

IN THE SUPREME COURT OF THE STATE OF NEVADA

FIRST 100, LLC, a Nevada limited liability company; 1st ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company,

Appellants

vs.

TGC/FARKAS FUNDING, LLC,

Respondent.

Case No. 83177

Electronically Filed
Nov 17 2021 04:55 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from a decision in favor of Respondent
entered by the Eighth Judicial District Court, Clark County, Nevada
The Honorable Mark R. Denton, District Court Judge
District Court Case No. A-20-822273-C

APPELLANTS' APPENDIX VOLUME I

DATE	DESCRIPTION	VOLUME	PAGES
04/09/2021	Declaration of Erika Pike Turner, Esq. in Support of Award of Fees and Costs	IV	AA0943-0986
01/20/2021	Defendants and Non-Party Jay Bloom's Response to Order to Show Cause	I	AA0209-0214
10/15/2020	Defendants' Limited Opposition to Motion to Confirm Arbitration Award and Countermotion to Modify Award Per NRS 38.242	I	AA0041-0046
01/19/2021	Defendants' Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings on <i>Ex Parte</i> Order Shortening Time	I	AA0156-0208
11/24/2020	Defendants' Opposition to Motion for Attorneys' Fees and Costs	I	AA0111-0115

04/19/2021	Defendants' Opposition to Plaintiff's Declaration in Support of Fees and Costs Award	V	AA0987-0994
01/27/2021	Defendants' Reply in Support of Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings and Opposition to Countermotion to Strike the Affidavit of Jason Maier and Opposition to Countermotion for Sanctions	II	AA0362-0492
11/17/2020	Motion for Attorneys' Fees and Costs	I	AA0069-0110
10/01/2020	Motion to Confirm Arbitration Award	I	AA0001-0040
07/02/2021	Notice of Appeal	VI	AA1345-1351
04/07/2021	Notice of Entry of Findings of Fact, Conclusions of Law & Order Re Evidentiary Hearing	IV	AA0903-0942
02/09/2021	Notice of Entry of Order	III	AA0516-0520
06/11/2021	Notice of Entry of Order Awarding Attorneys' Fees and Costs	VI	AA1340-1344
12/21/2020	Notice of Entry of Order Granting Plaintiff's Ex Parte Application for Judgment Debtor Examination of First 100, LLC	I	AA0131-0140
12/21/2020	Notice of Entry of Order Granting Plaintiff's Ex Parte Application for Judgment Debtor Examination of First One Hundred Holdings, LLC AKA 1 st One Hundred Holdings LLC	I	AA0141-0150
12/21/2020	Notice of Entry of Order Granting Plaintiff's Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court	I	AA0151-0155
01/27/2021	Notice of Entry of Order Granting Plaintiff's Motion for Attorneys' Fees and Costs	II	AA0356-0361

11/17/2020	Notice of Entry of Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendants' Countermotion to Modify Award; and Judgment	I	AA0060-0068
01/26/2021	Opposition to Defendants' Motion to Enforce Settlement and Vacate Post-Judgment Discovery Proceedings; and Countermotion 1) to Strike the Affidavit of Jason Maier, and 2) for Sanctions	II	AA0330-0351
02/09/2021	Order	III	AA0513-0515
06/11/2021	Order Awarding Attorneys' Fees and Costs	VI	AA1337-1339
01/27/2021	Order Granting Plaintiff's Motion for Attorneys' Fees and Costs	II	AA0352-0355
11/17/2020	Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendants' Countermotion to Modify Award; and Judgment	I	AA0053-0059
12/18/2020	Plaintiff's Ex Parte Application for Order to Show Cause Defendants and Jay Bloom Should Not Be Held in Contempt of Court	I	AA0123-0130
10/26/2020	Plaintiff's Reply to Defendants' Limited Opposition to Motion to Confirm Arbitration Award and Opposition to Defendants' Countermotion to Modify Award Per NRS 38.242	I	AA0047-0052
03/03/2021	Recorder's Transcript of Evidentiary Hearing	III/IV	AA0537-0764
03/10/2021	Recorder's Transcript of Evidentiary Hearing	IV	AA0765-0902
03/01/2021	Recorder's Transcript of Hearing Re: Motion to Compel and For Sanctions; Application for Ex-Parte Order Shortening Time	III	AA0521-0536
01/21/2021	Recorder's Transcript of Hearing Re: Show Cause Hearing	II	AA0323-0329

12/14/2020	Reply in Support of Motion for Attorneys' Fees and Costs	I	AA0116-0122
04/23/2021	Reply to Defendants' Opposition to Motion for Attorneys' Fees and Costs	V/VI	AA0995-1336
01/20/2021	Supplement to Plaintiff's Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court	I/II	AA0215-0322
01/28/2021	Transcript of Proceedings Re: Show Cause Hearing/Defendant's Motion to Enforce Settlement Agreement and Vacate Post-Judgment Discovery Proceedings on Ex-Parte Order Shortening Time	III	AA0493-0512

CERTIFICATE OF SERVICE

I certify that on the 17th day of November, 2021, this document was electronically filed with the Nevada Supreme Court. Electronic service of the foregoing: **APPELLANTS’ OPENING BRIEF** and **VOLUMES I – VI** of the **APPENDIX** shall be made in accordance with the Master Service List as follows:

Erika P. Turner, Esq.
Dylan T. Ciciliano, Esq.
GARMAN TURNER GORDON, LLP
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Attorneys for TGC Farkas Funding LLC

DATED this 17th day of November, 2021.

/s/ Brandon Lopipero

An Employee of MAIER GUTIERREZ & ASSOCITES

1 This motion is made pursuant to NRS 38.239 and 38.243(1) and is based on the following
2 Memorandum of Points and Authorities; the Decision and Award of Arbitration Panel (1)
3 Compelling Production of Company Records; and (2) Ordering Reimbursement of Claimant’s
4 Attorneys’ Fees and Costs, attached hereto as **Exhibit 1**; the First Amended Operating Agreement
5 of First 100, LLC, attached hereto as **Exhibit 2**; all pleadings, papers, and documents on file with
6 the Court in this action; and such further documentary evidence as the Court deems appropriate.

7 DATED this 1st day of October, 2020.

8 GARMAN TURNER GORDON LLP

9
10 /s/ Erika Pike Turner
11 ERIKA PIKE TURNER
12 Nevada Bar No. 6454
13 7251 Amigo Street, Suite 210
14 Tel: (725) 777-3000
15 Fax: (725) 777-3112
16 *Attorneys for Plaintiff*

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 **I. INTRODUCTION**

19 On January 7, 2020, Plaintiff initiated an arbitration with the American Arbitration
20 Association against First 100, LLC and First One Hundred Holdings, LLC (“Defendants”) relating
21 to whether Plaintiff was entitled to production and examination of company records of Defendants
22 and pursuant to section 13.9 of the parties’ arbitration agreement. Exh. 2 § 13.9.

23 On September 15, 2020, after the Arbitration Panel deliberated, it issued its Decision and
24 Award of Arbitration Panel (1) Compelling Production of Company Records; and (2) Ordering
25 Reimbursement of Claimant’s Attorneys’ Fees and Costs (the “Award”). *See* Exh. 1. The Award
26 requires Defendants to “make all the requested documents and information available from both
27 companies to Claimant [Plaintiff] for inspection and copying” and to pay within ten (10) days, or
28 by September 25, 2020, the total sum of \$23,975.00 for arbitration filing fees paid by the Plaintiff,
and all the fees for the Arbitration Panel, and \$17,011.50 in attorneys’ fees (together, the
“Expenses”). *Id.* Defendants have refused and/or failed to comply with the Award obligations.
By this Motion, Plaintiff seeks to confirm the Award under applicable Nevada law so that it can

1 be enforced.

2 **II. THE PARTIES, JURISDICTION AND VENUE**

3 Defendants are and were at all times herein, Nevada limited-liability companies. Personal
4 jurisdiction and venue are proper pursuant to NRS 13.010, NRS 38.244, and NRS.246. Defendants
5 are Nevada entities doing business in Clark County, Nevada. Further, the operative First Amended
6 Operating Agreement of First 100, LLC, which binds the parties and subjected the same to
7 arbitration in Las Vegas, Nevada, “confers exclusive jurisdiction on the court to enter judgment
8 on an award” and “a motion . . . must be made in the court of the county in which the agreement
9 to arbitrate specifies” NRS 38.244, 38.246; *see* also Exh. 2. § 13.9.

10 Plaintiff now seeks to have this Court confirm this Award and enter Judgment for Plaintiff
11 under NRS 38.239 and NRS 38.243(1).

12 **III. RELEVANT FACTS**

13 Plaintiff was forced to seek the Award when Defendants repeatedly and steadfastly refused
14 to produce the business records of Defendant for inspection, which records were requested for the
15 purpose of informing Plaintiff regarding the status of its membership interest obtained in exchange
16 for \$1 million and other valuable consideration. *See* Exh. 1.

17 On September 15, 2020, the Arbitration Panel issued its Award in favor of Plaintiff
18 requiring that Defendants produce the requested company records to Plaintiff. Further, as the fees
19 and costs incurred to enforce Plaintiff’s membership rights are awardable under the Operating
20 Agreements for Defendants, the Arbitration Panel required Defendants to pay Plaintiff the
21 Expenses. The Award was reasoned, and based on the fact that (1) Plaintiff holds a membership
22 interest regardless of Defendants’ contrary contentions, (2) Defendants were obligated to produce
23 the records to Plaintiff given the financial circumstances occurring relating to Defendants, and
24 Plaintiff’s request for records were not overbroad pursuant to NRS 86.241(2). *Id.*

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1 **IV. LEGAL ANALYSIS**

2 **A. NEVADA LAW REQUIRES CONFIRMATION OF THE ARBITRATION**
3 **AWARD ENTERED IN PLAINTIFF’S FAVOR.**

4 NRS 38.239 authorizes this Court to enter a judgment confirming the Award so that it may
5 be enforced.

6 NRS 38.239 provides in pertinent part:

7 After a party to an arbitral proceeding received notice of an award, he may make a
8 motion to the court for an order confirming the award at which time the court *shall*
9 *issue a confirming order* unless the award is modified or corrected pursuant to NRS
10 38.237 or 38.242 or is vacated pursuant to NRS 38.241.

11 (Emphasis added). *See also Casey v. Wells Fargo Bank, N.A.*, 128 Nev. 713, 714, 290 P.3d 265,
12 266 (2012). The Award in this case has not been modified or corrected pursuant to NRS 38.237 or
13 38.242. Nor has it been vacated pursuant to NRS 38.241. The plain language of NRS 38.239
14 therefore compels the confirmation of the Award at this time.

15 NRS 38.243(1) states, in relevant part:

16 Upon granting an order confirming . . . an award, the court *shall* enter a judgment
17 in in conformity therewith. The judgment may be recorded, docketed and enforced
18 as any other judgment in a civil action.

19 (Emphasis added). Upon this Court confirming the Award, judgment shall be entered in Plaintiff’s
20 favor.

21 **V. CONCLUSION**

22 For the foregoing, Plaintiff respectfully requests that the Court enter: (1) an Order
23 confirming the Award dated September 15, 2020; and (2) enter judgment in Plaintiff’s favor in
24 conformity with the Court’s order confirming the Award.

25 DATED this 1st day of October, 2020.

26 GARMAN TURNER GORDON LLP

27 /s/ Erika Pike Turner
28 ERIKA PIKE TURNER
Nevada Bar No. 6454
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

Exhibit 1



AMERICAN
ARBITRATION
ASSOCIATION®

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

In the Matter of the Arbitration between:

Claimant TGC/Farkas Funding, LLC, hereinafter referred to as "Claimant"

-and-

Respondents First 100, LLC, and First One Hundred Holdings, LLC, hereinafter collectively referred to as "Respondents"

AAA Case No: 01-20-0000-0613

Decision and AWARD of Arbitration Panel (1) Compelling Production of Company Records; and (2) Ordering Reimbursement of Claimant's Attorneys' Fees and Costs

The undersigned Arbitrators, having been designated in accordance with the arbitration agreement entered into between the above-named parties¹, and having been duly sworn, and having duly heard the proofs and allegations of the Parties, hereby AWARD as follows:

This matter came before the Panel for a hearing to determine whether Claimant is entitled to production and examination of company records of Respondents. The Parties requested that the Panel not hold an evidentiary hearing but instead render a reasoned decision based on the briefings and documents presented. The Parties presented their briefs; the Panel convened and considered the briefs and evidence; the Panel then requested further evidence regarding the alleged Redemption Agreement. Upon receipt of the additional evidence, the Panel declared the hearing closed and further deliberated. This decision is the product of that deliberation.

¹ During the Preliminary Hearing, the Parties confirmed that party-appointed arbitrators Baker and DiRaimondo were serving as neutral, non-partisan arbitrators for purposes of these proceedings.

Respondents appear to be in the business of purchasing unpaid receivables of HOAs on discounted terms and profiting from those purchases in various ways. Exhibit 1 to Claimant's Appendix to Claimant's Arbitration Brief ("Appendix" or "Appx"). Claimant is an entity owned by Matthew Farkas and Adam Flatto. Exhibit 1 to Claimant's Response to Order Regarding Additional Evidence Request. Matthew Farkas was an officer/employee of Respondents. Exhibits 1 and 5 to Claimant's Appx. Claimant invested \$1 million into the business of Respondents in exchange for a one percent (1%) membership interest. That was parlayed into a three percent (3%) total interest in First 100, LLC, after Respondents granted a two percent (2%) ownership interest to Mr. Farkas for his "services rendered in the VP of Finance position..." Exhibits 4 and 5 to Claimant's Appx. It is not clear exactly when Claimant became a member of Respondents, due to a lack of dates on many of the exhibits, but it appears from Exhibit 1 to Claimant's Appendix that Respondents were marketing membership interests in 2013. Claimant's interest is acknowledged by Exhibit 5 to Claimant's Appendix, an undated letter from Respondent 1st One Hundred, LLC. Exhibit 4 appears to conclusively establish that Claimant held 3% of Respondent First 100, LLC's membership interests.

Likely in 2017, possibly on or about April 13, 2017, Respondents sent a memo to members describing litigation against a funding source, financial issues facing the companies, and recommending that members execute a redemption agreement due to the financial condition of Respondents. The memo included a draft of the "Membership Interest Redemption Agreement" (the "Redemption Agreement"), which was to be entered into by and between Claimant and Respondent 1st One Hundred Holdings, LLC. Exhibit 6 to Appx. The Redemption Agreement states, among other things, that Respondent 1st One Hundred Holdings, LLC "desires to redeem all of [Claimant's] membership interests in [Respondent 1st One Hundred Holdings, LLC], as well as any interest claimed in any and all subsidiaries..." *Id.* The memo also apparently accompanied the IRS Schedule K-1 to Claimant TCG/Farkas Funding, LLC, as a member of "First 100 Holdings, LLC", dated April 13, 2017. Exhibit 6 to Appx. This Schedule K-1 appears to be conclusive evidence that Respondents considered Claimant to be a Member of "First 100 Holdings, LLC".

By letter dated May 2, 2017, to the law firm representing Respondents, Claimant's counsel set forth objections to the proposed Redemption Agreement, concerns about the financial condition of Respondents, and requests for production of the company records of Respondents. Exhibit 9 to Appx. This appears to be the initial request for company records that is the subject of the arbitration demand filed by Claimant.

Exhibit 11 to Claimant's Appendix is the first response from counsel for the Respondents to the request to inspect the company records of the Respondents. It is dated June 6, 2017. Significantly, Respondents' counsel concedes in this letter that Claimant "holds a membership interest in 1st One Hundred Holdings, LLC." Nevertheless, it is the first in a long and bad faith effort by Respondents to avoid their statutory and contractual duties to a member to produce requested records.

On September 13, 2019, counsel for Claimant made another request for company records to counsel for Respondents. Exhibit 13 to Appx.. On September 24, 2017, counsel for Respondents refused to honor the request to inspect based on a claim that counsel for Claimant might not represent Claimant, and based on the argument that the request was overbroad. Exhibit 14 to Appx. Nothing in this letter contends that the execution of the Redemption Agreement by Mr. Farkas for Claimant constituted a legitimate basis to refuse to make the records available for inspection. Thereafter, Claimant initiated this arbitration proceeding.

In the arbitration proceeding, Respondents make three arguments why they are not required to produce the records requested by Claimant. First, they argue that Claimant may not be a Member, and as such is only entitled to a refund of the investment money paid to the Respondents and no records. Second, they argue that the signing of a Redemption Agreement by Mathew Farkas releases the Respondents from any responsibility to make company records available to Claimant. Third, they argue that the request is overbroad and must be pared down. None of these arguments has merit, as discussed below.

The contention that Claimant is not a member of Respondents is belied by the records of the Respondents, as discussed above. The fact that Respondents believe that the Claimant signed a Redemption Agreement as a member of Respondents is an additional admission on the part of the Respondents that the Claimant is a Member of the Respondents with standing to inspect records of the Company.

It was not clear from the initial briefs and exhibits whether Mathew Farkas signed a Redemption Agreement for Claimant. However, the additional evidence clarified that he actually did sign such an Agreement. However, the evidence also shows two additional points that render the Redemption Agreement irrelevant for the purpose of this proceeding. First, the evidence shows that Mr. Farkas did not have authority to bind Claimant to the Redemption Agreement, as he did not seek and obtain the consent of Mr. Flatto. Exhibit 1 to Supplemental Declaration of Flatto attached to Claimant's Response to Order Regarding Additional Evidence Request; Supplemental Declarations of Flatto and Farkas attached to Claimant's Response to Order Regarding Additional Evidence Request. And, Claimant notified Respondents via email on April 18, 2017, that Mr. Farkas did not have the authority to bind Claimant under the Redemption Agreement "unless and until approved by Adam Flatto." Exhibit 12 to Claimant's Appx. at Ex. 3.

Secondly, the Respondents have yet to perform under the terms of the Redemption Agreement. Specifically, Section 2(a) requires payment by the Company to Redeemer. Exhibit A to Supplemental Declaration of Jay Bloom in support of Respondents' Arbitration Brief. Respondents concede that payment has **not** been made and that Respondents only "intend[]" to "fully perform" at a later point in time, when sufficient funds are available. Supplemental Declaration of Jay Bloom in support of Respondents' Arbitration Brief ¶ 16. The Redemption

Agreement, therefore, does not constitute a basis for Respondents to refuse to make company records available to Claimant as a Member of Respondents.

Finally, Respondents contend the records inspection request is overbroad. NRS 86.241(2) applies to the fact of this case:

2.* * Each member of a limited-liability company is entitled to obtain from the company, from time to time upon reasonable demand, for any purpose reasonably related to the interest of the member as a member of the company:

(a)* The records required to be maintained pursuant to subsection 1;

(b)* True and, in light of the member's stated purpose, complete records regarding the activities and the status of the business and financial condition of the company;

(c)* Promptly after becoming available, a copy of the company's federal, state and local income tax returns for each year;

(d)* True and complete records regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(e)* Other records regarding the affairs of the company as is just and reasonable under the circumstances and in light of the member's stated purpose for demanding such records.

The right to obtain records under this subsection includes, if reasonable, the right to make copies or abstracts by photographic, xerographic, electronic or other means.

The language of subsection (e) applies here and justifies Claimant requesting the records requested, even if not specifically listed in the previous sections. These include litigation information and insurance policies. Given the circumstances of the request – pending litigation by Respondents, representations by Respondents suggesting the viability of the companies is in jeopardy, and the proposal that members sign a Redemption Agreement that substantially compromises their rights as members – all justify the categories of information requested by Claimant. The fact that Respondents have spent more than three years resisting the requested inspection further supports the justification to examine all these categories of documents.

Therefore, the Panel awards in favor of Claimant and against Respondents in all respects on the primary claim, and orders Respondents to forthwith, but no later than ten (10) calendar days from the date of this AWARD, make all the requested documents and information available from both companies to Claimant for inspection and copying.

Claimant has requested an award of attorneys' fees and costs. Section 13.9 of the Operating Agreement at Exhibit 3 to the Appendix sets forth the following pertinent language: "The arbitrators shall make findings of fact and law in writing in support of his (sic) decision, and shall award reimbursement of attorney fees and other costs of arbitration to the prevailing party as the arbitrator deems appropriate."

In this case, the Panel deems it appropriate to award all of the attorneys' fees requested by Claimant against Respondents, in the amount of \$17,011.50. The Panel also deems it appropriate to award to Claimant and against Respondent all of the arbitration filing fee(s) paid by the Claimant, and all of the fees for the arbitration Panel paid by Claimant. The total sum of \$23,975.00 shall be paid by Respondents to Claimant within ten (10) calendar days of the date of this AWARD.

The administrative fees of the American Arbitration Association totaling \$4,400.00 and the compensation of the arbitrators totaling \$19,575.00 shall be borne Respondent. Therefore, Respondent shall reimburse Claimant the sum of \$23,975.00, representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.

This Award is in full settlement of all claims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

This Award may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute together one and the same instrument.

Date:
Arbitrator and Panel Chair


Philip J. Dabney, Esq.,

9-15-20

Date: 9-15-2020
Arbitrator

Nikki L. Baker
Nikki L. Baker, Esq.,

Date: 9-15-2020
Arbitrator

Anthony J. DiRaimondo
Anthony J. DiRaimondo, Esq.,

Exhibit 2

FIRST AMENDED OPERATING AGREEMENT *of* FIRST 100, LLC

This operating agreement of **FIRST 100, LLC**, a Nevada limited liability company, Adopted April 11, 2012, and further Amended December 12, 2012, having an effective date of December 12, 2012, is: (i) adopted by the Manager (as defined below); and (ii) executed and agreed to, for good and valuable consideration, by the Members (as defined below).

ARTICLE I: DEFINITIONS

As used in this Operating Agreement, unless the context clearly indicates otherwise, the following terms have the following meanings:

1.1 "Act" means Chapter 86 of the Nevada Revised Statutes and any successor statute, as amended from time to time.

1.2 "Articles" means the Articles of Organization filed with the Nevada Secretary of State by which the Company was organized as a Nevada limited liability company under and pursuant to the Act.

1.3 "Bankrupt Member" means any Member: (a) that (i) makes a general assignment for the benefit of creditors; (ii) files a voluntary bankruptcy petition; (iii) becomes the subject of an order for relief or is declared insolvent in any federal or state bankruptcy or insolvency proceedings; (iv) files a petition or answer seeking for the Member a reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law, (v) files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in a proceeding of the type described in sub-clauses (i) through (iv) of this Clause (a); or (vi) seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the Member's or of all or any substantial part of the Member's properties; or (b) against which, a proceeding seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any law has been commenced and 120 days have expired without dismissal thereof or with respect to which, without the Member's consent or acquiescence, a trustee, receiver, or liquidator of the Member or of all or any substantial part of the Member's properties has been appointed and 90 days have expired without the appointment's having been vacated or stayed, or 90 days have expired after the date of expiration of a stay, if the appointment has not previously been vacated.

1.4 "Business Day" means any day other than a Saturday, a Sunday, or a holiday on which national banking associations in the State of Nevada are closed.

1.5 "Capital Contribution" means any contribution by a Member to the capital of the Company.

1.6 "Class A Member" means a Member identified on SCHEDULE A hereto.

1.7 "Class A Membership Interest" means, with respect to any Class A Member, the percentage interest set forth opposite such Class A Member's name on SCHEDULE A, as may be amended from time to time.

1.8 "Class B Member" means a Member identified on SCHEDULE A hereto.

1.9 "Class B Membership Interest" means with respect to any Non Voting Class B Member, the percentage interest set forth opposite such Class B Member's name on SCHEDULE A, as may be amended from time to time.

1.10 "Class C Member" means a Member identified on SCHEDULE A hereto.

1.11 "Class C Membership Interest" means with respect to any Non Voting Class C Member, the percentage interest set forth opposite such Class C Member's name on SCHEDULE A, as may be amended from time to time.

1.12 "Code" means the Internal Revenue Code of 1986 and any successor statute, as amended from time to time.

1.13 "Company" means First 100, LLC, a Nevada limited liability company

1.14 "Default Interest Rate" means a rate per annum equal to the lesser of (a) one percent (1.0%) plus a varying rate per annum that is equal to the Wall Street Journal prime rate as quoted in the money rates section of the Wall Street Journal which is also the base rate on corporate loans at large United States money center commercial banks, from time to time as its prime commercial or similar reference interest rate, with adjustments in that varying rate to be made on the same date as any change in that rate, and (b) the maximum rate permitted by applicable law.

1.15 "Delinquent Member" means a Member who does not contribute by the time required all or any portion of a Capital Contribution that Member is required to make as provided in this Operating Agreement.

1.16 "Dispose," "Disposing," or "Disposition" means a sale, assignment, transfer, exchange, mortgage, pledge, grant of a security interest, or other disposition or encumbrance (including, without limitation, by operation of law), or the acts thereof.

1.17 "General Interest Rate" means a rate per annum equal to the lesser of (a) the Wall Street Journal prime rate as quoted in the money rates section of the Wall Street Journal which is also the base rate on corporate loans at large United States money center commercial banks, from time to time as its prime commercial or similar reference interest rate, with adjustments in that varying rate to be made on the same date as any change in that rate, and (b) the maximum rate permitted by applicable law.

1.18 "Lending Member" means those Members, whether one or more, who advance the portion of the Delinquent Member's Capital Contribution that is in default.

1.19 "Manager" means SJC Ventures Holding Company, LLC, a Delaware limited liability company. There is only one Manager of the Company.

1.20 "Member" means any Person executing this Operating Agreement as of the date of this Operating Agreement as a Member, or hereafter admitted to the Company as a Member as provided in this Operating Agreement, but does not include any Person who has ceased to be a Member in the Company.

1.21 "Membership Interest" means the interest of a Member in the Company, including, without limitation, rights to distributions (liquidating or otherwise), allocations, information, and to consent or approve.

1.22 "NRS" means Nevada Revised Statutes.

1.23 "NRS Chapter 86" means the Nevada statutes contained in Chapter 86 of the Nevada Revised Statutes concerning limited-liability companies, and any successor statute, as amended from time to time.

1.24 "Operating Agreement" means this Operating Agreement, as approved or amended by the Members, as herein provided.

1.25 "Permitted Transferee" means any member of such Member's immediate family, or a trust, including a charitable remainder trust, corporation, limited liability company, or partnership controlled by such Member or members of such Member's immediate family, or another Person controlling, controlled by, or under common control with such Member.

1.26 "Person" includes an individual, partnership, limited partnership, limited liability company,

foreign limited liability company, trust, estate, corporation, custodian, trustee, executor, administrator, nominee or entity in a representative capacity.

1.27 "Priority Return" means a sum equal to that particular Class B Member's principal amount of Class B Capital Contribution.

1.28 "Proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative.

ARTICLE II: ORGANIZATION

2.1 FORMATION. The Company has been organized as a Nevada limited liability company by the filing of Articles under and pursuant to the Act and the issuance of a certificate of organization for the Company by the Secretary of State of Nevada.

2.2 NAME. The name of the Company is **FIRST 100, LLC** and all Company business must be conducted in that name, or such other registered names that comply with applicable law as the Manager may select from time to time.

2.3 REGISTERED OFFICE; REGISTERED AGENT; PRINCIPAL OFFICE IN THE UNITED STATES; OTHER OFFICES. The registered office of the Company required by the Act to be maintained in the State of Nevada shall be the office of the initial registered agent named in the Articles or such other office (which need not be a place of business of the Company) as the Manager may designate from time to time in the manner provided by law. The registered agent of the Company in the State of Nevada shall be the initial registered agent named in the Articles or such other Person or Persons as the Manager may designate from time to time in the manner provided by law. The principal office of the Company in the United States shall be at such place as the Manager may designate from time to time, which need not be in the State of Nevada, and the Company shall maintain records there as required by NRS §86.241 and shall keep the street address of such principal office at the registered office of the Company in the State of Nevada. The Company may have such other offices as the Manager may designate from time to time.

2.4 PURPOSES. The purpose of the Company is everything allowable by law.

2.5 FOREIGN QUALIFICATION. Prior to the Company's conducting business in any jurisdiction other than Nevada, the Manager shall cause the Company to comply, to the extent procedures are available and those matters are reasonably within the control of the Manager or Members, with all requirements necessary to qualify the Company as a foreign limited liability company in that jurisdiction. At the request of the Manager or Members, each Member shall execute, acknowledge, swear to, and deliver all certificates and other instruments conforming with this Operating Agreement that are necessary or appropriate to qualify, continue, and terminate the Company as a foreign limited liability company in all such jurisdictions in which the Company may conduct business.

2.6 TERM. The Company commenced on the date the Nevada Secretary of State issued a certificate of organization for the Company and shall continue in existence for the period fixed in the Articles for the duration of the Company, or such earlier time as this Operating Agreement may specify.

2.7 MERGERS AND EXCHANGES. The Company may be a party to: (a) a merger; or (b) an exchange or acquisition permitted by the Act, subject to the requirements of this Operating Agreement.

2.8 NO STATE-LAW PARTNERSHIP. The Members intend that the Company not be a partnership (including, without limitation, a limited partnership) or joint venture, for any purposes other than federal and state tax purposes, and this Operating Agreement may not be construed to suggest otherwise.

ARTICLE III: MEMBERS

3.1 THREE CLASSES OF MEMBERSHIP INTEREST. The Company shall have three classes of Membership Interests: Class A Voting Membership Interests, Class B Non Voting Membership Interests and Class C Non Voting Membership Interests. Each of the Class A Membership Interests, Class B Membership Interests and Class C Membership Interests shall have certain rights, obligations and privileges, as provided in this Agreement.

3.2 MEMBERSHIP INTERESTS. The Member names and Class A Membership Interests of the Class A Members are set forth on SCHEDULE A. The Member names and Class B Membership Interests of the Class B Members are set forth on SCHEDULE A. The Member names and Class C Membership Interests of the Class C Members are set forth on SCHEDULE A.

3.3 CLASSES AND VOTING. The Company may issue voting Membership Interests and non-voting Membership Interests. The Membership certificates shall clearly designate so as to distinguish between voting and non-voting classes. Upon adoption of this Operating Agreement:

- i. Class A Members shall have voting rights. All references in this Operating Agreement to discretionary actions subject to a vote of Members shall solely refer to Class A Members.
- ii. Class B Members are non-voting Membership Interests.
- iii. Class C Members are non-voting Membership Interests.

3.4 VOTING; PROXIES. Each outstanding Class A Membership Interest shall be entitled to one vote per one full percent of Class A Membership Interest owned by the Member on each matter submitted to a vote at a meeting of Members. A Member may vote either in person or by proxy executed in writing by the Member or by his duly authorized attorney in fact. No proxy shall be valid after eleven (11) months from the date of its execution unless otherwise provided in the proxy. Each proxy shall be revocable unless the proxy form conspicuously states that the proxy is irrevocable and the proxy is coupled with an interest.

3.5 QUORUM. Unless otherwise provided in the Articles, the holders of a simple majority of the Membership Interest entitled to vote, represented in person or by proxy, shall constitute a quorum at a meeting of Class A Members.

3.6 MAJORITY VOTE. With respect to any matter when a quorum is present at any meeting, the vote of the holders of a simple majority of the Membership Interest, present in person or represented by proxy, having voting power with respect to that matter, shall decide such matter brought before such meeting, unless the matter is one upon which, by express provision of the Articles or this Operating Agreement, or by an express provision of the Act which is applicable to such vote unless overridden by the Articles, a different vote is required, in which case such express provision shall govern and control the decision of such matter.

3.7 PLACE AND MANNER OF MEETING. All meetings of the Members shall be held at such time and place, within or without the State of Nevada, as shall be stated in the notice of the meeting or in a duly executed waiver of notice thereof. Members may participate in such meetings by means of conference telephone or similar communications equipment by means of which all Persons participating in the meeting can hear each other, and participation in a meeting as provided herein shall constitute presence in person at such meeting, except where a Person participates in the meeting for the express purpose of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

3.8 CONDUCT OF MEETINGS. All meetings of the Members shall be presided over by the chairman of the meeting, who shall be a Person designated by the Manager. The chairman of any meeting of Members shall determine the order of business and the procedure at the meeting, including such regulation of the manner of voting and the conduct of discussion as seem to him in order.

3.9 ANNUAL MEETING. An annual meeting of the Members shall be held each year. Failure to hold the annual meeting at the designated time shall not work as a dissolution of the Company.

3.10 SPECIAL MEETINGS. Special meetings of the Members may be called at any time by: (i) the

Manager of the Company; (ii) the President of the Company if such office exists; or (iii) the holders of at least five percent (5%) of the Class A Membership interests. Unless waived, notice of such special meeting must be made in writing at least ten days prior to the meeting date, and such notice shall state the purpose of such special meeting and the matters proposed to be acted on thereat. A quorum must be present for such meeting to be recognized and effective.

3.11 NOTICE. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than sixty days before the date of the meeting either personally or by mail, to each Member, provided that such notice may be waived as provided in this Operating Agreement. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the Member at his address as it appears on the records of the Company, with postage thereon prepaid.

3.12 CLOSING RECORD BOOKS AND FIXING RECORD DATE. For the purpose of determining Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or entitled to distribution or in order to make a determination of Members for any other proper purpose, the Manager may provide that the record books shall be closed for a stated period not exceeding sixty (60) days. If the record books shall be closed for the purpose of determining Members entitled to notice of or to vote at a meeting of Members, such books shall be closed for at least ten (10) days immediately preceding such meeting. In lieu of closing the record books, the Manager may fix in advance a date as the record date for any such determination of Members, such date in any case to be not more than sixty (60) days and in the case of a meeting of Members, not less than ten (10) days prior to the date of which the particular action requiring such determination of Members is to be taken. If the record books are not closed and no record date is fixed for the determination of Members entitled to notice of or to vote at a meeting of Members, or Members entitled to receive distribution, the date on which notice of the meeting is mailed or the date on which the resolution of the Manager, declaring such distribution is adopted, as the case may be, shall be the record date for such determination of Members. When a determination of Members entitled to vote at any meeting of Members has been made as provided in this Section, such determination shall apply to any adjournment thereof, except where the determination has been made through the closing of record books and the stated period of closing has expired.

3.13 ACTION WITHOUT MEETING. Any meeting, or any action required by the Act to be taken at a meeting of the Members, or any action which may be taken at a meeting of the Members (including any action requiring less than unanimous vote of the members), may be taken without a formal meeting, and without prior notice, but only if consent in writing, setting forth the action so taken, shall have been signed by the holders of all the Membership Interest for each class entitled to vote and such consent shall have the same force and effect as vote by formal meeting of the Members. Written consents made pursuant to this Section shall be signed and dated.

3.14 CONFIDENTIAL INFORMATION. The Members acknowledge that from time to time, they may receive information from the Manager or other Persons regarding the Company or Persons with which it does business. Each Member shall hold in strict confidence any information it receives regarding the Company that is identified as being confidential (and if that information is provided in writing, that is so marked) and may not disclose it to any person other than to another Member or a Manager, except for disclosures: (i) compelled by law (but the Member must notify the Manager promptly of any request for that information, before disclosing it, if practicable); (ii) to advisers or representatives of the Member or Persons to which that Member's Membership Interest may be Disposed as permitted by this Operating Agreement, but only if the recipients have agreed to be bound by the provisions of this Section; or (iii) of information that Member also has received from a source independent of the Company that the Member reasonably believes obtained that information without breach of any obligation of confidentiality. The Members acknowledge that breach of the provisions of this Section may cause irreparable injury to the Company for which monetary damages are inadequate, difficult to compute, or both. Accordingly, the Members agree that the provisions of this Section may be enforced by specific performance. The Members acknowledge that the Manager from time to time may determine, due to contractual obligations, business concerns, or other considerations, that certain information regarding the business, affairs, properties, and financial condition of the Company should be kept confidential and not provided to some or all other Members, and that it is not just or reasonable for those Members to examine or copy that information.

3.15 LIABILITIES TO THIRD PARTIES. Except as otherwise expressly agreed in writing, no

Member or the Manager shall be liable for the debts, obligations or liabilities of the Company.

3.16 WITHDRAWAL / SURRENDER. A Member may unilaterally withdraw from the Company as a Member, but only by ways of a written surrender of membership interest tendered to the Company and all Members then in existence.

3.17 LACK OF AUTHORITY TO BIND OR OBLIGATE. The Company is Manager-managed. No Member (other than a Manager or a duly appointed officer) has the authority or power to act for or on behalf of the Company, to do any act that would be obligating or binding on the Company, or to incur any expenditures on behalf of the Company.

3.18 REPRESENTATIONS AND WARRANTIES. Each Member hereby represents and warrants to the Company and each other Member that (a) if that Member is a corporation, it is duly organized, validly existing and in good standing under the law of the state of its incorporation and is duly qualified and in good standing as a foreign corporation in the jurisdiction of its principal place of business (if not incorporated therein); (b) if that Member is a limited liability company, it is duly organized, validly existing, and (if applicable) in good standing under the law of the state of its organization and is duly qualified and (if applicable) in good standing as a foreign limited liability company in the jurisdiction of its principal place of business (if not organized therein); (c) if that Member is a partnership, trust, or other entity, it is duly formed, validly existing, and (if applicable) in good standing under the law of the state of its formation, and if required by law is duly qualified to do business and (if applicable) in good standing in the jurisdiction of its principal place of business (if not formed therein), and the representations and warranties in Clause (a), (b), or (c), as applicable, are true and correct with respect to each partner (other than limited partners), trustee, or other Member thereof, (d) that Member has full corporate, limited liability company, partnership, trust, or other applicable power and authority to execute and agree to this Operating Agreement and to perform its obligations hereunder and all necessary actions by the board of directors, shareholders, Manager, Member(s), partners, trustees, beneficiaries, or other Persons necessary for the due authorization, execution, delivery, and performance of this Operating Agreement by that Member have been duly taken; (e) that Member has duly executed and delivered this Operating Agreement; and (f) that Member's authorization, execution, delivery, and performance of this Operating Agreement do not conflict with any other agreement or arrangement to which that Member is a party or by which it is bound.

3.19 ADMISSION OF ADDITIONAL MEMBERS. Following adoption of this Operating Agreement, the Company may admit one or more additional Members from time to time, but only upon the majority vote of all Class A Members then in existence. The terms of admission or issuance must specify the Capital Contributions applicable thereto, and may also provide for the creation of additional classes of Members and having different rights, powers, and duties, but is so then this Operating Agreement shall be amended to reflect such added classes. Upon the admission to the Company of any additional members, the Membership Interests of the other Members shall be reduced accordingly on a pro rata basis. SCHEDULE A shall be amended from time to time as of the effective date of the admission of an additional member to the Company. As a condition to being admitted to the Company, each additional member shall execute an agreement to be bound by the terms and conditions of this Agreement.

3.20 RESTRICTIONS ON TRANSFERENCE OF MEMBERSHIP INTEREST. Notwithstanding anything herein to the contrary, the Membership Interest and transferability of Membership Interest in the Company are substantially restricted. Neither record title nor beneficial ownership of a Membership Interest may be transferred or encumbered without the consent of all Members. This Company is formed by a closely-held group, who will have surrendered certain management rights (in exchange for limited liability) based upon their relationship and trust. Capital is also material to the business and investment objectives of the Company and its federal tax status. An unauthorized transfer of a Membership Interest could create a substantial hardship to the Company, jeopardize its capital base, and adversely affect its tax structure. These restrictions upon ownership and transfer are not intended as a penalty, but as a method to protect and preserve existing relationships based upon trust and the Company's capital and its financial ability to continue. Notwithstanding the foregoing restrictions upon transfer and ownership, the following transfers are permitted:

A. Death of a Member Who Is A Natural Person. The personal representative of a deceased Member's estate, or his or her contract beneficiary, may exercise all of the decedent's rights and powers as a Member,

and the decedent's Membership Interest in the Company will continue and pass to those entitled thereto upon the Member's death. It is specifically provided that a Member may prepare a written and acknowledged document in which he or she designates one or more beneficiaries of that Person's Membership Interest, and his or her written designation will be binding upon the Company if delivered to the Company before or within at least sixty 60 days after the death of the Member.

B. Estate Planning Transfers. A Member will also have the right to make estate planning transfers of all or any part of his or her Membership Interest in the Company. The term "estate planning transfer" will mean any transfer made during the life of a Member without value, or for less than full consideration, by way of a marital partition agreement and/or a transfer of all or any part of a Membership Interest to a trust whose beneficiary or beneficiaries are the Member and/or the spouse of a Member, and/or the descendants of a Member, and/or one or more beneficiaries qualified to receive a charitable gift under § 170(c) of the Code. The Articles and this Operating Agreement will bind the transferee of any estate planning transfer to the exact terms and conditions of the Articles and this Operating Agreement.

C. Transfers for Convenience. A Member who is a company may freely transfer its Membership to another company whose ownership is identical to the ownership of the assignor Member, provided, however, that such Member may not cause or permit an interest, direct or indirect, in itself to be disposed of such that, after the disposition, (a) the Company would be considered to have terminated within the meaning of §708 of the Code or (b) that Member shall cease to be controlled by substantially the same Persons who control it as of the date of its admission to the Company. On any breach of the provisions of clause (b) of the immediately preceding sentence, the Company shall have the option to buy, and on exercise of that option the breaching Member shall sell, the breaching Member's Membership Interest all in accordance with Article XI as if the breaching Member were a Bankrupt Member.

D. Approved Sale or Transfers. A Member may transfer its Membership to another Person upon the unanimous vote of all Class A Members.

3.21 DISPUTED TRANSFERS. The Company will not be required to recognize the interest of any transferee who has obtained a purported interest as the result of a transfer of ownership which is not an authorized transfer. If the Membership Interest is in doubt, or if there is reasonable doubt as to who is entitled to a distribution of the income realized from a Membership Interest, the Company may accumulate the income until this issue is finally determined and resolved. Accumulated income will be credited to the capital account of the Member whose interest is in question.

3.22 RIGHT OF FIRST REFUSAL. If any Person or agency should acquire the interest of a Member as the result of an order of a court of competent jurisdiction which the Company is required to recognize, or if a Member makes an unauthorized transfer of a Membership Interest which the Company is required to recognize, the interest of the transferee may then be acquired by the Company upon the following terms and conditions:

- (a) The Company will have the unilateral option to re-acquire the Membership Interest by giving written notice to the transferee of its intent to purchase within 90 days from the date it is finally determined that the Company is required to recognize the transfer.
- (b) The Company will have 180 days from the first day of the month following the month in which it delivers notice exercising its option to purchase the Membership Interest. The valuation date for the Membership Interest will be the first day of the month following the month in which notice is delivered.
- (c) Unless the Company and the transferee agree otherwise, the fair market value of a Member's Membership Interest is to be determined by the written appraisal of a Person or firm qualified to value this type of business. The appraiser selected by the Company must be a member of and qualified by the American Society of Appraisers, Business Valuations Division, [P. O. Box 17265, Washington, DC 20041] to perform appraisals.
- (d) Closing of the sale will occur at the registered office of the Company at 10 o'clock A.M. on the

first Tuesday of the month following the month in which the valuation report is accepted by the transferee (called the “closing date”). The transferee must accept or reject the valuation report within 30 days from the date it is delivered. If not rejected in writing within the required period, the report will be accepted as written. If rejected, closing of the sale will be postponed until the first Tuesday of the month following the month in which the valuation of the Membership Interest is resolved. The transferee will be considered a non-voting owner of the Membership Interest, and entitled to all items of income, deduction, gain or loss from the Membership Interest, plus any additions or subtractions therefrom until closing.

- (e) In order to reduce the burden upon the resources of the Company, the Company will have the option, to be exercised in writing delivered at closing, to pay its purchase money obligation in 10 equal annual installments (or the remaining terms of the Company if less than 10 years) with interest thereon at market rates, adjusted annually as of the first day of each calendar year at the option of the Manager. The term “market rates” will mean the rate of interest prescribed as the “prime rate” as quoted in the money rates section of the Wall Street Journal, which is also the base rate on corporate loans at large United States money center commercial banks, as of the first day of the calendar year. If §§483 and 1274A of the Code apply to this transaction, the rate of interest of the purchase money obligation will be fixed at the rate of interest then required by law. The first installment of principal, with interest due thereon, will be due and payable on the first day of the calendar year following closing, and subsequent annual installments, with interest due thereon, will be due and payable, in order, on the first day of each calendar year which follows until the entire amount of the obligation, principal and interest, is fully paid. The Company will have the right to prepay all or any part of the purchase money obligation at any time without premium or penalty.
- (f) The Manager may assign the Company's option to purchase to one or more of the Members (this with the affirmative consent of no less than 50% of the remaining Members, excluding the interest of the Member or transferee whose interest is to be acquired), and when done, any rights or obligations imposed upon the Company will instead become, by substitution, the rights and obligations of the Members who are assignees.
- (g) Neither the transferee of an unauthorized transfer or the Member causing the transfer will have the right to vote during the prescribed option period, or if the option to purchase is timely exercised, until the sale is actually closed.

3.23 TAX TREATMENT OF TRANSFERRED MEMBERSHIP INTERESTS. With respect to any transferred Membership Interest that may occur, all items of income, gain, loss, deduction, and credit allocable to any transferred Membership Interest shall for tax purposes be allocated between the transferor and the transferee based on the portion of the calendar year during which each was recognized as owning that Membership Interest without regard to the results of Company operations during any particular portion of that calendar year and without regard to whether cash distributions were made to the transferor or the transferee during that calendar year; provided, however, that this allocation must be made in accordance with a method permissible under §706 of the Code and the regulations thereunder.

