves all other rights and remedies provided to Landlord at law and under this Lease.

**5.2 Handling Charges.**

In the event that any check, draft, or other instrument of payment given by Tenant to Landlord is dishonored or returned for any reason, Tenant shall pay to Landlord the sum of \$100 in addition to any Late Charge under the Lease and Landlord, at its option, may require all future Rent be paid by automatic direct deposit, cashier's check or certified funds. Payments will be applied first to accrued Late Charges and attorney's fees (if any), second to accrued interest, then to Base Rent and Operating Expenses, and any remaining amount to any other outstanding charges or costs. The acceptance of Late Charges and returned check charges by Landlord will not constitute a waiver of Default nor any other rights or remedies of Landlord.

**6. Security Deposit.** Upon execution of this Lease, Tenant shall pay to Landlord the amount of Security Deposit specified in the Basic Lease Information. If Tenant fails to comply with any provision of this Lease, Landlord may, but shall not be required to, use, apply or retain all or any part of the Security Deposit. If any portion of the Security Deposit is so used or applied, Tenant shall, within ten (10) days after demand therefor by Landlord, deposit with Landlord cash in an amount sufficient to restore the Security Deposit to the amount required to be maintained by Tenant. Within a reasonable period following expiration or the sooner termination of this Lease, provided that Tenant has performed all of its obligations hereunder, Landlord shall return to Tenant the remaining portion of the Security Deposit. The Security Deposit may be commingled by Landlord with Landlord's other funds, and no interest shall be paid thereon.

**7. Repairs and Maintenance.**

**7.1 Landlord's Obligations.**

**7.1.1** Landlord shall, subject to reimbursement by Tenant under Paragraph 4, maintain in good repair, reasonable wear and tear excepted, the structural soundness of the roof, foundations, and exterior walls of the Building together

with the common areas and other equipment used in common by tenants in the Project. The term "exterior walls" as used herein shall not include windows, glass or plate glass, doors, dock bumpers or dock plates, special store fronts or office entries. Any damage caused by or repairs necessitated by any negligence or act of Tenant, including, without limitation, any contractor, employee, agent, invitee or visitor of Tenant (each, a "Tenant Party") may be repaired by Landlord at Landlord's option and Tenant's expense. Tenant shall immediately give Landlord written notice of any defect or need of repairs in such components of the Building for which Landlord is responsible, after which Landlord shall have a reasonable opportunity and the right to enter the Premises at all reasonable times to repair same. Landlord's liability with respect to any defects, repairs, or maintenance for which Landlord is responsible under any of the provisions of this Lease shall be limited to the cost of such repairs or maintenance, and there shall be no abatement of rent and no liability of Landlord by reason of any injury to or interference with Tenant's business arising from the making of repairs, alterations or improvements in or to any portion of the Premises, the Building or the Project or to fixtures, appurtenances or equipment in the Building, except as provided in Paragraph 15. By taking possession of the Premises, Tenant accepts them "as is," as being in good order, condition and repair and the condition in which Landlord is obligated to deliver them.

7.1.2 At Tenant's expense, and included in "Common Area Maintenance", Landlord shall have responsibility for the performance of preventive maintenance, repair and replacement of the heating, ventilation and air conditioning (HVAC) systems serving the Premises. Alternatively, Landlord may, upon notice to Tenant, require Tenant to obtain a regularly scheduled preventative maintenance/service contract at Tenant's own expense and in such event both the maintenance contractor and the contract must be approved by Landlord. Any service contract obtained by Tenant must include all services suggested by the equipment manufacturer within the operation/maintenance manual and must become effective and a copy thereof delivered to Landlord no later than the date specified by Landlord.

## **7.2 Tenant's Obligations.**

7.2.1 Tenant shall contract for and pay directly when due for all gas, heat, air conditioning, light, power, telephone and data, sprinkler charges, cleaning, waste disposal in excess of that provided by Landlord, and other utilities and services (the "Services") used on or from the Premises, penalties, surcharges or the like pertaining thereto. If any such Services are not separately billed or metered to Tenant, Tenant shall pay an equitable share, as determined in good faith by Landlord, of all charges jointly billed or metered with other premises in the Project. Tenant shall also be responsible and pay for any personal property, sales, use or income taxes associated with Tenant's use or occupancy of the Premises, insurance required to be carried by Tenant under the Lease, and Tenant's repair and maintenance duties under the Lease.

7.2.2 Tenant shall at all times during the Term at Tenant's expense maintain all parts of the Premises and such portions of the Building as are within the exclusive control of Tenant in a good, clean and secure condition and promptly make all necessary repairs and replacements, as determined by Landlord, including but not limited to, all windows, glass, doors, walls, including demising walls, and wall finishes, floors and floor covering, heating, ventilating and air conditioning systems, ceiling insulation, truck doors, hardware, dock bumpers, dock plates and levelers, plumbing work and fixtures, downspouts, entries, skylights, smoke hatches, roof vents, electrical and lighting systems, and fire sprinklers, with materials and workmanship of the same character, kind and quality of the Project. Tenant shall at Tenant's expense also perform regular removal of trash and debris. Notwithstanding anything to the contrary contained herein, Tenant shall, promptly reimburse Landlord for the repair to any damage to the Premises or the Building or Project resulting from or caused by any negligence or act of Tenant or a Tenant Party. Nothing herein shall expressly or by implication render Tenant Landlord's agent or contractor to effect any repairs or maintenance required of Tenant under Paragraph 7.2, as to all of which Tenant shall be solely responsible.

7.2.3 Tenant shall be responsible for and shall pay prior to delinquency any taxes or governmental service fees, possessory interest taxes, fees or charges in lieu of any such taxes, capital levies, or other charges imposed upon, levied with respect to or assessed against its fixtures, furnishings, equipment, personal property or its Alterations, and on Tenant's interest pursuant to this Lease, or any increase in any of the foregoing. To the extent that any such taxes are not separately assessed or billed to Tenant, Tenant shall pay the amount thereof as invoiced to Tenant by Landlord.

## **8. Improvements, Alterations & Mechanic's Liens.**

### **8.1 Improvements; Alterations.**

8.1.1 Tenant shall not make, or allow to be made, any alterations, physical additions, improvements or partitions, including without limitation the attachment of any fixtures or equipment, in, about or to the Premises ("Alterations") without obtaining the prior written consent of Landlord, which consent shall not be unreasonably withheld with respect to proposed Alterations which: (1) comply with all applicable Regulations (defined below); (2) are, in Landlord's opinion, compatible with the Building or the Project and its mechanical, plumbing, electrical, heating/ventilation/air

conditioning systems, and will not cause the Building or Project or such systems to be required to be modified to comply with any Regulations (including, without limitation, the Americans With Disabilities Act); and (3) will not interfere with the use and occupancy of any other portion of the Building or Project by any other tenant or its invitees. Specifically, but without limiting the generality of the foregoing, Tenant must obtain Landlord's written consent for all plans and specifications for the proposed Alterations, construction means and methods, all appropriate permits and licenses, any contractor or subcontractor to be employed on the work of Alterations, and the time for performance of such work, and may impose rules and regulations for contractors and subcontractors performing such work. Tenant shall also supply to Landlord any documents and information requested by Landlord in connection with Landlord's consideration of a request for approval hereunder. Tenant shall cause all Alterations to be accomplished in a good and workmanlike manner, and to comply with all applicable Regulations. Tenant shall at Tenant's sole expense, perform any additional work required under applicable Regulations due to the Alterations hereunder. No review or consent by Landlord of or to any proposed Alteration or additional work shall constitute a waiver of Tenant's obligations under this Paragraph 8.1. Tenant shall reimburse Landlord for all costs which Landlord may incur in connection with granting approval to Tenant for any such Alterations, including any costs or expenses which Landlord may incur in electing to have outside architects and engineers review said plans and specifications. All such Alterations shall remain the property of Tenant until the expiration or earlier termination of this Lease, at which time they shall be and become the property of Landlord; provided, however, that Landlord may, at Landlord's option, require that Tenant, at Tenant's expense, remove any or all Alterations made by Tenant and restore the Premises by the expiration or earlier termination of this Lease, to their condition existing prior to the construction of any such Alterations. All such removals and restoration shall be accomplished in a first-class and good and workmanlike manner so as not to cause any damage to the Premises or Project whatsoever. If Tenant fails to remove such Alterations or Tenant's trade fixtures or furniture or other personal property, Landlord may keep and use them or remove any of them and cause them to be stored or disposed of in accordance with applicable law, at Tenant's sole expense.

8.1.2 Notwithstanding the foregoing, at Landlord's option (but without obligation), all or any portion of the Alterations shall be performed by Landlord for Tenant's account and Tenant shall pay Landlord's estimate of the cost thereof (including a reasonable charge for Landlord's overhead and profit) prior to commencement of the work. In addition, at Landlord's election and notwithstanding the foregoing, however, Tenant shall pay to Landlord the cost of removing any such Alterations and restoring the Premises to their original condition such cost to include a reasonable charge for Landlord's overhead and profit as provided above, and such amount may be deducted from the Security Deposit or any other sums or amounts held by Landlord under this Lease.

8.1.3 At least ten (10) business days before beginning construction of any Alteration, Tenant shall give Landlord written notice of the expected commencement date of that construction to permit Landlord to post and record a notice of non-responsibility. Upon substantial completion of construction, if the law so provides, Tenant shall cause a timely notice of completion to be recorded in the office of the recorder of the county in which the Building is located.

8.2 **Mechanic's Liens.** Tenant shall not cause, suffer or permit any mechanic's or materialman's lien or claim to be filed or asserted against the Premises or the Project for any work performed, materials furnished, or obligation incurred by or at the request of Tenant or any Tenant Party. In the event any lien is recorded against the Premises or the Project, Tenant shall immediately take all necessary steps to remove or bond around such lien.

## 9. **Use.**

9.1 **Permitted Use.** Tenant shall continuously occupy and use the Premises only for the Permitted Use stated in the Basic Lease Information (the "Permitted Use") and shall not create or permit any nuisance or unreasonable interference with or disturbance of any other tenants of Landlord. Tenant shall at its sole cost and expense strictly comply with all existing or future applicable governmental laws, rules, requirements and regulations, and covenants, easements and restrictions of record governing and relating to the use, occupancy or possession of the Premises, or to Tenant's use of the common areas together with all rules which may now or hereafter be adopted by Landlord affecting the Premises and/or the common areas (collectively "Regulations"). Should any Regulation now or hereafter be imposed on Tenant or Landlord by any governmental body relating to the use or occupancy of the Premises by Tenant or any Tenant Party, then Tenant agrees, at its sole cost and expense, to comply promptly with such Regulations.

9.2 **Hazardous Materials.** As used in this Lease, the term "Hazardous Material" means any flammable items, hazardous or toxic substances, including any substances defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials" or "toxic substances" now or subsequently regulated under any applicable federal, state or local laws or regulations, including without limitation petroleum-based products, paints, pesticides, asbestos, PCBs and similar compounds, and including any materials subsequently found to have adverse effects on the environment or the health and safety of persons. Tenant shall not cause or permit any Hazardous Material to be generated, produced, brought upon, used, stored, treated or disposed of in or about the Premises, the Building or the Project by Tenant or any Tenant Party without

the prior written consent of Landlord. Notwithstanding the foregoing, Tenant may, without Landlord's prior written consent but in compliance with all applicable laws and Regulations, use legal amount of materials customarily used by occupants of commercial office space, so long as such use does not expose the Premises, the Building or the Project to any risk of contamination or damage or expose Landlord to any liability therefore.

#### 10. Assignment and Subletting.

10.1 Transfers; Consent. Tenant shall not, without the prior written consent of Landlord, (a) assign, transfer, mortgage, hypothecate, or encumber this Lease or any estate or interest herein, whether directly, indirectly or by operation of law, (b) permit any other entity to become a Tenant hereunder by merger, consolidation, or other reorganization, (c) if Tenant is a corporation, partnership, limited liability company, limited liability partnership, trust, association or other business entity (other than a corporation whose stock is publicly traded), permit, directly or indirectly, the transfer of any ownership interest in Tenant so as to result in (i) a change in the current control of Tenant, (ii) a transfer of twenty-five percent (25%) or more in the aggregate in any twelve (12) month period in the beneficial ownership of such entity or (iii) a transfer of all or substantially all of the assets of Tenant, (d) sublet any portion of the Premises, or (e) grant any license, concession, or other right of occupancy of or with respect to any portion of the Premises, or (f) permit the use of the Premises by any party other than Tenant or a Tenant Party (each of the events listed in this Paragraph 9.1 being referred to herein as a "Transfer"). At least twenty (20) business days prior to the effective date of any proposed Transfer, Tenant shall provide Landlord with a written description of all terms and conditions of the proposed Transfer and all consideration therefor, copies of the proposed documentation, and such information as Landlord may request. Any Transfer made without Landlord's consent shall be void and shall constitute an Event of Default by Tenant. Tenant shall pay to Landlord \$500 as a review fee for each Transfer request, and reimburse Landlord for its reasonable attorneys' fees and all other costs incurred in connection with considering any request for consent to a proposed Transfer. Landlord's consent to a Transfer shall not release Tenant from its obligations under this Lease (or any guarantor of this Lease of its obligations with respect thereto). Landlord's consent to any Transfer shall not waive Landlord's rights as to any subsequent Transfers.

10.2 Cancellation and Recapture. Notwithstanding Paragraph 10.1, Landlord may (but shall not be obligated to), within ten (10) business days after receipt of Tenant's written request for Landlord's consent to an assignment or subletting, cancel this Lease as to the portion of the Premises proposed to be sublet or subject to an assignment of this Lease as of the date such proposed Transfer is proposed to be effective and, thereafter, Landlord may lease such portion of the Premises to the prospective transferee (or to any other person or entity or not at all) without liability to Tenant

#### 11. Insurance, Waivers, Subrogation and Indemnity.

11.1 Insurance. Tenant shall maintain throughout the Term insurance policies as required on Exhibit B attached hereto and shall otherwise comply with the obligations and requirements provided on Exhibit B. Landlord will secure and maintain insurance coverage in such limits as Landlord may deem reasonable in its sole judgment to afford Landlord adequate protection. Any proceeds of such insurance shall be the sole property of Landlord to use as Landlord determines. Landlord makes no representation that the insurance policies and coverage amounts specified to be carried by Tenant or Landlord under the terms of this Lease are adequate to protect Tenant. Tenant will not do or permit anything to be done within or about the Premises or the Project which will increase the existing rate of any insurance on any portion of the Project or cause the cancellation of any insurance policy covering any portion of the Project. Tenant will, at its sole cost and expense, comply with any requirements of any insurer of Landlord. Tenant will provide, at its own expense, all insurance as Tenant deems adequate to protect its interests.

11.2 Waiver of Subrogation. Without limiting the effect of any other waiver of or limitation on the liability of Landlord set forth herein, neither Landlord nor Tenant shall be liable to the other party or to any insurance company (by way of subrogation or otherwise) for any loss of or damage to tangible property due to casualty, regardless of negligence, to the extent such loss or damage would be insured under a policy of insurance required hereunder (or, if greater coverage is actually maintained, then to the extent of such greater coverage).

11.3 Indemnity. Subject to Paragraph 11.2, Tenant shall indemnify, defend by counsel reasonably acceptable to Landlord, protect and hold harmless Landlord and its affiliates, and each of their respective directors, shareholders, partners, lenders, members, managers, contractors, affiliates and employees (collectively, "Landlord Indemnitees") from and against all claims, losses, liabilities, causes of suit or action, judgments, damages, penalties, costs and expenses (including, without limitation, reasonable attorneys' fees, consultant's fees, and court costs) arising from or asserted in connection with the use or occupancy of the Premises, the Building or the Project by Tenant or any Tenant Party, or any negligence or misconduct or omissions of Tenant or of any Tenant Party in or about the Premises or the Project, or Tenant's breach of any of its covenants under this Lease, except in each case to the extent arising from the gross negligence or willful misconduct of Landlord or any

Landlord Indemnitee. Except to the extent expressly provided in this Lease, Tenant hereby waives all claims against and releases Landlord and each Landlord Indemnitee for any injury to or death of persons, damage to property or business loss in any manner related to (i) Tenant's use and occupancy of the Premises, the Building or the Project by or from any cause whatsoever (other than Landlord's gross negligence or willful misconduct), (ii) acts of God, (iii) acts of third parties, or (iv) any matter outside of the reasonable control of Landlord. This Paragraph 11.3 shall survive termination or expiration of this Lease.

12. **Subordination; Attornment.**

12.1 **Subordination.** This Lease is subject and subordinate to all present and future ground or master leases of the Project and to the lien of all mortgages or deeds of trust (collectively, "Security Instruments") now or hereafter encumbering the Project, if any, and to all renewals, extensions, modifications, consolidations and replacements thereof, and to all advances made or hereafter to be made upon the security of any such Security Instruments, unless the holders of any such mortgages or deeds of trust, or the lessors under such ground or master leases (such holders and lessors are sometimes collectively referred to herein as "Holders") require in writing that this Lease be superior thereto. Tenant shall, within fifteen (15) days of request to do so by Landlord, execute, acknowledge and deliver to Landlord such further instruments or assurances as Landlord may deem necessary or appropriate to evidence or confirm the subordination or superiority of this Lease to any such Security Instrument.

12.2 **Attornment.** Tenant covenants and agrees that in the event that any proceedings are brought for the foreclosure of any mortgage or deed of trust, or if any ground or master lease is terminated, it shall attorn, without any deductions or set-offs whatsoever, to the purchaser upon any such foreclosure sale, or to the lessor of such ground or master lease, as the case may be, if so requested to do so by such purchaser or lessor, and to recognize such purchaser or lessor as "Landlord" under this Lease. In the event that the holder of any such mortgage or deed of trust becomes the "Landlord" under this Lease, such holder shall not be liable for any act or omission of Landlord which occurred prior to such holder's acquisition of title.

13. **Rules and Regulations and Signage.** Tenant shall comply, and shall cause each Tenant Party to comply, with the Rules and Regulations of the Project which are attached hereto as **Exhibit E** and the Signage Criteria which are attached hereto as **Exhibit C**, and all such modifications, additions, deletions and amendments thereto as Landlord shall adopt in writing from time to time. In the event of a violation of any Rules and Regulations or Signage Criteria, Landlord may assess Tenant the sum of One Hundred Dollars and 00/100 (\$100.00) per day effective the third calendar day after Tenant's receipt of written notice from Landlord of any violation.

14. **Condemnation.** If the entire Project or Premises are taken by right of eminent domain or conveyed by Landlord in lieu thereof (a "Taking"), this Lease shall terminate as of the date of the Taking. If any material portion, but less than all of the Premises or the Building, become subject to a Taking and such Taking will render the Premises untenable for a period of more than one hundred eighty (180) days, then Tenant may terminate this Lease as of the date of such Taking by giving written notice to Landlord within thirty (30) days after the Taking, and all Rent paid or payable hereunder shall be apportioned between Landlord and Tenant as of the date of such Taking. If any material portion, but less than all, of the Project, Building or the Premises becomes subject to a Taking, or if Landlord is required to pay any of the proceeds received for a Taking to any Holder of any Security Instrument, then Landlord may terminate this Lease by delivering written notice thereof to Tenant within thirty (30) days after such Taking, and all Rent paid or payable hereunder shall be apportioned between Landlord and Tenant as of the date of such Taking. If this Lease is not so terminated, then Base Rent thereafter payable hereunder shall be abated for the duration of the Taking in proportion to that portion of the Premises rendered untenable by such Taking. If any Taking occurs, then Landlord shall receive the entire award or other compensation for the land on which the Project is situated, the Project, and other improvements taken, and Tenant may separately pursue a claim (to the extent it will not reduce Landlord's award).

15. **Fire or Other Casualty.**

15.1 **Repair Estimate; Right to Terminate.** If all or any portion of the Premises or the Project is damaged by fire or other casualty (a "Casualty"), Landlord shall, within ninety (90) days after Landlord's discovery of such damage, deliver to Tenant its good faith estimate (the "Damage Notice") of the time period following such notice needed to repair the damage caused by such Casualty. Landlord may elect to terminate this Lease in any case where (a) any portion of the Premises or any material portion of the Project are damaged and (b) either (i) Landlord estimates in good faith that the repair and restoration of such damage under Paragraph 15.2 ("Restoration") cannot reasonably be completed (without the payment of overtime) within two hundred (200) days of Landlord's actual discovery of such damage, (ii) the Holder of any Security Instrument requires the application of any insurance proceeds with respect to such Casualty to be applied to the outstanding balance of the obligation secured by such Security Instrument, (iii) the cost of such Restoration is not fully covered by

insurance proceeds available to Landlord and/or payments received by Landlord from tenants, or (iv) Tenant shall be entitled to an abatement of rent under this Paragraph 15 for any period of time in excess of thirty-three percent (33%) of the remainder of the Term.

**15.2 Repair Obligation; Abatement of Rent.** Subject to Paragraph 15.1, Landlord shall, within a reasonable time after the discovery by Landlord of any damage resulting from a Casualty, begin with reasonable diligence to restore the Premises to substantially the same condition as existed immediately before such Casualty, except for modifications required by Regulations, and modifications to the Project reasonably deemed desirable by Landlord; provided, however, that Landlord shall not be required as part of the Restoration to repair or replace any of the Alterations, furniture, equipment, fixtures, and other improvements which may have been placed by, or at the request of, Tenant or other occupants in the Premises. Landlord shall have no liability for any inconvenience or annoyance to Tenant or injury to Tenant's business as a result of any Casualty, regardless of the cause therefor. Base Rent shall abate only if and solely to the extent a Casualty damages the Premises and Tenant is unable to occupy and does not occupy the Premises for the Permitted Use.

**16. Parking.** Tenant shall have the right to the nonexclusive use of the parking facilities of the Project for the parking of motor vehicles used by Tenant and Tenant Parties only; such rights are not transferable without Landlord's approval. The use of such parking facilities shall be subject to any rules and regulations as may be adopted by Landlord from time to time.

**17. Events of Default.** Each of the following occurrences shall be an "Event of Default" and shall constitute a material default and breach of this Lease by Tenant: (a) any failure by Tenant to pay Rent or any other amount due and payable hereunder when due; (b) the abandonment or vacation of the Premises by Tenant regardless if whether Rent is paid or not; (c) any failure by Tenant to obtain and maintain insurance and/or deliver insurance certificates required under Paragraph 11; (d) any failure by Tenant to execute and deliver any estoppel certificate or other document described in Paragraphs 12 or 21 requested by Landlord, where such failure continues for five (5) days after delivery of written notice of such failure by Landlord to Tenant; (e) any failure by Tenant to fully perform any other obligation of Tenant under this Lease, including but not limited to any Rules or Regulations or Sign Criteria, where such failure continues for thirty (30) days after delivery of written notice of such failure by Landlord to Tenant; (f) the voluntary or involuntary filing of a petition by or against Tenant or any general partner of Tenant or any guarantor (i) in any bankruptcy or other insolvency proceeding, (ii) seeking any relief under any state or federal debtor relief law, or (iii) for the appointment of a liquidator or receiver for all or substantially all of Tenant's property or for Tenant's interest in this Lease; (g) the default, repudiation or revocation of any guarantor of Tenant's obligations hereunder. Any notice of any failure of Tenant required under this Paragraph 17 shall be in lieu of, and not in addition to, any notice required under applicable law.

**18. Remedies.** Upon the occurrence of any Event of Default by Tenant, Landlord shall have, in addition to any other remedies available at law or in equity, the option to pursue any one (1) or more of the following remedies, each and all of which shall be cumulative and nonexclusive, without any notice or demand whatsoever:

**18.1** Terminate this Lease, and Landlord may recover from Tenant all amounts permitted by law necessary to compensate Landlord for the detriment proximately caused by Tenant's failure to perform its obligations under this Lease (specifically including, without limitation, brokerage commissions and advertising expenses incurred, expenses of remodeling the Premises, the Building, or any portion thereof for a new tenant, whether for the same or a different use, and any special concessions made to obtain a new tenant);

**18.2** If Landlord does not elect to terminate this Lease on account of any Event of Default by Tenant, Landlord may, from time to time, without terminating this Lease, enforce all of its rights and remedies under this Lease, including the right to recover all Rent as it becomes due.

**18.3** Landlord shall at all times have the right to seek any declaratory, injunctive, or other equitable relief, and specifically enforce this Lease, or restrain or enjoin a violation or breach of any provision hereof.

**18.4** Following the occurrence of two instances of late payment of any sum due and owing under this Lease in any twelve (12) month period, Landlord may require that all future amounts payable under this Lease shall be payable by cashier's check or electronic funds transfer, and may require that Tenant increase the Security Deposit to an amount equal to two times the current month's Rent at the time of the most recent default.

**18.5** Cure Tenant's default at the expense of Tenant (A) immediately and without notice in the case (1) of emergency, (2) where such default unreasonably interferes with any other tenant in the Project, or (3) where such default will result in the violation of any Regulation or the cancellation of any insurance policy maintained by Landlord, and (B) in any other case if such default continues for ten (10) days after notice of such default from Landlord and all costs incurred by



Landlord in curing such default(s), including, without limitation, attorneys' fees, shall be reimbursable by Tenant as Rent hereunder upon demand, together with interest thereon, from the date such costs were incurred by Landlord, at the Default Rate.

19. **Surrender of Premises.** No agreement to accept a surrender of the Premises shall be valid unless it is in writing and signed by Landlord. At the expiration or earlier termination of this Lease, Tenant shall deliver to Landlord all keys to the Premises, and Tenant shall deliver to Landlord the Premises in the same condition as existed on the date Tenant took possession under any lease or with any landlord thereof, ordinary wear and tear excepted. In addition, prior to the expiration of the Term or any sooner termination thereof, (a) Tenant shall remove such Alterations as Landlord shall request (even if installed with Landlord's consent) and shall restore the portion of the Premises affected by such Alterations and such removal to its condition existing immediately prior to the making of such Alterations, (b) Tenant shall remove from the Premises all unattached trade fixtures, furniture, equipment and personal property located in the Premises, including, without limitation, phone equipment, wiring, cabling and all garbage, waste and debris, and (c) Tenant shall repair all damage to the Premises or the Project caused by any such removal including, without limitation, full restoration of all holes and gaps resulting from any such removal and repainting required thereby. All personal property and fixtures of Tenant not so removed shall, to the extent permitted under applicable Regulations, be deemed to have been abandoned by Tenant and may be appropriated, sold, stored, destroyed, or otherwise disposed of by Landlord without notice to Tenant and without any obligation to account for such items.

20. **Holding Over.** If Tenant holds over after the expiration or earlier termination of the Term hereof, Tenant shall be a month-to-month tenant and otherwise upon the terms, covenants and conditions herein specified and Tenant's Base Rent shall be at a rate equal to one hundred fifty percent (150%) of the monthly installment of Base Rent payable by Tenant immediately prior to such expiration or termination.

21. **Substitution or Demolition.**

21.1 **Substitution.** Upon at least sixty (60) days prior written notice, Landlord may relocate Tenant within the Project (or to any other facility owned by Landlord or an affiliate of Landlord within the vicinity of the Project) to substitute space. As used herein, "substitute space" means space containing square footage which is not more than 15 percent greater or lesser than the approximate square footage of the Premises set forth in the Basic Lease Information and which is comparable in utility and condition to the Premises. If Landlord exercises this right to relocate Tenant, Landlord shall reimburse Tenant for (a) Tenant's reasonable out-of-pocket expenses for moving Tenant's furniture, equipment and supplies from the Premises to the substitute space; (b) the cost of installing leasehold improvements in the substitute space comparable to those in the Premises; (c) reprinting Tenant's stationery of the same quality and quantity as Tenant's stationery supply on hand immediately before Landlord's exercise of this relocation right. In the event Tenant is relocated pursuant to this Paragraph 21, Tenant shall surrender the Premises to Landlord in accordance with all terms and conditions of this Lease prior to the termination of the 60-day period and shall promptly upon Landlord's request execute an amendment or new Lease which shall designate the substitute space as the "Premises" subject to this Lease and adjust the Base Rent and Additional Rent to reflect any increase or decrease in the floor area of the substitute space or, if Tenant is relocated outside the Project, to execute a new lease in substantially the same form as the existing Lease with the affiliate of Landlord.

21.2 **Demolition.** Landlord shall have the right to terminate this Lease in the event Landlord elects to demolish 75 percent or more of the total floor area in the building containing the Premises. In such event, Landlord shall give Tenant a notice of termination at least 180 days prior to the effective date of such termination and shall pay Tenant, on the termination date, the cost (less depreciation) of Tenant's fixtures (other than removable trade fixtures) and of leasehold improvements installed in the Premises at Tenant's expense. For the purposes of this provision, depreciation of Tenant's fixtures and leasehold improvements shall be calculated on a straight-line basis over the Term of this Lease (exclusive of any permitted extensions of the Term). Upon payment to Tenant of the amount specified in this paragraph and any prepaid Rent or security deposit, Landlord shall be relieved of all further liability to Tenant hereunder and the Lease shall terminate as of the effective date of such termination except for the rights and obligations accrued as of the date of such termination.

22. **Landlord Transfers and Liability.** Landlord may, without restriction, sell, assign or transfer in any manner all or any portion of the Project, any interest therein or any of Landlord's rights under this Lease and then Landlord shall automatically be released from any further obligations hereunder. The liability of Landlord to Tenant for any default by Landlord under the terms of this Lease or with respect to any obligation or liability related to the Premises or the Project shall be recoverable only from the interest of Landlord in the Project, and neither Landlord nor any affiliate thereof shall have any personal liability with respect thereto and in no case shall Landlord be liable to Tenant for any lost profits, damage to business, or any form of special, indirect or consequential damage on account of any breach of this Lease. In the event that the holder of a mortgage or deed of trust on the Premises becomes the "Landlord" under this Lease, such holder shall not be liable for any act or omission of Landlord which occurred prior to such holder's acquisition of title.

23. **Estoppel Certificates; Financial Statements.** At any time and from time to time during the Term, Tenant shall, without charge, execute, acknowledge and deliver to Landlord within ten (10) days after Landlord's request therefor, an estoppel certificate in recordable form containing such factual certifications and other provisions as are commonly found in the estoppel certificate forms requested by institutional lenders and purchasers.

24. **Notices.** All Notices, demands, consents, or other information desired or required to be given under this Lease shall be effective only if given in writing and sent by (a) certified United States mail, postage prepaid, return receipt requested, (b) nationally recognized express mail courier that provides written evidence of delivery, fees prepaid, (c) facsimile, (d) United States first-class mail, postage prepaid, or (e) personal delivery, and addressed to the Addresses For Notices as set forth in the Basic Lease Information, or at such other address as may be specified from time to time, in writing, or, if to Tenant, at the Premises. Any such notice, demand, consent, or other information shall be deemed given (i) if sent by certified mail, on the date of delivery shown on the receipt card, (ii) if sent by courier, on the date it is officially recorded by such courier, (iii) if delivered by facsimile, on the date the sender obtains written telephonic confirmation that the electronic transmission was received, (iv) if sent by United States first-class mail, three (3) business days from the date mailed, or (v) if delivered personally, upon delivery or, if refused by the intended recipient, upon attempted delivery.

25. **Payment by Tenant; Non-Waiver.** Landlord's acceptance of Rent following an Event of Default shall not waive Landlord's rights regarding such Event of Default. No waiver by Landlord of any violation or breach of any of the terms contained herein shall waive Landlord's rights regarding any future violation of such terms. Landlord's acceptance of any partial payment of Rent shall not waive Landlord's rights with regard to the remaining portion of the Rent that is due, regardless of any endorsement or other statement on any instrument delivered in payment of Rent or any writing delivered in connection therewith; accordingly, Landlord's acceptance of a partial payment of Rent shall not constitute an accord and satisfaction of the full amount of the Rent that is due.

26. **Certain Rights Reserved by Landlord.** Landlord hereby reserves and shall have the following rights with respect to the Premises and the Project: (a) to make inspections, repairs, or improvements, whether structural or otherwise, in and about the Premises or any part thereof; and (b) to enter the Premises at reasonable hours (or at any time in an emergency) to perform repairs, to take any action authorized hereunder, or to show the Premises to prospective purchasers or lenders, or, during the last six (6) months of the Term, prospective tenants.

27. **Miscellaneous.** If any clause or provision of this Lease is determined to be illegal, invalid, or unenforceable under present or future laws, then the remainder of this Lease shall not be affected thereby. This Lease may not be amended except by instrument in writing signed by Landlord and Tenant. No provision of this Lease shall be deemed to have been waived by Landlord unless such waiver is in writing signed by Landlord. The terms and conditions contained in this Lease shall inure to the benefit of and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise herein expressly provided. This Lease constitutes the entire agreement between Landlord and Tenant regarding the subject matter hereof and supersedes all oral statements and prior writings relating thereto. Tenant and the person or persons signing on behalf of Tenant represent and warrant that Tenant has full right, power, and authority to enter into this Lease, and that all persons signing this Lease on its behalf are authorized to do so. If Tenant is comprised of more than one party, each such party shall be jointly and severally liable for Tenant's obligations under this Lease. All exhibits and attachments attached hereto are incorporated herein by this reference. This Lease shall be governed by and construed in accordance with the laws of the jurisdiction where the Project is located. In any action which Landlord or Tenant brings to enforce its respective rights hereunder, the unsuccessful party shall pay all costs incurred by the prevailing party, including without limitation, reasonable attorneys' fees and court costs. Tenant shall not record this Lease or any memorandum hereof. **TO THE MAXIMUM EXTENT PERMITTED BY LAW, TENANT WAIVES ITS RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING OUT OF OR WITH RESPECT TO THIS LEASE.** This Lease may be executed in any number of counterparts, each of which shall be deemed an original. Time is of the essence as to the performance of each covenant hereunder in which time of performance is a factor.

28. **No Broker.** Landlord and Tenant each warrant that they have dealt with no real estate broker in connection with this transaction with the exception of the brokers, if any, named in Exhibit F. Landlord and Tenant each agree to hold each other harmless from and against any and all damages, costs and expenses resulting from any claim(s) for a brokerage commission or finder's fee that may be asserted against either of them by any broker or finder with whom the other has dealt.


29. **Confidentiality.** The Tenant and its employees, agents and brokers shall keep confidential all matters concerning the terms of this Lease Agreement and the negotiations which led to it and shall not disclose the fact or substance of the negotiations or the terms to anyone without the prior written consent of the Landlord. Notwithstanding the foregoing, the provisions and preceding negotiations may be revealed to the Tenant's accountants, attorneys and lenders so long as each such

recipient is advised of the necessity for them to also maintain the confidentiality of the information. If any third party demands entitlement to the benefit of similar terms or conditions on the basis that Tenant received such treatment, it will be deemed to be the result of a violation of this confidentiality requirement by Tenant and such violation shall constitute an event of Default under the Lease.

30. **Further provisions.** Any additional terms and conditions of the Lease, if any, are set forth in the attached Exhibit F.

Submission of this Lease to Tenant for examination and signature is not an option or offer to lease and does not create a reservation or option to lease. This Lease will not become effective or binding until execution and delivery by both Landlord and Tenant.

Landlord  
Trustees Under the Testamentary Trust  
of Helen Director, Deceased

By: 


Its: Authorized Representative

Tenant  
Chef Exec Suppliers, LLC  
a Nevada limited liability company

By: 

Print Name: STEPHEN ARNOULD

Title: MANAGING PARTNER



CLEMENT MUNEY

MANAGING PARTNER

# **EXHIBIT 5**

## Re: Buy-out/assets division

Robert Kern

Fri 12/6/2019 1:58 PM

-----Original Message-----

From: Dominique Arnould <[domiarnould@aol.com](mailto:domiarnould@aol.com)>

To: clement <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>; ggershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>

Sent: Wed, Jun 26, 2019 5:05 pm

Subject: Buy-out/assets division

Hello Gregory and Clement,

I strongly disagree with Clement's characterization of the facts.

However, there is no good purpose to be served by picking at each point with which I disagree. That will only lead to more arguments.

Instead, I would like to move forward with a plan to arrange for Clement to buy-out of my interest in the Company at a fair value or a division of the assets of the Company in some fair and equitable way such that each of us has roughly equivalent value of assets and we can then each use those assets to pursue on our own respective business goals. I can go my own way and Clement can then go his own way.

That's what I would like to do.

Gregory, can you help us achieve this goal?

Sincerely

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the [World.Com](http://World.Com)  
702-683-2433

# **EXHIBIT 6**

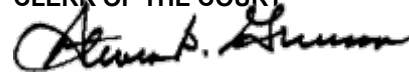
1:20 PM

12/04/19

Accrual Basis

**CHEF EXEC SUPPLIERS, LLC**  
**Profit & Loss Prev Year Comparison**  
**January 1 through December 4, 2019**

	Jan 1 - Dec 4, 19	Jan 1 - Dec 4, 18	\$ Change	% Change
Ordinary Income/Expense				
Income	1,088,025.66	985,138.84	102,886.82	10.4%
Cost of Goods Sold	422,067.21	455,053.29	-32,986.08	-7.3%
Gross Profit	665,958.45	530,085.55	135,872.90	25.6%
Expense	348,089.31	346,616.08	1,473.23	0.4%
Net Ordinary Income	317,869.14	183,469.47	134,399.67	73.3%
Other Income/Expense	3.31	0.00	3.31	100.0%
Net Income	<b>317,872.45</b>	<b>183,469.47</b>	<b>134,402.98</b>	<b>73.3%</b>



1 **AFF**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street

6 Las Vegas, NV 89101

7 (702) 518-4529 phone

8 (702) 825-5872 fax

9 Admin@KernLawOffices.com

10 Attorney for Defendants

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

Case Number: A-19-803488-B

14 Plaintiff/Counter-Defendant,

Dept. Number: 27

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC

17 SUPPLIERS, LLC; and DOES I through X,

18 inclusive, and ROE CORPORATIONS I

19 through X, inclusive,

20 Defendants/Counter-Claimants.)

**AFFIDAVIT IN SUPPORT OF  
DEFENDANTS' MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

21 STATE OF NEVADA }

22 ss.: }

23 County of Clark }

24 I, Clement Muney, being first duly deposed states as follows:

- 25 1. I am an adult over the age of 18 and am competent to testify to the contents of this
- 26 affidavit. I execute this affidavit in support of the foregoing motion. I have personal
- 27 knowledge of the matters set forth herein, and all statements below are made from
- 28 personal knowledge unless specifically indicated otherwise.
- 29 2. I am a 50% partner in the business known as Chef Exec LLC (hereinafter,
- 30 "Chefexec"), which is a company that I formed with Dominique Arnould
- 31 (hereinafter, "Arnould.") in 2007 for the purpose of selling goods to other
- 32 businesses.

**KERN LAW, LTD.**  
601 S. 6<sup>th</sup> Street, Las Vegas, NV 89101  
Phone: (702) 518-4529 Fax: (702) 825-5872  
Admin@KernLawOffices.com



- 1 3. Throughout the existence of Chefexec LLC, I have managed the Las Vegas side of  
2 the company, and Arnould has managed the Los Angeles side of the company.
- 3 4. Chefexec has been a consistently profitable company over the years of its existence.  
4 This year (2019) has thus far been its most profitable year yet.
- 5 5. Other than occasional low-level disagreements, there were no disputes between the  
6 partners of the company prior to Arnould announcing that he wished to retire, and  
7 have his portion of the company bought out. I offered to purchase his portion of the  
8 company, but he did not consider the terms of my offer acceptable. I also told him  
9 that I would not support splitting the company unless there was a non-compete  
10 involved. Arnould adamantly refused to have a non-compete as a condition of a split  
11 of the company.
- 12 6. In April 2018 Arnould renewed the lease for the warehouse for the Los Angeles side  
13 of the company. My name was signed as a guarantor; I do not remember authorizing  
14 Arnould to sign for me, though he disagrees.
- 15 7. In October 2019 the lease for the warehouse for the Las Vegas side of the company,  
16 which Chefexec had leased since 2014, was up for renewal. Like the Los Angeles  
17 lease, this one required both owners of Chefexec to sign the lease as personal  
18 guarantors. Because we had held the lease so long we had a very good deal on it, and  
19 I requested Arnould to sign the lease renewal. Arnould refused because he did not  
20 want to be a guarantor, and through his first attorney Greg Gershuni, and his Las  
21 Vegas counsel, Marquis Aurbach Coffing, instructed me that he would not sign, and  
22 that I should get a new lease through an entity in which I was the sole owner. As the  
23 purpose of the space was so that Las Vegas could store its product, I considered it  
24 directly implied that the entity I leased the space with, would then sublease the space  
25 to Chefexec.
- 26 8. Throughout the summer of 2019, Arnould and his counsel continuously demanded  
27 that Chefexec be split, and threatened to seek judicial dissolution if I did not consent.  
28 Up until October 2019, Arnould and his counsel had made no allegations of  
wrongdoing on my part, other than my refusal of their terms to divide the company.

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9. Per Arnould's instruction, I used CMJJ Gourmet, a company I was sole owner of, and with which Arnould had previously done business, to sign a new lease on the same warehouse space Chefexec had previously leased. I contacted a commercial real estate agent to determine the market rate for subleasing such a space, and I set the rate I would sub-lease to Chefexec slightly lower than the amount I was quoted.
10. When Arnould contacted me demanding that I stop using the warehouse space, I had already signed a personal guarantee on a long term lease of the space, based on Chefexec's need of the warehouse space, and Arnould's suggestion to do so. I informed him that this was something he had agreed to in writing, but he did not respond to that, and instead filed suit.
11. Although the dispute between myself and Arnould has caused some difficulties, it has not prevented the company from continuing to run, to serve its stated purpose, or from continuing to make a profit.
12. I have not improperly "taken money and diverted business opportunities and customers" from Chefexec. The business opportunity of the leased warehouse was specifically offered to Chefexec, and refused by Arnould. I have never heard from Arnould any allegations (outside the complaint) of having taken money or customers from Chefexec.

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

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 7<sup>th</sup> day of December, 2019

By: \_\_\_\_\_

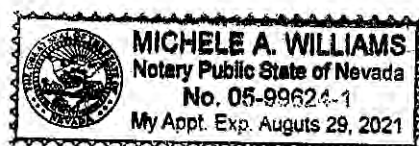
Clement Muney

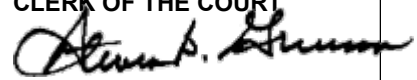
SUBSCRIBED AND SWORN to before me this 7 day of December, 2019.

Michele A. Williams

NOTARY PUBLIC in and for said County and State.

my commission expires on: 8/29/21





1 **Marquis Aurbach Coffing**  
 2 Phillip S. Aurbach, Esq.  
 3 Nevada Bar No. 1501  
 4 Telephone: (702) 382-0711  
 5 Facsimile: (702) 382-5816  
 6 paurbach@maclaw.com  
 7 *Attorneys for Plaintiff*

8 **DISTRICT COURT**  
 9 **CLARK COUNTY, NEVADA**

10 DOMINIQUE ARNOULD,

11 Plaintiff/ Counter-Defendant,

12 vs.

13 CLEMENT MUNEY; CHEF EXEC  
 14 SUPPLIERS, LLC; and DOES I through X,  
 15 inclusive; and ROE CORPORATIONS I through  
 16 X, inclusive,

17 Defendants/Counterclaimant.

Case No.: A-19-803488-B  
 Dept. No.: 27

Hearing Date: January 9, 2020  
 Hearing Time: 10:30 a.m.

18 **PLAINTIFF DOMINIQUE ARNOULD'S OPPOSITION TO DEFENDANTS MOTION**  
 19 **FOR PARTIAL SUMMARY JUDGMENT**

20 Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould") by and through his attorneys  
 21 Marquis Aurbach Coffing, hereby files his Opposition to Defendants Motion for Partial Summary  
 22 Judgment (the "Motion"). This Opposition is based upon papers and pleadings on file herein, the  
 23 attached Memorandum of Points and Authorities, and any oral argument permitted at the time of  
 24 the hearing on this matter.

25 Dated this 19th day of December, 2019.

26 MARQUIS AURBACH COFFING

27 By /s/ Phillip S. Aurbach  
 28 Phillip S. Aurbach, Esq.  
 Nevada Bar No. 1501  
*Attorneys for Plaintiff*

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

This case involves a two-person LLC with no operating agreement, and one manager refuses to dissolve the LLC. In many ways, the LLC is like an airplane with a brawl occurring in the cockpit. Arnould simply wants to land and unload the cargo before disaster ensues. Muney Clement (“Muney”) wishes to keep flying no matter the consequences. Fortunately, the Nevada Revised Statutes that govern limited liability companies have contemplated such a deadlock scenario, and provided that an LLC may be dissolved judicially. As such, this Court should deny Defendants’ Motion for Partial Summary Judgment because there are numerous factual disputes between the Managers that make it unreasonable and unpracticable for them to carry on business together.

**II. SUMMARY OF FACTS**

Muney and Arnould (collectively the “Managers”) are 50/50 owners and managers of Chef Exec Suppliers, LLC (“Chef Exec” or the “Company”).<sup>1</sup> It is undisputed that Chef Exec was validly formed but has no written operating agreement.<sup>2</sup> When the Company was formed, the Managers were sent a letter from the law firm of Gershuni & Goldstein that provided “an overview of certain aspects of operating an LLC.”<sup>3</sup> This letter explained that as managers of the LLC, Arnould and Muney owed fiduciary duties to each other and Chef Exec.<sup>4</sup>

<sup>1</sup> See Dec. of Dominique Arnould, at p. 1, ¶¶2-3, attached hereto as **Exhibit 1** (hereinafter cited as “**Arnould Dec.** at 1, ¶¶2-3”).

<sup>2</sup> *Id.* p 1, ¶3

<sup>3</sup> See Letter from Chef Exec Counsel Gershuni & Goldstein, attached hereto as **Exhibit 2**, at p. 4, ¶3 (hereinafter cited “**Gershuni Letter** p. 4, ¶3”).

<sup>4</sup> *Id.*

1 The Company engaged in business primarily in Las Vegas, Nevada and Los Angeles,  
2 California; and the Managers equally oversaw both Chef Exec locations.<sup>5</sup> The Managers agreed  
3 that they would distribute profits of Chef Exec equally (50/50), and agreed they would also each  
4 be paid a 10% commission on any sales generated for Chef.<sup>6</sup> Eventually, the trust between the  
5 Managers broken down.<sup>7</sup> This erosion of trust began after it appeared to Arnould that Muney was  
6 abandoning his loyalty to Arnould and the Company.<sup>8</sup>

8 Subsequently, disputes between the Managers have arisen that are so deep that it is not  
9 reasonably practicable to carry on the business of the Company.<sup>9</sup> These disagreements pertain to  
10 almost every conceivable area of the business, including the operational, inventory, financial,  
11 managerial, accounting, marketing, sales, and growth aspects of the Company.<sup>10</sup>

12 These disagreements culminated into a proposed dissolution by Arnould.<sup>11</sup> Arnould  
13 retained counsel to begin an amicable dissolution of Chef Exec.<sup>12</sup> In an effort to reach a settlement,  
14 Arnould's counsel sent Muney a letter that enumerated confidential settlement terms to an  
15

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20 <sup>5</sup> Arnould Dec., at 1, ¶4.

21 <sup>6</sup> *Id.* at 1, ¶¶5-6.

22 <sup>7</sup> *Id.* at 1, ¶7.

23 <sup>8</sup> *Id.*

24 <sup>9</sup> *Id.* at 2, ¶8.

25 <sup>10</sup> *See id.*

26 <sup>11</sup> *See* Dec. of Jordan B. Peel, at 1, ¶3, attached hereto as **Exhibit 3** (hereinafter cited "**Peel Dec.**").

27 <sup>12</sup> *Id.*

1 amicable dissolution.<sup>13</sup> The letter does not say and was in no way intended to serve as permission  
2 to take one of the proposed terms and act on it.<sup>14</sup>

3         Regardless, Munev refused the terms and refused dissolution.<sup>15</sup> In one email, Munev  
4 responded to the dissolution negotiations by stating “I can’t imagine any circumstances where  
5 we’d agree to a dissolution.”<sup>16</sup> As such, Arnould began the process of obtaining a judicial  
6 dissolution.<sup>17</sup>

7  
8         One of the central disputes between the Managers was regarding a lease for Chef Exec’s  
9 Las Vegas warehouse.<sup>18</sup> Originally, Chef Exec paid approximately \$3,800/month for Las Vegas  
10 warehouse space.<sup>19</sup> Chef Exec’s Las Vegas warehouse lease expired and the landlord wanted  
11 approximately \$5,857/month to renew the lease.<sup>20</sup> Without any joint agreement or communication,  
12 Munev decided to renew the Las Vegas warehouse under CMJJ Gourmet, Inc., an entity solely  
13 owned by Munev.<sup>21</sup> Similarly, without any joint agreement or communication, Munev then sub-  
14 leased the Las Vegas warehouse to Chef Exec at \$10,890/month rent.<sup>22</sup> This rent was paid from  
15 sales of Chef Exec inventory.<sup>23</sup>

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16  
17 <sup>13</sup> Peel dec. *page 1*, ¶3.

18 <sup>14</sup> *Id.* at 1, ¶¶3-5.

19 <sup>15</sup> *Id.* at 1, ¶¶6-8.

20 <sup>16</sup> **Arnould Dec.**, at 3, ¶14.

21 <sup>17</sup> **Peel Dec.**, at 1, ¶8.

22 <sup>18</sup> **Arnould Dec.**, at 3, ¶9.

23 <sup>19</sup> *Id.*

24 <sup>20</sup> *Id.*

25 <sup>21</sup> *Id.*

26 <sup>22</sup> *Id.* at 3, ¶10

27 <sup>23</sup> *Id.*

1 Arnould was never consulted on the amount of rent and was astonished when he found out  
2 that the rent was more than double what Chef Exec was paying previously.<sup>24</sup> Arnould never  
3 consented to the price or term of the Las Vegas lease or the sublease to Chef Exec.<sup>25</sup> Instead,  
4 Munev **secretly** charged Chef Exec \$5,033 more for rent and personally **pocketed the**  
5 **difference**.<sup>26</sup> In other words, Munev was paying himself and extra \$5,033/month for rent in  
6 compensation or distributions without the Managers consent.<sup>27</sup> To make matters worse, Munev  
7 refuses to allow Arnould access to the Las Vegas warehouse.<sup>28</sup>

9 Ultimately, Munev has refused to resolve the Managers' disagreement through an amicable  
10 dissolution of the business.<sup>29</sup> Arnould believes and the facts indicate that dissolution is the only  
11 viable option for Chef Exec, because the disputes and disagreements between the Managers are so  
12 deep that it is reasonably practicable to carry on the business of the Company.<sup>30</sup> It would be a futile  
13 effort to make a demand on Munev since Munev is not disinterested, Munev's judgment is  
14 materially affected in favor of his actions and against the best interests of Chef Exec and nothing  
15 can be accomplished when both disagree on the direction of the Company.<sup>31</sup>

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20 <sup>24</sup> Arnould Dec., at 3, ¶11.

21 <sup>25</sup> *Id.*

22 <sup>26</sup> *Id.* at 3, ¶12.

23 <sup>27</sup> *Id.*

24 <sup>28</sup> *Id.* at 3, ¶13.

25 <sup>29</sup> *Id.* at 3-4, ¶14.

26 <sup>30</sup> *Id.* at 4, ¶15.

27 <sup>31</sup> *Id.* at 4, ¶18.

### III. LEGAL ARGUMENT

#### A. SUMMARY JUDGMENT STANDARD

Summary judgment is only appropriate where there are no genuine issues of material fact and the moving party demonstrates that it is entitled to judgment as a matter of law. NRCP 56(c); *see also Wood v. Safeway, Inc.*, 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005). The pleadings and other evidence must be construed in a light most favorable to the nonmoving party. *Wood*, 121 Nev. at 732, 121 P.3d at 1031. If the nonmoving party presents facts and evidence demonstrating the existence of a genuine issue of material fact, then summary judgment should be denied. *See id.* Genuine issues of material fact exist where the evidence is sufficient for a reasonable jury to return a verdict for the non-moving party. *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, (2002).

#### B. DISPUTES BETWEEN THE MANAGERS MAKE IT UNREASONABLE AND UNPRACTICABLE TO CARRY ON THE COMPANY'S BUSINESS.

NRS 86.495 mandates dissolution when it is "not reasonably practicable to carry on the business of the company in conformity with the articles of organization or the operating agreement." It is undisputed that Chef Exec has no operating agreement, since NRS 86.101 requires operating agreements to be in writing.<sup>32</sup> As such, there is no structure or direction that can govern the Managers in operating the Company. The only governing document is the Articles of Organization which does not provide detailed guidance on how to actually manage an LLC.

Under NRS 86.495, the analysis of whether it is reasonably practicable to carry on the business is replete with facts, which is why summary judgment is inappropriate here. That said, common sense dictates that a deadlock, born of feuding managers with equal ownership, is a recipe for either institutional failure or oppression. Here, Muney seeks oppression.<sup>33</sup> Muney has saddled the Company with a \$10,890/month sub-lease wherein he would personally profit \$5,033/month.<sup>34</sup>

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<sup>32</sup> *See Arnould Dec.*, at 1, ¶3.

<sup>33</sup> *Id.* at 3, ¶¶12-13.

<sup>34</sup> *Id.*



1 Muney also refuses to provide Arnould access the Las Vegas warehouse and has refused to  
2 dissolve the Company.<sup>35</sup> Muney wants to call the shots and keep Arnould in the dark as evidenced  
3 by his clandestine Las Vegas warehouse lease.<sup>36</sup> With a fundamental disagreement by the  
4 Managers on how the Company should be run, failure of the LLC is the most probable outcome.  
5 As such, Arnould asks the Court to do the only practical and proper thing: dissolve Chef Exec and  
6 divide the assets equitably.

7 As the Defendants' partial summary judgment motion observes, there are no cases  
8 interpreting when it is "not reasonably practicable to carry on the business" under NRS 86.495.  
9 There is, however, a Delaware case interpreting the same "reasonably practicable" language under  
10 a similar LLC statute. *Haley v. Talcott*, 864 A2d 86 (Del. Ch. 2004). In *Haley*, the court granted a  
11 summary judgment dissolving a deadlocked LLC under Delaware's LLC statutes, on grounds that  
12 it was "not reasonably practicable for it to continue the business of the company" because there  
13 existed no provision for breaking a tie in voting interests and the LLC could not take critical  
14 actions, such as entering contracts or borrowing money, absent a majority vote of its members. *Id.*

15 Similarly here, Chef Exec has the exact deadlock because there are only two Managers and  
16 both have polarized opinions on how the Company should proceed.<sup>37</sup> In his declaration, Arnould  
17 lists over a dozen material items in which the Managers disagree.<sup>38</sup> The disagreements between the  
18 Managers pertain to almost every conceivable managerial area of a business, including the  
19 operational, inventory, financial, managerial, accounting, marketing, sales, and growth aspects of  
20 the Company.<sup>39</sup>

21  
22  
23  
24 <sup>35</sup> *Id.*

25 <sup>36</sup> *Id.*

26 <sup>37</sup> See **Arnould Dec.**, at 1-2, ¶8.

27 <sup>38</sup> *Id.*

28 <sup>39</sup> See *id.*

Further, the rationale in *Haley* illustrates the futility in continuing an LLC when the Managers are polarized. The LLC in *Haley* operated a restaurant known as the Redfin Grill. See *Haley*, 864 A2d 86. As in this case, the defendant, Talcott, opposed dissolution, claiming no real disagreement had arisen, and expressing the desire to continue the LLC's existence. The court said the following:

Talcott suggests that Haley has merely voluntarily removed himself from the management process and that no express disagreement has arisen. This court, however, may consider the totality of the circumstances in determining whether the parties disagree.

Moreover, there is no evidentiary support for Talcott's suggestion that the parties are not at an impasse. The parties have not interacted since their falling out in October, 2003. Clearly, Talcott understands that the end of Haley's managerial role from the Redfin Grill profoundly altered their relationship as co-members of the LLC. **After all, it has left Haley on the outside, looking in, with no power.** Of course, Talcott insists that the LLC can and does continue to function for its intended purpose and in conformity with the agreement, receiving payments from the Redfin Grill and writing checks to meet its obligations under the mortgage on Talcott's authority. But that reality does not mean that the LLC is operating in accordance with the LLC Agreement. **Although the LLC is technically functioning at this point, this operation is purely a residual, inertial status quo that just happens to exclusively benefit one of the 50% members, Talcott, as illustrated by the hands-tied continuation of the expired lease with the Redfin Grill.** With **strident disagreement** between the parties regarding the appropriate deployment of the asset of the LLC, **and open hostility** as evidenced by the related suit in this matter, **it is not credible that the LLC could, if necessary, take any important action that required a vote of the members.** Abundant, uncontradicted documents in the record demonstrate the inability of parties to function together.

*Haley*, 864 A2d at 95-96 (emphasis added).

Here, just like *Haley*, Arnould is "on the 'outside, looking in with no power.'" *Id.* Indeed, Arnould has literally been locked-out of his own Las Vegas warehouse by Muney.<sup>40</sup> Like the lease in *Haley*, although Chef Exec is "technically functioning at this point," Muney has tied the hands of Chef Exec by subleasing the Las Vegas warehouse back the Company for more than double the

<sup>40</sup> See *Arnould Dec.*, at 1-2, ¶8.

1 actual price.<sup>41</sup> *Id.* Arnould has described over a dozen “strident disagreement[s] between the  
2 parties” specifically with respect to the Las Vegas warehouse lease. *Id.*<sup>42</sup> And between the lock-  
3 out, eroded trust, Muney’s refusal to dissolve, and this litigation, it is clear that there is “open  
4 hostility” between the Managers. *Id.*<sup>43</sup> Finally, just like *Haley*, “it is not credible that the LLC  
5 could, if necessary, take any important action that required a vote of the members.” *Id.* With an  
6 even split between the Managers, a deadlock in determining how the Company is to proceed is  
7 inevitable. This stalemate forces Chef Exec to drift along like a ship with no one at the helm.

8 In sum, the very purpose of judicial dissolution under NRS 86.495 is to provide for  
9 dissolution in situations such as these, and as such, judicial dissolution of Chef Exec is the only  
10 viable option moving forward.

11 **C. MUNEY INCORRECTLY ASSERTS THAT HE OWES NO FIDUCIARY**  
12 **DUTIES.**

13 In their Motion, Defendants argue that Muney owed no fiduciary duties to Arnould.<sup>44</sup>  
14 Muney also argues that Arnould’s counsel somehow approved of Muney charging Chef Exec more  
15 than double the previous rent, and pocketing the difference.<sup>45</sup> Both of these claims are false.

16 The letter Defendants cite in their Motion was a settlement letter that proposed multiple  
17 terms and conditions to an amicable dissolution.<sup>46</sup> The irony of Defendants’ reliance on the  
18 settlement letter is that Muney *refused* to accept the terms of the proposed dissolution,<sup>47</sup> and then  
19 cherry-picked a single term from a rejected settlement letter and in his pleadings, argues to this  
20 Court that this somehow served as Arnould’s approval of Muney’s scheme.

21 \_\_\_\_\_  
22 <sup>41</sup> *Id.* at 3, ¶¶9-12.

23 <sup>42</sup> *Id.* at 1, ¶8.

24 <sup>43</sup> *See id.*

25 <sup>44</sup> *See* Def.’s Mot. for Partial Summ. J., at 3-9.

26 <sup>45</sup> *Id.* at 1, ¶2.

27 <sup>46</sup> *See Peel Dec.*, at 1, ¶¶3-8.

28 <sup>47</sup> *Id.*

1 The facts show that Arnould was unaware of Muney's scheme and never approved of him  
2 receiving extra income from the Company.<sup>48</sup> This blatant profiteering flies in the face of the duties  
3 and responsibilities set forth in Nevada Limited Liability Act. *See* NRS Chapter 84 *et seq.*

4 In Nevada, in the absence of an operating agreement, managing members of a limited  
5 liability company generally have authority to prescribe the management of the company. *See* NRS  
6 § 86.291. However, this does not vest in a manager the unfettered power to do whatever he or she  
7 pleases with respect to LLC assets. *See id.* Under Nevada's limited liability company statutes, a  
8 member or manager of an LLC can receive income from an LLC through fixed compensation  
9 (NRS 86.281(9)), distributions upon a dissolution (NRS 86.521), or profit distributions (NRS  
10 86.341).<sup>49</sup> Here, Chef Exec compensated its managers by fixing a commission on sales made by  
11 the managers, and by distributing profits equally between the Managers.<sup>50</sup> Never did Chef Exec  
12 nor Arnould agree to compensate Muney an addition \$5,088.00 for simply renewing a lease.<sup>51</sup> As  
13 such he violated the statutory fiduciary duties pertaining to member compensation in NRS Chapter  
14 84 *et seq.*

15 Similarly, Muney had a duty created by statute to hold the manager's contributions in trust.  
16 *See* NRS 86.391(2). Just as Defendants point out in their Motion, Muney's acts potentially  
17 "constitute a violation of a duty to make promised contributions to the LLC, or to hold in trust any  
18 property promised to the LLC."<sup>52</sup> Indeed, the Nevada limited liability company statutes provide  
19 that a member must hold as trustee any property that the member agreed to contribute to the  
20 company. § 86.391(2); *see also*, *JPMorgan Chase Bank, N.A. v. KB Home*, 632 F. Supp. 2d 1013,  
21 1025 (D. Nev. 2009). As such, a member "holds as trustee" the LLC property contributed by the  
22

---

23 <sup>48</sup> *Id.* at 3, ¶11.

24 <sup>49</sup> Note that a "transferee" can also receive income through a member transferring his or her share of the  
25 LLC profits to the transferee. *See* NRS 86.351.

26 <sup>50</sup> *See Arnould Dec.*, at 1, ¶¶5-6.

27 <sup>51</sup> *Id.* at 3, ¶¶9-11.

28 <sup>52</sup> *See* Def.'s Mot. for Partial Summ. J., at 4, ¶2.

1 members. *Id.* Here, Muney's clandestine lease afforded him an extra \$5,033.00 per month of  
2 additional compensation to be paid from the contributions made to Chef Exec.<sup>53</sup> Arnould never  
3 approved of Muney's use of Company contributions, nor did Arnould approve of Muney's  
4 decision to renew the Las Vegas lease and sublease it back to Chef Exec at more than double the  
5 price.<sup>54</sup>

6 Here, it is unclear whether Muney justified his sublease scheme as part of his commission  
7 for his sales, or as manager profit distributions. But regardless, the additional income was never  
8 disclosed or approved by Arnould.<sup>55</sup> If Muney believes the additional income is a **distribution**  
9 under NRS 86.341, then he has violated the same by disproportionately giving himself a  
10 \$5,088/month raise.<sup>56</sup> Under the Nevada Limited Liability Act, an LLC:

11 [M]ay, from time to time, divide the profits of its business and distribute them to  
12 its members, and any transferee as his or her interest may appear, upon the basis  
13 stipulated in the operating agreement. **If the operating agreement does not**  
14 **otherwise provide, profits and losses must be allocated proportionately to the**  
15 **value, as shown in the records of the company, of the contributions made by**  
16 **each member and not returned.**

17 *Id.* (emphasis added).

18 Here, Muney's motivations were for hijacking the \$5,088 from Chef Exec are irrelevant.  
19 His actions constitute either an unapproved compensation from the LLC (NRS 86.281(9)), a  
20 disproportionate distribution (NRS 86.341), a misappropriation of Company contributions (NRS  
21 86.391(2)), or all of the above. For the purposes of summary judgment, suffice it to say that the  
22 facts show Muney paid himself Chef Exec profits without approval from Arnould and thereby  
23 breached his fiduciary duties created by NRS Chapter 84 *et seq.*<sup>57</sup>

24 <sup>53</sup> See **Arnould Dec.**, at 3, ¶¶9-12.

25 <sup>54</sup> *Id.*

26 <sup>55</sup> *Id.*

27 <sup>56</sup> *Id.* The amount that he "pocketed" from the sublease arrangement is \$5,088.00. The lease is paid on a  
28 monthly basis by Chef Exec.

<sup>57</sup> *Id.*

1 Notably, Munev was well-aware of the fiduciary duties he owed to Arnould. Both  
2 Managers were sent a letter from the law firm of Gershuni & Goldstein that provided “an overview  
3 of certain aspects of operating an LLC.”<sup>58</sup> The letter states:

4 **Fiduciary Duties. Every LLC manager has fiduciary duties that are the same**  
5 **as those of a general partner in a partnership.** Members who are not managers  
6 are not subject to these duties, which include the **duty of loyalty, the duty of care**  
7 **in performing managerial responsibilities, and the duty of good faith in dealing**  
8 **with fellow members and the LLC.** Please contact us if you wish to discuss the  
9 responsibilities imposed by these fiduciary duties.<sup>59</sup>

10 Thus, the duties Munev owed as a manager of the Company were clearly presented to  
11 him.<sup>60</sup> Nevertheless, Munev intentionally ignored his managerial duties altogether and chose to  
12 line his pockets with proceeds from the Company’s Las Vegas warehouse lease.<sup>61</sup> In sum, Munev  
13 understood and intentionally breached his fiduciary duties under NRS Chapter 84 *et seq.*<sup>62</sup>

#### 14 **IV. CONCLUSION**

15 This Court should deny Defendants’ Motion for Partial Summary Judgment because there  
16 are factual disputes between the Managers that make it unreasonable and unpracticable for them  
17 to carry on business together. Further, This Court should deny Defendant’s Motion because Munev  
18 has blatantly breached his fiduciary duties by profiting from the proceeds of the Company.

19 Dated this 19th day of December, 2019.

20 MARQUIS AURBACH COFFING

21 By /s/ Phillip S. Aurbach  
22 Phillip S. Aurbach, Esq.  
23 Nevada Bar No. 1501  
24 *Attorneys for Plaintiff*

25 <sup>58</sup> See **Gershuni Letter**, at 4, ¶3.

26 <sup>59</sup> *Id.* (emphasis added).

27 <sup>60</sup> See **Gershuni Letter**, at 4, ¶3.

28 <sup>61</sup> See **Arnould Dec.**, at 3, ¶¶9-12.


<sup>62</sup> *Id.*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PLAINTIFF DOMINIQUE ARNOULD'S  
OPPOSITION TO DEFENDANTS MOTION FOR PARTIAL SUMMARY JUDGMENT**  
was submitted electronically for filing and/or service with the Eighth Judicial District Court on the  
19<sup>th</sup> day of December, 2019. Electronic service of the foregoing document shall be made in  
accordance with the E-Service List as follows:<sup>63</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

  
an employee of Marquis Aurbach Coffing

<sup>63</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1



**DECLARATION IN SUPPORT OF OPPOSITION TO DEFENDANTS MOTION FOR  
PARTIAL SUMMARY JUDGMENT**

I, Dominique Arnould, declare that I am over the age of 18 years, I have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I further state that I am competent to testify as to the facts stated herein and that this declaration is submitted on behalf of my Opposition to Defendant's Motion for Summary Judgment.

1. Muney Clement ("Muney") and I are 50/50 owners of Chef Exec Suppliers, LLC ("Chef Exec" or the "Company").

2. Muney and I are both managers of Chef Exec.

3. Chef Exec has no written operating agreement.

4. Chef Exec engaged in business primarily in Las Vegas, Nevada and Los Angeles, California. However, Arnould and Muney equally managed both Chef Exec locations.

5. Muney and I agreed that we would distribute profits of Chef Exec equally (50/50). To the best of my knowledge, Muney has always been paid his 50% share of the Chef Exec profits.

6. Muney and I also agreed that we would each be compensated by Chef Exec for our sales. We specifically agreed that each manager would receive a 10% commission on our respective sales generated for Chef Exec. Since the beginning of Chef Exec, I have realized approximately 58% of the sales of the company with my customers while Muney realized only approximately 27%. To the best of my knowledge, Muney has always been paid his 10% commission for the sales he generated.

7. The trust between myself and Muney has completely broken down. This erosion of trust began after it appeared to me that Muney was abandoning his loyalty to me and the Company in favor of helping set up his son in the business.

8. Disputes between myself and Muney have arisen and are so deep that it is not reasonably practicable to carry on the business of the Company. In the course of managing Chef

1 Exec, Muney and I disagreed as to how Chef Exec would carry out business. Among others,  
2 these disagreements include:

3 a. How much time, money, and expense to be devoted to the company  
4 website and how much time, money, and expense should be devoted to the Company's trade  
5 show exhibits and other marketing efforts;

6 b. How the business should be managed and its day to day operations and  
7 how involved the managers should be in the day to day business operations, such as when the  
8 managers should come to work, and how often the managers should work;

9 c. How the managers should be compensated for administrative tasks,  
10 operational duties, marketing efforts, and other tasks not related to direct sales efforts;

11 d. How the managers would divide time and resources with other businesses  
12 they may be involved in and whether those other businesses presented a conflict with the  
13 Company's business opportunities;

14 e. How much inventory the Company should carry at any given time, and  
15 whether the Company should carry 12-13 months of inventory instead carry smaller inventory  
16 reserves and benefit from increased cash flow;

17 f. How Muney would be compensated given his poor sales performance;

18 g. Whether certain clients should be considered Muneys' clients for  
19 commission purposes;

20 h. How Muney expenses entertainment and food expenses for his friends,  
21 and whether those expenses are appropriate to be charged to Company and paid by the  
22 Company;

23 i. Whether the business in California is viable and whether it should be  
24 continued;

25 j. Whether more money should be invested into the business or should be  
26 dispersed to the managers;

27 k. Whether the business should dissolve or continue; and

28 l. What a fair distribution of Chef Exec's assets would be upon dissolution.

1           9.       One of the central disputes between Muney and I arose out of a lease for a Las  
2 Vegas warehouse for Chef Exec. Originally, Chef Exec paid approximately \$3,800/month for  
3 Las Vegas warehouse space. Chef Exec's Las Vegas warehouse lease expired and the landlord  
4 wanted approximately \$5,857/month to renew the lease. Without any joint agreement or  
5 communication, Muney decided to renew the Las Vegas warehouse under CMJJ Gourmet, Inc.,<sup>1</sup>  
6 an entity believed to be solely owned by Muney.

7           10.       Without any joint agreement or communication, Muney subsequently sub-leased  
8 the Las Vegas warehouse to Chef Exec at \$10,890/month rent. This rent was paid from sales of  
9 Chef Exec inventory.

10          11.       I was never consulted on the amount of rent and was astonished when I found out  
11 that the rent was more than double what we were paying previously. I never consented to the  
12 price or term of the Las Vegas lease or the sublease to Chef Exec.

13          12.       Muney should have made a joint decision, but instead, secretly charged the  
14 Company an additional \$5,033 for rent and personally pocketed the difference. In other words,  
15 Muney was paying himself and extra \$5,033/month for rent without my consent. This is a breach  
16 of his fiduciary duty owed to me and thus, Muney should be personally responsible for  
17 \$5,033/month difference and/or stop charging Chef Exec the extra \$5,033/month for rent.

18          13.       Furthermore, Muney refuses to allow me access to the Las Vegas warehouse or  
19 treat me like an owner of the Company. Via email, Muney wrote me stating: "we **have changed**  
20 **the locks** on the warehouse; Dominique will still be able to access inventory there, he will just  
21 have to do so through the Las Vegas warehouse manager." In other words, Muney insisted I  
22 work through my own employee to have access to the Las Vegas warehouse that my Company is  
23 paying rent on.

24          14.       All of these disagreements culminated into me expressing to Muney that I would  
25 like to dissolve the Company or have him buy me out of my share. However, it has been  
26 impossible to get Muney to discuss how to resolve a dissolution of the business. In another

27 \_\_\_\_\_  
28 <sup>1</sup> See **Exhibit 2** attached to Plaintiff Dominique Arnould's Motion for Appointment of Trustee

1 email, Muney's response to dissolution was "I can't imagine any circumstances where we'd  
2 agree to a dissolution."

3 15. I believe dissolution is the only viable option for Chef Exec, because the disputes  
4 and disagreements between Muney and I are so deep that it is not reasonably practicable to carry  
5 on the business of the Company.

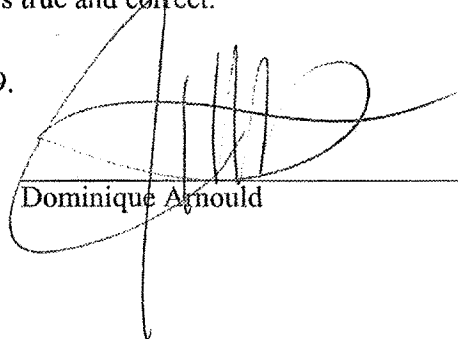
6 16. A manager may ask a court to dissolve an LLC when, pursuant to NRS 86.495, it  
7 is not reasonably practicable to carry on the business of the company.

8 17. I am a manager of Chef Exec.

9 18. It would be a futile effort to make a demand on Muney since Muney is not  
10 disinterested, Muney's judgment is materially affected in favor of his actions and against the best  
11 interests of Chef Exec and nothing can be accomplished when both disagree on the direction of  
12 the company.

13 Pursuant to NRS § 53.045 and 28 U.S.C. §1746, I declare under penalty of perjury under  
14 the laws of the State of Nevada that the foregoing is true and correct.

15 Executed on this 19 day of December, 2019.

16  
17   
18 Dominique Arnould  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## Exhibit 2

**GERSHUNI & GOLDSTEIN LLP**

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Reply to: Los Angeles

Friday, September 14, 2007

Dominique Arnould  
P.O. Box 1800  
Studio City, California 91604

Clement Muney  
1960 Eagle Street  
Henderson, Nevada 89074

Reference: Formation of CHEF EXEC SUPPLIERS, LLC

Dear Dominique and Clement:

The legal requirements concerning the initial formation of Chef Exec Suppliers, LLC, a Nevada Limited Liability Company ("the LLC"), have been satisfied, and our services with regard to its formation are concluded. The purpose of this memorandum is to discuss some of the legal requirements that will apply to the LLC's operation. This memorandum does not address the specific operational requirements in your operating agreement; it is intended only to provide an overview of certain aspects of operating an LLC. If you wish further information on any matter discussed in this memorandum or any other matters regarding the operation of an LLC, please contact us.

1. Operational Formalities.

The members and managers, if any, of your LLC must carefully observe any operational formalities specified in the operating agreement or articles of organization, such as meetings and voting requirements to take various actions. Observing those formalities will reduce the risk that a governmental authority such as the IRS, or a creditor, can claim that your LLC is a mere sham created to provide tax benefits and improperly protect its members from personal liability. One indication that you are conducting your business in an appropriate manner will be the maintenance of proper books and records for the LLC, with properly executed minutes or written consents for actions taken with or without a meeting. The minutes should reflect that the LLC has complied with all necessary requirements for obtaining the approval of a course of action by the LLC's members or managers.

In addition to complying with specific operational formalities:

\* The LLC should be adequately capitalized to carry on the business activities in which it is engaged or proposes to engage, including anticipated liabilities of operation. Appropriate books and records should be maintained that show the adequacy of capitalization. The LLC should also obtain insurance for unanticipated liabilities.

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Dominique Arnould and Clement Muney

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\* The LLC's financial affairs should be kept separate from those of its members and managers because it is a separate legal entity. Its funds should not be commingled with those of any third party or of its members or managers. In addition, separate records for the LLC should be maintained, distinct from those of any other entity, member, or manager. It is important for the LLC to establish a bank account in its own name. Typically, a bank will allow a depository account to be opened when it is presented with a copy of the articles of organization. Banks also usually require a taxpayer identification number for opening an account.

\* The LLC should be sure to conduct all business in its own name and not in the individual name of any manager or member. All transactions between the LLC and its owners should be fully disclosed to all members and should be fair to the LLC. To ensure that there is no confusion on the part of outsiders dealing with the LLC, the following steps should be taken:

(a) All letterhead, bills, invoices, and other business forms used by the LLC should show its full legal name and its current address and telephone number;

(b) The LLC's telephone numbers should be listed under its name in all directories;

(c) The LLC's full legal or fictitious business name should appear on all LLC signs or advertisements, including any signs at its principal place of business. Employee business cards should show the LLC's name as well as their own; and

(d) All contracts should be entered into in the name of the LLC and executed with signature blocks that clearly identify the signing party as an agent of the LLC.

\* The LLC should avoid improper distributions, as discussed in paragraph 7 below, and should properly withhold and pay over to the proper taxing authorities all tax payments required by applicable tax laws.

\* The LLC should be properly qualified to do business in each state requiring registration. The LLC may wish to avoid conducting business in a state that does not yet have LLC legislation and does not recognize foreign LLCs.

Dominique Arnould and Clement Muney  
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2. Articles of Organization.

The law states that an LLC begins when it files its articles of organization and enters into an agreement for its operation. A copy of the articles of organization of Chef Exec Suppliers, LLC has been provided to you. The articles of organization may be amended at any time.

3. Operating Agreement.

All members must be parties to the operating agreement. It is the primary document that defines the characteristics of the LLC (which will be used in determining its tax treatment), the relationship of its members, and the duties of its members and managers. Although an operating agreement may be either oral or written, it is far preferable to put it into writing to reduce the risk of a dispute over the rights of members, the limitations on managers, and the rules of operation. Various rights and obligations under law may be enforced only if they are mentioned in a written instrument. Accordingly, we have supplied you with a proposed Operating Agreement for your review, approval, and signature.

The operating agreement may be amended by the vote of the members as provided in the operating agreement.

4. Management of the LLC.

An LLC may be managed either by managers or, if the articles of organization do not provide for managers, by the members as a group. The articles of organization must specify whether the LLC is managed by its members or by one or more managers. If the LLC does not provide for managers, all members will be considered managers. The operating agreement will provide for the manner in which managers' decisions must be made. If the operating agreement is silent on this subject, managers' decisions are made by majority vote at a meeting or by unanimous written consent. No manager or officer is personally liable for LLC debts, obligations, or liabilities solely because of his or her status as manager or member of the LLC.

If the operating agreement provides for the appointment of an officer or officers, you should carefully review the agreement to determine their duties. If the agreement does not provide for officers, the managers, at their discretion, may appoint and remove officers. The officers carry out the day-to-day functions of the LLC under directions and policies established by the managers.



Dominique Arnould and Clement Muney

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All members must have certain voting rights, which to varying degrees may be modified by the operating agreement. You should carefully review the operating agreement to become familiar with voting rights and requirements. These rights include the members' right to approve a decision to continue the LLC after its dissolution, to transfer membership interests or admit an assignee of an interest as a member, or to amend the articles or the agreement.

Unless the operating agreement provides otherwise, the LLC must give members advance written notice of any meeting at which members must vote, and the notice must specify the matters to be voted on. If an action is taken by written consent, the LLC may have to give notice to all members before it completes the action. The LLC Act does not require that the members hold formal meetings to vote and take action. Please contact us if you have any questions regarding the voting and notice requirements.

#### 5. Fiduciary Duties.

Every LLC manager has fiduciary duties that are the same as those of a general partner in a partnership. Members who are not managers are not subject to these duties, which include the duty of loyalty, the duty of care in performing managerial responsibilities, and the duty of good faith in dealing with fellow members and the LLC. Please contact us if you wish to discuss the responsibilities imposed by these fiduciary duties.

#### 6. Obligation To Contribute Capital.

The articles or operating agreement will provide for initial capital contributions by the members and may provide for additional contributions. Contributions may be in money, property, services, or a note to contribute the same. Additional capital contributions will not be required of members unless the articles or agreement so provide. A member's obligation to make a contribution may be compromised only by the members' unanimous vote, unless the articles or agreement provide otherwise.

Your operating agreement may provide for certain remedies if a member fails to make a required contribution. The remedies specified are enforceable unless they are shown to have been unreasonable under the circumstances existing at the time the agreement was made.

Dominique Arnould and Clement Munez

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Creditors of an LLC have a limited right to enforce a member's obligation to contribute additional capital. A conditional obligation to contribute is not enforceable unless the condition has been satisfied or waived.

7. Limitations on Distributions.

You should be aware that your LLC may not distribute cash to its members if, after making the distribution (a) the LLC would be unable to pay its debts as they become due in the usual course of business or (b) the LLC's total assets would be less than its total liabilities (plus the amount that would be needed if the LLC were dissolved, to pay other members whose rights on dissolution are superior to the rights of the member receiving the distribution). Managers or members may be held personally liable for improper distributions.

8. Securities Regulation.

Membership interests in the LLC are securities unless all members are actively engaged in the management of the LLC. In addition, an LLC may be a security under federal law.

The securities laws regulate the offering, issuance, and sale of securities (such as stock in a corporation). These laws may also apply to any LLC reorganization that changes the rights, preferences, or privileges available to a class of membership interests. Any issuance or offers to sell or the sale of a membership interest in the LLC must be done in accordance with Nevada and federal securities laws.

The initial membership interests in your LLC were issued under an exemption that is available under the securities laws. Before any future issuances, offers, or sales are made, you must contact us to ensure that you are complying with these laws.

9. Books and Records.

A Nevada LLC must maintain an office in Nevada in which the records described below are kept. This requirement may not be varied by the operating agreement or articles of organization. The following information must be maintained at that office:

\* A current alphabetical list of each member, manager, and holder of an economic interest, including the full name and address of each. The list must set forth the

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contributions and share in profits and losses of each member and holder of an economic interest.

\* A copy of the articles of organization and operating agreement and all amendments to either, plus any powers of attorney under which the articles, agreement, or amendments were executed.

\* Copies of federal, state, and local income tax or information returns and reports and financial statements for the LLC's last six taxable years.

\* All books and records of the LLC that relate to its internal affairs for the current and preceding four fiscal years.

An LLC that does not maintain the above records is subject to a penalties.

If certificates of interest are to be issued to members, a membership interest register should be kept to record the certificate numbers and the cancelled or reissued shares.

#### 10. Voting Rights.

Members have the voting rights granted to them by the LLC's articles of organization or operating agreement. If neither document provides for voting rights, the Act's voting provisions will apply. Voting may be on a per capita, financial interest, class, group, or any other basis. Members vote in proportion to their interests in current profits or, for a member who has assigned his or her entire "economic interest" in the LLC but remains a member, in proportion to the interest in current profits he or she had immediately before the assignment.

Unless otherwise provided in the articles or operating agreement, the following matters require a unanimous vote of all the members: (a) a decision to continue the business of the LLC after a nonjudicial dissolution; (b) approval of the transfer of a membership interest and admission of an assignee as a member of the LLC; and (c) amendment of the articles of organization or operating agreement.

Members may vary these voting requirements, but in no event may the following actions be accomplished by a vote of less than a majority in interest of the members: (a) an amendment to the articles of organization; (b) dissolution of the LLC; or (c) a merger of the LLC.

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Members are free to agree in the operating agreement on all procedures by which managers make decisions, including whether meetings are required; the holding of meetings; the authority of any manager or officer to call a meeting; the time required for the notice of the meeting; the method of delivery of the notice; whether the notice must specify the purpose of the meeting; the ability of managers to waive notice and consent to holding the meeting; quorum requirements; the number of managers required to adjourn a meeting; whether notice of adjournment must be given to managers who are not present at the time of adjournment; the location of the meeting; the ability of managers to participate in a meeting by using conference telephone equipment; and the ability of managers to appoint committees and the actions those committees may take.

11. Reports, Information, and Inspection Rights.

Each member or holder of an economic interest (i.e., someone who has paid for an interest in the LLC but is not a full-fledged member with voting rights) can require a manager to promptly deliver a copy of any written operating agreement of the LLC and copies of (a) a current list of the members' names and addresses, together with their share of the LLC's profits and losses; (b) the full name and business or residence address of each manager; and (c) copies of the LLC's federal, state, and local income tax or information returns and reports. This right is limited to purposes reasonably related to the member's or interest holder's ownership interest. The LLC must pay for copying expenses.

An LLC is also required to send to each member or holder of an economic interest, within 90 days after the end of each taxable year, the information necessary to complete each member's or holder's federal income tax return.

Each member, manager, and holder of an economic interest has the right, on reasonable request, to inspect and copy during normal business hours any of the records required to be maintained at the principal office of the LLC and to obtain from the manager a copy of the LLC's federal, state, and local income or information returns for each year. Any such request must be for a purpose reasonably related to the interest of that person as a member, manager, or holder of an economic interest.

If the LLC has more than 35 members, its manager(s) must send each member an annual report within 120 days after the close of the fiscal year. The annual report must contain a balance sheet as of the end of the fiscal year and an income statement and statement of changes in financial position for the fiscal year.

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12. Employer Identification Number.

An application for a federal Employer Identification Number (EIN) was filed on your behalf and an EIN was issued for the LLC. This EIN was provided to you in a separate writing.

13. Annual Information Statement.

Newly formed LLCs must file an annual informational statement with the state. The required form must contain (a) the name of the LLC, the Secretary of State's file number and, if the LLC is a foreign LLC, the state in which it is organized; (b) the name and address of the LLC's agent for service of process; (c) the street address of its principal executive office and the office at which records are being maintained, if it is a domestic LLC; (d) the name and address of any managers and the chief executive officer, if any, or if no manager has been elected or appointed, the name and address of each member; and (e) the general type of business comprising the LLC's principal business activities.

14. Licenses.

Various licenses are required to operate the business of the LLC, which may include federal licenses, such as licenses for export activities, and state and local licenses, including business licenses. If you are not sure which licenses you might need, please contact us to discuss those that are required for your particular business.

15. Fictitious Business Names.

If the LLC plans to transact business under a name other than that listed on its articles of organization, it must file a fictitious business name statement with the clerk of the county in which it has its principal place of business. It must also file a statement in the other counties where it will transact business. Once a statement is on file with the county clerk, it must be published in a newspaper of general circulation and an affidavit of publication must be filed with the county clerk's office. Fictitious business name forms may be obtained from the county clerk's office of the county in which you intend to file or from the newspaper that will publish the statement. We will be happy to assist you in filing any necessary fictitious business name statements.

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16. Payroll and Withholding Taxes.

Various procedures apply to withholding taxes for employees. It is essential that you become familiar with these practices and comply with their requirements. The federal procedures are detailed in IRS publication circular E, "Employer Tax Guide" along with its current supplement. We urge you to also become familiar with the requirements in this regard which are applicable in the State of Nevada.

Willful failure to collect, account for, and pay withholding taxes subjects the employer and the individuals responsible for paying the taxes to a 100-percent monetary penalty and personal liability.

17. Insurance.

Generally, it is advisable to obtain insurance for the LLC's operations. You should promptly review the LLC's potential insurance requirements with its insurance agents.

18. Trademarks, Trade Names, and Trade Secrets.

If the LLC has developed a unique name or symbol that has or will become associated with its services or products, the LLC may wish to register the name or symbol as a trademark or trade name. Registration with the U.S. Patent and Trademark Office will help protect the trademark or trade name against infringement or loss. Product designs, or processes involved in making the LLC's products, may require patent protection. Customer lists and other trade secrets may need to be protected by requiring employees to sign trade secret and confidentiality agreements. Please seriously consider these issues, because you may lose important ownership rights if you fail to take proper precautions.

19. Business in Other States.

The LLC may be required to be qualified to do business or register in other states in which it does business. Please contact us to discuss this if you suspect you need to qualify in any other state. Also, in the few states that do not yet have LLC legislation, the limited liability of members and managers may not be observed.

