CASE NO. 84934

IN THE SUPREME COURT OF NEVADA

ROWEN SEIBEL AND GR BURGR, LLC,

Appellants,

vs.

PHWLV, LLC, AND GORDON RAMSAY,

Respondents,

District Court Case No. A-17-751759-B

APPENDIX TO APPELLANTS' OPENING BRIEF

VOLUME 4 OF 34

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APPENDIX OF EXHIBITS TO APPELLANTS' OPENING BRIEF

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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY❖KENNEDY and that on the 10th day of March, 2023, service of the foregoing was made by mandatory electronic service through the Nevada Supreme Court's electronic filing system and/or by email as agreed by the parties, and addressed to the following at their last known email address:

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/s/ Susan Russo
Employee of BAILEY❖KENNEDY

TAB 9

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EXHIBIT 9
TO TIMOTHY DUDDERAR, ESQ.
DECLARATION

PETITIONER'S OPENING BRIEF IN SUPPORT OF ITS MOTION FOR JUDGMENT ON THE PLEADINGS, DELAWARE C.A. NO. 12825 (VCS)

EFiled: Jan 17 2017 05:42PM EST
Transaction ID 60080112
Case No. 12825-VCS

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

In re: GR Burgr, LLC	:	
ROWEN SEIBEL,	:	
Respondent and Counterclaim Plaintiff,	:	
v.	:	C.A. No. 12825-VCS
GR US LICENSING, LP,	:	
Petitioner and Counterclaim Defendant,	:	
and	:	
GR BURGR, LLC,	:	
Nominal Defendant.	:	

PETITIONER'S OPENING BRIEF IN
SUPPORT OF ITS MOTION FOR JUDGMENT ON THE PLEADINGS

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NATURE AND STAGE OF PROCEEDING

Petitioner GR US Licensing LP ("GRUS" or "Petitioner") initiated this action on October 13, 2016 by filing a Verified Petition seeking the dissolution and winding up of GR Burgr, LLC ("GRB" or the "Company") pursuant to 6 *Del. C.* § 18-802 and the terms of the limited liability agreement governing GRB (the "LLC Agreement") (the "Dissolution Petition" or "Compl.").

On November 23, 2016, Rowen Seibel ("Seibel" or "Respondent"), a 50% member and manager of GRB, voluntarily appeared in this action and filed a Verified Answer to the Dissolution Petition (the "Answer" or "Ans.") and Verified Counterclaims against GRUS (the "Counterclaims" or "Countercl."), asserting various derivative claims purportedly on behalf of GRB. GRUS subsequently moved for judgment on the pleadings with respect to its Dissolution Petition, and moved to dismiss or, in the alternative, to sever or stay the Counterclaims.

Following a telephonic scheduling conference on January 3, 2017, the Court determined upon GRUS's application that it would consider and rule upon the motion for judgment on the pleadings with respect to the propriety of dissolution before considering the issues raised in the Counterclaims, and stayed discovery pending resolution of that motion. The parties then submitted, and the Court entered, a stipulated briefing schedule with respect to the motion for judgment on the pleadings.

This is GRUS's opening brief in support of its motion for judgment on the pleadings.

PRELIMINARY STATEMENT

The Dissolution Petition is ripe for judgment on the pleadings. The material facts are undisputed and establish as a matter of law that dissolution is appropriate and necessary in light of the unresolvable deadlock between GRB's managers and GRB's inability to carry on its business following the felony conviction of Seibel and his designation as an "Unsuitable Person."

First, it is undisputed that the relationship between the members and managers of GRB has deteriorated to the point of total deadlock that can only be resolved through an order of judicial dissolution. The pleadings make clear that the LLC Agreement requires unanimous approval of GRB's two co-equal managers for nearly all decisions and provides no means of resolving a voting deadlock between the managers. With the members and managers of GRB engaged in contentious litigation across various jurisdictions for several years, it is undisputed that the GRB managers have reached an impasse. As a result, judicial dissolution is appropriate and necessary under the circumstances as a matter of law.

Second, it is undisputed that GRB has no *current* business to operate. GRB's only business and sole income generating asset is a license agreement with an affiliate of Caesars Entertainment Corporation ("Caesars"), which has been

terminated because of Seibel's felony conviction and his designation by Caesars as an "Unsuitable Person." Nor does GRB have any *future* business prospects. As noted above, the LLC Agreement provides that all decisions concerning GRB's business must be made based on a majority vote of the managers – essentially requiring unanimity among the managers for all decisions. Mr. Ramsay's other current and anticipated future business dealings with regulated entities would be jeopardized (to say the least) by being associated directly or indirectly with any Unsuitable Person, including Seibel. As Seibel admits in his Answer and Counterclaims, the members and managers of GRB are deadlocked concerning Mr. Seibel's disassociation from GRB. Seibel may quibble with his designation as an "Unsuitable Person," and even disagree with GRUS that a continued relationship between him and Mr. Ramsay places Mr. Ramsay's other business ventures at risk, but such disagreements are immaterial. What matters is the undisputed fact that Mr. Ramsay has no desire, and cannot be compelled, to carry on any further business with Seibel. There is thus no chance that the managers of the Company will agree to renew operations. Therefore, with no current business or future business for the Company to run, it is clear that dissolution is appropriate under the circumstances and must be ordered as a matter of law.

STATEMENT OF FACTS[1]

A. The Ownership And Governance Of The Company.

GRB is a Delaware limited liability company ("LLC"), formed in December 2012 by celebrity chef Gordon Ramsay (through petitioner GRUS) and respondent Seibel. (Ans. ¶ 5; Countercl. ¶¶ 20-21.) GRUS and Seibel each own a 50% member interest in GRB, and each is entitled to designate one manager of the Company. (Compl. Ex. 1 at § 8.2; Ans. ¶¶ 5 & 6; Countercl. ¶ 21.) GRUS appointed non-party Stuart Gillies as its designated manager and Seibel designated himself as a manager. (Ans. ¶ 6; Countercl. ¶ 21.)

Under the LLC Agreement, the managers have the "full and exclusive" power and authority to manage the business and affairs of the Company, and all decisions of the managers (other than those relating to the License Agreement, discussed below) must be based on a majority vote of the managers. (Compl. Ex. 1 at § 8.1.) With two managers, this provision requires unanimity among the managers; in the event that the two managers are deadlocked on a particular decision, the LLC

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[1] The facts on which GRUS relies for this motion are (i) admitted by Seibel in his Answer; (ii) taken from the Counterclaims filed by Seibel; (iii) part of the public record and therefore subject to judicial notice; or (iii) taken from documents appended to, referenced in, or integral to the pleadings. *See McMillan v. Intercargo Corp.*, 768 A.2d 492, 500 (Del. Ch. 2000); *accord In re Gen. Motors (Hughes) S'holder Litig.*, 897 A.2d 162, 169 (Del. 2006) (addressing motion to dismiss under Rule 12(b)(6)).

Agreement provides no mechanism by which to break the voting deadlock. (*See generally id.*)

The LLC Agreement further provides that the Company shall be dissolved upon (a) the Company's cessation of its business on a permanent basis, (b) the sale or transfer of all or substantially all of the assets of the Company, (c) the entry of a judicial decree of dissolution in accordance with 6 *Del. C.* § 18-802, or (d) as otherwise determined by the managers. (Compl. Ex. 1 at § 13.1; Ans. ¶ 27; Countercl. ¶ 23.)

B. The Company's Business.

GRB was formed to develop, or license the rights to develop, first-class, burger-themed restaurants utilizing Mr. Ramsay's name and celebrity cachet. (Compl. Ex. 1 at Recitals & § 4; Ans. ¶ 5; Countercl. ¶¶ 19-22.) To this end, as contemplated by the LLC Agreement, contemporaneous with the execution of the LLC Agreement, GRUS and GRB executed an agreement (the "License Agreement") through which GRUS granted GRB an exclusive license to use and/or sublicense the "BURGR Gordon Ramsay" trademark in the operation of its business. (Compl. Ex. 1 at Recitals; Countercl. ¶ 26; *see also* Ex. 1 to the Transmittal Affidavit of Jacqueline A. Rogers ("Transmittal Affidavit" or "Trans. Aff."), filed simultaneously herewith.)

In connection with the formation of GRB and execution of the License Agreement, GRB entered into a Development, Operation and License Agreement (the "Caesars Agreement") with an affiliate of Caesars. (*See generally* Compl. Ex. 2; Countercl. ¶ 33.) Under the Caesars Agreement, GRB agreed to sublicense the name "BURGR Gordon Ramsay" and license certain recipes, menus and other trade property to Caesars for use in a burger-themed restaurant named "BURGR Gordon Ramsay" in the Planet Hollywood Resort & Casino in Las Vegas, Nevada. (Compl. Ex. 2 at Recitals & § 6; Countercl. ¶¶ 33-34.) In exchange for this sub-license, Caesars agreed to pay GRB a fee based on the amounts and percentages of gross restaurant and merchandise sales. (Compl. Ex. 2 at § 8; Countercl. ¶ 35.)

Since its inception, GRB's only business, and it sole income generating asset, has been through the Caesars Agreement and the operation of the BURGR Gordon Ramsay restaurant in the Planet Hollywood casino. (Ans. ¶¶ 7, 25.)

C. The Relevant Gaming Commission Regulations And Their Impact On The Caesars Agreement.

As a public gaming company, Caesars is a highly regulated business, subject to and existing because of privileged licenses, including those issued by the Nevada Gaming Commission (the "Commission"). (Compl. Ex. 2 at § 11.2.) As a condition of licensing and registration by the Commission, Caesars is required to have a compliance review and reporting system (a "Compliance Program"). (*Id.*; *see also* NEV. GAMING COMM'N REG. 5.045(1).) Among the subjects that a Compliance

Program must monitor and routinely report to the Commission are "[a]ssociations with persons . . . who may be deemed to be unsuitable to be associated with a licensee or registrant." (NEV. GAMING COMM'N REG. 5.045(6)(a).) Failure to take action to eliminate an unsuitable association and make timely reports of the action to the Commission can result in fines, or the suspension, limitation or revocation of licenses and registrations. *See* NEV. REV. STAT. §§ 463.225, .310 & .360.

Given this regulatory framework, the Caesars Agreement was expressly conditioned on Caesars being satisfied that GRB, its members and managers (including Seibel), and their respective affiliates are not at any time "Unsuitable Persons." (Compl. Ex. 2 at § 2.2.; Countercl. ¶ 36.) An "Unsuitable Person," as defined in the Caesars Agreement, is a person "whose affiliation with [Caesars] or its [a]ffiliates could be anticipated to result in a disciplinary action relating to, or the loss of, inability to reinstate or failure to obtain" gaming and alcohol licenses held by Caesars. (Compl. Ex. 2 at § 1.) The Caesars Agreement granted Caesars the sole and exclusive judgment to determine whether any person associated with GRB, its members and managers, or its affiliates is an Unsuitable Person. (*Id.* at § 11.2; Countercl. ¶ 36.) Upon such a determination of unsuitability of any person associated with GRB, Caesars had the right to terminate the Caesars Agreement upon written notice and a subsequent failure by GRB to cease its relationship with such person to Caesars' satisfaction. (Compl. Ex. 2 at § 11.2; Countercl. ¶ 36.) The

Caesars Agreement provides Caesars with complete discretion as to such a termination, providing that "[a]ny termination by [Caesars] pursuant to this Section 11.2 shall not be subject to dispute by Gordon Ramsay or GRB." (Compl. Ex. 2 at § 11.2.)

In the event of an early termination of the Caesars Agreement, to avoid an immediate closing of the BURGR Gordon Ramsay restaurant, Caesars is entitled to "operate the Restaurant and use the License for one hundred twenty (120) days from such termination to orderly and properly wind-up operations of the Restaurant." (*Id.* at § 4.3.2(a).)

D. The Deteriorating Relationship Between Mr. Ramsay And Seibel And The Resulting Deadlock At GRB.

The BURGR Gordon Ramsay restaurant has been a success despite the increasingly dysfunctional and acrimonious relationship between Mr. Ramsay and Seibel. As Seibel enthusiastically describes in his affirmative pleading, Mr. Ramsay and Seibel have been engaged in contentious litigation since 2014 in the Supreme Court of the State of New York relating to a separate restaurant joint venture in Los Angeles called Fat Cow (the "New York Action"). (*See* Countercl. ¶¶ 37-42.) That litigation involves mutual allegations by Siebel and Mr. Ramsay of breaches of

contract and fiduciary duty, as well as a claim by Mr. Ramsay that Seibel committed fraud.[2]

In this action, in response to Mr. Ramsay's request to dissolve GRB, Seibel filed a one hundred and three paragraph counterclaim alleging an outlandish conspiracy theory pursuant to which Mr. Ramsay and Caesars have conspired to render Siebel unsuitable for purposes of the relevant agreements and asserting breach of contract and fiduciary duty claims against GRUS purportedly on behalf of GRB. And just last week, in a transparent effort to end-run this Court's recent scheduling ruling, Seibel initiated yet another lawsuit against Mr. Ramsay (along with Caesars) in the United States District Court for the District of Nevada (the "Nevada Action"). The Nevada Action names Mr. Ramsay personally as a defendant and asserts essentially the same claims and allegations as Seibel's counterclaims in this case, the resolution of which this Court had ruled should await decision on the Dissolution Petition.

Seibel thus admits, as he must, that the parties' relationship is severely damaged and has undermined their ability to work together in GRB. (Countercl. ¶ 43.) As such, beginning in late 2013, the managers have rarely met or discussed business issues with each other. (*Id.* ¶¶ 46-47; Compl. ¶ 26 ("the Managers of GRB

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[2] The operative pleadings in the New York Action are attached as Exhibits 2-6 to the Transmittal Affidavit.

do not meet and do not speak"). Because the LLC Agreement requires the unanimous agreement of the two managers for all decisions other than those related to the License Agreement, this has resulted in a complete stalemate as to all decisions on behalf of GRB, with no means of breaking the deadlock.

E. Seibel's Criminal Activities Lead To The Termination Of The Caesars Agreement And The License Agreement.

On April 18, 2016, Seibel pled guilty to a one-count felony criminal information charging him with impeding the administration of the Internal Revenue Code (26 U.S.C. § 7212) by using undeclared Swiss bank accounts and a Panamanian shell company to hide more than $1 million in taxable income. (*See* Ex. 7 to Trans. Aff.; Ans. ¶ 10.) On August 19, 2016, Judge William H. Pauley, III of the United States District Court for the Southern District of New York sentenced Seibel to one month of imprisonment, six months of home detention, and 300 hours of community service, and ordered restitution. (Ex. 7 to Trans. Aff. at 22:8-21; Ans. ¶ 10.) Judge Pauley described Seibel's actions as "a serious crime against the United States" and found that "the fact is that [Seibel] knew very well what [he was] doing was wrong." (Ex. 7 to Trans. Aff. at 15:15, 21:25-22:1.) Judge Pauley further stated, "[w]hatever the motivation for getting involved in this scheme and, more importantly, for continuing in the scheme for as long as he did . . . the fact is that it continued for many years, and he made a whole series of corrupt and misguided decisions to perpetuate it." (*Id.* at 21:10-15.)

This event struck at the heart of GRB's ability to continue the business operations that it was formed to pursue. Following Seibel's felony conviction, Caesars sent notice to GRB, Seibel's attorney, and Mr. Ramsay on September 2, 2016, stating that, in Caesars' judgment, which judgment is deemed to be contractually conclusive, the conviction rendered Seibel an Unsuitable Person under the Caesars Agreement. (Compl. Ex. 3; Countercl. Ex. 4 (Seibel's attorney acknowledging receipt of Caesars' Sept. 2 notice).) Caesars demanded that GRB cease any relationship with Seibel within ten days, warning that if GRB failed to terminate the relationship to Caesars' satisfaction, Caesars would be required to terminate the Caesars Agreement pursuant to Section 4.2.5 thereof. (Compl. Ex. 3.) On September 6, 2016, GRUS requested that Seibel terminate his relationship with GRB and that he sign all necessary documents confirming such termination. (*Id.* at Ex. 5.)

In response to Caesars' September 2 notice, Seibel proposed to disassociate himself from GRB by transferring his interest in GRB to a family trust. (Countercl. Ex. 4.) By letter dated September 12, 2016, Caesars rejected this proposal because, in Caesars' judgment, the proposed assignees would have direct and/or indirect relationships with Seibel thereby rendering them Unsuitable Persons under the Caesars Agreement. (*Id.*; Compl. Ex. 9.) GRUS thereupon reiterated its demand that Seibel completely disassociate from GRB. (Compl. Ex. 7.)

Siebel demurred. On September 21, 2016, Caesars terminated the Caesars Agreement pursuant to Sections 4.2.5 and 11.2 thereof. (*Id.* at Ex. 10; Countercl. ¶ 51.) On September 22, 2016, GRUS sent notice to GRB that it was terminating the License Agreement because the termination of the Caesars Agreement defeated the purpose of the License Agreement, and because Seibel had failed to disclose and/or made misrepresentations concerning his criminal activities. (Countercl. Ex. 5.)

ARGUMENT

Judgment on the pleadings under Court of Chancery Rule 12(c) is appropriate "if the pleadings fail to reveal the existence of any disputed material fact and the movant is entitled to judgment as a matter of law." *W. Coast Mgmt. & Capital, LLC v. Carrier Access Corp.*, 914 A.2d 636, 641 (Del. Ch. 2006); *see also* Del. Ch. Ct. R. 12(c). When considering a motion under Rule 12(c), the Court draws inferences in favor of the non-moving party, but only if they are "reasonable." *W. Coast Mgmt. & Capital, LLC*, 914 A.2d at 641.

The application for dissolution in this case is ripe for judgment on the pleadings. For the reasons set forth below, the material facts are undisputed and establish as a matter of law that dissolution is appropriate and necessary in light of GRB's inability to carry on its business.

I. JUDICIAL DISSOLUTION IS APPROPRIATE BECAUSE IT IS NOT "REASONABLY PRACTICABLE TO CARRY ON THE BUSINESS" OF GRB.

Section 13.1 of the LLC Agreement provides that GRB may be dissolved pursuant to a judicial decree of dissolution under 6 *Del. C.* § 18-802 (the "Act"). (*See* Compl. Ex. 1 at § 13.1(c).) The Act provides that on application by a member or manager,[3] "the Court of Chancery may decree dissolution of a limited liability company whenever it is not reasonably practicable to carry on the business in conformity with a limited liability company agreement." 6 *Del. C.* § 18-802. "The standard set forth by the Legislature is one of reasonable practicability, not impossibility." *PC Tower Ctr., Inc. v. Tower Ctr. Dev. Assocs. Ltd. P'ship*, 1989 WL 63901, at *6 (Del. Ch.); *see also In re Silver Leaf, L.L.C.*, 2005 WL 2045641, at *10 (Del. Ch.). There is thus no need to show that the purpose of the entity has been "completely frustrated," and there is no need for the Court to entertain "what ifs," such as hypothetical future changes to the structure of the company that may resolve its current problems. *PC Tower Ctr., Inc.*, 1989 WL 63901, at *5. Instead, it is sufficient to establish that it is not "reasonably practicable" to carry on the company's business based entirely upon the real-world circumstances facing the company. *Id.*

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[3] Seibel does not dispute that GRUS is a member of the Company, and therefore is entitled to seek dissolution of GRB under the Act. Ans. ¶ 5.

While the Act does not declare with precision the factors the Court must consider when evaluating whether it is "reasonably practicable" for a company to continue, "several convincing factual circumstances have pervaded the case law" and, when present, have consistently resulted in an order of judicial dissolution: "(1) the members' vote is deadlocked at the Board level; (2) the operating agreement gives no means of navigating around the deadlock; and (3) due to the financial condition of the company, there is effectively no business to operate." *Fisk Ventures, LLC v. Segal*, 2009 WL 73957, at *4 (Del. Ch.) (citing *In re Silver Leaf, L.L.C.*, 2005 WL 2045641, at *10-11; *Haley v. Talcott*, 864 A.2d 86, 95 (Del. Ch. 2004)), *aff'd*, 984 A.2d 124 (Del. 2009). It is not necessary for all of these factual circumstances to exist for the Court to find that it is no longer reasonably practicable for a business to continue to operate. *See id*. Nonetheless, the undisputed facts reflected in the pleadings demonstrate that all three circumstances are present here.

A. The Managers Are Deadlocked And The Operating Agreement Provides No Means Of Resolving The Impasse.

For purposes of determining whether judicial dissolution is warranted, "[d]eadlock refers to the inability to make decisions and take action, such as when an LLC agreement requires an unattainable voting threshold." *Meyer Natural Foods LLC v. Duff*, 2015 WL 3746283, at *3 (Del. Ch.) (citing *Fisk Ventures, LLC*, 2009 WL 73957, at *4-5; *In re Silver Leaf, L.L.C.*, 2005 WL 2045641, at *10-11). The existence of such a deadlock, even where the business of the company could

otherwise reasonably continue, has been held sufficient grounds for judicial dissolution of 50/50 LLCs such as GRB where there is no means of resolving the deadlock under the LLC's operating agreement. *See Vila v. BVWebTies LLC*, 2010 WL 3866098, at *6-7 (Del. Ch.) (noting that an unbreakable deadlock among 50/50 managers "provides an indisputable basis for dissolution" under the Act); *Phillips v. Hove*, 2011 WL 4404034, at *26-27 (Del. Ch.) (ordering dissolution where two co-equal managers were "deadlocked with no effective mechanism to break the deadlock," and noting that the fact that the LLC continued to operate marginally was irrelevant to determining the existence of deadlock).

For example, in *Haley v. Talcott*, 864 A.2d 86 (Del. Ch. 2004), the Court considered a claim by a member of an LLC requesting judicial dissolution of the LLC because the two 50% members were deadlocked as to the future of the business. The petitioner sought summary judgment on his dissolution petition, and the Court held, as a matter of law, that dissolution was necessary because "an indisputable deadlock between the two 50% members of the LLC…preclude[d] the LLC from functioning as provided in the LLC Agreement." *Id.* at 89. In *Haley*, the sole asset of the LLC was a parcel of real estate leased to a restaurant. *Id.* at 93. The two managers, who were separately embroiled in contentious litigation related to their other business ventures, could not agree on how best to utilize the real estate, and no

provision existed in the LLC's operating agreement to break the tie in the voting interests, preventing the company from taking any actions. *Id.*

The Court analogized the circumstances in *Haley* to those relevant to 8 *Del. C.* § 273, which enables the Court to dissolve joint venture corporations owned by deadlocked 50% owners. *Id.* at 94 ("§ 18-802 plays a role for LLCs similar to the role that § 273 of the DGCL plays for joint venture corporations with only two stockholders. When a limited liability agreement provides for the company to be governed by its members, when there are only two members, and when those members are at permanent odds, § 273 provides relevant insight into what should happen."). The Court's deadlock assessment in *Haley* therefore focused on whether the co-equal members were "unable to agree upon whether to discontinue the business or how to dispose of its assets." *Id.* at 94-95. The Court found that, as here, the undisputed facts—including the petitioner's request for dissolution and the respondent's objection thereto—supported a finding that the parties were at an impasse as to whether and how to continue the business. *Id.* at 95-96. The Court also took note of the evident hostility of the parties, finding:

> With strident disagreement between the parties regarding the appropriate deployment of the asset of the LLC, and open hostility as evidenced by the related suit in this matter, it is not credible that the LLC could, if necessary, take any important action that required a vote of the members. Abundant, uncontradicted documents in the record demonstrate the inability of the parties to function together.

Id. at 96. With these findings, the Court held that it was "not reasonably practicable for the LLC to continue to carry on business in conformity with the LLC Agreement," and ordered judicial dissolution of the entity under the Act. *Id.* at 98.

To similar effect is the holding in *Vila v. BVWebTies LLC*, 2010 WL 3866098 (Del. Ch.), in which the Court ordered judicial dissolution of an LLC under the Act when two managers whose agreement was contractually required for the LLC to move forward with any action were deadlocked. The Court emphasized that "a deadlock would not necessarily justify a dissolution if the LLC Agreement provided a means to resolve it equitably," but found that the LLC's operating agreement did not provide any such means and specifically contemplated that a manager could seek judicial dissolution. *Id.* at *8. Once again likening the situation to the joint venture corporation scenario under Section 273, the Court explained:

> The reason that the § 273 analysis is useful in the LLC context is obvious: when an LLC agreement requires that there be agreement between two managers for business decisions to be made, those two managers are deadlocked over serious issues, and the LLC agreement provides no alternative basis for resolving the deadlock, it is not "reasonably practicable" to continue to carry on the LLC business "*in conformity* with [its] limited liability company agreement."

Id. at *7 (quoting 6 *Del C.* § 18-802) (emphasis in original); *see also Phillips*, 2011 WL 4404034, at *26-27 (ordering dissolution under the Act where the LLC agreement required approval of the board of directors for all decisions on which the

members could not agree, and where the members had never agreed on the composition of the board, resulting in a "deadlock[] with no effective mechanism to break the deadlock"); *In re Silver Leaf, L.L.C.*, 2005 WL 2045641, at *10-11 (dissolving an LLC under the Act in part because the "contending interests [were] split 50:50," "two years of litigation…[had] shown [that] the two sides [could not] agree on how to run [the LLC]," and "the Operating Agreement, which mandates an agreement by the majority in interest in order to effectuate important actions for [the LLC], provide[d] no mechanism to break the impasse between the parties").

Such is the case here. The facts are undisputed that the organizational structure of GRB lends itself to this type of deadlock between co-equal managers whose unanimous agreement is required for the Company to act, and that the managers of GRB have in fact reached such a deadlock. GRUS and Seibel are co-equal members of GRB with the right to appoint one manager each. (Compl. Ex. 1 at §§ 7.2, 8.1; Ans. ¶¶ 5 & 6; Countercl. ¶ 21.) GRUS appointed Mr. Gillies as its designated manager and Seibel designated himself as manager. (Compl. Ex. 1 at § 8.1; Ans. ¶ 6; Countercl. ¶ 21.) The LLC Agreement requires that all decisions of the managers (other than those relating to the License Agreement) be made based on a majority vote of the managers, essentially requiring unanimity among the managers for nearly every decision. (Compl. Ex. 1 at §§ 8.1, 8.11.) There is no

mechanism in the LLC Agreement to break a voting deadlock between the managers. (*See generally* Compl. Ex. 1.)

Even before Seibel's felonious actions came to light, the pleadings make clear that the working relationship between GRB's owners and appointed managers had broken down and reached an impasse requiring judicial dissolution. While Seibel attempts to deny or downplay the existence of an insuperable deadlock, such attempts are not reasonable and his own affirmative pleadings amply demonstrate the undeniable fact that such a deadlock exists. As Seibel describes at length in his affirmative pleadings, he and Mr. Ramsay have been engaged in contentious litigation in the context of their business relationship since 2014, in the Supreme Court of the State of New York related to their other restaurant joint venture in Los Angeles, Fat Cow. (*See* Countercl. ¶¶ 37-42.) Seibel concedes that the parties' acrimonious relationship concerning "the Fat Cow restaurant litigation bled over into Seibel's and Ramsay's other ventures, including the one at issue here." (*Id.* ¶ 43.) As such, "[s]tarting in late 2013…GRUS and Gillies…repeatedly refused to meet or discuss relevant business issues with Seibel." (*Id.* ¶¶ 46-47; Compl. ¶ 26 ("the Managers of GRB do not meet and do not speak").) More recently, the disputes among the parties have only increased, perhaps evidenced most graphically by Siebel's shrill opposition to the petition for dissolution and his attempt to inject into this proceeding counterclaims against GRUS alleging breach of contract and breach

of fiduciary duty claims. Just last week, in an effort to press those claims despite this Court's decision to defer them pending consideration of the propriety of dissolution as a matter of law, Seibel filed yet another lawsuit against Mr. Ramsay, the Nevada Action, duplicating his counterclaims here and repeating many of the same pejorative allegations on which they are based.