ARTICLE IV: CAPITAL CONTRIBUTIONS

4.1 INITIAL CONTRIBUTIONS. Contemporaneously with the execution by such Member of this Operating Agreement, each Member shall make the Capital Contributions described for that Member in SCHEDULES A and B. No interest shall be earned or paid on Capital Contributions or a member's capital account.

4.2 SUBSEQUENT CONTRIBUTIONS. If necessary and appropriate to enable the Company to meet its costs, expenses, obligations, and liabilities, and if no lending source is available, then the Manager shall notify each Class A Member (“Capital Call”) of the need for any additional capital contributions, and such capital demand shall be made on each Class A Member in proportion to its Class A Membership Interest. Any such Capital Call notice must include a statement in reasonable detail of the proposed uses of the required additional capital

contributions and a date (which date may be no earlier than the fifth Business Day following each Member's receipt of its notice) before which the additional capital contributions must be made.

4.3 FAILURE TO CONTRIBUTE. If a Member does not contribute all of its share of a Capital Call by the time required, then either:

- 1) One or more Class A Members may provide the additional capital, with such added capital to be reflected in that Class A Member's Capital Contribution, however, such additional capital to be entitled to priority return superior to those set forth in Article V.

or

- 2) Any other Members, individually or in concert (the "Lending Member," whether one or more), to advance the portion of the Delinquent Member's Capital Call that is in default, with the following results:

- (a) the sum advanced constitutes a loan from the Lending Member to the Delinquent Member and a Capital Contribution of that sum to the Company by the Delinquent Member pursuant to the applicable provisions of this Operating Agreement;
- (b) the principal balance of the loan and all accrued unpaid interest thereon is due and payable in whole on the tenth day after written demand therefore by the Lending Member to the Delinquent Member;
- (c) the amount loaned bears interest at the Default Interest Rate from the day that the advance is deemed made until the date that the loan, together with all interest accrued on it, is repaid to the Lending Member;
- (d) all distributions from the Company that otherwise would be made to the Delinquent Member (whether before or after dissolution of the Company) instead shall be paid to the Lending Member until the loan and all interest accrued on it have been paid in full to the Lending Member (with payments being applied first to accrued and unpaid interest and then to principal);
- (e) the payment of the loan and interest accrued on it is secured by a security interest in the Delinquent Member's Membership Interest, and the Lending Member may file a financing statement evidencing and perfecting such security interest; and
- (f) the Lending Member has the right, in addition to the other rights and remedies granted to it pursuant to this Operating Agreement or available to it at law or in equity, to take any action (including, without limitation, court proceedings) that the Lending Member may deem appropriate to obtain payment by the Delinquent Member of the loan and all accrued and unpaid interest on it, at the cost and expense of the Delinquent Member.

4.4 RETURN OF CONTRIBUTIONS. Class A Members are not entitled to the return of any part of their Capital Contributions. In accordance with Article V, Class B Members and Class C Members are entitled to priority return of all of their Capital Contributions. An un-repaid Capital Contribution is not a liability of the Company or of any Member.

4.5 ADVANCES BY MEMBERS. If the Company does not have sufficient cash to pay its obligations, any Member(s) that may agree to do so with the Manager's consent may advance all or part of the needed funds to or on behalf of the Company. An advance described in this Section constitutes a loan from the Member to the Company, bears interest at the General Interest Rate from the date of the advance until the date of payment, and is not a Capital Contribution.

4.6 CAPITAL ACCOUNTS. A capital account shall be established and maintained for each Member,

by Class. The Members' capital accounts also shall be maintained and adjusted as permitted by the provisions of Treas. Reg. § 1.704-1 (b)(2)(iv)(f) and as required by the other provisions of Treas. Reg. § 1.704-1 (b)(2)(iv) and 1.704-1(b)(4), including adjustments to reflect the allocations to the Members of depreciation, depletion, amortization, and gain or loss as computed for book purposes rather than the allocation of the corresponding items as computed for tax purposes, as required by Treas. Reg. §1.704-1(b)(2)(iv)(g). On the transfer of all or part of a Membership Interest, the capital account of the transferor that is attributable to the transferred Membership Interest or part thereof shall carry over to the transferee Member in accordance with the provisions of Treas. Reg. §1.704-1(b)(2)(iv)(l).

ARTICLE V: ALLOCATIONS AND DISTRIBUTIONS

5.1 DISTRIBUTIONS. From time to time (but at least once each calendar quarter) the Manager shall determine in its reasonable judgment to what extent (if any) the Company's cash on hand exceeds its current and anticipated needs, including, without limitation, for operating expenses, debt service, acquisitions, and a reasonable contingency reserve. If such an excess exists, the Manager shall cause the Company to distribute to the Members an amount in cash (or property other than cash) equal to that excess. Distributions by the Manager shall be mandatory upon the affirmative vote of 95% or more of the Class A Members, subject to Section 5.5.

5.2 ALLOCATION OF PROFIT DISTRIBUTIONS OF THE COMPANY. Profit distributions of the Company in each fiscal quarter shall be allocated to the Members as follows:

- i. first to the Class B Members, in proportion to their respective Class B Capital Contributions, in accordance with Section 5.3 ("Priority Return");
- ii. next to the Class C Members, in proportion to their respective Class C Capital Contributions, in accordance with Section 5.3 ("Priority Return");
- iii. next to the Class A Members in accordance with their respective Class A Membership Interests; provided, however, that Class A Members will only be allocated profit distributions after Class B Members and Class C Members have been paid their entire Priority Return.

5.3 TREATMENT OF CLASS B DISTRIBUTIONS. Class B profit distributions made pursuant to Section 5.2(i) shall be treated as a return of capital, and accordingly each Class B Member's Capital Contribution will be proportionately reduced by the dollar amount equal to the allocation of profit distributions made to that particular Class B Member, until their Capital Contribution is returned in full. Once each Class B Member's Capital Contribution is reduced to \$0, the Class B class will cease to exist.

5.4 TREATMENT OF CLASS C DISTRIBUTIONS. Class C profit distributions made pursuant to Section 5.2(ii) shall be treated as a return of capital, and accordingly each Class C Member's Capital Contribution will be proportionately reduced by the dollar amount equal to the allocation of profit distributions made to that particular Class C Member, until their Capital Contribution is returned in full. Once each Class C Member's Capital Contribution is reduced to \$0, the Class C class will cease to exist.

5.5 RIGHT TO RECEIVE DISTRIBUTIONS. Except as otherwise provided in NRS §86.391 and §86.521, at the time a Member becomes entitled to receive a distribution, the Member has the status of and is entitled to all remedies available to a creditor of the Company with respect to the distribution.

5.6 LIMITATION ON DISTRIBUTION. Notwithstanding any other provision in this Article, the Manager may not make a distribution to the Company's Members to the extent that, immediately after giving effect to the distribution, all liabilities of this Company, other than liabilities to Members with respect to their interests and liabilities for which the recourse of creditors is limited to specified property of this Company, exceed the fair value of this Company assets, except that the fair value of property that is subject to a liability for which recourse of creditors is limited shall be included in this Company's assets only to the extent that the fair value of that property exceeds that liability. However, a Member who receives such a distribution has no liability under the Act to return the distribution unless the Member knew that the distribution violated any provision of the Act.

ARTICLE VI: MANAGER

6.1 MANAGEMENT BY MANAGER.

A. Except for situations in which the approval of the Members is required by this Operating Agreement or by non-waivable provisions of applicable law, the powers of the Company shall be exercised by or under the authority of, and the business and affairs of the Company shall be managed under the direction of the Manager. No member shall take part in the management of the Company's business, transact any business in the Company's name or have the power to sign documents or otherwise bind the Company. The Manager may make all decisions and take all actions for the Company not otherwise provided for in this Operating Agreement, including, without limitation, the following:

- (1) hiring, managing, and terminating officers, employees, and independent contractors
- (2) entering into, making, and performing contracts, agreements, and other undertakings binding the Company that may be necessary, appropriate, or advisable in furtherance of the purposes of the Company;
- (3) opening and maintaining bank and investment accounts and arrangements, drawing checks and other orders for the payment of money, and designating individuals with authority to sign or give instructions with respect to those accounts and arrangements;
- (4) maintaining the assets of the Company in good order;
- (5) collecting sums due the Company;
- (6) to the extent that funds of the Company are available therefore, paying debts and obligations of the Company;
- (7) acquiring, utilizing for Company purposes, and Disposing of any asset of the Company;
- (8) borrowing money or otherwise committing the credit of the Company for Company activities and voluntary prepayments or extensions of debt;
- (9) selecting, removing, and changing the authority and responsibility of lawyers, accountants, and other advisers and consultants;
- (10) obtaining insurance for the Company;
- (11) determining distributions of Company cash and other property as provided in Article V;
and
- (12) the institution, prosecution and defense of any proceeding in the Company's name.

B. Notwithstanding the provisions of Section 6.1 A., the Manager may not cause the Company to do any of the following without complying with the applicable requirements set forth below:

- (1) sell, lease, exchange or otherwise dispose of (other than by way of a pledge, mortgage, deed of trust or trust indenture) all or substantially all the Company's property and assets (with or without good will), other than in the usual and regular course of the Company's business, without complying with the applicable procedures set forth in the Act, including, without limitation, the requirements set forth in this Operating Agreement regarding approval by the Members (unless such provision is rendered inapplicable by another provision of applicable law);
- (2) be a party to (i) a merger, or (ii) an exchange or acquisition, without complying with the

applicable procedures set forth in the Act, including, without limitation, the requirements set forth in this Operating Agreement regarding approval by the Members (unless such provision is rendered inapplicable by another provision of applicable law);

(3) amend or restate the Articles, without complying with the applicable procedures set forth in the Act, including, without limitation, the requirements set forth in this Operating Agreement regarding approval by the Members, unless such provision is rendered inapplicable by another provision of applicable law.

6.2 ACTIONS BY MANAGER; DELEGATION OF AUTHORITY AND DUTIES.

A. In managing the business and affairs of the Company and exercising its powers, the Manager shall act: (i) collectively through meetings and written consents consistent as may be provided or limited in other provisions of this Operating Agreement; (ii) through officers to whom management authority and duties have been delegated, pursuant to subsection (C) below; and (iii) through committees comprised of Members and management, if any so may be appointed.

B. The Manager may, from time to time, designate one or more advisory boards to provide guidance and insight to the Company's strategic direction and operations, provided, however, that any such advisory board shall have no managerial authority or any other authority to act on behalf of or bind the Company.

C. The Manager may, from time to time, designate one or more natural persons to be officers of the Company. No officer need be a resident of the State of Nevada or a Member. Any officers so designated shall have such authority and perform such duties as the Manager may, from time to time, delegate to them. The Manager may assign titles to particular officers. Unless the Manager decide otherwise, if the title is one commonly used for officers of a business corporation formed under the NRS Chapter 78, the assignment of such title shall constitute the delegation to such officer of the authority and duties that are normally associated with that office but may also include other such specific delegation of authority and duties made to such officer by the Manager. Each officer shall hold office until his successor shall be duly designated and shall qualify or until his death or until he shall resign or shall have been terminated by Manager or the President of the Company, if any. Any number of offices may be held by the same person. The salaries or other compensation, if any, of the officers and agents of the Company shall be fixed from time to time by the Manager or the President of the Company (if such position has been appointed). Any officer may resign as such at any time. Such resignation shall be made in writing and shall take effect at the time specified therein, or if no time be specified, at the time of its receipt by the Manager. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation. Any officer may be removed as such, either with or without cause, by the Manager whenever in their judgment the best interests of the Company will be served thereby; provided, however, that such removal shall be without prejudice to the contract rights, if any, of the Person so removed. Designation of an officer shall not of itself create contract rights. Any vacancy occurring in any office of the Company may be filled by the Manager.

D. Any Person dealing with the Company, other than a Member, may rely on the authority of the Manager or officer in taking any action in the name of the Company without inquiry into the provisions of this Operating Agreement or compliance herewith, regardless of whether that action actually is taken in accordance with the provisions of this Operating Agreement.

6.3 AGENCY. The Manager and any appointed officers are agents of this Company for the purpose of any act carrying out the business of the Company, including the execution in the name of the Company of any instrument for apparently carrying on in the usual way the business of this Company.

6.4 COMPENSATION. The Manager shall be paid reasonable compensation and reimbursed for all expenses incurred on behalf of the Company.

6.5 REMOVAL AND RESIGNATION. The Manager may not be removed or terminated by the Members except by unanimous vote. The Manager may resign at any time. Such resignation shall be made in writing and shall take effect at the time specified therein.

6.6 VACANCIES. Any vacancy occurring in the position of Manager may be filled by the affirmative

vote of a majority of Class A Members by election at a special meeting of Members called for that purpose.

6.7 APPROVAL OR RATIFICATION OF ACTS OR CONTRACTS BY MEMBERS. The Manager in its discretion may submit any act or contract for approval or ratification at any annual meeting of the Members, or at any special meeting of the Members called for the purpose of considering any such act or contract, and any act or contract that shall be approved or be ratified by 98% of the Class A Members shall be as valid and as binding upon the Company and upon all the Members as if it shall have been approved or ratified by every Member of the Company.

6.8 INTERESTED MANAGER, OFFICERS AND MEMBERS.

A. No contract or transaction shall be voidable between this Company and any other Person in which the Company's Manager, any Member, or any officer is (i) that Person or (ii) holds a financial interest in that Person, if:

(1) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to all of the Members, and the Manager or committee in good faith authorizes the contract or transaction; or

(2) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to all Members entitled to vote thereon, and the contract or transaction is specifically approved in good faith by vote of the Members; or

(3) The contract or transaction is fair as to this Company as of the time it is authorized, approved, or ratified by the Manager or the Members.

B. A Member who is a Manager may be counted in determining the presence of a quorum at a meeting of the Members which authorizes the contract or transaction.

ARTICLE VII: INDEMNIFICATION

7.1 DEFINITIONS. For purposes of this Article VII:

A. "Limited Liability Company" includes any domestic or foreign predecessor entity of the Company in a merger, consolidation, or other transaction in which the liabilities of the predecessor are transferred to the Company by operation of law and in any other transaction in which the Company assumes the liabilities of the predecessor but does not specifically exclude liabilities that are the subject matter of this Article.

B. "Manager" means any Person who is or was a Manager of the Company and any Person who, while a Manager of the Company, is or was serving at the request of the Company as a Manager, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise.

C. "Expenses" include court costs and attorneys' fees.

D. "Official capacity" means: (1) when used with respect to a Manager, the office of Manager in the Company; and (2) when used with respect to a Person other than a Manager, the elective or appointive office in the Company held by the officer or the employment or agency relationship undertaken by the employee or agent on behalf of the Company; provided, however, that "official capacity" does not include service for any other foreign or domestic limited liability company, corporation, or any partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise.

E. "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitrative, or investigative, any appeal in such an action, suit, or proceeding, and any

inquiry or investigation that could lead to such an action, or proceeding.

7.2 STANDARD FOR INDEMNIFICATION. The Company shall indemnify a Person who was, is, or is threatened to be made a named defendant or respondent in a proceeding because the Person is or was a Manager or Officer of the Company, or for any action, related to Company or non-Company matters, if it is determined either by the Manager for any reason, or in accordance with this Article, that the Person:

- A. conducted himself in good faith;
- B. reasonably believed (i) in the case of conduct in his official capacity as a Manager of the Company, that his conduct was in the Company's best interests, and (ii) in all other cases, that his conduct was at least not opposed to the Company's best interests;
- C. in the case of any criminal proceeding, had no reasonable cause to believe his conduct was unlawful; or
- D. for any other reason as may be determined solely in the discretion of the Manager.

7.3 PROHIBITED INDEMNIFICATION. Except to the extent permitted by this Article, a Manager or Member may not be indemnified under any Section of this Article in respect of a proceeding:

- A. in which the Person is found liable on the basis that personal benefit from company assets was improperly received by him; or
- B. in which the Person is found liable to the Company.

Either the Manager or majority of the membership may elect to provide for such indemnification of the Manager or any party under any circumstance.

7.4 EFFECT OF TERMINATION OF PROCEEDING. The termination of a proceeding by judgment, order, settlement, or conviction, or on a plea of nolo contendere or its equivalent is not of itself determinative that the Person did not meet the requirements set forth in any Section of this Article. A Person shall be deemed to have been found liable in respect of any claim, issue or matter only after the Person shall have been so adjudged by a court of competent jurisdiction after exhaustion of all appeals therefrom. Until such time as to a final disposition, the Company shall provide the indemnification and defenses contemplated herein.

7.5 EXTENT OF INDEMNIFICATION. A Person shall be indemnified under this Article against judgments, penalties (including excise and similar taxes), fines, settlements, and reasonable expenses actually incurred by the Person in connection with the proceeding; but if the Person is found liable to the Company or is found liable on the basis that Personal benefit was improperly received by the Person, the indemnification shall (a) be limited to reasonable expenses actually incurred, and (b) not be made in respect of any proceeding in which the Person shall have been found liable for willful or intentional misconduct in the performance of such Person's duty to the Company.

7.6 DETERMINATION OF INDEMNIFICATION. A determination of indemnification under any Section of this Article may be made by (i) the Manager, (ii) legal counsel to the company, or (iii) by the Members in a vote.

7.7 AUTHORIZATION OF INDEMNIFICATION. Authorization of indemnification and determination as to reasonableness of expenses must be made in the same manner as the determination that indemnification is permissible, except that: (i) if the determination that indemnification is permissible is made by special legal counsel, authorization of indemnification and determination as to reasonableness of expenses must be made in the manner specified by the foregoing Section for the selection of special legal counsel; and (ii) the provision of this Article making indemnification mandatory in certain cases specified herein shall be deemed to constitute authorization in the manner specified by this Section of indemnification in such cases.

7.8 SUCCESSFUL DEFENSE OF PROCEEDINGS. Except as provided otherwise by law or by this Operating Agreement, the Company shall indemnify a Manager against reasonable expenses incurred by him in connection with a proceeding in which he is a named defendant or respondent if he has been wholly successful, on the merits or otherwise, in the defense of the proceeding.

7.9 COURT ORDER IN SUIT FOR INDEMNIFICATION. Indemnification required by the foregoing Section shall be subject to Order upon request by an indemnified party in a court of competent jurisdiction upon claim by the Manager as to entitlement to indemnification under that Section, the court shall order indemnification and shall award to the Manager the expenses incurred in securing the indemnification.

7.10 COURT DETERMINATION OF INDEMNIFICATION. Upon application of a Manager, a court of competent jurisdiction shall determine, after giving any notice the court considers necessary, that the Manager is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not he has met the requirements set forth in any Section of this Article or has been found liable in the circumstances described in any Section of this Article. The court shall order the indemnification that the court determines is proper and equitable; but, if the Person is found liable to the Company or is found liable on the basis that personal benefit was improperly received by the Person, the indemnification shall be limited to reasonable expenses actually incurred by the Person in connection with the proceeding.

7.11 ADVANCEMENT OF EXPENSES. Reasonable expenses incurred by a Manager who was, is, or is threatened to be made a named defendant or respondent in a proceeding shall be paid or reimbursed by the Company in advance of the final disposition of the proceeding, without the authorization or determination specified in this Article, after the Company receives a written affirmation by the Manager of his good faith belief that he has met the standard of conduct necessary for indemnification under this Article and a written undertaking, which must be an unlimited general obligation of the Manager (and can be accepted without reference to financial ability to make repayment) but need not be secured, made by or on behalf of the Manager to repay the amount paid or reimbursed if it is ultimately determined that he has not met that standard or if it is ultimately determined that indemnification of the Manager against expenses incurred by him in connection with that proceeding is prohibited by this Article. A provision contained in the Articles, this Operating Agreement, a resolution of Members or Manager, or an agreement that makes mandatory the payment or reimbursement permitted under this Section shall be deemed to constitute authorization of that payment or reimbursement.

7.12 EXPENSES OF WITNESS. Notwithstanding any other provision of this Article, the Company may pay or reimburse expenses incurred by a Manager in connection with his appearance as a witness or other participation in a proceeding at a time when he is not a named defendant or respondent in the proceeding, given that such appearance or participation occurs by reason of his being or having been a Manager of the Company.

7.13 INDEMNIFICATION OF OFFICERS. The Company may, at the discretion of the Manager, indemnify and advance or reimburse expenses to a Person who is or was an officer of the Company to the same extent that it shall indemnify and advance or reimburse expenses to Manager under this Article.

7.14 INDEMNIFICATION OF OTHER PERSONS. The Company may, at the discretion of the Manager, indemnify and advance expenses to any Person who is not or was not an officer, employee, or agent of the Company but who is or was serving at the request of the Company as a Manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise to the same extent that it shall indemnify and advance expenses to Manager under this Article.

7.15 ADVANCEMENT OF EXPENSES TO OFFICERS AND OTHERS. The Company shall indemnify and advance expenses to an officer, and may indemnify and advance expenses to an employee or agent of the Company, or other Person who is identified in the foregoing Section and who is not a Manager, to such further extent as such Person may be entitled by law, agreement, vote of Members or otherwise.

7.16 CONTINUATION OF INDEMNIFICATION. The indemnification and advance payments provided by this Article shall continue as to a Person who has ceased to hold his position as a Manager, officer, employee or agent, or other Person described in any Section of this Article, and shall inure to his heirs, executors and

administrators.

7.17 LIABILITY INSURANCE. The Company may purchase and maintain insurance or another arrangement on behalf of any Person who is or was a Manager, officer, employee, or agent of the Company or who is or was serving at the request of the Company as a Manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic limited liability company, corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, against any liability asserted against him and incurred by him in such a capacity or arising out of his status as such a Person, whether or not the Company would have the power to indemnify him against that liability under this Article. If the insurance or other arrangement is with a Person or entity that is not regularly engaged in the business of providing insurance coverage, the insurance or arrangement may provide for payment of a liability with respect to which the Company would not have the power to indemnify the Person only if including coverage for the additional liability has been approved by the Members of the Company. Without limiting the power of the Company to procure or maintain any kind of insurance or other arrangement, the Company may, for the benefit of Persons indemnified by the Company, (1) create a trust fund; (2) establish any form of self-insurance; (3) secure its indemnity obligation by grant of a security interest or other lien on the assets of the Company; or (4) establish a letter of credit, guaranty, or surety arrangement. The insurance or other arrangement may be procured, maintained, or established within the Company or with any insurer or other Person deemed appropriate by the Manager regardless of whether all or part of the stock or other securities of the insurer or other Person are owned in whole or part by the Company. In the absence of fraud, the judgment of the Manager as to the terms and conditions of the insurance or other arrangement and the identity of the insurer or other Person participating in an arrangement shall be conclusive and the insurance or arrangement shall not be avoidable and shall not subject the Manager approving the insurance or arrangement to liability, on any ground, regardless of whether Manager participating in the approval are beneficiaries of the insurance or arrangement.

ARTICLE VIII: CERTIFICATES

8.1 CERTIFICATES. Certificates in the form determined by the Manager shall be executed representing all Membership Interests then outstanding, as may change from time to time. Such certificates shall be consecutively numbered, and shall be entered in the books of the Company as they are issued. Each certificate shall state on the face thereof the holder's name, the class of membership, the Membership Interest, and such other matters as may be required by the laws of the State of Nevada. They shall be signed by a Manager or officer of the Company, and may be sealed with the seal of the Company if adopted. A Member has the right to possess the original certificate, provided, however, that the Manager may keep a copy of such certificate in the records of the Company.

8.2 REPLACEMENT OF LOST OR DESTROYED CERTIFICATE. The Manager may direct a new certificate or certificates to be issued in place of any certificate or certificates theretofore issued by the Company alleged to have been lost or destroyed, upon the making of an affidavit of that fact by the holder of record thereof, or his duly authorized attorney or legal representative who is claiming the certificate to be lost or destroyed. When authorizing such issue of a new certificate or certificates, the Manager in its discretion and as a condition precedent to the issuance thereof, may require the owner of such lost or destroyed certificate or certificates or his legal representative to advertise the same in such manner as it shall require or to give the Company a bond with surety and in form satisfactory to the Company (which bond shall also name the Company's transfer agents and registrars, if any, as obligees) in such sum as it may direct as indemnity against any claim that may be made against the Company or other obligees with respect to the certificate alleged to have been lost or destroyed, or to both advertise and also give such bond.

8.3 TRANSFER OF MEMBERSHIP INTEREST. Upon surrender to the Company or the transfer agent of the Company of a certificate for Membership Interest duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the Company to issue a new certificate to the Person entitled thereto, cancel the old certificate, and record the transaction upon its books.

8.4 REGISTERED MEMBERS. The Company shall be entitled to treat the holder of record of any certificate or certificate of Membership interest of the Company as the owner thereof for all purposes and, accordingly shall not be bound to recognize any equitable or other claim to or interest in such Membership interest or

any rights deriving from such Membership Interest on the part of any other Person, including (but without limitation) a purchaser, assignee or transferee, unless and until such other Person becomes a Member, whether or not the Company shall have either actual or constructive notice of the interest of such Person, except as otherwise provided by law.

ARTICLE IX: TAXES

9.1 TAX RETURNS. The tax matters partner, as defined in Section 9.3, shall cause to be prepared and filed any necessary federal and state income tax returns for the Company, including making the elections described in Section 9.2. Each Member shall furnish to the tax matters partner all pertinent information in its possession relating to Company operations that is necessary to enable the Company's income tax returns to be prepared and filed.

9.2 TAX ELECTIONS. The Company may make the following elections on the appropriate tax returns:

- A. to adopt the calendar year as the Company's fiscal year;
- B. to adopt the cash method of accounting and to keep the Company's books and records on the income-tax method;
- C. if a distribution of Company property as described in §734 of the Code occurs or if a transfer of a Membership Interest as described in §743 of the Code occurs, on written request of any Member, to elect, pursuant to §754 of the Code, to adjust the basis of Company properties;
- D. to elect to amortize the organizational expenses of the Company and the start-up expenditures of the Company under §195 of the Code as permitted by §709(b) of the Code; and
- E. any other election the Manager may deem appropriate and in the best interests of the Members.

9.3 TAX MATTERS PARTNER. The Manager shall designate itself to be the "tax matters partner" of the Company pursuant to §6231(a)(7) of the Code. The tax matters partner shall take such action as may be necessary to cause each other Member to become a "notice partner" within the meaning of §6223 of the Code. Any Member who is designated tax matters partner shall inform each other Member of all significant matters that may come to its attention in its capacity as tax matters partner by giving notice thereof on or before the fifth Business Day after becoming aware thereof and, within that time, shall forward to each other Member copies of all significant written communications it may receive in that capacity. The tax matters partner may not take any action contemplated by §§6222 through 6232 of the Code without the consent of a majority of Members but this sentence does not authorize any action left to the determination of an individual Member under §§6222 through 6232 of the Code.

ARTICLE X: NOTICE

10.1 METHOD. Whenever by statute or the Articles or this Operating Agreement, notice is required to be given to any Member or the Manager, and no provision is made as to how the notice shall be given, it shall not be construed to mean personal notice, but any such notice may be given in writing, postage prepaid, addressed to the Manager or Member at the address appearing on the books of the Company, or in any other method permitted by law. Any notice required or permitted to be given by mail shall be deemed given at the time when the same is thus deposited in the United States mail.

10.2 WAIVER. Whenever, by statute or the Articles or this Operating Agreement, notice is required to be given to any Member or Manager, a waiver thereof in writing signed by the Person or Persons entitled to such notice, whether before or after the time stated in such notice, shall be equivalent to the giving of such notice. Attendance of the Manager or a Member at a meeting shall constitute a waiver of notice of such meeting, except

where a Manager or Member attends for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called or convened.

ARTICLE XI: BANKRUPTCY OF A MEMBER

11.1 BANKRUPTCY. If any Member becomes a Bankrupt Member, the Company shall have the option, exercisable by notice from the Manager to the Bankrupt Member (or its representative) at any time prior to the 180th day after receipt of notice of the occurrence of the event causing it to become a Bankrupt Member, to buy, and on the exercise of this option the Bankrupt Member's bankruptcy estate (or the trustee thereof) shall sell, its Membership Interest to the Company. The purchase price shall be a dollar amount equal to the Class A Capital Contribution of the Bankrupt Member plus the remaining Class B capital account, if any, of that Bankrupt Member. The payment to be made to the Bankrupt Member or its estate pursuant to this Section is in complete liquidation and satisfaction of all the rights and interest of the Bankrupt Member and its estate (and of all Persons claiming through the Bankrupt Member and its estate) in and in respect to the Company, including, without limitation, any Membership Interest, any rights in specific Company property, and any rights against the Company and (insofar as the affairs of the Company are concerned) against the Members.

ARTICLE XII: DISSOLUTION, LIQUIDATION, AND TERMINATION

12.1 DISSOLUTION. The Company shall dissolve and its affairs shall be wound up on the written consent of all Members.

12.2 LIQUIDATION AND TERMINATION. On dissolution of the Company, the Manager shall act as liquidator or may appoint one or more Members as liquidator. If there is no Manager then the Members by majority vote will appoint one or more Members as liquidator. The liquidator shall proceed diligently to wind up the affairs of the Company and make final distributions as provided herein and in the Act. The costs of liquidation shall be borne as a Company expense. Until final distribution, the liquidator shall continue to operate the Company properties with all of the power and authority of the Manager. The steps to be accomplished by the liquidator are as follows:

- A. as promptly as possible after dissolution and again after final liquidation, the liquidator shall cause a proper accounting to be made by a recognized firm of certified public accountants of the Company's assets, liabilities, and operations through the last day of the calendar month in which the dissolution occurs or the final liquidation is completed, as applicable;
- B. the liquidator shall provide written notice to be mailed to each known creditor of and claimant against the Company;
- C. the liquidator shall pay, satisfy or discharge from Company funds all of the debts, liabilities and obligations of the Company (including, without limitation, all expenses incurred in liquidation) or otherwise make adequate provision for payment and discharge thereof (including, without limitation, the establishment of a cash escrow fund for contingent liabilities in such amount and for such term as the liquidator may reasonably determine); and
- D. all remaining assets of the Company shall be distributed to the Members as follows:
 - (1) the liquidator may sell any or all Company property, including to Members, and any resulting gain or loss from each sale shall be computed and allocated to the capital accounts of the Members;
 - (2) with respect to all Company property that has not been sold, the fair market value of that property shall be determined and the capital accounts of the Members shall be adjusted to reflect the manner in which the unrealized income, gain, loss, and deduction inherent in property that has not been reflected in the capital accounts previously would be allocated among the Members if there were a taxable disposition of that property for the fair market

value of that property on the date of distribution; and

- (3) Company property shall be distributed among the Members in accordance with the positive capital account balances of the Members, as determined after taking into account all capital account adjustments for the taxable year of the Company during which the liquidation of the partnership occurs (other than those made by reason of this Clause (3)); and those distributions shall be made by the end of the taxable year of the Company during which the liquidation of the Company occurs (or, if later, 90 days after the date of the liquidation). All distributions in kind to the Members shall be made subject to the liability of each distributee for costs, expenses, and liabilities theretofore incurred or for which the Company has committed prior to the date of termination and those costs, expenses, and liabilities shall be allocated to the distributee pursuant to this Section 12.2. The distribution of cash and/or property to a Member in accordance with the provisions of this Section 12.2 constitutes a complete return to the Member of its Capital Contributions and a complete distribution to the Member of its Membership Interest and all the Company's property and constitutes a compromise to which all Members have consented. To the extent that a Member returns funds to the Company, it has no claim against any other Member for those funds.

12.3 DEFICIT CAPITAL ACCOUNTS. Notwithstanding anything to the contrary contained in this Operating Agreement, and notwithstanding any custom or rule of law to the contrary, to the extent that the deficit, if any, in the capital account of any Member results from or is attributable to deductions and losses of the Company (including non-cash items such as depreciation), or distributions of money pursuant to this Operating Agreement to all Members in proportion to their respective Capital Contributions, upon dissolution of the Company such deficit shall not be an asset of the Company and such Members shall not be obligated to contribute such amount to the Company to bring the balance of such Member's capital account to zero.

12.4 ARTICLES OF DISSOLUTION. On completion of the distribution of Company assets as provided herein, the Company is terminated, and the Manager or a Member shall file Articles of Dissolution with the Secretary of State of Nevada and take such other actions as may be necessary to terminate the Company.

ARTICLE XIII: GENERAL PROVISIONS

13.1 BOOKS AND RECORDS.

A. The Company shall maintain those books and records as provided by statute and as it may deem necessary or desirable. All books and records provided for by statute shall be open to inspection of the Members from time to time and to the extent expressly provided by statute. The Manager may examine all such books and records at all reasonable times. The Company shall keep and maintain the following records in its principal office in the United States or make them available in that office within five days after the date of receipt of a written request as may be specified in the Act:

- (1) a current list that states:
 - (a) the name and mailing address of each Member;
 - (b) the percentage or other interest in the Company owned by each Member; and
 - (c) if one or more classes or groups are established in or under the Articles or this Operating Agreement, the names of the Members who are Members of each specified class or group;
- (2) copies of the federal, state, and local information or income tax returns for the Company's six most recent tax years.
- (3) a copy of the Articles and this Operating Agreement, all amendments or restatements, executed copies of any powers of attorney, and copies of any document that creates, in the

manner provided by the Articles or this Operating Agreement, classes or groups of Members;

- (4) unless contained in the Articles or this Operating Agreement, a written statement of:
 - (a) the amount of the cash contribution and a description and statement of the agreed value of any other contribution made by each Member, and the amount of the cash contribution and a description and statement of the agreed value of any other contribution that the Member has agreed to make in the future as an additional contribution;
 - (b) the times at which additional contributions are to be made or events requiring additional contributions to be made;
 - (c) events requiring the Company to be dissolved and its affairs wound up; and
 - (d) the date on which each Member in the Company became a Member; and
- (5) correct and complete books and records of accounts of the Company.

B. The Company shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

C. The Company shall keep in its registered office in Nevada and make available to Members on reasonable request the street address of its principal United States office in which the records required by this Section are maintained or will be available.

D. A Member, on written request stating the purpose, may examine and copy, in person or by the Member's representative, at any reasonable time, for any proper purpose, and at the Member's expense, records required to be kept under this Section and other information regarding the business, affairs, and financial condition of the Company as is just and reasonable for the Person to examine and copy.

E. On the written request by any Member, the Manager shall provide to the requesting Member or assignee, without charge, true copies of:

- (1) the Articles and this Operating Agreement and all amendments or restatements; and
- (2) any of the tax returns described in the Act.

13.2 AMENDMENT OR MODIFICATION. This Operating Agreement may be amended or modified from time to time only by a written instrument adopted by the affirmative vote of 98% or more of the Class A Members.

13.3 CHECKS, NOTES, DRAFTS, ETC. All checks, drafts or other orders for payment of money, notes or other evidences of indebtedness issued in the name of or payable to the Company shall be signed or endorsed by one or more designated Persons appointed by the Manager or Chief Financial Officer of the Company, if such officer position exists.

13.4 HEADINGS. The headings used in this Operating Agreement have been inserted for convenience only and do not constitute matter to be construed in interpretation.

13.5 CONSTRUCTION. Whenever the context so requires, the gender of all words used in this Operating Agreement includes the masculine, feminine, and neuter, and the singular shall include the plural, and conversely. All references to Articles and Sections refer to articles and sections of this Operating Agreement, and all references to Exhibits or Schedules, if any, are to Exhibits or Schedules attached hereto, if any, each of which is made a part hereof for all purposes. If any portion of this Operating Agreement shall be invalid or inoperative, then, so far as is reasonable and possible:

- A.** The remainder of this Operating Agreement shall be considered valid and operative; and
- B.** Effect shall be given to the intent manifested by the portion held invalid or inoperative.

13.6 ENTIRE AGREEMENT; SUPERSEDEDURE. This Operating Agreement constitutes the entire agreement of the Members of the Company and supersedes all prior contracts or agreements with respect to the Company, whether oral or written.

13.7 EFFECT OF WAIVER OR CONSENT. A waiver or consent, express or implied, to or of any breach or default by any Person in the performance by that Person of its obligations with respect to the Company is not a consent or waiver to or of any other breach or default in the performance by that Person of the same or any other obligations of that Person with respect to the Company. Failure on the part of a Person to complain of any act of any Person or to declare any Person in default with respect to the Company, irrespective of how long that failure continues, does not constitute a waiver by that Person of its rights with respect to that default until the applicable statute-of-limitations period has run.

13.8 BINDING EFFECT. Subject to the restrictions on Dispositions set forth in this Operating Agreement, this Operating Agreement is binding on and inures to the benefit of the Members and their respective heirs, legal representatives, successors, and assigns.

13.9 DISPUTE RESOLUTION - BINDING ARBITRATION ELECTION. Any dispute, controversy or claim arising out of or relating to this Agreement or the breach thereof shall solely be settled by arbitration under the Commercial Arbitration Rules of the American Arbitration Association ("AAA"). The parties specifically waive any rights to litigation as a dispute resolution methodology and further divest any Court of jurisdiction to determine disputes between the parties to this Agreement. Notwithstanding, judgment on the arbitrator's award may be entered in any court having jurisdiction thereof. The arbitration shall be held in the City of Las Vegas and State of Nevada, in the English language, and shall be conducted before three arbitrators, wherein the party calling for arbitration selects one arbiter, the party defending selects one arbiter and the arbiters select a third, agreeable to the parties or, if no agreement can be reached, then selected by the AAA. All costs related to the arbitration shall initially be borne by the aggrieved party. The arbitrators shall make findings of fact and law in writing in support of his decision, and shall award reimbursement of attorney's fees and other costs of arbitration to the prevailing party as the arbitrator deems appropriate. The provisions hereof shall not preclude any party from seeking post arbitration injunctive relief to protect or enforce its rights hereunder, or prohibit any court from making findings of fact in connection with granting or denying such injunctive relief after and in accordance with the decision of the arbitrator. No decision of the arbitrator shall be subject to judicial review or appeal; the parties waive any and all rights of judicial appeal or review, on any ground, of any decision of the arbitrator.

13.10 LIQUIDATED DAMAGES PROVISION. Should any party initiate a civil proceeding against any other, notwithstanding the binding arbitration provision above, such party initiating civil litigation shall recognize that it has caused material damage and harm to the other by way of their breach of this agreement, and agrees to provide to the named defendant party, liquidated damages in the amount of any costs of defense incurred by the aggrieved party plus ten thousand dollars (\$10,000.00).

13.11 GOVERNING LAW; SEVERABILITY. THIS OPERATING AGREEMENT IS GOVERNED BY AND SHALL BE CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEVADA, EXCLUDING ANY CONFLICT-OF-LAWS RULE OR PRINCIPLE THAT MIGHT REFER THE GOVERNANCE OR THE CONSTRUCTION OF THIS OPERATING AGREEMENT TO THE LAW OF ANOTHER JURISDICTION. In the event of a direct conflict between the provisions of this Operating Agreement and (a) any provision of the Articles, or (b) any mandatory provision of the Act, the applicable provision of the Act shall control. If any provision of this Operating Agreement or the application thereof to any Person or circumstance is held invalid or unenforceable to any extent, the remainder of this Operating Agreement and the application of that provision to other Persons or circumstances is not affected thereby and that provision shall be enforced to the greatest extent permitted by law.

13.12 FURTHER ASSURANCES. In connection with this Operating Agreement and the transactions contemplated hereby, each Member shall execute and deliver any additional documents and instruments and perform any additional acts that may be necessary or appropriate to effectuate and perform the provisions of this Operating Agreement and those transactions.

13.13 NOTICE TO MEMBERS OF PROVISIONS OF THIS AGREEMENT. By executing this

Operating Agreement, each Member acknowledges that it has actual notice of: (a) all of the provisions of this Operating Agreement, including, without limitation, the restrictions on the transfer of Membership Interests set forth in Article III; and (b) all of the provisions of the Articles. Each Member hereby agrees that this Operating Agreement constitutes adequate notice of all such provisions, including, without limitation, any notice requirement under the Chapter 86 of the Nevada Revised Statutes and under the Nevada Uniform Commercial Code, and each Member hereby waives any requirement that any further notice thereunder be given.

13.14 COUNTERPARTS. This Operating Agreement may be executed in any number of counterparts with the same effect as if all signing parties had signed the same document. All counterparts shall be construed together and constitute the same instrument.

13.15 CONFLICTING PROVISIONS. To the extent that one or more provisions of this Operating Agreement appear to be in conflict with one another, then the Manager shall have the right to choose which of the conflicting provisions are to be enforced. Wide latitude is given to the Manager in interpreting the provisions of this Operating Agreement to accomplish the purposes and objectives of the Company, and the Manager may apply this Operating Agreement in such a manner as to be in the best interest of the Company, in their sole discretion, even if such interpretation or choice of conflicting provisions to enforce is detrimental to one or more Members or the Manager.

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IN WITNESS WHEREOF, the undersigned hereby certify that the foregoing Operating Agreement was unanimously adopted by the Members and Manager, effective as of the first date written in the preamble above, and we have hereunto affixed our signatures.