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20. Conclusion.

The foregoing is a generalized summary of some of the legal and accounting issues to consider as the LLC begins operating. Laws and regulations applicable to LLCs are changing rapidly and are much more detailed than specified above.

Although we cannot undertake the responsibility of providing updates to this memorandum, we are always available to discuss your legal concerns and to assist you with any aspect of the LLC's business or operations.

Thank you for your attention. Please contact me at your convenience if you have any questions or comments.

Very truly yours,

Gregory B. Gershuni

GBG:21LLC-Exp

# Exhibit 3



1                   **DECLARATION OF JORDAN B. PEEL IN SUPPORT OF OPPOSITION TO**  
2                   **DEFENDANT'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

3                   I, Jordan B. Peel, declare that I am over the age of 18 years, I have personal knowledge of  
4 the facts stated herein, except for those stated upon information and belief, and as to those, I believe  
5 them to be true. I further state that I am competent to testify as to the facts stated herein and that  
6 this declaration is submitted on behalf of Plaintiff's Opposition to Defendant's Motion for  
7 Summary Judgment.

8                   1.       I am an attorney representing Dominique Arnould ("Arnould").

9                   2.       Arnould is a manager and 50% owner of Chef Exec Suppliers, LLC ("Chef Exec").

10                  3.       I assisted Arnould to negotiate a potential dissolution of Chef Exec. To that end, on  
11 August 7, 2019, I wrote a confidential settlement letter to Clement Muney ("Muney") who was  
12 the other 50% owner and manager of Chef Exec.<sup>1</sup>

13                  4.       The purpose of my confidential settlement letter was to propose settlement terms  
14 regarding dissolution of Chef Exec.

15                  5.       In the settlement and compromise letter, I proposed six (6) enumerated terms. One  
16 of the proposed settlement terms dealt with the Las Vegas warehouse lease. The settlement letter  
17 did not say and was not intended to give Muney permission or authority to renew, lease, or  
18 otherwise modify any of the existing Chef Exec leases.

19                  6.       Muney did not accept the settlement and compromise terms that I proposed in my  
20 confidential settlement letter.

21                  7.       Arnould and Muney were not able to reach an agreement on terms of a dissolution  
22 and Muney refused to dissolve Chef Exec

23                  8.       Arnould proceeded with judicial dissolution.

24                  Pursuant to NRS § 53.045, I declare under penalty of perjury under the laws of the State of  
25 Nevada that the foregoing is true and correct.

26                  //


27                  //

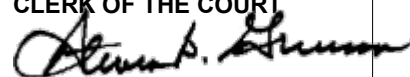
28                  <sup>1</sup> See **Exhibit 1**, attached to Defendant's Motion for Partial Summary Judgment, on file herein.

**MARQUIS AURBACH COFFING**

10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

Dated this 19 day of December, 2019.

  
\_\_\_\_\_  
Jordan B. Peel



1 **Marquis Aurbach Coffing**  
 2 Phillip S. Aurbach, Esq.  
 3 Nevada Bar No. 1501  
 4 10001 Park Run Dr.  
 5 Las Vegas, NV 89145  
 Telephone: (702) 382-0711  
 Facsimile: (702) 382-5816  
 paurbach@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff/ Counter-Defendant,

Case No.: A-19-803488-B  
Dept. No.: 27

vs.

CLEMENT MUNY; CHEF EXEC  
 SUPPLIERS, LLC; and DOES I through X,  
 inclusive; and ROE CORPORATIONS I through  
 X, inclusive,

Defendants/Counterclaimant.

**ERRATA TO PLAINTIFF DOMINIQUE ARNOULD'S OPPOSITION TO  
 DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould") by and through his attorneys  
 Marquis Aurbach Coffing, hereby submits their Errata to Plaintiff's Opposition to Motion for  
 Partial Summary Judgment (hereinafter "Opposition").

Please note that Plaintiff inadvertently left out the word "not" in the sentence located on  
 page 5, lines 10-13. Please correct the sentence to read: "Arnould believes and the facts indicate  
 that dissolution is the only viable option for Chef Exec, because the disputes and disagreements  
 between the Managers are so deep that it is **not** reasonably practicable to carry on the business of  
 the Company." (citations omitted).

//

1 Please add the “not” as indicated above. All footnote citations and portions of the  
2 Opposition are to remain the same.

3 Dated this 20th day of December, 2019.

4  
5 MARQUIS AURBACH COFFING

6  
7 By /s/ Phillip S. Aurbach  
8 Phillip S. Aurbach, Esq.  
9 Nevada Bar No. 1501  
10 10001 Park Run Dr.  
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12 Telephone: (702) 382-0711  
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14 paurbach@maclaw.com  
15 *Attorneys for Plaintiff*  
16  
17  
18  
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20  
21  
22  
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24  
25  
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28

**CERTIFICATE OF SERVICE**

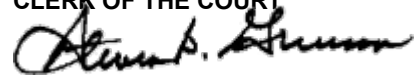
I hereby certify that the foregoing **ERRATA TO PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR PARTIAL SUMMARY JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 20th day of December, 2019. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/J. Case  
an employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



1 **RPLY**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street

6 Las Vegas, NV 89101

7 (702) 518-4529 phone

8 (702) 825-5872 fax

9 Admin@KernLawOffices.com

10 Attorney for Defendants

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.

Case Number: A-19-803488-B

Dept. Number: 27

**DEFENDANTS' REPLY IN SUPPORT  
OF SUMMARY JUDGMENT**

21 COME NOW Defendants, CLEMENT MUNNEY, (hereinafter "Muney"), and CHEF  
22 EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
23 counsel Robert Kern, ESQ., of KERN LAW, Ltd. submit this DEFENDANTS' REPLY IN  
24 SUPPORT OF SUMMARY JUDGMENT. This opposition is based on the records and  
25 files of this case, the attached memorandum and exhibits and any matters adduced at the  
26 hearing.

27 ///

28 ///

**KERN LAW, LTD.**  
601 S. 6<sup>th</sup> Street, Las Vegas, NV 89101  
Phone: (702) 518-4529 Fax: (702) 825-5872  
Admin@KernLawOffices.com

1  
2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **INTRODUCTION**

4 Plaintiff Arnould's opposition to the motion for summary judgment appears to be  
5 based upon the hope that enough allegations by affidavit can muddy the waters sufficiently  
6 to distract from the overwhelming absence of legal authority for their position.

7 Arnould agrees that the summary judgment standard is that a reasonable issue of fact  
8 does not exist if a reasonable jury could not return a verdict for the non-moving party.  
9 *Pegasus v. Reno Newspapers, Inc.*, 118 Nev. 706, 713 (2002). Thus although Arnould raises  
10 many issues by affidavit, any such allegations that are directly contradicted by written  
11 evidence, or by reasonable interpretation of such evidence, must be disregarded, as it would  
12 be by any reasonable jury. The fact that Arnould has made provably false statements<sup>1</sup> under  
13 penalty of perjury in this matter also reduces the likelihood of any reasonable jury giving his  
14 allegations credence.

15 Ultimately, Summary judgment must be granted, because even if all Arnould's  
16 allegations were taken as true, none constitute a violation of any fiduciary duty of a member  
17 of an LLC that is recognized in Nevada. Further, judicial dissolution and appointment of a  
18 receiver are treated as extreme remedies of last resort that are not available if there are other  
19 remedies at law available. As there are clearly other remedies at law, and Arnould has failed  
20 to argue why such remedies would not be reasonable in the circumstances, judicial  
21 dissolution and appointment of a receiver are unavailable to Arnould as a matter of law.

22 **ARGUMENT**

23 **A. None of the Alleged Conduct Constitutes a Breach of Fiduciary Duty.**

24  
25 <sup>1</sup> In the verified complaint Arnould stated the company CMJJ was formed without his  
26 knowledge, yet Munev provided business records showing Arnould has been receiving  
27 checks from CMJJ for 16 years (MSJ Exhibit 3)  
28 In both the verified complaint and the affidavit supporting the motion for appointment of  
trustee, Arnould claimed that the Las Vegas warehouse was leased "without any joint  
agreement or communication" despite Exhibit 1 of the MSJ showing two writings from  
Arnould directly stating that Munev should lease the space with his own separate entity.

1 Whether credible or not, Arnould has alleged that Muney disagrees with him about  
2 dissolving the company, that Muney leased a rental space with his own company and sub-  
3 leased it to Chef Exec, and that he changed locks on the Las Vegas warehouse, so that  
4 Arnould would inconveniently be required to go through the normal process for taking  
5 inventory in the future. None of these constitute a violation of any fiduciary duty owed by  
6 an LLC member under Nevada law. As explained in the original motion, under Nevada law,  
7 unless specifically created in the operating agreement, fiduciary duties owed between  
8 members of an LLC are limited to the duty to make contributions to the LLC that the  
9 member agreed to pay, and to hold as trustee any property that the member agreed to  
10 contribute to the company. *JPMorgan Chase Bank, NA v. KB HOME*, 632 F. Supp. 2d 1013  
11 (D. Nevada 2009); NRS 86.39. Arnould made two novel arguments in response. The first  
12 was that a letter sent to Muney and Arnould by an attorney who was not licensed to practice  
13 in Nevada, which said they owed a duty of loyalty, somehow created such a duty (or is  
14 sufficient legal authority to outweigh the cited decisions of Nevada Courts) (See Opp p.12).  
15 The Second argument was that by making a profit from the sub-lease to Chefexec, that this  
16 profit somehow constitutes a “contribution” that Muney had promised to pay Chefexec (See  
17 Opp p.10-11).

18 As to the first argument, it should go without saying that a simple letter written by a  
19 non-Nevada licensed attorney does not by itself create such a duty (absent some affirmative  
20 explicit acceptance of such duty by the parties, none of which is alleged). Nor does such a  
21 letter provide sufficient legal authority on Nevada LLC law as to outweigh both Chapter 86  
22 and the decision in *JPMorgan Chase*, above, which both indicate an absence of such duties  
23 among members of an LLC, absent express statements within the Operating Agreement.  
(Id.).

24 The second argument is equally unavailing. Without any significant explanation,  
25 Arnould argues that by profiting through a third party company (after being expressly  
26 authorized to do so by Arnould – See MSJ Exhibit 1), Muney is withholding a contribution  
27 promised to be made to the LLC. The Nevada Revised Statutes provide a definition of  
28 contribution as:



1       **NRS 87A.020 “Contribution” defined.** “Contribution,” except in the  
2 phrase “right of contribution,” means any benefit provided by a person to a  
3 limited partnership in order to become a partner or in the person’s capacity as  
a partner.

4 It would be difficult to interpret profit from a third party lease as a benefit to the company  
5 for the purpose of Muney becoming a member of the company. Muney had been a member  
6 since 2007, and nothing provided by Arnould suggests that there was some unsatisfied  
7 requirement for Muney to pay future funds in order to acquire his ownership. The second  
8 part of the definition, in a person's capacity as partner, is clearly referring to a member or  
9 partner adding capital to the company pursuant to some agreement among members.

10 However Arnould has failed to allege any agreement or the basis of any obligation by which  
11 Muney owed any further capital contribution to Chefexec. Instead, Arnould appears to hope  
12 he can convince the Court that “contribution” really just means “money that we claim he  
13 should pay back to the company.” This is not what contribution means. Arnould has not  
14 shown Muney to be in violation of any obligation to provide any contribution to further  
capitalize the company, and thus the argument fails.

15       As it is clear under Nevada law that the burden of establishing the existence of a  
16 fiduciary duty rests upon the Plaintiff, and as Plaintiff has failed to establish the existence of  
17 any fiduciary duty for which the alleged facts show a violation, summary judgment must be  
18 granted with regard to the claim for breach of fiduciary duty.

19  
20 **B.       Arnould's Allegations Fail to Justify Invoking the Extreme Remedies of**  
21 **Judicial Dissolution or Appointment of a Receiver.**

22       Under both Nevada and Delaware LLC law, judicial dissolution and receivership are  
23 remedies of last resort, and only available in the absence of any other legal remedy. *Bedore*  
24 *v. Familian*, 125 P. 3d 1168 (Nev. Supreme Court 2006) (“We have noted that the  
25 appointment of a receiver or the dissolution of a corporation is "a harsh and extreme remedy  
26 which should be used sparingly and only when the securing of ultimate justice requires  
27 it." . . . Thus, if another remedy is available to achieve the same outcome, the district court  
28 should not resort to dissolution or the appointment of a receiver.”); *Matter of Arrow Inv.*

1 *Advisors, LLC*, 2009 WL 1101682, \*2 (Del. Ch. 2009). Plaintiffs have cited no law to  
2 dispute this rule, yet it is clear that the issues complained of (usurping a company  
3 opportunity, refusal to dissolve company) have other available remedies. Assuming  
4 usurping a company opportunity for an LLC were in fact a recognized civil wrong in  
5 Nevada, Plaintiff has shown no reason why a monetary judgment, or some form of  
6 injunction would be insufficient to remedy the issue. As for the refusal to dissolve the  
7 company, NRS Chapter 86 provides Arnould the ability to sell his interest to a third party,  
8 and equity would even allow for a court-ordered buyout of his interest if such a thing were  
9 deemed necessary. (*Bedore*, Id. At 1172).

10 Further, in the same decision, the Nevada Supreme Court directly stated that claims  
11 of usurpation of company opportunity, breach of fiduciary duty, and dissension among the  
12 shareholders, do not justify dissolution and receivership. (*Bedore*, Id. At 1172-1173). The  
13 only law cited by Plaintiff's opposition is the Delaware case *Haley v. Talcott*, in which one  
14 of the two partners had become rendered completely powerless in management of the  
15 company, but was also prevented from simply selling his interest or getting a buy-out  
16 because he was a guarantor on the company's property. 864 A. 2d 86, 88 (Del. Court of  
17 Chancery 2004) ("...the exit mechanism provides no method to relieve Haley of his  
18 obligation as a personal guarantor for the LLC's mortgage."). Arnould makes no allegation  
19 whatsoever that there are no other remedies at law beyond dissolution, and none of his  
20 allegations explain why remedies such as a monetary judgment, or selling his interest to a  
21 third party would be insufficient. Arnould does allege that he is "on the outside looking in  
22 with no power," just as in *Haley*, however the only example of this he provides is the fact  
23 that the locks on the Las Vegas Warehouse were changed. (See Opp p.8). Affidavits of both  
24 Muney and the warehouse manager make clear that Arnould has had no difficulty getting  
25 access to the warehouse, or taking product from the warehouse, since the change, and that  
26 Arnould has never given Muney access to the Los Angeles warehouse at all. See Exhibits  
27 7&8). There is a vast difference between being shut out from managing the company, as in  
28 *Haley*, and encountering a mild inconvenience, as Arnould has.

1 As the entirety of legal authority establishes that the claims alleged do not warrant  
2 dissolution or receivership, and that such remedies are not appropriate when any other  
3 remedy at law exists, and Plaintiff has not disputes the existence of other remedies at law,  
4 the grant of summary judgment is warranted for the claim for judicial dissolution and  
5 receivership.

6  
7 **C. Plaintiffs Claims Were Brought in Bad Faith.**

8 Chefexec was operated by Muney and Arnould under the existing framework for  
9 fifteen (15) years, without any significant issues, and to significant profit. (See Exhibits  
10 6&7). When Arnould announced his desire to retire and sell his side of the company earlier  
11 this year, he did not cite any disputes or issues with Muney, only his desire to retire. (See  
12 Exhibit 5). Only after Arnould was unhappy with the buy-out offers did any dispute arise,  
13 and even then, only as to the terms of either buying out Arnould, or of dissolving the  
14 company. (Id.). Even when dissolution was being discussed, no disputes were alleged  
15 justifying the dissolution other than Arnould's desire to retire and sell his interest for more  
16 than Muney was offering. (Id.). Not until October 2019, almost two months after Arnould's  
17 counsel had threatened to seek judicial dissolution for no cause other than disagreeing about  
18 judicial dissolution, did Arnould allege any cause for dissolution against Muney (the Las  
19 Vegas sub-lease). Despite the fact that Muney immediately provided explanation that the  
20 sub-lease was exactly as instructed by Arnould, Arnould did not even respond and instead  
21 filed suit, clearly using the issue as a pretext for the dissolution he had long been seeking.  
(See Exhibit 9).

22 Arnould's argument about the Las Vegas sub-lease is especially disingenuous  
23 because it was Arnould who created the circumstances preventing Muney from being able  
24 to continue leasing the space under the previous terms. As shown by written  
25 communications, Muney advised that the lease was expiring and would need to be renewed,  
26 and that renewal would require both Muney and Arnould to guarantee the lease. In response  
27 Muney was told twice, by Arnould's California counsel and his Nevada counsel, that  
28 Arnould would not be signing the lease, and that Muney should lease the property with his

1 own company and sublease to Chefexec. (See Exhibit 1). Arnould argues that the instruction  
2 to lease with his own company was part of a rejected settlement offer, and review of the  
3 August 7 letter, if read alone, could be interpreted that way. However, the context was that  
4 this was the second time Arnould's counsel had advised Muney to do so, and the first was  
5 not as any sort of settlement offer. (Id.). Further, the lease was required to be signed in  
6 September, a month away from the August 7 letter, and was thus an urgent issue that all  
7 parties were aware required resolution independently of any discussions of dissolution or  
8 buy-out. No amount of dodging can change the fact that Arnould clearly and directly  
9 instructed Muney that Arnould would not sign, and to lease the space with Muney's own  
10 company, and then (implicitly) to sublease it to Chefexec, followed by pretending outrage  
11 when Muney did exactly that.

12       What Arnould ignores in the discussion of the Las Vegas sublease, is that because  
13 Arnould refused to sign for the renewal, the earlier lease rate was not an option for  
14 Chefexec. That rate would have required Chefexec to renew the existing lease, which  
15 Arnould directly prevented. This left only two choices for Muney; to take no action, and  
16 then sub-lease space from a third party at market rate (higher than what CMJJ is charging  
17 Chefexec, (See Exhibit 2), or to lease it with a company that he could sign for without  
18 Arnould, and then sublease it to Chefexec. Arnould is unclear as to whether he claims  
19 Muney's leasing and sub-leasing of the property as the problem, or whether it is that  
20 Muney's other company, a legally distinct entity, did not sub-lease the space back at cost.  
21 CMJJ, Muney's company, entered into a long-term lease for which Muney was required to  
22 sign a personal guarantee. He did this for the benefit of Chefexec, despite not knowing  
23 whether Chefexec would be dissolved or cease using the space in the near future, since  
24 Chefexec was not bound in any long-term obligation to sub-lease long-term. (See Exhibit  
25 7). Muney took personal risk to secure the space, and was thus entitled to charge a premium  
26 on the sub-lease to Chefexec to compensate his risk. Especially as the amount charged was  
27 still below the rate Chefexec would have had to pay a third party for a sub-lease under the  
28 same circumstances. (See Exhibit 2).

1 Delaware courts have recognized that a bad faith, or 'phony' deadlock, in which the  
2 party seeking dissolution intentionally creates dissension to support their claim for  
3 dissolution, does not justify a judicial dissolution. *Vila v. BVWebTies LLC*, 2010 WL  
4 3866098 (Del. Ch. 2010). Although courts have not given a clear test as to identifying a bad  
5 faith deadlock, it is hard to imagine a case that is more clear than this one, where the  
6 dissolution was sought for months before the alleged disputes, and even threatened to seek  
7 judicial dissolution and receivership, in writing, long prior to alleging any disputes other  
8 than the disagreement over whether to dissolve the company. Any examination of the  
9 alleged wrong, the sub-lease in Las Vegas, in which Muney took the action only after being  
10 told to do so by Arnould, not once, but twice, makes clear that Arnould's issue with  
11 Chefexec is not any dispute, but rather the fact that he is seeking a better buy-out deal, and  
12 is in bad faith, using the courts as a leverage tool. For the solid legal bases described above,  
13 and because the circumstances lack a legitimate dispute, summary judgment should be  
14 granted.

### 15 16 **III.**

#### 17 **CONCLUSION**

18 Summary judgment must be granted, because even if all Arnould's allegations were  
19 taken as true, none constitute a violation of any fiduciary duty of a member of an LLC that  
20 is recognized in Nevada. Further, judicial dissolution and appointment of a receiver are  
21 treated as extreme remedies of last resort that are not available if there are other remedies at  
22 law available. As there are clearly other remedies at law, and Arnould has failed to argue  
23 why such remedies would not be reasonable in the circumstances, judicial dissolution and  
24 appointment of a receiver are unavailable to Arnould as a matter of law, and summary  
25 judgment is thus warranted.

26  
27 DATED this 27<sup>th</sup> day of December, 2019

28 **KERN LAW**

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By: /s/ Robert Kern /s/  
Robert Kern, Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 27<sup>th</sup> day of December 2019, I served a true and correct copy of the foregoing DEFENDANTS' REPLY IN SUPPORT OF SUMMARY JUDGMENT, by electronic service, addressed to the following:

Phillip S. Aurbach, Esq.  
Marquis Aurbach Coffing  
Paurbach@Maclaw.com  
*Counsel for Dominique Arnould*

/s/ Robert Kern  
Employee of Kern Law

# **EXHIBIT 7**



## AFFIDAVIT OF CLEMENT MUNEY

STATE OF NEVADA }

ss.: }

County of Clark }

I, Clement Muney, being first duly deposed states as follows:

1. I am an adult over the age of 18 and am competent to testify to the contents of this affidavit. I execute this affidavit in support of the foregoing motion. I have personal knowledge of the matters set forth herein, and all statements below are made from personal knowledge unless specifically indicated otherwise.
2. I am a 50% partner in the business known as Chef Exec LLC (hereinafter, "Chefexec"), which is a company that I formed with Dominique Arnould (hereinafter, "Arnould").
3. Throughout the existence of Chefexec, other than accounting and invoicing, I have managed the Las Vegas side of the company independently, and Arnould has managed the Los Angeles side of the company independently. This is why I managed from Las Vegas and he managed from Los Angeles, and also evidenced by the fact that I do inventory ordering for Las Vegas and Arnould handles ordering for LA, by my handling renewal of the Las Vegas lease (and why Arnould was uninterested in its renewal), Arnould's handling of the Los Angeles lease (and his adding me to the renewal despite my not wanting to be kept on the Los Angeles side). This is further evidenced by the fact that I had the ability to change locks on the Las Vegas warehouse, and the fact that I have never had a key to the Los Angeles warehouse (or even visited it).
4. Sales commissions at Chef Exec are primarily for the benefit of our sales staff, however Arnould made a habit of assigning himself commissions rather than giving them to his sales staff. Handling sales has never been a significant part of manager duties in this company, and most commissions for sales from my side of the company are given to the sales staff rather than being claimed by myself personally.
5. I have reviewed the long list of alleged disputes in Arnould's affidavit. Many are complete fabrications, the rest are issues that were discussed in the regular course of business, however other than the question of whether to dissolve, none were ever real disputes, they were simply things business managers discuss. This is evidenced by the fact that Arnould was unable to show any emails arguing about any of these things other than the dissolution.
6. Discussions in July and August about needing to renew the Las Vegas lease were never part of a

dissolution negotiation; it was a matter that had to be urgently resolved so that the lease could be renewed at the extremely advantageous rate we currently had. Every time I brought it up I was told to lease it independently and sub-lease it to Chef Exec Suppliers. At no time did Arnould or his counsel ever state or imply that they wanted any additional information about the Las Vegas lease, or terms of its renewal.

7. The fact that Arnould has contracted with Chef Exec Suppliers with companies he owns, Wines of the World and AAA Food Source, Inc., makes me surprised that he now suggests that doing exactly that is some sort of act of bad faith.
8. As Arnould refused to sign for extension of the Las Vegas lease, it was impossible for me to renew that lease (as the landlord required a personal guarantee from all owners), so the only options were for Chef Exec to let the lease lapse, and sub-lease from another company at standard commercial rates (See exhibit 2 of MSJ – email describing commercial lease rates), which would have been more expensive than what CMJJ (my company) is charging, or to have my company lease it, as instructed by Arnould's LA counsel, and his Las Vegas counsel, and sub-lease it to Chef Exec at a reduced rate, which I did. With Arnould's refusal to renew the lease, there was no option available to keep the existing lease rate.
9. As I had to personally guarantee the CMJJ lease, and the value of that was 100% dependent upon Chef Exec continuing to sub-lease (which it likely would not if it dissolved), it was appropriate to lease at close to a market rate to compensate my risk of being left in the lease with no lessor if Chef Exec were dissolved.
10. When Arnould first complained about the new lease in Las Vegas, I offered to discuss, and showed him the emails where his own counsel suggested it. I received no response other than the filing of litigation. (See Attached Email).
11. The purpose of changing locks on the Las Vegas warehouse was in response to Arnould moving a large portion of inventory into his own personal possession (rather than that of Chef Exec), and he was still provided access, it simply prevented secret access. I have never had keys to the LA warehouse. Arnould has removed inventory from the Las Vegas warehouse without difficulty since the change.
12. In Spring 2019 Arnould renewed the lease for the warehouse for the Los Angeles side of the company. My name was signed as a guarantor; I do not remember authorizing Arnould to sign for me, though he disagrees. He handled the LA warehouse because that was his side of the business.
13. Although the dispute between myself and Arnould has caused some difficulties, it has not

prevented the company from continuing to run, to serve its stated purpose, or from continuing to increase profits.

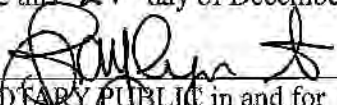
I declare under penalty of perjury that the foregoing is true and correct.  
FURTHER AFFIANT SAYETH NAUGHT.

DATED this 27<sup>th</sup> day of December, 2019

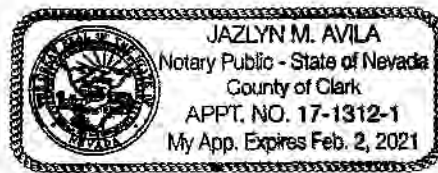
By: 

Clement Mune

SUBSCRIBED AND SWORN to before  
me this 27<sup>th</sup> day of December, 2019.

  
NOTARY PUBLIC in and for  
said County and State.

my commission expires on: 02/02/2021



# **EXHIBIT 8**

STATE OF NEVADA }  
ss.: }  
County of Clark }

I, Sergio Rosales, being first duly deposed states as follows:

1. I am an adult over the age of 18 and am competent to testify to the contents of this affidavit. I execute this affidavit in support of the foregoing motion. I have personal knowledge of the matters set forth herein, and all statements below are made from personal knowledge unless specifically indicated otherwise.
2. I am an independent contractor employed by Chef Exec Suppliers to manage the Las Vegas warehouse.
3. Due to the ceiling height and floor space of the Las Vegas warehouse, this warehouse is capable of storing 340 pallets of product in the current space.
4. The Las Vegas warehouse has the additional advantage of a high loading dock, making loading and unloading significantly faster and more efficient than a warehouse without a proper loading dock.
5. On or about September 24, 2019, Dominique Arnould, one of the owners of Chef Exec, came to the Las Vegas warehouse and arranged to remove 2 full truckloads of product ( 46 pallets), which had never happened before, and represented about 50% of the total inventory in the Las Vegas warehouse.
6. Mr. Arnould instructed me not to tell the other owner, Clement Muney about his taking of product, because he said was planning to discuss it with Mr. Muney himself.
7. When Mr. Arnould took the product from the warehouse, it was not done in the normal course of our business, and was done without filing any records that would notify Mr. Muney.
8. I since discovered that my name was written on the signature box under "Shipper Name" on the bill of lading for the product Arnould took that day, on B/L # 292480. However I did not sign that document, nor did I give anyone permission to add my signature to that document. (I have attached this document).
9. Mr. Muney recently changed the locks on the Las Vegas warehouse, however he instructed me to cooperate with Mr. Arnould on anything he needs from the warehouse, but to make sure everything was properly recorded. Mr Arnould has since arranged for other inventory from the Las Vegas Warehouse to be delivered to him without a problem.

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

DATED this 19 day of December, 2019

By: \_\_\_\_\_

Sergio Rosales

# **EXHIBIT 9**

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**From:** Robert Kern  
**Sent:** Thursday, October 10, 2019 12:21 PM  
**To:** Phillip Aurbach  
**Subject:** RE: Chef Exec Suppliers, LLC (15755-1) [IWOV-iManage.FID1085969]

Hello Phillip,

I will forward you the email in a moment. Please be aware that your client has been involved in significant self-dealing with regard to this company, which will be part of our counterclaim if litigation is filed. We are willing to provide evidence and explanation if you would like to see it before filing suit. As Nevada law does not allow for unilateral dissolution, and because paying the market rate for storage after being advised that your client would not allow us to continue to lease it ourselves is not self-dealing, we will be seeking sanctions if the suit does go forward. Since you have made no indication of what you consider to be 'resolving' the matter, we are not going to try to guess. If you have a specific, reasonable request, we are open to hearing it. I am willing to accept service on this matter if you choose to go forward.

Robert Kern, Esq.  
Attorney  
Kern Law, Ltd.

601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529 - phone  
(702) 825-5872 - fax  
[www.KernLawOffices.com](http://www.KernLawOffices.com)

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---

**From:** Phillip Aurbach <[PSA@maclaw.com](mailto:PSA@maclaw.com)>  
**Sent:** Tuesday, October 8, 2019 1:27:06 PM  
**To:** Robert Kern <[robert@kernlawoffices.com](mailto:robert@kernlawoffices.com)>  
**Subject:** FW: Chef Exec Suppliers, LLC (15755-1) [IWOV-iManage.FID1085969]

Robert  
My client does not recall and cannot find such an email.

1—Please send any such communication to me by Thursday 10/10 at noon. We are filing the complaint on Thursday to push this forward since your client is benefitting by paying himself the higher rent. Do you have a suggestion as to a receiver?

And

2—Please advise me if you will you accept service (I am assuming by your response that your client would rather litigate this than resolve it)?

I await your response

phil

---

**From:** Robert Kern <[robert@kernlawoffices.com](mailto:robert@kernlawoffices.com)>

**Sent:** Friday, October 4, 2019 4:43 PM

**To:** Javie-Anne Bauer <[jbauer@maclaw.com](mailto:jbauer@maclaw.com)>

**Cc:** Phillip Aurbach <[PSA@maclaw.com](mailto:PSA@maclaw.com)>

**Subject:** RE: Chef Exec Suppliers, LLC (15755-1) [IWOV-iManage.FID1085969]

Are you aware that Dominique specifically instructed Clement to pay for the Las Vegas warehouse space from a third party rather than continue the cheaper lease? In writing?

Robert Kern, Esq.

Attorney

Kern Law, Ltd.

601 S. 6<sup>th</sup> Street

Las Vegas, NV 89101

(702) 518-4529 - phone

(702) 825-5872 - fax

[www.Kernlawoffices.com](http://www.Kernlawoffices.com)

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**From:** Javie-Anne Bauer <[jbauer@maclaw.com](mailto:jbauer@maclaw.com)>

**Sent:** Friday, October 4, 2019 3:08:28 PM

**To:** Robert Kern <[robert@kernlawoffices.com](mailto:robert@kernlawoffices.com)>

**Cc:** Phillip Aurbach <[PSA@maclaw.com](mailto:PSA@maclaw.com)>

**Subject:** Chef Exec Suppliers, LLC (15755-1) [IWOV-iManage.FID1085969]

Dear Mr. Kern,



Attached please find correspondence from Mr. Aurbach.

Thank you,  
Javie-Anne



**Javie-Anne Bauer | Legal Assistant to**

Phillip S. Aurbach, Esq.  
Liane K. Wakayama, Esq.

10001 Park Run Drive  
Las Vegas, NV 89145

t | 702.942.2124

f | 702.382.5816

[jbauer@maclaw.com](mailto:jbauer@maclaw.com)

[maclaw.com](http://maclaw.com)



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# **EXHIBIT 10**

From: Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>  
To: Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>  
Cc: Clement Chef Exec <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>; Dominique Arnould  
<[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)>; [domiarnould@yahoo.com](mailto:domiarnould@yahoo.com) <[domiarnould@yahoo.com](mailto:domiarnould@yahoo.com)>  
Sent: Mon, Jul 22, 2019 5:11 pm  
Subject: Re: Chef Exec Suppliers LLC

Dear Gregory,

I think I must disagree with your statement that customers and suppliers are not assets of the company, as those are things that are frequently part of contracts for the sale of a business.

However, that said, we may be able to reach agreement if You and Dominique wish to take that approach. If we are considering the physical equipment and inventory as the sole assets of the company, then I think I would agree to a buyout, with the price established as the cost price of inventory and the value of physical equipment by an appraiser. As it sounds like we are perhaps finally on the same page, let's set up an appraisal, and hopefully get this issue resolved.

Separately, it appears that the lease in LA was recently renewed; I do not remember signing for this – how did this happen?

Sincerely yours

Clement

# **EXHIBIT 11**

**AFFIDAVIT OF ATTORNEY ROBERT KERN**

I, Robert Kern, make this Declaration of my own personal knowledge and under the penalty of perjury pursuant to NRS 53.045.

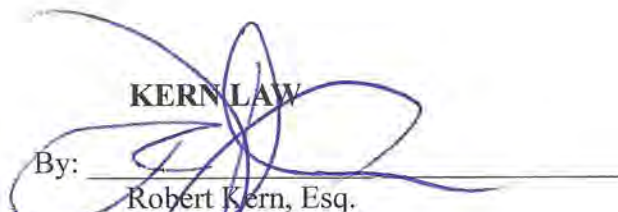
1. I am a duly licensed practising attorney in the State of Nevada, County of Clark, maintaining offices at 601 S. 6<sup>th</sup> Street, Las Vegas, Nevada 89101, and represent Defendants in the above-entitled matter.

2. I personally contacted Northstar Moving, the company that Plaintiff Arnould used as the new warehouse to store the property moved from the Las Vegas warehouse, on December 10, 2019.

3. On the phone call to Northstar, I spoke to Ana Coy, and asked her about the property stored for ChefExec. She indicated that they did not have any accounts in the name of Chef Exec Suppliers, and that I was not authorized to receive information about the account because it was in the name of Dominique Arnould personally. After the phone call I sent Ms. Coy an email to confirm the conversation, however she never responded.

I declare under penalty of perjury the foregoing is true and correct to the best of my knowledge.

DATED this 23<sup>rd</sup> day of December, 2019.

**KERN LAW**  
By:   
Robert Kern, Esq.  
NV Bar #10104  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
*Attorney for Defendants*

**Attn: Ana Coy**

**Robert Kern <robert@kernlawoffices.com>**

Tue 12/10/2019 2:24 PM

**To: info@NorthStarMoving.com <info@NorthStarMoving.com>**

Hi Ana,

This email is just to confirm our conversao earlier t oday, in which you indicated that the storage with Northstar is in the name of Dominique Arnould, and not in the name of Chef Exec Suppliers, LLC.

Can you confirm that? Sorry to bother you again.

Robert Kern, Esq.

Attorney

Kern Law, Ltd.

601 S. 6<sup>th</sup> Street

Las Vegas, NV 89101

(702) 518-4529 - phone

(702) 825-5872 - fax

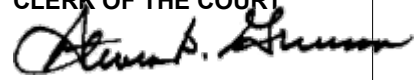
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**Marquis Aurbach Coffing**  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
10001 Park Run Dr.  
Las Vegas, NV 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
paurbach@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff/ Counter-Defendant,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants/Counterclaimant.

Case No.: A-19-803488-B  
Dept. No.: 27

Hearing Date: January 9, 2020  
Hearing Time: 10:30 a.m.

**SUPPLEMENT TO PLAINTIFF DOMINIQUE ARNOULD'S OPPOSITION TO  
DEFENDANTS MOTION FOR PARTIAL SUMMARY JUDGMENT**

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould"), by and through his attorneys, Marquis Aurbach Coffing, submits this Supplement to Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Partial Summary Judgment (hereinafter "Supplement"). This Supplement is based upon papers and pleadings on file herein, the attached Memorandum of Points and Authorities, and any oral argument permitted at the time of the hearing on this matter.

Dated this 31st day of December, 2019.

MARQUIS AURBACH COFFING

By /s/ Phillip S. Aurbach  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
*Attorneys for Plaintiff*

## MEMORANDUM OF POINTS AND AUTHORITIES

Defendants have adamantly defended the notion that Defendant Clement Muney (“Muney”) owes no fiduciary duties as a manager of Chef Exec Suppliers LLC (“Chef Exec”). This notion cuts against basic fiduciary principals and decades of Nevada case law. In light of Defendants’ persistence on this point, Plaintiff felt that it is necessary to include the following cases for the Court which discuss the seemingly universal concept.

In Nevada, “a fiduciary relation exists between two persons when one of them is under a **duty to act for or to give advice for the benefit of another** upon matters within the scope of the relation.” *Stalk v. Mushkin*, 125 Nev. 21, 28, 199 P.3d 838, 843 (2009) (quoting RESTATEMENT (SECOND) OF TORTS § 874 cmt. a (1979)) (emphasis added); *see e.g., Powers v. United Servs. Auto. Ass’n*, 114 Nev. 690, 979 P.2d 1286 (1990) (A fiduciary relationship exists when one has the right to expect trust and confidence in the integrity and fidelity of another); *see e.g., LeMon v. Landers*, 81 Nev. 329, 402 P.2d 648 (1965) (An agent owes to his principal the highest duty of fidelity, loyalty, and honesty in the performance of duties on behalf of the principal, and an agent will not be permitted to pervert his authority for his own personal gain in severe hostility to the interest of his principal). A claim for breach of fiduciary duty “**seeks damages for injuries** that result from the tortious conduct of one who owes a duty to another by virtue of the fiduciary relationship.” *Id.* (emphasis added).

Here, there is no question that as a manager of Chef Exec, Muney had a duty to act for the benefit of the LLC. This is especially true when he acted and advised “upon matters within the scope of [his] relation” to the LLC, such as negotiating and retaining a lease for the LLC. *Id.* at 28, 199 P.3d at 843. But here, Muney acted and advised on the lease to purely benefit himself.<sup>1</sup> Muney negotiated and secured a lease for \$5,857/month, and then turned around and charged Chef Exec \$10,890/month for the same space.<sup>2</sup> Muney’s unilateral decision to secure this lease and earn an additional \$5,033/month at the expense of the LLC was a breach of his

<sup>1</sup> *See* P. Dominique Arnould’s Opp’n to Def.’s Mot. for Partial Summ. J. Dec., Ex. 1 (hereinafter cited as “**Arnould Declaration**”), at p. 3, ¶¶9-12, on file herein.

<sup>2</sup> *See id.*



1 duty to act for the benefit of the LLC.<sup>3</sup> As such, Chef Exec derivatively, or Arnould directly<sup>4</sup> is  
2 entitled to the damages sustained as a result of Muney's breaches.

3 Further, a breach of confidential relationship cause of action arises "by reason of kinship  
4 or professional, business, or social relationships between the parties." *Perry v. Jordan*, 111 Nev.  
5 943, 947, 900 P.2d 335, 337 (1995). In *Perry*, the Nevada Supreme Court recognized that a  
6 confidential relationship exists when a party gains the confidence of another party and purports  
7 to advise or act consistently with the other party's interest. *Id.* at 947, 900 P.2d at 338. In that  
8 case, the store owner, Perry, sold her store to her neighbor and friend, Jordan, knowing that  
9 Jordan had no business knowledge, that Jordan was buying the store for her daughters, not for  
10 herself, and that Jordan would rely on Perry to run the store for a contracted one-year period after  
11 the sale was complete. *Id.* at 945-46, 900 P.2d at 336-37. Not long after the sale, Perry stopped  
12 running the store, and the store eventually closed. *Id.* at 946, 900 P.2d at 337. Jordan filed suit  
13 against Perry for, among other things, breach of a confidential relationship. *Id.* A jury found in  
14 Jordan's favor and awarded damages. *Id.* Perry appealed, arguing that Nevada's courts do not  
15 recognized a claim for breach of a confidential relationship. *Id.*

16 On appeal, the court ruled that a breach of confidential relationship claim was available  
17 under the facts of the case. *Id.* at 947, 900 P.2d at 338. The court noted that Perry "held a duty to  
18 act with the utmost good faith, based on her confidential relationship with Jordan [and that the]  
19 duty requires affirmative disclosure and avoidance of self-dealing." *Id.* at 948, 900 P.2d at 338.  
20 The court explained that "[w]hen a confidential relationship exists, the person in whom the  
21 special trust is placed owes a duty to the other party similar to the duty of a fiduciary, requiring  
22 the person to act in good faith and with due regard to the interests of the other party." *Id.* at 947,  
23 900 P.2d at 338.

24  
25 <sup>3</sup> See *id.*

26 <sup>4</sup> Plaintiff's Complaint adequately plead a breach of fiduciary duty in the context of either a direct or  
27 derivative claim via NRS 86.483, which states: "A member . . . may bring an action in the right of a  
28 limited-liability company to recover a judgment in its favor if managers or members with authority to do  
so have refused to bring the action or if an effort to cause those managers or members to bring the action  
is not likely to succeed." See Complaint, at 4, ¶¶24, 2, on file herein.

1 Here, there is no question that both Arnould and Chef Exec placed special trust in Muney  
2 to make managerial decisions in the best interest of the LLC, thereby creating a confidential  
3 relationship. With that duty in mind, Muney chose to engage in blatant self-dealing at the  
4 expense of the LLC. Even worse than the actions in *Perry v. Jordan*, Muney **concealed** his self-  
5 dealing from Chef Exec and Arnould,<sup>5</sup> further indicating Muney's intent to act with bad faith.<sup>6</sup>

6 In sum, Muney owed fiduciary duties as a manager and member of Chef Exec. This is a  
7 basic principal of Nevada law. Muney exploited this fiduciary relationship in several ways, and  
8 as such, Defendants' motion for summary judgment must be denied.

9 Dated this 31st day of December, 2019.

10 MARQUIS AURBACH COFFING

11  
12 By /s/ Phillip S. Aurbach  
13 Phillip S. Aurbach, Esq.  
14 Nevada Bar No. 1501  
15 *Attorneys for Plaintiff*  
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22 \_\_\_\_\_  
23 <sup>5</sup> See **Arnould Declaration**, at p. 3, ¶11 (“[Arnould] was never consulted on the amount of rent and was  
24 astonished when [he] found out that the rent was more than double what [Chef Exec was] paying  
25 previously.”).

26 <sup>6</sup> Notably, Muney cannot avoid his duty to act in good faith. In Nevada, an LLC **may not** limit or  
27 eliminate liability for conduct that constitutes bad faith. *See* NRS. 86.286(5)-(7). The Nevada Legislature  
28 further clarified this point in Assembly Bill 207, which imposed the duty of good faith upon “a manager  
or managing member of a limited-liability company.” *See* A.B. 207, available at:  
<https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6322/Overview> (last visited Dec. 12,  
2019).

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **SUPPLEMENT TO PLAINTIFF DOMINIQUE ARNOULD'S OPPOSITION TO DEFENDANTS MOTION FOR PARTIAL SUMMARY JUDGMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 31st day of December, 2019. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>7</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/ Javie-Anne Bauer  
an employee of Marquis Aurbach Coffing

<sup>7</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

## **Memorandum of Material Terms of Agreement**

February 7, 2020

This agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The final written agreement to be drafted at a later time.

The parties agree that this agreement contains all terms that are material to the agreement.

This agreement is between Dominique Arnould and Clement Muney, (the parties) currently each a 50% owner in the company Chef Exec Suppliers, LLC (the Company). It is understood that this agreement shall be binding upon the parties until the final agreement is signed.

The Parties agree that Dominique Arnould will buy out the interest of Clement Muney in the Company, for the amount of \$700,000.00, to be paid within 45 days from the execution of the final agreement (the Sale).

In addition to the Sale price, Clement Muney will be paid  $\frac{1}{2}$  of the bank account on the date of closing of the sale,  $\frac{1}{2}$  of the inventory at cost value on the closing date of the sale, and  $\frac{1}{2}$  of the accounts receivable as they are owed to the Company.

Assets being sold are:

- All names and logos including but not limited to trademarks, logo of Chef Exec, LLC,, and all intellectual property

- All website domain names and codes including but not limited to, chefexecsuppliers.com or any other similar names or affiliates

- All equipment including, but not limited to forklifts, pallet jacks, Mercedes truck, manufacturing molds, manufacturing tooling, racks, shelving, tools, delivery systems, computers including employee computers, employee phones, monitors, hardware, docking systems, ladders, step-ladders, packaging materials, rolling carts, scales, software, and copy-machines. Clement Muney and Jeremy Muney's personal mobile phones and computers are excluded but both will pay back the value at an agreed upon price.

- All accounts including but not limited to UPS, Paypal, checking, savings, Tempus, Commonwealth, and all usernames and passwords required for sign-in

- All insurance policies

- All company EIN numbers

- All UPC Codes

-All phone and fax numbers including but not limited to employee numbers, and fax numbers, and Clement Muney shall cooperate in providing Arnould with Arnould's cell Phone Number within 7 days of the settlement conference 702-683-2433. However, Clement Muney and his son may retain their current cell phone and home phone numbers.

-All CES Price lists, catalogs, logos, and all sales materials

-All Customer lists

-All Supplier and vendor lists

Paris Saveur logo may be used by Arnould until current and already ordered inventory is used up.

Once the Sale is completed, Clement Muney will be bound by a non-compete agreement prohibiting him from doing any business directly or indirectly that competes with the business of the Company, within Nevada, California, Hawaii, New York, Missouri, and Illinois for three and a half (3.5) years following the date of the agreement. This non-compete also includes non-solicitation of any current or potential customers of the Company. No party may disparage the Company, Employees, or either party. All sales inquiries will be forwarded to Dominique Arnould as soon as they are received. However, the non-compete does not include CMJJ Gourmet's current lines of products which will be specified later in a final agreement.

This agreement shall be contingent upon:

--Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale, with the understanding that he will be required to use good faith towards seeking to obtain such financing from all reasonable sources

-- Dominique Arnould agrees to assume the lease of the Las Vegas warehouse that is currently held by CMJJ Gourmet, Inc., subject to approval by the landlord and subject to Dominique Arnould's approval of the lease terms, which will not unreasonably be withheld.

-- All parties mutually waive all claims upon execution of the final agreement

It is further agreed that the sale price of \$700,000.00 shall be discounted by the amount of profits (amount received minus cost of the leased space) that the company CMJJ Gourmet, Inc. has received from Chef Exec, LLC for storage in the Las Vegas Warehouse

Both parties agree that neither will incur any extraordinary expenses or take any items out of the warehouse between February 7, 2020, and the completion of the final Sale of the Company. Inventory shall be set for a date as soon as Arnould finds available, and Muney will give Arnould the key to the Las Vegas warehouse at that time. Sergio, Clement Muney, and Dominique Arnould shall conduct an inventory in the next 10 days. Both parties shall have full access to all

Company financial records in order to be aware of such expenditures, and each shall have the right to bring the dispute to the settlement judge if the Parties do not agree whether an expense was extraordinary or not in the ordinary course. If a settlement conference does not resolve this issue, the Parties shall have the issue decided by Judge Allf.

All business will be conducted as usual without interference by the other party.

The parties further agree that Dominique Arnould shall indemnify Clement Muney for any liability Muney may have under the Los Angeles warehouse lease between the present and the end of that lease.

  
\_\_\_\_\_  
Dominique Arnould

02/07/2020  
\_\_\_\_\_  
date

  
\_\_\_\_\_  
Clement Muney

02/07/2020  
\_\_\_\_\_  
Date

Clement Muney

date

---

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

---

February 07, 2020      09:30 AM      Settlement Conference

HEARD BY: Williams, Timothy C.      COURTROOM: RJC Courtroom 03H

COURT CLERK: Darling, Christopher

RECORDER:

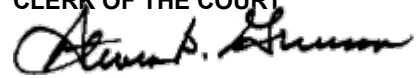
REPORTER: Isom, Peggy

PARTIES PRESENT:

### JOURNAL ENTRIES

The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims.

The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.



1 **CMOT**

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3 Nevada Bar Number 10104

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6 Las Vegas, NV 89101

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9 Admin@KernLawOffices.com

10 Attorney for Defendants

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.

Case Number: A-19-803488-B

Dept. Number: 27

**DEFENDANTS' OPPOSITION TO  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT AND COUNTER-MOTION  
FOR ENFORCEMENT OF  
SETTLEMENT AGREEMENT**

Hearing Requested

21 COME NOW Defendants, CLEMENT MUNNEY, (hereinafter "Muney"), and CHEF  
22 EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
23 counsel Robert Kern, ESQ., of KERN LAW, Ltd. submit this Opposition to Motion for  
24 Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement.  
25 This motion is made pursuant to NRCP 56, and is based on the signed material terms of the  
26 settlement agreement, the records and files of this case, the attached memorandum and  
27 exhibits and any matters adduced at the hearing.

**STATEMENT OF FACTS**

28 The company Chef Exec LLC was formed by Clement Muney and Dominique  
Arnould in 2007 for the purpose of selling imported and domestic goods to other businesses,

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1 with Muney handling the securing of supply contracts and the Las Vegas portion of the  
2 business, and Arnould handling the accounting and the Los Angeles side of the business.  
3 Chefexec has no operating agreement in place. Chefexec operated smoothly and profitably  
4 for its entire existence until Arnould announced that he wished to retire. The first significant  
5 disputes between the partners did not occur until Arnould became frustrated that Muney  
6 would not offer the buyout amount that he wanted, and was, upon information and belief,  
7 unable to sell his interest in the company at a price he considered acceptable.  
8

9         During the time that a buyout of Arnould was being discussed, the lease on the  
10 company's Los Angeles warehouse came up for renewal, which required a personal  
11 guarantee from both partners. Arnould renewed it in both of their names; Muney and  
12 Arnould dispute whether Muney authorized Arnould to do so. Soon after, the lease on the  
13 Las Vegas warehouse came up for renewal, and like the LA warehouse, the renewal  
14 required a personal guarantee by both owners of the company. Muney asked for Arnould's  
15 permission to renew the lease, and Arnould refused. Arnould, through his attorney at the  
16 time, suggested that Muney lease the warehouse with a company that he owned entirely (so  
17 that he would be the only owner required to guarantee the warehouse), and have that  
18 company sub-lease the space to Chefexec (*See Exhibit 1*). Muney followed that advice, and  
19 a separate company leased the space, and sub-leased it to Chefexec, at a rate that Muney  
20 was advised was the standard rate for such storage in the area (*See Exhibit 2*). Muney has  
21 not received any notice or allegations of having "taken money and diverted business  
22 opportunities and customers" from Chefexec, beyond this warehouse lease.

23         Although the present dispute has arisen over the last year, a review of Chefexec  
24 business records shows that its profits drastically increased in 2019 over the previous year,  
25 and that it is operating effectively, despite the dispute (*See Exhibit 3*).

26         On February 7, 2020, the Parties met for a settlement conference mediated by Judge  
27 Williams, in which Arnould proposed terms of settlement which were accepted by Muney  
28 (*See Exhibit 4*). The Parties spent additional hours at that conference to establish an

1 agreement of all material terms to ensure that the settlement agreement would be  
2 enforceable (See Exhibit 5). In the agreement, it was agreed that Arnould would purchase  
3 Muney's portion of the business for \$700,000 plus half the value of Company inventory,  
4 half the bank accounts, and half of the accounts receivable. It was agreed that prior to  
5 completion of the sale, parties would not take inventory out of the Las Vegas Warehouse,  
6 and would go about their normal course of business. The agreement was contingent upon  
7 Arnould securing financing, which he agreed to seek financing in "good faith" "from all  
8 reasonable sources." It was also agreed that Arnould would be given a key to the Las Vegas  
9 Warehouse, which Muney agreed to because of the terms blocking the taking of inventory.  
10

11 At the meeting to count inventory, Arnould brought a truck driver from LA to take  
12 inventory out of the Las Vegas warehouse. Muney objected, but in the spirit of  
13 consummating the transaction, did not declare a breach at that time. However a few days  
14 later, Arnould secretly used his access to take additional inventory, far in excess of the  
15 normal course of business, and did not disclose this to Muney. This is known only because  
16 of video surveillance (See Exhibit 6). Muney protested and demanded that such actions halt.  
17 On February 26, 2020, Arnould's counsel informed Muney's counsel by phone that Arnould  
18 was having difficulty obtaining financing, and asked if Muney would be amenable to  
19 changing the terms to allow for financing to be more likely. Muney responded that he would  
20 be flexible in timing and method, but not as to amount, and also asked to see what efforts  
21 were being made to seek financing. Arnould's counsel agreed to send evidence of the efforts  
22 made the next day, but did not. Two weeks later on March 11, having received no further  
23 communication, Muney requested an update. Arnould's counsel apologized for the delay  
24 and asked what information was requested, and Muney indicated that we wanted evidence  
25 of what efforts were being made, and what terms/collateral were being offered. Two days  
26 later, without any further communication, Arnould filed the present motion for summary  
27 judgment. At no time did Arnould follow up on what modifications that Muney would be  
28 open to to allow obtaining financing to be easier. At no time prior to filing for summary

1 judgment did Arnould provide any information on what efforts were being made. After  
2 demand by Muney, once the motion had been served, Arnould provided his evidence of  
3 efforts to secure financing (See Exhibit 7<sup>1</sup>). The 'evidence' showed emails regarding four  
4 potential transactions. None indicated a flat denial, one stated that the loan would be  
5 possible if broken up over time, while another stated that the loan would be possible with  
6 real estate collateral such as a home lien. On March 16, Muney formally declared Arnould  
7 in breach of the settlement agreement terms.

### 8 **MEMORANDUM OF POINTS AND AUTHORITIES**

9  
10 The primary reason that summary judgment can not be granted is because of the  
11 presence of a settlement agreement that is dispositive of all claims. The enforcement of the  
12 agreement itself will be fully discussed in the attached counter-motion to enforce settlement.  
13 The secondary issue is that there are multiple issues of fact precluding summary judgment.  
14 Plaintiff calls the motion one for partial summary judgment, yet seeks the entire remedy  
15 from the whole case (dissolution and distribution). However no distribution and dissolution  
16 can occur without first adjudicating the counterclaims, and Plaintiff's sole cause of action  
17 for Breach of Fiduciary Duty. As this court has already ruled the breach claim to have  
18 genuine issues of material fact, and the allegations of the counterclaims have not even been  
19 addressed, Plaintiff can not satisfy Rule 56.

#### 20 **A. Summary Judgment Standard**

21  
22 <sup>1</sup> Four items were provided:

23 1 - "CITI BANK" - A short email chain asking about financing. The lender initially  
24 indicates he would have to fill out a formal application (Feb 21), after which the email  
25 shows Arnould requesting to make such an application on March 6. There are no  
26 communications indicating the result of that application.

27 2 - "CITY NATIONAL BANK" - A single email in which the lender requests more  
28 information.

3 - "WELLS FARGO" - An email chain where the lender indicates that they can offer  
financing, but they will want real estate collateral, to which Arnould responds asking if  
that means they wont lend to him. There is no answer provided.

4 - "WESTRIDGE" - A single email that states they are not approved for the full amount,  
but could offer the loan if Muney is willing to accept incremental payments.

1 Summary judgment is appropriate when, as a matter of law, there is no  
2 genuine issue as to any material fact. NRCP 56(c); *Prostack v. Songailo*, 97 Nev. 38, 40,  
3 623 P.2d 978 (1981). Summary judgment is particularly inappropriate at this time, as there  
4 is an enforceable settlement agreement in place, precluding any action to move forward with  
5 the case, and as this Court has already ruled, the issues surrounding the breach of fiduciary  
6 duty claim could not be resolved on summary judgment because they involve questions of  
7 material fact.<sup>2</sup>

9  
10 **B. There is an Enforceable Settlement Agreement in Place.**

11 A motion for summary judgment is not appropriate when a case has been settled.  
12 NRCP Rule 56 requires a showing that the movant is entitled to judgment as a matter of  
13 law. Although the final agreement had not yet been signed, the material terms that was  
14 signed is fully enforceable under Nevada law. In *May v. Anderson*, the Nevada Supreme  
15 Court made clear that "because a settlement contract is formed when the parties have agreed  
16 to its material terms, even though the exact language is finalized later, a party's refusal to  
17 later execute a release document after agreeing upon the release's essential terms does not  
18 render the settlement agreement invalid." *May v. Anderson*, 119 P. 3d 1254 (NV S.Ct.  
19 2005). As the settlement agreement called for mutual waiver of all claims, and both parties  
20 signed the agreement and agreed it would be binding, there are no claims that Arnould can  
21 claim entitlement to judgment upon.

22 Arnould's motion gives no explanation as to why the settlement agreement should not be  
23 binding upon him, nor requests this Court to make such a finding. As such a finding is  
24 required prior to any consideration of a motion for summary judgment, and Arnould has not  
25 requested such a finding, the motion must be denied.

26  
27  
28 

---

<sup>2</sup> 01/10/2020 Order Denying Summary Judgment, p.1.

1 **C. The Circumstances do not Meet the Standard for Judicial Dissolution or**  
2 **Appointment of a Receiver.**

3 A review of the evidence makes clear that dissolution of the company was Arnould's  
4 goal even prior to any alleged wrongdoing by Muney. *See* Exhibit 1<sup>3</sup> (Letters demanding  
5 dissolution sent on July 25 and August 7; Arnould stated he first became aware of the new  
6 lease on October 1). As Arnould wants to be bought out at better terms than what he was  
7 able to negotiate through proper channels, he is seeking to manufacture a dispute to allow  
8 him to more profitably cash out. *See* Exhibit 8 (June 26 email from Arnould asking for  
9 company to be split).

10 Nevada law only allows judicial dissolution and appointment of a receiver as an  
11 extreme remedy of last resort, when there is no other remedy at law. Further, it is only  
12 available when continued operation of the LLC's business is "no longer reasonably  
13 practicable." NRS 86.495. The fact that settlement was agreed to by both parties makes  
14 clear that there are other remedies available other than dissolution. While Nevada courts  
15 have not established a more thorough definition of "reasonably practicable, looking to  
16 Delaware courts, as Nevada Courts typically do for issues of corporate law<sup>4</sup>, we see that the  
17 business must be without any reasonable ability to carry on. The Delaware Court of  
18 Chancery explained::

19 Dissolution of an entity chartered for a broad business purpose remains  
20 possible upon a strong showing that a confluence of situationally specific  
adverse financial, market, product, managerial, or corporate governance  
circumstances make it nihilistic for the entity to continue"

21 *Matter of Arrow Inv. Advisors, LLC*, 2009 WL 1101682, \*2 (Del. Ch. 2009). That court  
22 went on to explain that as a remedy of last resort, judicial dissolution and receivership is not

23 <sup>3</sup>Previous attorney Gershuni on July 25 "...the process which I previously proposed, which  
24 is a dissolution of the LLC..."; Current attorneys on August 7: "The purpose of this letter is  
25 to notify you that we have been retained to dissolve the Company. The dissolution will  
26 occur in one of two ways: (1)the parties will either work together to obtain a speedy and  
27 amicable dissolution internally, which will be much more cost efficient; or (2) we will  
28 unilaterally seek to dissolve the Company by judicial action whereby the terms of such  
dissolution will be decided under Nevada law." "If we do not receive a written response  
from you by this date, we will initiate judicial action to dissolve the Company as set forth  
herein.

<sup>4</sup> *Brown v. Kinross Gold USA, Inc.*, 531 F. Supp. 2d 1234 (D. Nevada 2008).

1 appropriate as a response to allegations of breaches of fiduciary duty, and was so deficient  
2 as to warrant dismissal:

3 Here, Hamman has failed to allege that Arrow is not operating in  
4 accordance with the broad purposes set forth in its LLC agreement.  
5 Moreover, I will not entertain a claim for dissolution premised on  
6 unproven breaches of fiduciary duty. Dissolution is an extreme remedy to  
7 be applied only when it is not longer reasonably practicable for the  
8 company to operate in accordance with its founding documents, not as a  
9 response to fiduciary or contractual violations for which more appropriate  
10 and proportional relief is available.

11 Id. Just as in that case, Plaintiff has pled a pretextual breach of fiduciary duty (as shown  
12 above), and demanded an extreme remedy of last resort from this Court. *Bedore v.*  
13 *Familian*, 125 P. 3d 1168 (Nev: Supreme Court 2006); (Where taking excess salary and  
14 usurping corporate opportunity was alleged, receivership and dissolution not warranted);  
15 *Gottier's Furniture, LLC v. La Pointe*, No. CV040084606S, 2007 WL 1600021 (Conn.  
16 Super. May 16, 2007); (declining defendant member's request to appoint receiver to wind  
17 up affairs of LLC inasmuch as defendant member had misappropriated LLC funds and had  
18 unclean hands, and, alternatively, because dissolution receivership is extraordinary remedy  
19 that is not warranted merely based on dissension of members or financial difficulty).

20 It is clear from the law that in order to demand receivership and dissolution, Plaintiff  
21 must plead and prove that the business is no longer able to effectively operate. Plaintiff has  
22 not pled facts to support such an allegation, nor can he. Business records of the company  
23 show that this year, the year of the present dispute, ChefExec is making 73% more profit  
24 than it did the previous year. *See* Exhibit 3. This is possible despite disagreements because  
25 Muney and Arnould have always each run their own city's branch of the company. Thus  
26 while they may disagree, and such disagreements may cause issues, they do not prevent the  
27 company from operating.

#### 28 **D. Significant Issues of Fact Still Remain**

Even beyond the fact that summary judgment is unavailable when an enforceable  
settlement is in place, there are significant issues of fact remaining in the litigation. First and

1 most obviously, this Court declared in its order of January 10, that summary judgment is  
2 unavailable for the claim of breach of fiduciary duty because there are genuine issues of  
3 fact<sup>5</sup>.

4 Further, Arnould's motion does not even address Muney's counterclaims. Although  
5 Arnould indicates that it is a motion for *partial* summary judgment, the fact remains that a  
6 proper division of the company and settlement of Arnould's claims can not be done without  
7 also resolving Muney's claims. A review of the evidence and affidavits attached to the  
8 motion make clear that there is not a single statement alleging to resolve the matters of  
9 Muney's counterclaims. Under Rule 56, the moving party bears the burden of initially  
10 showing that there is no issue of fact remaining. Arnould is not capable of doing so without  
11 so much as mentioning any of the counterclaims, or the facts they rely upon. This is yet  
12 another reason summary judgment must be denied.

13  
14 **E. Arnould's Perjury Should Disqualify his Entire Declaration.**

15 In Muney's motion for summary judgment, he pointed out provably false statements  
16 in Arnould's affidavit. Despite that, Arnould has again made a sworn affidavit to this Court,  
17 with knowingly, provably false statements. Arnould should not be allowed to lie to this  
18 Court under oath heedlessly and without consequence.

19 Review of the declaration shows the following clear falsehoods:

20 -Paragraph 4 – Despite Arnould's counsel directly stating in open court at the  
21 previous motion hearing that Arnould and Muney operate Los Angeles and Las Vegas  
22 separately, Arnould here testifies to the opposite.

23 -Paragraphs 9 & 10 – Arnould states that Muney leased the warehouse with his own  
24 company, and sub-leased it to Chef Exec without any “communication”. This is explicitly  
25 false. Muney has shown two separate emails from two separate attorneys for Arnould  
26 specifically suggesting this course of action. Arnould may dispute whether this constitutes  
27

---

28 <sup>5</sup> “Summary Judgment on the issue of whether Defendant Muney breached fiduciary duties  
is denied because there are genuine issues of material fact.”

1 consent, but they can not argue that it does not constitute “communication”. This is a  
2 knowing and explicit falsehood.

3 -Paragraph 13 – Arnould stated: “Muney refuses to allow me access to the Las Vegas  
4 warehouse or treat me like an owner of the Company.” Pursuant to the Settlement Agreement,  
5 Muney provided Arnould with a key to the new locks on Feb 20, 2020. Exhibit 6 shows  
6 Arnould's agent entering the warehouse on his own, clearly with his own key. This  
7 declaration was dated March 12. This is an explicit fabrication.

8  
9 **III.**

10 **CONCLUSION**

11 The present motion was filed while an enforceable settlement agreement, which was  
12 dispositive of all claims, was still in place, and did so without moving for any action  
13 regarding the settlement agreement. Further, the request to dissolve the company and  
14 distribute can not occur without resolving the breach of fiduciary duty claim and the  
15 counterclaims, all of which have undisputed genuine issues of fact that preclude summary  
16 judgment. For these reasons summary judgment can not be granted.

17  
18 DATED this 20<sup>th</sup> day of March, 2020

19 **KERN LAW**

20 By: /s/ Robert Kern /s/  
21 Robert Kern, Esq.  
22 601 S. 6<sup>th</sup> Street  
23 Las Vegas, NV 89101  
24 (702) 518-4529  
25 Attorney for Defendants  
26  
27  
28



1  
2 **COUNTER-MOTION TO ENFORCE SETTLEMENT AGREEMENT**

3 As discussed above, on February 7, 2020, at a settlement conference, the Parties  
4 signed a document titled “Memorandum of Material Terms of Agreement” (Exhibit 4).  
5 Muney hereby moves this Court for an order enforcing the terms of the agreement, and  
6 reducing the agreement to judgment.

7 1 In Nevada Preliminary Settlement Agreements are Enforceable.

8 The trial court has inherent power to enter a judgment enforcing a settlement:

9 The power of a trial court to enter a judgment enforcing a settlement  
10 agreement has its basis in the policy favoring the settlement of disputes and  
11 the avoidance of costly and time consuming litigation. (Citations omitted.) To  
12 effectuate this policy, the power of a trial court to enforce a settlement  
agreement has been upheld even where the agreement has not been arrived at  
in the presence of the court nor reduced in writing. (Citations omitted.)

13 *Kukla v. National Distillers Products Company*, 43 F. 2d 619 at 621 (6th Cir. 1973). That  
14 Court also clarified that summary enforcement is proper when there is no dispute as to the  
15 material terms of the agreement. The Nevada Supreme Court confirmed this in *May v.*  
16 *Anderson*, where they made clear that "because a settlement contract is formed when the  
17 parties have agreed to its material terms, even though the exact language is finalized later, a  
18 party's refusal to later execute a release document after agreeing upon the release's essential  
19 terms does not render the settlement agreement invalid." *May v. Anderson*, 119 P. 3d 1254  
20 (NV S.Ct. 2005). The Court explained: “Because a settlement agreement is a contract, its  
21 construction and enforcement are governed by principles of contract law. . . . A contract  
22 can be formed, however, when the parties have agreed to the material terms, even though  
23 the contract's exact language is not finalized until later.” (Id. At 1257). Further, DCR 16 and  
EDCR 7.50 directly state that a settlement agreement in writing that is signed by both  
parties is enforceable<sup>6</sup>.

24 **2. The Signed Agreement in This Matter Satisfies Requirements to be**  
25 **Enforceable.**

26  
27 <sup>6</sup> “No agreement or stipulation between the parties or their attorneys will be effective  
28 unless the same shall, by consent, be entered in the minutes in the form of an order, or  
unless the same is in writing subscribed by the party against whom the same shall be  
alleged”

1 In order to be enforceable, the agreement must contain all material terms, must be in  
2 writing, and must be signed by the party it is to be enforced against. Review of the  
3 agreement shows that, in signing it, the Parties specifically agreed that it would be  
4 enforceable (“It is understood that this agreement shall be binding upon the parties until the  
5 final agreement is signed.”), and that it contained all material terms (“The parties agree that  
6 this agreement contains all terms that are material to the agreement.”). The agreement  
7 specified the parties, specifically identified what assets were being transferred, and what  
8 price was being paid, a timeframe, a mutual release, a non-compete and non-disparagement  
9 agreement, agreements to maintain the status quo prior to final sale, and the mechanism for  
10 dispute resolution within the agreement. The agreement is unquestionably in writing, and it  
11 is clearly signed by both parties. There is no real question as to whether the agreement is  
12 enforceable, but only whether a bank's refusal to grant Arnould a loan without any collateral  
13 offered somehow satisfies Arnould's duty use best efforts to seek financing in good faith.

14 **3 Arnould Failed his Duty to use Good Faith and Best Efforts to Seek Financing.**

15 The sole contingency of the agreement was that it was conditional upon Arnould  
16 obtaining financing, which he would be “required to use good faith towards seeking to  
17 obtain financing from all reasonable sources.” It is this contingency Arnould now hopes to  
18 use to get out of the agreement. The requirement to use good faith in seeking financing was  
19 specifically negotiated, and Munev specifically rejected language proposed by Arnould that  
20 the determination of what “good faith” entailed would be “In Arnould's sole discretion.”  
21 (See Exhibit 9, Early Draft). Such negotiations make clear that the requirement to seek  
22 financing in good faith from all available sources was intended to be a substantive  
23 requirement of the agreement.

24 Although Nevada courts have not provided significant guidance on the subject of  
25 what the standard of “good faith” requires in such context, Nevada courts frequently look to  
26 Delaware courts, who have analyzed this issue. The Court of Chancery in *Hexion* reviewed  
27 this question, first finding that the terms “good faith” and “reasonable best efforts” to be  
28 equivalent in a contract. *HEXION SPEC. CHEMICALS, INC. v. Huntsman Corp.*, 965 A. 2d  
715 at 721 (Del. Ct of Chancery 2008). That Court analyzed what was required of a party  
who agreed to make “best efforts” at obtaining financing, and concluded that “to the extent  
that an act was both commercially reasonable and advisable to enhance the likelihood of

1 consummation of the financing, the onus was on Hexion to take that act.” *Id.* At 749. The  
2 Court explained that in order to justify failure to obtain financing, the party would have to;  
3 “show that there were no viable options it could exercise to allow it to perform without  
4 disastrous financial consequences.” *Id.* At 755. The Court went on to state that the bound  
5 party, of finding difficulty complying with the requirement to seek financing, was required  
6 to communicate with the opposing party to attempt to seek resolution, and that failure to do  
7 so was likewise a breach. *Id.* At 750 (“But Hexion did nothing to approach Huntsman  
8 management, either to discuss ways the solvency problems might be addressed, or even to  
9 put Huntsman on notice of its concerns. This choice alone would be sufficient to find that  
Hexion had knowingly and intentionally breached its covenants.”).

10 Holding Arnould's efforts against this standard, it is clear that they are insufficient.  
11 First, and most obviously, none of the four communications showed a flat denial (Exhibit  
12 7), the worst stated that a formal application would need to be filled out, and others either  
13 requested more information (which there is no evidence was ever provided), requested  
14 collateral, or requested that the loan be broken up over time. Talking to four lenders without  
15 getting a definite answer from any does not indicate that he sought financing from “all  
16 reasonable sources”. More importantly, no reasonable person expects to borrow  
17 \$700,000.00 without providing any collateral. Arnould owns multiple homes; he may not  
18 wish to encumber them, but absent a showing of disastrous financial consequences to  
providing such collateral, he must take such reasonable steps.

19 Further, by the standards of the *Hexion* Court above, Arnould's failure to  
20 communicate with Muney to seek resolution of his 'difficulties' with financing is itself prima  
21 facie evidence of bad faith. This is shown by the fact that Muney offered flexibility in terms,  
22 including such terms as requested by one of the lenders, and instead of investigating such  
23 options, and Arnould filed a motion for summary judgment prior to making any effort at all  
24 to pursue them. In fact, as far as Arnould has shown, he has not even made the effort to  
25 reply to emails from lenders asking for more information. It is thus clear that Arnould failed  
his duty of good faith under the agreement, and can not be excused from the contract by his  
own malfeasance.

26  
27 **4 Arnould Used Muney's Compliance to Wrongfully Take Merchandise.**  
28

1 As part of the settlement agreement, Arnould insisted upon being given the key to  
2 the Las Vegas warehouse. Muney agreed only because of the inclusion of the language  
3 stating that he was not to take inventory from the warehouse during the agreement<sup>7</sup>. Despite  
4 this agreement, at the meeting to count inventory, Arnould brought a truck driver from LA  
5 to take inventory out of the Las Vegas warehouse. Muney objected, but in the spirit of  
6 consummating the transaction, did not declare a breach at that time. However a few days  
7 later, Arnould secretly used his access to take additional inventory, far in excess of the  
8 normal course of business, and did not disclose this to Muney. This is known only because  
9 of video surveillance (Exhibit 6). This inventory had significant monetary value and  
10 contained inventory essential for the Las Vegas operation. In this way Arnould used Muney  
11 providing him the key, according to the agreement, to enrich his side of the business while  
breaching the same agreement.

12 5 The Settlement Agreement Should be Enforced and Reduced to Judgment.

13 The entire goal of the present litigation was for Arnould to seek division of company  
14 assets between the Parties. The terms of the settlement agreement are fully enforceable, and  
15 as they are the terms the parties themselves agreed to, are an objectively equitable method  
16 of dividing interests and resolving the present matter. No third party analysis could divide  
17 interests more appropriately than the agreement of the parties themselves, and there is no  
18 reason to waste judicial resources, expert fees, and attorneys fees litigating this matter when  
an enforceable and agreed-to resolution is already in place.

19 Muney therefore requests that this court reduce the settlement agreement to  
20 judgment by its existing terms, and conclude the present litigation.

21 DATED this 20<sup>th</sup> day of March, 2020

22 **KERN LAW**

23 By: /s/ Robert Kern /s/  
24 Robert Kern, Esq.  
25 601 S. 6<sup>th</sup> Street  
26 Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

27 <sup>7</sup> “Both parties agree that neither will incur any extraordinary expenses or take any items  
28 out of the warehouse between February 7, 2020, and the completion of the final Sale of  
the Company.”

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 20<sup>th</sup> day of March 2020, I served a true and correct copy of the foregoing **OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT AND COUNTER-MOTION FOR ENFORCEMENT OF SETTLEMENT AGREEMENT**, pursuant to NRCP 56, by electronic service, addressed to the following:

Phillip S. Aurbach, Esq.  
Marquis Aurbach Coffing  
Paurbach@Maclaw.com  
*Counsel for Dominique Arnould*  
  
Alexander Callaway  
Marquis Aurbach Coffing  
acalaway@maclaw.com  
*Counsel for Dominique Arnould*

\_\_\_\_\_  
/s/ Robert Kern  
Employee of Kern Law

# **EXHIBIT 1**



## MARQUIS AURBACH COFFING

DIRECT LINE: (702) 207-6086  
DIRECT FAX: (702) 856-8986  
EMAIL: JPEEL@MACLAW.COM

ALBERT G. MARQUIS  
PHILLIP S. AURBACH  
AVECE M. HIGBEE  
TERRY A. COFFING  
SCOTT A. MARQUIS  
JACK CHEN MIN JUAN  
CRAIG R. ANDERSON  
TERRY A. MOORE  
GERALDINE TOMICH  
NICHOLAS D. CROSBY  
MICAH S. ECHOLS  
TYE S. HANSEEN  
LIANE K. WAKAYAMA  
DAVID G. ALLEMAN  
CODY S. MOUNTEER  
CHAD F. CLEMENT  
CHRISTIAN T. BALDUCCI

JARED M. MOSER  
JONATHAN B. LEE  
MICHAEL D. MAUPIN  
PATRICK C. McDONNELL  
KATHLEEN A. WILDE  
JACKIE V. NICHOLS  
RACHEL S. TYGRET  
JORDAN B. PEEL  
TOM W. STEWART  
JAMES A. BECKSTROM  
EMILY D. ANDERSON  
COLLIN M. JAYNE

JOHN M. SACCO  
LANCE C. EARL  
WILLIAM P. WRIGHT  
TROY R. DICKERSON  
BRIAN R. HARDY  
OF COUNSEL

August 7, 2019

### *Via Email and Regular Mail*

Clement Muney  
151 Augusta St.  
Henderson, NV 89074  
clement@chefexecsuppliers.com

Re: CHEF EXEC SUPPLIERS, LLC - Dissolution  
Our File No. 15755-001

Dear Mr. Muney:

Our firm represents Dominique Arnould ("Dominique") with respect to CHEF EXEC SUPPLIERS, LLC, a Nevada limited liability company (the "Company"), in which you and Dominique are both Managing Members each owning fifty percent (50%) of the total membership interests in the Company. The purpose of this letter is to notify you that we have been retained to dissolve the Company. The dissolution will occur in one of two ways: (1) the parties will either work together to obtain a speedy and amicable dissolution internally, which will be much more cost efficient; or (2) we will unilaterally seek to dissolve the Company by judicial action whereby the terms of such dissolution will be decided under Nevada law. It is Dominique's desire to dissolve the Company internally and amicably; however, if that is not possible, we are prepared to initiate judicial action.

If judicial action is required, the district court will dissolve the Company in accordance with the requirements set forth in Nevada Revised Statutes ("NRS") Chapter 86, which are as follows: (1) the Company's liabilities will be paid in the following order (a) to the Company's creditors (accounts payable, leasehold interests, and other general Company debt), and (b) to the Company's members in the amount of their capital contributions; and (2) the Company's assets will be distributed to the members in accordance with the percentage of their respective ownership interest. Please note that a court-ordered dissolution, under Nevada law, will not require any member to be bound by obligations of non-competition, non-solicitation of suppliers or customers, or any other restrictive covenant. Instead, it will be a simple and straightforward payment of debts and division of assets.

As a result of the foregoing, Dominique will not agree to dissolution terms that require the parties to be bound by terms and conditions that are more restrictive than what the parties would otherwise obtain by court action (e.g., non-competition and non-solicitation covenants). In any event, distribution to Dominique of his respective share of the Company's assets would not even constitute separate consideration for any such covenants, thus rendering them unenforceable. Continuing to demand that the parties agree to such unnecessary restrictions will force us to seek a court-ordered dissolution under Nevada law, as set forth above, and only cause both parties to incur court costs and



legal fees unnecessarily. To that end, it is proposed that the parties agree to an amicable dissolution based on the following terms and conditions:

1. **Liabilities.** The Company's debts and creditors are to be paid in full.
2. **Las Vegas Lease.** The lease cannot be renewed and must expire in September 2019. If any party desires to enter into a new lease at this location, that party must do so on its own accord—meaning, that party must form a new entity to enter into a new lease and shall not use or purport to use the other party as a guarantor.
3. **Los Angeles Lease.** Either (a) terminate the lease and buy out the remaining term from the landlord using Company funds, or (b) if any party desires to enter into a new lease at this location, that party must do so on its own accord—meaning, that party must form a new entity to enter into a new lease and shall not use or purport to use the other party as a guarantor.
4. **Accounts Receivable.** Both parties shall actively pursue collection of all the Company's accounts receivable. The proceeds of such collection shall be divided equally, i.e., 50-50, between the parties.
5. **Sales Commissions.** The sales commissions earned by but not paid to the applicable sales representative shall be paid to such representative in the Company's ordinary course of calculating and paying such commissions.
6. **Assets.** The Company's remaining assets (cash, equipment and inventory) shall be divided equally, i.e., 50-50, between the parties either in cash or in kind. Formal appraisals will be obtained to determine the value of any asset that is not mutually agreed upon by the parties, the cost of which would necessarily reduce the amount of remaining assets available for distribution.

Please respond to this letter in writing no later than 3:00 p.m. Nevada time on August 14, 2019. If we do not receive a written response from you by this date, we will initiate judicial action to dissolve the Company as set forth herein. Please also note that our client reserves all of his rights with respect to the Company and his membership interest therein, none of which are waived. Thank you in advance for your prompt attention to this urgent matter.

Sincerely,

MARQUIS AURBACH COFFING



Jordan B. Peel, Esq.

JBP:jbp  
cc: Client

MAC:15755-001 3807100 3 8/7/2019 2:53 PM



Re: Chef Exec Suppliers LLC

Robert Kern

Fri 12/6/2019 12:58 PM

**From:** Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>

**Subject:** Re: Chef Exec Suppliers LLC

**Date:** July 25, 2019 at 2:15:44 PM PDT

**To:** [clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)

**Cc:** [dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com), [domiarnould@yahoo.com](mailto:domiarnould@yahoo.com)

Dear Clement,

Thanks for your reply.

You ask about the effect of the operating agreement. Please provide me with a fully executed (i.e., signed by both you and Dominique) copy of the operating agreement and I can then review it and give you my comments in response to your questions.

I agree that selecting an appraiser should be a relatively simple process. I also believe that you and Dominique would be agreeable to your respective interests in the company being valued at 50% of the appraised value of all assets, tangible and intangible. However, to carry out the process which I previously proposed, which is a dissolution of the LLC and winding up of its affairs, with the physical assets being allocated between you both according to the appraiser's valuation after all liabilities are satisfied, going forward should be simple. It is my understanding that each of you would be entitled to 50% of the inventory in each location and each of you would be entitled to 50% of the equipment in each location. Ultimately the two of you might agree on some variations in this regard, but if we can memorialize the fundamental terms of this dissolution, we can then get on with the process of selecting an appraiser.

As for your concern regarding the Las Vegas lease renewal in September, I will recommend that you form a new entity to be the lessee to take over the Las Vegas lease when it comes up for renewal in September. You would be the sole member of that new entity (or perhaps partner with someone else?) and Dominique, not being a principal of your new entity, would not be required to sign the new Las Vegas lease.

Would you like me to draft the proposed dissolution agreement? Please let me know ASAP.

Kindest personal regards,

*Gregory Gershuni*

Gregory Gershuni

Attorney at Law

THE GERSHUNI LAW FIRM

11377 West Olympic Blvd., Suite 521  
Los Angeles, California 90064  
(310) 474-6300 Office  
(310) 344-2075 Cell  
[www.GershuniLaw.com](http://www.GershuniLaw.com)  
*Integrity is Everything*

*This message is intended only for the use of the entity to which it is addressed, and may contain information that is privileged, confidential. If the reader of this message is not the intended recipient, or an employee or agent responsible for delivery of the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately.*

-----Original Message-----

From: Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>  
To: Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>  
Cc: Clement Chef Exec <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>; dominique <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)>; [domiarnould@yahoo.com](mailto:domiarnould@yahoo.com) <[domiarnould@yahoo.com](mailto:domiarnould@yahoo.com)>  
Sent: Wed, Jul 24, 2019 6:34 pm  
Subject: Re: Chef Exec Suppliers LLC

Gregory,

Thank you for your email. To go forward, I think I need a better understanding of the situation.  
Can you tell me, does the operating agreement allow for unilateral dissolution on Dominique's part? Does it allow him to sell his voting interest in the company to another party without my consent? I'm just wondering where the contracts stand on all this.

Regardless of those answers, I think if we can agree on a selection method for an appraiser, and Dominique will accept the appraised value of 50% (representing his half of the company) of the total cost value of all inventory and the appraised value of physical assets, then we will have an agreement.

I do have another concern however, which is that the Las Vegas lease comes up for renewal in September. They will likely not allow renewal without signature from all principals of the company. What do you propose we do there?

Sincerely yours

Clement

On Jul 24, 2019, at 3:40 PM, Gregory Gershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)> wrote:

Dear Clement,

It's been a couple of days since I last wrote to you. Kindly afford me the courtesy of a reply.

Kindest personal regards,

*Gregory Gershuni*

Gregory Gershuni

Attorney at Law

THE **GERSHUNI** LAW FIRM

11377 West Olympic Blvd., Suite 521  
Los Angeles, California 90064

# **EXHIBIT 2**

## Fwd: PROPERTY LEASE RATES

clement MUNEY

Tue 10/15/2019 4:30 PM

To: Robert Kern <[robert@kernlawoffices.com](mailto:robert@kernlawoffices.com)>

Cc: clement MUNEY <[cmuney1@yahoo.com](mailto:cmuney1@yahoo.com)>; Jeremy Muney <[jeremymuney@yahoo.com](mailto:jeremymuney@yahoo.com)>

FYI

I took this quote

we have 7745 sqft ware house \*1.25\$ = 9681.25

+ Cam=1210\$

So a total opf \$10,891.25 per month

I am billing \$10,790 per month with CMJJ Gourmet Inc. to Chef Exec Suppliers LLC

Begin forwarded message:

**From:** GENE PROCTOR <[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)>

**Subject: Re: PROPERTY LEASE RATES**

**Date:** August 14, 2019 at 6:53:09 PM PDT

**To:** Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>

The rate with cams would increase to \$11,280.

On Wed, Aug 14, 2019 at 3:50 PM Clement Muney <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)> wrote:

Hello Gene,

Thank you for your email

With the "cam" like we have right now with Chef Exec Suppliers LLC, on our warehouse on Quail that you know, what total price would we looking at please all included on a month to month?

Thank you for your help

Clement Muney  
(702) 340 8697  
Sent from my iPhone

On Aug 14, 2019, at 15:43, GENE PROCTOR <[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)> wrote:

Clement,

The industrial property inventory is quite limited in Las Vegas right now. The per square foot rate increased 30% last year. The 8,000 square foot space you inquired about leases for \$1.00 psf but there is a 25% premium for a month to month lease bringing the rate to \$1.25 psf or a total of \$10,000 per month. Let me know if you have any other questions.

--

Gene Proctor Jr.  
Licensed Since 1998  
Commercial Leasing Specialist  
"Proctor's No Gamble"  
[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)  
Coldwell Banker Premier  
[8290 W. Sahara Ave., Suite 100](#)  
[Las Vegas, NV 89117](#)  
Cell 702.762-0917

--

Gene Proctor Jr.  
Licensed Since 1998  
Commercial Leasing Specialist  
"Proctor's No Gamble"  
[proctorsnogamble@gmail.com](mailto:proctorsnogamble@gmail.com)  
Coldwell Banker Premier  
8290 W. Sahara Ave., Suite 100  
Las Vegas, NV 89117  
Cell 702.762-0917

# **EXHIBIT 3**

1:20 PM

12/04/19

Accrual Basis

**CHEF EXEC SUPPLIERS, LLC**  
**Profit & Loss Prev Year Comparison**  
**January 1 through December 4, 2019**

	Jan 1 - Dec 4, 19	Jan 1 - Dec 4, 18	\$ Change	% Change
Ordinary Income/Expense				
Income	1,088,025.66	985,138.84	102,886.82	10.4%
Cost of Goods Sold	422,067.21	455,053.29	-32,986.08	-7.3%
Gross Profit	665,958.45	530,085.55	135,872.90	25.6%
Expense	348,089.31	346,616.08	1,473.23	0.4%
Net Ordinary Income	317,869.14	183,469.47	134,399.67	73.3%
Other Income/Expense	3.31	0.00	3.31	100.0%
Net Income	<b>317,872.45</b>	<b>183,469.47</b>	<b>134,402.98</b>	<b>73.3%</b>

# **EXHIBIT 4**



## **Memorandum of Material Terms of Agreement**

February 7, 2020

This agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The final written agreement to be drafted at a later time.

The parties agree that this agreement contains all terms that are material to the agreement.

This agreement is between Dominique Arnould and Clement Muney, (the parties) currently each a 50% owner in the company Chef Exec Suppliers, LLC (the Company). It is understood that this agreement shall be binding upon the parties until the final agreement is signed.

The Parties agree that Dominique Arnould will buy out the interest of Clement Muney in the Company, for the amount of \$700,000.00, to be paid within 45 days from the execution of the final agreement (the Sale).