This is precisely the kind of rancorous stalemate between co-equal members/managers, here undisputed and indisputable, that has led our Courts to declare judicial dissolution warranted. *See, e.g.*, *Vila*, 2010 WL 3866098, at *7 (noting that the members had not communicated directly with each other for nearly two years and that "a deadlocked management board is a quintessential example of a situation justifying a judicial dissolution"); *Haley*, 864 A.2d at 95-96 (ordering dissolution and noting the parties had not interacted since their "falling out" the previous year); *McGovern v. Gen. Holding, Inc.*, 2006 WL 4782341, at *23 (Del. Ch.) (ordering dissolution of a partnership under analogous provision of DRUPLA and pointing to the "dysfunctional" and "fractious" relationship between the limited partners).[4]

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[4] *See Fisk Ventures, LLC*, 2009 WL 73957, at *3 ("In interpreting § 18-802, this Court has by analogy often looked to the dissolution statute for limited partnerships, 6 *Del. C.* § 17-802.").

The pleadings also make clear that the degree of dysfunction between the GRB managers has only escalated following Seibel's felony conviction and Caesars' subsequent classification of Seibel as an Unsuitable Person under the Caesars Agreement. These events, sufficient alone to render the entity's ability to continue to operate its business essentially impossible, and which prompted Mr. Ramsay's and GRUS's need to immediately and completely dissociate from Seibel or risk Mr. Ramsay's other business ventures, have culminated in an irremediable impasse.

Following Caesars' classification of Seibel as an Unsuitable Person under the Caesars Agreement, Caesars directed GRB to "terminate any relationship with Mr. Seibel and provide Caesars with evidence of such terminated relationship." (Compl. Ex. 3 at 2.) GRUS promptly requested that Seibel terminate his relationship with GRB and sign all necessary documents confirming such termination. (Ans. ¶ 17; Compl. Ex. 5 at 1.) Seibel rejected that proposal. (Ans. ¶ 18; Compl. Ex. 6.) For his part, Seibel proposed to transfer his interests in GRB to a trust. (Ans. ¶ 18; Compl. Ex. 6.) GRUS rejected this proposal because it would not fully disassociate Seibel from GRB, as confirmed by Caesars.[5] (Ans. ¶ 19; Compl. Exs. 7, 9 (Caesars'

[5] Seibel claims that Mr. Ramsay and GRUS breached their fiduciary obligations by failing to "consider[] in good faith Seibel's proposed assignment," which he described as a "straightforward solution to the problem." Countercl. ¶ 52. Putting aside the factual and legal infirmities of this breach of fiduciary duty allegation, and their patent insufficiency under the gaming regulations to which Caesars is subject, the fact that the parties did not further negotiate a potential resolution to the present dispute before GRUS filed its dissolution petition is merely further evidence of the

attorney confirming: "On September 12, 2016, we advised Mr. Seibel's attorney that such purported assignments were not acceptable to [Caesars]…because the proposed assignees have direct and/or indirect relationships with Mr. Seibel.").) GRUS again requested that Seibel terminate his association with GRB to no avail. (Compl. Ex. 7.)

As Mr. Ramsay and GRUS explained to Caesars: "GRUS and Mr. Ramsay do not have the legal authority to unilaterally terminate Mr. Seibel's interest and membership in the Company," and, failing to accomplish this task, Caesars terminated the Caesars Agreement on September 21, 2016. (Compl. Ex. 8 at 2; *id.* Ex. 10 at 2 ("Because GRB failed to disassociate with an Unsuitable Person, Caesars hereby terminates the Agreement pursuant to Section 4.2.5 of the Agreement, effective immediately.").) Having no other options to resolve the impasse facing GRB, GRUS filed its Dissolution Petition, which petition Seibel warmly opposes. (*See generally* Compl.; Ans.)

As this Court has explained, the Act has the "obvious purpose of providing an avenue of relief when an LLC cannot continue to function in accordance with its chartering agreement." *Haley*, 864 A.2d at 94. The undisputed facts demonstrate

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inability of parties to agree. In all events, it is of no relevance to the Court's deadlock analysis, as there is no requirement that the parties to try to resolve the impasse before seeking judicial dissolution under the Act. *Haley*, 864 A.2d at 95-96.

that Mr. Ramsay and GRUS cannot be directly or indirectly associated with any Unsuitable Person, including Seibel. Under the Commission's regulations, Nevada gaming and alcohol beverage licensees can face serious penalties for doing business with unsuitable persons. *See* Nev. Rev. Stat. §§ 463.225, .310 & .360. Because GRUS's equity interest in the Company is a form of continuing business association with Seibel and the Company, this relationship may be a source of concern to other licensees and registrants besides Caesars because there remains an indirect relationship with a convicted felon. Consequently, GRUS and Mr. Ramsay must disassociate from Seibel or jeopardize Mr. Ramsay's other business dealings with regulated entities. As such, it is impossible for the GRB members to resolve the current deadlock; not only is Mr. Ramsay unable to resolve the current deadlock with Siebel, but he (and GRUS) cannot associate with Seibel in any way. There is thus no chance that GRB can continue. Therefore, it is clear, as a matter of law, that dissolution is appropriate under the circumstances and must be ordered as a matter of law. *See Fisk Ventures, LLC*, 2009 WL 73957, at *5 (granting petitioner's motion for judgment on the pleadings and ordering judicial dissolution under the Act in part because, "[g]iven the Board's history of discord and disagreement, I do not believe that these parties will ever be able to harmoniously resolve their differences").

B. Following Seibel's Felony Conviction And Termination Of The Caesars Agreement, There Is No, And Cannot Be Any, Further Business To Operate.

Putting aside the facts that the members of GRB and their appointed managers are deadlocked and there is no means of resolving such deadlock, an order dissolving the Company is equally appropriate because the business cannot continue. It is undisputed that GRB was formed to develop or license the rights to develop first-class, burger-themed restaurants. (Compl. Ex. 1 at Recitals & § 4; Ans. ¶ 7; Countercl. ¶¶ 19-22.) It is also undisputed that the only such restaurant developed since GRB's inception was the BURGR Gordon Ramsay restaurant in the Planet Hollywood casino, developed pursuant to the Caesars Agreement. (Ans. ¶¶ 7, 24, 25.) Finally, it is undisputed that Caesars exercised its unilateral authority to terminate the Caesars Agreement, thereby ending GRB's sole income-generating asset. (Ans. ¶ 25 (admitting that "the Company did not have revenue-generating business other than the agreement with Caesars"); Compl. Ex. 10; Countercl. ¶ 51.) As a result, GRB has ceased to do business and should be dissolved.

Such was also the case in *In re Silver Leaf, L.L.C.*, 2005 WL 2045641 (Del. Ch.). There, the parties had formed an LLC to take advantage of an opportunity to market a new vending machine that would dispense freshly cooked french fries, and the LLC executed a sales and marketing agreement with the company that owned the manufacturing rights to the vending machines. *Id.* at *1. Following a

deterioration of the relationship between the companies, the company holding the manufacturing rights terminated the sales and marketing agreement, which was the only asset of the LLC. *Id.*; *id.* at *11. With the termination of the company's only asset,[6] the Court concluded: "[c]learly, the business of marketing Tasty Fries's machines no longer exists for Silver Leaf," and, as a result, "Silver Leaf has no business to operate." *Id.* at *11. Accordingly, the Court dissolved the LLC under the Act. *Id.*

Similarly, in *Meyer Natural Foods LLC v. Duff*, 2015 WL 3746283 (Del. Ch.), the Court determined that the purpose of an LLC (to market and sell beef supplied by certain parties) could not be achieved and ordered dissolution in part because an output and supply agreement that required the beef suppliers to deliver the product to the LLC had been terminated. *Id.* at *5.

Seibel attempts to avoid the obvious impact of the termination of the Caesars Agreement in two ways: *first*, by arguing that the BURGR Gordon Ramsay restaurant continued to operate following the termination of the Caesars Agreement (Countercl. ¶ 62), and *second*, because Seibel believes that the Company can still

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[6] The Court noted that the LLC did have "possible choses in action" related to the termination of the sales and marketing agreement, but noted that "[t]he ability to prosecute those claims does not depend on the continued existence of the LLC, but could, at least in theory, be managed by a court appointed receiver." *Id.* at *11.

continue its operations by pursuing other restaurant ventures. (Ans. ¶ 24.) Both arguments fail as a matter of law.

As to Seibel's first argument, the Caesars Agreement provides that, upon a termination of the agreement by Caesars, to avoid an immediate closing of the restaurant, Caesars is entitled to "operate the Restaurant and use the License for one hundred twenty (120) days from such termination to orderly and properly wind-up operations of the Restaurant." (Compl. Ex. 2 at § 4.3.2(a).) Thus, the fact that the restaurant continued to operate as of the date of Seibel's counterclaims is merely a function of Caesars' rights under the Caesars Agreement in connection with the termination of business operations. This residual operation of the restaurant does not suggest that the business can continue to function going forward. It is in fact unassailable evidence that it will not be able to do so. *See Haley*, 864 A.2d at 96 (ordering dissolution as a matter of law despite evidence that the LLC continued to receive rent payments, and was "technically functioning" because "this operation [was] purely a residual, inertial *status quo*").

Seibel's second argument likewise fails because it ignores the fact that, as discussed above, Mr. Ramsay is not only disinclined to continue to do business with a convicted felon like Siebel but *cannot* do so without destroying his own ability to do business with similarly regulated parties. Thus, Siebel's suggestion that the *status quo* will suffice is naïve at best. Moreover, this contention disregards the impact of

the termination of the License Agreement, through which GRUS licensed certain trademarks to GRB. (Countercl. Ex. 5.) Without the intellectual property provided by Mr. Ramsay, through GRUS, to GRB, the Company cannot hope to capitalize on the types of business opportunities that Seibel claims are available. The Court recognized this truth in *Vila v. BVWebTies LLC*, 2010 WL 3866098 (Del. Ch.), when celebrity home improvement expert Bob Vila terminated a license agreement that granted an LLC use of certain intellectual property rights on a website, including the use of his name, likeness, and certain trademarks. *Id.* at *2. As the Court explained:

> Now that Vila has withdrawn the Vila IP, it is silly to think that WebTies can continue to operate "BobVila.com." *It cannot*. Moreover, the fact that Hill says that WebTies can make profits running a website that does not use the Vila IP is beside the point. *Vila did not sign up for such a business strategy and, in any event, does not support it*.

Id. at *7 (emphasis added). So it is here. Mr. Ramsay has withdrawn the intellectual property that was central to GRB's purpose, and "it is silly to think" that the Company can continue operations without such intellectual property. *Id.*

Whether, as Seibel contends, the Company theoretically *could* operate some type of business without the use of Mr. Ramsay's intellectual property has no bearing on the Court's legal analysis. Mr. Ramsay did not agree to pursue such ventures with Seibel, and, in any event, Mr. Ramsay cannot entertain them in light of Seibel's felony conviction. It is thus clear from the undisputed facts in the pleadings that the

Company's business cannot reasonably continue and that dissolution therefore is warranted.

CONCLUSION

For the reasons stated above, GRUS respectfully requests that the Court to grant its motion for judgment on the pleadings and dissolve GRB.

POTTER ANDERSON & CORROON LLP

By: */s/ Timothy R. Dudderar*
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(212) 509-3900

Dated: January 17, 2017
1241396v4

EXHIBIT 1

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("Agreement"), effective as of the ____ day of November, 2012, is between **GR US LICENSING, LP**, a Delaware limited partnership ("Licensor") and **GR BURGR, LLC**, a Delaware limited liability company ("Licensee").

Recitals

A. Licensor is the owner of the distinctive trade name, service mark, trademark, logo, emblem, and indicia of origin, more particularly set forth on Schedule A attached hereto, (the "Mark").

B. Licensee has developed, and owns and operates a burger-centric/burger-themed restaurant concept ("Concept").

C. Licensee is the owner of certain distinctive trade names, service marks, trademarks, logos, emblems, and indicia of origin, including but not limited to the marks set forth on Schedule B attached hereto, and such other trade names, service marks and trademarks as may be developed from time to time by Licensee and its affiliates, which in no event include or shall at any time include the name "Gordon Ramsay" (the "Licensee Marks").

D. Licensor desires to grant Licensee an exclusive license to the Mark and permit Licensee to use the Mark solely in connection with the marketing and operation of restaurants and to sublicense the Mark to affiliated and unaffiliated third parties for the development, marketing and operation of first class restaurants under the name "BURGR Gordon Ramsay" subject to, and in accordance with, the terms and conditions set forth in this Agreement.

E. The Recitals are a material part of this Agreement.

NOW, THEREFORE, in consideration of the above recitals and of the mutual promises set forth below, the parties hereby agree as follows:

1. **License.**

1.1. Grant of License. Upon the terms and conditions set forth in this Agreement, Licensor hereby grants to Licensee the exclusive right to use the Mark for any and all purposes customarily necessary in connection with the development and operation of first class restaurants solely under the name "BURGR Gordon Ramsay" (the "Restaurant Operation") by Licensee, or by any Sublicensee (as hereinafter defined) which is approved by Licensor as set forth herein. The license granted hereunder is exclusive and Licensor shall not use, or license to any other person, the Mark for any purpose. The foregoing notwithstanding, Licensor and its affiliates are in no way limited or restricted in using and exploiting any other trademark or trade name that includes name "Gordon Ramsay" nor from using the name Gordon Ramsay without limitation. As between Licensor and Licensee all rights in and to the name Gordon Ramsay are expressly reserved to Licensor. All rights not expressly licensed to Licensee are reserved to Licensor. For the avoidance of any doubt Licensee shall have no rights to use the name Gordon Ramsay in

connection with the Licensee Marks or otherwise howsoever save as expressly set out herein or as approved in writing by Licensor.

1.2. Licensed Rights. The rights granted in Section 1.1 above are sometimes collectively referred to in this Agreement as the "Licensed Rights."

1.3. Right to Sublicense. Subject to the prior written approval by Licensor of each Sublicensee and the terms of each sublicense with such approved Sublicensee, which approvals shall not be unreasonably withheld, conditioned or delayed, Licensee shall have the right to sublicense the Licensed Rights for the development and operation of Restaurant Operations as determined by Licensee.

1.4. Property of Licensor. Without in any way limiting the scope of the Licensed Rights expressly granted herein, or the Licensee's discretion with respect to the use or sublicense of the Licensed Rights in connection with a Restaurant Operation and in accordance with the terms hereof, Licensee acknowledges and agrees that the Licensed Rights shall at all times during the Term be the sole and exclusive property of Licensor, subject to the License Agreement. Licensee further acknowledges and agrees that it has been granted the use of the Licensed Rights solely for the duration of the Term and that this Agreement is not intended as a transfer or sale to Licensee of any of the Licensed Rights.

1.5 Acknowledgement of System Ownership. Licensor hereby acknowledges that Licensee has developed and owns the Concept and a distinctive proprietary system for operating restaurants, including, without limitation the Restaurant Operation using the Concept, which system includes, without limitation, unique menus and menu items, ingredients, recipes, signature products, methods of preparation, specifications for food products and beverages, methods of inventory, operations control, equipment and design, other than the Mark or name "Gordon Ramsay" that may be included therein or thereon, all of which may be improved, furthered and developed from time to time by Licensee and its affiliates, (the "System"). Licensor further acknowledges that as between Licensor and Licensee the System is the sole and exclusive property of Licensee.

2. **Quality Standards.** Licensee will ensure that any Restaurant Operation that is either operated (a) by Licensee directly, or (b) by an affiliated or unaffiliated third party who has sublicensed the Marks from the Licensee and who has been approved by Licensor as set forth herein on terms approved by Licensor as set forth herein (each a "Sublicensee"), is operated in a high quality and first class manner. In addition, Licensee will ensure that all goods offered and services rendered by Licensee or a Sublicensee, as the case may be, in connection with any Restaurant Operation are of high quality. Licensor shall from time to time be provided with the reasonable opportunity to access any Restaurant Operation(s) which are developed and operated by Licensee, and Licensee shall use commercially reasonable efforts to cause Sublicensee(s) to provide Licensor with the reasonable opportunity to access any Restaurant Operation which is developed and operated by such Sublicensee(s), in connection with the Marks for the purpose of inspecting the Restaurant Operations to ensure Licensee's compliance with the applicable quality standards.

3. **Right to Control Restaurant Operation.** Subject only to the requirements set forth elsewhere in this Agreement (including but not limited to Section 2 with respect to the quality standards applicable to the Restaurant Operation), Licensor acknowledges that it is the intention of the parties that the Licensee shall have the right to use or sublicense (or not use or not sublicense) the Licensed Rights in connection with various aspects of the operation and management of Restaurant Operations that (a) the Licensor directly operates and manages or (b) that any Sublicensee operates and manages, in each case in conformity with this License Agreement. Additionally, Licensee agrees that it shall comply with all terms and obligations of Licensee set forth in any sublicense of the Licensed Rights approved hereunder.

4. **License Fee; Reimbursement of Certain Expenses.**

(a) Licensee shall pay Licensor a license fee pursuant to Section 7.4 of the Company's Limited Liability Company Agreement relating to the sublicense of the Mark, except with respect to any Restaurant Operations owned and operated by Caesars, Harrah's or Planet Hollywood in the USA.

(b) Licensor shall be entitled to reimbursement of all reasonable costs and expenses including for the provision of services by employees or consultants of Licensor or its affiliates directly incurred by Licensor or its affiliates in connection with Licensor's and/or its affiliates' fulfillment of his or its obligations under any sublicense with the Sublicensees for the Mark to the extent that such expenses are not reimbursed to such person by, or covered directly by, the Sublicensees, or otherwise covered pursuant to the Company's Limited Liability Company Agreement, which reimbursement shall be subject to the presentment to Licensee of back-up therefor which is reasonably satisfactory to Licensee.

(c) Licensee shall reimburse Licensor with any and all costs it incurs in relation to the application registration and administration of the Mark.

5. **Confidential Information**. Each party understands and acknowledges that it may have access to information of or concerning the other that is confidential or constitutes a trade secret, including without limitation, sales figures, operational and development plans, recipes, and formulas for certain signature menu items (collectively "Confidential Information"). Each party understands and agrees that maintaining the strict confidentiality of all Confidential Information of the other party during and after the Term is a material obligation of each party under this Agreement. Each party further acknowledges that it shall make no use of Confidential Information of the other party whatsoever except as such usage is permitted or reasonably contemplated by this Agreement or as may be reasonably necessary to perform its obligations hereunder. The term "Confidential Information" does not include, however, information that (i) becomes generally available to the public other than by reason of its disclosure by in violation of this Section 5; (ii) was known by a party prior to its being provided to such party pursuant to this Agreement; or (iii) becomes available to a party from a source other than the other party to this Agreement; provided that such receiving party has no reasonable grounds to believe that such source is bound by a confidentiality agreement or is otherwise under a duty to protect the confidentiality of such information.

6. **Representations of the Parties.**

6.1. Licensor's General Representations. Licensor represents to Licensee as follows:

(a) Licensor has all requisite power and authority to execute and deliver this Agreement and to perform its respective obligations hereunder. The execution and delivery of this Agreement by Licensor and the performance of its obligations hereunder have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by Licensor and constitutes the legal, valid and binding obligation of Licensor.

(b) The execution and delivery of this Agreement by Licensor does not, and the consummation of the performance of its obligations contemplated hereby will not, conflict with or violate any contract or agreement that is binding on Licensor or that relates to any material portion of the Licensed Rights.

6.2. Licensee's General Representations. Licensee represents and covenants to Licensor as follows:

(a) Licensee has all requisite power and authority to execute and deliver this Agreement and to perform its respective obligations hereunder. The execution and delivery of this Agreement by Licensee and the performance of its obligations hereunder have been duly authorized by all necessary corporate action. This Agreement has been duly executed and delivered by Licensee and constitutes the legal, valid and binding obligation of Licensee.

(b) The execution and delivery of this Agreement by Licensee does not, and the consummation of the performance of its obligations contemplated hereby will not, conflict with or violate any contract or agreement that is binding on Licensee.

6.3. Ownership of the Licensed Rights. Licensor represents to Licensee with respect to the Licensed Rights that Licensor is the owner of all right, title, and interest in and to the Marks. Notwithstanding anything to the contrary herein contained Licensee acknowledges that the Mark has not been registered in the US trade mark registry as at the date hereof. Licensor shall apply to register the Mark and will keep Licensee informed as to the progress with such application.

7. **Indemnification and Insurance.**

7.1 Defense and Indemnity.

(a) Licensee shall defend, indemnify and hold Licensor and their respective officers, directors, managers, stockholders, members, employees, agents, attorneys, representatives, affiliates, successors and assigns (collectively, an "Indemnified Licensor Party") harmless from and against any and all third party demands, claims, actions, causes of action, liabilities, suits, proceedings, judgments, investigations or inquiries, or any settlement thereto, and all related expenses, including, but not limited, to all litigation expenses (including reasonable attorneys' fees and court costs) and settlement amounts (collectively, "Losses"), that directly or indirectly arise from or in connection with the use by Licensee of the Mark or the

performance or nonperformance of Licensee's duties under this Agreement or under any sub-license with a Sublicensee, except to the extent Losses result from Licensor's misconduct, breach of this Agreement, any sublicensee with a Sublicensee, or negligence or are covered by Licensor's indemnity below. This paragraph shall survive the termination of this Agreement.

(b) Licensor shall defend, indemnify and hold Licensee and its officers, directors, stockholders, employees, agents, attorneys, representatives, affiliates, successors and assigns (collectively, an "Indemnified Licensee Party" and together with an Indemnified Licensor Party, an "Indemnified Party") harmless from and against any and all Losses that directly or indirectly arise from or in connection with claims by third parties that the use by Licensee of the Marks in accordance with this Agreement violates or infringes upon the rights of such third party, except to the extent Losses result from Licensee's misconduct, breach of this Agreement or negligence or are covered by Licensee's indemnity above. This paragraph shall survive the termination of this Agreement.

7.2 Method of Asserting Claims.

(a) In the event that any claim or demand for which Licensor or Licensee, as the case may be (the "Indemnifying Party"), would be liable to an Indemnified Party hereunder is asserted against or sought to be collected from an Indemnified Party by a third party, the Indemnified Party shall notify the Indemnifying Party promptly of such claim or demand, specifying the nature of such claim or demand and the amount or the estimated amount thereof to the extent then feasible (which estimate shall not be conclusive of the final amount of such claim and demand) (the "Claim Notice"). The failure to timely give a Claim Notice promptly shall not relieve the Indemnifying Party of its obligations hereunder except to the extent such delay is due to the negligence of the Indemnified Party. The Indemnifying Party shall thereupon, at its sole cost and expense (subject to Section 7.3 below), defend the Indemnified Party against such claim or demand with counsel reasonably satisfactory to the Indemnified Party. The Indemnified Party shall cooperate with the Indemnifying Party in connection therewith.

(b) The Indemnifying Party shall not, without the prior written consent of the Indemnified Party, consent to the entry of any judgment against the Indemnified Party or enter into any settlement or compromise which does not include, as an unconditional term thereof (i.e., there being no requirement that the Indemnified Party pay any amount of money or give any other consideration), the giving by the claimant or plaintiff to the Indemnified Party of a release, in form and substance reasonably satisfactory to the Indemnified Party, from all liability in respect of such claim or litigation. Except as otherwise provided for in Section 7.6, if any Indemnified Party desires to participate in, but not control, any such defense or settlement, it may do so at its sole cost and expense. If, in the reasonable opinion of the Indemnified Party, any such claim or demand or the litigation or resolution of any such claim or demand involves an issue or matter which could reasonably have a materially adverse effect on the business, operations, assets, properties or prospects of the Indemnified Party, as a whole, then, subject to the provisions of Section 7.7 with respect to the Marks, the Indemnified Party shall have the right to control the defense or settlement of any such claim or demand and its costs and expenses shall be included as part of the indemnification obligation of the Indemnifying Party hereunder;

provided, however, that the Indemnified Party shall not settle any such claim or demand without the prior written consent of the Indemnifying Party, which consent shall not be unreasonably withheld or delayed. If the Indemnified Party should elect to exercise such right, the Indemnifying Party shall have the right to participate in, but not control, the defense or settlement of such claim or demand at its sole cost and expense.

7.3 Intellectual Property Notices. As a condition of this Agreement, Licensee will prominently place on all items displaying or embodying the Mark (or on their containers, labels, tags and the like), and on all advertising and promotional material, stationery and transaction documents displaying the Mark, the following: (a) an appropriate trademark notice to be provided by Licensor; (b) any appropriate copyright or design protection notice as provided by Licensor; and (c) any other legends, markings or notices required by any law or regulation or which Licensor reasonably may request.

7.4 Restrictions. Licensee shall not identify itself as the owner of the Mark or any right or interest therein or any registration or application for registration thereof, except as a licensee. Licensee shall not apply for or maintain the registration of any trademark which is the same as, confusingly similar to, or which incorporates the Mark anywhere in the world.

7.5 Ownership of Intellectual Property.

(a) Trademark Ownership. (i) All use of the Mark by Licensee or a sublicensee as a trademark will inure to the benefit of Licensor. All rights in the Mark other than those specifically granted in this Agreement are reserved for the use and benefit of Licensor. Licensee will not, during or after the Term, attack Licensor's title in and to the Mark or attack the validity of the license granted hereunder.

(b) Design Ownership. All specially created designs, and any and all copyrights and other intangible property rights in them and in any package design, label, package insert, signage, advertising, promotional or other material displaying the Mark, will be the property of Licensor. If not created by Licensor, they will be deemed "works made for hire" for Licensor within the meaning of the U.S. Copyright Law or any other applicable industrial or intellectual property law. If they do not so qualify, all such intangible property rights will be deemed transferred to Licensor.

(c) Registrations and Recordations. Licensee will not seek any copyright or trademark registration for the Mark. Licensee will cooperate fully with Licensor, in the execution, filing and prosecution of any trademark or copyright applications that Licensor may choose to file. Licensee will execute and deliver to Licensor, at any time whether during or after the Term, and at Licensor's expense, any documents which Licensor reasonably requests to confirm Licensor's ownership rights, to record this Agreement or to enter or terminate Licensee as a registered user.

7.6 Infringement; Actions. Licensee shall reasonably cooperate with Licensor, to protect and defend the Mark. Licensee shall promptly notify Licensor if any legal

action is instituted against Licensee relating to Licensee's use of the Mark or otherwise relating to other intellectual property rights of Licensor. Licensee shall also promptly notify Licensor and Licensor in writing of any counterfeiting or other infringement of the Mark or other intellectual property rights of Licensor or otherwise relating to intellectual property rights of Licensor of which Licensee becomes aware. Subject to the provisions of Section 7.1(b) hereof, Licensor shall have the right, but not the obligation, to institute legal action or take any other actions which it deems necessary to protect its interest in the Mark and other intellectual property rights, and Licensee shall cooperate with Licensor in any such action. All costs incurred shall be borne by Licensee save where incurred by breach of 7.1(b) by Licensor. Licensee shall not take any other action regarding such infringement without the prior written approval of Licensor and Licensor. With respect to all claims and suits, including suits relating to the Marks or any other intellectual property rights of Licensor, but other than direct claims asserted by Licensee against Licensor or Licensor, in which Licensee is joined as plaintiff, Licensor shall have the sole right to employ counsel and to direct the handling of the claim and litigation and any settlement thereof. Any monetary recovery resulting from any such action shall first be used to reimburse any costs incurred and thereafter shall belong solely to Licensor, except that, in accordance with Section 7.1(b) hereof, if Licensee is a plaintiff in an action and separately identified damages are determined to be due to Licensee for losses incurred by Licensee, and not to Licensor, then Licensee shall be entitled to recover such separately identified amount.