MANAGER:

MANAGER: SJC VENTURES HOLDING COMPANY LLC, a Delaware limited liability company

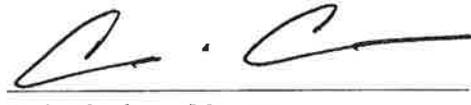
By: 
Jay Bloom, Manager

MEMBERS:

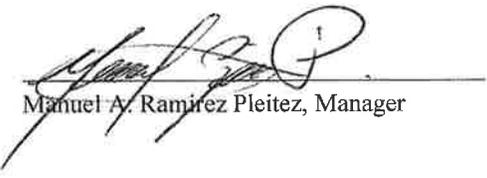
MEMBER: SJC VENTURES HOLDING COMPANY LLC, a Delaware limited liability company

By: 
Jay Bloom, Manager

MEMBER: CBWE, LLC, a Nevada limited liability company

By: 
Carlos Cardenas, Manager

MEMBER: MAMBER VENTURES LLC, a Nevada limited liability company

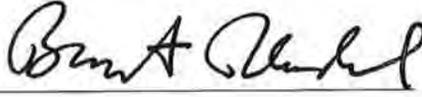
By: 
Manuel A. Ramirez Pleitez, Manager

MEMBER: PALADIN VENTURES, LLC, a Nevada limited liability company

By: LS MARLO TRUST

By: 
J. Chris Morgando, Trustee

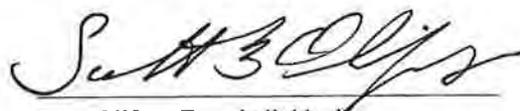
MEMBER: BART RENDEL, an individual

By: 
Bart Rendel, individually

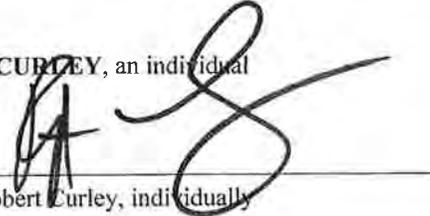
MEMBER: DUSTIN LEWIS, an individual

By: _____
Dustin Lewis, individually

MEMBER: SCOTT OLIFANT, an individual

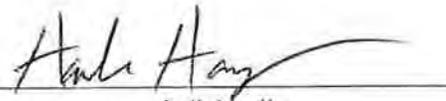
By: 
Scott Olifant, Esq., individually

MEMBER: ROBERT CURLEY, an individual

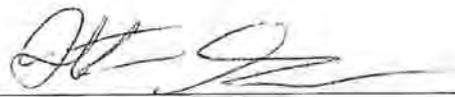
By: 
Robert Curley, individually

Chris Wood, an individual
By: 
Chris Wood, individually

MEMBER: HANNAH HARVEY, an individual

By: 
Hannah Harvey, individually

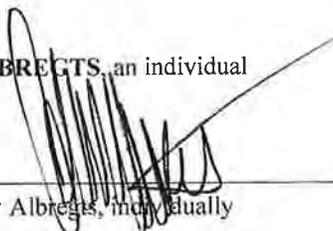
MEMBER: JETHRO WAYNE GORDON, an individual

By: 
Jethro Wayne Gordon., individually

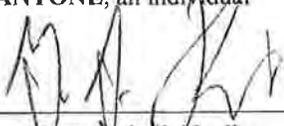
MEMBER: WENDELL BROWN, an individual

By: _____
Wendell Brown, individually

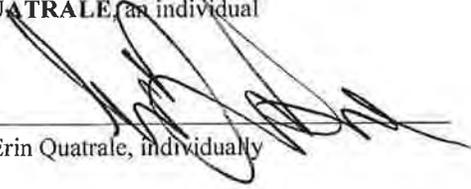
MEMBER: JEFFREY ALBREGTS, an individual

By: 
Jeffrey Albregts, individually

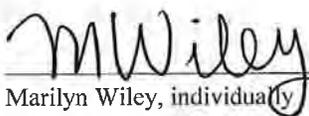
MEMBER: GLENN PLANTONE, an individual

By: 
Glenn Plantone, individually

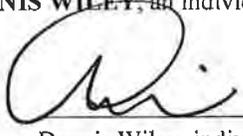
MEMBER: ERIN QUATRALE, an individual

By: 
Erin Quatrale, individually

MEMBER: MARILYN WILEY, an individual

By: 
Marilyn Wiley, individually

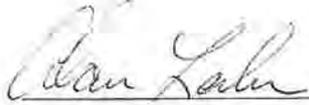
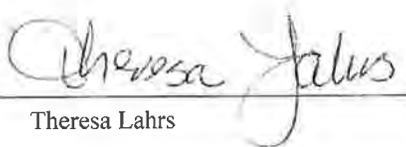
MEMBER: DENNIS WILEY, an individual

By: 
Dennis Wiley, individually

MEMBER: MARK HOSTETLER, an individual

By: _____
Mark Hostetler, individually

MEMBER: ALAN AND THERESA LAHRS, jointly and individually

By:  
Alan Lahrs Theresa Lahrs

MEMBER: ~~IZZY ZALCBERG, an individual~~

By: ~~Izzy Zalcborg, individually~~

Kregg Hale, an individual

By: *Kregg Hale*
Kregg Hale, individually

MEMBER: JEAN KEMPNER, an individual

By: _____
Jean Kempner, individually

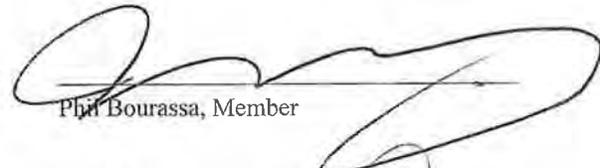
MEMBER: AMY AND ARMAND FARR, jointly and individually

By: _____
Amy Farr Armand Farr

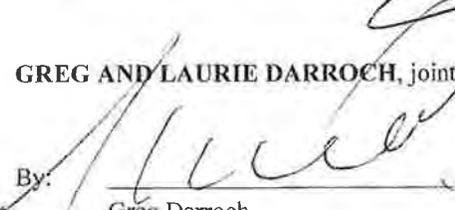
MEMBER: KENT ADAMSON, an individual

By: _____
Kent Adamson, individually

MEMBER: BASIS INVESTMENTS, LLC a Texas Limited Liability Company

By: 
Phil Bourassa, Member

MEMBER: GREG AND LAURIE DARROCH, jointly and individually

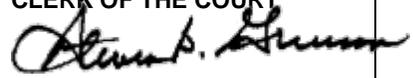
By: 
Greg Darroch Laurie Darroch

MEMBER: CATHERYN COPE, an individual

By: _____
Catheryn Cope, individually

**Schedule A:
List of Members**

Paid in Capital			Series A	PIC	Series B	PIC	Series C	PIC
\$	185.00	Paladin Ventures, LLC	7.500%	\$ 185.00				
\$	185.00	Mamber Ventures, LLC	7.500%	\$ 185.00				
\$	185.00	CBWE, LLC	6.000%	\$ 185.00				
\$	185.00	SJC, LLC	45.625%	\$ 185.00				
\$	65.00	Mark Hostetler	6.500%	\$ 65.00				
\$	30.00	Bart Rendel, COO	3.000%	\$ 30.00				
\$	20.00	Dustin Lewis, CFO	2.000%	\$ 20.00				
\$	20.00	Rob Curley, CTO	2.000%	\$ 20.00				
\$	20.00	Wendell Brown	2.000%	\$ 20.00				
\$	17.50	Dennis Wiley	1.750%	\$ 17.50				
\$	15.00	Scott Olifant, Esq	1.625%	\$ 16.25				
\$	6.88	Marilyn Wiley	0.688%	\$ 6.88				
\$	5.00	Jeffrey Albregts	0.500%	\$ 5.00				
\$	1.88	Glenn Plantone	0.188%	\$ 1.88				
\$	1.25	Hannah Harvey	0.125%	\$ 1.25				
\$	1.25	Jethro Gordon	0.125%	\$ 1.25				
\$	0.63	Erin Quatrala	0.063%	\$ 0.63				
\$	500,000.00	Basis Investments, LLC	5.000%	\$ 50.00	50.00%	\$ 499,950.00		
\$	100,000.00	Marylin Wiley	1.000%	\$ 10.00	10.00%	\$ 99,990.00		
\$	100,000.00	Kent Adamson	1.000%	\$ 10.00	10.00%	\$ 99,990.00		
\$	50,000.00	Alan & Theresa Lahrs	0.500%	\$ 5.00	5.00%	\$ 49,995.00		
\$	50,000.00	Alan & Theresa Lahrs	0.500%	\$ 5.00	5.00%	\$ 49,995.00		
\$	50,000.00	Jean Kempner	0.500%	\$ 5.00	5.00%	\$ 49,995.00		
\$	50,000.00	Jeffrey Albregts	0.500%	\$ 5.00	5.00%	\$ 49,995.00		
\$	50,000.00	Amy and Armond Farr	0.500%	\$ 5.00	5.00%	\$ 49,995.00		
\$	25,000.00	Scott Olifant, Esq	0.250%	\$ 2.50	2.50%	\$ 24,997.50		
\$	25,000.00	Glenn Plantone	0.250%	\$ 2.50	2.50%	\$ 24,997.50		
\$	1.88	Scott Olifant, Esq	0.188%	\$ 1.88				
\$	3.75	Glenn Plantone	0.375%	\$ 3.75				
\$	1.25	JWL Management	0.125%	\$ 1.25				
\$	2.50	Greg and Laurie Darroch	0.250%	\$ 2.50				
\$	100,000.00	Greg and Laurie Darroch	0.500%	\$ 5.00			2.00%	\$ 99,995.00
\$	50,000.00	Laurie Darroch	0.250%	\$ 2.50			1.00%	\$ 49,997.50
\$	50,000.00	Catheryn Cope	0.250%	\$ 2.50			1.00%	\$ 49,997.50
\$	50,000.00	JWL Management	0.250%	\$ 2.50			1.00%	\$ 49,997.50
\$	50,000.00	Glenn Plantone	0.250%	\$ 2.50			1.00%	\$ 49,997.50
\$	75,000.00	Scott Olifant	0.375%	\$ 3.75			1.00%	\$ 74,996.25
\$	1,375,953.76	Total	100.000%	\$ 1,073.76	100.00%	\$ 999,900.00	7.00%	\$ 374,981.25



1 **OPPC**
JOSEPH A. GUTIERREZ, ESQ.
2 Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
3 Nevada Bar No. 13822
MAIER GUTIERREZ & ASSOCIATES
4 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
5 Telephone: (702) 629-7900
Facsimile: (702) 629-7925
6 E-mail: jag@mgalaw.com
djb@mgalaw.com

7
8 *Attorneys for Defendants First 100, LLC*
and 1st One Hundred Holdings, LLC

9
10
11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 TGC FARKAS FUNDING, LLC,
14
15 Plaintiff,

16 vs.

17 FIRST 100, LLC, a Nevada limited liability
company; 1st ONE HUNDRED HOLDINGS,
18 LLC, a Nevada limited liability company,
19 Defendants.

Case No: A-20-822273-C
Dept.: 13

**DEFENDANTS' LIMITED OPPOSITION
TO MOTION TO CONFIRM
ARBITRATION AWARD AND
COUNTERMOTION TO MODIFY
AWARD PER NRS 38.242**

20 Defendants First 100, LLC and 1st One Hundred Holdings, LLC (collectively "First 100"), by
21 and through their attorneys of record, the law firm MAIER GUTIERREZ & ASSOCIATES, hereby submit
22 this limited opposition to the motion filed by plaintiff TGC FARKAS FUNDING, LLC ("Plaintiff"
23 or "TGC") to confirm the arbitration award, along with this counter motion to modify the award
24 pursuant to NRS 38.242.

25 This limited opposition and counter motion is based on the following Memorandum of Points
26 and Authorities, the papers and pleadings on file, and such argument as the Court deems appropriate
27 at the hearing on this matter.

28 ///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff demanded access to First 100’s proprietary business records, arguing that its status as
4 a purported member of First 100 substantiated the right to examine Plaintiff’s company records.

5 The matter proceeded to the American Arbitration Association, where the Arbitration Panel
6 determined that Plaintiff is required to “make all the requested documents and information available
7 from both companies to Claimant [Plaintiff] for inspection and copying.” *See* Mot. at Ex. 1.

8 Plaintiff does not dispute the merits of the Arbitration Award. However, Plaintiff seeks a
9 modification of the award to clarify that pursuant to the plain language of First 100’s Operating
10 Agreement and NRS 86.243(3)(b), the demanding member (Plaintiff) must first pay to First 100 the
11 reasonable cost of obtaining and furnishing such records. The company information Plaintiff has
12 requested is not readily available, and First 100 will only be able to comply with the Award by
13 retaining a third party to access and organize the company records. Because First 100 has no funds
14 to pay for such a service, First 100 is respectfully requesting that the Court modify the Arbitration
15 Award to indicate that Plaintiff will be responsible for paying the reasonable costs associated with
16 First 100 obtaining and furnishing the company records.

17 **II. LEGAL ANALYSIS**

18 Pursuant to NRS 38.242, “[u]pon motion made within 90 days after the movant receives notice
19 of the arbitration award . . . the Court **shall** modify or correct the award if: . . . (c) The award is
20 imperfect in a matter of form not affecting the merits of the decision on the claims submitted.” NRS
21 38.242 (emphasis added). Notice of the Arbitration Award was provided on September 15, 2020.
22 This motion to modify the Award is therefore timely.

23 Here, Defendants submit a limited opposition to the Arbitration Award, as the Award is
24 incomplete and “imperfect” in light of First 100’s practical inability to comply with the Award without
25 the Plaintiff first paying to First 100 the reasonable costs of obtaining and furnishing the company
26 records.

27 Pursuant to NRS 86.243(3), the “district court may . . . order the company to furnish the
28 demanding member or manager the records . . . on the condition that the demanding member or

1 manager first pay to the company the reasonable cost of obtaining and furnishing such records and on
2 such other conditions as the district court deems appropriate.”

3 Here, First 100 has no funds and no reasonable means of accessing and furnishing the company
4 records to Plaintiff without retaining a third party to accomplish that. *See Exhibit A*, Declaration of
5 Jay Bloom. As such, if the Court is inclined to confirm the Arbitration Award, it should also modify
6 the Award to clarify that Plaintiff must first pay to First 100 the reasonable costs associated with First
7 100 obtaining and furnishing all of the company records to be produced to Plaintiff.

8 Indeed, the parties have already agreed to such an arrangement pursuant to the First 100
9 Operating Agreement (*See Mot. at Ex. 2, p. 21*) which states that such company documents shall be
10 provided “at the Member’s expense.”

11 This modification request does not go to the merits, as First 100 has no dispute with being
12 compelled to produce the company records, but merely goes to procedurally how that production will
13 work, as First 100 has no reasonable means of complying with the Award unless and until the Plaintiff
14 abides by its obligations agreed to in the Operating Agreement and actually pays for First 100 to obtain
15 and furnish the company records.

16 **III. CONCLUSION**

17 Based on the foregoing, First 100 opposes the motion to confirm the Arbitration Award in a
18 limited capacity, and asks that the Court modify the Award to clarify that Plaintiff are *first* required
19 to pay to First 100 the reasonable costs associated with obtaining and furnishing the company records,
20 and then First 100 shall provide the company records.

21 DATED this 15th day of October, 2020.

22 Respectfully submitted,

23 **MAIER GUTIERREZ & ASSOCIATES**

24 /s/ Danielle J. Barraza

25 JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

26 DANIELLE J. BARRAZA, ESQ.

Nevada Bar No. 13822

8816 Spanish Ridge Avenue

27 Las Vegas, Nevada 89148

28 *Attorneys for First 100, LLC and 1st One
Hundred Holdings, LLC*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **DEFENDANTS' LIMITED**
3 **OPPOSITION TO MOTION TO CONFIRM ARBITRATION AWARD AND**
4 **COUNTERMOTION TO MODIFY AWARD PER NRS 38.242** was electronically filed on the
5 15th day of October, 2020, and served through the Notice of Electronic Filing automatically
6 generated by the Court's facilities to those parties listed on the Court's Master Service List as
7 follows:

8 Erika P. Turner, Esq.
9 GARMAN TURNER GORDON, LLP
10 650 White Drive, Suite 100
11 Las Vegas, Nevada 89119
12 *Attorneys for TGC Farkas Funding LLC*

13 */s/ Natalie Vazquez*
14 _____
15 An Employee of MAIER GUTIERREZ & ASSOCIATES
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT “A”

DECLARATION OF JAY BLOOM

I, JAY BLOOM (“Declarant”), declare as follows:

1. This declaration is made in support of First 100, LLC and 1st One Hundred Holdings, LLC’s limited opposition to the motion to confirm arbitration and the countermotion to modify the arbitration award per NRS 38.242.

2. I am over the age of eighteen (18) and I have personal knowledge of all matters set forth herein. If called to do so, I would competently and truthfully testify to all matters set forth herein, except for those matters stated to be based upon information and belief.

3. I make this declaration in my capacity as the principal, founding director, and chairman of the Board of Directors of First 100, LLC and 1st One Hundred Holdings, LLC (collectively referred to as “First 100”).

4. First 100 understands that the Arbitration Panel has ordered First 100 to “make all the requested documents and information available from both companies to Claimant [Plaintiff] for inspection and copying.” However, First 100 has no funds to effectuate this goal. Nor does First 100 have employees available to search through the records. The only way for First 100 to obtain the requested documents and information will be to retain a third-party to obtain and furnish the records that First 100 has been compelled to produce.

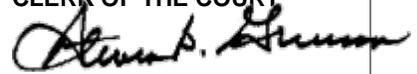
5. First 100 therefore respectfully requests that the Court order the Plaintiffs to first pay the reasonable costs associated with obtaining and furnishing the company records, and then such records will be provided.

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

DATED this 15th day of October, 2020



JAY BLOOM



RPLY
GARMAN TURNER GORDON LLP
ERIKA PIKE TURNER
Nevada Bar No. 6454
Email: eturner@gtg.legal
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

DISTRICT COURT
CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,

Plaintiff,

CASE NO. A-20-822273-C
DEPT. 13

vs.

**PLAINTIFF’S REPLY TO DEFENDANTS’
LIMITED OPPOSITION
TO MOTION TO CONFIRM
ARBITRATION AWARD AND
OPPOSITION TO DEFENDANTS’
COUNTERMOTION TO MODIFY
AWARD PER NRS 38.242**

FIRST 100, LLC, a Nevada Limited Liability
Company; FIRST ONE HUNDRED
HOLDINGS, LLC, a Nevada limited liability
company aka 1st ONE HUNDRED HOLDINGS
LLC, a Nevada Limited Liability Company,

Defendants.

**Hearing Date: November 2, 2020
Hearing Time: 9:00am**

Plaintiff TGC/FARKAS FUNDING, LLC (“Plaintiff”), through counsel, Garman Turner Gordon LLP, submits this Reply to Defendants’ Limited Opposition to Motion to Confirm Arbitration Award and Opposition to Defendants’ Countermotion to Modify Award Per NRS 38.242.

This Opposition and Reply is based upon the following Memorandum of Points and Authorities, the pleadings and papers on file, and any oral argument permitted by the Court at a hearing of the matter.

...
...
...
...

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**

3 **INTRODUCTION**

4 By their Countermotion, Defendants improperly ask this Court to substantively modify the
5 Final Award by inserting a requirement that Plaintiff pays Defendants up-front, an unspecified
6 amount as a condition precedent for assembling business records they have been ordered to
7 produce to Plaintiff—their member. Plaintiffs’ request seeks relief contrary to controlling law and
8 the parties’ arbitration agreement. Further, Defendants never raised this issue in the Arbitration,
9 thereby waiving it. Quite simply, Nevada law does not permit Defendants to go through the
10 arbitration process only to assert a new claim to the Court post-award. The Arbitrators’ order to
11 produce the requested documents must be confirmed as-is.

12 Notably, Defendants have improperly resisted their obligation to provide the requested
13 information to Plaintiff for three years. The Final Award issued by the 3-arbitrator panel should
14 be confirmed and the meritless Countermotion, which is just another tactic to delay fulfillment of
15 their production obligations, should be denied.

16 **II.**

17 **LEGAL ARGUMENT.**

18 **A. There are no grounds for modification of the award.**

19 The district court’s power of review of an arbitration award is limited to the statutory
20 grounds provided in the Uniform Arbitration Act. *Mausbach v. Lemke*, 110 Nev. 37, 42, 866 P.2d
21 1146, 1149–50 (1994). Specifically, NRS 38.242 prescribes that a district court may modify or
22 correct an award in one of three circumstances, none of which are present here.:

- 23 (1) if the arbitrator made an “evident mathematical miscalculation or a mistake in
24 the description of a person, thing or property in the award”;
25 (2) if the “arbitrator has made an award on a claim not submitted to the arbitrator”;
or
(3) if the award “is imperfect in a matter of form” that does not affect the merits of
the decision.

26 *Manor Health Care Ctr., Inc. v. Monsour*, 126 Nev. 735, 367 P.3d 796 (2010) (quoting NRS
27 38.242(1)).

1 In the Final Award, pursuant to the relevant operating agreement and NRS 86.241, the
2 Arbitrators, in addition to awarding Plaintiff a monetary judgment, ordered that Defendants “make
3 all the requested documents and information available from both companies to [Plaintiff] for
4 inspection and copying.” Motion at Exhibit 1, p.5. Defendants now request that the Court modify
5 the Final Award to require that Plaintiff pay a third-party to assemble and produce the requested
6 “documents and information.” While Defendants claim that the “modification” corrects an
7 “imperfection in a matter of form” of the award—it does not—it actually alters the merits of the
8 decision, supplants the Arbitrators’ discretion, and imposes financial conditions upon Plaintiff, all
9 of which are strictly prohibited by NRS 38.242.

10 Specifically, no where in the Final Award did the Arbitrators condition the inspection of
11 records upon Plaintiff’s payment of “fees and costs.” By inserting such a condition, the Court
12 would change the substance of the award and create a financial obligation by Plaintiff to
13 Defendants. While the Arbitrators may have had the discretion to condition the inspection upon
14 the payment of costs, they chose not to do so as evidenced by the fact that there is no such
15 requirement in the Final Order. Defendants cannot now seek to modify the Final Order to include
16 relief that was not provided—or requested.

17 **B. The Court Lacks Jurisdiction to Consider the Dispute Over Defendants’ Demand**
18 **for Pre-Payment of Production Costs.**

19 Defendants’ modification request is an improper attempt to have this Court consider and
20 resolve a substantive argument about the parties’ rights and obligations under the First Amended
21 Operating Agreement of First 100, LLC (“Operating Agreement”). See Counter-motion at 3 (“the
22 parties have already agreed to such an arrangement pursuant to the First 100 Operating
23 Agreement.”). The Operating Agreement requires that “Any dispute, controversy or claim arising
24 out of or relating to this Agreement or the breach thereof shall solely be settled by arbitration.
25 Motion at Ex. 2 (Operating Agreement) § 13.9. It further states that “[t]he parties specifically
26 waive any rights to litigation as a dispute resolution methodology and further divest any Court of
27 jurisdiction to determine disputes between the parties to this Agreement.” *Id.*

28

1 The proper forum for Defendants to argue that the Operating Agreement or NRS 86.243
2 contemplated and required Plaintiff's pre-payment for producing the requested documents was the
3 Arbitration, not in response to a motion before this Court to confirm the Final Award. Not only
4 does the Court lack the jurisdiction to make any such determination, but Defendants never raised
5 a claim for expenses to be awarded at any time in the Arbitration. See Ex. 1 (Final Award) to
6 Motion at 3 (list of all defenses raised by Defendants in the Arbitration did not include pre-payment
7 argument). Defendant's Countermotion is an improper request for this Court to reevaluate the
8 Arbitrators' decision concerning the parties' contractual rights and obligations.

9 In fact, NRS 86.243(3) provides that the Arbitrators¹ "may" in their "discretion, prescribe
10 any limitations or conditions with reference to the obtaining or examining of records" or "order
11 the company to furnish to the demanding member or manager the records . . . on the condition that
12 the demanding member or manager first pay to the company the reasonable cost of obtaining and
13 furnishing such records and on such other conditions as the [Arbitrators] deems appropriate." NRS
14 86.243(3)(b), (c). Plainly, the Arbitrators "may" impose conditions that they found appropriate,
15 including an award of fees and costs. They, however, did not do so. The Countermotion therefore
16 requests that the Court impose a condition that was subject to the exclusive discretion of the
17 Arbitrators.

18 As the Court's subject matter jurisdiction does not include altering the substance of the
19 arbitration award, it lacks the jurisdiction to impose a financial condition as a condition precedent
20 to the inspection of records. *New Shy Clown Casino, Inc. v. Baldwin*, 103 Nev. 269, 271, 737 P.2d
21 524, 525–26 (1987). Defendants request that the Court substitute its discretion for that of the
22 Arbitrators lacks a basis in fact or law.

23 **C. Defendants Failed to Seek Relief from the Arbitrators.**

24 As discussed, the Operating Agreement required the dispute concerning pre-payment to
25 have been addressed in Arbitration. Defendants failed to raise the issue in Arbitration. Moreover,
26 to the extent they seek reformation of the Final Award on a theory that it was merely an oversight

27 _____
28 ¹ As the dispute was subject to arbitration, the Arbitrators had the rights conferred to the district court in NRS 86.243.

1 by the panel not to include such a finding, NRS 38.237 requires that a petition be made *to the*
2 *Arbitrators* to clarify the Final Award.

3 Defendants are also now time-barred from seeking clarification of the award from the
4 Arbitrators. NRS 38.237(2) provides that a party must move for clarification from the Arbitrators
5 within twenty (20) days of receiving notice of the Final Award. Defendants never moved for an
6 order of clarification. As more than twenty (20) days has elapsed since the issuance of the Final
7 Award, Defendants have waived their ability to do so. Defendants' Countermotion cannot cure
8 their failure to petition the panel for clarification and, as presented to this Court, is an improper
9 attempt to litigate an issue they failed to raise.

10 **III.**

11 **CONCLUSION**

12 Based upon the foregoing, Plaintiff respectfully requests the Court confirm the Final Award
13 and deny Defendants' Countermotion.

14 DATED this ___ day of October, 2020.

15 GARMAN TURNER GORDON LLP

16
17 /s/ Erika Pike Turner
18 ERIKA PIKE TURNER
19 Nevada Bar No. 6454
20 7251 Amigo Street, Suite 210
21 Tel: (725) 777-3000
22 Fax: (725) 777-3112
23 *Attorneys for Plaintiff*

24
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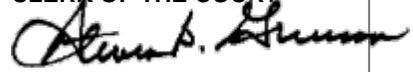
CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 26th day of October, 2020, he served a copy of the **PLAINTIFF’S REPLY/OPPOSITION TO DEFENDANTS’ LIMITED OPPOSITION TO MOTION TO CONFIRM ARBITRATION AWARD AND COUNTERMOTION TO MODIFY AWARD PER NRS 38.242**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
 djb@mgalaw.com
Attorneys for Defendants

/s/ Dylan T. Ciciliano
An Employee of
GARMAN TURNER GORDON LLP

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1 **ORDR**
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 7251 Amigo Street, Suite 210
7 Las Vegas, Nevada 89119
8 Tel: (725) 777-3000
9 Fax: (725) 777-3112
10 *Attorneys for Plaintiff*

6 **DISTRICT COURT**

7 **CLARK COUNTY, NEVADA**

8 TGC/FARKAS FUNDING, LLC,
9 Plaintiff,

CASE NO. A-20-822273-C
DEPT. 13

10 vs.

**ORDER GRANTING PLAINTIFF'S
MOTION TO CONFIRM ARBITRATION
AWARD AND DENYING DEFENDANTS'
COUNTERMOTION TO MODIFY
AWARD; AND JUDGMENT**

11 FIRST 100, LLC, a Nevada Limited Liability
12 Company; FIRST ONE HUNDRED
13 HOLDINGS, LLC, a Nevada limited liability
14 company aka 1ST ONE HUNDRED HOLDINGS
15 LLC, a Nevada Limited Liability Company,

**Date of Hearing: November 2, 2020
Time of Hearing: 9:00 a.m.**

16 Defendants.

16 On October 1, 2020, Plaintiff TGC/FARKAS FUNDING, LLC (“Plaintiff”) filed the
17 *Motion to Confirm Arbitration Award* (the “Motion”). Defendants First 100, LLC and First One
18 Hundred Holdings, LLC (“Defendants”) filed their *Limited Opposition to Confirm Arbitration*
19 *Award* (the “Opposition”) and *Countermotion to Modify Award Per NRS 38.242* (the
20 “Countermotion”) on October 15, 2020, and Plaintiff filed its *Reply to Defendants’ Limited*
21 *Opposition to Confirm Arbitration Award and Countermotion to Modify Award Per NRS 38.242*
22 (the “Reply”) on October 26, 2020. This Court held a hearing on November 2, 2020.

23 The Court, having considered the Motion, the Opposition and Countermotion, and the
24 Reply, as well as the oral argument of counsel, finds and concludes as follows:

25 On January 7, 2020, Plaintiff initiated an arbitration with the American Arbitration
26 Association against Defendants relating to whether Plaintiff was entitled to the production and
27 examination of Defendants’ records. The requested records were set forth in Exhibit 13 to
28

1 Claimant’s Appendix to Claimant’s Arbitration Brief.

2 On September 15, 2020, the Arbitration Panel issued its Decision and Award of Arbitration
3 Panel (the “Final Award”) (1) ordering that Defendants “forthwith, but no later than ten (10)
4 calendar days from the date of [the Final Award], make all the requested documents and
5 information available from both companies to [Plaintiff] for inspection and copying,” and (2)
6 awarding attorneys’ fees and arbitration panel fees to Plaintiff in the total sum of \$23,975.00,
7 which sum was also to be paid within ten (10) calendar days from the date of the Final Award.

8 Plaintiff served Defendants with this action and Motion on October 7 and October 8, 2020.

9 Defendants are both Nevada limited-liability companies and subject to the Court’s
10 jurisdiction.

11 NRS 38.239 authorizes an applicant to move for confirmation of a final arbitration
12 decision. The plain language of the statute requires this Court to confirm the Final Award unless
13 it is modified, corrected, or vacated. Furthermore, Defendants do not oppose the confirmation of
14 the Final Award.

15 Instead, Defendants’ Countermotion requests that the Court modify the Final Award to
16 require Plaintiff to pay, in advance, fees and costs associated with Defendants’ production of the
17 requested company records. Defendants contend that the requested modification is permitted
18 under NS 38.242(1)(c).

19 NRS 38.242 allows an award to be modified or corrected, but only if:

- 20 (a) There was an evident mathematical miscalculation or an evident mistake in
21 the description of a person, thing or property referred to in the award;
22 (b) The arbitrator has made an award on a claim not submitted to the arbitrator
23 and the award may be corrected without affecting the merits of the decision upon
24 the claims submitted; or
25 (c) The award is imperfect in a matter of form not affecting the merits of the
26 decision on the claims submitted.

27 NRS 38.242(1). The Court finds that none of these situations apply here.

28 The Court finds that the modification requested in the Countermotion is not a mere
correction of an “imperfection in a matter of form,” but instead seeks to alter the merits of the Final
Award to award Defendants relief that was absent from the Final Award.

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Based upon the foregoing, and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion to Confirm Arbitration Award is **GRANTED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff TGC/FARKAS FUNDING, LLC, shall have **JUDGMENT** jointly and severally against Defendants FIRST 100, LLC, and FIRST ONE HUNDRED HOLDINGS, LLC, aka 1ST ONE HUNDRED HOLDINGS, LLC, in the amount of TWENTY-THREE THOUSAND, NINE HUNDRED AND SEVENTY-FIVE DOLLARS (\$23,975.00), plus statutory interest, to be adjusted as set forth in NRS 17.130, which as of the date of the entry of Judgment was \$3.45 per day, from October 8, 2020, until this Judgment is satisfied.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants shall make all the requested documents and information available from both companies to Plaintiff for inspection and copying, as set forth in the Final Award and Exhibit 13 to Claimant's Appendix to Claimant's Arbitration Brief.

IT IS FURTHER ORDERED that Defendants' Countermotion to Modify Award Per NRS 38.242 is **DENIED**.

IT IS SO ORDERED this 17 day of November, 2020.



DISTRICT JUDGE

1 *Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendants'*
2 *Countermotion to Modify Award; and Judgment*

A-20-822273-C

3 Respectfully submitted:

Approved as to form and content:

4 GARMAN TURNER GORDON LLP

MAIER GUTIERREZ & ASSOCIATES

5 */s/ Dylan T. Ciciliano*

/s/ Danielle J. Barraza

6 ERIKA PIKE TURNER

JOSEPH A. GUTIERREZ

7 Nevada Bar No. 6454

Nevada Bar No. 9046

8 DYLAN T. CICILIANO

DANIELLE J. BARRAZA

9 Nevada Bar No. 12348

Nevada Bar No. 13822

10 7251 Amigo Street, Suite 210

8816 Spanish Ridge Avenue

11 Tel: (725) 777-3000

Las Vegas, Nevada 89148

12 Fax: (725) 777-3112

Attorneys for Defendants

13 *Attorneys for Plaintiff*

From: Danielle Barraza <djb@mgalaw.com>
Sent: Thursday, November 12, 2020 11:40 AM
To: Dylan Ciciliano
Cc: Erika Turner; Joseph Gutierrez; Max Erwin
Subject: RE: Order Re: Motion to Confirm

Yes, you can affix my e-signature on this version.

Thanks,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

From: Dylan Ciciliano <dciciliano@Gtg.legal>
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Cc: Erika Turner <eturner@Gtg.legal>; Joseph Gutierrez <jag@mgalaw.com>; Max Erwin <MErwin@Gtg.legal>
Subject: RE: Order Re: Motion to Confirm

Danielle,

I accepted your redline changes. Can I affix your signature?

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

GARMAN | TURNER | GORDON
7251 AMIGO STREET, SUITE 210
LAS VEGAS, NV 89119

Visit us online at www.gtg.legal

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Subject: RE: Order Re: Motion to Confirm

Dylan, I'm not seeing that the Court actually made the majority of the findings set forth in the drafted order. In any event, we have kept most of the findings in-tact and made only a few redlines in an effort to come to an agreement on this. See attached.

Thank you,

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djb@mgalaw.com | www.mgalaw.com

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Sent: Thursday, November 12, 2020 10:15 AM
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Cc: Erika Turner <eturner@Gtg.legal>; Joseph Gutierrez <jag@mgalaw.com>; Max Erwin <MErwin@Gtg.legal>
Subject: FW: Order Re: Motion to Confirm

Danielle,

I wanted to follow up on the attached. We intend on submitting the order to the Court by noon tomorrow.

Thank you,

Dylan

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

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Cc: Erika Turner <eturner@Gtg.legal>; jag@mgalaw.com; Max Erwin <MErwin@Gtg.legal>
Subject: Order Re: Motion to Confirm

Danielle,

Attached is the draft order on Plaintiff TGC/FARKAS FUNDING, LLC's *Motion to Confirm Arbitration Award*. Please let me know if I may affix your signature.

Thank you,

Dylan

Dylan T. Ciciliano, Esq.

Attorney

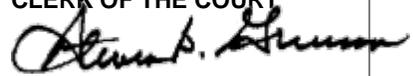
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1 **NEOJ**
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 DYLAN T. CICILIANO
7 Nevada Bar. No. 12348
8 Email: dciciliano@gtg.legal
9 7251 Amigo Street, Suite 210
10 Las Vegas, Nevada 89119
11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,
11
12 Plaintiff,

CASE NO. A-20-82273-C
DEPT. 13

13 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFF'S MOTION TO
CONFIRM ARBITRATION AWARD AND
DENYING DEFENDANTS'
COUNTERMOTION TO MODIFY
AWARD; AND JUDGMENT**

16 Defendants.

17 **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION TO CONFIRM**
18 **ARBITRATION AWARD AND DENYING DEFENDANTS' COUNTERMOTION TO**
19 **MODIFY AWARD; AND JUDGMENT**

19 PLEASE TAKE NOTICE that an *Order Granting Plaintiff's Motion to Confirm Arbitration*
20 *Award and Denying Defendants' Countermotion to Modify Award; and Judgment*, a copy of which
21 is attached hereto, was entered in the above-captioned case on the 17th day of November, 2020.

22 DATED this 17th day of November, 2020.

23 GARMAN TURNER GORDON LLP

24 */s/ Erika Pike Turner*

25 ERIKA PIKE TURNER (NV Bar No. 6454)
26 DYLAN T. CICILIANO (NV Bar. No. 12348)
27 7251 Amigo Street, Suite 210
28 Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

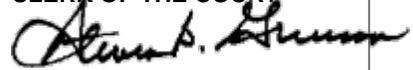
The undersigned, hereby certifies that on the 17th day of November, 2020, he served a copy of the **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S MOTION TO CONFIRM ARBITRATION AWARD AND DENYING DEFENDANTS' COUNTERMOTION TO MODIFY AWARD; AND JUDGMENT**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
 djb@mgalaw.com
Attorneys for Defendants

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

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1 **ORDR**
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5 Email: eturner@gtg.legal
6 7251 Amigo Street, Suite 210
7 Las Vegas, Nevada 89119
8 Tel: (725) 777-3000
9 Fax: (725) 777-3112
10 *Attorneys for Plaintiff*

6 **DISTRICT COURT**
7
8 **CLARK COUNTY, NEVADA**

8 TGC/FARKAS FUNDING, LLC,
9
10 Plaintiff,

CASE NO. A-20-822273-C
DEPT. 13

10 vs.

**ORDER GRANTING PLAINTIFF'S
MOTION TO CONFIRM ARBITRATION
AWARD AND DENYING DEFENDANTS'
COUNTERMOTION TO MODIFY
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11 FIRST 100, LLC, a Nevada Limited Liability
12 Company; FIRST ONE HUNDRED
13 HOLDINGS, LLC, a Nevada limited liability
14 company aka 1st ONE HUNDRED HOLDINGS
15 LLC, a Nevada Limited Liability Company,

**Date of Hearing: November 2, 2020
Time of Hearing: 9:00 a.m.**

14 Defendants.

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19 *Award* (the “Opposition”) and *Countermotion to Modify Award Per NRS 38.242* (the
20 “Countermotion”) on October 15, 2020, and Plaintiff filed its *Reply to Defendants’ Limited*
21 *Opposition to Confirm Arbitration Award and Countermotion to Modify Award Per NRS 38.242*
22 (the “Reply”) on October 26, 2020. This Court held a hearing on November 2, 2020.

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25 On January 7, 2020, Plaintiff initiated an arbitration with the American Arbitration
26 Association against Defendants relating to whether Plaintiff was entitled to the production and
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4 calendar days from the date of [the Final Award], make all the requested documents and
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6 awarding attorneys’ fees and arbitration panel fees to Plaintiff in the total sum of \$23,975.00,
7 which sum was also to be paid within ten (10) calendar days from the date of the Final Award.

8 Plaintiff served Defendants with this action and Motion on October 7 and October 8, 2020.

9 Defendants are both Nevada limited-liability companies and subject to the Court’s
10 jurisdiction.

11 NRS 38.239 authorizes an applicant to move for confirmation of a final arbitration
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13 it is modified, corrected, or vacated. Furthermore, Defendants do not oppose the confirmation of
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23 and the award may be corrected without affecting the merits of the decision upon
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26 decision on the claims submitted.

27 NRS 38.242(1). The Court finds that none of these situations apply here.

28 The Court finds that the modification requested in the Countermotion is not a mere
correction of an “imperfection in a matter of form,” but instead seeks to alter the merits of the Final
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Based upon the foregoing, and good cause appearing therefore,

IT IS HEREBY ORDERED that Plaintiff's Motion to Confirm Arbitration Award is **GRANTED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Plaintiff TGC/FARKAS FUNDING, LLC, shall have **JUDGMENT** jointly and severally against Defendants FIRST 100, LLC, and FIRST ONE HUNDRED HOLDINGS, LLC, aka 1ST ONE HUNDRED HOLDINGS, LLC, in the amount of TWENTY-THREE THOUSAND, NINE HUNDRED AND SEVENTY-FIVE DOLLARS (\$23,975.00), plus statutory interest, to be adjusted as set forth in NRS 17.130, which as of the date of the entry of Judgment was \$3.45 per day, from October 8, 2020, until this Judgment is satisfied.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendants shall make all the requested documents and information available from both companies to Plaintiff for inspection and copying, as set forth in the Final Award and Exhibit 13 to Claimant's Appendix to Claimant's Arbitration Brief.

IT IS FURTHER ORDERED that Defendants' Countermotion to Modify Award Per NRS 38.242 is **DENIED**.

IT IS SO ORDERED this 17 day of November, 2020.



DISTRICT JUDGE

1 *Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendants'*
2 *Counter-motion to Modify Award; and Judgment*

A-20-822273-C

3 Respectfully submitted:

Approved as to form and content:

4 GARMAN TURNER GORDON LLP

MAIER GUTIERREZ & ASSOCIATES

5 */s/ Dylan T. Ciciliano*

/s/ Danielle J. Barraza

6 ERIKA PIKE TURNER

JOSEPH A. GUTIERREZ

7 Nevada Bar No. 6454

Nevada Bar No. 9046

8 DYLAN T. CICILIANO

DANIELLE J. BARRAZA

9 Nevada Bar No. 12348

Nevada Bar No. 13822

10 7251 Amigo Street, Suite 210

8816 Spanish Ridge Avenue

11 Tel: (725) 777-3000

Las Vegas, Nevada 89148

12 Fax: (725) 777-3112

Attorneys for Defendants

13 *Attorneys for Plaintiff*

From: Danielle Barraza <djb@mgalaw.com>
Sent: Thursday, November 12, 2020 11:40 AM
To: Dylan Ciciliano
Cc: Erika Turner; Joseph Gutierrez; Max Erwin
Subject: RE: Order Re: Motion to Confirm

Yes, you can affix my e-signature on this version.

Thanks,

Danielle J. Barraza | Associate
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
djb@mgalaw.com | www.mgalaw.com

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Cc: Erika Turner <eturner@Gtg.legal>; Joseph Gutierrez <jag@mgalaw.com>; Max Erwin <MErwin@Gtg.legal>
Subject: RE: Order Re: Motion to Confirm

Danielle,

I accepted your redline changes. Can I affix your signature?

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

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djb@mgalaw.com | www.mgalaw.com

From: Dylan Ciciliano <dciciliano@Gtg.legal>
Sent: Thursday, November 12, 2020 10:15 AM
To: Danielle Barraza <djb@mgalaw.com>
Cc: Erika Turner <eturner@Gtg.legal>; Joseph Gutierrez <jag@mgalaw.com>; Max Erwin <MErwin@Gtg.legal>
Subject: FW: Order Re: Motion to Confirm

Danielle,

I wanted to follow up on the attached. We intend on submitting the order to the Court by noon tomorrow.

Thank you,

Dylan

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

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Danielle,

Attached is the draft order on Plaintiff TGC/FARKAS FUNDING, LLC's *Motion to Confirm Arbitration Award*. Please let me know if I may affix your signature.

Thank you,

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Dylan T. Ciciliano, Esq.

Attorney

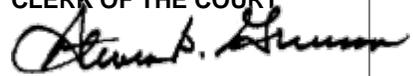
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11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,

11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,

18 Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**MOTION FOR ATTORNEYS' FEES AND
COSTS**

(HEARING REQUESTED)

17 Plaintiff TGC/FARKAS FUNDING, LLC ("Plaintiff"), through counsel, Garman Turner
18 Gordon LLP, hereby files its Motion for Attorneys' Fees and Costs ("Motion") against Defendants,
19 FIRST 100, LLC and FIRST ONE HUNDRED HOLDINGS, LLC ("Defendants").

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1 This Motion is based on the Following Memorandum of Points and Authorities, the
2 Declaration of Dylan T. Ciciliano (the "Ciciliano Dec."), attached hereto as "**Exhibit 1**," the papers
3 and pleadings already on file herein, and any oral argument the Court may permit at the hearing of
4 this matter.

5 **MEMORANDUM OF POINTS AND AUTHORITIES**

6 **I.**

7 **INTRODUCTION**

8 Nevada Revised Statute 38.243(3) provides that if a party contests or seeks the
9 modification of an arbitration award, that upon application, the prevailing party may be awarded
10 reasonable attorney's fees and other reasonable litigation costs arising after the arbitration award.
11 Plaintiff prevailed, confirming the Final Award and defeating Defendants request to modify the
12 award. Thus, Plaintiff should be awarded its fees and costs .

13 In exchange for \$1,000,000 and other consideration, Plaintiff became a member of the
14 limited liability company Defendants. Pursuant to Defendants' operating agreements and NRS 86,
15 Plaintiff has the right to inspect Defendants' book and records. After Defendants systematically
16 denied Plaintiff's right to access the books and records, Plaintiff successfully brought an American
17 Arbitration Association arbitration (the "Arbitration"). On September 15, 2020, the arbitration
18 panel entered its final award and Defendants were ordered to produce business records and pay
19 Plaintiffs' attorneys' fees and costs (the "Final Award"). (Final Award, Exhibit 1-A). In rendering
20 their decision, the three-member arbitration panel concluded that Defendants "spent more than
21 three years resisting the requested inspection" in a "**long and bad faith effort** . . . to avoid their
22 statutory and contractual duties to [Plaintiff] to produce requested records." (*Id.* at p. 4). To date,
23 Defendants have not produced the records or paid Plaintiffs' fees and costs.

24 As a result, Plaintiff moved to confirm the Final Award pursuant to NRS 38.239.
25 Defendants again attempted to defeat Plaintiff's right to the business records by requesting that the
26 Court modify the Final Award pursuant to NRS 38.242 and impose an additional hurdle on
27 Plaintiff's unequivocal right to inspect records—the payment of unknown fees and costs. The
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1 Court rejected Defendants’ requests and confirmed the Final Award. As the prevailing party,
2 Plaintiff should be awarded fees in the amount of \$8,447.00 and costs in the amount of \$613.20.

3 **II.**

4 **STATEMENT OF RELEVANT FACTS**

5 Plaintiff “invested \$1 million into the business of [Defendants] in exchange for a”
6 membership interest in Defendants (Final Award, Exhibit 1-A, at p. 2).

7 Beginning on May 2, 2017, Plaintiff made requests to inspect Defendants’ records pursuant
8 to its status as a member of Defendants. (*Id.*).

9 Immediately thereafter, despite conceding that Plaintiff were members, Defendants’
10 refused to produce the company records, which the Arbitration panel found to be “the first in a
11 **long and bad faith effort by [Defendants] to avoid their statutory and contractual duties** to a
12 member to produce requested records.” (*Id.*)(emphasis added).

13 Plaintiff made an additional demand for records on September 13, 2019. (*Id.* at p. 3).
14 Defendants again refused. (*Id.*).

15 Plaintiff filed its arbitration demand on January 7, 2020, in order to enforce its rights as a
16 member of Defendants to obtain business records from Defendants.

17 On September 15, 2020, the Panel entered its Final Award, wherein it compelled
18 Defendants to produce the requested records. (*Id.*). Furthermore, pursuant to Section 13.9 of
19 Defendants’ operating agreements, the Panel awarded Plaintiff all of its fees and costs related to
20 the arbitration in the amount of \$23,975.00. (*Id.* at p. 5).

21 Plaintiff moved to confirm the Final Award on October 1, 2020. (*See* Motion to Confirm
22 Arbitration Award, on file herein).

23 Defendants filed a limited opposition to the Motion to Confirm Arbitration Award and
24 requested that the Court modify the award per NRS 38.242. (*See* Defendants’ Limited Opposition
25 to Motion to Confirm Arbitration Award and Countermotion to Modify Award per NRS 38.252
26 (the “Countermotion to Modify”), on file herein).

27 On November 17, 2020, the Court entered its order granting the Motion to Confirm
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1 Arbitration Award and denying the Countermotion to Motion. (*See* Order Granting Plaintiff’s
2 Motion to Confirm Arbitration Award and Denying Defendants’ Countermotion to Modify Award;
3 and Judgment, on file herein).

4 **III.**

5 **LEGAL ARGUMENT**

6 **A. Plaintiff should be awarded its attorneys’ fees and costs and .**

7 Pursuant to NRS 38.243(3), a district court may, “[o]n application of a prevailing party to
8 a contested judicial proceeding under NRS 38.239, 38.241 or 38.242, ... add reasonable attorney[
9] fees and other reasonable expenses of litigation incurred ... after the [arbitration] award is made
10 to a judgment confirming... an award.” *Artemis Expl. Co. v. Ruby Lake Estates Homeowner's Ass'n*,
11 464 P.3d 124 (Nev. 2020); *Sanchez v. Elizondo*, , 2018 WL 5833052, at *1 (D. Nev. Nov. 7, 2018)

12 Here, this proceeding was contested, as Defendants sought to modify the arbitration award
13 pursuant to NRS 38.242. (*See* Countermotion to Modify). As the Court denied the Countermotion
14 to Modify, Plaintiff is the prevailing party to a contested judicial proceeding and may apply for
15 fees and costs under NRS 38.243.

16 The Court should enter an award of fees and costs here as there is ample evidence that
17 Defendants brought the Countermotion to Modify to delay entry of the Final Award and to increase
18 Plaintiff’s costs. Specifically, the Arbitrators have already concluded that Defendants efforts to
19 deny Plaintiff’s access to records is part of a “**long and bad faith effort by [Defendants] to avoid**
20 **their statutory and contractual duties.**” (Final Award at p. 2)(emphasis added). The
21 Countermotion to Modify and opposition to the Final Award was in furtherance of Defendants’
22 bad faith efforts. After the Panel ordered Defendants to produce the records Plaintiff requested,
23 Defendants again interfered with Plaintiff’s rights vis-à-vis their Countermotion to Modify. It is
24 blatantly clear that Defendants have and will continue to take every effort to deny Plaintiff’s
25 statutory and contractual rights—likely for the purpose of concealing what Defendants have done
26 with Plaintiff’s investment. Moreover, an award of fees is consistent with Defendants operating
27 agreement, which contains a mandatory prevailing party provision. (*See* Motion to Confirm, on
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1 file herein, at Exh. 2, Sect 13.9 (stating “the arbitrations . . . shall award reimbursement of
2 attorney’s fees and other costs”). Accordingly, the law and the Parties’ operating agreement
3 recognizes Plaintiff’s right to recover fees and costs from Defendants for this proceeding. Thus,
4 the Court should award Plaintiff its fees and costs from the date of the Final Award pursuant to
5 NRS 38.243.