In addition to the Sale price, Clement Muney will be paid  $\frac{1}{2}$  of the bank account on the date of closing of the sale,  $\frac{1}{2}$  of the inventory at cost value on the closing date of the sale, and  $\frac{1}{2}$  of the accounts receivable as they are owed to the Company.

Assets being sold are:

- All names and logos including but not limited to trademarks, logo of Chef Exec, LLC,, and all intellectual property

- All website domain names and codes including but not limited to, chefexecsuppliers.com or any other similar names or affiliates

- All equipment including, but not limited to forklifts, pallet jacks, Mercedes truck, manufacturing molds, manufacturing tooling, racks, shelving, tools, delivery systems, computers including employee computers, employee phones, monitors, hardware, docking systems, ladders, step-ladders, packaging materials, rolling carts, scales, software, and copy-machines. Clement Muney and Jeremy Muney's personal mobile phones and computers are excluded but both will pay back the value at an agreed upon price.

- All accounts including but not limited to UPS, Paypal, checking, savings, Tempus, Commonwealth, and all usernames and passwords required for sign-in

- All insurance policies

- All company EIN numbers

- All UPC Codes

-All phone and fax numbers including but not limited to employee numbers, and fax numbers, and Clement Muney shall cooperate in providing Arnould with Arnould's cell Phone Number within 7 days of the settlement conference 702-683-2433. However, Clement Muney and his son may retain their current cell phone and home phone numbers.

-All CES Price lists, catalogs, logos, and all sales materials

-All Customer lists

-All Supplier and vendor lists

Paris Saveur logo may be used by Arnould until current and already ordered inventory is used up.

Once the Sale is completed, Clement Muney will be bound by a non-compete agreement prohibiting him from doing any business directly or indirectly that competes with the business of the Company, within Nevada, California, Hawaii, New York, Missouri, and Illinois for three and a half (3.5) years following the date of the agreement. This non-compete also includes non-solicitation of any current or potential customers of the Company. No party may disparage the Company, Employees, or either party. All sales inquiries will be forwarded to Dominique Arnould as soon as they are received. However, the non-compete does not include CMJJ Gourmet's current lines of products which will be specified later in a final agreement.

This agreement shall be contingent upon:

--Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale, with the understanding that he will be required to use good faith towards seeking to obtain such financing from all reasonable sources

-- Dominique Arnould agrees to assume the lease of the Las Vegas warehouse that is currently held by CMJJ Gourmet, Inc., subject to approval by the landlord and subject to Dominique Arnould's approval of the lease terms, which will not unreasonably be withheld.

-- All parties mutually waive all claims upon execution of the final agreement

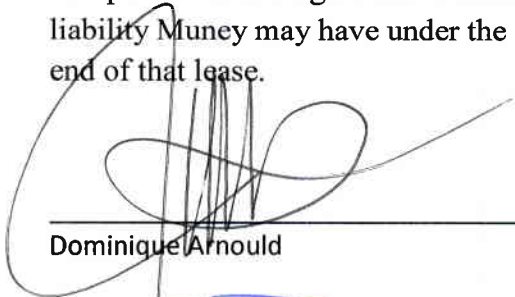
It is further agreed that the sale price of \$700,000.00 shall be discounted by the amount of profits (amount received minus cost of the leased space) that the company CMJJ Gourmet, Inc. has received from Chef Exec, LLC for storage in the Las Vegas Warehouse

Both parties agree that neither will incur any extraordinary expenses or take any items out of the warehouse between February 7, 2020, and the completion of the final Sale of the Company. Inventory shall be set for a date as soon as Arnould finds available, and Muney will give Arnould the key to the Las Vegas warehouse at that time. Sergio, Clement Muney, and Dominique Arnould shall conduct an inventory in the next 10 days. Both parties shall have full access to all

Company financial records in order to be aware of such expenditures, and each shall have the right to bring the dispute to the settlement judge if the Parties do not agree whether an expense was extraordinary or not in the ordinary course. If a settlement conference does not resolve this issue, the Parties shall have the issue decided by Judge Allf.

All business will be conducted as usual without interference by the other party.

The parties further agree that Dominique Arnould shall indemnify Clement Muney for any liability Muney may have under the Los Angeles warehouse lease between the present and the end of that lease.



\_\_\_\_\_

Dominique Arnould

02/07/2020

\_\_\_\_\_

date



\_\_\_\_\_

Clement Muney

02/07/2020

\_\_\_\_\_

Date

Clement Muney

\_\_\_\_\_

date

# **EXHIBIT 5**

**AFFIDAVIT OF ATTORNEY ROBERT KERN**

I, Robert Kern, make this Declaration of my own personal knowledge and under the penalty of perjury pursuant to NRS 53.045.

1. I am a duly licensed practising attorney in the State of Nevada, County of Clark, maintaining offices at 601 S. 6<sup>th</sup> Street, Las Vegas, Nevada 89101, and represent Defendants in the above-entitled matter.
2. I attended a settlement conference of the Parties on February 7, 2020.
3. At the conference, the parties reached agreement before noon, but stayed hours later in order to put together an agreement with sufficient terms so as to be enforceable on its own.
4. During negotiation, Arnould proposed language allowing him to have sole discretion as to whether he has taken sufficient efforts to get financing. To support this, he assured us that the financing would essentially be automatic, and getting it wouldn't be in question. We nonetheless refused the language, as it was our intention that Arnould be held to a definite good faith standard and not be allowed to slip out of the agreement if he changed his mind, simply by alleging he didn't find financing.
5. When I spoke to Arnould's counsel on the phone, I explicitly indicated that we were open to adjusting payment terms for more time, or essentially anything other than the amount of payment. They never initiated communication again on the subject prior to filing for summary judgment.

I declare under penalty of perjury the foregoing is true and correct to the best of my knowledge.

DATED this 20<sup>th</sup> day of March, 2020.

**KERN LAW**

By: /s/ Robert Kern  
Robert Kern, Esq.  
NV Bar #10104  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
*Attorney for Defendants*

# **EXHIBIT 6**





# **EXHIBIT 7**



**From:** fabian.prado@citi.com,  
**To:** domiarnould@yahoo.com,  
**Cc:** domiarnould@aol.com,  
**Subject:** Re: Loan Request  
**Date:** Fri, Feb 21, 2020 12:45 pm

---

Sent from my BlackBerry 10 smartphone.

**From:** Prado, Fabian [GCB-RTLB]  
**Sent:** Friday, February 21, 2020 12:44 PM  
**To:** dominarnuld@yahoo.com  
**Subject:** Fw: Loan Request

---

Sent from my BlackBerry 10 smartphone.

**From:** Prado, Fabian [GCB-RTLB] <fp68083@imcnam.ssmb.com>  
**Sent:** Friday, February 21, 2020 12:31 PM  
**To:** domiarnuld@aol.com  
**Subject:** Loan Request

---

Hi Dominic,

At this moment based on the preliminary review it appears there is not enough cash flow to support your requested loan amount. We can always submit to our underwriters for a formal review if you'd like.

Sent from my BlackBerry 10 smartphone.

**From:** domiarnould@aol.com,  
**To:** fabian.prado@citi.com,  
**Subject:** Re: Loan Request  
**Date:** Fri, Mar 6, 2020 11:52 am

---

sounds good

-----Original Message-----

**From:** Prado, Fabian <fabian.prado@citi.com>  
**To:** 'domiarnould@aol.com' <domiarnould@aol.com>  
**Sent:** Fri, Mar 6, 2020 11:42 am  
**Subject:** RE: Loan Request

Studio City Branch at 1 PM on Monday?

**From:** [aol.com] domiarnould@aol.com [mailto:domiarnould@aol.com]  
**Sent:** Friday, March 06, 2020 11:40 AM  
**To:** Prado, Fabian [GCB-RTLb]  
**Subject:** Re: Loan Request

Hello Fabian

Where should we meet???

Please let me know

Dominique

-----Original Message-----

**From:** Prado, Fabian <fabian.prado@citi.com>  
**To:** 'domiarnould@aol.com' <domiarnould@aol.com>  
**Sent:** Fri, Mar 6, 2020 11:00 am  
**Subject:** RE: Loan Request

Hi Dominique,

We can meet next week for you to sign the application. I am available Monday or Tuesday.

**From:** [aol.com] domiarnould@aol.com [mailto:domiarnould@aol.com]  
**Sent:** Thursday, March 05, 2020 12:47 PM  
**To:** Prado, Fabian [GCB-RTLb]  
**Subject:** Re: Loan Request

Hello Fabian

Could you ask your underwriters to do a formal review of my requested loan.

thank you very much

Dominique

-----Original Message-----

From: Prado, Fabian <fabian.prado@citi.com>  
To: domiarnould@yahoo.com <domiarnould@yahoo.com>  
Cc: domiarnould@aol.com <domiarnould@aol.com>  
Sent: Fri, Feb 21, 2020 12:45 pm  
Subject: Re: Loan Request

Sent from my BlackBerry 10 smartphone.

---

**From:** Prado, Fabian [GCB-RTLb]  
**Sent:** Friday, February 21, 2020 12:44 PM  
**To:** dominarnuld@yahoo.com  
**Subject:** Fw: Loan Request

Sent from my BlackBerry 10 smartphone.

---

**From:** Prado, Fabian [GCB-RTLb] <fp68083@imcnam.ssmb.com>  
**Sent:** Friday, February 21, 2020 12:31 PM  
**To:** domiarnuld@aol.com  
**Subject:** Loan Request

Hi Dominic,

At this moment based on the preliminary review it appears there is not enough cash flow to support your requested loan amount. We can always submit to our underwriters for a formal review if you'd like.

Sent from my BlackBerry 10 smartphone.

**From:** Corrie.Burks@cnb.com,  
**To:** domiarnould@aol.com,  
**Subject:** Loan Request  
**Date:** Thu, Mar 12, 2020 4:32 pm  
**Attachments:**

---

Hi Dominique,

I reviewed the financials and the information you provided and consulted with a few underwriters. I just have a few items to clarify:

- 1- Can you clarify how the price of buyout of your partner was determined?
- 2- Would you have a list of concentration of vendors that you purchase?
- 3- Could I take a look at your Accounts Receivables and any Aging?

I am trying to see how to support the request at 700k without any collateral. The valuation that I saw was putting the business worth at 840k. Typically we would lend about 40% of that for a working capital loan and for a buy out it would be based on percentage of ownership which for you is 50% which would be 420k which is \$4.23/share. Ultimately, the business would first need to be valued high enough to support the request then the business would need to cashflow at a level to support the request and then we would look at additional guarantees as necessary. Once you provide the above I can provide a recommendation on the structure and term of the loan.

Kind Regards,

**Corrie Burks**

Vice President, Senior Relationship Manager  
11500 Olympic Blvd Ste #100  
Los Angeles, Ca 90064  
Tel: 310-445-3685  
corrie.burks@cnb.com  
NMLS#: 537708

Visit us at [www.cnb.com](http://www.cnb.com)

---

**From:** domiarnould@aol.com,  
**To:** trey.t.black@wellsfargo.com,  
**Subject:** Fwd: Wells Fargo SBA Financing  
**Date:** Thu, Mar 5, 2020 12:44 pm

---

Hello Trey

I sent you the mail below on February 25Th, but I did not get an answer.

could you please respond?

Thanks a lot

Dominique

-----Original Message-----

From: Dominique Arnould <domiarnould@aol.com>  
To: Trey.T.Black@wellsfargo.com <Trey.T.Black@wellsfargo.com>  
Sent: Tue, Feb 25, 2020 3:21 pm  
Subject: Re: Wells Fargo SBA Financing

Hello Trey

After reviewing your mail below, I think I understand.

At this time does this means that the amount of \$700 000.00 for the buy out of my partner cannot be offered from Wells Farg to me at this time?

Please confirm"thank you

Dominique

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

To: domiarnould@aol.com  
Sent: Wed, Feb 19, 2020 4:17 pm  
Subject: FW: Wells Fargo SBA Financing

Please see below.

Trey T. Black



Business Development Officer  
Wells Fargo Bank

14144 Ventura Blvd, Suite 200 | Sherman Oaks, CA 91423  
Cell 310-848-5321

[Trey.T.Black@wellsfargo.com](mailto:Trey.T.Black@wellsfargo.com)

**From:** Black, Trey T.

**Sent:** Wednesday, February 19, 2020 2:45 PM

**To:** 'domiarnold@aol.com' <domiarnold@aol.com>

**Cc:** Angela Lee (Angela.Lee3@wellsfargo.com) <Angela.Lee3@wellsfargo.com>; Mkrtchyan, Angela <Angela.Mkrtchyan@wellsfargo.com>; Boetjer, Nicholas G. <Nicholas.G.Boetjer@wellsfargo.com>

**Subject:** Wells Fargo SBA Financing

Hi Dominique,

Thank you for the details over the last few days related to your upcoming partner buyout, and we're looking forward to being able to help. As I mentioned, our underwriters will require real estate collateral if it's available, so we would need to put a lien on your home to secure the buyout loan. In order for us to get started, here's what we'll need:

**BUSINESS ACQUISITION- Chef Exec Suppliers, LLC**

- Current Interim as of 1/31 (Bal Sheet/P&L) **Month End.** (Same accounting method of the Tax Returns - **ACCRUAL**)
- Accts/Payable Aging to match Current Interim OR statement that the Business carries no A/P
- Accts/Receivable Aging to match Current Interim OR statement that the Business carries no A/R
- Debt Schedule as of Current Interim- If a stock purchase
- IRS/SBA form 4506T –Business
- Borrower Questions- Business Acquisition
- Fully Executed Purchase Agreement or Letter of Intent signed by Buyer and Seller
- P&L projections – month by month for the first year. A template is attached for the projections.

**BORROWER/APPLICANTS/GUARANTORS: (Needed for all owners with 20% or more ownership):**

- **Last three years Personal Tax Returns**
- **W2's**-Last 3 years of **W-2's** for principal and spouse (even if spouse is not a guarantor/owner or applicant)
- **Management Resume** - for each guarantor to complete (Form attached)
- Personal Financial Statement- SBA Form 413 **signed by Applicant and Spouse** (Form attached)
- IRS/SBA form 4506T – Personal
- **Paystubs**-Most recent paycheck stub showing year-to-date earnings for principal and spouse or statement if you do not receive one
- **Bank Statements**-Source of Injection/down payment- Copy of (2) months **most recent** bank statements, all pages even if blank from any bank account that is non-Wells Fargo, for either personal or business showing proof of down payment.
- **Trust** – Copy of the first few and last couple pages of Trust (***If one exists***)

**ADDITIONAL APPLICATION FORMS**

- WF-SBA Application-(Form attached). To be filled out however the real estate is owned/or to be purchased.  
**Note: Signature(s) required on page 3.**
- WF-SBA Co Application-(Form attached). To be filled out by the business occupying the real estate. **Note: Signature(s) required on page 3.**
- Authorization to Release Information

- 1919 - Borrower Information -SBA Form (7a) **NOTE: Signatures required on page 3 and 5. Initials needed on Question 17, 18, 19, 22**
- UCC Individual statement- (only if business and/or real estate is/or to be owned individually)

Please take a day or two to review these items and compile any non-Wells Fargo documents that relate to our checklist, and we can schedule some time to assist you with our forms. I've copied my team who will be assisting me with your project, and I'll introduce them more formally as we progress.

Best regards,

Trey T. Black

Business Development Officer  
Wells Fargo Bank

14144 Ventura Blvd, Suite 200 | Sherman Oaks, CA 91423  
Cell 310-848-5321

[Trey.T.Black@wellsfargo.com](mailto:Trey.T.Black@wellsfargo.com)

**From:** domiarnould@aol.com,

**To:** jtran@viewridgefunding.com,

**Subject:** Re: ViewRidge Funding: Business Loan Application Update

**Date:** Tue, Feb 25, 2020 3:18 pm

**Attachments:**

---

thank you John

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

From: John Tran <jtran@viewridgefunding.com>

To: domiarnould@aol.com <domiarnould@aol.com>

Sent: Tue, Feb 25, 2020 3:13 pm

Subject: ViewRidge Funding: Business Loan Application Update

Hi Dominique,

Per our conversation, we will only have an approval between \$100,000 and \$150,000 for your business at this time. Once you are halfway paid down through the loan, you are eligible to come back for additional capital. With business credit and payment history with us, we can start lending \$200,000+ then eventually \$500,000+.

If your partner will accept incremental payments, then we can get this done for you within a few transactions over a 24 to 36-month span.

Let me know if you have any questions.

Thanks,

**John Tran** | Loan Specialist



**P: (888) 315-1409 | F: (888) 315-1409**

[jtran@viewridgefunding.com](mailto:jtran@viewridgefunding.com) | [www.viewridgefunding.com](http://www.viewridgefunding.com)

4719 Viewridge Avenue suite 170 San Diego, California 92123





# **EXHIBIT 8**

## Re: Buy-out/assets division

Robert Kern

Fri 12/6/2019 1:58 PM

-----Original Message-----

From: Dominique Arnould <[domiarnould@aol.com](mailto:domiarnould@aol.com)>

To: clement <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>; ggershuni <[ggershuni@aol.com](mailto:ggershuni@aol.com)>

Sent: Wed, Jun 26, 2019 5:05 pm

Subject: Buy-out/assets division

Hello Gregory and Clement,

I strongly disagree with Clement's characterization of the facts.

However, there is no good purpose to be served by picking at each point with which I disagree. That will only lead to more arguments.

Instead, I would like to move forward with a plan to arrange for Clement to buy-out of my interest in the Company at a fair value or a division of the assets of the Company in some fair and equitable way such that each of us has roughly equivalent value of assets and we can then each use those assets to pursue on our own respective business goals. I can go my own way and Clement can then go his own way.

That's what I would like to do.

Gregory, can you help us achieve this goal?

Sincerely

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the [World.Com](http://World.Com)  
702-683-2433

# **EXHIBIT 9**

## **Memorandum of Material Terms of Agreement**

February 7, 2020

This agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The final written agreement to be drafted at a later time.

The parties agree that this agreement contains all terms that are material to the agreement.

This agreement is between Dominique Arnould and Clement Muney, (the parties) currently each a 50% owner in the company Chef Exec Suppliers, LLC (the Company). It is understood that this agreement shall be binding upon the parties until the final agreement is signed.

The Parties agree that Dominique Arnould will buy out the interest of Clement Muney in the Company, for the amount of \$700,000.00, to be paid within 45 days from the execution of the final agreement (the Sale).

In addition to the Sale price, Clement Muney will be paid ~~the appraised value of 50% of Company receivables, inventory, bank accounts, and equipment (including molds), after the Sale~~ ½ of the bank account on the date of closing of the sale, ½ of the inventory at cost value on the closing date of the sale, and ½ of the accounts receivable as they are owed to the Company.

Assets being sold are:

~~-All names and logos including but not limited to Name,~~ trademarks, ~~and~~ logo of Chef Exec, LLC, logo of Paris Saveur, and all intellectual property

~~-All w~~Website domain names and codes including but not limited to, chefexecsuppliers.com or any other similar names or affiliates~~and code~~

~~-All equipment including, but not limited to forklifts, pallet jacks, Mercedes truck,~~ manufacturing molds, manufacturing tooling, racks, shelving, tools, delivery systems, computers including employee computers, employee phones, monitors, hardware, docking systems, ladders, step-ladders, packaging materials, rolling carts, scales, software, and copy-machines

~~-All accounts including but not limited to UPS, Fedex, Paypal, checking, savings, Tempus,~~ Commonwealth, -and all usernames and passwords required for sign-in~~account~~

~~-All insurance policies~~Paypal account and password

~~-All company EIN numbers~~

~~- All~~ UPC Codes

-All pPhone and fax nNumbers including but not limited to employee numbers, and fax numbers, and Clement Muney shall cooperate in providing Arnould with Arnould's cell Phone Number within 7 days of the settlement conference 702-683-2433. However, Clement Muney and his son may retain their current cell phone numbers.

-All CES Price lists, catalogs, logos, and all sales materials and logos

-All Customer lists

-All SupplierSupplier r and vendor lists

Once the Sale is completed, Clement Muney will be bound by a non-compete agreement prohibiting him from doing any business directly or indirectly that competes with the business of the Company, within ~~Las Vegas, Nevada, or Los Angeles, California,~~ Hawaii, New York and Illinois for three and a half (3.5) years following the date of the agreement. This non-compete also includes non-solicitation of any current or potential customers of the Company. No party may disparage the Company, Employees, or either party. All sales inquiries will be forwarded to Dominique Arnould as soon as they are received.

This agreement shall be contingent upon:-

--Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale, with the understanding that he will be required to use good faith and all efforts towards seeking to obtain such financing from all reasonable sources in Arnould's sole discretion.

-- Dominique Arnould agrees to assume the lease of the Las Vegas warehouse that is currently held by CMJJ Gourmet, Inc., subject to approval by the landlord and subject to Dominique Arnould's approval of the lease terms.

It is further agreed that the sale price of \$700,000.00 shall be discounted by the amount of profits (amount received minus cost of the leased space) that the company CMJJ Gourmet, Inc. has received from Chef Exec, LLC for storage in the Las Vegas Warehouse.

~~Dominique Arnould agrees to assume the lease of the Las Vegas warehouse that is currently held by CMJJ Gourmet, Inc., subject to approval by the landlord. If the landlord does not approve the assumption, Arnould will pay CMJJ Gourmet funds sufficient to buy out the lease.~~

Both parties agree that neither will incur any extraordinary expenses or take any items out of the warehouse between ~~the present~~ February 7, 2020, and the completion of the final Sale of the Company. Sergio and Dominique Arnould shall conduct an inventory in the next 10 days. Both

parties shall have full access to all Company financial records in order to be aware of such expenditures, and each shall have the right to bring the dispute to ~~mediation~~ the settlement judge if ~~either the party~~ Parties do not ~~does~~ agree whether an expense was extraordinary or not in the ordinary course ~~incur such an expense and does not correct it upon demand~~. If a settlement conference does not resolve this issue, the Parties shall have the issue decided by Judge Alf.

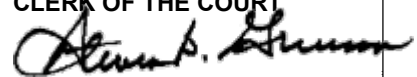
The parties further agree that Dominique Arnould shall indemnify Clement Muney for any liability Muney may have under the Los Angeles warehouse lease between the present and the end of that lease.

---

Dominique Arnould date

---

Clement Muney date



Marquis Aurbach Coffing  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
10001 Park Run Dr.  
Las Vegas, NV 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
paurbach@maclaw.com  
acalaway@maclaw.com  
*Attorneys for Plaintiff*

## DISTRICT COURT

## CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
Dept. No.: 27

**PLAINTIFF'S OPPOSITION TO**  
**DEFENDANTS' COUNTER-MOTION**  
**FOR ENFORCEMENT OF**  
**SETTLEMENT AGREEMENT AND**  
**COUNTER-MOTION TO STRIKE**  
**DOCUMENTS RELATED TO**  
**SETTLEMENT**

Hearing Date: April 15, 2020  
Hearing Time: 10:30 a.m.

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould" or "Plaintiff"), by and through his attorneys, Marquis Aurbach Coffing, hereby files his Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement ("Opposition").

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1 This Opposition is made pursuant to NRCP 12(f) and based upon the pleadings and papers  
2 on file herein, the following points and authorities, and any argument allowed by the Court at the  
3 time of hearing.

4 Dated this 6th day of April, 2020.

5 MARQUIS AURBACH COFFING

6 By /s/ Phillip S. Aurbach  
7 Phillip S. Aurbach, Esq.  
8 Nevada Bar No. 1501  
9 Alexander K. Calaway, Esq.  
10 Nevada Bar No. 15188  
11 *Attorneys for Plaintiff*  
12  
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**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

The “settlement agreement” Defendants are attempting to enforce is a memorandum of material terms that contained terms for a final agreement to be drafted and executed at a later time.<sup>1</sup> The memorandum was expressly contingent upon Plaintiff obtaining “financing sufficient to allow him to pay the purchase price of the Sale”<sup>2</sup> Mr. Arnould attempted to obtain reasonable financing, however, he has not been able to obtain financing for the entire purchase price, rendering the memorandum unenforceable. Not only did Mr. Arnould make all reasonable efforts to obtain financing, but the current COVID-19 pandemic sweeping the globe makes any further requirement to obtain financing futile. As such, the Defendants’ Counter-Motion for Enforcement of the Settlement Agreement should be denied and Defendants’ documents related to settlement negotiations should be stricken under NRCP 12(f).

**II. FACTUAL BACKGROUND**

1. On or about February 7, 2020, Mr. Arnould and Defendant Clement Muney (“Muney”) attended a settlement conference held by Judge Williams.<sup>3</sup>

2. Muney’s counsel, Robert Kern, drafted a Memorandum of Material Terms of Agreement (“Memo”) which he proposed to be adopted into a final settlement agreement sometime in the future.<sup>4</sup>

3. The Memo stated “[t]his agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The

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<sup>1</sup> Def.’s Opp. to Mot. for Partial Summ. J. and Counter-Mot. for Enforcement of Settlement Agreement, at Exhibit 4; *see also* Arnould Decl. at ¶2.

<sup>2</sup> *Id.*

<sup>3</sup> *See* Declaration in Support of Opposition to Defendants’ Counter-Motion to Enforce Settlement Agreement (hereinafter “Arnould Decl.”) attached hereto as **Exhibit 1**.

<sup>4</sup> *See* Def.’s Opp. to Mot. for Partial Summ. J. and Counter-Mot. for Enforcement of Settlement Agreement, at Exhibit 4; *see also* Arnould Decl. at ¶2.

1 final agreement to be drafted at a later time.”<sup>5</sup>

2 4. It was Mr. Arnould’s understanding that that this was not a final settlement  
3 agreement, but merely a set of terms that would be later adopted in a final agreement at a later time  
4 (as stated in the Memo itself).<sup>6</sup>

5 5. The Memo stated that any settlement “shall be contingent upon . . . Dominique  
6 Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale  
7 . . . seeking to obtain such financing from all reasonable sources.”<sup>7</sup>

8 6. Moreover, the parties agreed that in the interim, “all business will be conducted as  
9 usual without interference by the other party.”<sup>8</sup>

10 7. From February 7, 2020 until now, Mr. Arnould attempted to obtain financing from  
11 City National Bank, Wells Fargo, View Ridge Funding, and Citi Bank.<sup>9</sup> Arnould has also inquired  
12 via phone about financing from other private lenders.<sup>10</sup>

13 8. To date, Mr. Arnould’s requests for financing of the entire \$700,000 purchase price  
14 have been met with outright rejection and doubt.<sup>11</sup>

15 9. Other lenders have been unresponsive or have preliminarily denied financing  
16 requests based upon the financials of the business and terms of the Memo itself.<sup>12</sup>

17 10. Arnould has obtained formal denials from some lenders, including Citi Bank.<sup>13</sup>

18 11. Arnould has been unable to find any lender willing to finance the buy-out for the

19  
20 <sup>5</sup> *Id.* at ¶3.

21 <sup>6</sup> *Id.* at ¶4.

22 <sup>7</sup> *Id.* at ¶5.

23 <sup>8</sup> *Id.* at ¶6.

24 <sup>9</sup> *Id.* at ¶7; *see also* Communications with Banks, attached thereto as **Exhibit 1A**.

25 <sup>10</sup> *Id.*

26 <sup>11</sup> *Id.* at ¶8.

27 <sup>12</sup> *Id.* at ¶9.

28 <sup>13</sup> *See* Citi Letter, attached thereto as **Exhibit 1B**.

1 price and terms set forth in the Memo.<sup>14</sup>

2 12. On March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of  
3 emergency in response to the COVID-19 outbreak.<sup>15</sup> The Governor has required the closure of all  
4 “non-essential” businesses.<sup>16</sup> The Governor of California (Mr. Arnould’ s home state) issued  
5 similar executive orders.<sup>17</sup>

6 13. Under these orders, banks and financial institutions have been deemed  
7 “essential,” but have been ordered to implement social distancing policies and other measures to  
8 reduce the spread of the COVID-19 viral outbreak.<sup>18</sup>

9 14. It has been extremely difficult for Mr. Arnould to communicate, meet with  
10 bankers, or get financial institutions to call him back.<sup>19</sup> Mr. Arnould reasonably believes many  
11 banks are either semi-closed or the bank employees are not functioning under normal working  
12 conditions.<sup>20</sup> Mr. Arnould reasonably believes that bankers are inundated with more pressing  
13 matters due to the economic effects of COVID-19.<sup>21</sup>

14 15. Mr. Arnould has been limited to the work he can reasonably do on his business.<sup>22</sup>

15 \_\_\_\_\_  
16 <sup>14</sup> *Id.* at ¶11.

17 <sup>15</sup> *Declaration of Emergency for COVID-19*, STATE OF NEVADA EXECUTIVE DEPARTMENT, available at:  
18 [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-12\\_-\\_COVID-19\\_Declaration\\_of\\_Emergency/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/)  
(last visited Apr. 2, 2020).

19 <sup>16</sup> *Letter from Justin Luna to Governor Sisolak to Define Essential and Non-Essential Businesses*,  
20 EMERGENCY REGULATION DEFINING ESSENTIAL AND NON-ESSENTIAL BUSINESSES, available at:  
21 [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-20\\_-\\_COVID-19\\_Emergency\\_Regulation\\_Defining\\_Essential\\_and\\_Non-Essential\\_Businesses/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/) (last visited Apr. 2,  
22 2020) (Letter from Justin Luna is attached to the Emergency Order).

23 <sup>17</sup> Arnould Decl. at ¶12; see also Executive Department of State of California, *Proclamation of State of*  
24 *Emergency*, available at: <https://www.gov.ca.gov/2020/03/04/governor-newsom-declares-state-of-emergency-to-help-state-prepare-for-broader-spread-of-covid-19/> (last visited Apr. 2, 2020).

25 <sup>18</sup> *Id.*

26 <sup>19</sup> Arnould Decl. at ¶14.

27 <sup>20</sup> *Id.*

28 <sup>21</sup> *Id.*

<sup>22</sup> *Id.* at ¶15.

1 Mr. Arnould and his wife have both self-quarantined themselves in their California home to  
2 comply with the executive orders pertaining to COVID-19.<sup>23</sup>

3 16. It is unclear how long these impediments to business and banking will continue.<sup>24</sup>

4 **III. LEGAL ARGUMENT**

5 **A. SETTLEMENT CANNOT BE ENFORCED PURSUANT TO BASIC**  
6 **PRINCIPLES OF CONTRACT LAW.**

7 The Plaintiff does not dispute that a settlement conference was held between the parties  
8 and that a Memorandum of Material Terms was executed.<sup>25</sup> The issue is whether the Memo can  
9 be enforced when it was entirely contingent on Mr. Arnould obtaining \$700,000 in financing. The  
10 answer is no.

11 **1. May v. Anderson is Not Applicable Here.**

12 As s threshold matter, the Defendants attempt to confuse the issues here by citing *May v.*  
13 *Anderson*, 121 Nev. 668, 119 P.3d 1254 (2005). In *May*, the Nevada Supreme Court held that a  
14 contract can be formed when the parties have agreed to the material terms, even though the  
15 contract's exact language is not finalized until later. *Id.* Whether the material terms were present  
16 in the Memo is not the issue here. The same case also points out that settlement agreements are  
17 simply contracts, and that "enforcement [of settlement agreements is] governed by principles of  
18 contract law." *Id.* at 672, 1257. Here, the Memo cannot be enforced under basic principles of  
19 contract law because the Memo was contingent on financing.<sup>26</sup> Mr. Arnould was unable to obtain  
20 financing under the terms of the Memo, and any further attempt to obtain financing in this current  
21 economic climate would be futile.<sup>27</sup> Therefore, the Memo cannot be enforced.

22  
23  
24 <sup>23</sup> *Id.*

25 <sup>24</sup> *Id.* at ¶16.

26 <sup>25</sup> Arnould Decl. at ¶¶1-6.

27 <sup>26</sup> *Id.* at ¶11.

28 <sup>27</sup> *Id.*

2. **Financing Was a Condition Precedent to Settlement.**

It is a well-established principal of Nevada contract law that, “[w]hen contracting, a promisor may incorporate into the agreement a ‘condition precedent’—that is, an event that must occur before the promisor becomes obligated to perform.” *Cain v. Price*, 134 Nev. 193, 415 P.3d 25 (2018); quoting *McCorquodale*, 90 Nev. at 69, 518 P.2d at 1098; see e.g. *NGA #2 Liab. Co. v. Rains*, 113 Nev. 1151, 1158–59, 946 P.2d 163, 168 (1997) citing *New Orleans v. Texas & Pacific Railway*, 171 U.S. 312, 333, 18 S.Ct. 875, 883, 43 L.Ed. 178 (1897) (“A condition precedent to an obligation to perform calls for the performance of some act after a contract is entered into, upon which the corresponding obligation to perform immediately is made to depend.”); see also RESTATEMENT (SECOND) OF CONTRACTS (hereinafter “Restatement”) § 224 (1981).

A condition precedent can either be expressly provided for in the contract, or an implied condition precedent that is “inferred from a contract’s terms and context, even when the contract does not explicitly so provide.” *Las Vegas Star Taxi, Inc. v. St. Paul Fire & Marine Ins. Co.*, 102 Nev. 11, 12, 714 P.2d 562, 562 (1986). Regardless of a condition’s form, unless it has been excused, the non-occurrence of a condition in a contract discharges the duty when the condition can no longer occur. *Warner Bros. Int’l Television Distribution v. Golden Channels & Co.*, 522 F.3d 1060 (9th Cir. 2008) citing Restatement § 225(2).

Here, the Memo contained an express condition precedent, that settlement “shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale . . . seeking to obtain such financing from all reasonable sources.”<sup>28</sup> Not only has Mr. Arnould proved that he unable to obtain financing, the lenders have made it clear that Mr. Arnould will not be able to obtain financing under the terms of the Memo.<sup>29</sup> As such, the settlement cannot be enforced under the Memo.

<sup>28</sup> Arnould Decl. at ¶5; see also Def.’s Opp. to Mot. for Partial Summ. J. and Counter-Mot. for Enforcement of Settlement Agreement, at Exhibit 4.

<sup>29</sup> See Arnould Decl. at ¶11.

1                                3.        Financing Was Impossible Under the Memo's Own Terms and Futile  
2                                Given Current World Events.

3                                Shortly after the Memo was executed, Mr. Arnould applied for financing through Citibank  
4 Business Development Specialist, Fabian Prado for the \$700,000 buyout under the Memo.<sup>30</sup> Mr.  
5 Prado notified Mr. Arnould on February 21, 2020 that Citibank would not be able to provide the  
6 \$700,000 in financing, and explained "there is not enough cash flow to support your requested  
7 loan amount. We can always submit to our underwriters for a formal review if you'd like."<sup>31</sup> After  
8 a formal review of Mr. Arnould's application, Michal Cristina from Citibank also wrote Mr.  
9 Arnould rejecting his financing request:

10                              Thank you for providing Citibank the opportunity to consider your financing  
11 request . . . we regret to inform you that we are unable to approve your request at  
12 this time due to the following . . . inadequate primary source of repayment . . . value  
13 or type of collateral is not sufficient.<sup>32</sup>

14                              Around the same time, Mr. Arnould applied for financing with City National Bank.<sup>33</sup>  
15 Corrie Burks explained why, under the Memo's current terms, financing the buy-out at \$700,000  
16 would be impossible.<sup>34</sup> In a March 12, 2020 email, Ms. Burks explained:

17                              The valuation that I saw was putting the business worth at 840k. Typically we  
18 would lend about 40% of that for a working capital loan and for a buy out it would  
19 be based on percentage of ownership which for you is 50% which would be 420k  
20 which is \$4.23/share.<sup>35</sup>

21                              In other words, the Memo's contemplated buy-out price for Defendant Muney's 50% share  
22 at \$700,000 simply does not add up.<sup>36</sup> Ms. Burke's valuation of \$840,000 was much lower than  
23 the parties' contemplated valuation of \$1,400,000 (the Memo values Muney's 50% of the business  
24

25                              <sup>30</sup> *Id.* at ¶7, Exhibit 1A attached thereto.

26                              <sup>31</sup> *Id.*

27                              <sup>32</sup> *Id.* at ¶10; see also Citi Letter, attached thereto as Exhibit 1B.

28                              <sup>33</sup> Arnould Decl. at ¶7, Exhibit 1A attached thereto.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

1 at \$700,000, thus 100% of the business would equal \$1,400,000).<sup>37</sup> Under City National Bank's  
2 valuation, Mr. Arnould could only get financing for \$168,000 (40% of \$420,000).<sup>38</sup> The Memo,  
3 however, requires financing of \$700,000 of the entire amount of the buyout.<sup>39</sup> Accordingly,  
4 financing simply does not add up under the Memo's valuation of the business.<sup>40</sup> Neither party was  
5 aware of this problem when they agreed to terms of the Memo,<sup>41</sup> but as shown above, it's not  
6 economically feasible to obtain financing for 50% of the business at its current valuation.<sup>42</sup>

7 Similarly, Mr. Arnould tried Wells Fargo to obtain financing.<sup>43</sup> On February 19, 2020, Trey  
8 Black with Wells Fargo explained that their underwriters would require "real estate collateral if its  
9 available" and indicated that Mr. Arnould would have to "put a lien on [his] home to secure the  
10 buyout loan."<sup>44</sup> Putting up Mr. Arnould's home was never brought up in the settlement  
11 conference. Not even the early draft of the Memo proposed by Muney mentioned any personal  
12 assets of Mr. Arnould.<sup>45</sup> Instead, the only assets that could be reasonably put up as collateral under  
13 the terms of the Memo are the current assets of the business, which were listed in the Memo itself.<sup>46</sup>

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15  
16  
17 <sup>37</sup> See Def.'s Opp. to Mot. for Partial Summ. J. and Counter-Mot. for Enforcement of Settlement Agreement,  
18 at Exhibit 4.

19 <sup>38</sup> *Id.*

20 <sup>39</sup> *Id.*

21 <sup>40</sup> *Id.*

22 <sup>41</sup> In addition to the express condition precedent, the Memo is also unenforceable under the doctrine of  
23 mutual mistake. *In re Irrevocable Trust Agreement of 1979*, 130 Nev. Adv. Op. 63 (Nev. 2014); *Gramanz*  
24 *v. Gramanz*, 113 Nev. 1, 8, 930 P.2d 753, 758 (1997).

25 <sup>42</sup> Arnould Decl. at ¶11.

26 <sup>43</sup> See Arnould Decl. at ¶7, Exhibit 1A, attached thereto.

27 <sup>44</sup> *Id.*

28 <sup>45</sup> *Id.* at Exhibit 9.

<sup>46</sup> See *id.*

1 None of these assets include real estate.<sup>47</sup> Since there are real estate assets in the business that  
2 could be put up as collateral, the Memo's current terms make financing the \$700,000 impossible.<sup>48</sup>

3 On top of trying institutional lenders like Wells Fargo, Citibank, and City National bank,  
4 Mr. Arnould also tried less conventional lenders like View Ridge Funding.<sup>49</sup> On February 25,  
5 2020, John Tran from View Ridge Funding explained they could only approve "between \$100,000  
6 and \$150,000" for the business buy-out.<sup>50</sup> But again, the terms of the Memo required financing for  
7 the entire \$700,000 amount.<sup>51</sup> As such, the Memo's terms make financing impossible.<sup>52</sup>

8 Finally, any glimmer of hope that Mr. Arnould might have had to get financing has  
9 vanished with the current global world pandemic spread of COVID-19.<sup>53</sup> On March 12, 2020, the  
10 Nevada Governor, Steve Sisolak, declared a state of emergency in response to the COVID-19  
11 outbreak.<sup>54</sup> The Governor has required the closure of all "non-essential" businesses.<sup>55</sup> The  
12 Governor of Mr. Arnould's home state of California did the same.<sup>56</sup> While banks and financial  
13 institutions have been deemed "essential," many have been ordered to implement social distancing  
14 policies and other measures to reduce the spread of the COVID-19 outbreak.<sup>57</sup> Not only has  
15  
16

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17 <sup>47</sup> *Id.*

18 <sup>48</sup> *Id.* at ¶11.

19 <sup>49</sup> See Arnould Decl. at ¶7, Exhibit 1A, attached thereto.

20 <sup>50</sup> *Id.*

21 <sup>51</sup> *Id.*

22 <sup>52</sup> *Id.* at ¶11.

23 <sup>53</sup> Arnould Decl. at ¶12.

24 <sup>54</sup> *Id.*

25 <sup>55</sup> *Id.*

26 <sup>56</sup> *Id.*

27 <sup>57</sup> *Id.* at ¶13.



COVID-19 made communicating with banks extremely difficult, bankers are also expectedly inundated with more pressing matters related to the economic effects of COVID-19.<sup>58</sup>

Although Mr. Arnould has continued his efforts to find financing, he has been limited in his current business and travel capabilities with the Nevada and California governor's executive orders to stay home.<sup>59</sup> Mr. Arnould and his wife are trying to reasonably quarantine themselves in their home in California to comply with these executive orders.<sup>60</sup> It is unclear how long these impediments to business and banking will continue, but needless to say, Mr. Arnould will not be able to obtain financing for the \$700,000 given these extreme world events.<sup>61</sup>

In sum, the Memo cannot be enforced because it was contingent on Mr. Arnould's ability to obtain financing. As shown above, Mr. Arnould has in good faith attempted to find reasonable financing as contemplated by the terms of the Memo. There is no evidence to support Defendants' argument that Mr. Arnould acted in bad faith or has not sought financing in a reasonable manner.<sup>62</sup> Rather, the Memo's own terms make obtaining financing impossible, and in light of the current COVID-19 crisis, any further attempt to obtain financing would be futile. Therefore, the Memorandum of Material Terms of the Agreement cannot be enforced.

**B. DEFENDANTS' DOCUMENTS RELATING TO SETTLEMENT ARE IMMATERIAL AND IMPERTINENT, AND SHOULD THEREFORE BE STRICKEN UNDER NRCP 12(F).**

Under Nevada Rule of Civil Procedure 12(f), a court may strike from a pleading any redundant, immaterial, impertinent, or scandalous matter. The court may act: (1) on its own; or (2) on motion made by a party either before responding to the

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<sup>58</sup> *Id.* at ¶14.

<sup>59</sup> *Id.* at ¶¶13-14.

<sup>60</sup> *Id.* at ¶¶13-15.

<sup>61</sup> *Id.*

<sup>62</sup> It should be noted that Defendants cite "*Hexion Spec. Chemicals, Inc. v. Hunstman Corp.*, 965 A. 2d 715 at 721 (Del. Ct. of Chancery 2008)" to support their assertion that Mr. Arnould's efforts to find financing have been unreasonable or in bad faith. *See* Def.'s Opp. to Mot. for Partial Summ. J. and Counter-Mot. for Enforcement of Settlement Agreement, at p. 11-12. However, Mr. Arnould cannot be required to have detected the fatal financial flaws in the Memo or anticipate this unprecedented global pandemic. As such, Defendants' argument is without merit.

1 pleading or, if a response is not allowed, within 21 days after being served with the  
2 pleading.

3 Since no settlement has been reached in this case, the settlement documents produced in  
4 Defendants Counter-Motion are immaterial, impertinent, and only serve to threaten this Court's  
5 impartiality in this matter. As such, the documents relating to settlement produced in Defendants  
6 Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of  
7 Settlement Agreement should be stricken under NRCP 12(f).

8 On February 7, 2020, the parties participated in a settlement conference pursuant to EDCR  
9 2.51, however, no settlement was reached (as discussed above).<sup>63</sup> As such, any documents or  
10 statements related to settlement should be stricken pursuant to NRCP 12(f). These documents in  
11 no way pertain to the underlying claims or counterclaims in this case and have no force or effect  
12 in the matter before the Court.<sup>64</sup> EDCR 7.50 states:

13 No agreement or stipulation between the parties or their attorneys will be effective  
14 unless the same shall, by consent, be entered in the minutes in the form of an order,  
or unless the same is in writing subscribed by the party against whom the same shall  
be alleged, or by the party's attorney.

15 Plaintiff has not consented that the Memo be entered into the minutes in the form of an order, nor  
16 have Defendants moved to include the Memo as an agreement to bear upon the parties in this  
17 matter. As such, the documents have no force or effect in these proceedings, serve no purpose, and  
18 should be stricken under NRCP 12(f).

19 Moreover, the documents potentially risk this Court's impartiality in this matter. *See*  
20 Nevada Code of Judicial Conduct 2.11 (impartiality may lead to disqualification); (defining  
21 "impartial" [to include the] . . . maintenance of an open mind in considering issues that may come  
22 before a judge."). Since the documents are both immaterial and impertinent under NRCP 12(f), it  
23 is only prudent to strike the documents and avoid any unnecessary disqualification issues.  
24 Therefore, the documents relating to settlement produced in Defendants Opposition to Motion for  
25

26  
27 <sup>63</sup> Arnould Decl. at ¶¶ 1-6.

28 <sup>64</sup> *See* Compl.; *see also* Answer.

1 Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement should  
2 be stricken under NRCP 12(f).

3 **IV. CONCLUSION**

4 For the reasons stated above, Plaintiff respectfully requests this Court deny Defendants'  
5 Counter-Motion for Enforcement of the Settlement Agreement. In addition, Plaintiff respectfully  
6 requests this Court grant its Counter Motion under NRCP 12(f) and strike Defendants' documents  
7 relating to settlement.

8 Dated this 6th day of April, 2020.

9  
10 MARQUIS AURBACH COFFING

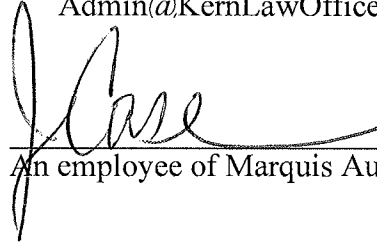
11  
12 By /s/ Phillip S. Aurbach  
13 Phillip S. Aurbach, Esq.  
14 Nevada Bar No. 1501  
15 Alexander K. Calaway, Esq.  
16 Nevada Bar No. 15188  
17 *Attorneys for Plaintiff*  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PLAINTIFF DOMINIQUE ARNOULD'S  
OPPOSITION TO DEFENDANTS' COUNTER-MOTION FOR ENFORCEMENT OF  
SETTLEMENT AGREEMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 6th day of April, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>65</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

  
An employee of Marquis Aurbach Coffing

<sup>65</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1

**DECLARATION IN SUPPORT OF OPPOSITION TO DEFENDANTS' COUNTER-  
MOTION TO ENFORCE SETTLEMENT AGREEMENT**

I, Dominique Arnould, declare that I am over the age of 18 years, I have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I further state that I am competent to testify as to the facts stated herein.

1. On or about February 7, 2020, I attended a settlement conference by Judge Williams.

2. Muney's counsel, Robert Kern, drafted a Memorandum of Material Terms of Agreement ("Memo") which he proposed to be adopted into a final settlement agreement sometime in the future.

3. The Memo stated "[t]his agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The final agreement to be drafted at a later time."

4. It was my understanding that that this was not a final settlement agreement, but merely a set of terms that would be later adopted in a final agreement between Muney and I (as stated in the Memo itself).

5. The Memo stated that any settlement "shall be contingent upon: . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale . . . seeking to obtain such financing from all reasonable sources."

6. Moreover, the parties agreed that in the interim, "all business will be conducted as usual without interference by the other party."

7. From February 7, 2020 until now, I have applied for financing from City National Bank, Wells Fargo, View Ridge Funding, and Citi Bank.<sup>1</sup> I have also inquired via phone about financing from other private lenders.

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<sup>1</sup> See Communications with Banks, attached hereto as **Exhibit 1A**.

1 8. To date, my requests for financing of the entire \$700,000 purchase price have been met  
2 with outright rejection and doubt.

3 9. Other lenders have been unresponsive or have preliminarily denied my financing requests  
4 based upon the financials of the business and the proposed buy-out.

5 10. I have obtained formal denials from some lenders, including Citi Bank.<sup>2</sup>

6 11. I have been unable to find any lender willing to finance the buy-out for the price and  
7 terms set forth in the Memo.

8 12. On March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency  
9 in response to the COVID-19 outbreak.<sup>3</sup> The Governor has required the closure of all “non-  
10 essential” businesses.<sup>4</sup> The Governor of my home state of California did the same.

11 13. It is my understanding that banks and financial institutions have been deemed “essential,”  
12 but many have been ordered to implement social distancing policies and other measures to  
13 reduce the spread of the COVID-19 outbreak.<sup>5</sup>

14 14. It has been extremely difficult for me to communicate, meet with bankers, or get anyone  
15 to call me back. I believe many banks are either semi-closed or the bank employees are not  
16 functioning under normal working conditions. I also suspect many bankers are inundated with  
17 current business banking clients’ needs due to current economic effects of COVID-19.

18 15. I myself have been limited to the work I can do on my business. My wife and I have both

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20  
21  
22 <sup>2</sup> See Citi Letter, attached hereto as **Exhibit 1B**.

23 <sup>3</sup> *Declaration of Emergency for COVID-19*, STATE OF NEVADA EXECUTIVE DEPARTMENT, available at:  
24 [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-12\\_-\\_COVID-19\\_Declaration\\_of\\_Emergency/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/)

25 <sup>4</sup> *Letter from Justin Luna to Governor Sisolak to Define Essential and Non-Essential Businesses*,  
26 EMERGENCY REGULATION DEFINING ESSENTIAL AND NON-ESSENTIAL BUSINESSES, available at:  
27 [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-20\\_-\\_COVID-19\\_Emergency\\_Regulation\\_Defining\\_Essential\\_and\\_Non-Essential\\_Businesses/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/) (Letter from Justin Luna  
28 is attached to the Emergency Order).

<sup>5</sup> *Id.*

**MARQUIS AURBACH COFFING**

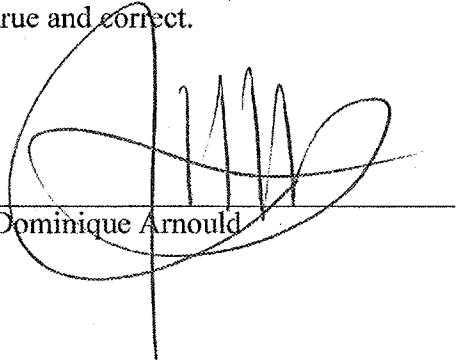
10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 quarantined ourselves in our home in California to comply with state and national mandates and  
2 guidelines pertaining to COVID-19.

3 16. It is unclear how long these impediments to business and banking will continue.  
4

5 Pursuant to NRS § 53.045 and 28 U.S.C. §1746, I declare under penalty of perjury under  
6 the laws of the State of Nevada that the foregoing is true and correct.

7 Executed on this 3<sup>rd</sup> day of APRIL, 2020.

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10 Dominique Arnould  
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# Exhibit 1A

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**From:** Dominique Arnould <domiarnould@aol.com>  
**Sent:** Monday, February 10, 2020 1:20 PM  
**To:** pricilla.lynn.galati@citi.com  
**Subject:** Loan

Hello Priscilla

It was nice to meet you this morning at the CITIBANK, Studio City Branch.

As I presented to you this morning, I need a loan to purchase the shares of y partner in our business CHEF EXEC SUPPLIERS, LLC.

I delivered to you the business income tax return of year 2016-2017-2018, and the Year 2019 P/L as our 2019 income tax return has not been computed yet.

Please let me know if you or your underwriter need any more information.

Sincerely  
Dominique

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

---

**From:** Dominique Arnould <domiarnould@aol.com>  
**Sent:** Friday, February 21, 2020 12:47 PM  
**To:** Alexander K. Calaway  
**Subject:** Fwd: Loan Request

Helo Alex

Here below is the response of Citi bank

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

**From:** Prado, Fabian <fabian.prado@citi.com>  
**To:** domiarnould@yahoo.com <domiarnould@yahoo.com>  
**Cc:** domiarnould@aol.com <domiarnould@aol.com>  
**Sent:** Fri, Feb 21, 2020 12:45 pm  
**Subject:** Re: Loan Request

Sent from my BlackBerry 10 smartphone.

---

**From:** Prado, Fabian [GCB-RTLBI] <fp68083@imcnam.ssmb.com>  
**Sent:** Friday, February 21, 2020 12:44 PM  
**To:** dominarnuld@yahoo.com  
**Subject:** Fw: Loan Request

Sent from my BlackBerry 10 smartphone.

---

**From:** Prado, Fabian [GCB-RTLBI] <fp68083@imcnam.ssmb.com>  
**Sent:** Friday, February 21, 2020 12:31 PM  
**To:** domiarnuld@aol.com  
**Subject:** Loan Request

Hi Dominic,

At this moment based on the preliminary review it appears there is not enough cash flow to support your requested loan amount. We can always submit to our underwriters for a formal review if you'd like.

Sent from my BlackBerry 10 smartphone.

**From:** domiarnould@aol.com,  
**To:** jtran@viewridgefunding.com,  
**Subject:** Re: ViewRidge Funding: Business Loan Application Update  
**Date:** Tue, Feb 25, 2020 3:18 pm

**Attachments:**

---

thank you John

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

**From:** John Tran <jtran@viewridgefunding.com>  
**To:** domiarnould@aol.com <domiarnould@aol.com>  
**Sent:** Tue, Feb 25, 2020 3:13 pm  
**Subject:** ViewRidge Funding: Business Loan Application Update

Hi Dominique,

Per our conversation, we will only have an approval between \$100,000 and \$150,000 for your business at this time. Once you are halfway paid down through the loan, you are eligible to come back for additional capital. With business credit and payment history with us, we can start lending \$200,000+ then eventually \$500,000+.

If your partner will accept incremental payments, then we can get this done for you within a few transactions over a 24 to 36-month span.

Let me know if you have any questions.

Thanks,

John Tran | Loan Specialist



**P: (888) 315-1409 | F: (888) 315-1409**

[jtran@viewridgefunding.com](mailto:jtran@viewridgefunding.com) | [www.viewridgefunding.com](http://www.viewridgefunding.com)

4719 Viewridge Avenue suite 170 San Diego, California 92123



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**From:** Dominique Arnould <domiarnould@aol.com>  
**Sent:** Tuesday, February 25, 2020 3:21 PM  
**To:** Trey.T.Black@wellsfargo.com  
**Subject:** Re: Wells Fargo SBA Financing

Hello Trey

After reviewing your mail below, I think I understand.

At this time does this means that the amount of \$700 000.00 for the buy out of my partner cannot be offered from Wells Farg to me at this time?

Please confirm"thank you

Dominique

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----  
To: domiarnould@aol.com  
Sent: Wed, Feb 19, 2020 4:17 pm  
Subject: FW: Wells Fargo SBA Financing

Please see below.

Trey T. Black

Business Development Officer  
Wells Fargo Bank

14144 Ventura Blvd, Suite 200 | Sherman Oaks, CA 91423  
Cell 310-848-5321

[Trey.T.Black@wellsfargo.com](mailto:Trey.T.Black@wellsfargo.com)

**From:** Black, Trey T.  
**Sent:** Wednesday, February 19, 2020 2:45 PM  
**To:** 'domiarnould@aol.com' <domiarnould@aol.com>  
**Cc:** Angela Lee (Angela.Lee3@wellsfargo.com) <Angela.Lee3@wellsfargo.com>; Mkrtchyan, Angela <Angela.Mkrtchyan@wellsfargo.com>; Boetjer, Nicholas G. <Nicholas.G.Boetjer@wellsfargo.com>  
**Subject:** Wells Fargo SBA Financing

Hi Dominique,

Thank you for the details over the last few days related to your upcoming partner buyout, and we're looking forward to being able to help. As I mentioned, our underwriters will require real estate collateral if it's available, so we would need to put a lien on your home to secure the buyout loan. In order for us to get started, here's what we'll need:

#### **BUSINESS ACQUISITION- Chef Exec Suppliers, LLC**

- Current Interim as of 1/31 (Bal Sheet/P&L) **Month End.** (Same accounting method of the Tax Returns - **ACCRUAL**)
- Accts/Payable Aging to match Current Interim OR statement that the Business carries no A/P
- Accts/Receivable Aging to match Current Interim OR statement that the Business carries no A/R
- Debt Schedule as of Current Interim- **If a stock purchase**
- IRS/SBA form 4506T –Business
- Borrower Questions- Business Acquisition
- Fully Executed Purchase Agreement or Letter of Intent signed by Buyer and Seller
- P&L projections – month by month for the first year. A template is attached for the projections.

#### **BORROWER/APPLICANTS/GUARANTORS: (Needed for all owners with 20% or more ownership):**

- **Last three years Personal Tax Returns**
- **W2's**-Last 3 years of **W-2's** for principal and spouse (even if spouse is not a guarantor/owner or applicant)
- **Management Resume** - for each guarantor to complete (Form attached)
- Personal Financial Statement- SBA Form 413 **signed by Applicant and Spouse** (Form attached)
- IRS/SBA form 4506T – Personal
- **Paystubs**-Most recent paycheck stub showing year-to-date earnings for principal and spouse or statement if you do not receive one
- **Bank Statements**-Source of Injection/down payment- Copy of (2) months **most recent** bank statements, all pages even if blank from any bank account that is non-Wells Fargo, for either personal or business showing proof of down payment.
- **Trust** – Copy of the first few and last couple pages of Trust (***If one exists***)

#### **ADDITIONAL APPLICATION FORMS**

- WF-SBA Application-(Form attached). To be filled out however the real estate is owned/or to be purchased.  
**Note: Signature(s) required on page 3.**
- WF-SBA Co Application-(Form attached). To be filled out by the business occupying the real estate. **Note: Signature(s) required on page 3.**
- Authorization to Release Information
- 1919 - Borrower Information -SBA Form (7a) **NOTE: Signatures required on page 3 and 5. Initials needed on Question 17, 18, 19, 22**
- UCC Individual statement- (only if business and/or real estate is/or to be owned individually)

Please take a day or two to review these items and compile any non-Wells Fargo documents that relate to our checklist, and we can schedule some time to assist you with our forms. I've copied my team who will be assisting me with your project, and I'll introduce them more formally as we progress.

Best regards,

Trey T. Black

Business Development Officer  
Wells Fargo Bank

14144 Ventura Blvd, Suite 200 | Sherman Oaks, CA 91423

Cell 310-848-5321

[Trey.T.Black@wellsfargo.com](mailto:Trey.T.Black@wellsfargo.com)

# Exhibit 1B





March 25, 2020

Dominique Arnould  
Chef Exec Suppliers LLC  
PO Box 1800  
Studio City, CA 91614

Dominique Arnould:

Re: Your application for credit – Term Loan

Thank you for providing Citibank the opportunity to consider your financing request. After evaluating the information provided in connection with your credit application, we regret to inform you that we are unable to approve your request at this time due to the following:

- Inadequate primary source of repayment
- Value or type of collateral is not sufficient

If any of the reasons listed above refers to a guarantor's consumer credit profile, our credit decision was based, in whole or in part, on information obtained from the consumer reporting agency listed below. The reporting agency played no part in our decision and is unable to provide the specific reasons for our decision. You do, however, have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. You also have the right to obtain a free copy of your report from each of the reporting agencies if you request it no later than 60 days after you receive this notice. If you have questions about the information in your credit report, you should contact the credit reporting agency directly. You also have the right to dispute the accuracy or completeness of any information contained in your report by contacting the reporting agency that furnished the report.

Experian  
PO Box 9600  
Allen, TX 75013  
(800) 311-4769

If you have any questions, please call your Business Development Specialist, Fabian Prado Name at (818) 203-5370.

Sincerely,

Michael Christina  
Citibank, N.A.

Small Business Banking Credit Ctr  
P.O. Box 224608  
Dallas, TX 75222-4608



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## NOTICE

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is as follows:

CREDITOR	REGULATORY AGENCY	CREDITOR'S ADDRESS
Citibank, N.A.	Bureau of Consumer Financial Protection 1700 G Street NW Washington, D.C. 20006	Citibank, N.A. P.O. Box 224608 Dallas, TX 75222-4608

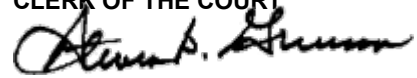
### FOR ALL CITIBANK CUSTOMERS THAT HAVE RECEIVED ADVERSE ACTION:

*Information from Consumer Reporting Agencies:* If our decision was based in whole or in part on information from a Consumer Reporting Agency(s) then the name and address of the agency(s) is listed on the first page of this adverse action notification. The reporting agency(s) so identified played no part in our decision and are unable to provide specific reasons for our decision. Under the Fair Credit Reporting Act, you have the right to obtain your free copy of your report from each of the reporting agencies. To obtain your free report, you must request the report from the reporting agency no later than 60 days after you receive this letter. You also have the right to dispute the accuracy or completeness of any information contained in your report by contacting the reporting agency that furnished the report.

*Information from Affiliate or Outside Source Other than a Consumer Reporting Agency:* If our decision was based in whole or in part on information obtained from a source other than a consumer reporting agency, you have the right to make a written request, no later than 60 days after receipt of this letter, for disclosure of the nature of the information. We will respond to your request within a reasonable period of time and, if the information was obtained from an affiliate, no later than 30 days after receipt of your request.

### FOR CALIFORNIA CREDIT APPLICANTS:

You have the right if you are a consumer, under California Civil Code Section 1785.16, to dispute the accuracy or completeness of any information in a consumer credit report furnished by consumer credit reporting agency(s).



1 **RPLY**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street

6 Las Vegas, NV 89101

7 (702) 518-4529 phone

8 (702) 825-5872 fax

9 Admin@KernLawOffices.com

10 Attorney for Defendants

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.

Case Number: A-19-803488-B

Dept. Number: 27

**DEFENDANTS' REPLY IN SUPPORT  
OF COUNTER-MOTION FOR  
ENFORCEMENT OF SETTLEMENT  
AGREEMENT, AND OPPOSITION TO  
MOTION TO STRIKE**

21 COME NOW Defendants, CLEMENT MUNNEY, (hereinafter "Muney"), and CHEF  
22 EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
23 counsel Robert Kern, ESQ., of KERN LAW, Ltd. submit this REPLY IN SUPPORT OF  
24 COUNTER-MOTION FOR ENFORCEMENT OF SETTLEMENT AGREEMENT, AND  
25 OPPOSITION TO MOTION TO STRIKE. This motion is made pursuant to EDCR 7.5  
26 and NRCP 56, and is based on the signed material terms of the settlement agreement, the  
27 records and files of this case, the attached memorandum and exhibits and any matters  
28 adduced at the hearing.

**KERN LAW, LTD.**  
601 S. 6<sup>th</sup> Street, Las Vegas, NV 89101  
Phone: (702) 518-4529 Fax: (702) 825-5872  
Admin@KernLawOffices.com

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## MEMORANDUM OF POINTS AND AUTHORITIES

In opposing the present motion, Arnould first argues that the settlement agreement is not enforceable because it is not final, before eventually admitting that the agreement does not need to be final to be enforceable, and that an agreement is enforceable if it contains all material terms (Opp. p.6), and fail to dispute that the agreement contains all material terms. They next argue that performance was made impossible by the Covid-19 quarantine, despite the fact that they filed a motion for summary judgment, in direct contravention to the terms of settlement, on March 13, and the Emergency order that they cite became effective on March 20<sup>1</sup>, making clear that all efforts at obtaining financing had halted prior to that date.

The one thing the parties do agree upon is that the settlement agreement was contingent upon Arnould's ability to secure financing for the purchase price, after making all reasonable efforts. The only true dispute is whether the agreement required Arnould to make the efforts generally considered necessary to get a loan (such as being personally liable for the loan, and putting up personal collateral sufficient to cover the loan, or at the least, making an actual application for a loan<sup>2</sup>), or whether the contingency required only a token effort that Arnould could use as a “get out of the contract for free” card. Arnould does not dispute that he has sufficient personal collateral to offer, if he were willing to offer it. He also does not dispute that he did not make a single formal loan application, nor receive a single unequivocal denial. Further, Arnould fails to respond to the fact that Arnould filed a motion for summary judgment to move forward with the litigation, while still in talks with Muney regarding what efforts should be made to secure financing, and with no notice to Muney whatsoever that he was abandoning the settlement agreement.

Determinations of what constitutes “reasonable efforts” are always difficult, but in

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<sup>1</sup>[http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-20\\_-\\_COVID-19\\_Emergency\\_Regulation\\_Defining\\_Essential\\_and\\_Non-Essential\\_Businesses/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/)

<sup>2</sup> The evidence presented by Arnould of his efforts to seek financing prior to attempting to move forward with the motion for summary judgment included no evidence of a formal loan application, and no evidence of any formal denial. Although Arnould presented a formal denial (which implies one formal application) in his opposition, it is dated March 25, and thus clearly had no impact on his decision to breach the terms of the settlement agreement by moving for summary judgment.

1 the present case, we have language from courts who have previously interpreted this exact  
2 duty, and have determined that the duty to make a good faith effort, or all reasonable efforts  
3 to obtain financing means that, “to the extent that an act was both commercially reasonable  
4 and advisable to enhance the likelihood of consummation of the financing, the onus was on  
5 Hexion [the party with the duty of good faith] to take that act.” *Id.* At 749. The Court  
6 explained that in order to justify failure to obtain financing, the party would have to; “show  
7 that there were no viable options it could exercise to allow it to perform without disastrous  
8 financial consequences.” *Id.* At 755. Arnould has grossly failed to meet this standard. Prior  
9 to his breach of the settlement agreement, Arnould made no formal loan applications (that  
10 he has shown evidence of or alleged), had no formal rejections, and in none of his  
11 preliminary emails about seeking a loan did he offer any collateral or personal  
12 responsibility, even when the lenders explicitly indicated that was the primary issue with  
13 getting funding. So measuring the facts against the duty, it is clear that Arnould did not take  
14 all acts that were commercially reasonable to obtain the financing, and failed to show that it  
15 could not obtain financing without “dire financial consequences.” Offering a personal  
16 guarantee and collateral on a loan is not “dire financial consequences” by any measure, and  
17 thus Arnould's efforts fall far short.  
18

### 19 **OPPOSITION TO MOTION TO STRIKE**

20  
21 Arnould admits that in order to justify a motion to strike, he must show that the  
22 material in question is redundant, immaterial, impertinent, or scandalous. He has shown  
23 none of those things.

24 Arnould's argument is essentially that, because the settlement agreement was not  
25 entered into the court minutes, the motion to enforce the terms of the settlement agreement  
26 should not have cited or referenced it. He supports this by looking at the first half of EDCR  
27 7.5, and pretending the second half does not exist. EDCR 7.50 states:

28 No agreement or stipulation between the parties or their attorneys will be  
effective unless the same shall, by consent, be entered in the minutes in the  
form of an order, or unless the same is in writing subscribed by the party

against whom the same shall be alleged, or by the party's attorney.

Arnould points out that the agreement was not entered into the minutes, and then ignores the language, “...or unless the same is in writing subscribed by the party against whom the same shall be alleged, or by the party's attorney.” Arnould does not dispute that the agreement was in writing, and that he signed it, nor that he is the party against whom we seek to enforce the agreement. In light of this, and more importantly, in light of the fact that the present motion *is a motion to enforce a settlement agreement*, the argument that there is no relevance to the settlement agreement and its terms (when Arnould's primary defense comes from said terms), is ludicrous.

DATED this 13<sup>th</sup> day of April, 2020

**KERN LAW**

By: /s/ Robert Kern /s/  
Robert Kern, Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

1  
2 **CERTIFICATE OF SERVICE**

3 I hereby certify that on the 13<sup>th</sup> day of April 2020, I served a true and correct copy of  
4 the foregoing **DEFENDANTS' REPLY IN SUPPORT OF COUNTER-MOTION FOR**  
5 **ENFORCEMENT OF SETTLEMENT AGREEMENT, AND OPPOSITION TO**  
6 **MOTION TO STRIKE**, pursuant to NRCP 56, by electronic service, addressed to the  
7 following:  
8

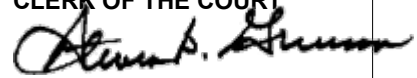
9 Phillip S. Aurbach, Esq.  
10 Marquis Aurbach Coffing  
11 Paurbach@Maclaw.com  
12 *Counsel for Dominique Arnould*

13 Alexander Callaway  
14 Marquis Aurbach Coffing  
15 acalaway@maclaw.com  
16 *Counsel for Dominique Arnould*

17 \_\_\_\_\_  
18 /s/ Robert Kern

19 Employee of Kern Law  
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**Marquis Aurbach Coffing**  
 Phillip S. Aurbach, Esq.  
 Nevada Bar No. 1501  
 Alexander K. Calaway, Esq.  
 Nevada Bar No. 15188  
 10001 Park Run Dr.  
 Las Vegas, NV 89145  
 Telephone: (702) 382-0711  
 Facsimile: (702) 382-5816  
 paurbach@maclaw.com  
 acalaway@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
 SUPPLIERS, LLC; and DOES I through X,  
 inclusive; and ROE CORPORATIONS I through  
 X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
 Dept. No.: 27

**PLAINTIFF DOMINIQUE ARNOULD'S**  
**REPLY IN SUPPORT OF COUNTER-**  
**MOTION TO STRIKE DOCUMENTS**  
**RELATED TO SETTLEMENT**

**HEARING REQUESTED**

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould" or "Plaintiff"), by and through his attorneys, Marquis Aurbach Coffing, hereby files his Reply in Support of his Counter-Motion to Strike ("Reply"). This Reply is made and based upon the pleadings and papers on file herein, the following points and authorities, and any argument allowed by the Court at the time of hearing.

Dated this 13th day of May, 2020.

**MARQUIS AURBACH COFFING**

By /s/ Phillip S. Aurbach  
 Phillip S. Aurbach, Esq.  
 Nevada Bar No. 1501  
 Alexander K. Calaway, Esq.  
 Nevada Bar No. 15188  
*Attorneys for Plaintiff*

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION.**

Defendants' documents related to settlement negotiations should be stricken under NRCP 12(f). Defendants opposition to the Motion to Strike was non-responsive and failed to even address NRCP 12(f). Any settlement was contingent on Plaintiff obtaining reasonable financing sufficient to allow him to pay the purchase price of the Sale.<sup>1</sup> Mr. Arnould was unable to obtain reasonable financing in light of the current assets of the company, the purchase price set forth in the memorandum of material terms, and most recently, the COVID-19 outbreak. Therefore, the Defendants' respectfully request this Court strike all documents related to settlement from the record pursuant to NRCP 12(f).

**II. FACTUAL BACKGROUND.**

Plaintiff hereby incorporates by reference all of the points, authorities, and exhibits provided in Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement ("Opposition") and Counter-Motion to Strike Documents Related to Settlement ("Countermotion"), on file herein. Plaintiff also points the Court to the facts and exhibits set forth in Plaintiff's Declaration in Support of Opposition to Defendants' Counter-Motion to Enforce Settlement Agreement (hereinafter "Arnould Decl.") attached hereto as **Exhibit 1**.

**III. LEGAL ARGUMENT.**

On February 7, 2020, the parties participated in a settlement conference pursuant to EDCR 2.51, however, no settlement was reached.<sup>2</sup> The issue in the instant countermotion to strike is whether an unenforceable settlement agreement should remain on the record. The answer is no.

**A. ALL SETTLEMENT NEGOTIATIONS AND DOCUMENTS SHOULD BE STRICKEN UNDER NRCP 12(F).**

NRCP 12(f) allows for a respondent to move for any "redundant, immaterial, impertinent, or scandalous matter" to be stricken from the complaint. NRCP 12(f) is used to avoid impertinent

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<sup>1</sup> See Declaration in Support of Opposition to Defendants' Counter-Motion to Enforce Settlement Agreement (hereinafter "Arnould Decl.") attached hereto as **Exhibit 1**, at ¶2.

<sup>2</sup> See Arnould Decl. at ¶¶1-6.

1 or immaterial issues. *Id.* The Court may strike the redundant, immaterial, impertinent, or  
2 scandalous material on its own; or a responding party may request the same by motion. *Id.* Content  
3 is immaterial if it only tends to “to prove some fact that is not properly at issue” or lacks “logical  
4 connection with the consequential facts.” *See* IMMATERIAL, Black's Law Dictionary (11th ed.  
5 2019); *see also* NRS 48.105 (“Evidence of conduct or statements made in compromise  
6 negotiations is likewise not admissible.”); *see e.g. Davis v. Beling*, 128 Nev. 301, 311, 278 P.3d  
7 501, 509 (2012). Here, the Memo is unenforceable, which makes it completely immaterial to this  
8 case. As set forth in Plaintiff’s Opposition, no settlement has been reached in this case.  
9 Accordingly, the settlement documents produced in Defendants Counter-Motion do not tend to  
10 prove any fact that is at issue.

11 Further, the settlement only threatens this Court’s impartiality in the matter. *See* Nevada  
12 Code of Judicial Conduct 2.11 (impartiality may lead to disqualification); (defining “impartial” [to  
13 include the] . . . maintenance of an open mind in considering issues that may come before a  
14 judge.”). Here, the botched settlement, negotiations, and documents terms implicitly (or arguably  
15 expressly) support the fact that the parties were willing to cede certain issues in this case. As such,  
16 the settlement documents and negotiations do far more harm than good.

17 Therefore, the documents relating to settlement produced in Defendants Opposition to  
18 Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement  
19 Agreement should be stricken under NRCP 12(f).

20 **B. DEFENDANTS’ OPPOSITION DOES NOT DISPUTE THE FACT THAT**  
21 **SETTLEMENT CONTENT IS IMMATERIAL AND IMPERTINENT.**

22 Under EDCR 2.20(e), the “[f]ailure of the opposing party to serve and file written  
23 opposition may be construed as an admission that the motion ... is meritorious and a consent to  
24 granting the same.” Here, Defendants’ entire opposition to the motion to strike constituted 29 lines  
25 (about one page), and did not even reference NRCP 12(f). Notably, Defendants **did not** dispute or  
26 oppose the facts presented by Plaintiff showing why the documents and negotiations relating to  
27  
28

1 settlement are immaterial and impertinent under NRCP 12(f).<sup>3</sup> Thus, Defendants' non-opposition  
2 may be construed by this Court as an admission and grant Plaintiff's Motion to Strike in its entirety.

3 **C. DEFENDANTS' ARGUMENT MISSES THE POINT.**

4 Defendants opposition completely missed Plaintiff's point in reference to EDCR 7.50.<sup>4</sup>  
5 EDCR 7.50 allows for an "agreement or stipulation between the parties" to be entered into the  
6 minutes. Here, there is no "agreement or stipulation" because the memorandum at issue here was  
7 conditional upon financing. Since that condition was never satisfied – and cannot be satisfied under  
8 its own terms—there is no "agreement or stipulation between the parties" that may be entered into  
9 this Court's minutes.

10 Moreover, Plaintiff has not consented that the Memo be entered into the minutes in the  
11 form of an order, nor have Defendants moved to include the Memo as an agreement to bear upon  
12 the parties in this matter. As such, the documents have no force or effect in these proceedings,  
13 serve no purpose, and should be stricken under NRCP 12(f).

14 **IV. CONCLUSION.**

15 For the reasons stated above, Plaintiff respectfully requests this Court grant its  
16 Countermotion under NRCP 12(f) and strike Defendants' documents relating to settlement.

17 Dated this 13th day of May, 2020.

18 MARQUIS AURBACH COFFING

19  
20  
21 By /s/ Phillip S. Aurbach  
22 Phillip S. Aurbach, Esq.  
23 Nevada Bar No. 1501  
24 Alexander K. Calaway, Esq.  
25 Nevada Bar No. 15188  
26 *Attorneys for Plaintiff*

27 <sup>3</sup> See Def.'s Opposition to Motion to Strike, at pgs. 3-4, on file herein.

28 <sup>4</sup> *Id.*

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PLAINTIFF DOMINIQUE ARNOULD'S REPLY  
IN SUPPORT OF COUNTER-MOTION TO STRIKE DOCUMENTS RELATED TO  
SETTLEMENT** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 13th day of May, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>5</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/ Javie-Anne Bauer  
An employee of Marquis Aurbach Coffing

<sup>5</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1

**DECLARATION IN SUPPORT OF OPPOSITION TO DEFENDANTS' COUNTER-  
MOTION TO ENFORCE SETTLEMENT AGREEMENT**

I, Dominique Arnould, declare that I am over the age of 18 years, I have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I further state that I am competent to testify as to the facts stated herein.

1. On or about February 7, 2020, I attended a settlement conference by Judge Williams.

2. Muney's counsel, Robert Kern, drafted a Memorandum of Material Terms of Agreement ("Memo") which he proposed to be adopted into a final settlement agreement sometime in the future.

3. The Memo stated "[t]his agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The final agreement to be drafted at a later time."

4. It was my understanding that that this was not a final settlement agreement, but merely a set of terms that would be later adopted in a final agreement between Muney and I (as stated in the Memo itself).

5. The Memo stated that any settlement "shall be contingent upon: . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale . . . seeking to obtain such financing from all reasonable sources."

6. Moreover, the parties agreed that in the interim, "all business will be conducted as usual without interference by the other party."

7. From February 7, 2020 until now, I have applied for financing from City National Bank, Wells Fargo, View Ridge Funding, and Citi Bank.<sup>1</sup> I have also inquired via phone about financing from other private lenders.

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<sup>1</sup> See Communications with Banks, attached hereto as **Exhibit 1A**.

1 8. To date, my requests for financing of the entire \$700,000 purchase price have been met  
2 with outright rejection and doubt.

3 9. Other lenders have been unresponsive or have preliminarily denied my financing requests  
4 based upon the financials of the business and the proposed buy-out.

5 10. I have obtained formal denials from some lenders, including Citi Bank.<sup>2</sup>

6 11. I have been unable to find any lender willing to finance the buy-out for the price and  
7 terms set forth in the Memo.

8 12. On March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency  
9 in response to the COVID-19 outbreak.<sup>3</sup> The Governor has required the closure of all “non-  
10 essential” businesses.<sup>4</sup> The Governor of my home state of California did the same.

11 13. It is my understanding that banks and financial institutions have been deemed “essential,”  
12 but many have been ordered to implement social distancing policies and other measures to  
13 reduce the spread of the COVID-19 outbreak.<sup>5</sup>

14 14. It has been extremely difficult for me to communicate, meet with bankers, or get anyone  
15 to call me back. I believe many banks are either semi-closed or the bank employees are not  
16 functioning under normal working conditions. I also suspect many bankers are inundated with  
17 current business banking clients’ needs due to current economic effects of COVID-19.

18 15. I myself have been limited to the work I can do on my business. My wife and I have both

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22 <sup>2</sup> See Citi Letter, attached hereto as **Exhibit 1B**.

23 <sup>3</sup> *Declaration of Emergency for COVID-19*, STATE OF NEVADA EXECUTIVE DEPARTMENT, available at:  
24 [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-12\\_-\\_COVID-19\\_Declaration\\_of\\_Emergency/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-12_-_COVID-19_Declaration_of_Emergency/)

25 <sup>4</sup> *Letter from Justin Luna to Governor Sisolak to Define Essential and Non-Essential Businesses*,  
26 EMERGENCY REGULATION DEFINING ESSENTIAL AND NON-ESSENTIAL BUSINESSES, available at:  
27 [http://gov.nv.gov/News/Emergency\\_Orders/2020/2020-03-20\\_-\\_COVID-19\\_Emergency\\_Regulation\\_Defining\\_Essential\\_and\\_Non-Essential\\_Businesses/](http://gov.nv.gov/News/Emergency_Orders/2020/2020-03-20_-_COVID-19_Emergency_Regulation_Defining_Essential_and_Non-Essential_Businesses/) (Letter from Justin Luna  
28 is attached to the Emergency Order).

<sup>5</sup> *Id.*



**MARQUIS AURBACH COFFING**

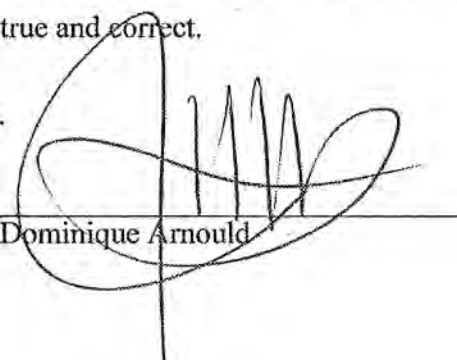
10001 Park Run Drive  
Las Vegas, Nevada 89145  
(702) 382-0711 FAX: (702) 382-5816

1 quarantined ourselves in our home in California to comply with state and national mandates and  
2 guidelines pertaining to COVID-19.

3 16. It is unclear how long these impediments to business and banking will continue.  
4

5 Pursuant to NRS § 53.045 and 28 U.S.C. §1746, I declare under penalty of perjury under  
6 the laws of the State of Nevada that the foregoing is true and correct.

7 Executed on this 3<sup>rd</sup> day of APRIL, 2020.

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10 Dominique Arnould  
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# Exhibit 1A

---

**From:** Dominique Arnould <domiarnould@aol.com>  
**Sent:** Monday, February 10, 2020 1:20 PM  
**To:** pricilla.lynn.galati@citi.com  
**Subject:** Loan

Hello Priscilla

It was nice to meet you this morning at the CITIBANK, Studio City Branch.

As I presented to you this morning, I need a loan to purchase the shares of y partner in our business CHEF EXEC SUPPLIERS, LLC.

I delivered to you the business income tax return of year 2016-2017-2018, and the Year 2019 P/L as our 2019 income tax return has not been computed yet.

Please let me know if you or your underwriter need any more information.

Sincerely  
Dominique

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

---

**From:** Dominique Arnould <domiarnould@aol.com>  
**Sent:** Friday, February 21, 2020 12:47 PM  
**To:** Alexander K. Calaway  
**Subject:** Fwd: Loan Request

Helo Alex

Here below is the response of Citi bank

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

From: Prado, Fabian <fabian.prado@citi.com>  
To: domiarnould@yahoo.com <domiarnould@yahoo.com>  
Cc: domiarnould@aol.com <domiarnould@aol.com>  
Sent: Fri, Feb 21, 2020 12:45 pm  
Subject: Re: Loan Request

Sent from my BlackBerry 10 smartphone.

**From:** Prado, Fabian [GCB-RTLB]  
**Sent:** Friday, February 21, 2020 12:44 PM  
**To:** dominarnuld@yahoo.com  
**Subject:** Fw: Loan Request

Sent from my BlackBerry 10 smartphone.

**From:** Prado, Fabian [GCB-RTLB] <fp68083@imcnam.ssmb.com>  
**Sent:** Friday, February 21, 2020 12:31 PM  
**To:** domiarnuld@aol.com  
**Subject:** Loan Request

Hi Dominic,

At this moment based on the preliminary review it appears there is not enough cash flow to support your requested loan amount. We can always submit to our underwriters for a formal review if you'd like.

Sent from my BlackBerry 10 smartphone.

**From:** domiarnould@aol.com,  
**To:** jtran@viewridgefunding.com,  
**Subject:** Re: ViewRidge Funding: Business Loan Application Update  
**Date:** Tue, Feb 25, 2020 3:18 pm

**Attachments:**

---

thank you John

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

From: John Tran <jtran@viewridgefunding.com>  
To: domiarnould@aol.com <domiarnould@aol.com>  
Sent: Tue, Feb 25, 2020 3:13 pm  
Subject: ViewRidge Funding: Business Loan Application Update

Hi Dominique,

Per our conversation, we will only have an approval between \$100,000 and \$150,000 for your business at this time. Once you are halfway paid down through the loan, you are eligible to come back for additional capital. With business credit and payment history with us, we can start lending \$200,000+ then eventually \$500,000+.

If your partner will accept incremental payments, then we can get this done for you within a few transactions over a 24 to 36-month span.

Let me know if you have any questions.

Thanks,

**John Tran** | Loan Specialist



**P: (888) 315-1409 | F: (888) 315-1409**

[jtran@viewridgefunding.com](mailto:jtran@viewridgefunding.com) | [www.viewridgefunding.com](http://www.viewridgefunding.com)

4719 Viewridge Avenue suite 170 San Diego, California 92123



---

**From:** Dominique Arnould <domiarnould@aol.com>  
**Sent:** Tuesday, February 25, 2020 3:21 PM  
**To:** Trey.T.Black@wellsfargo.com  
**Subject:** Re: Wells Fargo SBA Financing

Hello Trey

After reviewing your mail below, I think I understand.

At this time does this means that the amount of \$700 000.00 for the buy out of my partner cannot be offered from Wells Farg to me at this time?

Please confirm"thank you

Dominique

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA Food Source, INC  
Wines of the World.Com  
702-683-2433

-----Original Message-----

To: domiarnould@aol.com  
Sent: Wed, Feb 19, 2020 4:17 pm  
Subject: FW: Wells Fargo SBA Financing

Please see below.

Trey T. Black

Business Development Officer  
Wells Fargo Bank

14144 Ventura Blvd, Suite 200 | Sherman Oaks, CA 91423  
Cell 310-848-5321

[Trey.T.Black@wellsfargo.com](mailto:Trey.T.Black@wellsfargo.com)

**From:** Black, Trey T.  
**Sent:** Wednesday, February 19, 2020 2:45 PM  
**To:** 'domiarnould@aol.com' <domiarnould@aol.com>  
**Cc:** Angela Lee (Angela.Lee3@wellsfargo.com) <Angela.Lee3@wellsfargo.com>; Mkrtchyan, Angela <Angela.Mkrtchyan@wellsfargo.com>; Boetjer, Nicholas G. <Nicholas.G.Boetjer@wellsfargo.com>  
**Subject:** Wells Fargo SBA Financing

Hi Dominique,

Thank you for the details over the last few days related to your upcoming partner buyout, and we're looking forward to being able to help. As I mentioned, our underwriters will require real estate collateral if it's available, so we would need to put a lien on your home to secure the buyout loan. In order for us to get started, here's what we'll need:

#### **BUSINESS ACQUISITION- Chef Exec Suppliers, LLC**

- Current Interim as of 1/31 (Bal Sheet/P&L) **Month End.** (Same accounting method of the Tax Returns - **ACCRUAL**)
- Accts/Payable Aging to match Current Interim OR statement that the Business carries no A/P
- Accts/Receivable Aging to match Current Interim OR statement that the Business carries no A/R
- Debt Schedule as of Current Interim- **If a stock purchase**
- IRS/SBA form 4506T –Business
- Borrower Questions- Business Acquisition
- Fully Executed Purchase Agreement or Letter of Intent signed by Buyer and Seller
- P&L projections – month by month for the first year. A template is attached for the projections.