8. **Right and Consent to Co-Exist.**

(a) Licensee hereby acknowledges and agrees that Licensor owns shall have the right to use and exploit the Mark throughout the universe in perpetuity subject to the terms and conditions of this Agreement and Licensee's Limited Liability Company Agreement. Licensee shall not object to, oppose or otherwise seek to limit in any way Licensor's use or exploitation of the Mark in any manner which is consistent with the subject to the terms and conditions of this Agreement and Licensee's Limited Liability Company Agreement.

(b) Licensor hereby acknowledges and agrees that Licensee shall have the right to use and exploit the Licensee Marks throughout the universe in perpetuity subject to the terms and conditions of this Agreement and Licensee's Limited Liability Company Agreement. Except as otherwise provided for herein, Licensor shall not object to, oppose or otherwise seek to limit in any way Licensee's use or exploitation of the Licensee Marks, in any manner which is consistent with terms and conditions of this Agreement and Licensee's Limited Liability Company Agreement.

(c) The parties agree that in the event that any confusion arises between the Marks and the Licensee Marks, they will cooperate with each other and work in good faith to find ways to eliminate or minimize the confusion, without the obligation for either party to cease or further restrict their respective uses of the Mark and the Licensee Marks, as applicable.

(d) Neither party will apply to register any further trademark utilising the word BURGR without the consent and approval of the other, provided, however, Licensee may do so without the consent of Licensor so long as (i) such further trademark does not include the names or words "Gordon Ramsay", "Ramsay" or "Gordon", and (ii) Seibel and/or GRUS or their

respective affiliates control Licensee.

9. **Term.** The term of this Agreement shall be for twenty (20) years from the date hereof (the "Term") subject to earlier termination pursuant to Section 10 hereof. Provided that Licensee is not in breach of this Agreement, Licensor shall, at the request of Licensee, consider entering into a new license agreement for the Licensed Rights upon mutually agreeable terms negotiated in good faith. The foregoing notwithstanding, this Agreement shall continue in full force and effect in accordance with the terms and conditions hereof solely with respect to, and during the effectiveness of, any sublicense between the Licensee and any Sublicensees that exist or at the date the Term expires.

10. **Default and Termination.**

10.1. Events of Default. The following constitutes an event of default:

(a) If a party is in material default in the performance of an obligation under this Agreement, and such default continues for a period of thirty (30) days after written notice from the aggrieved party; provided, however, that if such default cannot by its nature reasonably be cured within such thirty (30) day period, an event of default will not occur if and so long as the defaulting party promptly commences and diligently pursues the curing of such default within a reasonable time thereafter.

10.2. Rights Upon Event of Default. Upon the occurrence of a continuing and uncured event of default under Section 10.1, the non-defaulting party may terminate this Agreement by providing written notice to the other party of its election to do so (a "Termination Notice"). The foregoing notwithstanding, if a non-defaulting party terminates this Agreement pursuant to this Section 10.2, this Agreement shall continue in full force and effect in accordance with the terms and conditions hereof with respect to, and during the effectiveness of, any sublicense between the Licensee and any Sublicensees that exists as of the date of the Termination Notice. A party that elects to exercise its termination right pursuant to this Section 10.2 reserves any and all other additional remedies that may be available to it under this Agreement and/or at law or in equity.

11. **Effect of Termination.** Upon termination of this Agreement, all of Licensee's rights to use the Licensed Rights will terminate and Licensee must immediately discontinue all use of the Mark. Licensee shall, upon the request of Licensor after such termination, take such actions and execute such documents, if any, as may be reasonably necessary or appropriate to reflect its surrender of any rights acquired by Licensee under this Agreement.

12. **Force Majeure.** No party will be deemed to be in default of its obligations under this Agreement if and to the extent that such party is unable to perform such obligation as a result of fire, flood, storm or other casualty, act of God, strike or other labor unrest, unavailability of materials, war, riot or other civil commotion or any other cause beyond the control of such party.

13. **Assignment.** This Agreement and the rights and obligations of the parties hereunder may not be assigned, sublicensed, delegated, sold, transferred, or otherwise disposed

of, by operation of law or otherwise, without the prior written consent of the other party, which shall not be unreasonable withheld, conditioned or delayed save that Licensor shall be able to assign the benefit but not its duties and obligations of this Agreement without fetter or inhibition. The parties agree that any permitted assignment or transfer (if any) shall (a) not relieve the assignor of any payment or other obligation under this Agreement, and (b) require the applicable assignee to be bound by all limitations, restrictions and quality control provisions set forth in this Agreement.

14. **Notices.** Any notice, statement or demand required to be given under this Agreement must be in writing, sent by certified mail, postage prepaid, return receipt requested, or by nationally-recognized overnight delivery service, receipt confirmed, addressed as follows:

to Licensor at:

1 Catherine Place
London, SW1E 6DX
United Kingdom
Attn: Stuart Gillies

to Licensee at:

200 Central Park South
19th Floor
New York, New York 10019, USA
Facsimile: (212) 315-1978
Attn: Rowen Seibel

or to such other addresses as parties may designate in the manner provided in this Section 14. Any notice or other communication will be deemed given (a) on the date that is 3 business days after it has been mailed if sent by certified mail, or (b) on the date received if it has been given to a nationally-recognized overnight delivery service.

15. **Additional Documents and Acts.** Each party agrees to cooperate and perform such additional acts or execute and deliver such additional documents as may be necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions, and conditions of this Agreement.

16. **Entire Agreement; Conflict.** This Agreement (including the recitals set forth on the initial page of this Agreement, which are hereby incorporated herein by reference) and its exhibits constitute the entire understanding between the parties relating to the subject matter hereof. No party will be bound by any representation or agreement other than as expressly stated in this Agreement or as subsequently set forth in writing and executed by a duly authorized officer of the party to be bound thereby. In the event that the terms and provisions of the Company's Limited Liability Company Agreement causes any ambiguity or conflict in the interpretation of the terms and provisions of this Agreement, the terms and provisions of this

Agreement will govern.

17. **Governing Law.** The validity, interpretation, and enforceability of this Agreement will be governed by the laws of the State of New York, without regard to its conflict of laws provisions.

18. **Resolution of Disputes.** Except as otherwise provided herein, each of the parties hereto (a) consents and submits to the jurisdiction of any state or federal court of competent jurisdiction located in the County of New York, in the State of New York, in any action or proceeding arising out of or relating in any manner to this Agreement, and (b) waives any claim that any such state or federal court is an inconvenient forum. Service of process in any such action or proceeding brought hereunder may be made by faxing and mailing copies of such process to the address of the parties provided for in Section 14, provided that nothing herein shall affect the right of any party to serve legal process in any other manner permitted by law.

19. **Equitable Relief.** In the event that a party violates or threatens to violate any applicable covenant (i) set forth in Section 5 or (ii) that is reasonably likely to negatively affect Licensor's interest in the Licensed Rights, each party agrees that the aggrieved party will be without an adequate remedy at law and will, therefore, be entitled to enforce such restrictions by preliminary, temporary and/or permanent injunction or mandatory relief in any court of competent jurisdiction without the necessity of proving damages, without the necessity of posting any bond or other security, and without prejudice to any other rights and remedies which the aggrieved party may have at law or in equity.

20. **Waiver and Amendment.** No waiver, amendment or modification or change of any provision of this Agreement shall be effective unless and until made in writing and signed by Licensor and Licensee. No waiver or forbearance by any party hereto of its right to enforce any provision of this Agreement shall be construed as constituting a continuing waiver or as a waiver in other instances. The failure of any party to assert any of its rights hereunder shall not constitute a waiver of any such rights. No course of conduct or method of doing business shall modify or amend the terms hereof.

21. **Severability.** If any provision of this Agreement shall be determined to be unenforceable to any extent, the remainder of this Agreement shall not be affected and shall continue to be valid and enforceable to the fullest extent permitted by law. If any provision is held invalid as to duration, scope, activity, or subject, such provision shall be construed by limiting and reducing it so as to be enforceable to the extent compatible with applicable law.

22. **Counterparts and Signatures.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement shall become binding and enforceable upon a party at such time as a counterpart has been signed and transmitted either personally or via facsimile to the other party. Signatures hereon distributed by facsimile, PDF, electronic transmission or similar means of transmittal shall be deemed original signatures hereon.

23. **Binding Effect**. This Agreement is binding upon each party and permitted assignees.

24. **Terms of Agreement**. The parties agree that the terms of this Agreement shall not be divulged to any third party, other than a party's attorneys, accountants and other professionals with a reasonably need to know such information, without the prior written consent of the other party, which consent shall not be unreasonably withheld, delayed or conditioned.

25. **Headings**. The headings are inserted for convenience only and do not affect the meaning of any provision of this Agreement. The Recitals are a material part of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year set forth below.

GR US LICENSING, LP

By: Kavalake Limited, Its General Partner

By: _____
Name: Gordon Ramsay
Title: Director

GR BURGR, LLC

By: _____
Name: Rowen Seibel
Title: Manager

Schedule A

Licensor Trademarks

BURGR Gordon Ramsay

Schedule B

Licensee Trademarks

BURGR and GR BURGR, and, subject to Section 8(d), any variation thereof, except with the name(s) or word(s) "Gordon Ramsay", "Ramsay" or "Gordon".

EXHIBIT 2

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

ROWEN SEIBEL, Individually and on behalf of FCLA, LP and THE FAT COW, LLC,

Plaintiffs,

-against-

GORDON RAMSAY and G.R. US LICENSING, LP,

Defendants,

and

FCLA, LP and THE FAT COW, LLC,

Nominal Defendants.

----------X

Index No.

SUMMONS

Plaintiffs designate New York County as the place of trial

The basis of the venue is Plaintiffs' address:
200 Central Park South
New York, New York, 10019

Filed:

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance on the plaintiffs' attorney within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Dated: East Meadow, New York
April 2, 2014

CERTILMAN BALIN ADLER & HYMAN, LLP

By: _____
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Defendant's Address:
Gordon Ramsay
2230 Waybridge Lane
Los Angeles, California 90077

G.R. US Licensing, LP
2711 Centerville Road - Suite 400
Wilmington, Delaware, 19808

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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ROWEN SEIBEL, Individually and on behalf of FCLA, LP and THE FAT COW LLC,

Plaintiffs,

-against-

VERIFIED COMPLAINT

GORDON RAMSAY and G.R. US LICENSING, LP,

Defendants,

and

FCLA, LP and THE FAT COW LLC,

Nominal Defendants.

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Plaintiff Rowen Seibel, ("Seibel"), individually and on behalf of FCLA, LP ("FCLA") and The Fat Cow LLC ("Fat Cow LLC") (FCLA and Fat Cow LLC collectively "Entities"), as and for their Verified Complaint against Defendants Gordon Ramsay ("Gordon Ramsay") and G.R. U.S. Licensing, LP ("GR")(collectively with Gordon Ramsay ("Ramsay") and FCLA and Fat Cow, as Nominal Defendants, allege, as follows:

SUMMARY OF THE ACTION

1. This Action concerns the egregious misconduct, fraud, self-dealing, theft of corporate opportunity and various breaches of fiduciary duty by Ramsay in connection with two entities that Ramsay formed with Seibel to open, own and operate a restaurant in Los Angeles, California called "The Fat Cow." Although Ramsay and Seibel had equal ownership interests in Fat Cow LLC and FCLA (collectively the "Entities"), and all corporate action required the consent of both parties, Gordon

Ramsay attempted to run the business and make decisions on behalf of the Entities similar to his television personality on Hell's Kitchen – as a dictatorship, without the proper authority and without consent of his partner, as is required by the governing Entity agreements. In fact, Ramsay's conduct is far worse than taking action on behalf of the Entities without any authority to do so, in contravention of the law and agreements between the parties, and, as a result, intentionally driving the restaurant formed by the Entities, The Fat Cow, ("Fat Cow Restaurant") out of business. It has now become clear that Gordon Ramsay fraudulently induced Seibel to invest over $800,000.00 in Fat Cow Restaurant -- an investment that went towards an expensive build-out of the leased space with a new kitchen, new fixtures and furnishings, and to train the restaurant staff – but then intentionally forced Fat Cow Restaurant to close so that he could use Seibel's investment to benefit another Gordon Ramsay restaurant. Ramsay represented to Seibel that he would take care of any trademark issues with the name of the Restaurant, but failed to do so with the knowledge that the name of the Restaurant violated the trademark of another previously established restaurant in Florida. Ramsay then used the potential trademark violation as an excuse to close the Fat Cow Restaurant, instead of merely changing its name -- as the parties had expressly stated they would do if such a trademark issue arose. Ramsay then stole the prestigious location leased to the Fat Cow Restaurant so that he could open another restaurant without Seibel in the same location and benefit from Seibel's $800,000 investment in refurbishing the leased space and training the staff. On information and belief, Ramsay's new restaurant will now be featured in his Fox television program this

season, instead of the Fat Cow Restaurant, as was agreed to by FCLA and Fox television.

2. In short, Ramsay engaged in blatant fraudulent conduct, breaches of fiduciary duty, theft of corporate opportunity, and misappropriation that injured Seibel, as well as the Entities, in amount not less than $10 million.

PARTIES

3. Plaintiff Rowen Seibel is an individual residing 200 Central Park South, New York, New York 10019.

4. Defendant Gordon Ramsay is an individual residing at 1 Catherine Pl, London, Greater London SW1E 6DX, United Kingdom and at 2230 Waybridge Lane, Los Angeles, California 90077. Ramsay is a well-known celebrity chef and television personality, appearing in television shows such as "Hell's Kitchen", "MasterChef" and "Kitchen Nightmares."

5. Defendant GR US Licensing LP ("GR") is a limited partnership, organized under the laws of Delaware and has its principal offices at 2711 Centerville Road, Suite 400, Wilmington, Delaware, 19808. Gordon Ramsay is the majority owner of GR and controls GR. At all times, GR acted through Gordon Ramsay, and all actions by GR were in fact actions taken by Gordon Ramsay.

6. Plaintiff, and Nominal Defendant, Fat Cow LLC is a limited liability company, organized under the laws of the State of California and has its principal office at 200 Central Park South, New York, New York, 10019.

7. Seibel and GR are the sole members of Fat Cow LLC, each owning 50% membership interest. Seibel and Ramsay are the designated "Managers" of Fat Cow LLC.

8. Plaintiff, and Nominal Defendant, FCLA, LP ("FCLA") is a limited partnership, organized under the laws of the State of Delaware, and has its principal offices at 200 Central Park South, New York, New York 10019.

9. Seibel and GR are the sole limited partners of FCLA, each owning a 49% partnership interest. Fat Cow LLC is the sole general partner of FCLA and owns a 2% partnership interest.

10. The business of FCLA is, among other things, to "develop, own and operate" the Fat Cow Restaurant at the leased premises, 189 The Grove Drive, Ste. 0-10, Los Angeles, California 90036.

JURISDICTION

11. Plaintiff Seibel resides in New York County, New York.

12. All the parties have consented to the jurisdiction of this Court in the FCLA Limited Partnership Agreement.

13. This action arises out of a dispute among the parties under the FCLA Limited Partnership Agreement and The Fat Cow LLC Agreement. The FCLA Limited Partnership Agreement provides that all parties consent to the personal jurisdiction of the State of New York and requires that any litigation arising out of or relating to the FCLA Limited Partnership Agreement must be brought in "State Supreme Court located in New York County, New York." The parties to the FCLA Limited Partnership

Agreement are: (1) The Fat Cow LLC, as general partner, on whose behalf the FCLA Limited Partnership Agreement was executed by its two Managers, Seibel and Gordon Ramsay; (2) defendant GR, on whose behalf the Partnership Agreement was executed by Ramsay, as limited partner; and (3) plaintiff Seibel, as limited partner.

14. In addition, Ramsay regularly conducts business in New York. Ramsay is involved, as licensor and/or operator, of no less than three (3) restaurants in New York City, namely "The London Bar NYC, Gordon Ramsay at the London and Maze by Gordon Ramsay."

BACKGROUND

15. Since 2011, Seibel and Ramsay have had various joint venture relationships in connection with a number of successful restaurants, such as Gordon Ramsay Steak, in Las Vegas, Nevada, BurGR by Gordon Ramsay, in Las Vegas, Nevada and Gordon Ramsay Pub & Grill, in Las Vegas, Nevada. Unlike Gordon Ramsay's other restaurants with respect to which he either licenses his name or has an ownership interest in, and which Seibel is not affiliated with, most of which, on information and belief, are not profitable, each of the aforementioned restaurants in which both Ramsay and Seibel have an interest is highly profitable.

16. In or around late 2011, Gordon Ramsay informed Seibel that he wished to open another restaurant in Los Angeles, California that would be a casual, family friendly American comfort food restaurant which Gordon Ramsay desired to be similar to the Hillstone Group concepts such as Houston's. Gordon Ramsay further informed Seibel that he was looking for a new partner to join him in the venture and contribute to

the start up and capital expenses. Despite significant earnings from his television programs, Gordon Ramsay informed Seibel that he had significant cash flow problems and could not fund the opening of a new restaurant without a partner to share expenses and risks.

17. Seibel agreed to partner with Ramsay to open, own and operate the new restaurant. At Ramsay's suggestion, and subsequently his insistence, the restaurant was to be named "The Fat Cow."

18. Gordon Ramsay informed Seibel that Ramsay would be responsible for obtaining the trademark "Fat Cow" and would file all appropriate applications to protect the "Fat Cow" trademark.

The Lease of the Premises

19. In or around November 2011, Gordon Ramsay entered into a 10 year lease with A.F. Gilmore Company for the premises located at 189 The Grove Drive, Ste. 0-10, Los Angeles, California 90036 ("Premises"). The lease provided that the "Permitted Use" was an "upscale, full-service restaurant and bar operated by Gordon Ramsay serving California eclectic cuisine ..."

20. The defined "Trade Name" of the tenant, Gordon Ramsay, was "The Fat Cow." Gordon Ramsay was permitted to operate in the Premises under the Trade Name The Fat Cow "or under such Trade Name as is approved by Landlord, such approval not to be unreasonably withheld, delayed or conditioned."

21. Gordon Ramsay was expressly permitted to assign the lease to an affiliate, of which he was an owner of least 50%, that continued to operate the Premises within

the Permitted Use set forth in the Lease and under the Trade Name "The Fat Cow", so long as advance notice was given to the Landlord.

Trademark Issues

22. On or about November 11, 2011, an entity controlled by Ramsay, called Gordon Ramsay Holdings Limited Liability Company ("Gordon Ramsay Holdings"), filed a trademark application for "Fat Cow" with the United States Patent & Trademark Office ("USPTO").

23. By February 2012, Seibel had informed Ramsay that as a result of his own investigation, he determined that there could be problems with the "Fat Cow" trademark due to an existing registered trademark filed by a Florida restaurant, "Las Vacas Gordas", which is Spanish for "Fat Cow."

24. Ramsay's representatives told Seibel that "it is all under control" and "don't you worry, I'm the trademark queen." Ramsay's representatives further told Seibel that although the U.S. Trademark application had not yet been approved, "there is nothing stopping us from opening under the name 'Fat Cow' as planned … we will have the US mark in time for the May opening."

25. In or around March 14, 2012, the USPTO issued a provisional full refusal of the "Fat Cow" trademark application.

26. Despite this refusal, Ramsay insisted that the restaurant proceed with the name "Fat Cow" and assured Seibel that he would handle the trademark issue.

27. By June 2012, Ramsay's representative informed Seibel that their U.S. counsel had presented to Ramsay the various options concerning the "Fat Cow" trademark and name, but Ramsay "chose not to take any action at this time."

28. Nevertheless, Gordon Ramsay continued to assure Seibel that he would take care of any trademark issue regarding the "Fat Cow" name and insisted on opening the restaurant under that name.

The Fat Cow LLC

29. On or about October 12, 2012, Seibel and GR formed Fat Cow LLC and entered into a Limited Liability Agreement ("Fat Cow LLC Agreement").

30. Under the Fat Cow LLC Agreement, Seibel and GR each own a 50% interest in the Company.

31. The purpose of the LLC was to "serve as the general partner of FCLA LP."

32. The Fat Cow LLC Agreement provided that Fat Cow LLC would have two Managers, Seibel and Gordon Ramsay (Gordon Ramsay being designated "Manager" by GR). Fat Cow LLC and its business were to be run by the Managers and "all decisions of the Managers shall be made upon unanimous consent of the Managers." Pursuant to the terms of the Fat Cow LLC Agreement, only after unanimous consent was reached by the Managers was a Manager authorized to execute documents on behalf of the Company necessary or appropriate in connection with any such decision.

FCLA LP

33. Simultaneous with forming Fat Cow LLC, the parties established FCLA LP on October 12, 2012 and entered into a Limited Partnership Agreement for FCLA

("FCLA Partnership Agreement").

34. The partners of FCLA are Seibel, GR and Fat Cow LLC. Seibel and GR are limited partners each owning a 49% partnership interest in FCLA. Fat Cow LLC is the general partner of FCLA, and owns a 2% partnership interest.

35. The business of FCLA is to operate The Fat Cow restaurant ("Fat Cow Restaurant") at the Premises. Specifically, the "Business" of FCLA is to "develop, own and operate a first class steakhouse restaurant under the name 'Fat Cow', or a variation thereof as determined by the General Partner, at the Location." (Emphasis added.) The Location is defined as "189 The Grove Drive, Ste. 0-10, Los Angeles, California 90036."

36. As set forth above and in the FCLA Partnership Agreement, in recognition of the trademark issues with "Fat Cow", the parties expressly contemplated that FCLA was to operate a restaurant under the name Fat Cow "or a variation thereof as determined by the General Partner."

37. The "full and exclusive right, power and authority to manage all the affairs and business" of FCLA was vested with the General Partner, Fat Cow LLC – an entity jointly Managed by Seibel and Gordon Ramsay that required "unanimous" consent by Seibel and Gordon Ramsay for all business decisions.

38. The FCLA Partnership Agreement provided that Fat Cow LLC would determine when additional funding was required and such funding requirements would be equally made by Seibel and GR.

39. The Partnership Agreement recognized that the General Partner, Fat Cow LLC, was granting FCLA a license to the use the mark "The Fat Cow" and "The Fat

Cow at the Grove." This provision reflected the fact that Ramsay continued to represent to Seibel that he would be able to obtain permission to use the name "Fat Cow" and obtain trademark protection for "The Fat Cow."

The FCLA-Fat Cow License Agreement

40. Simultaneous with executing the Fat Cow LLC Agreement and the FCLA Partnership Agreement, Fat Cow LLC and FCLA entered into a License Agreement between Fat Cow LLC and FCLA, whereby Fat Cow LLC licensed to FCLA the rights to use the Trade Name "The Fat Cow at the Grove" and the Trademark "The Fat Cow."

41. The License Agreement was executed by Gordon Ramsay on behalf of FCLA and on behalf of Fat Cow LLC.

42. As with the FCLA Partnership Agreement, this provision reflected the fact that Ramsay continued to represent to Seibel that he would be able to obtain permission to use the name "Fat Cow" and obtain trademark protection for "The Fat Cow."

43. However, the License Agreement made specific provisions in the event Ramsay was unable to obtain permission to use the name "Fat Cow" and obtain trademark protection for "The Fat Cow."

44. Specifically, the License Agreement provided in Schedule A:

> An affiliate of the Licensor has applied for the above tradement in the United States Patent and Trademark Office (the "USPTO") and has received a USPTO Office Action advising that such trademark is provisionally refused because of a likelihood of confusion with the pre-existing trademark "Las Vacas Gordas".
>
> The Licensor intends to re-file an application containing the words "The Fat Cow" with a stylized logo. In the event that

such application is denied, or is challenged and ultimately denied or Licensor determines not to pursue such trademark application, Licensor may apply for an alternative trademark(s), in which case this Schedule A shall be amended to reflect such alternative trademark(s) applications and/or registrations, and any amended trade name(s).

Licensor cannot assure that it will obtain registration of the trademark "The Fat Cow" or any variation thereof, with or without a stylized logo. (Emphasis added.)

45. As the License Agreement recognizes, at the time Ramsay and Seibel entered into the FCLA Partnership Agreement, Fat Cow LLC Agreement, Lease Assignment and the License Agreement, Ramsay and Seibel understood that they may not be able to use the name "Fat Cow" for the restaurant and expressly provided that alternative trademark(s) would be sought if necessary. The reasonable use of such alternative trade names was also expressly permitted under the Lease.

Ramsay Assigns the Lease of the Premises to FCLA

46. On or about October 20, 2012, Ramsay entered into a Lease Assignment and Assumption Agreement with FCLA.

47. Under the Lease Assignment, Ramsay transferred, assigned and set over to FCLA all of Ramsay's right, title and interest in, to and under the Lease.

48. Upon information and belief, contrary to his obligations under the Lease, and in contravention of his duties to Seibel, FCLA and Fat Cow, Ramsay did not notify the Landlord of the assignment.

Seibel Agrees to Indemnify Ramsay For Losses Under the Lease

49. At the same time as the Lease Assignment, Seibel and Gordon Ramsay entered into an Indemnification Agreement, whereby Seibel agreed to indemnify Gordon Ramsay for 50% of any liability or damages that Gordon Ramsay incurs under the Lease.

50. Seibel was willing to enter into the Indemnification Agreement with Gordon Ramsay based on the aforementioned agreements entered into between them establishing their partnership relationship and duties of trust and loyalty to each other, as well as representations by Gordon Ramsay to Seibel that Gordon Ramsay would clear any trademark issues. Based on these agreements and representations by Gordon Ramsay to Seibel, and in recognition that the two partners would share equally in costs, expenses and profits of the restaurant, Seibel was willing to agree to indemnify Gordon Ramsay in the event there were losses or damages resulting from the Lease.

Agreement Between FCLA and Upper Ground Enterprises to Film "Hell's Kitchen 12" at Fat Cow Restaurant

51. FCLA and Upper Ground Enterprises, Inc. entered into an agreement ("Hell's Kitchen Agreement") whereby FCLA permitted the filming at Fat Cow Restaurant twenty (20) one-hour episodes of the television show, "Hell's Kitchen", starring Gordon Ramsay, which consists of contestants engaging in cooking contests and is broadcast during prime time domestically by the Fox Broadcasting Company as well as internationally by various other television providers. Under the Hell's Kitchen Agreement, FCLA was to provide free access to the Restaurant to record the program

and the winning contestant would work at Fat Cow Restaurant for one-year as the head chef. In exchange, Fat Cow Restaurant would be mentioned at least once every episode and there would be at least one "beauty shot" of the Restaurant in every episode.

52. At significant cost and expense to FCLA, FCLA permitted access for the recording of the Hell's Kitchen episodes as provided in the Hell's Kitchen Agreement in the fall of 2012.

Ramsay Breaches His Obligations to Seibel, FCLA and Fat Cow

53. At all times, Gordon Ramsay and GR, which is owned and controlled by Ramsay, as a partner of FCLA, had fiduciary duties of care and loyalty to Seibel, Fat Cow LLC and FCLA.