6 **B. Plaintiff’s fees are reasonable under *Brunzell*.**

7 While the trial court has discretion to determine the reasonable amount of attorney fees,
8 the court must evaluate the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev.
9 345, 349, 455 P.2d 31, 33 (1969), the “*Brunzell* factors.” See *Miller v. Wilfong*, 121 Nev. 619,
10 623, 119 P.3d 727, 730 (2005); see also *Shuette v. Beazer Homes Holdings Corp.*, 121 Nev. 837,
11 864-65, 124 P.3d 530, 548-49 (2005). The *Brunzell* factors are as follows:

- 12 (1) the advocate's qualities, including ability, training, education, experience,
13 professional standing, and skill;
- 14 (2) the character of the work, including its difficulty, intricacy, importance, as
15 well as the time and skill required, the responsibility imposed, and the
16 prominence and character of the parties when affecting the importance of
17 the litigation;
- 18 (3) the work performed, including the skill, time, and attention given to the
19 work; and
- 20 (4) the result—whether the attorney was successful and what benefits were
21 derived.

22 *Wilfong*, 121 Nev. at 623, 119 P.3d at 730; *Shuette*, 121 Nev. at 865, 124 P.3d at 549.

23 **1. Plaintiff was represented by qualified counsel.**

24 The Ciciliano Decl. attached hereto discusses the experience of Plaintiff’s counsel. See
25 also the biographies at the Garman Turner Gordon LLP website, url: gtg.legal.

26 **2. This matter has significant importance, as it was Plaintiff’s sole means to
27 enforce its rights..**

28 While the action was short-lived, a member of a limited liability company has the
fundamental right to inspect the books and records of the company. Here, Defendants have
absconded with \$1,000,000 of Plaintiff’s investment. As found by the Panel, through bad faith,
Defendants actively denied Plaintiff’s statutory and contractual rights to inspect Defendants books

1 and records, including but not limited to ascertaining what happened to Plaintiff's investment. As
2 a result, it was necessary to both bring the arbitration and this action to confirm the Final Award.
3 Thus, this action has significant importance.

4 **3. The work performed by GTG was reasonable and necessary.**

5 As set forth above, the work performed by GTG was reasonable and necessary. GTG's
6 billing records establish that Plaintiff seeks attorneys' fees related to confirming the arbitration
7 award and opposing the Countermotion to Modify. Each of the billing entries in **Exhibit 1-B** are
8 related to these discrete and necessary tasks. Given the importance of the issues, as well as the
9 comprehensive briefing, 24.2 hours at a cost of \$8,447.00 is reasonable.

10 **4. Plaintiff prevailed, such that the fourth factor weighs in its favor.**

11 The fourth *Brunzell* factor speaks to the results achieved. Here, Plaintiff undeniably
12 prevailed and successfully defeated the Countermotion to Modify. The success obtained therefore
13 weighs in favor of granting Plaintiff its costs.

14 **C. Plaintiff's costs are reasonable.**

15 As set forth in the attached Memorandum of Costs, **Exhibit 1-C**, Plaintiff's costs in the
16 amount of \$613.20 are related purely to filing fees and service costs. Accordingly, they are
17 allowable and reasonable.

18 **IV.**

19 **CONCLUSION**

20 Based upon the foregoing, Plaintiff respectfully requests that the Court grant the instant
21 Motion, and award Plaintiff an award of attorneys' fees in the amount of \$8,447.00, and costs in
22 the amount of \$613.20.

23 DATED this 17th day of November, 2020.

24 GARMAN TURNER GORDON LLP

25 /s/ Dylan T. Ciciliano
26 ERIKA PIKE TURNER (NV Bar No. 6454)
27 DYLAN T. CICILIANO (NV Bar. No. 12348)
28 7251 Amigo Street, Suite 210
Tel: (725) 777-3000/Fax: (725) 777-3112
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 17th day of November, 2020, he served a copy of the **MOTION FOR ATTORNEYS’ FEES AND COSTS**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File &

Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
djb@mgalaw.com
Attorneys for Defendants

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

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Exhibit 1

DECL

GARMAN TURNER GORDON LLP
ERIKA PIKE TURNER
Nevada Bar No. 6454
Email: eturner@gtg.legal
DYLAN T. CICILIANO
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Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,
Plaintiff,

vs.

FIRST 100, LLC, a Nevada Limited Liability Company; FIRST ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company aka 1st ONE HUNDRED HOLDINGS LLC, a Nevada Limited Liability Company,
Defendants.

CASE NO. A-20-822273-C
DEPT. 13

DECLARATION OF DYLAN T. CICILIANO IN SUPPORT OF MOTION FOR ATTORNEYS' FEES AND COSTS

I, Dylan T. Ciciliano, declare as follows:

1. I am an attorney licensed to practice law in the State of Nevada and am an associate in the law firm of Garman Turner Gordon LLP, counsel of record for Plaintiff TGC/Farkas Funding, LLC (“Plaintiff”) in the above-captioned case. In such capacity, I have developed personal knowledge regarding the facts set forth below.

2. I make this Declaration in support of the Motion for Attorneys’ Fees and Costs (the “Motion”).

3. Attached hereto as **Exhibit 1-A** is a true and correct copy of the September 15, 2020 Decision and AWARD of Arbitration Panel (1) Compelling Production of Company Records; and (2) Ordering Reimbursement of Claimant’s Attorneys’ Fees and Costs (the “Final Award”) entered in American Arbitration Association Case No. 01-20-0000-0613.

4. In the present action, Plaintiff was represented by GTG. Due to GTG’s bankruptcy

1 practice, where hourly rates are frequently scrutinized by the Bankruptcy Court District of Nevada
2 and the Department of Justice, GTG frequently evaluates its own attorneys' rates for
3 reasonableness in the community. I am directly involved in the process, which involves sampling
4 rates of other attorneys from around the community. While I am primarily a litigator, litigators at
5 GTG appear semi-frequently in Bankruptcy Court, particularly on commercial law disputes, and
6 therefore it is essential that our rates are reasonable. As such, I have personal knowledge of fees
7 charged in Clark County, Nevada, and particularly relating to commercial law matters.

8 5. Attorney rates at GTG range from \$265/hour to \$850/hour.

9 6. Erika Pike Turner was the primary attorney and partner in charge of Plaintiff's
10 representation. Plaintiff was also represented by Andrew LaJoie, Jared Sechrist, Walter Fick and
11 me in the above-captioned case.

12 7. I have more than 8 years of experience litigating commercial disputes, including at
13 numerous bench and jury trials. I have been consistently recognized as an up and coming attorney
14 by my peers. I also hold a master's degree in economics, which is particularly valuable in
15 commercial disputes. My billing rate on this matter, which is commensurate with, or less than,
16 what is customary in the community for someone of similar qualification and expertise, is \$345.00
17 per hour.

18 8. Ms. Turner has been licensed as a Nevada attorney since 1997, she was named an
19 equity partner at the law firm of Gordon Silver in 2005, and is a founding partner at GTG. I have
20 represented numerous clients in business litigation matters and has substantial trial experience. My
21 billing rate on this matter, which is commensurate with, or less than, what is customary in the
22 community for someone of similar qualification and expertise, is \$535.00 per hour.

23 9. Mr. Sechrist is a GTG attorney and has more than 16 years of experience. Mr.
24 Sechrist was previously a partner at another Nevada law firm and has represented numerous clients
25 in business litigation matters and has substantial trial experience. His billing rate on this matter,
26 which is commensurate with, or less than, what is customary in the community for someone of
27 similar qualification and expertise, is \$400.00 per hour.

28 10. Mr. Fick is a GTG attorney and has more than 3 years of experience. Mr. Fick

1 graduated cum laude from both Princeton University and the William S. Boyd School of Law.
2 Prior to joining GTG, Mr. Fick was a law clerk for Judge Gary Fairman in the Seventh Judicial
3 District Court. Mr. Fick's billing rate on this matter, which is commensurate with, or less than,
4 what is customary in the community for someone of similar qualification and expertise, is \$265.00
5 per hour.

6 11. Mr. LaJoie was a GTG attorney and has more than 3 years of experience. Mr. LaJoie
7 was a law clerk for Judge Mark Denton in the Eighth Judicial District Court. Mr. LaJoie's billing
8 rate on this matter, which is commensurate with, or less than, what is customary in the community
9 for someone of similar qualification and expertise, is \$265.00 per hour.

10 12. Attached hereto as **Exhibit 1-B** is a true and correct copy of GTG's invoices related
11 to this matter, except that they have been redacted for privilege. The fees reflected therein were
12 actually and necessarily incurred by Mr. Saucier.

13 13. A true and correct copy of reasonable and necessary costs incurred by Plaintiff, as
14 reflected in its memorandum of costs, which is attached hereto as **Exhibit 1-C**.

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

17 Executed this 17th day of November, 2020.

18
19 /s/ Dylan T. Ciciliano
20 DYLAN T. CICILIANO, Declarant

Exhibit 1-A



AMERICAN
ARBITRATION
ASSOCIATION®

INTERNATIONAL CENTRE
FOR DISPUTE RESOLUTION®

AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL ARBITRATION TRIBUNAL

In the Matter of the Arbitration between:

Claimant TGC/Farkas Funding, LLC, hereinafter referred to as "Claimant"

-and-

Respondents First 100, LLC, and First One Hundred Holdings, LLC, hereinafter collectively referred to as "Respondents"

AAA Case No: 01-20-0000-0613

Decision and AWARD of Arbitration Panel (1) Compelling Production of Company Records; and (2) Ordering Reimbursement of Claimant's Attorneys' Fees and Costs

The undersigned Arbitrators, having been designated in accordance with the arbitration agreement entered into between the above-named parties¹, and having been duly sworn, and having duly heard the proofs and allegations of the Parties, hereby AWARD as follows:

This matter came before the Panel for a hearing to determine whether Claimant is entitled to production and examination of company records of Respondents. The Parties requested that the Panel not hold an evidentiary hearing but instead render a reasoned decision based on the briefings and documents presented. The Parties presented their briefs; the Panel convened and considered the briefs and evidence; the Panel then requested further evidence regarding the alleged Redemption Agreement. Upon receipt of the additional evidence, the Panel declared the hearing closed and further deliberated. This decision is the product of that deliberation.

¹ During the Preliminary Hearing, the Parties confirmed that party-appointed arbitrators Baker and DiRaimondo were serving as neutral, non-partisan arbitrators for purposes of these proceedings.

Respondents appear to be in the business of purchasing unpaid receivables of HOAs on discounted terms and profiting from those purchases in various ways. Exhibit 1 to Claimant's Appendix to Claimant's Arbitration Brief ("Appendix" or "Appx"). Claimant is an entity owned by Matthew Farkas and Adam Flatto. Exhibit 1 to Claimant's Response to Order Regarding Additional Evidence Request. Matthew Farkas was an officer/employee of Respondents. Exhibits 1 and 5 to Claimant's Appx. Claimant invested \$1 million into the business of Respondents in exchange for a one percent (1%) membership interest. That was parlayed into a three percent (3%) total interest in First 100, LLC, after Respondents granted a two percent (2%) ownership interest to Mr. Farkas for his "services rendered in the VP of Finance position..." Exhibits 4 and 5 to Claimant's Appx. It is not clear exactly when Claimant became a member of Respondents, due to a lack of dates on many of the exhibits, but it appears from Exhibit 1 to Claimant's Appendix that Respondents were marketing membership interests in 2013. Claimant's interest is acknowledged by Exhibit 5 to Claimant's Appendix, an undated letter from Respondent 1st One Hundred, LLC. Exhibit 4 appears to conclusively establish that Claimant held 3% of Respondent First 100, LLC's membership interests.

Likely in 2017, possibly on or about April 13, 2017, Respondents sent a memo to members describing litigation against a funding source, financial issues facing the companies, and recommending that members execute a redemption agreement due to the financial condition of Respondents. The memo included a draft of the "Membership Interest Redemption Agreement" (the "Redemption Agreement"), which was to be entered into by and between Claimant and Respondent 1st One Hundred Holdings, LLC. Exhibit 6 to Appx. The Redemption Agreement states, among other things, that Respondent 1st One Hundred Holdings, LLC "desires to redeem all of [Claimant's] membership interests in [Respondent 1st One Hundred Holdings, LLC], as well as any interest claimed in any and all subsidiaries..." *Id.* The memo also apparently accompanied the IRS Schedule K-1 to Claimant TCG/Farkas Funding, LLC, as a member of "First 100 Holdings, LLC", dated April 13, 2017. Exhibit 6 to Appx. This Schedule K-1 appears to be conclusive evidence that Respondents considered Claimant to be a Member of "First 100 Holdings, LLC".

By letter dated May 2, 2017, to the law firm representing Respondents, Claimant's counsel set forth objections to the proposed Redemption Agreement, concerns about the financial condition of Respondents, and requests for production of the company records of Respondents. Exhibit 9 to Appx. This appears to be the initial request for company records that is the subject of the arbitration demand filed by Claimant.

Exhibit 11 to Claimant's Appendix is the first response from counsel for the Respondents to the request to inspect the company records of the Respondents. It is dated June 6, 2017. Significantly, Respondents' counsel concedes in this letter that Claimant "holds a membership interest in 1st One Hundred Holdings, LLC." Nevertheless, it is the first in a long and bad faith effort by Respondents to avoid their statutory and contractual duties to a member to produce requested records.

On September 13, 2019, counsel for Claimant made another request for company records to counsel for Respondents. Exhibit 13 to Appx.. On September 24, 2017, counsel for Respondents refused to honor the request to inspect based on a claim that counsel for Claimant might not represent Claimant, and based on the argument that the request was overbroad. Exhibit 14 to Appx. Nothing in this letter contends that the execution of the Redemption Agreement by Mr. Farkas for Claimant constituted a legitimate basis to refuse to make the records available for inspection. Thereafter, Claimant initiated this arbitration proceeding.

In the arbitration proceeding, Respondents make three arguments why they are not required to produce the records requested by Claimant. First, they argue that Claimant may not be a Member, and as such is only entitled to a refund of the investment money paid to the Respondents and no records. Second, they argue that the signing of a Redemption Agreement by Mathew Farkas releases the Respondents from any responsibility to make company records available to Claimant. Third, they argue that the request is overbroad and must be pared down. None of these arguments has merit, as discussed below.

The contention that Claimant is not a member of Respondents is belied by the records of the Respondents, as discussed above. The fact that Respondents believe that the Claimant signed a Redemption Agreement as a member of Respondents is an additional admission on the part of the Respondents that the Claimant is a Member of the Respondents with standing to inspect records of the Company.

It was not clear from the initial briefs and exhibits whether Mathew Farkas signed a Redemption Agreement for Claimant. However, the additional evidence clarified that he actually did sign such an Agreement. However, the evidence also shows two additional points that render the Redemption Agreement irrelevant for the purpose of this proceeding. First, the evidence shows that Mr. Farkas did not have authority to bind Claimant to the Redemption Agreement, as he did not seek and obtain the consent of Mr. Flatto. Exhibit 1 to Supplemental Declaration of Flatto attached to Claimant's Response to Order Regarding Additional Evidence Request; Supplemental Declarations of Flatto and Farkas attached to Claimant's Response to Order Regarding Additional Evidence Request. And, Claimant notified Respondents via email on April 18, 2017, that Mr. Farkas did not have the authority to bind Claimant under the Redemption Agreement "unless and until approved by Adam Flatto." Exhibit 12 to Claimant's Appx. at Ex. 3.

Secondly, the Respondents have yet to perform under the terms of the Redemption Agreement. Specifically, Section 2(a) requires payment by the Company to Redeemer. Exhibit A to Supplemental Declaration of Jay Bloom in support of Respondents' Arbitration Brief. Respondents concede that payment has **not** been made and that Respondents only "intend[]" to "fully perform" at a later point in time, when sufficient funds are available. Supplemental Declaration of Jay Bloom in support of Respondents' Arbitration Brief ¶ 16. The Redemption

Agreement, therefore, does not constitute a basis for Respondents to refuse to make company records available to Claimant as a Member of Respondents.

Finally, Respondents contend the records inspection request is overbroad. NRS 86.241(2) applies to the fact of this case:

2.* * Each member of a limited-liability company is entitled to obtain from the company, from time to time upon reasonable demand, for any purpose reasonably related to the interest of the member as a member of the company:

(a)* The records required to be maintained pursuant to subsection 1;

(b)* True and, in light of the member's stated purpose, complete records regarding the activities and the status of the business and financial condition of the company;

(c)* Promptly after becoming available, a copy of the company's federal, state and local income tax returns for each year;

(d)* True and complete records regarding the amount of cash and a description and statement of the agreed value of any other property or services contributed by each member and which each member has agreed to contribute in the future, and the date on which each became a member; and

(e)* Other records regarding the affairs of the company as is just and reasonable under the circumstances and in light of the member's stated purpose for demanding such records.

The right to obtain records under this subsection includes, if reasonable, the right to make copies or abstracts by photographic, xerographic, electronic or other means.

The language of subsection (e) applies here and justifies Claimant requesting the records requested, even if not specifically listed in the previous sections. These include litigation information and insurance policies. Given the circumstances of the request – pending litigation by Respondents, representations by Respondents suggesting the viability of the companies is in jeopardy, and the proposal that members sign a Redemption Agreement that substantially compromises their rights as members – all justify the categories of information requested by Claimant. The fact that Respondents have spent more than three years resisting the requested inspection further supports the justification to examine all these categories of documents.

Therefore, the Panel awards in favor of Claimant and against Respondents in all respects on the primary claim, and orders Respondents to forthwith, but no later than ten (10) calendar days from the date of this AWARD, make all the requested documents and information available from both companies to Claimant for inspection and copying.

Claimant has requested an award of attorneys' fees and costs. Section 13.9 of the Operating Agreement at Exhibit 3 to the Appendix sets forth the following pertinent language: "The arbitrators shall make findings of fact and law in writing in support of his (sic) decision, and shall award reimbursement of attorney fees and other costs of arbitration to the prevailing party as the arbitrator deems appropriate."

In this case, the Panel deems it appropriate to award all of the attorneys' fees requested by Claimant against Respondents, in the amount of \$17,011.50. The Panel also deems it appropriate to award to Claimant and against Respondent all of the arbitration filing fee(s) paid by the Claimant, and all of the fees for the arbitration Panel paid by Claimant. The total sum of \$23,975.00 shall be paid by Respondents to Claimant within ten (10) calendar days of the date of this AWARD.

The administrative fees of the American Arbitration Association totaling \$4,400.00 and the compensation of the arbitrators totaling \$19,575.00 shall be borne Respondent. Therefore, Respondent shall reimburse Claimant the sum of \$23,975.00, representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Claimant.

This Award is in full settlement of all claims submitted to this arbitration. All claims not expressly granted herein are hereby denied.

This Award may be executed in any number of counterparts, each of which shall be deemed an original, and all of which shall constitute together one and the same instrument.

Date:
Arbitrator and Panel Chair


Philip J. Dabney, Esq.,

9-15-20

Date: 9-15-2020
Arbitrator

Nikki L. Baker
Nikki L. Baker, Esq.,

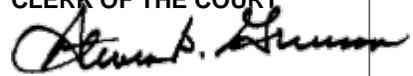
Date: 9-15-2020
Arbitrator

Anthony J. DiRaimondo
Anthony J. DiRaimondo, Esq.,

Exhibit 1-B

Date	Hours	Description	Rate (\$)	Billable (\$)	User
9/29/2020	4.2	Prepare Motion to Confirm Arbitration Award	\$ 265.00	\$ 1,113.00	Andrew Lajoie
9/30/2020	1.5	Continue to prepare Motion to Confirm Arbitration Award	\$ 265.00	\$ 397.50	Andrew Lajoie
9/30/2020	1	Attend to finalizing motion to confirm award and commencing action to lodge same	\$ 535.00	\$ 535.00	Erika Turner
10/1/2020	0.3	Review notice of hearing + follow up on service of process on defts and email with client rep re hearing	\$ 535.00	\$ 160.50	Erika Turner
10/16/2020	0.2	Review opposition to motion to enforce and counter motion	\$ 535.00	\$ 107.00	Erika Turner
10/22/2020	0.9	Research modification of arbitration award and begin drafting reply	\$ 345.00	\$ 310.50	Dylan Ciciliano
10/23/2020	4.8	Prepare reply in support of motion to confirm arbitration award and opposition to motion to amend award; legal research re same	\$ 400.00	\$ 1,920.00	Jared Sechrist
10/26/2020	0.8	Revise opposition to countermotion to modify	\$ 345.00	\$ 276.00	Dylan Ciciliano
10/26/2020	0.6	Attend to finalizing preparation of reply on motion to confirm award	\$ 535.00	\$ 321.00	Erika Turner
10/27/2020	0.1	Email communication with client rep re status and strategy on how to proceed	\$ 535.00	\$ 53.50	Erika Turner
11/2/2020	1.9	Prepare for and attend motion to confirm arbitration award.	\$ 345.00	\$ 655.50	Dylan Ciciliano
11/2/2020	1.6	Prepare order granting motion to confirm arbitration award, denying countermotion, and entering equitable and monetary judgment	\$ 265.00	\$ 424.00	Walter Fick
11/9/2020	0.9	Review and revise Order granting motion to confirm.	\$ 345.00	\$ 310.50	Dylan Ciciliano
11/12/2020	0.2	Follow up on Court Order	\$ 345.00	\$ 69.00	Dylan Ciciliano
11/12/2020	5.2	Research and draft motion for fees/costs	\$ 345.00	\$ 1,794.00	Dylan Ciciliano
	24.2			\$ 8,447.00	

Exhibit 1-C



1 **MEMC**
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 DYLAN T. CICILIANO
7 Nevada Bar. No. 12348
8 Email: dciciliano@gtg.legal
9 7251 Amigo Street, Suite 210
10 Las Vegas, Nevada 89119
11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,

11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,

18 Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**MEMORANDUM OF COSTS AND
DISBURSEMENTS**

NRS 18.110	Category of Costs	Amount
(1)	Clerk's Fees (Odyssey E-File).	\$299.10
(2)	Reporters' fees for depositions, including a reporter's fee for one copy of each deposition.	\$0.00
(3)	Jurors' fees and expenses, together with reasonable compensation of an officer appointed to act in accordance with NRS 16.120.	\$0.00
(4)	Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the court finds that the witness was called at the instance of the prevailing party without reason or necessity.	\$0.00
(5)	Reasonable fees of not more than five expert witnesses in an amount of not more than \$1,500 for each witness unless the court allows a larger fee after determining that the circumstances surrounding the expert's testimony were of such necessity as to require the larger fee.	\$0.00
(6)	Reasonable fees of necessary interpreters.	\$0.00
(7)	The fee of any sheriff or licensed process server for the delivery or service of any summons or subpoena used in the action, unless the court determines that the service was not necessary.	\$312.70
(8)	Compensation for the official reporter or reporter pro tempore.	\$0.00

1	(9)	Reasonable costs for any bond or undertaking required as part of the action.	\$0.00
2	(10)	Fees of a court bailiff or deputy marshal who was required to work overtime.	\$0.00
3	(11)	Reasonable costs for telecopies.	\$0.00
4	(12)	Reasonable costs for photocopies.	\$0.00
5	(13)	Reasonable costs for long distance telephone calls.	\$0.00
6	(14)	Reasonable costs for postage.	\$1.40
7	(15)	Reasonable costs for travel and lodging incurred taking depositions and conducting discovery.	\$0.00
8	(16)	Fees charged pursuant to NRS 19.0335.	\$0.00
9	(17)	Reasonable and necessary expense incurred in connection with the action	\$0.00
10	(18)	Messenger Service	\$0.00
11		TOTAL	\$613.20

11 DATED this 17th day of November, 2020.

12 GARMAN TURNER GORDON LLP

13
14 /s/ Dylan T. Ciciliano
15 ERIKA PIKE TURNER
16 Nevada Bar No. 6454
17 DYLAN T. CICILIANO
18 Nevada Bar. No. 12348
19 7251 Amigo Street, Suite 210
20 Tel: (725) 777-3000
21 Fax: (725) 777-3112
22 *Attorneys for Plaintiff*

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 17th day of November, 2020, he served a copy of the **MEMORANDUM OF COSTS AND DISBURSEMENTS**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
djb@mgalaw.com
Attorneys for Defendants

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

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Case # A-20-822273-C - TGC/Farkas Funding, LLC, Plaintiff(s)vs. Fir**Envelope Information**

Envelope Id 6710516	Submitted Date 10/1/2020 10:02 AM PST	Submitted User Name merwin@gtg.legal
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Case Information

Location Department 13	Category Civil	Case Type Other Civil Matters
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Case Initiation Date 10/1/2020	Case # A-20-822273-C
--	--------------------------------

Assigned to Judge
Denton, Mark R.

Filings

Filing Type EFile	Filing Code Motion - MOT (CIV)
-----------------------------	--

Filing Description
Motion to Confirm Arbitration Award

Client Reference Number
01245

Filing on Behalf of
TGC/Farkas Funding, LLC

Filing Status Accepted	Accepted Date 10/1/2020 10:06 AM PST
----------------------------------	--

Accept Comments
Auto Review Accepted

Lead Document

File Name	Security	Download
Motion to Confirm Arbitration Award.pdf		Original File Court Copy

[Help](#)**AA0094**

Filing Type

EFile

Filing Code

Civil Cover Sheet - CCS (CIV)

Filing Description

Civil Cover Sheet

Client Reference Number

01245

Filing on Behalf of

TGC/Farkas Funding, LLC

Filing Status

Accepted

Accepted Date

10/1/2020 10:06 AM PST

Accept Comments

Auto Review Accepted

Lead Document

File Name	Security	Download
Civil Cover Sheet.pdf	Non-Public Document	Original File Court Copy

Filing Type

EFile

Filing Code

Notice - NOTC (CIV)

Filing Description

Notice of Appearance

Client Reference Number

01245

Filing on Behalf of

TGC/Farkas Funding, LLC

Filing Status

Accepted

Accepted Date

10/1/2020 10:06 AM PST

Accept Comments

Auto Review Accepted

Lead Document

File Name	Security	Download
Notice of Appearance.pdf	Public Filed Document	Original File Court Copy

Fees

Motion - MOT (CIV)

Description	Amount
Filing Fee	\$0.00
01 Civil Complaint	\$270.00
Filing Total: \$270.00	

Civil Cover Sheet - CCS (CIV)

Description	Amount
Filing Fee	\$0.00
Filing Total: \$0.00	

Notice - NOTC (CIV)

Description	Amount
Filing Fee	\$0.00
Filing Total: \$0.00	

Total Filing Fee	\$270.00
Payment Service Fee	\$8.10
E-File Fee	\$3.50
Envelope Total: \$281.60	

Transaction Amount	\$281.60		
Transaction Id	7844212		
Filing Attorney	Erika Turner	Order Id	006710516-0
Transaction Response	Payment Complete		

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Case # A-20-822273-C - TGC/Farkas Funding, LLC, Plaintiff(s)vs. Fir**Envelope Information**

Envelope Id 6718194	Submitted Date 10/2/2020 11:12 AM PST	Submitted User Name merwin@gtg.legal
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Case Information

Location Department 13	Category Civil	Case Type Other Civil Matters
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Case Initiation Date 10/1/2020	Case # A-20-822273-C
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Assigned to Judge
Denton, Mark R.

Filings

Filing Type EFileAndServe	Filing Code Certificate of Service - CSERV (CIV)
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Filing Description
Certificate of Service

Client Reference Number
01245

Filing on Behalf of
TGC/Farkas Funding, LLC

Filing Status Accepted	Accepted Date 10/2/2020 11:13 AM PST
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Accept Comments
Auto Review Accepted

Lead Document

File Name	Security	Download
Certificate of Service.pdf	Public Filed Document	Original File Court Copy

eService Details[Help](#)**AA0097**

Status	Name	Firm	Served	Date Opened
Sent	Erika Pike Turner	Garman Turner Gordon LLP	Yes	Not Opened
Sent	Tonya Binns	Garman Turner Gordon LLP	Yes	10/2/2020 11:14 AM PST
Sent	Max Erwin	Garman Turner Gordon LLP	Yes	Not Opened

Parties with No eService

Name	Address
First One Hundred Holdings, LLC	

Fees

Certificate of Service - CSERV (CIV)

Description	Amount
Filing Fee	\$0.00
Filing Total: \$0.00	

Total Filing Fee	\$0.00
E-File Fee	\$3.50
Envelope Total: \$3.50	

Transaction Amount	\$3.50		
Transaction Id	7851211		
Filing Attorney	Erika Turner	Order Id	006718194-0
Transaction Response	Payment Complete		

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Case # A-20-822273-C - TGC/Farkas Funding, LLC, Plaintiff(s)vs. Fir**Envelope Information**

Envelope Id 6736520	Submitted Date 10/6/2020 4:00 PM PST	Submitted User Name merwin@gtg.legal
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Case Information

Location Department 13	Category Civil	Case Type Other Civil Matters
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Case Initiation Date 10/1/2020	Case # A-20-822273-C
--	--------------------------------

Assigned to Judge
Denton, Mark R.

Filings

Filing Type EFileAndServe	Filing Code Errata - ERR (CIV)
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Filing Description
Errata to Motion to Confirm Arbitration
Award

Client Reference Number
01245

Filing on Behalf of
TGC/Farkas Funding, LLC

Filing Status Accepted	Accepted Date 10/6/2020 4:01 PM PST
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Accept Comments
Auto Review Accepted

Lead Document

File Name	Security	Download
Errata to Motion to Confirm Arbitration Award.pdf	Public Filed Document	Original File Court Copy

eService Details[Help](#)**AA0099**

Status	Name	Firm	Served	Date Opened
Sent	Erika Pike Turner	Garman Turner Gordon LLP	Yes	Not Opened
Sent	Tonya Binns	Garman Turner Gordon LLP	Yes	10/6/2020 4:01 PM PST
Sent	Max Erwin	Garman Turner Gordon LLP	Yes	Not Opened

Parties with No eService

Name	Address
First One Hundred Holdings, LLC	

Fees

Errata - ERR (CIV)

Description	Amount
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Filing Total: \$0.00	

Total Filing Fee	\$0.00
E-File Fee	\$3.50
Envelope Total: \$3.50	

Transaction Amount	\$3.50		
Transaction Id	7869692		
Filing Attorney	Erika Turner	Order Id	006736520-0
Transaction Response	Payment Complete		

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Case # A-20-822273-C - TGC/Farkas Funding, LLC, Plaintiff(s)vs. Fir**Envelope Information**

Envelope Id 6748218	Submitted Date 10/8/2020 11:53 AM PST	Submitted User Name merwin@gtg.legal
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Case Information

Location Department 13	Category Civil	Case Type Other Civil Matters
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Case Initiation Date 10/1/2020	Case # A-20-822273-C
--	--------------------------------

Assigned to Judge
Denton, Mark R.

Filings

Filing Type EFileAndServe	Filing Code Affidavit of Service - AOS (CIV)
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Filing Description
Affidavit of Process Server - First 100 LLC

Client Reference Number
01245

Filing on Behalf of
TGC/Farkas Funding, LLC

Filing Status Accepted	Accepted Date 10/8/2020 11:55 AM PST
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Accept Comments
Auto Review Accepted

Lead Document

File Name	Security	Download
Affidavit of Process Server - First 100 LLC.pdf	Public Filed Document	Original File Court Copy

eService Details[Help](#)

Status	Name	Firm	Served	Date Opened
Sent	Erika Pike Turner	Garman Turner Gordon LLP	Yes	Not Opened
Sent	Tonya Binns	Garman Turner Gordon LLP	Yes	10/8/2020 11:54 AM PST
Sent	Max Erwin	Garman Turner Gordon LLP	Yes	Not Opened

Parties with No eService

Name	Address
First One Hundred Holdings, LLC	

Fees

Affidavit of Service - AOS (CIV)

Description	Amount
Filing Fee	\$0.00
Filing Total: \$0.00	

Total Filing Fee	\$0.00
E-File Fee	\$3.50
Envelope Total: \$3.50	

Transaction Amount	\$3.50		
Transaction Id	7880788		
Filing Attorney	Erika Turner	Order Id	006748218-0
Transaction Response	Payment Complete		

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Case # A-20-822273-C - TGC/Farkas Funding, LLC, Plaintiff(s)vs. Fir**Envelope Information**

Envelope Id 6755994	Submitted Date 10/9/2020 1:47 PM PST	Submitted User Name merwin@gtg.legal
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Case Information

Location Department 13	Category Civil	Case Type Other Civil Matters
Case Initiation Date 10/1/2020	Case # A-20-822273-C	
Assigned to Judge Denton, Mark R.		

Filings

Filing Type EFileAndServe	Filing Code Affidavit of Service - AOS (CIV)
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Filing Description
Affidavit of Service - First One Hundred Holdings, LLC aka 1st One Hundred Holdings LLC

Client Reference Number
01245

Filing on Behalf of
TGC/Farkas Funding, LLC

Filing Status Accepted	Accepted Date 10/9/2020 1:48 PM PST
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Accept Comments
Auto Review Accepted

Lead Document

File Name Affidavit of Service - First One Hundred Holdings LLC aka 1st One Hundred Holdings LLC.pdf	Security Public Filed Document	Download Original File Court Copy
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[Help](#)

eService Details

Status	Name	Firm	Served	Date Opened
Sent	Erika Pike Turner	Garman Turner Gordon LLP	Yes	Not Opened
Sent	Tonya Binns	Garman Turner Gordon LLP	Yes	10/9/2020 1:48 PM PST
Sent	Max Erwin	Garman Turner Gordon LLP	Yes	Not Opened

Parties with No eService

Name	Address
First One Hundred Holdings, LLC	

Fees

Affidavit of Service - AOS (CIV)

Description	Amount
Filing Fee	\$0.00
Filing Total: \$0.00	

Total Filing Fee	\$0.00
E-File Fee	\$3.50
Envelope Total: \$3.50	

Transaction Amount	\$3.50		
Transaction Id	7888012		
Filing Attorney	Erika Turner	Order Id	006755994-0
Transaction Response	Payment Complete		

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Case # A-20-822273-C - TGC/Farkas Funding, LLC, Plaintiff(s)vs. Fir**Envelope Information**

Envelope Id 6836593	Submitted Date 10/26/2020 5:31 PM PST	Submitted User Name dciciliano@gtg.legal
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Case Information

Location Department 13	Category Civil	Case Type Other Civil Matters
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Case Initiation Date 10/1/2020	Case # A-20-822273-C
--	--------------------------------

Assigned to Judge
Denton, Mark R.

Filings

Filing Type EFileAndServe	Filing Code Reply - RPLY (CIV)
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Filing Description
Plaintiff's Reply to Defendants' Limited Opposition to Motion to Confirm Arbitration Award and Opposition to Defendants' Countermotion to Modify Award Per NRS 38.242

Filing on Behalf of
TGC/Farkas Funding, LLC

Filing Status Accepted	Accepted Date 10/26/2020 5:32 PM PST
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Accept Comments
Auto Review Accepted

Lead Document

File Name Plaintiffs Reply-Opposition to Defendants Limited Opposition to Motion to Confirm Arbitration Award and Countermotion to Modify Award Per NRS 38.2~ 4820-5654-9583 v. (002).pdf	Security Public Filed Document	Download Original File Court Copy	Help
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eService Details

Status	Name	Firm	Served	Date Opened
Sent	Erika Pike Turner	Garman Turner Gordon LLP	Yes	Not Opened
Sent	Tonya Binns	Garman Turner Gordon LLP	Yes	10/27/2020 7:52 AM PST
Sent	Max Erwin	Garman Turner Gordon LLP	Yes	10/27/2020 7:52 AM PST
Sent	MGA Docketing	Maier Gutierrez & Associates	Yes	10/27/2020 7:51 AM PST

Parties with No eService

Name	Address
First One Hundred Holdings, LLC	

Fees

Reply - RPLY (CIV)

Description	Amount
Filing Fee	\$0.00
Filing Total: \$0.00	

Total Filing Fee	\$0.00
E-File Fee	\$3.50
Envelope Total: \$3.50	

Transaction Amount	\$3.50		
Transaction Id	7968687		
Filing Attorney	Dylan Ciciliano	Order Id	006836593-0
Transaction Response	Payment Complete		

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J & L Process Service / Lic# 1926
1104 Colgate Lane
Las Vegas, NV 89110
(702) 883-5725
JLProcessSvc@gmail.com



INVOICE

BILL TO

Garman Turner Gordon LLP
7251 Amigo Street,
Suite 210
Las Vegas, NV 89119

INVOICE # 20-11661
DATE 10/09/2020
DUE DATE 11/08/2020
TERMS Net 30

DEFENDANT / WITNESS:
First One Hundred

YOUR REFERENCE:
TGC/Farkas Funding

DESCRIPTION	AMOUNT
Services Service at 10170 W. Tropicana Ave., 156-290, LV 89147	55.00
Services 44 pages	4.40

BALANCE DUE **\$59.40**

Thank you; we really appreciate your business.

AA0107

J & L Process Service / Lic# 1926
1104 Colgate Lane
Las Vegas, NV 89110
(702) 883-5725
JLProcessSvc@gmail.com



INVOICE

BILL TO

Garman Turner Gordon LLP
7251 Amigo Street,
Suite 210
Las Vegas, NV 89119

INVOICE # 20-11686
DATE 10/09/2020
DUE DATE 11/08/2020
TERMS Net 30

DEFENDANT / WITNESS:
1st One Hundred

YOUR REFERENCE:
TGC/Farkas Funding

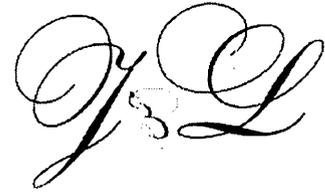
DESCRIPTION	AMOUNT
Services Service at 10170 W. Tropicana Ave., 156-290, LV 89147	55.00
Services 42 pages	4.20

BALANCE DUE **\$59.20**

Thank you; we really appreciate your business.

AA0108

J & L Process Service / Lic# 1926
1104 Colgate Lane
Las Vegas, NV 89110
(702) 883-5725
JLProcessSvc@gmail.com



INVOICE

BILL TO

Garman Turner Gordon LLP
7251 Amigo Street,
Suite 210
Las Vegas, NV 89119

INVOICE # 20-11660
DATE 10/26/2020
DUE DATE 11/25/2020
TERMS Net 30

DEFENDANT / WITNESS:
First 100 LLC

YOUR REFERENCE:
TGC/Farkas Funding

DESCRIPTION	AMOUNT
Services Attempted 2485 Village View, 190, Henderson 89074	65.00
Services Copy Fee 41 pages	4.10
Services Service & Copy Fee - 108 W. 13th St., Wilmington DE 19801	125.00

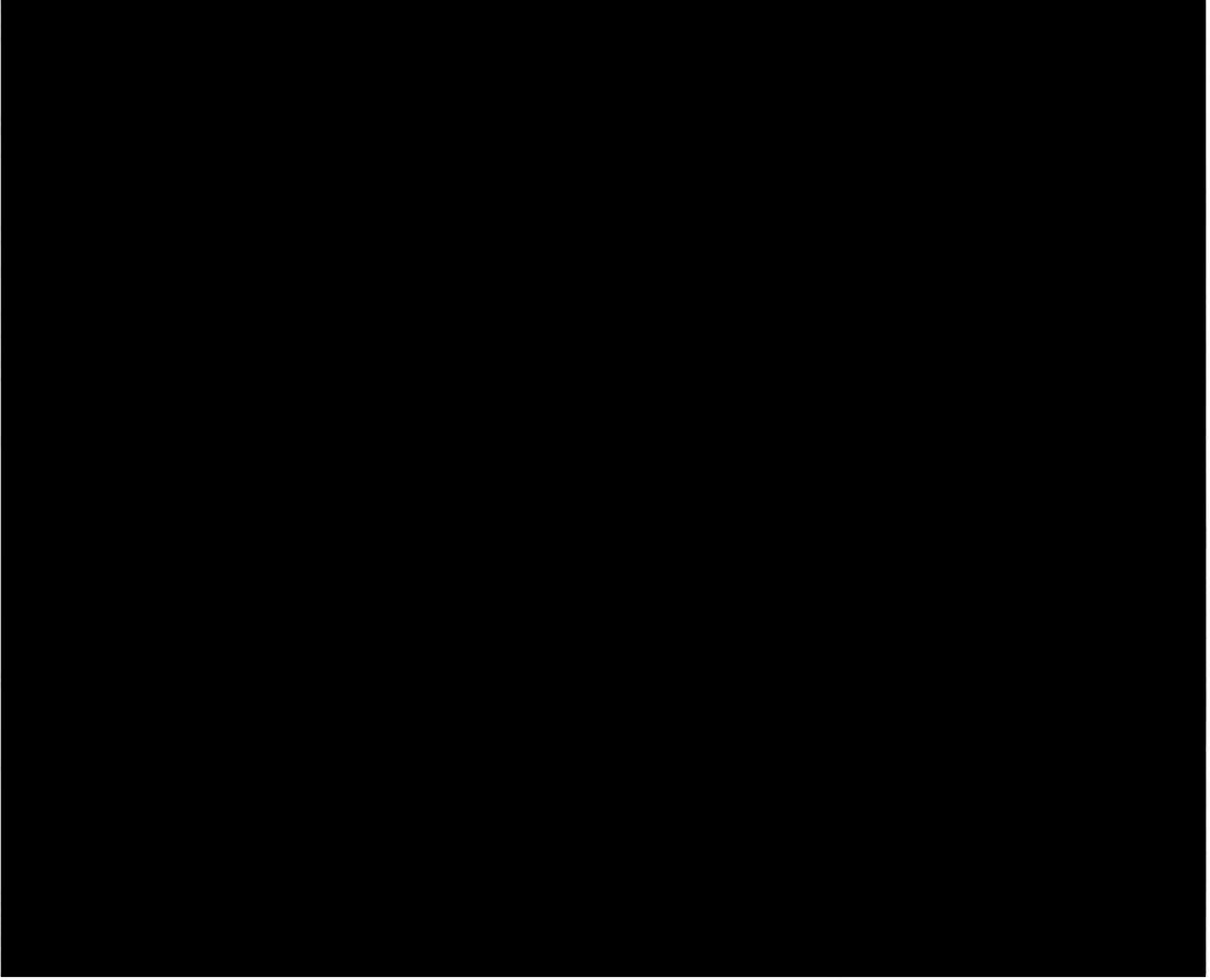
BALANCE DUE \$194.10

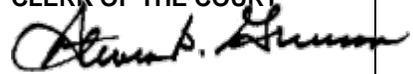
Thank you; we really appreciate your business.

AA0109

Mailing Postage Log

Date	Client Name/Matter No.	Postage	# of Pieces
10/2			
	01245	1.40	1





1 **OPP**
JOSEPH A. GUTIERREZ, ESQ.
2 Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
3 Nevada Bar No. 13822
MAIER GUTIERREZ & ASSOCIATES
4 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
5 Telephone: (702) 629-7900
Facsimile: (702) 629-7925
6 E-mail: jag@mgalaw.com
djb@mgalaw.com

7
8 *Attorneys for Defendants First 100, LLC*
and 1st One Hundred Holdings, LLC

9
10
11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 TGC FARKAS FUNDING, LLC,
14
15 Plaintiff,

16 vs.

17 FIRST 100, LLC, a Nevada limited liability
company; 1st ONE HUNDRED HOLDINGS,
18 LLC, a Nevada limited liability company,
19 Defendants.

Case No: A-20-822273-C
Dept.: 13

**DEFENDANTS' OPPOSITION TO
MOTION FOR ATTORNEYS' FEES AND
COSTS**

20 Defendants First 100, LLC and 1st One Hundred Holdings, LLC (collectively "First 100"), by
21 and through their attorneys of record, the law firm MAIER GUTIERREZ & ASSOCIATES, hereby submit
22 this opposition to the motion for attorneys' fees and costs filed by plaintiff TGC FARKAS FUNDING,
23 LLC ("Plaintiff" or "TGC").

24 This opposition is based on the following Memorandum of Points and Authorities, the papers
25 and pleadings on file, and such argument as the Court deems appropriate at the hearing on this matter.

26 **MEMORANDUM OF POINTS AND AUTHORITIES**

27 **I. INTRODUCTION**

28 Plaintiff has already been awarded \$17,011.50 in attorneys' fees from the Arbitration Panel.

1 Nonetheless, Plaintiff is seeking an additional \$8,447.00 in fees and \$613.20 in costs. While First
2 100 has no objection to the costs, there is simply no reason to award Plaintiff any additional fees than
3 the generous (and unreduced) amount that the Arbitration Panel has already awarded.

4 Plaintiff's motion heavily relies on the Arbitration Panel's finding that Defendants "avoid[ed]
5 their statutory and contractual duties." Mot. at p. 4. But attorneys' fees have already been factored
6 in and awarded to Plaintiff as a result of that finding that Plaintiff is now trying to seek a double-
7 recovery on. There is no basis to award Plaintiff an amount in excess of \$8,000.00 as a result of First
8 100 filing (in good faith) a motion to modify the arbitration award.

9 Accordingly, the Court should deny Plaintiff's motion as it applies to the additional attorneys'
10 fees that Plaintiff is seeking.

11 **II. LEGAL ANALYSIS**

12 Attorney's fees may not be awarded absent authority under a statute, rule, or contract. *See,*
13 *e.g., Albios v. Horizon Communities, Inc.*, 122 Nev. 409, 417, 132 P.3d 1022, 1028 (2006); *Bobby*
14 *Berosini, Ltd. v. PETA*, 114 Nev. 1348, 1352-53, 971 P.2d 383, 386 (1998).