#### **BORROWER/APPLICANTS/GUARANTORS: (Needed for all owners with 20% or more ownership):**

- **Last three years Personal Tax Returns**
- **W2's**-Last 3 years of **W-2's** for principal and spouse (even if spouse is not a guarantor/owner or applicant)
- **Management Resume** - for each guarantor to complete (Form attached)
- Personal Financial Statement- SBA Form 413 **signed by Applicant and Spouse** (Form attached)
- IRS/SBA form 4506T – Personal
- **Paystubs**-Most recent paycheck stub showing year-to-date earnings for principal and spouse or statement if you do not receive one
- **Bank Statements**-Source of Injection/down payment- Copy of (2) months **most recent** bank statements, all pages even if blank from any bank account that is non-Wells Fargo, for either personal or business showing proof of down payment.
- **Trust** – Copy of the first few and last couple pages of Trust (***if one exists***)

#### **ADDITIONAL APPLICATION FORMS**

- WF-SBA Application-(Form attached). To be filled out however the real estate is owned/or to be purchased.  
**Note: Signature(s) required on page 3.**
- WF-SBA Co Application-(Form attached). To be filled out by the business occupying the real estate. **Note: Signature(s) required on page 3.**
- Authorization to Release Information
- 1919 - Borrower Information -SBA Form (7a) **NOTE: Signatures required on page 3 and 5. Initials needed on Question 17, 18, 19, 22**
- UCC Individual statement- (only if business and/or real estate is/or to be owned individually)

Please take a day or two to review these items and compile any non-Wells Fargo documents that relate to our checklist, and we can schedule some time to assist you with our forms. I've copied my team who will be assisting me with your project, and I'll introduce them more formally as we progress.

Best regards,

Trey T. Black

Business Development Officer  
Wells Fargo Bank

14144 Ventura Blvd, Suite 200 | Sherman Oaks, CA 91423

Cell 310-848-5321

[Trey.T.Black@wellsfargo.com](mailto:Trey.T.Black@wellsfargo.com)



# Exhibit 1B

Small Business Banking Credit Ctr  
P.O. Box 224608  
Dallas, TX 75222-4608



March 25, 2020

Dominique Arnould  
Chef Exec Suppliers LLC  
PO Box 1800  
Studio City, CA 91614

Dominique Arnould:

Re: Your application for credit – Term Loan

Thank you for providing Citibank the opportunity to consider your financing request. After evaluating the information provided in connection with your credit application, we regret to inform you that we are unable to approve your request at this time due to the following:

- Inadequate primary source of repayment
- Value or type of collateral is not sufficient

If any of the reasons listed above refers to a guarantor's consumer credit profile, our credit decision was based, in whole or in part, on information obtained from the consumer reporting agency listed below. The reporting agency played no part in our decision and is unable to provide the specific reasons for our decision. You do, however, have a right under the Fair Credit Reporting Act to know the information contained in your credit file at the consumer reporting agency. You also have the right to obtain a free copy of your report from each of the reporting agencies if you request it no later than 60 days after you receive this notice. If you have questions about the information in your credit report, you should contact the credit reporting agency directly. You also have the right to dispute the accuracy or completeness of any information contained in your report by contacting the reporting agency that furnished the report.

Experian  
PO Box 9600  
Allen, TX 75013  
(800) 311-4769

If you have any questions, please call your Business Development Specialist, Fabian Prado Name at (818) 203-5370.

Sincerely,

Michael Christina  
Citibank, N.A.

Small Business Banking Credit Ctr  
P.O. Box 224608  
Dallas, TX 75222-4608



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## NOTICE

The federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income derives from any public assistance program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The federal agency that administers compliance with this law concerning this creditor is as follows:

CREDITOR	REGULATORY AGENCY	CREDITOR'S ADDRESS
Citibank, N.A.	Bureau of Consumer Financial Protection 1700 G Street NW Washington, D.C. 20006	Citibank, N.A. P.O. Box 224608 Dallas, TX 75222-4608

### FOR ALL CITIBANK CUSTOMERS THAT HAVE RECEIVED ADVERSE ACTION:

*Information from Consumer Reporting Agencies:* If our decision was based in whole or in part on information from a Consumer Reporting Agency(s) then the name and address of the agency(s) is listed on the first page of this adverse action notification. The reporting agency(s) so identified played no part in our decision and are unable to provide specific reasons for our decision. Under the Fair Credit Reporting Act, you have the right to obtain your free copy of your report from each of the reporting agencies. To obtain your free report, you must request the report from the reporting agency no later than 60 days after you receive this letter. You also have the right to dispute the accuracy or completeness of any information contained in your report by contacting the reporting agency that furnished the report.

*Information from Affiliate or Outside Source Other than a Consumer Reporting Agency:* If our decision was based in whole or in part on information obtained from a source other than a consumer reporting agency, you have the right to make a written request, no later than 60 days after receipt of this letter, for disclosure of the nature of the information. We will respond to your request within a reasonable period of time and, if the information was obtained from an affiliate, no later than 30 days after receipt of your request.

### FOR CALIFORNIA CREDIT APPLICANTS:

You have the right if you are a consumer, under California Civil Code Section 1785.16, to dispute the accuracy or completeness of any information in a consumer credit report furnished by consumer credit reporting agency(s).



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

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC.,

Appellants,

vs.

DOMINIQUE ARNOULD,

Respondent.

Supreme Court Case No: 81354, 81355,  
81356

**APPELLANT'S APPENDIX**

**VOLUME II**

**APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT**

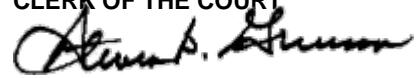
Robert Kern, Esq.  
Nevada State Bar No.10104  
**KERN LAW Ltd.**  
601 S. 6<sup>th</sup> Street  
Las Vegas, Nevada 89101  
Tele: 702-518-4529  
Fax: 702-825-5872  
Email: [Robert@Kernlawoffices.com](mailto:Robert@Kernlawoffices.com)  
[Admin@Kernlawoffices.com](mailto:Admin@Kernlawoffices.com)  
*Attorney for Appellants*

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1 **TRO**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street  
6 Las Vegas, NV 89101  
7 (702) 518-4529 phone  
8 (702) 825-5872 fax  
9 Admin@KernLawOffices.com  
10 Attorney for Defendants

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.)

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **DEFENDANTS' APPLICATION FOR  
22 TEMPORARY RESTRAINING ORDER  
23 AND MOTION FOR PRELIMINARY  
24 INJUNCTION**

25 **HEARING REQUESTED**

26  
27 COME NOW Defendants, CHEF EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC"),  
28 and CLEMENT MUNNEY, (hereinafter "Muney"), by and through their undersigned counsel  
Robert Kern, ESQ., of KERN LAW, Ltd. submit this Application for Temporary Restraining  
Order and Motion for Preliminary Injunction.

Defendants have been forced to seek emergency injunctive relief because,  
despite the existence of a settlement agreement that required no unusual actions by either  
party<sup>1</sup>, Arnould has undertaken a campaign to illegally seize control of the company and use

<sup>1</sup> "Both parties agree that neither will incur any extraordinary expenses or take any items out of the  
warehouse between February 7, 2020, and the completion of the final Sale of the Company." (See  
Settlement Agreement, Ex.16)

1 such control to extort Muney into acceding to Arnould's demands before the matter can be  
2 heard by this Court (*See* Muney Affidavit, Ex.1). Since the settlement agreement, Arnould  
3 has done the following:  
4

5 -Seized all funds of the company and moved them to a new account that Muney and  
6 the Las Vegas branch have no access to (*See* Exs.1-3);  
7

8 -Cancelled the company's sole credit line (*See* Muney Affidavit, Ex.1);  
9

10 -Attempted to remove Muney's access to the company payal account (*See* Paypal  
11 email, Ex.4);  
12

13 -Stopped paying Las Vegas sales staff, Muney's other company, and Muney's son,  
14 who is owed sales commissions, and owed for his work on the company website  
(*See* Exs.1, 5, 6, 7);  
15

16 -Began stealing sales commissions from Las Vegas sales staff (*See* Commission  
17 records, Ex.8);  
18

19 -Hired new sales staff for the LA branch, at a vastly higher salary than all other sales  
20 staff (*See* Naomie Inouye records, Ex.9);  
21

22 -Has refused to pay amounts due to the IRS for form 592-V, which is currently due,  
23 despite such being paid every previous year of the company's existence (*See* Form  
24 592 and CPA email, Ex.10)  
25

26 -Used the keys he was given as part of the settlement agreement to secretly<sup>2</sup> take in-  
27 ventory out of Las Vegas (in violation of the settlement agreement), and store it in a  
28 new warehouse for which only Arnould has access, and for which the company has  
to pay for every pallet of storage, despite having sufficient space in the LA ware-

---

<sup>2</sup> Muney discovered this through surveillance footage at the warehouse.

1 house to store all that material for no additional cost (*See* Surveillance photos,  
2 Northstar invoices, Exs.11, 12);  
3

4 -Spent vastly more money than normal in order to clear out the bank account, pre-  
5 paying LA suppliers and rent on the LA warehouse (spent \$56,900 in less than a  
6 month, of which \$30,900 was from Las Vegas customer payments), and did this in  
7 secret before announcing to Muney that there were no funds to pay Las Vegas ex-  
8 penses (*See* Payment Records, Ex.13);  
9

10 -Despite the settlement agreement requiring that all business records be shared,  
11 Arnould has refused to share records of the company's dealings with the companies  
12 Arnould owns, AAA Foodsource and Wines of the World (*See* Document Requests,  
13 Ex.14);

14 -Held checks from customers that would be paid into the company bank account,  
15 and re-routed them into the new bank account that only Arnould has access to per-  
16 sonally (*See* Exs.1-3);  
17

18 -Arnould has admitted to seizing all the funds, to clearing out the previous bank ac-  
19 count, to closing the line of credit, and to doing all of this solely for the purpose of  
20 preventing Muney and the Las Vegas branch from being able to pay bills and invoic-  
21 es that he does not approve of (*See* Exs.1-3);

22 -When Muney demanded that the situation be corrected, and pointed out that  
23 Arnould has no legal right to unilaterally move around the company's money, or to  
24 put the money and inventory into accounts where he has sole access, he provided no  
25 legal justification, and only demanded that Muney accept his original demands of  
26 the lawsuit in order to be able to operate the company again (*See* Exs.1-3);  
27  
28

1 -Muney informed Arnould and his counsel that an emergency injunction would be  
2 sought if the funds belonging to the company were not returned to the company ac-  
3 count by close of business on Monday, May 18. They were not. (*See Muney De-*  
4 *mand, Ex.2*).

5  
6 Currently, most of the company's bills are paid by auto-pay set up in the original  
7 existing bank account, and that account is the sole source of funds by which Muney can  
8 pay expenses to continue operating the Las Vegas side of the company. The company cur-  
9 rently has a large shipment of inventory, primarily of items needed by the Las Vegas  
10 branch, which Arnould was aware of, for which a \$9000 deposit has already been paid, and  
11 is waiting upon full payment for delivery (*See Yanzhou Shipment, Ex.15*). As Arnould has  
12 emptied the bank account, there are no funds to make payment with, which is damaging the  
13 company's relationship with its most important supplier. Without this supplier, Chefexec  
14 would be unable to continue to offer its products at its current low prices (*See Muney Affi-*  
15 *davit, Ex.1*). If Arnould is not stopped immediately from this grossly reckless behavior,  
16 Chefexec will default on its agreements, lose key workers, ruin relationships with key sup-  
17 pliers and customers, and overall suffer significant irreparable damage. Payment for the  
18 current shipment is already well overdue, customers who do not receive the product that  
19 they pay for will go to other sellers, and key workers will leave if they are not paid. This  
20 damage is unquestionably irreparable, and it will happen imminently if Arnould is allowed  
21 to continue illegally seizing company funds for his own sole access and use.

22 Arnould was given notice on May 13 that this motion would be filed if the funds  
23 were not returned to the bank account by Monday, May 18 (*See Email, Ex.2*). They will be  
24 provided with electronic notice of this motion contemporaneously with submission to this  
25 court. Because of the importance and urgency of the matter, Muney asks this court to either  
26 issue a temporary restraining order to return company funds to the company bank account,  
27 and put all company funds received in the future there as well (in the same manner that has  
28 been done in the previous years of the company's operation), and cease all extraordinary  
actions in the management of the business until a hearing can be held on this matter for a  
preliminary injunction. If the Court is unwilling or unable to issue an immediate order

1 without hearing, Muney requests that an emergency hearing be set in the next three (3)  
2 business days to hear this matter for issuance of a preliminary injunction.

3  
4 Pursuant to NRCP 65(b), Petitioner hereby requests a Temporary Restraining Order  
5 to order Arnould to return company funds to the company bank account, and put all compa-  
6 ny funds received in the future there as well (in the same manner that has been done in the  
7 previous years of the company's operation), and cease all extraordinary actions in the man-  
8 agement of the business until a hearing can be held, for 15 days, or until the Motion for Pre-  
9 liminary Injunction can be heard, or in the alternative, Petitioner requests that this Court no-  
10 tice an immediate emergency hearing for a preliminary injunction to order Arnould to return  
11 company funds to the company bank account, and put all company funds received in the fu-  
12 ture there as well (in the same manner that has been done in the previous years of the com-  
13 pany's operation), and cease all extraordinary actions in the management of the business un-  
14 til the litigation is resolved, or until the Court deems otherwise.

## 15 16 **POINTS AND AUTHORITIES**

### 17 **I.** 18 **ARGUMENT**

19  
20 For issuance of a preliminary injunction or TRO pursuant to rule 65, Petitioner must  
21 show, in relative order of importance 1) significance of threat of irreparable harm to Peti-  
22 tioner if injunction is not granted; 2) state of balance between this harm and injury that  
23 granting injunction would inflict on Respondents; and 3) probability that Petitioner will  
24 succeed on merits. *Dellwood Foods, Inc. v. Kraftco Corp.*, 420 F. Supp. 424; Wright &  
25 Miller, *Federal Practice and Procedure: Civil* § 2948 at 430-31 (1973). If the balance of  
26 hardships leans in Petitioner's favor, then Petitioner's requirement to show likelihood of  
27 success is lessened. *Halder v. Avis Rent-A-Car System, Inc.*, 541 F.2d 130, Slip Op. No.  
28 977 (2d Cir. 1976); *Sonesta Int'l Hotels Corp. v. Wellington Associates*, 483 F.2d 247, 250

1 (2d Cir. 1973). As shown below, both Chefexec and Muney face a clear threat of irrepara-  
2 ble harm, the balance of hardships leans clearly in their favor, they are likely to succeed on  
3 the merits, and public interest would be served by the issuance of the requested injunction.  
4 As such, an Injunction should issue.  
5

#### 6 **A. The Company Will Suffer Irreparable Harm**

7  
8 The company has been running effectively and profitably for many years, and this  
9 operation is dependent upon its key workers, its relationships with its suppliers, and its rela-  
10 tionships with its customers. No company can operate without money, yet Arnould's actions  
11 are intentionally starving the company of funds needed to operate, while Arnould remains  
12 free to use his sole access to the company money to pay what is necessary for his side of the  
13 operation. Regardless of what damages Arnould may pay later, if the company loses its key  
14 workers, damages its relationships with its key suppliers, or loses its customers, such mone-  
15 tary damages will not restore the company's losses (*See* Muney Affidavit, Ex. 1).  
16

#### 17 **B. The Balance of Hardships Leans in Chefexec and Muney's Favor**

18 Defendants' hardship is the loss of essential workers, suppliers, and customers due  
19 to Arnould blocking Chefexec and Muney's ability to honor the company's obligations and  
20 duties to them. This hardship is clear. The hardship that Arnould faces, is to continue to op-  
21 erate the business exactly as it has been operating the rest of its existence, and not take any  
22 extreme actions relating to the company's management. Muney is entirely willing to discuss  
23 a plan to adjust operations in relation to the Covid-19 threat, as the 50% partner in the busi-  
24 ness. Arnould has made no attempts to formulate a plan with Muney, he has simply taken  
25 the money and made demands. Arnould faces no hardship, other than losing the leverage by  
26 which he is attempting to strong-arm his partner. Any balancing of burdens must weigh  
27 heavily in Petitioner's favor.  
28

1  
2 Muney is willing to post a bond as security for the present motion in an amount the  
3 Court deems appropriate.

4 **C. Chefexec and Muney are Likely to Prevail on the Merits**

5  
6 Issuance of a Preliminary Injunction calls for a showing that the moving party is  
7 likely to succeed on the merits. This does not require that Petitioner prevail against every  
8 Defendant, nor does it require that Petitioner win on every cause of action, it only requires a  
9 showing of a meritorious claim.

10 In the present case, Arnould's acts of unilaterally taking possession of the company  
11 funds, and a portion of company inventory, and putting it under accounts to which only  
12 Arnould has access, are the very definition of conversion (or embezzlement if we were in  
13 criminal court). The Nevada Supreme Court has explained conversion thus:

14 Conversion exists where one exerts wrongful dominion over another's per-  
15 sonal property or wrongful interference with the owner's dominion. The act  
16 constituting "conversion" must be an intentional act, but it does not require  
wrongful intent and is not excused by care, good faith, or lack of knowl-  
edge. Conversion does not require a manual taking.

17 *Bader v. Cerri*, 609 P. 2d 314, footnote1 (NV S.Ct. 1980). The funds and inventory  
18 unquestionably belong to Chefexec, and are thus Chefexec's personal property. As access to  
19 those funds is necessary to the operation of the company, the taking of them equates to an  
20 interference. The fact that Arnould has no authority to take all the company's funds  
21 unilaterally makes the interference wrongful. The fact that Arnould may allege that he is  
22 acting in good faith (a difficult proposition considering that he has provided no justification  
23 for his acts) is irrelevant, as all that is required is that his interference in access to the funds  
24 was intentional, which has already been admitted (*See* Arnould emails, Ex.2). Nevada  
25 Courts have specifically held that unauthorized withdrawal of company funds constitutes  
26 conversion. *In re Western World Funding, Inc.*, 52 BR 743( Bankr. Court, D. Nevada 1985)  
27 ("The unauthorized withdrawal of funds constitutes the tort of conversion and a breach of  
28 fiduciary duty. . . Good faith, even if it were shown, is not a defense to a conversion  
action."); *People v. Sisuphan*, 181 Cal. App. 4th 800 (Cal: Court of Appeal, 1st Appellate

1 Dist., 3rd Div. 2010) (“[T]hat the property was never ‘applied to the embezzler's personal  
2 use or benefit’” is no defense.”); 18 Am.Jur.2d (2010) Conversion, § 156 [exertion of  
3 unauthorized control over the property]. While it is possible that Arnould could avoid  
4 liability for conversion of the funds in question, it is without question that the claim of  
5 conversion is a meritorious claim.  
6

### 7 CONCLUSION

8 Pursuant to NRCP 65, and Nevada case law, the grant of a temporary restraining or-  
9 der and/or of a preliminary injunction should be granted if the petitioner shows the immi-  
10 nent threat of irreparable harm, that the balance of hardships weighs in the petitioners favor,  
11 and a likelihood of success on the merits. All factors clearly support the issuance of an in-  
12 junction to return the company funds to their regular account, and to prohibit either partner  
13 from taking any extreme unilateral action in managing the company, without seeking prior  
14 approval from this Court.  
15

16 WHEREFORE, Petitioner requests that a TEMPORARY RESTRAINING ORDER be  
17 granted until the motion for a preliminary injunction can be heard, or in the alternative, that  
18 an immediate, emergency hearing be set for issuance of a preliminary injunction.  
19

20 Dated this 20<sup>th</sup> day of May, 2020.

#### **KERN LAW**

21 By: /s/ Robert Kern /s/  
22 Robert Kern, Esq.  
23 601 S. 6<sup>th</sup> Street  
24 Las Vegas, NV 89101  
25 (702) 518-4529  
26 Attorney for Defendants  
27  
28



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**CERTIFICATE OF SERVICE**

I hereby certify that on the \_\_\_\_ day of May 2020, I served a true and correct copy of the foregoing **DEFENDANTS' APPLICATION FOR TEMPORARY RESTRAINING ORDER AND MOTION FOR PRELIMINARY INJUNCTION**, pursuant to NRCP 65, by electronic service, addressed to the following:

Phillip S. Aurbach, Esq.  
Marquis Aurbach Coffing  
Paurbach@Maclaw.com  
*Counsel for Dominique Arnould*  
  
Alexander Callaway  
Marquis Aurbach Coffing  
acalaway@maclaw.com  
*Counsel for Dominique Arnould*

\_\_\_\_\_  
/s/ Robert Kern  
Employee of Kern Law

# **EXHIBIT 1**

## AFFIDAVIT OF CLEMENT MUNEY

STATE OF NEVADA }  
ss.: }  
County of Clark }

I, Clement Munez, being first duly deposed states as follows:

1. I am an adult over the age of 18 and am competent to testify to the contents of this affidavit. I execute this affidavit in support of the foregoing motion. I have personal knowledge of the matters set forth herein, and all statements below are made from personal knowledge unless specifically indicated otherwise.
2. I am a 50% partner in the business known as Chef Exec LLC (hereinafter, "Chefexec"), which is a company that I formed with Dominique Arnould (hereinafter, "Arnould").
3. Throughout the existence of Chefexec, other than accounting and invoicing, I have managed the Las Vegas side of the company independently, and Arnould has managed the Los Angeles side of the company independently. However all decisions affecting the company as a whole require agreement by both partners.
4. My partner Dominique Arnould has begun a series of actions in which he is seizing control of the entire company, and using that control to shut me out of any control of the company or its funds, including control of the Las Vegas side of the Company.
5. In February of this year, the partners reached settlement in this case, and one of the terms of the settlement was that both parties would refrain from taking any unusual actions pending the final resolution. Specifically included in this was Arnould taking any further inventory out of the Las Vegas warehouse. Because of this agreement term, I agreed to an agreement term to give Arnould a copy of the key to the Las Vegas Warehouse. I complied with this. However, within a week, surveillance video showed Arnould's LA driver secretly taking additional inventory from the Las Vegas warehouse.
6. Arnould sent me an email demanding a halt to all funds that were being paid to me, my other company, or my son (for his sales and work on the company website), despite Arnould continuing to drastically increase his own spending.
7. According to company records, between March 23 and April 28, Arnould spent \$56,900 on the Los Angeles side of the company (vastly greater than normal), of which \$30,900 was from Las Vegas customer payments. In this way Arnould cleared out the company bank account, and

- thereafter told me that there was not sufficient money for Las Vegas expenses. In an email, Arnould directly admitted that he had intentionally drained the company bank account, and ceased depositing money into the account, specifically for the purpose of preventing me from being able to pay invoices and bills without his prior approval.
8. Arnould then put the company funds into a new bank account, to which only he had access.
  9. The existing Citibank account was the account that Las Vegas customers have wire information and auto-pay accounts set up for, and auto pay set up for our own expenses to be paid from. Using any other bank account will cause severe disruption to our business operations.
  10. While Arnould was alleging that company cash flow was dangerously low, he at the same time canceled the company's sole line of credit, which was essential to keeping the company afloat during times of low cash flow. Further, Arnould directly admitted to having done so solely to prevent me from being able to pay Las Vegas invoices and bills that he does not approve of.
  11. While demanding that existing salespersons, as well as my company (which leases space to Chefexec) and my son not be paid, Arnould hired a new salesperson, who was paid at a rate over ten times that of the rest of the sales staff, despite my protest.
  12. Arnould continues to waste company money by storing inventory at Northstar, paying a per-pallet rate, when there is sufficient room at either the existing LA or Las Vegas warehouses, where storing the additional pallets would have zero additional cost. Further, despite repeated demands, and despite agreement in the settlement agreement, Arnould has continued to refuse to give me access to the records regarding storage at Northstar, and he is still the sole person who can access goods stored there, making those goods in Arnould's possession, rather than the company's. My attempts to be given access, or even information, as a 50% partner of the company, have been refused, with Northstar saying the account is set up only to give access to Arnould.
  13. Arnould still refuses to share records of Chefexec's dealings with his own companies, AAA Foodsource and Wines of the World.
  14. Arnould paid the rent for the LA warehouse early, to avoid being impacted once he demanded that Chefexec would no longer pay rent for warehouses. He also paid all the LA suppliers before emptying the company bank account, increasing the likelihood that the Las Vegas side would be the only side of the company injured by non-access to funds.
  15. Chefexec has a large shipment of inventory, which Arnould was aware of, for which a \$9000 deposit has already been paid, and is waiting upon full payment for delivery. As Arnould has emptied the bank account, there are no funds to make payment with, which is damaging our

relationship with our most important supplier. Without this supplier, Chefexec would be unable to continue to offer its products at its current low prices.

16. Arnould has literally seized all monetary assets of the company unilaterally, and did so without prior notice, and his sole justification is that he does not approve of the rent being paid for the Las Vegas warehouse, despite the fact that he *twice* instructed me to rent the warehouse through a separate company so that Arnould would not have to sign a lease.
17. My son has earned sales commissions, and has done contracted work on the website (which pushed our SEO ranking to #1 on Google, and did photography for all of our products on the site), yet Arnould is refusing to pay him the sums due to him, solely because he is my son.
18. Arnould stopped paying Las Vegas's salesperson, Michelle, without telling her, or consulting with me, and at the same time, has begun stealing Michelle's sales commissions from her long-term clients.
19. I recently received notification that Arnould attempted to have me removed from the company Paypal account, but thankfully Paypal notified me of the attempt in time to correct it.
20. Arnould has done all of this while an enforceable settlement agreement is in place, prohibiting any unusual actions in the management of the company.
21. If Arnould is not stopped immediately from this grossly reckless behavior, Chefexec will default on its agreements, lose key employees, ruin relationships with key suppliers and customers, and overall suffer significant irreparable damage.

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

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 18 day of May, 2020

By: \_\_\_\_\_

Clement Muney

SUBSCRIBED AND SWORN to before  
me this \_\_\_\_\_ day of May, 2020.

\_\_\_\_\_  
NOTARY PUBLIC in and for  
said County and State.  
my commission expires on:

# **EXHIBIT 2**

---

**From:** Alexander K. Calaway  
**Sent:** Monday, May 18, 2020 8:49 AM  
**To:** Robert Kern  
**Cc:** Phillip Aurbach; Jennifer P. Case; Javie-Anne Bauer  
**Subject:** RE: [External] Response to your client's email [IWOV-iManage.FID1085969]

Robert,

Sorry to hear you were under the weather – I hope you get back on your feet soon. Per your May 13th email, please be advised that my client has found it necessary for Chef Exec to offload unnecessary expenses from the business.

1. My client will no longer be taking a salary or commission in the coming months in an effort to keep the business afloat during these uncertain times; your client will also not be receiving disbursements or salaries or commission either. However, commissions to the partners will accumulate and will be paid when normal business resumes, other commissions to the independent sales representatives will be paid according to the normal schedule.
2. To stop your client from unilaterally over charging Chef Exec \$5000/ a month for the L.V. warehouse (which my client never agreed to and requested Clement stop doing on several occasions, but to no avail), Because of this it has been necessary to open up a new account for Chef Exec to operate the business. **My client has and will account for all of the deposits/withdraws and payments from this account.** The bookkeeper is monitoring the account per usual.
3. My client has not been withholding checks from Chef Exec. **Arnould has been depositing checks into a new account.** The bank statement is attached to this email showing all debits and credits. Statements will be available upon request. My client fully intends to pay the business related expenses for shipments, utilities, etc. as they become due. Please ensure your client provides documentation and notice of the same to avoid any late payments.
4. The Las Vegas warehouse rent must be abated. Arnould was able to secure rent abatement for the Los Angeles warehouse, and my client recommends Clement does the same on the basis of what the real rent is, which is the amount CMJJ Gourmet pays the landlord. Chef Exec cannot afford to pay the L.V. rent. Clement rents the space for about \$5500/ month, but unilaterally charge the company \$10,890. Clement should not have paid the landlord rent for March or April. Did he pay the rent so he could receive extra money?
5. The website fee that Clement's son, Jeremy, keeps charging Chef Exec must stop. **Jeremy will no longer be paid for these services** as they are not necessary and nothing is done to the web site to generate more business. To the contrary, my client has expressed concerns that the web site no longer looks as attractive as it used to.
6. **Chef Exec will also be terminating Jeremy, effective immediately.** Jeremy's sales performance has been extremely poor, and my client sees no purpose in keeping a sales contractor when there is no business. On top of this, Jeremy's Sales consisted mostly of Web related clients, and since that business has dried up indefinitely, Chef Exec no longer needs him.
7. **Chef Exec's other sales person, Michelle, will also not be paid her monthly draw,** but will continue to receive her commissions per usual on her monthly total sales only. She will

receive her commission on the 15th of the following month. Clement will need to notify her of this as soon as possible to avoid any confusion. Her gas allowance of \$100 per month will be again allocated to her once the confinement is lifted in Nevada and that she resumes her physical visits to her clients.

8. As for the "major shipment" you refer to in your May 13th email, Arnould has not received any communications or documents for this shipment. The transfer for the payment of this container has not been made. As for the pending order, Arnould needs the bill of lading, invoice, packing list and any documents related to this shipment in order to be able to transfer the payment – just as it has been done in the past. Also, please let us know of the date of departure and an ETA Long Beach. The documents need to be sent to Chef Exec's broker Fernando Crow. Arnould requests your client includes him on communications regarding this shipment and any future shipments. My client questions the necessity of this shipment at this time and would rather postpone the delivery at a future date when normal business has resumed.
9. To assist the company's finances we request that Clement immediately pays back to the company the excess rent he charged for the past seven months, which totals is \$35 000. This will enable the Company to meet the cost of the expected shipment from China and other related expenses.

Thanks for your time and attention to this matter.

Alex



**Alexander K. Calaway, Esq.**

10001 Park Run Drive  
Las Vegas, NV 89145  
t | 702.207.6069  
f | 702.382.5816  
[acalaway@maclaw.com](mailto:acalaway@maclaw.com)  
[maclaw.com](http://maclaw.com)



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---

**From:** Robert Kern <[robert@kernlawoffices.com](mailto:robert@kernlawoffices.com)>

**Sent:** Wednesday, May 13, 2020 2:20 PM

**To:** Alexander K. Calaway <[acalaway@maclaw.com](mailto:acalaway@maclaw.com)>

**Cc:** Phillip Aurbach <[PSA@maclaw.com](mailto:PSA@maclaw.com)>; Jennifer P. Case <[jcase@maclaw.com](mailto:jcase@maclaw.com)>; Javie-Anne Bauer <[jbauer@maclaw.com](mailto:jbauer@maclaw.com)>

**Subject:** RE: [External] Response to your client's email [IWOV-iManage.FID1085969]



Alex,

I apologize for the delay in responding, I was sick, and unable to work for a while.

I'm extremely concerned by your email, in which you admitted that your client has unilaterally seized funds belonging to Chefexec, for the admitted purpose of depriving his business partner of use of said funds in running the company. I would write a long explanation of how LLCs and partnerships work, but I assume that you know all of that already, and know that one partner does not have the authority to just seize all the money himself because he's mad at the other partner. We are in litigation that you filed regarding the LV warehouse, and the courts, not your client's extortion, should be what determines the resolution to that dispute.

If your client prevails in court, he will certainly be awarded any amounts that the Court agrees were wrongfully paid out. However the Las Vegas branch of the company has more expenses than just the Las Vegas Warehouse – they have a major shipment from their biggest supplier arriving with payment due, an order which Chefexec has already paid a deposit of \$9000 towards. Failure to pay for already purchased goods, from the primary supplier will cause irreparable injury to the company, as will all of the other effects of depriving the Las Vegas branch of the ability to pay its bills. Your client has alleged that his measures are due to dangerously low cash flow; if that is the case, then canceling the company's sole line of credit is egregious mismanagement, as such a credit line is necessary to keep the company afloat in periods of low cash flow.

Your allegation that Munev is failing to collect from Las Vegas customers is also false – most such customers pay by wire. Indeed, the biggest group of Casino and biggest Las Vegas Chef Exec customers: MGM Resorts and Caesar Entertainment paid by wire. Arnould used those funds to pay LA expenses prior to clearing the account. Looking at the company books, it appears that Arnould spent over \$30,000 of Las Vegas customers payments received by wire, on LA expenses in the month prior to shutting down the account. We will not stand for the company to be destroyed simply because your client is having a tantrum. If funds, held by your client, are not returned by close of business Monday (May 18), we will be filing for emergency injunctive relief, and will seek attorney's fees for forcing us to do so.

If you wish for a temporary agreement not to pay the full amount of the LV warehouse rent, pending the hearing on the upcoming motion, I may be able to get my client onboard. We will not however concede the entire dispute to Mr. Arnould's extortion. Please let me know your response.

Robert Kern, Esq.  
Attorney  
Kern Law, Ltd.

601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529 - phone  
(702) 825-5872 - fax  
[www.Kernlawoffices.com](http://www.Kernlawoffices.com)



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---

**From:** Alexander K. Calaway

**Sent:** Monday, May 4, 2020 11:23 AM

**Subject:** Response to your client's email [IWOV-iManage.FID1085969]

Robert,

This email is in reference to an April 29, 2020 email that your client sent to my client, Dominique Arnould. My client has asked us to respond to your client's email.

As you know it is our position that:

1. Munev took on the lease for the Las Vegas warehouse without any agreement, or consultation with Arnould;
2. Instead of charging the current rent payment to the firm, Munev has inflated the rental charge and pocketed the difference;
3. Currently, there is no appreciable business and Arnould canceled the Citibank line of credit because he does not trust that Munev would not unilaterally advance the line to pay himself rent;
4. We understand that most of the outstanding receivables due are from Munev's clients in Las Vegas, and we have seen no evidence of any serious attempt to collect this money. To make matters worse, we believe your ;
5. Arnould has several checks from customers which he will not put into the bank account unless there is an agreement on a budget-- how the money is going to be spent;
6. To move forward on this matter, we are advising that our client open a new bank account and account to your client for the coming in money and money going out;
7. Arnould will not agree to pay LA or LV rent. Arnould has negotiated a delay in rent payment for the LA warehouse and your client should do the same regarding the LV warehouse.
8. Arnould will not agree to pay your client's son to maintain the website;
9. Your client owes \$35,329.00 from October 1, 2019 to April 1, 2020 for excess rent paid to your client. That sum must be put back into the company bank account immediately;
10. This overall dispute can easily be resolved by,
  - a. your client paying my client 1/2 of the excess rent calculated above;
  - b. a simple division of the business with each party taking responsibility for their territory (i.e., Dominic will keep LA and Clement taking LV), with an agreement not to compete in the other's territory;

The plan above allows both parties to retain their own customers and warehouse and continue to operate only in their areas. Let me know your thoughts because your client's diversion of funds has come to an end.

Alex



---

**Alexander K. Calaway, Esq.**

10001 Park Run Drive

Las Vegas, NV 89145

t | 702.207.6069

f | 702.382.5816

[acalaway@maclaw.com](mailto:acalaway@maclaw.com)

[maclaw.com](http://maclaw.com)



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This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this email as spam.

# **EXHIBIT 3**

## WELLS FARGO

### Chef Exec

Account

...3940

Routing Numbers

**\$3,152.81**  
Available balance

### Activity Summary

**Ending collected balance as of 05/13/20**

\$34,489.20

**Current posted balance**

\$36,154.20

**Pending withdrawals/debits**

-\$3,500.19

**Pending deposits/credits**

\$0.00

**Deposits not available for withdrawal Details**

-\$29,501.20

**Available balance**

**\$3,152.81**

Routing numbers

### Activity

First

Previous

Next

Date	Description	Deposits/Credits	Withdrawals/Debits
<b>Received for Processing</b>			
05/14/20	BUSINESS TO BUSINESS ACH TEMPUS INC DD051320 81998		\$3,500.19
<b>Posted Transactions</b>			
05/08/20	DEPOSIT	\$36,166.20	
05/12/20	CASHED/DEPOSITED ITEM RETN UNPAID FEE		\$12.00
05/12/20	DEPOSITED ITEM RETN UNPAID - PAPER 200512		\$1,665.00
05/13/20	MOBILE DEPOSIT : REF NUMBER :522120218626	\$1,665.00	
<b>Totals</b>		<b>\$37,831.20</b>	<b>\$5,177.19</b>

Back to top

First

Previous

Next

### \*Account Disclosures

Deposit products offered by Wells Fargo Bank, N.A. Member FDIC.

 Equal Housing Lender

# **EXHIBIT 4**



↩ Reply

Fn Lock: On one number from your account



Clement Muna <clement1@yahoo.com>  
5/18/2020 3:18 PM

To: Robert Kinn

Begin forwarded message:

From: "service@paypal.com" <service@paypal.com>  
Subject: You removed your phone number from your account  
Date: May 17, 2020 at 7:03:16 PM PDT  
To: Clement Muna <clement1@yahoo.com>

Hello, Clement Muna



You removed {7\*\*} \*\*\*-8442 from  
your profile

If you made this change, great. If this wasn't you, we recommend you change your password immediately for your security.

Having your mobile number on file helps us reach you quickly to ensure your account and transactions are secure. If you change your mind and want to add it back, that's easy to do in your PayPal profile.

Thanks for helping us keep your account secure.

Original forwarded



[Help & Contact](#) | [Security](#) | [Apps](#)



PayPal is committed to preventing fraudulent emails. Emails from PayPal will always contain your full name. [Learn to identify phishing](#)

253

Please don't reply to this email. To get help with us, click [Help & Contact](#)

Fwd: You changed your password

 clement MUNEY <cmuney1@yahoo.com>  
5/18/2020 3:16 PM


To: Robert Kern



Begin forwarded message:

From: <service@paypal.com>  
Subject: You changed your password  
Date: May 17, 2020 at 8:41:42 PM PDT  
To: CHEF EXEC SUP LIERS <clement@chefexecsuppliers.com>

Hello, CHEF EXEC SUP LIERS




# Your password changed





If you didn't change your password, give us a call right away at 800-935-7793

Just a reminder:

- Never share your password or security questions with anyone.
- Create passwords that are hard to guess and don't use personal information. Be sure to include upper case and lowercase letters, numbers, and symbols.
- Use different passwords for each of your online accounts.



[Help & Contact](#) | [Security](#) | [Apps](#)



PayPal is committed to preventing fraudulent emails. Emails from PayPal will always contain your full name. [Learn to identify phishing](#)

Please don't reply to this email. You get in touch with us via [Help & Contact](#)



# EXHIBIT 5



## MARQUIS AURBACH COFFING

DIRECT LINE: (702) 207-6069  
DIRECT FAX: (702) 382-5816  
EMAIL: ACALAWAY@MACLAW.COM

ALBERT G. MARQUIS  
PHILLIP S. AURBACH  
AVECE M. HIGBEE  
TERRY A. COFFING  
SCOTT A. MARQUIS  
JACK CHEN MIN JUAN  
CRAIG R. ANDERSON  
TERRY A. MOORE  
GERALDINE TOMICH  
NICHOLAS D. CROSBY  
TYE S. HANSEEN  
DAVID G. ALLEMAN  
CODY S. MOUNTEER  
CHAD F. CLEMENT  
CHRISTIAN T. BALDUCCI

JARED M. MOSER  
MICHAEL D. MAUPIN  
KATHLEEN A. WILDE  
JACKIE V. NICHOLS  
RACHEL S. TYGRET  
JORDAN B. PEEL  
JAMES A. BECKSTROM  
COLLIN M. JAYNE  
ALEXANDER K. CALAWAY  
SCOTT W. CARDENAS

JOHN M. SACCO [RET.]  
LANCE C. EARL  
WILLIAM P. WRIGHT  
BRIAN R. HARDY  
JENNIFER L. MICHELI  
OF COUNSEL

April 22, 2020

Via email

Clement Muney  
c/o Robert Kern  
Kern Law Offices  
Email: robert@kernlawoffices.com

RE: Rent and Website Expenses  
Our File No. 15755-1

Dear Mr. Kern:

I am writing you on behalf of my client, Dominique Arnould, and to notify you of actions my client has found to be necessary in relation to Chef Exec Suppliers, LLC (the "Company"). Due to the pandemic situation in the country, and in particular in Nevada and California, and the consequences caused to Company, my client has found it necessary to stop paying the rent of \$10,890.00 to your client's company CMJJ Gourmet Inc. ("CMJJ") until regular business conditions resume.

As you know, my client never consented to the current warehouse arrangement with CMJJ, nor is my client aware of any written lease between the Company and CMJJ. On top of this, the Company's sales are down to zero in Nevada, due to the closure of all hotels, casinos, and the related customers the Company serves as they practically all owe their respective sales and business to the same clients (hotels and casinos).

Further, and at this time, my client has found it necessary to stop paying the Website maintenance fee to your client's son, Jeremy Muney as:

- 1- There is no work or maintenance done on the Company site;
- 2- We are not receiving any orders from our online customers, as they are caterers, restaurants and pastry shops which are all businesses now closed; and
- 3- Orders will not resume until the various state governments lift their lock down orders.

///

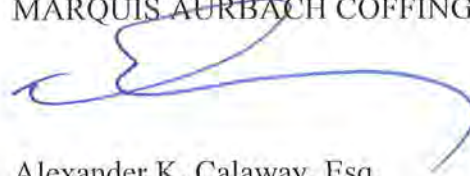
///

Clement Muney  
April 22, 2020  
Page 2

Finally, my client believes that measures need to be taken immediately in order to avoid the depletion of Company funds and to preserve the integrity of the Company. Therefore, my client will be taking actions in accordance with this letter immediately.

Sincerely,

MARQUIS AURBACH COFFING

A handwritten signature in blue ink, appearing to read 'Alexander K. Calaway', with a long, sweeping horizontal stroke extending to the right.

Alexander K. Calaway, Esq.

AKC:jab  
MAC:15755-001 4022596\_1 4/22/2020 3:31 PM

# **EXHIBIT 6**





Dashboard

Account  
SummaryInformation  
ReportingSystem  
AdministrationPayments &  
TransfersApprove  
TransactionsStop Payments  
ChecksOpen An  
Account[Need Help?](#)

Last signon: 05/17/2020 11:09 AM ET

clement munity   
Business Code: 7-122649

## Payments & Transfers



### Account Transfers

*Set up a Transfer, Borrow Funds or  
Pay a Loan or Line of Credit*

### Wire Transfers

*Initiate a Wire, View or Edit Wire  
Templates, Look up FX Rates*

### Bill Payments

*Make a Payment, View or Edit  
Payees*

## Transaction Details

ACCOUNT TRANSFERS

WIRE TRANSFERS

BILL PAYMENTS

Filter

Download

Print

TRANSFER DATE	FROM	TO	AMOUNT (USD)	REFERENCE NO.	STATUS	ACTIONS
05/09/2020	*****5840	MICHELLE	1,200.00	010138	● Canceled	
05/06/2020	*****5840	UPS	13.90	010140	● Complete	
04/22/2020	*****5840	UPS	74.31	010139	● Complete	
04/09/2020	*****5840	MICHELLE	1,200.00	010134	● Complete	
04/07/2020	*****5840	VERO	700.12	010137	● Complete	
03/25/2020	*****5840	UPS	229.91	010136	● Complete	
03/11/2020	*****5840	UPS	134.02	010135	● Complete	
03/09/2020	*****5840	MICHELLE	1,200.00	010133	● Complete	
02/09/2020	*****5840	MICHELLE	1,200.00	010129	● Complete	

# **EXHIBIT 7**

From: **Clement Mune** clement@chefexecsuppliers.com  
Subject: Re: Christmas  
Date: December 23, 2019 at 12:31 PM  
To: Dominique Arnould dominique@chefexecsuppliers.com  
Cc: Clement Chef Exec clement@chefexecsuppliers.com

CE

Hello Dominique,

Once again you seem to forget different things:

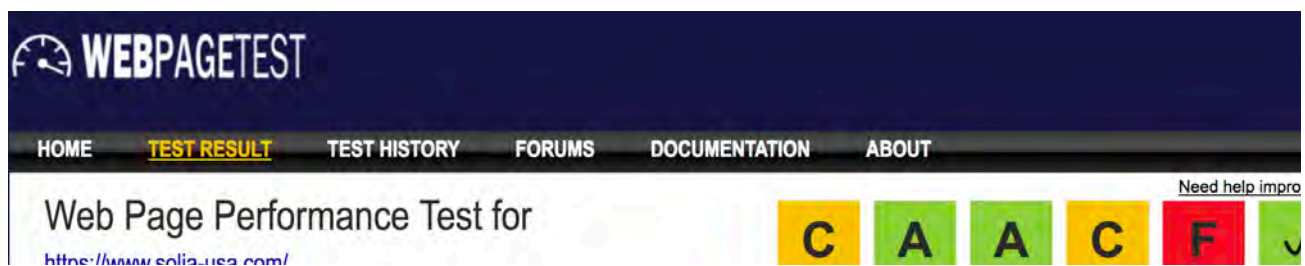
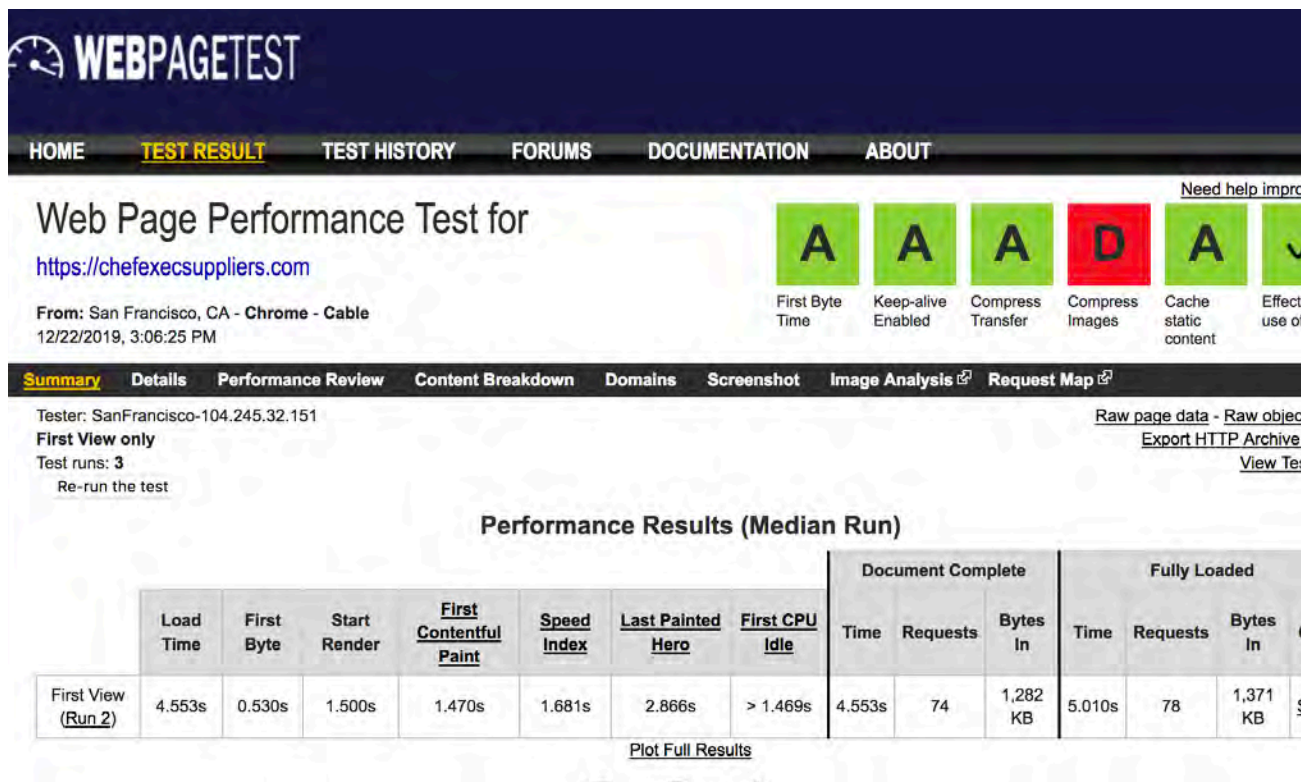
Jeremy increased the sales of Reno and therefore deserves a bonus.

You NEVER opened a customer for Chef Exec Suppliers in Reno nor do I believe you've ever been to Reno for that. It was Randy Thomas Foster who went to Reno and opened Reno as per all the initial invoices in Reno. You wrongfully gave yourself the customer (Grand Sierra) without authorization when it should have been a customer on the "house" when the sales rep left.

The purpose of the Christmas present is to thank people who work for us and contribute to raise our sales which is what Jeremy did and continues to do.

As per the website, the website was not simply "redesigned." The website became completely down after the update of our domain provider due to the original site being built on a software that was being deprecated. All of a sudden, we had NO website and [chefexecsuppliers.com](https://chefexecsuppliers.com) was completely blank. Jeremy, in an emergency, managed to recreate the entire website from scratch on the new software within two weeks. These two weeks were spent working hours and hours a day, seven days a week, to get it up and running for no pay. Realize that we have over one hundred products on our website and over 250 pictures that needed to be recreated and reuploaded respectively during these two weeks. I know this because I called to check in everyday.

Also, please do not forget the speed of our website. As you said in the past, our website used to be very slow before Jeremy took it over, until Jeremy reworked our entire website for speed optimization. Here are screenshots from the tool used by professionals for website speed comparing our site and Solia, our biggest competitor, with a MUCH bigger web budget than we do of tens of thousands of dollars a year at least. Jeremy explained to me that Solia has a dedicated server that costs thousands of dollars alone to run and makes them much faster yet our website runs faster without having to use one because of the optimizations made.





https://www.solid-usa.com/

From: San Francisco, CA - Chrome - Cable  
12/22/2019, 3:10:33 PM

First Byte Time Keep-alive Enabled Compress Transfer Compress Images Cache static content Effect use of

Summary Details Performance Review Content Breakdown Domains Processing Breakdown Screenshot Image Analysis Request Ma

Tester: SanFrancisco-104.245.32.151  
First View only  
Test runs: 3  
Re-run the test

Raw page data - Raw objec  
Export HTTP Archive  
View Tes

### Performance Results (Median Run)

	Load Time	First Byte	Start Render	First Contentful Paint	Speed Index	Last Painted Hero	First CPU Idle	Document Complete			Fully Loaded			C
								Time	Requests	Bytes In	Time	Requests	Bytes In	
First View (Run 2)	9.056s	0.743s	1.900s	1.844s	4.129s	9.833s	> 9.192s	9.056s	62	3,722 KB	11.618s	84	4,031 KB	\$

Plot Full Results

As for the decrease in sales, you were the one to complain about the digital marketing budget provided on Google Ads, and we canceled it against Jeremy's advice. This digital marketing provided the annual sales you quoted in 2018 and the budget spent on the digital marketing must be subtracted from this number so your \$11,000 drop is inaccurate. If you want more sales on the website, that is no problem. Please speak to Jeremy about reinstating our digital marketing budget.

In addition to this, your 2018 website sales number was inflated by the Chumash casino who stopped buying in 2019. They alone were responsible for almost \$10,000 in 2018 on the website.

So, Jeremy had to recreate the whole website from scratch and was not paid for that. Don't forget it. Did you even offer to pay for that? No.

You mention that we pay Jeremy because he is my son, but on the contrary, we save a lot of money because he is my son and does the work that would cost tens of thousands of dollars if done by a third party.

I implore you to do some research onto the cost of:

- A Brand New Website
- SEO Optimized unique product descriptions for key products and keywords like " buffet disposable plastic cup" arriving in 1st page of Google
- Food Staging, Photography, and Editing of over 200 photos to replace the pictures we were using illegally and were told to cease and desist using
- Google Ads Specialist (Of which he is certified by Google)
- Constant Site Maintenance for over two years
- 24/7 Website fixing

Any problem we have ever had with the website has been solved within the hour of it being reported to Jeremy. Good luck finding service as reliable.

Here are some numbers I've found and some articles linked to give you an idea of what I have found after quick google searches.

**Food Staging, Photography, and Editing: 15 Images for \$2000 for a low experience photographer** (We have around 200 photos) <https://foodphotographyblog.com/food-photography-pricing-for-small-clients/>

**Brand New Ecommerce Capable Website: \$3,000-\$27,000 FOR CREATION ALONE.** Feel free to explore the cost breakdown at the provided link: <https://www.webfx.com/industries/retail-ecommerce/ecommerce/web-design/>

**Google AdWords Specialist: AdWords Consultant Rates**

"It's common to pay an agency **\$100 to \$200 an hour for services**. But most agencies charge a monthly **fee** for their services, so the hourly rate is blended amongst resources." <https://www.jeffalytics.com/google-ads-specialist/>

If you can find another potential employee who has near the amount of skills and experience Jeremy has for our website that is willing to be paid less than \$250 a month as their compensation, please let me know, and I will be more than happy to hire them.

As you know, in today's day and age, having a professional and functional vendor website is completely necessary for operation, professionalism, and customer trust in a company. I cannot speak for LA, but I know for a fact all of our Vegas and Reno clients use the website regularly as a live price list with clear pictures, size descriptions, and search functionality and some customers order exclusively on the website.

Outside of his work on the website, Jeremy goes to the casinos at least once a week despite his being a full-time student. Since his first visit in June, and actually being in Reno in August, there has been a dramatic increase in sales in Reno:

-Grand Sierra ordered for \$3600 in the first half of 2019 before Jeremy's arrival. The second half of the year after Jeremy began



visiting the client, sales totaled \$7609, **an increase of over 100%**. In fact, the Pastry Chef told Jeremy recently that they are switching to us as their only plastic disposable vendor from now on.

-Peppermill was started by Jeremy in August and has since ordered for \$4,156.24. That is over \$1000 a month.

Expect orders from Silver Legacy, Circus Circus, and the El Dorado as well as the Atlantis starting early 2020.

Since Jeremy started in Reno, we never paid him any expenses for gas or mileage !

I'd also like to remind you that we paid a total of \$3,369.87 to your friend Maryann Oletic under the assumption she would make sales in New York and she brought us a whopping \$0 dollars in sales. In addition to this, you also paid David Levray, who I believe you said was your nephew, \$2000 in July 2019, for a non-functional, amateur, non-vendor site.

Are you still sure you don't want to give Jeremy a nice Christmas present? Maybe to pay him for the work he did and that we did not pay? Wouldn't it be just fair?

I am sure that you will agree that it will not be fair to take advantage of an over-qualified 21 year old kid, that was not paid so far for the incredible work he did for us...

Regards

Clement

On Dec 22, 2019, at 1:12 PM, Dominique Arnould <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)> wrote:

Clement

I did send Bonus check to Sergio Vero Jhohan and Michelle.

I did not send a check to Jeremy.

The point of a Holiday bonus is to encourage and reward the good performance of a full time collaborator.

Jeremy is a student spending only part time with Chef Exec. He is compensated at the rate of \$250.00 per month to animate the Web Site and increase it sales.

He also receives commissions on Reno customers, one of which was my customer and which was given to Jeremy without my permission.

The sales of the Web site in 2018 when the site was redesigned totaled \$20525.73.

The sales of the web site in 2019 after the site was degraded and does not look as attractive as it used to then( I don't really know the motivation behind that change)

Totaled \$9053.03.

This is a drop of more than \$11000.00. These are numbers that hardly call for a reward or a bonus of any kind. I am sure that you will agree with my decision.

It seems as well that the \$250.00 spent in the animation of the web site and its on going performance, which we pay Jeremy are spent more because he is your son rather than for the management of the site.

I think we should not spend that money and stop this payment as it is obviously non productive and does not bring any increase in sales to our company,

For info, the company will have an approximate increase in sales of 13% this year.

Dominique

On Sun, Dec 22, 2019 at 11:43 AM Clement Munez <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)> wrote:

Hello Dominique,

Can you please just confirmed you sent for Christmas:

Sergio: \$800.00  
Vero: \$800.00  
Jhohan: 500.00  
Michelle \$800  
Jeremy \$500

Thank you

Clement

On Dec 11, 2019, at 4:32 PM, Clement Munev <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)> wrote:

Ok for me

Just don't forget Michelle \$800  
and Jeremy \$500 like last year

Thank you

Clement

On Dec 11, 2019, at 2:48 PM, Dominique Arnould <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)> wrote:

Here is my proposal

Sergio: \$800.00

Vero: \$800.00

Johan: 500.00

On Wed, Dec 11, 2019 at 2:34 PM Clement Munev <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)> wrote:

Hello Dominique,

Do you wish to do \$500 for all the persons working for us like last year, or do you want to do a little more since we have more profit?

Please let me know what you want to do

Thank you

Clement

--

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA FOOD SOURCE, INC  
Wines of the [World.com](http://World.com)  
702-683-2433

--

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA FOOD SOURCE, INC  
Wines of the [World.com](http://World.com)  
702-683-2433



disposable buffet plastic cups



Sign in

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About 4,840,000 results (0.46 seconds)

### Disposable Cups - Chef Exec Suppliers

<https://chefexecsuppliers.com> › [product-category](#) › [disposable-plastic-cups](#) ▼

**Disposable Plastic** 60cc Mini Pyramid. \$0.089 Per Unit Select options · Creative Unique **Catering Disposable Plastic Bucket Cup** for Banquets ...

### Elegant Disposable Plastic Buffet Party Package for 120 Guests

<https://www.amazon.com> › [Kaya-Collection-Disposable-Plastic-Tumblers](#) ▼

Amazon.com: Elegant **Disposable Plastic Buffet** Party Package for 120 Guests - Includes Fancy Round White Lunch Plates w/Silver Rim, Forks & **Plastic Cups** ...

### Images for disposable buffet plastic cups



→ [More images for disposable buffet plastic cups](#)

[Report images](#)

### Elegant Disposable Plastic Buffet Party Package for 90 Guests

<https://www.amazon.com> › [Kaya-Collection-Disposable-Plastic-Tumblers](#) ▼

★★★★★ Rating: 5 - 1 review

Buy Elegant **Disposable Plastic Buffet** Party Package for 90 Guests - Includes Fancy & Premium Flared White Lunch Plates, Silver Forks & **Plastic Cups** - For ...

### Catering Cups and Mini Dishes | solia-usa.com

<https://www.solia-usa.com> › [catering-plastic-cups-and-mini-dishes](#) ▼

Get the best **disposable catering plastic cups**, mini dishes and serving bowls with elegant designs for your events. Free shipping in USA with all \$500 orders.

### Cups, Dessert & Catering | Disposable Catering Supplies ...

<https://www.efavormart.com> › [collections](#) › [cups-dessert-catering](#) ▼

Efavormart's **disposable** wholesale wedding **plastic cups** and **disposable** trays for serving will help you to enjoy your party and food without any cleanup.

### Catering Disposables: Plastic Flatware, Trays, Foil Pans

<https://www.solia-usa.com> › [Disposables](#) ▼

# **EXHIBIT 8**

---

**From:** Clement Munev  
**Sent:** Tuesday, May 12, 2020 4:35 PM  
**To:** Dominique Arnould  
**Cc:** Clement Chef Exec  
**Subject:** Theft from Client from Michelle

Dominique,

As always you are not telling the truth.

I have attached the proof that you are not telling the truth and that you want to take advantage of the work of our sales reps hoping that nobody will notice.

See the proof attached and below:

French Gourmet placed their first order on 02/29/2012 even though you say you've known him for 30 years which might be true but is not relevant.

The company was created in 2007 and he bought just once with you in 2012. Three years later in 2015, Michelle PHYSICALLY visited him in San Diego, and only after this did he place another order. Since then, she has repeatedly visited him IN PERSON and called him. You must know this as you gave her her rightful commission up until 2018 where you reattributed yourself as sales rep with no justification or mention to me or Michelle.

This kind of behavior where you steal the commission from our employees is very very wrong. All the proof is on the file attached if needed!

You also need to deposit ALL the checks of our customers that you have received since March and that you haven't put in the bank to prevent me from paying our bills in Las Vegas. This is not your money, this is the company's money.

Clement

On May 12, 2020, at 3:23 PM, Dominique Arnould  
<[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)> wrote:

Clement

This client has been mine since the start and I continue to service him as always. I was also instrumental for the latest order having been in touch with my client all along via mail which I can send to you if you would like.

There is nothing to correct here, this is my sale.

STOP TAKING MY CUSTOMERS AT WILL HAS I DO NOT NEED YOU OR ANYONE ELSE TO COVER THEM FOR ME.

I personally know the owner of French Gourmet for more than 30 years and have taken all the orders for Chef Exec Suppliers ever since he started to do business with the company.

I hope this is clear for you and that you will not take any of my customers anymore under the pretence that your son or Michelle have talked to them. once or twice.

Dominique

On Tue, May 12, 2020 at 2:49 PM Clement Munev <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)> wrote:  
Bravo Michelle !

Dominique,  
Jeremy spoke recently with French Gourmet also in San Diego and helped him with his order.  
Jeremy helped him even though Michelle follow this customer since 2017  
This is Michelle customer and Jeremy is fine with that  
I saw that you gave you the commission of the invoiced related #81522

Please correct asap and give the commission to Michelle as it should have been done

Thank you

Clement Munev  
(702) 340 8697  
Sent from my iPhone

Begin forwarded message:

**From:** Lisa Burkhard via PayPal <[service@paypal.com](mailto:service@paypal.com)>  
**Date:** May 12, 2020 at 13:58:18 PDT  
**To:** Clement Munev <[clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)>  
**Subject:** Payment received from [lburkhard@valleyviewcasino.com](mailto:lburkhard@valleyviewcasino.com)  
**Reply-To:** Lisa Burkhard <[lburkhard@valleyviewcasino.com](mailto:lburkhard@valleyviewcasino.com)>



May 12, 2020 13:57:59 PDT  
Transaction ID: [1UX41319KK923403E](#)

Hello CHEF EXEC SUPPLIERS,

**You received a payment of \$2,713.20 USD from ([lburkhard@valleyviewcasino.com](mailto:lburkhard@valleyviewcasino.com)).**

To see all the transaction details, please log into your PayPal account. It may take a few moments for this transaction to appear in your account.

**Buyer information**

Lisa Burkhard  
[lburkhard@valleyviewcasino.com](mailto:lburkhard@valleyviewcasino.com)

**Instructions from buyer**

None provided

**Shipping information:**

Lisa Burkhard  
16300 Nyemii Path Rd  
Valley Center, CA 92082  
United States

**Shipping method:**

Not specified

Description	Unit price	Qty	Amount
Disposable Tall Round Glass - Transparent	\$107.70 USD	6	\$646.20 USD
Disposable Umbrella Dish Tray	\$98.75 USD	3	\$296.25 USD
Mini Bucket Cup	\$107.40 USD	3	\$322.20 USD
Disposable Plastic Large Pyramid Cup 180cc - Transparent	\$121.85 USD	3	\$365.55 USD
Disposable Plastic Bowl Base & Lid	\$84.60 USD	6	\$507.60 USD
Disposable Plastic 3 Edge PS Cup	\$126.75 USD	3	\$380.25 USD
Subtotal:			\$2,518.05 USD
Tax:			\$195.15 USD
Insurance:			----
Insurance:			----
<b>Total:</b>			<b>\$2,713.20 USD</b>

**Receipt No: 3663-8226-1428-4361**

Please keep this number for future reference, as your customer doesn't have a PayPal Transaction ID for this payment.

**Invoice ID:WC-840**



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PayPal PPX001033:1.6:2ce729dbf8dba

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Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA FOOD SOURCE, INC  
Wines of the [World.com](http://World.com)  
702-683-2433



# CHEF EXEC SUPPLIERS SERVER

Chef Exec Suppliers LLC 1001 E. Ave - Level 100 2000 Westview Ave

ow Help Special Offers

HOME

Customer Center The French Gourmet

Excel Word Income Tracker

## Customer Information

Company Name **The French Gourmet**  
 Full Name **#325**  
 Customer Type **Catering**  
 Terms **Net 15**  
 Bill To **The French Gourmet**  
**960 Turquoise Street**  
**San Diego, CA 92109**  
**858-488-1725**  
 Map | Directions

Main Phone **858-488-1725**  
 Fax **858-488-1799**  
 Main Email **rosaleess909@gmail.com**  
 CC Email **chefexecacctng@gmail.com, mmalecot@thefrenchgourmet.com**

NOTE

### REPORTS FOR THIS CUSTOMER

QuickReport  
 Open Balance  
 Show Estimates  
 Customer Snapshot

Transactions Contacts To Do's Notes Sent Email

SHOW All Transactions FILTER BY All DATE All

TYPE	INVT	DATE	ACCOUNT	AMOUNT
Invoice	81522	05/04/2020	Accounts Receivable	315.46
Payment	7342	04/18/2018	Undeposited Funds	632.43
Invoice	5930	02/20/2018	Accounts Receivable	632.43
Payment	6060	07/18/2017	Undeposited Funds	342.00
Invoice	5280	06/16/2017	Accounts Receivable	342.00
Payment	3021	11/23/2015	Undeposited Funds	244.00
Invoice	4011	09/24/2015	Accounts Receivable	244.00
Payment	2630	08/29/2015	Undeposited Funds	644.35
Payment	2673	08/29/2015	Undeposited Funds	106.95
Invoice	3867	07/10/2015	Accounts Receivable	106.95
Invoice	3850	07/02/2015	Accounts Receivable	644.35
Payment	660814	02/21/2015	Undeposited Funds	639.56
Invoice	3587	02/05/2015	Accounts Receivable	639.56
Payment	86SDA4YPT98HS	03/01/2012	Undeposited Funds	145.87
Invoice	2062	02/29/2012	Accounts Receivable	150.00

CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

Invoice

TEL: 702-683-2433

FAX: 702-992-9880

Date : 2/29/2012

Invoice # 2062

PAY FROM INVOICE  
NO STATEMENT SENT

03/01/2012

**Bill To**

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

**Ship To**

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

P.O. # Michel

Rep

Ship Via

Purch Agent

Ship Date 3/18/2012

Terms COD

D A

Ground

Due Date 2/29/2012

Item	Description	QTY	Rate	Amount
OWP9001	DISPENSER DELUXE 1/BOX	1	50.00	50.00T
OWP7003	COMFORT GREEN 4 DISPOSABLE PIPING BAGS ON CORE 53 X 28cm 4 X 100/CS	1	100.00	100.00T

RECEIVER NAME

RECEIVER SIGNATURE

Subtotal

\$150.00

Sales Tax (0.0%)

\$0.00

Total

\$150.00

Payments/Credits

-\$150.00

Balance Due

\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)

CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

Invoice

TEL: 702-683-2433

FAX: 702-992-9880

Date : 2/5/2015

Invoice # 3587

PAY FROM INVOICE  
NO STATEMENT SENT

PAID  
02/21/2015

**Bill To**

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

**Ship To**

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

P.O. # Michel

Rep

Ship Via

Purch Agent

Ship Date 2/12/2015

Terms COD

MG

wine source

Due Date 2/5/2015

Item	Description	QTY	Rate	Amount
C2PREGBL6	REGLETTE 6 MACARONS(Bottom + Lid only) 200/CS	1	385.56	385.56T
QA-290R400CPR	CREME BRULEE, FLAN ALU CUP 3" X 1/4" 1000/CS	1	219.00	219.00T
SHIP	SHIPPING & HANDLING CHARGES	1	35.00	35.00

RECEIVER NAME

RECEIVER SIGNATURE

**Subtotal**

\$639.56

**Sales Tax (0.0%)**

\$0.00

**Total**

\$639.56

**Payments/Credits**

-\$639.56

**Balance Due**

\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)

CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

# Invoice

TEL: 702-683-2433  
FAX: 702-992-9880

Date : 7/2/2015  
Invoice # 3850

PAY FROM INVOICE  
NO STATEMENT SENT

**PAID**  
08/29/2015

## Bill To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

## Ship To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

P.O. # Michel

Rep

Ship Via

Purch Agent

Ship Date 7/2/2015

Terms COD

MG

wine source

Due Date 7/2/2015

Item	Description	QTY	Rate	Amount
C2PREGBL6	REGLETTE 6 MACARONS(Bottom + Lid only) 200/CS	1	385.56	385.56T
QA-290R400CPR	CREME BRULEE, FLAN ALU CUP 3" X 1/4" 1000/CS	1	219.00	219.00T
SHIP	SHIPPING & HANDLING CHARGES	1	39.79	39.79

RECEIVER NAME	RECEIVER SIGNATURE	Subtotal	\$644.35
		Sales Tax (0.0%)	\$0.00
		Total	\$644.35
		Payments/Credits	-\$644.35
		Balance Due	\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)

CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

TEL: 702-683-2433  
FAX: 702-992-9880

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

PAY FROM INVOICE  
NO STATEMENT SENT

PAID  
08/29/2015

# Invoice

Date : 7/10/2015

Invoice # 3867

## Bill To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

## Ship To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

P.O. # Michel

Rep

Ship Via

Purch Agent

Ship Date 7/10/2015

Terms COD

MG

wine source

Michel

Due Date 7/10/2015

Item	Description	QTY	Rate	Amount
OWP7003	COMFORT GREEN 4 DISPOSABLE PIPING	1	98.00	98.00
SHIP	BAGS ON CORE 53 X 28cm 4 X 100/CS SHIPPING & HANDLING CHARGES	1	8.95	8.95

RECEIVER NAME

RECEIVER SIGNATURE

Subtotal

\$106.95

Sales Tax (0.0%)

\$0.00

Total

\$106.95

Payments/Credits

-\$106.95

Balance Due

\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)

CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

# Invoice

TEL: 702-683-2433

FAX: 702-992-9880

Date : 9/24/2015

Invoice # 4011

PAY FROM INVOICE  
NO STATEMENT SENT

PAID  
11/23/2015

## Bill To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

## Ship To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

P.O. # Richard

Rep

Ship Via

Purch Agent

Ship Date 9/24/2015

Terms COD

MG

wine source

Due Date 9/24/2015

Item	Description	QTY	Rate	Amount
QA-290R400CPR	CREME BRULEE, FLAN ALU CUP 3" X 1/4"	1	219.00	219.00T
SHIP	1000/CS SHIPPING & HANDLING CHARGES	1	25.00	25.00

RECEIVER NAME

RECEIVER SIGNATURE

Subtotal

\$244.00

Sales Tax (0.0%)

\$0.00

Total

\$244.00

Payments/Credits

-\$244.00

Balance Due

\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)

CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

# Invoice

TEL: 702-683-2433

FAX: 702-992-9880

Date : 6/16/2017

Invoice # 5290

## Bill To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

## Ship To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

PAY FROM INVOICE  
NO STATEMENT SENT

PAID  
07/18/2017

P.O. # Michel

Rep

Ship Via

Purch Agent

Ship Date 6/16/2017

Terms COD

MG

wine source

Michel

Due Date 6/16/2017

Item	Description	QTY	Rate	Amount
QA-290R400CPR	CREME BRULEE, FLAN ALU CUP 3" X 1/4" 1000/CS COPPER	1	219.00	219.00T
OWP7003	COMFORT GREEN 4 DISPOSABLE PIPING BAGS ON CORE 53 X 28cm 4 X 100/CS	1	98.00	98.00T
SHIP	SHIPPING & HANDLING CHARGES	1	25.00	25.00

RECEIVER NAME	RECEIVER SIGNATURE	Subtotal	\$342.00
		Sales Tax (0.0%)	\$0.00
		Total	\$342.00
		Payments/Credits	-\$342.00
		Balance Due	\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)



CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

TEL: 702-683-2433

FAX: 702-992-9880

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

# Invoice

Date : 2/20/2018

Invoice # 5930

## Bill To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

## Ship To

The French Gourmet  
960 Turquoise Street  
San Diego, CA 92109  
858-488-1725

PAY FROM INVOICE  
NO STATEMENT SENT

PAID  
04/16/2018

P.O. # Michel

Rep

Ship Via

Purch Agent

Ship Date 2/20/2018

Terms Net 15

D A

wine source

Due Date 3/7/2018

Item	Description	QTY	Rate	Amount
OWP7003	COMFORT GREEN 4 DISPOSABLE PIPING BAGS ON CORE 53 X 28cm 4 X 100/CS	1	98.00	98.00T
ALU-CUP150AG	ALU CUP GOLD 93 X 75 X 33mm 150ml 1000/CS Creme Brulee Cup	1	196.50	196.50T
ALU-CUPAP170...	ALU CUP BOWL 85 X 66 X 50mm 170ml 1000/CS COFFEE	1	196.58	196.58
ALU-LID150A	ALU LID 93 X 75 X 33mm 1000/CS (lid for alu-cup150AG)	1	38.95	38.95T
BO-5000B16070...	MACARONS BOX 6 RED/GOLD 80/CS	1	102.40	102.40T

RECEIVER NAME	RECEIVER SIGNATURE	Subtotal	\$632.43
		Sales Tax (0.0%)	\$0.00
		Total	\$632.43
		Payments/Credits	-\$632.43
		Balance Due	\$0.00

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.

Any defect, breakage and shortage must be reported within 24 hours of delivery.

Name of receiver must be spelled out along with signature.

[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)



CHEF EXEC SUPPLIERS, LLC  
LAS VEGAS, NV 89118

PLEASE REMIT PAYMENT TO  
CHEF EXEC SUPPLIERS, LLC.  
P.O. BOX 1800  
STUDIO CITY, CA 91614

Invoice

TEL: 702-683-2433  
FAX: 702-992-9880

PAY FROM INVOICE  
NO STATEMENT SENT

Date : 5/4/2020  
Invoice # 81522

Bill To
The French Gourmet 960 Turquoise Street San Diego, CA 92109 858-488-1725

Ship To
The French Gourmet 960 Turquoise Street San Diego, CA 92109 858-488-1725

P.O. # Michel Rep Ship Via Purch Agent Ship Date 5/4/2020  
Terms Net 15 D A UPS GROUND Due Date 5/19/2020

Item	Description	QTY	Rate	Amount
OWP7003	COMFORT GREEN 4 DISPOSABLE PIPING BAGS ON CORE 53 X 28cm 4 X 100/CS	1	98.00	98.00T
ALU-CUP150AG	ALU CUP GOLD 93 X 75 X 33mm 150ml 1000/CS Creme Brulee Cup	1	196.50	196.50T
SHIP	SHIPPING & HANDLING CHARGES	1	20.96	20.96

RECEIVER NAME	RECEIVER SIGNATURE	Subtotal	\$315.46
		Sales Tax (0.0%)	\$0.00
		Total	\$315.46
		Payments/Credits	\$0.00
		Balance Due	\$315.46

Late payments over 30 days old subject to a 1.5% late fee charge per month or 18% per annum.  
Any defect, breakage and shortage must be reported within 24 hours of delivery.  
Name of receiver must be spelled out along with signature.

www.chefexecsuppliers.com

# EXHIBIT 9

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From 01/01/2020 To 04/29/2020 Sort By Default

Show Filters

Report Basis: ☒ Accrual ☐ Cash

5:38 PM

04/29/20

Accrual Basis

## CHEF EXEC SUPPLIERS, LLC

## Sales by Rep Detail

January 1 through April 29, 2020

Naomi Inoue

Type	Date	Num	Memo	Name	Item	Qty	Sales Price	Amount	Balance
Invoice	01/21/2020	8218	MACARONS BOX x 18pc 48/CS	MARISSA'S CAKE	MISC ITEM (MISC ITEM)	1	81.56	81.56	81.56
Invoice	01/21/2020	8218	MACARONS BOX x 6pc 80/CS	MARISSA'S CAKE	MISC ITEM (MISC ITEM)	1	88.47	88.47	170.03
Invoice	01/29/2020	8245	MACARONS BOX 48/CS 18M BROWN...	MARISSA'S CAKE	MISC ITEM (MISC ITEM)	1	90.62	90.62	260.65
Invoice	01/29/2020	8245	MACARONS BOX 60/CS 9M RED & GO...	MARISSA'S CAKE	MISC ITEM (MISC ITEM)	1	94.17	94.17	354.82
Invoice	02/14/2020	8308	MINI CUBE TRANSPARENT CRYSTAL ...	THE PASTRY SWAN BAKERY	M-VR61TC (MINI CUBE TRANSPA...	2	60.00	120.00	474.82
Invoice	02/14/2020	8308	SHIPPING & HANDLING CHARGES	THE PASTRY SWAN BAKERY	SHIP (SHIPPING & HANDLING CH...	1	25.00	25.00	499.82
Invoice	02/18/2020	8323	MINI PYRAMIDE STRIPED TRANSP CRY...	TABLE MOUNTAIN CASINO	LPM-50230TC (MINI PYRAMIDE S...	2	60.00	120.00	619.82
Invoice	02/18/2020	8323	SQUARE CUT GLASS TRANSP CRY'S...	TABLE MOUNTAIN CASINO	M-VR82TC (SQUARE CUT GLAS...	2	94.75	189.50	809.32
Invoice	02/18/2020	8323	SHIPPING & HANDLING CHARGES	TABLE MOUNTAIN CASINO	SHIP (SHIPPING & HANDLING CH...	1	25.00	25.00	834.32
Invoice	02/18/2020	8324	ESPRESSO CUP TRANSPARENT CLEA...	TABLE MOUNTAIN CASINO	M-EP115TC (ESPRESSO CUP TR...	1	72.95	72.95	907.27
Invoice	02/18/2020	8324	MINI SPOON BLACK 500/BG	TABLE MOUNTAIN CASINO	PLA-052330NR (MINI SPOON BL...	1	25.00	25.00	932.27
Credit Memo	02/18/2020	8325	MACARONS BOX x 18pc 48/CS	MARISSA'S CAKE	MISC ITEM (MISC ITEM)	-1	81.56	-81.56	850.71
Invoice	02/21/2020	8354	MINI CUBE GLASS 2-1/4H X 1-3/4W 6...	THE PASTRY SWAN BAKERY	GZ-0002TC (MINI CUBE GLASS ...	2	59.40	118.80	969.51
Invoice	03/03/2020	8384	MINI BUCKET 66 x 63 600/CS	TABLE MOUNTAIN CASINO	LPM-80230TC (MINI BUCKET 66 ...	1	107.40	107.40	1,076.91
Invoice	03/03/2020	8384	ESPRESSO CUP TRANSPARENT CLEA...	TABLE MOUNTAIN CASINO	M-EP115TC (ESPRESSO CUP TR...	2	72.95	145.90	1,222.81
Invoice	03/03/2020	8384	MINI SPOON BLACK 500/BG	TABLE MOUNTAIN CASINO	PLA-052330NR (MINI SPOON BL...	2	25.00	50.00	1,272.81
Invoice	03/03/2020	8384	SHIPPING & HANDLING CHARGES	TABLE MOUNTAIN CASINO	SHIP (SHIPPING & HANDLING CH...	1	59.85	59.85	1,332.66
Invoice	03/06/2020	8381	COMFORT GREEN 4 DISPOSABLE PP...	The Grape Vine Limited	OWPT7003 (COMFORT GREEN 4 ...	1	98.00	98.00	1,430.66
Invoice	03/06/2020	8381	SHIPPING & HANDLING CHARGES	The Grape Vine Limited	SHIP (SHIPPING & HANDLING CH...	1	25.00	25.00	1,455.66
Total Naomi Inoue						23		1,455.66	1,455.66
TOTAL						23		1,455.66	1,455.66

# **EXHIBIT 10**

**From:** Brian Bennington benningtoncpa@hotmail.com  
**Subject:** Chef Exec Suppliers  
**Date:** May 19, 2020 at 3:22 PM  
**To:** dominique@chefexecsuppliers.com  
**Cc:** CLEMENT MUNY cmuney@cox.net

BB

Hi Dominique,

It was pointed out to me that you don't want Chef Exec Suppliers to pay the California nonresident withholding tax on behalf of Clement of \$7,166 for 2019.

Consistent with prior years, the company should pay that and to be equitable, the company would then issue you a distribution payment of \$7,166 too, as it has in prior years.

This should be done as soon as possible as well.

Please let me know if you have any questions.

Thank you.

Brian Bennington, CPA  
Bennington & Associates, Ltd.  
2620 Regatta Drive, Suite 102  
Las Vegas, NV 89128  
(702) 240-5200  
(702) 240-5300 Fax

**IRS CIRCULAR 230 NOTICE:** To ensure compliance with requirements imposed by the IRS, we inform you that, unless specifically indicated otherwise, any tax advice contained in this communication, including attachments, was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any tax-related matter addressed herein.

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--- DETACH HERE --- IF NO PAYMENT IS DUE, DO NOT MAIL THIS VOUCHER --- DETACH HERE ---

**TAXABLE YEAR** **2019** **Payment Voucher for Resident and Nonresident Withholding** **CALIFORNIA FORM 592-V**

► Check the box to indicate how Form 592 was submitted (check only one box): ☐ Electronic ☒ Paper Total number of payees reported **1**

Complete voucher using withholding agent information from Form 592, Part I.

Business name **CHEF EXEC SUPPLIERS, LLC** ☐ SSN or ITIN ☒ FEIN ☐ CA Corp no. ☐ CA SOS file no.

First name Initial Last name Telephone

Address (apt./ste, room, PO box, or PMB no.)  
**151 AUGUSTA STREET**

City (If you have a foreign address, see instructions.) **HENDERSON** State **NV** ZIP code **89074**

Do not mail a paper copy of the electronically filed Form 592 with the payment voucher.  
Mailing a paper copy of your electronically filed Form 592 may cause a delay in processing.

Amount of payment  
**7,166.00**

# **EXHIBIT 11**







# **EXHIBIT 12**



# INVOICE

Statement Date: 04/17/20	
Invoice#	Account#
321280	C0000021119

Chef Exec Suppliers  
Dominique Amould  
Domiamould@Aol.Com

RECENT PAYMENTS AND CREDITS ACTIVITY				
Date	Payment Type	Check / CC #	Description	Amount
10/18/2019	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$114.93
10/28/2019	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$810.00
11/26/2019	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$138.00
11/29/2019	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$1,188.00
12/28/2019	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$1,152.00
1/28/2020	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$1,152.00
2/28/2020	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$1,116.00
3/28/2020	Credit Card	XXXX XXXX XXXX 6075	Storage Rent	\$1,116.00
Total Payments and Credits:				\$6,786.93

CURRENT CHARGES				
Due Date	Description	Amount	Tax	Amount
10/15/2019	Pro rate Rent 10/23/2019 to 10/31/2019 (9 days @ \$12.77)			\$114.93
11/15/2019	Monthly Rent (11/2019) - 45 pallets @ \$18.00 per pallet			\$810.00
11/23/2019	Pro rate Rent 11/21/19 to 11/30/19 (23 pallets @ \$13.8)			\$138.00
12/15/2019	Monthly Rent (12/2019) - 66 pallets @ \$18.00 per pallet			\$1,188.00
1/15/2020	Monthly Rent (01/2020) - 65 pallets @ \$18.00 per pallet			\$1,152.00
2/15/2020	Monthly Rent (02/2020) - 65 pallets @ \$18.00 per pallet			\$1,152.00
3/15/2020	Monthly Rent (03/2020) - 62 pallets @ \$18.00 per pallet			\$1,116.00
4/15/2020	Monthly Rent (04/2020) - 62 pallets @ \$18.00 per pallet			\$1,116.00
Total Current Charges:				\$6,786.93

TOTAL DUE	
Total Balance due:	\$0.00

DOT 1836576  
ICC MC 665757-C  
CAL PU.C T182466

NorthStarMoving.com  
(800)ASK PROS ★ (800)275-7767  
9120 Mason Avenue, Chatsworth, CA 91311

Detach here and send back with your payment



Chef Exec Suppliers  
Dominique Amould  
Domiamould@Aol.Com

Invoice # 321280  
Account # C0000021119

Amount Due: \$0.00  
Due Date:

Please make your check payable in full to:

NorthStar Moving  
9120 Mason Avenue  
Chatsworth, CA 91311-6109

Amount Enclosed: \$

☐ Check here if billing address, telephone number or any other contact information has changed. Note changes on reverse side.

**AFFIDAVIT OF ATTORNEY ROBERT KERN**

I, Robert Kern, make this Declaration of my own personal knowledge and under the penalty of perjury pursuant to NRS 53.045.

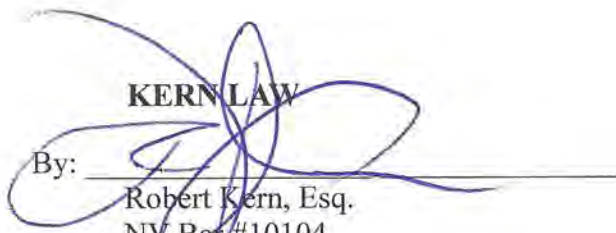
1. I am a duly licensed practising attorney in the State of Nevada, County of Clark, maintaining offices at 601 S. 6<sup>th</sup> Street, Las Vegas, Nevada 89101, and represent Defendants in the above-entitled matter.

2. I personally contacted Northstar Moving, the company that Plaintiff Arnould used as the new warehouse to store the property moved from the Las Vegas warehouse, on December 10, 2019.

3. On the phone call to Northstar, I spoke to Ana Coy, and asked her about the property stored for ChefExec. She indicated that they did not have any accounts in the name of Chef Exec Suppliers, and that I was not authorized to receive information about the account because it was in the name of Dominique Arnould personally. After the phone call I sent Ms. Coy an email to confirm the conversation, however she never responded.

I declare under penalty of perjury the foregoing is true and correct to the best of my knowledge.

DATED this 23<sup>rd</sup> day of December, 2019.