54. At all times, GR, as member of Fat Cow LLC, and Gordon Ramsay, as Manager of Fat Cow LLC, had fiduciary duties of care and loyalty to Seibel and Fat Cow LLC.

55. As the opening drew closer without resolution to the name change, and despite Seibel's repeated suggestions that the restaurant open under another name, Ramsay refused to consider Seibel's suggestions and insisted that the restaurant would open under the name "Fat Cow." Ramsay continued to assure Seibel that he would take care of the trademark issue.

56. In fact, in breach of his promises to Seibel and his duties to Seibel, Fat Cow LLC and FCLA, Ramsay took no action to re-file the trademark application; took no action to file a trademark application that Fat Cow LLC could use at the Restaurant;

took no action to effectuate a change of the name of the Restaurant, and took no action to secure permission from Las Vacas Gordas to use the Fat Cow name.

57. The Fat Cow restaurant opened on September 26, 2012.

58. From October 1, 2012 through December 31, 2013 the restaurant generated positive cash flow.

59. On or about February 27, 2013, Gordon Ramsay received notice from the Landlord claiming that Gordon Ramsay was in default of the Lease in a number respects, including, but not limited to (a) that Gordon Ramsay was rarely, if ever, present in the Restaurant, and that therefore the Restaurant was not being operated by Gordon Ramsay; (b) poor quality of food; (c) assigning the Lease without providing notice to the Landlord.

60. Ramsay met with the Landlord to discuss the issues raised in the February 2013 letter. In a letter dated April 25, 2013 to Ramsay summarizing their meeting, the Landlord stated that Gordon Ramsay had made the following representations during their meeting:

> You also committed to putting your name on the restaurant and said you would promptly confirm the details of doing so. I expect to hear back from you in the next week about the steps you will take to put your name on the restaurant.

61. According to the Landlord, Gordon Ramsay also made the following commitment:

> Finally, we discussed the ownership structure of the restaurant and you stated you owned the restaurant with a partner but you are the sole operator. Please forward documents that confirm whether the lease has been assigned

and, if so, that show that the assignment was permitted under the terms of the lease."

62. Ramsay's statement to the Landlord that he was "the sole operator" of the Restaurant was legally false and contrary to the terms of the Fat Cow LLC Agreement and FCLA Partnership Agreement. Nevertheless, soon thereafter Ramsay began to act as if he was the "sole operator" of the Restaurant and began to exclude Seibel from all decisions regarding the operation of the Restaurant, refused to consult with Seibel, and make decisions on behalf of FCLA and Fat Cow regarding the Restaurant without Seibel's consent and in violation of the FCLA Partnership Agreement and Fat Cow LLC Agreement.

63. When he received a copy of the letter, Seibel informed Gordon Ramsay again that he consented to changing the name of the Restaurant, particularly in light of the trademark issues with Las Vacas Gordas. Gordon Ramsay specifically and expressly informed Seibel that he would take all necessary steps to effectuate the change of the name of the Restaurant. In the meantime, Gordon Ramsay told Seibel once again that he would take care of any and all issues regarding the Fat Cow trademark to the extent necessary.

64. Ramsay never took any steps to change the name of the Restaurant.

65. Gordon Ramsay had further secret negotiations and discussions with the Landlord that he concealed from Seibel, FCLA and Fat Cow.

66. On or about April 22, 2013, Ramsay received notice from a restaurant in Florida, Las Vacas Gordas, claiming that the Fat Cow Restaurant was infringing their

mark "Las Vacas Gordas" and demanded that Ramsay either cease and desist from further use of the trade name "Fat Cow" or enter into a License Agreement with Las Vacas Gordas.

67. On or around September, 2013, in exchange for a payment of $10,000.00, Ramsay obtained permission until February 28, 2014 from Las Vacas Gordas to continue to use the trade name Fat Cow in the operation of the Restaurant.

68. The reason Ramsay only sought an extension until February 28, 2014 is because Ramsay was prohibited by a prior agreement with The Blackstone Group ("Blackstone") from opening or operating any restaurant bearing his name in a geographic area that included the Premises until after February 2014.

69. As a result, Ramsay could have fulfilled his duties to Seibel, Fat Cow LLC, FCLA, Blackstone, and the Landlord, as well as satisfying any concern of Las Vacas Gordas, by changing the Fat Cow Restaurant name to "The Cow By Gordon Ramsay" effective at any time after February 28, 2014.

70. But Ramsay took no action to fulfill his duties. Despite his prior assurances and promises to Seibel, Ramsay took no action after September, 2013 to enter into a license agreement with Las Vacas Gordas, or obtain a further extension from Las Vacas Gordas, to apply for a new trade name for the restaurant, or take any action to change the name of the Restaurant.

71. Instead, in a dramatic money grab and breach of his fiduciary obligations to Seibel, Fat Cow LLC and FCLA, Gordon Ramsay began taking steps to secretly shut down Fat Cow Restaurant, using the trade mark issue as his straw man excuse, and

open a new restaurant at the Premises without Seibel, FCLA and Fat Cow LLC that utilized his name.

72. Ramsay's wrongful and secret unilateral actions were in breach of the FCLA Partnership Agreement and Fat Cow LLC Agreement, and were intended to enrich himself, at the expense of Seibel, FCLA and Fat Cow LLC.

73. To effectuate his wrongful scheme, on or about June 12, 2013, Ramsay's entity, Gordon Ramsay Holdings, filed an application with the United States Patent and Trademark Office ("USPTO") for the word mark "The Cow By Gordon Ramsay" to be used for restaurant and bar services.

74. Ramsay did not disclose to Seibel, FCLA or Fat Cow LLC that any such application had been filed or that he intended to use the name "The Cow By Gordon Ramsay" as the new name for the Restaurant. In fact, Ramsay secretly filed the trademark application because he intended to close the Fat Cow Restaurant, steal the restaurant location, Premises and Seibel's investment for himself, and open a new restaurant at the Premises without Seibel, FCLA and Fat Cow LLC.

75. Ramsay subsequently filed additional trademark applications with the USPTO for additional names he considered using for a new restaurant at the Premises.

76. Ramsay could have fulfilled his duties to Seibel, Fat Cow LLC, FCLA, Blackstone, and the Landlord, as well as satisfying any concern of Las Vacas Gordas, by changing the Fat Cow Restaurant name to "The Cow By Gordon Ramsay" or another name acceptable to Ramsay and Seibel. Instead, the applications were intended to benefit Ramsay's new restaurant.

77. Ramsay engaged in further breaches of his fiduciary obligations to Seibel, Fat Cow LLC and FCLA, and took additional unauthorized and unilateral actions on behalf of Fat Cow and FCLA, all as part of his plan to loot and then close Fat Cow Restaurant, and exclude Seibel from any benefit relating thereto.

78. Ramsay took action to misappropriate the assets of FCLA and Fat Cow LLC, the Lease, the refurbished Premises, and other corporate opportunities, and to establish a new restaurant at the Premises that would benefit from Seibel, FCLA and Fat Cow LLC's investments in Fat Cow Restaurant, but that Ramsay would own and operate without Seibel, FCLA and Fat Cow LLC and for which Ramsay would not have to share profits with Seibel.

79. On information and belief, Andi Van Willigan ("Van Willigan") was employed by Ramsay's entity, Gordon Ramsay Holdings, and worked with Ramsay in connection with his "Hell's Kitchen" and "Kitchen Nightmares" television programs. Van Willigan was originally going to be a partner with Ramsay in the Fat Cow Restaurant.

80. However, upon finalizing their partnership, Ramsay and Seibel agreed that Van Willigan would not be a partner in FCLA nor would she be employed by or provide services to FCLA, Fat Cow LLC or Fat Cow Restaurant.

81. In or around the summer of 2013, Gordon Ramsay stated that Van Willigan would be working at the Fat Cow Restaurant. Unbeknownst to Seibel, Gordon Ramsay's insistence that Van Willigan work at the restaurant was so that Van Willigan could assist Ramsay in his secret plan to loot the Restaurant and close it.

82. Seibel lacked confidence in Van Willigan's abilities and her fiscal aptitude, a feeling apparently shared by Ramsay as evidenced by Ramsay's prior termination of Van Willigan in connection with other Ramsay restaurants. Seibel objected to Van Willigan's employment at the Restaurant and advised Ramsay that under no circumstances would Van Willigan be compensated by FCLA or Fat Cow LLC.

83. Contrary to Seibel's direction, and without authority and without Seibel's consent, Ramsay caused FCLA to compensate Van Willigan in an amount of $10,000.00 per month.

84. Van Willigan took numerous actions at the Restaurant, at Ramsay's instructions, to effectuate his secret plan to loot and then close the Restaurant.

85. In or around December 24, 2013, Ramsay's counsel informed Seibel's counsel that Ramsay intended to close the Restaurant, claiming Ramsay was required to do so because the trademark agreement with Las Vacas Gordas expired on February 28, 2014. At no time did Ramsay seek Seibel's consent to closing the Restaurant.

86. At no time, did Seibel consent to closing the Restaurant.

87. On or about December 26, 2013, Seibel's counsel informed Ramsay's counsel that Seibel did not consent to closing the Restaurant. Seibel further requested a meeting with Ramsay to discuss numerous business matters concerning the Restaurant.

88. Ramsay refused to meet with Seibel. Instead, Ramsay continued to take unilateral and unauthorized actions.

89. On or about December 27, 2013, at Ramsay's instruction but without Seibel's consent, Van Willigan informed the staff at Fat Cow Restaurant that the Restaurant would be closing.

90. Seibel immediately informed Ramsay that he did not authorize the closing of the Restaurant, did not authorize anyone to inform employees that the Restaurant would be closing, and that Ramsay should correct the misinformation that had been communicated to the staff at Ramsay's request.

91. Ramsay did not correct the misinformation. Ramsay continued to take unauthorized action to close the Restaurant and misappropriate its assets and opportunities.

92. On or about January 27, 2014, Ramsay caused to be issued a WARN Notice, formally notifying the employees of the Restaurant that the Restaurant would be closing in sixty (60) days.

93. There was no valid business reason to close Fat Cow Restaurant. Through year-end 2013, when Ramsay unilaterally and incorrectly notified employees that the Restaurant would be closing and, as a result, it became known to the public that the Fat Cow Restaurant would be closing, Fat Cow Restaurant was generating positive cash flow. Subsequent to informing staff, media and others that the restaurant was closing, the cash flow deteriorated.

94. Ramsay also breached his duties to Seibel, FCLA and Fat Cow LLC by misappropriating the Hell's Kitchen Agreement.

95. Ramsay personally benefits from the broadcast of the Hell's Kitchen episodes. Knowing that he stood to personally benefit from the broadcasts, Ramsay inducing FCLA and Fat Cow LLC to enter into and/or agree to the Hell's Kitchen Agreement in exchange for the promise of promotional benefits that FCLA and Fat Cow LLC wound receive.

96. In breach of his obligations to Seibel, FCLA and Fat Cow, Ramsay secretly plotted to close Fat Cow Restaurant so that it would never receive the benefits of the Hell's Kitchen Agreement, and Ramsay misappropriated for his personal benefit the consideration due to FCLA and Fat Cow under the Hell's Kitchen Agreement, and intends to use his new restaurant as the promotional beneficiary of the Hell's Kitchen Agreement.

97. Under the Hell's Kitchen Agreement, the episodes were recorded in the fall of 2012 at Fat Cow Restaurant, causing the Restaurant to incur significant expenses, interruptions of service and loss of revenue.

98. The episodes recorded, however, did not begin to air until March 2014. Because Ramsay had unilaterally and without permission or authority announced the closing of Fat Cow Restaurant prior to March 2014, Ramsay secretly agreed with Upper Ground Enterprises and Fox Broadcasting to delete all references to "Fat Cow" from the episodes. Upon information and belief, the winning contestant will be hired as head chef of the new restaurant that Ramsay is opening without Seibel, FCLA and Fat Cow LLC in the Premises, with misappropriated assets of FCLA and Fat Cow.

99. Ramsay's television programs are his most lucrative enterprises. Ramsay was willing to sacrifice FCLA and Fat Cow LLC, and act contrary to their interests and his duties to those Entities and Seibel, to benefit himself and his television programs.

100. Ramsay caused Fat Cow LLC and FCLA to enter into the Hell's Kitchen Agreement and allow the filming of Hell's Kitchen at Fat Cow Restaurant to benefit himself at FCLA's and Fat Cow LLC's expense and exposure. FCLA and Fat Cow LLC did not receive any consideration under the Hell's Kitchen Agreement because Ramsay wrongfully acted to close the Fat Cow Restaurant, and allowed and/or caused Upper Ground Enterprises and Fox Broadcasting to breach the Hell's Kitchen Agreement by removing any mention of Fat Cow from the broadcasts.

101. Upon information and belief, Ramsay entered into a new agreement with Upper Ground Enterprises, Inc. to allow the removal of any mention of Fat Cow Restaurant from the episodes, and to promote his new restaurant venture instead, thereby once again misappropriating corporate assets and opportunities from FCLA and Fat Cow LLC to enrich himself.

102. Unbeknownst to Seibel, FCLA and Fat Cow LLC, in addition to the Hell's Kitchen Agreement, Ramsay took additional steps to misappropriate the assets and contracts of FCLA and Fat Cow LLC for his personal benefit.

103. Ramsay caused FCLA and Fat Cow LLC to train numerous employees of his personal ventures and or independent contractors who did work for his lucrative television programs. There were no business reason for FCLA and Fat Cow LLC to train these individuals and FCLA and Fat Cow LLC received no benefit from the

training. In fact, Ramsay's employees engaged in numerous acts of egregious misconduct with regard to employees of FCLA that caused significant personnel issues for FCLA.

104. Gordon Ramsay caused FCLA to hire a designer who was also performing work on Gordon Ramsay's home without disclosing to Seibel the existence of the personal relationship.

105. On January 24, 2014, Gordon Ramsay Holdings Limited Liability Company filed another application with the United States Patent and Trademark Office for the word mark "Gordon Ramsay at the Grove" to be used for restaurant and bar services.

106. On January 24, 2014, Gordon Ramsay Holdings Limited Liability Company filed another application with the United States Patent and Trademark Office for the word mark "GR Roast" to be used for restaurant and bar services.

107. Upon information and belief, Ramsay decided he would not use the previously registered name, "The Cow By Gordon Ramsay" for the new restaurant, and instead intends to open a new Restaurant at the Premises under the trade name "Gordon Ramsay at the Grove" or "GR Roast."

108. The new Restaurant will use the kitchen, furniture and fixtures paid in a large part by Seibel, Fat Cow LLC and FCLA. The new Restaurant will use the staff that was trained with funds paid for by Seibel, Fat Cow LLC and FCLA.

109. In February 2014, just weeks before Ramsay was forcing the Restaurant to close, Van Willigan, at Ramsay's instructions and without Seibel's consent, hired "bar

consultants" paid for by FCLA to "consult" allegedly for the benefit of FCLA notwithstanding that Ramsay was closing the Restaurant shortly thereafter. The "bar consultants" were paid almost $3,000.00. There is no valid business reason for a restaurant that is closing within weeks to hire "bar consultants." Ramsay caused the "bar consultants" to be hired for the sole benefit of the new restaurant he was secretly plotting to open and, through Van Willigan, caused the "bar consultants" to be wrongfully paid for by FCLA.

110. Throughout late 2013 and 2014, despite Seibel's repeatedly informing Ramsay that Ramsay's unilateral and unauthorized actions are contrary to the parties' Agreements, and despite Seibel's requests that Ramsay meet with him to attempt to save the Fat Cow Restaurant, in breach of this duties to Seibel, FCLA and Fat Cow LLC, Ramsay has refused to meet or consult with Seibel and refused to retrack any of his unauthorized actions. Instead, Ramsay has now successfully forced the Fat Cow Restaurant to close and is moving ahead with his new restaurant at the Premises with the asset he misappropriated from FCLA and Fat Cow LLC.

AS AND FOR A FIRST CAUSE OF ACTION
AGAINST DEFENDANTS RAMSAY AND GR
(Breach of Fiduciary Duty and Self Dealing)

111. Plaintiffs repeat, reiterate and reallege each and every allegation contained above as if fully set forth at length herein.

112. At all times, GR, owned and controlled by Ramsay, as a partner of FCLA, had fiduciary duties of care and loyalty to Seibel, Fat Cow LLC and FCLA.

113. At all times, GR as member, and Ramsay as Manager of Fat Cow LLC, had fiduciary duties of care and loyalty to Seibel and Fat Cow LLC.

114. GR and Ramsay owed a duty to Seibel, FCLA and Fat Cow LLC to conduct business in the best interests of FCLA and Fat Cow LLC.

115. GR and Ramsay owe Seibel, FCLA and Fat Cow LLC a duty of good faith, loyalty, and that degree of diligence, care and skill which ordinarily prudent men would exercise under similar circumstances.

116. GR and Ramsay have breached their fiduciary duties in the manners set forth above, including but not limited to:

a. Failing to properly filed trademark application(s) with regard to "The Fat Cow" and related logos;

b. Failing to attempt to negotiate a trademark license with Las Vacas Gordas or attempt to negotiate an extension to continue to operate the Restaurant under the name The Fat Cow;

c. Refusing to operate the Restaurant under any name other than The Fat Cow;

d. Submitting trademark applications for names that would be used for Ramsay's new restaurant, but which Ramsay and GR refused to allow to be used for the Restaurant;

e. Misappropriating the Lease that was assigned to FCLA to Ramsay and or entity(ies) controlled by Ramsay;

f. Misappropriating the capital improvements paid for by Seibel, FCLA and Fat Cow LLC at the Premises for use in Ramsay's new restaurant;

g. Misappropriating the staff and the expenses incurred training the staff at Fat Cow Restaurant for Ramsay's new restaurant;

h. Secretly negotiating with Landlord against Fat Cow LLC and FCLA's interests and to benefit Ramsay personally and his personally controlled entity(ies);

i. Misappropriating the Hell's Kitchen Agreement from FCLA to Ramsay and or entity(ies) controlled by Ramsay;

j. Secretly negotiating with Upper Ground Enterprises and Fox against Fat Cow LLC and FCLA's interests and to benefit Ramsay personally and his personally controlled entity(ies);

k. Refusing to communicate or meet with Seibel on business matters and decisions that required unanimous consent;

l. Taking unauthorized and unilateral actions on behalf of FCLA and Fat Cow LLC without Seibel's consent, including, but not limited to actions to close Fat Cow Restaurant; issuing the WARN Notice; hiring and compensating Van Willigan; and entering into negotiations and agreements with the Landlord and Upper Ground Enterprises;

117. Based on the foregoing, Plaintiffs are entitled to compensatory and punitive damages, in an amount to be determined at trial, but not less than $10 million, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper.

AS AND FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS
(Fraud and Misappropriation)

118. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein at length.

119. Ramsay made numerous fraudulent misrepresentations and/or material omissions of fact which were false and known to be false by Ramsay.

120. Ramsay's misrepresentations were made for the purpose of inducing Seibel to invest over $800,000.00 with Ramsay, FCLA and Fat Cow LLC, and to induce Seibel into believing that Ramsay continued to act in the best interests of FCLA and Fat Cow LLC.

121. Seibel justifiably relied on Ramsay's misrepresentation and/or material omissions in deciding to enter into the FCLA Partnership Agreement, Fat Cow LLC Agreement and to invest over $800,000.00 with Ramsay in FCLA and Fat Cow LLC.

122. To hide his fraud, Ramsay continued to make misrepresentations to Seibel that he was acting in Fat Cow and FCLA's best interests, such as, for instance, informing Seibel that he was going to take all necessary steps to make certain the Restaurant could operate under the name "Fat Cow", to remedy any allegations by Las Vacas Gordas that

the use of "Fat Cow" infringed their trademark, and also to change the name of the Restaurant.

123. After Seibel invested in FCLA and Fat Cow, Ramsay began conducting business on FCLA and Fat Cow LLC's behalf without Seibel's authorization and contrary to the interests of FCLA and Fat Cow LLC.

124. Ramsay misappropriated for his personal benefit the corporate opportunities and assets of FCLA and Fat Cow LLC, including the assignment of the Lease, the Upper Ground Enterprise Agreement.

125. To hide his fraud from Seibel, Ramsay did not disclose to Seibel that was filing trademark applications for names that we would not use for the Restaurant, but rather use for his new restaurant. Ramsay also did not disclose to Seibel that he had secret negotiations and agreements with the Landlord and Upper Ground Enterprises that resulted in misappropriation of FCLA and Fat Cow LLC assets and opportunities.

126. Ramsay intended to misappropriate and did misappropriate all of Seibel's investment in FCLA and Fat Cow LLC.

127. By reason of the foregoing, punitive damages are warranted to punish Defendants for conduct that exhibits a high degree of moral culpability and manifests a willful, wanton or reckless disregard for the rights of others.

128. By reason of the foregoing, Seibel has been personally damaged in an amount to be determined at trial, but in no event less than $10 million, exclusive of punitive damages, attorneys' fees, attorneys' fees, costs, interest and disbursements.

AS AND FOR A THIRD CAUSE OF ACTION
(Conversion)

129. Plaintiff repeats and realleges each and every allegation set forth above as though fully set forth herein at length.

130. Defendants are in possession of property that rightly belongs to Plaintiff.

131. Defendants received possession of Seibel, FCLA and Fat Cow LLC's funds and property, without authority, intentionally exercised control over those funds and property in such a manner as to interfere with FCLA, Fat Cow LLC and Seibel's right of possession.

132. Defendants obtained funds and property from FCLA, Fat Cow LLC and Seibel that, in good conscience, should not be retained by Defendants and that belong to Plaintiffs.

133. By reason of the foregoing, punitive damages are warranted to punish Defendants for conduct that exhibits a high degree of moral culpability and manifests a willful, wanton or reckless disregard for the rights of others.

134. By reason of the foregoing, FCLA, Fat Cow LLC, and Seibel has been personally damaged in an amount to be determined at trial, but in no event less than $10 million, exclusive of punitive damages, attorneys' fees, attorneys' fees, costs, interest and disbursements.

AS AND FOR A FOURTH CAUSE OF ACTION AGAINST DEFENDANTS
(Breach of Contract)

135. Plaintiffs repeat, reiterate and reallege each and every allegation contained above as if fully set forth at length herein.

136. As set forth in detail above, Ramsay breached several provisions of the FCLA Partnership Agreement and the Fat Cow LLC Agreement by, among other things, taking actions on behalf of the entities without unanimous consent.

137. By reason of the foregoing, Seibel, FCLA and Fat Cow LLC have been damaged in an amount to be determined at trial, but in no event less than $10 million, exclusive of attorneys' fees, costs, interest and disbursements.

AS AND FOR A FIFTH CAUSE OF ACTION AGAINST DEFENDANTS
(Unjust Enrichment)

138. Plaintiffs repeat, reiterate and reallege each and every allegation contained above as if fully set forth at length herein.

139. Ramsay received possession of Seibel, FCLA and Fat Cow LLC's funds and property, without authority, that will enrich Ramsay and benefit his new restaurant.

140. Ramsay obtained funds and property from FCLA, Fat Cow LLC and Seibel that, in good conscience, should not be retained by Ramsay and that belong to Plaintiffs.

141. By reason of the foregoing, FCLA, Fat Cow LLC, and Seibel has been personally damaged in an amount to be determined at trial, but in no event less than $10 million, attorneys' fees, attorneys' fees, costs, interest and disbursements.

AS AND FOR A SIXTH CAUSE OF ACTION AGAINST DEFENDANTS
(Fraud in the Inducement)

142. Plaintiffs repeat, reiterate and reallege each and every allegation contained above as if fully set forth at length herein.

143. Ramsay fraudulently induced Seibel to enter into the FCLA Partnership Agreement, the Fat Cow LLC Agreement, and the Indemnification Agreement, based on his repeated misrepresentations that (1) the Fat Cow trademark was under control; (2) that he would handle any and all trademark issues related to Restaurant; and (3) if such trademark issues could not be remedied, he would effectuate a change in the name of the Restaurant.

144. Ramsay's misrepresentations were intentional and intended to induce Seibel to invest money in the Restaurant.

145. Ramsay's misrepresentations were intentional and intended to induce Seibel to invest money in the Restaurant and enter into the aforementioned Agreements.

146. Seibel relied upon Defendants' misrepresentations regarding the name of the Restaurant and the trademark issues when he agreed to enter into the Agreements and invest in the Restaurant.

147. In order to conceal his misrepresentations, Ramsay secretly filed new trademark applications for new names that he would use only for his new restaurant, but would not use for the parties' Restaurant.

148. As a result of the fraudulent misrepresentations and concealment, Seibel continued to fund FCLA and Fat Cow LLC, not knowing that Ramsay had made material misrepresentations to Seibel and was concealing his intention to close the Restaurant.

149. Based on the foregoing, Seibel is entitled to compensatory damages, in an amount to be determined at trial, but not less than $800,000.00, exclusive of punitive damages, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper.

WHEREFORE, Plaintiffs respectfully demand judgment against Defendants as follows:

(a) On their First Cause of Action, compensatory and punitive damages, in an amount to be determined at trial, but not less than $10 million, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper;

(b) on their Second Cause of Action, compensatory and punitive damages, in an amount to be determined at trial, but not less than $10 million, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper;

(c) on their Third Cause of Action, compensatory and punitive damages, in an amount to be determined at trial, but not less than $10 million, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper;

(d) on their Fourth Cause of Action, compensatory damages, in an amount to be determined at trial, but not less than $10 million, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper;

(e) on their Fifth Cause of Action, compensatory damages, in an amount to be determined at trial, but not less than $10 million, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper;

(f) on their Sixth Cause of Action, compensatory and punitive damages, in an amount to be determined at trial, but not less than $800,00.00, with pre-judgment interest, attorneys' fees and costs, and such other relief as this Court may deem proper;

(g) awarding Plaintiffs attorneys' fees, costs and disbursements; and

(h) granting Plaintiffs such other and further relief as this Court may deem just, equitable and proper.

Dated: East Meadow, New York
April 2, 2014

CERTILMAN BALIN ADLER & HYMAN, LLP

By: _____
Paul B. Sweeney, Esq.
Attorneys for Plaintiffs
90 Merrick Avenue – 9th Floor
East Meadow, New York 11554
(516) 296-7000

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROWEN SEIBEL being duly sworn, deposes and says:

1. I am the Plaintiff in the within action.

2. I have read the foregoing ***VERIFIED COMPLAINT*** and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: books, records, papers, and documents.

ROWEN SEIBEL

Sworn to before me this
22 day of April, 2014

Notary Public

BRIAN K. ZIEGLER
NOTARY PUBLIC, State of New York
No. 30-4763377
Qualified in Nassau County
Commission Expires June 30, 2014

2823657.1

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No. Year

ROWEN SEIBEL, Individually and on behalf of FCLA, LP and THE FAT COW, LLC,
Plaintiffs,

-against-

GORDON RAMSAY and G.R. US LICENSING, LP,
Defendants,

and

FCLA, LP and THE FAT COW, LLC,
Nominal Defendants.

SUMMONS AND VERIFIED COMPLAINT

CERTILMAN BALIN ADLER & HYMAN, LLP
Attorney(s) for Plaintiffs

Office and Post Office Address, Telephone

90 MERRICK AVENUE, 9TH FLOOR
EAST MEADOW, NEW YORK 11554
(516) 296-7000
FAX (516) 296-7111

To

Attorney(s) for

To the best of the undersigned's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, the within documents and contentions contained herein are not frivolous as defined in 22 NYCRR 130-1.1-a.

Dated: . . . . . .

. . . . . .

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

that the within is a *(certified) true copy of a*
duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

that an order
will be presented for settlement to the HON.
within named Court, at
on

of which the within is a true copy
one of the judges of the

at M.