15 Pursuant to NRS 38.243, the Court may "add reasonable attorney's fees and other reasonable
16 expenses of litigation incurred in a judicial proceeding after the award is made to a judgment
17 confirming, vacating without directing a rehearing, modifying or correcting an [arbitration] award."

18 Here, Plaintiff's main basis for requesting fees and costs is the Arbitration Panel's findings,
19 but that is misplaced, as the Arbitration Panel already awarded significant fees to Plaintiff in support
20 of its findings.

21 First 100 only opposed Plaintiff's motion to confirm the Arbitration Panel's Award in a limited
22 capacity, arguing that the award was incomplete and "imperfect" in light of First 100's practical
23 inability to comply with the Award without the Plaintiff first paying to First 100 the reasonable costs
24 of obtaining and furnishing the company records. First 100 did not set forth meritless arguments
25 opposing the substance of the Arbitrator's Award. First 100 only set forth a limited opposition as to
26 how that award would be applied. While the Court ultimately did not find in favor of First 100, there
27 is no basis for Plaintiff to attempt to claim that First 100 was filing that motion to modify in bad faith
28 or in an effort to delay entry of a Final Award.

1 Tellingly, Plaintiff fails to cite to any cases where the court awarded attorneys' fees consisting
2 not only of those fees incurred in opposing a motion to modify an arbitration award but all fees
3 incurred in simply drafting the motion to confirm the arbitration award and the motion seeking fees
4 and cost following an arbitration hearing where the Arbitration Panel already awarded the moving
5 party their attorneys' fees.

6 Even if the Court were to determine that First 100's motion to modify was not brought in good
7 faith and that Plaintiff is entitled to even more fees under NRS 38.243 than it has already been awarded
8 from the Arbitration Panel, there is no basis for this Court to award any fees in excess of the time
9 spent specifically on opposing First 100's motion to modify the arbitration award.

10 In other words, there is no basis to award Plaintiff the over \$2,000 spent on preparing and
11 filing its motion to confirm the arbitration award, just as there is no basis to award Plaintiff the over
12 \$2,000 spent on activities following the Court's decision to confirm the arbitration award.

13 Tellingly, the Court never made a finding that First 100 exercised bad faith in filing its motion
14 to modify the Arbitration Panel's award. Nor did the Court determine that First 100's motion was
15 meritless or frivolous.

16 Plaintiff's sole basis for the fourth *Brunzell* factor is that it successfully defeated First 100's
17 motion to modify. But the fees sought far exceed those incurred in defeating First 100's motion to
18 modify. If the Court is inclined to award any additional fees (which First 100 contends it should not),
19 such fees should not exceed those fees incurred by Plaintiff in specifically opposing Plaintiff's motion
20 to modify (which appears to be no more than \$2,505 pursuant to Exhibit 1-B of Plaintiff's motion for
21 fees and costs. This Court should recognize that Plaintiff seeking approximately \$8,500.00 for motion
22 practice that occurred after the Arbitration Panel issued its decision is beyond unreasonable and more
23 importantly, lacking support from legal authorities. As such, Plaintiff's motion should be denied as
24 it relates to the additional fees being sought.

25 ///

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27 ///

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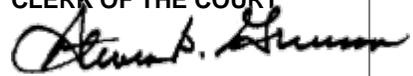
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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, a copy of the **DEFENDANTS’ OPPOSITION TO MOTION FOR ATTORNEYS’ FEES AND COSTS** was electronically filed on the 24th day of November, 2020, and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

Erika P. Turner, Esq.
GARMAN TURNER GORDON, LLP
650 White Drive, Suite 100
Las Vegas, Nevada 89119
Attorneys for TGC Farkas Funding LLC

/s/ Danielle Barraza
An Employee of MAIER GUTIERREZ & ASSOCIATES



1 **RIS**
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 DYLAN T. CICILIANO
7 Nevada Bar. No. 12348
8 Email: dciciliano@gtg.legal
9 7251 Amigo Street, Suite 210
10 Las Vegas, Nevada 89119
11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,
11 Plaintiff,

CASE NO. A-20-822273-C
DEPT. 13

12 vs.

**REPLY IN SUPPORT OF MOTION FOR
ATTORNEYS' FEES AND COSTS**

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,

Date of Hearing: December 21, 2020
Time of Hearing: 9:00 a.m.

18 Defendants.

17 Plaintiff TGC/FARKAS FUNDING, LLC ("Plaintiff"), through counsel, Garman Turner
18 Gordon LLP, hereby files its Reply in Support of its Motion for Attorneys' Fees and Costs
19 ("Reply").

20 This Reply is based on the following Memorandum of Points and Authorities, the Motion
21 for Attorneys' Fees and Costs (the "Motion"), as well as the papers and pleadings already on file
22 herein, and any oral argument the Court may permit at the hearing of this matter.

23 **MEMORANDUM OF POINTS AND AUTHORITIES**

24 **I.**

25 **INTRODUCTION**

26 The arguments contained in the Opposition to the Motion filed by Defendants First 100,
27 LLC and First One Hundred Holdings, LLC's ("Defendants") are each fatally flawed. First, the

1 Motion does not seek any fees already included in the Final Award.¹ The fees sought in the Motion
2 are only those related to this judicial proceeding initiated for the purpose of confirming an
3 arbitration award. Accordingly, there is no double recovery, and aside from hollow words,
4 Defendants have not shown that any of the fees have already been awarded.

5
6 Second, the Opposition argues that the Court should not award fees because the
7 Countermotion to Modify brought in response to Plaintiff's Motion to Confirm Arbitration Award
8 was not meritless or brought in bad faith. While it was, NRS 38.243(3) does not require that the
9 Court make any such finding with respect to the Countermotion to Modify. To the contrary, to
10 grant fees and other expenses incurred in the contested judicial proceeding on the Motion to
11 Confirm Arbitration Award under NRS 38.239 and the Countermotion to Modify under NRS
12 38.242 is that the Court make his determinations and that a final judgment be entered resolving
13 the motions in favor of Plaintiff. *See* NRS 38.243(3).

14 Finally, the Opposition argues that the Court limit an award of fees to only those fees
15 related to the Countermotion to Modify. NRS 38.243(3), however, does not limit the award to fees
16 associated with the contested matter, but instead extends to all "reasonable attorney's fees and other
17 reasonable expenses of litigation incurred in a judicial proceeding after the award is made to a
18 judgment confirming, vacating without directing a rehearing, modifying or correcting an award."
19 NRS 38.243(3). Thus, all fees "incurred in a judicial proceeding after the [Final Award]" are
20 encompassed by the statute. As the prevailing party, Plaintiff should be awarded fees in the amount
21 of \$8,447.00 and costs in the amount of \$613.20.

22 II.

23 LEGAL ARGUMENT

24 A. Plaintiff should be awarded its attorneys' fees and costs .

25 Under NRS 38.243(3), a district court may, "[o]n application of a prevailing party to a
26 contested judicial proceeding under NRS 38.239, 38.241 or 38.242, ... add reasonable attorney[]

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¹ All capitalized terms shall have the same definitions as ascribed to them in the Motion.

1 fees and other reasonable expenses of litigation incurred ... after the [arbitration] award is made to
2 a judgment confirming... an award.” *Artemis Expl. Co. v. Ruby Lake Estates Homeowner's Ass'n*,
3 464 P.3d 124 (Nev. 2020); *Sanchez v. Elizondo*, , 2018 WL 5833052, at *1 (D. Nev. Nov. 7, 2018).
4 Unlike other statutory schemes (*see e.g.* NRS 18.010(2)(b)(requiring vexatious litigation)), there
5 is no requirement that the Court find that the Countermotion to Modify was brought in bad faith
6 or was meritless. Instead, the only requirement is that Plaintiff prevailed in a contested judicial
7 proceeding.

8 Here, this proceeding was contested, as Defendants sought to modify the arbitration award
9 pursuant to NRS 38.242. (*See* Countermotion to Modify). As the Court denied the Countermotion
10 to Modify, Plaintiff is the prevailing party to a contested judicial proceeding and may apply for
11 fees and costs under NRS 38.243. Thus, the Court has authority to award fees and costs.

12 **1. Defendants’ conduct underlying the Final Award warrants an award of further**
13 **fees and costs.**

14 While there is no requirement that the Court find that the Countermotion to Modify was
15 meritless, the merits and nature of the Countermotion to Modify, as well as Defendants’ conduct,
16 militate in favor of an award of fees and costs.

17 Defendants continue to take every action to deny Plaintiff the ordered relief—access to
18 Defendants’ book and records. The Final Award ordered that Defendants make their books and
19 records available to Plaintiff by September 25, 2020. (Final Order at p. 5). Defendants failed to
20 seek relief from the Final Order from the arbitrators. NRS 38.237(setting a 20 day deadline to seek
21 relief). Three months have passed since the expiration of the Final Order’s deadline to produce
22 records. Additionally, a month has passed since this Court confirmed the Final Award and ordered
23 that the same records be produced. (Order Granting Plaintiff’s Motion to Confirm Arbitration
24 Award and Denying Defendants’ Countermotion to Modify Award; and Judgment (the
25 “Judgment”), on file herein, a p.3). To date, Defendants have not complied with the Final Award
26 or Judgment and are still withhold the records that were ordered to be produced.

27 There also can be no dispute that Defendants are unwilling to produce records
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1 demonstrating what happened to Plaintiff's \$1,000,000 investment and have been unwilling to do
2 so for years. The unimpeached recover before the Court is that Defendants have engaged in a "**long**
3 **and bad faith effort by [Defendants] to avoid their statutory and contractual duties**" to permit
4 Plaintiff to inspect Defendants' book and records. (Final Award at p. 2)(emphasis added). That
5 finding is established law of the case.

6 Defendants' Countermotion to Modify was yet another attempt to deny Plaintiff's statutory
7 and contractual rights. Defendants requested that the Court condition Plaintiff's receipt of ordered
8 records upon Plaintiff's payment of unspecified attorney's fees and costs. As found by the Court,
9 the requested "modification" was not permitted under NRS 38.242. (Judgment at p. 2:24-27).
10 Accordingly, the Countermotion to Modify was without legal authority and meritless.

11 NRS 38.243 provides that there are consequences when a party unsuccessfully seeks to
12 modify an arbitration award—the award to the opposing parties of fees and costs. Those
13 consequences become more important when, as is the case here, Defendants are attempting to
14 defeat the arbitration award and have consistently and continuously failed to comply with their
15 contractual and statutory obligations. Thus, the Court should award Plaintiff its fees and costs from
16 the date of the Final Award pursuant to NRS 38.243.

17 **B. Plaintiff's fees are reasonable under *Brunzell*.**

18 Defendants only dispute whether certain fees should be recovered by Plaintiff, not whether
19 the time expended and rates of Plaintiff's counsel were reasonable.

20 Defendants' first gripe is that "Plaintiff is now trying to seek a double-recovery," i.e. fees
21 that were already considered or awarded by the panel. (Opposition at p. 2:6-7). That is simply not
22 true, and Defendants have submitted no evidence that any fees being sought in the Motion were
23 incurred prior to the Final Award. To the contrary, the Final Award was entered on September 15,
24 2020. (Motion at Exh. 1-A). The Motion seeks to recover fees arising on and after September 29,
25 2020. (*Id.* at Exh. 1-B). Thus, the fees were not awarded as part of the Final Award and could not
26 have been considered by the panel.

27 Defendants next complain that the fees sought by Plaintiff include fees related to the
28

1 Motion to Confirm Arbitration Award. Indeed, they do. However, NRS 38.243(3) extends to all
2 “reasonable attorney's fees and other reasonable expenses of litigation incurred in a judicial
3 proceeding after the award is made to a judgment confirming, vacating without directing a
4 rehearing, modifying or correcting an award.” NRS 38.243(3). NRS 38.243(3) does not limit fees
5 to the contested proceeding, but instead includes all fees incurred in a “**judicial proceeding**” after
6 the final award. The Motion to Confirm Arbitration Award was part of this judicial proceeding
7 and were incurred after the Final Award. Thus, NRS 38.243 the recovery of all fees sought in the
8 Motion.

9 Even if the Court were to attempt to parse the fees, of the \$8,447.00 in fees sought, only
10 \$2,206, amounting to 7 hours of attorney work, pertained solely to the Motion to Confirm
11 Arbitration Award. (Motion at Exhibit 1-B, entries from 9/29/2020 to 10/1/2020). The remaining
12 \$6,241.00 in fees relate to the opposition to Countermotion to Modify, the hearing, the related
13 order, and the Motion. (*Id.* at Exh. 1-B, entries from 10/16/2020 to 11/12/2020). Accordingly, even
14 if Plaintiff could not recover the fees that predate the Countermotion to Modify, Plaintiff would
15 still be entitled to \$6,241.00 in fees.

16 **C. Defendants admit Plaintiff can recover its costs and that the costs are reasonable.**

17 The Motion seeks costs in the amount of \$613.20. As set forth in Opposition, Defendants
18 have “no objection to the costs.” Accordingly, the Court should award Plaintiff its costs.

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III.

CONCLUSION

Based upon the foregoing, Plaintiff respectfully requests that the Court grant the Motion, and award Plaintiff an award of attorneys' fees in the amount of \$8,447.00, and costs in the amount of \$613.20.

DATED this 14th day of December, 2020.

GARMAN TURNER GORDON LLP

/s/ Dylan T. Ciciliano
ERIKA PIKE TURNER
Nevada Bar No. 6454
DYLAN T. CICILIANO
Nevada Bar. No. 12348
7251 Amigo Street, Suite 210
Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

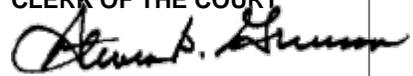
The undersigned, hereby certifies that on the 14th day of December, 2020, he served a copy of the **REPLY IN SUPPORT OF MOTION FOR ATTORNEYS’ FEES AND COSTS**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
djb@mgalaw.com
Attorneys for Defendants

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

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1 **EPAP**
2 GARMAN TURNER GORDON LLP
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11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,
11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,
18 Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**PLAINTIFF'S EX PARTE APPLICATION
FOR ORDER TO SHOW CAUSE WHY
DEFENDANTS AND JAY BLOOM
SHOULD NOT BE HELD IN CONTEMPT
OF COURT**

17 Plaintiff TGC/FARKAS FUNDING, LLC ("Plaintiff"), by and through counsel, the law
18 firm of Garman Turner Gordon LLP, respectfully requests that this Court issue an Order to Show
19 Cause why Defendants/Judgment Debtors FIRST 100, LLC and FIRST ONE HUNDRED
20 HOLDINGS, LLC, aka 1st ONE HUNDRED HOLDINGS LLC (the "Defendants") and their agent
21 Jay Bloom ("Bloom"), should not be held in contempt for failing to comply with the Order
22 Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendant's
23 Countermotion to Modify Award; and Judgment ("Orders"), and Plaintiff requests that this Court,
24 upon hearing, to enter an Order of Contempt.

25 This Application is based upon the Nevada Rules of Civil Procedure ("NRCP"), the
26 Nevada Revised Statutes ("NRS"), the Memorandum of Points and Authorities attached hereto,
27 as well as the pleadings and papers on file herein, and any oral argument by counsel as the Court
28

1 may allow.

2 DATED this 18th day of December, 2020.

3 GARMAN TURNER GORDON LLP

4 /s/ Erika Pike Turner

5 ERIKA PIKE TURNER

6 Nevada Bar No. 6454

7 DYLAN T. CICILIANO

8 Nevada Bar. No. 12348

9 7251 Amigo Street, Suite 210

10 Tel: (725) 777-3000

11 Fax: (725) 777-3112

12 *Attorneys for Plaintiff*

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**DECLARATION OF DYLAN T. CICILIANO IN SUPPORT OF EX PARTE
APPLICATION FOR ORDER TO SHOW CAUSE WHY DEFENDANTS AND JAY
BLOOM SHOULD NOT BE HELD IN CONTEMPT OF COURT, AND STATEMENT
OF RELEVANT FACTS**

Dylan T. Ciciliano, declares and states as follows:

1. I am an attorney licensed to practice law in the State of Nevada and am an associate in the law firm of Garman Turner Gordon, attorneys for the Plaintiff. I am competent to testify to the matters asserted herein, of which I have personal knowledge, except as to those matters stated upon information and belief. As to those matters stated upon information and belief, I believe them to be true.

2. I make this declaration in support of the Application.

3. On September 15, 2020, an Arbitration Panel entered its Decision and AWARD of Arbitration Panel (1) Compelling Production of Company Records; and (2) Ordering Reimbursement of Claimant’s Attorneys’ Fees and Costs (the “Final Award”). The Final Award ordered that “Respondents [were] to forthwith, but no later than ten (10) calendar days from the date of this AWARD, make all the requested documents and information available from both companies to Claimant for inspection and copying.”

4. On November 17, 2020, this Court entered Order Granting Plaintiff’s Motion to Confirm Arbitration Award and Denying Defendant’s Countermotion to Modify Award; and

1 Judgment (the “Judgment”).

2 5. The Judgment provided, in pertinent part, as follows:

3 Defendants shall make all the requested documents and information available from
4 both companies to Plaintiff for inspection and copying, as set forth in the Final
Award and Exhibit 13 to Claimant’s Appendix to Claimant’s Arbitration Brief.

5 6. As of the date of this Application, Defendants have not complied with Judgment
6 or the Final Order.

7 I declare under penalty of perjury under the laws of the State of Nevada that the foregoing
8 statements are true and correct to the best of my knowledge.

9 Dated this 18th day of December 2020.

10 /s/ Dylan T. Ciciliano
11 DYLAN T. CICILIANO, Declarant

12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 **I. THE COURT SHOULD ISSUE AN ORDER TO SHOW CAUSE WHY**
14 **DEFENDANTS AND JAY BLOOM SHOULD NOT BE HELD IN CONTEMPT OF**
THE ORDERS.

15 “Disobedience or resistance to any lawful writ, order, rule or process issued by the court
16 or judge at chambers” is contempt. NRS § 22.010(3). “person[s] fail[] to act as ordered by the
17 court when [they fail] to take ‘all the reasonable steps within [their] power to insure compliance
18 with the [Court’s] order’ *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th
19 Cir 1987) (citations omitted). The Nevada Supreme Court has long held that disobedience or
20 resistance to any order of the Court constitutes a prima facie contempt of court. *See City Council*
21 *of Reno v. Reno Newspapers, Inc.*, 105 Nev. 886, 889, 784 P.2d 974, 976 (1989). Moreover,
22 disobedience of an order of a court in supplementary proceedings is expressly punishable as
23 contempt. *See* NRS § 21.340.

24 Courts have inherent power to enforce their decrees through civil contempt proceedings.
25 *See, In re Determination of the Relative Rights of the Claimants and Appropriators of the Waters*
26 *of the Humboldt River Stream & Tributaries*, 118 Nev. 901, 909, 59 P.3d 1226, 1231 (2002).
27 Moreover, NRS § 22.030 provides that when the “contempt is not committed in the immediate
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1 view and presence of the court or judge at chambers, an affidavit must be presented to the court or
2 judge of the facts constituting the contempt, or a statement of the facts by the masters or
3 arbitrators.” NRS § 22.030(2).

4 Plaintiff “invested \$1 million into the business of [Defendants] in exchange for a”
5 membership interest in Defendants (Final Award, October 1, 2020 Motion to Confirm Arbitration
6 Award, at Exhibit 1, at p. 2). Beginning on May 2, 2017, Plaintiff made requests to inspect
7 Defendants’ records pursuant to its status as a member of Defendants. (*Id.*). Immediately
8 thereafter, despite conceding that Plaintiff were members, Defendants’ refused to produce the
9 company records, which the Arbitration panel found to be “the first in a **long and bad faith effort**
10 **by [Defendants] to avoid their statutory and contractual duties** to a member to produce
11 requested records.” (*Id.*)(emphasis added). Plaintiff made an additional demand for records on
12 September 13, 2019. (*Id.* at p. 3). Defendants again refused. (*Id.*).

13 Plaintiff filed its arbitration demand on January 7, 2020, in order to enforce its rights as a
14 member of Defendants to obtain business records from Defendants. On September 15, 2020, the
15 Panel entered its Final Award, wherein it compelled Defendants to produce the requested records
16 by September 25, 2020. (*Id.*).

17 On November 17, 2020, this Court entered Order Granting Plaintiff’s Motion to Confirm
18 Arbitration Award and Denying Defendant’s Countermotion to Modify Award; and Judgment (the
19 “Judgment”). Judgment, on file herein. The Judgment likewise ordered Defendants to provide
20 business records to Plaintiff as required in the Final Order. *Id.*

21 As Defendants’ confirmed, Jay Bloom is the “principal, founding director, and chairman
22 of the Board of Directors of First 100, LLC and 1st One Hundred Holdings, LLC.” Defendants’
23 Limited Opposition to Motion to Confirm Arbitration Award and Countermotion to Modify Award
24 per NRS 38.242, at Exh. A. He has the ability and control to cause Defendants to comply with the
25 Final Order and Judgment.

26 As set forth in the Declaration of Plaintiff’s counsel, Dylan T. Ciciliano, Esq., despite the
27 fact that Defendants were ordered to produce the records by September 25, 2020, Defendants have
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1 failed to do so. Nearly three months have passed since the deadline has expired.

2 Without any doubt, the Final Order and Judgment were properly entered. Plaintiff properly
3 served the Judgment. Not only did Defendants fail to abide by the Judgment, but they have
4 intentionally acted to deny Plaintiff its statutory and contractual rights over a period of years.
5 Defendants understand the significance of this Court's Orders and the implications of disobeying
6 it. The Orders are clear and unambiguous, and there is absolutely no justifiable reason for
7 Defendants complete disregard for this Court's authority.

8 Therefore, Plaintiff asks the Court to issue an Order to Show Cause Why Defendants and
9 Jay Bloom Should Not Be Held in Contempt of Court and then, upon hearing, issue an order
10 holding Defendants and Jay Bloom in contempt, with all its consequences, until such time as they
11 comply with the Order by producing all of the documents required by the Judgment and that the
12 payment of the fees entered as part of the Judgment, as well as this application, be a condition
13 precedent to ending Defendants and Jay Bloom's contempt sanction.

14 **II. CONCLUSION**

15 Plaintiff requests that this Court issue an Order to Show Cause Why Defendants and Jay
16 Bloom Should Not Be Held in Contempt of Court for failing to produce documents in compliance
17 with this Court's Judgment; Plaintiff requests that this Court, upon hearing, enter an order holding
18 Defendants and Jay Bloom in contempt, until such time as they comply with the Judgment by
19 producing all of the documents and that the payment of the amount due under the Judgment and
20 the fees associated with this Application be a condition precedent to ending their contempt
21 sanction.

22 DATED this 18th day of December, 2020.

23 GARMAN TURNER GORDON LLP

24 /s/ Erika Pike Turner
25 ERIKA PIKE TURNER
26 Nevada Bar No. 6454
27 DYLAN T. CICILIANO
28 Nevada Bar. No. 12348
7251 Amigo Street, Suite 210
Tel: (725) 777-3000
Attorneys for Plaintiff

Exhibit 1

ORDG

GARMAN TURNER GORDON LLP
ERIKA PIKE TURNER
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Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,

Plaintiff,

vs.

FIRST 100, LLC, a Nevada Limited Liability Company; FIRST ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company aka 1st ONE HUNDRED HOLDINGS LLC, a Nevada Limited Liability Company,

Defendants.

CASE NO. A-20-822273-C
DEPT. 13

ORDER GRANTING PLAINTIFF’S EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY DEFENDANTS AND JAY BLOOM SHOULD NOT BE HELD IN CONTEMPT OF COURT

The Court, having considered Plaintiff and Judgment Creditor TGC/FARKAS FUNDING, LLC’s (the “Judgment Creditor”) Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court (the “Application”), is GRANTED.

IT IS THEREFORE HEREBY ORDERED that on the _____ of _____, 2021, at the hour of _____ o’clock a.m./p.m., Defendants and Jay Bloom shall appear and show cause, if any, why they should not be held in contempt of the Order Granting Plaintiff’s Motion to Confirm Arbitration Award and Denying Defendant’s Countermotion to Modify Award; and Judgment.

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IT IS FURTHER HEREBY ORDERED that Plaintiff shall serve Defendants and Jay Bloom, a copy of the Application, and this Order to Show Cause, immediately upon its entry and no later than _____, _____, 2021.

IT IS SO ORDERED this _____ day of _____, _____.

DISTRICT COURT JUDGE

Prepared and submitted by:
GARMAN TURNER GORDON LLP
/s/ Erika Pike Turner
ERIKA PIKE TURNER
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13 *Attorneys for Plaintiff*

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 TGC/FARKAS FUNDING, LLC,
11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,
18 Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFF'S EX PARTE
APPLICATION FOR JUDGMENT
DEBTOR EXAMINATION OF FIRST 100,
LLC**

17 **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S EX PARTE**
18 **APPLICATION FOR JUDGMENT DEBTOR EXAMINATION OF FIRST 100, LLC**

19 PLEASE TAKE NOTICE that an *Order Granting Plaintiff's Ex Parte Application for*
20 *Judgment Debtor Examination of First 100, LLC*, a copy of which is attached hereto, was entered
21 in the above-captioned case on the 18th day of December, 2020.

22 DATED this 21st day of December, 2020.

23 GARMAN TURNER GORDON LLP

24 /s/ Erika Pike Turner

25 ERIKA PIKE TURNER (NV Bar No. 6454)
26 DYLAN T. CICILIANO (NV Bar. No. 12348)
27 7251 Amigo Street, Suite 210
28 Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 21st day of December, 2020, he served a copy of the **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF’S EX PARTE APPLICATION FOR JUDGMENT DEBTOR EXAMINATION OF FIRST 100, LLC**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
djb@mgalaw.com
Attorneys for Defendants

I further certify that I served a copy of this document by mailing a true and correct copy thereof via regular U.S. Mail, addressed to:

First 100, LLC
c/o Business Filings Incorporated
108 W. 13th Street,
Wilmington, DE 19801

First One Hundred Holdings, LLC aka
1st One Hundred Holdings LLC
c/o SJC Ventures LLC
10170 W. Tropicana Ave., #156-290
Las Vegas, NV 89147

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

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12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,
11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,

18 Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**ORDER GRANTING PLAINTIFF'S EX
PARTE APPLICATION FOR JUDGMENT
DEBTOR EXAMINATION OF FIRST 100,
LLC**

17 The Court, having considered Plaintiff and Judgment Creditor TGC/FARKAS FUNDING,
18 LLC (the "Judgment Creditor") *Ex Parte* Application for Debtor Examination of Judgment Debtor
19 FIRST 100, LLC (the "Judgment Debtor"), and good cause appearing therefore, hereby orders as
20 follows:

21 **IT IS HEREBY ORDERED** that Plaintiff's Application is **GRANTED** pursuant to
22 NRCP 69 and NRS 21.270 *et seq.*, and the corporate designee of Judgment Debtor FIRST 100,
23 LLC shall appear and be examined under oath, by remote means, to wit Zoom Teleconference, on
24 January 25, 2021, at the hour of **9:00 a.m.**, with log-in information to be provided by Plaintiff's
25 counsel.

26 **IT IS FURTHER ORDERED** that Judgment Debtor will produce books, papers, and
27 records now in its possession or control, which evidence or indicate in any way Judgment Debtor's
28 property, assets, and liabilities of any kind, including those books and records listed in "Exhibit

1 A” attached hereto, to **Garman Turner Gordon LLP, attn: Dylan T. Ciciliano, at 7251 Amigo**
2 **Street, Suite 210, Las Vegas, NV 89119** by January 18, 2020;

3 **IT IS FURTHER ORDERED** that the failure by Judgment Debtor to appear at the above
4 ordered examination will subject Judgment Debtor to contempt of court;

5 **IT IS FURTHER ORDERED** that Judgment Debtor, or anyone acting on its behalf, are
6 forbidden from making any transfer of Judgment Debtor’s property, including funds in any bank
7 or deposit account of any kind, that is not exempt from execution or a normal living expense, and
8 from interfering therewith, until further ordered;

9 **IT IS FURTHER ORDERED** that the costs associated with the examination, including
10 the costs of a court reporter and the costs associated with a transcript, are approved as to necessity
11 and propriety.

12 IT IS SO ORDERED this _____ day of _____, _____.

Dated this 18th day of December, 2020

13
14 

15 _____
DISTRICT COURT JUDGE

16 868 080 351F B4AD
17 Mark R. Denton
District Court Judge

18 Prepared and submitted by:

19 GARMAN TURNER GORDON LLP

20 /s/ Erika Pike Turner

21 ERIKA PIKE TURNER

22 Nevada Bar No. 6454

23 DYLAN T. CICILIANO

24 Nevada Bar. No. 12348

7251 Amigo Street, Suite 210

Tel: (725) 777-3000

Fax: (725) 777-3112

Attorneys for Plaintiff

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“EXHIBIT A”

DEFINITIONS

1. **“AFFILIATE”** shall mean any individual, general partnership, limited partnership, trust, estate, corporation, limited liability company or business trust, that is owned by, directly or indirectly controlled by, or acts at the direction of the person named.

2. **“COMMUNICATIONS”** means any oral or written statement transmitted from one person to another by any means, including, but not limited to, emails, letters, facsimiles, text messages, memoranda, contracts, agreements, and documents or understandings in proposed, draft, or final form related to any such oral or written statement.

3. **“DOCUMENT”** is intended to be as broad as it is used in Nevada Rule of Civil Procedure 34, and includes, without limitation:

a. the original (or an identical duplicate if the original is not available) and any non-identical copies (whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind) of writings of every kind and description that are fixed in any kind of physical media;¹

b. any written communications, letters, correspondence, electronic mail, memoranda, notes, Post-Its, media releases or articles, photographs, tape or sound recordings, contracts, agreements, telephone records, diaries, desk calendars, appointment calendar, group scheduler calendars, statements, reports, journal, minutes, working paper, financial report, accounting report, work papers, facsimile, facsimile transmission, drafts, logs, chart, graph, index, directory, scheduling data, databases, spreadsheets, presentations, word processed documents, bulletins, design schedules, supplemental instructions, time cards, drawings, shop drawings, progress payments, progress schedules, estimates, equipment time cards, design calculations, design meeting minutes, coordination meeting minutes, and material similar to any of the foregoing, however denominated and to whomever addressed, computer directory, computer disk, computer tape, or any written, printed, typed, punched, taped, filmed, or graphic matter however produced or reproduced. DOCUMENTS also include the file, folder tabs, and labels appended to or containing any documents.

4. **“IDENTIFY,”** when used in reference to a document, means to:

a. State the date of preparation, author, title (if any), subject matter, number of pages, and type of documents (e.g., contract, letter, report, etc.) or some other means of distinguishing the document or writing;

b. Identify each and every person who prepared or participated in the preparation of the document or writing;

¹ Physical media includes, but is not limited to, paper media, photographic media (including pictures, films, slides and microfilm), phonographic media, magnetic media (including, but not limited to hard drives, floppy disks, compact disks, and magnetic tapes of any kind), computer memory, optical media, magneto-optical media, and other physical media on which notations or marking of any kind can be affixed.

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- c. Identify each and every person who received a copy of the document;
- d. State the present location of the document or writing;
- e. Identify each and every person having custody or control of the document or writing;
- f. State whether any copy of the document or writing is not identical to the original by reason of shorthand or other written notes, initials, or other modifications;
- g. State, if the document or writing has been destroyed, the circumstances surrounding and the reasons for the destruction; and
- h. Identify, if the document or writing has been destroyed, each and every person who destroyed or participated in, or ordered or suggested the destruction of it.

5. “JUDGMENT DEBTOR” means FIRST 100, LLC, Judgment Debtor in Case No. A-20-822273-C before the Eighth Judicial District Court of the State of Nevada, styled as *TGC/Farkas Funding, LLC v. First 100, LLC et al.*, together with any aliases or other names by which YOU are known or have used.

6. “RELATE” or “RELATING TO” or “RELATED THERETO” means constituting, comprising, containing, setting forth, showing, disclosing, describing, explaining, summarizing, concerning, relevant to, or referring to directly or indirectly.

7. “RELEVANT TO” has the same meaning that it has in Nevada Rule of Civil Procedure 26.

8. “YOU” or “YOUR” refers to YOU as Judgment Debtor and YOUR agents, servants, employees, attorneys, representatives, predecessors, or any other person over which YOU have control or have a superior right to compel to do an act or produce an item and specifically including any entity of which you are an officer, director, member, shareholder or any entity in which YOU have an equity interest (contingent or otherwise).

INSTRUCTIONS

1. YOU shall produce all DOCUMENTS in the manner in which they are maintained in the usual course of business and/or shall organize and label DOCUMENTS to correspond with the categories of these Requests. A Request for DOCUMENTS shall be deemed to include a Request for any and all file folders within which the document was contained, transmittal sheets, cover letters, exhibits, enclosures, or attachments to the DOCUMENT in addition to the DOCUMENT itself.

2. All electronically stored information (“ESI”) shall be copied and produced to the undersigned counsel by web-based share file or drop box. ESI should be organized and labeled to correspond to the categories in the Request. ESI should be produced in native format with all metadata attached, or if any native files cannot be rendered in readable format, native format linked to a single page tagged image file format (“TIFF”). ESI in TIFF format should be identified by a

1 cross-reference file, and all metadata that describes the electronic files associated with ESI (e.g.,
2 “date last modified”) should be produced in text format linked to the associated files.

3 3. In producing DOCUMENTS and other materials, YOU shall furnish all
4 DOCUMENTS or material in YOUR possession, custody, or control, regardless of whether such
5 DOCUMENTS or materials are possessed by YOU directly or YOUR directors, officers, agents,
6 employees, representatives, subsidiaries, managing agents, affiliates, investigators, or by YOUR
7 attorneys or their agents, employees, representatives, or investigators.

8 4. If any of the information contained in the answers to these Requests is not within
9 YOUR personal knowledge, please so state. The responses to the Requests should identify every
10 PERSON, DOCUMENT, and COMMUNICATION upon which YOU rely for the information
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12 5. If YOU cannot answer any portion of the following Requests in full, after
13 exercising due diligence to secure the information, please so state and answer to the extent
14 possible, specifying YOUR inability to answer the remainder and stating whatever information or
15 knowledge YOU have concerning the unanswered portion.

16 6. In the event that YOU provide only a portion of the DOCUMENTS called for by
17 any particular Request, please state the reason(s) for YOUR inability to provide the remainder of
18 the DOCUMENTS requested and the identity of the DOCUMENT(s).

19 7. In the event the DOCUMENTS called for by any particular Request are no longer
20 in YOUR possession, custody or control, please state the reason(s) why those DOCUMENTS are
21 no longer in YOUR possession, custody, or control and identify the DOCUMENT(s) which are no
22 longer in YOUR possession, custody, or control.

23 8. In the event that DOCUMENTS called for by any particular request have been lost
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25 the manner in which the DOCUMENT(s) were lost or destroyed; (iii) the identity of the
26 DOCUMENT(s); (iv) the information contained within such DOCUMENT(s) and the nature of
27 the DOCUMENT(s); and (v) and the identity of any person(s) who has knowledge of the contents
28 of the DOCUMENT(s) or has received a copy of such DOCUMENT(s).

9. If YOU withhold any DOCUMENT pursuant to a claim of privilege, YOU shall
expressly make the claim of privilege and produce a privilege log in compliance with Nevada Rule
of Civil Procedure 26(b)(5).

10. DOCUMENTS attached to each other should not be separated.

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13. The terms “each” and “all” shall be construed as “all and each.”

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16. The use of the feminine form of any word includes the masculine and vice versa.

17. YOU shall authenticate the business records produced.

**LIST OF DOCUMENTS, COMMUNICATIONS, AND THINGS TO BE
PRODUCED BY JUDGMENT DEBTOR**

1. Identify and produce all financial Documents, including bank statements (including full copies of items reflected therein including wire advices, checks, and deposit slips for all accounts which You presently are and/or have been an account holder and/or signatory, or in which You have ever had any beneficial interest from January 1, 2015, to present.

2. Identify and produce copies of each of your tax filings for any portion of calendar years 2015 to present, including any tax Documents, schedules, and attachments issued by You or on Your behalf.

3. Identify and produce all financial statements, including balance sheets, income statements, profit and loss reports, and other Documents evidencing any income, assets, losses, or liabilities for You for the time period of January 1, 2015, to present.

4. Identify and produce all organizational Documents for You and Your affiliates, including operating agreements, articles of incorporation, membership/shareholder rolls, and other books and records, including any amendments thereto.

5. Identify and produce all Documents which evidence any and all promissory notes, leases, contracts, negotiable instruments, guarantys. accounts payable, or accounts receivable belonging to You for the time period of January 1, 2015, to present, including any spreadsheets, general ledgers, or other documents which identify amounts due or payable during that time period.

6. Identify and produce all Documents which evidence Your assets, including bank accounts, cash on-hand, personal property, fixtures, equipment, vehicles, real property (including any partial interests therein), investments, trademarks or trade names, copyrights, and like monies and possessions for the time period of January 1, 2015, to present.

7. For financial records identified in items 1, 3, 5, and 6, if such records are kept in QuickBooks, identify and produce native QuickBooks files for the same, along with any password or authentication information necessary to access those Documents.

8. Identify any safe deposit box, whether privately maintained or held in a bank or similar association, which You own or which contains assets which You own or in which you own an interest, whether alone or jointly with another person or persons, and produce any keys or

1 information to access such assets.

2 9. Identify and produce all legal proceedings initiated against You, including all
3 judgments entered against You or for which You are liable in whole or in part, and identify the
4 resolution of any such legal proceedings, whether by settlement or otherwise.
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1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 TGC/Farkas Funding, LLC,
Plaintiff(s)

CASE NO: A-20-822273-C

7 vs.

DEPT. NO. Department 13

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9 First 100, LLC, Defendant(s)

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11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 Service Date: 12/18/2020

16 Dylan Ciciliano

dciciliano@gtg.legal

17 Erika Turner

eturner@gtg.legal

18 MGA Docketing

docket@mgalaw.com

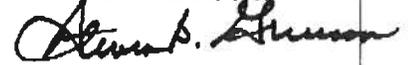
19 Tonya Binns

tbinns@gtg.legal

20 Max Erwin

merwin@gtg.legal

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1 NEOJ
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 DYLAN T. CICILIANO
7 Nevada Bar. No. 12348
8 Email: dciciliano@gtg.legal
9 7251 Amigo Street, Suite 210
10 Las Vegas, Nevada 89119
11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

8 DISTRICT COURT
9 CLARK COUNTY, NEVADA

10 TGC/FARKAS FUNDING, LLC,
11 Plaintiff,

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,
18 Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFF'S EX PARTE
APPLICATION FOR JUDGMENT
DEBTOR EXAMINATION OF FIRST
ONE HUNDRED HOLDINGS, LLC AKA
1ST ONE HUNDRED HOLDINGS LLC**

17 **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S EX PARTE**
18 **APPLICATION FOR JUDGMENT DEBTOR EXAMINATION OF FIRST ONE**
19 **HUNDRED HOLDINGS, LLC AKA 1ST ONE HUNDRED HOLDINGS LLC**

20 PLEASE TAKE NOTICE that an *Order Granting Plaintiff's Ex Parte Application for*
21 *Judgment Debtor Examination of First One Hundred Holdings, LLC aka 1st One Hundred*
22 *Holdings LLC*, a copy of which is attached hereto, was entered in the above-captioned case on the
23 18th day of December, 2020.

24 DATED this 21st day of December, 2020.

GARMAN TURNER GORDON LLP

/s/ Erika Pike Turner

25 ERIKA PIKE TURNER (NV Bar No. 6454)
26 DYLAN T. CICILIANO (NV Bar. No. 12348)
27 7251 Amigo Street, Suite 210
28 Tel: (725) 777-3000/Fax: (725) 777-3112
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 21st day of December, 2020, he served a copy of the **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF’S EX PARTE APPLICATION FOR JUDGMENT DEBTOR EXAMINATION OF FIRST ONE HUNDRED HOLDINGS, LLC AKA 1ST ONE HUNDRED HOLDINGS LLC**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court’s Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
djb@mgalaw.com
Attorneys for Defendants

I further certify that I served a copy of this document by mailing a true and correct copy thereof via regular U.S. Mail, addressed to:

First 100, LLC
c/o Business Filings Incorporated
108 W. 13th Street,
Wilmington, DE 19801

First One Hundred Holdings, LLC aka
1st One Hundred Holdings LLC
c/o SJC Ventures LLC
10170 W. Tropicana Ave., #156-290
Las Vegas, NV 89147

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

1 **ORDG**
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 DYLAN T. CICILIANO
7 Nevada Bar. No. 12348
8 Email: dciciliano@gtg.legal
9 7251 Amigo Street, Suite 210
10 Las Vegas, Nevada 89119
11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

14 **DISTRICT COURT**
15 **CLARK COUNTY, NEVADA**

16 TGC/FARKAS FUNDING, LLC,
17
18 Plaintiff,

CASE NO. A-20-822273-C
DEPT. 13

19 vs.

**ORDER GRANTING PLAINTIFF'S EX
PARTE APPLICATION FOR JUDGMENT
DEBTOR EXAMINATION OF FIRST
ONE HUNDRED HOLDINGS, LLC aka 1st
ONE HUNDRED HOLDINGS LLC**

20 FIRST 100, LLC, a Nevada Limited Liability
21 Company; FIRST ONE HUNDRED
22 HOLDINGS, LLC, a Nevada limited liability
23 company aka 1st ONE HUNDRED HOLDINGS
24 LLC, a Nevada Limited Liability Company,

25 Defendants.

26 The Court, having considered Plaintiff and Judgment Creditor TGC/FARKAS FUNDING,
27 LLC (the "Judgment Creditor") *Ex Parte* Application for Debtor Examination of Judgment Debtor
28 One Hundred Holdings, LLC aka 1st One Hundred Holdings LLC (the "Judgment Debtor"), and
good cause appearing therefore, hereby orders as follows:

IT IS HEREBY ORDERED that Plaintiff's Application is **GRANTED** pursuant to
NRCP 69 and NRS 21.270 *et seq.*, and the corporate designee of Judgment Debtor One Hundred
Holdings, LLC aka 1st One Hundred Holdings LLC shall appear and be examined under oath, by
remote means, to wit Zoom Teleconference, on January 25, 2021, at the hour of **1:00 p.m.**, with
log-in information to be provided by Plaintiff's counsel.

IT IS FURTHER ORDERED that Judgment Debtor will produce books, papers, and
records now in its possession or control, which evidence or indicate in any way Judgment Debtor's
property, assets, and liabilities of any kind, including those books and records listed in "Exhibit

1 A” attached hereto, to **Garman Turner Gordon LLP, attn: Dylan T. Ciciliano**, at **7251 Amigo**
2 **Street, Suite 210, Las Vegas, NV 89119** by January 18, 2020;

3 **IT IS FURTHER ORDERED** that the failure by Judgment Debtor to appear at the above
4 ordered examination will subject Judgment Debtor to contempt of court;

5 **IT IS FURTHER ORDERED** that Judgment Debtor, or anyone acting on its behalf, are
6 forbidden from making any transfer of Judgment Debtor’s property, including funds in any bank
7 or deposit account of any kind, that is not exempt from execution or a normal living expense, and
8 from interfering therewith, until further ordered;

9 **IT IS FURTHER ORDERED** that the costs associated with the examination, including
10 the costs of a court reporter and the costs associated with a transcript, are approved as to necessity
11 and propriety.

12
13 IT IS SO ORDERED this _____ day of _____, _____.

Dated this 18th day of December, 2020

14
15 
16 _____
DISTRICT COURT JUDGE

17 **758 956 1A56 F7C3**
18 **Mark R. Denton**
District Court Judge

19 Prepared and submitted by:
20 **GARMAN TURNER GORDON LLP**

21 /s/ Erika Pike Turner
22 **ERIKA PIKE TURNER**
23 Nevada Bar No. 6454
24 **DYLAN T. CICILIANO**
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“EXHIBIT A”

DEFINITIONS

1. **“AFFILIATE”** shall mean any individual, general partnership, limited partnership, trust, estate, corporation, limited liability company or business trust, that is owned by, directly or indirectly controlled by, or acts at the direction of the person named.

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2. Identify and produce copies of each of your tax filings for any portion of calendar years 2015 to present, including any tax Documents, schedules, and attachments issued by You or on Your behalf.

3. Identify and produce all financial statements, including balance sheets, income statements, profit and loss reports, and other Documents evidencing any income, assets, losses, or liabilities for You for the time period of January 1, 2015, to present.

4. Identify and produce all organizational Documents for You and Your affiliates, including operating agreements, articles of incorporation, membership/shareholder rolls, and other books and records, including any amendments thereto.

5. Identify and produce all Documents which evidence any and all promissory notes, leases, contracts, negotiable instruments, guarantys. accounts payable, or accounts receivable belonging to You for the time period of January 1, 2015, to present, including any spreadsheets, general ledgers, or other documents which identify amounts due or payable during that time period.

6. Identify and produce all Documents which evidence Your assets, including bank accounts, cash on-hand, personal property, fixtures, equipment, vehicles, real property (including any partial interests therein), investments, trademarks or trade names, copyrights, and like monies and possessions for the time period of January 1, 2015, to present.

7. For financial records identified in items 1, 3, 5, and 6, if such records are kept in QuickBooks, identify and produce native QuickBooks files for the same, along with any password or authentication information necessary to access those Documents.

8. Identify any safe deposit box, whether privately maintained or held in a bank or similar association, which You own or which contains assets which You own or in which you own an interest, whether alone or jointly with another person or persons, and produce any keys or

1 information to access such assets.