  
**KERN LAW**  
By: \_\_\_\_\_  
Robert Kern, Esq.  
NV Bar #10104  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
*Attorney for Defendants*

# **EXHIBIT 13**

03/26/2020	Debit	AMZN Mktp US*UW 35K4R3 Amzn.com/ bill WA 20085 CDB 615	-26.89	59,701.35
03/25/2020	ACH	ACH-IRS USATAXPY MT0325202270485 66077838	-263.54 1/2	59,728.24 \$ 13172
03/25/2020	ACH	ACH-LADWP WEB P AY 0325201875390 000	-110.66	59,991.78
03/25/2020	Debit	Transfer to Checkin g VIA CBUSOL REFE RENCE # 019411	-330.00	60,102.44
03/25/2020	Debit	UPS 010136 BA	-229.91	60,432.44
03/25/2020	Debit	DOMESTIC WIRE TR ANSFER REF.# 202 0032581Q8021C027 53	-9,973.02	60,662.35
03/25/2020	Debit	AMZN Mktp US*VW 6HF4YL Amzn.com/ bill WA 20084 CDB 615	-65.68	70,635.37
03/25/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN032 520545192	7,776.01	70,701.05
03/24/2020	Paid Check	Check #2452	-900.00	62,925.04
03/24/2020	ACH	ACH-CITI AUTOPAY PAYMENT 0324200 80071732052747	-708.09	63,825.04
03/24/2020	ACH	ACH-Payroll Service Fee 032420897266 6	-119.00	64,533.13
03/24/2020	ACH	ACH-Payroll Tax 032 4208972666	-14.84	64,652.13
03/24/2020	Debit	CREATIVE AUTOMO TIVE E TARZANA C A 20081 CDB615	-334.70	64,666.97
03/24/2020	Debit	AMZN Mktp US*KZ3 CT34U Amzn.com/b ill WA 20083 CDB61 5	-12.87	65,001.67
03/23/2020	ACH	ACH-Square Inc 20 0323P2 032320L20 5522132263	-494.50	65,014.54
03/23/2020	Credit	Deposit TLR Br#: 0 0649 TID:26 12191 V NTURA,STUDIO CIT Y,CA View Details	20,489.80	65,509.04
03/23/2020	Credit	Deposit TLR Br#: 0 0649 TID:26 12191 V NTURA,STUDIO CIT Y,CA View Details	6,208.94	45,019.24

04/02/2020	ACH	ACH-Yardi Service C hWEB PMTS 04022 0075SM5	-0.95	34,342.02
04/02/2020	Credit	DEPOSIT	700.00	34,342.97
04/02/2020	ACH	ACH-AAA FOOD SO URCE WOTW \$290 DELIVERIES & RENT	290.00	33,642.97
04/01/2020	Debit	Transfer to Checkin g VIA CBUSOL REFE RENCE # 009752	-10,890.00	33,352.97
04/01/2020	Debit	Transfer to Checkin g VIA CBUSOL REFE RENCE # 009751	-250.00	44,242.97
04/01/2020	ACH	ACH-NEVADA PROP ERTY ACH033120 0 40120DEFAULT REC P ID	715.11	44,492.97
04/01/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN040 120547404	196.00	43,777.86
03/31/2020	ACH	ACH-PAYROLL PAY ROLL 03312089726 66	-526.18	43,581.86
03/31/2020	Debit	NORTHSTAR MOVIN G & ST CHATSWORT H CA 20090 CD861 5	-1,116.00	44,108.04
03/31/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN033 120546650	5,006.67	45,224.04
03/31/2020	ACH	ACH-MGM PMD PAY MENT 0331206000 67768	702.00	40,217.37
03/30/2020	Debit	STAPLES 0180 STU DIO CITY CAUS0515 CD8615	-45.98	39,515.37
03/30/2020	Debit	SQ *ZIB CONSULTIN G GR Hollywood CA 20087 CD8615	-250.00	39,561.35
03/30/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN033 020546394	210.00	39,811.35
03/27/2020	Debit	AUTOMATED LOAN PAYMENT 0327200 00007001099171	-100.00	39,601.35
03/26/2020	Paid Check	Check #2453	-10,000.00	39,701.35
03/26/2020	Debit	Transfer to Checkin g VIA CBUSOL REFE RENCE # 049369	-10,000.00	49,701.35
03/26/2020	Debit	AMZN Mktp US*UW 35K4R3 Amzn.com/	-26.89	59,701.35



04/09/2020	Paid Check	Check #2655	-752.60	34,868.26
04/09/2020	Paid Check	Check #2657	-237.46	35,620.86
04/09/2020	Debit	MICHELLE GIFFEN 010134 BA	-1,200.00	35,858.32
04/08/2020	ACH	ACH-IRS USATAXPY MT0408202270499 66135266	-88.12 <sup>1/2</sup>	37,058.32 <sup>\$ 44.00</sup>
04/08/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN040 820548483	5,206.39	37,146.44
04/07/2020	ACH	ACH-NV ENERGY S OUTH NPC PYMT 0 407200315746122 9590	-23.20	31,940.05
04/07/2020	ACH	ACH-Payroll Tax 04 07208972666	-5.76	31,963.25
04/07/2020	Debit	VERONIQUE HUMB ERT 010137 BA	-700.12 <sup>1/2</sup>	31,969.01 <sup>Book Keeper \$ 350.00</sup>
04/07/2020	ACH	ACH-MGM PMD PAY MENT 0407206000 68145	900.00	32,669.13
04/06/2020	ACH	ACH-Paymode-X MN THLY FEE040620F1 10129868	-85.80	31,769.13
04/06/2020	Debit	MSFT * E0200AKH 88 MSBILL.INFO WA 20094 CDB615	-12.00	31,854.93
04/06/2020	ACH	ACH-NEVADA PROP ERTY ACH040320 040620DEFAULT R ECP ID	975.38	31,866.93
04/06/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN040 620547678	966.20	30,891.55
04/03/2020	ACH	ACH-AAA FOOD SO URCE INVOICE 8421 &DELIVERIES	666.96	29,925.35
04/03/2020	ACH	ACH-MGM PMD PAY MENT 0403206000 67981	113.50	29,258.39
04/02/2020	ACH	ACH-PACIFICACO-S ELLCWEB PMTS 04 0220066SM5	-4,248.96	29,144.89
04/02/2020	ACH	ACH-NEVADA TAX 7 756842099040220 2KYQ2TD451VFZ68	-743.11	33,393.85
04/02/2020	ACH	ACH-NEVADA TAX 7 756842099040220 2KYQ497MYFEJQR B	-205.06	34,136.96
04/02/2020	ACH	ACH-Yardi Service C ENTER PMTS 04032	-0.95	34,342.02

04/24/2020	Paid Check	Check #2683	-4,737.38	5,248.74
04/24/2020	ACH	ACH-Payroll Service Fee 0424208972666	-119.00	9,986.12
04/22/2020	ACH	ACH-CITI AUTOPAY PAYMENT 042220080096786223045	-216.97	10,105.12
04/22/2020	ACH	ACH-IRS USATAXPY MTO42220227051366106564	-117.48 1/2	10,322.09 \$58.74
04/22/2020	Debit	UPS 010139 BA	-74.31	10,439.57
04/21/2020	ACH	ACH-Payroll Tax 0421208972666	-7.68 1/2	10,513.88 \$3.84
04/20/2020	ACH	ACH-FLEETCOR FUNDINGBT0417 042020000000104534113	-383.18	10,521.56
04/20/2020	Credit	Instant Pay Credit 20200418021000021PIBRJPM01060003205 PAYPAL	2,648.33	10,904.74
04/17/2020	Paid Check	Check #2668	-10,775.93	8,256.41
04/17/2020	ACH	ACH-TEMPUS INC T MP-USA-DEAL-0391363	-1,086.75	19,032.34
04/15/2020	Paid Check	Check #2667	-51.07	20,119.09
04/15/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN041520551917	1,713.00	20,170.16
04/14/2020	Paid Check	Check #2665	-110.97	18,457.16
04/14/2020	ACH	ACH-PAYROLL PAYROLL 0414208972666	-701.58	18,568.13
04/13/2020	Paid Check	Check #2666	-1,000.00	19,269.71
04/13/2020	Paid Check	Check #2662	-700.00	20,269.71
04/13/2020	Paid Check	Check #2663	-412.49	20,969.71
04/13/2020	Credit	ADJUSTMENT FROM BUSINESS LOAN #(7001099171)	100.00	21,382.20
04/13/2020	ACH	ACH-CAESARS ENT EDI FIRST TENN041320549039	1,213.20	21,282.20
04/10/2020	Paid Check	Check #2659	-10,717.11	20,069.00
04/10/2020	Paid Check	Check #2664	-4,082.15	30,786.11
04/09/2020	Paid Check	Check #2655	-752.60	34,868.26



04/29/2020	ACH	ACH-Payroll Tax 04 29208972666	-308.00	1,023.39
04/29/2020	ACH	ACH-LADWP WEB P AY 0429201875390 000	-105.00	1,331.39
04/29/2020	Debit	Transfer to Checkin g VIA CBUSOL REFE RENCE # 012210	-330.00	1,436.39
04/29/2020	Debit	Transfer to Checkin g VIA CBUSOL REFE RENCE # 012163	-105.24	1,766.39
04/28/2020	ACH	ACH-PAYROLL PAY ROLL 0428208972 666	-526.16	1,871.63
04/27/2020	Paid Check	Check #2052	-600.00	2,397.79
04/27/2020	ACH	ACH-PACIFICACO-S ELLCWEB PMTS 04 2720W7NRQ5	-2,250.00	2,997.79
04/27/2020	ACH	ACH-Yardi Service C hWEB PMTS 04272 03WJRQ5	-0.95	5,247.79
04/24/2020	Paid Check	Check #2683	-4,737.38	5,248.74

FROM 3/23 to 4/29  
TOTAL CA SPENDING:  
55,451<sup>63</sup>

# **EXHIBIT 14**

From: **Clement Mune** clement@chefexecsuppliers.com   
Subject: Re: Charges on the Chef Exec account and Northstar access to request for me please  
Date: January 22, 2020 at 4:38 PM  
To: Dominique Arnould dominique@chefexecsuppliers.com  
Cc: Clement Chef Exec clement@chefexecsuppliers.com  
Bcc: jeremymune@gmail.com, robert@kernlawoffices.com

CE

Dear Dominique,

I am asking these questions because of what I see in Quickbooks. Your notes in Quickbooks lack sufficient detail to answer my questions.

As for your answers:

I do not deny you access to the warehouse, I only ask that you notify me of what you plan on taking from the Las Vegas warehouse before you do so to ensure correct inventory for both Las Vegas and Los Angeles. Given that you have recently taken 3 full trucks load of products without any sort of communication, I do not think this is too much to ask.

You have stated that the reason for your pickups is to guarantee sufficient inventory nearby for your Los Angeles customer based on demand, but I am confused, as the demand does not match what you have taken according to our records?

Based on the sales in 2019 of your California clients, out of the 53 products you took, only four of the products will be needed in the coming 8 or 9 months. Three of the products will be needed in the next 1-3 years. The 46 other products were unnecessarily brought to Los Angeles as you have over 3 years worth of inventory. In fact, for the clear fan fan and the clear mini mac and cheese, you have over 100 years of inventory at your current rate of California sales of 2019.

**Finally, on top of all this, 26 of the products you brought to Los Angeles to ensure you had sufficient stock had 0 sales in California in 2019.**

Now, due to your taking of inventory in Las Vegas without consulting me, we are running short in several products. For example, you have almost all of the inventory for the green mini cube in Los Angeles, and we only sell it in Nevada.

This is urgent and a big problem since, as you know, most of our customers do not want to use green anymore, and we were able to convince Caesars to finish our inventory of Green Mini Cubes before switching over to clear. If we do not have the inventory in Las Vegas, we will have no choice but to let them switch to clear and be stuck with the remainder of the dead green mini cube inventory. This problem could have easily been avoided if you had consulted me prior to moving the dead inventory to Los Angeles under the guise that you supposedly need it there although you haven't sold any in some time in California.

Please send back all the inventory you don't need ASAP. To clarify, "inventory you don't need," refers to the products where, based on current demand and your recent sales in California, you have multiple years worth of stock. In particular, the products we currently have large demand for in Las Vegas of which you have dangerously depleted our warehouse's stock. Another one of these products, for example, being the clear camelia. You recently took 65 cases of this cup, yet in all of 2019 you only sold 53 cases in California. Now we only have 25 cases left in Las Vegas, and, as you know, we sell a lot of this product.

To reiterate, in the future, please send me **in advance**, what you need for LA. This way we can be sure that both locations have sufficient inventory at all times without impairing the operations of the other. I have ok'ed your last two pickups since changing the locks, and will of course continue to authorize any and all products you do sell in California as long as the requested amounts are reasonable and we are not dangerously depleting our moving inventory in Los Vegas, so please do not say that I am keeping you from getting products you need for the company.

**1- Concerning Naomie Inoue, the accounting below shows that she has only sold for \$852.88 in 6 weeks: Only 2 customers in December for a total of \$682.85**

**You paid her \$1000 on 1/15/2020 when our commission rate is 10% of the sales, and she only earned \$68.29 from her sales up to January 15th 2020.**

**You previously asked me to give a minimum with your friend Maryann Oletic as a sales rep, and she did not make a single sale.**

Naomi Inoue									
Invoice	12/04/2019	8047	CARRE 60 CRYSTAL L 60 x L 60 x H 14 mm 720CS	CANYON CATERING	PLA-052401TC (CA...	2	64.80	129.60	
Invoice	12/04/2019	8047	SHIPPING & HANDLING CHARGES	CANYON CATERING	SHIP (SHIPPING &...	1	25.00	25.00	
Invoice	12/18/2019	8099	TWISTED SQUARE CUT TRANSP CRYSTAL 55 X 75 600/CS (20850)	MARISSA'S CAKE	LPM-20850TC (TW...	1	81.00	81.00	
Invoice	12/18/2019	8099	ALU CUP GOLD 93 X 75 X 33mm 150ml 1000/CS Creme Brulee Cup	MARISSA'S CAKE	ALU-CUP150AG (A...	1	196.50	196.50	
Invoice	12/18/2019	8099	RECTANGLE GOLD CAKE BOARD WITH TAB 2-3/4" X 4" 400/CS	MARISSA'S CAKE	AC-RM710 (RECTA...	1	39.35	39.35	
Invoice	12/18/2019	8099	TALL ROUND GLASS TRANSPARENT CRYSTAL 7.5 X 7 300/CS	MARISSA'S CAKE	M-VR70TC (TALL R...	1	107.70	107.70	
Invoice	12/18/2019	8099	ROUND GOLD SWIRL PLATE 3.35" Dia 400/cs	MARISSA'S CAKE	AC-VROT11 (ROUN...	1	37.95	37.95	
Invoice	12/18/2019	8099	GOLD LAMINATED SWIRL PLATES 9.7cm 3.81in 10x50/cs	MARISSA'S CAKE	BO-SWRL9 (GOLD...	1	65.75	65.75	
Invoice	01/21/2020	8218	MACARONS BOX x 18pc 48/CS	MARISSA'S CAKE	MISC ITEM (MISC...	1	81.56	81.56	
Invoice	01/21/2020	8218	MACARONS BOX x 6pc 80/CS	MARISSA'S CAKE	MISC ITEM (MISC...	1	88.47	88.47	
Total Naomi Inoue						11		852.88	

Please consult me for all new sales reps and make sure to discuss with me before unilaterally changing our commission payment system for sales reps you have hired.

**2- You did not post the details of the invoice of Wines Of the World. The only note on the invoice was "gift." I would like to know the quantity we bought and the price we paid for each wine please.**

**3- Can I please have the detailed price breakdown of Yhohan's \$332 you are mentioning. How much do we pay him per hour? Gas, etc. to come back and forth to Las Vegas.**

etc. to come back and forth to Las Vegas.

Again, please notify me when you plan on sending our driver to Las Vegas so that I can request he bring products we may need from Los Angeles and make the trip more cost effective. A good example of this would be the Green Mini cube mentioned above. I did not have a chance to ask you to bring the item, since instead you sent Yhohan with an almost empty truck and a request of items without notifying me.

Concerning the 3 products you mentioned that I did not authorize and that you did not ask me about beforehand:

-You have over a year's supply of inventory on the Clear Large Camelia according to 2019 CA sales so there is no need to bring those to Los Angeles at the moment.

-Ribbon: You only sold 1 case in CA in 2019. We currently have only 22 cases on hand, and we have sold or shipped out of Las Vegas 24 cases in 3 months so we need to keep this inventory in Las Vegas.

- Sphere: You already brought over 15 cases of this item on 12/6/2019 and, without letting me know, you took 294 cases from the Las Vegas inventory a few months prior. That's over ten months of inventory, so I don't see the need for more at the moment.

If there is something regarding a coming raise in sales of these items that I don't know about, I would be more than happy to discuss it and make sure we have proper inventory ordered to meet the needs of the company in both locations.

Finally I would still like an answer regarding the questions I asked about the thousands of dollars the company has spent with Northstar without my knowledge:

"Finally, I would also need you to send me all the invoices you got from Northstar from the beginning including the ones you paid personally and for which you paid you back \$2,360.93 on 11/26/2019

As well as the one for \$1,188 paid 12/2/2019

I would also like to have copy of the contract you signed with them with the fees involved

I would also like the log in in their website to see our inventory they store for us

Could you also tell them and copy me to have full access to all informations regarding what Chef Exec Suppliers is paying ?"

As well as on the Upela Paris charge:

"Could you please also tell me what is Upela Paris written "freight charge" for which we paid by ATM \$313.43 1/14/2020?"

Thank you for your help in these matters.

Regards,

Clement

On Jan 21, 2020, at 4:22 PM, Dominique Arnould <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)> wrote:

Hello Clement

First, I am surprised by your questions since you have access to the quickbooks and can look it up, but the answers to your questions are set out below.

Second, why do you continue to deny me access to your warehouse and keep me from getting the products I need for the company ?

1-- Could you please tell me who is Naomie Inoue for which we paid \$1000 commission 1/15/2020?

She is a new sales rep hired to develop sales in the southern California territory.

2-- Could you please also tell me the detail of the invoice #1088 from Wine of the World for a total amount of \$4,150.20 we paid 1/17/2020?

That invoice is for the wines purchased for gifts to our clients and which was ordered Initially by Michelle and you and which was delivered to the Las Vegas warehouse

on Friday December 6th

3- The expenses for Jhohan's pick up in Las Vegas amounts to Approximately \$ 332.00 per trip, knowing that the CES van capacity is 4 pallets of products. But for this last

trip since you did not authorize 3 products to be picked up there was only the amount of 3 pallets loaded.

Hoping this answers your concerns

Dominique

On Tue, Jan 21, 2020 at 10:47 AM Clement Munev <clement@chefexecsuppliers.com> wrote:  
Hello Dominique,

Could you please tell me who is Naomie Inoue for which we paid \$1000 commission 1/15/2020?

Could you please also tell me the detail of the invoice #1088 from Wine of the World for a total amount of \$4,150.20 we paid 1/17/2020?

Could you please also tell me what is Upela Paris written "freight charge" for which we paid by ATM \$313.43 1/14/2020?

I would also like to know how much we pay Yhohan + expenses+ gas to come in Las Vegas when we could use Win Distribution or Fedex LTL.

I sent you yesterday, the Fedex log in for you to use and I mentioned to negociated price i was able to get.

Indeed roughly we should pay per pallet 75\$ + about 23% fuel surcharge with Fedex LTL and we pay about 105\$ with Win Distribution. I think it would make more sense to stop sending Yhohan in Las Vegas and use Fedex or even Win Distribution like we use to.

Finally, I would also need you to send me all the invoices you got from Northstar from the begining including the ones you paid personally and for which you paid you back \$2,360.93 on 11/26/2019

As well as the one for \$1,188 paid 12/2/2019

I would also like to have copy of the contract you signed with them with the fees involved

I would also like the log in in their website to see our inventory they store for us

Could you also tell them and copy me to have full access to all informations regarding what Chef Exec Suppliers is paying ?

Thank you for your help

Clement MUNEY  
Managing Partner of Chef Exec Suppliers LLC  
Mailing address:  
151 Augusta Street  
Henderson Nevada 89074  
Cell.: (702) 340 8697  
Fax.: (702) 992 9880  
Email: [clement@chefexecsuppliers.com](mailto:clement@chefexecsuppliers.com)  
[www.chefexecsuppliers.com](http://www.chefexecsuppliers.com)

--

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA FOOD SOURCE, INC  
Wines of the [World.com](http://World.com)  
702-683-2433

# **EXHIBIT 15**

扬州市凌海塑胶制品有限公司  
Yangzhou Linghai Plastic Manufacturing Co.,Ltd.  
No3 Road,YiLing Industrial Zone,JiangDu District of Yangzhou City,JiangSu Province of China  
TEL : 0514-86562099 FAX: 0514-86567599

INVOICE

SOLD TO:  
Chef Exec Suppliers LLC  
PO Box 1800 Studio City, CA 91614  
(702) 683-2433

CE00122  
N/M  
CE00122

Shipment by VESSEL or On or about  
From: YANGZHOU Via To: LA

BY T/T

ITEM	DESCRIPTION	Color	CTNS	Total PCS	UNIT PRICE (USD/PC)	TOTAL(USD)
LPM-20130TC	MINI WHISKY SHOT GLASS	Transparent/透明	200	115200	0.034	3928.32
LPM-20680TC	Medium 3 Edge	Transparent	100	100000	0.021	2100.00
LPM-20140TC	RHUM SHOT GLASS TRANSPARENT CRYSTAL	Transparent/透明	480	276480	0.034	9427.97
M-VR61TC	MINI CUBE	Transparent/透明	160	96000	0.021	2016.00
SC-NDB01TC	MINI ROUND GLASS	Transparent/透明	95	95000	0.018	1710.00
PLA-052505TC	ribbon	Transparent	100	30000	0.024	726.00
PLA-052438NR	ASIAN CUP BLACK	BLACK黑色	80	48000	0.026	1252.80
M-VR73TC	ROUND SLANTED CUPS	Transparent/透明	140	84000	0.035	2940.00
PLA-052530TC	FANFAN TRANSPARENT CLEAR	TRANSPARENT	135	116640	0.018	2099.52
PLA-052539CR	LARGE CAMELIA	TRANSPARENT	100	72000	0.024	1728.00
						0.00
			1590	1033320		27928.61

Compensation -868.15  
Cargo Freight 40 Feet Container 1850  
Remaining Balance 28910.46

BANK DETAILS

Bank Name	CHINA CONSTRUCTION BANK,YANGZHOU BRANCH
Address	NO.398 WENCHANG MIDDLE ROAD,YANGZHOU · JIANGSU · CHINA
Swift Code	PCBCCNBJSY
Beneficiary	YANGZHOU LINGHAI PLASTIC MANUFACTURING CO.,LTD.
A/C NO.:	32014251900220104186

PLASTIC INJECTED ITEMS

Design, Personalization, Presentation, Packing as per Technical Specifications and Samples Sent.  
Quantity per reference, unit pricing and packing as per proforma invoice  
FOB YANGZHOU

---

**From:** clement MUNY  
**Sent:** Monday, May 18, 2020 6:30 PM  
**To:** Robert Kern  
**Cc:** clement MUNY  
**Subject:** Fwd: Container pending # CE00122

Begin forwarded message:

**From:** "Eric Hui" <[eric@lihioplastics.com](mailto:eric@lihioplastics.com)>  
**Subject:** Re:Container pending # CE00122  
**Date:** May 15, 2020 at 7:42:20 AM PDT  
**To:** "Dominique Arnould" <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)>, "zilongplastic1979" <[zilongplastic1979@163.com](mailto:zilongplastic1979@163.com)>, "cmuney" <[cmuney@cox.net](mailto:cmuney@cox.net)>

Hello Dominique,

As per my email from January 22th to you and Clement, the estimate delivery time was approx begining of March. With the Covid 19 we were closed about 6 weeks in China as you may know. I have emailed Clement who is placing your orders few weeks ago that we are ready to ship your container. I have asked him to arrange payment of the balance of payment so we can send the container.

-----  
Thanks

Eric Hui |  
T: (+86) 51486562099 | E: [eric@lihioplastics.com](mailto:eric@lihioplastics.com)  
F: (+86) 51486562099 | M: (+86)13810692680  
LINGHAI PLASTIC MANUFACTURING CO.,LTD.  
NO.3 ROAD, YILING, INDUSTRIAL ZONE JIANGDU DIST,  
YANGZHOU CITY, JIANGSHU PROVINCE, CHINA

----- Original -----  
**From:** "Dominique Arnould" <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)>;  
**Date:** Fri, May 15, 2020 07:48 AM  
**To:** "zilongplastic1979" <[zilongplastic1979@163.com](mailto:zilongplastic1979@163.com)>; "Eric Hui" <[eric@lihioplastics.com](mailto:eric@lihioplastics.com)>;  
**Subject:** Container pending # CE00122

Hello Michael and Eric



We sent a deposit of \$9000.00 for an order with your company on January 22 2020.

Your invoice # CE00122, since I have not received any communications or confirmations from your company

or you regarding this order even when it was ordered:

Could you please let me know if this order has been manufactured, if the container is ready to be shipped.

And when you will need the balance of your invoice to be paid?

Please let me know as soon as possible

Sincerely

Dominique Arnould

Managing Partner

Chef Exec Suppliers, LLC

AAA FOOD SOURCE, INC

Wines of the [World.com](http://World.com)

702-683-2433

# **EXHIBIT 16**

## **Memorandum of Material Terms of Agreement**

February 7, 2020

This agreement puts forth the material terms of the settlement agreement reached between the parties at Judicial Settlement Conference held on this date. The final written agreement to be drafted at a later time.

The parties agree that this agreement contains all terms that are material to the agreement.

This agreement is between Dominique Arnould and Clement Muney, (the parties) currently each a 50% owner in the company Chef Exec Suppliers, LLC (the Company). It is understood that this agreement shall be binding upon the parties until the final agreement is signed.

The Parties agree that Dominique Arnould will buy out the interest of Clement Muney in the Company, for the amount of \$700,000.00, to be paid within 45 days from the execution of the final agreement (the Sale).

In addition to the Sale price, Clement Muney will be paid  $\frac{1}{2}$  of the bank account on the date of closing of the sale,  $\frac{1}{2}$  of the inventory at cost value on the closing date of the sale, and  $\frac{1}{2}$  of the accounts receivable as they are owed to the Company.

Assets being sold are:

- All names and logos including but not limited to trademarks, logo of Chef Exec, LLC,, and all intellectual property

- All website domain names and codes including but not limited to, chefexecsuppliers.com or any other similar names or affiliates

- All equipment including, but not limited to forklifts, pallet jacks, Mercedes truck, manufacturing molds, manufacturing tooling, racks, shelving, tools, delivery systems, computers including employee computers, employee phones, monitors, hardware, docking systems, ladders, step-ladders, packaging materials, rolling carts, scales, software, and copy-machines. Clement Muney and Jeremy Muney's personal mobile phones and computers are excluded but both will pay back the value at an agreed upon price.

- All accounts including but not limited to UPS, Paypal, checking, savings, Tempus, Commonwealth, and all usernames and passwords required for sign-in

- All insurance policies

- All company EIN numbers

- All UPC Codes

-All phone and fax numbers including but not limited to employee numbers, and fax numbers, and Clement Muney shall cooperate in providing Arnould with Arnould's cell Phone Number within 7 days of the settlement conference 702-683-2433. However, Clement Muney and his son may retain their current cell phone and home phone numbers.

-All CES Price lists, catalogs, logos, and all sales materials

-All Customer lists

-All Supplier and vendor lists

Paris Saveur logo may be used by Arnould until current and already ordered inventory is used up.

Once the Sale is completed, Clement Muney will be bound by a non-compete agreement prohibiting him from doing any business directly or indirectly that competes with the business of the Company, within Nevada, California, Hawaii, New York, Missouri, and Illinois for three and a half (3.5) years following the date of the agreement. This non-compete also includes non-solicitation of any current or potential customers of the Company. No party may disparage the Company, Employees, or either party. All sales inquiries will be forwarded to Dominique Arnould as soon as they are received. However, the non-compete does not include CMJJ Gourmet's current lines of products which will be specified later in a final agreement.

This agreement shall be contingent upon:

--Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale, with the understanding that he will be required to use good faith towards seeking to obtain such financing from all reasonable sources

-- Dominique Arnould agrees to assume the lease of the Las Vegas warehouse that is currently held by CMJJ Gourmet, Inc., subject to approval by the landlord and subject to Dominique Arnould's approval of the lease terms, which will not unreasonably be withheld.

-- All parties mutually waive all claims upon execution of the final agreement

It is further agreed that the sale price of \$700,000.00 shall be discounted by the amount of profits (amount received minus cost of the leased space) that the company CMJJ Gourmet, Inc. has received from Chef Exec, LLC for storage in the Las Vegas Warehouse

Both parties agree that neither will incur any extraordinary expenses or take any items out of the warehouse between February 7, 2020, and the completion of the final Sale of the Company. Inventory shall be set for a date as soon as Arnould finds available, and Muney will give Arnould the key to the Las Vegas warehouse at that time. Sergio, Clement Muney, and Dominique Arnould shall conduct an inventory in the next 10 days. Both parties shall have full access to all

Company financial records in order to be aware of such expenditures, and each shall have the right to bring the dispute to the settlement judge if the Parties do not agree whether an expense was extraordinary or not in the ordinary course. If a settlement conference does not resolve this issue, the Parties shall have the issue decided by Judge Allf.

All business will be conducted as usual without interference by the other party.

The parties further agree that Dominique Arnould shall indemnify Clement Muney for any liability Muney may have under the Los Angeles warehouse lease between the present and the end of that lease.

  
\_\_\_\_\_  
Dominique Arnould

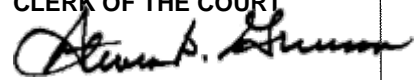
02/07/2020  
\_\_\_\_\_  
date

  
\_\_\_\_\_  
Clement Muney

02/07/2020  
\_\_\_\_\_  
Date

Clement Muney

date



Marquis Aurbach Coffing  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
10001 Park Run Dr.  
Las Vegas, NV 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
paurbach@maclaw.com  
acalaway@maclaw.com  
*Attorneys for Plaintiff*

## DISTRICT COURT

## CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
Dept. No.: 27

**PLAINTIFF'S OPPOSITION TO  
APPLICATION FOR TEMPORARY  
RESTRAINING ORDER AND COUNTER-  
MOTION TO VACATE TEMPORARY  
RESTRAINING ORDER**

**Hearing Date: May 22, 2020  
Hearing Time: 1:00pm**

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould" or "Plaintiff"), by and through his attorneys, Marquis Aurbach Coffing, hereby files his Opposition to Defendants' Application for Temporary Restraining Order ("Opposition").

This Opposition is made and based upon the pleadings and papers on file herein, the following points and authorities, and any argument allowed by the Court at the time of hearing.

Dated this 22nd day of May, 2020.

MARQUIS AURBACH COFFING

By 

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
*Attorneys for Plaintiff*

**MEMORANDUM OF POINTS AND AUTHORITIES****I. INTRODUCTION**

Clement Munev ("Munev") and Dominique Arnould are the only owners of their Company, Chef Exec. The Company buys products from China and sells them to customers in Las Vegas and in California. The Company, Chef Exec, has a warehouse in California and a warehouse lease in Las Vegas to store products. As detailed in Arnould's 2019 Declarations, the disputes between the owners has grown exponentially such that in December 2019 Arnould moved to have a receiver/trustee appointed. The Parties went to a settlement conference in February and came to a tentative buyout agreement subject to obtaining financing. Before financing could be obtained, the coronavirus hit in March and almost all of the Company's clients closed, e.g., Disneyland and the Strip hotels.

Arnould has asked Munev to stop paying rent from the remaining cash in the Company's bank account. Munev would not agree because rent was one of the many issues upon which they could not agree. The Las Vegas warehouse lease issue was explained in previous declarations by Arnould, but basically, the \$3,500/month Las Vegas lease came up for renewal, the landlord wanted \$5,800/month. Parties couldn't decide on whether to renew it at the \$5,800 per month rate. Munev's customers were mostly in Las Vegas so Munev rented the space at the increased price and without Arnould's agreement or consent, then charged Chef Exec \$10,890 per month for month. Thus, Munev was able to put about 5,000/month into his own pocket. Things have gone downhill since then.

Munev would not stop taking this \$5,000/month excess rent out of the company's cash reserves for seven months (\$35,000). Arnould asked Munev to stop paying himself and return this \$35,000. *See* Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction (hereinafter "Motion"), at Ex. 2, ¶9. Arnould has repeatedly asked Munev to put the money back into the Chef Exec account., but Munev has refused. When the company experienced severe cash flow issues due to COVID-19, Arnould took immediate measures to protect the Company's cash-reserves. *See* Motion, at Ex. 5. This included 1) a request to stop paying all rent; 2) lay off Munev's son who was being paid for website maintenance when there

1 were virtually no website sales (*id.*) 3) stop making advance payments to the Las Vegas sales  
2 person who was on commission and not making sales (*id.*); and when Muney would not stop  
3 draining the cash in the Company's account, Arnould opened an account in California and started  
4 depositing the few sales they had into it to it so the Company could still pay its bills. Arnould sent  
5 copies of all money in and out of that account to Muney. Arnould stopped all payments to himself  
6 and to Muney for member distributions or commissions, and requested the Muney do the same.  
7 *See* Motion at Ex. 2, at ¶2.

8 But despite Arnould's efforts and requests to protect the company, Muney still found it  
9 necessary to pay the Las Vegas Rent (because he was presumably a guarantor and he could divert  
10 the \$5,000 per month to his own pocket. Muney also continued to pay his son. *See* Declaration of  
11 Dominique Arnould in Support of His Opposition to the Temporary Restraining Order (hereinafter  
12 "Arnould Decl."), at Exhibit 1A, attached thereto. Consequently, Arnould was left with no choice  
13 but to protect the company until the Court could issue rulings on the pending motions to dissolve  
14 and appoint a receiver. *See* Motions on file herein. Muney is moving for an injunction to be allowed  
15 to pay himself and his son. Granting Muney's Motion would only permit Muney to continue the  
16 unilateral payments to himself and his son, regardless of the ultimate cost and detriment to the  
17 company.

18 Muney's temporary restraining order ("TRO") must be vacated because: (1) Muney failed  
19 to provide the requisite notice required for a TRO under NRCP 65; (2) as shown below, Muney  
20 failed to disclose to the Court the facts about who was taking out money and where it was going,  
21 (3) Muney failed to provide any evidence of irreparable harm to the company that would warrant  
22 injunctive relief; and (4) all of the factors for injunctive relief weigh heavily against Muney.  
23 Accordingly, Plaintiff, Arnould respectfully requests that this Court:

- 24 1. Vacate the TRO;
- 25 2. Deny Muney's request for a TRO;
- 26 3. Appoint a receiver with (a) limited powers to monitor the Parties' actions, (b) report  
27 to the Court as to the financial decisions made by the Parties, and (c) what financial decisions  
28 should be made in the best interest of the Company. This would allow the parties to use their



1 relationships to increase sales in case the economy comes back, yet stop the back and forth  
2 applications to Court;

3 4. This would allow the *status quo* to be maintained pending adequate briefing on  
4 Muney's Motion for Preliminary Injunction.

5 **II. STATEMENT OF FACTS.**

6 1. Chef Exec Suppliers, LLC (the "Company") has had little to no sales in Las Vegas  
7 since COVID-19 hit this year. *See* Arnould Decl. at ¶1. This is due to the shutdown of all Nevada  
8 casinos and resort by the Nevada Governor. *Id.* The Company's sales in California have also  
9 slowed due to the same. *Id.* The shutdowns have resulted in a severe undercapitalization and  
10 reduction in sales for the Company. *Id.* Despite this, Clement Muney ("Muney") has insisted on  
11 paying himself, his business, and his son before Company expenses. *Id.*

12 2. All Arnould has done is try to protect the Company from going out of business. *Id.*  
13 at ¶2. As Arnould describes more particularly in his Declaration and attached exhibits, every bullet  
14 point listed in Defendants' Motion for TRO on pages 1-5, is either a severe mischaracterization of  
15 the truth or a blatant falsehood. *Id.* Arnould addresses each of these each falsehood in turn:

16 a. Arnould has not transferred or seized company funds as Muney claims (*see*  
17 Motion, pg.1:5). *See* Arnould Decl. at ¶2(a).

18 b. Arnould did cancel the Citi Bank credit line to protect the Company, since  
19 Muney told the Company bookkeeper he intended to use the credit line to pay Muney's other  
20 business \$10,890 for the Las Vegas rent if there were not enough funds in the Citi bank account  
21 (*see* Motion, pg. 2:8). *See* Arnould Decl. at ¶2(b).

22 c. Arnould never intentionally removed Muney from the Paypal account (*see*  
23 Motion p. 2:9). *See* Arnould Decl. at ¶2(c).

24 d. Arnould never stopped paying Las Vegas sales staff (*see* Motion, p. 2:12).  
25 *See* Arnould Decl. at ¶2(d).

26 e. Arnould does not intend to steal any sales or commissions from the Las  
27 Vegas sales staff (nor have he) (*see* Motion, p.2:12). *See* Arnould Decl. at ¶2(e).

28

1 f. The new sales representative, Naomie Inouye, was hired in December 2019  
2 and was given the same initial compensation as the Las Vegas sales representative hired by Muney  
3 (see Motion p.1:18). See Arnould Decl. at ¶2(f).

4 g. Arnould justifiably believes the Company does not have a responsibility to  
5 pay Muney's California personal taxes (see Motion, p. 2:21). See Arnould Decl. at ¶2(g).

6 h. On February 28, 2020, Arnould used his keys to deliver a pallet of products  
7 that were needed for one of the Company's Las Vegas clients, Caesar's Palace (see Motion, pgs.  
8 2:24-3:2). See Arnould Decl. at ¶2(h).

9 i. Arnould has only made payments that were due and which would have been  
10 past-due had he failed to pay them on time (see Motion, p. 3:4). See Arnould Decl. at ¶2(i).

11 j. Settlement was conditional upon acquiring financing for the purchase of the  
12 Company, making the settlement agreement unenforceable (see Motion, p. 3:10). See Opposition  
13 to Defendants' Motion to Enforce Settlement, on file herein. See Arnould Decl. at ¶2(j).

14 k. Once again, Arnould has not withheld any funds from the Company, all of  
15 the checks were deposited into a new bank account, which then went to paying Company expenses  
16 (see Motion, p. 3:14). See Arnould Decl. at ¶2(k).

17 l. Arnould did not seize funds, he did not clear out the Citi bank account, and  
18 he made every effort to pay all of Las Vegas bills and invoices on time (see Motion, p. 3:18). See  
19 Arnould Decl. at ¶2(l).

20 m. Muney demanded the Company pay him, his business, and his son. To  
21 protect the company, Arnould directed counsel to explain via letter that the Company cannot afford  
22 to do this (see Motion, p. 3:22 and Ex. 5). See Arnould Decl. at ¶2(m).

23 n. Arnould has requested documentation for the \$9,000 deposit and large  
24 shipment, but Muney will not provide him a purchase order, due date for payment, bill of lading,  
25 or any of the typical documentation needed to complete the order (see Motion, p. 4:6-19). See  
26 Arnould Decl. at ¶2(n).

1           o.       Arnould has made every effort to pay for Muney's surprise shipment, even  
2 though he has failed to provide any documentation (*see* Motion, p. 4:6-19). *See* Arnould Decl. at  
3 ¶2(o).

4           3.       In sum, Arnould has tried to protect the Company from going under. *See* Arnould  
5 Decl. at ¶3. The Company has had low cash flow and Muney has paid himself \$35,329.00 in excess  
6 rent since October 2019. *Id.* Arnould made requests for Muney to stop paying himself and his son  
7 for months now, but he refused. Arnould was left with no choice but to take measures to protect  
8 the Company's assets in his business environment. *Id.*

9       **III.    LEGAL ARGUMENT.**

10       **A.       THIS TEMPORARY RESTRAINING ORDER WOULD BE INVALID**  
11       **SINCE MUNEY HAS FAILED TO PROVIDE THE REQUISITE NOTICE**  
12       **UNDER NRCP 65(B)(1).**

13       In Nevada, it is permissible to issue a temporary restraining order without notice, but only  
14 if certain conditions are met. *See State ex rel. Friedman v. Eighth Judicial Dist. Court In & For*  
15 *Clark Cty.*, 81 Nev. 131, 132–33, 399 P.2d 632, 633 (1965) (holding that a temporary restraining  
16 order without notice under NRCP is only permissible when certain conditions are met) (citing a  
17 NRCP 65(c). NRCP 65(b)(1) provides that a court may issue a temporary restraining order without  
18 written or oral notice to the adverse party or its attorney only if:

19       (A) specific facts in an affidavit or a verified complaint clearly show that  
20 immediate and irreparable injury, loss, or damage will result to the movant before  
21 the adverse party can be heard in opposition; and

22       (B) the movant's attorney certifies in writing any efforts made to give notice and  
23 the reasons why it should not be required.

24       (emphasis added). Thus, a valid temporary restraining order without notice requires: (1) an  
25 affidavit or (2) a verified complaint, and (3) certification from the movant's attorney that he  
26 attempted to give notice to the other side so the Court could hear from the opposing party. *Id.*  
27 Muney's Motion failed to provide all three requirements under NRCP 65(1)(b). While Muney's  
28 Motion includes an affidavit from Clement Muney (*see* Motion, Ex. 1), it fails to provide a  
certification of his attorney's efforts to give notice to opposing counsel. Accordingly, the  
temporary restraining order is invalid.

1           **B.       INJUNCTIVE RELIEF UNDER NRCP 65 IS UNWARRANTED SINCE**  
2           **THERE IS NO EVIDENCE OF IRREPARABLE HARM.**

3           NRCP 65 authorizes this Court to issue a temporary restraining order and preliminary  
4 injunction. A temporary restraining order or a preliminary injunction may be granted in the  
5 following cases, pursuant to NRS. 33.010:

6           1. When it shall appear by the complaint that the plaintiff is entitled to the relief  
7 demanded, and such relief or any part thereof consists in restraining the commission  
8 or continuance of the act complained of, either for a limited period of time or  
9 perpetually.

10          2. When it shall appear by the complaint or affidavit that the commission or  
11 continuance of some act, during the litigation, would produce great or irreparable  
12 injury to the plaintiff.

13          3. When it shall appear, during the litigation, that the defendant is doing or  
14 threatens or is about to do, or is procuring or suffering to be done, some act in  
15 violation of the plaintiff's rights respecting the subject action, intending to render  
16 the judgment ineffectual.

17           Injunctive relief is a device for preserving the status quo and preventing irreparable loss of  
18 rights before judgment. *Sierra On-Line, Inc. v. Phoenix Software, Inc.*, 739 F.2d 1415, 1422 (9th  
19 Cir. 1984). While there is no defined burden of proof that must be met for injunctive relief, case  
20 law identifies four factors to be weighed, individually or collectively, as follows: (1) the threat of  
21 irreparable harm; (2) the relative interests of the parties; (3) the plaintiff's likelihood of success on  
22 the merits; and (4) the interest of the public. *See Sobol v. Capital Mangmt. Consultants, Inc.*, 102  
23 Nev. 444, 726 P.2d 335 (1986); *Coronet Homes, Inc. v. Mylan*, 84 Nev. 435, 442 P.2d 901 (1968);  
24 *Ellis v. McDaniel*, 95 Nev. 455, 596 P.2d 222 (1979); *Dasco, Inc. v. American City Bank & Trust*  
25 *Co.*, 429 F.2d 767, 769 (D. Nev. 1979).

26           Here, Muney has failed to show any evidence that Mr. Arnould's actions will inflict  
27 "irreparable harm," or that injunctive relief is necessary here. Moreover, since damages, if any, are  
28 an adequate remedy injunctive relief is inappropriate. *See No. One Rent-A-Car v. Ramada Inns,*  
*Inc.*, 94 Nev. 779, 781, 587 P.2d 1329, 1331 (1978).

1                   1.       **There Is No Irreparable Harm Warranting Injunctive Relief, Rather,**  
2                   **Muney Has Misrepresented the Facts To this Court.**

3                   Injunctive relief is only available if a party shows that if a party's conduct is  
4                   allowed to continue, "irreparable harm will result." *See Sobol*, 102 Nev. 444, 726 P.2d 335 (1986);  
5                   *Christensen v. Chromalloy American Corp.*, 99 Nev. 34, 656 P.2d 844 (1983); *Dixon v. Thatcher*,  
6                   103 Nev. 414, 742 P.2d 1029 (1987). Muney alleges "irreparable harm" and broadly states that  
7                   Arnould is (1) "starving the company of funds needed to operate"; the Company risks losing (2)  
8                   "key workers", (3) "key suppliers", and (3) key "customers." *See Motion*, p. 6:6-7. There is no  
9                   back-up to support Muney's allegations.

10                  First, Muney has not (and cannot) point to a *single customer* that has been lost or  
11                  underserved here. *See Motion*, at Ex. 1. In Muney's affidavit, he claims that "Las Vegas customers  
12                  have wire information and auto-pay accounts set for [the existing Citibank account]" that would  
13                  be interrupted. *Id.* at ¶9. But the Citibank account is still operational and can still receive wire  
14                  transfers.

15                  Muney does not explain how changing bank accounts interrupts business operations other  
16                  than his ability to write checks to himself is curtailed. It is also unclear why the Company would  
17                  ever need to make "auto-payments" to its supposed customers. It is only common sense that  
18                  outbound payments and expenses would go to *suppliers and vendors* – not *customers*. Muney's  
19                  affidavit does not point to *any specific customer* that has been lost or is at risk of being lost.  
20                  Muney's allegations are mere conclusions with no basis. In Muney's affidavit he states that "key.  
21                  . . . customers" will be lost causing "significant irreparable harm." Yet he does not provide a single  
22                  shred of objective evidence to back up this claim. Muney cannot name a *single specific customer*  
23                  that will be lost because the Company changed its bank accounts. Muney's conclusory affidavit  
24                  claiming "irreparable harm" lacks evidence.

25                  Second, Muney has not shown how Arnould is starving the Company of funds by changing  
26                  bank accounts. Not a single Company expense or payment has been missed to date. Arnould has  
27                  paid all expenses on time and in full. Muney has full access to the Company's QuickBooks so  
28                  Muney should have been able to point to specific instances of non-payment. Muney could always

1 notify Arnould and the bookkeeper to make sure they are paid. *See* Motion, at Ex. 1. Arnould has  
2 been transparent and has not changed Muney's access to the books and bank statements. *See id.*  
3 Literally the only expense that Arnould has refused is Muney's request to pay himself, his kid, and  
4 Muney's business. *See* Arnould Decl. at ¶2(m). In fact, the only thing starving the Company is the  
5 lack of sales in Las Vegas. *See* Arnould Decl. at ¶¶1-2.

6 Third, Arnould has never refused to pay employees their respective commissions or cause  
7 "key employees" to be lost. Arnould never stopped Las Vegas sales staff as Muney suggests (*see*  
8 Motion, p. 2:12). *See* Arnould Decl. at ¶2(d). Arnould has not, nor does he intend, to steal sales  
9 or commissions from the Las Vegas sales staff. *Id.* at ¶2(e). Arnould objected to paying the Las  
10 Vegas sales representative a draw when she was on a commission and had no sales. *Id.* To the  
11 extent Muney claims that his son Jeremy is a "key employee," this Court need only look at Jeremy  
12 Muney's poor sales performance to see how unessential he actually he is to the Company. *See id.*  
13 at ¶2(d); *see also* **Exhibit 1C** attached thereto.

14 Fourth, Arnould has not risked any of the Company's "key suppliers." The only supplier  
15 Muney references in his Motion is a Chinese supplier that Muney paid a \$9,000.00 deposit related  
16 to the Chinese shipment. *See* Arnould Decl. at ¶2(n). And with respect to this one supplier, Arnould  
17 has not refused to pay the supplier but has requested the appropriate documentation from Muney,  
18 who has refused to provide the same. *Id.* Arnould was only made aware of this massive shipment  
19 *after* it became an emergency, and Company funds had been issued to pay other bills. *Id.* This  
20 "key" supplier did not respond to any request for documentation – making this particular  
21 transaction anything but urgent and somewhat suspect.

22 **2. Muney Will Not Succeed on Any Conversion or Embezzlement Claim;**  
23 **Instead, Muney Has Abused His Own Control Over Company Funds**  
**To Pay Himself, His Family, And His Other Business.**

24 Muney argues that that he is likely to prevail on a "conversion" or "embezzlement" claim  
25 against Arnould, warranting injunctive relief. *See* Motion, p. 7. Aside from the fact that Muney  
26 has not brought this cause of action, *Arnould has not taken a penny from the Company* for his  
27 personal use. This defeats any hope of Muney's prevailing on such any such claim. Conversion  
28 occurs only when one exerts wrongful dominion over another's personal property or wrongful

1 interference with the owner's dominion. *See Evans v. Dean Witter Reynolds, Inc.* 116 Nev. 598, 5  
2 P.3d 1043 (2000).

3 As a matter of law, Arnould cannot be liable for any conversion here because he never took  
4 Company funds for himself, and has only paid normal business expenses with Company funds as  
5 shown by the bank statements. *See Arnould Decl.* at ¶2(a). Arnould has never withdrew or  
6 transferred money from the Citibank account. *Id.* Instead, it is Muney who has undeniably taken  
7 over \$35,000 from the Company by wrongfully charging the Company rent – which Plaintiff's  
8 counsel requested be returned. *See Motion*, at Ex. 2 ("To assist the company's finances we request  
9 Clement immediately pays back to the company the excess rent he has charged for the past seven  
10 months which totals is \$35,000."). Thus, the only wrongful withdrawals or dominion has been  
11 that of Muney, not Arnould. Muney filed the instant Motion not because he was concerned for  
12 Company funds, but because he wants to unilaterally pay him personally, pay his business, and  
13 pay his son, Jeremy Muney. *See Arnould Decl.* at ¶2(m).

14 Next, Arnould's refusal to pay himself and Muney through draws or taxes does not  
15 constitute a conversion, especially since the Company is cash poor. *See Arnould Decl.* at ¶1.  
16 Neither manager of the Company entitled to a distribution under Nevada law (*see* NRS 86.341),  
17 rather, any distribution would be *prohibited* by law and in light of the undercapitalized state of the  
18 Company. *See* NRS 86.343(2) ("A distribution of the profits and contributions of a series of the  
19 company must not be made if, after giving it effect: (a) The company would not be able to pay the  
20 debts of the series from assets of the series as debts of the series become due in the usual course  
21 of business; or (b) Except as otherwise specifically permitted by the articles of organization, the  
22 total assets of the series would be less than the sum of the total liabilities of the series). As  
23 evidenced by the email provided by Plaintiff's counsel on May 18, 2020, the refusal to make  
24 distributions was because Arnould found it was "necessary for Chef Exec to offload unnecessary  
25 expenses from the business." *See Motion*, at Ex. 2, first paragraph. The bank account statements  
26 show that the Company's cash assets have dwindled to almost nothing, thus it is evident that that  
27 action had to be taken, and Arnould was justified in taking such action.  
28

1 Finally, any argument that Muney's business is legally entitled to \$10,890 dollars per  
2 month in rent from the Company also fails. The Company has no lease with Muney's company,  
3 CMJJ Gourmet, Inc., which Muney used to rent the Las Vegas warehouse. Thus, it is unclear how  
4 Muney hopes to prevail on a claim that Muney was entitled to \$10,890 per month from the  
5 Company during a time when the coronavirus stopped virtually all sales. Arnould's refusal to pay  
6 this obligation is fully within his rights as a manager of the Company and typical of most tenants  
7 in this environment.

8 In sum, Arnould's refusal to pay Muney, Muney's business, or Muney's kid during this  
9 period of undercapitalization (*see* Motion, Ex. 2 (May 18, 2020 Email)) is not a conversion or  
10 embezzlement. Thus, Muney cannot show he is "likely to prevail" on any such claim, and Muney's  
11 Motion should be denied.

12 **3. The Relative Interest Of The Parties Heavily Weighs Against**  
13 **Injunctive Relief.**

14 One of the most significant considerations of this court in deciding whether or not to issue  
15 injunctive relief is with regard to the relative interests of the parties. Essentially, the main question  
16 this Court must answer is how much damage the Plaintiff will suffer if the restraint is denied versus  
17 the hardship to the Defendant if the injunctive relief is granted. *Home Finance Co. v. Balcom*, 61  
18 Nev. 301, 127 P.2d 389 (1942); *see also Ottenheimer v. Real Estate Division*, 91 Nev. 338, 535  
19 P.2d 1284 (1975).

20 **a. Chef Exec Suppliers' Interests.**

21 The Company has an interest in controlling its outflows of capital. COVID-19 has forced  
22 the Company to be smarter with its resources, pay only necessary expenses, and stop distributions  
23 to the Managers. Muney argues that he is "entirely willing to discuss a plan to adjust operations in  
24 relation to the COVID-19 threat," but Muney's own evidence shows that he *refused* Plaintiff's  
25 proposed plans. *See* Motion, Ex. 2.

26 This has compelled Arnould to refuse Muney's unilateral payments to himself, his  
27 business, and his kid, and put the interests of the Company first. In other words, Arnould's actions  
28 are keeping the Company afloat in these uncertain times. As such, Arnould's protection of



1 Company assets favors the Company who is a party to this case, and as such, Muney's Motion  
2 should be denied.

3 **b. Plaintiff's Interests.**

4 Arnould has an interest in protecting the Company, since he is a manager and owner of the  
5 Company. As illustrated above, Arnould's actions have been only served to protect the Company  
6 from Muney who has insisted on putting his own needs over the needs of the Company. Arnould  
7 even unselfishly *volunteered* to stop taking commissions and distributions. *See* Motion, at Ex. 2,  
8 paragraph 1. In sum, Arnould has an interest in protecting the company, protecting his investment  
9 into the Company, and an interest in ensuring the Company retains capital to survive these  
10 uncertain business conditions.

11 **c. Clement Muney's Interests.**

12 Plaintiff need not belabor the fact that show that Clement only has himself in mind here.  
13 Clement claims he is protecting the Company, but has failed to show what injury, damage, or  
14 irreparable harm the Company is to endure. Indeed, if Arnould had failed to stop Muney from  
15 charging the \$10,890 in unauthorized rent, the Company would have *no assets* to operate. Thus,  
16 Clement has no real interest that would warrant injunctive relief. While he may arguably have an  
17 interest in collecting his profits from the Company for his own personal income, this is not an  
18 interest that is protected by the law since any distribution would be *prohibited* by law and in light  
19 of the undercapitalized state of the Company. *See* NRS 86.343(2)

20 **4. The Public Interest Does Not Favor Injunctive Relief In Favor of**  
21 **Muney.**

22 The spirit and purpose of injunctive relief is to preserve the *status quo* and prevent  
23 irreparable loss of rights before trial. *Sierra On-Line, Inc.*, 739 F.2d at 1422. Indeed, every action  
24 taken by Arnould that Muney intends to enjoin has been to maintain the *status quo* and preserve  
25 the cash-reserves of the Company. As such, granting Muney's TRO would likely have the opposite  
26 effect on this case. Muney would have full reign to continue the unauthorized payments of rent  
27 himself; continue to pay his son, Jeremy; and pay Muney's personal taxes. In a word, granting  
28

1 Defendants' Motion would have the exact opposite effect that injunctive relief is intended to  
2 provide.

3 **IV. CONCLUSION**

4 In sum, the TRO must be vacated, Muney's Motion should be denied because: (1) Muney  
5 failed to provide the requisite notice under NRCP 65; (2) Muney failed to provide any evidence of  
6 irreparable harm to the company that would warrant injunctive relief; and (3) all of the factors for  
7 injunctive relief weigh heavily against Muney. Accordingly, Plaintiff respectfully requests that  
8 this Court grant Arnold's previous request for a trustee/receiver with limited powers and deny  
9 Muney's request for a temporary restraining order so that the *status quo* may be maintained and  
10 so Arnold may continue to protect the company from Muney's selfish attempts to raid its assets.

11 Dated this 22 day of May, 2020.

12 MARQUIS AURBACH COFFING

13  
14 By 

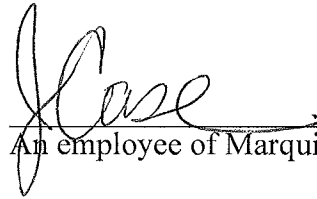
15 Phillip S. Aurbach, Esq.  
16 Nevada Bar No. 1501  
17 Alexander K. Calaway, Esq.  
18 Nevada Bar No. 15188  
19 Attorneys for Plaintiff  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PLAINTIFF'S OPPOSITION TO APPLICATION FOR TEMPORARY RESTRAINING ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 22<sup>nd</sup> day of May, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com



An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1

**DECLARATION OF DOMINIQUE ARNOULD IN SUPPORT OF HIS OPPOSITION  
TO THE TEMPORARY RESTRAINING ORDER**

Dominique Arnould, declares as follows:

I am over the age of 18 years and have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I am competent to testify as to the facts stated herein in a court of law and will so testify if called upon.

1. Chef Exec Suppliers, LLC (the "Company") has had little to no sales in Las Vegas since COVID-19 hit this year. This is due to the shutdown of all Nevada casinos and resort by the Nevada Governor. The Company's sales in California have also slowed due to the same. The shutdowns have resulted in a severe undercapitalization and reduction in sales for the Company. Despite this, Clement Muney ("Muney") has insisted on paying himself, his business, and his son before Company expenses.

2. All I have done is try to protect the Company from going out of business. As I describe below, every bullet point listed in Defendants' Motion for Temporary Restraining Order and Preliminary Injunction ("Motion") on pages 1-5, is either a severe mischaracterization of the truth or a blatant falsehood. As such, I will attempt to address each of these each falsehood in turn:

a. **I have not transferred or seized company funds as Defendants claim** (see Motion, pg.1:5). All of the available bank statements for the Company's Citi Bank account for January 2020 through to April 2020 are attached. See Citi Bank Statements, attached hereto as **Exhibit 1A** (May's statements are not available yet). All of the money in the Citibank account has stayed in that account or has been used to pay business expenses (other than Muney's debits to pay himself and his business). *Id.* Contrary to Defendants allegations, there have been no unauthorized wires, transfers, or seizures of company funds. *Id.*

b. **I did cancel the Citi Bank credit line to protect the Company, since Muney told the Company bookkeeper he intended to use the credit line to pay CMJJ Gourmet Inc. (Muney's other business), \$10,890 for the Las Vegas rent if there were not enough funds in the Citi bank account** (see Motion, pg. 2:8). Obviously, I did not want the Company's credit line to be used to bank-roll Muney' separate business, so I requested that Citi

1 Bank freeze the credit line for the time being, but the bank chose to cancel the credit line altogether  
2 as a precaution. *See* Fax to Citi Bank, attached hereto as **Exhibit 1B**.

3 c. **I never intentionally removed Mune y from the Paypal account** (*see*  
4 Motion p. 2:9). I did not have access to the Paypal account, and so I had to go through Paypal's  
5 password reset/recovery process to get access. Once I entered with a new password on 04/20/2020  
6 I was able to transfer to the Citibank account \$2,648.33 which had been sitting in that Paypal  
7 account for some time. The funds were needed to pay some bills since the Company only had  
8 \$3,135.85 in the Citi Bank account. *See Exhibit 1A* (date entries for 4/20/20-4/27/20). As shown  
9 in the bank statement, these bills included:

- 10 i. Paying Mune y's Credit Card balance - \$216.97;
- 11 ii. Paying Shipping through UPS - \$74.31;
- 12 iii. Paying the IRS - 117.48;
- 13 iv. Paying Payroll - \$119.00 to Sergio Rosales; and
- 14 v. And paying abated rent for the Van Nuys warehouse - \$2,250.00.

15 *See Exhibit 1A* (final page).

16 d. **I have never stopped paying Las Vegas sales staff** (*see* Motion, p. 2:12).  
17 The Las Vegas sales staff are paid on commissions and no basic salary. Since there were no sales  
18 in Las Vegas, there were no commissions to be paid to our sales representatives, Michelle Giffen  
19 and Jeremy Mune y (Mune y's son). *See* Sales Reports, attached hereto as **Exhibit 1C**. As the sales  
20 reports indicate, I was the only person who made any sales in April. *Id.* The Company has paid  
21 Mune y's son \$250.00 per month for website maintenance, but the website is not necessary  
22 considering the current undercapitalization of the Company and the fact that the website has not  
23 generated a single sale for over three months.

24 e. **I do not intend to steal any sales or commissions from the Las Vegas**  
25 **sales staff (nor have I)** (*see* Motion, p.2:12). Defendants broad allegation refers to a client who  
26 sent me an e-mail with an order, attached hereto as **Exhibit 1D**. I simply responded to his email  
27 by phone assisted in closing the deal. *Id.* I don't see how Defendants claim I stole Michelle  
28 Griffen's commissions for this sale since the Company clearly payed Michelle her commissions

1 on 5/18/2020. *See id.* In short, I have not intentions of taking commissions or sales away from our  
2 Company's sales representatives, and I am not sure why Defendants have alleged as much. As my  
3 attorney wrote to Defendants' counsel on May 18, 2020, "commissions to the independent sales  
4 representatives will be paid according to their normal schedule." *See* Motion, at Ex. 2.

5 f. **The new sales representative, Naomie Inouye, was hired in December**  
6 **2019 and was given the same initial compensation our Las Vegas sales representative hired**  
7 **by Muney received** (*see* Motion p.1:18). *See* Naomie Inouye Compensation, attached hereto as  
8 **Exhibit 1E**. In other words, I do not understand why Muney has an issue with Naomie's  
9 commission structure since it's lower than our other representatives, and it's the exact same  
10 structure he gave to our Las Vegas sales representative, Michelle, when she started. *Id.*

11 g. **I do not believe the Company has any responsibility to pay Muney's**  
12 **California personal taxes** (*see* Motion, p. 2:21). Muney claims that the Company is responsible  
13 for his individual California personal taxes, which are apparently due. *Id.* The Company's CPA  
14 inquired about paying Muney's personal taxes and then proposed that I receive an equal  
15 distribution for the amount paid. *See* Motion, at Ex. 10 (Letter from Bennington). It is true that this  
16 is something the Company did in the past, but I have I declined to do this this year since the  
17 Company is undercapitalized and we cannot afford to pay Muney's taxes nor provide me with a  
18 larger distribution as the CPA proposed. *See* Email to Brian Bennington, attached hereto as  
19 **Exhibit 1F**.

20 h. **On February 28, 2020, I used my keys to deliver a pallet of products**  
21 **that were needed for one of the Company's Las Vegas clients, Caesar's Palace** (*see* Motion,  
22 pgs. 2:24-3:2). It was only practical to pick up inventory for the Company's Los Angeles clients  
23 on the same trip, which is what I did. *See* Inventory List, attached hereto as **Exhibit 1G**. The  
24 inventory I moved are products I regularly sell to L.A. clients. *See* Product List, attached hereto as  
25 **Exhibit 1H**. Once again, what I did actually saved the Company money because we avoided the  
26 expense of driving an empty truck back to L.A. Also, Muney has access to all of the inventory lists  
27 and was aware of what I moved, so I don't know why he claims that I "secretly" moved inventory.  
28 *See* Motion, p. 2:24. There are literally no secrets.

1 i. I have only made payments that were due and which would have been  
2 past-due if I had failed to pay them on time (*see* Motion, p. 3:4). I do not see how Defendants  
3 can claim that I over-spend on paying the Company's bill, but argue that I am somehow neglecting  
4 the payment of business by opening a new bank account. *Id.* at p. 4: 6-7. The Company bookkeeper  
5 and I always take care of paying the bills on time and we give no attention to whether the money  
6 comes from Las Vegas or Los Angeles. Even the "Payment Records" provided by Defendants (*see*  
7 Motion, at Ex. 13) clearly shows that Company money was spent on business expenses. The large  
8 expenses (over \$4,000) were for:

- 9 i. 4/02 - Pacifica's – Van Nuys Warehouse Rent;  
10 ii. 3/26 - Check #2453 – Manager Distributions (an equal amount was  
11 transferred to Munev on 3/26/2020 (*see* Citi Bank Statements, attached hereto as **Exhibit 1A**);  
12 iii. 4/17 - Check #2668 – NOVACART inventory/bills (1857/1936);  
13 iv. 4/10 - Check #2664 – March 2020 Commissions; and  
14 v. 4/24 - Check #2683 – NOVACART inventory/bills (2344).

15 j. As explained by my attorneys in other pleadings, settlement was  
16 **conditional** upon acquiring financing for the purchase of the Company, making the  
17 settlement agreement unenforceable (*see* Motion, p. 3:10). *See* Opposition to Defendants'  
18 Motion to Enforce Settlement, on file herein. Defendants know this, but they continue to want to  
19 re-hash a botched settlement attempt that occurred back in February.

20 k. Once again, I have not withheld any funds from the Company, all of  
21 the checks were deposited into a new bank account, which then went to paying Company  
22 expenses (*see* Motion, p. 3:14). I did this to protect the Company, because Munev was intent on  
23 paying himself, his business, and his son. I have been completely transparent with all bank account  
24 information, and I provided statements to Munev every step of the way. *See* Motion, Ex. 3. For the  
25 Court, I have provided an update statement. *See* Wells Fargo Statement, attached hereto as **Exhibit**  
26 **II**. As the statements show, the checks were deposited in the new bank account at Wells Fargo in  
27 plain view for Munev on our QuickBooks accounting system which he checks several times daily.  
28



1 I have also provided the statement and my attorney has explained to Muney's counsel that we  
2 intend to be completely transparent (*see* Motion, Ex. 2 (May 18, 2020 Email)).

3 l. **I did not seize funds, I did not clear out the Citi bank account, and I**  
4 **have made every effort to pay all of Las Vegas bills and invoices on time** (*see* Motion, p. 3:18).  
5 My attorney clearly explained this to Muney's attorney: "My client fully intends to pay the  
6 business related expenses for shipments, utilities, etc. as they become due. Please ensure your  
7 client provides documentation and notice of [expenses] to avoid any late payments." *See* Motion,  
8 Ex. 2, at ¶3 (May 18, 2020 Email). If there are any unpaid invoices it is because they have not been  
9 entered into our QuickBooks system and/or Muney failed to provide me any notice of them.

10 m. **Muney demanded the Company pay him, his business, and his son. To**  
11 **protect the company, I directed my counsel to explain via letter that the Company cannot**  
12 **afford to do this** (*see* Motion, p. 3:22); *see also* Motion, at Ex. 5). Muney made similar demands  
13 to our bookkeeper, and I instructed her to not to pay either the managers, not to pay Muney's  
14 business, and not to pay Muney's son during this period of undercapitalization, just as was  
15 explained to Muney since April 22, 2020. *See* Motion, at Ex. 5, *see also* Ex. 2 (May 18, 2020  
16 Email). Muney's threatened injunction on May 18, 2020 made as little sense then as it does now.  
17 Muney should have no grounds to stop me from protecting the Company's assets.

18 n. **I have requested documentation for the \$9,000 deposit and large**  
19 **shipment, but Muney will not provide me a purchase order, due dDdate for payment, bill of**  
20 **lading, or any of the typical documentation we need to have for these orders** (*see* Motion, p.  
21 4:6-19). The invoice I was provided only shows what was ordered, not when it would be  
22 completed or due. *See* May 13, 2020 Email Chain and Invoice, attached hereto as **Exhibit 1J**.  
23 When I reached out to the purveyor directly, he did not respond to my requests for information.  
24 *See* Email to China Purveyor, attached hereto as **Exhibit 1K**. I asked him directly "when you will  
25 need the balance of your invoice paid?" and I have still not received any response. *Id.* Muney also  
26 changed our usual freight broker for these particular types of shipments, making it impossible for  
27 me to get any information on the shipment.  
28

1 changed our usual freight broker for these particular types of shipments, making it impossible for  
2 me to get any information on the shipment.

3 o. I have made every effort to pay for Muney's surprise shipment (*see*  
4 Motion, p. 4:6-19). Moreover, Muney's massive unilateral order is for inventory the Company  
5 does not need at this time, and payment should be delayed. *See* Inventory Audit, attached hereto  
6 as **Exhibit 1L**. Regardless, if payment for the shipment from China is well overdue, then why is  
7 it that supplier not responding to my requests for documentation? *See* Email to China Purveyor,  
8 attached hereto as **Exhibit 1K**.

9 3. In sum, all I have done for the past three months is try to save the Company from  
10 going under. We have been severely undercapitalized. Muney has paid himself \$35,329.00 in  
11 excess rent since October 2019. I requested Muney stop paying himself and his son for months  
12 now, but he refused. I was left with not choice but to take measures to protect the Company's  
13 assets in these uncertain times.

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

15 Executed on this 22 day of May, 2020.

16  
17  
18   
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
Dominique Arnould

# Exhibit 1A

Citibank CBO Services 414 / 00414  
P.O. Box 6201  
Sioux Falls, SD 57117-6201

017  
CITIBANK, N. A.  
Account

CHEF EXEC SUPPLIERS, LLC  
PO BOX 1800  
STUDIO CITY CA 91614

Statement Period  
Jan 1 - Jan 31, 2020  
Relationship Manager  
US SERVICE CENTER  
1-877-528-0990

Page 1 of 4

CitiBusiness® ACCOUNT AS OF JANUARY 31, 2020

Relationship Summary:

Checking	\$29,797.22
Savings	----
Checking Plus	----

SERVICE CHARGE SUMMARY FROM DECEMBER 1, 2019 THRU DECEMBER 31, 2019

Type of Charge	No./Units	Price/Unit	Amount
<del>CITIBUSINESS CHECKING</del>			\$27,198.04
Average Daily Collected Balance			
DEPOSIT SERVICES	24,463		3.63
DEPOSIT ASSESSMENT			
**WAIVE	1	22.0000	22.00
MONTHLY MAINTENANCE FEE			
**WAIVE	21	.2100	4.41
CHECKS PAID			
**WAIVE	5	.9000	4.50
DEPOSIT TICKETS			
**WAIVE	34	.2000	6.80
ITEMS DEPOSITED			
**WAIVE	5	.3500	1.75
CURRENCY DEPOSIT (PER \$100)			
**WAIVE			
TRANSFER SERVICES	2	40.0000	80.00
OUTGOING FOREIGN WIRE			
**WAIVE			
AUTOMATED CLEARING HOUSE (ACH)	21	.1700	3.57
ACH CREDIT RECEIVED			
**WAIVE	20	.1700	3.40
ACH DEBIT RECEIVED			
**WAIVE			
Total Charges for Services			\$0.00
Average collected balances			\$27,198.04
Balances eligible for Earnings Credit			\$27,198.04
Earnings Credit allowance at 0.30000%			\$0.00
Charges Subject to Earnings Credit			\$0.00
Net Service Charge			\$0.00

## CHECKING ACTIVITY

## CitiBusiness Checking

Beginning Balance:	\$24,463.56
Ending Balance:	\$29,797.22

Date	Description	Debits	Credits	Balance
01/02	TRANSFER DEBIT TRANSFER TO CHECKING VIA CBUSOL Jan 02 REFERENCE # 095468	250.00		24,213.56
01/02	BILL PAYMENT UPS 010126 BA	434.66		23,778.90
01/02	BILL PAYMENT WIN DISTRIBUTION 010128 BA	700.00		23,078.90
01/02	BILL PAYMENT MC2 TRANSPORTATION 010127 BA	1,695.00		21,383.90
01/02	TRANSFER DEBIT TRANSFER TO CHECKING VIA CBUSOL Jan 02 REFERENCE # 095469	10,890.00		10,493.90
01/06	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 498660 Jan 06		472.02	10,965.92
01/06	CHECK NO: 2043	70.00		10,895.92
01/06	CHECK NO: 2306	558.90		10,337.02
01/07	DEPOSIT FOR REFERENCE # 61230		31,094.37	41,431.39
01/07	DEBIT CARD PURCH Card Ending in 8615 7RM2C000 8615 Jan 07 MSFT *E02009UYB5 MSBILL.INFO WA 20004	12.00		41,419.39
01/07	ACH DEBIT Paymode-X MNTHLY FEE F106517788 Jan 07	61.20		41,358.19
01/07	ACH DEBIT PAYROLL PAYROLL 8972666 Jan 07	1,088.12		40,270.07
01/08	ELECTRONIC CREDIT AAA FOOD SOURCE DEPOSIT DP70348731 Jan 08 \$434.34 8020 AND DEC		434.34	40,704.41
01/08	DEBIT CARD PURCH Card Ending in 8615 XT0YD*S5 8615 Jan 08 AMZN Mktp US*E69PU8GP Amzn.com/bill WA 20007	41.37		40,663.04
01/08	TRANSFER DEBIT TRANSFER TO READY CREDIT VIA CBUSOL Jan 08 REFERENCE # 090257	9,249.93		31,413.11
01/08	CHECK NO: 2622	4,150.20		27,262.91
01/09	DEBIT CARD PURCH Card Ending in 8615 96X63KS5 8615 Jan 09 Amazon.com*2D5D59SQ3 Amzn.com/bill WA 20008	2.71		27,260.20
01/09	BILL PAYMENT MICHELLE GIFFEN 010125 BA	1,200.00		26,060.20
01/09	CHECK NO: 2621	670.76		25,389.44
01/10	ELECTRONIC CREDIT MGM PMD PAYMENT 600062921 Jan 10		1,161.00	26,550.44
01/10	CHECK NO: 2618	899.50		25,650.94
01/13	ELECTRONIC CREDIT NEVADA PROPERTY ACH011020 DEFAULT RECP ID Jan 13		974.25	26,625.19
01/13	CHECK NO: 2619	1,610.00		25,015.19
01/13	CHECK NO: 2620	7,937.48		17,077.71
01/14	ELECTRONIC CREDIT MGM PMD PAYMENT 600063133 Jan 14		599.04	17,676.75
01/14	DEBIT CARD PURCH Card Ending in 8615 *SWC4410 8615 Jan 14 UPELA PARIS 8 FRA20013	313.43		17,363.32
01/14	BILL PAYMENT MICHELLE GIFFEN 010130 BA	2,729.34		14,633.98
01/14	ACH DEBIT Yardi Service Ch WEB PMTS 5W8W95 Jan 14	0.95		14,633.03
01/14	ACH DEBIT Payroll Tax 8972666 Jan 14	12.00		14,621.03
01/14	ACH DEBIT PACIFICACO-SELLC WEB PMTS 8P9W95 Jan 14	4,140.00		10,481.03
01/14	CHECK NO: 2307	7,542.95		2,938.08
01/14	SERVICE CHARGE Foreign Transaction Fee	6.27		2,931.81
01/15	ELECTRONIC CREDIT AAA FOOD SOURCE DEPOSIT DP70791291 Jan 15 \$506.96 INVOICE 8111 & DELIVERIES		506.96	3,438.77
01/15	DEPOSIT		27,233.75	30,672.52
01/15	ACH DEBIT IRS USATAXPYMT 227041566238600 Jan 15	191.68		30,480.84
01/16	DEPOSIT		1,276.60	31,757.44
01/16	BILL PAYMENT UPS 010131 BA	268.31		31,489.13

EXHIBIT 1A

CHEF EXEC SUPPLIERS, LLC

Account [REDACTED] Page 3 of 4  
Statement Period: Jan 1 - Jan 31, 2020

001/R1/20F013

CHECKING ACTIVITY				Continued
Date	Description	Debits	Credits	Balance
		1,000.00		30,489.13
01/16	BILL PAYMENT NAOMI INOUE 010132 BA		548.00	31,037.13
01/17	ELECTRONIC CREDIT MGM PMD PAYMENT 100015707 Jan 17	682.40		30,354.73
01/17	ACH DEBIT FLEETCOR FUNDING BT0116 000000097616317 Jan 17		900.00	31,254.73
01/21	ELECTRONIC CREDIT MGM PMD PAYMENT 600063605 Jan 21		5,840.40	37,095.13
01/21	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 507833 Jan 21	331.00		36,764.13
01/21	TRANSFER DEBIT TRANSFER TO CHECKING Jan 21 VIA CBUSOL REFERENCE # 001425	42.00		36,722.13
01/21	ACH DEBIT IRS USATAXPYMT 227042166112698 Jan 21	47.05		36,675.08
01/21	POS DEBIT Card Ending in 8615 STAPLES 0180 STUDIO CITY CAUS0515		973.40	37,648.48
01/22	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 509941 Jan 22	257.96		37,390.52
01/22	DEBIT CARD PURCH Card Ending in 8615 7ZVSFMS5 8615 Jan 22 SOUTHWES5262162873162 800-435-9792 TX 20021	9,000.00		28,390.52
01/22	OTHER WITHDRAWAL/ADJ USD INT. WIRE TRANSFER REF # G0800220074901	524.41		27,866.11
01/22	TRANSFER DEBIT TRANSFER TO CHECKING Jan 22 VIA CBUSOL REFERENCE # 063075	597.44		27,268.67
01/22	TRANSFER DEBIT TRANSFER TO CHECKING Jan 22 VIA CBUSOL REFERENCE # 063079	90.00		27,178.67
01/22	ACH DEBIT LADWP WEB PAY 1875390000 Jan 22	825.21		26,353.46
01/22	ACH DEBIT CITI AUTOPAY PAYMENT 080018198272418 Jan 22	1,313.25		25,040.21
01/22	ACH DEBIT THE HARTFORD NWTBCLSCIC 15320422 Jan 22	1,380.98		23,659.23
01/22	ACH DEBIT PAYROLL PAYROLL 8972666 Jan 22	155.00		23,504.23
01/22	CHECK NO: 2045	160.40		23,343.83
01/22	CHECK NO: 2044	99.99		23,243.84
01/23	DEBIT CARD PURCH Card Ending in 8615 KFC**YS5 8615 Jan 23 NORTON*AP1302126214 8772945265 CA 20022	89.39		23,154.45
01/23	TRANSFER DEBIT TRANSFER TO CHECKING Jan 23 VIA CBUSOL REFERENCE # 016642	113.00		23,041.45
01/24	ACH DEBIT Payroll Service Fee 8972666 Jan 24		974.25	24,015.70
01/27	ELECTRONIC CREDIT NEVADA PROPERTY ACH012420 DEFAULT RECP ID Jan 27	21.89		23,993.81
01/27	POS DEBIT Card Ending in 8615 STAPLES 0180 STUDIO CITY CAUS0515		861.60	24,855.41
01/28	ELECTRONIC CREDIT MGM PMD PAYMENT 600063983 Jan 28	15.60		24,839.81
01/28	ACH DEBIT Payroll Tax 8972666 Jan 28	362.70		24,477.11
01/28	CHECK NO: 2632	465.43		24,011.68
01/28	CHECK NO: 2633	644.00		23,367.68
01/28	CHECK NO: 2634	282.76		23,084.92
01/29	ACH DEBIT IRS USATAXPYMT 227042966149254 Jan 29		388.64	23,473.56
01/30	ELECTRONIC CREDIT AAA FOOD SOURCE DEPOSIT DP71602609 Jan 30 \$388.64 INVOICE 7490 & DELIVERIES		7,252.15	30,725.71
01/30	DEPOSIT		9,853.57	40,579.28
01/30	DEPOSIT		12,346.54	52,925.82
01/30	DEBIT CARD PURCH Card Ending in 8615 C850NNGW 8615 Jan 30 NORTHSTAR MOVING & ST CHATSWORTH CA 20029	1,152.00		51,773.82
01/31	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 514124 Jan 31	10,000.00		42,747.22
01/31	TRANSFER DEBIT TRANSFER TO CHECKING Jan 31 VIA CBUSOL REFERENCE # 037619	400.00		42,347.22
01/31	CHECK NO: 2046	1,200.00		41,147.22
01/31	CHECK NO: 2048			

CHEF EXEC SUPPLIERS, LLC

Account ~~XXXXXXXXXX~~  
Statement Period: Jan 1 - Jan 31, 2020

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001/R1/20F013

## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
01/31	CHECK NO: 2635	1,350.00		39,797.22
01/31	CHECK NO: 2636	10,000.00		29,797.22
	Total Debits/Credits	99,330.62	104,664.28	

Checks Paid											
Check	Date	Amount	Check	Date	Amount	Check	Date	Amount	Check	Date	Amount
2043	01/06	70.00	2044	01/22	160.40	2045	01/22	155.00	2046	01/31	400.00
2048*	01/31	1,200.00	2306*	01/06	558.90	2307	01/14	7,542.95	2618*	01/10	899.50
2619	01/13	1,610.00	2620	01/13	7,937.48	2621	01/09	670.76	2622	01/08	4,150.20
2632*	01/28	362.70	2633	01/28	465.43	2634	01/28	644.00	2635	01/31	1,350.00
2636	01/31	10,000.00									

\* indicates gap in check number sequence

Number Checks Paid: 17

Totaling: \$38,177.32

## CUSTOMER SERVICE INFORMATION

IF YOU HAVE QUESTIONS ON:

Checking

YOU CAN CALL:

866-513-7802\*  
(For Speech and Hearing  
Impaired Customers Only  
TDD: 800-788-0002)

YOU CAN WRITE:

Citibank, N.A.  
P.O. Box 790184  
St Louis, MO 63179

For change in address, call your account officer or visit your branch.

\* To ensure quality service, calls are randomly monitored.

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EXHIBIT 1A

001/R1/20F013

Citibank CBO Services 414 / 00414  
 P.O. Box 6201  
 Sioux Falls, SD 57117-6201

021  
 CITIBANK, N. A.  
 Account

CHEF EXEC SUPPLIERS, LLC  
 PO BOX 1800  
 STUDIO CITY CA 91614

Statement Period  
 Feb 1 - Feb 29, 2020  
 Relationship Manager  
 US SERVICE CENTER  
 1-877-528-0990

Page 1 of 4

# CitiBusiness® ACCOUNT AS OF FEBRUARY 29, 2020

## Relationship Summary:

Checking	\$45,212.32
Savings	----
Checking Plus	----

## SERVICE CHARGE SUMMARY FROM JANUARY 1, 2020 THRU JANUARY 31, 2020

Type of Charge	No./Units	Price/Unit	Amount
CITIBUSINESS CHECKING# [REDACTED]			\$21,909.96
Average Daily Collected Balance			
DEPOSIT SERVICES	1	24.0000	24.00
MONTHLY MAINTENANCE FEE			
**WAIVE	24	.2100	5.04
CHECKS PAID			
**WAIVE	6	1.1000	6.60
DEPOSIT TICKETS			
**WAIVE	50	.2000	10.00
ITEMS DEPOSITED			
**WAIVE			
TRANSFER SERVICES	1	40.0000	40.00
OUTGOING FOREIGN WIRE			
**WAIVE			
AUTOMATED CLEARING HOUSE (ACH)	14	.1700	2.38
ACH CREDIT RECEIVED			
**WAIVE	15	.1700	2.55
ACH DEBIT RECEIVED			
**WAIVE			
Total Charges for Services			\$0.00
Average collected balances			\$21,909.96
Balances eligible for Earnings Credit			\$0.00
Earnings Credit allowance at 0.30000%			\$0.00
Charges Subject to Earnings Credit			\$0.00
Net Service Charge			

## CHECKING ACTIVITY

CitiBusiness Checking

Beginning Balance: \$29,797.22  
 Ending Balance: \$45,212.32



## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
			14,686.77	44,483.99
02/03	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 515010 Feb 03			
		250.00		44,233.99
02/03	TRANSFER DEBIT TRANSFER TO CHECKING Feb 03 VIA CBUSOL REFERENCE # 054507			
		10,890.00		33,343.99
02/03	TRANSFER DEBIT TRANSFER TO CHECKING Feb 03 VIA CBUSOL REFERENCE # 054508			
		11,549.00		21,794.99
02/03	CHECK NO: 2631	70.00		21,724.99
02/03	POS DEBIT Card Ending in 8615 MOBILE SHARK VAN NUYS CAUS0514		1,400.00	23,124.99
02/04	TRANSFER CREDIT TRANSFER FROM CHECKING Feb 04 000206839250 VIA CBUSOL Re # 045374		4,995.65	28,120.64
02/04	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 515722 Feb 04			
		12.00		28,108.64
02/04	DEBIT CARD PURCH Card Ending in 8615 N1YNH300 8615 Feb 04 MSFT * E0200A2MVZ MSBILL.INFO WA 20034			
		0.95		28,107.69
02/04	ACH DEBIT Yardi Service Ch WEB PMTS 73CJD5 Feb 04			
		1,202.01		26,905.68
02/04	ACH DEBIT PAYROLL PAYROLL 8972666 Feb 04			
		4,140.00		22,765.68
02/04	ACH DEBIT PACIFICACO-SELLC WEB PMTS T00KD5 Feb 04			
			1,193.08	23,958.76
02/05	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 517693 Feb 05			
			1,948.50	25,907.26
02/05	ELECTRONIC CREDIT NEVADA PROPERTY ACH020420 DEFAULT RECP ID Feb 05			
			3,043.34	28,950.60
02/05	DEPOSIT		3,773.90	32,724.50
02/05	ELECTRONIC CREDIT PAYPAL TRANSFER 1007928895228 Feb 05			
			10,000.00	42,724.50
02/05	TRANSFER CREDIT TRANSFER FROM READY CREDIT Feb 05 007001099171 VIA CBUSOL Re # 075755			
		29,184.00		13,540.50
02/05	OTHER WITHDRAWAL/ADJ USD INT. WIRE TRANSFER REF.# 0377702			
		2,670.00		10,870.50
02/05	ACH DEBIT EMPLOYERS EPIC E 8886826671 2KO99RWJEIAWNF2 Feb 05			
		603.25		10,267.25
02/05	CHECK NO: 2623	791.55		9,475.70
02/05	CHECK NO: 2625		4,065.60	13,541.30
02/06	ELECTRONIC CREDIT MGM PMD PAYMENT 600064560 Feb 06			
		61.05		13,480.25
02/06	ACH DEBIT Paymode-X MNTHLY FEE F107836421 Feb 06			
		6,588.65		6,891.60
02/07	ACH DEBIT TEMPUS INC DD020620 69004 Feb 07 TMP-USA-DEAL-0370254			
		1,200.00		5,691.60
02/10	BILL PAYMENT MICHELLE GIFFEN 010129 BA			
		183.44		5,508.16
02/10	CHECK NO: 2628	200.00		5,308.16
02/10	CHECK NO: 2047	400.00		4,908.16
02/10	CHECK NO: 2630		2,817.56	7,725.72
02/11	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 519911 Feb 11			
		13.40		7,712.32
02/11	ACH DEBIT Payroll Tax 8972666 Feb 11			
		142.04		7,570.28
02/11	CHECK NO: 2626	111.80		7,458.48
02/12	DEBIT CARD PURCH Card Ending in 8615 RM22H6X2 8615 Feb 12 TST* JERRY S FAMOUS D STUDIO CITY CA 20042			
		227.10		7,231.38
02/12	ACH DEBIT IRS USATAXPYMT 227044366153362 Feb 12			
			645.90	7,877.28
02/13	ELECTRONIC CREDIT MGM PMD PAYMENT 600065018 Feb 13			
			973.40	8,850.68
02/13	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 522922 Feb 13			
			8,143.10	16,993.78
02/13	DEPOSIT		19,104.31	36,098.09
02/13	DEPOSIT			36,053.09
02/13	DEBIT CARD PURCH Card Ending in 8615 443MSGHJ 8615 Feb 13 TUNGSTEN-NETWORK.COM 8777520900 GA 20043			
		125.00		35,928.09
02/13	DEBIT CARD PURCH Card Ending in 8615 L603W1V5 8615 Feb 13 SQ *ZIB CONSULTING GR Hollywood CA 20043			
			3,337.93	39,266.02
02/14	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 523712 Feb 14			

CHEF EXEC SUPPLIERS, LLC

Account: [REDACTED] Page 3 of 4  
 Statement Period: Feb 1 - Feb 29, 2020

001/R1/20F013

## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
		370.00		38,896.02
02/14	CHECK NO: 2627		139.77	39,035.79
02/18	ELECTRONIC CREDIT Square Inc 200218P2 L205513727891 Feb 18		1,308.25	40,344.04
02/18	DEPOSIT	457.29		39,886.75
02/18	ACH DEBIT FLEETCOR FUNDING BT0214 000000099987947 Feb 18	85.00		39,801.75
02/18	CHECK NO: 2049	150.00		39,651.75
02/18	CHECK NO: 2629	4,215.34		35,436.41
02/18	CHECK NO: 2638	1,119.06		34,317.35
02/18	POS DEBIT Card Ending in 8615 APPLE STORE #R148 140 SHERMAN OAKS CAUS0515		664.28	34,981.63
02/19	ELECTRONIC CREDIT NEVADA PROPERTY ACH021820 DEFAULT RECP ID Feb 19		2,356.63	37,338.26
02/19	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 527714 Feb 19		4,588.73	41,926.99
02/19	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 527361 Feb 19	85.00		41,841.99
02/19	ACH DEBIT LADWP WEB PAY 1875390000 Feb 19	1,221.53		40,620.46
02/19	ACH DEBIT PAYROLL PAYROLL 8972666 Feb 19	2,122.47		38,497.99
02/19	CHECK NO: 2640		1,472.74	39,970.73
02/20	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 528092 Feb 20	375.00		39,595.73
02/20	DEBIT CARD PURCH Card Ending in 8615 VHNTKRS5 8615 Feb 20 SQ *ZIB CONSULTING GR Hollywood CA 20050	0.95		39,594.78
02/20	ACH DEBIT Yardi Service Ch WEB PMTS 7B85G5 Feb 20	7.00		39,587.78
02/20	ACH DEBIT PACIFICACO-SELLC WEB PMTS TN95G5 Feb 20	1,530.13		38,057.65
02/20	ACH DEBIT TEMPUS INC DD021920 71023 Feb 20 TMP-USA-DEAL-0374763	4,552.00		33,505.65
02/20	ACH DEBIT THE HARTFORD NTCLBIIVRC 15320422 Feb 20	2.75		33,502.90
02/20	POS DEBIT Card Ending in 8615 THE UPS STORE #0321 40 LAS VEGAS NVUS0517	51.55		33,451.35
02/20	POS DEBIT Card Ending in 8615 DENNY'S #7242 LAS VEGAS NVUS0515		11,611.26	45,062.61
02/21	DEPOSIT	250.00		44,812.61
02/21	DEBIT CARD PURCH Card Ending in 8615 F*QFRXS5 8615 Feb 21 Intuit *QuickBooks 833-830-9255 CA 20051	253.77		44,558.84
02/21	CHECK NO: 2639	299.95		44,258.89
02/21	DEBIT CARD PURCH Card Ending in 8615 BVQBRXS5 8615 Feb 21 Intuit *QuickBooks 833-830-9255 CA 20051	1,426.45		42,832.44
02/21	CHECK NO: 2637	300.00		42,532.44
02/21	CHECK NO: 2050	307.66		42,224.78
02/21	POS DEBIT Card Ending in 8615 STAPLES 0180 STUDIO CITY CAUS0515		262.60	42,487.38
02/24	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 528718 Feb 24	250.00		42,237.38
02/24	DEBIT CARD PURCH Card Ending in 8615 GBDS59S5 8615 Feb 24 Intuit *QuickBooks 833-830-9255 CA 20052	191.16		42,046.22
02/24	CHECK NO: 2624	1,000.00		41,046.22
02/24	CHECK NO: 2641		546.39	41,592.61
02/25	ELECTRONIC CREDIT MGM PMD PAYMENT 100016240 Feb 25	10,038.25		31,554.36
02/25	TRANSFER DEBIT TRANSFER TO READY CREDIT Feb 25 VIA CBUSOL REFERENCE # 028826	13.64		31,540.72
02/25	ACH DEBIT Payroll Tax 8972666 Feb 25	113.00		31,427.72
02/25	ACH DEBIT Payroll Service Fee 8972666 Feb 25	592.32		30,835.40
02/25	ACH DEBIT CITI AUTOPAY PAYMENT 080047579051098 Feb 25	119.54		30,715.86
02/25	CHECK NO: 2645	1,153.17		29,562.69
02/25	CHECK NO: 2642		114.49	29,677.18
02/26	ELECTRONIC CREDIT Square Inc 200226P2 L205515856803 Feb 26		540.00	30,217.18
02/26	ELECTRONIC CREDIT AAA FOOD SOURCE DEPOSIT DP73233961 Feb 26 \$540 RENT & DELIVERIES			

CHEF EXEC SUPPLIERS, LLC

Account [REDACTED] Page 4 of 4  
Statement Period: Feb 1 - Feb 29, 2020

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## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
02/26	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 530434 Feb 26		1,507.40	31,724.58
02/26	DEPOSIT		20,984.12	52,708.70
02/26	TRANSFER DEBIT TRANSFER TO CHECKING Feb 26 VIA CBUSOL REFERENCE # 048488	330.00		52,378.70
02/26	ACH DEBIT IRS USATAXPYMT 227045766136282 Feb 26	233.18		52,145.52
02/26	ACH DEBIT NEVADA TAX 7756842099 2KS454XDDOYR6T4 Feb 26	848.97		51,296.55
02/26	CHECK NO: 2643	50.00		51,246.55
02/27	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 532025 Feb 27		4,857.48	56,104.03
02/27	POS DEBIT Card Ending in 8615 THE HOME DEPOT #6661 VAN NUYS CAUS0515	23.71		56,080.32
02/28	TRANSFER DEBIT TRANSFER TO CHECKING Feb 28 VIA CBUSOL REFERENCE # 018262	10,000.00		46,080.32
02/28	CHECK NO: 2644	868.00		45,212.32
	Total Debits/Credits	115,668.08	131,083.18	

## Checks Paid

Check	Date	Amount	Check	Date	Amount	Check	Date	Amount	Check	Date	Amount
2047	02/10	200.00	2049*	02/18	85.00	2050	02/21	300.00	2623*	02/05	603.25
2624	02/24	191.16	2625	02/05	791.55	2626	02/11	142.04	2627	02/14	370.00
2628	02/10	183.44	2629	02/18	150.00	2630	02/10	400.00	2631	02/03	11,549.00
2637*	02/21	1,426.45	2638	02/18	4,215.34	2639	02/21	253.77	2640	02/19	2,122.47
2641	02/24	1,000.00	2642	02/25	1,153.17	2643	02/26	50.00	2644	02/28	868.00
2645	02/25	119.54									

\* indicates gap in check number sequence

Number Checks Paid: 21

Totaling: \$26,174.18

## CUSTOMER SERVICE INFORMATION

IF YOU HAVE QUESTIONS ON:

Checking

YOU CAN CALL:

866-513-7802\*  
(For Speech and Hearing  
Impaired Customers Only  
TDD: 800-788-0002)

YOU CAN WRITE:

Citibank, N.A.  
P.O. Box 790184  
St Louis, MO 63179

For change in address, call your account officer or visit your branch.