Dated,

Yours, etc.

CERTILMAN BALIN ADLER & HYMAN, LLP

EXHIBIT 3

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF NEW YORK

GR US LICENSING, LP, a Delaware limited partnership, for itself and derivatively on behalf of THE FAT COW LLC, a California limited liability company, Plaintiff,	:	Index No.
-against-	:	**SUMMONS**
ROWEN SEIBEL, Defendant,	:	
-and-	:	
THE FAT COW LLC, Nominal Defendant.	:	

To the above named Defendant(s)

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Plaintiff has designated the venue as New York County, pursuant to CPLR §§ 501 and 503(a) and (d). The basis for venue in New York County is made pursuant to CPLR §§ 501 and 503(a) and (d).

DATED: New York, New York
May 27, 2014

MITCHELL SILBERBERG & KNUPP LLP

By: _____

Paul D. Montclare, Esq.
12 East 49th Street, 30th Floor
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Telephone: (212) 509-3900
Facsimile: (212) 509-7239

Kevin E. Gaut, Esq. (*pro hac vice* application to be submitted)
11377 West Olympic Boulevard
Los Angeles, CA 90064-1683
Telephone: (310) 312-2000
Facsimile: (310) 312-3100
Attorneys for Plaintiff

To: Rowan Seibel
The Fat Cow LLC

SUPREME COURT FOR THE STATE OF NEW YORK
COUNTY OF NEW YORK

GR US LICENSING, LP, a Delaware limited partnership, for itself and derivatively on behalf of THE FAT COW LLC, a California limited liability company,	:	Index No.
Plaintiff,	:	**COMPLAINT**
-against-	:	
ROWEN SEIBEL,	:	
Defendant,	:	
-and-	:	
THE FAT COW LLC,	:	
Nominal Defendant.	:	

Plaintiff GR US Licensing, LP ("GR"), a Delaware limited partnership, in its individual capacity, and derivatively on behalf The Fat Cow, LLC, a California limited liability company, for its Complaint against Defendant Rowen Seibel ("Seibel"), alleges as follows:

INTRODUCTION

1. This action seeks judicial dissolution of two entities – The Fat Cow, LLC, a California limited liability company and FCLA, LP, a Delaware limited partnership (together, the "Fat Cow Entities") – and is a first step in thwarting Defendant Rowen Seibel's fraudulent scheme to freeload upon the renown and acumen of celebrity chef Gordon Ramsay ("Mr. Ramsay"), whose related entity is Plaintiff GR. Seibel has been engaged in a concerted effort to usurp Mr. Ramsay's invaluable name, trademarks, and restaurant concepts through, among other things, outright and worldwide misrepresentations about Seibel's rights to them.

2. Mr. Seibel first became involved with Mr. Ramsay in 2011 by falsely telling Mr. Ramsay that he needed Seibel to provide contacts essential for Las Vegas restaurant ventures.

Then, when Seibel learned in 2012 that Mr. Ramsay intended to open a new restaurant in Los Angeles to be called "The Fat Cow," Seibel begged to be included, this time falsely promising Mr. Ramsay that Seibel would be an invaluable partner because of his significant restaurant experience. GR and Seibel formed the Fat Cow Entities to jointly own and operate the restaurant.

3. Having inveigled Mr. Ramsay to include him in The Fat Cow, Seibel took control of the restaurant and proved egregiously inept in its management. As a result, the restaurant had food, service and business operations far below Mr. Ramsay's exacting standards. Siebel's incompetent operations generated negative restaurant reviews and criticism from the restaurant's landlord.

4. Because of Seibel's misconduct, The Fat Cow faced mounting losses and also legal proceedings. For example, Seibel's team mis-paid certain employees, resulting in thousands of dollars in penalties and back wage assessments from the California Labor Commissioner. Seibel hid these proceedings from Mr. Ramsay. Eventually, other employees filed a class action lawsuit complaining about pay and labor practices implemented under Seibel's control.

5. Belatedly Mr. Ramsay was forced to select and assign new and competent The Fat Cow management in an effort to save the restaurant. However, Seibel refused to cooperate in any reasonable steps to solve the problems he had created. For example, Seibel refused to contribute his share of the funds needed to pay lawyers to defend the class action lawsuit, and after promising to attend a meeting to attempt settling the lawsuit, Seibel never showed.

6. At the height of these restaurant problems, Mr. Seibel stole from the restaurant account, worsening its fiscal shortfall. After the fact, Mr. Ramsay learned that, while operating

the restaurant, Seibel had also engaged in other self-dealing transactions by which he personally benefitted from contracts of The Fat Cow vendors and enriched himself through (or advocated for) other dishonest dealings.

7. The restaurant also faced trademark issues. The parties had agreed to name the restaurant The Fat Cow, despite acknowledging in writing from the outset that both knew of possible trademark concerns because a Florida restaurant was using the Spanish version of a related name. When the trademark issue came to a head in 2013, Seibel ignored the problem and left Mr. Ramsay to negotiate a solution. Mr. Ramsay's representatives obtained a temporary right to continue using "The Fat Cow" trademark, but that right ended in early 2014.

8. Despite an agreement that The Fat Cow business partners would make joint decisions, Seibel rejected Mr. Ramsay's suggestion that the restaurant should close and unilaterally demanded in late 2013 and 2014 that the restaurant continue operating, while at the same time refusing to provide funds needed to do so or to provide solutions to the trademark problems. Ultimately, GR alone contributed monies to meet rent and other restaurant obligations. Seibel did and contributed nothing.

9. Eventually, the restaurant closed due to the losses caused by Seibel's derelictions and the trademark issues. But Seibel tried to shift the blame to Mr. Ramsay and continued to engage in misconduct that increased the venture's losses. For example, with full disclosure and acquiescence from Seibel, Mr. Ramsay suggested to the The Fat Cow landlord that, once the old restaurant closed, Mr. Ramsay could start a new restaurant on the leased premises under Mr. Ramsay's sole and expert control. Starting such a new restaurant could have discharged the old restaurant's rent obligation. Seibel did not thank Mr. Ramsay for the effort. Instead, Seibel filed a related lawsuit in this Court, making the false and nonsensical claim that Mr. Ramsay, a

successful television star and renowned restaurateur with a reputation for perfection, fraudulently induced Seibel to participate in The Fat Cow restaurant project with the intent to secretly cause it to fail by producing a poor quality product and miring it in legal troubles so that he could then close the restaurant, make off with Seibel's money, and reopen a new restaurant in the same location. The claim is nonsense. Now, no new restaurant has been or will be opened. As a result, the landlord has asserted substantial and ongoing rent obligations arising from the original restaurant.

10. Seibel's related lawsuit rewrote history in other ways. For example, it falsely claims that Mr. Ramsay had promised that he alone would fix the trademark issue, when the parties' written agreement plainly provides otherwise.

11. While engaging in misconduct at The Fat Cow, Seibel began interfering more broadly with Mr. Ramsay's business interests. Seibel has traveled throughout the world blatantly mischaracterizing his rights under agreements governing restaurant ventures involving Mr. Ramsay, and in doing so has falsely claimed rights to invaluable Ramsay trademarks and concepts which Seibel does not hold.

12. In short, Seibel has tried to ride Mr. Ramsay's star, but through his own fraud, misconduct, and derelictions, brought the The Fat Cow restaurant crashing down, while falsely blaming Mr. Ramsay and otherwise interfering with his rights. This lawsuit begins efforts to disassociate Seibel from Mr. Ramsay's empire by dissolving the two Fat Cow Entities. Dissolution is required because:

- The Fat Cow Entities require that all decisions be made through unanimous agreement of the parties. At this point, no such agreements are possible and have not been possible for some time.

- The Fat Cow Entities were formed to operate The Fat Cow and perhaps extend the restaurant concept to other locations if both parties agreed. The original The Fat Cow is now closed, and GR and Mr. Ramsay will not agree to operating any other such restaurant. The Fat Cow Entities thus serve no function, other than fostering Seibel's efforts to misrepresent the scope of his purported relationships with Mr. Ramsay and providing Seibel potential future opportunities for self-dealing.
- GR is under no obligation to continue operating the Fat Cow Entities with a man who has proven incompetent and dishonest, who has interfered with Mr. Ramsay's business operations by misrepresenting worldwide his authority to the Ramsay name, trademarks, and concepts, who has caused significant losses at The Fat Cow but eschewed any responsibility for doing so, and who has filed a malicious and concocted lawsuit against Mr. Ramsay. Continued association with Siebel through the Fat Cow Entities will only sully Mr. Ramsay's reputation.

PARTIES AND DERIVATIVE CLAIMS

13. Plaintiff GR US Licensing, LP ("GR") is a Delaware limited partnership which maintains its principal place of business in the State of Delaware, and related to chef Gordon Ramsay.

14. Upon information and belief, Defendant Rowen Seibel ("Seibel") resides in the State of New York.

15. The Nominal Defendant The Fat Cow LLC is a California limited liability company.

16. GR brings the Second Cause of Action on its own behalf and derivatively on behalf of The Fat Cow, LLC.

17. For reasons set forth in the allegations in this complaint, it would be futile to seek Seibel's consent to dissolving The Fat Cow LLC, or to seek Seibel's consent to The Fat Cow, LLC commencing this action for the dissolution of FCLA, LP.

JURISDICTION AND VENUE

18. This Court has personal jurisdiction over Defendant Seibel pursuant to New York Civil Practice Law and Rules section 301 because Seibel resides within this State.

19. Venue is proper in the County of New York under New York Civil Practice Law and Rules sections 501 and 503.

20. Pursuant to the Limited Partnership Agreement of FCLA, LP (described below), Seibel has consented to personal jurisdiction and venue in this Court.

STATEMENT OF FACTS

21. On about October 12, 2012, GR and Seibel entered into a "Limited Liability Company Agreement of The Fat Cow, LLC" in order to form The Fat Cow, LLC as a California limited liability company.

22. GR and Seibel are the only Members and owners of The Fat Cow, LLC. GR and Seibel each have a 50% membership interest in The Fat Cow, LLC.

23. The Limited Liability Company Agreement of The Fat Cow, LLC calls for The Fat Cow, LLC to be managed through the unanimous consent of two managers, one manager designated by GR and one manager designated by Seibel. Seibel has designated himself as his manager and GR has designated Mr. Ramsay as its manager.

24. On about October 12, 2012, GR, Seibel, and The Fat Cow, LLC entered into a "Limited Partnership Agreement of FCLA, LP" in order to form FCLA, LP as a Delaware limited partnership.

25. GR and Seibel are the only limited partners of FCLA, LP. The Fat Cow, LLC is the only general partner of FCLA, LP. GR and Seibel each have a 49% limited partnership interest in FCLA, LP. The Fat Cow, LLC has a 2% partnership interest in FCLA, LP. Under the terms of the Limited Partnership Agreement of FCLA, LP, The Fat Cow, LLC makes all decisions for FCLA, LP. As a result, and because all decision for The Fat Cow, LLC must be made unanimously by its managers Mr. Ramsay and Seibel, decisions for FCLA, LP must also be made unanimously by them.

26. FCLA, LP was formed for the purpose of developing, owning, and operating a restaurant to be known as The Fat Cow at the Grove, an upscale retail and entertainment complex in Los Angeles, California.

27. GR and Seibel, through The Fat Cow, LLC and FCLA, LP, planned to develop The Fat Cow into a successful restaurant at The Grove. If the inaugural The Fat Cow proved successful, GR and Seibel potentially intended to use The Fat Cow, LLC as a vehicle for licensing the "The Fat Cow" mark and concept for use at other future restaurant locations, if both parties agreed.

28. The Fat Cow restaurant at The Grove (the "Restaurant") opened in about October 2012.

29. Seibel assumed initial management responsibility over the Restaurant. He did so with utter incompetence, with the result that the Restaurant's food, service and business operations were far below the exacting Ramsay standards.

30. On or about June 13, 2013, a wage and hour class action was filed against, inter alia, FCLA, LP and The Fat Cow, LLC, on behalf of a class of hourly employees at the Restaurant. The lawsuit alleges that, as a result of Seibel's management practices, the Restaurant

failed to provide those employees with proper meal and rest breaks, failed to pay all wages to which those employees were entitled, failed to timely pay those employees, and failed to provide those employees with timely and accurate wage statements. As a result of Seibel's management practices, at least one other employee filed successful claims with the California Labor Commissioner, which claims Seibel hid from GR and Mr. Ramsay.

31. As a result of Seibel's incompetent management, the Restaurant lost money. GR was belatedly forced to appoint new and competent management. GR requested that Seibel provide funds to continue and improve operations and for defense of the ongoing class action lawsuit. Seibel repeatedly refused to provide any such funds. As a result, GR was forced in late 2013 to provide its own additional operating and defense funds without contribution from Seibel. The Restaurant could not have continued operations without that unilateral infusion by GR.

32. After the Restaurant opened, a dispute over the "The Fat Cow" trademark arose with a restaurant in Florida. The Florida restaurant alleged that The Fat Cow, LLC and FCLA, LP were infringing on its trademark by their use of "The Fat Cow." That dispute was settled with FCLA, LP and The Fat Cow, LLC agreeing that they would discontinue use of the "The Fat Cow" name. Seibel did nothing to resolve the dispute, leaving representatives of GR and Mr. Ramsay to resolve it on their own.

33. By early 2014, the Restaurant could not continue to operate because: (a) it was unprofitable due in part to the legal proceedings caused by Seibel, and could not pay its bills without additional contributions from Seibel, which he refused to make; (b) the terms of the trademark dispute resolution precluded further use of the "The Fat Cow" name; and (c) the parties could not agree on who should manage the Restaurant, how it could be managed in a manner that met appropriate standards, or whether it should continue operating. Despite his own

acts precluding continued operation of the Restaurant, Seibel unilaterally demanded – in violation of the provisions in the applicable agreements requiring unanimity – that the Restaurant remain open. It nevertheless closed because it simply could no longer operate.

34. Seibel has, without consent, authority, or right of any kind, withdrawn funds – including most recently $10,000.00 – from FCLA, LP accounts. Seibel has also personally enriched himself by making self-dealing agreements with The Fat Cow vendors and through other dishonest dealings or attempted dealings.

35. Seibel has filed a lawsuit against Mr. Ramsay and GR making malicious and false accusations about The Fat Cow. Seibel has also interfered with the business operations of Mr. Ramsay and his associated entities by misrepresenting, worldwide, his purported rights to license Mr. Ramsay's associated names, trademarks, and restaurant concepts. Seibel has done so intentionally.

36. Seibel has in bad faith attempted to preclude Mr. Ramsay's opening of a new restaurant on the original leased premises, even though a new such restaurant could have limited back rent liability for the original The Fat Cow and is expressly permitted by the terms of the Limited Partnership Agreement of FCLA, LP. Now, no such restaurant will be opened.

37. Seibel has refused to cooperate in having The Fat Cow, LLC and FCLA, LP file for bankruptcy. Seibel's refusal to consent to the filing of bankruptcy has caused FCLA, LP and The Fat Cow, LLC to incur additional debts, including for defending the class action, which would not have been incurred had bankruptcy been filed.

COUNT I

(For Dissolution Of The Fat Cow, LLC By GR)

38. GR incorporates the allegations contained in paragraphs 1 through 37.

39. Section 17707.03(b)(1) of the California Revised Uniform Limited Liability Company Act ("RULLCA") provides that a limited liability company may be dissolved by the Court when "[i]t is not reasonably practicable to carry on the business in conformity with the articles of organization or operating agreement."

40. Section 17707.03(b)(2) of the California RULLCA provides that a limited liability company may be dissolved by the Court when "[d]issolution is reasonably necessary for the protection of the rights or interests of the complaining members."

41. Section 17707.03(b)(3) of the California RULLCA provides that a limited liability company may be dissolved by the Court when "[t]he business of the limited liability company has been abandoned."

42. Section 17707.03(b)(4) of the California RULLCA provides that a limited liability company may be dissolved by the Court when "[t]he management of the limited liability company is deadlocked or subject to internal dissention."

43. Dissolution is required under these provisions because:

- The entity no longer serves any purpose. It was formed for the purposes of: (a) being the General Partner of FCLA, LP, an entity owning The Fat Cow, a restaurant now closed and never to be re-opened; and (b) potentially to provide similar services for other "The Fat Cow" restaurants if there was unanimous agreement to form them. GR will make no such agreement.
- Management is deadlocked. The sole members, GR and Seibel, and their management designees, Seibel and Mr. Ramsay, have not agreed and cannot agree on anything concerning the Restaurant or any other operations of The Fat Cow,

LLC or FCLA, LP. Indeed, the parties are bitterly opposed in the malicious ongoing related lawsuit filed by Seibel, illustrating their inability to agree.

- GR needs protection from any further involvement with Seibel, as such an affiliation sullies GR's own reputation, and provides further opportunities for Seibel to engage in self-dealing for his own enrichment and to make self-interested misrepresentations about his authority over the invaluable Ramsay name, trademarks and concepts.

44. Accordingly, judicial dissolution of The Fat Cow, LLC should be granted.

COUNT II

(For Dissolution Of FCLA, LP By GR Individually And Derivatively On Behalf Of The Fat Cow, LLC)

45. GR incorporates the allegations in paragraphs 1 through 44.

46. Section 17-802 of the Delaware Revised Uniform Limited Partnership Act provides that a limited partnership may be dissolved by the Court when it is "not reasonably practicable to carry on the business in conformity with the partnership agreement."

47. It is no longer reasonably practicable for FCLA, LP to operate the Restaurant in conformity with the partnership agreement. The Restaurant has closed because of financial issues, the inability of The Fat Cow, LLC managers to agree on restaurant operations, and the trademark dispute. The parties are hopelessly deadlocked and engaged in bitter litigation, and FCLA, LP has no ongoing business. Perpetuation of the entity serves no purpose, other than providing opportunities for Seibel to engage in self-dealing for his own enrichment and to make self-interested misrepresentations about his authority over the invaluable Ramsay name, trademarks and concepts. Further perpetuation of the entity will also sully the reputation of GR and Mr. Ramsay through prolonging the association with Seibel.

48. Accordingly, judicial dissolution of FCLA, LP should be granted. Such dissolution should include appropriate accounting to GR for the additional amounts it has provided to FCLA, LP in amounts not matched by Seibel.

WHEREFORE, GR, individually and derivatively on behalf of The Fat Cow LLC, demands that judgment be entered ordering:

1. on the First Cause of action, the dissolution of The Fat Cow, LLC, and the winding up of its affairs;

2. on the Second Cause of Action, dissolution of FCLA, LP, and the winding up its affairs; and

3. the award Plaintiff attorneys' fees and costs, and such other and further relief as this Court deems proper.

DATED: New York, New York
May 27, 2014

MITCHELL SILBERBERG & KNUPP LLP

By: _____

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and

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Attorneys for Plaintiff

EXHIBIT 4

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X Index No. 651618/14

GR US LICENSING, LP, a Delaware limited partnership for itself and derivatively on behalf of THE FAT COW LLC, a California limited liability company,

Plaintiff,

-against-

DEFENDANT'S ANSWER

ROWEN SEIBEL,

Defendant,

and

THE FAT COW LLC,

Nominal Defendant.

----------X

Defendant, Rowen Seibel, by his attorneys, Certilman Balin Adler & Hyman, LLP, as and for his answer to the Complaint of Plaintiff, GR US Licensing, LP, a Delaware limited partnership for itself and derivatively on behalf of The Fat Cow LLC, a California limited liability company, dated May 27, 2014 (the "Complaint") allege as follows:

1. Defendant denies the allegations contained in paragraph 1 of the Complaint, except Defendant admits that the action seeks certain relief and denies Plaintiffs are entitled to such relief.

2. Defendant denies the allegations contained in paragraph 2 of the Complaint, except admits Defendant and Mr. Ramsay became "involved" in 2011.

3. Defendant denies the allegations contained in paragraph 3 of the Complaint.

4. Defendant denies the allegations in paragraph 4 of the Complaint.

5. Defendant denies the allegations in paragraph 5 of the Complaint.

6. Defendant denies the allegations in paragraph 6 of the Complaint.

7. Defendant denies the allegations in paragraph 7 of the Complaint.

8. Defendant denies the allegation in paragraph 8 of the Complaint, except admits that Seibel rejected Mr. Ramsay's unilateral attempts to close the Restaurant.

9. Defendant denies the allegations contained in paragraph 9 of the Complaint, except admits that Mr. Ramsay forced the Restaurant to close and that Defendant sued Mr. Ramsay and GR for their fraudulent and other misconduct, and refers to the Complaint filed by Defendant for its full and accurate contents.

10. Defendant denies the allegations in paragraph 10 of the Complaint.

11. Defendant denies the allegations in paragraph 11 of the Complaint.

12. Defendant denies the allegations in paragraph 12 of the Complaint.

RESPONSE TO PARTIES AND DERIVATIVE CLAIMS

13. Defendant admits that allegations in paragraph 13 and further states that GR is owned and controlled by Mr. Ramsay

14. Defendant admits the allegation in paragraph 14 of the Complaint.

15. Defendant admits the allegation in paragraph 15 of the Complaint.

16. Paragraph 16 seeks a legal conclusion, a response to which is not required, and Defendant refers to the Complaint for its full and accurate contents.

17. Defendant denies the allegations set forth in paragraph 17 of the Complaint.

JURISDICTION AND VENUE

18. Paragraph 18 seeks a legal conclusion, a response to which is not required, except to the extent a response is required, Defendant admits the allegation contained in paragraph 18 of the Complaint.

19. Paragraph 19 seeks a legal conclusion, a response to which is not required, except to the extent a response is required, Defendant denies the allegations contained in paragraph 19 of the Complaint.

20. Paragraph 20 seeks a legal conclusion, a response to which is not required, except to the extent a response is required, Defendant denies the allegations contained in paragraph 20 of the Complaint.

STATEMENT OF FACTS

21. Defendant admits the allegations contained in paragraph 21 of the Complaint.

22. Defendant admits the allegations contained in paragraph 22 of the Complaint.

23. Defendant admits the allegations contained in paragraph 23 of the Complaint, and refers to the LLC Agreement for its full and accurate contents.

24. Defendant denies the allegations contained in paragraph 24 of the Complaint and refers to the FCLA LP Agreement for its full and accurate contents.

25. Defendant admits the allegations contained in paragraph 25 of the Complaint.

26. Defendant denies the allegations contained in paragraph 26 of the Complaint, and refers to the FCLA LP Agreement for its full and accurate contents.

27. Defendant admits the allegations contained in paragraph 27 of the Complaint as they relate to Seibel. Defendants deny the allegations in paragraph 27 as they relate to GR and states that GR misrepresented to Seibel its intentions.

28. Defendant denies the allegations contained in paragraph 28 of the Complaint.

29. Defendant denies the allegations contained in paragraph 29 of the Complaint.

30. Defendant denies the allegations contained in paragraph 30 of the Complaint, and refers to the Complaint filed in the purported class action for its full and accurate contents.

31. Defendant denies the allegations contained in paragraph 31 of the Complaint.

32. Defendant denies the allegations contained in paragraph 32 of the Complaint, except admits the allegations in the second sentence of paragraph 32, and further states that Ramsay fraudulently claimed he would handle the trademark issue,

and failed to resolve the trademark issue because he intended to use the trademark issue as an excuse to close the profitable restaurant.

33. Defendant denies the allegations contained in paragraph 33 of the Complaint.

34. Defendant denies the allegations contained in paragraph 34 of the Complaint.

35. Defendant denies the allegations contained in paragraph 35 of the Complaint, except admits he filed an action against Mr. Ramsay and GR and refers to the Complaint filed for a full and accurate depiction of the allegations therein.

36. Defendant denies the allegations contained in paragraph 36 of the Complaint.

37. Defendant denies the allegations contained in paragraph 37 of the Complaint.

COUNT I

(For Dissolution of The Fat Cow, LLC by GR)

38. Defendant repeats, reiterates and realleges each and every allegation set forth above in paragraphs 1 through 38 as if set forth more fully herein at length.

39. Paragraph 39 states a legal conclusion to which a response is not required.

40. Paragraph 40 states a legal conclusion to which a response is not required.

41. Paragraph 41 states a legal conclusion to which a response is not required.

42. Paragraph 42 states a legal conclusion to which a response is not required.

43. Defendant denies the allegations contained in paragraph 43 of the Complaint.

44. Defendant denies the allegations contained in paragraph 44 of the Complaint.

45. Defendant repeats, reiterates and realleges each and every allegation set forth above in paragraphs 1 through 45 as if set forth more fully herein at length.

46. Paragraph 46 states a legal conclusion to which a response is not required.

47. Defendant denies the allegations contained in paragraph 47 of the Complaint.

48. Defendant denies the allegations contained in paragraph 48 of the Complaint.

49. Defendant denies that Plaintiffs are entitled to any relief for the claims contained in the Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

50. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

51. Plaintiffs are barred from recovery in this action by the doctrine of unclean hands.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

52. Plaintiff has acted in bad faith and is not entitled to the relief requested in the Complaint.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

53. This court lacks jurisdiction over the claims asserted in the Complaint.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

54. This action was not commenced in the form prescribed by statute.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

55. The relief sought by the Plaintiffs should be denied because there are less drastic remedies available to them for the harms alleged.

WHEREFORE, Defendant Rowen Seibel respectfully demands judgment dismissing the Complaint in its entirety, together with the costs and disbursements herein, and such other, further, and different relief as to the Court seems just, proper and equitable.

Dated: East Meadow, New York
June 27, 2014

CERTILMAN BALIN ADLER & HYMAN, LLP

By: _____
Paul B. Sweeney
Attorneys for Defendant
90 Merrick Avenue – 9th Floor
East Meadow, New York 11554
(516) 296-7000

TO: MITCHELL SILBERBERG & KNUPP LLP
Attorneys for Plaintiff
12 East 49th Street – 30th Floor
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(212) 509-3900

EXHIBIT 5

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

ROWEN SEIBEL, individually and on behalf of FCLA, LP and THE FAT COW, LLC,

Plaintiffs,

v.

GORDON RAMSAY and G.R. US LICENSING, LP,

Defendants,

and

FCLA, LP and THE FAT COW, LLC,

Nominal Defendants.

GORDON RAMSAY and G.R. US LICENSING, LP, Individually and on behalf of FCLA, LP and THE FAT COW, LLC

Defendants-Counterclaimants,

v.

ROWAN SEIBEL,

Plaintiff-Counterdefendant,

and

FCLA, LP, and THE FAT COW, LLC

Nominal Defendants-Counterdefendants.

INDEX NO. 651046/14

PART 60

HON. MARCY S. FRIEDMAN

FIRST AMENDED VERIFIED ANSWER AND COUNTERCLAIM OF GORDON RAMSAY and G.R. US LICENSING, LP, individually and on behalf of **FCLA, LP and THE FAT COW, LLC**

ANSWER

The defendants Gordon Ramsay ("Ramsay") and G.R. US Licensing, LP ("GR") (collectively the "defendants"), by their attorneys Mitchell Silberberg & Knupp LLP, answer the complaint, on information and belief, as follows:

1. Deny the allegations contained in Paragraph 1 of the complaint, except admit that the plaintiffs' action alleges various causes of action and seeks various remedies; and further aver that upon defendants' motion, pursuant to CPLR 3211 (a)(7) and (a)(1), the Court in this action, by the decision and order of the Hon. Marcy S. Friedman, J.S.C. entered on March 27, 2015, (NYSCEF Doc. 39), dismissed "all causes of actions [in the complaint], except the derivative cause of action for breach of fiduciary duty and the direct and derivative causes of action for breach of contract with respect to The Fat Cow LLC." This order will hereinafter be referred to as the "Order of Dismissal".