2 9. Identify and produce all legal proceedings initiated against You, including all
3 judgments entered against You or for which You are liable in whole or in part, and identify the
4 resolution of any such legal proceedings, whether by settlement or otherwise.
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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

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6 TGC/Farkas Funding, LLC,
7 Plaintiff(s)

CASE NO: A-20-822273-C

8 vs.

DEPT. NO. Department 13

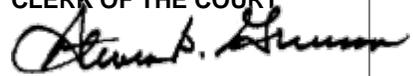
9 First 100, LLC, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

Service Date: 12/18/2020

16 Dylan Ciciliano	dciciliano@gtg.legal
17 Erika Turner	eturner@gtg.legal
18 MGA Docketing	docket@mgalaw.com
19 Tonya Binns	tbinns@gtg.legal
20 Max Erwin	merwin@gtg.legal



1 **NEOJ**
2 GARMAN TURNER GORDON LLP
3 ERIKA PIKE TURNER
4 Nevada Bar No. 6454
5 Email: eturner@gtg.legal
6 DYLAN T. CICILIANO
7 Nevada Bar. No. 12348
8 Email: dciciliano@gtg.legal
9 7251 Amigo Street, Suite 210
10 Las Vegas, Nevada 89119
11 Tel: (725) 777-3000
12 Fax: (725) 777-3112
13 *Attorneys for Plaintiff*

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

10 TGC/FARKAS FUNDING, LLC,
11 Plaintiff,

CASE NO. A-20-822273-C
DEPT. 13

12 vs.

13 FIRST 100, LLC, a Nevada Limited Liability
14 Company; FIRST ONE HUNDRED
15 HOLDINGS, LLC, a Nevada limited liability
16 company aka 1st ONE HUNDRED HOLDINGS
17 LLC, a Nevada Limited Liability Company,
18 Defendants.

**NOTICE OF ENTRY OF ORDER
GRANTING PLAINTIFF'S EX PARTE
APPLICATION FOR ORDER TO SHOW
CAUSE WHY DEFENDANTS AND JAY
BLOOM SHOULD NOT BE HELD IN
CONTEMPT OF COURT**

17 **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S EX PARTE**
18 **APPLICATION FOR ORDER TO SHOW CAUSE WHY DEFENDANTS AND JAY**
19 **BLOOM SHOULD NOT BE HELD IN CONTEMPT OF COURT**

20 PLEASE TAKE NOTICE that an *Order Granting Plaintiff's Ex Parte Application for*
21 *Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court,*
22 a copy of which is attached hereto, was entered in the above-captioned case on the 18th day of
23 December, 2020.

24 DATED this 21st day of December, 2020.

GARMAN TURNER GORDON LLP

/s/ Erika Pike Turner

ERIKA PIKE TURNER (NV Bar No. 6454)
DYLAN T. CICILIANO (NV Bar. No. 12348)
7251 Amigo Street, Suite 210
Tel: (725) 777-3000/Fax: (725) 777-3112
Attorneys for Plaintiff

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CERTIFICATE OF SERVICE

The undersigned, hereby certifies that on the 21st day of December, 2020, he served a copy of the **NOTICE OF ENTRY OF ORDER GRANTING PLAINTIFF'S EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY DEFENDANTS AND JAY BLOOM SHOULD NOT BE HELD IN CONTEMPT OF COURT**, by electronic service in accordance with Administrative Order 14.2, to all interested parties, through the Court's Odyssey E-File & Serve system addressed to:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Email: jag@mgalaw.com
djb@mgalaw.com
Attorneys for Defendants

I further certify that I served a copy of this document by mailing a true and correct copy thereof via regular U.S. Mail, addressed to:

First 100, LLC
c/o Business Filings Incorporated
108 W. 13th Street,
Wilmington, DE 19801

First One Hundred Holdings, LLC aka
1st One Hundred Holdings LLC
c/o SJC Ventures LLC
10170 W. Tropicana Ave., #156-290
Las Vegas, NV 89147

/s/ Max Erwin

An Employee of
GARMAN TURNER GORDON LLP

ORDG

GARMAN TURNER GORDON LLP
ERIKA PIKE TURNER
Nevada Bar No. 6454
Email: eturner@gtg.legal
DYLAN T. CICILIANO
Nevada Bar. No. 12348
Email: dciciliano@gtg.legal
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,

Plaintiff,

vs.

FIRST 100, LLC, a Nevada Limited Liability Company; FIRST ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company aka 1st ONE HUNDRED HOLDINGS LLC, a Nevada Limited Liability Company,

Defendants.

CASE NO. A-20-822273-C
DEPT. 13

ORDER GRANTING PLAINTIFF’S EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY DEFENDANTS AND JAY BLOOM SHOULD NOT BE HELD IN CONTEMPT OF COURT

The Court, having considered Plaintiff and Judgment Creditor TGC/FARKAS FUNDING, LLC’s (the “Judgment Creditor”) Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held in Contempt of Court (the “Application”), is GRANTED.

IT IS THEREFORE HEREBY ORDERED that on the 21st January of , 2021, at the hour of 9 o’clock a.m./~~p.m.~~, Defendants and Jay Bloom shall appear and show cause, if any, why they should not be held in contempt of the Order Granting Plaintiff’s Motion to Confirm Arbitration Award and Denying Defendant’s Countermotion to Modify Award; and Judgment.

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///

1 IT IS FURTHER HEREBY ORDERED that Plaintiff shall serve Defendants and Jay
2 Bloom, a copy of the Application, and this Order to Show Cause, immediately upon its entry and
3 no later than January 6, 2021.

4
5 IT IS SO ORDERED this _____ day of _____,
6 Dated this 18th day of December, 2020

7 

8 _____
9 DISTRICT COURT JUDGE

10 2E9 6A8 5ECD 39CC
11 Mark R. Denton
12 District Court Judge

13 Prepared and submitted by:

14 GARMAN TURNER GORDON LLP

15 /s/ Erika Pike Turner
16 ERIKA PIKE TURNER
17 Nevada Bar No. 6454
18 DYLAN T. CICILIANO
19 Nevada Bar. No. 12348
20 7251 Amigo Street, Suite 210
21 Tel: (725) 777-3000
22 Fax: (725) 777-3112
23 *Attorneys for Plaintiff*

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 **TGC/Farkas Funding, LLC,**
7 **Plaintiff(s)**

CASE NO: A-20-822273-C

8 **vs.**

DEPT. NO. Department 13

9 **First 100, LLC, Defendant(s)**

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

15 **Service Date: 12/18/2020**

16 **Dylan Ciciliano** **dciciliano@gtg.legal**

17 **Erika Turner** **eturner@gtg.legal**

18 **MGA Docketing** **docket@mgalaw.com**

19 **Tonya Binns** **tbinns@gtg.legal**

20 **Max Erwin** **merwin@gtg.legal**

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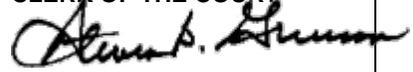
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25

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1 **MOT**
2 JASON R. MAIER, ESQ.
3 Nevada Bar No. 8557
4 JOSEPH A. GUTIERREZ, ESQ.
5 Nevada Bar No. 9046
6 DANIELLE J. BARRAZA, ESQ.
7 Nevada Bar No. 13822
8 **MAIER GUTIERREZ & ASSOCIATES**
9 8816 Spanish Ridge Avenue
10 Las Vegas, Nevada 89148
11 Telephone: (702) 629-7900
12 Facsimile: (702) 629-7925
13 E-mail: jrm@mgalaw.com
14 jag@mgalaw.com
15 djb@mgalaw.com

16 *Attorneys for Defendants First 100, LLC*
17 *and 1st One Hundred Holdings, LLC*

18 **DISTRICT COURT**

19 **CLARK COUNTY, NEVADA**

20 TGC FARKAS FUNDING, LLC,
21
22 Plaintiff,

23 vs.

24 FIRST 100, LLC, a Nevada limited liability
25 company; 1st ONE HUNDRED HOLDINGS,
26 LLC, a Nevada limited liability company,
27
28 Defendants.

Case No: A-20-822273-C
Dept. No.: XIII

**DEFENDANTS' MOTION TO ENFORCE
SETTLEMENT AGREEMENT AND
VACATE POST-JUDGMENT
DISCOVERY PROCEEDINGS ON *EX
PARTE* ORDER SHORTENING TIME**

[HEARING REQUESTED]

21 Defendants First 100, LLC and 1st One Hundred Holdings, LLC (collectively "First 100"), by
22 and through their attorneys of record, the law firm MAIER GUTIERREZ & ASSOCIATES, hereby submit
23 this motion to enforce settlement agreement and vacate post-judgment discovery proceedings on *ex*
24 *parte* order shortening time. This motion is based on the following Memorandum of Points and
25 Authorities, the affidavit of Jason R. Maier, Esq., filed with this motion, the exhibits attached hereto,
26 and any oral argument entertained at the hearing on the motion.

27 ///

28 ///

1 AFFIDAVIT OF COUNSEL

2 STATE OF NEVADA)
3 COUNTY OF CLARK) ss:

4 Jason R. Maier, Esq., being first duly sworn, deposes and says:

5 1. I am a partner with the law firm of MAIER GUTIERREZ & ASSOCIATES, attorneys for
6 Plaintiff. I am knowledgeable of the facts contained herein and am competent to testify thereto.

7 2. I am over the age of 18 and I have personal knowledge of all matters set forth herein.
8 If called to do so, I would competently and truthfully testify to all matters set forth herein, except for
9 those matters stated to be based upon information and belief, and as to those matters I am informed
10 and believe them to be true.

11 3. I make this affidavit in support of defendants First 100 and 1st One Hundred Holdings'
12 ("First 100") motion to enforce settlement agreement and vacate post-judgment discovery proceedings
13 on *ex parte* order shortening time.

14 4. First 100 has been forced to file a motion to enforce settlement agreement in light of
15 conflicting information that First 100 has received following execution of the settlement agreement
16 regarding exactly who is representing TGC/Farkas Funding, LLC – its counsel of record Garman
17 Turner Gordon, or its apparent new counsel the Law Office of Raffi A. Nahabedian – and the
18 conflicting information that each has provided regarding a settlement agreement that Matthew Farkas
19 signed on behalf of TGC/Farkas Funding, LLC resolving this dispute.

20 5. On January 7, 2021, my office received a signed copy of the settlement agreement
21 executed by Matthew Farkas on behalf of plaintiff TGC/Farkas Funding, LLC and Jay Bloom on
22 behalf of defendants First 100, LLC and 1st One Hundred Holdings, LLC. *See Exhibit A*, Settlement
23 Agreement. My law firm did not have any involvement with the preparation or negotiation of the
24 settlement agreement, which was prepared and negotiated by the parties without counsel pursuant to
25 Cmt. 4 to Model Rule 4.2 ("Parties to a matter may communicate directly with each other.").

26 6. Upon receipt of the settlement agreement, my office believed that the parties had
27 resolved their differences themselves and that no further work would be necessary on post-judgment
28 discovery and proceedings.

1 7. Upon information and belief, Matthew Farkas is a member and manager of
2 TGC/Farkas Funding, LLC, with actual and/or apparent authority to bind TGC/Farkas Funding, LLC
3 and settle these claims. This is based on the Garman Turner Gordon engagement letter that
4 TGC/Farkas, Funding, LLC disclosed in the underlying dispute that went to arbitration, which Mr.
5 Farkas executed as a member of TGC/Farkas Funding, LLC and also interlined a restriction of no
6 litigation against First 100. *See Exhibit B*, Garman Turner Gordon Engagement Letter With
7 Handwritten Preclusion of Litigation Against First 100. The TGC/Farkas Funding, LLC Operating
8 Agreement, also disclosed by TGC/Farkas Funding, LLC in the underlying arbitration matter, states
9 that Mr. Farkas is a 50% member of TGC/Farkas Funding, LLC, as well as the CEO of the company
10 with full authority to appoint and terminate agents and consultants of TGC/Farkas Funding, LLC. *See*
11 **Exhibit C**, Operating Agreement at Sections 3.1 and 4.5.

12 8. On January 14, 2021, my law firm received a copy of a letter from Raffi A.
13 Nahabedian, Esq. to Garman Turner Gordon, indicating that he had been retained as counsel for
14 TGC/Farkas Funding, LLC and that Garman Turner Gordon had been terminated as counsel,
15 following Mr. Farkas' growing concerns about Garman Turner Gordon exceeding the scope of its
16 authority set forth in the engagement letter that Mr. Farkas had signed on behalf of TGC/Farkas
17 Funding, LLC, which indicated that litigation against First 100 was prohibited.

18 9. On January 15, 2021, my office received correspondence from Dylan Ciciliano, Esq.
19 of Garman Turner Gordon indicating that there was no settlement and no substitution of counsel
20 regarding representation of TGC/Farkas Funding, LLC, which conflicts with the settlement agreement
21 that our office previously received.

22 10. This motion is now being filed to enforce the settlement agreement that was executed
23 by Matthew Farkas on behalf of TGC/Farkas Funding, LLC and Jay Bloom on behalf of First 100 and
24 1st One Hundred Holdings, in light of Garman Turner Gordon's subsequent representations that there
25 has been no settlement, which conflicts with the plain language of the settlement agreement.

26 11. Moreover, until this dispute is resolved, it does not make sense for First 100 to be
27 responding to post-judgment discovery, as one of the underlying purposes of settlement agreements
28 is providing assurances to the parties that the underlying matter will no longer be pursued, and forcing

1 First 100 to further engage in post-judgment discovery would directly conflict with the terms of the
2 settlement agreement.

3 12. For the above reasons, as well as because there is a show cause hearing presently
4 scheduled for January 21, 2021, I respectfully request that this motion be heard on an order shortening
5 time. If this motion cannot be heard prior to January 21, 2021, I respectfully request that the show
6 cause hearing scheduled for January 21, 2021, be continued until after the Court has an opportunity
7 to hear this motion to enforce settlement agreement.

8 13. This affidavit is made in good faith and not for purposes of delay.

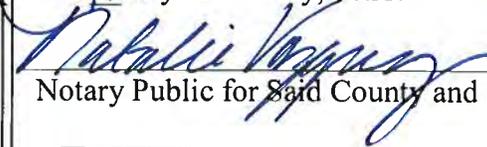
9 FURTHER YOUR AFFIANT SAYETH NAUGHT

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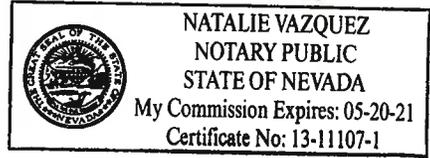


JASON R. MAIER, ESQ.

SUBSCRIBED and SWORN to before me
this 19th day of January, 2021.



Notary Public for Said County and State



1 **ORDER SHORTENING TIME**

2 IT IS HEREBY ORDERED that the above DEFENDANTS' MOTION TO ENFORCE
3 SETTLEMENT AGREEMENT AND VACATE POST-JUDGMENT DISCOVERY
4 PROCEEDINGS ON EX PARTE ORDER SHORTENING TIME shall be heard on the 28th day of
5 January, 2021, at the hour of 9:00 a.m./~~p.m.~~, or as soon as the matter may be heard
6 by the Court.

7 ~~IT IS FURTHER ORDERED that any opposition to the foregoing motion must be filed and~~
8 ~~served by _____.~~

9 IT IS FURTHER ORDERED that post-judgment discovery proceedings in this matter are
10 stayed until further order of the Court.

11 IT IS FURTHER ORDERED that the show cause hearing scheduled for January 21, 2021, is
12 continued until further order of the Court.

13
14 DATED this 19th day of January, 2021.

15 
16 _____
17 DISTRICT JUDGE

16 Respectfully submitted,

17 **MAIER GUTIERREZ & ASSOCIATES**

18 /s/ Jason R. Maier
19 JASON R. MAIER, ESQ.
20 Nevada Bar No. 8557
21 JOSEPH A. GUTIERREZ, ESQ.
22 Nevada Bar No. 9046
23 DANIELLE J. BARRAZA, ESQ.
24 Nevada Bar No. 13822
25 8816 Spanish Ridge Avenue
26 Las Vegas, Nevada 89148
27 *Attorneys for First 100, LLC and*
28 *1st One Hundred Holdings, LLC*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This matter involved TGC/Farkas Funding, LLC (through its claimed counsel Garman Turner
4 Gordon) demanding access to First 100 proprietary business records. First 100 previously refused to
5 provide such records for numerous reasons, among them that First 100 had not received evidence that
6 Matthew Farkas, a 50% member of TGC/Farkas Funding, LLC had actually approved of TGC/Farkas
7 Funding, LLC retaining Garner Turner Gordon and making such a demand upon First 100.

8 Thereafter, TGC/Farkas Funding, LLC initiated arbitration against First 100 regarding the
9 business records. In the arbitration proceedings, TGC/Farkas Funding, LLC produced the engagement
10 letter, which purportedly proved that Matthew Farkas did approve of TGC/Farkas Funding, LLC
11 retaining Garman Turner Gordon to resolve the dispute with First 100. That engagement letter
12 indicates that Mr. Farkas signed under the condition that “the matter shall not include any litigation
13 against First 100, LLC.” Ex. B.

14 The arbitration panel ruled in favor of TGC/Farkas Funding, LLC, which was later confirmed
15 by this Court, resulting in a judgment in favor of TGC/Farkas Funding, LLC in the amount of
16 \$23,975.00. This Court then granted TGC/Farkas Funding, LLC’s subsequent motion for additional
17 attorneys’ fees on top of the fees already awarded by the Arbitrator.

18 TGC/Farkas Funding, LLC has since moved forward with post-judgment discovery, some of
19 which is clearly inappropriate, such as the attempt to hold Jay Bloom personally liable for a debt of
20 First 100, LLC, despite the fact that neither this Court nor the Arbitration Panel ever made any alter
21 ego findings that would allow TGC/Farkas Funding, LLC to attempt to do so.

22 As of January 7, 2021, the parties settled this dispute on their own without counsel’s
23 involvement, resulting in a settlement agreement being executed by Matthew Farkas on behalf of
24 TGC/Farkas Funding, LLC and Jay Bloom on behalf of First 100. Upon information and belief, Mr.
25 Farkas has exercised his authority as 50% member and CEO of TGC/Farkas Funding, LLC to
26 terminate Garner Turner Gordon and retain the Law Office of Raffi A. Nahabedian, based on
27 correspondence that First 100’s counsel was copied on from Mr. Nahabedian. *See* Afft. of Counsel,
28 *supra*.

1 However, in light of Garman Turner Gordon subsequently claiming that there has been no
2 settlement and no substitution of counsel, First 100 has no choice but to file this instant motion to
3 enforce the settlement agreement executed by the parties and to vacate post-judgment discovery
4 proceedings.

5 **II. LEGAL ANALYSIS**

6 It is well established that a district court can grant a party's motion
7 to enforce a settlement agreement by entering judgment on the instrument if the agreement is either
8 reduced to a signed writing or entered in the court minutes in the form of an order, *see Resnick v.*
9 *Valente*, 97 Nev. 615, 616, 637 P.2d 1205, 1206 (1981); *see also* EDCR 7.50; DCR 16, so long as
10 the settlement agreement's material terms are certain. *May v. Anderson*, 121 Nev. 668, 672, 119 P.3d
11 1254, 1257 (2005). *See also, Grisham v. Grisham*, 128 Nev. 679, 685, 289 P.3d 230, 234 (2012).
12 (“When parties to pending litigation enter into a settlement, they enter into a contract.”)

13 Public policy strongly favors the enforcement of settlement agreements upon motion by a
14 party. *See Tracy-Collins Bank and Trust Co.*, 592 P.2d at 609 (“Quite obviously, so simple and speedy
15 a remedy serves well the policy favoring compromise.”). This general rule is in accordance with
16 Nevada's stated public policy of favoring settlement. *See Muije v. North Las Vegas Cab Co., Inc.*,
17 106 Nev. 664, 667, 799 P.2d 559, 561 (1990) (“Early settlement saves time and money for the court
18 system, the parties, and the taxpayers.”); *see also Malfabon v. Garcia*, 111 Nev. 793, 797, 898 P.2d
19 107, 109 (1995) (“A longstanding principle of our courts has been to encourage settlements.”).

20 Further, “[b]ecause a settlement agreement is a contract, its construction and enforcement are
21 governed by principles of contract law.” *May*, 121 Nev. at 670.

22 On January 7, 2021, First 100's counsel received a signed copy of the settlement agreement,
23 executed by Matthew Farkas on behalf of plaintiff TGC/Farkas Funding, LLC and Jay Bloom on
24 behalf of defendants First 100, LLC and 1st One Hundred Holdings, LLC. *See* Ex. A, Settlement
25 Agreement; *see also*, Afft. of Counsel, *supra*. First 100's counsel did not have any involvement with
26 the preparation or negotiation of the settlement agreement, which was prepared and negotiated by the
27 parties without counsel pursuant to Cmt. 4 to Model Rule 4.2 (“Parties to a matter may communicate
28 directly with each other.”).

1 Upon receipt of the settlement agreement, First 100's counsel believed that the parties had
2 resolved their differences themselves and that no further work would be necessary on post-judgment
3 discovery and proceedings.

4 Upon information and belief, Matthew Farkas (who executed the settlement agreement on
5 behalf of TGC/Farkas Funding, LLC) is a member and manager of TGC/Farkas Funding, LLC, with
6 actual and/or apparent authority to bind TGC/Farkas Funding, LLC and settle these claims. This is
7 based on the Garman Turner Gordon engagement letter that TGC/Farkas, Funding, LLC disclosed in
8 the underlying dispute that went to arbitration, which Mr. Farkas executed as a member of
9 TGC/Farkas Funding, LLC and also interlineated a restriction of no litigation against First 100. *See*
10 Ex. B.

11 The TGC/Farkas Funding, LLC Operating Agreement, also disclosed by TGC/Farkas
12 Funding, LLC in the underlying arbitration matter, states that Mr. Farkas is a 50% member of
13 TGC/Farkas Funding, LLC, as well as the CEO of the company with full authority to appoint and
14 terminate agents and consultants of TGC/Farkas Funding, LLC. *See* Ex. C, Operating Agreement at
15 Sections 3.1 and 4.5.

16 On January 14, 2021, counsel for First 100 received a copy of a letter from Raffi A.
17 Nahabedian, Esq. to Garman Turner Gordon, indicating that he had been retained as counsel for
18 TGC/Farkas Funding, LLC and that Garman Turner Gordon had been terminated as counsel,
19 following Mr. Farkas' growing concerns about Garman Turner Gordon exceeding the scope of its
20 authority set forth in the engagement letter that Mr. Farkas had signed on behalf of TGC/Farkas
21 Funding, LLC which indicated that litigation against First 100 was prohibited.

22 On January 15, 2021, counsel for First 100 received correspondence from Dylan Ciciliano,
23 Esq. of Garman Turner Gordon indicating that there was no settlement and no substitution of counsel
24 regarding representation of TGC/Farkas Funding, LLC, which conflicts with the settlement agreement
25 that First 100's counsel previously received.

26 This motion is now filed to enforce the settlement agreement that was executed by Matthew
27 Farkas on behalf of TGC/Farkas Funding, LLC and Jay Bloom on behalf of First 100 and 1st One
28 Hundred Holdings, in light of Garman Turner Gordon's subsequent representations that there has been

1 no settlement, which conflicts with the plain language of the settlement agreement.

2 Moreover, until this dispute is resolved, it does not make sense for First 100 to be responding
3 to post-judgment discovery, as one of the underlying purposes of settlement agreements is providing
4 assurances to the parties that the underlying matter will no longer be pursued, and forcing First 100
5 to further engage in post-judgment discovery would directly conflict with the terms of the settlement
6 agreement.

7 **III. CONCLUSION**

8 Based on the foregoing, First 100 respectfully requests that the Court enforce the settlement
9 agreement executed by the parties and vacate post-judgment discovery proceedings.

10 DATED this 19th day of January, 2021.

11 Respectfully submitted,

12 **MAIER GUTIERREZ & ASSOCIATES**

13 /s/ Jason R. Maier

14 JASON R. MAIER, ESQ.

15 Nevada Bar No. 8557

16 JOSEPH A. GUTIERREZ, ESQ.

17 Nevada Bar No. 9046

18 DANIELLE J. BARRAZA, ESQ.

19 Nevada Bar No. 13822

20 8816 Spanish Ridge Avenue

21 Las Vegas, Nevada 89148

22 *Attorneys for First 100, LLC and 1st One
23 Hundred Holdings, LLC*

24

25

26

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **DEFENDANTS’ MOTION TO**
3 **ENFORCE SETTLEMENT AGREEMENT AND VACATE POST-JUDGMENT**
4 **DISCOVERY PROCEEDINGS ON *EX PARTE* ORDER SHORTENING TIME** was
5 electronically filed on the _____ day of January, 2021, and served through the Notice of Electronic
6 Filing automatically generated by the Court's facilities to those parties listed on the Court's Master
7 Service List as follows:

8 Erika P. Turner, Esq.
9 GARMAN TURNER GORDON, LLP
10 650 White Drive, Suite 100
11 Las Vegas, Nevada 89119
12 *Attorneys for TGC Farkas Funding LLC*

13 */s/ Natalie Vazquez*
14 _____
15 An Employee of MAIER GUTIERREZ & ASSOCIATES
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EXHIBIT “A”

1
2 **SETTLEMENT AGREEMENT**

3 This Settlement Agreement is entered into as of this 6th day of January 2021, by and between 1st
4 One Hundred Holdings, LLC (hereinafter "1st 100"), First 100, LLC (hereinafter "F100") and the TCG
5 Farkas Funding, LLC (hereinafter "TCG"), by and through its Member and Manager, Matthew Farkas
(collectively referred to as "the Parties");

6 An arbitration award reduced to judgment in favor of the TCG exists (the "Judgment");

7 1st 100 and F100 have been awarded a judgment in the amount of \$2,211,039,718.46 against
8 judgment debtors Raymond Ngan, Relativity Capital Group, LTD, Relativity Capital, LLC and Relativity
9 Enterprises, Inc. (the "Award")

10 The Parties wish to resolve the dispute without further litigation;

11 TCG wishes to obtain assurances of the recovery of its investment and secure a method of
12 obtaining payment;

13 1st 100 and F100 wish to pay the amount owed as a single lump sum payment upon recovery from
14 the Award;

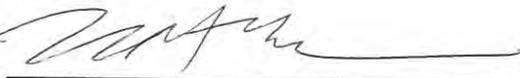
15 NOW, THEREFORE, 1st 100 and the TCG hereby represent, warrant and agree as follows:

- 16 1. 1st 100 agrees the TCG is currently owed \$1,000,000.00 plus 6% per annum since the date
17 of investment, and this amount is secured by the Judgment;
- 18 2. 1st 100 will pay the amount owed to the TCG as follows:
 - 19 a. Concurrent with its collection of proceeds from the sale of its Award, 1st
20 100 and/or F100 will cause to pay \$1,000,000 plus 6% interest accrued from the
21 date of investment to TCG/Farkas;
- 22 3. Interest will continue to accrue on the balance until such time of payment;
- 23 5. Upon execution of the Agreement, TCG will file a dismissal with prejudice of the current
24 actions related to this matter, including the arbitration award and all relation motions and actions pending
25 in the District Court;
- 26 6. The Parties agree that each shall bear its own costs and attorney's fees;
- 27 7. The Parties agree to waive the right to receive written findings of fact, conclusions of law
28 and with regard to this Agreement;

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DATED: January 6, 2021.

MATTHEW FARKAS
50% Member and Manager
TCG Farkas Funding, LLC

By: 
Matthew Farkas
3345 Birchwood Park Place
Las Vegas, NV 89141

1st One Hundred Holdings, LLC

By: 
Its: Manager
Print
Name: Jay Bloom

First 100, LLC

By: 
Its: Manager
Print
Name: Jay Bloom

EXHIBIT “B”

GARMAN
TURNER
GORDON

650 WHITE DRIVE
SUITE 100
LAS VEGAS, NV 89119
WWW.GTG.LEGAL
PHONE: 725 777 3000
FAX: 725 777 3112

April 21, 2017

GERALD M. GORDON, ESQ.
ggordon@gtg.legal
Telephone: (725) 777-3000

VIA U.S. Mail and Email; aflatto@georgetownco.com

TGC/Farkas Funding LLC
c/o The Georgetown Company
667 Madison Avenue
New York, New York 10065
ATTN; Adam Flatto

Re: Engagement of Garman Turner Gordon LLP

Dear Mr. Flatto:

Thank you for selecting Garman Turner Gordon (“we,” “us,” “our,” or the “Firm”) to provide legal services regarding the Matter described below. The terms in this letter (“Engagement Letter”) together with the Standard Terms of Representation attached hereto as **Exhibit “A”** will describe the basis on which the Firm will provide the legal services. As we have discussed, the Firm’s clients in this Matter will be TGC/Farkas Funding LLC (“you,” “your,” or the “Client”) whose address is provided above.

Subject to the Firm’s approval of engagement on the Matter and the receipt of any retainer required hereby, the Firm will be engaged to advise and represent you in connection with your investment with First 100 LLC, a Nevada limited liability company (the “Matter”). Prior to commencement, we will require that you provide us with a \$2,500.00 retainer.

You have agreed that the Firm’s representation is limited to the performance of services related to this Matter only. We may agree with you to further limit or expand the scope of the Firm’s representation from time-to-time, but only if a change is confirmed in a writing signed by a partner of the Firm that expressly refers to this letter (a “Supplement”).

You have agreed that our representation of the Client in this Matter does not give rise to a lawyer-client relationship between the Firm and any of the Client’s affiliates; the representation being provided pursuant to this Engagement Letter is solely for you and we assume and will rely upon the assumption that all affiliates or other persons or entities will seek their own legal representation with regard to the Matter. Accordingly, representation of the Client in this Matter will not give rise to any conflict of interest in the event other clients of the Firm are adverse to any of the Client’s affiliates.

You have agreed to pay a security retainer of Two Thousand Five Hundred Dollars (\$2,500.00) as an advance against fees, costs and expenses of the Client related to the Matter.

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

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The retainer will be applied to pay the Firm's billing statements related to the Matter when they come due. We reserve the right to require one or more further retainers at any time to protect our right to payment.

In the event that you fail to timely pay a Firm billing statement, we may apply any retainer to monthly invoices or hold as security for the payment of our final bill. The existence of a retainer does not affect your obligation to pay us promptly as provided below. At the conclusion of representation, any remaining retainer balance shall be promptly refunded to you, after payment of our final invoice. Additionally, once a trial or determinative hearing date is set, we will require you to pay all amounts then owing to us and to deposit with us the fees we estimate will be incurred in preparing for and completing the trial or arbitration, as well as jury fees and arbitration fees likely to be assessed. If you fail to timely pay any additional deposit requested, we have the right to withdraw from the representation and to cease performing further work. If permission of the court or arbitration panel is required, you agree not to oppose any motion to withdraw.

It is expressly understood that the Client's obligation to pay the Firm's fees, costs and expenses is in no way contingent on the ultimate outcome of the Matter. Unless otherwise agreed with you in writing, we reserve the right to deliver all billing statements to you via email.

The principal basis for computing our fees will be the amount of time spent on the Matter by various lawyers and legal assistants multiplied by their hourly billing rates. Gerald Gordon will be the attorney in charge of the relationship and while his standard rate is \$775.00. Erika Pike Turner will be assisting with the representation and her standard rate is \$495.00. Our current rates for attorneys range from \$200 per hour to \$775 per hour. Time devoted by law clerks, paralegals, project assistants and investigators that are employees of the Firm are charged at billing rates ranging from \$55 to \$190 per hour. These billing rates are subject to change annually and the Client will be notified of any changes to those billing rates whether directly or by invoice. These applicable hourly rates are the Firm's prevailing rates for attorneys, law clerks and other professional and non-professional assistants. *Notwithstanding the above, the firm agrees that its fee in this Matter shall in no case exceed \$25,000, provided*

Additional information regarding fees and other important matters appear in the attached Standard Terms of Representation, which is incorporated as part of this Engagement Letter and which you should review carefully before agreeing to our engagement on the Matter. This Engagement Letter is a binding legal document with significant consequences. The Client is encouraged to have it reviewed by other counsel of the Client's choice prior to execution by the Client. Please indicate your acceptance of the terms of this representation letter and the Standard Terms of Representation by signing and returning a copy of this Engagement Letter to me. Please call me if you have any questions. We look forward to working with you.

that the Matter shall not include any litigation against First 100, LLC.

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

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Sincerely,

GARMAN TURNER GORDON



GERALD M. GORDON, ESQ.

AGREED TO AND ACCEPTED:

TGC/FARKAS FUNDING LLC

By, TGC 100 INVESTOR, LLC

By: _____

Title: *Manager Member*

Date: _____

By: 

Matthew Farkas

Title: *Member*

Date: *4/27/2017*

April 21, 2017

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Exhibit "A"

STANDARD TERMS OF REPRESENTATION

This document sets forth the standard terms of our engagement as your lawyers. Except where expressly stated below, unless modified by a writing that expressly refers hereto signed by a partner of the Firm¹, these terms will be an integral part of our agreement with you. Therefore, we ask that you review this document carefully and contact us promptly if you have any questions. You should retain this document in your file.

The Scope of Our Work

The legal services that the Firm will provide to you are described in our Engagement Letter or any Supplement thereto, which together with these Standard Terms of Representation constitute our legal contract with you. Our representation is limited to performance of the services described as the "Matter" in that Engagement Letter and any Supplement thereto and does not include representation of you or your interests in any other matter.

The only person or entity that we represent is the person or entity that is identified in our Engagement Letter as the "Client" and does not include any affiliates of such person or entity (*i.e.*, if you are a corporation or partnership, any parents, subsidiaries, employees, officers, directors, shareholders or partners of the corporation or partnership, or commonly owned corporations or partnership; or, if you are a trade association, any members of the trade association). Accordingly, for conflict of interest purposes, we may currently or at a later time agree to represent another client with interests adverse to any such affiliate without obtaining your consent.

Because we are not your general counsel, our acceptance of a Matter does not involve an undertaking to represent you or your interests in any other matter. In particular, the Firm's engagement on the Matter does not include responsibility for review of your insurance policies to determine the possibility of coverage for the claim asserted in the Matter, for notification of your insurance carriers about the Matter, or for advice to you about your disclosure obligations concerning the matter under the federal securities laws or any other applicable law. If you decide at any point that you wish to engage the Firm for other work, such engagement must be confirmed in a Supplement.

¹ Capitalized Terms not defined in these Standard Terms of Representation shall have the meanings ascribed in the Engagement Letter and any Supplement thereto.

April 21, 2017

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Either at the commencement or during the course of our representation, we may express opinions or beliefs concerning the litigation or various courses of action and the results that might be anticipated. Any such statement made by any lawyer of our Firm is intended to be an expression of our best professional judgment only, based on information available to us at the time, and should not be construed by you as a promise or guarantee.

Who Will Provide the Legal Services

Customarily, each Client of the Firm is served by a principal lawyer contact. Subject to the supervisory role of the principal lawyer, your work or parts of it may be performed by other lawyers and legal assistants in the Firm. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most cost efficient and timely basis.

Client Responsibilities

You agree to pay our billing statements for services and expenses as provided below. In addition, you agree to be candid and cooperative with us and will keep us informed with complete and accurate factual information, documents and other communications relevant to the subject matter of our representations of otherwise reasonably requested by us. You agree to make Client's officers and employees available to attend trial, hearings, depositions and discovery conferences, and other proceedings, and to commit the appropriate personnel and sufficient resources to meet the Client's discovery obligations. In the event you perceive any actual or possible disagreement with the Firm or the Firm's handling of the Matter, you agree to promptly and candidly discuss the problem with the Firm. Because it is important that we be able to contact you at all times to consult with you regarding your representation, you will inform us, in writing, of any changes in the name, address, telephone number, contact person, e-mail address, state of incorporation or other relevant changes regarding you or your business. Whenever we need your instructions or authorization in order to proceed with legal work on your behalf, we will contact you at the latest business address we have received from you. If you affiliate with, acquire, are acquired by, or merge with another company, you will provide us with sufficient notice to permit us to withdraw as your lawyer if we determine that such affiliation, acquisition, or merger creates a conflict of interest between any of our clients and the other party to such affiliation, acquisition, or merger, or if we determine that it is not in the best interests of the Firm to represent the new entity.

The Firm agrees to keep you informed as to the status of the Matter and as to the course of action which is being followed or is being recommended by the Firm. The Firm encourages you to participate in all major decisions involving the Matter. Unless otherwise directed by you,

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the Firm will provide you with copies at your cost, of all significant documents sent or received by the Firm in connection with the Matter. If, in the Firm's sole discretion, it appears that a conflict of interest has or may arise between two or more clients, then the Firm shall have the right to withdraw from representation of one or more of the clients and to continue the representation of any of the other clients.

All of the Firm's work product will be owned by the Firm and may be utilized in whole or in part by the Firm in other projects, subject to issues related to our duty of confidentiality. We agree to make reasonably available to you all written materials we send or receive pertaining to these matters so long as all of our billing statements have been timely paid.

Confidentiality of Communications

All communications between the Firm and you – whether written, oral or electronic – are confidential, and you agree to take all reasonable precautions to ensure that the confidentiality of these communications is preserved. This includes, at a minimum, ensuring that (i) written communications are not read by other persons, (ii) oral conversations are not overheard by other persons, (iii) electronic communications are not accessible by other persons, and (iv) the communications among you and any other clients the Firm is representing on the same Matter and the Firm are not disclosed by you to other persons.

Insurance Coverage/Indemnification Agreements

You agree to advise the Firm as promptly as possible of any insurance policies or other agreements which may provide for insurance coverage, indemnification and/or payment of attorney's fees, costs and expenses, in whole or in part, with respect to the Matter.

How Fees Will Be Set

The hourly rates of our lawyers and legal assistants are adjusted from time to time to reflect current levels of legal experience, changes in overhead costs, and other factors. We will keep records of the time we devote to your work, including conferences (both in person and over the telephone), negotiations, factual and legal research and analysis, document preparation and revision, travel on your behalf, and other related matters. We record our time in units of tenths of an hour.

Costs and Expenses

We will charge the Client not only for legal services rendered, but also for other ancillary services provided. The Client agrees to reimburse the Firm for all out of pocket expenses paid by the Firm. Examples include application fees, investigative costs, title insurance premiums,

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

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travel expenses, witness fees, charges for serving and filing papers, costs for depositions, transcripts and filing fees, recording fees and fees for certifying documents. The Client also agrees to pay when billed for certain specified costs including for messenger services, computerized research services, postage, scanning and photocopying, notarial attestations and overtime clerical assistance. We do not charge for long-distance telephone toll charges or for sending or receiving faxes.

We will use an electronic document management program for managing documents produced and received in the Matter. Conversion of those documents into the document management program will be billed as a cost for the Client. While our charges for these services are measured by use, they may not, in all instances, reflect our exact out-of packet costs. The precise cost of providing service is difficult to establish for many of these services. Such costs we charge at the rate representing reasonable charges in the community for such services. We would be pleased to discuss the specific schedule of charges for these additional services with you and to answer any questions that you may have. If you would prefer, in some situations we can arrange for these services to be provided by third parties with direct billing to you. Attached as **Exhibit "B"** is a list of typical cost items and their associated costs.

You authorize us to retain any other persons or entities in performing necessary services related to this Matter. Such other persons or entities may include, but are not limited to, Court reporters, escrow agents, appraisers, investigators, consultants, or experts necessary in our judgment to represent your interests in the representation. Their fees and expenses generally will not be paid by us, but will be billed directly to you. You agree to promptly pay the charges of every person or entity hired by the Firm to perform services related to the Matter.

Billing Arrangements and Terms of Payment

We will bill you on a regular basis, normally each month, for fees, costs and expenses. If you have any questions or objections concerning a billing statement, you agree to raise them promptly for discussion. Such questions or objections shall be timely only if made within twenty (20) days from the delivery of the applicable billing statement. In all events, unless otherwise agreed to in a writing signed by us, you agree to make payments within thirty (30) days of receiving our billing statement. We may give you notice if your account becomes delinquent, and in such event you agree to immediately bring the account or the retainer deposit current. Past-due bills will bear interest at the rate of one percent (1%) per month without notice. Should any bill become thirty (30) days past due, the Firm may choose to cease all work on the Client's behalf until all outstanding bills are paid in full. If the delinquency continues and you do not arrange satisfactory payment terms, we will withdraw from the representation and pursue collection of your account. You agree to pay the fees, costs and expenses related to preservation and pursuit

Garman Turner Gordon LLP

Attorneys and Counselors at Law

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of the Firm's claims against you and collecting the debt, including court costs, filing fees, and reasonable attorney fees and costs. Client and the Firm acknowledge that in the event the Firm is retained as legal counsel for a debtor-in-possession under the Bankruptcy Code, the award of legal fees, costs and expenses is subject to award and review by the United States Bankruptcy Court.

Retainer and Trust Deposits

Clients of the Firm may be required to deposit a retainer with the Firm. At the conclusion of our legal representation or at such time as the retainer deposit is unnecessary or is appropriately reduced, the remaining balance or an appropriate part of it will be returned to you. If the retainer deposit proves insufficient to cover current expenses and fees at some point during the representation, it may have to be increased.

All trust deposits we receive from you, including retainers, will be placed in a trust account for your benefit. Normally, pursuant to court rule, your deposit will be placed in a pooled account, and the interest earned on the pooled account will be payable to a charitable foundation. Other trust deposits will also be placed in the pooled account unless you request a segregated account.

Retainers and Minimum Fees can be paid with cash, check, cashier check, credit card or by wire transfer. If you chose to wire the funds our bank information is Nevada State Bank, E. Warm Springs Road, Las Vegas, NV 89132, telephone # 1-702-855-4606; account information is GTG LLP, Acct. # 979892841, routing # 122400779, swift code # ZFNBUS55.

Conflicts

The Firm represents many other entities and individuals. It is possible that some of the Firm's present or future clients will have disputes with you during this engagement. Therefore, as a condition to the Firm's undertaking this engagement, you agree that the Firm may continue to represent, or may undertake in the future to represent, existing or new clients in any matter that is not substantially related to the Matter, even if the interests of such clients in those other matters are directly adverse to you. The Client's prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as the result of the Firm's representation of you, the Firm has obtained sensitive, proprietary or other confidential information that, if known to any such other client of the Firm, could be used in any such other matter by such client to the material disadvantage of you. In other words, we agree not to accept, without prior approval from you, any engagement known to be in direct conflict with your interests in the Matter. If, in the course of representing multiple clients, we determine in our sole discretion that a conflict of interest exists, we will notify all affected clients of such

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conflict and may withdraw from representing any one or more of the multiple clients, possibly including you, to the extent such a withdrawal would be permitted or required by applicable ethical rules.

Termination and File Retention

You may at any time terminate our services and representation upon written notice to us. Such termination shall not, however, relieve you of the obligation to pay for all services already rendered, including work in progress and remaining incomplete at the time of termination, and to pay for all expenses incurred on your behalf through the date of termination.

We reserve the right to withdraw from our representation (1) if you fail to honor the Engagement Letter, any Supplement thereto or these Standard Terms of Representation; (2) for any just reason as permitted or required under the Nevada Code of Professional Responsibility or by any appropriate court; (3) if you demand that we take action which we, in our discretion, determine would violate Rule 11 of the Federal Rules of Civil Procedure or any state or bankruptcy law derivative thereof; (4) if you fail to cooperate with us, make false statement or representations to us, or fail to pay us promptly as required by the terms hereof; or (5) as required or permitted by the applicable rules of professional conduct, all upon written notice to you. In the event that we terminate the engagement, we will take such steps as are reasonably practicable to protect your interests in the Matter, and you agree to take all steps necessary to free us of any obligation to perform further, including the execution of any documents necessary to perfect our withdrawal. We will be entitled to be paid for all services rendered and costs and expenses incurred on your behalf through the date of withdrawal. If permission for withdrawal is required by a court, we will promptly request such permission, and you agree not to oppose our request. In the event of termination, you agree to pay us promptly for all services rendered plus all other charges or expenses incurred prior to such termination.

Unless previously terminated, our representation of you in the Matter will terminate upon our sending you our final statement for services rendered in the Matter.

The Client is responsible for maintaining its own copies of documents forwarded to it by the Firm. Following termination of our services, at your request, your papers and property will be returned to you upon receipt of payment of outstanding fees, costs and expenses. Otherwise, we agree to make a diligent effort, subject to casualties beyond our control, to retain and maintain all major and significant components of your papers and property relative to the Matter for a period of four (4) years following the conclusion of the matter. Our own files pertaining to the Matter will be retained by the Firm. These Firm files include, for example, firm administrative records, time and expense reports, personnel and staffing materials, and credit and accounting records; and internal lawyers' work product such as drafts, notes, internal

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

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memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. All such documents retained by the Firm will be transferred to the person responsible for administering our records retention program. For various reasons, including the minimization of unnecessary storage expenses, we reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement.

We shall be entitled to enforce our attorneys' retaining lien and attorneys' charging lien in accordance with Nevada law, so that, in the event you fail to pay the Firm as provided herein, the Firm may retain exclusive control of all your files as well as any property, monies, or original documents in the Firm's possession, until such fees, costs and expenses are paid in full. You hereby grant a power of attorney to counsel to execute any drafts or instruments payable to you, apply sums received to the Firm's outstanding billing statements, and remit any remaining funds to you.

After the conclusion of our representation, changes may occur in the applicable laws or regulations that could have an impact upon your future rights and liabilities. Unless you engage us after the conclusion of the Matter to provide additional advice on issues arising from the Matter, the Firm has no continuing obligation to advise you with respect to future legal developments.