\* To ensure quality service, calls are randomly monitored.

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Citibank CBO Services 414 / 00414  
 P.O. Box 6201  
 Sioux Falls, SD 57117-6201

014  
 CITIBANK, N. A.  
 Account

CHEF EXEC SUPPLIERS, LLC  
 PO BOX 1800  
 STUDIO CITY CA 91614

Statement Period  
 Mar 1 - Mar 31, 2020  
 Relationship Manager  
 US SERVICE CENTER  
 1-877-528-0990

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### CitiBusiness® ACCOUNT AS OF MARCH 31, 2020

#### Relationship Summary:

Checking	\$43,581.86
Savings	-----
Checking Plus	-----

### SUGGESTIONS AND RECOMMENDATIONS

Citi Private Bank or its personnel shall consider the Trusted Contact person that you designate as someone we can contact in connection with all of your currently open CPB accounts (which are listed on the attached pages(s)) and accounts you may open with us in the future in the event of potential exploitation.  
 To review and/or update the current Trusted Contact information on file, please contact your Private Banking team.

### SERVICE CHARGE SUMMARY FROM FEBRUARY 1, 2020 THRU FEBRUARY 29, 2020

Type of Charge	No./Units	Price/Unit	Amount
CITIBUSINESS CHECKING			\$25,869.35
Average Daily Collected Balance			
DEPOSIT SERVICES	1	24.0000	24.00
MONTHLY MAINTENANCE FEE			
**WAIVE	22	.2100	4.62
CHECKS PAID			
**WAIVE	6	1.1000	6.60
DEPOSIT TICKETS			
**WAIVE	36	.2000	7.20
ITEMS DEPOSITED			
**WAIVE			
TRANSFER SERVICES	1	40.0000	40.00
OUTGOING FOREIGN WIRE			
**WAIVE			
AUTOMATED CLEARING HOUSE (ACH)	21	.1700	3.57
ACH CREDIT RECEIVED			
**WAIVE	20	.1700	3.40
ACH DEBIT RECEIVED			
**WAIVE			\$0.00
Total Charges for Services			\$25,869.35
Average collected balances			\$25,869.35
Balances eligible for Earnings Credit			\$0.00
Earnings Credit allowance at 0.30000%			\$0.00
Charges Subject to Earnings Credit			\$0.00
Net Service Charge			

CHEF EXEC SUPPLIERS, LLC

Account [REDACTED] Page 2 of 4  
Statement Period: Mar 1 - Mar 31, 2020

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## CHECKING ACTIVITY

## CitiBusiness Checking

		Beginning Balance:	\$45,212.32
		Ending Balance:	\$43,581.86
Date	Description	Debits	Credits Balance
			975.38 46,187.70
03/02	ELECTRONIC CREDIT NEVADA PROPERTY ACH022820 DEFAULT RECP ID Mar 02		
		250.00	45,937.70
03/02	TRANSFER DEBIT TRANSFER TO CHECKING Mar 02 VIA CBUSOL REFERENCE # 056638	10,890.00	35,047.70
03/02	TRANSFER DEBIT TRANSFER TO CHECKING Mar 02 VIA CBUSOL REFERENCE # 056639		
		1,596.00	33,451.70
03/02	CHECK NO: 2646	10,000.00	23,451.70
03/02	CHECK NO: 2647		25,816.05
03/03	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 533792 Mar 03		
		1,116.00	24,700.05
03/03	DEBIT CARD PURCH Card Ending in 8615 7850NNGW 8615 Mar 03 NORTHSTAR MOVING & ST CHATSWORTH CA 20060	1,572.40	23,127.65
03/03	ACH DEBIT PAYROLL PAYROLL 8972666 Mar 03		
			973.40 24,101.05
03/04	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 535515 Mar 04		
			3,537.83 27,638.88
03/04	DEPOSIT	12.00	27,626.88
03/04	DEBIT CARD PURCH Card Ending in 8615 MPM23000 8615 Mar 04 MSFT *E0200ABBJO MSBILL.INFO WA 20063	0.95	27,625.93
03/04	ACH DEBIT Yardi Service Ch WEB PMTS DDQJ5 Mar 04	4,575.84	23,050.09
03/04	ACH DEBIT PACIFICACO-SELLC WEB PMTS KSRQJ5 Mar 04	1,305.45	21,744.64
03/04	CHECK NO: 2654		370.60 22,115.24
03/05	ELECTRONIC CREDIT MGM PMD PAYMENT 600066309 Mar 05		
			548.00 22,663.24
03/05	ELECTRONIC CREDIT MGM PMD PAYMENT 100016402 Mar 05		
			1,028.32 23,691.56
03/05	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 536014 Mar 05		
		78.87	23,612.69
03/05	ACH DEBIT Paymode-X MNTHLY FEE F108998235 Mar 05	197.00	23,415.69
03/05	CHECK NO: 2051		723.47 24,139.16
03/06	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 536405 Mar 06		
		9,394.88	14,744.28
03/06	OTHER WITHDRAWAL/ADJ DOMESTIC WIRE TRANSFER REF.# 20200306B1Q8021C03887	399.77	14,344.51
03/06	CHECK NO: 2648		321.24 14,665.75
03/09	ELECTRONIC CREDIT Square Inc 200309P2 L205519058794 Mar 09	1,200.00	13,465.75
03/09	BILL PAYMENT MICHELLE GIFFEN 010133 BA		
		150.67	13,315.08
03/09	CHECK NO: 2653	403.49	12,911.59
03/09	CHECK NO: 2652	511.07	12,400.52
03/09	CHECK NO: 2649		118.54 12,519.06
03/10	ELECTRONIC CREDIT Square Inc 200310P2 L205519328904 Mar 10		
			1,881.58 14,400.64
03/10	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 537701 Mar 10		
			3,607.47 18,008.11
03/10	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 537383 Mar 10		
		21.82	17,986.29
03/10	ACH DEBIT Payroll Tax 8972666 Mar 10	151.81	17,834.48
03/10	CHECK NO: 2650		2,286.67 20,121.15
03/11	DEPOSIT		26,525.30 46,646.45
03/11	DEPOSIT	134.02	46,512.43
03/11	BILL PAYMENT UPS 010135 BA	343.48	46,168.95
03/11	ACH DEBIT IRS USATAXPYMT 227047166108716 Mar 11		
		5,951.06	40,217.89
03/13	CHECK NO: 2656		900.00 41,117.89
03/16	ELECTRONIC CREDIT MGM PMD PAYMENT 600066990 Mar 16		
		4,634.00	36,483.89
03/16	CHECK NO: 2651	331.19	36,152.70
03/16	POS DEBIT Card Ending in 8615 CREATIVE AUTOMOTIVE EN TARZANA CAUS0517		

EXHIBIT 1A

CHEF EXEC SUPPLIERS, LLC

Account XXXXXXXXXX Page 3 of 4  
Statement Period: Mar 1 - Mar 31, 2020

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CHECKING ACTIVITY		Debits	Credits	Balance
			267.00	36,419.70
03/17	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 541831 Mar 17		2,630.40	39,050.10
03/17	ELECTRONIC CREDIT MGM PMD PAYMENT 600067097 Mar 17	668.07		38,382.03
03/17	ACH DEBIT FLEETCOR FUNDING BT0316 000000102773817 Mar 17	1,319.15		37,062.88
03/17	ACH DEBIT PAYROLL PAYROLL 8972666 Mar 17	1,643.97		35,418.91
03/17	CHECK NO: 2658 POS DEBIT Card Ending in 8615	404.20		35,014.71
03/17	CREATIVE AUTOMOTIVE EN TARZANA CAUS0517		975.38	35,990.09
03/18	ELECTRONIC CREDIT NEVADA PROPERTY ACH031720 DEFAULT RECP ID Mar 18		2,105.44	38,095.53
03/18	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 543838 Mar 18		155.65	38,251.18
03/19	ELECTRONIC CREDIT Square Inc 200319P2 L205521537413 Mar 19	9.38		38,241.80
03/19	POS DEBIT Card Ending in 8615 RALPHS # 14049 VENTUR SHERMAN OAKS CAUS0515		568.50	38,810.30
03/20	ELECTRONIC CREDIT MGM PMD PAYMENT 600067362 Mar 20		6,208.94	45,019.24
03/23	DEPOSIT		20,489.80	65,509.04
03/23	DEPOSIT	494.50		65,014.54
03/23	ACH DEBIT Square Inc 200323P2 L205522132263 Mar 23	12.87		65,001.67
03/24	DEBIT CARD PURCH Card Ending in 8615 6QZGCS5 8615 Mar 24			
03/24	AMZN Mktp US*KZ3CT34U Amzn.com/bill WA 20083	334.70		64,666.97
03/24	DEBIT CARD PURCH Card Ending in 8615 R048HDMB 8615 Mar 24			
03/24	CREATIVE AUTOMOTIVE E TARZANA CA 20081	14.84		64,652.13
03/24	ACH DEBIT Payroll Tax 8972666 Mar 24	119.00		64,533.13
03/24	ACH DEBIT Payroll Service Fee 8972666 Mar 24	708.09		63,825.04
03/24	ACH DEBIT CITI AUTOPAY PAYMENT 080071732052747 Mar 24	900.00		62,925.04
03/24	CHECK NO: 2452		7,776.01	70,701.05
03/25	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 545192 Mar 25	65.68		70,635.37
03/25	DEBIT CARD PURCH Card Ending in 8615 P417Q4V5 8615 Mar 25			
03/25	AMZN Mktp US*VW6HF4YL Amzn.com/bill WA 20084	9,973.02		60,662.35
03/25	OTHER WITHDRAWAL/ADJ DOMESTIC WIRE TRANSFER REF.# 20200325B1Q8021C02753	229.91		60,432.44
03/25	BILL PAYMENT UPS 010136 BA	330.00		60,102.44
03/25	TRANSFER DEBIT TRANSFER TO CHECKING Mar 25 VIA CBUSOL REFERENCE # 019411	110.66		59,991.78
03/25	ACH DEBIT LADWP WEB PAY 1875390000 Mar 25	263.54		59,728.24
03/25	ACH DEBIT IRS USATAXPYMT 227048566077838 Mar 25	26.89		59,701.35
03/26	DEBIT CARD PURCH Card Ending in 8615 PR5C59S5 8615 Mar 26			
03/26	AMZN Mktp US*UW35K4R3 Amzn.com/bill WA 20085	10,000.00		49,701.35
03/26	TRANSFER DEBIT TRANSFER TO CHECKING Mar 26 VIA CBUSOL REFERENCE # 049369	10,000.00		39,701.35
03/26	CHECK NO: 2453	100.00		39,601.35
03/27	DEBIT FOR LOAN AUTOMATED LOAN PAYMENT 000007001099171 Mar 27		210.00	39,811.35
03/30	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 546394 Mar 30	250.00		39,561.35
03/30	DEBIT CARD PURCH Card Ending in 8615 43KRZPS5 8615 Mar 30			
03/30	SQ *ZIB CONSULTING GR Hollywood CA 20087	45.98		39,515.37
03/30	POS DEBIT Card Ending in 8615 STAPLES 0180 STUDIO CITY CAUS0515		702.00	40,217.37
03/31	ELECTRONIC CREDIT MGM PMD PAYMENT 600067768 Mar 31		5,006.67	45,224.04
03/31	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 546650 Mar 31	1,116.00		44,108.04
03/31	DEBIT CARD PURCH Card Ending in 8615 1750NNGW 8615 Mar 31			
03/31	NORTHSTAR MOVING & ST CHATSWORTH CA 20090			

CHEF EXEC SUPPLIERS, LLC

Account XXXXXXXXXX Page 4 of 4  
Statement Period: Mar 1 - Mar 31, 2020

001/R1/20F013

## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
03/31	ACH DEBIT	526.18		43,581.86
	PAYROLL PAYROLL 8972666 Mar 31	94,888.40	93,257.94	
	Total Debits/Credits			

Checks Paid											
Check	Date	Amount	Check	Date	Amount	Check	Date	Amount	Check	Date	Amount
2051	03/05	197.00	2452*	03/24	900.00	2453	03/26	10,000.00	2646*	03/02	1,596.00
2647	03/02	10,000.00	2648	03/06	399.77	2649	03/09	511.07	2650	03/10	151.81
2651	03/16	4,634.00	2652	03/09	403.49	2653	03/09	150.67	2654	03/04	1,305.45
2656*	03/13	5,951.06	2658*	03/17	1,643.97						

\* indicates gap in check number sequence

Number Checks Paid: 14

Totaling: \$37,844.29

## CUSTOMER SERVICE INFORMATION

IF YOU HAVE QUESTIONS ON:

Checking

YOU CAN CALL:

866-513-7802\*  
(For Speech and Hearing  
Impaired Customers Only  
TDD: 800-788-0002)

YOU CAN WRITE:

Citibank, N.A.  
P.O. Box 790184  
St Louis, MO 63179

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\* To ensure quality service, calls are randomly monitored.

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Sioux Falls, SD 57117-6201

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CITIBANK, N. A.  
Account  
Statement Period  
Apr 1 - Apr 30, 2020  
Relationship Manager  
US SERVICE CENTER  
1-877-528-0990

Page 1 of 3

CHEF EXEC SUPPLIERS, LLC  
PO BOX 1800  
STUDIO CITY CA 91614

# CitiBusiness® ACCOUNT AS OF APRIL 30, 2020

## Relationship Summary:

Checking	\$3,361.78
Savings	----
Checking Plus	----

## SERVICE CHARGE SUMMARY FROM MARCH 1, 2020 THRU MARCH 31, 2020

Type of Charge	No./Units	Price/Unit	Amount
CITIBUSINESS CHECKING			\$33,934.71
Average Daily Collected Balance			
DEPOSIT SERVICES	1	24.0000	24.00
MONTHLY MAINTENANCE FEE			
**WAIVE	17	.2100	3.57
CHECKS PAID	5	1.1000	5.50
**WAIVE	32	.2000	6.40
DEPOSIT TICKETS			
**WAIVE			
ITEMS DEPOSITED			
**WAIVE			
TRANSFER SERVICES	2	25.0000	50.00
OUTGOING DOMESTIC WIRE			
**WAIVE			
AUTOMATED CLEARING HOUSE (ACH)	22	.1700	3.74
ACH CREDIT RECEIVED	15	.1700	2.55
**WAIVE			
ACH DEBIT RECEIVED			
**WAIVE			
Total Charges for Services			\$33,934.71
Average collected balances			\$33,934.71
Balances eligible for Earnings Credit			\$0.00
Earnings Credit allowance at 0.30000%			\$0.00
Charges Subject to Earnings Credit			\$0.00
Net Service Charge			

## CHECKING ACTIVITY

CitiBusiness Checking

Beginning Balance: \$43,581.86  
Ending Balance: \$3,361.78



EXHIBIT 1A

CHEF EXEC SUPPLIERS, LLC

Account: [REDACTED] Page 2 of 3  
Statement Period: Apr 1 - Apr 30, 2020

001/R1/20F013

## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
04/01	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 547404 Apr 01		196.00	43,777.86
04/01	ELECTRONIC CREDIT NEVADA PROPERTY ACH033120 DEFAULT RECP ID Apr 01		715.11	44,492.97
04/01	TRANSFER DEBIT TRANSFER TO CHECKING VIA CBUSOL REFERENCE # 009751 Apr 01	250.00		44,242.97
04/01	TRANSFER DEBIT TRANSFER TO CHECKING VIA CBUSOL REFERENCE # 009752 Apr 01	10,890.00		33,352.97
04/02	ELECTRONIC CREDIT AAA FOOD SOURCE DEPOSIT DP75522835 Apr 02 WOTW \$290 DELIVERIES & RENT		290.00	33,642.97
04/02	TRANSFER PAYMENT/TRANSFER 010128 YRLS	0.95		34,342.02
04/02	ACH DEBIT Yardi Service Ch WEB PMTS 075SM5 Apr 02	205.06		34,136.96
04/02	ACH DEBIT NEVADA TAX 7756842099 2KY0497MYFEJQRB Apr 02	743.11		33,393.85
04/02	ACH DEBIT NEVADA TAX 7756842099 2KY02T0451VFZ68 Apr 02	4,248.96		29,144.89
04/02	ACH DEBIT PACIFICACO-SELLC WEB PMTS 066SM5 Apr 02		113.50	29,258.39
04/03	ELECTRONIC CREDIT MGM PMD PAYMENT 600067981 Apr 03		666.96	29,925.35
04/03	ELECTRONIC CREDIT AAA FOOD SOURCE DEPOSIT DP75669431 Apr 03 INVOICE 8421 & DELIVERIES		966.20	30,891.55
04/06	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 547678 Apr 06		975.38	31,866.93
04/06	ELECTRONIC CREDIT NEVADA PROPERTY ACH040320 DEFAULT RECP ID Apr 06	12.00		31,854.93
04/06	DEBIT CARD PURCH Card Ending in 8615 505H6000 8615 Apr 06 MSFT * E0200AKH88 MSBILL.INFO WA 20094	85.80		31,769.13
04/06	ACH DEBIT Paymode-X MNTHLY FEE F110129868 Apr 06		900.00	32,669.13
04/07	ELECTRONIC CREDIT MGM PMD PAYMENT 600068145 Apr 07	700.12		31,969.01
04/07	BILL PAYMENT VERONIQUE HUMBERT 010137 BA	5.76		31,963.25
04/07	ACH DEBIT Payroll Tax 8972666 Apr 07	23.20		31,940.05
04/07	ACH DEBIT NV ENERGY SOUTH NPC PYMT 031577461229590 Apr 07		5,206.39	37,146.44
04/08	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 548483 Apr 08	88.12		37,058.32
04/08	ACH DEBIT IRS USATAXPYMT 227049966135266 Apr 08	1,200.00		35,858.32
04/09	BILL PAYMENT MICHELLE GIFFEN 010134 BA	237.46		35,620.86
04/09	CHECK NO: 2657	752.60		34,868.26
04/09	CHECK NO: 2655	4,082.15		30,786.11
04/10	CHECK NO: 2664	10,717.11		20,069.00
04/10	CHECK NO: 2659		1,213.20	21,282.20
04/13	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 549039 Apr 13		100.00	21,382.20
04/13	CREDIT MEMO ADJUSTMENT FROM BUSINESS LOAN #(7001099171)	412.49		20,969.71
04/13	CHECK NO: 2663	700.00		20,269.71
04/13	CHECK NO: 2662	1,000.00		19,269.71
04/13	CHECK NO: 2666	701.58		18,568.13
04/14	ACH DEBIT PAYROLL PAYROLL 8972666 Apr 14	110.97		18,457.16
04/14	CHECK NO: 2665		1,713.00	20,170.16
04/15	ELECTRONIC CREDIT CAESARS ENT EDI FIRST TENN 551917 Apr 15	51.07		20,119.09
04/15	CHECK NO: 2667	1,086.75		19,032.34
04/17	ACH DEBIT TEMPUS INC DD041620 78535 Apr 17 TMP-USA-DEAL-0391363	10,775.93		8,256.41
04/17	CHECK NO: 2668		2,648.33	10,904.74
04/20	INSTANT PAYMENT CREDIT 20200418021000021P1BRJPM01060003205 PAYPAL	383.18		10,521.56
04/20	ACH DEBIT FLEETCOR FUNDING BT0417 000000104534113 Apr 20			

CHEF EXEC SUPPLIERS, LLC

Account XXXXXXXXXX Page 3 of 3  
Statement Period: Apr 1 - Apr 30, 2020

001/R1/20F013

## CHECKING ACTIVITY

Continued

Date	Description	Debits	Credits	Balance
		7.68		10,513.88
04/21	ACH DEBIT Payroll Tax 8972666 Apr 21	74.31		10,439.57
04/22	BILL PAYMENT UPS 010139 BA	117.48		10,322.09
04/22	ACH DEBIT IRS USATAXPYMT 227051366106564 Apr 22	216.97		10,105.12
04/22	ACH DEBIT CITI AUTOPAY PAYMENT 080096786223045 Apr 22	119.00		9,986.12
04/24	ACH DEBIT Payroll Service Fee 8972666 Apr 24	4,737.38		5,248.74
04/24	CHECK NO: 2683	0.95		5,247.79
04/27	ACH DEBIT Yardi Service Ch WEB PMTS 3WJRQ5 Apr 27	2,250.00		2,997.79
04/27	ACH DEBIT PACIFICACO-SELLC WEB PMTS W7NRQ5 Apr 27	600.00		2,397.79
04/27	CHECK NO: 2052	526.16		1,871.63
04/28	ACH DEBIT PAYROLL PAYROLL 8972666 Apr 28	105.24		1,766.39
04/29	TRANSFER DEBIT TRANSFER TO CHECKING VIA CBUSOL REFERENCE # 012163 Apr 29	330.00		1,436.39
04/29	TRANSFER DEBIT TRANSFER TO CHECKING VIA CBUSOL REFERENCE # 012210 Apr 29	105.00		1,331.39
04/29	ACH DEBIT LADWP WEB PAY 1875390000 Apr 29	308.00		1,023.39
04/29	ACH DEBIT Payroll Tax 8972666 Apr 29		105.44	1,128.83
04/30	ATM DEPOSIT 16152 NRDHOFF ST, N HILLS, CA		994.20	2,123.03
04/30	ATM DEPOSIT 16152 NRDHOFF ST, N HILLS, CA		2,102.75	4,225.78
04/30	ATM DEPOSIT 16152 NRDHOFF ST, N HILLS, CA	864.00		3,361.78
04/30	DEBIT CARD PURCH Card Ending in 8615 6950NNGW 8615 Apr 30 NORTHSTAR MOVING & ST CHATSWORTH CA 20120	59,826.54	19,606.46	
	Total Debits/Credits			

## Checks Paid

Check	Date	Amount	Check	Date	Amount	Check	Date	Amount	Check	Date	Amount
2052	04/27	600.00	2655*	04/09	752.60	2657*	04/09	237.46	2659*	04/10	10,717.11
2662*	04/13	700.00	2663	04/13	412.49	2664	04/10	4,082.15	2665	04/14	110.97
2666	04/13	1,000.00	2667	04/15	51.07	2668	04/17	10,775.93	2683*	04/24	4,737.38

\* indicates gap in check number sequence

Number Checks Paid: 12

Totaling: \$34,177.16

## CUSTOMER SERVICE INFORMATION

IF YOU HAVE QUESTIONS ON:

Checking

YOU CAN CALL:

866-513-7802\*  
(For Speech and Hearing  
Impaired Customers Only  
TDD: 800-788-0002)

YOU CAN WRITE:

Citibank, N.A.  
P.O. Box 790184  
St Louis, MO 63179

For change in address, call your account officer or visit your branch.

\* To ensure quality service, calls are randomly monitored.

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# Exhibit 1B

EXHIBIT 13

DOMINIQUE AND MICHELINE ARNOULD  
P.O. BOX 1800  
STUDIO CITY, CA 91614  
TEL: (818)760-1788

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Business Banking Credit Note operation	DOMINIQUE ARNOULD
COMPANY:	DATE:
Chef exec Suppliers, KKC	4/10/2020
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
866-696-5978	1
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
702-683-2433	
RE:	YOUR REFERENCE NUMBER:
Credit line Freeze/ Cancellation or removal of Guarantor	

☒ URGENT    ☐ FOR REVIEW    ☐ PLEASE COMMENT    ☐ PLEASE REPLY    ☐ PLEASE RECYCLE

NOTES/COMMENTS:

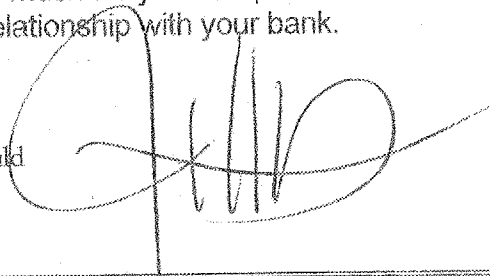
To BUSINESS BANKING CREDIT NOTE OPERATION

This is Dominique Arnould, I am managing partner of Chef Exec Suppliers, LLC. due to current event and the decline in business we at Chef Exec Suppliers are experiencing with the Covid 19 Virus, I am requesting that our credit line (\$ 50 000.00): Account number [REDACTED] of customer number [REDACTED] be immediately frozen until further notice. Furthermore, if it is not possible to freeze said Credit line immediately, I am requesting that I, Dominique Arnould be removed as a personal guarantor of and for this credit line. I any of these previous propositions are not possible, I am requesting that this line of credit # [REDACTED] be closed and cancelled.

My ailing address is: Dominique Arnould P.O. BOX 1800 Studio City, CA 91614 and my call back Phone number is: 702-683-2433

I thank you very much for your cooperation in this matter as it is extremely important to me and our relationship with your bank.

Dominique Arnould



[CLICK HERE AND TYPE RETURN ADDRESS]

EXHIBIT 1B

Citibank N. A.  
PO Box 790108  
St. Louis, MO 63179-0108



April 14, 2020

Chef Exec Suppliers LLC  
PO Box 1800  
Studio City, CA 91614

RE: Business Account # [REDACTED]

Dear Client :

Thank you for your recent inquiry concerning the loan referenced above. According to our records, your account has been paid in full and was closed as of 04/13/2020.

If you have any questions, please call the Loan Service Unit at 1-877-528-0990. Hearing or speech impaired customers may call our text telephone service at 1-800-945-0258 (TTY). Representatives are available to assist you Monday-Friday from 6:00 a.m. to 10:00 p.m., CT. You may also access your account information online at [www.citibusinessonline.com](http://www.citibusinessonline.com).

Thank you for banking with Citibank. We appreciate the opportunity to serve you.

Sincerely,

A handwritten signature in cursive script, appearing to read "K. Ridgway".

K. Ridgway  
CitiBusiness Loan Operations



CITIBANK COMMERCIAL  
BUSINESS OPERATIONS  
SERVICES  
PO BOX 226526  
DALLAS TX 75222-6526

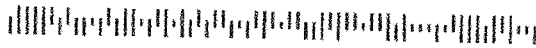
Changes to Your  
Credit Limit

Account Ending ~~0000~~

04/14/2020

EXHIBIT 1B

00023497 BB CCC 105 EXTX#900 DTF



00025589  
0304

CHEF EXEC SUPPLIERS LLC  
PO BOX 1800  
STUDIO CITY CA 91614-0800

[www.citibusiness.com](http://www.citibusiness.com)

**Why We're  
Writing to You**

Dear CHEF EXEC SUPPLIERS LLC,

The credit limit of your account has been decreased to \$0.00 effective 4/11/2020. You can obtain a written statement for the specific reason(s) for the decrease by writing to us at the address listed above or calling us at the number below within 60 days of the date of this letter.

**How to  
Contact Us**

If you have any questions or would like to speak with a representative, Customer Service can be contacted at:

CitiBusiness	1-877-528-0990
CitiBusiness Collect/International	1-210-677-0065
Text Telephone Service (TDD)	1-800-945-0258

We appreciate your business with Citibank and look forward to serving all your future financial needs.

Sincerely,

Commercial Loan Operations

Citibank Client Services provides customer account services for Citibank, N.A.

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Calls are randomly monitored and recorded to ensure quality service.

EXTX#900 04/14/2020 23497 G105 A04s\_105 91614080000 5699

Form G105

# Exhibit 1C

6:06 PM  
05/21/20  
Accrual Basis

EXHIBIT 1C  
CHEF EXEC SUPPLIERS, LLC  
Sales by Rep Summary  
April 2020

	Apr 20
Dominique Arnould	17,899.31
TOTAL	17,899.31



EXHIBIT 1C  
CHEF EXEC SUPPLIERS, LLC  
Sales by Rep Summary  
May 2020

6:07 PM

05/21/20

Accrual Basis

	May 20
Dominique Arnould	20,236.87
Michelle Giffen	2,834.11
TOTAL	23,070.98

# Exhibit 1D



EXHIBIT 1D

Dominique Arnould <dominique@chefexecsuppliers.com>

## Bonjour de San Diego

1 message

Fri, May 1, 2020 at 11:24 AM

Michel Malecot <mmalecot@thefrenchgourmet.com>

To: "dominique@chefexecsuppliers.com" <dominique@chefexecsuppliers.com>

J'espere que tu tiens le coup !!!!

Do you still have the crème brule to go containers? And you ship such small order?

### Michel Malécot

Chef/Owner

(858) 488-1725 ext. 325

**The French Gourmet**

960 Turquoise Street

San Diego, CA 92109

[www.TheFrenchGourmet.com](http://www.TheFrenchGourmet.com)

*Follow @FrenchGourmet on Twitter*

*Like The French Gourmet on Facebook*



**Pandemicmenu.pdf**

3253K

EXHIBIT 1D

## CHEF EXEC SUPPLIERS, LLC

5/21/2020 6:00 PM

Register: Checking Chef Exec 5840

From 01/01/2020 through 05/21/2020

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
05/06/2020	EFT	Paymode-X	Paymode-X Fees		15.20	*		7,090.73
05/06/2020	EFT	CA EDD	Payroll Liabilities	Tax Payment f...	5.76	*		7,084.97
05/06/2020	EFT	IRS	Payroll Liabilities	Tax Payment f...	88.16	*		6,996.81
05/06/2020	2685	Jhohan K. Juarez	Warehouse Supply	Reimb. gas For...	23.55	*		6,973.26
05/12/2020	ATM	Nevada Secretary of ...	-split-	Nevada Busine...	350.00	*		6,623.26
05/12/2020	2686	FOURNIER	Accounts Payable	Invoice V2004...	594.75			6,028.51
05/12/2020	2687	Premier Food Packag...	Accounts Payable	7806	1,410.00			4,618.51
05/13/2020	EFT	Jhohan K. Juarez	-split-	Pay Period: 04/...	862.36	*		3,756.15
05/15/2020	EFT	Arco	CA Expenses:Auto Ex...	Confirmation 1...	220.18	*		3,535.97
05/17/2020			Paypal	Funds Transfer		*	2,497.03	6,033.00
05/18/2020	ATM	Enterprise Car & Tru...	CA Expenses:Delivery ...		108.57	*		5,924.43
05/18/2020	2053	Michelle Giffen	-split-		1,200.00	*		4,724.43
05/20/2020			-split-	Deposit		*	494.50	5,218.93
05/20/2020	EFT	CA EDD	Payroll Liabilities	Tax Payment f...	9.44	*		5,209.49
05/20/2020	EFT	IRS	Payroll Liabilities	Tax Payment f...	144.40	*		5,065.09
05/20/2020	2054	Sergio Rosales	Warehouse Help		600.00	*		4,465.09
05/21/2020	EFT	UPS Freight	Accounts Payable	Invoice 885777...	487.28			3,977.81
05/21/2020	EFT	French Food Exports	Accounts Payable	Invoice MIS 20...	809.83			3,167.98
05/21/2020	2688	AAA FOOD SOURC...	Due to/from AAA Foo...	Reimburs. sold ...	57.96			3,110.02

EXHIBIT 11

CHIEF EXECUTIVES LLC QuickBooks Desktop Pro 2020 Multi-User (dominique) - (Checking Chief Exec 9840)

File Edit View Lists Favorites Company Customers Vendors Employees Banking Reports Window Help Special Offers

Go to... Print... Edit Transaction QuickReport Setup Bank Feeds

Search Company or Help

View Balances

Wells Fargo 3340

35,767.00

Payroll

0.00

Petty Cash

0.00

Checking Chief Exec 9840

2,975.92

Accounts Receivable

17,640.25

Accounts Payable

174.41

CHIEF EXECUTIVES LLC

My Shortcuts

View Balances

Run Favorite Reports

Open Windows

COMDA18 Resources

Turn on Payroll

Export QuickBooks

Online Office & Supplies

Activate Email

DATE	NUMBER	TYPE	ACCOUNT	PAYEE	MEMO	PAYMENT	DEPOSIT	BALANCE
05/15/2020		EFT	Arco			220.18 *		3,535.97 *
		CHK	CA Expenses:Auto Expenses:Fuel	Confirmation 106860436			2,497.03	6,033.00
05/17/2020		TRANSFER	Paypal	Funds Transfer				5,924.43
05/18/2020		ATM	Enterprise Car & Truck Rental			108.57 *		
		CHK	CA Expenses:Delivery Truck Rental					4,724.43
05/18/2020		2053	Michelle Giffen			1,200.00 *		
		CHK	-split-				494.50	5,218.93
05/20/2020		DEP	-split-	Deposit				5,209.49
05/20/2020		EFT	CA EDD		Tax Payment for Period: 05/13/2020-05/15/2020	9.44 *		5,065.09
		CHK	Payroll Liabilities			144.40 *		4,465.09
05/20/2020		EFT	IRS		Tax Payment for Period: 05/13/2020-05/15/2020	600.00 *		3,977.81
		CHK	Payroll Liabilities			487.28		3,167.98
05/20/2020		2054	Sergio Rosales					3,110.02
		CHK	Warehouse Help					2,975.92
05/21/2020		EFT	UPS Freight		Invoice 885777130			
		BILLPMT	Accounts Payable		Invoice 885777130			
05/21/2020		EFT	French Food Exports		Invoice 885777130			
		BILLPMT	Accounts Payable		Invoice 885777130			
05/21/2020		2688	AAA FOOD SOURCE, INC		Reimburs sold items wrong paypal acct used			
		CHK	Due to from AAA Food Source					
05/22/2020		EFT	UPS		invoices 95VF0190 & 95VF0200	134.10		
		BILLPMT	Accounts Payable					
05/21/2020								

Splits

1-Line

Sort by Date, Type, Number/Ref

ENDING BALANCE

2,975.92

Report

Restore

5:58 PM 5/21/2020

EXHIBIT 12

CK 2053

5/18/2020

Michelle Matson

\*\*1,200.00

One Thousand Two Hundred and 00/100\*\*\*\*\*

Michelle Giffen  
1403 9th St  
Las Vegas, NV 89104

Michelle Matson

5/18/2020

1,100.00  
100.00

Checking Chef Exec 5

1,200.00

Michelle Matson

5/18/2020

1,100.00  
100.00

Checking Chef Exec 5

1,200.00

# Exhibit 1E

EXHIBIT 1E

6:14 PM

05/21/20

CHEF EXEC SUPPLIERS, LLC  
**Vendor QuickReport**  
 December 1, 2019 through May 21, 2020

Type	Date	Num	Memo	Account	Clr	Split	Amount
<b>Naomi Inoue</b>							
Check	01/15/2020	EFT		Checking Chef Exec...	X	Commissions	-1,000.00
Check	02/04/2020	2624	Dec'19 gas re...	Checking Chef Exec...	X	Fuel	-191.16
Check	02/13/2020	2641	January 2019	Checking Chef Exec...	X	Commission E...	-1,000.00
Bill	03/03/2020	Jan'20...	Jan'20 gas	Accounts Payable		Fuel	-151.81
Bill Pmt -Check	03/03/2020	2650	Jan'20 gas	Checking Chef Exec...	X	Accounts Paya...	-151.81
Check	04/08/2020	2666	Mar'20	Checking Chef Exec...	X	Commission E...	-1,000.00



# Exhibit 1F

## Compose

Inbox 120

Starred

Snoozed

Sent

Drafts 1

 A INV SENT TO SE... 89

 ARTIGIAN CARTA

 BOXELYTE

 BRIAN BENNINGTON

 C E S INSURANCE

 CLIENTS INSURA... 1

## Meet New

Start a meeting

Join a meeting

## Chat

 Dominique +

## CONFIDENTIAL

The information in this e-mail is confidential and may be legally privileged recipient, any disclosure, copying, distribution, or any action taken or? contained in this e-mail are subject to the terms and conditions expres

**From:** Dominique Arnould <[dominique@chefexecsuppliers.com](mailto:dominique@chefexecsuppliers.com)>

**Sent:** Wednesday, May 20, 2020 4:46 PM

**To:** Brian Bennington <[benningtoncpa@hotmail.com](mailto:benningtoncpa@hotmail.com)>

**Subject:** Re: Chef Exec Suppliers

Hello Brian

At this time and because of the worldwide pandemic and the poor econc California Taxes (\$7166.00) and a distribution to me of the same amoun In conclusion, I think it will be wise to tell Clement to Pay his own Califor

Sincerely

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
AAA FOOD SOURCE, INC  
Wines of the World.com  
702-683-2433

On Tue, May 19, 2020 at 3:22 PM Brian Bennington <[benningtoncpa@f](mailto:benningtoncpa@f)>

Hi Dominique,

It was pointed out to me that you don't want Chef Exec Suppli

Consistent with prior years, the company should pay that and

## Compose

Inbox 120

Starred

Snoozed

Sent

Drafts 1

A INV SENT TO SE... 89

ARTIGIAN CARTA

BOXELYTE

BRIAN BENNINGTON

C E S INSURANCE

CLIENTS INSURA... 1

## Meet New

Start a meeting

Join a meeting

## Chat

Dominique

Chef Exec Suppliers Inbox x**Brian Bennington**

to me, CLEMENT

Hi Dominique,

It was pointed out to me that you don't want Chef Exec Supplier

Consistent with prior years, the company should pay that and to

This should be done as soon as possible as well.

Please let me know if you have any questions.

Thank you.

Brian Bennington, CPA  
 Bennington & Associates, Ltd.  
 2620 Regatta Drive, Suite 102  
 Las Vegas, NV 89128  
 (702) 240-5200  
 (702) 240-5300 Fax

**IRS CIRCULAR 230 NOTICE:** To ensure compliance with requiremen

# Exhibit 1G

OUR NEW ADDRESS: 16742 STAGG STREET #105 VAN NUYS CA 91406

CODE	DESCRIPTION	QTY		
-NDB02TC	MINI PYRAMID 23X23X42H 600/CS CLEAR	0	CS	
-C003TC	MINI MARTINI GLASS	0	CS	
-C002TC	MINI CUBE GLASS	0	CS	
-LIL8B	RECT GOLD TRAY	20	CS	
-VR66TC	TEAR SPOON TRANSP CLEAR	0	CS	
-VR66NR	TEAR SPOON TRANSP BLACK	0	CS	
WP9001	DISPENSER DELUXE 1/BOX	0	CS	
-NDB02TC	MINI PYRAMID TRANSP CLEAR	0	CS	
-VR5050TC	MINI MAC & CHEESE DISH TRANS. CLEAR 574/CS	0	CS	
-EP8CTC	SMALL GLASS TRANSP CLEAR	20	CS	
-EPS100TC	SPHERE TRANS CLEAR 576/CS	20	CS	
A-052539CR	CAMELIA CUP LARGE CRYSTAL CLEAR		CS	
A-052535CR	CAMELIA CUP SMALL CRYSTAL 720/CS TULIPE		CS	
-LIL8B	RECTANGULAR GOLD TRAYS		CS	
I-VRA27TC	CHINESE SPOON CURVED TRANS CRYST 20 X 100/CS		CS	
A-052330NR	MINI SPOON BLACK 500/BG		PCKS	
A-052330TC	MINI SPOONS CRYSTAL 500/CS		PCKS	
A-052332NR	MINI FORKS BLACK 500/BG		PCKS	
A-052332TC	MINI FORKS CRYSTAL 500/CS		PCKS	
A-052332TG	MINI FORKS GREEN 500/CS		PCKS	
-VR133TC	BRIOCHE MOLD CUP TRANS CRYST 1152/CS		CS	
M-VR133LTC	LARGE BRIOCHE MOLD CUP 24 X 48/CS		CS	
-DB06TG	CUBIC WAVE TRANSP GREEN	12	CS	
A-052401NR	CARRE 60 BLACK L 60 X L 60 X H .14mm 720/CS		EA	
A-052401TC	CARRE 60 CRYSTAL L.60 x L.60 x H.14 mm 720/CS		EA	
A-052401TG	CARRE 60 TRANSP GREEN L.60 x L.60 x H.14 mm 720		EA	
1-RA1129TC	BOWL BASE & LID TRNSP CRSTAL 20 X 12/CS	20	CS	
			CS	
DELIVER TO Las Vegas	TRI EDGES CUP	19	CS	
FROM V.N.	FANFAN CLEAR	15	CS	

# Exhibit 1H

# EXHIBIT 11

## CHEF EXEC SUPPLIERS, LLC

### Sales by Item Summary

January 1 through May 21, 2020

8:22 PM

05/21/20

Accrual Basis

Jan 1 - May 21, 20				
	Qty	Amount	% of Sales	Avg Price
Inventory				
AC-LIL8B (RECTANGULAR GOLD TRAYS 310mm X 410mm 12" X 16" 80/cs)	37	1,575.05	7.2%	42.57
M-EP8CTC (SMALL GLASS 70ml 61X50X35 TRANS CLEAR 600/CS)	33	2,044.25	9.3%	61.95
M-EP5100TC (SPHERE TRANS CLEAR 576/CS)	99	14,826.24	67.4%	149.76
M-RA1129TC (BOWL BASE & LID TRANSPARENT CRYSTAL 20 X 12/CS (10 x 5.9 x 4.5)cm)	42	3,553.20	16.2%	84.60
Total Inventory	211.00	21,998.74	100.0%	104.26
TOTAL	211	21,998.74	100.0%	104.26

CX40307 1 ft

CHEF EXEC SUPPLIERS, LLC  
Sales by Item Summary  
January 1 through May 21, 2020

8:22 PM  
05/21/20  
Accrual Basis

	Jan 1 - May 21, 20			
	COGS	Avg COGS	Gross Margin	Gross Margin %
Inventory				
AC-LIL8B (RECTANGULAR GOLD TRAYS 310mm X 410mm 12" X 16" 80/cs)	789.78	21.35	785.27	49.9%
M-EP8CTC (SMALL GLASS 70ml 61X50X35 TRANS CLEAR 600/CS)	537.11	16.28	1,507.14	73.7%
M-EP8100TC (SPHERE TRANS CLEAR 576/CS)	3,991.68	40.32	10,834.56	73.1%
M-RA1129TC (BOWL BASE & LID TRANSPARENT CRYSTAL 20 X 12/CS (10 x 5.9 x 4.5)cm)	674.35	16.06	2,878.85	81.0%
Total Inventory	5,992.92	28.40	16,005.82	72.8%
TOTAL		28.40		



# Exhibit 1I

EXHIBIT 11

## WELLS FARGO

BUSINESS  
CHECKING

Account



Routing Numbers

\$5,000.00  
Available balance

## Activity Summary

Ending collected balance as of 05/11/20

\$36,166.20

Current posted balance

\$36,166.20

Pending withdrawals/debits

\$0.00

Pending deposits/credits

\$0.00

Deposits not available for withdrawal Details

-\$31,166.20

Available balance

\$5,000.00

Routing numbers

## Activity

The Available Balance shown above reflects the most up-to-date information available on your account. The balances shown below next to the last transaction of each day do not reflect any pending withdrawals or holds on deposited funds that may have been outstanding on your account when the transaction posted. If you had insufficient available funds when the transaction posted to your account, fees may have been assessed.

First  
Previous  
Next

Date	Description	Deposits/Credits	Withdrawals/Debits	Ending Daily Balance
<b>Pending Transactions</b>				
No pending transactions to view.				
<b>Posted Transactions</b>				
05/08/20	DEPOSIT	\$36,166.20		\$36,166.20
<b>Totals</b>		<b>\$36,166.20</b>	<b>\$0.00</b>	

Back to top

First  
Previous  
Next

## \*Account Disclosures

Deposit products offered by Wells Fargo Bank, N.A. Member FDIC.

Equal Housing Lender

**WELLS FARGO****EXHIBIT 11****BUSINESS  
CHECKING**

Account

**\$36,885.66**

Routing Numbers

Available balance

**Activity Summary****Ending collected balance as of 05/18/20****\$32,655.66****Current posted balance****\$36,885.66****Pending withdrawals/debits****\$0.00****Pending deposits/credits****\$0.00****Available balance****\$36,885.66**

Routing numbers

**Activity**

The Available Balance shown above reflects the most up-to-date information available on your account. The balances shown below next to the last transaction of each day do not reflect any pending withdrawals or holds on deposited funds that may have been outstanding on your account when the transaction posted. If you had insufficient available funds when the transaction posted to your account, fees may have been assessed.

First  
Previous  
Next

Date	Description	Deposits/Credits	Withdrawals/Debits	Ending Daily Balance
<b>Pending Transactions</b>				
No pending transactions to view.				
<b>Posted Transactions</b>				
05/18/20	MOBILE DEPOSIT : REF NUMBER :318160662114	\$1,276.75		\$36,885.66
05/18/20	MOBILE DEPOSIT : REF NUMBER :518160662397	\$1,223.70		
05/18/20	MOBILE DEPOSIT : REF NUMBER :618160662461	\$1,044.10		
05/18/20	MOBILE DEPOSIT : REF NUMBER :418160662075	\$687.10		
<b>Totals</b>		<b>\$42,062.85</b>	<b>\$5,177.19</b>	

EXHIBIT 11


Date	Description	Deposits/Credits	Withdrawals/Debits	Ending Daily Balance
05/14/20	BUSINESS TO BUSINESS ACH TEMPUS INC DD051320 81998 TMP- USA-DEAL-0398777		\$3,500.19	\$32,654.01
05/13/20	MOBILE DEPOSIT : REF NUMBER :522120218626	\$1,665.00		\$36,154.20
05/12/20	DEPOSITED ITEM RETN UNPAID - PAPER 200512		\$1,665.00	\$34,489.20
05/12/20	CASHED/DEPOSITED ITEM RETN UNPAID FEE		\$12.00	
05/08/20	DEPOSIT	\$36,166.20		\$36,166.20
<b>Totals</b>		<b>\$42,062.85</b>	<b>\$5,177.19</b>	

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**\*Account Disclosures**

Deposit products offered by Wells Fargo Bank, N.A. Member FDIC.

 Equal Housing Lender

# Exhibit 1J









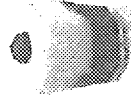

REFERENCE	REFERENCE	PICTURE	COLOR	DESCRIPTION	UNIT PER BAGS	BAGS PER CASE	UNIT PER CASE	CTNS	TOTAL PCS	FOR YANGZHOU (USD)	TOTAL AMOUNT (USD)
CHEF EXEC	UHL		颜色		数量/包	包数/箱	数量/箱	箱数	总数		
LPM-20130TC			Transparent/ 透明	MINI WHISKY SHOT GLASS	24	24	576	200	115200	\$0.0341	\$3,928
LPM-20680TC			Transparent	Medium 3 Edge	20	50	1000	100	100000	\$0.0210	\$2,100
LPM-20140TC	大肚杯		Transparent/ 透明	RHUM SHOT GLASS TRANSPARENT CRYSTAL	24	24	576	480	276480	\$0.0341	\$9,428
M-VR61TC	新方缸		Transparent/ 透明	MINI CUBE	24	25	600	160	96000	\$0.0210	\$2,016
SC-ND801TC	新小酒杯		Transparent/ 透明	MINI ROUND GLASS	25	40	1000	95	95000	\$0.0180	\$1,710
PLA-052505TC			Transparent	ribbon	20	15	300	100	30000	\$0.0242	\$726
PLA-052438NR			BLACK黑色	ASIAN CUP BLACK	24	25	600	80	48000	\$0.0261	\$1,253
M-VR73TC	长斜口		Transparent/ 透明	ROUND SLANTED CUPS	12	50	600	140	84000	\$0.0350	\$2,940
PLA-052530TC	50180		TRANSPARENT T	FANFAN TRANSPARENT CLEAR	24	36	864	135	116640	\$0.0180	\$2,100

EXHIBIT 4

EXHIBIT IJ

PLA-052539CR		TRANSPARENT	LARGE CAMELIA	24	30	720	100	72000	\$0.0240	\$1,728
Total							1590	1033320		27928.608
Time of Delivery										
Bank Name		CHINA CONSTRUCTION BANK, YANGZHOU BRANCH								
Address		NO.398 WENCHANG MIDDLE ROAD, YANGZHOU, JIANGSU, CHINA								
Swift Code		PCBCCNBJSY								
Beneficiary		YANGZHOU LINGHAI PLASTIC MANUFACTURING CO., LTD.								
A/C NO.:		32014251900220104186								
ADDITIONAL DETAILS										
Country of Origin	CHINA									

# Exhibit 1K



EXHIBIT 1K.



Dominique Arnould <dominique@chefexecsuppliers.com>

---

## Container pending # CE00122

---

Dominique Arnould <dominique@chefexecsuppliers.com>

Thu, May 14, 2020 at 4:48 PM

To: Michael chu 86- 13817861838 <zilongplastic1979@163.com>, Eric Hui <eric@lihiplastics.com>

Bcc: acalaway@maclaw.com, Phillip Aurbach <psa@maclaw.com>, victorgreen <victorgreen@talk21.com>

Hello Michael and Eric

We sent a deposit of \$9000.00 for an order with your company on January 22 2020.

Your invoice # CE00122, since I have not received any communications or confirmations from your company or you regarding this order even when it was ordered:

Could you please let me know if this order has been manufactured, if the container is ready to be shipped.

And when you will need the balance of your invoice to be paid?

Please let me know as soon as possible

Sincerely

Dominique Arnould

Managing Partner

Chef Exec Suppliers, LLC

AAA FOOD SOURCE, INC

Wines of the World.com

702-683-2433



EXHIBIT 11C

Dominique Arnould <dominique@chefexecsuppliers.com>

---

## Container pending # CE00122

---

Eric Hui <eric@lihioplastics.com>

Fri, May 15, 2020 at 7:42 AM

To: Dominique Arnould <dominique@chefexecsuppliers.com>, zilongplastic1979 <zilongplastic1979@163.com>, cmuney <cmuney@cox.net>

Hello Dominique,

As per my email from January 22th to you and Clement, the estimate delivery time was approx begining of March. With the Covid 19 we were closed about 6 weeks in China as you may know. I have emailed Clement who is placing your orders few weeks ago that we are ready to ship your container. I have asked him to arrange payment of the balance of payment so we can send the container.

---

Thanks

Eric Hui |  
T: (+86) 51486562099 | E: eric@lihioplastics.com  
F: (+86) 51486562099 | M: (+86)13810692680  
LINGHAI PLASTIC MANUFACTURING CO.,LTD.  
NO.3 ROAD, YILING, INDUSTRIAL ZONE JIANGDU DIST,  
YANGZHOU CITY, JIANGSHU PROVINCE, CHINA

---

----- Original -----

**From:** "Dominique Arnould" <dominique@chefexecsuppliers.com>;  
**Date:** Fri, May 15, 2020 07:48 AM  
**To:** "zilongplastic1979" <zilongplastic1979@163.com>; "Eric Hui" <eric@lihioplastics.com>;  
**Subject:** Container pending # CE00122

[Quoted text hidden]



EXHIBIT 1K

Dominique Arnould <dominique@chefexecsuppliers.com>

---

## Container pending # CE00122

---

Dominique Arnould <dominique@chefexecsuppliers.com>

Fri, May 15, 2020 at 10:28 AM

To: Eric Hui <eric@lihiplastics.com>

Bcc: acalaway@maclaw.com, Phillip Aurbach <psa@maclaw.com>, victorgreen <victorgreen@talk21.com>

Hello Eric

Thank you for your prompt response, I hope you and your colleagues are in good health and safe.

As I have not received any communications or documents for this shipment, the transfer for the payment of this container has not been made.

In the past I always received and was in copy of all documents and communications regarding any business regarding Chef Exec Suppliers, LLC.

I am not sure why that changed, but for future orders and general business with Chef Exec Suppliers, please make sure I am in copy of all communications and any business done with our company.

As for the pending order I need to receive the bill of lading, invoice, packing list and any documents related to this shipment in order to be able to transfer

the funds to your account. Also, please let me know of the date of departure and an ETA Long Beach. The documents need to be sent to our Broker Fernando Crow

of Coppersmith as it was done in the past. If you need the contact information for Fernando, please let me know.

In the meantime, please also send your bank information for the transfer.

Sincerely,

Dominique Arnould  
Managing Partner  
Chef Exec Suppliers, LLC  
702-683-2433

[Quoted text hidden]

--

# Exhibit 1L

CHEF EXEC SUPPLIERS, LLC  
Inventory Valuation Summary  
As of May 21, 2020

Inventory	On Hand	Avg Cost	Asset Value
LPM-20130TC (WHISKEY SHOT GLASS TRANSP CRYSTAL 24 X 24/CS (20130))	222	19.64	4,359.44
LPM-20140TC (RHUM SHOT GLASS TRANSP CRYSTAL 24 X 24/CS (20140))	589	19.64	11,568.79
LPM-20680TC (TRI EDGES CUP MEDIUM TRANSP CRYSTAL 50 X 20/CS (20680))	25	21.00	525.00
M-VR61TC (MINI CUBE TRANSPARENT CRYSTAL 600/CS (VR61TC))	568	12.60	7,158.40
M-VR73TC (ROUND SLANTED CUP TRANSP CRYST 600/CS)	444	21.00	9,323.94
PLA-052438NR (ASIAN CUP BLACK Ø. 70 x H. 35 mm ± 8.5 cl 600/CS)	218	15.66	3,413.88
PLA-052505TC (GLASS RIBBON CRYSTAL 300/CS)	11	7.26	79.86
PLA-052530TC (FANFAN GLASS CRYSTAL 6 cl Ø.50 x H.45mm 864/CS)	62	19.66	1,219.02
PLA-052539CR (CAMELIA CUP LARGE CRYSTAL CLEAR 720/CS)	61	17.28	1,054.08
SC-NDB01TC (ROUND SHOT GLASS CLEAR 42X56H 1000/CS)	133	18.39	2,445.64
Total Inventory	2,333		41,148.05
TOTAL	2,333		41,148.05

NEW ORDER

EXHIBIT 17

12:21 AM

05/22/20

Accrual Basis

## CHEF EXEC SUPPLIERS, LLC

## Sales by Item Summary

May 21, 2019 through May 22, 2020

May 21, '19 - May 22, 20

	Qty	Amount	% of ...	Avg ...	COGS	Avg...	Gross Ma...	Gros...
Inventory								
LPM-20130TC (WHISKEY SHOT GLASS TRANSP CRYSTAL 24 X 24/CS)	278	27,060.52	10.7%	97.34	5,458.46	19.63	21,602.06	79.8%
LPM-20140TC (RHUM SHOT GLASS TRANSP CRYSTAL 24 X 24/CS)	810	78,845.40	31.2%	97.34	15,909.17	19.64	62,936.23	79.8%
LPM-20680TC (TRI EDGES CUP MEDIUM TRANSP CRYSTAL 50 X 20/CS)	47	4,935.00	2.0%	105.00	987.00	21.00	3,948.00	80.0%
M-VR61TC (MINI CUBE TRANSPARENT CRYSTAL 600/CS)	1,028	61,729.56	24.4%	60.05	12,963.51	12.61	48,766.05	79.0%
M-VR73TC (ROUND SLANTED CUP TRANSPCRYST 600/CS)	404	30,147.47	11.9%	74.62	8,484.00	21.00	21,663.47	71.9%
PLA-052438NR (ASIAN CUP BLACK Ø. 70 x H. 35 mm ± 8.5 cl 600/CS)	167	9,519.00	3.8%	57.00	2,615.22	15.66	6,903.78	72.5%
PLA-052505TC (GLASS RIBBON CRYSTAL 300/CS)	53	2,368.57	0.9%	44.69	384.78	7.26	1,983.79	83.8%
PLA-052530TC (FANFAN GLASS CRYSTAL 6 cl Ø.50 x H.45mm 864/CS)	120	15,450.00	6.1%	128.75	2,359.43	19.66	13,090.57	84.7%
PLA-052539CR (CAMELIA CUP LARGE CRYSTAL CLEAR 720/CS)	74	8,873.82	3.5%	119.92	1,278.72	17.28	7,595.10	85.6%
SC-NDB01TC (ROUND SHOT GLASS CLEAR 42X56H 1000/CS)	181	13,575.00	5.4%	75.00	3,426.64	18.93	10,148.36	74.3%
Total Inventory	3,162.00	252,504.34	100.0%	79.86	53,866.93	17.04	198,637.41	78.7%
TOTAL	3,162	252,504.34	100.0%	79.86		17.04		

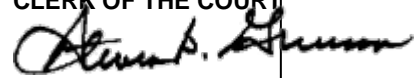
EXHIBIT 11

## Sales by Item Summary

May 21, 2019 through May 22, 2020

EXHIBIT 17

May 21, '19 - May 22, 20									
Inventory	Qty on hand	Monthly sales	months of inventory	New order	new order month of inventory	total inventory with new order	total months of inventory with new order		
LPM-20130TC (WHISKEY SHOT GLASS TRANSP CRYSTAL 24 X 24/CS)	278	23	12	200	9	478	21		
LPM-20140TC (RHUM SHOT GLASS TRANSP CRYSTAL 24 X 24/CS)	810	68	12	480	7	1,290	19		
LPM-20680TC (TRI EDGES CUP MEDIUM TRANSP CRYSTAL 50 X 20/CS)	47	4	12	100	26	147	38		
M-VR61TC (MINI CUBE TRANSPARENT CRYSTAL 600/CS)	1,028	86	12	160	2	1,188	14		
M-VR73TC (ROUND SLANTED CUP TRANSPCRYST 600/CS)	404	34	12	140	4	544	16		
PLA-052438NR (ASIAN CUP BLACK Ø. 70 x H. 35 mm ± 8,5 cl 600/CS)	167	14	12	80	6	247	18		
PLA-052505TC (GLASS RIBBON CRYSTAL 300/CS)	53	4	12	100	23	153	35		
PLA-052530TC (FANFAN GLASS CRYSTAL 6 cl Ø. 50 x H. 45mm 864/CS)	120	10	12	135	14	255	26		
PLA-052539CR (CAMELIA CUP LARGE CRYSTAL CLEAR 720/CS)	74	6	12	100	16	174	28		
331 DB01TC (ROUND SHOT GLASS CLEAR 42X56H 1000/CS)	181	15	12	95	6	276	18		



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,

Plaintiff(s),

vs.

CLEMENT MUNY,

Defendant(s).

CASE NO: A-19-803488-B

DEPT. XXVII

BEFORE THE HONORABLE NANCY ALLF, DISTRICT COURT JUDGE  
FRIDAY, MAY 22, 2020

***RECORDER'S TRANSCRIPT OF PROCEEDINGS***  
***RE: MOTIONS***

APPEARANCES:

For the Plaintiff(s):      PHILLIP S. AURBACH, ESQ.  
ALEX CALAWAY ESQ.

For the Defendant(s):      ROBERT J. KERN, ESQ.

RECORDED BY: BRYNN WHITE, COURT RECORDER



1 **LAS VEGAS, NEVADA, FRIDAY, MAY 22, 2020**

2 [Proceeding commenced at 1:02 p.m.]

3  
4 THE COURT: This is the judge. I'm going to go ahead and  
5 call the case. And if we need to wait for anyone, we will.

6 Arnould versus Muney, A-803488. Appearances please,  
7 starting first with the plaintiff.

8 MR. CALAWAY: The plaintiffs are here. This is Alex  
9 Calaway, with Marquis Aurbach Coffing, and Phillip Aurbach.  
10 Dominique Arnould, the plaintiffs [indiscernible].

11 THE COURT: Thank you. Thank you.

12 MR. KERN: Good afternoon, Your Honor. This is Ronald  
13 Kern, here representing the defendant Clement Muney and the  
14 movant.

15 THE COURT: Thank you both.

16 So today we have on the Motion for Temporary  
17 Restraining Order, Opposition, and Countermotion.

18 And just to let all of the parties know, I did sign the TRO --  
19 not because I was convinced that it was appropriate, but I needed to  
20 stabilize the business immediately, and so we set it on very short  
21 notice.

22 I have read everything from both sides. And I am happy to  
23 hear the Motion for Temporary Restraining Order with the  
24 Opposition and Countermotion.

25 I will ask that in your arguments, if you will, please, when

1 you're not speaking, mute yourself and watch your background  
2 noise, because we have fairly low bandwidth. And so I want to make  
3 sure we -- I can get everyone's argument.

4 So let's have the motion and then the opposition and  
5 counter-motion.

6 MR. AURBACH: Your Honor, since you already granted  
7 the TRO -- this is Phillip Aurbach -- should we have the Motion to  
8 Vacate the TRO that you granted first?

9 THE COURT: [Indiscernible], first I'll hear from the  
10 defendant.

11 And in your response, you should also address the current  
12 situation.

13 Now, I've formed some impressions about this case. But I  
14 find that when I give tentative rulings, the lawyers feel cut off. And I  
15 really don't want you all to feel you've been cut off or that you  
16 haven't been heard.

17 So I'll ask Mr. Kern to start first.

18 MR. KERN: Thank you, Your Honor.

19 Essentially, filing this motion is not our first choice. If you  
20 reviewed the information we provided, we've been having issues for  
21 a long time, but we tried to deal with those issues without involving  
22 the Court. However, things have just gone too far in where we're  
23 essentially at extortion.

24 We -- actually, if you look at our e-mail, when we made  
25 our demand, we did offer to make a temporary agreement to halt

1 additional payments on the disputed rent. They did not accept that  
2 offer and mailed the money back. That's what they were asking for  
3 was that we essentially give in on the entire case, in exchange for  
4 getting any control of the company back.

5           What we're looking at here is essentially, without making a  
6 demand first, without asking to discuss the issue, Mr. Arnould took  
7 all the money out of the primary bank account -- and I should clarify,  
8 not all the money, he left like a couple of thousand -- just enough to  
9 pay, I believe, the autopay for Northstar -- but he took essentially all  
10 of the money out. He's been holding on to the checks and taking the  
11 money and putting it into an account to which only he has control.

12           We asked him to stop. We told him we would be willing to  
13 do a temporary agreement until the Court hears the current motions  
14 to not pay additional funds on the Las Vegas warehouse rent. They  
15 didn't agree to that. And we essentially have withdrawn that offer.

16           What we're looking at is a situation where, before we even  
17 knew he was going to do this, he prepaid and early paid most of the  
18 Los Angeles expenses. He took money out and started holding  
19 checks in advance of that.

20           He says that he hasn't taken any commissions or anything.  
21 But at this time, when business is slow and our sales staff are not  
22 getting commissions, he took away a large commission from one of  
23 our salespeople, Las Vegas's primary salesperson, claimed it for  
24 himself. And then he claimed -- and I noticed in his motion that he's  
25 the only one getting commissions.

1           He is doing this -- he's changing a longstanding policy that  
2 there is a minimum amount of funds that our salespeople get. And  
3 right now, when sales are slow, is when things like that are essential  
4 to keep food on the table of our key employees.

5           In addition to things like this, we're looking at he did take  
6 an inventory, contrary to his allegations in his declaration. He  
7 secretly took inventory out of Las Vegas late at night. He did not  
8 report that until after we sent surveillance photos to his counsel.  
9 And at that time he made no allegations that he was actually  
10 delivering merchandise. When we checked, we found missing  
11 merchandise, not delivered merchandise.

12           And again, he put that into Northstar, which is a  
13 warehouse that is in his name, that the company has no access to --  
14 only he does. It's --

15           What we're talking about, regardless of whether he says  
16 he's using those funds and that inventory for company purposes,  
17 what he's doing is taking it out of the possession of the company  
18 and putting it in places where he has sole access and control. And  
19 that is the definition of, if we were criminal, embezzlement, and in  
20 civil, conversion.

21           What we are trying to do is just operate the business. And  
22 operating the business does not mean that Mr. Arnould has the  
23 authority to act on his own and to decide unilaterally that only he  
24 gets to decide what is paid and when. As far as the large shipment  
25 that is awaiting payment to be delivered, that is a shipment contrary

1 again to his declaration. Mr. Arnould was fully aware of it.

2 And if you, in fact, look at our Exhibit 15, you'll see that  
3 Mr. Arnould -- his e-mail address is copied on the addresses --  
4 excuse me -- on the e-mails that are discussing that. So this is  
5 something that he was fully aware of. And you know, this shipment  
6 happens to be almost entirely Las Vegas inventory.

7 What we're looking at is he is trying to strong-arm us by  
8 damaging the business at the Las Vegas side in the hopes that he  
9 will be able to take it far enough that we will be forced to give in  
10 before you can make any judicial determination on this.

11 What we are asking is simply that things be run as normal.  
12 And we are absolutely open to any reasonable discussion about  
13 changes that have to be made because of the current crisis. But no  
14 attempts at a discussion have been made.

15 They sent us demands after having seized funds, but there  
16 have been no discussions, no attempts to work in the regular course  
17 of business to deal with anything.

18 We're open to that, but we need to be able to operate the  
19 business in the normal way and do it until -- until we have a decision  
20 from this Court.

21 But it is absolutely improper for the issues that are at  
22 dispute here to be determined by extortion rather than by this Court.

23 So as far as the countermotion, I would only say that, you  
24 know, we gave the notice necessary. We did tell them we'd be filing  
25 this over a week before it was filed -- no, I think it was exactly a week

1 before it was filed.

2 And we are talking about serious irreparable harm.

3 And we are talking about a company, you know, one of the  
4 primary benefits of this company and why it is so profitable is  
5 because we have a very good deal with a particular supplier in China  
6 that gives us prices that can undercut competition. And that is the  
7 supplier we're dealing with.

8 And if we can't -- if we don't get those products, we can't  
9 deliver them, and that harms our customers. And if we don't pay  
10 our sales staff, they're going to be forced to find jobs elsewhere  
11 where they can get enough money to survive. That is our  
12 irreparable harm.

13 So what we are asking, Your Honor, is let things -- just  
14 keep things in the *status quo*, like they were before, and no extreme  
15 actions; no major changes. Let's keep things stable until we get a  
16 determination in this case.

17 THE COURT: Thank you.

18 And the response, please.

19 MR. AURBACH: Your Honor, this is Phil Aurbach.

20 The affidavits are 180 degrees apart. Dominique Arnold  
21 says that he didn't take any money out of the bank account. There's  
22 been no evidence submitted by Mr. Kern that there was anything  
23 taken out of the bank account.

24 What my client did was open another bank account in  
25 California and put moneys in that bank account that arose out of

1 California actions. He also sent copies to Mr. Kern's client of  
2 everything that he's done. So all it was was not a conversion of  
3 fund, not a taking of funds; it was just putting any income that came  
4 in in a separate account. And the reason that he did that is -- in our  
5 documents is because Mr. Muney, after Mr. -- after our client said,  
6 Hey, stop paying rent; this is the virus situation. Stop paying any  
7 rent; we're depleting our cash.

8           And Mr. Muney kept paying rent. And I think we tried to  
9 explain that in our motion that Mr. Muney rented the space in  
10 Las Vegas. Mr. Muney pays himself the \$10,000, which is 5,000 that  
11 the landlord charges and 10,000 goes into Mr. Muney's pocket. We  
12 allege -- and we've previously alleged since December that there was  
13 no agreement to pay 10,000 a month. So that money is -- the *status*  
14 *quo* that Mr. Kern wants is to put money back into Mr. Muney's  
15 pocket.

16           There's virtually no sales. There's been no evidence that  
17 there's a lot of sales. And Mr. -- and salesmen shouldn't be let go.  
18 There's just been no evidence to support the claims that they're  
19 alleging; and there's no evidence to show that in any way is it  
20 irreparable, that money damages couldn't resolve it, if it was even  
21 his client's position -- his client's statement of the facts would be  
22 correct -- which they aren't.

23           So we have two arguments on the TRO. One, one  
24 shouldn't be granted. We ought to have the money segregated, but  
25 that full disclosure of what comes in and what goes out.

1 With regard to the \$9,000 shipment, we've got e-mails and  
2 an affidavit of our client that says we asked for, Where's the backup  
3 to this? We don't see the backup to this. And we never got the  
4 backup. So there's 180 degrees apart on that.

5 No money was taken out of the bank account. The  
6 shipment -- we would pay for that out of the money in California.  
7 There's no money in Las Vegas -- not because my client took it out,  
8 because there hasn't been any sales. That's why my client said, Hey,  
9 we need to let go of the webmaster, which is Mr. Kern's client's son.  
10 We're not generating any sales. The other salesperson is on  
11 commission, and there aren't -- they aren't generating any  
12 commissions. So what we suggest is that no TRO should be  
13 entered.

14 But there should be full disclosure, as we have been.

15 But the second thing is that the TRO that was entered,  
16 Mr. Kern knows who we are. He knows that he sent over an *ex parte*  
17 motion to Your Honor, with an order, a Temporary Restraining  
18 Order, and he didn't follow Rule 65, which is you've got to certify the  
19 attempts to contact counsel so that counsel can advise you of their  
20 position on the facts, and that didn't happen.

21 So the TRO has to be vacated. It was granted without  
22 meeting Rule 65.

23 Second, no TRO should be entered because the whole  
24 reason that we put the money in a separate account is because  
25 Mr. Kern's client is benefiting himself during this time, when there



1 aren't any sales, hardly, there's a few sales in California.

2 So that's our bottom line response.

3 But we've also requested that because there's 180 degrees  
4 apart, we should have a receiver with limited powers to monitor  
5 what Mr. Kern's saying, what my client is saying, and see -- give a  
6 report on what's going on here. Are -- is somebody siphoning off  
7 money that shouldn't be?

8 I say a receiver with limited powers, because this business  
9 is based on relationships. Mr. Kern's client has relationships with  
10 virtually all of the Las Vegas clients. My client has relationships with  
11 the California clients. And so if we get a receiver with full powers,  
12 then if the second stage of this Corona issue, where we don't --  
13 aren't locked down in our homes, allows some activity at these  
14 restaurants and the strip hotels and Disneyland, then it's going to  
15 require the relationships of both of our clients to generate sales and  
16 make this business viable again, because the business isn't viable as  
17 it stands right now.

18 So our position is there's no evidence that backs up the  
19 request for the TRO. It's not irreparable injury because damages are  
20 certainly adequate. And three, the TRO has to be vacated because it  
21 wasn't obtained properly. And four, if we appoint a receiver that  
22 goes in, and both parties get a chance to talk to the receiver, tell him  
23 their story, the receiver looks at the books and records, then you'll  
24 have a better picture of what's going on in this company, as opposed  
25 to us having to come back into court several times.

1           We initially asked for a receiver. We initially asked for  
2 summary judgment. We -- now they're asking for an injunction on  
3 very thin grounds. We need somebody in there to monitor it so that  
4 you can be assured that the allegations in each party's affidavit  
5 match what the finances are of the company.

6           THE COURT: Thank you.

7           What limited powers do you suggest?

8           MR. AURBACH: The limited powers of the receiver should  
9 be to review the company's finances; review the motions on both  
10 sides, the allegations of money being taken, the allegations that the  
11 company is being hurt by either party's actions; and prepare a report  
12 to give to the Court, after speaking with either side, separately;  
13 speaking with the counsel separately, and then preparing a report  
14 that both sides know about.

15           That's the only way I can see when you have this bickering  
16 back and forth.

17           THE COURT: All right. Are the financials current?

18           MR. AURBACH: Yes. We keep everything in QuickBooks.  
19 And Mr. Kern's client has the ability to look at QuickBooks. So we  
20 could just make a copy of the QuickBooks data and send it to a  
21 receiver, and hopefully one that has some accounting background.

22           THE COURT: Okay. And the next question is, is  
23 everything done on invoice?

24           MR. AURBACH: Yes.

25           THE COURT: So it can be tied to inventory and sales?

1 MR. AURBACH: Yes. Alex has had more direct contact --

2 THE COURT: Thank you.

3 MR. AURBACH: Is that true, Alex?

4 MR. CALAWAY: Yeah. Yes, yes. So Mr. Around has been  
5 putting in all the invoices and keeping as books and records. If you  
6 look through the exhibit list, you can see everything that we've said  
7 has invoices and inventory lists to back it up. And those are all  
8 generated through QuickBooks, which both parties have access to.

9 THE COURT: Good enough.

10 Thank you.

11 And the reply, please, Mr. Kern.

12 MR. KERN: Thank you, Your Honor.

13 I agree with Mr. Aurbach who was saying that if you look  
14 at the declarations of our clients, they are at 180 degrees.

15 Along that note, I would suggest that seeing a lot of these  
16 things for the first time in Mr. Arnold's statement, I would suggest  
17 maybe if both parties be allowed to file a responsive affidavit to  
18 Your Honor by end of day or maybe by Monday, then Your Honor  
19 make your decision after reviewing those.

20 I do want to directly contradict a lot of things Mr. Aurbach  
21 said. He says there's no evidence that money was taken out of the  
22 account.

23 Now, I suppose he's trying to say that, oh, no, we just  
24 spent all the money that was in there, and then all the money  
25 coming in we put into a different account. And I won't dispute that.

1 But that's effectively the same as taking the money out and putting it  
2 in a new account -- is a lot of the money that would normally go  
3 there and redirect it.

4 The fact that he said that he has been sending copies of all  
5 the finances and everything to us, that is absolutely false. What we  
6 have so far is we had a one-page scan of one page of a bank  
7 statement that did not show the entire -- the entirety of what was  
8 happening there. I believe it was -- it's Exhibit 3 on our Motion. It  
9 was one page.

10 That's all we had ever seen, prior to this morning, when  
11 we received their motion with the more thorough statements. We  
12 have not been getting that information. All we had as far as that is  
13 Mr. Arnould's promise that he -- I will now keep you aware of what  
14 I'm doing -- meaning at his mercy and he's in total control, which he  
15 has absolutely zero legal authority to do. He's a 50 percent owner.  
16 He does not have the authority to take a hundred percent control.

17 As far as their allegation that they tried to get us to stop  
18 making --

19 THE COURT: Okay. Mr. Kern -- Mr. Kern, if you -- he was  
20 concerned about the wasting of assets during the COVID crisis.  
21 And --

22 MR. KERN: Right. And they did not ask us to make  
23 adjustments. What they did was send an e-mail demanding solely  
24 that the Las Vegas side absorb the brunt of that. And then before  
25 even receiving a response, they had already started taking out and

1 blocking deposited checks. They did this.

2 And their only issues are, one, the person who, as we gave  
3 evidence of in Exhibit 7, the person who updated their web site and  
4 was appropriately being paid for work that was already done. And  
5 honestly, we probably would have been okay with negotiating on  
6 that.

7 We are not okay with cutting off the income that is  
8 guaranteed to our primary sales staff at a time when there are no  
9 commissions.

10 As their only real issue is the fact that there is still rent  
11 being paid. And this is on the Las Vegas warehouse, which is  
12 generally managed by Las Vegas. And we have provided written  
13 evidence that we wanted to continue the existing relationship at the  
14 low cost, as it was before, and -- but that required a personal  
15 guarantee by both partners. And Mr. Arnould refused. And twice,  
16 his previous counsel and his current counsel sent us, in writing, a  
17 suggestion that we're not going to do it. So if you need to get that  
18 signed -- and we did, it was urgent -- then go ahead and lease it with  
19 a different company that you own and you can sublease it back to  
20 us.

21 Now, they're saying it is unthinkable that a separate  
22 company would do it and charge a market rate and take the profit  
23 margin, rather than do it as an extension of this company when it is  
24 a separate legal entity. We have provided evidence that says that  
25 this is the exact, appropriate market rate for such a deal.

1           They have -- in the whole of this case, provided no  
2 evidence otherwise. They have not contradicted the fact that there  
3 are two separate, in-writing statements of them directing us to do  
4 this. All they say is they did not agree to the price. And the fact is  
5 they did not ask to be involved. They didn't -- when we asked them  
6 to be involved, they said they didn't want any part of it. They said,  
7 you just do it and we did it. They may be mad about that, sure, but  
8 it's not the basis for seizing the assets of the company.

9           And again, I did say that we would have been willing to  
10 discuss, you know, seeking a temporary reduction in that rent  
11 amounts. But this was done unilaterally. They did not attempt to  
12 negotiate this. They simply seized the funds, which they have no  
13 right to do.

14           As far as their allegation that the issuance of the  
15 restraining order violated Rule 65, that's not the case. They're  
16 saying that it's -- we're required to give a certification of the efforts  
17 that we made to contact them and let them know. However, we did  
18 not provide a sworn certification from myself.

19           We did provide, however, direct written evidence, which  
20 serves the same purpose. It's written evidence. I provided the  
21 e-mail that showed us discussing the issue and letting them know  
22 our intentions and that the motion was going to be filed.

23           So what's important to understand right now is that we  
24 have a settlement in place. We reached settlement, and we have --  
25 it's enforceable. We had literally called it and wrote in there -- it's all

1 material terms. And it was intended to be enforceable. And there's  
2 a motion before the Court right now to enforce that.

3 They're alleging that because they didn't want to offer any  
4 collateral, the bank said they needed collateral to give them loans.  
5 They're saying that lets them off the hook. And the Court will decide  
6 that.

7 But until that's decided, there is a settlement agreement in  
8 place. And the settlement agreement says that everybody is  
9 supposed to keep things at the *status quo* and not take inventory  
10 from the other side and not do anything extravagant. So we just  
11 want to go with the *status quo*.

12 We are not asking for something crazy. We are not asking  
13 for something drastically in our favor. As I said, we're willing to  
14 discuss any issue that needs to be adjusted, but we're not going to  
15 accept unilateral demands.

16 We just want to operate the company. And we are  
17 businessmen as well. And it is our job to run the Las Vegas branch  
18 which is suffering from the same issues. And we are absolutely  
19 prepared to do whatever is necessary to adjust spending and  
20 everything else.

21 However, it is not appropriate that one side that controls  
22 one branch of the company gets to do 100 percent of that  
23 determination and favor their own side over ours at a time when  
24 we're trying to negotiate a resolution to something that will end the  
25 company if they win the case.

1           So what we're saying is, yes, it's a TRO; and, yes, we're  
2 looking for a preliminary injunction --

3           MR. CALAWAY: Did we lose the Court? I'm sorry to  
4 interrupt you, Mr. Kern. I just want to make sure we can go ahead.

5           MR. KERN: Thank you for -- actually, that's important.

6           MR. CALAWAY: Yeah. I don't want you to --

7           MR. KERN: How long ago? Did you see?

8           MR. CALAWAY: Oh, there, she's back.

9           Did we lose you, Judge?

10          THE COURT: Mr. Kern, I [indiscernible] of your  
11 [indiscernible] with regard to the settlement. And so if you'll just  
12 back up for a minute.

13          MR. KERN: Sure. I was starting to talk about the  
14 settlement when I lost you?

15          THE COURT: No. You talked about that there were  
16 definite terms of the settlement.

17          But, you know, it's still conditional on financing. So I  
18 don't -- I'll give Mr. Aurbach extra [indiscernible]. But it'll be great if  
19 this case would settle, because as I've told you guys at every  
20 hearing, with a 50/50 impasse, there are very few ways it gets  
21 resolved. So --

22          But I cut you off, Mr. Kern. And I want you to finish your  
23 argument.

24          MR. KERN: Sure, Your Honor.

25          What we're saying is until this is decided -- we have a



1 motion in front of the Court to enforce the settlement agreement.  
2 And until that's decided, that -- the terms of the settlement  
3 agreement, which said, you know, no taking of inventory from one  
4 city to the other, you know, without permission, and no extreme  
5 expenses or big changes. That is a very reasonable thing. And that  
6 should stay in place until we have a determination on the motion.

7 THE COURT: Thank you.

8 And will the plaintiffs please respond with regard to the  
9 argument on settlement?

10 MR. AURBACH: The argument on settlement is that it was  
11 conditioned on financing. And before any financing was obtained,  
12 the virus hit, shut everything down. So the value of the business  
13 that was going to be purchased was worthless after the virus hit and  
14 no businesses were open.

15 So if I can go back on just two quick points, Judge, may I?

16 THE COURT: Yes.

17 MR. AURBACH: First of all, the bank -- one-page bank  
18 statement that he got, that's all we have, because he just -- our client  
19 just opened the account.

20 Number two, they admitted that we didn't take money out  
21 of the company account. We just opened a new account and put  
22 money in it.

23 But the bottom line is, I think we should have a receiver  
24 with limited authority, unless somebody says he needs to take over  
25 the company.

1 But all of the things that Mr. Kern says ought to be  
2 evaluated by a CPA, and like kids in a custody battle, see what's in  
3 the best interests of the company.

4 THE COURT: But my question to both of you is at this  
5 point, do you know if the company is viable?

6 MR. AURBACH: Your Honor, if I may address that. And if  
7 the Coronavirus restrictions are lifted over the next three months,  
8 even four months -- absolutely it's viable, because when the  
9 restaurants open on the Strip, when Disneyland opens, when things  
10 start happening again, they will start buying our products.

11 And Mr. Kern's client and my client are the ones with the  
12 relationships with the customers. So we think, yes. We just need to  
13 make sure that we're not wasting time and money by coming back  
14 into Court opposing motions, when both sides have arguments, and  
15 there's a lot of noise on both sides.

16 THE COURT: Right. And the next question is, is there  
17 enough cash on hand to pay a receiver?

18 MR. AURBACH: Alex, do you know how much is --

19 MR. CALAWAY: Yeah. The last bank statement that I  
20 provided as of, I think, last night, I think it was, like, 5 grand. So no.  
21 And I think if it was a limited receiver, like Mr. Aurbach suggested,  
22 there could potentially be some money for oversight.

23 MR. AURBACH: But that -- Your Honor, both sides have  
24 money. This company made a slug of money in the past when it  
25 was operating. So to have each side pony up 10 grand and have the

1 receiver do a limited amount of research seemingly would go into  
2 the decision of what's best for the company in terms of how these  
3 finances are until we can right the ship.

4 THE COURT: Thank you.

5 Mr. Kern, your response to both questions, please.

6 MR. KERN: Thank you, Your Honor.

7 I do agree with Mr. Aurbach. I do believe it's a viable  
8 company. Obviously, that could change, depending on how long  
9 everything is shut down. But this company has made a great deal of  
10 profit in the past and has -- was making a great deal of profit prior to  
11 this pandemic. So I think there's no issue of it surviving for a few  
12 more months or, you know, a significant amount of time.

13 You know, obviously if things could not have opened up  
14 by the end of the year, I don't think it's viable. But otherwise, I think  
15 we're fine.

16 THE COURT: All right.

17 MR. KERN: As far as affording a receiver, you know, in  
18 principle, I'm not against a receiver doing this, because, you know,  
19 we feel that it would agree with us once they reviewed the records.