2. Deny the allegations contained in Paragraph 2 of the complaint.

3. Admit the allegations contained in Paragraph 3 of the complaint.

4. Deny that Ramsay resides in Los Angeles, CA, and otherwise admit the allegations contained in Paragraph 4 of the complaint.

5. Admit the first sentence in Paragraph 5 of the complaint; with respect to matters relevant to this action, admit that Ramsay was an agent for GR with respect to actions taken by GR; and otherwise deny the remaining allegations contained in Paragraph 5 of the complaint.

6. Admit the allegations contained in Paragraph 6 of the complaint.

7. Admit the allegations contained in Paragraph 7 of the complaint.

8. Admit only that FCLA, LP is a limited partnership, organized under the laws of the State of Delaware, and has its principal offices at 200 Central Park South, New York, New York, and otherwise deny the allegations contained in Paragraph 8 of the complaint.

9. Admit the allegations contained in Paragraph 9 of the complaint.

10. Admit the allegations contained in Paragraph 10 of the complaint.

11. Admit the allegations contained in Paragraph 11 of the complaint.

12. Refer to the FCLA Limited Partnership Agreement for the complete terms and contents thereof, which are admitted and otherwise deny the allegations contained in Paragraph 12 of the complaint.

13. Refer to the FCLA Limited Partnership Agreement and The Fat Cow LLC Agreement for the complete terms and contents thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 13 of the complaint.

14. Deny knowledge of information sufficient to answer the allegations contained in Paragraph 14 of the complaint because these allegations are ambiguous and call for a legal conclusion, and on that basis deny these allegations.

15. With respect to the first sentence in Paragraph 15 of the complaint, deny knowledge of information sufficient to answer these allegations because these allegations are vague and ambiguous and on that basis deny these allegations; and deny the remaining allegations contained in Paragraph 15 of the complaint, except aver that Ramsay's affiliated companies have an interest in Gordon Ramsay Steak, BurGR by Gordon Ramsay, and Pub & Grill, all of which have locations in Las Vegas, Nevada.

16. With respect to the first sentence of Paragraph 16 of the complaint, deny knowledge of information sufficient to answer the allegations because these allegations are

vague and ambiguous and on that basis deny these allegations; and deny the remaining allegations contained in Paragraph 16 of the complaint, except admit only that Ramsay had discussions with Plaintiff Rowen Seibel ("Seibel") about the possibility of opening a restaurant in Los Angeles, CA.

17. Deny the allegations contained in Paragraph 17 of the complaint, except admit "The Fat Cow" name was discussed.

18. Deny the allegations contained in Paragraph 18 of the complaint, except admit that trademarking "The Fat Cow" name was discussed.

19. Admit only that Ramsay entered into a certain retail center lease agreement, dated November 18, 2011 as amended, modified, and supplemented from time to time, with GFM, LLC, d/b/a The Grove, for certain described premises at a retail center known as The Grove in Los Angeles, California (the "Lease"), and refer to the Lease for the complete terms and contents thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 19 of the complaint.

20. Admit only that Ramsay entered the Lease and refer to the Lease for the complete terms and contents thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 20 of the complaint.

21. Admit only that Ramsay entered the Lease and refer to the Lease for the complete terms and contents thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 21 of the complaint.

22. Admit the allegations contained in Paragraph 22 of the complaint.

23. Admit only that Seibel knew that the US trademark application for "The Fat Cow" referred to in Paragraph 22 of the complaint had not been approved and that there was an

existing registered trademark filed by a Florida restaurant, "Las Vacas Gordas", which is Spanish for "The Fat Cow", and otherwise deny the remaining allegations contained in Paragraph 23 of the complaint.

24. Deny knowledge or information sufficient to answer the allegations set forth in Paragraph 24 of the complaint because these allegations allege incomplete, unattributed quotations by unidentified persons, and on that basis defendants deny the allegations contained in Paragraph 24 of the complaint.

25. Admit the allegations contained in Paragraph 25 of the complaint.

26. Deny the allegations contained in Paragraph 26 of the complaint, except admit that the restaurant opened under the name "The Fat Cow".

27. Deny knowledge of information sufficient to answer the allegations set forth in Paragraph 27 of the complaint because these allegations allege incomplete, unattributed quotations by unidentified persons, and on that basis defendants deny the allegations contained in Paragraph 27 of the complaint.

28. Deny the allegations contained in Paragraph 28 of the complaint, except admit that the restaurant opened under the name "The Fat Cow".

29. Admit the allegations contained in Paragraph 29 of the complaint.

30. Admit the allegations contained in Paragraph 30 of the complaint, and refer to The Fat Cow LLC Agreement for the complete terms and contents thereof.

31. Admit the allegations contained in Paragraph 31 of the complaint, and refer to the Fat Cow LLC Agreement for the complete terms and contents thereof.

32. Refer to The Fat Cow LLC Agreement for the complete terms and contents thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 32 of the complaint.

33. Admit the allegations contained in Paragraph 33 of the complaint.

34. Admit the allegations contained in Paragraph 34 of the complaint.

35. Refer to the terms of the FCLA Partnership Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 35 of the complaint.

36. Refer to the FCLA Partnership Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 36 of the complaint.

37. Refer to the FCLA Partnership Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 37 of the complaint.

38. Refer to the FCLA Partnership Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 38 of the complaint.

39. Refer to the FCLA Partnership Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 39 of the complaint.

40. Refer to the License Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 40 of the complaint.

41. Admit the allegations contained in Paragraph 41 of the complaint

42. Refer to the FCLA Partnership Agreement and License Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 42 of the complaint.

43. Refer to the License Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 43 of the complaint.

44. Refer to the License Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 44 of the complaint.

45. Refer to the FCLA Partnership Agreement, The Fat Cow LLC Agreement, Lease Assignment and the License Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 45 of the complaint.

46. Admit the allegations contained in Paragraph 46 of the complaint.

47. Refer to the Lease Assignment and Assumption Agreement for the complete contents and terms thereof, which are admitted, and otherwise deny the allegations contained in Paragraph 47 of the complaint.

48. Deny the allegations contained in Paragraph 48 of the complaint.

49. Admit the allegations contained in Paragraph 49 of the complaint.

50. Refer to the Indemnification Agreement for the complete contents and terms thereof, which are admitted, and aver that Seibel is bound by its terms as written, and otherwise deny the allegations contained in Paragraph 50 of the complaint.

51. Admit that FCLA and Upper Ground Enterprises, Inc. entered into an agreement for the television show "Hell's Kitchen," starring Gordon Ramsay ("Hell's Kitchen Agreement") and refer to the complete contents and terms thereof, and further admit that the Hell's Kitchen was broadcast during prime time domestically by Fox Broadcasting Company, as well as internationally by various other television providers, and otherwise deny knowledge or information sufficient to answer the allegations set forth in Paragraph 51 of the complaint because these allegations are incomplete, vague and ambiguous and on that basis defendants deny the remaining allegations contained in Paragraph 51 of the complaint.

52. Deny knowledge or information sufficient to answer the allegations set forth in Paragraph 52 of the complaint because these allegations are incomplete, vague and ambiguous and on that basis defendants deny the allegations contained in Paragraph 52 of the complaint.

53. Deny the allegations contained in Paragraph 53 of the complaint, and refer to the Order of Dismissal.

54. Deny the allegations contained in Paragraph 54 of the complaint, and refer to the Order of Dismissal.

55. Deny the allegations contained in Paragraph 55 of the complaint, except admit that the restaurant opened under the name "The Fat Cow".

56. Deny the allegations contained in Paragraph 56 of the complaint.

57. Admit only that "The Fat Cow" officially opened on or about October 1, 2012 and otherwise deny the allegations contained in Paragraph 57 of the complaint.

58. Deny knowledge or information sufficient to answer Paragraph 58 of the complaint because the term "positive cash flow" is vague and ambiguous and is susceptible to

various interpretations, and also because this is a compound allegation covering different points in time and on these bases deny the allegations contained in Paragraph 58 of the complaint.

59. Admit that on or about February 27, 2013, Ramsay received written Notice of Default with respect to the Lease, and refer to such written notice for the contents thereof, and otherwise deny the allegations contained in Paragraph 59 of the complaint.

60. Admit that Ramsay met with the Landlord, and received a letter dated April 25, 2013 and refer to such letter for the contents thereof, and otherwise deny the allegations contained in Paragraph 60 of the complaint.

61. Refer to the April 25, 2013 letter for the contents thereof, and otherwise deny the allegations contained in Paragraph 61 of the complaint.

62. Deny the allegations contained in Paragraph 62 of the complaint.

63. Deny the allegations contained in Paragraph 63 of the complaint.

64. Deny knowledge or information sufficient to answer the allegations set forth in Paragraph 64 of the complaint because these allegations are vague and ambiguous and on that basis defendants deny the allegations contained in Paragraph 64 of the complaint.

65. Deny the allegations contained in Paragraph 65 of the complaint.

66. Admit that Ramsay received a notice from an attorney representing a restaurant in Florida, Las Vacas Gordas, claiming that "The Fat Cow" was infringing upon the mark, "Las Vacas Gordas," and refer to the contents of that notice, and otherwise deny the allegations contained in Paragraph 66 of the complaint.

67. Admit that on or about December of 2013, a written "Settlement Agreement" was executed between FCLA LP, and The Fat Cow, LLC, and the owners of the "Las Vacas Gordas" ("The Fat Cow") the tradename, which among other things, permitted FCLA LP and The Fat

Cow LLC to use "The Fat Cow" name for the restaurant at the Grove through February 28, 2014, and refer to that Settlement Agreement for the terms thereof, and otherwise deny the allegations contained in Paragraph 67 of the complaint.

68. Deny the allegations contained in Paragraph 68 of the complaint.

69. Deny the allegations contained in Paragraph 69 of the complaint.

70. Deny the allegations contained in Paragraph 70 of the complaint.

71. Deny the allegations contained in Paragraph 71 of the complaint.

72. Deny the allegations contained in Paragraph 72 of the complaint.

73. Deny the allegations contained in Paragraph 73 of the complaint.

74. Deny the allegations contained in Paragraph 74 of the complaint.

75. Deny knowledge or information sufficient to answer the allegations set forth in Paragraph 75 of the complaint because these allegations are incomplete, vague and ambiguous, and on that basis defendants deny the allegations contained in Paragraph 75 of the complaint, except admit that other applications were filed with the USPTO.

76. Deny the allegations contained in Paragraph 76 of the complaint.

77. Deny the allegations contained in Paragraph 77 of the complaint.

78. Deny the allegations contained Paragraph 78 of the complaint.

79. Admit that Andi Van Willigan worked in connection with the "Hell's Kitchen" and "Kitchen Nightmares" television programs starring Gordon Ramsay, and otherwise deny the allegations contained in Paragraph 79 of the complaint.

80. Deny the allegations contained in Paragraph 80 of the complaint.

81. Deny the allegations contained in Paragraph 81 of the complaint.

82. Deny knowledge of information sufficient to answer the allegations set forth in the first clause in Paragraph 82 of the complaint, ending with the word "aptitude", and otherwise deny the allegations contained in Paragraph 82 of the complaint.

83. Deny the allegations contained in Paragraph 83 of the complaint, but admit compensating Van Willigan for the work she was performing at the "The Fat Cow" restaurant.

84. Deny the allegations contained in Paragraph 84 of the complaint.

85. Deny knowledge or information sufficient to answer the allegations set forth in Paragraph 85 of the complaint because these allegations are incomplete, vague and ambiguous, and on that basis deny the allegations contained in Paragraph 85 of the complaint.

86. In response to Paragraph 86 of the complaint, aver that Seibel and Ramsay did not reach a decision about operation of the restaurant by unanimous consent and on that basis deny the allegations contained in Paragraph 86 of the complaint.

87. In response to Paragraph 87 of the complaint, aver that Seibel and Ramsay did not reach a decision about the operation of the restaurant by unanimous consent, and otherwise deny knowledge of information sufficient to answer the allegations set forth in the first clause in Paragraph 87 of the complaint because they are based on alleged statements made by and to unidentified persons and because such allegations are vague and ambiguous, and otherwise deny the allegations contained in Paragraph 87 of the complaint.

88. Deny the allegations contained in Paragraph 88 of the complaint

89. Admit only that the staff at "The Fat Cow" restaurant were advised that the restaurant would be closing, and aver that that Seibel and Ramsay did not unanimously agree on any decision about the operation of the restaurant, and otherwise deny the allegations contained in Paragraph 89 of the complaint.

90. Deny the allegations contained in Paragraph 90 of the complaint.

91. Deny the allegations contained in Paragraph 91 of the complaint.

92. In response to Paragraph 92 of the complaint, refer to the WARN Notice for the contents thereof, and otherwise deny the allegations contained in Paragraph 92 of the complaint.

93. Deny the allegations contained in Paragraph 93 of the complaint.

94. Deny the allegations contained in Paragraph 94 of the complaint.

95. Admit the allegations in the first sentence of Paragraph 95 of the complaint, and otherwise deny the allegations contained in Paragraph 95 of the complaint.

96. Deny the allegations contained in Paragraph 96 of the complaint.

97. Deny the allegations contained in Paragraph 97 of the complaint.

98. With respect to the allegations in the first sentence of Paragraph 98 of the complaint admit only that episodes began to air in or about April 2014, and otherwise deny the allegations contained in Paragraph 98 of the complaint.

99. Deny knowledge of information sufficient to answer the allegations set forth in the first sentence in Paragraph 99 of the complaint which are vague and ambiguous and otherwise deny the allegations contained in Paragraph 99 of the complaint.

100. Deny the allegations contained in Paragraph 100 of the complaint.

101. Deny the allegations contained in Paragraph 101 of the complaint.

102. Deny the allegations contained in Paragraph 102 of the complaint.

103. With respect to the first sentence of Paragraph 103 of the complaint, deny knowledge or information sufficient to answer the allegations set forth therein because these allegations are incomplete, vague and ambiguous, and on that basis deny this allegation, and otherwise deny the allegations contained in Paragraph 103 of the complaint.

104. Deny knowledge or information sufficient to answer the allegations in Paragraph 104 of the complaint which are vague and ambiguous, and on that basis deny the allegations contained in Paragraph 104 of the complaint.

105. Deny the allegations contained in Paragraph 105 of the complaint, and aver that a trademark for " Gordon Ramsay at the Grove" was filed with the USPTO on January 27, 2014.

106. Deny the allegations contained in Paragraph 106 of the complaint, and aver that a trademark for "GR Roast" was filed with the USPTO on January 27, 2014.

107. Deny the allegations contained in Paragraph 107 of the complaint.

108. Deny the allegations contained in Paragraph 108 of the complaint.

109. Deny the allegations contained in Paragraph 109 of the complaint.

110. Deny the allegations contained in Paragraph 110 of the complaint.

ANSWER TO FIRST CAUSE OF ACTION
AGAINST DEFENDANTS RAMSAY AND GR
(Breach of Fiduciary Duty and Self-Dealing)

111. Repeat and reallege each and every prior response to paragraphs 1-110 of the complaint as if fully set forth herein.

112. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and otherwise admit only that GR was controlled by Ramsay, and further state that the allegations in Paragraph 112 of the complaint call for a legal conclusion which requires no answer and on that basis defendants deny the allegations contained in Paragraph 112 of the complaint.

113. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and further state that the allegations in Paragraph 113 of the complaint call for

a legal conclusion which requires no answer and on that basis defendants deny the allegations contained in Paragraph 113 of the complaint.

114. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and further state that the allegations in Paragraph 114 of the complaint call for a legal conclusion which requires no answer, and on that basis defendants deny the allegations contained in Paragraph 114 of the complaint.

115. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and further state that the allegations in Paragraph 115 of the complaint call for a legal conclusion which requires no answer, and on that basis defendants deny the allegations contained in Paragraph 115 of the complaint.

116. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and otherwise defendants deny the allegations contained in Paragraph 116 of the complaint.

117. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and otherwise defendants deny the allegations contained in Paragraph 117 of the complaint.

ANSWER TO SECOND CAUSE OF ACTION
AGAINST DEFENDANTS
(Fraud and Misappropriation)

118. Repeat and reallege each and every response to Paragraphs 1-117 of the complaint as if fully set forth herein.

119. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 119 of the complaint.

120. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 120 of the complaint.

121. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 121 of the complaint.

122. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 122 of the complaint.

123. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 123 of the complaint.

124. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 124 of the complaint.

125. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 125 of the complaint.

126. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 126 of the complaint.

127. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 127 of the complaint.

128. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 128 of the complaint.

ANSWER TO THIRD CAUSE OF ACTION
(Conversion)

129. Repeat and reallege each and every prior response to Paragraphs 1-128 of the complaint as if fully set forth herein.

130. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 130 of the complaint.

131. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 131 of the complaint.

132. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 132 of the complaint.

133. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 133 of the complaint.

134. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 134 of the complaint.

ANSWER TO FOURTH CAUSE OF ACTION
AGAINST DEFENDANTS
(Breach of Contract)

135. Repeat and reallege each and every prior response to Paragraphs 1-134 of the complaint as if fully set forth herein.

136. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and otherwise defendants deny the allegations contained in Paragraph 136 of the complaint.

137. Portions of this cause of action were dismissed by the Order of Dismissal and require no answer, and otherwise defendants deny the allegations contained in Paragraph 137 of the complaint.

ANSWER TO FIFTH CAUSE OF ACTION
AGAINST DEFENDANTS
(Unjust Enrichment)

138. Repeat and reallege each and every response to Paragraphs 1-137 of the complaint as if fully set forth herein.

139. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 139 of the complaint.

140. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 140 of the complaint.

141. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 141 of the complaint.

ANSWER TO SIXTH CAUSE OF ACTION
AGAINST DEFENDANTS
(Fraud in the Inducement)

142. Repeat and reallege each and every response to Paragraphs 1-141 of the complaint as if fully set forth herein.

143. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 143 of the complaint.

144. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 144 of the complaint.

145. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 145 of the complaint.

146. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 146 of the complaint.

147. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 147 of the complaint.

148. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 148 of the complaint.

149. This cause of action was dismissed by the Order of Dismissal and requires no answer, and otherwise defendants deny the allegations contained in Paragraph 149 of the complaint.

DEFENSES AND AFFIRMATIVE DEFENSES

FIRST DEFENSE

150. The complaint fails to state a claim upon which relief may be granted.

SECOND DEFENSE

151. Plaintiffs' breach of fiduciary duty and loyalty claims and causes of action, and all equitable claims in the complaint, are barred by the doctrines of unclean hands, estoppel, acquiescence, ratification, waiver, plaintiffs' bad faith, and laches.

THIRD DEFENSE

152. Plaintiffs' claims and causes of action are barred because of Plaintiff Seibel's wrongful, culpable and bad faith conduct.

FOURTH DEFENSE

153. Plaintiffs' claims and causes of action based on breach of fiduciary duty, breach of loyalty, and breach of contract are barred by (i) Plaintiff Seibel's breaches of fiduciary duty and duty of loyalty owed to the defendants and to The Fat Cow LLC and FCLA LP, and (ii) Seibel's breaches of contract. These breaches of duty and contract are alleged in the defendants' counterclaim in this action, which are incorporated herein by reference.

FIFTH DEFENSE

154. Plaintiffs' breach of contract claims are barred in whole or in part because performance of the contracts by defendants was frustrated, impossible or rendered commercially impracticable in that *inter alia* the managers of The Fat Cow LLC were not able to make material decisions upon unanimous consent, no funds were available to operate "The Fat Cow" restaurant, and because of the wrongful conduct of the Plaintiff Seibel as set forth in the defendants' counterclaims in this action.

SIXTH DEFENSE

155. Plaintiffs' breach of contract claims are barred, in whole or in part, by plaintiffs' failure to fulfill a condition precedent to defendants' duty to perform, if any, because the managers of The Fat Cow, LLC were not able to not make material decisions upon unanimous consent with respect to the management of The Fat Cow, LLC, FCLA LP or operation of "The Fat Cow" restaurant.

SEVENTH DEFENSE

156. Plaintiffs' breach of contract claims are barred by their failure to mitigate any alleged damages.

EIGHTH DEFENSE

157. Plaintiffs' breach of contract claims are barred by the statute of frauds.

NINTH DEFENSE

158. Plaintiffs' breach of contract claims are barred under the parol evidence rule.

TENTH DEFENSE

159. Plaintiffs' claims are barred by the applicable statute of limitations.

ELEVENTH DEFENSE

160. All causes of actions in the complaint, except the derivative cause of action for breach of fiduciary duty and the direct and derivative causes of action for breach of contract with respect to The Fat Cow, LLC, are dismissed and barred pursuant to the decision and order of the Hon. Marcy S. Friedman, J.S.C. entered in this case on March 27, 2015, (NYSCEF Doc. 39), which is the law of the case.

TWELFTH DEFENSE

161. Plaintiffs lack the capacity or standing to assert all or some of the causes of action asserted in the complaint.

THIRTEENTH DEFENSE

162. Plaintiffs' claims are barred, in whole or in part, by the business judgment rule.

FOURTEENTH DEFENSE

163. Plaintiffs' claims are barred, in whole or in part, by the manager's privilege.

FIFTEENTH DEFENSE

164. Defendants hereby give notice of their intention to rely upon such other and further defenses as may become available or apparent during pretrial proceedings in this action and hereby reserve their rights to amend this answer and assert all such defenses.

WHEREFORE, Defendants Gordon Ramsay and G.R. US Licensing, LP respectfully demand judgment against the Plaintiffs dismissing all claims and causes of action in the complaint and awarding to defendants Gordon Ramsay and G.R. US Licensing, LP, attorneys' fees and costs, and such other relief as this Court may deem just and proper.

VERIFIED COUNTERCLAIM

Gordon Ramsay and G.R. US Licensing, LP individually and on behalf of nominal defendants The Fat Cow, LLC and FCLA, LP (collectively, Ramsay and GR are referred to herein as "counterclaimants"), by their attorneys Mitchell Silberberg & Knupp LLP, for their counterclaim against Rowen Seibel ("Seibel"), allege, on information and belief, as follows:

PARTIES

1. Counterclaimant Gordon Ramsay ("Ramsay") is an individual.

2. Counterclaimant G.R. US Licensing, LP ("GR") is a Delaware limited partnership affiliated with Ramsay. GR is a limited partner in FCLA, LP and a member of The Fat Cow, LLC.

3. Seibel is an individual residing in the State of New York.

4. FCLA, LP ("FCLA") is a Delaware limited partnership. Counterclaimants GR and nominal counterdefendant The Fat Cow, LLC bring certain claims in this counterclaim derivatively on behalf of nominal counterdefendant FCLA.

5. The Fat Cow, LLC is a California limited liability company. Counterclaimant GR brings certain claims in this counterclaim derivatively on behalf of nominal counterdefendant The Fat Cow, LLC.

FACTS

Background of Ramsay and Seibel

6. Gordon Ramsay is a world-renowned chef, author and television personality. He operates over two-dozen restaurants, which have received numerous awards. He also has five, successful, prime-time television shows in the United States, including *Hell's Kitchen, Kitchen Nightmares, Hotel Hell,* and *Master Chef.* Ramsay's *Hell's Kitchen* show is in its twelfth season.

7. In 2011, Ramsay planned to open, through an affiliated entity, "The Fat Cow," a new farm-to-table restaurant. Ramsay planned to open the restaurant at an upscale outdoor shopping plaza in Los Angeles called "The Grove." He intended that Andi Van Willigan, one of his long-time assistant chefs who has also participated in Ramsay's television programs, would operate the restaurant day-to-day.

8. When Seibel learned that Ramsay intended to open the Los Angeles restaurant, he asked to be included. Although Ramsay had no need for Seibel's money, and although Seibel offered no particular talents or expertise that would aid in the new restaurant, Ramsay agreed to include Seibel in the Los Angeles restaurant plans as an accommodation to Seibel because Seibel and Ramsay had been involved in other restaurant ventures.

Restaurant Operations and Lease

9. On November 18, 2011, before Seibel became involved, Ramsay personally entered into a lease agreement (the "Lease Agreement") for the restaurant space at The Grove with GFM, LLC ("GFM") as landlord. Van Willigan later also agreed to become personally liable under the Lease Agreement. The rent under the Lease Agreement was significant – for ten

years at roughly $50,000 per month. (The exact rent varied as common maintenance expenses, utilities, and other charges changed over time) *See, e.g.,* Lease Agreement, Article 3.

10. The Los Angeles "The Fat Cow" restaurant opened in Fall 2012. At about the same time, Seibel's investment and the operations of the "The Fat Cow" were structured as follows. Through a Limited Liability Company Agreement dated October 12, 2012 ("The Fat Cow, LLC Agreement"), Seibel and GR formed nominal counterdefendant The Fat Cow, LLC, as a California limited liability company. GR and Seibel were the sole members, and Ramsay and Seibel were the exclusive managers, of The Fat Cow, LLC. *See* The Fat Cow, LLC Agreement, Articles 5 and 6.

11. Through an October 12, 2012 Limited Partnership Agreement (the "FCLA LP Agreement"), the parties also formed nominal counterdefendant FCLA, LP, a Delaware limited partnership, for which The Fat Cow, LLC was general partner and 2% owner. Seibel and GR were each equal 49% limited partners in FCLA. *See* FCLA LP Agreement, Article 7.1.

12. Under The Fat Cow, LLC Agreement, the "Managers shall have the full and exclusive right, power and authority to manage all the business and affairs of the Company and to make all decisions on behalf of the Company" and "all decisions of the Managers shall be made upon unanimous consent of the Managers." The Fat Cow, LLC Agreement, Article 7(a). Under the FCLA LP Agreement, the "exclusive right, power and authority to manage all the affairs and the business of the Company … shall be vested in the General Partner [i.e. The Fat Cow, LLC]." FCLA LP Agreement, Article 8.2. As result of these provisions, decisions for "The Fat Cow" restaurant required the unanimous consent of Ramsay and Seibel.

13. Seibel and GR each invested approximately $800,000 (for a total of $1.6 million) in FCLA for purposes of establishing and operating "The Fat Cow" restaurant.

14. The Fat Cow, LLC owned the "The Fat Cow" name and restaurant concept. Under a written agreement dated October 12, 2012 between The Fat Cow, LLC and FCLA (the "License Agreement"), The Fat Cow, LLC licensed these names and concepts to FCLA.

15. Seibel asked that the Lease Agreement be assigned to FCLA. The parties prepared and signed an October 20, 2012 Lease Assignment and Assumption which assigned the Lease Agreement to FCLA, but, on information and belief, The Grove never approved the assignment because Seibel, who was responsible for doing so, failed to comply with the lease formalities for landlord approval.

Seibel's Restaurant Operations

16. Instead of Van Willigan managing "The Fat Cow" restaurant operations as Ramsay originally intended, Seibel insisted that Seibel himself was expert in restaurant operations, and from the very commencement of "The Fat Cow" restaurant's Fall 2012 opening until late 2013, Seibel demanded that his manager from Seibel's affiliated Las Vegas "Serendipity" restaurant be placed in day-to-day charge of the "The Fat Cow" restaurant under Seibel's direction and oversight.

17. As a result, restaurant operations were a disaster. On information and belief, despite being paid $10,000 per month, Seibel's hand-picked manager, Jerri Rose Tassan, was not complying with California wage and hour laws or other California restaurant requirements; hired workers without adequate documentation; incurred improper expenses; failed properly to train, supervise or organize the kitchen and wait staff; failed to obtain the correct kitchen equipment; failed to adopt written or legally compliant employment policies or operations manuals; and alienated the staff, with the result that the restaurant could not keep capable chefs. On information and belief, Seibel knew about and directed this illegal and reckless activity.