Governing Law and Rules of Professional Conduct

The Engagement Letter shall be interpreted and enforced in accordance with the laws of the State of Nevada, as amended from time to time. The Firm's services shall be governed by the Rules of Professional Conduct as adopted by the Nevada Supreme Court, as amended from time to time, without regard to where the services are actually performed. Any lawsuit, action or proceeding arising out of or relating to this agreement shall only be instituted in a federal or state court located in Nevada.

Disputes

JURY WAIVER. THE CLIENT AND THE FIRM VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, ARISING OUT OF, IN CONNECTION WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED BETWEEN THEM IN CONNECTION WITH THE MATTER, THIS AGREEMENT, OR ANY OTHER AGREEMENT OR DOCUMENT EXECUTED OR DELIVERED OR CREATED IN

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

Page 11

CONNECTION HEREWITH OR THEREWITH OR ANY ACT OR TRANSACTION RELATED HERETO.

Effort and Outcome

The Firm agrees to competently and diligently represent the Client in the Matter. The Client acknowledges that the Firm has given no assurances regarding the outcome of the Matter. You acknowledge that, in the event of a loss, you may be liable for the opposing party's attorney's fees and will be liable for the opposing party's costs as required by law. You further acknowledge that a suit brought solely to harass or coerce a settlement may result in liability for malicious prosecution or abuse of process.

Commencement of Representation

If representation of the Client by the Firm in the Matter has commenced prior to the Firm receiving a copy of the Engagement Letter and any Supplement thereto signed by the Client and any required retainer, all such services rendered by the Firm are agreed to have been requested and provided pursuant to the terms of the Engagement Letter and any Supplement thereto.

Privacy Policy of Garman Turner Gordon

Lawyers, as providers of certain personal services, may be required by the Gramm-Leach-Bliley Act (the "Act") to inform their clients of their policies regarding privacy of your information. We understand your concerns as to privacy and the need to ensure the privacy of all your information. Your privacy is important to us, and maintaining your trust and confidence is a high priority. Lawyers have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by the Act. Therefore, we have always protected your right to privacy. The purpose of this notice is to explain our Privacy Policy with regard to personal information about you that we obtain and how we keep that information secure.

Nonpublic Personal Information. We collect nonpublic personal information about you that is provided to us by you or obtained by us with your authorization or consent.

We do not disclose any personal information about our clients or former clients to anyone, except as permitted by law and any applicable state ethics rules.

We do not disclose any nonpublic personal information about current or former clients obtained in the course of representation of those clients, except as expressly authorized by those clients to enable us to effectuate the purpose of our engagement or as required or permitted by

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

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law or applicable provisions of codes of professional responsibility or ethical rules governing our conduct as lawyers.

Confidentiality and Security. We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and to comply with professional guidelines or requirements of law. In order to guard your nonpublic personal information, we maintain physical, electronic, and procedural safeguards that comply with our professional standards.

Integration

The Engagement Letter, any Supplement thereto and these Standard Terms of Representation contain the entire agreement between the Client and the Firm regarding the Matter and the fees, costs and expenses relative to the Matter. The Engagement Letter and any Supplement thereto shall be binding upon the Client and the Firm and their respective heirs, executors, legal representatives and successors. These Standard Terms of Representation may be revised periodically. Any revision shall be delivered to the Client and be effective thirty (30) days after such delivery unless we have received an objection to the revision from the Client within such thirty (30) day-period.

Authorization to Retain the Firm

The person signing the Engagement Letter on behalf of the Client acknowledges that he has the requisite power and authority to execute and deliver the Engagement Letter on behalf of the Client, and that the Client has duly authorized and approved all necessary action and consent to be taken by him with respect to the Matter.

Garman Turner Gordon LLP

Attorneys and Counselors at Law

April 21, 2017

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Exhibit "B"

Chargeable Costs

1. Local Courier Messenger Services	\$10.00
2. Indexing (per tab)	.50
3. Photocopying (per page)	.25
4. Telephone Charge (long distance)	actual charge
5. Equifax	actual charge
6. Federal Express	actual charge
7. UPS Delivery	actual charge
8. Computerized Research	actual charge
9. Scanning (per page)	.25
10. Electronic Filing and Retrieval Fees	actual charge

EXHIBIT “C”

LIMITED LIABILITY COMPANY AGREEMENT
OF
TGC/FARKAS FUNDING LLC
A Delaware Limited Liability Company

Dated as of October 21, 2013

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LIMITED LIABILITY COMPANY AGREEMENT
OF TGC/FARKAS FUNDING LLC

AGREEMENT OF LIMITED LIABILITY COMPANY of TGC/FARKAS FUNDING LLC (the "Company"), dated as of October 21, 2013 (the "Effective Date"), among the persons listed on Schedule A attached hereto (individually, a "Member" and, collectively, the "Members").

RECITALS

WHEREAS, the Members have formed the Company in accordance with the provisions of the Delaware Limited Liability Company Act, as amended from time to time (the "Act"), and desire to enter into a written agreement pursuant to the Act governing the affairs of the Company and the conduct of its business;

WHEREAS, Matthew Farkas ("Farkas") has been granted a two percent (2%) membership interest (the "2% Interest") in First 100, LLC, a Nevada limited liability company (the "Investment Vehicle") 1.5% of which shall be subject to vesting over a period of three (3) years, as evidenced by the vesting letter attached as Exhibit A hereto;

WHEREAS, as of the date hereof, Farkas has contributed all of his right, title and interest in and to the 2% Interest to the Company in exchange for a fifty percent (50%) membership interest in the Company;

WHEREAS, TGC 100 Investor, LLC, a Delaware limited liability company ("TGC Investor"), has the right to purchase a one percent (1%) Class A Voting Membership Interest (the "1% Class A Interest") in the Investment Vehicle and has contributed this right to the Company, together with a capital contribution in the amount of the 1% Class A Interest purchase price, in exchange for a fifty percent (50%) membership interest in the Company; and

WHEREAS, the Members party hereto desire to enter into this Agreement in order to document their business and economic relationship.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto hereby agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 Definitions. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to them in the Act. For all purposes of this Agreement, except as otherwise expressly required or unless the context clearly indicates a contrary intent, the terms set forth below shall have the following meanings:

“1% Class A Interests” has the meaning set forth in the Recitals hereof.

“2% Interest” has the meaning set forth in the Recitals hereof.

“Act” has the meaning set forth in the Recitals hereof.

“Agreement” shall mean this Agreement of Limited Liability Company of TGC/Farkas Funding LLC.

“Administrative Member” has the meaning set forth in Section 4.1(c) hereof.

“Business Days” shall mean any day on which commercial banking institutions in the City of New York are not authorized or required to close.

“Capital Commitment” shall mean, for any Member, the amounts set forth opposite such Member’s name on Schedule B hereto, as the same may be amended from time to time in accordance with this Agreement.

“Capital Contribution” shall mean, for any Member, at any time, the amount of capital actually contributed to the Company by such Member on or prior to such time which has not been paid back to such Member.

“Certificate of Formation” has the meaning set forth in Section 2.1 hereof.

“Code” has the meaning set forth in Section 6.44 hereof.

“Common Interests” has the meaning set forth in Section 5.1 hereof.

“Company” has the meaning set forth in the Introductory Paragraph hereof.

“Consent to Assignment” has the meaning set forth in Section 5.5 hereof.

“Covered Persons” has the meaning set forth in Section 4.3 hereof.

“Distributable Cash” shall mean, unless otherwise expressly stated herein, the cash proceeds from the operations of the Company, net of all related costs and expenses.

“Effective Date” has the meaning set forth in the Introductory Paragraph hereof.

“Event of Termination” has the meaning set forth in Section 9.1.

“Farkas” has the meaning set forth in the Recitals hereof.

“Fiscal Year” has the meaning set forth in Section 2.9.

“Initial Capital Contribution” has the meaning set forth in Section 5.2.

“Investment Vehicle” has the meaning set forth in the Recitals.

“Member” has the meaning set forth in the Introductory Paragraph.

“Membership Interest” shall mean each Member’s ownership interest in the Company.

“Membership Interest Percentage” has the meaning set forth in Section 3.1(a) hereof.

“Person” means any individual, corporation, general or limited partnership, limited liability company, limited liability partnership, joint venture, estate, trust, joint stock company, unincorporated association, any other entity, any governmental authority and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Preferred Rate” shall mean shall mean a sum equal to three percent (3.0%) per annum, determined on the basis of a year of 365 or 366 days, as the case may be, for the actual number of days in the period for which the Preferred Return is being determined.

“Preferred Return” shall mean, commencing on the date hereof and thereafter, an amount required for TGC Investor to receive a return on its Capital Account balance as of the first day of the relevant Fiscal Period equal to the Preferred Rate, compounded annually, which amount shall accumulate to the extent not paid pursuant to Section 6.1(b).

“Secretary of State” has the meaning set forth in Section 2.1 hereof.

“TGC Investor” has the meaning set forth in the Recitals hereof.

“Transfer” has the meaning set forth in Section 8.1.

ARTICLE II

GENERAL PROVISIONS

Section 2.1 Formation. The Members have formed the Company as a limited liability company pursuant to the Act. A Certificate of Formation described in Section 18-201 of the Act (the “Certificate of Formation”) was filed with the Secretary of State of the State of Delaware (the “Secretary of State”) on October 18, 2013 in conformity with the Act. Catherine Ledyard, as an authorized person within the meaning of the Act, was expressly authorized to execute and file the Certificate of Formation. The Administrative Member (as hereinafter defined), on behalf of the Company shall execute or cause to be executed from time to time all other instruments, certificates, notices and documents and shall do or cause to be done all such acts and things as may now or hereafter be required for the formation, valid existence and, when appropriate, termination of the Company as a limited liability company under the laws of the State of Delaware.

Section 2.2 Company Name. The name of the Company shall be “TGC/Farkas Funding LLC”. The business of the Company may be conducted under such other names as the Members may from time to time determine, provided that the Company complies with all relevant state laws relating to the use of fictitious and assumed names.

Section 2.3 Place of Business; Principal Office. The principal and chief executive office of the Company shall be located at the offices of TGC Investor in New York, New York or such other place that the Members shall determine. The books and records of the Company shall be kept and maintained at the principal office of the Company.

Section 2.4 Purpose; Nature of Business Permitted; Powers. The Company is formed for the purpose of owning not less than a three percent (3.0%) membership interest in the Investment Vehicle, and to engage in any and all activities that may be necessary, incidental or advisable to the foregoing. The Company shall possess and may exercise all the powers and privileges granted by the Act or by any other law or by this Agreement, together with any powers incidental thereto, insofar as such powers and privileges are necessary or convenient to the conduct, promotion or attainment of the business purposes or activities of the Company.

Section 2.5 Business Transactions of a Member with the Company. In accordance with Section 18-107 of the Act, a Member may lend money to, borrow

money from, act as surety, guarantor or endorser for, guarantee or assume one or more obligations of, provide collateral for, and transact other business with, the Company and, subject to applicable law, shall have the same rights and obligations with respect to any such matter as a Person who is not a Member. The Company shall not lend money to, act as a surety, guarantor or endorser for, guarantee or assume on or more obligations of, or provide collateral for a Member.

Section 2.6 Company Property. No real or other property of the Company shall be deemed to be owned by a Member individually, but shall be owned by and title shall be vested solely in the Company. The Common Interests in the Company held by the Members shall constitute personal property of the Members.

Section 2.7 Term. The existence of the Company commenced on the date of the filing of the Certificate of Formation in the office of the Secretary of State of the State of Delaware in accordance with the Act, and, subject to the provisions of Article X hereof, the Company shall have perpetual life.

Section 2.8 No State Law Partnership. The Members intend that the Company not be a partnership (including a limited partnership) or joint venture and that no Member be a partner or joint venturer of any other Member for any purposes other than applicable tax laws. This Agreement may not be construed to suggest otherwise.

Section 2.9 Fiscal Year. The fiscal year of the Company (the “Fiscal Year”) for financial statement and federal income tax purposes shall be the calendar year. The Company shall have the same fiscal year for tax and accounting purposes.

Section 2.10 Tax Treatment. The Company shall be treated as a partnership for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes), and the Members and the Company shall timely make any and all necessary elections and filings for the Company to be treated as a partnership for U.S. federal income tax purposes (as well as for any analogous state or local tax purposes).

Section 2.11 Registered Office and Agency. The address of the registered office of the Company in the State of Delaware is Corporation Services Company, 2711 Centerville Road, in the City of Wilmington, County of New Castle, State of Delaware 19808. Such office and such agent may be changed from time to time by the Members.

ARTICLE III

MEMBERS

Section 3.1 Members. The name, address and Membership Interest Percentage (as hereinafter defined) of each of the Members are set forth on Schedule A hereto, which shall be amended from time to time to reflect the admission of new Members, additional capital contributions of Members or the Transfer of Common Interests, each, to the extent permitted by the terms of this Agreement. As of the date hereof, each Member's membership interest in the Company (its "Membership Interest Percentage") is as follows:

<u>Member</u>	<u>Membership Interest Percentage</u>
TGC Investor	50.00%
<u>Farkas</u>	<u>50.00%</u>
TOTAL:	100.00%

Section 3.2 Admission of New Members. A Person shall be admitted as a Member of the Company only upon (i) the prior unanimous written approval of the Members and (ii) receipt by the Company of a counterpart to this Agreement, executed by such Person, agreeing to be bound by the terms of this Agreement.

Section 3.3 No Liability of Members. All debts, obligations and liabilities of the Company, whether arising in contract, tort or otherwise, shall be solely the debts, obligations and liabilities of the Company and no Member shall be obligated personally for any such debt, obligation or liability of the Company solely by reason of being a Member.

Section 3.4 Actions by the Members; Meetings; Quorum.

(a) The Administrative Member may take any action without a meeting; however, the Administrative Member agrees that all actions shall be taken after consultation with, and upon the consent of, all Members and the Administrative Member agrees to file a copy of any action taken by the Administrative Member with the records of the Company.

(b) Meetings of the holders of the Common Interests may be called at any time by the Members. Decisions of the Members shall be made by the unanimous vote of the Members.

Section 3.5 Power to Bind the Company. No Member (acting in its capacity as such) other than the Administrative Member shall have any authority to bind the Company to any third party with respect to any matter except pursuant to a resolution expressly authorizing such matter and authorizing such Member to bind the Company with respect thereto, which resolution is duly adopted by the affirmative vote of all Members.

ARTICLE IV

MANAGEMENT

Section 4.1 Management of the Company.

(a) The Members hereto agree that Farkas shall be the administrative member of the Company (the "Administrative Member") and shall be responsible for the day-to-day management of the Company. The Administrative Member shall be a "manager" of the Company as such term is defined in the Act and shall be responsible for making all business and managerial decisions for the Company.

(b) Neither this Agreement nor any term or provision hereof may be amended, waived, modified or supplemented orally, but only by a written instrument signed by all of the Members hereto.

Section 4.2 Exculpation. Neither the Administrative Member nor the Members shall be liable to the Company or to any other Person for any action taken or omitted to be taken by such party or for any action taken or omitted to be taken by any other Person with respect to the Company, except to the extent that any such act or omission was attributable to such Person's willful misconduct, fraud or gross negligence. Without limiting the generality of the foregoing, neither the Administrative Member nor the Members shall be liable to the Company for honest mistakes of judgment or for losses or liabilities due to such mistakes or to the negligence, dishonesty or bad faith of any employee, broker or other agent of the Company.

Section 4.3 Indemnification.

(a) The Company shall indemnify to the fullest extent permitted by law each of Administrative Member and each Member and each of their respective employees or agents of each of them (each, a "Covered Person") from and against all costs and expenses (including attorneys' fees and disbursements), judgments, fines, settlements, claims and other liabilities incurred by or imposed upon such Covered Person in connection with, or resulting from, investigating,

preparing or defending any action, suit or proceeding, whether civil, criminal, administrative, investigative, legislative or otherwise (or any appeal therein), to which such Covered Person may be made a party or become otherwise involved or with which such Covered Person may be threatened, in each case by reason of, or in connection with, such Covered Person's being or having been associated with the Company, or having acted at the direction of the Company as a director, officer, employee, partner or agent of an entity in which the Company has invested, directly or indirectly, or by reason of any action or alleged action, omission or alleged omission by such Covered Person in any such capacity, provided that such Covered Person is not ultimately adjudged to have engaged in willful misconduct, fraud or gross negligence.

(b) The Company may purchase and maintain liability insurance on behalf of any Covered Person against any liability asserted against a Covered Person and incurred by him, her or it arising out of the Company, whether or not the Company could indemnify such Covered Person against the liability under the provisions of this Section 4.3.

(c) The Company shall pay the expenses incurred by any such Covered Person in investigating, preparing or defending a civil or criminal action, suit or proceeding, in advance of the final disposition thereof, upon receipt of an undertaking by or on behalf of such Covered Person to repay such amount if there is a final adjudication or determination that he, she or it is not entitled to indemnification as provided herein.

(d) None of the provisions of this Section 4.3 shall be deemed to create or grant any rights in favor of any third party, including, without limitation, any right of subrogation in favor of any insurer or surety. The rights of indemnification granted hereunder shall survive the dissolution, winding up and termination of the Company.

(e) The right of any Covered Person to the indemnification provided herein shall be cumulative of, and in addition to, any and all rights to which such Covered Person may otherwise be entitled by contract or as a matter of law or equity and shall extend to such Covered Person's successors, assigns and legal representatives.

(f) All judgments against the Company or a Covered Person, in respect of which such Covered Person is entitled to indemnification, shall first be satisfied from Company assets before the Covered Person is responsible therefor.

Section 4.4 Reliance by Third Parties. Persons dealing with the Company are entitled to rely conclusively upon the power and authority of the Administrative Member.

Section 4.5 Officers and Related Persons. By resolution of the Members, Farkas is hereby appointed Chief Executive Officer of the Company (the “CEO”). The CEO shall have the authority to appoint and terminate officers of the Company, retain and terminate employees, agents and consultants of the Company and to delegate such duties to any such officers, employees, agents and consultants as the CEO deems appropriate in each case to operate in accordance with the Approved Budget or as otherwise agreed by the Members.

ARTICLE V

CAPITAL STRUCTURE AND CONTRIBUTIONS

Section 5.1 Capital Structure. The capital structure of the Company shall consist of one class of common interests (“Common Interests”). Each of the Common Interests shall be as set forth on Schedule A hereto, and shall have identical rights unless otherwise set forth herein.

Section 5.2 Capital Contributions. TGC Investor has contributed, as an initial capital contribution to the Company, all of its right to purchase the 1% Class A Interests and all of its right, title and interest in and to the amount of cash listed on Schedule A hereto (each, an “Initial Capital Contribution”). Farkas has contributed, as an initial contribution to the Company, his right to purchase the 2% Interest in the Investment Vehicle, which, for the purpose of this Agreement has the value set forth on Schedule A hereto. In exchange for the Initial Capital Contribution each Member is herewith receiving Common Interests in the Company in the amount set forth opposite the name of such Member on Schedule A hereto. Upon the satisfaction of the condition to effectiveness set forth in Section 5.5 hereof, the Administrative Members shall cause the Company to purchase the 1% Class A Interest with the cash contributed to the Company.

Section 5.3 Additional Capital Contributions. Other than as may be agreed by the Members, there shall be no additional contributions to the Company’s capital.

Section 5.4 No Withdrawal Of Capital Contributions. Except upon the dissolution and liquidation of the Company as set forth in Article IX hereof, the Members shall not have the right to withdraw capital contributions.

Section 5.5 Condition to Effectiveness; Exclusive Investment Vehicle.

a. As a condition to the effectiveness of this Agreement, Farkas shall and shall cause the managing member of the Investment Vehicle to deliver to the Administrative Member that certain Consent to Admission of New Member in the form attached hereto as Exhibit B (the "Consent to Assignment"), pursuant to which the Company consents to the admission of the Company as a member as more particularly set forth therein.

b. The Members acknowledge and agree that 1.5% of the interest in the Investment Vehicle which is subject to vesting shall be allocable to Farkas and 1.5% of the interest in the Investment Vehicle which is not subject to vesting shall be allocable to TGC Investor. The Administrative Member shall cause the Investment Vehicle to properly identify the interests allocable to Farkas and TGC Investor on Schedule A to the Investment Vehicle operating agreement.

c. The Members acknowledge and agree that the Company shall be Farkas' exclusive vehicle for investments in the Investment Vehicle during the term of this Agreement.

Section 5.6 Maintenance of Capital Accounts. The Company shall establish and maintain capital accounts for the Common Interest Members in accordance Treasury Regulations Section 1.704-(b). The balance in each Member's capital account shall be increased by (x) the amount of each contribution made by such Member and (y) the distributive share of net profits of the Member and shall be decreased by (x) the amount of each distribution made to the Member and (y) the distributive share of net losses allocated to the Member.

ARTICLE VI

ALLOCATIONS AND DISTRIBUTIONS

Section 6.1 Distributions. The Administrative Member shall determine the amount of Distributable Cash in compliance with the Act and the timing of all distributions to be made hereunder. All distributions of Distributable Cash prior to the liquidation of the Company shall be made in the following order and priority:

(a) first, one hundred percent (100%) to TGC Investor until TGC Investor shall have received a cumulative amount equal to the Preferred Return; and

(b) second, one hundred percent (100%) to TGC Investor until such time as TGC Investor shall have received a cumulative amount equal to the total amount of its unpaid Capital Contributions, from time to time; and

(c) third, one hundred percent (100%) to the Members on a pro rata basis in accordance with their respective Membership Interest Percentage.

Section 6.2 Allocations of Net Profits and Net Losses from Operations. For financial accounting and tax purposes, the Company's net profits or net losses shall be determined on an annual basis in accordance with the manner determined by the Administrative Member upon consultation with the Members, provided, however allocation of net profits and net losses shall comply with the provisions of Section 704 and the Treasury Regulations promulgated thereunder. In each year, the Company's net profits and net losses shall be allocated to the Members, pro rata, in accordance with their Membership Interest Percentage.

Section 6.3 No Right to Distributions. The Members shall not have the right to demand or receive distributions of any amount, except as expressly provided in this Article VI.

Section 6.4 Withholding. The Company is authorized to withhold from distributions to the Members, or with respect to allocations to the Members, and to pay over to a Federal, foreign, state or local government, any amounts required to be withheld pursuant to the Internal Revenue Code of 1986 (the "Code"), or any provisions of any other Federal, foreign, state or local law. Any amounts so withheld shall be treated as having been distributed to the Members pursuant to this Article VI for all purposes of this Agreement, and shall be offset against the current or next amounts otherwise distributable to the Members.

ARTICLE VII

BOOKS AND REPORTS

Section 7.1 Books and Records. The Company shall keep or cause to be kept at the office of the Company (or at such other place as the Board in its discretion shall determine) full and accurate books and records regarding the status of the business and financial condition of the Company and shall make the same available to the Member upon request, subject to the provisions of the Act.

Section 7.2 Form K-1. After the end of each Fiscal Year, the Administrative Member shall cause to be prepared and transmitted, as promptly as possible, and in any event within 90 days of the close of the Fiscal Year, a Federal income tax Form K-1 and any required similar state income tax form for the Member.

Section 7.3 Tax Matters Partner. The Administrative Member is hereby designated as the Company's "Tax Matters Partner" under Section 6231(a) (7) of the

Code, and shall have all the powers and responsibilities of such position as provided in the Code. The Tax Matters Partner is specifically directed and authorized to take whatever steps are necessary or desirable to perfect such designation, including filing any forms or documents with the Internal Revenue Service and taking such other action as may from time to time be required under the Regulations issued under the Code. The Tax Matters Partner shall cause to be prepared and shall sign all tax returns of the Company, make any tax elections for the Company allowed under the Code or the tax laws of any state or other jurisdiction having taxing jurisdiction over the Company and monitor any governmental tax authority in any audit that such authority may conduct of the company's books and records or other documents.

Section 7.4 Reports. The Administrative Member shall provide the Members with reports as follows:

(a) A quarterly report for each calendar quarter (other than the last calendar quarter of the Fiscal Year), certified by Administrative Member, to its actual knowledge, to be true, accurate and complete in all material respects, and submitted to the Members within twenty (20) days of the end of each such calendar quarter, which shall include an operating statement and report of financial condition of the Company for such quarter; and

(b) Annual financial statements in a format acceptable to the Members within ninety (90) days of the end of the Fiscal Year. The Members hereby agree to act reasonably in approving a Company accountant to provide auditing and tax services.

ARTICLE VIII

TRANSFERS OF COMMON INTERESTS; PARTIAL REDEMPTION

Section 8.1 Restriction on Transfer. No Member shall sell, convey, assign, transfer, pledge, grant a security interest in or otherwise dispose of (each a "Transfer") all or any part of its Common Interest, other than upon the prior unanimous written consent of the Members; provided, however, such Person to whom such Common Interests are Transferred shall be an assignee and shall have no right to participate in the Company's business and affairs unless and until such Person shall be admitted as a member of the Company upon (i) the prior unanimous written consent of the Members and (ii) receipt by the Company of a written agreement executed by the Person to whom such Common Interests are Transferred agreeing to be bound by the terms of this Agreement. All Transfers in violation of this Article VIII are null and void ab initio and of no force or effect.

Section 8.2 Permitted Transfers. Notwithstanding the foregoing, the consent of the Members shall not be required in connection with a transfer, in one or a series of transactions, of not more than forty-nine percent (49%) of a Member's membership interests in the Company provided that (i) any such Transfers are made by the ultimate beneficial owner of the membership interests to his spouse or a trust or other entity for estate planning purposes for the benefit of his spouse and (ii) any such transfer shall be permitted under the organizational documents of the Investment Vehicle.

ARTICLE IX

DISSOLUTION OF THE COMPANY

Section 9.1 Dissolution. The Company shall be dissolved upon the occurrence of either of the following events (an "Event of Termination"):

- (a) TGC Investor and Farkas vote for dissolution; or
- (b) the entry of a decree of judicial dissolution under the Act.

No other event, including the retirement, insolvency, liquidation, dissolution, insanity, expulsion, bankruptcy, death, incapacity or adjudication of incompetency of a Member, shall cause the Company to be dissolved; provided, however, that in the event of any occurrence resulting in the termination of the continued membership of the last remaining member of the Company, the Company shall be dissolved unless, within 90 days following such event, the personal representative of the last remaining member agrees in writing to continue the Company and to the admission of such personal representative (or any other Person designed by such personal representative) as a member of the Company, effective upon the event resulting in the termination of the continued membership of the last remaining member of the Company.

Section 9.2 Winding Up.

(a) In the event that an Event of Termination shall occur, then the Company shall be liquidated and its affairs shall be wound up by the Administrative Member(s) in accordance with the Act. All proceeds from such liquidation shall be distributed in accordance with the provisions of Law, and all Common Interests in the Company shall be cancelled.

(b) Upon the completion of the distribution of the winding up of the Company's affairs and Company's assets, the Company shall be terminated and

the Administrative Member shall cause the Company to execute and file a Certificate of Cancellation in accordance with the Act.

ARTICLE X

MISCELLANEOUS

Section 10.1 Amendment to the Agreement. Amendment to this Agreement and to the Certificate of Formation shall be effective only if approved in writing by TGC Investor and Farkas. An amendment shall become effective as of the date specified in the approval of such Members or as of the date of such approval.

Section 10.2 Successors; Counterparts. Subject to Article VIII, this Agreement (a) shall be binding as to the executors, administrators, estates, heirs and legal successors, or nominees or representatives, of the Members and (b) may be executed in several counterparts with the same effect as if the parties executing the several counterparts had all executed one counterpart.

Section 10.3 Governing Law; Severability.

(a) This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware without giving effect to the principles of conflicts of law. In particular, this Agreement shall be construed to the maximum extent possible to comply with all the terms and conditions of the Act. If it shall be determined by a court of competent jurisdiction that any provisions or wording of this Agreement shall be invalid or unenforceable under the Act or other applicable law, such invalidity or unenforceability shall not invalidate the entire Agreement. In that case, this Agreement shall be construed so as to limit any term or provision so as to make it enforceable or valid within the requirements of applicable law, and, in the event such term or provisions cannot be so limited, this Agreement shall be construed to omit such invalid or unenforceable terms or provisions. If it shall be determined by a court of competent jurisdiction that any provision relating to the distributions and allocations of the Company or to any expenses payable by the Company is invalid or unenforceable, this Agreement shall be construed or interpreted so as (a) to make it enforceable or valid and (b) to make the distributions and allocations as closely equivalent to those set forth in this Agreement as is permissible under applicable law.

(b) The Members agree that any action, suit or proceeding based upon any matter, claim or controversy arising hereunder or relating hereto shall be brought solely in the courts of the County of New York in the State of New York or the United States federal courts sitting in the Southern District of New York. The

parties hereto irrevocably waive any objection to the venue of the above-mentioned courts, including any claim that such action, suit or proceeding has been brought in an inconvenient forum.

Section 10.4 Headings. Section and other headings contained in this Agreement are for reference purposes only and are not intended to describe, interpret, define or limit the scope or intent of this Agreement or any provision hereof.

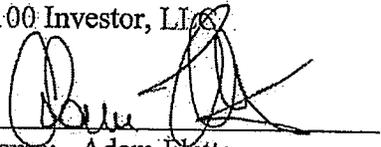
Section 10.5 Notices. All notices, requests and other communications to any Member shall be in writing (including electronic mail, facsimile or similar writing) and shall be given to the Members (and any other Person designated by such Members) at its address or electronic mail, facsimile number set forth in Schedule A hereto or such other address or electronic mail, facsimile number as the Member may hereafter specify for the purpose by notice. Each such notice, request or other communication shall be effective (a) if given by telecopier, when transmitted to the number specified pursuant to this Section 10.5 and the appropriate confirmation is received, (b) if given by mail, 72 hours after such communication is received by the other party, or (c) if given by electronic or any other means, when delivered to the address specified pursuant to this Section 10.5.

Section 10.6 Interpretation. Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural, and pronouns stated in either the masculine, the feminine, or the neuter gender shall include the masculine, feminine and neuter.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date first above written.

TGC 100 Investor, LLC

By: 

Name: Adam Flatto

Title: Manager

Matthew Farkas

IN WITNESS WHEREOF, the undersigned has duly executed this Agreement as of the date first above written.

TGC 100 Investor, LLC

By: _____

Name: Adam Flatto

Title: Manager

A handwritten signature in black ink, appearing to read 'Matthew Farkas', written over a horizontal line.

Matthew Farkas

Schedule A

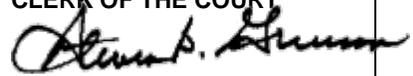
TGC/Farkas Funding LLC
Membership Percentage Interest and Initial Capital Balance of Member

<u>Name and Address of Member</u>	<u>Membership Percentage Interest</u>	<u>Initial Capital Balance</u>
TGC 100 Investor, LLC c/o The Georgetown Company, LLC 677 Madison Avenue New York, New York 10021 Attention: Adam Flatto Telephone: 212-755-2323 Facsimile: 212-755-3679 Email: aflatto@georgetownco.com	50.0%	\$1,000,000.00
Matthew Farkas 3345 Birchwood Park Circle Las Vegas, Nevada, 89141 Telephone: 646-226-0674 Facsimile: 702.724.9781 Email: mfarkas@f100llc.com	50.0%	\$0.00
Total	100.0%	\$1,000,000.00

Schedule B

Capital Commitments

TGC 100 Investor, LLC	\$1,000,000.00
Farkas	\$0.00



1 **RSPN**
JASON R. MAIER, ESQ.
2 Nevada Bar No. 8557
JOSEPH A. GUTIERREZ, ESQ.
3 Nevada Bar No. 9046
DANIELLE J. BARRAZA, ESQ.
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jag@mgalaw.com
8 djb@mgalaw.com

9 *Attorneys for Defendants First 100, LLC*
10 *and 1st One Hundred Holdings, LLC*
and Jay Bloom

11
12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**
14

15 TGC FARKAS FUNDING, LLC,
16 Plaintiff,

17 vs.

18 FIRST 100, LLC, a Nevada limited liability
19 company; 1st ONE HUNDRED HOLDINGS,
20 LLC, a Nevada limited liability company,
21 Defendants.

Case No: A-20-822273-C
Dept. No.: XIII

**DEFENDANTS AND NON-PARTY JAY
BLOOM'S RESPONSE TO ORDER TO
SHOW CAUSE**

22 Defendants First 100, LLC and 1st One Hundred Holdings, LLC (collectively "First 100") and
23 non-party Jay Bloom ("Mr. Bloom"), by and through their attorneys of record, the law firm MAIER
24 GUTIERREZ & ASSOCIATES, hereby submit this response to the Court's order to show cause why First
25 100 and non-party Bloom should not be held in contempt of Court. This response is based on the
26 following Memorandum of Points and Authorities, the exhibits attached hereto, and any oral argument
27 entertained at the hearing on the motion.

28 ///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 This show-cause hearing is moot because this case has settled and the Court vacated the show-
4 cause hearing originally set for January 21, 2021, in conjunction with granting First 100’s order
5 shortening time contained within its motion to enforce the settlement agreement.

6 In any event, non-party Jay Bloom has zero liability for any debts or responsibilities of First
7 100, and therefore should not be held in contempt for failing to abide by an arbitration award that does
8 not pertain to him and that he has nothing to do with. Crucially, neither the arbitrator nor this Court
9 have ever found Mr. Bloom to be the alter ego of First 100, and Plaintiff’s speculative claim that Mr.
10 Bloom *personally* has the “ability and control to cause Defendants to comply with the Final Order and
11 Judgment” is complete nonsense supported by zero facts or evidence. *See Ex Parte Application for*
12 *Order to Show Cause at p. 4, on file.*

13 Further, First 100 has no financial ability to comply with the pending order. If Plaintiff is
14 willing to pay for an accounting of First 100’s records, then First 100 can make such arrangements,
15 but First 100 cannot create and compile the requested company documents and make them available
16 for inspection and copying to Plaintiff, as it is impossible to do so without retaining an accountant –
17 which First 100 does not have the financial capacity to do.

18 As such, cause has been shown as to why non-party Jay Bloom (who has nothing to do with
19 this case) has not complied with an order that has nothing to do with him, and as to why First 100 is
20 incapable of abiding by the order due to financial constraints.

21 **II. LEGAL ARGUMENT**

22 **A. THE SHOW-CAUSE HEARING IS MOOT**

23 On January 19, 2021, the Court signed an order shortening time with respect to First 100’s
24 motion to enforce the settlement agreement executed by the parties. That order shortening time
25 indicates that “the show cause hearing scheduled for January 21, 2021 is continued until further order
26 of the Court.” *See Motion to Enforce Settlement at p. 5, on file.*

27 As such, the show-cause hearing that is still on the Court’s docket for January 21, 2021, should
28 be vacated accordingly, as the Court has elected to first adjudicate the issue of the parties’ settlement,

1 as any finding of a valid settlement would completely moot this show-cause hearing.

2 **B. NON-PARTY JAY BLOOM HAS NOT VIOLATED ANY ORDER**

3 It should go without saying that because Jay Bloom is not a party to this case, and because he
4 has never been the subject of any orders from this Court, it is impossible for him to somehow be in
5 violation of any orders, which makes it simple for him to “show cause” as to why he should not be
6 held in contempt for failing to follow an order that does not pertain to him.

7 Plaintiff’s sole “argument” for trying to implicate Mr. Bloom in this case is by virtue of Mr.
8 Bloom’s status as principal and founding director of First 100, LLC and 1st One Hundred Holdings,
9 LLC – limited liability companies that are completely separate from Mr. Bloom personally. But
10 pursuant to NRS 86.371, “[u]nless otherwise provided in the articles of organization or an agreement
11 signed by the member or manager to be charged, *no member or manager of any limited-liability*
12 *company formed under the laws of this State is individually liable for the debts or liabilities of the*
13 *company.*” (emphasis added).

14 No judgment was obtained against Mr. Bloom in this action, therefore Mr. Bloom has zero
15 personal liability for the judgment obtained against First 100, LLC and First One Hundred Holdings,
16 LLC. Further, no alter ego findings were made in the action as it relates to Mr. Bloom and First 100,
17 LLC and First One Hundred Holdings, LLC, and Mr. Bloom obviously would have made arguments
18 establishing the lack of any alter ego relationship had he been put on notice of any such allegation
19 which was never made.

20 Nevertheless, Plaintiff is attempting to unilaterally pierce the corporate veil without having
21 ever successfully obtained an alter ego finding, and without ever lodging an alter ego claim where
22 Plaintiff would have been required to prove the existence of an alter ego relationship pursuant to the
23 factors set forth in *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841, 846 (2000).

24 Plaintiff’s claim that non-party Mr. Bloom has somehow violated this Court’s orders
25 constitutes a blatant attempt to obstruct the statutory and legal authorities regarding the non-liability
26 of members or managers of LLCs with respect to the debt and responsibilities of LLCs, and should
27 not be tolerated by the Court.

28 ///

1 **C. FIRST 100 DOES NOT HAVE FINANCIAL ABILITY TO COMPLY WITH THE ORDER**

2 While First 100 acknowledges that the Court has ordered First 100 to make its financial records
3 (including balance sheets and profit and loss statements, documents relating to First 100’s assets, and
4 tax returns) available to Plaintiff for inspection and copying, the records need to be compiled and in
5 some cases created and there is no way for First 100 to abide by this order without retaining a
6 professional accountant.

7 However, First 100 does not have the financial resources to hire an accountant, and can only
8 comply with the Court’s order if Plaintiff pays First 100’s accounting costs in order to effectuate
9 compliance with the Court’s order. *See* NRS 86.243(3), the “district court may . . . order the company
10 to furnish the demanding member or manager the records . . . on the condition that the demanding
11 member or manager first pay to the company the reasonable cost of obtaining and furnishing such
12 records and on such other conditions as the district court deems appropriate.”

13 Plaintiff has long-known that First 100 has no means of complying with the Court’s order
14 without Plaintiff paying accounting costs, yet Plaintiff is still somehow arguing that First 100 is
15 intentionally violating the Court’s order. First 100 is doing no such thing, as it is simply impossible
16 to comply with an order without having the financial means to do so. First 100 has no employees, no
17 offices, and has not been operational in over three years. There is no one available to gather the
18 documents that Plaintiff has requested and produce them. Thus, cause has been shown, as it is
19 impossible for First 100 to comply with the order as stated.

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1 **III. CONCLUSION**

2 Based on the foregoing, non-party Jay Bloom (who has nothing to do with any order issued
3 by the Court), along with First 100, LLC and 1st One Hundred Holdings, LLC, have shown adequate
4 cause as to why they should not be held in contempt.

5 DATED this 20th day of January, 2021.

6 Respectfully submitted,
7 **MAIER GUTIERREZ & ASSOCIATES**

8 /s/ Joseph A. Gutierrez
9 JASON R. MAIER, ESQ.
Nevada Bar No. 8557
10 JOSEPH A. GUTIERREZ, ESQ.
Nevada Bar No. 9046
11 DANIELLE J. BARRAZA, ESQ.
Nevada Bar No. 13822
12 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
13 *Attorneys for First 100, LLC and 1st One
Hundred Holdings, LLC*

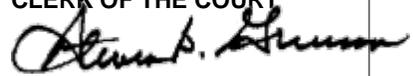
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to Administrative Order 14-2, a copy of the **DEFENDANTS AND NON-PARTY**
3 **JAY BLOOM'S RESPONSE TO ORDER TO SHOW CAUSE** was electronically filed on the
4 20th day of January, 2021, and served through the Notice of Electronic Filing automatically
5 generated by the Court's facilities to those parties listed on the Court's Master Service List as
6 follows:

7 Erika P. Turner, Esq.
8 GARMAN TURNER GORDON, LLP
9 650 White Drive, Suite 100
10 Las Vegas, Nevada 89119
11 *Attorneys for TGC Farkas Funding LLC*

12 */s/ Natalie Vazquez*
13 _____
14 An Employee of MAIER GUTIERREZ & ASSOCIATES
15
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SUPP

GARMAN TURNER GORDON LLP
ERIKA PIKE TURNER
Nevada Bar No. 6454
Email: eturner@gtg.legal
DYLAN T. CICILIANO
Nevada Bar. No. 12348
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7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff/Judgment Creditor

DISTRICT COURT

CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,
Plaintiff,

vs.

FIRST 100, LLC, a Nevada Limited Liability
Company; FIRST ONE HUNDRED
HOLDINGS, LLC, a Nevada limited liability
company aka 1st ONE HUNDRED HOLDINGS
LLC, a Nevada Limited Liability Company,
Defendants.

CASE NO. A-20-822273-C
DEPT. 13

**SUPPLEMENT TO PLAINTIFF'S EX
PARTE APPLICATION FOR ORDER TO
SHOW CAUSE WHY DEFENDANTS AND
JAY BLOOM SHOULD NOT BE HELD IN
CONTEMPT OF COURT**

Date of Hearing: January 21, 2021

Plaintiff/Judgment Creditor TGC/FARKAS FUNDING, LLC ("Plaintiff"), by and through counsel, the law firm of Garman Turner Gordon LLP, hereby submits its supplement to its request for Order to Show Cause why Defendants/Judgment Debtors FIRST 100, LLC and FIRST ONE HUNDRED HOLDINGS, LLC, aka 1st ONE HUNDRED HOLDINGS LLC (the "Defendants") and their manager Jay Bloom ("Bloom") should not be held in contempt for failing to comply with the Order Granting Plaintiff's Motion to Confirm Arbitration Award and Denying Defendant's Countermotion to Modify Award; and Judgment ("Orders").

MEMORANDUM OF POINTS AND AUTHORITIES

Consistent with the Arbitrator's findings, Defendants continue to act in bad faith to deny Plaintiff the right to inspect Defendants' books and records. Specifically, a week before the scheduled hearing on the duly entered and served order to show cause, Defendants, through their

1 manager, principal, and chairman Bloom¹, unsuccessfully attempted to orchestrate a scheme to
2 take over the case and avoid the hearing and the consequences for the subject undeniable contempt.
3 This scheme is so beyond the pale, it bears the Court’s consideration when considering the nature of
4 Defendants’ contempt and the necessary sanctions. Accordingly, Plaintiff files this supplement.

5 Specifically, on January 14, 2021, Mr. Nahabedian sent a letter to Plaintiff’s counsel stating
6 that he had been hired by Plaintiff to replace it in the above captioned action. (Exhibit 1-A). Mr.
7 Nahabedian claims he was retained by Matthew Farkas (“Farkas”), one of Plaintiff’s members.
8 Despite the assertion, Mr. Nahabedian refused to produce related communications regarding his
9 retention. This of course posed several problems. First, Farkas has no authority to hire or fire
10 counsel. Second, Mr. Nahabedian has an unwaivable conflict—he currently represents Bloom and
11 has represented Defendants’ affiliates. Thus, not only could Mr. Nahabedian not represent Plaintiff,
12 but it was completely improper for him to speak directly with Farkas. Making matter’s worse, Mr.
13 Nahabedian claimed that the matter had been settled—although in follow up, he refused to provide any
14 evidence of a settlement. Mr. Nahabedian then pressed Plaintiff’s counsel to sign a substitution of
15 counsel so that the matter could be dismissed before this Court’s show cause hearing. Of course, the
16 entire scenario was a sham perpetrated by Defendants who will do anything to conceal records Plaintiff
17 is entitled to receive that might reveal where Plaintiff’s \$1 million investment went. Once the sham
18 was revealed, both Defendants’ counsel and Mr. Nahabedian swore that they had no involvement in
19 either the “settlement” or any related discussions. While that seems improbable, it leaves one solitary
20 person holding the bag—Bloom.

21 Defendants response is a fraud on the Court, as evidenced by the transcript attached hereto as
22 **Exhibit 1-K**. A response to Defendants’ motion to enforce settlement will be filed in due course, with
23 a substantial request for sanctions. In the meantime, the Court should enter an order of contempt and/or
24 set an evidentiary hearing for further proceedings.

25 ///

26 _____
27 ¹ Defendants’ Limited Opposition to Motion to Confirm Arbitration Award and Countermotion to Modify Award per
28 NRS 38.242, at Exh. A.

1 **A. After the Court issued its order to show cause, Defendants and Bloom’s contemptuous**
2 **behavior has accelerated, with Bloom attempting to wrest control of Plaintiff and**
3 **instill his own attorney as counsel to dismiss this action.**

4 Plaintiff is a Delaware Limited Liability, with two members, TGC 100 Investor, LLC and
5 Farkas. Plaintiff “invested \$1 million into the business of [Defendants] in exchange for a”
6 membership interest in Defendants (Final Award, October 1, 2020 Motion to Confirm Arbitration
7 Award, at Exhibit 1, at p. 2).

8 On May 2, 2017, Plaintiff made a statutory request to inspect Defendants’ records pursuant
9 to its status as a member of Defendants. (*Id.*). Defendants’ refused to produce the company records
10 in what the Arbitration panel found to be “the first in a **long and bad faith effort by [Defendants]**
11 **to avoid their statutory and contractual duties** to a member to produce requested records.”
12 (*Id.*)(emphasis added).

13 On September 15, 2020, the Panel entered its Final Award, wherein it compelled
14 Defendants to produce the requested records by September 25, 2020. (*Id.*).

15 On November 17, 2020, this Court entered Order Granting Plaintiff’s Motion to Confirm
16 Arbitration Award and Denying Defendant’s Countermotion to Modify Award; and Judgment (the
17 “**Judgment**”). Judgment, on file herein. The Judgment likewise ordered Defendants to provide
18 business records to Plaintiff as required in the Final Order. *Id.*

19 Defendants failed to produce the records, and on December 21, 2020, the Court entered an
20 Order to Show Cause why Defendants and Jay Bloom Should Not Be Held in Contempt of Court,
21 on file herein.