20 But my concern is that if we're saying we don't have  
21 enough money to pay for rent for the Las Vegas warehouse and for  
22 our -- keeping our sales staff with food on their table, it's problematic  
23 to wonder how we're going to pay for a receiver, if we're looking at  
24 that kind of financial situation.

25 I would say that even if we do decide to appoint a receiver

1 for this limited purpose, we still need to be able to operate the  
2 company. And we need to be able to operate the company with  
3 both 50 percent partners able to operate their parts of the business.  
4 And that means we would still need a determination, as far as  
5 putting money back where both sides have access to it and can pay  
6 to maintain their branches.

7 MR. AURBACH: Your Honor, this is Phillip Aurbach.

8 I agree with Mr. Kern. But those are issues that we could  
9 decide down the road on, if we were going to go forward on a  
10 Preliminary Injunction Motion.

11 But if my client is just taking the money and putting it into  
12 an account, and for two weeks it's not going to be irreparable harm.  
13 And within that time, we probably could get a limited receiver -- a  
14 receiver with limited powers to go in and look at the QuickBooks and  
15 look at the invoices and talk to Mr. Kern's client as to what's the  
16 problem from your side and talk to our side and give a report to the  
17 Court.

18 THE COURT: Thank you.

19 MR. AURBACH: And that he should be paid by both sides  
20 pony up money -- both individual owners -- if there isn't enough  
21 money in the company.

22 THE COURT: Good enough. Thank you.

23 Mr. Kern, you had filed the motion first. You get the last  
24 word, if you have anything more to add.

25 MR. KERN: Thank you, Your Honor.

1           We'll just say that we do ask you to take a look at the  
2 exhibits we provided. And we think that as far as the disputes of  
3 fact, that they'll -- our side is supported by the evidence we provided.

4           As far as a receiver, again, if we have the money -- and I'm  
5 not sure we do -- I'm not against that. But we -- there is literally no  
6 legal authority for them to seize entire financial control of the  
7 company, which they've done.

8           So the funds have to be put back in the control of both  
9 50 percent partners, in the meantime, regardless of what we do with  
10 a receiver or not. A receiver is not an substitution for a  
11 determination.

12           THE COURT: Thank you all.

13           I've now considered the matter submitted and this is my  
14 ruling.

15           The Temporary Restraining Order will be dissolved  
16 immediately.

17           The Motion to Enforce the Settlement is denied without  
18 prejudice for the reason that it was conditional on financing. And I  
19 have sufficient evidence that the financing is not available at this  
20 point.

21           I am going to appoint a receiver for a limited purpose. I'm  
22 going to ask the two of you to try to work together to craft what the  
23 purpose of the receiver will be. I assume it will be to determine  
24 where the inventory is and what is in inventory; what are the  
25 accounts payable, accounts receivable, if any; and the current

1 finances. I want to see how they tie out.

2           Given the fact that the governor has stopped all evictions, I  
3 understand why the plaintiff did what it did. [Indiscernible] it was  
4 only to the [indiscernible] I needed to bring --

5           MR. CALAWAY: Judge, I'm sorry to interrupt. You cut out  
6 when you said, The governor did what he did. I signed -- and then  
7 we couldn't hear you.

8           THE COURT: I signed the order only because of the need  
9 for stability and to bring the parties together immediately.

10           It's very clear that there's a loss of trust on both sides, at  
11 this point, which is why it makes perfect sense to have a receiver  
12 with limited authority.

13           What I would like to do is continue this hearing -- keep the  
14 *status quo* in place, continue the hearing until next Friday.

15           If you can't agree on a receiver, then give me three names  
16 ranked.

17           If you can't agree on what you believe the limited duties  
18 should be, then both of you tell me -- just file something quick, with  
19 regard to both positions.

20           And then next Friday [indiscernible] a receiver. My  
21 preference would be that it needs to be someone with an accounting  
22 background. Again, there are several people who come to mind.  
23 But if you guys know people that you would rely on -- if you can  
24 agree, great. And if you can't, I'll make the choice.

25           Is that clear at this point to everyone?

1 MR. AURBACH: It is really clear to me, Your Honor.

2 Could I ask Mr. Kern a question?

3 Do you have anybody in mind for a receiver? Do you have  
4 any bankruptcy trustees maybe that have experience as a CPA or  
5 somebody like that that maybe --

6 I would guess from your perspective, Robert, that you  
7 want somebody in sooner, rather than wait a week. But maybe we  
8 can agree on somebody verbally now.

9 MR. KERN: Offhand, my first thought would be if you  
10 knew who Andrew Martin is. He's a Certified Fraud Examiner and a  
11 CPA. I know he has a lot of experience with businesses more  
12 complex than this one, so that would probably be the first one that  
13 would come to mind.

14 But I would probably check with my bankruptcy partner, as  
15 far as recommendations from the bankruptcy side.

16 MR. AURBACH: Okay. Why don't I do -- why don't we do  
17 this? I'll send you some names and you can send me some names.  
18 And if we can agree sooner, we'll do a stipulation. How is that?

19 THE COURT: That's good.

20 And if you guys need [indiscernible], it doesn't -- we only  
21 do hearings on Friday because of low bandwidth. Monday is the  
22 hardest day to get one of these hearings to stick. So I will do it any  
23 afternoon this week at your convenience. I am scheduled to go into  
24 the courtroom next Friday, but the parties will still be remote.

25 MR. KERN: Your Honor --

1 MR. AURBACH: One last question, Judge. You said the  
2 *status quo* that means how it is right now with my client having this  
3 account in California and disclosing everything that comes in and  
4 everything that goes out; right?

5 THE COURT: That's correct.

6 So I'm going to keep the *status quo* for now.

7 I understand the motive behind what the plaintiff did  
8 because he was concerned about wasting assets.

9 Now, let's go big picture on this case. I know you had  
10 mentioned a settlement conference.

11 Is there any possible way that you could just split this  
12 company in half, and the plaintiff takes California and the defendant  
13 takes Nevada?

14 MR. AURBACH: I think that's a possibility, Judge. I'm not  
15 sure that Mr. Kern's client would.

16 But it's very possible that once we put a receiver in place  
17 or almost get one or get a bill for 10,000 bucks each, that -- or  
18 whatever the receiver is going to request -- that both parties may be  
19 a little more pliable. That would be my opinion on splitting it.

20 THE COURT: And I know that both [indiscernible]  
21 because, you know, if you go to trial -- you haven't made a jury  
22 demand. We could do a trial this summer, even if appearances are  
23 remote. But it's just an idea I have.

24 Mr. Kern?

25 MR. KERN: Are you asking me about the idea of a jury



1 trial this summer?

2 THE COURT: I'm asking you about where your client  
3 [indiscernible] Las Vegas, if they could agree [indiscernible]  
4 resolved?

5 MR. KERN: We attempted to do that. And, you know,  
6 Mr. Arnould's refusal was what led to the filing of this suit. You  
7 know, we can continue to talk about it. But I have to tell you that  
8 with him backing out of the previous settlement, that we don't have  
9 a lot of faith in trusting him on this.

10 I will ask Your Honor, with regard -- I'll be honest, I did not  
11 think that we were arguing the Motion to Enforce Settlement  
12 Agreement or Motion for a Receiver today. I thought that was going  
13 to be argued in June.

14 If we are getting a determination on that, I would like, if --  
15 would like to request that the Court give us findings of fact and  
16 determinations of law to explain -- to address our arguments with  
17 regard to the minimum efforts required and how he -- whether he  
18 met those or not, in seeking funding.

19 THE COURT: So, Mr. Aurbach, you and Mr. Calaway will  
20 prepare the [indiscernible] and include findings and conclusions that  
21 are consistent with my ruling?

22 MR. AURBACH: We will, Your Honor. And we'll run them  
23 by counsel.

24 THE COURT: And you guys -- you do have [indiscernible]  
25 on June 24th, and I understand that.

1 But given the COVID crisis, I just think it's appropriate for  
2 me to just get a receiver in place that this point.

3 And I read everything. And they're all fully briefed. So I  
4 understand your concerns that I jumped the gun on this one. But  
5 given the circumstances of the world and the business world, I feel  
6 like I need to give both sides more stability with regard to the future.

7 Also, the Rule 16 conference [indiscernible] have you guys  
8 done any discovery? Have you been able to? If you have, I'd be  
9 surprised.

10 MR. AURBACH: None.

11 THE COURT: None?

12 MR. AURBACH: None.

13 THE COURT: Mr. Kern? None?

14 MR. KERN: I'm sorry, Your Honor.

15 THE COURT: All right.

16 MR. KERN: I couldn't -- you cut out when --

17 THE COURT: These are so challenging, these hearings.  
18 Have you done any discovery?

19 MR. KERN: No. There's been no discovery yet. We just  
20 got notice of the rescheduled 16.1 meeting.

21 THE COURT: All right. So should we keep the June 24th  
22 hearing on calendar to maybe hear from the receiver on a  
23 preliminary basis?

24 MR. AURBACH: That makes sense.

25 THE COURT: Yes?

1 MR. CALAWAY: That would be perfect timing.

2 THE COURT: Okay, you guys.

3 So the -- Mr. Aurbach will prepare the orders from today.

4 Mr. Kern will have the ability to review and approve the  
5 form only of the order, and it'll be submitted [indiscernible] via EDD  
6 e-mail the way that we use these days.

7 We'll leave the hearings on for June 24th, with the hope  
8 that we may have a preliminary report from the receiver. And let me  
9 stress that the -- that report at that point could be oral, if necessary.

10 The receiver will have the ability to talk to me at any time.  
11 If I talk to a receiver, then I do a Minute Order letting you guys know  
12 that we've been contacted.

13 So that -- I do not consider that an *ex parte* conversation,  
14 just to let you guys know that.

15 MR. AURBACH: That's fine, Your Honor.

16 I will work with Mr. Kern about the limited powers, so we  
17 could try to agree on that so the business can continue.

18 THE COURT: Good. Very good.

19 And was there anything else, Mr. Kern, to add, before we  
20 conclude the hearing?

21 MR. KERN: Yes, Your Honor.

22 I just wanted to ask that when I'm requesting the findings  
23 of fact and conclusions of law, I don't know that Mr. Aurbach would  
24 be able to include your reasoning there as -- without it being stated.  
25 So I just wondered if you would share -- address the issue with

1 regard to whether you believe there was a -- is a standard of care for  
2 seeking financing, or if you do not, or if you think this is an e-  
3 method, et cetera.

4 MR. AURBACH: Your Honor, may I address that first?

5 THE COURT: You may.

6 MR. AURBACH: I think -- what I heard you say was there  
7 was enough in the papers to show that there was a financing  
8 condition. And before that financing condition was satisfied, the  
9 Coronavirus hit. That's all the finding and conclusion we need in this  
10 order denying the settlement conference, in my opinion.

11 MR. KERN: That's right.

12 But I'll point out that that was Mr. Aurbach who said that.  
13 And we did present evidence that that was not the case, that they  
14 declared the -- they declared that they had stopped seeking financing  
15 before this happened.

16 THE COURT: All right. Did you have more than to add,  
17 Mr. Kern?

18 MR. KERN: No. Just -- just what I had just said that the --  
19 they did stop -- they did make no further efforts -- they concluded  
20 their efforts to seek financing before the emergency order and before  
21 things were shut down. And they were, in fact, then told by the  
22 banks that they could get financing with the standard amount of  
23 collateral provided for the loan.

24 THE COURT: Good enough.

25 I also could make the legal finding that the TRO was

1 procedurally improper. So, Mr. Aurbach, you may also include that.

2 MR. AURBACH: Okay.

3 THE COURT: If there's nothing else -- if you guys need a  
4 hearing before this June 24th, we'll get you on calendar right away.  
5 On business court cases, I'm making sure you have access as -- any  
6 time you need it.

7 MR. AURBACH: Okay. Thank you, Your Honor.

8 MR. CALAWAY: Thank you, Your Honor.

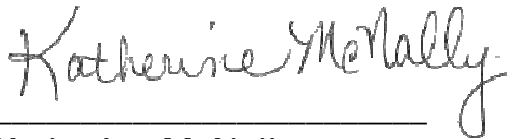
9 THE COURT: Thank you, all.

10 MR. KERN: Thank you, Your Honor.

11 [Proceeding concluded at 1:49 p.m.]

12 \* \* \* \* \*

13  
14 ATTEST: I do hereby certify that I have truly and correctly  
15 transcribed the audio/video proceedings in the above-entitled case to  
16 the best of my ability.

17 

18 Katherine McNally  
19 Independent Transcriber CERT\*\*D-323  
20 AZ-Accurate Transcription Service, LLC  
21  
22  
23  
24  
25

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

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC.,

Appellants,

vs.

DOMINIQUE ARNOULD,

Respondent.

Supreme Court Case No: 81354, 81355,  
81356

**APPELLANT'S APPENDIX**

**VOLUME III**

**APPEAL FROM THE EIGHTH JUDICIAL DISTRICT COURT**

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*Heather S. Lumin*

CLERK OF THE COURT

**ORDR**

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**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B

Dept. No.: 27

**ORDER**

This matter came before the Court on May 22, 2020 at 1:00pm, regarding the Defendants' Amended Application for Temporary Restraining Order, Plaintiff's Counter-Motion to Vacate Temporary Restraining Order, Plaintiff's Motion for Appointment of Trustee, and Defendants' Counter-Motion for Enforcement of Settlement Agreement.

Having reviewed the papers and pleadings on file herein, arguments of counsel at the time of the above identified hearing, being fully advised on the matter, and with good cause appearing therefore the Court finds and decides the following:

**FINDINGS OF FACT**

1. Chef Exec Suppliers LLC (the "Company") is owned in equal shares by Plaintiff Dominique Arnould ("Arnould") and Defendant Clement Muney ("Muney") (hereinafter collectively referred to as the "Parities").

2. The Company operates in Nevada and California and it sells its products to restaurants, caterers, resorts, hotels, casinos, and others (“Customers”).

3. On December 10, 2020, Arnould filed a Motion for Appointment of Trustee (“Motion for Receiver”) requesting that a receiver be appointed to wind down the Company.

4. On February 7, 2020, Arnould and Munev attended a settlement conference held by Judge Williams, wherein the Parties entered into a Memorandum of Material Terms of Agreement (“Memo”).

5. The terms of the Memo were, among other things, that:

a. Arnould would buy-out Munev’s interest in the Company for a purchase price of \$700,000 (“Purchase Price”);

b. a “final agreement [would] be drafted at a later time;”

c. the entire Memo “shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale;”

d. that Arnould would “be required to use good faith towards seeking to obtain such financing from all reasonable sources” sufficient for him to pay the entire purchase price.

6. After February 7, 2020, Arnould made reasonable efforts to obtain financing from multiple lenders, but he was formally and informally denied and rejected by the lenders for the financing unless he offered outside collateral, which was not required by the express terms set forth in the Memo.<sup>1</sup>

7. Whether Arnould’s financing efforts were reasonable would ordinarily be a question of fact but for the intervening COVID-19 pandemic (“Pandemic”). However, the Court takes Judicial Notice that on March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency in response to the Pandemic and required the closure of non-essential businesses, many of which included the Company’s Customers.

---

<sup>1</sup> Declaration in Support of Opposition to Defendants’ Counter-Motion to Enforce Settlement Agreement, at ¶¶6-16, on file herein.

1           8.       The Court additionally takes Judicial Notice that the pandemic had a severe and  
2 detrimental impact on the value of the Company and the ability of either Party to perform and  
3 receive the bargained for consideration under the Memo.

4           9.       It is undisputed that the Pandemic was an unforeseen event that was not and could  
5 not have been foreseen by either Party to the Memo. It is unclear how long these detrimental  
6 impacts and impediments will continue.

7           10.      On March 20, 2020, Defendants filed their Counter-Motion for Enforcement of  
8 Settlement Agreement (“Motion for Enforcement”), requesting this Court “reduce the [Memo] to  
9 judgment by its existing terms, and conclude the present litigation.”

10          11.      On May 20, 2020, Defendants filed their Amended Application for Temporary  
11 Restraining Order and Preliminary Injunction (“Application”) under NRCP 65, alleging among  
12 other things, that injunctive relief is necessary to avoid irreparable harm to the Company.

13          12.      The Application renewed the issues set forth in Defendants’ Motion for  
14 Enforcement.

15          13.      The Application included an affidavit of Clement Muney that averred, among other  
16 things, that irreparable harm and immediate injury to the Company was imminent.

17          14.      The Application did not, however, include a certification by the movant’s attorney  
18 in writing of the efforts made to give notice and the reasons why it should not be required as set  
19 forth in NRCP 65(b)(1)(B). While there is evidence of some communications between counsel  
20 regarding the threat of an injunction, there was no certification by counsel in its Application per  
21 the NRCP 65(b)(1)(B).

22          15.      Based on Defendant’s Application, the Court issued a Temporary Restraining  
23 Order and set a hearing for May 22, 2020 to consider fully consider the Application’s merits.

24          16.      Plaintiff opposed the Application and disputed the Application’s claims of  
25 irreparable harm and immediate injury to the Company by providing evidence of the lack of  
26 irreparable harm and immediate injury because damages were an adequate remedy. Plaintiff also  
27 raised the aforementioned procedural issue under NRCP 65(b)(1)(B).

1 17. Muney's request for injunctive relief in favor of Defendants' Application would  
2 not preserve the *status quo*, but would allow the Company to keep making payments to Muney  
3 and Muney's son.

4 18. Plaintiff's Opposition to the Application and Countermotion to Vacate the  
5 Temporary Restraining Order renewed its request for the Court to appoint a receiver with limited  
6 powers. The attorneys for both Parties' agreed that a receiver should not interrupt the Parties'  
7 direct relationships with their Customers if the Company was to remain viable upon the reopening  
8 of the economy.

9 19. Neither Party trusts the other to with the assets or operations of the Company. Thus,  
10 a receiver with limited powers would allow the expenditures and dealings of the Company to be  
11 overseen by a neutral third-party without impeding the Company's ability to carry on its business.

#### 12 CONCLUSIONS OF LAW

13 1. Neither party trusts the other to with the assets or operations of the Company. It is  
14 therefore necessary that a neutral receiver be appointed with limited powers as defined herein.

15 2. Arnould obtaining financing was a condition precedent or an event that must occur  
16 before either party became obligated to perform under the Memo. Prior to Arnould satisfying his  
17 duty to make reasonable efforts to obtain financing, the Pandemic decimated the economy and any  
18 hope of the condition being satisfied, rendering the Memo unenforceable.

19 3. Moreover, the Pandemic was and is an unforeseen contingency event that changed  
20 the circumstances surrounding the Memo. The main purpose of the Memo was for Arnould to buy-  
21 out the Company after financing was obtained. This purpose was destroyed by virtue of the  
22 Pandemic.

23 4. The unforeseeable Pandemic event altered the circumstances surrounding the  
24 Memo such that performance of the condition in the Memo to obtain financing could no longer be  
25 fulfilled. Thus, the purposes of the financing condition and the Memo have become frustrated,  
26 thereby discharging the duties arising thereunder.

27 5. Injunctive relief is not warranted here because: (1) irreparable harm and immediate  
28 injury is not present because damages are an adequate remedy; (2) the party seeking injunctive

1 relief is not likely to prevail on the merits of its alleged conversion claim; (3) the relative interests  
2 of the parties weights against injunctive relief; and (4) public policy does not favor injunctive  
3 relief.

4 6. In addition, Defendants' Application for injunctive relief failed to provide the  
5 notice and reasoning required by NRCP 65(b)(1)(B).

6 **ORDER**

7 Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings,  
8 conclusions of law and the powers of the Court:

- 9 1. It is ordered that the Defendants' Amended Application for Temporary Restraining  
10 Order is hereby DENIED.
- 11 2. It is further ordered that Defendants' previously filed Counter-Motion for Enforcement  
12 of Settlement Agreement is hereby DENIED.
- 13 3. It is further ordered that Plaintiff's Motion to Vacate Temporary Restraining Order is  
14 GRANTED and the Temporary Restraining Order entered on May 20, 2020 is hereby  
15 VACATED.
- 16 4. It is further ordered that Plaintiff's Motion for Appointment of Trustee or Receiver is  
17 GRANTED to the extent that a receiver ("Receiver") with limited powers as defined  
18 below ("Limited Powers").
- 19 5. It is further ordered that the Receiver's role will be to supervise the operations of the  
20 Company in consultation with Arnould and Muney, to allow them to continue  
21 operations of the Company, and prepare a report about the viability of the Company.
- 22 6. Pursuant to these Limited Powers, it is further ordered:
- 23 a. The Parties shall grant the Receiver full access to bank accounts, accounts  
24 receivable and payable, customers' orders and suppliers' purchases, as well as  
25 agreeing to respond in good faith to provide truthful answers and responses to  
26 any questioning or requests for information from the receiver;
- 27 b. The Receiver shall obtain agreement from the Parties with respect to all  
28 payments to landlords, suppliers, employees, and independent contractors;

- c. The Parties shall consult with the Receiver regarding all purchases of new inventory to ensure there is a need for the products, bearing in mind the downturn in business and the restriction on Company funds;
- d. The Receiver will attempt to obtain agreement of the Parties in respect of the operation of the business;
- e. In the event of a disagreement between the Parties, the Receiver will note any disagreement between the Parties in his report;
- f. The Receiver will have authority to communicate directly with the Court if necessary, after which such communications with the Court will be disclosed to the parties via minute order;
- g. Either Party or their attorney may communicate with the Receiver directly;
- h. The Receiver will have the power to recommend the transfer funds between accounts for legitimate company purposes; and
- i. The Parties will be required to report to the Receiver any removal of Company inventory or other Company items or individual items from the Company warehouses. If the removal is to fulfill sales, copies of the documents showing which customer ordered what product and the terms of payment will suffice. The Parties will also be required to justify any charges on Company credit cards or accounts;

7. It is further ordered that the Receiver will be a person either stipulated to by Arnould and Muney, or if no agreement can be reached, then a person chosen by this Court.
8. It is further ordered that once a Receiver is appointed, the Receiver will be compensated by Muney and Arnould each paying ½ of his estimated fees within 10 days of each of the Receiver's request.

//

//

//

9. It is further ordered that the Receiver who be appointed will be:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 8th day of June, 2020

*Nancy L. Alf*  
DISTRICT COURT JUDGE

Respectfully Submitted by:

**158 CF4 77DE 0484**  
**Nancy Alf**

**MARQUIS AURBACH COFFING**

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
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Las Vegas, Nevada, 89145  
*Attorneys for Plaintiffs/Counter-  
Defendants*

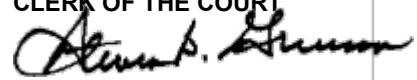
Approved as to form

Dated this 4 day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern Esq.

Robert Kern, Esq.  
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601 S. 6th St.  
Las Vegas, Nevada 89101



1 **Marquis Aurbach Coffing**  
 2 Phillip S. Aurbach, Esq.  
 3 Nevada Bar No. 1501  
 4 Alexander K. Calaway, Esq.  
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 9 Facsimile: (702) 382-5816  
 10 paurbach@maclaw.com  
 11 acalaway@maclaw.com  
 12 *Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

12 CLEMENT MUNY; CHEF EXEC  
 13 SUPPLIERS, LLC; and DOES I through X,  
 14 inclusive; and ROE CORPORATIONS I through  
 15 X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
 Dept. No.: 27

**NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that the Order was entered on the 8<sup>th</sup> day of June, 2020. A true  
 18 and correct copy of which is attached hereto.

Dated this 8th day of June, 2020.

MARQUIS AURBACH COFFING

21 By /s/ Alexander K. Calaway  
 22 Phillip S. Aurbach, Esq.  
 23 Nevada Bar No. 1501  
 24 Alexander K. Calaway, Esq.  
 25 Nevada Bar No. 15188  
 26 *Attorneys for Plaintiff*



**CERTIFICATE OF SERVICE**

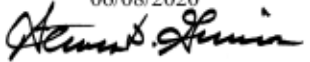
I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 8th day of June, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/J. Case  
An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

  
CLERK OF THE COURT

**ORDR**  
**Marquis Aurbach Coffing**  
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*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
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Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
Dept. No.: 27

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2. The Company operates in Nevada and California and it sells its products to restaurants, caterers, resorts, hotels, casinos, and others ("Customers").

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c. the entire Memo "shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale;"

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1           8.       The Court additionally takes Judicial Notice that the pandemic had a severe and  
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3 receive the bargained for consideration under the Memo.

4           9.       It is undisputed that the Pandemic was an unforeseen event that was not and could  
5 not have been foreseen by either Party to the Memo. It is unclear how long these detrimental  
6 impacts and impediments will continue.

7           10.      On March 20, 2020, Defendants filed their Counter-Motion for Enforcement of  
8 Settlement Agreement ("Motion for Enforcement"), requesting this Court "reduce the [Memo] to  
9 judgment by its existing terms, and conclude the present litigation."

10          11.      On May 20, 2020, Defendants filed their Amended Application for Temporary  
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22          15.      Based on Defendant's Application, the Court issued a Temporary Restraining  
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25 irreparable harm and immediate injury to the Company by providing evidence of the lack of  
26 irreparable harm and immediate injury because damages were an adequate remedy. Plaintiff also  
27 raised the aforementioned procedural issue under NRCP 65(b)(1)(B).

28

19. Neither Party trusts the other to with the assets or operations of the Company. Thus, a receiver with limited powers would allow the expenditures and dealings of the Company to be overseen by a neutral third-party without impeding the Company's ability to carry on its business.

5. Injunctive relief is not warranted here because: (1) irreparable harm and immediate injury is not present because damages are an adequate remedy; (2) the party seeking injunctive



1 relief is not likely to prevail on the merits of its alleged conversion claim; (3) the relative interests  
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4 6. In addition, Defendants' Application for injunctive relief failed to provide the  
5 notice and reasoning required by NRCP 65(b)(1)(B).

### 6 **ORDER**

7 Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings,  
8 conclusions of law and the powers of the Court:

- 9 1. It is ordered that the Defendants' Amended Application for Temporary Restraining  
10 Order is hereby DENIED.
- 11 2. It is further ordered that Defendants' previously filed Counter-Motion for Enforcement  
12 of Settlement Agreement is hereby DENIED.
- 13 3. It is further ordered that Plaintiff's Motion to Vacate Temporary Restraining Order is  
14 GRANTED and the Temporary Restraining Order entered on May 20, 2020 is hereby  
15 VACATED.
- 16 4. It is further ordered that Plaintiff's Motion for Appointment of Trustee or Receiver is  
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- 19 5. It is further ordered that the Receiver's role will be to supervise the operations of the  
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28 payments to landlords, suppliers, employees, and independent contractors;

- c. The Parties shall consult with the Receiver regarding all purchases of new inventory to ensure there is a need for the products, bearing in mind the downturn in business and the restriction on Company funds;
- d. The Receiver will attempt to obtain agreement of the Parties in respect of the operation of the business;
- e. In the event of a disagreement between the Parties, the Receiver will note any disagreement between the Parties in his report;
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- g. Either Party or their attorney may communicate with the Receiver directly;
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8. It is further ordered that once a Receiver is appointed, the Receiver will be compensated by Muney and Arnould each paying ½ of his estimated fees within 10 days of each of the Receiver's request.

//

//

//

9. It is further ordered that the Receiver who be appointed will be:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 8th day of June, 2020

*Nancy L. Alf*  
DISTRICT COURT JUDGE

Respectfully Submitted by:

**158 CF4 77DE 0484**  
**Nancy Alf**

**MARQUIS AURBACH COFFING**

By: /s/ Alexander K. Calaway

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Las Vegas, Nevada, 89145  
*Attorneys for Plaintiffs/Counter-  
Defendants*

Approved as to form

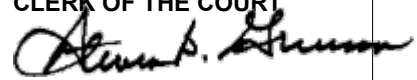
Dated this 4 day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern Esq.

Robert Kern, Esq.  
Nevada Bar No. 10104  
601 S. 6th St.  
Las Vegas, Nevada 89101





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 acalaway@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNNEY; CHEF EXEC  
 SUPPLIERS, LLC; and DOES I through X,  
 inclusive; and ROE CORPORATIONS I through  
 X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
 Dept. No.: 27

**PLAINTIFF'S EMERGENCY REQUEST  
 FOR TELEPHONIC HEARING FOR  
 APPOINTMENT OF RECEIVER TO  
 TAKE OVER THE WAREHOUSE OR  
 FOR ORDER ALLOWING ACCESS**

**Hearing requested on shortened time-by  
 telephonic conference**

Plaintiff, DOMINIQUE ARNOULD (hereinafter "Arnould" or "Plaintiff"), by and through his attorneys, Marquis Aurbach Coffing, requests a telephonic conference today to appoint a Receiver to take control of the warehouse storing Chef Exec inventory or in the interim, enter an Order that Arnould can drop off inventory from the Los Angeles warehouse and pick up inventory from the Las Vegas warehouse—Defendant Muney changed the locks and Arnould has no access.

This Opposition is made and based upon the pleadings on file herein, the following points and authorities, and any argument allowed by the Court at the time of hearing.

Dated this 10th day of June, 2020.

MARQUIS AURBACH COFFING

By /s/ Phillip S. Aurbach  
 Phillip S. Aurbach, Esq., #1501  
 Alexander K. Calaway, Esq., #15188  
*Attorneys for Plaintiff*

**MEMORANDUM OF POINTS AND AUTHORITIES****I. ARNOULD NEEDS ACCESS TODAY TO THE LAS VEGAS WAREHOUSE TO PICK UP INVENTORY TO TAKE TO LOS ANGELES FOR CUSTOMERS IN LOS ANGELES AND MUNNEY WILL NOT ALLOW ACCESS TO CHEF EXEC INVENTORY**

1. Last Friday June 5, 2020, Plaintiff, Dominique Arnould, and Defendant, Clement Muney, had the following email exchange<sup>1</sup>:

Clement

The warehouse we are currently using at Northstar lost their lease. They have asked us to move out. We have 29 pallets stored there which need to be moved before June 13. all other pallets have been stored at our location in Van Nuys. I could bring them back to our Las Vegas warehouse or rent another space I have already identified.

If we bring that inventory back to Las Vegas, i will need to Bring back some of the following products:

Spheres

Small Glass

Round slanted cups.

What would you like me to do?

Dominique

Muney's response was "tell me why you need those items."

From: Clement Muney <clement@chefexecsuppliers.com>

To: DOMINIQUE ARNOUD <domiarnould@aol.com>

Cc: Clement Chef Exec <clement@chefexecsuppliers.com>

Sent: Fri, Jun 5, 2020 4:26 pm

Subject: Re: Inventory

Dominique,

I have no problem to store the products back in Las Vegas that you don't need in LA. I have no problem, as usual, to give what is necessary for LA's needs, as long as it is justified.

I just want the company to operate normally.

If there's anything in Vegas that you end up needing in LA at a later date, we can always ask Win distribution to bring you what you need. It just costs 105\$ per pallet and you would have that in 1 or 2 days.

Tell me what you need for the coming few months and how you want to proceed.

Clement Muney

(702) 340 8697 Sent from my iPhone

<sup>1</sup> If Defendant Muney denies this email exchange, we will provide a declaration regarding the same, but because of the time constraints, we copied the contents into this pleading.

2. Plaintiff Dominique Arnould drove the 12 pallets to Las Vegas to access the warehouse, drop off the pallets and pick up the following inventory that he needs for Los Angeles clients:

Spheres cups: 4 pallets 96 cases  
Small Glass TC: 72 cases  
Umbrella dish: 48 cases  
Round slanted cups: 1 pallet 72 cases  
Rhum Shot: 36 cases  
Espresso cups: 24 cases  
Cubic wave green: 72 cases or 1 pallet  
Cubic wave clear: 30 cases.

3. Muney had the locks changed and Arnould cannot access any inventory—drop off or pick up.

4. Arnould is in Las Vegas with the 12 pallets for Muney's Las Vegas Customers and he needs to pick up inventory.

5. The receiver hearing is not set until July 9, 2020.

- a. A telephone conference is needed **today** to appoint a receiver to take control of the warehouse, log all inventory, control inventory taken out and added so either owner has authority to access the inventory,
- b. Alternatively, this Court should enter an Order that either party has access to the warehouse and both must document inventory in and inventory out.

6. In sum, Arnould is in Las Vegas with pallets for the LV warehouse and Muney will not allow access for Arnould to pick up inventory for California clients.

Dated this 10th day of June, 2020.

MARQUIS AURBACH COFFING

By /s/ Phillip S. Aurbach  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

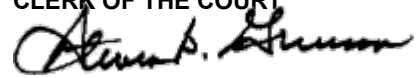
I hereby certify that the foregoing **PLAINTIFF'S EMERGENCY REQUEST FOR TELEPHONIC HEARING FOR APPOINTMENT OF RECEIVER TO TAKE OVER THE WAREHOUSE OR FOR ORDER ALLOWING ACCESS** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of June, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>2</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/ Javie-Anne Bauer  
An employee of Marquis Aurbach Coffing

<sup>2</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).



Robert Kern, Esq.  
Nevada Bar Number 10104  
**KERN LAW, Ltd.**  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529 phone  
(702) 825-5872 fax  
Admin@KernLawOffices.com  
Attorney for Defendants

**IN THE EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff/Counter-Defendant,

vs.

CLEMENT MUNEY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive, and ROE CORPORATIONS I  
through X, inclusive,

Defendants/Counter-Claimants.

Case Number: A-19-803488-B

Dept. Number: 27

**RESPONSE TO ARNOULD'S REQUEST  
FOR EMERGENCY TELEPHONIC  
HEARING**

COME NOW Defendants, CHEF EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC"), and CLEMENT MUNEY, (hereinafter "Muney"), by and through their undersigned counsel Robert Kern, ESQ., of KERN LAW, Ltd. submit this Response to Arnould's request for emergency telephonic hearing.

Counsel for Muney apologizes for the brevity of this response, however I have an Oral Argument before the Nevada Supreme Court in 24 hours, and have been given less than ¼ of the standard time to prepare. For this reason, I have no ability to attend a hearing of any kind prior to tomorrow's oral argument.

Second, nowhere in the request was there any indication (nor any affidavit or other evidence in support) to show why this matter was an emergency, nor why it must be heard

**KERN LAW,  
LTD.**  
601 S. 6<sup>th</sup> Street,  
Las Vegas, NV  
89101  
Phone: (702)  
518-4529 Fax:  
(702) 825-5872  
Admin@KernLa  
wOffices.com

1 today, rather than, for example, Friday. Counsel for Muney would ask the court, that if the  
2 Court believes a hearing is necessary, that it be held on Friday when Muney's counsel can  
3 participate, as there has been no showing why holding it Friday would prejudice any party.  
4

5 Third, there is no reason a hearing is necessary; counsel for Arnould have made zero  
6 attempt to resolve this outside of the courtroom; the sole communication I have received  
7 from them on the subject was a single email forwarding the email exchange between our  
8 clients, without comment. My client asked Mr. Arnould to explain why he needs inventory  
9 that is not normally sold by the LA branch; Arnould has failed to answer. Now Arnould  
10 asks this court to intervene because he's forced to answer a question before taking Las  
11 Vegas inventory, whereas 3 weeks ago, he took control of 100% of the entire company's  
12 funds, and used that control to dictate how Muney could run his half of the company. Before  
13 this Court is asked to intervene, there is no reason we should not at least follow the most  
14 basic attempts to resolve outside of court, such as Arnould answering the email to tell  
15 Muney why he needs inventory that the records suggest he does not need, and failing that,  
16 Arnould's counsel should communicate their issue with myself, Muney's counsel, to see if  
17 we can resolve the matter.  
18

19 For these reasons, Muney asks the Court to deny the request entirely, at least until  
20 more regular methods of resolving the issue are attempted, or failing that, to hold the  
21 hearing on Friday where counsel for Muney can attend without prejudice.  
22

23 DATED this 10<sup>th</sup> day of June, 2020.

24 **KERN LAW**

25 By: /s/ Robert Kern /s/  
26 Robert Kern, Esq.  
27 601 S. 6<sup>th</sup> Street  
28 Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

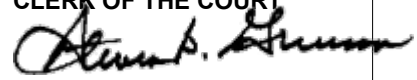
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**CERTIFICATE OF SERVICE**

I hereby certify that on the 10<sup>th</sup> day of June 2020, I served a true and correct copy of the foregoing **Response to Arnould’s Request for Emergency Hearing**, by electronic service, addressed to the following:

Phillip S. Aurbach, Esq.  
Marquis Aurbach Coffing  
Paurbach@Maclaw.com  
*Counsel for Dominique Arnould*  
  
Alexander Callaway  
Marquis Aurbach Coffing  
acalaway@maclaw.com  
*Counsel for Dominique Arnould*

\_\_\_\_\_  
/s/ Robert Kern  
Employee of Kern Law



**Marquis Aurbach Coffing**  
 Phillip S. Aurbach, Esq.  
 Nevada Bar No. 1501  
 Alexander K. Calaway, Esq.  
 Nevada Bar No. 15188  
 10001 Park Run Dr.  
 Las Vegas, NV 89145  
 Telephone: (702) 382-0711  
 Facsimile: (702) 382-5816  
 paurbach@maclaw.com  
 acalaway@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
 SUPPLIERS, LLC; and DOES I through X,  
 inclusive; and ROE CORPORATIONS I through  
 X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
 Dept. No.: 27

**REPLY DECLARATION OF PHIL AURBACH IN SUPPORT OF TELEPHONE  
 CONFERENCE AND ACCESS TO WAREHOUSE**

I, Phil Aurbach, declares that I am over the age of 18 years, I have personal knowledge of the facts stated herein, except for those stated upon information and belief, and as to those, I believe them to be true. I further state that I am competent to testify as to the facts stated herein and that this declaration is submitted on behalf of Dominique Arnould in support of his Motion for Telephonic Hearing and access to the warehouse that holds Chef Exec inventory.

1. Dominique Arnould is my client. He advised me that yesterday he drove his truck with 12 pallets for Chef Exec customers in Las Vegas and couldn't get access to the warehouse with all of the Chef Exec inventory. Mr. Arnould further advised me that he cannot get into the warehouse that houses inventory because Mr. Muney had changed the locks.

2. Mr. Arnould advises me that he needs inventory from the warehouse.



1           3.       Mr. Arnould further advises me that the excerpts from the email exchange between  
2 himself and Mr. Muney is accurately reflected in the June 10, 2020 Motion for Receiver or for an  
3 Order Giving Access to the Warehouse.

4           4.       Even if Mr. Kern does not want to participate in a telephonic hearing at 1:00pm or  
5 such other time that he is available, this Court should issue an Order granting Mr. Arnould the  
6 authority to change the locks, keep a key and give a key to Mr. Muney AS WELL AS giving Mr.  
7 Arnould access to drop off the 12 pallets and pick up the merchandise described in the motion as

8           Spheres cups: 4 pallets 96 cases  
9           Small Glass TC: 72 cases  
10          Umbrella dish: 48 cases  
11          Round slanted cups: 1 pallet 72 cases  
12          Rhum Shot: 36 cases  
13          Espresso cups: 24 cases  
14          Cubic wave green: 72 cases or 1 pallet  
15          Cubic wave clear: 30 cases.  
16          Or any other inventory needed and documented as taken by Mr. Arnould.

17          5.       As indicated by Mr. Kern's opposition, Mr. Muney wants to know the reasons for  
18 Mr. Arnould's need for the inventory. Both are 50/50 owners of the company and the matter of  
19 inventory in and inventory out can be taken up by the receiver who is ultimately appointed.

20          6.       A court order should be entered as follows:

- 21               1- The locks may be changed by Plaintiff Arnould and he shall supply a key to  
22               Defendant Muney;  
23               2- Plaintiff Arnould shall have access to drop off inventory and pick up inventory  
24               as long as he documents what is dropped off and what is picked up;  
25               3- The receiver shall be decided at the hearing currently set in July.

26       ///

27       ///

28       ///

///

///

///

1 Pursuant to NRS § 53.045 and 28 U.S.C. §1746, I declare under penalty of perjury under  
2 the laws of the State of Nevada that the foregoing is true and correct.

3 Executed on this 10th day of June, 2020.  
4

5 /s/ Phillip S. Aurbach  
6 Phil Aurbach  
7  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **REPLY DECLARATION OF PHIL AURBACH IN SUPPORT OF TELEPHONE CONFERENCE AND ACCESS TO WAREHOUSE** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 10th day of June, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/ Javie-Anne Bauer  
An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

RE: [External] RE: [External] Arnould v. Munev - Case No. A-19-803488-B [IWOV-iManage.FID1085969]

Robert Kern <robert@kernlawoffices.com>

Wed 6/10/2020 11:21 AM

To: Phil Aurbach <paurbach@gmail.com>; Lawrence, Karen <lawrencek@clarkcountycourts.us>; Javie-Anne Bauer <jbauer@maclaw.com>; Dagher, Joseph LC <Dept27LC@clarkcountycourts.us>; dc27inbox@clarkcountycourts.us <DC27Inbox@clarkcountycourts.us>  
Cc: Phil Aurbach-work <PSA@maclaw.com>; Alex. K. Calaway <acalaway@maclaw.com>; Jennifer Case <jcase@maclaw.com>; Dominique Arnould <domiarnould@aol.com>

The Los Angeles warehouses have NEVER been open to my client – he has NEVER had a key to either, and he was refused access when he requested it.

Likewise your client has refused to share equally the money that belongs to the company that my client is 50% owner of.

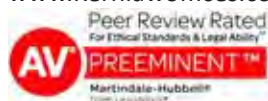
I strongly protest any hearing being held without my presence – There has been no showing or even allegation why there would be damages suffered from waiting until Friday, when all parties can be represented.

If this court will not intervene to ensure the company's money is shared out equally- it should not intervene to force Las Vegas inventory to be given out to the Los Angeles branch, especially without opportunity to be heard.

Please ensure this message reaches the judge – I will not be reachable most of the rest of the day.

Robert Kern, Esq.  
A. Orney  
Kern Law, Ltd.

601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529 - phone  
(702) 825-5872 - fax  
www.KernLawOffices.com



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---

From: [Phil Aurbach](#)

Sent: Wednesday, June 10, 2020 11:15 AM

To: [Robert Kern](#); [Lawrence, Karen](#); [Javie-Anne Bauer](#); [Dagher, Joseph LC](#); [dc27inbox@clarkcountycourts.us](#)

Cc: [Phil Aurbach-work](#); [Alex. K. Calaway](#); [Jennifer Case](#); [Dominique Arnould](#)

Subject: Re: [External] RE: [External] Arnould v. Munev - Case No. A-19-803488-B [IWOV-iManage.FID1085969]

Robert

Sorry you are not available. I am asking for an order to change the locks and have access to the warehouse where chef exec inventory is located. I am putting a caption and my signature on this declaration and asking for the order without your client's interrogation as to why my client needs Chef Exec Inventory. The warehouse should be open to both parties as long as there is documentation of what is taken out or put in.

phil

Phil Aurbach

On 6/10/2020 10:46:07 AM, Robert Kern <robert@kernlawoffices.com> wrote:

I have an Oral Argument in front of the Supreme Court in 24 hours. I am not available for a hearing prior to Friday.  
Please see our response to the request for hearing – attached.

Robert Kern, Esq.  
Attorney  
Kern Law, Ltd.

601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529 - phone  
(702) 825-5872 - fax  
[www.Kernlawoffices.com](http://www.Kernlawoffices.com)



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---

**From:** [Lawrence, Karen](#)  
**Sent:** Wednesday, June 10, 2020 10:24 AM  
**To:** '[Javie-Anne Bauer](#)'; [Dagher, Joseph LC](#); [DC27Inbox](#)  
**Cc:** [Phillip Aurbach](#); [Alexander K. Calaway](#); [Jennifer P. Case](#); [Robert Kern](#)  
**Subject:** RE: [External] Arnould v. Muney - Case No. A-19-803488-B [IWOV-iManage.FID1085969]

I need a hat everyone is available. The call will be set up through Bluejeans and everyone will receive an email with the instructions.

---

**From:** Javie-Anne Bauer [mailto:[jbauer@maclaw.com](mailto:jbauer@maclaw.com)]  
**Sent:** Wednesday, June 10, 2020 10:17 AM  
**To:** Lawrence, Karen; Dagher, Joseph LC; DC27Inbox  
**Cc:** Phillip Aurbach; Alexander K. Calaway; Jennifer P. Case; 'Robert Kern'  
**Subject:** RE: [External] Arnould v. Muney - Case No. A-19-803488-B [IWOV-iManage.FID1085969]

[NOTICE: This message originated outside of Eighth Judicial District Court -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Thank you!

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**From:** Lawrence, Karen <[lawrencek@clarkcountycourts.us](mailto:lawrencek@clarkcountycourts.us)>  
**Sent:** Wednesday, June 10, 2020 10:08 AM

**To:** Javie-Anne Bauer <jbauer@maclaw.com>; Dagher, Joseph LC <Dept27LC@clarkcountycourts.us>; DC27Inbox <DC27Inbox@clarkcountycourts.us>  
**Cc:** Phillip Aurbach <PSA@maclaw.com>; Alexander K. Calaway <acalaway@maclaw.com>; Jennifer P. Case <jcase@maclaw.com>; 'Robert Kern' <robert@kernlawoffices.com>  
**Subject:** RE: [External] Arnould v. Muney - Case No. A-19-803488-B [IWOV-iManage.FID1085969]

I have sent a message to the Judge and am awaiting her response.

---

**From:** Javie-Anne Bauer [<mailto:jbauer@maclaw.com>]  
**Sent:** Wednesday, June 10, 2020 10:07 AM  
**To:** Dagher, Joseph LC; Lawrence, Karen; DC27Inbox  
**Cc:** Phillip Aurbach; Alexander K. Calaway; Jennifer P. Case; 'Robert Kern'  
**Subject:** Arnould v. Muney - Case No. A-19-803488-B [IWOV-iManage.FID1085969]

Dear Dept 27,

Attached please find Plaintiff's Emergency Request for Telephonic Hearing for an Appointment of Receiver to Take Over the Warehouse or for Order Allowing Access that was recently filed in the above referenced case. Please let us know as soon as possible when Judge Alf is available for a telephone or zoom conference call this morning with all counsel. I have copied all counsel to this email.

Thank you,  
Javie-Anne



**Javie-Anne Bauer | Legal Assistant to**

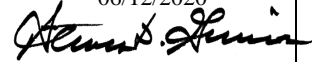
Phillip S. Aurbach, Esq.  
10001 Park Run Drive  
Las Vegas, NV 89145  
t | 702.942.2124  
f | 702.382.5816  
[jbauer@maclaw.com](mailto:jbauer@maclaw.com)  
[maclaw.com](http://maclaw.com)



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CLERK OF THE COURT

**DISTRICT COURT  
CLARK COUNTY, NEVADA**  
\* \* \* \*

DOMINIQUE ARNOULD,

CASE NO.: A-19-803488-B

Plaintiff

vs.

DEPARTMENT 27

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC.,

Defendants

**ORDER ISSUING SANCTION**

**COURT FINDS** after review that on June 10, 2020, a hearing was held following Plaintiff's Emergency Request for Hearing. Phillip Aurbach, Esq. and Alexander Calaway, Esq. appeared for Plaintiff Dominique Arnould. Robert Kern, Esq. failed to appear for Defendants. Rather, Mr. Kern had the time to file a responsive pleading stating that he's unable to attend the hearing as he was preparing for oral argument before the Nevada Supreme Court. Moreover, Mr. Kern emailed the Court and counsel "protesting" any hearing being held without his presence. The Court's staff attempted to contact Mr. Kern prior to the hearing, but was informed that Mr. Kern was unavailable. Nevertheless, the hearing went forward on June 10, 2020 and out of professional courtesy, the Court, *sua sponte*, continued the matter to June 12, 2020.

**COURT FURTHER FINDS** after review that at the June 12, 2020 hearing, Mr. Kern was provided an opportunity to explain his June 10, 2020 actions on the record.

**COURT FURTHER FINDS** after review that Mr. Kern's failure to appear at the June 10, 2020 hearing or respond to the Court's staff was unexcused, inappropriate, and demeaned the Court.

///

///

///

///

HONORABLE NANCY L. ALLF

DISTRICT COURT JUDGE

DEPT XXVII

**COURT FURTHER FINDS** after review that district courts have inherent and broad discretion to impose sanctions for professional misconduct. *See generally Young v. Johnny Ribeiro Building*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990); *see also Lioce vs. Cohen*, 124 Nev. 1 (2008) (explaining that “sanctions for professional misconduct at trial in civil cases are best considered in the first instance by the district court. Therefore, the district court may, on a party’s motion or *sua sponte*, impose sanctions for professional misconduct at trial ...”).

**COURT FURTHER FINDS** after review that as such, broad discretion permits this Court to issue sanctions for any “litigation abuses not specifically proscribed by statute.” *Young*, 106 Nev. at 92, 787 P.2d at 779.

**THEREFORE, COURT ORDERS** for good cause appearing and after review, pursuant to the Court's inherent authority outlined in *Young*, Robert Kern, Esq. **SHALL** make a mandatory charitable donation in the amount of \$100, made payable to the Legal Aid Center of Southern Nevada, Nevada Legal Services, Clark County Law Library, Nevada Law Foundation, Clark County Law Foundation, Southern Nevada Senior Law Project, or a proper entity specified in Rule 6.1 of the Nevada Rules of Professional Conduct.

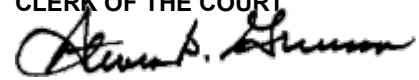
**COURT FURTHER ORDERS** for good cause appearing and after review sufficient proof of the donation, such as a receipt, must be provided to the Court to indicate that the charitable donation has been received, within 30 days from the date of this Order.

**DATED** this 12<sup>th</sup> day of June, 2020

Dated this 12th day of June, 2020

NANCY ALLIF  
DISTRICT COURT JUDGE  
CD8 2A5 B7E3 1B02  
Nancy Allif





1 **NOA**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street  
6 Las Vegas, NV 89101  
7 (702) 518-4529 phone  
8 (702) 825-5872 fax  
9 Admin@KernLawOffices.com  
10 Attorney for Defendants

Electronically Filed  
Jun 22 2020 11:13 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.)

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **NOTICE OF APPEAL**

22 Notice is hereby given that CLEMENT MUNNEY and CHEF EXEC SUPPLIERS,  
23 LLC, Defendant(s) above named, hereby appeal to the Supreme Court of Nevada from the  
24 Order, which is a final order, entered and served in this action on the 8<sup>th</sup> day of June, 2020.

25 DATED this 15<sup>th</sup> day of June, 2020.

26 KERN LAW

27 By: /s/ Robert Kern  
28 Robert Kern Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

**CASE SUMMARY****CASE NO. A-19-803488-B**

**Dominique Arnould, Plaintiff(s)**  
**vs.**  
**Clement Mune, Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 27**  
 Judicial Officer: **Allf, Nancy**  
 Filed on: **10/11/2019**  
 Cross-Reference Case Number: **A803488**

**CASE INFORMATION**Case Type: **NRS Chapters 78-89**

Case  
Status: **10/11/2019 Open**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-803488-B  
 Court Department 27  
 Date Assigned 10/11/2019  
 Judicial Officer Allf, Nancy

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)
<b>Defendant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Mune, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Claimant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Mune, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Defendant</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

10/11/2019



Complaint (Business Court)

Filed By: Counter Defendant Arnould, Dominique  
*Complaint for Appointment of a Receiver or Dissolution of LLC; Declaratory Relief; Breach of Fiduciary Duty; and Damages*

10/11/2019



Initial Appearance Fee Disclosure

Filed By: Counter Defendant Arnould, Dominique  
*Initial Appearance Fee Disclosure*

# CASE SUMMARY

CASE NO. A-19-803488-B

10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/14/2019	 Disclosure Statement Party: Counter Defendant Arnould, Dominique <i>NRCP Rule 7.1 Disclosure Statement</i>
10/15/2019	 Acceptance of Service Filed By: Counter Defendant Arnould, Dominique <i>Acceptance of Service</i>
11/07/2019	 Answer and Counterclaim Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Answer and Counterclaims</i>
11/07/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Initial Appearance Fee Disclosure</i>
12/02/2019	 Answer to Counterclaim Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Answer to Defendants' Counterclaim</i>
12/06/2019	 Mandatory Rule 16 Conference Order <i>Mandatory Rule 16 Conference</i>
12/09/2019	 Motion for Summary Judgment Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Motion for Partial Summary Judgment</i>
12/09/2019	 Affidavit Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Affidavit in Support of Defendants Motion for Partial Summary Judgment</i>
12/09/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Motion for Appointment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
12/10/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/19/2019	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Opposition to Defendants Motion for Partial Summary Judgment</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

12/20/2019	 Errata Filed By: Counter Defendant Arnould, Dominique <i>Errata to Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Partial Summary Judgment</i>
12/23/2019	 Opposition to Motion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Opposition To Motion For Appointment Of Trustee</i>
12/27/2019	 Reply in Support Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendant's Reply in Support of Summary Judgment</i>
12/31/2019	 Supplement to Opposition Filed By: Counter Defendant Arnould, Dominique <i>Supplement to Plaintiff Dominique Arnould's Opposition to Motion for Partial Summary Judgment</i>
01/03/2020	 Notice of Compliance Party: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Notice of Compliance</i>
01/03/2020	 Notice of Compliance Party: Counter Defendant Arnould, Dominique <i>Notice of Compliance</i>
01/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Appointment of Trustee</i>
01/17/2020	 Order Denying Motion Filed By: Counter Defendant Arnould, Dominique <i>Order Denying Defendant's Motion for Summary Judgment</i>
01/17/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order Denying Defendant's Motion for Summary Judgment</i>
03/09/2020	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>Stipulation and Order to Continue Hearing</i>
03/13/2020	 Motion for Partial Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
03/13/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/20/2020	 Opposition and Countermotion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Opposition to motion for summary judgment and counter-motion for enforcement of settlement agreement</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

03/23/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
04/06/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
04/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Partial Summary Judgment</i>
04/13/2020	 Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Reply in Support of Countermotion for Enforcement Agreement, and Opposition to Motion to Strike</i>
05/13/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply In Support of Counter-Motion to Strike Documents Related to Settlement</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/20/2020	 Amended <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Temporary Restraining Order Filed by: Counter Claimant Muney, Clement <i>Temporary Restraining Order</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/21/2020	 Certificate of Mailing Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Certificate of Mailing</i>
05/21/2020	 Notice of Entry of Order <i>Notice of Entry of Order</i>
05/21/2020	 Mandatory Rule 16 Conference Order <i>Business Court Order to Appear for Mandatory 16. Conference</i>
05/22/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique

# CASE SUMMARY

CASE NO. A-19-803488-B

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*




05/22/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/22/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
05/29/2020	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Motions, Heard on May 22, 2020</i>
06/05/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Motion to Select Receiver</i>
06/08/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/08/2020	 Order <i>Order</i>
06/08/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order</i>
06/10/2020	 Request Filed by: Counter Defendant Arnould, Dominique <i>Plaintiff's Emergency Request for Telephonic Hearing for an Appointment of Receiver to Take Over the Warehouse or for Order Allowing Access</i>
06/10/2020	 Response Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants Response to Arnould's Request for Emergency Hearing</i>
06/10/2020	 Reply Filed by: Counter Defendant Arnould, Dominique <i>Reply Declaration of Phil Aurbach in Support of Telephone Conference and Access to Warehouse</i>
06/12/2020	 Order
06/12/2020	 Order
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal

# CASE SUMMARY

CASE NO. A-19-803488-B

Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC  
Notice of Appeal

## HEARINGS

01/09/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Continued; case settled
01/09/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendants' Motion for Partial Summary Judgment</i> Denied;
01/09/2020	 <b>All Pending Motions</b> (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <i>MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval. ;</i>
02/07/2020	 <b>Settlement Conference</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) Matter Settled; Journal Entry Details: <i>The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Mune, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Mune and Jeremy Mune, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims. The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney's fees and costs. The case is now referred back to the originating department for further handling and closure.;</i>
02/20/2020	<b>CANCELED Motion for Appointment</b> (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
03/27/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</i> Minute Order - No Hearing Held; Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED Journal Entry Details: <i>COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020;

03/30/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20;*

04/01/2020

**CANCELED Motion for Appointment of Receiver (9:30 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated*

04/01/2020

**CANCELED Mandatory Rule 16 Conference (9:30 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated*

04/14/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS after review Plaintiff's Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant's Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion for Partial Summary Judgment, together with Defendant's Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;*

04/21/2020

**CANCELED Status Check: Settlement Documents (3:00 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated - On in Error*

04/28/2020



**Status Check: Settlement Documents (3:00 AM)** (Judicial Officer: Allf, Nancy)

Matter Continued;

Journal Entry Details:

*COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020. COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CONTINUED TO 5/20/2020 10:30 AM CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020;*

04/30/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order: Plaintiff's MOTION for Appointment of Trustee RESET to 5/20/2020

Minute Order - No Hearing Held; Minute Order: Plaintiff's MOTION for Appointment of Trustee RESET to 5/20/2020

Journal Entry Details:

*COURT FINDS after review Plaintiff's Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement. THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff's Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm*



# CASE SUMMARY

CASE NO. A-19-803488-B

4/30/2020;

05/18/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

*Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020*

Minute Order - No Hearing Held; Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020

Journal Entry Details:

*COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020 ;*

05/22/2020

**Motion for Temporary Restraining Order** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction*

05/22/2020

**Opposition and Countermotion** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*

05/22/2020



**All Pending Motions** (1:00 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order All appearances made via BlueJeans teleconferencing software. Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company, Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.;*

06/10/2020

**Hearing** (1:30 PM) (Judicial Officer: Allf, Nancy)


**06/10/2020, 06/12/2020**

*Request for Emergency hearing*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-803488-B**

06/11/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Requested for Emergency Hearing set 6/10/2020 CONTINUED to 6/12/2020</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review on June 5, 2020, Plaintiff's Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m. COURT FURTHER FINDS after review on June 10, 2020, Plaintiff's Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff's Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File &amp; Serve. /nm 6/11/2020;</i>
06/12/2020	<b>Motion</b> (12:30 PM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Select Receiver</i>
06/24/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement</i>
06/24/2020	<b>Motion for Appointment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
06/24/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy)

DATE	FINANCIAL INFORMATION
	<b>Counter Claimant</b> Muney, Clement Total Charges 1,761.00 Total Payments and Credits 1,761.00 <b>Balance Due as of 6/16/2020 0.00</b>
	<b>Counter Defendant</b> Arnould, Dominique Total Charges 1,834.50 Total Payments and Credits 1,834.50 <b>Balance Due as of 6/16/2020 0.00</b>
	<b>Counter Claimant</b> Chef Exec Suppliers, LLC Temporary Restraining Order Balance as of 6/16/2020 100.00

**BUSINESS COURT CIVIL COVER SHEET** CASE NO: A-19-803488-B  
Clark County, Nevada  
 Case No. \_\_\_\_\_ Department 27

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): DOMINIQUE ARNOULD  Attorney (name/address/phone): Phillip S. Aurbach, Esq. (NV Bar No. 1501) Marquis Aurbach Coffing 10001 Park Run Drive Las Vegas, NV 89145 (702) 382-0711	Defendant(s) (name/address/phone): CLEMENT MUNNEY; CHEF EXEC SUPPLIERS, LLC; and DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive  Attorney (name/address/phone):
---	--

**II. Nature of Controversy** (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Torts</b> <b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice  <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	<b>CLARK COUNTY BUSINESS COURT</b> <input checked="" type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Civil Writs</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>WASHOE COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
<b>Judicial Review/Appeal/Other Civil Filing</b>		
<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

10/11/2019

Date

/s/ Phillip S. Aurbach

Signature of initiating party or representative

**ORDR****Marquis Aurbach Coffing**

Phillip S. Aurbach, Esq.

Nevada Bar No. 1501

Alexander K. Calaway, Esq.

Nevada Bar No. 15188

10001 Park Run Dr.

Las Vegas, NV 89145

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Facsimile: (702) 382-5816

paurbach@maclaw.com

acalaway@maclaw.com

*Attorneys for Plaintiff***DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B

Dept. No.: 27

**ORDER**

This matter came before the Court on May 22, 2020 at 1:00pm, regarding the Defendants' Amended Application for Temporary Restraining Order, Plaintiff's Counter-Motion to Vacate Temporary Restraining Order, Plaintiff's Motion for Appointment of Trustee, and Defendants' Counter-Motion for Enforcement of Settlement Agreement.

Having reviewed the papers and pleadings on file herein, arguments of counsel at the time of the above identified hearing, being fully advised on the matter, and with good cause appearing therefore the Court finds and decides the following:

**FINDINGS OF FACT**

1. Chef Exec Suppliers LLC (the "Company") is owned in equal shares by Plaintiff Dominique Arnould ("Arnould") and Defendant Clement Muney ("Muney") (hereinafter collectively referred to as the "Parities").

2. The Company operates in Nevada and California and it sells its products to restaurants, caterers, resorts, hotels, casinos, and others (“Customers”).

3. On December 10, 2020, Arnould filed a Motion for Appointment of Trustee (“Motion for Receiver”) requesting that a receiver be appointed to wind down the Company.

4. On February 7, 2020, Arnould and Munev attended a settlement conference held by Judge Williams, wherein the Parties entered into a Memorandum of Material Terms of Agreement (“Memo”).

5. The terms of the Memo were, among other things, that:

a. Arnould would buy-out Munev’s interest in the Company for a purchase price of \$700,000 (“Purchase Price”);

b. a “final agreement [would] be drafted at a later time;”

c. the entire Memo “shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale;”

d. that Arnould would “be required to use good faith towards seeking to obtain such financing from all reasonable sources” sufficient for him to pay the entire purchase price.

6. After February 7, 2020, Arnould made reasonable efforts to obtain financing from multiple lenders, but he was formally and informally denied and rejected by the lenders for the financing unless he offered outside collateral, which was not required by the express terms set forth in the Memo.<sup>1</sup>

7. Whether Arnould’s financing efforts were reasonable would ordinarily be a question of fact but for the intervening COVID-19 pandemic (“Pandemic”). However, the Court takes Judicial Notice that on March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency in response to the Pandemic and required the closure of non-essential businesses, many of which included the Company’s Customers.

---

<sup>1</sup> Declaration in Support of Opposition to Defendants’ Counter-Motion to Enforce Settlement Agreement, at ¶¶6-16, on file herein.

1           8.       The Court additionally takes Judicial Notice that the pandemic had a severe and  
2 detrimental impact on the value of the Company and the ability of either Party to perform and  
3 receive the bargained for consideration under the Memo.

4           9.       It is undisputed that the Pandemic was an unforeseen event that was not and could  
5 not have been foreseen by either Party to the Memo. It is unclear how long these detrimental  
6 impacts and impediments will continue.

7           10.      On March 20, 2020, Defendants filed their Counter-Motion for Enforcement of  
8 Settlement Agreement (“Motion for Enforcement”), requesting this Court “reduce the [Memo] to  
9 judgment by its existing terms, and conclude the present litigation.”

10          11.      On May 20, 2020, Defendants filed their Amended Application for Temporary  
11 Restraining Order and Preliminary Injunction (“Application”) under NRCP 65, alleging among  
12 other things, that injunctive relief is necessary to avoid irreparable harm to the Company.

13          12.      The Application renewed the issues set forth in Defendants’ Motion for  
14 Enforcement.

15          13.      The Application included an affidavit of Clement Muney that averred, among other  
16 things, that irreparable harm and immediate injury to the Company was imminent.

17          14.      The Application did not, however, include a certification by the movant’s attorney  
18 in writing of the efforts made to give notice and the reasons why it should not be required as set  
19 forth in NRCP 65(b)(1)(B). While there is evidence of some communications between counsel  
20 regarding the threat of an injunction, there was no certification by counsel in its Application per  
21 the NRCP 65(b)(1)(B).

22          15.      Based on Defendant’s Application, the Court issued a Temporary Restraining  
23 Order and set a hearing for May 22, 2020 to consider fully consider the Application’s merits.

24          16.      Plaintiff opposed the Application and disputed the Application’s claims of  
25 irreparable harm and immediate injury to the Company by providing evidence of the lack of  
26 irreparable harm and immediate injury because damages were an adequate remedy. Plaintiff also  
27 raised the aforementioned procedural issue under NRCP 65(b)(1)(B).

28

1 17. Muney's request for injunctive relief in favor of Defendants' Application would  
2 not preserve the *status quo*, but would allow the Company to keep making payments to Muney  
3 and Muney's son.

4 18. Plaintiff's Opposition to the Application and Countermotion to Vacate the  
5 Temporary Restraining Order renewed its request for the Court to appoint a receiver with limited  
6 powers. The attorneys for both Parties' agreed that a receiver should not interrupt the Parties'  
7 direct relationships with their Customers if the Company was to remain viable upon the reopening  
8 of the economy.

9 19. Neither Party trusts the other to with the assets or operations of the Company. Thus,  
10 a receiver with limited powers would allow the expenditures and dealings of the Company to be  
11 overseen by a neutral third-party without impeding the Company's ability to carry on its business.

#### 12 CONCLUSIONS OF LAW

13 1. Neither party trusts the other to with the assets or operations of the Company. It is  
14 therefore necessary that a neutral receiver be appointed with limited powers as defined herein.

15 2. Arnould obtaining financing was a condition precedent or an event that must occur  
16 before either party became obligated to perform under the Memo. Prior to Arnould satisfying his  
17 duty to make reasonable efforts to obtain financing, the Pandemic decimated the economy and any  
18 hope of the condition being satisfied, rendering the Memo unenforceable.

19 3. Moreover, the Pandemic was and is an unforeseen contingency event that changed  
20 the circumstances surrounding the Memo. The main purpose of the Memo was for Arnould to buy-  
21 out the Company after financing was obtained. This purpose was destroyed by virtue of the  
22 Pandemic.

23 4. The unforeseeable Pandemic event altered the circumstances surrounding the  
24 Memo such that performance of the condition in the Memo to obtain financing could no longer be  
25 fulfilled. Thus, the purposes of the financing condition and the Memo have become frustrated,  
26 thereby discharging the duties arising thereunder.

27 5. Injunctive relief is not warranted here because: (1) irreparable harm and immediate  
28 injury is not present because damages are an adequate remedy; (2) the party seeking injunctive

1 relief is not likely to prevail on the merits of its alleged conversion claim; (3) the relative interests  
2 of the parties weights against injunctive relief; and (4) public policy does not favor injunctive  
3 relief.

4 6. In addition, Defendants' Application for injunctive relief failed to provide the  
5 notice and reasoning required by NRCP 65(b)(1)(B).

6 **ORDER**

7 Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings,  
8 conclusions of law and the powers of the Court:

- 9 1. It is ordered that the Defendants' Amended Application for Temporary Restraining  
10 Order is hereby DENIED.
- 11 2. It is further ordered that Defendants' previously filed Counter-Motion for Enforcement  
12 of Settlement Agreement is hereby DENIED.
- 13 3. It is further ordered that Plaintiff's Motion to Vacate Temporary Restraining Order is  
14 GRANTED and the Temporary Restraining Order entered on May 20, 2020 is hereby  
15 VACATED.
- 16 4. It is further ordered that Plaintiff's Motion for Appointment of Trustee or Receiver is  
17 GRANTED to the extent that a receiver ("Receiver") with limited powers as defined  
18 below ("Limited Powers").
- 19 5. It is further ordered that the Receiver's role will be to supervise the operations of the  
20 Company in consultation with Arnould and Muney, to allow them to continue  
21 operations of the Company, and prepare a report about the viability of the Company.
- 22 6. Pursuant to these Limited Powers, it is further ordered:
- 23 a. The Parties shall grant the Receiver full access to bank accounts, accounts  
24 receivable and payable, customers' orders and suppliers' purchases, as well as  
25 agreeing to respond in good faith to provide truthful answers and responses to  
26 any questioning or requests for information from the receiver;
- 27 b. The Receiver shall obtain agreement from the Parties with respect to all  
28 payments to landlords, suppliers, employees, and independent contractors;



- c. The Parties shall consult with the Receiver regarding all purchases of new inventory to ensure there is a need for the products, bearing in mind the downturn in business and the restriction on Company funds;
- d. The Receiver will attempt to obtain agreement of the Parties in respect of the operation of the business;
- e. In the event of a disagreement between the Parties, the Receiver will note any disagreement between the Parties in his report;
- f. The Receiver will have authority to communicate directly with the Court if necessary, after which such communications with the Court will be disclosed to the parties via minute order;
- g. Either Party or their attorney may communicate with the Receiver directly;
- h. The Receiver will have the power to recommend the transfer funds between accounts for legitimate company purposes; and
- i. The Parties will be required to report to the Receiver any removal of Company inventory or other Company items or individual items from the Company warehouses. If the removal is to fulfill sales, copies of the documents showing which customer ordered what product and the terms of payment will suffice. The Parties will also be required to justify any charges on Company credit cards or accounts;

7. It is further ordered that the Receiver will be a person either stipulated to by Arnould and Muney, or if no agreement can be reached, then a person chosen by this Court.
8. It is further ordered that once a Receiver is appointed, the Receiver will be compensated by Muney and Arnould each paying ½ of his estimated fees within 10 days of each of the Receiver's request.

//

//

//

9. It is further ordered that the Receiver who be appointed will be:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 8th day of June, 2020

*Nancy L. Alf*  
DISTRICT COURT JUDGE

Respectfully Submitted by:

**158 CF4 77DE 0484**  
**Nancy Alf**

**MARQUIS AURBACH COFFING**

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar. No. 15188  
10001 Park Run Drive  
Las Vegas, Nevada, 89145  
*Attorneys for Plaintiffs/Counter-  
Defendants*

Approved as to form

Dated this 4 day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern Esq.

Robert Kern, Esq.  
Nevada Bar No. 10104  
601 S. 6th St.  
Las Vegas, Nevada 89101

DISTRICT COURT  
CLARK COUNTY, NEVADA

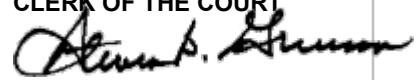
Dominique Arnould, Plaintiff(s)	CASE NO: A-19-803488-B
vs.	DEPT. NO. Department 27
Clement Munev, Defendant(s)	

**AUTOMATED CERTIFICATE OF SERVICE**

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

Envelope ID: 6151842  
Service Date: 6/8/2020

Jennifer Case	jcase@maclaw.com
Robert Kern	Robert@Kernlawoffices.com
Melissa Milroy	Admin@KernLawOffices.com
Phillip Aurbach	PSA@maclaw.com
Javie-Anne Bauer	jbauer@maclaw.com
Alexander Calaway	acalaway@maclaw.com



1 **Marquis Aurbach Coffing**  
 2 Phillip S. Aurbach, Esq.  
 3 Nevada Bar No. 1501  
 4 Alexander K. Calaway, Esq.  
 5 Nevada Bar No. 15188  
 6 10001 Park Run Dr.  
 7 Las Vegas, NV 89145  
 8 Telephone: (702) 382-0711  
 9 Facsimile: (702) 382-5816  
 10 paurbach@maclaw.com  
 11 acalaway@maclaw.com  
 12 *Attorneys for Plaintiff*

**DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

12 CLEMENT MUNNEY; CHEF EXEC  
 13 SUPPLIERS, LLC; and DOES I through X,  
 14 inclusive; and ROE CORPORATIONS I through  
 15 X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
 Dept. No.: 27

**NOTICE OF ENTRY OF ORDER**

17 PLEASE TAKE NOTICE that the Order was entered on the 8<sup>th</sup> day of June, 2020. A true  
 18 and correct copy of which is attached hereto.

Dated this 8th day of June, 2020.

MARQUIS AURBACH COFFING

21 By /s/ Alexander K. Calaway  
 22 Phillip S. Aurbach, Esq.  
 23 Nevada Bar No. 1501  
 24 Alexander K. Calaway, Esq.  
 25 Nevada Bar No. 15188  
 26 *Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

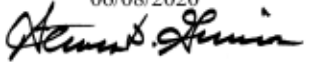
I hereby certify that the foregoing **NOTICE OF ENTRY OF ORDER** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 8th day of June, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern  
Melissa Milroy

Robert@Kernlawoffices.com  
Admin@KernLawOffices.com

/s/J. Case  
An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

  
CLERK OF THE COURT

**ORDR**  
**Marquis Aurbach Coffing**  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
10001 Park Run Dr.  
Las Vegas, NV 89145  
Telephone: (702) 382-0711  
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paurbach@maclaw.com  
acalaway@maclaw.com  
*Attorneys for Plaintiff*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
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This matter came before the Court on May 22, 2020 at 1:00pm, regarding the Defendants' Amended Application for Temporary Restraining Order, Plaintiff's Counter-Motion to Vacate Temporary Restraining Order, Plaintiff's Motion for Appointment of Trustee, and Defendants' Counter-Motion for Enforcement of Settlement Agreement.

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**FINDINGS OF FACT**

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2. The Company operates in Nevada and California and it sells its products to restaurants, caterers, resorts, hotels, casinos, and others ("Customers").

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b. a "final agreement [would] be drafted at a later time;"

c. the entire Memo "shall be contingent upon . . . Dominique Arnould being able to obtain financing sufficient to allow him to pay the purchase price of the Sale;"

d. that Arnould would "be required to use good faith towards seeking to obtain such financing from all reasonable sources" sufficient for him to pay the entire purchase price.

6. After February 7, 2020, Arnould made reasonable efforts to obtain financing from multiple lenders, but he was formally and informally denied and rejected by the lenders for the financing unless he offered outside collateral, which was not required by the express terms set forth in the Memo.<sup>1</sup>

7. Whether Arnould's financing efforts were reasonable would ordinarily be a question of fact but for the intervening COVID-19 pandemic ("Pandemic"). However, the Court takes Judicial Notice that on March 12, 2020, the Nevada Governor, Steve Sisolak, declared a state of emergency in response to the Pandemic and required the closure of non-essential businesses, many of which included the Company's Customers.

---

<sup>1</sup> Declaration in Support of Opposition to Defendants' Counter-Motion to Enforce Settlement Agreement, at ¶¶6-16, on file herein.



1           8.       The Court additionally takes Judicial Notice that the pandemic had a severe and  
2 detrimental impact on the value of the Company and the ability of either Party to perform and  
3 receive the bargained for consideration under the Memo.

4           9.       It is undisputed that the Pandemic was an unforeseen event that was not and could  
5 not have been foreseen by either Party to the Memo. It is unclear how long these detrimental  
6 impacts and impediments will continue.

7           10.      On March 20, 2020, Defendants filed their Counter-Motion for Enforcement of  
8 Settlement Agreement ("Motion for Enforcement"), requesting this Court "reduce the [Memo] to  
9 judgment by its existing terms, and conclude the present litigation."

10          11.      On May 20, 2020, Defendants filed their Amended Application for Temporary  
11 Restraining Order and Preliminary Injunction ("Application") under NRCP 65, alleging among  
12 other things, that injunctive relief is necessary to avoid irreparable harm to the Company.

13          12.      The Application renewed the issues set forth in Defendants' Motion for  
14 Enforcement.

15          13.      The Application included an affidavit of Clement Muney that averred, among other  
16 things, that irreparable harm and immediate injury to the Company was imminent.

17          14.      The Application did not, however, include a certification by the movant's attorney  
18 in writing of the efforts made to give notice and the reasons why it should not be required as set  
19 forth in NRCP 65(b)(1)(B). While there is evidence of some communications between counsel  
20 regarding the threat of an injunction, there was no certification by counsel in its Application per  
21 the NRCP 65(b)(1)(B).

22          15.      Based on Defendant's Application, the Court issued a Temporary Restraining  
23 Order and set a hearing for May 22, 2020 to consider fully consider the Application's merits.

24          16.      Plaintiff opposed the Application and disputed the Application's claims of  
25 irreparable harm and immediate injury to the Company by providing evidence of the lack of  
26 irreparable harm and immediate injury because damages were an adequate remedy. Plaintiff also  
27 raised the aforementioned procedural issue under NRCP 65(b)(1)(B).

28



1 17. Muney's request for injunctive relief in favor of Defendants' Application would  
2 not preserve the *status quo*, but would allow the Company to keep making payments to Muney  
3 and Muney's son.

4 18. Plaintiff's Opposition to the Application and Countermotion to Vacate the  
5 Temporary Restraining Order renewed its request for the Court to appoint a receiver with limited  
6 powers. The attorneys for both Parties' agreed that a receiver should not interrupt the Parties'  
7 direct relationships with their Customers if the Company was to remain viable upon the reopening  
8 of the economy.

9 19. Neither Party trusts the other to with the assets or operations of the Company. Thus,  
10 a receiver with limited powers would allow the expenditures and dealings of the Company to be  
11 overseen by a neutral third-party without impeding the Company's ability to carry on its business.

#### 12 CONCLUSIONS OF LAW

13 1. Neither party trusts the other to with the assets or operations of the Company. It is  
14 therefore necessary that a neutral receiver be appointed with limited powers as defined herein.

15 2. Arnould obtaining financing was a condition precedent or an event that must occur  
16 before either party became obligated to perform under the Memo. Prior to Arnould satisfying his  
17 duty to make reasonable efforts to obtain financing, the Pandemic decimated the economy and any  
18 hope of the condition being satisfied, rendering the Memo unenforceable.

19 3. Moreover, the Pandemic was and is an unforeseen contingency event that changed  
20 the circumstances surrounding the Memo. The main purpose of the Memo was for Arnould to buy-  
21 out the Company after financing was obtained. This purpose was destroyed by virtue of the  
22 Pandemic.

23 4. The unforeseeable Pandemic event altered the circumstances surrounding the  
24 Memo such that performance of the condition in the Memo to obtain financing could no longer be  
25 fulfilled. Thus, the purposes of the financing condition and the Memo have become frustrated,  
26 thereby discharging the duties arising thereunder.

27 5. Injunctive relief is not warranted here because: (1) irreparable harm and immediate  
28 injury is not present because damages are an adequate remedy; (2) the party seeking injunctive

1 relief is not likely to prevail on the merits of its alleged conversion claim; (3) the relative interests  
2 of the parties weights against injunctive relief; and (4) public policy does not favor injunctive  
3 relief.

4 6. In addition, Defendants' Application for injunctive relief failed to provide the  
5 notice and reasoning required by NRCP 65(b)(1)(B).

### 6 **ORDER**

7 Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings,  
8 conclusions of law and the powers of the Court:

- 9 1. It is ordered that the Defendants' Amended Application for Temporary Restraining  
10 Order is hereby DENIED.
- 11 2. It is further ordered that Defendants' previously filed Counter-Motion for Enforcement  
12 of Settlement Agreement is hereby DENIED.
- 13 3. It is further ordered that Plaintiff's Motion to Vacate Temporary Restraining Order is  
14 GRANTED and the Temporary Restraining Order entered on May 20, 2020 is hereby  
15 VACATED.
- 16 4. It is further ordered that Plaintiff's Motion for Appointment of Trustee or Receiver is  
17 GRANTED to the extent that a receiver ("Receiver") with limited powers as defined  
18 below ("Limited Powers").
- 19 5. It is further ordered that the Receiver's role will be to supervise the operations of the  
20 Company in consultation with Arnould and Muney, to allow them to continue  
21 operations of the Company, and prepare a report about the viability of the Company.
- 22 6. Pursuant to these Limited Powers, it is further ordered:
  - 23 a. The Parties shall grant the Receiver full access to bank accounts, accounts  
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25 agreeing to respond in good faith to provide truthful answers and responses to  
26 any questioning or requests for information from the receiver;
  - 27 b. The Receiver shall obtain agreement from the Parties with respect to all  
28 payments to landlords, suppliers, employees, and independent contractors;



- c. The Parties shall consult with the Receiver regarding all purchases of new inventory to ensure there is a need for the products, bearing in mind the downturn in business and the restriction on Company funds;
- d. The Receiver will attempt to obtain agreement of the Parties in respect of the operation of the business;
- e. In the event of a disagreement between the Parties, the Receiver will note any disagreement between the Parties in his report;
- f. The Receiver will have authority to communicate directly with the Court if necessary, after which such communications with the Court will be disclosed to the parties via minute order;
- g. Either Party or their attorney may communicate with the Receiver directly;
- h. The Receiver will have the power to recommend the transfer funds between accounts for legitimate company purposes; and
- i. The Parties will be required to report to the Receiver any removal of Company inventory or other Company items or individual items from the Company warehouses. If the removal is to fulfill sales, copies of the documents showing which customer ordered what product and the terms of payment will suffice. The Parties will also be required to justify any charges on Company credit cards or accounts;

7. It is further ordered that the Receiver will be a person either stipulated to by Arnould and Muney, or if no agreement can be reached, then a person chosen by this Court.
8. It is further ordered that once a Receiver is appointed, the Receiver will be compensated by Muney and Arnould each paying ½ of his estimated fees within 10 days of each of the Receiver's request.

//

//

//

9. It is further ordered that the Receiver who be appointed will be:

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 8th day of June, 2020

*Nancy L. Alf*  
DISTRICT COURT JUDGE

Respectfully Submitted by:

**158 CF4 77DE 0484**  
**Nancy Alf**

**MARQUIS AURBACH COFFING**

By: /s/ Alexander K. Calaway

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar. No. 15188  
10001 Park Run Drive  
Las Vegas, Nevada, 89145  
*Attorneys for Plaintiffs/Counter-Defendants*

Approved as to form

Dated this 4 day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern Esq.

Robert Kern, Esq.  
Nevada Bar No. 10104  
601 S. 6th St.  
Las Vegas, Nevada 89101

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 09, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

**January 09, 2020      10:30 AM      All Pending Motions**

**HEARD BY:** Allf, Nancy      **COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn White

**REPORTER:**

**PARTIES**

**PRESENT:**      Aurbach, Phillip S.      Attorney  
Kern, Robert J.      Attorney

**JOURNAL ENTRIES**

**- MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**February 07, 2020**

---

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

---

**February 07, 2020      9:30 AM      Settlement Conference**

**HEARD BY:** Williams, Timothy C.      **COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:** Peggy Isom

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims.

The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 27, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

<b>March 27, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>	<b>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</b>
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**HEARD BY:** Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020

PRINT DATE: 06/16/2020

Page 3 of 13

Minutes Date: January 09, 2020





**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 30, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

---

<b>March 30, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Alf, Nancy	<b>COURTROOM:</b> Chambers
-----------------------------	----------------------------

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 14, 2020**

---

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>April 14, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Alf, Nancy	<b>COURTROOM:</b> No Location
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**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant s Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion for Partial Summary Judgment, together with Defendant s Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 28, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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<b>April 28, 2020</b>	<b>3:00 AM</b>	<b>Status Check: Settlement Documents</b>
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**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020.

COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CONTINUED TO 5/20/2020 10:30 AM

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 30, 2020**

---

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

---

<b>April 30, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>	<b>Minute Order: Plaintiff's MOtion for Appointment of Trustee RESET to 5/20/2020</b>
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**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement.

THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff s Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/30/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 18, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 18, 2020

3:00 AM

Minute Order

**Minute Order:**  
**Matters set 5/20/2020**  
**CONTINUED to**  
**6/24/2020**

**HEARD BY:** Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 22, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 22, 2020

1:00 PM

All Pending Motions

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Aurbach, Phillip S.	Attorney
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney

**JOURNAL ENTRIES**

- Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order

All appearances made via BlueJeans teleconferencing software.

Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company,

Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**June 11, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>June 11, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Allf, Nancy	<b>COURTROOM:</b> No Location
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**COURT CLERK:** Carolyn Jackson

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review on June 5, 2020, Plaintiff s Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m.

COURT FURTHER FINDS after review on June 10, 2020, Plaintiff s Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff s Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/11/2020



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

ROBERT KERN, ESQ.  
601 S. 6<sup>TH</sup> ST.  
LAS VEGAS, NV 89101

DATE: June 16, 2020  
CASE: A-19-803488-B

**RE CASE:** DOMINIQUE ARNOULD vs. CLEMENT MUNEY; CHEF EXEC SUPPLIERS, LLC

NOTICE OF APPEAL FILED: June 15, 2020 (4:01 pm)

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

---

***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DOMINIQUE ARNOULD,

Plaintiff(s),

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC,

Defendant(s),

Case No: A-19-803488-B

Dept No: XXVII

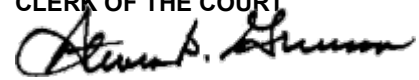
now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 16 day of June 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



1 **NOA**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street  
6 Las Vegas, NV 89101  
7 (702) 518-4529 phone  
8 (702) 825-5872 fax  
9 Admin@KernLawOffices.com  
10 Attorney for Defendants

Electronically Filed  
Jun 22 2020 12:38 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.)

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **NOTICE OF APPEAL**

22 Notice is hereby given that CLEMENT MUNNEY and CHEF EXEC SUPPLIERS,  
23 LLC, Defendant(s) above named, hereby appeal to the Supreme Court of Nevada from the  
24 Order granting an injunction, entered and served in this action on the 12<sup>th</sup> day of June, 2020.