18. On information and belief, Jerri Rose Tassan spent inadequate time at "The Fat Cow " restaurant or in California, working instead mostly at Seibel's Las Vegas "Serendipity" restaurant or other Seibel ventures (thus effectively using her "The Fat Cow" salary to subsidize other Seibel operations.) On information and belief, Seibel knew about and directed such activity.

19. On information and belief, Seibel personally sought reimbursements from "The Fat Cow" restaurant for undocumented and personal expenses. On information and belief, Seibel also took kick-backs from "The Fat Cow" vendors (like the water vendor) and attempted to implement fraudulent tax schemes -- for example, advocating that "The Fat Cow" avoid sales tax on its purchases of chairs, tables, and silverware by falsely claiming that it was buying those items for re-sale.

20. On information and belief, as a result of Seibel's actions and management of "The Fat Cow" restaurant, employees and chefs quit, customers complained, reviews were poor, and food service and wait times were substandard. In February 2013, The Grove threatened eviction over the poor food operations, and expressed concern that Ramsay was not more directly involved.

21. Individual restaurant employees filed claims before the California Labor Commissioner. On information and belief, Seibel and Jerri Rose Tassan concealed the claims, lost them, and then concealed those losses from Ramsay and GR.

22. Later, in June 2013, with the employment problems still not having been fixed by Seibel and Jerri Rose Tassan, restaurant employees filed a class action lawsuit in Los Angeles Superior Court alleging numerous violations of California's labor laws.

Efforts To Fix The Problems

23. As a result of these problems, Jerri Rose Tassan was replaced by Van Willigan. The manager change took place in Fall 2013. The restaurant paid Van Willigan the same $10,000 per month which it had paid Seibel's manager, Ms. Tassan, but unlike Ms. Tassan and Seibel, Van Willigan spent significant time properly and knowledgeably running the restaurant. As result, operations substantially improved.

24. Seibel was nevertheless unhappy with the change, and, on information and belief, began stealing $10,000 a month from FCLA, offering a flimsy after-the-fact (and unjustified) excuse that he had not authorized Van Willigan's hiring and so should receive a monthly amount equal to her pay.

25. Van Willigan's hiring came too late to solve the restaurant's problems. By late 2013, the restaurant had exhausted its $1.6 million in capital and had extensive unpaid bills (for example, the restaurant owed the lawyers defending the class action lawsuit more than $75,000).

26. In late 2013, Ramsay asked Seibel to contribute additional capital to help pay such expenses. Seibel refused. At year-end 2013, GR contributed another $90,000 of its own funds so that FCLA could meet certain restaurant expenses, including back-due rent and attorneys' fees for the class action lawsuit. Seibel contributed nothing and refused to contribute anything.

27. At the same time, the restaurant faced other problems. Before Seibel and Ramsay formed the operating entities, one of Ramsay's companies filed a trademark application for "The Fat Cow." However, the U.S. Patent and Trademark Office ("USPTO") preliminarily refused to issue the trademark because a Miami restaurant owned a similar Spanish language mark, "Las Vacas Gordas" (the Spanish translation of "The Fat Cow"). This was no secret. The Fat Cow

agreements (drafted by Seibel's lawyers) specifically recited the USPTO's preliminary rejection of the registration, and noted that the parties would try to convince the USPTO to change its mind but there were no guarantees. *See* License Agreement, Schedule A.

28. Beginning in April 2013, the Miami restaurant threatened to sue for trademark infringement and demanded immediate cessation of use. Seibel left Ramsay on his own to try to address the problem.

29. In late 2013, Ramsay's lawyers negotiated a temporary license allowing the restaurant to continue using "The Fat Cow" name until March 2014. Given the Miami owner's ire, Ramsay's lawyers did very well to extend the use even for that long.

Closing Of The Restaurant.

30. With all these problems, restaurant operations became untenable and commercially unsustainable. The restaurant was insolvent; there was no money to meet ongoing obligations.

31. Seibel refused to provide more funding.

32. The restaurant in any event could not operate under the existing name. The Lease required landlord permission to change the name, which on information and belief, the landlord would not have given under the circumstances. Changing the name would also have required a substantial additional investment that Seibel was unwilling to make. Seibel did not offer or propose any plan to fund the continuing operation of the restaurant. Instead, Seibel demanded that the restaurant continue to operate (while never explaining who would pay for that or how it could occur). Ramsay did not want to continue operating the restaurant. Seibel could not unilaterally demand that the restaurant continue operating, and in any event the restaurant could not in fact continue to operate. Because the restaurant had to close, Ramsay took steps to limit

further liability by complying with the WARN Act, and otherwise efficiently terminating restaurant operations.

33. The WARN Act notice was particularly important, since if the restaurant had closed without such notice, the principals could have been liable.

34. Seibel not only failed to provide any plan for continuing restaurant operations, he impeded every effort to streamline its necessary closure or to address the problems he had created and which made that closure necessary. For example, Ramsay organized a settlement conference for the employee class action suit, which made serious allegations creating a substantial risk of liability. Seibel promised to appear. Ramsay's representatives flew from London to Los Angeles to attend the conference, but Seibel was a no show. Seibel continued to refuse funding any defense or settlement of the case.

35. Seibel also tried to impede the essential WARN Act notice, even threatening personal liability to Van Willigan for sending the notice.

36. Seibel also refused, despite Ramsay's request, to declare bankruptcy for FCLA or The Fat Cow, LLC, and Ramsay could not declare bankruptcy without Seibel's cooperation. On information and belief, that the failure to declare bankruptcy exacerbated the losses.

The Potential New Restaurant.

37. Although Ramsay had no particular interest in operating a new restaurant at The Grove, he was properly concerned about the 10-year, about $600,000 annual lease. GFM was willing to have a Ramsay-operated and owned restaurant on the premises. (Indeed, the existing lease expressly required Ramsay's personal involvement in the restaurant).

38. Ramsay told Seibel that he was going to try negotiating a lease for a new Ramsay-only restaurant in the same space, to mitigate liability under the lease.

39. Seibel knew the landlord would not agree to a lease involving Seibel, and that a new lease with Ramsay was the only option. Seibel nevertheless not only objected to any new Ramsay lease, but filed these proceedings falsely and outrageously claiming that Ramsay's negotiations (fully disclosed to Seibel) were a "secret" attempt to steal the old lease. Because of Seibel's objections, Ramsay abandoned the idea of a new lease. So did GFM, who counterclaimants are informed and believe was afraid that any new lease negotiations would enmesh it in this litigation. Instead, GFM has separately sued Ramsay seeking past and future unpaid rent.

FIRST CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY
[By GR derivatively on behalf of FCLA and The Fat Cow, LLC Against Seibel]

40. Counterclaimants incorporate by reference each allegation above.

41. Counterclaimant GR, as a member of The Fat Cow, LLC, brings these claims derivatively on behalf of nominal counterdefendant The Fat Cow, LLC. Demand that The Fat Cow LLC bring these claims directly is futile and excused because these claims seek recovery from Rowen Seibel who is one of two managers of The Fat Cow, LLC and who in that capacity can arguably preclude The Fat Cow, LLC from bringing these claims directly.

42. Counterclaimant GR, as both a limited partner in FCLA, and derivatively on behalf of The Fat Cow, LLC as a general partner in FCLA, brings these claims derivatively on behalf of nominal defendant FCLA. Demand that The Fat Cow, LLC bring these claims directly is futile and excused because these claims seek recovery from Rowen Seibel, because FCLA is managed by The Fat Cow, LLC, and because Seibel is a manager of The Fat Cow, LLC and so can arguably preclude FCLA from bringing these claims directly.

43. Counterclaimants deny that the managers of The Fat Cow, LLC owe fiduciary duties. Counterclaimants also contend that none of the breaches of fiduciary duty alleged in the complaint or in these counterclaims constitute direct harm to The Fat Cow, LLC as opposed to direct harm to FCLA. Therefore counterclaimants believe that The Fat Cow, LLC cannot itself recover for any such harm other than to the extent it sues derivatively, as general partner of FCLA and on behalf of FCLA. However, without waiving these positions, these counterclaims are asserted on behalf of The Fat Cow, LLC to the extent The Fat Cow, LLC managers like Seibel are determined to have fiduciary duties to The Fat Cow, LLC and to the extent any of the alleged harms is deemed to be to The Fat Cow, LLC rather than FCLA.

44. Seibel owed fiduciary duties to FCLA by virtue of the fact that he assumed managerial responsibility for its business and restaurant operations.

45. Subject to Paragraph 43 above, counterclaimants are informed and believe that Seibel breached any fiduciary duties he owed to The Fat Cow, LLC as its manager and his fiduciary duties to FCLA assumed as result of controlling and managing its affairs, through the among others the following acts and conduct:

A. Embezzling and converting more than $80,000 in FCLA monies, knowing that such monies belonged to FCLA, knowing that he had no entitlement to such monies, and intending to use and using such monies for his own personal purposes.

B. Obtaining kickbacks and other personal payments from FCLA vendors, including the water vendor, knowing that such payments belonged to FCLA, knowing that he had no entitlement to such payments, and

intending to use and using such kickbacks and payments for his own personal purposes.

C. Submitting for reimbursement and obtaining from FCLA reimbursements for expenses that were not and/or were not properly documented to be legitimate "The Fat Cow" expenses, knowing that he was not entitled to such reimbursements.

D. Hiring and retaining his hand-picked manager Jerri Rose Tassan for "The Fat Cow" restaurant knowing that she was not competent to operate "The Fat Cow" restaurant, knowing that she was violating California law in such operations, and knowing she was operating "The Fat Cow" restaurant in a substandard fashion that would result in operational losses and liabilities, but doing so notwithstanding such knowledge because among other reasons Seibel intended: (i) to use "The Fat Cow" restaurant funds to pay the manager for performing services for the benefit of other Seibel enterprises; and (ii) to use "The Fat Cow" restaurant operations to obtain other improper and personal benefits of the kind described above.

E. Intentionally and knowingly concealing the operational deficiencies and liabilities incurred at "The Fat Cow" restaurant, including concealing that employees had asserted and won administrative actions obtaining recompense for what California labor authorities determined to be improper employment practices.

F. Willfully failing and refusing to declare bankruptcy of "The Fat Cow" restaurant, knowing and intending that under the circumstances the

restaurant could not continue to operate and that they delay in taking such steps would cause additional losses.

G. Willfully refusing and disrupting efforts by Ramsay to mitigate losses at the "The Fat Cow" restaurant and to efficiently terminate its operations.

46. As a direct and proximate result of these fiduciary breaches, The Fat Cow, LLC and FCLA have incurred losses subject to proof at trial, but not less than $1 million, including but not limited to: (a) amounts paid to defend and settle the employee class action; (b) amounts incurred to defend and/or resolve claims by "The Fat Cow" vendors and creditors; and (c) losses incurred (but which would not have been incurred) at "The Fat Cow" restaurant but for Seibel's misconduct; and (d) expenses, kickbacks, embezzlements and other amounts improperly taken by Seibel.

47. By reason of the foregoing, punitive damages are warranted to punish Seibel for conduct that exhibits a high degree of moral culpability and manifests a willful, wanton or reckless disregard for the rights of others.

SECOND CAUSE OF ACTION FOR BREACH OF CONTRACT
[By GR and Ramsay individually against Seibel]

48. Counterclaimants incorporate by reference each allegation above.

49. Seibel and GR are parties to The Fat Cow, LLC Agreement. Counterclaimants deny that Ramsay is a party to The Fat Cow, LLC Agreement; however, the Court has ruled otherwise. Without waiving his position that he is not a party to The Fat Cow, LLC Agreement, Ramsay asserts this claim individually and in addition to GR, to the extent that he is deemed a party to The Fat Cow, LLC Agreement.

50. Counterclaimants deny that any party to The Fat Cow, LLC agreement can be liable for not making unanimous decisions, since no party can be forced to agree with the other. However, without waiving that position, GR and Ramsay assert these claims to the extent the Court determines otherwise.

51. Subject to Paragraphs 49 and 50 above, counterclaimants are informed and believe that Seibel has materially breached the provision of The Fat Cow, LLC Agreement requiring that "all decisions of the Managers shall be made upon unanimous consent of the Managers" by deciding unilaterally, and without consent from GR or Seibel, and engaging in conduct without consent from GR or Seibel, to among other things:

A. Obtain kickbacks and other personal payments from "The Fat Cow" restaurant vendors.

B. Obtain personal reimbursements for expenses that were not legitimate "The Fat Cow" expenses.

C. Direct and approve activities at "The Fat Cow" restaurant that violated California law, alienated customers, employees, and the landlord, and resulted in substandard operations.

D. Conceal the operational deficiencies and liabilities incurred at "The Fat Cow" restaurant, including that employees had asserted and won administrative actions obtaining recompense for what California labor authorities determined to be improper employment practices.

E. Prevent bankruptcy of "The Fat Cow" restaurant.

F. Prevent reasonable efforts to mitigate losses at the "The Fat Cow" restaurant and efficiently terminate its operations.

G. Make and insist that "The Fat Cow" restaurant continue operating.

52. GR and Ramsay performed all obligations on their part under The Fat Cow, LLC Agreement.

53. As a direct and proximate result of Seibel's breaches of the Fat Cow, LLC Agreement, counterclaimants incurred losses according to proof at trial but in an amount not less than $1 million.

THIRD CAUSE OF ACTION FOR INDEMNIFICATION
[By Ramsay individually against Seibel]

54. Counterclaimants incorporate by reference each allegation above.

55. Under the terms of the Indemnification Agreement entered into by Seibel in or about October 2012, Ramsay is entitled to contractual indemnification from Seibel for any loss, liability, or damage (including but not limited to counsel fees and costs) resulting from Ramsay having entered into the Lease at The Grove.

56. Ramsay has performed all terms and conditions to be performed on his part under the Indemnification Agreement, except as such performance has been excused by the acts or omissions of Seibel.

57. On or about February 19, 2014, Ramsay, through one of his entities, paid GFM, LLC Fifty-Two Thousand Two Hundred Twenty Dollars and Fifty Cents ($52,220.50) that was past due for rent and other charges under the Lease.

58. On or about June 12, 2014, Ramsay, through one of his entities, paid GFM, LLC Two Hundred Thirty Thousand Six Hundred Twenty-Three Dollars and Eighty-Three Cents ($230,623.83) that was past due for rent and other charges under the Lease.

59. On or about August 7, 2014, GFM, LLC brought an action against Ramsay based on a breach of the Lease. Ramsay incurred One Hundred Seventy-One Thousand One Hundred Fifty Dollars and Nineteen Cents ($171,150.19) in legal fees and costs arising from that lawsuit.

60. On or about November 4, 2015, Ramsay settled the lawsuit with GFM, LLC for Eight Hundred Thousand Dollars ($800,000.00).

61. Ramsay has repeatedly requested that Seibel indemnify him for the amounts specified above. Seibel has materially breached the Indemnification Agreement by failing and refusing to provide such indemnification.

62. As a result of Seibel's material breaches of the Indemnification Agreement, Ramsay is entitled to an order indemnifying him for one-half of the rent and other charges paid by Ramsay under the Lease, one-half of legal fees and costs incurred by Ramsay in defending the action brought by GFM, LLC, and one-half of the amount paid to settle the action with GFM, LLC.

WHEREFORE, counterclaimants respectfully demand judgment against Seibel as follows:

A. On the First Cause of Action, compensatory and punitive damages, in an amount to be determined at trial, but not less than $1 million;

B. On the Second Cause of Action, compensatory damages, in an amount to be determined at trial, but not less than $1 million;

C. On the Third Cause of Action, compensatory damages for indemnification from Seibel for liability and damages resulting from Ramsay having entered into the Lease at The Grove, in an amount to be determined at trial, but not less than one-half of $1,253,994.52;

D. Award counterclaimants attorneys' fees, costs and disbursements, and prejudgment interest; and

E. Grant counterclaimants such other and further relief as this Court may deem just, equitable and proper.

DATED: New York, New York
February 24, 2016

Respectfully submitted,

MITCHELL SILBERBERG & KNUPP LLP

By: _____

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Attorneys for
Defendants and Counterclaimants Gordon Ramsay and G.R. US Licensing, LP

EXHIBIT 6

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------X

ROWEN SEIBEL, Individually and on behalf of FCLA, LP and THE FAT COW, LLC,

Plaintiff,

-against-

GORDON RAMSAY and G.R. US LICENSING, LP,

Defendants,

and

FCLA, LP and THE FAT COW, LLC,

Nominal Defendants.

----------X

GORDON RAMSAY and G.R. US LICENSING, LP, Individually and on behalf of FCLA, LP and THE FAT COW, LLC,

Defendants-Counterclaimants,

-against-

ROWAN SEIBEL,

Plaintiff-Counterdefendant,

and

FLCA, LP, and THE FAT COW, LLC,

Nominal Defendants-Counterdefendants.

----------X

Index No. 651046/2014

PLAINTIFF'S REPLY TO DEFENDANTS GORDON RAMSAY'S AND G.R. US LICENSING'S AMENDED COUNTERCLAIMS

Rowen Seibel, ("Plaintiff"), by his attorneys Certilman Balin Adler & Hyman, LLP, hereby replies to defendants Gordon Ramsay's ("Ramsay") and G. R. US Licensing, LP's ("GR")(collectively "Defendants") amended counterclaims, dated February 24, 2016 ("Counterclaims") as follows:

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1. Plaintiff admits the allegations contained in paragraph 1 of the Counterclaims.

2. Plaintiff admits the allegations contained in paragraph 2 of the Counterclaims.

3. Plaintiff admits the allegations contained in paragraph 3 of the Counterclaims.

4. Plaintiff admits the allegations contained in the first sentence of paragraph 4 of the Counterclaims, and with regard to the remaining allegations refers to Defendants' Counterclaims for the full and complete contents thereof.

5. Plaintiff admits the allegations contained in the first sentence of paragraph 5 of the Counterclaims, and with regard to the remaining allegations refers to Defendants' Counterclaims for the full and complete contents thereof.

6. Plaintiff admits that defendant Ramsay is a known television personality and chef, and appears in television shows including Hell's Kitchen, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 6 of the Counterclaims.

7. Plaintiff denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Counterclaims.

8. Plaintiff denies the allegations contained in paragraph 8 of the Counterclaims.

9. Plaintiff denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Counterclaims, except admits that

Ramsay entered into the Lease Agreement, and Plaintiff refers to the Lease Agreement for the full and complete contents thereof.

10. Plaintiff admits the allegations contained in the first sentence of paragraph 10 of the Counterclaims. Plaintiff denies the remaining allegations contained in Paragraph 10, except admits the Plaintiff and Ramsay entered into The Fat Cow LLC Agreement, a California LLC, with GR and Seibel as the sole members, and Seibel and Ramsay as the managers, and refers to the Fat Cow LLC Agreement for the full and complete contents thereof.

11. Plaintiff admits the allegations contained in paragraph 11 of the Counterclaims, and refers to the FCLA LP Agreement for the full and complete contents thereof.

12. Plaintiff denies the allegations contained in the first 2 sentences of paragraph 12 of the Counterclaims and refers to the Fat Cow LLC Agreement for the full and complete contents thereof. Plaintiff admits the allegations contained in the third sentence of paragraph 12.

13. Plaintiff denies the allegations in paragraph 13 of the Counterclaims, except admit that both Ramsay and Seibel initially invested approximately $800,000 each for the purpose of establishing and operating the Fat Cow restaurant.

14. Plaintiff denies the allegations contained in paragraph 14 of the Counterclaims, except admits that Fat Cow LLC and FCLA entered into a License Agreement, and refers to the License Agreement for the full and complete contents thereof.

15. Plaintiff denies the allegations contained in paragraph 15 of the Counterclaims, except admits that Ramsay entered into a Lease Assignment and Assumption of the Lease Agreement with FCLA, and refers to the Lease Assignment and Assumption

Agreement for the full and complete contents thereof; and Plaintiff admits that the Grove did not approve the lease, and further states that it was Ramsay responsibility to obtain such approval.

16. Plaintiff denies the allegations contained in paragraph 16 of the Counterclaims.

17. Plaintiff denies the allegations contained in paragraph 17 of the Counterclaims.

18. Plaintiff denies the allegations contained in paragraph 18 of the Counterclaims.

19. Plaintiff denies the allegations contained in paragraph 19 of the Counterclaims.

20. Plaintiff denies the allegations contained in paragraph 20 of the Counterclaims, except admits that Ramsay received a letter from the landlord on or about February 27, 2013, and refers to the letter for the full and complete contents thereof.

21. Plaintiff admits the allegations contained in the first sentence of paragraph 21 of the Counterclaims. Plaintiff denies the remaining allegations contained in paragraph 21 of the Counterclaims.

22. Plaintiff denies the allegations contained in paragraph 22 of the Counterclaims, except admits that a class action lawsuit was filed in Los Angeles Superior Court alleging violations of California labor laws.

23. Plaintiff denies the allegations contained in paragraph 23 of the Counterclaims, except admits that Ramsay wrongfully caused the restaurant to pay Van Willigan $10,000 per month.

24. Plaintiff denies the allegations contained in paragraph 24 of the Counterclaims.

25. Plaintiff denies the allegations contained in paragraph 25 of the Counterclaims.

26. Plaintiff denies the allegations contained in paragraph 26 of the Counterclaims.

27. Plaintiff denies the allegations contained in paragraph 27 of the Counterclaims, except admits that Ramsay filed a trademark application for "The Fat Cow" and that the USPTO preliminarily rejected the application due to the mark "Las Vacas Gordas" being previously issued to a Miami restaurant owner, and admits that the parties' Fat Cow Agreements contained provisions concerning the trademarks for the restaurant, and refers to those agreements for the full and complete contents thereof. Plaintiff further states that Ramsay promised Seibel that he would take care of any trade mark issues concerning the name of the restaurant and failed to do so.

28. Plaintiff denies the allegations contained in paragraph 28 of the Counterclaims, except admits that counsel for the Miami restaurant sent a letter dated April 22, 2013 to Ramsay, and refers to the letter for the full and complete contents thereof.

29. Plaintiff denies the allegations contained in paragraph 29 of the Counterclaims, except admits that Ramsay negotiated a limited temporary license.

30. Plaintiff denies the allegations contained in paragraph 30 of the Counterclaims.

31. Plaintiff denies the allegations contained in paragraph 31 of the Counterclaims.

32. Plaintiff denies the allegations contained in paragraph 32 of the Counterclaims, except admits that Seibel informed Ramsay that he would not consent to closing the restaurant, and that Ramsay unilaterally issued a WARN notice over Seibel's objection, and took additional unilateral and unauthorized steps to close the restaurant.

33. Plaintiff denies the allegations contained in paragraph 33 of the Counterclaims, except states that to the extent paragraph 33 asserts a legal conclusion no response is required.

34. Plaintiff denies the allegations contained in paragraph 34 of the Counterclaims.

35. Plaintiff denies the allegations contained in paragraph 35 of the Counterclaims, except admits that Seibel objected to the issuance of the WARN notice.

36. Plaintiff denies the allegations contained in paragraph 36 of the Counterclaims.

37. Plaintiff denies information sufficient to form a belief as to the truth of the allegations contained in Paragraph 37 of the Counterclaims.

38. Plaintiff denies the allegations contained in paragraph 38 of the Counterclaims.

39. Plaintiff denies the allegations contained in paragraph 39 of the Counterclaims, except admits that Seibel filed the Complaint in this action and refers to the Complaint for the full and complete contents thereof, admits that GFM has sued Ramsay, and refers to the complaint in that action for the full and complete contents thereof, and denies information sufficient to form a belief as to the truth of the allegations contained in the second to last sentence of Paragraph 39 of the Counterclaims.

40. Plaintiff repeats, reiterates and reasserts each and every reply set forth above in paragraphs 1 through 39 as if set forth fully herein.

41. Plaintiff denies the allegations contained in paragraph 41 of the Counterclaims, except admits that Defendants have asserted Counterclaims in this action and refers to the Counterclaims for the full and complete contents thereof, regarding the allegations concerning the Fat Cow LLC Agreement, Plaintiff refers to the Fat Cow LLC Agreement for the full and complete contents thereof, and states that to the extent paragraph 41 asserts a legal conclusion a reply is not required.

42. Plaintiff denies the allegations contained in paragraph 42 of the Counterclaims, except admits that Defendants have asserted Counterclaims in this action and refers to the Counterclaims for the full and complete contents thereof; regarding the allegations concerning the Fat Cow LLC Agreement and FCLA Agreement, Plaintiff refers to the Fat Cow LLC Agreement and FCLA Agreement for the full and complete contents thereof, and states that paragraph further asserts a legal conclusion, a reply to which is not required.

43. Plaintiff denies information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43 of the Counterclaims, except to the extent Paragraph 43 concerns the contents of the Counterclaims or Defendants' Answer to Plaintiffs' Complaint, Plaintiff refers to those documents for their full and complete contents.

44. Paragraph 44 states a legal conclusion, a response to which is not required.

45. Plaintiff denies the allegations contained in paragraph 45 of the Counterclaims, except to the extent Paragraph 45 states a legal conclusion, a response to which is not required.

46. Plaintiff denies the allegations contained in paragraph 46 of the Counterclaims.

47. Plaintiff denies the allegations contained in paragraph 47 of the Counterclaims.

48. Plaintiff repeats, reiterates and reasserts each and every reply set forth above in paragraphs 1 through 47 as if set forth fully herein.

49. Plaintiff admits the allegations contained in the first two sentences of paragraph 49. For the third sentence of paragraph 49, Plaintiff refers to the Counterclaims for the full and complete contents thereof.

50. With regard to the allegations contained in paragraph 50, Plaintiffs refer to the Answer to Plaintiffs Complaint and the Counterclaims for the full and complete contents thereof.

51. Plaintiff denies the allegations contained in paragraph 51 of the Counterclaims.

52. Plaintiff denies the allegations contained in paragraph 52 of the Counterclaims.

53. Plaintiff denies the allegations contained in paragraph 53 of the Counterclaims.

54. Plaintiff repeats, reiterates and reasserts each and every reply set forth above in paragraphs 1 through 53 as if set forth fully herein.

55. Plaintiff denies the allegations contained in paragraph 55 of the Counterclaims, except admits that Seibel entered into the Indemnification Agreement and refers to the Indemnification Agreement for the full and complete contents thereof.

56. Plaintiff denies the allegations contained in paragraph 56 of the Counterclaims.

57. Plaintiff denies information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57 of the Counterclaims.

58. Plaintiff denies information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58 of the Counterclaims.

59. Plaintiff admits that GFM, LLC ("GFM") brought an action against Ramsay based on breach of a lease and otherwise denies information sufficient to form a belief as to the truth of the remainder of the allegations contained in Paragraph 59 of the Counterclaims.

60. Plaintiff denies information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60 of the Counterclaims.

61. Plaintiff denies the allegations contained in paragraph 61 of the Counterclaims, except admits that Ramsay has requested monies in connection with the Indemnification Agreement.