22 **1. Immediately after the Order to Show Cause was entered and served, Defendants**
23 **illicitly acted to frustrate Plaintiff’s post-judgment enforcement efforts.**

24 On January 5, 2021, Defendants’ counsel failed to comply with a subpoena for records
25 with respect to the source of funds received by it on behalf on Defendants. (**Exhibit 1-B**).
26 Defendants’ counsel agreed to supplement its productions on January 6, 2021. (**Exhibit 1-C**).
27 Defendants’ counsel never made a supplemental production. (Declaration of Dylan T. Ciciliano,
28

1 at ¶ 5).

2 On January 7, 2021, Bloom refused to produce documents in response to a post-judgment
3 subpoena. (**Exhibit 1-D**). On January 8, 2021, Bloom stated that he would not appear for a
4 deposition, as he was “not a party” to this action. (**Exhibit 1-E**). Of course, this disregards
5 Plaintiff’s right to depose any person believed to have knowledge regarding the Judgment Debtors’
6 assets that could be used to satisfy the Judgment, as well as knowledge regarding the location of
7 the documents ordered to be produced. *Mona v. Eighth Judicial Dist. Court of State in & for*
8 *County of Clark*, 132 Nev. 719, 726, 380 P.3d 836, 841 (2016)

9 When Defendants’ counsel requested a meet and confer, Plaintiff provided dates, including
10 over the weekend. (**Exhibit 1-F**). Defendants, however, failed to follow up and schedule a meet
11 and confer. (Ciciliano Decl. at ¶ 10). After having vigorously opposed post-judgment discovery
12 efforts, Defendants fell silent. The purpose soon became entirely clear, Bloom was attempting to
13 defeat the judgment with a coup.

14 On January 14, 2021, Raffi Nahabedian, Esq. sent a letter to Plaintiff’s counsel claiming
15 that he had been retained by Farkas to represent Plaintiff, that Plaintiff’s counsel of record would
16 be terminated, that Plaintiff’s counsel was to execute a substitution of counsel and that Plaintiff
17 would be dismissing this matter pursuant to a settlement. (**Exhibit 1-A**). As part of the letter,
18 Nahabedian included a letter purportedly drafted by Farkas, but which was actually drafted by
19 Bloom or his counsel. (**Exhibit- 1-G**). In fact, Farkas had not even communicated with Nahabedian
20 until after Bloom presented Farkas with an engagement agreement. Even if that were not the case,
21 Nahabedian’s letter created a myriad of concerns.

22 First, Farkas lacked the ability to control Plaintiff. On September 17, 2020, Plaintiff’s
23 members adopted an amended operating agreement, whereby TGC 100 Investor, LLC had “full,
24 exclusive, and complete discretion, power and authority” . . . “to manage, control, administer and
25 operate the business and affairs of the Company.” (See **Exhibit 2-A**, a September 17, 2020 Email
26 from Farkas signed the Amendment to Limited Liability Company Agreement of TGC/Farkas
27 Funding, LLC; Exhibit 2-B, Amendment to Limited Liability Company Agreement of TGC/Farkas
28

1 Funding, LLC). Thus, Farkas has no ability to control Plaintiff. Moreover, TGC 100 Investor, LLC
2 did not authorize Mr. Nahabedian's retention, Garman Turner Gordon's termination or the
3 settlement of this matter. (Declaration of Adam Flatto, Manager of TGC 100 Investor, LLC,
4 attached hereto as Exhibit 2, at ¶¶ 5-8).

5 Second, Mr. Nahabedian's appearance caused red flags. First, Mr. Nahabedian
6 concurrently represents Bloom. *See* Case No. A-20-809882-B. Furthermore, Mr. Nahabedian has
7 represented Defendants' and/or their affiliate (Kal-Mor-USA,LLC) in more than a dozen cases. *See*
8 *e.g.* Case No.'s A-14-705587-C, A-16-730447-C. In those cases where Mr. Nahabedian represented
9 Defendants or their affiliate, Maier Gutterez & Associates ("MGA"), Defendants' and Bloom's
10 current counsel, was almost always counsel of record as well. *Id.* These facts undeniably give rise to
11 the specter of impropriety, and could only occur with Bloom's involvement.

12 Additionally, they give rise to an unwaivable conflict of interest. Mr. Nahabedian's
13 representation of Defendants' principal and Plaintiff is a concurrent conflict of interest. This
14 concurrent representation violates Nevada Rule of Professional Conduct 1.7(a), and 1.6, and is
15 unwaivable. NRPC 1.7(b)(3). Thus, Mr. Nahabedian could not serve as Plaintiff's counsel, even if
16 Farkas was authorized to hire him (he is not).

17 Of additional concern is the fact that Farkas has in his possession Plaintiff's attorney-client
18 privileged information. Mr. Nahabedian's ex-parte communicate with Farkas about this matter creates
19 ethical issues given Mr. Nahabedian's concurrent representation of Bloom. *Brown v. Eighth Judicial*
20 *Dist. Court ex rel. County of Clark*, 116 Nev. 1200, 1205, 14 P.3d 1266, 1270 (2000).

21 Finally, Mr. Nahabedian's allegation that Plaintiff settled the matter was disturbing because,
22 in fact, Plaintiff did not settle the action and is actively pursuing its remedies. (Flatto Decl. at ¶ 8).
23 Defendants, however, were desperate and the purported (and non-evidenced) settlement was the lynch
24 pin of Defendants' scheme.²

25 On January 15, 2021, Plaintiff addressed Mr. Nahabedian's letter. (*See Exhibit 1-H*). When

26 ² After Mr. Nahabedian sent his letter, Defendants' counsel MGA affirmatively asserted that they were
27 aware that Mr. Nahabedian would be substituting in and insisted that they communicate with him in
28 relation to the case. (Exh. 1-F).

1 faced with the outrageous conduct in which Defendants and Mr. Nahabedian were engaged, Mr.
2 Nahabedian stepped back and he and MGA disavowed any involvement in any settlement negotiations
3 or the drafting of any settlement documents. (**Exhibit 1-I**).

4 To date, and despite demand, Mr. Nahabedian have refused to produce any documents related
5 to any “settlement,” including the settlement agreement, Mr. Nahabedian’s purported retention, or
6 settlement negotiations. (**Exhibit 1-J**).

7 **CONCLUSION**

8 Plaintiff requests that this Court hold Defendants and Jay Bloom in Contempt of Court for
9 failing to produce documents in compliance with this Court’s Judgment and impose monetary
10 sanctions upon Defendants and Bloom as a condition precedent to purging contempt.

11 DATED this 20th day of January, 2021.

12 GARMAN TURNER GORDON LLP

13 /s/ Erika Pike Turner
14 ERIKA PIKE TURNER
15 Nevada Bar No. 6454
16 DYLAN T. CICILIANO
17 Nevada Bar. No. 12348
18 7251 Amigo Street, Suite 210
19 Tel: (725) 777-3000
20 *Attorneys for Plaintiff*
21
22
23
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25
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27
28

Exhibit 1

DECL

GARMAN TURNER GORDON LLP
ERIKA PIKE TURNER
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Email: eturner@gtg.legal
DYLAN T. CICILIANO
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Las Vegas, Nevada 89119
Tel: (725) 777-3000
Fax: (725) 777-3112
Attorneys for Plaintiff

DISTRICT COURT

CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,
Plaintiff,

vs.

FIRST 100, LLC, a Nevada Limited Liability Company; FIRST ONE HUNDRED HOLDINGS, LLC, a Nevada limited liability company aka 1st ONE HUNDRED HOLDINGS LLC, a Nevada Limited Liability Company,
Defendants.

CASE NO. A-20-822273-C
DEPT. 13

DECLARATION OF DYLAN T. CICILIANO IN SUPPORT OF SUPPLEMENT TO PLAINTIFF’S EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE WHY DEFENDANTS AND JAY BLOOM SHOULD NOT BE HELD IN CONTEMPT OF COURT

I, Dylan T. Ciciliano, declare as follows:

1. I am an attorney licensed to practice law in the State of Nevada and am an associate in the law firm of Garman Turner Gordon LLP, counsel of record for Plaintiff TGC/Farkas Funding, LLC (“Plaintiff”) in the above-captioned case. In such capacity, I have developed personal knowledge regarding the facts set forth below.

2. I make this Declaration in support of the Supplement to Plaintiff’s Ex Parte Application for Order to Show Cause Why Defendants and Jay Bloom Should Not Be Held In Contempt of Court (the “Supplement”).

3. Attached hereto as **Exhibit 1-A** is a true and correct copy of a January 14, 2021, letter from Raffi Nahabedian, Esq. to Plaintiff’s counsel claiming that he had been retained by Farkas to represent Plaintiff, that Plaintiff’s counsel of record would be terminated, that Plaintiff’s

1 counsel was to execute a substitution of counsel and that Plaintiff would be dismissing this matter
2 pursuant to a settlement.

3 4. Attached hereto as **Exhibit 1-B** is a true and correct copy of objections to a
4 subpoena duces tecum to Defendants' counsel.

5 5. Attached hereto as **Exhibit 1-C** is a true and correct copy of an email chain from
6 January 5, 2021, with Plaintiff's counsel.

7 6. Defendants' counsel has failed to supplement its production.

8 7. On January 7, 2021, Bloom refused to respond to a post-judgment subpoena for
9 records relevant to Defendants' assets. A true and correct copy of the objections are attached hereto
10 as **Exhibit 1-D**. To date Bloom has produced no records.

11 8. On January 8, 2021, Bloom stated that he would not appear for a deposition, as he
12 was "not a party" to this action. A true and correct copy of his email is attached hereto as **Exhibit**
13 **1-E**.

14 9. A true and correct copy of an email from Defendants counsel is attached hereto as
15 **Exhibit 1-F**.

16 10. Defendants failed to follow up with Plaintiff's counsel on a meet and confer.

17 11. Attached hereto as **Exhibit 1-G** is a true and correct copy of a January 19, 2021
18 email from Matthew Farkas.

19 12. Attached hereto as **Exhibit 1-H** is a true and correct copy of a letter from Plaintiff's
20 counsel to Nahabedian.

21 13. Attached hereto as **Exhibit 1-I** is a true and correct copy of a January 15, 2020
22 email from Mr. Nahabedian and Defendants' counsel.

23 14. Attached hereto as **Exhibit 1-J** is a true and correct copy of an emails from Mr.
24 Nahabedian.

25 15. Attached hereto as **Exhibit 1-K** is a true and correct copy of a transcript of a
26 recorded conversation with Matthew Farkas from January 21, 2021.

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

Executed this 20th day of January, 2021.

/s/ Dylan T. Ciciliano
DYLAN T. CICILIANO, Declarant

Exhibit 1-A

Raffi A. Nahabedian, Esq.
The Law Office of Raffi A. Nahabedian
7408 Doe Avenue
Las Vegas, NV 89117
(702) 379-9995 or (702) 222-1496(Fax)

Member State Bar of California

Member State Bar of Nevada

January 14, 2021

Erika Pike Turner, Esq.
Garman Turner Gordon
7251 Amigo Street, Suite 210
Las Vegas, NV 89119
eturner@gtg.legal

Re: *TGC/Farkas Funding, LLC v. First 100, LLC et al* A-20-822273-C

Dear Ms. Pike Turner:

Please be advised that the Law Office of Raffi A. Nahabedian has been retained as counsel by TGC/Farkas Funding, LLC with respect to the above-referenced matter (hereinafter referred to as the "TGC/Farkas v. First 100 Matter"). Enclosed herein is a termination letter addressed to your firm ("Termination Letter") that Mr. Matthew Farkas prepared and executed on behalf of TGC/Farkas Funding, LLC, and provided me in regards to my retention.

Pursuant to the TGC/Farkas Funding, LLC Operating Agreement, which specifically states that Mr. Farkas serves as both the Administrative Member and Manager, Mr. Farkas has full authority to retain and terminate legal representation for the company in his Manager capacity. For the reasons stated below and in the Termination Letter, Mr. Farkas has elected to exercise that authority.

Mr. Farkas has had growing concerns about Garman Turner Gordon's ("GTG") representation of TGC/Farkas Funding, LLC. Notably, in GTG's engagement letter that Mr. Farkas signed on behalf of TGC/Farkas Funding, LLC, Mr. Farkas included a handwritten preclusion of litigation against First 100 to make clear that litigation against was prohibited, yet somehow litigation was commenced anyway and without Mr. Farkas' written approval of the same (or a written revocation by Mr. Farkas of his instruction). Beyond that, Mr. Farkas also learned that GTG pursued aggressive judgment collection tactics against First 100, which was never discussed with or approved of beforehand by Mr. Farkas. Indeed, Mr. Farkas is not only concerned that GTG exceeded the scope of the agreed-upon engagement through its ongoing litigation and collection efforts against

First 100, but he is now at risk of a potential claim against him by First 100 for breach of fiduciary duty as Mr. Farkas is still an officer of First 100.

We expect that GTG will take no further action on behalf of TGC/Farkas Funding, LLC in the TGC/Farkas v. First 100 Matter and, to the extent necessary, a formal written demand is hereby made that GTG cease all legal work on the same. To be clear, Mr. Farkas does not consent to GTG engaging in any further litigation or collection activities whatsoever against First 100, and TGC/Farkas Funding, LLC does not consent to GTG attempting to represent TGC/Farkas Funding, LLC now that the representation has been terminated by way of the enclosed Termination Letter.

Enclosed is a substitution of counsel for Garman Turner Gordon to execute immediately so as to ensure a smooth transition. In an effort to mitigate damages, Mr. Farkas has resolved the TGC/Farkas v. First 100, LLC Matter on behalf of TGC/Farkas and a courtesy copy of the fully executed settlement agreement is also enclosed herein.

Your prompt attention to this matter is requested and I look forward to receiving your signature on the enclosed substitution of counsel (already executed by TGC/Farkas Funding, LLC) as soon as possible to prevent any unnecessary delay.

Sincerely,



Raffi A. Nahabedian, Esq.

cc: Client (via email)

Matthew Farkas
3345 Birchwood Park Circle
Las Vegas, NV 89141

January 6, 2021

Erika Pike Turner, Esq.
Garman Turner Gordon
7251 Amigo Street, Suite 210
Las Vegas, NV 89119
eturner@gtg.legal

Re: Non-Consent to Legal Representation of TGC/Farkas Funding, LLC

Dear Ms. Pike Turner:

I am writing this letter regarding TGC/Farkas Funding, LLC and the collection efforts that have taken place against First 100, LLC and First One Hundred Holdings, LLC ("First 100").

When I initially agreed to Garman Turner Gordon representing TGC/Farkas Funding, LLC, it was with the express understanding that such representation would preclude any form of litigation against First 100 or its officers, directors, members, successors or assigns.

Notwithstanding, the matter did eventually go to an arbitration and I understand that the arbitrator has issued an award in favor of TGC/Farkas Funding, LLC.

I had no knowledge of, did not and would not have approved of, nor have I been involved in or consented to any discussions regarding the collection efforts of the judgment against First 100, LLC. I would have insisted on having had input on such efforts and would never have consented to the actions your firm is taking.

Please be advised that, as a 50% member of TGC/Farkas Funding, LLC, I no longer consent to Garman Turner Gordon taking any further legal actions on behalf of TGC/Farkas Funding, LLC and therefore I am terminating the representation as it relates to the matter against First 100, effective immediately.

Thank you for your attention to this matter.

Sincerely,



Matthew Farkas

RAFFI A. NAHABEDIAN

7408 Doe Avenue
Las Vegas, Nevada 89117
Tel: (702) 379-9995 / Fax: (702) 222-1496

1 RAFFI A. NAHABEDIAN, ESQ.
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3 Las Vegas, Nevada 89117
Telephone: (702) 379-9995
4 Facsimile: (702) 222-1496
Attorneys for Plaintiff

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 TGC/FARKAS FUNDINGG, LLC,

Case No.: A-13-677354-C

9 Plaintiff,

Dept. No.: XVI

10 vs.

SUBSTITUTION OF COUNSEL

11 FIRST 100, LLC, a Nevada Limited Liability
Company; FIRST ONE HUNDRED
12 HOLDINGS, LLC, a Nevada Limited Liability
company, aka 1st ONE HUNDRED
13 HOLDINGS LLC, a Nevada Limited Liability
Company,

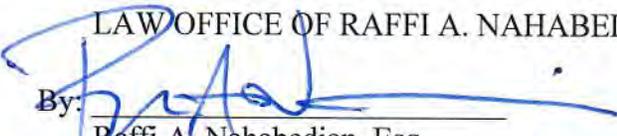
14 Defendants.

16 **SUBSTITUTION OF COUNSEL**

17
18 Please take notice that TGC/FARKAS FUNDING, LLC, a Nevada limited liability
19 company, hereby substitutes as counsel of record attorney Raffi A. Nahabedian, of the Law Office
20 of Raffi A. Nahabedian, in the aforementioned matter, in place of the law firm of Garman Turner
21 Gordon, LLP. All future notices in this matter should be sent to:

22 Raffi A. Nahabedian, Esq.
23 Law Office of Raffi A. Nahabedian
7408 Doe Avenue
24 Las Vegas, NV 89117

25 Dated this 17th day of January, 2021.

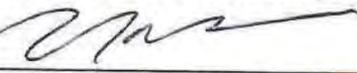
26 **LAW OFFICE OF RAFFI A. NAHABEDIAN**
By: 
27 Raffi A. Nahabedian, Esq.
Attorneys Plaintiff

RAFFI A. NAHABEDIAN
7408 Doe Avenue
Las Vegas, Nevada 89117
Tel: (702) 379-9995 / Fax: (702) 222-1496

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TGC/FARKAS FUNDING, LLC, by way of Matthew Farkas, hereby requests and consents to the aforementioned substitution of counsel in the above-captioned matter:

Dated this ___ day of January, 2021. TGC/FARKAS FUNDING, LLC

By: 
Matthew Farkas, Member/Manager

GARMAN TURNER GORDON LLP hereby consents to the aforementioned substitution of counsel of record in the above captioned matter:

Dated this ___ day of January, 2021. GARMAN TURNER GORDON LLP

By: _____
Erika Pike Turner, Esq.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the ____ day of January 2021, service of the foregoing Substitution of Counsel was made this date by electronically serving, through Clark County e-file system, a true and correct copy of the same, to the following parties:

Joseph A. Gutierrez, Esq.
Danielle J. Barraza, Esq.
MAIER GUTIERRES & ASSOC.
8816 Spanish Ridge Ave.
Las Vegas, NV 89148
Attorneys for Defendants

Erika Pike Turner, Esq.
Dylan T. Ciciliano, Esq.
GARMAN TURNER GORDON LLP
7251 Amigo St., Suite 210
Las Vegas, NV 89119

/s/ Raffi A. Nahabedian, Esq.
An employee of Raffi A. Nahabedian

RAFFI A. NAHABEDIAN
7408 Doe Avenue
Las Vegas, Nevada 89117
Tel: (702) 379-9995 / Fax: (702) 222-1496

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Exhibit 1-B

1 **RESP**
JASON R. MAIER, ESQ.
2 Nevada Bar No. 8557
JOSEPH A. GUTIERREZ, ESQ.
3 Nevada Bar No. 9046
MAIER GUTIERREZ & ASSOCIATES
4 8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
5 Telephone: (702) 629-7900
Facsimile: (702) 629-7925
6 E-mail: jrm@mgalaw.com
jag@mgalaw.com

7
8 *Attorneys for Subpoenaed Party*
Maier Gutierrez PLLC
9 *dba Maier Gutierrez & Associates*

10 **DISTRICT COURT**
11 **CLARK COUNTY, NEVADA**

12 TGC/FARKAS FUNDING, LLC,
13
14 Plaintiff,
15
16 vs.
17 FIRST 100, LLC, a Nevada limited liability
company; 1st ONE HUNDRED HOLDINGS,
18 LLC, a Nevada limited liability company,
19 Defendants.

Case No.: A-20-822273-C
Dept. No.: XIII

**MAIER GUTIERREZ PLLC dba MAIER
GUTIERREZ & ASSOCIATES’
AMENDED RESPONSES AND
OBJECTIONS TO REQUESTS FOR
PRODUCTION ACCOMPANYING
SUBPOENA**

19 TO: TGC/FARKAS FUNDING, LLC, plaintiff; and
20 TO: ERIKA PIKE TURNER, ESQ., attorney for plaintiff.

21 Pursuant to Nevada Rule of Civil Procedure 45, subpoenaed party Maier Gutierrez PLLC dba
22 Maier Gutierrez & Associates (“MGA”), hereby provides the following amended responses and
23 objections to requests for production accompanying the subpoena dated December 18, 2020, and
24 served on December 29, 2020. By responding to these requests for production, MGA expressly
25 reserves and does not waive the right to object to, oppose, and/or move to quash the subpoena and/or
26 further action taken by any party to enforce the subpoena as to MGA on any and all procedural and
27 substantive grounds, including but not limited to grounds that the subpoena is defective and was not
28 properly issued, and that MGA is not a proper subpoenaed party in this action.

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RESPONSES TO REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1:

Documents evidencing the payment of any funds by, on behalf of, or on the account of the Judgment Debtors', including but not limited to bank statements, wire receipts and checks.

AMENDED RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no limitations as to time or scope. Further, the discovery sought is not proportional to the needs of the case. Subject to these objections, MGA limits its response to January 1, 2020, to the present, and responds as follows: MGA is not in possession of any responsive documents.

REQUEST FOR PRODUCTION NO. 2:

Documents sufficient to identify any funds held in trust by YOU on relation to the Judgment Debtors or any of their affiliated entities.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no limitations as to time or scope. Further, the discovery sought is not proportional to the needs of the case. Subject to these objections, MGA responds as follows: MGA is not in possession of any responsive documents.

REQUEST FOR PRODUCTION NO. 3:

All documents and communications Relating to the source of any Person's, including the Judgment Debtors, payments or transfers of an Asset to You (including the form and source of any payments) in payment of Your fees and costs incurred in representing Judgment Debtors since January 1, 2015 to the present. This would include copies of all checks, credit card deposits and wire confirmations as applicable.

RESPONSE TO REQUEST FOR PRODUCTION NO. 3:

Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no limitations as to scope and a purported timeframe that is not reasonable or proportional to the needs of the case. Subject to these objections, MGA limits its response to January 1, 2020, to the present, and responds as follows: MGA is not in possession of any responsive documents.

1 **REQUEST FOR PRODUCTION NO. 4:**

2 Documents in your possession that are sufficient to identify any assets that Judgment Debtors
3 own or in which they have an interest, including any accounts or property.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

5 Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no
6 limitations as to time or scope. Further, the discovery sought is not proportional to the needs of the
7 case. Subject to these objections, MGA responds as follows: MGA is not in possession of any
8 responsive documents.

9 **REQUEST FOR PRODUCTION NO. 5:**

10 Documents in your possession that are sufficient to identify any Real Property owned or once
11 owned by Judgment Debtors.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

13 Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no
14 limitations as to time or scope. Further, the discovery sought is not proportional to the needs of the
15 case. Subject to these objections, MGA responds as follows: MGA is not in possession of any
16 responsive documents.

17 **REQUEST FOR PRODUCTION NO. 6:**

18 Any and all documents related to any judgments held by Judgment Debtors.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

20 Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no
21 limitations as to time or scope. Further, the discovery sought is not proportional to the needs of the
22 case. Subject to these objections, MGA responds as follows:

23 See judgment against defendants Raymond K. Ngan, Ngan Ventures Limited and PI Global
24 Holdings, LLC filed on March 28, 2017, in the case styled *First 100, LLC, et al. v. Raymond K. Ngan,*
25 *et al.*, formerly pending in the Eighth Judicial District Court, District of Nevada, as Case No. A-16-
26 738970-C. Documents related to this judgment are publicly accessible via Case No. A-16-738970-C.

27 See judgment against defendants Raymond K. Ngan, Relativity Capital Group, Ltd., Relativity
28 Capital, LLC, and Relativity Enterprises, Inc. filed on June 22, 2017, in the case styled *First 100,*

1 *LLC, et al. v. Raymond K. Ngan, et al.*, formerly pending in the Eighth Judicial District Court, District
2 of Nevada, as Case No. A-17-753459-C. Documents related to this judgment are publicly accessible
3 via Case No. A-17-753459-C.

4 *See* amended judgment against defendants Joel Just and Eagle Rock Asset Management, LLC,
5 filed on August 27, 2020, in the case styled *First 100, LLC, et al. v. Joel Just, et al.*, formerly pending
6 in the Eighth Judicial District Court, District of Nevada, as Case No. A-14-705993-B. Documents
7 related to this judgment are publicly accessible via Case No. A-14-705993-B.

8 **REQUEST FOR PRODUCTION NO. 7:**

9 Any and all documents related to any money You have collected on behalf of Judgment
10 Debtors.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

12 Objection. This request is vague and ambiguous, unduly burdensome and overbroad with no
13 limitations as to time or scope. Further, the discovery sought is not proportional to the needs of the
14 case. Subject to these objections, MGA responds as follows: MGA is not in possession of any
15 responsive documents.

16 DATED this 5th day of January, 2021.

17 Respectfully submitted,

18 **MAIER GUTIERREZ & ASSOCIATES**

19 /s/ Jason R. Maier

20 JASON R. MAIER, ESQ.

Nevada Bar No. 8557

21 JOSEPH A. GUTIERREZ, ESQ.

Nevada Bar No. 9046

22 8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Attorneys for Subpoenaed Party Maier

Gutierrez PLLC dba Maier Gutierrez &

Associates

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, a copy of the **MAIER GUTIERREZ PLLC dba MAIER GUTIERREZ & ASSOCIATES' AMENDED RESPONSES AND OBJECTIONS TO REQUESTS FOR PRODUCTION ACCOMPANYING SUBPOENA** was electronically served on the 5th day of January, 2021, through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

Erika P. Turner, Esq.
Dylan T. Ciciliano, Esq.
GARMAN TURNER GORDON, LLP
7251 Amigo Street, Suite 210
Las Vegas, Nevada 89119
Attorneys for Plaintiff TGC/Farkas Funding LLC

/s/ Charity Johnson
An Employee of MAIER GUTIERREZ & ASSOCIATES

Exhibit 1-C

Dylan Ciciliano

From: Dylan Ciciliano
Sent: Thursday, January 7, 2021 5:32 PM
To: Jason Maier; Erika Turner; Max Erwin
Cc: Joseph Gutierrez; Charity Johnson; Danielle Barraza
Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

Jason,

With respect to Rock Bay, a judgment creditor's discovery of "non-parties' assets" is limited. The "non-parties' assets" is the operative phrase missing from your statement. Also below, where you ponder if you are wrong, you are.

We will, however, agree to limit the request to **January 1, 2018**, without prejudice should additional circumstances arise. I appreciate your willingness to work this out.

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

GARMAN | TURNER | GORDON
7251 AMIGO STREET, SUITE 210
LAS VEGAS, NV 89119

Visit us online at www.gtg.legal

From: Jason Maier <jrm@mgalaw.com>
Sent: Wednesday, January 6, 2021 10:56 PM
To: Dylan Ciciliano <dciciliano@Gtg.legal>; Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>
Cc: Joseph Gutierrez <jag@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>; Danielle Barraza <djb@mgalaw.com>
Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

I'm surprised you would cite to *Rock Bay* given that it supports my objections previously stated. *Rock Bay* literally says that judgment creditor discovery to non-parties is limited. And NRCP 69 incorporates the remainder of the NRCP, which necessarily includes the limitations set forth in NRCP 26(b)(1).

I appreciate your further clarification and limitation that you are only seeking the production of records of payments received by MGA from or on behalf of debtors. However, I still disagree with your assertion that there is no undue burden. It is a significant burden to go back and try to figure out what payments might have been made and when for any client, then try to locate and match up documents that might perhaps correlate to said payments for any client. Every hour I spend on this harassment over a token judgment is another hour taken away from running my law firm and litigating cases on behalf of my clients. I could certainly be wrong, and please correct me if I am, but your repeated assertions of simplicity regarding records from years past appears to indicate a lack of experience actually running a business.

Your comment regarding the fraudulent transfer SOL is interesting and actually further supports my prior objections. However, given the three-year SOL, would you be willing to limit your request to January 1, 2018, to the present? If so, I will consider it. To be clear, I do not believe the SOL is determinative and this is certainly not a waiver of any objections previously stated.

I'm happy to enlighten you regarding meet and confer availability. As this subpoena involves my law firm as a non-party entity, you have to deal with me directly because I handle the administrative operations of my law firm. If the subpoena were directed to one of my clients and my law firm were merely involved in a representative capacity, then you would be able to deal with other attorneys in my office. So you are unfortunately stuck with me on this one.

As for the unnecessary commentary and unfounded accusations, please save those for other attorneys who enjoy that sort of thing. Your accusation that I am somehow concealing assets is a blatant violation of NRCPC 11. And I've never made a single hollow threat in my career. When I say something, I do it, particularly when it involves my law firm directly.

I attempted to address everything in your email below. But to the extent I missed anything, let's just assume I disagree for the sake of clarity.

Let me know if you are willing to limit your request to the production of records of payments received by MGA from or on behalf of debtors from January 1, 2018, to the present.

Jason R. Maier

MAIER GUTIERREZ & ASSOCIATES

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Tel: 702.629.7900 | Fax: 702.629.7925

jrm@mgalaw.com | www.mgalaw.com

From: Dylan Ciciliano <dciciliano@Gtg.legal>

Sent: Wednesday, January 06, 2021 12:36 PM

To: Jason Maier <jrm@mgalaw.com>; Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>

Cc: Joseph Gutierrez <jag@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>; Danielle Barraza <djb@mgalaw.com>

Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

Jason,

I appreciate your response. It was because I didn't want to assume that I clarified by an additional email.

The request for records related to AAA Arbitration 01-20-0000-0613 and Case No. A-20-822273-C are clearly covered by the prior subpoena. Per your suggestion, I will also include additional requests in the NRCPC 30(b)(6) notice.

As to the scope of our requests, I'd remind you that NRCPC 69(a)(2) provides that "in aid of the judgment or execution, the judgment creditor or a successor in interest whose interest appears of record may obtain discovery from any person — including the judgment debtor — as provided in these rules or by state law." *Rock Bay, LLC v. Dist. Ct.*, 129 Nev. 205, 210, 298 P.3d 441, 445 (2013). In interpreting NRCPC 69 and FRCP 69, the Court recognize that "the scope of discovery under Rule 69 is very broad." *Genx Processors Mauritius Ltd. v. Jackson*, 2018 WL 5777485, at *7 (D. Nev. Nov. 2, 2018)(citing *Republic of Argentina v. NML Capital, Ltd.*, 573 U.S. 134, 134 S. Ct. 2250, 2254 (2014) (noting that the "rules governing discovery in post-judgment execution proceedings are quite permissive"); 12 *Fed. Prac. & Proc. Civ.* § 3014, Discovery in Aid of Execution (2d ed. Sept. 2018 update)).

We only seek the production of information related to payments received by MGA from or on behalf of debtors. Proof of these payments, such as checks and wires will identify Debtors' assets, notably its accounts and whether anyone else is making payments on its behalf, a debtor of debtor. While I appreciate that you're taking the position that you have received no payments related to AAA Arbitration 01-20-0000-0613 or Case No. A-20-822273-C, MGA does not deny that it's received payments in the past from or on behalf of Debtors, and therefore has within its possession information related to Debtors' assets. Moreover, as your firm is aware, the dispute between our clients arose no later than 2017. Not only is it immaterial whether you've been paid in 2020, as we are seeking the identification of debtors' accounts, but it is irrelevant that the arbitration was filed in 2020, especially since MGA represented debtors in this dispute starting in 2017. Furthermore, as the fraudulent transfer statute of limitations is three years, we are willing restrict records from 2017 forward.

There is also little to no burden in complying with the request. You simply need to produce checks or wires (or other records) of payments you received from or on behalf of Debtors. You've articulated no reason as to why you cannot identify funds received from or on behalf of Debtors. You have not stated that the proof of payments is voluminous or otherwise unavailable. You are simply refusing to produce the documents. As stated below, we had no intention at this time (and likely ever) of taking MGA's deposition. However, a result of your actions, i.e. refusing to produce simple records, it's now necessary to take MGA's testimony on subject areas that could easily be answered with the requested records. So while I appreciate the hollow threats that you'll seek fees, let's be real clear about what's happening here: You are refusing to abide by simple requests. You acknowledged that Debtors have paid MGA at some point in time, yet you will only agree to conduct a search for payments in 2020, even though you state that none occurred, i.e. you are stating you'll produce nothing. By all measures, you are concealing the location of Debtors' assets. That is why we must take MGA's deposition and compel the production of the records. As stated above and below, if you produce records of payments received on or behalf of Debtors since January 1, 2017, a deposition and motion practice will not be necessary. It seems readily apparent that your compliance with the law will be far less burdensome than any of the threatened motion practice. Please confirm that you will produce records of payments received by MGA by or on behalf of Debtors from January 1, 2017 to present.

Finally, perhaps you can enlighten me on why no one in your office is able to confer on the simple request for more than a week? I'm free on the 12th, however, it seems that we can meet and confer in a matter of moments in the next six days as well.

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

GARMAN | TURNER | GORDON
7251 AMIGO STREET, SUITE 210
LAS VEGAS, NV 89119

Visit us online at www.gtg.legal

From: Jason Maier <jrm@mgalaw.com>
Sent: Tuesday, January 5, 2021 2:49 PM
To: Dylan Ciciliano <dciciliano@Gtg.legal>; Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>
Cc: Joseph Gutierrez <jag@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>; Danielle Barraza <djb@mgalaw.com>
Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

I would not "assume" anything. The amended response went out following my earlier email stating as much. I am just now seeing both of your follow-up emails.

If you know for sure that someone has been paying First 100's legal fees in 2020, then I sure as heck would like that same information myself because I'm not aware of any such payments. And I disagree with you that if a company has been unable to pay its bills in 2020 that it makes prior years much more relevant. I believe it makes prior years much less relevant and far less proportional, as the more remote in time a transaction, the less relevance or proportionality it has to today.

Regarding your meet and confer request, I am available for a telephone call in the afternoon on 1/12, 1/14 or 1/15.

Regarding your additional inquiries, if you want to send over another RFP specifically regarding payment of legal fees related to AAA Arbitration 01-20-0000-0613 and Case No. A-20-822273-C, I'm more than happy to respond to the same. However, I can give you a courtesy heads up that no payment of legal fees have been made to my firm regarding those two proceedings.

If you proceed with a deposition notice of intent today after I have already substantively responded to the RFPs, given you a courtesy heads up regarding the lack of payment of legal fees and/or without complying with your meet and confer obligations, I will file a motion for protective order and seek fees and costs against your firm for having to file the same. Candidly, these inquiries are nothing more than harassment of my law firm over a judgment in an amount that doesn't even meet, by way of example, the limited discovery mandates of the court's arbitration program for small value cases.

Jason R. Maier

MAIER GUTIERREZ & ASSOCIATES

8816 Spanish Ridge Avenue

Las Vegas, Nevada 89148

Tel: 702.629.7900 | Fax: 702.629.7925

jrm@mgalaw.com | www.mgalaw.com

From: Dylan Ciciliano <dciciliano@Gtg.legal>

Sent: Tuesday, January 05, 2021 1:09 PM

To: Jason Maier <jrm@mgalaw.com>; Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>

Cc: Joseph Gutierrez <jag@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>

Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

Jason,

In light of the supplement without any responsive records, am I to assume that MGA will not agree to produce records relevant to who has been paying Debtors' legal bills? If that's the case, do you agree we have met and conferred on the issue so that I can compel MGA's compliance? If you don't, when are you available for a telephone call.

Additionally, in an effort to schedule a mutually agreeable deposition, what is MGA's designee's availability for a NRCP 30(b)(6) deposition on the following topics:

- 1) The Receipt of any funds or anything of value as payment or compensation, including but not limited to payment for legal services since 2015, by MGA from or on behalf of Debtors, including but not limited to those fees incurred in relation to AAA Arbitration 01-20-0000-0613 and Case No. A-20-822273-C.
- 2) The terms of MGA's retention by Debtors in any action, including those related to AAA Arbitration 01-20-0000-0613 and Case No. A-20-822273-C.

I'll send out an intent to notice today, but if we can find a mutually agreeable time before I do so, I'll be able to better accommodate MGA's schedule. I don't imagine that the deposition will take longer than an hour or two and will be conducted via Zoom.

Thank you in advance,

Dylan

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

GARMAN | TURNER | GORDON
7251 AMIGO STREET, SUITE 210
LAS VEGAS, NV 89119

Visit us online at www.gtg.legal

From: Dylan Ciciliano

Sent: Tuesday, January 5, 2021 10:33 AM

To: Jason Maier <jrm@mgalaw.com>; Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>

Cc: Joseph Gutierrez <jag@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>

Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

Not so, we are entitled to discovery into the assets of Debtors. If your responses were accurate, MGA claims to have not received any payment in 2020, which may be why you are attempting to limit the request. As stated below, we know that Debtors and/or someone on their behalf have paid legal fees, where those fees came from is relevant to Debtors' assets. If the payments did not occur in 2020, it makes prior time periods that much more relevant. Given that you are required to maintain at least 7 years of records, it is not burdensome for you to identify the source of payments you received from Debtors during that period. We would be willing to limit the request in time to a few years, but we have to know that we are receiving responsive records. Additionally, as a matter of fact, receiving bank records, including check copies/wires, requires little to no effort and banks (especially those maintaining IOLTA accounts) provide responses in short order.

Alternatively, we'll have to take a depositions of MGA to understand the terms/circumstances related to payment. It seems like a wholesome response to the subpoena would eliminate the need and save both sides time. If you disagree, please provide dates for a deposition and I'll notice one.

Also, to correct the below, the judgment will be over \$30,000 with the entry of the additional attorney fees. Of course, if Debtors pay the judgment, we could forgo the above.

Dylan

Dylan T. Ciciliano, Esq.

Attorney

Phone: [725 777 3000](tel:7257773000) | Fax: [725 777 3112](tel:7257773112)

GARMAN | TURNER | GORDON
7251 AMIGO STREET, SUITE 210
LAS VEGAS, NV 89119

From: Jason Maier <jrm@mgalaw.com>
Sent: Tuesday, January 5, 2021 10:18 AM
To: Dylan Ciciliano <dciciliano@Gtg.legal>; Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>
Cc: Joseph Gutierrez <jag@mgalaw.com>; Charity Johnson <cmj@mgalaw.com>
Subject: RE: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

RFP 1 should have had the same time limitation as RFP 3. This was an oversight. We will serve amended responses today.

I believe 1 year is reasonable, appropriate and proportional to the needs of this case. It would be unduly burdensome to require me to attempt to review 5+ years of records when you only have a judgment for 23k – this fails the discovery proportionality requirement on its face. I do not believe 5+ years is reasonable, appropriate, proportional or narrowly tailored in any way.

Jason R. Maier

MAIER GUTIERREZ & ASSOCIATES
8816 Spanish Ridge Avenue
Las Vegas, Nevada 89148
Tel: 702.629.7900 | Fax: 702.629.7925
jrm@mgalaw.com | www.mgalaw.com

From: Dylan Ciciliano <dciciliano@Gtg.legal>
Sent: Tuesday, January 05, 2021 9:23 AM
To: Jason Maier <jrm@mgalaw.com>; Joseph Gutierrez <jag@mgalaw.com>
Cc: Erika Turner <eturner@Gtg.legal>; Max Erwin <MErwin@Gtg.legal>
Subject: Case No. A-20-822273-C TGC Farkas Funding LLC v. First 100, LLC

Good Afternoon,

We are in receipt of Maier Gutierrez PLLC's ("MGA") Responses and Objections to Requests for Production Accompanying Subpoena. Of note, MGA has responded that it has not received any payments on behalf or for Debtors and/or alternatively that it does not maintain records of the same. It seems improbable (read: impossible) that MGA has not received compensation for the services that it has provided Debtors over the past 5+ years. Likewise, I am certain that you maintain those records, including but not limited to bank and trust account records. Accordingly, your responses to requests 1 and 3 are incomplete. We therefore demand that you supplement your responses to account for money received by MGA from or on behalf of Debtors.

Additionally, your limitation of your response to January 1, 2020 is inappropriate. The request contained no such limitation and is narrowly tailed to identify potential assets for the debtor, namely bank accounts and those paying its debts, hence the request for the wires and checks themselves are directly responsive and must be produced. Likewise, you undoubtedly provided services to Debtors regarding this matter and dispute prior to January 1, 2020.

Please let me know when we can expect the supplement or when you are free to meet and confer so that we may compel the records.

Dylan T. Ciciliano, Esq.

Attorney

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Exhibit 1-D

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OBJ
JOSEPH A. GUTIERREZ, ESQ.
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*Attorneys for Defendants First 100, LLC
and 1st One Hundred Holdings, LLC
and non-party Jay Bloom*

DISTRICT COURT
CLARK COUNTY, NEVADA

TGC/FARKAS FUNDING, LLC,

Plaintiff,

vs.

FIRST 100, LLC, a Nevada limited liability
company; 1st ONE HUNDRED HOLDINGS,
LLC, a Nevada limited liability company,

Defendants.

Case No.: A-20-822273-C
Dept. No.: 13

**NON-PARTY JAY BLOOM’S OBJECTION
TO SUBPOENA -- CIVIL**

Pursuant to Rule 45 of the Nevada Rules of Civil Procedure (the “NRCP”), non-party Jay Bloom (“Bloom”), by and through his attorneys, MAIER GUTIERREZ & ASSOCIATES, hereby objects and responds to the Subpoena issued by counsel for Plaintiff, TGC/Farkas Funding, LLC (“Plaintiff”) in the above-captioned action (the “Action”) as follows:

1. Bloom objects to the Subpoena as Plaintiff failed to take reasonable steps to avoid imposing an undue burden and expense on Bloom with regard to the documents sought by the Subpoena, which cover 36 separate requests. This is particularly burdensome as Bloom is a non-party

1 to the Action, yet private financial information is being sought from Bloom in a personal capacity,
2 including but not limited to Request for Production Nos. 7, 12, 21, 25, 34, 35, and 36.

3 2. Bloom objects to the Subpoena as the Requests for Production which seek financial
4 information of the actual Judgment Debtors (First 100, LLC and 1st One Hundred Holdings LLC),
5 including but not limited to Request for Production Nos. 1-6 and Nos. 8-36, should be sought directly
6 from the Judgment Debtors themselves, instead of harassing non-parties such as Bloom.

7 3. Bloom objects to the Subpoena as pursuant to NRS 86.371, “[u]nless otherwise
8 provided in the articles of organization or an agreement signed by the member or manager to be
9 charged, no member or manager of any limited-liability company formed under the laws of this State
10 is individually liable for the debts or liabilities of the company.” No judgment was obtained against
11 Bloom in this Action, therefore Bloom has zero personal liability for the judgment obtained against
12 First 100, LLC and First One Hundred Holdings, LLC. Further, no alter ego findings were made in
13 the Action as it relates to Bloom and First 100, LLC and First One Hundred Holdings, LLC.
14 Nevertheless, Plaintiff is attempting to unilaterally pierce the corporate veil without having ever
15 successfully obtained an alter ego finding, and without ever lodging an alter ego claim where Plaintiff
16 would have been required to prove the existence of an alter ego relationship pursuant to the factors
17 set forth in *LFC Marketing Group, Inc. v. Loomis*, 116 Nev. 896, 904, 8 P.3d 841, 846 (2000). Bloom
18 objects to Plaintiff’s attempt to obstruct the statutory and legal authorities regarding the non-liability
19 of members or managers of LLCs with respect to the debt of the LLCs.

20 4. Bloom objects to the Subpoena to the extent it seeks to force Bloom to create
21 documents or compilations that do not exist. Such will not be provided.

22 5. Bloom objects to the Subpoena (including but not limited to Request for Production
23 Nos. 24 and 29) as it seeks documents and communications protected by the attorney-client privilege.
24 *See Nev. Rev. Stat. §§ 49.035, et seq.*

25 6. Bloom objects to the Subpoena as the Requests for Production are vague and
26 ambiguous, overly broad, and not narrowly tailored to avoid imposing undue burden, and the
27 discovery sought is not proportional to the needs of the case, specifically with documents being
28 requested as far back as January 1, 2015, when there is only a nominal judgment of \$23,975.00.

1 Moreover, numerous requests which seek the private financial information of Bloom personally and
2 financial information of First 100 and 1st One Hundred Holdings are not limited in time at all,
3 including but not limited to Request for Production Nos. 4, 23, 26, 27, 32, and 33.

4 DATED this 7th day of January, 2021.

5
6 **MAIER GUTIERREZ & ASSOCIATES**

7 /s/ Danielle J. Barraza

8 JOSEPH A. GUTIERREZ, ESQ.

9 Nevada Bar No. 9046

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12 8816 Spanish Ridge Avenue

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14 *Attorneys for Defendants First 100, LLC*

15 *and 1st One Hundred Holdings, LLC*

16 *and non-party Jay Bloom*

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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2, a copy of the **NON-PARTY JAY BLOOM'S OBJECTION TO SUBPOENA – CIVIL** was electronically served on the 7th day of January, 2021, and served through the Notice of Electronic Filing automatically generated by the Court's facilities to those parties listed on the Court's Master Service List as follows:

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Dylan T. Ciciliano, Esq.
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Attorneys for TGC Farkas Funding LLC

/s/ Natalie Vazquez
An Employee of MAIER GUTIERREZ & ASSOCIATES