25 DATED this 15<sup>th</sup> day of June, 2020.

26 KERN LAW

27 By: /s/ Robert Kern  
28 Robert Kern Esq.  
601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529  
Attorney for Defendants

**CASE SUMMARY****CASE NO. A-19-803488-B**

**Dominique Arnould, Plaintiff(s)**  
**vs.**  
**Clement Mune, Defendant(s)**

§  
§  
§  
§  
§

Location: **Department 27**  
 Judicial Officer: **Allf, Nancy**  
 Filed on: **10/11/2019**  
 Cross-Reference Case Number: **A803488**

**CASE INFORMATION**Case Type: **NRS Chapters 78-89**

Case  
Status: **10/11/2019 Open**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-803488-B  
 Court Department 27  
 Date Assigned 10/11/2019  
 Judicial Officer Allf, Nancy

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)
<b>Defendant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Mune, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Claimant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Mune, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Defendant</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

10/11/2019



Complaint (Business Court)

Filed By: Counter Defendant Arnould, Dominique  
*Complaint for Appointment of a Receiver or Dissolution of LLC; Declaratory Relief; Breach of Fiduciary Duty; and Damages*

10/11/2019



Initial Appearance Fee Disclosure

Filed By: Counter Defendant Arnould, Dominique  
*Initial Appearance Fee Disclosure*

# CASE SUMMARY

CASE NO. A-19-803488-B

10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/14/2019	 Disclosure Statement Party: Counter Defendant Arnould, Dominique <i>NRCP Rule 7.1 Disclosure Statement</i>
10/15/2019	 Acceptance of Service Filed By: Counter Defendant Arnould, Dominique <i>Acceptance of Service</i>
11/07/2019	 Answer and Counterclaim Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Answer and Counterclaims</i>
11/07/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Initial Appearance Fee Disclosure</i>
12/02/2019	 Answer to Counterclaim Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Answer to Defendants' Counterclaim</i>
12/06/2019	 Mandatory Rule 16 Conference Order <i>Mandatory Rule 16 Conference</i>
12/09/2019	 Motion for Summary Judgment Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Motion for Partial Summary Judgment</i>
12/09/2019	 Affidavit Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Affidavit in Support of Defendants Motion for Partial Summary Judgment</i>
12/09/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Motion for Appointment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
12/10/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/19/2019	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Opposition to Defendants Motion for Partial Summary Judgment</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

12/20/2019	 Errata Filed By: Counter Defendant Arnould, Dominique <i>Errata to Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Partial Summary Judgment</i>
12/23/2019	 Opposition to Motion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Opposition To Motion For Appointment Of Trustee</i>
12/27/2019	 Reply in Support Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendant's Reply in Support of Summary Judgment</i>
12/31/2019	 Supplement to Opposition Filed By: Counter Defendant Arnould, Dominique <i>Supplement to Plaintiff Dominique Arnould's Opposition to Motion for Partial Summary Judgment</i>
01/03/2020	 Notice of Compliance Party: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Notice of Compliance</i>
01/03/2020	 Notice of Compliance Party: Counter Defendant Arnould, Dominique <i>Notice of Compliance</i>
01/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Appointment of Trustee</i>
01/17/2020	 Order Denying Motion Filed By: Counter Defendant Arnould, Dominique <i>Order Denying Defendant's Motion for Summary Judgment</i>
01/17/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order Denying Defendant's Motion for Summary Judgment</i>
03/09/2020	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>Stipulation and Order to Continue Hearing</i>
03/13/2020	 Motion for Partial Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
03/13/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/20/2020	 Opposition and Countermotion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Opposition to motion for summary judgment and counter-motion for enforcement of settlement agreement</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

03/23/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
04/06/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
04/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Partial Summary Judgment</i>
04/13/2020	 Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Reply in Support of Countermotion for Enforcement Agreement, and Opposition to Motion to Strike</i>
05/13/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply In Support of Counter-Motion to Strike Documents Related to Settlement</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/20/2020	 Amended <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Temporary Restraining Order Filed by: Counter Claimant Muney, Clement <i>Temporary Restraining Order</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/21/2020	 Certificate of Mailing Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Certificate of Mailing</i>
05/21/2020	 Notice of Entry of Order <i>Notice of Entry of Order</i>
05/21/2020	 Mandatory Rule 16 Conference Order <i>Business Court Order to Appear for Mandatory 16. Conference</i>
05/22/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique



# CASE SUMMARY

CASE NO. A-19-803488-B

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*




05/22/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/22/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
05/29/2020	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Motions, Heard on May 22, 2020</i>
06/05/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Motion to Select Receiver</i>
06/08/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/08/2020	 Order <i>Order</i>
06/08/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order</i>
06/10/2020	 Request Filed by: Counter Defendant Arnould, Dominique <i>Plaintiff's Emergency Request for Telephonic Hearing for an Appointment of Receiver to Take Over the Warehouse or for Order Allowing Access</i>
06/10/2020	 Response Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants Response to Arnould's Request for Emergency Hearing</i>
06/10/2020	 Reply Filed by: Counter Defendant Arnould, Dominique <i>Reply Declaration of Phil Aurbach in Support of Telephone Conference and Access to Warehouse</i>
06/12/2020	 Order
06/12/2020	 Order
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal

# CASE SUMMARY

CASE NO. A-19-803488-B

Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC  
Notice of Appeal

## HEARINGS

01/09/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Continued; case settled
01/09/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendants' Motion for Partial Summary Judgment</i> Denied;
01/09/2020	 <b>All Pending Motions</b> (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <i>MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval. ;</i>
02/07/2020	 <b>Settlement Conference</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) Matter Settled; Journal Entry Details: <i>The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Mune, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Mune and Jeremy Mune, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims. The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.;</i>
02/20/2020	<b>CANCELED Motion for Appointment</b> (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
03/27/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</i> Minute Order - No Hearing Held; Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED Journal Entry Details: <i>COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020;

03/30/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20;*

04/01/2020

**CANCELED Motion for Appointment of Receiver (9:30 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated*

04/01/2020

**CANCELED Mandatory Rule 16 Conference (9:30 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated*

04/14/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS after review Plaintiff's Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant's Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion for Partial Summary Judgment, together with Defendant's Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;*

04/21/2020

**CANCELED Status Check: Settlement Documents (3:00 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated - On in Error*

04/28/2020



**Status Check: Settlement Documents (3:00 AM)** (Judicial Officer: Allf, Nancy)

Matter Continued;

Journal Entry Details:

*COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020. COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CONTINUED TO 5/20/2020 10:30 AM CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020;*

04/30/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order: Plaintiff's MOTion for Appointment of Trustee RESET to 5/20/2020

Minute Order - No Hearing Held; Minute Order: Plaintiff's MOTion for Appointment of Trustee RESET to 5/20/2020

Journal Entry Details:

*COURT FINDS after review Plaintiff's Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement. THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff's Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm*

# CASE SUMMARY

CASE NO. A-19-803488-B

4/30/2020;

05/18/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

*Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020*

Minute Order - No Hearing Held; Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020

Journal Entry Details:

*COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020 ;*

05/22/2020

**Motion for Temporary Restraining Order** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction*

05/22/2020

**Opposition and Countermotion** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*

05/22/2020



**All Pending Motions** (1:00 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order All appearances made via BlueJeans teleconferencing software. Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company, Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.;*

06/10/2020

**Hearing** (1:30 PM) (Judicial Officer: Allf, Nancy)


**06/10/2020, 06/12/2020**

*Request for Emergency hearing*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-803488-B**

06/11/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Requested for Emergency Hearing set 6/10/2020 CONTINUED to 6/12/2020</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review on June 5, 2020, Plaintiff's Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m. COURT FURTHER FINDS after review on June 10, 2020, Plaintiff's Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff's Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File &amp; Serve. /nm 6/11/2020;</i>
06/12/2020	<b>Motion</b> (12:30 PM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Select Receiver</i>
06/24/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement</i>
06/24/2020	<b>Motion for Appointment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
06/24/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy)

DATE	FINANCIAL INFORMATION
	<b>Counter Claimant</b> Muney, Clement Total Charges 1,761.00 Total Payments and Credits 1,761.00 <b>Balance Due as of 6/16/2020 0.00</b>
	<b>Counter Defendant</b> Arnould, Dominique Total Charges 1,834.50 Total Payments and Credits 1,834.50 <b>Balance Due as of 6/16/2020 0.00</b>
	<b>Counter Claimant</b> Chef Exec Suppliers, LLC Temporary Restraining Order Balance as of 6/16/2020 100.00

**BUSINESS COURT CIVIL COVER SHEET** CASE NO: A-19-803488-B  
Clark County, Nevada  
 Case No. \_\_\_\_\_ Department 27

(Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): DOMINIQUE ARNOULD  Attorney (name/address/phone): Phillip S. Aurbach, Esq. (NV Bar No. 1501) Marquis Aurbach Coffing 10001 Park Run Drive Las Vegas, NV 89145 (702) 382-0711	Defendant(s) (name/address/phone): CLEMENT MUNNEY; CHEF EXEC SUPPLIERS, LLC; and DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive  Attorney (name/address/phone):
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**II. Nature of Controversy** (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Torts</b> <b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice  <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	<b>CLARK COUNTY BUSINESS COURT</b> <input checked="" type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Civil Writs</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>WASHOE COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
<b>Judicial Review/Appeal/Other Civil Filing</b>		
<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

10/11/2019

Date

/s/ Phillip S. Aurbach

Signature of initiating party or representative

**ORDR****Marquis Aurbach Coffing**

Phillip S. Aurbach, Esq.

Nevada Bar No. 1501

Alexander K. Calaway, Esq.

Nevada Bar No. 15188

10001 Park Run Dr.

Las Vegas, NV 89145

Telephone: (702) 382-0711

Facsimile: (702) 382-5816

paurbach@maclaw.com

acalaway@maclaw.com

*Attorneys for Plaintiff***DISTRICT COURT****CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B

Dept. No.: 27

**ORDER**

This matter came before the Court on June 12, 2020 at 12:30pm, regarding the Plaintiff's Motion to Select Receiver (the "Motion") and Plaintiff's Emergency Request For Telephonic Hearing For Appointment of Receiver To Take Over the Warehouse Or For the Order Allowing Access (the "Emergency Request").

Having reviewed the papers and pleadings on file herein, arguments of counsel at the time of the above identified hearing, being fully advised on the matter, and with good cause appearing therefore the Court finds and decides the following:

1. On May 22, 2020 this Court requested that the Parties provide this Court with their suggestions as to who could serve as a court-appointed receiver in this matter.

2. After considering both parties suggestions, the Court finds Larry L. Bertsch to be suitable to serve as the court-appointed receiver ("Receiver"), consistent with the powers set forth in this Court's previous June 8, 2020 order regarding the appointment of a receiver.

3. Also, consistent with this Court's June 8, 2020 order, the Receiver will be compensated by Clement Muney ("Muney") and Dominique Arnould ("Arnould") each paying 1/2 of his estimated fees within 10 days of the Receiver's request.

4. The Court also finds that despite the fact that Muney and Arnould are each 50% owners of Chef Exec Suppliers, LLC ("Company"), Muney changed the locks to the warehouse located at 3655 West Quail Ave, Las Vegas, Nevada ("Nevada Warehouse"), which currently stores Company inventory.

5. The Court also finds that Muney refused to allow Arnould access to the Nevada Warehouse to obtain the Company inventory.

6. The Court also finds that Muney's actions have required further monitoring of the Nevada Warehouse so that the Company can continue to fulfill the needs of its customers.

### ORDER

Based upon a full review of the pleadings, evidence, oral arguments of counsel, findings, conclusions of law and the powers of the Court:

1. It is ordered that Defendants immediately provide Plaintiff access to the Nevada Warehouse.
2. It is further ordered that Clement Muney hire and pay for security to monitor the Nevada Warehouse when Plaintiff accesses the same.
3. It is further ordered that the Receiver change the locks on the Nevada Warehouse so that all parties can have access to the same with the consent of the Receiver.

IT IS SO ORDERED.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2020.

Dated this 12th day of June, 2020

*Nancy L. Alf*

DISTRICT COURT JUDGE  
FBA 175 1437 4DD6

Nancy Alf

Page 2 of 3

MAC:15755-001 ORDER regarding June 12 2020 Motion to Select Reciever 6/12/2020 4:07 PM



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Submitted by:

Dated this 12<sup>th</sup> day of June, 2020

**MARQUIS AURBACH COFFING**

By: /s/ Alex Calaway

Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
10001 Park Run Dr.  
Las Vegas, Nevada 89145  
*Attorneys for Plaintiff*

Approved to as form and content:

Dated this 12<sup>th</sup> day of June, 2020

**KERN LAW LTD.**

By: /s/ Robert Kern

Robert Kern, Esq.  
Nevada Bar No. 10104  
601 S. 6<sup>th</sup> St.  
Las Vegas, Nevada 89101  
*Attorney for Defendants*

DISTRICT COURT  
CLARK COUNTY, NEVADA

Dominique Arnould, Plaintiff(s)	CASE NO: A-19-803488-B
vs.	DEPT. NO. Department 27
Clement Muney, Defendant(s)	

**AUTOMATED CERTIFICATE OF SERVICE**

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

Envelope ID: 6178664  
Service Date: 6/12/2020

Jennifer Case	jcase@maclaw.com
Robert Kern	Robert@Kernlawoffices.com
Melissa Milroy	Admin@KernLawOffices.com
Phillip Aurbach	PSA@maclaw.com
Javie-Anne Bauer	jbauer@maclaw.com
Alexander Calaway	acalaway@maclaw.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 09, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

**January 09, 2020      10:30 AM      All Pending Motions**

**HEARD BY:** Allf, Nancy      **COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn White

**REPORTER:**

**PARTIES**

**PRESENT:**      Aurbach, Phillip S.      Attorney  
Kern, Robert J.      Attorney

**JOURNAL ENTRIES**

**- MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**February 07, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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<b>February 07, 2020</b>	<b>9:30 AM</b>	<b>Settlement Conference</b>
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<b>HEARD BY:</b> Williams, Timothy C.	<b>COURTROOM:</b> RJC Courtroom 03H
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**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:** Peggy Isom

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims.

The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 27, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

<b>March 27, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>	<b>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</b>
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**HEARD BY:** Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020

PRINT DATE: 06/16/2020

Page 3 of 13

Minutes Date: January 09, 2020



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 30, 2020**

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A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

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**March 30, 2020      3:00 AM      Minute Order**

**HEARD BY:** Alf, Nancy      **COURTROOM:** Chambers

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 14, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>April 14, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Alf, Nancy	<b>COURTROOM:</b> No Location
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**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant s Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion for Partial Summary Judgment, together with Defendant s Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 28, 2020**

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A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

---

**April 28, 2020      3:00 AM      Status Check: Settlement  
Documents**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020.

COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CONTINUED TO 5/20/2020 10:30 AM

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 30, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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**April 30, 2020**

**3:00 AM**

**Minute Order**

**Minute Order:  
Plaintiff's MOtion for  
Appointment of  
Trustee RESET to  
5/20/2020**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement.

THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff s Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/30/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 18, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 18, 2020

3:00 AM

Minute Order

**Minute Order:**  
**Matters set 5/20/2020**  
**CONTINUED to**  
**6/24/2020**

**HEARD BY:** Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 22, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 22, 2020

1:00 PM

All Pending Motions

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Aurbach, Phillip S.	Attorney
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney

**JOURNAL ENTRIES**

- Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order

All appearances made via BlueJeans teleconferencing software.

Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company,

Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**June 11, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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<b>June 11, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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**HEARD BY:** Allf, Nancy **COURTROOM:** No Location

**COURT CLERK:** Carolyn Jackson

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review on June 5, 2020, Plaintiff s Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m.

COURT FURTHER FINDS after review on June 10, 2020, Plaintiff s Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff s Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/11/2020



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

ROBERT KERN, ESQ.  
601 S. 6<sup>TH</sup> ST.  
LAS VEGAS, NV 89101

DATE: June 16, 2020  
CASE: A-19-803488-B

**RE CASE:** DOMINIQUE ARNOULD vs. CLEMENT MUNEY; CHEF EXEC SUPPLIERS, LLC

NOTICE OF APPEAL FILED: June 15, 2020 (4:05 pm)

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

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NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

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***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***



# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DOMINIQUE ARNOULD,

Plaintiff(s),

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC,

Defendant(s),

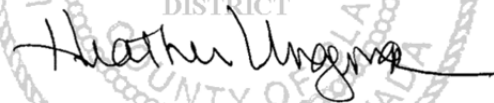
Case No: A-19-803488-B

Dept No: XXVII

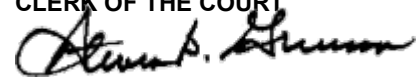
now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 16 day of June 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk



1 **NOA**

2 Robert Kern, Esq.  
3 Nevada Bar Number 10104

4 **KERN LAW, Ltd.**

5 601 S. 6<sup>th</sup> Street

6 Las Vegas, NV 89101

7 (702) 518-4529 phone

8 (702) 825-5872 fax

9 Admin@KernLawOffices.com

10 Attorney for Defendants

Electronically Filed  
Jun 22 2020 12:54 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

11 **IN THE EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 DOMINIQUE ARNOULD,

14 Plaintiff/Counter-Defendant,

15 vs.

16 CLEMENT MUNNEY; CHEF EXEC  
17 SUPPLIERS, LLC; and DOES I through X,  
18 inclusive, and ROE CORPORATIONS I  
19 through X, inclusive,

20 Defendants/Counter-Claimants.)

) Case Number: A-19-803488-B

) Dept. Number: 27

21 **NOTICE OF APPEAL**

22 Notice is hereby given that CLEMENT MUNNEY and CHEF EXEC SUPPLIERS,  
23 LLC, Defendant(s) above named, hereby appeal to the Supreme Court of Nevada from the  
24 Order Issuing Sanction, which is a final order, entered and served in this action on the 12<sup>th</sup>  
25 day of June, 2020.

26 DATED this 15<sup>th</sup> day of June, 2020.

27 KERN LAW

28 By: /s/ Robert Kern

Robert Kern Esq.

601 S. 6<sup>th</sup> Street

Las Vegas, NV 89101

(702) 518-4529

Attorney for Defendants

**CASE SUMMARY****CASE NO. A-19-803488-B**

**Dominique Arnould, Plaintiff(s)**  
**vs.**  
**Clement Muney, Defendant(s)**

§  
 §  
 §  
 §  
 §

Location: **Department 27**  
 Judicial Officer: **Allf, Nancy**  
 Filed on: **10/11/2019**  
 Cross-Reference Case **A803488**  
 Number:

**CASE INFORMATION**Case Type: **NRS Chapters 78-89**

Case  
 Status: **10/11/2019 Open**

**DATE****CASE ASSIGNMENT****Current Case Assignment**

Case Number A-19-803488-B  
 Court Department 27  
 Date Assigned 10/11/2019  
 Judicial Officer Allf, Nancy

**PARTY INFORMATION**

		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)
<b>Defendant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Muney, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Claimant</b>	<b>Chef Exec Suppliers, LLC</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
	<b>Muney, Clement</b>	<b>Kern, Robert J.</b> <i>Retained</i> 702-518-4529(W)
<b>Counter Defendant</b>	<b>Arnould, Dominique</b>	<b>Aurbach, Phillip S.</b> <i>Retained</i> 7029422155(W)

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

10/11/2019



Complaint (Business Court)

Filed By: Counter Defendant Arnould, Dominique  
*Complaint for Appointment of a Receiver or Dissolution of LLC; Declaratory Relief; Breach of Fiduciary Duty; and Damages*

10/11/2019




Initial Appearance Fee Disclosure

Filed By: Counter Defendant Arnould, Dominique  
*Initial Appearance Fee Disclosure*

# CASE SUMMARY

CASE NO. A-19-803488-B

10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/11/2019	 Summons Electronically Issued - Service Pending Party: Counter Defendant Arnould, Dominique <i>Summons - Civil</i>
10/14/2019	 Disclosure Statement Party: Counter Defendant Arnould, Dominique <i>NRCP Rule 7.1 Disclosure Statement</i>
10/15/2019	 Acceptance of Service Filed By: Counter Defendant Arnould, Dominique <i>Acceptance of Service</i>
11/07/2019	 Answer and Counterclaim Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Answer and Counterclaims</i>
11/07/2019	 Initial Appearance Fee Disclosure Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Initial Appearance Fee Disclosure</i>
12/02/2019	 Answer to Counterclaim Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Answer to Defendants' Counterclaim</i>
12/06/2019	 Mandatory Rule 16 Conference Order <i>Mandatory Rule 16 Conference</i>
12/09/2019	 Motion for Summary Judgment Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Motion for Partial Summary Judgment</i>
12/09/2019	 Affidavit Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Affidavit in Support of Defendants Motion for Partial Summary Judgment</i>
12/09/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/10/2019	 Motion for Appointment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
12/10/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
12/19/2019	 Opposition to Motion For Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Opposition to Defendants Motion for Partial Summary Judgment</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

12/20/2019	 Errata Filed By: Counter Defendant Arnould, Dominique <i>Errata to Plaintiff Dominique Arnould's Opposition to Defendants' Motion for Partial Summary Judgment</i>
12/23/2019	 Opposition to Motion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Opposition To Motion For Appointment Of Trustee</i>
12/27/2019	 Reply in Support Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendant's Reply in Support of Summary Judgment</i>
12/31/2019	 Supplement to Opposition Filed By: Counter Defendant Arnould, Dominique <i>Supplement to Plaintiff Dominique Arnould's Opposition to Motion for Partial Summary Judgment</i>
01/03/2020	 Notice of Compliance Party: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Notice of Compliance</i>
01/03/2020	 Notice of Compliance Party: Counter Defendant Arnould, Dominique <i>Notice of Compliance</i>
01/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Appointment of Trustee</i>
01/17/2020	 Order Denying Motion Filed By: Counter Defendant Arnould, Dominique <i>Order Denying Defendant's Motion for Summary Judgment</i>
01/17/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order Denying Defendant's Motion for Summary Judgment</i>
03/09/2020	 Stipulation and Order Filed by: Counter Defendant Arnould, Dominique <i>Stipulation and Order to Continue Hearing</i>
03/13/2020	 Motion for Partial Summary Judgment Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
03/13/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/20/2020	 Opposition and Countermotion Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Opposition to motion for summary judgment and counter-motion for enforcement of settlement agreement</i>

# CASE SUMMARY

CASE NO. A-19-803488-B

03/23/2020	 Clerk's Notice of Hearing <i>Clerk's Notice of Hearing</i>
04/06/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
04/08/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply in Support of Motion for Partial Summary Judgment</i>
04/13/2020	 Reply in Support Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Reply in Support of Countermotion for Enforcement Agreement, and Opposition to Motion to Strike</i>
05/13/2020	 Reply in Support Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff Dominique Arnould's Reply In Support of Counter-Motion to Strike Documents Related to Settlement</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/20/2020	 Amended <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/20/2020	 Temporary Restraining Order Filed by: Counter Claimant Muney, Clement <i>Temporary Restraining Order</i>
05/20/2020	 Application Filed By: Counter Claimant Muney, Clement <i>Amended Application for Temporary Restraining Order and Motion for Preliminary Injunction</i>
05/21/2020	 Certificate of Mailing Filed By: Counter Claimant Muney, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Certificate of Mailing</i>
05/21/2020	 Notice of Entry of Order <i>Notice of Entry of Order</i>
05/21/2020	 Mandatory Rule 16 Conference Order <i>Business Court Order to Appear for Mandatory 16. Conference</i>
05/22/2020	 Opposition and Countermotion Filed By: Counter Defendant Arnould, Dominique

# CASE SUMMARY

CASE NO. A-19-803488-B

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*




05/22/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
05/22/2020	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
05/29/2020	 Recorders Transcript of Hearing <i>Transcript of Proceedings, Motions, Heard on May 22, 2020</i>
06/05/2020	 Motion Filed By: Counter Defendant Arnould, Dominique <i>Plaintiff's Motion to Select Receiver</i>
06/08/2020	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
06/08/2020	 Order <i>Order</i>
06/08/2020	 Notice of Entry of Order Filed By: Counter Defendant Arnould, Dominique <i>Notice of Entry of Order</i>
06/10/2020	 Request Filed by: Counter Defendant Arnould, Dominique <i>Plaintiff's Emergency Request for Telephonic Hearing for an Appointment of Receiver to Take Over the Warehouse or for Order Allowing Access</i>
06/10/2020	 Response Filed by: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Defendants Response to Arnould's Request for Emergency Hearing</i>
06/10/2020	 Reply Filed by: Counter Defendant Arnould, Dominique <i>Reply Declaration of Phil Aurbach in Support of Telephone Conference and Access to Warehouse</i>
06/12/2020	 Order
06/12/2020	 Order
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC <i>Notice of Appeal</i>
06/15/2020	 Notice of Appeal

# CASE SUMMARY

CASE NO. A-19-803488-B

Filed By: Counter Claimant Mune, Clement; Counter Claimant Chef Exec Suppliers, LLC  
Notice of Appeal

## HEARINGS

01/09/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Continued; case settled
01/09/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendants' Motion for Partial Summary Judgment</i> Denied;
01/09/2020	 <b>All Pending Motions</b> (10:30 AM) (Judicial Officer: Allf, Nancy) Matter Heard; Journal Entry Details: <i>MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval. ;</i>
02/07/2020	 <b>Settlement Conference</b> (9:30 AM) (Judicial Officer: Williams, Timothy C.) Matter Settled; Journal Entry Details: <i>The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Mune, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Mune and Jeremy Mune, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims. The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney's fees and costs. The case is now referred back to the originating department for further handling and closure.;</i>
02/20/2020	<b>CANCELED Motion for Appointment</b> (10:00 AM) (Judicial Officer: Allf, Nancy) <i>Vacated</i> <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
03/27/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</i> Minute Order - No Hearing Held; Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED Journal Entry Details: <i>COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020</i>



# CASE SUMMARY

CASE NO. A-19-803488-B

shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020;

03/30/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar. COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar. CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20;*

04/01/2020

**CANCELED Motion for Appointment of Receiver (9:30 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated*

04/01/2020

**CANCELED Mandatory Rule 16 Conference (9:30 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated*

04/14/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order - No Hearing Held;

Journal Entry Details:

*COURT FINDS after review Plaintiff's Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant's Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion for Partial Summary Judgment, together with Defendant's Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm;*

04/21/2020

**CANCELED Status Check: Settlement Documents (3:00 AM)** (Judicial Officer: Allf, Nancy)  
*Vacated - On in Error*

04/28/2020



**Status Check: Settlement Documents (3:00 AM)** (Judicial Officer: Allf, Nancy)

Matter Continued;

Journal Entry Details:

*COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020. COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CONTINUED TO 5/20/2020 10:30 AM CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020;*

04/30/2020



**Minute Order (3:00 AM)** (Judicial Officer: Allf, Nancy)

Minute Order: Plaintiff's MOTION for Appointment of Trustee RESET to 5/20/2020

Minute Order - No Hearing Held; Minute Order: Plaintiff's MOTION for Appointment of Trustee RESET to 5/20/2020

Journal Entry Details:

*COURT FINDS after review Plaintiff's Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement. THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff's Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm*

# CASE SUMMARY

CASE NO. A-19-803488-B

4/30/2020;

05/18/2020



**Minute Order** (3:00 AM) (Judicial Officer: Allf, Nancy)

*Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020*

Minute Order - No Hearing Held; Minute Order: Matters set 5/20/2020 CONTINUED to 6/24/2020

Journal Entry Details:

*COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020. COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order. THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020 ;*

05/22/2020

**Motion for Temporary Restraining Order** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction*

05/22/2020

**Opposition and Countermotion** (1:00 PM) (Judicial Officer: Allf, Nancy)

*Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order*

05/22/2020



**All Pending Motions** (1:00 PM) (Judicial Officer: Allf, Nancy)

Matter Heard;

Journal Entry Details:

*Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order All appearances made via BlueJeans teleconferencing software. Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company, Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.;*


06/10/2020

**Hearing** (1:30 PM) (Judicial Officer: Allf, Nancy)

**06/10/2020, 06/12/2020**

*Request for Emergency hearing*

**CASE SUMMARY****CASE NO. A-19-803488-B**

06/11/2020	 <b>Minute Order</b> (3:00 AM) (Judicial Officer: Allf, Nancy) <i>Minute Order: Requested for Emergency Hearing set 6/10/2020 CONTINUED to 6/12/2020</i> Minute Order - No Hearing Held; Journal Entry Details: <i>COURT FINDS after review on June 5, 2020, Plaintiff's Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m. COURT FURTHER FINDS after review on June 10, 2020, Plaintiff's Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted. THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff's Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff's Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m. CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File &amp; Serve. /nm 6/11/2020;</i>
06/12/2020	<b>Motion</b> (12:30 PM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Motion to Select Receiver</i>
06/24/2020	<b>Motion for Partial Summary Judgment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement</i>
06/24/2020	<b>Motion for Appointment</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff Dominique Arnould's Motion for Appointment of Trustee</i>
06/24/2020	<b>Opposition and Countermotion</b> (10:30 AM) (Judicial Officer: Allf, Nancy) <i>Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement</i>
06/24/2020	<b>Mandatory Rule 16 Conference</b> (10:30 AM) (Judicial Officer: Allf, Nancy)

**DATE****FINANCIAL INFORMATION**

<b>Counter Claimant</b> Muney, Clement	
Total Charges	1,761.00
Total Payments and Credits	1,761.00
<b>Balance Due as of 6/16/2020</b>	<b>0.00</b>
<b>Counter Defendant</b> Arnould, Dominique	
Total Charges	1,834.50
Total Payments and Credits	1,834.50
<b>Balance Due as of 6/16/2020</b>	<b>0.00</b>
<b>Counter Claimant</b> Chef Exec Suppliers, LLC	
Temporary Restraining Order Balance as of 6/16/2020	<b>100.00</b>

**BUSINESS COURT CIVIL COVER SHEET** CASE NO: A-19-803488-B  
Clark County, Nevada  
 Department 27

Case No. \_\_\_\_\_  
 (Assigned by Clerk's Office)

**I. Party Information** (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): DOMINIQUE ARNOULD  Attorney (name/address/phone): Phillip S. Aurbach, Esq. (NV Bar No. 1501) Marquis Aurbach Coffing 10001 Park Run Drive Las Vegas, NV 89145 (702) 382-0711	Defendant(s) (name/address/phone): CLEMENT MUNY; CHEF EXEC SUPPLIERS, LLC; and DOES I through X, inclusive; and ROE CORPORATIONS I through X, inclusive  Attorney (name/address/phone):
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**II. Nature of Controversy** (Please check the applicable boxes for both the civil case type and business court case type)

☐ Arbitration Requested

Civil Case Filing Types		Business Court Filing Types
<b>Real Property</b> <b>Landlord/Tenant</b> <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant <b>Title to Property</b> <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property <b>Other Real Property</b> <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	<b>Torts</b> <b>Negligence</b> <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence <b>Malpractice</b> <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice  <b>Other Torts</b> <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort	<b>CLARK COUNTY BUSINESS COURT</b> <input checked="" type="checkbox"/> NRS Chapters 78-89 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Mergers (NRS 92A) <input type="checkbox"/> Uniform Commercial Code (NRS 104) <input type="checkbox"/> Purchase/Sale of Stock, Assets, or Real Estate <input type="checkbox"/> Trademark or Trade Name (NRS 600) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
<b>Construction Defect &amp; Contract</b> <b>Construction Defect</b> <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect <b>Contract Case</b> <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	<b>Civil Writs</b> <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ	<b>WASHOE COUNTY BUSINESS COURT</b> <input type="checkbox"/> NRS Chapters 78-88 <input type="checkbox"/> Commodities (NRS 91) <input type="checkbox"/> Securities (NRS 90) <input type="checkbox"/> Investments (NRS 104 Art. 8) <input type="checkbox"/> Deceptive Trade Practices (NRS 598) <input type="checkbox"/> Trademark/Trade Name (NRS 600) <input type="checkbox"/> Trade Secrets (NRS 600A) <input type="checkbox"/> Enhanced Case Management <input type="checkbox"/> Other Business Court Matters
<b>Judicial Review/Appeal/Other Civil Filing</b>		
<b>Judicial Review</b> <input type="checkbox"/> Foreclosure Mediation Case <b>Appeal Other</b> <input type="checkbox"/> Appeal from Lower Court	<b>Other Civil Filing</b> <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters	

10/11/2019

Date

/s/ Phillip S. Aurbach

Signature of initiating party or representative

**DISTRICT COURT  
CLARK COUNTY, NEVADA**  
\* \* \* \*

DOMINIQUE ARNOULD,

Plaintiff

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC.,

Defendants

CASE NO.: A-19-803488-B

DEPARTMENT 27

**ORDER ISSUING SANCTION**

**COURT FINDS** after review that on June 10, 2020, a hearing was held following Plaintiff's Emergency Request for Hearing. Phillip Aurbach, Esq. and Alexander Calaway, Esq. appeared for Plaintiff Dominique Arnould. Robert Kern, Esq. failed to appear for Defendants. Rather, Mr. Kern had the time to file a responsive pleading stating that he's unable to attend the hearing as he was preparing for oral argument before the Nevada Supreme Court. Moreover, Mr. Kern emailed the Court and counsel "protesting" any hearing being held without his presence. The Court's staff attempted to contact Mr. Kern prior to the hearing, but was informed that Mr. Kern was unavailable. Nevertheless, the hearing went forward on June 10, 2020 and out of professional courtesy, the Court, *sua sponte*, continued the matter to June 12, 2020.

**COURT FURTHER FINDS** after review that at the June 12, 2020 hearing, Mr. Kern was provided an opportunity to explain his June 10, 2020 actions on the record.

**COURT FURTHER FINDS** after review that Mr. Kern's failure to appear at the June 10, 2020 hearing or respond to the Court's staff was unexcused, inappropriate, and demeaned the Court.

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**COURT FURTHER FINDS** after review that district courts have inherent and broad discretion to impose sanctions for professional misconduct. *See generally Young v. Johnny Ribeiro Building*, 106 Nev. 88, 92, 787 P.2d 777, 779 (1990); *see also Lioce vs. Cohen*, 124 Nev. 1 (2008) (explaining that “sanctions for professional misconduct at trial in civil cases are best considered in the first instance by the district court. Therefore, the district court may, on a party’s motion or *sua sponte*, impose sanctions for professional misconduct at trial ...”).

**COURT FURTHER FINDS** after review that as such, broad discretion permits this Court to issue sanctions for any “litigation abuses not specifically proscribed by statute.” *Young*, 106 Nev. at 92, 787 P.2d at 779.

**THEREFORE, COURT ORDERS** for good cause appearing and after review, pursuant to the Court's inherent authority outlined in *Young*, Robert Kern, Esq. **SHALL** make a mandatory charitable donation in the amount of \$100, made payable to the Legal Aid Center of Southern Nevada, Nevada Legal Services, Clark County Law Library, Nevada Law Foundation, Clark County Law Foundation, Southern Nevada Senior Law Project, or a proper entity specified in Rule 6.1 of the Nevada Rules of Professional Conduct.

**COURT FURTHER ORDERS** for good cause appearing and after review sufficient proof of the donation, such as a receipt, must be provided to the Court to indicate that the charitable donation has been received, within 30 days from the date of this Order.

**DATED** this 12<sup>th</sup> day of June, 2020

Dated this 12th day of June, 2020

NANCY ALLIF  
DISTRICT COURT JUDGE  
CD8 2A5 B7E3 1B02  
Nancy Allif

DISTRICT COURT  
CLARK COUNTY, NEVADA

Dominique Arnould, Plaintiff(s)	CASE NO: A-19-803488-B
vs.	DEPT. NO. Department 27
Clement Muney, Defendant(s)	

**AUTOMATED CERTIFICATE OF SERVICE**

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

Envelope ID: 6178752  
Service Date: 6/12/2020

Jennifer Case	jcase@maclaw.com
Robert Kern	Robert@Kernlawoffices.com
Melissa Milroy	Admin@KernLawOffices.com
Phillip Aurbach	PSA@maclaw.com
Javie-Anne Bauer	jbauer@maclaw.com
Alexander Calaway	acalaway@maclaw.com

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

January 09, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

**January 09, 2020      10:30 AM      All Pending Motions**

**HEARD BY:** Allf, Nancy      **COURTROOM:** RJC Courtroom 03A

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Brynn White

**REPORTER:**

**PARTIES**

**PRESENT:**      Aurbach, Phillip S.      Attorney  
Kern, Robert J.      Attorney

**JOURNAL ENTRIES**

**- MANDATORY RULE 16 CONFERENCE...DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT**

Upon inquiry of Court if there was a Countermotion, Mr. Aurbach stated there was not, however there is a Motion for Appointment of Trustee set on January 15, 2020 that is related. Colloquy regarding whether matters should be heard together and Court's preliminary ruling. Arguments by counsel regarding the merits of and opposition to the motion. Court stated its findings and ORDERED, Defendants' Motion for Partial Summary Judgment DENIED. Colloquy regarding how to proceed in case and if parties would like a settlement conference. CONFERENCE AT THE BENCH. Court stated the Motion for Appointment of Trustee is set for January 15, 2020, that matter may or may not be continued at request of counsel, at the time of the hearing counsel are to give Court direction with how they wish to proceed with a mandatory settlement conference, counsel are to provide Court with their availability as well as their clients by end of the day on January 13, 2020 for a settlement conference to be set. COURT ORDERED, Mandatory Rule 16 Conference CONTINUED to be heard at the time of Plaintiff's Motion for Appointment of Trustee. Mr. Aurbach to prepare the order and submit it to opposing counsel for approval.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**February 07, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>February 07, 2020</b>	<b>9:30 AM</b>	<b>Settlement Conference</b>
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<b>HEARD BY:</b> Williams, Timothy C.	<b>COURTROOM:</b> RJC Courtroom 03H
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**COURT CLERK:** Christopher Darling

**RECORDER:**

**REPORTER:** Peggy Isom

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- The above-referenced matter came on for a settlement conference with Judge Williams on February 7, 2020. The Plaintiff, Dominique Arnould, was present and represented by Philip Aurbach, Esq. and Alexander Calaway Esq. The Defendant, Clement Muney, was present and represented by Robert Kern, Esq. The Defendant, Chef Exec Suppliers, was present through Clement Muney and Jeremy Muney, and represented by Robert Kern, Esq. The parties have agreed to a settlement and resolution of all claims.

The parties and their attorneys will work together in good faith to prepare and execute all necessary settlement documents, including a Settlement Agreement to include the agreed terms, and a Stipulation and Order of Dismissal of All Claims. It is the intention of the parties that this Settlement will resolve any and all claims among or between the parties to this lawsuit. Each party is to bear its own attorney s fees and costs. The case is now referred back to the originating department for further handling and closure.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

March 27, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

<b>March 27, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>	<b>Minute Order: Motion for Appointment of Receiver and Mandatory Rule 16 Conference set 4/1/2020 VACATED</b>
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**HEARD BY:** Allf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 21, 2020 on Chambers Calendar.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 3/27/2020

PRINT DATE: 06/16/2020

Page 3 of 13

Minutes Date: January 09, 2020



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**March 30, 2020**

---

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>March 30, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Alf, Nancy	<b>COURTROOM:</b> Chambers
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**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Motion for Appointment of Receiver along with a Mandatory Rule 16 Conference are currently set for hearing for April 1, 2020 at 9:30 a.m. on Motions Calendar.

COURT FURTHER FINDS after review the matter settled through a judicial settlement conference conducted on or about February 7, 2020.

THEREFORE, COURT ORDERS for good cause appearing and after review pursuant the matters set for April 1, 2020 shall be VACATED. A Status Check on settlement documents shall be set for April 28, 2020 on Chambers Calendar.

CLERK S NOTE: A copy of this minute order was distributed via the E-Service Master List. /lg 3-30-20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 14, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

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<b>April 14, 2020</b>	<b>3:00 AM</b>	<b>Minute Order</b>
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<b>HEARD BY:</b> Alf, Nancy	<b>COURTROOM:</b> No Location
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**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Partial Summary Judgment was filed on March 13, 2020. Defendant s Opposition and Countermotion for Enforcement of Settlement Agreement was filed on March 20, 2020. The matters were set for hearing for April 15, 2020 at 10:30 a.m. but were subsequently inadvertently vacated.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion for Partial Summary Judgment, together with Defendant s Countermotion for Enforcement of Settlement Agreement, are hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 28, 2020**

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A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

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**April 28, 2020      3:00 AM      Status Check: Settlement  
Documents**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review a Status Check on settlement documents is set on Chambers Calendar for April 28, 2020.

COURT ORDERS for good cause appearing and after review the Status Check set for April 28, 2020 is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CONTINUED TO 5/20/2020 10:30 AM

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/29/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**April 30, 2020**

---

A-19-803488-B	Dominique Arnould, Plaintiff(s)
	vs.
	Clement Muney, Defendant(s)

---

**April 30, 2020**

**3:00 AM**

**Minute Order**

**Minute Order:  
Plaintiff's MOtion for  
Appointment of  
Trustee RESET to  
5/20/2020**

**HEARD BY:** Allf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Nicole McDevitt

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review Plaintiff s Motion for Appointment of Trustee was inadvertently vacated due to the notification of settlement.

THEREFORE, COURT ORDERS for good cause appearing and after Plaintiff s Motion for Appointment of Trustee is hereby CONTINUED to May 20, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 4/30/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 18, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 18, 2020

3:00 AM

Minute Order

**Minute Order:**  
**Matters set 5/20/2020**  
**CONTINUED to**  
**6/24/2020**

**HEARD BY:** Alf, Nancy**COURTROOM:** No Location**COURT CLERK:** Nicole McDevitt**RECORDER:****REPORTER:****PARTIES****PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review the Plaintiff Dominique Arnould's Motion for Appointment of Trustee filed December 10, 2019, Plaintiff Dominique Arnould's Motion for Partial Summary Judgment for Judicial Dissolution filed March 13, 2020, Defendant's Opposition to Motion for Partial Summary Judgment and Counter-Motion for Enforcement of Settlement Agreement filed March 20, 2020, and Plaintiff's Opposition to Defendants' Counter-Motion for Enforcement of Settlement Agreement and Counter-Motion to Strike Documents Related to Settlement filed April 6, 2020 were set for Motions Calendar on May 20, 2020.

COURT FURTHER FINDS after review pursuant to Administrative Order 20-01 in response to COVID-19 concerns, all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephone means, decided on the papers, or rescheduled unless otherwise directed by a District Court Judge. Moreover, Administrative Order 20-13 provides that AO 20-01 will remain in effect and all deadlines provided therein will be extended unless modified or rescinded by a subsequent order.



THEREFORE, COURT ORDERS for good cause appearing and after review pursuant to Administrative Orders 20-01 and 20-13, the matters set for hearing on May 20, 2020 is hereby CONTINUED to June 24, 2020 at 10:30 a.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 5/18/2020

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

NRS Chapters 78-89

COURT MINUTES

May 22, 2020

A-19-803488-B      Dominique Arnould, Plaintiff(s)  
vs.  
Clement Muney, Defendant(s)

May 22, 2020

1:00 PM

All Pending Motions

HEARD BY: Alf, Nancy

COURTROOM: RJC Courtroom 03A

COURT CLERK: Nicole McDevitt

RECORDER: Brynn White

REPORTER:

**PARTIES**

<b>PRESENT:</b>	Aurbach, Phillip S.	Attorney
	Calaway, Alexander Kip	Attorney
	Kern, Robert J.	Attorney

**JOURNAL ENTRIES**

- Defendants' Application for Temporary Restraining Order and Motion for Preliminary Injunction...Plaintiff's Opposition to Application for Temporary Restraining Order and Counter-Motion to Vacate Temporary Restraining Order

All appearances made via BlueJeans teleconferencing software.

Court stated it signed the Temporary Restraining Order, not because Court was convinced it was appropriate, but to stabilize the business. Court further stated matter was set on shortened time. Arguments by Mr. Kern and Mr. Aurbach regarding the merits of and opposition to the pending motion and countermotion. Colloquy between Court and Mr. Aurbach regarding his request for appointment of a receiver with limited powers and status of the financials. Mr. Kern requested to file responsive affidavits by Monday for Court's review prior to Court's ruling. Colloquy regarding the viability of the company. COURT ORDERED, Temporary Restraining Order DISSOLVED, motion to enforce the settlement DENIED WITHOUT PREJUDICE, receiver APPOINTED for a limited purpose, and status quo to remain in place. Court directed counsel to work together to craft what the limited powers of the receiver will be. Upon inquiry of Court if there is a possibility of splitting the company,

Mr. Aurbach stated not at this time. Mr. Kern requested findings of fact and conclusions of the law as to Court's ruling. Court directed Mr. Aurbach and Mr. Calaway to prepare the order and include findings of fact and conclusions of law consistent with Court's ruling. Colloquy whether there was a standard of care seeking financing. Court stated it would make a legal finding that the Temporary Restraining Order was procedurally improper. Colloquy regarding pending motions on June 24, 2020 for appointment of trustee and enforcing of settlement. Court stated the matters will remain on calendar with the hope of a preliminary report from receiver and parties can request an earlier Court date if needed.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**NRS Chapters 78-89**

**COURT MINUTES**

**June 11, 2020**

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A-19-803488-B	Dominique Arnould, Plaintiff(s) vs. Clement Muney, Defendant(s)
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**June 11, 2020**

**3:00 AM**

**Minute Order**

**HEARD BY:** Alf, Nancy

**COURTROOM:** No Location

**COURT CLERK:** Carolyn Jackson

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- COURT FINDS after review on June 5, 2020, Plaintiff s Motion to Select Receiver was filed. The matter was set for July 9, 2020 at 10:00 a.m.

COURT FURTHER FINDS after review on June 10, 2020, Plaintiff s Emergency Request for Telephonic Hearing For Appointment of Receiver To Take Over The Warehouse Or For Order Allowing Access (the Emergency Request ) was filed. A preliminary hearing took place on June 10, 2020, where the Court determined a continuance was warranted.

THEREFORE, COURT ORDERS for good cause appearing and after review Plaintiff s Motion to Select Receiver will be RESET to June 12, 2020 at 12:30 p.m. Moreover, Plaintiff s Emergency Request is hereby CONTINUED to June 12, 2020 at 12:30 p.m.

CLERK'S NOTE: This Minute Order was electronically served by Courtroom Clerk, Nicole McDevitt, to all registered parties for Odyssey File & Serve. /nm 6/11/2020



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

ROBERT KERN, ESQ.  
601 S. 6<sup>TH</sup> ST.  
LAS VEGAS, NV 89101

DATE: June 16, 2020  
CASE: A-19-803488-B

**RE CASE:** DOMINIQUE ARNOULD vs. CLEMENT MUNEY; CHEF EXEC SUPPLIERS, LLC

NOTICE OF APPEAL FILED: June 15, 2020 (4:07 pm)

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☒ Notice of Entry of Order

---

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

---

***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER ISSUING SANCTIONS; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

DOMINIQUE ARNOULD,

Plaintiff(s),

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC,

Defendant(s),

Case No: A-19-803488-B

Dept No: XXVII

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 16 day of June 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

*Heather S. Hume*

CLERK OF THE COURT

**Marquis Aurbach Coffing**  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
10001 Park Run Dr.  
Las Vegas, NV 89145  
Telephone: (702) 382-0711  
Facsimile: (702) 382-5816  
paurbach@maclaw.com  
acalaway@maclaw.com  
*Attorneys for Plaintiff*

ENTERED kl

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff,

vs.

CLEMENT MUNY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive; and ROE CORPORATIONS I through  
X, inclusive,

Defendants,

And related counterclaims.

Case No.: A-19-803488-B  
Dept. No.: 27

**HEARING REQUESTED  
Order Shortening Time Requested**

**PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT RE: WINDING UP THE LLC ON AN ORDER SHORTENING TIME**

Plaintiff DOMINIQUE ARNOULD (hereinafter "Arnould"), by and through his attorneys, Marquis Aurbach Coffing, hereby Moves for Partial Summary Judgment to wind up the affairs of Chef Exec Suppliers, LLC. This Motion is based upon papers and pleadings on file herein, the attached Memorandum of Points and Authorities, and any oral argument permitted at the time of the hearing on this matter.

Dated this 25th day of September, 2020.

MARQUIS AURBACH COFFING

By /s/ Phillip S. Aurbach  
Phillip S. Aurbach, Esq.  
Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
Nevada Bar No. 15188  
*Attorneys for Plaintiff*

**ORDER SHORTENING TIME**

You and each of you, will please take notice that the Motion for Partial Summary Judgment Re: Winding Up The LLC will come on shortened time for hearing on the 30 day of September, 2020, at the hour of 10:30 a.m., or as soon thereafter as counsel may be heard, in Department 27 in the above-referenced court.

Any response is due: \_\_\_\_\_.

Dated this 2 day of September, 2020.

Dated this 28th day of September, 2020

The hearing will be held remotely via BlueJeans videoconferences. A link will be sent prior to the hearing.

By

*Nancy L Alf*

DISTRICT COURT JUDGE

749 077 E39D 54C1

NB

Nancy Alf

District Court Judge

**DECLARATION OF PHILLIP S. AURBACH, Esq.**  
**IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT RE WINDING UP THE LLC ON AN ORDER SHORTENING TIME**

Phillip S. Aurbach, Esq. declares as follows:

1. I am Phillip S. Aurbach, with the law firm of Marquis Aurbach Coffing, counsel for Dominique Arnould in the above-stated action.

2. I am duly licensed to practice law in the State of Nevada and have personal knowledge of and I am competent to testify concerning the facts herein.

3. On August 21, 2020, this Court ordered and the parties stipulated that Chef Exec Suppliers, LLC should be dissolved. *See* Order of Dissolution, Payment of Fees, and Other Orders, on file herein.

4. This Court further ordered that the date of dissolution will be September 30, 2020.

5. NRS 86.531 states that Articles of Dissolution should be filed as soon as practicable after dissolution of a limited-liability company.

6. The receiver over the company has also indicated that he will file a tax return showing the dissolution of the company on September 30, 2020.

7. Therefore, an order from this Court granting this motion and instructing the receiver on the winding up of the company as set forth in this motion is sought on an order shortening time.





1 Nevada courts follow the federal approach outlined in *Celotex Corp. v. Catrett* with  
2 respect to burdens of proof and persuasion in the summary judgment context. *Id.* As such, “[t]he  
3 party moving for summary judgment bears the initial burden of production to show the absence of  
4 a genuine issue of material fact,” thereafter, “the party opposing summary judgment assumes a  
5 burden of production to show the existence of a genuine issue of material fact. *Id.* citing 477 U.S.  
6 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 (1986); *see also, Clauson v. Lloyd*, 103 Nev. 432, 743 P.2d  
7 631 (1987) (explaining Celotex's application in Nevada); *see also Wood v. Safeway, Inc.*, 121 Nev.  
8 724, 731–32, 121 P.3d 1026, 1031 (2005) (adopting the summary judgment standard set forth in  
9 *Celotex* and other Supreme Court decisions).

10 **B. ARTICLES OF DISSOLUTION MUST BE FILED BY THE RECEIVER**

11 NRS 86.531 states that Articles of Dissolution should be filed as soon as practicable after  
12 dissolution of a limited-liability company. Proposed Articles of Dissolution are attached hereto as  
13 **Exhibit 1.**

14 Therefore, Plaintiff respectfully requests that this Court enter an Order pursuant to NRS  
15 86.531 instructing the Receiver to forthwith file Articles of Dissolution for Chef Exec Suppliers,  
16 a limited liability company (hereinafter the “Dissolved Company” or “Chef Exec”) on or before  
17 September 30, 2020.

18 **C. THIS COURT SHOULD ENTER AN ORDER REGARDING WINDING  
19 UP THE AFFAIRS OF THE DISSOLVED COMPANY**

20 NRS 86.541 states that the managers, the trustees or in this case the Receiver, should:

21 enable to enable the company gradually to settle and close its business, to collect  
22 its assets, to collect and discharge its obligations, to dispose of and convey its  
23 property, to distribute its money and other property among the members, after  
24 paying or adequately providing for the payment of its liabilities and obligations,  
25 and to do every other act to wind up and liquidate its business and affairs, but not  
26 for the purpose of continuing the business for which the company was established.

27 To facilitate winding up of this business, an Order should be entered as follows:

- 28 1. Separate Entities. Either or both Parties shall have the right and authority  
to form Separate Entities that may begin business on October 1, 2020.  
Income and expenses relating to any sales of Chef Exec products after  
October 1, 2020 will therefore be income and expenses of the Separate  
Entities, respectively.

- 1 2. Customer Lists. Both Parties currently have access to a list on QuickBooks  
2 of all customers of the Dissolved Company and after October 1, 2020 either  
3 party may solicit any customer of the Dissolved Company. The receiver will  
4 deliver the attached proposed letter announcing the status of the Dissolved  
5 Company to all customers. **See Exhibit 2**, attached hereto.
- 6 3. Inventory. The Receiver shall:
- 7 a. Equally divide the inventory where practical. Initially, each Party  
8 shall own the inventory in their respective warehouses – Mr.  
9 Arnould in California and Mr. Muney in Nevada.
- 10 b. If one Party may not need certain inventory and if the other Party  
11 does need or want such inventory, then ½ the cost of the inventory  
12 shall be a credit owed to the other Party.
- 13 c. If neither Party wants the inventory, the Receiver shall dispose of it  
14 in his sole discretion, including giving it away or placing it in the  
15 trash/recycle bins.
- 16 d. If both Parties wants all of the inventory or any fixture or equipment,  
17 then the receiver shall hold an auction, set a minimum bid and allow  
18 both Parties to bid ½ the value for the entire inventory (since, in  
19 essence, each Party owns the other ½ of the items).
- 20 4. Accounts Receivable. Each Party may keep any account receivable that the  
21 Party generates after October 1, 2020. Any receivables of the Dissolved  
22 Company prior to October 1, 2020 shall be used to pay Chef Exec expenses  
23 and then divided equally between the Parties.
- 24 5. The Molds. The Chinese molds may be used by either party and the  
25 manufacturer may sell to both Parties' new entities for a period of 90 days  
26 after September 1, 2020. Thereafter, the Molds shall be distributed in in the  
27 same manner described herein for inventory.
- 28 6. The Name. Chef Exec Suppliers, LLC shall not be used by either Party after  
October 1, 2020 except that a letter in the form of **Exhibit 2** shall be sent to  
all customers on the list informing them of the new companies as described  
above.
7. Telephone number. Dominique Arnould needs an ORDER directing Mr.  
Muney to give to the Receiver the Verizon account number and the Verizon  
pin number immediately so the Receiver can transfer to Dominique Arnould  
his personal cell phone number to another carrier. We have been asking  
Mr. Muney's counsel for 6 months to help release this number, but Mr.  
Muney refuses. We believe the invoice for 2/2019-3/2019 Verizon Acct#  
572533492 – 00001 for \$468.36 \$460 paid by Chef Exec was for Muney's  
entire family—5 numbers plus Dominique Arnould's number.

1 The Website. The receiver will contact the domain host for Chef Exec's website and close  
2 down the website. Neither Party may use Chef Exec's domain name  
3 "chefexecsuppliers.com." All account names, usernames, passwords, data, photos,  
4 copyrights or any other information ("Website Information") held by the Parties will be  
provided to the receiver on or before September 30, 2020. Thereafter, the Website  
Information will be distributed in accordance with the procedures set forth herein for the  
distribution of inventory.

5 8. Because this company will be dissolved on September 30, 2020, an Order  
6 Shortening Time for the hearing of this motion is requested so the Parties  
have a clear path forward during the wind-down period.

7 **D. THE ORDER SHOULD PROVIDE THAT RECEIVER WIND DOWN THE**  
8 **BUSINESS PURSUANT TO NRS 86.531.**

9 The Order should provide that the Receiver wind down the business and request additional  
10 Court Orders if necessary.

11 Dated this 25th day of September, 2020.

12  
13 MARQUIS AURBACH COFFING

14  
15 By /s/ Phillip S. Aurbach  
16 Phillip S. Aurbach, Esq.  
17 Nevada Bar No. 1501  
Alexander K. Calaway, Esq.  
18 Nevada Bar No. 15188  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing **PLAINTIFF DOMINIQUE ARNOULD'S MOTION FOR PARTIAL SUMMARY JUDGMENT RE WINDING UP THE LLC ON AN ORDER SHORTENING TIME** was submitted electronically for filing and/or service with the Eighth Judicial District Court on the 25th day of September, 2020. Electronic service of the foregoing document shall be made in accordance with the E-Service List as follows:<sup>1</sup>

Robert Kern	Robert@Kernlawoffices.com
Melissa Milroy	Admin@KernLawOffices.com
Candace C Carlyon	ccarlyon@carlyoncica.com
Tracy O'Steen	tosteen@carlyoncica.com
Cristina Robertson	crobertson@carlyoncica.com
Nancy Rodriguez	nrodriguez@carlyoncica.com

/s/ Javie-Anne Bauer  
An employee of Marquis Aurbach Coffing

<sup>1</sup> Pursuant to EDCR 8.05(a), each party who submits an E-Filed document through the E-Filing System consents to electronic service in accordance with NRCP 5(b)(2)(D).

# Exhibit 1



BARBARA K. CEGAVSKE  
Secretary of State  
202 North Carson Street  
Carson City, Nevada 89701-4201  
(775) 684-5708  
Website: www.nvsos.gov

## **Certificate of Dissolution/Cancellation** **Limited-Liability Company**

**NRS 86, 86.544, 86.547 and 89**

TYPE OR PRINT - USE DARK INK ONLY - DO NOT HIGHLIGHT

<b>1. Entity Information:</b>	Name of entity as on file with the Nevada Secretary of State: <div>Chef Exec Suppliers, LLC</div>	
	Entity or Nevada Business Identification Number (NVID): <div>NV20071295856</div>	
<b>2. Type of Dissolution/ Cancellation Filing Being Completed:</b> (Select only one box)	<input type="checkbox"/> NRS 86.490: Dissolution before commencement of business  a) The management of the limited-liability company is vested in one or more managers; b) The limited-liability company has not commenced business; and, c) No member's interest in the limited-liability company has been issued  The document must be signed by of at least two-thirds of the organizers or the managers.  Effective Date and Time: (Optional)  Date: <div></div> Time: <div></div> (must not be later than 90 days after the certificate is filed)	
	<input checked="" type="checkbox"/> NRS 86.531: Articles of Dissolution  The company has been or will be dissolved. Effective date and time of dissolution required):  Date: <div>September 30, 2020</div> Time: <div></div> (must not be later than 90 days after the certificate is filed)	
	<input type="checkbox"/> NRS 86.547: Cancellation for a Foreign Limited-Liability Company Registration  Name under which this foreign limited-liability company conducts business in Nevada: <div></div> Any other information the manager or member filing the certificate deems necessary: <div></div>	
<b>3. Signature*:</b> (Required)	<input checked="" type="checkbox"/> <div>Larry Bertsch, Court Appointed Receiver</div> Signature of Court Appointed Receiver	<input checked="" type="checkbox"/> <div></div> Signature of Manager, Member or Organizer
	<input checked="" type="checkbox"/> <div></div> Signature of Manager, Member or Organizer	<input checked="" type="checkbox"/> <div></div> Signature of Manager, Member or Organizer

\*attach a plain 8 1/2" x 11" sheet to list additional signatures.  
FILING FEE: \$100.00

# Exhibit 2



# CHEF EXEC SUPPLIERS

DATE

## **Important Notice to all our our customers**

Dear Customer

We wish to inform you that Chef Exec Suppliers LLC will cease operation as of this date, the Company has been dissolved.

Each partner, Clement Muney and Dominique Arnould, will be forming their own individual company and you will have the choice of who you wish to do business with in the future.

Yours truly

Clement Muney and Dominique Arnould

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 Dominique Arnould, Plaintiff(s) | CASE NO: A-19-803488-B  
7 vs. | DEPT. NO. Department 27  
8 Clement Muney, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

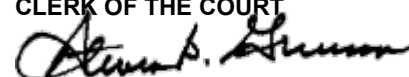
14 Service Date: 9/28/2020

15 Jennifer Case	jcase@maclaw.com
16 Robert Kern	Robert@Kernlawoffices.com
17 Melissa Milroy	Admin@KernLawOffices.com
18 Candace Carlyon	ccarlyon@carlyoncica.com
19 Tracy O'Steen	tosteen@carlyoncica.com
20 Nancy Rodriguez	nrodriguez@carlyoncica.com
21 Cristina Robertson	crobertson@carlyoncica.com
22 Phillip Aurbach	PSA@maclaw.com
23 Javie-Anne Bauer	jbauer@maclaw.com
24 Alexander Calaway	acalaway@maclaw.com

25  
26  
27  
28

**KERN LAW, LTD.**  
601 S. 6<sup>th</sup> Street, Las Vegas, NV 89101  
Phone: (702) 518-4529 Fax: (702) 825-5872  
Admin@KernLawOffices.com

Electronically Filed  
9/29/2020 5:03 PM  
Steven D. Grierson  
CLERK OF THE COURT



**OPP**

Robert Kern, Esq.  
Nevada Bar Number 10104

**KERN LAW, Ltd.**

601 S. 6<sup>th</sup> Street  
Las Vegas, NV 89101  
(702) 518-4529 phone  
(702) 825-5872 fax  
Admin@KernLawOffices.com  
Attorney for Defendants

**IN THE EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

DOMINIQUE ARNOULD,

Plaintiff/Counter-Defendant,

vs.

CLEMENT MUNNEY; CHEF EXEC  
SUPPLIERS, LLC; and DOES I through X,  
inclusive, and ROE CORPORATIONS I  
through X, inclusive,

Defendants/Counter-Claimants.

Case Number: A-19-803488-B

Dept. Number: 27

**DEFENDANTS' OPPOSITION TO  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

COME NOW Defendants, CLEMENT MUNNEY, (hereinafter "Muney"), and CHEF  
EXEC SUPPLIERS, LLC (hereinafter, "CHEFEXEC") by and through their undersigned  
counsel Robert Kern, ESQ., of KERN LAW, Ltd. submit this DEFENDANTS'  
OPPOSITION TO MOTION FOR PARTIAL SUMMARY JUDGMENT. This opposition  
is based on the records and files of this case, and any matters adduced at the hearing.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**ARGUMENT**

**A. Procedural Issues**

Procedurally, the present motion for partial summary judgment is improper because  
it is seeking an order to dissolve the company, when the Court issued an order to dissolve

1 the company on August 21, 2020. The issue of whether the company will be dissolved has  
2 already been determined, and the final order establishing terms was awaiting the final report  
3 of the Receiver. Thus a motion for something that has already been ordered is improper.

4 It would be more appropriate to treat the motion as a proposal for terms of  
5 dissolution, which is something still undecided. Defendants agree that the terms of the  
6 dissolution must be determined, although we expected to receive the Receiver's report prior  
7 to any determination being made, as it will presumably be valuable as an expert opinion  
8 from a neutral third party.

9  
10  
11 **B. Winding Up of Company Affairs**

12 Defendants have stipulated to the need to dissolve the company, however the  
13 September 30 date was based on the assumption that the final Receiver's report would be  
14 received prior to that date, and that all inventory would be calculated. However the  
15 Receiver's report is not yet issued, and the final inventory in LA is scheduled for October 1,  
16 thus it is appropriate that final terms be determined sometime after those events occur.

17 Defendants Respond to the dissolution proposals by Plaintiff as follows:

18 1. Separate Entities

19 Defendants agree that the 2 sides should form separate entities, with new names.

20 2. Customer Lists

21 Both the Receiver (in his preliminary report) and Defendants have taken the position  
22 that a non-compete is appropriate between the companies after dissolution. The Receiver is  
23 already putting together a list of how customers should be split between the parties based  
24 upon which side they primarily did business with. Defendants would also agree to a split  
25 based upon Plaintiff having all customers in LA, and Defendants having all customers in  
26 Las Vegas. Defendants would even be willing to limit the non-compete to only the  
27 customers (no geographical restriction), and to further limit it to existing product types (e.g.  
28 if plastic cups are currently sold to a customer by Las Vegas, the Los Angeles Company

1 could not sell that customer any type of plastic cups, but could sell that customer paper  
2 plates, etc). Because the proposed non-compete is limited solely to existing customers, three  
3 years is a reasonable term.

### 4 3. Inventory

5 The proposal by Plaintiff is inequitable. Throughout this litigation, Plaintiff has  
6 repeatedly taken significant amounts of unneeded inventory from the Las Vegas warehouse,  
7 and this Court's order prevented Defendants from limiting the inventory taken in any way.  
8 During this time, Defendants had no access whatsoever to the LA warehouse or any ability  
9 to take LA products. Allowing each side to claim their existing inventory as a starting point  
10 would allow all of that taken inventory to be credited to Plaintiff, rather than Defendant,  
11 who rightfully held the inventory. The only reasonable means for splitting the inventory  
12 value is by using the Receiver's report to calculate the value of all inventory, and require  
13 any party that has a greater amount of inventory in possession (above 50% of the value) to  
14 either pay for it, or deduct that value from other areas of the split. Any inventory that the  
15 parties want to trade can be agreed upon and properly credited. As the parties have paid a  
16 significant sum for the Receiver to calculate the respective values, it would be nonsensical  
17 to ignore the Receiver's calculations on the inventory value.

### 18 4. Accounts Receivable

19 Agreed, assuming that the receivables paying previous amounts will be applied  
20 equitably (i.e. not primarily to the debts of one side or another).

### 21 5. Molds

22 Defendants do not believe the molds are retrievable, however, if Plaintiff is able to  
23 get the Molds from China, then Defendants will agree to accept half their value.

### 24 6. Name

25 Agreed.

### 26 7. Telephone Number

27 Defendants have already transferred Plaintiff's number to a separate account, and  
28 have provided Plaintiff with access to that account, along with the PIN #. Chef Exec has not  
paid for any amounts of the phone bill that were not attributable to Chef Exec.

1  
2 8. The Website

3 Defendants agree to the website being shut down. However as the website was never  
4 paid for, the content still belongs to the web developer, and is thus not a company asset  
5 subject to division. As the web developer is not a party to this litigation, it would not be  
6 subject to such an order regardless.

7 **C. Other Issues**

8 1. Muney was billed solely for security for the warehouse for the entire period that it  
9 was in the Receiver's control, in the amount of \$2,272.00 (Invoice attached). As the Order  
10 only called for Muney to pay for security for the day that Arnould was coming to take  
11 inventory, all security costs beyond that day should be a company expense, evenly split  
12 between the parties.

13 2. The undisputed portion of the Las Vegas warehouse rent has still not been paid.

14 3. Defendants have requested needed inventory from the Los Angeles warehouse,  
15 which has not been provided. As the Las Vegas branch has been required to provide all  
16 inventory requested by the LA branch, it is appropriate that the LA branch reciprocate.  
17 Defendants have requested all large cups with lids, and half the inventory of large pyramid  
18 with lid.

19 Ultimately, Defendants object to any final determination made prior to receiving the  
20 Receiver's final report.

21 DATED this 29<sup>th</sup> day of September, 2020

22 **KERN LAW**

23 By: /s/ Robert Kern /s/  
24 Robert Kern, Esq.  
25 601 S. 6<sup>th</sup> Street  
26 Las Vegas, NV 89101  
27 (702) 518-4529  
28 Attorney for Defendants

CLEMENT MUNDY

Check Request Form

: [Larry@llbcpa.com](mailto:Larry@llbcpa.com) & [Scott@llbcpa.com](mailto:Scott@llbcpa.com)

Date: August 18, 2020

Requested by (Signature):



Payee: Bobby Verser

Amount: \$2,272.00

Notes/Memo/Comments: INVOICE FOR WAREHOUSE SECURITY

Please make check payable to Bobby Verser and mail to:

Larry L Bertsch CPA & Assoc  
265 E Warm Springs Rd Ste 104  
Las Vegas, NV 89119

Invoice and Court Appointment Order attached.

Receiver's Signature:



Date: 8/18/2020



Total paid today \$35.00

Thank you Null.

Monthly charges

\$35

128kbps

\$35 Smartphone Plan

\$35.00



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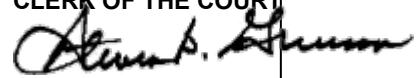
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RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

DOMINIQUE ARNOULD,  
Plaintiff(s),

vs.

CLEMENT MUNEY,  
Defendant(s).

CASE NO: A-19-803488-B  
DEPT. XXVII

BEFORE THE HONORABLE NANCY ALLF, DISTRICT COURT JUDGE  
FRIDAY, JUNE 12, 2020

***RECORDER'S TRANSCRIPT OF PROCEEDINGS  
RE: MOTIONS***

APPEARANCES (Via Video):

For the Plaintiff(s): PHILLIP S. AURBACH, ESQ.  
ALEXANDER KIP CALAWAY, ESQ.

For the Defendant(s): ROBERT J. KERN, ESQ.

RECORDED BY: BRYNN WHITE, COURT RECORDER  
TRANSCRIBED BY: KATHERINE MCNALLY, TRANSCRIBER

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**LAS VEGAS, NEVADA, FRIDAY, JUNE 12, 2020**

[Proceeding commenced at 12:30 p.m.]

THE COURT: Okay. All right. I'm calling the case of Arnould versus Muney, A803488.

Appearances, please, starting with the plaintiff.

MR. KERN: Robert Kern for Clement Muney.

THE COURT: Thank you.

MR. CALAWAY: Alex Calaway here for the plaintiff.

THE COURT: Thank you, both.

Let me just go over a few just housekeeping matters. I'm in the courtroom. And there's no camera on my screen. So I try to -- it's voice-activated. So I try to look at the lectern. You guys appear on my screen to my right, so when I'm looking at that screen, I'm looking at your argument and looking -- trying to get eye contact with you so I can listen and also hear and see you. So it doesn't mean I'm being inattentive.

All right. So there was a request for an emergency hearing by the plaintiff on Wednesday. I set it for a hearing.

Mr. Kern, you didn't appear. I'd like to -- I've seen -- I've read all the paperwork, and I've seen the e-mails between the parties.

Before we get into the substance, Mr. Kern, can you please explain why you refused to attend a hearing? I have never seen that in my 10 years on the bench or my 27 years before that, practicing

1 law.

2 MR. KERN: Your Honor, I had a duty to my client. It was  
3 an eight-year litigation, and we had 24 hours until a Supreme Court  
4 argument. My client had paid -- well, was going to be owed -- owing  
5 in excess of around \$10,000 worth of attorney time for the panel of  
6 other attorneys that we had hired to moot at 1 p.m. on that day. As  
7 the Court hearing -- as my oral argument was the following day,  
8 there was no possibility of rescheduling.

9 THE COURT: If you -- but you had --

10 MR. KERN: So I do deeply apologize, Your Honor. But --

11 THE COURT: But you took the time -- you took the time to  
12 file an opposition that morning. It was 15 minutes. And your oral  
13 argument on the next day was only a 30-minute oral argument.

14 MR. KERN: I understand, Your Honor. I was scheduled at  
15 1 o'clock p.m. for the -- for that moot. It was at an office outside my  
16 own, so it involved travel. And you know, I was able to put an  
17 opposition together because I wrote that in, you know, 10 minutes.  
18 And it wasn't at the time that I was scheduled with eight other  
19 attorneys to do a moot in prep for the next day's Supreme Court  
20 argument.

21 THE COURT: Okay. All right. Let me hear from the  
22 plaintiff on the motion, please.

23 MR. CALAWAY: Yes, Your Honor. Our simple request  
24 here is that the receiver be appointed. We've -- you've already  
25 appointed a receiver here. The parties were unable to come to an

1 agreement on a receiver to appoint.

2 Mr. Kern proposed a -- I believe his name is Andrew  
3 Martin. We did some research. Mr. Martin proposed a -- gave us a  
4 proposal and an explanation on his background. We considered  
5 him, and we tried to see if it would be a good fit. We don't think that  
6 it would be. He's a -- he has a lot of forensic accounting experience,  
7 but he doesn't have the experience that we need in this case as a  
8 receiver.

9 Our first choice is Larry Bertsch, who we've had  
10 experience with, who we understand is -- has been a court-appointed  
11 receiver, both in state and federal court, and has experience with  
12 that. So we would -- and in our motion, we explain some of his  
13 background in handling those types of cases, especially for business  
14 disputes like this.

15 Also, in our motion earlier this week, which has been  
16 consolidated with this hearing I believe -- that motion is to get access  
17 to this warehouse. I mean, I think the court -- the judge, I think  
18 your -- the best thing to do here, Your Honor, is to just appoint that  
19 receiver and allow that receiver to be able to have both parties get  
20 access to it.

21 But the issue here is, you know, Robert Kern, we tried to  
22 find some way -- you know, my client drove his truck all the way  
23 down here with 10 pallets. They knew this was coming. And when  
24 we showed up, my client --

25 THE COURT: Your -- your papers -- hang on.

1 MR. CALAWAY: Go ahead.

2 THE COURT: Your papers said 12 pallets.

3 MR. CALAWAY: Oh, excuse me. I'm sorry, Your Honor.

4 12 pallets. And he came to pick up a list of things which we had  
5 already discussed with -- my client had already discussed with  
6 Mr. Muney -- and then he locked us out. We weren't able to get into  
7 that. My client had to stay the night.

8 We filed this emergency motion so that we could get  
9 access, and we still weren't able to do that.

10 So I think this is a perfect time to hopefully get a receiver  
11 in place so that the parties can continue to run and operate their  
12 business as usual.

13 THE COURT: Thank you.

14 And, Mr. Kern, if you'll respond to both parts of that -- the  
15 receiver, as well as the motion.

16 MR. KERN: Yes, Your Honor.

17 First, I'll point out that we do not oppose immediate  
18 appointment of a receiver. We believe that that would be a far more  
19 reasonable response to this dispute than an injunction.

20 With regards to who to appoint as a receiver, I don't  
21 dispute that Mr. Bertsch seems to be well qualified and have a lot of  
22 experience as a receiver. But the fact is that this case involves  
23 significant allegations of conversion fraud, breach of fiduciary duty,  
24 self-dealing, and unjust enrichment -- both parties alleging against  
25 each other.

1           These issues will unquestionably have to be resolved at  
2 some point. So there's no reason to have separate receivers. This --  
3 Mr. Martin was chosen because he has significant experience as a  
4 certified fraud examiner and a CPA. He does have receiver  
5 experience, which we concede is less than Mr. Bertsch.

6           But we don't believe Mr. Bertsch would be qualified to  
7 resolve all the disputes between the parties down the road. And we  
8 think it would be a waste of time and resources to hire a receiver  
9 now, get them fully familiar with everything between the parties and  
10 the books, and then have to resort to a different receiver that has the  
11 appropriate experience for evaluating these actual claims against  
12 each other with regard to the records.

13           So that's why we think Mr. Martin would be a superior  
14 choice because he's capable of doing both sides, even if the first part  
15 of it isn't being ordered yet, it will -- unless there's settlement, it will  
16 almost certainly be called for at some point in this case.

17           Regarding the request for an injunction, again, we think --  
18 we do agree to the extent that I don't think an injunction is  
19 necessary. It's a much more reasonable resolution to simply appoint  
20 the receiver and let the receiver handle this dispute.

21           I'll also point out that injunctive relief requires a balancing  
22 of equities and a clear showing of irreparable harm. We have  
23 neither of these here. I don't even know what they would allege as  
24 irreparable harm here. He just said that he wanted to get the  
25 inventory. He drove up. He said -- he e-mailed my client saying he

1 wanted certain inventory. My client pointed out that these are not  
2 items that he would normally take because they don't sell in LA, and  
3 LA has sufficient inventory of those.

4 And rather than simply answering that e-mail, he  
5 apparently surprise -- drove a truck up and was surprised that the  
6 warehouse was unlocked. We did not know he was coming -- at  
7 least that is my understanding of it.

8 MR. CALAWAY: The warehouse was locked, not unlocked.

9 MR. KERN: The warehouse -- it's always locked so that  
10 random people can't come in and take items in and out of it. It  
11 wasn't locked against your client; it simply is kept locked.

12 THE COURT: But wait, Mr. Kern --

13 MR. KERN: Now, his --

14 THE COURT: Mr. Kern, let me interrupt you.

15 MR. KERN: Yes.

16 THE COURT: This is an important issue to me. Did you  
17 know that your client had changed the locks when Mr. Arnould was  
18 coming?

19 MR. KERN: My client changed the locks as soon as  
20 Arnould filed a Motion for Summary Judgment declaring that they  
21 considered the settlement agreement gone. At settlement, it was  
22 discussed about keys. It was discussed that Mr. Arnould had not  
23 given keys to the LA warehouse to Mr. Muney, but demanded keys  
24 to the Las Vegas warehouse. We gave him a key to the Las Vegas  
25 warehouse as part of that settlement, despite his refusing to share

1 keys to LA with us.

2 When he said the settlement was over, we considered the  
3 agreement to share a key over. So we changed the locks after that  
4 point, because we don't have access to LA. There's no reason LA  
5 should have access to our inventory without simply discussion and  
6 partners being able to agree on it, as they have for the entire course  
7 of this -- of the seven years of operation of this company.

8 Whether we disagree about whether -- if he should or if  
9 Munev should be allowed to question why he wants unusual  
10 inventory out of Las Vegas's inventory, when Munev is not allowed  
11 to have it, it's -- there's no dispute that there's been no  
12 demonstration of irreparable harm. I understand this Court has  
13 taken a more hands-off approach, as demonstrated when we asked  
14 for relief when all company funds were seized by Mr. Arnould. But if  
15 we're going to do that, we have to apply it evenly across the board.

16 And there's no reason that in balancing the equities,  
17 Mr. Munev should be deprived of the right to manage the Las Vegas  
18 inventory, when Mr. Arnould has the absolute right to manage LA  
19 inventory and the entire funds of the company.

20 But ultimately, I would say --

21 THE COURT: But Mr. Kern, they both --

22 MR. KERN: -- beyond that -- yes.

23 THE COURT: Mr. Kern, they both have a 50 percent  
24 interest in this business.

25 MR. KERN: Yes, Your Honor.



1 THE COURT: It was improper for Mr. Muney to deny  
2 access to Mr. Arnould.

3 MR. KERN: Is it -- well, isn't it equally improper for  
4 Mr. Arnould to deny Muney access to the company funds or to the  
5 LA inventory?

6 THE COURT: Well, we have already had a hearing on that.

7 MR. CALAWAY: But Your Honor, he has not.

8 MR. KERN: Because that's [indiscernible].

9 THE COURT: Hang on. We already had a hearing on that.  
10 And I believe the plaintiff was trying to conserve assets and was  
11 concerned about corporate waste. I've already ruled on that.

12 MR. KERN: Well, we are as well, Your Honor. We are as  
13 well, Your Honor.

14 If you look at the e-mail, that was exactly what we were  
15 discussing is it's more expensive to store inventory in Los Angeles  
16 than it is in Las Vegas. And that is why he didn't want to send  
17 unneeded inventory down to Los Angeles, because it's -- he is  
18 worried about that, and we are in dispute about whether that is a  
19 waste of company resources.

20 Beyond that is the fact that this motion was filed without  
21 any attempt to resolve it outside of court. The motion was the first I  
22 had even heard that there was a significant dispute. I was aware that  
23 the -- there was one exchange of e-mails between the clients, and  
24 the next thing I saw was the motion.

25 So I think it is premature. I think there's no showing of

1 irreparable harm. And I think the balancing of equity says that if one  
2 is allowed to manage his inventory and the entire funds of the  
3 company, the other should also be allowed to at least ask for the  
4 explanation for why the -- why he's wanting to take an unusual  
5 amount of inventory from what Las Vegas is using.

6 And again, I will say that if we appoint a receiver -- and I  
7 assume we're appointing a receiver extremely soon -- that that's  
8 something a receiver would be able to handle and -- you know, and  
9 take care of in the way they see -- deem appropriate.

10 THE COURT: Mr. Kern, did that exhaust your argument?

11 MR. KERN: That is my argument, Your Honor.

12 I would point out one other thing, that Chef Exec does not  
13 own a lease. They have no -- they do not technically have a legal  
14 interest in that warehouse. Because Chef -- Mr. Arnould refused to  
15 sign and refused to allow Mr. Muney to sign on his behalf, Chef Exec  
16 was not able to extend that lease. That lease is owned by a separate  
17 legal entity, CMJJ, who chooses to allow them to store that in  
18 exchange for funds being paid. But that -- those funds haven't been  
19 paid in a very long time.

20 But my point being that CMJJ is the one who has the  
21 authority to control locks on that warehouse, and they are not a  
22 party to this suit.

23 THE COURT: Thank you, Mr. Kern.

24 And Mr. Calaway, the reply, please.

25 MR. CALAWAY: Thank you, Your Honor.

1 I would like to introduce and have called for the record.  
2 Phil Aurbach in my firm has also appeared. His video wasn't  
3 working as well. And he'll be handling the reply, if that's okay with  
4 you.

5 THE COURT: That's fine. Mr. Aurbach.

6 MR. AURBACH: Can you see and hear me, Your Honor?

7 THE COURT: I can hear you; but I can't see you. I --  
8 sometimes it's voice-activated. Let me -- the court recorder may be  
9 able to assist. She says it should work, so -- so please proceed.

10 MR. AURBACH: Well, my reply is brief --

11 THE COURT: I can see you.

12 MR. AURBACH: -- anyway, Your Honor.

13 Number one, it's our understanding that CMJJ is  
14 100 percent owned by Mr. Muney, and he controls it. It's not like it's  
15 a third party.

16 No. 2, it has inventory of Chef Exec. We should have a key  
17 today. The Court -- we would request the Court order that we have a  
18 key.

19 Three, when a receiver is appointed -- we asked for a  
20 receiver with limited powers. But I think he should go in and take  
21 control of that warehouse so that both parties have equal access --  
22 and the same with any warehouse in LA.

23 My understanding, Judge, is that Mr. Muney went to LA;  
24 never asked for the -- to look inside the LA warehouse. But be that  
25 as it may, we need a receiver. We would like to extend his limited

1 powers that we -- that your previous order granted that take control  
2 of the warehouse and be able to take the inventory of the warehouse  
3 and keep track of what's in and what's out. He's going to have to do  
4 that anyway. But he should be the one with control of the  
5 warehouse.

6 THE COURT: All right. Is there any response with regard  
7 to who you wish to serve as a receiver?

8 MR. AURBACH: Are you asking me, Your Honor?

9 THE COURT: I am, yes.

10 MR. AURBACH: Or Mr. Kern?

11 THE COURT: Yeah.

12 No. I heard from Mr. Kern. And I heard from Mr. Calaway  
13 on the reply. I just need a reply on who the best receiver will be.

14 MR. AURBACH: Well, we believe that -- that Mr. Bertsch is  
15 the -- has the most receiver experience, the most experience as a  
16 CPA and receiver. Whereas the opponent of the receiver by Mr. Kern  
17 has a ton of forensic experience that we can't deny, but he just  
18 doesn't have the amount of receiver experience that may be  
19 necessary because these parties have had a hard time decide --  
20 agreeing on the sun rises in the east.

21 So if the receiver has to be rolled over into full powers,  
22 this proponent by Mr. Kern just doesn't have that experience.

23 THE COURT: All right. So -- and Mr. Kern, do you have  
24 any final thoughts before I rule?

25 MR. KERN: I would just go -- clarify, I did notice

1 Mr. Aurbach said that they should put the receiver in -- fully in  
2 control of the warehouse. He said that singular. I would assume if  
3 he's going to be in control of the warehouse, he would be in control  
4 of all warehouses and all inventory --

5 THE COURT: Right --

6 MR. KERN: -- would be more appropriate.

7 But nonetheless, I do argue that a -- if we are remaining a  
8 limited receiver, that he remain as limited, as was said in the order.  
9 And you know, I don't think there's any dispute that if he orders us to  
10 transfer inventory, that's given in the order, and we would certainly  
11 follow that.

12 THE COURT: Okay.

13 MR. AURBACH: In brief response, we would like our client  
14 to be able to come up, drop off the inventory, pick up the inventory  
15 that he wants, and have freedom to do that without this restriction.

16 THE COURT: Good enough.

17 And have you touched base with Mr. Bertsch to see if he's,  
18 in fact, available to be the receiver?

19 MR. AURBACH: Mr. Calaway would be able to respond to  
20 that.

21 MR. CALAWAY: Yes, Your Honor. He provided us a  
22 resume and his experience when we inquired about it. And he said  
23 he would be able to take on something like this.

24 We didn't ask him if he would be able to take it on  
25 immediately, as in today. But I -- I'm more than happy -- we actually

1 have a hearing later today with Mr. Bertsch, we could ask him after  
2 the hearing.

3 THE COURT: Okay. Does anyone have anything further  
4 before I rule?

5 MR. AURBACH: Nothing further on behalf of the plaintiff,  
6 Your Honor.

7 THE COURT: Mr. Kern.

8 MR. KERN: Just in response to the last statements from  
9 Mr. Aurbach, I would just say that, you know, we've had allegations  
10 before about Mr. Arnould taking inventory he wasn't supposed to  
11 take out of the warehouse.

12 We would much prefer that any desire to exchange  
13 inventory between warehouses simply go through the receiver,  
14 rather than saying just take what you want. I think that's appropriate  
15 for both sides.

16 THE COURT: Okay. Thank you both.

17 I'm going to appoint a receiver today. But I'm going to  
18 rule that the defendant will have access to the Las Vegas storage  
19 unit, or storage warehouse, in the interim and that the defendant will  
20 be required to pay for security to be present when the plaintiff goes  
21 to the warehouse.

22 I considered the receiver carefully because I have 37 years  
23 of experience, including working with Mr. Bertsch. And I'm  
24 acquainted with Mr. Martin, and I'm very impressed by him, but I've  
25 never worked with him before. And I appoint Mr. Bertsch regularly.

1 And the quality of his services to the Court are just very high. So I  
2 am going to go with Mr. Bertsch.

3 The defendant will be allowed to access the warehouse  
4 today, if they're available or when they're available, logistics to be  
5 worked out with regard to the convenience to both sides, but the  
6 defendant will pay for security to be present at the time that he goes  
7 to the warehouse.

8 The receiver will be ordered to change the locks on both  
9 warehouses.

10 And Mr. Kern, for your failure to appear yesterday, I'm  
11 going to sanction you in the amount of \$100, payable to Nevada  
12 Legal Services, Clark County Library, or the Legal Aid Center of  
13 Southern Nevada. And you will need to file proof of such payment  
14 within 10 days.

15 Now, plaintiff to prepare the order from today granting the  
16 motion for receiver.

17 The hearing on June 24th will be vacated with regard to  
18 the receivership.

19 If you can't come to terms on the scope of the order  
20 appointing the receiver, I won't accept competing orders, but I would  
21 convene a telephonic for you at your convenience next week.

22 Are there any questions?

23 MR. AURBACH: Yes, Your Honor. I think you said the  
24 defendant should have immediate access and the defendant would  
25 pay for security when he goes to the warehouse.

1 THE COURT: No.

2 MR. AURBACH: I think you meant the plaintiff.

3 THE COURT: Plaintiff -- plaintiff will have immediate  
4 access. I apologize to both of you. It's Friday and we've worked all  
5 week.

6 Plaintiff to have immediate access to that warehouse at a  
7 time that's convenient to both parties. They still have to work  
8 together on that. The defendant will pay for security to be present  
9 for that exchange.

10 MR. AURBACH: And I think we already agreed upon an  
11 order of a receiver with limited powers. So that order, I believe --

12 Mr. Calaway, isn't that correct, that order has already been  
13 entered?

14 So we don't have to sit down and agree on what powers  
15 the receiver has right now. I was asking the Court to extend the  
16 receiver's authority to control the warehouses.

17 THE COURT: Well, the parties should work on the  
18 language of the receivership order immediately. I'm not going to  
19 leave Mr. Kern out of that discussion.

20 If you can't agree as to the language -- I am ordering  
21 specifically that he will change the locks on both warehouses,  
22 though.

23 If you can't agree on that --

24 MR. KERN: Thank you, Your Honor.

25 THE COURT: -- let me know. Let me -- outline your



1 differences, and we'll convene a telephonic next week.

2 I want him appointed as soon as practicable, as soon as  
3 possible.

4 Mr. Kern, did you have any questions?

5 MR. KERN: Just to clarify, Your Honor. My client is the  
6 one who is paying for security?

7 THE COURT: That's correct. Yes.

8 MR. KERN: Okay. Thank you, Your Honor.

9 THE COURT: All right.

10 And so Mr. Aurbach will prepare the order from today's  
11 hearing.

12 With regard to the \$100 sanction, I will prepare that order.

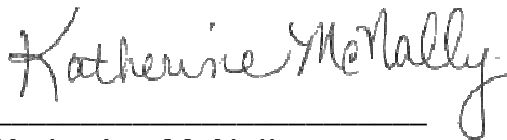
13 MR. AURBACH: Thank you, Your Honor.

14 THE COURT: Thank you, all.

15 [Proceeding concluded at 12:52 p.m.]

16 \* \* \* \* \*

17  
18 ATTEST: I do hereby certify that I have truly and correctly  
19 transcribed the audio/video proceedings in the above-entitled case to  
20 the best of my ability.

21 

22 Katherine McNally  
23 Independent Transcriber CERT\*\*D-323  
24 AZ-Accurate Transcription Service, LLC  
25