62. Plaintiff denies the allegations contained in paragraph 62 of the Counterclaims.

63. Plaintiff denies that Defendants are entitled to any relief for the claims contained in the Counterclaims.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

1. The Counterclaims fail to state claims upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

2. Defendants alleged causes of action are barred by the doctrines of acquiescence, ratification, laches and/or waiver.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

3. Defendants lack standing to assert all or some of the claims.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

4. Defendants are equitably estopped from pursuing these causes of action against Plaintiff.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

5. Defendants' alleged causes of action are barred, in whole or in part, by unclean hands.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

6. At all relevant times, Plaintiff acted reasonably, in good faith, and with justification.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

7. The claims set forth in the Counterclaims are barred, in whole or in part, by virtue of putative Defendants' bad faith, wrongful and/or malicious conduct.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

8. Defendants' claims are barred, in whole or in part, by their failure to mitigate damages.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

9. Plaintiff Rowen Seibel is not liable to Ramsay in connection with the Indemnification Agreement executed by Plaintiff in or about October 2012 (the "Indemnification Agreement") as a result of Ramsay's bad faith, wrongful and/or malicious conduct and intentional wrongdoing, including but not limited to Ramsay's improper and unilateral closing of The Fat Cow Restaurant, causing the potential for liability to GFM for unpaid rent and other charges.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

10. Public policy prohibits Ramsay from seeking indemnification from Plaintiff under the Indemnification Agreement for any loss, liability, or attorneys' fees that arose out of Ramsay's own bad faith, wrongful and/or malicious conduct and intentional wrongdoing.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

11. Plaintiff is not liable to indemnify Ramsay for Ramsay's unilateral, bad faith and voluntary settlement of the action brought by GFM against Ramsay, on or about August 7, 2014 (the "GFM Action"), which settlement was made without prior notification to Plaintiff.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

12. The unilateral and voluntary settlement of the GFM Action made by Ramsay for $800,000.00 was not reasonable and was not entered into in good faith, thus Plaintiff is not liable to indemnify Ramsay.

AS AND FOR A THIRTEENTH AFFIRMATIVE DEFENSE

13. Ramsay did not notify Plaintiff of the two voluntary payments made to GFM for rent and other charges in the amount of $52,220.50 and $230,623.83 made in or about

February 2014 and June 2014, respectively, and, as such, Plaintiff is not liable to indemnify Ramsay for these voluntary payments.

AS AND FOR A FOURTEENTH AFFIRMATIVE DEFENSE

14. Ramsay is not entitled to attorneys' fees and costs for enforcing the Indemnification Agreement against Plaintiff as such attorneys' fees and costs are not expressly provided for in the Indemnification Agreement.

AS AND FOR A FIFTEENTH AFFIRMATIVE DEFENSE

15. Without waiving any of the foregoing defenses, to the extent this Court determines that Plaintiff is liable to Ramsay for Ramsay's legal fees and costs arising out of the GFM Action, such amount must be reduced to the extent these fees and costs were incurred for the purpose of seeking indemnification against Plaintiff, including but not limited to the preparation and filing of the cross-complaint against Plaintiff in the GFM Action.

AS AND FOR A SIXTEENTH AFFIRMATIVE DEFENSE

16. Plaintiff hereby gives notice that he intends to rely upon such other and further defenses as may become available or apparent during pretrial proceedings in this action, or through discovery, and hereby reserve all rights to amend this Reply and to assert all such defenses.

WHEREFORE, Counterclaim Defendant Rowen Seibel respectfully demands judgment dismissing the Complaint in its entirety, together with the costs and disbursements herein, and such other, further, and different relief as to the Court seems just, proper and equitable.

Dated: East Meadow, New York
April 4, 2016

CERTILMAN BALIN ADLER & HYMAN, LLP

By: _____
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VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ROWEN SEIBEL being duly sworn, deposes and says:

1. I am the Plaintiff in the within action.

2. I have read the foregoing **PLAINTIFF'S REPLY TO DEFENDANTS GORDON RAMSAY'S AND G.R. US LICENSING'S AMENDED COUNTERCLAIMS** and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe them to be true. The grounds of my belief as to all matters not stated upon my own knowledge are as follows: books, records, papers, and documents.

Rowen Seibel
ROWEN SEIBEL

Sworn to before me this
5 day of April, 2016

Carl M Simms
Notary Public

Carl M Simms
Notary Public State of New York
New York County
Lic. #01SI6188175
Comm. Exp. June 2, 2016

EXHIBIT 7

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
----------x

UNITED STATES OF AMERICA,

v. 16 CR 279 (WHP)

ROWEN SEIBEL,

Defendant.

----------x

New York, N.Y.
August 19, 2016
2:15 p.m.

Before:

HON. WILLIAM H. PAULEY III,

District Judge

APPEARANCES

PREET BHARARA
United States Attorney for the
Southern District of New York
ROBIN MOREY
Assistant United States Attorney

ROBERT FINK
MICHAEL SARDAR
Attorneys for Defendant

(Case called)

THE COURT: Good afternoon. I note the presence of the defendant at counsel table.

This matter is on for sentencing. Are the parties ready to proceed?

MR. FINK: Yes, your Honor.

MS. MOREY: Yes, your Honor.

THE COURT: Mr. Fink, have you reviewed with your client the presentence investigation report?

MR. FINK: I have, your Honor.

THE COURT: Are there any factual matters set forth in the report that you believe warrant modification or correction?

MR. FINK: I've done that already, yes.

THE COURT: Nothing further?

MR. FINK: Nothing further.

THE COURT: Ms. Morey, are there any factual matters set forth in the report that the government believes warrant modification or correction?

MS. MOREY: No. We addressed a possible misunderstanding in our submission, but, no. Nothing that the Court has to decide.

THE COURT: Very well.

Mr. Fink, do you wish to be heard?

MR. FINK: Yes, your Honor. I believe that your Honor has before you the probation department's presentence report

dated July 14, 2016; our letter to the Court with the exhibits, which is dated August 5, 2016; the government's 44-page letter, which includes exhibits, dated August 12, 2016; and then our reply letter, which is dated August 16, 2016.

THE COURT: I have all those materials, and I've reviewed them.

MR. FINK: Thank you, your Honor. Then I'll be very brief. I shall not repeat what is in there.

Sentencing is probably the most difficult endeavor for both defense attorneys and for the Court. I've practiced now for nearly 50 years. I've never appeared before your Honor at a sentencing proceeding.

In the past, I've represented defendants who deserved and received jail sentences. I submit to your Honor that this is a case that cries out for a sentence not including jail. It's a unique case. Rowen is a unique human being.

If there exists a case where your Honor could make an exception to imposing a prison sentence, I submit to you this is the case. The probation department has recommended to your Honor that no jail be imposed in this case.

This recommendation was made after a careful and thorough review of the facts of the case: The fact that between Rowen and his mother, this account was always his mother's, not Rowen's; the fact that all deposits were made by the mother; the fact that Rowen never personally benefited from

the account.

I think also of great importance to the probation department in making their recommendation was the condition of Rowen's mother. She is gravely ill, and Rowen cares for her. No one else would; no one else could.

The government makes an issue of the fact that there are full-time nurses who can care for his mother. This was done, in part, by Rowen out of respect for his mother. His mother has to be bathed every day, has to be dressed, undressed. The nurses do that.

That is not a substitute for what Rowen does on a daily basis for his mother. The mother needs Rowen's presence. Rowen is now 34 years old, and he's lived with his mother and his grandmother for his entire life.

I've known Rowen for almost three years, and I've personally never seen a closer, more caring relationship than that between -- Rowen his mother. Rowen has done everything a person can do to try to right the wrong he has done.

The plea agreement says that there's a tax loss of three years of $53,686. Rowen's accountant believed that the government made a mistake; that Rowen owed more taxes, and Rowen voluntarily paid $65,089.

He's also paid interest. He's also paid a civil fraud penalty. So he's paid the IRS $147,693.09. On top of that, he has paid the Treasury Department $650,100 in penalties.

He's branded a felon and will be branded as a felon for his entire life. He has already suffered collateral consequences from that. Rowen is truly contrite. I submit to your Honor that he's suffered enough, and I implore your Honor not to impose a prison sentence.

I said I'd be brief. So, unless your Honor has any questions for me, I will say no more. Thank you.

THE COURT: All right. Thank you, Mr. Fink.

Ms. Morey.

MS. MOREY: Your Honor, we didn't have an opportunity to respond --

THE COURT: If you would, would you take the podium.

MS. MOREY: Yes, sir.

Your Honor, the government did not respond or submit a response to the August 16 letter from the defendant because, for the most part, it appeared to be -- they would raise things that misrepresented or twisted sort of what the government said. Unless your Honor was confused by them or had a question, it doesn't seem to be -- to pay a lot of response to each individual one.

There were three things I did want to respond to or cover, and that is they raised the issue about what the government said about his age, and they pointed out how that age group is known for being impulsive, doing things without thought, whatever.

That may very well be true, but that makes the point the government was trying to make, which is whatever may be said about that age group, it doesn't apply to this young man who did something that age group is not doing, and that is engage in tax fraud.

Tax fraud, tax-related crimes -- unlike the majority of the federal crimes that get prosecuted, the taxes are specific-intent crimes. It is not a general intent. We have to prove that an individual acted knowing that what they did was wrong.

It can't be just like in structuring, that they structured their transactions to avoid something being filed with the government. We would have to prove, if it was a tax case like it used to be, that they knew that structuring was illegal.

Here he pled guilty and allocuted to acting corruptly. Those kind of crimes can't be done accidentally. They can't be done impulsively. There was absolutely nothing impulsive about this.

He and his mother flew eight hours to Switzerland and opened up this account and sat there and did it, and he contacted them over the years to see what they were doing in terms of the investments.

In 2008 he learned that the IRS was investigating UBS and, in particular, Bradley Birkenfeld, who was the banker that

had dealt with them. He did not do what other defendants did. For example, they mention Ms. Curran and her case in Florida. In 2008 when she learned she owed taxes on that account, she hired a lawyer and sought to get right with the government.

In 2008 what this young man did -- and it's kind of impressive and completely out of character for perhaps that age group -- is he flew over there. He came prepared.

He came prepared with a shell corporation, a Panamanian shell corporation, and he asked that they close out the UBS account and took all the money and put it in another secret Swiss bank account at Banque Safra.

He made sure this time his name was not on it. He had it in the name of this Panamanian shell company. Should the FBI have served a treaty requirement on Banque Safra for all records pertaining to US account holders, they would not have produced Banque Safra or the Mirza account because that was a Panamanian corporation. It wasn't casual. It was thoughtful. That's our point.

We also pointed out what a very competent businessman he is and how at the very time he's doing this stuff -- it's like over a five-year period -- he has a whole group of lawyers he deals with with his business matters. He could easily have discussed this with them. He did not. So that's the age issue.

The second issue they raise against this voluntary

disclosure about did he read it, did he not read it, the government's position has remained consistent. The sentence he cites was where we said, you say the information says he read it or didn't read it or did read it. It doesn't say that he didn't read it. It's not to say he didn't really. We weren't accusing him -- or I should say the information.

But more importantly, about voluntary disclosure, that he knowingly signed. Whether he read it or not, he's legally obligated to the contents. He's charged legally with the knowledge of it.

Well, whether he read it or not, he knowingly signed it. He knowingly mailed it to the IRS for its consideration and reliance. There is one thing that he knew was not in it, and that was information about the Mirza account because he did that on his own.

He did not have a conversation with the attorney who prepared it. He knew that that attorney couldn't have known about the Mirza account, and he knew that this was all about telling the IRS about your foreign bank accounts.

So, at a minimum, whether he read it or not, he knew he did not tell that attorney, because he had no conversation with the attorney. That's what the attorney's statement said.

Finally, I would just sort of -- they continued to call it cooperation because he did not fight the grand jury's subpoena for the records. This is an obligation under the law.

He is suggesting that he should get credit for cooperating because he did not engage in what the Second Circuit has described as a "reckless attempt to avoid paying lawfully imposed taxes vital to the function of the United States." To be able to treat that as something that is to his credit seems an injustice.

Unless the Court has any questions for the government, we rest on the things we've said in our submissions, your Honor.

THE COURT: Did the government ever pursue any case against the attorney?

MS. MOREY: Mr. Smith?

THE COURT: Yes.

MS. MOREY: We had no reason to believe Mr. Smith knew he was being lied to by the defendant's mother. So, no. We did not investigate him. We believe that he thought what he submitted was accurate.

Was it embarrassing from a professional point of view for him to have admitted he sent a document to this man to sign and submit to the IRS but he did not review it with him? Yes, but I leave that to the ethics authorities.

As he indicated in the affidavit they submitted to the government, apparently the mother said --

THE COURT: Did you draw that to the attention of the grievance committee?

MS. MOREY: I have not. If your Honor thinks it's appropriate, I will discuss it. We don't just do that. I will discuss it with John McEnany, who does that information in our office, since you raised it.

THE COURT: What is the government's view regarding the circumstances of the defendant's execution of that application to participate in the voluntary program?

MS. MOREY: We did not charge him with a false statement.

THE COURT: Right. But what I'm drawing from it, what I've seen, on the very last day of eligibility of the program, his mother's lawyer sends him this application with instructions to sign it and mail it today.

MS. MOREY: Right.

THE COURT: Or what?

MS. MOREY: You know, I would assume that there's more -- our position, our legal position, about it is it was obstructive, because he knowingly signed it. He made no -- he claims now that he has never read it. He made no effort to read this.

Again, I come back to looking at the other part of his life at that point. That was in 2009. He is actively being represented in all of his business matters involving R Squared Global and his very important and valuable trademark and license agreement for Serendipity 3 by the law firm that is so

involved with him that six members I think it was -- four submitted letters on his behalf. So he has this whole other access to legal advice.

In fact, there was another lawyer who said he represented the family for 30 years. Yet this man who had the understanding and intelligence and wherewithal at that tender age of 25 or 24 to sign what has turned out to be a very, very valuable licensing agreement with Serendipity 3, for which he always had counsel, the same firm, did not seek counsel about these matters.

The government's position is that was intentional. Whether he read it or not, he knew he signed it. They do not dispute it contains false information, and it was obstructive.

I also just pointed out how he had to, at the very least, have known that it could not be complete because he and he alone knew about Mirza, and he knew -- or I should say I don't know what he says. I only know what the lawyer says.

The lawyer says he never had a conversation with the defendant about anything. So the defendant could not have explained about how the year before he flew over knowing the account was there, took the money out, used a Panamanian shell company, and went to another bank. That's very sophisticated behavior.

So the government's position is he is culpable for what he did. We're not going to get into whether he read it or

not because he's liable. When you sign a document and you give it to the IRS, whether you read it or not, you're charged with the knowledge of it.

So that's our position. We believe the lawyer was lied to. I'm not sure what his culpability would be if a client comes in and lies to him and he believes it.

This is a sophisticated kid. He wasn't a kid. He was a businessman. He was making millions of dollars. He had the wherewithal and the knowledge to do things that other people didn't think were important on his business purposes.

He doesn't get to act like, I'm just an ignorant young person. It's what he could have done, and he did not. It's his actions. His actions were obstructive, and they were knowingly obstructive. And he has pleaded guilty to knowingly and with corrupt intent obstructed the IRS.

THE COURT: Anything further?

MS. MOREY: No, your Honor. Not from the government.

THE COURT: Thank you.

Mr. Fink?

MR. FINK: Yes, your Honor. The government started the conversation saying that my client committed tax fraud. There is no charge of tax fraud here at all. So I don't think that's accurate.

When the account was closed and the account was reopened, he was there alone, but his mother was with him. The

mother did it. Also this idea that he came with a shell corporation to open the account, the bank did that. He had nothing to do with that. The check that UBS made out was made out to a corporation that was his father's, and that was put into the account.

Should he have challenged his mother? Yes. Should he have challenged his father? Yes. He made a mistake. It's cost him dearly. I don't think jail should be imposed.

THE COURT: Before you sit down, Mr. Fink, let me just ask you about what you've just described to me.

In 2008 when he went over to Switzerland and closed the numbered account, did you just tell me that his mother accompanied him?

MR. FINK: Yes. Not to the bank.

THE COURT: But to Switzerland?

MR. FINK: Yes.

THE COURT: Who arranged for the Panamanian corporation?

MR. FINK: I believe it was his father.

THE COURT: Did he go to Banque Safra?

MR. FINK: Yes.

THE COURT: Does your client wish to address the Court?

MR. FINK: Yes, your Honor.

THE COURT: I'll hear from him now.

THE DEFENDANT: Your Honor, I stand before you today deeply saddened, humbled, and heartbroken. This terrible situation has caused me great psychological pain and physical illness. I've gained weight. I don't sleep. I've started to drink, which I've never done before.

I continue to obsess over what a tremendous disappointment I am to myself and to my family. It's impossible for me to adequately express how deeply sorry I am to the Court, to our great country, and to my family for the burden and shame I have brought upon them.

I'm especially sorry to my wife and daughter for the extent they've had to suffer for my mistake. My mom and grandmother are not here today. I've tried to insulate them from this ordeal.

I'm sorry to all of them for making them live these past few years with this dark cloud over our heads. I thank them all greatly for being there for me during these tough times.

To my friends, employees, my colleagues, I want to thank you for standing by me. I'm sorry that I've let you all down. I promise to never let you see me in this circumstance again.

Your Honor, I've tried to live an honorable life as a doer of good. The reason of obeying whatever my mom asked me to do with her funds is no excuse for what I've done. I'm

ashamed of my stupidity. It's not acceptable.

Until this point, I've lived an untarnished life. Going forward, I have this scar that will be with me forever, and I'll try to continue to be the best person I can be all around to impact lives in a positive way.

I can solemnly promise you that I will never be in trouble again. Thank you, your Honor, for allowing me to say these words.

THE COURT: You may be seated.

We're going to take a very brief recess.

(Recess)

THE COURT: The defendant, Rowen Seibel, comes before this Court having pled guilty to a corrupt endeavor to obstruct and impede the due administration of the Internal Revenue Service laws, a serious crime against the United States.

This Court's reviewed the presentence investigation report. I adopt the findings of fact in the report as my own and will cause the report to be docketed and filed under seal as part of the record in this case. I've also reviewed all of the parties' submissions in connection with this sentencing.

Turning first to the guidelines, the base offense level for this crime is 14. Because the offense involved sophisticated means, namely, the creation of offshore bank accounts, a further 2-level enhancement is warranted.

The defendant pled guilty back in April before

Magistrate Judge Pittman. I've reviewed those plea minutes and accepted the plea previously by order.

Accordingly, I grant the defendant a 3-level reduction for acceptance of responsibility. So his total offense level is 13. This is his first criminal conviction. So his criminal history category is a I, and that yields a guideline range in this case of 12 to 18 months.

Now, the question becomes what's the appropriate sentence in this case taking into account all the factors under Section 3553(a).

In March of 2004 the defendant, who was then 23 years old traveled with his mother to UBS's offices in Switzerland where he opened a numbered UBS account concealing his identity. Together with his mother, he took steps to keep the account's existence secret from US tax authorities, and his mother deposited considerable sums into the account over the next two years.

In May or thereabouts of 2008, a series of news articles in the New York Times and the Wall Street Journal reported on a government investigation into UBS's efforts to help wealthy Americans evade taxes.

The Seibel family reacted to those reports by creating a Panamanian shell company in which the defendant was himself the beneficial owner and jumped on a flight to Switzerland to close the numbered UBS account.

As the government notes in its submission, in a shrewd move to avoid detection, Seibel opened a bank account in the name of a Panamanian company in another Swiss bank, and a $900,000 check from UBS was deposited into the account.

The defendant filed tax returns that failed to report his overseas income, and he falsely claimed that he did not have an interest or signatory authority over a bank account in a foreign country.

Then, in the fall of 2009, after learning of a program that allowed US taxpayers to disclose their previously undeclared offshore accounts, Seibel's mother's attorney prepared an application.

That application falsely stated that while Seibel was aware that his mother had made deposits into the UBS account for his benefit, he was unaware of the status of the account and had reached the conclusion that the deposits had been "stolen or otherwise disappeared." This conduct is not really a momentary aberration. It was carried out -- and the false filings occurred -- over a number of years.

Oliver Wendell Holmes famously observed that taxes are what we pay for civilized society. The integrity of our tax system depends upon both the perception and reality that the government will seek out and prosecute those who knowingly and willingly cheat on their taxes. This is particularly important with wealthy and sophisticated individuals like Mr. Seibel.

Now, Seibel's attorneys argue that he's already been treated more harshly than other Americans with overseas UBS accounts. He's paid civil penalties of perjury more than $675,000, far in excess, they argue, of any offshore voluntary disclosure program, and this Court appreciates that.

While he's paid a heavy financial penalty, to leave it at that really just reduces the risk of getting caught to a calculable cost of doing business, civil penalties and attorneys' fees.

Now, Mr. Seibel's attorneys argue at length that his family will suffer terrible and devastating consequences -- those are their words -- if they're forced to live without him. That may well be true, but it's true of many families. He's the primary breadwinner for his family and cares for his ailing mother and elderly grandmother who live with him and have no other family members.

He submits nearly 50 letters from family, friends, employees, business associates, and attorneys. Those letters are touching, and there's no doubt that he's devoted to his mother and grandmother, that he's adored by his wife, whom he married two weeks before pleading guilty, and that he treats his stepdaughter as his child. There's also no doubt that he's generous and caring to his employees and treats them like family.

Now, the parties' submissions, both the government's

and the defendant's, are filled with some hyperbole. Mr. Seibel's attorneys characterize their client as a "youngster" and accuse the government of ageism.

While Seibel may have been only 23 when he traveled with his mother to Switzerland, he was clever beyond his years. He had a marketing degree from NYU. The following year, he started his own licensing business, R Square Global, and began negotiating agreements with some of the trendiest restaurants in New York.

The point I'm making is that he may be young, but he's no youngster. He's a sophisticated businessman.

Seibel's counsel and the government also spar over whether a sentence of imprisonment here would create a disparity in sentencing. The defendant argues that the majority of UBS clients received noncustodial sentences.

The government counters that 6 of the 11 defendants Seibel's counsel points to received downward departures for substantial assistance, and another one had a guideline range of 0 to 6 months.

The other 4, the government points, out had an average age of 78.5 years. In any event, that is really academic. Their circumstances are different, and each defendant needs to be individually assessed under the 3553(a) factors.

Certainly general deterrence is an important consideration in a tax fraud case. There's also the need for

specific deterrence. Mr. Seibel has a long and bright future ahead of him. As he advances in business, it's critical that he understand that unlawful actions have consequences beyond a checkbook.

However, a variance from the guidelines is entirely appropriate in this case. I find that a guideline sentence here would be unjust. Mr. Seibel was 23 at the time the numbered account was established. He clearly has strong family ties and responsibilities, he has no criminal history, and he's acknowledged responsibility for the crime.

Moreover, the circumstances surrounding Seibel's application under the voluntary disclosure program, about which much was instilled in the submissions and here today, suggests that his conduct is partly attributable to the actions of his mother and his mother's lawyer.

Seibel's mother did not qualify for the program because she was already under investigation by the IRS. The government's own submission established that on the last day of the program period, Seibel's mother's attorney drafted the false submission and emailed it to Seibel to print out and mail that same day.

While this Court cannot delve into Mr. Seibel's mind, the circumstances suggest to me that this submission was not entirely of his own making. Mr. Seibel's lawyers characterize him as having been "fortunate to lead a middle class life."

That's surely an understatement.

Mr. Seibel had a privileged upbringing. He grew up in the same luxury apartment house on Central Park South that he currently lives in, attended private schools, and had virtually every opportunity available to him.

His lawyers acknowledge that he never "wanted or needed a foreign bank account" and "certainly was not interested or motivated by the relatively modest tax savings" that the account provided.

Whatever the motivation for getting involved in this scheme and, more importantly, for continuing in the scheme for as long as he did, whether simply to please his mother or something else, the fact is that it continued for years, and he made a whole series of corrupt and misguided decisions to perpetuate it. Now he has to live with the consequences of that.

The government's suggestion that a guideline sentence is appropriate here is a wooden and reflexive one because there are a number of issues in this case.

It's against that backdrop that I am prepared to impose sentence on the defendant, and I'd ask him to stand at this time.

As I've tried to make clear to you, I don't understand how you got involved and how you allowed it to continue. Perhaps it was just out of love for your mother. But the fact

is that you knew very well what you were doing was wrong.

The fact that you're a wealthy and successful businessman should not excuse you from a custodial sentence. This was not a momentary aberration, but I believe that a very short custodial sentence is appropriate in this case so that the lesson is remembered in the long career that you will have ahead of you.

It's my judgment that you be sentenced to a term of one month of imprisonment to be followed by a year of supervised release subject to the following conditions:

First, six months of home detention; second, 300 hours of community service. I want the community service to be in food preparation or in a food kitchen, something in which you can bring the skills that you have to bear for those who have never had access to the kinds of opportunities that you've had.

I'm also going to impose all the standard conditions of supervised release and that you provide your probation officer with access to any requested financial information.

I will enter an order of restitution in the amount of $53,686, although I take it from Mr. Fink's remarks that restitution has been paid in an amount higher than that.

MR. FINK: That is correct, your Honor.

THE COURT: So is there any need for a further order of restitution?

MR. FINK: No, your Honor.

MS. MOREY: I think you need to impose the order -- I don't believe there needs to be another specific separate order, but I do believe there needs to be part of the --

THE COURT: I will provide within the judgment for restitution --

MS. MOREY: Yes, your Honor.

THE COURT: -- in the amount of $53,686. I'm confident that Mr. Fink will be able to file a satisfaction of that payment with the clerk's office.

I'm also imposing the mandatory special assessment of $100. I'm imposing a fine of $15,000 on the defendant. This constitutes the sentence of this Court.

I advise you that to the extent you have not previously waived your right to appeal, you have the right to appeal. I advise you further that if you cannot afford counsel, counsel will be provided to you free of cost.

Mr. Fink and his firm have done a superb job in representing you in this case, and I'm confident that he'll advise you further with respect to your appellate rights.

You may be seated.

MR. FINK: Would your Honor consider the one month to be served at home, home imprisonment? That way he'd be with his mother.

THE COURT: No. I specifically am imposing one month of imprisonment and then home detention.

MR. FINK: Would your Honor consider that he not surrender until his mother dies, which will not be long?

THE COURT: You know, you stood up here before, and you argued that he's had this hanging over his head for a long time. I think it's about time that he put this matter behind him.

I'm prepared to arrange for a surrender date, and you can pick a date so long as it's not more than 75 or 90 days from now.

MR. FINK: Thank you, your Honor.

THE COURT: I would think that you'd want to wait to see where he will be designated.

MR. FINK: Would your Honor suggest Otisville?

THE COURT: I will. In his case, I will.

MR. FINK: Thank you, your Honor.

THE COURT: I will suggest Otisville.

MR. FINK: Could he self-surrender?

THE COURT: I will allow him to self-surrender.

MR. FINK: Thank you, your Honor.

THE COURT: On the question of timing, Mr. Fink, do you want to confer with your client as to when he wishes to self-surrender?

MR. FINK: Yes.

(Pause)

MR. FINK: As long as your Honor will permit. I think

you said 75 to 90 days. Then 90 days.

THE COURT: He'll surrender to a facility to be designated by the Bureau of Prisons by November 29.

MR. FINK: Yes, your Honor.

THE COURT: Just, once again, to be clear, this is an offense that it can't just be disposed of like a business debt as a cost of doing business.

It's important that a message be sent to all those who have enjoyed the kinds of success that Mr. Seibel has enjoyed and who have the kind of assets that he has, that they understand that the risks are far higher than just a financial penalty. The risk is one to their liberty.

I think that the defendant will get this point, and I'm confident that I'm never going to read about him being charged in some other criminal enterprise.

Anything further?

MS. MOREY: Not from the government, your Honor.

THE COURT: Anything further, Mr. Fink?

MR. FINK: No, your Honor.

THE COURT: All right. This matter is concluded.

MS. MOREY: Thank you.

MR. FINK: Thank you.

(Adjourned)